

Kansas Department of Agriculture
Division of Water Resources
 APPROVAL OF CHANGE APPLICATION WORKSHEET

1. File No.: 5933	2. Status Change Date: 8/20/2024	4. Field Office: 02 - Stafford GMD: Structures File No.: Filing/Priority Date: 8/25/2023 Application Complete Date:
3. Package File No(s): changes 5933 26699		
5a. <input checked="" type="checkbox"/> Applicant <input checked="" type="checkbox"/> Owner <input checked="" type="checkbox"/> WUC <input type="checkbox"/> Address Change Person ID 68571 Add Seq# 1 CARY & PHYLLIS TUCKER 23031 60 ROAD LEBANON, KS 66952	5b. <input type="checkbox"/> Owner <input type="checkbox"/> WUC <input type="checkbox"/> Address Change Person ID Add Seq#	
5c. <input type="checkbox"/> Owner <input type="checkbox"/> WUC <input type="checkbox"/> Name Change Person ID Add Seq#	5d. <input type="checkbox"/> Owner <input type="checkbox"/> WUC <input type="checkbox"/> Address Change Person ID Add Seq#	
6. Change No.: C2 <input checked="" type="checkbox"/> PD <input type="checkbox"/> PU <input type="checkbox"/> UMW Base Acres: Year: Min Reasonable Q: Previous UMW: MDS Gauge: Active Admin? <input type="checkbox"/> Completion/Start Date: Perfection/Expiration Date:	7. Use of Water <input checked="" type="checkbox"/> Groundwater <input type="checkbox"/> Surface Water UMW: IRR- Irrigation UMW: UMW:	
8. Action Trail GX C2 - CHANGE APP POINT OF DIVERSION APPROVED - Comp Date: 12/31/2024		
9. Special Conditions NONE		
10. 5YR Allocation Type: Start Year: 5YR Quantity: Base Acres: Comment:		
11. Sand & Gravel Proj ID: <input type="checkbox"/> Active <input type="checkbox"/> Dredge <input type="checkbox"/> IND Evap <input type="checkbox"/> Jr Evap <input type="checkbox"/> Other Diversion <input type="checkbox"/> Rpt on Sr		
12. Waiver Rule ID: <input type="checkbox"/> New Date Requested: Applies: Rule No.: Rule Type: Justification: Rule SubType:		
Comments FLIP FLOP OF EXISTING WELLS	Processed LI 8/16/2024	Entered 8/20/2024 KAnderson
	Reviewed KAK 8/19/2024	

File No. **5933** 13. County: **HG** Basin: **BUCKNER CREEK** Stream:
 Structures File No: Aquifer Code: **211** 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
DEL	89710	NW SW SE	6	24	24W	4	1029	2625		80	80	203	203				+
ENT	89711	SW SE SW	6	24	24W	5	658	3702		80	80	203	203				+

15. Limitations Type: Quantity: **AF** Rate: **gpm** combined with file no(s): **None** **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					CHANGE																					<input type="checkbox"/>	*	
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18. Point of Diversion and Place of Use Overlaps
+ 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 16, 2024

FROM: Leslie Ireland

RE: Water Right,
File Nos. 5,933 & 26,699

Cary and Phyllis Tucker, the new owners of the referenced rights authorized for irrigation use filed applications for approval to change the authorized points of diversion on August 25, 2023. The files are in the Buckner Creek Basin, in Township 24 South, Range 24 West, Hodgman County.

The referenced files were found not to be abandoned as per K.S.A. 82a-718 and in compliance with K.S.A. 82a-732. A review found only the applicants domestic well is located in the one-half (½) mile notification area. No notices per K.S.A, 52a-1906 will be sent.

The changes propose to move each well that is authorized under each of the referenced files, proposing to flip the files between the existing wells. No new wells will be constructed.

