

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

1. File Number: 32975	2. Status Change Date: 5/20/2021	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: 7/23/2020
--	---

8a. Applicant(s) New to system <input type="checkbox"/> KMC AG LLC PO BOX 279 PLAINS, KS 67869-0279 Person ID 63761 Add Seq# _____	8c. Landowner(s) New to system <input type="checkbox"/> STEVEN DAVIS 8149 N GIBRALTAR DR TUCSON, AZ 85704 Person ID 35935 Add Seq# _____ 8cc. Landowner(s) New to system <input type="checkbox"/> BARBRA MCARTHUR 834 OLEANDER ST WICKENBURG, AZ 85390 Person ID 67099 Add Seq# _____
--	--

8b. Landowner(s) New to system <input type="checkbox"/> CLAWSON LAND PARTNERSHIP PO BOX 279 PLAINS, KS 67869 Person ID 57020 Add Seq# _____	8d. WUC New to system <input type="checkbox"/> 8A Person ID 63761 Add Seq# _____
---	--

9. Documents and Enclosure(s): DWR Meter(s) Date to Comply: **12/31/21** N & P Date to Comply: **12/31/21**

Anti-Reverse Meter Meter Seal Check Valve N & P Form Water Tube Driller Copy H & E Letter
 Conservation Plan Date Required: _____ Date Approved: _____ Date to Comply: _____

10. Use Made of Water From: _____ To: _____

Date Prepared: **5/19/20** By: **li**
 Date Entered: **5/24/2021** By: **LMoody**

File No. **32975** 11. County: **SW** Basin: **Crooked Creek** Stream: **na** Formation Code: **211** 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	87997	NW NE SE				13	31	31W	4	2569	754		375	175	375	175	NONE
ENT	31362	CW SE				13	31	31W	3	1365	2625	ADDL WELL	175	82	175	82	NONE

ADDITIONAL WELL PRIORITY DATE: JULY 23, 2020

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

14. Limitation: _____ af/yr at _____ gpm (_____ cfs) 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																		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										
NO CHANGE																																			

Base Acres: _____ Year: _____ Minimum Reasonable Quantity: _____
 Comments: **SPECIAL CONDITION: 10 YR REVIEW – ADDITIONAL WELL**

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: May 20, 2021

FROM: Leslie Ireland

RE: Water Right
File No. 32,975

David Clawson on behalf of the KMC AG LLC, along with Barbara Davis McAuthur and Steven R. Davis all as owners, have requested to change the point of diversion authorized for irrigation use. The application was received on July 23, 2020. This application for change in Crooked Creek Basin proposes to add an **additional well** and will be processed under K.A.R. 5-5-16. Both points of diversion will be utilized for irrigation use.

The referenced water right is considered not to be abandoned as per K.S.A. 82a-718 and also appears to be in compliance with K.S.A. 82a-732. Review of nearby wells found none other than that of the applicants located within one-half mile of the proposed additional and authorized well. It appears no notification per K.S.A. 82a-1906, will be required. The application appears to comply with K.A.R. 5-5-2a, *Complete change application*.

The referenced file is authorized 1,460 gallons per minute to divert 270 acre-feet from the well located in the Northwest Quarter of the Northeast Quarter of the Southeast Quarter (NW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$), approximately 2,566 feet North and 766 feet West of the Southeast corner of Section 13, Township 31 South, Range 31 West, Seward County. This currently authorized well was approved and drilled March 19, 2020, to become the primary well under the referenced file. A Compliance Investigation completed on November 3, 2020, determined the actual location of the feet distances to be 2,569 feet North and 754 feet West, that will be utilized for the approval. A total of 1,008.17 acres comprise the place of use under File Nos. 12,474, 16,992, 19,972 & 22,819 in Seward and Meade Counties. The right is not located within a special use area but is within the boundaries of the Southwest Kansas Groundwater Management District No. 3.

The application proposes to add the previously authorized existing well as the additional well. This will authorize the well located near the center of the West side of the Southeast Quarter (CW SE $\frac{1}{4}$) approximately 1,365 feet North and 2,625 feet West of the Southeast corner of Section 13, Township 31 South, Range 31 West, Seward County as an additional well. As the proposed additional well was previously authorized the requested change is in the same local source of supply.

The notice of completion and well log for the 2020 authorized well was received on October 15, 2020. The 2020 log completed by Hydro Resources Mid Continent, Inc., listed Red Bed formation at 495 feet with sands and brown clays preceding and a static water level of 272 feet was on the well log submitted with the March 2020 change approval and a completion depth of 502 feet deep of a 24 inch bore diameter. The KGS WWC-5 database referenced a 1979 log of a well completed to a depth of 400 feet and having a static water level of 180 feet with a 16 inch bore diameter completed by Layne-Western Company. It listed sands and brown clay lithology similar to the 2020 well log. The KGS Bulletin No. 69, indicates the source of supply in this area to be the Ogallala formation (Code 211) and sandstones of the unconfined Dakota formation (Code 331). It appears the requirements of K.A.R. 5-5-16(b) have been met and that the existing and proposed are from the same source of supply.

