

rather than any sincere effort to address legitimate discovery issues.

5. Nevertheless, counsel for the City, in an electronic mail of November 13, 2018, offered to submit the documents indexed in its privilege log for *in camera* review by the Hearing Officer, so the Hearing Officer could determine (if desired) which (if any) of them should be additionally released to GMD2 (See Exhibit A hereto). Neither GMD2 nor the Hearing Officer asked the City to proceed with that step.
6. On December 7, 2018, the City served its second set of discovery requests on GMD2, wording many of the requests very similarly to requests that had been served by GMD2 on the City (See Exhibits B, C and D).
7. GMD2 objected to almost all the requests, terming many “overly broad, vague and burdensome.” GMD2 also engaged in its own “word parsing,” and delayed its production responses until March 1, 2019, well past the close of general discovery and well past its last extension to answer (See Exhibits B, C, and D).
8. Despite its protracted and dilatory delay in responding to the production request, GMD2 also then withheld entire categories of responsive documents without even providing a log of what it was not producing (See, e.g., Exhibit D, responses to requests 4, 13, 17, 18 and 19).
9. As to certain categories of documents, GMD2 refused to produce them on the basis that the Attorney General had not yet ruled on KORA requests GMD2 had previously stone-walled (See Exhibit D, responses to requests 17 and 19). The status of pending KORA requests is completely irrelevant to whether the documents are privileged from production in discovery. Given GMD2’s complete failure to identify or support its general assertions of privilege or work-product protection, GMD2 was obligated to produce the documents it withheld, but did not produce them.
10. As a party that has extensively disregarded its own discovery obligations in this case, GMD2 is not in a position to cast fault on the far more compliant responses of

other parties who have furnished proper privilege logs for documents withheld, and who (in the case of the City) long ago offered to send all the logged documents to the Hearing Officer for review of the claimed privilege/work-product protections. GMD2 has already been afforded discovery substantially in excess of what it has been willing to provide to the other parties.

11. Obviously, GMD2 has obtained discovery completely sufficient to form its recommendations, obtain expert reports, and prepare its case. The present discovery motions appear to be primarily a tactical effort to disrupt the final hearing preparation of the other parties.

WHEREFORE, GMD2's Motion to Compel to the City should be denied.

Respectfully submitted,

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

By /s/ Brian K. McLeod
Brian K. McLeod, SC # 14026

CERTIFICATE OF FILING AND SERVICE

The undersigned hereby certifies that he transmitted the above and foregoing Response to GMD2's Motion to Compel to the City by electronic mail on this 12th day of March, 2019, for filing, to David.Barfield@ks.gov and Kenneth.Fitus@ks.gov and served the same upon counsel for the other parties herein by electronic mail, addressed to:

Thomas A. Adrian
David J. Stucky
tom@aplawpa.com
stucky.dave@gmail.com

313 Spruce
Halstead, Kansas 67056

And

Leland Rolfs
Leland.rolfs@sbcglobal.net
Attorneys for

Equus Beds Groundwater Management District No. 2

Aaron Oleen
Division of Water Resources
Kansas Department of Agriculture
1320 Research Park Drive
Manhattan, Kansas 66502
Aaron.oleen@ks.gov

and

Tessa M. Wendling
1010 Chestnut Street
Halstead, Kansas 67056
twendling@mac.com

/s/ Brian K. McLeod
Brian K. McLeod

McLeod, Brian

From: McLeod, Brian
Sent: Tuesday, November 13, 2018 8:51 AM
To: Titus, Kenneth; Tom Adrian; Dave Stucky; leland.rolfs; Tim Boese; Pajor, Joseph; Tessa Wendling; Oleen, Aaron [KDA]; Letourneau, Lane [KDA]
Cc: Barfield, David [KDA]; Beightel, Chris [KDA]; Magana, Jennifer; Dickgrafe, Sharon; King, Alan; Macey, Scott
Subject: RE: Wichita ASR Motion to Extend and Continue

I can be available Friday in the 3:00-4:00 time space.

The "golden rule" letters sent after business hours on Friday, with a deadline that passed on the Veterans' Day holiday, appear to signal a likelihood of further disruption of the case schedule via collateral discovery litigation.

All of the documents produced by the City and all of the documents produced by DWR (including those on the established website) are in electronic form and should be searchable by automated means. The City believes the discovery responses of the City and DWR have provided GMD2 everything it legitimately needs to analyze the issues in the case (far beyond most permit applications matters, which typically do not involve formal discovery at all).

However, particularly in light of GMD2's repeated refusals to acknowledge information already in its possession, the City is concerned that no possible responses to GMD2's discovery requests will dispel GMD2's perception that it needs other and further information.

Accordingly, it would likely be efficient and help to preserve the new hearing schedule if the Hearing Officer were to proceed to address the adequacy of the challenged discovery responses, providing direction as to any supplemental disclosure required on the part of the City or DWR. If the Hearing Officer would like to conduct an *in camera* review of the documents logged by the City as subject to privilege or work product protection, in order to determine which, if any, should be released to GMD2, please let us know.

From: Titus, Kenneth [mailto:Kenneth.Titus@ks.gov]
Sent: Monday, November 12, 2018 2:29 PM
To: Tom Adrian <tom@aplawpa.com>; Dave Stucky <stucky.dave@gmail.com>; leland.rolfs <leland.rolfs@sbcglobal.net>; Tim Boese <tboese@gmd2.org>; Pajor, Joseph <JPajor@wichita.gov>; McLeod, Brian <BMcLeod@wichita.gov>; Tessa Wendling <twendling@mac.com>; Oleen, Aaron [KDA] <Aaron.Oleen@ks.gov>; Letourneau, Lane [KDA] <Lane.Letourneau@ks.gov>
Cc: Barfield, David [KDA] <David.Barfield@ks.gov>; Beightel, Chris [KDA] <Chris.Beightel@ks.gov>
Subject: Wichita ASR Motion to Extend and Continue

Please find an attached order dealing with the recent motion to extend and continue.

We'd ask each party to respond to this email with their availability for a conference call on Friday (11/16) between 8:00-12:00 and 3:00-4:00.

Finally, just a note regarding the golden rule letters sent out by GMD2, since today is a state holiday, DWR won't be able to respond today. I assume the City is in the same situation, but I don't know for sure. Maybe the attached order alleviates some of the urgency in any case.

Kenneth B. Titus | Chief Counsel
Kansas Department of Agriculture



1320 Research Park Drive
Manhattan, Kansas 66502
Phone: (785) 564-6717 | Fax: (785) 564-6777
kenneth.titus@ks.gov | www.agriculture.ks.gov

This E-mail message is intended only for the use of the individual or entity named above. If not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, notify us by telephone at 785-564-6715 and permanently delete the message from your system. Receipt by anyone other than the intended recipient is not a waiver of any investigation privilege, attorney-client privilege, work product immunity or any other privilege or immunity.

