

CAUSE NO. [REDACTED]

MATTERHORN EXPRESS PIPELINE, LLC

*Plaintiff,*

v.

[REDACTED]

*Defendants.*

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IN THE DISTRICT COURT OF

WASHINGTON COUNTY, TEXAS

335th JUDICIAL DISTRICT

**TEMPORARY RESTRAINING ORDER AND ORDER  
SETTING HEARING ON APPLICATION FOR TEMPORARY INJUNCTION**

On this day, the Court considered Plaintiff Matterhorn Express Pipeline, LLC (“Plaintiff”) Verified Original Petition and Application for Temporary Restraining Order and Injunctive Relief (the “Petition”) against Defendants, [REDACTED] (“Defendant”, whether one or more). After reviewing the Petition, the Court makes the following findings:

The Court finds that it clearly appears from the facts set forth in the Petition that unless Defendant is immediately restrained, Defendant will continue to interfere with Plaintiff’s right to enter and access certain lands situated in this County and described more particularly in Exhibit “A” attached hereto and incorporated herein by reference (the “Property”) for the purpose of conducting a boundary survey for easement acquisition and construction purposes, a topographic survey to identify obstructions, and a survey of wildlife, waters of the United States, and vegetation sites (“Preliminary Surveys”), all of which are incident to Plaintiff’s power of eminent domain. If Defendant is allowed to continue to interfere with Plaintiff’s right to conduct the Preliminary Surveys, Plaintiff will be unable to (a) determine the exact location for the Pipeline, (b) describe the right-of-way or easement needed for the Pipeline across the Property, (c) design the Pipeline accurately, (d) determine the locations of terrain features, fences, improvements, and structures,

(e) minimize the impact on the Property, (f) avoid any problems related to waters of the United States and vegetation, and (g) verify the presence or absence of wildlife. In short, without access to the Property, Plaintiff will be unable to construct the Pipeline, as defined in the Petition. The inability to survey prevents the foregoing, all of which will substantially delay the construction and operation of the Pipeline, causing Plaintiff to suffer financial losses from anticipated pipeline transport fees, increased project expenses, increased cost of capital, and other financial losses, as well as adversely impacting the receipt of needed volumes of substances to be transported in the Pipeline and Plaintiff's relationship with existing and future customers. Further, without the Preliminary Surveys, Plaintiff cannot initiate eminent domain proceedings against Defendant, if necessary, because Plaintiff will not be able to adequately describe the easements sought as required by Section 21.012(b)(1) of the Texas Property Code.

The Court finds that Plaintiff's damages are not presently ascertainable or easily calculated, and that the harm Plaintiff is suffering and will suffer if Defendant is allowed to continue to interfere with Plaintiff's access to the Property far outweighs any potential harm Defendant will suffer from the issuance of this Order. The Court further finds that it should maintain the status quo and protect Plaintiff from immediate and irreparable injury by entering a temporary restraining order against Defendant.

The Court also finds that Plaintiff is likely to succeed on the merits of its claim; therefore, an ex parte order, without notice to Defendant, is necessary because there was not enough time to give notice to Defendant, hold a hearing, and issue a restraining order before the irreparable injury, loss, or damage would occur.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Plaintiff's Application for Temporary Restraining Order is GRANTED, and the Court herein orders the immediate issuance of this Temporary Restraining Order.

IT IS FURTHER ORDERED that Defendant, Defendant's officers, agents, servants, employees, attorneys, and those persons in active concert or participation with Defendant, or with actual knowledge of this Order, are hereby immediately restrained and enjoined from taking any action to directly or indirectly interfere with Plaintiff, its agents, servants, employees, engineers, surveyors, and those persons hired or retained by them, from entering and conducting the Preliminary Surveys on the Property.

IT IS FURTHER ORDERED that unless terminated earlier by this Court, this Temporary Restraining Order shall expire fourteen (14) days from the date of the hour of signing, unless within the time limit set out above the Court extends the effectiveness of this Order in accordance with applicable law or it is extended by agreement of the parties.

IT IS FURTHER ORDERED that Defendant shall appear before the \_\_\_\_\_ District Court of Washington County, Texas, on the \_\_\_\_\_ day of \_\_\_\_\_, 2022, at \_\_\_\_\_ o'clock \_\_\_\_m. to show cause, if any, why Defendant should not be temporarily enjoined as requested by Plaintiff. The Clerk of the above-styled and numbered Court shall forthwith issue a Writ of Injunction in conformity with the law and the terms of this Temporary Restraining Order.

IT IS FURTHER ORDERED that this Temporary Restraining Order is binding on Defendant and Defendant's officers, agents, servants, employees, attorneys, and those persons in active concert or participation with them, or who receive actual notice of this Order by personal service or delivery, notice by telephone (whether to the party or their attorney), fax, e-mail, affixing such notice to the gate or door of the Property, or otherwise.

IT IS FURTHER ORDERED that, if necessary, this Temporary Restraining Order shall be enforced by any law enforcement personnel, including this County's Sheriff's Department, through any legal and lawful means necessary, including restraining Defendant and Defendant's officers, agents, servants, employees, attorneys, and those persons in active concert or participation with them from preventing access to the Property.

IT IS FURTHER ORDERED that this Temporary Restraining Order will not be effective unless and until Plaintiff executes and files with the Court a bond in conformity with the law, or a cash deposit in lieu thereof, in the amount of \$\_\_\_\_\_.

Signed on this \_\_\_\_ day of \_\_\_\_\_, 2022, at \_\_\_\_\_ o'clock \_\_\_\_ .m.

\_\_\_\_\_  
PRESIDING JUDGE