

**IN THE DISTRICT COURT OF STAFFORD COUNTY, KANSAS**

ALAN B. CRANE, LEAH R. CHADD, )  
and HELEN CARR WEWERS, )  
Plaintiffs, )  
vs. ) Case No. 2018-CV-6  
DAVID BARFIELD, P.E., THE CHIEF )  
ENGINEER OF THE STATE OF KANSAS, )  
DEPARTMENT OF AGRICULTURE, )  
DIVISION OF WATER RESOURCES, )  
in his official capacity, )  
Defendant. )  
\_\_\_\_\_ )

**MEMORANDUM OF DECISION**

NOW on this date as reflected in the electronic file stamp above, this matter comes before the court upon defendant David Barfield’s motion to dismiss. Barfield argues that the plaintiffs, Alan Crane, Leah Chadd, and Helen Wewers, have failed to state a claim that entitles them to relief and that they are without standing to assert a claim. This court disagrees. For the following reasons, the motion to dismiss is denied.

Barfield argues that Crane, Chadd, and Wewers have not stated a claim of injury or damages which would entitle them to relief. However, point 24 in their Petition asserts that “the Chief Engineer has insisted on reductions in water use with GMD5....” They go on to assert that Barfield’s action failed to consider, or perhaps was contrary to, the prior appropriation doctrine. The record is largely silent as to the actual directions or orders instituted by Barfield. The court believes that discovery in the form of admission/denials, interrogatories, depositions, etc. will benefit the court and the parties in a resolution of this matter.

Barfield also argues that Crane, Chadd, and Wewers do not have standing to make their claim to the court. In part, he argues that the plaintiffs must demonstrate a “cognizable injury and that there is a causal connection between the injury and the challenged conduct.” [citing *Cochran v. State, Depart. of Agr., Div. of Water Resources*, 291 Kan. 898, 249 P.3d 434 (2011)]. However, with the information available to the court at this stage, it seems reasonable to believe that Barfield’s order for reduction in water use as alleged has caused or is likely to cause injury. And Crane, Chadd, and Wewers, landowners entitled to water use within GMD5, would be subject to that order and therefore possible injured parties.

For the foregoing reasons, Barfield’s motion to dismiss is denied. The parties are instructed to contact the court to schedule a case management conference.

IT IS SO ORDERED.


  
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Scott E. McPherson  
District Court Judge

**CERTIFICATE OF SERVICE**

I do hereby certify on the date reflected in the electronic file stamp the above and foregoing was filed electronically with the Clerk of the District Court and a notice of electronic filing will be sent to the following registered counsel of record:

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Scott E. McPherson  
District Court Judge