4. "Subject Matter" means the content of this administrative hearing including, but not limited to, AMCs, the ASR Permit Modification Proposal, and all related subject matter.
5. "ASR Permit Modification Proposal" means the proposal dated March 12, 2018, that the City submitted to the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.
6. "AMC Proposal" means the Aquifer Maintenance Credits Proposal submitted as part of the ASR Permit Modification Proposal.
7. "AMC" means Aquifer Maintenance Credits.
8. "Aquifer" shall mean the Equus Beds Aquifer.
9. "ASR" shall mean Aquifer Storage and Recovery
10. "As used herein, the term "document" means any medium upon which intelligence or information can be recorded or retrieved, and includes, without limitation, the original and each copy, regardless of origin and location, of any audio file, book, pamphlet, periodical, letter, memorandum, (including any memorandum or report of a meeting or conversation), contract, agreement, letter, e-mail, facsimile, check, receipt, notice, study, telegram, computer printout, invoice, computer data file, work papers, diary, calendar, transcript, bill, record, photograph, or any other graphic matter, however produced or reproduced, which is or was Your possession, custody or control.
11. As used herein, the term "communication" means any oral or written utterance of any nature including, but not limited to, correspondence, e-mail, facsimile, conversations, discussions, and consultations, between or among two or more persons.
12. As used herein, the terms "identification," "identify," or "identity," when used in reference to (a) a natural individual, require You to state his or her full name, job title, residential and business

addresses and home and business phone numbers; (b) a corporation or business, require You to state its full name and any names under which it does business, the address of its principal place of business, and the addresses of all of its offices; (c) a document, requires You to state the number of pages and the nature of the document (e.g., letter or memorandum), its title, its date, the name or names of its authors and recipients, and its present location and custodian; (d) a communication, requires You to identify the document or documents which refer to or evidence the communication; and (e) an oral communication, requires You to identify the persons participating in the communication and to state the date, manner, place and substance of the communication.

13. When a request for admission requires You to "state the basis of a particular claim, defense, contention, or allegation, state in Your answer the identity of each and every communication and each and every fact and legal theory that You think supports, refers to, or evidences such claim, defense, contention or allegation.

14. As used herein, the word "or" appearing in a request for admission should not be read so as to eliminate any part of the request for admission, but, whenever applicable, it should have the same meaning as the word "and."

15. As used herein, the words "person" or "entity" mean any natural person, company, business, partnership, corporation, association or other group carrying on a business enterprise.

REQUEST FOR ADMISSIONS

1. Admit or deny that under its existing permits, the City is permitted to annually withdraw up to 40,000 acre feet of water from the Aquifer.

ADMIT _____

DENY _____

Objection to this question as vague as the term “existing water permits” is undefined. This request is further objected to as it is not reasonably calculated to lead to the discovery of admissible evidence.



Thomas A. Adrian, SC #06976
tom@aplwp.com
ADRIAN & PANKRATZ, P.A.
Attorneys for Equus Beds Groundwater
Management District Number 2

Without waiving said objection, if this question is referring to City’s existing “native water rights,” Vested Water Right HV-006, Water Right No. 388, and Water Right No. 1006, then it is admitted that the City can withdraw up to 40,000 acre-feet annually from the Aquifer, subject to the limitations and conditions of the water rights including, but not limited to, not impairing senior water rights.

2. Admit or deny that if the City's exercise of its existing permits creates opportunities to recharge the Aquifer, the City's existing ASR permits allow the City to accrue Physical Recharge Credits for any such recharge implemented via the operation of its ASR project facilities.

ADMIT X

DENY X

This question is objected to as it is completely vague and is predicated on assumption after assumption.



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ADRIAN & PANKRATZ, P.A.
Attorneys for Equus Beds Groundwater
Management District Number 2

Without waiving said objection, this request is partially admitted to the extent that Physical Recharge Credits can be accrued by the City upon artificially recharging the Aquifer by physically injecting source water from the Little Arkansas River into the Aquifer; however, this recharge and accrual of recharge credits is subject to ASR permit conditions and limitations, the ASR accounting model, and other factors.

3. Admit or deny that the City's AMC Proposal would allow the City to accrue AMCs without the necessity of withdrawing water from the Aquifer to create storage deficits for recharge.

ADMIT

DENY X

This question is objected to as the term "storage deficits for recharge" is undefined and unclear. Thus, this question is denied.



Thomas A. Adrian, SC #06976
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Attorneys for Equus Beds Groundwater
Management District Number 2

4. Admit or deny that under the City's existing ASR permits, there is no limit on the aggregate acre feet in Physical Recharge Credits the City is permitted to accrue.

ADMIT

DENY

This request is partially admitted to the extent that Physical Recharge Credits can be accrued by the City upon artificially recharging of the Aquifer by physically injecting source water from the Little Arkansas River into the Aquifer without an apparent "limit;" however, this recharge and accrual of recharge credits is subject to ASR permit conditions and limitations, the ASR accounting model, hydrologic conditions, and other factors.

5. Admit or deny that the minimum index levels for the storage basin area do not limit the City's rights to annually withdraw up to 40,000 acre feet of water from the Aquifer.

ADMIT

DENY

This question is objected to as it is unclear as to what "rights" are being referred to.



Thomas A. Adrian, SC #06976

tom@aplwp.com

ADRIAN & PANKRATZ, P.A.

**Attorneys for Equus Beds Groundwater
Management District Number 2**

However, without waiving said objection, it is admitted that the City can withdraw 40,000 acre feet of water annually from the Aquifer under the authority of the City's existing water rights, Vested Water Right HV-006, Water Right No. 388, and Water Right No. 1006, subject to the limitations and conditions of the water rights, including not impairing senior water rights.

6. Admit or deny that the minimum index levels for the storage basin area do limit the circumstances in which the City can withdraw water using its accrued Physical Recharge Credits.

ADMIT _____

DENY _____

Admitted, as the Chief Engineer in the ASR Phase I & Phase II approvals determined that the public interest was protected if the recharge credits could not be withdrawn when the water level was below the currently established minimum index levels.

7. Admit or deny that, as a result of the existing minimum index levels, the onus will be upon the City to use its Physical Recharge Credits when water levels begin to decline, so as to recover them before water levels decline to the minimum index levels.

ADMIT _____

DENY _____

Denied. It is the City's decision whether to be a good steward of the Aquifer or whether to unnecessarily withdraw water. It is also the City's decision if it wishes to withdraw its recharge credits early when a drought begins, potentially leaving the City short of available recharge credits, and thus water, in an extended drought.

8. Admit or deny that adjusting the minimum index levels as the City has proposed would enable the City to delay a decision to withdraw water under its recharge credits in the event of a decline in water levels resulting from a prolonged drought.

ADMIT _____

DENY _____

Denied. Lowering the minimum index levels would allow the City to even further deplete the Aquifer during a time of prolonged drought. Further, it is the City's decision whether to be a good steward of the Aquifer or whether to unnecessarily withdraw water. It is also the City's decision if it wishes to withdraw its recharge credits early when a drought begins, potentially leaving the City short of available recharge credits, and thus water, in an extended drought.

9. Admit or deny that allowing the City to accrue AMCs without first reducing water levels to create opportunities for recharge is likely to result in maintenance of higher water levels in the Aquifer, benefiting all water users with water rights in the Aquifer.

