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

In the Matter of the )
Designation of the )
Northwest Kansas )
Groundwater Management )
District No. 4 Local )
Enhanced Management Area )
in Cheyenne, Decatur, )
Rawlins, Gove, Graham, )
Logan, Sheridan, Sherman, )
Thomas, and Wallace )
Counties in Kansas )

Pursuant to K.S.A. 82a-1041,

FORMAL HEARING

This matter came on for Hearing before
Earl Lewis, Presiding Officer, at the City Limits
Convention Center, 2227 South Range Avenue, Colby,
Thomas County, Kansas, commencing at 10:00 a.m.,
on the 27th day of July, 2022.
APPEARANCES

Northwest Kansas Groundwater Management District No. 4 appears by their attorney, Adam Dees, Clinkscales Elder Law Practice, P.A., 1407 Main Street, Suite A, Hays, Kansas 67601. Also present was Shannon Kenyon.

Division of Water Resources appears by their attorneys, Kenneth B. Titus and Stephanie Kramer, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan Kansas 66502.
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THE HEARING OFFICER: Good morning, we'll go on the record now. My name is Earl Lewis, I'm the chief engineer of the Kansas Department of Agriculture, Division of Water Resources, and I'll be serving as the hearing officer today. With me today is Kenny Titus, he's the chief counsel for Department of Agriculture, and Stephanie Kramer, a staff attorney with the Kansas Department of Agriculture, Division of Water Resources, and they will be assisting me with the hearing.

Today is July 27th, 2022, the time is 10:00 o'clock. We are holding this hearing in the City Limits Convention Center in Colby, Kansas. If you have not done so already, again, I'd like to ask you to sign in to the sheet by the front door, and, again, if you want to give testimony today, please indicate so on the sign-in sheet.

First of all, I want to thank each of you for taking time out of your day to come in and attend this hearing and provide
testimony if you're so inclined. This hearing is being held pursuant to K.S.A. 82a-1041, K.A.R. 5-19-3, and K.A.R. 5-19-5, which govern the establishment of and hearing procedures regarding Local Enhanced Management Areas, or LEMAs. This hearing is to consider the renewal of the greater GMD4 LEMA and, pursuant to K.A.R. 5-19-3, will consolidate the initial and subsequent LEMA hearings referenced in K.S.A. 82a-1041.

Pursuant to K.S.A. 82a-1041(b), timely notice of the public hearing was published in the Colby Free Press on June 22nd, 2022, in the Goodland Star-News on June 23rd, 2022, and in the Kansas Register on June 23rd, 2002. In addition, each water right owner within the boundaries of the proposed LEMA was mailed an individual notice of this hearing.

The proposed updated management plan for the greater GMD4 LEMA was previously submitted to me by GMD4, and I found it to be acceptable for further consideration.

On July 11th, I conducted a prehearing
conference to allow for the discussion of hearing procedures for today. And on July 18th, I issued a prehearing order to outline procedures we will use for today's hearing, and that order has been published on the Kansas Department of Agriculture's website.

As outlined in the prehearing order, today's hearing will be divided into two phases. First, we will hold the formal phase of the hearing. The formal phase of the hearing will consist of testimony and questions presented by the formal parties to the hearing, GMD4 and the Kansas Department of Agriculture, Division of Water Resources. The public will not participate in the formal portion of the hearing.

During this phase of the hearing, the parties may present their testimony and call witnesses to present testimony. The other participants will be allowed to conduct cross-examination or ask clarifying questions of all witnesses once they have completed their testimony, and I may ask
clarifying questions at any time during the proceedings.

While I will not be allowing the public to participate in the cross-examination of witnesses, you are free to provide your comments or questions on the testimony provided here today in the informal phase or as written comments provided after the hearing within the time period allowed.

DWR has already filed or pre-filed written testimony; it is my understanding DWR does not plan to give additional oral testimony here today. GMD4 will present oral testimony during the formal phase of the hearing, and DWR will have the opportunity to ask questions.

As noted in the prehearing order, I will not be strictly applying the rules of evidence in these proceedings, but I expect all cross-examination to bear some reasonable relationship to the testimony presented by each witness. Overall, my purpose is to ensure that each party has the fullest opportunity to be heard and present evidence for the record.
During the informal phase of the hearing, the public will be allowed to comment on GMD's proposal. Public comments may be made at any -- by any member of the public, including water right owners, businesses, organizations, or anyone else that wishes to place a comment on the record.

