

NORTHWEST KANSAS GROUNDWATER MANAGEMENT DISTRICT NO. 4

STATEMENT OF ISSUE - TESTIMONY

TO: Representative Powell, House Agriculture and Natural Resources Committee

March 2, 2012

**PO Box 905
Colby, Kansas 67701-0905
Phone: (913) 462-3915
Fax: (913) 462-2693
E-mail: wab@gmd4.org**

ISSUE: SB 310 - Authorizing LEMAs

A bill providing a new authority and process for Local Enhanced Management Areas.

BACKGROUND:

In developing a local enhanced management plan for their area under the guidelines of the State Water Planning process, the stakeholders of High Priority Area (HPA) SD-6 within the Northwest Kansas Groundwater Management District No. 4 (GMD 4) were faced with the intensive groundwater use control area (IGUCA) process when they settled on a five-year allocation system to reduce groundwater use within their HPA. Due to the possibility of unforeseen regulation coming out of the current IGUCA process, these stakeholders concluded too much risk was involved in using it, and they asked GMD 4 to address their concerns on their behalf.

They requested a process that would allow a locally developed management plan to be submitted and subjected to a public hearing focusing only on the locally proposed plan. Furthermore, the state's actions following the hearing process provide only for approval as presented or rejection as presented. This approach would not guarantee the locals getting what they wanted, but would guarantee them not getting what they did not want.

GMD 4 first suggested an enhanced management approach implemented through regulations requested of and subsequently promulgated by the chief engineer under authority granted within the Kansas Groundwater Management District Act. The Kansas Attorney General opined that the intentions of the stakeholders were in fact IGUCA-like, and as such, the IGUCA process had to be used.

The chief engineer and GMD 4 next worked on developing an IGUCA process under the current statutes that included sufficient local involvement to reasonably assure a locally acceptable outcome. This was not possible.

GMD 4 next suggested an amendment to the existing IGUCA statutes that would allow such local involvement and assurances. As DWR and GMD 4 began working on this approach, DWR suggested a new statute altogether, and that the new planning product be called a Local

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Enhanced Management Area - LEMA for short. GMD 4 was to take the lead in drafting the concepts.

GMD 4 has co-developed this bill with input from others including: Kansas Department of Agriculture (including the division of water resources); all five Kansas GMDs; the Kansas Farm Bureau; Kansas Livestock Association; and Kansas Feed and Grain Association. For added measure, GMD 4 asked the Governor's newly appointed Ogallala Aquifer Advisory Committee (OAAC) to endorse the developing ideas. The result of all this work is now SB 310.

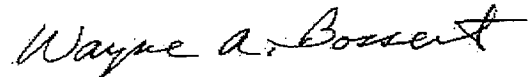
CONCERNS & COMMENTS:

1. SB 310 provides locals with an opportunity to develop and implement local enhanced management plans that are consistent with the state water planning guidelines and the GMD management programs.
2. The bill retains sufficient state oversight to insure effective plans are being proposed, and that all the elements of the locally proposed plans are legal and consistent with state law.
3. All the processes of the current IGUCA statutes remain in effect. This bill simply provides an additional, more locally friendly process, when the stated conditions exist.
4. The bill provides positive incentives for locals to begin developing enhanced management plans sooner rather than later.
5. SB 310 does not guarantee the locals will get everything or anything they might propose as an enhanced management proposal, but it does insure they will not get anything they didn't propose or don't want.
6. This is the framework of a statutory change requested by the stakeholders of HPA SD-6 within the Northwest Kansas Groundwater Management District No. 4 that will work within any GMD area statewide.

RECOMMENDATIONS:

- 1) The Northwest Kansas Groundwater Management District No. 4 supports SB 310 as introduced and urges its passage as soon as possible.

This testimony was approved by the GMD 4 board of directors on February 15, 2012.



Signed: Wayne A. Bossert, GMD 4 Manager