

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

**IN THE MATTER OF:**

Hatcher Land CO LP Water Conservation Area )  
Seward County, Kansas )

Water Right, File No:  
43,445

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

The Chief Engineer of the Kansas Department of Agriculture, Division of Water Resources ("Chief Engineer"), and Hatcher Land CO LP ("Participants"), owner of water right located in Seward County, Kansas have conferred in good faith and have reached an agreement on the designation of the Hatcher Land CO LP Water Conservation Area ("HLCPWCA"), pursuant to K.S.A. 82a-745.

This document contains the findings of the Chief Engineer, the order designating the HLCPWCA and incorporating the HLCPWCA Management Plan dated April 14, 2017 and attached hereto, and the consent agreement between the Participants and Chief Engineer.

Pursuant to the HLCPWCA Management Plan, additional lands, places of use, and water rights may be added by entering into a consent agreement with approval of the Chief Engineer and all parties, which shall incorporate this order and the HLCPWCA Management Plan.

**I. BACKGROUND**

The Kansas Legislature enacted K.S.A. 82a-745 to provide a tool for water right owners to work in conjunction with the Chief Engineer to develop localized Water Conservation Area ("WCA") management plans. The Participants in the proposed HLCPWCA seek to reduce groundwater pumping to sustain their community by extending the life of the aquifer. The owner of Hatcher Land CO LP coordinated with Kansas Department of Agriculture ("KDA") staff to develop a management plan in accordance with K.S.A. 82a-745.

K.S.A. 82a-745 requires that, prior to issuing a consent agreement and order designating a WCA, 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 May 10, 2017, to the Southwest Kansas Groundwater Management District No. 3 ("GMD3"). KDA received GMD3's response supporting an agreement of the WCA on June 19, 2017.

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Upon review of the HLCPWCA Management Plan and in consideration of GMD3's support for agreement, the HLCPWCA Management Plan is found to be acceptable by the Chief Engineer.

## II. APPLICABLE LAW

1. K.S.A. 82a-745(a) requires that a WCA management plan form the basis of any consent agreement and order and such management plan shall include the following:
  - a. Clear geographic boundaries;
  - b. The written consent of all participating water right owner within the geographic boundaries;
  - c. A finding that one or more of the circumstances specified in K.S.A. 82a-1036(a) through (d), and amendments thereto, exist;
  - d. Goals and corrective provisions to address any existing circumstances;
  - e. Give due consideration to water users who have previously implemented reductions in water use resulting in voluntary conservation measures;
  - f. Compliance monitoring and enforcement; and
  - g. Be consistent with state law.
2. A consent agreement and order of designation of a WCA shall define the boundaries of the WCA and include the necessary corrective control provisions. K.S.A. 82a-745(b).
3. Any WCA corrective control provisions cannot lessen the conservation effect of any rules and regulations of a governing groundwater management district, requirements of a local enhanced management plan, or requirements of an intensive groundwater use control area. K.S.A. 82a-745(d).
4. The order of designation shall be in full force and effect from the date of its entry in the records of the Chief Engineer's office. K.S.A. 82a-745(c).
5. The consent agreement and order of designation shall provide for periodic review of the consent agreement and order, which may be initiated by the Chief Engineer or upon request of the water right owner in the WCA. The consent agreement and order shall specify the frequency of such periodic review, but a review shall be conducted at least once every 10 years. K.S.A. 82a-745(f).
6. One or more of the following circumstances must be found to exist by the Chief Engineer pursuant to K.S.A. 82a-745(a)(5):
  - 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;

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- c. Preventable waste of water is occurring or may occur within the area in question; or
  - d. Unreasonable deterioration of the quality of water is occurring or may occur within the area in question. K.S.A. 82a-1036(a) through (d).
7. In order to provide flexibility in the management of water resources, the Chief Engineer may authorize the use of any measure allowed pursuant to K.S.A. 82a-745(e) through (g), subject to any restrictions listed in the same.

