

**Southwest Kansas Groundwater Management District No. 3  
Minutes of the Regular Meeting of the Board of Directors  
May 8th, 2019**

**MEETING CALLED TO ORDER**

President Bret Rooney called to order the May 8th, 2019 Board of Directors meeting of the Southwest Kansas Groundwater Management District to order at 9:02 a.m. The meeting was held in the GMD3 Board Room.

**Flag Salute**

**Directors Present**

Bret Rooney, President, Haskell County Representative

Fred Jones, Vice President, Municipal Representative

Kent Dunn, Seward County Representative

Steve Stone, Finney County Representative

Clay Scott, Grant County Representative

Kirk Heger, Stevens County Representative

Zachary Gale, Hamilton County Representative

Seth Nelson, Stanton County Representative

Hal Scheuerman, Kearny County Representative

Fred Claassen, Morton County Representative

Douglass Fox, Meade County Representative

**Directors Absent with Notice**

Mike O'Brate, Treasurer, Gray County Representative

Mike McNiece, Board Secretary, Industrial 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

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

Frank Mercurio, member user rep., livestock engineer

Austin McColloch, Kansas Department of Ag

John Borth, GMD3 member user

Clayton Befort, GMD3 member user

Jett Little, Dept. of Ag

Mr. & Mrs. Doug Langhofer, GMD3 member

Jonathan Aguilar, K-State Research Extension

**APPROVE AGENDA**

President Rooney requested an amendment on the agenda. Moving Befort, 27,188 down to last of President's report to allow additional review attendance. Kent Dunn made a motion to approve the agenda as revised. Doug Fox seconded. The motion passed.

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

President Rooney drew the attention of the Board to consider the April 10th, 2019 draft minutes. Fred Jones moved to approve the April 10th, 2019 minutes, as presented. Hal Scheuerman seconded the motion. Motion passed.

President Rooney next drew the attention of the Board to review the April 2019 financial report documents. Clay Scott made a motion as follows: Approve the financial reports and payments for the month of April as presented at this meeting and submit them for the annual audit. Fred Jones seconded the motion. Motion passed

President Rooney signed and submitted the financial documents.

**President's Report, President Bret Rooney**

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

Water Commissioner Mike Meyer announced the 2 vacancies in their office have been filled. The new employees will start in next couple of weeks.

**West Side Dairy, WCA Renewal**

Through a power point presentation, Jason Norquest explained the WCA renewal with West Side Dairy.

<b>2016-2018 (3 years)</b>	<b>2019-2023 (5 years)</b>
<ul style="list-style-type: none"><li>• 480 IRR acres / 160 acres(dairy facility)</li><li>• 1 IRR Water Right/ 1 well: 8209</li><li>• 1 STK Water Right/ 2 wells: 9096</li><li>• Historic period: 2003-2012</li><li>• 2784AF/WCA (928AF/year)</li><li>• 15% conservation factor</li><li>• Total authorized allocations: 1216AF</li><li>• Historic Use: 1092AF</li><li>• Water Rights used for either STK or IRR.</li><li>• Total combined water use:</li><li>• 2016: 719AF</li><li>• 2017: 739AF</li><li>• 2018: 628AF</li></ul>	<ul style="list-style-type: none"><li>• 720 IRR acres / 160 acres (dairy facility)</li><li>• 2 IRR Water Rights/ 2 wells: 8209 &amp; 11695D1</li><li>• 1 STK Water Right/ 2 wells: File #9,096</li><li>• Historic period: 2003-2012</li><li>• 4,400AF/WCA (880AF/year avg)</li><li>• 20% conservation factor</li><li>• Total authorized allocation: 1,487AF</li><li>• Historic Use: 1,092AF</li><li>• Term Permits for 8,208 &amp; 9,096 to be used for STK or IRR</li></ul>

WCA Allocation is a total of 4,400-acre feet, a claimed conservation factor of 20%. File Number 8,209 will be limited to 693-acre feet per calendar year, with the two wells under file number 9,096 being held to 624-acre feet for irrigation and stock water use. Stock water use will be limited to 490-acre feet per calendar year. Term permits will be filed for dual Irrigated / Stock use planned for the Water Rights 9,096 and 8,209.

The question was raised as to why this is on the agenda five months after it ended. Mark Rude offered that all the information needed to be received from the initial WCA agreement and evaluation was needed to proceed with renewal.

