

**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

CITY OF WICHITA’S RESPONSE TO MOTION FOR EXTENSION OF TIME

The City of Wichita, Kansas (the “City”) submits the following as a written response to the recent Motion for Extension of Time submitted by the Equus Beds Groundwater Management District No. 2 (“GMD2”):

1. In paragraph 4 of its motion, and in the telephonic discussion of its request, GMD2 took the position that its contentions (disclosure of which the City sought by its discovery requests), were the same as a “recommendation,” which GMD2 posits it has not formed and will be unable to form prior to the scheduled hearing setting.
2. Paragraph 3 of GMD2’s own motion, referring to “the contested issues in the case,” evidences that GMD2 has, in fact, very obviously managed to form contentions prior to and outside of its formal “recommendation” process, but is simply refusing to cooperate in discovery to disclose what its contentions are, and what they are based on.
3. The positions taken by GMD2 in its motion, and expanded upon in the September 5, 2018 email of its counsel, captioned “Required Notices,” make clear that GMD2 is unwilling to either respond to the City’s discovery request or form “recommendations” until elaborate re-noticing and comment periods and various appeals by the City to GMD2’s Board of Directors have been taken and resolved. As a consequence, it is clear that:
 - a. The 30-day extension requested by GMD2 is completely frivolous, as GMD2

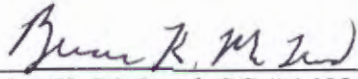
has no intention of either responding to the City's discovery or even formulating its "recommendations" within that time frame;

- b. As an entity that requested the discovery process in this case, but now is refusing to cooperate in discovery, GMD2 should not be permitted to concurrently burden the City with discovery obligations while refusing to respond to the City's earlier-served requests;
- c. Given that GMD2's position on its inability to form a "recommendation" will prevent it reaching any such prior to the scheduled October 22 hearing, any further information provided by the City to GMD2 will also be completely unproductive to the hearing scheduled in this matter. Further participation by GMD2 as a "party" will also necessarily be completely unproductive, as GMD2 has essentially announced its refusal to form an official position on the applications prior to the agreed, October 22, 2018 setting, and thus, will have no substantive position to present at the hearing.

WHEREFORE, in light of the drastic shifts in GMD2's position, which amount to refusal to cooperate either in the discovery process it requested or the hearing setting it agreed to, the City requests that GMD2's voluminous discovery requests be stricken, that the City be excused from responding to them, and that GMD2 be removed from further participation as a "party" in the scheduled hearing.

Respectfully submitted,

Office of the City Attorney
of the City of Wichita, Kansas

By 
Brian K. McLeod, SC # 14026

CERTIFICATE OF FILING AND SERVICE

The undersigned hereby certifies that he transmitted the above and foregoing Response to Request for Extension of Time, by electronic mail on this 7th day of September, 2018, addressed to:

For filing:

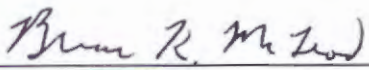
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