



Court: Edwards County District Court
Case Number: 2019-CV-000005
Case Title: Water Protection Assn of Central Kansas vs. David
W Barfield, in his Official Capacity PE
Type: Order

SO ORDERED.

A handwritten signature in black ink, appearing to be "B. Gatterman", written in a cursive style.

/s/ Honorable Bruce Gatterman, Chief District Judge

FOULSTON SIEFKIN LLP
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**IN THE 24TH JUDICIAL DISTRICT
DISTRICT COURT OF EDWARDS COUNTY, KANSAS**

WATER PROTECTION ASS'N OF
CENTRAL KANSAS,

Plaintiff,

v.

DAVID BARFIELD, P.E., IN HIS
OFFICIAL CAPACITY AS CHIEF
ENGINEER, DIVISION OF WATER
RESOURCES, KANSAS DEPARTMENT
OF AGRICULTURE,

Defendant,

v.

THE CITY OF HAYS, KANSAS AND
THE CITY OF RUSSELL, KANSAS,

Intervenors.

Case No. 2019-CV-000005

Pursuant to K.S.A. Chapter 77

ORDER

Now on this 17th day of October, 2019, the above captioned matter comes before the Court for determination of the Plaintiff's Motion for Discovery. Plaintiff, Water Protection Ass'n of Central Kansas (Water PACK), appears by Micah Schwalb of

Roebaugh Schwalb, Attorneys at Law of Boulder, Colorado. The Defendant, David Barfield, P.E., in his Official Capacity as Chief Engineer, Division of Water Resources, Kansas Department of Agriculture (Chief Engineer), appears by Aaron B. Oleen, Staff Attorney for the Kansas Department of Agriculture of Manhattan, Kansas. The Intervenor, the City of Hays, Kansas, appears by its attorney David M. Traster of Foulston Siefkin LLP, Wichita, Kansas and the Hays City Manager, Toby Dougherty. The Intervenor, the City of Russell, Kansas, appears by its attorney Kenneth L. Cole of Woelk & Cole, Russell, Kansas and the Russell City Manager, Jon Quinday. There are no other appearances.

Water PACK's Motion was briefed by the Parties. After hearing the arguments and statements of counsel, the Court orders as follows:

1. Water PACK shall supplement its Motion no later than November 8, 2019.

The supplement must:

- a. identify the specific persons Water PACK wishes to depose;
- b. include a complete and detailed statement of the subject matter or matters of each proposed deposition;
- c. include a detailed statement explaining how the information sought from each deponent relates to Plaintiff's K.S.A. 77-621(c)(5) allegation that

the Chief Engineer engaged in an unlawful procedure or failed to follow a prescribed procedure.

2. The Chief Engineer and the Intervenors shall file their responses to Water PACK's supplemented Motion no later than December 3, 2019.

3. The Parties have conferred and in light of K.S.A. 77-620(f), which allows the Court to require or permit additions to the record, have determined that the addition of documents that are known to exist should be the subject of future motions for additions to the agency record.

4. A further hearing on Plaintiff's Motion, as supplemented, shall be held on the 20th day of December, 2019, at 1:30 p.m. before the Honorable Bruce Gatterman at the Edwards County Courthouse in Kinsley, Kansas, or by telephone conference. If the hearing is held by telephone, use the following telephone number and participant code: 888-301-0487 and 861-8816.

5. The same hearing shall serve as a Case Management Conference.

6. This Order is effective as of the date and time shown on the electronic file stamp. Counsel of record will receive an electronic copy of this Order through the eFile system. Preparation of a separate Journal Entry is not required.

IT IS THEREFORE CONSIDERED, ORDERED, ADJUDGED, AND DECREED that Plaintiff's Motion is denied except to the extent Plaintiff seeks to take depositions of persons to be designated by supplementation as provided above. Plaintiff's Motion to take depositions is taken under advisement, pending the Court's review of Plaintiff's supplementation. The Parties preserve the right to request additions to the agency record pursuant to K.S.A. 77-620(f).

APPROVED:

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