

33-ARKANSAS RIVER

File No. 20114	13. County: ED Basin: RATTLESNAKE CREEK Stream:		
Structures File No:	Aquifer Code: NO CHANGE 180		Special Use Area: NA

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
CHK	88613	NC	NE	8	25	17W	5	3935	1365	IRR/STK DUAL USE		195	195	900	900		#

15. Limitations Type: Quantity: **AF** Rate: **gpm** combined with file no(s):
 Type: **Quantity Limited to 162.63 AF (52.99 mgy) as long as right is operated as stockwater right**
 Quantity: Rate: combined with file no(s): **IRR/STK COMBINED DUAL USE - SEE IMAGE FOR DETAILS**

16. Metering Metering Required Anti-Reverse Required Seal Required Compliance Date: 12/31/2024 **5**

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					
CHK	31283	8	25	17W	2	40.0	40.0	40.0	40.0													160	5b	<input checked="" type="checkbox"/>	*
																								<input type="checkbox"/>	**
																								<input type="checkbox"/>	***
																								<input type="checkbox"/>	
ENT	72027	18	25	17W	DAIRY N/2, N/2 SW, NW SE/4																	5b	<input type="checkbox"/>	^	
																							<input type="checkbox"/>	^^	

18. Point of Diversion and Place of Use Overlaps + ++ # NONE ^ 13882, 17725, 17726, 17727, 17728, 17729, 17730, 17731, 17732, 20113, 20114, 21391.01, 22822, 22823, 22824, 30254, 30698, 30699, 30700 & 36724	* NONE ** *** ^^
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MEMORANDUM TO FILE

Division of Water Resources, Water Appropriation Program

Date: October 31, 2024

From: Leslie Ireland, Environmental Scientist

Re: Change Applications, Place of Use & Use Made of Water

File Nos. 13,882; 17,725; 17,726; 17,727; 17,728; 17,729; 17,730; 17,731; 17,732; 20,113; 20,114; 22,822; 22,823; 22,824; 30,254; 30,698; 30,699; 30,700 & 36,724

Re: Change Application, Place of Use

File No. 21,391.01

Summary

Harry DeWit, President, Skybound LP, as the new owner of the referenced files was assisted by an independent consultant, Micah Schwalb, Mid Kansas Agri, Co. and Marsha Shoemaker, Enviro-Ag Engineering, Inc., filed the above referenced proposed changes to authorize a new diary located in Section 18, Township 25, Range 17 West, Edwards County, to the West of Hutchinson, Kansas. These water rights are in the Rattlesnake Creek Basin and the Big Bend Kansas Groundwater Management District No. 5.

The files requesting the use made of water are proposing to authorize their irrigation use as “dual use” for irrigation and stockwater uses. Each file has a separate well and place of use located within approximately 1.5 miles (1.75 mile maximum) of the proposed “Diary” to located and to be authorized as:

a diary located in the North Half (N½), the North Half of the Southwest Quarter (N½ SW¼), and the Northwest Quarter of the Southeast Quarter (NW¼ SE¼), all in Section 18, Township 25 South, Range 17 West, Edwards County, Kansas.

The exception is File No. 21,391.01, authorized for stockwater use to divert 16.43 million gallons per year (mgy) will have the place of use in the center of Section 19, eliminated. The quantity will be authorized at the diary by the proposed place of use change.

The site of the diary required the 391.14 irrigated acres under File Nos. 17,728; 17,729 & 22,824, to be moved or reconfigured to comply with the definition of stockwater use. This resulted in the proposed overlapping of six of the irrigated places of use under of File Nos. 17,726; 17,727; 17,728; 17,729; 22,822 & 22,824 with a mix of currently authorized and proposed new irrigated acres. The irrigated acres under File Nos. 13,882; 17,725; 17,730; 17,731; 17,732; 20,113; 20,114; 22,823; 30,254; 30,698; 30,699; 30,700 & 36,724 will remain as authorized.

