

UPDATE ON NORTHWEST KANSAS WATER CONSERVATION EFFORTS

Wayne Bossert
Manager
Northwest Kansas Groundwater Management District No. 4
Colby, Kansas
Voice: 785-462-3915 Fax: 785-462-2693
Email: wab@gmd4.org

1. ENHANCED MANAGEMENT PROTOCOL

(Reference link: <http://www.gmd4.org/EnhancedMgt/protocol.htm>)

In late 1999 the Kansas Legislature asked the Kansas Water Authority (KWA) to study several issues and make recommendations. Two of these issues were groundwater related and included: The long-term prospects for transitioning groundwater irrigation to dry land farming in specific areas to maintain sustainable yields; and the competition for future water (both ground and surface) and suggestions on addressing the expected competition. Also at this time the state water plan adopted a future objective for the High Plains Aquifer (Ogallala) to slow the current groundwater decline rates and extend the economic life of the aquifer. This future objective begins to drive the entire process.

In response, the Kansas Water Office (KWO) formed a Management Advisory Committee (MAC) for the Ogallala Aquifer that included all local stakeholders and asked this group to devise an approach to declining groundwater levels. In October 2001, the MAC agreed on 5 recommendations and 17 guiding principals on how this should be accomplished. The 5 recommendations were:

1. Delineate Ogallala Aquifer into subunits for enhanced management;
2. GMDs identify subunits in decline and set goals to extend and conserve aquifer;
3. Set subunit priorities to extend aquifer's life and sustain region's vitality;
4. Support and expand programs and activities to extend and conserve aquifer's life;
5. Support and expand research and education regarding aquifer conservation.

All applicable areas in the state began to address these recommendations. The Northwest Kansas Groundwater Management District No. 4 (GMD 4) in early 2006 included a High Priority Area (HPA) process into its management plan and began its enhanced management process which included (and still includes) seven tasks:

Task 1 - Cluster Aquifer Sub-units (Completed)

Task 2 - Prioritize Aquifer Sub-units (Completed)

Task 3 - Verify data for each high priority aquifer sub-unit (Completed)

Task 4 - Set water goals and management for HPA sub-units after public input

Task 5 - Assess management program per board decisions based on Task 4

Task 6 - Develop plans to transition to dryland for appropriate acreages

Task 7 - Review, evaluate and reiterate

In designating the GMD 4 HPAs the board decided that any section experiencing 9% or more decline between 1996 and 2002, OR, a 2-mile, reported water use density exceeding 275 AF per section, would be designated a "high priority section". Furthermore, any 1/4 Township (9 square miles) having 2 or more high priority sections would be designated a "high priority area". These would be the hydrological-derived HPAs. The board also decided that any area from which a local request of involved persons came that desired additional management, could also be designated a HPA.

The process is now on Task 4 – the public meetings. The board has been conducting public meetings within each high priority aquifer sub-unit in order to: a) inform the land owners and water users of the district's process and findings; b) to discuss the area's future outlook based on the district findings; c) to request input from the attendees about preferred future actions - specifically including preferences for a groundwater budget for the next 20 years; and d) what management policies/actions/strategies should be considered by the board to achieve the preferred groundwater budget.

Following the public meetings, the board will decide what groundwater use goals (groundwater budgets) are appropriate for each HPA and what management approaches should be implemented. These decisions will be incorporated into the management program before being undertaken. If new regulatory authorities are considered necessary or prudent, either by the public or the board, they will be further explored at this step in the process.

(NOTE: In both the public meeting venue and the final board decision process, the following methods for reducing water use might be discussed: 1) targeting funding for water use efficiency improvements, water right set asides, or water right buyouts; 2) stricter regulation of water rights to include both negative and positive incentives concerning: a) overpumpage; b) tailwater control and reuse; and c) unreasonable pumpage; and 3) Intensive groundwater use control areas

(IGUCAs) or other special management areas. Any other ideas brought up by the district members within either venue will also be considered.)

Three main points regarding Task 4 are:

- 1) There are no pre-conceived problems or solutions by the GMD 4 board as Task 4 is undertaken – everything is open for discussion including problems or solutions offered by the local participants.
- 2) There is no specific deadline on the Task 4 process – multiple meetings may be needed due to the complexity of the issues and the data that must be presented. However, non-action (or the perception thereof) may change the expectations of anyone watching this process.
- 3) Both voluntary and/or regulatory approaches (in fact all approaches) can be considered.

