

Kansas Department of Agriculture  
Division of Water Resources  
**CHANGE: PU UMW WORKSHEET & ORDER TO BETTER DESCRIBE PD**

1. File Number: <b>16716-D1</b>	2. Status Change Date: <b>4/28/2022</b>	3. Change Num: <b>C3</b>	4. Field Office: <b>04</b>	5. GMD: <b>03</b>
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: <b>2/28/2020</b>
8a. Applicant(s) New to system <input type="checkbox"/>  <b>GRAY COUNTY SEAN WENDEL PUBLIC WORKS DEPT PO BOX 487 CIMARRON, KS 67835-0487</b>		Person ID <u>56042</u> Add Seq# _____		
8b. Landowner(s) New to system <input type="checkbox"/>  <b>GRAY COUNTY BOARD OF CO COMMISSIONERS PO BOX 487 CIMARRON, KS 67835-0487</b>		Person ID <b>56042</b> Add Seq# _____		
		8c. Landowner(s) New to system <input type="checkbox"/>  Person ID _____ Add Seq# _____		
		8d. WUC New to system <input type="checkbox"/>  <b>8b</b>  Person ID <b>56042</b> Add Seq# _____		
9. Documents and Enclosure(s): <input checked="" type="checkbox"/> DWR Meter(s) Date to Comply: <u>12/31/22</u> <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: <u>IRR</u> To: <u>IRR &amp; IND</u>				
<div style="border: 1px solid red; padding: 5px; display: inline-block; margin-right: 100px;">4/28/2022 LIreland</div> <div style="display: inline-block; margin-right: 100px;">Date Prepared: <b>4/4/2022</b>    By: <b>li</b></div> <div style="display: inline-block;">Date Entered: <span style="border: 1px solid blue; padding: 2px;">5/2/2022</span>    By: <b>L Moody</b></div>				

File No. **16716-D1**      11. County:      Basin: **ARKANSAS RIVER**      Stream: **NA**      Formation Code: **113**      Special Use: **016**

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 af	Rate gpm	Quantity af	Overlap PD Files
<b>MOD</b>	<b>67815</b>	<b>LOT 6</b>				<b>35</b>	<b>25</b>	<b>29W</b>	<b>2</b>	<b>203</b>	<b>3447</b>	<b>IRR USE</b>	<b>478</b>	<b>218.2 AF</b>	<b>478</b>	<b>218.2 AF</b>	<b>16716-D1 IND USE</b>
<b>ENT</b>	<b>67815</b>	<b>LOT 6</b>				<b>35</b>	<b>25</b>	<b>29W</b>	<b>2</b>	<b>203</b>	<b>3447</b>	<b>IND USE</b>	<b>10</b>	<b>4.88 MGY</b>	<b>10</b>	<b>4.88 MGY</b>	<b>16716-D1 IRR USE</b>

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				
<b>MOD</b>	<b>27387</b>	<b>35</b>	<b>25</b>	<b>29W</b>	<b>1</b>									<b>L-6 30.0</b>	<b>L-5 20.0</b>	<b>25.4</b>	<b>L-6 40.0</b>		<b>29.6</b>	<b>L-7 40.0</b>	<b>L-7 8.4</b>	<b>193.4</b>	<b>8b</b>	<b>NO</b>	<b>NONE</b>
<b>ENT</b>	<b>68508</b>	<b>35</b>	<b>25</b>	<b>39W</b>		<b>ROADWORK WITHIN AREA OF GRAY CO KS</b>																	<b>8b</b>	<b>NO</b>	<b>NONE</b>
<b>IND</b>																									

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:** March 31, 2022

**FROM:** Leslie Ireland

**RE:** Water Right,  
File No. 16,716 - D1

Mark Busch, Glenn Oyler and Orville Williams on behalf of each of the three districts of the Gray County Board of County Commissioners (Commission) owner of the referenced file submitted an application for approval to change the use made of water and place of use located in the Arkansas River basin and Ark River IGUCA. The application was received on February 28, 2020, updates were coordinated with Sean Wendel, County Public Works Department.

