

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 MCPHERSON COUNTY, 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 March 28, 1980, designating an intensive groundwater use control area in McPherson County, Kansas (hereinafter referred to as "Order dated March 28, 1980").
2. That Paragraph 2, subparagraph b of the Order dated March 28, 1980, states:

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 Paragraph 9 of the Order dated March 28, 1980, states:

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.

4. 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.

5. That since the Order dated March 28, 1980, specifically prohibits term permits exceeding one-year in duration as specified in paragraph two, the Chief Engineer finds that paragraph two of the Order dated March 28, 1980, should be amended to allow for the filing of an application for a Multi-Year Flex Account term permit within the boundaries of the McPherson intensive groundwater use control area, 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.
6. That amendment of the Order dated March 28, 1980 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 March 28, 1980, establishing the Intensive Groundwater Use Control Area in McPherson County, Kansas, shall be and hereby is amended to read as follows:

1. That Paragraph 2 of the Order dated March 28, 1980 is hereby amended to read:

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, 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.

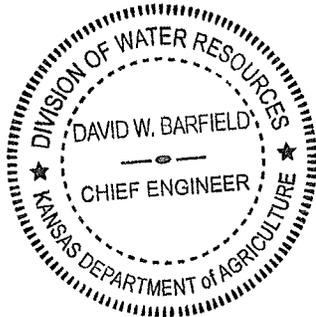
2. That amendment of this IGUCA Order dated March 28, 1980, is in the public interest and necessary for water management flexibility.
3. That except as expressly amended by this order, the Order dated March 28, 1980, remains in full force and effect.

**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, 4<sup>th</sup> Floor  
Topeka, Kansas 66612  
FAX (785) 368-6668

Dated at Topeka, Kansas, this 14<sup>th</sup> day of October, 2013.

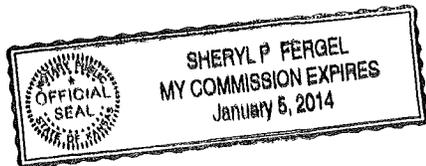


*David W. Barfield*

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

State of Kansas        )  
                                  ) SS  
County of Shawnee    )

The foregoing instrument was acknowledged before me this 14<sup>th</sup> 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