

35th ANNUAL MEETING SET

The 35th annual meeting of the Northwest Kansas Groundwater Management District is set for:

Wednesday, February 17, 2010
Hoxie, KS; 1:30 P.M.
Hoxie Elks Lodge.

The agenda will include: Approval of the 34th annual meeting minutes; reports on the district finances, the 2009 Audit and last year's activities; an open session for comments/questions/suggestions; election of board positions for Sheridan, Graham, Logan and Gove Counties; and whatever else comes up. The positions up for election will remain open until balloting to accommodate nominations from the floor, so a complete listing of candidates cannot be provided for this article.

If interested in running for the board, a nominating petition should be completed and submitted to the office no later than February 15th. Petitions are available from the office, or on the district's website at: www.gmd4.org/Forms/forms.htm. Candidates can also be nominated from the floor of the annual meeting if they receive two seconds and are present and accept.

GMD 4 WEB PAGE UPDATED

We try hard to keep the web page up to date so everything you need to know about the district and what is going on is instantly at your fingertips. The new, 2009 web page stats are now posted, as well as the latest info on the upcoming annual meeting. If there is anything you need that you can't find on the web site, or, if you'd simply rather not use the web, give us a call or drop a postcard.

GENERAL REMINDERS:

- ♦ Plan on operating within your water right(s) all the time
- ♦ GMD 4 Board Meetings are open meetings
- ♦ Control all irrigation tail water on your authorized acres
- ♦ Metered water use must be reported annually

HPA UPDATES

The High Priority Area (HPA) effort involves 6 HPA areas designated within GMD 4 based primarily on historical decline rates and water use density as a surrogate for potential to decline. In each area, the goal is to openly discuss the groundwater situation and ask the stakeholders to consider ways to slow the current decline rate – thus extending the economic life of the local aquifer. This is largely the objective of the State Water Plan for the High plains Aquifer.

The process has been through public meetings in each HPA with the stakeholders invited to participate. So far at least two meetings have been held in each area and some have had three. The discussion points (comments and questions) have been captured and are posted on the GMD 4 website under the Enhanced Management page.

At this time, four of the HPA's are still engaged in the discussions, while the remaining two are showing a much lower level of interest. In the end, the GMD board will need to make the final decision for all six HPA's on what is to be done.

The board has everything arranged so that all local, state and federal assistance programs (such as WTAP, AWEP, EQIP) are targeted on these six HPAs. The thought was that each program was part of the solution to reducing water use and slowing the decline rates. The problems are getting and maintaining access to these programs. The federal AWEP program looks like the best bet at this point, but we were unsuccessful in the 2009 program. The next series of HPA meetings will focus on the local interest in AWEP.

STATE AND LOCAL ONLINE RESOURCES OF INTEREST

- Water Rights information: <http://hercules.kgs.ku.edu/geohydro/wimas/index.cfm>
Well Completion Records: <http://magellan.kgs.ku.edu/WaterWell/index.html>
Water Level Data: <http://www.kgs.ku.edu/Magellan/WaterLevels/index.html>
GMD 4 Webpage: <http://www.gmd4.org>
Abandoned Well Plugging: <http://www.oznet.ksu.edu/kelp/WhatsNew.htm>

STATE ENGINEER BARFIELD MEETS WITH BOARD

On January 14, chief engineer David Barfield met with the district board to discuss current issues and to foster the best working relationship possible between ourselves. The GMD board appreciates very much these opportunities to dialog face-to-face. Some of the issues discussed were:

1) Republican River Compact: Since still in litigation, David's comments were restricted to an update of the compact. The 2002 settlement required formal accounting under the new procedures to begin in 2006. In 2008 Kansas claimed that Nebraska had overused its allocation in both 2006 and 2007 by a total of 79,100 AF, and requested monetary payment based on the gains Nebraska made by using Kansas' water - \$72,365,133.00. Nebraska disagreed, so the issue went to arbitration. The arbitrator's report contained a number of decisions and recommendations - some of which each state disagreed with. It appears this issue is headed back to arbitration again. DWR maintains an excellent set of information on this issue on their web site at: http://www.ksda.gov/interstate_water_issues/

