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<p>1 .</p> <p>2 STATE OF KANSAS</p> <p>3 BEFORE THE DIVISION OF WATER RESOURCES</p> <p>4 KANSAS DEPARTMENT OF AGRICULTURE</p> <p>5 .</p> <p>6 .</p> <p>7 In the Matter of the</p> <p>8 City of Wichita's</p> <p>9 Phase II Aquifer</p> <p>10 Storage and Recovery Case No. 18 WATER 14014</p> <p>11 Project in Harvey and</p> <p>12 Sedgwick Counties, Kansas</p> <p>13 .</p> <p>14 DEPOSITION OF</p> <p>15 LANE LETOURNEAU,</p> <p>16 taken on behalf of Equus Beds Groundwater</p> <p>17 Management District #2, pursuant to Notice to Take</p> <p>18 Deposition Duces Tecum, beginning at 9:12 a.m. on</p> <p>19 the 8th day of March, 2019, at the State of Kansas</p> <p>20 Division of Water Resources, Kansas Water Office,</p> <p>21 900 Southwest Jackson, Room 456, in the City of</p> <p>22 Topeka, County of Shawnee, and State of Kansas,</p> <p>23 before Jill A. Whetter, RPR, Missouri CCR No.</p> <p>24 1058, and Kansas CCR No. 1485.</p> <p>25 .</p>	<p>1 Mr. Leland E. Rolfs</p> <p>2 Leland Rolfs Consulting</p> <p>3 4214 Southeast Michigan Avenue</p> <p>4 Topeka, Kansas 66609</p> <p>5 785.845.7802</p> <p>6 leland.rolfs@sbcglobal.net</p> <p>7 .</p> <p>8 Mr. Tim Boese, manager</p> <p>9 Equus Beds Groundwater Management</p> <p>10 District #2</p> <p>11 313 Spruce Street</p> <p>12 Halstead, Kansas 67056</p> <p>13 316.835.2224</p> <p>14 tboese@gmd2.org</p> <p>15 .</p> <p>16 .</p> <p>17 ON BEHALF OF KANSAS DEPARTMENT OF AGRICULTURE:</p> <p>18 .</p> <p>19 Mr. Aaron Oleen</p> <p>20 Ms. Stephanie Murray</p> <p>21 Kansas Department of Agriculture</p> <p>22 1320 Research Park Drive</p> <p>23 Manhattan, Kansas 66502</p> <p>24 785.564.6715</p> <p>25 aaron.oleen@ks.gov</p>
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<p>1 APPEARANCES</p> <p>2 .</p> <p>3 .</p> <p>4 ON BEHALF OF THE CITY OF WICHITA:</p> <p>5 .</p> <p>6 Mr. Brian McLeod (by telephone)</p> <p>7 Deputy City Attorney</p> <p>8 City of Wichita, Kansas</p> <p>9 455 North Main, 13th Floor</p> <p>10 Wichita, Kansas 67202</p> <p>11 316.268.4681</p> <p>12 bmcleod@wichita.gov</p> <p>13 .</p> <p>14 .</p> <p>15 ON BEHALF OF EQUUS BEDS GROUNDWATER MANAGEMENT</p> <p>16 DISTRICT #2:</p> <p>17 .</p> <p>18 Mr. David J. Stucky (by telephone)</p> <p>19 Adrian &amp; Pankratz, P.A.</p> <p>20 Old Mill Plaza</p> <p>21 301 North Main Street, Suite 400</p> <p>22 Newton, Kansas 67114</p> <p>23 316.283.8746</p> <p>24 stucky.dave@gmail.com</p> <p>25 .</p>	<p>1 ON BEHALF OF THE INTERVENOR:</p> <p>2 .</p> <p>3 Ms. Tessa M. Wendling (by telephone)</p> <p>4 Wendling Law, LLC</p> <p>5 1010 Chestnut Street</p> <p>6 Halstead, Kansas 67056</p> <p>7 773.459.8147</p> <p>8 twendling@mac.com</p> <p>9 .</p> <p>10 .</p> <p>11 .</p> <p>12 .</p> <p>13 .</p> <p>14 .</p> <p>15 .</p> <p>16 .</p> <p>17 .</p> <p>18 .</p> <p>19 .</p> <p>20 .</p> <p>21 .</p> <p>22 .</p> <p>23 .</p> <p>24 .</p> <p>25 .</p>



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1 (THEREUPON, LETOURNEAU Deposition

2 Exhibits No 1, No 2, No 3, No 4, No 5 and No 6

3 were marked for identification.)

4 LANE LETOURNEAU,

5 of lawful age, produced, sworn and examined on

6 behalf of Equus Beds Groundwater Management

7 District #2, deposes and says:

8 MR. ROLFS: Okay. I think, then, we'll

9 go around and enter appearances. I'll start with

10 the people on the phone. Brian?

11 MR. MCLEOD: Brian McLeod for the City of

12 Wichita.

13 MR. ROLFS: David?

14 MR. STUCKY: David Stucky with the

15 District.

16 MR. ROLFS: Tessa?

17 MS. WENDLING: Tessa Wendling with the

18 Intervenors.

19 MR. ROLFS: Okay. And then here in the

20 room we have...

21 MS. BOESE: Tim Boese, Equus Beds GMD2.

22 MR. ROLFS: And I'm Leland Rolfs

23 representing the District.

24 THE WITNESS: I am Lane Letourneau, the

25 water appropriation program manager for the Kansas

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1 Department of Agriculture's Division of Water

2 Resources.

3 MR. OLEEN: Aaron Oleen, staff attorney

4 with the KDA.

5 MS. MURRAY: Stephanie Murray, staff

6 attorney with the KDA.

7 MR. ROLFS: Okay. Thank you.

8 DIRECT-EXAMINATION

9 BY MR. ROLFS:

10 Q. Just to start off, we'll just talk about

11 some basic deposition protocol. We need you to

12 answer your questions out loud, verbally, yes or

13 no, not nodding, not uh-huh or huh-uh, that sort

14 of thing.

15 As you're aware, the purpose of the court

16 reporter is to take a transcription of this

17 particular interview.

18 And if some question I ask you is not clear,

19 just ask me to rephrase it. I'm anticipating in

20 an hour, or so, we'll take a break and see where

21 we are at that point in time, as far as what's

22 going on.

23 Now, I have had six documents marked for this

24 deposition, the Subpoena, your Answers to the

25 First Interrogatories, the Second Interrogatories,



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1 the First Request for Admission, the Second  
 2 Request for Admission, and then the Amended Answer  
 3 to the Second Interrogatories, specifically, Item  
 4 16.  
 5 And so I need you to identify the -- I guess  
 6 I should have pulled the copy or -- I guess you  
 7 can look at the top one, but I need you to  
 8 identify that you're the person that signed -- not  
 9 the Subpoena, but the other documents. Is -- this  
 10 is your signature on these --  
 11 A. Okay.  
 12 Q. -- documents? There are five copies  
 13 there of each of them, so you don't have to --  
 14 (THEREUPON, an off-the-record discussion  
 15 was had.)  
 16 MR. ROLFS: Sorry, I should have pulled  
 17 one copy off of each.  
 18 THE WITNESS: Yeah, this -- this is fine.  
 19 Fine, long as nobody's in a hurry, we're good.  
 20 BY MR. ROLFS:  
 21 Q. So you signed all -- the last -- latter  
 22 five of the documents?  
 23 A. Correct. I -- those were documents that  
 24 I had signed.  
 25 Q. All right. Did you bring a CV or a

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1 resume in accordance with the Subpoena?  
 2 A. Yes. Who do I hand it to?  
 3 MR. OLEEN: We'll give one to the  
 4 reporter, and she can mark it.  
 5 MR. ROLFS: Yeah, that would be number 7.  
 6 (THEREUPON, an off-the-record discussion  
 7 was had; WHEREUPON, LETOURNEAU Deposition Exhibit  
 8 No 7 was marked for identification.)  
 9 MR. ROLFS: I guess it will be a little  
 10 hard for you on the phone to look as this, but  
 11 it's been labeled Exhibit No. 7 to these  
 12 proceedings.  
 13 BY MR. ROLFS:  
 14 Q. And so, basically, I just want to know  
 15 about your education and work experience, if you'd  
 16 fill me in on that?  
 17 A. I've got a Bachelor of Science degree in  
 18 geology from Fort Hays State University.  
 19 Q. Okay.  
 20 A. Right out of college, I was -- what the  
 21 title was, I was an open hole and cased hole  
 22 engineer for Great Guns Perforating and Logging  
 23 out of Hays. I logged open hole for lithology and  
 24 fluid content, and then cased hole, I perforated  
 25 the casing to allow for the oil to come in. I

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1 can't remember now how many -- I was on over 300  
 2 wells, I believe, in those years. The one -- the  
 3 one -- I -- there's one year in here that I did  
 4 not put on here, is when I worked for Frontier  
 5 Tire and Auto in Salina, because the oil field had  
 6 gone down, and I didn't think a tire technician  
 7 was relevant to this work. And then -- then I  
 8 went to work for the -- at that time, it was  
 9 Kansas Board of Agriculture, Division of Water  
 10 Resources. I was a hydrologist I in the new  
 11 application to the change unit. And then the  
 12 water use report program took off a year later,  
 13 and I was considered the water use coordinator.  
 14 Q. Uh-huh.  
 15 A. '88 to -- well, '89, then, to 2006, and  
 16 that position grew then to the compliance and  
 17 enforcement water use, and then the certificate  
 18 unit. And then when Tom Hunsinger (spelled  
 19 phonetically) resigned, I became the program  
 20 manager over the Water Appropriation program in  
 21 2006 to present.  
 22 Q. Uh-huh. So this was -- when you were in  
 23 the water use, that was in response to the  
 24 Legislation in '80 -- was it '88 that --  
 25 A. 1987, Legislation gave us the civil

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1 penalty authority, then, to collect annual water  
 2 use reports, and then we implemented that, then,  
 3 in 1988, because water use is always a year  
 4 behind, and so, correct, that's when that position  
 5 -- a couple of positions came out of that  
 6 Legislation, and the water use coordinator was one  
 7 of them, and a data entry clerk was part of that.  
 8 Q. So that's when water use reporting really  
 9 became mandatory --  
 10 A. Correct.  
 11 Q. -- for the first time.  
 12 A. Uh-huh.  
 13 Q. Okay. So currently, you're water  
 14 appropriation program manager, then, and do  
 15 generally -- could you generally describe your  
 16 duties?  
 17 Just a second.  
 18 MR. ROLFS: Is everybody on the phone  
 19 able to hear?  
 20 MR. MCLEOD: I am.  
 21 MR. ROLFS: Okay.  
 22 MS. WENDLING: Yup.  
 23 MR. ROLFS: All right.  
 24 MR. STUCKY: I am.  
 25 MR. ROLFS: That's -- just want to make



1 sure you're not in the dark out there.  
 2 THE WITNESS: Yeah. So the water  
 3 appropriation program manager basically is the  
 4 supervisor over new app -- the new application  
 5 unit, the certificate unit, the change application  
 6 unit, the water use, and compliance and  
 7 enforcement unit, and then also over the four  
 8 field offices, and then the one regional office.  
 9 Our field offices are located in Topeka,  
 10 Stafford, Stockton, and Garden City, with a  
 11 satellite office in Parsons that is supervised by  
 12 our Topeka field office.  
 13 BY MR. ROLFS:  
 14 Q. You said regional (sic) office?  
 15 A. We call it the satellite office or --  
 16 Q. Oh, okay.  
 17 A. -- regional office. Yeah, satellite --  
 18 Q. It's the same thing.  
 19 A. Yes.  
 20 Q. Okay.  
 21 A. Yeah. Yeah, it's what's a single-person  
 22 office in Parsons.  
 23 Q. Uh-huh. All right. Well, thank you.  
 24 In preparation for this deposition, what --  
 25 generally, what documents did you review?

