

RESOLUTION 95-4

OF THE

SOUTHWEST KANSAS GROUNDWATER MANAGEMENT DISTRICT

WHEREAS, the Southwest Kansas Groundwater Management District was formed for the proper management and conservation of the groundwater resources of Southwest Kansas; and

WHEREAS, groundwater is the principal source of fresh and usable water for industrial, municipal, stockwater, irrigation, and domestic use throughout the District; and

WHEREAS, the groundwater of the District is presently fully appropriated and developed in most areas of the District; and

WHEREAS, any additional diversions in developed areas will over-appropriate and exceed the available recharge rate thereby resulting in additional depletion of the groundwater in excess of the District's Allowable Aquifer Yield policies; and

WHEREAS, mining of sand and gravel in Southwest Kansas is a hydraulically intrusive process that removes millions of cubic yards of sand and gravel within the groundwater of the District, thereby exposing the water-table to the evaporative process; and

WHEREAS, aggregate mining sites are located in or adjacent to rivers and streams which are subject to flooding; and

WHEREAS, aggregate mining permanently opens and exposes the groundwater of the District to a variety of uncontrollable conditions, including diversion of groundwater from evaporation and potential injection of undesirable flood water and storm water runoff; and

WHEREAS, the District's aquifer management program provides for the proper and orderly development of groundwater by balancing aquifer recharge with planned groundwater withdrawals, and protecting the aquifer from contamination; and

WHEREAS, applications filed for permit to divert or withdraw groundwater for beneficial use must comply with the District's aquifer management program; then

THEREFORE, be it resolved by the Board of Directors of the Southwest Kansas Groundwater Management District that all aggregate mining or dredging operations within the District should be subject to all the appropriate provisions of the Kansas Water Appropriation Act, the Groundwater Management District Act, the Rules and Regulations of the Division of Water Resources, and the Management Program and policies of the Southwest Kansas Groundwater Management District; and not be exempted as in the present form of K.S.A. 82a-734 which was adopted by the Kansas Legislature in 1995; and

THEREFORE, be it resolved by the Board of Directors that the following revisions to K.S.A. 82a-734 are necessary, reasonable, and justifiable, and further, advocated for adoption:

AN ACT concerning sand and gravel pits; relating to the application of certain statutes to evaporation of water therefrom. Be it enacted by the Legislature of the State of Kansas:

Section 1. Except as provided for in paragraph (c), evaporation of water exposed as the result of the opening or operation of sand and gravel pits shall not be construed to be a use or diversion of water for the purposes of article 7 of chapter 82a of the Kansas Statutes Annotated.

(a) An operator shall notify the Chief Engineer of the Division of Water Resources of the Department of Agriculture of the location and area extent of any existing or proposed sand and gravel pit to be excavated, expanded or operated by the operator.

(b) Whether or not the activity is required to be permitted pursuant to K.S.A. 82a-701 et seq., all evaporation from sand and gravel pits, shall be reported as an industrial use to the Chief Engineer by the pit owner pursuant to K.S.A. 82a-732, and the determination of gallons used shall be supplied by the Chief Engineer to the Director of Taxation for the purpose of assessing the water protection fee pursuant to K.S.A. 82a-954, and amendments thereto.

(c) Evaporation of water from sand and gravel pits shall be considered as a beneficial use or diversion of water subject to the Kansas Water Appropriation Act, K.S.A. 82a-701 et seq., and amendments thereto:

(1) within the boundaries of a groundwater management district established pursuant to K.S.A. 82a-1020 et seq., and amendments thereto;

(2) within the boundaries of an intensive groundwater use control area established pursuant to K.S.A. 82a-1036 and amendments thereto; or

(3) when the Chief Engineer determines that it is necessary to manage and protect the beneficial use of the state's water, preserve the rights of priority of appropriation and to protect the public interest and use of water.

(d) This section shall be part of and supplemental of the Kansas Water Appropriation Act.

Section 2. This act shall take effect and be in force from and after its publication in the Kansas register.

THEREBY, that upon incorporation of the referenced revisions to K.S.A. 82a-734, all groundwater diversions except domestic use, including evaporation from aggregate mining must be permitted, so as to provide for the proper management and orderly development of the groundwater of the District.

Adopted this 13th day of September, 1995


Thomas R. Bogner, President


Michael J. McNiece, Secretary