

Kansas Department of Agriculture
 Division of Water Resources
CHANGE: P/U UMW WORKSHEET

1. File Number: 28444	2. Status Change Date: 12/14/2020	3. Change Num: C1	4. Field Office: 1	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: 04-MAY-2020	
8a. Applicant(s) New to system <input type="checkbox"/> ST MARYS PROPERTIES PO BOX 37 BELVUE, KS 66407		Person ID 65877 Add Seq# 1	8c. Landowner(s) New to system <input type="checkbox"/> Person ID _____ Add Seq# _____		
8b. Landowner(s) New to system <input type="checkbox"/> 8a.		Person ID _____ Add Seq# _____	8d. WUC New to system <input type="checkbox"/> 8a. Person ID _____ Add Seq# _____		
9. Documents and Enclosure(s): <input checked="" type="checkbox"/> DWR Meter(s) Date to Comply: 12/31/21 <input type="checkbox"/> N & P Date to Comply: _____					
<input checked="" 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 IRR To: IRR/FPR					
Date Prepared: 12/1/20 By: DWS Date Entered: _____ By: _____					

12/16/2020
L Moody

File No. **28444** 11. County: **PT** Basin **KANSAS RIVER** Stream: Formation Code: **113** Special Use:

12. Points of Diversion										Rate and Quantity							
CHK	MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files
IRR	CHK	23000	NC	NW		3	10	11E	6	3800	3900	(IRR USE)	840 g.p.m.	62.7 AF	840 g.p.m.	62.7 AF	NONE
FPR	ENT	23000	NC	NW		3	10	11E	6	3800	3900	(FPR USE)	840 g.p.m.	18.3 AF	840 g.p.m.	18.3 AF	NONE
													(5.963 mgy)	(5.963 mgy)			

13. Storage: Rate _____ NF Quantity _____ ac/ft Additional Rate _____ NF Additional Quantity _____ ac/ft

14 Limitation: _____
 Limitation: _____

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	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				
IRR	MOD	18325	3	10S	11E	5									37	20					57	8a	NO	NONE
FPR	ENT	70195	10S	11E	Onyx Facility (NE NW & SE NW)																	8a	NO	NONE

Comments: **BOTH IRR USE AND FPR USE FROM SAME WELL.**

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 1, 2020

FROM: Doug Schemm

RE: Water Right, File No. 28,444

Robert Awerkamp, on behalf of St. Mary's Properties, has filed an application for approval to change the place of use and use made of water for the referenced file number.

The referenced file number does not appear to be abandoned as per K.S.A. 82a-718.

The referenced file number is authorized a quantity of water of 81 acre-feet at a rate of diversion of 840 gallons per minute from one well located near the center of the Northwest Quarter of Section 3, in Township 10 South, Range 11 East, Pottawatomie County, Kansas, in the Kansas River basin, for irrigation use on 51 acres in the Northwest Quarter, and 37 acres in the Southwest Quarter (total of 88 acres), of the aforementioned Section 3, in the aforementioned township and range. There are no overlaps in the currently authorized place of use or point of diversion.

The applicant proposes to change the place of use to irrigation use for 37 acres in the Northwest Quarter and 20 acres in the Southwest Quarter (total of 57 acres), of the aforementioned Section 3, in the aforementioned township and range. The total quantity available for irrigation use, 62.7 acre-feet, will irrigate 57 acres with 1.1 acre-feet per acre, which is the maximum allowable for irrigation use in Pottawatomie County.

The applicant proposes to convert 18.3 acre-feet from irrigation use to fire protection use. The proposal appears to meet K.A.R. 5-5-3 *Change in consumptive use* and K.A.R. 5-5-8 *Standards for approval of an application for a change in the place of use and a change in the use made of water*. The proposed fire protection use appears to be a less consumptive use than the irrigation use when factoring in estimated seepage from the on-site storage pond, so no quantity reduction was required.

The place of use for fire protection use is the Onyx facility located in the Northwest Quarter of Section 3, in Township 10 South, Range 11 East, Pottawatomie County, Kansas. Water from the well will be pumped to an on-site pond for storage of water. The applicant has indicated that the pond will not be lined, and he is concerned with significant seepage from the pond. Seepage was estimated at a conservative 0.1 in/day seepage rate, and calculated as follows: $1.5 \text{ acres} \times 0.1 \text{ inch/day} \times 365 \text{ days}/12 = 4.56 \text{ AF}$ of seepage. Evaporation is $1.5 \text{ acres} \times 11" \text{ evaporation}/12" = 1.38 \text{ AF}$.

