

Kansas Department of Agriculture
 Division of Water Resources
CHANGE: PD WORKSHEET

1. File Number: 22896	2. Status Change Date: 11/23/2021	3. Change Num: C4	4. Field Office: 04	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: 5/16/2019	
8a. Applicant(s) New to system <input type="checkbox"/> LARRY J HOSTETLER PO BOX 486 BURLINGTON, CO 80807-0486		Person ID 60513 Add Seq# _____	8c. Landowner(s) New to system <input type="checkbox"/> L&R PARTNERS LTD PO BOX 486 BURLINGTON, CO 80807		
8b. Landowner(s) New to system <input type="checkbox"/>		Person ID 51074 Add Seq# _____	8d. WUC New to system <input type="checkbox"/> SOUTHWEST PLAINS DAIRY LLC HC 1 BOX 14 SYRACUSE, KS 67878		
9. Documents and Enclosure(s): <input checked="" type="checkbox"/> DWR Meter(s) Date to Comply: 12/31/22 <input checked="" type="checkbox"/> N & P Date to Comply: 12/31/22					
<input checked="" type="checkbox"/> Anti-Reverse Meter <input checked="" 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: 10/25/2021 By: li Date Entered: 12/13/2021 By: LMoody					

File No. **22896** 11. County: **HM** Basin: **ARKANSAS RIVER** Stream: **NA** Formation Code: **113** Special Use: **016**

12. Points of Diversion											Rate and Quantity					
CHK	MOD	DEL	PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Authorized		Additional		Overlap PD Files
ENT												Rate gpm	Quantity af	Rate gpm	Quantity af	
DEL	10049	NC W2 W2 SE		19	24	39W	7	1169	2390	PLUG		800	95	800	0	NONE
ENT	84881	SE NE SE		19	24	39W	11	1867	6	GPS UPDATE		800	95	800	0	28691

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) **187AF/YR COM/W # HM 006-D2, HM 007 & 593 no change from reduction limitation modification**
 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																			Total	Owner	Chg?	Overlap Files			
CHK	MOD	DEL	PUSE	S	T	R	ID	NE¼				NW¼				SW¼							SE¼		
ENT								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:

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: November 8, 2021

FROM: Leslie Ireland

RE: Water Right
File Nos. 593 & 22,896

Larry Hostetler as owner and on behalf of L& R Partners LTD filed applications for approval to change the point of diversion authorized for irrigation use under the referenced files. The applications for change were received on May 16, 2019. Requests to reduce or sever the place of use into two separate portions under File Nos. Vested Right, File Nos. HM 003; HM 006- D2; HM 006-D1 & HM 007 and Water Right, File Nos. 593; 884; 11,507; 17,818; 22,896; 24,245; 28,691 & 28,905, were received on April 19, 2019. These are detailed in a separate memo. The delay in processing was due to the ownership updates.

The referenced water rights are considered in good standing as per K.S.A. 82a-718 and 82a-732. The applications were completed as field office changes, but due to the reductions they were reassigned to headquarters. After the reductions the applications appear to comply with K.A.R. 5-5-2a, *Complete change application*. A review of the area found no domestic wells as the area is served by rural water. No notification per K.S.A. 82a-1906 will be needed.

Each right authorizes their own well but have additional limitations on the quantity both changes are proposing to move to existing wells. All of the wells have been determined to be located in the alluvium (Code 75) of the ARK River IGUCA (Code 016). The source of supply will remain unchanged.

File No. 593 the reduction of authorized acres under the overlapping files results in an authorized 40 acre-feet limited not to exceed 257 acre-feet when combined with File Nos. HM 006-D2 & HM 007 to be diverted at a maximum rate of 1,000 gallons per minute (gpm). The right authorizes the well located in the Northwest, Northwest of the Southeast Quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 19, Township 24, Range 39W, Hamilton County. It appears this well has or will be plugged. The change application in point of diversion will allow the authorization to move the authority approximately 950 feet North away from the Arkansas River to the well currently authorized by File Nos. 17,818 & 28,905, located in near the center of the West side of the Southwest Quarter of the Northeast Quarter (CW SW $\frac{1}{4}$ NE $\frac{1}{4}$). The actual location of the proposed well was determined by a 2018 Compliance Investigation to be 3,245 feet North and 2,649 feet West of the Southeast corner of 19-24S-39W. The feet distances would appear to be better described as being near the center of the South Half of the South Half (S $\frac{1}{2}$ S $\frac{1}{2}$). The findings and orders for the reduction of the place of use under these rights updated the actual well location. It appears the proposed change moving away from the river complying with the IGUCA and K.A.R. 5-5-13, *Relocation of alluvial wells*.

