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KANSAS DEPARTMENT OF AGRICULTURE
BEFORE THE DIVISION OF WATER RESOURCES

In the Matter of the Designation of
the Wichita County Local Enhanced
Management Area in Wichita County,
Kansas

PROCEEDINGS held before Earl Lewis,
Hearing Officer, Division of Water Resources,
Kansas Department of Agriculture, at the Kansas
Department of Agriculture, 1320 Research Park
Drive, Manhattan, Kansas on the 20th day of
November, 2020, at 9:01 a.m. and reported by Nancy
L. Rambo, R.P.R., C.S.R.

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1 HEARING OFFICER LEWIS: All right.
2 We'll come to order, and we will now go on
3 the record.

4 My name is Earl Lewis, I am the chief
5 engineer of the Division of Water
6 Resources, Kansas Department of
7 Agriculture, and I'll be the hearing
8 officer today. I am in Manhattan, Kansas,
9 and with me are KDA's chief counsel,
10 Kenneth Titus, staff attorney, Kelly
11 Navinsky-Wenzl, and our court reporter.

12 Today we'll be holding a public hearing
13 on In the Matter of the Designation of the
14 Wichita County Local Enhanced Management
15 Area in Wichita County, Kansas, or WHC
16 LEMA, that's L-E-M-A, as we will refer to
17 it. Today is Friday, November 20th, 2020,
18 and the time is 9:00 a.m.

19 We're conducting today's hearing
20 partially in person but also connected with
21 some of the hearing participants via Zoom
22 videoconferencing. For those that want to
23 observe the hearing today and not
24 necessarily participate by giving
25 testimony, the hearing is being

1 live-streamed on KDA's YouTube Channel, and
2 the video of the hearing will be archived
3 and available on KDA's website for later
4 viewing.

5 We are also connected via Zoom to the
6 St. Anthony Catholic Church Parish Hall in
7 Leoti, Kansas where the Western Kansas
8 Groundwater Management District No. 1, or
9 GMD 1, is hosting a space for the public to
10 attend and participate in the meeting.

11 Because we want to make the hearing as
12 clear and complete as possible, we have --
13 require that anyone who wants to give oral
14 testimony at today's hearing from a
15 location other than Leoti to make
16 arrangements 24 hours ahead of time. And,
17 likewise, for anyone wanting to share
18 visual presentations, we require that the
19 presentation be provided to us 24 hours
20 ahead of time so we can -- so it can be
21 displayed during the oral testimony. If
22 you wanted to include a visual presentation
23 but did not provide it by the deadline, I
24 will still accept it as written testimony
25 if you get it to me within the next two

1 weeks.

2 If you have not done so already, I would
3 ask that for everyone present at
4 St. Anthony Catholic Church Parish Hall
5 please sign the attendance sheet. If you
6 plan to testify, please indicate that on
7 the sign-in sheet. Additionally, a record
8 is being kept in Manhattan of those
9 individuals testifying from a location
10 outside of Leoti. If anyone wishes to
11 testify today has a time constraint and
12 needs to leave early, I ask that you let
13 Mike Meyer know and we will accommodate if
14 possible.

15 Thank you each for taking time today to
16 attend this hearing related to the
17 significant matter related to the
18 management of groundwater within Wichita
19 County and GMD 1.

20 This hearing is being held pursuant to
21 K.S.A. 82a-1041, which governs the
22 establishment of a Local Enhanced
23 Management Area, or LEMA. This is the
24 second of two hearings to consider the
25 designation of the WHC LEMA according to

1 the management plan proposed by GMD 1.
2 Pursuant to K.S.A. 82a-1041(b), timely
3 notice of this public hearing was published
4 in the Scott County Record on October 15th,
5 2020 and the Wichita County Native Sun on
6 October 14th, 2020. Additionally, each
7 water right owner within the boundaries of
8 the proposed LEMA was also mailed an
9 individual notice of this hearing.

10 This hearing process was formally
11 initiated in April when Christopher
12 Beightel, the then acting chief engineer,
13 found that the WHC LEMA Management Plan
14 submitted by GMD 1 was acceptable for
15 consideration. As part of the hearing
16 process, it was necessary to hold an
17 initial hearing to determine if the three
18 requirements, three initial requirements
19 for approval set forth in K.S.A. 8 --
20 K.S.A. 82a-1041 were satisfied.

21 The three initial requirements
22 established in K.S.A. 82a-1041 are: Does
23 the area within the proposed boundaries of
24 the WHC LEMA meet one or more of the
25 circumstances specified in K.S.A.

1 82a-1036(a) through (d); is it in the
2 public interest to require corrective
3 control provisions in that area; and are
4 the proposed geographic boundaries of the
5 area reasonable.

6 The initial hearing was held by
7 Mr. Beightel on August 14th, 2020. The
8 hearing was a virtual-hybrid hearing via
9 Zoom, with the opportunity to provide
10 in-person testimony at Leoti, Kansas.
11 Mr. Beightel issued an order on
12 September 16, 2020 that determined the
13 three initial requirements for approval set
14 forth in K.S.A. 82a-1041 were satisfied.
15 As a result -- as a result of that
16 determination, I am holding the second
17 hearing as required by K.S.A. 82a-1041(b)
18 and (c) to consider the designation of the
19 WHC LEMA according to the management plan
20 submitted by GMD 1.

21 As outlined in the prehearing order,
22 today I will accept oral and written
23 testimony regarding the WHC LEMA Management
24 Plan. When we've heard the last oral
25 testimony, I will adjourn the oral

1 testimony portion of the hearing but will
2 leave the record open and continue to --
3 continue to accept written testimony until
4 December 4th, 2020, which is two weeks from
5 today.

6 The order of events today will be that
7 first we will hear from GMD 1, then we will
8 hear from the Division of Water Resources,
9 and finally we will hear from anyone else
10 who would like to give oral testimony.
11 GMD 1 and the Division of Water Resources
12 are recognized as formal parties and are
13 each represented here by legal counsel.
14 While I am not expecting a formal
15 examination of witnesses, I understand that
16 counsel may assist representatives
17 providing oral testimony and ask clarifying
18 questions as necessary.

19 As noted in the prehearing order, I will
20 not be strictly applying the rules of
21 evidence in these proceedings, and I will
22 allow clarifying questions. I expect the
23 clarifying questions will bear some
24 reasonable relationship to the testimony
25 presented by each witness. Overall, my

1 purpose is to ensure that each party has
2 the fullest opportunity to be heard and
3 present evidence for the record.

4 Next, oral testimony may be provided by
5 any member of the public, including water
6 right owners, businesses, organizations, or
7 anyone else that wishes to place a comment
8 on the record. I may ask clarifying
9 questions of anyone who provides oral
10 testimony to ensure that we have a complete
11 record. While you may not be a formal
12 party here or be represented by legal
13 counsel, know that your testimony will be
14 carefully considered as I seek to decide
15 this matter.

