

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

IN THE MATTER OF:)
) Water Right, File No(s).
) 19986, 28295, & 28296
Smith Farms Water Conservation Area)
Greeley & Wallace Counties, Kansas)
_____)

CONSENT AGREEMENT AND
ORDER DESIGNATING A WATER CONSERVATION AREA

The Chief Engineer of the Kansas Department of Agriculture, Division of Water Resources (“Chief Engineer”), and Ray P. Smith & Snyder Ground Company, owner(s) of water rights located in Greeley & Wallace Counties, Kansas have conferred in good faith and have reached an agreement on the designation of the Smith Farms Water Conservation Area, pursuant to K.S.A. 82a-745.

This document contains the findings of the Chief Engineer, the order designating the this WCA and incorporating the Smith Farms WCA Management Plan dated February 06, 2018 and attached hereto, and the consent agreement between the Participants and Chief Engineer.

Pursuant to the Smith Farms WCA Management Plan, additional lands, places of use, and water rights may be added by entering into a consent agreement with approval of the Chief Engineer and all parties, which shall incorporate this order and the Smith Farms WCA Management Plan.

I. BACKGROUND

The Kansas Legislature enacted K.S.A. 82a-745 to provide a tool for water right owner(s) to work in conjunction with the Chief Engineer to develop localized Water Conservation Area (“WCA”) management plan. The Participants in the proposed WCA seek to reduce groundwater pumping to sustain their community by extending the life of the aquifer. The owner(s) 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 February 23, 2018 to the Groundwater Management District (GMD) #1. GMD#1 reviewed the Smith Farms WCA Management Plan and provided written comments to KDA-DWR on March 21, 2018.

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Division of Water Resources

Upon review of the Smith Farms WCA Management Plan and in consideration of GMD#1 comments, the Smith Farms WCA 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 owner(s) 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 owner(s) 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 pursuant 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).
7. In order to provide flexibility in the management of water resources, the Chief Engineer may authorize the use of any measure allowed pursuant to K.S.A. 82a-745(e) through (g), subject to any restrictions listed in the same.

III. FINDINGS

- i. Groundwater levels in the area in question are declining or have declined excessively;
- ii. The rate of withdrawal of groundwater in the area exceeds the rate of recharge.

VI. CONSENT AGREEMENT

This document and the attached Smith Farms WCA Management Plan shall serve as a consent agreement among the Chief Engineer and the undersigned water right owner(s) to enroll water right(s) in the Smith Farms Water Conservation Area and to be bound by the terms, conditions, corrective control provisions, and conservation plan contained in the Smith Farms WCA Management Plan and elsewhere in this document for a term described in the Smith Farms WCA Management Plan.

The following water right shall be considered a part of this WCA: Water Right Nos. 19986, 28295, & 28296.

This agreement shall be applied to and enforceable against any and all heirs, assigns, purchasers, or successors-in-interest, unless the participants and Chief Engineer otherwise agree pursuant to modifications hereto. A copy of this Consent Agreement and Order Designating a WCA shall be filed with the register of deeds in Greeley & Wallace Counties.

Pursuant to the Kansas Administrative Procedure Act, K.S.A. 77-501 *et seq.*, the Kansas Judicial Review Act, K.S.A. 77-601, *et seq.* or by any other applicable Kansas law, participants waive all right to a hearing on or appeal of this agreement and Order Designating a Water Conservation Area.

V. ORDER

THEREFORE, it is ordered by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, that the Smith Farms Water Conservation Area is hereby designated and established and shall be in full force and effect from the date of its entry in the records of the Chief Engineer's office.

The terms and conditions of the Smith Farms WCA Management Plan are hereby incorporated and made a part of this consent agreement and order. The water right participating in this WCA, by consent agreement, shall be operated in accordance with the

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CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of April, 2018 copies of the foregoing were sent via first class, U.S. mail, to the following:

RAY P SMITH
695 KANSAS 27
SHARON SPRINGS KS 67758-6029

SNYDER GROUND CO
695 KANSAS 27
SHARON SPRINGS KS 67758

Julie Jones
Kansas Department of Agriculture
Staff Person

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**Garden City Field Office
Division of Water Resources**

MANAGEMENT PLAN

**For the Designation of a Water Conservation Area (WCA)
Smith Farms WCA; Greeley & Wallace Counties, KS
January 2017 through December 2026**

In order to conserve and extend the productive life of the aquifer in our region and increase the value and viability of our water rights and water resources for future generations we, the undersigned water right owners propose the following management plan, pursuant to K.S.A. 82a-745 (WCA Law), to form the basis of a Consent Agreement and Order Designating a Water Conservation Area (WCA).

Expression of Conservation Goals

The goals of this WCA are to maintain production while enhancing profitability per acre-foot of water pumped, to examine and change current conservation practices as necessary, and to reduce water use over the term of the WCA from long-term averages. We, the water right owners, enrolling in a consent agreement under the terms and conditions of this WCA management plan will work towards these goals by exercising more flexible and efficient use of the water resource.

We, the water right owners are consenting to the terms and conditions of this WCA and commit to reducing water use for ten (10) years, in two five (5) year increments, through a reduction in the long-term water use average (2003-2012). The first 5-years (2017-2021) will be a 15% conservation factor and the second 5-years (2022-2026) will be a 20% conservation factor.

