PUBLIC COMMENT HEARING

RE: PHASE II AQUIFER STORAGE AND RECOVERY PROJECT IN HARVEY AND SEDGWICK COUNTIES, KANSAS

TRANSCRIPT OF PROCEEDINGS

Taken on December 11, 2018, beginning at 9:05 AM, at the American Ag Credit Building, 4105 North Ridge Road, in the City of Wichita, County of Sedgwick, and State of Kansas.
HEARING OFFICER BARFIELD: Okay. Why don't I ask us to come to order then, please. Appreciate everybody being here. We are now on the record. My name is David Barfield. I'm chief engineer with the division of water resources, Kansas Department of Agriculture, and I will be your hearing officer in this matter both today and in the subsequent proceedings that I'll describe in a couple points here in my introductory remarks.

This -- the public comments here that we're seeking today in this hearing are related to proposed modifications requested by the city of Wichita to its aquifer storage and recovery project or ASR project as it is commonly known. This hearing is being held on December 11, 2018, at the American Ag Credit Building, 4105 North Ridge Road, Wichita, Kansas 67201. The time is approximately 9:05.

The city of Wichita has the state's only active ASR project developed and approved in two phases within the Equus Beds aquifer. On March 12th of this year the city forwarded to the division of water resources a detailed proposal for modifications it's seeking to its ASR
projects. There are two principal components the city's request: One is lowering the bottoms of what's called the basin storage area; the second is a new method to accumulate recharge credits during times of limited recharge capacity.

There's a handout provided here that summarizes basically the background, the city's proposal, the proposed terms and conditions related to any approval, and a bit of the process here. There's also a website where you can provide -- be provided much more information. Also on this sheet is -- if you want to provide written comments, today or subsequent, while the record is open, there's a way you can forward those to us.

This hearing was preceded by an informational meeting held on June 28, 2018, at the Halstead High School auditorium. We provided notice of the hearing in the following publications and dates: The Kansas Register on October 18th, 2018, and November 29, 2018; Newton Now, October 18, 2018 and November 29, 2018; the Hutchinson News, October 15, 2018, and November 26, 2018; and the Wichita Eagle on October 15, 2018, and November 30, 2018.
In addition we sent notice to every water rights owner within the basin storage area notifying them of this hearing. This hearing is being held to K.A.R. 5-12-2.

So we have several formal parties with respect to this matter, the city of Wichita, Equus Beds GMD Number 2, the Division of Water Resources, and then a group of intervenors, and I've been working with them through a series of conference calls to work out sort of the hearing procedures. And through that process we've determined there would be two phases to the hearing. Today we're having a public comment phase essentially where after some introductory remarks I will essentially take public comments that will be made part of the record and be reviewed to make a decision on whether one or both of the city's proposals should be approved and under what terms and conditions. So that's the first phase that we'll do today.

And then we will do the formal phase at a subsequent time. The parties have -- two of the parties have requested additional time to prepare, and we have not established the date for that hearing yet. Tentatively, it has been set for
February 13th, but, again, two of the parties on Friday asked for additional time, and I'll be making a decision on a final hearing date in the near future. That will be announced. You know, we'll put that on our website. I think GMD2 is going to have a newsletter and they'll also notify those that are in -- within the GMD of the hearing date, so we'll widely disseminate that information. That hearing will include presentations by the city of its case for the proposed changes and then opportunity for testimony by the other formal parties, cross-examination, and so forth. More on that at the end, so -- so, again, just to make sure we're covered, we have attendance sheets here. I appreciate you all signing in, and particularly if you're intending to provide testimony today, please indicate the type of testimony, whether oral or written or both, and when the time comes then I'll use these sheets to call you forward. If you're providing written testimony, you can just provide a copy to me and I'll set that today and include that in the record. Otherwise, again, on the information sheet is information as to where you can send your written comments either by
post or by email to Rhonda Hutton at the Kansas Department of Agriculture. The deadline for written comments will be 30 days after the formal hearing. So the formal hearing will not be before February 13th; therefore, the hearing record will close not before March 15th. I'm planning on, in addition to the formal hearing, allowing a public comment period associated with the that second hearing, so if you're not able to make comments today, we will seek -- we will provide an opportunity with the second hearing.

