

State of Kansas
Logan County

MICROFILM
NUMERICAL
DIRECT INDEX
INDIRECT INDEX

BOOK 101 PAGE 251

BOOK 086 PAGE 459 MICROFILM
State of Kansas { ss
Wallace County {
Filed for Record 8-11 1988 AD
at 9:25 o'clock A. M Book 101 Page 251

Filed for Record August 23 1988 AD
at 8:40 o'clock A.M. Book 86 Page 459-475
Paulina M. Rudell
Register of Deeds

Emma M. Marty
Register of Deeds
Numerical
Direct Index
Indirect Index



THE STATE

OF KANSAS

STATE BOARD OF AGRICULTURE
Sam Brownback, *Secretary*

DIVISION OF WATER RESOURCES
David L. Pope, *Chief Engineer*

BEFORE

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

IN THE MATTER OF THE DESIGNATION OF AN
INTENSIVE GROUNDWATER USE CONTROL AREA
IN WALLACE, LOGAN, GOVE AND TREGO COUNTIES, KANSAS

The Chief Engineer, Division of Water Resources, Kansas State Board of Agriculture, (hereinafter referred to as "Chief Engineer"), after having given due consideration to all evidence, testimony and other information presented to him at, or as a result of, the hearing held in Quinter, Kansas, on February 26, 1987, regarding the proposed designation of an intensive groundwater use control area (hereinafter referred to as the "IGUCA") in the Smoky Hill River and Hackberry Creek Valleys in the reach above Cedar Bluff Dam to the western edge of Range 40 West on the Smoky Hill River and to the middle of Range 30 West on Hackberry Creek, hereby makes the following Findings, Conclusions and Order:

FINDINGS

1. That in accordance with the provisions of K.S.A. 82a-1036 through K.S.A. 82a-1040, the Chief Engineer may, upon his own initiative, initiate proceedings for designation of an IGUCA outside the boundaries of an existing groundwater management district whenever he or she has reason to believe that groundwater levels in the area are declining or have declined excessively, the rate of withdrawal of groundwater in the area in question equals or exceeds the rate of recharge in such area, or conditions exist within an area which require regulation in the public interest.
2. That on May 31, 1984, the Chief Engineer established by interim order an intensive groundwater use control area in Rush, Ellis, Trego and Russell Counties generally including a tract of land totally within the drainage basin of the Smoky Hill River between Cedar Bluff Dam and its confluence with Big Creek further downstream.

3. That in the interim order, the Chief Engineer initiated proceedings for the extension of the IGUCA in Trego, Ellis, Rush and Russell Counties, Kansas, to include the alluvium of the Smoky Hill River Valley and its major tributaries in the reach between Cedar Bluff Dam in Trego County, Kansas, and a point about four miles north and west of Sharon Springs, Kansas, in an area described as follows:

Hackberry Creek and Alluvium

	Sections
Township 13 South, Range* 25 West,	30-33
Township 14 South, Range 25 West,	4-6, 9-16, 24
Township 13 South, Range 26 West,	17-20, 25-30, 32-36
Township 13 South, Range 27 West,	6-10, 13-26
Township 12 South, Range 28 West,	31, 32
Township 13 South, Range 28 West,	1-6, 8-16, 23, 24
Township 12 South, Range 29 West,	31-36
Township 13 South, Range 29 West,	1-9, 17, 18

Said tract containing 86 square miles, more or less; and

Smoky Hill River and Alluvium

	Sections
Township 14 South, Range 22 West,	26-35
Township 15 South, Range 22 West,	2-6
Township 14 South, Range 23 West,	31-36
Township 15 South, Range 23 West,	1-6
Township 14 South, Range 24 West,	27-36
Township 15 South, Range 24 West,	1, 2
Township 14 South, Range 25 West,	25, 26, 31-36
Township 15 South, Range 25 West,	6, 7
Township 14 South, Range 26 West,	33-36
Township 15 South, Range 26 West,	1-12, 18, 19
Township 15 South, Range 27 West,	1, 2, 11-24
Township 15 South, Range 28 West,	13-24
Township 15 South, Range 29 West,	13-24
Township 15 South, Range 30 West,	7-10, 13-18, 22-24
Township 14 South, Range 31 West,	31-33

