

IN THE THIRD JUDICIAL DISTRICT  
DISTRICT COURT, SHAWNEE COUNTY, KANSAS  
CIVIL DEPARTMENT

AUDUBON OF KANSAS, INC.,

Plaintiff,

vs.

EARL LEWIS, in his official capacity as  
Chief Engineer, Kansas Department of  
Agriculture, Division of Water Resources,

Defendant.

Case No. SN-2023-CV-000420

**MEMORANDUM IN SUPPORT OF MOTION TO DISMISS**

COMES NOW Defendant Earl Lewis, in his official capacity as Chief Engineer, Kansas Department of Agriculture, Division of Water Resources (the “Chief Engineer”), by and through his counsel of record Stephanie Kramer, Chief Counsel of the Kansas Department of Agriculture, and Tyler E. Heffron, Derek S. Casey, and Kasey S. Mayes of Triplett Woolf Garretson, LLC, and respectfully submits this Memorandum in Support of his Motion to Dismiss.

**I. Introduction, Background, and Statement of Facts.**

The basis for this Motion is simple: the Audubon of Kansas, Inc. (“AOK”) lacks standing to bring the current action against the Chief Engineer, and therefore, this Court lacks subject matter jurisdiction over this action.

The Chief Engineer has jurisdiction over Kansas water. *See* K.S.A. § 82a-701 *et seq.* The crux of AOK’s Petition is the allegation that the Chief Engineer has not *immediately* administered junior water rights in the Rattlesnake Creek Basin (the “Basin”) that are impairing the senior water right held by the U.S. Department of Interior, Fish & Wildlife Service (the “Service”) for the

benefit of the Quivira National Wildlife Refuge (the “Refuge”). (Petition, pg. 1). AOK uses the words “immediate” or “immediately” 9 times in its Petition and 52 times in its Motion for Preemptory Order of Mandamus (“Motion”); however, those words are not found in any of the relevant statutes within the Kansas Water Appropriation Act, K.S.A. § 82a-701 *et seq.*

The Chief Engineer does not, and has not, denied that the Service’s water right for the Refuge is impaired by junior water rights pumping in the Basin. The Chief Engineer has been actively administering the impairment of the Service’s water right by working to develop and implement a plan to address the impairment, in his discretion, in compliance with K.S.A. § 82a-717a. Consequently, aside from the basis for dismissal due to lack of standing, there is no factual or legal basis for AOK’s claims in this case.

The existence of an impairment was established by the impairment report published by the current Chief Engineer’s predecessor, in 2016. (Petition, Ex. C). However, the Chief Engineer’s ability to undertake administration of an impaired water right is not triggered until the impaired water right owner, in this case the Service, files a Request to Secure Water with the Chief Engineer. *See* K.A.R. 5-4-1(d). Even though the impairment was investigated and established several years ago, the Service’s prior Requests to Secure Water were usurped (and in some cases withheld) by other actions, withdrawals, and/or agreements the Service made with other interested parties. (Petition, Exs. F, H, K, N & O). Consequently, it was not until the more recent Request to Secure Water was filed by the Service on February 10, 2023, that the Chief Engineer’s ability to act under Kansas law was triggered. (Petition, Ex. Q); *See* K.A.R. 5-4-1(d).

Contrary to the hyperbole advanced in AOK’s Petition, the Chief Engineer has been working to administer the Service’s impaired water right ever since the Request to Secure Water

was filed by the Service on February 10, 2023. The difficulty is that the administration of an impairment on this scale does not happen overnight. The impairment at issue is, by the Chief Engineer's estimation, the largest scale impairment in the history of Kansas water law and involves approximately five times more junior water right owners than the next biggest water rights administration project undertaken by the Chief Engineer. Accordingly, AOK's suggestion that administration should just happen "immediately" by the turn of a spigot at a moment's notice is ludicrous. The scope and scale of this water right administration is unlike anything that has previously occurred in Kansas.