When I call you forward, I would ask -- to make your statements, I'd ask you to come forward to the lectern here, I'd ask you to use the mic, I'd ask you to speak clearly. Obviously, we want one person speaking at a time here so the court reporter can accept your oral statements. All right.

So this hearing is being transcribed by court reporter Ms. Michelle Hancock. And, again, just speak slowly and clearly so she can hear you. So, again, today then is a public comment hearing only. I will take your statements. I'm not here to answer questions about the proposal. We had a public meeting in June for that purpose. If you
have questions about the proposal, there's a number of places you can go. Our website has a significant amount of information about the proposal.

As I've indicated, the city would be happy to answer your questions. Groundwater management district number two would be happy to provide you with their perspective, I believe. If you'd like to talk to somebody with my staff, Jeff Lanterman here is water commissioner from the Stafford field office that covers this area, just ask him, and he can either answer your questions or connect you with the person with the division of water resources that can answer your question, so....

All right. So that concludes my preliminary remarks, so let's turn to the hearing itself. So the purpose of the hearing, the hearings today and the subsequent portions of the hearing is to resolve two questions: First, should the bottoms of the basin storage area of the aquifer storage and recovery project be lowered as proposed by the state; and, second, should the applicable accounting procedures for Phase II of the project be modified to allow the city to develop recharge credits via aquifer maintenance -- via its aquifer
maintenance proposal.

So those are the questions that we are seeking to resolve and decide through the hearing process. We're creating a record, and based on that record, then, I will decide if one or the other should be approved; and, again, the terms and conditions under which it should be approved if that's found. City of Wichita will have the burden to show that its proposals will not impair neighboring water rights and are in the public interest. They'll present their case at the formal -- at the formal hearing to come.

Okay. So at the conclusion, then, I'll provide some additional comments just to make sure you're clear on where we're going from here. So I will pause. Are there any questions about the procedure for today's hearings that you have?

All right. If not, so I've got a series of -- let me just explain who's up here. This gentleman is with Iowa Public Television, and Iowans, like Kansans, are very interested in water issues, and he's doing a story related to -- related to this proceeding, and actually other matters, so he's just taking --

UNIDENTIFIED SPEAKER: Hi, everybody.
HEARING OFFICER BARFIELD: That won't be part of the formal record, but, anyway.

UNIDENTIFIED SPEAKER: Pass this on to our news.

HEARING OFFICER BARFIELD: There's a request to pass it on to the local news here. You know, we're interested in water issues in Kansas for sure. All right. So I will go ahead and start. I'll do my best to pronounce the names properly. Again, I'll go in the sequence of the sign in, and then at the very end, if you're not signed in, I'll just invite anybody who wants to make public comments to do so. So, again, I would ask you to come to the lectern -- lectern to state your name and an address. I'd appreciate it if in your remarks you could just tell me about your interest in this matter, if you're -- if you're an owner of a water right within the basin storage area or the area generally, I -- I certainly appreciate hearing that, and then provide your comments.

Okay. So the first -- first person I have to provide oral comments is Kent Askren with the Kansas Farm Bureau, so, Ken.

MR. ASKREN: Good morning. My name is
Kent Askren. I work for Kansas Farm Bureau. I represent the 30,000 farm and ranch families and 105 county farm bureaus of our state, and, Mr. Chief Engineer, we come before you today in opposition to the proposed modification of the ASR permit conditions.

We fully understand and appreciate the dilemma that Wichita faces, and we would like to certainly offer any support that we can within the constraints of our Kansas water law to help our state's largest city with an adequate water supply both for current and future needs. Heavy investment in the ASR project has not resulted in helping Wichita meet their self-imposed goal of being drought tolerant during one percent drought occurrence. But that was not the original objective of ASR, nor does it justify or grant authority to create new remedies not supported by Kansas water law. We believe the city of Wichita would be better served to utilize existing authorities such as in the water -- as in the multiyear flex account program or through acquisition of existing water rights or through some sort of a lease program, all supported in the water appropriation act. It's common knowledge
that the Equus Bed is either fully or
overappropriated in some areas including the
Wichita well field. Consequently, numerous
requests for new appropriation rights over the
years have been denied. As you are aware, under
K.S.A. 82a-706, the chief engineer is assigned
with the duty to enforce and administer the laws
pertaining to beneficial use of water in
accordance with the priority system. While water
right protection in accordance with priority is
fundamental to the water appropriation act, other
abiding principles govern water appropriation as
well such as those found in K.S.A. 82a-707 which
states that any appropriation does not constitute
the ownership of water. It goes on to state that
the date of priority not the purpose of use
dictates the right to divert water when supply is
insufficient. The proposed ASR amendments would
result in practical ownership of groundwater by
Wichita, and this would disadvantage our members
and water right holders in the area.

