

File No. **18123** 11. County: **SC** Basin: **SMOKY HILL RIVER** Stream: **NA** Formation Code: **211** Special Use: **NA**

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/mgy	Rate gpm/cfs	Quantity af/mgy	
DEL				22947 NW NW NE	23	17	32W	6	5026	2030	PLUG	290	36.830 mgy	290	36.830 mgy	NONE
ENT				90352 CW NW	24	17	32W		3952	5292		290	36.830 mgy	290	36.830 mgy	NONE

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

14. Limitation: **162 MGY** af/yr at _____ gpm (_____ cfs) when combined with file number(s) **5 YEAR ALLOCATION NO CHANGE**
 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				NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg?	Overlap Files	
CHK	MOD	DEL	ENT	PUSE	S	T	R	ID	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: May 18, 2023

FROM: Leslie Ireland

RE: Water Right, File No. 18,123

Lee Mayo on behalf of HRC Feed Yards LLC, owner of the referenced water right authorized for stockwater use, filed an application for approval to change the point of diversion to drill a new well in the Smoky Hill River Basin, Scott County, and Western Kansas Groundwater Management District No. 1 (GMD1). The April 20, 2023 received application is due to the loss of production at the well.

The referenced water right appears to be in compliance with K.S.A. 82a-732, and the application is in compliance with K.A.R. 5-5-1, *Filing an application for change*. Notice per K.S.A. 82a-1906 was completed on May 11, 2023 via email and mailed letter, requesting a reply within 7 days. No comments have been received.

The referenced file authorizes one (1) well with no overlaps in the point of diversion. The referenced file is authorized 36.83 million gallons per year (mgy) (113.03 acre-feet (AF)) at 290 gallons per minute. It has operated under a five(5) year allocation of 162 million gallons (497 AF) since 1995 with the last five years ending in 2023. The well has pumped an average of 18.1 mgy for the past four years with 89.85 million gallons remaining for 2023. The well has been authorized at its current location since 1990. The place of use overlaps with Water Right, File Nos. 6974; 8716.05; 15,772; 17,125.05; 32,665.05; 36,173.05 and 38,388.

The source of supply has been determined to be the Ogallala Formation and is not located within a special use area. It is in a LEMA area.

The currently authorized well located in the Northwest Quarter of the Northwest Quarter of the Northeast Quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 23, and determined to be 5,023 feet North and 2,030 feet West of the Southeast corner of said section, in Township 17 South, Range 32 West, Scott County is will be recommended to be plugged. Its quantity and rate moved to the Southeast to complete a new well in the near the center of the West Side of the Northwest Quarter (CW NW $\frac{1}{4}$) of Section 24, approximately 3,952 feet North and 5,292 feet West of the Southeast corner of Section 24. The new well is approximately 2,271 feet to the Southeast of the currently authorized well. The distance of the move does not comply with GMD 1's regulation K.A.R. 5-21-3, *Well spacing requirements*, as the approval will move the well more than 1,320 feet. The applicant has requested a waiver of distance move part (d) per K.A.R. 5-21-3.

The proposed point of diversion drillers log completed by Downey Drilling Inc., May 2023, lists a total well depth of 200 feet to shale with medium to course to fine sands and clay specifically Ocher near the shale. The static water level was indicated at 129 feet. It appears the source of supply will remain the Ogallala Formation (code 211).

The owner has indicated that within one-half ($\frac{1}{2}$) mile of the proposed well, there is the feedlots domestic well which is located approximately 1,000 feet to the South and four (4) stockwatering wells that serve the feedlot and one(1) non applicant owned irrigation well, authorized by File No. 15,298.

