

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

1. File Number: 14695	2. Status Change Date: 2/7/2022	3. Change Num: C4	4. Field Office: 04	5. GMD: 01
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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: 8/9/2021
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8a. Applicant(s) New to system <input type="checkbox"/> Person ID <u>26508</u> Add Seq# _____ GARY & BETH WILBUR 426 W COUNTY ROAD L LEOTI, KS 67861-6270	8c. Landowner(s) New to system <input type="checkbox"/> Person ID <u>26508</u> Add Seq# _____ 8a
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8b. Landowner(s) New to system <input type="checkbox"/> Person ID <u>51074</u> Add Seq# _____	8d. WUC New to system <input type="checkbox"/> Person ID <u>26508</u> Add Seq# _____ 8a
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9. Documents and Enclosure(s): DWR Meter(s) Date to Comply: **12/31/22** N & P Date to Comply: **12/31/22**

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: _____

WAIVER INCLUDED

1/31/2022 LIreland	Date Prepared: 1/12/2021 By: li
2/8/2022 LMoody	Date Entered: 2/8/2022 By: _____

File No. **14695** 11. County: Basin: **WHITEWOMAN CREEK** Stream: **NA** Formation Code: **113** Special Use:

12. Points of Diversion										Rate and Quantity						
CHK	MOD	DEL	PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Authorized		Additional		Overlap PD Files
ENT												Rate gpm	Quantity af	Rate gpm	Quantity af	
DEL	38704	NE NE SE		22	18	38W	2	2564	408			320	222	320	222	NONE
ENT	23904	NE SE NE		22	18	38W		3798	111			320	222	320	222	NONE
MOD	85958	SW NE NE		22	18	38W	6	4119	1004	GPS UPDATE		320	241	320	241	NONE
DEL	88441	NW NE SW		23	18	38W	3	2406	3794			315	221	315	221	NONE
ENT	49420	NE NW SW		23	18	38W		2365	3995			315	221	315	221	NONE

OLD WELS WILL BE USED FOR DOMESTIC USE OR PLUGGED CHANGE IS MOVING 2 DIVERSIONS BACK TO OLD EXISTING WELLS & ONE GPS UPDATE.

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				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				
NO CHANGE																								

Base Acres: Year: Minimum Reasonable Quantity:
 Comments:

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

File Number: **14695**

FO: **4**

GMD: **1**

WAIVER REQUEST:

UMW	Date Requested	Rule ID	Applies	Rule Type	Rule Subtype
IRR	8/9/2021	10	GMD 1	Well Spacing	Well to Well Spacing
Rule Number	Date Granted	Date Denied	Justification:	The nearby domestic well not owned by the applicant completed a consent to reduced spacing. The GMD modeling of the area does not have sufficient information, but the water level trends in this area is fairly stable. The area is also managed by a LEMA that provides flexibility and reduction in the water used. The number of wells is not increasing, the proposed wells are existing and serve the same place of use. GMD 1 Board recommends approval.	
K.A.R. 5-21-3	2/7/2022				

WAIVER RULE:

Rule ID	Applicability	Type	Subtype	Rule Number	Date Active	Date Inactive
				K.A.R.		

Date Prepared 1/13/2022 By LI

Date Entered 2/8/2022 By LMoody

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: January 12, 2022

FROM: Leslie Ireland

RE: Water Right, File No. 14,695

Gary and Beth Wilbur, owner of the referenced file have completed an application for approval to change the point of diversion authorized for irrigation use under the referenced file. The application to change was received on August 9, 2021.

The referenced file appears 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, including a requested waiver of K.A.R. 5-21-3.

Water Right, File No. 14,695, authorizes three (3) wells with an assigned quantity and rate to divert a combined total of 684 acre-feet (AF) at rates of diversion ranging from 315 to 320 gallons per minute (gpm). The wells are located in the North half of Sections 22 and 23, Township 18 South, Range 38 West, Wichita County, just south of the White Woman Creek. There are no overlaps in point of diversion, but the 470 irrigated acres overlap with File No. 24,312. The right is not located in a special use area but is located in the Western Kansas Groundwater Management District No. 1, (GMD 1). The source of supply for the right has been determined to be the Ogallala Formation (Code 211).

The change proposes the two (2) wells being changed to authorize wells that were historically authorized by the referenced file and the wells currently authorized to be assessed for domestic use or plugging. The most Northwest well in Section 22 will remain as authorized. The lithology of this area has been determined to be Ogallala with the alluvium of White Woman Basin having a very narrow reach if any. It appears there will be no change in the local source of supply. The quantity and rate as assigned will not be altered by the changes but will move to the proposed points as currently allocated. (The owners also proposed the three wells that will be authorized by the change to be combined with the well under File No. 24,312 as detailed in the form, *Combined Well Unit* received August 31, 2021, as allowed in this area for flexibility under the existing Wichita County LEMA within GMD1).

