

**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) **003 – DWR-LEMA – 2022**
)
Pursuant to K.S.A. 82a-1041.)
_____)

ORDER OF DECISION ACCEPTING THE MANAGEMENT PLAN FOR THE FOUR-COUNTY LOCAL ENHANCED MANAGEMENT AREA

COMES NOW, Earl D. Lewis, P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture (“Chief Engineer”), who, having conducted a public hearing in Scott City, Kansas on February 2, 2023, hereby issues the following Order Of Decision accepting the management plan for the Four-County Local Enhanced Management Area (“Order”) previously submitted to the Chief Engineer by Western Kansas Groundwater Management District No. 1 (“GMD1”) pursuant to K.S.A. 82a-1041.

Within a reasonable time following the issuance of this Order, the Chief Engineer shall issue an Order of Designation that prescribes corrective control provisions under the Four-County Local Enhanced Management Area (“LEMA”) and makes findings and orders regarding other related matters.

I. PROCEDURAL BACKGROUND

1. On July 1, 2022, GMD1 submitted to the Kansas Department of Agriculture, Division of Water Resources (“DWR”) a formal request for the establishment of the Four-County LEMA within the boundaries of GMD1 in Wallace, Greeley, Scott, and Lane counties. GMD1’s request and the proposed Four-County LEMA Management Plan is made a part hereof and attached hereto as **Exhibit A**.
2. On August 4, 2022, the Chief Engineer reviewed GMD1’s proposal and found, pursuant to K.S.A. 82a-1041(a), that the Four-County LEMA Management Plan (“Plan”) proposed clear geographic boundaries, pertained to an area wholly within a groundwater management district, proposed appropriate goals and corrective control provisions to meet the stated goals, gave due consideration to existing conservation measures, included a compliance monitoring and enforcement element, and was consistent with state law. Accordingly, the Chief Engineer scheduled an initial public hearing to consider the designation of the proposed LEMA.
3. On September 27, 2022, the Chief Engineer held a prehearing conference to discuss with the parties procedural issues related to the initial public hearing required pursuant to K.S.A. 82a-1041(b).

4. On September 29, 2022, the Chief Engineer issued a Prehearing Order setting forth the date and requirements for the initial public hearing.
5. The initial public hearing was held on October 17, 2022 in Scott City, Kansas, and, on December 21, 2022, the Chief Engineer issued a Findings and Order Establishing the Initial Requirements for the Designation of a LEMA, which concluded that the proposed GMD1 Four-County LEMA satisfied the initial requirements necessary to continue the LEMA designation process and ordered that a second public hearing be conducted.
6. Pursuant to K.S.A. 82a-1041(b), timely notice of the second public hearing was mailed to each water right holder located within the proposed Four-County LEMA and published in local newspapers of general circulation and the Kansas Register. The public hearing was conducted by the Chief Engineer at 10:00 a.m. on February 2 in Scott City, Kansas. Oral testimony was accepted during the hearing. Written testimony was accepted in advance of the hearing and the record was held open until February 9, 2023, to allow for the submission of additional written testimony.
7. Based on all testimony and evidence entered into the record and applicable law, the Chief Engineer has considered whether the Four-County LEMA Management Plan was sufficient to address the relevant existing conditions set forth in K.S.A. 82a-1036(a)-(d) and has determined that the proposed Four-County LEMA Management Plan is sufficient to address the decline in groundwater levels in the area in question. The Chief Engineer therefore issues this Order of Decision as required by K.S.A. 82a-1041(d).

