

SOAH DOCKET NO. 957-18-4985

IN RE THE APPLICATION	§	BEFORE THE STATE
	§	
OF ELECTRO PURIFICATION LLC	§	OFFICE OF
	§	
FOR AN HISTORIC PERMIT	§	ADMINISTRATIVE HEARINGS
	§	

APPLICANT’S STATUS REPORT & MOTION TO EXTEND ABATEMENT PERIOD

TO THE HONORABLE ADMINISTRATIVE LAW JUDGES:

COMES NOW Electro Purification, LLC (“EP” or “Applicant”) and provides this Status Report and Motion to Extend the Abatement Period, and would show the Administrative Law Judges as follows:

I.
Status Report

Since being granted the abatement, EP has worked to negotiate with the principles of the Permian Highway Pipeline (“PHP Pipeline”), KinderMorgan Pipeline LLC (“KM”) and Permian Highway Pipeline LLC (“PHP”), to address the issues related to the threat to EP’s Hays County Groundwater Project and the Permit Application in this proceeding that the construction of the PHP Pipeline presents. Specifically, the location of the pipeline easement, as pled by PHP would disrupt, destroy or otherwise require the relocation of one or more of the existing seven wells drilled by EP on the Bridges and Odell Leases as reflected on the maps attached hereto as **Appendix “A.”**

Those are the seven groundwater wells were considered and evaluated in the permitting process by the Barton Springs Edwards Aquifer Conservation District (the “District”) which resulted in the Permit proposed by the District that is the subject of this SOAH Proceeding. If any of the seven wells contemplated by the proposed Permit would be required to be relocated or

modified due to the PHP Pipeline, such that EP would be required to drill additional or new wells, EP would be required to hit the “RESTART” Button and resubmit its Application to the District for review and recommendation based upon those new wells. Moreover, further aquifer testing (pump tests) would be required by the District pursuant to its Rules. Resubmission of the Permit Application with new or relocated wells would result in a new permit recommendation by the District, re-publication of a recommendation from the District, re-noticing, and a restart of the entire process currently before the ALJs.

EP was unsuccessful in its efforts to negotiate a resolution with PHP and KM. Once it became evident that further efforts to negotiate were futile, EP filed suit against PHP and KM in the two existing condemnation proceedings that had been initiated by PHP in Hays County to require easements and other rights related to the route of the PHP Pipeline across the Bridges Tract where EP has four wells and the Odell Tract where EP has three wells that are the subject of this SOAH proceeding. The suits filed by EP are in Cause No. 19-1060-C related to the Odell Tract in Hays County Court at Law No. 1, and Cause No. 19-0896-C related to the Bridges Tract in Hays County Court at Law No. 2.

On March 12th, each of the County Courts at Law granted EP Temporary Restraining Orders against KM and PHP, and scheduled hearings to convert the TROs to Temporary Injunctions for March 24, 2020. However, due to the unprecedented COVID-19 outbreak, and in response to the Emergency Order issued by the Texas Supreme Court on March 13, 2020, which was issued in response to the Governor’s earlier Disaster Declaration, the Hays County Courts at Law elected to cancel the hearings scheduled for March 24th. In lieu of the hearings, the Courts issued Orders extending the respective TROs indefinitely and continuing the hearing date on the

Temporary Injunction hearings until such time as hearings can be conducted consistent with the Emergency Order of the Texas Supreme Court.

A true and correct copy of the Order extending the TRO and continuing the Temporary Injunction Hearing in Cause No. 19-0896-C is attached hereto as **Appendix “B.”** A true and correct copy of the Order extending the TRO and continuing the Temporary Injunction Hearing in Cause No. 19-1060-C is attached hereto as **Appendix “C.”**

Under the circumstances surrounding the COVID-19 (coronavirus) pandemic and the Orders entered by the County Courts at Law on March 24th,¹ it is uncertain as to when a Temporary Injunction hearing will be held in the Hays County lawsuits, and/or when PHP and KM will respond to and/or join the litigation in a manner that will facilitate the Courts’ adjudicating a final determination with respect to PHP’s and KM’s rights related to the Odell Property and the Bridges Property and/or the effects the same will have on the EP Wells on those properties. The uncertainty is further complicated by the March 24th Order issued jointly by Travis County and the City of Austin, Texas, mandating sheltering in place, social distancing and avoiding any gatherings over 10 people, such as those that would be had in order to conduct a hearing.

An additional complicating factor is the Governor’s directives to the State Agencies, including SOAH, which has entered its own emergency Order.² Cumulatively these external factors necessitate the further abatement of the proceedings in this case pending the resolution of the COVID-19 (coronavirus) pandemic and the opportunity to finalize the adjudication of the actions of PHP and KM that threaten the EP wells and the underlying facts upon which the District issued its recommended permit that is the subject of this SOAH Proceeding.

¹ See Appendices “B” and “C.”

² A true and correct copy of the SOAH Order is attached hereto as **Appendix “D.”**

These same circumstances make it difficult, if not impossible or impractical, for the Parties to be able to conduct legitimate discovery necessary to move forward with these proceedings.

II.
Motion to Continue the Abatement

Pursuant to its coordination with the other Parties to this proceeding described in the Certificate of Conference below, Electro Purification moves to continue the Abatement of these proceedings until July 17, 2020. During the Abatement, (i) EP proposes to provide monthly status reports to the ALJs and the Parties on or before the first of each calendar month beginning May 1, 2020, and (ii) EP will pursue the adjudication of rights, remedies and damages in the Courts in Hays County in Cause Nos. 19-0896-C and 19-1060-C to determine whether any of the seven wells on the Bridges and Odell Leaseholds relied upon as the foundation for EP's Permit recommended by the District and the subject of this SOAH Proceeding will have to be relocated and a modified application filed with the District.

The complication of the COVID-19 Coronavirus Pandemic and the Orders of the Texas Supreme Court, the Disaster Declarations of the Governor of the State of Texas and the Emergency Orders of the State Office of Administrative Hearings support the granting of EP's Motion under the circumstances. To move forward in the absence of that final adjudication would be a waste of the time and financial resources and manpower of all parties at SOAH, the District, the Protestants and the Applicant.