The referenced water rights are in compliance with both K.S.A. 82a-718, and in compliance with K.S.A. 82a-732. All of the referenced files have had a transfer of ownership in the past year or two years.

Reasonable Rate and Quantity

The nineteen (19) irrigation use files are authorized to divert 3,349 acre-feet (AF) per year for irrigation use on 2,624.32 acres in Edwards County, resulting in an average irrigation ratio of 1.28 AF/acre. The rates of diversion for irrigation use range from 650 to 925 gallons per minute remaining unchanged by the proposals. The proposed dual use to add stockwater use per K.A.R. 5-5- 9, *Approval of application for a change in the use made of water from irrigation to any other type of beneficial use of water*, requires the authorized quantity a consumptive use adjustment of 83.4% for changes in this county. This results in a total of 2,793.066 AF to be authorized for both irrigation and stockwater uses combined. It appears the request meet K.A.R. 5-5-3, *Change in consumptive use*.

A stockwater summary provided by the Stockwater Use Supplemental Sheet and owner summary indicates 20,000 dairy cows, with 5,000 heifers and 200 calves will be maintained at the facility. The summary included maintenance and adjustments for seasonal operations with a total annual use indicated to be 926.55 (mgy) (2,419.42 AF).

Review of the proposal per K.A.R 5-3-22, *Maximum reasonable quantity of water for livestock and poultry*, applying the standard values for the stated number of dairy cows (confined), dry, maternity and calves determined an annual water usage of 1,021.27 mg (3,134.16 AF). This would indicate a limitation on the quantity for the proposed dual use for the stockwater use is not necessarily as the quantity is a provide a fluctuating irrigation-stock uses and the quantity afforded by regulation would not be exceeded.

The irrigated acres under File Nos. 13,882; 17,725; 17,730; 17,731; 17,732; 20,113; 20,114; 22,823; 30,254; 30,698; 30,699; 30,700 & 36,724, are located in the general area of the dairy and will remain as authorized. The footprint of the dairy required 391.14 irrigated acres under File Nos. 17,728; 17,729 & 22,824, to be moved or reconfigured to comply with the definition of stockwater use. The owner has requested to change the irrigated places of use under of File Nos. 17,726; 17,727; 17,728; 17,729; 22,822 & 22,824, currently authorized 810.94 acres, with a total 1,071 AF, with an average irrigation ratio of 1.33 AF per acre. The proposed place of use will authorize less acres to assure compliance with K.A.R. 5-3-19 *Maximum reasonable annual quantity of water for irrigation use*, which for this area would be a maximum of 1.5 AF per acre. The irrigated acres and proposed place of use was also reviewed by K.A.R. 5-5-11, *Applications for change in place of use for irrigation purposes*, to assure the place of use was not increase above the base acre allowance. See *Attachment A*.

Review of the six(6) files proposing to overlap their irrigated acres found several had their place of use reduced for the AWEP Water Right Affidavit conservation program. This program removed acres and would appear to have redefined the "base acres" under File Nos. 17,728 (139.14); 22,822 (116.8) & 22,824 (133), a total of 388.94 base acres. Under File Nos. 17,726 (130); 17,727(133); 17,729 (119) yield a total 382 base acres, for a total of 770.94 base acres. The maximum acres that could be authorized by these files by K.A.R. 5-5-11(b)(1) would be 830.94 acres as each file could increase their acres by 10 acres as none currently overlap. While the acres would allow this increase these six(6) files propose to authorize 740.94 acres, with the reduced total irrigation quantity of 893.214 AF, results in an irrigation ratio of 1.20 AF per acre. The Net irrigation requirements per K.A.R. 5-5-15, at the 80% chance of rain in this area is 1.26 AF per acre and 1.08 at the 50% chance. The proposed ratio would very due to stockwater usage and effluent, but it appears if operated only for irrigation use these files comply with K.A.R. 5-5-11 and K.A.R. 5-5-19, hence K.A.R. 5-3-24, *Reasonable quantity for irrigation use* and would not increase the historical consumptive use per K.A.R. 5-5-3, *Change in consumptive use*.

