



File **16258**      11. County: **SF**      Basin: **N F NINNESCAH RIVER**      Stream: **NA**      Formation Code: **180**      Special Use: **NA**

12. Points of Diversion      Rate and Quantity  
 CHK      Authorized      Additional  
 MOD      Rate      Quantity      Rate      Quantity  
 DEL      PDIV      S      T      R      ID      'N      'W      Comment (AKA Line)      gpm      af      gpm      af      Overlap PD Files  
 ENT      Qualifier

~~NO CHANGE~~      **51.79 MGY**

**ENT 83817**      **OR**

**158.925 AF**

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 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				
<b>ENT</b>	<b>15361</b>	<b>32</b>	<b>25</b>	<b>12W</b>	<b>1</b>	<b>21 ACRE WILDLIFE MARSH SW¼ (SF CO)</b>																	<b>8b</b>	<b>NO</b>	<b>11398</b>
<b>ENT</b>	<b>67522</b>	<b>31</b>	<b>25</b>	<b>12W</b>	<b>1</b>	<b>22 ACRE WILDLIFE MARSH SE¼ (SF CO)</b>																	<b>8b</b>	<b>NO</b>	<b>11398</b>
<b>ENT</b>	<b>711696</b>	<b>26</b>	<b>12W</b>			<b>10 ACRE WILDLIFE MARSH LT 1 &amp; 2 NE¼ (Pratt Co)</b>																	<b>8a</b>	<b>NO</b>	<b>11398</b>
<b>DEL</b>	<b>1713</b>	<b>6</b>	<b>26</b>	<b>12W</b>	<b>1</b>	<b>80</b>	<b>80</b>														<b>160</b>	<b>8a</b>	<b>NO</b>	<b>NONE</b>	

Base Acres:      Year:      Minimum Reasonable Quantity:  
 Comments: **TOTAL 53 ACRES MARSH 43 ac 32" EVAP AREA IN SF CO & 10 ac 31"EVAP AREA IN PR CO**

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

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

**TO:** Files

**DATE:** December 19, 2022

**FROM:** Leslie Ireland

**RE:** Water Right, File Nos. 11,398 & 16,258

Robert Hixson, Jr. on behalf of Hixson Lumber Sales Inc, as owner of the referenced water rights, filed applications for approval to change the place of use for both files and the use made of water for File No. 16,258. The applications were received on May 31, 2022.

The referenced water rights comply with K.S.A. 82a-718 and K.S.A. 82a-732. The nearby notification completed on August 19, 2022, resulted in no comments of any kind. It appears the requirements of K.S.A 82a-1906 have been met. The applications appear to comply with K.A.R. 5-5-2a, *Complete change application*.

The changes were modified due to the original proposals requesting a complete overlap with File No. 49,676, that was authorized as a small use exemption of 15 acre-feet (AF) or less and would not be allowed by K.A.R. 5-25-20b. The owner requested the change to File No. 49,676 be dismissed and the place of use reduced to a standalone file per its summary memo.

File No. 11,398 is authorized for recreational use to divert 46 AF at 215 gallons per minute (gpm) from a well located in the NE $\frac{1}{4}$  SW  $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 32, Township 25, Range 12 West, (32-25-12W) Stafford County in the N.F. Ninnescah River basin of Groundwater Management District No. 5 (GMD 5). The place of use as wildlife marsh is 18 acres in the (SW  $\frac{1}{4}$ ) of 32-25-12W and 22 acres in the (SE $\frac{1}{4}$ ) of 31-25-12W. The marsh in Section 31 will be reduced to remove the overlap with File No. 49,676.

