

**BEFORE THE KANSAS DEPARTMENT OF AGRICULTURE**  
1320 Research Park Drive  
Manhattan, Kansas 66502

In the Matter of the Designation of the )  
Groundwater Management District No. 4 District Wide )  
Local Enhanced Management Area in Cheyenne, Decatur, )  
Gove, Graham, Logan, Rawlins, Sheridan, Sherman, )  
Thomas, and Wallace Counties, Kansas. )  
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**002 – DWR-LEMA – 2017**

**ORDER DECLINING PETITION FOR ADMINISTRATIVE REVIEW**

**COMES NOW**, Jackie McClaskey, Secretary, Kansas Department of Agriculture (“Secretary”) and finds as follows:

That on June 8, 2017, the Northwest Kansas Groundwater Management District No. 4 (“GMD 4”) submitted a formal request to the Chief Engineer to initiate proceedings to approve a local enhanced management area (“LEMA”).

That on June 27, 2017, the Chief Engineer, via letter, determined that the local enhanced management plan (“management plan”) proposed by GMD 4 was acceptable for consideration pursuant to K.S.A. 82a-1041(a). Accordingly, the Chief Engineer initiated proceedings to consider the designation of the proposed local enhanced management area.

That on August 23, 2017, the Chief Engineer’s designee, Constance C. Owen conducted the initial public hearing pursuant to K.S.A. 82a-1041(b). On September 23, 2017, Ms. Owen entered a summary of factual findings which resolved the three findings of fact set forth in K.S.A. 82a-1041(b)(1)-(3). Since the initial public hearing was favorable on all three findings of fact, the Chief Engineer scheduled the subsequent public hearing for November 14, 2017.

That on October 10, 2017, David M. Traster, attorney for Intervenors (“Intervenors”), filed with the Chief Engineer a Motion for Continuance requesting the public hearing scheduled for November 14, 2017 be continued and that a Prehearing Conference be scheduled. The Chief Engineer did not formally rule on the Intervenors’ Motion for Continuance but scheduled a Prehearing Conference for October 31, 2017.

That on October 27, 2017, the Intervenors filed with the Chief Engineer a Motion to Provide Due Process Protections. On November 6, 2017, the Chief Engineer issued his Decision to Expand Due Process Procedures which authorized cross-examination during the formal phase of the public hearing and extended the deadline to submit comments to December 12, 2017.

That also on October 27, 2017, the Intervenors filed a Petition for Review by the Secretary of Agriculture, requesting review of the findings of fact entered by Ms. Owen and the actions of the Chief Engineer regarding the Motion for Continuance. On November 13, 2017, the Secretary of Agriculture issued the Order Declining Petition for Administrative Review.

That on November 14, 2017, the Chief Engineer conducted the second public hearing.

That on December 11, 2017, the Intervenors filed with the Chief Engineer a Motion for Extension of Time requesting the Chief Engineer extend the deadline for persons to submit written comments. On December 12, 2017, the Chief Engineer issued an Order Granting an Extension of Time to File Comments which extended the deadline until December 22, 2017.

That on February 23, 2018, the Chief Engineer issued an Order of Decision Returning the Local Enhanced Management Plan with Proposed Modifications (“Order of Decision”). Due to clerical errors, said Order was corrected on February 26, 2018. The modified proposed management plan was returned to GMD 4 as required by K.S.A. 82a-1041(d)(4). On March 1, 2018, the Board of Directors for GMD 4 approved the modifications as proposed by the Chief Engineer and returned the modified proposed management plan to the Chief Engineer. On March 8, 2018, the Chief Engineer issued an order that accepted the modified proposed management plan.

That on April 13, 2018, the Chief Engineer issued an Order of Designation Regarding the Groundwater Management District No. 4 District Wide Local Enhanced Management Plan (“Order of Designation”) which approved the modified proposed management plan.

That on April 29, 2018, David M. Traster, attorney for Petitioners (“Petitioners”), filed a Petition for Review by the Secretary of Agriculture (“Petition for Review”) requesting review of the Order of Designation.

The Secretary finds that the Petitioners’ claims fail to provide a compelling basis to review the Order of Designation as requested.