Township 15 South, Range 31 West, 2-6, 10-15
 Township 14 South, Range 32 West, 19, 20, 26-30, 32-36
 Township 15 South, Range 32 West, 1-5, 8-10
 Township 13 South, Range 33 West, 31-33
 Township 14 South, Range 33 West, 4-6, 8-10, 14-16, 21-26
 Township 13 South, Range 34 West, 25-36
 Township 14 South, Range 34 West, 1, 2
 Township 13 South, Range 35 West, 19-30, 35, 36
 Township 13 South, Range 36 West, 13-30
 Township 13 South, Range 37 West, 9, 10, 13-16, 19-30
 Township 13 South, Range 38 West, 21-32
 Township 13 South, Range 39 West, 18-21, 25-36
 Township 13 South, Range 40 West, 2-18, 24, 25, 36

Said tract containing 284 square miles, more or less.

(*All ranges in this Finding & Order are West of the 6th P.M.)

4. That this action was taken based upon testimony and evidence received at the hearing held on February 23 and 24, 1984, which suggested that the declining inflow of water into the Cedar Bluff Reservoir was a factor contributing to the declining water levels and water flow below the Reservoir, as well as information contained in the files of the Division of Water Resources that indicated that streamflows in the Smoky Hill River and Hackberry Creek above Cedar Bluff Reservoir were declining or had declined excessively, and that conditions existed within the area in question which might require regulation in the public interest.
5. That in the interim order, the Chief Engineer further ordered that all applications to appropriate water for beneficial use (other than for domestic use, temporary permits and short term permits) received on or after May 31, 1984, which propose the appropriation of groundwater from the alluvium of the Smoky Hill River Valley and its major tributaries in the reach between Cedar Bluff Dam and Trego County, Kansas within the area described in Finding No. 3 above, will be received and assigned a priority and a file number, if acceptable for filing, but will not be further processed until a decision is made as to whether the intensive groundwater use control area will be extended to include the above described area; that at the conclusion of the proceedings, all applications filed on or after

624

the date of the interim order will be processed in accordance with the provisions of the Kansas Water Appropriation Act, the rules and regulations, the administrative policies and procedures in effect in that area, and in accordance with the corrective control provisions of the IGUCA, if any; and that other actions of the Chief Engineer within the above described area will not be affected.

6. That on January 23, 1987, the Chief Engineer issued a Supplemental Interim Order expanding the proposed boundaries for the extension of the IGUCA described in Finding No. 3 above to include an area described as follows:

Gove County

	Sections
Township 12 South, Range 29 West,	19 and 30
Township 12 South, Range 30 West,	13, 14, 23-27, 34-36

7. That the proposed boundaries for the extension of the IGUCA after the January 23, 1987 Order described in Finding No. 6 above include an area described as follows:

Hackberry Creek and Alluvium

	Sections
Township 13 South, Range* 25 West,	30-33
Township 14 South, Range 25 West,	4-6, 9-16, 24
Township 13 South, Range 26 West,	17-20, 25-30, 32-36
Township 13 South, Range 27 West,	6-10, 13-26
Township 12 South, Range 28 West,	31, 32
Township 13 South, Range 28 West,	1-6, 8-16, 23, 24
Township 12 South, Range 29 West,	19, 30-36
Township 13 South, Range 29 West,	1-9, 17, 18
Township 12 South, Range 30 West	13, 14, 23-27, 34-36

Said tract containing 98 square miles, more or less; and

Smoky Hill River and Alluvium

	Sections
Township 14 South, Range 22 West,	26-35
Township 15 South, Range 22 West,	2-6
Township 14 South, Range 23 West,	31-36