1 boiling it down.  
 2 Q. So you're talking about the Burns &  
 3 McDonnell report?  
 4 A. Yes. I'll be clear. It's the Burns &  
 5 McDonnell, ASR permit modification proposal that  
 6 we receive -- that's dated March 12, 2018.  
 7 MR. ROLFS: Okay. I suppose we should  
 8 mark those.  
 9 MR. OLEEN: Yeah.  
 10 BY MR. ROLFS:  
 11 Q. Do you have extra copies?  
 12 A. I don't have an extra copy, but...  
 13 MR. OLEEN: We'll just mark these.  
 14 THE WITNESS: Okay.  
 15 MR. OLEEN: You can get copies of  
 16 these --  
 17 THE WITNESS: I can give them to him,  
 18 yeah.  
 19 MR. OLEEN: -- elsewhere.  
 20 THE WITNESS: How do you --  
 21 MR. ROLFS: Well, if he needs to refer to  
 22 them --  
 23 THE WITNESS: I'm going to probably refer  
 24 to them.  
 25 MR. ROLFS: -- we probably want to go

1 A. Quickly reviewed the Interrogatories that  
 2 we prepared, I reviewed correspondence back to the  
 3 Groundwater Management District when they had sent  
 4 in some questions, and that's -- that's pretty  
 5 much it, yeah.  
 6 Q. Okay. Did you bring any other documents  
 7 today that have been generated or you have relied  
 8 on since discovery closed?  
 9 A. The -- it's an excerpt out of the  
 10 discovery things, because when you -- because when  
 11 I'm getting a lot of questions --  
 12 Q. Uh-huh?  
 13 A. -- I summed up two items. You folks  
 14 already have it, but I'll -- because it's summed  
 15 up, I want you to be able to see these.  
 16 Q. Okay.  
 17 A. It's some bullet points that we put  
 18 together about the project. And this has -- this  
 19 hasn't changed since prior to the public meeting  
 20 we held. And then when I get questions, when we  
 21 hear the extravagant quantities coming from the  
 22 basin, I pulled out from the proposal a table that  
 23 was provided to us in the proposal given to us  
 24 3/12 of '18. And so those are the documents that  
 25 I refer to when I am talking to people, just

1 through them just a little bit.  
 2 MR. OLEEN: Sure.  
 3 MR. ROLFS: And we need a copy for the  
 4 court reporter, also, so...  
 5 MR. OLEEN: Why don't you mark this one  
 6 as --  
 7 THE REPORTER: 8.  
 8 MR. OLEEN: -- 8, and this one as 9.  
 9 THE REPORTER: Okay.  
 10 MR. OLEEN: And off the record.  
 11 (THEREUPON, an off-the-record discussion  
 12 was had; WHEREUPON, LETOURNEAU Deposition Exhibits  
 13 No 8 and No 9 were marked for identification.)  
 14 BY MR. ROLFS:  
 15 Q. Okay. So we're going to agree, and it's  
 16 okay that we use the definitions from our  
 17 discovery, and if we're talking about "ASR," we're  
 18 talking about Aquifer Storage -- Aquifer Storage  
 19 and Recovery; if we talk about "AMCs," we're  
 20 talking about accumulated (sic) maintenance  
 21 credits; and if I say "you," I'm referring to you,  
 22 anybody in DWR --  
 23 A. Sure.  
 24 Q. -- anybody in KDA, or anybody you have --  
 25 contractors or consultants you may be relying on,



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1 so it's a broad "you."  
 2 Now, if we're talking about aquifer, of  
 3 course, we are talking about the Equus Beds  
 4 Aquifer.  
 5 MR. ROLFS: It's E-C -- E-Q-U-U-S.  
 6 BY MR. ROLFS:  
 7 Q. Generally, as far as Phase I and Phase II  
 8 of the ASR project, were you involved in that at  
 9 all back when that was approved?  
 10 A. No. I -- no. I -- I was -- I mean, I  
 11 was working for the Division of Water Resources,  
 12 but it was other staff that were -- that was doing  
 13 the processing.  
 14 Q. Okay.  
 15 A. I mean, I was aware -- I was aware that  
 16 it was happening, but...  
 17 Q. Uh-huh.  
 18 MR. OLEEN: If I could interject, Lee,  
 19 you just said "you," and I know you meant --  
 20 MR. ROLFS: Oh.  
 21 MR. OLEEN: -- I know you meant the Lane  
 22 "you." Maybe if you mean a broader "you," it  
 23 would be better to say "DWR" --  
 24 MR. ROLFS: Okay.  
 25 MR. OLEEN: -- or "KDA."

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1 MR. ROLFS: All right. I can do that.  
 2 MR. OLEEN: And "you," "you" will just  
 3 mean "Lane Letourneau" in this deposition.  
 4 BY MR. ROLFS:  
 5 Q. Most of the time, we'll probably be  
 6 referring to the broad "you" --  
 7 A. Yeah.  
 8 Q. -- the royal "you."  
 9 A. Well, I -- I took it -- I took that "you"  
 10 as Lane.  
 11 Q. Okay. So you, you, personally, didn't  
 12 have any involvement back when that was -- did  
 13 -- are you familiar with the Orders that were  
 14 issued --  
 15 A. Yes.  
 16 Q. -- back then?  
 17 A. I am familiar with the Orders.  
 18 Q. And even though you weren't involved in  
 19 issuing those at the time; is that --  
 20 A. Correct.  
 21 Q. -- correct?  
 22 A. Yes.  
 23 Q. Are you familiar with the MOUs --  
 24 A. Yes.  
 25 Q. -- that were entered into back in Phase I

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1 and Phase II?  
 2 A. Yes.  
 3 Q. Okay. So -- okay. Now, concerning the  
 4 current project, who have you discussed that issue  
 5 with in the -- who have you discussed, personally,  
 6 with the "big you"; who -- who have you discussed  
 7 the ASR project with, with other DWR or KDA  
 8 employees?  
 9 A. Well, David Barfield, chief engineer;  
 10 Chris Beightel, program manager of the Water  
 11 Management Services; Doug Schemm, who's a --  
 12 processes new applications in the Water  
 13 Appropriation program; Ginger Pugh, who is part of  
 14 Water Management Services; Jim Bagley, who's now  
 15 retired, but was part of the Water Management  
 16 Services; Sam Perkins, modeler in Water Management  
 17 Services; Aaron Oleen; and Kenny Titus, who was  
 18 our chief legal counsel; and then Robert Large,  
 19 who now -- was our chief legal counsel at the time  
 20 of some reg changes that now works for K-State;  
 21 Ken Kopp, who processed the first part of Phase I,  
 22 now works for the Kansas Rural Water Association.  
 23 Q. Uh-huh.  
 24 A. Those are the folks that I can think of.  
 25 Q. Uh-huh. Now, who -- who have you spoken

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1 with this project outside, say, from City of  
 2 Wichita, who -- who all have you chatted with down  
 3 there as terms of officials and consultants?  
 4 A. Okay.  
 5 MR. OLEEN: And if -- Lee, when you say  
 6 "project" --  
 7 MR. ROLFS: Uh-huh.  
 8 MR. OLEEN: -- can you clarify that.  
 9 MR. ROLFS: Proposal, Wichita proposal.  
 10 THE WITNESS: The -- this current  
 11 proposal?  
 12 BY MR. ROLFS:  
 13 Q. The current proposal.  
 14 A. Okay. I have not talked to Ken -- oh, I  
 15 need to go back, then. I wasn't quite clear on  
 16 that question. So I have not talked to Ken Kopp  
 17 about this new proposal. I have not talked to  
 18 Robert Large about this new proposal.  
 19 Q. Uh-huh.  
 20 A. So, of course, David Barfield, Chris  
 21 Beightel, Sam Perkins, Doug Schemm, Ginger Pugh,  
 22 Jeff Lanterman, and now Aaron Oleen and Kenny  
 23 Titus I think on this current proposal, just to be  
 24 clear.  
 25 As far as -- now moving on to the city,



1 talked with Alan King, Joe Pajor, Don Henry, Mike  
2 Jacob. As far as the consultants, Brian Meier,  
3 Daniel Clements and Paul McCormick.

4 **Q. Okay. What, generally, have those**  
5 **discussions entailed?**

6 A. Well, in the very beginning of this  
7 proposal, it would be seeing Joe like at a Kansas  
8 Water Authority meeting.

9 **Q. Uh-huh.**

10 A. And this stems back to the 2011 and '12  
11 drought. And an unin -- we -- we -- I got to  
12 tell this story a little bit. We took a call from  
13 southwest Kansas, the Southwest Kansas Irrigation  
14 Association, Kirk Heger, was the president. Kirk  
15 -- what had happened was they -- with the  
16 efficiency of center pivot, Kirk was telling me  
17 they now were double-cropping, and they needed  
18 seven to nine inches on their wheat that year.

19 And they got into corn, and these guys are  
20 sophisticated enough that they knew they needed  
21 about another 50 acre-feet to finish their corn.

22 **Q. Uh-huh.**

23 A. And I get off the phone with Kirk Heger,  
24 and David Barfield, Chris Wilson, who was the  
25 deputy secretary at the time, and myself were

1 Wichita -- then Dale Goter, in the Capitol, caught  
2 me and said that Wichita was concerned then about  
3 the 1993 water level.

4 **Q. Uh-huh.**

5 A. And Joe Pajor had talked to me about the  
6 1993 water level, and that's what got the  
7 discussion started, then. We learned that the  
8 1993 water level was not read at the appropriate  
9 time of year. And so we have made modifications  
10 to the current permits, and that's when I became  
11 involved. I actually signed those Findings and  
12 Orders that adjusted those water levels in the  
13 current project permits.

14 **Q. I'm sorry, I'm not following. You**  
15 **adjusted the levels how?**

16 A. Well, there is a level footage level  
17 in the aquifer that is in each one of these  
18 permits --

19 **Q. Right.**

20 A. -- that lays out the minimum index cell  
21 level.

22 **Q. Uh-huh. Okay.**

23 A. And if the water is drawn below that  
24 minimum index -- index cell level, then the City  
25 of Wichita cannot obtain their recharge credit

1 called to the Capitol to talk with the president  
2 of the Senate, Steve Morris --

3 **Q. Uh-huh.**

4 A. And Senator Morris was talking about a  
5 legislative change to try to get these guys that  
6 additional 50 acre-feet of water.

7 On the way back from the Capitol, we were  
8 saying, we need to come up with something, and so  
9 we determined the drought term permit, which was  
10 exceeding the quantity in '11 and borrowing it  
11 from '12, 2012.

12 **Q. Oh.**

13 A. So they had a two-year -- I'm sorry, they  
14 had a two-year quantity to operate with. Well, we  
15 didn't know that the drought was going to prolong.

16 **Q. Uh-huh.**

17 A. And so Legislation even changed then to  
18 the multi-year flex account statute, and then  
19 Senator Morris played a big role, then, in  
20 forgiving the '11 overage if people went from a  
21 drought term permit into a multi-year flex  
22 account.

23 Now, the drought progressed to the east, and  
24 an unintended consequence of that intense use  
25 those two years drew the aquifers down. And

1 that they have put in. And so the city was very  
2 concerned about those levels, and that -- like I  
3 said, I tell that story just because that's what  
4 got us talking about the changes. So now --

5 **Q. So in '93, the -- or in 2011 and '12,**  
6 **water dropped below that '93...**

7 A. I don't believe it dropped below the '93  
8 level, but it sure got the city talking about it.

9 **Q. Okay. Got close.**

10 A. Yeah, it got close, I believe.

11 **Q. And they were saying, we've got extra**  
12 **credits, and we can't take them if that level**  
13 **stays there.**

14 A. And we've got recharge credits, and if  
15 the -- if it's drawn below that level, then we  
16 can't obtain our recharge credits.