The remaining quantity of water for direct fire protection of 12.36 acre-feet (18.3 AF – 5.94 AF) was based on information from the National Fire Academy (NFA), which has estimated the minimum fire flow rate for any single building is 500 gpm for 2 hours and the maximum needed fire flow is 12,000 gpm for 4 hours. Since these are large factory buildings, it is reasonable to assume you would need 12,000 gpm x 4 hours = 8.8 acre-feet. As shown on the map, there are multiple buildings at the facility, so increasing the quantity by 50% would be equivalent to 13.2 acre-feet.

St Mary's Properties
File No. 28,444
Page 2

In an e-mail dated November 30, 2020, Katie Tietsort, Water Commissioner of the Topeka Field Office, indicated that she is not opposed to approval of the application.

Water flow meters are required for each separate use. Check valves are required if any chemical or foreign substance is injected into the water through the diversion works.

Based on the above discussion, that the change is 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 application be approved.

Doug Schemm
Environmental Scientist
Topeka Field Office

Schemm, Doug [KDA]

From: Schemm, Doug [KDA]
Sent: Monday, November 30, 2020 11:24 AM
To: Schemm, Doug [KDA]
Subject: FW: 28444 Onyx change

From: Tietsort, Katie [KDA]
Sent: Monday, November 30, 2020 10:54 AM
To: Schemm, Doug [KDA] <Doug.Schemm@ks.gov>; Koehn, Justin [KDA] <Justin.Koehn@ks.gov>; Baum, Kristen [KDA] <Kristen.Baum@ks.gov>
Subject: RE: 28444 Onyx change

Doug,

If Kristen and Justin agree, you may proceed forward with this change. Thanks.

Katie Tietsort
Water Commissioner

Katie.Tietsort@ks.gov

785-296-5733

PLEASE NOTE OUR NEW ADDRESS:

Kansas Department of Agriculture

Topeka Field Office

1131 SW Winding Rd, Suite 400

Topeka, KS 66615

From: Schemm, Doug [KDA] <Doug.Schemm@ks.gov>
Sent: Monday, November 30, 2020 10:31 AM
To: Tietsort, Katie [KDA] <Katie.Tietsort@ks.gov>; Koehn, Justin [KDA] <Justin.Koehn@ks.gov>; Baum, Kristen [KDA] <Kristen.Baum@ks.gov>
Subject: RE: 28444 Onyx change

Ok, so here is revised memo with justification for fire protection. Also revised site map.

I notified KRWAD and nearby letters went out on November 13th, with no responses.

Please let me know if this is all OK, and I will wrap it all up. I would appreciate all efforts to get this one expedited.

Thanks, Doug

From: Tietsort, Katie [KDA]
Sent: Tuesday, November 10, 2020 10:51 AM
To: Schemm, Doug [KDA] <Doug.Schemm@ks.gov>; Koehn, Justin [KDA] <Justin.Koehn@ks.gov>; Baum, Kristen [KDA] <Kristen.Baum@ks.gov>
Subject: RE: 28444 Onyx change

Doug,

I am not very strong with changes and particularly not this complexity of change. I am trying to learn, so I am working through this one too. Please don't beat me up.

With that said, I think the actual Approval document looks good. The map needs some adjustment in annotation. It should pointed out that the black cross-hashed area is the Onyx PU for Fire Protection use. Also, the comment at the pit currently says "lined" that be crossed out and say "unlined". I think that maps the all-important approval map correct? I do know the change app map is the bible to every change and I promised Richelle I wouldn't forget that. 😊

The memo is where I fall off the tracks.

Something seems wrong in the memo, as least as I understood it.

Calculations regarding this project are as follows:

$81\text{AF} * 0.854 = 69.17 \text{ AF consumption portion currently authorized (leaving 11 to the aquifer unconsumed)}$

$57 * 1.1 = 62.7\text{AF}$ reasonable on the new IRR Place of Use

$62.7\text{AF} * .854 = 53.55 \text{ AF consumed (and 9.15 AF unconsumed)}$

1.5 ac pit at a conservative 0.1 in/day seepage rate

$1.5 * 0.1 * 365 / 12 = 4.56 \text{ AF of seepage}$

Therefore, the pit contributes 4.56 AF seepage and the remaining IRR contrib recharge (total of 13.71 AF) to the aquifer. $4.56 \text{ AF} + 9.15 \text{ AF} = 13.71 \text{ AF}$ which the original 11.83 AF when all 81 AF of water was for irrigation use. Therefore use (81 AF on 88 acres) is more consumptive than the proposed IRR use of acres plus 18.3 AF for FPR (more water is returned to the aquifer under the proj

I do have perhaps a misunderstanding about what we have been discussing related to the change, change regs and memo explanation. Some is semantics, some is fundamental. Please I am trying to follow along to increase my knowledge of these as they occur more frequently and not under Brent's direction, so be kind if my train fell off track...