The owner has indicated 672.086 AF per year of wastewater will be available for supplementing the irrigation use.

Source of Supply

The source of supply designated in the WRIS database as the Kansan/Nebraskan (Code 180) will remain unchanged. There are no point of diversion changes, but the location of wells with better GPS information will be updated per K.A.R. 5-5-6c, *Authorized point of diversion or place of use*.

Nearby Water Rights

Review of our information, the KGS the ORKA databases and the applicant's identified wells within one-half (½) mile of the proposed existing wells were notified by letters sent on September 6, 2024. I did not receive any comments.

Recommendations

In a letter dated September 9, 2024, a copy of the change applications were submitted to the Big Bend Groundwater Management District No. 5, along with a request to submit a recommendation to this office. In letters dated October 1, 2024, and received on October 2, 2024, Orrin Feril, Manager, GMD5, recommended approval of the referenced applications, but requested the future allowance of the irrigation water rights to change back to irrigation only and be reauthorized at the current irrigation quantity not be allowed. He cited K.A.R. 5-5-9, not allowing an increase in quantity. The GMD was informed by KDA Legal the approvals would be structured per our standard dual use orders for irrigation use made of water changes adding stockwater use as adopted by 2017 policy as proposed by these 2024 applications.

Jeff Letterman, Water Commissioner, Stafford Field Office recommended approval per an e-mail dated October 31, 2024.

Completion

The existing wells will require a meter for each use to be installed and check valves should probably be installed due to the effluent but will contain the standard chemigation wording. Water level measurement tubes are not applicable.

It appears the applications comply with our regulations and area field office. Based upon the above discussion, the approvals will not change the local source of supply, should not result in any impairment, nor prejudicially or unreasonably affect the public interest. It is recommended that the referenced applications be approved.

ATTACHMENT A									
SKYBOUND LLP PROPOSED DAIRY									
83.4 CU % for EDWARDS COUNTY									
AUTHORIZED					PROPOSED				
File No.	AF	ACRES	AF/A	AF	MGY	AF/A	ACRES *	AF/A*	
17725	143	130	1.10	119.262	38.86	1.09			
* 17726	185	143	1.29	154.29	50.28		143		
* 17727	204	160	1.28	170.136	55.44		160		
* 17728	166	139.14	1.19	138.444	45.11		111		
* 17729	185	119	1.55	154.29	50.28		53		
17730	207	120.5	1.72	172.638	56.25	0.70			
17731	170	132.68	1.28	141.78	46.20	0.94			
17732	131	95.1	1.38	109.254	35.60	0.87			
20113	177	160	1.11	147.618	48.10	1.08			
20114	195	160	1.22	162.63	52.99	0.98			
21391.01					16.43				
* 22822	166	116.8	1.42	138.444	45.11		116.8		
22823	195	160	1.22	162.63	52.99	0.98			
* 22824	165	133	1.24	137.61	44.84		157.1		
30254	180	141.3	1.27	150.12	48.92	0.94			
30698	138	122.9	1.12	115.092	37.50	1.07			
30699	195	160	1.22	162.63	52.99	0.98			
30700	131	110.9	1.18	109.254	35.60	1.02			
13882	221	160	1.38	184.314	60.06	0.87			
36724	195	160	1.22	162.63	52.99	0.98			
AVG			1.28						
Total	2933	2624.32		2446.122		0.961979	740.9	1.2	
Total with *	3349			2793.066					
* Irrigation PU Overlap					926.55				
Total with STK				2843.488					
				2843.49					
Average						0.96		1.2	

Ireland, Leslie [KDA]

From: Lanterman, Jeff [KDA]
Sent: Thursday, October 31, 2024 3:43 PM
To: Ireland, Leslie [KDA]
Cc: Letourneau, Lane [KDA]
Subject: RE: Review and Recommendation for CHGs, File Nos. 13282 17725 26 27 28 29 30 31 32 20114 13 21391.01 22822 23 24 30254 30698 99 70 36724 SKYBOUND LLC

Leslie;

Great work on this complicated set of files. Sorry about the misunderstanding on the CU I was under the impression that we stopped doing that at the date of that meeting. But it makes sense that ones that were in the system get processed under the rules at the time of filing.