Water Rights Enrolled and Geographical Boundaries

The Smith Farms WCA shall include the following water rights and all points of diversion associated with those water rights. The following legal descriptions define the areas included in Smith Farms WCA in Greeley and Wallace counties:

Water Right#	PDIV#	Sect-Twp-Range	Authorized Annual Quantity (AF)	Historical Ave. Use (06-15) (AF)
19986	6065	36 15S 41W	320	143.751
28295	33942	13 16S 41W	373	123.340
28295	85784	14 16S 41W		153.142
28296	32710	01 16S 41W	210	158.887

Totals 903.000 579.120

The current total appropriations authorized for all water rights included in the Smith Farms WCA are 903 acre-feet (AF) per year, with an average annual use during the period 2003-2012 of 579.120 AF. With a 15% reduction from historical use, the first (2017-2021) 5-Year WCA

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allocation is 2,461.260 AF. With a 20% reduction from historical use, the second (2022-2026) 5-Year WCA allocation is 2,316.480 AF.

WCA Summary 2017-2021:

Average Yearly Use (2003-2012)	579.120	Acre-Feet
15% Conservation Allocation	492.252	Acre-Feet
WCA 1 st 5-Yr Total Allocation	2461.260	Acre-Feet

WCA Summary 2022-2026

Average Yearly Use (2003-2012)	579.120	Acre-Feet
20% Conservation Allocation	463.296	Acre-Feet
WCA 2 nd 5-Yr Total Allocation	2316.480	Acre-Feet

The geographic boundary for the place of use for the irrigation use is shown on the attached map and is described as follows:

WCA Authorized Place of Use																			
Sec	T (S)	R (W)	NE (1/4)				NW (1/4)				SW (1/4)				SE (1/4)				Total Acres
			NE (1/4)	NW (1/4)	SW (1/4)	SE (1/4)	NE (1/4)	NW (1/4)	SW (1/4)	SE (1/4)	NE (1/4)	NW (1/4)	SW (1/4)	SE (1/4)	NE (1/4)	NW (1/4)	SW (1/4)	SE (1/4)	
36	15	41									40	40	40	40					160.00
13	16	41	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640.00
14	16	41	35	35	38	40									38	40			226.00
6	16	40					40.24	52.57											92.81
1	16	41	39.9	40	40	40	20			20					40	40	40	40	359.92
Grand Total Acres																			1478.73

Authorized Place of Use Note: The authorized place of use located in section 06-16S-40W is also authorized in Lot 3 in the Northeast Quarter of the Northwest Quarter (NE¹/₄NW¹/₄) & Lot 4 in the Northwest Quarter of the Northwest Quarter (NW¹/₄NW¹/₄). The land in section 01-16S-41W is also authorized in Lot 1 in the Northeast Quarter of the Northeast Quarter (NE¹/₄NE¹/₄), Lot 2 in the Northwest Quarter of the Northeast Quarter (NW¹/₄NE¹/₄), and 20 acres in Lot 3 in the Northeast Quarter of the Northwest Quarter (NE¹/₄NW¹/₄).

Findings Regarding Groundwater Conditions

We understand that the WCA Law requires a finding that one of the following circumstances be present within the area geographic boundaries of this WCA; specified in K.S.A. 82a-1036 (a) through (d):

- 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 questions; or
- d) Unreasonable deterioration of the quality of water is occurring or may occur within the area in question

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And amendment thereto, exist, or include a finding or findings that the area within the geographic boundaries described in paragraph (1) has been closed to new appropriations by rule, regulation or order of the Chief Engineer.

We have been informed that the following conditions exist:

- Groundwater levels in the area in question are declining or have declined excessively.
- The rate of withdrawal of groundwater in the area exceeds the rate of recharge.

See the attached maps and figures supporting these findings and observations. Such attached documents may include:

- Location Maps
- Estimated Useable Life Maps
- Changes in Water Levels
- Summary of Water Use History
- KGS Observation Well(s) Data (if applicable)
- KDA-DWR This analysis report (if applicable)

These conditions suggest the advisability of implementing the Smith Farms WCA.

Due Consideration for Past Conservation

We acknowledge that as described in the law, a water conservation area (WCA) management plan shall give due consideration to water users who have previously implemented reductions in water use resulting from voluntary conservation measures.

We, the water right owners are committed to best water management practices and do not require any specific consideration of past water conservation in determining these allocations with the aim of, the conservation of the Ogallala aquifer and to preserve the viability of irrigated agriculture within Greeley and Wallace counties. As enumerated below we, the Smith Farms WCA owners, request that its further conservation under this plan be considered in any LEMA proposed for the area or in a subsequent WCA under the terms herein.

Corrective Control Provisions and Plan for Conservation

We acknowledge that the following corrective controls will be in effect within the Smith Farms WCA during the term of the WCA:

- 1) Water rights, at the discretion of the owners, may be pumped as directed by the owner, provided that:
 - a. The sum of water use under all water rights combined shall be limited to no more than 2,461.260 AF from 2017-2021.
 - b. The sum of water use under all water rights combined shall be limited to no more than 2,316.480 AF from 2022-2026; plus any unused WCA allocation from 2017-2021 WCA period up to 492.252 AF.
 - c. All points of diversions are limited to their current authorized pumping rates.

