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STATE OF KANSAS BEFORE THE DIVISION OF WATER RESOURCES KANSAS DEPARTMENT OF AGRICULTURE

In the Matter of the City of Wichita's) Phase II Aquifer Storage and Recovery Project) Case No. 18 Water 14014 In Harvey and Sedgwick Counties, Kansas.)

Pursuant to K.S.A. 82a-1901 and K.A.R. 5-14-3a.

MOTION TO COMPEL TO THE DIVISION OF WATER RESOURCES

COMES NOW the Equus Beds Groundwater Management District Number 2 (hereinafter "the District"), by and through counsel Thomas A. Adrian of Adrian & Pankratz, P.A., Leland Rolfs of Leland Rolfs Consulting, and David Stucky, with its Motion to Compel to the Division of Water Resources. In support of said Motion, Movant states as follows:

- The District has previously submitted written discovery to the Division of Water Resources (hereinafter "DWR"). DWR's answers to the District's written discovery is attached as Exhibit A.
- 2. DWR sent a Privilege Log to the District contemporaneous with its answers to the District's written discovery requests. The Privilege Log is attached as Exhibit B.
- 3. The Golden Rule letter sent to DWR is attached as Exhibit C, and fully incorporated herein. DWR has purged most of the concerns in the Golden Rule letter; however, DWR has still improperly withheld information from the District.

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- DWR has indicated that many of the communications with the Chief Engineer were work product or attorney/client privileged communications because they were made in anticipation of litigation.
- 5. The District is asking that all of these communications be unredacted.
- 6. The District is further asking for DWR to enumerate all ex parte communications DWR or the City has had with the Chief Engineer regarding the subject matter of this hearing. WHEREFORE, the District respectfully prays for the Chief Engineer to enter an order compelling the DWR to unredact all communications regarding the ASR Proposal that involve the Chief Engineer, for payment of the District's attorney fees in preparing and arguing this Motion, and such other and further relief as the Chief Engineer deems just and equitable.

RESPECTFULLY SUBMITTED,

Thomas A. Adrian, SC #06976 tom@aplawpa.com ADRIAN & PANKRATZ, P.A. David J. Stucky, SC #23698 stucky.dave@gmail.com Leland Rolfs SC#9301 Leland Rolfs Consulting leland.rolfs@sbcglobal.net Attorneys for Equus Beds Groundwater Management District Number 2

CERTIFICATE OF FILING AND SERVICE

We, Thomas A. Adrian and David J. Stucky, do hereby certify that a true and correct

copy of the above was served by (____) mail, postage prepaid and properly addressed by

depositing the same in the U.S. mail; (___) fax; (_x__) email; and/or (___) hand delivery on the

11th day of March, 2019, to:

Aaron Oleen Division of Water Resources Oleen, Aaron [KDA] <Aaron.Oleen@ks.gov> <<u>Lane.Letourneau@ks.gov</u>>

Brian K. McLeod City of Wichita McLeod, Brian <BMcLeod@wichita.gov> jpajor@wichita.gov

Tessa M. Wendling 1010 Chestnut Street Halstead, Kansas 67056 twendling@mac.com

and the original sent by (___) mail, (___) fax, (_x__) email, and/or (____) electronically filed to/with:

State of Kansas Division of Water Resources Kansas Department of Agriculture Titus, Kenneth [KDA] <u>Kenneth.Titus@ks.gov</u> Barfield, David [KDA] <u>Chris.Beightel@ks.gov</u> Beightel, Chris [KDA] <u>Chris.Beightel@ks.gov</u>

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