

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

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

IN THE MATTER OF THE PROPOSED DESIGNATION
OF AN INTENSIVE GROUNDWATER USE CONTROL AREA
IN THE PAWNEE RIVER VALLEY

The Chief Engineer-Director, Division of Water Resources, Kansas State Board of Agriculture, (hereinafter referred to as the "Chief Engineer") after having given due consideration to all evidence, testimony and other information presented to him at the hearing on November 25, 1980, and the information submitted to him as a result of orders issued at that hearing, regarding the proposed designation of approximately 140 square miles of the Pawnee River Valley generally located in Pawnee County, Kansas, as an intensive groundwater use control area makes the following findings, conclusions and order:

1. That on May 11, 1978, the Board of Directors of the Big Bend Groundwater Management District No. 5 (hereinafter referred to as the "District"), voted to request that the Chief Engineer declare a moratorium on approving new applications in the area drained by the Pawnee River within the boundaries of the District; that the Board requested the Chief Engineer to impose a moratorium in the following area: Section 31 of Township 21 South, Range 16 West; Sections 26 through 36 of Township 21 South, Range 17 West; Sections 25 through 36 of Township 21 South, Range 18 West; Sections 7 through 36 of Township 21 South, Range 19 West; Sections 7 through 36 of Township 21 South, Range 20 West; Section 6 of Township 22 South, Range 16 West; Sections 1 through 10 and 16 through 18 of Township 22 South, Range 17 West; Sections 1 through 18 of Township 22 South, Range 18 West; Sections 1 through 12 of Township 22 South, Range 19 West; Sections 1 through 12 of Township 22 South, Range 20 West, all in Pawnee County, Kansas.

2. That on May 22, 1978, the Chief Engineer received a letter from Mr. Larry Panning, President, and Jerry E. Mott, Secretary, of the District, attesting to the fact that on Thursday, May 11, 1978, the Board of Directors of Big Bend Groundwater Management District No. 5 voted seven to zero to recommend to the Chief Engineer that a moratorium area be established in that portion of the Pawnee River Valley lying within the District.
3. That by letter dated May 24, 1978, Richard F. Sloan, District Manager, indicated the Board's requested action was based upon the slow decline of water levels measured in the Pawnee Valley since 1943 and that the action was requested pending the completion of a re-charge withdrawal modeling study which would be undertaken by the Kansas Geological Survey; that Mr. Sloan further indicated that based upon the results of the study by the Kansas Geological Survey, a further recommendation would be made to the Chief Engineer from the Board of Directors of the District.
4. That by letter dated June 9, 1978, Mr. Sloan advised the Chief Engineer that the groundwater modeling study of the area would be undertaken to determine the maximum permissible annual withdrawal of groundwater without resulting in permanent groundwater depletion in the area and that following the effective date of House Bill 2702, that the Board would petition the Chief Engineer to initiate proceedings to designate the area as an intensive groundwater use control area.
5. That on June 19, 1978, the Chief Engineer designated the area within the District boundaries lying west of the east line of Townships 21 and 22 South, Range 18 West; Sections 26 through 36, Township 21 South, Range 17 West; Sections 1 through 10 and Sections 16 through 18, Township 22 South, Range 17 West; Section 31, Township 21 South, Range 16 West; and Section 6, Township 22 South, Range 16 West, all in Pawnee County, Kansas, an area of approximately 140 square miles, as an area where applications to appropriate water for beneficial use, other than for domestic use, received after June 19, 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, which might be available for future appropriation; that those applications presently on file in the office of the Chief Engineer as of June 19, 1978, would be processed in the usual manner.

