

STATE OF KANSAS
DIVISION OF WATER RESOURCES
KANSAS STATE BOARD OF AGRICULTURE
TOPEKA, KANSAS

BEFORE GUY E. GIBSON, CHIEF ENGINEER
DIVISION OF WATER RESOURCES
KANSAS STATE BOARD OF AGRICULTURE

IN THE MATTER OF THE PROPOSED DESIGNATION
OF AN INTENSIVE GROUNDWATER USE CONTROL
AREA IN MCPHERSON COUNTY, KANSAS

1380 X
State of Kansas, McPherson Co., SS:

This instrument was filed for record
on the 14 day of April, A.D., 1980
at 8:15 o'clock A. m., and duly recorded
in book M-229 on page 655-67.
Rosalie Nelson
Register of Deeds

The Chief Engineer, Division of Water Resources, Kansas State Board of Agriculture, after having given due consideration to all evidence, testimony and other information presented to him at hearings on September 18, 1979, and October 30, 1979, regarding the proposed designation of an intensive groundwater use control area in an area in the vicinity of McPherson, Kansas, bounded on the north by the north line of Township 19 South, Range 3 West, and Township 19 South, Range 4 West, and bounded on the south by a line two miles south of the south line of Township 19 South, Range 3 West, and Township 19 South, Range 4 West, and on the east and west by the boundaries of the Equus Beds Groundwater Management District No. 2, makes the following findings, conclusions and order:

1. That on March 17, 1978, the Chief Engineer, at the request of the Equus Beds Groundwater Management District No. 2 (hereinafter referred to as the District), declared that until sufficient information was available regarding the availability of water within an area bounded on the north by the North line of Township 19 South, Range 3 West, and Township 19 South, Range 4 West, and bounded on the south by a line two miles south of the South line of Township 19 South, Range 3 West, and Township 19 South, Range 4 West, and on the east and west by the boundaries of the District, applications to appropriate water for beneficial use, other than for domestic use, received on or after March 20, 1978, would be assigned priority dates but would not be acted upon until sufficient information was available to determine the amount of groundwater, if any, that might be available for future appropriation. (Hereinafter this order shall be referred to as the Moratorium.)
2. That on February 13, 1979, the Board of Directors of the Equus Beds Groundwater Management District No. 2 (hereinafter referred to as the Board), recommended that the Chief Engineer, Division of Water Resources, Kansas State Board of Agriculture, initiate proceedings

for the designation of an intensive groundwater use control area (hereinafter referred to as Control Area), in the vicinity of McPherson, Kansas, bounded on the north by the north line of Township 19 South, Range 3 West, and Township 19 South, Range 4 West, and bounded on the south by a line two miles south of the south line of Township 19 South, Range 3 West, and Township 19 South, Range 4 West, and on the east and west by the boundaries of the District; that the Board recommended this action because it felt that (a) groundwater levels are declining and have declined excessively and (b) because of the rate of withdrawal of groundwater in that area has exceeded the rate of recharge in that area;

3. That K.S.A. 1979 Supp. 82a-1036, 82a-1037 and 82a-1038 provide that upon recommendation of the groundwater management district, the Chief Engineer shall initiate, as soon as practicable, proceedings for the designation of a specifically defined area within such groundwater management district as a Control Area; that these statutes further provide the Chief Engineer has the authority and duty to hold a public hearing on the question of designating such area as a Control Area; that the Chief Engineer shall make written notice of the hearing to every person holding a water right in the area in question and publish notice of the hearing by one publication in a newspaper or newspapers of general circulation within the area at least thirty days prior to the date for such hearing; that at the hearing documentary and oral evidence shall be taken and a full and complete record of the same shall be kept;
4. That by letter dated May 24, 1979, the Chief Engineer acknowledged the Board's request for a Control Area hearing (hereinafter referred to as Hearing) and stated that he had initiated proceedings for the designation of a Control Area and would hold a Hearing on that matter; that in this letter the Chief Engineer also set forth the responsibilities of the District regarding such Hearing; that generally the District would be required to present evidence to show why a Control Area should be designated in the District based on the criteria set forth in K.S.A. 1979 Supp. 82a-1036 and to make recommendations as to the boundaries for such a Control Area and recommendations for corrective control provisions that the Chief Engineer should impose if he designated a Control Area;