The granting and accumulation of AS -- AMC,
aquifer maintenance credits, which in several
public meetings has been referred to as being a
different source or maybe even a different color
of water, circumvents the most clear intent and definitions found within the water appropriation act and its accompanying rules and regulation. The concept of AMCs cannot be defended under current law and definitions. By definitions, K.A.R. 511 ii, water below the surface of the earth is considered groundwater. There is no blue. No red. Just water. Equus Beds water. And just simply groundwater and every drop of it near the city of Wichita's well field is already fully committed to satisfying existing rights granted by the chief engineer under the water appropriation act. It was clearly understood when the chief engineer originally granted the ASR permits that artificial recharge of the Equus Beds would help supplement the system, essentially topping off the aquifer so that all users benefitted in improved water quantity and quality. The chief engineer on August 8th, 2005, issued a findings and order and conclusions in item three which clearly stated that passive recharge credits are not artificial recharge. We contend that AMCs are identical to passive recharge credits and therefore should not be allowed. Limitations on recharge credits were imposed to protect existing
water rights. No new conceptual authority was
given to differentiate the water below the ground
as being a distinct source of supply. The
proposed amendments before us today give exclusive
rights for water to Wichita and over the time --
and over time allows for the accumulation of
recharge credits to preclude natural recharge
events from satisfying native water rights
previously granted under the water appropriation
act. Again, by definition artificial recharge is
to artificially replenish the water supply in an
aquifer. The proposed AMC amendment would allow
the creation of virtual recharge, where nothing is
physically replenished, which Wichita directly
pumps surface water to its municipal customers and
at the same time is granted recharge credits.
This is a clear violation of the definition of
artificial recharge and a clear representation of
what direct diversion of surface water is, as
cited in K.A.R. 511 Y. Mixing and matching these
definitions to meet an objective to which the
statute is completely silent jeopardizes the
integrity of our water laws and creates a
disturbing precedent.

With regards to lowering the minimum index
level within the basin storage area, we must also object. When ASR permits were originally approved with conditions the chief engineer determined that it was in the public interest to not allow recharge credits to be withdrawn below a certain level. Without having a clearer understanding of why those limits were put in place to begin with and what they were envisioned as protecting, we cannot support altering the index levels. But one thing is for certain. There were many concerns and objections, and when this proposal was first considered there was considerable public dialogue and information sharing that ultimately led to the chief engineer approving ASR permits with conditions addressing these concerns and assurances by the parties involved accepting these conditions. What has changed since that original approval that would now allow the chief engineer to disregard those concerns and resulting safeguards and conditions?

In closing, as you are aware, no mention of ASR is found in the water appropriation act. The concepts of ASR are only defined in rules and regulations under the guise of artificial recharge, one of the 14 distinctly defined
beneficial uses of water. Obviously the authority
to issue ASR permits, even with carefully
considered and crafted permit conditions, was at
the least a stretch of the legislative authority.
Now some 20 years later the proposed amendments go
far beyond anything imagined by the legislature or
anyone's interpretation of existing law.

We thank you for taking our concerns under
advisement and hope that you will weigh this
evidence as you reach your decision. Thank you.

HEARING OFFICER BARFIELD: All right.
Thank you, Kent. So your oral and written
testimony are accepted in the record. Appreciate it. Okay. The next person, Charles Peaster? I believe I've got it right.

MR. PEASTER: Believe it or not, you did.

HEARING OFFICER BARFIELD: Very good.

MR. PEASTER: I don't need that microphone. I've never been accused of not being able to be heard. My name is Charles Peaster, and in 1979 I bought an existing farmhouse that belonged to the Coombs, and the farm behind me was a Coombs poultry farm. Eventually that house was shut down -- or that farm was shut down and the property was subdivided into 18 separate lots. On
those 18 separate lots people have moved into.
You said people have been notified about this, and
I wasn't notified, and I believe I am a water -- I
own the property that the well was on when I
bought the property therefore makes me an owner.
I wasn't notified of these meetings.