Prior to starting the informal phase of the hearing, I would again ask that anyone that wishes to comment would please put their name and the organization they represent, if there is one, on the sign-in sheet located again by the door that you came in on the table. I will then call for these comments in the order they appear on the sign-in sheet.

During the informal phase of the hearing, I may ask clarifying questions of anyone who provides comments to insure that we have a complete record. As outlined in the prehearing order, the parties may also ask clarifying questions; however, such questions shall not constitute a formal cross-examination or an attempt to
undermine someone's comments.

    If any person wishes to respond to a
question in writing following the hearing, they may be allowed to do so. While you
may not be a party here or represented by legal counsel, know that each of your
comments will be carefully considered.

    You may also provide testimony or comments in written form. They may include
rebuttal testimony based on anything you hear -- hear today. I will accept written
comments here today, or you can mail your testimony to Ronda Hutton at Kansas
Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, and
that address and information is also in our Department of Agriculture website. The
deadline for submitting that testimony is August 10th, 2022. Written testimony must
be postmarked by that date. Written comments will become part of the record of
the hearing and will be compiled and posted on the Kansas Department of Agriculture and
Division of Water Resources' website for public review.
Does anyone have any questions before we begin? As I mentioned, I received pre-filed testimony from the Division of Water Resources which we have posted on Kansas Department of Agriculture's website. To the extent that testimony is not presented here today, it is incorporated into the record of these proceedings. It has already been marked by the court reporter as Exhibit A.

I would also like to remind everyone that this hearing is being transcribed by a court reporter. If you are giving oral testimony today, I would ask that you speak clearly enough so the court reporter can hear you. Before you make your comments or give testimony, you will be placed under oath. Please state your name and address before testifying and please remember that only one person at a time should be speaking. I'd also like to take this moment to encourage everybody to check their cell phones and make sure they are in silent mode or off so that we don't interrupt those who are testifying.
Finally, please remember the primary purpose of this hearing is to determine whether the GMD4 LEMA should be renewed as proposed by GMD4. This decision must be supported by the record of this proceeding. It is appropriate to provide testimony regarding the effectiveness of the current GMD4 LEMA plan's corrective control provisions in meeting the plan's stated goals, groundwater conditions within the LEMA boundary, the proposed LEMA plan's sufficiency to deal with the conditions, and any other topics you believe are relevant to the criteria set forth in K.S.A. 82a-1041 or in my ultimate decision whether to renew the GMD4 LEMA as proposed.

With those preliminaries completed, before I commence with the formal phase of the hearing, I would like to ask if anyone has questions regarding procedures for today? If you do, please step forward. Seeing none, I will now call upon Adam Dees, attorney for GMD4, to call his first witness.

MR. DEES: Chief Engineer, my name
is Adam Dees, I'm from Clinkscales Elder Law in Hays, Kansas, I do have one request before I call my first witness. As you have stated, this is a reformation or a renewal of the greater GMD4 LEMA, and we are going to request that you -- that you add to the record the evidence presented at the previous hearings regarding this matter in 2017.

THE HEARING OFFICER: We will grant that request and include that in the record.

MR. DEES: Thank you. At that time -- at this time, we'd like to have the manager of GMD4, Shannon Kenyon, present testimony.

(REPORTER'S NOTE: At this time SHANNON KENYON was duly sworn.)

MS. KENYON: Okay. Can you hear me? My name is Shannon Kenyon, I am the manager of the Groundwater Management District No. 4 in Colby, Kansas, and I am here testifying on behalf of the Groundwater Management District -- GMD4 board of directors.
A little bit of background, on June 8, 2017, the Northwest Kansas Groundwater Management District No. 4 board submitted a LEMA proposal to reduce decline rates and thereby extend the life of the aquifer in northwest Kansas. On June 27th, 2017, the chief engineer found the LEMA plan acceptable for consideration and initiated proceedings. He delegated the initial hearing to Hearing Officer Constance Owen.

On August 23rd, 2017, Constance Owen conducted the initial hearing, and on September 23rd, 2017, Ms. Owen issued her initial order concluding that the proposal satisfied the three initial requirements for approval as set forth in K.S.A. -- K.S.A. 82a-1041(b)(1)(3).

