

SOAH DOCKET NO. 952-13-5210

APPLICATION OF END OP, L.P. FOR § BEFORE THE STATE OFFICE
 WELL REGISTRATION, OPERATING §
 PERMITS, AND TRANSFER PERMITS § OF
 §
 § ADMINISTRATIVE HEARINGS
 §

ORDER NO. 2
ADOPTING AGREED PROCEDURAL SCHEDULE AND
SCHEDULING HEARING ON THE MERITS

I. PROCEDURAL SCHEDULE

On September 10, 2013, End Op, L.P. filed an Agreed Procedural Schedule. The Administrative Law Judge (ALJ) adopts the procedural schedule as follows:¹

DATE	ACTION REQUIRED
October 28, 2013	Deadline for all parties (1) to supplement disclosures concerning persons with knowledge of relevant facts and testifying experts and (2) to designate expert and fact witnesses.
November 20, 2013	Discovery ends.
December 4, 2013	Deadline to file dispositive motions.
December 11, 2013	Deadline to file responses to dispositive motions.
December 18, 2013	Deadline for Applicant to file direct case, including all pre-filed testimony, exhibits, and proposed order of witnesses.

¹ The ALJ changed the telephonic prehearing conference from February 7, 2014, to February 10, 2014, at 1:00 p.m. Accordingly, the hearing on the merits will begin at 9:00 a.m. on February 11, 2014.

January 10, 2014	Hearing on pending motions (to begin at 9:00 a.m.). Deadline for each Protestant to file their respective direct cases, including all pre-filed testimony, exhibits, and proposed order of witnesses. Deadline for General Manager and each Protestant to file any objections to Applicant's pre-filed case.
January 17, 2014	Deadline for General Manager to file direct case, including all pre-filed testimony, exhibits, and proposed order of witnesses.
January 27, 2014	Deadline for Applicant and General Manager to file any objections to Protestants' pre-filed cases.
February 3, 2014	Deadline to file objections to General Manager's pre-filed case.
February 10, 2014	Telephonic prehearing conference at 1:00 p.m. to set limits for case presentation, consider objections to pre-filed evidence, or other pending motions.
February 11-14, 2014	Hearing on the Merits will begin at 9:00 a.m., Tuesday, February 11, 2014. The hearing is expected to last four days until February 14, 2014.

The January 10, 2014, hearing on pending motions and the February 11-14, 2014, hearing on the merits will both begin at 9:00 a.m. and be held at the State Office of Administrative Hearings (SOAH), 300 West 15th Street, William P. Clements Building, Fourth Floor, Austin, Texas 78701.

II. PROCEDURAL RULES

This case shall be conducted in accordance with the procedural rules of SOAH. *See* 1 Tex. Admin. Code ch. 155.

III. ELECTRONIC CASE INFORMATION SYSTEM

- A. Access through SOAH's public website.** SOAH's Electronic Case Information System may be accessed from SOAH's website at www.soah.state.tx.us. Click the "Electronic Case Files" link at the upper right hand corner of SOAH's home page to enter the system. The system allows parties and the public to view all public documents filed in SOAH cases on November 8, 2010 or later.
- B. New fax number.** In conjunction with the electronic system, SOAH's fax number for all general docket cases in Austin is (512) 322-2061. This number should be used for all faxed filings. It should not be used for submission of confidential mediation communications.
- C. Filing methods.** As alternatives to faxed filings, parties may continue to file documents by mail or hand delivery and may now also file most documents by electronic upload *via* the electronic system. To upload documents, click on the Electronic Case Files link and click again on the button at the bottom of the page that appears. Parties must register with SOAH in order to file by electronic upload. Directions to register are provided on the website.
- D. Service by e-mail.** SOAH has implemented service by email for proposals for decision, orders, and other case-related documents and communications in general docket cases. See SOAH's website, www.soah.state.tx.us, for information and the form to request email service. Click on the "Request Service by Email" link in the Notices box.

