

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

**IN THE MATTER OF:**

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

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) Case No. 18 WATER 14014  
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Pursuant to K.S.A. 82a-1901 and K.A.R. 5-14-3a.

**AGREED WAIVER OF KANSAS ADMINISTRATIVE REGULATION 5-12-3**

COMES NOW Earl D. Lewis, Jr., Chief Engineer of the Division of Water Resources, Kansas Department of Agriculture, and for this Agreed Waiver of the requirements of K.A.R. 5-12-3 finds and orders as follows:

1. The formal phase of the public hearing in the above-captioned matter has been ongoing and is governed by the relevant provisions of the Kansas Water Appropriation Act, K.S.A. 82a-701, *et seq.*, and rules and regulations adopted pursuant thereto, including, but not limited to, K.A.R. 5-12-1 through 5-12-4, which pertain to aquifer storage and recovery systems, and other applicable laws.
2. K.A.R. 5-12-3 requires that a hearing regarding an aquifer storage and recovery system be held "in the general vicinity where an applicant proposes aquifer storage and recovery..." and also requires that, if any part of an aquifer storage and recovery system's proposed basin storage area is within the boundaries of a groundwater management district, any hearing regarding that aquifer storage and recovery system must be held "within the groundwater management district."
3. The proposed basin storage area of the City of Wichita's Aquifer Storage and Recovery Project ("Project") is located fully or partially within the boundaries of Equus Beds Groundwater Management District Number 2 ("GMD 2").
4. Prior to the date of this Agreed Waiver, proceedings in this matter have taken place at either the Harvey County, Kansas courthouse in Newton, Kansas or at the First Mennonite Church in Halstead, Kansas, the latter of which is within the geographic boundaries of GMD 2.
5. Effects of the COVID-19 pandemic ("Pandemic") have caused the completion of these proceedings to be delayed and have caused it to be impractical to continue the formal phase hearing in accordance with the requirements of K.A.R. 5-12-3 by holding in-person proceedings and a prompt hearing within the boundaries of GMD 2.
6. The public interest in the timely conclusion of this matter therefore renders a corresponding waiver of the requirements of K.A.R. 5-12-3 necessary and appropriate.

7. To the extent the Pandemic continues in Kansas, as defined by the existence of a corresponding State of Disaster Emergency Declaration or other similar determination by a relevant governmental authority, the parties have consented to this specific waiver and to the proceedings in this matter being held either fully or partially in a virtual format via video conferencing system and potentially outside the boundaries of GMD 2, but have agreed that in-person proceedings shall be held within a thirty (30) mile radius of the boundaries of GMD 2. The parties have further consented to the solicitation of rebuttal witness testimony being conducted fully or partially in a virtual format via video conferencing system.

IT IS THEREFORE ORDERED that the requirements of K.A.R. 5-12-3 shall be and hereby are waived, to the extent specifically delineated in this Order.

IT IS FURTHER ORDERED that this Order shall automatically sunset after six (6) months from the date of this Order, unless otherwise agreed by the parties. This Order shall be in effect for all proceedings conducted in this matter prior to such sunset date.

IT IS SO ORDERED, THIS 30<sup>th</sup> DAY OF December, 2020, IN MANHATTAN, RILEY COUNTY, KANSAS.



Earl D. Lewis, Jr., P.E.  
Chief Engineer  
Division of Water Resources  
Kansas Department of Agriculture

Prepared and approved by:

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 30<sup>th</sup> day of December 2020 a true and correct copy of the foregoing Waiver of Kansas Administrative Regulation 5-12-3 was sent by electronic mail to the following:

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