

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

In the Matter of the Designation of the)	
Wichita County Local Enhanced Management Area)	
in Wichita County, Kansas)	001 – DWR-LEMA – 2020
)	
Pursuant to K.S.A. 82a-1041.)	
_____)	

**ORDER OF DECISION ACCEPTING THE MANAGEMENT PLAN FOR THE
WICHITA COUNTY LOCAL ENHANCED MANAGEMENT AREA**

The above-captioned matter came before the Chief Engineer of the Division of Water Resources, Kansas Department of Agriculture (“Chief Engineer”), for a second and final public hearing regarding the acceptance of the management plan for the Wichita County Local Enhanced Management Area (“WHC LEMA”) on November 20, 2020, at 9:00 a.m. Such proceeding was held pursuant to K.S.A. 82a-1041(b) and (c). For the reasons set forth below, the Chief Engineer hereby accepts the WHC LEMA Management Plan as sufficient to address the conditions set forth in K.S.A. 82a-1036, and consequently an Order of Designation shall follow this Order of Decision within a reasonable amount of time prescribing corrective control provisions and related matters.

I. Procedural Background

1. On March 26, 2020, the Western Kansas Groundwater Management District No. 1 (“GMD 1”) submitted a formal request for the establishment of the WHC LEMA beginning on January 1, 2021, and ending on December 31, 2025.
2. On April 7, 2020, the Chief Engineer reviewed the proposed local enhanced management plan. (Exhibit A). Pursuant to K.S.A. 82a-1041(a), the Chief Engineer found that the 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 is consistent with state law.

3. Pursuant to K.S.A. 82a-1041(b), timely notice of the initial public hearing was mailed to each water right owner located within the boundaries of the proposed WHC LEMA and published in the Wichita County Native Sun on July 15, 2020, and the Scott County Record on July 16, 2020.
4. Pursuant to the Pre-Hearing Order, the Chief Engineer presided over the initial public hearing on August 14, 2020, to determine if the initial requirements contained in K.S.A. 82a-1041(b) were satisfied. During the initial public hearing, oral testimony was accepted via Zoom and in-person at the St. Anthony Catholic Church Parish Hall at Leoti, Kansas. Written testimony was accepted in advance of the hearing and the record was held open until August 28, 2020, to allow submission of additional written testimony. The record of the initial public hearing was closed on August 28, 2020. Based on all testimony entered into the record and the applicable law, the Chief Engineer concluded that the WHC LEMA Management Plan satisfied the three initial requirements as set forth in K.S.A. 82a-1041(b)(1)-(3).
5. Pursuant to K.S.A. 82a-1041(b), timely notice of the second public hearing was mailed to each water right owner located within the boundaries of the proposed WHC LEMA and published in the Wichita County Native Sun on October 14, 2020, and the Scott County Record on October 15, 2020.
6. Pursuant to the Pre-Hearing Order, the Chief Engineer presided over the second public hearing on November 20, 2020, to consider whether the corrective control provisions in the WHC LEMA Management Plan are sufficient to address any of the existing conditions set forth in

K.S.A. 82a-1036(a)-(d) and whether the WHC LEMA Management Plan shall be accepted or rejected, or if modifications should be proposed. Oral testimony was accepted during the second public hearing via Zoom and in-person at the St. Anthony Catholic Church Parish Hall at Leoti, Kansas. Written testimony was accepted in advance of the hearing and the record was held open until December 4, 2020, to allow submission of additional written testimony. The record of the second public hearing was closed on December 4, 2020.

II. Applicable Law

1. The formation of a local enhanced management area is governed pursuant to K.S.A. 82a-1041. 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, 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;
 - b. Whether the public interest of K.S.A. 82a-1020, and amendments thereto, requires that one or more corrective control provisions be adopted; and
 - c. Whether the geographic boundaries are reasonable.
3. The following circumstances are specified in K.S.A. 82a-1036(a) through (d):
 - a. Groundwater levels in the area in question are declining or have declined excessively;
 - b. The rate of withdrawal of groundwater within the area in question equals or exceeds the rate of recharge in such area;

- c. Preventable waste of water is occurring or may occur within the area in question; or
 - d. Unreasonable deterioration of the quality of water is occurring or may occur within the area in question.
- 4. K.S.A. 82a-1020 recognizes that it is in the interest of the public to create “special districts for the proper management of the groundwater resources of the state; for the conservation of groundwater resources; for the prevention of economic deterioration; for associated endeavors within the state of Kansas through the stabilization of agriculture; and to secure for Kansas the benefit of its fertile soils and favorable location with respect to national and world markets. It is the policy of this act to preserve basic water use doctrine and to establish the right of local water users to determine their destiny with respect to the use of the groundwater insofar as it does not conflict with the basic laws and policies of the state of Kansas.”
- 5. K.S.A. 82a-1041(b)(3) 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.
- 6. K.S.A. 82a-1041(c) limits the subject of the second hearing to the local enhanced management plan that the Chief Engineer previously reviewed.
- 7. K.S.A. 82a-1041(d) requires the Chief Engineer to issue an order of decision within 120 days that either:
 - a. Accepts the local enhanced management plan as sufficient to address any of the conditions set forth in K.S.A. 82a-1036(a)-(d);
 - b. Rejects the local enhanced management plan as insufficient to address any of the conditions set forth in K.S.A. 82a-1036(a)-(d);

- c. Returns 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. Returns the local enhanced management plan to the groundwater management district and proposes 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 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 enhanced management plan. If the groundwater management district does not approve the modifications proposed by the Chief Engineer, the local enhanced management plan shall not be accepted.
8. Pursuant to K.S.A. 82a-1041(e), if the Chief Engineer issues an Order of Decision accepting the local enhanced management plan, 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 the Order of Decision.

III. Testimony Submitted in Accordance with the Hearing Procedure

1. The record of the initial public hearing in this matter has been incorporated into the record for this second public hearing. (*Transcript*,¹ pp. 10-11).
2. Frank Mercurio, a member of the Wichita County Water Conservation Area Team and a member of the Upper Smoky Hill Regional Advisory Committee, submitted written testimony prior to the hearing in support of the WHC LEMA Management Plan. Mr. Mercurio's testimony discussed the decreasing groundwater supply in the aquifer and the establishment of the Wichita County Water Conservation Area Team ("Team"). He outlined the educational efforts undertaken by the Team, the subsequent development of the Wichita County Water Conservation Area ("WCA"), and the conservation efforts of the Wichita County WCA. Mr. Mercurio explained that while the corrective control provisions of the Wichita County WCA are more stringent than the WHC LEMA Management Plan, the proposed corrective control provisions will be effective in helping conserve water. Finally, Mr. Mercurio addressed concerns with the anticipated economic impact of the WHC LEMA Management Plan. He provided examples where conservation tools were established and expressed that the economic viability in those areas was maintained or improved. Finally, Mr. Mercurio stated that since the corrective control provisions of the WHC LEMA Management Plan will be applied uniformly to irrigation water rights, any potential impact would also be uniform. (*Written Testimony of Frank Mercurio*, pp. 1-3; *Transcript*, p. 55).
3. Prior to the hearing, written testimony was submitted by Don Smith, Earl Smith, Luke Smith and Andrew Smith, representatives of Smith Family Farms. The Smiths are irrigators in Wichita County, Kansas who participate in the LEAD Water Conservation Area ("LEAD

¹ Any reference to "*Transcript*" shall mean the transcript from the second public hearing conducted on November 20, 2020.

WCA”). The testimony submitted by Smith Family Farms expressed support for irrigation management; identified conflicts between the LEAD WCA and the WHC LEMA Management Plan; and noted their prior request to GMD 1 to exclude existing water conservation areas from the WHC LEMA Management Plan. Additionally, the testimony outlined concerns with the appeal process and the allocation basis of the WHC LEMA Management Plan. (*Written Testimony of Don Smith, Earl Smith, Luke Smith and Andrew Smith*, pp. 1-3; *Transcript*, p. 55).

4. Prior to the hearing, written testimony was submitted on behalf of the Leoti Governing Body by Charlie Hughes, mayor of the City of Leoti. The testimony recommended support for the WHC LEMA Management Plan since reductions in water usage will help extend the useful life of the aquifer for the long-term benefit of Wichita County. (*Written Testimony of Charlie Hughes*, p. 1; *Transcript*, p. 55).
5. Kyle Spencer, Manager of GMD 1, submitted written testimony on behalf of GMD 1 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 No. 1*, pp. 1-80; *Supplement to Written Testimony of the Western Kansas Groundwater Management District No. 1*, pp. 1-5; *Second Supplement to Written Testimony of the Western Kansas Groundwater Management District No. 1*, pp. 1-2; *Oral Testimony of Kyle Spencer, Transcript*, pp. 13-37).

Mr. Spencer provided a history and overview of the relevant Kansas statutes, the previous actions taken in this proceeding, and a discussion on various aspects of the WHC LEMA Management Plan. Mr. Spencer’s testimony explained that the WHC LEMA Management Plan calls for improved management of water within the townships located in

Wichita County, Kansas that are within the boundaries of GMD 1. The WHC LEMA Management Plan limits the withdrawal of groundwater for irrigation purposes to 246,882.786 acre-feet during the five-year period of January 1, 2021 through December 31, 2025. Under the proposed allocations of the WHC LEMA Management Plan, an irrigation water right's allocation would not result in a reduction of more than 25% from the average use during 2009-2015. (*Written Testimony of the Western Kansas Groundwater Management District No. 1*, pp. 1-7; *Oral Testimony of Kyle Spencer, Transcript*, pp. 13-19).

Mr. Spencer included references to Brownie Wilson's testimony from the initial hearing and the data from the Kansas Geological Survey ("KGS") report which determined that a 20.02% reduction in the average annual groundwater withdrawals from the aquifer should stabilize the groundwater levels for the coming decade or two. Furthermore, it is estimated that if the allocations in the WHC LEMA Management Plan are fully utilized over the five-year period, the average water use during 2021-2025 will be approximately 14.7% less than the 2009-2015 average water use. KGS provided GMD 1 with additional information after the second public hearing which discussed the aquifer's saturated thickness and the anticipated useful life of the aquifer. According to the information from KGS, the aquifer's saturated thickness in Wichita County ranges from approximately 10 feet to 30 feet, with an average of 21 feet. In order to answer how long the aquifer's useful life will be extended if the WHC LEMA is established, KGS evaluated the minimum saturated thickness required before irrigation usage is no longer practical. KGS determined that a saturated thickness of 15 feet may allow irrigation to continue if low-yielding wells are chained together, the pumping season is extended, and irrigators utilize the latest conservation technologies and practices. If the 2009-2015 average level of water use continues, it is projected that the aquifer's saturated

thickness will be reduced by approximately 25%, to an average of 15 feet, within seven years. However, if groundwater withdrawals are reduced by 14.7% and assuming the water flowing into the aquifer remains at the current rate, the time for the aquifer to be reduced to a saturated thickness of 15 feet is extended from seven to 16 years. Thus, the corrective control provisions of the WHC LEMA Management Plan will accomplish a significant part of the reductions needed to address the depletion of groundwater in the area. (*Written Testimony of the Western Kansas Groundwater Management District No. 1*, pp. 6-8; *Supplement to Written Testimony of the Western Kansas Groundwater Management District No. 1*, pp. 1-2; *Oral Testimony of Kyle Spencer, Transcript*, pp. 18-21).

