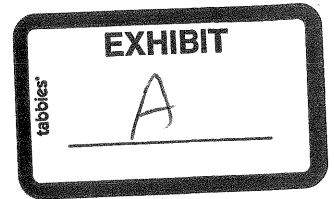


STATE OF KANSAS
BEFORE THE DIVISION OF WATER RESOURCES
KANSAS DEPARTMENT OF AGRICULTURE



In the Matter of the City of Wichita's)
Phase II Aquifer Storage and recovery Project) Case No. 18 WATER 14014
In Harvey and Sedgwick Counties, Kansas)
_____)

Pursuant to K.S.A. 82a-1901 and K.A.R. 5-14-3a

**CITY OF WICHITA'S RESPONSES TO EOUS BEDS GROUNDWATER
MANAGEMENT DISTRICT NUMBER 2 FIRST INTERROGATORIES
TO CITY OF WICHITA, KANSAS**

1. Identify each person who provided information or otherwise prepared or assisted in the preparation of the responses to these Interrogatories and to the Requests for Production of Documents and the Requests for Admissions served simultaneously with these Interrogatories and specify for each such person the information provided.

RESPONSE:

Counsel objects to the Interrogatory as overly broad and unduly burdensome, particularly the portion that seeks particularized attribution of each piece of information in all responses.

/s/ Brian K. McLeod
Brian K. McLeod, SC # 14026

Subject to and without waiving the foregoing objection, the City responds as follows:

Persons who prepared or assisted in the preparations of the responses include:

Brian McLeod, document preparation; Alan King, document review; Joe Pajor, document review; Don Henry, document review; Scott Macey, document preparation; Brian Meier, document preparation; Don Koci, document review; John Winchester, technical support and document review; Daniel Clement, technical support and document review; Paul McCormick, technical support and document review; Luca DeAngelis, document review; and Nathan Dunahee, document review.

2. Identify all documents that are relevant to the Subject Matter of this administrative hearing or the AMC Proposal.

RESPONSE:

Counsel objects to the Interrogatory as overbroad, unduly burdensome, and invading work product to the extent it necessarily seeks to appropriate the mental impressions of the City's counsel as to what is "relevant."

/s/ Brian K. McLeod

Brian K. McLeod, SC # 14026

Subject to and without waiving the foregoing objection, the City further responds as follows:

Relevant documents include but are not necessarily limited to:

- 1993 Water Supply Study (Integrated Local Water Supply Plan)
- 2000 Concept Design Study of the Equus Beds ASR Project and Appendices
- 2000 Demonstration Project Report
- 2005 Operations Modeling
- 2008 Equus Beds Storage Deficit Relationships
- 2009 Environmental Impact Statement and Appendices
- 2009 Geochemical Study for the ASR Program
- 2010 Equus Beds ASR Record of Decision
- 2010 Water Chemistry Pilot Test Report
- 2010 ASR Program Review by HDR
- 2011 Diversion Well Testing Report and Appendices
- 2013 Water Demand Assessment
- 2013 Drought Response Plan
- 2017 ASR Permit Change Meeting Handout
- ASR Accounting Reports (2006 -2016)
- ASR Phase 1 BSW Evaluation Reports
- Documents and references produced by High Country Hydrology (HCH Documents)
- USGS Reports as listed in USGS Documents Exhibits.docx
- KGS Reports as provided in subdirectory KGS Documents
- USGS Data available at: <https://www.usgs.gov/centers/kswsc/science/equus-beds-recharge-project>
- Documents available 10/30/2018 at Wichita's ASR Website: <http://wichitaasr.org>
- Documents available 10/30/2018 at State of Kansas website: <http://www.agriculture.ks.gov/WichitaASR>
- Documents available at other websites listed in the City's Production of Documents.
- Proposal for Modifications to ASR permit conditions, and documents referenced therein
- Additional documents produced by City in discovery

Each of the aforementioned documents and additional relevant documents are provided as components of the electronic file folders supplied with the Production of Documents, in the directory POD. A full list of documents provided is available as the file POD_Documents.doc. Wherever any of the documents provided or referred to provide

reference to other source documents, each such reference shall be considered as presented herewith.

Additional relevant documents not available to the City may include:

- Documents prepared by Groundwater Management District No. 2, but not provided.
 - District staff analyses of the Permit Modification proposal
 - Consulting contracts between the District and consultants retained by the District for this matter
 - Audio records of the District's public meetings and proceedings, District board member communications and District staff's communications and analyses related to the City proposal at issue in this matter
 - As-yet unidentified documents to be identified by the District as relied upon to support its contentions in this matter.
 - The District's and DWR's Interrogatory Responses
 - Documents produced by other parties in discovery
3. If any of your responses to the District's Requests for Admission are anything other than an unqualified admission, provide a detailed explanation of any and all facts that relate to or concern your responses and identify:
- a. Any and all persons with facts that relate to or concern your responses;
 - b. Any and all documents that relate to or concern your responses.

RESPONSE:

Counsel objects to the Interrogatory as overly broad, unduly burdensome, and designed to invade protected work product.

/s/ Brian K. McLeod

Brian K. McLeod, SC # 14026

Subject to and without waiving the foregoing objections, the City further responds as follows:

Explanations for the City's Responses to the Requests for Admissions are provided with the responses. Responses to Requests 1 through 13, 17, 18 and 26 should have been ascertainable from the City's proposal. Requests 14, 15 and 16 were answerable from the proposal and referenced statutes and regulations. Information relating to the response to request 19 was contributed by City staff and consultants having knowledge of USGS peer review of the model and of DWR and District staff review of the inputs and outputs used. Information for the response to request 21 was contributed by Alan King. Responses to Requests 22-24 are based upon the referenced regulation.

Documents that may "relate to or concern" the City's responses include the City's proposal and referenced statutes and regulations, and may also include (but are not necessarily

limited to) those provided by the City in its responses to the District production request.

Persons with knowledge of facts that relate to the responses include:

Brian McLeod; Alan King; Joe Pajor; Don Henry; Scott Macey; Brian Meier; Don Koci; John Winchester; Daniel Clement; Paul McCormick; Luca DeAngelis; Nathan Dunahee; and Tracy Streeter.

Each of the documents (other than statutes and regulations) that relate to the responses are provided as components of the electronic file folders supplied with the Production of Documents, in the directory POD. A full list of documents provided is available as the file POD_Documents.doc. Wherever any of the documents provided or referred to provide reference to other source documents, each such reference shall be considered as presented herewith.

4. If you have ever had any of the documents that are to be identified pursuant to any of these Interrogatories or are to be produced pursuant to any of the Requests for Production of Documents served simultaneously with these Interrogatories but do not now have such document(s) in your possession, custody, or control, state the following with respect to each such document:
 - a. The present location thereof or all reasons why you cannot or do not know the location thereof.
 - b. The date each such document left your possession, custody, or control.
 - c. The reasons each such document is not now in your possession, custody, or control.
 - d. Identify all persons having knowledge about the matters inquired about in the immediately preceding paragraphs (a) through (c).

RESPONSE:

Counsel objects to the Interrogatory as overly broad and unduly burdensome.

/s/ Brian K. McLeod
Brian K. McLeod, SC # 14026

Subject to, and without waiving the foregoing objection, the City further responds as follows:

The City believes it has access to most documents that pertain to its proposal and this proceeding, and it has not disposed of any such. The City does not have access to the consultant contracts unlawfully concealed by the District, or any other pertinent records the District has similarly withheld or concealed. Some of the documents accessed by the City are (as apparent from the document descriptions) not City-originated or maintained, but were (and can be) accessed on the websites of the entities that originated and maintain the documents.

High Country Hydrology has identified the book *Water in Environmental Planning* by Thomas

Dunne and Luna Leopold as a reference. This text will not be provided as part of the Production of Documents, but it is available for purchase.

5. If any of the documents that are to be identified pursuant to any of these Interrogatories or are to be produced pursuant to any of the Requests for Production of Documents served on you simultaneously with these Interrogatories are withheld under a claim of privilege, or are not produced for whatever reason:
 - a. State with specificity the claim of privilege or other reason to withhold production.
 - b. Identify each such document by date, author, and subject matter, without disclosing its contents, in a manner sufficient to allow it to be described to the Hearing Officer for ruling on the privilege or other reason asserted.
 - c. Produce those portions of any such document that are not subject to a claim of privilege or other reason for non-production by excising or otherwise protecting the portions for which a privilege is asserted, if such a technique does to result in disclosing the contents of the portions for which some privilege is asserted.

RESPONSE:

A descriptive log of documents identified as potentially responsive but withheld under claim of privilege or work product doctrine is attached as Exhibit A hereto.

6. Identify any person that has or may have knowledge, other than the general public, of the facts related to the Subject Matter of this administrative hearing or the AMC Proposal.

RESPONSE:

Counsel objects to the Interrogatory as over broad and unduly burdensome, and as necessarily seeking to invade work product by seeking to appropriate the mental impressions of the City's counsel as to what is "relevant".

/s/ Brian K. McLeod

Brian K. McLeod, SC # 14026

Subject to and without waiving the foregoing objection, the City further responds as follows:

Individuals with knowledge include, but are not necessarily limited to, the members of the following groups, and any meeting attendees present during Wichita's presentations:

The Chief Engineer and staff of the Division of Water Resources, Kansas Department of Agriculture; Kansas Farm Bureau; Equus-Walnut Regional Advisory Committee; Regional Economic Area Partnership; Kansas Municipal Utilities; League of Kansas Municipalities; Kansas Rural Water Association; Kansas Livestock Association; Sedgwick County Farm Bureau; Harvey

County Farm Bureau; Sedgwick Count Commission; Board members and Staff of Groundwater Management District # 2; and Harvey County Commission.

Additional persons with knowledge of the facts related to the subject matter may include:

Brian McLeod; Alan King; Joe Pajor; Don Henry; Scott Macey; Brian Meier; Don Koci; John Winchester; Daniel Clement; Paul McCormick; Luca DeAngelis; Nathan Dunahee; Tracy Streeter; Earl Lewis; Mary Knapp; Tessa Wendling; Richard Basore; Josh Carmichael; Judy Carmichael; Bill Carp; Carol Denno; Steve Jacob; Terry Jacob; Michael J. McGinn; Michael P. and Susannah M. McGinn; Bradley Ott; Tracy Pribbenow; Robert Seiler and David Wendling.

7. Please identify all experts you have hired or consulted with regarding the Subject Matter of this administrative hearing or the AMC Proposal, and:
 - a. Identify all documents that have been provided to all such experts;
 - b. Identify all documents that have been provided to you by such experts;
 - c. State the subject matter in which each expert was consulted and the substance of their expected testimony at hearing.

RESPONSE:

Counsel objects to the Interrogatory as overly broad, unduly burdensome, and designed to invade work product.

/s/ Brian K. McLeod

Brian K. McLeod, SC # 14026

Subject to and without waiving the foregoing objection, the City further responds as follows:

Preliminary Expert Disclosures were provided consistent with the schedule set in the Prehearing Order. The City offers the following additional information relating to listed experts, some of whom may also testify as fact witnesses (To the extent documents in the production response are referred to, this data is additionally responsive to the District's Production Requests 8 and 9):

Alan King; Director, City of Wichita Public Works & Utilities

- a) Alan King's factual observations and opinions are presented in the ASR Permit Modification Proposal and cover letter. Specific contributions are as indicated in the table Summary of Expert Witness Contributions.
- b) Consulted for: Municipal Utility Management, and also City Council directions and policy development with regard to water utility infrastructure, water conservation, and drought response
- c) The grounds for Alan King's opinions are knowledge of pertinent information presented in the subdirectories Proposal, Proposal Communication, and Meetings.
- d) Documents
 - i. Documents prepared by or under the supervision of Alan King are provided in the subdirectories Proposal and Proposal Communications.
 - ii. Alan King was provided, relied upon, or reviewed documents included in the subdirectories Proposal, Proposal Communications and Reports.
- e) Additional documents provided by Alan King include correspondence found in the subdirectory Electronic Communications.
- f) Alan King is a City of Wichita employee; his compensation is publicly available.
- g) Alan King's qualifications are as presented in the City of Wichita's Preliminary Expert Disclosure.

Joseph Pajor, Deputy Director, City of Wichita Public Works and Utilities

- a) Joseph Pajor's factual observations and opinions are presented in the ASR Permit Modification Proposal, cover letter, and supporting appendices presented in the subdirectory Proposal. Specific contributions are as indicated in the table Summary of Expert Witness Contributions
- b) Consulted for: Wichita's historical interactions with Groundwater Management District No. 2, the history of the City's water resources and the purposes of the changes contemplated by the City's current ASR proposal
- c) The grounds for Joseph Pajor's opinions are knowledge of pertinent information presented in the subdirectories Proposal, Proposal Communication, Meetings, and Reports.
- d) Documents
 - i. Documents prepared by or under the supervision of Joseph Pajor are provided in the subdirectories Proposal and Proposal Communications.
 - ii. Joseph Pajor was provided, relied upon, or reviewed documents included in the subdirectories Proposal Communications and Reports.
- e) Additional documents provided by Joseph Pajor include correspondence found in the subdirectory Electronic Communications.
- f) Joseph Pajor is a City of Wichita employee; his compensation is publicly available.

- g) Joseph Pajor's qualifications are as presented in the City of Wichita's Preliminary Expert Disclosure.

Don Henry, Assistant Director, City of Wichita Public Works and Utilities,

- a) Don Henry's factual observations and opinions are presented in the ASR Permit Modification Proposal, cover letter, and supporting appendices presented in the subdirectory Proposal. Specific contributions are as indicated in the table Summary of Expert Witness Contributions
- b) Consulted for: Municipal Water Utility Management and planning, including the history of the City's water resources, history and trends in the aquifer, 1993 water levels and the purposes of the changes contemplated by the City's current ASR proposal
- c) The grounds for Don Henry's opinions are knowledge of pertinent information presented in the subdirectories Proposal, Proposal Communication, Meetings, and Reports.
- d) Documents
 - i. Documents prepared by or under the supervision of Don Henry are provided in the subdirectories Proposal and Proposal Communications.
 - ii. Don Henry was provided, relied upon, or reviewed documents included in the subdirectories Proposal Communications and Reports.
- e) Additional documents provided by Don Henry include correspondence found in the subdirectory Electronic Communications.
- f) Don Henry is a City of Wichita employee; his compensation is publicly available.
- g) Don Henry's qualifications are as presented in the City of Wichita's Preliminary Expert Disclosure.

Scott Macey, Water Resources Engineer, City of Wichita Public Works & Utilities

- a) Scott Macey's factual observations and opinions are presented in the ASR Permit Modification Proposal, cover letter, and supporting appendices presented in the subdirectory Proposal. Specific contributions are as indicated in the table Summary of Expert Witness Contributions
- b) Consulted for: current and historical water use trends, current City treatment processes and infrastructure planning, and technical tools and models used for water resource decision making
- c) The grounds for Scott Macey's opinions are knowledge of pertinent information presented in the subdirectories Proposal, Proposal Communication, Meetings, Reports, and Water Rights.
- d) Documents
 - i. Documents prepared by or under the supervision of Scott Macey are provided in the subdirectories Proposal and Proposal Communications.

- ii. Scott Macey was provided, relied upon, or reviewed documents included in the subdirectories Proposal Communications, Reports, and Model.
- e) Additional documents provided by Scott Macey include correspondence found in the subdirectory Electronic Communications.
- f) Scott Macey is a City of Wichita employee; his compensation is publicly available.
- g) Scott Macey's qualifications are as presented in the City of Wichita's Preliminary Expert Disclosure.

Brian Meier, Burns & McDonnell

- a) Brian Meier's factual observations and opinions are presented in the ASR Permit Modification Proposal, cover letter, and supporting appendices presented in the subdirectory Proposal. Specific contributions are as indicated in the table Summary of Expert Witness Contributions
- b) Consulted for: Wichita's ASR project history, including its missions, goals, and methods, and the interagency coordination as the City's water utility employed a dynamic plan for its water resources
- c) The grounds for Brian Meier's opinions are knowledge of pertinent information presented in the subdirectories Proposal, Proposal Communication, Meetings, Reports, and Water Rights.
- d) Documents
 - i. Documents prepared by or under the supervision of Brian Meier are provided in the subdirectories Proposal and Proposal Communications.
 - ii. Brian Meier was provided, relied upon, or reviewed documents included in the subdirectories Proposal Communications, Reports, and Model.
- e) Additional documents provided by Brian Meier include correspondence found in the subdirectory Electronic Communications.
- f) Brian Meier is a Burns & McDonnell employee; the Contracts provided in the City's Production of Documents disclose a Fee Schedule for each class of employee.
- g) Brian Meier's qualifications are as presented in the City of Wichita's Preliminary Expert Disclosure.

