

Kansas Department of Agriculture  
 Division of Water Resources  
**CHANGE: P/D WORKSHEET**

1. File Number: <b>40409</b>	2. Status Change Date: <b>1/3/2020</b>	3. Change Num: <b>C4</b>	4. Field Office: <b>03</b>	5. GMD:	
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>8/12/19</b>	
8a. Applicant(s) New to system <input type="checkbox"/>  <b>BESTIFOR FARMS PO-BOX 220 BELLEVILLE, KS 66935</b>		Person ID <b>1235</b> Add Seq# _____	8c. Landowner(s) New to system <input type="checkbox"/>  Person ID _____ Add Seq# _____		
8b. Landowner(s) New to system <input type="checkbox"/>  <b>8A</b>		Person ID _____ Add Seq# _____	8d. WUC New to system <input type="checkbox"/>  <b>8A</b>		
9. Documents and Enclosure(s): <input checked="" type="checkbox"/> DWR Meter(s) Date to Comply: <b>12/31/20</b> <input checked="" type="checkbox"/> N & P Date to Comply: <b>12/31/20</b>					
<input type="checkbox"/> Anti-Reverse Meter <input type="checkbox"/> Meter Seal <input type="checkbox"/> Check Valve <input type="checkbox"/> N & P Form <input type="checkbox"/> Water Tube <input type="checkbox"/> Driller Copy <input type="checkbox"/> H & E Letter <input type="checkbox"/> Conservation Plan    Date Required: _____    Date Approved: _____    Date to Comply: _____					
10. Use Made of Water    From: _____    To: _____					
Date Prepared: <b>12/24/19</b> By: <b>LI</b> Date Entered: <span style="border: 1px solid blue; padding: 2px;"><b>1/8/2020</b></span> <span style="border: 1px solid blue; padding: 2px;"><b>LMoody</b></span>					

File No. **40409**      11. County: **CD**      Basin: **REPUBLICAN RIVER**      Stream: **NA**      Formation Code: **113**      Special Use: **034**

12. Points of Diversion										Rate and Quantity						
CHK	MOD	DEL	PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files
DEL	71	NC SW SE			36	5	3W	9	675	2050						NONE
ENT	13911	SE NE SE			36	5	3W	5	1362	180		250	27	250	27	NONE

**FLIP-FLOP OF EXISTING RIGHTS**

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>NO CHANGE</b>																										

Base Acres:      Year:      Minimum Reasonable Quantity:  
 Comments:

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

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

**TO:** Files

**DATE:** December 24, 2019

**FROM:** Leslie Ireland

**RE:** Water Right,  
File Nos. 9,105 & 40,409

Thayne A. Larson on behalf of Bestifor Farms owner of the referenced water rights has filed applications for approval to change the points of diversion authorized for irrigation use under the referenced files. The applications were received on August 12, 2019.

The referenced water rights are considered in good standing as per K.S.A. 82a-718 and 82a-732. File No. 40,409 was issued a violation notice of non-compliance, for exceeding the authorized quantity of by less than one (1) acre-foot. The pumping and MDS restrictions for this junior right are partially the reasoning behind the requested changes. The applications comply with K.A.R. 5-5-2a, *Complete change application*.

File No. 9,105 authorizes two (2) wells in the Southeast Quarter of 36-5-3W, Cloud County with the well in the SE $\frac{1}{4}$  NE $\frac{1}{4}$  SE $\frac{1}{4}$  and assigned 44 acre-feet (AF) at a rate of 175 gallons per minute (gpm), referenced as the East Well. The well referenced as the West Well located in the N $\frac{1}{2}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$  is authorized 87AF at a rate of 350 gpm, will remain as authorized, but will be updated to be North Well under this right.

File No. 40,409, is authorized one(1) point of diversion, to divert 27 acre-feet at a rate of 250 gallons per minute. The proposal is to flip the rate and quantity under File No. 40,409 with the well referenced as the East Well under File No. 9,105, located in the SE $\frac{1}{4}$  NE $\frac{1}{4}$  SE $\frac{1}{4}$  and assigned 44 acre-feet (AF) at a rate of 175 gpm. The actual feet distances of the well locations will be added to the referenced files. No new wells will be drilled. The referenced files, and File No. 27,768, have a complete overlap in the place of use of 201.5 acres. All three rights have a combined total of 152 AF providing 1.09 acre-foot (13.1 inches) per acre. There are no additional limitations on the rights, but File No. 40,409 is subject to MDS resulting in pumping restrictions that were enforced 2014,15,16 & 18. The rights are in the Effective Alluvial, Special Use Area (Code 034) of the Republican River and appear to be in an area that is closed to new appropriations. The junior right has a designated source of supply, Main Stem Alluvium (Code 113), with File No. 9,105, shown with CIN 5 as Main Stem Alluvium (Code 113) and CIN 4 as Terrace (Code 115) and Dakota Aquifer System (Code 330). The original permit application for File No. 9,105, lists the well in the SW $\frac{1}{4}$ SE $\frac{1}{4}$  (CIN 4) as 52 feet deep, also referenced as Well #1, and the well in the NE $\frac{1}{4}$ SE $\frac{1}{4}$  (CIN 5) to be 98 feet deep. The application under File No. 40,409 states the well to be 47 feet deep. No well logs for the rights were located.

