

Kansas Department of Agriculture  
 Division of Water Resources  
**CHANGE: PU WORKSHEET**

**Document Signature LPL**

1. File Number: <b>40202</b>	2. Status Change Date: <b>8/16/2017</b>	3. Change Num: <b>C1</b>	4. Field Office: <b>03</b>	5. GMD:
6. Status: <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied by DWR/GMD <input type="checkbox"/> Dismiss by Request/Failure to Return				7. Filing Date of Change: <b>5/8/17</b>
8a. Applicant(s) New to system <input type="checkbox"/>  <b>CITY OF HILL CITY DENNIS MERSCH MAYOR 205 N POMEROY AVE HILL CITY KS 67642-1815</b>		8c. Landowner(s) New to system <input type="checkbox"/>  <b>CITY OF HILL CITY CITY SUPT 205 N POMEROY AVE HILL CITY KS 67642-1815</b>		
8b. Landowner(s) New to system <input type="checkbox"/>  <b>CITY OF HILL CITY CITY SUPT 205 N POMEROY AVE HILL CITY KS 67642-1815</b>		8d. WUC New to system <input type="checkbox"/>  <b>8b</b>		
9. Documents and Enclosure(s): <input checked="" type="checkbox"/> DWR Meter(s) Date to Comply: <b>12/31/17</b> <input type="checkbox"/> N & P Date to Comply: _____				
<input checked="" type="checkbox"/> Anti-Reverse Meter <input type="checkbox"/> Meter Seal <input checked="" 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: <b>8/7/2017</b> By: <b>LI</b> Date Entered: <b>8/17/2017</b> By: <b>LLM</b>				

File No. **40202**      11. County: GH      Basin: **S F SOLOMON RIVER**      Stream: **NA**      Formation Code: **25**      Special Use: **NA**

12. Points of Diversion										Rate and Quantity						
MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Comment	Rate gpm	Quantity mgy	Rate gpm	Quantity mgy	Overlap PD Files

**NO CHANGE**

13. Storage: Rate \_\_\_\_\_ NF      Quantity \_\_\_\_\_ ac/ft      Additional Rate \_\_\_\_\_ NF      Additional Quantity \_\_\_\_\_ ac/ft

14. Limitation: \_\_\_\_\_ af/yr at \_\_\_\_\_ gpm (\_\_\_\_ cfs) when combined with file number(s) **156 MGY COM/W #GH-002, #3825, #35108, #40200, & #40201**      **NO CHANGE**  
 Limitation: \_\_\_\_\_ af/yr at \_\_\_\_\_ gpm (\_\_\_\_\_ cfs) when combined with file number(s) \_\_\_\_\_

15. 5YR Allocation:      Allocation Type \_\_\_\_\_      Start Year \_\_\_\_\_      5 YR Amount \_\_\_\_\_      Amount Unit \_\_\_\_\_      Base Acres \_\_\_\_\_      Comment \_\_\_\_\_

16. Place of Use T MOD DEL ENT	PUSE	S	T	R	ID	NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg?	Overlap Files
						NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼				
<b>CK</b>	<b>6555</b>	<b>13</b>	<b>8</b>	<b>23</b>	<b>W 1</b>																				<b>COMPLETE OVERLAP</b>
																							<b>8b</b>	<b>NO</b>	<b>GH 2 3825 23433-D1 31210 D1 35108 40200 40201</b>
																							<b>8b</b>	<b>NO</b>	<b>GH 2 3825 23433-D1 31210 D1 35108 40200 40201</b>
																							<b>8b</b>	<b>NO</b>	<b>GH 2 3825 23433-D1 31210 D1 35108 40200 40201</b>

Comments:

## Ireland, Leslie

---

**From:** Stewart, Kelly  
**Sent:** Monday, August 7, 2017 11:37 AM  
**To:** Ireland, Leslie  
**Cc:** Billinger, Mark; Hageman, Rebecca  
**Subject:** RE: Recommendation for Change in Place of Use GN002\_3825xxx Hill \_ Bogue Cities

Leslie,

I recommend approval of the changes in place of use for File Nos. GH002; 3825; 35,108; 40,200; 40,201; 23,433-D1 and 31,210-D1. I also recommend approval of the change in point of diversion for File No. 31,210-D1.

Kelly

---

**From:** Ireland, Leslie  
**Sent:** Monday, August 7, 2017 10:55 AM  
**To:** Stewart, Kelly <Kelly.Stewart@ks.gov>  
**Cc:** Billinger, Mark <Mark.Billinger@ks.gov>  
**Subject:** Recommendation for Change in Place of Use GN002\_3825xxx Hill \_ Bogue Cities

Kelly,

Please let me know if you recommend these changes and update in PD for the well under 23,433-D1 & 31,210-D1

As always comments and concerns are welcome.