Mr. Spencer discussed how the WHC LEMA Management Plan will meet its stated goal of reducing withdrawals of groundwater by irrigation water rights; how the corrective control provisions will be effective in meeting that goal; and how such provisions will help extend the useful life of the aquifer for future use. Mr. Spencer described provisions of the WHC LEMA Management Plan and clarified that water right owners may exceed a water right's average annual LEMA allocation so long as the water right's annual authorized quantity is not exceeded. Irrigation water rights are provided a five-year allocation which will allow water right owners to plan the best use of each allocation. Mr. Spencer advised that the WHC LEMA Management Plan recommends any unused allocation be carried over into a subsequent LEMA, without being subject to an additional conservation factor. Mr. Spencer further explained that the WHC LEMA Management Plan authorizes the creation of combined well units to permit water right owners to move water allocations between wells that are physically tied together if water is diverted from the same source of supply. Additionally, Mr. Spencer clarified that vested water rights are not subject to the corrective control provisions of the WHC

LEMA Management Plan, but vested water rights may be combined with other water rights if those vested water rights are voluntarily enrolled in the WHC LEMA Management Plan. (*Written Testimony of the Western Kansas Groundwater Management District No. 1*, pp. 4-6 and 17; *Oral Testimony of Kyle Spencer, Transcript*, pp. 15-17 and 32).

Mr. Spencer testified about the appeal process and noted that it was reasonably tailored to provide due consideration to those water right owners that previously implemented voluntary conservation measures, protects property rights, and ensures that the goals of the WHC LEMA Management Plan can be met. Mr. Spencer advised that it is difficult to quantify the number of appeals that may occur, but GMD 1 expects the impact of any such appeals to be minimal. The WHC LEMA Management Plan will allow a water right owner to appeal an allocation for any of the following reasons: to ensure that due consideration is given for prior conservation efforts; to address an improper calculation of an allocation or the water use history upon which the calculation was based; or to establish an allocation based on a flow rate test if the water right is on land not owned, leased, rented, or otherwise previously controlled or pumped during 2009-2015 by the owner as of January 1, 2020. While the appeal process could result in allocations greater than the stated goal, GMD 1 anticipates additional conservation above the stated goal due to various counterbalancing considerations. Such counterbalancing considerations include the following:

- a. the likely inability of vested water rights to pump 100% of their annual authorized quantity;
- b. that water right owners may voluntarily enroll their vested water rights in conservation tools such as the WHC LEMA Management Plan or a Water Conservation Area;

- c. that water right owners are currently participating in existing voluntary conservation tools that require conservation beyond what is required in the WHC LEMA Management Plan;
- d. that water right owners may not utilize 100% of their allocation or may undertake additional conservation efforts;
- e. that the inclusion of drought years in the historical use period provides additional flexibility to water right owners during the five-year period; and
- f. that the temporary nature of the WHC LEMA Management Plan will permit future modifications if a subsequent LEMA is established after the initial five-year period.

Mr. Spencer also noted that an appeal allocation will only be granted to the extent that a pump test can demonstrate that water can actually be pumped; that the appeal allocation will only be applied to the specific years that were appealed; and that any additional allocations will not necessarily correspond to an increased use of the same amount of water. (*Written Testimony of the Western Kansas Groundwater Management District No. 1*, pp. 7-12; *Oral Testimony of Kyle Spencer, Transcript*, pp. 18-26).

Mr. Spencer's testimony explained that while non-irrigation water rights are not subject to the corrective control provisions established in the WHC LEMA Management Plan, the management plan includes recommendations for stock, municipal, and industrial water rights. Additionally, the WHC LEMA Management Plan explicitly provides recommendations for domestic water rights. During 2009-2015, the withdrawal of groundwater by non-irrigation water rights was minimal, 3.6%; as compared to 96.4% by irrigation water rights. Mr. Spencer advised that GMD 1 elected to only provide recommendations for non-irrigation water rights

because the corrective control provisions in the WHC LEMA Management Plan are reasonably calculated to achieve the goal of reducing groundwater withdrawals from the aquifer and will help preserve the aquifer for future use. The WHC LEMA Management Plan includes a monitoring component and, if as a result of the monitoring, it is determined that an increase in the use of water is occurring by such non-irrigation water rights, GMD 1 can modify any subsequent LEMA management plan to address such usage. Mr. Spencer discussed that the WHC LEMA Management Plan was developed to minimize economic disruption in Wichita County, and that stock and industrial users are common and primary economic drivers that often consume the commodities created by the irrigation water rights. (*Written Testimony of the Western Kansas Groundwater Management District No. 1*, p. 13; *Supplement to Written Testimony of the Western Kansas Groundwater Management District No. 1*, p. 1; *Oral Testimony of Kyle Spencer, Transcript*, pp. 26-28).

Mr. Spencer also testified regarding the provisions in the WHC LEMA Management Plan that consider priority of water rights. Explicit in the WHC LEMA Management Plan is the exemption of vested water rights and a provision that the Chief Engineer is expected to investigate any claim of impairment and address any such impairment, thus providing consideration of priority. Additionally, Mr. Spencer opined that the WHC LEMA Management Plan considers priority of water rights through its implementation of the corrective control provisions because the reduction of groundwater withdrawals will help stabilize the aquifer which should delay or reduce potential impairment claims. (*Written Testimony of the Western Kansas Groundwater Management District No. 1*, pp. 14-15; *Oral Testimony of Kyle Spencer, Transcript*, pp. 28-29).

Mr. Spencer summarized the compliance monitoring and enforcement elements of the WHC LEMA Management Plan and explained that such provisions are consistent with existing Kansas law. As such, the WHC LEMA Management Plan does not impose additional monitoring requirements or penalties upon water right owners. Additionally, a Review Board will annually review the status of the WHC LEMA Management Plan. Furthermore, Mr. Spencer affirmed that GMD 1 will review the economic impact of the WHC LEMA Management Plan and will assist researchers interested in evaluating the WHC LEMA Management Plan. (*Written Testimony of the Western Kansas Groundwater Management District No. 1*, p. 16; *Supplement to Written Testimony of the Western Kansas Groundwater Management District No. 1*, p. 2-3; *Oral Testimony of Kyle Spencer, Transcript*, pp. 30-31).

In response to testimony presented during the second public hearing, Mr. Spencer clarified various aspects of the WHC LEMA Management Plan, and the decisions made by GMD 1's Board of Directors during the development of the management plan. Mr. Spencer's testimony discussed the projections of the usable life of the aquifer and how long the life of the aquifer will be extended if the WHC LEMA Management Plan is established; how GMD 1 intends to evaluate the economic impact and implementation of the WHC LEMA Management Plan; the appeal process of the WHC LEMA Management Plan, including the rationale for the appeal deadline of March 1, 2022, and the rationale and sufficiency of the 150-day multiplier in the flow rate test. Furthermore, Mr. Spencer explained the rationale for the historical-use allocation; the justification for the boundaries of the WHC LEMA Management Plan; and addressed the concerns presented by the testimony of Don Smith, Earl Smith, Luke Smith and Andrew Smith, representatives of Smith Family Farms. (*Supplement to Written Testimony of the Western Kansas Groundwater Management District No. 1*, pp. 1-

5; *Second Supplement to Written Testimony of the Western Kansas Groundwater Management District No. 1*, pp. 1-2).

6. Lane Letourneau, Water Appropriation Program Manager, Division of Water Resources (“DWR”), Kansas Department of Agriculture, submitted written testimony prior to the hearing and provided oral testimony during the hearing in support of the WHC LEMA Management Plan. Mr. Letourneau advised that the data from KGS utilized in the development of the WHC LEMA Management Plan is reliable; that the corrective control provisions in the WHC LEMA Management Plan are reasonable, narrowly tailored, and in the public interest; and that the corrective control provisions will be effective to slow the depletion of groundwater. Mr. Letourneau summarized provisions of the WHC LEMA Management Plan and addressed various concerns that were raised during the public hearings. Mr. Letourneau explained that the corrective control provisions of the WHC LEMA Management Plan conform with existing state laws and policies relating to water use and conservation, including the doctrine of prior appropriation. Mr. Letourneau testified that even though the allocations in the WHC LEMA Management Plan are not based on the priority date of the water rights, should any impairment complaints be received by DWR, an impairment investigation would be conducted, and, if necessary, any junior water rights would be curtailed as required to secure the senior water right. Mr. Letourneau stated that DWR believes that the implementation of the WHC LEMA Management Plan will help preserve the aquifer for future use, thus providing long-term benefits to the local economy. Finally, Mr. Letourneau lauded the efforts taken to extend the useful life of the aquifer and support the agricultural-driven economy of Wichita County. (*Written Testimony of Lane Letourneau*, pp. 1-2; *Oral Testimony of Lane Letourneau, Transcript*, pp. 37-42).

7. Mike Meyer, Water Commissioner of the Garden City Field Office, Division of Water Resources, Kansas Department of Agriculture, submitted written testimony prior to the hearing and provided oral testimony during the hearing. Mr. Meyer explained the role of DWR during the WHC LEMA process; noted that DWR staff reviewed and analyzed the data used in the development of the WHC LEMA Management Plan; and that DWR will assist GMD 1 with the administration of the WHC LEMA Management Plan. Mr. Meyer testified that the 25% reduction from historical use is reasonable and that DWR believes the WHC LEMA Management Plan can achieve its stated goals. (*Written Testimony of Mike Meyer*, p. 1; *Oral Testimony of Mike Meyer, Transcript*, pp. 42-44).
8. Brian W. Bauck, an irrigator in Wichita County, provided oral testimony during the hearing and written testimony after the hearing. Mr. Bauck stated that he supports conservation and irrigation management to extend the useful life of the aquifer but has various concerns with the WHC LEMA Management Plan. Mr. Bauck explained his concerns with the appeal process and opined that a significant number of appeals will result. Mr. Bauck indicated a preference for an acre-inch allocation and considered it a more straightforward approach than the historical-use allocation proposed in the WHC LEMA Management Plan. Mr. Bauck further testified that he believes the LEMA boundaries should be expanded to encompass all of GMD 1. Finally, Mr. Bauck expressed concern that the development of the WHC LEMA Management Plan was driven by a small number of irrigators trying to implement the requirements of their water conservation areas upon other irrigators. (*Written Testimony of Brian W. Bauck*, pp. 1-2; *Oral Testimony of Brian W. Bauck, Transcript*, pp. 47-49).
9. Frank Wedel, a resident of Leoti, Kansas, provided oral testimony in support of the WHC LEMA Management Plan. Mr. Wedel recounted his recent observations about various cities

located in Western Kansas, including the viability of such cities and their dependency on water to sustain their economies. Mr. Wedel discussed his children, their businesses, and the dependency upon water to sustain such businesses and the local economy. Finally, Mr. Wedel expressed a desire that his grandchildren be given the opportunity to be a part of the Leoti community in the future. (*Oral Testimony of Frank Wedel, Transcript*, pp. 45-47).

10. Tammy Simons, a farmer and rancher in Wichita County, Kansas and a member of the Leoti-Wichita County Board of Education, provided oral testimony in support of the WHC LEMA Management Plan. Ms. Simons explained that she represents the fourth and fifth generations of her family involved in agriculture and that she has been involved in conservation efforts since the Wichita County WCA meetings in 2016. Ms. Simons testified about the National Geographic Magazine article discussing the Ogallala Aquifer and the attention its depletion has garnered; outlined select provisions of the WHC LEMA Management Plan; and discussed the relationship between water, the agricultural-based economy of Wichita County, and the viability of the community. Ms. Simons encouraged even greater conservation efforts to attain the withdrawal reductions identified by KGS as necessary to stabilize the aquifer. Finally, Ms. Simons stated that conservation efforts are necessary for the immediate future of the community and for future generations. (*Oral Testimony of Tammy Simons, Transcript*, pp. 49-54).

11. Subsequent to the hearing, written testimony was submitted by Mike Hunter, a representative of Green Plains Cattle Company. Mr. Hunter advised that Green Plains Cattle Company operates a cattle feeding facility in Wichita County and others across southwest Kansas. Mr. Hunter's testimony addressed the importance of agriculture and water in western Kansas; the operation of the cattle feeding facility, including the purchase of local commodities, the

facility's use of water, and the facility's investment in water management upgrades. Mr. Hunter discussed the relationship between extending the useful life of the aquifer and the continued economic viability of the area. Mr. Hunter detailed the public support for such conservation efforts and noted that the public interest will be served by the implementation of the WHC LEMA Management Plan. (*Written Testimony of Mike Hunter*, p. 1).

