



THE STATE

OF KANSAS

KANSAS DEPARTMENT OF AGRICULTURE
Alice A. Devine, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David L. Pope, Chief Engineer

**SUPPLEMENTAL ORDER
IN THE MATTER OF THE DESIGNATION OF AN
INTENSIVE GROUNDWATER USE CONTROL AREA IN
BARTON, RUSH AND NESS COUNTIES, KANSAS**

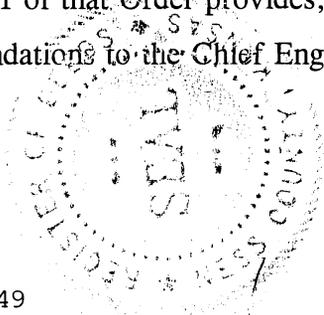
The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, (hereinafter referred to as "Chief Engineer"), after giving due consideration to the recommendations of the Walnut Creek IGUCA Advisory Committee made on April 9, 1996, hereby makes the following Findings, Conclusions and Order:

FINDINGS

1. That by Order dated January 29, 1992, the Chief Engineer established an Intensive Groundwater Use Control Area (hereinafter "IGUCA") in Barton, Rush and Ness Counties, Kansas.

2. That paragraph 12 of that Order provides, "That approximately each five years the Chief Engineer may evaluate the information collected from additional studies conducted in the IGUCA and the status of the water rights and permits to appropriate water in the IGUCA and make adjustments in the corrective control provisions as necessary to allocate water so that the use of groundwater does not exceed the long-term sustainable yield of the aquifer."

3. That paragraph 21 of that Order provides, "That an advisory committee is hereby established to make recommendations to the Chief Engineer concerning:



STATE OF KANSAS }
NESS COUNTY }
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- a. The types, locations and frequency of data to be collected to monitor groundwater levels, streamflow, aquifer recharge, groundwater withdrawals, surface water diversions and any other data it might deem necessary to evaluate and refine the management of the IGUCA.
 - b. Modifications to the corrective control provisions as deemed appropriate to optimize the efficient use of water and benefits from the use of water in the area consistent with the protection of existing water rights and the public interest.
4. That paragraph 25 of that Order provides, "That the Chief Engineer specifically retains jurisdiction in this matter with authority to make such changes in the boundaries of the IGUCA or the corrective control provisions which have been instituted or any other provisions of this Order, and to hold any subsequent hearings in the matter of the IGUCA or the corrective control provisions which he or she may deem to be in the public interest."
5. That the Walnut Creek IGUCA Advisory Committee was established by the Chief Engineer and has met periodically since June 2, 1992.
6. That on April 9, 1996, the Walnut Creek IGUCA Advisory Committee met at Barton County Community College and recommended to the Chief Engineer that:
- a. The allocations for the City of Otis for the helium plant should be increased based on the actual usage for 1991 through 1995 by applying the same standards as otherwise set forth in the Order for industrial use.
 - b. Water right owners be allowed to carry over any allocations unused in the five-year period from 1992 through 1996 to their five-year allocation for the period 1997 through 2001 in an amount not to exceed the maximum annual quantity authorized by the water right.

- c. The Chief Engineer compute allocations for water rights within the IGUCA which had been in the federal government's Conservation Reserve Program during the period 1985 through 1990 in a fair and equitable manner and the total IGUCA allocation should not exceed 22,700 acre-feet per year.

CONCLUSION

The Chief Engineer has considered the above listed recommendations of the Advisory Committee and determined that implementing them would be in the public interest and would not injure any existing water rights.

SUPPLEMENTAL ORDER

NOW THEREFORE, it is the decision and Order of the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, that the following recommendations of the Walnut Creek IGUCA Advisory Committee are hereby adopted as follows:

1. That the five-year allocation for the City of Otis, based on actual usage for the helium plant for 1991 through 1995, is hereby increased to 1374.75 acre-feet.
2. That each water right owner shall be allowed to carry over unused allocations for the period 1992 through 1996 to the five-year allocation for the period 1997 through 2001 in an amount not to exceed the maximum annual quantity authorized by each water right, taking into account any applicable conditions and limitations.
3. That allocations for any water right or permit to appropriate water within the IGUCA which was enrolled in the federal government's Conservation Reserve Program for any of the period 1985 through 1990 shall have an allocation computed for the period 1997 through 2001 based upon the maximum number of acres irrigated in the six years prior to enrollment in

the Conservation Reserve Program multiplied by the depth of water provided for in Paragraph 10 of the Order of the Chief Engineer signed January 29, 1992, multiplied by five.

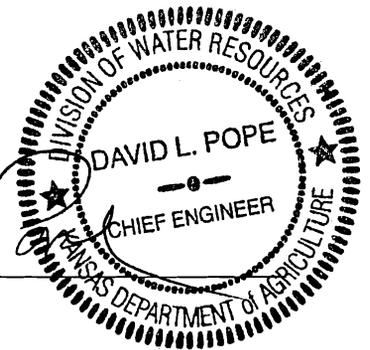
4. That based on information collected in the IGUCA during the past five years, the Chief Engineer determines that the annual average allocation for the basin for the period 1997 through 2001 shall continue to be approximately 22,700 acre-feet per year; that a preliminary statement setting forth the five-year allocation for each individual water right shall be transmitted to each non-domestic water right holder before January 1, 1997; and that a final statement including any adjustments to the preliminary statement which may be necessary due to either the application of a penalty due to exceeding the first five-year allocation or a carry-over based on unused allocation from the first five-year allocation shall be transmitted to each water right holder as soon as practical in 1997.

IT IS SO ORDERED.

Dated at Topeka, Kansas, this 6th day of December, 1996.

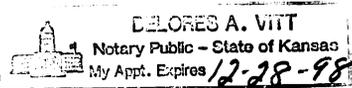


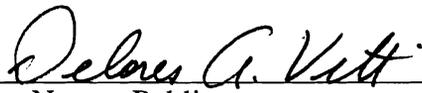
David L. Pope, P.E.
Chief Engineer
Division of Water Resources
Kansas Department of Agriculture



State of Kansas)
) SS
County of Shawnee)

The foregoing instrument was acknowledged before me this 6th day of December, 1996, by David L. Pope, P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.





Notary Public

My appointment expires: