

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files **DATE:** September 15, 2022
FROM: Leslie Ireland **RE:** Water Right
File Nos. 15,651 & 43,731

The City of Offerle, owner of the referenced rights filed applications for approval to change the points of diversion authorized for municipal use. The applications were received in the office of the Chief Engineer on September 17, 2021. The applications are proposing a battery of wells from the currently authorized primary and standby well.

The applications for change appear to comply with K.A.R. 5-5-2a, *Complete change application*, and is in compliance with K.S.A. 82a-732. The compliance with K.S.A. 82a-1906 notification was completed by letters dated July 12, 2022. No replies have been received.

The referenced files are certified with each authorized an overlapping primary and standby well with the junior file providing rate only resulting in a maximum rate of 260 gallons per minute (gpm) for the diversion of 23.121 million gallons (70.96 acre-feet) of groundwater per calendar year. Located in the Arkansas River Basin, Edwards County, and Groundwater Management District No. 5 (GMD 5) the proposed change has been requested to convert the operation of the wells to a battery of two(2) wells. It appears historically File No. 15,651 was authorized both points of diversion that are indicated by WRIS to be approximately 77 feet apart.

The proposed geographic center of the battery of two(2) wells are paper only changes to create a geocenter point located in the NW¹/₄NW¹/₄SE¹/₄ of Section 7, approximately 2,240 feet North and 2,193 feet West of the Southeast corner of said section, in Township 25 South, Range 20 West, Edwards County. This proposed point meets the requirement of K.A.R. 5-25-2a, *Change in point of diversion*, as the move is less than 2,640 feet. As the permitting of the operation of the wells with a standby well appears to have complied with the definition of a "standby well" and the changes will not alter the actual location of the wells (except a minor GPS update of approximately 10 feet for the actual well locations) the referenced files will remain in the same local source of supply.

There are five(5) domestic wells, two(2) monitoring wells and one(1) irrigation well located within one-half mile of the proposed geographic center. The nearest domestic well does appear to be approximately 660 feet away. The proposed change complies with non-domestic well to well spacing of 1,320 feet and spacing to the domestic well appears to be sufficient. The proposal appears to comply with K.A.R. 5-25-2, *Well Spacing*. As the wells are proposed to operate as they have been it would appear the well to well spacing is sufficient to prevent impairment.

The location and the operational rate of 260 gpm meet the definition of a battery K.A.R. 5-1-1, however this area is closed to new appropriations so a **waiver of K.A.R. 5-2-3, *Battery of wells*** will be needed and was requested by the City. As the wells are within GMD 5, it would appear K.A.R. 5-25-14, *Battery of wells* would also be applicable. The requested change does appear to comply with K.A.R. 5-24-14.

The Big Bend Groundwater Management District 5 reviewed the applications. In a letter dated August 30, 2022, the District summarized the approvals for change. They cited the applications appear to be consistent with K.A.R. 5-25-20(b), *Recommendations by the board*, therefore are in the public interest and recommended for approval. It was further required K.A.R. 5-25-5, *Water flowmeter requirements*, would be applicable.

Jeff Lanterman, Water Commissioner, Stafford Field Office recommended approval of the referenced applications in his e-mail dated September 15, 2022.

A condition of the approvals will be the requirement of a flowmeters pursuant to K.S.A. 82a-706c. A check valve will be required if chemigation occurs. A water level measurement tubes will not be a condition of the approvals. Well logs will not be a condition of the approvals.

Based on the above discussion, that the waiver of the rule to create a battery for the requested conversion is approved, the changes appear reasonable, impairment of existing water rights unlikely, that no change in the local source of supply will occur, it is recommended that the referenced applications be approved.



Leslie Ireland
Environmental Scientist
Water Appropriation Program

From: Lanterman, Jeff [KDA]
Sent: Thu 9/15/2022 9:56 AM
To: Ireland, Leslie [KDA]
Cc: Conant, Cameron [KDA]
Subject: RE: Review and Recommendation, File Nos. 15651 & 43713, City of Offerle

Leslie. I am aware of these applications. It is really a good idea for these small towns to be able to run their standby and keep it in good shape in case the primary goes down. So it makes sense to me to convert to a battery.

I recommend approval.

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Wednesday, September 14, 2022 5:17 PM
To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>
Cc: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Subject: Review and Recommendation, File Nos. 15651 & 43713, City of Offerle

Jeff,

Please let me know if you'd recommend these changes to create a battery.