Don Koci, Burns & McDonnell

- a) Don Koci's factual observations and opinions are presented in the ASR Permit Modification Proposal, cover letter, and supporting appendices presented in the subdirectory Proposal. Specific contributions are as indicated in the table Summary of Expert Witness Contributions
- b) Consulted for: Wichita's ASR project history, goals and mission, in addition to water rights and regulatory structures
- c) The grounds for Don Koci's opinions are knowledge of pertinent information presented in the subdirectories Proposal, Proposal Communication, Meetings, Reports, and Water Rights.

- d) Documents
 - i. Documents prepared by or under the supervision of Don Koci are provided in the subdirectories Proposal and Proposal Communications.
 - ii. Don Koci was provided, relied upon, or reviewed documents included in the subdirectories Proposal Communications, Reports, and Model.
- e) Additional documents provided by Don Koci include correspondence found in the subdirectory Electronic Communications.
- f) Don Koci is a Burns & McDonnell employee; the Contracts provided in the City's Production of Documents disclose a Fee Schedule for each class of employee.
- g) Don Koci's qualifications are as presented in the City of Wichita's Preliminary Expert Disclosure.

John Winchester, High Country Hydrology

- a) John Winchester's factual observations and opinions are presented in the ASR Permit Modification Proposal, cover letter, and supporting appendices presented in the subdirectory Proposal. Specific contributions are as indicated in the table Summary of Expert Witness Contributions
- b) Consulted for: municipal water resources planning, hydrological analyses, drought simulation, use of the 1% drought in the planning process, and technical tools and models
- c) The grounds for John Winchester's opinions are knowledge of pertinent information presented in the subdirectory HCH.
- d) Documents
 - i. Documents prepared by or under the supervision of John Winchester are provided in the subdirectory HCH.
 - ii. John Winchester was provided, relied upon, or reviewed documents included in the subdirectory HCH.
- e) Additional documents provided by John Winchester include correspondence found in the subdirectory Electronic Communications.
- f) John Winchester is a High Country Hydrology employee; the subdirectory Contracts provided in the City's Production of Documents discloses contractual agreements with R.W. Beck, Inc., and SAIC Energy, Environment & Infrastructure, LLC. Each company was directly engaged by the City of Wichita; these Contracts are also provided.
- g) John Winchester's qualifications are as presented in the City of Wichita's Preliminary Expert Disclosure.

Daniel Clement, Burns & McDonnell

- a) Daniel Clement's factual observations and opinions are presented in the ASR Permit Modification Proposal, cover letter, and supporting appendices presented in the subdirectory Proposal.

- b) Consulted for: Equus Beds aquifer water usage and sustainable yield, recharge mechanisms and accounting, water resource conditions, and technical tools and models
- c) The grounds for Daniel Clement's opinions are knowledge of pertinent information presented in the subdirectories Proposal, Proposal Communication, Meetings, Reports, Model, and Water Rights.
- d) Documents
 - i. Documents prepared by or under the supervision of Daniel Clement are provided in the subdirectories Proposal, Proposal Communications, and Model.
 - ii. Daniel Clement was provided, relied upon, or reviewed documents included in the subdirectories Proposal Communications and Reports.
- e) Additional documents provided by Daniel Clement include correspondence found in the subdirectories Proposal Communication and Electronic Communications.
- f) Daniel Clement is a Burns & McDonnell employee; the Contracts provided in the City's Production of Documents disclose a Fee Schedule for each class of employee.
- g) Daniel Clement's qualifications are as presented in the City of Wichita's Preliminary Expert Disclosure.

Paul McCormick, Burns & McDonnell

- a) Paul McCormick's factual observations and opinions are presented in the ASR Permit Modification Proposal, cover letter, and supporting appendices presented in the subdirectory Proposal.
- b) Consulted for: aquifer water usage and sustainable yield, recharge mechanisms and accounting, water resource conditions, and technical tools and models
- c) The grounds for Paul McCormick's opinions are knowledge of pertinent information presented in the subdirectories Proposal, Proposal Communication, Meetings, Reports, and Model.
- d) Documents
 - i. Documents prepared by or under the supervision of Paul McCormick are provided in the subdirectories Proposal, Proposal Communications, and Model.
 - ii. Paul McCormick was provided, relied upon, or reviewed documents included in the subdirectories Proposal Communications and Reports.
- e) Additional documents provided by Paul McCormick include correspondence found in the subdirectories Proposal Communication and Electronic Communications.
- f) Paul McCormick is a Burns & McDonnell employee; the Contracts provided in the City's Production of Documents disclose a Fee Schedule for each class of employee.
- g) Paul McCormick's qualifications are as presented in the City of Wichita's Preliminary Expert Disclosure.

Luca DeAngelis, Burns & McDonnell

- a) Luca DeAngelis's factual observations and opinions are presented in the ASR Permit Modification Proposal, cover letter, and supporting appendices presented in the subdirectory Proposal.
- b) Consulted for: historical and current aquifer conditions, such as chloride transport, and modeling simulation tools
- c) The grounds for Luca DeAngelis' opinions are knowledge of pertinent information presented in the subdirectories Proposal, Reports, and Model.
- d) Documents
 - iii. Documents prepared by or under the supervision of Luca DeAngelis are provided in the subdirectory Proposal.
 - iv. Luca DeAngelis was provided, relied upon, or reviewed documents included in the subdirectories Proposal Communications and Reports.
- e) Additional documents provided by Luca DeAngelis include correspondence found in the subdirectory Electronic Communications.
- f) Luca DeAngelis is a Burns & McDonnell employee; the Contracts provided in the City's Production of Documents disclose a Fee Schedule for each class of employee.
- g) Luca DeAngelis's qualifications are as presented in the City of Wichita's Preliminary Expert Disclosure.

Nathan Dunahee, Burns & McDonnell

- a) Nathan Dunahee's factual observations and opinions are presented in the ASR Permit Modification Proposal, cover letter, and supporting appendices presented in the subdirectory Proposal.
- b) Consulted for: geochemical effects of natural and artificial aquifer groundwater recharge, and modeling simulation tools
- c) The grounds for Nathan Dunahee's opinions are knowledge of pertinent information presented in the subdirectories Proposal, Reports, and Model.
- d) Documents
 - i. Documents prepared by or under the supervision of Nathan Dunahee are provided in the subdirectory Proposal.
 - ii. Nathan Dunahee was provided, relied upon, or reviewed documents included in the subdirectories Proposal Communications and Reports.
- e) Additional documents provided by Nathan Dunahee include correspondence found in the subdirectory Electronic Communications.
- f) Nathan Dunahee is a Burns & McDonnell employee; the Contracts provided in the City's Production of Documents disclose a Fee Schedule for each class of employee.
- g) Nathan Dunahee's qualifications are as presented in the City of Wichita's Preliminary Expert Disclosure.

8. If you have ever had any of the documents that are to be identified pursuant to any of these Interrogatories or are to be produced pursuant to any of the Requests for Production of Documents served on you simultaneously with these Interrogatories that have been destroyed, describe in detail the circumstances of and all reasons for such destruction and produce all documents that relate to or concern either the circumstances or the reason for such destruction.

RESPONSE:

Counsel objects to the Interrogatory as vague, particularly in the context of the overbroad and burdensome nature of the District's requests.

/s/ Brian K. McLeod
Brian K. McLeod, SC 14026

Subject to and without waiving the foregoing objection, the City responds as follows:

The City does not believe any such documents in its possession have been destroyed, but cannot speak to consultant contracts or other public records in the possession of the District, or the circumstances or reasons for the District's destruction of any such documents the District may have destroyed.

9. Please indicate any and every meeting and communication You have had with the DWR about the Subject Matter. Please include the date of each meeting and/or communication, the individuals involved in any meeting and/or communication, the subject matter of each communication and/or meeting, and the location of any communication and/or meeting.

RESPONSE:

Counsel objects to the Interrogatory as overly broad and unduly burdensome.

/s/ Brian K. McLeod
Brian K. McLeod, SC # 14026

Subject to and without waiving the foregoing objection, the City further responds as follows:

The City has employed computer term searches to locate electronic calendars and email communications from which it believes the answer to the Interrogatory may be compiled, and has produced these to the District concurrently herewith. The City refers the District to

this body of documents as its answer to this Interrogatory.

Applicable communications or correspondence is provided in electronic form, as the subdirectory Proposal Communications. Additional detail may be available in the subdirectory Electronic Communications. Applicable meetings in which additional pertinent communications may have occurred are listed in the subdirectories DWR Meetings and GMD2 Meetings.

10. Please explain in detail the accounting method that will be used to determine water entering and leaving the Aquifer with the AMC Proposal.

RESPONSE:

Please refer to the proposal documents and Proposal Correspondence.

11. Please explain in detail how the Aquifer will be artificially recharged through the AMC Proposal.

RESPONSE:

Please refer to the proposal documents and Proposal Correspondence.

12. Please explain in detail where source water will be treated and used pursuant to the AMC Proposal.

RESPONSE:

Please refer to the proposal documents and Proposal Correspondence.

13. Please explain in detail how source water will be treated pursuant to the AMC Proposal.

RESPONSE:

Please refer to the proposal documents and Proposal Correspondence.

14. Please explain the calculation used to arrive at the AMC five percent initial loss and the rationale for that calculation.

RESPONSE:

Please refer to the proposal documents and Proposal Correspondence.

15. Please explain in detail how the proposed AMC gradational annual losses were determined.

RESPONSE:

Please refer to the proposal document and Proposal Correspondence.

16. Please explain in detail how the physical recharge capacity of the Aquifer was determined.

RESPONSE:

Please refer to the proposal documents, Proposal Correspondence, and the subdirectory Reports within the City's Production of Documents.

17. Please explain in detail whether the water quality of the Aquifer will be impacted by the AMC Proposal and Your rationale.

RESPONSE:

Please refer to the Proposal Document and the subdirectory Reports for information regarding protection of water quality.

18. Please explain what infrastructure will be utilized for the AMC Proposal.

RESPONSE:

All currently constructed and future ASR infrastructure will be utilized in conjunction with the AMC proposal. Please refer to the Proposal Document and the subdirectory Reports.

19. Please explain how the proposed recharge credit cap of 120,000 acre-feet was derived.

RESPONSE:

Please refer to the proposal documents and Proposal Correspondence for information pertinent to the derivation of the 120,000 acre-foot cap.

20. Please explain the adjustments to the proposed minimum index levels which resulted in proposed minimum index levels lower than the modeled results.

RESPONSE:

Please refer to the proposal documents and Proposal Correspondence.

21. Please explain if the ASR Permit Modification Proposal is in compliance with the District/City Phase I and Phase II MOUs.

RESPONSE

Counsel objects to the Interrogatory as invading work product and essentially seeking a legal analysis and opinion from the City's counsel rather than matters of fact calculated to lead to admissible evidence.

/s/ Brian K. McLeod

Brian K. McLeod, SC # 14026

Subject to and without waiving the foregoing objection, the City further responds as follows:

:

The City believes the substantive protections to domestic wells anticipated by the MOU's are present in Proposal and/or can be adequately addressed by actual permit conditions.

22. Please explain the level of input and assistance the Chief Engineer provided to You in the development of the Your ASR Permit Modification Proposal and when the assistance occurred.

RESPONSE:

Communication and input by from the Chief Engineer was standard for a project of this nature and did not deviate from the normal course. The City refers the District to the produced documents for its further answer to this Interrogatory.

Applicable communications or correspondence is provided in electronic form, as the subdirectory Proposal Communications. Additional detail may be available in the subdirectory Electronic Communications. Applicable meetings in which additional pertinent communications may have occurred are listed in the subdirectories DWR Meetings and GMD2 Meetings.

23. Specifically identify how the City of Wichita demonstrated to the Chief Engineer that these proposed changes to Wichita's existing aquifer and storage recovery program will not: 1) prejudicially and unreasonably affect the public interest, 2) impair existing water rights, nor 3) allow an unreasonable raising or lowering of the water level? Identify all the facts, studies, expert opinions, computer modeling and other information relied on by the City of Wichita in making such a demonstration to the Chief Engineer.

RESPONSE:

For information on how the City has addressed these topics to date, please refer to the proposal document and additional supplied information. To the extent that the demonstrations in question are also an object of the public hearing and subsequent administrative proceedings scheduled in this matter (and hence, ongoing), additional information will be made available to the District in the conduct of the administrative proceedings, as and when appropriate in accordance with the Prehearing Order and any subsequent directions of the Chief Engineer.

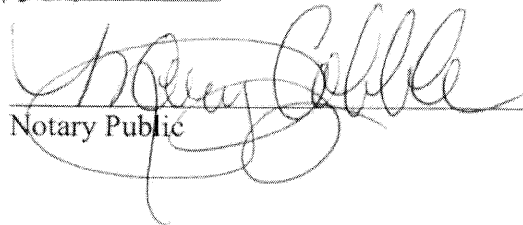
VERIFICATION

STATE OF KANSAS)
) ss.
COUNTY OF SEDGWICK)

Joseph T. Pajor, being of lawful age and being duly sworn upon oath, deposes and states that he is the Deputy Director of Public Works and Utilities for the City of Wichita, Kansas, a party herein; that he has read the above and foregoing interrogatories and responses and that the answers, statements and allegations therein above contained are true and correct to the best of his information, knowledge and belief.

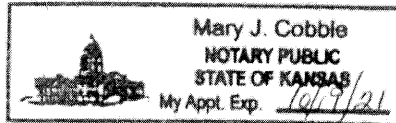


SUBSCRIBED AND SWORN to before me, a Notary Public, in and for the aforesaid state and county, this 30th day of October, 2018.



