# Kansas Department of Agriculture Division of Water Resources CHANGE: PD WORKSHEET & ORDER IN THE MATTER OF THE QUANTITY AND RATE OF DIVERSION & OWNERSHIP

1. File Number: <b>12922</b>	2. Status Change Date: 3/3/2021	3. Change Num: <b>C1</b>	4. Field Office: 02	5. GMD: <b>05</b>
6. Status: 🛛 Approved 🗌 Den	ied by DWR/GMD	Dismiss by Reques	t/Failure to Return	7. Filing Date of Change: <b>1/25/2021</b>
8a. Applicant(s) New to system □	Person ID 23178 Add Seq#	8c. Landown New to sy		Person ID Add Seq#
DARRELL N & NATALIE TRUSTS Attn: DARRELL-NATALI 1983 260TH AVE LEWIS, KS 67552-5133				
8b. Landowner(s) New to system □	Person ID Add Seq#	8d. WUC New to sy <b>2A</b>	rstem 🗌	Person ID 23178 Add Seq#
9. Documents and Enclosure(s): 🛛 DV	WR Meter(s) Date to Comp	ly: 12/31/21	N & P Date 1	to Comply:12/31/21
Anti-Reverse Meter	Seal Check Valve	🗌 N & P Form	□ Water Tube □	Driller Copy 🗌 H & E Letter
Conservation Plan Date Requir	ed: Da	ite Approved:	Date	to Comply:
10. Use Made of Water From:		To: _		
				/ <b>2021</b> By: <b>li</b> 9/2021 By: Moody

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#### KANSAS DEPARTMENT OF AGRICULTURE Division of Water Resources

### <u>MEMORANDUM</u>

TO: Files

**DATE:** March 1, 2021

**FROM:** Leslie Ireland

**RE:** Water Right, File No. 12,922

Darrel N. Wood and Natalie D. Wood, as the new owners of File No. 12,922, have filed an application for approval to change the point of diversion and place of use authorized for irrigation use under the referenced file located in the Rattlesnake Creek Basin.

The referenced file appears to be in good standing and the application complies with K.A.R. 5-5-1, *Filing an application for change*.

The proposed change is to complete a new well and establish a new place of use as allowed by K.A.R. 5-25-18, *Changes of well locations with the Rattlesnake creek basin.* 

File No. 12,922 was certified for two (2) wells with a total of 225 acre-feet (AF) to be diverted at a maximum rate of 920 gallons per minute(gpm) from one(1) well located near the center of the Southwest Quarter (NC SW<sup>1</sup>/<sub>4</sub>) and a maximum rate of 830 gpm from one(1) well located in the of the Southeast Quarter of the Southwest Quarter of the Southwest Quarter (SE<sup>1</sup>/<sub>4</sub> SW<sup>1</sup>/<sub>4</sub>), for the irrigation of 158 acres located in the Southwest Quarter of Section 32, Township 23, Range 13 West, Stafford County. The certificate further limited the rate to not exceed 1,200 gpm when the wells operate simultaneously. This right developed 158 base acres. The wells located in Section 32 will be plugged or converted to domestic use.

The change in point of diversion proposes to move approximately 19 miles to the Southwest from the currently authorized points of diversion to complete a new well located near the center of the Southeast Quarter (NC SE<sup>1</sup>/<sub>4</sub>) approximately 1,320' North and 1,320 feet West of the Southeast corner of Section 21, Township 25, Range 16West, Edwards County. As the right will be reduced to one (1) point of diversion the limited rate of 1,200 gallons per minute will be assigned to the sole point of diversion.

K.A.R. 5-25-18, has eight conditions that must be met to be considered for approval and points assigned based on locations and aquifer characteristics. The proposed change requires there to not have been any other wells relocated by this regulation within one (1) mile of the proposed point of diversion. There have been no appropriations moved into this area per the regulation. The right is certified and located within the Rattlesnake creek basin with the currently authorized points of diversion, located in 32-23-13W, to be in the area defined by Figure 2 of the July 11, 2000, approved plan as the Corridor. The proposed point of diversion, located in 21-25-16W, is located in the area defined as the Priority Area 4, which meets the requirement of being outside the Corridor and the Number Two Priority Decline Area. The saturated thickness of the proposed area would appear to be greater. A 2012 well log of one of the currently authorized wells completed to 65 feet deep had a static water level of 26 feet yielding approximately 39 feet of saturated thickness. The log submitted with the proposed point of diversion was 130 feet to shale with a static water level of 21 feet yielding approximately 109 feet of saturated thickness. The proposed change meets all of the hydrologic requirements and conditions of part (a).

