



File No. **11065** 13. County: **2 - Stafford** Basin: **58 - WALNUT CREEK** Stream:  
 Structures File No: Aquifer Code: **113 MAIN STEM ALLUVIUM** Special Use Area: **033 WALNUT CREEK IGUCA**

14. Points of Diversion, Rates & Quantities										Qty 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	15200	NW NW NW	34	18	18W	2	4672	5239		100	75	400	400				*
MOD	29438	NW SW NE	34	18	18W	3	<del>3630</del>	<del>2095</del>	3649 2134	50	35	365	365				+
MOD	78891	NW NW NW	34	18	18W	7	5306	5176		122	101	455	455				#
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15. Limitations Type: **Combined Quantity** Quantity: **211 AF** Rate: combined with file no(s): **NO CHANGE**  
 Type: **Other** Quantity: Rate: combined with file no(s):

16. Metering  Metering Required  Anti-Reverse Required  Seal Required Compliance Date: **12/31/2024**

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					
NO	CHAN GE																				<input type="checkbox"/>	+
																					<input type="checkbox"/>	+
																					<input type="checkbox"/>	#
																					<input type="checkbox"/>	^
																					<input type="checkbox"/>	**
																					<input type="checkbox"/>	++

18. Point of Diversion and Place of Use Overlaps  
 \* NONE \*\*  
 + NONE ++  
 # NONE ##  
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**KANSAS DEPARTMENT OF AGRICULTURE**  
**Division of Water Resources**  
**M E M O R A N D U M**

**TO:** Files

**DATE:** August 27, 2024

**FROM:** Leslie Ireland

**RE:** Water Right, File No. 11,065

Gene Knieling submitted an application on behalf of William L. Melton and Sheryl L. Melton, owners of the referenced file, requesting to change the point of diversion. The application for this irrigation right was received on September 1, 2022. The change is requesting to reassign quantity and rate between the existing wells located in the Main Stem Alluvium Formation of the Walnut Creek, (Code 113) and Walnut Creek Intensive Groundwater Area IGUCA, (Code 033).

The referenced file was found to be in good standing per K.S.A 82a-732. Notice as required by K.S.A. 82a-1906 was completed by letter on March 3, 2023. No comments were received.

Water Right, File No. 11,065 authorizes three (3) wells all in Section 34 Township 18 South Range 18 West, Rush County with assigned quantity and rate. The quantity is limited to 211 acre-feet on the 192 irrigated acres and was further limited by the Walnut Creek IGUCA to not exceed 996.4 AF for the period of 2022 through 2026. The file has no overlaps in point of diversion or place of use. The proposed change has been authorized by Term Permit, File No. 20229073 to afford evaluation of the change on the Walnut Creek.

The application requests the **waiver of K.A.R. 5-4-4, Well spacing to two(2) nearby irrigation wells and a waiver of K.A.R. 5-5-13, Relocation of alluvium wells.**

Well Location, ID	Authorized		Proposed	
	Quantity, AF	Rate, gpm	Quantity, AF	Rate, gpm
SW NW NW ID 2 South	127	515	100	400
NW SW NE ID 3 East	73	365	50	365
NW NW NW ID 7 North	72	340	122	455
TOTAL *Annual limited 211 AF WCIGUCA 2022-2026 996 AF	272*	1220	272 *	1220

These three wells are located in a “Y” shaped area between the Walnut Creek and a smaller tributary to Walnut Creek, identified as Otter Creek. The proposed change will shift quantity and rate away from the well closest to Otter Creek, ID 3 East, with a slight amount of water moved from the ID 2 South well close to Walnut Creek, to the well closest to the Walnut Creek, ID 7 North.

This file has been reviewed by David Engelhaupt in 2019, and Steven Thurlow, 2024, both in DWR Technical Services. The most recent was for this proposed change. Utilizing a 50 year Glover Analysis with the 2016 Walnut Creek model of Big Bend GMD No. 5 to determine the average transmissivity of 6,143 square-feet per day and a yield of 0.051 for this area and surrounding 1 mile. This file is not located in the groundwater management district, but appears to have similar conditions. The analysis of the proposed change pumping scenario to the currently authorized assignment of quantity and rate, resulted in a net decrease in maximum instantaneous stream depletion rate of 12.95 GPM or a reduced impact of 1.38% on the Walnut Creek. This indicates the proposed change has a favorable effect over the currently authorized.

Additionally, the approximate well depths of 59 feet and depth to water in this area there is approximately 38 feet of saturated thickness. There are no immediate downstream surface water diversions from the proposed well, ID 7 North. The closest wells appear to have no issues. A nearby well under File No. 35,020 (less than 920 feet away) has diverted increased quantities under an allocation transfer. The proposed shift in quantity will reduce the diversion under the well ID 3 East (closest to Otter Creek). This would appear to help to improve the streamflow in an area where there are three vested right surface water diversions downstream. A waiver of **K.A.R. 5-5-13, Relocation of alluvium wells** has been prepared.

There are three (3) domestic wells and five (5) irrigation wells located within one-half (½) mile of the proposed well requesting an increased quantity and rate. Two (2) of the three (3) wells will be reduced for the requested change. The nearby well owners were sent informational letters on March of 2023. No comments were received.

Review of the file would indicate the owner has operated the wells as proposed for several years without any apparent issues or comments. As he was having trouble balancing the quantities between the wells to the pivot. File No. 20229073 was filed as an operational offset for the proposed change and afford the operation as proposed.

While the wells are not being moved the increase in quantity is considered for spacing to nearby wells. K.A.R. 5-4-4, *Well spacing* requires 1,320 feet for wells authorized in a common source of supply. It appears the 1,320 feet is not met to File Nos. 8,338 and 35,020. It does appear File No. 35,020, has operated with an increased diversion under a transfer. This has not appear to have impaired File No. 11,065, based on the historical operation and the requested change. Additionally, the quantity historically may have also been diverted from the wells as proposed due to a misunderstanding of the assignment of quantity during the original operation and a letter of the owner-tenant regarding their annual reporting. This history would indicate the existing well spacing with the proposed reassignment should not result in impairment.

Jeff Lanterman, Water Commissioner, Stafford Field Office was sent the summary memo for his review and recommendation of the proposal. In his email of August 27, 2024, he recommended approval of the requested change.

Conditions of the approval will require the installation of flowmeters and check valves if chemigating. A water level measurement tube and WWC-5 are not applicable, as no new wells will be authorized to be drilled. A Notice of Completion for the installation of the meters for the points of diversion authorized will be required prior to December 21, 2024.

Based on the above discussion, if the waivers are granted it appears the requested change is reasonable, the change should not cause impairment of existing rights and the source of supply will remain the same, it is recommended that the referenced application be approved.



Leslie Ireland  
Environmental Scientist  
Water Appropriation Program

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. 11,065**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of William L. and Sheryl Melton, on behalf of the William L. and Sheryl Melton Life Estate Trust, 1660 Highway 183, Rush Center, Kansas 67575-7529, received in this office on September 1, 2022, 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 March 22, 2011, approving the application to change the points 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 appropriation right remains limited to a total quantity of water not to exceed 211 acre-feet per calendar year for irrigation use.

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 points of diversion shall be:

one (1) well located in the Northwest Quarter of the Northwest Quarter of the Northwest Quarter (NW $\frac{1}{4}$  NW $\frac{1}{4}$  NW $\frac{1}{4}$ ) of Section 34, more particularly described as being near a point 4,672 feet North and 5,239 feet West of the Southeast corner of said section, at a diversion rate not in excess of 400 gallons per minute (0.89 c.f.s.) and a quantity not to exceed 100 acre-feet of water per calendar year, and

one (1) well located in the Northwest Quarter of the Southwest Quarter of the Northeast Quarter (NW $\frac{1}{4}$  SW $\frac{1}{4}$  NE $\frac{1}{4}$ ) of Section 34, more particularly described as being near a point 3,649 feet North and 2,134 feet West of the Southeast corner of said section, at a diversion rate not in excess of 365 gallons per minute (0.81 c.f.s.) and a quantity not to exceed 50 acre-feet of water per calendar year, and

one (1) well located in the Northwest Quarter of the Northwest Quarter of the Northwest Quarter (NW $\frac{1}{4}$  NW $\frac{1}{4}$  NW $\frac{1}{4}$ ) of Section 34, more particularly described as being near a point 5,306 feet North and 5,176 feet West of the Southeast corner of said section, at a diversion rate not in excess of 455 gallons per minute (1.01 c.f.s.) and a quantity not to exceed 122 acre-feet of water per calendar year,

all in Township 18 South, Range 18 West, Rush County, Kansas,

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





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

September 6, 2024

GENE KNIELING  
518 S DENVER  
RUSH CENTER, KS 67575

RE: Water Right  
File No. 11,065

Dear Mr. Knieling:

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 number. Please be reminded this appropriation right remains limited to a total quantity of water not to exceed 211 acre-feet per calendar year for irrigation use.

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 the requirement that acceptable water flowmeters be installed on all diversion works prior to the diversion of water. Please return the required Notification of Completion of the Diversion Works and/or Installation of the Required Flowmeter prior to December 31, 2024, to acknowledge installation of the required meters. The Notice of Completion form may be found online at <http://agriculture.ks.gov/dwr>, under water appropriation forms. There is no fee for the required completion notification.