Notary Public

My Appointment Expires:
10/19/21



CERTIFICATE OF SERVICE

The undersigned hereby certifies that he or she served the above and foregoing Responses to Interrogatories upon counsel for the other parties herein by electronic mail, this 30th day of October, 2018, addressed to:

Thomas A. Adrian
David J. Stucky
tom@aplawpa.com
dave@aplawpa.com
313 Spruce
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Exhibit A

Documents Withheld Subject to Privilege And/or Work Product Doctrine

Brian McLeod email of June 12, 2015 to Alan King and Don Henry, re. GMD2 MOUs (attorney client privileged and work product)
Undated, unsent Don Henry email screen with June 12, 2015 Brian McLeod email attached and no other content (attorney client privileged and work product).
Brian McLeod email of March 30, 2107 re. ASR Permits & Recharge Credits (attorney-client privileged and work-product)
Joe Pajor email of March 31, 2017 forwarding Brian McLeod March 30, 2017 email to other City recipients (attorney-client privileged and work product)
Brian Meier's response of April 1, 2017 (attorney-client privilege and work product)
Deb Ary's October 25, 2017 email to Brian McLeod re. Cochran Bentley Wellfield dispute (attorney-client privileged and work product and probably also irrelevant to this case)
February 6, 2018 email of Don Henry to City Attorney Jennifer Magana, requesting legal assistance re ASR Permitting Process (attorney client privileged)
February 6, 2018 email of Jennifer Magana responding to Don Henry request (attorney client privileged)
March 1, 2018 email of Brian McLeod to Don Henry, regarding possible permit language (attorney client privileged and work product)
March 1, 2018 email of Don Henry to Brian McLeod, regarding possible permit language (attorney client privileged and work product)
August 1, 2018 email of Brian McLeod to Alan King, Joe Pajor and Scott Macey, regarding interrogatories sent to GMD2 (attorney client privileged and work product)
Joe Pajor email of same date, internally forwarding August 1, 2018 Brian McLeod email to Don Henry (attorney client privileged and work product)
Brian McLeod email of August 20, 2018 to Joe Pajor, Don Henning and Scott Macey, forwarding Allison Graber email and GMD2 discovery requests with commentary (attorney client privileged and work product)
Brian McLeod email of August 20, 2018 to Don Henry and Scott Macey re. GMD2 discovery requests (attorney client privileged and work product)
Scott Macey email of August 20, 2018 to Brian McLeod, and Brian McLeod responsive email re. forwarding GMD2 discovery requests (attorney client privileged and work product)
Scott Macey email of August 20, 2018 to Brian McLeod, Joe Pajor and Don Henry, re. Upcoming Hearing (attorney client privileged and work product)
Scott Macey email to Brian McLeod link of August 20, 2018, sharing email Records (attorney-client privileged and work product)
Brian McLeod email of August 23, 2018 regarding KORA compliant (attorney client privileged)
Scott Macey email of August 24, 2018 to Brian McLeod re. draft KORA complaint (attorney client privileged)
Joe Pajor email of August 28, 2018 to Brian McLeod, re. request to IT in support of ASR permit modification hearing (attorney client privileged and work product)
Brian Meier August 28, 2018 CONFIDENTIAL email to Brian McLeod, Joe Pajor, Scott Macey and Daniel Clement on responses to GMD2 discovery, and attachments (attorney client privileged and work product)
Scott Macey August 30, 2018 email to Brian McLeod re. expert witness groups by response category (Attorney client privileged and work product)

Additional Scott Macey August 30, 2018 email to Brian McLeod re. expert witness groups by response category (Attorney client privileged and work product)

Three August 31, 2018 communications from Scott Macey to Brian McLeod relating to ASR events calendar (attorney client privileged and work product)

Scott Macey August 31, 2018 email to Brian Meier regarding progress drafts of discovery responses, and its attachments (attorney client privileged and work product)

Scott Macey August 31, 2018 email to Joe Pajor regarding progress drafts of discovery responses, and its attachments (attorney client privileged and work product)

August 31, 2018 email of Scott Macey to Brian McLeod relating to ASR events calendar (attorney client privileged and work product)

August 31, 2018 email of Scott Macey to Brian Meier and Daniel Clement regarding ASR events calendar (work product)

September 4, 2018 email of Scott Macey to Brian McLeod and Don Henry re. Preliminary Expert Witness Disclosure (Attorney client privileged and work product)

September 4, 2018 email of Scott Macey to Brian McLeod, Brian Meier and Don Henry re. Preliminary Expert Witness Disclosure (Attorney client privileged and work product)

September 4, 2018 email of Scott Macey to Brian McLeod regarding expert resumes (attorney client privileged and work product).

September 4, 2018 email of Scott Macey to Burns & McDonnell staff and Brian McLeod regarding progress draft of expert witness overview (attorney client privileged and work product)

September 4, 2018 follow-up email of Scott Macey to Luca DeAngelis re. expert witness overview (work product)

September 4, 2018 Luca DeAngelis response (work product)

Daniel Clement email of 8/30/2018 to Scott Macey, Luca DeAngelis, Paul McCormick, Brian Meier , re. Summary of Credentials Request (work product)

Michael Jacobs email of 8/30/2018 to Stan Breitenbach, Scott Macey , re. On Call Task Orders (work product)

Paul McCormick email of 8/30/2018 to Scott Macey, Luca DeAngelis, Daniel Clement, Brian Meier , re. Summary of Credentials Request (work product)

Scott Macey email of 8/30/2018 to Luca DeAngelis, Paul McCormick, Daniel Clement , re. Summary of Credentials Request (work product)

Scott Macey email of 8/30/2018 to Brian McLeod, Daniel Clement, Joseph Pajor, Paul McCormick , re. Expert witness groups by response category (attorney client privileged and work product)

Scott Macey email of 8/30/2018 to Brian McLeod, Daniel Clement, Joseph Pajor, Paul McCormick , re. Expert witness groups by response category (attorney client privileged and work product)

Scott Macey email of 8/30/2018 to Nathan Dunahee, Brian Meier , re. Summary of Credentials Request (work product)

Scott Macey email of 8/30/2018 to Joseph Pajor, Brian McLeod , re. Outlook records (attorney client privileged and work product)

Joseph Pajor email of 8/31/2018 to Scott Macey, Don Henry, Brian McLeod , re. File Access (attorney client privileged)

Nathaniel Dunahee email of 8/31/2018 to Scott Macey , re. Summary of Credentials Request (work product)

Nathaniel Dunahee email of 8/31/2018 to Scott Macey , re. Summary of Credentials Request (work product)

Nathaniel Dunahee email of 8/31/2018 to Scott Macey, Brian Meier , re. Summary of Credentials Request (work product)

Scott Macey email of 8/31/2018 to Brian Meier, Daniel Clement, Don Henry, Joseph Pajor , re. ASR Events Calendar (work product)

Scott Macey email of 8/31/2018 to Nathaniel Dunahee , re. Summary of Credentials Request (work product)

Scott Macey email of 8/31/2018 to Nathaniel Dunahee , re. Summary of Credentials Request (work product)

Scott Macey email of 8/31/2018 to Donald Koci, Tracy Streeter, Brian Meier , re. Request for your Presence as Expert witness (work product)

Scott Macey email of 8/31/2018 to Scott Macey , re. ASR Events Calendar (work product)

Scott Macey email of 8/31/2018 to Brian McLeod , re. ASR Events Calendar (attorney client privileged and work product)

Scott Macey email of 8/31/2018 to Brian McLeod , re. ASR Events Calendar (attorney client privileged and work product)

Scott Macey email of 8/31/2018 to Brian McLeod, Don Henry, Joseph Pajor , re. Wichita ASR proposal (attorney client privileged and work product)

Scott Macey email of 8/31/2018 to Joseph Pajor , re. Response to DWR GMD 4 (work product)

Scott Macey email of 8/31/2018 to Joseph Pajor, Don Henry, Brian McLeod , re. File Access (attorney client privileged and work product)

Donald Koci email of 9/3/2018 to Scott Macey, Brian Meier , re. Request for your Presence as Expert witness (work product)

cherwell email of 9/4/2018 to Joseph Pajor , re. Service Request 94552 has been resolved (attorney client privileged)

Brian McLeod email of 9/4/2018 to Alan King, Scott Macey, Jennifer Magana , re. This Just In (attorney client privileged)

Brian McLeod email of 9/4/2018 to Scott Macey, Alan King, Don Henry, Joseph Pajor , re. Resumes for expert witness (attorney client privileged)

Brian McLeod email of 9/4/2018 to Joseph Pajor , re. Wichita ASR Motion (attorney client privileged)

Brian Meier email of 9/4/2018 to Brian McLeod, Don Henry, Scott Macey, Daniel Clement , re. Request for your Presence as Expert witness (attorney client privileged)

Joseph Pajor email of 9/4/2018 to Alan King, Don Henry, Scott Macey, Brian Meier, Daniel W. Clement , re. Wichita ASR Motion (attorney client privileged)

Luca DeAngelis email of 9/4/2018 to Scott Macey , re. Wichita; Preliminary Expert Witness overview (work product)

Brian Meier email of 9/4/2018 to Joseph Pajor , re. Wichita ASR Motion (work product)

Scott Macey email of 9/4/2018 to Luca DeAngelis , re. Wichita; Preliminary Expert Witness overview (work product)

Scott Macey email of 9/4/2018 to Brian McLeod , re. Latest version of Preliminary Expert Disclosure (attorney client privileged and work product)

Scott Macey email of 9/4/2018 to Brian McLeod , re. Preliminary Expert Disclosure edits (attorney client privileged and work product)

Scott Macey email of 9/4/2018 to Brian McLeod , re. Resumes thus far (attorney client privileged and work product)

Scott Macey email of 9/4/2018 to Brian McLeod , re. Wichita; Preliminary Expert Witness overview (Luca DeAngelis) (attorney client privileged and work product)

Scott Macey email of 9/4/2018 to Brian Meier, Brian McLeod, Don Henry , re. Preliminary Expert Witnesses Due (attorney client privileged and work product)

Scott Macey email of 9/4/2018 to Brian Meier, Brian McLeod, Don Henry, Daniel Clement , re. Preliminary Expert Witnesses Due (attorney client privileged and work product)

Scott Macey email of 9/4/2018 to Tracy Streeter , re. Request for your Presence as Expert witness (work product)

Brian Meier email of 9/5/2018 to Joseph Pajor, Alan King, Don Henry, Scott Macey, Daniel Clement , re. Wichita ASR Motion to Extend Time (work product)

Brian McLeod email of 9/6/2018 to Joseph Pajor , re. ARS application notice status and application processing (attorney client privileged)

Brian McLeod email of 9/6/2018 to Joseph Pajor , re. Required Notices (attorney client privileged)

Joseph Pajor email of 9/6/2018 to Scott Macey , re. In re. City of Wichita's Phase II ASR, 18 WATER 14014 (DWR) (attorney client privileged)

Joseph Pajor email of 9/6/2018 to Scott Macey , re. In re. City of Wichita's Phase II ASR, 18 WATER 14014 (DWR) (attorney client privileged)

Brian Meier email of 9/6/2018 to Joseph Pajor, Don Henry, Brian McLeod , re. ARS application notice status and application processing (attorney client privileged and work product)

Scott Macey email of 9/6/2018 to Don Henry , re. On Call Task Orders (work product)

Scott Macey email of 9/6/2018 to Michael Jacobs, Ary, Debra , Don Henry, Joseph Pajor, Brian McLeod , re. Email records to be shared with GMD2 (attorney client privileged and work product)

Scott Macey email of 9/6/2018 to Joseph Pajor , re. File Location (work product)

Scott Macey email of 9/6/2018 to Joseph Pajor , re. In re. City of Wichita's Phase II ASR, 18 WATER 14014 (DWR) (work product)

Brian McLeod email of 9/7/2018 to Alan King, Joseph Pajor , re. Required Notices (attorney client privileged)

Brian McLeod email of 9/7/2018 to Alan King, Joseph Pajor , re. Required Notices (attorney client privileged)

Joseph Pajor email of 9/7/2018 to Alan King, Don Henry, Scott Macey, Brian McLeod, Daniel Clement , re. Required Notices (attorney client privileged)

Ary, Debra email of 9/7/2018 to Scott Macey, Michael Jacobs, Don Henry, Joseph Pajor, Brian McLeod , re. Email records to be shared with GMD2 (attorney client privileged and work product)

Ary, Debra email of 9/7/2018 to Scott Macey, Brian McLeod , re. Email records to be shared with GMD2 (attorney client privileged and work product)

Scott Macey email of 9/7/2018 to Daniel Clement , re. ASR Proposed Minimum Index Levels (work product)

Scott Macey email of 9/7/2018 to Brian McLeod, Brian Meier, Daniel W. Clement , re. Wichita ASR Interrogatory Markup (attorney client privileged and work product)

Brian McLeod email of 9/10/2018 to Alan King, Joseph Pajor , re. Wichita ASR Update (attorney client privileged)

Brian McLeod email of 9/10/2018 to Alan King, Joseph Pajor, Don Henry , re. Cochran Case, Bentley Wellfield (attorney client privileged)

Brian McLeod email of 9/10/2018 to Scott Macey, Daniel Clement , re. RFA document edits (attorney client privileged)

Brian McLeod email of 9/10/2018 to Scott Macey, Daniel Clement , re. RFA document edits (attorney client privileged)

Brian McLeod email of 9/10/2018 to Joseph Pajor, Jennifer Magana , re. ASR Case (attorney client privileged)

Joseph Pajor email of 9/10/2018 to Don Henry, Scott Macey, Brian Meier (bmeier@burnsmcd.com), Daniel Clement , re. Wichita ASR Update (attorney client privileged)

Joseph Pajor email of 9/10/2018 to Alan King, Don Henry, Scott Macey, Brian Meier, Daniel W. Clement , re. ASR Case (attorney client privileged)

Joseph Pajor email of 9/10/2018 to Alan King, Don Henry, Scott Macey, Brian McLeod, Daniel Clement , re. Wichita ASR Update (attorney client privileged)

Daniel Clement email of 9/10/2018 to Scott Macey , re. ASR Drought Modeling Report Supplemental Figures (work product)

Daniel Clement email of 9/10/2018 to Scott Macey, Brian McLeod, Scott Macey , re. RFA document edits (attorney client privileged and work product)

Scott Macey email of 9/10/2018 to Daniel Clement , re. ASR Drought Modeling Report Supplemental Figures (work product)

Scott Macey email of 9/10/2018 to Don Henry, Joseph Pajor, Brian McLeod , re. Sharing invitation (attorney client privileged and work product)

Scott Macey email of 9/10/2018 to Brian McLeod, Daniel Clement , re. RFA document edits (attorney client privileged and work product)

Brian McLeod email of 9/11/2018 to Joseph Pajor, Brian McLeod, Don Henry, Alan King, Daniel Clement , re. DWR Offer Suggestion (attorney client privileged)

Brian McLeod email of 9/11/2018 to Joseph Pajor, Brian McLeod, Don Henry, Alan King, Daniel Clement , re. DWR Offer Suggestion (attorney client privileged)

Joseph Pajor email of 9/11/2018 to Brian McLeod, Don Henry, Alan King, Daniel Clement , re. DWR Offer Suggestion (attorney client privileged)

Joseph Pajor email of 9/11/2018 to Brian McLeod, Don Henry, Alan King, Daniel Clement , re. DWR Offer Suggestion (attorney client privileged)

Brian Meier email of 9/11/2018 to Joseph Pajor , re. DWR Offer Suggestion (work product)

Brian Meier email of 9/11/2018 to Joseph Pajor , re. DWR Offer Suggestion (work product)

Scott Macey email of 9/11/2018 to Daniel Clement , re. ASR Drought Modeling Report Supplemental Figures (work product)

Brian McLeod email of 9/12/2018 to Scott Macey , re. RFA document edits (attorney client privileged)

Brian McLeod email of 9/12/2018 to Scott Macey, Joseph Pajor , re. DWR Offer Suggestion (attorney client privileged)

Brian McLeod email of 9/12/2018 to Joseph Pajor, Brian McLeod, Don Henry, Alan King, Daniel Clement , re. DWR Offer Suggestion (attorney client privileged)

Brian McLeod email of 9/12/2018 to Joseph Pajor, Brian McLeod, Don Henry, Alan King, Daniel Clement , re. DWR Offer Suggestion (attorney client privileged)

Joseph Pajor email of 9/12/2018 to Brian McLeod, Don Henry, Alan King, Daniel Clement , re. DWR Offer Suggestion (attorney client privileged)

Joseph Pajor email of 9/12/2018 to Brian McLeod, Don Henry, Alan King, Daniel Clement , re. DWR Offer Suggestion (attorney client privileged)

McGown, Tyler email of 9/12/2018 to Scott Macey, Don Henry, Stan Breitenbach, Brian Meier, Daniel Clement , re. On Call Task Orders (work product)

Scott Macey email of 9/12/2018 to Brian McLeod, Joseph Pajor , re. DWR Offer Suggestion (work product)

Scott Macey email of 9/12/2018 to Brian McLeod, Joseph Pajor , re. DWR Offer Suggestion (work product)

Scott Macey email of 9/12/2018 to Brian McLeod , re. RFA document edits (work product)

Scott Macey email of 9/12/2018 to Brian Meier, Daniel Clement, Joseph Pajor , re. RFA document edits (work product)

Scott Macey email of 9/12/2018 to Brian McLeod, Daniel Clement, Brian Meier , re. RFA document edits (attorney client privileged and work product)

Scott Macey email of 9/12/2018 to Brian Meier , re. RFA document edits (work product)

Scott Macey email of 9/13/2018 to Brian McLeod , re. DWR Offer Suggestion (work product)

Scott Macey email of 9/13/2018 to Brian McLeod, Joseph Pajor , re. GMD2 Videos (work product)

Scott Macey email of 9/13/2018 to Brian McLeod, Joseph Pajor , re. GMD2 Videos (work product)

Scott Macey email of 9/13/2018 to Brian McLeod, Joseph Pajor , re. Draft KORA request #3 (attorney client privileged and work product)

Brian McLeod email of 9/14/2018 to Scott Macey , re. Email records to be shared with GMD2 (attorney client privileged)