As evidenced by the Certificate of Conference recited in Section III., below, the Parties have been apprised of this Motion prior to its filing and do not oppose it.

III.
Certificate of Conference

Pursuant to Sections 155.259(a) and 155.305(b)(2), of SOAH's Rules (1 TAC), the undersigned counsel certifies that the counsel of record and the pro se parties were provided a draft copy of this Motion via email on March 26, 2020, to apprise them of this Motion, and asked whether they would join or agree (or disagree) to support the Motion, or agree not to oppose the same. To date, the undersigned Counsel has received the responses supportive of an abatement until July 17th with monthly status reports during the abatement from the following parties or their Counsel.

- Counsel for the BSESACD General Manager;
- Counsel for Protestant Don Woods;
- Counsel for Protestant TESPAs, and as administrative/procedural liaison for the aligned pro se Protestants;
- Counsel for Protestant Hays County; and
- The following Pro Se Protestants: Ms. Louie Bond, Ms. Dana Pape-Salas, Ms. Adrienne Evans-Stark, and Ms. Judy Baskin.

IV.
Conclusion, Prayer & Relief Requested

WHEREFORE, PREMISES CONSIDERED, the Applicant EP requests the ALJs grant EP's Motion to Continue the Abatement and issue an order abating the proceedings until July 17, 2020, and directing the Applicant to provide monthly status reports on or before the 1st of each calendar month beginning May 1, 2020, during the term of the Abatement.

Respectfully submitted,

MCCARTHY & MCCARTHY, LLP

Edmond R. McCarthy, Jr.

State Bar No. 13367200

ed@ermlawfirm.com

Edmond R. McCarthy III

State Bar No. 24066795

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1122 Colorado St., Suite 2399

Austin, Texas 78701

(512) 904-2313

(512) 692-2826 (telecopy)

By: /s/ Edmond R. McCarthy, Jr.

Edmond R. McCarthy, Jr.

State Bar No. 13367200

**ATTORNEYS FOR APPLICANT
ELECTRO PURIFICATION LLC**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Status Report and Motion to Extend the Abatement Period has been e-filed with SOAH and the Barton Springs Edwards Aquifer Conservation District, and sent to all parties of record and persons or entities seeking party status or their Counsel via e-mail and/or U.S. Mail on this the 31st day of March, 2020, addressed as follows:

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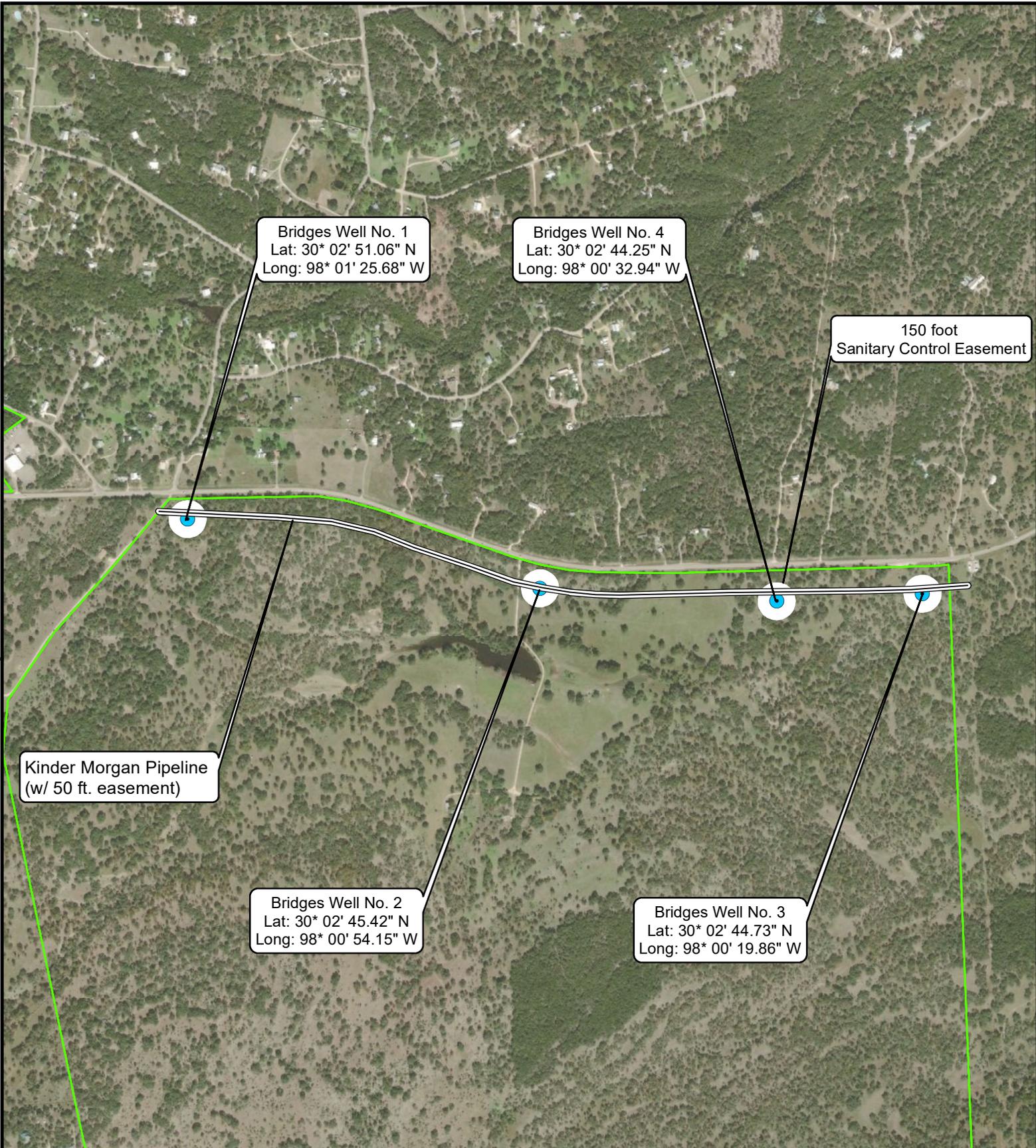
Appearing *Pro Se*

/s/ Edmond R. McCarthy, Jr.
Edmond R. McCarthy, Jr.

