

**Southwest Kansas Groundwater Management District No. 3
Minutes of the Regular Meeting of the Board of Directors
July 11, 2018**

MEETING CALLED TO ORDER

President Kirk Heger called to order the July 11, 2018 Board of Directors meeting of the Southwest Kansas Groundwater Management District to order at 9:01 a.m. Which was in the Board Room of Southwest Kansas Groundwater Management District NO. 3.

Flag Salute

Directors Present

Kirk Heger, President, Stevens County Representative
Mike O'Brate, Treasurer, Gray County Representative
Mike McNiece, Board Secretary, Industrial Representative
Clay Scott, Grant County Representative
Randy Hayzlett, Surface Water Representative
Fred Jones, Municipal Representative
Hal Scheuerman, Kearny County Representative
Steve Stone, Finney County Representative
Zachary Gale, Hamilton County Representative
Kent Dunn, Seward County Representative
Seth Nelson, Stanton County Representative
Douglass Fox, Meade County Representative

Directors Absent with Notice

Bret Rooney, Vice President, Haskell County Representative
Fred Claassen, Morton County Representative
Dave Casterline, Ford 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

Others in Attendance

Mike Meyer, Water Commissioner, DWR, Garden City Field Office
Perry Smith, Wheatland Producer
Luke West, Wheatland Producer
Armando Zarco, DWR, Garden City Field Office
Jackie McClaskey, Secretary of Agriculture
David Barfield, Chief Engineer
Lane Letourneau, KDA, DWR
Chris Beightel, KDA, DWR
Dave Brenn, Kansas Water Congress
Kenneth Titus, KDA Attorney
Alexandra Davis, DWR
Dwayne Roth, Producer

APPROVE AGENDA

President Heger asked for consideration of the meeting Agenda. Mark corrected Resolution 2018-2 to Resolution 2018-5. Kent Dunn made a motion to approve the agenda as corrected. Steve Stone seconded. The motion passed.

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APPROVAL OF MINUTES & GENERAL MONTHLY FINANCIAL REPORT

President Heger drew the attention of the Board to consider the June 13, 2018 draft minutes. Mike McNiece moved to approve the June 13, 2018 minutes as presented. Zachary Gale seconded. Motion passed.

President Heger next drew the attention of the Board to review the June 2018 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. Randy Hayzlett seconded. Motion passed

President Heger signed and submitted the financial documents.

Introductions completed throughout the room.

President's Report, President Kirk Heger

Water Commissioner's Report, Mike Meyer

Water Commissioner Meyer announced there is a change in staff that will start next week; Armando will be employed by the Kansas Water Office as the Western Regional Advisory Planner. Mr. Zarco's office will remain at the DWR Garden City field office. This change will leave a vacancy on the DWR field office team.

The office has been working on enforcement compliances and hitting wells that may not have been visited before. In doing so came across a well that was not matching up to past Water Use Reports. DWR mailed notification to the producer. The producer admitted for the past six years he had padded his water use report (reporting authorized amount when probably only using 1/3 of his water) for fear of being reduced when a LEMA may be created and enforced.

Board Review, Wheatland Electric Change, File 21,389 Distance Waiver

Luke West and Perry Smith, representatives of Wheatland Electric, attended the review. Jason Norquest explained File Number 21,389 distance waiver.

- *application to reallocate the AF between the wells

- *proposed to have all 4 wells equally authorized at 272af

- *Division applications are in the works to divide, Yost owns SW and Wheatland's owns the other 3 quarters.

- *SW well is further than half mile from the others.

- *proposed spacing would not be effected, still 1600'

Clay Scott said Policy and Legal discussed occurred and concluded it would be better to proceed with the administrative tweak and waiver as presented than to wait until in the future when a land sale could fall through due to water right issue. Kent Dunn moved to approve the reallocation application, Clay Scott seconded. Motion passed.

