





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

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

**TO:** Files

**DATE:** May 24, 2024

**FROM:** Leslie Ireland

**RE:** Water Right  
File No. 17,329

Nickolaus J. Hernandez, City Manager for the City of Dodge City, owner of the referenced water right authorized for municipal use filed an application for approval to change the authorized point of diversion. The application which proposes to reallocate quantity and rate between existing wells and designate a well for standby use was received on September 8, 2022. This water right is located in the Arkansas River Basin, Ford County, the Ark River Intensive Groundwater Usage Critical Area (Ark IGUCA) and Groundwater Management District No. 3 (GMD 3). The City was assisted by Daniel Clement, P.G., Senior Hydrogeologist, Burns & McDonnell, Wichita, Kansas, who indicated the change is needed due to contamination.

The referenced file appears not to be abandoned as per K.S.A 82a-718 and in compliance with K.S.A. 82a-732. Notice per K.S.A. 82a-1906, was completed by public notice and letters to owners within the immediate vicinity. Additionally, GMD 3 completed notification by their process. I received no comments of any kind.

The wells have an assigned quantity and rate, with the quantity limited 1,269.55 million gallons per year from the seven(7) authorized wells. The quantity is further limited to not exceed 1,432.5 million gallons per year with FO 002 and FO 069. The seven wells have an area of approximately 2.5 mile separation between the most Northern well in Section 24 to the most Southern well in the Southwest Quarter of Section 35, in Township 26 South, Range 25 West, and eastwardly to the Northwest Quarter of Section 31, in Township 26 South, Range 24 West.

The source of supply has been determined to be the Ogallala Formation (211).

The well identified by the owner as #11, located in the SW $\frac{1}{4}$  NE $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 31, approximately 4,150 ft North and 3,450 ft West of the Southeast corner of Section 31, in Township 26 South, Range 24 West, Ford County is requested to be authorized as a standby well per K.A.R. 5-1-2, *Standby well*. The application listed this as an additional well, but standby wells are not considered additional wells due to the restricted usage. The operational conditions will be added of a standby well will be added by any approval. As the point of diversion was originally authorized by the file it would be considered to be in the same local source of supply.

The authorized 181.43 million gallons at 1,215 gallons per minute from well #11 is proposed to be split and reassigned to the wells in Section 24. Proposing 110.32 mgy at 675 GPM to the well identified as #10, authorized under File No. 17,329, located in the NE $\frac{1}{4}$  NE $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 24, approximately 3,955 feet North and 597 feet West of the Southeast corner, resulting in a total 218 mgy at 1,215 GPM to be authorized from this point of diversion. Then adding 71.11 mgy at 540 GPM to well #17 authorized under File No. 34,536, located in the NE $\frac{1}{4}$  NE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 24, approximately 2,680 feet North and 80 feet West of the Southeast corner, resulting in a total of 194.3 mgy at 1,180 GPM.

It appears the Ogallala Formation (211) is the source of supply for City Well #10, File No. 17,329 and City Well #17, File No. 34,536. The reported depths are 256 and 255 feet.

The proposed existing wells are located approximately 9,344 and 10,382 feet to the North, of the Well # 11 to proposed Well #17 (Well # 34,236 ) and Well # 10 ( File No. 17,329). However only 2,603 feet between Well #17 (Well # 34,236 ) and Well # 10 ( File No. 17,329). see summary map and data added to the application. The distance between the wells exceeds the standard maximum distance move of 2,640 feet per K.A.R. 5-23-3, *Minimum well spacing requirements: high plains aquifer*. **A waiver of K.A.R. 5-23-3**, would appear to be needed.

The application was submitted to Groundwater Management District No. 3. In a letter dated October 19, 2023, Jason Norquest, Assistant Manager for the District, stated the Board's review of the application found they would recommend the proposed move of greater than 2,640 feet between wells authorized under the same file number, 17,329. Essentially moving rate and quantity from the well designated as #11 to #10, as they essentially share the same priority and were developed at the same time per the certificate sharing the same local source of supply. They recommend denial of the proposed change to move a portion of File No. 17,329 to the well authorized by File No. 34,536. These types of moves greater than 2,640 feet have historically been denied. The letter stated, "the City could move the authority off of the well 17,329 ID 01(Well #10) to 34,536 (referenced as Well #17) in the future and meet our understanding of the rules." This indicates the change could be completed by the filing and approval of two(2) applications and approvals as the distance between these two wells is approximately 2,600 feet. It appears the GMD has no objection to the approval of Well #11 remaining as a standby well.

