

**WESTERN KANSAS GROUNDWATER MANAGEMENT DISTRICT NO. 1**

**BOARD OF DIRECTORS MEETING**

April 6, 2022

<u>TIME</u>	<u>AGENDA</u>	<u>ACTION REQUIRED</u>	<u>PAGE #</u>
8:00 a.m.	Call Meeting to Order		
	Approval of Agenda	X	1
	Approval of March 16, 2022 Board Minutes	X	2-6
	Financial and Treasurers Report	X	7-17
	Audit Report	X	
	<b>OLD BUSINESS:</b>		
	Fuel for plane		
	Review Lema Allocation Appeals:		
	Jerome & Mary Berning – WR #3065 & 2076	X	18-21
	Brand Bangerter – WR #8376 & 13531	X	22-27
	Beverly Neubaum – WR #3443	X	28-30
	Randal Biermann – WR #9588	X	31-33
	<b>NEW BUSINESS:</b>		
	Maggie Morrison	X	34
	Bob Hoeme	X	
	Visit to Hangar	X	
	Computer Issue	X	
	<b>Correspondence:</b>		
	<del>Joshua Goebel Letter from Ranger Feeders</del>		35
	Gillen's Farm Inc.		36
	GMD3	X	37
	Governor's Water Conference		38
	<b>Legislative Update</b>		
	Lema Work & Appeal Process	X	39-44
	County Meetings		
	DWR Report		
	KWO Report		
	Upper Smoky Regional Advisory Committee Report		
	Other		
	Public Comment		
	Executive Session		
	Meeting Adjourn		

*Mark Bellefleur Pres.*  
4/6/22

# WESTERN KANSAS GROUNDWATER MANAGEMENT DISTRICT NO.1

March 16, 2022 Board Meeting Minutes

## BOARD MEMBERS PRESENT

Mark Callender

~~Bob Hoeme~~ Steve Compton

Travis Weaver

Ray Smith

Brian Bauck

## BOARD MEMBERS ABSENT

## STAFF MEMBERS PRESENT FOR ALL OR A PORTION OF THE MEETING

Toni Palen – Administrative Assistant

## OTHER PEOPLE PRESENT FOR ALL OR A PORTION OF THE MEETING

Tom Adrian\*

Adrian & Pankratz Law Office

Mike Meyer

Division of Water Resources, Garden City Office

David Barfield\*

KWR Consulting

Austin  
Austin McCollough\*

Division of Water Resources

Keadron Pearson\*

Kansas Water Office

Katie Durham\*

WK Groundwater Management District No. 1 Manager

Gary Wilbur

\*Virtual Attendees

## CALL THE MEETING TO ORDER

The Western Kansas Groundwater Management District No.1 board meeting was called to order by President Mark Callender at 8:13 a.m. on March 16, 2022 at the District Office, Scott City.

## APPROVAL OF THE AGENDA

Ray Smith made a motion to approve the agenda as presented. Travis Weaver seconded the motion which passed unanimously.

## APPROVAL OF THE FEBRUARY 16, 2022 MINUTES

Brian Bauck stated Doug Mckinney was the incorrect name on February 16<sup>th</sup> meeting minutes under "other people present for all or a portion of the meeting". Correct name should have been Logan McKinney. Toni Palen will correct the February 16<sup>th</sup> minutes to reflect the correct name. Brian Bauch made a motion to approve the February 16, 2022 board meeting minutes with the exception of Toni correcting the name. Ray Smith seconded that motion which passed unanimously.

## FINANCIAL REPORT

Ray Smith questioned page 11, Western KS Weather Modification 2022 Budget report beneath 2022 Actual as of January 31, 2022 was for January 31, 2022 instead of February 28, 2022 as on other reports. Toni replied she would check with Renee Cure our CPA on this and show corrected budget at next board meeting. Travis Weaver made a motion to approve the February 16, 2022 board meeting minute's contingent on Toni attaining corrected Modification Budget report through February 28, 2022 From Renee Cure at next board meeting on April 5, 2022. Brian Bauck seconded the motion which passed unanimously.