Brian McLeod email of 9/14/2018 to Scott Macey , re. Email records to be shared with GMD2 (attorney client privileged)

Scott Macey email of 9/14/2018 to Don Henry , re. On Call Task Orders (work product)

Scott Macey email of 9/14/2018 to John Winchester , re. Documents for Hearing (work product)

Scott Macey email of 9/14/2018 to Brian McLeod , re. Email records to be shared with GMD2 (attorney client privileged and work product)

Don Henry email of 9/17/2018 to Brian McLeod, Brian Meier, Scott Macey , re. ASR Permit Change Conference with Chief Engineer (attorney client privileged)

Brian McLeod email of 9/17/2018 to Don Henry, Scott Macey , re. ASR Permit Change Conference with Chief Engineer (attorney client privileged)

Brian McLeod email of 9/17/2018 to Don Henry, Brian Meier, Scott Macey , re. ASR Permit Change Conference with Chief Engineer (attorney client privileged)

Brian McLeod email of 9/17/2018 to Scott Macey , re. ROGS (attorney client privileged)

Brian McLeod email of 9/17/2018 to Scott Macey , re. Wichita ASR Interrogatory Markup (attorney client privileged)

Brian McLeod email of 9/17/2018 to Scott Macey , re. Wichita ASR Interrogatory Markup (attorney client privileged)

Brian McLeod email of 9/17/2018 to Scott Macey , re. Wichita Staff Bios (attorney client privileged)

Brian McLeod email of 9/17/2018 to Scott Macey , re. Wichita Staff Bios (attorney client privileged)

Brian McLeod email of 9/17/2018 to Scott Macey , re. Wichita Staff Bios (attorney client privileged)

John Winchester email of 9/17/2018 to Scott Macey , re. Documents for Hearing (work product)

Brian Meier email of 9/17/2018 to Brian McLeod, Joseph Pajor, Don Henry, Scott Macey , re. GMD2 Request for Extension of Discovery Period and Delay of Evidentiary Hearing (attorney client privileged and work product)

Brian Meier email of 9/17/2018 to Brian McLeod, Joseph Pajor, Don Henry, Scott Macey , re. GMD2 Request for Extension of Discovery Period and Delay of Evidentiary Hearing (attorney client privileged and work product)

Scott Macey email of 9/17/2018 to Brian McLeod , re. ROGS (attorney client privileged and work product)

Scott Macey email of 9/17/2018 to Brian McLeod , re. Wichita Staff Bios (attorney client privileged and work product)

Brian McLeod email of 9/18/2018 to David Barfield, Kenneth Titus, Tom Adrian, dave@aplawpa.com , re. City's Preliminary Expert Disclosures (attorney client privileged)

Brian McLeod email of 9/18/2018 to Scott Macey , re. FW (attorney client privileged)

Brian Meier email of 9/18/2018 to Scott Macey , re. ASR 9am conf. call (work product)

Brian Meier email of 9/18/2018 to Brian McLeod, Don Henry, Scott Macey , re. Proposed Hearing Schedule (attorney client privileged and work product)

Brian Meier email of 9/18/2018 to Brian McLeod, Scott Macey, Don Henry , re. Proposed Hearing Schedule (attorney client privileged and work product)

Scott Macey email of 9/18/2018 to Brian McLeod, Brian McLeod , re. ASR 9am conf. call (resend) (attorney client privileged and work product)

Scott Macey email of 9/18/2018 to Brian McLeod, Brian McLeod , re. ASR 9am conf. call (attorney client privileged and work product)

Scott Macey email of 9/18/2018 to Brian Meier, Daniel Clement, re. Required Notices (work product)

Joseph Pajor email of 9/19/2018 to Brian Meier, Brian McLeod, Alan King, Don Henry , re. Application withdrawal cover letter JTP Edits (attorney client privileged)

Brian Meier email of 9/19/2018 to Brian McLeod, Don Henry, Joseph Pajor, Scott Macey , re. Application Withdrawal Letter (attorney client privileged and work product)

Scott Macey email of 9/19/2018 to Don Henry , re. Events Calendar to Crosscheck (work product)

Scott Macey email of 9/19/2018 to Brian McLeod , re. Events Calendar to Crosscheck (attorney client privileged and work product)

Scott Macey email of 9/19/2018 to Joseph Pajor , re. Events Calendar to Crosscheck (work product)

Scott Macey email of 9/19/2018 to Tracy Streeter , re. Request for your Presence as Expert witness (work product)

Tracy Streeter email of 9/19/2018 to Scott Macey , re. Request for your Presence as Expert witness (work product)

Scott Macey email of 9/20/2018 to Scott Macey , re. DWR Meeting Minutes Revisions (work product)

Scott Macey email of 9/20/2018 to Norman, Kevin, Joseph Pajor, Brian McLeod , re. Outlook Query issues (attorney client privileged and work product)

Scott Macey email of 9/20/2018 to Norman, Kevin, Joseph Pajor, Brian McLeod , re. Outlook Query issues (attorney client privileged and work product)

Brian McLeod email of 9/21/2018 to Joseph Pajor, Sharon Dickgrafe , re. Wichita ASR Minutes from September 18, 2018 Hearing (attorney client privileged)

Brian McLeod email of 9/21/2018 to Joseph Pajor, Sharon Dickgrafe, Brian McLeod , re. Wichita ASR Minutes from September 18, 2018 Hearing (attorney client privileged)

Sharon Dickgrafe email of 9/21/2018 to Brian McLeod, Joseph Pajor, Brian McLeod , re. Wichita ASR Minutes from September 18, 2018 Hearing (attorney client privileged)

Sharon Dickgrafe email of 9/21/2018 to Joseph Pajor , re. Wichita ASR Minutes from September 18, 2018 Hearing (attorney client privileged)

Joseph Pajor email of 9/21/2018 to Brian McLeod , re. Wichita ASR Minutes from September 18, 2018 Hearing (attorney client privileged)

Joseph Pajor email of 9/21/2018 to Sharon Dickgrafe , re. Wichita ASR Minutes from September 18, 2018 Hearing (attorney client privileged)

Joseph Pajor email of 9/21/2018 to Sharon Dickgrafe , Brian McLeod , re. Wichita ASR Minutes from September 18, 2018 Hearing (attorney client privileged)

Joseph Pajor email of 9/21/2018 to Scott Macey , re. Wichita ASR Minutes from September 18, 2018 Hearing (attorney client privileged)

Scott Macey email of 9/21/2018 to Brian Meier, Joseph Pajor, Brian McLeod , re. DWR RFA cross reference (updated) (attorney client privileged and work product)

Scott Macey email of 9/21/2018 to Brian Meier, Joseph Pajor, Brian McLeod , re. DWR RFA cross reference (attorney client privileged and work product)

Scott Macey email of 9/21/2018 to Brian Meier, Joseph Pajor, Brian McLeod , re. DWR RFA cross reference (attorney client privileged and work product)

Scott Macey email of 9/21/2018 to Joseph Pajor, Norman, Kevin, Brian McLeod , re. Subsets of outlook search results (attorney client privileged and work product)

Scott Macey email of 9/21/2018 to Joseph Pajor, Norman, Kevin, Brian McLeod , re. Subsets of outlook search results (attorney client privileged and work product)

Scott Macey email of 9/25/2018 to Strayer, Martha , re. Burns & McDonnell On Call (work product)

Joseph Pajor email of 9/26/2018 to Alan King, Don Henry, Scott Macey, Brian Meier, Daniel W. Clement , re. In re Wichita's ASR Project, KDA case no. 18 WATER 14014 (attorney client privileged)

Joseph Pajor email of 9/26/2018 to Brian McLeod, Alan King, Don Henry , re. Cochran Case, Bentley Wellfield (attorney client privileged)

Brian McLeod email of 9/27/2018 to Joseph Pajor, Jennifer Magana , re. Cochran Argument Dates (attorney client privileged)

Paul McCormick email of 9/27/2018 to Scott Macey , re. Commentary on model changes (work product)

Scott Macey email of 9/27/2018 to Brian Meier, Paul McCormick, Daniel Clement , re. Writeup for tomorrow (work product)

Scott Macey email of 9/27/2018 to Bush, Shirley , re. Request for Copy of February 9, 2016 Letter from GMD No. 2 to Chief Engineer Ba (work product)

Scott Macey email of 9/27/2018 to Paul McCormick , re. Commentary on model changes (work product)

Brian McLeod email of 9/28/2018 to Scott Macey , re. ASR Data Transmittal Letter (attorney client privileged)

Brian McLeod email of 9/28/2018 to Scott Macey , re. ASR Data Transmittal Letter (attorney client privileged)

Paul McCormick email of 9/28/2018 to Scott Macey, Daniel Clement , re. Draft Report (work product)

Paul McCormick email of 9/28/2018 to Scott Macey, Brian Meier, Don Henry, Joseph Pajor, Daniel Clement , re. ASR Data Transmittal Letter (work product)

Brian Meier email of 9/28/2018 to Scott Macey, Paul McCormick, Daniel Clement , re. Writeup for tomorrow (work product)

Don Henry email of 9/28/2018 to Scott Macey , re. ASR Data Transmittal Letter (work product)

Don Henry email of 9/28/2018 to Scott Macey , re. Events Calendar to Crosscheck (work product)

Scott Macey email of 9/28/2018 to Brian Meier, Don Henry, Joseph Pajor, Paul McCormick , re. ASR Data Transmittal Letter (work product)

Scott Macey email of 9/28/2018 to Daniel Clement, Paul McCormick, Brian McLeod , re. ASR Data Transmittal Letter (attorney client privileged and work product)

Scott Macey email of 9/28/2018 to Don Henry , re. Events Calendar to Crosscheck (work product)

Scott Macey email of 9/28/2018 to Lane Letourneau , re. GMD2 letter request (work product)

Scott Macey email of 9/28/2018 to Lane Letourneau, Aaron Oleen, Alan King, Brian McLeod , re. ASR Groundwater Modeling Data Submittal (attorney client privileged and work product)

Scott Macey email of 9/28/2018 to Paul McCormick, Daniel Clement , re. Draft Report (work product)

Scott Macey email of 9/28/2018 to Brian McLeod , re. ASR Data Transmittal Letter (attorney client privileged and work product)

Scott Macey email of 9/28/2018 to Brian McLeod , re. ASR Data Transmittal Letter (attorney client privileged and work product)

Scott Macey email of 9/28/2018 to Brian McLeod , re. Draft Letter (attorney client privileged and work product)

Scott Macey email of 9/28/2018 to Brian McLeod , re. Edit (attorney client privileged and work product)

Scott Macey email of 9/28/2018 to Brian McLeod, Joseph Pajor , re. ASR Data Transmittal Letter (attorney client privileged and work product)

Scott Macey email of 9/28/2018 to Brian McLeod, Joseph Pajor , re. ASR Data Transmittal Letter (attorney client privileged and work product)

Brian McLeod email of 10/1/2018 to Alan King, Joseph Pajor, Don Henry, Scott Macey, Jennifer Magana , re. ASR Schedule (attorney client privileged)

Brian McLeod email of 10/1/2018 to Alan King, Joseph Pajor, Don Henry, Scott Macey, Jennifer Magana , re. Wichita ASR Minutes from September 18, 2018 Hearing (attorney client privileged)

Brian McLeod email of 10/1/2018 to Joseph Pajor, Alan King, Don Henry, Scott Macey, Jennifer Magana , re. Wichita ASR Minutes from September 18, 2018 Hearing (attorney client privileged)

Brian McLeod email of 10/1/2018 to Joseph Pajor, Alan King, Don Henry, Scott Macey, Jennifer Magana , re. Wichita ASR Minutes from September 18, 2018 Hearing (attorney client privileged)

Joseph Pajor email of 10/1/2018 to Brian Meier, Daniel Clement , re. Wichita ASR Minutes from September 18, 2018 Hearing (attorney client privileged)

Joseph Pajor email of 10/1/2018 to Brian McLeod, Alan King, Don Henry, Scott Macey, Jennifer Magana , re. ASR Schedule (attorney client privileged)

Joseph Pajor email of 10/1/2018 to Brian McLeod, Alan King, Don Henry, Scott Macey, Jennifer Magana , re. Wichita ASR Minutes from September 18, 2018 Hearing (attorney client privileged)

Scott Macey email of 10/1/2018 to Bush, Shirley , re. Request for Copy of February 9, 2016 Letter from GMD No. 2 to Chief Engineer Ba (work product)

Scott Macey email of 10/1/2018 to Lane Letourneau , re. Letter to GMD 2 on ASR rule, moving forward (work product)

Scott Macey email of 10/1/2018 to Brian McLeod, Don Henry, Joseph Pajor , re. Scott Macey shared correspondence (attorney client privileged and work product)

Joseph Pajor email of 10/2/2018 to Brian McLeod, Brian McLeod, Alan King, Don Henry, Scott Macey , re. Wichita ASR Minutes from September 18, 2018 Hearing (attorney client privileged)

Brian McLeod email of 10/3/2018 to Joseph Pajor , re. Wichita ASR Minutes from September 18, 2018 Hearing (attorney client privileged)

Joseph Pajor email of 10/3/2018 to Brian McLeod , re. Wichita ASR Minutes from September 18, 2018 Hearing (attorney client privileged)

Joseph Pajor email of 10/3/2018 to Brian McLeod , re. Wichita ASR Minutes from September 18, 2018 Hearing (attorney client privileged)

Joseph Pajor email of 10/3/2018 to Alan King, Don Henry, Brian McLeod , re. Wichita ASR Minutes from September 18, 2018 Hearing (attorney client privileged)

Brian Meier email of 10/3/2018 to Joseph Pajor, Alan King, Don Henry, Scott Macey, Daniel Clement , re. In re Wichita's ASR Project, KDA case no. 18 WATER 14014 (work product)

Scott Macey email of 10/4/2018 to Brian McLeod , re. Draft Verbiage for Letter RE Phase 1 (attorney client privileged and work product)

Scott Macey email of 10/4/2018 to Tracy Streeter , re. Request for your Presence as Expert witness (work product)

Brian McLeod email of 10/16/2018 to Brian Meier, Joseph Pajor, Alan King, Don Henry, Daniel Clement , re. Wichita ASR Schedule (attorney client privileged)

Scott Macey email of 10/18/2018 to Brian McLeod , re. Coordination (attorney client privileged and work product)

Scott Macey email of 10/18/2018 to Brian McLeod , re. Coordination (attorney client privileged and work product)

Brian McLeod email of 10/19/2018 to Scott Macey , re. Subsets of outlook search results (attorney client privileged)

Scott Macey email of 10/19/2018 to Scott Macey , re. DWR Meetings Calendar (work product)

Scott Macey email of 10/19/2018 to Scott Macey , re. GMD2 Events Calendar (work product)

Scott Macey email of 10/19/2018 to Brian McLeod , re. Draft Production of Documents (attorney client privileged and work product)

Scott Macey email of 10/19/2018 to Brian McLeod , re. Subsets of outlook search results (attorney client privileged and work product)

Scott Macey email of 10/19/2018 to Brian McLeod, Joseph Pajor , re. Subsets of outlook search results (attorney client privileged and work product)

Scott Macey email of 10/19/2018 to Brian McLeod, Joseph Pajor, Don Henry , re. Subsets of outlook search results (attorney client privileged and work product)

Scott Macey email of 10/22/2018 to Brian Meier, Daniel Clement , re. Draft Production of Documents (work product)

Scott Macey email of 10/22/2018 to Brian Meier, Daniel Clement , re. proposal correspondence to share (work product)

Scott Macey email of 10/22/2018 to Daniel Clement, Brian Meier , re. Exhibit List (work product)

Scott Macey email of 10/22/2018 to Daniel Clement, Brian Meier, Brian McLeod , re. Exhibit List (revised) (attorney client privileged and work product)

Scott Macey email of 10/22/2018 to Brian McLeod , re. Expert Witness Format (attorney client privileged and work product)

Scott Macey email of 10/22/2018 to Brian McLeod , re. proposal correspondence to share (attorney client privileged and work product)

Scott Macey email of 10/22/2018 to Brian McLeod, Joseph Pajor, Don Henry, Brian Meier , re. Draft Expert Report (attorney client privileged and work product)

