

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

**Tuesday, February 22, 2022**

**9:30 a.m.**

**Note: Due to COVID-19, public seating is limited for in-person attendance.  
A call-in number will be available for remote attendance.  
Please contact the District for additional information.**

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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) Harrison Farms Limited, Water Right No. 13322, Reno County
- b) ICM, Inc., Appropriation Application No. 50484, Sedgwick County
- c) Mid Continent Fractionation & Storage, LLC, Term Application No. 20219064, McPherson Co.

**7. OLD BUSINESS**

- a) City of Wichita Aquifer Storage & Recovery (ASR) Proposed Permit Modifications
- b) House Bill 2686
- c) District Lobbyist - Discussion

**8. NEW BUSINESS**

- a) March Board Meeting Date and Annual Meeting Date
- b) District Health & Dental Insurance Renewal Premiums
- c) Draft FY 2023 Budget Review

**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**

**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 22, 2022**

The Board of Directors for the Equus Beds Groundwater Management District No. 2 held a monthly meeting February 22, 2022, 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
David Bogner, Secretary	Mike McGinn, Treasurer
Joe Bergkamp, Member	Alan Burghart, Member
Dale Schmidt, Member	Bob Seiler, Member
David Stroberg, Member	Tom Adrian, District Attorney
Tim Boese, Manager	Rebecca Wilson, Admin. Assistant
Brad Barton, Hydrologist	

Others attending the meeting or portions thereof were:

Jeff Lanterman, DWR – Stafford, via phone	Scott Macey, City of Wichita
Don Henry, City of Wichita	Brian Meier, Burns & McDonnell
Daniel Clement, Burns & McDonnell	Samantha Seang, ICM, Inc.
Erik Peterson, Williams/MCFS	

### **ITEM 1 -- APPROVAL OF JANUARY 12, 2022, BOARD MEETING MINUTES**

Moved by David Bogner and seconded by Dale Schmidt to approve the January 12, 2022, meeting minutes. Motion carried with 6 Directors for, 0 Directors against, 2 Directors abstained, and 1 Director absent (Mike McGinn).

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

Moved by Alan Burghart and seconded by David Stroberg to approve the Agenda with the following additions: 7.a) Executive Session – Consultation with Attorney; 7.c) Executive Session – Consultation with Attorney; and 8.a) Review of Board Representation District Standard & Policy D.S.P. 8103.1. Motion carried with 8 Directors for, 0 Directors against, 0 Directors abstained, and 1 Director absent (Mike McGinn).

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

#### **January Financial Report**

Manager Tim Boese reviewed the January Financial Report and answered questions from Board members. Moved by Bob Seiler and seconded by Mike McGinn to approve the January Financial Report. Motion carried with 9 Directors for, 0 Directors against, 0 Directors abstained, and 0 Directors absent.

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

Manager Tim Boese reviewed the February 2022 Approval of Expenditures and answered questions from Board members. Moved by Vin Kissick and seconded by Alan Burghart to approve the February 2022 expenditures. Motion carried with 9 Directors for, 0 Directors against, 0 Directors abstained, and 0 Directors absent.

**ITEM 5 -- PUBLIC FORUM – NONE**

**ITEM 6 -- APPEAL REVIEW**

**a) Harrison Farms Limited, Water Right No. 13322, Reno County**

Manager Tim Boese presented information regarding Water Right No. 13322. The applicant was not present at the Board meeting.

