

**Proposed GMD 1 Four County
LEMA
Frequently Asked Questions
May 19th & 20th, 2022**

Q: What is a LEMA?

A: A LEMA is an acronym for Local Enhanced Management Area. For a LEMA to be created, the board of a Groundwater Management District (GMD) must make a specific proposal to the Chief Engineer of the Division of Water Resources, State Board of Agriculture (DWR) for such an area. For the LEMA to become effective the Chief Engineer must approve the language after a process consisting of public hearings and DWR evaluations. If adopted, it becomes an order of the DWR. The ultimate goal of a LEMA is to address water level declines by reducing the amount of water used without causing significant economic effects. In 2012, the state's Groundwater Management District Act was amended to allow GMD's to allow LEMAs for adoption. Through the LEMA process, a GMD develops specific goals and "corrective controls" to accomplish the goal, of encouraging water conservation for the current and future benefits of the area. LEMAs typically include elements of flexibility in the use of allocations to reduce the impact of water use reductions, and is a 5-year program.

Q: How long has the GMD Board been developing this LEMA Plan?

A: Due to the significant, on-going groundwater level declines within the entire District, the GMD Board first began exploring a District-wide LEMA in 2013. GMD1 is currently the most de-watered District in the State. The Board also discussed a District-wide LEMA in 2018-19. In 2019, the Board decided to move forward first with the Wichita County LEMA to gain some experience with the LEMA process.

The Board's current work of developing this proposed LEMA Plan for the remaining four counties of the District began in November 2020. The LEMA work has been discussed at most of the Board's monthly meetings since that time, as well as multiple special meetings. Details of the Board's LEMA development have been shared at the 2021 and 2022 annual meetings.

Q: What is the Board seeking to accomplish with this LEMA? How did the Board get to its reduction goal?

A: After careful study, the Board decided to develop a LEMA reduction goal that would balance meeting today's needs, while taking a serious step to extend the water resources of the District. The Board reviewed current estimates of the Kansas Geological Survey (KGS) of the required reductions to stabilize groundwater levels, which range from 16% in Lane County to 46% in Wallace County, averaging 29% for the District. Ultimately the Board decided the LEMA's goal should reduce use by 10% from the 2011-2020 average.

Q: Why one LEMA rather than separate LEMAs in each of the counties?

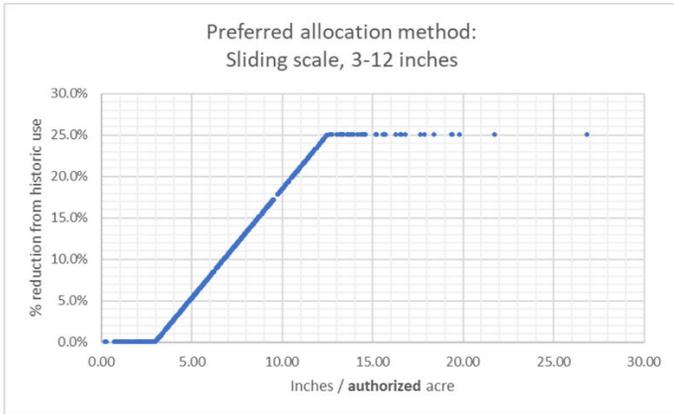
A: Early in its LEMA consideration, the Board reviewed hydrological information, principally from the KGS, that showed the diversity of hydrologic conditions in the district, with significant variability even within counties. The Board considered both LEMA plans for each individual county and the possibility of variations in LEMA provisions based on variations in hydrologic conditions.

Ultimately, the Board decided one LEMA for the remaining four counties as the best way to get started on a level of action needed throughout the District. The adoption of this proposed LEMA plan does not preclude future modifications to the LEMA plan to refine its requirements or even additional LEMA plans for specific areas.

Q: How are the allocations determined under the proposed LEMA?