File No. 16,258 is authorized for irrigation use to divert 195 AF at 342 gpm from a well located in near the Lot 2, (north side of the Northeast Quarter) of Section 6, Township 26, Range 12 West, Pratt County. The place of use is 160 acres in the Northeast Quarter (NE $\frac{1}{4}$ ), of 6-26-12W Pratt County. It has no overlap in the point of diversion or place of use. The proposed change in use made of water is to all recreational use, for the filling and maintaining of marsh habitat located within the currently authorized place of use and to overlap with File No. 11,398 at its place of use. Under K.A.R. 5-5-9, *Criteria for the approval of an application for change in use made of water from irrigation to any other type of beneficial use of water*, the 81.5% consumptive use factor for Pratt County when applied to the authorized 195 AF affords 158.925 AF for the new use.

$$195 \text{ AF} \times 81.5 \% \text{ CU Pratt Co} = 158.925 \text{ acre-feet (159 AF) or } 51.79 \text{ mgy}$$

The indirect use for evaporation is 32 inches in Stafford County and 31 inches in Pratt County. The evaporative portion for three new marshes in Pratt County totals 10 acres and the existing Stafford County is 43 acres. As determined by K.A.R. 5-6-7, *Determination of average annual potential net evaporative loss* per year to be:

$$\begin{aligned} &(10 \text{ surface acres} \times 31 \text{ inches}) / 12 \text{ inches per foot} = 25.83 \text{ AF evaporation} \\ &(43 \text{ surface acres} \times 32 \text{ inches}) / 12 \text{ inches per foot} = 114.67 \text{ AF evaporation} \end{aligned}$$

A total of 140.5 AF of evaporation losses per year or 70.25 per six months of seasonal use. Seepage as allowed by K.A.R. 5-6-8, *Determination of average annual seepage loss from a reservoir*, was requested.

The recreational use will fill and maintain marshes with an average depth of 12 inches for the proposed 10 acres in Pratt County and approximately 15 inches of proposed existing marshes of 43 acres in Stafford County, totaling approximately 63.75 acre feet.

The authorized total of 204.925 AF (46 & 158.925) less the total for evaporation and fill of 204.25AF (140.5 & 63.75) to fill and maintain indicates the proposed new use is reasonable and justified and should not significantly increase the consumptive use per K.A.R. 5-3-5, *Change in consumptive use*.

The place of use will be described as shown on the map to authorize:

waterfowl marshes located in the Southeast Quarter (SE $\frac{1}{4}$ ) of Section 31 and in the Southwest Quarter (SW $\frac{1}{4}$ ) of Section 32, Township 25 South, Range 12 West, Stafford County, Kansas, and in Lot 1 (NE $\frac{1}{4}$ ) and Lot 2 (NW $\frac{1}{4}$ ) of Section 6, Township 26 South, Range 12 West, Pratt County, Kansas.

Orrin Feril, Manager of Big Bend Groundwater Management District No. 5, in a letter dated December 14, 2022, indicated that the District recommended approval of the application per K.A.R. 5-25-20(b), *Recommendations by the Board*. The District requires the installation of a flow meter and check valve as required by K.A.R. 5-25-5, *Water flowmeter requirements*.

Jeff Lanterman, Water Commissioner, Stafford Field Office recommended approval of the referenced applications in his e-mail dated December 16, 2022.

Water flowmeters will be required and check valve if any chemical modification is made to the diverted water under each of the referenced files.

Based on the above discussion, that the change is reasonable, that impairment to existing water rights is unlikely, that no change in the local source of supply will occur, and that consumptive use will not be increased by this change, it is recommended that the referenced application be approved.



Leslie Ireland  
Environmental Scientist  
Water Appropriation Program

**From:** Lanterman, Jeff [KDA]  
**Sent:** Fri 12/16/2022 1:17 PM  
**To:** Ireland, Leslie [KDA];Conant, Cameron [KDA]  
**Cc:** Arrowood, Taylor [KDA]  
**Subject:** RE: Review & Recommendation Changes File Nos. 11398 & 16258( PU & UMW) \_ Reduction File No. 49676 - Hixson

Leslie. This one looks good to go now.

Thanks to all involved! It takes a village!