II. APPLICABLE LAW

1. The formation of a local enhanced management area is governed by K.S.A. 82a-1041 and K.A.R. 5-19-1 through 5-19-5. Pursuant to K.S.A. 82a-1041(a), when the Chief Engineer finds that a local enhanced management plan submitted by a groundwater management district is acceptable for consideration, then the Chief Engineer shall initiate proceedings to designate a local enhanced management area as soon as practicable.
2. Once the proceedings are initiated, pursuant to K.S.A. 82a-1041(b), the Chief Engineer shall hold an initial public hearing to resolve the following:
 - a. Whether one or more of the circumstances specified in K.S.A. 82a-1036(a) through (d), and amendments thereto, exist within the proposed LEMA boundary;
 - b. Whether the public interest of K.S.A. 82a-1020, and amendments thereto, requires that one or more corrective control provisions be adopted to address those circumstances; and
 - c. Whether the geographic boundaries of the proposed LEMA are reasonable.
3. K.S.A. 82a-1041(b) directs the Chief Engineer to conduct a subsequent hearing only if the initial public hearing is favorable on all three issues of fact and the expansion of geographic boundaries is not recommended.

4. K.S.A. 82a-1041(c) limits the subject of the subsequent hearing to the local enhanced management plan that the Chief Engineer previously reviewed and K.S.A.(d) requires the Chief Engineer to, within 120 days of the conclusion of the subsequent public hearing, issue an order of decision:
 - a. Accepting the local enhanced management plan as sufficient to address any of the conditions set forth in K.S.A. 82a-1036(a)-(d);
 - b. Rejecting the local enhanced management plan as insufficient to address any of the conditions set forth in K.S.A. 82a-1036(a)-(d);
 - c. Returning the local enhanced management plan to the groundwater management district, giving reasons for the return and providing the district with the opportunity to resubmit a revised plan for public hearing within 90 days of the return of the deficient plan; or
 - d. Returning the local enhanced management plan to the groundwater management district and proposing modifications to the plan, based on testimony at the hearing or hearings, that will improve the administration of the plan, but will not impose reductions in groundwater withdrawals that exceed those contained in the plan. If the groundwater management district approves of the modifications proposed by the chief engineer, the district shall notify the Chief Engineer within 90 days of receipt of return of the plan. Upon receipt of the groundwater management district's approval of the modifications, the chief engineer shall accept the modified local management plan. If the groundwater management district does not approve of the modifications proposed by the Chief Engineer, the local management plan shall not be accepted.
5. Pursuant to K.S.A. 82a-1041(e), if the Chief Engineer issues an order of decision, then an order of designation that designates the area in question as a local enhanced management area shall be issued within a reasonable time following issuance of the order of decision.
6. Pursuant to K.S.A. 82a-1041(f) and (g), the order of designation shall define the boundaries of the local enhanced management area and shall indicate the circumstances upon which the findings of the Chief Engineer are made. The order of designation may include the corrective control provisions set forth in the management plan and shall follow, insofar as may be reasonably done, the geographical boundaries recommended by the local enhanced management plan.

III. TESTIMONY

A. Testimony at Hearing

1. The record of the initial public hearing in this matter is hereby incorporated into the record for this second public hearing.
2. A summary of oral testimony offered at the second public hearing is as follows:
 - a. Katie Durham, Scott City, KS, Manager of GMD1 – Ms. Durham submitted written testimony on behalf of GMD1 prior to the hearing, provided oral testimony

during the hearing, and submitted additional testimony after the second public hearing. (*Written Testimony of the Western Kansas Groundwater Management District #1; Transcript¹ p.52-63; Supplemental Written Testimony of the Western Kansas Groundwater Management District #1*)

Ms. Durham testified that the Four-County LEMA management plan would preserve the High-Plains Aquifer for the future use of all; gave a brief overview of the initial hearing process and findings, noting that the favorable outcome of the initial public hearing had established the need for the proposed plan. Ms. Durham stated that the district worked diligently with stakeholders, the Kansas Geological Survey, KDA-DWR, and others over years of public and board meetings to develop the plan; and that ultimately the board decided that the reducing 10% from 2011-2020 water use was the most appropriate balance of meeting today's needs and extending the water resources of the district. (*Written Testimony of the Western Kansas Groundwater Management District #1 p. 1-4; Transcript p. 52-53, 55*)

