

**Southwest Kansas Groundwater Management District No. 3  
Minutes of the Regular Meeting of the Board of Directors  
December 10th, 2020**

**MEETING CALLED TO ORDER**

President Rooney called to order the December 10th, 2020 Board of Directors meeting of the Southwest Kansas Groundwater Management District to order at 9:03a.m. The meeting was held at the GMD3 Board Room.

**Directors Present in person, zoom or by phone**

Bret Rooney, President, Haskell County Representative

Mike O'Brate, Treasurer, Finney County Representative

Fred Jones, Vice President, Municipal Representative

Hal Scheuerman, Kearny County Representative

Randy Hayzlett, Surface Water Representative

Dave Casterline, Ford County Representative

Clay Scott, Grant County Representative

Seth Nelson, Stanton County Representative

Kent Dunn, Seward County Representative

Douglass Fox, Meade County Representative

Kirk Heger, Stevens County Representative

**Directors Absent with Notice**

Garrett Love, Gray County Representative

Mike McNiece, Board Secretary, Industrial Representative

Zachary Gale, Hamilton 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

Brandi Sneath, Office Assistant

**District Staff Absent with notice**

Trevor Ahring, Engineer

**Others in Attendance**

Mike Meyer, Water Commissioner, Division of Water Resources, Garden City, KS

Armando Zarco, Kansas Water Office, Garden City, KS

Dave Brenn, Kansas Water Congress

David Barfield, Kansas Water Resources Consulting, LLC

Jeff Lanternman, Water Commissioner, Division of Water Resources, Stafford, KS

Keadron Pearson, Kansas Water Office, Water Resource Planner

Kevin Salter, Division of Water Resources

Susan Metzger, Senior Executive Administrator to the Dean

Marlin Heger, Producer

Eric Keller, Keller-Leopold Insurance

Darla Samy, ICI Insurance

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**APPROVE AGENDA**

President Rooney asked for consideration of the December 10th, 2020 meeting agenda. **Hal Scheuerman made a motion to approve the agenda as amended by adding Executive Meeting summary. Mike O'Brate seconded. The motion passed.**

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

President Rooney drew the attention of the Board to consider the November 5<sup>th</sup>, 2020 draft minutes. **Clay Scott moved to approve the November 5th, 2020 minutes, as corrected. Kent Dunn will be marked as present via phone and correct Mike O'Brate to Finney County Representative. Hal Scheuerman seconded the motion. Motion passed.**

President Rooney next drew the attention of the Board to review the November 2020 financial report documents. **Mike O'Brate made a motion as follows: Approve the financial reports and payments for the month of November 2020 as presented at this meeting and submit them for the annual audit. Doug Fox seconded the motion. Motion passed**

President Rooney signed and submitted the financial documents.

**President's Report, President Rooney  
KDA/DWR Water Commissioner Report**

Mike Meyer Water Commissioner stated field office doors are still locked, due to COVID-19, but will take appointments. GMD1 held their second LEMA hearing. No concerns were brought up and the time to receive testimony has expired. GMD1 LEMA will move to the next step. Staff has been in field completing inspections and meter readings on certain accounts. MYFA questions are still being asked and applications are still coming in. Wrapping up penalties for 2019 calendar year. Preparing for water well measuring program with KGS the first part of January.

**Heger Family Review: option to resolve depletion allowance and critical wells WR 746 & 4699**

Mark Rude noted this was reviewed in concept with Policy and Legal Committee both last month and this month. On-going discussion with Marlin Heger moved it to a request for board review. After discussion with Policy and Legal committee, Kirk Heger and Marlin Heger there is a lot more going on than just the change application board review. The change application is one step in a multi-step procedure of multiple owners to separate uneven overlap. Mark reviewed the three, maybe four, possibilities that reasonably mitigate critical well s:

- 1) Agree to limits necessary to mitigate critical well concerns of staff analysis.
- 2) Revise proposal for more pumping than the guidelines indicate and with written agreement by nearby well owners
- 3) Withdraw application
- 4) Provide better information for the statutory demonstration of no impairment

Jason Norquest described the change. He added it is a change application on Water right 746 stacked with water right 4699. The distance they want to move the well is roughly 1,068 feet, straight south; within the rules. There are several wells within the 1 mile radius along with a domestic well in section 23-33-36 and 26-33-36. Saturated thickness controls under the guidelines on what would be an allowable affect. Based upon a drillers log and an observation well in 25-33-36 the saturated thickness ranges from 40 feet to 171 feet. The drawdown allowance varies from 1.0 foot to 3.5 feet depending on the well location. Jason reviewed the Theis drawdown amount for each area well.

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Mark added that the GMD3 recommendation letter generated a communication from DWR that if quantity on the well is limited then there is a need to reduce acres authorized for irrigation. Mark noted he reviewed a set of rule references provided by Mike Meyer on acres and consumptive use concerns and none directly apply to the change in point of diversion where limited supply necessitates an authorized acres reduction.

Mark handed out and read a letter proposal from Marlin Heger.

Mike Meyer added that law requires a change must be reasonable. Is it reasonable to decrease over 600 acre feet of annual pumping authority and keep the same authorized acres?

Kirk Heger spoke about the reduction in quantity, 700 some acre feet between water rights 746 and 4699 being reduced down to 173-acre feet. Kirk noted his understanding of his analysis, limitation request for the redrill is from the water being removed point of diversion. Water right 746 has two points of diversions. one in section 23 and the other in section SE 26. Mark recommended additional discussion with the water commissioner and his team.

