

**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. )

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003 – DWR-LEMA – 2022

**SECOND 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 second 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 January 18, 2023, a prehearing conference regarding the second 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 on behalf of the Chief Engineer;  
Mike Meyer on behalf of the Kansas Department of Agriculture, Division of Water Resources (KDA-DWR);  
Katie Durham, Thomas Adrian, Reece Hiebert, David Barfield, Mark Callender, Travis Weaver, and Brian Bauck on behalf of GMD1;  
Keadron Pearson on behalf of the Kansas Water Office; and  
observers Kevin Brooks, Jeanne Clawson, Mike Corn, Shelby Kellman, and Norma Gramzow.

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

1. The second public hearing shall be conducted for the purpose of allowing the Chief Engineer to hear testimony and gather evidence relevant to his consideration of whether the corrective controls proposed in the Four-County LEMA Management Plan should be accepted or rejected or if modifications to the plan should be proposed 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 notices that were published in the Kansas Register, the Scott County Record, The Western Times, and the Garden City Telegram.

2. The second public hearing shall commence at 10:00 a.m. central time on February 2, 2023 at the Western Kansas Child Advocacy Center, 212 E. 5th Street, Scott City, Kansas. The second 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 February 2, 2023, the second 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 second public hearing shall consist of two phases. The first phase shall be considered the formal phase of the second public hearing. During this phase of the second 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 second public hearing. However, all cross-examinations conducted during the second 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 second 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 second public hearing and shall present evidence and call witnesses in the order listed:
  - a. GMD1; and
  - b. KDA-DWR.
7. As set forth in the initial Prehearing Order in this matter, 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 was required to submit a request to do so to the Chief Engineer on or before October 7, 2022. The initial prehearing order stated that 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. 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 second public hearing shall provide the Chief Engineer and all other formal parties a list of witnesses and the topics of their

testimony on or before January 26, 2023. 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 January 26, 2023. Therefore, each formal party shall provide a list of all speculative witnesses and testimony topics to the other formal parties no later than January 26, 2023 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 second public hearing, the Chief Engineer shall preside over the informal phase of the second public hearing. Anyone may present testimony during the informal phase of the second 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 second public hearing or can be provided to the Chief Engineer in advance of the second 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](mailto:ronda.hutton@ks.gov). Additionally, the record for the second public hearing shall remain open until February 9, 2023, 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 February 9, 2023.
11. Following the close of the second public hearing record, the Chief Engineer shall issue an order setting forth his findings and his determination as to whether the corrective controls proposed in the LEMA management plan should be accepted or rejected or if modifications to the plan should be proposed.
12. As set forth in the initial Prehearing Order, Lane Letourneau, Mike Meyer, David Engelhaupt, and Elizabeth Hickman shall continue to represent KDA-DWR throughout this matter and shall not consult with the Chief Engineer regarding this matter until its conclusion. 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 24<sup>th</sup> DAY OF January 2023.



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 24<sup>th</sup> day of January 2023, I hereby certify that a true and accurate copy of the foregoing Second Prehearing Order was sent by electronic mail to:

Chris Beightel  
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Division of Water Resources  
1320 Research Park Drive  
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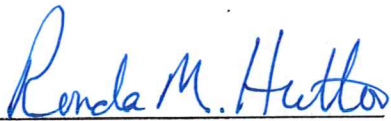
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DWR Staff