

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF KANSAS**

**IN THE MATTER OF)
THE APPLICATION OF THE CITIES OF)
HAYS, KANSAS AND RUSSELL, KANSAS)
FOR APPROVAL TO TRANSFER WATER) OAH NO. 23AG0003 AG
FROM EDWARDS COUNTY, KANSAS)
PURSUANT TO THE KANSAS WATER)
TRANSFER ACT.)
_____)**

Pursuant to K.S.A. Chapter 77

MOTION TO AMEND NOTICE OF PUBLIC COMMENT HEARING

COME NOW the Cities of Hays and Russell, Kansas, (the “Cities”) and move to amend the Notice of Public Comment Hearing. In support of this Motion, the Cities state:

On May 10, 2023, the Presiding Officer issued the Notice of Public Comment Hearing stating that a public comment hearing will be held on June 20, 2023, in Hays, Kansas. Among other things, the Notice indicates that the proceeding will be available to view through Zoom, but public comments will be limited to those individuals attending the Public Comment Hearing in-person.

Members of the public who have an interest in this matter may be unable to attend the scheduled hearing in person. Others may have fears of public speaking. The Cities respectfully request that the Notice be amended to permit the submission of written comments from members of the public.

The Cities' applications to "change the place of use, the point of diversion, or the use made of the water under an existing water right" are the subject of a Master Order issued by the former Chief Engineer. A judicial review proceeding is currently pending before the Kansas Supreme Court.

The above captioned matter is an administrative hearing on the Cities' *First Amended Application to Transfer Water from Edwards County, Kansas to the Cities of Hays and Russell, Kansas*.

The Cities respectfully request that the Notice be further amended to replace the following text:

In accordance with the Kansas Water Transfer Act, K.S.A. 82a-1501 et seq., an application from the Cities of Hays, Kansas and Russell, Kansas is currently pending for approval to change the place of use, the point of diversion, or the use made of the water under an existing water right. A presiding officer has been appointed from the Office of Administrative Hearings to preside over the matter.

The Cities' proposed alternative:

In accordance with the Kansas Water Transfer Act, K.S.A. 82a-1501, *et seq.*, an application from the Cities of Hays, Kansas and Russell, Kansas is currently pending for approval to transfer more than 2,000 acre-feet of water from their water rights in Edwards County, Kansas to Hays and Russell. A presiding officer has been appointed from the Office of Administrative Hearings to preside over the matter.

Water PACK, the Big Bend Groundwater Management District No. 5, and the Kansas Department of Agriculture do not object to this Motion. Efforts to confer with counsel for Edwards County have been unsuccessful.

Respectfully submitted

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Motion to Amend Notice of Public Comment Hearing was served by uploading it to OAH Case No. 23AG0003 which will send notice by electronic mail to the following:

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