Brian McLeod email of 10/23/2018 to Schawe, Colleen, Scott Macey , re. Expert Witness Format (attorney client privileged)

Scott Macey email of 10/23/2018 to John Winchester , re. Hearing (work product)

Scott Macey email of 10/23/2018 to Brian McLeod , re. Expert Witness Format (attorney client privileged and work product)

Scott Macey email of 10/23/2018 to Joseph Pajor, Don Henry , re. Hearing (work product)

Scott Macey email of 10/24/2018 to Penny Feist , re. ASR Website Update (work product)

Scott Macey email of 10/24/2018 to Penny Feist, Jennifer Hart , re. ASR Website Update (work product)

Scott Macey email of 10/24/2018 to Jennifer Hart , re. ASR Website Update (work product)

Scott Macey email of 10/24/2018 to Jennifer Hart , re. ASR Website Update (work product)

Scott Macey email of 10/24/2018 to Jennifer Hart , re. Files to add to Wichita.gov website (work product)

Scott Macey email of 10/24/2018 to John Winchester, Luca DeAngelis, Nathaniel Dunahee, Brian Meier , re. ASR Permit Change Interrogatory Responses (work product)

Scott Macey email of 10/24/2018 to Alan King, Joseph Pajor, Don Henry, Brian McLeod, Brian Meier , re. ASR Permit Change Interrogatory Responses (attorney client privileged and work product)

Scott Macey email of 10/24/2018 to Joseph Pajor, Don Henry, Brian McLeod , re. ASR Permit Change Interrogatory Responses (attorney client privileged and work product)

Nelson, Ben email of 10/24/2018 to Scott Macey , re. 1% Drought (work product)

Brian McLeod email of 10/25/2018 to Scott Macey , re. City Responses to Admission Requests (attorney client privileged)

Daniel Clement email of 10/25/2018 to Scott Macey , re. ASR Permits and Regs Legal Review (work product)

McGown, Tyler email of 10/25/2018 to Scott Macey, Brian Meier, Daniel Clement , re. On Call Task Orders (work product)

Scott Macey email of 10/25/2018 to Daniel Clement , re. ASR Permits and Regs Legal Review (work product)

Scott Macey email of 10/25/2018 to Jennifer Hart , re. more files (work product)

Scott Macey email of 10/25/2018 to Jennifer Hart , re. more files (work product)

Scott Macey email of 10/25/2018 to Michael Jacobs, Don Henry , re. On Call Task Orders (work product)

Scott Macey email of 10/25/2018 to McGown, Tyler, Brian Meier, Daniel Clement , re. On Call Task Orders (work product)

Proposal Cover Letter	King	Pajor	Henry	Macey	Meier	Koc	Winchester	Clement	McCormick	DeAngelis	Dunahoe	Streeter
Exhibit B - SUMMARY OF EXPERT WITNESS CONTRIBUTIONS												
1.0 Introduction	X	X										
2.0 Proposed ASR minimum index levels	X	X	X	X	X							
Table 2-1: City of Wichita Drought Response Plan (DRP) Stages	X	X	X	X				X	X		X	
2.1.1% Drought Reconstruction - Palmer Drought Severity Index (PDSI)	X	X	X	X				X	X		X	
Table 2-2: 1% Drought Reconstruction from PDSI	X	X	X	X				X	X		X	
2.2 City of Wichita - Future Raw Water Demand Assessment	X	X	X	X				X	X		X	
2.3 Integrated Water Resources Management During a 1% Drought Using MODSIM-GSS	X	X	X	X				X	X		X	
Figure 1 - MODSIM-GSS Network GUI								X	X			
Table 2-3: MODSIM-GSS simulation results for the 1% drought utilizing projected 2060 demands								X	X			
2.4 Groundwater Modeling Setup - 1% Drought Simulation								X	X			
Figure 2 - Simulated Conditions of 1% Drought Demand on Cheney Reservoir								X	X			
2.4.1 Stress Period (SP) Development								X	X			
Figure 3 - USGS Equus Beds Groundwater Flow Model Active Model Boundary								X	X			
Table 2-4: PDSI values for South-Central Kansas								X	X			
Table 2-5: Water Variables and Inputs to the EBGWM by Stress Period								X	X			
2.4.2 Starting Groundwater Model Elevations								X	X			
2.4.3 Groundwater Pumping - Agricultural Irrigation, Industrial Use, Other Municipal Users								X	X			
Table 2-6: Net Irrigation Use in the 1% Drought Model								X	X			
2.4.4 Groundwater Pumping - City of Wichita								X	X			
Table 2-7: Distributed City of Wichita Pumping by Stress Period								X	X			
2.4.5 Streamflow - Arkansas River, Little Arkansas River, Cow Creek								X	X			
2.4.6 Precipitation & Natural Aquifer Recharge								X	X			
Figure 4 - Locations of USGS Stream Gages Within and Near the ASR BSA								X	X			
Table 2-8: Simulated Natural Aquifer Recharge Inputs for EBGWM								X	X			
2.4.7 Evaporation & Transpiration								X	X			
2.5 Groundwater Modeling Results - 1% Drought Simulation								X	X			
Table 2-9: Groundwater Modeling Results for 1% Drought Simulation								X	X			
2.6 Proposed Modifications to ASR Minimum Index Water Levels								X	X			
Figure 5 - Initial Groundwater Elevations at Beginning of Simulated Drought								X	X			
Figure 6 - Modeled Groundwater Elevations at the End of Simulated Drought (SP8)								X	X			
Figure 7 - Modeled Groundwater Elevations End of Simulated Recovery Year 1 (SP9)								X	X			
Figure 8 - Groundwater Elevations End of Simulated Recovery Year 2 (SP10)								X	X			
Figure 9 - 1993 Groundwater Levels as a Percentage of Pre-development Saturated Aquifer Thickness								X	X			
Figure 10 - Modeled Aquifer Conditions by ASR Index Cell at the End of Simulated Drought (SP8)								X	X			
2.7 Summary								X	X			
Table 2-10: Development of Proposed ASR Minimum Index Levels								X	X			
Table 2-11: Proposed ASR Minimum Index Levels								X	X			
Figure 11 - Average Aquifer Conditions by Index Cell at Proposed Minimum Levels								X	X			

Exhibit B - SUMMARY OF EXPERT WITNESS CONTRIBUTIONS	King	Pajor	Henry	Mazny	Meier	Koel	Winchester	Clement	McGinnis	DeAngelis	Dunabee	Steveter
3.0 Aquifer Maintenance Credits proposal	X	X	X		X	X						
3.1 Integrated Local Water Supply Plan (ILASP)		X	X		X	X						
3.2 City of Wichita ASR Program Development		X	X		X	X						
Figure 12 - Historic Water Use in the ASR BSA				X				X				
Figure 13 - Historic Groundwater Level Changes in the ASR BSA				X				X				
3.3 Benefits of ASR Aquifer Maintenance Credits (AMCs)		X	X		X	X						
3.4 Proposed AMC Permit Conditions		X	X		X	X						
3.5 ASR Physical Recharge & ASR Operations Plan		X	X		X	X		X				
3.6 Outcome Based Management of Water Resources		X	X		X	X						
Table 3.1 - Benefits to Multiple Aquifer Users and Water Resources from AMCs		X	X		X	X						
Figure 14 - AMC Operations Table 2016 Example				X				X				
4.0 Proposed ASR Accounting Methodology					X	X		X				
Figure 15 - ASR Accounting Loss Percentage Map								X				
Table 4.1 - Index Cell Infrastructure and Loss Percentage								X				
Figure 16 - Current and Proposed Accounting Method Results Comparison								X				
Table 4.2 - Current and Proposed Accounting Method Results Comparison								X				
Table 4.3 - Theoretical Recharge Accounting Example for Index Cell 15								X				
Attachment A - City of Wichita Drought Response Plan	X	X	X									
Attachment B - Palmer Drought Severity Index - Research Paper No. 45							X					
Attachment C - HCH 1% Drought Reconstruction Technical Memorandum				X			X					
Attachment D - City of Wichita Water Demand Assessment							X					
Attachment E - USGS SFR 2013-5042 Groundwater Model Report		X	X		X				X			
Attachment F - Historic NOAA PDSI Values for SC Kansas					X		X					
Attachment G - Streamflows for Arkansas, Little Arkansas River 2011-2012							X		X			
Attachment H - USGS SFR 2013-5170, Revised 1993 Groundwater Levels				X				X				
Attachment I - Drought Model Simulation Results & Hydrographs								X				
Attachment J - ASR Accounting Simulations								X				

**STATE OF KANSAS
BEFORE THE DIVISION OF WATER RESOURCES
KANSAS DEPARTMENT OF AGRICULTURE**

**In the Matter of the City of Wichita's
Phase II Aquifer Storage and Recovery Project
In Harvey and Sedgwick Counties, Kansas**

Case No. 18 WATER 14014

Pursuant to K.S.A. 82a-1901 and K.A.R. 5-14-3a.

**THE CITY OF WICHITA'S RESPONSES TO EOUS BEDS
GROUNDWATER MANAGEMENT DISTRICT NUMBER 2 FIRST
REQUEST FOR ADMISSIONS TO CITY OF WICHITA, KANSAS**

Pursuant to K.S.A. 60-236, request is hereby made upon the City of Wichita, Kansas ("The City") to admit within thirty (30) days from the date of service of this Request for Admissions, the truth of the facts and genuineness of the statements set forth below.

Each matter as to which an admission is requested is admitted, unless within thirty (30) days after service of this Request for Admissions on The City a written objection or answer addressed to this matter, signed by The City or the attorney for said The City, specifically denying the matter or setting forth in detail the reason by The City cannot truthfully admit or deny the matter, is served on Thomas A. Adrian and David J. Stucky, Adrian & Pankratz, PA, 301 North Main, Suite 400, Newton, Kansas 67114.

DEFINITIONS

1. "You" and/or "Your" means the City of Wichita, and any agent, consultant, employee, or manager for the City of Wichita.
2. "The City" shall mean the City of Wichita

3. "DWR" means the Division of Water Resources ("DWR"), and any agent, consultant, employee, or manager for DWR.
4. "Chief Engineer" means David Barfield, Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.
5. "The District" shall mean the Equus Beds Groundwater Management District No. 2.
6. "Subject Matter" means the content of this administrative hearing including, but not limited to, AMCs, the ASR Permit Modification Proposal, and all related subject matter.
7. "ASR Permit Modification Proposal" means the proposal dated March 12, 2018, that You submitted to the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.
8. "AMC Proposal" means the Aquifer Maintenance Credits Proposal submitted as part of the ASR Permit Modification Proposal.
9. "AMC" means Aquifer Maintenance Credit.
10. "Aquifer" shall mean the Equus Beds Aquifer.
11. "ASR" shall mean Aquifer Storage and Recovery
12. "As used herein, the term ""document" means any medium upon which intelligence or information can be recorded or retrieved, and includes, without limitation, the original and each copy, regardless of origin and location, of any book, pamphlet, periodical, letter, memorandum, (including any memorandum or report of a meeting or conversation), contract, agreement, letter, e-mail, facsimile, check, receipt, notice, study, telegram, computer printout, invoice, computer data file, work papers, diary, calendar, transcript, bill, record, photograph, or any other graphic matter, however produced or reproduced, which is or was your possession, custody or control.

13. As used herein, the term "communication" means any oral or written utterance of any nature including, but not limited to, correspondence, e-mail, facsimile, conversations, discussions, and consultations, between or among two or more persons.
14. As used herein, the terms "identification," "identify," or "identity," when used in reference to (a) a natural individual, require you to state his or her full name, job title, residential and business addresses and home and business phone numbers; (b) a corporation or business, require you to state its full name and any names under which it does business, the address of its principal place of business, and the addresses of all of its offices; (c) a document, requires you to state the number of pages and the nature of the document (e.g., letter or memorandum), its title, its date, the name or names of its authors and recipients, and its present location and custodian; (d) a communication, requires you to identify the document or documents which refer to or evidence the communication; and (e) an oral communication, requires you to identify the persons participating in the communication and to state the date, manner, place and substance of the communication.
15. When a request for admission requires you to "state the basis of a particular claim, defense, contention, or allegation, state in your answer the identity of each and every communication and each and every fact and legal theory that you think supports, refers to, or evidences such claim, defense, contention or allegation.
16. As used herein, the word "or" appearing in a request for admission should not be read so as to eliminate any part of the request for admission, but, whenever applicable, it should have the same meaning as the word "and."

17. As used herein, the words "person" or "entity" mean any natural person, company, business, partnership, corporation, association or other group carrying on a business enterprise.

REQUEST FOR ADMISSIONS

1. Admit or deny that no water will actually physically be injected into the Aquifer with the AMC Proposal.

ADMIT

DENY _____

The AMC proposal describes the interactive accumulation of physical recharge credits and AMC recharge credits. The City will continue to conduct physical recharge operations based on the condition and capacity of the aquifer to accept physical recharge.

2. Admit or deny that no source water will enter into the Aquifer through gravity flow due to the AMC Proposal.

ADMIT _____

DENY _____

The AMC proposal describes the interactive accumulation of physical recharge credits and AMC recharge credits. The City will continue to conduct physical recharge operations based on the condition and capacity of the aquifer to accept physical recharge.

3. Admit or deny that no source water will actually be stored in the Aquifer with the AMC Proposal.

ADMIT

DENY _____

The AMC proposal describes the interactive accumulation of physical recharge credits and AMC recharge credits. The City will continue to conduct physical recharge operations based on the condition and capacity of the aquifer to accept physical recharge.

4. Admit or deny that recharge pits will not be used to cause source water to enter the storage volume of the basin storage area as a part of the AMC Proposal.

ADMIT

DENY _____

The AMC proposal describes the interactive accumulation of physical recharge credits and AMC recharge credits. The City will continue to conduct physical recharge operations based on the condition and capacity of the aquifer to accept physical recharge. Recharge pits will continue to be utilized to facilitate recharge activities as appropriate.

5. Admit or deny that recharge trenches will not be used to cause source water to enter the storage volume of the basin storage area as a part of the AMC Proposal.

ADMIT _____

DENY x _____

The AMC proposal describes the interactive accumulation of physical recharge credits and AMC recharge credits. The City will continue to conduct physical recharge operations based on the condition and capacity of the aquifer to accept physical recharge. Recharge trenches are currently not used for physical recharge however it is uncertain if recharge trench technology will be utilized to facilitate recharge in the future. If and when appropriate, trenches could be used to facilitate recharge activities.

6. Admit or deny that recharge wells will not be used to cause source water to enter the storage volume of the basin storage area as a part of the AMC Proposal.

ADMIT _____

DENY x _____

The AMC proposal describes the interactive accumulation of physical recharge credits and AMC recharge credits. The City will continue to conduct physical recharge operations based on the condition and capacity of the aquifer to accept physical recharge. Recharge wells will continue to be utilized to facilitate recharge activity.

7. Admit or deny that no artificial recharge system will be used to cause source water to enter into the Aquifer through the AMC Proposal.

ADMIT _____

DENY x _____

The AMC proposal describes the interactive accumulation of physical recharge credits and AMC recharge credits. The City will continue to conduct physical recharge operations based on the condition and capacity of the aquifer to accept physical recharge.

8. Admit or deny that no artificial recharge of the Aquifer will occur with respect to the AMC Proposal.

Counsel objects that the request is vague, due to the phrase "with respect to."

/s/ Brian K. McLeod

Brian K. McLeod, SC # 14026

Subject to and without waiving the foregoing objection, the City further responds as follows:

ADMIT _____

DENY x _____

The AMC proposal describes the interactive accumulation of physical recharge credits and AMC recharge credits. The City will continue to conduct physical recharge operations based on the condition

and capacity of the aquifer to accept physical recharge.

9. Admit or deny that source water will not be put into the Aquifer by the AMC Proposal subject to later recovery through the AMC Proposal.

ADMIT _____ DENY x _____

The AMC proposal describes the interactive accumulation of physical recharge credits and AMC recharge credits. The City will continue to conduct physical recharge operations based on the condition and capacity of the aquifer to accept physical recharge.

10. Admit or deny that there will not be an accounting system in place to account for or quantify the water entering and leaving the Aquifer with the AMC Proposal.