12. Subsequent to the hearing, written testimony was filed by Ray Smith, Board Member of GMD

1. Mr. Smith discussed his voluntary participation in water conservation areas and noted the difficulty in determining allocations in a LEMA management plan. Mr. Smith's testimony expressed concern with the appeal process of the WHC LEMA Management Plan and felt that the 150-day multiplier in the flow rate test may be too high, and, as a result, the corrective control provisions may not be sufficient to extend the useful life of the aquifer. (*Written Testimony of Ray Smith*, p. 1).

13. Subsequent to the hearing, written testimony was filed by Richard Felts on behalf of Kansas

Farm Bureau. The testimony of the Kansas Farm Bureau expressed concern that the WHC LEMA Management Plan may not be consistent with existing state law, including the Kansas Water Appropriation Act and the Groundwater Management District Act. The testimony alleged that the WHC LEMA Management Plan is inconsistent with state law because the allocations were not based on priority of water rights and only irrigation water rights are subject to the corrective control provisions of the management plan. Additionally, the testimony questioned if the corrective control provisions of the WHC LEMA Management Plan diminish private property rights. (*Written Testimony of Richard Felts*, pp. 1-2).

14. Subsequent to the hearing, written testimony was filed on behalf of the Kansas Water Office by Cara Hendricks, Acting Director. The testimony of the Kansas Water Office discussed the

water planning activities for the State of Kansas and how the WHC LEMA Management Plan supported certain goals and objectives of those water planning activities. Additionally, the Kansas Water Office expressed its support for the local efforts to conserve and extend the useful life of the aquifer. (*Written Testimony of Cara Hendricks*, p. 1).

IV. Discussion

1. Prior to the issuance of an Order of Designation, it is appropriate to address the concerns included in the testimony recounted above.
2. Concerns were expressed about whether the WHC LEMA Management Plan is consistent with existing state law, including the doctrine of prior appropriation. The allocations in the WHC LEMA Management Plan are not based upon priority of water rights, except vested water rights are exempt from the provisions of the WHC LEMA Management Plan. The LEMA statute does not require allocations in a LEMA management plan to be based on priority—it permits groundwater management districts to address the depletion of groundwater in a creative, locally-driven manner. K.S.A. 82a-1041 allows for reductions to address specific problems, and provides the flexibility to implement LEMA management plans that adequately address such problems while still protecting senior water rights. For example, K.S.A. 82a-1041(f) allows for the use of four specific corrective control provisions plus any additional requirements that the public interest may require. Of these, the only mention of priority is in K.S.A. 82a-1041(f)(2), which relates to determining the total permissible withdrawal in an area apportioned “insofar as may be reasonably done” with the relative dates of priority. Additionally, K.S.A. 82a-1041(f)(3) explicitly allows for “reducing the permissible withdrawal of groundwater by *any* one or more appropriators....” (emphasis added). It is also important to note that K.S.A. 82a-707(b) provides that the priority to use water comes into

effect when the “supply is not sufficient to satisfy all water rights.” The implementation of the WHC LEMA Management Plan is an attempt to address the well-documented regional lowering of the aquifer and not impairment of senior water rights by junior water rights. Here, the strict use of priority in determining allocations could result in significant individual economic harm to junior water right holders while providing little additional benefit to some senior right holders due to variability of the saturated thickness of the aquifer across Wichita County without providing any of the assumed protections (supply of water) that go along with administering strictly according to priority. Of the testimony received in this proceeding, only one entity mentioned that allocations in the WHC LEMA Management Plan should be based on priority of water rights. However, the local community did not express an interest in priority-based allocations, and despite the allocations not being based upon priority, the WHC LEMA Management Plan is consistent with state law. As such, it was reasonable for the GMD 1 Board of Directors to use additional factors when determining allocations in the WHC LEMA Management Plan. Further, as testimony by DWR staff shows, priority is still the fundamental consideration if impairment between two water rights occurs. In such case, the prior appropriation doctrine will be used to secure water to the senior appropriator. Finally, this legal concern was previously resolved in the Memorandum Decision issued in *Friesen v. Barfield*, 2018 CV 10, Gove County District Court (October 15, 2019). The Memorandum Decision stated, “[h]ad the Legislature meant for the prior appropriation to apply to LEMA’s and IGUCA’s then there would have been mention of it within the statute. Instead, the Legislature authorized the corrective controls that directly and unambiguously contravene with the prior appropriation doctrine.” *Id.* at 24. For all these reasons, the WHC LEMA Management Plan is

consistent with existing state law, including the Kansas Water Appropriation Act and the Groundwater Management District Act.

3. Testimony received in this proceeding included concerns that the corrective control provisions of the WHC LEMA Management Plan only address one type of use (irrigation) without also imposing restrictions on other types of use. As previously discussed, the WHC LEMA Management Plan provides an allocation for irrigation water rights while non-irrigation water rights are not subject to the corrective control provisions of the management plan. Non-irrigation water rights are not provided allocations, nor are they required to reduce their use—the WHC LEMA Management Plan simply includes recommendations for those users. For the same reasons discussed above relating to the doctrine of prior appropriation, it is also reasonable to exclude non-irrigation water rights from specific allocations under the WHC LEMA Management Plan. The Memorandum Decision issued in *Friesen v. Barfield*, 2018 CV 10, Gove County District Court (October 15, 2019) also addressed this concern. In that case, where non-irrigation uses also constituted a tiny fraction of total use, GMD 4's LEMA Management Plan only provided allocations to irrigation water rights and did not regulate the other types of use. In the Memorandum Decision, the Gove County District Court found that a LEMA Management Plan which only regulates one type of water use is permissible and does not violate the equal protection standards of the Federal and State Constitutions. *Id.* at 16. The WHC LEMA Management Plan was created to address depletion of groundwater and it is reasonable for the corrective control provisions to regulate irrigation water rights because the irrigation water rights account for 96.4% of the groundwater withdrawals from the aquifer. The goal of reducing groundwater withdrawals can be met through corrective control provisions directed at irrigation water rights and is a logical and rational way to fulfill the purpose of the

LEMA statute and the WHC LEMA Management Plan. For all these reasons, the WHC LEMA Management Plan is consistent with existing state law, including the Kansas Water Appropriation Act and the Groundwater Management District Act.

4. Additionally, concerns were expressed regarding the boundaries of the WHC LEMA; how the allocation basis was determined; and various issues with the appeal process of the WHC LEMA Management Plan. Ultimately, each issue was evaluated by GMD 1's Board of Directors and the provisions in the WHC LEMA Management Plan were developed based on local input. For the reasons discussed below, it is appropriate to give deference to the decisions made by GMD 1's Board of Directors when it developed the WHC LEMA Management Plan.

Regarding the WHC LEMA boundaries, it is important to note that the issue was discussed during the initial public hearing and the Chief Engineer determined that the boundaries were reasonable. (*See generally, Findings and Order Establishing the Initial Requirements for the Designation of a Local Enhanced Management Area*). Although the aquifer and the movement of water through it are not affected by township, county, or GMD boundaries; for practical and administrative reasons, the Board of Directors elected to focus its resources in developing a LEMA management plan for Wichita County, an area that presents the greatest decline rates and has significant public support for conservation measures.

With respect to the allocation basis, some individuals indicated a preference for an allocation based on an acre-inch calculation instead of an allocation based on the pumping history of each water right. Mr. Spencer's written testimony discussed the basis for the allocations and factors that were considered when developing the allocations in the WHC LEMA Management Plan. (*See generally, Second Supplement to Written Testimony of the Western Kansas Groundwater Management District No. 1, p. 1*). While there are other methods

for determining an allocation basis, GMD 1's Board of Directors determined that the proposed allocation basis was appropriate and includes a reasonable provision to give due consideration to water right owners that have previously implemented voluntary conservation measures.

Finally, specific concerns were raised regarding the appeal deadline of March 1, 2022; the inability to appeal the allocation if property is purchased after the deadline; the number of appeals that may result; the resources that will be utilized to address the appeals; whether the 150-day multiplier in the flow rate test is correct; and whether the timeline of the flow rate test is appropriate and provides water right owners with appropriate notice regarding their allocation under the WHC LEMA Management Plan. Mr. Spencer's written testimony addressed many of those concerns including the appeal deadline, the reasoning behind the 150-day multiplier in the flow rate test, and the appropriateness of the timeline for the flow rate test. (*See generally, Written Testimony of the Western Kansas Groundwater Management District No. 1*, pp. 1-18; *Supplement to Written Testimony of the Western Kansas Groundwater Management District No. 1*, pp. 1-5; *Second Supplement to Written Testimony of the Western Kansas Groundwater Management District No. 1*, pp. 1-2). GMD 1's Board of Directors determined the appeal process of the WHC LEMA Management Plan was sufficient.

The LEMA statute allows groundwater management districts and their members to control the destiny of their water use. In this case, GMD 1 submitted a request for the establishment of the WHC LEMA Management Plan, with the goal of limiting irrigation withdrawals. GMD 1's Board of Directors evaluated various methods and determined the provisions within the WHC LEMA Management Plan were the best means to achieve the stated goals. The decisions made by GMD 1's Board of Directors are reasonable, lawful, and appropriate and, as such, deference should be given to their decisions.

5. Finally, testimony received during the proceeding noted concerns about the economic impact that may result from the implementation of corrective control provisions, including whether the WHC LEMA Management Plan will devalue private property rights. As summarized above, various persons testified that the implementation of the corrective control provisions were necessary to extend the useful life of the aquifer, thus benefiting the economy. In particular, Mr. Spencer's testimony included excerpts from reports evaluating the impact of the Sheridan 6 LEMA and the Wet Walnut Creek IGUCA. (*See generally, Written Testimony of the Western Kansas Groundwater Management District No. 1*, pp. 1-80; *Supplement to Written Testimony of the Western Kansas Groundwater Management District No. 1*, pp. 1-5; *Second Supplement to Written Testimony of the Western Kansas Groundwater Management District No. 1*, pp. 1-2; *Oral Testimony of Kyle Spencer, Transcript*, pp. 13-37; *Written Testimony of Frank Mercurio*, pp. 1-3; *Transcript*, p. 55; *Written Testimony of Lane Letourneau*, pp. 1-2; *Oral Testimony of Lane Letourneau, Transcript*, pp. 37-42). While the economic impact of implementing corrective control provisions has not been clearly established, evidence from other areas that have implemented conservation tools has not shown a significant decline in profits or property values. It is likely that significant economic impacts will result if the depletion of groundwater continues unchecked. Corrective control provisions are necessary to extend the life of the aquifer and data from the KGS found that if the average water use from 2009-2015 continues, it is projected that the aquifer's saturated thickness will reach 15 feet within seven years. However, if withdrawals are reduced 14.7%, and assuming the amount of water coming into the aquifer remains constant, the remaining usable life of the aquifer should be doubled. (*See generally, Supplement to Written Testimony of the Western Kansas Groundwater Management District No. 1*, pp. 1-2). The corrective control provisions

in the WHC LEMA Management Plan will help ensure groundwater is available for all water rights into the future and provide long-term benefits to public health and welfare, and to the local economy.

V. Findings of Fact

1. The order entitled *Findings and Order Establishing the Initial Requirements for the Designation of a Local Enhanced Management Area* is hereby adopted by reference and made a part of this record.
2. The proposed geographical boundaries of the WHC LEMA include the following sections in Wichita County, Kansas:

Township 16S, Range 35W, Sections 1 through 36
Township 16S, Range 36W, Sections 1 through 36
Township 16S, Range 37W, Sections 1 through 36
Township 16S, Range 38W, Sections 1 through 36
Township 17S, Range 35W, Sections 1 through 36
Township 17S, Range 36W, Sections 1 through 36
Township 17S, Range 37W, Sections 1 through 36
Township 17S, Range 38W, Sections 1 through 36
Township 18S, Range 35W, Sections 1 through 36
Township 18S, Range 36W, Sections 1 through 36
Township 18S, Range 37W, Sections 1 through 36
Township 18S, Range 38W, Sections 1 through 36
Township 19S, Range 35W, Sections 1 through 36
Township 19S, Range 36W, Sections 1 through 36
Township 19S, Range 37W, Sections 1 through 36
Township 19S, Range 38W, Sections 1 through 36

The WHC LEMA Management Plan proposes clear geographic boundaries and the boundaries of the WHC LEMA are located wholly within GMD 1.