The application was returned to the applicant to review the recommendation of the Board. In a letter dated January 8, 2024, Daniel Clement, P.G., Burns & McDonnell, summarized the acknowledgement of GMD 3 not being opposed to the final proposal that would allow an increase quantity and rate at the proposed wells # 10 & #17, by multiple applications and approvals. On behalf of the City they requested the existing application for change be authorized as proposed to afford duplication of administrative effort and processing.

The standby well will be required to meet all other conditions as detailed in K.A.R. 5-1-2, so the approval will require it to be maintained in an operable condition, have a meter and will be restricted to the same rate and quantity as the primary well. The approval will add the new condition which further limits the primary wells and standby well may not operate at the same time except for maintenance, testing, fire protection or similar reason.

Flow meters will be a requirement of the approval and a check valve will be required if any chemical or foreign substance is injected into the water through the diversion works. A water level measurement tube and WWC-5 log will not be required for these existing wells. The approval will require a December 31, 2024, timeline for the Notice of Completion and installation of the required meters for the standby well, #11 and Wells #10 & #17 to assure they are properly metered.

Jeff Lanterman, Water Commissioner of the Stafford Field Office was sent a copy of this summary memo on April 18, 2024. No comment was received.

Based on the above discussion, it would appear a waiver of K.A.R. 5-23-3 could be reasonable. The application and request of the City complies with K.S.A. 82-708b, as approval as initially proposed would be in the public interest for this municipal use under the same priority and authorizing the same place of use, that impairment to existing water rights is unlikely, and that no change in the local source of supply will occur. It is recommended the referenced application be approved.



Leslie Ireland  
Environmental Scientist  
Water Appropriation Program

## Ireland, Leslie [KDA]

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**From:** Ireland, Leslie [KDA]  
**Sent:** Thursday, April 18, 2024 3:58 PM  
**To:** Lanterman, Jeff [KDA]  
**Cc:** Conant, Cameron [KDA]  
**Subject:** Review & Recommendation of Change in PD, File No. 17329 Dodge City  
**Attachments:** 17329 PD MUN\_ext\_w\_stdby GMD denial appealed\_2\_3.docx; 17329 map summary.pdf; 17329 GMD RECOMMENDATION.pdf; 17329 DC\_ BurnsMcC reply.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Jeff,

This is a little different so I've included the correspondence and map along with my summery memo.

As always comments (updates) are welcome.

Please let me know if you'd recommend this change.