17 **Q. Okay. The credits wouldn't go away; it**  
18 **would just have to wait until it came back up**  
19 **above --**

20 A. Correct.

21 **Q. -- that '93 level?**

22 A. Correct. And I don't know -- I don't --

23 I'm not aware that it grew, it -- that it got  
24 below that; I just know that it raised concerns to  
25 the city.



1 **Q. Uh-huh. Okay. So that's how all this**  
 2 **got started.**  
 3 A. Correct.  
 4 **Q. Okay. So what other conversations have**  
 5 **you had with the city after that?**  
 6 A. Well, I mean, we -- we started the  
 7 conversations about the '93 level, we fixed it in  
 8 the current permits.  
 9 **Q. So the index level has already been**  
 10 **lowered in -- in the permits; is that what you're**  
 11 **saying?**  
 12 A. I don't know if they've -- I don't know  
 13 if they've all been lowered. That's one thing I  
 14 didn't -- I didn't prepare and review.  
 15 **Q. Okay.**  
 16 A. I know they've been corrected.  
 17 **Q. So the index level has been changed in**  
 18 **existing permits to allow them to take the credits**  
 19 **from the lower level than it was before?**  
 20 A. I don't know if they're all lower, or  
 21 not.  
 22 **Q. Some?**  
 23 A. Some -- some probably would be.  
 24 **Q. Okay.**  
 25 A. But I'm not -- I'm not a hun -- I'm not a

1 hundred percent sure on that.  
 2 **Q. So when you say "corrected," that means**  
 3 **you...**  
 4 A. And to go back, it was my understanding  
 5 that those levels were established based on a  
 6 static water level that was not January 1.  
 7 **Q. Right.**  
 8 A. And so we -- and it was Tara, I can't  
 9 remember -- I can't remember Tara's last name, in  
 10 our -- in the Water Management Services, and I  
 11 believe she worked GMD2, and Daniel Clements. And  
 12 I think he might have been on staff with GMD2 at  
 13 the time. And they made the appropriate  
 14 corrections to that index cell level. And then  
 15 that became a Findings and Order, then, that I  
 16 signed.  
 17 **Q. Okay. So the -- the Order related not to**  
 18 **just overall generally lowering the index level,**  
 19 **but to change the time of year that it was**  
 20 **measured at?**  
 21 A. It created -- it changed the foot amount  
 22 based on a January 1 reading.  
 23 **Q. Okay.**  
 24 A. I don't know how to -- I don't know how  
 25 to --

1 **Q. Well, let's just take a hypothetical.**  
 2 **Say that before all this happened, the index level**  
 3 **was 100 feet.**  
 4 A. Okay.  
 5 **Q. And -- but that was based on measurements**  
 6 **during the summer --**  
 7 A. Correct.  
 8 **Q. -- or that sort of thing?**  
 9 A. (Witness nods head.)  
 10 **Q. And so you changed -- fundamentally**  
 11 **changed and said, okay, we're going to measure --**  
 12 **we're going to look at the measurement of where**  
 13 **the water is in January, or some -- is that**  
 14 **correct?**  
 15 A. Correct.  
 16 **Q. And we're going to say, if the water**  
 17 **level in January hasn't gone below that, you can**  
 18 **still pump the credits; is that what you're**  
 19 **saying?**  
 20 A. Well, I'm -- what I'm saying is, we  
 21 corrected it -- so say it was a hundred based on a  
 22 reading in July --  
 23 **Q. Okay.**  
 24 A. -- but it was a hundred -- it was 95  
 25 based on a reading in January --

1 **Q. Uh-huh.**  
 2 A. -- we adjusted it to 95.  
 3 **Q. Okay. So it could have gone up or down?**  
 4 A. Correct. Yes. And I didn't review that  
 5 to see what -- which way they went.  
 6 **Q. Okay.**  
 7 A. (Witness nods head.)  
 8 **Q. All right. So then how did the**  
 9 **discussions continue with the city and your**  
 10 **consultants after that?**  
 11 A. Well, at the time, there was -- I mean,  
 12 the city then came to us and said, regardless of  
 13 the level, if we put the credit in, and it didn't  
 14 -- it doesn't impair anybody, we would like to be  
 15 able to obtain the credit.  
 16 **Q. Okay.**  
 17 A. Also, they had a group of new  
 18 applications that they wanted to change to where  
 19 they could obtain credits from. They were just  
 20 recharge wells.  
 21 And so, at the time, we were talking about  
 22 two items, and then as the meetings progressed,  
 23 they brought up the Aquifer Maintenance Credit --  
 24 **Q. Okay.**  
 25 A. -- Proposal.



1 Q. Uh-huh.  
 2 A. And -- yeah, so that's basically -- it  
 3 was when -- we would meet, it would be Chief  
 4 Engineer Chris Beightel, sometimes Sam Perkins,  
 5 Jim Bagley would attend --  
 6 Q. Uh-huh.  
 7 A. -- and myself. And then we started  
 8 bringing Ginger Pugh along, you know, as she was  
 9 being trained into Jim Bagley's position.  
 10 Q. Uh-huh. Okay. So then, ultimately, this  
 11 resulted in the proposal you said March 12th --  
 12 what was the --  
 13 A. 2018.  
 14 Q. 2018. Have you had conversations with  
 15 the chief engineer about -- well, you have had  
 16 conversations with the chief engineer about the  
 17 proposal, Wichita proposal. Generally, what  
 18 opinions has the chief engineer expressed about  
 19 the proposal?  
 20 A. Yeah. I mean, in all of our meetings --  
 21 David Barfield was part of every meeting, except  
 22 for the monthly status meetings that Susan Metzger  
 23 and myself would just have with the city just to  
 24 see -- Susan Metzger, at the time, was the  
 25 assistant secretary with the Kansas Department of

1 the minimum index cell level, we were --  
 2 Q. Talking about Rule and Regulation change?  
 3 A. Yes.  
 4 Q. What reg number is that?  
 5 A. It's in the definitions, 5 -- 5, 1...  
 6 Q. 5, 1, 1?  
 7 A. I'm sorry, yeah, 5-1-1.  
 8 MR. OLEEN: Off the record here.  
 9 (THEREUPON, an off-the-record discussion  
 10 was had.)  
 11 THE WITNESS: It's K.A.R. 5-1-1(uu).  
 12 BY MR. ROLFS:  
 13 Q. Small "U"s?  
 14 A. Oh, small "U".  
 15 MR. OLEEN: Subsection uu.  
 16 THE WITNESS: Okay. Subsection uu.  
 17 MR. OLEEN: She can't see what we're  
 18 saying.  
 19 THE WITNESS: Okay. Right. And I've  
 20 never called it "Subsection uu," so now I know,  
 21 so --  
 22 MR. OLEEN: Okay.  
 23 BY MR. ROLFS:  
 24 Q. And that -- could you read that  
 25 definition?

1 Agriculture. And we would just have these status  
 2 -- what happens with the Division of Water  
 3 Resources, things can tend to languish, because  
 4 we've got so many high-priority things going.  
 5 So Susan wanted to keep this project on  
 6 track.  
 7 Q. Uh-huh.  
 8 A. And so we would just have a stat --  
 9 monthly status meeting, and you folks have been  
 10 provided all of those meeting dates, just to see  
 11 -- where they'd be 15 minute or a 30-minute  
 12 meeting, just to see if we were on track. David  
 13 Barfield was not part of those; all of the other  
 14 meetings, David was part of.  
 15 Q. Okay. How many meetings would you  
 16 estimate that --  
 17 A. I don't know.  
 18 Q. -- David was a part of?  
 19 A. I didn't review that. And I know we've  
 20 provided all the meetings to you.  
 21 Q. All right. Generally, what opinions has  
 22 the chief engineer expressed about this proposed  
 23 -- proposal?  
 24 A. Well, in the beginning -- well, and then  
 25 also, as far as we -- when we changed the rule on

1 A. "Minimum index level" means 20 feet above  
 2 the bedrock elevation or an alternatively-proposed  
 3 minimum elevation for storage within a basin  
 4 storage area, or if the basin storage area is  
 5 subdivided, a smaller subdivided area.  
 6 Q. So the effect of that would be to cut off  
 7 diversion of credits when there's 20 feet of water  
 8 left in the aquifer, then, essentially?  
 9 A. Or an alternative proposed minimum  
 10 elevation for storage.  
 11 Q. Okay. And was there real change relating  
 12 to the date that that measurement would be taken  
 13 on? You said you changed it from mid-year to  
 14 January; is that in the Regulation itself or...  
 15 A. Not that I'm aware of.  
 16 Q. Okay.  
 17 A. But we'd want to do a static water level  
 18 in January.  
 19 Q. Right. Yeah. That's with the normal  
 20 water level measurement program.  
 21 A. And add to this story, we -- we were  
 22 hearing of the potential of an aquifer storage and  
 23 recovery project out near Dairy Farmers of America  
 24 at Garden City. They were going to have a ton of  
 25 produced milk, turning milk into powdered milk,





1 and they were going to have water left over. And  
2 it was too much water for the City of Garden City  
3 to use, especially in the wintertime, because it's  
4 gray water.

5 **Q. Uh-huh.**

6 A. And Garden City currently is using it to  
7 irrigate their ball fields, and their parks, and  
8 things, but they don't -- didn't need it in the  
9 wintertime. And there was thought of about -- of  
10 an aquifer storage and recovery there.

11 **Q. Uh-huh.**

12 A. Well, in the overall aquifer --

13 **Q. Uh-huh.**

14 A. -- is -- is why there was the 20 feet  
15 above bedrock elevation, is the thought there.

16 And then David Barfield thought like for the  
17 Equus Beds there, that's why he put in there an  
18 alternative lead proposed minimum index elevation,  
19 and wanted to deal with other parts of the state  
20 with a permit condition, like we've done in the --  
21 in the current ASR.

22 **Q. Uh-huh?**

23 THE REPORTER: The current what?

24 THE WITNESS: In the current ASR?

25 THE REPORTER: Yeah.

1 **there was an amendment?**

2 A. Based on --

3 **Q. -- made relating --**

4 A. Yeah, based on the date.

5 **Q. Uh-huh. And that would have been  
6 relating to the index level?**

7 A. I don't know. I'd have to look.

8 **Q. Okay. Other opinions that have been  
9 expressed by the chief engineer concerning the  
10 Wichita proposal? What about statements  
11 concerning functional equivalent?**

12 A. Okay. Yeah, I can speak to that. In the  
13 very beginning, when the city proposed the AMC, we  
14 actually asked ourselves the question, along with  
15 the city, if the rules should be changed to define  
16 an Aquifer Maintenance Credit.

17 **Q. Uh-huh.**

18 A. We also -- in the very beginning, we were  
19 not going -- I don't know. We weren't going to  
20 allow the AMC. We didn't have a name for them  
21 yet, because there's the concern of the passive  
22 recharge credit. And that's when the city -- Dave  
23 Stause (spelled phonetically), I recall him, he  
24 worked for Burns & McDonnell, and in other  
25 projects that David worked on, they had things

1 THE WITNESS: Sorry about that.

2 BY MR. ROLFS:

3 **Q. So what other ASR Regulations were  
4 changed?**

5 A. None that I'm --

6 **Q. Nothing else?**

7 A. -- aware of. Yeah. I don't think so. I  
8 don't recall any other ones.

9 **Q. Uh-huh. Back in the 5-12 -- 5-12-1  
10 series -- let's see if I've got mine here. Any of  
11 those change?**

12 A. Well, yeah. It was amended April --  
13 okay. Our book showing K.A.R. 5-12-1, as was  
14 amended April 29, 2016, but I'd have to review the  
15 amendment.

16 **Q. Uh-huh.**

17 A. I don't -- I don't recall what was  
18 amended, but I could probably -- I could probably  
19 figure it out, but off the top of my head, I don't  
20 recall what was amended, Lee.

21 **Q. Okay.**

22 (THEREUPON, an off-the-record discussion  
23 was had.)

24 BY MR. ROLFS:

25 **Q. All right. But somewhere in 5-12-1,**

1 considered an in-lieu-of credit, passive recharge  
2 credit. And Dave was actually asking us, at that  
3 time, for these passive recharge credits, for  
4 water taken from Cheney Reservoir, that the city  
5 should get credit for water taken from Cheney  
6 Reservoir, because they were not pumping the Equus  
7 Beds well field. And we said "no" to that.

8 **Q. Okay.**

9 A. Now, though, when the city -- al -- the  
10 city also learned a lot from the drought in '11  
11 and '12, and how to operate Cheney.

12 **Q. Okay.**

13 A. Because prior, my understanding the city  
14 was about 50/50 at Cheney Reservoir, 50 percent  
15 Equus Beds. When the drought of '11 and '12 hit,  
16 well they noticed that Cheney was evaporating as  
17 fast as they were using it, so they felt like they  
18 needed to base-load off of Cheney before they lost  
19 it from evaporation.

20 **Q. Okay.**

21 A. Well, then the Equus Beds, they reduced  
22 the use of the Equus Beds, which created recovery  
23 of the...

24 **Q. Uh-huh.**

25 A. And so they also learned that it wasn't



1 -- these are my words, that the ASR, 20 years of  
 2 operation, they noticed that it really wasn't  
 3 solid for a water supply, that they -- and so  
 4 that's when they turned and wanted the ASR, then,  
 5 to become a drought -- a drought mitigation,  
 6 drought project, whatever they could do to get  
 7 themselves -- they wanted to use it get themselves  
 8 through a drought.  
 9 **Q. When you say "not a solid water supply,"**  
 10 **what do you mean, not accumulating enough water in**  
 11 **the credits?**  
 12 A. They couldn't accumulate enough water  
 13 because the Equus Beds well field was up, we were  
 14 a drought, they weren't getting the flows from the  
 15 Little Ark that they thought that they would be  
 16 getting.  
 17 **Q. Uh-huh?**  
 18 A. And when I say the "Little Ark," that's  
 19 the Little Arkansas River, so -- yeah, and so they  
 20 thought, well, this -- we try to modify this,  
 21 then, to a drought tool instead of a water supply  
 22 tool.  
 23 **Q. Okay.**  
 24 A. And that's my words. I mean -- (witness  
 25 nods head.)