The referenced file number does not appear to be abandoned as per K.S.A. 82a-718. The notification for the proposed change per K.S.A. 82a-1906 was completed January 6, 2022, with no replies of any kind received.

The applicant has proposed a partial change in use made of water from: irrigation use to irrigation and industrial use to be utilized for road maintenance within Gray County. The referenced file authorizes 235 acre-feet (AF) at a maximum rate of 840 gallons per minute(gpm) from a well that has no overlap or additional limitations. The place of use of is located along the South side of the Arkansas River authorizing 208 irrigated acres in the South half (S½) of Section 35, Township 25 South, Range 29 West, Gray County. The source of supply has been determined to be the Main Stem Alluvium (113) and the Ogallala Formation (211). The file is located in the Southwest Kansas Groundwater Management District No. 3 (GMD3).

As the well is not moving the local source of supply will remain the same.

The Commission has requested to convert 15 acre-feet (4.888 mgy) from irrigation use to industrial use for road maintenance within the county as permitted by K.A.R. 5-5-10; *Partial change in the use made of water from irrigation to another type of beneficial use*, if 4.88 million gallons per calendar year (15 acre-feet) is changed to industrial use. A total of 218.2 acre-feet will be retained for irrigation use based on the following:

Step one:  $235 \text{ AF} \times 89.3 \% \text{ consumptive use Gray County} = 209.855\text{AF}$  (max. quantity that could be changed to another type of beneficial use if the entire right were changed)

Step two:  $15.0 \text{ AF (quantity for industrial use)} \div 209.855 \text{ AF (from above)} = 0.071477925$  thus the percent remaining for irrigation use is  $1.0 - 0.071477925 = 0.928522075$

Step three:  $0.928522075$  (remaining percentage)  $\times 235 \text{ AF (total authorized quantity)} = 218.203 \text{ AF}$  (can be retained for irrigation use).

The application stated in part No. 8 the a limited rate of 840 gpm would be utilized for both uses, while part No. 13 indicates the 15 AF for industrial use will be diverted at 10 gpm for the industrial use and the 218.2 AF retained for irrigation use will be diverted at 830 gpm. As required by Part (c) of the regulation a flow rate test was completed by GMD3 on March 2, 2022 It yielded 488 gallons per minute with the FUJI, Portaflow, non-intrusive meter. The rate was requested to be reduced and reassigned. The March 15, 2022 updates by Sean Wendel, assigned 478 gpm to the irrigation use and 10 gpm to the industrial use. The assigned values indicate the irrigation use could be diverted in approximately 104 days and 339 days for the industrial use.

As required, the irrigated place of use will be reduced to reflect the reduction in quantity. The Commission initially proposed to remove 1.6 acres in the Southwest corner of the place of use but was requested to reduce the acres proportionally to the 218.2 AF remaining. On March 15, 2022 the reduction in the Southwest was increased resulting in only 193.4 acres remaining authorized. The change will result in an irrigation ratio of 1.13 AF per acre. The net irrigation requirement for corn at the 50% chance of rain for Gray County is 1.15 AF per acre. Mr. Wendel indicated the County will not be irrigating at this time as the authorized irrigated place of use has been enrolled in a conservation program.

The justification for the 4.888 mgy that will be utilized for the industrial use was discussed with Mr. Wendel. He indicated they reconstruct approximately 35 miles of road a year.

The WRIS database indicates the location of the well would be more accurately described as being 203 feet North and 3,447 feet West of the Southeast Corner, approximately 11 feet from the authorized 196 feet North and 3,438 feet West. As the approval will have to list the new uses it will update the well location to the new feet distances and the Lot 6 designation.

In a letter dated August 30, 2021 and received on January 10, 2022, Jason L. Norquest, Assistant Manager of the Southwest Kansas Groundwater Management District No. 3 recommended approval of the referenced application for change.

Mike Meyer, Water Commissioner of the Garden City Field Office indicated in his email dated March 31, 2022, that he has no objection to the approval of the proposed change.

A water flowmeter will be required for each use of water at the point of diversion with a check valve required if any chemical or foreign substance is injected into the water through the diversion works according to K.A.R. 5-3-5(c). A water level measurement tube and WWC-5 will not be required as no new well has been authorized.

