

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

1. File Number: 22053	2. Status Change Date: 11/23/2021	3. Change Num: C2	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: 3/10/2021
8a. Applicant(s) New to system <input type="checkbox"/> RODNEY & GLENDA TOEWS 200 E PARKS AVE MONTEZUMA, KS 67867-8806		Person ID <u>52167</u> Add Seq# _____		
8b. Landowner(s) New to system <input type="checkbox"/>		Person ID 52167 Add Seq# _____		
		8c. Landowner(s) New to system <input type="checkbox"/>		
		Person ID _____ Add Seq# _____		
		8d. WUC New to system <input type="checkbox"/>		
		Person ID 52167 Add Seq# _____		
		8a		
9. Documents and Enclosure(s): <input checked="" type="checkbox"/> DWR Meter(s) Date to Comply: <u>12/31/22</u> <input checked="" type="checkbox"/> N & P Date to Comply: <u>12/31/22</u>				
<input checked="" type="checkbox"/> Anti-Reverse Meter <input checked="" type="checkbox"/> Meter Seal <input 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: _____				
WAIVER INCLUDED		<div style="border: 1px solid red; padding: 2px; display: inline-block;">11/23/2021 Llreland</div>		
		Date Prepared: 10/25/2021 By: li		
		Date Entered: <div style="border: 1px solid blue; padding: 2px; display: inline-block;">12/13/2021</div> By: LMoody		

File No. **22053** 11. County: **GY** Basin: **ARKANSAS RIVER** Stream: **NA** Formation Code: **113** Special Use: **NO**

12. Points of Diversion										Rate and Quantity							
CHK	MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files
MOD	65726	SW	SW	NE		21	26	29W	5	2985	2189	GPS UPDATE	810	376	810	376	NONE
MOD	73921	NW	NE	SW		21	26	29W	6	2045	3475	GPS UPDATE	800	275	800	275	NONE
MOD	36913	NC	NW			21	26	29W	1	3960	3930		820	176	820	176	NONE
CHK	7756	NC	SE			21	26	29W	3	1310	1300		710	261	710	261	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) **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										NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg?	Overlap Files		
CHK	MOD	DEL	ENT	PUSE	S	T	R	ID		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						
NO CHANGE																															

Base Acres: Year: Minimum Reasonable Quantity: Comments:

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

File Number: **22,053**

FO: **4**

GMD: **3**

WAIVER REQUEST:

UMW	Date Requested	Rule ID	Applies	Rule Type	Rule Subtype
IRR	3/10/2021	27		Well Spacing	Well to Well Spacing
Rule Number	Date Granted	Date Denied	Justification:	GMD No. 3 recommends a waiver of the well spacing regulation since the wells in question are all under the same priority. No new wells will be drilled.	
K.A.R. 5-23-3(a)(1)	11/23/2021				

WAIVER RULE:

Rule ID	Applicability	Type	Subtype	Rule Number	Date Active	Date Inactive

Date Prepared **10/25/2021** By **LI**

Date Entered **12/13/2021** By **LMoody**

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files
FROM: Leslie Ireland

DATE: October 22, 2021

RE: Water Right,
File No. 22,053

Rodney and Glenda Toews, as owners of the referenced file completed an application for change in point of diversion. The application to change this irrigation right was received on March 10, 2021.

The referenced file was found to be in good standing, as per K.S.A. 82a-718 and 82a-732. The application complies with K.A.R. 5-5-2a.

Water Right, File No. 22,053 authorizes four (4) wells with the quantity and rate assigned per well with a total quantity of 1,088 acre-feet (AF) and a rate of 3,170 gallons per minute for the irrigation of 544 acres. The right has no overlaps in point of diversion or place of use and no additional limitations. The wells are located within the authorized place of use in Section 21, Township 26 South, Range 29 West, Gray County, and are approximately 1,900 feet apart. The source of supply for the wells has not been determined but this area is generally Ogallala Formation, (Code 211). The right is not in a special use area.

The change is to reassign the quantity between the existing wells, no new wells will be drilled. It will move 100 acre-feet to the East, approximately 1,990 feet from the well located near the center of the Northwest Quarter to the well near the center of the section identified as being in the Southwest Quarter of the Southwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$).

