

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

IN THE MATTER OF: )  
Wichita County Water Conservation Area )  
Wichita County, Kansas ) **22 WATER 17770**  
)  
Water Right File Nos. 8,376 and 13,531 )

**ORDER REMOVING WATER RIGHT NOS. 8,376 AND 13,531 FROM THE  
WICHITA COUNTY WATER CONSERVATION AREA**

**COMES NOW** Earl D. Lewis, Chief Engineer of the Kansas Department of Agriculture, Division of Water Resources (“Chief Engineer”) and approves the request by Brad L. Bangarter and Jerri F. Bangarter and N Farm, owners of Water Right Nos. 8,376 and 13,531 (“the Water Rights”), to withdraw the Water Rights from the Wichita County Water Conservation Area (“WCWCA”), pursuant to K.S.A. 82a-745 and the WCWCA Management Plan.

As a result of the withdrawal of the Water Rights from the WCWCA, the Findings and Order designating the WCWCA, dated March 7, 2017 (“Order of Designation”); the Consent Agreement to Participate in the Wichita County Water Conservation Area entered into by the Charles and Joan Ayers Trust and Bar H Ranch, Inc. on August 15, 2017 (“Consent Agreement”); and the Order Amending the Wichita County Water Conservation Area Consent Agreement and Order of Designation, dated December 21, 2017 (“Amended Consent Agreement and Order of Designation”) shall be amended as set forth herein. In support of the approval of the request by Brad L. Bangarter and Jerri F. Bangarter and N Farm to withdraw the Water Rights from the WCWCA, the Chief Engineer makes the findings, conclusions, and orders set forth herein.

**RECEIVED**

**MAR 24 2022**

**I. APPLICABLE LAW**

1. 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 management plans. As a result, the participants in the WCWCA have combined individual water rights into a legally enforceable plan in order to reduce groundwater pumping and preserve the life of the High Plains Aquifer in Wichita County.
2. Pursuant to K.S.A. 82a-745(k)(1)(B), the Chief Engineer may, with the consent of all participating water right owners, amend a consent agreement and order of designation in order to add water rights to or remove water rights from a water conservation area upon the request of such water right owners.

Sedgwick County Office  
Division of Water Resources

3. Pursuant to K.S.A. 82a-745(k)(2), amendments to a consent agreement and order of designation that remove a water right from a water conservation area upon the request of the owner of the water right do not require the consent of all participating water right owners, unless such a requirement is made a part of the governing water conservation area management plan.
4. The WCWCA Management Plan does not require the consent of all participating water right owners in the case of a request by a water right owner to withdraw a water right from the WCWCA due to a change in ownership.
5. The WCWCA Management Plan contains the following provisions:
  - A change in land and/or water right ownership shall be sufficient justification for withdrawal from an existing WCA Agreement (WCWCA Management Plan, p. 12).
  - If a change in land and/or water right ownership occurs during the term of a WCA Agreement, then the new owner shall have the options of:
    - a. Assuming the existing WCA Agreement,
    - b. Enrolling in a new WCA Agreement that is based on the management plan in effect at that time, or
    - c. Terminating the existing WCA Agreement.

Each of these actions will require approval by the Chief Engineer (WCWCA Management Plan, p. 7, para. 14).

- It is recognized that unusual and complex circumstances may occur that cannot be reasonably anticipated by the management plan. An applicant may request a variance from the criteria contained in this management plan. Such a request must be submitted in written form to the Board of Directors, must describe the conditions and circumstances necessitating the request, and must provide justification for approval of the variance (WCWCA Management Plan, p. 8, para. 15).

## **II. FINDINGS OF FACT**

6. The WCWCA was established on March 7, 2017, when the Chief Engineer issued the Order of Designation.
7. The Charles and Joan Ayers Trust and Bar H Ranch, Inc. were the owners of the Water Rights at the time of the designation of the WCWCA. The Consent Agreement, which enrolled the Water Rights in the WCWCA, was signed by the Charles and Joan Ayers Trust and Bar H Ranch, Inc. on August 15, 2017 and was signed by the Chief Engineer on September 12, 2017.