Ms. Durham further testified that the Four-County LEMA was developed using water right groups to provide flexibility and that the goal of the Four-County LEMA is to limit irrigation withdrawals to 472,000 acre-feet over the five-year LEMA period. Ms. Durham explained that the plan reduces water use by individual water rights by up to 25% based on reported water use 2011-2020, with less reduction to water rights that reported less historical water use. (*Written Testimony of the Western Kansas Groundwater Management District #1 p. 5; Transcript p. 56*)

Ms. Durham noted that KDA-DWR provided water rights and water use information from its Water Rights Information System (WRIS) database, and that KDA-DWR also provided the water rights groupings. (*Written Testimony of the Western Kansas Groundwater Management District #1 p. 12; Transcript p. 58*)

Ms. Durham stated that vested water rights would not be subject to the Four-County LEMA. (*Written Testimony of the Western Kansas Groundwater Management District #1 p. 5; Transcript p. 56*)

In supplemental testimony, Ms. Durham clarified that "Vested Water Rights are not encouraged, recommended, or provided an avenue through the FC LEMA plan to voluntarily enroll in the program." (*Supplemental Written Testimony of the Western Kansas Groundwater Management District #1 p. 2*)

Ms. Durham explained that the Plan would provide flexibility to use water allocations among the water rights in a group but that no water right would be allowed to exceed its certified annual authorized quantity; and that any remaining alloca-

¹ Any reference to "Transcript" shall mean the transcript from the second public hearing conducted on February 2, 2023.

tion at the end of the Plan period should be considered for carry over into any subsequent LEMA. (*Written Testimony of the Western Kansas Groundwater Management District #1 p. 5; Transcript p. 57*)

Ms. Durham further explained that the Plan includes a robust appeals process, giving due consideration for past conservation, but that the appeals will not undermine the goals of the Plan. Ms. Durham testified that the board has learned through experience with the Wichita County water conservation area (“WCA”) and the subsequent Wichita County LEMA, that water users tend not to use their entire water allocation – Wichita County WCA participants used 65% of their allocations 2017-2020 and Wichita County LEMA users used 69% of their allocations in 2021. (*Written Testimony of the Western Kansas Groundwater Management District #1 p. 6,9,12-13; Transcript p. 56-57, 59-62*)

Ms. Durham referred to analysis by the Kansas Geological Survey that indicates that a 29% cut to recent historical use would be required to stabilize groundwater levels in the district. Ultimately, Ms. Durham testified, the GMD1 board decided that a 10% reduction from 2011-2020 reported water use levels is a substantial step towards addressing declining groundwater levels and strikes the appropriate balance between current needs and extending the district’s water resources. (*Written Testimony of the Western Kansas Groundwater Management District #1 p. 12; Transcript p. 59*)

Ms. Durham noted that there were two corrections to be made to the management plan: first, that uncertified water rights, e.g., water rights that were still in their perfection period, should be excluded from the LEMA; and second, that there were corrections to some township numbers in the map defining the Four-County LEMA boundary, which is the same as the GMD1 boundary. (*Written Testimony of the Western Kansas Groundwater Management District #1 p. 4; Transcript p. 55-56; Supplemental Written Testimony of the Western Kansas Groundwater Management District #1 p. 1, Exh. A. p. 2, Exh. B. p. 1*)

- b. David Barfield, Lawrence, KS, Kansas Water Resources Consulting. – Mr. Barfield testified that he worked as a consultant to GMD1 since late 2020, first helping the GMD1 board of directors develop testimony for the Wichita County LEMA then helping to formulate the Four-County LEMA management plan. Mr. Barfield stated that he would provide an overview of the district’s already-submitted written testimony focusing on three topics: first the board’s process for determining the Plan’s goals (written testimony section 3.a.); second, the board’s process for selecting specific corrective controls (3.b); and third, a demonstration that the corrective controls selected will result in greater reductions in areas of greater use and in need of greater conservation (4d).