The change is subject to Part (a) of K.A.R. 5-21-3, requiring the minimum well spacing to other non-temporary and non-domestic wells shall be a minimum of 2,640 feet. The change does improve the spacing for this file to the non-applicant owned irrigation well, File No. 15,298, to approximately 2,350 feet of well to well spacing. The proposed new well will be approximately 1,006 feet from the well authorized under File No. 38,388, which is owned by the applicant. It is also less than 2,640 feet from two other applicant owned wells, File Nos. 32,665.05 & 36,173.05. These junior wells authorize small quantities, but all served the same place of use. As the proposed point of diversion does not meet the required spacing for wells in this GMD, the owner requested a **waiver of part (d) of K.A.R. 5-21-3 as allowed by part (f) of the regulation.**

The May 15, 2023, meeting of Western Kansas Groundwater Management District No. 1, was attended by Michael Meyer, Water Commissioner, who indicated in an email the Board recommended a waiver of K.A.R. 5-21-3 and approval of the proposed change in point of diversion.

Michael Meyer, Water Commissioner of the Garden City Field Office has reviewed the proposed change and requested waiver. He supported the requested waiver and recommended approval of the proposed change as per his email dated May 18, 2023.

The new well will be required to have a flow-meter installed and to have a water level measuring tube. A check valve will be required on if the systems will be chemigating. The owner will be informed by the transmittal letter that the old well is to be plugged in accordance with KDHE regulations.

Should the waiver be approved, the proposed change appears to be reasonable, the source of supply will remain unchanged, and it is unlikely that the change will cause impairment to any existing water rights, approval of the proposed change in point of diversion should be approved.



Leslie Ireland
Environmental Scientist

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

File Number: **18123**

FO: **4**

GMD: **1**

WAIVER REQUEST:

UMW	Date Requested	Rule ID	Applies	Rule Type	Rule Subtype
IRR	4/20/2023	10 & 14	GMD 1	Well Spacing & CHG Exceed Distance	Well to Well Spacing & Ogallala Formation
Rule Number	Date Granted	Date Denied	Justification:	The proposed well is less than 2,640 feet from the existing wells that serve the same feedlot all under common ownership. It is moving more than 1,320 feet from the authorized point of diversion to improve spacing to neighboring non-owner wells that have never met the 2,640 feet of required spacing. The waivers were recommended by GMD 1 Board.	
K.A.R. 5-21-3(a) & (d)	5/18/2023				

WAIVER RULE:

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

Date Prepared **5/18/2023** By **LI**

Date Entered _____ By _____

5/22/2023
LMoody

Ireland, Leslie [KDA]

From: Meyer, Mike [KDA]
Sent: Thursday, May 18, 2023 11:26 AM
To: Ireland, Leslie [KDA]
Subject: RE: Review and Recommendation Change in Point of Diversion File No. 18123

Agree, the board made note that they are only not meeting spacing to their own wells, the feedlot in dire need of water and will fix past compliance issues of other wells overpumping as the well that they are redrilling our currently physically out of water.

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Thursday, May 18, 2023 10:45 AM
To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Subject: Review and Recommendation Change in Point of Diversion File No. 18123

Mike,

Attached is the summary memo and waivers.

Please let me know if you'd recommend the change as proposed and support the requested waivers.

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. 18,123

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Lee Mayo on behalf of HRC Feed Yards LLC, PO Box 224, Scott City, Kansas 67871, received in this office on April 20, 2023, 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 10, 1990 and June 28, 1990, approving the applications to change the authorized point of diversion, by the Order of the Chief Engineer dated February 24, 1994, approving the application to change the authorized place of use and use made of water and Order in the matter of the authorized quantity of water, 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 near the center of the West side of the Northwest Quarter (NW $\frac{1}{4}$) of Section 24, more particularly described as being near a point 3,952 feet North and 5,292 feet West of the Southeast corner of said section, in Township 17 South, Range 32 West, Scott 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, 2023, 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.

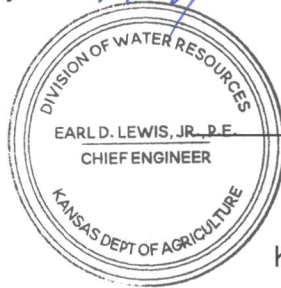
The well drilled under the authority of this order shall have a tube or other device installed in a manner acceptable to, and in accordance with specifications adopted by, the Chief Engineer. This tube or device shall be suitable for making water level measurements and shall be maintained in a condition 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. 18,123, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated October 23, 1985, as modified and amended by the aforementioned orders.

