

Kansas Department of Agriculture
Division of Water Resources
 APPROVAL OF CHANGE APPLICATION WORKSHEET

1. File No.: 4066	2. Status Change Date: 12/3/2024	4. Field Office: 04 - Garden City GMD: 03 - Southwest Structures File No.: Filing/Priority Date: 22-JUL-24 Application Complete Date:
3. Package File No(s):		
5a. <input checked="" type="checkbox"/> Applicant <input checked="" type="checkbox"/> Owner <input checked="" type="checkbox"/> WUC IRR Person ID 39639 <input checked="" type="checkbox"/> Name Change Add Seq#	5b. <input checked="" type="checkbox"/> Owner <input checked="" type="checkbox"/> WUC IND Person ID 69911 <input type="checkbox"/> Address Change Add Seq#	
ROBIN L & DEBRA A HUBER PO BOX 1359 GARDEN CITY, KS 67846 NOTE: LOUIS & BARBARA HUBER DECEASED	MIES CAPITAL LLC 3850 E MANSFIELD RD GARDEN CITY KS 67846	
5c. <input type="checkbox"/> Owner <input type="checkbox"/> WUC Person ID <input type="checkbox"/> Address Change Add Seq#	5d. <input type="checkbox"/> Owner <input type="checkbox"/> WUC Person ID <input type="checkbox"/> Address Change Add Seq#	
6. Change No.: C1 <input checked="" type="checkbox"/> PD <input type="checkbox"/> PU <input type="checkbox"/> UMW Base Acres: Year: Min Reasonable Q: Previous UMW: IRR-Irrigation MDS Gauge: Active Admin? <input type="checkbox"/> Completion/Start Date: 12/31/2025 Perfection/Expiration Date:		7. Use of Water <input checked="" type="checkbox"/> Groundwater <input type="checkbox"/> Surface Water UMW: IRR-Irrigation IND - Industrial UMW: IND-Industrial SIC: 7542 UMW:
8. Action Trail GY C1- CHANGE APP PLACE OF USE APPROVED - Compliance: 12/31/2025 GZ C1 - CHANGE APP USE OF WATER APPROVED - Compliance: 12/31/2025 P/D DESCRIPTION MODIFIED BY CHANGE APPROVAL		
9. Special Conditions		
11. Sand & Gravel Proj ID: <input type="checkbox"/> Active <input type="checkbox"/> Dredge <input type="checkbox"/> IND Evap <input type="checkbox"/> Jr Evap <input type="checkbox"/> Other Diversion <input type="checkbox"/> Rpt on Sr		
12. Waiver Rule ID: <input type="checkbox"/> New Date Requested: Applies: Rule No.: Justification: Rule Type: Rule SubType:		
Comments OWNERSHIP AND WUCs MODIFIED WITH CHANGE	Processed LI 11/27/2024	Entered 12/6/2024 KAnderson
	Reviewed KAK 12/02/2024	

File No. **4066** 13. County: **FI** Basin: **ARKANSAS RIVER** Stream: **NA**
 Structures File No: Aquifer Code: **113 Alluvium 221 Ogallala** Special Use Area: **064 IGUCA**

14. Points of Diversion, Rates & Quantities										Qty MGY AF		Rate gpm		Storage Qty		Storage Rate	
PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)		Auth	Add	Auth	Add	Auth	Add	Auth/Add	Overlaps
MOD	49232 SW SE NW	22	24	32W	16	2879	3945	IRRIGATION		139.6	139.6 AF	500	500				+
ENT	49232 SW SE NW	22	24	32W	16	2879	3945	INDUSTRIAL		32.585	32.585 MGY	334.4	334.4				+
																	#
																	^
																	**
																	++

15. Limitations Type: Quantity: **AF** Rate: **gpm** combined with file no(s): **NONE NO CHANGE**
 Type: **Other** Quantity: Rate: combined with file no(s):

16. Metering Metering Required Anti-Reverse Required Seal Required Compliance Date: 12/31/2025

17. Place of Use						NE¼				NW¼				SW¼				SE¼				Total	Owner(s)	Chg?	Overlaps		
PDIV	S	T	R	ID		NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE						
MOD	20453 38735	22	24	32W	1									35.0						15.0	Lot 1 19.8		69.8	5a	<input checked="" type="checkbox"/>	+	
																										<input type="checkbox"/>	+
																										<input type="checkbox"/>	#
																										<input type="checkbox"/>	^
ENT	72062	22	24	32W		TRUCK WASH (SW NW) & (NW SW)																	5b	<input checked="" type="checkbox"/>	+		
																										<input type="checkbox"/>	**

18. Point of Diversion and Place of Use Overlaps
 * **NONE** **
 + **NONE** ++
 # ##
 ^ ^^

MEMORANDUM TO FILE

Division of Water Resources, Water Appropriation Program

Date: November 27, 2024

From: Leslie Ireland, Environmental Scientist

Re: Change in use made of water and place of use, Water Right, File No. 4,066

Summary

Robin L. & Debra A. Huber owners 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 July 22, 2024, updates were coordinated with the area field office.

