

EQUUS BEDS GROUNDWATER MANAGEMENT DISTRICT NO. 2
SEPTEMBER 12, 2018

The Board of Directors for the Equus Beds Groundwater Management District No. 2 held a monthly meeting September 12, 2018, in the conference room of the Equus Beds Groundwater Management District No. 2 in Halstead, Kansas. President Jeff Winter called the meeting to order at 9:30 a.m.

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

Jeff Winter, President	Vin Kissick, Vice President
Mike McGinn, Treasurer	Alan Burghart, Secretary
David Bogner, Member	Joe Pajor, Member
Dale Schmidt, Member	David Stroberg, Member
David Stucky, Attorney	Tim Boese, Manager
Steve Flaherty, Hydrogeologist	Rebecca Wilson, Admin. Assistant

Directors absent: Bob Seiler, Member

Others attending the meeting or portions thereof were:

Cameron Conant, KDA – DWR Stafford	Matt Unruh, Kansas Water Office
Gina Bell, Harvey County	Brian Meier, Burns & McDonnell
Daniel Clement, Burns & McDonnell	Randall Harris, Chisholm Creek Utility Auth.
Byron Warta, Equus Walnut RAC	Ted Saranchuk, Public

ITEM 1A -- APPROVAL OF AUGUST 8, 2018 MEETING MINUTES

Moved by Vin Kissick and seconded by Dale Schmidt to approve the Minutes. Motion carried with 6 Directors for, 0 Directors against, 0 Directors abstained, and 3 Directors absent.

ITEM 1B -- APPROVAL OF AUGUST 29, 2018 SPECIAL MEETING MINUTES

Moved by Vin Kissick and seconded by Dale Schmidt to approve the Special Meeting Minutes. Motion carried with 6 Directors for, 0 Directors against, 0 Directors abstained, and 3 Directors absent.

ITEM 2 -- APPROVAL OF AGENDA

President Jeff Winter requested to move Agenda Item #13: Executive Session to after Agenda Item #6: Appeal Review. Moved by Vin Kissick and seconded by Alan Burghart to approve the Agenda as amended. Motion carried with 6 Directors for, 0 Directors against, 0 Directors abstained, and 3 Directors absent.

ITEM 3 -- FINANCIAL REPORT

August Financial Report

Moved by Joe Pajor and seconded by David Stroberg to approve the August Financial Report. Motion carried with 8 Directors for, 0 Directors against, 0 Directors abstained, and 1 Director absent.

ITEM 4 -- APPROVAL OF EXPENDITURES

Moved by Vin Kissick and seconded by Alan Burghart to approve the September expenditures except the payment in the amount of \$500 for Kansas Water Congress membership dues. Motion carried with 8 Directors for, 0 Directors against, 0 Directors abstained, and 1 Director absent.

ITEM 5 -- PUBLIC FORUM - NONE

ITEM 6 -- APPEAL REVIEW – NONE

ITEM 7 -- EXECUTIVE SESSION

Moved by David Stroberg 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 here in the conference room at 10:32 a.m. Those present in Executive Session are: Members of the Board (except Joe Pajor), the District Manager Tim Boese, and the District Attorney Tom Adrian. Motion carried with 7 Directors for, 0 Directors against, 1 Director abstained (Joe Pajor), and 1 Director absent.

Time in Executive Session: 9:47 a.m.

Time out of Executive Session: 10:32 a.m.

Moved by Mike McGinn and seconded by David Stroberg to extend the Executive Session 15 minutes. Motion carried with 7 Directors for, 0 Directors against, 1 Director abstained (Joe Pajor), and 1 Director absent. Those present during this Executive Session were the members of the Board (except Joe Pajor), Manager Tim Boese, and Tom Adrian, Legal Counsel.

Time in Executive Session: 10:32 a.m.

Time out of Executive Session: 10:47 a.m.