File No. 5,933 authorizes one well located in the Northwest Quarter of the Southwest Quarter of the Southeast Quarter (NW¼ SW¼ SE¼) of Section 6, approximately 1,029 feet North and 2,625 feet West of the Southeast corner, to operate at a rate of 203 gallons per minute (gpm) to divert 80 acre-feet (AF) per year. The proposed change is to authorize the point of diversion listed below for File No. 26,699, historically referenced as the “East Well”

File No. 26,699, authorizes one well located in the Southwest Quarter of the Southeast Quarter of the Southwest Quarter (SW¼ SE¼ SW¼) of Section 6, approximately 658 feet North and 3,702 feet West of the Southeast corner, authorized a rate of 115 gpm to divert 44 AF. The proposed change is to authorize the 115 gpm to divert 44 AF from the well listed above which has been historically referenced as the “West Well”

These two files have a complete place of use overlap of 145 irrigated acres. There are no additional limitations on either of the referenced files and they are not in a special use area.

The source of supply of both wells has been determined to be the Ogallala Formation (Code 211). The WRIS database indicates the wells are approximately 1,140 feet apart.

In 2022 both wells were replaced approximately 50 feet from their authorized locations. The well logs of the completed wells were reviewed. The log for File No. 5,933 indicates it was completed to a depth of 83 feet, with approximate 13 feet of 0.05 inlet slots. The well log of File No. 26,699 was completed to a depth of 91 feet, with approximate 15 feet of 0.1 inlet slots. The listed lithology appears to be similar and both logs listed well static water levels of 50.5 feet in September of 2022. The well construction differences have altered the operational rate resulting in the proposed reassignment of the referenced files.

The existing wells under appear to meet Part (a) instead of the minimum required spacing of 1,320 feet as per K.A.R. 5-4-4, *Well spacing*, as the wells have historically operated without impairment at a reduced well to well spacing. They also serve the same place of use under one landowner.

Information submitted with the applications indicates that there is only the applicant's domestic well within one-half (½) mile of each proposed point of diversion.

Jeff Lanterman, Water Commissioner of the Stafford Field Office said in his e-mail note dated August 15, 2024, that he has no reason to object to the approval of the proposed changes in points of diversion.

A water flow meter and check valve will be required under each well approved by these changes. A water level measurement tube will be required, but a WWC-5 is not applicable as it was submitted with the previous change applications. A notice of completion will be required for both files to assure the meter information.

Based on the above discussion, that the changes are reasonable, that impairment to existing water rights is unlikely and that no change in the local source of supply will occur, it is recommended that the referenced applications be approved.

Leslie Ireland
Environmental Scientist
Water Appropriation Program

Ireland, Leslie [KDA]

From: Lanterman, Jeff [KDA]
Sent: Thursday, August 15, 2024 3:37 PM
To: Ireland, Leslie [KDA]
Cc: Conant, Cameron [KDA]
Subject: FW: Review and Recommendation for Change in Point of Diversion, File Nos. 5996 & 26,699 Tucker
Attachments: 5933 26699 pd_flip_2_0.docx; 5399 PROPOSED PD AMT STAT.pdf; 5933__ Log GPS NAD 27 vs NAD 38.pdf; 26699__Log GPS NAD 27 vs NAD 38.pdf; 5933 & 26699 map.pdf; 5933 & 26699 map.pdf

Leslie;

I am totally good with approval of these change applications. I am not sure as to whether a waiver would be required as the spacing is going to remain exactly the same as it was before the change.

Thanks
Jeff

From: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Sent: Thursday, August 15, 2024 2:09 PM
To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>
Subject: FW: Review and Recommendation for Change in Point of Diversion, File Nos. ⁵⁹³³~~5996~~ & 26,699 Tucker LI/DWR

Jeff, this looks like a complete flip flop of existing wells, they are flipping two files rate and quantity to align the higher authorized rate and quantities to the better producing well. Operationally this makes sense and I don't believe the change would impair anything. This went in as an HQ change, Scott Ross filled it out and requested a waiver for not meeting spacing to the other well associated with the change. In effect, they don't meet spacing to their own wells which are both combined to irrigate a pivot system. I'm not overly concerned with a waiver on this because of how these wells were operated in the past and will continue to operate which is as a combined unit, they are not sufficient on their own, so spacing to one another may not need a waiver and isn't a deal killer on this. They are about 1100' apart.

In this case I don't think we need to use the GPS data from the driller to get this change approved. We will be out soon enough to do a compliance check on the completed wells from the first set of changes and can get the footages squared up then, I think we are good going with the authorized and proposed as lined out in the application.

