

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Jackie McClaskey, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

STATE OF KANSAS
BEFORE THE DIVISION OF WATER RESOURCES
KANSAS DEPARTMENT OF AGRICULTURE

IN THE MATTER OF:)
Wichita County Water Conservation Area)
Wichita County, Kansas)
_____)

FINDINGS AND
ORDER DESIGNATING A WATER CONSERVATION AREA

The Chief Engineer of the Kansas Department of Agriculture, Division of Water Resources (“Chief Engineer”) and a group of water right owners, in Wichita County, Kansas have conferred in good faith and have reached an agreement on the designation of the Wichita County Water Conservation Area (“WCWCA”), pursuant to K.S.A. 82a-745.

This document contains the findings of the Chief Engineer and order designating the WCWCA and incorporating the WCWCA Management Plan.

Eligible water rights owners may participate in the WCWCA by entering into a consent agreement among the water rights owners and the Chief Engineer.

I. BACKGROUND

The Kansas Legislature enacted K.S.A. 82a-745 to provide a tool for water right owners to work in conjunction with the Chief Engineer to develop localized Water Conservation Area (“WCA”) management plans. The participants in the proposed WCWCA sought to combine individual water rights into a legally enforceable plan to reduce groundwater pumping to sustain their community by extending the life of the aquifer. A group of Wichita County residents coordinated with Kansas Department of Agriculture (“KDA”) staff to develop a management plan in accordance with K.S.A. 82a-745.

K.S.A. 82a-745 requires that, prior to issuing a consent agreement and order designating a WCA, the Chief Engineer shall notify in writing the groundwater management district(s) within which any participating water right is situated. Such notice was provided on November 3, 2016, to the Western Kansas Groundwater Management District No. 1 ("GMD1"). KDA received GMD1's response recommending approval of the WCA on November 18th, 2016.

Upon review of the WCWCA Management Plan and in consideration of GMD1's recommendation to approve it, the WCWCA Management Plan is found to be acceptable by the Chief Engineer.

II. APPLICABLE LAW

1. K.S.A. 82a-745(a) requires that a WCA management plan form the basis of any consent agreement and order and such management plan shall include the following:
 - a. Clear geographic boundaries;
 - b. The written consent of all participating water right owners within the geographic boundaries;
 - c. A finding that one or more of the circumstances specified in K.S.A. 82a-1036(a) through (d), and amendments thereto, exist;
 - d. Goals and corrective provisions to address any existing circumstances;
 - e. Give due consideration to water users who have previously implemented reductions in water use resulting in voluntary conservation measures;
 - f. Compliance monitoring and enforcement; and
 - g. Be consistent with state law.
2. A consent agreement and order of designation of a WCA shall define the boundaries of the WCA and include the necessary corrective control provisions. K.S.A. 82a-745(b).
3. Any WCA corrective control provisions cannot lessen the conservation effect of any rules and regulations of a governing groundwater management district, requirements of a local enhanced management plan, or requirements of an intensive groundwater use control area. K.S.A. 82a-745(d).
4. The order of designation shall be in full force and effect from the date of its entry in the records of the Chief Engineer's office. K.S.A. 82a-745(c).
5. The consent agreement and order of designation shall provide for periodic review of the consent agreement and order, which may be initiated by the Chief Engineer or upon request of the water right owners in the WCA. The consent agreement and order shall specify the frequency of such periodic review, but a review shall be conducted at least once every 10 years. K.S.A. 82a-745(f).
6. One or more of the following circumstances must be found to exist by the Chief Engineer according to K.S.A. 82a-745(a)(5):

- a. Groundwater levels in the area in question are declining or have declined excessively;
- b. The rate of withdrawal of groundwater in the area equals or exceeds the rate of recharge within such area;
- c. Preventable waste of water is occurring or may occur within the area in question; or
- d. Unreasonable deterioration of the quality of water is occurring or may occur within the area in question. K.S.A. 82a-1036(a) through (d).

IV. FINDINGS

1. Groundwater levels within Wichita County have declined excessively and will continue to decline under the current levels of water use. The amount of decline has been documented by the Kansas Geological Survey and KDA. The Kansas Geological Survey estimates that approximately 65 percent of the original water in storage within this portion of the High Plains aquifer has been removed.
2. The rate of withdrawal of groundwater within Wichita County substantially exceeds the rate of recharge within this area. Information provided by KDA shows that the average county-wide irrigation use was approximately 11.2 inches per acre in 2014. Information provided by the Kansas Geological Survey indicates that the total rate of recharge in 2014 was approximately 0.4 inch.
3. The boundaries of the WCA shall include all of Wichita County, Kansas, and all water rights and their associated places of use and points of diversion that are located within the boundaries of Wichita County, Kansas are eligible to participate in the WCWCA.
4. All the requirements of K.S.A. 82a-745 are met in the attached WCWCA Management Plan, which sets forth the corrective control provisions and plan for conservation, rules for establishing water allocations, and rules for using water while participating in the WCWCA as well as provisions related to membership, duration, compliance monitoring and enforcement, and periodic review.

V. ORDER

THEREFORE, it is ordered by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, that the Wichita County Water Conservation Area is hereby designated and established and shall be in full force and effect as of the date of signature.

The terms and conditions of the WCWCA Management Plan are hereby incorporated and made a part of this order. The water rights participating in the WCWCA by consent agreement shall be

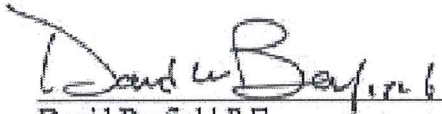
operated in accordance with the provisions in the WCWCA Management Plan, in compliance with state law and the specifics included within their consent agreements.

The consent agreement and order shall be reviewed as required by the WCWCA Management Plan. Such review may be done by initiation of the Chief Engineer or upon the request of the water right owners in the WCA. Such review shall be conducted at least once every ten years.

Upon expiration of the term of the WCWCA, if not renewed, the water rights subject hereto shall be operated in accordance with the terms, conditions, and limitations of such water rights.

IT IS SO ORDERED, THIS 7 DAY OF March, 2017.

FOR THE KANSAS DEPARTMENT OF AGRICULTURE:



David Barfield P.E.
Chief Engineer
Division of Water Resources
Kansas Department of Agriculture

ACKNOWLEDGMENT

State of Kansas

County of Riley

This instrument was acknowledged before me on March 7, 2017
by Kevin Hunter.

CERTIFICATE OF SERVICE

I hereby certify that on this 7 day of March, 2017, true and correct copies of the foregoing were sent via first class, U.S. mail, to the following:

Matt Long
203 S Carter Ave
Leoti, KS 67861

Farrin Watt
206 S Bell St
Leoti, KS 67861

Rex Whalen
106 S Highway 25
Leoti, KS 67861

Tony Winter
501 S 8th ST
Leoti, Ks 67861

Terry Woodbury
1438 County Road 3
Leoti, KS 67861

Lonnie Busch
857 N Highway 25
Leoti, KS 67861

Simone Elder
P.O. Box 585
Leoti, KS 67861

Tammy Simons
885 N County Rd. 18
Marienthal, KS 67863

Frank Mercurio
KLA Environmental Services, Inc.
1303 Yucca St.
Scott City, KS 67871

Amy Peterson
P.O. Box 470
301 Eighth Ave
Rolla, KS 67954

Kevin Hazelton
622 South 11th St.
Salina, KS 67401

Copies furnished electronically to:

Groundwater Management District No. 1
Mike Meyer, Water Commissioner, Garden City Field Office



Kansas Department of Agriculture
Staff Person

