

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 2ND MONTHLY ABATEMENT STATUS REPORT

TO THE HONORABLE ADMINISTRATIVE LAW JUDGES:

COMES NOW Electro Purification, LLC (“EP” or “Applicant”) and provides this 2nd Monthly Abatement Status Report, and would show the Administrative Law Judges as follows:

I.
Status Report

Since the first monthly Abatement Status Report, EP and Kinder Morgan Pipeline Company, LLC and Permian Highway Pipeline, LLC initiated both informal settlement discussions and conducted a formal mediation on May 26, 2020, in an effort to address issues related to the threat the Permian Highway Pipeline Project posed to the ability of Electro Purification, LLC to implement its Hays County municipal groundwater supply project as contemplated by the Permit Application pending in this proceeding. On May 26th, the formal mediation concluded with the Mediator making a “Mediator’s Proposal for Settlement” to the Parties.

Following the presentation of the Mediator’s Proposal to both sides, the Mediator “continued” the mediation to give the Parties the opportunity to consider with their principals the settlement proposal presented, as well as resolve several additional pending issues in the settlement discussion. As of the date of this Abatement Report, the mediation remains in a “continued” status

pending final decision by either or both the Parties with respect to the Mediator's Settlement Proposal and the other outstanding issues.

While no formal deadline for termination of the mediation has been set, the Applicant expects the mediation to be brought to a conclusion one way or another by the close of business June 5, 2020. Assuming agreement is reached, finalization of settlement documents will occur as any settlement will have to be reduced to writing and then implemented. Implementation will include a status report to the two Hays County Courts at Law and, hopefully, dismissal of the two law suits.

In the event the Parties are not able to settle issues in the litigation, the next step will be to schedule hearings in the respective County Courts at Law to conduct hearing on several procedural issues and then followed by the hearings on EP's damages vis-à-vis the determine of the final rights to be acquired by Kinder Morgan over the EP Project through the condemnation process pursuant to Chapter 21, Texas Property Code. Once the Courts have ruled and made such determination, the next step will be an evaluation of the impact to the Applicant's municipal water supply project. In particular, EP will be required to assess the impacts to its project as it relates to this proceeding.

EP will report that determination to the Administrative Law Judges and the Parties together with a recommendation, or conclusion, as to whether or not to proceed with the pending Application and the adjudication in this proceeding, or whether the Application must be revised and recommitted to the District for further review and analysis, or withdrawn.

As the mediation process is ongoing, and the final rights of the Parties have not been adjudicated in the Chapter 21 condemnation proceeding, further information is unavailable at this time for the Applicant to present to the Administrative Law Judges and Parties.

II.

Conclusion

That concludes Applicant's 2nd Monthly Status Report. EP will continue to apprise the ALJs and Parties of the developments in the Pipeline matter consistent with the ALJs' Order No. 12.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing 2nd Monthly Abatement Status Report has been e-filed with SOAH using the www.efile.txcourts.gov filing service and sent to all parties of record or their Counsel via e-mail and/or U.S. Mail on this the 1st day of June, 2020, addressed as follows:

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