ADMIT _____

DENY X _____

This request is objected to as being vague and is predicated on assumptions.



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tom@aplawpa.com
ADRIAN & PANKRATZ, P.A.
Attorneys for Equus Beds Groundwater
Management District Number 2

Without waiving said objections, this request is denied. It is difficult to predict the impacts of drought conditions and the City could pump down the Aquifer further in times of droughts, exacerbating the groundwater declines and water shortages and the detriments to the other water users. It is the City's decision whether to be a good steward of the Aquifer or whether to unnecessarily withdraw groundwater from the Aquifer to purposely lower the groundwater levels only for the purpose of injecting source water back into the Aquifer to establish recharge credits. Conversely, the City NOT purposely and selfishly pumping excessive groundwater—when alternate sources such as Cheney Reservoir are available—is what will result in maintenance of higher water levels in the Aquifer.

10. Admit or deny that adjusting the minimum index levels as the City has proposed would enable the City to defer full exercise of its recharge credits during a prolonged drought event, and that this would benefit all water users with water rights in the Aquifer.

ADMIT _____

DENY X _____

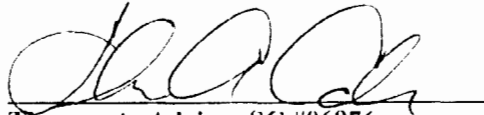
This request is denied. It is difficult to predict the impacts of drought conditions and the City could pump down the Aquifer further in times of droughts, exacerbating the groundwater declines and water shortages and the detriments to the other water users of the Aquifer. Further, it is the City's decision whether to be a good steward of the Aquifer or whether to unnecessarily withdraw water. It is also the City's decision if it wishes to withdraw its recharge credits early when a drought begins, potentially leaving the City short of available recharge credits, and thus water, in an extended drought. The Chief Engineer in the ASR Phase I & Phase II approvals determined that the public interest was protected if the recharge credits could not be withdrawn when the water level was below the currently established minimum index levels.

11. Admit or deny that GMD2 Board Members Robert Seiler and Michael McGinn each have a personal interest in the Subject Matter.

ADMIT

DENY

Objection: This request is not reasonably calculated to lead to the discovery of admissible evidence and is broad, vague, and burdensome. It is unclear what is meant by “personal interest.” Further, it is impossible for the District to look into the minds of individual board members and doing so invades the immunity afforded to decision makers.



Thomas A. Adrian, SC #06976

tom@aplawpa.com

ADRIAN & PANKRATZ, P.A.

Attorneys for Equus Beds Groundwater
Management District Number 2

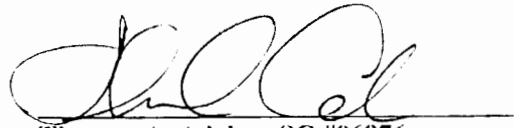
Without waiving said objection, this request is denied as the District is without information or knowledge to answer this request. However, based purely on speculation, it is believed by the District that every board member *should* have an interest in preserving and properly managing the Aquifer for the good of all users of the Aquifer and every board member either has a water right or is employed by an entity that uses water rights. Joe Pajor is the only board member potentially having a job dependent on pushing through a proposal wholly beneficial to the City, to the extent the AMC Proposal fits this parameter.

12. Admit or deny that GMD2 Board Members Robert Seiler and Michael McGinn have each participated as members of the GMD2 Board in the formation of consulting contracts and direction of GMD2's conduct in this matter in a manner that advanced their personal interests via the use of GMD2 staff and consultants and the expenditure of GMD2 funds.

ADMIT _____

DENY _____

Objection: This request is not reasonably calculated to lead to the discovery of admissible evidence and is broad, vague, and burdensome. It is unclear what is meant by "personal interests." Further, it is impossible for the District to look into the minds of individual board members and doing so invades the immunity afforded to decision makers.



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tom@aplwp.com
ADRIAN & PANKRATZ, P.A.
Attorneys for Equus Beds Groundwater
Management District Number 2

Without waiving said objection, this request is denied as the District is without information or knowledge to answer this request. However, based purely on speculation, it is believed by the District that every board member *should* have an interest in preserving and properly managing the Aquifer for the good of all users of the Aquifer and understanding the impact of something with the magnitude of the AMC Proposal. Further, it is believed that every board member either has a water right or is employed by an entity that uses water rights. Joe Pajor is the only board member potentially having a job dependent on quickly pushing through an AMC Proposal potentially wholly beneficial to the City, and doing so without any independent experts or consultants analyzing it.

13. Admit or deny that there is not a definition of AMC in statute or regulation.

ADMIT _____

DENY _____

14. Admit or deny that there is not a definition of "passive recharge credits" in statute or regulation.

ADMIT _____

DENY _____

Admitted to the extent that it accurately recites the condition of current statutes and regulations.

15. Admit or deny that there is no statute or regulation that specifically disallows the AMC Proposal.

ADMIT

DENY

Denied. Even a very basic statutory construction illuminates the fact that the AMC Proposal is not allowed by current law. More detailed research and analysis overwhelmingly supports the same conclusion.

16. Admit or deny that Kansas law vests responsibility for the City's drought preparedness activities and decisions in elected officials of the City and not in GMD2.

ADMIT

DENY

This request is objected to as vague and not reasonably calculated to lead to admissible evidence.



Thomas A. Adrian, SC #06976

tom.a.aplawpa.com

ADRIAN & PANKRATZ, P.A.

Attorneys for Equus Beds Groundwater
Management District Number 2

Without waiving said objection, this request is denied as the District is without information or knowledge as to what "law" is being referred to and the same is thus denied.

17. Admit or deny that the GMD2 Board has made decisions, set policies and taken actions to direct GMD2's positions in this matter in non-public meetings.

ADMIT

DENY X

Objection: This request is broad, vague, and burdensome and not reasonably calculated to lead to the discovery of admissible evidence.



Thomas A. Adrian, SC #06976

tom.a.adrian@pa.com

ADRIAN & PANKRATZ, P.A.

Attorneys for Equus Beds Groundwater
Management District Number 2

Without waiving said objection, this request is denied. Upon information and belief, all motions by Board have been made in open sessions. There has been no motions made in Executive Session.

Respectfully Submitted,

/s/ Brian K. McLeod

Brian K. McLeod
Deputy City Attorney 455 N.
Main, 13th Floor Wichita,
Kansas 67202 (316) 268-4681
FAX: (316) 268-4335 bmcleod@wichita.gov

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he served the above and foregoing Requests for Admission by electronic mail on this 7th day of December, 2018, addressed to:

Thomas A. Adrian
tom@aplawpa.com
313 Spruce
Halstead, Kansas 67056
David J. Stucky
stucky.dave@gmail.com

And
Leland Rolfs
Leland.rolfs@sbcglobal.net
Attorneys for
Equus Beds Groundwater Management District No. 2

Aaron Oleen
Division of Water Resources
Kansas Department of Agriculture
1320 Research Park Drive
Manhattan, Kansas 66502
Aaron.oleen@ks.gov

and

Tessa M. Wendling 1010
Chestnut Street Halstead,
Kansas 67056
twendling@mac.com

/s/ Brian K. McLeod
Brian K. McLeod Deputy
City Attorney

- a. The identity and location of any persons previously requested, but not affirmatively listed;
- b. The identity or location of persons having knowledge of discoverable information;
- c. The identity of persons expected to testify at hearing, expert or otherwise;
- d. A previous response is incorrect; or
- e. Additional information is obtained and discovered which enables you to make a more complete response.

