

Kansas Department of Agriculture
Division of Water Resources
CHANGE: PD WORKSHEET Additional well & Reduction in quantity & Name Change

1. File Number: 45252	2. Status Change Date: 8/24/2023	3. Change Num: C2	4. Field Office: 04	5. GMD: 03	
6. Status: <input type="checkbox"/> Approved <input type="checkbox"/> Denied by DWR/GMD <input type="checkbox"/> Dismiss by Request/Failure to Return				7. Filing Date of Change: 12/2/2022	
8a. Applicant(s) New to system <input type="checkbox"/> KELLY W & DIANA UNRUH PO BOX 669 SUBLETTE, KS 67877-0669		Person ID 55617 Add Seq# 1			8c. Landowner(s) New to system <input type="checkbox"/> Person ID _____ Add Seq# _____
8b. Landowner(s) New to system <input type="checkbox"/> JAMES L GOOCH 214 E 2ND ST HUGOTON, KS 67951-2507 NINA GOOCH is deceased		Person ID 6253 Add Seq# 1			8d. WUC New to system <input type="checkbox"/> 8a Person ID 55617 Add Seq# 1
9. Documents and Enclosure(s): <input checked="" type="checkbox"/> DWR Meter(s) Date to Comply: 12/31/2023 <input checked="" type="checkbox"/> Date to Comply: 12/31/2023					
<input type="checkbox"/> Anti-Reverse Meter <input type="checkbox"/> Meter Seal <input checked="" type="checkbox"/> Check Valve <input checked="" 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: 8/21/2023 By: LI Date Entered: _____ By: _____ Date Reviewed: 8/24/2023 By: KAK <div style="border: 1px solid blue; padding: 2px; display: inline-block;">8/28/2023 LMoody</div>					

File No. **45252** 11. County: **SV** Basin: **CIMARRON 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	Rate gpm/cfs	Quantity af/mgy	
MOD	67925	SW SW SE		7	35	35W	2	42	2516			801	333	801	333	NONE
ENT	68225	SW SW NE		7	35	35W	3	2674	2548	Additional Well		759	300	759	300	45229

SPECIAL CONDITIONS 10 YR REVIEW - ADDITIONAL WELL

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) **1333 AF/YR COM/W #45229 REMOVE LTM**
 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	ENT	PUSE	S	T	R	ID		NE¼				NW¼				SW¼				SE¼												
										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: August 23, 2023

FROM: Leslie Ireland

RE: Water Right
File Nos. 45,229 & 45,252

Kelly W. & Diana Unruh along with James L. Gooch filed applications on December 2, 2022, for approval to change the points of diversions authorized for irrigation use. The applications proposed to add an additional under each right per K.A.R. 5-5-16, *Additional wells*. A new well is proposed to be completed under File No. 45,229, while File No. 45,252 proposed to add the currently authorized well under File No. 45,229.

The referenced waters rights are considered not to be abandoned as per K.S.A. 82a-718 and appear to comply with K.S.A. 82a-732. The only wells in the notification area are those under the referenced files or that proposed. It appears no notification per K.S.A. 82a-1906, will be required. The owners updated the applications on August 10, 2023, they appear to comply with K.A.R. 5-5-2a, *Complete change application*.

These files have a complete overlap in place of use with each file authorizing its own well in Section 7, Township 35 South, Range 35 West, Stevens County, in the Cimarron River Basin. The authorized existing wells have been classified as Ogallala Formation (Code 211), with their well logs indicating a depth of approximately 630 to 68 feet to what appears to be the Red Bed formation. The submitted well log for the proposed new well in Section 8, indicated Ogallala formations with sand and clay to the Red Bed formation at 651 feet. It appears the wells are all in the same local source of supply.

File No. 45,229 is authorized a maximum rate of 1,665 gallons per minute (gpm) for the diversion of 700 acre-feet (AF) from one well located in the Southwest Quarter of the Southwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 7, from the GPS determined coordinates of 2,672 feet North and 2,539 feet West of the Southeast corner of the section.

