

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

1. File Number: 11742	2. Status Change Date: 4/21/2022	3. Change Num: C3	4. Field Office: 4	5. GMD: 1
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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: 12/17/2021
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8a. Applicant(s) New to system <input type="checkbox"/> Person ID 26508 Add Seq# _____ GARY & BETH WILBUR 426 W COUNTY ROAD L LEOTI, KS 67861-6270	8c. Landowner(s) New to system <input type="checkbox"/> Person ID _____ Add Seq# _____
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8b. Landowner(s) New to system <input type="checkbox"/> Person ID _____ Add Seq# _____ 8a	8d. WUC New to system <input type="checkbox"/> Person ID _____ Add Seq# _____ 8a
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9. Documents and Enclosure(s): DWR Meter(s) Date to Comply: **12/31/2022** N & P Date to Comply: **3/1/2023**

Anti-Reverse Meter Meter Seal Check Valve N & P Form Water Tube Driller Copy H & E Letter
 Conservation Plan Date Required: _____ Date Approved: _____ Date to Comply: _____

10. Use Made of Water From: _____ To: _____

WAIVER INCLUDED

Date Prepared: **3/23/2022** By: **AM**
 Date Entered: 4/26/2022 By: LMoody

4/19/2022
Lireland

File No. **11742** 11. County: **WH** Basin: **LADDER CREEK** Stream: Formation Code: **211/320** Special Use:

12. Points of Diversion
 CHK
 MOD
 DEL PDIV
 ENT
 Qualifier S T R ID 'N 'W Comment (AKA Line) Rate gpm Quantity af Rate gpm Quantity af Overlap PD Files

DEL 86140

ENT 89442 **LOT 4 SW SW 7 17S 36W** **1053 4013** ~~650~~ **320** ~~650~~ **320** **NONE**

MOD 7821 **LOT 1 NW NW 7 17S 36W 2 4887 5216** **1000** **1000**

SECTION 7 IS A RANGE CORRECTIONAL SECTION. PER WRIS

RIGHT HAS BLANKET QUANTITY AND RATE

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) _____
 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
 CHK
 MOD
 DEL
 ENT PUSE S T R ID

	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				
CHK 23225																				

Base Acres: Year: Minimum Reasonable Quantity:
 Comments:

Kansas Department of Agriculture
 Division of Water Resources
WAIVER REQUEST & WAIVER RULE WORKSHEET

File Number: 11742

FO: 4

GMD: 1

WAIVER REQUEST:

UMW	Date Requested	Rule ID	Applies	Rule Type	Rule Subtype
IRR	12/17/2021	14	GMD1	WELL SPACING	CHANGE EXCEEDS DISTANCE FROM CURRENT WELL
Rule Number	Date Granted	Date Denied	Justification:	THE PROPOSED WELL IS MOVING MORE THAN 1320 FEET FROM THE ORIGINAL AND AUTHORIZED POINT OF DIVERSIONS. THE MOVE IS 2640 FEET FROM THE ORIGINAL POINT OF DIVERSION. THE MOVE IS REQUESTED DUE TO AN EFFLUENT PLUME. THE PROPOSED POINT OF DIVERSION MEETS ALL SPACING RULES TO NEARBY WELLS. THE WAIVER WAS RECOMMENDED BY THE BOARD OF GMD1.	
K.A.R. 5-21-3(d)	4/21/2022				

WAIVER RULE (complete only if a new rule needs to be created):

Rule ID	Applicability	Type	Subtype	Rule Number	Date Active	Date Inactive
				K.A.R.		

Date Prepared 2/23/2022 By AM

Date Entered 4/26/2022 By LMoody

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files
FROM: Leslie Ireland

DATE: March 23, 2022
RE: Water Right
File No. 11,742

Gary and Beth Wilbur owners of the referenced water right have filed an application for approval to change the points of diversion authorized for irrigation use under the referenced file. The application was filed in this office on December 17, 2021.

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

The right is authorized two (2) wells with a blanket rate of 650 gallons per minute (GPM), (1.45 c.f.s.) for the diversion of 320 acre-feet to irrigate 160 acres in the Northwest Quarter (NW $\frac{1}{4}$) of Section 7, Township 17, Range 36 West, Wichita County. The WRIS database, lists the wrong authorized GPM and additional GPM. The correction is a database only correction. The previous Order in 2017 is correct.

The well proposed to remain the same will update its description to one well located in Lot 1 of the Northwest Quarter of the Northwest Quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 7, more particularly described as being near a point 4,887 feet North and 5,216 feet West of the Southeast corner of said section, in Township 17 South, Range 36 West, Wichita County.