Any supplemental answers are to be promptly and timely served upon counsel for plaintiff.

4. Any failure to truthfully respond or any attempt to conceal discoverable information, may lead to the imposition of sanctions pursuant to K.S.A. 60-237.
5. If the information requested cannot be ascertained from information in your immediate possession, please state the name, address and telephone number of those persons or entities that have custody, possession or control over the information.
6. If the information requested is subject to a claim of privilege, please state the exact nature and exact substance of the claimed privilege and the names, addresses and telephone numbers of all persons asserting the claimed privilege.
7. All reference to you includes the knowledge of all agents, servants, employees or attorneys who have possession of or who have obtained information for or on behalf of you.

DEFINITIONS

1. "You" and/or "Your" means GMD2, and any board member, agent, consultant, employee, or manager for GMD2.
2. "DWR" means the Division of Water Resources ("DWR"), and any agent, consultant, employee, or manager for DWR.
3. "Chief Engineer" means David Barfield, Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.
4. "Subject Matter" means the content of this administrative hearing including, but not limited to, AMCs, the ASR Permit Modification Proposal, and all related subject matter.
5. "ASR Permit Modification Proposal" means the proposal dated March 12, 2018, that the City submitted to the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.
6. "AMC Proposal" means the Aquifer Maintenance Credits Proposal submitted as part of the ASR Permit Modification Proposal.
7. "AMC" means Aquifer Maintenance Credits.
8. "Aquifer" shall mean the Equus Beds Aquifer.
9. "ASR" shall mean Aquifer Storage and Recovery
10. "As used herein, the term ""document" means any medium upon which intelligence or information can be recorded or retrieved, and includes, without limitation, the original and each copy, regardless of origin and location, of any audio file, book, pamphlet, periodical, letter, memorandum, (including any memorandum or report of a meeting or conversation), contract, agreement, letter, e-mail, facsimile, check, receipt, notice, study, telegram, computer printout, invoice, computer data file, work papers, diary, calendar,

transcript, bill, record, photograph, or any other graphic matter, however produced or reproduced, which is or was Your possession, custody or control.

11. As used herein, the term "communication" means any oral or written utterance of any nature including, but not limited to, correspondence, e-mail, facsimile, conversations, discussions, and consultations, between or among two or more persons.
12. As used herein, the terms "identification," "identify," or "identity," when used in reference to (a) a natural individual, require You to state his or her full name, job title, residential and business addresses and home and business phone numbers; (b) a corporation or business, require You to state its full name and any names under which it does business, the address of its principal place of business, and the addresses of all of its offices; (c) a document, requires You to state the number of pages and the nature of the document (e.g., letter or memorandum), its title, its date, the name or names of its authors and recipients, and its present location and custodian; (d) a communication, requires You to identify the document or documents which refer to or evidence the communication; and (e) an oral communication, requires You to identify the persons participating in the communication and to state the date, manner, place and substance of the communication.
13. When a request for admission requires You to "state the basis of" a particular claim, defense, contention, or allegation, state in Your answer the identity of each and every communication and each and every fact and legal theory that You think supports, refers to, or evidences such claim, defense, contention or allegation.
14. As used herein, the word "or" appearing in a request for admission should not be read so as to eliminate any part of the request for admission, but, whenever applicable, it should have the same meaning as the word "and."

15. As used herein, the words "person" or "entity" mean any natural person, company, business, partnership, corporation, association or other group carrying on a business enterprise.

INTERROGATORIES

1. Identify each person who provided information or otherwise prepared or assisted in the preparation of the responses to these Interrogatories and to the Requests for Production of Documents and the Requests for Admissions served simultaneously with these Interrogatories and specify for each such person the information provided.

RESPONSE:

Tim Boese, Tom Adrian, Lee Rolfs, and Dave Stucky supplied input into the answers on each question.

2. Identify all documents that are relevant to the Subject Matter of this administrative hearing or the AMC Proposal.

RESPONSE:

Objection: This interrogatory is overly broad, vague, and burdensome. The information sought in this discovery is equally, or more, available to the propounding party. The District is not required to prepare the propounding party's case and the propounding party has the burden in this case.



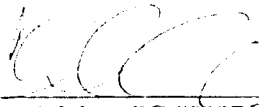
Thomas A. Adrian, SC #06976
tom@aplawa.com
ADRIAN & PANKRATZ, P.A.
Attorneys for Equus Beds Groundwater
Management District Number 2

Without waiving said objection, this interrogatory will be supplemented with the exhibit lists and is also answered by reviewing and referencing all documents produced by all parties in this administrative hearing. These documents do not need to be listed because, upon answering the City's document requests, the City has or will have equal access to all discoverable documents.

3. If any of Your responses to the City's Requests for Admission are anything other than an unqualified admission, provide a detailed explanation of any and all facts that relate to or concern Your responses and identify:
 - a. Any and all persons with facts that relate to or concern Your responses:
 - b. Any and all documents that relate to or concern Your responses.

RESPONSE:

Objection: This request is overly broad, vague, and burdensome. The information sought in this discovery is equally, or more, available to the propounding party. This interrogatory further contains subparts, or compound, conjunctive, or disjunctive questions. This answer also calls for legal conclusions.



Thomas A. Adrian, SC #06976
tom@aplwp.com
ADRIAN & PANKRATZ, P.A.
Attorneys for Equus Beds Groundwater
Management District Number 2

Without waiving said objection, see detailed answers to Requests for Admission. This answer also specifically incorporates all witnesses and documents listed in answers to these requests for admissions, and the District's answers to all prior discovery requests. This answer will also be supplemented by the expert reports, and the witness and exhibit list later produced.

4. If You have ever had any of the documents that are to be identified pursuant to any of these Interrogatories or are to be produced pursuant to any of the Requests for Production of Documents served simultaneously with these Interrogatories but do not now have such document(s) in Your possession, custody, or control, state the following with respect to each such document:
 - a. The present location thereof or all reasons why You cannot or do not know the location thereof.
 - b. The date each such document left Your possession, custody, or control.
 - c. The reasons each such document is not now in Your possession, custody, or control.
 - d. Identify all persons having knowledge about the matters inquired about in the immediately preceding paragraphs (a) through (c).

RESPONSE:

Some documents of the City may have been in the District's control at some point but have been returned to the City. Otherwise, no other documents are responsive to this interrogatory.