The proposed "Flip-Flop" will move the 44 AF at a rate of 175 gpm under File No. 9,105, CIN 5, to the Southwest to the well described as being near the center of the Southwest Quarter of the Southeast Quarter NC SW $\frac{1}{4}$  SE $\frac{1}{4}$ , (South Well) that was authorized by File No. 40,409. The feet distances of this well were determined by the Staff of the Stockton Field Office to be 751 feet North and 2,046 feet West, it appears the description can be updated to being in the NW $\frac{1}{4}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$ , and the comment updated to South Well. The 27 AF at 250 gpm that is under File No. 40,409, will move to the well in the NE $\frac{1}{4}$  NE $\frac{1}{4}$  NW $\frac{1}{4}$ , that had been pumped under File No. 9,105, all in Section 36, Township 2 South, Range 3 West, Cloud County. The well locations indicate that the proposed move is approximately 1,964 feet between the two wells. The flip is between the wells that have been designated as Main Stem Alluvium so the change will not alter the source of supply.

SCANNED

A review of the well locations and the path of Oak Creek, located to the North, indicates the wells are similar distance from the creek and comply with K.A.R. 5-5-13, Relocation of alluvial wells. As no new wells will be drilled, and each right will continue to authorize the same number of wells, K.A.R. 5-5-16, Additional well, will not apply to the changes.

Review of File No. 40,409 found a 1998 investigation regarding impairment of File No. 8,153 believed to be caused by nearby rights. It appears this was resolved, and no additional complaints were received. The change will move a right authorized a larger quantity away from the well under File No. 8,153. Additionally, the proposed existing well under File No. 40,409, will be subject to Minimum Desirable Stream Flow restrictions and not authorized to pump when conditions are dry and stream levels are low.

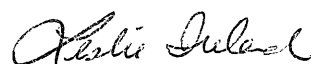
The nearby wells consist of the two (2) irrigation wells under the referenced files and within one-half ( $\frac{1}{2}$ ) mile of the proposed existing well under File No. 9,105. Under File No. 40,409 there are three (3) irrigation wells, two under the referenced files and the irrigation well under File No. 8,153. The applicant does not indicate any domestic wells located in the area. A comment letter was sent to all the owner of File No. 8,153. No comments of any kind were received in this office further indicating the historical impairment issue was resolved.

The well spacings will not change as no new wells are being drilled. There are no nearby domestic wells indicated in the area. File No. 40,409, will be moving more than 300 feet and towards the location authorized under File No. 8,153. The proposed existing well for File No. 40,409, is approximately 1,080 feet away from the well under File No. 8,153, based on recent GPS values. This is less 1,320 feet as required for nondomestic wells sourced as alluvium per K.A.R. 5-4-4, *Well spacing*. A **waiver of well to well spacing** for the requested change under File No. 40,409 was requested by the applicant and has been prepared. The change will result in the 128 acre-feet authorized by File No. 9,105 to be 426 feet apart, but as the wells are under the same priority, serving the same place of use impairment should not be an issue. Also these two wells are at a different depth. The reduction in spacing between the wells under File No. 9,105, appears to comply with part (a) of K.A.R. 5-4-4.

Kelly Stewart, Water Commissioner of the Stockton City Field Office was contacted for a recommendation on the proposed changes. In his email dated December 23, 2019, he recommended approval with the requested waiver under File No. 40,409.

Water flowmeters will be required on the points of diversion and a check valve will also be required if chemigating. A water level measurement tube and WWC-5 will not be required as the wells are existing. No letter will be sent to the Kansas Department of Health and Environment as the currently authorized wells will remain authorized.

Based on the above discussion, and approval of the requested waiver of K.A.R. 5-4-4, that no change in the local source of supply should occur, that the changes are reasonable, and that possible impairment to existing water rights will be reduced, it is recommended that the referenced applications be approved.



Leslie Ireland  
Environmental Scientist  
Water Appropriation Program

THE STATE OF KANSAS



**KANSAS DEPARTMENT OF AGRICULTURE**  
Mike Beam, Secretary of Agriculture

**DIVISION OF WATER RESOURCES**  
David W. Barfield, Chief Engineer

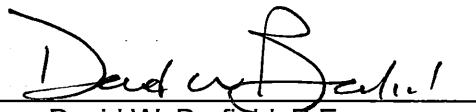
**WAIVER OF REGULATION**  
**K.A.R. 5-4-4(c)(1)(C)**

Date:

Re: File No. 40,409

1. That K.A.R. 5-4-4(c)(1)(C) states in part an application to change the point of diversion shall meet the spacing requirements established by K.A.R. 5-4-4 or not decrease the distance to other wells by more than 300 feet, and that well spacing shall be sufficient to prevent direct impairment in this case 1,320 feet.
2. That File No. 40,409 is requesting to move approximately 1,963 well an existing well located approximately 1,000 feet from the well authorized by File No. 8,153. The owner has requested a waiver of the stated 1,320 feet well to well spacing
3. These two wells were listed on the application to be 850 feet apart. A review of the GPS data indicated them to be 1,080 feet apart. Both measurements between these existing wells are less than the required 1,320 feet of well to well spacing.
4. The change will result in a decrease of pumping from the currently authorized 44 acre-feet at 175 gallons per minute to 27 acre-feet at 250 gallons per minute.
5. Review of the files found a 1998 request for an impairment investigation by the previous owner of File No. 8,513. There does not appear to have been any additional impairment issues with File No. 8,153 that has been under the same ownership since 2006. This owner was informed by letter of the requested change. No comment of any kind was received.
6. The change will result in a well to be authorized by an appropriation that is significantly lower in priority that the nearby well and subject to the restrictions of Minimal Desirable Stream Flow, restricting pumping during times when stream flow is reduced.
7. The reduced quantity and restricted pumping should help assure that impairment between these two wells will not become an issue.

