

November 20, 2020

Testimony of Lane Letourneau

Re: Wichita County LEMA Second Hearing

My name is Lane Letourneau, and I am the Program Manager for DWR's Water Appropriation Program. As the agency that administers the Kansas Water Appropriation Act and other laws applicable to water management in Kansas, DWR wants to provide testimony in support of the corrective controls contained in Western Kansas Groundwater Management District Number 1's proposed Local Enhanced Management Area Plan for Wichita County. In general, DWR believes the Kansas Geological Survey data used in the development of this LEMA plan was reasonable and believes the corrective controls proposed by the plan will be effective to slow the groundwater declines shown by that data. Mr. Meyer's testimony will more specifically address the ways in which DWR staff assisted GMD1 in analyzing data that was used in the development of this plan.

DWR has reviewed the proposed management plan and believes the corrective controls contained therein are reasonable and in the public interest, as they will be effective in combating groundwater declines in the Ogallala Aquifer and are narrowly tailored to protect the interests of affected water users and Wichita County citizens. DWR appreciates the concerns raised in public comment at the initial hearing in this matter questioning whether hydrogeologic data still shows groundwater rates declining within the proposed LEMA boundaries even after the implementation of playa restoration efforts and a county-wide Water Conservation Area in Wichita County. While the Wichita County WCA particularly has been successful in producing water savings, DWR still feels that present rates of groundwater depletion throughout the proposed LEMA are unsustainable and can be further remedied with this LEMA, which will do significantly more than presently implemented conservation efforts to aid aquifer recharge.

Public comment submitted at the initial hearing also questioned whether establishing allocations under this LEMA plan based on the historical usage of a water right is in the public interest. DWR feels that establishing allocations this way within this LEMA is in the public interest, as the proposed plan protects the interests of water users who have voluntarily modified their past water use through its appeals process. The LEMA plan specifically allows a water user to appeal an allocation under the LEMA that they believe does not adequately account for the impact of their past voluntary conservation efforts. Such an appeal will allow a water right owner to bring documentation of their past water conservation efforts to the GMD1 Board for review. Thus, the LEMA plan's proposed method of establishing allocations will not have the effect of discouraging voluntary conservation.

Moreover, DWR feels the corrective controls proposed by the LEMA plan adequately protect existing water rights and adhere to the doctrine of prior appropriation and other requirements of Kansas water law. Most importantly, while the LEMA plan provides for allocations to be established without regard to priority, priority will still be considered if impairment occurs. Senior water right holders are therefore still guaranteed the protections provided by the Kansas Water Appropriation Act in the event there is not enough water for all users within the LEMA boundary. The plan's five-year allocation and combined well unit option will also provide producers with needed flexibility, and water users will still be allowed to divert the entire authorized quantity under their base water rights in any given calendar year.

Additionally, the proposed plan will not regulate vested water rights within the LEMA boundary unless those water rights are voluntarily enrolled in the LEMA. Finally, the proposed LEMA plan does not permanently alter any water right—all the allocations proposed will initially be in place only for the five-year duration of the LEMA. The LEMA plan provides for an annual review that will consider water use data, water table information, economic data, compliance and enforcement issues that have arisen, and any new and preferable enhanced management authorities that have become available. It also provides for a more formal review of any order designating this LEMA in the fourth year of the LEMA period. This review will focus particularly on the economic impact of the LEMA plan and the overall effect of the LEMA on the local public interest. DWR believes implementing this LEMA will provide long-term benefit to the local economy by helping to ensure groundwater is available into the future.

DWR appreciates the GMD and local citizens taking this important step to help manage their groundwater. DWR recognizes the difficulty involved in self-regulating the use of such an important resource and commends everyone involved in this process for recognizing the importance of this issue to the future viability of Wichita County. DWR supports the ultimate designation of this LEMA and feels it will be a positive step in extending the life of the Ogallala Aquifer and the agriculture-driven economy of this area.

/s/Lane P. Letourneau  
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