Since this order modifies the certificate of appropriation for the above referenced water right, it 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 our office at 785-564-6640. Inquiries about the metering should be directed to our staff at the DWR Stafford Field Office at 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,

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

KAB:kak:li  
Enclosure  
pc: Stafford Field Office



## 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 6<sup>th</sup> day of September, 2024, I hereby certify that the attached Approval of Application for Change in Point of Diversion authorized under Water Right, File No. 11,065, dated, September 3, 2024, was mailed postage prepaid, first class, US mail to the following:

GENE KNIELING  
518 S DENVER  
RUSH CENTER KS 67575

With a photocopy sent to:

KDA-DWR Stafford Field Office

  
Staff



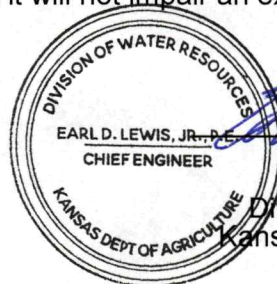
**WAIVER OF REGULATION  
K.A.R. 5-5-13 Relocation of alluvial wells**


Date: September 3, 2024

RE: Water Right, File No. 11,065

1. That K.A.R. 5-5-13 states in part: "If an authorized point of diversion is a well that has its source of supply an alluvium in a reach of a basin that is fully appropriated or closed to new appropriations, the approval of a change in point of diversion, and any subsequent approvals of changes in points of diversion, shall not authorize the distance between the well and the centerline of the stream to be decreased by more than 10 percent as measured from the following: (1) The authorized well location when the basin became fully appropriated or was closed to new appropriations; and (2) the centerline of the stream when the change application was filed."
2. Water Right, File No. 11,065, is located in Section 8, Township 24 South, Range 18 West, Edwards County, Kansas, the Walnut Creek Basin. It is in an area determined to be fully appropriated. File No. 11,065 is authorized irrigation use from three wells with the source of supply determined to be alluvium, with an assigned rate and quantity per point of diversion. It has no overlaps in the points of diversion or place of use. The change pertains to the currently authorized and existing wells. While rate will be moved from one well to another, no new wells have actually been proposed to be drilled or relocated. The IGUCA does not preclude the waiver.
3. That the application to change the point of diversion to increase the diversion from 72 to 122 acre-feet and the rate of diversion from 340 to 455 gallons per minute by shifting quantity and rate between existing wells that have an overall quantity limitation not to exceed 211 acre-feet under the three wells.
4. A Glover Analysis completed by the Division of Water Resources showed the change would reduce the rate of stream depletion at the main channel from by approximately 1.38% OR 15.95 gallons per minute.
5. Reducing the diversion from one of the three wells well located on a contributing tributary stream would appear to help this contributing stream that has more surface water diversions.
6. It appears the wells have operated as proposed change for several seasons without any issues.
7. That a waiver of K.A.R. 5-5-13 will neither prejudicially nor unreasonably affect the public interest and it will not impair an 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

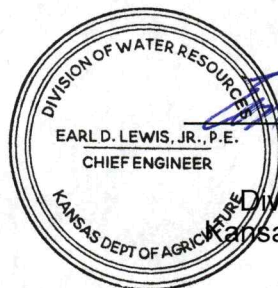
**WAIVER OF REGULATION**  
**K.A.R. 5-4-4 (d)**

Date: *September 3, 2024*

Re: File No. 11,065

1. That K.A.R. 5-4-4(d) states in part an application to change the point of diversion shall meet the spacing requirements established by K.A.R. 5-4-4(c)(1) and (c)(2), in this area designated as alluvium is 1,320 feet to non-domestic wells and 660 feet to domestic wells or not decrease the distance to other wells by more than 300 feet, and that well spacing shall be sufficient to prevent direct impairment.
2. That the change in point of diversion proposes a reallocation of quantity and rate between the three existing wells authorized by File No. 11,065. The well receiving the increase is located approximately 1,100 feet away from existing senior irrigation well authorized under File No. 8,338 and a junior irrigation well, File No. 35,020, approximately 900 feet.
3. All wells are existing wells and have historically diverted at increased rates and quantities with none of the wells moving or being redrilled and without issues.
4. That this alluvial area has a high rate of recharge and will move quantity away from a contributing tributary stream that has more surface water diversions.
5. That approval of the referenced application will not adversely affect the public interest or impair existing water rights.
7. That the application should be approved with a waiver of the well spacing requirement of K.A.R. 5-4-4 (d).

Comments:



EARL D. LEWIS, JR., P.E.  
CHIEF ENGINEER

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