Comments:

  
David W. Barfield, P.E.  
Chief Engineer  
Division of Water Resources

Kansas Department of Agriculture  
 Division of Water Resources  
**WAIVER REQUEST & WAIVER RULE WORKSHEET**

File Number: 40,409

FO: 3

GMD: \_\_\_\_\_

**WAIVER REQUEST:**

UMW	Date Requested	Rule ID	Applies	Rule Type	Rule Subtype
IRR	8/12/2019	3	Statewide	Well Spacing Change Apps	Well to Well Spacing
Rule Number	Date Granted	Date Denied	Justification:	Two appropriations will flip-flop wells. A nearby irrigation well authorized by a senior right is less than 1,320 feet away. The change will result in the proposed existing well to authorize less quantity, and be subject to minimum desirable streamflow restrictions.	
K.A.R. 5-4-4(c)(1)(C)	1/3/2020				

**WAIVER RULE (complete only if a new rule needs to be created):**

Rule ID	Applicability	Type	Subtype	Rule Number	Date Active	Date Inactive
				K.A.R.		

Date Prepared 12/24/2019 By LI

Date Entered 6/22/2020 By LMoody

Submit To: CHIEF ENGINEER  
Division of Water Resources  
Kansas Department of Agriculture  
1320 Research Park Drive  
Manhattan, KS 66502  
[www.ksda.gov/dwr](http://www.ksda.gov/dwr)

**APPLICATION FOR APPROVAL TO  
CHANGE THE PLACE OF USE, THE  
POINT OF DIVERSION OR THE USE  
MADE OF THE WATER UNDER AN  
EXISTING WATER RIGHT**



State of Kansas

**Filing Fee Must Accompany the Application**  
(Please refer to Fee Schedule on signature page of application form.)

**Paragraph Nos. 1, 2, 3, 4 & 8 must be completed. Complete all other applicable portions.** A topographic map or detailed plat showing the authorized and proposed points(s) of diversion and /or place of use must accompany this application.

1. Application is hereby made for approval of the Chief Engineer to change the

- Place of Use  
(Check one or more)  Point of Diversion  
 Use Made of Water

Water Resources  
Received

AUG 12 2019  
12:57  
KS Dept Of Agriculture

File No. 40,409

2. Name of applicant: BESTIFOR FARMS

Address: PO BOX 220

City, State and Zip: BELLEVILLE, KS 66935

Phone Number: (785)527-2450

E-mail address: office.bestifor@gmail.com

What is your relationship to the water right;  owner  tenant  agent  other? If other, please explain. \_\_\_\_\_

Name of water use correspondent: same

Address: \_\_\_\_\_

City, State and Zip: \_\_\_\_\_

Phone Number: ( ) \_\_\_\_\_

E-mail address: \_\_\_\_\_

3. The change(s) proposed herein are desired for the following reasons (please be specific): to swap wells authorized under files 9,105 id 5 & 40,409

The change(s) (will be) completed by upon approval

(Date)

**For Office Use Only:**

Applicant: 3 GMD - Meets K.A.R. 5-5-1 (YES/NO) Use IRR Source G/S County CD By KJN Date 8/12/19  
Code CGT Fee \$ 200 TR # \_\_\_\_\_ Receipt Date 8/12/19 Check # 32123

APPLICATION COMPLETE

12/9/19  
Reviewer LT

4. The presently authorized place of use is:

Owner of Land — NAME: BESTIFOR FARMS

ADDRESS: PO BOX 220 BELLEVILLE KS 66935

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	
35	5S	3W													2			3	5
36	5S	3W									22	33.5	36.5	25.5	30		19	30	196.5

List any other water rights that cover this place of use. \_\_\_\_\_

Owner of Land — NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

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	

List any other water rights that cover this place of use. \_\_\_\_\_

Owner of Land — NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

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	

List any other water rights that cover this place of use. \_\_\_\_\_

5. It is proposed that the place of use be changed to:

Owner of Land — NAME: NO CHANGE

ADDRESS: \_\_\_\_\_

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	

List any other water rights that cover this place of use. \_\_\_\_\_

**IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY**

Water Resources  
Received

**AUG 12 2019**

KS Dept Of Agriculture

**SCANNED**



6. The presently authorized point(s) of diversion is 1 WELLS  
(Provide description and number of points)
7. The proposed point(s) of diversion is 1 WELLS  
(Provide description and number of points)

