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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	)	<b>Case No. 18 Water 14014</b>
In Harvey and Sedgwick Counties, Kansas.	)	

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

## WITHDRAWAL OF MOTION FOR RECONSIDERATION/CLARIFICATION, FOR A RULING ON THE SUBSTANTIVE ISSUES, AND FOR ATTORNEY/EXPERT WITNESS FEES

COMES NOW Equus Beds Groundwater Management District Number 2 (hereinafter "the District"), by and through counsel Thomas A. Adrian of Adrian & Pankratz, P.A., and David Stucky, and withdraws its Motion for Reconsideration/Clarification, for a Ruling on the Substantive Issues, and for Attorney/Expert Witness Fees, dated July 6, 2022 (the "Motion"), as follows:

- In the District's Motion, it requested the Secretary of Agriculture to accept
  jurisdictional review of the Division of Water Resources' ("DWR") June 21, 2022
  Order. The District made this request due to inconsistencies in the record
  regarding whether the Chief Engineer properly formulated his ruling as a Final
  Order.
- 2. The DWR's order, styled as a Final Order, states: "Therefore, this order shall be considered a final order for the purposes of the Kansas Judicial Review Act, K.S.A. 77-601, et seq." Order Regarding the City of Wichita's Proposed Modification of the Aquifer Storage and Recovery Project Phase II Water Appropriation Permits, at 2 (June 21, 2022).

- 3. The Chief Engineer and the DWR's response to the District's Motion reiterates this conclusion, stating, ". . . the order was deemed final, and was subject to review pursuant to the Kansas Judicial Review Act, 77-601 et seq." Response to Equus Bed Groundwater Management District No. 2's Motion for Reconsideration, at ¶ 3 (July 12, 2022).
- 4. The City of Wichita concurs: "The Chief Engineer's Order of June 21, 2022 states that it is a Final Order . . . with the result that the proceedings at the agency level are clearly over[.]" *City of Wichita's Response to the District's Motion for Reconsideration and Fees*, at 1 (July 7, 2022).
- 5. Because the DWR—who sat as the adjudicative body over these proceedings—has issued orders and reiterated its position that administrative remedies are exhausted, and that no further review by the Secretary of Agriculture is permitted, the District withdraws its Motion to pursue its request for further administrative review.

  Instead, as instructed by the DWR, the District will pursue further recourse under the Kansas Judicial Review Act.

WHEREFORE, the District respectfully withdraws its Motion, dated July 6, 2022, precluding any further potential agency review and placing jurisdiction properly in district court.

## RESPECTFULLY SUBMITTED:

/s/ Thomas A. Adrian
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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; ( $\underline{\mathbf{x}}$ ) email; and/or () hand delivery on the 21st day of July, 2022, to:
City of Wichita Department of Public Works & Utilities 455 North Main Street Wichita, Kansas 67202 bmcleod@wichita.gov
Intervenors 1010 Chestnut Street Halstead, Kansas 67056 twendling@mac.com
Division of Water Resources Kansas Dept. of Agriculture 1320 Research Park Drive Manhattan, Kansas 66502 stephanie.kramer@ks.gov
and the original sent by () mail, () fax, (_x) email, and/or () electronically filed to/with:
Chief Engineer Ronda Hutton - ronda.hutton@ks.gov
Secretary of Agriculture Kenneth B. Titus, Chief Legal Counsel Kenneth Titus@ks.gov

/s/ Thomas A. Adrian
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