Leslie Ireland, Environmental Scientist II  
Kansas Department of Agriculture  
Division of Water Resources - Change Unit  
(785) 564-6633  
[Leslie.Ireland@ks.gov](mailto:Leslie.Ireland@ks.gov)  
[www.agriculture.ks.gov](http://www.agriculture.ks.gov)

Submit To: CHIEF ENGINEER  
Division of Water Resources  
Kansas Department of Agriculture  
1320 Research Park Drive  
Manhattan, KS 66502  
[www.ksda.gov/dwr](http://www.ksda.gov/dwr)

**APPLICATION FOR APPROVAL TO  
CHANGE THE PLACE OF USE, THE  
POINT OF DIVERSION OR THE USE  
MADE OF THE WATER UNDER AN  
EXISTING WATER RIGHT**



State of Kansas

**Filing Fee Must Accompany the Application**  
(Please refer to Fee Schedule on signature page of application form.)

**Paragraph Nos. 1, 2, 3, 4 & 8 must be completed. Complete all other applicable portions.** A topographic map or detailed plat showing the authorized and proposed points(s) of diversion and /or place of use must accompany this application.

1. Application is hereby made for approval of the Chief Engineer to change the

- Place of Use  
 Point of Diversion  
 Use Made of Water

(Check one or more)

WATER RESOURCES  
RECEIVED

MAY 08 2017

1:05

KS DEPT OF AGRICULTURE

File No. 40.202

2. Name of applicant: CITY OF HILL CITY

Address: CITY SUPT 205 N POMEROY AVE

City, State and Zip: HILL CITY, KS 67642-1815

Phone Number: (785)421-3438 E-mail address: \_\_\_\_\_

What is your relationship to the water right;  owner  tenant  agent  other? If other, please explain. \_\_\_\_\_

Name of water use correspondent: CITY OF HILL CITY

Address: CITY SUPT 205 N POMEROY AVE

City, State and Zip: HILL CITY, KS 67642-1815

Phone Number: (785)421-3438 E-mail address: \_\_\_\_\_

3. The change(s) proposed herein are desired for the following reasons (please be specific): \_\_\_\_\_

IT IS PROPOSED TO INCLUDE THE CITY OF BOGUE, ITS IMMEDIATE VICINITY, AND WITHIN 1/2 MILE OF EACH SIDE OF SUPPLY PIPELINE.

The change(s) (WILL BE completed by 12-31-2017

(Date)

**For Office Use Only:**

F.O. 3 GMD 0 Meets K.A.R. 5-5-1 (YES / NO) Use MUN Source G/S County GH By KAB Date 5/9/17  
Code CRU Fee \$ 200 TR # \_\_\_\_\_ Receipt Date 5/9/17 Check # 13444

4. The presently authorized place of use is:

Owner of Land — NAME: CITY OF HILL CITY

ADDRESS: CITY SUPT 205 N POMEROY AVE HILL CITY, KS 67642-1815

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	
13	08S	23W																	

List any other water rights that cover this place of use. GH2, 3825, 23433-D1, 31210-D1, 35108, 40200, 40201, 40202

Owner of Land — NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

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	

List any other water rights that cover this place of use. \_\_\_\_\_

5. It is proposed that the place of use be changed to:

Owner of Land — NAME: CITY OF HILL CITY, IMMEDIATE VIC., CITY OF BOGUE AND IMMEDIATE VIC. & WITHIN 1/2 MILE OF PIPELINE

ADDRESS: CITY SUPT 205 N POMEROY AVE HILL CITY, KS 67642-1815

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	
13	08S	23W																	
17	08S	21W																	

List any other water rights that cover this place of use. HILL CITY: GH2, 3825, 23433-D1, 31210-D1, 35108, 40200, 40201, 40202

BOGUE: GH1, 17373, 31517

Owner of Land — NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

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	

WATER RESOURCES RECEIVED

MAY 08 2017

KS DEPT OF AGRICULTURE

List any other water rights that cover this place of use. \_\_\_\_\_

**IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY**

6. The presently authorized point(s) of diversion is 1 WELL (Provide description and number of points)

7. The proposed point(s) of diversion are NO CHANGE (Provide description and number of points)

List all presently authorized point(s) of diversion:

8. Presently authorized point of diversion: One in the Quarter of the Quarter of the Quarter of Section Township South, Range in County, Kansas, feet North feet West of Southeast corner of section. Authorized Rate Authorized Quantity (DWR use only: Computer ID No. GPS feet North feet West) [X] This point will not be changed [ ] This point will be changed as follows: Proposed point of diversion: (Complete only if change is requested) One in the Quarter of the Quarter of the Quarter of Section Township South, Range in County, Kansas, feet North feet West of Southeast corner of section. Proposed Rate Proposed Quantity This point is: [ ] Additional Well [ ] Geo Center List other water rights that will use this point

9. Presently authorized point of diversion: One in the Quarter of the Quarter of the Quarter of Section Township South, Range W, in County, Kansas, feet North feet West of Southeast corner of section. Authorized Rate Authorized Quantity (DWR use only: Computer ID No. GPS feet North feet West) [ ] This point will not be changed [ ] This point will be changed as follows: Proposed point of diversion: (Complete only if change is requested) One in the Quarter of the Quarter of the Quarter of Section Township South, Range W, in County, Kansas, feet North feet West of Southeast corner of section. Proposed Rate Proposed Quantity This point is: [ ] Additional Well [ ] Geo Center List other water rights that will use this point

10. Presently authorized point of diversion: One in the Quarter of the Quarter of the Quarter of Section Township South, Range in County, Kansas, feet North feet West of Southeast corner of section. Authorized Rate Authorized Quantity (DWR use only: Computer ID No. GPS feet North feet West) [ ] This point will not be changed [ ] This point will be changed as follows: Proposed point of diversion: (Complete only if change is requested) One in the Quarter of the Quarter of the Quarter of Section Township South, Range W, in County, Kansas, feet North feet West of Southeast corner of section. Proposed Rate Proposed Quantity This point is: [ ] Additional Well [ ] Geo Center List other water rights that will use this point