Chief engineer David Barfield set the second hearing for the LEMA's consideration for November 14th, 2017. After consideration of the extensive record afforded by the hearings on February 26th, 2018, Chief Engineer Barfield issued his order of decision regarding the proposed LEMA plan. On April 13th, 2018, the chief
engineer issued his order of designation
approving the modified LEMA plan and
putting it into effect.

So with the chief engineer's 2018 order of designation, the GMD4 worked to implement the order requirements in cooperation with the Kansas Department of Agriculture's Division of Water Resources. Per the LEMA plan, a GMD4 LEMA advisory committee was established and met annually to review LEMA implementation, including review of available water use data, water level data, economic data, and to consider potential future modifications to the LEMA. Further, the LEMA plan required a formal review of the LEMA order one and a half years before its ending date. Exhibits 4A and 4B provide the advisory committee's 2021 formal review as well as its most recent 2022 annual review.

MR. DEES: If may I approach?


(GMD4 Exhibit Numbers 4A and 4B Marked for Identification.)

THE HEARING OFFICER: Okay. It'll
be Exhibits B and C, correct?

THE REPORTER: He's got them marked as 4A and 4B.

THE HEARING OFFICER: Okay, Exhibits 4A and 4B.

MS. KENYON: With respect to its 2021 formal review, the advisory committee recommended the LEMA be continued on essentially the same terms. The GMD4 board carefully considered the work of its advisory committee. After discussion, the GMD4 board developed its revised LEMA plan included in this request for reformulation of the LEMA with the following changes from the 2018 LEMA plan, as revised by the chief engineer's 2018 order decision: One, it's going to be effective from years 2023 to 2027; dropping the 25 percent restriction on reductions from recent average water in 2017 plan. This change affects 16 water rights, reducing their allocations by an estimated total of 6,223 acre-feet for the coming five-year LEMA. These were not in the initial LEMA because of unintended economic hardships and is now in there
because time to implement management and
bring everyone to the same playing field.
We're also adding a new provision on
conversions from irrigation to other uses.
The converted water right will then have a
LEMA allocation equal to or less than the
irrigated LEMA quantity prior to that
conversion. This is to reduce
unintentional increase in water
consumption.

At its board meeting of March 2nd, 2022,
the GMD4 board unanimously voted to send
the reformulated LEMA plan to the chief
generate for consideration. As a result,
the GMD4 is requesting the chief engineer
accept this reformulation of the GMD4 LEMA
for the years 2023 to 2027.

Then we're going to -- another -- okay.
The next exhibit to be presented is the
request for renewal of the GMD4 LEMA
submitted to chief engineer, Kansas
Department of Agriculture, Division of

(GMD4 Exhibit Number 2 Marked for
Identification.)
MS. KENYON: So the process for consideration of the reformulation request, groundwater levels in the area in question are declining or have declined excessively, whether the public interest requires one or more corrective control provisions be adopted, and whether the geographic boundaries are reasonable.

Evidence showing the GMD4 LEMA should continue is the modified LEMA management plan and putting it into -- into -- putting it in effect. So with the reformulation request with the chief engineer's 2018 order of designation, the GMD4 worked to implement the order's requirement in cooperation with the Kansas Department of Agriculture's Division of Water Resources. Per the LEMA plan, a GMD4 LEMA advisory committee was established and met annually to review -- oh, wait, did I already say all that? Okay.

MR. DEES: I'm sorry.

MS. KENYON: Hit me. Evidence showing the GMD4 LEMA should continue, the current and proposed LEMA are based on
addressing the following concerns:

Groundwater levels in the area in question are declining or have declined excessively, to supplement the record of the 2017 hearing supporting the existence of these concerns, and with that are the next exhibits from the Kansas Geological Survey.

(GMD4 Exhibit Numbers 5 and 6 Marked for Identification.)

THE HEARING OFFICER: Go ahead.

MS. KENYON: I'm good? All right.

And the Exhibit 5 is a map showing the estimated change in saturated thickness, predevelopment to average 2020-2022, of the High Plains Aquifer in Northwest Kansas GMD4. As you can see in that map, it shows this -- a small scale, but the blue shows the areas that have increased, the yellow is the mild reduction, and then the darker orange areas is a -- is a much larger -- much larger thickness.

