

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

1. File Number: <b>RC 005</b>	2. Status Change Date: <b>10/1/2021</b>	3. Change Num: <b>C2</b>	4. Field Office: <b>02</b>	5. GMD:
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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: <b>4/21/2021</b>
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8a. Applicant(s) <span style="float: right;">Person ID _____</span> New to system <input type="checkbox"/> <span style="float: right;">Add Seq# _____</span>  <b>CITY OF BUSHTON</b> <b>Honorable Genovevo Benavidez, Mayor</b> <b>PO BOX 194 217 S MAIN</b> <b>BUSHTON, KS 67427</b>	8c. Landowner(s) <span style="float: right;">Person ID _____</span> New to system <input type="checkbox"/> <span style="float: right;">Add Seq# _____</span>
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8b. Landowner(s) <span style="float: right;">Person ID <b>2350</b></span> New to system <input type="checkbox"/> <span style="float: right;">Add Seq# _____</span>  <b>CITY OF BUSHTON</b> <b>PO BOX 194 217 S MAIN</b> <b>BUSHTON, KS 67427</b>	8d. WUC <span style="float: right;">Person ID <b>2350</b></span> New to system <input type="checkbox"/> <span style="float: right;">Add Seq# _____</span>  <b>8b</b>
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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: **9/22/2021**    By: **li**  
 Date Entered: **10/4/2021**    By: **LMoody**

File No. **RC 05**      11. County: **RC**      Basin: **COW CREEK**      Stream: **NA**      Formation Code: **330**      Special Use: **NA**

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 mgy	Rate gpm	Quantity mgy	
DEL		49983		NE SW NE	2	18	10W	5	3587	1925	PLUG	157	18	157	18	11405
DEL		78683		NE SW NE	2	18	10W	6	3636	1949	PLUG					11405
CK	^	12032		SW NW SE	2	18	10W	3	<del>2450</del>	2560						11405
CK	^	34882		NW NE SE	2	18	10W	4	2500	1000						11405
ENT	^	89077		SE SE SE	3	18	10W		550	600						11405
ENT	^	89078		NE SE SE	3	18	10W		900	200						11405

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																		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			
<b>NO CHANGE</b>																												

Base Acres:      Year:      Minimum Reasonable Quantity:      \* li/DWR

Comments:

**KANSAS DEPARTMENT OF AGRICULTURE**  
**Division of Water Resources**

**M E M O R A N D U M**

**TO:** Files

**DATE:** September 23, 2021

**FROM:** Leslie Ireland

**RE:** Vested Right, File No. RC 005  
Water Right, File No. 11,405

Genovevo Benavidez, Mayor, for the City of Bushton owner of the referenced files authorize for municipal use filed applications on April 21, 2021, requesting approval to change the authorized points of diversion. The City is having water quality problems so is proposing to redrill two (2) of their four (4) authorized wells. The City was assisted by Carl Nuzman, P.E., P.HG.

The subject water rights do not appear to be abandoned and are in compliance with K.S.A. 82a-732. The applications comply with K.A.R. 5-5-2a, *Complete change application*.

The referenced files overlap in place of use and point of diversion with the four (4) wells authorized a blanket maximum of 27.5 million gallons (mgy) (84.4 acre-feet) at 304 gallons per minute under File Nos. RC 005 and 11,405, with the junior file providing and additional 9.5 mgy and 147gpm. The points of diversion are all located in the East Half (E $\frac{1}{2}$ ) of Section 2, Township 18 South, Range 10 West, Rice County. The source of supply was reviewed by Mr. Nuzman and determined to be the Unconfined Dakota (Code 330) with well depths of approximately 125 to 135 feet deep with a static water level of approximately 35 feet in 2012. The wells are not located in a special use area, but two of the wells fail to meet required quality standards for municipal use.

The currently authorized wells all appear to be located within Bushton. The wells identified as being in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ , and determined to be 3,587'North and 1,925'West, and 3,590' North and 1,949' West of the Southeast corner of Section 2 will be plugged. These two (2) wells are identified by the WRIS database system as PDIV ID #s 49983 & 78683 and Well ID correlating with the City's as Well # 5 and 6. The City will retain two (2) wells both identified as being located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ , approximately 1,450'North and 2,560'West; and in NW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ , approximately 2,500' North and 1,000' West of the Southeast corner of Section 2; identified as PDIV ID #s 12035 & 34882; Well IDs 3 & 4.

