

RESOLUTION 2013 – 6

Board Recommendations of Kansas Administrative Rule Waivers

OF THE

SOUTHWEST KANSAS GROUNDWATER MANAGEMENT DISTRICT

WHEREAS the Southwest Kansas Groundwater Management District Number 3 (GMD3) board of directors, has determined that requests are regularly received from GMD3 members for the GMD3 board to consider recommending a variance or waiver of standards that have been adopted into the management program for the GMD3 groundwater area of the state; and,

WHEREAS, the GMD3 Board is locally elected and empowered by the Kansas legislature to represent the groundwater interests of the GMD3 area of Kansas; and,

WHEREAS the GMD3 board of directors has requested standards to be adopted by the Kansas chief engineer, division of water resources, Kansas Department of Agriculture, or other appropriate Kansas official under their respective delegations of authority from the Kansas Legislature; and,

WHEREAS standards have been duly promulgated as administrative rules and regulations by the chief engineer according to the provisions of K.S.A. 82a-1020 et. seq., as Kansas Administrative Regulations applicable only to the area of Kansas within the boundaries of GMD3; and,

WHEREAS state law governing the waiving of administrative rules by the chief engineer by K.S.A. 82a-1904 is as follows:

“The chief engineer of the division of water resources of the Kansas department of agriculture, for good cause shown, may grant an exemption from or waiver of a rule and regulation adopted by the chief engineer if the chief engineer determines that the exemption or waiver will not prejudicially or unreasonably affect the public interest and will not impair any existing water right. The exemption or waiver shall be in writing and shall include the reason for the exemption or waiver.” And,

WHEREAS the board of directors of GMD3 desires to provide a consistent process and adequate notice of their consideration of any rule waiver request by a member applicant to any neighboring member well owner; and,

WHEREAS the board of directors of GMD3 desires to provide basic local groundwater resource review information and criteria to the applicant and neighboring well owners for consideration by the applicant and local groundwater interest regarding any change to consumptive use that may otherwise not occur if a rule is not waived; and,

WHEREAS, the board of directors for GMD3 desires to provide proper consideration of the needs and interests of all members of GMD3, including small towns and public drinking water supplies;

NOW THEREFORE, BE IT RESOLVED by the Southwest Kansas Groundwater Management District Number 3 Board of Directors of GMD3 of the State of Kansas, in regular meeting duly assembled this 17th day of December, 2013, that the GMD3 Board of Directors adopt the following process and criteria to be followed and addressed by each applicant seeking a recommendation from the GMD3 board of directors to waive a rule:

- 1) Provide a waiver review fee
- 2) Provide a list of wells and their owners for all wells within one mile of the proposed well.
- 3) Respond to the following Questions:
 - a. Can the aquifer yield a similar water supply at both the present well location and at the proposed well location(s)?
 - b. How might added infrastructure, such as pipelines or purchase of neighboring water rights, meet the need without a rule waiver?
 - c. How do the specifics of the proposal conserve energy and/or water over other alternatives?

GMD3 staff will conduct a Local Resource Review of groundwater supply, rate of use and rate of water level declines and provide notice letter of waiver request, resource review information and review questions provided to applicant and area well owners with request for comments. The results of the process to be considered with GMD3 staff recommendation by GMD3 board of directors for recommendation to the chief engineer, KDA/DWR.

Adopted this 17th day of December, 2013



President



Secretary