I thought for partial use made of water changes, we only address the portion of water that is not staying the currently authorized (irrigation use) instead of converting the entire file then converting back the part that remains IRR? So the file is requesting only to convert a total of 81 AF- 62.7 AF (remaining Irrigation) = 18.3 AF requested for conversion. We know that the portion of the file remaining IRR use doesn't change consumptively. I may have this wrong, but this is how I think I've seen all partial changes worked up. Of the 18.3 AF requested for conversion, the NIR calculation shows that $18.3 \text{ AF} * .854 = 15.63 \text{ AF is consumed}$, leaving 2.67 AF unconsumed. Normally the consumed value is all this allowed for conversion per K.A.R. 5-5-3, which governs that the extent of consumptive use shall not be increased substantially after....perfection has occurred (paraphrase). However, in this case, the requested use for fire protection is requested to be pumped into an unlined pond that will return water to the original source.

The water that is applied for actual fire protection, when pumped out of the pit, would return to the same original source, this is also argely unconsumptive. The pit, at $1.5 \text{ S.A.} * 0.1 \text{ " seepage} * 365 \text{ days} / 12 = 4.56 \text{ AF per year}$. Evaporation is $1.5 \text{ SA} * 11 \text{ " evap} / 12 \text{ " evap} = 1.38 \text{ AF}$ and is the only quantity consumed. Theseepage and fire protection direct use going back to the aquifer. The remaining potential direct fire protection use of 12.36 AF also returns to the same source and is unconsumed. Because the entire fire protection use as proposed would have only 1.38 AF of consumptive use, the 1.38 AF does not exceed the 15.63 AF consumptivce use under irrigation use and

therefore meets the regs as it will not increase consumptive use under the right, all may be potentially converted and not increase the consumptive use, therefore it meets KAR 5-5-3 and KAR 5-5-8. There needs to be an explanation of how the 12.36 AF for direct FIRE use is reasonable.

Please help me understand if I am missing something here. I am just trying to follow along and understand how these are done. I may have veered way off somewhere....

Katie Tietsort
Water Commissioner

Katie.Tietsort@ks.gov

785-296-5733

PLEASE NOTE OUR NEW ADDRESS:

Kansas Department of Agriculture

Topeka Field Office

1131 SW Winding Rd, Suite 400

Topeka, KS 66615

Schemm, Doug [KDA]

From: Schemm, Doug [KDA]
Sent: Thursday, November 19, 2020 10:57 AM
To: 'Galen Biery'
Subject: File No. 28,444 - St Marys Properties Change Application
Attachments: 28444 WAD notification.pdf

