

File No. **6979** 13. County: **RC - Rice** Basin: **56 - Cow Creek** Stream: ---
 Structures File No: --- Aquifer Code: **180 Undifferentiated Kansan / Nebraskan** Special Use Area: ---

14. Points of Diversion, Rates & Quantities

MOD	PDIV	Qualifier	S				ID	'N	'W	Comment (AKA Line)	Qty AF		Rate gpm		Storage Qty		Storage Rate		Overlaps
			S	T	R						Auth	Add	Auth	Add	Auth	Add	Auth/Add		
MOD	88767	NC W2 SW SE	9	21	8W	5	560	2200	GEO CTR - GW PIT	47.25	47.25	Natural Evaporation						None	
CHK	21347	NC SE	9	21	8W	1	1321	1309	N/A	51.8	51.8	800	800						

15. Limitations Type: --- Quantity: Rate: combined with file no(s):
 Type: --- Quantity: Rate: combined with file no(s):

16. Metering Metering Required Anti-Reverse Required Seal Required Compliance Date:

17. Place of Use	PUSE ID	S	T	R	ID	NE¼				NW¼				SW¼				SE¼				Total	Owner(s)	Chg?	Overlaps
						NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE				
						CHK	38592	9	21	8W	1														
																								<input type="checkbox"/>	
																								<input type="checkbox"/>	
																								<input type="checkbox"/>	
CHK	70370	9	21	8W	5	GW Pit 21 AC (W2 SE)																	5b	<input type="checkbox"/>	None
																								<input type="checkbox"/>	

18. Point of Diversion and Place of Use Overlaps

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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: June 20, 2024

FROM: Elizabeth K Fitch

RE: Partial Change in Use Made of Water
Water Right, File No. 6979

Towanda Land Company, owner of the referenced file authorized for irrigation and industrial use, submitted an application for approval to change the authorized use made of water for a portion of Water Right, File No. 6979. An authorized representative of the owner of record signed the application.

The referenced file appears to be in compliance with K.S.A. 82a-732. *Annual water use report required; penalty for violations*. A review of the application found that it complies with K.A.R. 5-5-1, *Filing an application for change*. The referenced file does not appear abandoned as per K.S.A. 82a-718. *Abandonment of water rights; notices; hearing; review of action; exceptions*.

File No. 6979 currently authorizes a 21-acre groundwater pit in the West Half of the Southeast Quarter (W $\frac{1}{2}$ SE $\frac{1}{4}$) of Section 9, Township 21 South, Range 8 West, Rice County. The file also authorizes irrigation use from a groundwater well, which is the portion of the water right that will not be modified. All legal descriptions from here on are in Township 21 South, Range 8 West, Rice County.

The authorized point of diversion for industrial use, which is the geographic center of a groundwater pit, is near the center of the West Half of the Southwest Quarter of the Southwest Quarter (NC W $\frac{1}{2}$ SW $\frac{1}{4}$) of Section 9, more specially described as 560 feet North and 2,200 feet West of the Southeast corner of said section. This portion of File No. 6976 authorizes 15.396 million gallons (47.25 acre-feet) and the rate of diversion is natural evaporation. The only portion of the water right being modified is that the use made of water will be changed to recreation use.

A compliance investigation on May 17, 2024, determined the file is in compliance regarding the industrial portion of the water right.

As noted, the referenced change application, received on December 26, 2023, proposes to convert the use made of water from industrial use to recreation use. No actual change in use will occur and therefore there will not be a change to consumptive use. The authorized groundwater pit now qualifies for recreational use instead of the originally permitted industrial use as sand is no longer being mined at this location. There will be no change to the authorized place of use.

There was one (1) non-domestic well and three (3) domestic wells identified within one-half mile of the authorized point of diversion. A letter was mailed on May 20, 2024, to the well owners identified. A public notice was not required by this office because no change to the point of diversion, place of use or actual use of the water is occurring. The proposed change is administrative in nature.

