

Kansas Department of Agriculture
 Division of Water Resources
CHANGE: PD PU WORKSHEET

1. File Number: 12818	2. Status Change Date: 11/18/2020	3. Change Num: C4	4. Field Office: 04	5. GMD: 03
6. Status: <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied by DWR/GMD <input type="checkbox"/> Dismiss by Request/Failure to Return				7. Filing Date of Change: 7/20/2020
8a. Applicant(s) New to system <input type="checkbox"/> RYAN REED PO BOX 457 MONTEZUMA KS 67867		Person ID _____ Add Seq# _____		
8b. Landowner(s) New to system <input type="checkbox"/>		Person ID _____ Add Seq# _____		
		CHARLES E & KRISTIN H MARKEL 2801 DORALANE AVE DODGE CITY KS 67801		
8c. Landowner(s) New to system <input type="checkbox"/>		Person ID 26710 Add Seq# _____		
		CHARLES E & KRISTIN H MARKEL 2801 DORALANE AVE DODGE CITY KS 67801		
9. Documents and Enclosure(s): <input checked="" type="checkbox"/> DWR Meter(s) Date to Comply: 12/31/21 <input checked="" type="checkbox"/> N & P Date to Comply: 12/31/21				
<input type="checkbox"/> Anti-Reverse Meter <input type="checkbox"/> Meter Seal <input checked="" type="checkbox"/> Check Valve <input type="checkbox"/> N & P Form <input type="checkbox"/> Water Tube <input type="checkbox"/> Driller Copy <input type="checkbox"/> H & E Letter				
<input type="checkbox"/> Conservation Plan Date Required: _____ Date Approved: _____ Date to Comply: _____				
10. Use Made of Water From: _____ To: _____				
Date Prepared: 11/5/2020 By: li Date Entered: 12/7/2020 By: LMoody				

File No. **12818** 11. County: **GY** Basin: **ARKANSAS RIVER** Stream: **NA** Formation Code: **211** Special Use: **NA**

12. Points of Diversion										Rate and Quantity				
CHK										Authorized		Additional		Overlap PD Files
MOD	PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Rate gpm	Quantity af	Rate gpm	Quantity af	
MOD	48400	NC NW	16	27	28W	2	3952	3955	GPS UPDATE	675	224	675	224	NONE
MOD	87315	NE NE NW	16	27	28 W	6	5216	2934	GPS UPDATE	760	260	760	260	NONE

QUANTITY FLIP BEWTEEN WELLS

13. Storage: Rate _____ NF Quantity _____ ac/ft Additional Rate _____ NF Additional Quantity _____ ac/ft

14. Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) **NONE NO CHANGE**
 Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____

15. 5YR Allocation: Allocation Type _____ Start Year _____ 5 YR Amount _____ Amount Unit _____ Base Acres _____ Comment _____

16. Place of Use	CHK	MOD	DEL	ENT	PUSE	S	T	R	ID	NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg?	Overlap Files
										NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼				
MOD	28501	16	27	28W	1					40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0								320	8C	NO	13207	
ENT	24108	16	27	28W	2										40.0	40.0	40.0	40.0							160	8C	NO	13207	

Base Acres: Year: Minimum Reasonable Quantity:

Comments:

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: November 17, 2020

FROM: Leslie Ireland

RE: Water Right,
File Nos. 12,818 & 13,207

Ryan Reed as applicant for Charles E. & Kristin H. Markel, owners of the referenced files authorized for irrigation use completed applications to change the place of use under both of the referenced files and to change the point of diversion under File No. 12,818. The applications were received on August 12, 2019.

The referenced water rights are considered in good standing as per K.S.A. 82a-718 and 82a-732. The nearby well owners notified by letter dated October 6, 2020 of the requested changes. No comments of any kind were received. It appears the requirements of K.S.A. 82a-1906 have been met. The applications comply with K.A.R. 5-5-2a, *Complete change application*.