File No. 45,252 is authorized a maximum rate of 1,560 gallons per minute (gpm) for the diversion of 755 AF. The quantity is limited 1,333 AF with File No. 45,229, resulting in only 633 AF additional quantity from one well located in the Southwest Quarter of the Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 7, located approximately 42 feet North and 2,516 feet West of the Southeast corner of the section.

A new well will be completed under File No. 45,229, to its East, for this file to authorize two(2) wells and File No. 45,252, proposes to authorize its currently authorized well and the existing well under File No. 45,229, for the junior file to also authorize two(2) wells. The owner has requested the quantity under File No. 45,252 be reduced to 630 AF to allow for the removal of the limitation and assignment of the quantity and rate as required by K.A.R. 5- 5-16.

On June 8, 2023, the applicant worked with Chris Law, of Groundwater Management District No. 3, (GMD) for the needed rate tests. The existing wells were utilized for the required flow rate testing per Part (a)(3)(A) of K.A.R. 5-5-16. The test results appear to be within the acceptable accuracy with testing exceeding the authorized due to the testing being for proposed additional well rate assignment. Both tests were conducted for approximately 10 minutes at maximum flow. File No. 45,229 yielded 1,785 gpm and File No. 45,252 yielded 1,573 gpm, both at the standard meter rate. As the tested rate exceed the authorized rate, no reduction in rate will be needed. The GMD informed the applicant and owners who acknowledged the tests. The proposed assignment of the tested rates were coordinated with the owners on August 9, 2023.

Proposed For Approval:			Authorized			Proposed	
File No.	Well Location Authorized & Limitations	Well CIN/ ID	Quantity, AF	Quantity, AF, Additional	Rate, gpm	Quantity, AF	Rate, gpm
45229	SW SW NE Sec 7	3	700	700	1665	200	455
45229	SW SW NW Sec 8	**ADD WELL				500	1210
45252	SW SW SE Sec 7 1,333 AF/YR with 45229 Limitation removed by reduction and change	2	755	633	1560	333	801
45252	SW SW NE Sec 7	3 ** ADD WELL				300	759

** denotes additional well

Review of the project per K.A.R. 5-23-3, *Minimum well spacing requirements: high plains aquifer*, finds the proposed existing well in the Northeast Quarter of Section 7, to be authorized by File Nos. 45,229 and 45,252. The quantity will be combined to authorize 500 AF at with the assigned rates of 455 gpm and 759 gpm. The well that will be the additional well under File No. 45,252 located in the Southwest Quarter of the Southwest Quarter of the Northeast Quarter (SW¼SW¼NE¼) of Section 7, approximately 2,674 feet North and 2,548 feet West of the Southeast corner of said section, in Township 35 South, Range 35 West, Stevens County is approximately 2,630 feet from the currently authorized well under File No. 45,252. It appears the authorizing the additional well under File No. 45,252 complies with part (b) of K.A.R. 5-23-3, as the approval will move a portion of the right less than 2,640 feet. There are no other wells within a one-half mile radius, indicating spacing per Part(a)(1) will be met.

Under File No. 45,229, the proposed new well, as the additional well, proposes to be constructed in the Southwest Quarter of the Southwest Quarter of the Northwest Quarter (SW¼SW¼NW¼) of Section 8, approximately 2,768 feet North and 5,128 feet West of the Southeast corner of said section, in Township 35 South, Range 35 West, Stevens County is approximately 2,400 feet East of the well authorized by File No. 45,229. This appears to comply with the distance move maximum of 2,640 feet and there does not appear to be any wells with one-half mile of the proposed well that will be the additional well to File No. 45,229.