WATER RESOURCES RECEIVED MAY 08 2017 KS DEPT OF AGRICULTURE

11. Describe the current condition of and future plans for any point(s) of diversion which will no longer be used.

IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY

12. The presently authorized use of water is for MUN purposes.  
It is proposed that the use be changed to NO CHANGE purposes.
13. If changing the place of use and/or use made of water, describe how the consumptive use will not be increased.  
CITY OF HILL CITY PREVIOUSLY PURCHASED IRRIGATION WATER RIGHTS FOR CONVERSION TO MUNICIPAL USE AND REDUCTIONS IN CU WERE ADDRESSED AT THAT TIME TO ACCOUNT FOR FUTURE MUNICIPAL NEEDS.
- 
- (Please show any calculations here.)
14. It is requested that the maximum annual quantity of water be reduced to N/A (acre-feet or million gallons).
15. It is requested that the maximum rate of diversion of water be reduced to N/A gallons per minute (     c.f.s.).
16. The application must include either a topographic map or detailed plat. A U.S. Geological Survey Topographic Map, scale 1:24,000, is available through the Kansas Geological Survey, 1930 Constant Avenue, University of Kansas, Lawrence, Kansas 66047-3726 ([www.usgs.gov](http://www.usgs.gov)). The map should show the location of the presently authorized point(s) of diversion. Distances North and West of the Southeast corner of the section must be shown. The presently authorized place of use should also be shown. Identify the center of the section, the section lines and the section corners and show the appropriate section, township, and range numbers on the map. In addition the following information must also be shown on the map.
- a. If a change in the location of the point(s) of diversion is proposed, show:
    - 1) The location of the proposed point(s) of diversion. Distances North and West of the Southeast corner of the section must be shown. Please be certain that the information shown on the map agrees with the information shown in Paragraph Nos. 9, 10 and 11 of the application.
    - 2) If the source of supply is groundwater, please show the location of existing water wells of any kind, including domestic wells, within ½ mile of the proposed well or wells. Identify each well as to its use and furnish name and mailing address of the property owner or owners. If there are no wells within ½ mile, please indicate so on the map.
    - 3) If the source of supply is surface water, the names and mailing addresses of all landowner(s) ½ mile downstream and ½ mile upstream from your property lines must be shown.
  - b. If a change in the place of use is desired, show the proposed place of use by crosshatching on the map. Please be certain that the information shown on the map agrees with the information shown in Paragraph No. 5 of the application.
17. Attach documentation to show the change(s) proposed herein will not impair existing water rights and relates to the same local source of supply as to which the water right relates. This information may include statements, plats, geology reports, well logs, test hole logs, and other information as necessary information to show the above. Additional comments may be made below.  
N/A SEE ABOVE COMMENTS IN SECTION 13.
- 
18. If the proposed change(s) does not meet all applicable rules and regulations of the Kansas Water Appropriation Act, please identify the rules and regulations for which you request a waiver. State the reason why a waiver is needed and why the request should be granted. Attach documentation showing that granting the request will not impair existing water rights and will not prejudicially and unreasonably affect the public interest.

**IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY**

WATER RESOURCES  
RECEIVED

MAY 08 2017

KS DEPT OF AGRICULTURE  
SCANNED

Any use of water that is not as authorized by the water right or permit to authorize water **before** the chief engineer approves this application is a violation of the Kansas Water Appropriation Act for which criminal or civil penalties may be assessed. Such violation is a class C misdemeanor, punishable by a fine not to exceed \$500 and/or a term of confinement not to exceed one month in the county jail. K.S.A. 82a-728(b). Civil penalties shall be not less than \$100 nor more than \$1,000 per violation. In the case of a continuing violation, each day such violation continues may be deemed a separate violation. In addition to these penalties the water right may be modified or suspended. K.S.A. 82a-737, as amended.

**The application must be signed by all owners of the place of use authorized under the water right and his or her spouse, if married. Please indicate if there is no spouse.** If land is being purchased under contract, the seller must sign as landowner until such time as the contract is completed.

In the event that all applicants cannot appear before one notary public, they may as necessary sign separate copies of the application before any notary public conveniently available to them. All copies signed in this manner shall be considered to be valid parts of the application.

If the request is signed on behalf of any Owner by someone with legal authority to do so (for example, an agent, one who has power of attorney, or an executor, executrix, conservator), it will be necessary to attach proper documents showing such authority.

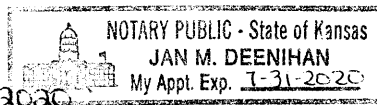
**I declare that I am an owner of the currently authorized place of use as identified herein, or that I represent all such owners and am authorized to make this application on their behalf, and declare further that the statements contained herein are true, correct, and complete. By filing this application I authorize the chief engineer to permanently reduce the quantity of water and/or rate of diversion as specified in sections 14 and 15 of this application.**

Dated at 5-1-17, Kansas, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

<u>Dennis Mersch</u> (Owner)	_____	(Spouse)
<u>DENNIS MERSCH</u> (Please Print)	_____	(Please Print)
_____	_____	(Spouse)
_____	_____	(Please Print)
_____	_____	(Spouse)
_____	_____	(Please Print)

State of Kansas }  
County of Graham } SS

I hereby certify that the foregoing application was signed in my presence and sworn to before me this 1<sup>st</sup> day of May, 2017.