16 Additionally, individuals may also ask
17 clarifying questions; however, such
18 questions shall not constitute a formal
19 cross-examination or an attempt to
20 undermine someone's testimony. If a person
21 testifying wants to answer such questions,
22 that person is free to do so. If any
23 person wishes to respond to a question in
24 writing following the hearing, they will be
25 allowed to submit written testimony after

1 hearing within the time period allowed.

2 You may also provide your comments or
3 questions in the form of written testimony.
4 The written testimony may also include
5 rebuttal based on anything you hear today.
6 I'll accept written testimony today, so if
7 you are at the Leoti location, please
8 provide it to Mike Meyer. After today's
9 hearing, you can -- you can email your
10 written testimony to Ronda Hutton, that's
11 R-O-N-D-A, dot, H-U-T-T-O-N at ks.gov, or
12 you can mail your written testimony to WHC
13 LEMA, care of Ronda Hutton, 1320 Research
14 Park Drive, Manhattan, Kansas 66502.

15 The deadline for submitting that
16 testimony is close of business Friday,
17 December 4th, 2020. If you are providing
18 written testimony by mail, it must be
19 postmarked by this date. This testimony
20 will become a part of the record and posted
21 on KDA's website, along with any other
22 written testimony received today and prior
23 to December 4th, 2020.

24 Since this hearing may only be held
25 following an initial hearing, I am

1 incorporating the record from the initial
2 hearing conducted on August 4th, 20 --
3 14th, 2020 and the complete record from
4 that hearing into the record for this
5 hearing. This includes the order entitled
6 Findings and Order Establishing the Initial
7 Requirements for the Designation of a Local
8 Enhanced Management Area, dated
9 September 16th, 2020, the transcription
10 from that initial hearing, and the
11 testimony presented during the initial
12 hearing. This record has been marked as
13 Exhibit A and is hereby adopted.

14 Prior to today's hearing, we have
15 received pre-filed written testimony from
16 GMD 1, the Division of Water Resources,
17 Frank Mercurio with Upper Smoky Hill
18 Regional Advisory Committee, Don, Earl,
19 Luke, and Andrew Smith with Smith Family
20 Farms, and Charlie Hughes with the City of
21 Leoti. The testimony has been posted to
22 KDA's website, and to the extent the
23 testimony is not presented here today, it
24 is incorporated into the record in these
25 proceedings. As we receive written

1 testimony, it will be posted to KDA's
2 website.

3 I would like to remind everyone this
4 hearing is being transcribed by a court
5 reporter, so I would ask that you speak
6 clearly so she can hear you. Please
7 remember that only one person may speak at
8 a time. Before you make your comments,
9 please state your name and address before
10 you begin testifying.

11 Finally, please remember that the
12 primary purpose of this hearing is to
13 determine whether I should designate the
14 WHC LEMA according to the management plan
15 proposed by GMD 1, including the adoption
16 of the corrective control provisions
17 proposed by GMD 1. If the WHC LEMA is
18 designated and the management plan is
19 adopted, it will result in corrective
20 controls being placed on existing water
21 rights within the proposed WHC LEMA
22 boundary.

23 This decision must be supported by
24 record of this proceeding. It is
25 appropriate to provide testimony regarding

1 groundwater conditions, the management
2 plan's sufficiency to deal with those
3 conditions, and any other topics that you
4 believe are relevant to the criteria set
5 forth in K.S.A. 82a-1041 or to my ultimate
6 decision of whether to designate the WHC
7 LEMA.

8 Does anyone have any questions before we
9 begin? Okay. Hearing none, I will now
10 call upon Tom Adrian and Joseph Uhlman,
11 attorneys for GMD 1, to come forward and to
12 call the witnesses to testify on behalf of
13 GMD 1.

14 MR. ADRIAN: Thank you, Mr. Hearing
15 Officer, for those remarks and clarifying
16 the purpose of the hearing. We will have
17 one witness, that will be Kyle Spencer, who
18 is the manager of the Western Kansas
19 Groundwater Management District No. 1, and
20 so we would now ask him to step forward and
21 provide his testimony.

22 MR. SPENCER: Okay. Good morning,
23 everybody, my name is Kyle Spencer, I'm the
24 manager for Groundwater Management District
25 No. 1, located in Scott City, Kansas. We

1 have provided the hearing officer and the
2 Division of Water Resources with our
3 written testimony, and we ask that it be
4 added to the record.

5 My oral testimony will highlight this
6 written testimony, and then I will answer
7 any questions, if you have any. As the
8 hearing officer stated, the question today
9 is whether the Wichita County LEMA plan
10 will achieve its goals. We believe it
11 will.

12 Our testimony and evidence showed that
13 our LEMA plan will meet its goals and will
14 preserve the future of the High Plains
15 Aquifer for all the future -- for the
16 future of all of its users. Today, I'm
17 going to briefly highlight a few elements
18 of our LEMA plan, including its goal and
19 how the corrective controls are adequate to
20 reach that goal. I also -- I also will
21 discuss a few specific provisions in our
22 LEMA plan and how those provisions are both
23 legal, proper, and necessary to achieve the
24 LEMA's goal.

25 On September 9th, 2020, the acting chief

1 engineer issued his Findings and Order that
2 all the initial requirements from the
3 initial hearing were met and set the matter
4 for subsequent hearing. Specifically,
5 based on the hearing record and its
6 resulting findings of fact, he found that
7 as a matter of law groundwater levels in
8 the proposed LEMA are declining and have
9 declined excessively, that the rate of
10 withdrawal in the proposed LEMA exceeded
11 the rate of -- exceeded the rate of
12 recharge, that the proposed LEMA is in the
13 public interest, and that the geographic
14 boundaries of the proposed LEMA are
15 reasonable.

16 Because these findings from the initial
17 hearing were favorable, the hearing today
18 is limited to the proposed LEMA plan,
19 whether it is sufficient to address any of
20 the conditions found by the chief engineer
21 in the initial hearing and whether the
22 proposed LEMA should be adopted as
23 proposed. This LEMA plan is sufficient to
24 address the conditions found by the chief
25 engineer and should be adopted as proposed.

1 The following is a summary of the major
2 provisions of the LEMA plan and a
3 discussion of the LEMA -- LEMA plan's
4 goals. The LEMA period is from 2021
5 through 2025, the LEMA goal is to limit
6 irrigation withdrawals to 246,882.786
7 acre-feet during the five-year LEMA period.
8 This number is the sum of the allocations
9 provided in attachment A to the LEMA plan
10 and assumes no voluntary enrollment of
11 vested rights.