Zachary Gale moved to recommend approval for the West Side Dairy WCA renewal plan, for a five-year term (2019 to 2023). Clay Scott seconded. Motion carried.

**Southwest Kansas Groundwater Management District No. 3  
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May 8th, 2019**

**Wheatland Electric WCA Addendum**

Jason Norquest brought to the floor, Wheatland Electric WCA Addendum to change the existing plan. WR 19,820 D2 was sold and the new owner requests the land and water right out of the WCA. Base WRs 19,820 D2 & 33,675 overlap Place of Use, reduction requests have been filed with DWR, February 19<sup>th</sup>, 2019. The addendum will reduce the WCA allocation by 18-acre feet, making the annual allocation on all wells 1,382-acre feet. Mark Rude read a letter from GMD3 to DWR of July 30<sup>th</sup>, 2018 that expressed *concerns discussed by the policy and legal committee and at the full board discussion of the original WCA plan that are, by law, to implement new corrective controls in a problem aquifer area. More work on how to adequately evaluate adequate corrective controls that actually benefit the aquifer will be needed for future plans. Specifically, "how does the aquifer benefit from the WCA plan beyond what is otherwise already occurring? This question may not have been answered sufficiently for the board in their concern for actions that may be considered "chasing water"*.

Policy and Legal Committee reviewed the Wheatland Electric WCA change in the plan addendum and concluded to proceed with approval of the addendum with the concerns reiterated from the July 30<sup>th</sup>, 2018 letter. **Zachary Gale moved to recommend approval of the WCA addendum, however, noting the concern of selling WR.19,820 D2 along with the concerns stressed in the July 30<sup>th</sup>, 2018 letter. Kirk Heger, seconded.** President Rooney asked for further discussion. Hal Scheuerman questioned how GMD3 will relay this to DWR. Mark Rude noted the intention to relay the comments and action of the Board of Directors. Mike Meyer questioned if the landowners were invited to attend the board review, Jason responded he did not have a chance to contact Wheatland Electric. Secondly, Mr. Meyer noted this addendum does not require a motion as it is already approved at the State level. The addendum was provided to GMD3 30 days ago for a 15-day staff review, GMD3 asked for time for board review and state denied this request and State approved it (without notice to GMD3). **Clay Scott called the question. Motion passed.**

**Kleysteuber Farms WCA Addendum**

Jason Norquest noted the addendum that changes the WCA plan removes Water Right File No. 18,144 and all attributes associated with it and bring in water right 22,737 D1 and D2, which were not in original WCA. WCA allocation will be reduced 222.595 acre-feet, which is what 18,144 brought in, reducing the annual acre-feet to 2550.411. The five-year allocation will be reduced from 12,365.03 acre-feet to 11,252.055 acre-feet. Again, it was noted state has already approved the WCA plan change. **Clay Scott moved to recommend addendum. Kent Dunn seconded. Motion passed.**

**Befort, 27,188 additional well with objectors**

Jason Norquest reviewed the additional well change application proposal for Clayton Befort, Water Right 27,188.

- Original application of 2 wells required waiver to spacing between the wells and half mile move limit. Board recommended no waiver based on well evaluation outcomes.
- This revised application proposes an additional well; going from 2 to 3 wells authorized.
- East well to remain as currently authorized.
- SW well proposed to split the rate & quantity between existing and added well.
- KAR 5-5-16 (Add Well) consumptive use calculation requires no reduction in overall AF, test secured on west well where rate and quantity being split, but no test of present aquifer yield on east well. Some question of impairment demonstration.
- KAR 5-23-3 (Spacing) is met as it pertains to less than half mile move & spacing to all neighboring wells is met.
- As with the first application, neighboring well owners expressed concerns for the change and effects on their water supply.

**Southwest Kansas Groundwater Management District No. 3  
Minutes of the Regular Meeting of the Board of Directors  
May 8th, 2019**

As with most change applications, the well evaluation analysis was completed by GMD3 engineer Trevor Ahring. Trevor noted that this is the same type of evaluation that was ran on the previous application version.

- 24754
  - Water Column = 206 ft
  - Drawdown due to proposal = 4.88 ft (25-year Theis calculation)
  - Drawdown due to existing pumping = 35.5 ft (from model)
  - Dynamic drawdown = 65.16 ft (Theis estimation)
  - Total drawdown = 105.5 ft
  - Economic drawdown constraint governs, allows 82.4 ft effect
  - Total drawdown is greater than the EDC, so this well is critical.
  
