

File No. **20264** 11. County: NT Basin: **PRAIRIE DOG CREEK** Stream: **NA** Formation Code: **113** Special Use: **RRC-PRAIRIE DOG C**

12. Points of Diversion											Rate and Quantity					
CHK	MOD	DEL	PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Authorized		Additional		Overlap PD Files
ENT												Rate gpm	Quantity mgy	Rate gpm	Quantity mgy	
ENT	6913	SE SW SE			29	2	22	2	222	1349	WELL #1 - STANDBY WELL	0	0			NT 008 & 20229150
DEL	17245	NE NW NE			32	2	22	2	4996	1463	MAY USE FOR DOMESTIC USE					20229150
CHK	35440	SE NW NE			32	2	22	3	4474	1541	WELL #5;	288	3.454	0	3.454	NT 026 & 20229150
CHK	49903	SW NW NE			32	2	22	4	4324	1999	WELL #6;	305	26.720	305	26.720	20229150

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) **495GPM COM/W NT 26 (NO CHANGE)**
 Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) **p/d 35440**

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

16. Place of Use				NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg?	Overlap Files			
CHK	MOD	DEL	ENT	PUSE	S	T	R	ID	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼						
NO CHANGE																										

Base Acres: Year: Minimum Reasonable Quantity:
 Comments:

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: August 30, 2023

FROM: Leslie Ireland

RE: Water Right, File No. 20,264

Hazel M. Peterson on behalf of the Norton Correctional Facility owner of the referenced file authorized for municipal use submitted an application for approval to change the point of diversion authorized for standby use. The proposal is to move the standby well to an existing well due to wells being out of service. The application was received on December 27, 2022, with a term permit application, File No. 20229150, that will be summarized under a separate memo.

The referenced file appears to not be abandoned as per K.S.A 82a-718 and in compliance with K.S.A 82a-732. Review found no wells within the notification area not owned by the Norton Correctional Facility. It appears notice per K.S.A 82a-1906 will not be required.

File No. 20,264, is certified for three (3) wells identified by the Facility as Well #1, #5 and #6. They are authorized as two (2) primary wells with an assigned quantity and rate, then one (1) standby well, all located in Section 32, Township 2 South, Range 22 West, Norton County, Prairie Dog Creek Basin, and the designated area of the Republican River Compact Area (RRCA). The primary wells are authorized as one (1) well overlapping with Vested Right, File No. NT 026, (rate limited to 495 gpm with NT 026) identified as Well #5 and one(1) well, as Well # 6, with no overlap authorized to divert 30.174 million gallons(mg) (92.6 acre-feet (AF)). These two (2) wells will remain as authorized.

The source of supply has not been recorded in the WRIS database. These wells are located along the South side of Prairie Dog Creek. The KGS well logs indicated the wells are approximately 70 feet deep to black shale with sand, clay, gravels, and a callout of "River Mud" at a depth of approximately 40 feet. The information in KGS Bulletin No. 81 indicates this area has a mix of source of supply ranging from the Alluvium of the Prairie Dog Creek to the Ogallala. The information in the bulletin indicates the wells in this area are sand and gravel Terrace deposits further from the creek. The currently authorized well requesting to be changed and the primary wells of the referenced file are located in an old oxbow, indicating the source of supply would be the Alluvium of the Prairie Dog Creek and classified as Alluvium (Code 113).

The change is to move the standby well authorized in the Northeast Quarter of the Northwest Quarter of the Northeast Quarter (NE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 32, located approximately 5,005 feet North and 1,286 feet West of the Southeast corner of said section in Township 2 South, Range 22 West, approximately 535 feet to the Northeast to the existing well located in the Southeast Quarter of the Southwest Quarter of the Southeast Quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 29, approximately 222 feet North and 1,349 feet West of the Southeast corner of said section in Township 2 South, Range 22 West, both in Norton County, Kansas. This existing well is one of two wells under Vested Right, File No. NT 008. It also operates as a standby well for the municipal use at the facility. It has been designated by the owner as Well #1 with an authorized 3.584 mg (11 AF) at 495 gallons per minute. Under File Nos. NT 008 and 20,264 the well will operate as a standby well to both files and could divert up to 33.758 mg (103.6AF). The proposed well has a source of supply designated in the WRIS database as Alluvium (Code 113). It appears the proposed change will not alter the local source of supply.

Information available to me indicates the authorized well is approximately 300 feet from the centerline of Prairie Dog Creek and would be allowed to reduce the setback to 270 feet. It appears the proposed was determined to be approximately 170 feet centerline of Prairie Dog Creek. It would appear the change does not comply with the required 10% setback per K.A.R. 5-5-13, *Relocation of alluvial wells*. The owners have requested to a **waiver of K.A.R. 5-5-13**.