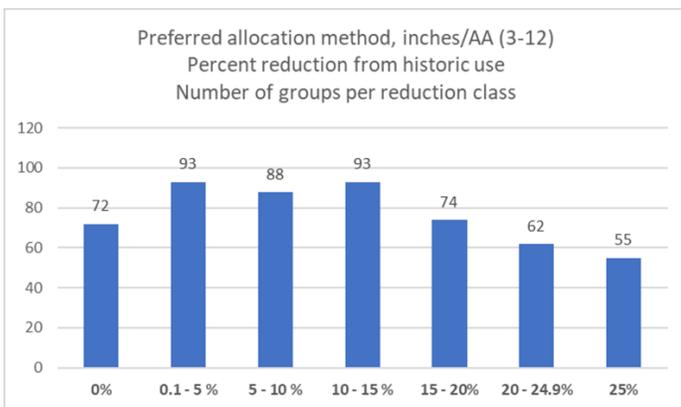
A: After exploring a host of options (see separate question below), the Board decided on an allocation method that makes reductions based on 2011-20 average use, with larger reductions for larger water-users and lesser reductions for smaller users. The required reductions are determined based on the average inches applied during 2011-20 on **authorized** acres. Years of no group use are excluded from averaging. When less than 3 inches per authorized acre was applied in 2011-2020, no reduction is required; where more than 12 inches per authorized acre was applied, a 25% reduction is required from historic use; in between 3 and 12 inches, the required reduction is based on a sliding scale between these values.

The Board desired to require almost all water-users to be part of the solution and to fairly distribute the required reductions. The specific sliding scale (seen below) selected by the Board requires 87% of waterusers to make reductions and limits the number of groups with the maximum required reductions of 25% to just 10% of those groups.



[footnote: The Board also looked at using the percent of authorized quantity used in 2011-20 as a basis to determine the percent reduction, which has similar results, but this method was not preferred as it created greater reductions to crippled or short water rights.]

The selected sliding scale also varies the required reductions much more than the Wichita County LEMA. The graph below shows the number of water right groups in various required reduction class (no reduction, 0.1-5% reduction, 5-10% reduction, etc.).



Q: Why aren't allocations based on a simpler method like inches / acre?

A: From the beginning, the Board desired to base allocations on a method different than the Wichita County LEMA (with its flat 25% reduction from historic use, except for those pumping less than 20% of their authorized quantity).

In March 2021, the Board reviewed a number of alternatives not dependent on historic water use as a basis of LEMA allocations including a percent of authorized quantity; inches on authorized acres; inches on the maximum acres of a recent period; and inches on the average acres of a recent period. After review of the results, the Board found all of these allocation methods to be unworkable.

As an example, the Board found to accomplish a wateruse reduction goal of 10% when creating allocations based on a percent of authorized quantity, it would require allocations to be based on approx. 35% of a water right group's authorized quantity. Similarly, for allocations based on inches per authorized acres, the allocations would be based on approximately 7 inches/authorized acre. Finally, for allocations based on inches per average reported acres, the allocations would be based on approximately 10 inches/average acre.

In each case, these allocation methods provided allocations beyond recent water-use to many (generally 40-50% of water right groups) requiring greater reductions from the rest to get to the desired overall reduction goal.

[Similarly, during the summer 2021, the Board looked at allocating water based on a maximum number of inches per recent average irrigated acre. To get to a 10% overall reduction, while constraining the analysis to ensure no water user's reduction was greater than 25%, we found that the maximum inches had to be limited to 11 inches/acre. Once again, this required those who irrigated at depth of greater than 11 inches/acre, to take a reduction and those who pumped at a lesser depth to take no reduction.]

This led the Board to examine multiple hybrid approaches, which bases allocations on historic use but varies the reduction based on a measure of the water rights use as a function of authorized quantity or acres.

Q: How are vested rights treated by the proposed LEMA?

A: A Vested Right is a Water Right which was put to beneficial use prior to June 28, 1945. Under Kansas law, they are afforded additional protection from regulation by the Chief Engineer. Thus, they will not be regulated by the proposed LEMA. Water users with vested rights are only required to operate according to the terms of their existing orders.

Where a Water Right Group has **both vested rights and appropriation rights**, the appropriation rights of the group will be provided an allocation based on reduction computed for the Group and the vested rights of the group will be able to operate without additional restrictions.