The owners have two (2) irrigation wells within one-half ($\frac{1}{2}$) mile of the proposed existing well to be authorized by File Nos. 593; 17,818 & 28,905. The total 624 acre-feet proposed to be diverted, is only 40 acre-feet increase above the 584 acre-feet currently authorized. One of the nearby irrigation wells is located approximately 1,200 feet away. K.A.R. 5-4-4 *Well spacing*, recommends well to well spacing of approximately 1,300 feet as a guideline, for the spacing be sufficient to prevent impairment. A Theis study completed by David Engelhaupt, E.I., for the Division of Water Resources found after 50 years of diverting 94.4% of the saturated thickness remains after the requested change. It appears the well to well spacing is sufficient for the requested change under File No. 593, complying with part (a) of K.A.R. 5-4-4.

File No. 22,896 authorizes one (1) well with no overlapping rights to divert an authorized 95 acre-feet but further limited to 40 AF when combined with File No. 593 and also further limited to 527 acre-feet per year with File Nos. HM 006-D2; HM 007 & 593, with a maximum diversion rate of 800 gpm. The authorized well is described as being located near the center of the West side of the West Half of the West Half of the Southeast Quarter ($W\frac{1}{2} W\frac{1}{2} SE\frac{1}{4}$) of Section 19, Township 24, Range 39W, Hamilton County determined by an October 2017, Compliance Investigation to be approximately 1,176 feet North and 2,384 feet West of the Southeast corner. This well will be plugged.

The authorization to divert under File No. 22,896 will move approximately 2,470 feet East parallel and slightly away from the Arkansas River channel to the well currently authorized by File No. 28,691 described as being located in of the Southeast Quarter of the Northeast Quarter of the Southeast Quarter ($SE\frac{1}{4} NE\frac{1}{4} SE\frac{1}{4}$). The actual location of the proposed well was determined by a 2017 Compliance Investigation to be 1,854 feet North and 28 feet West of the Southeast corner of 19-24S-39W. The findings and orders for the reduction of the place of use under File No. 28,691 updated the actual well location of the proposed existing well. The proposed change complies with the IGUCA requirements and K.A.R. 5-5-13, *Relocation of alluvial wells*.

There is only one (1) irrigation well within one-half ($\frac{1}{2}$) mile of the proposed existing well to be authorized by File No. 884 to divert 264 AF is approximately 2,577 feet to the East. The well to well spacing guideline of 1,300 feet has been met and the change complies with K.A.R. 5-4-4. It The applicants are the owner of this right nearby right.

Michael Meyer, Water Commissioner of the Garden City Field Office was contacted for a recommendation on the proposed changes. In his email dated September 20, 2021, he recommended approval.

Anti-reverse water flowmeter and seals will continue to be required on the points of diversion and a check valve will also be required if chemigating. A well water level measurement tube and WWC-5 will not be required as the wells are existing. Both currently authorized wells have been indicated they will; be plugged. The transmittal letter will remind the owners the plugging needs to comply with KDHE standards.

Based on the above discussion, that the reductions will be approved splitting the reference files it appears the changes are reasonable, that impairment to existing water rights is unlikely and that no change in the local source of supply should occur, it is recommended that the referenced applications be approved.



Leslie Ireland
Environmental Scientist
Water Appropriation Program

From: Meyer, Mike [KDA]
Sent: Mon 9/20/2021 1:21 PM
To: Ireland, Leslie [KDA]
Subject: RE: Review & Recommendation File Nos. 593 & 22893
Attachments: 593 reduction needed PD__exist reduce pus_4_0 mm.doc, HM003 HM006D2xxx PU Itme work reductions_4_0 mm.docx

see minor edits.