Hello Galen,

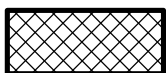
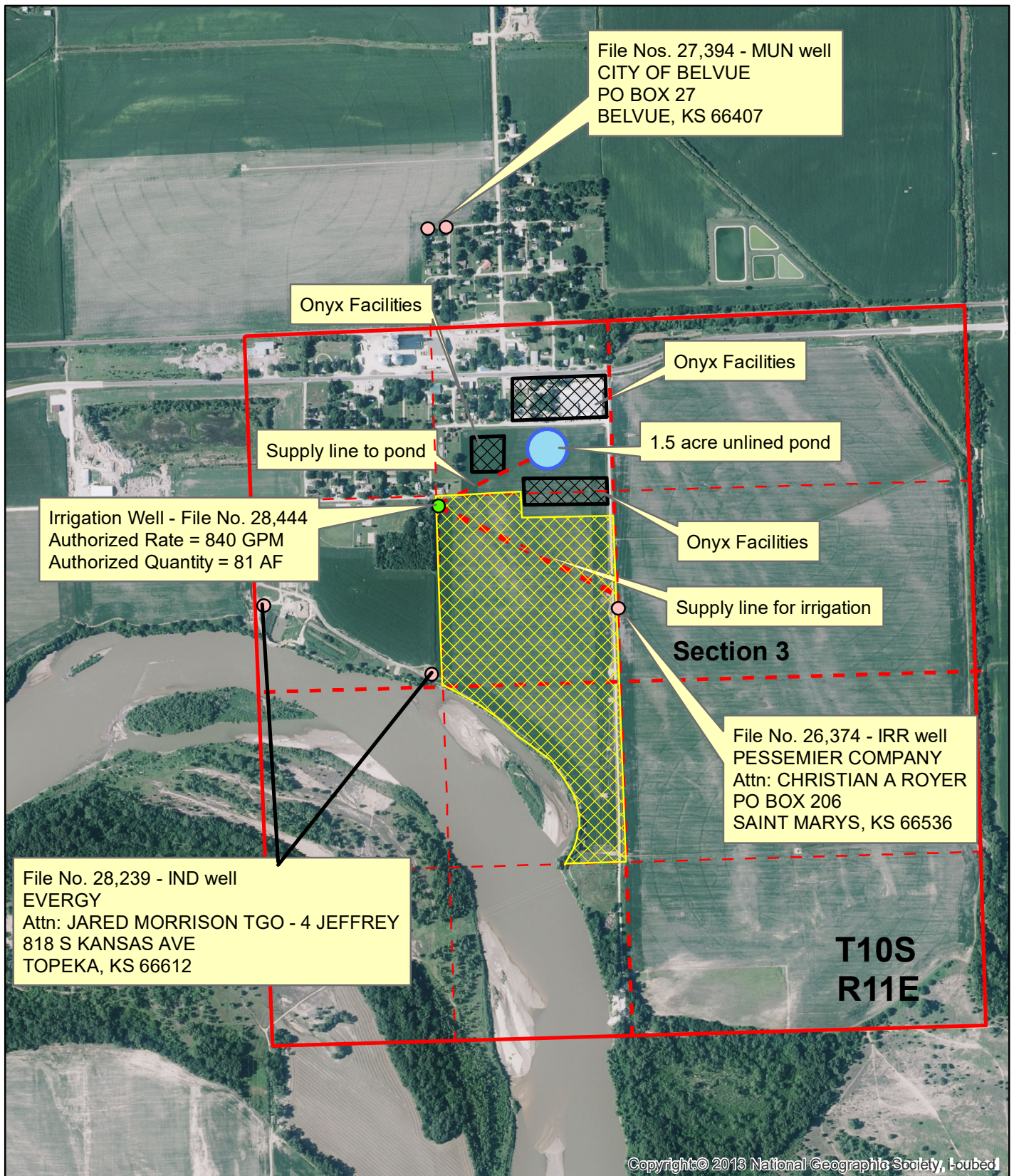
This is a change in Place of Use and Use made of Water for St Marys Properties to add Fire Protection for their facility.

Have a great day,

Doug

ST MARYS PROPERTIES - FILE NO. 28,444 PROPOSED PLACE OF USE

1:12,000



Proposed Place of Use - Fire Protection Onyx Facility



Proposed Place of Use - Irrigation (57 Acres)



Topeka Field Office
1131 SW Winding Rd, Suite 400
Topeka, KS 66615



Phone: 785-296-5733
www.agriculture.gov

Mike Beam, Secretary

Laura Kelly, Governor

November 19, 2020

KANSAS RIVER WATER ASSURANCE DISTRICT NO 1
% GALEN BIERY
212 SW 7TH STREET
TOPEKA KS 66603-3717

Re: Change Application, Water Right, File No. 28,444

Dear Mr. Biery:

This is to advise you that St Marys Properties has filed an Application to Change the Place of Use and the Use Made of Water for Water Right, File No. 28,444. The change will authorize both irrigation use and fire protection use at the Onyx facility.

The applicant proposes to change the use made of water and place of use to irrigation use for 37 acres in the Northwest Quarter and 20 acres in the Southwest Quarter (total of 57 acres), in Section 3, in Township 10 South, Range 11 East, Pottawatomie County, Kansas. The change will authorize 62.7 acre-feet of water for irrigation use. The applicant also proposes to change the use made of water and place of use to fire protection use at the Onyx facility located in the Northeast Quarter of the Northwest Quarter and the Southeast Quarter of the Northwest Quarter of Section 3, in Township 10 South, Range 11 East, Pottawatomie County, Kansas. The change will authorize 18.3 acre-feet of water for fire protection use.