3. Evidence shows there is a need for corrective control provisions in Wichita County, Kansas due to excessive declines in groundwater levels and a rate of withdrawal of groundwater that exceeds the rate of recharge.

4. The WHC LEMA Management Plan limits irrigation withdrawals within the WHC LEMA boundaries to 246,882.786 acre-feet for the period of January 1, 2021 through December 31, 2025. This five-year allocation, along with flexibility in how the allocation can be applied by water right owners, provides corrective control provisions which are sufficient to meet that goal.
5. The WHC LEMA Management Plan provides due consideration to water users that have previously implemented voluntary conservation measures.
6. The proposed WHC LEMA Management Plan provides for comprehensive accounting procedures and penalties for violations.

VI. Conclusions of Law

1. Notice of the initial public hearing and the second public hearing was proper and complied with the requirements of K.S.A. 82a-1041(b).
2. As determined by the *Findings and Order Establishing the Initial Requirements for the Designation of a Local Enhanced Management Area*, the initial requirements for the establishment of a LEMA were met during the initial public hearing.
3. The second public hearing took place according to the requirements of K.S.A. 82a-1041.
4. All other procedures required pursuant to K.S.A. 82a-1041 have been complied with in the formation and submittal of the WHC LEMA Management Plan.
5. In order to address excessive declines in the groundwater level and to address rates of withdrawal that exceed the rate of recharge as stated by K.S.A. 82a-1036, the public interest requires the establishment of corrective control provisions within Wichita County, Kansas.
6. A corrective control provision that only reduces the rate of decline, but does not prevent decline, is in the public interest as contemplated by K.S.A. 82a-1020.

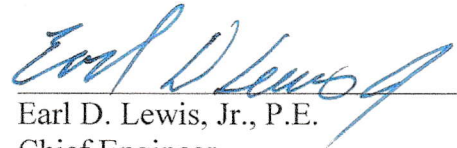
7. Pursuant to K.S.A. 82a-1041(d)(1), the WHC LEMA Management Plan is sufficient to address the excessive declines in groundwater levels and the rate of withdrawal of groundwater that exceeds the rate of recharge in the area in question.
8. The WHC LEMA Management Plan is consistent with the Kansas Water Appropriation Act and other Kansas law.

VII. Order of Decision

COMES NOW the Chief Engineer, who, based upon substantial competent evidence, as provided by the testimony and comments offered at, or in relation to, all public hearings on this matter, finds that the management plan for the Wichita County Local Enhanced Management Area is sufficient to address the decline in groundwater levels in the area in question.


THEREFORE, the Chief Engineer, pursuant to K.S.A. 82a-1041(e)-(h), shall within a reasonable time, enter a subsequent order of designation, which shall define the boundaries of the WHC LEMA and include all necessary corrective control provisions.

ENTERED THIS 30th DAY OF DECEMBER, 2020.



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

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Exhibits:

Exhibit A: “GMD 1 Wichita County Local Enhanced Management Area” dated March 26, 2020.

Exhibit B: “Wichita County Local Enhanced Management Area (LEMA): Historical Use & Allocations.”

**Request for a Wichita County LEMA Submitted to the Chief Engineer,
Kansas Department of Agriculture, Division of Water Resources**

March 26, 2020

I. Definitions

- a. "Annual Authorized Quantity or AAQ" - The maximum amount of annual water use assigned to a Water Right by DWR when the Water Right was approved or certified, and as modified by any subsequently approved changes, terms or conditions.
- b. "Appropriation Water Rights" - Pursuant to K.S.A. 82a -701(f), Water Rights that do not meet the conditions to be a Vested Water Right.
- c. "Board" - The GMD1 Board of Directors.
- d. "Chief Engineer" - The Chief Engineer of the Division of Water Resources, Kansas Department of Agriculture.
- e. "Comparison Years" - The years, 2009 through 2015, used to determine Historical Usage of a point of diversion.
- f. "Conservation Factor" - A 25% reduction applied to the Historical Usage for the calculation of a WHCL Allocation.
- g. "Combined Well Unit or CWU" - Multiple wells diverting water from the same source of supply and physically tied together for the distribution of water prior to the starting date of the WHCL.
- h. "Domestic Water Rights"- Shall mean the same as KSA82a-701 (c).
- i. "DWR" - Division of Water Resources, Kansas Department of Agriculture.
- j. "GMD1" - Western Kansas Groundwater Management District No. 1.
- k. "Historical Usage" - The average quantity of authorized water in acre-feet used by a point of diversion during the Comparison Years, excluding years of zero use from the seven-year average, used for the calculation of the WHCL Allocation.
- l. "K.A.R." - Kansas Administrative Regulations.
- m. "KGS" - Kansas Geological Survey.
- n. "K.S.A." - Kansas Statutes Annotated.
- o. "LEMA" - Local Enhanced Management Area.
- p. "LEMA Period" - A five year period that shall run from January 1, 2021 through December 31, 2025.

- q. "Management Plan" - A written plan required pursuant to K.S.A. 82a-1041 which serves as the basis of the order establishing this LEMA to promote the conservation of water and water use efficiency.
- r. "MYFA or Multi-Year Flex Account" - A type of Term Permit as defined in K.S.A. 82a-736.
- s. "Stakeholder" - Any Water Right owner within the WHCL boundaries.
- t. "Term Permit" - A DWR permit to appropriate water that is issued for a specified period of time and is automatically dismissed at the end of the period.
- u. "Vested Water Right" - Pursuant to K.S.A. 82a -701(d), a Water Right which was put to beneficial use prior to June 28, 1945.
- v. "Voluntarily Enrolled Vested Right" - A Vested Water Right which voluntarily enrolls in the WHCL Management Plan.
- w. "Water Rights"- means the same as defined in K.S.A. 82a-701(g).
- x. "WUC" - Water Use Correspondent.
- y. "WCA" - Water Conservation Area.
- z. "WHCL" - Wichita County Local Enhanced Management Area.
- aa. "WHCL Allocation" - The quantity of water in acre-feet allowed for each irrigation Appropriation Water Right and Voluntarily Enrolled Vested Right, assigned by point of diversion that may be diverted during the LEMA Period.
- bb. "WHCL Order of Designation" - The Order of Designation issued by the Chief Engineer pursuant to K.S.A. 82a-1041.

II. Management Plan Goals

In order to meet the goal of extending the Ogallala Aquifer supplies for the long term benefit of the area included in the proposed WHCL, a public process was utilized. Specifically, the Board worked with Stakeholders during board meetings and other public meetings to develop a Management Plan based on the desires of the public.

The WHCL shall exist for a five-year period beginning on January 1, 2021 and ending on December 31, 2025. In order to address excessive water level declines and withdrawal rates exceeding recharge rates within the proposed WHCL boundaries, the goal of the Management Plan shall be to limit irrigation withdrawals to 246,882.786 acre feet during the LEMA Period.

III. Proposal

The WHCL shall include all irrigation Appropriation Water Rights whose source is the Ogallala Aquifer within the WHCL boundaries. Pursuant to K.S.A. 82a-703 Vested Water Rights within the WHCL boundaries shall not be regulated except through voluntary enrollment. Once voluntarily enrolled in the WHCL, Vested Water Rights may not be

withdrawn for the remainder of the LEMA Period.

- a. Irrigation allocations were established for each Water Right thru an impartial process without deference to Water Right priority; however, Water Right priority is a consideration, if an impairment complaint is filed with the Chief Engineer.
- b. Non-irrigation uses will not be assigned a WHCL allocation due to their total combined water usage amounting to a minimal percentage of the total water use within the proposed WHCL boundaries. However, efficiency recommendations are provided for utilization in their management practices.
- c. The WHCL shall include the following townships:

Wichita County

Township 16S, Range 35W, Sections 1 through 36
Township 16S, Range 36W, Sections 1 through 36
Township 16S, Range 37W, Sections 1 through 36
Township 16S, Range 38W, Sections 1 through 36
Township 17S, Range 35W, Sections 1 through 36
Township 17S, Range 36W, Sections 1 through 36
Township 17S, Range 37W, Sections 1 through 36
Township 17S, Range 38W, Sections 1 through 36
Township 18S, Range 35W, Sections 1 through 36
Township 18S, Range 36W, Sections 1 through 36
Township 18S, Range 37W, Sections 1 through 36
Township 18S, Range 38W, Sections 1 through 36
Township 19S, Range 35W, Sections 1 through 36
Township 19S, Range 36W, Sections 1 through 36
Township 19S, Range 37W, Sections 1 through 36
Township 19S, Range 38W, Sections 1 through 36

This represents a LEMA boundary that is both clearly identifiable and entirely within the boundaries of GMD1, fulfilling the requirements of K.S.A. 82a-1041(a) (1), (2).

- d. All WHCL Allocation quantities shall be expressed in terms of total acre-feet for the LEMA Period and such quantity will be provided to each Water Right owner.
- e. Any unused WHCL Allocation, up to a maximum of five times the Annual Authorized Quantity, may be carried forward to a subsequent LEMA if designated by the Chief Engineer which commences in the year 2026 and the carryover quantity will not be subject to the new LEMA's conservation requirements.
- f. No point of diversion shall receive more than five times the Annual Authorized Quantity for the LEMA Period.
- g. WHCL Allocations are shown in Attachment A.
- h. WHCL Allocations for Water Rights subject to a DWR penalty order effecting permitted withdrawals from 2009 through the LEMA Period will be adjusted accordingly by DWR, and such order may not be appealed within the WHCL appeal process.

- i. Applications to change a Water Right filed with DWR will be processed under existing laws, rules, and regulations; and should be reviewed for consistency with the goals of the WHCL during the LEMA Period.
- j. Water Rights will not be permanently altered by a WHCL Order of Designation but will be subject to the terms and conditions of the WHCL Order of Designation for the duration of the LEMA Period.
- k. Water Rights currently in their perfection period shall not be restricted by the Management Plan while in their perfection period.
- l. New Water Right applications will be considered by the Board on a case-by-case basis.

IV. WHCL Allocations

WHCL Allocations shall be assigned to each point of diversion and shall apply to all irrigation Appropriation Water Rights and Voluntarily Enrolled Vested Rights, subject to Section III. No Water Right shall be allowed to exceed its Annual Authorized Quantity (AAQ) unless authorized by a DWR Term Permit. WHCL Allocations for each Water Right will be included in an official Order of Designation issued by the Chief Engineer. Upon approval of the WHCL, WHCL Allocations are subject to review pursuant to Section IV (a) (5). WHCL Allocations will be established based on the following:

a. Irrigation Water Rights

- 1. The Historical Usage shall be reduced by the Conservation Factor. The result shall be multiplied by five (5) to establish the total WHCL Allocation for each point of diversion during the LEMA Period as follows:
 - A. If the Historical Usage is 20% or less of the AAQ for a point of diversion, the WHCL Allocation shall be:

$\text{Historical Usage} \times 5$
 - B. If the Historical Usage is more than 20% of the AAQ for a point of diversion, the WHCL Allocation shall be the greater of:
 - (i) $\text{AAQ} \times 20\% \times 5$, or
 - (ii) $\text{Historical Usage} \times 75\% \times 5$
- 2. If an Appropriation Water Right is authorized for the same point of diversion as a Vested Water Right that has not voluntarily enrolled in the WHCL, a WHCL Allocation shall be established for the portion, if any, of the Historical Usage authorized by the Appropriation Water Right, as follows:
 - A. If the Annual Authorized Quantity for the overlapped Vested Water Right is greater than the Historical Usage, then no WHCL

Allocation will be established for that point of diversion and the Vested Water Right will be unaffected by the WHCL.