This file 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 does not appear to be needed as the point of diversion is not moving and the quantity and rate of diversion will be reduced.

The applicant has proposed a partial change in use made of water from: irrigation use to irrigation and industrial use to be utilized for a new truck wash in Southeast Garden City, Finney County. The referenced file authorizes 254 acre-feet (AF) at a maximum rate of 2,000 gallons per minute(gpm) from a well that has no overlap. The file lists an additional limitation of 254 AF on the 127 acres. The place of use of is located along the North side of the Arkansas River authorizing 127 irrigated acres in the South half (S $\frac{1}{2}$) and a portion of the Southwest Quarter (SW $\frac{1}{4}$) of Section 22, and a small portion of the Northeast Quarter (NE $\frac{1}{4}$) of Section 27, all in Township 24 South, Range 32 West, Finney County.

Source of Supply

As the well is not moving the local source of supply will remain the same. The source of supply has not been listed in the WRIS database. The location as plotted in the KGS mapping system would indicate the source to be to be the Main Stem Alluvium (Code 113) of the Arkansas River. No well log of the well was available. The 1992 water use report listed the well as 260 feet deep with a 23 foot static water level. Review of nearby logs by Michael Meyer, P.G., Garden City Water Commissioner, indicated the well should also be classified as Ogallala Formation (Code 211). The file is located in the Southwest Kansas Groundwater Management District No. 3 (GMD3) and Arkansas River Intensive Groundwater Use Conservation Area (ARK IGUCA (Code 016)).

Reasonable Rate and Quantity

The owner has requested to convert 100 acre-feet (32.585 mgy) from irrigation use to industrial use for a truck water 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 32.585 million gallons per calendar year (100 acre-feet) is changed to industrial use. A total of 139.6 acre-feet could be retained for irrigation use based on the following:

Step one: $254 \text{ AF} \times 87.4\%$ (consumptive use Finney County) = 221.996 AF (max. quantity that could be changed to another type of beneficial use if the entire right were changed)

Step two: 100.0 AF (quantity for industrial use) \div 221.996 AF (from above) = 0.45045856 thus the percent remaining for irrigation use is $1.0 - 0.45045856 = 0.5495414$

Step three: 0.5495414 (remaining percentage) \times 254 AF (total authorized quantity) = 139.6 AF (can be retained for irrigation use).

These reductions should assure compliance with K.A.R. 5-5-3, *Change in consumptive use*.

The required rate test was completed October 9, 2024, by Division of Water Resources staff and methodology. It yielded a maximum rate of 834.4 gpm. The application was returned by letter dated, October 8, 2024, for the owner to acknowledge the reduction and assignment. On October 29, 2024, the owner assigned 500 gpm to the irrigation use and 334.36 gpm to the industrial use. The assigned values indicate the irrigation use could be diverted in approximately 64 days and the industrial use in 68 days.

The irrigated place of use will be reduced to reflect the reduction in quantity. A portion of the irrigated place of use will now be the truck wash removing 57.2 acres from the West half of the place of use, retaining 69.8 acres for the irrigated place of use. This results in an irrigation ratio of 2.0 AF per acre. This ratio complies with K.A.R. 5-3-23, *Maximum reasonable annual quantity approvable for irrigation use for an application for change in place of use and a request to reduce a water right*, and K.A.R. 5-3-19, *Maximum reasonable annual quantity of water for irrigation use*.

The justification for the industrial use was not completed by the new owner as the ownership will change. As there is a large trucking facility adjoining the West side of the proposed truck wash place of use it appears the quantity will be readily utilized. A meter for this new use will be required.

Spacing and Nearby Water Rights

The WRIS database indicates the location of the well would be more accurately described by the addition of the feet distances of 2,879 feet North and 3,945 feet West of the Southeast corner of Section 22, as determined by the 2016 Compliance Investigation. The WRIS database indicates other wells within one-half ($\frac{1}{2}$) mile of the well. As the point of diversion will not be relocated and the quantity and rate reduced the spacing to nearby wells will not be altered and will comply with K.A.R. 5-5-13, *Relocation of alluvium wells* and K.A.R. 5-23-3, *Minimum well spacing requirements: high plains aquifer*. Notification was not required.

Recommendations

In a letter dated November 25, 2024, 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 November 26, 2024, that he has no objection to the approval of the proposed change.