6. That by letter dated April 11, 1980, Dr. Manoutch Heidari of the Kansas Geological Survey transmitted to the Chief Engineer the final report on "Hydro-Geologic Investigations in the Pawnee Valley," dated April, 1980, prepared by Dr. Marios Sophocleous.
7. That by letter dated June 20, 1980, and received in the office of the Chief Engineer on June 23, 1980, Mr. Sloan advised the Chief Engineer that at the June 12, 1980, Board meeting in St. John, Kansas, after considerable discussion, the Directors of the District had voted 8 to 0 in favor of requesting the Chief Engineer to initiate proceedings for the establishment of an intensive groundwater use control area in accordance with the provisions of K.S.A. 1979 Supp. 82a-1036.
8. That by letter dated June 30, 1980, received on July 1, 1980 by the Chief Engineer, Mr. Sloan forwarded copies of recommendations which he had made to the Board of Directors of the District regarding options for formulating a groundwater policy in the Pawnee River Valley; that Mr. Sloan advised that the Board of Directors had not taken any action on any of his recommendations.
9. 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.

10. That on October 17, 1980, a notice was published in the Larned Tiller and Toiler, a daily newspaper of general circulation in Pawnee County, Kansas, regarding the public hearing that would be held at 10:00 a.m. on Tuesday, November 25, 1980, at the Larned Courthouse, Broadway and 7th, Third Floor, Larned, Kansas 67550, at which time all interested parties would have an opportunity to be heard regarding the proposed designation of an intensive groundwater use control area (hereinafter referred to as "control area") in Pawnee County, Kansas; that such notice complied with the statutory requirements of K.S.A. 1979 Supp. 82a-1037; that Jack Zygmund, publisher of the Larned Tiller and Toiler, provided an affidavit of publication which was received by the Chief Engineer on October 22, 1980; that also as 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 right in the area; that notice was also mailed to Dr. Bill Hambleton, Director, Kansas Geological Survey, Mr. Charles F. Bredahl, Executive Secretary, State Conservation Commission, Mr. Jerry Conley, Kansas Fish and Game Commission, Mrs. Francine Neubauer, Kansas Water Resources Board, Mr. Gerald Stoltenberg, Director of Environment, Kansas Department of Health and Environment, and Mr. Lynn Burris, Director of Park and Resources Authority.
11. That no written statements or letters were received prior to the hearing relative to the above described notice.
12. That on November 25, 1980, the Chief Engineer held a hearing beginning at approximately 10:10 a.m. in the District Court Room, Third Floor, Courthouse, Larned, Kansas, to consider the possible designation of a control area in Pawnee County, Kansas; that Leland E. Rolfs, Legal Counsel for the Division of Water Resources, and David L. Pope, Assistant Chief Engineer, Division of Water Resources, were also present and assisting the Chief Engineer at the hearing.
13. That Mr. Douglas McClure, Attorney at Law, appeared on behalf of the District.

14. That Mr. Glee S. Smith, Attorney at Law, Smith, Burnett and Larson, 111 E. 8th Street, P.O. Box 360, Larned, Kansas 67550, appeared on behalf of approximately 50 landowners and operators of land in the area affected by the proposed control area.
15. That Mr. Richard F. Sloan, Manager of the District, testified on behalf of the District, as follows: that a portion of the Pawnee River Valley is within the District; that the District adopted its first management program on June 18, 1976, and that the District has in its revised management program adopted a "safe yield concept" which essentially means that withdrawals of water cannot exceed re-charge; that the main source of aquifer re-charge to the Pawnee Valley is from the Pawnee River; that Mr. Sloan summarized the history of well development in the Pawnee Valley within the District; that there were approximately 37 wells that have vested rights in the Pawnee Valley within the District; that development was static until the drought of 1952 through 1956 and that there was another boom of well drilling in the mid-60's through the mid-70's; that there are now approximately 300 wells in the Pawnee River Valley within the District; that approximately 33% of the Pawnee River Valley lies within the district and present moratorium area and 67% lies without; that the Division of Water Resources has authorized the withdrawal of approximately 50,000 acre-feet of groundwater per calendar year in the Pawnee Valley moratorium area; that such water is primarily used for irrigation purposes; that four applications to appropriate water have been filed since the moratorium went into effect; Application No. 32,482, Application No. 32,055, Application No. 33,708 and Application No. 33,097; that he stated the District had not had any serious complaints of waste in that area; that there has not been any known degradation of water quality in the moratorium area at the present time; that the alluvial aquifer in the Pawnee River Valley overlays the Dakota aquifer; that the District had done no study to determine what actual annual water usage has been in the Pawnee River Valley; that approximately 10% of the 300 wells in the Pawnee Valley are Dakota wells.