From the Southeast corner of Section 7, the well authorized at 5,248 feet North and 4,180 feet West, identified as ID No. 4, will be capped and **a new well drilled at 1,053 feet North and 4,013 feet West, in Lot 4 of the Southwest Quarter of the Southwest Quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$)**. The well will move approximately 4,167 feet to the South. The requirement that wells not be more than 1,320 feet from the originally authorized point of diversion, which was located 3,536 feet North and 4,872 feet West from the Southeast corner of Section 7, results in a move of approximately, 2,640 feet, so it would appear **a waiver of Part (d) of K.A.R. 5-21-3, is needed as allowed by Part (f) of the regulation.**

The right is not in a special use area, the source of supply has been determined for ID No. 4, as the Ogallala formation (Code 211). A review of the logs with the rights well depths of approximately 200 feet and a static water level in August of 2014 of 160, and information in KGS Bulletin No. 126, for the Ladder Creek area, would indicate the source of supply is the Ogallala Formation (Code 211) with a small amount of the Niobrara Chalk Formation (Code 321) identified.

There does not appear to be any domestic wells located within one-half($\frac{1}{2}$) mile of either well requested by the change. The South proposed well has just one nearby irrigation well under File No. 23,897, which is indicated by WRIS to be 2,700 feet away. There is a large stockwatering facility to the Southwest. It's wells are further to the Southwest. No nearby well owners were notified, as all were greater than 2,640 feet away.

The two (2) wells authorized and proposed meet the minimum well spacing as the change will increase the distance between the wells by more than 300 feet, and each well will be located greater than 2,640' from any other well.

In a letter dated March 22, 2022, Toni Palen, Administrative Assistant GMD 1, indicated the Board recommended the application be approved with a **waiver of K.A.R. 5-21-3**. GMD 1 is currently without a Manager. The board justified their recommendation based on water quality issues.

Michael Meyer, Water Commissioner of the Garden City Field Office, recommended approval of the proposed change per his March 23, 2022, E-mail.

Water flowmeters will be required on each well and a check valve is required if any chemical or foreign substance is injected through the diversion works. A WWC-5 will be requirement of the approval. A water level measurement tube will be required by the approval.

Based on the above discussion, that the change appears to be reasonable, that no change in the local source of supply will occur, 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, it is recommended that the referenced application be approved.



Austin McColloch
Assistant Water Commissioner
Garden City Field Office

From: Meyer, Mike [KDA]
Sent: Wed 3/23/2022 10:57 AM
To: McColloch, Austin [KDA]
Subject: RE: Recommendation Change File No. 11742

recommend approval
thanks again

Mike

From: McColloch, Austin [KDA] <Austin.McColloch@ks.gov>
Sent: Wednesday, March 23, 2022 10:53 AM
To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Subject: Recommendation Change File No. 11742

Mike,

Attached is my updated draft memo for the above referenced change in point of diversion. Let me know if you agree.

Thanks,

Austin McColloch
Ph: (620) 276-2901



WESTERN KANSAS GROUNDWATER MANAGEMENT DISTRICT NO.1

March 22, 2022

Austin McColloch
Assistant Water Commissioner
Division of Water Resources
4532 W. Jones Ave., Suite B
Garden City, KS 67846

RE: Term Permit, File No. 11742

Dear Mr. McColloch,

At the March 16, 2022 Western Kansas Groundwater Management district No. 1 board meeting, the Board of Directors voted unanimously to recommend approval of the referenced Term Permit.

Sincerely,

Toni Palen
Administrative Assistant

From: McColloch, Austin [KDA]
Sent: Thu 3/10/2022 4:13 PM
To: admin@wbsnet.org
Cc: Meyer, Mike [KDA]
Subject: Agenda Item Change App File No. 11742
Attachments: 11742.pdf

Afternoon,

This change application will need to be reviewed by the board and commissioner for recommendation. Can we please add it for next week.

Thank you,

Austin J. McColloch

Assistant Water Commissioner
Kansas Department of Agriculture- DWR
Garden City Field Office
<http://agriculture.ks.gov/>
Ph: (620) 276-2901

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Secretary of Agriculture

DIVISION OF WATER RESOURCES
Earl D. Lewis Jr., Chief Engineer

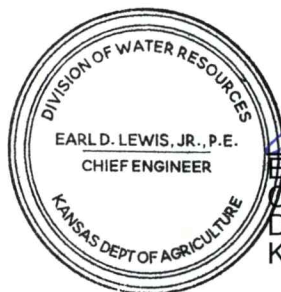
WAIVER OF REGULATION
K.A.R. 5-21-3


Date: April 21, 2022

Re: Water Right, File No. 11,742

1. That K.A.R. 5-21-3 (d) states in part, that each proposed point of diversion shall not be more than 1,320 feet from the originally authorized point of diversion.
2. The change proposes to redrill one (1) of the two (2) wells authorized resulting in the proposed well to be 2,640 feet from the originally authorized well.
3. That an effluent contamination plume is requiring the change in point of diversion.
4. That there are no nearby wells located within one-half ($\frac{1}{2}$) mile of the proposed well.
5. That K.A.R. 5-21-3(f) states that exceptions to this regulation may be recommended by the Board to the Chief Engineer.
6. That the Board of Wester Kansas Groundwater Management District No. 1 recommended the application be approved.
7. That approval of the referenced change application will not prejudicially or unreasonably affect the public interest and will not impair any existing water rights.

