BEFORE THE DIVISION OF WATER RESOURCES
KANSAS DEPARTMENT OF AGRICULTURE

In the Matter of the Proposed Wichita County Local Enhanced Management Area in Wichita County, Kansas	)	**001 – DWR LEMA - 2025**

FINDINGS AND ORDER IN THE MATTER OF THE PROPOSED WICHITA COUNTY LOCAL ENHANCED MANAGEMENT AREA MANAGEMENT PLAN

COMES NOW Earl D. Lewis Jr., P.E., Chief Engineer, Kansas Department of Agriculture, Division of Water Resources ("Chief Engineer") and enters the following Findings and Order in the matter of the Proposed Wichita County Local Enhanced Management Area Management Plan. In support of such Findings and Order, the Chief Engineer finds and orders as follows:

1. K.S.A. 82a-1041, a provision of the Kansas Groundwater Management District Act, provides, "(a) Whenever a groundwater management district recommends the approval of a local enhanced management plan within the district to address any of the conditions set forth in K.S.A. 82a-1036(a) through (d), and amendments thereto, the chief engineer shall review the local enhanced management plan submitted by the groundwater management district. The chief engineer's review shall be limited to whether the plan: (1) Proposes clear geographic boundaries; (2) pertains to an area wholly within the groundwater management district; (3) proposes goals and corrective control provisions as provided in subsection (f) adequate to meet the stated goals; (4) gives due consideration to water users who already have implemented reductions in water use resulting in voluntary conservation measures; (5) includes a compliance monitoring and enforcement element; and (6) is consistent with state law. If, based on such review, the chief engineer finds that the local enhanced management plan is acceptable for consideration, the chief engineer shall initiate, as soon as practicable thereafter, proceedings to designate a local enhanced management area."

2. The corrective controls provided in K.S.A. 82a-1041(f) include: "(1) Closing the local enhanced management area to any further appropriation of groundwater…; (2) determining the permissible total withdrawal of groundwater in the local enhanced management area each day, month or year…; (3) reducing the permissible withdrawal of groundwater by any one or more appropriators thereof, or by wells in the local enhanced management area; (4) requiring and specifying a system of rotation of groundwater use in the local enhanced management area; (5) allowing flexibility in the use of water rights, including, but not limited to, multi-year allocations and use in excess of a water right's annual authorized quantity in any given year so long as the overall use of water is reduced during the term of

the local enhanced management plan; or (6) any other provisions making such additional requirements as are necessary to protect the public interest.

3. Western Kansas Groundwater Management District Number 1 ("GMD1" or "the district") originally submitted its proposed Wichita County Local Enhanced Management Area Management Plan (Management Plan) to the Chief Engineer for consideration of renewal of the existing Wichita County Local Enhanced Management Area (LEMA) on October 1, 2025.

4. The Chief Engineer initially found that the Management Plan (1) proposed clear geographic boundaries; (2) pertained to an area wholly within the groundwater management district; (3) proposed goals and corrective control provisions as provided in subsection K.S.A. 82a-1041(f) adequate to meet the stated goals; (4) gave due consideration to water users who already have implemented reductions in water use resulting in voluntary conservation measures; (5) included a compliance monitoring and enforcement element; and (6) was consistent with state law and initiated proceedings to designate the proposed LEMA in accordance with K.S.A. 82a-1041. However, following the initial public hearing regarding the proposed Management Plan, the Chief Engineer returned the Management Plan to GMD1 and gave reasons for the return and provided the district with the opportunity to resubmit a revised plan for public hearing within 90 days of the return of the deficient plan in accordance with K.S.A. 82a-1041(d)(3).

5. The district did submit a revised management plan (Revised Management Plan) on May 29, 2026, and the Chief Engineer held a public hearing to consider the Revised Management Plan on October 12, 2026.

6. Following the October 12, 2026 public hearing, and upon full consideration of the Revised Management Plan and the entirety of the record in this matter, it is apparent to the Chief Engineer that neither the district's initial Management Plan submission nor its Revised Management Plan meet the threshold review criteria set out in K.S.A. 82a-1041 and that neither submission was properly acceptable for further consideration of the designation of a local enhanced management area.

7. The Chief Engineer finds that the Revised Management Plan does propose clear geographic boundaries, pertains to an area wholly within the groundwater management district; and does propose a goal. However, the Chief Engineer finds that the Revised Management Plan does not meet the rest of the threshold review criteria in K.S.A. 82a-1041.

8. The Revised Management Plan does not propose corrective controls adequate to meet the Revised Management Plan's stated goal, as follows:

    a. The goal of the Revised Management Plan is to "maintain stable water levels across the [Wichita County LEMA] consistent with the estimate by [the Kansas Geological Survey] of Q-stable pumping for the area..." Revised Management Plan at 6. However, the Management Plan allows diversions of a quantity of water significantly in excess of the groundwater withdrawal reductions that the Kansas Geological Survey [KGS] estimates are needed in order to reach Q-stable within the LEMA boundary, as the district's original Management Plan submission also did. The Revised Management Plan therefore facially allows diversions of groundwater in excess of the plan's stated goal, and the corrective controls purportedly imposed by the Management Plan are not adequate to meet the plan's stated goal.

    b. The Chief Engineer also finds that the corrective controls proposed by the Revised Management Plan are not adequate to meet the Revised Management Plan's stated goals because the Revised Management Plan allows the water quantity allocations purportedly assigned by the Revised Management Plan to be appealed for the entire duration of the LEMA term. The Revised Management Plan therefore effectively does not fix water quantity limitations during the LEMA term at all, and the reduced withdrawals purportedly imposed by the Revised Management Plan are therefore ineffective and inadequate as a corrective control to achieve the Management Plan's stated goal. The district's original Management Plan submission also contained an unlimited appeal period and so was also deficient in this regard.

    c. Any other corrective controls provided for in K.S.A. 82a-1041(f) that the Revised Management Plan could purport to impose similarly do nothing to limit the Revised Management Plan's allocations to its stated withdrawal goal or to fix groundwater withdrawal limitations during the LEMA term. They therefore do not allow the Revised Management Plan to overcome its failure to establish corrective control provisions adequate to meet the Revised Management Plan's stated goal.