On the back side of that is the map showing the estimated precip change in saturated thickness, predevelopment to the average of 2020 to '22 of the High Plains
Aquifer in Northwestern Kansas GMD4. It's pretty much the same data, but it shows the percents of the aquifer that -- instead of in feet.

And then the third map with this exhibit is the estimated average 2020 to '22 saturated thickness of the High Plains Aquifer in Northwest Kansas GMD4. Once again, they got the yellow, green, purple, and as it gets -- you can see that it is much deeper saturated thickness for that but that is not -- the first ones were from predevelopment; this is what it is currently.

(GMD4 Exhibit Number 6 Remarked for Identification.)

MS. KENYON: Exhibit 6 shows the interpolated water level change in the Kansas High Plains Aquifer region, average 2011 to 2013 as compared to the average 2020 to 2022. This map is -- shows the change in feet in all of the High Plains Aquifer and also notes the changes in feet within GMD4 with the LEMA areas highlighted.
And then the second one is the interpolated water level change Kansas High Plains Aquifer region with an average of 2016 to 2018 as compared to the average of 2020 to 2022, and you can see a more recent change in that -- in the aquifer with the two -- with -- it's without the whole entire High Plains aquifer but this has got the LEMA area shaded.

And then the last map that is in there is the interpolated change in feet but in the cooperative water level network that deals with just the last year, 2021 to 2022. That shows that there is still a decline within the affected LEMA region.

So with that, also the GMD4 groundwater flow model, the next exhibit provides excerpts from the full model report summarizing results from its status quo.

MR. DEES: Is that this one?

MS. KENYON: That's correct.

MR. DEES: Okay. May I approach?

THE HEARING OFFICER: Yeah.

MR. DEES: This is Exhibit 7.

(GMD4 Exhibit Number 7 Marked for
Identification.)

MS. KENYON: And it shows the full model report summarizing results from a status quo future model run, which demonstrates the ongoing declines into the future without reductions in groundwater pumping, and the second one shows what that model shows under the current LEMA plan. In the short-term, there's a huge difference in the impact that the LEMA has, but it also shows that more work needs to be done in future years.

Whether the public interest requires one or more corrective control provisions to be adopted, that is to extend the life of the aquifer.

Whether the geographic boundaries are reasonable, we are not changing any boundaries.

The reformulation request continues the current, well-vetted LEMA provisions. The current GMD4 LEMA request adopts the goal statement and its justification from the 2017 LEMA request submitted by the GMD4 board of directors, as well as
substantially the same corrective controls
in its 14 implementable elements designed
to achieve that goal, which is 1.7 million
acre-feet over five years.

The 2017 LEMA proposal was the product
of a substantial amount of public outreach
and input as is discussed in detail in the
district's 2017 memorandum in support of
the chief engineer approving the
Groundwater Management District No. 4's
proposal as requested to be modified and
designating a Local Enhanced Management
Area.

Data evidencing it is premature to
consider changes to the LEMA. The
allocation of the current and proposed
reformulated LEMA are based on rates of
groundwater level decline by township as
presented in the record of the 2017
hearing. At the time the advisory
committee made its formal review and
recommendations regarding reformulation of
the LEMA in May 2021, the principal
available records were water use through
2019 and water level change data through
early 2021, which was preliminary. As is noted above, the advisory committee believed this additional record was insufficient to warrant changes in the township designations and allocations.

And the next exhibit, Exhibit 8 -- (GMD4 Exhibit Number 8 Marked for Identification.)

MS. KENYON: -- is the latest updates to the KGS' ongoing work to evaluate precipitation, pumping, and water level change relationships through 2021. Of note are the following: One slide -- or one of the graphics shows plots of the 2005 to 2021 irrigation water use, irrigated area, irrigation depth and irrigation season precipitation in inches.

For 2017 to 2019, the seasonal precipitation was significantly higher than average, along with the low pumping values for the same years. 2020 and 2021 irrigation season precipitation are lower than average with a significant increase in pumping.

On the back side of that, it shows
another look at this same data with years 2017 to 2019 as the extreme values in terms of precipitation and pumping.

