

File No. **10042** 11. County: **JO** Basin: **Kansas River** Stream: **na** Formation Code: **113** Special Use: **na**

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 mgy	Rate gpm	Quantity mgy	Overlap PD Files
			ENT		19768 SW NW NW ^	25	12	22E		4516	4995	WELL #1	950 ^	1985.918	950		NONE *
			ENT		22579 SW NW NW ^	25	12	22E		4683	4632	WELL #2	800 ^		800		NONE *
			ENT		88634 NE SW SW ^	25	12	22E		4065	4575	WELL #6R	500		500		NONE *
			ENT		17781 NE SW SW ^	24	12	22E	1281	1150	4113	WELL #8	400 6		400		NONE *
	MOD				127 NENW NW ^	25	12	22E	4	5116	4322	WELL#6 standby well	1035 ^		0		NONE
	MOD				534 NW SW SW ^	24	12	22E	5	1150	4650	WELL #9	400 ^		400		NONE *
	MOD				17326 NW NW NW ^	25	12	22	3	5020	5160	WELL #5	940 ^		940		NONE *
	MOD				25821 SW SW SW ^	24	12	22E	13	309	5195	WELL #3	600 ^		600		NONE *
	MOD				27014 NE SW SW ^	24	12	22E	3	760	4365	WELL #7	400 ^		400		NONE *
	MOD				30132 SW SW SW ^	24	12	22E	6	21	4860	WELL #11	800 ^		800		NONE *
	MOD				32794 SW SW SW ^	24	12	22E	14	417	4685	WELL #4	600 ^		600		NONE *
	MOD				33731 NC E2 NW NW ^	25	12	22E	5	4610	4305	WELL #10	600 ^		600		NONE*

* Primary well. Quantity is blanket remains as authorized, 1985.918 mgy.

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

14. Limitation: **5215GPM** af/yr at _____ gpm (_____ cfs) when combined with file number(s) **WHEN WELLS OPERATE SIMUTANEOUSLY**

15. 5YR Allocation: Allocation Type _____ Start Year _____ 5 YR Amount _____ Amount Unit _____ Base Acres _____ Comment _____

16. Place of Use																			Total	Owner	Chg?	Overlap Files					
CHK	MOD	DEL	ENT	PUSE	S	T	R	ID	NE¼				NW¼				SW¼				SE¼						
									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			
NO CHANGE																											

Base Acres: _____ Year: _____ Minimum Reasonable Quantity: _____

Comments: _____

2/22/2021
KAB

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: February 18, 2021

FROM: Leslie Ireland

RE: Water Right, File No. 10,042

Sabrina Parker, P.E., Water & Sewer Manager for the City of Olathe, has signed an application for approval to change the point of diversion under File No. 10,042. The application proposes to add three new wells and one well to be designated as a standby well, all authorized for municipal use by the referenced file. The application was received in the office of the Chief Engineer on August 14, 2020. Daniel Clement, P.G., with Burns & McDonald assisted with the application that proposed a redevelopment of the vertical well field under File No. 10,042.

The referenced water right is in compliance and good standing per K.S.A. 82a-718 and 82a-732. The application appears to comply with K.A.R. 5-5-2a, *Complete change application*.

The existing file authorizes eight vertical wells in the alluvium of the Kansas River Basin with a blanket quantity of 1,958.918 million gallons (6,095 acre-feet) with assigned rates per point of diversion totaling 6,990 gallons per minute (15.58 c.f.s) that are limited to 5,215 gallons per minute (11.62 c.f.s.) when the wells operate simultaneously. An increase of three wells is proposed to the well field, but will not be additional wells, per K.A.R 5-5-16, *Additional wells*, as the referenced file was certified with eleven points of diversion. This proposed change was chosen by the City per options reviewed at an April 2016, planning session with the City and the Division of Water Resources (DWR). The quantity will remain as authorized. The rate of diversion will be assigned per point of diversion. The existing wells will have the rate of diversion reduced to afford rate to be redistributed to the new wells with the proposed standby well providing all of its rate. The total combined rate will remain at 6,990 gallons per minute (GPM) and limited to 5,215 GPM. The consumptive use should not increase beyond what was certified, it appears the proposed change complies with K.A.R. 5-5-3, *Historical consumptive use*.

The well field is located along the southwardly flow of the Kansas River along an outer bend of an oxbow just North of the Cedar Creek tributary. The site is approximately 0.6 of a mile North-South and 0.2 of a mile East-West. The source of supply is Main Stem Alluvium (113). It appears the wells will remain within the historical well field located in the Southwest Quarter (SW $\frac{1}{4}$) of Section 24 and the Northwest Quarter (NW $\frac{1}{4}$) of Section 25, all in Township 12 South, Range 2 East, Johnson County, Kansas. The local source of supply will not change.