*** Courtesy Copy**

Appendix “A”

Bridges & Odell Lease Maps



Bridges Well No. 1
 Lat: 30° 02' 51.06" N
 Long: 98° 01' 25.68" W

Bridges Well No. 4
 Lat: 30° 02' 44.25" N
 Long: 98° 00' 32.94" W

150 foot
 Sanitary Control Easement

Kinder Morgan Pipeline
 (w/ 50 ft. easement)

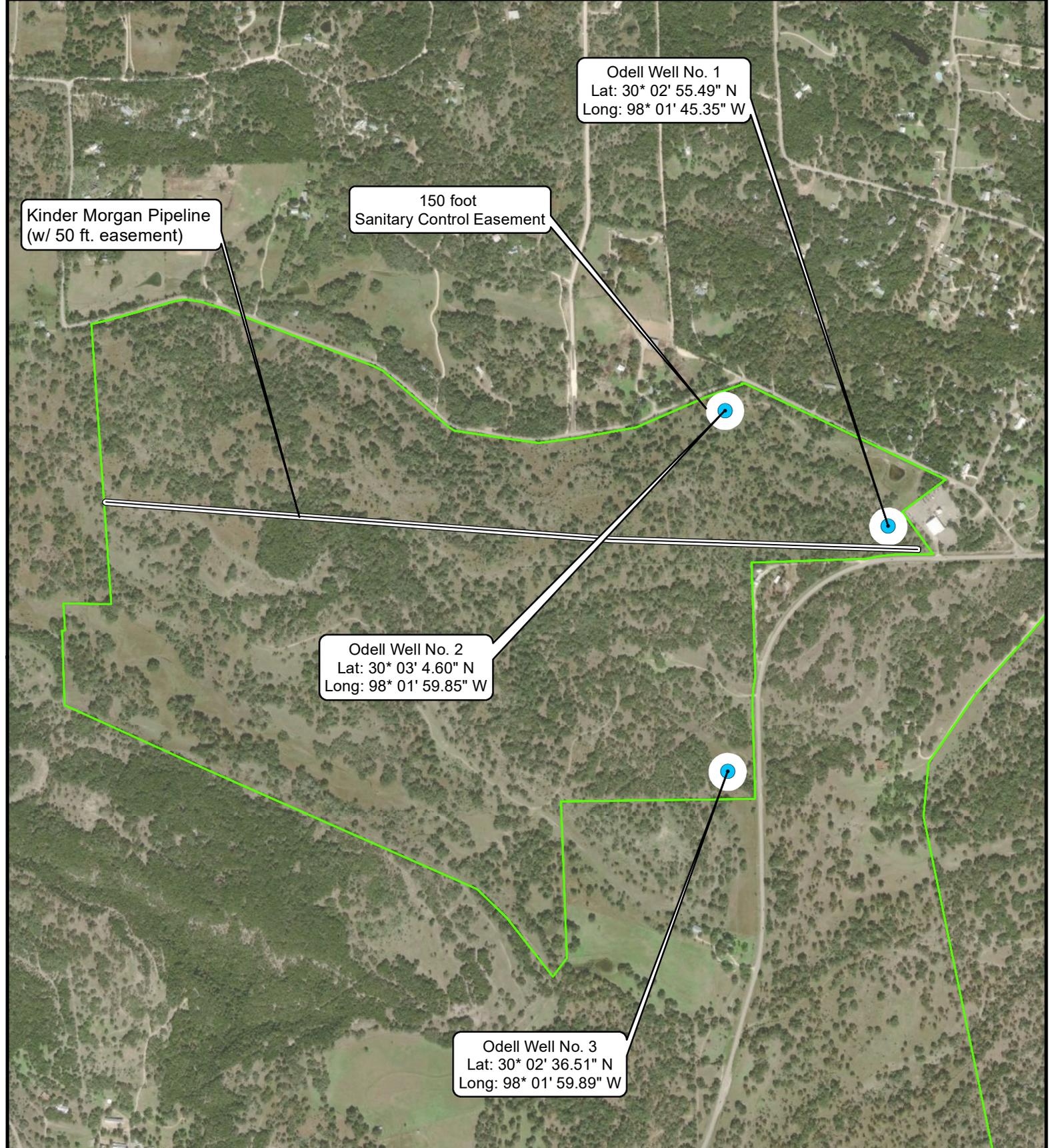
Bridges Well No. 2
 Lat: 30° 02' 45.42" N
 Long: 98° 00' 54.15" W

Bridges Well No. 3
 Lat: 30° 02' 44.73" N
 Long: 98° 00' 19.86" W

Scale: 1 inch = 1,000 feet
Drawn By: KK Date: 9-30-19
Quad Name and No: Driftwood, TX 30098 A-1
Projection: UTM NAD 83 Zone 14



Kinder Morgan Pipeline Easement - Bridges		
Electro Purification, LLC Hays County Trinity Water Project Hays County, Texas		Wet Rock Groundwater Services, L.L.C. Groundwater Specialists <small>TBPG Firm No: 50038</small> 317 Ranch Road 620 South, Ste. 203 Austin, Texas 78734 Ph: 512.773.3226 www.wetrockgs.com



Kinder Morgan Pipeline
(w/ 50 ft. easement)

150 foot
Sanitary Control Easement

Odell Well No. 1
Lat: 30° 02' 55.49" N
Long: 98° 01' 45.35" W

Odell Well No. 2
Lat: 30° 03' 4.60" N
Long: 98° 01' 59.85" W

Odell Well No. 3
Lat: 30° 02' 36.51" N
Long: 98° 01' 59.89" W

Scale: 1 inch = 1,000 feet

Drawn By: KK Date: 9-30-19

Quad Name and No:
Driftwood, TX 30098 A-1

Projection:
UTM NAD 83 Zone 14



Kinder Morgan Pipeline Easement - Odell

Electro Purification, LLC
Hays County
Trinity Water Project
Hays County, Texas



Wet Rock Groundwater Services, L.L.C.
Groundwater Specialists
TBPB Firm No: 50038
317 Ranch Road 620 South, Ste. 203
Austin, Texas 78734 Ph: 512.773.3226
www.wetrockgs.com

Appendix “B”

Copy of the Order extending the TRO in Cause No. 19-0896-C

CAUSE NO. 19-0896-C

PERMIAN HIGHWAY PIPELINE LLC,
Plaintiff

vs.