Completion

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

Ireland, Leslie [KDA]

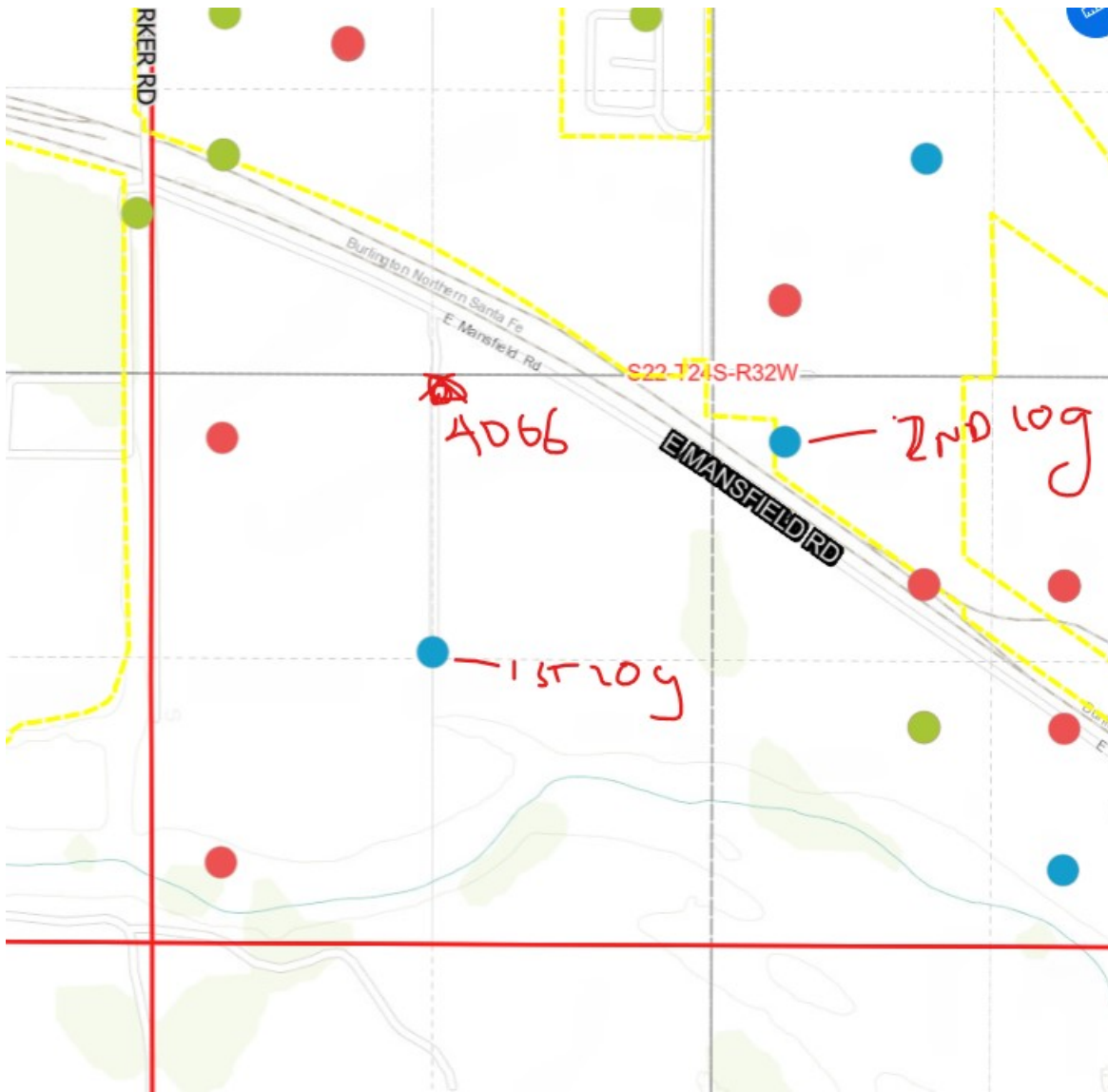
From: Meyer, Mike [KDA]
Sent: Wednesday, November 27, 2024 7:22 AM
To: Ireland, Leslie [KDA]
Subject: RE: Review and Recommendation for Change in UMW PU, File No. 4066 Huber

Yes, all should be 211

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Tuesday, November 26, 2024 2:46 PM
To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Subject: RE: Review and Recommendation for Change in UMW PU, File No. 4066 Huber

Mike,
Thanks for the review ..On the source.....

The file has a 1992 reported depth of 260 feet and SWL of 23 feet. The first attached log is straight to the South and second is to the East per this map.



From: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>

Sent: Tuesday, November 26, 2024 12:54 PM

To: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>

Subject: Re: Review and Recommendation for Change in UMW PU, File No. 4066 Huber

I recommend approval. We need to look more in to the source it should also be 211 but need to confirm.

