

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF KANSAS**

IN THE MATTER OF THE APPLICATION OF )  
THE CITIES OF HAYS, KANSAS ) OAH Case No. 23AG0003 AG  
AND RUSSELL, KANSAS FOR APPROVAL TO )  
TRANSFER WATER FROM EDWARDS )  
COUNTY, KANSAS PURSUANT TO THE )  
KANSAS WATER TRANSFER ACT )

**PETITION FOR INTERVENTION**

Big Bend Groundwater Management District No. 5 (the “District”) petitions the Presiding Officer for an order allowing the District to intervene in this case pursuant to K.S.A. § 82a-1503(c) and K.S.A. § 77-521. In support of its Petition, the District states as follows:

1. The District is a special government district organized under K.S.A. § 82a-1020 *et seq.* The District’s office is located at 125 South Main Street, Stafford, KS 67578.

2. The District requests that any and all communications and correspondence to the District, including service of all notices and orders in these proceedings, be sent to the following:

Lynn Preheim  
Stinson LLP  
1625 North Waterfront Parkway, Suite 300  
Wichita, KS 67206

3. The City of Hays and the City of Russell (the “Cities”) determined that they need access to an additional source of water to meet their future, long-term needs, due to existing water shortages, projected population increases, and other regional water needs. To help meet these increased water needs, the Cities purchased the R9 Ranch and affiliated R9 Water Rights and conceived of a diversion and transportation infrastructure to divert water from the R9 Water Rights and to transport it for municipal use (the “Project”).

4. The R9 Ranch is located within the District's boundaries.

5. On June 26, 2015, the Cities submitted the original Change Applications which, as amended, seek contingent approval of changes of the use made of water, the places of use, and the points of diversion under the R9 Water Rights.

6. The Change Applications were filed in anticipation of the Cities' desired transfer of more than 2,000 acre-feet of water per year from the R9 Ranch to Schoenchen, Kansas, and then on to Hays and to Russell. Because the Cities desired to move greater than 2,000 acre-feet of water more than 35 miles, the Cities also submitted an application to transfer water pursuant to the Water Transfer Act, K.S.A. § 82a-1501, *et seq.*

7. Pursuant to K.A.R. § 5-5-2a(c), the District submitted its recommendations regarding the Cities' Change Applications on August 29, 2018, which it later supplemented on September 14, 2018. In light of the complexity of the Change Applications, the District's Board of Directors reviewed the Change Applications and supporting documentation to provide the District's recommendations and retained Balleau Groundwater Inc. to analyze the technical data and reports.

8. On March 29, 2019, the Chief Engineer issued a Master Order and accompanying incorporated Change Approvals providing contingent approval for the Cities' requested applications for change related to the R9 Water Rights.

9. The District is defined as a commenting agency pursuant to the Water Transfer Act. K.S.A. § 82a-1501(i).

10. The District should be granted intervenor status since it was created to aid in the proper management and conservation of groundwater resources. *See* K.S.A. § 82a-1020. The District seeks intervention to ensure proper management of the water resource and integrity of the use of the District's hydrologic model (which both the Cities and the Kansas Department of Agriculture-Division of Water Resources have relied upon and modified in submitting and analyzing the Change Applications).

11. The granting of this Petition for Intervention will not delay or impede this matter in any way.

WHEREFORE, the District respectfully requests that the Presiding Officer grant its Petition for Intervention in these proceedings.

Respectfully submitted,

*/s/ Lynn D. Preheim*

Lynn D. Preheim

Christina J. Hansen

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*Counsel for Big Bend Groundwater Management  
District No. 5*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 15<sup>th</sup> day of February, 2023, a copy of the foregoing was served electronically on the following:

Ken Cole: [cole\\_ken@hotmail.com](mailto:cole_ken@hotmail.com)  
Stephanie Kramer: [Stephanie.kramer@ks.gov](mailto:Stephanie.kramer@ks.gov)  
Mark Frame: [framelaw@yahoo.com](mailto:framelaw@yahoo.com)  
Micah Schwalb: [mschwalb@leeschwalb.com](mailto:mschwalb@leeschwalb.com)  
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*/s/ Lynn D. Preheim*

\_\_\_\_\_  
Lynn D. Preheim

**From:** [Adams, Kay L.](#) on behalf of [Preheim, Lynn](#)  
**To:** [OAH](#)  
**Cc:** [Preheim, Lynn](#); [Hansen, Christina J.](#); [Davenport, Aimee D.](#); "[cole\\_ken@hotmail.com](mailto:cole_ken@hotmail.com)"; [Kramer, Stephanie \[KDA\]](#); "[framelaw@yahoo.com](mailto:framelaw@yahoo.com)"; "[mschwalb@leeschwalb.com](mailto:mschwalb@leeschwalb.com)"; "[cleee@leeschwalb.com](mailto:cleee@leeschwalb.com)"; "[mlee@leeschwalb.com](mailto:mlee@leeschwalb.com)"; "[donhoff@eaglecom.net](mailto:donhoff@eaglecom.net)"; "[melsauer@eaglecom.net](mailto:melsauer@eaglecom.net)"; "[tdougherty@haysusa.com](mailto:tdougherty@haysusa.com)"; "[quinday@russellcity.org](mailto:quinday@russellcity.org)"; "[dtraster@foulston.com](mailto:dtraster@foulston.com)"; "[dbuller@foulston.com](mailto:dbuller@foulston.com)"  
**Subject:** OAH Case No. 23AG0003 AG  
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Dear Sir or Madam,

Attached for filing in Case No. 23AG0003 AG is our Petition for Intervention on behalf of Big Bend Groundwater Management District No. 5. Should you have any questions, please let me know. Thank you.

Lynn D. Preheim  
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