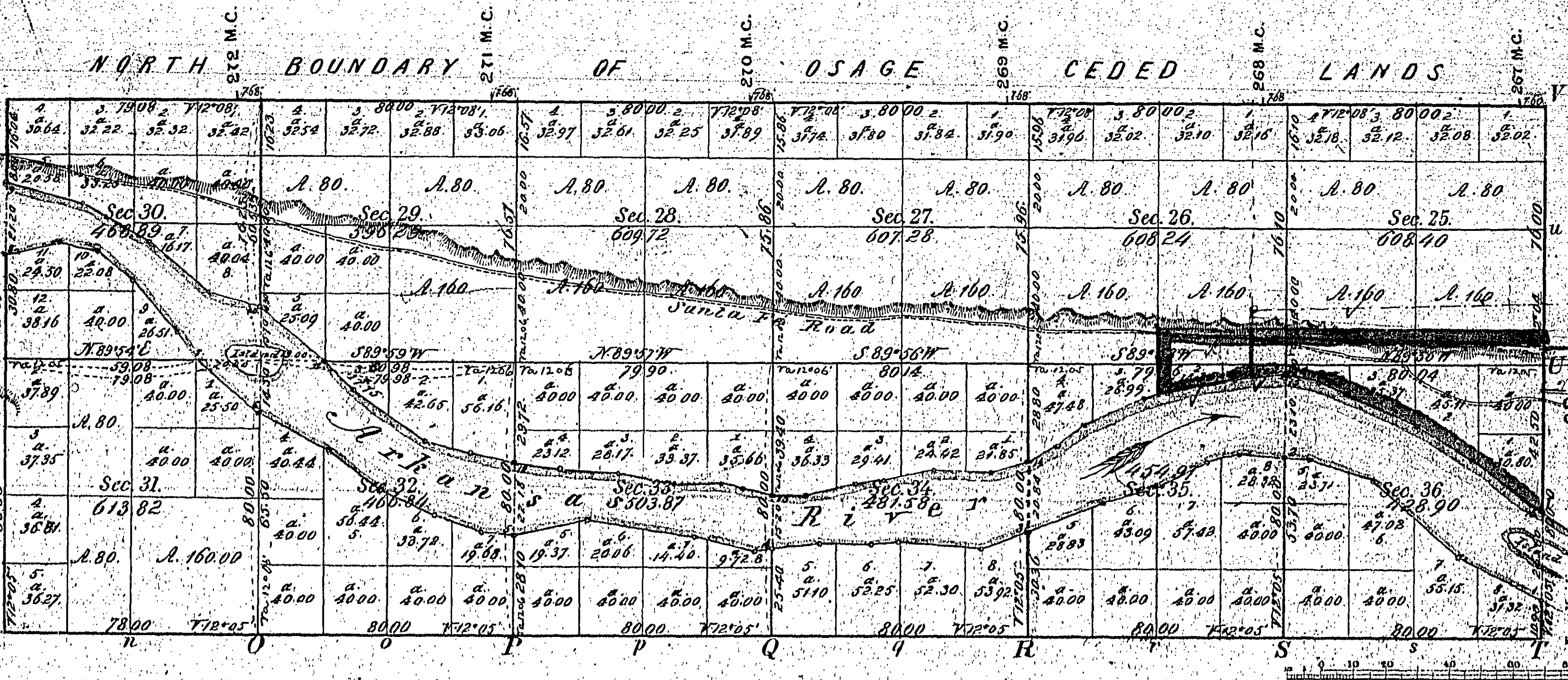
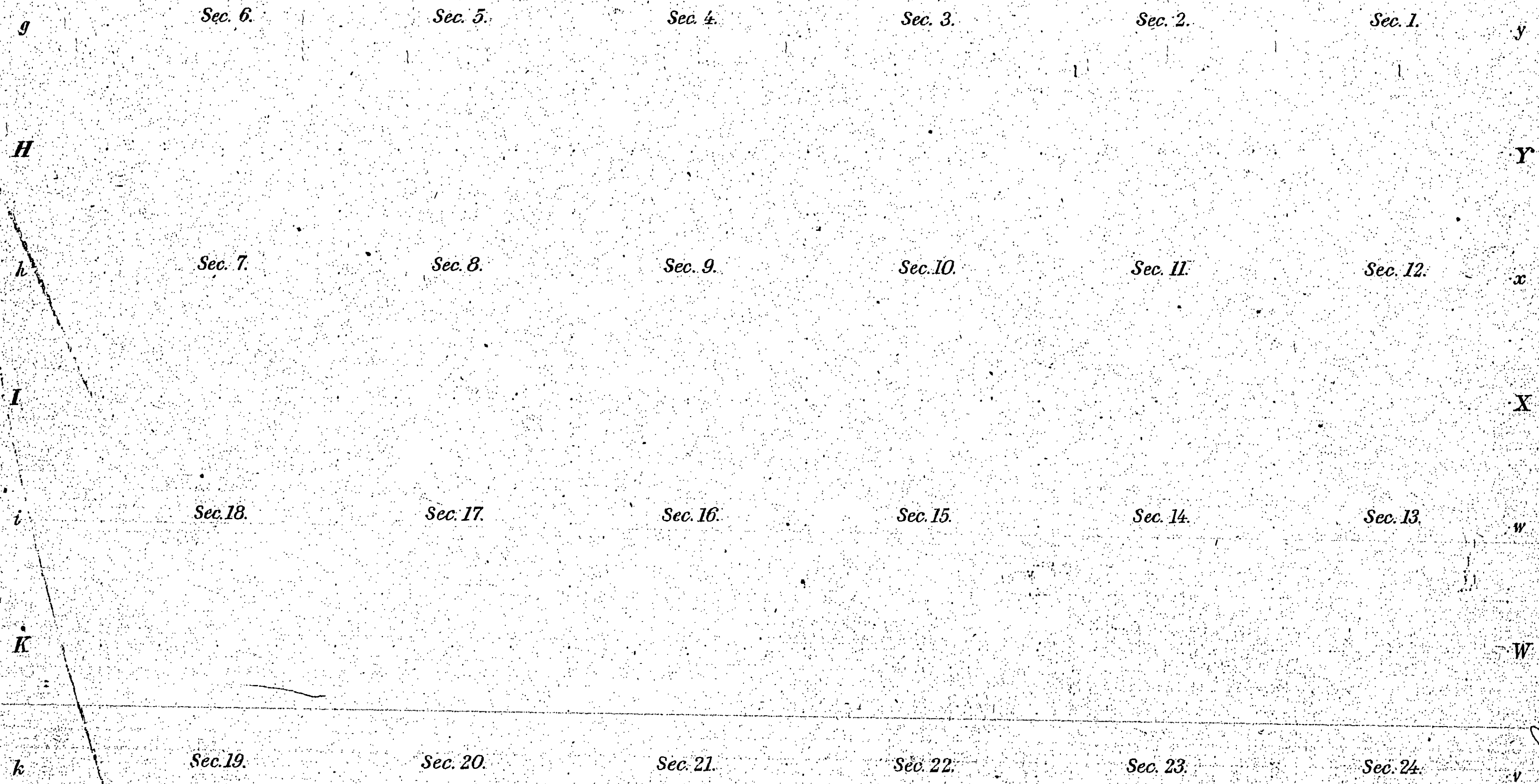
Leslie Ireland  
Environmental Scientist  
Change Application Unit  
Division of Water Resources