I don't know where I stand on the path back either. Hays sure didn't get one and Micah didn't have a problem with no path back on those. In fact he even wanted less water approved than our normal processes at the time 😊 There is a double standard.

I recommend approval and Happy Halloween!

Thanks

Jeff Lanterman PG, Water Commissioner
Kansas Department of Agriculture
Division of Water Resources
(620)234-5311
jeff.lanterman@ks.gov
<https://agriculture.ks.gov/divisions-programs/dwr>

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Wednesday, October 30, 2024 4:24 PM
To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>
Cc: Letourneau, Lane [KDA] <Lane.Letourneau@ks.gov>
Subject: RE: Review and Recommendation for CHGs, File Nos. 13282 17725 26 27 28 29 30 31 32 20114 13 21391.01 22822 23 24 30254 30698 99 70 36724 SKYBOUND LLC

Jeff,

GMD didn't like the path back on the CU at all!!

Opps on the will get that fixed.. if you see anything else please let me know. Trying that new memo format a little different.

Will have to look and see if Micha got t it right??? LOL Did that new format due to his memo and you know me not a writer.

Leslie

From: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>

Sent: Wednesday, October 30, 2024 3:19 PM

To: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>

Cc: Letourneau, Lane [KDA] <Lane.Letourneau@ks.gov>

Subject: RE: Review and Recommendation for CHGs, File Nos. 13282 17725 26 27 28 29 30 31 32 20114 13 21391.01 22822 23 24 30254 30698 99 70 36724 SKYBOUND LLC

Did the GMD have any groundbreaking recommendations on these other than CU? I noticed on your memo in the first paragraph of the summary that you said the Arkansas river basin and I believe these are all in the Rattlesnake aren't they? I should have a recommendation to you by tomorrow afternoon. I don't wanna be the holdup on these.

Jeff

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>

Sent: Wednesday, October 30, 2024 2:26 PM

To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>

Cc: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>; Baum, Kristen <Kristen.Baum@ks.gov>

Subject: Review and Recommendation for CHGs, File Nos. 13282 17725 26 27 28 29 30 31 32 20114 13 21391.01 22822 23 24 30254 30698 99 70 36724 SKYBOUND LLC

Jeff,

Please let me know if you would recommend the package of changes as summerized.

As always comments and concerns are welcome.

We are finally getting some rain. Pouring!! Hope you guy do too.

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 PLACE OF USE AND USE MADE OF WATER WATER RIGHT, FILE NO. 20,114

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Harry DeWit, on behalf of Skybound LP, 2450 Highway 86, Friona, Texas 79035, received in the office of the Chief Engineer on January 29, 2024, for approval of a change in the location of the place of use and use made of water, under the certificate of appropriation issued pursuant to the permit to appropriate water for beneficial use, the Order of the Chief Engineer dated February 11, 2021, approving the application to change the authorized point of diversion, finds that the change is reasonable and will not impair existing rights, and that the application should be and is hereby approved.

The authorized quantity of water under this right will remain 195 acre-feet (63.54 million gallons). This order effectively limits the authorized quantity of water to 162.63 acre-feet (52.99 million gallons) per calendar year for both stockwatering and irrigation uses combined. That the limitation on the quantity of water shall exist until such a time that the quantity of water for stockwatering use authorized by this approval is no longer required.