K.A.R. 5-25-18, in part (c) requires that the quantity of water that may be approved for the change in point of diversion shall be determined utilizing a value based on the saturated thickness, the decline within a two-mile radius of the proposed point of diversion and quantity of water permitted in the area. This point value is correlated to a percentage of water that can be moved to a new location. The two-mile radius had an average saturated thickness of 150 feet, with a historical average decline in the water level of -20.0 feet and a total of 3,120 acre-feet appropriated. This hydrologic data determined by GMD 5 equates to a total of 9 points which allows 90% of the authorized quantity to be transferable. The application indicates the 225 acre-feet authorized under File No. 12,922 will be reduced to 202.5 acre-feet.

Part (b) of K.A.R. 5-25-18, requires specific conditions to be applied to the approval. As the regulation. The approval specifically requires that it will be subject to review by the Chief Engineer in ten (10) years, and that the Chief Engineer will retain jurisdiction to modify the approval as needed to protect the public interest due to the priority – impairment date requirement. The approval document will inform the owner that the static water level will be required to be measured by a representative of the Chief Engineer within five (5) days of completion of the well. The obtained value will be utilized as the benchmark for the regulation's requirement that a decline in excess of ten (10) feet requires File No. 12,922, to have the priority date of filing, January 25, 2021, for reasons of impairment. The order will also contain the wording that the owner will be required to install a monitoring well if a water level measurement cannot be obtained. The approval wording will also state that the change shall be subject to review by the Chief Engineer ten (10) years after approval. The owner is further informed by the approval that the jurisdiction to make changes to the terms, conditions and limitations to the approval as deemed necessary to protect the public interest are retained by the Chief Engineer. The regulation further states that a change may be filed, as all owners have the right to file a change, this will remain as an option like that of all water right owners who have a water right in good standing.

The source of supply has not been determined in any nearby wells at the proposed well location of 21-25-16W. The well log of the proposed well and information in the KGS Bulletin No. 80 for the Pawnee Edwards area contained a well log in the area, specifically, 20-21-16W. The submitted log and information in KGS Bulletin 80 indicated the source of supply for the proposed well is the Undifferentiated Kansas Nebraskan formation (Code 180).

The proposed change was reviewed for the requirement with K.A.R. 5-5-13, *Relocation of Alluvial wells*. The proposed change will increase the distance between the point of diversion and the Rattlesnake Creek, therefor meeting the requirement of K.A.R. 5-5-13.

It appears the spacing of the proposed well, to nearby wells, meets the requirements of K.A.R. 5-25-2; *Well spacing*, as the nearest non-domestic well is 3,748 feet away. Records and the applicant indicate there are no domestic wells in the area. It appears the application complies with KSA 82a-1906, with no notice to nearby well owners necessary.

The place of use change is to install a pivot of 135 acres in the Southeast Quarter of 21-25-16W, which is 23 acres less than the developed base acres. The proposal complies with K.A.R. 5-5-11, *Applications for change in place of use for irrigation purposes,* as there will be no increase above the developed base acres. There were some concerns expressed regarding Wildhorse Creek that flows though the property. Aerial information indicates the proposed place of use has been dry land farmed and the stream straightened. The transmittal letter will remind the owners that the approval does not allow the beds or banks of the stream channel to be modified and provisions may be needed for the operation of the pivot.

The authorized 202.5 acre-feet available for irrigation use, provides 1.50 acre-foot per acre (AF/A). This meets the requirement of 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.* 

The total proposed acreage changes will result in a reduction of the authorized quantity and place of use, which should not increase consumptive use, thus comply with K.A.R 5-5-3, *Change in consumptive use*.

Orrin Ferril, Manager of Big Bend Groundwater Management District No. 5, in a letter dated February 18, 2021, indicated that the District recommended approval of the application. The recommendation included a saturated thickness determination and a map summarizing the hydrologic information per K.A.R. 5-25-18 (c). The District required the installation of a flow meter and check valve as required by K.A.R. 5-25-5.

Jeff Lanterman, Water Commissioner, Stafford Field Office recommended approval of the referenced application in his e-mail dated March 1, 2021. He requested the GMD also be listed as a contact to measure the well depth.

A water flowmeter and check valve will be required on the proposed well. A water level measurement tube will be required. As a WWC-5 log was submitted one will not be required. The transmittal letter will mention the old well needs to be capped or plugged or utilized exclusively for domestic use. Per part (b) of K.A.R. 5-25-18, the transmittal letter will also remind them the proposed well needs to have the static water level measured and recorded by a representative of the Chief Engineer within five (5) days of completion of the well.

Based on the above discussion, that the change is reasonable, impairment to nearby water rights is unlikely, that the change meets all of the requirements of K.A.R. 5-25-18 and will not adversely affect the public interest, it is recommended that the application for change be approved.

