

File No. **16406** 11. County: **KE** Basin: **ARKANSAS RIVER** Stream: Formation Code: **211/331** Special Use:

12. Points of Diversion										Rate and Quantity							
CHK	MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Rate gpm/cfs	Quantity af/mgy	Rate gpm/cfs	Quantity af/mgy	Overlap PD Files
DEL					83122												
CHK	13189	NC SE				3	25S	35W	3	1320	1320		975	252	975	252	NONE
MOD	43701	NC NW				2	25S	35W	2	3960	3960		970	252	970	252	NONE
MOD	88447	LOT4 NWNW				2	25S	35W	7	5112	5220		1925	504	1925	504	NONE

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) _____
 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																		Total	Owner	Chg?	Overlap Files									
CHK	MOD	DEL	ENT	PUSE	S	T	R	ID		NE¼				NW¼				SW¼				SE¼								
										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					
CHK									22863																		8a	N	NONE	

Base Acres: Year: Minimum Reasonable Quantity:

Comments: **UPDATE ADDRESS** **WAIVER INCLUDED**

Kansas Department of Agriculture
 Division of Water Resources
WAIVER REQUEST & WAIVER RULE WORKSHEET

File Number: 16,406

FO: 4 GMD: 3

WAIVER REQUEST:

UMW	Date Requested	Rule ID	Applies	Rule Type	Rule Subtype
IRR	3/18/2021	26	GMD 3	Well Spacing	Well to Well Spacing
Rule Number	Date Granted	Date Denied	Justification:	No new well is being drilled, and closest neighboring well has responded to GMD3 and DWR stating they have no issue with the change. Recommended waiver request and approval from GMD 3.	
K.A.R. 5-23-3(a)(1)	3/25/2021				

WAIVER RULE:

Rule ID	Applicability	Type	Subtype	Rule Number	Date Active	Date Inactive

Date Prepared 3/18/2021 By AM

Date Entered 3/31/2021 By LMoody

all in Township 25 South, Range 35 West, Kearny County, Kansas,
The proposed wells will be located as follows:

one (1) well located near the center of the Southeast Quarter (SE $\frac{1}{4}$) of Section 3, more particularly described as being near a point 1,320 feet North and 1,320 feet West of the Southeast corner of said section, at a diversion rate not in excess of 975 gallons per minute (2.17 c.f.s.) and in a quantity not to exceed 252 acre-feet of water per calendar year,

one (1) well located in Lot 4 of the Northwest Quarter of the Northwest Quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 2, more particularly described as being near a point 5,112 feet North and 5,220 feet West of the Southeast corner of said section, at a diversion rate not in excess of 1,925 gallons per minute (4.29 c.f.s.) and in a quantity not to exceed 504 acre-feet of water per calendar year,

one (1) well located near the center of the Northwest Quarter (NW $\frac{1}{4}$) of Section 2, more particularly described as being near a point 3,960 feet North and 3,960 feet West of the Southeast corner of said section, at a diversion rate not in excess of 970 gallons per minute (2.16 c.f.s.) and in a quantity not to exceed 252 acre-feet of water per calendar year,

all in Township 25 South, Range 35 West, Kearny County, Kansas,

The abandoned well must be plugged in accordance with the requirements of Article 30 of the Rules and Regulations as adopted by the Kansas Department of Health and Environment.

not *

The applicant identified two (2) nearby wells ~~no~~ owned by the applicant within one-half mile, and the nearby notification letters were sent on January 19, 2021. One response has been received expressing support for the project.

Spacing requirements have not been met to three (3) irrigation wells, two of which are owned by the applicant. The third nearby well, File No. 15,583, the distance between ~~the~~ it and the proposed stocking of authority for Lot 4 well is 1,877 feet which is short of meeting the spacing requirement of 2,300 feet. The owner of File No. 15,583, which is the nearby response, ^r * expressed support for the project. Since the actual operating rate of the proposed well will likely not change with the move, impairment is unlikely. A well spacing waiver was requested and reviewed.

The point of diversion is located within the boundary of Groundwater Management District No. 3. A letter was sent to GMD No. 3 for a recommendation on the application on February 5, 2021. GMD No. 3 provided a recommendation for approval on March 17, 2021. Per GMD No. 3 board review, a recommendation of well spacing waiver was approved with a confirmation letter of support from the nearby well owner (File No. 15,583). The board also provided information that the proposal would not affect nearby existing wells beyond their threshold guideline. Also included within the recommendation, was that if the applicant wishes to unstack the authority in the future, current area rules for additional wells be implemented.

