

**PROPOSED AGENDA  
BOARD OF DIRECTORS MEETING  
EQUUS BEDS GROUNDWATER MANAGEMENT DISTRICT NO. 2**

**Tuesday, February 2, 2021, 9:30 a.m.**

**Halstead First Mennonite Church, 427 W. 4<sup>th</sup> St., Halstead, KS 67056**

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**1. APPROVAL OF MINUTES**

**2. APPROVAL OF AGENDA**

**3. FINANCIAL REPORT**

**4. APPROVAL OF EXPENDITURES**

**5. PUBLIC FORUM –** *Persons may present written or verbal comments concerning non-agenda business. Presentations are limited to five minutes.*

**6. APPEAL REVIEW**

- a) City of Moundridge, Water Right File Nos. MP-003 and 30413, McPherson County
- b) Woodard, LLC, Appropriation Application No. 50310, Sedgwick County

**7. OLD BUSINESS**

- a) City of Wichita Aquifer Storage & Recovery (ASR) Proposed Permit Modifications
- b) Review of Change Applications – Water Permit Nos. 40518 & 48676
- c) Review of Board Representation District Standard & Policy D.S.P. 8103.1
- d) K.S.A. 82a-743 Draft Legislation

**8. NEW BUSINESS**

- a) KDA/DWR Draft Legislation and Regulations
- b) February Board Meeting date, March Board Meeting date, Annual Meeting date
- c) Annual GMD Legislative Retreat, Topeka

**9. AGENCY & COMMITTEE REPORTS**

- a) Division of Water Resources
- b) Kansas Water Authority
- c) Equus - Walnut Regional Advisory Committee

**10. MANAGER'S REPORT**

- a) ASR Project Report
- b) Administrative and Field Tasks
- c) Review of Term Permit Applications
- d) Monthly Information and Service Report

**11. ADDITIONS TO THE AGENDA**

**12. BOARD ROUND TABLE DISCUSSION**

**13. EXECUTIVE SESSION – Personnel**

**NOTICE:** All Board of Directors meeting and any portion thereof are open to the public, except for closed or executive meetings, as prescribed by K.S.A. 75-4319. Please complete a meeting notice form, if you wish to be notified of Board of Directors meetings, hearings, work sessions or other business meetings. Notice forms may be obtained by contacting the Equus Beds Groundwater Management District No. 2.

## **EQUUS BEDS GROUNDWATER MANAGEMENT DISTRICT NO. 2**

**FEBRUARY 2, 2021**

The Board of Directors for the Equus Beds Groundwater Management District No. 2 held a monthly meeting February 2, 2021, at the First Mennonite Church in Halstead, Kansas. President Jeff Winter called the meeting to order at 9:33 a.m.

Directors and staff present during all or portions of the meeting:

Jeff Winter, President	Vin Kissick, Vice President
David Bogner, Secretary	Mike McGinn, Treasurer
Alan Burghart, Member	Joe Bergkamp, Member
Dale Schmidt, Member	Bob Seiler, Member
David Stroberg, Member, via phone	Tom Adrian, District Attorney
Tim Boese, Manager	Rebecca Wilson, Admin. Assistant

Others attending the meeting or portions thereof were:

Jeff Lanterman, DWR-Stafford, via phone	Scott Macey, City of Wichita
Gary Koons, KWO, via phone	Kathy Sexton, City of Derby, Landowner
Laura Rainwater, REAP, via phone	Byron Warta, Equus Walnut RAC, via phone
Brian Meier, Burns & McDonnell, via phone	Terry Jantzen, City of Moundridge
Jeremy Johnson, City of Moundridge	Rusty Redding, Layne
Carl Nuzman, Consultant	Nadine Stannard, Associated Material
Ray Flickner, Landowner	Ted Saranchuk, Hutchinson

### **ITEM 1 -- APPROVAL OF MINUTES**

Moved by David Bogner and seconded by Joe Bergkamp to approve the December 9, 2020, meeting minutes. Motion carried with 7 Directors for, 0 Directors against, 0 Directors abstained, and 2 Directors absent (Mike McGinn and Bob Seiler).

