

**BEFORE THE DIVISION OF WATER RESOURCES
KANSAS DEPARTMENT OF AGRICULTURE**

In the Matter of the Designation of the)	
Sheridan 6 Local Enhanced Management Area)	
In Sheridan and Thomas Counties, Kansas.)	001 – DWR-LEMA – 2017
)	
Pursuant to K.S.A. 82a-1041.)	
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**ORDER OF DESIGNATION REGARDING THE SHERIDAN 6 LOCAL ENHANCED
MANAGEMENT PLAN FOR 2018-2022**

COMES NOW, David W. Barfield, Chief Engineer, Division of Water Resources, Kansas Department of Agriculture (“Chief Engineer”), who, having issued the Order of Decision Accepting the Sheridan 6 Local Enhanced Management Plan for 2018-2022 (“Order of Decision”) on August 24, 2017, hereby issues this Order of Designation Regarding the Sheridan 6 Local Enhanced Management Plan for 2018-2022 (“Order of Designation”) pursuant to K.S.A. 82a-1041.

I. PROCEDURAL BACKGROUND

1. On February 2, 2017, the Northwest Kansas Groundwater Management District No. 4 (“GMD4”) submitted a formal request for the re-formulation of the original SD-6 Local Enhanced Management Area (“SD-6 LEMA”), including a proposed management plan for the period beginning on January 1, 2018 and ending on December 31, 2022 (“SD-6 LEMA Management Plan”).
2. On March 6, 2017, the Chief Engineer reviewed the re-formulation proposal and found pursuant to K.S.A. 82a-1041(a) that the SD-6 LEMA Management Plan proposed clear geographic boundaries, pertained to an area wholly within a groundwater management district, proposed appropriate goals and corrective control provisions to meet the stated goals, gave due consideration to existing conservation measures, included a compliance monitoring and enforcement element, and is consistent with state law.
3. Pursuant to K.S.A. 82a-1041(b), timely notice of the initial public hearing was mailed to each water right holder located within the proposed SD-6 LEMA and published in two local newspapers of general circulation and the Kansas Register. The initial public hearing was conducted by the Chief Engineer at 10:13 a.m. on May 31, 2017 in Hoxie, Kansas. Based on all testimony and evidence entered into the record and applicable law, the Chief Engineer concluded that the SD-6 LEMA Management Plan satisfied the three initial requirements as set forth in K.S.A. 82a-1041(b)(1)-(3).
4. Pursuant to K.S.A. 82a-1041(b), timely notice of the second public hearing was mailed to each water right holder located within the proposed SD-6 LEMA and published in two local newspapers of general circulation and the Kansas Register. The second public hearing was conducted by the Chief Engineer in the afternoon of May 31, 2017 in Hoxie,

Kansas to consider whether the proposed SD-6 LEMA Management Plan was sufficient to address any of the existing conditions set forth in K.S.A. 82a-1036(a)-(d).

5. Based on all testimony and evidence entered into the record of the second public hearing, the Chief Engineer determined that the proposed SD-6 LEMA Management Plan is sufficient to address the decline in groundwater levels in the area in question, and issued the Order of Decision on August 24, 2017, with such order to be followed by an Order of Designation pursuant to K.S.A. 82a-1041(d) and (e).

II. APPLICABLE LAW

1. The formation of a local enhanced management area is governed pursuant to K.S.A. 82a-1041. When the Chief Engineer finds that a local enhanced management plan submitted by a groundwater management district is acceptable for consideration, then the Chief Engineer shall initiate proceedings to designate a local enhanced management area as soon as practicable.
2. Once the proceedings are initiated, the Chief Engineer shall hold an initial public hearing to resolve the following:
 - a. Whether one or more of the circumstances specified in K.S.A. 82a-1036(a) through (d), and amendments thereto, exist;
 - b. Whether the public interest of K.S.A. 82a-1020, and amendments thereto, requires that one or more corrective control provisions be adopted; and
 - c. Whether the geographic boundaries are reasonable.
3. K.S.A. 82a-1041(b)(3) directs the Chief Engineer to conduct a subsequent hearing only if the initial public hearing is favorable on all three issues of fact and the expansion of geographic boundaries is not recommended.
4. K.S.A. 82a-1041(c) limits the subject of the second hearing to the local enhanced management plan that the Chief Engineer previously reviewed and in subsection (d) requires the Chief Engineer to issue an order of decision within 120 days:
 - a. Accepting the local enhanced management plan as sufficient to address any of the conditions set forth in K.S.A. 82a-1036(a)-(d);
 - b. Rejecting the local enhanced management plan as insufficient to address any of the conditions set forth in K.S.A. 82a-1036(a)-(d);
 - c. Returning the local enhanced management plan to the groundwater management district, giving reasons for the return and providing the district with the opportunity to resubmit a revised plan for public hearing within 90 days of the return of the deficient plan; or
 - d. Returning the local enhanced management plan to the groundwater management district and proposing modifications to the plan, based on testimony at the hearing or hearings, that will improve the administration of the plan, but will not impose reductions in groundwater withdrawals that exceed those contained in the plan. If