BRIDGES BROTHERS FAMILY
LIMITED PARTNERSHIP NO. 1,
Defendants.

and,

ELECTRO PURIFICATION, LLC,
Intervenor

EMINENT DOMAIN PROCEEDING

IN THE COUNTY COURT AT LAW
OF HAYS COUNTY, TEXAS

COUNTY COURT AT LAW NO. 2

CAUSE NO. 19-0896-C

ELECTRO PURIFICATION, LLC,
Cross-Plaintiff

vs.

PERMIAN HIGHWAY PIPELINE LLC,
and KINDER MORGAN TEXAS
PIPELINE LLC
Cross Defendants.

IN THE COUNTY COURT AT LAW

HAYS COUNTY, TEXAS

COUNTY COURT AT LAW NO. 2

EXTENSION TEMPORARY RESTRAINING ORDER

This Court issued a Temporary Restraining Order on March 12, 2020, in the above styled and numbered caused after Defendant/Cross-Plaintiff, Electro Purification, LLC, filed a Verified Counterclaim, Application for Temporary Restraining Order, and Application for Temporary and Permanent Injunctive Relief. The Temporary Restraining Order was to be in place until a hearing on Electro Purification LLC's motion for a temporary injunction was to be heard before the Honorable Chris Johnson, Judge of the Hays County Court at Law No. 2 of Hays County, Texas on March 24, 2020 at 9:30 AM, San Marcos, Hays County Courthouse.

Given the unprecedented spread of the COVID-19, on March 13, 2020 Governor Abbott issued a proclamation declaring a state of disaster in all 254 counties in the State of Texas, including Hays County, pursuant to Section 22.0035(b) of the Texas Government Code. A copy of that proclamation is attached as Exhibit A to this Order. On March 13, 2020, the Supreme Court of Texas in Misc. Docket No. 20-9042, and the Court of Criminal Appeals of Texas in Misc. Docket No. 20-007, issued a First Emergency Order Regarding the COVID-19 State of Disaster. A copy of that First Emergency Order is attached as Exhibit B.

That First Emergency Order states that “all courts in Texas may in any case:

- a. Modify or suspend any and all deadlines and procedures, whether prescribed by statute, rule, or order, for a stated period ending no later than 30 days after the Governor’s state of disaster has been lifted;...”

IT IS, THEREFORE, ORDERED that Permian Highway Pipeline LLC, Kinder Morgan Texas Pipeline LLC, and any other person acting under his direction be and hereby are commanded to desist and refrain taking a writ of possession, taking any action on the Bridges tract, or otherwise interfering with Electro Purification’s use and enjoyment of the groundwater estate and all express and implied easements to use the surface of the property described in the groundwater lease Electro Purification holds on the Bridges Tract from the date of entry of the initial Order and extended until the temporary injunction hearing can be held or until further ordered by this Court.

IT IS FURTHER ORDERED that the hearing on Electro Purification LLC’s motion for a temporary injunction is continued to a date to be determined by the Court pursuant to the Supreme Court’s First Emergency Order and the Governor’s disaster proclamation. The hearing will be heard before the Honorable Chris Johnson, Judge of the Hays County Court at Law No. 2 of Hays County, Texas at a date to be determined as soon as possible in San Marcos, Hays County Courthouse, then and there to show cause, if any, why a temporary injunction should not be issued as requested by Electro Purification. The Clerk of the Court will be directed to issue a show cause notice to Permian Highway Pipeline LLC and Kinder Morgan Texas Pipeline LLC to appear at the temporary injunction hearing once it is able to be scheduled.

The bond previously submitted by Electro Purification, LLC shall continue to be held in

the registry of the Court.

Signed this 24th day of March, 2020, at 9:31 a.m. in
Driftwood, Hays County, Texas.

A handwritten signature in cursive script, appearing to read "Chris Johnson", with a horizontal line extending to the right from the end of the signature.

Judge Presiding

EXHIBIT A

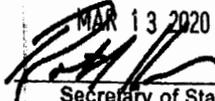


GOVERNOR GREG ABBOTT

March 13, 2020

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
11:20 AM O'CLOCK

The Honorable Ruth R. Hughs
Secretary of State
State Capitol Room 1E.8
Austin, Texas 78701

MAR 13 2020

Secretary of State

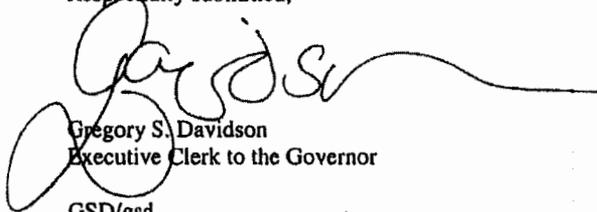
Dear Secretary Hughs:

Pursuant to his powers as Governor of the State of Texas, Greg Abbott has issued the following:

A proclamation certifying that COVID-19 poses an imminent threat of disaster in the state and declaring a state of disaster for all counties in Texas.

The original proclamation is attached to this letter of transmittal.

Respectfully submitted,



Gregory S. Davidson
Executive Clerk to the Governor

GSD/gsd

Attachment

PROCLAMATION
BY THE
Governor of the State of Texas

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, the novel coronavirus (COVID-19) has been recognized globally as a contagious respiratory virus; and

WHEREAS, as of March 13, 2020, there are more than 30 confirmed cases of COVID-19 located in multiple Texas counties; and

WHEREAS, there are more than 50 Texans with pending tests for COVID-19 in Texas; and

WHEREAS, some schools, universities, and other governmental entities are beginning to alter their schedules, and some venues are beginning to temporarily close, as precautionary responses to the increasing presence of COVID-19 in Texas; and

WHEREAS, costs incurred to prepare for and respond to COVID-19 are beginning to mount at the state and local levels; and

WHEREAS, the State of Texas has already taken numerous steps to prepare for COVID-19, such as increasing laboratory testing capacity, coordinating preparedness efforts across state agencies, and working with local partners to promote appropriate mitigation efforts; and

WHEREAS, it is critical to take additional steps to prepare for, respond to, and mitigate the spread of COVID-19 to protect the health and welfare of Texans; and

WHEREAS, declaring a state of disaster will facilitate and expedite the use and deployment of resources to enhance preparedness and response.