As you know, the Kansas River Water Assurance Program Operations Agreement states, in part, that "the District reserves the right to review all applications to appropriate water and change applications, including term permits, filed with the Division of Water Resources that propose the diversion of water from the Kansas River or its alluvium". Therefore, you are being notified of receipt of this change application in order that you may be fully informed of the proposed location of the applicant's point of diversion and proposed use of water. You can find the application and site map posted by the file number referenced above under Topeka Field Office 2021 at:

<http://agriculture.ks.gov/divisions-programs/dwr/water-appropriation/notices>

You may contact me at (785) 296-3495 with any questions or comments.

Sincerely,

A handwritten signature in blue ink that reads "Douglas W. Schemm".

Douglas W. Schemm
Environmental Scientist
Topeka Field Office

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 AND
USE MADE OF WATER
WATER RIGHT, FILE NO. 28,444**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Robert Awerkamp, on behalf of St Mary's Properties, P.O. Box 37, Belvue, Kansas, 66407, received in this office on May 4, 2020 for approval of a change in 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, finds that the change is reasonable and will not impair existing rights and that the application should be and is hereby approved.

The authorized quantity under this water right will remain 81 acre-feet.

The effective date of the change shall be the date this order is executed by the Chief Engineer, after which that portion retained for irrigation use shall be authorized a quantity not to exceed:

62.7 acre-feet of groundwater per calendar year,

for irrigation use on the following described property:

Sec.	Twp.	Range	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTAL ACRES
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
3	10S	11E							37	20								57	

a total of 57 acres in Section 3, Township 10 South, Range 11 East, Pottawatomie County, Kansas,
and

That portion changed to fire protection use shall be authorized a quantity not to exceed:

18.3 acre-feet of groundwater per calendar year,

the location of the fire protection place of use shall be:

the Onyx Facility located in the Northeast Quarter of the Northwest Quarter and the Southeast Quarter of the Northwest Quarter of Section 3, in Township 10 South, Range 11 East, Pottawatomie County, Kansas,

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

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 a separate acceptable water meter for each use made of water for the diversion works authorized under this water right, prior to the use of water, in strict accordance with the Kansas Administrative Regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer. The water right owner shall notify the Chief Engineer when installation of the water meters has been completed. The water right owner shall maintain the water meters in an operating condition satisfactory to the Chief Engineer, at all times during diversion of water and shall maintain records from which the total quantity of water diverted for irrigation and fire protection use may be determined. The water right owner shall also report the reading of said water meters 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. 28,444, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated September 24, 1993.

Ordered this 14 day of December, 2020, in Manhattan, Riley County, Kansas.

Lane P. Letourneau

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

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 14 day of December, 2020, by Lane P. Letourneau, P.G., Program Manager, 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

ST MARYS PROPERTIES
% ROBERT AWERKAMP
PO BOX 37
BELVUE KS 66407

December 21, 2020

RE: Water Right, File No. 28,444

Dear Mr. Awerkamp:

Enclosed is the order executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the application for change under the above referenced file number.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in this approval for change. A condition of this approval is that acceptable water flow meters must be installed on the diversion works authorized under the referenced file number. Please return the required notification of completion of the diversion works and/or installation of the required meters as soon as these actions are completed.

Since the order modifies the original document referred to above, it should be recorded with the Register of Deeds as other instruments affecting real estate.

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 Unit Supervisor
Water Appropriation Program

KAB:dws

pc: Topeka 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 the Kansas Department of Agriculture, Attn: Legal Section, 1320 Research Park Drive, Manhattan, Kansas 66502, or by 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 the Secretary of Agriculture, Attn: Legal Division, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, or by 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 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.

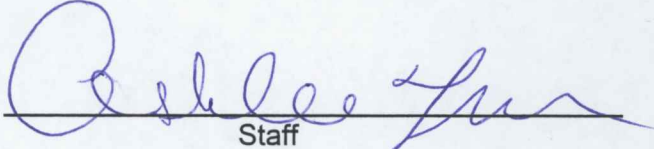
CERTIFICATE OF SERVICE

On this 21 day of December, 2020, I hereby certify that the attached original Approval of Change in Place of Use and Use Made of Water, File No. 28,444, dated 14 December 2020, was mailed postage prepaid, first class, US mail to the following:

ST MARYS PROPERTIES
PO BOX 37
BELVUE KS 66407

With photocopies sent to

Topeka Field Office


Staff