Board Review, Wheatland Electric WCA, 37 Files and 37 Wells in Finney County

Luke West and Perry Smith were still in attendance for the Wheatland Electric WCA, Board review. Jason Norquest reviewed.

- *Industrial rights: 14 wells covered by 14 water rights.

- *Main place of use is Tyson Fresh Meats

- *Currently total authority is 4496.727af with Average Use (2010-2017) 3695.015af

- *Proposed Industrial rights is NO reduction keep the full 4496.727af total

- *7 of the wells held to no more than the current annual AF

- *7 of the wells proposed to be able to exceed annual authority

- (No limit as long as overall cap is not exceeded)

- *ALL wells held to current annual rate.

- *Irrigated Rights, 23 wells covered by 23 Water Rights

- * Place of use is ground crop

- * Current total authority is 6026af

- * Average use (2003-2012) 2619.490af (4 wells show no use in that time frame)

- * Proposed total authority for all the wells is 1400af/annually

- * 23% of total authorized or 53% of average

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- WR 29945 proposed annual cap of 260af and current rate
- All other IRR wells proposed not to exceed current annual quantity and rate limits.

Clay asked why the extra amount of water for water right 29,945. Perry stated hopperscotching awhile back caused the producer on that well difficulty of watering, which affected that producer's production. Mike McNiece asked what the conservation factor of the proposed WCA is. Jason said the conservation is generally more in the irrigation wells being capped at 1400af annually. Some question discussed as to whether any new corrective controls were being added to benefit the aquifer. Mike Meyer noted a key part of this plan is to recognize due consideration for past conservation. There are 17 wells not being used, due to 10 plus years ago they converted those wells to native grass and this plan recognized due consideration.

Policy and Legal committee recommended approval of the WCA in its support to sustain water supply to a high value water project for the district. After additional discussion, Mike McNiece moved to approve the WCA, subject to any proposed changes (revisions or extensions) brought back to the board for review. Clay Scott seconded. Discussion occurred. Motion passed.

Public Hearing, Proposed 2019 Budget. 10a.m

President Kirk Heger called the Public Budget Hearing on the proposed 2019 budget for Southwest Kansas Groundwater Management District NO. 3 to order at 10:02 a.m. He welcomed all those in attendance. President Heger stated that a GMD3 budget hearing is necessary and proper according to state policy for our organized groundwater area of Kansas. Specifically, K.S.A. 82a-1030 provides for water user charges, which annual assessments per acre for owners of land 40 acres or more in size and \$0.14 per acre foot, against water right owners to fund the 2019 general fund. The purposes of GMD3 are long standing in the history and activity of Southwest Kansas and our water use influenced economy. The purpose of a hearing is to receive comments on both the proposed 2019 budget and on the assessments to member landowners and water users necessary to fund the management program of the Groundwater District. Newspapers of the District published the hearing announcements in compliance with State Law. GMD3 provided a presentation of the draft budget to the members at the annual meeting this past March.

Hearing officer Heger introduced and handed the floor over to Treasurer, Mike O'Brate for budget details. Treasurer, O'Brate stated the creation of the 2019 budget was using a water user fee of 14 cents per acre-foot of groundwater withdrawn with the district or allocated by the water right, and a special land assessment of 5 cents per acre for tracts 40 or more acres, as allowed by law.

Hearing officer Heger asked for any comments or questions. No comments or questions were stated. Hearing office Heger declared the budget hearing closed at 10:06a.m.

Draft Revised Management Program Approval Discussion

Chief Engineer Barfield stated he appreciated the work and time GMD3 board and staff have spent on the program. The GMD act requires an adopted management program before starting active management of the district along with annual review of the program. This is the opportunity of the board to discuss the aquifer, discuss the purpose of the GMD3 and the economic lively hood of the district. Significant discussion has occurred with the Policy and Legal Committee and the board. Chris Beightel passed around a paper that laid out the specifics of what a Management Program needs for approval by the Chief Engineer. Mr. Barfield stated we still are not there with the

GMD3 Management Program. Secretary of Ag, Jackie McClaskey added this should aid in the knowledge of what should be in the management program as the state feels like communication may not had been there on demonstrating that.