### **ITEM 2 -- APPROVAL OF AGENDA**

Moved by Vin Kissick and seconded by Alan Burghart to approve the Agenda. Motion carried with 7 Directors for, 0 Directors against, 0 Directors abstained, and 2 Directors absent (Mike McGinn and Bob Seiler).

### **ITEM 3 -- FINANCIAL REPORT**

#### **November Financial Reports**

Manager Tim Boese reviewed the December Financial Report. Moved by Vin Kissick and seconded by David Bogner to approve the December Financial Report. Motion carried with 8 Directors for, 0 Directors against, 0 Directors abstained, and 1 Director absent (Bob Seiler).

### **ITEM 4 -- APPROVAL OF EXPENDITURES**

Manager Tim Boese reviewed the January Approval of Expenditures. Moved by Mike McGinn and seconded by Alan Burghart to approve the January 2021 expenditures. Motion carried with 8 Directors for, 0 Directors against, 0 Directors abstained, and 1 Director absent (Bob Seiler).

**ITEM 5 -- PUBLIC FORUM – NONE**

**ITEM 6 -- APPEAL REVIEW**

**a) City of Moundridge, Water Right File Nos. MP-003 and 30413, McPherson Co.**

Manager Tim Boese presented information regarding Water Right File Nos. MP-003 and 30413. The applicant, the applicant's consultant Carl Nuzman, and nearby well owner Ray Flickner were present and provided information to the Board.

**FINDINGS:**

1. Vested Right MP-003 change application does not comply with the Standby Well Definition K.A.R. 5-22-1(gg) (4), as the proposed standby well (Well #9) is not within 300 feet of a primary well. The change application's proposed new well location complies with the minimum spacing requirements and all other District rules and regulations, subject to the City submitting an Abandoned Well Plugging Agreement for the old well or submitting a completed WWC-5P Plugging Record attesting that the old well was properly plugged.
2. Water Right No. 30413 change application does not comply with the Standby Well Definition K.A.R. 5-22-1(gg) (4), as the proposed standby well (Well #9) is not within 300 feet of a primary well.
3. Water Right No. 30413 change application does not comply with the Well Spacing Rule and Regulation 5-22-2(a)(1), as the proposed new well location is located approximately 1,122 feet to the applicant's municipal well (Well #8) authorized by MP-003 and No. 30413, and therefore does not meet the minimum spacing requirement of 1,320 feet. The proposed move does increase the distance to Well #8 by 574 feet.
4. The City's original plan was to move and re-drill three wells, including Well #8 authorized by MP-003 and No. 30413. However, test drilling indicated elevated nitrate levels at the proposed location for the re-drill of Well #8, which resulted in the City modifying plans to only re-drill two wells and leaving Well #8 where it is currently located.
5. Physical conditions, including overhead power lines and farming operations in the area, limit the City's options for locating the proposed new well(s) in an area of acceptable water quality.
6. The proposed standby well (Well #9) would only be operated due to a mechanical failure of one of the City's wells authorized by MP-003 or No. 30413.
7. The technical review completed by DWR indicates that the operation of the proposed four City wells would not cause a greater drawdown at the nearby irrigation wells than the City's current operation.
8. The Board of Director's previously reviewed similar change applications and recommended exceptions be granted to the Well Spacing Rule and Regulation 5-22-2(a)(1).
9. The Board of Director's previously reviewed similar change applications and recommended exceptions be granted to the Standby Well Definition to allow a standby well to be located more than 300 feet from the primary wells.
10. The change applications are subject to the metering regulation 5-22-4(a).

