

**STATE OF KANSAS
BEFORE THE DIVISION OF WATER RESOURCES
KANSAS DEPARTMENT OF AGRICULTURE**

IN THE MATTER OF:)	
Compton: Highway 4 Farm)	Water Right, File Nos.:
Scott County, KS)	21815, 21520
Water Conservation Area)	25577
_____)	

**CONSENT AGREEMENT AND
ORDER DESIGNATING A WATER CONSERVATION AREA**

Come now the parties, the Chief Engineer of the Kansas Department of Agriculture, Division of Water Resources (hereinafter the "Chief Engineer" and "KDA") and the water right owner, Steven D. Compton to announce that they have conferred in good faith and have reached an agreement on the designation of Compton: Highway 4 Farm Water Conservation Area, pursuant to K.S.A. 82a-745. This document serves as a consent agreement and order of designation, incorporating the management plan of the participants, and which shall include Water Right, File Nos. 21815, 21520, 25577, and any associated term permits.

CONSENT AGREEMENT

I. BACKGROUND

The Kansas Legislature enacted K.S.A. 82a-745 to provide a tool for water rights owners to work in conjunction with the KDA to develop localized Water Conservation Area (WCA) management plans. The participants in the proposed WCA sought to combine individual water rights into a legally enforceable plan to reduce groundwater pumping to preserve the life of the aquifer in the future. The participants have coordinated with staff of the KDA in the development of a management plan in accordance with K.S.A. 82a-745.

The final management plan (Plan) was received by the Garden City Field Office on December 5, 2016, and was found to meet the requirements of K.S.A. 82a-745.

K.S.A. 82a-745 requires that, prior to issuing a consent agreement and order designating a water conservation area, the Chief Engineer shall notify in writing the groundwater management district(s) within which any participating water right is situated. Such notice was provided on December 12, 2016, to the Western Kansas Groundwater Management District No. 1 ("GMD"). The KDA received the GMD's response, dated December 14, 2016. In said response, the GMD Board recommended approval of the proposed WCA on December 13, 2016.

Upon review of the plan and GMD recommendation, the management plan is found to be acceptable by the Chief Engineer.

RECEIVED

FEB 14 2017

Garden City Field Office
Division of Water Resources

II. WATER RIGHTS AND GEOGRAPHIC AREA

The water rights subject to the proposed WCA, the places of use, and the owners of such water rights, who represent that they are authorized to enter into this Consent Agreement with respect to their interests in such water rights, are described as follows:

Water Right Number	Twp Range Sec Qual ID	Water Right Owner
21815 ID#4	17S 31W 04	Steven D. Compton
21520 ID#1	17S 31W 04	Steven D. Compton
21520 ID#2	17S 31W 04	Steven D. Compton
21520 ID#3	17S 31W 04	Steven D. Compton
25577 ID#7	17S 31W 04	Steven D. Compton
25577 ID#8	17S 31W 04	Steven D. Compton
25577 ID#9	17S 31W 04	Steven D. Compton

The geographic boundary for the place of irrigation use is shown in the Plan and is described as follows:

- 528 Acres (center pivot irrigation circles) in all of Section 04-17S-31W,
- 121 Acres (center pivot irrigation circle) in the Northeast Quarter (NE¼) of Section 08-17S-31W, all in Scott County, Kansas.

III. APPLICABLE LAW

K.S.A. 82a-745 sets for the requirements and limitation for establishing a WCA. The statute allows individual water right owners to address groundwater declines and other conditions of concern through locally-generated management plans that include specific goals and corrective control provisions. These plans must be in compliance with state law. Furthermore, the corrective control provisions cannot conflict with rules and regulations of an affected groundwater management district, requirements of a local enhanced management plan or requirements of an intensive groundwater use control area that result in greater overall conservation of water resources within which a participating water right is situated. Proposed management plans for WCAs must be submitted to the Chief Engineer. The management plan forms the basis of the consent agreement and this order.

IV. FINDINGS

Findings under K.S.A. 82a-1036(a)-(d):

1. K.S.A. 82a-745 requires that one or more of the following conditions shall be present for the proposed geographic area included in the WCA:
 - a. Groundwater levels in the area in question are declining or have declined excessively.
 - b. The rate of withdrawal of groundwater in the area equals or exceeds the rate of recharge within such area
 - c. Preventable waste of water is occurring or may occur within the area in question
 - d. Unreasonable deterioration of the quality of water is occurring or may occur within the area in question

RECEIVED

FEB 14 2017

Garden City Field Office
Division of Water Resources

The Chief Engineer has found that:

- a. Groundwater levels in the area in question are declining or have declined excessively;
 - b. The rate of withdrawal of groundwater in the area equals or exceeds the rate of recharge.
-

Consideration of prior conservation measures

2. Pursuant to K.S.A. 82a-745, due consideration shall be given to water users seeking to establish a WCA who have previously implemented reductions in water use resulting from voluntary conservation measures.
3. In the Plan, the water right owners asserted that no special consideration is required for this WCA with respect to past implementation of reductions in water use from in voluntary conservation measures.

