

**Southwest Kansas Groundwater Management District No. 3
Minutes of the Regular Meeting of the Board of Directors
JULY 14th, 2021**

MEETING CALLED TO ORDER

President Rooney called to order the July 14th, 2021, Board of Directors meeting of the Southwest Kansas Groundwater Management District to order at 9:00 a.m. The meeting was at the GMD3 Board Room.

Directors Present in Person

Bret Rooney, President, Haskell County Representative
Fred Jones, Vice President, Municipal Representative
Mike O'Brate, Treasurer, Finney County Representative
Garrett Love, Secretary, Gray County Representative
Chad McCormick, Industrial Representative
Clay Scott, Grant County Representative
Hal Scheuerman, Kearny County Representative
Kent Dunn, Seward County Representative
Zachary Gale, Hamilton County Representative
Randy Hayzlett, Surface Water Representative

Directors Present by Phone or Zoom

Seth Nelson, Stanton County Representative
Ben Amerin, Meade County Representative

Directors Absent with Notice

Dave Casterline, Ford County Representative
Harrison Krey, Morton County Representative
Matt Johnson, Stevens 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, in person, or by phone or zoom.

Mike Meyer, Water Commissioner, Division of Water Resources, Garden City, KS
Dave Brenn, Kansas Water Congress
Keadron Pearson, Kansas Water Office, Water Resource Planner
Kevin Salter, Division of Water Resources
Chris Beightel, KDA, Water Management Services Program Manager

APPROVE AGENDA

President Rooney asked for consideration of the July 14th, 2021, meeting agenda. **Kent Dunn made a motion to approve the agenda as presented. Hal Scheuerman 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 June 9th, 2021, draft minutes.

Fred Jones moved to approve the June 9th, 2021, minutes, as corrected (spelling). Mike O'Brate seconded the motion. Motion passed.

President Rooney next drew the attention of the Board to review the June 2021 financial report documents. **Randy Hayzlett made a motion as follows: Approve the financial reports and payments for June 2021 as presented at this meeting and submit them for the annual audit. Clay Scott seconded the motion. Motion passed**

President Rooney signed and submitted the financial documents.

Presidents Report

Water Commissioner Report

Water Commissioner Mike Meyer attended the meeting in person. He stated that business is typical with the usual work going on this time of year. DWR is advertising a vacant position for an environmental scientist. Kevin Salter added that 300cfs is being released out of John Martin Reservoir with state line showing 275cfs. The flow is currently going to Great Eastern Ditch. Kevin said that the releases might go into August, which is a surprise due to the drought. Mark Rude noted that GMD3 is working with Don Whittemore at KGS to take water samples at the beginning, middle, and end of the flow.

Shankle, Kearny County Files No. 50,568 and 50,570

Jason Norquest provided a recap of 50,569

- DWR follow-up inspection from a previous change in place of use also noted exceeded authorized rate.
- 27099 Authorized: 240AF @ 315gpm
- 50569 Proposed: 240AF @ 362gpm (+47gpm)
- Minimum Spacing MET
- Nearly zero additional drawdown effect

Water Right 50,568

- Further review, assisted by GMD3, noted 13527 was also exceeding the authorized rate
- 13527 Authorized: 400AF @ 415gpm
- 50568 Proposed: 400AF @ 477gpm (+62gpm)
- Current spacing not met to well under 6557 & 17656, same owner
- Nearly zero additional drawdown effect

Water Right 50,570

- Further review, with GMD3, noted 27136 was exceeding the authorized rate
- 27136 Authorized: 181AF @ 205gpm
- 50570 Proposed: 181AF @ 235gpm (+30gpm)
- Current spacing not met to 8065 & 8903, same owner
- Nearly zero additional drawdown effect

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Mark turned the boards' attention to the decision memo in front of them. This decision memo is from the Policy and Legal Committee that met Monday. Reviewing the main rule(s) concern: K.A.R. 5-4-5 addresses applications for additional rate are limited to an additional 15% above base rate. Also, no significant expansion of diversion works, which does not apply here. K.A.R. 5-23-3 addresses minimum spacing between wells to limit unreasonable interference as a base zone of protection.

