

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

BEFORE DAVID L. POPE, CHIEF ENGINEER-DIRECTOR  
DIVISION OF WATER RESOURCES  
KANSAS STATE BOARD OF AGRICULTURE

IN THE MATTER OF THE PROPOSED REDUCTION OF THE  
SAFE YIELD AMOUNT IN THE PAWNEE VALLEY  
INTENSIVE GROUNDWATER USE CONTROL AREA

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 Wayland Anderson, Assistant Chief Engineer, hearing officer duly appointed by the Chief Engineer to preside at the hearing on August 15, 1985 regarding the proposed reduction of the safe-yield amount in the Pawnee Intensive Groundwater Use Control Area from 1,500 acre-feet in a one-mile radius circle surrounding the proposed point of diversion to 750 acre-feet, makes the following the findings, conclusions and order:

1. That on June 12, 1980, the Board of Directors of the Big Bend Groundwater Management District No. 5 (hereinafter referred to as the "District"), voted in favor of requesting the Chief Engineer to initiate proceedings for the establishment of an intensive groundwater use control area in the area drained by the Pawnee River within the boundaries of the District.
2. That on July 8, 1981, the Chief Engineer issued an order establishing an intensive groundwater use control area in Pawnee County, Kansas, within the boundaries of the district and in 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.
3. That paragraph 2(a) of the Order of July 8, 1981 provides:

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;

4. That paragraph 2(b) of the Order of July 8, 1981 provides:

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 rehearing 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.

5. That paragraph 2(e) of the Order of July 8, 1981, provides:

That the Chief Engineer specifically retains jurisdiction in this matter with authority to make such changes in the boundaries in 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.

6. That a motion was passed at the February 14, 1985 meeting of the Big Bend Groundwater Management District No. 5 requesting the Chief Engineer to hold a hearing to reduce the safe-yield of amount in the Pawnee Valley Intensive Groundwater Use Control Area from 1,500 acre-feet in a one mile radius circle surrounding the proposed point of diversion to 750 acre-feet.
7. That the Chief Engineer-Director scheduled a hearing for June 18, 1985, however, due to wheat harvest being earlier than usual, the Big Bend Groundwater Management District No. 5 requested that the hearing date of June 18, 1985 be rescheduled.
8. That the Chief Engineer felt the request was justified and the hearing date was rescheduled for 9:00 a.m., Thursday, August 15, 1985.
9. That on June 11, 1985, a notice was published in the Larned Teller and Toiler, a daily newspaper of general circulation in Pawnee County, Kansas, regarding the public hearing that would be held at 9:00 a.m. on Thursday, August 15, 1985, at the Larned Court House, Broadway and Seventh, 3rd Floor, Larned, Kansas 67550, at which time all interested parties would have an opportunity to be heard regarding the proposed

reduction of the safe-yield amount in the Pawnee Valley Intensive Groundwater Use Control Area from 1,500 acre-feet in a one mile radius circle surrounding the proposed point of diversion to 750 acre-feet; that such notice complied with the statutory requirements of K.S.A. 82a-1037; that Charles E. Walton, Publisher of the Larned Teller and Toiler, provided an affidavit of publication which was received by the Chief Engineer on June 21, 1985; that also as required by K.S.A. 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 the Kansas Geological Survey, the State Conservation Commission, the Kansas Fish and Game Commission, the Kansas Water Resources Board, the Kansas Department of Health and Environment, and the Park and Resources Authority.

10. That no written statements or letters were received prior to the hearing relative to the above described notice.
11. That on August 15, 1985, Wayland Anderson, Assistant Chief Engineer, held a hearing beginning at approximately 9:15 a.m. in the District Court Room, 3rd Floor, Court House, Larned, Kansas, to consider the possible adoption of the safe-yield amount in the Pawnee Valley Intensive Groundwater Use Control Area; that Leland E. Rolfs, Chief Legal Counsel for the Division of Water Resources, and Donald L. Pitts, Legal Counsel for the Division of Water Resources, were also present and assisting the Assistant Chief Engineer at the hearing.
12. That Mr. Dale Paulson, Attorney at Law, appeared on behalf of the District.
13. That Mr. Ralph Davis, Manager of the District, testified on behalf of the District as follows: that there has been an average decline in the water level within the District of 3.7 feet over a five year period; that Dr. Marios Sophocleous had determined through previous studies that the average recharge during the same five year period was approximately 2.5 inches; that the average recharge in the intensive groundwater use control area within the District is 1/2 inch per year