**List all presently authorized point(s) of diversion:**

8. **Presently authorized point of diversion:**  
 One in the NC NW\* Quarter of the SW Quarter of the SE Quarter of Section 36, Township 5 South, Range 3 W, in CLOUD County, Kansas, 675 feet North 2050 feet West of Southeast corner of section.  
 Authorized Rate 250 GPM Authorized Quantity 27 AF  
 (DWR use only: Computer ID No. 9 GPS 751 feet North 2046 feet West)  
 This point will not be changed  This point will be changed as follows:  
**Proposed point of diversion: (Complete only if change is requested)**  
 One in the SE Quarter of the NE Quarter of the SE Quarter of Section 36, Township 5 South, Range 3 W, in CLOUD County, Kansas, 1362\* feet North 180\* feet West of Southeast corner of section.  
 Proposed Rate 250 GPM Proposed Quantity 27 AF 1362\* 180\* ID 5\*  
 This point is:  Additional Well  Geo Center List other water rights that will use this point \_\_\_\_\_

9. **Presently authorized point of diversion:**  
 One in the \_\_\_\_\_ Quarter of the \_\_\_\_\_ Quarter of the \_\_\_\_\_ Quarter of Section \_\_\_\_\_, Township \_\_\_\_\_ South, Range \_\_\_\_\_ W, in \_\_\_\_\_ County, Kansas, \_\_\_\_\_ feet North \_\_\_\_\_ feet West of Southeast corner of section.  
 Authorized Rate \_\_\_\_\_ Authorized Quantity \_\_\_\_\_  
 (DWR use only: Computer ID No. \_\_\_\_\_ GPS \_\_\_\_\_ feet North \_\_\_\_\_ feet West)  
 This point will not be changed  This point will be changed as follows:  
**Proposed point of diversion: (Complete only if change is requested)**  
 One in the \_\_\_\_\_ Quarter of the \_\_\_\_\_ Quarter of the \_\_\_\_\_ Quarter of Section \_\_\_\_\_, Township \_\_\_\_\_ South, Range \_\_\_\_\_ W, in \_\_\_\_\_ County, Kansas, \_\_\_\_\_ feet North \_\_\_\_\_ feet West of Southeast corner of section.  
 Proposed Rate \_\_\_\_\_ Proposed Quantity \_\_\_\_\_  
 This point is:  Additional Well  Geo Center List other water rights that will use this point \_\_\_\_\_

10. **Presently authorized point of diversion:**  
 One in the \_\_\_\_\_ Quarter of the \_\_\_\_\_ Quarter of the \_\_\_\_\_ Quarter of Section \_\_\_\_\_, Township \_\_\_\_\_ South, Range \_\_\_\_\_ W, in \_\_\_\_\_ County, Kansas, \_\_\_\_\_ feet North \_\_\_\_\_ feet West of Southeast corner of section.  
 Authorized Rate \_\_\_\_\_ Authorized Quantity \_\_\_\_\_  
 (DWR use only: Computer ID No. \_\_\_\_\_ GPS \_\_\_\_\_ feet North \_\_\_\_\_ feet West)  
 This point will not be changed  This point will be changed as follows:  
**Proposed point of diversion: (Complete only if change is requested)**  
 One in the \_\_\_\_\_ Quarter of the \_\_\_\_\_ Quarter of the \_\_\_\_\_ Quarter of Section \_\_\_\_\_, Township \_\_\_\_\_ South, Range \_\_\_\_\_ W, in \_\_\_\_\_ County, Kansas, \_\_\_\_\_ feet North \_\_\_\_\_ feet West of Southeast corner of section.  
 Proposed Rate \_\_\_\_\_ Proposed Quantity \_\_\_\_\_  
 This point is:  Additional Well  Geo Center List other water rights that will use this point \_\_\_\_\_

11. Describe the current condition of and future plans for any point(s) of diversion which will no longer be used.  
WELLS WILL JUST BE SWAPPED

**IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY**

*\*LIS/own*

Water Resources  
Received  
AUG 12 2019

KS Dept Of Agriculture

SCANNED

12. The presently authorized use of water is for IRR purposes.

It is proposed that the use be changed to NO CHANGE purposes.

13. If changing the place of use and/or use made of water, describe how the consumptive use will not be increased.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Please show any calculations here.)

14. It is requested that the maximum annual quantity of water be reduced to N/A (acre-feet or million gallons).

15. It is requested that the maximum rate of diversion of water be reduced to N/A gallons per minute (\_\_\_\_ c.f.s.).

16. The application must include either a topographic map or detailed plat. A U.S. Geological Survey Topographic Map, scale 1:24,000, is available through the Kansas Geological Survey, 1930 Constant Avenue, University of Kansas, Lawrence, Kansas 66047-3726 ([www.usgs.gov](http://www.usgs.gov)). The map should show the location of the presently authorized point(s) of diversion. Distances North and West of the Southeast corner of the section must be shown. The presently authorized place of use should also be shown. Identify the center of the section, the section lines and the section corners and show the appropriate section, township, and range numbers on the map. In addition the following information must also be shown on the map.