The proposed well is approximately 1,035 feet away from one of the primary wells authorized by the referenced file and File No. NT 026. It appears to meet the actual assigned feet distance spacing as required by K.A.R. 5-4-4, *Well spacing* of 1,320 feet to all other wells, but the regulation does allow for this distance to be reduced if the current distance is deemed sufficient to prevent direct impairment or not reduce the distance to nearby wells by more than 300 feet. As the proposal is to relocate to a well that will operate as a standby well and all the wells are under the same ownership operating at the same place of use, it would appear the wells should be able to be operated without direct impairment and would comply with K.A.R. 5-4-4.

The approval will be conditioned that the standby well will need to be metered and operate only when one of the primary wells is not functional, except for maintenance, testing or fire emergency or similar reason. This regulation in Part (d) exempts standby wells to safe yield or similar analysis there for would not appear to be impacted by RRCA.

The standby well will be required to meet all other conditions as detailed in K.A.R. 5-1-2, so the approval will require it to be maintained in operable condition, have a meter and will be restricted to the same rate and quantity as the primary well. The approval will further inform the owner that the primary and standby well may not operate at the same time except for maintenance, testing, fire protection or similar short term use reason.

Kelly Stewart, Water Commissioner of the Stockton Field Office, indicated in an August 30, 2023, e-mail that he has no objection to the approval of the proposed change and supports the requested waiver.

Water flow meters are required on the "primary wells" and "standby well", as per the requirements of K.A.R. 5-1-2 (b) *Standby wells*. Check valves will be required, if any chemical or foreign substance will be injected into the water through the diversion works. A water level measurement tube and WWC-5 will not be required of the approval.

Based on the above discussion, that the waiver of K.A.R. 5- 5-13, is granted there appears to be no change in the local source of supply, that the change is reasonable and that impairment to existing water rights is unlikely, it is recommended that the referenced application to change the existing well to standby stockwater use be approved.



Leslie Ireland
Environmental Scientist
Water Appropriation Program

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Secretary of Agriculture

DIVISION OF WATER RESOURCES
Earl D. Lewis Jr., Chief Engineer

WAIVER OF REGULATION **K.A.R. 5-5-13 Relocation of Alluvial Wells**

Date: _____

RE: Water Right, File No. 20,264

1. That K.A.R. 5-5-13, *Relocation of alluvial wells* states in part: "If an authorized point of diversion is a well that has its source of supply an alluvium in a reach of a basin that is fully appropriated or closed to new appropriations, the approval of a change in point of diversion, and any subsequent approvals of changes in points of diversion, shall not authorize the distance between the well and the centerline of the stream to be decreased by more than 10 percent as measured from the following: (1) The authorized well location when the basin became fully appropriated or was closed to new appropriations; and (2) the centerline of the stream when the change application was filed.
2. Water Right, File No. 20,264, authorized for municipal use, is located in the alluvium of the Republican River, which is in an area where the groundwater has been determined to be fully appropriated.
3. The change proposes to relocate the water right's standby well approximately 535 feet to another existing standby well. The authorized 30.174 million gallons (92.6 acre-feet) at 495 gallons per minute could only be diverted if both primary wells of File No. 20,264 fail. The proposed well is authorized by File No. NT 008, as a standby well to divert 3.584 million gallons (11 acre-feet).
4. The proposed well is approximately 170 feet from the centerline of the stream, and the currently authorized is approximately 300 feet from the centerline of the stream. The short distance of the move and the short distances of the wells from the stream would indicate the move would have a very small impact on the proposed appropriation from the well under File No. NT 008 by File No. 20,264, that would be operated only when the primary wells are not operable.
5. There are no wells within the notification area not owned by the applicant.
6. A waiver of K.A.R. 5-5-13 was requested as it seems the sporadic use and distances would have a nominal adverse impact on the Republican River.
7. That a waiver of K.A.R. 5-5-13 will neither prejudicially nor unreasonably affect the public interest.

Comments:

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

Ireland, Leslie [KDA]

From: Stewart, Kelly [KDA]
Sent: Wednesday, August 30, 2023 8:58 AM
To: Ireland, Leslie [KDA]
Cc: Hageman, Nancy [KDA]
Subject: RE: Review and Recommendation, Application for PD Change, File No. 20264 & Area Term Permit File No. 20229150 Norton Correctional Facility

Leslie,

I recommend the approval of the waiver and change application for File No. 20,264 and I recommend approval of the Area Term Permit 20229150.

Kelly

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Tuesday, August 29, 2023 3:50 PM
To: Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>
Subject: Review and Recommendation, Application for PD Change, File No. 20264 & Area Term Permit File No. 20229150 Norton Correctional Facility

Kelly,

Please let me know if you recommend these projects as summarized.