5. If any of the documents that are to be identified pursuant to any of these Interrogatories or are to be produced pursuant to any of the Requests for Production of Documents served on You simultaneously with these Interrogatories are withheld under a claim of privilege, or are not produced for whatever reason:
 - a. State with specificity the claim of privilege or other reason to withhold production.
 - b. Identify each such document by date, author, and subject matter, without disclosing its contents, in a manner sufficient to allow it to be described to the Hearing Officer for ruling on the privilege or other reason asserted.
 - c. Produce those portions of any such document that are not subject to a claim of privilege or other reason for non-production by excising or otherwise protecting the portions for which a privilege is asserted, if such a technique does to result in disclosing the contents of the portions for which some privilege is asserted.

RESPONSE:

This interrogatory answer will be addressed at a later time, through answers to the City's Requests for Production of Documents, with a privilege log and any other supplemental response.

6. Identify any person that has or may have knowledge, other than the general public, of the facts related to the Subject Matter of this administrative hearing or the AMC Proposal.

RESPONSE:

Objection: This request is so overly broad, vague, and burdensome that it is generally meaningless and futile. This interrogatory is also objected to in the sense that the “general public” is undefined. The information sought in this discovery is equally, or more, available to the propounding party. The District is not required to prepare the propounding party’s case and the propounding party has the burden in this case. Further, it is unclear to what extent we are following Kansas or Federal law with regard to discovery requests and, accordingly, this interrogatory is additionally objected to as exceeding the allowable number of interrogatories.



Thomas A. Adrian, SC #06976

tom@aplawpa.com

ADRIAN & PANKRATZ, P.A.

Attorneys for Equus Beds Groundwater

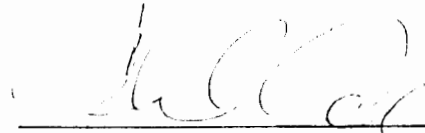
Management District Number 2

Without waiving said objection, in addition to all individuals already listed in previous interrogatory responses, the District lists current and former employees of the District that had at least some level of exposure to the content of the AMC Proposal including, but not limited to: Tim Boese, Steve Flaherty, David Randolph, Rebecca Wilson, Dorinda Albrecht, Daniel Clement, Don Koci, Tracy Rocket, Shelley Watkins, and Mike Dealy. Additionally, the District lists District consultants and experts, including, but not limited to: David Pope, Masih Akhbari, and David M. Romero. Otherwise, the City is already aware of all other individuals responsive to this interrogatory including, but not limited to, past and current employees of DWR, past and current employees of the City, past and current consultants of the City, past and current employees of KGS, and USGS past and current employees. The District further incorporates all individuals listed by the City or DWR in their answers to the District’s interrogatories. The District also incorporates all experts of the District or of the City.

7. Please identify all experts You have hired or consulted with regarding the Subject Matter of this administrative hearing or the AMC Proposal, and:
- Identify all documents that have been provided to all such experts;
 - Identify all documents that have been provided to You by such experts;
 - State the subject matter in which each expert was consulted and the substance of their expected testimony at hearing.

ANSWER:

Objection: It is unclear to what extent we are following Kansas or Federal law with regard to discovery requests and, accordingly, this interrogatory is objected to as exceeding the allowable number of interrogatories.



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Management District Number 2

Without waiving said objection:

David Pope:

- The ASR Permit Modification Proposal, answers to all discovery requests in this administrative hearing, the documents on the DWR website related to this matter, the GMD2 / City of Wichita MOUs relating to the Phase I and Phase II orders, excerpts from the Phase I and Phase II ASR orders, and privileged email correspondence with attorneys and client.
- No expert report has been furnished at this juncture.
- See answer to City's first round of discovery requests and prior expert disclosure. This answer will be supplemented at the expert disclosure deadline.

Masih Akhbari:

- The ASR Permit Modification Proposal and related model and answers to all discovery requests in this administrative hearing.
- No expert report has been furnished at this juncture, except privileged preliminary e-mail correspondence with attorneys and client.
- This answer will be provided by the expert disclosure deadline. However, Mr. Akhbari is expected to testify to a variety of aspects of the City's scientific and hydrogeologic basis for the ASR Permit Modification Proposal including, but not limited to, as to whether the modeling was performed correctly, any errors in the modeling procedure or results, and the impact of the ASR Permit Modification Proposal on the Aquifer.

Dave M. Romero

- a. The AMC Proposal and related model and answers to all discovery requests in this administrative hearing.**
- b. No expert report has been furnished at this juncture, except privileged preliminary e-mail correspondence with attorneys and client.**
- c. This answer will be provided by the expert disclosure deadline. However, Mr. Romero is expected to testify to a variety of aspects of the City's scientific and hydrogeologic basis for the ASR Permit Modification Proposal including, but not limited to, as to whether the modeling was performed correctly, any errors in the modeling procedure or results, and the impact of the ASR Permit Modification Proposal on the Aquifer.**

Tim Boese

- a. All documents in the possession of the District, the ASR Permit Modification Proposal and related model, and all discovery exchanged in this matter.**
- b. No expert report has been furnished at this juncture, except privileged preliminary correspondence with attorneys regarding this matter.**
- c. This answer will be provided by the expert disclosure deadline. However, Mr. Boese is expected to testify to a variety of aspects of the City's scientific and hydrogeologic basis for the ASR Permit Modification Proposal including, but not limited to, as to whether the modeling was performed correctly, any errors in the modeling procedure or results, and the impact of the ASR Permit Modification Proposal on the Aquifer. Mr. Boese will further testify to his understanding of and the development of the rules and regulations for the district. Finally, Mr. Boese will employ his vast knowledge of the Aquifer, water rights, and water law and regulations, from his extensive experience in working for the District and serving on various committees and boards concerning water rights.**

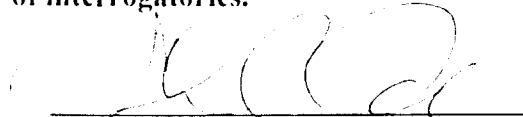
Steve Flaherty

- a. All documents in the possession of the District, the ASR Permit Modification Proposal and related model, and some discovery exchanged in this matter.**
- b. No expert report has been furnished at this juncture, except preliminary correspondence with attorneys regarding this matter.**
- c. This answer will be provided by the expert disclosure deadline. However, Mr. Flaherty is expected to testify to a variety of aspects of the City's scientific and hydrogeologic basis for the ASR Permit Modification Proposal including, but not limited to, as to whether the modeling was performed correctly, any errors in the modeling procedure or results, and the impact of the ASR Permit Modification Proposal on the Aquifer. Finally, Mr. Flaherty will employ his knowledge of the Aquifer, water rights, and water law and regulations, from his experience in working for the District.**

8. If You have ever had any of the documents that are to be identified pursuant to any of these Interrogatories or are to be produced pursuant to any of the Requests for Production of Documents served on You simultaneously with these Interrogatories that have been destroyed, describe in detail the circumstances of and all reasons for such destruction and produce all documents that relate to or concern either the circumstances or the reason for such destruction.

RESPONSE:

Objection: It is unclear to what extent we are following historical Kansas or Federal law with regard to discovery requests and, accordingly, this interrogatory is objected to as exceeding the allowable number of interrogatories.



