

**Southwest Kansas Groundwater Management District No. 3  
Minutes of the Regular Meeting of the Board of Directors  
July 10th, 2019**

**MEETING CALLED TO ORDER**

Vice President Fred Jones called to order the July 10th, 2019 Board of Directors meeting of the Southwest Kansas Groundwater Management District to order at 9:00 a.m. The meeting was held in the GMD3 Board Room.

**Flag Salute**

**Directors Present**

Fred Jones, Vice President, Municipal Representative  
Mike McNiece, Board Secretary, Industrial Representative  
Mike O'Brate, Treasurer, Gray County Representative  
Hal Scheuerman, Kearny County Representative  
Douglass Fox, Meade County Representative  
Randy Hayzlett, Surface Water Representative  
Kent Dunn, Seward County Representative  
Steve Stone, Finney County Representative

**Directors Absent with Notice**

Clay Scott, Grant County Representative  
Kirk Heger, Stevens County Representative  
Bret Rooney, President, Haskell County Representative  
Zachary Gale, Hamilton County Representative  
Dave Casterline, Ford County Representative  
Seth Nelson, Stanton County Representative  
Fred Claassen, Morton County Representative

**District Staff Present**

Mark Rude, Executive Director  
Jason Norquest, Assistant Manager  
Patty Stapleton, Office Administrator  
Chris Law, Director, Field Services  
Trevor Ahring, Engineer  
Brandi Sneath, Office Assistant

**Others in Attendance**

Mike Meyer, Water Commissioner, Division of Water Resources, Garden City, KS  
Armando Zarco, Kansas Water Office, Garden City, KS  
Austin McColloch, Kansas Department of Ag.  
Troy Dumler, Garden City Company  
Sarah Zdanowski, Division of Water Resources, Garden City, KS

**APPROVE AGENDA**

Vice President Jones asked for consideration of the July 10th, 2019 Meeting Agenda. Mark Rude stated under Public Hearing strike out "a" Groundwater Management Program Funding, Executive Director Mark Rude. **Kent Dunn made a motion to approve the agenda as revised. Doug Fox seconded. The motion passed.**

**APPROVAL OF MINUTES & GENERAL MONTHLY FINANCIAL REPORT**

Vice President Jones drew the attention of the Board to consider the June 12th, 2019 draft minutes. Correction was noted that Steve Stone was present at the June 12<sup>th</sup> board meeting. **Randy Hayzlett moved to approve the June 12th, 2019 minutes, as revised. Hal Scheuerman seconded the motion. Motion passed.**

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Vice President Jones next drew the attention of the Board to review the **June 2019 financial report** documents. **Hal Scheuerman made a motion as follows: Approve the financial reports and payments for the month of June as presented at this meeting and submit them for the annual audit. Mike McNiece seconded the motion. Motion passed.**

Vice President Jones signed and submitted the financial documents.

**President's Report, Vice President Fred Jones  
Employee Recognition, Trevor Ahring**

Mark Rude recognized Trevor Ahring for his 10 years of service to the district.

**Water Commissioner's Report, Mike Meyer**

Mike Meyer introduced present staff: Austin McColloch is Assistant Water Commissioner, Sarah Zdanowski works with WCA's and strives to educate the public on conservation and Brandon Freedom, whom replaced Brandi Cole as river bailiff.

Mike noted 16 late water use reports filed. Final letters will be mailed stating their suspension of use. A query of non-reported water use reports for last year was also completed.

A call for release from John Martin Reservoir, all five ditches are diverting.

The Chief Engineer is on the track to submit WCA and LEMA draft rules and regulations by next board meeting. Currently 27 WCA's (including Garden City Company being reviewed and presumably approved today) across the state, which results in about 221,000 acres enrolled, average annual calculated savings of about 17,000 acre feet. Side note: Finney County is number one in total Water Use across the state, number one in declines and number one in irrigated acres.

**Garden City Company proposed WCA, Kearny & Finney Counties**

Jason Norquest presented Garden City Company proposed WCA, in Kearny and Finney Counties. WCA period proposed is 2018 – 2022 and would cover 15,578.97 acres; 42 Water Rights, 49 wells. The historic period used was 2006-2015 with historic Average Use (total): 13,338.810acre feet. All wells held to base water right's annual Rate and Quantity. Surface water rights are also associated with the land. They are committing to 5% with a goal of 15% conservation. 2018 water use reported shows they are on track with their goal. Besides one well all the other wells are under a WCA. **Hal Scheuerman moved to recommend approval of the WCA for Garden City Company. Mike O'Brate seconded. Motion passed.**

**Illegal Well response, Scott Reiss Water Right 39,709**

Scott Reiss drilled and used a well that was discovered by DWR, that was not authorized. Mr. Reiss filed an application on July 3<sup>rd</sup>, 2019. The well meets all the current rules for a re-drill. Analyses shows drawdown effects to be under GMD3 criteria of maximum allowable for the area on neighboring wells. There are no concerns from neighbors. Staff questions "who is at fault; well owner or driller" and is there a penalty for the owner and/or driller? Mike Meyer noted his office discovered the illegal well and advised Mr. Reiss to shut off and wait until action to approve or not approve the well has been completed.

