

**JOHNSTON, EISENHAUER, EISENHAUER
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August 10, 2015

David Barfield, Chief Engineer
Division of Water Resources
Kansas Department of Agriculture
1320 Research Park Drive
Manhattan, Kansas 66502

RE: Claim of Impairment for Water Right, File No. 360.01

Dear Mr. Barfield:

Please be advised that our firm represents Debra Kolbeck, and pursuant to K.A.R. 5-4-1, please consider this letter an official claim of impairment of Water Right File, No. 360.01 made on her behalf. Mrs. Kolbeck lives at 10930 Whirlwind, Dodge City, Kansas, 67801, which is approximately 13 miles south of Dodge City and situated in the Southwest Quarter (SW/4) of Section 27, Township 28 South, Range 25 West of the 6th P.M., Ford County, Kansas. Mrs. Kolbeck's water right is for domestic use with a priority date of May 27, 1948. It provides for a rate of diversion of 41 gallons per minute and an annual quantity not to exceed 4.96 acre-feet (1,615,479 gallons) per year.

Our client and her late husband previously filed a claim of impairment with the Division of Water Resources (DWR) in a letter dated March 24, 2011. DWR investigated the impairment claim and issued a final report dated September 30, 2012 (a copy of said report is enclosed with this letter). At the time of the issuance of the final report dated September 30, 2012, DWR found that there was no conclusive evidence of well-to-well interference affecting the Kolbeck's domestic wells, and further, that the Kolbeck's appeared to have adequate access to water to meet their domestic needs.

However, in the time since the final report was issued the condition of Mrs. Kolbeck's wells have significantly deteriorated and we believe that a new investigation is likely to find that Mrs. Kolbeck's water right has been impaired. Mrs. Kolbeck's point of diversion is a battery of two wells with a

geographic center located near a point 266 feet North and 3,574 feet west of the Southeast corner of Section 27, Township 28 South, Range 25 West of the 6th P.M., Ford County, Kansas, (the history and physical descriptions of Mrs. Kolbeck's wells are more thoroughly described in the attached report). Due to declining production in the newest well and rising electric bills, Mrs. Kolbeck is only able to operate one of the wells. The production from this well is not adequate to meet Mrs. Kolbeck's domestic water needs.

It is Mrs. Kolbeck's belief that her domestic water right is being impaired by several wells in the area. Consequently, Mrs. Kolbeck respectfully requests a well to well impairment investigation of all wells within two miles of her property (please note, Mrs. Kolbeck's original impairment complaint lists 24 Water Right Permit Numbers and 8 Term Permits for municipal use which she believed to be impairing her domestic water use.) Mrs. Kolbeck will cooperate in any manner necessary during the investigation.

We appreciate your prompt attention to this matter, and if you have any questions or concerns, please feel free to call the undersigned.

Sincerely,

JOHNSTON, EISENHAUER, EISENAHUER
& LYNCH, LLC

By:


Daniel O. Lynch
For the Firm

DOL/el
Enclosure



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Dale A. Rodman, Secretary
David W. Barfield, Chief Engineer

Sam Brownback, Governor

September 20, 2012

Rick & Debra Kolbeck
10930 Whirlwind RD
Dodge City, KS. 67801

Re: Claim of Impairment Water Right File No. 360.01

Dear Mr. & Mrs. Kolbeck:

Please find enclosed our final report on your claim of impairment dated March 24, 2011. This report was completed to comply with K.A.R. 5-4-1 and has been posted on the agency's web site: http://www.ksda.gov/water_management_services/content/321/cid/1745.

Based on the observations in the report, including 1) DWR staff observed no conclusive direct relationship between your domestic wells and nearby pumping wells and 2) you have this year (2012) applied for and were subsequently been granted a certified water right that was demonstrated to meet your stated needs, I find that your water right is not being impaired at this time.

Though this is final agency action, I would note that this finding does not foreclose you from filing another claim of impairment in the future. And like the present claim, any future claim will be investigated on its merits and the outcome will be decided on the best available data. The division intends to continue the status quo monitoring and data collection efforts at and near your domestic well system site. Should a future impairment claim be filed better, more conclusive data regarding the effects of the surrounding wells or the regional groundwater declines would be required to prove impairment. Please contact my office if you are interested in exploring improved monitoring and data collection at your domestic well system site.

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If you have any questions or would like to discuss these findings please don't hesitate to call or contact this office at (785)296-3717 or the Stafford field office at (620)234-5311.

Sincerely,



David W. Barfield, P.E.
Chief Engineer

Enclosure

pc: Southwest Kansas Groundwater Management District #3
Stafford Field Office