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GOVERNOR JEFF COLYER, M.D.
JACKIE McCLASKEY, SECRETARY OF AGRICULTURE

May 9, 2018

City of Wichita
Director of Public Works & Utilities
City Hall Eighth Floor
455 N Main
Wichita Ks 67202-1606

Groundwater Management District No 2
% Tim Boese
313 Spruce St
Halstead KS 67506-1925

Re: City of Wichita ASR Process

To Mr. King and Mr. Boese,

I want to thank the GMD 2 Board of Directors and staff for their time at the April 19, 2018 special board meeting, as well as for your input based on your initial review of the City of Wichita's ("City") proposal received on April 28, 2018. As appropriate, we will provide responses to this input separately.

As I promised at the special board meeting, this letter outlines my thoughts on how to proceed with the review of the City's proposal and GMD 2's request that I delegate the proposed hearing.

I originally laid out a proposed hearing process in my letter of September 18, 2017. Regarding this entire process, it is important to note that there is no application to approve new infrastructure nor any applications which create new authority to divert water. Since neither of these elements exist, the requirement to hold a public hearing has not been triggered. A hearing is not required for adjustments to the accounting procedure. However, the consideration of a new way to accumulate recharge credits (Aquifer Maintenance Credits or "AMC's") has generated strong and widespread interest in the City's proposal from the GMD and from the regional community. Therefore, I believe that it is in the best interests of the public and for transparency that a formal hearing be held.

Although I had initially anticipated that this hearing would be an information one, providing an opportunity for the public to submit comments, I believe that the complex nature of the issues would be more appropriately considered during an evidentiary hearing. This means that any decision I make will be based on the evidence contained in the hearing record, which will include the GMD's testimony and recommendations provided at the hearing.

Moving forward, I hope to follow the process and the rough schedule outlined below, unless GMD 2 or the City provide compelling reasons to do otherwise. As noted below, I will hold a pre-hearing conference to further work out the hearing procedures.

- May 2018 - Update proposal and draft proposed approval documents
- Early June 2018 – Pre-hearing conference, set public hearing date
- June 2018 - Public informational meeting
- Late July or early August 2018 – Public hearing including GMD bringing its recommendations
- August 2018 – Close record
- September/early October 2018 - Review of record and decision

- Potential review of record and decision by the Secretary of Agriculture
- Potential review of record and decision by district court

Finally, the GMD has requested that, because I have assisted the City with developing its proposal, I should delegate the hearing to someone else. While I fully acknowledge and appreciate that a hearing officer can be disqualified for bias, prejudice or interest in an administrative matter, I have no personal conflict of interest in this matter and I will neither gain nor lose anything by deciding to approve or not to approve the City's requested changes and there is no record of bias of or prejudice against either party.

My involvement up to this point has been to respond to its inquires by the City of what might be approvable, all done within my statutory duties and authority. Fulfilling my statutory duties and then also serving as a hearing officer is plainly anticipated by the Legislature, especially considering the complex nature of this matter. Since the hearing will be an evidentiary hearing, with a decision based on the record, all parties that wish to challenge the approval of the applications will be guaranteed full protection from bias, prejudice, or any other conflict of interest, and as mentioned above, my decision be subject to judicial review. There are numerous safeguards in place to protect the interests of those parties that may wish to challenge the applications.

Please let me know if you have any questions or further input on these matters.

Sincerely,

A handwritten signature in blue ink that reads "David W. Barfield". The signature is written in a cursive, flowing style.

David W. Barfield, P.E.
Chief Engineer
Division of Water Resources
Kansas Department of Agriculture

CC:

Jeff Lanterman, Kansas Department of Agriculture, Stafford Field Office