

EQUUS BEDS GROUNDWATER MANAGEMENT DISTRICT NO. 2
JULY 11, 2018

The Board of Directors for the Equus Beds Groundwater Management District No. 2 held a monthly meeting July 11, 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	Bob Seiler, Member
David Stroberg, Member	David Stucky, Attorney
Tim Boese, Manager	Steve Flaherty, Hydrogeologist
Rebecca Wilson, Admin. Assistant	

Others attending the meeting or portions thereof were:

Cameron Conant, KDA – DWR Stafford	Byron Warta, Equus Walnut RAC
Morgan Koon, Cornejo & Sons	Gina Bell, Harvey County
Brian Meier, Burns & McDonnell	Ted Saranchuk, Public
Daniel Clement, Burns & McDonnell	

ITEM 1A -- APPROVAL OF JUNE 6, 2018 MEETING MINUTES

Moved by David Bogner and seconded by Vin Kissick to approve the Minutes as amended. Motion carried with 7 Directors for, 0 Directors against, 0 Directors abstained, and 2 Directors absent.

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.

ITEM 3 -- FINANCIAL REPORT

June Financial Report

Moved by Mike McGinn and seconded by Vin Kissick to approve the June 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 Bob Seiler and seconded by Alan Burghart to approve the July expenditures, except the payment for Kansas Water Congress membership dues. 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) **Verified Claim Appeal – Term Permit #20059016 – Cornejo & Sons, LLC**

Manager Tim Boese presented an update regarding the Verified Claim Appeal, including a Petition for Reconsideration submitted to the District by Attorney Morgan Koon of Koon Law Firm, and a Response to Petition for Reconsideration drafted by District Attorneys Tom Adrian and David Stucky. The appellant was represented by Attorney Morgan Koon of Koon Law Firm, who stated that there were no new arguments contained in the Petition for Reconsideration and he is exhausting all administrative avenues with the Board before his client makes the decision of whether or not to file a case in court. District Attorney David Stucky reviewed for the Board the Response to Petition for Reconsideration that he and District Attorney Tom Adrian drafted, and outlined for the Board the reasons why it is the recommendation of both he and Tom that the Petition for Reconsideration be denied by the Board. Discussion by the Board followed.

For all the reasons articulated by legal counsel and District staff, it was moved by Bob Seiler and seconded by David Bogner to deny the Petition for Reconsideration, and instruct legal counsel to draft the denial letter and submit their Response to Petition for Reconsideration to Cornejo & Sons, LLC. Motion carried with 9 Directors for, 0 Directors against, 0 Directors abstained, and 0 Directors absent.

ITEM 7 -- OLD BUSINESS

a) **Craig Steven, New Application No. 49793, 29-24S-3W, Harvey Co.**

Manager Tim Boese presented information regarding Application No. 49793. The applicant was unable to attend the Board meeting. Tim advised that the applicant, Craig Steven, recently contacted the District and advised it was his intention to have a seepage test performed on the marsh/duck hunting pond and he had discussed the issue with Natural Resources and Conservation Service (NRCS) staff. The NRCS staff that could possibly perform the seepage test was out of town and had not yet been able to provide Mr. Steven with specific seepage test details.

Moved by Joe Pajor and seconded by Alan Burghart to table making a recommendation on the application until the August 8, 2018, Board meeting to allow the applicant time to provide the Board with specific details regarding having a certified seepage test performed on the marsh/duck hunting pond place of use described in the application. Motion carried with 9 Directors for, 0 Directors against, 0 Directors abstained, and 0 Directors absent.

b) **Kansas Water Congress Annual Membership**

Manager Tim Boese informed the Board that he spoke to David Brenn, President of the Kansas Water Congress (KWC), who stated that there are plans to increase the activities of the KWC in the coming year. Mr. Brenn did not provide any specific details, but he did offer to meet with and provide a presentation to the Board to provide additional information. Discussion by the Board followed. Moved by Bob Seiler and seconded by Joe Pajor to table the discussion until a future Board meeting in order to allow Mr. Brenn an opportunity to provide information to the Board. Motion carried with 9 Directors for, 0 Directors against, 0 Directors abstained, and 0 Directors absent.

