Kansas Department of Agriculture Division of Water Resources

APPROVAL OF CHANGE APPLICATION WORKSHEET

| 1. File No.: 5966-D2 | 2. Status Change Date: | /22/2024 | 4. Field Office: 04 - Garden City GMD: 03 - Southwest Structures File No.: | | | | | | | |
|--|------------------------------------|--|--|-------------------------------------|-----------------------------|--|--|--|--|--|
| 3. Package File No(s): 5966-D1 5 | | Filing/Priority Date: 5/22/2023 Application Complete Date: | | | | | | | | |
| 5a. ⊠ Applicant □ Owner □ WU □ Address Change | C Person ID Add Seq# | _ | 5b. ⊠ Owner □ WUC Person ID 52 □ Address Change Add Seq# 1 | | | | | | | |
| RANDY MORRIS PO BOX 462 JOHNSON, KS 67855 | | ROBERT & MARY LOU FIGGINS Attn: RANDY MORRIS PO BOX 462 JOHNSON, KS 67855 | | | | | | | | |
| 5c. ⊠ Owner □ WUC □ Address Change | Person ID 31480 Add Seq# | 5d. | rson ID 53098 d Seq# 1 | | | | | | | |
| KELLUM FAMILY TRUST PO BOX 402 CHANDLER, OK 74834 | | RANDY & ANGELA MORRIS LIVING TRUST PO BOX 462 JOHNSON, KS 67855 | | | | | | | | |
| 6. Change No.: C2 PD PU Base Acres: Year: Min F Previous UMW: Not changing MDS Gauge: Active Admin? Completion/Start Date: Perfection | | 7. Use of Water Groundwater Surface Water UMW: IRR- Irrigation UMW: UMW: | | | | | | | | |
| 8. Action Trail GY C2 - CHAN ORDER PD LOC | GE APP PLACE OF USE A | PPROVED - Comp | liance: 12/31/2 | 024 | | | | | | |
| 9. Special Conditions | | | | | | | | | | |
| 10. 5YR Allocation Type: Star Comment: | rt Year: 5YR Quan | tity: Base A | cres: | | | | | | | |
| 11. Sand & Gravel Proj ID: | ☐ Active ☐ Dredge | ☐ IND Evap ☐ |] Jr Evap □ | Other Diversion | ☐ Rpt on Sr | | | | | |
| 12. Waiver Rule ID: New D Applies: Rule No.: Rule Type: Rule SubType: | ate Requested: | Justification: | | | | | | | | |
| Comments PU COMPLETE OVER LAP OF 596 | 6-D1 5966-D2 12114, \ | WITH EACH PD (| JPDATED | Processed LI 4/10/2024 Reviewed KAK | Entered 4/24/2024 KAnderson | | | | | |
| | | | | 4/17/2024 | | | | | | |

| File | No. 59 | 966- | D2 | | 13 | . Cour | nty: ST | ANTO | N ST | Basin | : BEA | R CRE | EK S | Stream: | NA | | | | | | | | | | |
|---|---------------|---------------|----------|--------|---------------------------|---------|----------------|-------|-------------------|----------|-------|-------|------------------|------------------|------|-------|-------|--------------|-----------|----------|--------|-----|----|----------|----|
| Structures File No: Aquifer Code: | | | | | | | | | Special Use Area: | | | | | | | | | | | | | | | | |
| 14. Points of Diversion, Rates & Quantities | | | | | | | | | | | | | Oty | | | Rate | | Sto | orage Qty | Storag | e Rate | | | | |
| | PDIV | (| Qualifie | er | S | Т | | R | ID | 'N | 'W | Con | Comment (AKA Lir | | ne) | • | | | | | Au | | J | Auth/Add | |
| MOD | 5214 | 4 I | NE N | w nw | 2 | 2 2 | 8 | 42W | 1 | 5228 | 4211 | | | | | NO | C | HG | | | | | | | + |
| | | | | | | | | | | | | | | | | | | | | | | | | | ++ |
| 15. | Limitati | ons | Тур | | uantity: er Qua | antity: | | Rate: | ate: | gpm | | | | no(s): no(s): | | | | | | | | | | | |
| 16. Metering Metering Required Anti-Reverse Required Seal Required Compliance Date: 12/31/2024 | | | | | | | | | | | | | | | | | | | | | | | | | |
| 17. | | e of Use | | | | NW1/4 | | | | SW1/4 | | | SE¼ | | | | Total | Owner(s) Cho | | Overlaps | | | | | |
| | PDIV | PDIV S T R ID | | ID | NE NW SW | | SE | NE | NW | IW SW SE | | NE | NW | SW SE | | NE | NW | SW SE | | | | | | | |
| MOD | 23953 | 21 | 28 | 42W | 1 | 40.0 | 40.0 | 40.0 | 40.0 | | | | | | | | | 40.0 | 40.0 | 40.0 | 40.0 | 320 | 5b | | * |
| MOD | 13328 | 22 | 28 | 42W | 1 | | | | | | | 20.0 | | 40.0 | 40.0 | 40.0 | 40.0 | | | | | 180 | 5b | | * |
| MOD | 29124 | 27 | 28 | 42W | 1 | | | | | 40.0 | 40.0 | 40.0 | 40.0 | | | | | | | | | 160 | 5b | | * |
| ENT | 55660 | 21 | 28 | 42W | 2 | | | | | 30.0 | 30.0 | 30.0 | 30.0 | 30.0 | 30.0 | 30.0 | 30.0 | | | | | 240 | 5c | | * |
| | | | | | | | | | • | | | | | | | | | | | | | | | | ۸ |
| | Point of NONE | f Dive | ersion | and Pl | ace of | Use O | verlap | s | | | | | | * ** *** | 5966 | -D1 1 | 12114 | ļ | | | | | | | |