I've lived there since 1979 when my wife and
I bought the property. The city -- the city built
the recharge was supposed to put the water back in
the Equus Beds with my well that we was on, but
when you pump that water to the city of Wichita
without going into the Equus Beds, I don't get an
advantage to that. And I can almost guarantee you
that none of the individual homeowners in the area
that the city is affecting were notified about
this meeting or the meeting you were talking about
previously where you could ask questions to the
city about what they were doing. All of a sudden
the city needs more water because they sell it.
How many other cities are -- or areas do they sell
water to? When is that going to be made aware to
the every day citizen that's bought houses and put
-- and taken in that area, because I didn't get
that notice. Have no idea for sure how many
different cities the city of Wichita sells water
to. I've been to several of the water board meetings, and I haven't been lately. Mistake on my part. I don't need the city going down -- I don't know how deep my well is, because I've never had to replace it. The pump on it, yes; the well itself, no. This is 2018. 1979. That's when I bought my house. Now you want to take my water away from me because if the city lowers it another 10 percent of what it was originally set at, what does that do to my well, and I have no idea. Is the city going to replace my well? Can you answer that question for me?

HEARING OFFICER BARFIELD: Again, the purpose of today's hearing is not to answer questions.

MR. PEASTER: I understand that part, too.

HEARING OFFICER BARFIELD: I would -- I would encourage you to look at the handout we provided. There are proposed terms and conditions --

MR. PEASTER: I do have that handout, and I haven't had a chance to read it, but I read one previous --

HEARING OFFICER BARFIELD: Right.
MR. PEASTER: -- to this, and I highlight what I read.

HEARING OFFICER BARFIELD: Right.

MR. PEASTER: Because there's points on there that I want answered. And up to this point I haven't had them answered, and maybe the city will stick around, which normally they don't, because it seems like any time the city wants to do something -- they let a bid, for instance, on a ballpark, and they set a regulation on what they were going to do, and then they ignore their own criteria for accepting the company that's going to build the stadium. Thank you for a chance to speak.

HEARING OFFICER BARFIELD: Thank you.

All right. Next is Eddie Weber.

MR. WEBER: My name is Eddie Weber. I live at 7 Leslie Lane in Halstead, and I am a permit holder and a farmer in the well field area. I will confine my remarks to generalities. I'm afraid I have more questions than concerns. I will only address my concerns. I have concerns about misleading information put out by the city of Wichita. At this time I would like to add an acronym to the list of ASR, AMC and WSB. The
acronym is DGM, which stands for damn good marketing. The Wichita Yes Campaign has said that the ASR project is proven and is working. That is DGM. Data proves otherwise. And the reason we are here today also indicates it's not working. ASR projections were revised by 50 percent due to lack of projected results.

An article by the Wichita Eagle in October of 2014 when the city was marketing for a one percent sales tax increase said the average base water usage for a resident using 6,000 gallons per month had a bill of $22.40 in 2014. In this article, the projected amount of a resident's bill by 2018 was going to be $34, about a 52 percent increase, which was projected. As of yesterday, when I checked that projected amount of $34, it was actually a bill of about 42.50 for the same 6,000 gallons per month usage, what turned out to be an increase of about 90 percent from 2014 water bill instead of the projected 52 percent. I guess being off 38 percent isn't too bad in just a four-year projection. Again, some more DGM. I do realize the ASR and those base water charges I was just talking about were just projections, but it is easy to see a trend on how numbers and
percentages are being skewed to the benefit of the city of Wichita, trying to deceive the public to accomplish their agenda. Issues like this concern me. If the model and the projections you and I are supposed to trust as accurate have been skewed by hand picking of numbers and hand picking of dates, the model could deceive us to accomplish their agenda.

Fast forward. What if this proposal to lower the basin levels below '93 levels and the AMC accounting proposal is passed, what if the numbers and the percentages were skewed? And in a one percent drought, chloride intrusion, which is supposed to be zero percent, is off by 50 percent, similar to the ASR projections? Or just 38 percent, which was the percentage the projection was off in the water base charge scenario I mentioned earlier. Now, 38 to 50 percent of the aquifer is contaminated with chlorides that exceed drinking water standards and also irrigation water standards. On top of this, now the well field is contaminated and it will cost water users even more to treat the water that has now been contaminated.