NOW, THEREFORE, I, GREG ABBOTT, Governor of the State of Texas, do hereby certify that COVID-19 poses an imminent threat of disaster. In accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I hereby declare a state of disaster for all counties in Texas.

Pursuant to Section 418.017 of the code, I authorize the use of all available resources of state government and of political subdivisions that are reasonably necessary to cope with this disaster.

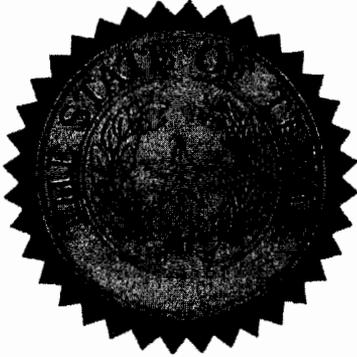
Pursuant to Section 418.016 of the code, any regulatory statute prescribing the procedures for conduct of state business or any order or rule of a state agency that would in any way prevent, hinder, or delay necessary action in coping with this disaster shall be suspended upon written approval of the Office of the Governor. However, to the extent that the enforcement of any state statute or administrative rule regarding contracting or procurement would impede any state agency's emergency response that is necessary to cope with this declared disaster, I hereby suspend such statutes and rules for the duration of this declared disaster for that limited purpose.

In accordance with the statutory requirements, copies of this proclamation shall be filed

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
11:26AM O'CLOCK

MAR 13 2020

with the applicable authorities.



IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 13th day of March, 2020.

A handwritten signature in cursive script, reading "Greg Abbott".

GREG ABBOTT
Governor

ATTESTED BY:

A handwritten signature in cursive script, reading "Ruth R. Hughs".

RUTH R. HUGHS
Secretary of State

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
11:20 AM O'CLOCK

MAR 13 2020

EXHIBIT B

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 20-9042

IN THE COURT OF CRIMINAL APPEALS OF TEXAS

Misc. Docket No. 20-007

**FIRST EMERGENCY ORDER REGARDING
THE COVID-19 STATE OF DISASTER**

ORDERED that:

1. Governor Abbott has declared a state of disaster in all 254 counties in the State of Texas in response to the imminent threat of the COVID-19 pandemic. This order is issued pursuant to Section 22.0035(b) of the Texas Government Code.

2. Subject only to constitutional limitations, all courts in Texas may in any case, civil or criminal—and must to avoid risk to court staff, parties, attorneys, jurors, and the public—without a participant's consent:

a. Modify or suspend any and all deadlines and procedures, whether prescribed by statute, rule, or order, for a stated period ending no later than 30 days after the Governor's state of disaster has been lifted;

b. Allow or require anyone involved in any hearing, deposition, or other proceeding of any kind—including but not limited to a party, attorney, witness, or court reporter, but not including a juror—to participate remotely, such as by teleconferencing, videoconferencing, or other means;

c. Consider as evidence sworn statements made out of court or sworn testimony given remotely, out of court, such as by teleconferencing, videoconferencing, or other means;

d. Conduct proceedings away from the court's usual location, but in the county of venue, and only with reasonable notice and access to the participants and the public;

e. Require every participant in a proceeding to alert the court if the participant has, or knows of another participant who has, COVID-19 or flu-like symptoms, or a fever, cough or sneezing;

f. Take any other reasonable action to avoid exposing court proceedings to the threat of COVID-19.

3. All courts in Texas may extend the statute of limitations in any civil case for a stated period ending no later than 30 days after the Governor's state of disaster has been lifted.

4. This Order is effective as of March 13, 2020, and expires May 8, 2020, unless extended by the Chief Justice of the Supreme Court.

5. The Clerk of the Supreme Court is directed to:

a. post a copy of this Order on www.txcourts.gov;

b. file a copy of this Order with the Secretary of State; and

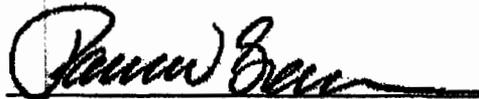
c. send a copy of this Order to the Governor, the Attorney General, and each member of the Legislature.

