

Kansas Farm Bureau Challenges Greater GMD 4 LEMA: The Fight Over Water Rights and Prior Appropriation

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Overview

Kansas water law rests on a fundamental principle: water rights are property rights, and the exercise of those rights is governed by the state's system of prior appropriation. But what happens when efforts to address declining groundwater supplies impose restrictions that treat water rights differently based on something other than their established priority? That question is at the center of a challenge by the Kansas Farm Bureau (KFB) to the proposed renewal of the Greater Northwest Kansas Groundwater Management District No. 4 (GMD 4) Local Enhanced Management Area (LEMA).

In September 2026, KFB and two individual agricultural landowners, Clayton and Lori Janicke, filed separate petitions to intervene in the administrative proceedings concerning the proposed Greater GMD 4 LEMA. Their filings contend that the proposed management plan threatens established property rights by disregarding the priority characteristics of water rights and imposing restrictions that are inconsistent with Kansas water law.

The dispute deserves attention beyond northwest Kansas. It raises broader questions about the relationship between groundwater conservation, administrative authority, and the property rights that underpin agricultural production throughout the state.

Background: LEMAs and Groundwater Management

Kansas has developed several statutory mechanisms to address groundwater depletion. One is the Local Enhanced Management Area. K.S.A. §82a-1041 authorizes a groundwater management district to develop a plan for enhanced management within a designated area, subject to the approval process administered by the Chief Engineer of the Kansas Department of Agriculture's Division of Water Resources. The Greater GMD 4 proposal covers Cheyenne, Rawlins, Gove, Logan, Sheridan, Sherman, Thomas, and Wallace counties. The proposed plan would impose additional restrictions on groundwater use within the designated area.

The underlying policy problem is not difficult to understand. Groundwater supplies in parts of western Kansas have experienced substantial depletion, and continued agricultural withdrawals raise legitimate questions about the long-term viability of irrigated agriculture. Groundwater management measures may be necessary to address those concerns.



However, the need to manage a limited resource does not give government officials unrestricted authority to redistribute the burdens of conservation among existing water-right holders. Kansas water law establishes a framework governing the acquisition, use, and administration of water rights. A groundwater management plan must operate within that framework, not simply displace its governing principles because a different allocation approach might be administratively convenient. The central question is not whether groundwater conservation is desirable. It is whether the means selected to achieve that objective are authorized by law and consistent with the property interests the law recognizes.

Kansas follows the doctrine of prior appropriation, under which water rights generally are administered according to their established priorities. The familiar principle is that an earlier, senior right receives protection against interference from a later, junior right, subject to the governing statutes and other applicable law. The priority system serves an important function beyond determining which water-right holder receives water when supplies are insufficient. It establishes legally significant relationships among competing rights and provides a framework within which water users make long-term investment and production decisions. If groundwater reductions are imposed through a method that disregards those relationships, the question becomes whether the management plan is consistent with the legal structure governing the rights it restricts. Conservation policy should not be assumed to override established statutory rules simply because the resource being regulated is under pressure.

The critical question is whether a groundwater management plan can impose restrictions that depart from that priority system or otherwise disregard the legal characteristics of existing water rights. That is the central issue that KFB's challenge raises.

The Janicke Petition: Protecting Individual Water Rights

On September 23, 2026, Clayton and Lori Janicke petitioned the Chief Engineer for permission to intervene in the Greater GMD 4 LEMA proceeding. The Janickes assert that they own, lease, or otherwise have interests in agricultural property within GMD 4 that is an authorized place of use for one or more water rights under the Kansas Water Appropriation Act.¹

Their petition advances three principal arguments:

- The proposed plan allegedly harms the value and marketability of their water rights by disregarding characteristics authorized under those rights, including their priorities. Water rights are not simply permissions to pump water without legal limitations. They are legally recognized interests with defined

¹ K.S.A. §82a-701 *et seq.*

characteristics, and the petition maintains that those characteristics must be respected when the state imposes additional management restrictions.

- The petition challenges proposed limitations on the quantities of water that may be diverted under the Janickes' existing rights. According to the filing, the plan would impose restrictions below the quantities authorized by their individual water rights. The petition also alleges that the plan treats irrigation rights differently from water rights associated with other beneficial uses, contrary to K.S.A. §82a-707(b).
- The Janickes contend that the proposal conflicts with Kansas public policy embodied in the LEMA statute, the Groundwater Management Act,² and the Kansas Water Appropriation Act.

Note: The Janickes petition is an effort to protect their property interests by participating directly in the administrative proceeding. Their allegations are presented in a petition to intervene, not findings that the proposed plan is unlawful. The Chief Engineer and other participants will have to address the legal and factual questions as the proceeding develops.

Kansas Farm Bureau Joins the Challenge

On September 28, 2026, KFB filed its own petition to intervene, acting on behalf of the organization and its participating individual members. KFB explains that its membership includes agricultural producers who own, lease, or otherwise hold interests in agricultural property within GMD 4. Those properties are authorized places of use for water rights governed by the Kansas Water Appropriation Act.

The organization maintains that the proposed plan would harm the value and marketability of its members' water rights by disregarding their authorized characteristics, including priority. It also challenges restrictions that allegedly would limit the quantities of water available under existing rights and impose different limitations on irrigation rights than on rights associated with other beneficial uses.

KFB's participation is significant because the controversy extends beyond the circumstances of any single landowner. Water restrictions imposed through a LEMA can affect agricultural operations throughout the designated area, potentially influencing land values, irrigation decisions, farm income, and the long-term economics of crop production. The organization seeks to protect those interests through participation in the administrative proceeding.