- 28263
  - Water Column = 115 ft
  - Drawdown due to proposal = 2.45 ft (25-year Theis calculation)
  - Drawdown due to existing pumping = 35.5 ft (from model)
  - Dynamic drawdown = 35.74 ft (Theis estimation)
  - Total drawdown = 73.7 ft
  - Economic drawdown constraint governs, allows 46.0 ft
  - Total drawdown is greater than the EDC, so this well is critical.

Mark Rude reviewed a handout that outlined the Befort, 27,188 additional well rule review by GMD3. The handout walked through the rule language with staff comment following. After some discussion Mark Rude read the GMD3 staff recommendations based on well evaluations, state information and rule and statute language:

- That the statewide additional well rule is written to not require approval of an application that may meet all rule conditions, and
- That significant deficiencies exist in the proposal for meeting rule requirements, and
- That adequate time was not provided by DWR to allow GMD3 to conduct discovery, fact finding, policy considerations, review process with member water users and formulating a reasonable recommendation to assist the agency in finding appropriate facts and conclusions of law, and
- That there is demonstrated impairment concerns of water rights with critical wells discovered in the well to well evaluations of GMD3,

Therefore the staff of GMD3 recommended that the governing body of GMD3 request a hearing process to provide an administrative remedy of the significant concerns associated with the application and application review process and if a hearing process is denied, the board should recommend denial of the application in light of the apparent failure of the application proposal to satisfy statute and rule requirements based on site specific information available for consideration in the time allowed.

Kent Dunn verified that DWR has not yet approved this application. President Rooney noted that GMD3 has until Friday, May 10<sup>th</sup> to submit recommendation. Additional discussion was held on what is an Additional well and the statewide rule K.A.R. 5-5-16. Mike Meyer added that based on historical use their calculations demonstrate less draw down than may occur today. Mark Rude asked "how are they able to use the east well if there is no test?" Mike Meyer responded "based on authorized, worst case scenario, the evaluations show less draw down than historically." Clay Scott noted GMD3 is not doing anything wrong reviewing this with extra scrutiny, because there is concern. The burden of proof is on the applicant and not sure we have met the criteria and be satisfied. Mike Meyer responded that direct well to well interference is not shown, and the application is approvable. Mike suggested that GMD3 should submit comments and recommendations.

After further discussion Kent Dunn moved to follow staff recommendation and request a hearing process to provide an administrative remedy of the significant concerns associated with the application and application review process. Kirk Heger seconded. Motion passed.

**Southwest Kansas Groundwater Management District No. 3  
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May 8th, 2019**

**Committee Reports**

**Policy and Legal Committee**

Mark Rude noted the Policy and Legal Committee will review all old resolutions and bring to the board for discussion.

**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**

**Governor Kelly request for 3<sup>rd</sup> nomination, Water Authority**

During the March board meeting the GMD3 board acted to submit Greg Graff as representor for the Kansas Water Authority. Mark spoke with Scott Allegrucci, and Scott advised, Governor Kelly wants three different names, therefore GMD3 needs to submit another prospect. After some discussion, Kent Dunn nominated Kirk Heger. Clay Scott seconded. Kirk Heger respectfully declined as he would like to run for Chairman of the Water Authority. Kent Dunn rescinded his motion. Clay Scott nominated Mike O'Brate. Kent Dunn seconded. Motion passed.

**Out of State Travel, GMDA Summer Conference, Salt Lake City, Utah**

Mark Rude advised that out of state travel needs to be acted on for the 2019 GMDA Summer Conference. Kirk Heger moved to approve out of state travel for staff and Board of Directors. Fred Jones, seconded. Motion passed.

Doug Fox advised the Finance Committee talked about paying travel expenses for Board Members, not spouses, and continue to pay for registrations of both Board of Director and spouse.  
Clay Scott agreed.

**KFB Meeting-GMD Managers and Secretary of Ag, Mike Beam**

Ken Askren with Kansas Farm Bureau will host a meeting on May 14<sup>th</sup>, 2019 with GMD3 managers, Board Presidents', and Secretary of Ag Mike Beam, to discuss concerns and issues within the GMDs and Kansas Agencies.

**Four States Irrigation Council Summer Tour**

Trevor Ahring has helped plan the Four States Irrigation Council Summer Tour. The tour will be held in the GMD3 District on July 24<sup>th</sup>-25<sup>th</sup>, 2019. Registration is \$100.00 and a block of sleeping rooms has been reserved at the Clarion Inn, Garden City, KS.

