

Kansas Department of Agriculture
 Division of Water Resources
CHANGE: PU WORKSHEET ALLOCATION

1. File Number: 26351-26531-D4	2. Status Change Date: 3/4/2023	3. Change Num: C1	4. Field Office: 04	5. GMD: 03
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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: 1/5/2022
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8a. Applicant(s) New to system <input type="checkbox"/> Person ID _____ Add Seq# _____ R & J SAND LLC RAY SONDEREEGER 1682 S HWY 25 LEOTI, KS 67861-6230	8c. Landowner(s) New to system <input type="checkbox"/> Person ID 52748 Add Seq# 1 R & G LAND LLC RAY SONDEREGGER 1682 S HWY 25 LEOTI, KS 67861-6230
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8b. Landowner(s) New to system <input type="checkbox"/> Person ID 55537 Add Seq# 1 R & J SAND LLC 1682 S HWY 25 LEOTI, KS 67861-6230	8d. WUC New to system <input type="checkbox"/> Person ID 55537 Add Seq# _____ 8b
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9. Documents and Enclosure(s): DWR Meter(s) Date to Comply: **12/31/34** ²⁴ N & P Date to Comply: _____

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: _____

	Date Prepared: 3/1/2024	By: li
	Date Reviewed: 3/4/2024	By: KAK
	Date Entered: 3/5/2024	By:
	KAnderson	

File No. **26351-D4** 11. County: KE Basin: ARKANSAS RIVER Stream: **NA** Formation Code: 211 Special Use: **NA**

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

NO CHANGE

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 **B3** Start Year **2024** 5 YR Amount **2560** Amount Unit **AF** Base Acres **351** Comment **B32428 5YR ALLOC- 2560 AF LIMIT**

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 34582 28 22 38W 2									40.0	32.5	32.5	32.5	32.5	40	32.5	32.5	275	8B	NO	NONE
ENT 71685 28 22 38W	32.5	32.5	32.5	32.5													130	8C	NO	NONE

Base Acres: 351 Year: Minimum Reasonable Quantity:
 Comments: **BASE REVERSION ACRES 2 PIVOTS IN S2 WITH CORNERS PIVOTS & 39 ACRES S2S2NE FOR 351 ACRES**

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: March 1, 2024

FROM: Leslie Ireland

RE: Water Right,
File No. 26,351- D4

Ray Sonderegger on behalf of R & J Sand Company owner of the referenced water right, filed the application requesting a change in place of use for this irrigation right located in the Arkansas River Basin, Kearney County. The application was received on January 5, 2023.

A review of the reported water use finds that the water right is in good standing as per K.S.A. 82a-718 and 82a-732. The application appears to be complete per K.A.R. 5-5-2a, *Complete change application*, the ownership appears to be current with ORKA. A review for notification per K.S.A 82a-1906 found two wells within one-half mile of the authorized wells. A notification was sent to the owner of File No. 26351-D3. No comments were received.

The referenced file authorizes 520 acre-feet (AF) from four wells with a blanket quantity and rate. The irrigation of the authorized 275 acres results in an assigned irrigation ratio of 1.89 AF per acre. The currently authorized place of use is in the South Half (S $\frac{1}{2}$) of Section 23, in Township 22 South, Range 38 West, Kearny County. The appropriation is located in the Southwest Kansas Groundwater Management District No. 3 (GMD 3). It is not located in a special use area. The Ogallala sourced wells had been authorized under a rotation prior to the division of the file in 2021.

The proposal is to authorized the historically irrigated the place of use according to K.A.R. 5-5-11(b)(3); **Necessity to install a more efficient irrigation system; limited quantity**, to provide more irrigated acres for management of their operation. The owner was contacted to establish the allocation would begin in 2024 with its 5 year timeline being 2024-2028, and so on.

- The Southwest Kansas Groundwater Management District No. 3 will assume monitoring responsibility, as per the memorandum of understanding between the Division of Water Resources and the GMD.
- The owner proposes to increase from the authorized 275 to 405 acres in the Northeast Quarter (NE $\frac{1}{4}$) of Section 23, while retaining those South Half (S $\frac{1}{2}$) of Section 23, in Township 22 South, Range 38 West, Kearny County. This will expand the ownership of the water right as the Northeast Quarter is shown in ORKA to be owned by R & G Land LLC, with the same address and R & J Sand LLC. It would appear the applicant is an owner in some capacity.
- The base acres from the 2021 division were approved to be 351 acres. The applicant has proposed a net increase of 54 acres above the "base acres". It appears the change will afford the addition of another full pivot above the currently authorized 275 acres.
- There has been no recent pattern of water use in excess of the maximum annual quantity.
- The owner completed an IDP/operation plan as required and designated the 351 base acres for the reversion acres, if ever needed. The configuration of the reversion acres is a little unusual as it includes as 39 acre portion in the South Half of the Northeast Quarter (S $\frac{1}{2}$ NE $\frac{1}{4}$) of Section 23, but abuts the South Half South Half (S $\frac{1}{2}$). These revised reversion acres comply with K.A.R. 5- 3-5n, *Authorized place of use*.

- Limitations: The authorized quantity of water under the referenced water right as determined by part (i) of the regulation would be a **limited five-year fixed allocation of 2,560 acre-feet (AF) under File No. 26,351-D4.**

$1.24 \text{ AF (50\% NIR for Kearny Co.)} \div 0.85 \text{ (irrigation efficiency)} \times 351 \text{ base acres} = 512.05 \text{ AF}$
 $512.05 \text{ AF} \times 5 \text{ years} = 2,560 \text{ AF over five years}$

- The GMD 3, *Statement of Review*, indicates an allocation maximum of 2,560 AF over the five-year period as the allocated amount agreed to by the applicant and GMD 3 was signed on February 5, 2024.
- While authorized as an allocation the 2,560 AF provides 512 AF per year and 1.26 AF/A for the proposed 405 acres or 15.17 inches per acre. The annual quantity under the allocation is only slightly less than the authorized 520 acre-feet.
- The additional condition will be placed on the right, that use of water in excess of the five-year allocation quantity of 2,560 AF shall result in a two (2) year suspension of all water use under the referenced right and restriction of the authorized place of use to the base acreage of 351 acres.

The reduced quantity under the allocation, should assure that consumptive use will not increase and that the requirement of K.A.R. 5-5-3, **Consumptive use** has been met and the application complies with the requirements of K.A.R. 5- 5-11(b)(3).

The area Water Commissioner, Michael Meyer, reviewed the proposed change and provided a recommendation for approval on March xxx, 2024.

A water flowmeter will be required as per K.A.R. 5-5-11(e) and with a check valve being required if chemigating. A water level measurement tube and WWC-5 will not be conditions of the approval as no new wells have been authorized.

Based on the above discussion, that the change is reasonable and will not increase the historical consumptive use, that impairment of existing water rights is unlikely, that no change in the local source of supply will occur, that the local groundwater management district will monitor the allocation, it is recommended the referenced application be approved.



Leslie Ireland
Environmental Scientist
Water Appropriation Program

Ireland, Leslie [KDA]

From: Meyer, Mike [KDA]
Sent: Friday, March 1, 2024 9:50 AM
To: Ireland, Leslie [KDA]
Subject: RE: Review and Recommendation File No, 26,351 PU Allocation.

I recommend approval. thanks

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Friday, March 1, 2024 9:34 AM
To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Subject: Review and Recommendation File No, 26,351 PU Allocation.

Mike,

Thankful for the help with this application.

Please let me know if you'd recommend.

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 PLACE OF USE
WATER RIGHT
FILE NO. 26,351-D4**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Ray Sonderegger, on behalf of R & J Sand LLC, 1682 South Highway 25, Leoti, Kansas 67861-6230, received in this office on January 5, 2023, for approval of a change in the location of the place of use under the certificate of appropriation issued pursuant to the permit to appropriate water for beneficial use, as modified and amended by the Orders of the Chief Engineer, dated June 24, 2011, and May 12, 2021, approving the applications to change the place of use, and by the Order of the Chief Engineer dated July 30, 2010, which administratively divided Water Right, File No. 26,351, 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 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	
23 - 22S - 38W	32.5	32.5	32.5	32.5					40.0	32.5	32.5	32.5	32.5	40.0	32.5	32.5	405.0

a total of 405.0 acres in Section 23, Township 22 South, Range 38 West, Kearny County, Kansas, located substantially as shown on the map accompanying the application to change the place of use.