Another concern is this. If the city is
allowed to generate aquifer maintenance credits
and they expand their sale of water to other
immediate vicinities, beyond the current 14, and
their immediate vicinities, I'm afraid in 20
years, every year is going to be a one percent
drought scenario for the Equus Beds.

Where does the city of Wichita's place of use
end? All I see is the "and immediate vicinities"
clause, which is very vague. What peace of mind
can we possibly have? We have wells from Burrton
to Sedgwick, and throughout the Wichita well
field, and in 2011 and '12, what was deemed to be
just a significant drought, we
saw water quality in our wells go down, some to
the extent that we had to stop irrigating due to
chloride levels. All of our wells showed reduced
capacity and were pumping air. These types of
issues were already happening in just a
significant drought. A significant drought is
much less than a one percent drought.

On the subject of lowering the storage basin
in which credits could be utilized, I'm adamantly
opposed to opening the window to below 1993 levels
due to what I just stated about our water quality
and quantity in 2011 and '12 in just a significant
drought.

The city of Wichita and the chief engineer in 2005 ASR findings ordered that the public interest was protected at the 1993 levels. This should still hold true today. We need to allow for some buffer in case of some unforeseen event such as projections being off or not being able to utilize Cheney Lake Reservoir for an extended period of time. I don't see a problem with using surface water only from the Little Ark to divert water directly to the city after the aquifer is full. I feel that credits should not be generated from this practice.

In closing, a wise man once told me, let your conscience be your guide. Mr. Barfield, today I would like to share the same advice with you: Let your conscience be your guide. We trust you will look carefully at the numbers and at the projections, consider the concerns of the farmers and the citizens who are going to be greatly affected by these decisions. Thank you.

HEARING OFFICER BARFIELD: Thank you.

Can I just ask one question? Again, what part of the basin storage area well field are you in?

MR. WEBER: We start at Burrton and send
end up at Sedgwick, so throughout the well field.

HEARING OFFICER BARFIELD: Okay. All right. Thank you very much.

MR. WEBER: Yeah.

HEARING OFFICER BARFIELD: Okay. Next is Jim Roberts.

MR. ROBERTS: Good morning. My name is Jim Roberts. I'm a resident just south of Bentley, Kansas, and I don't have a nice prepared statement like all you people do. If I had a little more time, I would; but, anyway, I'm a lifelong resident of the area. My entire adult life was spent just south of Bentley, Kansas. I'm a third generation -- go back three generations, we've all lived in the area. We feel like we're blessed with a good water supply. You know, it's there. It's readily available. And we realize that there's areas of the state and on the other side of Wichita, even, that you know, they have to go down 70, 80 feet to get good water. We go down 20 foot, and you can hit water. There's a lot of people here that probably don't even know what a sand point is, but, you know, there's a lot of sand points still out in the area.

When I first heard about the original ASR, I
thought it was the stupidest thing that I'd ever heard of. Because why would you do that? The water is always there and all that stuff. Again, I understand that some areas that, you know, may need water, and I can appreciate that. That's the reason why a lot of people live out in that area, and a lot of people, when they choose to live in other areas, that they have to go down so deep for water that they take that into consideration. It costs them a lot more money for, you know, a good standard of living. And again, we're -- we appreciate that, where we're at.

So, anyway, I watched this ASR get built, and, again, like the other guy said, I never got notified. We've never been told anything. But when I started seeing paved roads getting built out there in the country and huge power poles, and, you know, just the demand, I could tell pretty quick we're looking at a multimillion dollar, maybe a billion dollar outfit. Anybody that gets a chance, you ought to drive out there. It is -- it's a magnificent facility. The only problem is, is when I get to understand exactly what they were doing, it's -- it's like this, when we need a little bit of water, we'll just pump it
out of the Arkansas and stick it back down in there. Well, that sounds great, except for when we're in a drought, there's no water in the Arkansas to pump in there. And then I found out through my resources that when there's been a lot of rain and the water is -- and the river is flowing and it's full, well, then they can't pump any water in there because the aquifer is full. So I'm sitting there going, okay, so what parts of the year are you able to actually use this -- this equipment? I mean, it's -- and, again, it's a phenomenal piece of equipment. So -- and I wasn't notified when this was coming up, but what I understand is, is that, you know, now, you know, that Wichita needs more water, so now the light bulb starts to come on. All this investment wasn't necessarily just to, you know, help recharge it, it was to use it -- use more of it. And like the other guy said, Bentley buys all their water from Wichita and then turns around and sells it out, whereas they used to just have wells out in that area. So that's kind of the background I've got on that.