The City is proposing to replacement wells to be completed in the Southeast Quarter of Section 3 specifically:

one (1) well located in the Northeast Quarter of the Southeast Quarter of the Southeast Quarter (NE $\frac{1}{4}$  SE $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section 3, more particularly described as being near a point 900 feet North and 200 feet West of the Southeast corner of said section, and

one (1) well located in the Southeast Quarter of the Southeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$  SE $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section 3, more particularly described as being near a point 550 feet North and 600 feet West of the Southeast corner of said section,  
both in Township 18 South, Range 10 West, Rice County.

The City's new wells are proposed to be approximately 532 feet apart and completed to prevent interference between wells in the area and completed to a depth of approximately 160 feet and should experience the same static water level of approximately 60 feet. As the wells will be operated under a common municipality it would appear the well to well spacing is sufficient to prevent impairment.

The proposed location for the replacement wells is located to the Southwest of Bushton. At the time of filing no test holes for the proposed wells had been completed. The nearby wells within approximately one-half mile (1/2) mile has no permitted wells and only one (1) domestic well. This domestic well approximately 2,000 feet West of the proposed wells was completed in 1985 to a dept of approximately 162 feet. The lithology appears to be similar sandstone and clays, with the exception of a 25 foot black shale formation at a depth of approximately 90 feet. Another domestic well approximately 3,000 feet to the Southeast of the proposed wells and due South of the City's wells, is identified as being owned by the Hoelscher family. This well is approximately 155 feet deep and has a lithology of only clay and sand rock. The KGS Bulletin for Rice County indicates this area to all be the Dakota Formation. It would appear the domestic well to the South of the proposed well site maybe the same as the existing City wells of the unconfined Dakota Formation (Code 330).

The most Northern proposed well is located approximately, 2,993 feet from the City well identified as Well ID 2.

The one (1) domestic well located within one-half (1/2) mile of the proposed wells. This well owned by the Gish family has been utilized for quality testing. They were notified per K.A.R. 82a-1906 for comments on the proposed changes. No comments to-date have been received. The City appears to not allow domestic wells within the City but there are several monitoring wells due to water quality.

It would appear the proposed wells are in an area that could be considered to be the same local source of supply and well to well spacing under the referenced files complies with K.A.R. 5-4-4, *Well spacing*, as spacing to nearby wells is more than 1,320 feet has been met and is sufficient to prevent impairment.

Jeff Lanterman, Water Commissioner was sent a copy of this memorandum for comments and a recommendation on the proposed changes. He indicated in an e-mail dated September 22, 2021, that he recommends approval of the changes.

Water flowmeters will be required according to KSA 82a-706c. A check valve will be required if chemigating. Water level measurement tubes and WWC-5 logs will be conditions of the approvals. The owner will be required to submit notice of completion for the changes.

Based on the above discussion, the changes appear to be reasonable as impairment to existing water rights is unlikely, and there will be no change in the local source of supply, it is recommended the applications for the City of Bushton be approved.



Leslie Ireland  
Environmental Scientist  
Water Appropriation Program

**From:** Lanterman, Jeff [KDA]  
**Sent:** Wed 9/22/2021 11:23 AM  
**To:** Ireland, Leslie [KDA]  
**Subject:** RE: Bushton RC 005 & 11405

Leslie. Sorry about the holdup on this one. It got lost in the pile. If I am slow on something be sure to rattle my cage a bit because it may have gotten lost in my pile of emails.

I have no objections to the approval of these change applications.

Thanks

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**From:** Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>  
**Sent:** Monday, June 28, 2021 10:28 AM  
**To:** Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>  
**Subject:** FW: Bushton RC 005 & 11405

Jeff,

Let me know if you want to have a test hole at the proposed? Or per the summary memo sent if this can go as is?