The applicant worked with Chris Law, of Groundwater Management District No. 3, (GMD) for the needed rate test. The 1979 well (old well) was utilized for the required flow rate testing as required by part (a)(3)(A) of K.A.R. 5-5-16. The GMD completed a flow rate test on June 1, 2020, on the now authorized well yielding 550 gallons per minute (gpm). A similar test completed in 2008 yielded 784 gpm. The application acknowledges the rate test and reduction from 1,460 to 550 gallons per minute that will be divided between the two wells. The currently authorized new well retains 375 gpm and the additional "old" well will be authorized 175 gpm.

The maximum acres legally irrigated were determined by the Garden City Field Office to be 160 acres, which was utilized as the value for the determination of the quantity for the consumptive use calculation as required by K.A.R. 5-5-16(a)(2)(C)(i):

$$160 \text{ acres} \times 1.37 \text{ (80\%NIR for Seward Co)} \div 0.85 = 257 \text{ acre-feet.}$$

The owners have agreed to reduce the quantity from 270 to 257 acre-feet. The reduction in rate an 13 acre-feet and should assure that consumptive use will not increase as required by K.A.R. 5-5-3, *Consumptive use*. The reduction in quantity will not result in a major change to the irrigation ratio as the place of use is also authorized by File Nos. 12,474; 16,929; 19,972 & 22,819.

In summary the proposed existing additional well located near the center of the West Side of the Southeast Quarter (CW SE $\frac{1}{4}$) to be authorized 175 gpm to divert 82 AF. The currently authorized well located in the Northwest Quarter of the Northeast Quarter of the Southeast Quarter (NW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$) approximately 2,566 feet North and 766 feet West of Section 13 to be authorized 375 gpm to divert 175 AF.

The propose change in point of diversion is 2,213 feet from the currently authorized well, is less than 2,640 feet thus complying with part (b) of K.A.R. 5-23-3, *Minimum well spacing requirements: high plains aquifer*. Under part (a) of this regulation, the maximum quantity of 175 acre-feet requires a minimum well spacing of 1,300 feet. The nearest well to the additional well other than the well under the referenced file is indicated by the database to be 3,429 feet away, under File No. 8097. A Theis Analysis completed by David Engelhaupt, DWR, determined the drawdown at File No. 8097 would increase by 2.9 feet, which is 3.1% of the projected saturated thickness. This information would indicate that the additional well will not result in impairment to this nearby well and the proposed change meets the well to well(s) spacing requirements.

In a letter dated May 10, 2021, Jason Norquest, Assistant Manager, Southwest Kansas Groundwater Management District No. 3, recommended approval, however conditioned their reply an evaluation per K.A.R. 5-5-16(f) on File No. 18,181 due to them receiving comments from Todd Stanton the owner of File Nos. 17,856; 24,725 and a domestic well all located at a minimum of 5,800 feet North of the proposed additional well. As the comments made by Mr. Stanton were E-mailed to Mike Meyer, Water Commissioner of the Garden City Field Office his comments were further reviewed and acknowledged by letter dated May 20, 2021, as the DWR Theis analysis completed would further indicated the additional well proposed by the referenced file will not unreasonably effect his appropriations.

Mike Meyer, Water Commissioner of the Garden City Field Office was notified of the proposed change and has reviewed the summary memo. He indicated by E-mail on May 20, 2021, that he has no objection to the approval of the proposed change in point of diversion.

A water flow meter will be required on each well as per K.A.R. 5-5-16(e) and a check valve is required if any chemical or foreign substance is injected through the diversion works. As no new well is being drilled a water level measurement tube and well log will not be a condition of the approval.

As per K.A.R. 5-5-16(a)(4), a condition will be placed on the approval that should direct impairment result the additional well will have the priority date of the date the application for change was received in the office of the Chief Engineer, July 23, 2020. The approval will contain the jurisdictional wording as required by K.A.R. 5-5-16(f).

Based on the above discussion that the change is reasonable, that impairment to existing water rights is unlikely, that there are no pending applications within the vicinity of this proposed change, that there is no change in the source of supply, it is recommended that the application for change be approved.



