

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

1. File Number: 43349	2. Status Change Date: 8/18/2022	3. Change Num: C1	4. Field Office: 4	5. GMD: 3
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: 12/6/2021
8a. Applicant(s) & landowner New to system <input type="checkbox"/> GERALD SHAWN & KATHY JACOBS 12145 4 RD PLAINS, KS 67869 - 9132 Person ID 52386 Add Seq# 1		8c. Landowner(s) New to system <input checked="" type="checkbox"/> GALEN ATKINSON 360 GRAYSTONE RD BURLESON, TX 76028-1254 ADDRESS PER USPS Person ID 68556 Add Seq# _____		
8b. Landowner(s) New to system <input checked="" type="checkbox"/> LINDA BURRIS 2813 N 14TH AVE DODGE CITY KS 67801-2373 ADDRESS PER ORKA & USPS Person ID 68557 Add Seq# _____		8d. WUC New to system <input type="checkbox"/> 8a Person ID 52386 Add Seq# 1		
9. Documents and Enclosure(s): <input checked="" type="checkbox"/> DWR Meter(s) Date to Comply: 12/31/22 <input type="checkbox"/> N & P Date to Comply: _____ <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: _____				
<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="border: 1px solid red; padding: 5px; text-align: center;"> 8/16/2022 Lireland </div> <div style="text-align: right;"> Date Prepared: 7/18/22 By: LI Date Entered: 8/22/2022 By: LMoody </div> </div>				

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: July 18, 2022

FROM: Leslie Ireland

RE: Water Right,
File Nos. 43,349 & 45,190

Gerald & Kathy Jacobs, along with Linda Burris and Galen Atkinson as owners of the referenced irrigation water rights have filed applications requesting a change in place of use. The applications were received on December 6, 2021 and July 11, 2022.

A review of the reported water use finds that the water rights are in good standing as per K.S.A. 82a-718 and 82a-732. The applications appear to be complete per K.A.R. 5-5-2a, *Complete change application*. Nearby notifications were sent on May 16, 2022, for File No. 43,349, to comply with K.S.A 82a-1906. No comments have been received due to these notifications. It would appear the May notifications would suffice as the minor addition of File No. 45,190 will not significantly impact the informational notification.

File No. 43,349 authorizes 372 acres with 744 acre-feet (AF) at 2,000 gallons per minute (GPM). The base acres were determined to be 372 acres. File No. 45,190 authorizes 14 acres with 25.2 AF at a limited 2,000 GPM when combined with File No. 43,349. The base acres were determined to be 14 acres. The base acres were determined by the Michael Meyer, Garden City Field Office and have a total combined 386 "base acres". The appropriations are located in the Crooked Creek Basin and not in a special use area.

The proposed a rotation of the 386 base acres is requested per K.A.R. 5-5-11(b)(4); **Rotation of the irrigated land within the authorized place of use.**

- The Southwest Kansas Groundwater Management District No. 3 will assume monitoring responsibility, as per the memorandum of understanding between the Division of Water Resources and the GMD. The landowners have signed the agreement with the GMD.
- There has been no recent pattern of water use significantly in excess of the authorized quantities. It does appear the meter was broken in 2021 and replaced in the same month. Historically 84% of the annual quantity is diverted.
- A total of 510 acres will be authorized under the proposed place of use but limited to an annual maximum of 386 irrigated acres. The application indicates that the place of use will be expanded by adding a pivot in the Northeast Quarter of 27-32-29W to total four (4) pivots irrigating approximately 124 acres, with the corners authorized in the Southeast Quarter of Section 22 for 138 acres in this quarter. All of the pivots are in the Southeast Quarter of 22-32-29W and the West Half and Northeast Quarter of 27-32-29W, all to be authorized by File Nos. 43,349 & 45,190.
- The approvals will be conditioned that use of water on more than the maximum number of acres authorized to be irrigated in any one calendar year shall result in a two-year suspension of all water use under the referenced right and subsequent restriction of the authorized place of use to the reversion acres not exceeding the 386 base acreage. The reversion acres have been determined to be 138 acres in the Southeast Quarter (SE¼) of 22-32-29W and the 248 acres in the West Half (W½) 27-32-29W, all to be authorized by File Nos. 43,349 & 45,190.