Leslie

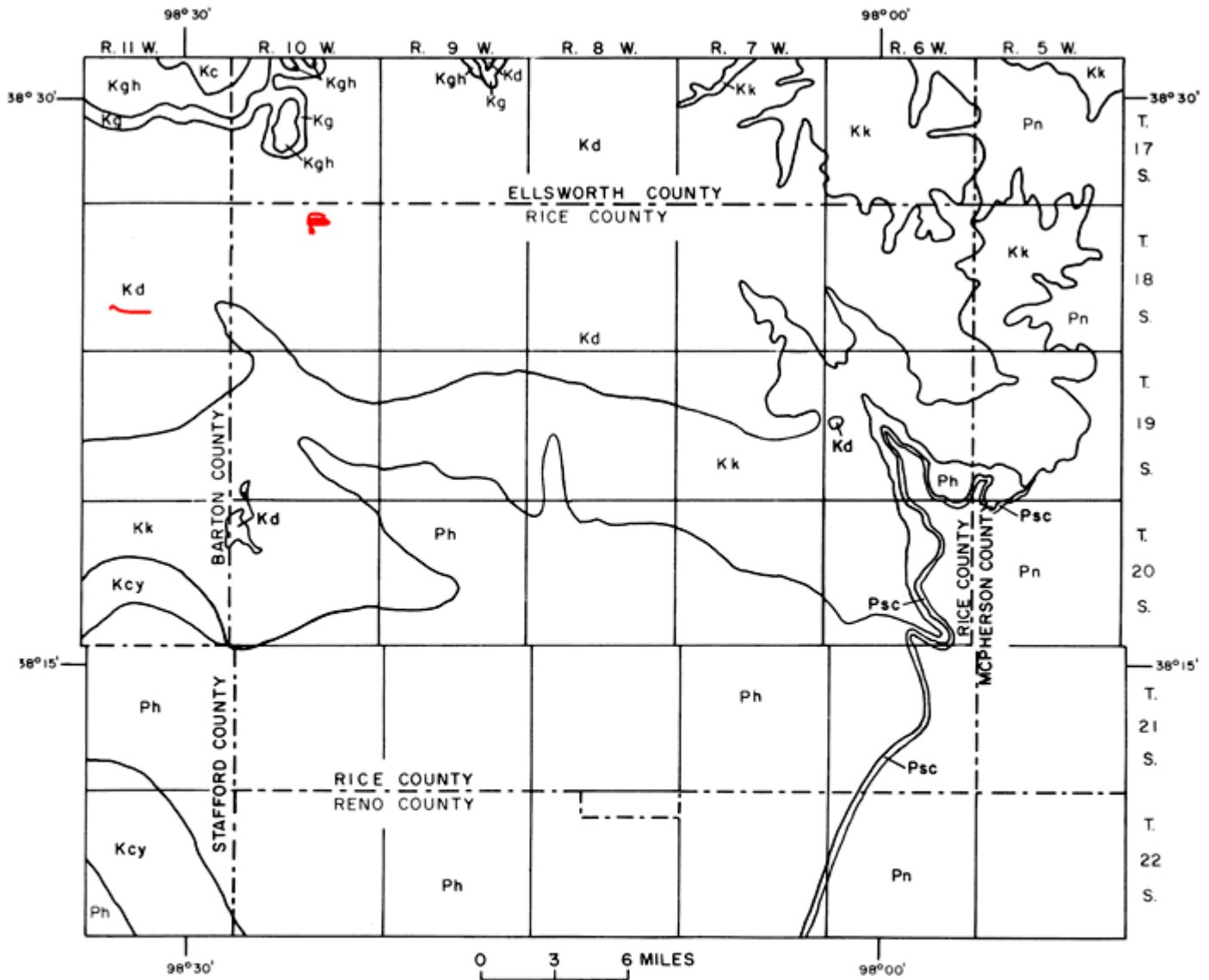
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**From:** Ireland, Leslie [KDA]  
**Sent:** Wednesday, June 23, 2021 4:10 PM  
**To:** Lanterman, Jeff [KDA] <[Jeff.Lanterman@ks.gov](mailto:Jeff.Lanterman@ks.gov)>  
**Subject:** Bushton RC 005 & 11405


Jeff,

No logs and pilot test hole not done at this time sounds like it is an ordeal as they want to do other tests.. and pumping.

Attached is the KGS snip and the AMT stats for the distance.



