

Kansas Department of Agriculture  
Division of Water Resources  
**CHANGE: PD WORKSHEET**

1. File Number: <b>27982</b>	2. Status Change Date: <b>3/3/2022</b>	3. Change Num: <b>C1</b>	4. Field Office: <b>02</b>	5. GMD: <b>05</b>
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: <b>12/23/2021</b>
8a. Applicant(s) New to system <input type="checkbox"/>  <b>DIAMOND LAND LLC CARMEN SCHMITT PO BOX 47 GREAT BEND, KS 67530</b>		Person ID _____ Add Seq# _____		
8b. Landowner(s) New to system <input type="checkbox"/>  <b>DIAMOND LAND LLC PO BOX 47 GREAT BEND, KS 67530</b>		Person ID <b>62177</b> Add Seq# _____		
		8c. Landowner(s) New to system <input type="checkbox"/>		Person ID _____ Add Seq# _____
		8d. WUC New to system <input type="checkbox"/>  <b>8b</b>		Person ID <b>62177</b> Add Seq# _____
9. Documents and Enclosure(s): <input checked="" type="checkbox"/> DWR Meter(s) Date to Comply: <b>12/31/22</b> <input checked="" type="checkbox"/> N & P Date to Comply: <b>12/31/22</b>				
<input type="checkbox"/> Anti-Reverse Meter <input type="checkbox"/> Meter Seal <input checked="" type="checkbox"/> Check Valve <input checked="" type="checkbox"/> N & P Form <input checked="" type="checkbox"/> Water Tube <input checked="" type="checkbox"/> Driller Copy <input type="checkbox"/> H & E Letter <input type="checkbox"/> Conservation Plan    Date Required: _____    Date Approved: _____    Date to Comply: _____				
10. Use Made of Water    From: _____    To: _____				
<b style="color: purple;">WAIVER INCLUDED</b> <div style="float: right; margin-top: 10px;"> Date Prepared: <b>1/12/2022</b>    By: <b>li</b>  Date Entered: <span style="border: 1px solid blue; padding: 2px;"><b>3/10/2022</b></span>    By: _____ </div> <div style="margin-top: 10px; text-align: center;"> <span style="border: 1px solid red; padding: 2px;"><b>2/28/2022</b></span>  <b>Lireland</b> </div>				

File No. **27982**      11. County: **RC**      Basin: **ARKANSAS RIVER**      Stream: **NA**      Formation Code: **100**      Special Use: **NA**

12. Points of Diversion											Rate and Quantity						
CHK	MOD	DEL	PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Authorized		Additional		Overlap PD Files	BAT ID
ENT												Rate gpm	Quantity af	Rate gpm	Quantity af		
DEL				NC S2 S2 N2	29	21S	9W	2	2960	2640	GEO CTR 9 WELLS	995	278	995	278	NONE	351
DEL ALL WELLS OF BATT ID 351 PDIV # 7971, 12992, 13420, 23188, 24879, 28797, 40639 44723 50016 & 54694																	
ENT				89320 SE SE NW	29	21	09W		2880	2795	GEO CTR BATT 4 WELLS <del>995</del>		278	995	278	NONE	
ENT				89321 SE SE NW	29	21	09W		3150	2875	WELL 1 OF 4 <b>NEW BATTERY ID# 2286</b>						
ENT				89322 SE SE NW	29	21	09W		2942	2875	WELL 2 OF 4						
ENT				89323 SE SE NW	29	21	09W		2719	2875	WELL 3 OF 4						
ENT				89324 SE SE NW	29	21	09W		2710	2553	WELL 4 OF 4						

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) **NONE NO CHANGE**  
 Limitation: \_\_\_\_\_ af/yr at \_\_\_\_\_ gpm (\_\_\_\_\_ cfs) when combined with file number(s) \_\_\_\_\_