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- d. Water right #19986 cannot exceed 320 AF in any calendar year.
 - e. Water right #28296 cannot exceed 250 AF in any calendar year; and cannot exceed 1,050 AF (5 x 210 AF) within the 5-year periods of this WCA.
 - f. The two points of diversion under water right #28295 cannot exceed 373 AF in any calendar year; and cannot exceed 1,865 AF (5x 373AF) within each of the 5-year periods of this WCA.
 - i. The point of diversion located in section 14-16S-41W, under water right #28295, may use up to 240 AF in any calendar year but cannot exceed 1,115 AF (5x 223AF) within each of the 5-year periods of this WCA.
 - ii. The point of diversion located in section 13-16S-41W, under water right #28295, may use up to 167 AF in any calendar year but cannot exceed 835 AF (5x 167 AF) within each of the 5-year periods of this WCA.
- 2) The corrective control provisions of the Smith Farms WCA cannot conflict with the rules and regulations of the local GMD that result in greater overall conservation of water resources. If a Local Enhanced Management Area (LEMA) plan or an Intensive Groundwater Use Control Area (IGUCA) is formed after the initiation of the Smith Farms WCA, and the WCA is partially or wholly within the LEMA or IGUCA, the corrective control provisions that result in the greater overall conservation of water resources based on inches per acre and not based on percent reduction of average historical use shall prevail. However, any LEMA or IGUCA must give due consideration to the conservation achieved by WCA participants pursuant to 82a-745(a)(6). The Chief Engineer is authorized to amend the provision of the WCA to conform to any rules, regulations, or requirements that result in greater conservation of the water resource subject to the foregoing due consideration for past and current conservation.

We, the water right owners enrolling in this WCA understand we may gain the following flexibilities in consideration for our conservation.

- 3) Up to 1/5th (492.252 AF) of the annualized WCA allocation may be carried over and added to a subsequent WCA period after 2021; if unused during the duration of the first 5-year WCA period (2017-2021).
- 4) Up to 1/5th (463.296 AF) of the annualized WCA allocation may be carried over and added to a subsequent WCA period after 2026; if unused during the duration of this WCA period. In order to for the carryover quantity to be included, all owners must enter into agreement to participate into a subsequent WCA by December 31st of the last year of this WCA period.

Compliance Monitoring and Enforcement

We, the owners, understand that the following compliance monitoring and enforcement provisions are proposed. This section also includes any specific provisions regarding measuring or reporting water usage.

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There are two (2) recognized observation wells within one (1) mile of the Smith Farms WCA that have for many years been measured annually by the Kansas Geological Survey (KGS). See attached water right area map. These wells will continue to be measured annually and the data collected will help in evaluating the effectiveness of the WCA. An onsite observation well may be necessary to monitor the local water level more accurately.

We will submit an annual report no later than March 1st and maintain a spreadsheet detailing the following information for each well and all wells combined: beginning and ending meter readings, quantity of water diverted, acres irrigated, the inches per acre, and the quantity of water remaining for the first five-year period and each following five-year period. The records will be available to KDA-DWR upon request.

We will ensure backup measurements will be supported or an alternate measurement device will be available to be put into service in case the water flowmeter record for any given well is questionable or not reliable.

We acknowledge that water flowmeters within the WCA will be sealed to the measurement chamber by KDA-DWR during the duration of this management plan to ensure an accurate water use record.

We, water right owners within the Smith Farms WCA shall be responsible for ensuring the water flowmeters comply with state and local law(s). Any water right owner or authorized designee who finds a flow meter that is inoperable or inaccurate shall within 48 hours contact the KDA-DWR concerning the matter. Whenever an inoperable or inaccurate meter is repaired or replaced, the owner or authorized designee shall notify the KDA-DWR within seven (7) days on a form prescribed by the Chief Engineer of the water flowmeter installation and any water flowmeter repair or replacement event.

We acknowledge that failure to abide by the terms of this agreement may result in the termination of the WCA. Failure to abide by the terms, conditions, and limitations of the individual water rights will be subject to the civil penalties outlined in K.A.R. 5-14-10 and K.A.R. 5-14-12.

Review of Effectiveness

We acknowledge that a review of the WCA shall be completed before November 1, 2021, to ensure the above terms remain appropriate and are achieving the stated goals of the Smith Farms WCA. We understand that upon review, and a finding by the Chief Engineer that the WCA has achieved its goals and that conditions allow it to continue under the same terms for another 5-year period, the terms of the WCA may be continued as long as Smith Farms WCA is in good standing with its most recent WCA period. Should the Chief Engineer find that the terms are no longer appropriate or that no progress has been made towards the stated goal, the Chief Engineer may refuse to renew a WCA and may suggest new terms and goals. We understand that upon review, and a finding by the Chief Engineer that the WCA has achieved or made progress towards its goals and that the same terms may be included in a subsequent WCA for another designated period. The terms of the WCA may be continued as long as Smith Farms WCA is in good standing with its most recent WCA period and upon formal approval by the Chief Engineer. The Chief Engineer shall issue findings addressing the terms and goals of the existing management plan prior to any renewal of a subsequent WCA.

We acknowledge that unless terminated under the provisions below (e.g. due to the development of a LEMA), the WCA will be in effect for the listed period with an evaluation at the end of every WCA period. We understand that KDA-DWR will conduct this evaluation to ensure compliance and conservation. The evaluation will determine total water use during the WCA period.

We acknowledge that should an order of designation for a LEMA be implemented prior to end of this WCA period, an evaluation of this WCA will be conducted the year prior to the start of a LEMA. This evaluation may be used to determine an additional allocation amount of water to be carried over into a LEMA; should this be the case.