16. That Dr. Marios Sophocleous, Assistant Scientist in the Geo-Hydrology Section of the Kansas Geological Survey, Lawrence, Kansas, testified he had worked with the Geological Survey since June, 1978; that he had received his Master's Degree in Water Resources from the University of Kansas and his Doctorate Degree in Hydro-Geology from the University of Alberta, Canada; that he had been requested by the District and the Chief Engineer to study the Pawnee River Valley; that he had made his study from approximately November, 1978, until March, 1980; that the purpose of the study was to determine the amounts of groundwater re-charge to the alluvial aquifer of the Pawnee River Valley and the possible effects from the present rates of pumping and increased rates of pumping; that Dr. Sophocleous testified his study was based in part on a study of the literature published on the Pawnee Valley including the Fishel Report completed in 1952.
17. That Dr. Sophocleous further testified that, in general, the alluvial aquifer and the Dakota sandstone aquifer are separated by relatively thick amounts of shale but that it is possible in some areas there is a hydraulic connection; that the Pawnee River Valley alluvium is re-charged primarily by the Pawnee River itself and its tributaries; that Dr. Sophocleous also testified that irrigated acreage in the Pawnee Valley has increased approximately 10 times since the 1940 and now approximates 60,000 acres; that generally the contribution from groundwater to the Pawnee River base flow has decreased since 1945; that a comparison of the groundwater levels now with the water level shown in the Fishel Report for the mid-40's shows an areal shrinkage of the aquifer of approximately 15%; that the depletion of groundwater in storage of over 35% has occurred from the mid-40's to the present; that he has estimated re-charge in the Pawnee River Valley by using two methods: (1) he studied the streamflow records during the early stages of irrigation and assumed there was an equilibrium between the amount of water pumped from wells during the 30's and 40's and the amount of water that was replenishing the groundwater aquifer; that by making an analysis of streamflow records of the Pawnee River from 1925 to 1945, he estimated the re-charge into the aquifer was about six tenths of one inch per year; that the average annual precipitation in the region is about 21 to 22 inches per year; (2) that the second method of calculating ground-

water re-charge is called the soil-moisture budget which involves an analysis based on soil types and plant types as to how much water the soils of that area can absorb under a given rainfall; that the amount of natural groundwater re-charge that has been taking place, as derived by this technique, is four tenths of one inch; that the aquifer area is approximately 300 square miles for the entire Pawnee Valley and that to approximately 4,000 acre-feet per calendar year in estimated natural groundwater re-charge occurs in the Valley.

18. That Dr. Sophocleous further testified that the groundwater rights authorized in the entire Pawnee Valley are approximately 84,000 acre-feet per calendar year, about 11 times more than the average annual re-charge; that the study considered six options to see what effect each of these options would have on future water levels and the Pawnee Valley aquifer; that the study concluded that if pumping rates continue as they are today, by the year 2,000, the central area of the Pawnee Valley will experience more than 30 feet of decline in saturated thickness, especially those areas around Sanford, Rozel and Burdett.
19. That Dr. Sophocleous also testified that he concluded the study shows that withdrawals from the Pawnee Valley are of such magnitude that even without any additional development that the water level declines will continue indefinitely, and according to the projections would exceed 30 and 40 feet or more by the year 2,000 and therefore, unless the groundwater management district and the people in the area make a consistent effort to remedy the situation, the future looks rather bleak; that the water surface profile is based on a 170 data points measured during calendar years 1979 and 1980 and that the study was based on a long history of 18 wells in the area; that the study was based on an assumption that irrigators were pumping the approved amounts; that based on the water use reports, that it appeared that in the Pawnee Valley most users appeared to be using 90 to 100% of the authorized quantities; that no study had been done to determine what quantity pumping in the area would have to be cut back in order to maintain a safe yield.

