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May 17, 2018

Darrell Wood, President
Board of Directors
Big Bend Groundwater Management District #5
125 S. Main St.
Stafford, KS 67578

Darrell: 

Thank you for the May 15, 2018, letter from your attorney, responding to my letter of April 26, 2018. I appreciate that the board and your staff are working hard to finalize a revised LEMA plan to address the impairment of Quivira National Wildlife Refuge, but I want to clarify that when my staff and I met with you and the board on August 11, 2017, we all agreed in principle that the district's LEMA plan needs to include: 1) clear goals, 2) a way to measure progress towards the goals, and 3) "teeth" to ensure that the goals are met. Your last letter confirms your agreement in principle with the first two elements, but it appears that we need more discussion on what the last element looks like.

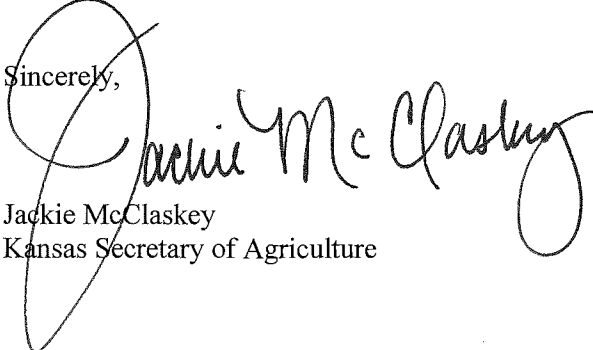
We have no intent to limit the district's flexibility to achieve its LEMA goals. Flexibility is exactly what we meant by the phrase "hydrologic equivalent" on page 2 of my letter. In other words, the district will get credit for any action that helps to meet its LEMA goal to reduce the increase in rate of depletions as determined by the same analysis that Balleau Groundwater used to formulate the current 23,000 AF/4,000 AF LEMA/Zone D plan. If the district's actions keep the LEMA on track over 2020-2024, then no additional actions will be needed for 2025-2029. Flexibility is welcomed and encouraged, but the plan must meet the overall goal. We are counting on the board's leadership to find the best solutions for the basin.

However, keeping in mind that this LEMA is in lieu of other water administration to resolve the impairment, your LEMA plan must include "teeth" – exactly what will happen if water use is not on track to meet the goals and if none of the suite of options available to you (water right buyouts, moves, etc.) pans out. The "teeth" serves as a last resort. It will address three important purposes: 1) it clearly communicates that water users need to reduce their water use, 2) it clearly defines, by order of the chief engineer, how each water user will be impacted if the district is not on track to meet its LEMA goals, and 3) it ensures that, even as an undesirable last resort, there will be sufficient action to reduce the rate of increase in depletions to Rattlesnake Creek Streamflow. Providing allocations by water right as the means of last resort fulfills these purposes, and therefore needs to be in your plan.

Your letter raised other important issues that our teams need to discuss further; in person would be our strong preference. My staff will reach out to you to find a time to meet, hopefully in the next couple of weeks.

I am fine with waiting a bit longer for your revised plan so long as you are working to implement the three elements I mentioned above.

Sincerely,


Jackie McClaskey
Kansas Secretary of Agriculture