Township 15 South, Range 23 West,	1-6
Township 14 South, Range 24 West,	27-36
Township 15 South, Range 24 West,	1, 2
Township 14 South, Range 25 West,	25, 26, 31-36
Township 15 South, Range 25 West,	6, 7
Township 14 South, Range 26 West,	33-36
Township 15 South, Range 26 West,	1-12, 18, 19
Township 15 South, Range 27 West,	1, 2, 11-24
Township 15 South, Range 28 West,	13-24
Township 15 South, Range 29 West,	13-24
Township 15 South, Range 30 West,	7-10, 13-18, 22-24
Township 14 South, Range 31 West,	31-33
Township 15 South, Range 31 West,	2-6, 10-15
Township 14 South, Range 32 West,	19, 20, 26-30, 32-36
Township 15 South, Range 32 West,	1-5, 8-10
Township 13 South, Range 33 West,	31-33
Township 14 South, Range 33 West,	4-6, 8-10, 14-16, 21-26
Township 13 South, Range 34 West,	25-36
Township 14 South, Range 34 West,	1, 2
Township 13 South, Range 35 West,	19-30, 35, 36
Township 13 South, Range 36 West,	13-30
Township 13 South, Range 37 West,	9, 10, 13-16, 19-30
Township 13 South, Range 38 West,	21-32
Township 13 South, Range 39 West,	18-21, 25-36
Township 13 South, Range 40 West,	2-18, 24, 25, 36

Said tract containing 284 square miles, more or less.

(*All ranges in this Finding & Order are West of the 6th P.M.)

- That on January 22, 1987, the Chief Engineer issued Notice of a Public Hearing to be held at 9:30 a.m. on Thursday, February 26, 1987 at the Quinter High School, 6th and Long Streets, Quinter, Kansas, at which time all interested parties would have an opportunity to be heard regarding the proposed designation of an IGUCA in the area described in Finding No. 7 above; that the purpose of the hearing was to determine if an IGUCA should be established and, if so, what the boundaries should be and what types of

626

- restrictions, if any, should be placed on the appropriation of water in that area.
9. That notice of the hearing was sent to every water right holder of record in the Office of the Chief Engineer and all known landowners within the boundaries of the proposed IGUCA; that notice of the hearing was also published in The Western Times, Western Kansas World, The Hays Daily News and The Oakley Graphic; that affidavits of publication show that the Notice of Hearing was published more than 30 days prior to the Hearing; that notice of the hearing was also sent to various governmental officials, State agencies and members of the Kansas Water Authority.
 10. That on February 26, 1987, a public hearing was held at the time and place set forth in the Notice of Hearing.
 11. That David Barfield, Civil Engineer on the staff of the Division of Water Resources, testified concerning a report he prepared entitled "The Proposed Smoky Hill River and Hackberry Creek Intensive Groundwater Use Control Area above Cedar Bluff Reservoir"; that the entire report was entered into evidence at the hearing.
 12. That the report indicates that alluvial deposits underlie the Smoky Hill River and Hackberry Creek; that terrace deposits generally lie above and on both sides of the Smoky Hill alluvium and that in Trego County the terrace deposits tend to be saturated and hydraulically connected to the alluvium.
 13. That the report indicates that, based upon exceedance value calculations using records taken at two gaging stations in the proposed control area, one at Elkader, Kansas on the Smoky Hill River and one near Arnold, Kansas, downstream of the confluence of Hackberry Creek and the Smoky Hill River and just upstream from Cedar Bluff Reservoir, the quantity of base flow in the Smoky Hill River has declined with time; that for the period of 1968 to 1976 the 80% exceedance value at the gaging station near Arnold was 0.46 cfs and that this exceedance value had declined to 0.08 cfs for the period of 1977 to 1982; that the records indicate a similar pattern for the 80% exceedance value at the Elkader gage and for the 50% exceedance values at both gaging stations; that the slope of the graph of a plot of accumulated streamflow versus accumulated precipitation shows a definite flattening with time, particularly in recent years, indicating that there is currently less runoff per given unit of precipitation.