20. That Mr. Sloan further testified on behalf of the District that he had computed an 11 year running average of streamflow in the Pawnee River just west of Larned, Kansas, which showed that streamflow peaked in 1953 and had fallen off or held steady since that time and that the streamflow has never recovered to the level of the late 40's or early 50's; that he also computed some 11 year running averages of static water levels in wells; that using an analysis involving a one mile radius circle to evaluate potential applications would be hydrologically sound for the Pawnee River Valley; that in his opinion there is not a reasonable possibility in most of the valley for allowing significant additional wells to go in without causing further significant declines in the water table; that the only way an accurate record could be made of water usage in the area is if meters were required; that the Board has discussed the option of curtailing all future development in the Pawnee River Valley except for domestic and temporary wells; that spacing the wells one quarter mile would result in no direct well interference; that to allow appropriations in the Pawnee River Valley proportionate to those allowed in the remainder of the District would allow 1,500 acre-feet to be appropriated in a one mile circle.
21. That Larry Panning, farmer, Director and Chairman of the District, testified on behalf of the District that the Board had initially requested a moratorium to give time for a study and then the Board asked the Chief Engineer for a control area which required notification of all water right holders in the area and a hearing; that the Board had not decided on any option but had discussed several options for controls in the Pawnee River Valley such as: (a) lifting the moratorium and using the same formula in effect in the remainder of the District, or (b) asking the Chief Engineer to declare an intensive groundwater use control area, and (1) utilizing the same concept as the rest of the District except using the one mile radius circle, or (2) requiring metering, or (3) allowing the development of certain areas and eliminating others; that to date the Board has not made any specific recommendations; that the Board had considered requesting a moratorium for one to two years

before it did so; that a moratorium was requested in July so that it would not affect development for approximately one year and it was anticipated the study would be complete within that year, which unfortunately, it was not.

22. That Mr. Larry Skelton, farmer in the proposed intensive control area, testified that he had been instrumental as a member of the Pawnee County Irrigators Association to instigate the Pawnee Valley's joining of the District and that the moratorium was imposed without his knowledge; that in his opinion a safe yield formula would be more suitable for the Pawnee Valley; that he felt most of the people in the area felt some controls were necessary on the amount of water that could be allowed for appropriation but that some additional wells could be allowed in certain areas; that the Chief Engineer directed him to furnish a map showing the area that he and others in his area felt should be allowed to have more wells; that he was in favor of a safe yield policy, minimizing water table decline.
23. That Mr. Howard Zook, irrigator in the Pawnee Valley, testified he is a present member of the Board of Directors of District; that possibilities of placing re-charge structures in Pawnee Valley River had been discussed; that he would recommend using a one mile radius circle with 1,600 acre-feet per circle as the amount available for appropriation; that he was opposed to metering because of the cost.
24. That Mr. Allen Klein, an irrigator in the Pawnee River Valley, testified that he is a Director at large in the District; that he felt if the moratorium was continued it should be a larger area; that he would be interested in having research done on a re-charge project that would transfer water from the Pawnee River over into Saw Mill Creek; that he would like to see the groundwater static water level stabilized; that the water table in the Pawnee River Valley is generally declining and that he would like to see a safe yield concept put into effect in the valley based on a one mile radius; that irrigation is vitally important to not only the farmers but the supporting businesses in the District; that he assured the Chief Engineer that as a board member he would make certain that the people at the Pawnee River Valley were aware of

any proposed recommendations made by the Board to the Chief Engineer in the next several months concerning the proposed control area; that to his knowledge no one had ever notified the Chief Engineer that the people in the moratorium area were unhappy with the moratorium and had not requested that it be lifted; that he recommended the moratorium be lifted and that some controls be put into place at the same time; that he felt there was no local support among the irrigators for installation of water meters.