* LI/DWR

In an email dated March 19, 2021, with Michael Meyer, Water Commissioner, Garden City Field Office, indicated he is not opposed to approval of the request. The Water Commissioner also recommended that the request of the GMD No. 3 board to limit the unstacking of the proposal in the future to be processed under the Additional Well Regulation was in conflict with the regulation and the unstacking is not viewed as an "additional well" of this nature of proposal and water right. Therefore, he did not recommend that condition to be required on the change approval nor be processed that way in future requests of a change application.

Based on the above discussion, that the change is reasonable, that impairment to existing water rights is unlikely. It is recommended that if the change application for File No. 16,406 is approved.

Austin McColloch
Assistant Water Commissioner

From: Meyer, Mike [KDA]
Sent: Wed 3/17/2021 12:39 PM
To: McColloch, Austin [KDA]
Subject: FW: waiver request

see email from rodger below. this will work.

Mike

From: Justin Vyn <justinvyn@yahoo.com>
Sent: Wednesday, March 17, 2021 12:37 PM
To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Subject: Re: waiver request

EXTERNAL: This email originated from outside of the organization. Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Ok he said mike at gmd3 I figured he meant you. Either way I take his email response as to me as approval if you are good with that.

Sent from my iPhone

On Mar 17, 2021, at 11:59 AM, Meyer, Mike [KDA] <Mike.Meyer@ks.gov> wrote:

nothing yes that I know of.

Mike

From: Justin Vyn <justinvyn@yahoo.com>
Sent: Wednesday, March 17, 2021 11:51 AM
To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Subject: Fwd: waiver request

EXTERNAL: This email originated from outside of the organization. Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Hi Mike I think Rodger may have emailed you separately about this, but I would like to proceed with this application, thanks!

Sent from my iPhone

Begin forwarded message:

From: Rodger Koehn <rodger.koehn49@gmail.com>
Date: March 17, 2021 at 8:09:33 AM CDT
To: Justin Vyn <justinvyn@yahoo.com>
Subject: Re: waiver request

Yes, I approve. I am also replying to an email from Jason at gmd3

On Sat, Mar 13, 2021, 9:12 AM Justin Vyn <justinvyn@yahoo.com> wrote:

Hi Roger, as we talked on the phone I am writing you to request your permission to waive the 2300ft spacing requirement from my new well in the northwest corner of section 2-25-35 water write #16406.

please respond if you approve the waiver. thank you!

Justin Vyn

Rodger Koehn

From: Meyer, Mike [KDA]
Sent: Fri 3/19/2021 7:33 AM
To: McColloch, Austin [KDA]
Subject: 16406_Memo
Attachments: 16406_Memo.doc

see edits, amend as needed

I recommend approval of the application and also recommend that the approval not be condition to treat the NWNWNW well in Section 2 as an additional well if there would be a future proposal to unstack the proposed authority (unstack rate and quantity to move to another well or proposed location). the original water right developed and perfected was with 4 points of diversion. the current proposal requests going from 4 points of diversion to 3 points of diversion. the future intent of the applicant is to proposed to go back to 4 points of diversion in the future with out any limitations as suggested by the GMD3 board. with this perfected water right, going back to 4 wells in not an additional well as the perfected water right is not be increased.

From: Meyer, Mike [KDA]
Sent: Wed 3/24/2021 11:03 AM
To: Ireland, Leslie [KDA]
Subject: RE: Change File No. 16406

yes no add well language, no wlmt.

thank you

Mike

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Wednesday, March 24, 2021 11:00 AM
To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Subject: RE: Change File No. 16406

The approval document had the addl well CE retains jurisdiction.. I took it out.. seemed like it was from an old workup.

Also took out the wlmt wording... existing old well..

OK with these modifications to approval?

From: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Sent: Wednesday, March 24, 2021 10:57 AM
To: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Subject: RE: Change File No. 16406

no. as we stack water rights, we do not want to limit the rate as long as it is reasonable for the quantity. the owner will unstack these in the very near future therefore, the need to preserve the authorized rate. recall the GMD3 evaluation at 1925 GPM showed no ill effects.

thanks for asking

Mike

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Wednesday, March 24, 2021 10:51 AM
To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Subject: Change File No. 16406

Mike,

This seems very off allowing the adding of the rate to authorize 1,925 gpm when the max rate any well developed was 990 gpm.

It seems this adding of the rates is a no no as it will result in a substantial increase in rate... at a minimum shouldn't a limitation be added to this approval for this pd.... like

That the rate of diversion from the well located authorized in Lot 4 of the Northwest Quarter of the Northwest Quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 2, more particularly described as being near a point 5,112 feet North and 5,220 feet West of the Southeast corner of said section, in Township 25 South, Range 35 West, Kearny County, Kansas, under this file number is further limited to a maximum diversion rate not in excess of 990 gallons per minute (2.20 c.f.s.) while authorized 504 acre-feet per calendar year from the well described herein.

The pd in the approval will remain with the 1,925 gpm still seems off....