6. The State Bar of Texas is directed to take all reasonable steps to notify members of the Texas bar of this Order.

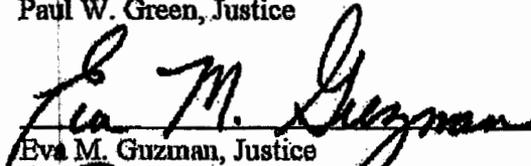
Dated: March 13, 2020



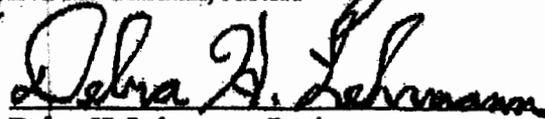
Nathan L. Hecht, Chief Justice



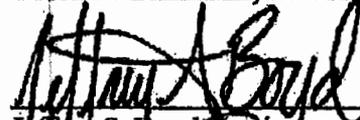
Paul W. Green, Justice



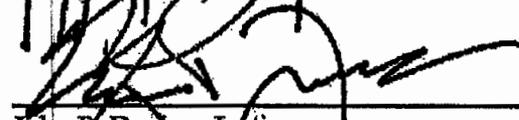
Eva M. Grzman, Justice



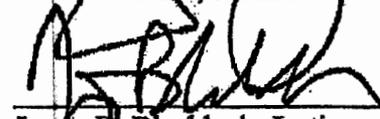
Debra H. Lehrmann, Justice



Jeffrey S. Boyd, Justice



John F. Devine, Justice



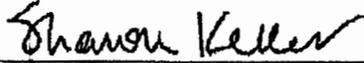
James D. Blacklock, Justice

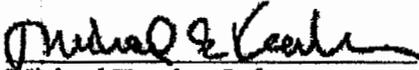


J. Brett Busby, Justice

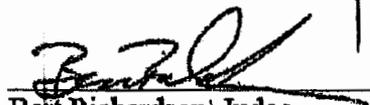


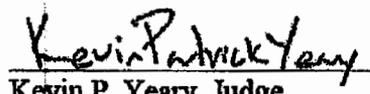
Jane N. Bland, Justice


Sharon Keller, Presiding Judge

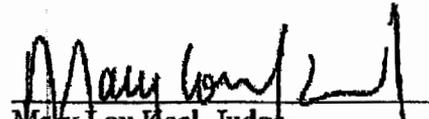

Michael Keasler, Judge

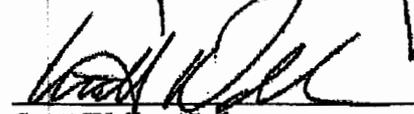

Barbara P. Hervey, Judge

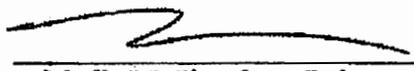

Bert Richardson, Judge


Kevin P. Yeary, Judge


David Newell, Judge


Mary Lou Keel, Judge


Scott Walker, Judge


Michelle M. Slaughter, Judge

Appendix “C”

Copy of the Order extending the TRO in Cause No. 19-1060-C

issued a proclamation declaring a state of disaster in all 254 counties in the State of Texas, including Hays County, pursuant to Section 22.0035(b) of the Texas Government Code. A copy of that proclamation is attached as Exhibit A to this Order. On March 13, 2020, the Supreme Court of Texas in Misc. Docket No. 20-9042, and the Court of Criminal Appeals of Texas in Misc. Docket No. 20-007, issued a First Emergency Order Regarding the COVID-19 State of Disaster. A copy of that First Emergency Order is attached as Exhibit B.

That First Emergency Order states that “all courts in Texas may in any case:

- a. Modify or suspend any and all deadlines and procedures, whether prescribed by statute, rule, or order, for a stated period ending no later than 30 days after the Governor’s state of disaster has been lifted;...”

IT IS, THEREFORE, ORDERED that Permian Highway Pipeline LLC, Kinder Morgan Texas Pipeline LLC, and any other person acting under his direction be and hereby are commanded to desist and refrain taking a writ of possession, taking any action on the Odell tract, or otherwise interfering with Electro Purification’s use and enjoyment of the groundwater estate and all express and implied easements to use the surface of the property described in the groundwater lease Electro Purification holds on the Odell Tract from the date of entry of the initial Order and extended until the temporary injunction hearing can be held or until further ordered by this Court.

IT IS FURTHER ORDERED that the hearing on Electro Purification LLC’s motion for a temporary injunction is continued to a date to be determined by the Court pursuant to the Supreme Court’s First Emergency Order and the Governor’s disaster proclamation. The hearing will be heard before the Honorable Robert Updegrave, Judge of the Hays County Court at Law No. 1 of Hays County, Texas at a date to be determined as soon as possible in San Marcos, Hays County Courthouse, then and there to show cause, if any, why a temporary injunction should not be issued as requested by Electro Purification. The Clerk of the Court will be directed to issue a show cause notice to Permian Highway Pipeline LLC and Kinder Morgan Texas Pipeline LLC to appear at the temporary injunction hearing once it is able to be scheduled.

The bond previously submitted by Electro Purification, LLC shall continue to be held in the registry of the Court.

Signed this 24 day of March, 2020, at 824 A.m. in San Marcos Tx, Texas.

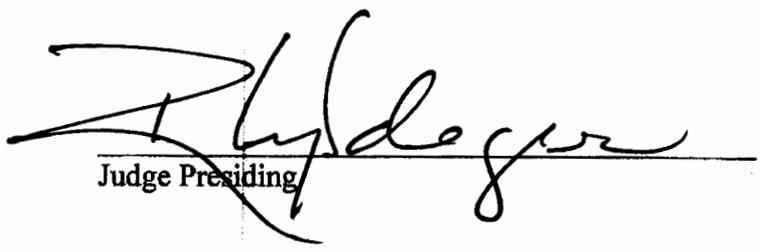

Judge Presiding

EXHIBIT A

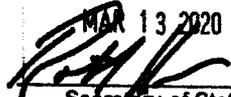


GOVERNOR GREG ABBOTT

March 13, 2020

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
11:20 AM O'CLOCK

The Honorable Ruth R. Hughs
Secretary of State
State Capitol Room 1E.8
Austin, Texas 78701

MAR 13 2020

Secretary of State

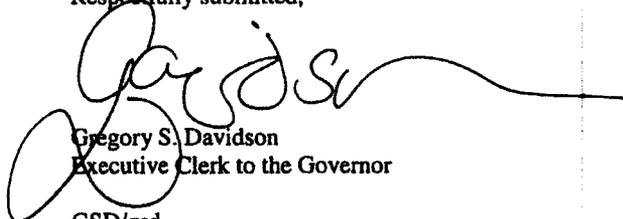
Dear Secretary Hughs:

Pursuant to his powers as Governor of the State of Texas, Greg Abbott has issued the following:

A proclamation certifying that COVID-19 poses an imminent threat of disaster in the state and declaring a state of disaster for all counties in Texas.

The original proclamation is attached to this letter of transmittal.

Respectfully submitted,


Gregory S. Davidson
Executive Clerk to the Governor

GSD/gsd

Attachment

PROCLAMATION
BY THE
Governor of the State of Texas

TO ALL TO WHOM THESE PRESENTS SHALL COME:

WHEREAS, the novel coronavirus (COVID-19) has been recognized globally as a contagious respiratory virus; and

WHEREAS, as of March 13, 2020, there are more than 30 confirmed cases of COVID-19 located in multiple Texas counties; and

WHEREAS, there are more than 50 Texans with pending tests for COVID-19 in Texas; and

WHEREAS, some schools, universities, and other governmental entities are beginning to alter their schedules, and some venues are beginning to temporarily close, as precautionary responses to the increasing presence of COVID-19 in Texas; and

WHEREAS, costs incurred to prepare for and respond to COVID-19 are beginning to mount at the state and local levels; and

WHEREAS, the State of Texas has already taken numerous steps to prepare for COVID-19, such as increasing laboratory testing capacity, coordinating preparedness efforts across state agencies, and working with local partners to promote appropriate mitigation efforts; and

WHEREAS, it is critical to take additional steps to prepare for, respond to, and mitigate the spread of COVID-19 to protect the health and welfare of Texans; and

WHEREAS, declaring a state of disaster will facilitate and expedite the use and deployment of resources to enhance preparedness and response.