Based on the above discussion, that the change in use made of water is reasonable, that impairment to existing water rights is unlikely and that consumptive use will not increase beyond what was certified and there will be no change in the local source of supply it is recommended that the referenced application be approved.



Leslie Ireland  
Environmental Scientist  
Change Application Unit

**From:** Meyer, Mike [KDA]  
**Sent:** Thu 3/31/2022 3:18 PM  
**To:** Ireland, Leslie [KDA]  
**Subject:** RE: File No. 16,716-D1 Review and Recommendation for Change in PU UMW

yep moving on and approve

Mike

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**From:** Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>  
**Sent:** Thursday, March 31, 2022 3:15 PM  
**To:** Meyer, Mike [KDA] <Mike.Meyer@ks.gov>  
**Subject:** RE: File No. 16,716-D1 Review and Recommendation for Change in PU UMW

Yes lot designation on PD too. SE SW is Lot 6 thanks for the clarification on that..

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**From:** Meyer, Mike [KDA] <[Mike.Meyer@ks.gov](mailto:Mike.Meyer@ks.gov)>  
**Sent:** Thursday, March 31, 2022 1:31 PM  
**To:** Ireland, Leslie [KDA] <[Leslie.Ireland@ks.gov](mailto:Leslie.Ireland@ks.gov)>  
**Subject:** RE: File No. 16,716-D1 Review and Recommendation for Change in PU UMW

so more of a question, when reducing I thought we used 5-5-11(b)(2)B)ii? would that require acres to remain at 138 acres?

also I assume we need to update well location being in river lots Lot 6 (SESW)?

Mike

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**From:** Ireland, Leslie [KDA] <[Leslie.Ireland@ks.gov](mailto:Leslie.Ireland@ks.gov)>  
**Sent:** Thursday, March 31, 2022 11:49 AM  
**To:** Meyer, Mike [KDA] <[Mike.Meyer@ks.gov](mailto:Mike.Meyer@ks.gov)>  
**Subject:** File No. 16,716-D1 Review and Recommendation for Change in PU UMW

Mike,

Please let me know if the reduction in rate, quantity and place of use will work the requested change.

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 USE MADE OF WATER AND PLACE OF USE  
AND  
ORDER IN THE MATTER OF THE AUTHORIZED QUANTITY OF WATER  
RATE OF DIVERSION AND DESCRIPTION OF THE  
LOCATION OF THE AUTHORIZED POINT OF DIVERSION  
WATER RIGHT  
FILE NO. 16,716 - D1**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Mark Busch, Glenn Oyler and Orville Williams on behalf of the Gray County Board of County Commissioners, PO Box 487, Cimarron, Kansas 67835, received in this office on February 28, 2020, for approval of a change in the location of the place of use and the use made of water 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 May 28, 1997; April 19, 1999; October 31, 2000; August 7, 2002; October 29, 2002 and August 20, 2004, approving the applications to change the point of diversion, by the Findings and Order of the Chief Engineer dated October 22, 2008, in the matter of the authorized points of diversion, by the Findings and Order of the Chief Engineer dated December 8, 2009, determining the interest in Water Right, File No. 16,716, finds that the change is reasonable and will not impair existing rights, and that the application should be and is hereby approved.

This order effectively reduces the maximum rate of diversion to 488 gallons per minute (1.09 c.f.s) and the authorized quantity of water not to exceed 233.2 acre-feet per calendar year in accordance with the Application for Approval to Change the Place of Use and Use Made of Water received in this office on February 28, 2020.

The effective date of the changes shall be the date this order is executed by the Chief Engineer, after which that portion retained for irrigation use shall be authorized a maximum quantity not to exceed 218.2 acre-feet of groundwater per calendar year at a diversion rate not in excess of 478 gallons per minute (1.07 c.f.s.) for irrigation use at the following described location:

Sec. Twp. Range	NE¼				NW¼				SW¼				SE¼				TOTAL	
	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼		
35 25S 29W									LOT 6 30.0	LOT 5 20.0	25.4	LOT 6 40.0			29.6	LOT 7 40.0	LOT 7 8.4	193.4

a total of 193.4 acres in Section 35, Township 25 South, Range 29 West, Gray County, Kansas,

located substantially as shown on the topographic map accompanying the application to change the use made of water and place of use.