Discussion was paused to hold the public hearing that was scheduled for 10:00 a.m.

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**Public Hearing**

Called to order at 10:00 a.m. by Vice President Jones.

Vice President Jones stated "A GMD3 budget hearing is necessary and proper, according to state policy to fund our organized groundwater area program activities under the GMD Act of the Kansas legislature. Specifically, K.S.A. 82a-1030 provides for the funding of the GMD3 through an annual water user fee per acre foot against the water right amount not to exceed \$2.00, and an annual land assessment not to exceed 5 cents per acre for owners of tracts of land 40 acres or more in size. The purpose of GMD3 are long standing in the history and practices of Southwest Kansas water administration and our water use driven economy.

This hearing is being held according to state statute to receive comments on both the proposed 2020 budget and level of assessments to fund the management program activities of the Groundwater Management District. Hearing announcements have been published in the newspapers of the District in compliance with State Law and a draft budget was presented to members at the Annual Meeting, which was held this past March, with the same budget copies available here today." Vice President Jones introduced Mike O'Brate, Treasurer for the Southwest Kansas Groundwater Management District NO. 3.

Treasurer O'Brate reviewed the proposed budget and assessment amounts. "The proposed General Budget is \$1,064,399, being funded by land assessments at 5 cents per acre and water assessment of 14 cents per acre foot of groundwater. There are four special budget accounts; Water Right Retirements, Arkansas River Western Water Conservation Projects (WWCP), Kansas Aqueduct Project and Federal Proceeds." All but the WWCP have a current balance of zero.

Board Vice President opened the floor up to public comments. No public comments were stated.

**Hearing officer closed the hearing at 10:03.**

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Regular monthly board meeting resumed following the budget hearing.

Discussion was held regarding penalties for Well Driller Companies being fined for drilling an unauthorized well. If this well was completed properly through the application process, would this had been brought to the board? GMD3 staff stated the board would not have been presented this if done properly. A complaint against the well driller could be filed to DWR and KDHE. Mike Meyer stated that a recommendation is needed by GMD3 staff within 15 days. Due to the circumstances staff wanted GMD3 directors to review. If no recommendation is received by GMD3 within 15 days, the DWR will proceed with their decision.

**Randy Hayzlett moved to withhold approval of well subject to sanctions on applicant and well driller. Hal Scheuerman seconded. After some discussion, Randy Hayzlett moved to amend his motion to recommend approval of the well subject to sanctions on applicant and well driller. Hal Scheuerman seconded. Motion passed with Steve Stone voting against due to the fact is simply and illegal well.**

**GMD standing in State agency proceedings**

Mark Rude reminded the directors that based on their directive for an administrative hearing regarding a "change in point of diversion and an order in the matter of authorized rate of diversion of water right file no. 27,188" and being denied said administrative hearing, legal counsel was contacted. Legal Counsel, Michael Ramsey of Hope, Mills, Bolin Collins and Ramsey then filed a petition for administrative review by the Secretary of Agriculture of the Chief Engineers' order denying request for administrative hearing.

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**Committee Reports**

**Finance**

Mark reported on a meeting with Commerce Bank who presented a new program called the REPO SWEEP that may improve secured investment revenue from GMD3 cash. The Repo Sweep will combine the Money Market account and the Checking account. At the end of each day, Commerce Bank will sweep all but \$25,000 out of the account and into a secured investment account overnight. Then the money will be swept back into the main checking account the following morning. Doing this "sweep" will result in providing higher interest rate of return paid on the funds otherwise kept in a money market account. **Mike O'Brate moved to recommended proceeding with the Repo Sweep on both General Funds and the Project Funds. Mike McNiece seconded. Motion passed.**

Mark Rude announced the Budget Hearing was completed today and will be acted upon in the August board meeting.

**Renewable Supplies Committee**

KWA (Kansas Water Authority) is taking recommendations on how the State Water Plan fund should be allocated for fiscal year 2021. Renewable Supplies Committee created a funding request list for State Water Plan to consider. A review of the list occurred. The committee requested the board members rank each as to priority from 1 through 13. Chairman Jones suggested each be scored one through 4 to allow ease of consideration by each director and the relative groups of priority projects and return their list to Mark for consolidation of scores. **Kent Dunn moved to proceed with list to State Water Plan as finalized by the ranking results. Mike O'Brate seconded. Motion passed.**

Randy Hayzlett announced that a State Water Plan budget committee meeting of KWA is planned next week.