The change in place of use wells is to make an identical overlap of the existing authorized irrigated acres. The 320 acres in the North half (N $\frac{1}{2}$) of Section 16 under File No. 12,818 will be overlapped with the 160 acres in the Southwest Quarter (SW $\frac{1}{4}$) Section 16 under File No. 13,207, all in Township 27, Range 28 West, Gray County. The 480 acres that will be authorized complies with Part (b)(1) of K.A.R. 5-5-11, *Applications for change in place of use for irrigation purposes*, as these certified rights will authorize an identical place of use with no increase in authorized acres. The 790 acre-feet authorized by the referenced files provides 1.65 acre-foot per acre which is reasonable for Gray County per K.A.R. 5-5-12, *Net irrigation requirements*.

Authorizing an identical place of use by overlapping these rights will not alter the developed base acres, so it appears the changes comply with K.A.R. 5-5-3, *Change in consumptive use*.

The change in point of diversion under Water Right, File No. 12,818, is to flip the quantity between the existing authorized wells. No new wells will be drilled, and the change will not increase the number of authorized points of diversion. This right authorizes two (2) wells with no overlap in the points of diversion and no additional limitations. The South well is located near the center of the Northwest Quarter (NW $\frac{1}{4}$) and the North well is located in the Northeast Quarter of the Northwest Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$), both wells are located in Section 16, Township 27, Range 28 West, Gray County. They are not located in a special use area but are within the boundaries of the Southwest Kansas Groundwater Management District No. 3. The applicant has **requested a waiver of K.A.R. 5-23-3(a)(1); Minimum well spacing requirements: high plains aquifer.**

The actual location of the points of diversion will be updated per the 2019 Compliance Investigations. The feet distances of the South well (ID 2) will be corrected approximately 10 feet (') from 3,960' North and 3,960' West, to 3,952' North and 3,955' West from the Southeast corner. The North well (ID 6) will be corrected approximately 30' from 5,203' North and 2,961' West, to 5,216' North and 2,934' West from the Southeast corner. The actual well locations comply with K.A.R. 5-5-6, *Failure to construct diversion works at authorized location*.

The presently authorized points of diversion have not had their source of supply for the determined. Austin McColloch, ES DWR, reviewed the 2018 change approval well log completed to a depth of 277 feet and indicating a static water level of 160 feet and information from KGS Bulletin No. 55 and indicated the source of supply appears to be the Ogallala Formation (Code 211). As the wells are not moving, it appears there will be no change in the local source of supply.

The North well is authorized 224 acre-feet (AF) at 675 gallons per minute (gpm), and the South well is authorized 260 AF at 760 gpm. The proposal for change will flip these moving 260 AF at 760 gpm to the North well (ID 6) and its 224 AF at 675 gpm to the South well (ID 2). This will result in the North authorized to divert 36 AF more per year at a higher rate.

The updated well locations indicate the wells are located approximately 1,625 feet apart. The proposal and the requirement that the maximum distance allowed to move between wells in the Southwest Kansas Groundwater Management District No. 3 is 2,640 feet, per K.A.R. 5-23-3(b); *Minimum well spacing requirements: high plains aquifer*, it appears part (b) of the regulation has been met. While the wells are not moving the quantities require well to well spacing of 1,600 feet from any non-temporary or non-domestic wells per part (a)(1) of K.A.R. 5-23-3. The review by GMD3 indicates the well to well spacing is not met by the South well (ID2) to the 420 acre-feet authorized by File No. 27,932, by approximately 20 feet resulting in the request for **a waiver of the well to well spacing of this regulation.**

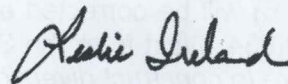
There are two (2) irrigation wells located within one-half ($\frac{1}{2}$) mile of the North well that will be increasing its quantity, and one (1) irrigation well located within one-half ($\frac{1}{2}$) mile of the South well. There are no domestic wells located within one-half ($\frac{1}{2}$) mile of either well. The owners of the irrigation rights were sent letters to inform them of the proposed change. No comments were received to letters sent October 6, 2020.

