



STATE OF KANSAS

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March 4, 1981

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ATTORNEY GENERAL OPINION NO. 81-57 .

Mr. Robert A. Bloomer
Bloomer, Bloomer & Bloomer
202 West Main Street
Osborne, Kansas 67473

Re: Waters and Watercourses -- Intensive Groundwater
Use Control Areas -- Power to Initiate Proceedings
to Institute Such Areas

Synopsis: Pursuant to K.S.A. 1980 Supp. 82a-1036, only the
Chief Engineer, Division of Water Resources, of
the Kansas State Board of Agriculture may initiate
proceedings to designate an intensive groundwater
use control area which is not within an existing
groundwater management district. While an irri-
gation district may request the initiation of such
proceedings, the request is advisory only and is
not of legal effect. Cited herein: K.S.A. 1980
Supp. 82a-1036

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Dear Mr. Bloomer:

As attorney for two separate irrigation districts (Kirwin No. 1
and Webster No. 4), you have requested our opinion on the question
of whether such districts possess certain statutory authority.
Specifically, you inquire if the districts are able to recommend
that the Chief Engineer, Division of Water Resources, initiate
proceedings for designation of an intensive groundwater use
control area, pursuant to K.S.A. 1980 Supp. 82a-1036 et seq.
We note that a copy of your request also was sent to the Chief
Engineer, Guy Gibson.

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Prior to initiating research, we received, as we believe you did, a letter from Mr. Gibson regarding his interpretation of the statutes. After reviewing the material contained therein, we would conclude that his reasoning and conclusion are correct, i.e., as only the Chief Engineer may initiate proceedings to form such areas outside of existing groundwater management districts, any recommendation made by an irrigation district is advisory only in nature, and can be acted upon by the Chief Engineer as he deems necessary. Additionally, if there is a groundwater management district in existence, only it or a specified number of eligible voters within the district may make a recommendation which mandates action by the Chief Engineer. K.S.A. 1980 Supp. 82a-1036.

Accordingly, we would affirm the opinion of Mr. Gibson in concluding that the two irrigation districts cannot take any steps which require the Chief Engineer to initiate proceedings regarding the formation of intensive groundwater use control areas.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Jeffrey S. Southard
Assistant Attorney General

RTS:JSS:hle