

Minutes: _____ Northwest Kansas Groundwater Management District 4 December 17, 2009 Board Meeting

1. OPEN MEETING, ATTENDANCE AND AGENDA

The December board meeting was opened at 1:00 A.M. CST, December 17, 2009 in the district offices, Colby, KS by President Scott Maurath.

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

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| Lon Frahm | Scott Maurath | Roger Zwegardt |
| Shane Mann | Mitch Baalman | Dave Rietcheck |
| Jeff Deeds | Doug David | |

Board Members absent were: Jon Friesen, Monty Biggs and Brent Rogers

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

President called for any additions, corrections or deletions from the published agenda. Staff indicated that New Business item 5. f. should be added as: FSA Lawsuit Support Discussion. The additional agenda item was added to the agenda.

2. CONSENT AGENDA

Dave Rietcheck moved for approval of the consent agenda including: 1) the September 3, 2009 minutes as presented; and 2) receipt of the September and October, 2009 financial reports including the September and October, 2009 expenditures totaling \$27,715.55 and \$29,313.85 respectively. Shane Mann seconded the motion which passed unanimously.

3. MANAGER'S REPORT

Manager briefly covered all eight items contained in the board packet. There were a few questions regarding the AWEP report which were answered.

4. UNFINISHED BUSINESS: None

5. NEW BUSINESS

a. 2010 AWEP Proposal: Manager briefed the board on where the process was to date. As we begin developing the 2010 proposal, several early decisions about the effort need to be made – including: who to include; what kind of incentive level to offer; whether to construct the proposal as a straight incentive payment or allow for an option to offer less; and whether to propose that all HPAs compete for a single amount of money or specify separate quantities of money for each HPA included. In any event, the 2010 proposal will look different in that it will be based on acres converted to dry land farming rather than acrefeet of water to be retired.

The situation with TH-5 HPA was presented by Wayne Bossert on behalf of the group that met on October 14. This meeting presented the AWEP proposal to a select group of producers in the TH-5 area (mostly from the 4-township (southern)) portion of the full HPA area, offering them an opportunity to re-engage in the enhanced management process in order to be included in the AWEP proposal (have access to NRCS funds to permanently reduce irrigation water use). They decided they wanted to ask the board to be re-engaged, but that they wanted the current HPA area divided into two separate areas - the southern half (4-Township area) and the rest of the area

– based on the beliefs that: the current HPA area is too large; too hydrologically diverse to remain as one area; and the 4-Township area was largely precipitated by a different process than the rest of the HPA. They wanted the 4-Township area included in AWEP if the board agreed to the split. Following much discussion, the board consensus was that the entire HPA should be included in the AWEP proposal because the north area did not have adequate representation in this decision process and, that being a voluntary program, their participation was likely to be supportive as well.

Regarding the other decisions, the board consensus was: to canvass the HPA's in January or February and include the areas most interested in being included based on their HPA discussions; to propose a separate sub-program for each HPA area included (with flexibility to use unused funding in the other areas); propose a 3-tiered incentive level based on the AF/ac applied to the acres being converted; and to further consider: the pros and cons of offering the ability for applicants to offer less than the incentive rate in lieu of additional ranking points; and whether or not the 3-tiered incentive level should be weighted by County location.

Staff indicated that the proposal will be floated by the board for further tweaks and fine tuning on as many occasions as the RFP process will allow.

b. Management Program Action: Manager indicated that every November or so the management program needs to be re-adopted or modified. Since we are still considering a number of issues for inclusion into the next management program, it is appropriate that we re-adopt the current program at this time. Following discussion, *Dave Rietcheck moved to re-adopt the Revised Management Program, dated March 9, 2006, for another year. Mitchell Baalman seconded the motion which passed unanimously.*

c. Staff and Attorney Contracts: Following review of the attorney's contract proposal, which included the same hourly fee rate and annual retainer, but a change in the mileage rate from \$.55/mi to \$.50/mile, *Doug David moved to approve the contract as presented. Shane Mann seconded the motion which passed unanimously.*

In consideration of staff contracts, *Dave Rietcheck moved that the board go into executive session for 10 minutes to discuss staff contracts. Jeff Deeds seconded the motion which passed unanimously.* The board meeting was resumed in 10 minutes with the announcement that no actions had been taken in executive session. *Doug David moved that Manager Wayne Bossert be approved for a 5% pay increase over his 2009 contract amount and that he be authorized to provide 3% of the remaining staffs' 2009 contract amounts toward their 2010 contracts at his discretion. Mitchell Baalman seconded the motion which passed unanimously.*

d. MOU Amendment Action: Following an explanation that this amendment will allow electronic transfer of KAR 5-5-11 field verifications, to the benefit of both DWR and GMD 4, *Shane Mann moved for approval of the MOU amendment to be signed by President Maurath. Jeff Deeds seconded the motion which passed unanimously.*

e. A Conversation with Kansas Chief Engineer David Barfield: David Barfield was on doctor's orders not to travel and had to cancel his visit at the last minute. He sent his sincere apologies and promised to re-schedule as soon as he could, and expressed that he remained very interested in meeting with the board to discuss mutual issues.

f. FSA Lawsuit Involvement: Manager Wayne Bossert gave some background on the lawsuit filed by the Central Platte NRD against FSA regarding release of FSA records and data. CPNRD has contacted a number of GMD's and others asking if they would like to formally submit a letter of support in the suit. Scott Ross also provided perspective on the Nebraska need for the data and Kansas' experiences in working with FSA to obtain similar data. Following discussion, Dave Rietcheck moved that GMD 4 provide a letter of support through the district's attorney Jeff

Mason, provided this action does not make us a formal party to the lawsuit. Shane Mann seconded the motion which passed unanimously.

6. DWR REPORT

Scott Ross reported that the metering program is going well – that the last “clean-up” order is ready to go out soon. This final order will find every water right owner under order to have a meter installed before pumping in 2010, or to not use the well until a meter is properly installed.

Moreover, GMD 4 has been provided the random 125 water right owners that will be checked this year in the meter compliance effort. This list was randomly generated by DWR.

Blatant and Recurring Overpump program (BRO) orders for the entire Stockton field office (30 or so) have gone out and only 10 in GMD 4. Only 4 of the 30 are repeat offenders that will be fined and get a 1 year suspension of their water right.

Scott reported on some administrative actions for violating KAR 5-5-11 conversions – one being fined for \$20,000.00.

On the Republican River Compact Kansas is still in the middle of two more arbitration processes: 1) the Colorado pipeline issue (where Colorado’s water should, can or must be delivered); and 2) a Nebraska accounting issue. Neither of these issues could be resolved by the participants.

7. OPEN SESSION - PUBLIC QUESTIONS/COMMENTS

Roger Zwegardt asked about the status of the automated weather station that was installed on his land 2 years ago, but has never worked. The site has not been maintained either as the grass is growing out of control. Manager indicated that he’d check on this. Scott Ross also indicated that he’d inform KWO about the comment since KWO funding was involved.

8. SET NEXT MEETING DATE AND CONSIDER FUTURE AGENDA ITEMS

January 14, 2010
February 17, 2010 (Annual Meeting)

9. ADJOURNMENT

With no other business and no objections, President Maurath declared the December 17, 2009 board meeting adjourned at 4:30 P.M., CST, December 17, 2009.

Respectfully submitted:

Jeff Deeds, Secretary