NOW, THEREFORE, I, GREG ABBOTT, Governor of the State of Texas, do hereby certify that COVID-19 poses an imminent threat of disaster. In accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I hereby declare a state of disaster for all counties in Texas.

Pursuant to Section 418.017 of the code, I authorize the use of all available resources of state government and of political subdivisions that are reasonably necessary to cope with this disaster.

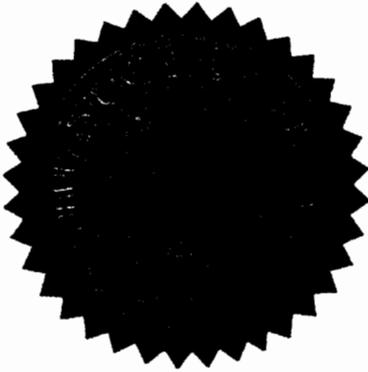
Pursuant to Section 418.016 of the code, any regulatory statute prescribing the procedures for conduct of state business or any order or rule of a state agency that would in any way prevent, hinder, or delay necessary action in coping with this disaster shall be suspended upon written approval of the Office of the Governor. However, to the extent that the enforcement of any state statute or administrative rule regarding contracting or procurement would impede any state agency's emergency response that is necessary to cope with this declared disaster, I hereby suspend such statutes and rules for the duration of this declared disaster for that limited purpose.

In accordance with the statutory requirements, copies of this proclamation shall be filed

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
11:20AM O'CLOCK

MAR 13 2020

with the applicable authorities.



IN TESTIMONY WHEREOF, I have hereunto signed my name and have officially caused the Seal of State to be affixed at my office in the City of Austin, Texas, this the 13th day of March, 2020.

A handwritten signature in black ink that reads "Greg Abbott".

GREG ABBOTT
Governor

ATTESTED BY:

A handwritten signature in black ink that reads "Ruth R. Hughs".

RUTH R. HUGHS
Secretary of State

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
11:20 AM O'CLOCK

MAR 13 2020

EXHIBIT B

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 20-9042

IN THE COURT OF CRIMINAL APPEALS OF TEXAS

Misc. Docket No. 20-007

FIRST EMERGENCY ORDER REGARDING THE COVID-19 STATE OF DISASTER

ORDERED that:

1. Governor Abbott has declared a state of disaster in all 254 counties in the State of Texas in response to the imminent threat of the COVID-19 pandemic. This order is issued pursuant to Section 22.0035(b) of the Texas Government Code.
2. Subject only to constitutional limitations, all courts in Texas may in any case, civil or criminal—and must to avoid risk to court staff, parties, attorneys, jurors, and the public—without a participant's consent:
 - a. Modify or suspend any and all deadlines and procedures, whether prescribed by statute, rule, or order, for a stated period ending no later than 30 days after the Governor's state of disaster has been lifted;
 - b. Allow or require anyone involved in any hearing, deposition, or other proceeding of any kind—including but not limited to a party, attorney, witness, or court reporter, but not including a juror—to participate remotely, such as by teleconferencing, videoconferencing, or other means;

c. Consider as evidence sworn statements made out of court or sworn testimony given remotely, out of court, such as by teleconferencing, videoconferencing, or other means;

d. Conduct proceedings away from the court's usual location, but in the county of venue, and only with reasonable notice and access to the participants and the public;

e. Require every participant in a proceeding to alert the court if the participant has, or knows of another participant who has, COVID-19 or flu-like symptoms, or a fever, cough or sneezing;

f. Take any other reasonable action to avoid exposing court proceedings to the threat of COVID-19.

3. All courts in Texas may extend the statute of limitations in any civil case for a stated period ending no later than 30 days after the Governor's state of disaster has been lifted.

4. This Order is effective as of March 13, 2020, and expires May 8, 2020, unless extended by the Chief Justice of the Supreme Court.

5. The Clerk of the Supreme Court is directed to:

a. post a copy of this Order on www.txcourts.gov;

b. file a copy of this Order with the Secretary of State; and

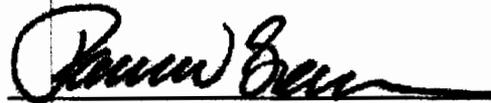
c. send a copy of this Order to the Governor, the Attorney General, and each member of the Legislature.