The first bullet point:

- Lay out a vision for the conservation of the district's water supply
 - Include programs to conserve
 - Include conservation goals and how and when they will be met
 - Consider goals that are SMART (specific, measurable, attainable, relevant and timely)

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Mr. Barfield stated the document lacks the new tools and initiatives of promoting water conservation.

The second bullet point:

- Be consistent with state law and policy
 - The GMD has a clear purpose and powers defined in statute
 - The 2015 Water Vision is Kansas water policy
 - LEMAs and WCAs are state law
 - Challenging state law and policy on topics such as the prior appropriation doctrine, impairments, LEMAs WCAs, interstate compacts and others is not acceptable in a management program.

Mr. Barfield would like to discuss later GMD3's promotion of on-site conservation programs. The State questions how GMD3 handles impairments, LEMAs, WCAs etc.

Third bullet:

- Be written in clear, accessible language to effectively communicate the district's vision and plan for implementation
 - Use the words and phrases found in statute and regulation
 - Write for your members to understand

Fourth and Final bullet:

- Be free of policy statements

Chief Engineer Barfield stated that the LEMA is a GMD tool. GMD's develop and propose a plan for reductions with two hearing processes. President Heger mentioned that GMD3 has focused on the high priority areas and there was not a consensus in the area, noting that if 99% were in favor that 1% still has voice. Mr. Barfield mentioned there might be a need for a facilitator in the LEMA process. Jackie McClaskey explained the role she thought that GMD3 should take in conservation; somewhere between allowing producers to come and state they want to conserve to the state or the District doing a mandatory cut. Learning how the GMD can build a consensus and work with the producers to build an agreement on conservation. Clay Scott noted when you have people in your area willing to sue neighbors because of senior water rights and how that affects property sale, land values and how they report the water use... that is the holdup of a conservation plan like a LEMA. Consensus of the Board of Directs was not able to support a conservation plan, such as a LEMA, when majority of the producers are not in favor.

Jackie again questioned the directors on a plan on how to work through conserving, adding that the state would not disagree with any plan that demonstrates conservation and until GMD3 demonstrates everything possible is being done to conserve and the programs to assist, there will be no support for transferring water into the area. The state would be willing to match funds, or find funds, for a facilitator to develop the conservation plan, aka LEMA. Fred Jones acknowledged chasing our tail on what went wrong with the Kearny Finney LEMA as a process that is not working. GMD3 needs to put itself at arm's length and have a 3rd party come in and hear the proponents and the opponents of the program. This will allow GMD3 the ability to promote the facilitation of a plan and proceed.

Turning the attention to the reworked Management Plan document edits handed out by the state, discussion focused on section VI Water Supply Problems and Activities. David Barfield remarked that GMD is built to promote groundwater conservation, research and improvements, with those initiatives being list first and moving water transfer further down the document.

President Kirk Heger wrapped up the Management Program conversation by stating Policy and Legal will review the revised document. We are all partners and we all want to cooperate.

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Committee Reports

Executive Committee:

President Heger reminded everyone of the ongoing activity with the Colorado Groundwater Commission in Baca County. GMD3 is still waiting on a decision of dismissal; however, in the meantime, some technical research needed completion if allowed to remain in the hearing process. Our first choice, Spronk Water Engineers, has not had the resources to gather the information by the deadline. Therefore, SSP&A was contacted. Executive Committee reviewed and authorized Executive Director Mark Rude to sign the contract with SSP&A with an estimated cost around \$8,000. Board needs to affirm or disaffirm the expenditure for SSP&A. Clay Scott moved to approve SSP&A. Mike O'Brate seconded. Motion passed.