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

ITEM 8 -- OLD BUSINESS

a) Kansas Water Congress Annual Membership – David Brenn

Manager Tim Boese informed the Board that David Brenn was unable to attend the meeting today but asked that he be put on the October Agenda to provide a presentation to the Board regarding the Kansas Water Congress. Tim stated that David is currently compiling information regarding the future direction of the Kansas Water Congress.

Moved by Joe Pajor and seconded by Dave Stroberg to table this Agenda Item until the October Board meeting. Motion carried with 8 Directors for, 0 Directors against, 0 Directors abstained, and 1 Director absent.

b) CITY OF WICHITA AQUIFER STORAGE & RECOVERY (ASR) PROPOSED PERMIT MODIFICATIONS – APPLICATION NOS. 48704-48733

Manager Tim Boese provided the Board with an update regarding notification of nearby well owners of pending applications Nos. 48704-48733 and the proposed ASR permit modifications. Tim stated that the Chief Engineer, as the Hearing Officer of the ASR Hearing, has ordered DWR to send out notices to nearby well owners between 1,000 feet and one half mile of each pending new application point of diversion, as DWR had

only previously sent notices to nearby well owners within 1,000 feet. DWR is not requiring a public notice to be published in area newspaper(s), which is not required by law for the new applications if DWR provides direct notification within one half mile. Additionally, the Kansas Department of Agriculture attorney indicated that the public meeting held in June of this year counted as a public notice. Tim stated that the comment period for the nearby well owners should end within 18 days of the notices being sent, which should be on or about October 1, 2018. In the meantime, District staff will continue to review the pending applications. President Jeff Winter asked to receive a copy of the new notice that DWR is sending out. Tim stated that he will review the new notices and provide Jeff with a copy if it differs from the previously mailed notices to nearby well owners within 1,000 feet.

Attorney Tom Adrian outlined the schedule and timeline that would need to occur for the applications to be reviewed properly and the City to appeal to the District Board for any applications that do not meet District rules and regulations. Tom explained that it realistically could take until the November Board meeting. Tim informed the Board that the Chief Engineer asked the parties involved - the City of Wichita, DWR, and GMD2 - to come up with an agreeable schedule for the hearing process. Discussion followed regarding a difference in understanding of the email the involved parties received from the KDA attorney, with the City believing the email indicated the 30 pending new applications could be separated from the Hearing and the District could provide recommendations on the applications after the Hearing, while the District Staff and Attorney believing the email stated the Hearing should include the District's recommendations on the applications. Board member Joe Pajor advised that the City feels that their 30 applications are more flexible as to schedule than the two central points of the City's request, which are the lowering of the bottom water-levels for recharge credit recovery and the Aquifer Maintenance Credits. Joe continued to say that the City believes that those two issues are the central issue and the first issue that the Chief Engineer needs to decide. Joe stated that the City is happy to participate in working among the three parties to establish a schedule that accommodates the published October 22, 2018, date of the Hearing that the Chief Engineer has already set and noticed and accommodates the cutoff for public comments that has already been set and noticed. In other words, the District can take extra time to review the 30 applications, as long as the District is not taking any additional time on the other two issues relative to the published schedule. Tim replied that the District's initial thought was to review all three issues together at a later hearing date. Joe stated that the City is not interested in that option. Tim questioned whether the City intended to respond to the District's Discovery questions, as the City filed a motion to not answer the Discovery questions and to have the District removed as a party to the Hearing. Joe responded that the City is trying to preserve the October Hearing date for the two central issues and puts the 30 applications on a separate, parallel track that respects the processes and procedures of the District. Attorney Tom Adrian recommended that the Board take action to ask the Chief Engineer/Hearing Officer to move the Hearing until a date in December, thereby allowing time for the processing of the applications so that the District can provide recommendations on the applications at the Hearing, as this is what the Hearing Officer originally tasked the District with. Moved by Mike McGinn and seconded by Alan Burghart to follow Attorney Tom Adrian's recommendation. Moved by Joe Pajor to amend Mike's motion to have the GMD2 Board continue the Hearing and make recommendations per the October date the Chief Engineer has already set and put the 30 new applications on a separate track to be determined and complied with by the District's normal procedure. Joe's motion died for lack of a second. Mike's original

motion carried with 7 Directors for, 0 Directors against, 1 Director abstained (Joe Pajor), and 1 Director absent.

