

File No. **FI 229** 11. County: **FINNEY** Basin: **ARKANSAS RIVER** Stream: **NA** Formation Code: **75** Special Use: **016**

12. Points of Diversion **per LI P/D's for MUN are the same 16 as for IND** Rate and Quantity
 CHK Authorized Additional
 MOD Rate Quantity Rate Quantity
 DEL PDIV Comment (AKA Line) gpm/cfs af/mgy gpm/cfs af/mgy Overlap PD Files
 ENT Qualifier S T R ID 'N 'W

NO CHANGE BUT MUN / IRR DUAL USE UNDER FI 229

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) **7315 GPM COM/W FI 168 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				
ENT 25956 2 24 34W 7	MEAT PROCESSING PLANT (W2) **** IND USE																8b	NO	16034, 16035 , 20137, 20891, 20892, 20895, 22025, 22026, 29843, 29942, 29943, 14826-D1, 20136-D2, 29941-D1, 20138-D2, 18992-D2, 28623-D1	
ENT 32481 3 24 34W 2	MEAT PROCESSING PLANT (NE) **** IND USE																8b	NO	16034, 16035 , 20137, 20891, 20892, 20895, 22025, 22026, 29843, 29942, 29943, 14826-D1, 20136-D2, 29941-D1, 20138-D2, 18992-D2, 28623-D1	
CHK 11830 13 24 33W 7	S-2 ELECTRIC GENERATION UNIT IND USE																8b	NO	NONE	
ENT 5915 18 24 32W 2	CITY OF GARDEN CITY & IMMEDIATE VICINITY **** MUN USE																8b	NO	FI 001; FI 168; 519; 1230; 2342; 4665; 12,323; 21,044; 21,045; 36,812; 38,095; 39,496; 42,520	
ENT 28282 1 24 33W 9	WITHIN BOUNDARIES OF FINNEY RWD #1 **** MUN USE																8b	NO	FI 168, 2342; 38,699; 42,158; 43,528	
DEL 55434 32 24 33W 2	HOLCOMB UNIT 2 & HOLCOMB UNIT 3 IND USE																8b	NO	NONE	

Base Acres: Year: Minimum Reasonable Quantity:
 Comments: ****** OWNERSHIP RESERVED FROM AUTHORIZED PLACE OF USE**

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: June 24, 2022

FROM: Leslie Ireland

RE: Vested Right, File Nos. FI 168 & FI 229

Bruce W. Muller, General Manager for Wheatland Electric Company, as an owner of the referenced water rights, filed applications for approval to change the place of use under both files and the use made of water under, File No. FI 229 to authorized dual use as industrial and municipal uses. The applications were received on February 4, 2020.

The water rights do not appear to be abandoned as per K.S.A. 82a-718, *Abandonment of water rights*. The applications appear to comply with K.A.R. 5-5-2a, *Complete change application*, and the rights are in compliance with K.A.R. 82-732, *Annual water use report required; penalty for violations*. There is a pending Notice of Completion for FI 229 that has been extended to the end of 2022. As the water rights have been reserved from the place of use only the signature of a representative of Wheatland Electric Company is needed.

The proposed **place of use changes are to authorize overlapping municipal use of the City of Garden City and Finney RWD #1 from the overlapping wells under File Nos. FI 168, FI 229 and 2,342**. The place of use change to the industrial use portion of File No. FI 229 proposes to retain the S2 Power Generation until located in the Northwest Quarter (NW ¼) of Section 13, Township 24 South, Range 33 West, Finney County and to authorize the Meat Processing Plant located in the West Half of Section 2 and in the Northeast Quarter of Section 3, in Township 24, Range 34 West, Finney County. The Holcomb Facility Units 2 and 3, in Section 32, Township 24 South Range 33 West, Finney County, will be deleted as an authorized place of use.

The wells are located in Groundwater Management District No. 3, and the Arkansas River IGUCA. As the location of wells are not moving by the requested changes, they will remain in the same local source of supply.

