

ATTACHMENT E

Board Guidelines for Appeals, Specialized Programs and Nonuse

LEMA Management Plan Proposal Within the Boundaries of the Western Kansas Groundwater Management District No. 1 For the Years 2015 through and including 2020 hereinafter referred to as GMD 1 LEMA

All quantities calculated for the following GMD 1 LEMA Guidelines are subject to review and approval by the GMD 1 Board of Directors.

Section A. Multi-Year Flex Account (MYFA) and K.A.R. 5 -5-11 Five Year Allocation Water Rights

The 6 Year LEMA Allocated Quantity shall not be exceeded by any specialized programs such as Multi-Year Flex Accounts and / or K.A.R. 5-5-11 Five Year Allocations.

Section B. Environmental Quality Incentives Program (EQIP), Conservation Reserve Program (CRP), Water Right Conservation Program (WRCP)

Owners of Water Rights enrolled and approved in governmental conservation programs during all or a portion of the 2008 through 2012 Years of Comparison for this 6 Year GMD 1 LEMA may appeal for and receive a LEMA Allocated Quantity using the procedure outlined below in “Section C. Other Nonuse”. Documentation must be provided as proof of enrollment and years of approved participation. If a water right’s Annual Authorized Quantity was reduced in order to be accepted into the governmental conservation program and if this reduction resulted in an actual reduction of water use during the Comparison Years of 2008 through 2012, some previous percentage of reduction may be considered by the GMD 1 Board of Directors in the calculated LEMA Allocated Quantity up to and including the 20% Conservation Factor amount. Reported use for years 2008 through 2012 in which the water right was not enrolled into the conservation program may be included in the 5 year average actual acre-feet pumped per actual acre irrigated.

Section C. Other Nonuse

If an owner has a water right and/or point of diversion with limited or no usage during the 2008 through 2012 Years of Comparison for this 6 Year GMD 1 LEMA, the owner may request a 6 year LEMA Allocation. The request must be a written request stating why the appeal should be considered and supported by any available documentation. If approved, the GMD 1 Board of Directors will assign an allocation comparable to neighboring points of diversion with similar conditions using the following information and procedures to determine an allocation:

1. **TOWNSHIP MAPS:** The Township Averages are based on Annual Water Use Reports submitted to the Kansas Department of Agriculture Division of Water Resources (DWR) during the same years as the Comparison Years of 2008, 2009, 2010, 2011 and 2012. The 6 year LEMA Allocated Quantity for nonuse during the Comparison Years will be calculated using Township Average information times the appealed water rights/point of diversions’ authorized acres. The numbers and procedures for this allocation are as follows:
 - a) **Actual acre-feet pumped per actual acre irrigated** for each point of diversion in the Township will be determined by following the same procedure as found in “Section III. Proposal A. 1 and 2”. The average of all the points of diversion in the Township will become the five year averaged annual Township Average actual acre-feet pumped per actual acre irrigated for the Township in which the appealed water right/point of diversion is located.
 - b) **Percent of authorized acres actually irrigated** in each Township will be determined using DWR information from water use reports for actual acres irrigated and from DWR’s authorized acres assigned

as part of the original water right. The average of all the points of diversion in the Township will become the five year averaged Annual Township Average Percent of Authorized Acres actually irrigated.

- c) **LEMA 6 Year Allocated Quantity** for the appealed water right/point of diversion will be determined by multiplying the annual Township Average actual acre feet pumped per actual acre irrigated, as determined in “Section C. 1 a)” above, times the appealed water right’s authorized acres, times the Township Average of Percent of Authorized Acres actually irrigated as determined in “Section C 1 b)” above, times six.
 - d) If the Water Right is on or near a Township Border, the two nearest Townships will be averaged.
 - e) GMD 1 will consider the Kansas Geological Survey saturated thickness maps for the location of the appealed water right/point of diversion to determine if the aquifer is similar for all included points of diversion.
 - f) Reported use for years 2008 through 2012, other than the years with limited or no use, may be included in the 5 year average actual acre feet pumped per actual acre irrigated.
2. If there is an insufficient number of points of diversion or very dissimilar conditions using the Township Maps, additional information may be considered such as the following:
- a) GMD 1 may evaluate points of diversion within various diameter circles in which the water right/point of diversion is the center, such as 2 mile or 5 mile to further define the allocation.
 - b) GMD 1 will make every effort to identify an area that has several similar points of diversion to get a representative average actual acre-feet pumped per actual acre irrigated.
 - c) GMD 1 will include all points of diversion within the area with similar hydrologic conditions.

Section D. Appeals Process

Information generated by the Kansas Geological Survey and the Division of Water Resources will be the official source of information for appeals. All GMD 1 LEMA appeals will be reviewed by the GMD 1 Board of Directors during a regularly scheduled GMD 1 Board Meeting with a quorum present. GMD 1 Board Meetings are held the third Tuesday of each month. Appointments for all appeal reviews should be made with the GMD 1 Staff two work weeks in advance of the regularly scheduled GMD 1 Board Meeting date. Copies of all documentation to be reviewed during the appeals review should be turned in to GMD 1 Staff at the time the appeal review is scheduled and will become the property of GMD 1. Unless an extension is necessary for additional accumulation of information, the GMD 1 Board of Directors will render a written decision within 45 days after the appeal review. Copies of the written decision will be distributed to the person making the appeal and to the Kansas Department of Agriculture Division of Water Resources Chief Engineer’s office.

Section E. Guidelines

The GMD 1 Board of Directors reserves the right to develop and refine these guidelines as this process goes forward and to add additional guidelines as needed to meet the GMD 1 LEMA goals as stated in Section II. Goal Expression. Any new or revised guidelines will be presented to the DWR for review before being adopted. The additional guidelines will be made available to the public on the GMD 1 website: www.gmd1.org.