14. That the report indicates declining groundwater levels in the Smoky Hill River alluvium in Gove County, fairly steady groundwater levels in the Smoky Hill River alluvium in Logan and Wallace Counties, and inconclusive results in the Hackberry Creek alluvium.
15. That Mr. Barfield testified regarding results from a 1984 report by the Bureau of Reclamation entitled "Cedar Bluff Reservoir Water Supply and Operation Study"; that this report concluded that roughly half of the streamflow depletions are due to the effects of conservation practices and half of the streamflow depletions are due to the effect of ground and surface water pumping out of the alluvial valley.
16. That Augustine M. Zerr, an irrigator from wells located within the proposed IGUCA boundaries, testified that water levels in wells measured in the fall of each year since 1966 indicate a dependence upon rainfalls in the area; that conservation practices in the area have reduced runoff to streams; that he favors control on the issuance of water rights but thinks that further study needs to be done to determine if cutting back on current water rights is necessary.
17. That Robert D. Kutz, Project Manager, Kansas-Nebraska Projects, U.S. Bureau of Reclamation, (herein after referred to as the "Bureau"), testified that extensive conservation practices and groundwater development above Cedar Bluff Reservoir during the late 1960's and early 1970's began to significantly reduce inflows to Cedar Bluff Reservoir; that the "Bureau's Definite Plan Report," March 1958, indicated that average inflows to Cedar Bluff Reservoir from 1919 through 1956 were 62,800 acre feet per year; that the Bureau's Report also predicted depleted inflows of 53,100 acre feet per year; that the actual inflows from 1952 through 1974 averaged 52,660 acre feet per year; that the inflow to Cedar Bluff Reservoir exceeded 50,000 acre feet in only one year since 1965; that the average inflow from 1975 through 1985 was 11,920 acre feet per year; that the average inflow to Cedar Bluff Reservoir from 1981 to 1985 was 7,200 acre feet per year; that evaporation from Cedar Bluff Reservoir has exceeded inflow for eight of the last ten years; that the current level of Cedar Bluff Reservoir is 11.7 feet below the elevation at which releases can be made to the Cedar Bluff Canal; that under current inflow conditions, the Reservoir will require

628

- operation at a revised operating level; that the Bureau recommends the establishment of an IGUCA above Cedar Bluff Dam.
18. That Raymond Roemer, farmer, rancher and irrigator within the proposed IGUCA, testified that water levels in wells located in Section 4, Township 13 South, Range 29 West, Gove County, were the same as when the wells were drilled; that the number of trees along Hackberry Creek has dramatically increased since the late 1940's; that the number of farm ponds, miles of terraces and acres under reduced tillage has increased in Gove County since 1948; that he is not in favor of controls in the proposed IGUCA but feels that new developments will be limited by economics.
 19. That Benedict C. Dickman, member of the Smoky Hill-Saline Basin Advisory Committee, testified that streamflow gaging station records and inflow records into Cedar Bluff show that a substantial portion of the historical flows into the lake have occurred in the drainage area below the Arnold gaging station, and that this area is responsible for about one-third of the inflow depletion which has occurred in the past ten years; that Mr. Dickman also testified that conservation measures and dams are two major sources of streamflow depletion in the Smoky Hill Basin; that Mr. Dickman further testified that he does not believe that any corrective control provisions imposed on the control area would significantly help the streamflow problems of those downstream.
 20. That Robert J. Abell, a resident about 10 miles west of Gove and approximately 4 miles outside of the proposed control area, testified that in his opinion there needs to be some control over the wells but that the control area should be extended into the Ogallala.
 21. That Duane Stutz, water user for irrigation and stock watering in Section 1, Township 15 South, Range 26 West, Gove County, testified in opposition to the control area; that Mr. Stutz testified that streambeds have been raised about 6 to 8 feet which causes changes in water levels; that since the land had been developed for irrigation, trees have grown back and that Hackberry Creek flows in sections where there are no trees, but is dry in sections where there are trees.
 22. That Steven Lloyd Phelps, representative of Cedar Bluff Advisory Board for Recreation, testified that the Board is in favor of the proposed control area.