ADMIT _____ DENY x _____

The proposal describes the interactive accumulation of physical recharge credits and AMC recharge credits. An annual accounting report will be made and submitted for both physical and AMC recharge credits.

11. Admit or deny that the AMC Proposal will not artificially replenish the water supply of the aquifer.

ADMIT _____ DENY x _____

The AMC proposal describes the interactive accumulation of physical recharge credits and AMC recharge credits. The City will continue to conduct physical recharge operations based on the condition and capacity of the aquifer to accept physical recharge.

12. Admit or deny that the source water subject to the AMC Proposal will be pumped directly to the City without any source water directly entering the Aquifer.

Counsel objects that the request is vague, due to the phrase "subject to the AMC proposal."

/s/ Brian K. McLeod

Brian K. McLeod, SC # 14026

Subject to and without waiving the foregoing objection, the City further responds as follows:

ADMIT _____ DENY x _____

The AMC proposal describes the interactive accumulation of physical recharge credits and AMC recharge credits. The City will continue to conduct physical recharge operations based on the condition and capacity of the aquifer to accept physical recharge.

13. Admit or deny that the relative saturated thickness of the Aquifer in a given location will not impact the AMC Proposal in any manner since no source water is actually entering the Aquifer.

Counsel objects that the request is compound, contains an erroneous assumption that no water is entering the aquifer, and is ambiguous due to the word "since."

/s/ Brian K. McLeod

Brian K. McLeod, SC # 14026

Subject to and without waiving the foregoing objection, the City further responds as follows:

ADMIT

DENY x

The proposal describes the interactive accumulation of physical recharge credits and AMC recharge credits. The City will continue to conduct physical recharge operations based on the condition and capacity of the aquifer to accept physical recharge. The static water level and by extension the saturated thickness of the aquifer at a given location will impact the ratio of physical recharge credit accumulation to AMC recharge credit accumulation.

14. Admit or deny that there is not a definition of AMC in statute or regulation.

ADMIT

DENY

AMCs as proposed constitute an additional method to accumulate and account for recharge credits under the existing regulation definition. Recharge Credit as currently defined means the quantity of water that is stored in the basin storage area and that is available for subsequent appropriation for beneficial use by the operator of the aquifer storage and recovery system.

15. Admit or deny that there is not a definition of "passive recharge credits" in statute or regulation.

ADMIT

DENY

The AMC Proposal does not request "passive recharge credits".

16. Admit or deny that there is no statute or regulation that specifically allows for the AMC Proposal.

Counsel objects that the request is vague, due to the use of the word "specifically."

/s/ Brian K. McLeod

Brian K. McLeod, SC # 14026

Subject to and without waiving the foregoing objection, the City further responds as follows:

ADMIT _____

DENY _____x

State statute allows for the construction and operation of ASR projects. The development of an ASR project may result in the accumulation of recharge credits

17. Admit or deny that AMCs represent groundwater not pumped by the City's existing native groundwater rights.

Counsel objects that the request is vague and incomprehensible.

/s/ Brian K. McLeod

Brian K. McLeod, SC # 14026

Subject to and without waiving the foregoing objection, the City further responds as follows:

ADMIT _____

DENY x_____

AMCs represent the capture and beneficial use of an intermittently available source of water from the Little Arkansas River. The source water captured would be available for physical recharge if not limited by aquifer conditions as described within the proposal.

18. Admit or deny that the existing and proposed aquifer storage and recovery wells are, or will be, equipped with water meters to accurately and separately record the quantity of water pumped from the native water rights, the physical recharge credits, and the aquifer maintenance credits.

Counsel objects that the request is vague and ambiguous, due to the use of the word "separately," and the uncertainty whether it is meant to apply to each well or to what is being pumped.

/s/ Brian K. McLeod

Brian K. McLeod, SC # 14026

Subject to and without waiving the foregoing objection, the City further responds as follows, based on the assumption that "separately" applies to what is being pumped:

ADMIT _____

DENY x_____

Recharge recovery wells are equipped with meters capable of recording recharge water entering a well and water produced from each well. The water produced or recovered from each well will be categorized as either a native water right, physical recharge credit or AMC. Annual ASR accounting reports specifically detailing recharged and pumped quantities have been developed, reviewed and approved by the Groundwater Management District No. 2 (GMD2) Board and Staff since 2006.

19. Admit or deny that the models, including all inputs, outputs, calibrations and adjustments, used in the ASR Permit Modification Proposal, have not been professionally peer reviewed.

Counsel objects that the request contains an erroneous assumption that models include all inputs, outputs, calibrations and adjustments.

/s/ Brian K. McLeod

Brian K. McLeod, SC # 14026

Subject to and without waiving the foregoing objection, the City further responds as follows:

ADMIT

DENY

The models utilized in the ASR Permit Modification Proposal have been professionally peer reviewed, and the inputs and outputs of the models which have been reviewed by GMD2 and DWR Staff.

20. Admit or deny that using a 1% drought scenario for water supply planning by a municipality is unusual and that the standard for a Kansas municipality is using a 2% drought.

Counsel objects on the basis of vagueness, in that “unusual” and “standard” are of uncertain meaning as used in the request.

/s/ Brian K. McLeod

Brian K. McLeod, SC # 14026

Subject to and without waiving the foregoing objection, the City further responds as follows:

ADMIT

DENY

Drought planning is a local issue centered on defining an acceptable level of risk. It is evident from recent research that what is considered a 1% drought based on a relatively short period of record may be underestimated based on a longer period of record. The general guidance for a Kansas municipality water supply is based on a 2% drought as a minimum standard.

21. Admit or deny that You did not consult with the State of Kansas Climatologist or other State of Kansas weather or climate expert regarding the 1% drought simulation model inputs used in the ASR Permit Modification Proposal.

Counsel objects on the basis of vagueness, in that “other State of Kansas weather or climate expert” is of uncertain meaning as used in the request.

/s/ Brian K. McLeod

Brian K. McLeod, SC # 14026

Subject to and without waiving the foregoing objection, the City further responds as follows:

ADMIT _____ DENY _____ x

The City consulted with the State of Kansas Climatologist regarding the planned level of drought mitigation. In addition to consulting with the State of Kansas Climatologist, the City has received professional guidance regarding the 1% drought simulation model inputs.

22. Admit or deny that Your appropriation applications requesting withdrawal of AMCs are subject to the Districts' Safe Yield Regulation K.A.R. 5-22-7.

ADMIT _ _ _ _ _ DENY x _____

K.A.R. 5-22-7(b)(7) specifically indicates that applications for aquifer storage and recovery are not subject to the District's Safe Yield Regulation.

23. Admit or deny that the appropriation of groundwater as proposed by the AMC Proposal does not comply with the District's Safe Yield Regulation K.A.R. 5-22-7.

ADMIT _____ DENY _ _ ~~x~~ _____

K.A.R. 5-22-7(b)(7) specifically indicates that applications for aquifer storage and recovery are not subject to the District's Safe Yield Regulation.

24. Admit or deny that there is no exception for AMC appropriation applications specified in the District's Safe Yield Regulation, K.A.R. 5-22-7.

ADMIT _ _ _ _ _ DENY _____ x

K.A.R. 5-22-7(b)(7) specifically indicates that applications for aquifer storage and recovery are not subject to the District's Safe Yield Regulation.

25. Admit or deny that You have communicated and coordinated directly with the Chief Engineer regarding the ASR Permit Modification Proposal and AMC Proposal.

Counsel objects to the request as vague and indefinite in time.

/s/ Brian K. McLeod
Brian K. McLeod, SC # 14026

Subject to and without waiving the foregoing objection, the City further responds as follows:

ADMIT ___ _x DENEY ___ _ _ _ _

Communication protocols align with standard application development procedures. There has also been extensive communications and coordination with GMD2 Staff and Board members per standard procedures and at the request of GMD2.

26. Admit or deny that the proposed AMCs can only be withdrawn by the City during a 1% drought.

ADMIT _____ DENEY x _____

Withdrawal of AMC's are not limited to specific climatic conditions.

Respectfully Submitted,

/s/ Brian K. McLeod
Brian K. McLeod
Deputy City Attorney
455 N. Main, 13th Floor
Wichita, Kansas 67202
(316) 268-4681
FAX: (316) 268-4335
bmcleod@wichita.gov

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he served the above and foregoing responses to Requests for Admission by electronic mail on this 30th day of October, 2018, addressed to:

Thomas A. Adrian
David J. Stucky
tom@aplawpa.com
dave@aplawpa.com

313 Spruce
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And
Leland Rolfs
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Equus Beds Groundwater Management District No. 2

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/s/ Brian K. McLeod
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STATE OF KANSAS
BEFORE THE DIVISION OF WATER RESOURCES
KANSAS DEPARTMENT OF AGRICULTURE

In the Matter of the City of Wichita's)
Phase II Aquifer Storage and recovery Project) Case No. 18 WATER 14014
In Harvey and Sedgwick Counties, Kansas)
_____)

Pursuant to K.S.A. 82a-1901 and K.A.R. 5-14-3a

**CITY OF WICHITA'S RESPONSES TO EOUS BEDS GROUNDWATER
MANAGEMENT DISTRICT NUMBER 2 SECOND INTERROGATORIES
TO CITY OF WICHITA, KANSAS**

1. Identify each person who provided information or otherwise prepared or assisted in the preparation of the responses to these Second Set of Interrogatories and to the Second Set of the Requests for Admissions served simultaneously with these Interrogatories and specify for each such person the information provided.

RESPONSE:

Counsel objects to the Interrogatory as overly broad and unduly burdensome, particularly the portion that seeks particularized attribution of each piece of information in all responses.

/s/ Brian K. McLeod
Brian K. McLeod, SC # 14026

Subject to and without waiving the foregoing objection, the City responds as follows:

Persons who prepared or assisted in the preparations of the responses include:

Brian McLeod, document preparation; Alan King, document review; Joe Pajor, document review; Don Henry, document review; Scott Macey, document preparation; Brian Meier, document preparation; Don Koci, document review; John Winchester, technical support and document review; Daniel Clement, technical support and document review; Paul McCormick, technical support and document review; Luca DeAngelis, document review; and Nathan Dunahee, document review.

2. If any of your responses to the Second Set of the District's Requests for Admission are anything other than an unqualified admission, provide a detailed explanation of any and all

facts that relate to or concern your responses and identify:

- a. Any and all persons with facts that relate to or concern your responses;
- b. Any and all documents that relate to or concern your responses.

RESPONSE:

Counsel objects to the Interrogatory as overly broad, unduly burdensome, and designed to invade protected work product.

/s/ Brian K. McLeod

Brian K. McLeod, SC # 14026

Subject to and without waiving the foregoing objections, the City further responds as follows:

Explanations for the City's Responses to the Requests for Admissions are provided with the responses. Responses to Requests 1 through 12 should have been ascertainable from the City's proposal, including the portion thereof that discusses annual accounting method for determining accumulation of credits. Responses to Requests 13 and 15 are ascertainable from the statutes and regulations of Kansas. The bases for the objections to Requests 14, 15, 17 and 20 are ascertainable from the forms of the Requests themselves. The response to Request 19 was ascertainable from the proposal. The responses to Requests 13 and 16 were ascertainable from the regulations referenced in those responses. The Response to Request 20 is based in part on the form of the Request itself and in part on public statements of the City, including the City's June 28, 2018 Halstead informational presentation (linked on the DWR "Wichita ASR" website) and Joe Pajor's January 23, 2018 and March 1, 2018 legislative testimony in the Documents subdirectory of the Public Information file in the City's Dropbox repository.

Documents that may "relate to or concern" the City's responses include the City's proposal and referenced statutes and regulations, and may also include (but are not necessarily limited to) those provided by the City in its responses to the District production request.

Persons with knowledge of facts that relate to the responses include:

Brian McLeod; Alan King; Joe Pajor; Don Henry; Scott Macey; Brian Meier; Don Koci; John Winchester; Daniel Clement; Paul McCormick; Luca DeAngelis; Nathan Dunahee; and Tracy Streeter.

Each of the documents (other than statutes and regulations) that relate to the responses are provided as components of the electronic file folders supplied with the Production of Documents, in the directory POD. A full list of documents provided is available as the file POD_Documents.doc. Wherever any of the documents provided or referred to provide reference to other source documents, each such reference shall be considered as presented herewith.

3. Please indicate any and every meeting and communication You have had with the DWR about the proposed minimum index levels. Please include the date of each meeting and/or communication, the individuals involved in any meeting and/or communication, the subject matter of each communication and/or meeting, and the location of any communication and/or meeting.

Counsel objects to the Interrogatory as unduly burdensome. The City has provided in its document production responses all locatable records of its meetings and contacts with DWR, which are also in searchable, electronic format, and the answer to the Interrogatory is as readily ascertainable from such records by the District as by the City.

/s/ Brian K. McLeod
Brian K. McLeod, SC # 14026

Subject to and without waiving the foregoing objection, applicable communications or correspondence have been provided in electronic form, as the subdirectory Proposal Communications. Additional detail may be available in the subdirectory Electronic Communications. Applicable meetings in which additional pertinent communications may have occurred are listed in the subdirectories DWR Meetings and District Meetings. The City, as its answer to this Interrogatory, refers the District to the referenced records, pursuant to K.S.A. 60-233(d).

4. Please indicate any and every meeting and communication You have had with the DWR about the AMC Proposal. Please include the date of each meeting and/or communication, the individuals involved in any meeting and/or communication, the subject matter of each communication and/or meeting, and the location of any communication and/or meeting.

Counsel objects to the Interrogatory as unduly burdensome. The City has provided in its document production responses all locatable records of its meetings and contacts with DWR, which are also in searchable, electronic format, and the answer to the Interrogatory is as readily ascertainable from such records by the District as by the City.

/s/ Brian K. McLeod
Brian K. McLeod, SC # 14026

Subject to and without waiving the foregoing objection, applicable communications or correspondence have been provided in electronic form, as the subdirectory Proposal Communications. Additional detail may be available in the subdirectory Electronic Communications. Applicable meetings in which additional pertinent communications may have occurred are listed in the subdirectories DWR Meetings and GMD2 Meetings. The City, as its answer to this Interrogatory, refers the District to the referenced records, pursuant to K.S.A. 60-233(d).

5. Please explain in detail the accounting method that will be used to determine source water actually physically entering and leaving the Aquifer when an AMC is accumulated or used

(as opposed to a Physical Recharge Credit).

RESPONSE:

Counsel objects to the Interrogatory as centrally incorporating a fundamental misunderstanding of annual ASR accounting processes and accrual of credits, which renders the Interrogatory insusceptible to any meaningful response. Also, the Interrogatory is not reasonably calculated to lead to admissible evidence.

/s/ Brian K. McLeod
Brian K. McLeod, SC # 14026

Subject to and without waiving the foregoing objections, the City responds that the accounting method for physical recharge credits is not proposed to change. The accounting method for AMCs is described in the proposal. Both methods involve accounting exercises performed on an annual basis and a large number of the District's discovery requests evidence a failure on the part of the District and its counsel to read or understand basic elements of the existing and proposed accounting methods.

Please refer to the proposal documents and Proposal Correspondence

6. Please explain in detail the accounting method that will be used to determine the amount of source water entering and leaving the Aquifer with the AMC Proposal when an AMC is accumulated (as opposed to a Physical Recharge Credit).

RESPONSE:

Counsel objects to the Interrogatory as centrally incorporating a fundamental misunderstanding of annual ASR accounting processes and accrual of credits, which renders the Interrogatory insusceptible to any meaningful response. Also, the Interrogatory is not reasonably calculated to lead to admissible evidence.

/s/ Brian K. McLeod
Brian K. McLeod, SC # 14026

Subject to and without waiving the foregoing objections, the City responds that the accounting method for physical recharge credits is not proposed to change. The accounting method for AMCs is described in the proposal. Both methods involve accounting exercises performed on an annual basis and a large number of the District's discovery requests evidence a failure on the part of the District and its counsel to read or understand basic elements of the existing and proposed accounting methods.

Please refer to the proposal documents and Proposal Correspondence.

7. Please explain in detail how the Aquifer will be artificially recharged through the AMC Proposal when an AMC is accumulated (as opposed to a Physical Recharge Credit).

