

Minutes: _____ Northwest Kansas Groundwater Management District 4 January 14, 2010 Board Meeting

1. OPEN MEETING, ATTENDANCE AND AGENDA

The January board meeting was opened at 10:10 A.M. CST, January 14, 2010 in the district offices, Colby, KS by President Scott Maurath.

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

Lon Frahm	Scott Maurath	Roger Zwegardt
Shane Mann	Mitch Baalman	Dave Rietcheck
Brent Rogers	Jon Friesen	

Board Members absent were: Doug David, Monty Biggs and Jeff Deeds

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

President called for any additions, corrections or deletions from the published agenda. Staff indicated there were none. President Maurath appointed Mitchell Baalman as Secretary Pro Tem to sign the December, 2009 approved board meeting minutes.

2. CONSENT AGENDA

Shane Mann moved for approval of the consent agenda including: 1) the December 17, 2009 minutes as presented; and 2) receipt of the November and December, 2009 financial reports including the November and December, 2009 expenditures totaling \$25,900.51 and \$29,741.58 respectively. Mitch Baalman seconded the motion which passed unanimously.

3. MANAGER'S REPORT

Manager's report was moved to a later agenda item so that more time could be given to the discussions with Chief Engineer Barfield.

4. UNFINISHED BUSINESS: None

5. NEW BUSINESS

a. A Conversation with Kansas Chief Engineer David Barfield: Staffing/Budget: Mr. Barfield started with a report on the agency staffing and budget situation. The reduction of personnel and budget is between 20 and 30% of last year's levels, and has driven a lot of administrative changes.

Regulations: The current regulations under promulgation or just having recently been enacted was next. The impairment regulation (KAR 5-4-1) is being amended with the high points being: 1) More process in the approach to impairment complaints that now includes the GMD's if appropriate; 2) an added responsibility on the complainant to demonstrate that his or her well is not the problem; 3) an invitation to the GMD to participate in the investigation (if inside a GMD); 4) specific processes for impairment caused by direct well-to-well impairments (under KAR 5-4-1) and regional aquifer declines (under KAR 5-4-1a); and 5) the ability of a GMD to offer management alternatives if impairment is found in groundwater within a GMD. Due and Sufficient Cause: (KAR 5-7-1) adds an 11th reason – the right is located in a formally closed area of the state. It also requires two additional things for all 11 reasons: 1) that the reason used

prevented or made unnecessary the use of water; and 2) the diversion works must be maintained. **IGUCAs:** A brief statement that the Legislature has failed to clarify the IGUCA language in KSA 82a-1036 leaving everyone with uncertainty in this arena. DWR's IGUCA regulations in light of this circumstance have changed. Originally proposing 3 regulations (an independent hearing officer proposal (KAR 5-20-1); an IGUCA review process (KAR 5-20-2) and a reg on initiating an IGUCA within a GMD without the request of the GMD (KAR 5-20-3)) only the first two are going forward.

WRCP: Explained that the elimination of WRCP was for budgetary purposes solely, and that DWR was receptive to dialoging over a possible replacement program IF the budgetary issues were addressed and a few other issues were open for discussion as well – these including at least: 1) the prospects of permanent conservation; and a reasonable program time limitation.

Republican River Compact: Updated the board on the status of the Colorado pipeline proposal, indicating that Kansas still is expecting their proposal to address the S. Fork Republican shortages in some way. When asked about the status of the Conservation study that was slated to be issued in August, 2009, David responded that it was not yet finalized, but is close. He indicated that there may be issues among the three states regarding the inclusion of the results into the model. Another question was posed regarding the use of the upstream gage on the S. Fork Republican River, or the installation and use of a new state line gage sponsored by Colorado. This was not a Kansas issue at this time.

Enhanced Management Options: Discussed the three proposed regs GMD 4 has offered to date: KAR 5-24-12 (Applications for changes in place of use for irrigation purposes); KAR 5-24-13 (Multi-year allocations) and KAR 5-24-14 (Mandatory conservation in special areas).

