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Jackie McClaskey, Secretary

Governor Sam Brownback

July 7, 2017

Tim Boese, Manager
Equus Beds GMD#2
313 Spruce
Halstead, KS 67056-1925

Dear Mr. Boese,

Pursuant to K.S.A. 82a-1033 (b), a copy of the attached order is in which I approve the addition of lands to the Equus Beds Groundwater Management District No. 2, effective today, July 7, 2017.

The same section of statute requires the GMD to file a copy of the order in the office of the register of deeds of each county in which the district, as modified, or any part thereof lies.

I will forward separately a listing of water rights within the boundaries of the area effected by the order. We are updating WRIS with the changes. We suggest the Board consider providing notice to the effected water right holders of the boundary expansion.

Please let us know if you have any questions regarding these matters.

Sincerely,

David Barfield, P.E.
Chief Engineer
Division of Water Resources, Kansas Department of Agriculture

Enclosure

CC by email:

Lane Letourneau, Program Manager, Kansas Department of Agriculture
Chris Beightel, Program Manager, Kansas Department of Agriculture
Jeff Lanterman, Water Commissioner, Kansas Department of Agriculture
Tracy Streeter, Director, Kansas Water Office
Jim Butler, Kansas Geological Survey

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Jackie McClaskey, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

**BEFORE THE DIVISION OF WATER RESOURCES,
KANSAS DEPARTMENT OF AGRICULTURE**
1320 Research Park Drive
Manhattan, Kansas 66502

In the Matter of the)
The Expansion of the Equus Beds Groundwater)
Management District No. 2 Boundaries)
Pursuant to K.S.A. 82a-1033.)
_____)

**FINDINGS AND ORDER EXPANDING THE BOUNDARIES OF THE EQUUS
BEDS GROUNDWATER MANAGEMENT DISTRICT NO. 2**

COMES NOW, David W. Barfield, Chief Engineer of the Division of Water Resources, Kansas Department of Agriculture ("Chief Engineer"), after having given due consideration to all evidence, testimony and other information presented at the public hearing held on October 4, 2016, in Hutchinson, Kansas, and submitted within 60 days of the public hearing, or upon request of the Chief Engineer, regarding the proposed extension of the boundaries of the Equus Beds Groundwater Management District No. 2 ("GMD2"), and makes the following findings of fact, conclusions of law, and order:

Findings of Fact

Procedural Background

1. That at a regular meeting of the Board of Directors of GMD2 ("Board") on September 10, 2013, a resolution was duly adopted by the Board recommending that the boundaries of GMD2 be extended.
2. That on March 6, 2014, the Chief Engineer received a petition submitted by the Board, pursuant to K.S.A. 82a-1033, for the extension of the boundaries of GMD2 to include the following territory, divided into four areas:

Area 1 – All in Reno County, Kansas

Sections 5 through 36 of Township 22 South, Range 8 West;
All Sections of Township 23 South, Range 8 West;
All Sections of Township 24 South, Range 8 West;
All Sections of Township 25 South, Range 8 West;
All Sections of Township 26 South, Range 8 West.

Area 2 – All in McPherson County, Kansas

Sections 23 through 26, 35, and 36 of Township 19 South Range 3 West;
Sections 19 through 36 of Township 19 South, Range 2 West;
Sections 19 through 23 and 26 through 30 of Township 19 South, Range 1 West;
Sections 1,2, 11 through 14, 23 through 26, and 36 of Township 20 South,
Range 3 West;
All Sections of Township 20 South, Range 2 West;
Sections 1 and 12 of Township 21 South, Range 3 West;
Sections 1 through 11 and 14 through 16 of Township 21 South, Range 2 West.

Area 3 – All in Sedgwick County, Kansas

Sections 19 and 30 through 32 of Township 25 South, Range 3 West;
Sections 5 through 10 and 13 through 36 of Township 26 South, Range 3 West;
Sections 28 through 33 of Township 26 South, Range 2 West;

Area 4 – All in Sedgwick County, Kansas

Sections 1, 2, 11 through 14, 23, and 24 of Township 25 South, Range 1 West;
Sections 5 through 8, 17 through 20, and 29 through 32 of Township 25 South,
Range 1 East;
Section 5 of Township 26 South, Range 1 East.