TOWNSHIP N° 26 SOUTH, RANGE N° 25 WEST OF THE 6<sup>TH</sup> PRINCIPAL MERIDIAN

G I F e E d D c C b B a A



Meanders of Arkansas River

Foots	Courses	Ch. 1A*	Foots	Courses	Ch. 1A*
Up Stream	16	N 68° E	16.00		
on right bank		N 52° E	30.00		
		N 67° E	20.00		
1	N 63° 30' W	25.50	N 73° E	16.00	
	N 50° W	30.00	N 82° E	16.00	
	N 75° W	8.00	N 84° E	15.50	
			S 81° E	10.00	
2	N 85° 30' W	14.00	S 72° E	9.00	
	S 74° 30' W	9.50	S 66° E	25.00	
	S 61° W	17.00	S 61° E	20.00	
	S 46° W	18.00	S 55° E	26.10	
	S 68° W	26.20			
			<b>Total</b>	<b>15</b>	<b>8</b>
					<b>02</b>
3	S 69° 30' W	15.50			
	N 85° 30' W	24.00			
	S 81° 30' W	9.50			
	S 80° W	15.50			
	S 87° W	16.50			
4	S 77° W	6.00			
	N 83° W	14.00			
	N 81° 15' W	36.00			
	S 81° W	25.00			
5	N 88° W	10.00			
	N 72° W	15.00			
	N 64° W	24.00			
	N 55° W	22.00			
	N 42° W	22.50			
6	N 32° 30' W	23.90			
7	N 25° W	10.00			
	N 39° W	20.00			
	N 53° W	14.00			
	N 78° W	12.00			
	S 77° 15' W	18.10			
9	S 75° 30' W	22.50			
	S 62° 30' W	22.00			
	S 50° W	23.00			
	S 40° 30' W	16.80			
10	S 50° 30' W	29.82			
11	S 48° 30' W	15.50			
	S 58° 30' W	22.50			
	S 78° 30' W	12.50			
	S 81° 15' W	28.00			
12	S 79° E	14.50			
	S 81° 15' E	28.00			
	S 79° E	14.50			
	S 81° E	14.50			
	S 83° E	6.50			
	S 80° E	9.00			
13	N 78° E	10.00			
	N 77° E	15.00			
	N 68° E	20.00			
	N 51° E	16.00			
	East	18.00			
	N 78° 30' E	12.00			

Certified copy sent to Div. of Land of Kansas, Sept. 12, 1871.