V. TERMS AND CONDITIONS OF THE WCA

Corrective Control Provisions

The following corrective control provisions shall be in effect within Compton: Highway 4 Farm WCA during the term of the WCA:

1. Within Compton: Highway 4 Farm WCA, the permissible withdrawal of groundwater shall be limited to no more than 4,375 acre-feet per five-year period (875AF x 5), over three five-year periods beginning January 1, 2017 and ending December 31, 2031; and are not to exceed 1,280 acre-feet annually. Wells pumping to a common system may be provided a single allocation (1,280 acre-feet) for the total system acres. No water right shall exceed its authorized quantity in any given year, unless term permits are filed and approved to provide for multi-year allocation.
2. All water right owners within the Compton Highway 4 Farm WCA shall be responsible for ensuring their water flowmeters are in compliance with state and local law(s). Any water right owner or authorized designee who finds a water flowmeter that is inoperable or inaccurate shall within 48 hours contact the KDA-DWR Garden City Field Office concerning the matter. Whenever an inoperable or inaccurate water flowmeter is repaired or replaced, the owner or authorized designee shall notify the KDA-DWR Garden City Field Office within seven (7) days on a form prescribed by the Chief Engineer of the water flowmeter installation and any water flowmeter repair or replacement event.
3. The corrective control provisions of the Compton Highway 4 Farm WCA cannot conflict with the rules and regulations of the local GMD that result in overall conservation of water resources. If a Local Enhanced Management Area (LEMA) plan or an Intensive Groundwater Use Control Area (IGUCA) is formed after the initiation of the Compton Highway 4 Farm WCA, and the WCA is partially or wholly within a LEMA or IGUCA, the corrective control provisions that result in the greater overall conservation of water resources based in inches per acre and not based on percent reduction of average historic

use, shall prevail; however the controlling management plan provisions must give due consideration to the WCA whom have previously implemented reduction in the water use resulting in voluntary conservation measures. The Chief Engineer is authorized to amend any provision of the WCA to conform to any rules, regulations, or requirements that result in greater conservation of the water resource subject to the foregoing due consideration for past and current conservation.

Duration and Additional Terms

4. The Compton: Highway 4 Farm WCA shall be in effect upon issuance of this Consent Agreement and Order Designating a Water Conservation Area, approved by the participants and the Chief Engineer. The term of the WCA shall be three five-year periods.
5. All allocation values shall be expressed in terms of total water volumes for each of the three five-year evaluation periods.
6. Wells pumping to a common system are limited to a single allocation (1,280 acre feet annually) for the total system acres. The total amount pumped by all of the wells involved must remain within the system allocation.
7. Water rights may, at the discretion of the owners, be combined into a single allocation account with flexibility of pumping the multiple wells within the account as directed by the owner, provided the total account allocation is not exceeded and the annual authorized quantities of the constituent water rights are not exceeded.
8. In all cases the allocation shall be assigned to the point of diversion and shall apply to all water rights and acres involving that point of diversion. A term permit may be proposed to allow an individual well to exceed its annual allocation under the base water right as long as the total combined quantity of 1,280 acre-feet annually is not exceeded by all wells.
9. Moreover, in all cases the original water right, such as it existed before the WCA, shall be retained.
10. Up to 25% of any unused water from the immediate preceding 5-year WCA allocation period, may be rolled over and added to the allocation to the subsequent 5-year period. In no case will the amount rolled over to the next period be larger than 1,094 acre-feet.

Membership and Geographic Area Considerations

11. Additional land may be added to this Water Conservation Area in one of three ways:
 - a. An additional water right with an additional associated place of use may be added to this WCA upon written notification to the Chief Engineer and modification of the consent agreement;
 - b. With a term permit, additional dry acres may be added to this WCA to be irrigated with water from any combination of the wells previously enrolled within the WCA so long as the defined WCA quantity is not exceeded and other terms and conditions herein are adhered to. The addition of such acres is temporary and only effective during the duration of this WCA agreement; or

RECEIVED

FEB 14 2017

Garden City Field Office
Division of Water Resources

-
- c. To permanently expand the place of use associated with one or more of the water rights enrolled in this WCA, a permanent change in the place of use may be approved upon proper application, pursuant to K.S.A. 82a-708b.
-
12. Any of the above additions to land will require written notification to the Chief Engineer to modify the geographical boundaries of the WCA. If any of the above requires modification to the water allocation quantities, geographical boundaries, places of use, terms, or conditions of the original Compton: Highway 4 Farm WCA, the management plan shall be revised to incorporate such changes and a modification to the consent agreement shall be executed by all parties.
13. The Compton: Highway 4 Farm WCA may be terminated by written notification signed by the owners of each participating water right to the Chief Engineer of the intent to terminate. Upon receipt of such notification, the Chief Engineer shall issue an order dissolving the WCA. Such termination shall be effective at the end of the calendar year in which the request for termination is requested.

Compliance and Monitoring

The following compliance monitoring and enforcement provisions are proposed. This section also includes any specific provisions regarding measuring or reporting water usage.

