

Kansas Department of Agriculture
 Division of Water Resources
CHANGE: PU UMW WORKSHEET & ORDER IN MATTER OF PD

1. File Number: 183	2. Status Change Date: 6/20/2023	3. Change Num: C3	4. Field Office: 04	5. GMD: 03
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: 11/14/2022
8a. Applicant(s) New to system <input type="checkbox"/> ROME FARMS KEITH G ROME 1096 ROAD BB HUGOTON KS 67951		Person ID <u>27615</u> Add Seq# <u>1</u>		8c. Landowner(s) New to system <input type="checkbox"/> TULS HEMANN ENTERPRISES LAND LLC PO BOX 1138 LIBERAL, KS 67905
8b. Landowner(s) New to system <input type="checkbox"/> ROME FARMS 1096 ROAD BB HUGOTON KS 67951		Person ID <u>27615</u> Add Seq# <u>1</u>		8d. WUC IRR New to system <input type="checkbox"/> ROME FARMS 1096 ROAD BB HUGOTON KS 67951
		8dd. WUC STK New to system <input type="checkbox"/> TULS HEMANN ENTERPRISES LAND LLC PO BOX 1138 LIBERAL, KS 67905		Person ID <u>62659</u> Add Seq# <u>1</u>
9. Documents and Enclosure(s): <input checked="" type="checkbox"/> DWR Meter(s) Date to Comply: <u>12/31/2023</u> <input type="checkbox"/> N & P Date to Comply: _____				
<input type="checkbox"/> Anti-Reverse Meter <input type="checkbox"/> Meter Seal <input checked="" 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>DUAL USE IRR & STK</u>				
Date Prepared: 6/7/23 By: LI Date Entered: By: 6/21/2023 Date Reviewed: 6/19/23 By: JDK LMoody				

File No. **183** 11. County: **SV** Basin: **CIMARRON RIVER** Stream: Formation Code: **211** Special Use:

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 mgy	Rate gpm/cfs	Quantity mgy	Overlap PD Files
MOD	4829	SW SW SW	8	31	37W	4	74	4967	GPS UPDATE				500	139.37	500	139.37	IRR STK USES

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

14. Limitation: **427.7** af/yr at _____ gpm (_____ cfs) when combined with file number(s) **DUAL USE IRR & STK**
 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 24635	8	31S	37W	5	LIVESTOCK FACILITY - DAIRY SE¼ 8-31S-37W																				8C	NO	101
CHK 64272	5	31S	37W	2																				8B	NO	101;135;5099;10716;17722; & 18167	
CHK 27595	7	31S	37W	1																				8B	NO	101, 135; 5099; 10716; 17722; & 18167	
MOD 38051	8	31S	37W	2																				8B	NO	101; 135; 5099; 10716; 17722; & 18167	
ENT 71438	8	31S	37W																					8C	YES	101; 135; 5099; 10716; 17722; & 18167	
CHK 4761	9	31S	37W	2																				8B	NO	101; 135; 5099; 10716; 17722; & 18167	
CHK 30493	16	31S	37W	1																				8B	NO	101; 135; 5099; 10716; 17722; & 18167	
CHK 7519	17	31S	37W	1																				8B	NO	101; 135; 5099; 10716; 17722; & 18167	
CHK 5338	18	31S	37W	1																				8B	NO	101; 135; 5099; 10716; 17722; & 18167	

Base Acres: **2047** 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: June 13, 2023

FROM: Leslie Ireland

RE: Water Right, File Nos. 101; 135; 183; 5,099;
10,716; 17,722 & 18,167

Keith G. Rome, on behalf of Rome Farms, owner of the above referenced water rights, except File Nos. 101 & 183 are owned by Tuls Hemann Enterprises Land LLC , acknowledged by Brian D. Hemann, have filed applications for approval to change the place of use for Water Right, File No. 101, authorized stockwater and irrigation use; and a place of use and use made of water change to File No. 183, to authorize stockwater use while adding irrigation use for dual use. Applications for approval to change the place of use, for File Nos. 101; 135; 5,099; 10,716; 17,722 & 18,197 authorized irrigation use were filed to add back a small full circle irrigation pivot. The place of use change for File Nos. 101 & 183 will also update the stockwater place of use (dairy). All of the referenced files are in the Cimarron River Basin, Stevens County.

