

**Southwest Kansas Groundwater Management District No. 3
Minutes of the Regular Meeting of the Board of Directors
March 8th, 2017**

MEETING CALLED TO ORDER

The March 8th, 2017 Board of Directors meeting of the Southwest Kansas Groundwater Management District was called to order by President Kirk Heger at 1:15. The meeting was held at the Grant County Civic Center, Ulysses, KS.

Directors Present (in person or by phone)

Kirk Heger, President, Stevens County Representative
Bret Rooney, Vice President, Haskell County Representative
Kent Dunn, Seward County Representative
Randy Hayzlett, Surface Water Representative
Douglass Fox, Meade County Representative
Fred Claassen, Morton County Representative
Fred Jones, Municipal Representative
Clay Scott, Grant County Representative
Steve Stone, Finney County Representative
Zachary Gale, Hamilton County Representative
Seth Nelson, Stanton County Representative

Directors Absent with Notice

Hal Scheurman, Kearny County Representative
Mike McNiece, Board Secretary, Industrial Representative
Mike O'Brate, Treasurer, Gray County Representative
Jeff Reinert, Ford County Representative

District Staff Present

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

Others in Attendance

SW KS GMD3 Members
Greg Graff, GMD1 President and Western GMDs rep on Water Authority
Susan Metzger, Kansas Department of Agriculture Assistant Secretary
Lane Letourneau, Kansas Department of Agriculture
Mike Meyer, Water Commissioner, DWR Garden City Field Office
David Barfield, Chief Engineer DWR
Richard Rockel, KWO

APPROVE AGENDA

President Heger asked for consideration of the meeting Agenda. After some discussion, Clay Scott made a motion to approve the agenda as presented. Seth Nelson seconded. The motion was approved with all in favor.

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APPROVAL OF MINUTES & GENERAL MONTHLY FINANCIAL REPORT

President Heger drew the attention of the Board to consider February 9th, 2017 draft minutes. Kent Dunn moved to approve the February 9th, 2017 minutes, as presented. Zachary Gale seconded the motion. The motion was approved with all in favor.

President Heger next drew the attention of the Board to review the February 2017 financial report documents. Bret Rooney made a motion as follows: Approve the financial reports and payments for the month of February as presented at this meeting, and to submit them for the annual audit. Clay Scott seconded the motion. The motion was approved with all in favor.

President Heger signed and submitted the financial documents.

Monthly Western Water Conservation Projects Fund Business

Mark Rude drew the attention of the board to the financial documents of the Western Water Conservation Projects Fund and activity of the advisory committee. After some discussion of the Board, Randy Hayzlett moved to accept the February 2017 financial report and payments as presented and submit them for annual audit. Doug Fox seconded. Motion passed with all in favor.

LAWMA Study Project (additional funding)

A request to extend funding for the LAWMA investigation by the Kansas Department of Ag, Division of Water Resources, was considered as recommended for approval by the ARLFA committee to the Board. This application is a continuation of the funding approved for the project last year. Mr. Barfield said that the information gathered so far from this study has given them very helpful information. The information gathered is valuable in the continuing work on the compact compliance verifications. Clay Scott moved and Kent Dunn seconded a motion to approve the additional funding for the study as recommended. Motion passed with all in favor.

There was further discussion about how to fund future investigation instances such as this, when dealing with the compact. It would be best to have a permanent secure source of funding. Since the remaining interstate funds were swept, there have been ongoing discussions on how to restore a fund. In the meantime the legislators have said they would fund compact projects as needed.

Clay Scott asked if there has been any studies done for waste of water along the river. Example he stated was from a discussion he had recently had with a producer along the Arkansas River in Colorado that was wanting to be as efficient as he could with the water and installing drip irrigation. It was hard to come up with a system though that would use the needed amount of water to also insure the needed return flows to the stream. Mr. Barfield said there has not been any specific study done, but that the topic could be brought up during the proper forum.

President's Report,

Board Officer Elections. President Heger passed the gavel to Vice President Bret Rooney to preside over the election of Board President.

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President: A motion was made by for a unanimous ballot for Kirk Heger to remain President. Motion was seconded by No discussion. Motion passed.

The gavel was returned to President Heger to continue.

Vice President: A motion was made by for a unanimous ballot for Bret Rooney to remain Vice President. Motion was seconded by No discussion. Motion passed.

Treasurer: A motion was made by for a unanimous ballot for Mike O'Brate to remain Treasurer. Motion was seconded by No discussion. Motion passed.

Secretary: A motion was made by for a unanimous ballot for Mike McNiece to remain Secretary. Motion was seconded by No discussion. Motion passed.