By this approval, this water right is subject to the following conditions:

1. That the quantity of water authorized under Water Right, File No. 26,351-D4, shall not exceed 2,560 acre-feet per five (5) year period, with the first period being calendar years 2024, through 2028, ad infinitum.
2. That the quantity of water authorized under Water Right, File No. 26,351-D4, shall not exceed 520 acre-feet per calendar year, provided that 2,560 acre-feet per five (5) year period is not exceeded.
3. That use of water in excess of 2,560 acre-feet per five (5)-year period shall result in a two (2) year suspension of all water use under this water right, effective the next two (2) calendar years, and a subsequent restriction of the authorized place of use to the following described property:

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	
23	22S	38W			19.5	19.5					40.0	40.0	32.0	40.0	40.0	40.0	40.0	40.0	351.0

a total of 351 acres in Section 23, Township 22 South, Range 38 West, Kearny County, Kansas.

- That if the Southwest Kansas Groundwater Management District No. 3 or the Division of Water Resources terminates the Memorandum of Understanding (MOU) pertaining to K.A.R. 5-5-11(b)(3), (4) and (5), by which the District assumes monitoring responsibility, then the place of use authorized by this change approval, which was issued by the Division pursuant to the MOU shall revert to the property described in paragraph No. 3, above, starting the calendar year following the year of termination.

All diversion works shall be equipped with an inline, 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. 26,351, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated September 15, 2000, as modified and amended by the aforementioned orders.


Ordered this 4th day of March, 2024, 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 4 day of March, 2024, by Earl D. Lewis Jr., P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.


 MELINDA JENNINGS
 My Appointment Expires
 April 7, 2025

Melinda Jennings
 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

March 6, 2024

RAY SONDEREGGER
R & J SAND LLC
1682 S HWY 25
LEOTI KS 67861-6230

RE: Water Right
File No. 26,351-D4

Dear Mr. Sonderegger:

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 an acceptable water flowmeter must be installed on the diversion works authorized.

Your attention should be drawn to the fact that the approvals have been issued solely for the purpose of allowing the operation of a more efficient irrigation system on the irrigated land within the authorized place of use, limited to a fixed allocation of water specifically: **2,560 acre-feet** over a five (5) year period that begins in 2024. Non-compliance with the terms of the approvals will result in substantial penalties.

Please be reminded that reports of water usage must be submitted to this office annually. Records indicating the amount of water used should be furnished to the Chief Engineer by March 1 following the end of the previous calendar year so that the continued use of water becomes a matter of record in this office. The owner, or his or her legally designated agent, is held responsible for submitting annual water use reports. Failure to file an accurate water use report is a violation of law which makes you subject to civil penalties. For your convenience the annual water use report may be filed online at www.kswateruserreport.org. The annual water use reports will continue to be sent to R & J Sand LLC at the address listed above, unless we are otherwise notified.

Since this order modifies the Certificate of Appropriation for the above referenced water right, it should be recorded with the Register of Deeds as other instruments affecting real estate.

If you have any questions, please contact our 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 Applications Unit Supervisor
Water Appropriation Program

KAB:kak:li
Enclosures

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

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: Kansas Department of Agriculture, Attn: Legal Division, 1320 Research Park Drive, Manhattan, Kansas 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 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: 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 6 day of March, 2024, I hereby certify that the attached Approval of Application for the Change in Place of Use, Water File No. 26,351-D4, dated March 4, 2024, was mailed postage prepaid, first class, US mail to the following:

R & J SAND LLC
1682 S HWY 25
LEOTI KS 67861-6230

With photocopies sent to:

Garden City Field Office

Groundwater Management District No. 3


Division of Water Resources