The owners have signed a *Statement of Review* for each of the referenced files. The total combined quantity of 769.2 acre-feet provides 1.99 acre-feet per acre. The requirement of the restricted place of use to base acres should assure that consumptive use will not increase and that the requirement of K.A.R. 5-5-3, **Consumptive use** has been met for these irrigation rights and it appears the requested changes comply with K.A.R. 5-5-11(b)(4).

The location of the shared point of diversion has been determined by GPS after the 2008 Certification of the referenced files. The orders will update the well location to the WRIS database listed actual location of 92 feet North and 2,524 feet West of the Southeast corner of Section 22, approximately 71 feet Southwest of the historically authorized well location of 121 feet North and 2,459 feet West. The qualifiers will remain as the Southwest Quarter of the Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$).

Jason Norquest, Assistant Manager, Southwest Kansas Groundwater Management District No. 3, provided a recommendation to approve the allocation with them assuming the monitoring as per the memorandum of understanding between the Division of Water Resources and Groundwater Management District No. 3.

The Water Commissioner, Mike Meyer, reviewed the proposed changes and provided a recommendation for approval on July 18, 2022.

A water flowmeter will be required as per K.A.R. 5-5-11(e) and with check valve being required if chemigating. A water level measurement tube and WWC-5 will not be conditions of the approval as no new wells have been authorized.

Based on the above discussion, that the change in place of use is reasonable and will not increase the historical consumptive use, that impairment of existing water rights is unlikely, that no change in the local source of supply will occur, that the local groundwater management district will monitor for the irrigated acres, it is recommend the referenced applications for change be approved.



Leslie Ireland
Environmental Scientist
Water Appropriation Program

From: Meyer, Mike [KDA]
Sent: Mon 7/18/2022 10:02 AM
To: Ireland, Leslie [KDA]
Subject: RE: Review and Recommendation Change in PU - rotation File Nos 43349 & 45190

Yes recommend approval

Mike

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Monday, July 18, 2022 9:58 AM
To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Subject: Review and Recommendation Change in PU - rotation File Nos 43349 & 45190

Mike

Updated the Dware file for 43,349 per the application submitted for 45190. The second change came in with Jason's review and recommendation for the package.

The PD will be updated 71 feet from authorized.... per WRIS data... Interesting both files were certified in 2008.

Please let me know if you'd recommend the changes.

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 PLACE OF USE
AND
ORDER IN THE MATTER OF THE AUTHORIZED POINT OF DIVERSION
WATER RIGHT
FILE NO. 43,349**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Gerald Shawn and Kathy Jacobs, 12145 4 Road, Plains, Kansas 67869, along with Linda Burris, 2813 North 14th Avenue, Dodge City, Kansas 67867 and Galen Atkinson, 360 Graystone Road, Burleson, Texas 76028, received in this office on December 6, 2021, for approval of a change in the location of the place of use under the certificate of appropriation issued pursuant to the 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 effective date of the change shall be the date this order is executed by the Chief Engineer, after which the authorized location of the place of use shall be:

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		
22	32S	29W																		138
27	32S	29W	31.00	31.00	31.00	31.00	31.00	31.00	31.00	31.00	31.00	31.00	31.00							372

a total of 510 acres in Sections 22 & 27, in Township 32 South, Range 29 West, Meade County, Kansas,

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

By this approval, this water right is subject to the following conditions:

1. That the maximum area authorized to be irrigated per calendar year shall be 386 acres when combined with Water Right, File No. 45,190.

2. That the annual use of water on more than 386 acres shall result in a two (2)-year suspension of all water use under this water right, effective the next two (2) calendar years, and a subsequent restriction of the authorized place of use to the following described property:

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				
22	32S	29W																31.00	31.00	38.00	38.00	138
27	32S	29W					31.00	31.00	31.00	31.00	31.00	31.00	31.00									248

a total of 386 acres in Sections 22 & 27, in Township 32 South, Range 29 West, Meade County, Kansas.