KAR 5-24-12 has been prepared by DWR legal into a draft ready to go forward. In discussing this language, questions were raised as to the original focus area of this reg – was it meant to apply district-wide as it now reads, or just in the high priority areas? Ray Luhman also indicated that there was a recent water right change that would not have been handled cleanly under this reg if it had been in place, so maybe there was more work to be done on it. The board indicated they wanted to look at it again before clearing it to go forward.

KAR 5-24-13 is basically a GMD 4 reg that would allow a specific IGUCA-like remedy (a multi-year allocation for all water rights) by order of the chief engineer. David's response was positive, but indicated there would need to be more process included, both local and state, to make sure any actions taken under it would be supportable and defensible. This kind of approach has not been done before, but David felt like this is part of the reason the GMDs were formed and will be happy to continue fleshing it out.

b. Public Hearing on Revised 2010 Budget: President Scott Maurath opened the hearing at 11:30 A.M., January 14, 2010. There were no members of the general public in attendance. President Maurath announced that the proposed, revised budget was printed in the board packet at page 14-15 and asked for any testimony. There being none, the public hearing was closed at 11:35 A.M. Following discussion, Lon Frahm moved that the following resolution be adopted and numbered as AR-10-02:

WHEREAS the 2010 budget of \$449,450.00 approved originally on July 23, 2009 (AR-08-02) requires amending in order to at least incorporate the 2009 cash carryover funds; and

WHEREAS the district lawfully scheduled and conducted a public hearing to consider all testimony regarding the budgeting of carryover funds and other issues;

BE IT THEREFORE RESOLVED THAT the 2010 final operating budget shall be adopted as revised based on its presentation by GMD 4 staff during the lawfully conducted public hearing. The budget shall be:

	2009 - Expended	2010 Final Assessed	2010 Revised	Diff 2010 Rev/2009 Exp
110 POSTAGE	\$5,485.52	\$5,600.00	\$5,600.00	\$0.00
111 Newsletter	\$4,507.52	\$3,900.00	\$4,500.00	\$600.00
112 General	\$978.00	\$1,700.00	\$1,100.00	(\$600.00)
120 PRINTING	\$7,877.60	\$6,950.00	\$8,000.00	\$1,050.00
121 Newsletter	\$7,877.60	\$6,200.00	\$7,500.00	\$1,300.00
122 Administrative	\$0.00	\$750.00	\$500.00	(\$250.00)
130 DUES	\$1,530.00	\$1,500.00	\$1,500.00	\$0.00
140 SUBSCRIPTIONS	\$1,228.79	\$2,500.00	\$1,500.00	(\$1,000.00)
150 INSURANCE	\$9,062.69	\$11,400.00	\$11,400.00	\$0.00
151 Office/Equip/Data	\$916.00	\$1,400.00	\$1,400.00	\$0.00
152 Public Officials' Liability	\$467.00	\$3,000.00	\$3,000.00	\$0.00
153 Auto	\$2,261.00	\$2,000.00	\$2,000.00	\$0.00
154 Workmans' Comp.	\$4,999.00	\$4,500.00	\$4,500.00	\$0.00
155 Computer	\$196.00	\$250.00	\$250.00	\$0.00
156 Unemployment	\$223.69	\$250.00	\$250.00	\$0.00
160 TELEPHONE	\$6,255.09	\$5,700.00	\$6,700.00	\$1,000.00
170 SALARIES AND BENEFITS	\$264,273.98	\$269,000.00	\$279,550.00	\$10,550.00
171 Gross Sal, Kpers, SS, Etc.	\$246,243.90	\$249,700.00	\$260,250.00	\$10,550.00
172 Health Insurance	\$18,030.08	\$19,300.00	\$19,300.00	\$0.00
180 TRAVEL	\$9,444.15	\$10,500.00	\$10,500.00	\$0.00
181 Board	\$5,582.34	\$6,500.00	\$6,500.00	\$0.00
182 Staff	\$3,861.81	\$4,000.00	\$4,000.00	\$0.00
190 VEHICLES	\$5,640.54	\$6,325.00	\$6,325.00	\$0.00
191 Repairs/Maintenance	\$2,177.31	\$1,000.00	\$1,000.00	\$0.00
192 Operation	\$3,326.23	\$5,200.00	\$5,200.00	\$0.00
193 Tags	\$137.00	\$125.00	\$125.00	\$0.00
194 Purchase/Lease	\$0.00	\$0.00	\$0.00	\$0.00
200 CONTRACTED SERVICES	\$26,282.65	\$26,000.00	\$26,000.00	\$0.00
201 Accounting	\$2,888.00	\$2,800.00	\$2,800.00	\$0.00
202 Legal	\$1,172.17	\$1,200.00	\$1,200.00	\$0.00
203 Misc. Support	\$22,222.48	\$22,000.00	\$22,000.00	\$0.00
204 Water Sampling	\$0.00	\$0.00	\$0.00	\$0.00
205 Drilling	\$0.00	\$0.00	\$0.00	\$0.00
206 Weather Modification	\$0.00	\$0.00	\$0.00	\$0.00
210 PUBLICATIONS	\$350.59	\$400.00	\$400.00	\$0.00
211 Legal Notices	\$350.59	\$400.00	\$400.00	\$0.00
220 COOP PROGRAMS	\$0.00	\$77,000.00	\$77,000.00	\$0.00
221 Administrative	\$0.00	\$75,000.00	\$75,000.00	\$0.00
222 Equipment	\$0.00	\$0.00	\$0.00	\$0.00
223 Contracted Studies	\$0.00	\$2,000.00	\$2,000.00	\$0.00
224 Education Program	\$0.00	\$0.00	\$0.00	\$0.00
230 ADMINISTRATIVE	\$5,457.58	\$6,100.00	\$6,100.00	\$0.00
231 Office Supplies	\$3,037.39	\$2,500.00	\$2,500.00	\$0.00
232 Copy Machine	\$544.93	\$900.00	\$900.00	\$0.00
233 Computer Maint	\$729.96	\$900.00	\$900.00	\$0.00
234 Postage Meter Lease	\$607.92	\$750.00	\$750.00	\$0.00
235 Bank Charges	(\$0.02)	\$50.00	\$50.00	\$0.00
236 Field Supplies	\$537.40	\$1,000.00	\$1,000.00	\$0.00
240 NEW EQUIPMENT	\$1,549.86	\$6,500.00	\$6,500.00	\$0.00
241 Field	\$0.00	\$2,000.00	\$2,000.00	\$0.00
242 Office	\$1,549.86	\$4,500.00	\$4,500.00	\$0.00
250 CONTINGENCY RESERVE	\$144.00	\$0.00	\$56,322.09	\$56,322.09
260 FACILITY	\$11,900.00	\$13,275.00	\$13,275.00	\$0.00
261 Rent	\$11,095.00	\$12,300.00	\$12,300.00	\$0.00

262	Upkeep	\$805.00	\$975.00	\$975.00	\$0.00
263	Remodel	\$0.00	\$0.00	\$0.00	\$0.00
270	REIMBURSED EXPENSES				\$0.00
300	FOUNDATION	\$267.50	\$700.00	\$700.00	\$0.00
305	Foundation Subscriptions	\$210.00	\$150.00	\$150.00	\$0.00
325	Foundation Telephone	\$17.50			\$0.00
345	Foundation Accounting	\$40.00			\$0.00
350	Foundation Legal		\$300.00	\$300.00	\$0.00
370	Foundation Tech Support		\$250.00	\$250.00	\$0.00
		\$356,750.54	\$449,450.00	\$517,372.09	\$67,922.09

Jon Friesen seconded the motion which passed unanimously.

c. GAAP Waiver: Considering the waiver language presented by staff, *Lon Frahm moved that the following resolution be adopted and assigned number AR-10-01:*