the groundwater management district approves of the modifications proposed by the chief engineer, the district shall notify the Chief Engineer within 90 days of receipt of return of the plan. Upon receipt of the groundwater management district's approval of the modifications, the chief engineer shall accept the modified local management plan. If the groundwater management district does not approve of the modifications proposed by the Chief Engineer, the local management plan shall not be accepted.

5. Pursuant to K.S.A. 82a-1041(e), if the Chief Engineer issues an order of decision, then an order of designation that designates the area in question as a local enhanced management area shall be issued within a reasonable time following the order of decision.
6. Pursuant to K.S.A. 82a-1041(f) and (g), the order of designation shall define the boundaries of the local enhanced management area and shall indicate the circumstances upon which the findings of the Chief Engineer are made. The order of designation may include the corrective control provisions set forth in the management plan and shall follow, insofar as may be reasonably done, the geographical boundaries recommended by the local enhanced management plan.

III. TESTIMONY

1. The record of the initial public hearing in this matter has been incorporated into the record for this second public hearing. (Transcript, p. 7-8.)
2. Since hydrologic conditions underlying the SD-6 LEMA remain similar to those established in the public hearings held in 2012, the Order of Decision, Order of Designation, and supporting testimony submitted by GMD4 dated November 28, 2012, from those proceedings was incorporated into the record for this second public hearing. (Transcript, p. 8.)
3. The Order of Decision, dated August 24, 2017, is incorporated into this order and made a part of the record.
4. Ray Luhman, Colby, Kan., Manager of GMD4 – Mr. Luhman led the oral testimony in support of the re-formulation of the SD-6 LEMA for the period 2018-2022 pursuant to GMD4's proposed plan. Mr. Luhman submitted written testimony similar to that submitted at the initial public hearing, with the addition of the SD-6 LEMA Management Plan 2018-2022 dated February 2, 2017, and the final committee report from the SD-6 LEMA Advisory Committee. Mr. Luhman's oral testimony was based, in part, on the previous testimony of GMD4 dated November 28, 2012, which was incorporated into the record. Further, Mr. Luhman testified that there continue to be declines in the depth to water at the seven observation wells within the SD-6 LEMA, although the rate of decline was reduced from an average of 1.5 feet per year from 2008-2013 to 0.68 feet per year from 2013-2017. Data from 2013, 2014, and 2015 show significantly less water was used within the boundaries of the SD-6 LEMA because of the SD-6 LEMA allocations and that this correlated with a slowing rate of decline in depth to water, and even a rise in

some places. Mr. Luhman also referenced Dr. Bill Golden's ongoing study that shows irrigators reduced water use within the SD-6 LEMA while maintaining a similar level of net profit compared to nearby irrigators outside the LEMA boundaries and their pre-LEMA net profits. He also noted the successful use of "umbrella accounts" to allow flexibility among water rights without detrimental effect.

The proposed SD-6 LEMA Management Plan allows irrigators 55 inches per acre in a five-year allocation (an average of 11 inches per year), livestock use would be limited to 12 gallons per head per day, and recreational uses would be held to 90% of the authorized quantity. The plan for 2018-2022 would also include a carry-over of up to five inches per acre into the new LEMA from unused allocations from the 2013-2017 period, which Mr. Luhman estimated to be about 8,400 acre-feet, if 2017 pumping was similar to 2016 amounts. Even with the carry-over provision, the pumping allowed for 2018-2022 would be significantly less than the pumping during the pre-LEMA period. The SD-6 LEMA Management Plan continues to include a mechanism to allow the transfer of water from one owner's account to another, the continuation of the Advisory Committee, and a requirement that any district established in this area with stricter corrective controls (such as a Water Conservation Area or another LEMA) would take precedent over the SD-6 LEMA requirements. Exhibits D and E (SD-6 LEMA Management Plan and GMD4 Written Testimony) were incorporated into the record. (Transcript pp. 11-28.)

