

**BEFORE THE DIVISION OF WATER RESOURCES
KANSAS DEPARTMENT OF AGRICULTURE**

In the Matter of the Designation of the)
Four-County Local Enhanced Management Area)
in Wallace, Greeley, Scott, and Lane counties, Kansas)
Pursuant to K.S.A. 82a-1041.)
_____)

003 – DWR-LEMA – 2022

PREHEARING ORDER

COMES NOW, Earl D. Lewis, Chief Engineer, Division of Water Resources, Kansas Department of Agriculture (Chief Engineer), and issues this Prehearing Order for the initial public hearing regarding the designation of the Four-County Local Enhanced Management Area (LEMA) Management Plan, submitted to the Chief Engineer by Western Kansas Groundwater Management District No. 1 (GMD1).

1. On September 27, 2022, a prehearing conference regarding the initial public hearing to consider the designation of the Four-County LEMA was held via video conference.
2. The prehearing conference was presided over by the Chief Engineer, and the following parties were present:

Stephanie Kramer and Chris Beightel on behalf of the Chief Engineer;
Lane Letourneau and Mike Meyer on behalf of the Kansas Department of Agriculture,
Division of Water Resources (KDA-DWR); and
Thomas Adrian, Katie Durham, Toni Palen, David Barfield, Mark Callender, and Travis Weaver on behalf of GMD1.

THEREFORE, having considered all matters raised at the prehearing conference, the Chief Engineer hereby sets forth the following requirements for the initial public hearing regarding the designation of the Four-County LEMA:

1. The initial public hearing shall be conducted for the purpose of allowing the Chief Engineer to hear testimony and gather evidence relevant to his consideration of the criteria set forth in K.S.A. 82a-1041(b) and shall be held as provided for in the individual notices sent to each water right owner affected by the proposed LEMA and in the public notices that were published in the Kansas Register, the Scott County Record, The Western Times, and the Garden City Telegram.
2. The initial public hearing shall commence at 9:00 a.m. central time on October 17, 2022 at the William Carpenter Building at the Scott County Fairgrounds, 608 N. Fairground Road, Scott City, Kansas. A secondary location with virtual access to the initial public hearing shall also be available at Risen King Community Church, 504 Chesley Avenue, Weskan, Kansas. The initial public hearing shall continue as long as necessary for a full


disclosure of relevant facts to be obtained. If the Chief Engineer determines that a full disclosure of relevant facts cannot be obtained on October 17, 2022, the initial public hearing will be continued at a future date that allows adequate notice of the same to be given as required by K.S.A. 82a-1041.

3. The initial public hearing shall consist of two phases. The first phase shall be considered the formal phase of the initial public hearing. During this phase of the initial public hearing, those parties designated by the Chief Engineer to participate in the formal phases of the proceedings to consider the designation of the Four-County LEMA shall be allowed to present testimony, call witnesses, and cross-examine witnesses called by the other formal parties.
4. The rules of evidence will not be strictly adhered to in the formal phase of the initial public hearing. However, all cross-examinations conducted during the initial public hearing shall bear a reasonable relationship to the testimony provided. Additionally, the privileges listed in K.S.A. 60-426 through 60-436, and any other privileges recognized by law, shall be given effect during the formal phase of the initial public hearing, as the Chief Engineer determines reasonable.
5. All rules and procedures shall be applied by the Chief Engineer to provide all parties to these proceedings a reasonable opportunity to be heard and present evidence.
6. Subject to any future order of the Chief Engineer necessitated by the subsequent entry of any other formal parties into this matter, the following parties shall be considered participants in the formal phase of the initial hearing and shall present evidence and call witnesses in the order listed:
 - a. GMD1; and
 - b. KDA-DWR.
7. Any additional party wishing to intervene in this matter and participate as a formal party in any stage of the proceedings to consider the designation of the Four-County LEMA shall submit a request to do so to the Chief Engineer on or before October 7, 2022. Any request for intervention received after this date shall be considered but may be denied if the Chief Engineer determines that the burden of additional preparation placed on the other formal parties to the proceedings as a result of granting the request would be unreasonable. However, all parties not participating as formal parties to the proceedings shall still have the opportunity to provide oral and written testimony, including rebuttal testimony, in any informal phases of the proceedings.
8. All parties participating in the formal phase of the initial hearing shall provide the Chief Engineer and all other formal parties a list of witnesses and the topics of their testimony on or before October 11, 2022. Since the hearing date is quickly approaching and it is possible that additional parties may enter the case only shortly before that deadline, the Chief Engineer recognizes that all witnesses and exhibits may not be finalized by October 11, 2022. Therefore, each formal party shall provide a list of all speculative witnesses and

testimony topics to the other formal parties no later than October 11, 2022 and shall confirm such witnesses and testimony topics as soon as possible after that date.

9. Following the completion of the formal phase of the initial public hearing, the Chief Engineer shall preside over the informal phase of the initial public hearing. Anyone may present testimony during the informal phase of the initial public hearing, including all parties affected by the proposed LEMA management plan, all members of the public, and any other interested parties, people, or organizations. Questions asked of individuals providing informal testimony shall be limited to questions seeking to clarify information provided by the individual and shall not take the form of a cross-examination.
10. Written testimony provided by formal or informal parties may be submitted at the initial public hearing, at either the Scott City or Weskan location, or can be provided to the Chief Engineer in advance of the initial public hearing, by mail to: Four-County LEMA, c/o Ronda Hutton, 1320 Research Park Drive, Manhattan, Kansas 66502; by fax to (785) 564-6777; or by e-mail to ronda.hutton@ks.gov. Additionally, the record for the initial public hearing shall remain open until October 27, 2022, and written testimony, including rebuttal testimony, may also be submitted to the Chief Engineer as set forth above until that date. All such written testimony must be received or postmarked by October 27, 2022.
11. Following the close of the initial public hearing record, the Chief Engineer shall issue an order setting forth his findings as to the criteria set forth in K.S.A. 82a-1041(b). If those findings are favorable as to all such criteria, a subsequent public hearing to consider the designation of the Four-County LEMA will be scheduled and notice of such subsequent public hearing will be provided as required by K.S.A. 82a-1041.
12. Lane Letourneau, Mike Meyer, David Engelhaupt, and Elizabeth Hickman shall represent KDA-DWR throughout this matter and shall not consult with the Chief Engineer regarding this matter until its conclusion.
13. Chris Beightel shall remain available to consult with the Chief Engineer and shall not consult with Mr. Letourneau, Mr. Meyer, Mr. Engelhaupt, or Ms. Hickman regarding this matter until its conclusion.

IT IS SO ORDERED, THIS 29th DAY OF September 2022.



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

Prepared by:



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CERTIFICATE OF SERVICE

On this 29th day of September 2022, I hereby certify that a true and accurate copy of the foregoing Prehearing Order was sent by electronic mail to:

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