

Minutes: _____ Northwest Kansas Groundwater Management District 4 July 17, 2008 Board Meeting

1. OPEN MEETING, ATTENDANCE AND AGENDA

The July board meeting was opened at 10:05 A.M. CDT, July 17, 2008 in the district offices, Colby, KS by President Scott Maurath.

Board members present for some or all of the meeting were:

Dave Rietcheck	Scott Maurath	Lon Frahm
Roger Zwegardt	Mitch Baalman	Shane Mann.

Board Members absent were:

Jon Friesen	Jeff Deeds	Monty Biggs
Bill Nondorf	Doug David.	

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

One additional agenda item was added to New Business at Agenda Item 5 h.: SD 008 Issues.

2. CONSENT AGENDA

Lon Frahm moved for approval of the consent agenda including: 1) the June 5, 2008 minutes; and 2) receipt of the June financial report including the June, 2008 expenditures totaling \$23,655.66. Dave Rietcheck seconded the motion which passed unanimously.

3. MANAGER'S REPORT

Manager covered the items contained in the board meeting packet. In addition to these 4 items, 2 more were covered as follows:

- a) Announcement that the Kansas Water Congress was meeting July 31 and August 1 in Wichita.
- b) Staff covered several parts of the Issue papers proposed within the 3 NW BACs for the state water plan. One high priority issue showing up in all 3 basins was the Ogallala-High Plains Aquifer Declines issue. Each BAC proposal on this issue contained a map of the estimated usable life of the High Plains Aquifer with an explanation that the map was a projection of how many years until the aquifer reaches a point where wells requiring 400 GPM will begin to be impaired if the trends continued. I argued that the state water plan could not determine "impairment" and should not be suggesting when impairment occurs. The next sentence said that the methodology used to generate the usable life maps is suitable to the Ogallala because of its low annual recharge rate. Recharge rate has nothing to do with the methodology – the extensive data base on water levels is why this methodology is suitable. The final comment we made was in the recommended actions section where it was being recommended that an aquifer subunit coordinator be hired to hold educational meetings, discuss enhanced management options and potential management programs. I offered that the GMD 4 board, while appreciative of the suggestion, has opposed this recommendation as unnecessary because we have this responsibility well in hand. We also indicated we'd rather have the cost of this recommendation go to reducing consumptive water use.

4. UNFINISHED BUSINESS

a. **Computer and Projector:** This item has been taken care of by staff based on comments during the July 10 meeting which failed to reach quorum. Both a laptop computer and a projector have been purchased for district presentational purposes.

5. NEW BUSINESS

a. **DWR Proposed Regulations – Clean-up Batch:** Staff indicated that no action was necessary unless the board wanted to make specific comments over any of the proposed regulations. Staff wanted to let the board know what regs were being considered. In discussion, several questions were responded to, but no action was taken.

b. **DWR Proposed Regulations - IGUCAs:** Staff presented the proposed IGUCA regs – KAR 5-20-1 through KAR 5-20-3. It was proposed KAR 5-20-1 that drew the most discussion. The board remains concerned that this IGUCA triggering regulation within an established GMD still remains unsettled and in contention. There was support for KAR 5-20-2 and KAR 5-20-3. Discussion was had on asking the Attorney general to reconsider the 2002-24 AG's opinion when KAR 5-20-1 was sent in; and on approaching the Legislative Joint Committee on Administrative Regulations concerning KAR 5-20-1. No specific action taken.

c. **Discussions with Representative Faber:** Representative Faber did not attend the board meeting and while he responded that he would not be available for the July 10 original meeting date, he did not indicate his availability for the re-scheduled meeting date. It was noted that he did attend the Upper Republican BAC meeting in Atwood earlier in the day.

d. **Proposed 2009 Budget Hearing:** The 2009 budget hearing was opened at 11:30 A.M., July 17, 2008 by President Scott Maurath. There was a brief description of the process provided by staff. There being no testimony from anyone, Scott Maurath closed the public hearing at 11:37 A.M. Discussion following the hearing was brief.

Lon Frahm moved adoption of the following resolution numbered AR-08-02:

WHEREAS the district membership during the 33rd Annual Meeting adopted the proposed 2009 operating budget of \$854,960.60 for consideration at a subsequent public hearing; and

WHEREAS the board scheduled, duly noticed and conducted a lawful public hearing regarding the tentatively adopted, proposed 2009 operating budget pursuant to KSA 82a-1030 on July 17, 2008; and

WHEREAS all testimony and public comment was duly considered;

BE IT THEREFORE RESOLVED THAT the 2009 operating budget for the Northwest Kansas Groundwater Management District No. 4 shall be approved for \$854,960.60.

Shane Mann seconded the motion which passed unanimously.

e. **Set 2009 Assessments:** In order to fully fund the adopted 2009 budget the assessments need to bring in \$433,455.49 (the adopted 2009 budget less the \$421,505.11 currently on hand in the Foundation account). Staff reported there are 2,746,244 assessable acres and 856,847 assessable acrefeet as of July 7, 2008. Discussion ensued.