Redie Ireland

Leslie Ireland Environmental Scientist Water Appropriation Program

From:	Lanterman, Jeff [KDA]
Sent:	Mon 3/1/2021 12:41 PM
То:	Ireland, Leslie [KDA]
Cc:	Conant, Cameron [KDA]
Subject:	RE: Review & Recommendation for Change in PD & PU File No. 12,922 Woods
Attachments:	12299_MEMO 5-25-18_ PDPU PU_2_5_redline.docx

Leslie. I've been through the memo, fixed a couple typos, see my comments on it.

I think what you plan to do with regard to the Wildhorse Creek works for me. It didn't seem that Janelle was that upset about anything although I got the impression it was a jurisdictional stream. Hopefully Darrell won't be backing up water on his neighbor.

I went and looked at the GMD recommendation with regard to 5-25-18 Saturated thickness, auth q, and water level change. It looks legit so the quantity calculation is probably OK. I don't think I would have called it a 20' water level decline but I think part of his circle gets into the more heavily irrigated and declining area south and west.

I wouldn't mind If you put in the cover letter or permit something about having DWR <u>or GMD</u> measure the well level. It is their reg should be their job.

I recommend approval.

Thanks

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Friday, February 26, 2021 3:43 PM
To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>
Cc: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Subject: Review & Recommendation for Change in PD & PU File No. 12,922 Woods

Jeff,

The summary memo is lengthy,, to address 5-25-18.. this will have the standard conditions also the SWL to be measured by your staff within 5 days of completion of the well. Then if SWL can't be completed at the well the owner will be required to install a monitoring well.

The biggest question is the transmittal letter wording sufficient to address the creek in the place of use. See Memo page 2 Paragraph 5 ?

As always comments and concerns are welcome.

Leslie Ireland Environmental Scientist Change Application Unit Division of Water Resources



Ciay, ngin gray and out	4	1/0
102. Sample log of test hole at the NE cor. sec. 20, T. 25 S., R. 16 W. Surface altitude, 2,074.2 feet.	Thickness, feet	Depth, feet
QuaternaryPleistocene		
Meade formation		
Silt, compact, gray, and fine sand	3	3
Silt, brown, and fine sand	3	6
Silt, gray to white and tan; contains a few nodules of caliche	16	22
Silt, gray and tan; contains very fine to fine sand	4	27
Silt, light gray to buff; contains caliche	4	31
Gravel and sand; fine to coarse	29	60
Silt, gray, tan, and yellow; contains caliche	20	80
Gravel, medium, to sand, fine	33	113
Silt, compact, varicolored	5	118
Gravel, medium, to sand, fine	14	132
Silt, compact, dark tan	12	144
Gravel, fine to coarse. Pebbles consist of caliche and of materials from the Dakota formation	7	151
CretaceousGulfian		
Dakota formation		
Clay, varicolored	9	160





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 PLACE OF USE AND ORDER IN THE MATTER OF THE AUTHORIZED QUANTITY AND RATE WATER RIGHT FILE NO. 12,922

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Darrell N. and Natalie D. Wood on behalf of the Darrel N. Wood Revocable Trust No. 1 and the Natalie D. Wood Revocable Trust No. 1, 1983 260<sup>th</sup> Avenue, Lewis, Kansas 67552-5133, received in the office of the Chief Engineer on January 25, 2021, for approval of a change in the location of the point of diversion and place of use 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 source of water supply and that the application should be and is hereby approved.

This order effectively reduces the authorized quantity to 202.5 acre-feet of water per calendar year to be diverted at a maximum rate of diversion not to exceed 1,200 gallons per minute.

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 point of diversion shall be:

one (1) well located near the center of the Southeast Quarter (SE¼) of Section 21, more particularly described as being near a point 1,320 feet North and 1,320 feet West of the Southeast corner of said section, at a diversion rate not in excess of 1,200 gallons per minute (2.67 c.f.s.) and a quantity not to exceed 202.5 acre-feet of water per calendar year, Township 25 South, Range 16 West, Edwards County, Kansas,

				NE	Ξ1⁄4		NW1⁄4					SV	V1/4		SE1/4				
Sec.	Twp.	Range	NE¼	NW1⁄4	SW1/4	SE1/4	NE1/4	NW1/4	SW1⁄4	SE1/4	NE¼	NW1/4	SW1⁄4	SE1⁄4	NE1⁄4	NW1/4	SW1/4	SE1/4	TOTAL
21	25S	16W							5-4						33.75	33.75	33.75	33.75	135.0

after which the authorized location of the place of use shall be:

a total of 135 acres in Section 21, in Township 25 South, Range 16 West, Edwards County, Kansas,

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

Installation of the works for diversion of water shall be completed on or before December 31, 2021, 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.