KANSAS DEPARTMENT OF AGRICULTURE Division of Water Resources

<u>MEMORANDUM</u>

TO: Files **DATE:** April 16, 2024

FROM: Leslie Ireland **RE:** Water Right,

File Nos. 5966-D1; 5966-D2 & 12,114

Randy Morris the water use correspondence for the referenced files has submitted applications by Mary Lou Figgins and signing with POA for her spouse Robert Figgins as owners of File Nos. 5,966-D1 & 12,114, whose application under File No. 12,114 was received on May 22, 2023, and Mae L. Kellum on behalf of the Kellum Family Trust owner of File No. 5,966-D1 whose application was received on May 25, 2023, all proposing to change the irrigated place of use located in Bear Creek Basin, Stanton County. The changes will be processed by K.A.R. 5-5-11(b) *Applications for change in places of use for irrigation purposes.*

The referenced water rights are considered in compliance with both K.S.A. 82a-718 and K.S.A. 82a-732. As required by K.S.A. 82a-1906, with the changes proposing new acres to be added and overlapped, the identified nearby well owners were informed by letter dated April 2, 2024. No comments were received.

<u>File No. 5966-D1</u> authorizes the irrigation of 240 acres with 480 acre-feet (AF) at a maximum rate of 900 gallons per minute. This file was assigned 240 "base acres" when divided. The requested change will not alter the 240 acres authorized as two 120 acre pivots in the West Half ($W\frac{1}{2}$) of Section 21, Township 28, Range 42 West, Stanton County. These pivots will overlap with the acres proposed to be authorized by File Nos. 5,966-D2 & 12,114.

The point of diversion will be updated to add the GPS feet distances listed on the application. The authorized location of the Southwest Quarter of the Northwest Quarter of the Northeast Quarter (SW¼ NW¼ NE¼) without any feet distances will now list 4,167 feet North and 2,577 feet West of the Southeast corner of Section 21. This update appears to comply with K.A.R. 5-5-6c, *Authorized point of diversion or place of use*.

<u>File No. 5,966-D2 & 12,114</u> authorizes the irrigation of 660 acres with the junior file limited 1,320 acre-feet with File No. 5,966-D1 from separate wells. These files developed 660 "base acres".

The point of diversion under File No. 5,966-D2 will be updated to add the GPS feet distances listed on the application. The authorized location of the Northeast Quarter of the Northwest Quarter of the Northwest Quarter (NE½ NW½ NW½) will now list 5,228 feet North and 4,211 feet West of the Southeast corner of Section 22. The same is needed for File No. 12,114. The authorized location of the Northeast Quarter of the Southwest Quarter of the Northwest Quarter (NE½ SW¼ NW⅓) will now list 3,554 feet North and 4,228 feet West of the Southeast corner of Section 22. These updates appear to comply with K.A.R. 5-5-6c, *Authorized point of diversion or place of use*.

The proposed change in place of use to the referenced files would be afforded a total of 900 "base acres". The applications propose to modify the acres on the East Half (E½) of Section 21 (320 acres) by adding the corners near the center and then removal of acres in the Northwest Quarter (NW¼) of Section 22 (20 acres) authorized and adding acres in the corners of the Southwest Quarter (SW¼) of Section 22 (160 acres). The Northwest Quarter (NW¼) of Section 27 (160 acres) will remain as authorized in Township 28 South, Range 42 West. The place of use in the West Half (W½) of Section 21 (240 acres), under File No. 5,966-D1 will be added. The proposed place of use is a total 900 acres under the referenced files. The place of use is contiguous acres.

The change applications comply with Part (b)(1) of K.A.R. 5-5-11(b) *Applications for change in places of use for irrigation purposes,* as there will be no increase in authorized acres above the base acres. The changes should not increase the consumptive use and appear to comply with K.A.R. 5-5-3, *Change in consumptive use*.

The refered file authorize a combined total of 1,800 AF will provide 2 AF per acre which complies with K.A.R. 5- 3-19, *Maximum reasonable annual quantity of water for irrigation use*.

In a letter dated April 16, 2024, Jason Norquest, on behalf of the Southwest Kansas Groundwater Management District No. 3, reviewed the applications and recommend approval.