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

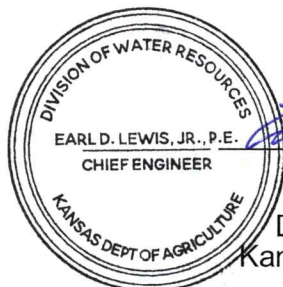
WAIVER OF REGULATION K.A.R. 5-25-14


Date: October 6, 2022

RE: Water Right, File Nos. 15,651 & 43,713

- 1) That the applications relate to existing wells, one primary and one standby, operated for municipal use, for the City of Offerle, located in the Arkansas River basin which is closed to new appropriations within Big Bend Groundwater Management District No. 5 (GMD5).
- 2) That File No. 15,651 certified 23.121 million gallons per year (70.96 acre-feet), at a rate of 172 gallons per minute (gpm) and its overlapping certified File No. 43,714, providing only additional rate of diversion resulting in 280 gpm to be authorized for the wells.
- 3) The existing wells are approximately 77 feet apart with File No. 15,651 having historically authorizing both wells. As File No. 43,713 was certified in 2021 it would appear the full Field Inspection Report completed in 2021 would provide the maximum rate information.
- 4) The existing wells meet the definition of a battery per K.A.R. 5-1-1, and K.A.R. 5-2-3 is not applicable as GMD5 has adopted a regulation specific to authorizing wells as a battery.
- 5) That Big Bend Groundwater Management District No. 5 has recommended an exception be granted for K.A.R. 5-25-14 per K.A.R. 5-25-20(b) for these applications as they considered to be in the public interest.
- 6) That the waiver will not prejudicially or unreasonably affect the public interest and will not impair any existing water right.

Comments:




Earl D. Lewis Jr., P.E.
Chief Engineer
Division of Water Resources
Kansas Department of Agriculture

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 WATER RIGHT FILE NO. 15,651

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Scott Butler on behalf of the City of Offerle, 111 W. Front, Offerle, Kansas 67563-9036, received in this office on September 17, 2021, 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, as modified and amended by the Order of the Chief Engineer, dated June 22, 1999, approving the application to change the point of diversion, 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 removes the additional condition which established the authorized point of diversion for standby municipal water supply as set forth by the Order of the Chief Engineer dated June 22, 1999.

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:

a battery of two (2) wells with a geographic center located in the Northwest Quarter of the Northwest Quarter of the Southeast Quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 7 more particularly described as being near a point 2,240 feet North and 2,193 feet West of the Southeast corner of said section, in Township 25 South, Range 20 West, Edwards County, Kansas,

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

That this permit is further limited such that the wells which comprise the battery of wells shall be located within a three hundred (300) foot radius circle and in the same local source of supply.

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.

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.

In all other respects, the Certificate of Appropriation issued pursuant to Approval of Application, File No. 15,651, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated April 28, 1999, as modified and amended by the aforementioned order.

Ordered this *6th* day of *October*, 2022, in Manhattan, Riley County, Kansas.

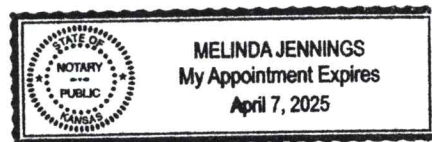


Earl D. Lewis Jr.
Earl D. Lewis Jr., P.E.
Chief Engineer
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this *6* day of *October* 2022, by Earl D. Lewis Jr., P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.

Melinda Jennings
Notary Public



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 _____ day of _____, 2022, I hereby certify that the attached Approval of Application for the Change in Point of Diversion for Water Right, File No. 15,651, dated _____, was mailed postage prepaid, first class, US mail to the following:

CITY OF OFFERLE
SCOTT BUTLER
111 W FRONT
OFFERLE, KS 67563-9036

With a Photocopy to:

Stafford Field Office
Groundwater Management District No. 5

Division of Water Resources

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

October 12, 2022

CITY OF OFFERLE
SCOTT BUTLER
111 W FRONT
OFFERLE, KS 67563-9036

RE: Water Right, File Nos. 15,651 & 43,713

Dear Mr. Butler:

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. A condition of the approvals is that an acceptable water flowmeter must be installed on the diversion works authorized. Please complete and return the required enclosed form for the *Notification of the Completion of the Diversion Works and/or Report of Flowmeter Installation* prior to December 31, 2023. There is no fee for the required Notice of Completion.

Since these 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 this office at 785-564-6640 or your area staff at the Stafford Field Office at 620-234-5311. If you call, please reference a file number so we can help you more efficiently.

Sincerely,

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

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CERTIFICATE OF SERVICE

On this 12 day of October, 2022, I hereby certify that the attached Approval of Application for the Change in Point of Diversion for Water Right, File No. 15,651, dated 6 October, 2022, was mailed postage prepaid, first class, US mail to the following:

CITY OF OFFERLE
SCOTT BUTLER
111 W FRONT
OFFERLE, KS 67563-9036

With a Photocopy to:

Stafford Field Office
Groundwater Management District No. 5



Division of Water Resources