

File No. 11383	13. County: SV Basin: CIMARRON RIVER Stream:
Structures File No:	Aquifer Code: 200 Special Use Area: NA

14. Points of Diversion, Rates & Quantities										Qty mg		Rate gpm		Storage Qty		Storage Rate	
PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Auth	Add	Auth	Add	Auth	Add	Auth/Add	Overlaps	
MOD	6626	SW SW SW	17	33	37W	1	140	5247	100.36	0	3195	2295				++	
																#	

15. Limitations Type: Quantity: **177.95 mg** Rate: **3195 gpm** combined with file no(s): **728**
 Type: **DUAL** Quantity: **177.95 mg (546 AF)** Rate: combined with file no(s): **728 when IND & IRR Authorized**

16. Metering Metering Required Anti-Reverse Required Seal Required Compliance Date: **12/31/2024**

17. Place of Use										NE¼		NW¼		SW¼		SE¼		Total	Owner(s)	Chg?	Overlaps			
PUSE	S	T	R	ID	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE								
																				<input type="checkbox"/>	*			
ENT	31408	17	33	37W 1					40.0	40.0	39.0	36.0	40.0	37.0	38.5	38.5	27.0	40.0	38.5	19.5	434	5a	<input type="checkbox"/>	**
																						<input type="checkbox"/>	***	
																						<input type="checkbox"/>		
CHK	63978	18	33	37W 5	ETHANOL PLANT (N2) & (SW) LYING NORTH OF RR TRACKS														5a	<input type="checkbox"/>	^			
																				<input type="checkbox"/>	^^			

18. Point of Diversion and Place of Use Overlaps + ++ 728 # ^ 728; 10,520; 10,889 & 24,931	* ** 725 20239026 *** ^^
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The proposed irrigation use change in place of use is to irrigate the acres that appear to have been authorized prior to the change to industrial use. The proposed 434 acres are comprised of three pivots located in the West Half (W $\frac{1}{2}$) and the Southeast Quarter (SE $\frac{1}{4}$) of Section 17, Township 33, Range 37 West. The total combined quantity 546 AF will result in 1.25 AF per acre under File Nos. 728 & 11,383. The Net Irrigation Requirement for Stevens County at a 50% chance is 1.23 AF. It appears the change complies with K.A.R. 5-3-23, *Maximum reasonable annual quantity approvable for irrigation use for an application for change in place of use and a request to reduce a water right.*

The industrial use at the existing facility will remain as authorized. The applicant has appeared to own the plant since 2019. The total authorized industrial quantity of 613.21 mgd (1,882 AF) less the quantity proposed for irrigation use would afford 435.26 mgd (1,336 AF) to remain for the industrial use if the full quantity was diverted for irrigation use. A quick review of reported water use would indicate the plant has operated with a maximum of 1,100 AF. It would appear to not be unreasonable to authorize a portion of the authorized quantity as dual use for industrial and irrigation use. Further, the operation under a term permits appear to have provided a trial for the proposed change.

The review of the change application identified only the applicant's wells within one-half ($\frac{1}{2}$) mile of the well proposing to change. No nearby notification letters were sent. It appears the processing of the application follows K.S.A. 82a-1906.

In a letter dated March 15, 2024, a copy of the applications were sent to Jason Norquest, Assistant Manager of Southwest Kansas Groundwater Management District No. 3 (GMD 3) along with a request to make a recommendation. In a letter dated March 26, 2024, Jason Norquest, Assistant Manager of GMD 3, indicated the proposals are not in conflict with their management plan and recommended approval of the applications.

Mike Meyer, Water Commissioner of the Garden City Field Office, indicated that he recommended approval of the applications and temporary reduction, by email April 4, 2024.

A condition of the approvals will be the requirement of a flow meter for each use authorized, pursuant to K.S.A. 82a-706c. A check valve will be required if chemigation occurs. The water use correspondent will remain as designated.

Based on the above discussion, that the changes are reasonable, consumptive use will not increase, impairment of existing water rights is unlikely, and that no change in the local source of supply will occur, it is recommended that the referenced applications for change be approved.



Leslie Ireland
Environmental Scientist
Water Appropriation Program

Ireland, Leslie [KDA]

From: Meyer, Mike [KDA]
Sent: Thursday, April 4, 2024 9:19 AM
To: Ireland, Leslie [KDA]
Subject: RE: Review & Recommendation for PU & UMW File Nos. 728 & 11383 Seaboard Energy

Approve please

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Thursday, April 4, 2024 8:51 AM
To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Subject: Review & Recommendation for PU & UMW File Nos. 728 & 11383 Seaboard Energy

Mike,

Please let me know if you'd recommend.