**FINDINGS:**

1. Change applications were filed on Water Right Nos. 13322 and 36856 to modify the places of use and create identical place of use overlap between the water rights, and also to authorize an additional well for No. 13322 by moving a portion of the rate and rate quantity authorized by No. 13322 to the well authorized by No. 36856.
2. Water Right No. 13322 is currently authorized for 232.5 acre-feet per year at a maximum diversion rate of 875 gallons per minute for irrigation of 155 acres.
3. Change Application No. 13322 proposes to change from one authorized well to two authorized wells by moving 97.5 acre-feet per year and 65 gallons per minute to the well authorized by Water Right No. 36856. The existing well authorized by Water Right No. 13322 would be authorized for 135 acre-feet at 810 gallons permit minute.
4. The proposed second well for Water Right No. 13322 (well authorized by Water Right No. 36856) is located approximately 2,706 feet from the well currently authorized by Water Right No. 13322. Therefore, the proposed change in point of diversion exceeds the maximum allowable move distance of 2,640 feet by 66 feet (2.5%) and does not comply with the Change Applications Rule and Regulation K.A.R. 5-22-8(a)(1).
5. The proposed changes to the places of use for Water Right Nos. 13322 and 36856, and the proposed change in point of diversion and move of water quantity for Water Right No 13322, are requested due to K-14 Highway expansion and the new highway cutting through the place of use authorized by Water Right No. 13322.
6. The applicant advised that he is not allowed to bury a water line under the highway to physically connect the places of use.
7. The change application filed on Water Right No. 13322 complies with all other District rules and regulations.
8. District safe yield analyses indicate that the proposed change and relocation of 97.5 AF/Y authorized quantity would have minimal effect on the balance of existing groundwater appropriations within the area of consideration, as both well locations areas of consideration exceed the safe yield allowable by similar quantities.
9. Hydrologic data indicates that saturated thickness in the application area is approximately 40 to 45 feet and that the groundwater level in the area has been stable.
10. The Board of Directors has previously reviewed similar applications that exceeded the 2,640 feet maximum point of diversion move restriction and recommended exceptions to the Change Applications Rule and Regulation K.A.R. 5-22-8(a)(1) and recommended the applications for approval.

Moved by Mike McGinn and seconded by Alan Burghart that an exception to the Change Applications Rule and Regulation K.A.R. 5-22-8(a)(1) be granted, and the change application be recommended for approval. Motion carried with 9 Directors for, 0 Directors against, 0 Directors abstained, and 0 Directors absent.

**b) ICM, Inc., Appropriation Application No. 50484, Sedgwick County**

Manager Tim Boese presented information regarding Appropriation Application No. 50484. The applicant, Samantha Seang, ICM, Inc., was present and had no additional information to provide to the Board.

**FINDINGS:**

1. Application No. 50484 proposes 5 acre-feet per year at a maximum rate of 50 gallons per minute for industrial use (filling tanks with water and pressure test them) from a well located in the Northeast quarter of the Northwest quarter of the Southwest quarter (2147'N & 4640'W), Section 15, Township 26 South, Range 2 West, Sedgwick County.
2. The proposed well is an existing well drilled and constructed in 2006 under the authority of Water Right No. 31650 until a change in point of diversion was approved by DWR in 2019 and a new well was drilled approximately 250 feet southeast.
3. The proposed well has also been authorized and used industrial purposes under temporary permit #20200267 issued by DWR in 2021.
4. The application does not comply with the District's Well Spacing Regulation K.A.R. 5-22-2(a)(1), as the proposed point of diversion is located less than the required minimum spacing distance of 1,320 feet to the industrial well authorized by Water Right No. 31650. The proposed point of diversion is located approximately 250 feet northwest of the well authorized by Water Right No. 31650.
5. The well proposed by Application No. 50484 and the well authorized by Water Right No. 31650 have common ownership.
6. The application does not comply with the Safe Yield Rule and Regulation K.A.R. 5-22-7(a), as existing and proposed consumptive appropriations exceed the maximum allowable by 5572.16 AF.
7. The application does not comply with the "small use" Safe Yield regulation exemption criteria K.A.R. 5-22-7(b)(1), since the application does not comply with the Well Spacing Rule and Regulation K.A.R. 5-22-2(a)(1).
8. Not including the application, 30.00 acre-feet of small use quantity remain available for appropriation.
9. Hydrologic data indicates that saturated thickness in the application area is approximately 175 feet and that the groundwater level in the area has been stable or slightly increasing.
10. The past operation of the well proposed by the application has had no known detrimental impacts to nearby wells, including the well authorized by Water Right No. 31650.
11. Drawdown calculations using the proposed quantity and rate of 5 AF and 50 GPM pumped continuously indicate that drawdown at the nearby well authorized by Water Right No. 31650 would be minimal and was calculated at approximately 0.11 feet.
12. The minimal drawdown created by pumping of the proposed well will not impair existing senior domestic and non-domestic points of diversion.
13. The Board of Directors has previously reviewed similar applications that did not meet well spacing requirements and recommended exceptions to the Well Spacing Rule and Regulation K.A.R. 5-22-2 and recommended the applications for approval.