Leslie Ireland
Environmental Scientist
Water Appropriation Program

From: Meyer, Mike [KDA]
Sent: Thu 5/20/2021 3:22 PM
To: Ireland, Leslie [KDA]
Subject: Re: Review & recommendation File No. 32975

Yes

Sent from my Verizon, Samsung Galaxy smartphone

Get [Outlook for Android](#)

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>

Sent: Thursday, May 20, 2021 2:55:16 PM

To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>

Subject: Review & recommendation File No. 32975

Mike,

Do you want to see if we can get this change signed today??.. the letter to Jason... can go later...

L

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

APPROVAL OF APPLICATION FOR CHANGE IN POINT OF DIVERSION WATER RIGHT FILE NO. 32,975

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of David Clawson on behalf of KMC AG LLC and Clawson Land Partnership, P O Box 279, Plains, Kansas 67869-0279, and Barbra McArthur, 834 Oleander Street, Wickenburg, Arizona 85390, and Steven Davis, 8149 N. Gibraltar Drive, Tucson, Arizona 85704, received in this office on July 23, 2020, 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 Correctional Order of the Chief Engineer dated March 20, 1991, in the matter of the point of diversion and the Orders of the Chief Engineer dated December 30, 1991 and March 19, 2020, 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 application, therefore, is approved subject to the condition that for the sole purpose of administering wells concerning direct impairment, the additional well shall be considered to have the priority of the date the application was filed (July 23, 2020) to add the additional well.

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 points of diversion shall be:

one (1) well located in the Northwest Quarter of the Northeast Quarter of the Southeast Quarter (NW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$) Section 13, more particularly described as being near a point 2,569 feet North and 754 feet West of the Southeast corner of said section, at a diversion rate not in excess of 375 gallons per minute (0.83 c.f.s.) and a quantity not to exceed 175 acre-feet calendar year, and

one (1) well located near the center of the Southeast Quarter (SE $\frac{1}{4}$) Section 13, more particularly described as being near a point 1,365 feet North and 2,625 feet West of the Southeast corner of said section, at a diversion rate not in excess of 175 gallons per minute (0.39 c.f.s.) and a quantity not to exceed 82 acre-feet per calendar year, (additional well),

both in Township 31 South, Range 31 West, Seward County, Kansas,

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

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.

The Chief Engineer specifically retains jurisdiction in this matter with authority to review the approval of the additional well at intervals of no fewer than five years, and no more than ten years to determine if the total annual quantity of water actually being withdrawn by all wells authorized by the approval of application for change is exceeding the total annual quantity of water that could have been physically withdrawn if the additional well had not been approved, and based on the review, the Chief Engineer retains authority to make a reasonable reduction in the authorized quantity of water as may be deemed to be in the public interest.

In all other respects, the Certificate of Appropriation issued pursuant to Approval of Application, File No. 32,975, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated October 15, 1990, as modified and amended by the aforementioned orders.

Ordered this 20 day of May, 2021, in Manhattan, Riley County, Kansas.

Lane P. Letourneau
Lane P. Letourneau, P.G.
Program Manager
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 20 day of May, 2021, by Lane P. Letourneau, P.G., Program Manager, 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

KMC AG LLC
CLAWSON LAND PARTNERSHIP
DAVID CLAWSON
P O BOX 279
PLAINS, KS 67869-0279

May 25, 2021

RE: Water Right, File No. 32,975

Dear Mr. Clawson:

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 acceptable water flowmeter must be installed on the diversion works authorized. Please return the required, *Notification of the Completion of the Diversion Works*, prior to December 31, 2021.

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.

The change approval is adding the additional point of diversion located near the center of the Southeast Quarter (SE $\frac{1}{4}$) of Section 13, therefor it is approved subject to the condition that for the sole purpose of administering wells concerning direct impairment, the quantity and rate approved as the portion of the additional well shall be considered to have the priority of the date the application was filed (July 23, 2020).

If you have any questions, please contact Michael Meyer, Water Commissioner, Garden City Field Office 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,

Kristen A. Baum
New Application and Change Unit Supervisor
Division of Water Resources

LPL:LI:li
Enclosures

pc: Garden City Field Office
Groundwater Management District No. 3
Barbra McArthur
Steven Davis

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
- 3)

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 25 day of May, 2021, I hereby certify that the attached Approval of Application for Change in Point of Diversion, File No. 32,975, dated 20 May 2021 was mailed postage prepaid, first class, US mail to the following:

KMC AG LLC
CLAWSON LAND PARTNERSHIP
DAVID CLAWSON
P O BOX 279
PLAINS, KS 67869-0279

With a Photocopy to:

BARBRA MCARTHUR
834 OLEANDER ST
WICKENBURG, AZ 85390

STEVEN DAVIS
8149 N GIBRALTAR DR
TUCSON, AZ 85704

Garden City Field Office
Groundwater Management District No. 3



Division of Water Resources