

June 17 and 18, 2020, in Live Oak. A telephonic status conference was held on May 19, 2020, to discuss both the hearing date and the means by which the hearing would be conducted. On May 21, 2020, the parties jointly requested that the hearing be rescheduled for September 10 and 11, 2020, at the District offices in Live Oak, and it was so scheduled. On July 21, 2020, in light of the continuing Covid-19 outbreak, and due to a scheduled travel-limiting medical procedure involving the undersigned, the hearing was rescheduled to be held on September 10 and 11, 2020, by Zoom conference.

On September 4, 2020, the parties filed their Joint Pre-hearing Stipulation (“JPS”). The JPS contained nine stipulations of fact, each of which are adopted and incorporated herein. The JPS also identified disputed issues of fact and law remaining for disposition.

On September 4, 2020, the County also filed a Motion in Limine objecting to consideration of whether the work performed by the County qualified for an exemption under rule 62-330.051(4)(b) for the maintenance and operation of culverted roadway crossings. Dr. Still filed a response which included a copy of the County’s July 2, 2019, Request for Verification of an Exemption, and based thereon, the motion was denied, subject to a determination that the area at issue is a “wholly artificial, non-navigable drainage conveyance.”

The final hearing was convened on September 10, 2020, as scheduled.

At the commencement of the final hearing, the issue of whether an exemption for “[c]onstruction, alteration, or maintenance, and operation, of culverted ... roadway crossing[]” pursuant to rule 62-330.051(4)(b) was sought by the County or granted by the District was taken up again. It was determined from the stipulated Exemption application that, on December 3, 2019, the Exemption request was modified to eliminate the request for