The point -- another point I have is, is that we have well water. We have great water. We just
put down another one, it's been two or three years ago, 30 feet deep. My concern is, is what happens when it's dry. And I did read your -- your handout this morning, and it talks about if you're within 660 feet, but I don't even know where that -- that term would come by, but I would say that if anybody in that area starts having water problems, that that needs to be taken care of, and I can appreciate the -- kind of the suggestions they've got listed here, but that needs to be clarified, if they go forward. And we also realize that sometimes the city and the state just does whatever they want to do without a lot of input from people, and I don't -- I don't stand here and try and represent all the farmers because there's plenty -- there's plenty of them here, but I think my concerns are probably similar to everybody that's in here.

Let's see. I'll let -- I'll let other people talk, but back on the -- you know, like if a well goes dry, I think there ought to be, you know, a method to either put down a bigger -- a deeper well, and I know it's outlined here, but there ought to be vouchers for that, there should be credits for that, or if they're nearby to where
they could hook up to city water, there needs to be consideration there and discounts, that type of activity, because, like I said, we -- we chose to live where we're at and other people choose where they live at, so there's -- like I said, we're willing to share, but we shouldn't have to foot the bill for that.

I'll let somebody else talk.

HEARING OFFICER BARFIELD: All right.

Thank you very much.

MR. WEBER: Thanks.

HEARING OFFICER BARFIELD: Next we have David -- is it Carp? I believe?

MR. CARP: Good morning, Mr. Barfield.

Thank you for the opportunity to speak this morning. My name is David Carp. I am a co-owner with irrigated farmland that lies over the Equus Beds here in Sedgwick County, and simply here to speak briefly this morning about the significant concerns that are presented with the city's request to have a water permit change as relates to the artificial storage and recovery, or the ASR program, which I believe was initiated somewhere in the 2005-2010 period, approximately, and you're aware of the goal of the ASR to remove water from
the Little Arkansas River when a high stream flows and to inject into the Equus Beds or to store in that area and have that additional water storage as available for future credits for future use.

Unfortunately, it appears the ASR project has not succeeded and did fail to meet its intended goal. It has been stated that maybe over the approximate 10-year period that this has been in operation that only maybe at best 10,000 acre feet have been transferred to the area of the Equus Beds, and much of that that is not injected is stored in large basins, and that is also subject to loss through evaporation.

I would say the ASR was a bold and a noble attempt to maximize our water resources through the range of wet years through drought years. Unfortunately, the city is now choosing to move away from noble attempts to manage water to more ignoble attempts to secure water resources through schemes that would purport to be wise management of the resources but are really efforts to challenge the rule of law as pertains to water rights for everyone associated with the use of the Equus Beds. The city of Wichita has approved water rights of approximately 40,000 acre feet
annually from the Equus Beds. Other users have
dependent rights approximate to 20,000 acre feet annually.
The city's request for changes to its permit is to
allow to take water direct from the Little
Arkansas River, pump it directly to Wichita for
its use, but then, to our befuddlement, to then
claim that those acre feet sent directly to
Wichita could then be counted as a credit for that
same amount of water to be pumped from the Equus
Beds at a future date above and beyond their
permitted acre feet. I understand even on your
notes here that they have up to 120,000 acre feet
of additional credits that they're requesting
above their current 40,000 annual draw from the
Equus Beds. They could choose when to pump that
water, which would knowingly reduce the levels in
the Equus Beds at times of drought, which is also
noted that they're wanting to lower the basin
level, which would have -- put every irrigator,
livestock producer, homeowner or any other user at
risk.

I would say that we live in a culture that is
based on the rule of law. And the laws as pertain
to water resources are clear and they've been
wisely enforced for many years to protect our
important resource in the Equus Beds. I believe to allow the city of Wichita to move forward with their plan, which is couched in pleasant words, but they really go against the established laws of the water permit process.

