Groundwater Management in Western Kansas: Legislative Policy Considerations (Part 2)

Roger McEowen – Agricultural Law & Taxation Specialist (roger.mceowen@washburn.edu)
Kansas State University Department of Agricultural Economics – Nov. 2026

Overview

The proposed renewal of the Greater Northwest Kansas Groundwater Management District No. 4 (GMD 4) Local Enhanced Management Area (LEMA) raises policy questions that extend beyond the immediate administrative proceedings. As discussed in Part 1, the dispute implicates prior appropriation, the scope of administrative authority, and the legal treatment of established water rights. Regardless of how the current controversy is resolved, groundwater depletion will remain a long-term challenge for western Kansas.

This article identifies policy options the Legislature may wish to evaluate as it considers the state's long-term approach to groundwater management. The central task is to address aquifer conditions while providing predictable rules for water-right holders, supporting agricultural and rural economies, and encouraging measurable conservation. Kansas already has statutory mechanisms for approved water-right changes and voluntary conservation, including Water Conservation Areas. Legislative review could consider whether those tools are sufficiently accessible, predictable, and effective, and whether additional mechanisms are warranted.

Long-Term Policy

Long-term groundwater policy should operate within the statutes governing appropriation and groundwater management. The Legislature may wish to review the interaction among the Kansas Water Appropriation Act, the Groundwater Management District Act, and the LEMA provisions, particularly where questions remain about the scope of conservation authority and the treatment of existing rights. Greater statutory clarity could improve predictability for water-right holders, management districts, and state agencies.

The Kansas Farm Bureau's December 2025 publication on LEMAs describes its 2026 policy resolution, WA-1, which recommends that reductions needed to stabilize aquifers be based on percentages of water-right allocations according to priority rather than preferential use. The Legislature could evaluate this approach alongside other allocation methods, including their consistency with the statutory priority system, hydrologic objectives, and practical consequences for different classes of water users.

Any statutory clarification should account for the fact that the legal treatment of existing rights may depend on the nature of the right, the governing law, and the type of proposed restriction. Issues involving vested rights and perfected appropriation rights warrant careful legal analysis. The Legislature could identify the standards and procedures that should govern these questions rather than leaving recurring uncertainty to administrative interpretation or case-by-case litigation. The objective would be to provide adequate certainty for investment and planning while preserving lawful tools to address groundwater depletion.

Recent Development in Southwest Kansas

Recent action involving Southwest Kansas Groundwater Management District No. 3 (GMD 3) provides a timely example of the relationship between local groundwater-management planning and state administrative authority. On November 20, 2026, the Kansas Department of Agriculture's Division of Water Resources announced that the Chief Engineer had issued an action plan for the Southwest Kansas Intensive Groundwater Use Control Area (IGUCA). The action followed the Chief Engineer's determination that portions of GMD 3's action plan addressing groundwater quantity did not reasonably address continuing groundwater-level declines. The Chief Engineer had approved the water-quality portion of the district's plan and accepted the district-wide designation of a priority area of concern but rejected the proposed quantity measures.

The action was taken under the framework established by 2023 House Bill 2279. That legislation requires groundwater management districts to identify priority areas of concern, develop action plans based on local conditions and input from water-right owners and users, and submit those plans to the Chief Engineer. If a district fails to submit a plan or submits one that does not reasonably address the identified problems, the statute authorizes the Chief Engineer to designate priority areas, create an action plan, and take corrective actions under the Kansas Water Appropriation Act and the Kansas Groundwater Management Act.

The Southwest Kansas IGUCA assigns five-year water-quantity allocations to non-domestic water rights within its boundaries, regardless of type of use. The allocations are defined as of November 20, 2026, and the initial allocation period begins January 1, 2028. Individual water-right holders are to receive notice of their allocations, with additional information and public meetings to follow.

Implications for groundwater policy. Although the GMD 3 action arises under a different statutory mechanism from the proposed GMD 4 LEMA renewal, it is relevant to the Legislature's broader consideration of groundwater policy. It demonstrates that the statutory framework contemplates state intervention when a district's proposed action plan is found inadequate to address identified

groundwater concerns. It also illustrates that state action may result in mandatory quantity controls affecting a broad range of non-domestic water rights.