The referenced water rights are considered in compliance with both K.S.A. 82a-718, and K.S.A. 82a-732. The only well within one-half mile of the proposed well changing its use made of water is owned by Rome. No notices per K.S.A. 82a-1906 appear to be required.

File No. 183 proposed dual use is to add the irrigated use that was eliminated with the 2019 change to authorize only stockwater use at the dairy located in the Southeast Quarter of Section 8, Township 31 South, Range 37 West, Stevens County. This file authorizes 139.37 million gallons per year (mgy) (427.71 acre-feet (AF)) at 500 gallons per minute from one(1) well in the Southwest corner of Section 8, Township, 31, Range 37 West, Steven County. Information indicates the wells authorized location of 75 feet North and 4,995 feet West has an actual location of the well is 74 feet North and 4,967 feet West continue to place it in the Southwest Quarter of the Southwest Quarter of the Southwest Quarter (SW¼ SW¼ SW¼) and shown to be located on land owned by the dairy, Tuls Hemann Enterprises Land LLC, who is also shown as the owner of the full Southeast Corner of Section 8 per June 2023 ORKA records.

This requested change in use made of water proposes 139.37 mgy (427.7 acre-feet) to be authorized for stockwater and irrigation uses as dual use by K.A.R. 5-5-9, *Approval of application for a change in the use made of water from irrigation to any other type of beneficial use of water*, but instead adding back irrigation acres per 2019 changes that were to authorize the stockwater use. The stockwater use would be changed per K.A.R. 5-5-8, *Standards for approval of an application for change in the place of use and a change in the use made of water*, which considers the stockwater use to be totally consumptive by the nature of the use with irrigation being less consumptive. It appears the full quantity of 139.37 mgy (427.71AF) can be authorized for other uses without any increase in consumptive use, meeting K.A.R. 5-5-3, *Change in consumptive use*.

The stockwater use under File No. 183, with File No. 101 (13.03 mgy) authorize a total of 152.4 mgy (467.698 AF) for water operations at the dairy. The 2019 submitted Stockwater Use Supplemental documentation stated 6,000 dairy cows and 300 heifers would be at the facility. It appears the quantity remains reasonable.

The irrigation place of use of overlapping File Nos. 101; 135; 5,099; 10,716; 17,722 and 18,167 will be returned from the 1,960 acres to 2,036 acres by adding back 76 acres in the Southeast Quarter of Section 8, Township 31 South, Range 37 West, Stevens County. The 2,036 acres under circle pivots is located in Sections 5, 7, 8, 9, 16, 17 and 18, with all of it owned by Rome Farms except the Southeast Quarter (SE ¼) of Section 8 is owned by Tuls. Both owners signed the applications for change and appear to be in partnership for the proposed changes.

The irrigation change in place of use to all files is to all of the referenced files. It appears the requested change complies with K.A.R. 5-5-11 *Applications for change in place of use for irrigation purposes*, as the proposal will return the acres to the files that have an area field office determination to have developed 2,047 base acres. The proposed 2,036 acres complies with part (b). The referenced files currently have a total combined quantity of 3,631 acre-feet authorized for irrigation use which appears to provide 1.85 AF per acre. The proposed 2,036 acres without any of the proposed quantity under File No. 183, requested irrigation use has an irrigation ratio of 1.78 acre-foot per acre. This irrigation ratio exceeds Stevens County's 1.40 acre-feet per acre at the 80% chance as per K.A.R. 5-5-12, *Net irrigation requirements*, and complies with K.A.R. 5-5-19, *Maximum reasonable annual quantity of water for irrigation use*. A water conservation plan meeting the KWO guidelines will not be required for the changes.

The stockwater change in place of use under File Nos. 101 & 183 is listed to authorize the Southeast Quarter (SE $\frac{1}{4}$) of Section 8 for the dairy. The dairy would more accurately be described as being in a portion of the Southeast Quarter (SE $\frac{1}{4}$) of Section 8, in Township 31 South, Range 37 West, Stevens County, due to the irrigated place of use.

The points of diversion under File Nos. 135; 183, 5,099; 10,716; 17,722 and 18,167 will be updated to the GPS locations listed in the WRIS database. All appear to be about 30 feet or less from the authorized location and comply with K.A.R. 5-5-6c, *Authorized point of diversion or place of use*.

In a letter dated May 26, 2023, Jason Norquest, on behalf of the Southwest Kansas Groundwater Management District No. 3, GMD3 reviewed the applications and recommend approval.

