

Kansas Department of Agriculture
Division of Water Resources

CHANGE PU WORKSHEET & ORDER TO BETTER DESCRIBE PD & OWNERSHIP & WUC

1. File Number: 4558	2. Status Change Date: 2/21/2024	3. Change Num: C1	4. Field Office: 02	5. GMD: 02
6. Status: <input type="checkbox"/> Approved <input type="checkbox"/> Denied by DWR/GMD <input type="checkbox"/> Dismiss by Request/Failure to Return				7. Filing Date of Change: 12/21/2022
8a. Applicant(s) New to system <input checked="" type="checkbox"/> JOHN A. & JENNIFER NIEMANN 30800 W 37TH STREET MT HOPE, KS 67108-9303		Person ID 69409 Add Seq# _____		
8b. Landowner(s) New to system <input checked="" type="checkbox"/> JOHN A. & JENNIFER NIEMANN 30800 W 37TH STREET MT HOPE, KS 67108-9303		Person ID _____ Add Seq# 1		
8c. Landowner(s) New to system <input type="checkbox"/> HOMESTEAD INC LESTER EWY-PRESIDENT 3202 ROYER WEST DR NEWTON, KS 67114		Person ID 23737 Add Seq# 1		
8d. WUC New to system <input checked="" type="checkbox"/> JOHN A. & JENNIFER NIEMANN 30800 W 37TH STREET MT HOPE, KS 67108-9303		Person ID _____ Add Seq# 1		
9. Documents and Enclosure(s): <input checked="" type="checkbox"/> DWR Meter(s) Date to Comply: 12/31/2024 <input type="checkbox"/> Date to Comply: _____				
<input type="checkbox"/> Anti-Reverse Meter <input type="checkbox"/> Meter Seal <input type="checkbox"/> Check Valve <input type="checkbox"/> N & P Form <input type="checkbox"/> Water Tube <input 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: _____				
Date Prepared: 2/18/2024 By: LI Date Reviewed: 2/21/2024 By: KAK Date Entered: 2/27/2024 By: KAnderson				

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

MEMORANDUM

TO: Files

DATE: February 19, 2024

FROM: Leslie Ireland

RE: Water Right
File Nos. 4,558 & 19,235

John and his wife Jennifer Niemann the new owners, have filed applications to change the place of use authorized for irrigation use under the above referenced files. The applications were received on December 20, 2021. The referenced files are located in the North Fork of the Ninescah River Basin Reno County, and the Equus Beds Groundwater Management District No. 2.

The referenced water rights are considered not to be abandoned as per K.S.A. 82a -718, and in compliance with K.S.A. 82a -732. The notice as required by K.S.A. 82a-1906, was completed by letter of January 3, 2024. No comments have been received.

File No. 4558, authorizes 105 acre-feet at a rate of 579 gallons per minute (1.29 c.f.s) from one well located near the center of the South Half of the Southwest Quarter (S $\frac{1}{2}$ SW $\frac{1}{4}$) approximately 640 feet North and 3,730 feet West of the Southeast corner of Section 31, Township 24 South, Range 7 West, Reno County the for the irrigation of 72.5 acres in the Southwest Quarter (SW $\frac{1}{4}$). A Field Office review determined the "base acres" to be 72.5 acres. It has no overlaps in point of diversion or place of use. The source of supply has not been determined.

A 2017 site visit by GMD 2 indicates the actual location of the well to be 705 feet North and 3,924 feet West of the Southeast corner. The qualifiers will be updated from NC S2 SW to the Northwest Quarter of the Southeast Quarter of the Southwest Quarter (NW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$). The 205 foot correction appears to comply with K.A.R. 5-5-6(c), *Authorized point of diversion or place of use*.

File No. 19,235, authorizes the same quantity of 105 acre-feet at a rate of 475 gallons per minute (1.06 c.f.s) from one well located near the center of the West Half (NC W $\frac{1}{2}$) approximately 2,575 feet North and 3,960 feet West of the Southeast corner of Section 31, Township 24 South, Range 7 West, Reno County the for the irrigation of 140 acres in the Northwest Quarter (NW $\frac{1}{4}$) and the West Half of the Southwest Quarter (W $\frac{1}{2}$ SW $\frac{1}{4}$). A Field Office review determined the "base acres" to be 130 acres. It has no overlaps in point of diversion or place of use. The source of supply has not been determined.