Jeff

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**From:** Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>  
**Sent:** Friday, December 16, 2022 11:00 AM  
**To:** Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>; Conant, Cameron [KDA] <Cameron.Conant@ks.gov>  
**Subject:** Review & Recommendation Changes File Nos. 11398 & 16258( PU & UMW) \_ Reduction File No. 49676 - Hixson

Jeff,

A lot of good work by Taylor and Cameron to get these rec uses applications put together. The 15 AF exemption under 49676 is probably a little more correct and was required by GMD rules.

Please let me know if you'd recommend the changes and reduction ( with change dismissal).

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  
WATER RIGHT, FILE NO. 16,258**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Robert L. Hixson, Jr., on behalf of Hixson Lumber Sales, Inc., an Arkansas Corporation, PO Box 2135, Lake Dallas, Texas 75065, received in this office on May 31, 2022, for approval of a change in the location of the place of use and 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 by the Order of the Chief Engineer dated December 5, 2014, approving the application to change the point of diversion, finds that the change is reasonable and will not impair existing rights, and that the application should be and is hereby approved.

This order effectively reduces the authorized quantity to 51.79 million gallons (158.925 acre-feet) of water per calendar year in accordance with the Application for Approval to Change the Use Made of Water and Place of Use received in this office on May 31, 2022.

The effective date of the change shall be the date this order is executed by the Chief Engineer, after which the authorized use shall be:

Recreational Use,

the authorized place of use shall be:

waterfowl marshes located in the Southeast Quarter (SE $\frac{1}{4}$ ) of Section 31 and in the Southwest Quarter (SW $\frac{1}{4}$ ) of Section 32, both in Township 25 South, Range 12 West, Stafford County, Kansas, and in Lot 1 (NE $\frac{1}{4}$ ) and Lot 2 (NW $\frac{1}{4}$ ) of Section 6, Township 26 South, Range 12 West, Pratt County, Kansas,

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

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 for each approved use of water, 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. 16,258, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated August 5, 1988, as modified and amended by the aforementioned order.

Ordered this 21 day of December, 2022, in Manhattan, Riley County, Kansas.

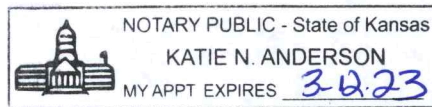
Lane P. Letourneau  
Lane P. Letourneau, P.G.  
Water Appropriation Program Manager  
Division of Water Resources  
Kansas Department of Agriculture

State of Kansas )  
                          )     SS  
County of Riley    )

NOTARY PUBLIC  
KATIE N.  
APPT. EXPIRES

The foregoing instrument was acknowledged before me this 21 day of December, 2022, by Lane P. Letourneau, P.G., Program Manager, Division of Water Resources, Kansas Department of Agriculture.

Katie N. Anderson  
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

January 11, 2023

ROBERT L HIXSON JR  
PO BOX 2135  
LAKE DALLAS, TX 75065-2135

RE: Water Right, File Nos. 11,398 & 16,258  
Subject: Approval of Applications for Change

Dear Mr. Hixson:

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 each approval is that an acceptable water flowmeter must be installed on the diversion works. These approvals do not give authority to construct any dam or other stream obstruction regulated by K.S.A. 82a-301 through 305a.

Since these orders modify the original document 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 our office at 785-564-6640, or our staff at the Stafford Field Office, 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,

A handwritten signature in black 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: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 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 Division, 1320 Research Park Drive, Manhattan, Kansas 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 review 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 January, 2022, I hereby certify that the foregoing Approval of Applications for Change under Water Right, File Nos. 11,398 & 16,258, dated December 21, 2022 were mailed postage prepaid, first class, US mail to the following:

ROBERT L HIXSON JR  
PO BOX 2135  
LAKE DALLAS, TX 75065-2135

With photocopies to:

Stafford Field Office  
Groundwater Management District No. 5



Division of Water Resources