12 The LEMA allocations reduced -- reduce
13 reported pumping during the 2009 to 2015
14 period by no more than 25 percent. Years
15 of no reported use are excluded from the
16 calculation of the legal average, and where
17 the legal average use is below 20 percent
18 of the annual authorized quantity, the
19 allocation is based on the legal average
20 use without further reduction. Where the
21 legal average use is above 20 percent of
22 the annual authorized quantity but a
23 25 percent reduction would result in less
24 than 20 percent of the annual authorized
25 quantity, the allocation will be 20 percent

1 of the annual authorized quantity times
2 five.

3 Allocations provided under the LEMA will
4 be given a five-year amount. In any year,
5 the annual LEMA allocation may be exceeded
6 but not the water right's annual authorized
7 quantity. Should the LEMA continue after
8 2025, the LEMA plan recommends any unused
9 LEMA allocations be carried forward to a
10 new LEMA plan. The LEMA plan allows for
11 the creation of combined well units for
12 multiple wells physically tied together.
13 In such cases, allocations for the group
14 can be moved between wells, provided no
15 well exceeds its annual authorized
16 quantity. Water right changes may be
17 required to gain approval.

18 Vested rights are exempt from the
19 LEMA -- LEMA's corrective controls and
20 cannot be combined with other -- other
21 water rights unless voluntarily enrolled.
22 Any vested rights voluntarily enrolled will
23 be subject to the LEMA's corrective control
24 provisions and then may be part of the
25 LEMA's combined well units.

1 When -- where water users have
2 implemented voluntary conservation during
3 the 2009 through '15 period, they may
4 appeal their allocation. For years in
5 which the owner documents their past
6 voluntary conservation, a flow rate test
7 will -- will be conducted by GMD 1 or DWR
8 to determine if the capability of the well
9 or wells under appeal can exceed their
10 historical use average. The resulting flow
11 rate will be multiplied by 150 days to
12 establish a test result quantity. The
13 greater of the historical use or test
14 result quantity shall be reduced by the 25
15 percent conservation factor. Water rights
16 on land not owned, leased, or otherwise
17 previously controlled or pumped for any of
18 the years from 2009 to 2015 by the Farm
19 Services Agency, the producer of record as
20 of January 1, 2020 shall be allowed an
21 appeal with the flow test.

22 We have estimated that -- that if the
23 allocations allowed under the LEMA plan are
24 fully used over the 2021 through '25
25 five-year period, the average water use

1 will be reduced by approximately 14.7
2 percent from the average use during the
3 2009 through '15 period. As I will discuss
4 later, it is expected that actual
5 reductions from historic use will be
6 greater. Further, as the allocations
7 provided in attachment A to the LEMA plan
8 do not include the results of appeals
9 allowed pursuant to the plan which could
10 increase some allocations and the water
11 use, our testimony provides evidence that
12 the stated goal can reasonably be expected
13 to be achieved.

14 The proposed LEMA is tailored to
15 adequately meet its goals of addressing the
16 excessive water level declines and
17 withdrawal rates exceeding recharge by
18 reducing water use in the areas of Wichita
19 County within GMD 1. GMD 1 has set a goal
20 tailored specifically to reduce declines
21 within the High Plains Aquifer of Wichita
22 County, thereby extending the aquifer's
23 useful life for the long-term benefit of
24 that area. The goal was developed using
25 reliable geological and hydrological data.

1 The proposed LEMA reduces water use to the
2 level necessary to meet our stated goal
3 while at the same time includes an appeal
4 process and special considerations for
5 unique cases to safeguard the rights of its
6 users while accomplishing its goals.

7 As mentioned, the proposed LEMA's
8 corrective controls will reduce the
9 historical use of irrigation rights by
10 limiting withdrawals to the stated goal.
11 This number is based on the 2009 through
12 '15 water use reflected by -- by the
13 Division of Water Resources and as reviewed
14 by the Garden City field office of the
15 Division of Water Resources, with each
16 holder's specific allocations calculated by
17 that office.

18 Our goal for limiting irrigation
19 withdrawals was specifically tailored in
20 light of available data. At the initial
21 hearing, Brownie Wilson, with the Kansas
22 Geological Survey, reported on the result
23 of KGS's study that found a 20.02 percent
24 reduction in the average annual withdrawals
25 from the aquifer would stabilize the water

1 levels for the coming decade -- decade or
2 two. Thus, the full use of the allocations
3 under the LEMA's proposed corrective
4 controls will accomplish a significant part
5 of the reductions needed to address the
6 declining groundwater levels.

7 The proposed LEMA allows for an appeal
8 process for water right holders who have
9 implemented voluntary water conservation
10 during the 2009 through '15 period and
11 those who claim an error in the calculation
12 of their allocation. The proposed LEMA
13 also allows special considerations to be
14 given via the appeals process for water
15 rights not owned, leased, or controlled
16 during the 2009 through '15 period by the
17 FSA producer of record as of January 1,
18 2020.

19 Acknowledging it is difficult to
20 quantify how many appeals will occur --
21 will occur or to what extent they may
22 impact the LEMA's goal, we expect the
23 impacts to be minimal compared to the
24 counterbalancing elements I will discuss in
25 a moment. While the appeals process may

1 increase allocation and use to a limited
2 degree, there are several factors that will
3 more than offset any potential additional
4 pumping from these appeals. I will
5 highlight these factors briefly in my oral
6 testimony; however, more details are
7 provided in our written testimony.

8 First, as I said, the proposed LEMA
9 exempts vested right holders. We assumed
10 for the purposes of -- of ensuring we meet
11 our stated goal that each vested right will
12 use 100 percent of their annual authorized
13 quantity each year for a total withdrawal
14 of 20,645 acre-feet over the five-year LEMA
15 period.

16 However, vested right holders are
17 unlikely, if not incapable due to declining
18 well capacities, of significantly expanding
19 their use during the LEMA period. Based on
20 a review of the historic use of vested
21 rights, we estimate it is -- it is
22 reasonable to expect vested rights to use
23 just over 15,000 acre-feet less than we
24 assumed over the proposed LEMA period.
25 Additionally, vested right holders may

1 voluntarily enroll in this LEMA, the
2 Wichita County WCA, or develop their own
3 WCA further reducing water use.

4 Second, roughly 20 percent of the water
5 right holders in the proposed LEMA are
6 enrolled in the Wichita County WCA. Those
7 users voluntarily -- are voluntarily
8 reducing their water use by 29 percent or
9 more in the initial seven-year period of
10 that conservation area, with a reduction
11 ultimately increasing to 36 percent during
12 the LEMA period. Like vested rights, the
13 allocations in the LEMA plan do not account
14 for less use by the water rights enrolled
15 in the WCA.