14. There is one (1) recognized observation well within Compton: Highway 4 Farm WCA that has for many years been measured annually by the Kansas Geological Survey (KGS) and is included in the water right area map of the management plan. This well will continue to be measured annually and the data collected will help in evaluating the effectiveness of the WCA.
15. The participants or an authorized representative thereof shall submit an annual report no later than March 1 and maintain a spreadsheet detailing the following information for each well and all wells combined: beginning and ending meter readings, quantity of water diverted, acres irrigated, the inches per acre, and the quantity of water remaining for each year remaining in the WCA. These records shall be maintained by the members of the WCA and available for KDA upon request. The annual report requirement in this paragraph is in addition to the annual water use report required pursuant to K.S.A. 82a-732.
16. The participants or an authorized representative thereof shall agree to maintain a record of the quantity diverted under the approval at the first of each month of the period of authorization. Further, they agree to make such information available upon the request of the KDA, DWR, Chief Engineer or his/her authorized representative.
17. Backup measurements will be supported or an alternate measurement device in the event that the water flowmeter record is questionable or not reliable.
18. Water flowmeter will be sealed to the measurement chamber by the KDA-DWR, during the duration of this management plan to ensure an accurate water use record.
19. The participants acknowledge that failure to abide by the terms and conditions of the consent agreement and order may result in the termination of the WCA or other enforcement actions

pursuant to state laws and regulations. Additionally, failure to abide by the terms, conditions, and limitations of the individual water rights may result in civil penalties pursuant to regulations of the Chief Engineer.

20. A review of the WCA shall be completed in October 2021, 2026, & 2031 to ensure the above terms remain appropriate for the current hydrologic conditions and are achieving the stated goals of Compton: Highway 4 Farm WCA. Upon the review, and a finding by the Chief Engineer that the WCA has achieved the goals stated herein and that conditions allow it to continue under the same terms for an additional periods, the WCA may be extended upon written request by the water right holders to the Chief Engineer and consent of the Chief Engineer.

Other Provisions

21. This consent agreement is fair and equitable, and should become part of the Consent Agreement and Order Designating a Water Conservation Area.
22. This Consent Agreement, entered into by the Chief Engineer and participants, is the expressed written intent of the parties and the whole agreement between the parties.
23. The provisions of this Consent Agreement shall be construed to give effect to the provisions of the WCA management plan.
24. This Consent Agreement and Order may be modified as provided herein pursuant to written agreement of the participants and the Chief Engineer.
25. This Consent Agreement and Order shall be applied to and enforceable against any and all heirs, assigns, purchasers, or successors-in-interest, unless the participants and Chief Engineer otherwise agree pursuant to modifications hereto. A copy of this Consent Agreement and Order Designating a Water Conservation area shall be filed with the register of deeds in the counties where the water rights are situated.
26. Pursuant to the Kansas Administrative Procedure Act, K.S.A. 77-501 *et seq.*, the Kansas Judicial Review Act, K.S.A. 77-601, *et seq.* or by any other applicable Kansas law, participants waive all rights to a hearing on or appeal of this Consent Agreement and Order Designating a Water Conservation Area.

ORDER

NOW, THEREFORE, it is the decision and order of the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, that Compton: Highway 4 Farm WCA is hereby designated and established in Scott County and shall be in full force and effect as of the date of issuance of this Consent Agreement and Order Designating a Water Conservation Area. The terms and conditions of the Consent Agreement, as laid out herein, are hereby incorporated and made a part of this order. The water rights subject to this Consent Agreement and Order Designating a Water Conservation Area shall be operated in accordance with the provisions herein, in compliance with state law. Upon expiration of the term of the WCA, if not renewed, the water rights subject

RECEIVED

FEB 14 2017


Garden City Field Office
Division of Water Resources

hereto shall be operated in accordance with the terms, conditions, and limitations of such water rights.

IT IS SO ORDERED, THIS 20th DAY OF February, 2017.

THE PARTICIPANTS:

All participating water right owners have signed below, each affirming their consent to the designation of the Water Conservation Area described herein.


Date: 2/9/2017
Steven D. Compton
Compton: Highway 4 Farm
Scott County, KS

FOR THE KDA:

David Barfield 2/20/2017
David Barfield
Chief Engineer

ACKNOWLEDGMENT

State of Kansas)

County of Riley)

This instrument was acknowledged before me on 2/20/2017 by





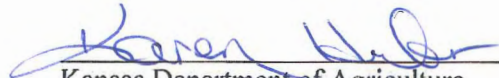
RECEIVED
FEB 14 2017
Garden City Field Office
Division of Water Resources

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of February, 2017 true and correct copies of the foregoing were sent via First Class, U.S. mail, to the following:

Steven D. Compton
PO BOX 348
Scott City, KS 67871-0348

Copies furnished electronically to:
Groundwater Management District No. 1
Water Commissioner, Garden City Field Office


Kansas Department of Agriculture
Staff Person

RECEIVED
FEB 14 2017
Garden City Field Office
Division of Water Resources