Q: What flexibilities does the LEMA propose?

A: Allocations are provided as blocks of **5-year allocations to Water Right Groups**. Water right groups are composed of all legally overlapped water rights (by point of diversion, place of use, or both). Thus, as long as individual water right annual authorized quantities and other conditions are met, water-users are free to use these 5-year allocations to their best advantage.

Q: Why aren't all water-users required to make a reduction? How are required reductions distributed among water right groups.

A: In the Wichita County LEMA, water-users who used less than 20% of their authorized quantity, 28% of water rights, were not required to reduce their use. In the proposed LEMA, the Board has sought to broaden the involvement of water-users but continues to have a floor for when reductions are required, in this case, when historic use is less than 3 inches per authorized acre. This is 13% of water right groups.

Q: What is the length of the LEMA? What will happen after that?

A: At this time, the Board is proposing at the LEMA period running from January 1, 2023 to December 31, 2027. If the Board takes no additional action, the LEMA and its restrictions will expire at the end of 2027. The LEMA Plan will include annual reviews and a process toward the end of the LEMA period to determine whether the LEMA should be renewed on the same or different terms. To continue past 2027, the GMD Board must go through another set of LEMA hearings.

Q: Does the LEMA make a permanent change in my water right?

A: No. While the LEMA will provide allocations that will reduce use for its 5-year period (2023-2027), it will not make any permanent changes to the underlying water right.

Q: How would the proposed LEMA affect non-irrigation water rights?

A: Like other LEMAs, non-irrigation uses, which make up a small percentage of the District's use, will not be regulated by the LEMA. The Plan will encourage these users to conserve water with specific suggestions by use made of water and the Board will annually review non-irrigation use.

Q: How will the LEMA treat fairly those whose historic use record includes water conservation?

A: State law requires that LEMAs whole allocations are based on historic water use must "give due consideration to past voluntary conservation" that has resulted in reduced use. After careful consideration, the Board has developed a tentative definition of conservation to guide this required consideration, as well as special provisions for the proposed appeals process. The Board has drafted robust, specific and yet flexible, guidance and methods in 4 broad classes. In the Base Method, that will be applicable to most situations, water-users will provide evidence of years of conservation, which will be removed from the water use averages used as a basis of determining allocations. For new owners/tenants/operators, there are two methods that generally use the new owner/tenants/operators records as the allocation basis and that make provisions when there are insufficient years. Finally the Board has outlined provisions for situations where the 2011-2020 has no water use for the water right group (see below). The LEMA appeal process will also allow the Board the ability to consider unique situations on a case-by-case basis.

Q: What about water rights who have not used water during the 2011-2020 period, but want to either re-start use or make the water right available to a new, small use?

A: The appeal process will have specific provision for water users who have made no use of water during the 2011-2020 and wish to reinstate their irrigation use or convert to a new, non-irrigation use.

Conversions to non-irrigation uses will not require an appeal, but will be handled through KDA-DWR's change application process. Reinstating irrigation from wells not used during the 2011-2020 period will generally require a pump test.

Q: How does the proposed LEMA compare with the existing Wichita County LEMA?

A: Like the Wichita County LEMA, the proposed LEMA envisions a 5-year length; would provide for 5-year allocations based on reductions to historic reported use; would provide allocations only to irrigation use; would exclude years of non-use from averaging to determine allocations; exempts vested rights; and includes a robust appeals process.

Significant differences include using a different water-use period as the basis of allocation (2011-2020); having more variability in required reductions via a sliding scale based on inches applied on authorized acres (rather than a flat reduction of 25%); providing allocations by water right group; and using a different (more generous) allocation to appropriative rights in groups with vested rights.

Q: How can I get more information to better understand and review the proposed allocation?

A: Contact the GMD 1 office at 620-872-5563 or at gmd1@wbsnet.org.

Q: What happens from here?

A: The Board plans to finalize its proposed LEMA plan based on additional public input by about July 1, 2022 and submit it to the Chief Engineer for the two required public hearings this summer and fall. If approved by the Chief Engineer, the LEMA Plan would be effective starting January 1, 2023.