Mike Meyer, Water Commissioner of the Garden City Field Office, indicated that he recommends approval of the applications and temporary reduction per his June 13, 2023, email.

Water flowmeters will be required per use under File No. 183, and on all other wells. The approvals will require that if the rights chemigate, check valves will be required. Water level measurement tubes are not applicable.

Based on the above discussion, that the changes are reasonable, there will be no significant increase in the consumptive use and impairment of existing water rights is unlikely, it is recommended that the referenced applications for change in place of use be approved.



Leslie Ireland
Environmental Scientist

Ireland, Leslie [KDA]

From: Meyer, Mike [KDA]
Sent: Tuesday, June 13, 2023 8:12 AM
To: Ireland, Leslie [KDA]
Subject: RE: Review and Recommendation Change in UMW File No. 183 & PU File Nos. 101; 135; 183; 5,099; 10,716; 17,722 & 18,167 with GPS Updates.

Approve
Thank you

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Tuesday, June 13, 2023 7:49 AM
To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Subject: RE: Review and Recommendation Change in UMW File No. 183 & PU File Nos. 101; 135; 183; 5,099; 10,716; 17,722 & 18,167 with GPS Updates.

Yes and No.....Guess I didn't wait for the memo to download and attach,, oops..

From: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Sent: Tuesday, June 13, 2023 7:25 AM
To: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Subject: RE: Review and Recommendation Change in UMW File No. 183 & PU File Nos. 101; 135; 183; 5,099; 10,716; 17,722 & 18,167 with GPS Updates.

Did you want to send the memo?

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Monday, June 12, 2023 3:09 PM
To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Subject: Review and Recommendation Change in UMW File No. 183 & PU File Nos. 101; 135; 183; 5,099; 10,716; 17,722 & 18,167 with GPS Updates.

Mike,

Please let me know if you would recommend these changes. I think maybe the dairy portion is going to Rome.. or is it the other way irr to Tuls.. anyway checked ownership ORKA records and still both owners at this time.

On the stockwater standard PU description ,, to state STK PU as "a dairy located in a portion of the SE/4"... would have rather called it the E/2 SE/4... but not what map details...so if portion is OK would sticks to std wording due to portion of IRR PU in SE/4 to meet STK definition.

Strange about the well under 183.. extension was denied but was existing well per RAK memo...but is one of the PD locations getting updated. Only drag was extension request/denial had \$ submitted that should have been instantly returned.. but need to get that fixed as still no charge for requesting to extend chg completions... do wonder if it was more a meter installed thing.. which will be required for both uses now under File No. 183.

Leslie Ireland
Environmental Scientist

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, PLACE OF USE
AND
ORDER IN THE MATTER OF THE AUTHORIZED QUANTITY OF WATER
AND
BETTER DESCRIBE THE AUTHORIZED POINT OF DIVERSION
WATER RIGHT, FILE NO. 183**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Brian D. Hemann on behalf of Tuls Hemann Enterprises Land LLC, PO Box 1138, Liberal, Kansas 67905, as owner of the referenced water right, along with Keith Rome on behalf of Rome Farms, 1096 Road BB, Hugoton, Kansas 67951, received in this office on November 14, 2022, 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 permit to appropriate water for beneficial use, as modified and amended by the Findings and Order of the Chief Engineer dated February 19, 1982, in the matter of the point of diversion, by the Order of the Chief Engineer dated February 2, 1987, approving the application to change the place of use, by the Order of the Chief Engineer dated July 19, 1991, approving the application to change the point of diversion, by the Findings and Order of the Chief Engineer dated January 17, 1995, in the matter of the place of use, by the Order of the Chief Engineer dated April 30, 1997, approving the application to change the place of use, by the Order of the Chief Engineer dated February 6, 2001, approving the application to change the point of diversion, by the Findings and Order of the Chief Engineer dated November 5, 2012, in the matter of the place of use, by the Order of the Chief Engineer dated February 14, 2013, approving the application to change the place of use, and by the Order of the Chief Engineer dated April 22, 2019, approving the application to change the point of diversion, place of use and use made of water, 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 limits the authorized quantity of water to 427.7 acre-feet (139.370 million gallons) per calendar year for both stockwatering and irrigation uses combined. That the limitation on the quantity of water shall exist until such a time that the quantity of water for dual irrigation and stockwatering uses authorized by this approval is no longer required.