- B. If the Historical Usage from the point of diversion is greater than the Annual Authorized Quantity of an overlapped Vested Water Right, the WHCL Allocation will be established by subtracting the Vested Water Right's Annual Authorized Quantity from the Historic Usage, multiplying the remaining quantity, which is authorized by the overlapping Appropriation Water Right, by 75% then multiplying that product by five as described in Section IV (a) (1).
3. Each point of diversion within the WHCL boundaries will be assigned a WHCL Allocation pursuant to Section IV(a) (1) and are subject to review pursuant to Section IV (a) (5), (6).
4. If a point of diversion is authorized by more than one Water Right, it will be subject to any DWR limitations for the point of diversion.
5. Due consideration will be given for past conservation. If Water Rights are enrolled or have been enrolled in conservation programs, have implemented past conservation measures affecting their Historical Usage record, establishment of the WHCL Allocation will follow the guidelines set forth in Section XIII.
6. For Water Rights operating under the authority of a Term Permit, including a MYFA, or enrolled in a K.A.R. 5-5-11 change, WCA, or other flexible water plan, the most water restrictive plan shall apply. Water Rights within the WHCL boundaries that are withdrawn from an existing WCA during the LEMA Period shall be subject to the WHCL and provided a WHCL Allocation based on the years remaining in the LEMA Period.
7. Irrigation Use applications for MYFA Term Permits must be filed in the first year of the LEMA Period. If a subsequent LEMA is designated pursuant to Section III(e), then any carryover shall be limited by the provisions of this Management Plan and if no LEMA is subsequently designated then pursuant to K.S.A. 82a-736.

b. Vested Water Rights (See Attachment B).

1. Pursuant to K.S.A. 82a-703, Vested Water Rights shall not be subjected to the Management Plan.
2. Vested Water Rights once voluntarily enrolled in the WHCL may access the flexibilities of the Management Plan. If voluntarily enrolled, the Vested Water Right shall be subject to the terms and conditions of the Management Plan including the assignment of a WHCL Allocation as described in Section IV (a) (1). Enrollment must occur in the first year of the LEMA Period; prior to the first irrigation application and will require all owners of the Water Right(s), to sign a notarized document provided by GMD1.

c. **Non-Irrigation Uses** - The water use reports of all non-irrigation Water Rights will be reviewed annually by the Board. Additionally each type of use is encouraged to implement the following recommendations:

1. Stock Water Rights

- A. Increase efficiency by implementing scheduled infrastructure inspections, repairing leaks in a timely manner, upgrading old equipment, and applying water reuse technology.
- B. Use less than the recommended maximum water authorized by K.A.R. 5-3-22.

2. Municipal Water Rights

- A. Reduce the gallons per capita per day.
- B. Implement scheduled infrastructure inspections, conduct system repairs in a timely manner, implement systems to account for all water usage.
- C. Consider implementing water reuse technology for precipitation runoff and effluent.
- D. Require all new and remodel construction projects to use water efficient plumbing fixtures and recommend that all consumers meet the new standard by updating their existing fixtures.
- E. Request all consumers, especially administrators of large capacity facilities and outdoor sport and recreation areas, maintain infrastructures and repair leaks in a timely manner.
- F. Request all consumers use less water intensive plants and lawns, water in the early morning and late evening, and be aware of the amount of water applied per year.

3. Industrial and Recreational Water Rights are asked to voluntarily conserve water whenever possible for the betterment of their water community.

4. Domestic Water Rights

- A. Reduce their gallons per capita per day.
- B. Install water efficient plumbing fixtures in new and remodel construction and update their existing fixtures.
- C. Identify and repair leaks.

D. Use less water intensive plants and lawns, and water in the early morning or late evening.

V. Combined Well Unit (See Attachment C)

Wells within a Combined Well Unit will be allowed to share the combined quantity of their individual WHCL Allocations. No individual well shall be allowed to exceed its Annual Authorized Quantity unless authorized by a DWR Term Permit. Enrollment in a CWU must occur in the first year of the LEMA Period; prior to the first irrigation application and will require all owners of the Water Right(s), to sign a notarized document provided by GMD1. This document will contain the water right numbers and locations of the wells that are physically tied together along with a map showing the location of the pipeline. If Water right changes are required to implement a CWU, the owners are responsible for completing all necessary applications and gaining approval of such by the Chief Engineer. All Combined Well Units must be approved by the Board and the Chief Engineer prior to implementation.

VI. Violations

The WHCL Order of Designation shall serve as initial notice to all Water Right owners within the WHCL boundary on its effective date. A copy of the Order of Designation and the Management Plan shall be available on DWR's website and GMD1's website. DWR shall mail a notification that the Order of Designation is effective to all Water Right owners and WUC, if different from the owner, with instructions on how to request a copy of the Order of Designation. Violations shall be addressed as follows:

- a. Exceeding the five-year WHCL Allocation and all other Water Right violations shall be subject to applicable Kansas statutes and regulations, specifically but not limited to K.A.R. 5-14-10 and K.A.R. 5-14-12.
- b. The combined authorized pumping rate of all wells in a CWU shall be used to calculate the number of days pumping occurred in excess of the CWU's WHCL Allocation.

VII. Metering and Monitoring

- a. All Water Right owners shall be responsible for ensuring their water flowmeters are in compliance with state statutes and regulations prior to the diversion of water at each point of diversion.
- b. In addition to being in compliance with DWR requirements and reporting annually the quantity of water diverted from each point of diversion, all Water Right owners within the WHCL boundaries are encouraged to implement at least one additional well or meter monitoring procedure.
- c. Should the water flowmeter reported readings be in question and determined insufficient and no other records are provided upon request of GMD1, the well shall be assumed to have pumped its full Annual Authorized Quantity for the year in question.
- d. Whenever a meter is repaired or replaced, the Water Right owner or authorized designee

shall submit form DWR 1-560 Water Flowmeter Repair/Replacement Form to GMD1 or DWR within seven days of the completed repair.

- e. This metering protocol shall be a specific annual review issue and if discovered to be ineffective, specific adjustments shall be recommended to the Chief Engineer by GMD1.

VIII. Accounting

- a. DWR, in cooperation with GMD1, shall keep records of the annual diversion amounts for each Water Right within the WHCL boundary and the total five-year quantity balances. Upon written request, this information will be available to the Water Right owner or GMD1.
- b. GMD1 and DWR shall cooperate on reconciliation and correction of any annual water use report found to be in error.
- c. GMD1 will provide DWR with copies of all completed Combined Well Unit Forms and any other documentation or information concerning the WHCL in a timely manner.

IX. LEMA Reviews

- a. The Board and a member of DWR staff appointed by the Chief Engineer shall comprise the "Review Board" and shall conduct an annual review of the items in subsection (b). The review data shall also be presented at the Annual Meeting of GMD1.
- b. Annual Review Items
 - 1. Water use data.
 - 2. Water table information.
 - 3. Economic data as is available.
 - 4. Compliance and enforcement issues.
 - 5. Any new and preferable enhanced management authorities that become available.
 - 6. Other items deemed pertinent by the Review Board.

- c. **WHCL Order of Designation Reviews**

In addition to the annual review of the WHCL, the Review Board shall conduct a more formal review of WHCL Order of Designation in the fourth year of the LEMA Period. The review will encompass the annual review items with a focus on the economic impacts, as data is available, to the WHCL area and the local public interest while pursuing the LEMA goals.

The Review Board shall produce a report to the Chief Engineer following this review that contains specific recommendations regarding future WHCL actions. This report shall be presented at Stakeholder meetings for the purpose of considering any future LEMA plans. All recommendations shall be supported by reports, data, testimonials, affidavits or other information of record.

X. Impairment Complaints

The Stakeholders request that any impairment complaint submitted to the Chief Engineer during the LEMA Period be investigated with consideration to Water Right priority and the Management Plan.

XI. Water Level Monitoring

Prior to this WHCL proposal there were 43 recognized observation wells, two with continuous water level sensors and one continuously monitored index well, all within or near the WHCL area that have been measured annually by either DWR or KGS personnel. For each of these wells, there is a long history of annual water level measurements. Pumping influences and recovery trends can be analyzed to evaluate results of the corrective controls implemented by this Management Plan.

XII. Coordination

The Stakeholders expect reasonable coordination between DWR and GMD1 on at least the following efforts:

- a. Development of the WHCL Order of Designation resulting from the LEMA process.
- b. Compliance and enforcement of the WHCL Order of Designation.
- c. Annual accounting of the WHCL Allocation quantities used and available balance to Water Right owners and WUC if different from the owner.

XIII. Allocation Appeal Process

- a. The following process will govern appeals for the possible modification of WHCL Allocations.
 1. Only the amount of the WHCL Allocation may be appealed. Appeals regarding any other issues shall not be allowed and will not be considered through this process.
 2. The Board will serve as the appeals board. Information generated by DWR, KGS, any agency of the United States, and GMD1 will be the Board's official source of information for appeals.
- b. Water Right owners must submit a written request for an appeal to GMD1 before March 1, 2022. Failure to file an appeal before March 1, 2022 will cause the WHCL Allocation to become final during the LEMA Period. The request shall specify the point(s) of diversion, relevant year(s) of the Comparison Years, and the basis for the appeal. During the appeal period, each point of diversion is limited to one appeal for each of the three reasons listed below. Water Right owners may withdraw their

appeal by providing written notice prior to the Board issuing a final determination pursuant to subsection (e). New WHCL Allocations authorized by the Board will become effective the year the appeal is approved. Appeals may be based on any of the following reasons:

1. Verification of reported water use history used for the WHCL Allocations provided in Attachment A.
 2. Due consideration of previous voluntary conservation measures resulting in an incomplete or diminished Historical Usage record.
 3. Water Rights on land not owned, leased, rented or otherwise previously controlled or pumped for any of the Comparison Years by the Farm Services Agency producer of record as of January 1, 2020 shall be allowed a flow rate test, pursuant to subsection (f). Appeals for this reason shall be reviewed by the Board for approval.
- c. Appeals based solely on reported water use history will be referred to DWR for verification. Written notification will be provided to the Water Right owner when the process is completed.
- d. Appeals based on previous voluntary conservation measures must be accompanied by supporting documentation before the appeal will be scheduled for consideration by the Board. Information that will be required includes:
1. For water rights enrolled in government sponsored conservation programs, documentation must include an approved enrollment contract indicating the years of participation.
 2. Any other documentation supporting past voluntary conservation that may have influenced the water use record during the Comparison Years.
- e. The Board will review the submitted information at the next scheduled board meeting or special meeting scheduled for the purpose of appeal reviews. The Board shall issue one of the following determinations:
1. Denial of appeal.
 2. Grant an extension for the Water Right owner to provide additional information.
 3. New WHCL Allocation based on the information presented.
 4. Authorize a flow rate test. For points of diversion enrolled in government sponsored conservation programs the test may be postponed until the current contract expires.
 5. Authorize a WHCL Allocation equal to 20% of a point of diversion's AAQ x 5.
- f. Flow Rate Test Procedure

1. All flow rate tests shall be conducted by GMD1 or DWR between June 15 and September 15.
2. All wells shall have adequate spacing to allow proper installation of test equipment. If spacing is insufficient the Water Right owner will have the opportunity to make the required adjustments to facilitate an accurate test.
3. Each well within a Combined Well Unit shall be tested independently.
4. The resulting flow rate will be multiplied by 150 days to determine an annual acre-foot quantity, not to exceed the Annual Authorized Quantity. The annual quantity may be used to replace the year(s) of the Comparison Years under appeal. The new Historical Use record shall be reduced by the Conservation Factor to establish the new WHCL Allocation pursuant to Section IV (a) (1).

XIV. Attachments

Attachments A, B, & C will be available at the GMD1 office and on the GMD1 website (www.gmd1.org).

