

FOULSTON SIEFKIN LLP
1551 N. Waterfront Parkway, Suite 100
Wichita, KS 67206-4466
316-267-6371

IN THE TWENTY-THIRD JUDICIAL DISTRICT
DISTRICT COURT, GOVE COUNTY, KANSAS,
CIVIL DEPARTMENT

JON and ANN FRIESEN, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
vs.)	Case No. 2018-CV-000010
)	
DAVID BARFIELD, P.E., THE CHIEF)	
ENGINEER OF THE STATE OF KANSAS,)	
DEPARTMENT OF AGRICULTURE,)	
DIVISION OF WATER RESOURCES,)	
in his official capacity,)	
)	
Defendant.)	
_____)	
PURSUANT TO K.S.A. CHAPTER 77)	

**MOTION TO ALTER OR AMEND
AND
TO AMEND AND MAKE ADDITIONAL FINDINGS**

COME NOW the Plaintiffs, by and through their attorney, David M.

Traster of Foulston Siefkin LLP, pursuant to K.S.A. 60-252(b) and K.S.A. 60-

259(f), and respectfully request that the District Court alter or amend its October 15, 2019, Memorandum Decision or amend and make additional findings.

This proceeding is governed by the Kansas Judicial Review Act (“KJRA”).¹ Because the KJRA does not include counterparts to K.S.A. 60-252(b) or K.S.A. 60-259(f), these Code of Civil Procedure provisions control.² This Motion is timely if filed within 28 days after the Court’s Memorandum Decision was filed on October 15, 2019, or on or before November 12, 2019.³ This Court retains jurisdiction to modify its judgment until an appeal is docketed.⁴

IN SUPPORT of this Motion, the Plaintiffs provide the Court with the contemporaneously filed Memorandum in Support.

¹ K.S.A. 77-601, *et seq.*

² K.S.A. 60-201(b), K.S.A. 60-265, and *Pieren–Abbott v. Kansas Dept. of Revenue*, 279 Kan. 83, 96, 106 P.3d 492 (2005).

³ K.S.A. 60-259(f) and K.S.A. 60-252(b).

⁴ *Sanders v. City of Kansas City*, 18 Kan. App. 2d 688, 692, 858 P.2d 833, 835–36 (1993) (citations omitted).

Respectfully submitted,

FOULSTON SIEFKIN LLP
Daniel J. Buller, KS #25002
9225 Indian Creek Parkway, Suite 600
Overland Park, KS 66210-2000
Telephone: 913-498-2100
Facsimile: 913-498-2101
Email: dbuller@foulston.com

FOULSTON SIEFKIN LLP
1551 N. Waterfront Parkway, Suite 100
Wichita, KS 67206-4466
Telephone: 316-291-9725
Facsimile: 866-347-3138
Email: dtraster@foulston.com

By: */s/ David M. Traster*
David M. Traster, KS #11062
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of November, 2019, the above and foregoing was presented to the Clerk of the Court for filing and uploading to the Kansas Court's e-Filing system that will send notice of electronic filing to counsel of record as follows:

Adam C. Dees
adam@clinkscaleslaw.com
Clinkscales Elder Law Practice, PA
718 Main Street, Suite 205
P.O. Box 722
Hays, KS 67601

and

Kenneth B. Titus, Chief Counsel
kenneth.titus@ks.gov
Kansas Department of Agriculture
1320 Research Park Drive
Manhattan, KS 66502

Attorneys for Defendant

/s/ David M. Traster _____

David M. Traster, KS #11062