I think we can recommend approval of this application-your call on whether or not the waiver of spacing to the other well is necessary or not.

I'd like to note that the owner has mentioned to me in the past while working on the previous changes that he believes the wells to the Southeast of him may be impairing or negatively influencing the operation of his new wells. Sounds like when the other wells are running, he believes his water level is impacted and his own wells pumping capacity is diminished although there is only a couple years of this since they were recently re-drilled and put to use. I've included a map showing the depth of his wells versus the wells to the SE and he is correct, they are deeper than his wells. His wells tested at 203 GPM and 115 GPM while the wells to the SE tested at 680 GPM, 650 GPM, and 625 GPM, so even historically it appears his wells were not as high producing as the wells to the SE. I would say they all appear to be in the same source and we have been calling it Ogallala. There is no Dakota

showing up in any of the logs. The nearest well is ¾ of a mile away and is 108' deep, so even judging by that the aquifer may be getting thicker as you go SE from his wells. I'm not sure what to make of the informal complaint, what do you think?

https://geohydro.kgs.ku.edu/geohydro/wizard/wizardwelldetail.cfm?usgs_id=375911099560301 (73' deep well located several miles east)

https://geohydro.kgs.ku.edu/geohydro/wizard/wizardwelldetail.cfm?usgs_id=375911099560301 (90' deep well located several miles south)

Cameron

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

Sent: Thursday, August 15, 2024 10:25 AM

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

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

Subject: Review and Recommendation for Change in Point of Diversion, File Nos. 5996 & 26,699 Tucker

Jeff,

Please let me know if you'd recommend these changes. I wrote the summarized memo based on the authorized well locations and WRIS information.

When reviewing the KGS information on the logs I also looked at the log GPS data. Not sure how accurate the drillers data and conversion to actual feet distances compares to ours but sent you the information for your review. I've not know of us to look at data this way,, but wanted to see how it compared as GPS data might be more uniform these days. The changes would still be considered to meet Part a of 5-4-4 and would list the location per the 2022 field office change approval well locations unless you determine and inform me otherwise.

Please let me know what you think. As always comments and concerns are welcome.

Take care,
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. 5,933**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Cary J. and Phyllis N. Tucker, 23031 60th Road, Lebanon, Kansas 66952, received in the office of the Chief Engineer on August 25, 2023, 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 Orders of the Chief Engineer, dated January 7, 1985, and July 3, 1989, approving the applications to change the place of use, and by the Order of the Chief Engineer dated August 1, 2022, approving the application to change the point 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.

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 shall be:

one (1) well located in the Southwest Quarter of the Southeast Quarter of the Southwest Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 6, more particularly described as being near a point 658 feet North and 3,702 feet West of the Southeast corner of said section, in Township 24 South, Range 24 West, Hodgeman County, Kansas,

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

Installation of the works for diversion of water shall be completed on or before December 31, 2024, 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.

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.

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

August 21, 2024

CARY & PHYLLIS TUCKER
23031 60 ROAD
LEBANON KS 66952

RE: Water Right
File Nos. 5,933 and 26,699

Dear Mr. and Mrs. Tucker:

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 the approval for change. A condition of the approvals is that a water flowmeter meeting K.A.R. 5-1-4 through 5-1-12 must be installed on the diversion works authorized. Please return the required notification of completion of the diversion works and installation of the required meter.

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.

Additional information regarding the Notice of Completion form may be found on our website at agriculture.ks.gov/dwr. If you have any questions or need assistance with any of these requirements, please contact our office at 785-564-6640, or your local Stafford Field Office at 620-234-5311. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

Kristen A. Baum
New Application Unit Supervisor
Division of Water Resources

KAB:kak:li
Enclosure(s)
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 *21st* day of *August*, 2024, I hereby certify that the attached Approval of Application for Change, Water Right, File Nos. 5,933 and 26,699, dated *August 20*, 2024, were mailed postage prepaid, first class, US mail to the following:

CARY & PHYLLIS TUCKER
23031 60 ROAD
LEBANON KS 66952

With photocopies to:

KDA-DWR Stafford Field Office



Staff