

Minutes: _____ Northwest Kansas Groundwater Management District 4 December 13, 2007 Board Meeting

1. OPEN MEETING, ATTENDANCE AND AGENDA

The December board meeting was opened at 10:40 a.m. CST, December 13, 2007 in the district offices, Colby, KS by President Scott Maurath.

Board members present for some or all of the meeting were: Doug David, Monty Biggs, Bill Nondorf, Lon Frahm, Dave Rietcheck, Scott Maurath, Jeff Deeds, Jon Friesen and Roger Zwegardt.

Board Members absent were: Mitch Baalman and Shane Mann.

Others present for some or all of the meeting were: Wayne Bossert, Ray Luhman and Dan Simmering – GMD 4 staff; Scott Voss and Scott Ross – DWR; and Jeff Mason, GMD 4 Attorney.

There were two additions to the agenda – 1) Foundation IRS Status; and 2) Draft WTAP MOU, both to be added to New Business.

2. CONSENT AGENDA

Jeff Deeds moved for approval of the consent agenda including: 1) the November 8, 2007 minutes; and 2) the November financial report including the November, 2007 expenditures totaling \$22,974.08. Monty Biggs seconded the motion which passed unanimously.

3. MANAGER'S REPORT

Manager covered each of the 8 items contained in the board meeting packet and answered questions. No action taken on any item.

4. UNFINISHED BUSINESS

a. Staff Contracts: This item was tabled until later in the meeting.

b. Management Program Discussions: The 13 proposed issue concepts were discussed one by one to determine board interest in including them in the next Revised Management Program process or rejecting them for consideration at some later date. The accepted issues were:

3: Definition of GMD 4 “public interest”

While the management program indicates that the entire program is to be considered the regions “public interest”, should a more specific definition be crafted?

4: Variable assessment rates

Allow the GMDs to assess use types different rates; or; dryland acres a different land assessment rate. For example: Land assessment for Rangeland capped at 3 cents/Ac; dryland at 5 cents/Ac and irrigated capped at 7 cents/Ac. Or, Municipal water use capped at \$2/AF; irrigation capped at \$1.5/AF; stock use capped at \$1.75/AF; etc. Or, High Priority Areas capped at a higher rate than other areas.

6: Economic development component

Provide for an economic development review in the approval or denial of new or changed water rights. The goal would be to approve water applications with the potential for higher economic returns and deny those with the expectation of lower economic returns. This element would be in addition to, or just one more consideration, in the current review process.

8: GMD ownership of water rights – discounted and protected

Being able to buy existing water rights and place them in the custodial care of the district for reasonable periods of time. Such protection would allow us to control the consumptive water use under these rights while deciding what to do with them permanently.

11: Multi-year allocation for irrigation – mandated

Setting a district-wide, or targeted area, 3 or 5 year allocation expressed in “inches per acre per year per water right” – then leaving annual use and irrigated acres flexible.

12: Limiting impairment complaints

While any area is undergoing special management, prohibit impairment complaints until the special management programs work, or fail to work and are removed.

13: More restrictions on adding acres

The issue is historical base acres vs. recent historical irrigation use. Should someone who has perfected 320 base acres many years ago but has more recently been irrigating only 160 acres be allowed to expand irrigated acres?

Staff will begin incorporating these issues into the next Revised Management Plan scheduled for finalization in October, 2008. The rejected issues are to be maintained for re-consideration at some later time.

a. Staff Contracts: This tabled item was handled next. *Jeff Deeds moved to go into executive session at 2:20 P.M. for 15 minutes to discuss staff contracts, and that Manager Wayne Bossert attend the session in which no action will be taken. Bill Nondorf seconded the motion which passed unanimously.*

President Maurath reconvened the regular board meeting at 2:35 P.M. to continue discussion of agenda item 4.a. *Jon Friesen moved for a 4% increase of the 2007 Salary and Benefits line item be approved for contract considerations of all employees at the discretion of Manager Wayne Bossert. Monty Biggs seconded the motion which passed unanimously.*

