



File No. **7009**      11. County: **SF**      Basin: **RATTLESNAKE CREEK**      Stream:      Formation Code: **180**      Special Use:

12. Points of Diversion										Rate and Quantity					
										Authorized		Additional			
MOD	DEL	PDIV	Qualifier	S	T	R	ID	'N	'W	Comment	Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files
<b>CHK</b>	<b>29576</b>		<b>NCN2S2NE</b>	<b>3</b>	<b>23</b>	<b>14W</b>	<b>1</b>			<b>5YR ALLOCATION</b>	<b>700</b>	<b>240</b>	<b>700</b>	<b>240</b>	<b>NO</b>

13. Storage: Rate \_\_\_\_\_ NF      Quantity \_\_\_\_\_ ac/ft      Additional Rate \_\_\_\_\_ NF      Additional Quantity \_\_\_\_\_ ac/ft

14. **KEEP** Limitation: **5-YEAR ALLOCATION** af/yr at \_\_\_\_\_ gpm ( \_\_\_\_\_ cfs) when combined with file number(s) \_\_\_\_\_  
 Limitation: \_\_\_\_\_ af/yr at \_\_\_\_\_ gpm ( \_\_\_\_\_ cfs) when combined with file number(s) \_\_\_\_\_

15. 5YR Allocation: Allocation Type **B3** Start Year **18** 5 YR Amount **969** Amount Unit **AF** Base Acres \_\_\_\_\_ Comment: **ALLOC CONTINUED ACRES INCREASE ONLY**

16. Place of Use										NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg?	Overlap Files
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	NE ¼	NW ¼	SW ¼	SE ¼						
<b>CHK</b>	<b>2696</b>			<b>3</b>	<b>23</b>	<b>14W</b>	<b>1</b>	Lot 1 30.00	Lot 2 32.00	29.00	17.00									16.00	25.50	33.00	20.50	203.00	<b>8B</b>	<b>NO</b>	<b>18058</b>		
<b>CHK</b>	<b>55669</b>			<b>10</b>	<b>23</b>	<b>14W</b>	<b>2</b>	30.00	30.00			28.00	28.00											116.00	<b>8B</b>	<b>NO</b>	<b>18058</b>		
<b>ENT</b>	<b>70620</b>			<b>2</b>	<b>23</b>	<b>14W</b>						LT 4 31.50	28.50											60.00	<b>8B</b>	<b>NO</b>	<b>18058</b>		

Comments: **MAIN ACTION TRAIL ENTRY : B3 1822 5YR Alloc- No Acre Limit, 969 AF**  
**SPECIAL CONDITIONS: 5YR Alloc 969 AF LIMIT 2018 - 22 ad infinitum**

**KANSAS DEPARTMENT OF AGRICULTURE**  
**Division of Water Resources**  
**M E M O R A N D U M**

**TO:** Files

**DATE:** September 2, 2021

**FROM:** Leslie Ireland

**RE:** Water Right,  
File Nos. 7,009 and 18,058

Rus W. DeVore as trustee of the Patricia DeVore Trust owner of the irrigated place of use authorized under the referenced files has filed applications for approval to change the authorized place of use located in the Rattlesnake Creek drainage basin. The application for File No. 7,009 was received on November 30, 2020 and File No. 18,058 on November 23, 2020.

The referenced water rights do not appear abandoned as per K.S.A. 82a-718, and the applications appear to be in compliance with K.A.R. 5-5-2a, Complete change application. There appears to be a meter issued with File No. 7009 having a non-functional totalizer as determined in November 2020 by the Big Bend Groundwater Management District No. 5. The referenced file numbers have no overlaps in the authorized points of diversion. The local source of supply will remain the Undifferentiated Kansan/Nebraskan (180) based on available information.

The files with an overlapping place of use are presently enrolled five-year allocation pursuant to K.A.R. 5-5-11(b)(3), but with different timelines. File No. 7,009 was setup from 2013-2017, (2018-2022) allocation period and File No. 18,058 was setup with 2014-2018 (2019-2023) allocation period. The rights are still enrolled at the time of filing requesting to maintain the allocation but increase the place of use to provide more flexibility. As the acres under the proposed and existing allocation are unlimited by the regulation it would appear the five-year allocation quantity for the 2018-2022 and 2019-2023 for both files could continue with the proposed increase in place of use change as requested by the owner.