Board Resolution: Mark stated that each year it is required that the District pass a resolution for a cash base budget. The written resolution was presented to the Board. Bret Rooney made the motion to adopt Resolution 2017-1 as written. Seth Nelson seconded. Motion passed all in favor.

Discussion with Chief Engineer / DWR

Mark, reviewed with the Board the Garetson Brothers Initial Report comments letter that was sent to the Chief Engineer with questions in response to the HS county court case neighboring well orders. David Barfield handed out a set of responses to the questions. Mark noted that he is of the understanding that a notice of appeal is expected to be filed in the court case. So court proceedings will be ongoing and may limit what the Chief Engineer can discuss.

Mark stated that we need to be mindful of the proceedings and the roll GMD3 may seek to serve in it, if at all. An appellate ruling becomes case law. This could also have a possible effect on future collective conservation programs in the future.

Discussion started with how water right 8157 will be dealt with. Mr. Barfield stated that they are only dealing with the vested right, HS3. WR 8157 is not in the same formation and is not considered a part of this action. The Board stated that this was more of a question for the authority 8157 brings to the same well as HS3, since they are stacked and all junior rights are to be off until HS03 can be satisfied. Another way to ask is if they unstacked 8157 from HS3, so that it had its own well location, would you not also have to restrict that new well along with the other neighboring wells? If that is the case it seems that notice would be given to 8157, along with the other water rights in the area to be complete and consistent.

Next question asked should we put more into the review process during the change process and review to possibly deter impairment call variables in the future. General opinion is that all involved in the application/review process could do more to make sure appropriate information is gathered and provided to make the best agreeable decision possible. Mr. Barfield stated that spacing standards have worked fairly well in the past and should not be totally discarded. He gave the example of the case dealing with 2 wells in Finney County. In that case, DWR studies showed that the saturated thickness appeared to be satisfactory for the area for decades into the future and that there should not be any well interaction and they approved and defended the change application decision. It was asked if our spacing standards need to be reviewed or adjusted. Again, Mr. Barfield stated that the spacing should not be totally discarded, but might be adjusted to match the depleting aquifer characteristics from when the rules were first adopted.

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Mark questioned if another route could be taken and not just look at unknown future impairment and priority administration. Would it help the process if consent agreements could be gathered that states the neighboring wells do not have an issue with the proposed changes or stipulate to conditions of no call for a set period of time? The local water users should be able to have their personal property input. That could be helpful in the short time, but how far into the future does the agreement go or would it really be effective. DWR has taken the step to evaluate the change's effect for a 50 year period. If the land and water right was sold in the future, that could have a negative effect of the new owner and possibly hurt the value of the land.

Discussion went back to water right 8157. The court order and the Chief Engineer only deal with HS3, and not 8157. The original request to secure water was filled out for both HS3 and 8157. Mr. Barfield stated that the original impairment complaint and investigation that was performed was only on HS3. In order to bring 8157 into the request, a new impairment investigation would have to be performed, so therefore they cannot act on the request for 8157 at this time. He has had discussions with the Garetson Brothers on this matter and explained the stance of DWR to them.

The next question of discussion pertained to who could start the process of an impairment complaint and how much ownership do they need to have in the water rights. Mr. Barfield said that an impairment starts once a complaint is filed and that it can be verified that the complaint does have at least a partial ownership in the water right. So, there is an ownership interest to protect. Mark mentioned that in order for a change application to be in proper form all owners have to sign, which is in slight contrast to that impairment claim approach.

Discussion then went to the matter of a futile call. Futile call is not really defined anywhere. Comments were made that if a junior right is shutoff, it should factor into the process if there is any improvement to the senior right ability to be satisfied. If there is administration on junior rights, it should show/provide a measurable improvement to meet the senior right. In the matter of the court case, it was determined by DWR that HS3 was entitled to 404gpm, but is authorized 600gpm. So if HS3 started up and it could pump 500gpm, would they still be allowed to pump that 500gpm? Since it is still under the original authority, they would be allowed to pump the 500gpm, while the juniors are still administered against.

The next question was asking if a new well, or a redrill to a possibly better location, be offered as an option to satisfying the impairment. David Barfield stated that they don't have the authority to tell a water user where to drill or to tell them that they have to go to a better location. If another option can be worked out to the satisfaction of the complainant, DWR would be open to that option, they just cannot order it. This raised the question of the deeper well requirement on impaired shallow wells, which requires a change application.