In furtherance of the Chief Engineer's efforts to administer the water rights at issue, on April 10, 2023, the Chief Engineer sent notice to all the junior water right holders potentially subject to curtailment and the Service stating that in light of the Service's Request to Secure Water filed on February 10, 2023, the Division of Water Resources "will need to review the impairment investigation that was completed in 2016 and consider the most up-to-date information and hydrologic modeling tools at its disposal." (Petition, Ex. S). This is because the impairment report published in 2016 was based on water data that ended in 2007 (Petition, Ex. C), and there is new hydrologic data from the Basin up through 2020 that needed to be factored into the Chief Engineer's plan for addressing the impairment. The junior water right holders that would potentially be subject to enforcement by the Chief Engineer—possibly curtailing, limiting, rotating, or outright ceasing their usage of water—include 1,377 junior water rights in the Basin that encompass an approximate area of 1,317 square miles including parts of 10 different Kansas counties (Rice, Barton, Reno, Stafford, Pawnee, Edwards, Kiowa, Pratt, Ford, and Clark counties) and include water right holders that are farmers, ranchers, individuals, municipalities, and

businesses that use water for their livelihood and communities. (*See* Petition, Ex. C, pp. 13 & 16). This is a daunting task even for the professionals in the Chief Engineer’s office. Consequently, the Chief Engineer was not about to implement an immediate plan to address the impairment based on data that was close to 15 years old and without thoughtful planning and advance notice to the more than 1,000 junior water rights that could be curtailed by the implementation of a plan.

Given the scope and scale of the issue, the Chief Engineer’s April 10, 2023 letter clearly stated his intent to be deliberate in implementing a *durable* plan to remedy the impairment:

It is presently my intent, however, to develop and implement a durable remedy during early 2024 to address the ongoing impairment of the [Service’s] senior water right, into the future, pursuant to the process and authority found in the Kansas Water Appropriation Act. I plan to engage potentially impacted water right holders within the Rattlesnake Creek basin regarding the [Division of Water Resources’] work through this process with additional communications.

(Petition, Ex. S). Of course, AOK’s Petition wholly ignores these facts and considerations and instead suggests the governing Kansas statutes require an “immediate” action, when no such word exists in the applicable statutes and is otherwise impractical given the scope and scale involved. *See* K.S.A. § 82a-701 *et seq.*

Consistent with what the Chief Engineer explained was happening in his April 10, 2023 letter, on August 12, 2023, the Chief Engineer released a draft Supplement to the original impairment report that includes analysis of the hydrological data from the Basin through 2020, as well as analysis of evaporation of water from the Little Salt Marsh, all of which are being factored into the Chief Engineer’s anticipated plan for addressing the impairment of the Service’s water right. (*See* <https://agriculture.ks.gov/divisions-programs/dwr/water-appropriation/impairment-complaints/quivira-national-wildlife-refuge> (last visited August 14, 2023). Pursuant to K.A.R. §

5-4-1(c)(2), the Chief Engineer is permitting comments to the draft to be provided by the Service and potentially affected parties for a period of 30 days.

This is now AOK's third attempt to insert itself into this issue in three different venues. In 2021, AOK filed a federal lawsuit against the U.S. Department of Interior, the Secretary of the U.S. Department of Interior, the Service, the Director of the Service, the Secretary of the Kansas Department of Agriculture, and the Chief Engineer, in the District of Kansas, Case No. 21-2025. (Petition, ¶ 23). The Federal and State defendants in that federal lawsuit each filed Motions to Dismiss, which were granted by the Federal District Court Judge. (*Id.*); *AOK v. U.S. Dept. of Interior*, 568 F.Supp. 3d 1167 (2021) (finding the State defendants had constitutional immunity from suit by the AOK). AOK then appealed to the 10<sup>th</sup> Circuit Court of Appeals, where it lost again, with some of its claims dismissed as moot and the balance of the District Court's ruling affirmed. (*Id.*); *AOK v. U.S. Dept. of Interior*, 67 F.4<sup>th</sup> 1093 (2023). Then, on June 23, 2023, AOK filed a Petition for Writ of Mandamus and Declaratory Judgment with the Kansas Supreme Court, (Case No. 126,520), which is the same Petition it has filed in this Court. Just seven days later, on June 30, 2023, and without even soliciting a Response to the Petition from the Chief Engineer, the Kansas Supreme Court summarily dismissed the AOK's Petition for Writ of Mandamus and Declaratory Judgment. (Kansas Supreme Court, Case No. 126,520).