5. Brent Rogers, Hoxie, Kan., President of the GMD4 Board – Mr. Rogers testified that he has heard a high amount of positive feedback from those who own property in the SD-6 LEMA. He was encouraged that a carry-over provision would be allowed because it further encourages water users to save anything left over in their existing allocations rather than use it unnecessarily for fear of losing the water. (Transcript pp. 27-28.)
6. Mitchell Baalman, Hoxie, Kan., GMD4 Board Member and GMD4 Board Member for SD-6 LEMA Advisory Committee - Mr. Baalman owns land inside and outside the SD-6 LEMA. He testified that the SD-6 LEMA has made the residents inside western Sheridan County become better water managers and that it is visible that the water users inside the SD-6 LEMA are using their water more efficiently. He also testified that the mentality of the farmer regarding water use was changing and that he was optimistic about the SD-6 LEMA and other LEMAs in the future. (Transcript pp. 28-30.)

IV. DISCUSSION AND CIRCUMSTANCES OF FINDINGS

1. There is extensive discussion in the original order establishing the SD-6 LEMA that is incorporated into the record and will not be repeated here, but remains applicable. When the SD-6 LEMA was established prior to the 2013 irrigating season it was the first attempt to put a LEMA into effect. The goals and corrective controls put into place were developed through a community effort that consisted of many meetings, and much time spent by individuals who were passionate about extending the life of the aquifer they rely on. This community based approach continued throughout the life of the first LEMA management plan with annual review and recommendations by an advisory committee. The SD-6 LEMA has provided data that justifies the intentional conservation of water and illustrates how communal actions may be undertaken in an inclusive manner to benefit individual irrigators.
2. As the record shows, the original SD-6 LEMA boundaries, and the need for the SD-6 LEMA itself, were based primarily on scientific data provided by the Kansas Geological Survey ("KGS") at GMD4's request. This data, in conjunction with that presented by the Division of Water Resources ("DWR") and GMD4, provided boundaries focused on areas facing withdrawal greater than recharge or facing excessive declines in the aquifer. (*See e.g.*, the Initial Order issued by Constance Owen and the Orders of Decision and Designation issued by the Chief Engineer in 2012 and 2013.) After five years of operation, ample evidence exists to prove that the corrective controls, primarily the allocation of 55 inches over five years, have had an overwhelmingly positive impact on the area included in the SD-6 LEMA.
3. Prior to the formation of the original SD-6 LEMA, it was shown that groundwater levels had declined by as much 70 feet in some areas since 1965. Since the implementation of the original SD-6 LEMA, evidence was presented at the hearings for the SD-6 LEMA Management Plan that show the rate of decline has slowed in many parts of the LEMA, and in some areas the depth to water has actually decreased, or in other words, groundwater levels have increased. (*See Order of Decision.*)
4. Dr. Bill Golden's work tracking the revenue of irrigators within the SD-6 LEMA has also shown that the original SD-6 LEMA was successful. Despite a significant cut in water use, area irrigators' willingness to embrace technology and new cropping practices has shown that profit margins can be maintained near the level they were at prior to water use allotments, and that any negative effects have been manageable up to this point.
5. It is also important to note that the irrigators within the SD-6 LEMA have been subject to corrective controls since the 2013 growing season and no legal challenges have been brought against the SD-6 LEMA. Further, no testimony was presented against the boundaries, the corrective controls, or the data they were based on during the present proceedings. This included the use of provisions for flexibility in moving allocations among different water rights within the LEMA as such uses did not produce any documented detrimental effects.

6. Several differences in the 2018-2022 Management Plan warrant comment. The overall water use goal increased 3,000 acre-feet, but this is due to the addition of new acres of production that were previously enrolled in conservation programs that did not allow them to receive an allocation in the original SD-6 LEMA. These new acres will be given the same 11 inch per year allocation as acres already in the SD-6 LEMA. The 2018-2022 Management Plan also rewards conservation by allowing a five-inch carryover for any unused allocation from the 2013-2017 period. As is noted in Mr. Luhman's testimony, total allowable pumping allowed for 2018-2022, even with this carryover, will be significantly less than the pre-LEMA period. The advisory committee will also continue to meet on an annual basis and GMD4 has installed seven additional monitoring wells that are now operated by KGS.
7. Based on the evidence, testimony, and all data submitted previously and as a part of the current hearing process, the great weight of the evidence makes it clear that the SD-6 LEMA is supported by those who irrigate within its boundaries and that such corrective controls and practices have not created an economic hardship, and have assisted in allowing irrigators to make major strides in extending the life of the aquifer.