Three new wells, identified by the City as Well # 6R, Well # 1 and Well # 2, will be added along the South-Southwest edge of the well field. A fourth new well is proposed at the far Northeast corner of the well field, Well #8. The change also proposes offsetting wells which is redrilling of the authorized existing wells. This is proposed for the points of diversion referenced as, Well #s 3, 4, 5, 7, 9, 10 & 11. The standby well is proposed to be the old well, Well #6, and will remain identified as such. It appears the well field will be more evenly located around the City's collector well authorized by File Nos. 44,613 & 44,614. The citing of the wells for well to well for spacing appears to be sufficient under the referenced file per Part (b) of K.A.R. 5-4-4, *Well spacing*. It appears K.A.R. 5-5-13, *Relocation of alluvium wells*, is not applicable to the change as the area is open to new appropriations.

The nearby wells were identified by the applicant as two (2) industrial use and one (1) domestic points of diversion within one-half ($\frac{1}{2}$) mile of the well field. A review of the WWC-5 records indicated another possible domestic well. The industrial sand pits are at the closest 1,960 feet away and the domestic wells appears to be over 1,080 feet away. It appears spacing to appropriations not owned by the applicant per K.A.R. 5-4-4, is met.

All nearby well owners were notified by letter dated February 1, 2021. One call was received, but was not to object to the proposal, but to coordinate work at the site. As of today's date no additional comments were received.

The applicant is a member of the Kansas River Water Assurance District. Galen Biery, General Manager of The Kansas River Water Assurance District No. 1, was notified of the referenced change application in a letter dated February 1, 2021, sent via e-mail.

The major work to the well field it is proposed to retain an existing well as a standby well. The proposed **standby well identified as Well #6**, is the existing well located in the Northeast Quarter of the Northwest Quarter of the Northwest Quarter (NE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$), and determined by a DWR Compliance Investigation to be located approximately 5,116 feet North and 4,332 feet West of the Southeast corner of Section 25. The point of diversion has no overlaps. The operation of the standby well will be at its maximum developed rate of 1,035 gallons per minute and if utilized the quantity will be required to be metered.

The proposed standby well will be required to meet K.A.R. 5-1-2 (c) *Standby wells*. The approval for the proposed standby well will contain the wording that it shall not be operated at the same time as all of the eleven (11) primary municipal wells except for maintenance, testing, fire protection or as operation for the primary use of municipal use or when being operated.

In an e-mail dated February 18, 2021, Katherine Tietsort, Water Commissioner of the Topeka Field Office, indicated no objection to approval of the referenced application.

The scope of the project has resulted in the City's requesting a completion date of 2024. It does not appear unreasonable and complies with K.A.R. 5-8-4, *Construction of diversion works*. Water flow meters are required on the "primary wells" and "standby well", as per the requirements of K.A.R. 5-1-2 (b) *Standby wells*. Check valves will be required, if any chemical or foreign substance will be injected into the water through the diversion works. A water level measurement tube and WWC-5 will be required for any new wells drilled. The transmittal letter will also require any wells that become inactive or no longer authorized to be plugged. The transmittal letter will require that the owners submit notice of completion of the wells when all are complete and of installation of the required meters before any diversion.

Based on the above discussion, that the change is reasonable, that impairment to existing water rights is unlikely, that there are no pending applications within the vicinity of this proposed change request that may be affected by this approval and that no change in the local source of supply will occur, it is recommended that the referenced application be approved.



Leslie Ireland
Environmental Scientist
Water Appropriation Program

From: Tietsort, Katie [KDA]
Sent: Thu 2/18/2021 1:10 PM
To: Ireland, Leslie [KDA]
Subject: RE: Review & Recommendation for Chg in PD File No. 10042 Olathe

Leslie,

I actually already thought I had given you the go ahead in that last email. You have done a great job with this-thanks!

Katie Tietsort

Water Commissioner

Katie.Tietsort@ks.gov

Ph. 785-296-5733 Cell 785-213-9188

Kansas Department of Agriculture

Topeka Field Office

1131 SW Winding Rd, Suite 400

Topeka, KS 66615

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Thursday, February 18, 2021 10:02 AM
To: Tietsort, Katie [KDA] <Katie.Tietsort@ks.gov>
Subject: Review & Recommendation for Chg in PD File No. 10042 Olathe

Katie,

Please let me know if you would recommend the pd chg. It appears no letters regarding the notice were received.