Mr. Barfield, this calls for courage, I think clarity of thinking, and so we urge you and the division of water resources to reject this proposal by the city of Wichita, to courageously defend the existing laws that protect the viability of the Equus Beds for future use. Thank you for your time.

HEARING OFFICER BARFIELD: Thank you very much. Next we have Jon Kerschen.

MR. KERSCHEN: Yeah, my name is Jon Kerschen, and I am currently serving as the president of Sedgwick County Farm Bureau Agriculture Association. We represent nearly 900 farm family members in the county, and I would like to just reiterate the comments made earlier by Kent Askren of Kansas Farm Bureau that we would be as an organization opposed to the proposed changes and will be written -- be submitting a written testimony at a later date. Thank you.

HEARING OFFICER BARFIELD: Thank you.
All right. That is all the indications of oral comments that are on these sign in sheets. I do have -- a number of you indicated that you'd like to submit written comments, but I guess I'd open it up to anyone who would like to come forward if you still wish to make an oral comment today, please come forward, and you're welcome to make those comments.

MS. VANNATTA: Well, I apologize --

HEARING OFFICER BARFIELD: Can you --

MS. VANNATTA: -- for not signing in to make a comment. That was my oversight.

HEARING OFFICER BARFIELD: All right. Yeah, if you could just state your name for the --

MS. VANNATTA: I am Beth -- I am Beth Vannatta, rural Halstead, Kansas. Just an individual. I don't own an irrigation system.

I am very worried about this attempt to take more -- to drop to a deeper depth. Particularly in drought times it won't just be affecting Wichita, it will affect all of us who live directly over the Equus Beds. But there is a simple, sensible solution to this possible water shortage. El Dorado, the city of El Dorado has offered to sell water from El Dorado Lake to
Wichita, just as Wichita sells water to 14 other cities surrounding it. There is a tremendous lot of water in El Dorado Lake. There would be enough water for everybody, and it wouldn't threaten those of us who live directly over the Equus Beds. Thank you.

HEARING OFFICER BARFIELD: Would you mind spelling your last name for the record.

MS. VANNATTA: Capital V A N N A T T A.

HEARING OFFICER BARFIELD: Thank you.

MS. VANNATTA: Thank you.

MS. EMBREE-MEINDERS: Morning.

HEARING OFFICER BARFIELD: Good morning.

Again, your name for the record?

MS. EMBREE-MEINDERS: Joni Embree-Meinders.

HEARING OFFICER BARFIELD: And spell your last name.

MS. EMBREE-MEINDERS: E M B R E E M E I N D E R S.

HEARING OFFICER BARFIELD: Thank you.

MS. EMBREE-MEINDERS: We're farmers with water rights in the GWD2 district --

THE REPORTER: I'm sorry?

MS. EMBREE-MEINDERS: We're farmers with
water rights over the Equus Beds. I'm third
generation, and my family's water source at our
house comes from those Equus Beds. There's
currently an agree -- agreeable permission in
place, one that allows for the water needs of the
city to be met in excess. Because some areas of
the Equus Bed water levels have declined up to 30
feet since the '40s, I have concern that lowering
the bottom of the basin storage area in the
aquifer doesn't solve the problem or create more
water in the aquifer. Instead it creates a void
and puts the aquifer at a constant deficit. This
would take years to recover from. The city has
multiple other options for securing water which do
not put the natural aquifer in jeopardy. If
Wichita is permitted to pump the Equus Beds dry or
unnecessarily pump holes or voids in the aquifer,
the only chance for recharge will be future
rainfall in that the city has not proven an
ability to successfully recharge the aquifer.
Another concern is that the rainfall necessary to
recharge the aquifer will not come at a rate fast
enough to prevent the oilfield brine or the
chloride plume threat from infecting the entire
Equus Bed aquifer. I'm also concerned with the
lack of regulation and documentation the proposed changes offer. It is very concerning that simply renaming passive water credits as maintenance credits would create loopholes that would ultimately destroy the Equus Bed aquifer. Water quality is imperative, and it's being directly threatened. Natural water availability is a precious resource, and to destroy that for political or financial gain is unacceptable.