9. The Chief Engineer finds that the Revised Management Plan does not give due consideration to water users who already have implemented reductions in water use resulting in voluntary conservation measures, as follows:

    a. The Revised Management Plan establishes LEMA allocations based on the percentage of its authorized quantity that a given water right has used on average

during the time period 2009-2015 but makes no distinction between cases of past voluntary conservation and cases where lower water use was involuntary and was due to a loss of aquifer storage. Public hearing testimony indicated lower water use because of a loss of aquifer storage is common in Wichita County. Thus, the Revised Management Plan facially fails to give due consideration for past voluntary conservation in the establishment of water quantity allocations in the first instance.

The Revised Management Plan purports to give due consideration for past voluntary conservation via its appeal provisions, but those provisions are wholly undermined insofar as it relates to meeting the statutory requirement to give due consideration to past voluntary conservation by the language that provides that "any appeal...must demonstrate that the relief requested by the appeal is needed to prevent undue economic hardships." Revised Management Plan at 15. K.S.A. 82a-1041 requires a LEMA plan to give due consideration for past conservation. This requirement is not dependent on the effect, economic or otherwise, that that conservation had on the water right owner who undertook it. By conditioning all appeals, and therefore any right to obtain due consideration for past voluntary conservation, on a showing of undue economic hardship, the Revised Management Plan fails to give due consideration for past voluntary conservation as required by K.S.A. 82a-1041.

10. The Chief Engineer finds that while the Revised Management Plan purports to include a compliance monitoring and enforcement element by way of its provisions regarding "violations" and "metering and monitoring," the fact that the Revised Management Plan facially sets allocations that exceed its stated goal and the Revised Management Plan's failure to actually fix water quantity allocations during the LEMA term renders any purported monitoring and enforcement element functionally inoperative.

11. The Chief Engineer finds the Revised Management Plan is inconsistent with State law. K.S.A. 82a-1044 requires that Kansas groundwater management districts "reasonably address" groundwater declines in the areas of each district where the estimated usable lifetime of groundwater is 50 years or less and vests the Chief Engineer with the responsibility and discretion to determine whether each district has done so. There was a LEMA in effect in Wichita County as of the effective date of K.S.A. 82a-1044, and GMD1 was therefore not required to submit an action plan in accordance with the statute. However, KGS data shows that the usable life of the aquifer within most of Wichita County is 50 years or less, and, as set out herein, the Revised Management Plan does not reasonably address groundwater level declines in Wichita County.

To the contrary, the Revised Management Plan lays out a vision of continued groundwater declines in the areas of Wichita County where meaningful water conservation would provide the most benefit. By establishing its purported allocations based on the recent past use of individual water rights, the Revised Management Plan assigns higher allocations to water rights in areas of the aquifer where water can still be pumped at a higher rate and assigns smaller allocations in areas where pumping rates have waned due to aquifer declines, thus allowing continued depletion of the still-productive portions of the aquifer in Wichita County. The Management Plan therefore does not reasonably address groundwater level declines within Wichita County as required by K.S.A. 82a-1044 and is inconsistent with state law.

12. The Chief Engineer finds that the Revised Management Plan does not propose corrective control provisions as provided for in K.S.A. 82a-1041(f) adequate to meet the Revised Management Plan's stated goal, does not give due consideration to water users who already have implemented reductions in water use resulting in voluntary conservation measures, does not include an effective compliance monitoring and enforcement element, and is not consistent with state law. Based on such findings, the Revised Management Plan is not acceptable for further consideration, and the Chief Engineer will not designate the Wichita County LEMA as proposed.

13. To the extent such a finding is necessary, the Chief Engineer also finds that the Revised Management Plan is inadequate to address declining groundwater levels in Wichita County, for all the reasons set out herein. KGS data indicates the Ogallala High Plains Aquifer is at minimum thresholds across much of Wichita County, and, as discussed, the Revised Management Plan does not fix groundwater withdrawals to its stated goal and will enable the still-productive portions of the aquifer to be further depleted.

IT IS SO ORDERED THIS 20TH DAY OF NOVEMBER 2026.

Earl D. Lewis Jr., P.E.
Chief Engineer
Kansas Department of Agriculture,
Division of Water Resources

RIGHT TO PETITION FOR ADMINISTRATIVE REVIEW

If you are aggrieved by this Order, then pursuant to K.S.A 82a-1901(c), you may petition for administrative review of the Order by the Secretary of Agriculture. A petition for review shall be in writing and state the basis for requesting administrative review. The request for review may be denied if the request fails to clearly establish factual or legal issues for review. See K.S.A. 77-527.

The petition must be filed within 30 days after service of this Order as provided in K.S.A. 77-531, and be filed with the Secretary of Agriculture, Attn: Legal Division, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, or by FAX (785) 564-6777.

If no petition for administrative review is filed as set forth above, then this Order shall be effective and shall, without further notice, become a final order. Failure to timely request administrative review may preclude further judicial review under the Kansas Judicial Review Act.

CERTIFICATE OF SERVICE

I certify that on November 20, 2026, a true and accurate copy of the foregoing Findings and Order was provided to the following:

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