Moved by Bob Seiler and seconded by David Bogner that exceptions to the Well Spacing Rule and Regulation K.A.R. 5-22-2(a)(1), and the Safe Yield Regulation K.A.R. 5-22-7 be



granted and the application be recommended for approval under the Safe Yield Rule and Regulation "small use" exemption provision K.A.R. 5-22-7(b)(1). Motion carried with 9 Directors for, 0 Directors against, 0 Directors abstained, and 0 Directors absent.

**c) Mid Continent Fractionation & Storage, LLC, Term Application No. 20219064, McPherson County**

Manager Tim Boese presented information regarding Term Application No. 20219064. The applicant, Erik Peterson, Williams/MCFS, and their consultant, Daniel Clement, Burns and McDonnell were present and provided information to the Board.

**FINDINGS:**

1. Application No. 20219064 is a proposed 20-year term permit that proposes 484 acre-feet per year at a maximum rate of 300 gpm for remediation use from two proposed points of diversion with a geo-center located in the Northeast quarter of the Northwest quarter of the Southeast quarter (1992'N & 2243'W), Section 27, Township 19 South, Range 4 West, McPherson County.
2. The proposed use is for recovering and controlling migration of groundwater that has been contaminated with chlorides associated with the Gerhardt Well subsite at the CUE Storage Facility.
3. The applicant's consultant, BMcD, advised that MCFS and BMcD are working with KDHE to use the proposed points of diversion (remediation wells) as continuation of work conducted at the Gerhardt Well subsite under existing KDHE Consent Order No. 94-E-0201 dated December 19, 1994, to remediate contaminated groundwater and prohibit migration of the contaminant plume to the east.
4. Water pumped from the wells will be utilized for secondary beneficial use in MCFS facility's pond system and cavern washing and the quantity pumped will be further limited to the applicant's existing water rights (Water Right Nos. 8431, 5388, & 28152) total quantity of 1097 acre-feet.
5. The application is located within the McPherson IGUCA established by the Chief Engineer in 1980. The control area was created as the result of excessive water level declines within the 56 square mile area. The area is presently under the management provisions of the IGUCA and is closed to new groundwater appropriation applications, except domestic and temporary applications, and select term permit applications that do not exceed one year.
6. Both the East and West wells do not comply with Safe-Yield Rule and Regulation K.A.R. 5-22-7(a). The District's Safe Yield Regulation excludes areas inside the McPherson IGUCA when calculating the existing appropriations and recharge amounts. Since the proposed points of diversion and the areas of consideration for both proposed well locations are completely contained in the McPherson IGUCA, the safe yield allowable quantity is zero. However, using both the current 3" recharge rate, and the proposed 2" recharge rate for this area, safe yield calculations show that area is over-appropriated.
7. The application does not comply with the Well Spacing Regulation K.A.R. 5-22-2(a)(1), as both proposed points of diversion are located less than the required minimum spacing of 1,320 feet to one or more senior non-domestic authorized wells. (Figure 5a and 5b).
8. The proposed East well is located approximately 620 feet south-southwest of the applicant's existing industrial well authorized by Water Right No. 8431, approximately

750 feet west of the irrigation well authorized by Water Right No. 25365 and, approximately 1,080 feet east-southeast of existing industrial well authorized by Water Right Nos. 2093 & 6764. The proposed West well is located approximately 800 feet southwest of the existing industrial well authorized by Water Right Nos. 2093 & 6764.

9. The applicant submitted well spacing consent forms signed by the owner of Nos. 2093 & 6764, and the owner of No. 25365. Although non-domestic well owners cannot grant consent to locate the proposed well(s) less than the minimum spacing requirement of 1,320 from their well(s) to exempt the proposed well from complying with the Well Spacing Regulation K.A.R. 5-22-2(a)(1), the signed consent forms do indicate that the non-domestic well owners are accepting of the wells being located as proposed
10. The proposed East well does not meet the minimum spacing requirement of 660 feet to one domestic well (Oswald) that is approximately 300 feet east-southeast of the proposed East well location (Figure 5a). The proposed West well appears to meet the minimum spacing requirement of 660 feet to one domestic well (Schrag). The applicant was able to obtain signed well spacing consent forms from both domestic well owners.
11. Hydrologic data indicates that saturated thickness in the application area is approximately 10-20 feet at the west well and 40-50 feet at the east well, and that the groundwater level in the area has been showing a declining trend.
12. Drawdown calculation at the geo-center of the proposed two wells using the proposed quantity and rate of 484 AF and 300 GPM continuously pumped for one year indicates that drawdown at the applicant's industrial well (Water Right No. 8431), nearby industrial well (Water Right Nos. 2093 & 67640), nearby irrigation well (Water Right No. 25635), and the two nearby domestic wells (Oswald and Schrag) will not impair existing senior domestic and non-domestic points of diversion.
13. The Board of Directors has previously reviewed a similar application that was located in the McPherson IGUCA and recommended the application for approval.