Lon Frahm moved the following resolution be adopted and numbered AR-08-03:

WHEREAS the board held a lawful budget hearing on July 17, 2008 and considered all public testimony and comment and adopted a 2009 operating budget of \$854,960.60; and

WHEREAS KSA 82a-1030 requires that a land assessment and/or water user charge be levied in order to fund the approved budget; and

WHEREAS there exists as of July 7, 2008 2,746,244 acres of land eligible for assessment and 856,847 acrefeet of water eligible for the water user charge for the 2009 operating budget; and

WHEREAS \$421,505.11 already exists in the district accounts leaving \$433,455.49 needing assessment support;

BE IT THEREFORE RESOLVED THAT the land assessment and water user charge shall be set at:

*\$.05 per acre of assessable land; and
\$.3457 per assessable acrefoot of water.*

Shane Mann seconded the motion which passed unanimously.

f. Consider Mileage Rates: Tabled until next meeting due to time constraints.

g. WTAP Program Response by DWR: Staff reported that DWR has agreed to a conditional closure order for the six designated high priority areas as discussed last meeting. Staff had prepared a resolution to request the closures by formal order. The board discussed the resolution.

Lon Frahm moved that the following resolution, numbered PR-08-01, be adopted:

WHEREAS the board of directors of the Northwest Kansas Groundwater Management District No. 4 (hereinafter referred to as the board) desire to request that six high priority areas described below be designated as eligible areas for the water transition assistance program (WTAP); and

WHEREAS the board desires that the chief engineer, division of water resources, Kansas Department of Agriculture formally close these areas to new water rights appropriations by administrative order on the board's behalf; and

WHEREAS the board desires a conditional order or orders be made which addresses the status of the following six areas upon the termination of the WTAP program:

BE IT THEREFORE RESOLVED THAT the board requests the chief engineer, division of water resources to administratively close the six designated high priority areas established by board action on March 8, 2007 to all new development except for domestic, term and temporary permits to appropriate water within GMD 4. The designated areas shall include the following legal descriptions:

HPA Area 1 includes:

TWP 8S-41W: Sections: 19-21 and 28-33

TWP 8S-42W: Sections: 22-27 and 34-36

TWP 9S-40W: Sections: 4-9 and 16-18

TWP 9S-41W: Sections: 1-36

TWP 9S-42W: Sections: 1-3, 10-15 and 19-36

TWP 10S-42W: Sections: 1-18

HPA Area 2 includes:

TWP 8S-39W: Sections: 4-9 and 16-36

TWP 8S-40W: Sections: 1-3 and 10-15

TWP 9S-39W: Sections: 1-3 and 10-15

HPA Area 3 includes:

TWP 5S-40W: Sections: 1-36

HPA Area 4 includes:

TWP 6S-35W: Sections: 22-27 and 34-36

HPA Area 5 includes:

TWP 7S-33W: Sections: 22-27 and 34-36

TWP 8S-32W: Sections: 4-9, 16-21 and 28-33

TWP 8S-33W: Sections: 1-3, 10-15, 22-27 and 34-36

TWP 8S 34W: Sections: Sections: 1-36

TWP 9S-32W: Sections: Sections: 1-36

TWP 9S-33W: Sections: Sections: 1-36

TWP 9S-34W: Sections: Sections: 1-36

TWP 10S-31W: Sections: 4-9 and 16-18

TWP 10S-32W: Sections: 1-3 and 10-15

TWP 10S-33W: Sections: Sections: 1-36

HPA Area 6 includes:

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

BE IT FURTHER RESOLVED THAT any administrative order or orders enacted by the chief engineer pursuant to this resolution be conditioned as follows:

Any individual high priority area wherein no WTAP funding is received by any cooperator or contractee, be rescinded or officially eliminated from the order or orders upon termination of the WTAP program for any reason, and then be subject to the current KAR 5-24-2 development regulation in effect for GMD4 at that time; and

Any individual high priority area wherein any cooperator or contractee has received WTAP funding from the WTAP program shall remain administratively closed regardless of the status of the WTAP program.

BE IT FINALLY RESOLVED THAT the board respectfully requests that no administrative order or orders be enacted by the chief engineer, division of water resources, if any of the conditions specified herein cannot be satisfied.

Dave Rietcheck seconded the motion which passed unanimously.

h. SD 008 Water Right Discussion: Ray Luhman of staff presented the case for the water right owner of vested right SD 008 in Sheridan County. The applicant has filed a change of place of use application to cover additional acres a new pivot installed in 2004 included. The change application meets all conditions of KAR 5-5-11 except that it has been overpumped in the past.

The applicant is requesting a waiver of DWR regulation KAR 5-5-11 (b)(3)(d) which prohibits an approval of a change application under KAR 5-5-11 that has a history of overpumping. He is asking the board's support of his waiver request. The board discussion considered two scenarios: 1) support the waiver and annually monitor the water use under our MOA for KAR 5-5-11; and 2) do not support the waiver which would likely result in denial of the change application and a water right needing significant system redesign and periodic monitoring anyway.

Dave Rietcheck moved to support the waiver request and undertake GMD monitoring of the system per the effective DWR/GMD4 MOA. Mitch Baalman seconded the motion which passed unanimously.

6. DWR REPORT

No report this meeting due to lack of time.

7. OPEN SESSION - PUBLIC QUESTIONS/COMMENTS - None

8. SET NEXT MEETING DATE AND CONSIDER FUTURE AGENDA ITEMS

The August meeting is set for August 7, 2008.

The September meeting will be September 4, 2008.

9. ADJOURNMENT

Without no other business, and no objections, President Scott Maurath adjourned the meeting at 12:25 PM, CDT, July 17, 2008.

Respectfully submitted:

Bill Nondorf, Secretary