Thomas A. Adrian, SC #06976

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Attorneys for Equus Beds Groundwater
Management District Number 2

Without waiving said objection, upon information and belief, no documents have been intentionally destroyed in contravention of Kansas law on record retention.

9. Please indicate any and every meeting and communication You have had with the DWR about the Subject Matter. Please include the date of each meeting and/or communication, the individuals involved in any meeting and/or communication, the subject matter of each communication and/or meeting, and the location of any communication and/or meeting.

RESPONSE:

Objection: This interrogatory is overly broad, vague, and burdensome and not reasonably calculated to lead to admissible evidence. This interrogatory is designed to harass the District with its scope. Further, "Subject Matter" is too broadly defined and no time period is specified in this interrogatory. This answer also requires the creation of lists and documents not in existence, or best left for document requests. Further, it is unclear to what extent we are following Kansas or Federal law with regard to discovery requests and, accordingly, this interrogatory is additionally objected to as exceeding the allowable number of interrogatories.



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Management District Number 2

Without waiving said objection, this will be answered by documents produced and through any accompanying privilege log. This interrogatory answer will be addressed at a later time, through answers to the City's Requests for Production of Documents, with a privilege log and any other supplemental response

10. Please identify each water right which You contend will be adversely affected by any aspect of the proposed permit modifications, and for each such water right explain how it will be impacted as to quantity or quality, or both, and set forth the facts supporting Your contentions, including an identification of any pertinent documents.

RESPONSE:

Objection: This interrogatory is overly broad, vague, and burdensome. The information sought in this discovery is equally, or more, available to the propounding party. Moreover, this discovery request seeks the legal reasoning and theories of propounding party's contentions. The District is not required to prepare the propounding party's case and the propounding party has the burden in this case. This interrogatory further contains subparts, or compound, conjunctive, or disjunctive questions. Further, it is unclear to what extent we are following Kansas or Federal law with regard to discovery requests and, accordingly, this interrogatory is additionally objected to as exceeding the allowable number of interrogatories.



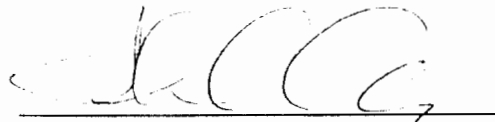
Thomas A. Adrian, SC #06976
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Attorneys for Equus Beds Groundwater
Management District Number 2

Without waiving said objection, see our answer to the prior interrogatory in the City's First Set of Interrogatories regarding impairment, which is fully incorporated herein. By way of further answer, it is contended that every water right in the basin storage area of the District has the potential to be adversely impacted by the permit modifications and the City's ASR Permit Modification Proposal. The ASR Permit Modification Proposal has the potential of further lowering the water table during times of drought. This will impact all users of the Aquifer in the basin storage area. If the water table is unreasonably lowered, this will have a variety of impacts to the water quality including, but not limited to, the fact that the movement of the salt contamination will increase and will impact the quality of the water in the basin storage area. This contention will be supported by the testimony of the experts listed above, by current and former employees of the District, and by numerous other stakeholders in the District and others.

11. Please explain in detail whether the water quality of the Aquifer will be impacted by the AMC Proposal and Your rationale.

RESPONSE:

Objection: This interrogatory is overly broad, vague, and burdensome. The information sought in this discovery is equally, or more, available to the propounding party. Moreover, this discovery request seeks the legal reasoning and theories of propounding party's contentions. The District is not required to prepare the propounding party's case and the propounding party has the burden in this case. This interrogatory further contains subparts, or compound, conjunctive, or disjunctive questions. Further, it is unclear to what extent we are following Kansas or Federal law with regard to discovery requests and, accordingly, this interrogatory is additionally objected to as exceeding the allowable number of interrogatories.



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Attorneys for Equus Beds Groundwater

Management District Number 2

Without waiving said objection, see answer to interrogatory number 10.

Respectfully Submitted,

/s/ Brian K. McLeod

Brian K. McLeod
Deputy City Attorney
455 N. Main, 13th Floor
Wichita, Kansas 67202
(316) 268-4681
FAX: (316) 268-4335
bmcleod@wichita.gov

VERIFICATION

STATE OF KANSAS)
) ss.
COUNTY OF HARVEY)

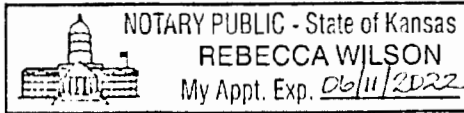
Timothy D. Boese, being of lawful age and being duly sworn upon oath, deposes and states that he is the Manger for Equus Beds Groundwater Management District Number 2, a party herein; that he has read the above and foregoing interrogatories and responses and that the answers, statements and allegations therein above contained are true and correct to the best of his information, knowledge and belief.

Timothy D. Boese

SUBSCRIBED AND SWORN to before me, a Notary Public, in and for the aforesaid state and county, this 4TH day of FEBRUARY, 2019.

Rebecca Wilson
Notary Public

My Appointment Expires:
06/11/2022



CERTIFICATE OF SERVICE


The undersigned hereby certifies that he or she served the above and foregoing Responses to Interrogatories upon counsel for the other parties herein by electronic mail, this 4 day of February, 2019, addressed to:

Brian K. McLeod
Deputy City Attorney
The City of Wichita, Kansas
455 N. Main – 13th Floor
Wichita, Kansas 67202
bmcleod@wichita.gov

Aaron Oleen
Division of Water Resources
Kansas Department of Agriculture
1320 Research Park Drive
Manhattan, Kansas 66502
Aaron.oleen@ks.gov

and

Tessa M. Wendling
1010 Chestnut Street
Halstead, Kansas 67056
twendling@mac.com



Thomas A. Adrian, SC #06976
tom@aplawpa.com
ADRIAN & PANKRATZ, P.A.
Attorneys for Equus Beds Groundwater
Management District Number 2

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he or she served the above and foregoing Interrogatories upon counsel for the other parties herein by electronic mail, this 7th day of December, 2018, addressed to:

Thomas A. Adrian
tom@aplawpa.com
313 Spruce
Halstead, Kansas 67056
David J. Stucky
stucky.dave@gmail.com

And
Leland Rolfs
Leland.rolfs@sbcglobal.net
Attorneys for
Equus Beds Groundwater Management District No. 2

Aaron Oleen
Division of Water Resources
Kansas Department of Agriculture
1320 Research Park Drive
Manhattan, Kansas 66502
Aaron.oleen@ks.gov

and

Tessa M. Wendling
1010 Chestnut Street
Halstead, Kansas 67056
twendling@mac.com

/s/ Brian k. McLeod _____
Brian K. McLeod
Deputy City Attorney
455 N. Main, 13th Floor
Wichita, Kansas 67202
(316) 268-4681
FAX: (316) 268-4335
bmcleod@wichita.gov

**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

**EQUUS BEDS GROUNDWATER MANAGEMENT ANSWERS TO
CITY OF WICHITA'S PRODUCTION REQUEST
TO EQUUS BEDS GROUNDWATER MANAGEMENT DISTRICT NO. 2**

COMES NOW the City of Wichita, Kansas (the "City"), a party herein, and requests production of documents by Equus Beds Groundwater Management District Number 2 ("GMD2") as set forth below.