Read with Mr. Smith's letter of May 21, 1868

*And Judge Military Commission ordered by the President June 2, 1868*

*See letter to Sec. Gen. July 15, 1868 and July 16, 1868*

*See to Survey*

Total number of Acres 6,418.80

Survey Designated	By Whom Surveyed	Date of Contract	Amount of Survey	When Surveyed
Township lines	Sam'l P. Small	May 28th 1867	M. 64.2	1868
Subdivisions			29-26-22	
			29-26-14	

The above Map of Township N° 26 South of Range N° 25 West 6<sup>th</sup> Principal Meridian is a true and correct copy of the original map as shown to the field maps of the survey here on file in this office, which have been examined and approved by the General Land Office, Washington, D.C. May 21, 1868

*Commissioner*

Small 213

True Copy



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. 17,329**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Nickolaus J. Hernandez, City Manager for the City of Dodge City, Post Office Box 880, Dodge City, Kansas 67801-0880, received in this office on September 8, 2022, for approval of a change in the authorized point 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 limiting endorsements pertaining to the authorized quantities and rates of diversion remain in effect for Water Right, File No. 17,329, as set forth in the Certificate of Appropriation, dated September 8, 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 points of diversion shall be:

one (1) primary well located in the Southeast Quarter of the Southeast Quarter of the Northeast Quarter (SE $\frac{1}{4}$  SE $\frac{1}{4}$  NE $\frac{1}{4}$ ) of Section 24 more particularly described as being near a point 2,680 feet North and 80 feet West of the Southeast corner of said section, at a diversion rate not in excess of 540 gallons per minute (1.2 c.f.s.) and in a quantity not to exceed 71.11 million gallons of water (218.2 acre-feet) per calendar year,

one (1) primary well located in the Northeast Quarter of the Northeast Quarter of the Southwest Quarter (NE $\frac{1}{4}$  NE $\frac{1}{4}$  SW $\frac{1}{4}$ ) of Section 24, more particularly described as being near a point 2,570 feet North and 2,680 feet West of the Southeast corner of said section, at a diversion rate not in excess of 1,215 gallons per minute (2.71 c.f.s.) and a quantity not to exceed 218 million gallons of water (669 acre-feet) per calendar year,

one (1) primary well located Lot 7 of Section 25, more particularly described as being near a point 1,720 feet North and 2,340 feet West of the Southeast corner of said section, at a diversion rate not in excess of 980 gallons per minute (2.18 c.f.s.) and a quantity not to exceed 336.75 million gallons of water (1,033.45 acre-feet) per calendar year,

one (1) primary well located in the Southeast Quarter of the Northeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$  NE $\frac{1}{4}$  SW $\frac{1}{4}$ ) of Section 27, more particularly described as being near a point 1,450 feet North and 3,020 feet West of the Southeast corner of said section, at diversion rate not in excess of 1,150 gallons per minute (2.56 c.f.s.) and a quantity not to exceed 219.49 million gallons of water (673.6 acre-feet) per calendar year,

one (1) primary well located in Northeast Quarter of the Southeast Quarter of the Southeast Quarter (NE $\frac{1}{4}$  SE $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section 27, more particularly described as being near a point 1,070 feet North and 60 feet West of the Southeast corner of said section, at a diversion rate not in excess of 1,095 gallons per minute (2.44 c.f.s.) and a quantity not to exceed 238.32 million gallons of water (731.37 acre-feet) per calendar year,

one (1) primary well located in the Southwest Quarter of the Southwest Quarter of the Southwest Quarter (SW $\frac{1}{4}$  SW $\frac{1}{4}$  SW $\frac{1}{4}$ ) of Section 35, more particularly described as being near a point 60 feet North and 5,180 feet West of the Southeast corner of said section, at a diversion rate not in excess of 825 gallons per minute (1.84 c.f.s.) and a quantity not to exceed 214.26 million gallons of water (657.54 acre-feet) per calendar year,

one (1) primary well located in Southwest Quarter of the Southeast Quarter of the Southeast Quarter (SW $\frac{1}{4}$  SE $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section 35, more particularly described as being near a point 60 feet North and 1,080 feet West of the Southeast corner of said section, at a diversion rate not in excess of 985 gallons per minute (2.19 c.f.s.) and a quantity not to exceed 205.513 million gallons of water (630.7 acre-feet) per calendar year,

all in Township 26 South, Range 25 West, Ford County, Kansas, and

one (1) standby well located in the Southwest Quarter of the Northeast Quarter of the Northwest Quarter (SW $\frac{1}{4}$  NE $\frac{1}{4}$  NW $\frac{1}{4}$ ) Section 31, more particularly described as being near a point 4,150 feet North and 3,450 feet West of the Southeast corner of said section, in Township 26 South, Range 24 West, Ford County, Kansas,