1 quantity of water that is stored in the basin  
 2 storage area and that is available for subsequent  
 3 appropriation for beneficial use by the operator  
 4 of the Aquifer Storage and Recovery system.  
 5 **Q. Okay. And to do this, what was the basis**  
 6 **for how they were going to get this extra water --**  
 7 **extra credit water?**  
 8 A. They now -- the city has the  
 9 infrastructure to pump the aquifer to a level that  
 10 if water is available from the Little Ark River it  
 11 can be treated and stored. That becomes a  
 12 recharge credit. And now that they've got that  
 13 infrastructure --  
 14 **Q. So you're talking about physical wells**  
 15 **along the Little Ark have the capacity to put real**  
 16 **water into the aquifer?**  
 17 A. Yeah, so...  
 18 **Q. Is that correct?**  
 19 A. Surface -- it's a surface water intake --  
 20 **Q. Okay. So --**  
 21 A. Yeah. Uh-huh.  
 22 **Q. Correct.**  
 23 A. That can take high flows from the Little  
 24 Ark River, treat it and inject it, as long as  
 25 there's space in the aquifer.

1 **Q. Okay.**  
 2 A. So...  
 3 **Q. And how was this going to be a drought**  
 4 **tool?**  
 5 A. Well, by accumulating more credits into  
 6 the Equus Beds well field so they could get them  
 7 through eight years of a one-percent drought. And  
 8 the -- now, this -- after several meetings and  
 9 visiting with them, we felt the AMC was in a  
 10 functional equivalent of a physical recharge  
 11 credit. And so we -- Robert Large, our chief  
 12 legal counsel at the time, he did a review and  
 13 asked the city's attorneys to do a review, and I  
 14 don't know who did it on the city's behalf, but we  
 15 made a determination that an AMC is a recharge  
 16 credit. And recharge credits are defined in  
 17 K.A.R. 5-1-1. And I'll get that definition for  
 18 you.  
 19 **Q. Okay. Well, might as well turn to that**  
 20 **and...**  
 21 A. Okay.  
 22 **Q. That's Subsection mmm, I believe?**  
 23 A. Yep.  
 24 **Q. Is that -- and could you read that?**  
 25 A. Let me -- recharge credit means the

1 **Q. Okay.**  
 2 A. If there's not space in the aquifer, the  
 3 only place that they can put water is in a basin.  
 4 It's a recharge basin.  
 5 **Q. Uh-huh.**  
 6 A. There's no -- there's no upper limitation  
 7 on the water level to put water in the recharge  
 8 basin.  
 9 **Q. And that's -- that's a surface storage**  
 10 **reservoir or --**  
 11 A. Surface storage.  
 12 **Q. Is it a recharge basin?**  
 13 A. It's a recharge basin.  
 14 **Q. So it's a surface reservoir that leaks**  
 15 **into the aquifer, basically?**  
 16 A. Yeah, correct. Uh-huh.  
 17 **Q. All right. So...**  
 18 A. It's my understanding that that's the  
 19 only place that they were able to put water in.  
 20 **Q. Uh-huh.**  
 21 A. So when I say that there might not be an  
 22 upper limit, I need to review that. But whenever  
 23 the aquifer's full, that was the only place they  
 24 put water in.  
 25 **Q. Okay.**



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1 A. So...

2 **Q. And when you say "the aquifer is full,"**  
3 **what does that mean?**

4 A. That it's at a -- the maximum -- let me  
5 get the -- there is a maximum index level and a  
6 minimum index level.

7 **Q. You're referring to the Regulations**  
8 **there?**

9 A. K.A.R. 5-1-1(ss) and (uu). And I know  
10 there's a ten-foot limit, because we don't want to  
11 float basements out of the ground.

12 **Q. Okay.**

13 A. And when it's at a maximum index level,  
14 they can't put water into the aquifer.

15 **Q. And that's in -- found in Subsection ss?**

16 A. Correct.

17 **Q. And that says -- oh, could you read that?**

18 A. Oh. "Maximum index level" means the  
19 maximum elevation for storage within a basin  
20 storage area or, if the basin storage area is  
21 subdivided, a smaller subdivided area.

22 **Q. Okay. And then (uu), was that the other**  
23 **one?**

24 A. Correct. And (uu) is: "Minimum index  
25 level" means 20 feet above the bedrock elevation

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1 or an alternative proposed minimum elevation for  
2 storage within a basin storage area, or, if the  
3 basin storage area is subdivided, a smaller  
4 subdivided area.

5 **Q. Uh-huh. So that's one we've looked at**  
6 **before.**

7 A. Correct.

8 **Q. So, basically, somewhere below the**  
9 **surface, say, ten feet to keep it out of**  
10 **basements, that's --**

11 A. Correct.

12 **Q. -- the full part of the aquifer, and then**  
13 **the bottom's 20 feet above bedrock; is that --**

14 A. Yeah.

15 **Q. -- what you're saying?**

16 A. Correct. But this one is -- this one is  
17 not 20 -- there -- the minimum index level in the  
18 Wichita ASR is well above 20 feet.

19 **Q. Okay.**

20 A. Yeah.

21 **Q. Approximately how much?**

22 A. I don't know. I know, based on this  
23 proposal, there -- the aquifer is still going to  
24 be 80 percent full based on this proposal, if all  
25 the changes are approved. No -- no changes have

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1 been made yet --

2 **Q. Okay.**

3 A. -- so...

4 **Q. So, basically, who decided that the AMC**  
5 **was a functional equivalent of a recharge credit?**

6 A. Well, a group of us. David Barfield. I  
7 mean -- what -- here --

8 **Q. Was this a proposal from the city?**

9 A. This is a proposal from the city. And  
10 when -- when it was proposed to us, right now, the  
11 city can pump the aquifer down to replace it,  
12 then, with water taken from the Little Ark.

13 **Q. Uh-huh.**

14 A. So when -- when we talked about it, it's  
15 like, why make the city pump the level down just  
16 to replace it with --

17 **Q. Okay.**

18 A. -- Little Ark? We felt it was better  
19 management of the aquifer to go into a one-percent  
20 drought with the aquifer full.

21 **Q. Uh-huh.**

22 A. In our mind, this is about managing the  
23 aquifer full.

24 **Q. Okay.**

25 A. And also, it -- I heard from the

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1 consultants that it's better on the aquifer if you  
2 don't pump it out and replace water. It's -- it's  
3 -- leaving the water in state is better on the  
4 aquifer.

5 **Q. Uh-huh. Okay. So did the city propose**  
6 **-- were they the ones that proposed this idea of**  
7 **the functional equivalent, or was that an idea**  
8 **originating from DWR?**

9 THE REPORTER: From the what?

10 MR. ROLFS: DWR. I'm sorry.

11 A. Well, it was a proposal from the city.

12 BY MR. ROLFS:

13 **Q. Okay.**

14 A. You know. Yeah. (Witness nods head.)

15 **Q. All right. Now, has DWR concluded that**  
16 **any changes in laws or regulations are necessary**  
17 **to implement the city's proposal?**

18 A. Right. We -- we felt that the -- the  
19 AMCs were a recharge credit, and that's as far as  
20 we took it, Lee. I mean, we -- our attorney at  
21 the time reviewed it, and maybe even Kenny some.  
22 I don't know. But we gave it some sincere review  
23 and felt that an AMC is a recharge credit.

24 **Q. Okay.**

25 A. We are not opposed to changing



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1 regulations --  
 2 **Q. Right.**  
 3 A. -- yeah, at all, but we felt that an AMC  
 4 was a recharge credit.  
 5 **Q. Uh-huh. Now, going back to Phase I and**  
 6 **Phase II of the project, I mean, in that**  
 7 **particular case, in order to get recharge credits,**  
 8 **physical water was taken from the Little Ark,**  
 9 **treated and injected, or put in recharge pits, and**  
 10 **went physically into the aquifer, Equus Beds**  
 11 **aquifer; is that correct?**  
 12 A. That's correct.  
 13 **Q. And then, at some later time, the city**  
 14 **was allowed to withdraw those credits, minus some**  
 15 **losses, to put in for municipal use; is that --**  
 16 A. Correct. Yes.  
 17 **Q. -- the way the original program worked?**  
 18 A. And even the AMC proposal, I call it  
 19 "leaky," the AMC proposal has leaky credits, also.  
 20 **Q. Right. Okay. So in other words, if they**  
 21 **put in 100 acre-feet, every year, a certain amount**  
 22 **of that goes away, as far as leakage?**  
 23 A. Correct.  
 24 **Q. Okay.**  
 25 A. And the leakage is based on the modeling

1 they are not doing --  
 2 **Q. Uh-huh.**  
 3 A. -- okay, to -- and surface water is  
 4 available from the Little Ark River.  
 5 **Q. Uh-huh.**  
 6 A. And because the city has not pumped and  
 7 created the hole that they could have done, then  
 8 when they take that surface water directly to  
 9 town, that's when they get the Aquifer Maintenance  
 10 Credit. It's because they did not create the  
 11 hole.  
 12 **Q. Uh-huh.**  
 13 A. But the functional equivalent, in my  
 14 mind, is they could have done it. They could have  
 15 created the hole to put that water in, and that's  
 16 the part that they didn't do.  
 17 **Q. Okay.**  
 18 A. And in our mind, Lee, it was how to  
 19 manage the aquifer full so when we go into a  
 20 drought the aquifer is full, and everybody  
 21 benefits from that.  
 22 **Q. So, in essence, the city's proposal is,**  
 23 **we take water when it's available from the Little**  
 24 **Ark, surface intake, treat it, send it to the**  
 25 **city, use it, and don't pump our physical recharge**

1 and the proximity to the river --  
 2 **Q. Okay.**  
 3 A. -- basically, so...  
 4 **Q. So each cell leaks a certain amount?**  
 5 A. Correct.  
 6 **Q. Not -- they don't all leak the same**  
 7 **amount back to the river or --**  
 8 A. That's correct.  
 9 **Q. -- evaporate or --**  
 10 A. Correct.  
 11 **Q. Wherever that leaky water goes.**  
 12 A. Uh-huh.  
 13 **Q. Let's see, how are we doing on time here?**  
 14 **I think go a few more minutes; is that okay?**  
 15 A. It's whatever, yeah.  
 16 **Q. Okay.**  
 17 A. I'm -- I'm here.  
 18 **Q. So like to explore a little more about**  
 19 **this functional equivalent. So what I'm hearing**  
 20 **you saying is that the city, by not pumping water**  
 21 **that they are legally entitled to pump, they are**  
 22 **going to get a credit that they can withdraw at**  
 23 **some later time; is that --**  
 24 A. Well, it's the equivalent as if the city  
 25 has pumped the aquifer down, and that's the part

1 **credits for our water rights.**  
 2 A. Correct. Uh-huh.  
 3 **Q. And we -- the city wants to get some**  
 4 **credit for doing that.**  
 5 A. Correct.  
 6 **Q. But you could require them to put the**  
 7 **water in the aquifer, then take it back out so**  
 8 **they have space, and then --**  
 9 A. That's correct.  
 10 **Q. -- you're trying to avoid that step, is**  
 11 **what you're saying.**  
 12 A. We are trying to avoid the step just to  
 13 pump a gallon to replace it with a gallon. That  
 14 that was our thoughts.  
 15 **Q. Okay. But what the city's doing is**  
 16 **sending this water, this surface water, from the**  
 17 **Little Ark to the city directly, and they're using**  
 18 **it for municipal use --**  
 19 A. Correct.  
 20 **Q. -- is that right?**  
 21 A. Yes.  
 22 **Q. But at the same time, they're proposing**  
 23 **you get an equal credit for recharge, so they're**  
 24 **doing -- they're wanting two things at the same**  
 25 **time; is that -- am I understanding that correct?**



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1 A. Well, they're taking it directly to town  
 2 instead of looping it through the aquifer first --  
 3 **Q. Right.**  
 4 A. -- basically, yeah.  
 5 **Q. Uh-huh. But they're -- they're using it**  
 6 **for municipal use --**  
 7 A. Yes.  
 8 **Q. -- and the city.**  
 9 A. Yes.  
 10 **Q. And at the same time, with the same --**  
 11 **really, the same water, they're getting a recharge**  
 12 **credit.**  
 13 A. (Witness nods head.)  
 14 **Q. Okay.**  
 15 A. Yes.  
 16 **Q. All right. Now, in evaluating the city's**  
 17 **proposal, I'd just like to talk a little bit about**  
 18 **what DWR has done to evaluate the city's proposal.**  
 19 A. Okay.  
 20 **Q. Have -- has the -- have you, the "big**  
 21 **you," done any independent research to evaluate**  
 22 **the city's proposal?**  
 23 A. Well, the way the division -- the Water  
 24 Resource is set up, we used to call them Technical  
 25 Services, now it's Water Management Services --