Moved by Dale Schmidt and seconded by Vin Kissick for District staff to review and submit recommendations on the City's 30 new applications after the nearby owner notifications are complete. Motion carried with 7 Directors for, 0 Directors against, 1 Director abstained (Joe Pajor), and 1 Director absent.

Moved by Dale Schmidt and seconded by Alan Burghart to allow an additional \$2,000 of District funds to be used at Manager Tim Boese's discretion for expert consulting. Discussion by the Board regarding the intended use of the funds. Tim informed the Board that it would be used for any necessary additional review of technical or legal issues as related to the City's proposed ASR permit modifications and ASR Hearing. Motion carried with 7 Directors for, 0 Directors against, 1 Director abstained (Joe Pajor), and 1 Director absent.

Member Joe Pajor questioned where the District staff is regarding the City's Interrogatories that were submitted to the District. Tim stated that the District submitted a motion for an extension of time, on which the Chief Engineer has not yet ruled. Tim stated that the District Attorney will follow up on that issue. Tim suggested that the three parties participate in a conference call to clarify the Hearing schedule task issued in the email from the KDA Attorney. Joe stated that the City would be open to such a meeting.

ITEM 9 -- NEW BUSINESS

a) GOVERNOR'S CONFERENCE ON THE FUTURE OF WATER IN KANSAS - NOVEMBER 13-14, 2018

Manager Tim Boese reviewed the draft agenda, and Matt Unruh of the Kansas Water Office provided the Board with brochures, for the upcoming Governor's Conference on the Future of Water in Kansas. Tim informed the Board that he was planning on attending and that the conference registration, as well as nearby hotels, fill up quickly, and he asked that any Board members who are interested in attending the conference please let District staff know within the next two weeks. Moved by Vin Kissick and seconded by Dale Schmidt to use District funds to fund conference registrations and hotel accommodations for as many Board members as would like to attend the conference. Motion carried with 8 Directors for, 0 Directors against, 0 Directors abstained, and 1 Director absent.

b) NOVEMBER BOARD MEETING

Manager Tim Boese suggested moving the November Board Meeting due to the Governor's Conference being held on November 14, 2018. The Board consensus was to move the November meeting to November 7, 2018 at 9:30 a.m., but the Board will revisit the item at the October Board meeting.

ITEM 9 -- AGENCY & COMMITTEE REPORTS

a) DIVISION OF WATER RESOURCES

Cameron Conant, DWR – Stafford Field Office, informed the Board that he had nothing new to report this month.

b) KANSAS WATER AUTHORITY

Board Vice President Vin Kissick informed the Board that the Kansas Water Authority (KWA) met on August 22, 2018, in Manhattan. Vin stated that there were three (3) key areas that he gained additional knowledge from the meeting: 1) The Kansas Water Office (KWO) Budget Committee made its recommendations for Fiscal Year 2020-2021,

which included a recommendation of \$100,000 for the Burrton Saltwater Contamination Remediation, which is an increase from the \$50,000 budgeted for FY 2019, 2) More than one Regional Advisory Committee (RAC) has questioned their role in relation to the Kansas Water Authority, and one RAC proposed some standard operating procedures for the committees. It is Vin's understanding that Tracy Streeter, Director of KWO, will review this proposal and will discuss the issue at the next KWA meeting in December in Wichita, 3) Chief Engineer David Barfield addressed the KWA covering some of the major issues he has been working through, and he has begun drafting and structuring some rules and regulations on water conservation areas.

Vin also informed the Board that he attended the Kansas Department of Agriculture (KDA) Kansas Governor's Summit on Agricultural Growth on August 23, 2018, in Manhattan. Vin said he attended several useful briefings and workshops at the summit, and he stated that Kansas State University will soon begin additional educational and promotional advertising of water related issues and products throughout the state.

c) EQUUS – WALNUT REGIONAL ADVISORY COMMITTEE

Matt Unruh, Kansas Water Office, informed the Board that the next meeting of the Equus-Walnut RAC is scheduled for October 11, 2018, at 9:00 a.m. at the Harvey County Health Department in Newton, Kansas.