Member addition, withdrawal, and removal

We acknowledge that water right owners and their associated water rights and geographic boundaries may be added to the WCA upon written notification to the Chief Engineer by the owners of each enrolling water right with legal descriptions of the areas to be added. A member may withdraw from the WCA through written notification to the Chief Engineer signed by the owners of the participating water right or rights to be withdrawn from the WCA.

If the addition or withdrawal of water rights requires modification to the water allocation quantities, geographical boundaries, places of use, terms, or conditions of the original WCA, the management plan shall be revised to incorporate such changes and the associated consent agreement shall be reaffirmed by all parties, after opportunity for comment on the proposed revisions by the applicable GMD.

Termination

We acknowledge the Smith Farms WCA agreement may be terminated by written notification, signed by all then-existing members of the WCA, to the Chief Engineer of the intent to terminate.

We also acknowledge that the Chief Engineer may terminate this WCA upon findings that it is not being upheld to its terms. Such termination shall give notice and require a full evaluation of the WCA and water rights associated to ensure follow up actions.

State Law

We acknowledge that the Smith Farms WCA is subject to compliance with all other applicable state laws.

Notification to Nearby Owners

We acknowledge that, by statute, the Chief Engineer is required to provide written notification to all water right owners with a point of diversion within ½ of a mile, or farther if deemed necessary, by a rule and regulation of the Chief Engineer, of the boundaries of this WCA.

Assurances

We acknowledge this WCA will not alter the terms, conditions and limitations of the base water rights.

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CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of April, 2018, copies of the foregoing were sent via first class, U.S. mail, to the following:

RAY P SMITH
695 KANSAS 27
SHARON SPRINGS KS 67758-6029

SNYDER GROUND CO
695 KANSAS 27
SHARON SPRINGS KS 67758

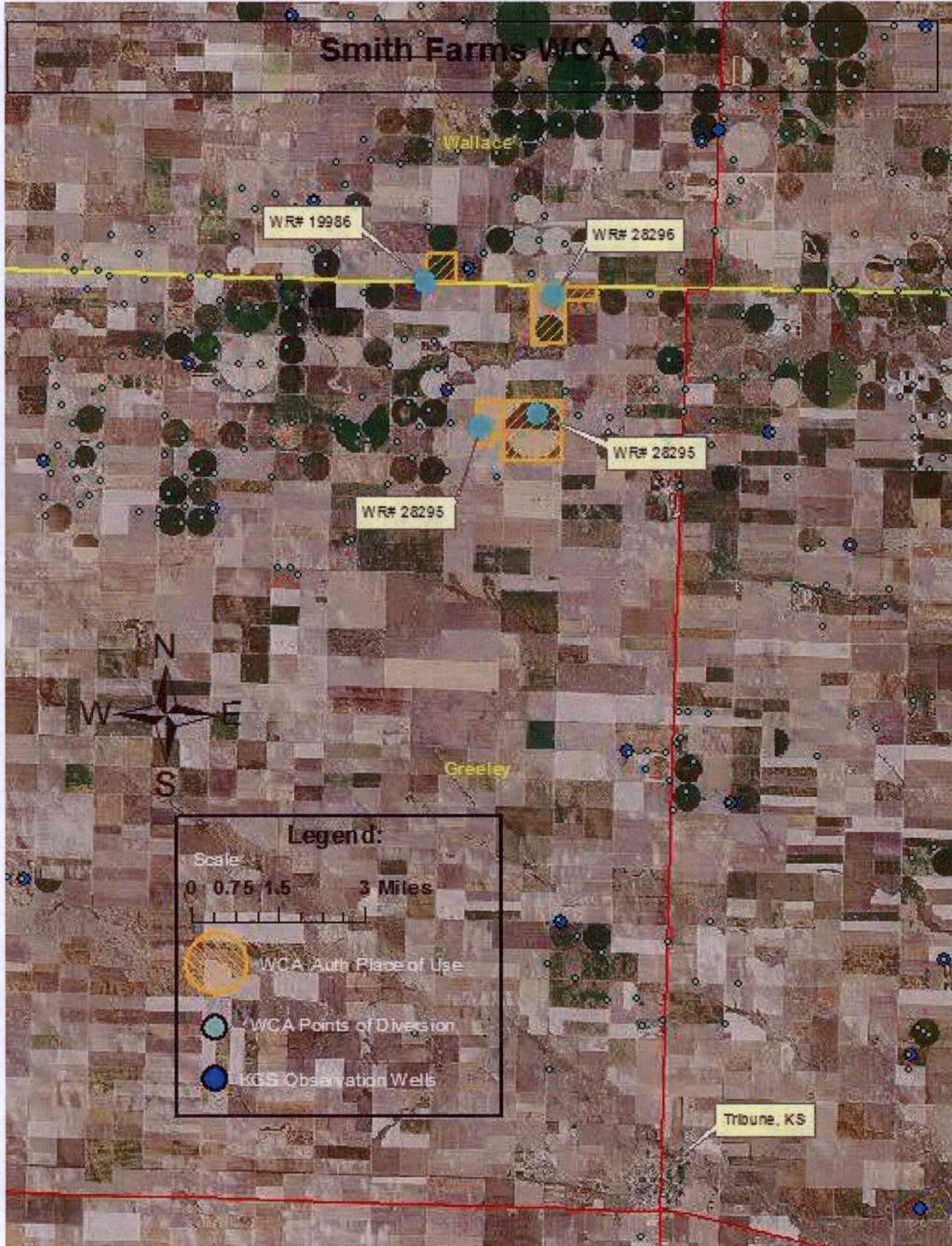
Julie Jones
Kansas Department of Agriculture
Staff Person