The portion changed to industrial use shall be authorized a maximum quantity not to exceed 4.88 million gallons (15 acre-feet) of groundwater per calendar year at a diversion rate not to exceed 10 gallons per minute (0.02 c.f.s.) and the authorized place of use shall be:

roadways within the county of Gray County, Kansas,

located substantially as shown on the general highway map accompanying the application to change the use made of water and place of use, and a more precise description of the authorized location of the point of diversion for the uses authorized herein shall be:

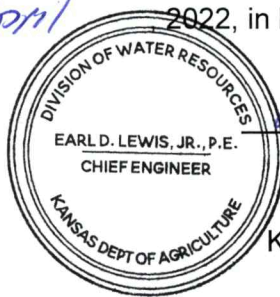
one (1) well located in Lot 6 of Section 35, more particularly described as being near a point located 203 feet North and 3,447 feet West of the Southeast corner of said section, in Township 25 South, Range 29 West, Gray County, Kansas.

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 for each use made of water for 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. 16,716 - D1, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated September 13, 1989, as modified and amended by the aforementioned orders.

Ordered this 28<sup>th</sup> 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            )  
                                      ) SS  
County of Riley            )

The foregoing instrument was acknowledged before me this 28 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**

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.

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        ,        , I hereby certify that the foregoing Approval of Application for Change in Place of Use and Use Made of Water and Order in the Matter of the Location of the Authorized Point of Diversion, File No. 16,716 - D1, dated        was mailed postage prepaid, first class, US mail to the following:

GRAY COUNTY BOARD OF CO COMMISSIONERS  
SEAN WENDEL DIRECTOR PUBLIC WORKS  
PO BOX 487  
CIMARRON KS 67835

With photocopies to:

Garden City Field Office  
Groundwater Management District No. 3



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 9, 2022

GRAY COUNTY BOARD OF CO COMMISSIONERS  
SEAN WENDEL DIRECTOR PUBLIC WORKS  
PO BOX 487  
CIMARRON KS 67835

RE: Water Right, File No. 16,716 -D1

Dear Mr. Wendel:

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 the requirement that the well authorized shall have an acceptable water flowmeter be installed so both irrigation and industrial uses can be metered independent of each other prior to the diversion of water.

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 regarding the enclosed documents, please contact our office at (785) 564-6640. Inquiries about the metering please contact our staff at the Garden City Field Office, (620) 276-2901. Information is also available on our web site at <http://agriculture.ks.gov>.

Should you contact us 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".

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

KAB:LI

Enclosures

pc: Garden City Field Office  
Groundwater Management District No. 3

**RIGHT TO A HEARING AND TO ADMINISTRATIVE REVIEW**

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- 1) request an evidentiary hearing before the Chief Engineer, or
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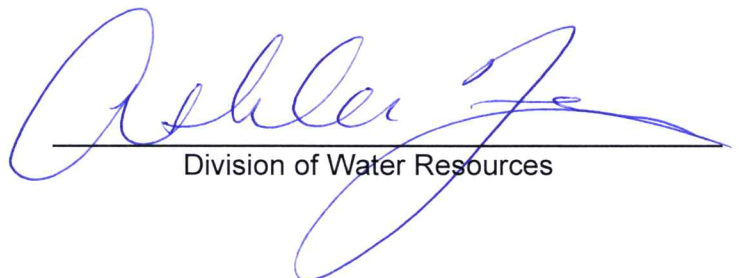
**CERTIFICATE OF SERVICE**

On this 9 day of May, 2022, I hereby certify that the foregoing Approval of Application for Change in Place of Use and Use Made of Water and Order in the Matter of the Location of the Authorized Point of Diversion, File No. 16,716 - D1, dated \_\_\_\_\_ was mailed postage prepaid, first class, US mail to the following:

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With photocopies to:

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Groundwater Management District No. 3

  
\_\_\_\_\_  
Division of Water Resources