Mr. Barfield testified that the board worked with Kansas State University Professor Nathan Hendrix to design and complete a survey of district water users to gauge their level of support for a LEMA including preferences on the amount of

groundwater reductions and methodologies for establishing allocations. The survey was sent to 832 water users in the spring of 2021. The survey results indicated strong support for a LEMA that reduced water in the range of 10%-15%. (*Written Testimony of the Western Kansas Groundwater Management District #1 p. 6; Transcript p. 66-67*)

Mr. Barfield testified that the board reviewed Kansas Geological Survey Q-Stable data for the district as a whole and by county. Mr. Barfield explained that Q-Stable values represent the percentage reduction from recent pumping required to stabilize groundwater levels and that Q-Stable values range from 16% in Lane County to 46% in Wallace County and average 29% for the district.

Mr. Barfield referred to a table in the district's written testimony that shows Q-Stable, half of Q-Stable, and the reduction achieved by the Plan by county. Mr. Barfield testified that based on the Q-Stable data and significant input from water users, the board decided that reducing water use by 10% from the 2011-2020 average water use was the most appropriate balance of meeting today's needs and extending the water resources of the district.

Mr. Barfield testified that the Plan would bring water use halfway to sustainability in Lane and Scott counties while making significant progress in Wallace and Greeley counties. Mr. Barfield noted that the Plan would require reduction of up to 18% in high-use areas of Wallace County. (*Written Testimony of the Western Kansas Groundwater Management District #1 p. 6-7; Transcript p. 67-68*)

Mr. Barfield testified that the board worked extensively to determine the method of allocation under the LEMA Plan and considered the effects of each of the alternatives on individual water rights. Mr. Barfield noted that Ms. Durham had already provided testimony on the broad parameters of the LEMA Plan. (*Written Testimony of the Western Kansas Groundwater Management District #1 p. 6-7; Transcript p. 68-69*)

Mr. Barfield testified that in March 2020, the board reviewed a number of allocation methods that were not based on historical use including: a percentage of authorized quantity, a fixed value of inches per authorized acre, a fixed value of inches per maximum number of recently irrigated acres, and a fixed value of inches per acres irrigated in a recent period; that the board found that all of these methods were problematic for conditions in GMD1 because each of these methods would result in approximately 40% of water users receiving allocations in excess of their recent use thus requiring greater reductions, some in excess of 25%, from the rest to meet the Plan goal; and that the board found this unacceptable because the board desires that all water users be involved in addressing the groundwater declines and that no reduction should exceed 25%. (*Written Testimony of the Western Kansas Groundwater Management District #1 p. 8-9; Transcript p. 69-70*)

Mr. Barfield testified that ultimately the board focused on two hybrid allocation methodologies that based reduction on past use but varied the required reductions from historical water use based on the water right's historical use as a percentage of its authorized quantity, or as inches applied historically on authorized acres. (*Written Testimony of the Western Kansas Groundwater Management District #1 p. 9; Transcript p. 70*)

Mr. Barfield noted that the district is regularly asked why it chose to allocate based on inches applied on authorized acres rather than inches applied on acres actually irrigated. Mr. Barfield explained that there are two main responses to a declining irrigation supply: one, reduce irrigation depth, i.e. irrigate the same number of acres with less water, and two, reduce irrigated acres; that reducing irrigation depth would disadvantage the producer who responds to a diminishing water supply by reducing acres and vice versa; that the board did not want to favor one response over the other; and that basing the allocation on irrigation depth applied on authorized acres results in the same effective reduction regardless of response chosen by the producer. (*Transcript p. 70-71*)

Mr. Barfield testified that the board decided to use a sliding scale to calculate the percentage of water use reduction ranging from no reduction below a threshold value to a maximum of 25%. Mr. Barfield noted that the final sliding scale adopted by the board is included in the written testimony. Mr. Barfield, referring to a table in the written testimony, explained that when the average use 2011-2020 was less than 3 inches per authorized acre, no reduction was required; and that when the average use 2011-2020 was greater than 12 inches per authorized acre, the reduction was 25%; and that the sliding scale determined the reductions between those maximum and minimum values.