- a. If a change in the location of the point(s) of diversion is proposed, show:
  - 1) The location of the proposed point(s) of diversion. Distances North and West of the Southeast corner of the section must be shown. Please be certain that the information shown on the map agrees with the information shown in Paragraph Nos. 9, 10 and 11 of the application.
  - 2) If the source of supply is groundwater, please show the location of existing water wells of any kind, including domestic wells, within 1/2 mile of the proposed well or wells. Identify each well as to its use and furnish name and mailing address of the property owner or owners. If there are no wells within 1/2 mile, please indicate so on the map.
  - 3) If the source of supply is surface water, the names and mailing addresses of all landowner(s) 1/2 mile downstream and 1/2 mile upstream from your property lines must be shown.
- b. If a change in the place of use is desired, show the proposed place of use by crosshatching on the map. Please be certain that the information shown on the map agrees with the information shown in Paragraph No. 5 of the application.

17. Attach documentation to show the change(s) proposed herein will not impair existing water rights and relates to the same local source of supply as to which the water right relates. This information may include statements, plats, geology reports, well logs, test hole logs, and other information as necessary information to show the above. Additional comments may be made below.

This change proposes to move a file senior to MDS (9105 ID5) that currently is ~850 feet from well authorized by 8,153  
As authorized, 9,105 id 5 is authorized 44 AF at 175 gpm, this change will swap it with file 40,409 which is junior to MDS  
and authorized for 27 AF at 250 gpm. This will lessen impact to the nearby well authorized under 8,153.

18. If the proposed change(s) does not meet all applicable rules and regulations of the Kansas Water Appropriation Act, please identify the rules and regulations for which you request a waiver. State the reason why a waiver is needed and why the request should be granted. Attach documentation showing that granting the request will not impair existing water rights and will not prejudicially and unreasonably affect the public interest.

REQUEST WAIVER OF SPACING TO WELL 8,153, SEE ABOVE FOR JUSTIFICATION

**IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY**

Water Resources  
Received

AUG 12 2019

KS Dept Of Agriculture  
SCANNED

Any use of water that is not as authorized by the water right or permit to authorize water **before** the chief engineer approves this application is a violation of the Kansas Water Appropriation Act for which criminal or civil penalties may be assessed. Such violation is a class C misdemeanor, punishable by a fine not to exceed \$500 and/or a term of confinement not to exceed one month in the county jail. K.S.A. 82a-728(b). Civil penalties shall be not less than \$100 nor more than \$1,000 per violation. In the case of a continuing violation, each day such violation continues may be deemed a separate violation. In addition to these penalties the water right may be modified or suspended. K.S.A. 82a-737, as amended.

**The application must be signed by all owners of the place of use authorized under the water right and his or her spouse, if married. Please indicate if there is no spouse.** If land is being purchased under contract, the seller must sign as landowner until such time as the contract is completed.

In the event that all applicants cannot appear before one notary public, they may as necessary sign separate copies of the application before any notary public conveniently available to them. All copies signed in this manner shall be considered to be valid parts of the application.

If the request is signed on behalf of any Owner by someone with legal authority to do so (for example, an agent, one who has power of attorney, or an executor, executrix, conservator), it will be necessary to attach proper documents showing such authority.

**I declare that I am an owner of the currently authorized place of use as identified herein, or that I represent all such owners and am authorized to make this application on their behalf, and declare further that the statements contained herein are true, correct, and complete. By filing this application I authorize the chief engineer to permanently reduce the quantity of water and/or rate of diversion as specified in sections 14 and 15 of this application.**

Dated at Belleville, Kansas, this 5th day of August, 2019.

<u>Thayne A Larson</u> (Owner)	_____
_____	(Spouse)
<u>Thayne A Larson</u> (Please Print)	_____
_____	(Please Print)
_____	(Owner)
_____	(Spouse)
_____	(Please Print)
_____	(Please Print)
_____	(Owner)
_____	(Spouse)
_____	(Please Print)
_____	(Please Print)

State of Kansas )  
County of Republic ) SS



I hereby certify that the foregoing application was signed in my presence and sworn to before me this 5th day of August, 2019.

Katherine L Klenda  
Notary Public

My Commission Expires 5/21/2023

**FEE SCHEDULE**

Each application to change the place of use, the point of diversion or the use made of the water under this section shall be accompanied by the application fee set forth in the schedule below:

- (1) Application to change a point of diversion 300 feet or less ..... \$100
- (2) Application to change a point of diversion more than 300 feet ..... \$200
- (3) Application to change the place of use ..... \$200
- (4) Application to change the use made of the water ..... \$300

Water Resources  
Received

AUG 12 2019

Make check payable to **Kansas Department of Agriculture**.

Water Resources  
Received

AUG 12 2019

KS Dept Of Agriculture

SCANNED

**Ireland, Leslie [KDA]**

---

**From:** Stewart, Kelly [KDA]  
**Sent:** Monday, December 23, 2019 3:38 PM  
**To:** Ireland, Leslie [KDA]  
**Cc:** Hageman, Rebecca [KDA]  
**Subject:** RE: Recommendation for change in point of diversion File Nos. 9105 & 40,409 Larson

Leslie,

I have no objection to the granting of the waiver and the approval of this change application.