ITEM 8 -- NEW BUSINESS

a) 2016 CITY OF WICHITA ASR ACCOUNTING REPORT

Hydrogeologist Steve Flaherty reviewed a presentation he prepared for the Board regarding the 2016 City of Wichita ASR Accounting Report. Discussion by the Board followed. The City of Wichita was represented by staff from Burns and McDonnell, who answered questions from the Board. Based on the Board's finding that the report satisfies the requirement set forth in the initial (and as later modified) order for the ASR project and satisfies the conditions of the Aquifer Storage and Recovery System: Data Reporting Requirements Regulation K.A.R. 5-22-10(a), it was moved by Bob Seiler and seconded by Alan Burghart to accept the 2016 City of Wichita ASR Accounting Report, subject to:

1. Section 3.4 being corrected with the correct 2016 non-domestic withdrawals; and
2. All information regarding adjustments made to the accounting model for the ASR Index cells along the western boundary of the basin storage area is included in the report.

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

b) CITY OF WICHITA ASR MODIFICATION PROPOSAL

Manager Tim Boese provided the Board with a draft summary of responses and proposed modifications the District received from the Chief Engineer and the City of Wichita regarding the District's questions and comments from the April 19, 2017, Board meeting. Tim asked the Board to review the summary prior to the next meeting and to let him know if they have any questions. Tim stated that there are still several questions that either have not been answered or have not been adequately answered, which will need to be completed before he is ready to provide the Board with recommendations. Tim informed the Board of the Notice of Pre-Hearing Conference that is scheduled for July 19, 2018, at 2:30 p.m., during which time Tim needs to provide the Chief Engineer with suggestions for hearing dates, times, and locations. Tim recommended the District request the Chief Engineer schedule the hearing after the September Board meeting. Discussion by the Board followed, with a Board consensus agreeing with Tim's recommendation and that the Hearing be no earlier than September 17, 2018.

c) RESOLUTION ME 2018-1 ADOPTION OF LAND AND WATER ASSESSMENT RATES

Manager Tim Boese advised it was necessary to adopt a resolution for FY 2019 assessment rates. Discussion by the Board followed.

Moved by Joe Pajor and seconded by David Stroberg to adopt the resolution for \$0.05 per acre for land and \$1.10 per acre-foot for water. Motion carried with 8 Directors for, 1 Directors against (Vin Kissick), 0 Directors abstained, and 0 Directors absent.

d) BURRTON SALTWATER CONTAMINATION REMEDIATION

Manager Tim Boese provided the Board with an update on funding for Burrton saltwater contamination remediation work. Tim met with City of Wichita staff, consultants from Burns & McDonnell, and Kansas Water Office (KWO) Director Tracy Streeter last week to discuss the \$50,000 budgeted by the KWO for initial remediation work for the Burrton chloride plume. Tim informed the Board that Tracy Streeter is willing to come speak to the Board regarding ideas for use of the budgeted money. Board member Joe Pajor and Burns & McDonnell consultant Brian Meier provided additional information from the meeting, including what studies have previously been completed, the need for a

framework for a tangible path forward, and management of any remediation waste stream. Tim informed the Board that it is expected that GMD2 will lead this effort, and the next step is for District staff to create a scope of services for use of the available funds.

e) KANSAS WATER CONGRESS 2018 SUMMER CONFERENCE – AUGUST 2-3, 2018

Manager Tim Boese provided the Board with the tentative agenda for the Kansas Water Congress 2018 Summer Conference scheduled for August 2-3, 2018, in Hays, Kansas. Tim asked that any Board member who is interested in attending the conference please let him or Rebecca know so registration can be completed.

f) AUGUST BOARD MEETING DATE AND TIME

Manager Tim Boese and the Board discussed the date and time of the August 2018 Board meeting. It was the consensus of the Board to leave the August Board meeting on Wednesday, August 8th at 9:30 a.m.

ITEM 9 -- AGENCY & COMMITTEE REPORTS

a) DIVISION OF WATER RESOURCES

Cameron Conant, DWR – Stafford Field Office, informed the Board that DWR has recently begun addressing the issue of over pumping in 2017, including sending out Notices of Non-Compliance (NONCs) from the Field Office and working on completing over pumping penalty summaries (matrixes) for DWR Headquarters to review and issue civil penalties. Cameron stated that this process has been time consuming, as they have sent out 34 NONCs so far, and they have approximately 150 additional penalty summaries to complete, which include monetary fines and water reductions. Manager Tim Boese asked Cameron to please remind DWR headquarters to send copies of all penalties to GMD2.

b) KANSAS WATER AUTHORITY

Board Vice President Vin Kissick informed the Board that the next meeting is scheduled for August 22, 2018, in Manhattan.

c) EQUUS – WALNUT REGIONAL ADVISORY COMMITTEE

Board member Bob Seiler informed the Board that the Equus-Walnut RAC has not had a meeting since May 1, 2018, but they do have a webinar scheduled for Friday, July 13, 2018.