Moved by Vin Kissick and seconded by Joe Bergkamp that the application be granted exceptions to the Safe Yield Rule and Regulation K.A.R. 5-22-7(a), Well Spacing Rule and Regulation K.A.R. 5-22-2(a)(1), and the McPherson IGUCA order, and the application be recommended for approval, subject to:

1. The quantity of water requested of 484 acre-feet per year is further limited to 636 acre-feet when combined with Water Right No. 8431; or is further limited to 1,097 acre-feet per year when combined with Water Right Nos. 5388, 8431, and 28152.
2. The applicant submits to the District annual progress reports describing the status and results of the groundwater remediation project.

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

## **ITEM 7 -- OLD BUSINESS**

### **a) EXECUTIVE SESSION**

Moved by Dale Schmidt and seconded by Bob Seiler 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 11:30 a.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: 11:13 a.m.

Time out of Executive Session: 11:30 a.m.

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

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

Manager Tim Boese reminded the Board that the Hearing Officer submitted a recommendation to the Chief Engineer of the Division of Water Resources (DWR). All parties had 15 days to provide any comments regarding the recommendation, which was extended to February 11, 2022, at the request of DWR. All the parties submitted extensive comments, which Tim will send to the Board. The Chief Engineer has now taken the recommended order from the Hearing Office and all the comments from the parties under review. There is no set timeline for the Chief Engineer to review the information before deciding to accept, modify, or reject the recommended order. Tim will notify the Board once the Chief Engineer has made a decision.

**c) EXECUTIVE SESSION**

Moved by David Stroberg and seconded by Alan Burghart to recess into Executive Session for consultation with the District Attorney to discuss potential legal ramifications to the District if House Bill 2686 is passed, 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 12:01 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: 11:35 a.m.

Time out of Executive Session: 12:01 p.m.

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

**d) HOUSE BILL 2686**

Manager Tim Boese previously provided to the Board House Bill 2686, as well as the accompanying summary. Tim provided and reviewed for the Board the written and verbal testimony that he presented to the committee at the hearing last week. Tim informed the Board that he heard that the committee may introduce an amendment following turnaround that would strike most of the GMD language out of the bill with the exception of some of the annual reporting requirements to several committees and reporting of the District financial statement. Discussion by the Board followed. Tim will keep the Board updated on House Bill 2686 as he receives additional information.

**e) DISTRICT LOBBYIST - DISCUSSION**

Manager Tim Boese informed the Board that the GMD5 Board declined to enter into a lobbyist contract with the District at this time. Tim contacted the proposed consulting firm and was informed that if GMD2 alone chose to enter into a lobbyist contract that services would be limited to reporting as requested and possible defensive posture if the Board chose to oppose a bill and would not include coverage of the committees deemed necessary by the Board. Discussion by the Board followed. Tim recommended to the Board that the District not hire a lobbyist for the current legislative session. Board consensus was that the Board is open to future discussion regarding a District lobbyist, but to not enter into a contract with a lobbyist at this time.

## **ITEM 8 -- NEW BUSINESS**

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

Manager Tim Boese provided the Board with and reviewed a handout of a draft policy for an 11-person Board of Directors. Discussion by the Board followed. Moved by Mike McGinn and seconded by Alan Burghart for District staff to modify the 11-person draft policy to define Board positions 8 through 11 as At-Large Water User or Landowner and incorporate the current definitions of "Water User" (a person that uses or withdraws at least one acre-foot of groundwater from the District) and "Landowner" (an owner of 40 or more contiguous acres in the District, but outside of a city limits), and to bring the modified draft policy back to the Board for review next month. Motion carried with 9 Directors for, 0 Directors against, 0 Directors abstained, and 0 Directors absent.

