

**Request for Renewal of Sheridan 6 LEMA Submitted To the Chief Engineer, Kansas
Department of Agriculture, Division of Water Resources**

October 20, 2021

This request represents a re-constitution of the current SD-6 LEMA (2018 – 2022). It is essentially the same request as was previously filed.

In order to reduce decline rates and extend the life of the aquifer SD 6 HPA proposes the following five year plan be submitted via the LEMA process contained in KSA 82a-1041. This proposal has been recommended by the SD-6 Advisory Committee. A public meeting on this proposal was held on August 25, 2021. A copy of the meeting notes are attached.

Goal Expression

All water diversions within the SD-6 area are to be collectively restricted per this proposal between the period January 1, 2023 through December 31, 2027 to no more than 117,600 AF total.

This LEMA shall exist only for the five year period beginning January 1, 2023 and ending December 31, 2027. The SD-6 HPA shall include all points of diversion that are located in the following sections:

- TWP 7S-28W: Sections 19-21 and 28-33
- TWP 7S-29W: Sections 4-9 and 16-36
- TWP 7S-30W: Sections 19-36
- TWP 8S-29W: Sections 1-18
- TWP 8S-30W: Sections 1-18
- TWP 8S-31W: Sections 22-27 and 34-36

These sections represent a LEMA boundary that is both clearly identifiable and entirely within the boundaries of the Northwest Kansas Groundwater Management District No. 4.

The total program diversion amount of 117,600 AF, plus carryover, shall represent five (5) times the sum of:

- a) Designated legally eligible acres (per section 1) x 11/12 for irrigation water rights plus carryover;
- b) Maximum permitted head of livestock on December 31, 2020 x 12 GPH/D for stockwater rights; and
- c) Ninety percent (90%) of the December 31, 2020 authorized recreational water quantity for recreation rights.

The Northwest Kansas Groundwater Management District No. 4 shall use the following procedures to determine the 5-year allocation for each water right, and specify said values in Section 3). All allocation values shall be expressed in terms of total AF for the 5-year LEMA period. Any notes or remarks necessary to explain the individual allocations shall also be included.

1) Allocations – Irrigation

a) All irrigation water rights shall be limited to no more than 55 acre inches per irrigated acre for the period of 2007 – 2010 or any acreage adjustments due to appeal, covered by the water right over the 5-year period beginning January 1, 2023 and ending December 31, 2027.

b) Carry-Over Amount. The carry-over amount will be determined as of December 31, 2022 for IRR use only. The carry-over amount cannot exceed 5 inches per program acre and is the lesser of: 1) 5 inches per program acre or; 2) a water users unused acre inches per program acre.

c) Wells pumping to a common system or systems shall be provided a single allocation for the total system acres. The total amount pumped by all of the wells involved must remain within the system allocation.

d) For additional producer flexibility, water rights may at the discretion of the owners be combined into a single allocation account with flexibility of pumping the multiple wells within the account as directed by the owner, provided the total account allocation is not exceeded.

e) Temporary transfers of allocations between water rights may be made anywhere within the boundaries of SD-6. Said transfers shall be in effect for the balance of the current allocation time period. An Application for Transfer form shall be developed and must be signed by all owners involved in the transfer. No transfer shall result in an allocation that exceeds the authorized amount for the water right receiving the transfer.

f) No water right shall receive more than the currently authorized quantity for that right, times five (5).

g) No water right within a K.A.R. 5-5-11, 5-year allocation status shall receive an allocation that exceeds its current 5-year allocation limit.

h) No water right shall be allowed to pump more than its authorized annual quantity in any single year.

i) In all cases the allocation shall be assigned to the point of diversion and shall apply to all water rights and acres involving that point of diversion. Moreover, in all cases the original water right shall be retained.

j) A water right owner will have the option of converting to a Multi-Year Flex Account (MYFA) provided the MYFA quantity does not exceed the established 5-year LEMA allocation

quantity and the MYFA expiration date coincides with the ending LEMA date. For a MYFA with less than five years, the MYFA quantity shall be calculated by multiplying the 5 year MYFA quantity times the number of years divided by 5. In all instances, the most water restrictive plan will apply.

k) For water rights enrolled in EQIP and/or AWEP that will be coming out of either program on or before September 30, 2027, the allocation quantity shall be set at 11 acre-inches per acre for only the remaining years of the 2023-2027 LEMA period.

l) Any water right enrolling into, contracting with, or officially participating in a reduced water use program (AWEP, EQIP, Northwest Kansas Groundwater Conservation Foundation, WCA, etc.) during the period January 1, 2023 through December 31, 2027 shall not be allowed to trade or market any allocation balance.