Mr. Barfield testified that originally the board considered basing allocations on historical use as percentage of authorized quantity, but that KDA-DWR pointed out that such a methodology would negatively impact short water rights (water rights that are certified for less than the net irrigation requirement) because those water rights would have used a higher percentage of their authorized quantities.

Mr. Barfield testified that the allocation method adopted by the board requires that 87% of water users make some level of reduction and limits the number of water right required to reduce 25%, the latter accounting for 10% of water right groups in the district. (*Written Testimony of the Western Kansas Groundwater Management District #1 p. 9-11; Transcript p. 71-72*)

Finally, Mr. Barfield stated that he would demonstrate that the Plan required greater reductions in areas with higher use. Mr. Barfield noted that board identified three areas of greater saturated thickness and higher use: the Weskan area, western Wallace County south of Sharon Springs, and the Scott County trough. Referring to Table (x) in the districts written testimony, Mr. Barfield noted that in Wallace County the Plan requires a county-wide average reduction of 12.2%

which is higher than the Plan-wide average of 10.5%, and furthermore, the Plan will require 18.5% and 16.8% reductions in the Weskan and Sharon Springs high-use areas, respectively, while the adjacent water right groups will require a 4.4% reduction. This, Mr. Barfield testified, is consistent with KGS's finding that higher-use area require greater reductions to stabilize water levels. (*Written Testimony of the Western Kansas Groundwater Management District #1 p. 13-15; Transcript p. 73-75*)

In response to district counsel inquiring of his qualifications, Mr. Barfield testified that he is professional civil engineer with over 40 years of water resources experience; that he spent three years in Africa, 36 years with KDA-DWR the last 12 of which as chief engineer; that he has been a consulting engineer for these last three years; and that he has significant experience with LEMAs, having assisted with writing the LEMA statute and conducting the initial hearings for GMD4's two LEMAs. (Transcript p.76)

- c. Shannon Kenyon, Colby, Kan., Manager of GMD4 – Ms. Kenyon submitted written testimony on behalf of GMD4 prior to the hearing and provided oral testimony during the hearing. (*Written Testimony from Shannon Kenyon, Groundwater Management District #4, Transcript p. 77-78*)

Ms. Kenyon testified that she was the manager of GMD4 in Colby Kansas and that she was providing testimony on behalf of the of the GMD4 board of directors in support of the Four-County LEMA.

Ms. Kenyon testified that GMDs have the responsibility to manage groundwater and that LEMA's are the tool with which to do that; that GMD4 has two LEMAs, the Sheridan 6 LEMA and the GMD4 LEMA; that the Sheridan 6 LEMA is in its third five-year period and has exceeded its initial goal of 20%; that research has shown that producers inside the Sheridan 6 LEMA are more profitable than those outside the LEMA; and that Sheridan 6 LEMA participants have almost doubled the life of their aquifer.

Ms. Kenyon testified that the GMD4 LEMA is in its second five-year period; that it shows very little reduction in water rights, but that producers are paying more attention to managing their water use; and that there is local talk of more restrictive LEMAs. Ms. Kenyon noted that there was opposition to the LEMA and a lawsuit, but that the lawsuit was resolved in favor of GMD4.

