

## PROTOCOL PROCESS UPDATE

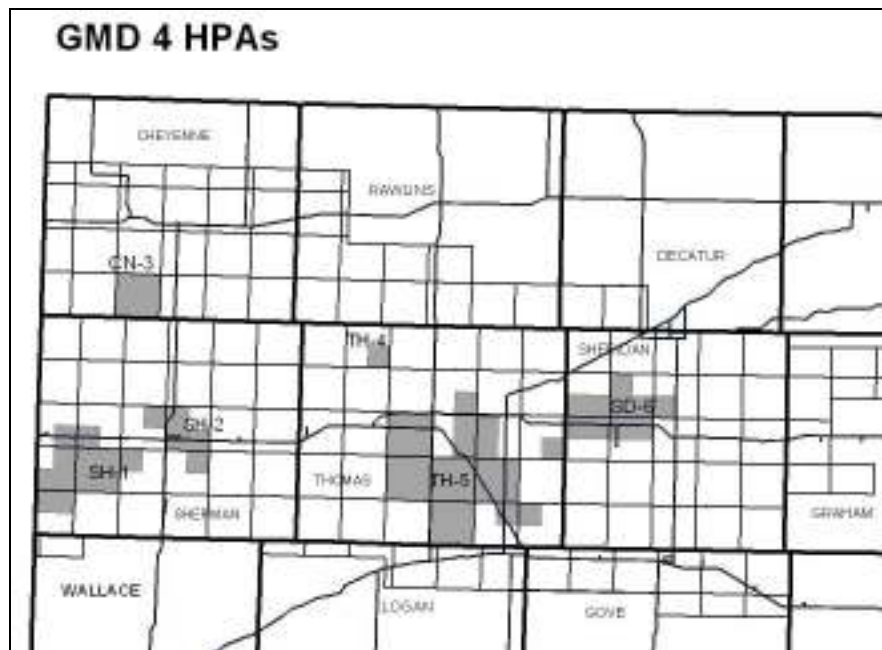
The six, high priority area (HPA) meetings are upon us with the initial round of meetings to be held as follows (all times are local time):

- November 3; HPA CN-3; Riverside Recreation, St Francis, 9:00 AM
- November 3; HPA SH-1; Howard Johnson Inn; Goodland; 2:00 PM
- November 4; HPA TH-4; Colby College Union, Rm 107; Colby; 2:00 PM
- November 10; HPA SD-6; Hoxie Elks Lodge; Hoxie; 9:00 AM
- November 10; HPA TH-5; City Limits Convention Ctr; Colby; 2:00 PM
- November 12; HPA SH-2; Howard Johnson Inn; Goodland; 9:00 AM

These meetings are open to the public, but will be primarily for the landowners and water users within the HPAs.

The initial meetings will be to present a process overview, cover the hydrologic and water use data of the HPA, and embark on discussions concerning where the local landowners and water users think the area should be in the next 20 years with respect to the groundwater reserves. The GMD 4 board should eventually develop an enhanced management plan for each area based on the discussions and local recommendations provided. The 6 HPAs are shown on the map below and are legally described on the district's website at:

<http://www.groundwaterfoundation.com/foundation-ops.html>



## FOUNDATION NEWS

The NW Kansas Groundwater Conservation Foundation just began a new project year for retiring consumptive water use on October 1, 2008. The 2009 sign-up period will last until December 1, 2008. This entity has some funding for voluntary retirements or set-asides of consumptive water use from within the 6 designated high priority areas but is first looking to leverage its funds with other funding sources. Currently there are 4 options available:

**1. Retire Full Water Right Permanently:** A payment (based on an accepted bid) for voluntarily forfeiting a water right, to be made for a period of 10 years. The abandoned water right will be reverted back to the public domain and will not be re-appropriated.

**2. Retire a Partial Water Right Permanently:** A payment (based on an accepted bid) for voluntarily forfeiting a portion of a valid water right, to be made for a period of 10 years. The abandoned portion of the water right will be reverted back to the public domain and will not be re-appropriated.

**3. Set Aside a Water Right Completely for 5 to 10 Years:** A payment (based on an accepted bid) for enrolling a water right in the Kansas Water Rights Conservation Program (WRCP), to be made for each of the WRCP contract years. The water right returns to normal status after the enrollment period.

**4. Multi-Year Flex Account:** A payment (based on an accepted bid) for converting a current water right to a 5-year flex account water right per KSA 82a-736. The multi-year flex account conversion must be at least a 10% reduction of the **average reported water used** between 1992 and 2002, times 5, and is a 5-year set aside only.

The Foundation's main focus right now is providing \$50.00 per acrefoot of consumptive water use for successful WTAP applications within the designated HPAs. Keep in mind that only options 1 and 2 above qualify for WTAP. Questions, give us a call.

## WEBSTATS FOR [www.gmd4.org](http://www.gmd4.org)

For August and September 2008: Our webpage experienced 4,268 visits resulting in 5,447 page views. The top 3 pages were: Water Quotes (70%); Home Page (11%) and Formulas (7%). For the 12 month period October 1, 2007 to September 30, 2008 we've averaged 62 visits and 76 pageviews per day.