I recommend approval

thanks for follow up with the continued seal and arv

Mike

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Tuesday, September 14, 2021 8:40 AM
To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Subject: Review & Recommendation File Nos. 593 & 22893

Mike,

You'll have to look close at the limitation modification of Hosteler's part on the project.
Then 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 POINT OF DIVERSION
WATER RIGHT
FILE NO. 22,896**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Larry J. Hostetler as owner and on behalf of L&R Partners, Ltd., PO Box 486, Burlington, Colorado 80807, received in an Office of the Chief Engineer on May 6, 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 April 8, 2008, July 15, 2008 and May 14, 2013, approving the applications to change the authorized place of use, and by the Findings and Order of the Chief Engineer dated July 18, 2012, in the matter of the authorized quantity and additional limitations, and by the Findings and Order of the Chief Engineer dated 22 November 2021, in the matter of the authorized place of use and additional limitations, 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 point of diversion shall be:

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 19, more particularly described as being near a point 1,897 feet North and 6 feet West of the Southeast corner of said section, in Township 24 South, Range 39 West, Stevens County, Kansas,

located substantially as shown on the 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, 2022, or within any authorized extension of time. The water right owner 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.

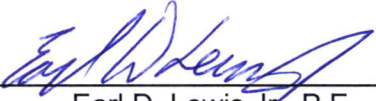
All diversion works into which any type of chemical or other foreign substance will be injected into the water pumped from the diversion works shall be equipped with an in-line, automatic, quick-closing check valve capable of preventing pollution of the source of the water supply. The type of valve installed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

An anti-reverse totalizing water flowmeter which meets or exceeds specifications adopted by the Chief Engineer and said meter shall be installed 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.

A seal shall be placed on the water flowmeter by the Division of Water Resources in such a manner as to render the meter non-removable from the measuring chamber without breaking the seal. If the seal is broken without the written permission of the chief engineer, this shall create a rebuttable presumption that the point of diversion had been unlawfully operated in violation of the order of the chief engineer and that the water right holder had been acting in violation of the conditions of his or her water right.

In all other respects, the Certificate of Appropriation issued pursuant to Approval of Application, File No. 22,896, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated August 3, 1998, as modified and amended by the aforementioned orders.

Ordered this 23 day of November, 2021, in Manhattan, Riley County, Kansas.



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

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 23 day of November, 2021, by Earl D. Lewis Jr., P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.





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

December 21, 2021

L&R PARTNERS LTD
LARRY J HOSTETLER
PO BOX 486
BURLINGTON CO 80807-0486

RE: Vested Right, File Nos. HM 006-D2 & HM 007
Water Right, File Nos. 593; 884; 17,818; 22,896; 24,245; 28,691 & 28,905
Findings and Orders

Dear Mr. Hostetler:

Enclosed are the Findings and Order by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, which completes the requests to reduce the authorized place of use under the referenced files.

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.

If you have any questions, please contact our office at (785) 564-6640. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

A handwritten signature in black ink that reads "Kristen A. Baum". The signature is written in a cursive style.

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

KAB:LI:li

Enclosures
pc: Garden City Field Office

RIGHT TO A HEARING AND TO ADMINISTRATIVE REVIEW

This is a final agency action. If you choose to appeal this decision or any finding or part thereof, you must do so by filing a petition for review in the manner prescribed by the Kansas Act for Judicial Review and Civil Enforcement of Agency Actions (KJRA K.S.A. 77 601 et seq.) within 30 days of service of this order. Your appeal must be made with the appropriate district court for the district of Kansas. The Chief Legal Counsel for the Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, Fax: (785) 564 - 6777, is the agency officer who will receive service of a petition for judicial review on behalf of the Kansas Department of Agriculture, Division of Water Resources. If you have questions or would like clarification concerning this order, you may contact the Chief Engineer.

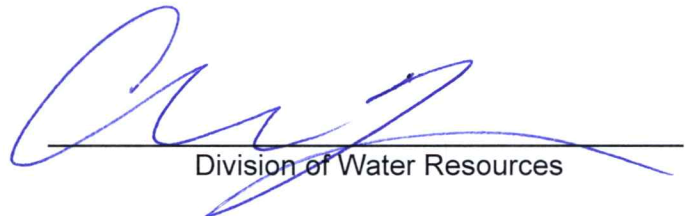
CERTIFICATE OF SERVICE

On this 21 day of December, 2021, I hereby certify that the foregoing Findings and Order, File No. 22,896, dated 22 November 2021 was mailed postage prepaid, first class, US mail to the following:

L&R PARTNERS LTD
LARRY J HOSTETLER
PO BOX 486
BURLINGTON CO 80807-0486

With photocopies to:

Garden City Field Office



Division of Water Resources