23. That Glen Riggs, President of Cedar Bluff Lake Association, testified that the Association is in favor of the proposed control area.
24. That William S. Benkelman, Representative of North Shore Cabin Area Association Board at Cedar Bluff, testified that the Association is in favor of the control area.
25. That Bob Hooper, member of the Soloman River Basin Advisory Committee, testified in favor of the proposed control area but stated that the control area should include not only the alluvium but the general area of the Ogallala aquifer so that there is essentially zero depletion.
26. That Howard C. Reynolds, Professor Emeritus at Fort Hays State University, testified in favor of the proposed control area; that Mr. Reynolds testified that the number of Salt Cedars, a large phreatophyte, has increased tremendously around Cedar Bluff Reservoir.
27. That J. M. Tuttle, resident in the corridor of the proposed control area on Hackberry Creek, member of the Smoky Hill-Saline Basin Advisory Committee and co-chair of the Gove County Groundwater Task Force, testified that he was opposed to the proposed control area for the following reasons: the proposed control area would not remedy the problem of filling Cedar Bluff Reservoir to a level that would benefit the users downstream; the control area would create an additional economic burden on: people involved in agriculture, tax units of government, all agri-business in the area, feed lot operations in the area and oil field development; the control area would be discriminatory because it would not treat an individual within the corridor the same as one immediately outside the corridor; the control area would be costly to the Division of Water Resources in terms of manpower studies and would spread the budget thinner; the control area would be costly to irrigators in terms of the cost of meters and the possibility of their water use being cut back; and, the control area would be costly to the oil industry in terms of water costs and scarcity; that Mr. Tuttle further testified that the water level in a domestic well on his property is the same now as it was when it was drilled in 1955; that Mr. Tuttle further testified that Hackberry Creek dried up in 1909 and did not furnish any water for cattle until 1918; therefore, now is not the first time Hackberry Creek has been dry.

28. That Rex D. Albin, landowner, irrigator and feed lot owner within the proposed control area, testified in opposition to the proposed control area; that Mr. Albin testified that the groundwater level on Hackberry Creek was 14 feet to water 30 years ago and is currently around 16 feet to water, and that groundwater levels on the Smoky Hill River have not varied more than a foot in the last 16 years; that Mr. Albin further testified that he is of the opinion that streambed elevations have risen.
29. That Reece Roemer, landowner in the proposed control area, testified that during the 40's, 50's and 60's, even before conservation practices, there were several years when the Smoky Hill River dried up during the summer; that riverflow has always been completely dependent on large amounts of rainfall in a short period of time and that for the last 20 years there has not been enough rainfall or snow to build any excess groundwater supply; that Mr. Roemer further testified that he is opposed to the proposed control area and feels that control could be exercised better by a local management unit.
30. That Troy Schroeder, Regional Fishery Supervisor for the Kansas Fish and Game Commission, testified that the Kansas Fish and Game Commission supports the designation of the proposed IGUCA; that Mr. Schroeder further testified that most studies indicate that up to 60% of the reduced streamflow in the Smoky Hill River is due to conservation measures and farming techniques and that the remaining 40% is due to groundwater pumping; that Mr. Schroeder further testified that patches of dead trees near well locations show well pumping has caused decline in the groundwater levels, reduction of base flow and subsequent loss of valuable wildlife habitat; that Mr. Schroeder further testified that even relatively small increases in inflow to Cedar Bluff Reservoir, brought about as a result of restrictions upstream, could have large benefits to the fishery at Cedar Bluff; that he believes that the control area should be expanded to include the contributing stream and terrace deposits and all areas of the Ogallala aquifer and the Smoky Hill Basin that are not presently included in the Groundwater Management District.
31. That Mahlon Tuttle, landowner within the proposed control area south of Quinter, testified that he is opposed to the proposed control area and that he believes that management should come from a local management unit.