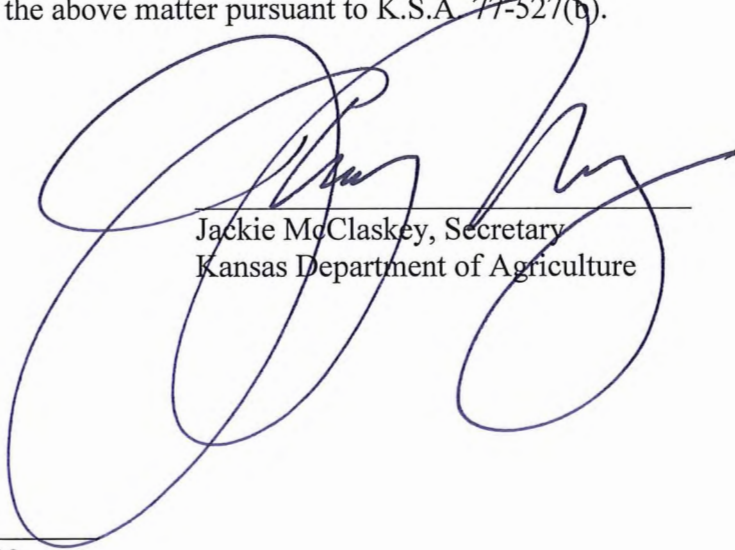
Conserving and enhancing management of water resources in Kansas is critical for agriculture, the state’s largest industry, and the entire Kansas economy. Water is a finite resource, and without proper planning and action, Kansas will not be able to sustain its current water needs or provide for future growth. Kansans have embraced a commitment to ensuring water resources are sufficient to support the state’s needs for current and future generations.

Conserving water is not a one-size-fits-all standard, and Kansas continues to provide flexible water management tools, including the LEMA, to encourage reduced water use and improved flexibility to manage water resources while maintaining productive agricultural output. A LEMA is a quality tool that provides Kansans with the opportunity to meet their current water needs while also ensuring a reliable water supply for the future. Through the LEMA process, local stakeholders are granted the means to act on their shared commitment to ensuring a reliable water supply able to meet current need while conserving the water supply for future generations.

GMD 4 submitted the proposed management plan with the goal of reducing decline rates and extending the usable life of the Ogallala Aquifer in northwest Kansas. The development of the management plan began in January 2015. Throughout the development process, stakeholders were provided opportunities to gather information and offer input regarding the development of the management plan. The management plan was then submitted to the Chief Engineer to initiate the LEMA proceedings, as set forth in Kansas law, specifically, K.S.A. 82a-1041. During the LEMA process, stakeholders were also granted opportunities to gain information and discuss the proposed management plan. Stakeholder input resulted in the Chief Engineer's proposed modifications that were ultimately adopted in the modified proposed management plan. The Chief Engineer complied with the statutory requirements in reviewing and approving the modified proposed management plan. The approved management plan provides for both flexibility to manage water resources and conservation of water supply, which are the foundational goals of a LEMA.

**THEREFORE**, on this 18<sup>th</sup> day of May, 2018, for all these reasons, the Secretary hereby declines to exercise review in the above matter pursuant to K.S.A. 77-527(b).

**IT IS SO ORDERED.**



Jackie McClaskey, Secretary  
Kansas Department of Agriculture

Prepared by:

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**Final Order**

This is a final order of the Secretary which shall become effective upon service pursuant to K.S.A. 77-530.

**Judicial Review**

Review of this order may be had pursuant to the Kansas Act for Judicial Review and Civil Enforcement of Agency Actions, K.S.A. 77-601 *et seq.* Any petition for such judicial review must be filed within thirty (30) days after service of this order in a Kansas court of competent jurisdiction. The agency officer designated to receive service of a petition for judicial review on behalf of the Kansas Department of Agriculture is:

Kenneth B. Titus  
Chief Legal Counsel  
Kansas Department of Agriculture  
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**CERTIFICATE OF SERVICE**

On the 18<sup>th</sup> day of May, 2018, I hereby certify that a true and correct copy of the foregoing *Order* was deposited in the U.S. mail, first class postage prepaid, and a true and correct copy was sent by electronic mail, addressed to the following:

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