File No. 6979
Change in UMW Memo
June 20, 2024

The referenced water right is not in a special use area.

The file is in Big Bend Groundwater Management District No. 5 (GMD5), so a recommendation request was sent to the District on May 20, 2024. A response was received from GMD5 manager Orrin Feril on May 22, 2024. In his response, Orrin recommended approval for the partial use made of water change application filed under File No. 6979.

No structures permit appears to be needed.

As the reference water right is for a groundwater pit, neither a water flowmeter nor a check valve is required.

During an office meeting on June 18, 2024, Jeff Lanterman, Water Commissioner of the Stafford Field Office, recommended approval of the change application.

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

Elizabeth K Fitch
Environmental Scientist - SFFO

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 USE MADE OF WATER
WATER RIGHT, FILE NO. 6,979**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Chris Snook on behalf of Towanda Land Company, 3709 South West Street, Wichita, Kansas 67217, received in this office on December 26, 2023, for approval of a change in the use made of water under the certificate of appropriation issued pursuant to the application for permit to appropriate water for beneficial use, and as modified and amended, on June 9, 2021, finds that the change is reasonable and will not impair existing rights, 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 portion changed to recreation use shall be authorized a maximum quantity not to exceed 47.25 acre-feet at the rate of natural evaporation from a groundwater pit with a geographic center located the near the center of the West Half of the Southwest Quarter of the Southeast Quarter (W $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 9, more particularly described as being near a point 560 feet North and 2,200 feet West of the Southeast corner of said section in Township 21 South, Range 8 West, Rice County, Kansas, for recreation use at the authorized place of use described as being:

a groundwater pit not to exceed 21 surface acres in size located in the West Half of the Southeast Quarter (W $\frac{1}{2}$ SE $\frac{1}{4}$) of Section 9, in Township 21 South, Range 8 West, Rice County, Kansas,

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

The portion retained for irrigation use shall be authorized a maximum quantity not to exceed 51.8 acre-feet of groundwater per calendar year at a diversion rate not in excess of 800 gallons per minute (1.78 c.f.s.) from a point of diversion defined as:

one (1) well located near the center of the Southeast Quarter (SE $\frac{1}{4}$) of Section 9, more particularly described as being near a point 1,321 feet North and 1,309 feet West of the Southeast corner of said section, in Township 21 South, Range 8 West, Rice County, Kansas,

for irrigation use on the following described property:

Sec. Twp. Range	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTAL				
	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$					
9 - 21S - 8W																	34	16	5	15	70

a total of 70 acres in Township 21 South, Range 8 West, Rice County, Kansas.


The water right owner shall properly install an acceptable water meter on the diversion works authorized for irrigation use 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.

Installation of the works for diversion of water shall be completed on or before December 31, 2021, 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.

This application is approved subject to the condition that under the industrial use portion the area adjacent to the pit shall be so graded or bermed so as to exclude overland flow of surface water from entering the pit. That surface water entering the groundwater pit shall be treated, as needed, to maintain the quality of water in the pit, using appropriately engineered, constructed, and maintained water treatment practices, including, but not limited to, construction of grass filter strips.

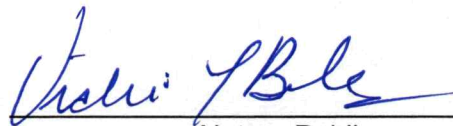
In all other respects, the Certificate of Appropriation issued pursuant to Approval of Application, File No. 6,979 for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated July 1, 1988, as modified and amended by the aforementioned order.

Ordered this *1st* day of *August*, 2024, in Manhattan, Riley County, Kansas.


 Lane P. Letourneau, P.G.
 Water Appropriation Program Manager
 Division of Water Resources
 Kansas Department of Agriculture

State of Kansas)
) SS
 County of Riley)

The foregoing instrument was acknowledged before me this *1st* day of *August*, 2024, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.


