

NORTHWEST KANSAS GROUNDWATER MANAGEMENT DISTRICT NO. 4

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TESTIMONY SUPPORTING HB 2634

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In 2011 a severe drought plagued the majority of Kansas. Many producers were faced with the difficult decision to either abandon their crops or overpump their water rights. The Division of Water Resources (DWR) made an unprecedented move and issued Drought Term Permits that allowed the producer to reduce their 2012 water to utilize it in 2011 and harvest their crops. As the drought persisted into 2012 many producers found they were going to run short of their water needs again. DWR then created the Multi-Year Flex Accounts (MYFAs) that allowed those producers to operate under a five-year quantity calculated through historical use and net irrigation requirements. MYFAs became an increasingly popular tool for producers to use and beneficial even in times of ample rainfall. They came with harsh penalties if overpumped and quickly became looked at as a conservation and flexibility tool.

In 2018 the GMD 4 Local Enhanced Management Area (LEMA) was developed. Producers were given a five-year quantity but were still limited to their certified annual quantity of water. During the first two years of the GMD 4 LEMA, there was an abundance of rainfall. Most producers managed their water and only utilized what they needed to keep their water in case it was needed toward the end of the LEMA period. In 2022, the last year of the first GMD 4 LEMA, the region was under a severe drought. Many producers could not enroll into a MYFA because it was the last year of the LEMA and the MYFAs need to align with the LEMA years. They were left with plenty of LEMA water in their accounts, but not enough certified annual quantity to finish out their crop. Once again, DWR comes to the rescue and allows producers within the GMD 4 LEMA to locate a water right within a two-mile radius that has excess certified annual quantity and LEMA water to reduce by and provide for them to pump on their well. If there were no wells within a two-mile radius to reduce by, producers were forced to overpump, be issued the penalty, and absorb their water reduction into a MYFA for the 2023-2027 LEMA. Very few producers took this option.

As one can sense, this created a lot of confusion for all involved parties. Testimony from the public hearings for the proposed 2023-2027 LEMA demonstrates the confusion from the public and the desire to just have a five-year quantity. Now that data can be reviewed from the first GMD 4 LEMA period it is worth noting that nobody overpumped their LEMA quantity, but the LEMA wasn't very restrictive to begin with. Moving forward, we foresee further restrictions to address the decline of the aquifer. To make that more palatable among producers, allowing for flexibility to better manage their water is what this bill intends to accomplish.