Topeka Field Office 6531 SE Forbes Ave., Suite B Topeka, KS 66619



Phone: 785-296-5733 Fax: 785-296-8298 www.agriculture.ks.gov

Mike Beam, Secretary

Laura Kelly, Governor

February 10, 2020

HARVEY HERRS FAMILY TRUST ATTN: C/O DEAN HERRS, TRUSTEE 1117 8TH RD LINN, KS 66953-9268

Re: Water Right, File No. 28,655

Dear Sir:

Enclosed is the order executed by David W. Barfield, 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 terms, conditions, and limitations specified in this approval for change. A condition of this order requires the installation of water flow meter(s) before the first use of water in accordance with the Chief Engineer's specifications found in K.A.R. 5-1-4 through K.A.R. 5-1-12. A copy of these specifications and a list of acceptable meters can be obtained from our website at the following web address:

## http://agriculture.ks.gov/meters

This order also requires that the diversion works should be completed, including installation of the flow meter(s), by December 31, 2020. If you do not have access to the internet, please contact this office and we will send you a paper copy of the referenced information.

Because this order modifies the original certificate issued under your water right file, it should be recorded with the Register of Deeds as other instruments affecting real estate.

This document is a summary order by this agency regarding this matter. This order shall become final if a request for a hearing is not filed with the Chief Engineer within 15 days of the date of service of this order.

If you have any questions, please feel free to contact this office. If you wish to refer to a specific file, please reference it when you contact us.

Sincerely,

Katherine A. Tietsort Water Commissioner

KAT:lhh Enclosures Submit completed application to: Kansas Department of Agriculture Division of Water Resources Field Office for your area. Call for address:

Topeka -- (785) 296-5733 Stafford -- (620) 234-5311 Stockton -- (785) 425-6787 Garden City -- (620) 276-2901 http://agriculture.ks.gov/dwr

# DWR FIELD OFFICE APPLICATION FOR APPROVAL TO CHANGE THE PLACE OF USE AND/OR THE POINT OF DIVERSION



### STATE OF KANSAS

Filing Fee Must Accompany the Application, K.S.A. 82a-708b(b), as amended. Fee Schedule is on the third page of this application form.

Paragraph Nos. 1, 2, 3 & 5 must be completed. Complete all other applicable portions. If change in point of diversion is greater than 100 feet, or if place of use will be changed, include a topographic map or detailed plat showing the authorized and proposed point(s) of diversion and/or place of use.

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	Phone N								Email	addres	ss:								
	The presently authorized place of use is:  Owner of Land NAME: HARVEY HERRS FAMILY TRUST Attn: C/O DEAN HERRS, TRUSTEE																		
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5.			diversion: WEST								
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					South, Range _						
					2610 feet West						
	Authorized Rate _		Authorized Quant	ity	Depth of well	(fee	et)				
					feet North2						
	☐ This point will not be changed ☐ This point will be changed as follows: ☐ No change, point better described with GPS as follows: Proposed point of diversion: (Complete only if change is requested or if existing point is better described by GPS)										
	One in the	SW	Quarter of the _	NW	Quarter of the _	SE	Quarter				
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6.			diversion: EAST								
					Quarter of the _						
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11.		agement Distri ∕es     ⊠ No	ct recommendation atta	iched? 200	=141+1	三・十・ナ	1 = 200				

13a.If the proposed point of diversion will be relocated more than 300 feet but within 2,640 feet of the existing point of diversion, attach a topographic map or aerial photograph. For groundwater foot radius of the existing point of diversion will be relocated within a 300 foot radius of the existing point of diversion, indicate its location sources, show all wells (including domestic) within one-half mile of the proposed point of diversion and the names and mailing addresses of the owners. For surface water sources, show the names and addresses of the landowner(s) one-half mile downstream and one-half mile upstream from your property lines

foot radius of the existing point of diversion, indicate its location on the diagram shown above in relation to the existing point of diversion. The proposed point of diversion must be located within the circle shown above. (PLEASE NOTE: The "X" in center of diagram above represents the presently authorized point of diversion.)

South

Emtanlantanh

100

200

300

12. Assisted by Lloyd Hemphill/TFO

300

100

00 200 30 Scale: 1 hashmark=10 fr

14. If t	he proposed groundwater point of diversion is 300 or fewer fe	from the existing point of diversion, complete the	he following:
(a)	Does the undersigned represent all owners of the currently a Yes  No  (If no, all owners must sign this a		ation?
(b)	Will the ownership interest of any owner of the currently at affected if this application is approved as requested?  Yes No (If yes, all owners must sign this		ation be adversely
(c)	If this application is not approved expeditiously, will there be ☐ Yes ☐ No (If no, all owners must sign this a		safety?
or a ch	pplication proposes a surface water change in point of diversic ange in place of use, the application must be signed by all ow attach notarized statement authorizing representation).		
age ai	by verify, being first duly sworn upon my oath or af nd the owner, the spouse of the owner, or a duly aut behalf, in regards to the water right(s) to which this ined in this application are true, correct and complet	orized agent of the owner(s) to make the pplication pertains. I further verify that.	is application or
Dated	at <u>Linn</u> , Kansas,	is 29th day of January	, 20
7	× // - /		
7	Dean Herrs, Trustee	(Spouse)	
	(Please Print)	(Please Print)	~ 8s*
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	of Kansas of Washington ss		000
	creby certify that the foregoing application was signed  Carlo S  NOTARY  State of MY APPLE EXPIRE	heele PUBLIC A ( / //	this Am day
Му Со	mmission Expires 6 29 23	Notary Public	,
accurat	COMPLETE APPLICATIONS WILL BE PROCESSED. To be complete information; maps, if necessary, must be included; signatures of all tropriate fee must be paid.	all of the applicable portions of the application form reappropriate owners' must be affixed to the application	nust be completed wit on and notarized; and
	FEE SCH	DULE	
	pplication to change the place of use or the point of diversion the schedule below: Make checks payable to: Kansas Depa (1) Application to change a point of diversion 300 feet or les (2) Application to change a point of diversion more than 300 (3) Application to change the place of use	tment of Agriculture	<mark>. \$100</mark> \$200
\$08 \$080 \$060	(b) Application to change the place of use		ψ200