25. That Mr. Arden Schartz, an irrigator in the Pawnee Valley, and a resident there since 1953, testified that the creek had silted in at least four feet since he had been there; that four wells in the area, the Musil, the Powers, the Sanford and the Luther wells, over an 11 year period, averaged approximately a four-foot decline; that the detention dams and terraces in the area have also decreased the streamflow and the re-charge in the Pawnee River Valley; that the people from the Pawnee Valley had passed a resolution and given it to the District Board to lift the moratorium but that the District Board had not made such a request to the Chief Engineer; that he favored lifting the moratorium and imposing the control of allowing 1,600 acre-feet of water per one mile radius circle; that in his opinion the water table in the valley was declining and he would like to preserve it as long as possible; that he felt like the moratorium should be continued until controls could be imposed.
26. That Mr. Marvin Finger, irrigator and farmer in the Pawnee Valley since 1948, testified that in his opinion he did not agree with Dr. Sophocleous' estimates that there had been a 35% decline in the water; that he was opposed to requiring meters because of the economic hardship to the irrigators and the lack of accuracy of current meters; that he felt the Board should adopt a 40% depletion policy on future applications.
27. That Mr. Raymond Scott, an irrigator in the Pawnee Valley since 1933 or 1934 testified that he favored lifting the moratorium area and instituting the safe yield policy of allowing 1,600 acre-feet in a one-mile radius.
28. That Mr. Leonard Finger, irrigator and farmer in the Pawnee River Valley since 1950, testified that he recommended adopting a policy of allowing 1,600 acre-feet in a one-mile radius circle; that the water table in the Pawnee Valley has not dropped in his area in the last 12 years.

29. That Mr. Dale N. Olsen, an irrigator in the moratorium area for approximately 25 years, testified that he recommended the moratorium be lifted and that he felt the regulations that the groundwater management district has in effect right now will take care of any new well drilling; that he was in favor of regulating new wells in the Pawnee Valley and that every landowner should be allowed to develop his land for irrigation; that he felt meters were a good idea because they helped the irrigator to better regulate the amount of water applied to the crops.
30. That Mr. Earl Meckfessel, irrigator in the Pawnee Valley since 1962, testified that he was generally in favor of lifting the moratorium and that he did not feel that much other development would occur in the area even without controls.
31. That Mr. Elmer Musil, irrigator in Pawnee County for 23 years, testified that records show his wells have dropped 20.7 feet in the period between 1944 through 1979; that his wells are in Section 29, Township 21 South, Range 20 West; that he favored a five year extension of the moratorium area because (1) the groundwater levels could be closely monitored and feasibility studies for re-charge could be continued by the District in cooperation with Kansas Division of Water Resources until more conclusive data is obtained, (2) within a five year period, there could be a return to seasons of excessive rainfall or even average rainfall which would raise the water table due to reduced need for irrigation, (3) an intensive educational program could be developed by the District in conjunction with other agencies such as the Soil Conservation Service, Cooperative Extension Service, and Agricultural Stabilization and Conservation Service, (4) with predictions that energy costs may double by the mid-1980's, the expense of pumping water may be a deterrent to using water and (5) budget increases and increased property tax levies for the groundwater management districts would be minimal; that he further testified he was opposed to the establishment of an intensive groundwater control area because (1) it would be expensive because of added personnel and operational costs and metering costs, (2) that the

farmers in the area were opposed to increased taxes to finance operational costs of the District to enforce the control area and (3) farmers were not ready to accept such drastic controls in irrigation operations.