The 319 acres comprising the place of use is located in Sections 3 and 10, Township 23 South, Range 14 West, Stafford County. The proposed expansion of the place of use is to add 60 acres on the West Side of the Northwest Quarter of Section 2, as a half pivot for the files to authorize a total of 379 acres including the currently authorized in Sections 3 and 10.

- Big Bend Groundwater Management District No. 5 will assume monitoring responsibility and recommended approval of the proposed applications on May 14, 2021.
- Base acres are 160 acres for File No. 7,009 and 80 acres for File No. 18,058, so the applicants have proposed a net increase of 139 acres above the “base acres”.
- It appears the meter issue under File No. 7,009, has not resulted in overpumping the current allocations.
- Limitations: The authorized quantity of water under File No. 7,009 will remain limited to a **five-year fixed allocation of 969 acre-feet**:  $1.03'(50\% \text{ N.I.R. Stafford County})/.85 \times 160 \text{ base acres} \times 5 \text{ years} = 969 \text{ acre-feet}$  with 18 months remaining. File No. 18,058 will be limited to a **five-year fixed allocation of 485 acre-feet**:  $1.03'(50\% \text{ N.I.R. Stafford County})/.85 \times 80 \text{ base acres} \times 5 \text{ years} = 485 \text{ acre-feet}$ , with two years remaining.
- Use of water in excess of the five-year allocation shall result in a two-year suspension of all water use under the referenced rights and subsequent restriction of the authorized place of use to the base acres at the location specifically set forth in the change approvals.
- Nearby notifications did not result in any comments of any kind.

The allocation for File No. 7,009 will continue with its 2018-2022 allocation period and File No. 18,058 will continue to have a 2019-2023 timeline for its five-year allocation, both as established by the July 15, 2014, approvals of the Chief Engineer.

Jeff Lanterman, Water Commissioner of the Stafford Field Office, indicated that he has no objection to the approval of the referenced applications per his email dated August 18, 2021

Water flow meters are required. Check valves are required if chemigating.

Based on the above discussion, that the changes are reasonable, that impairment to existing water rights is unlikely and that no change in the local source of supply will occur, it is recommended that the referenced applications be approved.



Leslie Ireland  
Environmental Scientist

**From:** Lanterman, Jeff [KDA]  
**Sent:** Wed 8/18/2021 3:59 PM  
**To:** Ireland, Leslie [KDA]  
**Cc:** Conant, Cameron [KDA]  
**Subject:** RE: Review and Recommendation of PU Changes, File Nos. 7009 & 18058 DeVore

Leslie.

I am convinced after reviewing water use that there really is no good way to sync up these 5 year allocations in conjunction with these changes.

We did get some further information from GMD #5 on the "missing year" of water use and I am satisfied with their plan and the water use we applied in WRIS for 2020 on 7009

I recommend approval of this change package.

Thanks  
Jeff

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**From:** Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>  
**Sent:** Tuesday, August 17, 2021 10:38 AM  
**To:** Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>  
**Subject:** RE: Review and Recommendation of PU Changes, File Nos. 7009 & 18058 DeVore

Jeff,  
Hi ,,

We could probably synchronize them and wonder why it wasn't done in 2014. Know they did some jockeying with the timeline under 7009 in 2014. So thought it might be a kind of insurance for him to not have them run congruently. If you want me to ask Mr. DeVos I can.. but thought the GMD was doing the monitoring and reported to you for action if the rights were overpumped so only action by DWR was if they overpumped.