So look at the -- the LEMA's corrective controls are accomplishing the LEMA's goal and can be expected to do so in the future. 1.7 million acre-feet over the five-year LEMA period remains unchanged. The total water used within the LEMA boundary for the first four years of the LEMA, which is 2018 to 2021, was estimated to be 1 million acre-feet, 59 percent of the allowable 1.7 million acre-feet for five years, well below the 80 percent that might be expected after four years. Even given this current dry year, there is little doubt the LEMA will easily meet its goal. The findings related to the studies of Sheridan 6 LEMA provide ample evidence the producers can make the needed adjustments to continue to irrigate within this LEMA's less restrictive allocation framework.

Yeah, the Golden final report of November 15th, 2018 supports this statement with the following amount its conclusions:
The economic results are consistent with Golden and Leatherman in 2017 and suggest that given the certainty of groundwater use reductions, producers are able to implement strategies to maintain returns and apply less groundwater.

On metering and enforcement, the metering and enforcement policies have worked very well, and there's no request to change the enforcement policies. Several well meters failed, and the water users and GMD4 worked together under normal procedures to see that the meters were replaced and to estimate water use. Therefore, the policies allowed for a swift response to meter failures and provide penalties sufficient to encourage compliance. Most water users adopted alternate means to monitor their meters, and GMD4 has found few problems to date.

The advisory committee has worked well, and it should be continued in its current form. The advisory committee meets yearly, has produced yearly reports, and has encouraged GMD4 and stakeholders to work
towards communication regarding the GMD4 LEMA status. The request for reformation was done at the advisory committee's request to the GMD4 board of directors. So if the GMD4 LEMA is approved to be continued, GMD4 requests DWR again provide notice to all well owners of their 2023 to 2027 allocation prior to the start of the 2023 pumping season.

In conclusion, the GMD4 board offers a proposal to reformulate the GMD4 LEMA for 2023 to 2022 (sic), which, one, reduces the historical water use by a significant amount and will achieve the LEMA goal of no more than 1.7 million acre-feet pumped for irrigation use within the LEMA area during the LEMA period; two, it does not disadvantage the less used water rights or benefit the highest used water rights; three, allows maximum economic use of the total goal quantity chosen; four, includes a monitoring and enforcement elephant -- element that is sufficient to thwart violations; five, is consistent with Kansas water law; and, lastly, meets all the
requirements of K.S.A. 82a-1040. Therefore, this reformation should be approved and implemented as requested. Thank you.

THE HEARING OFFICER: Thank you, Ms. Kenyon. Adam, do you have -- or, Mr. Dees, do you have questions?

MR. DEES: I do have a few questions. Very quickly, housekeeping items, the area, the LEMA area proposed is wholly within the groundwater management district; is that correct?

MS. KENYON: Yes.

MR. DEES: One other question, I would ask you to expound on how continuing the LEMA is in the public interest?

MS. KENYON: To extend the life of the aquifer.

MR. DEES: Okay. I have no further questions.

THE HEARING OFFICER: DWR have any questions? Okay. I have just a couple of quick, clarifying questions. Want to confirm that groundwater levels continue to decline even with the LEMA; is that
correct?

MS. KENYON: Correct.

THE HEARING OFFICER: Is it your belief that groundwater will decline more without the LEMA than with -- are currently declining?

MS. KENYON: Correct.

THE HEARING OFFICER: And then one other thing, I think in, I think it's Exhibit 7, when you talked about the GMD4 model, you mentioned that it showed areas of short-term versus long-term, and I was wondering if you could explain what that meant, I couldn't quite understand what you were suggesting there?

MR. DEES: If I may approach to get those?

THE HEARING OFFICER: Please.

MS. KENYON: I've got those. Is that Exhibit 7?

THE HEARING OFFICER: I think that's right.

MR. DEES: That's Exhibit 7.

MS. KENYON: Okay. Yeah, no, I've got those right here. Yes, on the first
page, you can see the model, this one is assimilated -- a simulated water level change in feet for the no change in future water policy. So prior to the LEMA, if -- per the model, you can see from 2020 to 2023 (sic), everything's kind of green; 2020 to 2040, you see a couple of yellow areas beginning to show up; and then as we go all the way to 2080, you can really see those -- the water level change areas begin to bloom in certain areas.