16 An analysis by DWR comparing the WCA and
17 LEMA allocations for those water rights
18 enrolled in the Wichita County WCA shows
19 the WCA's additional restrictions can be
20 expected to reduce water use by over 5,000
21 acre-feet more than the assumed LEMA plan's
22 allocations over the five-year period.
23 Additionally, enrollment in the WCA is
24 still open and there may be new
25 participants over the period of the

1 proposed LEMA, resulting in further
2 reduction.

3 Third, the proposed LEMA plan assumes
4 for the sake of safe planning that all
5 water right holders will use 100 percent of
6 their LEMA allocations. This is factually
7 unlikely. Past results from multiyear
8 allocation programs such as LEMAs have
9 shown most participants typically use less
10 than allocated when enrolled in flexible
11 use plans. For instance, in the Sheridan 6
12 LEMA, they achieved a water savings of
13 32 percent over the planned 20 percent
14 water savings.

15 Fourth, the historical use period used
16 as the basis for calculating the proposed
17 LEMA allocations contains two years,
18 specifically 2011 and '12, in which a major
19 drought impacted Wichita County,
20 necessitating much greater withdrawals from
21 the aquifer. Including these years
22 provides water users with an increased
23 ability to deal with another drought during
24 the LEMA period. It is also reasonable to
25 assume that, absent another drought, the

1 proposed LEMA's target goals will be easier
2 for these agricultural users to reach.

3 Water right holders given -- are given
4 the ability to file an appeal with the
5 GMD 1 Board of Directors regarding their
6 allocation under the proposed LEMA.

7 Following a timely appeal, water right
8 holders may present to the GMD 1 board
9 evidence to support their appeal basis, and
10 following the receipt of all evidence, the
11 GMD 1 board may grant the appeal, deny the
12 appeal, authorize a flow rate test, or
13 issue a new allocation to the holder based
14 on the evidence presented or other evidence
15 available from DWR or other official
16 sources.

17 As it is further discussed in our
18 written testimony, this appeal process, the
19 districts worked with -- the district's
20 work with a notice to all water right
21 holders and these LEMA hearings fully
22 satisfies the State's requirement under
23 K.S.A. 82a-1041, section (a)(5) regarding
24 due consideration for prior conservation
25 and implementing reductions in use, as well

1 as the procedural due process requirements
2 under the constitution.

3 Water right holders will continue to be
4 informed by GMD 1 as we move forward.
5 GMD 1 has been very supportive of its
6 holders -- water right holders who wish to
7 conserve water, as the entire Wichita
8 County community is well aware of the
9 declining water levels in the High Plains
10 Aquifer. GMD 1 is committed to ensuring
11 that any water right holder who has
12 voluntarily curbed their own water use for
13 the benefit of the community isn't
14 penalized for doing so under the corrective
15 controls of this LEMA.

16 The proposed LEMA does not apply
17 corrective controls to non-irrigation users
18 but encourages them to develop best
19 practices, which many have already done in
20 light of the declining water supply. The
21 combined total use of stock, municipal, and
22 industrial withdrawals from the aquifer
23 account for 3.6 percent of the total water
24 use during the historic use period.
25 Because these users' withdrawals are

1 minimal and because the goal of stabilizing
2 the aquifer can be met through other
3 corrective controls, no restrictions were
4 placed on these users.

5 Further, the proposed LEMA provides
6 recommendations for each type of use and
7 requires the board to review the annual
8 water use reports of each type of user.
9 Should any non-irrigation user start
10 withdrawing water from the aquifer at an
11 increased rate that would negatively impact
12 its longevity, the board can address --
13 address this impact should it renew the
14 LEMA after the five-year period.

15 Finally, stock and industrial users are
16 common and primary economic drivers of
17 Wichita County and the surrounding area and
18 are oftentimes the end user of many of the
19 commodities created by the irrigation water
20 users. This proposed LEMA was specifically
21 tailored to minimize impact disruption in
22 Wichita County, and the board fears that
23 placing restrictions on these end users may
24 have unanticipated economic upstream
25 effects in Wichita County. Because of this

1 and because these non-irrigation users'
2 impacts on the aquifer are already minimal
3 and the proposed LEMA does not contain any
4 corrective -- the proposed LEMA does not
5 contain any corrective controls for
6 non-irrigation users.

7 While the proposed LEMA does not
8 specifically address the priority of water
9 right users in its corrective controls,
10 other than exempting vested rights,
11 priority of water rights are explicitly and
12 implicitly considered and protected in the
13 plan.

14 Explicit in the plan is that should any
15 user under the proposed LEMA claim
16 impairment, the plan expects the chief
17 engineer to investigate and exercise his
18 authority to address that impairment,
19 including giving consideration to water
20 right priorities. This provides the chief
21 engineer the ability to make decisions
22 regarding impairment on a priority basis,
23 thus safeguarding the priority rights of
24 users.

25 Beyond this, the proposed LEMA

1 implicitly safeguards priority rights. The
2 plan's proposed corrective controls will
3 reduce pumping from the aquifer, and the
4 resulting effect of stabilizing the aquifer
5 delays and reduces the potential of future
6 impairment claims. Priority of water
7 rights become legally important when
8 impairment occurs, but if no impairment
9 occurs, then there is no need to consider
10 priority, and that is what this proposed
11 LEMA will accomplish through stabilizing
12 the aquifer.

13 Finally, this proposed LEMA need not
14 explicitly address priority beyond the
15 considerations noted above because the term
16 of the proposed LEMA is a temporary
17 five-year period and it does not completely
18 deprive any user from their ability to
19 withdraw from the aquifer. The proposed
20 LEMA is not a government taking that would
21 rise to the level of a constitutional
22 violation. This is discussed more in our
23 written testimony, and I'll respectfully
24 refer you to that document for that
25 discussion.

1 The proposed LEMA requires all
2 monitoring to continue under state
3 guidelines. This includes individual
4 responsibility for ensuring water
5 flowmeters are in good working order and
6 that the annual reporting is completed.
7 Should these items not be met, the well in
8 question shall be assumed to have pumped
9 its annual authorized quantity, along with
10 any other corrective provisions recommended
11 by the chief engineer.

12 Additionally, should a water right
13 holder be found to have exceed their
14 allocation or otherwise intentionally
15 disrupted the discovery of actual water
16 withdrawals, the holders are subject to the
17 provisions of the Kansas Administrative
18 Regulations, which include potential civil
19 penalties and monetary fines.

20 These compliance monitoring and
21 enforcement elements should not cause undue
22 burdens on the holders under this proposed
23 LEMA because these are the requirements
24 these users have or should have been in
25 compliance with prior to the LEMA

1 implementation. Additionally, the
2 penalties are ones already established by
3 state statute and regulation and thus
4 impose no additional measures that could
5 potentially be found punitive or otherwise
6 unenforceable.