2) Proposed GMD 4 Regulations: GMD 4 is working on 3 new regulations at this time which are new concepts. 1) redefining the state's definition of "base acres" to be the lesser of the current definition or the acres more recently irrigated; 2) allowing the district, via an order by the chief engineer, to mandate multi-year allocations in any HPA for conservation purposes; and 3) allowing the GMD board to mandate water conservation in the HPAs under certain conditions. Basically, these new ideas had the support of the chief engineer so long as they included sufficient process to insure protection of the rights of everyone involved.

3) Future Water Rights Conservation Program: While WRCP was eliminated as of December 31, 2009, the chief engineer indicated his non-opposition to the development of a replacement program as long as all stakeholders are involved, the funding issue is resolved, there is agreement on a term limitation for program enrollees, and the issue of real conservation is addressed.

Part of the discussion focused also on the larger picture. Once again the board heard the state's position as – the GMDs are in now the lead with respectable authorities, but unless they are making progress, they cannot expect to retain this position. While sobering to hear from the chief engineer, he also pledged his support to work effectively with the GMDs to get on with the business of responsible groundwater management. All in all, a very good session. The GMD 4 board hopes the chief engineer went away with a sense of progress.

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2009 WATER USE REPORTS DUE

DWR has mailed water use report forms to water users during the week of January 4, 2010. Reports reflecting water use during 2009 (total water use from January 1 to December 31, 2009), must be returned to the office of the chief engineer by **March 1, 2010**. As in years past, administrative fines will be levied against folks who fail to file, and, against those who file late. Make sure you get your report in on time and that you report meter readings.

Staff here in the GMD 4 office and at DWR (either the field office or headquarters) will be available to help if there are questions or problems. A fact sheet on this issue is also available with general information about the water use reporting system on the DWR website in their document center. Finally, everyone hoped to have an on-line water use report filing system up and running this year, but budget and staff cuts within DWR has placed this effort on the far back burner.

KWO CLIMATE & WATER FORUM

February 4, 2010 in Hays, KS the KWO and others will present a 1-day forum on Climate and Water at the Ag Research Center, 1232 240th Ave. The session begins at 8:30 A.M. and concludes at 3:30 P.M. and will focus on ag water issues. More info: www.kwo.org. Registration is \$10 (covering lunch). A like forum will be held in Wichita on February 3, but will focus more on municipal water. This is the 3rd public policy forum hosted by the KWO. For more info: visit http://www.kwo.org/BACs/bac_energy_and_water.htm or contact the Kansas Water Office at (785) 296-3185, or this GMD office.

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 for State holidays.

DIRECTORS: Roger Zwegardt - St Francis, CN Cty; Monty Biggs - Atwood, RA/DC Cty; Jeff Deeds - Secretary, 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; Brent Rogers - Hoxie, SD Cty; Doug David - Hill City, GH Cty; Scott Maurath - President, Oakley, LG Cty; Shane Mann - Quinter, GO Cty.

STAFF: Wayne Bossert - Manager; Ray Luhman - Assistant Manager; Dan Simmering - Field Technician; Rita Wade - Secretary/Receptionist; Ron Vignery - Attorney.

ADDRESS CORRECTIONS ARE APPRECIATED

THE NATURE OF A KANSAS WATER RIGHT

Authorized Place of Use

It likely cannot be stressed enough how important the "authorized place of use" is to a water right. I again urge everyone to pull out their water right(s) and double check the acres or land area that is authorized to have the water used on or applied to.

If the acres you are currently using water on are NOT part of the authorized place of use, that water use is illegal. The problems most often occur when physical changes are made in the water use without regard for how the original water right was approved. For irrigation, this might include changing the irrigations system to a pivot that lops over onto some acres that were not able to be flood irrigated and consequently were never originally covered. Feedlots that expand operations are another situation where this problem can occur.