32. That Robert L. Tuttle, landowner within the proposed control area, testified that he is opposed to the proposed control area and that he believes control should be left up to a local groundwater management district; that Mr. Tuttle further testified that water levels in his wells have not changed in the past 19 years.
33. That Don Harvey, landowner within the proposed control area, testified that it is his opinion that the control area would not solve the problem; that Mr. Harvey further testified that the water levels in his three irrigation wells near Hackberry Creek were the same on January 1, 1987 as they were 23 years ago when they were drilled; that Mr. Harvey further testified that he has an official government weather station at his farm and that the largest rain in his rain gauge in the last 5 years was 1.48 inches in a 24 hour period.
34. That Mr. Donald C. Zerr, irrigator within the proposed control area on Hackberry Creek, testified in opposition to the proposed control area; that Mr. Zerr testified that there have been no large rain falls in the last 20 years to cause floodwaters.
35. That Harley Beaver, resident on Hackberry Creek in Section 26, Township 13 South, Range 26 West, Gove County, testified in opposition to the proposed control area; that Mr. Beaver testified that in the 1930's there were very few trees along Hackberry Creek but now there are many trees.
36. That Leonard Maxwell, Gove County Extension Agent, testified that he could not express an opinion on the proposed control area but that he believed that a water management district would be a better means of controlling the problem.
37. That Pauline Parke, resident on Hackberry Creek about 2 miles north of the point where it enters the Smoky Hill River, testified in opposition to the proposed control area; that Ms. Parke testified that when her irrigation well was drilled in 1963 the depth to water level was 18 feet and that each year since 1964 the depth to water has been measured and has always been between 18 and 19 feet; that Ms. Parke further testified that her mother-in-law had told her that when she moved to the land on Hackberry Creek in 1919 it was completely barren of trees; that Ms. Parke stated that now they have thousands and thousands of trees along Hackberry Creek.

38. That a letter from Curtis Parke, feed lot owner within the proposed IGUCA, to the Chief Engineer stated that Mr. Parke had lived in Trego County on Hackberry Creek for 58 years and that stock-wells were drilled as early as 1915 because the creek was dry many years; that the letter stated that there have been no heavy rains in the past five years, that many dams and miles of terraces have been built since 1960 and that farmers and ranchers have done a good job saving soil and water in the last 30 years; that the letter also stated that the depth to Mr. Parke's well was 18 feet when it was drilled in 1964 and on February 1, 1987, it was 19 feet.
39. That a letter from Victor Schoenberger, Jr., farmer in Trego County, stated his opinion that limiting the amount of water use within the proposed IGUCA will not benefit downstream water users; that the letter indicates that in 1985 the water level in Mr. Schoenberger's oldest well was very near the level measured in 1962; that the letter also expresses Mr. Schoenberger's belief that the water table in the Hackberry Creek alluvium varies with the amount of rainfall received, not with the amount pumped.
40. That a letter from Thomas H. O'Toole stated his opinion that an IGUCA should be established, that only stockwater and municipal wells should be allowed and that no new water permits for irrigation should be approved.
41. That a letter from Cecil H. and Fay Walker, landowners about 7 miles northwest of Sharon Springs, stated their opinion that an IGUCA should be established; that the letter stated that the water table along the Smoky Hill River has been declining every year, that stockwater wells have been drilled because the river does not flow except after a big rain and that trees along the river are dying; that the letter expressed the Walker's opinion that irrigation wells are a major cause of the declining water table.
42. That K.S.A. 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. 82a-1036 and amendments thereto exist and that the public interest requires that any one or more corrective controls be adopted, the 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 the findings of the chief engineer 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 the act for judicial review and civil enforcement of agency actions. 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 Smoky Hill and Hackberry alluviums and terrace deposits in portions of the proposed IGUCA are hydraulically connected to the Smoky Hill River and Hackberry Creek.
2. That groundwater levels in portions of the Smoky Hill River alluvium are declining.
3. That streamflows in the Smoky Hill River and Hackberry Creek above Cedar Bluff Reservoir are declining and have reduced inflow into Cedar Bluff Reservoir.
4. That the declining streamflows in the area in question are primarily due to the effects of increased conservation practices and to the effects of ground and surface water pumping out of the alluvial valley.
5. That other conditions exist in the area in question which require regulation in the public interest, specifically that the declining inflow of water into the Cedar Bluff Reservoir is a factor contributing to the declining water levels and streamflow below the reservoir.