Moved by Vin Kissick and seconded by Alan Burghart that the change application filed on Vested Right MP-003 be granted an exception to the Standby Well definition K.A.R. 5-22-1(gg) (4), that the change application filed on Water Right No. 30413 be granted exceptions to the Well Spacing Rule and Regulation K.A.R. 5-22-2(a)(1), and the Standby Well definition K.A.R. 5-22-1(gg) (4), and that the change applications be recommended for approval, subject to the:

- a. The installations of water flowmeters on the primary wells and standby well pursuant to District metering regulation K.A.R. 5-22-4(a).
- b. The applicant submits to the District for MP-003 change application, an Abandoned Well Plugging Agreement for the old well or submit a completed WWC-5P Plugging Record attesting that the old well was properly plugged.
- c. The standby well is only operated temporarily during times of mechanical failure of the primary well(s) authorized by MP-003 and/or No. 30413.
- d. The applicant, in consultation with the District, develops and implements a groundwater monitoring plan including water-level measurements, and water sample collection and analysis for nitrates, from the City's wells and possible monitoring well(s).

Motion carried with 9 Directors for, 0 Directors against, 0 Directors abstained, and 0 Directors absent.

**b) Woodard, LLC, Appropriation Application No. 50310, Sedgwick Co.**

Manager Tim Boese presented information regarding Appropriation Application No. 50310. The applicant's consultant Daniel Clement was present and provided information to the Board.

Moved by Bob Seiler and seconded by Vin Kissick to table making a recommendation on the application until the March 2021, District Board of Directors meeting to allow the applicant to notify, and also attempt to obtain signed spacing consent forms from, the nearby senior domestic and non-domestic points of diversion owners located closer than the minimum spacing requirements to the proposed groundwater pit(s) for which the applicant had not yet received signed spacing consent forms. Motion carried with 9 Directors for, 0 Directors against, 0 Directors abstained, and 0 Directors absent.

Additionally, it was further understood and the consensus of the Board that the District and the applicant's consultant will collaborate on a notification letter that will be sent by the applicant to the nearby points of diversion owners and will stipulate that any response to the notification letter will be sent to the District directly from the nearby owner. the consensus of the

**ITEM 7 -- OLD BUSINESS**

**a) CITY OF WICHITA AQUIFER STORAGE & RECOVERY (ASR) PROPOSED PERMIT MODIFICATIONS**

Manager Tim Boese informed the Board that the hearing is scheduled for February 3-5, 2021, at the Kansas Learning Center for Health in Halstead, Kansas. Only the Hearing Officer, the Court Reporter, and the Intervenor can be in-person for the hearing, while other interested parties will participate via Zoom meeting. The Public is invited to participate via Zoom meeting or by watching the live feed on YouTube. Board discussion followed.



**b) REVIEW OF CHANGE APPLICATIONS – WATER PERMIT NOS. 40518 AND 48676**

Manager Tim Boese informed the Board that the applicants and owners have voluntarily dismissed the change applications. Tim and District Attorney Tom Adrian will continue to draft a response letter for Board review prior to submitting to the Division of Water Resources (DWR). Board discussion followed.

**c) REVIEW OF BOARD REPRESENTATION DISTRICT STANDARD & POLICY D.S.P. 8103.1**

Manager Tim Boese reviewed a letter the District received from the Regional Economic Area Partnership of South Central Kansas (REAP), including the request by REAP that District change the policy regarding Board representation to guarantee three municipal representatives on the Board. Tim also reviewed some discrepancies in the REAP letter regarding current Board representation policy. Discussion by the Board followed. Kathy Sexton, Derby City Manager and Harvey County landowner, informed the Board that REAP members have realized that they need to be more involved with the District Board and they will participate more in the District activities going forward. Moved by Alan Burghart and seconded by Bob Seiler for Tim and District Attorney Tom Adrian to draft a response letter to REAP and present it for Board review prior to sending. Motion carried with 9 Directors for, 0 Directors against, 0 Directors abstained, and 0 Directors absent.

**d) K.S.A. 82A-743 DRAFT LEGISLATION**

Manager Tim Boese informed the Board that Division of Water Resources Chief Engineer and recently advised that the Division of Water Resources is not planning to introduce this legislation. Tim stated that another organization may introduce the legislation or similar legislation, so he will continue to stay informed on legislative bills as they are introduced.

