

THE STATE  OF KANSAS

**KANSAS DEPARTMENT OF AGRICULTURE**  
Mike Beam, Secretary of Agriculture

**DIVISION OF WATER RESOURCES**  
Earl D. Lewis Jr., Chief Engineer

**IN THE MATTER OF THE  
DESIGNATION OF A TARGET AREA IN GMD1  
FOR AQUIFER RESTORATION**

The Chief Engineer of the Division of Water Resources, Kansas Department of Agriculture (Chief Engineer), after giving due consideration, hereby makes the following Findings and Order:

**A. APPLICABLE LAW**

1. Pursuant to K.S.A. 2-1930, the Division of Conservation within the Kansas Department of Agriculture (DOC) is directed to carry out the Water Right Transition Assistance Program (WTAP) for the purpose of reducing historic consumptive water use in target and high priority areas of the state by issuing water right transition grants based on competitive bids for privately held water rights.
2. The Chief Engineer is directed to cooperate in implementation of WTAP and must designate a target area before DOC can make water right transition grants available to owners of eligible, privately held water rights within such area. K.S.A. 2-1930(b), (e), and (h).
3. Local governing agencies, including groundwater management districts (GMD), are directed to cooperate in implementation of WTAP and must designate target areas and high priority areas along with the Chief Engineer and must provide the metering and monitoring capabilities necessary to ensure compliance with WTAP requirements. K.S.A. 2-1930(b), (e), and (h).
4. K.S.A. 2-1930(h)(1) requires the Chief Engineer and the GMD to designate a target area within the GMD before the DOC can make water right transition grants available to owners of eligible, privately held water rights within the target area.
5. In addition to the requirements set forth above, K.S.A. 2-1930(h) allows for water right transition grants only in areas that are closed to new appropriations, except for domestic use, temporary permits, term permits for five years or less, and small-use exemptions for 15 acre-feet or less, the designation of a historic water use retirement goal, and the identification of sub-regions which are to be prioritized for retirements among competing bids.

**B. FINDINGS OF FACT**

1. By letter dated October 4, 2019, (Exhibit 1) Kyle Spencer, Manager of Western Kansas Groundwater Management District No. 1 (GMD1), notified the Chief Engineer that on August

21, 2019, the GMD1 Board of Directors (Board) identified the following target area within Greeley and Wichita Counties, Kansas, and requested that it be designated as a target area and an area in need of aquifer restoration for purposes of WTAP.

Entire Townships: 16S-35W, 16S-36W, 16S-37W, 16S-38W, 16S-39W, 16S-40W, 16S-41W, 17S-35W, 17S-36W, 17S-37W, 17S-38W, 17S-39W, 17S-40W, 18S-35W, 18S-36W, 18S-37W, 18S-38W, 19S-35W, 19S-36W, 19S-37W, 19S-38W

Partial Townships: 16S-42W Sections 1-4, 9-16, 21-28, and 33-36  
17S-41W Sections 1-3, 10-15, 22-27, and 34-36  
18S-39W Sections 1-24  
18S-40W Sections 1-12  
18S-41W Sections 1-3 and 10-12

2. The Board identified the following four areas as WTAP high priority areas (HPAs).

HPA 1 (Leoti): A circular area of radius three miles, with its center at the midpoint of the shared boundary of TWP 18S-37W, Sections 13 and 24, in Wichita County, Kansas with a historic consumptive water use retirement goal of 2,516.13 acre-feet.

HPA 2 (Leoti North): A circular area of radius two miles, with its center at a well located near a point 3,050 feet North and 2,550 feet West of the Southeast corner of TWP 17S-37W, Section 24, in Wichita County, Kansas with a historic consumptive water use retirement goal of 1,717.8 acre-feet.

HPA 3 (Tribune North): A circular area of radius two miles, with its center at a well located near a point 960 feet North and 5,032 feet West of the Southeast corner of TWP 17S-40W, Section 9, in Greeley County, Kansas with a historic consumptive water use retirement goal of 453.65 acre-feet.

HPA 4 (Tribune South): An area consisting of two overlapping circular areas, each of radius two miles and excluding those regions which overlap HPA 3 or extend south beyond the target area boundary, centered respectively on a well located near a point 3,630 feet North and 5,125 feet West of the Southeast corner of TWP 17S-40W, Section 33, in Greeley County, Kansas; and a well located near a point 2,072 feet North and 5,135 feet West of the Southeast corner of TWP 18S-40W, Section 7, in Greeley County, Kansas with a historic consumptive water use retirement goal of 352.74 acre-feet.  
(Exhibit 1).

3. The total combined historic consumptive water use retirement goal set by GMD1 is 5,040.32 acre-feet as limited by each high priority area.
4. The request also included an analysis of the changes in saturated thickness and water level over time within the proposed target area and HPAs which indicated that declines in water level due to groundwater withdrawals, which occur when the rate of withdrawal exceeds the rate of recharge, have occurred within these areas. (Exhibit 1).
5. In a March 12, 2021 memorandum to the Chief Engineer, Lizzie Hickman, Engineering Associate in the Technical Services Section of the Division of Water Resources, Kansas Department of Agriculture confirmed, after an independent review of the analysis conducted by GMD1, that water levels in the proposed target area and HPAs have declined due to groundwater withdrawals, and recommended that the Chief Engineer designate the proposed target area and HPAs as areas in need of aquifer restoration for participation in WTAP. (Exhibit 2)
6. Pursuant to K.A.R. 5-21-4, GMD1 is closed to new appropriations of the Ogallala and Niobrara unconsolidated aquifer formations, except for domestic use, temporary permits, term permits, and small-use exemptions for 15 ac-ft or less which meet the criteria described in 5-21-4(c)(3).
7. Pursuant to K.A.R. 5-21-6, GMD1 requires all wells with the district to be equipped with totalizing water flowmeters that meet the specifications of the Chief Engineer and GMD1 further attests that it can properly monitor any water rights that may enter WTAP.

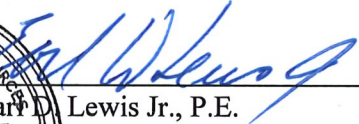
#### **CONCLUSIONS OF LAW**


1. GMD1 and the Chief Engineer have identified a target area and the necessary sub-areas.
2. The target area is closed to new appropriations, except as allowed pursuant to K.S.A. 2-1930(h)(2), and due to excessive declines in groundwater levels is in need of aquifer restoration.
3. GMD1 can meet all statutory requirements necessary for designation of a target area within the district.
4. The target area and high priority areas have a historic consumptive water use retirement goal.

**ORDER**

IT IS, THEREFORE ORDERED, by the Chief Engineer that the above referenced area is hereby declared a target area in need of aquifer restoration and eligible to receive water right transition grants.

Entered this 15<sup>th</sup> day of April 2021, Manhattan, Riley County, Kansas.

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



**RIGHT TO PETITION FOR REVIEW  
UNDER THE KANSAS JUDICIAL REVIEW ACT**

This is a final agency action as defined in K.S.A. 77-607(b). You may pursue judicial review of this Order as provided in the Kansas Judicial Review Act, K.S.A. 77-601 *et seq.* A petition for judicial review must be filed in a Kansas court of competent jurisdiction within 30 days after service of this Order as provided in K.S.A. 77-613. The agency officer designated to receive service of a petition for judicial review on behalf of the Kansas Department of Agriculture is the Chief Legal Counsel, Kansas Department of Agriculture, 1320 Research Park Dr., Manhattan, KS 66502.