3. Pursuant to K.S.A. 82a-1033, notice of public hearing was published in the McPherson Sentinel on September 3, 10, and 17, 2016; the Wichita Eagle on September 2, 9, and 16, 2016; and in the Hutchinson News on September 2, 9, and 16, 2016, all papers of general circulation within GMD2, stating that a public hearing would be held on October 4, 2016 at 2:30 p.m. at the Kansas Department of Transportation Conference Room at 12202 W. 4th Ave., Hutchinson, Kansas.
4. On October 4, 2016 the Chief Engineer held a hearing beginning at approximately 2:30 p.m. in the Kansas Department of Transportation Conference Room, to consider the proposed extension of the boundaries of GMD2; and that Aaron Oleen, Staff Attorney for the Kansas Department of Agriculture, was also present to assist the Chief Engineer at the hearing.

Comments Received on the Record at the Public Hearing

1. The Chief Engineer incorporated the following documents into the record:
 - (a) Original order establishing GMD2 and subsequent amendments;

- (b) “Equus Beds Groundwater Management District No. 2 Management Program”, dated May 1, 1995;
- (c) “Petition to Expand the Equus Beds Groundwater Management District No. 2,” received by the Chief Engineer on March 6, 2014.
- (d) Proofs of Publication - *McPherson Sentinel* on September 3, 10, and 17, 2016; the *Wichita Eagle* on September 2, 9, and 16, 2016; and the *Hutchinson News* on September 2, 9, and 16, 2016;
- (e) *Groundwater News*, Equus Beds Groundwater Management District No. 2, Volume 38, No. 2, 3rd Quarter 2016.

2. Tim Boese, Manager, GMD2 – Mr. Boese submitted written testimony on behalf of GMD2 that explained how and why the proposed annexation met the criteria set forth in K.S.A. 82a-1024(b). His oral testimony was based principally on his written testimony, in which he testified that:

- (a) The proposed annexation is a part of the same hydrologic community as the existing district, evidenced by similar hydrology, aquifer characteristics, bedrock, climate, precipitation, soil, land use, and farming practices.
- (b) The proposed expansion includes no land currently in another groundwater management district.
- (c) The statement of purposes in the petition conforms to those adopted by the Board and GMD2.
- (d) The proposed annexation overlies the eastern extent of the High Plains Aquifer. While most of the proposed expansion areas are of limited saturated thickness being on the fringe of the Aquifer, due to advances in agricultural practices that allow for use of lower yielding formations, the area is experiencing additional development, requiring additional management. Mr. Boese submitted additional written testimony to support this both at hearing and subsequently.
- (e) The map attached to the petition is substantially correct.
- (f) GMD2 is currently in the process of updating its groundwater management program, and such updates shall include the proposed annexation areas. These areas are sufficient to support a groundwater management program resulting in more uniform and consistent management of the aquifer.
- (g) The public interest will be served by the proposed expansion because of the existence of permitted non-domestic wells in the area and the increased monitoring of groundwater use, quality, and levels that will follow with GMD2’s technical assistance.
- (f) In addition, Mr. Boese testified that GMD2 would like to manage the area according to safe yield, that the expansion is necessary to manage increased development, particularly in Areas 1 and 2, and some landowners with land both inside and outside GMD2 requested the expansion.

2. Doyle Davison, a local real-estate agent – Mr. Davison testified that he was concerned about how landowners with water rights will be notified that they have been made a part of GMD2.

Written Comments Received after the Public Hearing

1. Pursuant to the time allowed for written comments after hearing, on December 1, 2016, GMD2 provided the following supplemental written testimony, which substantiates the testimony provided at the hearing on the characterization of the aquifer:
 - a. For the entire district and proposed expansion areas: a 2015-6 water level change map, a depth to bedrock map, a mean specific yield in the Equus Beds Aquifer map, a map showing points of diversion within KDA DWR's WIMAS application, and a map showing WWC5 drilling locations.
 - b. For each of the four areas proposed for expansion of the district; maps showing estimated well yields from well completion records and static water levels from well completion records.