2) Allocations – Non-irrigation

a) Livestock uses will be limited to 12 gallons per head per day based on the maximum head supportable by the feedlot permit in effect on December 31, 2020. Each water right shall have the option of having this limited quantity as an annual limit or converted to a 5-year water right at 5 times the assigned allocation. The original water right will be retained.

b) Recreation water rights will be limited to 90% of the December 31, 2020 annual authorized water right quantity. Each water right shall have the option of having this limited quantity as an annual limit or converted to a 5-year water right at 5 times the assigned allocation. The original water right will be retained.

3) Individual Allocation Amounts

The 5-year allocations for every water right per Sections 1) a) and 2) above shall be converted to a 5-year acrefeet total, with Attachment 2 containing the assigned eligible allocations for each water right within the SD-6 HPA. Each water right is to be restricted to its total acrefeet allocation within any LEMA order issued through this process.

4) Violations

The LEMA order shall serve as initial notice to all water right owners within HPA SD-6 on its effective date. Violations of the authorized quantities shall be addressed as follows:

- (1) Exceeding any total allocation quantity (which shall include any transferred quantities) of less than 4 AF within any allocation period shall result in a \$1,000.00 fine for every day the allocation was exceeded. This penalty shall apply to all rights in combined allocation accounts described in sections 1) b) (1) and 1) b) (2).

(2) Exceeding any total allocation quantity (which shall include any transferred quantities) of 4 AF or more within any allocation period shall result in an automatic two year suspension of the water right. This penalty shall apply to all rights in combined allocation accounts described in sections 1) b) (1) and 1) b) (2).

(3) Exceeding the annual authorized quantity of the water right (not to include any transferred quantities) shall result in a \$1,000.00 fine.

5) Metering

a) All water right owners shall be responsible for ensuring their meters are in compliance with state and local law(s). In addition to being in compliance and reporting annually the quantity of water diverted from each point of diversion, all water right owners shall implement at least one of the following additional well/meter monitoring procedures:

(1) Inspect, read and record the flow meter at least every two weeks the well is operating. The records of this inspection procedure shall be maintained by the well owner and provided to the district upon request. Should the flow meter reported readings be in question and the bi-weekly records not be available and provided upon request of the district, the well shall be assumed to have pumped its full annual authorized quantity for the year in question. Following each year's irrigation season, the person or persons responsible for this data may at their discretion transfer the recorded data to the district for inclusion in the appropriate water right file for future maintenance.

(2) Install and maintain an alternative method of determining the time that the well is operating. This information must be sufficient to be used to determine operating time in the event of a meter failure. Should the alternative method fail or be determined inaccurate the well shall be assumed to have pumped its full annual authorized quantity for the year in question. Well owners/operators are encouraged to give the details of the alternative method in advance to GMD 4 in order to insure that the data is sufficient.

b) Any water right owner or authorized designee who finds a flow meter that is inoperable or inaccurate shall within 48 hours contact the district office concerning the matter and provide the following information:

- (1) water right file number;
- (2) legal description of the well;
- (3) date the problem was discovered;
- (4) flow meter model, make, registering units and serial number;
- (5) the meter reading on the date discovered;
- (6) description of the problem;
- (7) what alternative method is going to be used to track the quantity of water diverted while the inoperable or inaccurate meter is being repaired/replaced; and
- (8) the projected date that the meter will be repaired or replaced.

c) Whenever an inoperable or inaccurate meter is repaired or replaced, the owner or authorized designee shall submit form DWR 1-560 Water Flowmeter Repair/Replacement Report to the district within seven days.

d) This metering protocol shall be a specific annual review issue and if discovered to be ineffective, specific adjustments shall be recommended to the chief engineer by the advisory committee.

6) Accounting

a) GMD 4 shall keep records of the annual diversion amounts for each Water Right within the LEMA area, and the total 5 year quantity balances. Annual status reports shall be mailed to each water right owner and provided to DWR.

b) DWR shall provide GMD 4 with as timely as possible copies of annual water use reports received in the office of the chief engineer. GMD 4 and DWR shall cooperate on reconciliation and correction of any WUR found to be in error.

c) A form similar to the Wet Walnut IGUCA temporary transfer of allocations shall be developed by the chief engineer with input from GMD 4 for the SD-6 LEMA and shall be used to approve and track transfers of water within the SD-6 HPA per Section 1) d) above.

7) Advisory Committee

a) A SD-6 LEMA Advisory Committee shall be appointed and maintained by the GMD 4 Board consisting of an odd number of members between five (5) and nine (9) members as follows: one (1) GMD 4 representative; one (1) representative of the Division of Water Resources, Kansas Department of Agriculture as designated by the chief engineer; and the balance being SD-6 HPA residents/owners/operators – one (1) of which must represent non-irrigation users. One of the SD-6 HPA members shall chair the committee whose direction shall be set to further organize and meet annually to consider:

- (1) water use data;
- (2) water table information;
- (3) economic data as is available;
- (4) violations issues – specifically metered data;
- (5) any new and preferable enhanced management authorities become available;
- (6) other items deemed pertinent to the advisory committee.

b) The advisory committee shall produce a report after every meeting which shall provide a status for considerations (1) through (6) and any recommended modifications to the current LEMA Order relative to these six items. Said report shall be forwarded to the GMD 4 board and the chief engineer.