But on the second page, we have -- this is with the LEMA and what that would look like if we kept going. And as you can see the 2020 to 2030, not a lot of change, but in that 2020 to 2040, the yellow areas, even though they begin to pop up, are much smaller than had they been without the LEMA.

THE HEARING OFFICER: Thank you. Do you have at your -- not today obviously but can you follow up with maps that show the difference between these two, that show the difference in declines with the present LEMA versus not having a LEMA in place?
MR. DEES: Are you wanting that extrapolated over the 80-year period?

THE HEARING OFFICER: Yeah, I'm thinking we can get the two different sets of graphs and what the difference between them is.

MR. DEES: Okay.

THE HEARING OFFICER: The difference in feet per each of them, the graphs.

MR. DEES: Yes, we will include that in the written testimony.

THE HEARING OFFICER: Thank you. Are there any other questions for Ms. Kenyon? I don't have any more. Again, thank you for your testimony.

That concludes the formal portion of the hearing. Now is the time for the public to make comments. If you wish to make comments, please go to the microphone when I call your name and state your name and any entity or organization that you represent, and you'll have an opportunity to make comments regarding the greater GMD4 LEMA.

I would appreciate if you tell us --
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tell me a little bit about your interest in
the area, your experience as a water user
or any other special experience you have.
Remember, please speak clearly and one
person at a time so the court reporter can
properly record what is being said.

I don't see anybody on the sign-in sheet
that has indicated they want to provide
comments. Is there anybody in the audience
that would like to provide comments at this
time? Please come forward. Is there a
microphone there? Okay. Yeah, if you can
state your name, where you're from. Well,
we need to ...

(REPORTER'S NOTE: At this time
JANELLE SHIELDS was duly sworn.)

THE REPORTER: May I have you state
your name and address, please.

MS. SHIELDS: Janelle Shields, 620
Main, Goodland, Kansas. A couple questions
for actually Shannon about how to, like,
clarify information? You talk about, like,
the advisory committee and that sort of
thing, how do you become a part of that,
how do you become more involved? And my
question for that is because some of the information that has been given out to producers has been very misleading and difficult to understand from, like, our side of it. And so I didn't know how we could be more involved to make it more transparent for producers.

THE HEARING OFFICER: Okay. First, can you kind of clarify what you mean by it's not clear to the producers and what you're meaning?

MS. SHIELDS: When you get on the groundwater management website to find things to clarify especially about the wordage and those sorts of things, there have been a few things missed that I feel like maybe a committee that understands the background of it, you don't realize what it's reading as from our side as a producer.

It happens a lot, it's like why you have other things proofread by somebody else. There have been things that have been missed by numerous producers in our area that have caused penalties from the State
of Kansas due to a very misleading how things are written and how the stuff is updated.

We want to be of help, we want to be involved, so how do you do that? I've read the groundwater management thing, I don't understand how to become more involved. I don't want to be on the board, I think they do a great job, but the advisory committee, that sort of thing, how do we become more involved to give that kind of feedback before there's problems?

THE HEARING OFFICER: Okay. Thank you and I'll -- if you want to address it now or if you want to follow up later on, it's up to you.

MR. DEES: Can -- can we follow up with answers to her questions after the hearing?

THE HEARING OFFICER: We can follow up after the hearing, yes. Thank you.

Is there anyone else that would like to provide comments or testimony today? Okay. Seeing none, in a moment I'll close the opportunity to provide oral testimony. You
are again free to provide written testimony
whether you provided oral testimony here or
not. Remember that all written comments
must be submitted and postmarked by
August 10th.

Anyone may submit additional written
testimony before this date, and your
written comments will also be made a part
of the record of this hearing. Information
is available on the sheets located, I
think, on the table, again, by the door on
how to provide written testimony or
comment. As we receive written testimony,
it will be posted on the Department of
Agriculture's website. We will also post
this transcript of hearing on our website
when it becomes available.

The record will be closed on
August 10th, 2022. After the record is
closed, I will review the record and make a
decision on how to proceed. First,
pursuant to statute, I have 120 days to
issue my order of decision. Regarding this
order, I have the following choices: One,
accept the LEMA plan as proposed; two,
reject the LEMA plan as insufficient to
address the conditions; three, return the
plan if it is determined to be deficient
with the reasons and the options for the
GMD to revise and resubmit the plan; or,
four, return the plan with specific
suggestions for improvements which the GMD
can accept or reject.