File No. FI 229 is authorized for industrial use at the South 2 Electrical Generation Unit and the Holcomb Unit 2 and Holcomb Unit 3 with an allocation of 249.930 million gallons (767.01 acre-feet) per year to be diverted at 6,745 gallons per minute, with the rate limited to 7,315 gpm with File No. FI 168. The owner has proposed dual use under this file to add municipal use **to authorize industrial and municipal uses**. Pursuant to K.A.R. 5-5-8, *Standards for approval of an application for a change in the place of use and change in the use made of water*. This regulation does not preclude a dual use option. It requires compliance with K.A.R. 5-5-3 *Change in consumptive use*, as defined as the gross diversions minus any water not returned to the original source. It appears the current industrial use in the manufacture of electricity has been determined to be more consumptive than municipal use, resulting in a reduction of consumptive use by supplying municipal use. The industrial use will be broadened to include use for meat/food processing at an existing facility being added by the place of use change. The meat processing facility is currently authorized by File Nos. 16,034; 16,035; 20,137; 20,891; 20,892; 20,895; 22,025; 22,026; 29,843; 29,942; 29,943; 14,826-D1; 20,136-D2; 29,941-D1; 20,138-D2; 18,992-D2 and 28,623-D1. It appears, File No. FI 229 authorized annual quantity of 249.930 million gallons will not require any reduction to comply with the proposed use made of water change. The quantity will be metered by use as with dual use a meter for industrial or municipal use will be required. A review of the annual water use reports found the owner has designated the type of use or customer by point of diversion.

File Nos. FI 168 & FI 229 authorize the same sixteen points of diversion all located in the Northwest Quarter (NW $\frac{1}{4}$) and Southwest Quarter (SW $\frac{1}{4}$) of Section 13, in Township 24 South, Range 33 West, Finney County. The points of diversion overlap with File No. 2,342 that is authorized for municipal use. Currently File Nos. FI 168 and 2,342 provide a total of 493.333 million gallons (1,519.98 acre-feet) for the City of Garden City and the immediate vicinity. File No. FI 168 authorized solely for municipal use within the City of Garden City and its immediate vicinity to supply 101.463 million gallons (339 acre-feet) year to be diverted at 7,315 gallons per minute, and limited to 7,315 gpm with File No. FI 229 for municipal use from the shared wells. The City of Garden City owns and authorized File Nos. FI 001; 519; 1230; 4665; 12,323; 21,044; 21,045; 36,812; 38,095 & 39,496 all perfected to a total of 264.23 million gallons (mgy) (8,482.4 acre-feet) (AF) per year and File No. 42,520, pending perfection of 162.93 mgy (200 AF) to a total of 2,927.16 mgy (8,982.4 AF). Wheatland will be a supplier to the City with its well field under File Nos. FI 168, FI 229 and 2,342 providing purchased water. No copy of the contract was requested or submitted. DWR records found a summary indicating the City of Garden City area had a projected 2030 population of 93,517 people with a projected water demand of 3,510.345 mgy to serve 56,390 customers. The 2020 census indicated a population of 28,151 people, for the City proper and 36,451 for the county. The same DWR summary listed Finney RWD #1 would have a projected water demand of 141.047 mgy in 2030. Finney RWD#1 municipal use is currently authorized by its File Nos. 38,699; 42,158 & 43,528. The City and RWD have been an authorized place of use under Wheatland File No. 2,342 since 2002. In summary the approval of the change in place of use to the referenced files will result in the municipal place of use to be the City of Garden City and Finney RWD #1 from the overlapping wells under File Nos. FI 168, FI 229 and 2,342, with FI 229 maintaining industrial use at the S2 Power Plant and Meat Processing Plant.

The municipal use will match the certificate place of use listing for File No. 2,342 as being in the City of Garden City and the immediate vicinity and within the boundaries of Finney County Rural Water District No. 1 and the immediate vicinity.

The owners of wells located within one-half ($\frac{1}{2}$) mile of the well field were identified and informed of the proposed changes by letter dated May 11, 2022. Additionally, the applicant completed a published notice in the Garden City Telegram on April 23 & 30, May 7, 2022. The only comment was from Dillon L. Stum, Associate General Counsel, Sunflower Electric Power Corporation, inquiring why they were notified by letter and then questions regarding the stacking of water rights on wells and operational quantities. No other inquiries were received.

The applications and attachments were sent for review to Southwest Kansas Groundwater Management District No. 3. In a letter dated June 7, 2022, received on June 7, 2022, Jason L. Norquest, Assistant Manager of Southwest Kansas Groundwater Management District No. 3 indicated that they had completed a review of the applications and recommended approval.

In an e-mail dated June 24, 2022, Michael Meyer, Water Commissioner, Garden City Field Office, indicated that he recommended approval of the applications.

As required by dual use the change approval under FI 229 will require the installation of water flowmeters for each use to keep track of the municipal and industrial uses separately with records maintained for the quantities supplied. If any chemigating will occur check valves should be installed and will be a condition of the approvals.

Based on the above discussion, that impairment to existing water rights is unlikely, and that no change in the local source of supply will occur, the application under File No. FI 229 complies with K.A.R. 5-5-8, and the changes should not increase the historical consumptive use per KAR 5-5-3, *Change in consumptive use*, the referenced applications have been recommended to be approved.