## MORE ON THE HPA MEETINGS.....

These early November meetings are to begin discussions of possible future management efforts based on a better understanding of the groundwater resources within these specific areas. They are NOT to suggest, or force any pre-conceived management schemes onto these areas. These discussions can get fairly complex so it may take several meetings to fully cover the options to the point where the local residents are comfortable enough to suggest or recommend directions to the GMD 4 board.

The direction for this approach has been developed over several years and is contained within the October, 2001 Management Advisory Committee Report to the Kansas Water Office. We'll cover these efforts in the meeting overviews, and have copies of the report available at the meetings for those interested in their own copy. You may also have a pre-meeting copy just for the asking.

The board wants to stress that every possible resource goal and management approach can be placed "on the table" for discussion within these meetings. For each goal and proposal we should consider all the pros and cons before agreeing or disagreeing, and the pros and cons can and should involve the economic, legal, political and social ramifications of the idea. Again, we intend to allow sufficient time for these discussions, so we don't have to (and probably shouldn't) decide things immediately.

On a less alarming note, the process does allow each area to consider voluntary, non-regulatory efforts first. This is primarily why the board has been active in the voluntary, cost-share efforts at reducing annual water use like EQIP and WTAP, and why they also formed the not-for-profit Conservation Foundation.

Following all the local discussions, the expectation is that each area recommend to the GMD 4 board a groundwater resource goal for some future time frame, and if possible, an approach or suite of approaches that the residents of that HPA think will achieve the goal. Some say this is the essence of local control, and is not an unreasonable set of discussion topics. We're interested in what you have to say.

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**WTAP Program – Local Payment also Available**

The newly constituted Water Transition Assistance Program (WTAP) opened its first sign-up period on October 1, 2008 and will close it November 15, 2008. There is still time to apply if you're inside one of the GMD 4 High Priority Areas and are interested in retiring all or a portion of your water right permanently. There will be a second sign-up period beginning February 15, 2009 through March 31, 2009 if you miss the first one.

This program is based on a bid (not to exceed \$2000.00 per AF) for each acrefoot of historic consumptive water use (HCWU) under the water right. The HCWU is the lesser of: 1) the average yearly reported water use for the past 6 years (2002-2007) times a system efficiency factor (.85 for pivot; .75 for flood; or .95 for SDI) with the high and low years eliminated, and 2) the net irrigation requirement for the 50% chance rainfall for the specific county (1.03 in GH; 1.06 in DC; 1.08 in SD; 1.09 in GO; 1.10 in RA; 1.13 in TH; 1.14 in CN; 1.16 in LG; 1.18 in SH; and 1.19 in WA) times the acres reported irrigated. GMD 4 staff has a spreadsheet to calculate HCWU for any water right.

The board's Foundation has also agreed to locally contribute \$50.00 per AF of HCWU for all GMD4 HPA WTAP applications. This will give GMD4 WTAP applicants extra consideration in the evaluation process if an applicant chooses to use it.

**The Water Table**

Sponsored by the NW Kansas Groundwater Management District No. 4, 1175 S. Range, Colby, KS 67701-0905. Office hours: 8:00 a.m. to 5:00 p.m. Monday through Friday (except the noon hour) - closed during State holidays.

**DIRECTORS:** Roger Zwegardt - St Francis, CN Cty; Monty Biggs - Atwood, RA/DC Cty; Jeff Deeds - Goodland, SH/WA Cty; Dave Rietcheck - Treasurer, Goodland, SH/WA Cty; Jon Friesen - Colby, TH Cty; Lon Frahm - Colby, TH Cty; Mitch Baalman - Vice President, Menlo, SD Cty; Bill Nondorf - Secretary, Hoxie, SD Cty; Doug David - Hill City, GH Cty; Scott Maurath - President, Oakley, LG Cty; Shane Mann - Quinter, GO Cty.

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ADDRESS CORRECTIONS ARE APPRECIATED

**THE NATURE OF A KANSAS WATER RIGHT**

**"Use it or lose it"**

The "use it or lose it" notion about Kansas water rights remains hotly debated. Conservationists argue that it is alive and well and remains a roadblock to effective water conservation because some are using the water just to maintain the water right. State regulators otherwise argue just as hard that it no longer exists and never really did. If you listen to the arguments of both sides very carefully, you may come to the conclusion that both are right and that it's only the subtle interpretations of the law that are being contested.

For 5 years of non-use without sufficient cause a water right may be forfeited by the state after due process. It is also a requirement that a water right must be for a beneficial use to be approved and the applicant must file in good faith – meaning that no one can obtain a water right, or retain one, just to reserve it for themselves and keep it from others. This appears to be an argument for the "use it or lose it" interpretation.

On the other hand, with due and sufficient cause, one never has to use a water right and fear its forfeiture. Plus, the state has added a water right set-aside program (WRCP) as a due cause for non-use. Looking at it this way, the state never had an absolute "use it or lose it" policy, and of late has relaxed the former policy considerably.