## OLD BUSINESS:

### CLARIFY FEBRUARY 16, 2022 FINANCIAL

Renee Cure, CPA requested that Toni Palen give an explanation for her at the board meeting that the 2022 Western KS GMD1 Water Conservation Budget on page 15 for \$153,639.17 for "unencumbered cash" in the February 16, 2022 minutes was an incorrect amount, which was just an oversight on her part. She attached the corrected 2022 Western KS GMD1 Water Conservation Budget on page 16 which has the correct amount of \$129,189.17 for "unencumbered cash". Also, Toni Palen presented clarifications from last month's financials that Ray Smith requested on page 17 that shows a deposit made for \$6,040.00, and fuel/oil expense for

\$334.61. Toni presented on page 19 a bill on December 16, 2021 to North American Weather Consultants in the amount of \$6040.00 for flares that were sold by GMD1 which explains the deposit that was received in January 2022. On page 18 is a receipt showing aviation gas purchased for \$334.61 on December 4, 2021 which explains the expense of fuel questioned. The board questioned why the plane would be fueled on December 4, 2022. Mark Callender stated he would call Kyle Spencer to inquire about the bill and update them at next meeting.

At this time, Mark Callender welcomed Katie Durham, the Districts new Manager, stating she would be on zoom for a few hours and starting her employment on April 4<sup>th</sup>.

#### **TOOLS IN HANGAR**

Last month Kyle Spencer offered \$2500 for all the tools in the hangar and the board tabled it for this meeting in hopes of all board members meeting at hangar to inspect tools which didn't happen. Mark Callender stated that he and Pat Ryan inspected items and there were a lot of miscellaneous tools and 4-5 compressors. Mark stated he was satisfied with the amount Kyle Spencer was offering after what he and Pat Ryan observed at the hangar. After discussion, Travis Weaver made a motion to approve to sell the tools in the hangar to Kyle for \$2500.00 based on Mark and Pat's observation. Brian Bauck seconded the motion. Motion was passed unanimously.

#### **REVIEW LEMA ALLOCATION APPEALS**

**Doug McKinney WR #3815** - Mike Meyers explained the request was to have an official review of the annual water use report for calendar year 2013 stating it was incorrect. After DWR reviewed the report they determined it was correct, therefore the appeal was denied. A letter from DWR had been sent to inform owners and there has been no response from them. The board was satisfied and no further action was taken.

**Brad Bangerter WR #8376, 13531** – The board discussed this appeal with Tom Adrian, the GMD1's legal advisor who recommended to the board to have all signatures from all landowners before approving this appeal. After the board discussed this appeal they decided to have a letter written to Mr. Bangerter from GMD1 stating we would approve the appeal if and when he can successfully acquire the other owner's signatures.

**Brian Bauck WR #17411** – Mike Meyers stated after review of the official water use report and back up records provided which indicated that the water use reported for calendar years 2012-2015 were incorrect, therefore DWR made the corrected adjustments to the official water use report and to the WHCL allocation. After the board discussed this, Travis Weaver made a motion to approve the appeal. Ray Smith seconded the motion which passed unanimously.

#### **NEW BUSINESS:**

##### **NEW LEMA APPEALS**

**JCI Farms LLC WR #8922, 3094, 17612, 2655, 4801, 19704** – These appeals were on the historical water usage for specific years on each one between the years of 2009-2015. The board reviewed each Lema Allocation Appeal for all the water right numbers separately. After discussing each one, Travis Weaver made a motion to approve each appeal listed. Ray Smith seconded the motion which was passed unanimously.