Ms. Kenyon testified that GMD4 has shown that the LEMA tool is successful in extending the life of the aquifer, and commended the GMD1 board and staff for developing a plan that address their concerns. (*Transcript p.78*)

B. Written Testimony

3. All written comments timely submitted are hereby incorporated into and made a part of this order with a summary of such comments provided below. A summary of written comments is as follows:
 - a. GMD1 submitted written testimony in advance of the second public hearing and also submitted supplemental testimony following the second public hearing. Both of these written testimonies expanded on the oral testimony offered by Ms. Durham and Mr. Barfield at the second public hearing.
 - b. Shannon Kenyon – GMD4. Ms. Kenyon’s written testimony on behalf of GMD4 was summarized in her oral testimony.
 - c. Mike Meyer – KDA-DWR. Mr. Meyer’s written testimony was in support of the Four-County LEMA. Mr. Meyer noted that KDA-DWR’s Garden City field office staff assisted GMD1 in analyzing the historical water use data that was used to formulate the Plan, and that KDA-DWR will assist GMD1 with administering the Plan if it is implemented.
 - d. Kansas Farm Bureau – Kansas Farm Bureau submitted written testimony stating that it is concerned that the LEMA only restricts one kind of use, irrigation, that the LEMA does not consider priority when developing allocations, and that socializing water use will undermine water law principles and cause uncertainty.
 - e. Scott Murrison, Murrison Environmental, Garden City, KS – Mr. Murrison submitted written testimony suggesting that dual use permits, water rights which can be used for both stock watering and irrigation, should be exempt from the LEMA because the conversion from irrigation already reduced the right by up to 18%
 - f. John Huslig, Scott County, KS – Mr. Huslig submitted written comments suggesting that the LEMA plan should base allocations on inches applied to actual irrigated acres and not on inches applied to authorized acres. Mr. Huslig further argues that areas in the district should be managed differently based on their respective rates of decline with high-decline areas requiring more reductions than areas with lower rates of decline.

IV. DISCUSSION AND CIRCUMSTANCES OF FINDINGS

1. It is appropriate that this Order of Decision address the concerns identified in the testimony summarized above.
2. As to the concern regarding the fact that the LEMA restricts only irrigation use and does not consider priority when assigning allocations, the Plan notes that non-irrigation use makes up a small percentage of the District’s water use and provides specific suggestions for water conservation for non-irrigation users. (*Plan p. 3, 8, 10-11*). More importantly, the Plan reflects the will of the board and its prerogative to choose the corrective controls that work best for the district. The corrective controls chosen by the board are lawful and were developed with substantial public input.
3. As to the suggestion that dual use stockwatering and irrigation water rights should be exempt from the LEMA, dual-use rights are still irrigation rights. The GMD’s proposed plan

gives due consideration to water users who have already have implemented reductions in water use resulting in voluntary conservation measures as required by K.S.A. 82a-1041. Conversion of a water right from irrigation to stockwatering and adjusting the water right's authorized quantity to compensate for the change in consumptive use is not considered to be a voluntary conservation measure.

4. As to the suggestion that the LEMA plan should base allocations on inches applied to actual irrigated acres and not on inches applied to authorized acres and that areas in the district should be managed differently based on their respective rates of decline with high-decline areas requiring more reductions than areas with lower rates of decline, similar to the discussion set forth in 1. above, the corrective controls and by extension the methods of determining allocations were considered by the board and ultimately decided upon. Mr. Barfield's testimony included detailed discussion on the board's deliberations and reasoning behind its decision. The decision is lawful and was developed with substantial public input.
5. Based on the evidence, testimony, and all data submitted previously and as a part of the current hearing process, the great weight of the evidence makes it clear that the Four-County LEMA is in the public interest and is supported by those who irrigate within its boundaries.