5. That on August 15, 1979, notice was published in the McPherson Daily Sentinel, a daily newspaper of general circulation in McPherson County, Kansas, regarding the public hearing that would be held at 9:00 a.m. on Tuesday, September 18, 1979, at the McPherson County 4-H Building, 710 West Woodside, McPherson, Kansas, at which time all interested parties would have an opportunity to be heard regarding the proposed designation of Control Area in McPherson County, Kansas; that such notice complied with the statutory requirements of K.S.A. 1979 Supp. 82a-1037; that C. D. Edgall, Business Manager of McPherson Sentinel, provided an affidavit of publication to this fact which was received by the Chief Engineer on August 20, 1979; that as also required by K.S.A. 1979 Supp. 82a-1037, a copy of the notice was mailed to each water right holder in the proposed Control Area as shown in the records of the office of the Chief Engineer including all persons known to the Chief Engineer to have a domestic water right in the area; that notices were also mailed to the managers of the other four groundwater management districts, Mr. Leland Rolfs, Attorney for the Division of Water Resources, Dr. W. W. Hambleton, Director, Kansas Geological Survey, Mrs. Francine Neubauer, Acting Executive Director, Kansas Water Resources Board and Mr. Dwight Metzler, Bureau of Water Supply, Kansas Department of Health and Environment;
6. That on September 14, 1979, in response to the hearing notice, the Chief Engineer received a letter from Mr. Steven L. Stover, 341 North 15th Street, Manhattan, Kansas 66502, stating that he supported a long range planning on water matters and the four-point approach proposed by the District in its article in August, 1979, in the Groundwater News;
7. That on September 14, 1979, in response to the hearing notice, the Chief Engineer received a letter from Mr. Lyle Goering, Route 4, Box 17, McPherson, Kansas, opposing the proposed Control Area because he felt that any landowner should have the first priority to use the amount of water that lies beneath his own land or is recharged by virtue of his land; that he was further opposed to the establishment of a Control Area by anyone besides the persons actually owning land within the proposed Control Area; that he did favor a voluntary study area;

8. That on September 14, 1979, the Chief Engineer received a letter from Melville W. Gray, Director, Division of Environment, Department of Health and Environment, stating that the current rate of use is approximately 165% of the recharge in the proposed area; that he recommended that the District's policy on safe yield, "that balance will be maintained between the recharge to the Equus Beds and total groundwater withdrawals from the Equus Beds," should be implemented in that area by reducing industrial use wherever possible by substituting lower quality water and utilizing conservation techniques, by reducing the amount of water used for irrigation by efficient management and reducing municipal use; that observation wells do show that water with a high chloride content is beginning to migrate from below the Equus Beds in this area into the fresh water and that it is necessary to maintain present static water levels in order to prevent this migration of salt water from posing a serious problem; that the District should consider expanded monitoring and surveillance of the chloride migration in this area of the District; that the City of McPherson should look elsewhere for additional water such as from the sand dunes to the south or Kanopolis Reservoir to the north;
9. That on September 18, 1979, the Chief Engineer, Division of Water Resources, Kansas State Board of Agriculture, held a Hearing at 9:30 a.m. in the McPherson County 4-H Building, 710 West Woodside, McPherson, Kansas, to consider the possible designation of a Control Area in McPherson County, Kansas; that Kenneth M. Wilke, Chief Counsel, Kansas State Board of Agriculture, Leland E. Rolfs, Counsel, Division of Water Resources, and David L. Pope, Assistant Chief Engineer, Division of Water Resources, were also present at the Hearing;
10. That Mr. Thomas A. Adrian, Attorney at Law, appeared on behalf of the District;
11. That Dr. Don Green, Professor in Chemical and Petroleum Engineering, University of Kansas, Lawrence, Kansas, testified on behalf of the District; that Dr. Green testified that he had conducted two research projects at the University of Kansas studying the Little Arkansas River Basin; that the first study was conducted between 1973 and 1975

for the Office of Water Resources Research, U. S. Department of Interior, and that the second was conducted in 1977 for the Bureau of Reclamation;