A 2009 Compliance Investigation by DWR determined by GPS the actual location to be approximately 2,624 feet North and 3,933 feet West of the Southeast corner. The qualifiers will be updated from (NC W $\frac{1}{2}$) to the Northwest Quarter of the Northeast Quarter of the Southwest Quarter (NW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$). The 56 foot correction appears to comply with K.A.R. 5-5-6(c), *Authorized point of diversion or place of use*.

The referenced files each authorize their own pivot. The owners propose to utilize subsurface drip irrigation instead to improve efficiency. They have requested to add the allowed increase of whichever is less ten acres or ten percent of the base acres per K.A.R. 5-5-11(b), *Application for change in place of use for irrigation purposes*. This would afford File No. 4558 to add 7.25 acres for a total of 79.75 acres and File No. 19,235 to add 10 acres for a total of 140 acres. The owners then proposed to overlap these acres to authorize a combined total of 219.75 acres, the owners have requested only 219.25 acres. The overlapping of the place of use will result in a contiguous place of use under one ownership, and considered to be identical which appears to comply with Part (b)(1) of K.A.R. 5- 5-5-11 . The rights are authorized a combined quantity of 210 acre-feet from two separate wells would result in an irrigation ratio of 0.958 acre-foot per acre. This would appear to be reasonable as the *Net irrigation requirement*, per K.A.R. 5-5-12 at the 50 percent chance for rain in Reno County is 0.95 acre-feet per acre.

It would appear that the proposal will comply with K.A.R 5-5-3, *Change in consumptive use*, and should not result in a substantial increase in the net consumptive use.

In letters dated January 17, 2024, the Equus Beds Groundwater Management District No. 2 recommended approval of the applications.

The proposed changes were reviewed by Jeff Lanterman, Water Commissioner of the Stafford Field Office. He recommended approval of the proposed changes per his email dated February 19, 2024.

As per K.A.R. 5-5-11(e) the approvals will require the installation of a water flow meter meeting the current specifications of the Chief Engineer. A check valve will be required if chemigating.

Based on the above discussion, that the change in place of use is reasonable and should not significantly increase the consumptive use, impairment of existing water rights is unlikely, that no change in the local source of supply will occur, it is recommended that the referenced applications be approved.



Leslie Ireland
Environmental Scientist

Ireland, Leslie [KDA]

From: Lanterman, Jeff [KDA]
Sent: Monday, February 19, 2024 12:55 PM
To: Ireland, Leslie [KDA]; Conant, Cameron [KDA]
Subject: FW: Review and Recommendation File Nos. 4558 & 19235 Niemann drip by Grimm
Attachments: 4558 19235_pu IRR _increase overlap 5-5-11_2_2.docx; 4558 PU Change App Approval Recommendation 1-17-24.pdf; 19235 PU Change App Approval Recommendation 1-17-24.pdf; 4558 Meter Installation Letter 1-17-24.pdf; 19235 Meter Installation Letter 1-17-24.pdf

Leslie; Sorry this one got lost.

Ya I agree with Cameron, this one is good to approve.

Thanks
Jeff

From: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Sent: Monday, February 19, 2024 11:56 AM
To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>
Subject: FW: Review and Recommendation File Nos. 4558 & 19235 Niemann drip by Grimm

Jeff, this got passed by and lost in the shuffle I guess. Fundamentally I can't really see anything wrong with this change, it looks like it should have been a Field Office change to make a complete overlap between the two files but it was filled out by a consultant or the owner and they did it on a HQ change form. Honestly I didn't look it over with a fine tooth comb to make sure all the legals and such are correct but GMD#2 did already provide a recommendation of approval. If you want to look it over more closely, go ahead, but I'm not going to be able to right now, I have a pile of new apps and changes I need to get moving on.

Cameron

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Friday, January 19, 2024 9:47 AM
To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>; Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Subject: Review and Recommendation File Nos. 4558 & 19235 Niemann drip by Grimm

Jeff,

Please let me know if you'd recommend the requested changes and update to the PDs.

