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 KSA 82a-1901 and KAR 5-14-3a		

CITY OF WICHITA'S RESPONSE TO INTERVENERS' BRIEF SUPPORTING EQUUS BEDS GROUNDWATER MANAGEMENT DISTRICT NO. 2'S MOTION FOR RECONSIDERATION AND FOR LEAVE TO HAVE ADDITIONAL MOTIONS CONSIDERED OUT OF TIME

With respect to the filing submitted by the Interveners, the City respectfully requests the Hearing Officer to please carefully review and consider the factual aspects of what the filing actually establishes, particularly:

- 1. The extensive scope of the discovery requests made by Interveners, and the extensive scope of the responsive information that the City provided, which included narrative answers and identification of an extensive range of relevant documents, as well as technical explanations in the objections and narrative answers of significant respects in which Interveners had misconstrued the City's proposal (e.g., as a Proposal to withdraw 120,000 AF of water from the aquifer);
- 2. The date upon which the City's responses show it provided the responses and explanations;
- 3. The persistence, in spite of all the information that the City furnished, of Interveners' fundamental misinterpretations of the City's Proposal.
- 4. The substantial variance between the imagined 120,000 AF withdrawal scenario and the withdrawals actually projected by the City for a 1% drought event in Table 2-3 on page 2-5 of the City's Proposal (with the greatest withdrawal from the Aquifer, in Drought Year 3, being 59,907 AF, and requiring no more than 19,907 AF in credits, while the withdrawals in Drought Years 1, 7 and 8 would be entirely manageable from the City's 40,000 AF native

rights).

5. Essentially, Interveners' urge the Hearing Officer to reconsider the District's Motion based on Interveners' effort to argue substance of the District's Motion, on erroneous premises that are not tied to the Proposal the City actually submitted.

CONCLUSION

Interveners' filing actually shows the expansive extent to which the City cooperatively provided responsive and timely information to the parties in discovery, well before any discovery litigation or collateral wrangling over expert reports. It does not support Interveners' effort to depict the City as seeking to withhold or delay relevant information to prejudice other litigants. It does not support Interveners' contention that the District's Motions should be taken up anew as the District has requested.

WHEREFORE, the City again requests that the District's Motion be denied and that the parties proceed to hearing without further collateral litigation over pre-hearing issues.

Respectfully submitted,

Office of the City Attorney of the City of Wichita, Kansas

By <u>/s/ Brian K. McLeod</u>
Brian K. McLeod, SC # 14026

CERTIFICATE OF FILING AND SERVICE

The undersigned hereby certifies that he transmitted the above and foregoing Response to the Motion for Reconsideration by electronic mail on this 30th day of October, 2019, for filing, to ConnieOwen@everestkc.net, Chris.Beightel@ks.gov, David.Barfield@ks.gov and Kenneth.Titus@ks.gov and served the same upon counsel for the other parties herein by electronic mail addressed to:

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