**Old Business**

There was no old business to take off the table.

**New Business**

There was no new business to bring to the table.

**Executive Director Report, Mark Rude**

**State applications resume'- Hearings, applications and proposals**

Mark will email the State Applications Resume' to the Board.

**Grants - USDA Contract extension, GMD3 RCPP**

Mark noted that GMD3 is asking for an extension regarding the Regional Conservation Partnership Program (RCPP) grant. A total of 45 contracts, \$442,042.65 and 8897.8 acres have been submitted within the 5 Kansas GMD's in the last four years. Due to the funds remaining of \$1,521,236.55 an extension has been requested to further utilize the remaining funds.

**Draft National Survey of Irrigation Organizations, Assisting USDA**

USDA has not completed a survey of the waters in over 40 years. A copy of the draft survey was handed out for review. Mark turned the boards' attention to Section 2 describing some questions that may need more clarifications. A phone conference will be held tomorrow to discuss further and provide feedback with USDA.

**Travel, NWRA Western Water Seminar, Portland, OR**

NWRA Western Water Seminar will be held in Portland, Oregon and Mark would like to attend representing GMDA, Kansas Federal Affairs and GMD3. **Randy Hayzlett moved to approve travel for staff and board members to attend NWRA Western Seminar in Portland Oregon in August. Mike McNiece seconded. Motion passed.**

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**Monthly Western Water Conservation Projects Fund Business**

Mark Rude drew the attention of the board to the June 2019 Financial documents of the Western Water Conservation Projects Fund and activity of the advisory committee. **After some discussion of the Board, Hal Scheuerman moved to accept the June Financial Report and payments as presented and submit them for annual audit. Mike O'Brate seconded. Motion passed.**

**Secretary of State Ark River ownership letter**

Clayton Barker, Deputy General Counsel, Kansas Secretary of State wrote a letter to Kerry Tackett regarding state ownership of Arkansas Riverbed. Deputy General Barker stressed the need of the Farmers Ditch headgate replacement which would provide substantial improvement to irrigation for local farmers. Mr. Tackett has refused engineers and others associated with the project to cross the river onto the island. In the letter, Deputy General Barker explained the Kearny County Appraiser's records show; John Spencer Cone, Beatrice Madden, Carol Feitel and Anne B Was Revocable Trust as owners of the land south of the headgate and south of the island. Arkansas River is a navigable river, at the time of Statehood in 1861, the State of Kansas gained absolute title to the riverbeds of all navigable rivers within its boundaries, including islands and sandbars. Boundaries between state and private property are set as "the line to which water rises in ordinary seasons of high water". The island has existed since statehood with the water of the southern branch of the Arkansas River reduced by a manmade dam. Deputy General Barker advised Mr. Kerry Tackett to cease and desist from any actions that delay or interfere with the work. Mark Rude reported on a subsequent call from Mr. Tackett and a very congenial discussion occurred resulting in what Mark believed was an understanding that no trespassing is authorized by the letter and that the general 1874 survey boundaries still apply unless changed by formal legal action recognized by the Sec. of State.

**Water Office Report**

Armando Zarco, Kansas Water Office announced that the next set of RAC meetings will be around the 1<sup>st</sup> or 2<sup>nd</sup> of September. The Bottom-Line Conference will be held on August 14<sup>th</sup>, which is also the same day as the next GMD3 board meeting. Kansas Water Authority will be held in Goodland September 3<sup>rd</sup> and 4<sup>th</sup>. Dates for the Tech Farm events can be found on the website. Still waiting to hear on Water Office Director and Water Authority Chairman.

**RAC Committee Report**

**Cimarron RAC:** a lot of discussion but no action due to lack of quorum.

**Upper Ark RAC:** a lot of feedback looking at funding for FTE / Full Time Employees. Also, discussed regional goals and action items.

**GMD3 Area Water Plan Fund payments and funding requests**

Review of maps by county for the Kansas Water Plan Fund Revenues contributed annually.

**Board recommendations for KWA FY 2021 SWPF Budget**

Addressed earlier in the agenda.

**Board Member Report**

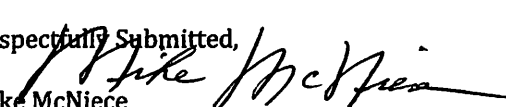
**Public Forum**

Kelsey Olsen has been named Assistant Secretary of Agriculture

**ADJOURNMENT**

**Mike O'Brate made a motion to adjourn the meeting. Doug Fox seconded.  
The meeting was adjourned at 12:01p.m.**

Respectfully Submitted,

  
Mike McNiece  
GMD3 Board Secretary