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Jackie McClaskey, Secretary

Governor Sam Brownback

April 18, 2016

Richard & Jane Wenstrom  
WaterPACK  
306-A N. Main St  
St. John KS 67576

Subject: Water PACK timeline request

Richard and Jane,

This letter is in response to your emails of March 16 requesting information on anticipating timelines for future hearing(s) related to the City of Hays ("Hays") change applications and water transfer application.

As you know, per your open record request and in the public's interest, KDA-DWR has developed a web page to provide documents and information related to our processing of Hays's change applications and the Hays/Russell water transfer application <http://agriculture.ks.gov/HaysR9>. Additional information will be provided on the webpage as the process moves forward.

As you suggest, I cannot provide a definitive determination of how or when these matters will proceed, but below is the best information I have at this time.

We are currently evaluating the Hays change applications. Before the water transfer process will be initiated, the change applications will have to be in a form that can be contingently approved. Our review of the change applications considers statutory and regulatory requirements for changes under our traditional requirements, irrespective of any additional considerations required by the transfer act.

KDA met with the cities of Hays and Russell on March 24. Attached is the letter I sent to Hays on April 6 summarizing the meeting and next steps in our review of the change applications. As the letter notes, Hays is working on additional, detailed modeling and analysis to support its applications, particularly related to the long-term sustainability of its project. At the meeting the Hays stated that it will provide this work as soon as possible and estimated that it should be done by mid-summer this year.

As I have committed to you and other, I will hold a public meeting or hearing prior to contingently approving the City's change applications. I expect to hold the meeting or hearing after Hays has

provided its updated modeling and analysis, and after KDA-DWR and the public have had a reasonable opportunity to review Hays's work. I am hoping this will occur late this summer or early this fall. At this point, the scope of such a meeting or hearing has not been fully determined.

Hays is entitled to request a post-decision hearing upon contingent approval of their change applications. And anyone who believes they have been aggrieved by the contingent approvals may request a review by the secretary of agriculture.

Only after the changes have been contingently approved will the water transfer hearing process be initiated. Attached is a document that outlines the water transfer process timeline. The water transfer public hearing is a minimum of six months after initiation of this process.

In sum, there will be at least two opportunities for public input related to the matter; a public meeting or hearing on Hays's change applications and the water transfer hearing.

Finally, in your letter of March 16 you said, "*When I visited with you after the Water PACK annual meeting in St. John, I asked if there would be time for GMD5 and Balleau to run the model when the exact locations of the 14 water wells were finally determined on the R9 Ranch and you said 'yes'.*" We have the proposed location of the wells in Hays's change applications. Hays has asked for the ability to vary these locations by up to 1,000 feet. Our letter to Hays provides our response to that request. Hays is committed to maintaining at least one-half mile spacing from any neighboring well outside the R9 Ranch border. With those conditions, I believe that the locations provided by Hays are sufficient for your modeling evaluation. Let me know if you do not agree.

Let me know if you have any further questions that I can address at this time.

Sincerely,



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

Attachments: Letter to City of Hays, April 6  
Water Transfer Act Procedure Overview

Cc:

David Traster, attorney for the City of Hays  
Orrin Feril, GMD 5  
Chris Beightel, KDA-DWR  
Jeff Lanterman, Stafford Field Office, KDA-DWR