Jan M. Deenihan  
Notary Public

My Commission Expires 7-31-2020

**FEE SCHEDULE**

Each application to change the place of use, the point of diversion or the use made of the water under this section shall be accompanied by the application fee set forth in the schedule below:

- (1) Application to change a point of diversion 300 feet or less ..... \$100
- (2) Application to change a point of diversion more than 300 feet ..... \$200
- (3) Application to change the place of use ..... \$200
- (4) Application to change the use made of the water ..... \$300

Make check payable to **Kansas Department of Agriculture.**

**WATER RESOURCES  
RECEIVED**

**MAY 08 2017**

**KS DEPT OF AGRICULTURE  
SCANNED**



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

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

**TO:** Files

**DATE:** August 7, 2017

**FROM:** Leslie Ireland

**RE:** Vested Right, File No. GH 001  
Water Right, File Nos. 3825; 23,433-D1  
31,210-D1; 35,108; 40,200; 40,201 & 40,202

Dennis Mersch, for the City of Hill City as owner of the referenced municipal rights filed applications on May 8, 2017, for approval to change the place of use to add the City of Bogue and a pipeline between the two cities. The application for File No. 31,210-D1 also proposes to change the point of diversion. The project is designed and constructed by EBH & Associates, P.A. from their Great Bend, Kansas office.

The referenced rights appear not be abandoned as per K.S.A. 82a-718, and in compliance with K.S.A. 82a-732. Several of the points of diversion have meter issues, but the City has indicated they are working to correct the problems. The owner has indicated there are no nearby wells with the immediate vicinity needed notification per SB No. 337.

The applications for change are to add the City of Bogue and a one-half mile each side of an eight-mile transmission pipeline from Hill City to Bogue City. The project which includes a new water tower in Bogue will update their pre1930s water infrastructure. It appears the referenced files are authorized a combined limited quantity of 156 million gallons per year for municipal use under File Nos. GH-002; 3825; 35,108; 40,200; & 40,201. An additional 44.3 million gallons is provided by the municipal portion of File No. 23,433-D1 and 42.03 million gallons per year is provided by File No. 31,210-D1 for a combined total of **242.3 million gallons per year (743.69 AF)** under the referenced files. The City of Bogue is served by its own rights, File Nos. GH 001, 17,373 & 31,517 which appear to remain authorized their 30.1 million gallons a year (93.37 AF) from wells on the Solomon River. These wells will be maintained as a backup for the City of Bogue remaining independent of the City of Hill City's water system.

The referenced files currently have a complete overlap in the place of use which has historically been described as:

within the City of Hill City Kansas and immediate vicinity.

The applications for change propose to list the pipeline and one-half mile of each side and the added city resulting in a place of use description of:

the City of Hill City and immediate vicinity; the City of Bogue and immediate vicinity, and within the immediate vicinity of the pipeline serving the City of Bogue, all in Graham County, Kansas.

This is with the exception of File No. 23,433-D1, that also authorizes irrigation use. It will include the 132 acres under a pivot irrigation system in the Northeast Quarter of Section 8, Township 7, Range 23 West, Graham County, Kansas.

The referenced files diverted about 126.041 million gallons in 2015, but have historically had a large amount of unaccounted water, approximately 22 percent in 2010 and 22.5 percent in 2015. As the historically reported quantity is about 52 percent of their authorized quantity the change should not result in the municipality exceeding its authorized quantity. Additionally, as the City of Bogue will continue to maintain its own water rights, its quantity would be available. The water line work also appears to include work on the distribution lines within each of the Cities, so their unaccounted water should decline. As the City of Hill City has water available and should reduce its unaccounted water the changes should not significantly increase the historical consumptive use and comply with K.A.R. 5-5-3, *Change in consumptive use*.

The historical quantity pumped and the projected use would indicate that a new conservation plan is not needed at this time, but should be considered in the future for each City.

As the use is municipal use the incomplete overlap between the two cities and pipeline is allowed by K.A.R. 5-3-5n, *Authorized place of use*. The existing limitations on the quantity will not be modified by the approvals.

It appears that the proposed changes that will serve the place of use currently authorized by the City of Bogue, File Nos. GH 001, 17,373 & 31,517, will not violate K.S.A. 82a-735 as the changes are in accordance with the Kansas Water Appropriation Act as required by the statute.