The consumptive use calculation as required by K.A.R. 5-5-16(a)(2)(C)(i), utilized the overlapping 875 acres listed as the maximum acres legally irrigated on the certificate under File No. 45,252. The determination of the maximum allowed quantity:

$$875 \text{ acres} \times 1.40 \text{ (80\%NIR Stevens Co)} \div 0.85 = 1,441 \text{ acre-feet}$$

The total combined quantity of 1,333 AF will not be required to be reduced for the proposed additional wells. The owners have requested via the change to File No. 45,229, a 34 AF reduction from 700 to 666 AF to afford removal of the limitation. The referenced files certified 1.52 AF per acre, just slightly higher than the Net Irrigation Requirement at 80%, but less than the established 2.0 AF per acre. It appears the changes comply with K.A.R. 5-5-3, *Consumptive use*.

The WRIS database and the application indicate there are no wells of any kind located within one-half ($\frac{1}{2}$) mile of the authorized or proposed additional point of diversion.

Southwest Kansas Groundwater Management District No. 3 assisted with the rate test and coordinating the applications. Our request for recommendation on the proposed reduction and changes was acknowledged by Jason Norquest, Assistant Manager, per his letter dated August 21, 2023, he indicated the GMD recommended approval. Their review for wells within one mile of the proposed additional wells found no critical wells (as defined by their guidelines). They did identify one domestic well on the South Side of Section 5, approximately 3,400 feet to the Northeast of the new well in Section 8. This domestic well is owned by Mr. Gooch who completed this pasture well in 2013 with a well log depth of approximately 440 feet.

Mike Meyer, Water Commissioner of the Garden City Field Office was notified of the proposed reduction request and changes. He indicated by E-mail on August 23, 2023, that he has no objection to the approval of the proposed changes in point of diversion.

A water flowmeter will be required on each well as per K.A.R. 5-5-16(e) and a check valve is required if any chemical or foreign substance is injected through the diversion works. A water level measurement tube will be required by the approvals. As per K.A.R. 5-5-16(a)(4), a condition will be placed on the approvals that should direct impairment result, the additional wells will have the priority date of the date the applications for change were received in the office of the Chief Engineer, December 2, 2022. The approval will contain the jurisdictional wording as required by K.A.R. 5-5-16(f). The Notice of Completion will have an initial date of December 31, 2023.

The records should reflect that there is no well to be plugged due to the approvals being for an additional well.

Based on the above discussion, that there will be no change in the source of supply, the changes to add the additional wells appears to be reasonable and will not increase the historical consumptive use, that impairment to existing water rights is unlikely, it is recommended applications for change be approved.



Leslie Ireland
Environmental Scientist
Water Appropriation Program

Ireland, Leslie [KDA]

From: Meyer, Mike [KDA]
Sent: Wednesday, August 23, 2023 9:21 AM
To: Ireland, Leslie [KDA]
Subject: 45229 45252 MEMO addl wel extn new pf IRR _4_3 (002)
Attachments: 45229 45252 MEMO addl wel extn new pf IRR _4_3 (002).docx

Edits

I recommend approval, if you can update your chart to make it clear which well will be classified as ADD WELL

Thanks!

Mike

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
AND
ORDER REDUCING THE AUTHORIZED QUANTITY OF WATER
WATER RIGHT
FILE NO. 45,252**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Kelly W. and Diana Unruh, Post Office Box 669, Sublette, Kansas 67877-0669, along with James L. Gooch, 214 East Second Street, Hugoton, Kansas 67951, received in this office on December 2, 2022, 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, 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.

This order effectively reduces the authorized quantity of water to 633 acre-feet of water per calendar year, in accordance with the Application for Approval to Change the Point of Diversion received in this office on December 2, 2022, and removes the additional limitation on the authorized quantity of water, when combined with Water Right, File No. 45,229, as set forth by the Certificate of Appropriation, Water Right, File No. 45,252, issued January 30, 2015.

The application, therefore, is approved subject to the condition that for the sole purpose of administering wells concerning direct impairment, the additional well shall be considered to have the priority of the date the application was filed (December 2, 2022) to add the additional well.