The GMD reviews are also attached.

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 PLACE OF USE
AND
ORDER BETTER DESCRIBING THE AUTHORIZED POINT OF DIVERSION
WATER RIGHT
FILE NO. 4,558

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of John A. and Jennifer Niemann, 30800 West 37th Street, Mount Hope, Kansas 67108-9303, received in this office on December 20, 2021, for approval of a change in the location of the place of use under the certificate of appropriation issued pursuant to the application for permit to appropriate water for beneficial use, as amended and modified by the Findings and Order of the Chief Engineer, dated August 28, 1981, in the matter of the location of the authorized point of diversion, by the Order of the Chief Engineer, dated February 23, 1983, approving the application to change the point of diversion and place of use, the Correction Orders of the Chief Engineer, dated February 23, 1983, and July 19, 1983, in the matter of the location of the authorized point of diversion and the place of use, by the Findings and Order of the Chief Engineer, dated December 7, 1993, in the matter of the authorized place of use and quantity of water, 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 place of use shall be:

Sec.	Twp.	Range	NE¼				NW¼				SW¼				SE¼				TOTAL ACRES
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
31	24S	07W					15.00	Lot 1 7.50	Lot 2 36.50	39.00	32.50	Lot 3 31.75	Lot 4 40.00	17.00					219.25

a total of 219.25 acres in Section 31, Township 24 South, Range 7 West,
Reno County, Kansas,

located substantially as shown on the map accompanying the application to change the place of use, and the location of the authorized point of diversion shall be better described as:

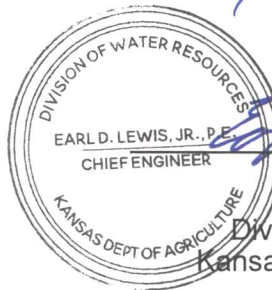
one (1) well located in the Northwest Quarter of the Southeast Quarter of the Southwest (NW¼ SE¼ SW¼) of Section 31, more particularly described as being near a point 705 feet North and 3,924 feet West of the Southeast corner of said section, in Township 24 South, Range 7 West, Reno County, Kansas.

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 on each of 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. 4,558, for permit to appropriate for beneficial use, is as stated and set forth in the Certificate of Appropriation, dated September 26, 1958, as modified and amended by the aforementioned orders.

Ordered this 21st day of February, 2024, in Manhattan, Riley County, Kansas.

 *Earl D. Lewis Jr.*

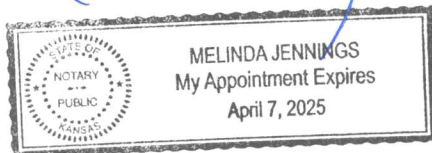
Earl D. Lewis Jr., P.E.
Chief Engineer
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 21 day of February, 2024, by Earl D. Lewis Jr., P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.

Melinda Jennings

Notary Public

 MELINDA JENNINGS
My Appointment Expires
April 7, 2025

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

JOHN A & JENNIFER NIEMANN
30800 W 37TH STREET
MT HOPE KS 67108-9303

RE: Water Right
File Nos. 4,558 and 19,235

Dear Mr. and Mrs. Niemann:

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

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in the approvals for change. A condition of the approvals is that acceptable water flowmeter must be installed on the diversion works authorized.

Since the orders modify the original documents referred to above, they should be recorded with the Register of Deeds as other instruments affecting real estate.

If you have any questions, regarding the enclosed approval documents please contact us at 785-564-6640. Should you have questions regarding the meter requirement or other requirements, please contact our staff at the 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
Division of Water Resources

KAB:kak:li

Enclosures

pc: Stafford Field Office
Equus Beds GMD No. 2

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 28 day of February, 2024, I hereby certify that the foregoing Approval of Applications for Change in Place of Use Water Right and Orders Better Describing the Authorized Point of Diversion under Water Right, File Nos. 4,558 and 19,235 dated February 21, 2024, were mailed postage prepaid, first class, US mail to the following:

John A. & Jennifer Niemann
30800 W 37th Street
Mount Hope KS 67108-9303

With a photocopy to:

KDA-DWR Stafford Field Office

Equus Beds GMD No. 2


Staff