The proposed existing well located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 22, approximately 3,798 Feet North and 111 feet West of the Southeast corner of said section, (ID 2) will authorize the 222 AF at 320 gpm. It is approximately 1,286 feet North from the currently authorized well and 1,024 feet from the other well under this file (ID 6) that will remain as authorized with its 241 AF at 320 GPM. The third well located in Section 23 (ID 3) will move approximately 205 feet to the East to authorize the diversion of 221AF at 315 gpm from the well described as being in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 23, approximately 2,365 feet North and 3,995 feet West of the Southeast corner of said section, all in Township 18 South, Range 38 West, Wichita County.

The proposed existing wells will require **a waiver of well to well spacing parts (c), (d)(1) of K.A.R. 5-21-3 Well spacing requirements.** As required by Part (c), a nearby domestic well has approximately 300 feet of spacing to the well on the East Side of Section 22. The owner of this well submitted a consent to reduced spacing statement on November 3, 2021. The change to authorize this East Side well also decreases the distance to other wells authorized under the same file by more than 300 feet. A waiver of Part (d)(1) of the regulation is requested as the non-domestic wells are owned by the applicant.

There is one domestic well owned by other than the applicant located within one-half ($\frac{1}{2}$ mile) of the proposed East Side well of Section 22. At the request of GMD No.1 the notification area was increased to include another domestic well. No comments were received from this notification. The application complies with K.S.A. 82a-1906, notification.

In a letter dated December 17, 2021, Kyle Spencer, District Manager, GMD No. 1, stated the application was **recommended for approval by the Board with a waiver of K.A.R. 5-21-3.**

Mike Meyer, Water Commissioner, Garden City Field Office was contacted for a comment on the proposed change. He recommended approval of the proposed change per his email dated January 12, 2022. Mike noted with the signed spacing waiver from the domestic well owner understanding that at any time he can claim well to well impairment in the future, then it appears that owner fully understands his options. The applicant and domestic well owner agree as long as the LEMA is in place there should be reduced water use overall to lessen impacts. It is also Mike's understanding from the applicant that he and domestic well owner will annually make water level measurements to monitor the water levels to help move forward with this proposal. Information was reviewed for possible effects by Mike and technical services on potential impacts of pumping to the domestic well. There is not enough information available from the GMD model in this specific area for conclusions. It appears this area is fairly stable on water level trends and being next to the whitewoman creek where there could be localized recharge when the creek flows, and with the cooperation between well owners, signed statements, and review of groundwater data, he recommends this approval.

Conditions of the approval will require the installation of a water flowmeters and check valves if chemigating. A water level measurement tube was required on previous approvals and will be a condition of this approval. The requirement of a WWC-5 is not applicable, as wells are existing. The owner has indicated the old wells will be assessed for domestic use, and if not suitable they will be plugged. The transmittal letter will inform them that if plugged it should be in accordance with KDHE requirements.

Based on the above discussion, that the waiver is granted, it appears the requested change is not unreasonable, impairment of existing rights is unlikely, 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: Meyer, Mike [KDA]
Sent: Wed 1/12/2022 4:40 PM
To: Ireland, Leslie [KDA]
Subject: 14695 PDs irr_waiver _4_1
Attachments: 14695 PDs irr_waiver _4_1.docx

try this

and I recommend approval based on GMD recommendation and discussion attached

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Secretary of Agriculture

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

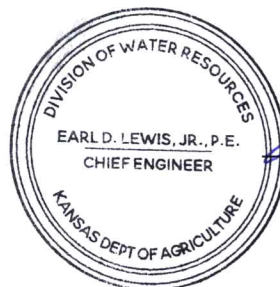
WAIVER OF REGULATION


Date: February 7, 2022

Re: File No. 14,695

1. That K.A.R. 5-21-3, *Well spacing requirements*, states in part (a), that each well location that withdraws water from the Ogallala shall be spaced a minimum of 2,640 feet from other non-domestic wells and in part (c) requires 1,320 feet to domestic wells unless written consent to reduce spacing is received, and part (d)(1) restricts a change in point of diversion to 1,320 feet from the authorized well with the distance to any nearby wells not decreased by more than 300 feet.
2. That the change of the two of the three points of diversion authorized will move to existing wells that had been previously authorized by the file.
3. The domestic well owner has provided written consent to reduce spacing.
4. The reduced spacing is to wells authorized by the file and another well owned by the applicant all serving the same place of use.
5. The wells will operate under a LEMA, in an area with inconclusive modeling, but historically stable water levels.
6. That no comments objecting to the proposed change were received.
7. That K.A.R. 5-21-3(f) states that exceptions to this regulation may be recommended by the Board to the Chief Engineer.
8. That the Board of Western Kansas Groundwater Management District No. 1 recommended that the applications be approved with a waiver as allowed by K.A.R. 5-21-3(f).
9. Approval of the application does not indicate impairment will occur or that it will adversely affect the public interest.