V. FINDINGS OF FACT

1. The Order of Decision and all exhibits attached thereto, issued August 24, 2017 is hereby incorporated into this Order of Designation.
2. The proposed geographical boundaries of the SD-6 LEMA include the following sections in Sheridan and Thomas Counties, Kansas:

Sheridan County

T7S, R28W, Sections 19-21 and 28-33;
T7S, R29W, Sections 4-9 and 16-36;
T7S, R30W, Sections 19-36;
T8S, R29W, Sections 1-18;
T8S, R30W, Sections 1-18.

Thomas County

T8S, R31W, Sections 22-27 and 34-36.

3. The proposed SD-6 LEMA Management Plan proposes clear geographic boundaries and is located wholly within GMD4. Such boundaries are clear and reasonable; and, the boundaries are based on data shared by DWR, GMD4, and KGS concerning the hydrology of the area.
4. Evidence shows there remains a need for corrective control provisions and that those proposed in the SD-6 LEMA Management Plan have been effective. Groundwater levels in the areas described above were declining in 2012 and continue to decline, however, the implementation of the SD-6 LEMA has reduced the rate of decline. From 2008 through 2013, observation wells averaged 1.5 feet per year declines in the water table. From 2013

through 2017, the observation wells averaged 0.68 feet per year declines. Despite the improvement in the rate of decline, the evidence still conclusively shows that the water table continues to decline and corrective controls are required.

5. The proposed SD-6 LEMA Management Plan will limit water diversions within the SD-6 LEMA to 117,600 acre feet total for the period between January 1, 2018 and December 31, 2022 plus any carry-over amount from the existing SD-6 LEMA period. This five-year allocation, along with flexibility to move allocations, provide corrective control provisions which help meet the stated goal for reduced use of water while maintaining economic viability. This five-year allocation is an increase from the SD-6 LEMA Management Plan in effect from 2013-2017 because water rights were released from Environmental Quality Incentives Programs {"EQUIP"} and Agricultural Water Enhancement Programs {"AWEP"} and will be used again for irrigation within the SD-6 LEMA boundaries.
6. The proposed SD-6 LEMA Management Plan considers existing conservation measures by permitting a five-inch carry over allotment, if any such amount remains at the end of the existing SD-6 LEMA, to reward those users who have voluntarily used less water than their full allocation.
7. The supportive testimony for another five-year term indicates that the SD-6 LEMA is effective.
8. The overall effects of the original SD-6 LEMA provided a significant decrease in the rate of decline of the aquifer, leading to an extension in the life of the aquifer within the LEMA boundaries without causing significant decrease in profitability to irrigators. Such evidence supports the continuation of the SD-6 LEMA for another five-year period.

VI. CONCLUSIONS OF LAW

1. Notice of the initial public hearing and the second public hearing was proper and complied with the requirements of K.S.A 82a-1041(b).
2. As determined by the Initial Public Hearing Order, the initial requirements for the establishment of a LEMA were met during the initial public hearing.
3. The second public hearing took place according to the requirements of K.S.A. 82a-1041.
4. Corrective controls are required within the SD-6 LEMA in order to address excessive declines in the groundwater level and to address rates of withdrawal that exceed the rate of recharge pursuant to K.S.A. 82a-1036.
5. A corrective control provision that only reduces the rate of decline, but does not prevent decline, is in the public interest as contemplated by K.S.A. 82a-1020.

6. Pursuant to K.S.A. 82a-1041(d)(1), the proposed SD-6 LEMA Management Plan is sufficient to address declines in groundwater levels and a rate of withdrawal that exceeds the rate of recharge in the area in question.
7. The proposed SD-6 LEMA Management Plan is consistent with the Kansas Water Appropriation Act and other Kansas law.
8. The Order of Decision, dated August 24, 2017, was timely issued and properly approved the SD-6 LEMA Management Plan; and, therefore this Order of Designation is appropriate.