In a letter dated November, 2020, Jason Norquest, on behalf of the Board of the Southwest Kansas Groundwater Management District No. 3, reviewed the applications and recommend approval, with a **waiver of K.A.R. 5-23-3**, well to well spacing as the spacing is only a few feet short and the quantity authorized by the applicants well is being moved away, and their model indicated no impairment. Additionally, no comments were received from their notification of the nearby well owners.

Michael Meyer, Water Commissioner of the Garden City Field Office, was contacted for a recommendation on the proposed changes in place of use. He recommended approval of the proposed changes per his email dated November 6, 2020.

Water flow meters would not be required for the requested place of use changes per K.A.R. 5-5-11(e) but would be required for the proposed change in point of diversion. Water level measurement tubes are not applicable to these changes, as no new wells have been authorized, but it does appear a well tube was required by the 2019 approval so the wording will be included in the order for File No. 12,818. If the rights will chemigate they will be required to install and maintain check valves.

Based on the above discussion, that a waiver of K.A.R. 5-23-3 (a)(1) is acceptable the applications propose no change in the local source of supply, the changes are reasonable, there will be no significant increase in the consumptive use and impairment of existing water rights is unlikely, it is recommended that the referenced applications for change in place of use be approved.



Leslie Ireland
Environmental Scientist
Water Appropriation Program

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Secretary of Agriculture

DIVISION OF WATER RESOURCES
Earl D. Lewis Jr., Chief Engineer

APPROVAL OF APPLICATION
FOR
CHANGE IN PLACE OF USE
AND
POINT OF DIVERSION
WATER RIGHT
FILE NO. 12,818

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Charles E. and Kristin H. Markel, 2801 Doralane Avenue, Dodge City, Kansas 67801, received this office on July 20, 2020, for approval of a change in the location of the place of use under the certificate of appropriation issued pursuant to the permit to appropriate water for beneficial use, as modified and amended by the Orders of the Chief Engineer dated July 2, 2018 and February 6, 2019, approving the applications to change the point of diversion, finds that the change is reasonable and will not impair existing rights, and that the application should be and is hereby approved.

The effective date of the change shall be the date this order is executed by the Chief Engineer, after which the authorized location of the place of use shall be:

Sec. Twp. Range	NE¼				NW¼				SW¼				SE¼				TOTAL
	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
16 27S 28W	40.00	40.00	40.00	40.00	40.00	40.00	40.00	40.00	40.00	40.00	40.00	40.00					480.0

a total of 480 acres in Township 27 South, Range 28 West, Gray County, Kansas, and the authorized points of diversion shall be:

one(1) well located in the Northeast Quarter of the Northeast Quarter of the Northwest Quarter (NE¼ NE¼ NW¼) of Section 16, more particularly described as being near a point 5,216 feet North and 2,934 feet West of the Southeast corner of said section, at a diversion rate not in excess of 760 gallons per minute (1.69 c.f.s.) and a quantity not to exceed 260 acre-feet per calendar year, and

one(1) well located near the center of the Northwest Quarter (NW¼) of Section 16, more particularly described as being near a point 3,952 feet North and 3,955 feet West of the Southeast corner of said section, at a diversion rate not in excess of 675 gallons per minute (1.50 c.f.s.) and a quantity not to exceed 224 acre-feet per calendar year

both in Township 27 South, Range 28 West, Gray County, Kansas,

located substantially as shown on the map accompanying the application to change the place of use and point of diversion.

Installation of the works for diversion of water shall be completed on or before December 31, 2021, or within any authorized extension of time. The applicant shall notify the Chief Engineer of the Division of Water Resources, Kansas Department of Agriculture, when construction of the works for diversion has been completed.