12. That Dr. Green testified that in 1973 - 1975 a computer model study was made that described the water flow in the Little Arkansas River Basin and the associated groundwater in the Equus Beds; that the study was based on information provided by the Kansas Geological Survey, U. S. Geological Survey, University of Kansas, and the Kansas Water Resources Board relative to groundwater levels, rainfall, river flow in the Little Arkansas River at the Valley Center Gauging Station, rates of groundwater withdrawal, and estimated groundwater recharge; that his part of the project was to provide a computer model to make the calculations necessary for the study; that the area modeled was approximately 1200 square miles, much larger than, but including, the 56 square mile area under consideration as a proposed Control Area; that the model was developed at the University of Kansas by himself and Dr. Ernie Pogge, a civil engineer, and Mr. Roy Knapp, a graduate student; that this modeling was the basis for a report published by the Kansas Water Resources Board in 1975; that the model was again used in 1977 for the Bureau of Reclamation;
13. That Dr. Green further testified that after the computer model was set up, it was matched with the historical data from the area for the period 1946 to 1970 to see if the model was valid; that the model utilized rainfall data to predict runoff and then compared these figures with runoff as shown at the Valley Center Gauging Station on the Little Arkansas River and that such predictions were quite accurate on a historical basis; that the cumulative deviation between the actual historical data relative to streamflow and the computer run was less than 10%; that the study also compared calculated groundwater levels with the data from a limited number of observation wells in the McPherson area; that this comparison also seemed to be very favorable with the historical data; that once the model was validated, at the request of the Water Resources Board the model was used in 1975 to predict what might happen in the area until about the year 2000; that the future rates of withdrawal of groundwater in the area were estimated by the Kansas Water Resources Board; that the Water Board made three estimates as to what future withdrawals might be based on: current usage, most likely usage and the greatest expected usage;

- that rainfall was predicted based on using prior sequences of rainfall in the area; that the model predicted there was a potential problem around McPherson because the drawdown, relative to the size of the aquifer, was very significant; that the Little Arkansas River Basin study showed that near the City of McPherson, the saturated thickness could be dewatered by as much as 80% by the year 2000;
14. That Dr. Green further testified that the model was again utilized in 1977 for the Bureau of Reclamation and that the rates of water use that existed in the period 1974 to 1976 were used to make the predictions and that the calculations still showed that in the McPherson area there would be a significant drawdown; that in 1977 calculations were also made using increased rates of withdrawal based on Kansas Water Resources Board projections for the period 1983 to 1985 and then a third calculation using the rates of withdrawal predicted by the Water Board for the year 1999;
 15. That Dr. Green further testified that based on this study he concluded that the aquifer was able to sustain the 1974 to 1976 rates of pumping except in the northern area of the study, near McPherson, and that these drawdowns were projected to be so large that the 1974 to 1976 rates could not be maintained; that in his opinion the rate of withdrawal in the Control Area exceeds the recharge rate; that by 1990 various portions of the area around McPherson will have difficulties; that some water difficulties would begin in the late 80's in the moratorium area because the withdrawal rate is exceeding the apparent recharge by a significant amount; that he sees nothing that would change the general outcome of the model study if the model study were run on the critical groundwater use area alone;
 16. That Mr. Thomas McClain, Hydrologist for the Kansas Geological Survey, testified on behalf of the District; that he testified that Carl McElwee, Manier Butt and he conducted a computer model study of the Control Area; that he used a different model from Dr. Green's, and although they did use somewhat the same procedures for gathering the data, they used data not available through Dr. Green; that the study encompassed a slightly larger area than the Control Area; that his part of the study was to gather geologic and hydrologic information and compile it for use in the model although he was not involved in

the actual modeling itself; that Dr. McElwee put the information into the model and drew the conclusions; that the precipitation information was collected by Kansas State University studies and withdrawal rates were compiled from water use reports collected by the District and the Division of Water Resources; that they lacked historical data in the moratorium area to do a historical match with the computer; that he introduced as an exhibit a study entitled "A Model Study of the McPherson Moratorium Area in Groundwater District 2" by Carl McElwee, Thomas McClain and Manier Butt, April of 1979;

