

KANSAS DEPARTMENT OF AGRICULTURE
DIVISION OF WATER RESOURCES
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**IN THE TWENTY-THIRD JUDICIAL DISTRICT
DISTRICT COURT OF GOVE COUNTY, KANSAS**

JON and ANN FRIESEN; FRIESEN FARMS,
LLC, et al.,

Plaintiffs,

vs.

DAVID BARFIELD, P.E., THE CHIEF
ENGINEER OF THE KANSAS DEPARTMENT
OF AGRICULTURE, DIVISION OF WATER
RESOURCES, in his official capacity,

Defendant.

Case No. 2018-CV-000010

Pursuant to K.S.A. Chapter 77

DEFENDANT CHIEF ENGINEER'S ANSWER

COMES NOW, David W. Barfield, Chief Engineer, Division of Water Resources, Kansas Department of Agriculture ("Chief Engineer"), by and through counsel, Kenneth B. Titus, and submits this answer to the Petition for Judicial Review ("Petition"), pursuant to K.S.A. 77-614(d), filed by Jon and Ann Friesen, Friesen Farms, LLC, et al. ("Petitioners"). The Chief Engineer denies each and every allegation not specifically admitted herein.

ANSWER

1. The Chief Engineer is without sufficient knowledge to admit or deny the allegations contained in paragraphs 1 through 51, and therefore denies the same.
2. Paragraphs 52 and 53 are admitted.
3. The Chief Engineer is without sufficient knowledge to admit or deny the allegations contained in paragraphs 54 and 55, and therefore denies the same.
4. Paragraph 56 is admitted in part and denied in part. The Chief Engineer admits that Plaintiff seeks review of the April 13, 2018 Order, however, the Plaintiffs make a legal assertion about the intent of the Legislature, to which no response is required, and accordingly, the Chief Engineer denies the same.
5. Paragraph 57 is admitted in part and denied in part. The Chief Engineer admits that the Order is effective in Gove County, but the Chief Engineer is without sufficient knowledge to admit or deny if any Plaintiffs own land in Gove County, and therefore denies the same.
6. Paragraphs 58, 59, and 60 are admitted.
7. Plaintiffs' allegations in paragraph 61, are legal assertions, to which no response is required. Accordingly, the Chief Engineer denies the same.
8. Paragraph 62 is admitted.
9. The Chief Engineer is without sufficient knowledge to admit or deny the allegations contained in paragraph 63 and therefore denies the same.
10. Paragraph 64 is denied.
11. Plaintiffs' allegations in paragraph 65, are legal assertions, to which no response is required. Accordingly, the Chief Engineer denies the same.
12. The Chief Engineer is without sufficient knowledge to admit or deny the allegations

contained in paragraph 66 and therefore denies the same.

13. Paragraphs 67, 68, and 69 are admitted.

14. The Chief Engineer is without sufficient knowledge to admit or deny the allegations in paragraph 70, and therefore denies the same.

15. Paragraph 71 is admitted.

16. The Chief Engineer is without sufficient knowledge to admit or deny the allegations contained in paragraphs 72 and 73, and therefore denies the same.

17. Paragraphs 74, 75, 76, 77, 78, 79, 80, and 81 are admitted.

18. Plaintiffs' allegations in paragraphs 82 through 162, are legal assertions, to which no response is required. Accordingly, the Chief Engineer denies the same.

19. Paragraph 163 is admitted.

20. Plaintiffs' allegation in paragraphs 164 through 171, are legal assertions, to which no response is required. Accordingly, the Chief Engineer denies the same.

21. Paragraph 172 and 173 are admitted.

22. Plaintiffs' allegation in paragraphs 174, is a legal assertion, to which no response is required. Accordingly, the Chief Engineer denies the same.

23. Paragraph 175 is admitted.

24. Paragraphs 176, 177, 178, 179 and 180 are denied.

AFFIRMATIVE DEFENSES

The Chief Engineer asserts the following affirmative defenses:

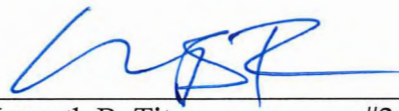
1. The Chief Engineer alleges that the Petition fails to state a claim upon which relief may be granted.

2. The Chief Engineer asserts any and all defenses, affirmative or otherwise, including but

not limited to those which may become known to the Chief Engineer during the course of these proceedings.

WHEREFORE, the Chief Engineer prays that the court deny any and all relief sought by Plaintiffs, and find that, pursuant to K.S.A. 77-621, the Chief Engineer has not violated K.S.A. 82a-1041.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I certify that on the 28th of December 2018, the above *Defendant Chief Engineer's Answer* was electronically filed with the District Court Clerk using the Court's electronic filing system, which will send a notice of electronic filing to registered participants:

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