EXPLANATION

<b>Kc</b> Carllie Shale	<b>Kg</b> Graneros Shale	<b>Kk</b> Kiowa Formation	<b>Ph</b> Harper Sandstone	<b>Pn</b> Ninnescah Shale
<b>Kgh</b> Greenhorn Limestone	<b>Kd</b> Dakota Formation	<b>Kcy</b> Cheyenne Sandstone	<b>Psc</b> Stone Corral Formation	 Contact

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 VESTED RIGHT FILE NO. RC 005**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Genovevo Benavidez, Mayor, City of Bushton, PO Box 194, 217 S. Main, Bushton, Kansas 67427, received on April 21, 2021, for approval of a change in the point of diversion under the vested right order, determining and establishing a vested right to continue the beneficial use of water, as modified and amended by the Orders of the Chief Engineer dated July 19, 1966; June 25, 1979; August 12, 1993 and June 16, 2011, approving the applications to change the location of 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 points of diversion shall be:

one (1) well located in the Southwest Quarter of the Northwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$  NW $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section 2, more particularly described as being near a point 1,450 feet North and 2,560 feet West of the Southeast corner of said section, and

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 $\frac{1}{4}$ ) of Section 2, more particularly described as being near a point 2,500 feet North and 1,000 feet West of the Southeast corner of said section, and

one (1) well located in the Northeast Quarter of the Southeast Quarter of the Southeast Quarter (NE $\frac{1}{4}$  SE $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section 3, more particularly described as being near a point 900 feet North and 200 feet West of the Southeast corner of said section, and

one (1) well located in the Southeast Quarter of the Southeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$  SE $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section 3, more particularly described as being near a point 550 feet North and 600 feet West of the Southeast corner of said section,

all in Township 18 South, Range 10 West, Rice County, Kansas.

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

The water right owner shall submit to the Chief Engineer a copy of the well log for the new points of diversion authorized as required by the Kansas Department of Health and Environment under the authority of K.S.A. 82a-1212, currently form WWC-5, following the drilling of each well at the authorized location.



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.

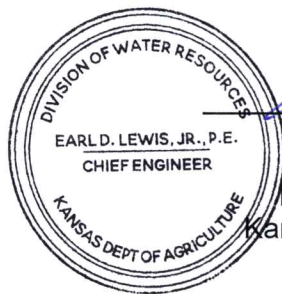
All wells with a diversion rate of 100 gallons per minute or more drilled under the authority of this order shall have a tube or other device installed in a manner acceptable to, and in accordance with specifications adopted by, the Chief Engineer. This tube or device shall be suitable for making water 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 vested right order, determining and establishing a vested right to continue the beneficial use of water, identified in the office of the Chief Engineer as Vested Right, File No. RC 005, is as stated and set forth in the vested right order executed by the Chief Engineer on January 26, 1955, as modified and amended by the aforementioned orders.

Ordered this 1<sup>st</sup> day of October, 2021, in Manhattan, Riley County, Kansas.



*Earl D. Lewis, Jr.*  
\_\_\_\_\_  
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 1 day of October, 2021, by Earl D. Lewis Jr., P.E., Chief Engineer, 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

October 5, 2021

CITY OF BUSHTON  
GENOVEVO BENAVIDEZ, MAYOR  
PO BOX 194  
BUSHTON, KS 67427

RE: Vested Right, File No. RC 005  
Water Right, File No. 11,405

Honorable Benavidez:

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 the approvals for change. A condition of the approvals is that acceptable water flowmeters 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, should you complete the diversion works prior to the end of the year.

It is a condition of the approval, that the owner of this submit to the Chief Engineer a copy of the well log required by the Kansas Department of Health and Environment. The copy of the well log, currently form WWC-5, may be submitted with the Kansas Department of Agriculture's Notice of Completion and Instillation of the Water Flowmeter.

Any abandoned wells must 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.

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. The additional existing limitations on the referenced files remain as detailed in the certificate and previous orders.

RE: Vested Right, File No. RC 005  
Water Right, File No. 11,405

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If you have any questions, please contact us at (785) 564-6640, or our staff at the Stafford Field Office at (620) 234-5311. 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

pc: Stafford Field Office

**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.

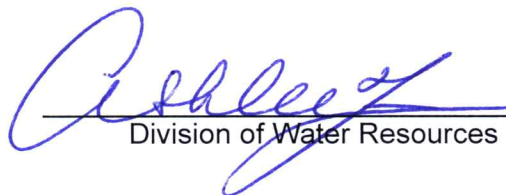
**CERTIFICATE OF SERVICE**

On this 5 day of October, 2021, I hereby certify that the foregoing Approval of Application for Change in Point of Diversion, Vested Right, File No. RC 005, dated 4 October 2021 was mailed postage prepaid, first class, US mail to the following:

CITY OF BUSHTON  
GENOVEVO BENAVIDEZ, MAYOR  
PO BOX 194  
BUSHTON, KS 67427

With a Photocopy to:

Stafford Field Office

  
\_\_\_\_\_  
Division of Water Resources