Attachment A: Listing of WHCL Water Rights and WHCL Allocations/17 page spreadsheet

Attachment B: Voluntarily Enrolled Vested Right WHCL Consent Form

Attachment C: Combined Well Unit Form

Attachment D: GMD1 Map

Attachment E: Wichita County LEMA Boundary Map

Attachment F: KGS Estimated Useable Life Projection Map

Attachment G: KGS Observation Well Map

Attachment H: KGS Water Level Change Map

Attachment A: Listing of WHCL Water Rights and WHCL Allocations

**Proposed Allocations available on the LEMA page at www.gmd1.org
Access the allocation table linked to “View Proposed Allocations Here - 11/20/2019”**

**Linked Document Titled
“Wichita County Local Enhanced Management Area (LEMA): Historical Use & Allocations”
Revised 11/15/2019**

**ATTACHMENT B
VOLUNTARILY ENROLLED VESTED RIGHT WHCL CONSENT FORM**

By signing this Voluntary Vested Right Enrollment Consent Form, I am voluntarily choosing to enroll my Vested Right into the WHCL and I understand that by enrolling my Vested Right into the WHCL that my Vested Right will be subject to all of the WHCL's conditions, restrictions and benefits.

Owner Name: _____

Owner Address: _____

City: _____ State: _____ Zip: _____ Phone: _____

Water Right File No(s) (Use Additional Sheets if Needed)	Well ID	Section	Township	Range	Annual Authorized Quantity	LEMA Allocated Quantity
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
Totals					=====	=====

I am voluntarily entering the Vested Water Right No(s) listed above into the WHCL. I understand that once this voluntary consent form has been approved, these Vested Rights will have to remain in the WHCL until December 31, 20__.

ALL VESTED WATER RIGHT OWNERS AND THEIR SPOUSE MUST SIGN BEFORE A NOTARY IF THEIR VESTED RIGHT AND/OR THEIR LAND IS INCLUDED IN THIS VOLUNTARY VESTED RIGHT WHCL ENROLLMENT.

MUST BE ACCOMPANIED BY THE CONSENT FORM.

VESTED RIGHT CONSENT FORM

MUST BE SIGNED IN PRESENCE OF A NOTARY by ALL WATER RIGHT OWNERS, AND WATER USE CORRESPONDENTS (WUC).

I, _____ and _____, understand and agree with the terms of this
(Printed Name) (Printed Spouse Name)
Voluntary Vested Right enrollment form.

Signature Date Spouse Signature Date
Owner WUC
(Circle one)

State of Kansas)
) SS
County of _____)

I hereby certify that the foregoing form was signed in my presence and sworn to before me this _____
day of _____, 20 _____.

Notary Public
My Commission Expires _____

I, _____ and _____, understand and agree with the terms of this
(Printed Name) (Printed Spouse Name)
Voluntary Vested Right enrollment form.

Signature Date Spouse Signature Date
Owner WUC
(Circle one)

State of Kansas)
) SS
County of _____)

I hereby certify that the foregoing form was signed in my presence and sworn to before me this _____
day of _____, 20 _____.

Notary Public
My Commission Expires _____

**ATTACHMENT C
COMBINED WELL UNIT FORM**

By signing this Combined Well Unit Form, I understand that all of the wells included in this Combined Well Unit must be physically tied together prior to the starting date of the WHCL (January 1, 20__) and that in order to be approved, water right changes may be required by the Kansas Department of Agriculture, Division of Water Resources.

Owner Name: _____

Owner Address: _____

City: _____ State: _____ Zip: _____ Phone: _____

Water Right File No(s) (Use Additional Sheets if Needed)	Well ID	Section	Township	Range	Annual Authorized Quantity	LEMA Allocated Quantity
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____
				Totals	=====	=====

_____ A map is attached showing the locations of the pipeline for this Combined Well Unit.

ALL WATER RIGHT OWNERS AND WATER USE CORRESPONDENTS APPLICABLE TO THIS COMBINED WELL UNIT MUST SIGN IN THE PRESENCE OF A NOTARY.

MUST BE ACCOMPANIED BY THE CONSENT FORM.

COMBINED WELL UNIT CONSENT FORM

MUST BE SIGNED IN PRESENCE OF A NOTARY by ALL WATER RIGHT OWNERS AND WATER USE CORRESPONDENTS (WUC).

I, _____ and _____, understand and agree with the terms of this
(Printed Name) (Printed Spouse Name)
Combined Well Unit.

Signature Date Spouse Signature Date
Owner WUC
(Circle one)

State of Kansas)
) SS
County of _____)

I hereby certify that the foregoing form was signed in my presence and sworn to before me this _____
day of _____, 20 _____.

Notary Public
My Commission Expires _____

I, _____ and _____, understand and agree with the terms of this
(Printed Name) (Printed Spouse Name)
Combined Well Unit.

Signature Date Spouse Signature Date
Owner WUC
(Circle one)

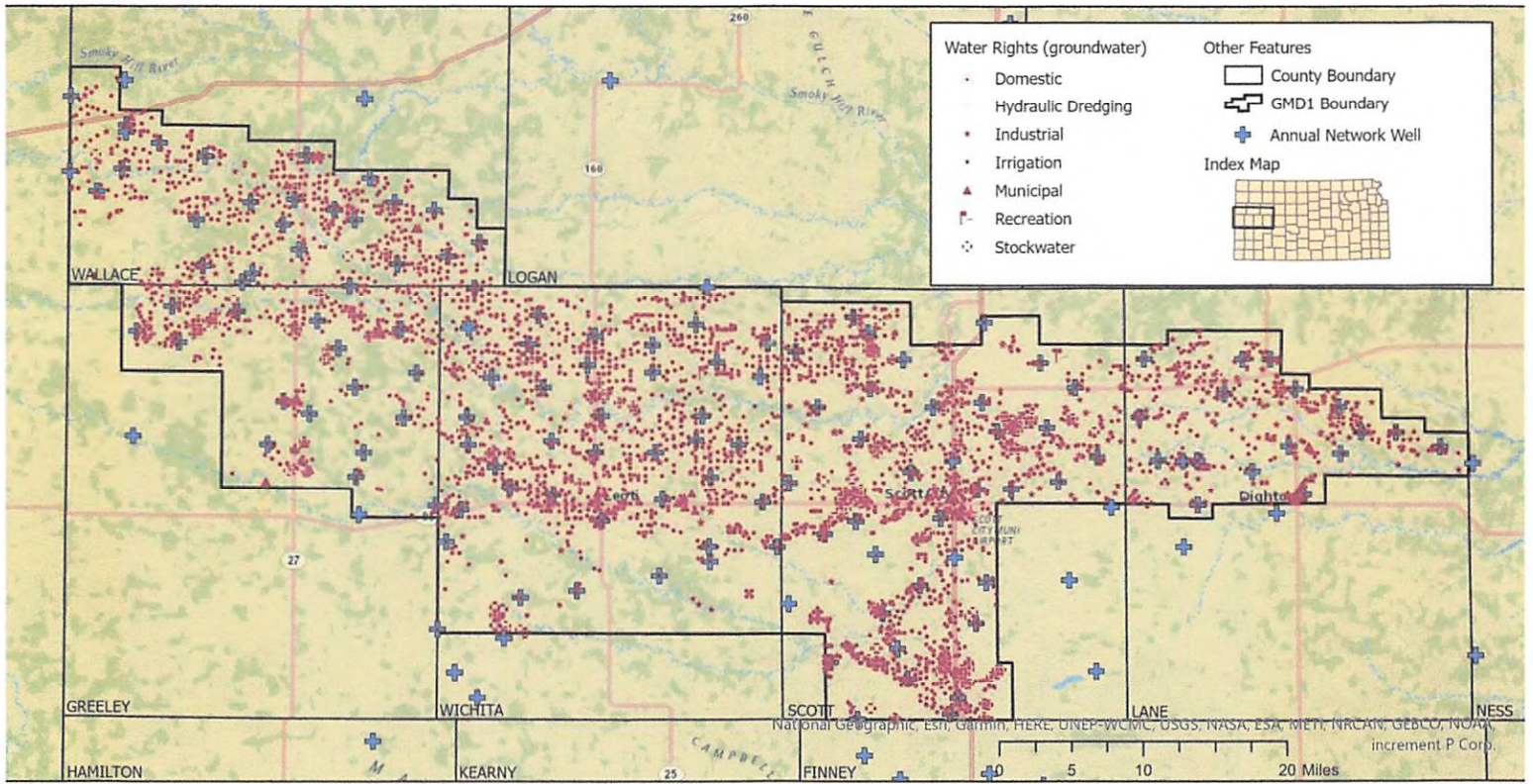
State of Kansas)
) SS
County of _____)

I hereby certify that the foregoing form was signed in my presence and sworn to before me this _____
day of _____, 20 _____.

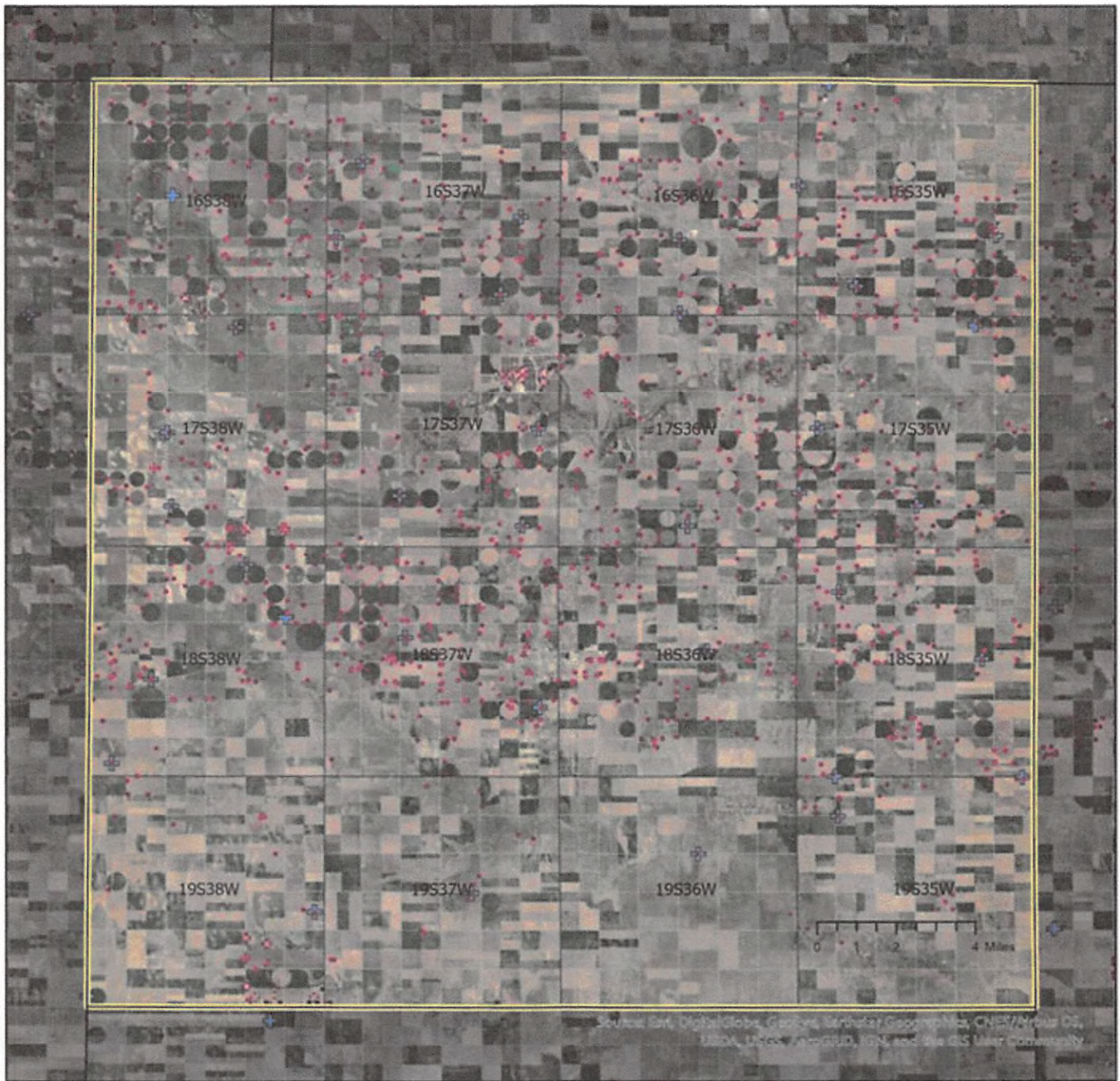
Notary Public
My Commission Expires _____