The authorized location of the irrigation 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	
5	31S	37W													31.00	31.00	31.00	31.00	124.00
7	31S	37W	12.00	35.00	40.00	35.00	35.00	Lot 1 12.00	Lot 2 35.00	40.00	40.00	Lot 3 35.00	Lot 4 12.00	35.00	35.00	40.00	35.00	12.00	488.00
8	31S	37W	31.00	31.00	31.00	31.00					38.00	31.00	31.00	38.00		31.00	31.00		324.00
9	31S	37W									35.00	12.00	35.00	40.00	12.00	35.00	40.00	35.00	244.00
16	31S	37W	35.00	40.00	35.00	12.00	40.00	35.00	12.00	35.00									244.00
17	31S	37W	12.00	35.00	40.00	35.00	35.00	12.00	35.00	40.00	40.00	35.00	12.00	35.00	35.00	40.00	35.00	12.00	488.00
18	31S	37W	31.00	31.00	31.00	31.00													124.00

a total of 2,036 acres in Township 31 South, Range 37 West, Stevens County, Kansas,

and the authorized location of the stockwatering place of use shall be:

a livestock facility (dairy) in a portion of the Southeast Quarter (SE¼) of Section 8, Township 31 South, Range 37 West, Stevens County, Kansas,

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

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

one (1) well located in the Southwest Quarter of the Southwest Quarter of the Southwest Quarter (SW¼ SW¼ SW¼) of Section 8, more particularly described as being near a point 74 feet North and 4,967 feet West of the Southeast corner of said section, in Township 31 South, Range 37 West, Stevens County, Kansas.

The water right owner shall properly install a separate 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 meters has been completed. The water right owner shall maintain the water meters 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 for stockwatering, and irrigation use may be determined. The water right owner shall also report the reading of said water meters 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.

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.

In all other respects, the Certificate of Appropriation issued pursuant to Approval of Application, File No. 183, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated October 13, 1948, as modified and amended by the aforementioned orders.

Ordered this 20 day of June, 2023, in Manhattan, Riley County, Kansas.

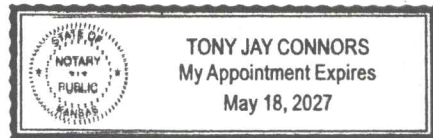
Lane P. Letourneau

Lane P. Letourneau, P.G.
Program Manager
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
County of Riley) SS

The foregoing instrument was acknowledged before me this 20 day of June, 2023, by Lane P. Letourneau, P.G., Program Manager, Division of Water Resources, Kansas Department of Agriculture.

Tony Jay Connors
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

June 26, 2023

TULS HEMANN ENTERPRISES LAND LLC
PO BOX 1138
LIBERAL, KS 67905

RE: Water Right, File Nos. 101 & 183

Dear Sirs:

Enclosed are the orders executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the applications for change that will authorize the stockwatering use. The additional approvals for the irrigated use under File Nos. 135; 5,099; 10,716; 17,722 & 18,167 will be sent to Rome Farms.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in the approvals for change. A condition of the approval under File No. 183, is the requirement that the well authorized for dual use, shall have **acceptable water flow meters installed so both irrigation and stockwatering uses can be metered independent of each other.** Meters should be installed prior to the diversion of water. Please return the required *Notice of Completion* form for the installation of the meters under File No. 183 as soon as this action is completed. The form and other information may be found at our web site <http://agriculture.ks.gov>. As requested, the water use correspondent for the stockwater use will remain Tuls Hemann Enterprises Land LLC for the referenced files.

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 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. If you contact us 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:LI

Enclosures

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

RIGHT TO A HEARING AND TO ADMINISTRATIVE REVIEW

If you are aggrieved by an 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 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, 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 26 day of June, 2023, I hereby certify that the attached Approval of Application for Change in Place of Use, File No. 101, and the Approval of Application for Change in Use Made of Water, Place of Use and Order in the Matter of the Authorized Quantity of Water and Better Describe the Authorized Point of Diversion under, File No. 183, dated June 20 were mailed postage prepaid, first class, US mail to the following:

TULS HEMANN ENTERPRISES LAND LLC
PO BOX 1138
LIBERAL, KS 67905

With a True and Correct copy to:

ROME FARMS
1096 RD BB
HUGOTON, KS 67951

With a Photocopy to:

Garden City Field Office
Groundwater Management District No. 3


Division of Water Resources