

**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** ) **Case No. 18 WATER 14014**  
**In Harvey and Sedgwick Counties, Kansas** )  
\_\_\_\_\_ )  
**Pursuant to K.S.A. 82a-1901 and K.A.R. 5-14-3a**

**CITY OF WICHITA'S RESPONSE TO REMAINING MOTIONS OF  
EQUUS BEDS GROUNDWATER MANAGEMENT DISTRICT NO. 2 AND  
INTERVENERS**

The City of Wichita, Kansas (the "City") submits the following as written responses to those Motions recently submitted by Equus Beds Groundwater Management District No. 2 ("GMD2") and the Interveners herein, which have not been specifically addressed by the responses previously filed by the City:

1. The City joins in DWR's response to GMD2's Motion to Compel directed to DWR.
2. The City joins in DWR's response to GMD2's effort to suppress recommendations by DWR witnesses. The City adds that, to the extent GMD2 purports to worry about the Hearing Officer's impartiality, GMD2 should affirmatively support provision of recommendations to the Hearing Officer by DWR's professional staff.
3. With respect to the Motion to Ensure Impartiality of Hearing Officer, the City sees nothing in the cherry-picked allegations and insinuations within such Motion that would indicate "an irrevocably closed mind on the subject matter under investigation or adjudication." However, the City has no objection to the Chief Engineer reviewing and ruling on the question, which he is uniquely positioned to determine.
4. Under normal practice standards, a "summary judgment" motion entails a 21-day response time, and a 14-day period for the movant to reply to the response (See, K.S.A. 60-256). Accordingly, when such motions are offered as "prehearing

motions,” there is a practical necessity that they be submitted more than 35 days prior to the scheduled hearing. Otherwise, they cannot be determined as “prehearing motions,” and, once the hearing record has been developed, the more logical and efficient mechanism to assist the Hearing Officer in resolving the issues would be submission by all parties of Proposed Findings of Fact and Conclusions of Law, with citations to the supporting testimony and documents. Accordingly, the City requests that GMD2’s “summary judgment” Motion be struck as untimely, with the understanding that the parties may instead submit Proposed Findings of Fact and Conclusions of Law after the hearing has concluded and the post-hearing period for submission of written evidence has closed.

5. The “Motion,” of Intereveners is not really a motion, but essentially a response joining in GMD2’s various Motions. Accordingly, the City incorporates its responses to the various Motions of GMD2 as its response to Interveners’ Motion.

WHEREFORE, the various Motions responded to herein should be resolved as suggested above.

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 Remaining Motions of GMD2 and Interveners by electronic mail on this 18th day of March, 2019, for filing, to [David.Barfield@ks.gov](mailto:David.Barfield@ks.gov) and [Kenneth.Titus@ks.gov](mailto:Kenneth.Titus@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](mailto:tom@aplawpa.com)  
[stucky.dave@gmail.com](mailto:stucky.dave@gmail.com)  
313 Spruce  
Halstead, Kansas 67056

And  
Leland Rolfs  
[Leland.rolfs@sbcglobal.net](mailto: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](mailto:Aaron.oleen@ks.gov)

and

Tessa M. Wendling  
1010 Chestnut Street  
Halstead, Kansas 67056  
[twendling@mac.com](mailto:twendling@mac.com)

/s/ Brian K. McLeod  
Brian K. McLeod