Michael Meyer, Water Commissioner of the Garden City Field Office, recommended approval of the changes per his email dated April 16, 2024.

Water flowmeters will be required per the groundwater management regulation, but it does appear the changes meet K.A.R. 5-5-11(e). If the rights will chemigate they will be required to install and maintain check valves. Water level measurement tubes are not applicable to these changes, as no new wells have been authorized.

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

Rulie Ireland

Ireland, Leslie [KDA]

From: Meyer, Mike [KDA]

Sent: Tuesday, April 16, 2024 4:03 PM

To: Ireland, Leslie [KDA]

Subject: RE: File Nos. 5966-D1; 5966- D2 & 12114 Review & Recommandation Change PU

Morris

Approve thanks

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

Sent: Tuesday, April 16, 2024 3:59 PM

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

Subject: File Nos. 5966-D1; 5966-D2 & 12114 Review & Recommendation Change PU Morris

Mike,

Attached is the GMD recommendation and the summary memo.

Please let me know if you'd recommend approval.

As always comments and concerns are welcome.

Leslie Ireland Environmental Scientist Change Application Unit Division of Water Resources





KANSAS DEPARTMENT OF AGRICULTURE Mike Beam, Secretary of Agriculture

DIVISION OF WATER RESOURCESEarl D. Lewis Jr., Chief Engineer

APPROVAL OF APPLICATION FOR CHANGE IN PLACE OF USE AND ORDER BETTER DESCRIBING THE AUTHORIZED POINT OF DIVERSION WATER RIGHT FILE NO. 5,966-D2

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Mary Lou Figgins, as owner and on behalf of Robert Figgins, Post Office Box 462, Johnson, Kansas 67855, along with Mae L. Kellum, on behalf of the Kellum Family Trust, Post Office Box 402, Chandler, Oklahoma 74834, received in this office on May 25, 2023, for approval of a change in the location of the place of use under the certificate of appropriation issued pursuant to the application for permit to appropriate water for beneficial use, as modified and amended by the Order of the Chief Engineer, dated September 12, 2003, approving the application to change the place of use, and the Findings and Order of the Chief Engineer, dated April 9, 2015, determining the interest of Water Right, File No. 5,966, 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.

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:

| | | NE | Ξ1/4 | | | NV | V1/4 | | | SV | V1/4 | | | SE | TOTAL | | |
|-----------------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|
| Sec. Twp. Range | NE1/4 | NW1/4 | SW1/4 | SE1/4 | ACRES |
| 21 - 28S - 42W | 40 | 40 | 40 | 40 | 30 | 30 | 30 | 30 | 30 | 30 | 30 | 30 | 40 | 40 | 40 | 40 | 560 |
| 22 - 28S - 42W | | | | | | | 20 | | 40 | 40 | 40 | 40 | | | | | 180 |
| 27- 28S - 42W | | | | | 40 | 40 | 40 | 40 | | | | | | | | | 160 |

a total of 900 acres in Sections 21, 22 and 27, Township 28 South, Range 42 West, Stanton County, Kansas,

located substantially as shown on the map accompanying the application to change the place of use, and the location of the authorized point of diversion shall be better described as:

one (1) well located in the Northeast Quarter of the Northwest Quarter of the Northwest Quarter (NE¼ NW¼ NW¼) of Section 22, more particularly described as being near a point 5,228 feet North and 4,211 feet West of the Southeast corner of said section, in Township 28 South, Range 42 West, Stanton 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 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. 5,966-D2, for permit to appropriate for beneficial use, is as stated and set forth in the Certificate of Appropriation dated March 18, 1971, as modified and amended by the aforementioned orders.

Ordered this 22 day of April , 2024, in Manhattan, Riley County, Kansas.

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 27 day of April , 2024, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.

Notary Public

NOTARY

KATIE N. ANDERSON My Appointment Expires March 12, 2027 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

April 25, 2024

RANDY MORRIS PO BOX 462 JOHNSON KS 67855

RE: Water Right

File Nos. 5,966-D1; 5,966-D2 & 12,114

Dear Mr. Morris:

Enclosed are orders executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture approval of the applications for change under the referenced water right file numbers.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in the approvals for change. A condition of the approvals 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 as soon as these actions are completed.

Please be reminded that Water Right, File No. 12,114, remains limited to an annual quantity of 1,320 acre-feet per year when combined with Water Right, File No. 5,966-D2.

Since these orders modify the original certificates of appropriation for the above referenced file numbers, 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 us at 785-564-6640. 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: 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 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 25 day of April , 2024, I hereby certify that the attached Approval of Applications for Change under Water Right, File Nos 5,966-D1, 5,966-D2 and 12,114, dated April 22 , 2024, were mailed postage prepaid, first class, US mail to the following:

RANDY MORRIS PO BOX 462 JOHNSON KS 67855

With photocopies to:

KDA-DWR Garden City Field Office

Southwest Kansas GMD No. 3

Division of Water Resources