Attach Map showing the Combined Well Unit:

Attachment D: GMD1 Map



Attachment E: Wichita County LEMA Boundary Map



Water Rights (groundwater)

- Domestic
- Hydraulic Dredging
- Industrial
- Irrigation
- ▲ Municipal
- Recreation
- ◇ Stockwater

Other Features

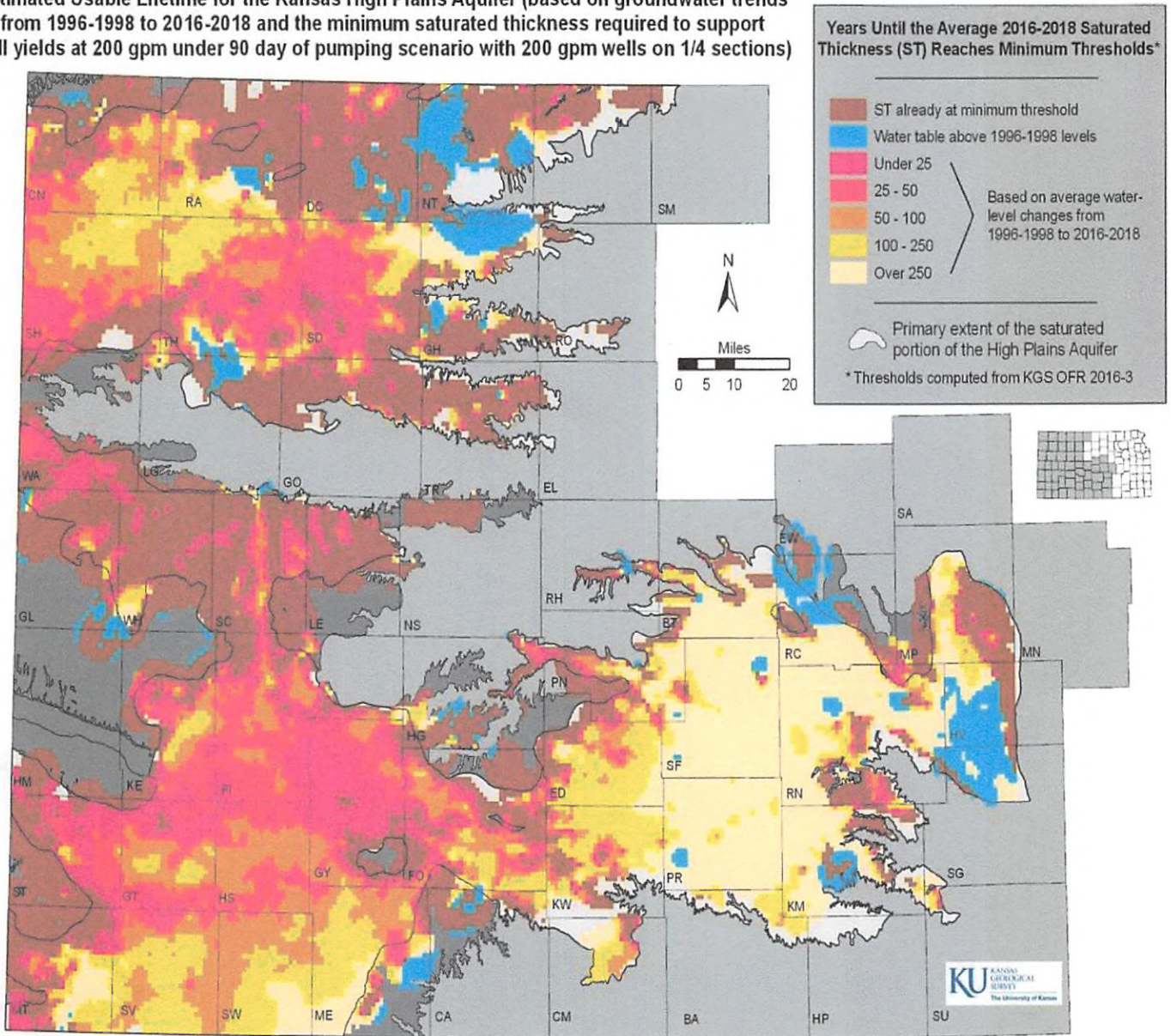
- County Boundary
- ▭ LEMA Boundary
- + Annual Network Well

Index Map

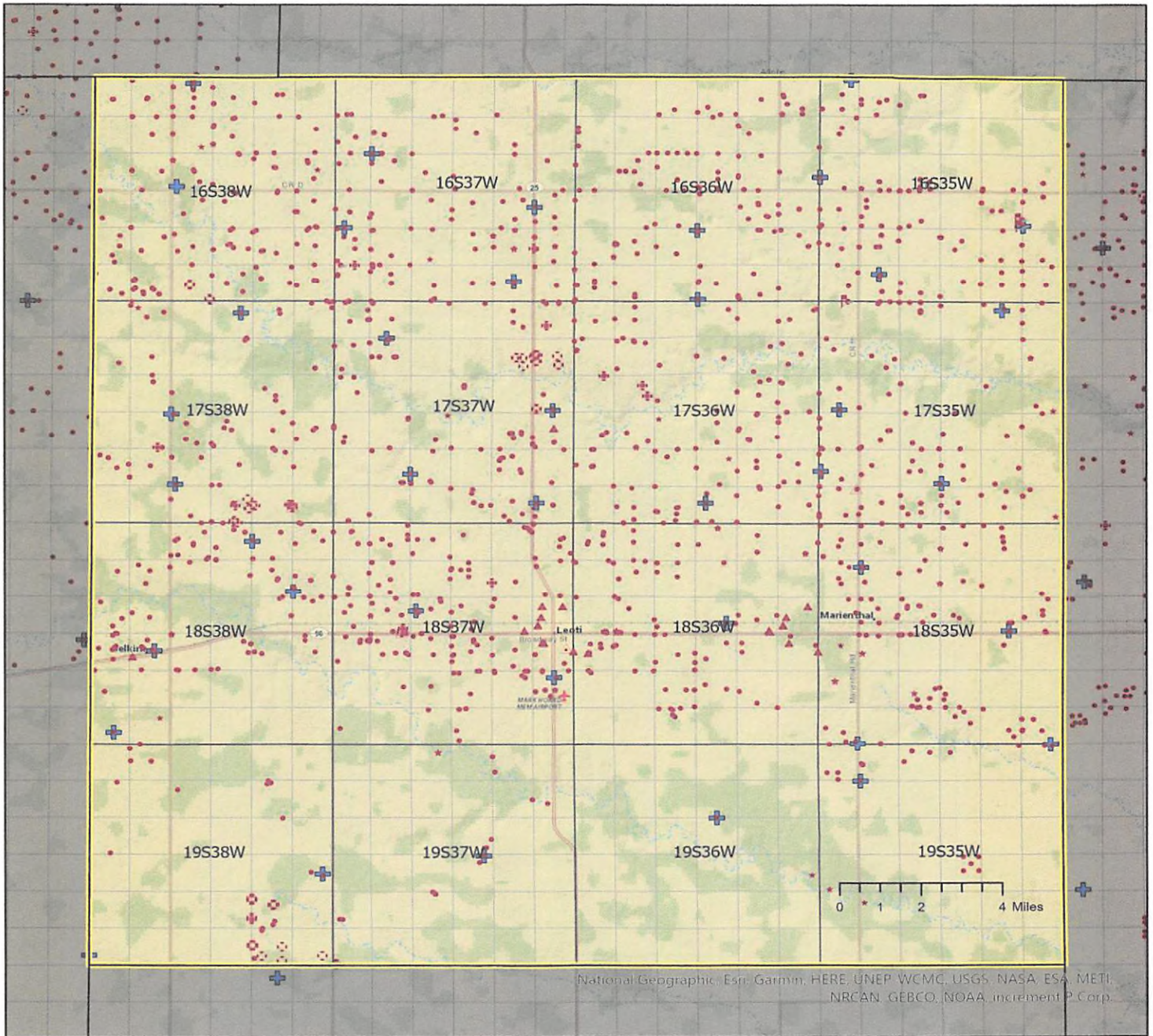


Attachment F: Estimated Useable Life Projection Map

Estimated Usable Lifetime for the Kansas High Plains Aquifer (based on groundwater trends from 1996-1998 to 2016-2018 and the minimum saturated thickness required to support well yields at 200 gpm under 90 day of pumping scenario with 200 gpm wells on 1/4 sections)



Attachment G: KGS Observation Well Map



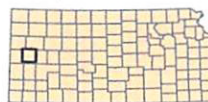
Water Rights (groundwater)

- Domestic
- Hydraulic Dredging
- Industrial
- Irrigation
- Municipal
- Recreation
- Stockwater

Other Features

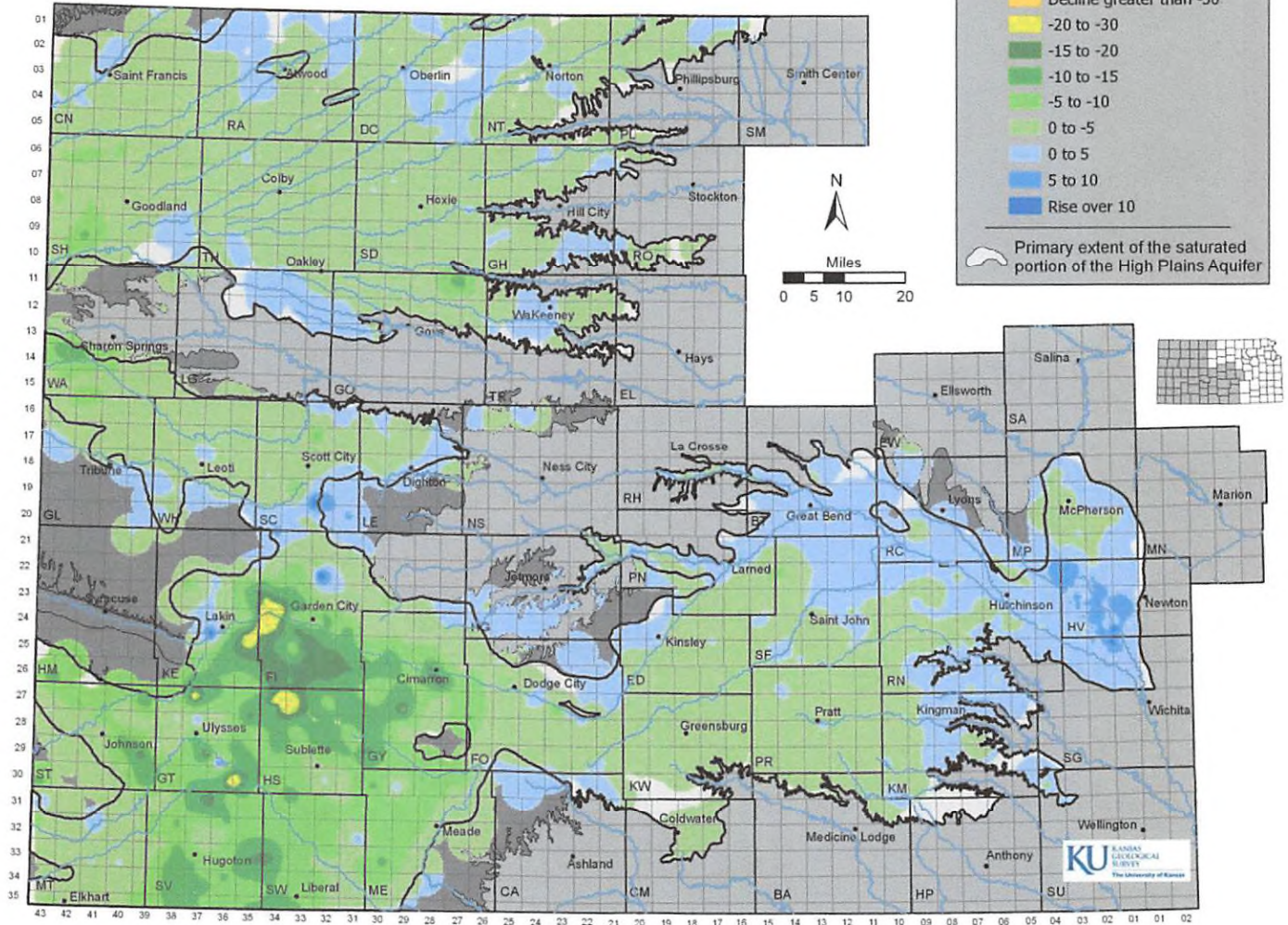
- County Boundary
- LEMA Boundary
- ⊕ Annual Network Well

