



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 19, 2021

Robert Henneke
General Counsel
Texas Public Policy Foundation
901 Congress Avenue
Austin, Texas 78701

Re: Appointment of Special Counsel

Dear Mr. Henneke:

By notice of this letter, I am appointing you to serve as special outside counsel to the Office of the Attorney General (OAG). This appointment is for the limited purpose of assisting the OAG and its lead counsel, Judd Stone, in representing the State of Texas in its intervention in the matter of *State of New York, et al. v. United States Environmental Protection Agency*, pending in the United States Court of Appeals for the District of Columbia Circuit.

The Attorney General has “broad discretionary authority” to exercise his duty as the State’s “chief legal officer.” *Terrazas v. Ramirez*, 829 S.W.2d 712, 721 (Tex. 1991). This discretion extends to the handling of “all actions in which the state is interested.” See Tex. Gov’t Code § 402.021. Under the Texas Government Code, the Attorney General may exercise this discretion to appoint outside counsel to represent the agency when deemed necessary. See Tex. Gov’t Code § 2254.153. The decision to retain outside counsel is based upon a determination of the State’s best interests. See Tex. Gov’t Code § 402.0212; House Bill 1 (General Appropriations Act), 86th Leg., R.S., art. I, I-3-I-4, art. IX-74, § 16.01(a)(3); 1 Tex. Admin. Code § 57.3(a).

Pursuant to this letter, you acknowledge that your representation of the State of Texas is strictly limited to the matter described above, and you further agree to provide legal representation at no cost to the State.

Congratulations and thank you for your service to the people of Texas.

Sincerely,

A handwritten signature in black ink that reads "Ken Paxton".

Ken Paxton
Attorney General