² K.S.A. §82a-1020 *et seq.*

KFB's Policy: Reductions Should Respect Water-Rights Priority

The challenge also reflects a policy position formally adopted by KFB's membership in December 2025.

Under Policy Resolution WA-1, KFB states:

"Local Enhanced Management Areas developed by GMD boards and recommended to the chief engineer for approval should be implemented in conformity with the most basic principles of Kansas water law. If reduction in groundwater usage is selected as a solution to over-development, KFB recommends reductions needed to stabilize aquifers should be done by a percentage of water right allocation based upon priority and not preferential use."

The distinction between reductions based on priority and reductions based on preferential use is important. KFB's position is that, when reductions in groundwater use are necessary to stabilize an aquifer, the reductions should be structured around the priority and allocation characteristics of existing water rights rather than imposed according to preferential treatment of particular uses. That approach, KFB contends, better respects the legal relationships among water-right holders while pursuing the objective of groundwater conservation. In essence, the claim is that efforts to stabilize groundwater supplies should adhere to the fundamental principles of Kansas water law rather than displace those principles through an alternative allocation approach.

The resolution does not, by itself, establish that every LEMA must employ a particular reduction formula. Nor does it resolve the legal questions presented by the Greater GMD 4 proposal. It does, however, make clear the approach KFB believes should govern the design and implementation of enhanced groundwater management measures.

The Property-Rights Question

The Greater GMD 4 dispute illustrates a broader tension in natural-resource regulation: the relationship between the government's authority to manage a resource and the legal rights held by those who depend on it. Water rights are particularly important in western Kansas, where irrigation can be integral to agricultural productivity and land value. The ability to use groundwater under an established right can affect crop choices, production costs, farm income, financing decisions, and the price a purchaser is willing to pay for agricultural land.

Restrictions that materially reduce the practical value of a water right may therefore have consequences beyond the immediate reduction in pumping. The petitions frame the issue principally in terms of Kansas statutory law and the property interests associated with established water rights. They contend that the proposed plan conflicts with the governing statutory framework by disregarding water-right priorities and treating certain beneficial uses differently.



The constitutional implications should not be overlooked. Water rights can contribute substantially to the economic value and productive capacity of agricultural land. Restrictions that materially diminish the practical use of an established water right may therefore raise questions extending beyond ordinary regulatory compliance. Whether a particular restriction amounts to a compensable taking depends on the applicable legal standards and the specific circumstances. Nevertheless, those questions should be examined rather than dismissed on the assumption that groundwater conservation necessarily takes precedence over private property interests. The need to conserve a resource does not, by itself, resolve the constitutional limits on government action affecting established property rights.

The legal analysis depends on the applicable statutes, the nature of the property interest, the restrictions imposed, and the relevant constitutional standards. A claim that a management plan conflicts with Kansas water law is also distinct from a claim that the plan violates the federal or state constitution.

Observation: Those distinctions matter. But the underlying principle remains important: administrative efforts to conserve a resource must operate within the legal framework governing the rights being regulated.

Administrative authority has legal limits. The fact that a statute authorizes an agency to approve a groundwater management plan does not necessarily mean that every restriction contained in a proposed plan is lawful. The agency must act within the authority the legislature has granted and comply with other applicable statutory requirements. Where established property rights are affected, the analysis should begin with the governing law - not with an assumption that the importance of the regulatory objective resolves questions about the permissible scope of government power.

The statutory framework governing LEMAs makes the relationship between groundwater management and water-right priorities particularly important. Under K.S.A. § 82a-1041(f)(2), when determining permissible total groundwater withdrawals within a LEMA, the Chief Engineer must, insofar as reasonably possible, apportion those withdrawals among valid groundwater-right holders according to their relative priority dates. However, § 82a-1041(f)(3) also authorizes reductions in permissible withdrawals by “any one or more appropriators,” creating potential tension with the general priority principle in K.S.A. § 82a-707(b). The statutory question is whether the proposed LEMA's allocation method complies with these provisions and other applicable requirements; Kansas law expressly recognizes priority, but does not unambiguously require every LEMA reduction to be imposed strictly according to priority.

What Happens Next?

The Greater GMD 4 LEMA renewal proceeding is scheduled to continue before the Chief Engineer of the Division of Water Resources. The second hearing is scheduled for October 13, 2026. KFB's intervention effort creates an opportunity for the organization to present its position directly in the proceeding. The Janickes' separate petition similarly seeks to ensure that affected landowners can protect their individual interests.

The ultimate outcome remains uncertain. The petitions to intervene do not establish that the Chief Engineer has accepted KFB's or the Janickes' legal arguments, and the filings alone do not resolve whether the proposed plan complies with Kansas law.

The proceeding will be important to watch for what it may reveal about the permissible scope of LEMA restrictions, the treatment of existing water rights, and the role of priority in allocating reductions in groundwater use.

Conclusion

Kansas faces a difficult groundwater-management problem. The long-term viability of irrigated agriculture in western Kansas depends on addressing groundwater depletion. But the seriousness of that problem does not eliminate the need to respect established water rights and comply with the statutory framework governing their administration.

The Greater GMD 4 proceeding therefore presents an important question extending beyond groundwater conservation: How far may administrative authorities go in restricting established property rights when implementing a legislatively authorized regulatory program?

KFB's challenge places that question before the Division of Water Resources. The outcome remains uncertain, but the legal principles at stake deserve careful consideration. Conservation objectives may justify regulation, but they do not dispense with the rule of law. The treatment of water rights in this proceeding could have significant implications for agricultural producers throughout Kansas.

A government agency may have authority to regulate groundwater, but the existence of that authority does not eliminate the agency's obligation to respect statutory limits and established property rights.

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