Ordered this 18th day of May, 2023, 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 18 day of May, 2023, by Earl D. Lewis Jr., P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.

Melinda Jennings

Notary Public



THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Secretary of Agriculture

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

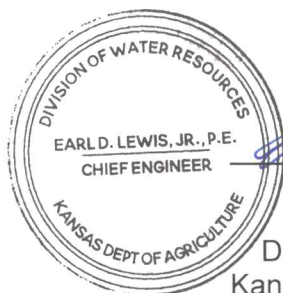
WAIVER OF REGULATION
K.A.R. 5-21-3, Well spacing requirements Part (a)


Date: May 18, 2023

Re: File No. 18,123

1. That K.A.R. 5-21-3, *Well spacing requirements*, states in part (a), that each well location that withdraws water from the Ogallala shall be spaced a minimum of 2,640 feet from other non-domestic wells and 1,320 feet from any domestic well.
2. That the change proposes to authorize a new well approximately 1,010 - 2,271 feet from several wells that authorize the same place of use and approximately 1,000 feet from the owners domestic well.
3. The log for the new well indicates the formation has 42 feet of water is available.
4. The change will move away from wells not owned by the applicant.
5. That no comments objecting to the proposed change were received.
6. That K.A.R. 5-21-3(f) states that exceptions to this regulation may be recommended by the Board to the Chief Engineer.
7. That the Board of Western Kansas Groundwater Management District No. 1 recommended that the applications be approved with a waiver as allowed by K.A.R. 5-21-3(f).
8. Approval of the referenced change applications will not impair existing water rights nor shall the change adversely affect the public interest.

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

WAIVER OF REGULATION
K.A.R. 5-21-3, Well spacing requirements Part (d)


Date: May 18, 2023

Re: File No. 18,123

1. That K.A.R. 5-21-3, *Well spacing requirements*, states in part (d), that an approval to change the point of diversion shall be no more than 1,320 feet from the originally authorize point of diversion and not decreased the distance to other wells by no more than 300 feet or meet the minimum well spacing requirement of 2,640 feet from other non-domestic wells that withdraw water from the Ogallala formation.
2. That the change proposes to complete a new well approximately 2,271 feet from it authorized point of diversion and decrease the distance to nearby wells by more than 300 feet and will not meet the spacing requirements.
3. Lithology indicates the source of supply will remain the Ogallala formation.
4. The change will move away from non-applicant owned wells.
5. That no comments objecting to the proposed change were received.
6. That K.A.R. 5-21-3(f) states that exceptions to this regulation may be recommended by the Board to the Chief Engineer.
7. That the Board of Western Kansas Groundwater Management District No. 1 recommended that the application be approved with a waiver .
8. Approval of the referenced change application would indicate that impair to existing water rights may not occur nor that the change would adversely affect the public interest.

Comments:




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

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

HRC FEED YARDS LLC
LEE MAYO
PO BOX 224
SCOTT CITY, KS 67871

RE: Water Right, File No. 18,123

Dear Mr. Mayo:

Enclosed is the order executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture approval of 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 5-1-4 through 5-1-12 must be installed on the diversion works authorized under the referenced files. Please return the required notification of completion of the diversion works and installation of the required meter prior to the diversion of water.

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.

Additional information and the Notice of Completion form may be found on our website at agriculture.ks.gov/divisions-programs/dwr. If you have any questions or need assistance with any of these requirements, 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,

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

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

KAB:LI:li

Enclosures

pc: Garden City Field Office
Groundwater Management 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 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 the Kansas Department of Agriculture, Attn: Legal Section, 1320 Research Park Drive, Manhattan, Kansas 66502, or by 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 the Secretary of Agriculture, Attn: Legal Division, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, or by 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 22 day of May, 2023, I hereby certify that the attached Approval of Application for the Change in Point of Diversion, Water Right, File No. 18,123, dated May 18 was mailed postage prepaid, first class, US mail to the following:

HRC FEED YARDS LLC
LEE MAYO
PO BOX 224
SCOTT CITY, KS 67871

With photocopies to:

Garden City Field Office
Groundwater Management District No. 1


Division of Water Resources