### SUMMARY ORDER APPROVING APPLICATION FOR CHANGE AND IMPOSING CONDITIONS

This Summary Order is issued under authority of K.S.A. 82a-708b, as amended, and K.A.R. 5-5-1, et seq. and other applicable provisions of the Kansas Water Appropriation Law, K.S.A. 82a-701 et. seq., and rules and regulations promulgated thereunder, With the exception of those conditions expressly contained herein, this Summary Order does not change the terms, conditions and limitations of File No. 28,655 A change application was received on <u>February 3, 2020</u> requesting that the place of us diversion authorized under the above-referenced file number be changed as described in the application. requesting that the place of use and / or point of On and after the effective date of this summary order, the authorized place(s) of use shall be located substantially as shown on the topographic map accompanying the application to change the place of use. ☐ Applicable Not Applicable The change in point of diversion shall not impair existing rights and shall be limited to the same source or sources of water as previously authorized. The point of diversion authorized by this summary order shall be located within a radius of the authorized point(s) of diversion. Applicable The point(s) of diversion described herein is administratively corrected to be more accurately described using the Global Positioning System (GPS), as described in the application. Applicable Not Applicable The point(s) of diversion authorized herein shall not actually be located more than feet from the previously ☐ Applicable M Not Applicable authorized point(s) of diversion. As required by K.A.R. 5-3-5d, if the works for diversion is a well with a diversion rate of 100 gallons per minute or more, a tube or other device suitable for making water level measurements shall be installed, operated and maintained in accordance with M Applicable K.A.R. 5-6-13. ☐ Not Applicable The owner of the authorized place(s) of use shall properly install an acceptable water flow meter on or before **December 31, 20 20**, or before the first use of water, whichever occurs first. The water flow meter shall be installed, operated and maintained in accordance with K.A.R. 5-1-4 through 5-1-12. As required by K.S.A. 82a-732, as amended, and K.A.R. 5-3-5e, the owner shall maintain records and report the reading of the water flow meter and the total quantity of water diverted annually to the Chief Engineer by March 1 following the end of each calendar year. Applicable ☐ Not Applicable Installation of the works for diversion of water shall be completed on or before December 31, 20\_20, or within any authorized extension of time. By March 1, 20\_21 the applicant shall notify the Chief Engineer that construction of the works for diversion has been completed, on the form provided by the Chief Engineer, as required by K.A.R. 5-8-4e. ☐ Not Applicable The completed well log shall be submitted with the required notice. Applicable ☐ Not Applicable 10. All diversion works into which any type of chemical or other foreign substance will be injected into the water shall be equipped with an in-line, automatic, quick-closing check valve capable of preventing pollution of the source of the water supply. The check valve(s) shall be installed, operated and maintained in accordance with K.A.R. 5-3-5c. ⚠ Applicable ☐ Not Applicable 11. Additional Conditions are attached. ☐ Yes M No 12. In accordance with K.S.A. 82a-708a, as amended, and K.A.R. 5-5-14, all of the owners of the authorized place(s) of use of water appropriated under the above-referenced file number are responsible for compliance with its terms, conditions and limitations, as amended and/or supplemented by this Summary Order, and with applicable provisions of the *Kansas Water Appropriation Law* and the *Rules and Regulations* promulgated thereunder. Failure to comply with these provisions may result in civil penalties pursuant to K.S.A. 82a-737, as amended, and/or the suspension or revocation and dismissal of the water or appropriation right or any other enforcement actions authorized by law. FOR OFFICE USE ONLY Administrative Appeal and Effective Date of Order APPLICATION APPROVED AND If you are aggrieved by this order, pursuant to K.S.A. 82a-1901, SUMMARY ORDER ISSUED you may request an evidentiary hearing before the Chief Engineer or request administrative review by the Secretary of Agriculture. A request for hearing by the Chief Engineer must be filed within 15 days of service of this Order and a request for Duly Authorized Designee of the Chief Engineer administrative review by the Secretary must be filed within 30 days pursuant to K.S.A. 77-531. Any request for administrative (Print Name): atherine review must state a basis for review pursuant to K.S.A. 77-527. Division of Water Resources - Kansas Department of Agriculture File any request with Kansas Department of Agriculture, Date of Issuance: Legal Division, 1320 Research Park Drive, Manhattan, KS 66502. Failure to timely request a hearing or review may State of Kansas preclude review under the Kansas Judicial Review Act. SS For Use by Register of Deeds County of Acknowledged before me on Signature: Notary Public W.O. DEBBIE CRUUCHER My commission expires NOTARY (Nath Appropriate Profes PUBLIC May 20, 2023

File No. 28,655

# **CERTIFICATE OF SERVICE**

On this 10<sup>th</sup> day of February, 2020, I hereby certify that the attached <u>APPROVAL OF APPLICATION FOR CHANGE IN POINT OF DIVERSION</u>, Water Right, File No. 28,655, dated February 7, 2020 was mailed postage prepaid, first class, US mail to the following:

HARVEY HERRS FAMILY TRUST ATTN: C/O DEAN HERRS, TRUSTEE 1117 8TH RD LINN, KS 66953-9268

Stoff