Kelly

---

**From:** Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>  
**Sent:** Monday, December 23, 2019 3:02 PM  
**To:** Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>  
**Subject:** RE: Recommendation for change in point of diversion File Nos. 9105 & 40,409 Larson

---

Kelly,

It would be a waiver... Good catch on the feet distances.. had thought the feet distances determined were incorrect on the application missing a 1 for 1080' per the GPS determination. Then the distance was more when I did just the feet distances which I did wrong.. missing the Amount Statics Report we use to be able to run!!.

The lat-long data in the Excel distance gave me the following for:

ID 5 Section 36, proposed pd for File No. 40,409, distance to File No. 8153 ID gave 1,080 feet

	A	B	C	D	E
<b>INPUTS</b>					
	<b>Longitude</b>	<b>Latitude</b>	<b>Location</b>		
<b>Point 1</b>	-97.59086	39.57018	File No. 8153		
<b>Point 2</b>	-97.59451	39.57108	ID 5 Sec 36		
<b>Degrees Longitude per Foot</b>				3.54713419E-06	
<b>Degrees Latitude per Foot</b>				2.74534411E-06	
<b>Distance Between Points (ft)</b>				1080	

Attached is the waiver.. it was difficult, also an updated memo.

Thanks for the review and as always comments and concerns are welcome.

Leslie Ireland, Environmental Scientist  
Kansas Department of Agriculture  
Division of Water Resources - Change Unit  
(785) 564-6633  
[Leslie.Ireland@ks.gov](mailto:Leslie.Ireland@ks.gov)  
[www.agriculture.ks.gov](http://www.agriculture.ks.gov)

---

**From:** Stewart, Kelly [KDA] <[Kelly.Stewart@ks.gov](mailto:Kelly.Stewart@ks.gov)>  
**Sent:** Friday, December 13, 2019 3:20 PM  
**To:** Ireland, Leslie [KDA] <[Leslie.Ireland@ks.gov](mailto:Leslie.Ireland@ks.gov)>; Billinger, Mark [KDA] <[Mark.Billinger@ks.gov](mailto:Mark.Billinger@ks.gov)>  
**Cc:** Hageman, Rebecca [KDA] <[Rebecca.Hageman@ks.gov](mailto:Rebecca.Hageman@ks.gov)>  
**Subject:** RE: Recommendation for change in point of diversion File Nos. 9105 & 40,409 Larson

Leslie,

As I understand this change, they are proposing to move 27 acre-feet under 40,409 closer to 8,53, but they are proposing to move 44 acre-feet under 9,105 further from 8,153. This would appear to improve the situation in regards to potential impairment to 8,153. Therefore, I would be in favor of this change approval. However, does 40,409 need a waiver of well spacing to move closer to 8,153 than 1,320'? Or, are we saying that spacing should be adequate to prevent impairment?

Kelly

---

**From:** Ireland, Leslie [KDA] <[Leslie.Ireland@ks.gov](mailto:Leslie.Ireland@ks.gov)>  
**Sent:** Friday, December 13, 2019 10:41 AM  
**To:** Stewart, Kelly [KDA] <[Kelly.Stewart@ks.gov](mailto:Kelly.Stewart@ks.gov)>; Billinger, Mark [KDA] <[Mark.Billinger@ks.gov](mailto:Mark.Billinger@ks.gov)>  
**Subject:** Recommendation for change in point of diversion File Nos. 9105 & 40,409 Larson

Kelly & Mark,

Attached is the summary memo for the proposed PD changes under these two files.

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

As always comments and concerns are welcome.

Leslie Ireland, Environmental Scientist  
Kansas Department of Agriculture  
Division of Water Resources - Change Unit  
(785) 564-6633  
[Leslie.Ireland@ks.gov](mailto:Leslie.Ireland@ks.gov)  
[www.agriculture.ks.gov](http://www.agriculture.ks.gov)

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

November 20, 2019

DENNIS L & PEGGY J JACKSON  
1036 ROCK RD  
CONCORDIA, KS 66901

RE: Water Right, File Nos. 9,105 & 40,409

Dear Sir or Madam:

This is to advise you that applications for approval of the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, to change the points of diversion authorized under the above referenced files.

The applications are proposing to reassign quantity and rate between the existing wells authorized by the referenced files. The overall quantity and rates developed by the rights will not be increased. Under File No. 9,105 only one(1) of the two(2) wells will change locations with File No. 40,409. The proposed change under File No. 9,105, will reallocate the diversion of 44 acre-feet of water per calendar year and at a diversion rate not in excess of 175 gallons per minute (0.39 c.f.s.)

from: one (1) well located in the Southeast Quarter of the Northeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$  NE $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section 36, more particularly described as being near a point 1,362 feet North and 180 feet West of the Southeast corner of said section,

to: one (1) well located in the Northwest Quarter of the Southwest Quarter of the Southwest Quarter of the Southeast Quarter (NW $\frac{1}{4}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section 36, more particularly described as being near a point 751 feet North and 2,046 feet West of the Southeast corner of said section

both in Township 5 South, Range 3 West, Cloud County, Kansas.

The second well under File No. 9,105, located in the North half of the Southwest Quarter of the Southeast Quarter (N $\frac{1}{2}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section 36, in Township 5 South, Range 3 West, Cloud County, is proposed to remain as authorized to divert 84 acre-feet of water per calendar year and at a diversion rate not in excess of 350 gallons per minute (0.78 c.f.s.).