VII. ORDER OF DESIGNATION

COMES NOW, the Chief Engineer, pursuant to K.S.A. 82a-1041(e)-(h), who, based upon substantial competent evidence, as provided by testimony and comments offered at, or in relation to, public hearings held for the purpose of designating the Sheridan 6 Local Enhanced Management Area for 2018-2022, hereby finds that the proposed Sheridan 6 Local Enhanced Management Area 2018-2022 Administration, was properly approved in the Order of Decision, issued on or about August 24, 2017, and that the Sheridan 6 Local Enhanced Management Area shall consist of the following recommended boundaries:

Sheridan County

T7S, R28W, Sections 19-21 and 28-33;
 T7S, R29W, Sections 4-9 and 16-36;
 T7S, R30W, Sections 19-36;
 T8S, R29W, Sections 1-18;
 T8S, R30W, Sections 1-18.

Thomas County

T8S, R31W, Sections 22-27 and 34-36.

THEREFORE, the corrective controls and all other necessary elements of administration and management regarding the Sheridan 6 Local Enhanced Management Area contained in the Sheridan 6 Local Enhanced Management Area 2018-2022 Administration, shall be in place beginning on January 1, 2018 and until December 31, 2022 within the boundaries of the local enhanced management area described above, including the following corrective controls:

1. SD-6 LEMA Goals Corrective Controls

All water diversions within the SD-6 LEMA shall be collectively restricted between the period January 1, 2018 through December 31, 2022 to no more than 117,600 AF total with the following exception. Those individual or combined IRR wells that have a balance remaining in their respective accounts on December 31, 2017 may carry-over an amount not to exceed five (5) inches per program acre for irrigation use.

This LEMA shall exist only for the five-year period beginning January 1, 2018 and ending December 31, 2022.

The new 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 inches for irrigation water rights plus carryover;
- (b) Maximum permitted head of livestock on December 31, 2010 x 12 gallon per head per day for stock water rights; and
- (c) Ninety percent (90%) of the December 31, 2010 authorized recreational water quantity for recreation rights.

GMD4 shall use the following procedures to determine the five-year allocation for each water right, and specify said values. All allocation values shall be expressed in terms of total acre-feet for the five-year LEMA period.

2. 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 five-year period beginning January 1, 2018 and ending December 31, 2022 except that a carry-over amount shall be added as determined below. Prior to December 31, 2017, GMD4 shall update the SD-6 LEMA Allocations spreadsheet (“Attachment 1”) by adding those water rights that have exited the Environmental Quality Incentives Program (“EQUIP”) and the Agricultural Water Enhancement Program (“AWEP”). GMD4 will provide a copy of this updated spreadsheet to DWR and make it available on the GMD4 website. GMD4 shall also inform any water right owners added of their designated eligible areas and proposed allocations.
- (b) Carry-Over Amount. The carry-over amount will be determined based on water use records for the period January 1, 2013 through December 31, 2017 for irrigation use only. The carry-over amount cannot exceed five (5) inches per program acre and is the lesser of: 1) five (5) inches per program acre or; 2) a water user’s unused acre inches per program acre. Within two (2) months of the completion of DWR’s review of the 2017 water use data, GMD4 will review water use for 2013-2017 and develop a tabulation of carry-over amounts allowed pursuant to this order and the resulting total allowed allocation for 2018-2022 for the SD-6 LEMA. GMD4 shall provide a copy of this to DWR, make it available on the GMD4 website, and provide this information to all water right owners within the SD-6 LEMA.
- (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 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 the SD-6 LEMA. Said transfers shall be in effect through December 31, 2022. An Application for Transfer form 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, five-year allocation status shall receive an allocation that exceeds its current five-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) On or before October 1, 2018 any irrigation water right owner will have the option of converting a five-year allocation amount to a Multi-Year Flex Account ("MYFA") provided, the MYFA quantity does not exceed the established five-year allocation quantity. No other conversions to MYFAs will be authorized.
- (k) For water rights enrolled in EQIP and/or AWEP that will be exiting either program on or before September 30, 2022, the allocation quantity shall be set at 11 acre-inches per acre for only the remaining years of the 2018-2022 LEMA period.
- (l) Any water right enrolled 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, 2018 through December 31, 2022 shall not be allowed to transfer its LEMA allocation to any other water right or combine its LEMA allocation with any other water right.

3. 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, 2010. Each water right shall have the option of having this limited quantity as an annual limit or converted to a five-year water right at five (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, 2010 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 five-year water right at five (5) times the assigned allocation. The original water right will be retained.

4. Individual Allocation Amounts

The five-year allocations for every water right within the SD-6 LEMA that is covered by the above sections shall be converted to a five-year acre-feet total containing the assigned eligible allocations for each water right within the SD-6 LEMA. Each water right shall be restricted to its total acre-feet allocation.