 Notary Public

DEC 26 2023

KS DEPT 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

STIPULATION FOR DISCONTINUED PIT OR QUARRY

This stipulation is filed to provide information regarding annual evaporative loss from the aquifer and to free the owner from having to file annual water use reports otherwise required as a condition of the approval of the permit. This stipulation is only available when the authorized pit or quarry is no longer used for industrial purposes.

Submit To: CHIEF ENGINEER
Division of Water Resources
Kansas Department of Agriculture
1320 Research Park Drive
Manhattan, KS 66502-5000

Water Right, File No. 6979

I, Bob Bergkamp Construction Co., Inc., owner of a sand/gravel pit which is located in the W1/2 SE1/4 of Section 09, Township 21 South, Range 08 E W, Rice County, Kansas, hereby stipulate as follows:

1. That the pit/quarry is no longer being mined, dredged or otherwise enlarged as of 8/29/2022 Date
2. That the surface area of the water in the pit/quarry is 21.0 acres.
3. That based on the average annual evaporation and precipitation in this area, the net average annual evaporation from the pit is 2.25 acre-feet per acre.
4. That the total average annual evaporation from the pit is ~~225~~ 47.25 acre-feet.
5. That based on the above information, I agree that the annual water use from this pit or quarry will be ~~225~~ 47.25 acre-feet per calendar year.
6. This stipulation shall remain in effect until it is rescinded.
7. Either party may rescind this stipulation in writing between March 1 and December 31 of any calendar year.

I declare that I am an owner of the water right, or that I represent such owners and am authorized to enter this agreement on their behalf and declare further that the statements contained herein are true, correct, and complete.

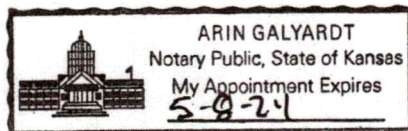
Rick Thome 12/21/2023
Signature Date
RICK THOME

State of Kansas)
) SS
County of Sedgwick)

I hereby certify that the foregoing application was signed in my presence and sworn to before me this 21st day of December, 2023.

[Signature]
Notary Public

My Commission Expires:



Stipulation Agreement
File No. 6979

WATER RESOURCES
RECEIVED

Page 2 of 2

DEC 26 2023

DEPARTMENT OF AGRICULTURE

The Division of Water Resources hereby agrees to accept the above information as fully satisfying the owner's obligation to annually file a complete and accurate annual water use report, as required by K.S.A. 82a-732, as amended. This stipulation shall remain in effect until it is rescinded. Either party may rescind this stipulation in writing between March 1 and December 31 of any calendar year.



Lane P. Letourneau, P.G.
Water Appropriation Program Manager
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 6th day August of 2024, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.



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

August 15, 2024

TOWANDA LAND COMPANY LLC
3709 S WEST ST
WICHITA KS 67217

RE: Water Right
File No. 6,979

Dear Water Right Owner:

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.

Since the enclosed order modifies the original documents issued under the water right referred to above, it should be recorded with the Register of Deeds as other instruments affecting real estate.

Your attention is directed to the enclosure entitled Stipulation for Discontinued Pit or Quarry. This document will allow the above referenced file, which is no longer being utilized for industrial use, to be excluded from the required annual water use report.

Please be reminded that the specific conditions of the permit remain, specifically that the area around the open groundwater exposure shall be graded or beamed so as to exclude overland flow of surface water from entering.

If you have any questions regarding the enclosed documents, please contact our office at (785) 564-6640. 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:ekf

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: 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 15th day August, 2024, I hereby certify that the attached Approval of Application, under Water Right, File No. 6,979, dated, August 1, 2024, was mailed postage prepaid, first class, US mail to the following:

TOWANDA LAND COMPANY LLC
3709 S WEST STREET
WICHITA KS 67217

With photocopies to:

KDA-DWR Stafford Field Office

Big Bend GMD No. 5



Division of Water Resources