The change under File No. 40,409, proposes to authorize the well currently authorized by File No. 9,105, resulting in 27 acre-feet of water to be diverted at a maximum rate of 250 gallons per minute (0.78 c.f.s.) to be relocated

from: one (1) well, located in the Northwest Quarter of the Southwest Quarter of the Southeast Quarter (NW $\frac{1}{4}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section 36, more particularly described as being near a point 751 feet North and 2,046 feet West of the Southeast corner of said section in Township 5 South, Range 3 West,

to: one (1) well located in the Southeast Quarter of the Northeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$  NE $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section 36, more particularly described as being near a point 1,362 feet North and 180 feet West of the Southeast corner of said section in Township 5 South, Range 3 West, of the Southeast corner of said section,

both in Township 5 South, Range 3 West, Cloud County, Kansas.

The maps depicting the currently authorized and proposed well locations has been enclosed.

You are being notified of the proposed changes so that you may furnish this office written comments or other information you may desire to submit. Such written comments or other information must be received in this office within 15 days from the date of this letter.

If you have any general questions, please contact our office, my desk phone is (785) 564-6633. If you wish to discuss a specific file, please have the file numbers ready so that we may help you more efficiently.

Sincerely,



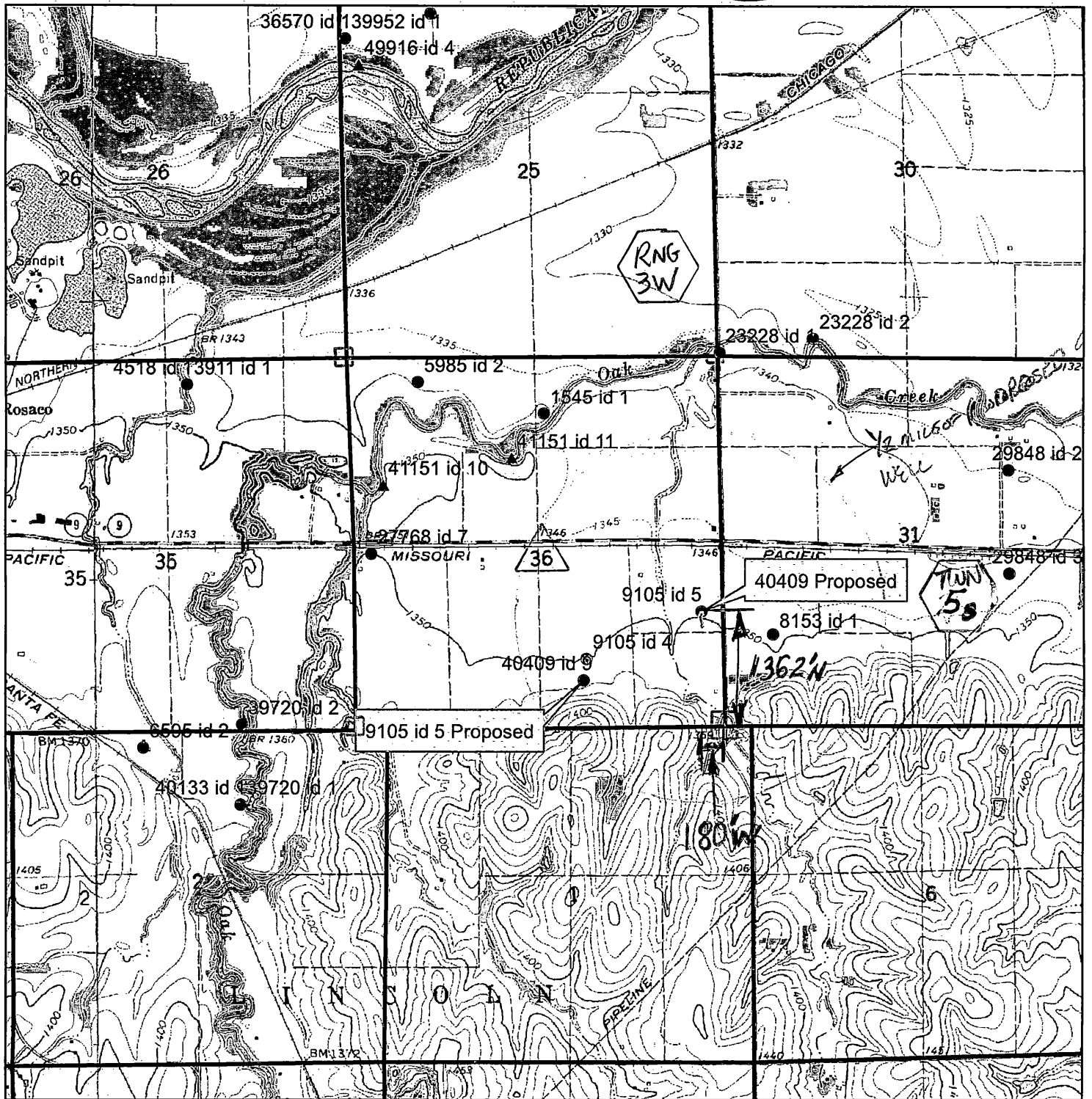
Leslie Ireland  
Environmental Scientist  
Water Appropriation Program

Enclosures

pc: Stockton Field Office



# Application to Change the Point of Diversion For Water Right File # 9,105 & 40,409



- ▲ Surface Water Point of Diversion
- Groundwater Point of Diversion

1:24,000

Thomas L. ... 8-5-19



Water Resources  
Received

All wells within 1/2 mile of proposed well location are identified on the map. AUG 12 2019

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

BESTIFOR FARMS  
THAYNE LARSON  
PO BOX 220  
BELLEVILLE KS 66935

January 10, 2020

FILE COPY

RE: Water Right, File Nos. 9,105 & 40,409

Dear Mr. Larson:

Enclosed are the approvals of application to change the points of diversion executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture for the referenced files.