15. 5YR Allocation:      Allocation Type \_\_\_\_\_      Start Year \_\_\_\_\_      5 YR Amount \_\_\_\_\_      Amount Unit \_\_\_\_\_      Base Acres \_\_\_\_\_      Comment \_\_\_\_\_

16. Place of Use				NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg?	Overlap Files	
CHK	MOD	DEL	ENT	PUSE	S	T	R	ID	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼				
				<b>NO CHANGE</b>																				

Base Acres: \_\_\_\_\_      Year: \_\_\_\_\_      Minimum Reasonable Quantity: \_\_\_\_\_  
 Comments: \_\_\_\_\_

Kansas Department of Agriculture  
 Division of Water Resources  
**WAIVER REQUEST & WAIVER RULE WORKSHEET**

File Number: **27982** FO: **2** GMD: **5**

**WAIVER REQUEST:**

UMW	Date Requested	Rule ID	Applies	Rule Type	Rule Subtype
IRR	12/23/2021	172	STATEWIDE	DEFINITIONS	BATTERY RATE
Rule Number	Date Granted	Date Denied	Justification:	The certified rate of 995 gallons per minute is in excess of the currently defined maximum of 800 gallons per minute allowed for a battery of wells. The requested change in point of diversion complies with all other regulations and will not prejudicially or unreasonably affect the public interest and should not impair any existing water right.	
K.A.R. 5- 1-1(n)	3/3/2022				

**WAIVER RULE:**

Rule ID	Applicability	Type	Subtype	Rule Number	Date Active	Date Inactive
172	STATEWIDE	DEFINITIONS	BATTERY RATE	K.A.R. 5- 1-1(n)		

Date Prepared **2/22/22** By **LI**

Date Entered **3/10/2022** By **LMoody**

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

**M E M O R A N D U M**

**TO:** Files  
**FROM:** Leslie Ireland

**DATE:** February 16, 2022  
**RE:** Water Right  
File No. 27,982

Carmen and Debbie S. Schmitt on behalf of Diamond Land LLC, owner of the referenced right filed an application for approval to change the point of diversion authorized for irrigation use. The application was received in the office of the Chief Engineer on December 23, 2021. The application proposing a replacement battery of wells could have been processed as a field office application but was required to be a headquarters change due to the existing and proposed rate of 995 gallons per minute, not meeting the definition of a battery of wells.

The application for change appears to comply with K.A.R. 5-5-2a, *Complete change application*, and is in compliance with K.S.A. 82a-732. The applicant has indicated there are no well not owned by the applicant located within one-half mile of the proposed geographic center and the authorized point of diversion will move less than 300 feet. It appears the application complies with K.S.A. 82a-1906 without any needed notification. The referenced file is authorized a battery of nine(9) wells in what appears to be a common manifold and constructed very close on an East-West line. Authorized and certified with a maximum rate of 995 gallons per minute (gpm) for the diversion of 278 acre-feet (AF) for the irrigation of 185 acres.

The referenced file is located in the Arkansas River Basin, Rice County. The proposed change has been requested to reduce the number of wells to four(4) newly constructed wells at a better location. The geographic center of the proposed battery is indicated by the WRIS database to be approximately 174 feet from the geographic center currently authorized. The wells that will comprise the battery will all be approximately 400 feet apart with the geographic center and actual well, approximately 37 feet to the Southeast of the current geographic center. The change in point of diversion meets the requirement of K.A.R. 5-25-2a, *Change in point of diversion*, as the move is less than 2,640 feet. All of the currently authorized and completed points of diversion that comprise the existing battery will be plugged.

Due to the rate being authorized and developed at 995 gpm it exceeds the 800 gpm maximum per K.A.R. 5-1-1, Definitions, (n) *Battery of wells*. The owner has requested to retain the rate as certified, resulting in a **waiver of K.A.R. 5-1-1 (n)**. As the proposed battery is authorized as a battery of wells it appears the change complies with K.A.R. 5-2-3, *Battery of wells* and is therefore not subject to K.A.R. 5-25-14, *Battery of wells*.