2. WATER TRANSITION ASSISTANCE

A relatively new conservation program authorized by the 2006 Legislature is the Water Transportation Assistance Program (WTAP). The reference link (from which the following overview has been excerpted) is:

http://www.scc.ks.gov/images/stories/pdf/wtap_%2009_leg_report.pdf

“WTAP is a voluntary, incentive-based water conservation program whereby a participating landowner permanently retires (dismisses) water rights in exchange for compensation by the State of Kansas. WTAP is administered by the State Conservation Commission (SCC) for “the purpose of reducing consumptive use in the target or high priority areas of the state...”

The pilot project is authorized for 5 years (beginning July 1, 2007) with an annual budget from federal and state funds not allowed to exceed \$1.5 million. Unexpended fund balances can be carried over to successive fiscal years with the approval of the Legislature. Although it is a “stand-alone” project, WTAP was envisioned to be consistent with, and complimentary to, the water management policies and programs of other federal, state, local, and private entities operating on a statewide basis. As such, it does allow for cooperative cost-sharing from the federal or state government, or private sources, for water right retirement grants.

Mutually agreeable compensation is paid to a landowner in the form of a financial assistance “grant” which can be distributed in installments of up to 10 years. The grant is available to aid willing sellers in the transition from irrigation to dryland farming. The amount of the compensation is largely determined by a fixed price point value determined annually by the SCC in conjunction with other agencies,

and many other relevant factors such as the seniority of the water right, its historic consumptive water use quantity, the proximal relationship of the water right within the targeted water supply, and a competitive bid price submitted by the owner. WTAP grants are tied to obligations of permanent water right dismissals which ensure tax dollars are invested wisely and efficiently. They are only available in areas closed to new appropriations of water which have been determined to be “in need of aquifer restoration and stream flow recovery.”

The Legislature designated two eligible areas via statute – the Rattlesnake Creek (HUC 11030009) and the Prairie Dog Creek (HUC 10250015) and provided a process for other areas to be designated as program eligible. Part of this process required each eligible area to set a “retirement goal of historic consumptive water use”. Once this retirement goal was reached, WTAP funds would no longer be used therein.

Throughout 2008 calendar year GMD 4 worked to make its six designated high priority areas eligible for this program. These areas were formally closed to new appropriations and determined to be in need of aquifer restoration by the chief engineer on September 22, 2008. As a result, the six designated areas became the state’s third eligible area. The retirement goals for the six HPAs in GMD 4 are: SH-1: 6,000 Acrefeet (AF); SH-2: 4,000 AF; CN-3: 2,000 AF; TH-4: 600 AF; TH-5: 15,000 AF; and SD-6: 12,000 AF. The GMD 4 board also agreed to provide an additional \$50.00 per historic consumptive water use for every successful WTAP application within its six eligible areas.

The first signup period for the FY 2009 program began October 1, 2008 and ran through November 15, 2008. During this enrollment period, SCC received a total of 41 applications totaling \$9,799,400 in competitive bids and representing 5,753 AF of annual appropriation authorization which could be permanently retired – three applications from the Rattlesnake Creek Sub-basin and 38 from the GMD 4 HPAs.

WTAP, being a 5 year pilot program, will have the opportunity to assist these eligible areas in reaching their designated retirement goals. The Kansas Legislature appropriates WTAP funding annually, so whether or not the 4th and 5th years will get any funding is still under debate, as is the continuance of the program beyond its pilot status.

WTAP was designed to work in concert with other conservation efforts – most notably the Environmental Quality Incentive Program (EQIP) under the 2002 and 2008 Farm Bills. In fact several of the GMD 4 WTAP applications are also enrolled in EQIP.

The WTAP program for FY 2009 had available approximately \$3.4 million which had been accrued over the first 3 years of the program. This funding was sufficient to fund 20 of the 41 applications filed – resulting in 2,294 AF of historic

consumptive water use being retired permanently. Of these 20 applications, the three Rattlesnake Creek applications and 17 of the 38 GMD 4 applications were slated for approval. Due to the state budget shortfalls projected in 2009 and 2010, some or all of these funds may be swept by the Governor and Legislature for other projects.

3. CONSERVATION PROJECTS ALLIANCE

(Reference link: <http://www.gmd4.org/Alliance/Alliance.htm>)

Anticipating passage of a Kansas statute dealing with the possibility of award monies from the Republican River Compact Settlement Agreement coming to Kansas from either Colorado or Nebraska, the GMD 4 board decided to look into a possibility of forming a conservation projects alliance.