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Additional Maps & Figures:

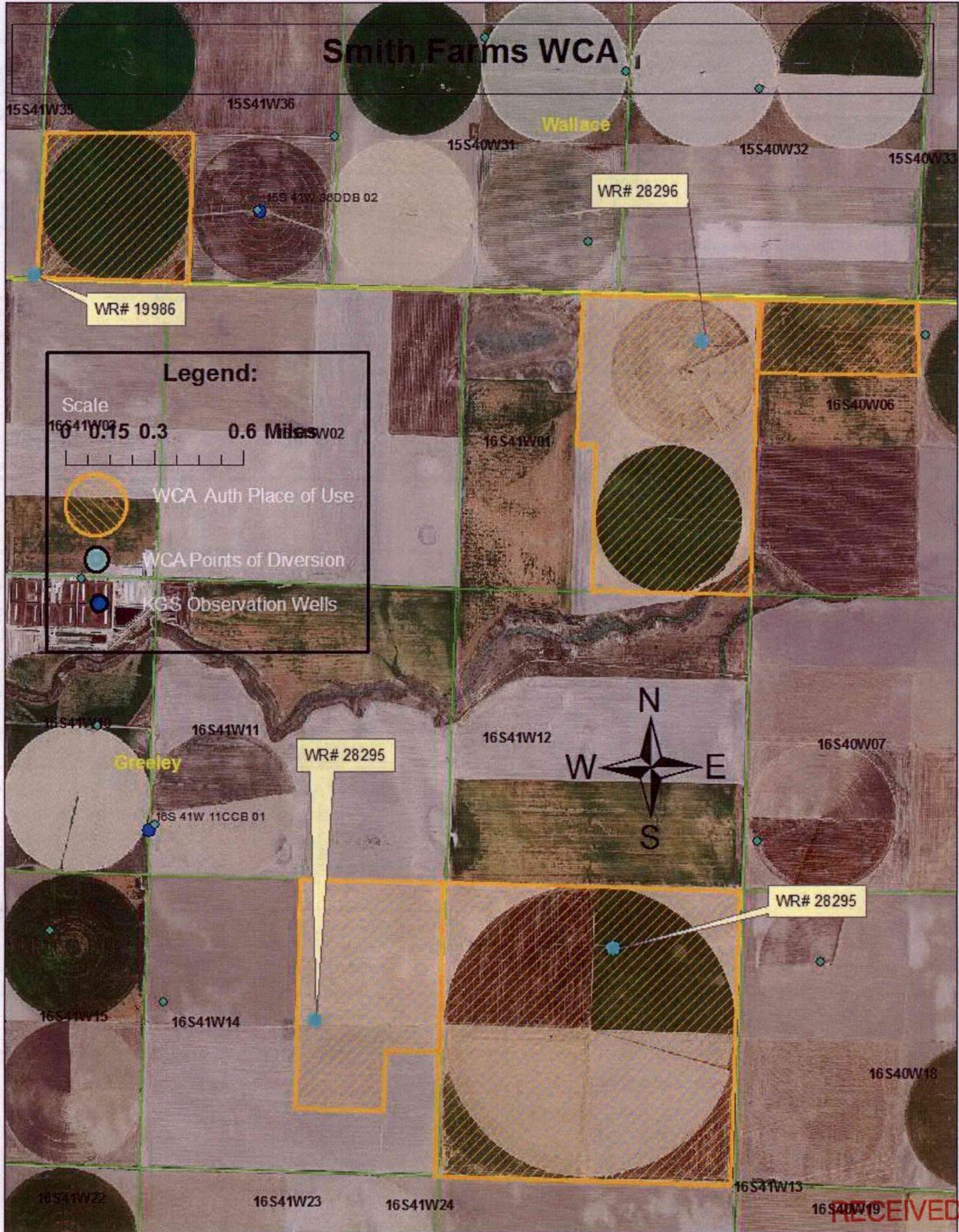
Water Right Area Location Map- Smith Farms WCA Water Rights & Place of Use



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Water Right Area Location Map- Smith Farms WCA Water Rights & Place of Use



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Water Use History- Smith Farms WCA Water Rights

Ray Smith Farms WCA Summary

"Legal Ave Water Use"- A historical average calculated only using water use reports of equal or less than the annual authorized quantity.