**IV. FINDINGS**

- 1. Groundwater levels in and around the area commonly known as Hatcher Land CO LP in Seward County, Kansas are declining or have declined excessively.
- 2. The rate of withdrawal of groundwater in and around Hatcher Land CO LP equals or exceeds the rate of recharge.
- 3. The boundaries of the WCA shall include the place of use of all water rights that are listed in the HLCPWCA Management Plan or any addendum thereto. Additional lands, places of use, and water rights may be added as allowed by the HLCPWCA Management Plan.
- 4. All the requirements of K.S.A. 82a-745 are met in the attached HLCPWCA Management Plan, which sets forth the goals, corrective control provisions and a plan for conservation, rules for establishing water allocations, and rules for using water while participating in the HLCPWCA as well as provisions related to membership, duration, compliance monitoring and enforcement, and periodic review.
- 5. The HLCPWCA Management Plan is found to be consistent with state law.

**V. CONSENT AGREEMENT**

This document and the attached HLCPWCA Management Plan shall serve as a consent agreement among the Chief Engineer and the undersigned water right owner(s) to enroll water right(s) in the Hatcher Land CO LP Conservation Area (“HLCPWCA”) and to be bound by the terms, conditions, corrective control provisions, and conservation plan contained in the HLCPWCA Management Plan and elsewhere in this document for a term of three years.

The following water right shall be considered a part of the HLCPWCA: Water Right No. 43,445.

This agreement 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 WCA shall be filed with the register of deeds in Seward County.

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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 right to a hearing on or appeal of this agreement and Order Designating a Water Conservation Area.

**VI. ORDER**

**THEREFORE**, it is ordered by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, that the Hatcher Land CO LP Water Conservation Area is hereby designated and established and shall be in full force and effect from the date of its entry in the records of the Chief Engineer's office.

The terms and conditions of the HLCPWCA Management Plan are hereby incorporated and made a part of this consent agreement and order. The water right participating in the HLCPWCA by consent agreement shall be operated in accordance with the provisions in the HLCPWCA Management Plan, in compliance with state law and this Consent Agreement and Order.

The Consent Agreement and Order shall be reviewed as required by the HLCPWCA Management Plan. Such review may be done by initiation of the Chief Engineer or upon the request of the water right owner in the WCA. Such review shall be conducted within the three year period.

Upon expiration of the term of the HLCPWCA, if not renewed, the water right subject hereto shall be operated in accordance with the terms, conditions, and limitations of such water right.

IT IS SO ORDERED, THIS 31<sup>st</sup> DAY OF July, 2017.

**FOR THE KANSAS DEPARTMENT OF AGRICULTURE:**

David Barfield  
David Barfield  
Chief Engineer

**ACKNOWLEDGMENT**

State of Kansas

County of Riley

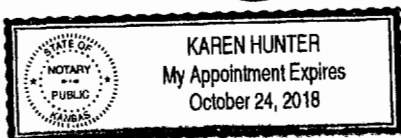
This instrument was acknowledged before me on 31<sup>st</sup> of July, 2017

by Karen Hunter

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**Participant's Agreement**

By signing below, the Participants agree that this Consent Agreement and Order is fair and equitable. This agreement, entered into by the Chief Engineer and Participants, is the expressed written intent of the parties and the whole agreement between the parties. The Participants agree to be bound by all the terms contained in this document and the attached HLCPWCA Management Plan and understand that the provisions of this agreement shall be construed to give effect to the provisions of the HLCPWCA Management Plan. This agreement may be modified as set forth in the terms of the HLCPWCA Management Plan and pursuant to written agreement of the participants and the Chief Engineer.

**FOR THE PARTICIPANTS:** All participating water right owner has signed below, each affirming their consent to the designation of the Water Conservation Area described herein.

Nick Hatcher Date: 7-24-17  
Nick Hatcher, Owner, Water Right No. 43,445  
33S-33W-28 (Twp-Range-Section); 126 Acres  
33S-33W-29 (Twp-Range-Section); 126 Acres

**ACKNOWLEDGMENT**

State of KANSAS )

County of SEWARD )

This instrument was acknowledged before me on July 24, 2017 by  
Nick Hatcher.

Joyce E. Begley



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**CERTIFICATE OF SERVICE**

I hereby certify that on this 7<sup>th</sup> day of August, 2017, true and correct copies of the foregoing were sent via first class, U.S. mail, to the following:

HATCHER LAND CO LP  
1701 N KANSAS AVE STE 102  
LIBERAL KS 67901

Copies furnished electronically to:

Groundwater Management District No. 3  
DWR-KDA Water Commissioner, Garden City Field Office

*Julie Jones*  
Kansas Department of Agriculture  
Staff Person

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