As it relates to AOK's lack of standing in this case, AOK seeks to dictate the timing of the Chief Engineer's actions when AOK does not own any water right affected by, directly or indirectly, the impairment of the Service's water right. For purposes of this Motion to Dismiss, AOK's sole allegation in the Petition concerning its alleged standing is as follows:

2. Plaintiff AOK is a 501(c)(3) nonprofit organization incorporated in Kansas and serves approximately 5,000 members. AOK's purpose is to promote the enjoyment, understanding, protection, and restoration of natural ecosystems across Kansas, Nebraska, and the central Great Plains, and engages in conservation work to protect and advocate on behalf of migratory birds and their habitats. AOK owns and maintains nature sanctuaries across the Central Flyway, where its members enjoy birding and natural history activities, and further provides education and information to its members and the public through action alerts, press releases, facts sheets, and letters to lawmakers. AOK and its members regularly visit, use, and enjoy the Refuge for bird watching and other recreational, aesthetic, scientific, educational, and spiritual purposes, and AOK's members will continue to do so on a regular basis indefinitely. The chronic, serious, and ongoing impairment of the Refuge Water Right threatens to destroy the Refuge and take the many endangered and threatened species that depend upon it, thereby threatening the nature sanctuaries, conservation activities, and interests of AOK and its members.

(Petition, ¶ 2). AOK has tried to fabricate its own basis to be involved in this matter. However, AOK is simply a special interest group that claims its members patronize the Refuge. (Id.). AOK does not provide any evidence, let alone allegations in this Petition, that its members' patronage of the refuge has been impacted (negatively or positively) by the Service's impaired water right. (Id.). In fact, AOK alleges that its members regularly visit and will continue to visit the Refuge, and does not indicate its actions as patrons of the Refuge have been injured, damaged, hampered, or limited in any way due to the condition of the Service's water right or the acts of the Chief Engineer. (Id.). AOK is in no better position to insert itself into this issue than any other citizen of this State.

Interestingly, AOK is seeking mandamus relief to purportedly benefit the Refuge and its water right, yet the Service, who owns the Refuge and the water right, is not. This is because the Chief Engineer, and his staff, have been in regular communication with the Service concerning the Request to Secure Water and the Chief Engineer's efforts to administer the impairment, and the Service must be satisfied with the Chief Engineer's plan and timeline. Certainly, if anyone has a

basis to be concerned about the timing of the Chief Engineer’s efforts, it would be the Service; yet the Service is not complaining.

## **II. Arguments and Authorities.**

### **A. Motion to Dismiss Standard -- Lack of Standing: Lack of Subject Matter Jurisdiction.**

Under Kansas law, standing to bring a suit is an “essential component of subject matter jurisdiction.” *See KNEA v. State*, 305 Kan. 739, 743 (2017); *Steckline Comms., Inc. v. Journal Broadcast Grp. of Kan., Inc.*, 305 Kan. 761, 767 (2017). Standing is a question of law. *Steckline*, 305 Kan. at 767 (citing *Kan. Bldg. Industry Workers Comp. Fund. v. State*, 302 Kan. 656, 676 (2015)). If a plaintiff lacks standing, then the court has no subject matter jurisdiction, and dismissal is appropriate under K.S.A. § 60-212(b)(1). *See id.* If the Court determines at any time that it lacks subject matter jurisdiction, the case must be dismissed. K.S.A. § 60-212(h)(3).

Standing is the right of a party to bring a legal claim. *Id.* at 746-47. The burden is on the plaintiff to establish standing. *Id.* To have standing, a party “must have a ‘sufficient stand in the outcome of an otherwise justiciable controversy in order to obtain judicial resolution of that controversy.’” *Id.* (quoting *Gannon v. State*, 298 Kan. 1107, 1122 (2014) (quoting, *Moorhouse v. City of Wichita*, 259 Kan. 570, 574 (1996))); *see also*, *Kan. Bldg. Industry Workers Comp. Fund. v. State*, 302 Kan. 656, 678 (2015) (as a jurisdictional matter, standing requires that a party allege sufficient personal stake in a controversy’s outcome to invoke jurisdiction and justify exercising remedial powers on that party’s behalf). The Kansas Supreme Court has stated that standing generally requires a demonstration that “the party suffered a cognizable injury and that there is a causal connection between that injury and the challenged conduct.” *KNEA*, 305 Kan. at 746-47 (citing *Gannon*, 298 Kan. at 1123). A cognizable injury requires demonstration that a party has a

personal interest in a court's decision and that he or she personally suffers actual or threatened injury because of the challenged conduct. *Sierra Club v. Moser*, 298 Kan. 22, 33 (2013) (citing *Lower v. Bd. of Dir. of Haskell Cnty. Cemetery Dist.* 274 Kan. 735, 747 (2002); *Steckline*, 305 Kan. 761 (quoting *Sierra Club*, 398 Kan. 22, 35-36, and stating the cognizable injury must affect the plaintiff "in a personal and individual way" to maintain standing).