   Sir, I don't know you, but I believe you're better than this. I believe that you're better than big money or political power, and I believe that you will do the right thing in preserving our aquifer so that it can continue to provide for families. Thank you.

   HEARING OFFICER BARFIELD: Thank you for your statement. Can I ask, are your -- are your wells within the basin storage area?

   MS. EMBREE-MEINDERS: They are.

   HEARING OFFICER BARFIELD: Okay. Thank you very much. Anyone else? Just feel free to step forward.

   MR. JACKSON: Alan Jackson. My address is 2009 South Hertzler Road, Halstead, Kansas.

   THE REPORTER: You're going to have to
move the microphone closer or speak up or something.

MR. JACKSON: Alan Jackson. My address is 2009 South Hertzler Road, Halstead, Kansas, and I'm just across the river north from the basin area. About three years ago me and the neighbors seen a decrease in water quality, nothing to prevent us from drinking it, but the hardness has substantially changed, noticeably, in our households.

I'm also an irrigator, and the water levels in the area have been maintained by the Little River recharge.

You have two aspects basically on the table. One is pumping directly into Wichita. I am a licensed mechanical engineer. That license has been retired. I looked at all the aspects of your proposal, and I find it difficult to understand how pumping directly into Wichita with water actually stores water for future use. The other aspect I see is lowering the water levels to acceptably pump back in times of drought, even though they're recoverable in the short term as far as water levels, I have some concerns about the salt plume intrusion to the Equus Beds. Thank
HEARING OFFICER BARFIELD: Thank you.

MR. MUELLER: My name is David Mueller. I'm a third generation farmer. I farm with my family north of Halstead. My address is 905 South Mission Road. And I will just -- and I just have a comment about the AMCs that are proposed as part of this. If -- if this were to be approved, would -- would logic not follow that a farmer irrigating would also be entitled to such a maintenance credit? The idea being that by not pumping from the aquifer the amount that they are allotted with their permit that they are somehow generating a credit to use at a later date? Would a farmer who did not use his allotted water rights in a current year not be granted those same maintenance credits to pump at a later date?

HEARING OFFICER BARFIELD: Thank you. All right. Anyone else?

All right. Seeing none, let me, again, talk about the next steps in this process. Again, today's public comment hearing is just one step in the process. The date of the formal hearing has not been finalized. It was tentatively set for February 13th of 2019. Two of the parties have
requested additional time, and so we will resolve
that in the near future. The hearing date will be
published on our web page, and again we'll seek to
do a press release as well, so -- so look to those
two sources for information. Again, as I
indicated, GMD2 will be putting in their
newsletter when the formal hearing date is as
well.

Again, as I stated earlier, if you want to
gather more information and then provide
additional comments or comments at that hearing,
we will accommodate that. Again, on the handout
is your opportunity to provide written comments.
Those comments will be received at any time until
the close of the record which will be 30 days
after the conclusion of the formal hearing.
Again, on the handout is where you can send those
comments.

All right. I guess with that, this morning's
public comment hearing will be closed. We
appreciate you taking an interest in this matter
and participating in this morning's hearing.

UNIDENTIFIED SPEAKER: Sir, if you would
please notify the Harvey County Independent as
well, since it --
HEARING OFFICER BARFIELD: Harvey --
UNIDENTIFIED SPEAKER: -- hits most of
our area.

HEARING OFFICER BARFIELD: All right. We
certainly will. Thank you for that. We'll
consider that. Thank you. This hearing is
closed.

(Whereupon, at 9:57 a.m. the hearing was
concluded.)
CERTIFICATE

STATE OF KANSAS

SS:

COUNTY OF SHAWNEE

I, Michelle D. Hancock, a Certified Court Reporter, Commissioned as such by the Supreme Court of the State of Kansas, and authorized to take depositions and administer oaths within said State pursuant to K.S.A. 60-228, certify that the foregoing was reported by stenographic means, which matter was held on the date, and the time and place set out on the title page hereof and that the foregoing constitutes a true and accurate transcript of the same.

I further certify that I am not related to any of the parties, nor am I an employee of or related to any of the attorneys representing the parties, and I have no financial interest in the outcome of this matter.

Given under my hand and seal this 26th day of December, 2018.

Michelle D. Hancock, C.C.R. No. 0392