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 POINT OF DIVERSION
WATER RIGHT
FILE NO. 10,042**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Sabrina A. Parker, P.E., Water Production Assistant Superintendent, City of Olathe, PO Box 768, Olathe, Kansas 66051, received in this office on August 14, 2020, 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 Findings and Order of the Chief Engineer dated February 22, 2002, in the matter of the authorized point of diversion, quantity of water and an additional limitation, the Findings and Order of the Chief Engineer dated September 29, 2008, in the matter of the authorized point of diversion, the Findings and Order of the Chief Engineer dated July 16, 2015, in the matter of an additional limitation, finds that the change is 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.

This water right continues to be limited to a combined maximum total quantity not to exceed 1,985.918 million gallons (6,095 acre-feet) per year and a combined maximum rate of diversion not in excess of 6,990 gallons per minute (15.57 c.f.s.) and further limited to a maximum rate of 5,215 gallons per minute (11.62 c.f.s.) when the wells operate simultaneously.

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

one (1) well, identified by the City of Olathe as Well #9, located in the Northwest Quarter of the Southwest Quarter of the Southwest Quarter (NW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 24, more particularly described as being near a point 1,150 feet North and 4,650 feet West of the Southeast corner of said section, at a diversion rate not in excess of 400 gallons per minute (primary well), and

one (1) well, identified by the City of Olathe as Well #8, located in the Northeast Quarter of the Southwest Quarter of the Southwest Quarter (NE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 24, more particularly described as being near a point 1,281 feet North and 4,113 feet West of the Southeast corner of said section, at a diversion rate not in excess of 400 gallons per minute (primary well), and

one (1) well, identified by the City of Olathe as Well #7, located in the Northeast Quarter of the Southwest Quarter of the Southwest Quarter (NE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 24, more particularly described as being near a point 760 feet North and 4,365 feet West of the Southeast corner of said section, at a diversion rate not in excess of 400 gallons per minute (primary well), and

one (1) well, identified by the City of Olathe as Well #4, located in the Southwest Quarter of the Southwest Quarter of the Southwest Quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 24, more particularly described as being near a point 417 feet North and 4,685 feet West of the Southeast corner of said section, at a diversion rate not in excess of 600 gallons per minute (primary well), and

one (1) well, identified by the City of Olathe as Well #3, located in the Southwest Quarter of the Southwest Quarter of the Southwest Quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 24, more particularly described as being near a point 309 feet North and 5,195 feet West of the Southeast corner of said section, at a diversion rate not in excess of 600 gallons per minute (primary well), and

one (1) well, identified by the City of Olathe as Well #11, located in the Southwest Quarter of the Southwest Quarter of the Southwest Quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 24, more particularly described as being near a point 21 feet North and 4,860 feet West of the Southeast corner of said section, at a diversion rate not in excess of 800 gallons per minute (primary well), and

one (1) well, identified by the City of Olathe as Well #5, located in the Northwest Quarter of the Northwest Quarter of the Northwest Quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 25, more particularly described as being near a point 5,020 feet North and 5,160 feet West of the Southeast corner of said section, at a diversion rate not in excess of 940 gallons per minute (primary well), and

one (1) well, identified by the City of Olathe as Well #2, located in the Southwest Quarter of the Northwest Quarter of the Northwest Quarter (SW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 25, more particularly described as being near a point 4,683 feet North and 4,632 feet West of the Southeast corner of said section, at a diversion rate not in excess of 800 gallons per minute (primary well), and

one (1) well, identified by the City of Olathe as Well #10, located near center of the East Half of the Northwest Quarter of the Northwest Quarter (E $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 25, more particularly described as being near a point 4,610 feet North and 4,305 feet West of the Southeast corner of said section, at a diversion rate not in excess of 600 gallons per minute (primary well), and

one (1) well, identified by the City of Olathe as Well #1, located in the Southwest Quarter of the Northwest Quarter of the Northwest Quarter (SW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 25, more particularly described as being near a point 4,516 feet North and 4,995 feet West of the Southeast corner of said section at a diversion rate not in excess of 950 gallons per minute (primary well), and

one (1) well, identified by the City of Olathe as Well #6R, located in the Northeast Quarter of the Southwest Quarter of the Southwest Quarter (NE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 25, more particularly described as being near a point 4,065 feet North and 4,575 feet West of the Southeast corner of said section, at a diversion rate not in excess of 500 gallons per minute (primary well), and

one (1) well, identified by the City of Olathe as Well #6, located in the Northeast Quarter of the Northwest Quarter of the Northwest Quarter (NE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 25, more particularly described as being near a point 5,116 feet North and 4,322 feet West of the Southeast corner of said section, at a diversion rate not in excess of 1,035 gallons per minute (standby well),

all in Township 12 South, Range 22 East, Johnson County, Kansas,

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

That the applicant shall submit to the Chief Engineer a copy of the well log required by the Kansas Department of Health and Environment under the authority of K.S.A. 82a-1212, currently form VVWC-5, within 30 days following the drilling of the well at the location authorized herein.