7 The proposed controls -- the proposed
8 controls in the proposed LEMA are necessary
9 to reduce pumping in Wichita County to
10 protect existing water rights and extend
11 the useful life of the Ogallala Aquifer.
12 Within Wichita -- within Wichita County,
13 225 water rights comprising 448 wells have
14 been permanently dismissed as a result of
15 the lack of supply and an additional 346
16 active points of diversion have no pumping
17 record during the 2009 through '15 period.
18 This indicates the area needs management
19 for a long-term benefit.

20 The board carefully crafted this plan to
21 reduce use. While a significant number of
22 water rights will have five-year
23 allocations based on 75 percent of their
24 average use during the 2009 through '15
25 period, this remains reasonable as the

1 period includes two years of severe
2 drought. Also as pumping rates continue to
3 gradually decline over time, using water
4 history of the 2009 through '15 period as a
5 basis for the 2021 through '25 allocation
6 period will lessen the actual impact to
7 water users.

8 An important element of the LEMA plan is
9 its five-year allocations wherein water
10 users can plan for the best use of their
11 full supply to maximize the economic return
12 from this water. As has been determined in
13 the Sheridan 6 and Wet Walnut Creek IGUCA
14 and elsewhere, in such cases, water users
15 adapt from the mindset of maximum annual
16 returns to maximizing economic return per
17 acre-foot pumped. For example, in the
18 Walnut Creek IGUCA, a 23 percent reduction
19 in groundwater resulted in a mere 1.2
20 percent reduction in corn output. Studies
21 of that IGUCA further showed no significant
22 short-term or long-term decreases in
23 property values due to water use
24 restrictions.

25 From all the above data, it is

1 reasonable to expect the long-term benefits
2 of the LEMA plan outweigh potential
3 short-term limitations, economic or
4 otherwise.

5 So in conclusion, this proposed LEMA
6 should be accepted and approved by the
7 chief engineer. It has been specifically
8 designed around reliable scientific data
9 which supports the LEMA plan's corrective
10 controls to reduce irrigation water use and
11 declines in the High Plains Aquifer of
12 Wichita County, extending the life of the
13 aquifer there. The corrective controls are
14 sufficient to meet the plan's stated goal,
15 contains counterbalances to increases in
16 allocations from the plan's appeal process,
17 and additionally the proposed LEMA complies
18 with -- with the law and with the LEMA
19 statute. It contains appeal provisions to
20 ensure each holder's constitutional rights
21 are respected and has compliance and
22 enforcement provisions to ensure the rules
23 of the LEMA are respected as well.

24 This proposed LEMA represents a long and
25 thoughtful process by GMD 1 and the water

1 users of Wichita County to conceive a plan
2 that will preserve the High Plains Aquifer
3 while still showing a productive -- while
4 still allowing a productive and profitable
5 agricultural use of the land. This
6 proposed LEMA also represents thoughtful
7 input by the Division of Water Resources,
8 as it was willing to informally review this
9 plan prior to submission to ensure it met
10 all requirements under the law, and that
11 informal review led to what we hope is a
12 comprehensive and satisfactory plan that
13 will allow the High Plains Aquifer to
14 benefit Wichita County for years to come.

15 This concludes my testimony, I will now
16 stand for questions. And thank you for
17 your consideration.

18 HEARING OFFICER LEWIS: Thank you,
19 Mr. Spencer. For the record, I take note
20 of your written testimony, which was
21 previously provided and will be entered
22 into the record as Exhibit B. Do you have
23 any other exhibits that you want to put on
24 the record today?

25 MR. SPENCER: No, not at this time.

1 HEARING OFFICER LEWIS: I have a
2 couple of clarifying questions, if I could,
3 Mr. Spencer. First, for the sufficiency
4 question, you mentioned, I think,
5 stabilizing the aquifer, what do the
6 projections show as how long the life of
7 the aquifer would be extended?

8 Kyle, you need to move closer there, we
9 can't hear you.

10 MR. SPENCER: Okay.

11 HEARING OFFICER LEWIS: Thank you.

12 MR. SPENCER: Yeah, I'm sorry, how
13 long will the aquifer be extended?

14 HEARING OFFICER LEWIS: Correct, how
15 long the life of the aquifer will be
16 extended?

17 MR. SPENCER: I'll have to -- I'll
18 have to say I -- we -- I -- I don't have
19 any projection at hand, so I would have to
20 say that we would provide you a written
21 answer in -- in the next seven business
22 days. And I would also say that that's
23 probably what we will do with all questions
24 issued -- asked today because everyone at
25 the district wants to make sure that the

1 concerns and questions are taken seriously,
2 and we think providing a written answer is
3 the best way to do that.

4 HEARING OFFICER LEWIS: Understand
5 that, that's fine, thank you. The other
6 question I had, and, again, I think it is
7 fine if you provide a written response,
8 when you talk about -- you noted the
9 economic evaluation from Sheridan 6 LEMA
10 and the Walnut Creek IGUCA, do you have any
11 plans to evaluate the economic impact or
12 benefit of the implementation of the LEMA
13 should it go forward?

14 MR. SPENCER: Yes, I think as the
15 LEMA moves forward, we're hoping to be able
16 to -- to compile some economic data to, you
17 know, provide -- you know, yeah, to provide
18 economic data of the impact of the LEMA.
19 Obviously we have none at this time, you
20 know, directly, obviously.

21 HEARING OFFICER LEWIS: Understand.
22 All right. I don't have any more questions
23 for you at this time. I might based on
24 other testimony before we're done.

25 Does anybody else have any clarifying

1 questions for GMD 1?

2 All right. Hearing no clarifying
3 questions, I appreciate your testimony and
4 your time today, Mr. Spencer.

5 MR. SPENCER: Okay, thank you.

6 HEARING OFFICER LEWIS: Yep. Do you
7 have any other witnesses or comments,
8 testimony from GMD 1?

9 MR. ADRIAN: We do not.

10 HEARING OFFICER LEWIS: All right.
11 Thank you. I will now call upon Stephanie
12 Murray, attorney for DWR, to call witnesses
13 to testify on behalf of DWR.

14 MS. MURRAY: Thank you. DWR does
15 have planned testimony from two witnesses,
16 Lane Letourneau and Mike Meyer. I would
17 ask Mr. Letourneau to present his testimony
18 first.

19 MR. LETOURNEAU: Thank you,
20 Mr. Hearing Officer. My name is Lane
21 Letourneau, I am the program manager for
22 the Kansas Department of Agriculture's
23 Division of Water Resources, and my
24 testimony has been provided as written.
25 And I won't read my testimony into the

1 record, but I will highlight my written
2 testimony.

3 As the agency that administers the
4 Kansas Water Appropriation Act, we want to
5 provide testimony in support of the Western
6 Kansas Groundwater Management District's
7 proposed LEMA. The -- we believe that the
8 data put together by Brownie Wilson of the
9 Kansas Geological Survey used in the
10 development of this LEMA plan is very
11 reasonable, and we believe that the
12 corrective controls proposed by this plan
13 will be effective to slow the groundwater
14 declines in the county.