ITEM 10 -- MANAGER'S REPORT

a) ASR Project Report

Tim Boese, Manager, advised the Recharge for July was: 49 acre-feet recharged in Phase I and 150.8 acre-feet recharged in Phase II, with 93.6% of Phase II being recharged into Recharge Basin 36. The Recharge for August was: 77.4 acre-feet recharged in Phase I and 303.7 acre-feet recharged in Phase II, with 53.4% of Phase II being recharged into Recharge Basin 36. Cheney Reservoir: Conservation pool is 100.00% full and the flood pool is 7.75% full. Cheney release is 371 CFS. Flow today: Little Ark - Highway 50 is 36.6 CFS; Valley Center is at 92.9 CFS. Tim mentioned that several rain events in July and August caused spikes in the river flow for short durations, allowing for some recharge activities.

b) ADMINISTRATIVE FIELD TASKS

Tim Boese, Manager, reported that in August, staff assisted completing four new/change/division applications, conducted seven application reviews, performed 21 water permit consultations (many related to over-pumping and MYFAs), completed 25 preliminary safe yields, fielded 18 ASR questions, and processed a total of 60 files including VI cards, new applications, approvals, and ownership changes. Additionally, David Randolph, District Hydrologic Technician, collected 34 water samples and completed 65 water level measurements.

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 August.

d) MONTHLY INFORMATION & SERVICE REPORT

Tim Boese, Manager, presented customer service requests for the month of August.

ITEM 11 -- ADDITIONS TO THE AGENDA – NONE

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

Manager Tim Boese informed the Board that the Kansas Groundwater Management Districts are hosting the Groundwater Management Districts Association Summer Conference. They are making plans for the first week of June 2019, in Salt Lake City, Utah.

Board member Joe Pajor informed the Board that the U.S. Army Corps of Engineers has the City of Wichita “literally spilling water” from Cheney Reservoir, while the City is pumping as hard as it can on the aquifer. Joe asserted that they have to open “door number two” (i.e., establishment of Aquifer Maintenance Credits), as “door number one” (i.e., pumping down the aquifer to create room for physical recharge credits) is not the most responsible thing to do. When questioned, Joe stated that this District Board is keeping the City from opening “door number two”, as the City must continue pumping water from the aquifer to make room for physical recharge in preparation for a one percent drought in the future. Board member Alan Burghart countered that the City is choosing not to use the water from Cheney Reservoir and to not do the right thing for the aquifer. Joe responded that it is in the City’s adopted water supply plan to create recharge credits for a one percent drought in the future. Tim reminded Joe that there have been some changes in the water law, including the Multi Year Flex Account (MYFA), and he asked Joe if the City has even considered a MYFA in the event of a drought. Tim stated that in his opinion, it would be worth the City’s time to at least consult with DWR to learn what their potential MYFA amounts would be, as it would allow for water conservation today, while helping to meet the City’s water supply needs during a drought. Joe informed Tim and the Board that the City has discussed a MYFA as an option, and they will continue to discuss it and all their options.

ITEM 13 – EXECUTIVE SESSION

Moved by David Stroberg and seconded by Alan Burghart to recess into executive session for consultation with the District attorney regarding pending litigation 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 here in the conference room at 12:10 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 8 Directors for, 0 Directors against, 0 Directors abstained, and 1 Director absent.

Time in Executive Session: 11:58 a.m.

Time out of Executive Session: 12:10 p.m.

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

Moved by Vin Kissick and seconded by David Stroberg to adjourn the meeting. Motion carried with 8 Directors for, 0 Directors against, 0 Directors abstained, and 1 Director absent. Jeff Winter, President, adjourned the Board meeting at 12:11 p.m.

 Vice President

Alan Burghart
Secretary
AB/TDB/rsw