State of

County

The water right owner shall properly install an acceptable water meter on each of 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.

All 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 approval of this application to change the point of diversion shall be subject to review by the Chief Engineer ten (10) years after the date of approval.

The static water level at the well authorized herein shall be measured and verified by a representative of the Chief Engineer.

That should the static water level measurement decline in excess of ten (10) feet, Water Right, File No. 12,922, shall be considered to have the priority of the date the application for change was filed (January 25, 2021), for the sole purpose of administering wells concerning direct impairment.

That if a water level measurement cannot be obtained from the well authorized herein, the owner(s) shall at their expense, construct an observation well meeting the requirements and specifications of K.A.R. 5-6-13.

The Chief Engineer specifically retains jurisdiction in this matter with authority to review the approval to make such reasonable changes in the terms, conditions and limitations set forth in this approval as may be deemed necessary for the protection of public interest.

In all other respects, the Certificate of Appropriation issued pursuant to Approval of Application, File No. 12,922, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated March 17, 1993.

Orde	ered this $3'$	day of	March		attan, Riley Coun	ty, Kansas.
Kansas of Riley	);;	SS	EARLD. LEWIS, JR., CHIEF ENGINEER	Earl D. L Chief Division of V	Leus ewis Jr., P.E. f Engineer Vater Resources tment of Agricultu	Ire

The foregoing instrument was acknowledged before me this 3 day of 2021, by Earl D. Lewis Jr., P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.



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

DARRELL N & NATALIE D WOOD REV TRU-DARRELL-NATALIE WOOD TTEE 1983 260TH AVE LEWIS KS 67552-5133

March 9, 2021

RE: Water Right, File No. 12,922

Dear Mr. & Mrs. Wood:

Enclosed is the order executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the applications for change under the referenced file. Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in the approvals for change.

The approval authorizes you to proceed with construction of the proposed diversion works (except those dams and stream obstructions regulated by K.S.A. 82a 301 through 305a). The approval does not allow the beds or banks of the stream channel to be modified and provisions may be needed for the operation of the pivot. A condition of the approval is that an acceptable water flow meter, check valve and water level measurement tube must be installed on the diversion works authorized.

Please return the required Notification of Completion of the Diversion Works and/or Installation of the Required Flowmeter, as soon as these actions are completed. The Notice of Completion form may be found online at www.agriculture.ks.gov, Water Appropriation Forms, there is no fee for the required completion notification.

A condition of the approval is that the water level must be measured within five (5) days of the completion of the well by either the Division of Water Resources or the Big Bend Groundwater Management District No. 5. Please contact Jeff Lanterman, Water Commissioner of the Stafford Field Office at 620-234-5311, or Orrin Feril, District Manager, at 620-234-5352 so a measurement can be made a matter of record.

The Chief Engineer specifically retains jurisdiction in this matter with authority to review the approval of the change in ten (10) years. That the approval under this right is subject to the condition that a decline of the static water level in excess of ten (10) feet of that determined, shall result in the water right authorized by the approval to be considered to have the priority of the date the application was filed (January 25, 2021), for the sole purpose of administering wells concerning direct impairment.

That if a water level measurement cannot be obtained from the point of diversion authorized by File No. 12,922 the owner shall, at their expense, construct an observation well meeting the requirements and specifications of K.A.R. 5-6-13.

Water Right, File No. 12,922

If the abandoned wells are not maintained as a domestic well, they must be capped as inactive, or be plugged in accordance with the requirements of Article 30 of the Rules and Regulations as adopted by the Kansas Department of Health and Environment.

Since this order modifies the original document referred to above, it should be recorded with the Register of Deeds in the county of which the point of diversion is located as other instruments affecting real estate.

If you have any questions, please contract our office 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,

KristendBaum

Kristen A. Baum New Application and Change Unit Supervisor Water Appropriation Program

KAB:LI:li Enclosures pc: Stafford Field Office Groundwater Management District No. 5

#### 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:

- 1) request an evidentiary hearing before the Chief Engineer, or
- 2) 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, KS 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 9 day of March , 2021, I hereby certify that the Approval of Application for Change in Point of Diversion and Place of Use and Order in the Matter of the Authorized Quantity and Rate of Diversion, under Water Right, File No. 12,922 dated 3 March , 2021, was mailed postage prepaid, first class, US mail to the following:

DARRELL N & NATALIE D WOOD REV TRUSTS DARRELL-NATALIE WOOD TTEE 1983 260TH AVE LEWIS KS 67552-5133

With photocopies to:

Stafford Field Office Groundwater Management District No. 5

Division of Water Resource