### **b) MARCH BOARD MEETING DATE AND ANNUAL MEETING DATE**

Manager Tim Boese and the Board discussed potential dates for the March Board meeting and the Annual meeting. Board consensus was to hold the March Board meeting on the regularly scheduled day of March 9, 2022, at 9:30 a.m. and to schedule the Annual meeting for April 26, 2022, or April 28, 2022, at 7:00 p.m. at the Halstead High School if available on either of those dates.

### **c) DISTRICT HEALTH & DENTAL INSURANCE RENEWAL PREMIUMS**

Manager Tim Boese reviewed the Blue Cross and Blue Shield medical and dental insurance renewal premiums. Discussion by the Board followed. Moved by Dale Schmidt and seconded by David Bogner to accept the Blue Cross and Blue Shield medical and dental insurance renewal premiums and for the District to continue to subsidize 65% of the premium contribution rate for employees' share of dependent coverage. Motion carried with 9 Directors for, 0 Directors against, 0 Directors abstained, and 0 Directors absent.

### **d) DRAFT FY 2023 BUDGET REVIEW**

Manager Tim Boese informed the Board that he did not yet have a completed a draft FY 2023 Budget for the Board to review due the 2021 audit not being completed yet and he recommended the Board table the agenda item until the next meeting. Moved by Bob Seiler and seconded by David Stroberg to table the Draft FY 2023 Budget review until the March 2022 Board meeting. Motion carried with 9 Directors for, 0 Directors against, 0 Directors abstained, and 0 Directors absent.

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

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

Jeff Lanterman, DWR – Stafford, reminded the Board that annual water use reports are due March 1, 2022. Jeff estimated that DWR has received 70% of the required reports.

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

Board member David Stroberg informed the Board that he traveled to Topeka on January 26-27, 2022, to meet the Kansas legislators and to attend the Kansas Water Authority meeting. David stated that public water supply was the main topic of the meeting, with additional discussions regarding the Kansas Water Plan update and a visit from Governor Kelly. David encouraged other Board members to attend future GMD Legislative Retreats, as there were many legislators in attendance. David reported that he also attended the GMD5 Annual meeting on February 17, 2022, where he heard a presentation from Chief Engineer Earl Lewis, as well as learned of land purchased by GMD5 which included a small user water permit.



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

Board Secretary David Bogner informed the Board that the Equus-Walnut Regional Advisory Committee met January 28, 2022. Committee member Byron Warta resigned from the committee, so the committee is now looking to fill his position. The position is in conservation and environment, but the position could be reclassified if someone outside of those areas is interested in filling the position. Manager Tim Boese expressed interest in applying for the open position and he was encouraged to do so by the Board. David stated that additional topics included the Burrton chloride plume, the City of Wichita capital improvement plan, potential drought conditions due to lack of moisture, the Arbuckle study in Hutchinson, and an invasive species growing in the Arkansas River.

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

**a) ASR Project Report**

Tim Boese, Manager, advised that there was no recharge for Phase I in December. In Phase II there was no recharge from the Little Arkansas treated water and 11.2 acre-feet reported recharge with groundwater for testing of valves, which will not count as recharge. The January recharge report has not yet been received. Cheney Reservoir: Conservation pool is 89.17% full (87.78% full in January). That is 1.78 feet below normal (top of conservation pool). No Cheney release. Flow today: Little Ark - Highway 50 is 19.7 CFS; Valley Center is 43.1 CFS. Tim reported that there were low river flows for all of January.

**b) ADMINISTRATIVE FIELD TASKS**

Tim Boese, Manager, reported that in January, staff assisted with four applications, completed four application reviews, performed 25 water permit consultations, completed 22 preliminary safe yield reviews/information requests, conducted 672 water level measurements, completed five water meter repairs, and processed a total of 42 administrative files.

Tim also mentioned that the preliminary provisional water level data is available from Kansas Geological Survey. Tim stated that the information was not ready for public release, but that overall, it looks like the District had little change.

**c) REVIEW OF TERM PERMIT APPLICATIONS**

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

**d) MONTHLY INFORMATION & SERVICE REPORT**


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

**ITEM 11 -- ADDITIONS TO THE AGENDA – NONE**

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

There was no Board round table discussion.

Moved by David Stroberg and seconded by Vin Kissick 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 1:58 p.m.



David Bogner  
Secretary  
DB/TDB/rsw