It appears that the location of the well under File Nos. 23,433-D1 & 31,210-D1, was measured by GPS in 2011. The well location was determined to be in the Southwest Quarter of the Northwest Quarter of the Southwest Quarter (SW $\frac{1}{4}$  NW $\frac{1}{4}$  SW $\frac{1}{4}$ ) of Section 8, approximately 1,735 feet North and 4,921 feet West of the Southeast corner of the section, approximately 15 feet from the authorized well location of 1,750 feet North and 4,899 feet West of the Southeast corner of the section. The update complies with K.A.R. 5-5-6, *Failure to construct diversion works at authorized location*, File No. 23,433-D1 will be updated. The application under File No. 31,210-D1 proposed a change in point of diversion to move the well approximately 1,884 feet to the North. The new well will be constructed in the NW SW NW of Section 8, approximately 3,625 feet North and 5,084 feet West of the Southeast corner. Information about the area would indicate the local source of supply will remain the same. The unstacking of these two rights is not an additional well as the rights were perfected separately and only recently (2011) authorized for the same well. A well log was not submitted with the application, but the log submitted to KDHE, Bureau of Water was available on-line. It indicates the four-inch cased well was completed to a depth of 170 feet with it screened at 130-170 feet. At the time of drilling, March 2017, the static water level was 102 feet. Information provided by the applicant indicates the only well located within one-half ( $\frac{1}{2}$ ) mile of the proposed well is the City's well under File No. 23,433-D1. The proposed new well complies with K.A.R. 5-4-4, *Well spacing*, as it is more than 1,320 feet from the well that will remain under File No. 23,433-D1. A water level measurement tube, meter and a notice of completion for December 3, 2017 will be included as conditions of the approval for File No. 31,210-D1.

Kelly Stewart, Water Commissioner of the Stockton Field Office has recommended approval of the proposed changes as indicated in his email dated August 7, 2017.

Water flowmeters meeting the specifications of the Chief Engineer will continued to be required under each of the referenced files. Check valves will also be required if any chemical or foreign substance is injected into the water through the diversion works.

Based on the above discussion, that the changes are reasonable, will not result in an increase in use beyond what has historically been justified, 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 of Water Program

1320 Research Park Drive  
Manhattan, Kansas 66502  
(785) 564-6700



900 SW Jackson, Room 456  
Topeka, Kansas 66612  
(785) 296-3556

Jackie McClaskey, Secretary

Governor Sam Brownback  
**FILE COPY**

August 18, 2017

CITY OF HILL CITY  
HONORABLE MAYOR MERSCH  
205 N POMEROY AVE  
HILL CITY KS 67642-1815

RE: Vested Right, File No. GH 002  
Water Right, File Nos. 3825; 23,433-D1; 31,210-D1;  
35,108; 40,200; 40,201 & 40,202

Dear Mayor Mersch:

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 files.

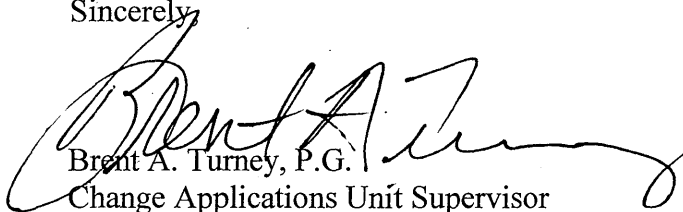
Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in the approvals for change. A condition of these approvals is that an acceptable water flow meter must be installed on the authorized diversion works. Please return the required and enclosed form *Notification of Completion of the Diversion Works and/or Installation of the Required Meters* as soon as these actions are completed. The approval for Water Right, File No. 31,210-D1, requires the notification of the completion of the newly approved well. Please use the same form referenced above to notify the Chief Engineer when this well is complete and the meter is installed. There is no fee for any of the required information.

Any wells abandoned by these approvals must be plugged in accordance with the requirements of Article 30 of the Rules and Regulations as adopted by the Kansas Department of Health and Environment.

Since these 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, please contract Leslie Ireland, Environmental Scientist, at (785) 566-6633. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,



Brent A. Turney, P.G.  
Change Applications Unit Supervisor

BAT:LI:li  
Enclosures  
pc: Stockton Field Office

THE STATE



OF KANSAS

**KANSAS DEPARTMENT OF AGRICULTURE**

Jackie McClaskey, Secretary of Agriculture

**DIVISION OF WATER RESOURCES**

David W. Barfield, Chief Engineer

**APPROVAL OF APPLICATION  
FOR  
CHANGE IN PLACE OF USE  
WATER RIGHT  
FILE NO. 40,202**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Dennis Mersch, Mayor of the City of Hill City, 205 N. Pomeroy Avenue, Hill City, Kansas 67642-1815, received in this office on May 8, 2017, for approval of a change in the location of the place of use under the certificate of appropriation issued pursuant to the 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 effective date of the change shall be the date this order is executed by the Chief Engineer, after which the authorized place of use shall be:

the City of Hill City and immediate vicinity; the City of Bogue and immediate vicinity, and within the immediate vicinity of the pipeline serving the City of Bogue, all in Graham County, Kansas,

located substantially as shown on the plat and topographic maps accompanying the application to change the place of use.

The water right owner shall properly install an acceptable water meter 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.

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. 40,202, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated March 13, 2015.

**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:

- 1) request an evidentiary hearing before the Chief Engineer, or
- 2) 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 Section, 1320 Research Park Drive, Manhattan, KS 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 hearing 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, KS 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.

Ordered this 16<sup>th</sup> day of August, 2017, at Topeka, Shawnee County, Kansas.

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

State of Kansas        )  
                                   )  
 County of Riley        )        SS

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of August, 2017, by Lane P. Letourneau, P.G., Program Manager, Division of Water Resources, Kansas Department of Agriculture.