1 out. And Bagley, very good at that stuff, also.  
 2 And so when they -- they would review it, and then  
 3 basically say it seemed reasonable, you know,  
 4 whatever the information we were getting seemed  
 5 reasonable.  
 6 **Q. Okay. You don't know whether they were**  
 7 **just looking at outputs or whether they were --**  
 8 A. I don't know.  
 9 **Q. -- going into the model code, or...**  
 10 A. I don't know what level of review they  
 11 did.  
 12 **Q. Did they ever run the model?**  
 13 A. I don't know.  
 14 **Q. Okay. Did DWR do any independent data**  
 15 **collection regarding evaluating Wichita's**  
 16 **proposal?**  
 17 A. No.  
 18 **Q. Did they test wells, check any other kind**  
 19 **of measurements out there?**  
 20 A. No. We didn't do any well testing. If  
 21 there was some water level measurements out there  
 22 that we take quarterly or on the annual water  
 23 level, we would have done that, but I'm not sure  
 24 if there are any of those.  
 25 **Q. That's just part of the normal well**

1 **Q. Uh-huh.**  
 2 A. -- we've got the appropriation program,  
 3 who reviews the applications --  
 4 **Q. Uh-huh.**  
 5 A. -- making sure they're in the proper  
 6 form, appears to be reasonable. And then we did  
 7 have Jim Bagley review the modeling, or the  
 8 modeling outputs, or whatever Jim does on that.  
 9 Now, this is a model that's already been approved  
 10 for accounting, and things, so we -- I know we  
 11 wouldn't have picked the model apart --  
 12 **Q. Uh-huh.**  
 13 A. -- but...  
 14 **Q. So there is a big difference between**  
 15 **reviewing the model and just looking at the**  
 16 **outputs --**  
 17 A. Yeah.  
 18 **Q. -- but you're not sure?**  
 19 A. I'm not sure what Jim did, yeah.  
 20 **Q. Okay.**  
 21 A. And I know David was -- okay. I know our  
 22 chief engineer, David Barfield, understands models  
 23 inside-out.  
 24 **Q. Uh-huh?**  
 25 A. Sam Perkins understands models inside-

1 **measurement program?**  
 2 A. Correct.  
 3 **Q. Okay.**  
 4 A. Correct? And an approved -- to add, you  
 5 know, an approved model coming in to us, stamped  
 6 off by Paul McCormick, or Burns & -- anybody at  
 7 Burns & McDonnell, we're going to consider that  
 8 some pretty solid work.  
 9 **Q. Okay.**  
 10 A. And then with -- and then -- I am so  
 11 impressed with David Barfield and Sam Perkins, and  
 12 I very much trust their judgment on this type of  
 13 work --  
 14 **Q. Okay.**  
 15 A. -- so...  
 16 **Q. Do you know what literature they reviewed**  
 17 **regarding the model, or anything?**  
 18 A. I -- I don't know.  
 19 **Q. So the city proposed the model based on**  
 20 **their expertise, and basically DWR staff reviewed**  
 21 **it or reviewed the outputs?**  
 22 A. Correct. Reviewed the proposal.  
 23 **Q. And you're not sure if they ran it, or**  
 24 **not.**  
 25 A. Huh-uh.



1 Q. And did they -- did DWR do any other type  
2 of simulations or...

3 A. I can speak to my program, no; I don't  
4 know what the other program, did.

5 MR. ROLFS: Okay. Why don't we take a  
6 short break here.

7 THE WITNESS: Okay. Yeah.

8 MR. ROLFS: Go off the record.

9 (THEREUPON, a break was taken.)

10 BY MR. ROLFS:

11 Q. Okay. I'm going to shift gears here a  
12 little bit, talk a little bit more about the  
13 process.

14 As far as the city's proposal, did the city  
15 file any applications with the Division of Water  
16 Resources to implement that proposal?

17 A. There were applications that were filed  
18 to -- to change the authority -- to modify the  
19 authority on some existing wells. The city has  
20 pulled those applications. There is no change  
21 application required to modify permit conditions,  
22 because a change application under the law can  
23 change three things: Point of diversion, place of  
24 use, and use made of water. And these are permit  
25 condition changes. So that was just a request to

1 Q. Are you talking about under new  
2 applications, that conditions can be imposed --

3 A. I need to --

4 Q. -- new permits?

5 A. -- need to look. Do you have -- I'm --  
6 have you found it yet, Lee?

7 Q. Well, 712 talks about imposing conditions  
8 as necessary, but that's talking about a new  
9 application. Is that what you're referring to?

10 A. I don't know yet. Okay. It's 711a talks  
11 about express conditions of appropriations.  
12 That's 82a-711a.

13 MR. ROLFS: Small "A", no parentheses.

14 THE WITNESS: Okay. And I don't -- I'm  
15 -- I'm not seeing --

16 BY MR. ROLFS:

17 Q. And -- and 712 has similar --

18 A. Okay. I --

19 Q. -- language?

20 A. I think I was thinking about something  
21 else, so...

22 Q. And prior to the 708b being enacted in,  
23 let's see, '57, whenever -- the details of these  
24 things are starting to escape me --

25 A. Sure.

1 us. We felt that the chief engineer has the  
2 authority to change permit conditions with the  
3 Findings and Order.

4 Q. Okay. Now, you're talking about K.S.A.  
5 82a-708b --

6 THE REPORTER: Say it again; say the  
7 number again?

8 MR. ROLFS: K.S.A. 82a-708b, no  
9 parentheses.

10 BY MR. ROLFS:

11 Q. So you're talking about under 708b, there  
12 are only three things that you can apply for and  
13 have changed under the Water Appropriation Act --

14 A. Correct.

15 Q. -- is that --

16 A. Yes. Correct.

17 Q. And in the Water Appropriation Act,  
18 there's actually no other express authority for  
19 anything else under a water right to be changed;  
20 would that be correct?

21 A. Well, let me -- I need to check the  
22 statute on --

23 Q. Sure.

24 A. -- the conditions. There is a statute  
25 that talks about conditions.

1 Q. -- after ten years. Yeah, '57. There  
2 was no authority to make changes to water rights  
3 expressly set forth in the Kansas Water  
4 Appropriation Act prior to that time, and then, in  
5 '57, it added the ability to change those three  
6 items; is that correct?

7 A. Correct. Yeah. As far as I'm aware.

8 Q. Okay. But you're saying there's a  
9 distinction between making other kinds of change  
10 -- what kind of changes do you make to water  
11 rights or permits without a change application  
12 being filed; can you give me examples?

13 A. You know, we will -- the Findings and  
14 Orders, we will divide a water right based on a  
15 determination of interest from the applicant.

16 Q. Uh-huh?

17 A. We issue Findings and Orders to correct  
18 locations. We'll issue Findings and Orders -- we  
19 -- we'll do reductions in point of diversion,  
20 place of use, and --

21 THE REPORTER: Point?

22 THE WITNESS: Point of diversion. Sorry.  
23 Place of use, quantity. We will do meter  
24 requirements. We will add conditions for a meter  
25 requirement. Those are the thing -- I'm just



1 thinking about what comes --  
 2 BY MR. ROLFS:  
 3 **Q. Uh-huh.**  
 4 A. -- across my desk and I sign.  
 5 **Q. Yeah. Under what type of situation would**  
 6 **you be issuing a reduction of a water right?**  
 7 A. Say that there's a large place of use and  
 8 a landowner no longer wants to pay the taxes on  
 9 that property, or there's a ownership change, and  
 10 they -- the owners agree that they want to reduce  
 11 the acres from that, or there'll be a person  
 12 that'll have multiple wells, and one well is no  
 13 longer being used, and just to tidy up the water  
 14 right --  
 15 **Q. Uh-huh?**  
 16 A. -- basically, we'll do a reduction.  
 17 **Q. So if there are overlaps, and they want**  
 18 **to --**  
 19 A. Split them up?  
 20 **Q. -- clean the water rights, then you might**  
 21 **issue a reduction?**  
 22 A. Yeah, to tidy up a water right, I call  
 23 it.  
 24 **Q. So there are certain things you can do**  
 25 **without filing a change application and certain**

1 sorry.  
 2 THE REPORTER: Regs.  
 3 BY MR. ROLFS:  
 4 **Q. Now, when you do a change application,**  
 5 **certain things have to be shown in order to get**  
 6 **that approved; who is the burden of proof on --**  
 7 **to --**  
 8 A. How the statute's crafted, it says: The  
 9 applicant must demonstrate it's the same local  
 10 source of supply, and it will not impair, and it's  
 11 in the public interest.  
 12 **Q. Okay. Also, there's -- there's some**  
 13 **consideration in the minimum stream flow when you**  
 14 **approve a change application, it goes into effect,**  
 15 **the minimum stream flow; is that -- would you --**  
 16 **would that be something you would look at?**  
 17 A. Looking at the change application statute  
 18 very quickly, I don't see the minimum desirable  
 19 stream flow requirement, but if it was changing a  
 20 permit with an authority post June of 1984 -  
 21 **Q. Uh-huh?**  
 22 A. -- that permit condition does not go  
 23 away.  
 24 **Q. Okay. All right. As far as this**  
 25 **proposal, the city's proposal here, have there**

1 things that you do need...  
 2 A. (Witness nods head.)  
 3 **Q. Now, these things that you talked about**  
 4 **doing with the Findings and Order, do those have**  
 5 **any major impact on the water right itself?**  
 6 A. It can --  
 7 **Q. Okay.**  
 8 A. -- you know. I mean, I think the -- it  
 9 -- it -- that potentially it could, but...  
 10 **Q. Okay. So, you know, if they reduce the**  
 11 **quantity in half, that certainly would have a**  
 12 **major impact on the water right, but what about**  
 13 **expanding water rights with your Findings and**  
 14 **Order; does that happen?**  
 15 A. No. No, and I don't -- no.  
 16 **Q. Okay.**  
 17 A. (Witness shakes head.)  
 18 **Q. So it couldn't give somebody more**  
 19 **quantity or --**  
 20 A. No.  
 21 **Q. -- greatly expand their acres? I mean,**  
 22 **you can expand them a little bit based on the**  
 23 **change regs --**  
 24 THE REPORTER: On the change?  
 25 MR. ROLFS: Change regulations. I'm

1 been any evaluations done to look at the public  
 2 interest, the impairment, that sort of thing;  
 3 has --  
 4 A. Yes.  
 5 **Q. Okay. Well, and where would that be?**  
 6 A. Well, when we looked at the proposal, we  
 7 -- it's -- it's just -- now that it's been pared  
 8 down to the -- moving the -- moving the index cell  
 9 level and Aquifer Maintenance Credits, we didn't  
 10 see a large change. We saw this as just another  
 11 way to accumulate recharge credits, as the city  
 12 can already do.  
 13 **Q. Uh-huh.**  
 14 A. If there is room in the aquifer that --  
 15 and water is available from the Little Ark, then  
 16 the city will put in the physical recharge  
 17 credits; if they don't, then they will not  
 18 accumulate an AMC.  
 19 **Q. Uh-huh.**  
 20 A. And then we felt it was in the public  
 21 interest to start with a more full aquifer going  
 22 into a drought.  
 23 **Q. Uh-huh. Okay.**  
 24 A. That was our thought process.  
 25 **Q. Okay. Any other considerations**



1 concerning public interest?

2 A. The -- the city's agreed that -- and  
3 we're going to write it in as a permit condition,  
4 that if impairment did occur, I don't know if I  
5 have an example with me, that they were going to  
6 either operate the well field differently so  
7 impairment did not occur or satisfy the domestic  
8 use.

9 Q. Uh-huh.

10 A. So...

11 Q. I think in your answer to our Second  
12 Interrogatories you talked about that the city's  
13 expressed a willingness to have some permits --  
14 conditions imposed to comply with Phase I and  
15 Phase II?

16 A. Correct.

17 Q. And when you're -- is that what you're  
18 talking about here now?

19 A. Yeah, the -- currently, the -- that, well  
20 the city doesn't want to do any modifications to  
21 Phase I --

22 Q. Okay.

23 A. -- is my understanding. They still want  
24 to mitigate the salt plume by that operation of  
25 Phase I.

1 statutes and regulations on water quality. And  
2 we're aware that municipalities have to meet a  
3 pretty high standard because of public safety, and  
4 that would be a Health & Environment --

5 Q. Okay.

6 A. -- under Health & Environment's  
7 authority.

8 Q. So is DWR thinking about imposing  
9 conditions on any approval that they have to get  
10 appropriate KDHE, Kansas Department of Health &  
11 Environment, approval before they can go forward?

12 A. That's a good thought, I mean, putting  
13 that condition in. I mean, the city has to do it,  
14 anyway, so as a permit condition, I think that  
15 would be a good thought.