Well Location	Authorized		Proposed	
	Quantity, AF	Rate, mgy	Quantity, AF	Rate, mgy
NW ID 1	276	850	176	850
SE ID 3	261	710	261	710
SW SW NE ID 5	276	810	376	810
NW NE SW ID 6	275	800	275	800
Totals	1,088	2,360	1,088	

The wells identified as ID 5 (60') and 6 (127.5') will have the feet distances updated from file information.

The proposed change does not comply with part (b) of K.A.R. 5-23-3, *Minimum well spacing requirements: high plains aquifer*, as the requested quantity increase requires the well, ID 5, to have 1,900 feet of well to well spacing to all non-domestic wells. This well is approximately 1,663 feet from well ID 6. As the wells are under the same priority the change will not alter the local source of supply that was developed under the referenced file and spacing to all other non-domestic wells is met. The proposed well is close to the owners domestic stockwatering well but exempted by part (e) of K.A.R. 5-23-3. **A waiver of part (b) of K.A.R. 5-23-3 was requested for the irrigation well spacing.**

The only non-domestic well owner, File No. 14,552, approximately 2,360 feet away was informed by letter of the requested change as required by K.S.A.82a-1906. No comments were received.

A October 14, 2021, letter of Jason Norquest, Assistant Manager of the Southwest Kansas Groundwater Management District No. 3, stated their Board **recommended approval of the application for change with the needed waiver of K.A.R. 5-23-3(b)** due to the wells showing no effect above their maximum allowable threshold.

Michael Meyer, Water Commissioner, Garden City Field Office was sent the summary memo for his review and recommendation of the proposal. In his email of October 22, 2021, he recommend approval of the requested change with the additional requirements that the meters be sealed and they should be totalizer meters.

Conditions of the approval will require the installation of totalizing flowmeters, sealed, and check valves if chemigating. A water level measurement tube and WWC-5 are not applicable, as no new wells will be authorized to be drilled.

Based on the above discussion, if the wavier is granted it appears the requested change is reasonable, the change should not cause impairment of existing rights and the source of supply will remain the same, it is recommended that the referenced application be approved.



Leslie Ireland
Environmental Scientist
Water Appropriation Program

From: Ireland, Leslie [KDA]
Sent: Fri 10/22/2021 4:15 PM
To: Meyer, Mike [KDA]
Subject: RE: Review and Recommendation, Change in PD File No. 22,053 Toews

arv? Anti-reverse meters right?

From: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Sent: Friday, October 22, 2021 4:13 PM
To: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Subject: RE: Review and Recommendation, Change in PD File No. 22,053 Toews

please approve with meter seals and arv

Mike

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Friday, October 15, 2021 5:19 PM
To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Subject: Review and Recommendation, Change in PD File No. 22,053 Toews

Mike,

Please let me know if you could recommend this change with the requested waiver. Also if you want to require seals or any other conditions other than standard requirements.

As always comments and concerns are welcome.

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

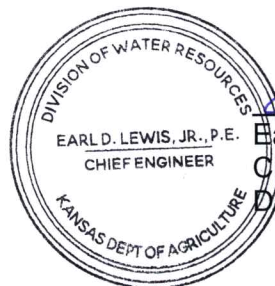
WAIVER OF REGULATION K.A.R. 5-23-3(a)(1)

Date: November 23, 2021

Re: Water Right, File No. 22,053

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 application to change the four (4) points of diversion authorized under the referenced file requests transferring quantity between the existing points of diversion while maintain the same number of wells. The reassignment of 100 acre-feet will result in an annual diversion of 376 acre-feet proposed to be authorized by one well is approximately 1,675 feet and 1,894 feet from other wells under the same file.
3. Part (a)(1) of the regulation requires that wells which authorize 301 to 400 acre-feet require a minimum well spacing of 1,900 feet to nearby wells.
4. That the proposed well is less than the required spacing, is authorized under the same right, (have equal priority) and serve the same place of use. Spacing to other non-domestic wells has been met.
5. That the Southwest Kansas Groundwater Management District No. 3, (GMD 3) recommended approval of the application for change with the waiver of well to well spacing.
6. That approval of the change in point of diversion approved with a waiver well spacing as detailed in K.A.R. 5-23-3(a)(1) should not impair an existing right and appears to be in the public interest.