Policy and Legal Committee reviewed the change and provided three alternatives:

1. By action of the governing body, recommend a waiver of K.A.R. 5-23-3 based on the results of our evaluations finding no identified impairment of management program concerns and approving the applications.
2. Indicate by vote or consensus to recommend upholding the rule in these cases.
3. Take no action.

Staff recommends alternate one. **Zachary Gale moved to recommend a waiver of K.A.R. 5-23-3 based on the results of our evaluations, finding no identified impairment or management program concerns, and approve the applications. Clay Scott seconded. Motion passed.**

Committee Reports

Policy and Legal

Policy and Legal committee Chairman Fred Jones, Garrett Love, Clay Scott, Chad McCormick, Jason Norquest, and Mark Rude met Monday, July 12, at the GMD3 Board Room. Mark updated the Board of Directors on the items that the committee discussed. Mark will monitor the *Water Plan Guiding Principles* and will update the Board. Mark is checking on the Governor's Office of Recovery for potentially available Federal recovery infrastructure funding; more details as they become available. Western Water Coalition mailed a letter to the Senate Energy and Natural Resources Committee leadership urging Congress to utilize ongoing Western water infrastructure. Mark presented a power point from Texas partners regarding Missouri River Water Transfers to Mitigate Flooding and Protect the Six-State Ogallala-High Plains Regional Socio-Economic viability Partners are advocating for a federal update of that portion of High Plains Study. Finally, Mark provided a memorandum to the Board of directors regarding the Biden administration seeking a rewrite of the WOTUS rule using data that listed the GMD3 Farmers headgate improvement project.

Public Hearing, 2022 Proposed Budget, Bret Rooney

President Bret Rooney called the Budget Hearing to order at 10:00 a.m. He welcomed those who were in attendance and stated, "A GMD3 budget hearing is necessary and proper, according to state policy, to fund our organized groundwater area program activities under the GMD Act of the Kansas legislature. Specifically, K.S.A. 82a-1030 provides for the funding of the GMD3 through an annual water user fee per acre-foot against the water right amount not to exceed \$2.00 and an annual land assessment not to exceed 5 cents per acre for owners of tracts of land 40 acres or more in size. The purposes of GMD3 are long-standing in the history and practices of Southwest Kansas water administration and our water use-driven economy. This budget hearing is being held according to state statute to receive comments on the proposed 2022 budget. Hearing announcements have been published in the newspapers of the district in compliance with State Law, and a draft budget was presented to members at the Annual Meeting, which was held this past March, with the same budget copies available here today. I will now introduce Board Treasurer Mike O'Brate."

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Mike O’Brate stated, “The proposed General Budget is \$1,181,474.00 being funded by land assessments at 5 cents per acre and water assessments of 14 cents per acre-foot of groundwater. There are four special budget accounts: Water Right Retirements, Arkansas River Western Water Conservation Projects (WWCP), Kansas Aqueduct Project and Federal Proceeds.” All but the WWCP have a current balance of zero. “

President Rooney called for public comments. Seeing none, President Rooney closed the budget hearing at 10:04 a.m.

Mark continued the WOTUS talk by reading through the memo. He advised misrepresentation of the Ark River projects may have occurred in the use of the data and failed to inform of state controls. Discussion centered on the differences between Federal Clean Water Act concerns and federal ark River compact concerns. The information will be sent back to Policy and Legal for further information.

State officials and the GMD3 Management Program team discussed the POC Projects following the Management Program meeting. The practical use of the POC transfer is recharge. Clay Scott asked Mike Meyer if GMD3 can be copied on any correspondence regarding the POC application. Mike Meyer reminded the Board that DWR is still short-staffed, and there is a long line of applications, which could still be a year out on permits.

Mark reviewed the upcoming August Meetings. Water Congress and the House Water committee have draft agendas. A tour of the Amazon Flume will happen on August 17th. Legislators would like a panel discussion on the 18th of August on LEMAs; Mark will put together a panel of producers with different perspectives.