8. The Amended Consent Agreement and Order of Designation was signed by the Charles and Joan Ayers Trust and Bar H Ranch, Inc. on December 6, 2017 and was signed by the Chief Engineer on December 21, 2017.
9. The Order of Designation, the Consent Agreement, and the Amended Consent Agreement and Order of Designation all incorporated the WCWCA Management Plan and made the WCWCA Management Plan part of those documents.
10. Records show that Brad L. Bangerter and Jerri F. Bangerter, N Farm, Jason A. Wells and Gwen S. Wells, and Lane A. Wells acquired the Water Rights from the Charles and Joan Ayers Trust and Bar H Ranch, Inc. in December 2020 and that Brad L. Bangerter and Jerri F. Bangerter, N Farm, Jason A. Wells and Gwen S. Wells, and Lane A. Wells each own an undetermined interest in the Water Rights.
11. All wells authorized by the Water Rights are located on real property that was acquired by Brad L. Bangerter and Jerri F. Bangerter and N Farm from the Charles and Joan Ayers Trust and Bar H Ranch, Inc. No wells authorized by the Water Rights are located on real property owned by Jason A. Wells and Gwen S. Wells or by Lane A. Wells.
12. Brad L. Bangerter and Jerri F. Bangerter and N Farm have submitted proper documentation to the Chief Engineer showing that a change in ownership that would allow the Water Rights to be withdrawn from the WCWCA pursuant to the WCWCA Management Plan has occurred.
13. Brad L. Bangerter and Jerri F. Bangerter and N Farm submitted to the Interim Board of Directors of the WCWCA a written request to withdraw the Water Rights from the WCWCA, which described the conditions and circumstances necessitating the request and provided justification for the withdrawal of the Water Rights from the WCWCA, in accordance with the "unusual and complex circumstances" provision of the WCWCA Management Plan.
14. In a letter dated March 2, 2022, the Interim Board of Directors of the WCWCA recommended that the Chief Engineer grant the request by Brad L. Bangerter and Jerri F. Bangerter and N Farm to withdraw the Water Rights from the WCWCA and terminate the corresponding consent agreements entered into by the Charles and Joan Ayers Trust and Bar H Ranch, Inc. on August 15, 2017 and December 6, 2017, respectively.

### III. CONCLUSIONS OF LAW

15. The request by Brad L. Bangerter and Jerri F. Bangerter and N Farm should be granted, and the Water Rights should be removed from the WCWCA.

RECEIVED

MAR 24 2022

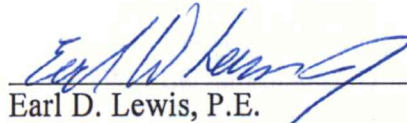
Garden City Field Office  
Division of Water Resources

Wichita County Water Conservation Area  
Removal of Water Right Nos. 8,376 and 13,531 - 3

**IV. ORDER**


**THEREFORE**, it is ordered by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, that Water Right Nos. 8,376 and 13,531 shall be removed from the Wichita County Water Conservation Area and that this Order Removing Water Right Nos. 8,376 and 13,531 From the Wichita County Water Conservation Area shall amend the Order of Designation, the Consent Agreement, and the Amended Consent Agreement and Order of Designation referenced herein to remove Water Right Nos. 8,376 and 13,531 from the Wichita County Water Conservation Area.

ENTERED THIS 17<sup>th</sup> DAY OF March 2022.



Earl D. Lewis, P.E.  
Chief Engineer, Division of Water Resources  
Kansas Department of Agriculture

Prepared by:



Stephanie A. Kramer #27635  
Staff Attorney  
Kansas Department of Agriculture  
1320 Research Park Drive  
Manhattan, Kansas 66502  
Phone: (785) 564-6715  
Fax: (785) 564-6777  
[stephanie.kramer@ks.gov](mailto:stephanie.kramer@ks.gov)

**Final Order**

This is a final order of the Chief Engineer, which shall become effective upon service pursuant to K.S.A. 77-530.

**Judicial Review**

Review of this order may be had pursuant to the Kansas Act for Judicial Review and Civil Enforcement of Agency Actions, K.S.A. 77-601 *et seq.* Any petition for such judicial review must be filed within thirty (30) days after service of this order in a Kansas court of competent jurisdiction. The agency officer designated to receive service of a petition for judicial review on behalf of the Kansas Department of Agriculture is:

Kenneth B. Titus  
Chief Counsel  
Kansas Department of Agriculture  
1320 Research Park Drive  
Manhattan, Kansas 66502

**CERTIFICATE OF SERVICE**

I hereby certify that on this 24<sup>th</sup> day of March 2022, a true and accurate copy of the foregoing Order Removing Water Right Nos. 8,376 and 13,531 From the Wichita County Water Conservation Area was sent via first class mail to the following:

Brad and Jerri Bangerter  
674 W. County Road C  
Leoti, KS 67861-6137

N Farm  
814 N. CR 7  
Leoti, KS 67861

Lane Wells  
1149 N CR 22  
Marienthal, KS 67863

Jason and Gwen Wells  
1149 N. CR 22  
Marienthal, KS 67863



\_\_\_\_\_  
Kansas Department of Agriculture  
Staff Person

cc: Electronic to:  
Water Commissioner, Garden City Field Office  
Groundwater Management District No. 1  
Interim Board of Directors, Wichita County Water Conservation Area