**Jerome & Mary Berning - WR #3065, 2776** – These appeals were on the historical water usage for 2009-2011 on both water right numbers. After discussion and viewing the Lema Allocation Appeals listed, the board of directors suggested to write a letter asking for Mary Berning's signature as she is listed as owner and ask for more history to be filled out on application before a decision can be made. Toni Palen will send letter and put this on the next board meeting agenda when we receive the corrected information.

**Gillens Farms – WR #23364, 10233** – No issues or concerns from the board on these Lema Appeal applications. Travis Weaver made a motion to approve the appeals on both water right numbers. Ray Smith seconded the motion which passed unanimously.

**Beverly Neubaun – WR #3443** – This appeal was filed for consideration of previous voluntary conservation measures already being made. Years being appealed are 2009-2011. The board reviewed the appeal and are

willing to approve it contingent upon getting Sharilyn Kawa's signature as she is showing as owner also. The board agreed to write a letter to her and table this appeal until we receive her signature.

**Craig Meyers – WR #1358** – This appeal is claiming they were not owners during the allocation years 2009-2015. However, the owner has shared water rights with Larry and Linda Ayers and they are refusing to sign the Lema Allocation Appeal Application. The board discussed this and are willing to approve if they can acquire the other owners signatures.

**Randall Biermann – WR #9588** – This appeal is due to consideration of previous voluntary conservation measures. History was shown on application of conservation efforts but not completely filled out. The board decided to table this appeal until we receive more history and a signature from Teresa Biermann who also shows as owner.

**Lane County Feeders – File No. 20219090** - This was an application for a term permit application to appropriate water for beneficial use. Mike Meyer stated they filed a lot of applications to convert from irrigation to stock water in 2020. He said they have not made all the conversions yet to stock water but are still in compliance for irrigation in 2021. Mike stated they reduced the allocation in 2020. Now it's going to be used for stock water and irrigation which is called a dual use well. They are in the middle of the transition for now. Mike said this meets all the requirements and therefore they will continue to process this and would appreciate the board's approval. Ray Smith made a motion to approve the application. Travis Weaver seconded which passed unanimously.

**Lane County Feeders – File No. 20219073** - Mike Meyers stated this term permit is basically the same as the one above. They were still irrigating in 2021 but in the process of going to strictly stock water. Lane County Feeders bought some wells on north side of Premier Court Facility and stacked them on top of an irrigation well that has not been converted to stock water use yet. Mike stated they are needing spacing between the wells waived for this temporarily authority for 2021. Mike explained that the board would have made that motion to wave that spacing back in 2020. Now Lane County Feeders is coming back and saying they need extra authority for this well while they change it over to stock water use. Steve Compton asked Mike what the standard reduction was from going from irrigation to stock water. Mike replied it would be around 19% for that county. Every county has a different number they go by. Mike gave a detailed explanation of how those numbers are determined. Steve asked if the Lema would then apply to this once it's changed to stock water. Mike replied that Lema only applies to irrigation at this time. Steve questioned if the Lema was in place and someone wanted to switch from irrigation to stock water, how that would be determined. Mike stated it would be the stricter number of the two. After more discussion about the Lema, Travis Weaver made a motion to waive the spacing on file no. 20219073. Brian Bauck seconded the motion which passed unanimously.

**Gary Wilbur – Application for approval to change the place of use** – Gary Wilbur would like to move his well one half mile from current location for better production. Mike Meyer stated that our regulations say that we do not go over a quarter of a mile. The board discussed this with Gary Wilbur and came up with four reasons this would be acceptable to move. 1) Better spacing, 2) helping out the feed yard, 3) better water quality, 4) get away from the lagoon water. Ray Smith made a motion to approve the waiver to move his well stating the four reasons mentioned. Travis Weaver seconded the motion which passed unanimously.