DEFINITIONS

1. "You" and/or "Your" means GMD2, and any board member, agent, consultant, employee, or manager for GMD2.
2. "DWR" means the Division of Water Resources ("DWR"), and any agent, consultant, employee, or manager for DWR.
3. "Chief Engineer" means David Barfield, Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.
4. "Subject Matter" means the content of this administrative hearing including, but not limited to, AMCs, the ASR Permit Modification Proposal, and all related subject matter.
5. "ASR Permit Modification Proposal" means the proposal dated March 12, 2018, that the City submitted to the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.

1



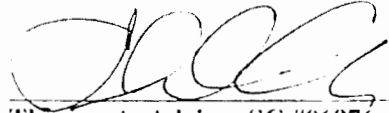
6. "AMC Proposal" means the Aquifer Maintenance Credits Proposal submitted as part of the ASR Permit Modification Proposal.
7. "AMC" means Aquifer Maintenance Credits.
8. "Aquifer" shall mean the Equus Beds Aquifer.
9. "ASR" shall mean Aquifer Storage and Recovery
10. "As used herein, the term "document" means any medium upon which intelligence or information can be recorded or retrieved, and includes, without limitation, the original and each copy, regardless of origin and location, of any audio file, book, pamphlet, periodical, letter, memorandum, (including any memorandum or report of a meeting or conversation), contract, agreement, letter, e-mail, facsimile, check, receipt, notice, study, telegram, computer printout, invoice, computer data file, work papers, diary, calendar, transcript, bill, record, photograph, or any other graphic matter, however produced or reproduced, which is or was Your possession, custody or control.
11. As used herein, the term "communication" means any oral or written utterance of any nature including, but not limited to, correspondence, e-mail, facsimile, conversations, discussions, and consultations, between or among two or more persons.
12. As used herein, the terms "identification," "identify," or "identity," when used in reference to (a) a natural individual, require You to state his or her full name, job title, residential and business addresses and home and business phone numbers; (b) a corporation or business, require You to state its full name and any names under which it does business, the address of its principal place of business, and the addresses of all of its offices; (c) a document, requires You to state the number of pages and the nature of the document (e.g., letter or memorandum), its title, its date, the name or names of its authors

- and recipients, and its present location and custodian; (d) a communication, requires You to identify the document or documents which refer to or evidence the communication; and (e) an oral communication, requires You to identify the persons participating in the communication and to state the date, manner, place and substance of the communication.
13. When a request for admission requires You to "state the basis of a particular claim, defense, contention, or allegation, state in Your answer the identity of each and every communication and each and every fact and legal theory that You think supports, refers to, or evidences such claim, defense, contention or allegation.
14. As used herein, the word "or" appearing in a request for admission should not be read so as to eliminate any part of the request for admission, but, whenever applicable, it should have the same meaning as the word "and."
15. As used herein, the words "person" or "entity" mean any natural person, company, business, partnership, corporation, association or other group carrying on a business enterprise.

REQUESTS

1. Please furnish all communications between GMD2 Board Members, or between any GMD2 Board member(s) and GMD2 staff or outside consultants concerning the City's ASR project or ASR Permit Modification Proposal.

Objection: This request is overly broad, vague, and burdensome and not reasonably calculated to lead to admissible evidence. Additionally, the term "ASR project" is not defined and no time frame is stipulated. The City's "ASR project" has been discussed for at least the last 20 years, so it unreasonable to request all related communications. This request also seeks information not in the control of the District. Further, this request invades the immunity afforded to decision makers of governmental bodies.



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ADRIAN & PANKRATZ, P.A.

Attorneys for Equus Beds Groundwater
Management District Number 2

Without waiving said objection, requested communications involving District staff are produced from the time period that the ASR Permit Modification Proposal was officially submitted by the City to the Chief Engineer. District Staff did a reasonable good faith search of e-mails by searching the term "ASR", but in this digital age, it is impossible to guarantee that all e-mails have been located. Due to the large volume of communications, a CD or USB drive containing the communications will be mailed to the City. Additionally, the District believes that all communications between the District and the collective Board of Directors included District Board Member and City employee Joe Pajor, so the City is already in possession of these communications.

2. Please provide all communications or correspondence between You and DWR concerning the City's ASR project or the City's ASR Permit Modification Proposal.

Objection: This request is overly broad, vague, and burdensome and not reasonably calculated to lead to admissible evidence. Additionally, the term "ASR project" is not defined and no time frame is stipulated. The City's "ASR project" has been discussed for at least the last 20 years, so it unreasonable to request all related communications.

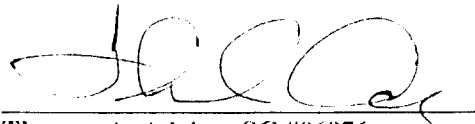


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Management District Number 2

Without waiving said objection, requested communications involving District staff are produced from the time period that the ASR Permit Modification Proposal was officially submitted by the City to the Chief Engineer. District Staff did a reasonable good faith search of e-mails by searching the term "ASR", but in this digital age, it is impossible to guarantee that all e-mails have been located. Due to the large volume of communications, a CD or USB drive containing the communications will be mailed to the City. Additionally, the District believes that all relevant letter communications between the District and DWR included a copy to the City at the time the letter was sent, so the City is already in possession of these communications.

3. Please provide an electronic copy of any groundwater model(s) used by You to evaluate the ASR Permit Modification Proposal, including all inputs, outputs, calibration, and adjustments.

Objection: This request is overly broad, vague, and burdensome and not reasonably calculated to lead to admissible evidence. This request is ambiguous as the term “model” is not defined. Further, to the extent the term models is properly understood, all models utilized are already in the possession of the City. Thus, there are no documents/electronic copies necessary to produce. Further, depending on how broadly the term “model” is defined, some of this information may still be in the possession of Steve Flaherty.



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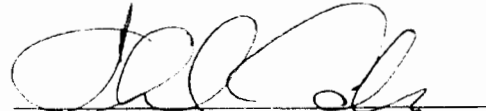
Attorneys for Equus Beds Groundwater

Management District Number 2

Without waiving said objection, the Experts used by the District may have manipulated the City’s model and utilized various other models to generate their expert reports. Any modifications or analysis used is already documented in those reports. The City is welcome to arrange a mutually beneficial time to analyze any of the models used by the District’s Experts. In fact, the District would welcome a “mediation” of sorts in an effort to resolve any modeling disputes.

4. Please furnish all documents relating to the work product of any expert who is expected to testify in this administrative hearing, including, but not limited to, documents evidencing, substantiating, referring or relating to: (a) each expert's factual observations and opinions; (b) the subject matter on which each expert was consulted and/or; (c) a summary of the grounds of each opinion; (d) all documents generated by, prepared by, provided to, relied upon, or reviewed by any such expert; (e) all documents provided to You by each expert, including but not limited to notes, reports, summaries, and correspondence; (f) documents evidencing the hourly rate of each expert, the method of determining the amount to be paid to the expert, the amount of fees earned by the expert to date, the amount of fees currently owed to the expert, the amount of fees billed to You by the expert, and the amount paid to the expert to date; and (g) a resume or curriculum vitae or other document summarizing such expert's qualifications within the field or discipline or area with respect to this litigation with regard to which such expert was consulted.