Policy and Legal:

Farm Bill Conference Committee Draft Letter

Mark Rude read a draft letter regarding support and encouragement of the work and leadership from the House and Senate on H.R. 2 the Agriculture and Nutrition Act of 2018. Consensus of the board was to proceed with the letter on behalf of the SW KS GMD3 Board of Directors and have President Kirk Heger sign.

Finance

President Kirk Heger brought to the table Resolution 2018-3 Cash Based Budget and Resolution 2018-4 for review. Hal Scheuerman moved to approve both resolutions as written. Doug Fox seconded. Motion passed.

Old Business

Term Permit 20189036; Louis Hines, Additional rate limit waiver

Jason Norquest reviewed Term Permit 20189036; Louis Hines, Additional rate limit waiver. Power point map demonstrated the following:

- 12972 currently authorized 499af @ 735gpm
- Term Permit proposal is to increase rate only to 1400gpm for current year only (currently set at 1200gpm)
- WR22719 authorized 320af @ 1910gpm (currently set at 700gpm)

Applicant stated system is set up this year for the well to pump 1400gpm; pumping less would affect the crop. He is working on stepping down to 600gpm / pivot. There will be no increase to acre-feet. Term permit submitted to state to stack on W12972. Steve Stone moved to approve term permit for this year only. Mike McNiece seconded. Motion passed.

Resolution 2018-5

Mark Rude read Resolution 2018-5 requiring offsets for new appropriations in closed aquifer areas. Discussion occurred if someone came in tomorrow with a new water right what would the procedure be and language in NOW THEREFORE does not include "in closed area". Clay Scott moved to table the resolution until revision of language is completed. Zachary Gale seconded. Motion passed.

Renewable Supplies

Renewable Supplies Committee and Tracy Streeter met on June 28, 2018 in the GMD3 Boardroom. Enclosed in the board book are notes. Also handed out is the similar document that include comments in green font from Tracy Streeter review.

New Business

No new business.

Executive Director Report, Mark Rude

Staff Update:

Mark Rude announced that Brandy had her baby boy and everyone is doing well. Chris Law had his work anniversary of 11 years, and Trevor Ahring 9 years.

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Monthly Western Water Conservation Projects Fund Business

Mark Rude drew the attention of the board to the June Financial documents of the Western Water Conservation Projects Fund and activity of the advisory committee. After some discussion of the Board, Clay Scott moved to accept the June Financial Report and payments as presented and submit them for annual audit. Zach Gale seconded. Motion passed.

Farmers' Headgate Proposal vs. Remaining Funds

Mark Rude turned the boards' attention to the application in board book for Finney County Water User Association, Farmer's Ditch Headgate Replacement – Phase II. Mark spoke to the President of Finney County Water User Association and both concurred the project bid exceeded the budget.

FYI's

Reclamation grant submittal: \$75,000 match needed, Ark Riverbank Repair problem.

Board Member Report

Clay Scott recognized that the State budget came in \$300 million above state revised projections, approximately 1.2 million above last year. He would like to see the funds that were swept in 2010 be replenished or repurposed if not being used for litigation funds.

Public Forum

Dave Brenn announced that KWC (Kansas Water Congress) and CWC (Colorado Water Congress) would jointly host a webinar on federal water issues tomorrow at 1p.m. The three primary issues are 1) Waters of the U.S. 2) Water Transfer Rules 3) Hawaii Wildlife Fund. KWC and CWC are the only two water congresses in the country. Information for the webinar was email this morning, if you are not on the email list and want to join on the webinar ask Dave for the information.

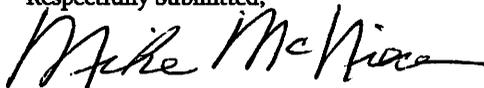
Kansas Water Congress Summer Conference is August 2 -3, 2018. The agenda and registration will be out in the next few day.

ADJOURNMENT

Randy Hayzlett made a motion to adjourn the meeting. Zachary Gale seconded.

The meeting adjourned at 12:45 p.m.

Respectfully Submitted,



Mike McNiece
GMD3 Board Secretary