WR #	ID#	PDIV#	Location (Sect, Twn, Range)	Historical Period (20XX-20XX)
19986	3	6065	36 15S 41W	03-12
28295	1	33942	13 16S 41W	03-12
28295	3	85784	14 16S 41W	03-12
28296	1	32710	01 16S 41W	03-12

Notes:

- NIR for authorized acres (1478.73 acres)

= 1766.089 Acre-Feet

Historical Use Summary				
2017 Annual Auth Qty (AF)	Legal Ave WU (AF)	Ave Irr Acres	Actual AF/Acre	% Use of Authorized
903	583.880	928.089	0.63	65%

Recent Water Use Summary				
2013 Use	2014 Use	2015 Use	2016 Use	
604	533	569	345	AF
67%	59%	63%	38%	% of Auth

Annual WCA Allocation (10% Conservation)				
	Total AF/year	AF Reduction off Ave Use	% of Authorized	Estimated Acre-Inches
Totals	525.492	58	58%	6.79

Annual WCA Allocation (15% Conservation)				
	Total AF/year Allocation	AF Reduction off Ave Use	% of Authorized	Estimated Acre-Inches
Totals	496.298	88	55%	6.42

Annual WCA Allocation (20% Conservation)				
	Total AF/year Allocation	AF Reduction off Ave Use	% of Authorized	Estimated Acre-Inches
Totals	467.104	117	52%	6.04

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KGS Index Well Data #1- 15 S 41W 36DDB

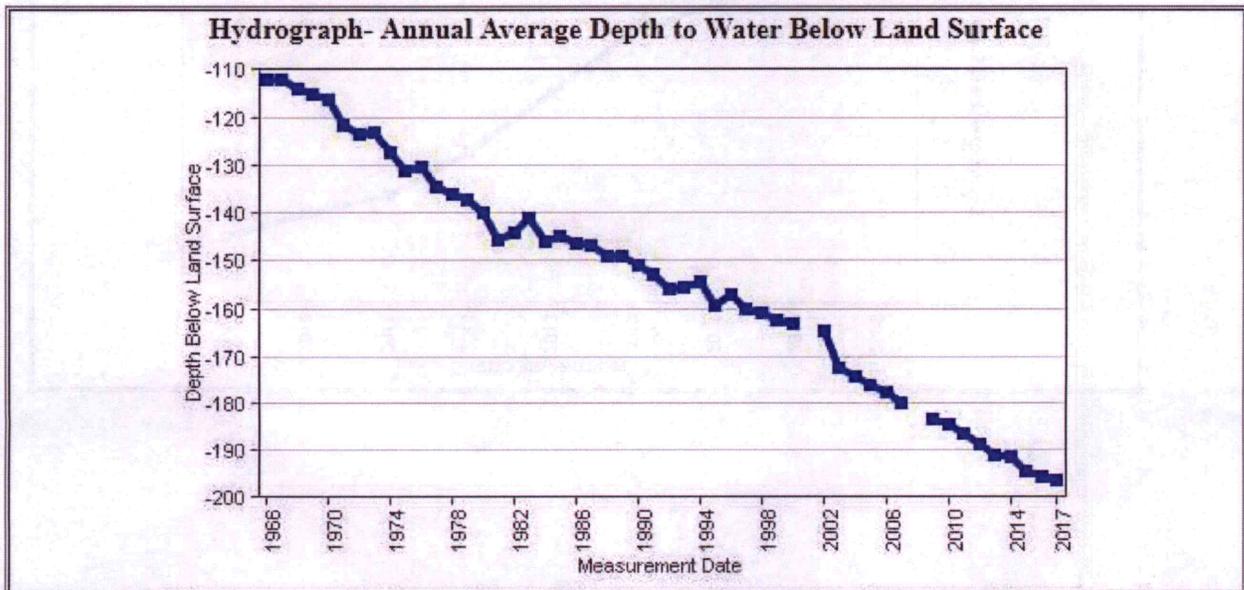
General Well Site Information ?

USGS ID:	384212101491702	KGS Local Well ID:	15S 41W 36DDB 02
County:	Wallace	PLSS Description:	15S 41W 36 NWSESE
HUC 8 Code:	10260004	GMD:	Western Kansas GMD #1
Longitude:	-101.822068	Lat/Long Source:	GPS (within 50 feet)
Latitude:	38.701479	Lat/Long Accuracy:	5 seconds
Surface Elevation (ft):	3695	Depth of Well (ft):	265
Geological Unit Codes:	TO	USGS Map Name:	M Ladder Creek West
Use of Site:	Withdrawal of Water	Use of Water:	Irrigation
WWC5 Links:	None	WIMAS Link:	44646

Water Level Measurements ?

384212101491702

Note that depth to water is feet below land surface and all measurements for the well are included.



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KGS Index Well Data #2- 16S 41W 11CCB

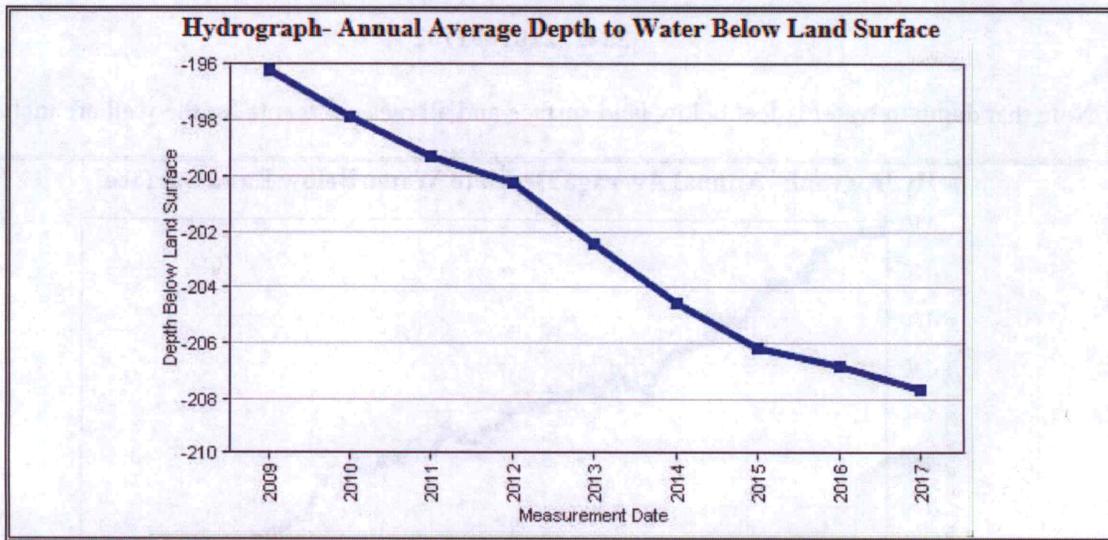
General Well Site Information ?