The well described herein as the standby well shall be used exclusively at such time a well described herein as a primary well is inoperable due to mechanical, maintenance or power failure. That the eleven primary wells and standby well shall not be operated at the same time, unless the wells are being operated for maintenance, testing, fire protection, or a similar reason. Use of the standby well under these limiting conditions does not allow the authorized quantity of water or rate of diversion under this file to be exceeded.

Installation of the works for diversion of water shall be completed on or before December 31, 2024, 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.

All wells with a diversion rate of 100 gallons per minute or more drilled under the authority of this order shall have a tube or other device installed in a manner acceptable to, and in accordance with specifications adopted by, the Chief Engineer. This tube or device shall be suitable for making water level measurements and shall be maintained in a condition satisfactory to the Chief Engineer.

All diversion works into which any type of chemical or other foreign substance will be injected into the water pumped from the diversion works shall be equipped with an in-line, automatic, quick-closing check valve capable of preventing pollution of the source of the water supply. The type of valve installed shall meet specifications adopted by the Chief Engineer and shall be maintained in an operating condition satisfactory to the Chief Engineer.

The water right owner shall properly install an acceptable water meter on the diversion works authorized under this water right, prior to the use of water, in strict accordance with the Kansas Administrative Regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer. The water right owner shall notify the Chief Engineer when installation of the water meter has been completed. The water right owner shall maintain the water meter in an operating condition satisfactory to the Chief Engineer, at all times during diversion of water and shall maintain records from which the total quantity of water diverted may be determined. The water right owner shall also report the reading of said water meter and the total quantity of water diverted annually to the Chief Engineer. Such records shall be furnished to the Chief Engineer by March 1 following the end of each calendar year.

In all other respects, the Certificate of Appropriation issued pursuant to Approval of Application, File No. 10,042, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated November 5, 1999, as modified and amended by the aforementioned orders.

Ordered this 24th day of February, 2021, in Manhattan, Riley County, Kansas.



Earl D. Lewis Jr.
Earl D. Lewis Jr., P.E.
Chief Engineer
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
County of Riley) SS

The foregoing instrument was acknowledged before me this 24 day of February 2021, by, Earl D. Lewis Jr., P.E., Chief Engineer, 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

March 4, 2021

CITY OF OLATHE
SABRINA A PARKER PE
PO BOX 768
OLATHE KS 66051

RE: Water Right, File No. 10,042

Dear Ms. Parker,

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.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in the approval for change. A condition of the approval is that a water flow meter meeting K.A.R. 5-1-4 through 5-1-12, must be installed on the diversion works authorized for municipal use.

The abandoned wells must be plugged in accordance with the requirements of Article 30 of the Rules and Regulations as adopted by the Kansas Department of Health and Environment.

The well described in the approval document as the standby well shall be used exclusively at such time when the wells authorized in the approval document are inoperable due to mechanical, maintenance or power failure. Use of the standby well under these limiting conditions does not allow the authorized quantity or rate of diversion to be exceeded.

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

Please be reminded that reports of water usage must be submitted to this office annually. Records indicating the amount of water used should be furnished to the Chief Engineer by March 1 following the end of the previous calendar year so that the continued use of water becomes a matter of record in this office. The owner, or his or her legally designated agent, is held responsible for submitting annual water use reports. Failure to file an accurate water use report is a violation of law which makes you subject to civil penalties.

If you have any questions or need assistance with any of these requirements, please contact our office at 785-564-6640 or your local Topeka Field Office at 785-296-5733. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

Kristen A. Baum
New Application and Change Unit Supervisor
Water Appropriation Program

KAB:LI:li
Enclosure(s)

pc: Topeka Field Office
Galen Biery, Kansas River Water Assurance District No. 1

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

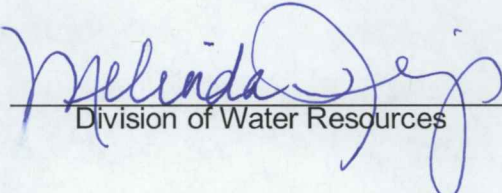
On this 4 day of March, 2021, I hereby certify that the attached Approval of Application for Change in Point of Diversion, Water Right, File No. 10,042, dated 24 February, 2021 was mailed postage prepaid, first class, US mail to the following:

CITY OF OLATHE
SABRINA A. PARKER, P.E.
PO BOX 768
OLATHE, KS 66051

With photocopies to:

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

Topeka Field Office


Division of Water Resources