

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

In the Matter of the Designation of the )  
Groundwater Management District No. 4 District Wide )  
Local Enhanced Management Area in Cheyenne, Decatur, )  
Rawlins, Gove, Graham, Logan Sheridan, Thomas, and )  
Wallace Counties, Kansas. )  
)  
)  
**Pursuant to K.S.A. 82a-1041.** )  
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**002 – DWR-LEMA – 2017**

**PRE-HEARING ORDER**

**COMES NOW**, David W. Barfield, Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, who hereby sets the following procedures for the conduct of the second public hearing regarding the Northwest Kansas Groundwater Management District No. 4 (“GMD4”) District Wide Local Enhanced Management Area (“LEMA”) Management Plan.

1. On October 31, 2017, a pre-hearing conference regarding the second public hearing for the GMD4 District Wide LEMA was held via telephone.
2. The call was presided over by the Chief Engineer, David Barfield, and the following parties were present: Kenneth Titus, Chris Beightel, Aaron Oleen, Adam Dees, Ray Luhman, Shannon Kenyan, David Traster, Daniel Buller, Doyle Saddler, Jon Friesen, Tom Sloan, Burt Stramel, Justin Sloan, Brownie Wilson, and Wendee Grady.
3. Oral arguments were made regarding the Intervenors’ *Motion for Due Process Procedures* on behalf of the Intervenors by David Traster, on behalf of GMD4 by Adam Dees, and on behalf of the Division of Water Resources by Aaron Oleen. Deadlines were set for a written response to be submitted by GMD4 on November 1, 2017 and a response to that by the Intervenors on November 2, 2017.
4. The Chief Engineer determined that it would be appropriate to issue this Pre-Hearing Order once a determination was made regarding the Intervenors’ *Motion for Due Process*.

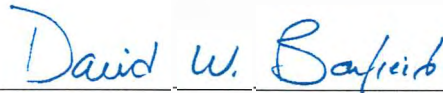
**THEREFORE**, in accord with the decision regarding the Intervenors’ *Motion for Due Process* issued on November 6, 2017, and having considered all other matters raised at the pre-hearing conference, the Chief Engineer shall set forth the following requirements for the second public hearing regarding the GMD4 District Wide LEMA:

1. The second public hearing shall be held as provided for in the individual notices sent to each water right owner affected by the proposed LEMA and in the public notices that were published in the Kansas Register, the Colby Free Press, and the Goodland Star-News. The hearing shall commence at 9:00 a.m. at the City Limits Convention Center, 2227 South Range, Colby, Kansas 67701 and shall continue as long as necessary for the full disclosure of relevant facts.
2. The hearing shall consist of two phases. The first phase shall be considered the formal phase of the hearing. During this portion of the hearing, those parties designated by the Chief Engineer to participate in formal phase shall be allowed to present testimony, call witnesses, and cross-examine the witnesses called by other parties participating in the formal phase of the hearing.
3. The rules of evidence will not be strictly adhered to in the formal phase of the hearing. However, all cross-examinations conducted must have some reasonable relationship to the testimony provided, and the privileges listed in K.S.A. 60-426 through 60-436, and any other privileges recognized by law shall be given effect, in so far as the Chief Engineer determines such application is reasonable.
4. All rules and procedures shall be applied by the Chief Engineer to provide all parties to this action a reasonable opportunity to be heard and present evidence.
5. The following parties shall be considered participants in the formal phase of the hearing and shall present evidence and call witnesses in the order listed:
  - a. GMD4
  - b. Division of Water Resources
  - c. Jon and Ann Friesen Farms, Tom Sloan, Bert Stramel, Justin Sloan, and Doyle Saddler (“Intervenors”), collectively represented by David Traster.
6. Any additional party wishing to participate in the formal phase of the hearings shall submit such request to the Chief Engineer prior to 5:00 p.m. on November 9, 2017. Any request received after this date shall be considered, but may be denied if the additional burdens of preparation placed on the other parties participating in the formal phase of the hearing are determined to be too burdensome. However, all parties not participating in the formal phase of the hearing shall still be eligible to provide oral and written testimony in the informal phase of the hearing and to submit written rebuttal testimony following the close of oral testimony at the public hearing.
7. All parties participating in the formal phase of the hearing shall provide the Chief Engineer, and all other parties a list of witnesses and the proposed topics of their testimony by 5:00 p.m. on November 10, 2017. Since the hearing date is quickly approaching and some parties have only recently begun participation, the Chief Engineer recognizes that all witnesses and exhibits may not be finalized by this deadline. Parties must list all speculative witnesses and topics in their November 10 disclosures, and shall

confirm such witnesses as soon as possible after the initial deadline, but no such witness shall be allowed in the formal portion of the hearing if less than 24 hours' notice is given.

8. Following the completion of the formal phase of the hearing, the Chief Engineer shall preside over the informal phase of the hearing. During the informal phase of the hearing, all parties affected by the proposed LEMA management plan, all members of the public, and any other interested parties, people, or organizations may present testimony. Such testimony shall be under oath and subject to questions requesting clarification from other parties only after questions from the Chief Engineer. In no case will a party be allowed to conduct a hostile cross-examination.
9. The deadline to submit written testimony, rebuttal, and any other comments regarding the GMD4 District Wide LEMA management plan shall be extended to December 12, 2017.

**IT IS SO ORDERED, THIS 6th DAY OF NOVEMBER 2017.**



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

Prepared by:



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## CERTIFICATE OF SERVICE

On this 6<sup>th</sup> Day of November 2017, I hereby certify that the original of the foregoing was sent by electronic mail to:

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