RESPONSE:

Counsel objects to the Interrogatory as centrally incorporating a fundamental misunderstanding of annual ASR accounting processes and accrual of credits, which renders the Interrogatory insusceptible to any meaningful response. Also, the Interrogatory is not reasonably calculated to lead to admissible evidence.

/s/ Brian K. McLeod
Brian K. McLeod, SC # 14026

Subject to and without waiving the foregoing objections, the City responds that the accounting method for physical recharge credits is not proposed to change. The accounting method for AMCs is described in the proposal. Both methods involve accounting exercises performed on an annual basis and a large number of the District's discovery requests evidence a failure on the part of the District and its counsel to read or understand basic elements of the existing and proposed accounting methods or the existing or proposed accrual of credits. Under the proposal, the Aquifer will continue to be recharged in the same manner it has been in the past, subject to the availability of surface water for such purposes under the terms of the City's applicable permits.

Please refer to the proposal documents and Proposal Correspondence.

8. Please explain in detail how and where source water will be treated and used pursuant to the AMC Proposal when an AMC is accumulated (as opposed to a Physical Recharge Credit).

RESPONSE:

Counsel objects to the Interrogatory as centrally incorporating a fundamental misunderstanding of annual ASR accounting processes and accrual of credits, which renders the Interrogatory insusceptible to any meaningful response. Also, the Interrogatory is not reasonably calculated to lead to admissible evidence.

/s/ Brian K. McLeod
Brian K. McLeod, SC # 14026

Subject to and without waiving the foregoing objections, the City responds that both accounting methods described in the proposal involve accounting exercises performed on an annual basis, so that the accumulation of credits is inherently also determined annually, as a part of that process. At various points during the year covered by the accounting exercise and report, water may be taken from the river (if that is what the District means by

“source water”) and treated at the ASR treatment facilities, and either injected in the basin storage area or piped to the City’s distribution system. A large number of the District’s discovery requests evidence a failure on the part of the District to understand basic elements of the existing and proposed accounting methods, or the basis upon which, or time at which, credits are accumulated.

Please refer to the proposal documents and Proposal Correspondence.

9. Please explain in detail how You determined when the Aquifer was capable of physical recharge such that a Physical Recharge Credit can be accumulated.

RESPONSE:

Counsel objects to the Interrogatory as centrally incorporating a fundamental misunderstanding of annual ASR accounting processes and accrual of credits, which renders the Interrogatory insusceptible to any meaningful response. Also, the Interrogatory is not reasonably calculated to lead to admissible evidence.

/s/ Brian K. McLeod
Brian K. McLeod, SC # 14026

Subject to and without waiving the foregoing objections, the City responds that the existing accounting method for determining accumulation of Physical Recharge Credits is summarized at Page 4-1 of the proposal. The accounting method operates by retrospectively applying the EBGWM via two runs, one of which incorporates ASR activities and the other of which does not. Comparison of the results of the two model runs determines whether the net impact of ASR activities within the period under analysis supports the accumulation of Physical Recharge Credits.

10. Please explain how the proposed recharge credit cap of 120,000 acre-feet was derived and why it is acceptable.

RESPONSE:

Please refer to the proposal documents, particularly page 3-6 of the proposal and Proposal Correspondence for information pertinent to the derivation of the 120,000 acre-feet cap. No express limitation exists on the maximum accumulation of recharge credits under the existing permits, and proposing a new, 120,000 acre-feet cap, where no cap currently exists is “acceptable” because it is inherently impossible for the creation of this cap to be harmful.

11. Please explain how the ASR Permit Modification Proposal is in compliance with the District/City Phase I and Phase II MOUs.

RESPONSE

Counsel objects to the Interrogatory as invading work product and essentially seeking a legal analysis and opinion from the City's counsel rather than matters of fact calculated to lead to admissible evidence.

/s/ Brian K. McLeod
Brian K. McLeod, SC # 14026

Subject to and without waiving the foregoing objection, the City further responds as follows:

The City believes the substantive protections to domestic wells anticipated by the MOU's are present in Proposal and/or can be adequately addressed by actual permit conditions.

12. Please specify whether any of the following will occur when an AMC is accumulated (as opposed to a Physical Recharge Credit): 1) prejudicially and unreasonably affect the public interest, 2) impair existing water rights, or 3) allow an unreasonable raising or lowering of the water level? Identify all the facts, studies, expert opinions, computer modeling, and other information relied on by You in making such a determination.

RESPONSE:

Counsel objects to the Interrogatory because the enumerated verb phrases lack a subject (i.e., the question fails to identify who or what should be evaluated as taking or not taking the enumerated actions or causing or not causing the enumerated impacts at the time an AMC is accumulated). Counsel further objects that the use of the phrase "when an AMC is accumulated" centrally incorporates a fundamental misunderstanding of annual ASR accounting processes and accrual of credits, which renders the Interrogatory insusceptible to a meaningful response. Also, the Interrogatory is not reasonably calculated to lead to admissible evidence.

/s/ Brian K. McLeod
Brian K. McLeod, SC # 14026

Subject to and without waiving the foregoing objections, the City further responds as follows: When the City is diverting treated river water to its distribution system so as to potentially lead to the accumulation of an AMC (as opposed to a Physical Recharge Credit), it will be because the aquifer is at near-full conditions; By taking water from the river to use in its distribution system, the City can accrue AMCs without lowering water

levels, and this is not an unreasonable effect on water levels. Subsequent withdrawal of the AMC will result in a water-level change equivalent to recovery of a recharge credit. Use of recharge credits has already been found to not prejudicially or unreasonably affect the public interest. The higher sustained aquifer conditions and proposed accrual limits on both recharge credits and AMC's are considered to provide reasonable protections to aquifer users.

Accumulation of AMC's will be subject to the City's water rights associated with withdrawal of surface water from the Little Arkansas River, which require a minimum streamflow be maintained after the water is pumped. Use of recharge credits or AMC's during drought has been modeled, and review of modeled performance of non-City wells in the vicinity of the Wichita wellfield was undertaken during modeling. Water levels at such wells were evaluated to verify that the wells continued to pump even during periods of modeled low water levels. Impairment was not indicated during the modeled 1% drought with increased pumping associated with recovery of credits, as there were no observed instances where wells were shut down due to low water levels. It can be estimated that impairment is unlikely in non-drought conditions, with normal recharge and pumping.

Accumulation of the AMC is not deemed to allow for an unreasonable raising or lowering of the water level. Long-term higher aquifer conditions will result in increased streamflows caused by loss of water from the aquifer; it is anticipated that the aquifer levels will not increase beyond the pre-development conditions. Use of the AMC's is also not considered to allow for unreasonable raising or lowering of the water level. To the extent that recharge credits or the contemplated AMC's result in higher water levels, use of the credits is reasonable.

Modeling data have been provided in the subdirectory Model in the City of Wichita's Responses to Production Requests of Equus Beds Groundwater Management District No. 2.

The City expects to supplement this response to provide further discussion and additional modeling data to demonstrate that the proposal and its changes are reasonable and will not impair existing rights.

13. Please specify whether any of the following will occur if the minimum index levels are lowered as proposed by the ASR Permit Modification Proposal: 1) prejudicially and unreasonably affect the public interest, 2) impair existing water rights, or 3) allow an unreasonable raising or lowering of the water level? Identify all the facts, studies, expert opinions, computer modeling, and other information relied on by You in making such a determination.

RESPONSE:

Counsel objects to the Interrogatory because the enumerated verb phrases lack a subject (i.e., the question fails to identify who or what should be evaluated as taking or not taking the enumerated actions or causing or not causing the enumerated impacts if the proposed minimum index levels are adopted).

/s/ Brian K. McLeod
Brian K. McLeod, SC # 14026

Subject to and without waiving these objections, the City further responds as follows: For information on how the City has addressed these topics to date, please refer to the proposal document and additional supplied information. To the extent that the demonstrations in question are also an object of the public hearing and subsequent administrative proceedings scheduled in this matter (and hence, ongoing), additional information will be made available to the District in the conduct of the administrative proceedings, as and when appropriate in accordance with the Prehearing Order and any subsequent directions of the Chief Engineer.

The proposed lower index levels are not anticipated to prejudicially or unreasonably affect the public interest. Recovery of recharge credits or AMC's will be as a result of the City's long-term effort to inject water to keep the aquifer full, or as results of the City's efforts to accommodate conditions that prevent recharge of water pumped from the river. Recovery of this water during times of need and in a judicious manner is a reasonable accommodation. It is part of the City's Proposal that portions of the Equus Beds aquifer protected via its Phase 1 facilities will remain subject to the unchanged water level restrictions. The City will continue its efforts to slow the advance of the Burrton chloride plume, and has not requested any changes to the water levels in this area. These reasonable protections are a part of our proposal. It is further anticipated that the City will continue its ASR project in the future, and that lowering of the aquifer in the vicinity of the City's central wellfield during drought will allow subsequent injection of water that has been treated to meet drinking-water quality standards.

The proposed minimum index levels were developed to provide a reasonable level of assurance that that the City's public water supply will have access to water represented by the recharge credits accumulated. Use of recharge credits or AMC's during drought has been modeled, and review of modeled performance of non-City wells in the vicinity of the Wichita wellfield was undertaken during modeling. Water levels at such wells were evaluated to verify that the wells continued to pump even during periods of modeled low water levels. Impairment was not indicated during the modeled 1% drought with increased pumping associated with recovery of Credits, as there were no observed instances where wells were shut down due to low water levels. However, it is possible that localized conditions exceeding the modeled drought may occur, and the City may no longer have

access to the water that was recharged by the ASR facility. A reasonable additional contingency was subtracted from the calculated lowest groundwater elevations encountered during the groundwater modeling simulation was included to reflect such conditions.

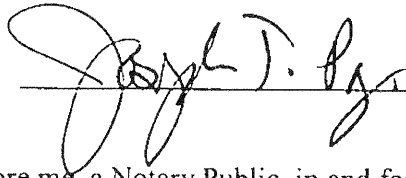
If the minimum index levels are lowered as proposed by the ASR Permit Modification Proposal, the City contends that this does not allow an unreasonable raising or lowering of the water level. The proposed minimum index levels were developed to provide a reasonable level of assurance that that the City's public water supply will have access to water represented by the recharge credits accumulated.

The City expects to supplement this response to provide further discussion and additional modeling data to demonstrate that the proposal and its changes are reasonable and will not impair existing rights.

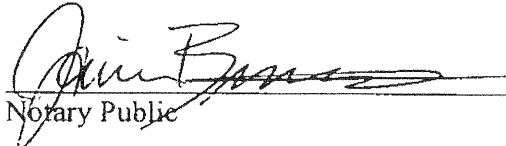
VERIFICATION

STATE OF KANSAS)
) ss.
COUNTY OF SEDGWICK)

Joseph T. Pajor, being of lawful age and being duly sworn upon oath, deposes and states that he is the Deputy Director of Public Works and Utilities for the City of Wichita, Kansas, a party herein; that he has read the above and foregoing interrogatories and responses and that the answers, statements and allegations therein above contained are true and correct to the best of his information, knowledge and belief.

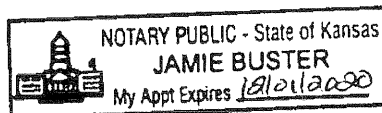


SUBSCRIBED AND SWORN to before me, a Notary Public, in and for the aforesaid state and county, this 18 day of December, 2018.



Notary Public

My Appointment Expires:
12/01/2020



CERTIFICATE OF SERVICE

The undersigned hereby certifies that he or she served the above and foregoing Responses to Interrogatories upon counsel for the other parties herein by electronic mail, this 18th day of December, 2018, addressed to:

Thomas A. Adrian
David J. Stucky
tom@aplawpa.com
Stucky.dave@gmail.com 313 Spruce
Halstead, Kansas 67056

And
Leland Rolfs
Leland.rolfs@sbcglobal.net
Attorneys for
Equus Beds Groundwater Management District No. 2

Aaron Oleen
Division of Water Resources
Kansas Department of Agriculture
1320 Research Park Drive
Manhattan, Kansas 66502
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and

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/s/ Brian K. McLeod
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STATE OF KANSAS
BEFORE THE DIVISION OF WATER RESOURCES
KANSAS DEPARTMENT OF AGRICULTURE

**In the Matter of the City of Wichita's
Phase II Aquifer Storage and Recovery Project
In Harvey and Sedgwick Counties, Kansas**

Case No. 18 WATER 14014

Pursuant to K.S.A. 82a-1901 and K.A.R. 5-14-3a.

**THE CITY OF WICHITA'S RESPONSES TO FOIUS BEDS
GROUNDWATER MANAGEMENT DISTRICT NUMBER 2
SECOND REQUEST FOR ADMISSIONS TO CITY OF WICHITA,
KANSAS**

Pursuant to K.S.A. 60-236, request is hereby made upon the City of Wichita, Kansas ("The City") to admit within thirty (30) days from the date of service of this Request for Admissions, the truth of the facts and genuineness of the statements set forth below.

Each matter as to which an admission is requested is admitted, unless within thirty (30) days after service of this Request for Admissions on The City a written objection or answer addressed to this matter, signed by The City or the attorney for said The City, specifically denying the matter or setting forth in detail the reason by The City cannot truthfully admit or deny the matter, is served on Thomas A. Adrian and David J. Stucky, Adrian & Pankratz, PA, 301 North Main, Suite 400, Newton, Kansas 67114.

DEFINITIONS

1. "You" and/or "Your" means the City of Wichita, and any agent, consultant, employee, or manager for the City of Wichita.
2. "The City" shall mean the City of Wichita.

3. "DWR" means the Division of Water Resources ("DWR"), and any agent, consultant, employee, or manager for DWR.
4. "Chief Engineer" means David Barfield, Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.
5. "The District" shall mean the Equus Beds Groundwater Management District No. 2.
6. "Subject Matter" means the content of this administrative hearing including, but not limited to, AMCs, the ASR Permit Modification Proposal, and all related subject matter.
7. "ASR Permit Modification Proposal" means the proposal dated March 12, 2018, that You submitted to the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.
8. "AMC Proposal" means the Aquifer Maintenance Credits Proposal submitted as part of the ASR Permit Modification Proposal.
9. "AMC" means Aquifer Maintenance Credit.
10. "Aquifer" shall mean the Equus Beds Aquifer.
11. "ASR" shall mean Aquifer Storage and Recovery
12. "As used herein, the term ""document" means any medium upon which intelligence or information can be recorded or retrieved, and includes, without limitation, the original and each copy, regardless of origin and location, of any book, pamphlet, periodical, letter, memorandum, (including any memorandum or report of a meeting or conversation), contract, agreement, letter, e-mail, facsimile, check, receipt, notice, study, telegram, computer printout, invoice, computer data file, work papers, diary, calendar, transcript, bill, record, photograph, or any other graphic matter, however produced or reproduced, which is or was your possession, custody or control.

13. As used herein, the term "communication" means any oral or written utterance of any nature including, but not limited to, correspondence, e-mail, facsimile, conversations, discussions, and consultations, between or among two or more persons.
14. As used herein, the terms "identification," "identify," or "identity," when used in reference to (a) a natural individual, require you to state his or her full name, job title, residential and business addresses and home and business phone numbers; (b) a corporation or business, require you to state its full name and any names under which it does business, the address of its principal place of business, and the addresses of all of its offices; (c) a document, requires you to state the number of pages and the nature of the document (e.g., letter or memorandum), its title, its date, the name or names of its authors and recipients, and its present location and custodian; (d) a communication, requires you to identify the document or documents which refer to or evidence the communication; and (e) an oral communication, requires you to identify the persons participating in the communication and to state the date, manner, place and substance of the communication.
15. When a request for admission requires you to "state the basis of a particular claim, defense, contention, or allegation, state in your answer the identity of each and every communication and each and every fact and legal theory that you think supports, refers to, or evidences such claim, defense, contention or allegation.
16. As used herein, the word "or" appearing in a request for admission should not be read so as to eliminate any part of the request for admission, but, whenever applicable, it should have the same meaning as the word "and."

may or may not be entering the Aquifer through gravity flow at the time accumulation of credits is calculated and reported.