Applicable Law

1. The extension or reduction of the territory included in a groundwater management district is done pursuant to K.S.A. 82a-1033, which requires that the Board present the Chief Engineer with a petition to change the boundaries and that such petition shall describe the territory to be annexed by township, range, and section numbers; have a map attached showing the district and the lands proposed to be annexed; and show that the proposed extension of territory has been recommended by the district concerned by resolution duly adopted by its board.
2. K.S.A. 82a-1033 also requires that the Chief Engineer shall hold a public hearing on whether the petition of the district should be approved.
3. After the hearing, the Chief Engineer shall determine if the area proposed for annexation meets the requirements set forth in K.S.A. 82a-1024(b):
 - (1) The lands proposed to be included in the district substantially compromise a hydrologic community of interest;
 - (2) The proposed district would not include any of the lands of an existing groundwater management district;
 - (3) The statement of purposes contained in the petition conforms with the intent and purposes of the [Groundwater Management Districts] act;
 - (4) The land within the proposed district or part thereof overlies an aquifer or aquifers subject to management;
 - (5) The map attached to the petition is substantially correct;
 - (6) The area of the district and existing and prospective uses of groundwater within the district are sufficient to support a groundwater management program; and
 - (7) The public interest will be served by the creation of the proposed district.

Conclusions of Law

1. Pursuant to K.S.A. 82a-1033(a), a petition approved by the Board was submitted to the Chief Engineer, and found by him to properly describe the territory to be annexed, to

include a map of the land proposed to be annexed, and showing that the proposed extension of territory was recommended by the district by a resolution duly adopted by the Board.

2. That a public hearing was properly scheduled and prior notice was properly given and that a public hearing was held pursuant to K.S.A. 82a-1033.
3. Based upon the written and oral testimony presented at the public hearing and all other information placed into the official record, it is determined by the Chief Engineer that the territory proposed for expansion is part of the same hydrologic community of interest as the existing territory of GMD2; does not include any territory in an existing groundwater management district; the statement of purposes in the petition conforms with those in the Groundwater Management District Act; the proposed expansion overlies an aquifer subject to management; the map attached to the petition is substantially correct; the existing and prospective uses of groundwater in the proposed expansion is sufficient to support a groundwater management plan; and the public interest will be served by expansion of GMD2.

Order

NOW THEREFORE, the Chief Engineer, who, based upon substantial competent evidence, as provided by the testimony, comments and other documents made a part of the public record and presented at the public hearing finds that the requirements of K.S.A. 82a-1033 for the expansion of a groundwater management district are hereby met; and that the Petition as submitted for the extension of the boundaries of the Equus Beds Groundwater Management District No. 2 to include the following territory:

Area 1 – All in Reno County, Kansas

Sections 5 through 36 of Township 22 South, Range 8 West;
All Sections of Township 23 South, Range 8 West;
All Sections of Township 24 South, Range 8 West;
All Sections of Township 25 South, Range 8 West;
All Sections of Township 26 South, Range 8 West.

Area 2 – All in McPherson County, Kansas

Sections 23 through 26, 35, and 36 of Township 19 South Range 3 West;
Sections 19 through 36 of Township 19 South, Range 2 West;
Sections 19 through 23 and 26 through 30 of Township 19 South, Range 1 West;
Sections 1,2, 11 through 14, 23 through 26, and 36 of Township 20 South, Range 3 West;
All Sections of Township 20 South, Range 2 West;
Sections 1 and 12 of Township 21 South, Range 3 West;
Sections 1 through 11 and 14 through 16 of Township 21 South, Range 2 West.

Area 3 – All in Sedgwick County, Kansas

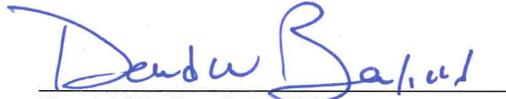
Sections 19 and 30 through 32 of Township 25 South, Range 3 West;
Sections 5 through 10 and 13 through 36 of Township 26 South, Range 3 West;
Sections 28 through 33 of Township 26 South, Range 2 West;

Area 4 – All in Sedgwick County, Kansas

Sections 1, 2, 11 through 14, 23, and 24 of Township 25 South, Range 1 West;
Sections 5 through 8, 17 through 20, and 29 through 32 of Township 25 South,
Range 1 East;
Section 5 of Township 26 South, Range 1 East.

Should be and hereby is approved. The extension shall become effective upon execution of this
Order on the date set forth below.

ENTERED THIS 7th DAY OF JULY, 2017:



David W. Barfield, P.E.
Chief Engineer, Division of Water Resources
Kansas Department of Agriculture

PREPARED BY:



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