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August 12, 2022

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Sent via email

Re: City of Hays and City of Russell –
First Amended Water Transfer Application
Earl,

We are pleased that you are ready to convene the Panel and write to OAH about the selection of a hearing officer. Because Judge Gattermann issued a final order, the First Amended Transfer Application is now “complete.” We believe that pressing forward with the transfer proceeding is appropriate legally, politically, and practically especially because of the rapidly escalating costs. We respectfully request that you move forward with the water transfer proceeding at this time.

When the change applications were filed in June of 2015, the cost for construction of the project was estimated at \$72,858,000. Construction costs rose at an annual rate of 3.17% through 2018 and at 3.97% until COVID-19 hit. Then the inflation rate jumped to 7.62%.

The inflation rate averages across various market sectors but because of substantially higher material costs, pipeline projects took a bigger hit. By January of 2021, costs had increased to \$99,038,000 and the inflation rate is now at 8.16%.

The current Opinion of Probable Cost of the construction of the R9 wellfield, pipeline, and associated infrastructure is \$106,585,000.

If we push very hard, we hope to complete the transfer proceeding and the potential appeal in two years or less. BMcD informs us that once we have an order approving the transfer, it will take another two years to complete the design and have the project ready to bid. During that time, the Cities will need to arrange financing, acquire easements and rights of way, and obtain various construction permits.

Thus, if we have an order approving the transfer in two years, August 2024, and can bid the project two years later, August 2026, construction costs are likely to be \$145,868,507.09. Construction costs are projected to increase by more than \$10 million per year by August of 2025.

	Costs at 8.16%	Annual increases	Cumulative increases
8/31/2022	\$106,585,000		
8/31/2023	\$115,282,000	\$8,697,000	\$8,697,000
8/31/2024	\$124,689,011	\$9,407,011	\$18,104,011
8/31/2025	\$134,863,635	\$10,174,623	\$28,278,635
8/31/2026	\$145,868,507	\$11,004,873	\$39,283,507
8/31/2027	\$157,771,377	\$11,902,870	\$51,186,377
8/31/2028	\$170,645,522	\$12,874,144	\$64,060,522

Because of the rapidly escalating costs and the potential for significant delays beyond our ability to influence, we seek to avoid even short, seemingly innocuous delays. A few days of delay here and few days of delay there and it's death by a thousand cuts.

We are requesting that you convene the Panel right away for these reasons and because we want to seize on the momentum provided by Judge Gatterman's ruling.

Sincerely,

FOULSTON SIEFKIN LLP

A handwritten signature in blue ink, appearing to read "D. Traster", is positioned below the firm name.

David M. Traster

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