The geographical center of the four (4) wells comprising the battery will be described as being located in the Southeast Quarter of the Southeast Quarter of the Northwest Quarter (SE $\frac{1}{4}$  SE $\frac{1}{4}$  NW $\frac{1}{4}$ ) of Section 29, approximately 2,880 feet North to 2,795 feet West of the Southeast corner of said section in Township 21 South, Range 9 West, Rice County. The source of supply has been not been listed in WRIS, but information would indicate the source of supply is the Main Stem Alluvium (Code 113). The move is away from the Arkansas River, complying with K.A.R. 5-5-13, *Relocation of alluvial wells*. The annual water report from 1978 indicated a historical depth of around 22 feet. The WWC-5 records for the wells in the Northeast Quarter were approximately 46 feet deep with a static water level of 17 feet in 2018. The January 11, 2022 submitted well log indicates a completed depth of 45 feet of sand and gravels with a static water level of 10.5 feet. The move of less than 200 feet and well log indicate the wells will remain in the Main Stem Alluvium and same local source of supply. Well logs will not be condition of the approval as a log has been submitted, and Rosencrantz-Bemis has a history of submitting their logs to KDHE as required.

There are is a battery of four (4) irrigation wells and a domestic stockwatering well located within one-half (½) mile. All are owned by the applicant and owner of the referenced file. WRIS records indicate the irrigation wells authorized by File No. 24,128, are 2,087 feet away at the closest well of the battery and the domestic well is with a completed depth of 60 feet is approximately 1,830 feet from the geographic center. The proposed change complies with non-domestic well to well spacing of 1,320 feet and 660 feet to the domestic well. The proposal complies with K.A.R. 5-25-2, *Well Spacing*.

Orrin Feril, Manager of Big Bend Groundwater Management District No. 5, reviewed the application and his letter of January 13, 2022 indicated that the District recommended approval of the application, and that it will need to comply with K.A.R. 5-25-5, *Water flowmeter requirements*.

Jeff Lanterman, Water Commissioner, Stafford Field Office recommended approval of the referenced application in his e-mail dated February 16, 2022.

A condition of the approval will be the requirement of a flow meter pursuant to K.S.A. 82a-706c. A check valve will be required if chemigation occurs. A water level measurement tubes will be condition of the approval. A well log was submitted but will continue to be a condition of the approval as requested by Jeff Lanterman, Water Commissioner. The application indicates the owner plans to plug all wells that will no longer be authorized under the referenced file the transmittal will remind them of such.

Based on the above discussion, that the waiver of the battery definition for the requested rate is approved, the change is reasonable, impairment of existing water rights unlikely, that no change in the local source of supply will occur, it is recommended that the referenced application be approved.



Leslie Ireland  
Environmental Scientist  
Water Appropriation Program

**From:** Lanterman, Jeff [KDA]  
**Sent:** Wed 2/16/2022 3:39 PM  
**To:** Ireland, Leslie [KDA]  
**Cc:** Conant, Cameron [KDA]  
**Subject:** FW: Review and recommendation Change PD File No. 27982 Schmitt  
**Attachments:** 27982\_battery 2 battery chg pd wvr rate\_2\_5.doc

Leslie;

Go ahead and approve this application with a waiver of the 800 GPM battery definition rule.

I don't see any reason to remove the test hole log requirement though. I would like to leave that in there if we could.

Thank you

Jeff

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**From:** Conant, Cameron [KDA] <Cameron.Conant@ks.gov>  
**Sent:** Wednesday, February 16, 2022 3:25 PM  
**To:** Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>  
**Subject:** FW: Review and recommendation Change PD File No. 27982 Schmitt

Jeff, Taylor and I worked this app with Carmen from the start. This would have been a FO change which was reducing the number of wells in the battery from 9 down to 4, re-drilling with 4 new wells, and moving the geo-center less than 300'. BUT we didn't feel it appropriate for the FO to process this change b/c a waiver was needed for keeping the authorized rate at 995 GPM.