IV. DISCOVERY

Discovery shall be conducted according to the Texas Rules of Civil Procedure, as supplemented by SOAH's discovery rules. *See* 1 Tex. Admin. Code § 155.251. Pursuant to SOAH's rule at 1 Texas Administrative Code § 155.251(c)(2), discovery documents shall be served on the other parties but shall **not** be filed with the ALJ unless such materials are the subject of a discovery dispute.

The parties are expected to attempt to resolve discovery disputes; however, significant disputes which cannot be resolved should be brought to the ALJ's attention in a motion to compel. Any such motion shall include a copy of any discovery correspondence necessary for an informed ruling on the dispute.

V. PLEADINGS

Unless a party seeks a hearing and the motion is granted, the ALJ will rule on motions based on the written pleadings. If oral argument is granted, it shall be conducted by telephone conference, unless the ALJ specifies otherwise.

When filing or serving documents, the parties shall use the service list attached to this order and attach a copy of that list to each filing. Any motion **must indicate that the moving party has contacted the other parties, and state the other parties' positions on the motion.**

VI. MARKING AND ORGANIZATION OF EXHIBITS

The parties will mark their exhibits beginning Applicant Ex. 1, Protestant Ex. 1, General Manager Ex. 1 and so forth, in the approximate order they intend to offer the exhibits at hearing. The parties will number their exhibits sequentially. If voluminous (more than 100 pages), the exhibits will be presented in three-ring binders with tabs bearing the exhibit numbers. There must be an index in the front of each notebook providing the exhibit numbers and a brief description of each document. The front and spine of each notebook should be clearly labeled

with the party, the notebook number, the dates of surveys to which the contents of the notebook are relevant, and the exhibit numbers. For example:

Applicant
Ex. 25 - 37.

The parties should highlight the most important parts of voluminous exhibits, to ensure that the ALJ does not miss anything critical. Each party should prepare one set of original exhibits (the record set), as well as a working copy for the ALJ.

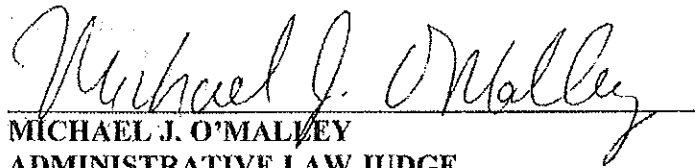
VII. STIPULATIONS

The parties are directed to confer prior to the hearing and enter into written stipulations of undisputed factual matters, no matter how minor the facts may be. These stipulations are to be presented at the hearing at the appropriate time for entry into the record of the cause.

VIII. TRANSCRIPT

The ALJ requests a verbatim record and an original and two copies of the transcript of this hearing. Therefore, a court reporter will need to be at the hearing to transcribe the hearing.

SIGNED September 11, 2013.



MICHAEL J. O'MALLEY
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARING

STATE OFFICE OF ADMINISTRATIVE HEARINGS

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AGENCY: Lost Pines Groundwater Conservation District (LPG)
STYLE/CASE: APPLICATION OF END OP LP FOR OPERATING PERMITS
SOAH DOCKET NUMBER: 952-13-5210
REFERRING AGENCY CASE:

STATE OFFICE OF ADMINISTRATIVE
HEARINGS

ADMINISTRATIVE LAW JUDGE
ALJ MICHAEL J. OMALLEY

REPRESENTATIVE / ADDRESS

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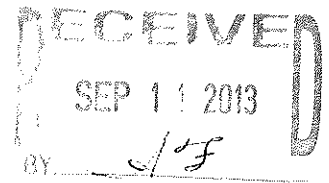
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DATE: 9/11/2013

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REGARDING: ORDER NO. 2 - ADOPTING PROCEDURAL SCHEDULE & SCHEDULING HEARING ON THE MERITS

DOCKET NUMBER: 952-13-5210

JUDGE MICHAEL J OMALLEY

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cc: Docket Clerk, State Office of Administrative Hearings

NOTE: IF ALL PAGES ARE NOT RECEIVED, PLEASE CONTACT LIZ SLICK(lsl) (512) 475-4993

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