17. That Mr. McClain also testified that the saturated thickness is about 160 feet thick in the thickest part of the aquifer in the moratorium area; that there is underground lateral inflow from the west, east and south and outflow to the north; that the saturated thickness is less than 80 feet near the edges of the Control Area; that the inputs would be recharge from precipitation and recharge from irrigation; that the outputs would be groundwater flowing out of the area to the north, and discharge from wells; that the average annual precipitation is 29 inches in this area; that the estimated recharge is approximately 1 to 3 inches; that there was approximately 4,000 acre feet of recharge due to underground inflow to the study area and 6,000 acre feet of recharge from precipitation, for a total of 10,000 acre feet of recharge to the Control Area; that there was approximately 15,000 acre feet per year discharge from pumpage of wells; that there was approximately 1,400 acre feet per year outflow to the north for a total of 16,400 acre feet per year discharge; that this is a net deficit for the area of approximately 6,000 acre feet per year; that the moratorium area is 35,854 acres; that the aquifer holds about 18% water so with a one foot of decline there is 6,500 acre feet of water used; that the wells in the area are declining approximately one foot per year which would correspond with an annual deficit of 6,500 acre feet per year; that the study utilized eight observation wells in the moratorium area and six around the edge of the moratorium area, a total of 14; that his study compares favorably with Dr. Green's study inasmuch as they were done differently; that although not enough studies have yet been done there is a possibility that a lowering of the head of the fresh water might cause the salt water beneath it to come up into the fresh water zones in the moratorium area;

18. That Dr. Carl D. McElwee, Geophysicist, Kansas Geological Survey, Groundwater Section, testified on behalf of the District; that he testified that his part in the "Model Study of the McPherson Moratorium Area in Groundwater Management District Number 2" was to provide the modeling expertise to make projections as to water availability in that area; that the study was conducted at the request of the Division of Water Resources and the District; that the data that must go into the computer model is: the bedrock elevation, the static water levels, hydraulic conductivity, specific yield, pumpage; that they used a specific yield of 18%; that the hydraulic conductivity was 100 feet per day; that the pumpage figures were obtained from the District and the Division of Water Resources; that several different values of pumpage were used in making the projections: one used the approved, or pending, approvals of acre-feet per year on all applications filed in the area; the other used an average of actual water use reports over the five year period between 1973 and 1977 and if there were no pumpage reports available, they used the quantity approved on the application; that then they made projections using 80 percent and 90 percent of the reported pumpages; that Exhibit 4 shows the model output of saturated thickness and water level decline every five years for 15 years under the various withdrawal techniques described above;
19. That Dr. McElwee also testified that the total approved or requested water rights in the area totals 25,672 acre feet per year; that based on the water use reports 16,263 acre feet of water is actually being pumped every year; that using the average annual reported pumpage figures they projected that after 15 years there would be 675,000 acre feet of the original 900,000 acre feet of water left; that the area is showing general moderate declines of water levels with two areas in particular experiencing more dramatic decline; that these two problem areas reflect the industrial activity near Conway and the municipal pumpage by the City of McPherson; that the water level declines after 15 years vary from ten to fifty feet; that the general trend is clear that there are declining water levels in this Control Area; that these water level declines are based on the fact that there will be no future developments; that he concluded that drawdowns in the Control Area were excessive because the current level of appropriation cannot be sustained; that appropriations in the area

would need to be reduced from one third to one half in order to establish a steady state situation in the Control Area;

20. That Mr. Thomas Bell, Manager, Equus Beds Groundwater Management District No. 2, testified on behalf of the District; that Mr. Bell testified that wells inside the moratorium area seem to exhibit continuing declines even during years of above normal precipitation and that is how the boundaries of the moratorium area were determined; that declines in the moratorium area since 1970 range from four to eleven feet; that within the boundaries of the McPherson moratorium area there are two vested rights, ten certificates of appropriation, 23 approved applications which have notice and proof of completion of works, 34 approved applications without notice and proof of completion of works, and seven applications which have been filed but not approved because they were filed after the moratorium was put into effect; that the total number of acre feet of water represented by all the applications in the moratorium area filed prior to the moratorium is 24,395 acre feet; that there are 97 non-domestic wells in the moratorium area; that pending applications filed after the moratorium totaled 1,184 acre feet; that based on an estimated 62 households in the moratorium area and three individuals per household at 100 gallons per day per person, domestic use of water in the area would be approximately 21 acre feet per year; that the reported water use for 1974 was 4,916 acre feet and for 1978 was 14,497 acre feet; that the total recharge from rainfall, irrigation and lateral inflow totaled roughly 10,000 acre feet per year to the moratorium area; there was estimated to be 15,000 acre feet of water pumped per year, total lateral underground outflow to the north of 1,400 acre feet per year for a total discharge of 16,400 acre feet per year; that this leaves a deficit of approximately 6,400 acre feet per year; that the Board had considered all the exhibits shown at the hearing and hydrographs which it feels is the best available information to date concerning McPherson moratorium area; that based on that information the Board had adopted a resolution on September 11th concerning proposed corrective control provisions for the McPherson moratorium area;
21. That Mr. Bell read the Board's preliminary recommendations for corrective controls into the record; which stated in essence that the Control Area have the same boundaries as the present moratorium area and that no additional non-domestic appropriations should be allowed and that