**COST SHARE APPLICATIONS** – There were four cost share applications. Toni Palen explained that the new owners will not be in effect until April 1, 2022 and wanted to know if the board wanted her to pay for these now or wait until April 1<sup>st</sup>. The board viewed the documents. The consensus was to wait until ownership took place before issuing checks. Steve Compton suggested to Toni that she write letters to the producers when we pay these as a curtesy. Travis made a motion to approve paying the cost shares contingent on receiving the deeds showing new ownership. Brian Bauck seconded the motion which passed unanimously.

**LEGISLATIVE UPDATE** – Mark Callender asked Tom Aidren to give an update on the Mega Bill and the two bills out of the senate. Tom replied that the two most recent bills as of a week ago didn't have much strength. Tom stated they were designed to allow cities to opt out of the ground water district and other things that would be detrimental particularly for GMD2. Tom stated the Mega Bill has had most of the GMD's issues taken out of it. He commented on the reporting of financial issues was the only thing remaining that we

already do. Also, stating that the question that remains is if there would be an audit report provided that met with Gap which no cities or counties are doing anymore. David Bartfield joined the meeting and gave a more detailed report on the bills, but similar to Toms.

**LEMA WORK & APPEAL PROCESS** – David Barfield went over the Lema Allocation Appeals process that he and Kyle Spencer worked on last November 2021. David drew attention to the purpose of the appeal process, water use variability and summarized the Wichita county lema appeal results. Next, he went over the procedures that we may want to reconsider and why it is different for Wichita County. Then, he spoke about the data that was collected from some of the board members. Collected was estimates of current pumping rates so he could start working on some analysis of how the appeal procedure would work. David gave an example of when more water use is granted on an appeal, it will always lead to higher allocations. Travis Weaver mentioned that he disagreed with the process giving an example of having to take a pump test in 2023 that he would have to insert under the 2011 allocation saying these numbers would be very different. Also stating a well won't pump the same amount in 2023 what it did in 2011. Travis questioned why we going after the guys that are appealing their wells and letting the other guys slide? David Bartfield explained that people can appeal years that they want to. David stated that he and Travis have been discussing his concerns over the past few days. David agreed with Travis that a pump test today would have a lesser amount then back in 2011. David explained that he thinks the people ought to be able to choose the years they want to appeal by reason. The board discussed different reasons and history of the appeals. David moved on to share his Lema allocation appeals showing options 1-8 of the lesser of days of pumping or the NIR volume. Option 1 is what is being done in Wichita County. David stated that NIR's range between 13.7 inches in Lane County and up to 14.4 inches in Greeley County. Also stating those values are based on 1970's technology/efficiencies. Next, David went over basic observations from data sorted by rate. Ray Smith asked where he came up with these numbers. David responded it was off the pumping rates he had gathered from some of the board members and summarized it under that population. Steve Compton questioned David stating on the 500 plus bigger wells, grant it they are bigger wells because they are in a lesser of a water issue in those areas. However, your smaller wells are in an area that are depleting at a higher rate. So are we penalizing the guys for having the bigger wells that are in an area with bigger water, then we are the little guys that are pumping all the time to get as much as they can and they are not shutting them down as quickly as the bigger guys do? David explained how the ratio would work for everyone and to be as fair as we could. Next David went on to explain the Lema appeal replacement options, analysis procedures noting the NIR limits are done by group, not by point of diversion. David shared a graph showing increases in AF from replacement from rate, number of days NOT limited by NIR and another one limited by NIR. The non NIR limited options, there is a significant increase in replacement values as pumping rate and number of days increase. For the NIR limited option, increases are much less with modest increase based on number of days. Travis Weaver gave an example of his water at 3,745 gallon per minute which figures 2,482 acre feet based on a 150 days. So if you take the 2,482 acre feet and he gets reduced back to NIR in his group, he is stating he is going to take a 19.4% cut with just the NIR. Then the NIR is 14.5 acre inches so he would take another 25% cut which comes to 44.4% decrease. Travis also pointed out that all our propaganda and what we proposed at our annual meeting was that a maximum reduction of a 25% cap per average use greater than 12 inches per authorized acre is a false statement. Travis continued saying that anyone with big wells is going to have this kind of problem. The board discussed this and acknowledged the fact there are some issues but it is a big jump from how the lema is set up in Wichita County. The board had conversation about the information shown and presented as above. Afterwards, they were able to agree that David should work on a sliding scale and work with Travis Weaver to see what it would look like for his water use. Steve Compton mentioned that the NIR complicates things and should get rid of it. Mark Callender said he agreed. David stated we need to figure out if we want to have something in place for the county meetings. Steve Compton stated that he thought we need to have things figured out before the meetings. Ray Smith agreed and stated they need to have numbers to the landowners that show what their allocation is going to look like so they can think about it and run their numbers before the county meetings. Tom stated that he had several people come up to him at the annual meeting and state they are for the Lema and hoping we get something done. David Bartfield brought