ITEM 10 -- MANAGER'S REPORT

a) ASR Project Report

Tim Boese, Manager, advised the Recharge for May was: 0 acre-feet recharged in Phase I and 9.27 acre-feet recharged into Recharge Basin 36 in Phase II. Tim has not yet received the June report. Cheney Reservoir: Conservation pool is 95.46% full. Cheney release is 0 CFS. Flow today: Little Ark - Highway 50 is 6.69 CFS; Valley Center is at 15.3 CFS.

b) ADMINISTRATIVE FIELD TASKS

Tim Boese, Manager, reported that in June, staff assisted completing two new/change/division applications, conducted seven application reviews, performed 25 water permit consultations (many related to over-pumping and MYFAs), completed 18 preliminary safe yields, fielded five ASR questions, and processed a total of 64 files

including VI cards, new applications, approvals, and ownership changes. Additionally, David Randolph, District Hydrologic Technician, completed eight water meter inspections, nine abandoned well/inactive well inspections, and collected 29 water samples.

Tim expressed his gratitude to the City of Wichita and shared photos of the District's EB monitoring wells that the City repaired in the Eagle Drainage District.

Tim informed the Board that a Water Technology Farms Field Day has been tentatively scheduled for Monday, August 27, 2018.

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 June.

d) MONTHLY INFORMATION & SERVICE REPORT

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

ITEM 11 -- ADDITIONS TO THE AGENDA – NONE

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

Vice President Vin Kissick brought up questions about the over pumping water penalty matrix and whether or not the first violation “drops off” after five years of the water right not being over-pumped again. Vin also stated that there is a perception of a change in DWR policy in regards to having no tolerance in the water meter readings, even though the water meters may be slightly inaccurate, then applying the over-pumping matrix. Cameron Conant, DWR, informed the Board that for the past several years, DWR has held firm to their no tolerance approach to over pumping. He also informed the Board that the regulation does read that if there has been no violation in the five preceding years, the penalty may be reduced.

Board member Dale Schmidt asked Manager Tim Boese for a progress update regarding the new safe yield calculation. Tim informed the Board that due to additional ongoing projects, District staff has not yet been able to dedicate time to expanding the calculations to other areas of the District, but that District staff would begin working on it soon.

ITEM 13 – EXECUTIVE SESSION

Moved by Vin Kissick and seconded by David Stroberg to recess into Executive Session for 20 minutes to consult with the District Attorney regarding potential litigation matters within attorney client privilege for the purpose of protecting the privacy of that information. Motion carried with 8 Directors for, 0 Directors against, 0 Directors abstained, and 1 Director absent. Those present during this Executive Session were the members of the Board (except Joe Pajor), Manager Tim Boese, and David Stucky, Legal Counsel.

Time in Executive Session: 12:15 p.m.

Time out of Executive Session: 12:35 p.m.

Moved by Vin Kissick and seconded by David Stroberg to extend the executive session 20 minutes. Motion carried with 8 Directors for, 0 Directors against, 0 Directors abstained, and 1 Director absent. Those present during this Executive Session were the members of the Board (except Joe Pajor), Manager Tim Boese, and David Stucky, Legal Counsel.

Time in Executive Session: 12:35 p.m.
Time out of Executive Session: 12:55 p.m.

Moved by David Bogner and seconded by Mike McGinn to authorize up to \$10,000 expenditure for retainer of outside consultant(s) for work regarding the City of Wichita ASR Modification Proposal, to authorize the District Manager to sign contract(s) for such services, and for the District Manager to seek outside sources for potential financial assistance of the consultant services. Motion carried with 8 Directors for, 0 Directors against, 1 Director abstained (Joe Pajor), and 0 Directors absent.

Moved by Dale Schmidt and seconded by David Stroberg 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 12:58 p.m.



Alan Burghart
Secretary
AB/TDB/rsw