- 6. That an intensive groundwater use control area should be established within the boundaries as set forth in Finding No. 7.
- 7. That the area in question should be closed to any further appropriation of groundwater and surface water except for (a) domestic uses, (b) temporary permits, (c) short term permits or (d) any use of a quantity not to exceed 25 acre feet per calendar year at a rate not in excess of 50 gallons per minute, or such greater rate as the Chief Engineer determines is reasonable.

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 hereby is established, in the Smoky Hill River and Hackberry Creek Valleys in the reach above Cedar Bluff Dam to the western edge of Range 40 West on the Smoky Hill River and to the middle of Range 30 West on Hackberry Creek, within the area 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 area included in the IGUCA shall be as follows:

Hackberry Creek and Alluvium

	Sections
Township 13 South, Range* 25 West,	30-33
Township 14 South, Range 25 West,	4-6, 9-16, 24
Township 13 South, Range 26 West,	17-20, 25-30, 32-36
Township 13 South, Range 27 West,	6-10, 13-26
Township 12 South, Range 28 West,	31, 32
Township 13 South, Range 28 West,	1-6, 8-16, 23, 24
Township 12 South, Range 29 West,	19, 30-36
Township 13 South, Range 29 West,	1-9, 17, 18
Township 12 South, Range 30 West	13, 14, 23-27, 34-36
Said tract containing 98 square miles, more or less; and	

Smoky Hill River and Alluvium

	Sections
Township 14 South, Range* 22 West,	26-35

Township 15 South, Range 22 West,	2-6
Township 14 South, Range 23 West,	31-36
Township 15 South, Range 23 West,	1-6
Township 14 South, Range 24 West,	27-36
Township 15 South, Range 24 West,	1, 2
Township 14 South, Range 25 West,	25, 26, 31-36
Township 15 South, Range 25 West,	6, 7
Township 14 South, Range 26 West,	33-36
Township 15 South, Range 26 West,	1-12, 18, 19
Township 15 South, Range 27 West,	1, 2, 11-24
Township 15 South, Range 28 West,	13-24
Township 15 South, Range 29 West,	13-24
Township 15 South, Range 30 West,	7-10, 13-18, 22-24
Township 14 South, Range 31 West,	31-33
Township 15 South, Range 31 West,	2-6, 10-15
Township 14 South, Range 32 West,	19, 20, 26-30, 32-36
Township 15 South, Range 32 West,	1-5, 8-10
Township 13 South, Range 33 West,	31-33
Township 14 South, Range 33 West,	4-6, 8-10, 14-16, 21-26
Township 13 South, Range 34 West,	25-36
Township 14 South, Range 34 West,	1, 2
Township 13 South, Range 35 West,	19-30, 35, 36
Township 13 South, Range 36 West,	13-30
Township 13 South, Range 37 West,	9, 10, 13-16, 19-30
Township 13 South, Range 38 West,	21-32
Township 13 South, Range 39 West,	18-21, 25-36
Township 13 South, Range 40 West,	2-18, 24, 25, 36

Said tract containing 284 square miles, more or less.