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 the Southwest Quarter of the Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$) Section 7, more particularly described as being near a point 42 feet North and 2,516 feet West of the Southeast corner of said section, at a diversion rate not in excess of 801 gallons per minute (1.78 c.f.s.) and a quantity not to exceed 333 acre-feet per calendar year, and

one (1) well located in the Southwest Quarter of the Southwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$) Section 7, more particularly described as being near a point 2,674 feet North and 2,548 feet West of the Southeast corner of said section, at a diversion rate not in excess of 759 gallons per minute (1.69 c.f.s.) and a quantity not to exceed 300 acre-feet per calendar year, (additional well),

both in Township 35 South, Range 35 West, Stevens County, Kansas,

located substantially as shown on the topographic map accompanying the application to change the point of diversion.

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.

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 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.

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.

The Chief Engineer specifically retains jurisdiction in this matter with authority to review the approval of the additional well at intervals of no fewer than five years, and no more than ten years to determine if the total annual quantity of water actually being withdrawn by all wells authorized by the approval of application for change is exceeding the total annual quantity of water that could have been physically withdrawn if the additional well had not been approved, and based on the review, the Chief Engineer retains authority to make a reasonable reduction in the authorized quantity of water as may be deemed to be in the public interest.

In all other respects, the Certificate of Appropriation issued pursuant to Approval of Application, File No. 45,252, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated January 30, 2015.

Ordered this **24** day of **August**, 2023, in Manhattan, Riley County, Kansas.

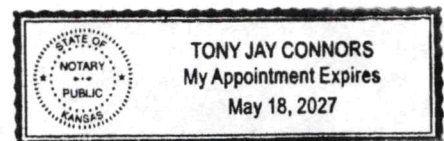
Lane P. Letourneau

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

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this **24** day of **August**, 2023, by Lane P. Letourneau, P.G., Water Appropriation 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

August 30, 2023

KELLY W AND DIANA UNRUH
PO BOX 669
SUBLETTE KS 67877-0669

RE: Water Right
File Nos. 45,229 and 45,252

Dear Mr. and Mrs. Unruh:

Enclosed are the orders executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the applications for change under the referenced files. Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in the approvals for change. Please note a water level measurement tube meeting the regulatory specifications is required. A condition of the approvals is that acceptable water flowmeter must be installed on the diversion works authorized. Please return the required form *Notification of the Completion of the Diversion Works and Report of Flowmeter Installation*, as soon as these actions are completed.

The change approvals add an additional point of diversion which are subject to the condition that for the sole purpose of administering wells concerning direct impairment, the quantity and rate approved as the portion of the additional well shall be considered to have the priority of the date the applications were filed (December 2, 2022) to add the additional wells. In addition, the Chief Engineer specifically retains jurisdiction in this matter with authority to review the approval of the additional well at intervals of no fewer than five years, and no more than ten years to determine if the total annual quantity of water actually being withdrawn by all wells authorized by the approval of application for change is exceeding the total annual quantity of water that could have been physically withdrawn if the additional well had not been approved, and based on the review, the Chief Engineer retains authority to make a reasonable reduction in the authorized quantity of water as may be deemed to be in the public interest.

Since the 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, please contact us at 785-564-6640 or the Garden City Field Office at 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
Division of Water Resources

KAB:kak:li

Enclosures

pc: Garden City Field Office
Southwest Kansas GMD No. 3
James L. Gooch

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.

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 30 day of August, 2023, I hereby certify that the attached Approval of Applications for Change under Water Right, File Nos. 45,229 & 45,252, dated August 24, 2023, were mailed postage prepaid, first class, US mail to the following:

KELLY W & DIANA UNRUH
PO BOX 669
SUBLETTE KS 67877-0669

With a True and Correct Copy to:

JAMES L GOOCH
214 E 2ND ST
HUGOTON KS 67951-2507

With a Photocopy to:

KDA-DWR Garden City Field Office

Southwest Kansas GMD No. 3


Staff