As anticipated, the Kansas legislature did pass Substitute for SB 89 in the 2008 session - specifying how any award monies would be utilized by Kansas. After the state's interstate litigation fund is restored to its \$20 million target level, Sub. for SB 89 created two new conservation funds - the "Republican River Conservation Projects - Nebraska" fund and the "Republican River Conservation Projects - Colorado" fund.

One-third of any monetary Nebraska award received will go to the state water plan fund for water conservation projects - with priority given to projects that will directly enhance Kansas' ability to stay in compliance with the compact. Two-thirds of any Nebraska funds received will be administered by the Kansas Water office for conservation projects in the Lower Republican River basin in Kansas.

Two-thirds of any Colorado award funds received will be administered by the Kansas Water office for conservation projects in the Upper Republican basin in Kansas while one-third will go to the state water plan fund for water conservation projects anywhere in the Kansas.

The new statute lists ten types of conservation projects for which funds could be approved, but these ten designations are broad and include many possibilities.

In August, 2007 GMD 4 contacted approximately 80 Upper Republican Basin leaders and suggested the idea of a conservation projects alliance whose goal would be to craft a unified, cooperative and comprehensive water conservation projects application for consideration by the Kansas Water Office (KWO). These persons included representatives of County Commissions; Cities; Irrigation Districts; GMD 4; production agriculture; economic development; Resource Conservation & Development areas; financial institutions; area Industry; animal

feeding operations; the Upper Republican Basin Advisory Committee; county farm bureau 's and the environment. The Alliance was formed.

Through this process, each "stakeholder group" (commissioners, cities, etc.) appointed one representative to sit on the Alliance. The following persons currently sit on the Alliance:

Wayne Bossert; GMD 4; Colby; Chair
John Arford; Economic Development; Norton
Sandy Rogers; RC&Ds; Goodland
Matt Bain; Environment; Colby
Spencer Schlepp; Conservation Districts; St. Francis
Dick Kelly; Industry; Oberlin
Larry Maxwell; Financial; Colby
Robert Binning; County Farm Bureaus; Atwood
Currently vacant; Cities;
Ralph Unger; County Commissions; Oberlin
Sid Metcalf; URBAC; Atwood
Harlan House; Animal Feeders; Goodland
Herb Mattson; Production Ag; Colby

The Alliance continues to meet and discuss potential conservation projects for the Upper Republican River Basin - eventually to settle on a suite of projects to be further evaluated before submitting its cooperative application to the KWO. Some of the ideas being discussed currently are:

- 1) Develop a "WTAP-like" program to further reduce historic consumptive water use. While this program may be applied basin-wide within the Upper Republican River basin, approximately 1/3 of the GMD 4 area (and all or parts of three GMD 4 HPAs) are included.
- 2) Enhance and extend a CRP set aside program for irrigated or dry land acres.
- 3) Develop a small irrigation project to use compact surface water that may be provided by Colorado – either to irrigate new acres or replace Ogallala Aquifer irrigation water on existing irrigated acres. These new water rights could be term permits allowing for alternative (non-irrigation) uses of this water in the future.
- 4) Enhancement program for playa lakes for recharge and environmental benefits.
- 5) Develop a reverse osmosis (RO) facility for a basin community using Dakota Aquifer water to replace the existing supply.

6) Construct a streambank recovery and storage project to use compact surface water that may be provided by Colorado.

4. NORTHWEST KANSAS GROUNDWATER CONSERVATION FOUNDATION

The Northwest Kansas Groundwater Conservation Foundation (Foundation) (reference link: <http://www.groundwaterfoundation.com/>) is a private corporation in the state of Kansas organized in cooperation with the public Northwest Kansas Groundwater Management District No. 4 (GMD 4). The Foundation board of directors intends to use public and private funding contributions to achieve all stated missions. The Foundation was formally incorporated in August, 2003 and obtained its IRS status in July, 2004.

The Foundation will incent existing water right owners to set aside - temporarily or permanently - consumptive groundwater use within priority areas of the local groundwater district. Funding will come from a variety of public and private sources and will be approved pending an application and evaluation process based on owner bids. Permanent water right reductions will be given priority.

From its inception, the Foundation has been seeking private grants to reduce consumptive water use within the district to achieve the state water plan goal of reduced water use. GMD 4 has also been putting approximately \$75,000.00 per year toward the Foundation in order to entice additional private grant monies – unsuccessfully thus far.

To date the Foundation has agreed to contribute \$50.00 per AF of historic consumptive water use for all successful WTAP applications.

For questions about any Northwest Kansas Groundwater Management District No.4 program – conservation or otherwise – please contact the district.