3. Admit or deny that no source water will actually be stored in the Aquifer when an AMC is accumulated (as opposed to a Physical Recharge Credit).

Counsel objects to the Request as ambiguous and irrelevant due to its use of the term "source water" and the phrase "when an AMC is accumulated," as the accounting process is annual, covers conditions and activity for an entire year, and may or may not be conducted (and it is immaterial to this matter whether it is being conducted) in any year at a time when "source water" (whatever that is) is being added to or stored in the Aquifer.

/s/ Brian K. McLeod

Brian K. McLeod SC # 14026

Subject to and without waiving the foregoing objection:

ADMIT

DENY x

The AMC proposal describes the interactive accumulation of physical recharge credits and AMC recharge credits. The City will continue to conduct physical recharge operations based on the condition and capacity of the aquifer to accept physical recharge. During any given year, the City may conduct activity giving rise to both types of credits, and during any given year, it is possible that some amount of "source water" (whatever that is) will be stored in the Aquifer at or as of the time accumulation of credits is calculated and reported.

4. Admit or deny that recharge pits will not be used to cause source water to enter the storage volume of the basin storage area when an AMC is accumulated (as opposed to a Physical Recharge Credit).

Counsel objects to the Request as ambiguous and irrelevant due to its use of the term "source water" and the phrase "when an AMC is accumulated," as the accounting process is annual, covers conditions and activity for an entire year, and may or may not be conducted (and it is immaterial to this matter whether it is being conducted) in any year at a time when "source water" (whatever that is) is entering the Aquifer by way of recharge pits.

/s/ Brian K. McLeod

Brian K. McLeod SC # 14026

Subject to and without waiving the foregoing objection:

ADMIT

DENY x

The AMC proposal describes the interactive accumulation of physical recharge credits and AMC recharge credits. The City will continue to conduct physical recharge operations based on the condition and capacity of the aquifer to accept physical recharge. Recharge pits will continue to be utilized to facilitate recharge activities as appropriate, and during any given year, it is possible that some amount of “source water” (whatever that is) will be entering the basin storage area via recharge pits at or as of the time accumulation of credits is calculated and reported.

5. Admit or deny that recharge trenches will not be used to cause source water to enter the storage volume of the basin storage area when an AMC is accumulated (as opposed to a Physical Recharge Credit).

Counsel objects to the Request as ambiguous and irrelevant due to its use of the term “source water” and the phrase “when an AMC is accumulated,” as the accounting process is annual, covers conditions and activity for an entire year, and may or may not be conducted (and it is immaterial to this matter whether it is being conducted) in any year at a time when “source water” (whatever that is) is entering the basin storage area via recharge trenches.

/s/ Brian K. McLeod

Brian K. McLeod SC # 14026

Subject to and without waiving the foregoing objection:

ADMIT _____

DENY x

The AMC proposal describes the interactive accumulation of physical recharge credits and AMC recharge credits. The City will continue to conduct physical recharge operations based on the condition and capacity of the aquifer to accept physical recharge. Recharge trenches are currently not used for physical recharge however it is uncertain if recharge trench technology will be utilized to facilitate recharge in the future. If and when appropriate, trenches could be used to facilitate recharge activities, and during any given year, it is possible that some amount of “source water” (whatever that is) will be entering the basin storage area via recharge trenches at or as of the time accumulation of credits is calculated and reported.

6. Admit or deny that recharge wells will not be used to cause source water to enter the storage volume of the basin storage area when an AMC is accumulated (as opposed to a Physical Recharge Credit).

Counsel objects to the Request as ambiguous and irrelevant due to its use of the term “source water” and the phrase “when an AMC is accumulated,” as the accounting process is annual, covers conditions and activity for an entire year, and may or may not be conducted (and it is immaterial to this matter whether it is being conducted) in any year at a time when “source water” (whatever that is) is entering the basin storage area via recharge wells.

/s/ Brian K. McLeod

Brian K. McLeod SC # 14026

Subject to and without waiving the foregoing objection:

ADMIT _____

DENY ~~_____~~

The AMC proposal describes the interactive accumulation of physical recharge credits and AMC recharge credits. The City will continue to conduct physical recharge operations based on the condition and capacity of the aquifer to accept physical recharge. Recharge wells will continue to be utilized to facilitate recharge activity, and during any given year, it is possible that some amount of “source water” (whatever that is) will be entering the basin storage area via recharge wells at or as of the time accumulation of credits is calculated and reported

- 7. Admit or deny that no artificial recharge system will be used to cause source water to enter into the Aquifer when an AMC is accumulated (as opposed to a Physical Recharge Credit).

Counsel objects to the Request as ambiguous and irrelevant due to its use of the term “source water” and the phrase “when an AMC is accumulated,” as the accounting process is annual, covers conditions and activity for an entire year, and may or may not be conducted (and it is immaterial to this matter whether it is being conducted) in any year at a time when “source water” (whatever that is) is entering the basin storage area via an artificial recharge system.

/s/ Brian K. McLeod

Brian K. McLeod SC # 14026

Subject to and without waiving the foregoing objection:

ADMIT _____

DENY ~~_____~~

The AMC proposal describes the interactive accumulation of physical recharge credits and AMC recharge credits. The City will continue to conduct physical recharge operations based on the condition and capacity of the aquifer to accept physical recharge, and during any given year, it is possible that some amount of “source water” (whatever that is) will be entering the Aquifer via one or more artificial recharge mechanism(s) at or as of the time accumulation of credits is calculated and reported.

- 8. Admit or deny that no artificial recharge of the Aquifer will occur when an AMC is accumulated (as opposed to a Physical Recharge Credit).

Counsel objects to the Request as ambiguous and irrelevant due to its use of the phrase “when an AMC is accumulated,” as the accounting process is annual, covers conditions and activity for an entire year, and may or may not be conducted (and it is immaterial to this matter whether it is being conducted) in any year at a time when artificial recharge of the Aquifer is occurring.

/s/ Brian K. McLeod

Brian K. McLeod SC # 14026

Subject to and without waiving the foregoing objection:

ADMIT _____

DENY x _____

The AMC proposal describes the interactive accumulation of physical recharge credits and AMC recharge credits. The City will continue to conduct physical recharge operations based on the condition

and capacity of the aquifer to accept physical recharge , and during any given year, it is possible that artificial recharge of the Aquifer will be occurring at the time accumulation of credits is calculated and reported.

9. Admit or deny that source water will not be put into the Aquifer by the AMC Proposal subject to later recovery when an AMC is accumulated (as opposed to a Physical Recharge Credit).

Counsel objects to the Request as hopelessly compound, incomprehensible, ambiguous and irrelevant due to its use of the term “source water” and the phrases “by the AMC Proposal” and “subject to later recovery when an AMC is accumulated.”

/s/ Brian K. McLeod

Brian K. McLeod SC # 14026

Subject to and without waiving the foregoing objection:

ADMIT _____

DENY x _____

The AMC proposal describes the interactive accumulation of physical recharge credits and AMC recharge credits. The City will continue to conduct physical recharge operations based on the condition and capacity of the aquifer to accept physical recharge. The proposal does not preclude addition of “source water” (whatever that is) to the Aquifer, during the time accumulation of credits is being calculated and reported, or otherwise, and also does not preclude the recovery of water, during the time accumulation of credits is being calculated and reported, or otherwise.

10. Admit or deny that there will not be an accounting system in place to account for or quantify the source water actually physically entering and leaving the Aquifer when an AMC is accumulated (as opposed to a Physical Recharge Credit).

Counsel objects to the Request as hopelessly compound, incomprehensible, ambiguous and irrelevant due to its use of the term “source water” and the phrases “account for or quantify,” “actually physically entering and leaving” and “when an AMC is accumulated.”

/s/ Brian K. McLeod

Brian K. McLeod SC # 14026

Subject to and without waiving the foregoing objection:

ADMIT _ _ _ _ _

DENY x _ _ _ _ _

The proposal describes the interactive accumulation of physical recharge credits and AMC recharge credits. An annual accounting report will be made and submitted for both physical and AMC recharge credits. The method of accounting for physical recharge credits will continue to quantify water that enters and water that leaves the basin storage area during the accounting period, whether or not AMCs

were accumulated during that period, and whether or not AMCs are shown and reported at the time of the calculation as having been so accumulated.

11. Admit or deny that the accumulation of an AMC will not artificially replenish the water supply of the Aquifer (as opposed to a Physical Recharge Credit).

Counsel objects to the Request as ambiguous due to its use of the phrases “accumulation of an AMC,” which describes an accounting exercise, and “the water supply of the Aquifer (as opposed to a Physical Recharge Credit).”

/s/ Brian K. McLeod
Brian K. McLeod SC # 14026

Subject to and without waiving the foregoing objection, if and solely to the extent the Request is positing that the accounting procedure by which AMCs are calculated will not, in and of itself, replenish the water supply of the Aquifer, the City admits that the accounting procedure by which AMCs are calculated will not, in and of itself, replenish the water supply of the Aquifer. If and to the extent the Request has some other intended by unascertainable meaning, the City is unable to admit or deny it due to its ambiguous and incomprehensible nature.

ADMIT

DENY

The accumulation of credits is determined by an annual accounting exercise, and it is the underlying activities giving rise to the net effects quantified and reported in that exercise that maintain or replenish the water supply of the Aquifer..

12. Admit or deny that when an AMC is accumulated the source water will be pumped directly to the City without any source water directly entering the Aquifer (as opposed to a Physical Recharge Credit).

Counsel objects to the Request as ambiguous due to its use of the term “source water” and the use of the phrases “when an AMC is accumulated,” and “water directly entering the Aquifer (as opposed to a Physical Recharge Credit).” The accounting process for accumulation of credits is annual, covers conditions and activity for an entire year, and may or may not be conducted (and it is immaterial to this matter whether it is being conducted) in any year at a time when “source water” (whatever that is) is being pumped directly to the City, or is or is not directly entering the Aquifer.

/s/ Brian K. McLeod
Brian K. McLeod SC # 14026

Subject to and without waiving the foregoing objection:

ADMIT

DENY x

The AMC proposal describes the interactive accumulation of physical recharge credits and AMC recharge credits. The City will continue to conduct physical recharge operations based on the condition

and capacity of the aquifer to accept physical recharge, and water may or may not be directly entering the Aquifer, and the City may or may not be pumping water directly to the City, at the time accumulation of credits is calculated and reported, or otherwise.

13. Admit or deny that there is no statute or regulation that specifically allows for the accumulation and later withdrawal of AMCs after an AMC is accumulated (as opposed to a Physical Recharge Credit).

Counsel objects to the Request as ambiguous due to the use of the word “specifically.”

/s/ Brian K. McLeod

Brian K. McLeod, SC # 14026

Subject to and without waiving the foregoing objection, if the Request is limited to positing that there is not a statute or regulation stating, “this statute or regulation allows for the accumulation and later withdrawal of AMCs after an AMC is accumulated (as opposed to a Physical Recharge Credit)” the City responds as follows:

ADMIT ~~_____~~

DENY _____

The statutes and regulations do not “specifically” refer to AMCs as such, and the term AMC is not defined by statute or regulation. However, AMCs as proposed constitute an additional method to accumulate and account for recharge credits under the existing regulation definition of recharge credits. Recharge Credit as currently defined means the quantity of water that is stored in the basin storage area and that is available for subsequent appropriation for beneficial use by the operator of the aquifer storage and recovery system.

14. Admit or deny that no documents exist reflecting whether You conducted a thorough legal review to determine if the AMC Proposal is allowed by statute or regulation.

Counsel objects to the Request as argumentative, ambiguous and subjective (due to the use of the phrase “thorough legal review”) as well as intentionally invasive of privileged matters and protected work product, and not reasonably calculated to lead to the discovery of admissible evidence.

/s/ Brian K. McLeod

Brian K. McLeod, SC # 14026

15. Admit or deny that the City's appropriation applications requesting withdrawal of AMCs are subject to the Districts' Safe Yield Regulation K.A.R. 5-22-7 when an AMC is accumulated (as opposed to a Physical Recharge Credit).

Counsel objects to the request on the basis that it appears to speak to applications that have been withdrawn, and is therefore irrelevant and not reasonably calculated to lead to discovery of admissible evidence.

/s/ Brian K. McLeod
Brian K. McLeod, SC # 14026

16. Admit or deny that the appropriation of groundwater as proposed by the AMC Proposal does not comply with the District's Safe Yield Regulation K.A.R. 5-22-7 when an AMC is accumulated (as opposed to a Physical Recharge Credit).

Counsel objects to the Request as compound and ambiguous, due to the use of the phrases, "appropriation of groundwater as proposed by the AMC proposal" and "when an AMC is accumulated".

/s/ Brian K. McLeod
Brian K. McLeod

Subject to and without waiving the foregoing objection:

ADMIT _____ DENY ~~_____~~

K.A.R. 5-22-7(b)(7) specifically indicates that applications for aquifer storage and recovery are not subject to the District's Safe Yield Regulation.

17. Admit or deny that when the District's Safe Yield Regulation. K.A.R. 5-22-7(b)(7) exemption criteria for an application for aquifer storage and recovery well was drafted and approved, the concept of AMCs was not in existence nor considered.

Counsel objects to the Request as asking the City to speak to matters inherently beyond its knowledge, including the existence or non-existence anywhere in the universe of an intangible concept and the mental state of others (including what they did or did not consider).

/s/ Brian K. McLeod
Brian K. McLeod, SC # 14026

18. Admit or deny that the City and the Chief Engineer have publicly stated that purpose of the ASR project has changed and the primary propose of the ASR project is for drought mitigation and that withdrawal of recharge credits are only needed during drought periods

Counsel objects to the request as overly compound, and ambiguous in the sense of whether it posits separate statements to similar or identical effect as posited, or joint public statements by the City and Chief Engineer to the effect posited. Further, the Request is subjective and unduly burdensome, as the prior public statements of the City and prior public statements of the Chief Engineer are what they are, and are as accessible to GMD2 as to the City for purposes of comparison with the characterization in the Request.

/s/ Brian K. McLeod
Brian K. McLeod, SC # 14026

Subject to and without waiving the foregoing objections:
The City admits it has made public statements to the effect that the primary mission of ASR has become to operate over the long term for provision of water during relatively rare, significant drought events, otherwise:

ADMIT _____ DENY X _____

The City's long term planning analysis assumes the continued availability and adequacy of water from sources other than recharge credits as projected. In the event of unforeseen and unmodeled catastrophic events impairing the City's access to and use of the projected water sources, it is possible the City might need to withdraw recharge credits for reasons unrelated to significant drought events.

19. Admit or deny that a 1% drought simulation is the foundation of the City's requests to lower the minimum index levels and allow for the accumulation of AMCs as proposed in the City's ASR Permit Modification Proposal.

Counsel objects to the Request as compound and ambiguous, due to the term "foundation" and the relation of the request to both the proposed minimum index levels and accumulation of AMCs

/s/ Brian K. McLeod
Brian K. McLeod, SC # 14026

Subject to and without waiving the foregoing objections:

ADMIT

DENY x

The City does not know what the Request means by "foundation." The possibility of a drought equal to or greater in severity than the modeled 1% drought provides an illustration of circumstances in which the City's recharge credits could be unavailable due to the current minimum index levels. The City actually began to study the problem of drought impacts on recovery of credits because of observed water level declines caused by agricultural users during the 2012 drought. The accumulation of AMCs is not based on the threat of drought events, but a rational mechanism by which the City could achieve credits without taking interim steps to pump down the Aquifer in order to create recharge capacity.

ADMIT

DENY

20. Admit or deny that the accumulation of AMCs will result in an equal reduction of groundwater pumped by the City's existing native groundwater rights in the basin storage area.

Counsel objects to the Request as ambiguous and of uncertain meaning, in that the notion of "equal reduction" is not explained as to either quantity or time period and "existing native groundwater rights" is not defined. Accordingly the City is unable to admit or deny whatever the Request is positing.

/s/ Brian K. McLeod
Brian K. McLeod, SC # 14026

ADMIT

DENY

Respectfully Submitted,

/s/ Brian K. McLeod

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that he served the above and foregoing responses to Requests for Admission by electronic mail on this 17th day of December, 2018, addressed to:

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