16 Q. Uh-huh.

17 A. You know, the final -- to add to -- I'm  
18 glad you said that, Lee. The final decision on  
19 all of this has not been made yet, and all of the  
20 tidy -- tidied-up permit conditions that we can  
21 all agree to, if this even happens, I'm sure  
22 that's a good -- that's a good suggestion.

23 Q. Uh-huh. But right now, there are no new  
24 applications pending to implement this proposal;  
25 is that correct?

1 Q. Uh-huh.

2 A. And Phase II, yes, I believe it's in an  
3 MOU that they will satisfy domestic use if  
4 impaired, and if the city felt that it would be  
5 stronger as a permit condition, so that's --

6 Q. Okay.

7 A. -- why we would write that in there.

8 Q. So they suggested that as a specific  
9 permit condition to add to protect domestic users?

10 A. Correct.

11 Q. Are there any other conditions that  
12 they've suggested adding?

13 A. Not that I'm aware of.

14 Q. Okay. Has DWR done any studies  
15 concerning how this proposal by the city would  
16 affect water quality?

17 A. DWR has not.

18 Q. Has the City of Wichita?

19 A. Surely the city and the consultants have  
20 done -- with the -- I don't know -- you know what,  
21 I don't know if the quality is part of the model.

22 Q. Okay.

23 A. And I know that there -- that Health &  
24 Environment, Kansas Department of Health &  
25 Environment, they have got the regulations --

1 A. Correct.

2 Q. And there are no change applications  
3 pending to implement this proposal; is that  
4 correct?

5 A. Absolutely correct.

6 Q. Okay. Let's see here. You have answered  
7 a number of questions. I just have to go back  
8 here to figure out whether I missed any, or not.  
9 Are -- is DWR considering how recharge credits can  
10 be accumulated and withdrawn; is that a --  
11 considered to be a fundamental change in the water  
12 rights?

13 A. No. I don't see that as a fundamental  
14 change in the water right. It's a -- the AMC is  
15 another method for a recharge credit, but it's  
16 just a recharge credit, just like a physical  
17 recharge credit.

18 Q. Uh-huh.

19 A. That's -- that's as far as we took it.

20 Q. Uh-huh. So you're viewing this more  
21 along the line of, this is something you can do  
22 with the Findings and Order without requiring a  
23 change application --

24 A. Yes.

25 Q. -- or a new application?





1 A. Correct. That's -- that's correct. This  
2 is changing permit conditions, and we feel that  
3 we've got the authority to modify a permit  
4 condition to add --

5 Q. Uh-huh.

6 A. -- an AMC as another type of recharge  
7 credit.

8 Q. Okay.

9 A. Actually, you know, we've got -- to  
10 implement it, it would be prob -- just how we  
11 change the accounting --

12 Q. Uh-huh.

13 A. -- so...

14 Q. See, you've covered so many of these  
15 things, I just have to buzz through here for a  
16 minute --

17 A. Yeah.

18 Q. -- and look.

19 A. You're absolutely fine.

20 Q. On your First Request for Admission,  
21 question -- Item 2, you indicated that: No source  
22 water will enter the aquifer except some may enter  
23 into the basin storage area by gravity, depending  
24 on how the city manages the recharge basin.

25 So if they're sending this water directly to

1 environment.

2 Q. Uh-huh.

3 A. And we start getting calls from people  
4 that do have water in their basements, and they  
5 say the city is actually flooding -- the city --  
6 the city gets calls, I know Groundwater Management  
7 District #2 gets calls, and we get calls.

8 Q. Uh-huh.

9 A. And so I don't know -- I have not  
10 actually talked to the city about how they're  
11 going to manage that if AMCs are approved.

12 Q. So you're saying at the same time they  
13 can be sending water to the city and recharging it  
14 into the aquifer?

15 A. By the basin stor -- in the basin storage  
16 area, yes.

17 Q. Okay. But not through the injection  
18 wells.

19 A. Correct. The aquifer would be to full to  
20 use the injection wells.

21 Q. Okay. But it could be getting -- doing  
22 two things at the same time, sending water to the  
23 city and recharging -- getting physical recharge  
24 credits from putting water in directly and --

25 THE REPORTER: From what?

1 the city, I'm not clear how water might enter the  
2 basin storage area.

3 A. The -- if it -- if there was no water  
4 going to the basin storage area, then no source  
5 water would be put into the ground.

6 Q. So this depends -- it's saying here, it  
7 depends on how the city is managing the recharge  
8 basin, and I don't understand that --

9 A. Okay.

10 Q. -- part of...

11 A. When we answered these Interrogatories,  
12 we had not gotten into detail with the city  
13 on what they're going to do with the recharge  
14 basin --

15 Q. Uh-huh.

16 A. -- right now. Because, as I brought up  
17 earlier, when the aquifer is so full but they  
18 had water available, that's where they put that  
19 water --

20 Q. Okay.

21 A. -- the recharge water. I don't know if  
22 they're going to keep doing that, or not if the  
23 AMC proposal is approved. I don't know if it's  
24 better for -- because what happens, when folk --  
25 when -- when that happens, it's a pretty wet

1 MR. ROLFS: Physical recharge credits,  
2 so...

3 THE REPORTER: What did you say at the  
4 end? You said a few more words. I'm sorry.

5 MR. ROLFS: Oh. And sending water  
6 directly to the city at the same time.

7 THE WITNESS: And -- and -- and Lee, we  
8 haven't worked out that fine detail yet --

9 BY MR. ROLFS:

10 Q. Okay.

11 A. -- because like I said, I don't know how  
12 the city wants to manage that -- that recharge  
13 basin if AMCs are available, just because of the  
14 environment out there.

15 Q. Uh-huh.

16 A. But I -- technically, if approved, I  
17 think it could happen.

18 Q. Uh-huh. So the -- just to go back over a  
19 little bit, DWR hasn't done anything to evaluate  
20 the physical recharge capacity; you're relying on  
21 the city for determining what that is?

22 A. The -- we -- we've relied on a re -- I  
23 don't have it with me, but it's a USGS report, I  
24 believe, that shows the capacity in the aquifer to  
25 take recharge credits when the aquifer was at the



1 '93 level.  
 2 **Q. Uh-huh?**  
 3 A. Now, I don't -- I mean, but -- I know  
 4 that's what we would have -- that's what we looked  
 5 at. And when I say "we," it would be our  
 6 technical services.  
 7 **Q. So you haven't done any independent**  
 8 **analysis of that, then?**  
 9 A. No, because it's an approved model.  
 10 **Q. As far as the five percent initial loss**  
 11 **on putting AMC's into the aquifer, how was that**  
 12 **determined?**  
 13 A. The city brought us a proposal, and it  
 14 was -- it was an average loss over the entire well  
 15 field. Some -- it was more closer to the river,  
 16 five of them inland and three to the out -- I'll  
 17 call it to the outside of the river when I'm  
 18 looking at the well field.  
 19 **Q. But that's based on what's going on with**  
 20 **the actual physical recharge credits, correct?**  
 21 A. That's my understanding.  
 22 **Q. Okay. But you've performed no**  
 23 **independent analysis of that?**  
 24 A. Jim, I know our tech services, David  
 25 Barfield, did. I'll call them our "modeling

1 comment that you were talking about the city was  
 2 wanting to use this as a drought proposal in terms  
 3 of using these AMC's during a time of drought; is  
 4 that correct?  
 5 A. That's correct.  
 6 **Q. Now, would the city be allowed to use**  
 7 **these AMC credits any other time, other than**  
 8 **during a drought?**  
 9 A. Yeah, we haven't worked -- we haven't got  
 10 that all -- part worked out yet, but as of today,  
 11 yeah, it's a recharge credit like any other one.  
 12 We've not talked to the city yet about any types  
 13 of limitations when they -- when they would use  
 14 them.  
 15 **Q. So they could use them at any time under**  
 16 **the current proposal?**  
 17 A. They could use a recharge credit any  
 18 time, correct.  
 19 **Q. Okay. Now, I believe DWR has indicated**  
 20 **that the lowering of the minimum water level index**  
 21 **was, I think, quote, not significant compared to**  
 22 **the practical saturated thickness of the aquifer,**  
 23 **unquote. Because it would still be 89 percent**  
 24 **full across the project area; is that correct?**  
 25 A. That's as far as we took it, Lee,

1 group" looked at it and felt it was reasonable.  
 2 **Q. Okay. Now, the 120,000 acre-feet cap on**  
 3 **credits, was that proposed by the city, then?**  
 4 A. That is proposed by the city. And  
 5 currently, they don't have a cap. It's based --  
 6 that -- if it -- it would be 120, based on --  
 7 120,000 acre-feet based on the USGS model. So  
 8 without even talking about that number, the  
 9 current storage capacity would be that based on  
 10 the model. The city proposed 120 based on that  
 11 model as the cap.  
 12 **Q. Uh-huh. Okay. But DWR didn't do any**  
 13 **independent analysis of that?**  
 14 A. We looked at the USGS tables, the USGS  
 15 model tables.  
 16 **Q. GMD2 Regulation 5-22-7b, Subsection b-7,**  
 17 **exempts artificial recharge from the city field**  
 18 **calculations?**  
 19 A. Correct.  
 20 **Q. And when that Regulation was put in**  
 21 **place, wasn't that based on the scenario where**  
 22 **actual real water was being put into the aquifer**  
 23 **for recharge, not AMC credits?**  
 24 A. Yes, that -- that's correct.  
 25 **Q. Okay. I believe someplace I saw a**

1 correct.  
 2 **Q. Okay. And what was the basis for that**  
 3 **conclusion; do you know?**  
 4 A. The fact that the -- the aquifer was  
 5 still 80 -- you know, over 80 percent full. I  
 6 mean, like I said, that's as far as we took it.  
 7 **Q. Okay.**  
 8 A. Yeah.  
 9 **Q. Based on the model.**  
 10 A. Correct.  
 11 **Q. Okay. Have you reviewed any of the**  
 12 **District's expert reports yet?**  
 13 A. I have scanned Tim's; I haven't had time  
 14 to look at the other ones yet.  
 15 **Q. Uh-huh. Does that change your opinion at**  
 16 **all about whether this is a not significant**  
 17 **reduction?**  
 18 A. Not -- I didn't really get into the  
 19 details on that, so I haven't --  
 20 **Q. Okay.**  
 21 A. -- I haven't -- no, I haven't --  
 22 **Q. Okay. Let's see, we've covered that.**  
 23 **Let's talk about your Amended Answer to**  
 24 **Interrogatory -- second set, No. 16. Trying to**  
 25 **understand for sure how this is going to work.**



1 Is it -- this is talking about the 19,000  
2 acre-feet per year.

3 A. Okay.

4 Q. So is it DWR's position that the city  
5 could withdraw up to 19,000 acre-feet per year  
6 without impairing anybody or prejudicially and  
7 unreasonably affecting the public interest; is  
8 that kind of where you are at this point?

9 A. Yes. Currently, the city, if we've done  
10 our numbers right, has 19,000 acre-feet authorized  
11 for recharge credits, if they've accumulated those  
12 recharge credits. And so if they had 19,000 in --  
13 in their account, they could withdraw 19,000,  
14 but...

15 Q. Uh-huh. So this is a per-year  
16 limitation, not a forever limitation?

17 A. I'd have to review that. I think it's --  
18 I think it's an annual quantity --

19 Q. Okay.

20 A. -- so...

21 Q. If they had accumulated 120,000 acre-feet  
22 of credits, they could roughly divert them in six  
23 years. They could keep on diverting 19,000 acre-  
24 feet a year for six years and divert them all; is  
25 that --

1 Year No. 3, and it rounds up to 60,000 acre-feet.  
2 So when we looked at this, we -- we didn't think  
3 the city would take their 40,000 and an additional  
4 19,000 every year. So we -- yes, they would have  
5 that 120 banked if they ever get to that amount --

6 Q. Uh-huh.

7 A. -- but their proposal doesn't show them  
8 diverting that much.

9 And then, also, we haven't got this far yet,  
10 but we would want to limit that quantity to the  
11 city's overall quantity from all -- from Cheney,  
12 their well field, and their well fields in this --  
13 well field in town.

14 Q. I'm not familiar with those tables of  
15 city demand assigned to Equus Beds and the ASR.  
16 That excludes the demand on Cheney, so --

17 A. Correct.

18 Q. -- is that right?

19 A. Correct. But -- but Cheney's all -- this  
20 -- this table is an entire matrix of their use  
21 from Cheney, and the Equus Beds well fields, and  
22 ASR.