The effective date of the change shall be the date this order is executed by the Chief Engineer, after which the portion retained for irrigation use shall be authorized a maximum quantity not to exceed 162.63 acre-feet (52.99 million gallons) of groundwater per calendar year, for irrigation use on the following described property:

Sec. Twp. Range	NE¼				NW¼				SW¼				SE¼				TOTAL
	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
8 - 25S - 17W	40	40	40	40													160

a total of 160 acres in Section 8, Township 25 South, Range 17 West,
Edwards County, Kansas.

The portion changed to stockwatering use shall be authorized a quantity not to exceed 162.63 acre-feet (52.99 million gallons) of groundwater per calendar year for use at the location described as being:

a dairy located in the North Half (N½), the North Half of the Southwest Quarter (N½ SW¼), and the Northwest Quarter of the Southeast Quarter (NW¼ SE¼), all in Section 18, Township 25 South, Range 17 West, Edwards County, Kansas,

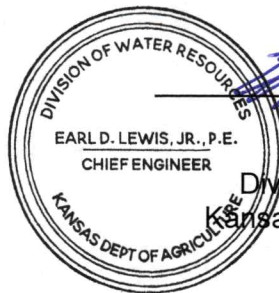
all located substantially as shown on the topographic map accompanying the application to change the place of use and use made of water.

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.

The water right owner shall properly install an acceptable water meter for each use made of water 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. 20,114, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated September 11, 1987, as modified and amended by the aforementioned order.

Ordered this 4th day of November, 2024, 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 4th day of November, 2024, by Earl D. Lewis Jr., P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.

[Signature]

Notary Public



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

November 14, 2024

HARRY DEWIT
SKYBOUND LP
2450 HWY 86
FRIONA TX 79035

RE: Water Right
File Nos. 13,882, 17,725, 17,726, 17,727, 17,728,
17,729, 17,730, 17,731, 17,732, 20,113,
20,114, 21,391.01, 22,822, 22,823, 22,824,
30,254, 30,698, 30,699, 30,700 and 36,724

Dear Mr. DeWit:

Enclosed are the orders executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the applications for change under the above referenced file numbers.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in these approvals. A condition of each approval, except File No. 21,391.01, is the requirement that acceptable water flowmeters must be installed so both irrigation and stockwatering uses can be metered independent of each other, from each of the diversion works prior to the diversion of water. Please return the required Notice of Completion of Diversion Works form for the installation of the meters as soon as this action is completed. The form and other information may be found at our agency web site: agriculture.ks.gov/dwr.

Since these orders modify the certificates of appropriation for the above referenced water rights, they should be recorded with the Register of Deeds as other instruments affecting real estate.

Annual water use reports must be filed with the Chief Engineer by March 1, following the end of each calendar year. If a complete annual water use report is not received by the deadline, then a fine may be assessed and all water use under such permit or right may be suspended. Reports submitted in paper form will be assessed a \$20 per file number paper filing fee. In order to avoid this filing fee, you may submit your reports online at kswaterusereport.org.

If you have any questions, regarding the enclosed documents, please contact our office at 785-564-6640. For questions regarding the required water flowmeter requirements, please contact our Stafford Field Office at 620-234-5311. Please reference a file number when contacting us 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
Big Bend GMD 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 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 the Kansas Department of Agriculture, Attn: Legal Section, 1320 Research Park Drive, Manhattan, Kansas 66502, or by 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 the Secretary of Agriculture, Attn: Legal Division, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, or by 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 14 day of November, 2024, I hereby certify that the attached Approval of Applications for Change under Water Right, File Nos. 13,882, 17,725, 17,726, 17,727, 17,728, 17,729, 17,730, 17,731, 17,732, 20,113, 20,114, 21,391.01, 22,822, 22,823, 22,824, 30,254, 30,698, 30,699, 30,700 and 36,724, dated November 4, 2024, were mailed postage prepaid, first class, US mail to the following:

SKYBOUND LP
2450 HWY 86
FRIONA TX 79035

With photocopies sent to:

KDA-DWR Stafford Field Office

Big Bend GMD No. 5


Division of Water Resources