Danielle Wilson  
 Notary Public

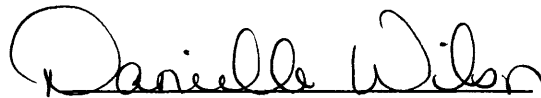
CERTIFICATE OF SERVICE

On this 18<sup>th</sup> day of August, 2017, I hereby certify that the attached Approval of Application for the Change in Place of Use under Water Right, File No. 40,202, Dated August 16, 2017 was mailed postage prepaid, first class, US mail to the following:

City of Hill City  
Dennis Mersch, Mayor  
205 N Pomeroy Ave  
Hill City, KS 67642-1815

With photocopies to:

Stockton Field Office

  
Division of Water Resources

1320 Research Park Drive  
Manhattan, Kansas 66502  
(785) 564-6700



900 SW Jackson, Room 456  
Topeka, Kansas 66612  
(785) 296-3556

Jackie McClaskey, Secretary

Governor Sam Brownback

CITY OF HILL CITY  
%CITY SUPT, 205 N POMEROY AVE  
HILL CITY, KS 67642

May 9, 2017

**FILE COPY**

RE: File No. 40202

Dear Sir or Madam:

An application for approval of the Chief Engineer to change the following condition or conditions of the file number referred to above has been received:

- place of use            PU
- point of diversion
- use made of water

As a matter of record, the Division of Water Resources has on hand a large number of applications awaiting processing. Therefore, to be fair to all concerned, and so that we can process those applications on hand in the order they were received, we intend to concentrate on the backlog of applications until the issue is resolved. You will be contacted regarding this application as soon as it has been examined.

In accordance with the provisions of the Kansas Water Appropriation Act, a portion of which is included below, the use of water prior to approval of the application is unlawful. You should not proceed and divert water as indicated by your plans in your application for a change for this file until you receive approval for this change from the Chief Engineer. Once approved, compliance with the terms, conditions and limitations of the permit is necessary. Conservation of the water resources of Kansas is required.

**Section 82a-728 of the Kansas Water Appropriation Act, provides (a) except for the appropriation of water for the purpose of domestic use, . . . it shall be unlawful for any person to appropriate or threaten to appropriate water from any source without first applying for and obtaining a permit to appropriate water in accordance with the provisions of the Water Appropriation Act or for any person to violate any condition of a vested right, appropriation right or an approved application for a permit to appropriate water for beneficial use.**

**(b) (1) The violation of any provision of this section by any person is a class C misdemeanor...**

**A class C misdemeanor is punishable by a fine not to exceed \$500 and/or a term of confinement not to exceed one month in the county jail. Each day that the violation occurs constitutes a separate offense.**

If you have any questions, please contact me at (785) 564-6645. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

A handwritten signature in cursive script that reads "Kristen A. Baum".

Kristen A. Baum  
New Applications Unit Supervisor  
Water Appropriation Program

BAT: DLW  
pc: STOCKTON Field Office    GMD3

1320 Research Park Drive  
Manhattan, Kansas 66502  
(785) 564-6700



900 SW Jackson, Room 456  
Topeka, Kansas 66612  
(785) 296-3556

Jackie McClaskey, Secretary

Governor Sam Brownback

July 12, 2017

CITY OF HILL CITY  
DENNIS MERSCH  
205 N POMEROY AVE  
HILL CITY KS 67642-1815

RE: Change Applications,  
Vested Right, File No. GH 002  
Water Right, File Nos. 3825; 23,433-D1; 31,210-D1; 35,108; 40,200; 40,201 & 40,202

Dear Mr. Mersch:

Reference is made to the applications for approval of the Chief Engineer to change place of use under all of the referenced files and the proposed change in point of diversion under File No. 31,210-D1, that were received in this office on May 8, 2017. Upon review of the applications it has been determined that additional information is needed.

The application to change the point of diversion under File No. 31,210-D1, requires the applicant to identify all the water wells within one-half (½) mile of the proposed well, with each well identified as to its use (e.g. domestic, irrigation, industrial, municipal) and the name and mailing address of the owner(s). Additionally, it is required for you to **sign the map** to acknowledge that you have shown any and all wells within the area if interest. If none exist, please add your signature where indicated.

The applications to change the place also need a map to show the proposed **place of use and the location of the pipeline** that will convey the water from the City of Hill City to the City of Bogue. On the enclosed map for the proposed change in place of use under File Nos. GH 002, 3825; 23,433-D1; 31,210-D1; 35,108; 40,200; 40,201 & 40,202, please use the symbols as indicated in the Legend to complete the map. Should the pipeline be on property that is not owned by the City or in a public easement, a copy of an agreement or letter signed by the landowner(s) authorizing you to transport water across said land will be required.

Please return the enclosed maps so that the applications retain their priority of filing, the requested information needs to be returned to this office on or before **July 27, 2017**, or within any authorized extension of time thereof. According to law, the default in supplying the requested information as outline above, within the time allowed shall continue forfeiture of the priority date and dismissal of the applications.

SCANNED

FILE COPY



If you wish to request additional time in which to return the required information, you must do so in writing, before the time period expires. Such a request should state what steps are being taken to obtain the information and the amount of time you will need to supply the information to our office.