Further, for an association or organization like AOK to have standing, it must satisfy a three-prong test: "An association has standing to sue on behalf of its members when (1) the members have standing to sue individually; (2) the interests the association seeks to protect are germane to the organization's purpose; and (3) neither the claim asserted nor the relief requested requires participation of individual members." *Id.* Further, the association must prove, under the first prong of the test, that at least one member has suffered an "actual" injury or that the alleged future injury is "imminent." *Id.* (citing authorities omitted). A "threatened injury" must be "certainly impending" to constitute injury in fact. *Id.* (citing authorities omitted).

To establish standing, a plaintiff in mandamus must show an injury or interest specific or peculiar to himself, and not one that he shares with the community in general. *Stephens v. Van Arsdale*, 227 Kan. 676, 683, 608 P.2d 972 (1980). Due to the extraordinary nature of mandamus relief, Kansas courts have recognized that this standard constitutes a higher bar than the injury-in-fact requirement imposed upon a plaintiff seeking more typical relief. *See id.* at 683 (noting the "extraordinary" nature of mandamus relief); *Topeka Bldg. & Const. Trades Council v. Leahy*, 187 Kan. 112, 116, (1960) (finding that the plaintiffs in that case would not have had standing in "an ordinary action, and certainly not [in] mandamus." (emphasis added)).



## **B. AOK Lacks Standing to Bring This Action.**

AOK's Petition fails to contain sufficient facts to establish standing to assert its claims for mandamus and declaratory judgment. As to its requests for declarative relief, AOK must demonstrate that at least one of its members has suffered actual or threatened injury because of the Chief Engineer's alleged failure to administer the junior water right pumping in the Basin. AOK's Petition is fraught with allegations related to impairment of the Service's water rights causing the Service injury; however, AOK fails to establish how the alleged impairment of the Service's water right causes a "cognizable injury" directly to AOK.

Here, AOK alleges its "members regularly visit, use, and enjoy the Refuge for bird watching and other recreational, aesthetic, scientific, educational, and spiritual purposes, and AOK's members will continue to do so on a regular basis indefinitely." (Petition, ¶ 2). AOK fails to allege how, if at all, its members have been unable to enjoy their described recreational activities and interests at the Refuge, much less to connect any alleged harm directly to the conduct of the Chief Engineer. AOK also misconstrues its alleged injuries with those specific to the Refuge. AOK makes vague, conclusory, unsupported, and speculative allegations that the impairment of the Service's water right "threatens to destroy the Refuge and take the many endangered and threatened species that depend upon it, thereby threatening the nature sanctuaries, conservation activities, and interests of AOK and its members." *Id.* However, even if the Court were to take these conclusory accusations as true, these allegations of injury are made as to the Refuge, not AOK directly. AOK also fails to allege that any future injury is imminent or certainly impending. AOK has simply failed to allege that at least one member has suffered any cognizable injury, let

alone that any real or imminent injury to its own special interest purpose exists and is causally linked to the conduct of the Chief Engineer.

Additionally, AOK's statement in its Petition that it "owns and maintains nature sanctuaries across the Central Flyway" (Petition, ¶ 2) does not bolster its case for standing here. Rather, that statement illustrates why AOK lacks standing. AOK could theoretically have standing to advance a case wherein it sought to protect a right or interest connected with one of the sanctuaries that it owns or maintains, but AOK neither owns nor maintains a nature center or sanctuary at the Refuge. As a result, AOK lacks standing to enforce a property right owned by the Service for the Refuge.

Even if we turn to the allegations made in AOK's Motion, which the Court need not do on the analysis for this Motion, AOK still has not established that at least one of its members has suffered harm. AOK cannot manufacture standing for itself simply by placing itself "squarely in the middle" of a controversy, as it claims it has done here. (Motion, pg. 6). In its Motion, AOK talks about the letters it has written the Chief Engineer concerning the Service's impaired water right. This does not create standing for AOK in this action. Anyone can write the Chief Engineer a letter or file a lawsuit against a government agency about anything. Doing so does not impart standing where, as here, it does not otherwise exist.