- the area should be monitored to obtain better information and that such information should be annually reevaluated to see if any changes in the control provisions were desirable; that he recommended between 25 and 50 observation wells be monitored inside the moratorium area; that it was his opinion as a hydrologist that the hydrographs taken from the moratorium area, which he presented, represent an overall continuing decline in the water levels in that area;
22. That Mr. Donald Kostecki, Hydrologist and Meteorologist for the Kansas Water Resources Board, testified on behalf of Francine Neubauer, Acting Executive Director for the Kansas Water Resources Board; that ". . . the adequate management of the water resources in the area in question is a necessity to insure continuous and adequate water supply of good quality for urban and rural population. . . . The management district is working to meet these needs and has requested the designation of an intensive groundwater use control area in the McPherson area. We support that request."
23. That Mr. Lyle Gene Goering testified on his own behalf; that he was opposed to the creation of the Control Area because he felt that when he acquired the land in that area he was entitled to use all of the water that was beneath that land and that imposition of a moratorium on wells deprived him of that right in violation of the United States Constitution;
24. That Richard G. Luthi, local implement dealer in McPherson, testified on his own behalf; he testified that irrigation of land returns three times the dollars that dry land farming returns and that most of them are spent in the local community and that each dollar will turn over approximately seven times; that irrigation has helped to make McPherson prosper; that he was in favor of metering water use before any more drastic conservation measures are taken in the area;
25. That Mr. George Moors, an irrigator, testified on his own behalf and stated that he opposed the Control Area because the present program is working and he would like to continue with that program; that there should be additional test wells in the area; that he was not opposed to the current moratorium but was opposed to any more further rigid controls; that the area should receive further intensive study;
26. That at the request of the District the Chief Engineer continued the hearing until October 30, 1979, to allow the District to submit a final recommendation concerning proposed corrective control provisions for the Control Area;

27. That by letter dated October 15, 1979, Thomas C. Bell, Manager of the Equus Beds Groundwater Management District No. 2, forwarded to the Chief Engineer a copy of the Resolution concerning corrective control provisions for the McPherson moratorium area; that such recommendations were as follows:

- A. A provision stating the boundaries of the intensive groundwater use control area shall be the north line of Township 19 South, Range 3 West, and Township 19 South, Range 4 West, and extending to a line two miles south of the south line of Township 19 South, Range 3 West, and Township 19 South, Range 4 West, as enclosed by the boundaries of the Equus Beds Groundwater Management District No. 2;
- B. A provision stating the Chief Engineer shall close the intensive groundwater use control area to any further appropriation of groundwater, except for domestic use, in which event the Chief Engineer shall refuse to accept any application for a permit to appropriate groundwater within the area for any use except domestic use, or any application filed for a temporary appropriation of groundwater;
- C. A provision stating that all applications to appropriate water filed after the effective date of the moratorium and prior to the declaration of an intensive groundwater use control area be denied;
- D. A provision requiring the installation of flow meters on all non-domestic water wells existing in the area prior to the date of an order by the Chief Engineer, to be installed by June 1, 1980. The meters shall meet or exceed the Minimum Specifications For Flow Meters Required On Authorized Points Of Diversion as listed in the Revised Management Program (January 24, 1979) of the Equus Beds Groundwater Management District. Flow meters installed on all wells after the date of an order by the Chief Engineer shall meet the minimum specifications for meters currently in effect in the District;
- E. A provision stating the Kansas Geological Survey, Kansas Water Resources Board, or the Division of Water Resources, State Board of Agriculture, shall annually measure a greater number of wells than are presently measured in the area, the number and location to be agreed upon between the Equus Beds Groundwater Management District and the measuring agency;