15 We've -- we've reviewed the proposed
16 management plan, and we believe that the
17 corrective controls contained herein are
18 reasonable and they're in the public
19 interest and they will be effective in
20 helping with the groundwater declines in
21 the Ogallala Aquifer, and they are narrowly
22 tailored for the affected area. So we --
23 we believe that the present rates of the
24 groundwater depletion throughout the
25 proposed LEMA are unsustainable and can be

1 further remedied with this LEMA and the --
2 and then I want to talk about the
3 allocations.

4 Folks were concerned about how the
5 allocations were established based on
6 historical use because we have to by
7 statute take into consideration --
8 consideration for past conservation. Well,
9 the allocations are established by historic
10 use, but as Mr. Spencer pointed out in his
11 testimony, this LEMA provides for an appeal
12 process; and so someone can appeal to the
13 board and they can show the board that
14 they've had past conservation so they will
15 get credit for past conservation through
16 that appeal process. Therefore, we feel
17 that this meets the criteria of being in
18 the public interest regarding the past
19 conservation.

20 Now, as Mr. Spencer also talked about,
21 DWR feels that the corrective controls
22 proposed by this LEMA, they protect
23 existing water rights and they adhere to
24 prior appropriation that is required in the
25 Kansas Water Appropriation Act. And while

1 the LEMA plan provides for allocations to
2 be established without regard to priority,
3 priority will still be considered if
4 impairment occurs. If there is -- if there
5 is interaction water right to water right,
6 then the senior water right will prevail.
7 And, of course, we will investigate that
8 like we would any other impairment
9 complaint. So we do feel that this LEMA
10 still protects the prior appropriation
11 doctrine.

12 Now, as Mr. Spencer pointed out, the
13 proposed plan does not regulate vested
14 water rights. The Water Appropriation Act
15 won't allow the administration of water
16 rights. You can only -- the only way the
17 Water Appropriation Act affects the vested
18 right is abandonment. But if folks want
19 flexibility of that vested water right,
20 they can bring that vested water right in
21 voluntarily.

22 And then we also, you know, we're not
23 economists, but we feel that this will help
24 the economy of the area because it makes
25 the -- it'll make the water last longer,

1 and so with the water being there longer,
2 the economy should be better longer.

3 And then we just have to say that we
4 appreciate the groundwater management
5 district, we appreciate the folks that are
6 already in the water conservation area and
7 the local citizens taking this important
8 step to help manage their groundwater. We
9 recognize the difficulty of
10 self-regulating, a neighbor regulating a
11 neighbor, but this is very important that
12 the -- they do put the limits on themselves
13 then to help make the aquifer last longer.
14 And they -- they are extending the life of
15 the Ogallala, and this will help the
16 agricultural-driven economy in the area.

17 And with that, that's my verbal
18 testimony, and, of course, you have my
19 written testimony.

20 HEARING OFFICER LEWIS: Thank you,
21 Mr. Letourneau, I do have your written
22 testimony, it'll be entered into the record
23 as Exhibit C.

24 I don't have any clarifying questions
25 for you. Does anybody else have clarifying

1 questions for Mr. Letourneau?

2 All right. Hearing none, thank you very
3 much for your testimony.

4 MR. LETOURNEAU: Thank you.

5 HEARING OFFICER LEWIS: Ms. Murray,
6 you may call your next witness.

7 MS. MURRAY: Okay, thank you. I
8 would ask Mike Meyer to present his
9 testimony now.

10 HEARING OFFICER LEWIS: Mr. Meyer,
11 can you move closer to the -- closer so we
12 can hear you better?

13 MR. MEYER: Sure. Good morning
14 again, my name is Mike Meyer, I'm the water
15 commissioner of the Kansas Department of
16 Agriculture, Division of Water Resources,
17 Garden City field office.

18 As Garden City field office staff has
19 worked most closely with Western Kansas
20 Groundwater District No. 1 in developing
21 this Local Enhanced Management Area plan, I
22 want to provide testimony in support of the
23 plan, including the corrective controls
24 contained therein.

25 Our office assisted GMD 1 staff in

1 analyzing data that was used in the
2 development of the LEMA plan, specifically
3 the historic water use data that will be
4 used to establish the allocations under the
5 plan. Historically -- or historic water
6 use was calculated using average pumping
7 over a seven-year period that included both
8 wet and dry years, which is appropriate
9 given that groundwater use is heavily
10 dependent upon precipitation.

11 Additionally, the LEMA plan's use of
12 25 percent reduction from historic use when
13 setting allocations is reasonable. With
14 continued groundwater level declines and
15 limited aquifer storage available, such a
16 reduction is appropriate to achieve the
17 plan's goal of limiting irrigation use to
18 the 246,882.786 acre-feet during the LEMA
19 period. The water savings produced if this
20 goal is met will be meaningful extend -- to
21 extend the aquifer supply.

22 My staff is also equipped to assist
23 GMD 1 with the administration of this LEMA
24 as needed if ultimately designated, and the
25 plan explicitly provides for this

1 assistance in several places. My office
2 supports the designation of this LEMA and
3 feels confident that continued
4 collaboration between DWR and GMD 1 will
5 enable this LEMA to achieve its goals,
6 resulting in the advancement of the water
7 conservation for the long-term benefit of
8 this entire area. Thank you.

9 HEARING OFFICER LEWIS: Thank you,
10 Mr. Meyer, I've got your pre-filed written
11 testimony, it'll be entered as Exhibit D.
12 I don't have any clarifying questions.
13 Does anybody else have clarifying questions
14 for Mr. Meyer?

15 All right. Thank you for your
16 testimony.

17 MR. MEYER: Thank you.

18 HEARING OFFICER LEWIS: Ms. Murray,
19 do you have anybody else or any other
20 exhibits we need to enter into the record?

21 MS. MURRAY: I do not.

22 HEARING OFFICER LEWIS: All right.
23 Thank you. Now it is time for the public
24 to provide oral testimony. I'd ask that
25 you please come to the computer when I call

1 your name. We're going to start with Frank
2 Wedel, I hope I'm getting your name right.
3 Please state your name and address and then
4 begin your testimony concerning the
5 designation of the WHC LEMA and the
6 management plan proposed by GMD 1.

7 MR. WEDEL: My name's Frank Wedel,
8 I'm here in Leoti, 1012 West County Road K
9 in Leoti, and my comment is in support of
10 the LEMA. And I'll just give you some of
11 my thoughts that occurred to me a few days
12 ago.