3. That if the Southwest Kansas Groundwater Management District No. 3 and/or the Division of Water Resources terminate(s) their/its Memorandum of Understanding (MOU) pertaining to K.A.R. 5-5-11(b)(3), (4) and (5), by which the District assumes monitoring responsibility, then the place of use authorized by this change approval, which was issued by the Division pursuant to the MOU shall revert to the property described in paragraph No. 2, above, starting the calendar year following the year of termination.

That information in the office of the Chief Engineer finds that the point of diversion would be more accurately defined as being:

one (1) well located in the Southwest Quarter of the Southwest Quarter of the Southeast Quarter (SW¼SW¼SE¼) of Section 22, more particularly described as being near a point 92 feet North and 2,524 feet West of the Southeast corner of said section, in Township 32 South, Range 29 West, Meade County, Kansas.

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.

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

August 23, 2022

GERALD SHAWN & KATHY JACOBS
12145 4 RD
PLAINS, KS 67869

RE: Water Right, File Nos. 43,349 & 45,190

Dear Mr. & Mrs. Jacobs:

Enclosed are the orders executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the application for change and more accurately describing the location of the authorized point of diversion under the referenced files.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in the approvals for change. A condition of the approvals is that an acceptable water flowmeter must be installed on the diversion works authorized.

Approval of the applications does not allow the diversion of water in excess of the authorized quantity per calendar year or rate of diversion under the above referenced file numbers. Your attention should be drawn to the fact that these approvals have been issued solely for the purpose of allowing rotation of the irrigated land within the authorized place of use, with no more than the base acreage, 386 acres in this case, under irrigation in any one calendar year. The maximum area authorized to be irrigated per calendar year shall be 386 acres. Non-compliance with the terms of this approval will result in substantial penalties.

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 your area water commissioner, Michael Meyer, at (620) 276-2901. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

Kristen A. Baum
New Applications Unit Supervisor
Water Appropriation Program

KAB:LI:

Enclosures

pc: Garden City Field Office
Groundwater Management District No. 3
Linda Burris
Galen Atkinson

RIGHT TO A HEARING AND TO ADMINISTRATIVE REVIEW

If you are aggrieved by this Order, then pursuant to K.S.A. 82a-1901, you may request an evidentiary hearing before the Chief Engineer or request administrative review by the Secretary of Agriculture. Failure to request an evidentiary hearing before the Chief Engineer does not preclude your right to administrative review by the Secretary.

To obtain an evidentiary hearing before the Chief Engineer, a written request for hearing must be filed within 15 days after service of this Order as provided in K.S.A. 77-531 (i.e., within a total of 18 days after this Order was mailed to you), with: Kansas Department of Agriculture, Attn: Legal Division, 1320 Research Park Drive, Manhattan, Kansas 66502, FAX 785-564-6777.

If you do not file a request for an evidentiary hearing before the Chief Engineer, you may petition for administrative review of the Order by the Secretary of Agriculture. A petition for review shall be in writing and state the basis for requesting administrative review. The request for review may be denied if the request fails to clearly establish factual or legal issues for review. See K.S.A. 77-527. The petition must be filed within 30 days after service of this Order as provided in K.S.A. 77-531 (i.e., within a total of 33 days after this Order was mailed to you), and be filed with: Secretary of Agriculture, Attn: Legal Division, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, FAX 785-564-6777.

If neither a request for an evidentiary hearing nor a petition for administrative review is filed as set forth above, then this Order shall be effective and become a final agency action as defined in K.S.A. 77-607(b). Failure to timely request either an evidentiary hearing or administrative review may preclude further judicial review under the Kansas Judicial Review Act.

CERTIFICATE OF SERVICE

On this 23 day of August 2022, I hereby certify that the attached Approval of Application for the Change in Place of Use and Order in the Matter of the Authorized Point of Diversion, Water File No. 43,349, dated 18 August 2022 was mailed postage prepaid, first class, US mail to the following:

GERALD SHAWN & KATHY JACOBS
12145 4 RD
PLAINS, KS 67869

With true and correct copies sent to:

LINDA BURRIS
2813 N 14TH AVE
DODGE CITY, KS 67867

GALEN ATKINSON
360 GRAYSTONE RD
BURLESON, TX 76028

With photocopies sent to:

Garden City Field Office
Groundwater Management District No. 3


Division of Water Resources