

November 9, 2018



VIA E-MAIL

Brian K. McLeod
City of Wichita
McLeod, Brian <BMcLeod@wichita.gov>
Pajor, Joseph <JPajor@wichita.gov>
Macey, Scott <SMacey@wichita.gov>

Re: Golden Rule Letter
Discovery Requests to the City of Wichita,
Kansas
Case No. 18 WATER 14014
Our File No. 1116.036

Dear Brian:

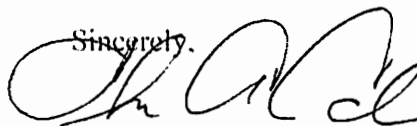
Although perhaps not necessary in an administrative matter, let this serve as a Golden Rule letter regarding your responses to our discovery requests. Please respond to this letter by the end of the day Monday, November 12, 2018, or further action will be taken. With that said, our comments are as follows:

1. Many of the items that have been excluded as subject to attorney/client privilege do not appear to be communications involving legal discussions. As you know, merely including an attorney in an e-mail does not necessarily make it subject to attorney/client privilege. All discussions cannot simply be "protected" in this manner. Further, some of the communications made subject to this privilege appear to not even have an attorney involved in the discussion.
2. The work product doctrine is also frequently cited. It is hard to ascertain how communications and documents from a year or two ago (or longer) could be created in anticipation of this hearing or possible future litigation. Please exclude those old communications from the privilege log, at the very least and provide them to us.
3. With regard to the documents included in the privilege log, please either provide us the documents or furnish a little more detail with regard to why the documents are subject to each privilege so we can make a better determination as to the applicability of the privilege cited.

4. In general, evasive answers to most of our questions were provided because perhaps we didn't fully clarify that we were asking about the use of the AMC Proposal when aquifer recharge capacity is limited and an AMC is accumulated. Although this will only serve to delay the process based on your answers, we will send clarifying discovery requests even though we believe the intent of the questions was clear.
5. Interrogatories 2 and 3 are standard questions. Please furnish a proper answer.
6. Many of your answers to the interrogatories just say to review the "Proposal Document." That is not a sufficient answer. Please provide at least a sufficient answer to each of those interrogatories. Although we would like you to clarify all of your answers and this constitutes your replies to most of our interrogatories, please in particular furnish a detailed response to interrogatories 14, 15, 16, 19 and 20.
7. The answer to interrogatory number 22 is completely evasive. Please provide a complete answer.
8. Regarding your answer to request for admission number 21, please provide details of your alleged consultation with the state climatologist.
9. With regard to the documents produced, please date stamp the documents and provide more clarity as to which production request each document is responsive to. For instance, we received literally over one thousand e-mails—many of them wholly irrelevant—with no structure as to the relevance.

We appreciate your attention to these matters. We expect a prompt response to avoid the necessity of a motion to compel or other actions with the hearing officer.

Sincerely,



Thomas A. Adrian, SC #06976
tom@aplawpa.com

ADRIAN & PANKRATZ, P.A.

David J. Stucky, SC#23698

stucky.dave@gmail.com

Leland E. Rolfs, SC#9301

Leland.rolfs@sbcglobal.net

Leland Rolfs Consulting

*Attorneys for Equus Beds Groundwater
Management District Number 2*

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Email copy to:

Aaron Oleen
Division of Water Resources
Oleen, Aaron [KDA] <Aaron.Oleen@ks.gov>
<Lane.Letourneau@ks.gov>

Tessa M. Wendling
twendling@mac.com
Attorney for Intervenors

State of Kansas
Division of Water Resources
Department of Agriculture
Titus, Kenneth [KDA] Kenneth.Titus@ks.gov
Barfield, David [KDA] <David.Barfield@ks.gov>
Beightel, Chris [KDA] <Chris.Beightel@ks.gov>