13 We were traveling from -- back from
14 McPherson to our home here in Leoti. We
15 went through Rush Center and then Ness City
16 and Dighton, Scott City, Leoti. If you go
17 on west, you get to Tribune. And of those
18 six cities, Rush Center is pretty much
19 dried up. Ness City is supported by oil
20 and gas. Dighton is barely hanging on,
21 they do have a little irrigation north of
22 town, but that town is getting smaller
23 daily. Scott City is vibrant, lots of
24 water. Leoti, I'd say is stabilized and
25 has -- we're driven by industries that

1 depend on irrigation water. Tribune, a
2 little less, but again a little less water
3 but they seem to be stabilized. Let's go
4 to Towner, they're dried up, Sheridan Lake
5 is gone, pretty much gone. Brandon,
6 nonexistent; Eads is barely.

7 The common denominator is water. If you
8 have it, you survive; if you don't, you'll
9 go away. I have two grown children that
10 live in Leoti and have businesses, and
11 those businesses depend on an economy of
12 some sort, and in this area -- this area,
13 that's water.

14 I also have five grandchildren here and
15 I hope -- actually, excuse me, I have six
16 grandchildren here in Leoti, and I hope
17 that they would have the opportunity to
18 come back and be part of this community as
19 well. I shudder to think that someday they
20 may not be able to come back and they'd end
21 up in a town like Portland or Seattle where
22 it's okay to pillage and steal and rob and
23 burn but you can't go to church. So that's
24 my comment.

25 HEARING OFFICER LEWIS: Thank you,

1 Mr. Wedel, appreciate your comments. Do
2 you have anything else you'd like to enter
3 on the record today?

4 MR. WEDEL: No.

5 HEARING OFFICER LEWIS: Okay. I
6 don't have any clarifying questions. Does
7 anybody have any clarifying questions for
8 Mr. Wedel?

9 All right. Hearing none, thank you for
10 appearing today.

11 MR. WEDEL: Thank you for your time.

12 HEARING OFFICER LEWIS: Next I'm
13 going to call on -- on Brian Bauck who is
14 on the Zoom session. Brian, if you're
15 available, can you please turn on your --
16 your microphone.

17 MR. BAUCK: Uh, yes, can you hear
18 me?

19 HEARING OFFICER LEWIS: We can hear
20 you. Please go ahead.

21 MR. BAUCK: Yes, my family has been
22 in Wichita County for many years. First
23 came here in 1887. I'm the third
24 generation on my farm that my grandpa
25 started but technically the fifth.

1 I firmly believe that there is a need
2 for conservation, I just have some issues
3 with the way that it's being addressed. I
4 believe that there is a simpler way that
5 this could have been done. And the
6 Sheridan 6 has been mentioned several
7 times, and by using, you know, a
8 straightforward application of acre-inches
9 across the board would have been a simpler
10 way to handle this. I believe that the way
11 this -- this LEMA is proposed and set up is
12 going to result in lots of appeals in
13 regards to the allocations. I also --
14 my -- my last thing would be the -- the
15 boundaries, I feel it should be a GMD 1
16 wide LEMA instead of just a Wichita County
17 LEMA.

18 And that's -- those are my concerns or
19 comments today, sir. Thank you.

20 HEARING OFFICER LEWIS: Thank you,
21 Mr. Bauck, for your -- your comments. Do
22 you have anything else you want to enter
23 onto the record today?

24 MR. BAUCK: No, sir, not at this
25 time.

1 HEARING OFFICER LEWIS: Great. Does
2 anybody have any clarifying questions for
3 Mr. Bauck?

4 Hearing none, thank you for your
5 testimony today.

6 MR. BAUCK: Thank you.

7 HEARING OFFICER LEWIS: Next I call
8 on Tammy Simmons who I believe is in Leoti
9 at the parish hall.

10 MS. SIMONS: Good morning.

11 HEARING OFFICER LEWIS: Can you get
12 a little closer, speak up, we can't quite
13 hear you, Ms. Simmons?

14 MS. SIMONS: Okay.

15 HEARING OFFICER LEWIS: Go ahead.

16 MS. SIMONS: My name is Tammy
17 Simons --

18 HEARING OFFICER LEWIS: Simons.

19 MS. SIMONS: -- and I live at 885
20 North County Road 18, Marienthal, Kansas.
21 My husband and I farm and ranch with our
22 family in northeast Wichita County. First
23 and foremost, I am mom to Anna, Addison,
24 and Morgan. I represent the fourth and
25 fifth generations of our family who have

1 engaged in agriculture here since 1915, so
2 for over a century. I also serve our
3 public as an elected board of education
4 member for the Leoti-Wichita County School
5 District, USD Number 467 for the past seven
6 years.

7 I am very concerned about the impact
8 that water or the lack of it has on not
9 only my family's future but also the
10 survival of our education system so that
11 all 409 of my kids in our system have the
12 best chance of meeting their full potential
13 in life. My purpose today is to show that
14 the corrective control provisions of the
15 proposed Wichita County LEMA are sufficient
16 and they are also absolutely necessary for
17 our community's immediate future and that
18 of the next generation.

19 National Geographic Magazine published a
20 25-page article focusing solely on the
21 Ogallala Aquifer in August of 2016, with
22 the headline To the Last Drop, and also a
23 secondary headline, Invisible Crisis, A
24 Vanishing Aquifer. To say the world is
25 watching might be an exaggeration, but to

1 say our nation is following closely what
2 happens in the breadbasket of its heartland
3 is not an exaggeration.

4 The time is now to take action to
5 preserve our way of life for future
6 generations. Some even say it's too little
7 too late. I may still be young and naive,
8 but I believe that we still have a fighting
9 chance. I am always looking to leave
10 things for my kids and all kids here better
11 than I found them.

12 I have been involved in this water
13 conservation effort in Leoti since the W --
14 the Wichita County WCA meetings began in
15 March of 2016. And finally here we are
16 today with one of the major tools that will
17 help get our area to the real, meaningful
18 water conservation that we had only hoped
19 was possible four years ago.

20 The stated goal of this LEMA is to limit
21 irrigation withdrawals to 246,882.786
22 acre-feet during the five-year LEMA period.
23 The evidence is clear that this LEMA plan
24 and its corrective controls will reduce the
25 major water usage of this county, that is

1 water used for irrigating crops, by a
2 certain percent.

3 While the plan states in black and white
4 that it is a 25 percent reduction in
5 irrigation withdrawals, one must realize
6 what that means in actual practice. This
7 actually equates to the average irrigation
8 water use being reduced approximately 14.7
9 percent from the historical average from
10 the years 2009 to 2015. That actually
11 falls short of the stated goal that the
12 Kansas Geological Survey recommends of a
13 20 percent reduction of total use for all
14 uses in the county, which include
15 irrigation, stock water, municipal, and
16 domestic uses.