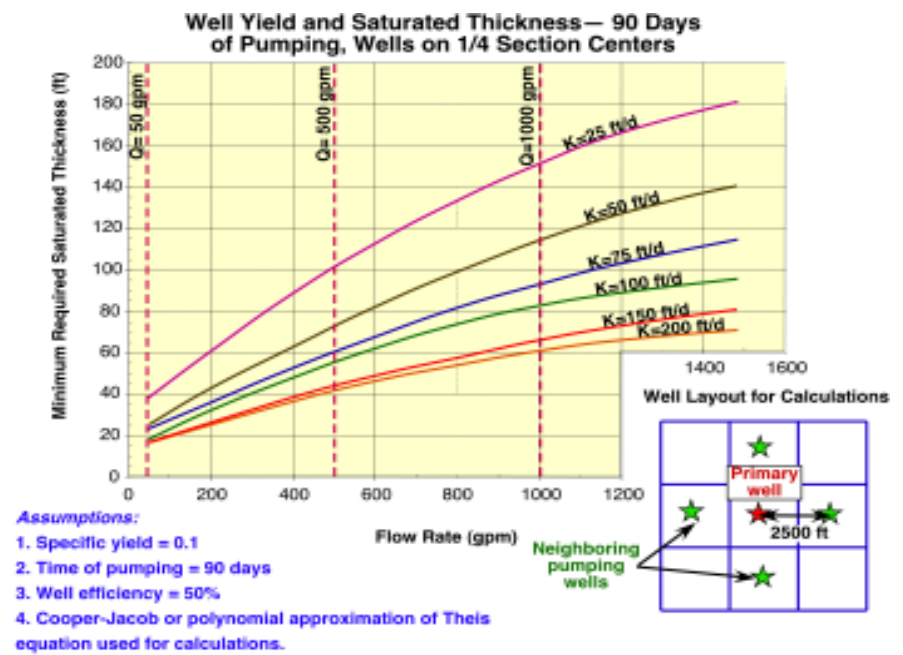
A "no water right abandonment ability" would certainly allow right owners to conserve water by not using it. It would also mean no way to transfer unused water rights to any new user or use – short of voluntary forfeiture. If many users totally conserve, with no means of letting new users obtain rights, the resource can become under utilized. Also, a water right is in fact a right to use the state's water for specified beneficial uses, so why should non-use be condoned to any degree?

The right answer probably lies somewhere in between – a reasonable, non-use, forfeiture approach that allows truly unused and abandoned water rights to be reallocated and used by others, or not, but also protects all water rights from premature abandonment. Seems we can't have it both ways, and maybe the current approach is closest to right.

**WELL YIELDS AND SATURATED THICKNESS**

While not dead-on, generally there is a relationship between saturated thickness and well yields for various aquifer characteristics. For example, you likely need 60 feet of water to pump 500 GPM in an aquifer that yields 75 GPM per saturated foot per day - typical of GMD 4 aquifer conditions.

The more yielding the aquifer is the less saturated thickness you need to pump a constant discharge rate. We also see that the further left you go on the graph, the steeper the relationship becomes for all aquifer characteristics. As such, the water left in the aquifer becomes more critical in relationship to expected well yields.



**Pumping the Tailwater**

By Wayne Bossert, GMD 4 Manager

**LOCAL CONTROL OR NOT?**

Much has been written and discussed about local control of groundwater in Kansas - and not all of it has been going on at the local level. One example is the debate over IGUCA's this past legislative session - whether an IGUCA should be left exclusively to local initiation inside a GMD, or not. The fact that the legislature was asked to clarify this point and did not should give us all pause to think. Did they not clarify the issue because it turned out to be more complex than they first thought (but were supportive of retaining local initiation for the GMD members)? or, because they're having second thoughts about leaving this exclusive decision to the locals within GMD's? Quite frankly, I heard both reasons expressed by legislators.

Another example looming may be the enhanced management process for the Ogallala Aquifer. Local stakeholders over the Ogallala agreed to approach the Ogallala groundwater declines via aquifer sub-units - with the GMDs in the lead within their districts and the division of water resources in the lead elsewhere. The agreement was to explore sub-unit goals that equated to reduced groundwater decline rates and an extended aquifer economic life, and then methods of reaching those goals. I wonder what message everyone will take away from this process if it ceases making progress, or, fails altogether? Will the legislature and others be obliged re-think local control once again?

But let's step back 35 years as local GMDs were being considered by the legislature. If their intent back then was pure local control, then the state should stand back and let the local process go wherever it's going to go. If not, then the locals need to realize that poor or disingenuous decisions will eventually have political consequences regardless of any resulting social consequences. It's also possible that whatever the original intent was, it has changed since originally stated.

I guess my point is that "local control" may always be a moving target, but, one the Legislature can pin down at any time - any way they want to. Normally, local responsibility is a prerequisite for local authority. Just a guess, but we should probably assume the same with local groundwater management authority. If we do, then as we continue our local management in GMD 4 we should look to prove that our local authority is deserved.