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April 1, 2020

TESPA Holds EP to Reasonable Hearing Schedule

WIMBERLEY, TX – As the end of the abatement period approached, Electro Purification (EP) and TESPAs disagreed over the hearing schedule for EP’s groundwater production application. Initially, EP sought an indefinite abatement, or delay, of the hearing on the application until its claims against Kinder Morgan were resolved, also citing logistical challenges to legal proceedings posed by the novel coronavirus.

TESPA opposed such an open-ended abatement and requested EP limit the extension to three months. Hays County and other protestants expressed support for TESPAs position, to which EP agreed. Thus, on March 30, 2020, EP filed a Motion to Continue Abatement of the hearing pending before the State Office of Administrative Hearings (SOAH). Given the current circumstances of the pandemic and with the defined end date for abatement, no parties opposed the motion. TESPAs expects the Administrative Law Judge will soon issue an order extending abatement through July 17, 2020. Accordingly, the hearing will now be held no earlier than February 2021.

EP’s Motion contends that the location of the pipeline easement “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.” EP further represents that if any of the seven water wells require relocation or modification due to the pipeline, “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.” For these reasons, EP believes “there is a strong possibility that it will be forced to withdraw its pending Application and start over with the application process.”

EP and Kinder Morgans negotiations over the past six months concerning the pipeline’s location were unsuccessful, and EP filed suit against Kinder Morgan seeking damages for alleged harm to EP’s water project into which EP claims it has invested in excess of three million dollars. The presiding Judge granted EP’s request for a Temporary Restraining Order commanding Kinder Morgan to desist and refrain from any action on the Bridges or Odell tracts until the court can schedule the next hearing for further consideration of the issue.

TESPA will monitor EP’s ongoing litigation with Kinder Morgan. The Motion requires EP to file monthly status updates regarding the Kinder Morgan lawsuit. TESPAs will provide ongoing updates during abatement as information becomes available. When the current abatement ends, TESPAs will evaluate its position on any further abatement.

TESPA is a non-profit organization with a mission to protect the Trinity and Edwards aquifers from over pumping, the springs that flow from this interconnected system, and the property rights of landowners who depend on and wish to conserve this precious natural resource. TESPAtexas.org

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