32. That Mr. Sloan was recalled to the stand and further testified it would probably take approximately four months for the Board to consider the various options for different types of management strategy in the Pawnee Valley area and to formulate a recommendation to furnish the Chief Engineer.
33. That the hearing was continued by the Chief Engineer until February 15, 1981, at which time the Board of the District was to make recommendations to the Chief Engineer and the hearing was continued for 15 additional days after the recommendation was furnished to Mr. Smith to allow Mr. Smith and his clients to comment on the recommendation.
34. That by letter dated February 9, 1981, and received in the office of the Chief Engineer on February 10, 1981, Mr. Larry Stelton, as directed by the Chief Engineer at the hearing, furnished through his attorney, Mr. Glee Smith, a map showing areas of the present moratorium district in which wells could be drilled in his area under the one mile/1500 acre-feet safe-yield principle; that the map indicated four wells could be drilled in the South Halves of Sections 8 and 9, both in Township 22 South, Range 17 West, Pawnee County, Kansas.
35. That on March 16, 1981, the Chief Engineer received from Mr. Sloan a resolution of the Board of Directors of the District, dated March 13, 1981, concerning recommendations regarding the establishment of an intensive groundwater use control area in the Pawnee River Valley west of Larned, Kansas, in which the District Board of Directors recommended as follows:
 - "1. An Intensive Groundwater Use Control Area be established in an area West of Larned, Kansas, the boundaries of which shall be identical to the present Moratorium Area in effect. The Moratorium Area presently in effect shall be dissolved at the same time the Intensive Groundwater Use Control Area is created;

2. That a safe-yield like approach to proposed appropriations of groundwater identical to that program presently in effect in our district be implemented, with the exception that a 1 mile/1500 acre-feet criterion be utilized for future applications to appropriate water for beneficial use, instead of the 2 mile/6000 acre-feet criterion presently utilized in the remainder of the District;
 3. That a 1 mile/1500 acre-feet limitation be applicable only to those proposed uses of groundwater in which a permanent water right accrues. Exceptions to the 1 mile/1500 acre-feet limitation include the following: uses of water for domestic purposes, and those uses of groundwater granted under the temporary permit system;
 4. In all other respects, those provisions contained in the Revised Management Program of the Big Bend Groundwater Management District No. 5, effective February 21, 1979, shall apply to the Intensive Groundwater Use Control Area;
 5. That all applications for permit to appropriate water for beneficial use filed in the office of the Chief Engineer, Division of Water Resources, after the Pawnee Valley Moratorium became effective on June 19, 1978, shall be processed in the manner herein set forth."
36. That by letter dated April 17, 1981, in accordance with a prior request, the Chief Engineer furnished Mr. Walter F. Stuckemann, Attorney at Law, P.O. Box 307, Jetmore, Kansas 67854, with a copy of the recommendations of the District regarding the proposed intensive control area.
 37. That by letter dated April 17, 1981, the Chief Engineer extended the time in which the District was allowed to submit recommendations until March 16, 1981.
 38. That by letter dated April 17, 1981, the Chief Engineer provided a copy of the District's recommendations to Mr. Glee Smith and allowed 15 days for Mr. Smith and his clients to review the recommendations of the District and submit comments to the Chief Engineer.

39. By letter dated May 5, 1981, and received in the office of the Chief Engineer May 13, 1981, Mr. Walter F. Stuckemann submitted his comments regarding the proposed intensive control area and Mr. Stuckemann indicated he did "not necessarily agree with" the recommendations submitted by the District but felt that water use should be regulated but that those persons "who have land suitable for irrigation should not be denied the right to irrigate just because others have already obtained water rights in the area, . . ."
40. 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 public interest requires that further non-domestic, non-temporary, and non-short-term appropriation should be limited by restricting new applications to allow no more than 1,500 acre-feet of water to be appropriated per calendar year in a one mile radius circle surrounding a proposed well;