Mark turned the boards' attention to the last MEMO regarding Policy Development – Water Right donations to GMD3 for groundwater conservation and tax credit as a charitable gift. In 2017, some work was completed to evaluate some incentives for members to gain recognition and charitable value from their type 2 water conservation decisions to leave a portion of their water right unused to benefit the aquifer. The problem with this was beneficial use of the member was delayed, and very little property or water was donated or given up. The committee discussed a permanent gift can provide a donation option at the point of member decisions that do not carry the temporary donation concerns. There is a need for an accepted third-party method of appraising the water right value. The conserve-to-preserve calculation under the management program would be developed. Both would need policy and legal attention. Another option could be conservation easement, but this has not been thoroughly reviewed by the committee and is not recommended. Mark presented the three alternatives 1). By consensus of the governing body, direct staff works with legal counsel and accountant resources to gather information and develop scenarios for further work with the Policy and Legal Committee to develop a recommended permanent water right donation activity. 2) Develop other alternative activities to purchase water rights for water conservation purposes of the management program. 3) Take no action. **Fred Jones moved to recommend alternative 1, direct staff to work with legal counsel and accountant resources to gather information and develop scenarios for further work with the Policy and Legal**

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Committee to develop a recommended permanent water right donation activity. Hal Scheuerman seconded. Motion passed with all in favor.

Old Business

No old business to take off the table.

New Business

No new business to take to the table.

Executive Director Report, Mark Rude

ESRI ArkGIS software maintenance license

Mark brought to the table discussion on the ESRI ArkGIS software maintenance license. GMD3 has used this software without updates for several years, and it is time to get caught up. **Kent Dunn moved to approved payment to make the program current and advised that yearly fees are authorized to be scheduled to keep the software program up to date. Mike O'Brate seconded. Motion passed.**

Federal Recovery Funding

Already discussed earlier in the meeting.

Drought Response Grant Project Kickoff

GMD3 was awarded a \$92,026 grant for water use and climate evaluation service to irrigators for drought resiliency in Southwest Kansas. A KGS contract is forthcoming for a database evaluation tool to implement the grant.

In other news

Hal Scheuerman asked if GMD3 would consider paying for registration to the Kansas Water Congress meeting in August since traveling expenses have been down. Discussion occurred. **Hal Scheuerman moved for GMD3 to pay for Board and staff registration to the Kansas Water Congress meeting this August. Garrett Love seconded. Motion passed with all in favor.**

Mark announced that NWRA Federal Western Water Table Talk would be July 15, July 22, July 29, and August 5. In addition, Washington State Water Tour will be August 10-13, 2021. **Mike O'Brate moved to pay for registration and travel expenses (if any) for Board and staff to attend the announced NWRA events. Hal Scheuerman seconded. Motion passed.**

Mark advised he has had discussions with Chris Udall, executive Director of the Agribusiness and Water Council of Arizona regarding interest in discussing water transfer projects.

Monthly Western Water Conservation Projects Fund Business

Mark Rude drew the Board's attention to the June 2021 Financial documents of the Western Water Conservation Projects Fund and the activity of the advisory committee. **After some discussion of the Board, Mike O'Brate moved to accept the June 2021 Financial Report and payments as presented and submit them for annual audit. Clay Scott seconded. Motion passed.**

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KWO/KWA/RAC's

KWO

Keadron Pearson attended the meeting in person today. She announced that Cimarron RAC would meet at 10:00 a.m. on the 27th and Upper Ark will meet on the 29th at 1:00 p.m. Both RACs will be reviewing the proposed KWO budget. There are still vacancies on both RACs. KWO staff have worked diligently on getting the State Water Plan wrapped up and ready for the Kansas Water Authority meeting.

KWA

KWA will meet August 17-18. The budget committee has met and will be presenting

RAC's

Already announce meeting dates in the Kansas Water Office announcements.

Board Member Report

Mike O'Brate had a flow test completed and believes it is time to update GMD3 flowmeter testing equipment. Mark responded that the Reclamation drought grant includes funds for flowmeter testing equipment.

Public Forum

Dave Brenn announced that Kansas Water Congress would be meeting at the Clarion on the 16th of August. Registration begins at 8:30 a.m., with the program starting at 9:00 and lunch around noon. Guest speakers are Tom Styles, Connie Owen with the Kansas Water Office, Earl Lewis, Ian Lyle with NWRA, Sean Miller from Topeka. At this time, 3 out of 5 GMDs will provide talks.

ADJOURNMENT

Mike O'Brate made a motion to adjourn the meeting. Garret Love seconded.

The meeting adjourned at 11:39 a.m.

Respectfully Submitted,


Garrett Love
GMD3 Board Secretary