

The requestor, Sierra Club, has intervened. This order is issued pursuant to Tex. Gov't Code § 552.322 which permits the discovery of the information at issue under a protective order.

IT IS ORDERED that, within 10 days of receipt of this signed order, Plaintiff shall provide to the Attorney General and to the attorneys of record for Sierra Club listed in paragraph 1 a copy of the Information at Issue in this suit, subject to the following conditions:

1. The copies produced are to remain in the sole custody of the attorneys for the Attorney General and the following attorneys of record for the Sierra Club: William Christian, Ilan Levin, Emma Cheuse, and Kathleen Riley.

2. The copies produced may be disclosed only to the following persons:

(a) the attorneys working on this action on behalf of the Attorney General;
and

(b) secretarial and paralegal assistants working under the supervision of individuals listed in Paragraph 2(a), only to the extent necessary to perform work directly related to this action; and

(c) the following attorneys of record for the Sierra Club: William Christian, Ilan Levin, Emma Cheuse, and Kathleen Riley.; and

(d) secretarial and paralegal assistants working under the supervision of individuals listed in Paragraph 2(c), only to the extent necessary to perform work directly related to this action;

3. Disclosure of the Information at Issue may be made to the individuals listed in Paragraph 2(b) only after each individual has been made aware of the provisions of this Protective Order and has indicated his or her written assent to be bound by it.

4. The individuals listed in Paragraph 2 shall not disclose, discuss, release, or characterize the contents, substance, or copies of the Information at Issue under this protective order to or with persons or entities not listed in Paragraph 2. Any such disclosure,

discussion, release, or characterization to or with persons or entities not listed in Paragraph 2 is unauthorized and a violation of this protective order.

5. The Information at Issue is only to be used in preparation for trial or in settlement discussions with TCEQ.

6. If any of the Information at Issue is transmitted via email or fax, to or between the individuals listed in Paragraph 2(c) and 2(d), such transmissions must be encrypted. All electronic copies of such transmissions and the Information at Issue shall be stored in a separate secure folder, password protected, and access restricted to the individuals listed in Paragraph 2(c) and 2(d). All physical copies must be kept in a secure, locked cabinet that shall be accessible only to the individuals listed in Paragraph 2(c) and 2(d).

7. Documents produced will be labeled in bold print with the following: "Confidential—Attorneys' Eyes Only." Documents unintentionally produced without designation as "Confidential—Attorneys' Eyes Only" may later be so designated and shall be treated as "Confidential—Attorneys' Eyes Only" from the date written notice of the designation is provided to the receiving party. If a receiving party learns of any unauthorized disclosure of the Information at Issue, the party shall immediately upon learning of such disclosure inform the producing party of all pertinent facts relating to such disclosure and shall make all reasonable efforts to prevent disclosure by each unauthorized person who received such information. It is the responsibility of the receiving party to ensure the recovery or destruction of any copies or records of the Information at Issue connected with the unauthorized disclosure.

8. At trial, in support of a motion for summary judgment, or at any other stage in this suit where a party deems it necessary to submit the Information at Issue to the Court,

any document, exhibit, or motion containing the Information at Issue or references to the Information at Issue shall be submitted to the Court *in camera*, pursuant to the sealing provisions of Tex. Gov't Code § 552.3221. The parties hereby agree and waive any objection to a motion for summary judgment on the basis that such protected documents were not attached to or filed with the motion for summary judgment.

9. Upon termination of this litigation by an order that has become final due to the expiration of the time to appeal, or when all appeals have been exhausted, or by settlement, the Attorney General and Sierra Club shall securely destroy all paper copies of the information produced under this Protective Order and securely erase all electronic copies of the information produced under this Protective Order.

10. No privilege is waived by disclosure under this Protective Order.

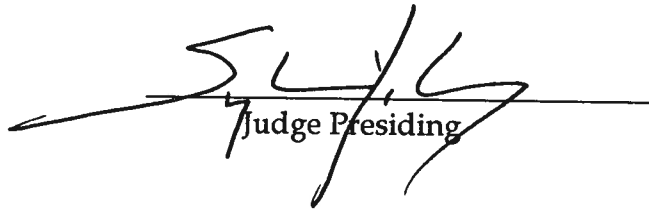
11. Insofar as the provisions of this Protective Order, or any other protective orders entered in this litigation, restrict the communication and use of the information protected by it, such provisions shall continue to be binding after the conclusion of this litigation, except that (a) there shall be no restriction on documents that are used as exhibits in open court unless such exhibits were filed under seal, and (b) upon termination of litigation due to the expiration of the time to appeal, or when all appeals have been exhausted, or by settlement, this Protective Order shall cease to apply to any information ordered released by the Court.

12. Violations of this Protective Order shall be enforceable by and subject to sanctions under the Court's contempt power.

13. All documents produced in this open records lawsuit marked with the label "Confidential—Attorneys' Eyes Only" are deemed produced under this Protective Order, pursuant to Tex. Gov't Code § 552.322.

14. The parties may by written agreement ask the Court to modify the terms of this Protective Order consistent with the Texas PIA and Texas Rules of Civil Procedure.

Signed this 6th day of March, 2020


Judge Presiding