I am ok with the waiver of definition of a battery of wells and keeping this application at 995 GPM. It has been operated like that since the right was developed. I think we are in good shape by reducing down to 4 battery wells, there is also nothing around from a spacing standpoint that this would impact.

Please pass on to Leslie that we recommend approval.

One thing in the memo Leslie, I would like to keep the requirement to have well logs to be submitted as a condition of the approval. I'd like that on any p/d change where a new well is being drilled.

Cameron

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**From:** Ireland, Leslie [KDA] <[Leslie.Ireland@ks.gov](mailto:Leslie.Ireland@ks.gov)>  
**Sent:** Thursday, January 27, 2022 5:14 PM  
**To:** Lanterman, Jeff [KDA] <[Jeff.Lanterman@ks.gov](mailto:Jeff.Lanterman@ks.gov)>; Conant, Cameron [KDA] <[Cameron.Conant@ks.gov](mailto:Cameron.Conant@ks.gov)>  
**Subject:** Review and recommendation Change PD File No. 27982 Schmitt

Jeff,

Please let me know if you could recommend this change for Mr. Schmitt that will complete a battery of 4 wells. A waiver of the battery definition has been requested for the certified rate of 995 gpm.

The application has been recommended by GMD 5.

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 POINT OF DIVERSION WATER RIGHT FILE NO. 27,982**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Carmen Schmitt on behalf of Diamond Land LLC, PO Box 47, Great Bend, Kansas 67530, received in this office on December 16, 2019, for approval of a change in the location of the points of diversion 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 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 point of diversion authorized for stockwatering shall be:

a battery of four (4) wells with a geographic center located in Southeast Quarter of the Southeast Quarter of the Northwest Quarter (SE $\frac{1}{4}$  SE $\frac{1}{4}$  NW $\frac{1}{4}$ ) of Section 29, more particularly described as being near a point 2,880 feet North and 2,795 feet West of the Southeast corner of said section, in Township 21 South, Range 9 West, Rice County, Kansas, at a diversion rate not in excess of 995 gallons per minute (2.22 c.f.s.) and a quantity of water not to exceed 278 acre-feet per calendar year,

located substantially as shown on the maps 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.

All wells with a diversion rate of 100 gallons per minute or more drilled under the authority of this order shall have a tube or other device installed in a manner acceptable to, and in accordance with specifications adopted by, the Chief Engineer. This tube or device shall be suitable for making water level measurements and shall be maintained in a condition satisfactory to the Chief Engineer.

The water right owner shall submit to the Chief Engineer a copy of the well logs required by the Kansas Department of Health and Environment under the authority of K.S.A. 82a-1212, currently form WWC-5, within 30 days following the drilling of the wells at the location authorized herein.

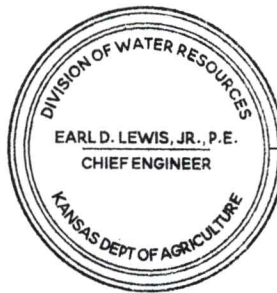


Installation of the works for diversion of water shall be completed on or before December 31, 2022, or within any authorized extension of time. The applicant shall notify the Chief Engineer of the Division of Water Resources, Kansas Department of Agriculture, when construction of the works for diversion 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.

In all other respects, the Certificate of Appropriation issued pursuant to Approval of Application, File No. 27,982, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated February 15, 1989.

Ordered this 3<sup>rd</sup> day of March, 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 )  
County of Riley ) SS

The foregoing instrument was acknowledged before me this 3<sup>rd</sup> day of March 2022, by Earl D. Lewis Jr., P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.