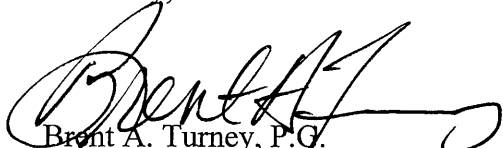
Please be reminded that Water Right, File No. 40,409, remains subject to the Minimal Desirable Streamflows of the Republican River.

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 a water flowmeter meeting the specifications of the Chief Engineer must be installed on the diversion works authorized. Please return the required and enclosed form, *Notification of Completion of the Diversion Works and Report of Flowmeter Installation* of the required meters as soon as these actions are complete. A listing of water flowmeters and additional forms may be found at [www.agriculture.ks.gov](http://www.agriculture.ks.gov).

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 Leslie Ireland, (785) 564-6633. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,



Brent A. Turney, P.G.  
Change Application Unit Supervisor

BAT:LI:li  
Enclosures  
pc: Stockton Field Office

THE STATE  OF KANSAS

**KANSAS DEPARTMENT OF AGRICULTURE**  
Mike Beam, Secretary of Agriculture

**DIVISION OF WATER RESOURCES**  
David W. Barfield, Chief Engineer

**APPROVAL OF APPLICATION  
FOR  
CHANGE IN POINT OF DIVERSION  
UNDER  
WATER RIGHT, FILE NO. 9,105**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Thayne Larson on behalf of Bestifor Farms, PO Box 220, Belleville, Kansas 66935, received in the office of the Chief Engineer on August 12, 2019, for approval of a change in the location of the point of diversion under the certificate of appropriation issued pursuant to the application for permit to appropriate water for beneficial use, as modified and amended by the Orders of the Chief Engineer dated May 10, 2007, March 11, 2013 and July 7, 2014, approving the applications to change the place of use, finds that the changes are 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 points of diversion shall be:

one(1) well located in the Northwest Quarter of the Southwest Quarter of the Southeast Quarter (NW $\frac{1}{4}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section 36, more particularly described as being near a point 751 feet North and 2,046 feet West of the Southeast corner of said section, at a diversion rate not in excess of 175 gallons per minute (0.39 c.f.s.) and a quantity not to exceed 44 acre-feet per calendar year and

one(1) well located in the North half of the Southwest Quarter of the Southeast Quarter (N $\frac{1}{2}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section 36, more particularly described as being near a point 1,177 feet North and 2,063 feet West of the Southeast corner of said section, at a diversion rate not in excess of 350 gallons per minute (0.78 c.f.s.) and a quantity not to exceed 84 acre-feet per calendar year

both in Township 5 South, Range 3 West, Cloud County, Kansas,

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

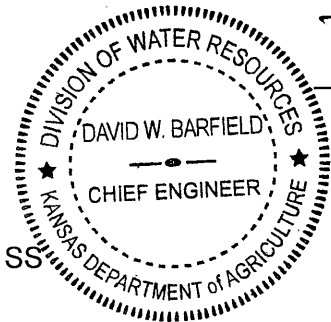
Installation of the works for diversion of water shall be completed on or before December 31, 2020, or within any authorized extension of time. The applicant shall notify the Chief Engineer of the Division of Water Resources, Kansas Department of Agriculture, when construction of the works for diversion has been completed.

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 Certificate of Appropriation issued pursuant to Approval of Application, File No. 9,105, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated March 19, 1979, as modified and amended by the aforementioned orders.

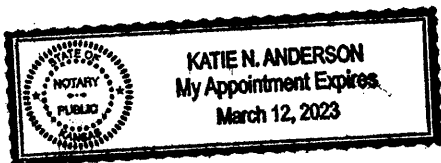
Ordered this 3<sup>rd</sup> day of January 2020, in Manhattan, Riley County, Kansas.



David W. Barfield  
David W. Barfield, P.E.  
Chief Engineer  
Division of Water Resources  
Kansas Department of Agriculture

State of Kansas )  
County of Riley )

The foregoing instrument was acknowledged before me this 3<sup>rd</sup> day of January 2020, by, David W. Barfield, P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.



Katie N. Anderson  
Notary Public

**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 10<sup>th</sup> day of January 2020, I hereby certify that the attached Approval of Application for Change in Point of Diversion under Water Right, File No. 9,105, dated January 3, 2020 was mailed postage prepaid, first class, US mail to the following:

Bestifor Farms  
Thayne Larson  
PO Box 220  
Belleville, KS 66935

With photocopies sent to:

Stockton Field Office



Division of Water Resources