up that the District needs to do a brochure and communicate better. Mark Callender stated he thought we would do something like that before the county meetings.

**OFFICER ELECTION** – Ray Smith made a motion to elect Mark Callender for President. Travis Weaver seconded the motion which passed unanimously. Ray Smith made a motion to elect Travis Weaver to be Vice President. Brian Bauck seconded the motion which passed unanimously. Ray Smith made a motion to elect Steve Compton as Secretary. Travis Weaver seconded the motion which passed unanimously.

**UPDATE BANK SIGNATURE CARDS** – Ray Smith made a motion to add Katie Durham and Steve Compton, and to take Mark Callender off of the First National Bank in Dighton, KS. Brian Bauck seconded the motion which passed unanimously. Brian Bauck made a motion to take Maggie Morrison and Bob Hoeme off of the First National Bank in Scott City, KS and add Katie Durham, Steve Compton, and Toni Palen to bank account. Mark seconded the motion which passed unanimously. Ray Smith made a motion to add Katie Durham and Steve Compton to the Security State Bank in Scott City, KS and take off Mark Callender. Travis Weaver seconded the motion which passed unanimously. Toni Palen was asked to go over how we pay bills with the board by Mark Callender. She stated every bill has 2 different initials on them and there are 2 signatures on all checks from our bank accounts.

**DWR REPORT** – Mike Meyer stated water season reports are over 89% completed. They will start going after the late ones that haven't been completed. He stated they are trying to get a lot of field work in now that the weather is good and visiting a lot of feed yards. Mark Callender stated he had attended the GMD3 annual meeting last week. He stated they are just doing conservation measures and no Lema's.

**KWO REPORT** – Keadron Pearson stated that the next board meeting is on April 5, 2022 at the Upper Smoky Hill by virtual. Keadron stated there will be no water authority meeting this month. Next meeting is on April 20<sup>th</sup>. Keadron shared that they hired Weston McCary who was the West Tech Water Technology Coordinator in Goodland KS as he was an instructor for their Precision Ag Program. He will be taking on the position of Water Technology Coordinator with KWO.

**UPPER SMOKY REGIONAL ADVISORY COMMITTEE REPORT: NONE**

**OTHER: NONE**

**PUBLIC COMMENT: NONE**

**EXECUTIVE SESSIONS** – Ray Smith made a motion to go into executive session at 1:53 to discuss health insurance. Brian Bauck seconded the motion which passed unanimously. Travis Weaver made a motion at 1:56 to come out of executive session. Brian Bauck seconded the motion which passed unanimously. Brian Bauck made a motion to waive the 60 days on Health Insurance on Katie Durham. Travis Weaver seconded the motion which passed unanimously.

**CALENDAR**

Next board meeting is April 6, 2022 at 8:00 a.m. at the District Office.

**ADJOURN**

Brian Bauck made a motion to adjourn the meeting at 1:57 p.m. Travis Weaver seconded the motion which passed unanimously.

Respectfully Submitted:

  
Toni Palen, Administrative Assistant

Approved:

  
Mark Callender, President

Date: 4/6/22