23 Q. Uh-huh.

24 A. This is a whole matrix, so...

25 Q. Okay. So -- yeah. The next one down is

1 A. Well that's not the proposal. I mean,  
2 yeah --

3 Q. Okay.

4 A. I mean, technically, yes, but the -- I've  
5 got to find the -- the -- what's Exhibit No. 9 --

6 Q. Okay.

7 A. -- is a table right out of their  
8 proposal. And I can -- I'll give you my proposal.  
9 Page 25.

10 Q. Uh-huh.

11 THE WITNESS: Tim, it's Page 25 of the  
12 proposal.

13 But we've -- technically, yes, but when we're  
14 looking at Table 2-3 --

15 BY MR. ROLFS:

16 Q. 2-3?

17 A. -- 2-3, sorry, that talks about  
18 simulation results for the one percent drought?

19 Q. Uh-huh.

20 A. So when we've reviewed this, if you go  
21 down to, "City demand assigned to the Equus Beds  
22 well field and ASR," it's the one, two, three,  
23 fourth down --

24 Q. Right.

25 A. -- the highest year in there is Drought

1 -- is "Demand assigned to Cheney"?

2 A. Correct.

3 Q. Okay.

4 A. This table is pretty important to us as  
5 we move this proposal forward.

6 Q. So out of that 59,000 and -- roughly  
7 60,000 acre-feet demand in Drought Year 3, only  
8 19,000 of that could come from recharge credits;  
9 is that what you're saying?

10 A. Correct. As of right now, they've got  
11 19,000 approved.

12 Q. So the way the proposal is currently laid  
13 out, though, they could go in and take \$19,000 --  
14 19,000 acre-feet of credits every year during this  
15 entire period if they had it in the bank?

16 A. Correct.

17 Q. Okay.

18 A. We don't have those limitations and  
19 things pinned down yet.

20 Q. Okay. And -- thank you. And if I'm  
21 understanding correctly, it would take no  
22 modifications to any permits, or new applications,  
23 or new -- or change applications to do this; is  
24 that -- that's DWR's current position, is that --

25 A. That's -- that's correct.



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1 MR. OLEEN: I'll object. Just -- I think  
2 it's ambiguous. What do you mean by "this," Lee?  
3 Could you clarify that?

4 BY MR. ROLFS:

5 Q. That the city could withdraw up to 19,000  
6 acre-feet of credits, combination physical  
7 recharge and AMCs, in any one year without any  
8 changes to existing water right permits or filing  
9 any change applications.

10 A. That's correct.

11 Q. Okay. And I think you mentioned earlier,  
12 DWR hasn't contemplated putting any limitations on  
13 when the city could use its AMC credits or...

14 A. We've con -- we've thought about it; we  
15 just haven't worked that out --

16 Q. Okay.

17 A. -- worked that out as part of this  
18 proposal yet. We, first of all, need to see if it  
19 gets approved before we start putting in those  
20 types of details.

21 Q. Uh-huh. Okay. In your second set -- in  
22 our Second Set of Interrogatories, you answered in  
23 No. 17 that basically there was no -- the chief  
24 engineer had no information that the proposed  
25 lowering of the minimum index levels would be

1 A. No. No.

2 Q. Now, there's -- some of the comments I  
3 read during discovery where there were -- DWR said  
4 that they didn't feel that water quality would be  
5 negatively impacted by the accumulation of AMCs.

6 I guess my question would be, and I think  
7 we've talked about this a little already, was,  
8 will water quality be negatively impacted by the  
9 withdrawal of those AMCs? I think those are two  
10 different things, and...

11 A. It would not be affected any differently  
12 than a well operating.

13 Q. Okay. But if more water was being  
14 withdrawn, that -- because of the AMCs, that could  
15 change that, right?

16 A. It could potentially, but we don't know  
17 if more water will be withdrawn just because of  
18 the AMCs. It's just a -- it's just a recharge  
19 credit.

20 Q. Okay. Now, the accounting method, it's  
21 my understanding DWR says they're not going to  
22 change the accounting method for the ASR program,  
23 but -- except to add a new type of recharge  
24 credit; is that correct?

25 A. That's correct.

1 unreasonable and would negatively affect the  
2 public interest; is that correct?

3 A. That's correct.

4 MR. OLEEN: Do you know which -- which  
5 number you're referring to?

6 MR. ROLFS: No. 17 in the Second Set of  
7 Interrogatories.

8 MR. OLEEN: We got them here, so let's --  
9 let's read them.

10 MR. ROLFS: Sure.

11 THE WITNESS: (Witness complies.)

12 BY MR. ROLFS:

13 Q. All right. Have you reviewed the  
14 District's expert reports on this topic?

15 A. I haven't had time yet, so...

16 Q. Okay. And you've talked about multi-year  
17 flex accounts for irrigators. Has the city  
18 proposed or contemplated using multi-year flex  
19 accounts for its water rights?

20 A. I think -- not to us. I mean, I think  
21 it's been brought up to them --

22 Q. Uh-huh.

23 A. -- but...

24 Q. But there's no proposal on the table  
25 right now?

1 Q. Okay. Let me see here. At the hearing,  
2 is -- I guess let's talk about who's -- who's --  
3 who, from DWR, the "big you," who will be  
4 testifying at the hearing?

5 A. That's a good question. I know I will on  
6 behalf of the appropriation program. I don't know  
7 yet, because I -- I -- I've got be honest, we  
8 haven't talked to David Barfield about this at all  
9 since all this started --

10 Q. Okay.

11 A. -- so I don't know what his plans are for  
12 witnesses. I know we -- I mean, if it gets pretty  
13 technical, I imagine our program would want Doug  
14 Schemm --

15 Q. Okay.

16 A. -- because Doug has done most of the work  
17 on these latest applications. Jeff Lanterman, our  
18 water commissioner from the Stafford field office.

19 Q. So are you familiar with what they will  
20 be testifying about at a hearing?

21 A. Well, it would only be like for if -- if  
22 some technical questions came up that I couldn't  
23 answer that your side would need the answer to,  
24 we'd want one of those other folks to talk about  
25 it.



1 Q. Now, are any DWR people going to make  
2 recommendations at this hearing as to whether this  
3 program ought to be approved, or not?

4 A. Well, that's a good -- we haven't talked  
5 about that, Lee. No, we have not talked about  
6 with -- with -- yeah.

7 Q. Are they going to issue any opinions from  
8 these witnesses about the -- whether the pro --  
9 the proposal to the city of Wichita is going to be  
10 approved, or not?

11 A. We haven't talked about that, either.  
12 You know, we --

13 Q. Well, you got two weeks.

14 A. I know. We got two weeks. We haven't  
15 talked about that yet. Actually, we haven't got  
16 the details down in the --

17 Q. Uh-huh.

18 A. -- in the hearing. You will hear in the  
19 hearing about everything you heard today, so...

20 Q. So right now, you don't know if any  
21 expert opinions or recommendations will be made by  
22 DWR at the hearing?

23 A. I don't know that yet.

24 MR. ROLFS: Okay. Let's see. I think  
25 we're getting pretty close here. Why don't we

1 MR. OLEEN: If there's people on the  
2 phone that have some now, they can go.

3 MR. ROLFS: All right. Let's see.  
4 Tessa, do you have any questions?

5 MS. WENDLING: I do not have any  
6 questions. Thank you.

7 MR. ROLFS: Let's see.

8 MS. BOESE: Brian McLeod.

9 MR. ROLFS: Brian, do you have any  
10 questions?

11 MR. MCLEOD: I don't.

12 MR. ROLFS: Okay. Dave?

13 MR. STUCKY: I think you've asked the  
14 questions for us, so no.

15 MR. ROLFS: Okay. I guess we're back to  
16 you, Aaron.

17 MR. OLEEN: Okay.

18 CROSS-EXAMINATION

19 BY MR. OLEEN:

20 Q. Mr. Letourneau, what -- we've been  
21 talking today about the proposal. At this point,  
22 DWR has not made any official decisions about this  
23 proposal; is that correct?

24 A. That's correct.

25 Q. In fact, isn't that part of why we are

1 take about a 15-minute break? I want to consult  
2 with some people, and --

3 THE WITNESS: Absolutely.

4 MR. ROLFS: -- and -- and let's see, what  
5 time are we at, 11:05?

6 How long do you think, Jim?

7 THE REPORTER: Do you want to be off the  
8 record or do you want this on the record?

9 MR. ROLFS: I was going to tell them how  
10 long we're going to take a break here. 15  
11 minutes?

12 MS. BOESE: I think so.

13 MR. ROLFS: Okay. That would bring us  
14 back here at 11:20.

15 THE WITNESS: Okay.

16 MR. ROLFS: See if we can wrap it up.

17 (THEREUPON, a break was taken; WHEREUPON,  
18 LETOURNEAU Deposition Exhibit No 10 was marked for  
19 identification.)

20 MR. ROLFS: Okay. We're back on the  
21 record. We've done such a good job answering  
22 questions, we don't have any more questions, so  
23 turn it over --

24 Do you want to go first or do you want to let  
25 anybody else ask questions, clarifying questions?

1 engaging in this hearing process now?

2 A. Yes.

3 Q. Have, you personally, as an agent of DWR,  
4 ever told any Wichita official that this proposal  
5 will be approved?

6 A. No. We -- we -- but, you know, I would  
7 have said that this seems reasonable to move  
8 forward, but I can't -- a person in my position  
9 can't tell somebody that it will be approved.

10 Q. To your knowledge, has any DWR official  
11 told any Wichita official that this proposal will  
12 be approved?

13 A. Not to my knowledge. I mean, nobody's  
14 told me that they told Wichita this would be  
15 approved.

16 Q. You are one of many DWR officials,  
17 correct?

18 A. Correct.

19 Q. So you're not the only one that has been  
20 considering the issues related to this proposal,  
21 correct?

22 A. That's correct. It's been a team of us.

23 Q. Has the chief engineer also been  
24 considering these issues?

25 A. Yes. He's -- he was part -- part of the



1 meetings.  
 2 **Q. Who else is part of the chief engineer's**  
 3 **team?**  
 4 A. Now that we've split up, or now -- or --  
 5 or when we -- or when we were meeting?  
 6 **Q. Well, the chief engineer is the presiding**  
 7 **officer, right --**  
 8 A. Correct.  
 9 **Q. -- for this -- for the hearing regarding**  
 10 **this matter.**  
 11 A. Correct.  
 12 **Q. And he has employed the assistance of**  
 13 **Chris Beightel to assist him; is that right?**  
 14 A. Correct. Chris Beightel, Kenny Titus and  
 15 Sam Perkins --  
 16 **Q. And --**  
 17 A. -- are on David's side.  
 18 **Q. And did you already explain what Chris**  
 19 **Beightel's expertise is with DWR?**  
 20 A. Well, he's a electrical engineer, I  
 21 believe Chris is, and yeah, he's the program  
 22 manager for Water Management Services.  
 23 **Q. And what does Water Management Services**  
 24 **do as a program, as -- as different from your**  
 25 **appropriation program?**

1 **me after you've read it to the point that you are**  
 2 **familiar with that, if you are.**  
 3 A. I -- yes, I'm familiar with it.  
 4 **Q. Okay. Is that a letter that you've seen**  
 5 **before?**  
 6 A. Yes. This is the letter I've seen  
 7 before.  
 8 **Q. I want to direct your attention to an**  
 9 **attachment to that letter on -- on the -- the**  
 10 **letter is two pages, correct, front and back?**  
 11 A. Correct.  
 12 **Q. And then so the third page is an**  
 13 **attachment, and at the top it says: Responses to**  
 14 **GMD2 legal/policy questions and comments, right?**  
 15 A. That is correct.  
 16 **Q. I want to direct your attention to the**  
 17 **third paragraph down after the question, where it**  
 18 **says, "The city's current ASR project."**  
 19 **Do you see that paragraph?**  
 20 A. I do.  
 21 **Q. Will you please read that paragraph?**  
 22 A. The city's current ASR project has been  
 23 approved pursuant to K.A.R. 5-12-1, et seq., with  
 24 appropriate terms and conditions to protect the  
 25 public interest and prevent impairment. The ASR

1 A. Well, we've blended a lot now, but there  
 2 -- they dominate the interstate water issues, all  
 3 of the technical modeling, the -- they run the  
 4 These equations for us when we've got questions,  
 5 kind of the -- they are the more technical arm of  
 6 the division.  
 7 **Q. And you mentioned Sam Perkins with DWR?**  
 8 A. (Witness nods head.)  
 9 **Q. Is that a yes?**  
 10 A. Yeah. Yes.  
 11 **Q. Is he part of Water Management Services?**  
 12 A. Sam's part of Water Management Services.  
 13 **Q. To your knowledge, have Chris or Sam been**  
 14 **involved in considering issues related to the**  
 15 **proposal?**  
 16 A. They have been, yes.  
 17 **Q. I'm handing you what has been marked as**  
 18 **Deposition Exhibit No. 10 now. Just take a minute**  
 19 **to review that.**  
 20 MR. OLEEN: For the folks on the phone,  
 21 this is a letter dated June 1, 2018 that Chief  
 22 Engineer David Barfield sent to the GMD2 Board of  
 23 Directors.  
 24 BY MR. OLEEN:  
 25 **Q. Just take a look at that, and then tell**