*Melinda Jennings*  
Notary Public



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. 5-1-1(n)

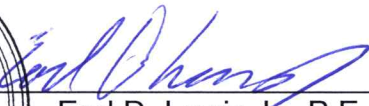
Date: 3 March, 2022

RE: Water Right, File No. 27,982

- 1) K.A.R. 5-1-1(n) currently defines and restricts batteries of wells to a maximum rate of 800 gallons per minute.
- 2) That the change is proposing to retain the certified rate of 995 gallons per minute as developed by the authorized battery of wells.
- 3) That the existing battery of nine wells will be reduced to a battery comprised of four wells and will comply with all other battery well requirements.
- 4) No nearby well owners within one-half (1/2) mile of the proposed geographic center of the battery.
- 5) That the Big Bend Groundwater Management District No. 5, Board of Directors recommend approval of the proposed change.
- 6) The approval of the change should not result in the impairment of any existing domestic or water rights nor shall the change adversely affect the public interest.

Comments:



  
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

March 16, 2022

DIAMOND LAND LLC  
CARMEN SCHMITT  
PO BOX 47  
GREATBEND, KS 67530

RE: Water Right, File No. 27,982

Dear Mr. Schmitt:

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 a water flowmeter meeting K.A.R. 5-1-4 through 5-1-12, must be installed on the diversion works. 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](http://www.agriculture.ks.gov), Water Appropriation Forms, there is no fee for the required completion notification.

Any abandoned water wells must 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 as other instruments affecting real estate.

If you have any questions, please contact our staff at the Stafford Field Office, 620-234-5311. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

A handwritten signature in cursive script that reads "Kristen A. Baum".

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

KAB:LI:

Enclosure

pc: Stafford Field Office  
Groundwater Management District No. 5

### RIGHT TO A HEARING AND TO ADMINISTRATIVE REVIEW

This Order shall become a final agency action, as defined by K.S.A. 77-607(b), without further notice to the parties, if a request for hearing or a petition for administrative review is not filed as set forth below.

**Request for Hearing.** According to K.A.R. 5-14-3(c), any party who desires a hearing must submit a request within 15 days after the date shown on the Certificate of Service attached to this Order. Filing a request for a hearing will give you the opportunity to submit additional facts for consideration, contest any findings made by the Chief Engineer or present any other information you believe should be considered in this matter. A timely-filed request for hearing will stay the deadline for requesting administrative review of this Order pending the outcome of the hearing.

**Petition for Review.** Any person aggrieved by this Summary Order may petition for administrative review, pursuant to K.S.A. 82a-708b(a) and K.S.A. 82a-1901(a). The petition must be filed within 30 days after the date shown on the Certificate of Service attached to this Order and must set forth the basis for the review, unless stayed by the timely filing of a request for hearing.

Any request for hearing or petition for administrative review shall be in writing and shall be submitted to the attention of: Chief Legal Counsel, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, Fax: (785) 564 – 6777.

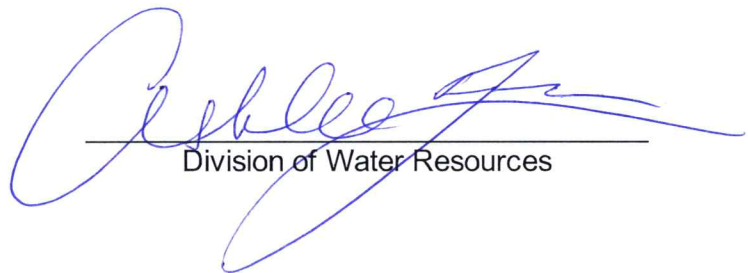
### CERTIFICATE OF SERVICE

On this 16 day of March, 2022, I hereby certify that the attached Approval of Application for Change in Point of Diversion, Water Right, File No. 27,982, dated 3 March 2022 was mailed postage prepaid, first class, US mail to the following:

DIAMOND LAND LLC  
PO BOX 47  
GREAT BEND, KS 67530

With a Photocopy to:

Stafford Field Office  
Groundwater Management District No. 5

  
\_\_\_\_\_  
Division of Water Resources