

THE STATE  OF KANSAS

KANSAS DEPARTMENT OF AGRICULTURE
Dale A. Rodman, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

**IN THE MATTER OF THE DESIGNATION OF AN
INTENSIVE GROUNDWATER USE CONTROL AREA
IN HAMILTON, KEARNY, FINNEY, GRAY AND FORD COUNTIES, KANSAS**

SUMMARY AMENDED ORDER

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture (Chief Engineer), after due consideration makes the following findings and order pursuant to K.S.A. 82a-1038.

FINDINGS

1. That the Chief Engineer issued an Order on September 29, 1986, designating an intensive groundwater use control area in Hamilton, Kearny, Finney, Gray and Ford Counties, Kansas (hereinafter referred to as "Order dated September 29, 1986").
2. That Paragraph 2, subparagraph b of the Order dated September 29, 1986, states:

That this IGUCA shall be closed to further groundwater and surface water appropriation except for: ...

 - b. short term applications which request approval for the use of water for a period not to exceed one calendar year[.]
3. That Paragraph 3 of the Order dated September 29, 1986, as modified by the Amended Order dated March 6, 1987, states:

That any application filed pursuant to the provisions of Paragraph No. 2, sub-paragraphs a through f of this Order, may be approved, modified, or rejected by the Chief Engineer; shall be subject to such terms, conditions and limitations as the Chief Engineer shall deem necessary in the public interest; and shall be processed on its own merit in accordance with the provisions of the Kansas Water Appropriation Act, the rules and regulations of the Division of Water Resources, the applicable policies of the Southwest Kansas Groundwater Management District No. 3 and any applicable administrative policies and procedures in effect in that area at the time the application was filed.

4. That Paragraph 20 of the Order dated September 29, 1986, states:

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 effective March 15, 2012, K.S.A. 82a-736 was amended to improve water management by enabling multi-year flexibility in the use of water to better address exceptional drought conditions in Kansas. Establishment of a multi-year flex account term permit effectively suspends a base water right(s) for five (5) consecutive calendar years.
6. That since the Order dated September 29, 1986, as amended, specifically prohibits term permits exceeding one-year in duration as specified in paragraph 2, subparagraph b, the Chief Engineer finds that paragraph two of the IGUCA order should be amended to allow for the filing of an application for a Multi-Year Flex Account term permit, subject to the terms and conditions of the Kansas Water Appropriation Act, K.A.R. 5-16-1 through K.A.R. 5-16-7, as amended on June 21, 2013, and in accordance with the Kansas Water Appropriation Act, K.S.A. 82a-701, et seq., and the Groundwater Management District Act, K.S.A. 82a-1036, et seq., and any regulations promulgated to implement said statutes unless otherwise waived.
7. That the IGUCA order amendment should not allow the approval of a Multi-Year Flex Account term permit where the point of diversion is located west of Township 34 West (Finney County/Kearny County line).
8. That amendment of the IGUCA order to be responsive to continual water management flexibility needs is in the public interest and consistent with the purpose of the order.

ORDER

NOW, THEREFORE, it is the decision and order of the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture that the Order dated September 29, 1986, and modified by the Amended Order dated March 6, 1987, establishing the Intensive Groundwater Use Control Area in Hamilton, Kearny, Finney, Gray and Ford Counties, Kansas, shall be and hereby is amended to read as follows:

1. That Paragraph 2, subparagraph b of the Order dated September 29, 1986 is hereby amended to read:
 - b. short term applications which request approval for the use of water for a period not to exceed one calendar year, or five (5) years for a Multi-Year Flex Account Term Permit subject to the terms and conditions of Kansas Water Appropriation Act, K.A.R. 5-16-1 through K.A.R. 5-16-7, as amended on June 21, 2013; and 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.

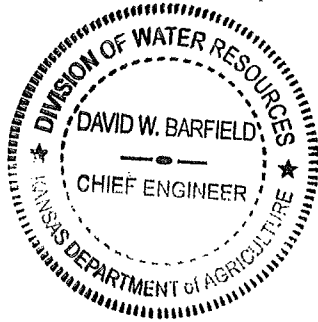
- 2. That amendment of this IGUCA order specifically excludes the approval of a Multi-Year Flex Account Term Permit with a point of diversion located west of Township 34 West (Finney County/Kearny County line).
- 3. That amendment of this IGUCA order is in the public welfare and necessary for water management flexibility.
- 4. That except as expressly amended by this order, and the Amended Order dated March 6, 1987, the Order dated September 29, 1986, remains in full force and effect.

RIGHT TO ADMINISTRATIVE REVIEW

If a petition for administrative review is not filed this order shall be effective, and become a final agency action as defined in K.S.A. 77-607(b). As provided in K.S.A. 82a-1038 and K.S.A. 82a-1901, as amended, you may petition for administrative review of this order by the Secretary of Agriculture. The petition for review shall be in writing and state the basis for requesting administrative review. See K.S.A. 77-527. A petition for review must be filed within 15 days after service of this order as provided in K.S.A. 77-531 and filed with:

Secretary of Agriculture
Kansas Department of Agriculture
109 SW 9th Street, 4th Floor
Topeka, Kansas 66612
FAX (785) 368-6668

Dated at Topeka, Kansas, this 14th day of October, 2013.



David W. Barfield

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

State of Kansas)
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County of Shawnee)

The foregoing instrument was acknowledged before me this 14th day of October, 2013, by David W. Barfield, P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.

Sheryl P. Fergel

Notary Public