USGS ID:	384027101493301	KGS Local Well ID:	16S 41W 11CCB 01
County:	Greeley	PLSS Description:	16S 41W 11 NWSWSW
HUC 8 Code:	10260004	GMD:	Western Kansas GMD #1
Longitude:	-101.8279	Lat/Long Source:	GPS (within 50 feet)
Latitude:	38.6714	Lat/Long Accuracy:	5 seconds
Surface Elevation (ft):	3712	Depth of Well (ft):	Unknown
Geological Unit Codes:	TO	USGS Map Name:	MID LADDER CK WEST
Use of Site:	Withdrawal of Water	Use of Water:	Irrigation
WWC5 Links:	None	WIMAS Link:	3810

Water Level Measurements ?

384027101493301

Note that depth to water is feet below land surface and all measurements for the well are included.



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WESTERN KANSAS GROUNDWATER MANAGEMENT DISTRICT NO.1

March 21, 2018

David E Barfield, Chief Engineer
Kansas Department of Agriculture
1320 Research Park Drive
Manhattan, Kansas 66502

RE: Smith Farms WCA - Greeley & Wallace Counties, KS

Dear Sir:

At the March 20, 2018 Western Kansas Groundwater Management District #1's board meeting, the Board reviewed the Smith Farms WCA Management Plan and determined the plan meets all the District's management guidelines.

The Board voted unanimously to support and recommend approval of the plan as presented, subject to the Chief Engineer's approval.

Sincerely,

Kyle Spencer
District Manager

ks/vr

ETTA L. WALKER
Attorney at Law

PO Box 203
Sharon Springs, Kansas 67758
Telephone: 785-852-5200
Facsimile: 785-852-5201

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TELECOPY COVER SHEET

If there is a problem with transmission or if all pages are not received, please call for retransmission.

TO: Michael Meyer, Water Commissioner
Kansas Division of Water Resources
Kansas Department of Agriculture
Garden City Field Office

620-276-9315

FROM: Etta L. Walker

DATE: 3-2-2018

RE: Smith Farms Water Conservation Area
Joe Lene Hunter, Trustee, Joe Lene Hunter Revocable Trust
Wallace County, KS water rights

Number of pages including this cover page: 3

Memo: Please find attached a letter from Joe Lene Hunter, Trustee, in response to your letter of February 12, 2018, regarding the Smith Farms Water Conservation Area and regarding her declining water table and request for restrictions on neighboring wells.

This message from Etta L. Walker is intended only for the use of the individual or entity to which it is addressed and may contain information that is PRIVILEGED, CONFIDENTIAL and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original to us by mail without making a copy. Thank you.

Joe Lene Hunter, Trustee
Joe Lene Hunter Revocable Trust
225 Road 13
Sharon Springs, KS 67758
Tel.: 785-821-1817 (cell)
March 2, 2018

RECEIVED

Via Facsimile to 620-276-9315 and by U.S. Mail

MAR 02 2018

Kansas Division of Water Resources
Attention: Michael A. Meyer, Water Commissioner
Kansas Department of Agriculture
Garden City Field Office
2508 Johns Street
Garden City, KS 67846-2804

Garden City Field Office
Division of Water Resources

Re: Smith Farms Water Conservation Area
Depletion of Water Rights of Joe Lene Hunter, Trustee of Joe Lene Hunter
Revocable Trust Dated September 23, 2014
(previously owned by John Akers/William Akers)
Section 26-15-41W, Wallace County, Kansas, and surrounding wells

Dear Commissioner:

I am responding to your letter of February 12, 2018, concerning the Smith Farms Water Conservation Area.

I am the trustee of my revocable trust, named above. My water is running out. All seven (7) of my windmills are now dry. They were scattered around my property located at Sections 34-15-41, 35-15-41, 21-15-41, 16-15-41, and 26-15-41 in Wallace County. I am pumping water from my house well through 10 1/2 miles of pipeline just to water my cows. My understanding is that I have approximately 20 feet of water left, and the water table is declining approximately two feet per year.

The closest well to me is an irrigation well owned by Smith Ranch, located at, I believe, Section 36-15S-41W, approximately 1/2 mile from my house.

At even the current rates of use by Smith, which are less than Smith's historical average, I believe that I will run out of water within the next five to ten years. I believe that the irrigation is hastening the depletion of my well, and that the Water Conservation plan should eliminate or at least significantly further restrict use at least of the Smith well on Section 26,

RECEIVED

MAR 02 2018

Garden City Field Office
Division of Water Resources

Michael A. Meyer, Water Commissioner
Kansas Division of Water Resources
Re: Smith Water Conservation Area/Joe Hunter Revocable Trust
March 2, 2018
Page 2

and possibly of others. I do not believe that the proposed reduction in use is sufficient to slow this process.

My understanding is that the cone of depression may be in the neighborhood of 3 miles, and possibly more. I request studies and measurement of my situation, and restrictions on the wells owned by others that are affecting my water table, immediately.

If you cannot reach me, please contact my attorney, Etta L. Walker, at 785-852-5200.

We are on Mountain Time.

Thank you.

Sincerely,

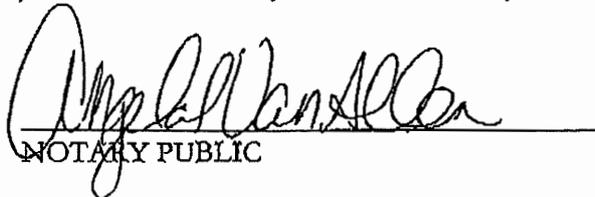


Joe Lene Hunter
Trustee, Joe Lene Hunter Revocable Trust
Dated September 23, 2014

STATE OF KANSAS)
) ss.
COUNTY OF WALLACE)

BE IT REMEMBERED, that on this 2nd day of March, 2018, before me, the undersigned, a Notary Public for the State and County aforesaid, came JOE LENE HUNTER, TRUSTEE OF THE JOE LENE HUNTER REVOCABLE TRUST DATED SEPTEMBER 23, 2014, who is personally known to me to be the same person who executed the within instrument of writing, and duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.


NOTARY PUBLIC

My commission expires: 10/02/2021

STATE OF KANSAS

DEPARTMENT OF AGRICULTURE
DIVISION OF WATER RESOURCES
GARDEN CITY FIELD OFFICE
2508 JOHNS STREET
GARDEN CITY, KS 67846-2804



PHONE: (620) 276-2901
FAX: (620) 276-9315
www.agriculture.ks.gov

GOVERNOR JEFF COLYER, M.D.
JACKIE McCLASKEY, SECRETARY OF AGRICULTURE

March 22, 2018

JOE HUNTER REVOC TRUST
225 RD 13
SHARON SPRINGS, KS 67758

RE: Response to letter addressing proposed Smith Farms Water Conservation Area

Dear Ma'am,

This will acknowledge receipt of your letter dated March 2, 2018 in which you expressed comments concerning the proposed Smith Farms Water Conservation Area (WCA).

Your comments have been considered and documented. This WCA is proposing reducing groundwater withdrawal in the area as you acknowledged in your letter. If the WCA is approved, the WCA wells will be withdrawing less withdrawal and should not impair existing water rights. The Western Kansas Groundwater Management District No. 1 (GMD1) has recommended approval of the proposed Smith Farms WCA management plan as part of the formal process. Your letter dated March 2, 2018 was part of their review. Therefore, our next step in the WCA process is to provide the Chief Engineer all documents regarding the proposed Smith Farms WCA for final review/approval. These documents will include the proposed Smith Farms WCA management plan, a statement from the GMD1, and your letter expressing your concerns.

As we continue to move forward with the proposed Smith Farms WCA we want to ensure you that we do not take your concern lightly. I suggest you review a previous letter sent to you by the Water Commissioner, Mike Meyer, dated March 8, 2018. By taking steps indicated in that letter your other concerns referenced can be further addressed. If you have any questions, please contact our office.

Sincerely,

Armando Zarco
Water Conservation Specialist
Armando.Zarco@KDA.KS.Gov

pc:
Etta Walker
PO BOX 203
Sharon Springs, KS 67758

Groundwater Management District No. 1

STATE OF KANSAS

DEPARTMENT OF AGRICULTURE
DIVISION OF WATER RESOURCES
GARDEN CITY FIELD OFFICE
2508 JOHNS STREET
GARDEN CITY, KS 67846-2804



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GOVERNOR JEFF COLYER, M.D.
JACKIE MCCLASKEY, SECRETARY OF AGRICULTURE

March 8, 2018

JOE LENE HUNTER
225 ROAD 13
SHARON SPRINGS KS 67758

RE: domestic water concern in regional area

Dear Sir:

On August 5, 2013 our office received your written letter regarding possible impairment of domestic wells located in the Southeast Quarter (SE¼) of Section 26, Township 15 South, Range 41 West, in Wallace County, Kansas, and possibly other locations where windmills may be present.

I have included a copy of our impairment regulations, please review them and take notice of K.A.R. 5-4-1(b) which outline the "complainant's report". There are several items that must be addressed before the chief engineer will address this complaint. The report should be sent back to this office. Once received, we will review the report. If you have questions about what to include in the report, please contact me. We also need the location and well information (depth, etc) of all windmills that you point to have gone dry and can no longer use. Our telephone conversation the other day, it appears you have two active domestic wells please provide information and reports for both wells also. All of the requested information should be part of the complainants report.

We also have included a copy of a domestic water right application that must be filled out to determine if the priority of your domestic rights if you wish to pursue a claim against your domestic rights. The priority will be assigned according to when water was first put to a beneficial domestic use at each site. Please send the application(s) back to this office along with the report. An application for each well should be filed.

Please provide this information within the next 180 days (September 2, 2018) for us to review and follow up on this concern as requested.

If you have any questions, or if this office can be of assistance, please feel free to contact this office.

Sincerely,

A handwritten signature in black ink that reads "Michael A. Meyer". The signature is fluid and cursive.

Michael A. Meyer
Water Commissioner

MAM
pc: GMD1