Leslie Ireland
Environmental Scientist
Water Appropriation Program

From: Meyer, Mike [KDA]
Sent: Fri 6/24/2022 7:02 AM
To: Ireland, Leslie [KDA]
Subject: RE: Review and Recommendation File Nos. FI 168 Change PU & FI 229 Change PU and UMW, Wheatland Electric Cooperative Inc.

good morning
yes I recommend approval

Mike

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Thursday, June 23, 2022 3:31 PM
To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Subject: Review and Recommendation File Nos. FI 168 Change PU & FI 229 Change PU and UMW, Wheatland Electric Cooperative Inc.

Mike,

Please let me know if you would recommend the requested changes.

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

**APPROVAL OF APPLICATION
FOR CHANGE IN USE MADE OF WATER,
PLACE OF USE
AND
ORDER IN THE MATTER OF THE AUTHORIZED QUANTITY OF WATER
VESTED RIGHT, FILE NO. FI 229**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Bruce W. Mueller, General Manager, Wheatland Electric Cooperative, Incorporated, PO Box 953, Garden City, Kansas 67846, as owner of the referenced water right, received in this office on February 10, 2020, for approval of a change in the location of the place of use and the use made of water under the vested right order, determining and establishing a vested right to continue the beneficial use of water, then identified in the office of the Chief Engineer as Vested Right, Code 62229, Finney County, now identified as Vested Right, File No. FI 229, as modified and amended by the Order of the Chief Engineer dated September 10, 1965, approving the application to change the point of diversion; the Findings and Order of the Chief Engineer dated September 10, 1965, modifying the point of diversion; the Correctional Order of the Chief Engineer dated September 10, 1965, to correct the point of diversion, the Orders of the Chief Engineer dated August 8, 1980; December 4, 1980; August 20, 1992 and January 4, 2016, approving the applications to change the point of diversion; the Correction Order of the Chief Engineer dated February 19, 1982, in the matter of the Vested Right number, and the Order of the Chief Engineer dated November 15, 2002, approving the application to change the point of diversion and place of use, 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 authorized quantity of water under this right will remain 249.930 million gallons (767 acre-feet). This order effectively limits the authorized quantity of water to 249.930 million gallons (767 acre-feet) per calendar year for both industrial and municipal uses combined. That the limitation on the quantity of water shall exist until such a time that the quantity of water for either industrial or municipal use authorized by this approval is no longer required.

The effective date of the change shall be the date this order is executed by the Chief Engineer, after which the portion retained for industrial use shall be authorized a maximum quantity not to exceed 249.930 million gallons (767 acre-feet) of groundwater per calendar year, for industrial use at:

the S2 Power Generation Unit located in Section 13, Township 24 South, Range 33 West, Finney County, Kansas, and the Meat Processing Plant located in the West Half (W $\frac{1}{2}$) of Section 2, and the Northeast Quarter (NE $\frac{1}{4}$) of Section 3, both in Township 24 South, Range 34 West, Finney County, Kansas,

and the portion changed to municipal use shall be authorized a maximum quantity not to exceed 249.930 million gallons (767 acre-feet) of groundwater per calendar year, for municipal use at:

the City of Garden City, Kansas and immediate vicinity, and within the boundaries of Finney County Rural Water District No. 1, Finney County, Kansas and immediate vicinity,

all located substantially as shown on the maps accompanying the application to change the use made of water and place of use.

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

August 23, 2022

WHEATLAND ELECTRIC COOPERATIVE INC
Attn: LUKE WEST
PO BOX 953
GARDEN CITY, KS 67846

RE: Vested Right, File Nos. FI 168 and FI 229

Dear Mr. West:

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

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 acceptable water flow meters must be installed on the diversion works authorized under the referenced file numbers. The wells authorized for dual use under File No. FI 229 shall have **acceptable water flowmeters installed so both industrial and municipal uses can be metered independent of each other, from the diversion works authorized prior to the diversion of water per said uses.** Please return the required notification of installation of the required meters as soon as these actions are completed. Please contact the Garden City Field Office at (620) 276-2901 with any questions regarding the meter installations.

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 at (785) 564-6640. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

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

KAB:LI:li

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 request an evidentiary hearing before the Chief Engineer or 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 23 day of August, 2022, I hereby certify that the attached Approval of Application for Change in Use Made of Water, Place of Use and Order in the Matter of the Authorized Quantity of Water under Vested Right, File No. FI 229; dated 16 August 2022 was mailed postage prepaid, first class, US mail to the following:

WHEATLAND ELECTRIC COOPERATIVE INC
Attn: LUKE WEST
PO BOX 953
GARDEN CITY, KS 67846

With a Photocopy to:

Garden City Field Office
Groundwater Management District No. 3


Division of Water Resources