V. FINDINGS OF FACT

1. The Findings and Order Establishing the Initial Requirements for the Designation of a LEMA is hereby adopted by reference and incorporated into the record in this matter.
2. The proposed geographical boundaries of the Four-County LEMA include the entirety of those portions of Greeley, Lane, Scott, and Wallace counties in Kansas that are located within the boundaries of GMD1.
3. The proposed Four-County LEMA Management Plan proposes clear and reasonable geographic boundaries and is located wholly within GMD1. Such boundaries are based on data shared by the Division of Water Resources, GMD1, and the Kansas Geological Survey concerning the hydrology of the area.
4. Evidence shows there is a need for corrective control provisions within the proposed Four-County LEMA boundary and that the corrective controls proposed in the Four-County LEMA Management Plan are appropriate to fulfill the GMD1 board's intent to balance current water demands with future needs. Groundwater levels in the areas described above have declined and continue to decline, and the evidence conclusively shows that corrective controls are required in order to address that issue within the boundaries of the proposed LEMA.
5. The proposed Four-County LEMA Management Plan will limit groundwater diversions within the Four-County LEMA to 472,000 acre-feet total within the LEMA boundaries for the period between January 1, 2023 and December 31, 2027. This five-year allocation and

the corrective control provisions contained in the proposed management plan will help ensure the proposed Four-County LEMA Management Plan meets its stated goal of promoting improved management of water used and promoting more efficient use by non-irrigation water uses within the proposed boundaries of the Four-County LEMA.

6. The supportive testimony indicates that the Four-County LEMA is likely to be effective in meeting its stated goals and that it is locally supported and is in the public interest.
7. The Four-County LEMA Management Plan provides due consideration to water users who have previously implemented voluntary water conservation measures and provides for comprehensive accounting procedures, as well as penalties for violations.

VI. CONCLUSIONS OF LAW

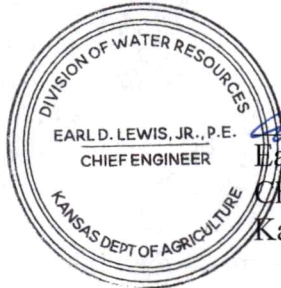
1. Notice of the initial public hearing was proper and complied with the requirements of K.S.A 82a-1041(b).
2. The initial requirements for the establishment of a LEMA, that one or more of the circumstances in K.S.A. 82a-1036(a) through (d) exist within the boundaries of the proposed LEMA, that the public interest requires corrective controls be adopted to address those circumstances, and that the geographic boundaries of the proposed LEMA are reasonable were met during the initial public hearing.
3. The second public hearing took place in accordance with the requirements of K.S.A. 82a-1041.
4. All other procedures required by K.S.A. 82a-1041 were complied with in the formation and submittal of the Four-County LEMA Management Plan.
5. Corrective controls are required within the Four-County LEMA in order to address excessive declines in the groundwater level and to address rates of withdrawal that exceed the rate of recharge pursuant to K.S.A. 82a-1036.
6. Pursuant to K.S.A. 82a-1041(d)(1), the proposed Four-County LEMA Management Plan addresses declines in groundwater levels and a rate of withdrawal that exceeds the rate of recharge in the area in question, and is in the public interest.
7. The proposed Four-County LEMA Management Plan is consistent with the Kansas Water Appropriation Act and other Kansas law.

VII. ORDER OF DECISION

COMES NOW, the Chief Engineer, who, pursuant to K.S.A. 82a-1041(e)-(h) and based upon substantial competent evidence, as provided by testimony and comments offered at or in relation to public hearings held for the purpose of considering the Four-County Local Enhanced Management Area for 2023-2027, finds that the proposed Four-County Local Enhanced Management Area for the years 2023-2027, as amended by GMD1 to exempt uncertified rights from the corrective controls required thereunder, is sufficient to address declining groundwater levels and rates of groundwater withdrawal that exceed rates of recharge in the area in question.

Therefore, the Chief Engineer, pursuant to K.S.A. 82a-1041(e)-(h) shall, within a reasonable time following the issuance of this Order of Decision, enter a subsequent Order of Designation, which shall define the boundaries of the Four-County LEMA and shall include all necessary corrective control provisions.

IT IS SO ORDERED, THIS 7th **DAY OF APRIL 2023.**



Earl D. Lewis

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

Attachments:

Exhibit A: "Proposed Four County LEMA" Submitted To the Chief Engineer, Kansas Department of Agriculture, Division of Water Resources"

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