**ITEM 8 -- NEW BUSINESS**

**a) KDA/DWR DRAFT LEGISLATION AND REGULATIONS**

Manager Tim Boese reviewed three potential new areas of legislation, including a proposed change to the Multi Year Flex Account (MYFA) statute, as well as draft Local Enhanced Management Area (LEMA) and Water Conservation Area (WCA) regulations. Tim recommended that the Board table the agenda item to the February Board meeting. Moved by Bob Seiler and seconded by Alan Burghart to table the agenda item to the February 2021 Board meeting. Motion carried with 9 Directors for, 0 Directors against, 0 Directors abstained, and 0 Directors absent.

**b) FEBRUARY BOARD MEETING DATE, MARCH BOARD MEETING DATE, ANNUAL MEETING DATE**

Board discussion regarding dates for the February and March Board meetings, as well as the Annual meeting. Board consensus was to hold the February Board meeting on Wednesday, February 10, 2021, at 9:30 a.m., to schedule the March Board meeting for Wednesday, March 10, 2021, at 9:30 a.m., and to potentially schedule the Annual meeting for the last two weeks in July 2021. District staff will research possible venues for the Annual meeting and report back to the Board.

**c) ANNUAL GMD LEGISLATIVE RETREAT, TOPEKA**

Manager Tim Boese informed the Board that the Annual GMD Legislative Retreat in Topeka has been canceled due to COVID-19.

## **ITEM 9 -- AGENCY & COMMITTEE REPORTS**

### **a) DIVISION OF WATER RESOURCES**

Jeff Lanterman, DWR-Stafford, informed the Board that the Stafford field office remains closed, but they will accept in person appointments made in advance. Additionally, Jeff reported that DWR staff are under travel restrictions due to COVID-19. Jeff reminded those in attendance that annual Water Use Reports are due March 1, 2021. DWR has staff available for appointments and phone calls to accommodate water users needing assistance with completing their reports. Manager Tim Boese informed the Board that, due to COVID-19 restrictions, DWR will not provide a staff member to the District office to assist local users this year with completing their water use reports online. Tim stated that DWR will also not waive the \$20 filing fee for completing paper reports for those unable or unwilling to get out this year due to COVID-19. Tim informed the Board that District staff will assist District members with completing their water use reports as needed this year. Board discussion followed regarding COVID-19 safety precautions.

### **b) KANSAS WATER AUTHORITY**

Board member David Stroberg informed the Board that the last Kansas Water Authority (KWA) meeting was on December 11, 2020, and there is not another meeting scheduled at this time. There is an Arbuckle group meeting scheduled for February 16, 2021.

### **c) EQUUS – WALNUT REGIONAL ADVISORY COMMITTEE**

Board Secretary David Bogner reported that there have been no additional meetings since the last Equus-Walnut Regional Advisory Committee (RAC) meeting August 6, 2020, but that the committee is working to schedule a meeting in March.

## **ITEM 10 -- MANAGER'S REPORT**

### **a) ASR Project Report**

Tim Boese, Manager, advised that there was no recharge in November or December. Cheney Reservoir: Conservation pool is 92.93% full. Cheney release is 0 CFS. Flow today: Little Ark - Highway 50 is 456 CFS; Valley Center is 978 CFS. Tim reported that the flow has been low for most of December and January. Tim informed the Board that he has received the City of Wichita Aquifer Storage & Recovery (ASR) 2018 and 2019 Accounting Reports and he will schedule them both for Board review when the staff review is completed.

### **b) ADMINISTRATIVE FIELD TASKS**

Tim Boese, Manager, reported that in December, staff aided with 11 applications, completed two application reviews, provided assistance with one extension request and three notice of completions, performed 17 water permit consultations, completed five preliminary safe yield reviews and one information request, conducted 48 water level measurements, and processed a total of 37 administrative files.

### **c) REVIEW OF TERM PERMIT APPLICATIONS**

Tim Boese, Manager, advised that there were no term permit replacement/renewal applications reviewed by the District staff in December.

### **d) MONTHLY INFORMATION & SERVICE REPORT**

Tim Boese, Manager, presented customer service requests for December.