The GMD 3 development suggests several questions for legislative review:

- Does the statute provide sufficiently clear standards for determining whether a district's action plan reasonably addresses an identified problem?
- What evidence and time horizon should inform that determination?
- What process should govern the Chief Engineer's development of a replacement action plan and selection of corrective controls?
- How should the statutory process coordinate with existing LEMAs and IGUCAs, and what notice, participation, and review procedures should be available to affected water-right holders?

These questions concern the operation of the statutory framework and do not presume that the GMD 3 action was either legally deficient or necessarily appropriate in every respect.

Vested and perfected water rights. The Legislature may wish to consider how the HB 2279 action-plan process interacts with the legal treatment of vested and perfected water rights, the priority system, and the separate statutory provisions governing LEMAs and IGUCAs. The precise legal effect of any restriction depends on the governing statute, the terms of the applicable order, and the characteristics of the individual water right. The GMD 3 action does not resolve those questions for GMD 4; rather, it illustrates why clear statutory standards, transparent administrative findings, and meaningful procedural protections matter.

Economic effects of conservation. The GMD 3 experience may provide information for evaluating the economic effects of alternative conservation approaches. The five-year allocations beginning in 2028 may affect irrigation decisions, farm-level returns, land values, agricultural lending, and businesses that depend on irrigated production. Those effects should be evaluated alongside the long-term costs of continued groundwater depletion. The Legislature could encourage transparent, location-specific assessment of hydrologic outcomes and economic consequences as additional plans and corrective controls are developed.

Legislative Options

The Legislature could examine whether existing law provides sufficient flexibility for water-right holders to conserve, lease, transfer, or otherwise manage eligible water through voluntary arrangements. Properly structured mechanisms may encourage reductions in withdrawals where the economic cost of conservation is comparatively low. Potential options include:

- Voluntary leases of eligible water allocations.
- Approved transfers or changes in the place or manner of use.
- Agreements among neighboring producers to share available groundwater.
- Water Conservation Areas offering flexibility in exchange for reduced withdrawals.
- Multi-year conservation agreements providing predictable operating limits.
- Voluntary retirement or long-term nonuse arrangements.

All arrangements would remain subject to statutory requirements, protection of senior rights, prevention of impairment, and applicable hydrologic limits. They would not make groundwater an unrestricted commodity but could provide additional flexibility and incentives for conservation. Clear eligibility standards, reliable measurement, and enforceable safeguards would be essential.

Scientifically supported, geographically appropriate conservation objectives. Voluntary transactions alone cannot ensure that withdrawals remain consistent with long-term aquifer objectives. Conservation policy should be informed by reliable data concerning groundwater levels, recharge, saturated thickness, pumping, and projected depletion. The Kansas Geological Survey and other qualified technical institutions can provide the scientific foundation for legislative and local decision-making.

Conservation objectives should recognize differences in aquifer conditions across western Kansas. Where stabilization is feasible, policymakers should identify the withdrawal levels and time frames reasonably associated with that objective. Where stabilization is not realistic, alternative objectives, such as a targeted rate of decline, should be considered. The scientific basis, underlying assumptions, and anticipated consequences should be publicly available, with meaningful opportunities for affected water-right holders and other stakeholders to participate.

The analysis should distinguish temporary drought conditions from persistent groundwater depletion. Short-term drought may warrant temporary operational responses, while sustained declines may require longer-term management strategies. The appropriate response should reflect local hydrology, the duration and severity of conditions, and clearly stated conservation objectives.

Flexibility in achieving conservation objectives. Once conservation targets are established, water users should have reasonable flexibility to determine how to meet them. Options may include irrigation scheduling, crop selection, reductions in irrigated acreage, conversion to dryland production, leasing eligible allocations, or participation in conservation agreements.