as a result of tight impermeable soil construction; that the average recharge in the rest of the District is approximately four inches per year because of sandy soil structure; that even with a 4.5 inch recharge, the result would be a deficit of 13,000 acre-feet per year; that even with the proposed controls implemented, there will exist a 0.7 feet per year decline in the water level; that the saturated thickness within the intensive groundwater use control area ranges from zero at the outer perimeters to 120 feet in depth;

14. That Mr. Leonard Finger, farmer and water user in the control area, testified that a measurement of his well in 1968 showed a 34 feet water table level; that a test in 1982 showed a 29 feet water table level; that in 1985 no level reading was taken; that in his opinion there had not been a significant reduction in the water table level to the east of Highway 183 in Pawnee County; that he could offer no explanation for the three feet decline in the water level of other wells located within the same area as his well; that he did not support nor oppose the proposed change in the control provision.

#### CONCLUSIONS

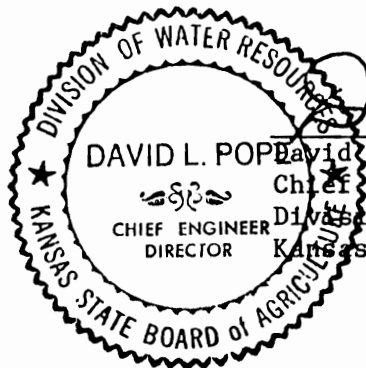
1. That the groundwater levels in the area in question have continued to decline;
2. That the rate of withdrawal of groundwater within the area in question exceeds the rate of recharge in that area;
3. That the public interest requires that further non-domestic, non-temporary, and non-short-term appropriation should be limited by restricting new applications to allow no more than 750 acre-feet of water to be appropriated per calendar year in a one mile radius circle surrounding a proposed well;
4. That the safe-yield amount of 750 acre-feet per calendar year in a one mile radius circle should be imposed within the boundaries of a control 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, as more specifically described in paragraph 1 of the original Order dated July 8, 1981.

ORDER

NOW, THEREFORE, It is the decision and order of the Chief Engineer, Division of Water Resources, Kansas State Board of Agriculture, that the corrective control provisions of the Order dated July 8, 1981, establishing the intensive groundwater use control area in the Pawnee River Valley, shall be amended as set forth below and shall be in full force and effect within the area described from and after the date of this Order:

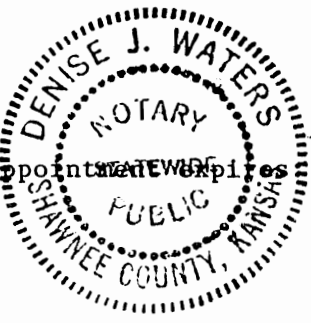
1. That the safe-yield amount in the Pawnee Valley Intensive Groundwater Use Control Area as described in paragraph 2(a) of the Order of the Chief Engineer, dated July 8, 1981, shall be reduced from 1,500 acre-feet in a one mile radius circle surrounding the proposed point of diversion to 750 acre-feet.
2. That the remainder of the Order dated July 8, 1981 establishing the intensive groundwater use control area in the Pawnee River Valley, not in conflict with paragraph one above, shall remain the same.

Topeka, Kansas, this 13<sup>th</sup> day of September, 1985.

  
*David L. Pope*  
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David L. Pope, P.E.  
Chief Engineer-Director  
Division of Water Resources  
Kansas State Board of Agriculture

State of Kansas )  
                          )  
County of Shawnee)

The foregoing instrument was acknowledged before me this 13<sup>th</sup> day of September, 1985, by David L. Pope, P.E., Chief Engineer-Director, Division of Water Resources, Kansas State Board of Agriculture.

  
My appointment expires March 1, 1986  
*Denise J. Waters*  
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Notary Public