4. That the boundaries of the Control Area should be an area of approximately 140 square miles of the Pawnee River Valley generally located between Larned, Kansas, on the East and the Pawnee-Hodgeman County line on the West which includes the following described tracts of land: Section 31 of Township 21 South, Range 16 West; Sections 26 through 36 of Township 21 South, Range 17 West; Sections 25 through 36 of Township 21 South, Range 18 West; Sections 7 through 36 of Township 21 South, Range 19 West; Sections 7 through 36 of Township 21 South, Range 20 West; Section 6 of Township 22 South, Range 16 West; Sections 1 through 10 and 16 through 18 of Township 22 South, Range 17 West; Sections 1 through 18 of Township 22 South, Range 18 West; Sections 1 through 12 of Township 22 South, Range 19 West; Sections 1 through 12 of Township 22 South, Range 20 West; all in Pawnee County, Kansas.

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 Pawnee 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 an area of approximately 140 square miles of the Pawnee River Valley generally located between Larned, Kansas, on the East and the Pawnee-Hodgeman County line on the West which includes the following described tracts of land: Section 31 of Township 21 South, Range 16 West; Sections 26 through 36 of Township 21 South, Range 17 West; Sections 25 through 36 of Township 21 South, Range 18 West; Sections 7 through 36 of Township 21 South, Range 19 West; Sections 7 through 36 of Township 21 South, Range 20 West; Section 6 of Township 22 South, Range 16 West; Sections 1 through 10 and 16 through 18 of Township 22 South, Range 17 West; Sections 1 through 18 of Township 22 South, Range 18 West; Sections 1 through 12 of Township 22 South, Range 19 West; Sections 1 through 12 of Township 22 South, Range 20 West; all in Pawnee County, Kansas.

2. That this intensive groundwater use control area shall be subject to the following corrective control provisions:
 - (a) That within the intensive control area, the approval of all applications for permit to appropriate water for beneficial use, (except those for domestic use, temporary permits, applications for permit to appropriate water for which no permanent water right accrues, and those applications for permit to appropriate water from the Dakota aquifer) and the approval of all applications for change in the point of diversion if the diversion works have not been completed under the original approved application (except where the source of supply is the Dakota aquifer), shall be subject to the following criteria: the proposed appropriation, when added to the vested rights, prior appropriation rights, and earlier priority applications shall not exceed 1,500 acre-feet within a one mile radius circle whose center is the location of the proposed well; that all applications to appropriate water for beneficial use filed after June 19, 1978, shall be processed according to the procedures and controls set forth in this Order;
 - (b) That the Board of Directors of the Big Bend Groundwater Management District No. 5 shall annually review all the water use and static water level and information and other water related information in the intensive groundwater use control area; that annually the District may, no later than April 1, request a re-hearing before the Chief Engineer on the matter of the boundaries of the intensive control area, the reconsideration of the corrective control provisions or any other matters relative to the establishment of this intensive groundwater use control area;
 - (c) 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 Big Bend Groundwater Management District No. 5;

- (d) That the order of the Chief Engineer relative to the Pawnee River Valley in Pawnee County, Kansas, dated June 19, 1978, is hereby declared to be null and void and of no force and effect simultaneous with the creation of this intensive control area;
- (e) 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 8th day of July, 1981.



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

#2012
 STATE of Kansas } ss. Fee \$ 21.00
 Pawnee County }

This Instrument was filed for record on
 the 7 day of Aug, 1981 at
9:00 o'clock A.M., and duly recorded in
 book MKK of Misc page 295
Thelmarie Wilhite Register
Ruth Rodriguez

#1887
 STATE of Kansas } ss. Fee \$ 26.00
 Pawnee County }

This Instrument was filed for record on
 the 27 day of Sept., 1985 at
0:30 o'clock A.M., and duly recorded in
 book M/mm of Misc. page 749
Thelmarie Wilhite Register
Ruth Rodriguez