Tim informed the Board that he is still coordinating with the Kansas Corporation Commission (KCC) regarding installation of new and replacement of old monitoring wells in

the Burrton area. Tim stated that the District will take the lead on acquiring landowner permission to complete each new or replacement well drilling.

Tim informed the Board that the truck bids are finished and will be mailed this week.

Tim provided the Board with information regarding updates to the District Weather Stations. Kansas State University may provide the District with some new equipment to replace old equipment that is obsolete. Board Vice President Vin Kissick suggested that Tim investigate possible funding available from the Kansas Water Office.

#### **ITEM 11 -- ADDITIONS TO THE AGENDA**

Moved by Jeff Winter and seconded by Joe Burghart to add Agenda Item #14 – Executive Session to the agenda to consult with the District Attorney regarding the ASR hearing. Motion carried with 9 Directors for, 0 Directors against, 0 Directors abstained, and 0 Directors absent.

#### **ITEM 12 -- BOARD ROUND TABLE DISCUSSION – JEFF WINTER, PRESIDENT**

Board Vice President Vin Kissick questioned Manager Tim Boese regarding a new water committee in the Kansas House of Representatives. Tim stated that the committee has held several informational meetings and had a few speaker presentations. Tim suggested that the five GMDs request to be added to a meeting agenda and plan a presentation for the House committee with information regarding the functions and purposes of GMDs.

Vin questioned if the Board needs to review the standby well spacing definition, as there seems to be discrepancies between the District and the Division of Water Resources. Tim acknowledged that the District rules regulations, including the standby well definition, should be reviewed and possibly updated and recommended that the Board schedule a special work session to review them.

David Bogner stated that his brother read an article regarding water being traded as a commodity. Dale Schmidt stated that he also read the article.

#### **ITEM 13 -- EXECUTIVE SESSION**

Moved by Dale Schmidt and seconded by Alan Burghart to recess into Executive Session to discuss personnel matters relating to non-elected personnel regarding the District Manager's annual performance review which would be deemed privileged in the non-elected personnel exception under the Kansas Open Meeting Act, and the open meeting will resume here in the conference room at 1:23 p.m. Those present in Executive Session are: Members of the Board, the District Manager Tim Boese, and the District Attorney Tom Adrian. Motion carried with 9 Directors for, 0 Directors against, 0 Directors abstained, and 0 Directors absent.

Time in Executive Session: 12:53 p.m.

Time out of Executive Session: 1:23 p.m.

Moved by Mike McGinn and seconded by Dale Schmidt to extend the Executive Session for five minutes and to resume the open meeting at 1:29 p.m. Motion carried with 9 Directors for, 0 Directors against, 0 Director abstained, and 0 Directors absent.

Time in Executive Session: 1:24 p.m.

Time out of Executive Session: 1:29 p.m.

Moved by Mike McGinn and seconded by David Bogner to give the District Manager a three percent salary raise effective January 1, 2021. Motion carried with 9 Directors for, 0 Directors against, 0 Directors abstained, and 0 Directors absent.

**ITEM 14 -- EXECUTIVE SESSION**

Moved by Dale Schmidt and seconded by Alan Burghart to recess into Executive Session for consultation with the District Attorney regarding the ASR Hearing for the public body which would be deemed privileged in the attorney-client relationship pursuant to the attorney consultation exception under the Kansas Open Meeting Act, and the open meeting will resume in the conference room at 1:36 p.m. Those present in Executive Session are: Members of the Board, the District Manager Tim Boese, and the District Attorney Tom Adrian. Motion carried with 9 Directors for, 0 Directors against, 0 Directors abstained, and 0 Directors absent.

Time in Executive Session: 1:31 p.m.

Time out of Executive Session: 1:36 p.m.

There was no action by the Board as a result of the Executive Session.

Moved by Bob Seiler and seconded by Alan Burghart to adjourn the meeting. Motion carried with 9 Directors for, 0 Directors against, 0 Directors abstained, and 0 Directors absent. Jeff Winter, President, adjourned the Board meeting at 1:40 p.m.



David Bogner  
Secretary  
DB/TDB/rsw