

WICHITA COUNTY LEMA ALLOCATION APPEAL

Instructions:

The recently approved Wichita County Local Enhanced Management Area (LEMA) Plan sets 5-year allocations for 2021-2025 for all non-vested irrigation rights within the portion of Wichita County within GMD 1. Allocations are based principally on reported water use for the years 2009-2015. Years with no reported use were not used in the calculation of average water use for the seven year period.

The LEMA Plan allows for timely appeals of the Plan's allocations **before March 1, 2022**. Your appeal must be written, specifying the following: a) the specific water right file number(s)/ point(s) of diversion, b) the applicable years, and c) the basis of the appeal.

A copy of the appeal provision of the LEMA Plan is provided below for your reference along with a form to assist you in providing the information needed by the GMD 1 Board to consider your appeal.

Each Point of Diversion (PDIV #) will require a separate appeal form.

To obtain information for Part 1 of this form contact the District Office with the specific point(s) of diversion you wish to appeal. The District will provide a form with Part 1 completed. OR

You can obtain information for Part 1 of this form from your LEMA notification letter and the "Wichita County LEMA Historic Use & Allocations spreadsheet" online at, www.agriculture.ks.gov/whcl/allocations.

Allocation Appeal Process from the Wichita County LEMA Plan

XIII. Allocation Appeal Process

- a. *The following process will govern appeals for the possible modification of WHCL Allocations.*
 1. *Only the amount of the WHCL Allocation may be appealed. Appeals regarding any other issues shall not be allowed and will not be considered through this process.*
 2. *The Board will serve as the appeals board. Information generated by DWR, KGS, any agency of the United States, and GMD1 will be the Board's official source of information for appeals.*
- b. *Water Right owners must submit a written request for an appeal to GMD1 before March 1, 2022. Failure to file an appeal before March 1, 2022 will cause the WHCL Allocation to become final during the LEMA Period. The request shall specify the point(s) of diversion, relevant year(s) of the Comparison Years, and the basis for the appeal. During the appeal period, each point of diversion is limited to one appeal for each of the three reasons listed below. Water Right owners may withdraw their appeal by providing written notice prior to the Board issuing a final determination pursuant to subsection (e). New WHCL Allocations authorized by the Board will become effective the year the appeal is approved. Appeals may be based on any of the following reasons:*
 1. *Verification of reported water use history used for the WHCL Allocations provided in Attachment A.*
 2. *Due consideration of previous voluntary conservation measures resulting in an incomplete or diminished Historical Usage record.*
 3. *Water Rights on land not owned, leased, rented or otherwise previously controlled or pumped for any of the Comparison Years by the Farm Services Agency producer of record as of January 1, 2020 shall be allowed a flow rate test, pursuant to subsection (f). Appeals for this reason shall be reviewed by the Board for approval.*

- c. Appeals based solely on reported water use history will be referred to DWR for verification. Written notification will be provided to the Water Right owner when the process is completed.*
- d. Appeals based on previous voluntary conservation measures must be accompanied by supporting documentation before the appeal will be scheduled for consideration by the Board. Information that will be required includes:
 - 1. For water rights enrolled in government sponsored conservation programs, documentation must include an approved enrollment contract indicating the years of participation.*
 - 2. Any other documentation supporting past voluntary conservation that may have influenced the water use record during the Comparison Years.**
- e. The Board will review the submitted information at the next scheduled board meeting or special meeting scheduled for the purpose of appeal reviews. The Board shall issue one of the following determinations:
 - 1. Denial of appeal.*
 - 2. Grant an extension for the Water Right owner to provide additional information.*
 - 3. New WHCL Allocation based on the information presented.*
 - 4. Authorize a flow rate test. For points of diversion enrolled in government sponsored conservation programs the test may be postponed until the current contract expires.*
 - 5. Authorize a WHCL Allocation equal to 20% of a point of diversion's AAQ x 5.**
- f. Flow Rate Test Procedure
 - 1. All flow rate tests shall be conducted by GMD1 or DWR between June 15 and September 15.*
 - 2. All wells shall have adequate spacing to allow proper installation of test equipment. If spacing is insufficient the Water Right owner will have the opportunity to make the required adjustments to facilitate an accurate test.*
 - 3. Each well within a Combined Well Unit shall be tested independently.*
 - 4. The resulting flow rate will be multiplied by 150 days to determine an annual acre-foot quantity, not to exceed the Annual Authorized Quantity. The annual quantity may be used to replace the year(s) of the Comparison Years under appeal. The new Historical Use record shall be reduced by the Conservation Factor to establish the new WHCL Allocation pursuant to Section IV (a) (1).**

WICHITA COUNTY LEMA ALLOCATION APPEAL FORM

Part 1 – Information from the Wichita County LEMA Historic Use & Allocations spreadsheet

Unit #: _____ Water Right File No: _____

PDIV #: _____ Point of Diversion: _____

AKA: _____

LEMA 5-year allocation: _____ AF.

Legal Water Use (AF): 2009: _____, 2010: _____, 2011: _____, 2012: _____, 2013: _____, 2014: _____, 2015: _____

Legal Average Water Use: _____ AF/year

Minimum Estimated Rate required to equal legal average use: _____ gpm.

Part 2 – Basis for Appeal

The LEMA plan allows allocation appeals for any or all of the three reason listed below. Fill out the appropriate section(s) below for your appeal.

Reason b(1): Verification of reported water use history used for the LEMA allocation: Yes ___ No ___

If you believe the wateruse information in the Wichita County LEMA Historic Use & Allocation spreadsheet is incorrect, provide the Year(s) being appealed (2009 – 2015): _____, and attach substantiating information for these years.

Reason b(2): Due consideration of previous voluntary conservation measures: Yes ___ No ___

If yes, please provide the following information:

If the water right was enrolled in a government sponsored conservation program for any year(s) 2009 - 2015, documentation attached must include an approved enrollment contract indicating the years of participation.

Other voluntary conservation measures implemented _____

Appeal Years between (2009 - 2015) effected _____

Estimate of water conserved AF/YR: 2009 _____, 2010 _____, 2011 _____, 2012 _____, 2013 _____, 2014 _____, 2015 _____

Basis of estimates _____

Estimate of your well's current capability _____ gpm.

Use additional sheets as needed to supplement documentation.

Reason b(3): Water rights on land not owned, leased, rented or otherwise previously controlled for any of the years (2009 – 2015) by the Farm Services Agency (FSA) producer of record as of January 1, 2020: Yes ___ No ___

Year(s) being appealed (2009 - 2015) _____

Years in which you controlled the water right / point of diversion: _____

What was your interest (own, lease, rent, other) _____

If you meet these requirements, please attach the following required documentation. FSA records or FSA letter (written statement) confirming you were not the producer of record for the years being appealed or a deed if for ownership change.

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To facilitate the Board's review, by filing this appeal request the owner(s) and appellant consent to the submitted information being reviewed at one of its open public meeting. Yes _____, No _____

Part 3 – Appellant If other than owner:

Relationship to the Water Right? Water Use Correspondent _____, tenant _____, agent _____

Name: _____

Address: _____

Phone: _____ Email: _____

Part 4 – Owner Signature(s)

All Water right owners are required to sign this document.

Name: _____

Address: _____

Phone: _____ Email: _____

Signature: _____ Date: _____

Name: _____

Address: _____

Phone: _____ Email: _____

Signature: _____ Date: _____

Name: _____

Address: _____

Phone: _____ Email: _____

Signature: _____ Date: _____

Name: _____

Address: _____

Phone: _____ Email: _____

Signature: _____ Date: _____