5. NEW BUSINESS

a. IGUCA Draft Statutory Amendments: Manager began by backgrounding the board on the decisions and events leading up to the current time. The proposed statutory changes to the IGUCA statutes included in the board packet contained 4 issues deemed important to GMD 4 staff. These are: 1) exclusive authority of a GMD board and/or membership to trigger an IGUCA within a GMD; 2) a mandated IGUCA review process (made part of every IGUCA order) that guides the process. This issue includes authority for the chief engineer to develop a regulation for the review process based on the statutory guidelines (presumably to include language allowing a local GMD regulation to prevail if duly promulgated); 3) a required setting of IGUCA goals and objectives based on the public hearing testimony (also made part of the IGUCA order); and 4) clarify the relationship between the hearing officer (chief engineer) and his or her staff during the hearing process.

Staff attempted to inform the board of who the major involved entities were and what their positions were. In this discussion it was noted that KDA and DWR were attempting to resolve all the issues via regulations – thus not having to open up the GMD Act. It was noted that the Interim Legislative Committee had already concluded its work on the IGUCA issues and would be introducing a pre-filed bill soon to amend the IGUCA statutes, so the act was already opened up. Staff also discussed the upcoming meeting (December 17, 2007) with all 5 GMDs and KDA and DWR to explore regulatory solutions.

Following more discussion and questions, the board consensus was to allow manager Wayne Bossert to offer the following GMD 4 ideas, but in the end strike the best package possible:

- 1) Carefully consider a regulation on the triggering of IGUCAs by the chief engineer within GMD's, but if not acceptable, promote a statutory amendment per the discussion draft provided;
- 2) Promote regulatory solutions for the IGUCA review process, the goal and objective setting, and chief engineer/staff relationship issues; and
- 3) Oppose an independent hearing officer and any pre-IGUCA advisory panel that is so politically weighted (as is being proposed by the interim legislative committee).

b. Foundation IRS Status: Staff asked Jeff Mason to explain and cover the recent IRS letter received by the Foundation. Jeff reported that it was a standard, periodic review of all not-for-profit corporations to ensure their not-for-profit status. By completing it, we should retain our status. Jeff offered staff help in doing so. No board action required or taken.

c. Draft WTAP MOU: Manager provided copies of the latest WTAP draft MOU. It was reported that the latest draft was streamlined and improved, and included 2 of the 3 suggestions GMD 4 provided earlier. The one GMD 4 suggestion NOT included was the one we discussed and decided on during the September 13, 2007 board meeting – that of including our high priority areas as eligible with the GMD 4 assurance that any area receiving WTAP funds would be closed to new appropriations if and when it ever approached 400 acrefeet appropriated within any 2-mile circle.

After more discussion, the board decided to not become a signatory of the MOU unless it included GMD 4's high priority areas following our amending GMD 4 KAR 5-24-2 such that WTAP purchased water rights would continue to be accounted for in any new appropriation calculation – and also - provided DWR's water rights information system (WRIS) can be made to do the accounting. Scott Ross indicated that DWR was very interested in having WRIS adjusted to do this because the same process is being anticipated for the CREP and EQIP program participants. This was board consensus, no motion made.

6. DWR REPORT

Scott Ross reported that their BRO program was completed for the year – 65 total hits with about 9-10 of those being in GMD 4. After ignoring anyone overpumping their right less than 6%, the top 10 remaining hits will get orders while the rest will get notices of non-compliance. The Republican River Compact issues continue to be time consuming. Finally, the GMD 4 meter orders appear to be working just fine with the process remaining well in hand.

7. OPEN SESSION - PUBLIC QUESTIONS/COMMENTS

No discussion.

8. SET NEXT MEETING DATE AND CONSIDER FUTURE AGENDA ITEMS

January meeting was set for January 10, 2008 and will include the revised 2008 budget hearing. The February meeting will be held with the annual meeting in Goodland at the Howard Johnson Hotel.

9. ADJOURNMENT

Without no other business, Roger Zwegardt moved to adjourn the meeting at 4:15 P.M., December 13, 2007. Monty Biggs seconded the motion which passed unanimously.

Respectfully submitted:

Bill Nondorf, Secretary