Leslie

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**From:** Lanterman, Jeff [KDA] <[Jeff.Lanterman@ks.gov](mailto:Jeff.Lanterman@ks.gov)>  
**Sent:** Tuesday, August 17, 2021 10:20 AM  
**To:** Ireland, Leslie [KDA] <[Leslie.Ireland@ks.gov](mailto:Leslie.Ireland@ks.gov)>; Conant, Cameron [KDA] <[Cameron.Conant@ks.gov](mailto:Cameron.Conant@ks.gov)>  
**Subject:** RE: Review and Recommendation of PU Changes, File Nos. 7009 & 18058 DeVore

Wonder if there is any way to sync up the 5 year allocations? Perhaps we could base it on what has been used in the allocation through 20 end the current allocation in 21 this year and then have them both start new ones in 22? Just spitballin.

I haven't looked at how much they have used. Probably too complicated to get there from here.

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**From:** Ireland, Leslie [KDA] <[Leslie.Ireland@ks.gov](mailto:Leslie.Ireland@ks.gov)>  
**Sent:** Monday, August 16, 2021 4:10 PM  
**To:** Lanterman, Jeff [KDA] <[Jeff.Lanterman@ks.gov](mailto:Jeff.Lanterman@ks.gov)>; Conant, Cameron [KDA] <[Cameron.Conant@ks.gov](mailto:Cameron.Conant@ks.gov)>  
**Subject:** Review and Recommendation of PU Changes, File Nos. 7009 & 18058 DeVore

Jeff,

Please let me know if these could go as proposed with the allocation continuing as currently in place 7009 is 2018-2022 and 18058 is 2019- 2023 It might hinge on the GMD 11/19/2020 out of compliance letter,, but GMD recommended approval so guess that has been resolved and the files are in compliance.

As always comments and concerns are welcome, but please let me know if you would recommend the changes with the current timelines.

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 PLACE OF USE WATER RIGHT FILE NO. 7,009

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application Rus W. DeVore, Trustee, of the Patricia J. DeVore Trust, 859 Northwest 50<sup>th</sup> Avenue, St. John, Kansas, 67576-9623, received in this office on November 23, 2020, for approval of a change in the location of the place of use under the certificate of appropriation issued pursuant to the permit to appropriate water for beneficial use, as modified and amended by the Order of the Chief Engineer dated September 24, 1987, approving the application to change the place of use and reducing the authorized quantity, and by the Orders of the Chief Engineer dated May 1, 2003 and July 15, 2014, approving the applications to change the place of use, finds that the change is reasonable and will not impair existing rights, 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 place of use shall be:

Sec.	Twp.	Range	NE¼				NW¼				SW¼				SE¼				TOTAL ACRES		
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼			
2	23S	14W						Lot 4 31.50	28.50											60.00	
3	23S	14W	Lot 1 30.00	Lot 2 32.00	29.00	17.00											16.00	25.50	33.00	20.50	203.00
10	23S	14W	30.00	30.00			28.00	28.00													116.00

a total of 379 acres located in Township 23 South, Range 14 West, Stafford County, Kansas, located substantially as shown on the map accompanying the application to change the place of use.

By this approval, the water right becomes subject to the following conditions:

1. That the quantity of water authorized under Water Right, File No. 7,009 shall not exceed 969 acre-feet per five (5)-year period continues to be the time period of the calendar years 2018 through 2022, ad infinitum as established by the Order of the Chief Engineer dated July 15, 2014.
2. That the quantity of water authorized under Water Right, File No. 7,009 shall not exceed 240 acre-feet per calendar year and 969 acre-feet for all five (5)-year periods are not exceeded.
3. That use of water under File No. 7,009 in excess of 969 acre-feet for subsequent five (5)-year periods shall result in a two (2)-year suspension of all water use under this water right, effective the next two (2) calendar years, and a subsequent restriction of the authorized place of use to the following described property:

Sec.	Twp.	Range	NE¼				NW¼				SW¼				SE¼				TOTAL ACRES			
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼				
3	23S	14W	Lot 1 28.00	Lot 2 32.00	25.00													16.00	25.50	33.00	20.50	180.00
10	23S	14W	30.00	30.00																		60.00

a total of 240 acres in Township 23 South, Range 14 West, Stafford County, Kansas, located substantially as shown on the topographic map accompanying the application to change the place of use.