Research examining groundwater conservation in the Kansas High Plains has compared cost-share assistance for irrigation-efficiency improvements with incentive payments to convert irrigated production to dryland farming. The study emphasizes that the relative effectiveness of these approaches depends on economic and production conditions; equipment improvements should not be assumed to produce a fixed or automatic reduction in total withdrawals.

Accordingly, conservation programs should measure actual withdrawals and, where practicable, resulting aquifer effects. Any public assistance should include appropriate eligibility standards, measurable performance objectives, cost-effectiveness considerations, and periodic evaluation to determine whether stated conservation goals are being achieved.

Preserve priority system in voluntary arrangements. Kansas's water-right priority system remains central to the state's water-law framework. Voluntary sharing or conservation agreements should operate within that system, not displace it. The Legislature and administering agencies could consider standardized procedures or model agreements that clarify the legal effect of participation, including any effect on the underlying water right, place or manner of use, and future use. Any arrangement must comply with applicable transfer requirements and protect other water-right holders from impairment.

Economic and Fiscal Considerations

Groundwater depletion has both environmental and economic consequences. Declining water availability may affect yields, production risk, crop choices, and returns on irrigation-related investments. Those effects may extend to farmland values, agricultural credit, local businesses, and the broader economic stability of rural communities. Conservation measures also carry costs, including potential effects on farm income, equipment utilization, land values, and businesses that depend on irrigated agriculture. Legislative evaluation should account for both the costs of depletion and the costs and distributional effects of proposed conservation measures.

For major groundwater-management proposals, the Legislature could consider requiring or encouraging a transparent economic assessment. The scope and level of analysis should be proportionate to the proposal's expected effects and identify assumptions, uncertainties, and the geographic area evaluated.

Depending on the proposal, an assessment could address:

- Farm-level returns and the effect on agricultural production.
- Regional economic consequences.
- The expected value of conserved groundwater.
- The effects on farmland values and agricultural investment.
- The costs and benefits of alternative conservation strategies.
- The long-term economic consequences of continued depletion.

The relevant comparison is not limited to unrestricted pumping versus mandatory reductions. It should consider realistic long-term alternatives, including the economic consequences of continued depletion and the costs of different conservation approaches. Greater near-term withdrawals may impose costs on future users if the aquifer becomes less productive. Conversely, restrictions not adequately tied to hydrologic conditions, legal requirements, or economic effects may impose avoidable costs on producers and rural communities. A balanced assessment should make these tradeoffs explicit.

Summary

The proposed GMD 4 LEMA renewal and the recent state action involving GMD 3 provide timely contexts for considering broader groundwater policy. The GMD 3 action illustrates how the statutory framework may operate when the Chief Engineer determines that a district action plan does not reasonably address identified groundwater concerns. Kansas has an interest in conserving groundwater for future generations, while water-right holders have legally recognized interests supporting agricultural operations and investment. Legislative policy can account for both through clear rules, defensible conservation objectives, and procedures responsive to local conditions.

A durable framework could include scientifically supported conservation objectives; clear statutory standards governing existing water rights and management authority; accessible procedures for lawful voluntary transactions; reliable measurement of withdrawals; flexibility in achieving conservation; and periodic review and transparent reporting of hydrologic and economic results.

The Legislature's role is to establish governing policy and statutory boundaries. Groundwater management districts can contribute local knowledge and participate in implementation; state agencies can provide technical support and administer applicable statutes; and courts remain available to resolve disputes concerning statutory authority and legal rights. Legislative consideration should focus on the

clarity of the governing law, the evidentiary basis for conservation objectives, procedural protections for affected parties, and measurable results.

The Ogallala Aquifer presents a long-term resource-management challenge requiring decisions across generations. The Legislature need not choose between conservation and a viable agricultural economy as mutually exclusive objectives. It can evaluate a combination of clear legal rules, reliable science, voluntary economic mechanisms, and accountable public administration. The central policy question is which combination is most likely to achieve stated groundwater objectives while fairly accounting for water-right holders, agricultural communities, and future users.

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K-State Agricultural Economics | 342 Waters Hall, Manhattan, KS 66506-4011
www.ageconomics.k-state.edu
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