

February 16, 2018

Orin Ferrell, GMD5
Board Member/LEMA Committee member

I would like to thank you for your time serving as a board member. I understand how time consuming it is, especially in these days. But, I have concerns and suggestions to satisfy the impairment to the refuge.

First, I strongly believe your Zone A line, including the South Fork of the Ninnescah, is too far south. Lynn Preheim and Peter Balleau even commented that those wells had a very small impact to the stream flow at the Zenith station. They went on to say that to create a greater impact you had to encompass more wells. To encompass more wells in a sub-basin outside the Rattlesnake is nothing more than a numbers game, attempting to make a LEMA more politically palatable. I personally feel there is zero impact from wells that actually lie next to the tributary of the Ninnescah.

Secondly, the question was asked, if cuts were to be made, would they be from appropriation or usage. Mr. Preheim answered, usage. As a person involved in the Quivera Partnership promoting water banking, specifically savings accounts, I strived and successfully saved water, which is part of the reason the Ninnescah Basin is approaching sustainability. From Mr. Preheim's answer, we are being punished for conserving. This is not what he said when asked about end guns previously taken off. His answer to that was that those people would get credit for their conservation. During the Quivera Partnership work, it was agreed that water rights would not be "use it or lose it", creating incentives to save. By using the usage as a basis, I feel you will promote increased pumping and thus destroy the benefits of savings accounts. If you do implement cutting of water usage, you would need to be very creative after the fact, which is a discussion for another day.

Thirdly, moving wells out of the Rattlesnake Basin was also an idea for increasing stream flow. I am strongly against this option. Why take a Rattlesnake problem and move it to another area that may be approaching sustainability? GMD5 has said the GMD area is fully appropriated. Again, by moving wells from the Rattlesnake to another area makes no sense.

Finally, my proposal, while not extremely different than yours, would be to outline the Rattlesnake sub-basin and entire GMD5. Both areas would remove end guns, which is beneficial to all basins, easily reaching or possibly exceeding your 19,000 A/F goal. From this point on, cuts in pumping would come only from within the Rattlesnake Creek sub-basin, where you will reap the most benefit. Furthermore, there is roughly 17,000 A/F in MDS wells in the Rattlesnake. This would definitely impact stream flow if they were shut off. As I understand in, K.S.A. 82a-703a, b and c, it stated that the Chief Engineer shall withhold from those appropriations (MDS wells) the amount of water deemed necessary to establish and maintain desired minimum stream flow for the identified water course.

In conclusion, the impairment, for the most part is a Rattlesnake Creek basin problem and most of the solution has to come from that basin. To cross sub-basin lines is a risky precedent to set. I would ask that a proposed solution include some of the suggestions outlined above and would mandate enforcement of statutes relating to MDS legislation. These proposals I have suggested, along with augmentation, will reach the initial goals outlined in the annual meeting.

This is a difficult issue, but trying to be fair to everyone ends up not being fair at all. Thank you for your many hours of work towards this issue and I hope some of these suggestions will be useful.

Respectfully,



Steve Machtlen

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Big Bend GMD #5