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,
ORDER IN THE MATTER OF THE AUTHORIZED QUANTITY OF WATER
AND
BETTER DESCRIBING THE AUTHORIZED POINT OF DIVERSION
WATER RIGHT, FILE NO. 11,383**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Gary Louis, President and Chief Executive Officer of Seaboard Energy Kansas LLC, 9000 West 67th Street Suite 200, Shawnee Mission, Kansas 66202, as owner of the referenced water right, received in this office on March 24, 2023, for approval of a change in the location of the place of use and the use made of water, under the certificate of appropriation issued pursuant to the application for permit to appropriate water for beneficial use, as modified and amended by the Order of the Chief Engineer, dated October 5, 2007, approving the application to change the place of use, and by the Order of the Chief Engineer, dated November 29, 2012, approving the application to change the use made of water and place of use, finds that the change is reasonable and will not impair existing rights, and that the application should be and are hereby approved.

The authorized quantity of water under this right will remain a limited 177.95 million gallons (546.12 acre-feet) when combine with Water Right, File No. 728. This order effectively limits the authorized quantity of water to 177.95 million gallons (546.12 acre-feet) per calendar year for both industrial and irrigation uses combined and with Water Right, File No. 728. That the limitation on the quantity of water shall exist until such a time that the quantity of water for either the industrial use or irrigation 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 177.95 million gallons (546.12 acre-feet) of groundwater per calendar year with Water Right, File No. 728, for industrial use on the following described property:

the North Half (N $\frac{1}{2}$) and the Southwest Quarter (SW $\frac{1}{4}$) lying North of the railroad tracks all in Section 18, Township 33 South, Range 37 West, Stevens County, Kansas.

The portion changed to irrigation use shall be authorized a quantity not to exceed 546.12 acre-feet (177.95 million gallons) of groundwater per calendar year with Water Right, File No. 728, for irrigation use on the following described property:

Sec. Twp. Range	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTAL
	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
17 - 33S - 37W					40.0	40.0	39.0	36.0	40.0	37.0	38.5	38.5	27.0	40.0	38.5	19.5	434.0

a total of 434 acres in Section 17, in Township 33 South, Range 37 West, Stevens County, Kansas,

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

That information in the office of the Chief Engineer finds that the point of diversion authorized would more accurately be defined as:

one (1) well located in the Southwest Quarter of the Southwest Quarter of the Southwest Quarter (SW¼ SW¼ SW¼) of Section 17, more particularly described as being near a point 149 feet North and 5,247 feet West of the Southeast corner of said section, in Township 33 South, Range 37 West, Stevens County, Kansas.

The water right owner shall properly install a separate acceptable water meter for each use made of water for 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 for irrigation and industrial use 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. 11,383, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated May 2, 1986, as modified and amended by the aforementioned orders.

Ordered this 9 day of April, 2024, in Manhattan, Riley County, Kansas.

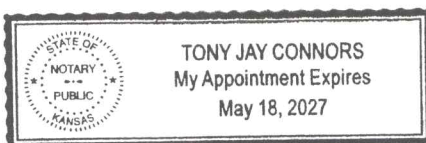
Lane P. Letourneau

Lane P. Letourneau, P.G.
Water Appropriation 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 9 day of April, 2024, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.

Tony Jay Connors
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 11, 2024

JENNIFER NELSON
SEABOARD ENERGY KANSAS LLC
9000 W 67TH STREET SUITE 200
SHAWNEE MISSION KS 66202

RE: Water Right
File Nos. 728 and 11,383

Dear Ms. Nelson:

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 file numbers.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in the approvals for change. A condition of the approval of your applications is the requirement that acceptable water flowmeters be installed so both industrial and irrigation uses can be metered independent of each other, from the diversion works prior to the diversion of water. Meters should be installed prior to the diversion of water. Please complete and return the form, Notice of Completion of Diversion Works for the installation of the meters as soon as this action is completed. The form and other information may be found at our web site <http://agriculture.ks.gov>. There is no fee for the notice of completion.

Since these orders modify the original Certificates of Appropriation for the above referenced water rights, they should be recorded with the Register of Deeds as other instruments affecting real estate.

If you have any questions regarding the enclosed document, please contact our office at 785-564-6640. Inquiries about the metering requirements should be directed to our staff at the Garden City Field Office, at 620-276-2901. If you contact us to discuss a specific file, please have a file number ready so that we may help you more efficiently.

Sincerely,

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

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

KAB:kak:li

Enclosures

pc: Garden City Field Office
Southwest Kansas GMD 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, Kansas 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 11 day of April, 2024, I hereby certify that the attached Approvals of Application for Change in Use Made of Water, Place of Use and Order in the Matter of the Authorized Quantity of Water and Better Describing the Authorized Point of Diversion under File Nos. 728 & 11,383 dated April 9, 2024, were mailed postage prepaid, first class, US mail to the following:

Seaboard Energy Kansas LLC
9000 W 67th Street Suite 200
Shawnee Mission, KS 66202

With a Photocopies to:

Garden City Field Office

Southwest Kansas GMD No. 3



Division of Water Resources