- 4. That if the Big Bend Groundwater Management District No. 5 and/or the Division of Water Resources terminate their Memorandum of Understanding (MOU) pertaining to K.A.R. 5-5-11(b),(3),(4) and (5), by which the District assumes monitoring responsibility, then the place of use authorized by this change approval, which was issued by the Division pursuant to the MOU shall revert to the property described in paragraph number 3, above, starting the calendar year following the year of termination.

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 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.

In all other respects, the Certificate of Appropriation issued pursuant to Approval of Application, File No. 7,009, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated January 7, 1971, as modified and amended by the aforementioned orders.

Ordered this 18 day of October, 2021, 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 18 day of October, 2021, by Lane P. Letourneau, P.G., Program Manager, Division of Water Resources, Kansas Department of Agriculture.



*Melinda Jennings*  
 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

November 2, 2021

Laura Kelly, Governor

PATRICIA J DEVORE TRUST  
RUS W DEVORE TRUSTEE  
859 NW 50TH AVE  
SAINT JOHN, KS 67576-9623

RE: Water Right File Nos. 7,009 and 18,058

Dear Mr. DeVore:

Enclosed are the orders executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the applications for change under the above 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. Please return the required notification of completion of the installation of the required meters as soon as these actions are completed.

Approval of the applications does not allow the diversion of water in excess of the authorized quantities per calendar year or rates of diversion under the above referenced file numbers, even though the authorized place of use has been increased. Your attention should be drawn to the fact that these approvals have been issued solely for the purpose of allowing installation of a more efficient irrigation system, with the authorized quantities of water limited to the current fixed five-year allocations.

The quantity of water authorized under Water Right, File No. 7,009 shall continue to not exceed 969 acre-feet for following five (5)-year periods; and further limited to the annual authorized quantity of 240 acre-feet of water in any given calendar year, provided that the five (5)-year fixed allocation is not exceeded.

The quantity of water authorized under Water Right, File No. 18,058 shall continue not exceed 485 acre-feet for the five (5) year period and further limited to the annual authorized quantity of 120 acre-feet of water in any given calendar year, provided that the five (5)-year fixed allocation is not exceeded.

Non-compliance with the terms of these approvals will result in substantial penalties.

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.

An annual water use report must be filed with the Chief Engineer by March 1, following the end of each calendar year. If a complete annual water use report is not received by the deadline, then a fine may be assessed and all water use under such permit or right may be suspended. Reports submitted in paper form will be assessed a \$20 per file number paper filing fee. In order to avoid this filing fee, you may submit your report online at [www.kswaterusereport.org](http://www.kswaterusereport.org).

If you have any questions, please contact this office. 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

Enclosures

pc: Stafford Field Office  
Groundwater Management District No. 5

## 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.

Any request for a hearing or petition for administrative review shall be in writing and shall be submitted to the attention of: Chief Legal Counsel, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, Fax: (785) 564 – 6777.

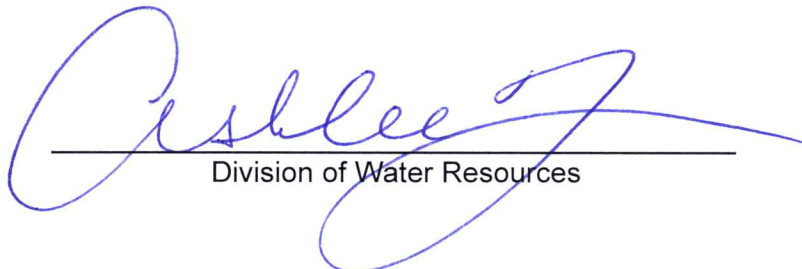
## CERTIFICATE OF SERVICE

On this 2 day of November, 2021, I hereby certify that the attached Approval of Application for the Change in Place of Use, File No. 7,009, dated 18 October 2021 was mailed postage prepaid, first class, US mail to the following:

PATRICIA J DEVORE TRUST  
RUS DEVORE TRUSTEE  
859 NW 50TH AVE  
SAINT JOHN KS 67576-9623

With photocopies sent to:

Stafford Field Office  
Groundwater Management District No. 5

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