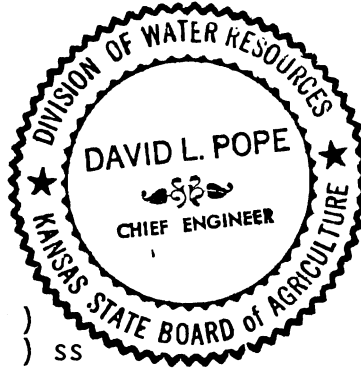
(*All Ranges referred to in this Finding & Order are West of the 6th P.M.)

2. That this IGUCA shall be closed to further surface water and alluvial and other hydraulically connected groundwater appropriation, except for:
 - a. domestic use;
 - b. short term applications;

- c. any use authorized by temporary permit granted under the authority of K.S.A. 82a-727;
 - d. any proposed appropriation from a new or existing well at a rate not in excess of 50 gallons per minute, or such greater rate as the Chief Engineer determines is reasonable, and a quantity not to exceed 25 acre feet per calendar year, if in the judgment of the Chief Engineer approval is in the public interest, good cause is shown by the applicant and the applicant can show that there is no impairment to an existing right; that this exception does not apply to a proposed appropriation for an existing well that creates a diversion with a total quantity over 25 acre feet per calendar year for that well.
3. That any application filed pursuant to the provisions of Paragraph No. 2, subparagraphs a through d of this Order, may be approved, modified, or rejected by the Chief Engineer and shall be subject to such terms, conditions and limitations as the Chief Engineer shall deem necessary in the public interest.
 4. That except as provided for in Paragraphs No. 2 and No. 3 of this Order, the Chief Engineer shall refuse after the effective date of this Order, to accept any application for the appropriation of water with a proposed point of diversion within the IGUCA.
 5. That all applications to appropriate water which do not meet any of the exceptions set forth in Paragraph No. 2 of this Order, filed on or after May 31, 1984, and prior to the date of this Order declaring an IGUCA, shall be dismissed.
 6. 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 of the Division of Water Resources, Kansas State Board of Agriculture.
 7. 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 control area or the corrective control provisions, which he or she may deem to be in the public interest.

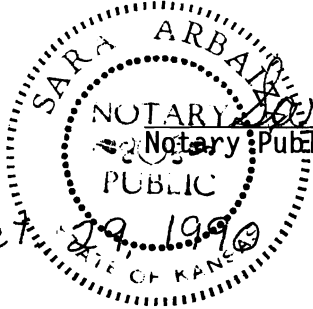
Dated at Topeka, Kansas this 20th day of July, 1988.



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

State of Kansas)
) ss
County of Shawnee)

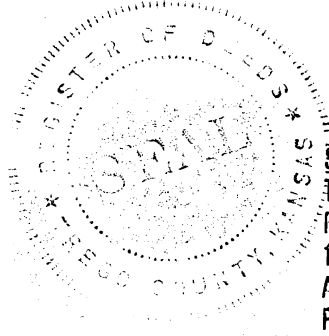
The foregoing instrument was acknowledged before me this 20th day of July, 1988, by David L. Pope, P.E., Chief Engineer, Division of Water Resources, Kansas State Board of Agriculture.



Sara Arbaiza
Notary Public

My appointment expires:

Oct 29 1990



STATE OF KANSAS, COUNTY OF
GREGG. THIS INSTRUMENT WAS
FILED FOR RECORD Sept 12
19 88 AT 10:00 O'CLOCK A M
AND RECORDED IN BOOK A97
PAGE 621 FEE: \$ 21.00
Oliver M Kumpel
REGISTER OF DEEDS

MICROFILMED

STATE OF KANSAS ss
GOVE COUNTY
This instrument was filed for record on
the 1 day of Sept A.D. 1988
at 11 o'clock AM. and recorded in
Book 100 on page 698-714.
Oliver M Wilson
Register of Deeds