As to its request for mandamus relief, AOK's Petition fails to even set out the standard for standing in mandamus, much less allege AOK has any interest in the Refuge beyond that which would be shared by members of the public who might patronize the Refuge or otherwise care about wildlife or natural areas. Again, AOK fails to establish its standing to seek mandamus relief here even if we look outside the pleadings to its Motion.

AOK admits in its Motion that “[w]hile a private person is not typically entitled to invoke mandamus to compel the performance of a duty owed to the public generally, the oft-stated exception exists for cases where the plaintiff shows an ‘injury or interest specific and peculiar to himself, and not one that he shares with the community in general.’ *Stephens v. Van Arsdale*, 227 Kan. 676, 683, 608 P.2d 972 (1980).” (Motion, pg. 4-5). Despite this statement of Kansas law in its Motion, AOK seeks to justify its request for a peremptory order by proclaiming the order is “necessary to protect the rule of law and to resolve this significant public issue.” Similarly, AOK’s Motion states it is “rais[ing] issues of the greatest public importance statewide.” *Id.* at pg. 3, 7. Accordingly, AOK admits the alleged injuries are not peculiar to it, but rather, are issues of so-called general importance that do not grant the AOK standing under Kansas law.

The case at hand is factually distinguishable from the situations AOK cites in support of its claim that mandamus relief is proper. In both *Garetson Bros. v. American Warrior, Inc.*, 51 Kan.App.2d 370, 347 P.3d 687 (2015), and *Musser v. Higginson*, 125 Idaho 392, 871 P.2d 809 (1994), the party that obtained mandamus or injunctive relief was *the impaired senior water right owner*, not a special interest group seeking to insert itself into a matter. Therefore, these cases do not support AOK’s argument for standing to bring this suit.

Moreover, other Kansas cases where plaintiffs have been found to have standing to bring a mandamus action have clear personal and particularized interests at stake, unlike AOK in this case. For example, in *Stephens v. Van Arsdale*, 227 Kan. 676, 683, 608 P.2d 972 (1980), the plaintiffs were a newspaper and a reporter who brought a mandamus action against a district court clerk arising from her refusal to permit them access to court files related to certain criminal proceedings. *Stephens*, 227 Kan. at 677. The Kansas Supreme Court found that plaintiffs had

standing to advance their mandamus action because they were in the business of collecting and selling news to their customers and the court clerk's refusal to allow them access to the relevant public record directly "impair[ed] their ability to carry on their business..." *Id.* at 683. (Emphasis added). Similarly, in *Mobil Oil Corp. v. McHenry*, 200 Kan. 211, 239, 436 P.2d 982 (1986), the plaintiffs had standing to seek mandamus relief after a district court "reduced the assessed value of all property in the county *except that owned by the plaintiffs.*" *Mobil Oil Corp.*, 200 Kan. at 212. (Emphasis added). Both *Stephens* and *Mobil Oil* illustrate that, while AOK could potentially have standing to advance a case connected to one of the nature sanctuaries it actually owns, it does not have standing to seek mandamus for the purported benefit of the Refuge, which it does not own and which its members simply patronize like any other citizen could do.

Conversely, a plaintiff association did not have standing to seek mandamus relief in *Topeka Bldg. & Const. Trades Council v. Leahy*, 187 Kan. 112, 113 (1960), a case that is strikingly analogous to this one. In that case, the Kansas Supreme Court found that a council of construction tradesmen did not have standing to seek mandamus relief where the council was alleging that a company was failing to pay proper wages to its workers pursuant to a contract with a government commission. *Topeka Bldg.*, 187 Kan. at 117. The court noted that none of the workers to whom wages were allegedly not being paid were members of the plaintiff tradesmen's council. *Id.* at 114. *Topeka Bldg.* contains several parallels to the situation here—the government commission and the defendant construction company who was allegedly not paying proper wages are analogous to the Chief Engineer and the junior water right owners whose pumping is impairing the senior right held by the Service, the workers who were allegedly not receiving their full wages are analogous to the Service, and the plaintiff tradesmen's council is analogous to AOK. Here, none of AOK's members

are the Service, so AOK's request for mandamus relief fails using the same logic as that employed by the *Topeka Bldg.* court. Importantly, the *Topeka Bldg.* court also noted that plaintiffs "have no interest in enforcing" the contract at issue "even by an ordinary action, and certainly not by mandamus." *Id.* at 116.