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

The well described herein as the standby well shall be used exclusively at such time that any well herein described as a primary well is inoperable due to mechanical, maintenance or power failure, unless the standby well is being operated for maintenance, testing, fire protection, or a similar reason. Use of the standby well shall not exceed the authorized quantity of water or rate of diversion of the primary well or wells it temporarily replaces.

Installation of the works for diversion of water shall be completed on or before December 31, 2025, 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 acceptable water meters 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 meters has been completed. The water right owner shall maintain the water meters 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 meters 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. 17,329, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation, dated September 8, 1999.


Ordered this 4<sup>th</sup> day of October, 2024, in Manhattan, Riley County, Kansas.



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 4<sup>th</sup> day of October 2024, by Earl D. Lewis Jr., P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.

  
Notary Public



SHAWNA NOVAK  
My Appointment Expires  
August 23, 2028

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE  
Mike Beam, Secretary of Agriculture

DIVISION OF WATER RESOURCES  
Earl D. Lewis Jr., Chief Engineer

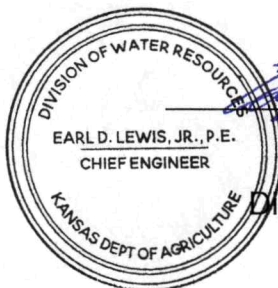
WAIVER OF REGULATION  
K.A.R. 5-23-3(b)


Date: October 4, 2021

Re: File No. 17,329

1. The rules and regulations in, K.A.R. 5-23-3(b), state that the location of a well or wells on an application for approval to change the point of diversion under an existing water right shall be no more than 2,640 feet from the currently authorized and completed point of diversion.
2. In the case of File No. 17,329, the city wishes to move authorized quantity from one of their seven authorized wells (Well #11) to another authorized well (Well #10), all of which were developed under the same right, sharing the same priority and constructed to the same depth, and to another existing municipal well authorized by File No. 34,536 (Well #17).
3. Approval of the proposed change application will result in no net change in the number of authorized wells and would move pumping away from an area experiencing environmental (radionuclide) contamination, which is impacting Well #11.
4. Southwest Kansas Groundwater Management District (GMD) No. 3 has recommended denial of the proposed change in favor of a more bureaucratic approach, requiring multiple applications and approvals to achieve the same result.
5. The proposed change should not result in impairment as it appears to meet the required well-to-well spacing.
6. That the waiver of K.A.R. 5-23-3(b) appears to be in the public interest, with a beneficial impact on public health and safety.

Comments:



  
Earl D. Lewis, Jr., P.E.  
Chief Engineer  
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 15, 2024

NICKOLAUS J HERNANDEZ  
CITY OF DODGE CITY  
PO BOX 880  
DODGE CITY KS 67801

RE: Water Right  
File No. 17,329

Dear Mr. Hernandez:

Enclosed is the order executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture approval of 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 5-1-4 through 5-1-12 must be installed on the diversion works authorized under the referenced file. Please complete and return the enclosed form, Notification of Completion of the Diversion Works and/or Installation of Flowmeter.

The standby well shall be used exclusively at such time when a primary well is inoperable due to mechanical, maintenance or power failure. Authorization of the standby well does not allow the authorized quantity of water or rate of diversion under this file to be exceeded.

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 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  
Enclosures

pc: Stafford 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: 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 15<sup>th</sup> day of October, 2024, I hereby certify that the attached Approval of Application for Change under Water Right, File No. 17,329, dated October 4, 2024, was mailed postage prepaid, first class, US mail to the following:

CITY OF DODGE CITY  
PO BOX 880  
DODGE CITY KS 67801

With photocopies to:

KDA-DWR Stafford Field Office

Southwest Kansas GMD No. 3

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