- F. A provision stating that reported water use and static water level information shall be reviewed annually by the Board of Directors of the Equus Beds Groundwater Management District;
- G. A provision stating that pending the receipt of sufficient additional static water level and water use information during ensuing years, additional corrective control provisions may be enacted in the future to provide either greater or lesser restrictions concerning the use and appropriation of groundwater within the area;
- H. A provision stating that all provisions of this order may be extended, expanded, amended, or revoked in whole or in part at any time by the Chief Engineer of the Division of Water Resources, State Board of Agriculture; and whenever such action is proposed either by the Board of Directors of the Equus Beds Groundwater Management District or the Chief Engineer, the Chief Engineer shall initiate an investigation and hold a hearing or hearings on the question of said change.
28. That on October 23, 1979, all persons and parties notified of the original hearing were sent notice of the hearing which was continued until October 30, 1979, at the original hearing; that on October 30, 1979, Guy E. Gibson, Chief Engineer, appointed Leland E. Rolfs, Counsel, Kansas State Board of Agriculture, as hearing officer in the matter of the hearing to be conducted on October 30, 1979, in the office of the Chief Engineer relative to the matter of the Control Area in McPherson County, Kansas;
29. That on October 30, 1979, at 1:40 p.m., a hearing was held before Leland E. Rolfs, Legal Counsel, Division of Water Resources, Kansas State Board of Agriculture, at 1720 South Topeka Avenue, Topeka, Kansas; that Mr. David L. Pope, Assistant Chief Engineer, and Mr. Jim Bagley, Acting Head of the Water Appropriation Section, were present at the hearing; that Mr. Pope introduced into the record the letter from Mr. Tom Bell, Manager of the District, regarding the Resolution adopted by the District concerning corrective control provisions for the Control Area; that Mr. Don Kostecki, Senior Meteorologist, Kansas Water Resources Board, testified on behalf of the Board and stated the Board had reviewed the final recommendations by the Board of the District and stated that the Kansas Water Resources Board endorsed the District's recommended corrective control provisions;

30. That there being nothing further to be brought before the Chief Engineer regarding the Control Area in McPherson, Leland E. Rolfs declared the hearing closed at 1:57 p.m. on October 30, 1979;
31. That K.S.A. 1979 Supp. 82a-1038 provides:

"(a) In any case where the chief engineer finds that any one or more of the circumstances set forth in K.S.A. 1978 Supp. 82a-1036 exist and that the public interest requires that any one or more corrective controls be adopted, said chief engineer shall designate, by order, the area in question, or any part thereof, as an intensive groundwater use control area.

(b) The order of the chief engineer shall define specifically the boundaries of the intensive groundwater use control area and shall indicate the circumstances upon which his or her findings are made. The order of the chief engineer may include any one or more of the following corrective control provisions: (1) A provision closing the intensive groundwater use control area to any further appropriation of groundwater in which event the chief engineer shall thereafter refuse to accept any application for a permit to appropriate groundwater located within such area; (2) a provision determining the permissible total withdrawal of groundwater in the intensive groundwater use control area each day, month or year, and, insofar as may be reasonably done, the chief engineer shall apportion such permissible total withdrawal among the valid groundwater right holders in such area in accordance with the relative dates of priority of such rights; (3) a provision reducing the permissible withdrawal of groundwater by any one or more appropriators thereof, or by wells in the intensive groundwater use control area; (4) a provision requiring and specifying a system of rotation of groundwater use in the intensive groundwater use control area; (5) any one or more other provisions making such additional requirements as are necessary to protect the public interest.

(c) The order of designation of an intensive groundwater use control area shall be in full force and effect from the date of its entry in the records of the chief engineer's office unless and until its operation shall be stayed by an appeal therefrom in accordance with the provisions of subsection (d) of K.S.A. 1978 Supp. 60-2101. The chief engineer upon request shall deliver a copy of such order to any interested person who is affected by such order, and shall file a copy of the same with the register of deeds of any county within which such designated control area lies."

CONCLUSIONS

1. That the groundwater levels in the area in question have declined;
2. That the rate of withdrawal of groundwater within the area in question exceeds the rate of recharge in that area;
3. That the area should be closed to further non-domestic, non-temporary, and non-short-term appropriation;
4. That the applications to appropriate water for beneficial use within the moratorium area filed after March 20, 1978, which have been held by the Chief Engineer, but not acted upon, should be dismissed because the rate of withdrawal of groundwater was exceeding the rate of recharge at the time the moratorium was imposed and the rate of withdrawal of groundwater has continued to exceed the rate of recharge in that area since that time, and therefore no water is available for appropriation by virtue of those applications.