*Topeka Bldg.* cites to *Dennis v. State Bd. of Barber Examiners*, 174 Kan. 561 (1953), a case where the Kansas Supreme Court found that the plaintiffs, who were a group that comprised 75 percent of the barbers in the 31st judicial district, did not have standing to seek mandamus requiring the state board of barber examiners to approve a price schedule for barbering services, even when the statute at issue specifically provided that the board could act following presentation of a petition signed by 75 percent of the barbers in a given judicial district. *Dennis*, 174 Kan. at 561-62, 565. The court noted the fact that the plaintiffs were barbers did not give them any interest beyond that shared by the public, even given the existence of the specific statutory language. *Id.* at 565.

AOK is a special interest group that wants to create standing where none exists. AOK's interest in this matter falls far short of the interest held by the plaintiffs in cases where standing has been found to lie in mandamus, and even falls short of the interest held by the plaintiffs in *Dennis*, who did not have standing to advance a mandamus action. AOK simply has not shown, and cannot show, that it has any interest beyond that shared by the public generally in the protection of a property right that it does not own. AOK and its members have not suffered, nor have they alleged to have suffered, any cognizable injury, personal, real, imminent, and peculiar to them that would grant standing for AOK to pursue this action under Kansas law.

To drive this point home, the Court should consider looking at this matter from the opposite perspective. AOK, a special interest group focused on promoting environmental rights and nature conservancy, wants to use this lawsuit to force a specific timeline of its liking (i.e., “immediately”) on the Chief Engineer. On the other side of this issue are hundreds of individuals, businesses, and municipalities (i.e., the junior water right owners), whose existence and livelihood is primarily focused in the agriculture, farming, and ranching industry. Those groups would prefer the Chief Engineer’s timeline for administration be slowed or even stopped altogether. Those stakeholders are undoubtedly members of special interest groups, such as the Kansas Farm Bureau, Kansas Livestock Association, Kansas Corn Growers Association, or League of Kansas Municipalities. Certainly, the Court would not entertain a lawsuit that sought mandamus by one of those special interest groups on the opposite side of this issue trying to stop or slow the Chief Engineer from fulfilling his statutory duty as the administrator of water rights in Kansas. If that circumstance arose, the Chief Engineer would rightly argue, just as he has here, that those groups lack standing to dictate the timing or manner of the Chief Engineer’s exercise of his authority.

As AOK’s pleadings fully admit, the issues over water right administration in the Basin and at the Refuge, which include junior water right holders in 10 different Kansas counties and more than 1,000 junior water rights, are an issue of statewide concern, and are not peculiar or personal to the AOK anymore than they are to all Kansans. This is inherently and fundamentally a policy issue to be determined in the discretion of the administrative agency tasked with solving this difficult problem and not by a court in a case brought by a plaintiff with tangential interests at best. Accordingly, AOK does not have standing, and the Chief Engineer should be left alone to

conduct his difficult and unenviable work of administering this major issue in accordance with the authority that has been delegated to him by the Kansas legislature.

### III. Conclusion

AOK has not shown that it or any of its members have suffered an actual or threatened injury because of the impairment of the water right owned by the Service, as it must do in order to support its request for declaratory relief. AOK has likewise not shown that it has any interest in this matter beyond that shared by the public generally, as it must do to support its request for mandamus relief. This Court should find that AOK lacks standing and dismiss its Petition due to lack of subject matter jurisdiction, in accordance with K.S.A. § 60-212(b)(1).

Respectfully submitted,

TRIPLETT WOOLF GARRETSON, LLC

By /s/ Tyler E. Heffron

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**CERTIFICATE OF SERVICE**

On this 15th day of August, 2023, I certify, pursuant to K.S.A. 60-205(b)(2)(F) and Kansas Supreme Court Administrative Order No. 268, that service of this document was accomplished through the Notice of Electronic Filing for parties and attorneys who are filing users in this case.

*/s/Tyler E. Heffron*  
Tyler E. Heffron, #22115