Discussion then went to the assumption that since the High Plains Aquifer in the District is closed, by definition isn't all the water dedicated to existing rights. There could still be water available according to calculations, but one would have to determine if it was worth the time and cost. You might be dealing with such a small amount that it would not really be of benefit for an application and a well, which would lean towards the side that the water within the District is all dedicated.

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The final topic discussed with the Chief Engineer dealt with the process of updating the management plan for the District. The initial plan is to have a final draft ready to present to the Board at the next monthly meeting, then submitting to the Chief Engineer shortly after. There may be some further action to be taken around the August Board meeting. David Barfield said that he and his staff would be willing to help if needed and looked forward to the first draft.

Committee Reports

No reports at this time.

Old Business

There was no old business to take off the table.

New Business

There was no new business brought to the table.

Executive Director, Mark Rude

Ogallala CAP Survey, USDA-NIFA Funded: Mark advised the Board that we are working with the group on a study survey that the group was hoping to send to producers in the near future. Staff has reviewed the survey and are working on suggestions to trim it down from current form since it is a pretty lengthy survey. We will keep Board informed.

Kearny / Finney Groundwater Management Area: It is the stakeholder group's hope to have a draft proposal to present to the Board next month. There is a strong core leadership group that has been very active in trying to come up with a plan with broad support that can be presented to other members in the proposed area and can have a positive impact with the rate of decline in the area. A lot of different options have been discussed.

A common inquiry has dealt with what kind of approval from the area would the Board like to see for support of a LEMA request? The group believes the boundaries are set and a proposal needs to get out to all involved. If the board is acceptable to the plan, the public information process should occur. Once it goes to DWR, they are required to hold two public hearings. No public vote is mandated for either the GMD or DWR. DWR acts on the public interest need and proposal after GMD3 identifies it so. Kirk Heger, who has attended a couple of the core group meetings, stated that if they come to us with a plan from the steering committee, he feels there should be support from the Board along with strong support from the local producers. The meetings he has attended has had very good discussions and were very good meetings. Kent Dunn said he had received a phone call expressing hope that GMD3 would not inhibited the process of developing a LEMA and he hoped that is not the case or is the impression that people have.

Soil Moisture Sensor Field Day, Roth Farm, Holcomb, March 21st at 10a.m. It was brought to the Board's attention, the flyer that is being sent out for the field day. Some of the GMD3 staff will be in attendance if they are not previously committed.

NWRA Federal Water Issues Conference, March 20-22, Washington D.C.: GMD3 will be represented by a couple members of the Board and staff at the conference. It is important for us to attend as to have meetings with the group about networking further on the feasibility of water

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transfer, which has become more of a topic in other states as well. We will also discuss the importance of the Ogallala and how it can fit into the Farm bill with our Congressional members.

Water Authority Meeting, Garden City, May 17-18th: GMD3 may be involved with possibly two tours. One with the Water Authority and another with Water One, from Kansas City, like we did with them last year.

GMDA Summer Conference, May 24th-26th, Albuquerque, NM.: The meeting is scheduled earlier than in previous years. The draft agenda looks like it will be a very good meeting and hearing about the water issues they are dealing with in New Mexico. Those that would like to attend are encouraged to let staff know as soon as possible so arrangements can be made.

Board Member Report: No official reports were given. They did discuss that the county tax discussion at the annual meeting was very informative and was a timely topic to be presented. Location of different soil types and water quality are some things that need to be taken into consideration if the county evaluations are reworked again. It was also stated that we need to make sure that we have a showing in Topeka since we lost a lot of political pull in last election.

Public Forum: Greg Graff, asked if there has been further discussion on the Board's stance of the GMD assessment bill (SB194). GMDs 3 & 4 initially were neutral and still had plenty of room on the cap. GMD4 has since reconsidered and moved to support the legislation. Consensus is we need to stay at same position, which is no comment or neutral. There is concern that it could be viewed wrong and by supporting the bill people would think that we were going to drastically increase our current assessments. Mr. Graff then stated that GDM1 has started a cost share program within the District for soil probes. They are hoping to have good participation with the new program.

Mr. Graff also wanted to further discuss implementing a LEMA and how to handle Vested water rights. He stated that Burke Griggs and David Pope expressed the opinion that Vested rights could be included since you are not taking anything, you are managing them. It has been DWRs opinion that a LEMA cannot include a Vested right unless they volunteered to do so.

ADJOURNMENT

Seth Nelson made a motion to adjourn the meeting. Fred Claassen seconded.
The meeting was adjourned at 3:40 p.m.

Respectfully Submitted,



Mike McNiece
GMD3 Board Secretary