GAAP Waiver Resolution for Calendar Year 2010

WHEREAS the Northwest Kansas Groundwater Management District No. 4 (GMD 4), Colby, Kansas, has determined that the financial statements and financial reports for the year ended 2010 to be prepared in conformity with the requirements of K.S.A. 75-1120a(a) are not relevant to the requirements of the cash basis and budget laws of this state and are of no significant value to the GMD 4 board of directors or the members of the general public of GMD 4; and

WHEREAS there are no revenue bond ordinances or resolutions or other ordinances or resolutions of the GMD 4 which require financial statements and financial reports to be prepared in conformity with K.S.A. 75-1120a(a) for the year ended 2010.

NOW, THEREFORE BE IT RESOLVED, by the board of directors of the Northwest Kansas Groundwater Management District No. 4, Colby, Kansas, in regular meeting duly assembled this 14th day of January, 2010 that the board of directors waives the requirements of K.S.A. 75-1120a(a) as they apply to GMD 4 for the year ended 2010.

BE IT FURTHER RESOLVED that the board of directors shall cause the financial statements and financial reports of GMD 4 to be prepared on the basis of cash receipts and disbursements as adjusted to show compliance with the cash basis and budget laws of this State.

Jon Friesen seconded the motion which passed unanimously.

3. MANAGER'S REPORT

Reported that the **AWEP** RFP has yet to be issued by NRCS. Meetings have been scheduled for HPA CN-3 and SD-6 to discuss inclusion into the 2010 AWEP application. At this time staff is still thinking that a 3-year incentive payment per acre converted is the best way to go, and that there should be a 3-tiered payment rate (high, medium and low) based on the inches of water applied to the acres to be converted, and that the inches per acre applied should be a WTAP-like evaluation of the last 6 years of reported water use. The board was still in agreement. On the issue of designing the application to include NRCS bonus points for accepting a lesser incentive rate, the board indicated that this discussion should be part of the HPA meetings with a report back on their preferences.

Upper Republican River Conservation Projects Alliance is ready to meet with the engineers to begin the reconnaissance study for several possible projects involving future Colorado supplied water on the S. Fork Republican River.

The development of a replacement **WRCP** program is being taken on by the Kansas Water Congress with the hope of rallying all the major stakeholders to support a new program.

Annual Meeting Presentation Arrangements were made as follows: 34th annual meeting minutes – Brent Rogers; 2011 Budget – Jeff Deeds; 2009 Audit – Monty Biggs; and Board elections – Lon Frahm. Staff was asked to include a list of on-going topics/issues in the Open Session item to spur questions/discussion.

Manager also mentioned: 1) that a recent interview done with the editor of the Kansas Farmer on water rights for the next edition may not have gone so well; 2) the web page is being worked on so that it displays properly in a wider variety of web browsers; and 3) DWR has sent out the 2009 water use reports and the 3-year non-use notification letters.

6. DWR REPORT

Scott Ross reported that his staff was just beginning to discuss a new strategy for addressing abandoned water rights. He has compiled a list of file numbers in his field office that have had the requisite 5 or more years of non use without due and sufficient cause and they plan to develop a process to evaluate these for possible abandonment action. He asked if the GMD 4 board had any comments or desired to be involved in any specific way. The board asked Scott to provide us a list of the GMD 4 files on his initial list for review and comment at the February board meeting.

A question was asked about the status of the Solomon Basin Team. Scott responded that the team is at this time gone and no active work is being done on any management approaches. The model is still viable, however.

7. OPEN SESSION - PUBLIC QUESTIONS/COMMENTS

None.

8. SET NEXT MEETING DATE AND CONSIDER FUTURE AGENDA ITEMS

The full year board meeting schedule was set as follows: February 17; March 4; April 8; May 6; June 3; July 1; August 12; September 2; November 4 and December 16.

9. ADJOURNMENT

With no other business and no objections, President Maurath declared the January 14, 2010 board meeting adjourned at 3:00 P.M., CST, January 14, 2010.

Respectfully submitted:

Jeff Deeds, Secretary