Comments:




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

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. 11,742**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Gary and Beth Wilbur, 426 West County Road L, Leoti, Kansas 67861-6270, received in this office on December 17, 2021, 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 Order of the Chief Engineer dated October 13, 2014, approving the application to change the authorized point of diversion and by the Order of the Chief Engineer dated May 18, 2017, approving the application to change the authorized point of diversion and in the matter of the authorized rate of diversion, 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.

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 located in in Lot 1 of the Northwest Quarter of the Northwest Quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 7, more particularly described as being near a point 4,887 feet North and 5,216 feet West of the Southeast corner of said section, and

one (1) well located in in Lot 4 of the Southwest Quarter of the Southwest Quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 7, more particularly described as being near a point 1,053 feet North and 4,013 feet West of the Southeast corner of said section,

both in Township 17 South, Range 36 West, Wichita County, Kansas,

located substantially as shown on the topographic 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 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.

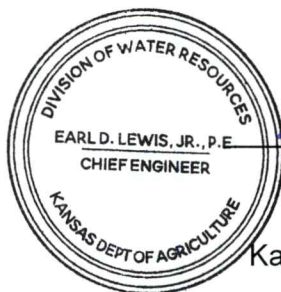
All wells with a diversion rate of 100 gallons per minute or more drilled under the authority of this order shall have a tube or other device installed in a manner acceptable to, and in accordance with specifications adopted by, the Chief Engineer. This tube or device shall be suitable for making water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

The water right owner shall submit to the Chief Engineer a copy of the well log for the new point of diversion as required by the Kansas Department of Health and Environment under the authority of K.S.A. 82a-1212, currently form WWC-5, following the drilling of the well at the authorized location.

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. 11,742, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated April 15, 1977, as modified and amended by the aforementioned orders.

Ordered this 21st day of April, 2022, 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 21 day of April 2022, by Earl D. Lewis Jr., P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.

Melinda Jennings
Notary Public



RIGHT TO A HEARING AND TO ADMINISTRATIVE REVIEW

This Order shall become a final agency action, as defined by K.S.A. 77-607(b), without further notice to the parties, if a request for hearing or a petition for administrative review is not filed as set forth below.

Request for Hearing. According to K.A.R. 5-14-3(c), any party who desires a hearing must submit a request within 15 days after the date shown on the Certificate of Service attached to this Order. Filing a request for a hearing will give you the opportunity to submit additional facts for consideration, contest any findings made by the Chief Engineer or present any other information you believe should be considered in this matter. A timely-filed request for hearing will stay the deadline for requesting administrative review of this Order pending the outcome of the hearing.

Petition for Review. Any person aggrieved by this Summary Order may petition for administrative review, pursuant to K.S.A. 82a-708b(a) and K.S.A. 82a-1901(a). The petition must be filed within 30 days after the date shown on the Certificate of Service attached to this Order and must set forth the basis for the review, unless stayed by the timely filing of a request for hearing.

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 day of , 2022, I hereby certify that the attached Approval of Application for Change, Water Right, File No. 11,742, dated was mailed postage prepaid, first class, US mail to the following:

GARY & BETH WILBUR
426 W COUNTY ROAD L
LEOTI, KS 67861-6270

With a Photocopy to:

Garden City Field Office
Groundwater Management District No. 1

Division of Water Resources

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

May 4, 2022

GARY & BETH WILBUR
426 W COUNTY ROAD L
LEOTI, KS 67861-6270

RE: Water Right, File No. 11,742

Dear Mr. & Mrs. Wilbur:

Enclosed is the order executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the application for change under the 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 flowmeter meeting K.A.R. 5-1-4 through 5-1-12, must be installed on the diversion works. Please return the required *Notification of Completion of the Diversion Works and/or Installation of the Required Flowmeter*, as soon as these actions are completed. The Notice of Completion form may be found online at www.agriculture.ks.gov, Water Appropriation Forms, there is no fee for the required completion notification. Please be reminded the well log, WWC-5, should be submitted with the Notice of Completion.

Any abandoned water 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.

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.

If you have any questions, please contact our staff at the Garden City Field Office, their phone number is 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 Application and Change Unit Supervisor
Water Appropriation Program

KAB:am:li

Enclosure

pc: Garden City Field Office
Groundwater Management District No. 1

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CERTIFICATE OF SERVICE

On this 4 day of May, 2022, I hereby certify that the attached Approval of Application for Change, Water Right, File No. 11,742, dated 21 April, 2022 was mailed postage prepaid, first class, US mail to the following:

GARY & BETH WILBUR
426 W COUNTY ROAD L
LEOTI, KS 67861-6270

With a Photocopy to:

Garden City Field Office
Groundwater Management District No. 1



Division of Water Resources