Mark added that staff sees this move as meeting current area rules and needed water rights administration in very limited supply conditions and recommend that the acceptance of the GMD3 evaluations ask DWR to temporarily limit the rate of the new well to 450gpm and quantity to 173AF. If aquifer conditions change, better information is presented or there is a loss of prior rights in the future, GMD3 would be happy to evaluate the effects at that time and a change to restore some authority could be filed without impairing prior rights and reviewed for a recommendation then.

Clay Scott moved to recommended approval to apply the outcome of the guidelines tool as drawn up and agreed to without permanent reductions. Hal Scheuerman seconded. Kirk Heger abstained. Motion passed.

**Committee Reports**

**Policy and Legal**

Policy and Legal held a meeting on December 5<sup>th</sup> at 2pm, via zoom and in person. The committee discussed the Water Right Change applications for Kirk Heger as noted in the review.

DWR Draft Legislation changing KSA 82a-743 temporary transfer was also on the table for discussion. Committee reviewed the proposed legislation and discussed at length the project term permits and transfers with offsets. Past issues with oil and gas productions, irrigators getting over pump notices for less than new permits granted by the state in the same section. Over pumping fines were issued to some irrigation users that were not allowed by DWR to cover small overages with temporary permit. The committee discussed alternatives and came up with three:

- 1) By action of the governing body, support the draft legislation
- 2) By consensus, indicate a willingness to continue moving forward with the development of legislation that addresses the concerns of GMD3 board and staff.
- 3) Indicate by vote or consensus to oppose the legislations.

Hal Scheuerman moved to proceed with alternative #2. Mike O'Brate seconded. Motion carried.

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Mark touched on the October 26<sup>th</sup>, 2020 Water Authority meeting and interstate transfer POC partnership. GMD3 is looking at filing application for one truck load to be transferred and divided between two different locations; part would go to Greg Graff's property in Wichita County and the other at a recharge pit with Central Colorado Water Conservancy District on the south plat.

Ark River Compact meeting was held virtually the last two days prior to board meeting day. Mark reviewed with the board the GMD3 Report presentation that he provided requesting water quality compact compliance review.

USDA Water Quantity public Comments will be heard Thursday, December 17<sup>th</sup> at 10:00a.m. New CREP direct payments interpretation and other possible GMD3 comments could be provided.

**Executive Committee**

President Rooney provided a handout that laid out an Executive Director Development Plan for the upcoming year.

**Old Business**

There was no old business to take off the table.

**New Business**

There was no new business to take to the table.

**Executive Director Report, Mark Rude**

**Insurance**

Mark Rude reminded the Board of Directors that this time last year it was suggested to review and quote insurance with other agencies. Patty Stapleton reached out to three agencies, ProValue (formally known as Rutter-Cline), Keller-Leopold Insurance and ICI Insurance. Eric Keller with Keller Leopold Insurance along with Darla Samy with ICI were present. Both agents provided an overview of their proposed insurance policy.

Fred Jones moved to accept Keller Leopold Insurance proposal with Columbia Insurance, keeping Directors and Officers policy with Travelers Insurance. Clay Scott seconded. Motion carried.

**ARCA Annual Meeting**

Randy Hayzlett stated there were good presentations at the ARCA annual meeting, including by GMD3. Three of the four presentations were about water quality concerns.

**Management Program Adoption and Implementation**

Management Program is still in DWR for approval.

**Research**

Mark stated he was on the advisory board for KSU R3 NRT graduate traineeship program.

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**Monthly Western Water Conservation Projects Fund Business**

Mark Rude drew the attention of the board to the November 2020 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 November 2020 Financial Report and payments as presented and submit them for annual audit. Fred Iones seconded. Motion passed.**

**Update of Projects**

Pictures of the Farmers Ditch project were provided by Hal Scheuerman.

**KWO/ KWA / RAC's**

**KWO**

Armando Zarco with Kansas Water Office noted no official Water Office director appointed at this time. A Water Authority meeting will be held virtually tomorrow morning at 9:00. RAC's do not have any meeting scheduled. Armando also announced that he will be leaving Kansas Water Office in the next couple of weeks. Keadron Pearson will be available for any question in the near future.

**KWA**

Randy Hayzlett reviewed the agenda of the Kansas Water Authority meeting to be held tomorrow.

**RAC**

No report from any RAC representatives.

**Board Member Report**

Clay Scott discussed a redrill a few years ago and he was told recently he didn't have all the signatures due to a domestic well. He went through the process and went to county and they said they didn't need it or did they know what to do with it. He was getting all the tax for water on the ground. Why did he need that just for a signature because of DWR? Mark noted will look into that issue.

**Public Forum**

Dave Brenn: Water Congress is a member of National Water Resource Association and they will be looking at holding a Leadership Forum in January over 3 days. Important meeting to have Kansas presence.

The movie The Big Short sparked some interest with traders to review the trading of water. Water could become a commodity.

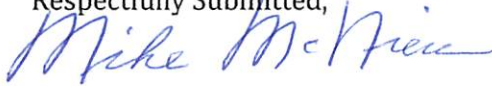
Randy: USDA is asking the public for input on Water Quantity in the west. Public listening session will be held Thursday, December 17<sup>th</sup>, at 10:00 am. Eastern time. For information on attending go to the Federal Register Notice.

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**ADJOURNMENT**

**Fred Jones made a motion to adjourn the meeting. Hal Scheuerman seconded.**  
**The meeting was adjourned at 12:07p.m.**

Respectfully Submitted,



Mike McNiece  
GMD3 Board Secretary