Mike

Sent from my Verizon, Samsung Galaxy smartphone

Get [Outlook for Android](#)

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>

Sent: Tuesday, November 26, 2024 11:06:57 AM

To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>

Subject: Review and Recommendation for Change in UMW PU, File No. 4066 Huber

Mike,

Please let me know if you'd recommend the change as summarized.

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. 4,066

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Robin L. and Debra A. Huber, Post Office Box 1359, Garden City, Kansas 67846, received in this office on March 14, 2024, 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 Correctional and Order of the Chief Engineer, dated December 18, 1972, to correct the location of the authorized point of diversion, by the Orders of the Chief Engineer, dated August 5, 1977 and April 6, 1979, approving the applications to change the point of diversion, 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 834.4 gallons per minute (1.86 c.f.s.) and the authorized quantity of water not to exceed 239.6 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 July 22, 2024.

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 139.6 acre-feet of groundwater per calendar year at a diversion rate not in excess of 500 gallons per minute (1.11 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	
22 - 24S - 32W									35.0					15.0	Lot 1 19.8		69.8

a total of 69.8 acres in Section 22, Township 24 South, Range 32 West, Finney County, Kansas, located substantially as shown on the 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 32.585 million gallons (100 acre-feet) of groundwater per calendar year at a diversion rate not to exceed 334.4 gallons per minute (0.75 c.f.s.) and the authorized place of use shall be:

the Southwest Quarter of the Northwest Quarter (SW¹/₄ NW¹/₄) and Northwest Quarter of the Southwest Quarter (NW¹/₄ SW¹/₄) of Section 22, in Township 24 South, Range 32 West, Finney County, Kansas,

located substantially as shown on the 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 the Southwest Quarter of the Southeast Quarter of the Northwest Quarter (SW¹/₄ SE¹/₄ NW¹/₄) of Section 22, more particularly described as being near a point located 2,879 feet North and 3,945 feet West of the Southeast corner of said section, in Township 24 South, Range 32 West, Finney County, Kansas.

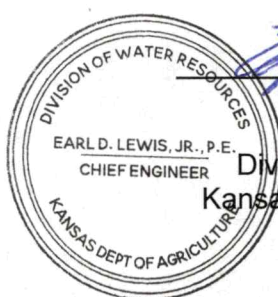
All diversion works into which any type of chemical or other foreign substance will be injected into the water pumped from the diversion works shall be equipped with an in-line, automatic, quick-closing check valve capable of preventing pollution of the source of the water supply. The type of valve installed 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 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 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.

In all other respects, the Certificate of Appropriation issued pursuant to Approval of Application, File No. 4,066, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated January 25, 1962, as modified and amended by the aforementioned orders.

Ordered this 3rd day of December, 2024, in Manhattan, Riley County, Kansas.


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 3rd day of December 2024, by Earl D. Lewis Jr., P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.


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

December 9, 2024

ROBIN L & DEBRA A HUBER
PO BOX 1359
GARDEN CITY KS 67846

RE: Water Right
File No. 4,066

Dear Mr. & Mrs. Huber:

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. All diversions of water require a water flowmeter meeting 5-1-4 through 5-1-12 be installed on the diversion works.

Since this order modifies the original water right document referred to above, it should be recorded with the Register of Deeds as other instruments affecting real estate.

As requested in the application, the water use correspondents will be updated and the report for the industrial use will be sent to Mies Capital LLC. Please be reminded an annual water use report must be filed with the Chief Engineer by March 1, following the end of each calendar year. If a complete annual water use report is not received by the deadline, then a fine may be assessed and all water use under such permit or right may be suspended. Reports submitted in paper form will be assessed a \$20 per file number paper filing fee. In order to avoid this filing fee, you may submit your report online at kswaterusereport.org.

If you have any questions, regarding the enclosed approval document please contact us at 785-564-6640. Should you have questions regarding the meter requirement or additional requirements please contact our staff at 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
Water Appropriation Program

KAB:kak:li
Enclosures

pc: Mies Capital LLC
Garden City Field Office
Southwest Kansas GMD 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 ^{9th} day of ^{December}, 2024, I hereby certify that the foregoing Approval of Application for Change under Water Right, File No. 4,066, dated ^{December 3rd}, 2024, was mailed postage prepaid, US First Class Mail to the following:

ROBIN L & DEBRA A HUBER
PO BOX 1359
GARDEN CITY KS 67846

With a true and correct copy to:

MIES CAPITAL LLC
3850 E MANSFIELD RD
GARDEN CITY KS 67846

With photocopies to:

KDA-DWR Garden City Field Office

Southwest Kansas GMD No. 3


KDA Staff