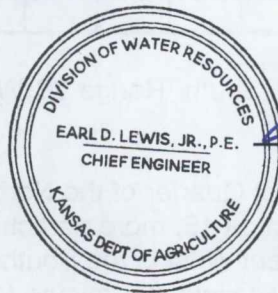
All wells with a diversion rate of 100 gallons per minute or more drilled under the authority of this order shall have a tube or other device installed in a manner acceptable to, and in accordance with specifications adopted by, the Chief Engineer. This tube or device shall be suitable for making water level measurements and shall be maintained in a condition satisfactory to the Chief Engineer.

The water right owner shall properly install an acceptable water meter on the diversion works authorized under this water right, prior to the use of water, in strict accordance with the Kansas Administrative Regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer. The water right owner shall notify the Chief Engineer when installation of the water meter has been completed. The water right owner shall maintain the water meter in an operating condition satisfactory to the Chief Engineer, at all times during diversion of water and shall maintain records from which the total quantity of water diverted may be determined. The water right owner shall also report the reading of said water meter and the total quantity of water diverted annually to the Chief Engineer. Such records shall be furnished to the Chief Engineer by March 1 following the end of each calendar year.

All diversion works into which any type of chemical or other foreign substance will be injected into the water pumped from the diversion works shall be equipped with an in-line, automatic, quick-closing check valve capable of preventing pollution of the source of the water supply. The type of valve installed shall meet specifications adopted by the Chief Engineer and shall be maintained in an operating condition satisfactory to the Chief Engineer.

In all other respects, the Certificate of Appropriation issued pursuant to Approval of Application, File No. 12,818, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated June 18, 1986, as modified and amended by the aforementioned orders.

Ordered this 18th day of November, 2020, in Manhattan, Riley County, Kansas.



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

State of Kansas)
County of Riley) SS

The foregoing instrument was acknowledged before me this 18 day of November 2020, by, Earl D. Lewis Jr., P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.



Ashlee Freeman
Notary Public

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Secretary of Agriculture

DIVISION OF WATER RESOURCES
Earl D. Lewis Jr., Chief Engineer

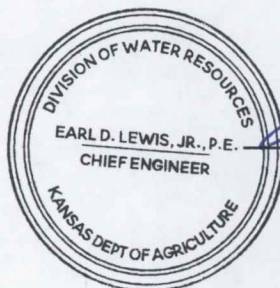
WAIVER OF REGULATION
K.A.R 5-23-3(a)(1) Well Spacing

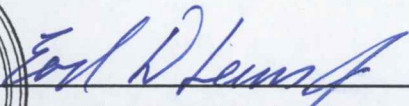
Date: November 18, 2020

Re: Water Right, File No. 12,818

1. That K.A.R. 5-23-3(a)(1) states in part that the minimum well spacing shall be based on the maximum annual quantity of water in acre-feet either authorized and requested for the proposed well, or authorized and requested by a senior application, permit, or water right for the nontemporary, nondomestic well to which the spacing is being measured, whichever is greater.
2. That the application to change the place of use, point of diversion for Water Right, File No. 12,818 received in the office of the Chief Engineer on July 20, 2020 requests to move quantity and rate between its authorized wells.
3. The proposal does not meet the 2,100 feet well spacing requirements of K.A.R. 5-23-3(a)(1) *Minimum well spacing requirements: high plains aquifer* since one of the proposed existing well is approximately 2,080 feet from the irrigation well under File No. 27,932, authorized 420 acre-feet.
4. The notification of the proposed change to the owner of File No. 27,932, did not result in any comments about the change to Water Right, File No. 12,818.
5. That in a letter dated November 5, 2020, Jason L. Norquest, Assistant Manager of Southwest Kansas Groundwater Management District No. 3, indicated that the Board of Directors of Southwest Kansas Groundwater Management District No. 3 reviewed the application, and has recommended a waiver of the spacing requirement of K.A.R. 5-23-3(a)(1) for the referenced change application for File No. 12,818. The wells have not met well spacing requirements in the past, there are no wells physically moving and the proposed change moves quantity and rate away from the well this is short less than 25 feet of the required well to well spacing.
6. That the referenced application for File No. 12,818 should be approved with a waiver of the well spacing requirement of K.A.R. 5-23-3(a)(1).
7. That the waiver of K.A.R. 5-23-3(a)(1) will not prejudicially nor unreasonably affect the public interest and it will not impair an existing water right.