Objection: This request is overly broad, vague, and burdensome.



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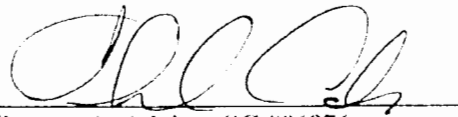
Management District Number 2

Without waiving said objection, the experts' reports have already been furnished.

***We also did not answer phantom requests for production numbers 5-8.

9. Please furnish all documents relating to the work product of any consulting expert whose work will provide the basis, in whole or in part, of the testimony of any expert who will testify as a witness in this administrative hearing, including, but not limited to, documents evidencing, substantiating, referring or relating to: (a) each expert's factual observations and opinions; (b) the subject matter on which each expert was consulted; (c) a summary of the grounds of each opinion; (d) all documents generated by, prepared by, provided to, relied upon, or reviewed by any such expert; (e) all documents provided to You by each expert, including but not limited to reports, summaries, and correspondence; (f) documents evidencing the hourly rate of each expert, the method of determining the amount to be paid to the expert, the amount of fees earned by the expert to date, the amount of fees currently owed to the expert, the amount of fees billed to You by the expert, and the amount paid to the expert to date; and (g) a resume or curriculum vitae or other document summarizing such expert's qualifications within the field or discipline or area with respect to this litigation with regard to which such expert was consulted.

Objection: This request is overly broad, vague, and burdensome.



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Attorneys for Equus Beds Groundwater
Management District Number 2

Without waiving said objection, the email of Mary Knapp is submitted on the CD or USB drive being mailed to the City.

10. Please furnish all documents upon which You relied or referred to in answering the City's Interrogatories.

See produced documents, not already in City's possession. The City's proposal and Kansas statutes and regulations were also reviewed, which obviously will also not be produced as said documents are already readily in the possession of the City.

11. Please furnish all documents upon which You relied or referred to in answering the City's First Set of Requests for Admission.

See produced documents, not already in City's possession. The City's proposal and Kansas statutes and regulations were also reviewed, which obviously will also not be produced as said documents are already readily in the possession of the City.

12. Please provide all communications or correspondence, not privileged, between You and any third party concerning the City's ASR Project or the City's ASR Permit Modification Proposal.

Objection: This request is overly broad, vague, and burdensome and not reasonably calculated to lead to admissible evidence. Additionally, the term "ASR project" is not defined and no time frame is stipulated. The City's "ASR project" has been discussed for at least the last 20 years, so it unreasonable to request all related communications.



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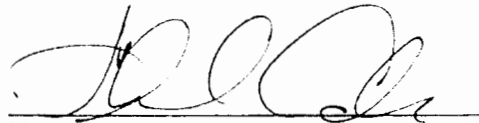
ADRIAN & PANKRATZ, P.A.

Attorneys for Equus Beds Groundwater
Management District Number 2

Without waiving said objection, requested non-privileged communications involving District staff are produced from the time period that the ASR Permit Modification Proposal was officially submitted by the City to the Chief Engineer. District Staff did a reasonable good faith search of e-mails by searching the term "ASR", but in this digital age, it is impossible to guarantee that all e-mails have been located. Due to the large volume of communications, a CD or USB drive containing the communications will be mailed to the City.

13. Please produce all communications, not privileged, between You and/or Your attorneys and with Your experts in this case regarding the Subject Matter or the AMC Proposal.

Objection: This request is overly broad, vague, and burdensome and not reasonably calculated to lead to admissible evidence. All documents sought by this request are protected by attorney-client privilege and/or work product doctrine.



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Management District Number 2

14. Please provide any and all documents, models, displays, exhibits, or any other form of demonstrative evidence which may be used as an exhibit at the administrative hearing in this matter.

In addition to the produced documents and previously submitted expert reports, this will be supplemented as any necessary exhibit lists are furnished and as documents are organized.

15. Please provide all handwritten or recorded personal notes (including computer entries) or other documents of any kind whatsoever, including calendars, diaries, or similar documents made regarding the events and incidents which form the basis of this Subject Matter.

Objection: This request is overly broad, vague, and burdensome and not reasonably calculated to lead to admissible evidence.



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Attorneys for Equus Beds Groundwater
Management District Number 2

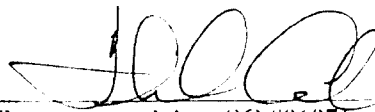
Without waiving said objection, electronic calendars and any other documents found that fall within the ambit of this request are submitted on the CD or USB drive being mailed to the City.

16. Please provide any and all documents relating to non-retained experts You may call at the administrative hearing.

See expert disclosures and witness lists. By way of further answer, no such witnesses are known at this time and thus this request will be supplemented at a later time as this decision is made.

17. Please provide all records, including digital or magnetic audio recordings, of all GMD2 Board meetings at which the City's ASR Project or the City's ASR Permit Modification proposal was discussed.

Objection: This request is duplicative as this is, in part, the subject of a KORA complaint filed by the City against the District. The Attorney General has not yet ruled on the KORA complaint. If directed by the Attorney General, a member of the City is free to listen to any available recordings.



Thomas A. Adrian, SC #06976

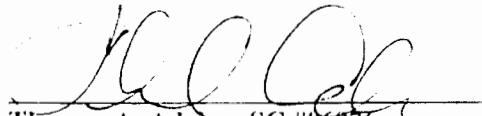
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18. Please provide all records of GMD2's procurement proceedings for the selection of consultants or outside counsel in connection with the Subject Matter, including the specifications for services to be provided, the basis upon which responses were solicited, the criteria upon which the selection was made, and all steps taken to comply with K.S.A. 44-1001, *et seq.* the Kansas Acts Against Discrimination.

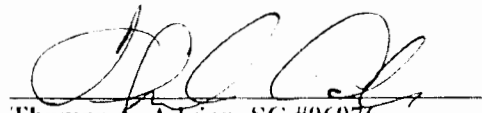
Objection: This request is overly broad, vague, and burdensome and not reasonably calculated to lead to admissible evidence. K.S.A. 44-1001, *et seq.* has no relevance to hiring experts or counsel to assist with this administrative hearing. This request further invades attorney/client privilege and the work product doctrine.



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19. All contracts or letters of engagement between Leland Rolfs and GMD2 relating to the performance of services in connection with the Subject Matter.

Objection: This request is duplicative as this is, in part, the subject of a KORA complaint filed by the City against the District. The Attorney General has not yet ruled on the KORA complaint. If directed by the Attorney General, the document(s) subject to the KORA complaint will be provided. This request further invades attorney/client privilege and the work product doctrine.



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Respectfully Submitted.

/s/ Brian K. McLeod

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that he or she served the above and foregoing Requests for Production upon counsel for the other parties herein by electronic mail, this 7th day of December, 2018, addressed to:

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