Comments:




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

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. 14,695

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Gary and Beth Wilbur, 426 West County Road L, Leoti, Kansas 67861-6270, received in the office of the Chief Engineer on August 9, 2021, for approval of a change in the location of the points 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 March 2, 2017 and October 19, 2020, approving the applications to change the points 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 in the Northeast Quarter of the Northwest Quarter of the Southwest Quarter (NE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 23, more particularly described as being near a point 2,365 feet North and 3,995 feet West of the Southeast corner of said section, at a diversion rate not in excess of 315 gallons per minute (0.70 c.f.s.) and a quantity not to exceed 221 acre-feet per calendar year, and

one(1) well located in the Northeast Quarter of the Southeast Quarter of the Northeast Quarter (NE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 22, more particularly described as being near a point 3,798 feet North and 111 feet West of the Southeast corner of said section, at a diversion rate not in excess of 320 gallons per minute (0.71 c.f.s.) and a quantity not to exceed 222 acre-feet per calendar year, and

one(1) well located in the Southwest Quarter of the Northeast Quarter of the Northeast Quarter (SW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 22, more particularly described as being near a point 4,119 feet North and 1,004 feet West of the Southeast corner of said section, at a diversion rate not in excess of 320 gallons per minute (0.71 c.f.s.) and a quantity not to exceed 241 acre-feet per calendar year,

all in Township 18 South, Range 38 West, Wichita County, Kansas,

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

Installation of the works for diversion of water shall be completed on or before December 31, 2022, 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. 14,695, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated May 24, 2002, as modified and amended by the aforementioned orders of the Chief Engineer.

Ordered this 7th day of February, 2022, in Manhattan, Riley County, Kansas.

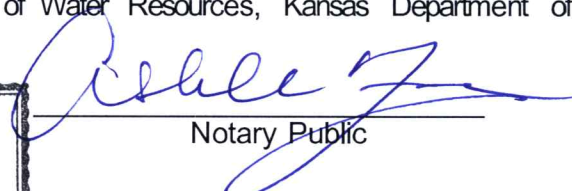


Earl D. Lewis Jr., P.E.
Chief Engineer
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 7 day of February 2022, by Earl D. Lewis Jr., P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.





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

February 8, 2022

GARY & BETH WILBUR
426 W COUNTY ROAD L
LEOTI, KS 67861-6270

RE: Water Right, File No. 14,695

Dear Mr. & Mrs. Wilbur:

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 a water flowmeter meeting the specifications of the Chief Engineer must be installed on the diversion works authorized. Please return the required and enclosed form, *Notification of Completion of the Diversion Works and Report of Flowmeter Installation* of the required meter as soon as these actions are complete. A listing of water flowmeters may be found at www.agriculture.ks.gov.

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

The abandoned well(s) should 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, if not utilized as defined for domestic use.

Additional information and applicable forms may be found on our website at agriculture.ks.gov/divisions-programs/dwr. If you have any questions or need assistance with any of these requirements, please contact our office at 785-564-6640 or your local Garden City Field Office at 620-296-2901. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

A handwritten signature in black ink that reads "Kristen A. Baum". The signature is written in a cursive style.

Kristen A. Baum
New Applications and Changes Supervisor
Division of Water Resources

KAB:li

Enclosure(s)

pc: Garden City Field Office
Groundwater Management District No. 1

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.

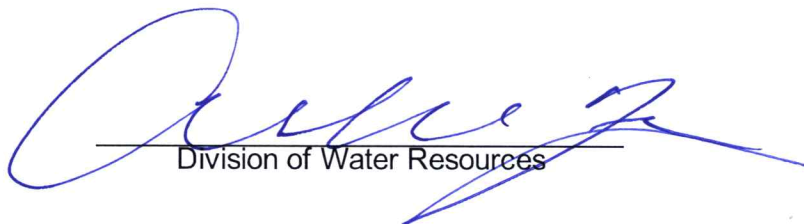
CERTIFICATE OF SERVICE

On this 8 day of February, 2022, I hereby certify that the attached Approval of Application for Change in Point of Diversion under Water Right, File No. 14,695, dated 7 February 2022 was mailed postage prepaid, first class, US mail to the following:

GARY & BETH WILBUR
426 W COUNTY ROAD L
LEOTI, KS 67861-6270

With photocopies sent to:

Garden City Field Office
Groundwater Management District No. 1



Division of Water Resources