Comments:




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

1320 Research Park Drive
Manhattan, KS 66502
785-564-6700
www. agriculture.ks.gov



900 SW Jackson, Room 456
Topeka, KS 66612
785-296-3556

Mike Beam, Secretary

Laura Kelly, Governor

RYAN REED
PO BOX 457
MONTEZUMA, KS 67867

December 15, 2020

RE: Water Right, File Nos. 12,818 & 13,207

Dear Mr. REED:

Enclosed are the orders executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the applications for change under the above referenced file numbers.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in these approvals for change. A condition of these approvals is that an acceptable water flow meter must be installed on the diversion works authorized under the referenced file numbers. Please return the required notification of completion of the diversion works and/or installation of the required meter form as soon as these actions are completed.

Since these orders modify the original documents referred to above, they should be recorded with the Register of Deeds as other instruments affecting real estate.

If you have any questions, please contact this office. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

Justin Koehn
Environmental Scientist
Water Appropriation Program

JDK

pc: Topeka Field Office

RIGHT TO A HEARING AND TO ADMINISTRATIVE REVIEW

If you are aggrieved by this Order, then pursuant to K.S.A. 82a-1901, you may:

- 1) request an evidentiary hearing before the Chief Engineer, or
- 2) request administrative review by the Secretary of Agriculture.

Failure to request an evidentiary hearing before the Chief Engineer does not preclude your right to administrative review by the Secretary.

To obtain an evidentiary hearing before the Chief Engineer, a written request for hearing must be filed within 15 days after service of this Order as provided in K.S.A. 77-531 (i.e., **within a total of 18 days after this Order was mailed to you**), with: Kansas Department of Agriculture, Attn: Legal Section, 1320 Research Park Drive, Manhattan, KS 66502, FAX (785) 564-6777.

If you do not file a request for an evidentiary hearing before the Chief Engineer, you may petition for administrative review of the Order by the Secretary of Agriculture. A petition for review shall be in writing and state the basis for requesting administrative review. The request for hearing may be denied if the request fails to clearly establish factual or legal issues for review. See K.S.A. 77-527. The petition must be filed within 30 days after service of this Order as provided in K.S.A. 77-531 (i.e., **within a total of 33 days after this Order was mailed to you**), and be filed with: Secretary of Agriculture, Attn: Legal Division, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, KS 66502, FAX (785) 564-6777.

If neither a request for an evidentiary hearing nor a petition for administrative review is filed as set forth above, then this Order shall be effective and become a final agency action as defined in K.S.A. 77-607(b). Failure to timely request either an evidentiary hearing or administrative review may preclude further judicial review under the Kansas Judicial Review Act.

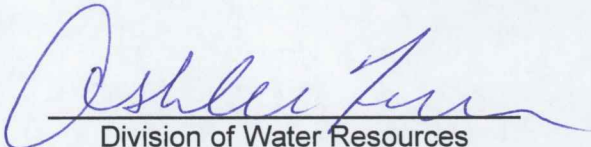
CERTIFICATE OF SERVICE

On this 15 day December, 2020, I hereby certify that the attached Approval of Application for Change in Place of Use and Point of Diversion, Water Right, File No. 12,818 dated, 10 December 2020 was mailed postage prepaid, first class, US mail to the following:

RYAN REED
PO BOX 457
MONTEZUMA KS 67867

With photocopies to:

Garden City Field Office
Groundwater Management District No. 3


Division of Water Resources