If the order of decision accepts the
LEMA plan, then that order will take the
form of a consolidated order of decision
and order of designation and will designate
the area as a LEMA and ordering the
specific corrective controls within the
plan.

Again, I want to say I appreciate you
taking time out of your day to come and
appear and participate in this hearing
today. Before closing the hearing, I will
take one last time to -- if anyone wishes
to offer additional oral comments or
testimony or if anyone has any comments on
the procedure going forward from here?
We've got one in the back, come forward,
please.
(REPORTER'S NOTE: At this time MATT SHIELDS was duly sworn.)

THE REPORTER: Would you state your name and address?

MR. SHIELDS: Matt Shields, 6489 Sundance Trail, Goodland, Kansas.

THE HEARING OFFICER: Go ahead.

MR. SHIELDS: My concern is the vagueness of how the LEMA worked in the past as well as I'm sure moving forward. So we got two letters regarding the LEMA. I didn't come to any of the earlier water meetings, so my first letter basically said the LEMA's in place 2018 through 2022, and the way I understood the program was we had this total five-year bank of water to use. And that letter never said anything about you are still restricted to pumping your annual original water right amount.

We got a second letter, I think it was 2019 where they just basically update you on how much water you have left over the last two years of the program, and that letter stated, you have this quantity of water to pump over the next two years.
Once again, it never said anything mentioning you still have to stay within your annual allocated water right.

So I was not aware of that annual restriction. I don't know if I'm the only producer who misunderstood the program, I wouldn't think so, but basically I received a substantial fine because we did overpump over the allocation but we did not go over our -- we overpumped in annual allocation but we didn't go over our five-year allocation. So we got a substantial fine, and they're telling us for next year basically we have 8 acre-feet to pump, which is not a substantial amount obviously.

So that is my concern with it, and I just feel like the program was not explained well to the producers. Like I say, just got two letters, neither one of those letters mentioned anything about the annual allocation.

THE HEARING OFFICER: Thank you, Mr. Shields. And just to clarify, your main concern is making sure that it's clear
that an annual allocation versus the five-year allocation is still in place, correct?

MR. SHIELDS: I guess my main concern is that I don't feel like the program was explained clearly enough and now it's affecting my livelihood because I pretty much can't use that well at all next year, so that's my frustration.

THE HEARING OFFICER: Thank you. Is there any questions for Mr. Shields? Okay. All right. Thank you for your testimony.

Is there anybody else that would like to comment or provide testimony today? Come forward, please.

(REPORTER'S NOTE: At this time SPENCER SCHLAPP was duly sworn.)

THE REPORTER: Thank you. State your name and address, please.

MR. SCHLAPP: My name's Spencer Schlapp, 1375 Road 2, St. Francis, Kansas. I guess that's all that.

I'm under the impression the same as the producer before me. I overpumped a well but stayed within the LEMA two years ago,
and I'm like him, I did not go over my acre-feet allotted. Yes, I overpumped a well, and we're already at the end of the pumping season for that well and I'm just -- I'm like him, I didn't understand the rule, it was vague, but I stayed within my LEMA acre-feet. So I'm just here to say the same thing as he is so that's all.

THE HEARING OFFICER: Thank you, Mr. Schlapp. Any questions for Mr. Schlapp? All right. Thank you. Anyone else would like to provide comments today? All right. Seeing none, again, thank you everybody for participating today. The record for the oral testimony in this matter is now closed.

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CERTIFICATE

STATE OF KANSAS )
) ss:
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I, Nancy L. Rambo, a Certified Shorthand Reporter, within and for the State of Kansas, do hereby certify that the foregoing is a true and correct transcript of the proceedings had at the time and place hereinbefore set forth.

I further certify that I am not a relative or employee or attorney or counsel of any of the parties, nor am I a relative or employee of such attorney or counsel, nor am I financially interested in the action.

WITNESS my hand and official seal at Wichita, Sedgwick County, Kansas, this 16th day of August, 2022.

NANCY L. RAMBO, R.P.R., C.S.R.
Registered Professional Reporter
Certified Shorthand Reporter

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