**KDHE-Uranium**

Mark Rude noted a conversation with Leo Henning, Director of Bureau of Water with KDHE, regarding the uranium issue and the outcome of legislative resolution actions. KDHE has contacted Finney County Health Department to explore domestic well owner data availability and begin working thought the public health concern of the uranium in groundwater issues. Collaboration with County offices and KDHE will aid in gathering mailing data to alert of potential contaminated domestic well supplies and testing options and process. A standard uranium test generally exceeds \$400.00. GMD3 would like to have a role in assistance and access to the final data to generate maps of the contaminated aquifer areas.

**Southwest Kansas Groundwater Management District No. 3  
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May 8th, 2019**

**NRCS state Technical Committee**

Mark reported a state meeting is upcoming late this month, Trevor will present the GMD3 CIG grant outcome.

**WaterSMART Small Scale Water Efficiency Grant Submittal**

Trevor Ahring submitted WaterSMART Small Scale Water Efficiency Grant. However, local funding could not be secured, so proposal will be withdrawn.

**Committee work needs**

Research and Development & Renewable Supplies Committees noted agenda items were generally reviewed by Mark.

**Monthly Western Water Conservation Projects Fund Business**

Mark Rude drew the attention of the board to the April 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 April Financial Report and payments as presented and submit them for annual audit. Kirk Heger seconded. Motion passed.

**State Water Plan/Water Authority**

Water Office Director has not been confirmed.

GMD3 is looking to seek reimbursement for interstate water supply protection activity and funds needed to plug hole in the Ark riverbank that impedes deliveries of flow downstream. GMD3 will take the opportunity to weigh in on the Water Plan Fund budget development process that the KWA budget committee is now working. Mark questioned the board what committee he should be working with on the water plan. Consensus of the board was Renewable Supplies Committee.

**RAC Committee Reports**

**Upper Ark;** Fred Jones is chairman of the Upper ARK, he presented information on the water quality / quantity in the Upper Ark. Fred Jones reported that Jim Butler came out and talked about the Uranium issue. He also announced there are several seats coming open and names can be submitted until the end of the month. Hal Scheuerman will be the representative of Surface Water on the Upper Ark RAC.

**Cimarron RAC;**

Jason Norquest mentioned there are also positions open for service opportunity on the Cimarron RAC.

**Board Member Report**

Fred Jones reported Garden City has completed a Reclamation and Reuse Study Phase 1 and Phase 2; Phase 2 was a reuse feasibility study. Mark Rude has a copy of the study if anyone would be interested in viewing it.

**Public Forum**

Armando Zarco, Kansas Water Office, Garden City, KS announced some scheduling dates:

- 1) Budget and RAC meetings will be held on the same day, hopefully in June.
- 2) Positions for RAC can be submitted at any time and if the committee is full the name can be held for later date.
- 3) Water Tech farm field days will be scheduled soon. December 1<sup>st</sup> is the soft deadline for new Water Tech Farms.

Jonathan Aguilar, K-State Research announced they will start cotton research this year. Garden City Company is expanding their tech farms to include a water quality plot.

Director Kent Dunn addressed the GMD3 and DWR staff expressing that the display of rubs between the agencies was not appreciated. Both agencies are farmer friend groups that set policies and help people. The two agencies have got to get along and work together and that was not well demonstrated through actions today.

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**Executive Session, Non-Elected Personnel Matter for Personnel Privacy**

Kirk Heger moved to go into executive session for 10 minutes with Mark Rude attending, the session is needed to discuss non-elected personnel matters. Kent Dunn seconded. Motion passed.

Regular meeting was called back to order. Fred Jones moved to allow Executive Director authority to apply a salary increase pool of 3% for employee performance for 2019. Kirk Heger seconded. Motion passed.

**Public Forum**

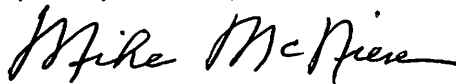
John Borth addressed the board to consider if he lowered the diversion rate and not showing a critical well would that be supported. After some discussion, consensus was motion stands as stated and calculations can still be provided.

**ADJOURNMENT**

**Fred Jones made a motion to adjourn the meeting. Seth Nelson seconded.**

**The meeting was adjourned at 12:55 p.m.**

Respectfully Submitted,



Mike McNiece  
GMD3 Board Secretary