8) LEMA Order Reviews

- a) In addition to the annual LEMA Order reviews per section 7), the SD-6 LEMA Advisory Committee shall also conduct a more formal LEMA Order review 1.5 years before the ending date of the LEMA Order. Review items will focus on economic impacts to the LEMA area and the local public interest. Water level data may be reviewed.
- b) The committee shall also produce a report following this review to the chief engineer and the GMD 4 board which contains specific recommendations regarding future LEMA actions. All recommendations shall be supported by reports, data, testimonials, affidavits or other information of record.

9) Impairment Complaints

While this program is being undertaken it is the desire of the SD-6 stakeholders that any impairment complaint filed in the HPA while this management plan is in effect, which is based upon either water supply issues or a regional decline impairment cause, be received by the chief engineer and either: deferred for investigation until the management program is no longer valid; or, be investigated by the chief engineer in consideration to the on-going management activities.

10) Water Level Monitoring

Prior to the 2013 SD-6 LEMA proposal there were seven recognized observation wells within the SD-6 HPA that have been measured annually by either Division of Water Resources (DWR) or Kansas Geological Survey (KGS) personnel. These wells are located:

SD	7	29W	5	07S29W05
SD	7	29W	16	07S29W16
SD	7	29W	25	07S29W25
SD	7	29W	27	07S29W27
SD	7	29W	30	07S29W30
SD	7	30W	27	07S30W27
SD	8	29W	1	08S29W01
SD	8	30W	5	08S30W05
SD	8	30W	11	08S30W11
SD	8	30W	13	08S30W13
SD	8	31W	26	08S31W26

For each of these wells there is a long history of annual water level measurements. The stakeholders of HPA SD-6 expressed a desire to increase the number of monitoring wells in support of this proposal.

The Kansas Geological Survey collects data from five wells within the SD-6 boundaries. These wells record water levels hourly with the installation of a continuous pressure transducer. These locations are:

07S29W16
07S29W25
07S30W27
08S30W13
08S31W26

11) Coordination

The SD-6 stakeholders and the GMD 4 board expect reasonable coordination between the chief engineer's office and the GMD 4 board on at least the following four efforts:

- a) Development of the LEMA Order resulting from the LEMA process;
- b) Setting and accounting for the umbrella accounts authorized by Section 1) c);
- c) Authorizing and accounting of water right transfers and bookkeeping authorized by Section 1) d); and
- d) Accounting for annual pumpage amounts by LEMA water right owners/operators.

12) General

The core concern of this LEMA is to remain within the allocation quantity after five years of pumping. Any future decisions within this LEMA period which intend to incorporate new or overlooked issues shall be made in deference to this total allocation limit.

In the case of multiple allocation programs (WCAs, KAR 5-5-11 changes, other LEMAs, MYFAs, etc) the requirements of the most restrictive program will apply.

All combination applications or temporary transfers must be re-done for the LEMA period 2023-2027.

Attachment 1

SD 6 LEMA Renewal Public Meeting Notes **August 25th, 2021 3:00 pm, Hoxie Elks Lodge**

When we were having those first meetings. I feel that they are connected. If someone accumulates a large area, could they be pumping out from under their neighbor?

Then the overall usage could come up.

What happens in dry years?

Where that usage comes from?

If converted to livestock could be a lot more.

It could be kept track of - - needs to be looked at. I know there's one sprinkler that runs all the time.

We see what happens in full blown drought back west.

Some people are giving up more than others.

Pooling wells – umbrellaing could take more.

The water rights that Harold is talking about are all umbrellaed anyway?

You wind up with more usage.

We should be aware of where increased usage comes from.

I think people are trying to use it wisely (altogether).

Tracking it?

I think it is doing what it's supposed to do.

Some are trying to adjust with different crops.

Pumping more than should be because of umbrellas?

It comes down to management decisions.

Track it.

I agree.

What are we gonna have for carryover?

That's in the new one?

Looks like we've made progress.

Until we get a 5-year drought.

It needs noted that if we get into a serious drought.

It started how far south of the highway?

Being able to pump any water on grass is okay - - but when there's runoff when moisture comes isn't.

Going into creeks – runoff areas were supposed to be monitored. Because the state was trying to make it look better – doesn't make it right, its pollution. Areas need to be monitored. There's a bigger chance of not having pure water. There are large areas where other farmers are being monitored for nitrates. I don't want to see it here.

Scott Foote shouldn't be able to mix stock water with irrigation to further livestock expansion.

Attachment 2