If I may answer any questions regarding this letter please me at (785) 564-6633. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

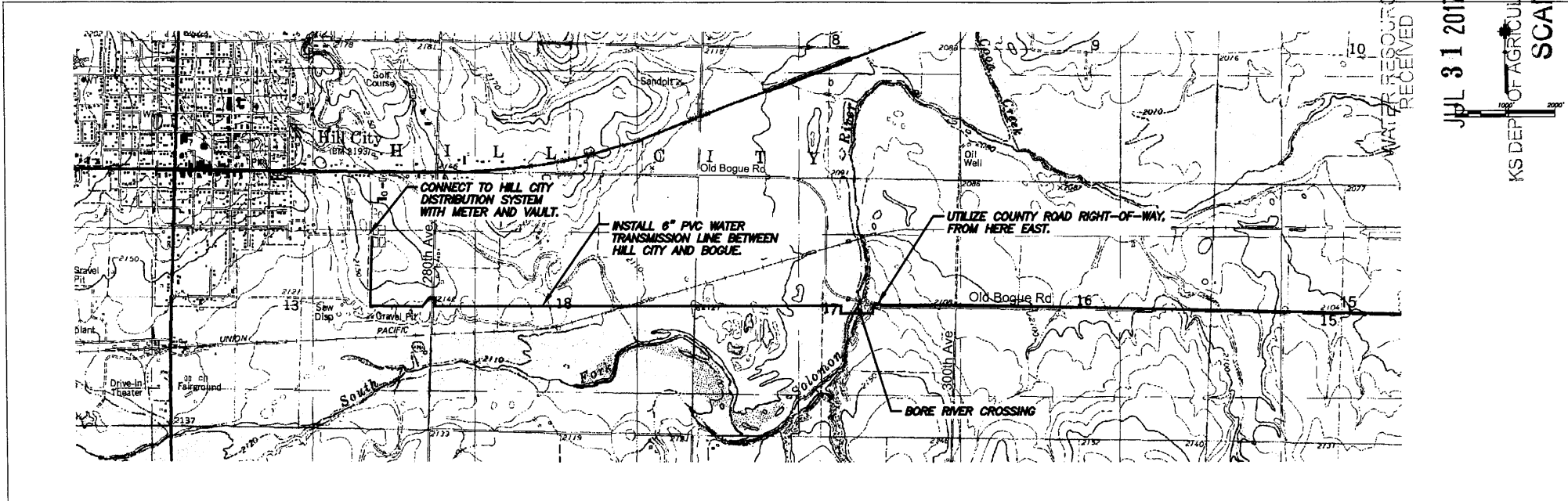
Sincerely,



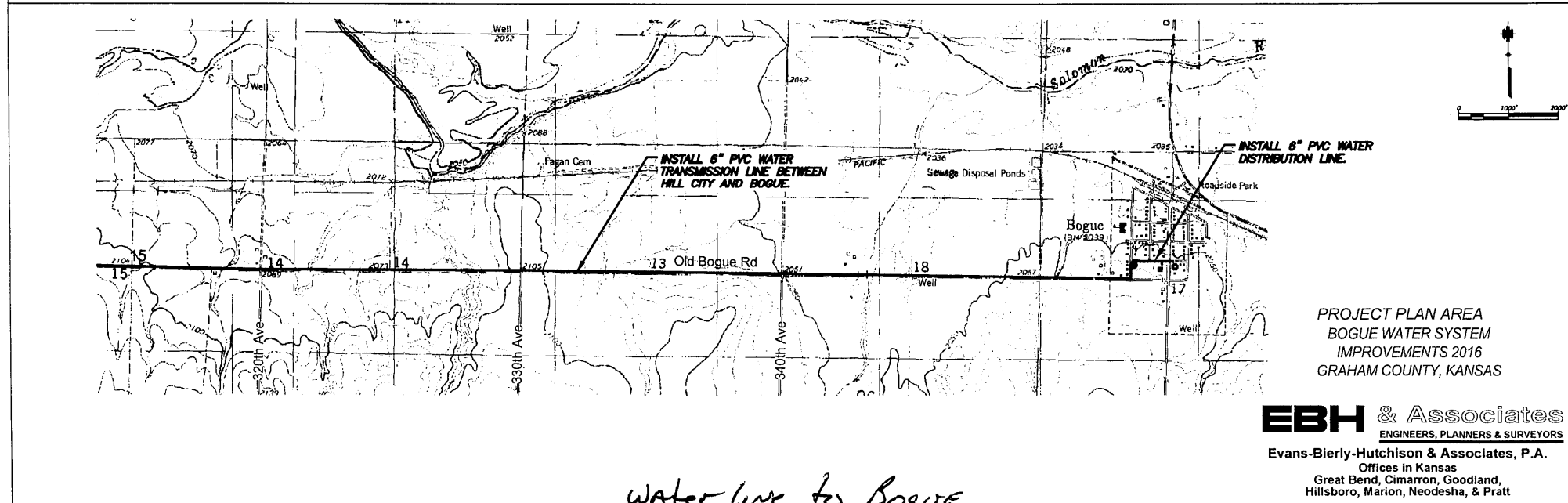
Leslie Ireland  
Environmental Scientist  
Water Appropriation Program