ORDER

NOW, THEREFORE, It is the decision and order of the Chief Engineer, Division of Water Resources, Kansas State Board of Agriculture, that an intensive groundwater use control area should be and is hereby established in McPherson County, Kansas, within the boundaries set forth below, and the following corrective control provisions shall be in full force and effect within the area described from and after the date of this Order:

1. That the boundaries of the District shall be: the north line of Township 19 South, Range 3 West, and Township 19 South, Range 4 West, and extending to a line two miles south of the south line of Township 19 South, Range 3 West, and Township 19 South, Range 4 West, as enclosed by the boundaries of the Equus Beds Groundwater Management District No. 2;
2. That this intensive groundwater use control area shall be closed to further groundwater appropriation except for domestic use or any use authorized by temporary permit granted under the authority of K.S.A. 82a-727; that the Chief Engineer shall refuse to accept any other application for a permit to appropriate groundwater within the intensive groundwater use control area, except that the Chief Engineer further reserves the right to accept, consider, approve, reject or modify any application to appropriate groundwater requesting approval for the use of water within the intensive groundwater use control area for a period not to exceed one calendar year; that any such application approved by the Chief Engineer shall be subject to such terms, conditions and limitations as the Chief Engineer shall deem necessary in the public interest;
3. That all applications to appropriate water filed on or after the effective date of the moratorium, March 20, 1978, and prior to the date of this Order declaring an intensive groundwater use control area, shall be dismissed;
4. That by June 1, 1980, flow meters shall be installed on all water wells now existing in the intensive groundwater use control area except on those wells used solely for domestic purposes and those wells authorized by temporary permits; that these meters shall meet or exceed the specifications for flow meters adopted by the Chief Engineer on March 27, _____, 1980, unless a written waiver is obtained from the Chief Engineer prior to the use of the well; that

- flow meters shall be installed on all water wells, except those to be used solely for domestic purposes and those authorized by temporary permits, drilled after the date of this Order; and those flow meters shall meet or exceed the specifications required by the Chief Engineer at the time the well is drilled unless a written waiver is obtained from the Chief Engineer prior to use of the well; that each water right holder in the intensive groundwater use control area shall file water use reports no later than February 1 of the year following the usage; that in addition to reporting the information normally required in the water use reports, each water right holder shall also report:
- (a) the depth to static water level in each well in the intensive groundwater use control area determined and in a manner acceptable to the Chief Engineer, (b) the serial number of the water meter, and (c) the meter reading at the beginning and end of the calendar year;
5. That the meters installed in accordance with paragraph number 4 shall be maintained in a condition satisfactory to the Chief Engineer;
 6. That paragraph numbers 4 and 5 of this Order are hereby incorporated as terms, conditions and limitations of each approved application for a permit to appropriate water for beneficial use, certificate of appropriation or vested right for all wells located within the intensive groundwater use control area as described in paragraph number 1;
 7. That the Board of Directors of the Equus Beds Groundwater Management District No. 2 shall annually review all the water use and static water level information and other water related information in the intensive groundwater use control area; that annually the Equus Beds Groundwater Management District No. 2 may, no later than April 1, request a rehearing before the Chief Engineer on the matter of the boundaries of the Equus Beds Groundwater Management District No. 2, the reconsideration of corrective control provisions or any other matters relative to the establishment of this intensive groundwater use control area;
 8. That in all other respects not inconsistent with this Order, the Chief Engineer shall continue to administer water rights and process applications filed pursuant to the Kansas Water Appropriation Act in accordance with the Kansas Water Appropriation Act and rules and regulations and policies in effect in Equus Beds Groundwater Management District No. 2;

9. That the Chief Engineer specifically retains jurisdiction in this matter with authority to make such changes in the boundaries of the intensive groundwater use control area or the corrective control provisions which have been instituted within the area or any other provisions of this Order which he may deem to be in the public interest.

Dated at Topeka, Kansas, this 28th day of March, 1980.



Guy E. Gibson

Guy E. Gibson, Chief Engineer
Division of Water Resources
Kansas State Board of Agriculture

20.00 (Env.)
Division of Water Resources,
1720 S. Topeka Ave.
Topeka, Kansas 66612