

STATE OFFICE OF ADMINISTRATIVE HEARINGS

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DATE: 11/27/2018

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REGARDING: **ORDER NO. 3 - SETTING HEARING, ADOPTING PROCEDURAL SCHEDULE, ADDRESSING  
ALIGNMENT OF PARTIES, AND REFERRING TO MEDIATION**

DOCKET NUMBER: 957-18-4985

**JUDGE Joanne Summerhays**

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**SOAH DOCKET NO. 957-18-4985**

|                                    |          |                                |
|------------------------------------|----------|--------------------------------|
| <b>APPLICATION OF ELECTRO</b>      | <b>§</b> | <b>BEFORE THE STATE OFFICE</b> |
|                                    | <b>§</b> |                                |
| <b>PURIFICATION, LLC, FOR WELL</b> | <b>§</b> |                                |
|                                    | <b>§</b> | <b>OF</b>                      |
| <b>MODIFICATION AUTHORIZATION</b>  | <b>§</b> |                                |
|                                    | <b>§</b> |                                |
| <b>AND PRODUCTION PERMIT</b>       | <b>§</b> | <b>ADMINISTRATIVE HEARINGS</b> |

**ORDER NO. 3**  
**SETTING HEARING, ADOPTING PROCEDURAL SCHEDULE, ADDRESSING**  
**ALIGNMENT OF PARTIES, AND REFERRING TO MEDIATION**

**I. ADOPTING HEARING AND PROCEDURAL SCHEDULE**

On November 8, 2018, the parties submitted an agreed procedural schedule and proposed dates for a hearing on the merits. The hearing will convene at **9:00 a.m., September 19, 2019**, on the Fourth Floor of the William P. Clements Building, 300 West 15<sup>th</sup> Street, Austin, Texas, and is scheduled to end on **September 27, 2019**. The schedule is adopted as follows:

| DATE               | EVENT  |
|--------------------|--|
| September 17, 2018 | Discovery begins   |
| January 31, 2019   | Deadline to conduct Mediation  |
| February 1, 2019   | Deadline to designate Expert Witnesses   |
| February 8, 2019   | Deadline for Applicant to file prefiled testimony  |
| April 12, 2019     | Deadline for Protestant to file prefiled testimony   |
| June 12, 2019      | Deadline for Barton Springs Edwards Aquifer Conservation District (BSEACD) General Manager (GM) to file prefiled testimony |
| July 19, 2019      | Deadline to respond to objections  |
| August 9, 2019     | Discovery Deadline All written discovery must be served 30 days before deadline  |

| DATE                  | EVENT  |
|-----------------------|--|
| August 28, 2019       | Deadline to request in-person prehearing conference                        |
| September 4, 2019     | Prehearing conference (by telephone unless otherwise agreed) at 10:00 a.m. |
| September 19-27, 2019 | Hearing on the merits – 9:00 a.m. each day                                 |

The parties shall serve each other with all documents in the proceeding by email, provided that hard copies are sent contemporaneously with the email service and delivered timely.

## II. GRANTING IN PART AND DENYING IN PART REQUEST FOR PARTY ALIGNMENT

The GM requested that all pro se parties be aligned with the Trinity Edwards Springs Protection Association (TESPA). TESPAs filed a response objecting to the alignment with pro se parties, arguing that, although the parties' interests are aligned, it could create ethical conflicts for counsel. The only pro se party who filed a response was Mary Louise Bond, who opposed the alignment. Ms. Bond proposed that one pro se party be designated as the point of contact, but did not suggest who that person should be or provide any contact information for that person. No other pro se party submitted any response to her proposal.


The ALJ agrees that the request for alignment for purposes of discovery and submission of prefiled testimony should be **DENIED** unless the parties agree. However, for the purpose of the hearing, the motion to align shall be **GRANTED** and pro se parties shall be aligned with TESPAs and only one representative of the aligned parties shall be permitted to cross-examine witnesses. The other parties shall submit their written cross-examination questions to the representative prior to the hearing. If the parties are not able to agree on which representative will conduct the cross-examination, the ALJ will determine that issue.

### III. REFERRAL TO MEDIATION

The parties have agreed to enter into mediation of this matter and included possible dates for scheduling the mediation. The Administrative Law Judge (ALJ) has determined that the request has merit. **IT IS, THEREFORE, ORDERED:**

1. This case is hereby referred to the State Office of Administrative Hearings' (SOAH) Alternative Dispute Resolution Team Leader, Judge Howard S. Seitzman, for appointment of a mediator and a period of mediation. With the issuance of this Order, the official file in this case is transferred to Judge Seitzman.
2. The mediator will schedule the mediation in consultation with the parties.
3. The parties are ordered to appear at the mediation with a party representative (in addition to the attorney) who has full settlement authority for this matter.
4. Should the mediation be unsuccessful, the case shall be returned to the undersigned ALJ.

**SIGNED November 27, 2018.**

  
**JOANNE SUMMERHAYS  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS**

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**AGENCY:** Barton Springs Edwards Aquifer (BSEA)

**STYLE/CASE:** ELECTRO PURIFICATION LLC

**SOAH DOCKET NUMBER:** 957-18-4985

**REFERRING AGENCY CASE:**

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**STATE OFFICE OF ADMINISTRATIVE  
HEARINGS**

**ADMINISTRATIVE LAW JUDGE**

**ALJ Joanne Summerhays**

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