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 POINT OF DIVERSION
WATER RIGHT
FILE NO. 20,264**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Hazel M. Peterson, on behalf of the Norton Correctional Facility, Post Office Box 546, Norton, Kansas 67654-0546, received in this office on December 27, 2022, 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 Order of the Chief Engineer dated January 29, 1990, approving the application to change the place of use and use made of water, by the Order of the Chief Engineer dated October 17, 2003, approving the application to change the point of diversion, and by the Correctional Order of the Chief Engineer dated January 9, 2004, in the matter of the October 17, 2003, Approval of Application for Change, 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 points of diversion shall be:

one (1) primary well, identified as Well #6, located in the Southwest Quarter of the Northwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 32, more particularly described as being near a point 4,324 feet North and 1,999 feet West of the Southeast corner of said section, at a maximum diversion rate not in excess of 305 gallons per minute (0.68 c.f.s.) and to a quantity not to exceed 26.720 million gallons of water per year (82 acre-feet), and

one (1) primary well, identified as Well #5, located in the Southeast Quarter of the Northwest Quarter of the Northeast Quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 32, more particularly described as being near a point 4,474 feet North and 1,541 feet West of the Southeast corner of said section, at a maximum diversion rate not in excess of 288 gallons per minute (0.64 c.f.s.) and to a quantity not to exceed 3.454 million gallons of water per year (10.6 acre-feet), and

one (1) standby well, identified as Well #1, located in the Southeast Quarter of the Southwest Quarter of the Southeast Quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 29, more particularly described as being near a point 222 feet North and 1,349 feet West of the Southeast corner of said section,

all in Township 2 South, Range 22 West, Norton County, Kansas,

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

The well described herein as the standby well shall be used exclusively at such time that both wells described herein as the primary wells are inoperable due to mechanical, maintenance or power failure. Use of the standby well under these limiting conditions does not allow the authorized quantity of water or rate of diversion under this file to be exceeded.

The rate of diversion from the well located in the Southeast Quarter of the Northwest Quarter of the Northeast Quarter (SE¼ NW¼ NE¼) of Section 32, more particularly described as being near a point 4,474 feet North and 1,541 feet West of the Southeast corner of said section, in Township 2 South, Range 22 West, Norton County, Kansas, under this file number is further limited to the rate which combined with Vested Right, File No. NT 026, will provide a maximum diversion rate not in excess of 495 gallons per minute (1.10 c.f.s.).

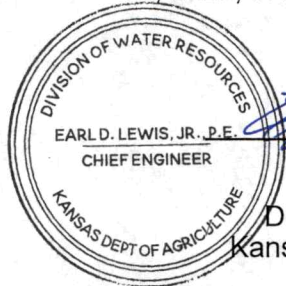
Installation of the works for diversion of water shall be completed on or before **December 31, 2023**, or within any authorized extension of time. The applicant shall notify the Chief Engineer of the Division of Water Resources, Kansas Department of Agriculture, when construction of the works for diversion has been completed.

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.

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. 20,264, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated November 4, 1988, as modified and amended by the aforementioned orders.

Ordered this 26th day of September, 2023, 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 26 day of September 2023, by Earl D. Lewis Jr., P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.



Melinda Jennings
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

October 9, 2023

HAZEL M PETERSON
NORTON CORRECTIONAL FACILITY
PO BOX 546
NORTON KS 67654-0546

RE: Water Right Change Approval, File No. 20,264

Area Term Permit, File No. 20229150 for
Base Vested Right, File Nos. NT 008 and NT 026,
Base Water Right, File No. 20,264

Dear Ms. Peterson:

Enclosed is the order executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the application for change under the above referenced file. Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in the approval for change. Since this order modifies the original Certificate of Appropriation, it should be recorded with the Register of Deeds as other instruments affecting real estate.

Additionally, your Application for a Project Term Permit has been approved and the permit is enclosed for your records. This approval constitutes a term permit to appropriate water. It does not give authority to construct any dam or other stream obstruction regulated by K.S.A. 82a-301 through 305a. It does not give authority to access any right-of-way or authorize trespassing upon or injury to public or private property. It may also be necessary for you to comply with other local, state or federal requirements.

Acceptable water flowmeters must be maintained on all diversion works authorized by the enclosed orders. Notices must be filed within thirty (30) days of any water flowmeter being repaired or replaced. An annual water use report must be filed with the Chief Engineer by March 1, following the end of each calendar year. If a complete annual water use report is not received by the deadline, a fine may be assessed and all water use under such permit or right may be suspended. Reports submitted in paper form will be assessed a \$20 per file number paper filing fee. In order to avoid this filing fee, you may submit your report online at <http://kswaterusereport.org>.

If you have any questions regarding the enclosed documents, please contact our office at (785) 564-6640. Inquiries about the metering should be directed to the staff at the Stockton Field Office, (785) 425-3787. If you contact us to discuss a specific file, please have the file number ready so that we may help you more efficiently. Additional information is also available on our website at <http://agriculture.ks.gov>.

Sincerely,

Kristen A. Baum
New Application and Change Unit Supervisor
Water Appropriation Program

KAB:kak:li
Enclosures
pc: Stockton 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 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.

CERTIFICATE OF SERVICE

On this 9 day of October, 2023, I hereby certify that the attached Approval of Application for the Change under Water Right, File No. 20,264, and the Approval of Application for Term Permit, File No. 20229150, dated September 26, 2023, were mailed postage prepaid, first class, US mail to the following:

Norton Correctional Facility
PO Box 546
Norton KS 67654-0546

With a photocopy to:

KDA-DWR Stockton Field Office


Staff