Comments:



EARL D. LEWIS, JR., P.E.
CHIEF ENGINEER

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, UNDER WATER RIGHT, FILE NO. 22,053

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Rodney and Glenda Toews of 200 E. Parks Avenue, Montezuma, Kansas 67867, received in this office on March 10, 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 January 29, 2001 and April 4, 2007, approving the applications to change the point of diversion, finds that the change is reasonable and will not impair existing rights, that the change relates to the same local source of supply 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 Northwest Quarter (NW $\frac{1}{4}$) of Section 21, more particularly described as being near a point 3,960 feet North and 3,930 feet West of the Southeast corner of said section, at a quantity not to exceed 176 acre-feet per calendar year and at a diversion rate not in excess of 820 gallons per minute (1.83 c.f.s.), and

one (1) well located in the Southwest Quarter of the Southwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 21, more particularly described as being near a point 2,985 feet North and 2,189 feet West of the Southeast corner of said section, at a quantity not to exceed 376 acre-feet per calendar year and at a diversion rate not in excess of 810 gallons per minute (1.80 c.f.s.), and

one (1) well located in the Northwest Quarter of the Northeast Quarter of the Southwest Quarter (NW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 21, more particularly described as being near a point 2,045 feet North and 3,475 feet West of the Southeast corner of said section, at a quantity not to exceed 275 acre-feet per calendar year and at a diversion rate not in excess of 800 gallons per minute (1.78 c.f.s.), and

one (1) well located near the center of the Southeast Quarter (SE $\frac{1}{4}$) of Section 21, more particularly described as being near a point 1,310 feet North and 1,300 feet West of the Southeast corner of said section, at a quantity not to exceed 261 acre-feet per calendar year and at a diversion rate not in excess of 710 gallons per minute (1.58 c.f.s.)

all in Township 26 South, Range 29 West, Gray County, Kansas.

located substantially as shown on the topographic map accompanying the application to change the points of diversion.

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

December 20, 2021

RODNEY & GLENDA TOEWS
200 E PARKS AVE
MONTEZUMA, KS 67867

RE: Water Right, File No. 22,053

Dear Mr. & Mrs. Toews:

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

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in the approval for change. A condition of the approval is that an anti-reverse totalizing water flowmeter which meets or exceeds specifications adopted by the Chief Engineer must be installed on the diversion works authorized. That a seal shall be placed on the water flowmeters by the Division of Water Resources in such a manner as to render the meter non-removable from the measuring chamber without breaking the seal. You should contact the Garden City Field Office at (620) 276-2901, regarding the required meter seals. Please return the required notification of installation of the meter as soon as this action is completed.

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

If you have any questions, please contact Leslie Ireland, Environmental Scientist, at (785) 564-6640. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

Kristen A. Baum
New Application and Change Unit Supervisor
Water Appropriation Program

KAB:LI:li

Enclosures

cc: 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.

Any request for a hearing or petition for administrative review shall be in writing and shall be submitted to the attention of : Chief Legal Counsel, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, Fax: (785) 564 – 6777.

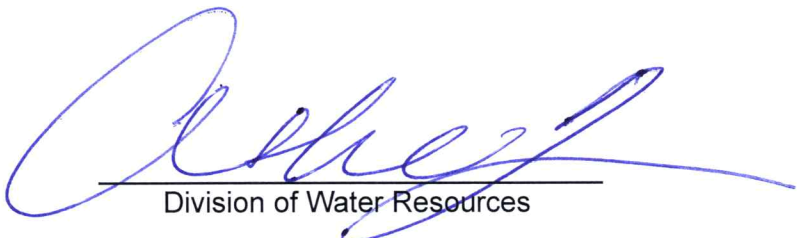
CERTIFICATE OF SERVICE

On this 20 day of December, 2021, I hereby certify that the attached Approval of Application for Change, File No. 22,053, dated 23 November, 2021, was mailed postage prepaid, first class, U.S. Mail to the following:

RODNEY & GLENDA TOEWS
200 E PARKS AVE
MONTEZUMA. KS 67867

With photocopies to:

Garden City Field Office
Groundwater Management District No.3



Division of Water Resources