17 Vested rights will still have their full
18 use, but they can voluntarily enroll in the
19 LEMA. Some producers are already waiting
20 with their appeals to the GMD board so they
21 can get an increase in allocation. While
22 the LEMA plan as it stands is sufficient to
23 reduce water usage enough to meet its own
24 stated goal, the GMD board and DWR must
25 remain vigilant and hold to their ultimate

1 purpose of sustaining the aquifer's life as
2 long as possible when considering appeals
3 and how those will affect our overall big
4 picture for the future.

5 Let's remember that the water underneath
6 us is meant for the use of all Kansans;
7 that is, not a few property owners but all
8 Kansans. Over 96 percent of the water use
9 in this county supports a robust
10 agricultural-based economy and is
11 controlled by a small percentage of the
12 general population. However, the absolute
13 most important attribute of water is for it
14 to sustain the very lives of 100 percent of
15 our population. Sustaining life for all
16 our families, neighbors, and friends is the
17 ultimate goal.

18 We have been called and commanded by our
19 creator to love God and love our neighbors
20 as ourselves. We must obey that command by
21 sacrificing and making changes to our use
22 of natural resources today or we will have
23 to face the dire consequences of not acting
24 today within just the next decade.

25 By combining this LEMA plan's corrective

1 controls with the success of the Wichita
2 County Water Conservation Area and the
3 forthcoming comprehensive USDA RCPP titled
4 Groundwater Recharge and Sustainability
5 Project, we are on the way to meaningful
6 water conservation and preserving our way
7 of life for years to come.

8 That is all I have, Mr. Hearing officer.

9 HEARING OFFICER LEWIS: Thank you,
10 Ms. Simons. I apologize for messing up
11 your name to start with. Do you have
12 anything else that you'd like to enter on
13 to the record today?

14 MS. SIMONS: No, sir.

15 HEARING OFFICER LEWIS: All right.
16 Are there any clarifying questions for
17 Ms. Simons?

18 Hearing none, thank you for your
19 testimony today.

20 MS. SIMONS: Thank you.

21 HEARING OFFICER LEWIS: Is there
22 anybody else who would like to provide oral
23 testimony today?

24 MS. NAVINSKY-WENZL: You might ask
25 Lizzie to un-mute so we can confirm -- I

1 don't know if they actually have control
2 over their ability to mute.

3 HEARING OFFICER LEWIS: Can the --
4 so, Lizzie, can you un-mute the folks that
5 are on the Zoom to make sure that -- if
6 there are folks that want to -- to testify?

7 MR. BEIGHTEL: Hearing Officer, this
8 is Chris Beightel, we do not have the
9 ability to un-mute unilaterally, folks are
10 in control of their own microphones.

11 HEARING OFFICER LEWIS: All right,
12 thank you. Thank you.

13 All right. I have a couple of
14 additional questions -- well, first before
15 I do that, I want to note the written
16 testimony provided by Frank Mercurio, and
17 it will be marked as Exhibit E; written
18 testimony provided by Don, Earl, Luke, and
19 Andrew Smith with Smith Family Farms, which
20 will be marked as Exhibit F; and written
21 testimony provided by Charlie Hughes with
22 the City of Leoti, which will be Exhibit G.

23 Now, I have additional questions that I
24 would like for GMD 1 to -- and I understand
25 provide some -- a written response to

1 before the December 4th deadline. So my --
2 my question pertains to questions were
3 raised by the Smith Family Farms regarding
4 the selection of the date by which the --
5 an appeal must be filed and -- and the
6 reasoning behind the selection of 150-day
7 limit multiplied by the pumping test rate
8 and the sufficiency of that for -- for the
9 appeal of the allocation. If you can
10 provide additional information on that
11 before December 4th for the record.

12 Is there any -- again, one final call,
13 is there anybody that wants to provide
14 either oral testimony or have clarifying
15 questions for anybody that has provided
16 testimony today?

17 Okay. Hearing none, we will close the
18 oral testimony portion of this hearing.
19 You are free to provide written testimony
20 whether or not you have provided oral
21 testimony. Remember that all written
22 testimony must be submitted or postmarked
23 by December 4th, 2020. Anyone may submit
24 additional written testimony before this
25 date. Any written testimony will also be

1 made a part of the record of this hearing.

2 Information is available on KDA's
3 website with the instructions for
4 submitting written testimony. As we
5 receive written testimony, it will be
6 posted to KDA's website. We also post the
7 transcription of this hearing on our
8 website when it becomes available.

9 The record will be closed on
10 December 4th, 2020. After the record is
11 closed, I will review the record and make a
12 decision on how to proceed pursuant to
13 GMD 1's request. Just as the statute has
14 two separate hearings for a successful LEMA
15 process, it also requires at least two
16 separate orders. First, pursuant to
17 statute, I have 120 days to issue an Order
18 of Decision. Regarding this order, I have
19 the following choices: One, accept the
20 LEMA plan as sufficient to address any of
21 the conditions set forth in K.S.A.
22 82a-1036(a) through (d); two, reject the
23 LEMA plan as insufficient to address any of
24 the conditions set forth in K.S.A.
25 82a-1036(a) through (d); three, return the

1 plan if it is determined to be deficient
2 with the reasons and the option for the GMD
3 to revise and resubmit the plan; or, four,
4 return the plan to the GMD with specific
5 suggestions for improvements which the GMD
6 can accept or reject.

7 If the Order of Decision accepts the WHC
8 LEMA Management Plan, then I will
9 subsequently issue an Order of Designation
10 designating the area as a LEMA and ordering
11 the specific control -- corrective controls
12 within WHC LEMA Management Plan.

13 I appreciate your appearance and your
14 testimony here today. Before closing the
15 hearing, I would ask one last time if
16 anyone wishes to offer any additional oral
17 testimony or anyone has any comments on the
18 procedures from here?

19 As one final comment, I want to thank
20 everyone that's participated, the GMD, DWR
21 staff, and each of the folks that testified
22 here today. Obviously this is a
23 significant -- significant action, whether
24 a decision to move forward occurs or not.
25 Your commitment to improving the conditions

1 there locally, both from the groundwater
2 perspective and the economy, should be
3 applauded, and we'll make a decision
4 obviously within 120 days regarding the
5 sufficiency of these -- of the plan.

6 Thank you for your participation, the
7 record for oral testimony in this matter is
8 now closed. I will leave the record open
9 and will accept written testimony until
10 Friday, December 4th, 2020, which, again,
11 is two weeks from today. Thank you for
12 your time and this hearing is closed.

13 * * * * *

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	31:16	Agency (2) 18:19;38:3	18:4,9,21;20:3; 21:7;25:4,7,9,11,12, 18;33:16,19;39:11, 12,16;56:5,9	assist (2) 8:16;43:22
A	actual (4) 19:4;30:15;32:6; 52:6	ago (2) 45:12;51:19	appeals (8) 19:8;21:14,20,25; 22:4;48:12;52:20; 53:2	assistance (1) 44:1
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