Index Map



Attachment H: KGS Water Level Change Map

Interpolated Water Level Change, Kansas High Plains Aquifer, Average 2012-2014 to Average 2016-2018



Well ID	Well Name	COP	PPWD	2013 Acre (±)	CITY (Latitude/Longitude)	CITY (Lat./Long. if applicable)	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060	2061	2062	2063	2064	2065	2066	2067	2068	2069	2070	2071	2072	2073	2074	2075	2076	2077	2078	2079	2080	2081	2082	2083	2084	2085	2086	2087	2088	2089	2090	2091	2092	2093	2094	2095	2096	2097	2098	2099	2100	2101	2102	2103	2104	2105	2106	2107	2108	2109	2110	2111	2112	2113	2114	2115	2116	2117	2118	2119	2120	2121	2122	2123	2124	2125	2126	2127	2128	2129	2130	2131	2132	2133	2134	2135	2136	2137	2138	2139	2140	2141	2142	2143	2144	2145	2146	2147	2148	2149	2150	2151	2152	2153	2154	2155	2156	2157	2158	2159	2160	2161	2162	2163	2164	2165	2166	2167	2168	2169	2170	2171	2172	2173	2174	2175	2176	2177	2178	2179	2180	2181	2182	2183	2184	2185	2186	2187	2188	2189	2190	2191	2192	2193	2194	2195	2196	2197	2198	2199	2200	2201	2202	2203	2204	2205	2206	2207	2208	2209	2210	2211	2212	2213	2214	2215	2216	2217	2218	2219	2220	2221	2222	2223	2224	2225	2226	2227	2228	2229	2230	2231	2232	2233	2234	2235	2236	2237	2238	2239	2240	2241	2242	2243	2244	2245	2246	2247	2248	2249	2250	2251	2252	2253	2254	2255	2256	2257	2258	2259	2260	2261	2262	2263	2264	2265	2266	2267	2268	2269	2270	2271	2272	2273	2274	2275	2276	2277	2278	2279	2280	2281	2282	2283	2284	2285	2286	2287	2288	2289	2290	2291	2292	2293	2294	2295	2296	2297	2298	2299	2300	2301	2302	2303	2304	2305	2306	2307	2308	2309	2310	2311	2312	2313	2314	2315	2316	2317	2318	2319	2320	2321	2322	2323	2324	2325	2326	2327	2328	2329	2330	2331	2332	2333	2334	2335	2336	2337	2338	2339	2340	2341	2342	2343	2344	2345	2346	2347	2348	2349	2350	2351	2352	2353	2354	2355	2356	2357	2358	2359	2360	2361	2362	2363	2364	2365	2366	2367	2368	2369	2370	2371	2372	2373	2374	2375	2376	2377	2378	2379	2380	2381	2382	2383	2384	2385	2386	2387	2388	2389	2390	2391	2392	2393	2394	2395	2396	2397	2398	2399	2400	2401	2402	2403	2404	2405	2406	2407	2408	2409	2410	2411	2412	2413	2414	2415	2416	2417	2418	2419	2420	2421	2422	2423	2424	2425	2426	2427	2428	2429	2430	2431	2432	2433	2434	2435	2436	2437	2438	2439	2440	2441	2442	2443	2444	2445	2446	2447	2448	2449	2450	2451	2452	2453	2454	2455	2456	2457	2458	2459	2460	2461	2462	2463	2464	2465	2466	2467	2468	2469	2470	2471	2472	2473	2474	2475	2476	2477	2478	2479	2480	2481	2482	2483	2484	2485	2486	2487	2488	2489	2490	2491	2492	2493	2494	2495	2496	2497	2498	2499	2500	2501	2502	2503	2504	2505	2506	2507	2508	2509	2510	2511	2512	2513	2514	2515	2516	2517	2518	2519	2520	2521	2522	2523	2524	2525	2526	2527	2528	2529	2530	2531	2532	2533	2534	2535	2536	2537	2538	2539	2540	2541	2542	2543	2544	2545	2546	2547	2548	2549	2550	2551	2552	2553	2554	2555	2556	2557	2558	2559	2560	2561	2562	2563	2564	2565	2566	2567	2568	2569	2570	2571	2572	2573	2574	2575	2576	2577	2578	2579	2580	2581	2582	2583	2584	2585	2586	2587	2588	2589	2590	2591	2592	2593	2594	2595	2596	2597	2598	2599	2600	2601	2602	2603	2604	2605	2606	2607	2608	2609	2610	2611	2612	2613	2614	2615	2616	2617	2618	2619	2620	2621	2622	2623	2624	2625	2626	2627	2628	2629	2630	2631	2632	2633	2634	2635	2636	2637	2638	2639	2640	2641	2642	2643	2644	2645	2646	2647	2648	2649	2650	2651	2652	2653	2654	2655	2656	2657	2658	2659	2660	2661	2662	2663	2664	2665	2666	2667	2668	2669	2670	2671	2672	2673	2674	2675	2676	2677	2678	2679	2680	2681	2682	2683	2684	2685	2686	2687	2688	2689	2690	2691	2692	2693	2694	2695	2696	2697	2698	2699	2700	2701	2702	2703	2704	2705	2706	2707	2708	2709	2710	2711	2712	2713	2714	2715	2716	2717	2718	2719	2720	2721	2722	2723	2724	2725	2726	2727	2728	2729	2730	2731	2732	2733	2734	2735	2736	2737	2738	2739	2740	2741	2742	2743	2744	2745	2746	2747	2748	2749	2750	2751	2752	2753	2754	2755	2756	2757	2758	2759	2760	2761	2762	2763	2764	2765	2766	2767	2768	2769	2770	2771	2772	2773	2774	2775	2776	2777	2778	2779	2780	2781	2782	2783	2784	2785	2786	2787	2788	2789	2790	2791	2792	2793	2794	2795	2796	2797	2798	2799	2800	2801	2802	2803	2804	2805	2806	2807	2808	2809	2810	2811	2812	2813	2814	2815	2816	2817	2818	2819	2820	2821	2822	2823	2824	2825	2826	2827	2828	2829	2830	2831	2832	2833	2834	2835	2836	2837	2838	2839	2840	2841	2842	2843	2844	2845	2846	2847	2848	2849	2850	2851	2852	2853	2854	2855	2856	2857	2858	2859	2860	2861	2862	2863	2864	2865	2866	2867	2868	2869	2870	2871	2872	2873	2874	2875	2876	2877	2878	2879	2880	2881	2882	2883	2884	2885	2886	2887	2888	2889	2890	2891	2892	2893	2894	2895	2896	2897	2898	2899	2900	2901	2902	2903	2904	2905	2906	2907	2908	2909	2910	2911	2912	2913	2914	2915	2916	2917	2918	2919	2920	2921	2922	2923	2924	2925	2926	2927	2928	2929	2930	2931	2932	2933	2934	2935	2936	2937	2938	2939	2940	2941	2942	2943	2944	2945	2946	2947	2948	2949
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Unit	WSP	CU	PDR	3030 Arch City (sq ft)	CITY Limiting/Unit (A, if applicable)	Historical Use														Legal Average Use (sq ft)	Legal Average Use (sq ft)	% Ave use of Arch	Max Est WSP Empty in 156 Days	LDM Floor Allocation (sq ft)	WSP Use			5-7% Absorption (sq ft)		21% Conversion (sq ft)		E-7% Absorption (sq ft)	CITY Limiting/Unit (A, if applicable)	Unit Absorption Limitations Beyond WSP																																																																																																																																																																																																																																																																							
						2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022						2023	2024	2025	2026	2027	2028	2029				2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060	2061	2062	2063	2064	2065	2066	2067	2068	2069	2070	2071	2072	2073	2074	2075	2076	2077	2078	2079	2080	2081	2082	2083	2084	2085	2086	2087	2088	2089	2090	2091	2092	2093	2094	2095	2096	2097	2098	2099	2100	2101	2102	2103	2104	2105	2106	2107	2108	2109	2110	2111	2112	2113	2114	2115	2116	2117	2118	2119	2120	2121	2122	2123	2124	2125	2126	2127	2128	2129	2130	2131	2132	2133	2134	2135	2136	2137	2138	2139	2140	2141	2142	2143	2144	2145	2146	2147	2148	2149	2150	2151	2152	2153	2154	2155	2156	2157	2158	2159	2160	2161	2162	2163	2164	2165	2166	2167	2168	2169	2170	2171	2172	2173	2174	2175	2176	2177	2178	2179	2180	2181	2182	2183	2184	2185	2186	2187	2188	2189	2190	2191	2192	2193	2194	2195	2196	2197	2198	2199	2200	2201	2202	2203	2204	2205	2206	2207	2208	2209	2210	2211	2212	2213	2214	2215	2216	2217	2218	2219	2220	2221	2222	2223	2224	2225	2226	2227	2228	2229	2230	2231	2232	2233	2234	2235	2236	2237	2238	2239	2240	2241	2242	2243	2244	2245	2246	2247	2248	2249	2250	2251	2252	2253	2254	2255	2256	2257	2258	2259	2260	2261	2262	2263	2264	2265	2266	2267	2268	2269	2270	2271	2272	2273	2274	2275	2276	2277	2278	2279	2280	2281	2282	2283	2284	2285	2286	2287	2288	2289	2290	2291	2292
101	15523			214,000	N/A	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060	2061	2062	2063	2064	2065	2066	2067	2068	2069	2070	2071	2072	2073	2074	2075	2076	2077	2078	2079	2080	2081	2082	2083	2084	2085	2086	2087	2088	2089	2090	2091	2092	2093	2094	2095	2096	2097	2098	2099	2100	2101	2102	2103	2104	2105	2106	2107	2108	2109	2110	2111	2112	2113	2114	2115	2116	2117	2118	2119	2120	2121	2122	2123	2124	2125	2126	2127	2128	2129	2130	2131	2132	2133	2134	2135	2136	2137	2138	2139	2140	2141	2142	2143	2144	2145	2146	2147	2148	2149	2150	2151	2152	2153	2154	2155	2156	2157	2158	2159	2160	2161	2162	2163	2164	2165	2166	2167	2168	2169	2170	2171	2172	2173	2174	2175	2176	2177	2178	2179	2180	2181	2182	2183	2184	2185	2186	2187	2188	2189	2190	2191	2192	2193	2194	2195	2196	2197	2198	2199	2200	2201	2202	2203	2204	2205	2206	2207	2208	2209	2210	2211	2212	2213	2214	2215	2216	2217	2218	2219	2220	2221	2222	2223	2224	2225	2226	2227	2228	2229	2230	2231	2232	2233	2234	2235	2236	2237	2238	2239	2240	2241	2242	2243	2244	2245	2246	2247	2248	2249	2250	2251	2252	2253	2254	2255	2256	2257	2258	2259	2260	2261	2262	2263	2264	2265	2266	2267	2268	2269	2270	2271	2272	2273	2274	2275	2276	2277	2278	2279	2280	2281	2282	2283	2284	2285	2286	2287	2288	2289	2290	2291	2292	2293	2294	2295	2296	2297	2298	2299	2300