Leslie Ireland
Environmental Scientist
Change Application Unit
Division of Water Resources



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)

Date: March 25, 2021

Re: Water Right, File No. 16,406

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 authorized and requested for the proposed well or authorized and requested by a senior application, permit or water right.
2. That the quantity requested by the proposed well is 504 acre-feet.
3. That the quantity authorized by Water Right, File No. 15,583 is 272 acre-feet.
4. That K.A.R. 5-23-3(a)(1) requires a minimum well spacing of 2,300 feet between wells authorized more than 500 acre-feet.
5. That the proposed point of diversion, for File No. 16,406 and the well authorized by File No. 15,583 is approximately 1,877 feet apart.
5. That a email from the owners of File No. 15,583, Roger Koehn, stating that they did not have an issue with the application.
6. That Southwest Groundwater Management District No. 3, Board of Directors recommended approval of the proposed application with a waiver of the spacing.
7. That a waiver of K.A.R. 5-23-3(a)(1) will not prejudicially or unreasonably affect the public interest and will not impair any existing water rights.

Comments:



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

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 POINT OF DIVERSION
WATER RIGHT FILE NO. 16,406**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Justin Vyn on behalf of Vyn Land and Cattle, PO Box 1567, Dalhart, Texas, 79022, received in this office on January 15, 2021, for approval of a change in the location of the point of diversion under the certificate of appropriation issued pursuant to the application for permit to appropriate water for beneficial use, as modified and amended by the Orders of the Chief Engineer dated June 5, 2008; March 17, 2014 and October 19, 2020, approving the applications to change the authorized 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 point of diversion shall be:

one (1) well located near the center of the Southeast Quarter (SE $\frac{1}{4}$) of Section 3, more particularly described as being near a point 1,320 feet North and 1,320 feet West of the Southeast corner of said section, at a diversion rate not in excess of 975 gallons per minute (2.17 c.f.s.) and in a quantity not to exceed 252 acre-feet of water per calendar year,

one (1) well located in Lot 4 of the Northwest Quarter of the Northwest Quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 2, more particularly described as being near a point 5,112 feet North and 5,220 feet West of the Southeast corner of said section, at a diversion rate not in excess of 1,925 gallons per minute (4.29 c.f.s.) and in a quantity not to exceed 504 acre-feet of water per calendar year,

one (1) well located near the center of the Northwest Quarter (NW $\frac{1}{4}$) of Section 2, more particularly described as being near a point 3,960 feet North and 3,960 feet West of the Southeast corner of said section, at a diversion rate not in excess of 970 gallons per minute (2.16 c.f.s.) and in a quantity not to exceed 252 acre-feet of water per calendar year,

all in Township 25 South, Range 35 West, Kearny County, Kansas,

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 water right owner 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 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.

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.

In all other respects, the Certificate of Appropriation issued pursuant to Approval of Application, File No. 16,406, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated September 17, 1984, as modified and amended by the aforementioned orders.

Ordered this *25th* day of *March*, 2021, 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)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this *25* day of *March*, 2021, by Earl D. Lewis Jr., P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.



Ashlee Freeman

Notary Public

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

April 1, 2021

VYN LAND & CATTLE
JUSTIN VYN
PO BOX 1227
SYRACUSE, KS 67878-1227

RE: Water Right, File No. 16,406

Dear Mr. Vyn:

Enclosed is the order executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the application for change under the above referenced file number.

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

The abandoned well must be plugged in accordance with the requirements of Article 30 of the Rules and Regulations as adopted by the Kansas Department of Health and Environment.

Since the order modifies the original document referred to above, it should be recorded with the Register of Deeds as other instruments affecting real estate.

Should you have any questions, please contact us at (785) 564-6640, or your local area office in Garden City, Kansas at 620 276-2901. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

A handwritten signature in cursive script that reads "Kristen Baum".

Kristen Baum
New Application and Change Unit Supervisor
Water Appropriation Program

KAB:AM:li

Enclosures

pc: Garden City Field Office
Groundwater Management District No. 3

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.

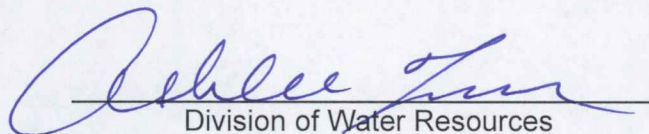
CERTIFICATE OF SERVICE

On this 1 day April, 2021, I hereby certify that the attached Approval of Application for Change in Point of Diversion, Water Right, File No. 16,406 dated, 05 March, 2021, was mailed postage prepaid, first class, US mail to the following:

VYN LAND & CATTLE
PO BOX 1567
SYRACUSE, KS 67878-1227

With photocopies to:

Garden City Field Office
Groundwater Management District No. 3


Division of Water Resources