1 approval documents include provisions for making  
 2 changes to the ASR accounting procedure. Since  
 3 the proposed changes are not new water, simply  
 4 another way to accrue recharge credits, these  
 5 changes would be made pursuant to existing  
 6 authority.  
 7 **Q. Do you agree with that statement?**  
 8 A. Regarding the AS -- regarding the AMCs,  
 9 yes.  
 10 **Q. Is -- is that rationale why the Division**  
 11 **of Water Resources is still considering the ASR**  
 12 **proposal, even though there are no pending**  
 13 **application documents?**  
 14 A. Yes, that's correct.  
 15 **Q. With respect to this letter as a whole,**  
 16 **do you agree with its contents? And if you need**  
 17 **time to review it in greater detail, we'll take**  
 18 **it?**  
 19 A. No, I -- I am very familiar with the  
 20 letter, and I do agree -- I do agree with the  
 21 concept.  
 22 **Q. With its contents?**  
 23 A. Content, yeah. Sorry.  
 24 **Q. Does this letter contain DWR's official**  
 25 **position, to the extent there is one, with respect**



1 to the subjects that the letter addresses?  
 2 A. Yeah. Our position is that the proposal  
 3 was reasonable enough to move forward in the  
 4 process.  
 5 Q. And -- and so "reasonable enough," you've  
 6 just said, but the Division of Water Resources has  
 7 not yet determined whether the proposal is  
 8 reasonable enough to approve; is that right?  
 9 A. Correct. Yeah, we wanted the hearing  
 10 process to take place.  
 11 MR. OLEEN: I don't have anything  
 12 further.  
 13 MS. BOESE: Can -- can Lee and I consult  
 14 for five minutes?  
 15 MR. OLEEN: Sure. Yup.  
 16 MR. ROLFS: We'll make it quick.  
 17 (THEREUPON, a break was taken.)  
 18 REDIRECT-EXAMINATION  
 19 BY MR. ROLFS:  
 20 Q. Exhibit 10, as you indicated, this letter  
 21 is written by the chief engineer; is that correct?  
 22 A. Correct.  
 23 Q. And if you go to the third paragraph in  
 24 the first page, it says: As envisioned, the AMCs  
 25 should serve the public interest by facilitating

1 -- these were draft permits for existing water  
 2 rights plus the 30 new apps?  
 3 A. The -- well, I need to -- let me review  
 4 these. I know this --  
 5 Q. Okay. Sure.  
 6 A. -- this is a draft Findings and Order to  
 7 amend the terms and conditions --  
 8 Q. Okay.  
 9 A. -- of -- of the existing ASR Phase II  
 10 permits. And see if I can -- okay.  
 11 Q. But then further back, there's a draft  
 12 actual permit?  
 13 A. Correct. Draft, June 1 of 2018, Example  
 14 proposed individual approvals (sic) for one of the  
 15 new applications.  
 16 Q. Okay.  
 17 A. Correct. To speak to that, I don't know  
 18 if it's confident enough to draft these, but when  
 19 we've -- we've learned with a couple of  
 20 complicated projects that we've worked on that  
 21 people like to see examples in front of them.  
 22 Q. Okay.  
 23 A. But these are clearly marked "draft," but  
 24 then it's -- they're good documents to work off  
 25 of. And that way, people actually know what we're

1 fuller aquifer conditions without allowing the use  
 2 of new or unappropriated water.  
 3 That sounds fairly positive, that he thinks  
 4 it should be in the public interest; is that the  
 5 way you read it?  
 6 A. Yes. Correct.  
 7 Q. Okay. And, in fact, he must have had  
 8 enough I guess confidence in this proposal that he  
 9 went ahead, and I guess it would be on Page 3 of  
 10 the exhibit, physical Page 3, there's a draft  
 11 permit for implementing the program.  
 12 Now, this is for the water rights that were  
 13 withdrawn, right?  
 14 A. Yes.  
 15 Q. So they're no longer under consideration.  
 16 But at the time he wrote this letter, he --  
 17 MS. BOESE: I think they're actually --  
 18 can I clarify? Those are actually included, the  
 19 permits that were withdrawn, and also the existing  
 20 permits, and the initial Order for Phase II.  
 21 MR. ROLFS: That's correct.  
 22 MS. BOESE: They're included there.  
 23 Would you all -- I mean, I want to -- I --  
 24 BY MR. ROLFS:  
 25 Q. Is that -- is that correct, the -- these

1 working off of.  
 2 MR. ROLFS: Okay. I have no further  
 3 questions.  
 4 MR. OLEEN: One more.  
 5 MR. ROLFS: Okay.  
 6 RECROSS-EXAMINATION  
 7 BY MR. OLEEN:  
 8 Q. Also at this letter, this Deposition  
 9 Exhibit 10, we -- Mr. Rolfs asked you about some  
 10 phrasing involving AMCs and public interest.  
 11 I want you to read the last -- on the last  
 12 paragraph on the first page, would you please read  
 13 the first two sentences?  
 14 A. The last paragraph? And this is a letter  
 15 signed by David Barfield, so this is coming from  
 16 David Barfield's person.  
 17 I do believe that the public process is  
 18 important in considering these changes. There may  
 19 well be additional terms and conditions that will  
 20 improve the accounting of AMCs or other changes  
 21 that will better serve the public's interest.  
 22 Q. So the chief engineer has not decided --  
 23 if we are -- if -- let me -- let me start over.  
 24 Now that you've read that sentence, that --  
 25 those two sentences would seem to indicate that



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1 the chief engineer has not decided that AMCs do or  
 2 do not, in fact, serve the public interest; is  
 3 that correct?  
 4 A. That's correct.  
 5 Q. Because he says that there may be other  
 6 terms and conditions that may improve their  
 7 accounting or other changes that will better serve  
 8 the public's interest, right? He says that,  
 9 right?  
 10 A. That's correct.  
 11 MR. OLEEN: Nothing further.  
 12 MR. ROLFS: I have nothing further.  
 13 We are off the record.  
 14 (THEREUPON, the deposition concluded at  
 15 11:41 a.m.)  
 16 .  
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 25 .

Page 95

AFFIDAVIT

1  
 2 .  
 3 STATE OF \_\_\_\_\_:  
 4 COUNTY/CITY OF \_\_\_\_\_:  
 5 .  
 6 Before me, this day, personally appeared,  
 7 LANE LETOURNEAU, who, being duly sworn, states that  
 8 the foregoing transcript of his/her Deposition, taken  
 9 in the matter, on the date, and at the time and place  
 10 set out on the title page hereof, constitutes a true  
 11 and accurate transcript of said deposition, along with  
 12 the attached Errata Sheet, if changes or corrections  
 13 were made.  
 14 .  
 15 \_\_\_\_\_  
 16 LANE LETOURNEAU  
 17 .  
 18 SUBSCRIBED and SWORN to before me this \_\_\_\_\_  
 19 day of \_\_\_\_\_, 2019 in the  
 20 jurisdiction aforesaid.  
 21 .  
 22 \_\_\_\_\_  
 23 My Commission Expires \_\_\_\_\_ Notary Public  
 24 .  
 25 .

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SIGNATURE

1  
 2 .  
 3 The deposition of LANE LETOURNEAU was  
 4 taken in the matter, on the date, and at the time  
 5 and place set out on the title page hereof.  
 6 .  
 7 It was requested that the deposition be  
 8 taken by the reporter and that same be reduced to  
 9 typewritten form.  
 10 .  
 11 It was agreed by and between counsel and  
 12 the parties that the deponent will read and sign  
 13 the transcript of said deposition.  
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Page 96

DEPOSITION ERRATA SHEET

1  
 2 RE: APPINO & BIGGS  
 3 REPORTING SERVICE, INC.  
 4 FILE NO.: 53129  
 5 CASE: CITY OF WICHITA'S PHASE II AQUIFER STORAGE  
 6 AND RECOVERY PROJECT IN HARVEY & SEDGWICK COUNTIES  
 7 DEPONENT: LANE LETOURNEAU  
 8 DEPOSITION DATE: 3/8/2019  
 9 To the Reporter:  
 10 I have read the entire transcript of my Deposition taken in the  
 11 captioned matter or the same has been read to me. I request that  
 12 the following changes be entered upon the record for the reasons  
 13 indicated. I have signed my name to the Errata Sheet and the  
 14 appropriate Certificate and authorize you to attach both to the  
 15 original transcript.  
 16 PAGE LINE FROM TO REASON  
 17 \_\_\_\_\_  
 18 \_\_\_\_\_  
 19 \_\_\_\_\_  
 20 \_\_\_\_\_  
 21 \_\_\_\_\_  
 22 \_\_\_\_\_  
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 25 \_\_\_\_\_



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1	PAGE LINE FROM	TO	REASON
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3	_____	_____	_____
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21	_____	_____	_____
22	_____	_____	_____
23	_____	_____	_____
24	SIGNATURE: _____		DATE: _____
25	LANE LETOURNEAU		

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1                   **CERTIFICATE**  
2   **STATE OF KANSAS**  
3                   **SS:**  
4   **COUNTY OF SHAWNEE**  
5    I, Jill A. Whetter, a Certified Court  
6   Reporter, Commissioned as such by the  
7   Supreme Court of the State of Kansas, and  
8   authorized to take depositions and  
9   administer oaths within said State pursuant  
10  to K.S.A 60-228, certify that the foregoing  
11  was reported by stenographic means, which  
12  matter was held on the date, and the time  
13  and place set out on the title page hereof  
14  and that the foregoing constitutes a true  
15  and accurate transcript of the same.  
16    I further certify that I am not related  
17  to any of the parties, nor am I an employee  
18  of or related to any of the attorneys  
19  representing the parties, and I have no  
20  financial interest in the outcome of this  
21  matter.  
22    Given under my hand and seal this  
23  15th day of March, 2019.  
24  
25                   Jill A. Whetter C.C.R No. 1485



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1 AFFIDAVIT

2 .  
3 STATE OF KANSAS :

4 COUNTY/CITY OF SHAWNEE / TOPEKA

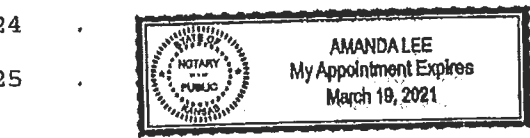
5 .  
6 Before me, this day, personally appeared,  
7 LANE LETOURNEAU, who, being duly sworn, states that  
8 the foregoing transcript of his/her Deposition, taken  
9 in the matter, on the date, and at the time and place  
10 set out on the title page hereof, constitutes a true  
11 and accurate transcript of said deposition, along with  
12 the attached Errata Sheet, if changes or corrections  
13 were made.

14 .  
15 Lane Letourneau

16 LANE LETOURNEAU

17 .  
18 SUBSCRIBED and SWORN to before me this 18<sup>th</sup>  
19 day of March, 2019 in the  
20 jurisdiction aforesaid.

21 .  
22 March 19, 2021 Amanda Lee  
23 My Commission Expires Notary Public



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913-393-1131

1 DEPOSITION ERRATA SHEET  
 2 RE: APPINO & BIGGS  
 3 REPORTING SERVICE, INC.  
 4 FILE NO.: 53129  
 5 CASE: CITY OF WICHITA'S PHASE II AQUIFER STORAGE  
 6 AND RECOVERY PROJECT IN HARVEY & SEDGWICK COUNTIES  
 7 DEPONENT: LANE LETOURNEAU  
 8 DEPOSITION DATE: 3/8/2019

9 To the Reporter:

10 I have read the entire transcript of my Deposition taken in the  
 11 captioned matter or the same has been read to me. I request that  
 12 the following changes be entered upon the record for the reasons  
 13 indicated. I have signed my name to the Errata Sheet and the  
 14 appropriate Certificate and authorize you to attach both to the  
 15 original transcript.

16	PAGE	LINE	FROM	TO	REASON
17	23	16	"is a level"	"is a water"	stenographer typo
18	24	23	"it grew, it"	"it got to it"	stenographer typo
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800 E. 1<sup>st</sup> Street, Suite 305  
 Wichita, KS 67202  
 316-201-1412

5111 SW 21<sup>st</sup> Street  
 Topeka, KS 66604  
 785-273-3063  
 www.appinoandbiggs.com

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3/8/2019

LANE LETOURNEAU

97

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24	SIGNATURE:		<i>Lane Letourneau</i>		DATE: 3-18-19
25	LANE LETOURNEAU				



800 E. 1<sup>st</sup> Street, Suite 308  
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