5. Violations of Authorized Quantities

Exceeding any total allocation quantity (which shall include any transferred quantities) of less than four (4) acre-feet within any allocation period shall result in a \$1,000.00 fine for every day the allocation is exceeded. This penalty shall apply to all rights in combined allocation accounts subject to the SD-6 LEMA.

Exceeding any total allocation quantity (which shall include any transferred quantities) by four (4) acre-feet 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 a combined allocation account.

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

6. Metering

All water right owners shall be responsible for ensuring their meters are in compliance with state and local laws as outlined in the SD-6 LEMA Management Plan. In addition to all requirements set forth in state statute and regulation, all water right owners shall make meter inspections to record usage every two weeks while the well is in operation, or install and maintain an alternative method of collecting data every two weeks. This shall include all procedures outlined in statute, regulation, and the SD-6 LEMA Management Plan for repairing broken or otherwise inoperable or inaccurate meters.

7. Accounting

GMD4 shall maintain records of the annual diversion amounts for each water right within the SD-6 LEMA area, and the total five-year quantity balances. Annual status reports shall be mailed to each water right owner and provided to DWR.

DWR shall provide, in a timely manner, to GMD4 copies of annual water use reports received in the office of the chief engineer. GMD4 and DWR shall cooperate on reconciliation and correction of any water use reports found to be in error.

8. Advisory Committee

A SD-6 LEMA Advisory Committee shall be appointed and maintained by the GMD4 Board. Such committee shall consist of an odd number of members between five (5) and nine (9) members as follows: one (1) GMD4 representative; one (1) representative of DWR as designated by the Chief Engineer; and the balance being SD-6 LEMA residents/owners/operators – one (1) of which must represent non-irrigation users. The committee shall 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.

The 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 items. Said report shall be forwarded to the GMD4 Board and the Chief Engineer.

9. Formal Review

In addition to the annual review conducted by the SD-6 LEMA Advisory Committee, the SD-6 LEMA Advisory Committee shall also conduct a more formal LEMA Order review 1.5 years before the ending date of the SD-6 LEMA. Review items will focus on economic impacts to the LEMA area and the local public interest, including but not limited to water level data.

The committee shall also produce a report following this review to the Chief Engineer and the GMD4 Board which contains specific recommendations regarding future actions. All recommendations shall be supported by reports, data, testimonials, affidavits or other information of record.

10. Impairment Complaints

While this LEMA is in effect, any impairment complaint filed within the boundaries of the SD-6 LEMA shall be investigated by the Chief Engineer as required by the KWAA. However, the Chief Engineer shall take into account the existence of the SD-6 LEMA and the corrective controls in place when conducting such an investigation.

11. Coordination

The DWR and the GMD4 Board, as far as is practicable, shall coordinate and account for the umbrella accounts so authorized, authorize and account for water right transfers as such may be authorized, and account for annual pumpage amount by water rights located within the SD-6 LEMA.

12. Most Restrictive Conservation Program Applies

In the case of any allocations that may exist due to a special district other than the SD-6 LEMA, but also within the boundaries of the SD-6 LEMA, the requirements of the most restrictive special district shall apply.

IT IS SO ORDERED, THIS 7th DAY OF November, 2017.

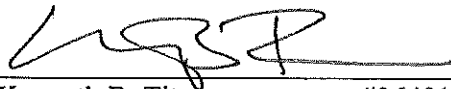


David W. Barfield, P.E.
Chief Engineer, Division of Water Resources
Kansas Department of Agriculture

Attachments:

Attachment 1: "SD-6 LEMA Allocations" spreadsheet.

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RIGHT TO PETITION FOR ADMINISTRATIVE REVIEW

If you are aggrieved by this Order, then pursuant to K.S.A 82a-1901(c), you may petition for administrative review of the Order by the Secretary of Agriculture. A petition for review shall be in writing and state the basis for requesting administrative review. The request for review may be denied if the request fails to clearly establish factual or legal issues for review. See K.S.A. 77-527.

The petition must be filed within 30 days after service of this Order as provided in K.S.A. 77-531, and be filed with the Secretary of Agriculture, Attn: Legal Division, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, or by FAX (785) 564-6777.

If no petition for administrative review is filed as set forth above, then this Order shall be effective and become a final agency action as defined in K.S.A. 77-607(b). Failure to timely request administrative review may preclude further judicial review under the Kansas Judicial Review Act.