LI:li  
Enclosures  
pc: Stockton Field Office

FILE NOS. GH002 3825; 23433-01 31,210-02, 35,108, 40,200 40,201 & 40,202



WATER RESOURCES RECEIVED  
 JUL 31 2017  
 KS DEPT OF AGRICULTURE  
 SCANNED



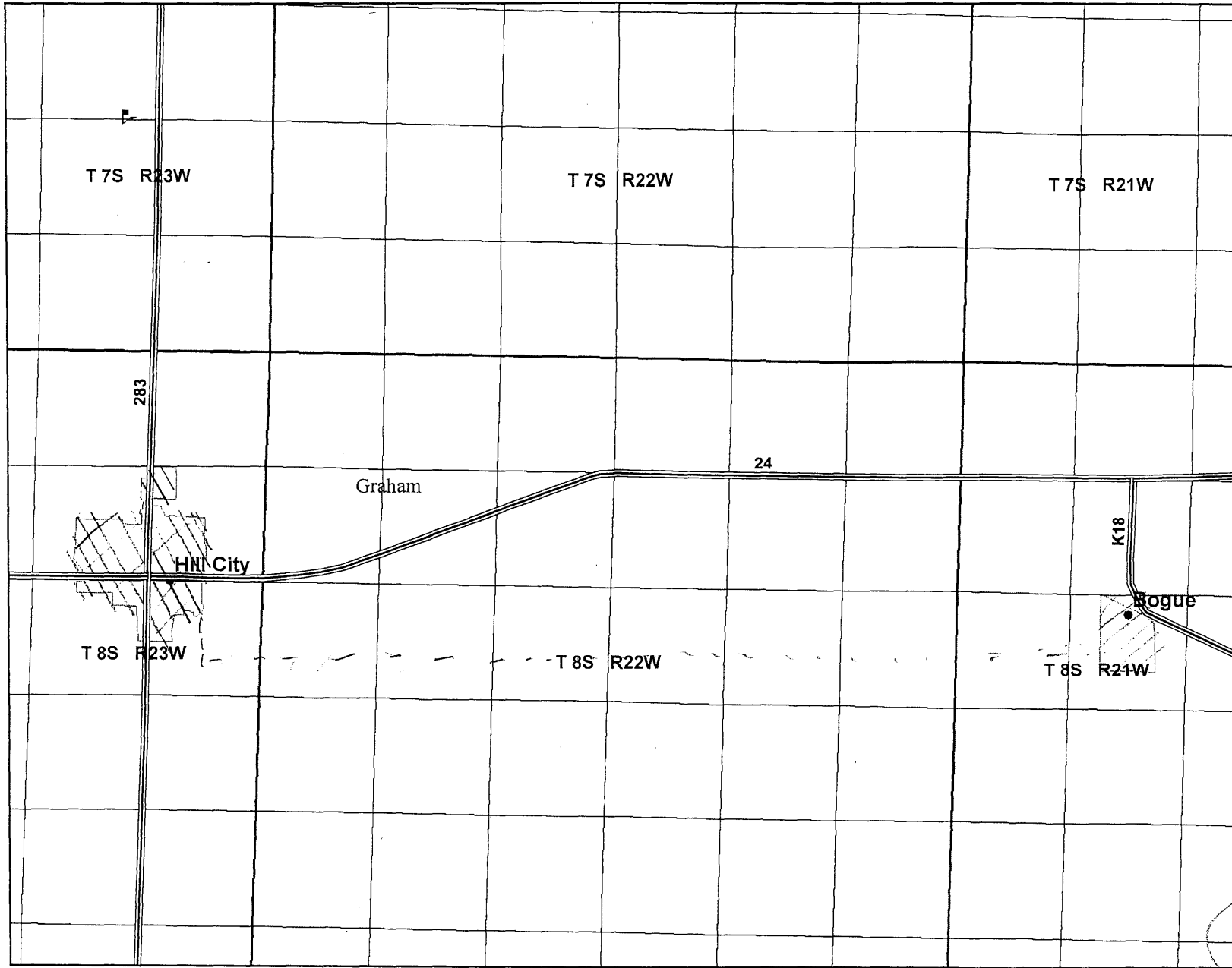
PROJECT PLAN AREA  
 BOGUE WATER SYSTEM  
 IMPROVEMENTS 2016  
 GRAHAM COUNTY, KANSAS

**EBH & Associates**  
 ENGINEERS, PLANNERS & SURVEYORS  
 Evans-Bierly-Hutchison & Associates, P.A.  
 Offices in Kansas  
 Great Bend, Cimarron, Goodland,  
 Hillsboro, Marion, Neodesha, & Pratt

*Water line to Bogue*

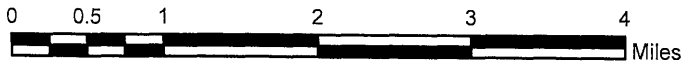
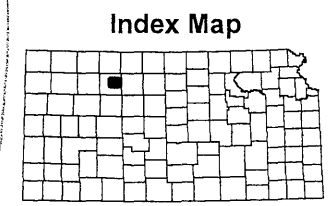
Proposed Change in Place of Use City of Hill City  
 File Nos. GH 002; 3825; 23,433-D1; 31,210-D1; 35,108; 40,200; 40,201 & 40,202

WATER RESOURCES RECEIVED  
 JUL 31 2017  
 KS DEPT OF AGRICULTURE  
 SCANNED



- Legend**
- WIMAS\_PD**
- S\_UMW**
- G\_IRR
  - ▲ G\_MUN
  - ▼ G\_REC
  - ◄ S\_REC

- Place of Use**
- Pipeline (DASHED LINE)
  - Authorized
  - Proposed



SEE  
 EBH ENGINEERING  
 MAPS RECORD 7/31/17  
 L.Ireland

This map was created by L.Ireland in WIMAS on 7/11/2017.