6. The State Bar of Texas is directed to take all reasonable steps to notify members of the Texas bar of this Order.

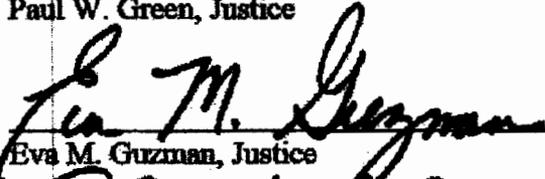
Dated: March 13, 2020



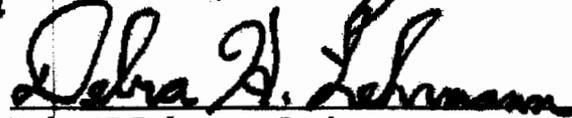
Nathan L. Hecht, Chief Justice



Paul W. Green, Justice



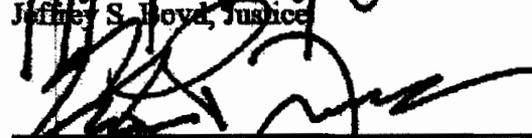
Eva M. Guzman, Justice



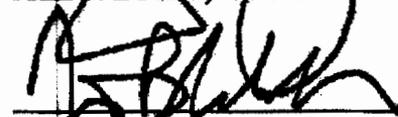
Debra H. Lehrmann, Justice



Jeffrey S. Boyd, Justice



John F. Devine, Justice



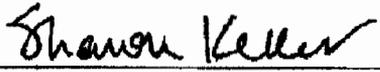
James D. Blacklock, Justice

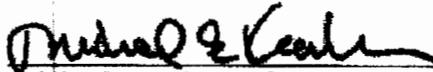


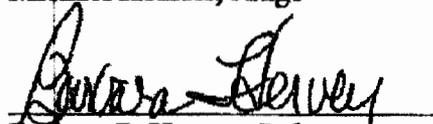
J. Brent Busby, Justice

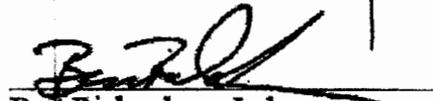


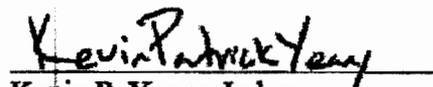
Jane N. Bland, Justice

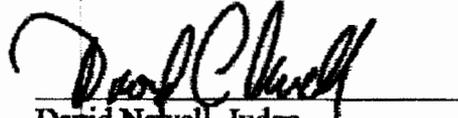

Sharon Keller, Presiding Judge

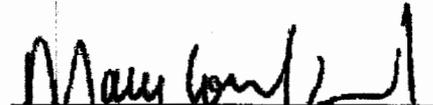

Michael Keasler, Judge

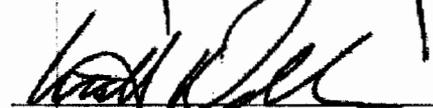

Barbara P. Hervey, Judge

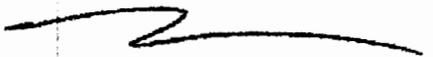

Ben Richardson, Judge


Kevin P. Yeary, Judge


David Newell, Judge


Mary Lou Keel, Judge


Scott Walker, Judge


Michelle M. Slaughter, Judge

Appendix “D”

SOAH’s Emergency Order



State Office of Administrative Hearings

Kristofer Monson
Chief Administrative Law Judge

First Amended Emergency Order Suspending Certain Live, In-Person Hearings and Mediations Related to the Novel Coronavirus (COVID-19)

March 23, 2020 – The Governor issued a declaration of disaster in all Texas counties related to the novel corona virus (COVID-19) on March 13, 2020. Consistent with that declaration, and the temporary suspension of non-emergency proceedings by various state, county, and local courts across the state, I hereby order the State Office of Administrative Hearings (SOAH) to temporarily discontinue all non-emergency live, in-person hearings and all live, in-person mediations at all SOAH office locations and remote hearing sites statewide for reasons of public health and safety. This temporary suspension is in effect through the April 10, 2020. This order amends the prior emergency order of March 16, 2020 by adding Section 5.

- 1. General Hearings** - Parties to general docket contested cases and mediations that are currently scheduled to take place in-person on or before April 10, 2020 will be contacted directly and given the opportunity to either conduct the proceedings by telephone or request a continuance to a later date. All requests to docket new cases during the suspension period must request either request a telephonic hearing, or request one or more proposed live hearing dates of no earlier than April 12, 2020.
- 2. ALR Hearings** - For Administrative Driver's License (ALR) hearings that are currently scheduled to take place in-person on or before April 10, 2020, SOAH will issue one or more bulk orders continuing the hearings to another date and giving the parties the opportunity to request to conduct the hearing telephonically.
- 3. Emergency Proceedings** - During the suspension period, only emergency hearings will be conducted through live, in-person hearings. In emergency hearings, parties and witnesses will be expected to follow social-distancing standards announced by the ALJ as a matter of courtroom decorum. Counsel and parties with a positive COVID-19 test, or any flu-like symptoms—including fever, coughing, or sneezing—should contact SOAH prior to the proceeding. Lawyers should contact SOAH if they are aware that agency staff, clients, witnesses or others have these symptoms. If the parties file an agreed motion, proceedings in these emergency cases may also be conducted telephonically, and/or parties may be permitted to individually appear telephonically.
- 4. Balance Billing Mediation** – This order suspending in-person mediations does not apply to mediations relating to consumer health benefits disputes pursuant to the former provisions of Texas Insurance Code, Chapter 1467. These “balance billing” or “surprise

medical bill” mediations are not conducted at SOAH or by SOAH mediators, nor does SOAH have any authority over the parties to the mediation, or over the timetable on which the mediations occur. However, SOAH encourages the mediators and parties to those disputes to conduct their mediations telephonically during this time as a precaution to protect public health and safety, and to afford consumers and providers the opportunity to efficiently resolve their disputes without delay.

- 5. IDEA Hearings and Resolution Meetings** – The temporary suspension of live, in person hearings as described in Section 1 of this order applies to due process hearings conducted pursuant to the Individuals with Disabilities Education Act (IDEA) to the extent that such hearings are presided over by SOAH ALJs.

Unless the parties otherwise agree in writing, federal law requires local school districts to convene a resolution meeting prior to the initiation of the IDEA due process hearing.¹ These resolution sessions are not conducted at SOAH or attended by SOAH ALJs. However, SOAH encourages the parties to conduct these meetings telephonically or by videoconference during this time as a precaution to protect public health and safety, and to help resolve issues related to individual education plans.

Further updates will appear on this website, and I encourage you to review the resources attached.

SOAH is dedicated both to the timely and fair resolution of the matters before it, as well as to the health and wellbeing of the attorneys, parties, and communities we serve.

Kristofer S. Monson

Chief Administrative Law Judge

Further Information and resources

The most accurate and up-to-date state information on the current coronavirus situation can be found on the Texas Department of State Health Services website at:

<https://dshs.texas.gov/coronavirus/>

We encourage you to also review these current fact sheets available here:

Symptoms of Coronavirus- <https://dshs.texas.gov/coronavirus/docs/CoronavirusSymptoms-English.pdf>

COVID-19 Facts - <https://dshs.texas.gov/coronavirus/docs/DSHS-ShareFacts.pdf>

¹ 20 USC § 1415(f)(1)(B)(i); 34 C.F.R. § 300.510