If a water right's place of use does NOT include all the acres currently using the water, first and foremost this is an illegal use of the state's water. Secondly, not being faithful to the terms, conditions and limitations of the water right it can result in the water right being forfeited and dismissed, or the possibility of administrative fines. And lastly, some of these situations cannot be corrected in a manner the water right owner is going to be very happy about.

As new irrigation systems and any other operational changes are being contemplated under your water right, it is well worth the call to your local GMD or the Division of Water Resources to double check on the lands authorized. As this GMD does water rights work in NW Kansas we run into a few of these kinds of problems every year and again feel compelled to issue these warnings. This article was inspired by just such a case.

DWR TO HEAR REGULATIONS SOON

Several new regulations are being developed by the chief engineer, and after informal comments, will be headed to public hearing soon - likely mid April. They are briefly:

KAR 5-20-1 IGUCA Public Hearings. Proposes a dual hearing process in establishing any new IGUCA - first hearing by an independent hearing office who decides if the fundamental requisites have been met to warrant an IGUCA. The second hearing (held by the chief engineer if initial hearing finds it necessary) will focus on the technical issues and solutions.

KAR 5-20-2 IGUCA Review Process. Requires a review of all existing IGUCAs within 7 years of formation, and every 10 years thereafter. There is a process to review an IGUCA sooner (not less than 4 years) if the affected persons petition is successful. All options are available following the review - from making the IGUCA stronger or larger, to eliminating it.

KAR 5-7-1 Due and sufficient cause for nonuse. Adds 1 additional cause for nonuse: the well is in a formally closed area. It also requires that the well be kept in a functional condition - applying to all 11 causes.

KAR 5-4-1 Distribution of water when impairment occurs. This reg adds a lot of procedure to an impairment complaint. It differentiates between well-to-well and regional impairments; impairments inside and outside a GMD (allowing GMD involvement if inside); and groundwater vs surface water situations. In all groundwater cases it requires the complainant to have a technical well inspection done before the process continues - with concessions possible for domestic well owners. It also provides the chief engineer increased latitude in considering solutions.

If you have comments or questions about any of these proposed regulations, give us a call. BTW, the Legislature is considering law changes that will affect several of these regs, so stand by...

Pumping the Tailwater

By Wayne Bossert, GMD 4 Manager

A LITTLE BIT OF GROUNDWATER VARIETY

Yes, it's true, writer's block gets everyone sooner or later, so I'm going to ramble here a bit because I can't concentrate long enough right now to compose a coherent article. (Heck, half of you are probably thinking "Boy, do I have news for him!")

Anyway, nothing like the disaster in Haiti to jolt you back into reality if you seem to have forgotten about the real value of water. In day 3 of the ordeal one news source reported that water was the only viable form of currency in the city. Pretty powerful.

A few titles from our groundwater blog may be of interest to you: **NV - UT Agreement: Constitutional?** In light of Article 1, Section 10 of the US Constitution which seems to prohibit interstate compacts without congressional approval, I pose the question of whether an interstate agreement between Nevada and Utah which intends to allocate the groundwater of the shared Snake River Valley is legal without congressional consent.

Separation of Data and Policy is an article that asks if an on-going effort largely chaired by the United States Geological Survey (USGS) that may be promoting or supporting the policy question of sustainable water supplies - and if it is, is this an appropriate role for the USGS? Traditionally, scientific entities responsible for data are NOT involved at all in policy issues which are the responsibility of regulatory agencies.

The Right to Water covers the expanding worldwide debate over whether basic human needs for water (washing, cooking) should be a basic human right independent of any government or private management. The United Nations (UN) is driving this debate with their 2002 adoption of a resolution (General Comment 15).

Colorado Water Law is a book I have been making comments on as I read it chapter by chapter. Some of it applies generally to the prior appropriation system of water rights, but much of it is Colorado specific. An interesting read none-the-less.

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