

Kansas Department of Agriculture  
 Division of Water Resources  
**CHANGE: P/U WORKSHEET**

1. File Number: <b>37126</b>	2. Status Change Date:	3. Change Num: <b>C1</b>	4. Field Office: <b>3</b>	5. GMD:
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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>12/15/2021</b>
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8a. Applicant(s) New to system <input type="checkbox"/> Person ID <b>68047</b> Add Seq# _____  <b>DUSTIN &amp; ANNE BEMIS</b> <b>1581 170TH AVE</b> <b>HAYS, KS 67601</b>	8c. Landowner(s) New to system <input type="checkbox"/> Person ID _____ Add Seq# _____
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8b. Landowner(s) New to system <input type="checkbox"/> Person ID _____ Add Seq# _____  <b>8a</b>	8d. WUC New to system <input type="checkbox"/> Person ID _____ Add Seq# _____  <b>8a</b>
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9. Documents and Enclosure(s): <input checked="" type="checkbox"/> DWR Meter(s) Date to Comply: _____ <input type="checkbox"/> N & P Date to Comply: _____	
<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"/> Conservation Plan	<input type="checkbox"/> H & E Letter
Date Required: _____ Date Approved: _____ Date to Comply: _____	

10. Use Made of Water    From: _____    To: _____
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	Date Prepared: <b>1/26/2023</b> By: <b>rrp</b>
	Date Entered: _____    By: _____

File No. **37126**      11. County: **EL**      Basin: **SALINE RIVER**      Stream:      Formation Code:      Special Use:

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

**CHK 28340 SW SE NE 14 11S 20W 2 205 1120**

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

14. Limitation: \_\_\_\_\_ af/yr at when combined with file number(s) \_\_\_\_\_  
 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>DEL 9949 23 11S 20W 1</b>	10																		10	<b>8a</b>	<b>no</b>	<b>none</b>
<b>MOD 37949 14 11S 20W 1</b>	25	13	10	22															70	<b>8a</b>	<b>yes</b>	<b>50692</b>

Comments:

**KANSAS DEPARTMENT OF AGRICULTURE**  
**Division of Water Resources**  
**M E M O R A N D U M**

**TO:** Files

**DATE:** April 18, 2023

**FROM:** Rebecca Pollett

**RE:** Application, File No. 50,692 & Change  
Application, File No. 37,126

Dustin and Anne Bemis have filed the above referenced new application to appropriate 98 acre-feet for irrigation use at a maximum diversion rate of 600 gpm total from one pumpsite located in the Southeast Quarter (SE $\frac{1}{4}$ ) of Section 14, Township 11 South, Range 20 West, Ellis County, Kansas.

The closest surface water right is authorized by File No. 50,042 and is located  $\frac{3}{4}$  mile downstream. The approval of this application should not impact any senior water users. A nearby notification letter outlining the proposed new and change application was mailed on December 13, 2022. No response has been received to date.

The place of use is currently authorized in part by Appropriation of Water, File No. 37,126. A change in place of use has been filed for File No. 37,126, which will create a complete overlap. The place of use will cover a total of 70 acres in Section 14, both in Township 11 South, Range 20 West, Ellis County, Kansas. The change application for File No. 37,126 will be worked as a package with File No. 50,692. File No. 50,692 will be limited to 98 acre-feet when combined with File No. 37,126

The requested quantity of 98 acre-feet on 70 acres is equivalent to 1.4 acre-feet per acre, which is the maximum allowable quantity for irrigation use in Ellis County, Kansas. File No. 50,692 will be authorized to 98 acre-feet. File No. 37,126 is authorized 27 acre-feet. Since both will overlap in place of use (70 acres), 50,692 is asking for 71 acre-fee additional quantity.

The new application originally requested 138.88 acre-feet to irrigate 99.2 acres. However, it is subject to K.A.R. 5-3-15(b)(5). File No. 37,126 is currently authorized 27 acre-feet, which is not sufficient quantity to demonstrate that the junior surface water file (50,692) will not be needed in July, August, and September. In multiple discussions with New Applications and Change Applicants Unit Supervisor, Kristen Baum, and Stockton Field Office Water Commissioner, Kelly Stewart, it was determined that 66 acres would be a reasonable acreage (based on 40% of the 50% NIR in Ellis County). Mr. Bemis spoke with Kelly and suggested the idea of a 70-acre pivot. Kelly and Kristen both agreed that 70 acres is close enough to suffice.

In an email conversation on April 18, 2023, Kelly Stewart, Water Commissioner for Stockton Field Office, recommended approval of the referenced application.

Based on the above discussion, approval of the applications will not impair senior water rights nor prejudicially or unreasonably affect the public interest. Therefore, it is recommended that the referenced applications be approved.



Rebecca Pollett  
Environmental Scientist  
Division of Water Resources

# THE STATE OF KANSAS



**KANSAS DEPARTMENT OF AGRICULTURE**  
Mike Beam, Secretary of Agriculture

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

## APPROVAL OF APPLICATION FOR CHANGE IN PLACE OF USE WATER RIGHT FILE NO. 37,126

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Dustin and Anne Bemis, 1581 170<sup>th</sup> Avenue, Hays, Kansas, 67601, received in this office on December 15, 2021, 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, as modified and amended by the Order of the Chief Engineer dated September 8, 1986, approving the application to change the place of use, 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 authorized location of the irrigated place of use shall be:

Sec. Twp. Range	NE <sup>1</sup> / <sub>4</sub>				NW <sup>1</sup> / <sub>4</sub>				SW <sup>1</sup> / <sub>4</sub>				SE <sup>1</sup> / <sub>4</sub>				TOTAL
	NE <sup>1</sup> / <sub>4</sub>	NW <sup>1</sup> / <sub>4</sub>	SW <sup>1</sup> / <sub>4</sub>	SE <sup>1</sup> / <sub>4</sub>	NE <sup>1</sup> / <sub>4</sub>	NW <sup>1</sup> / <sub>4</sub>	SW <sup>1</sup> / <sub>4</sub>	SE <sup>1</sup> / <sub>4</sub>	NE <sup>1</sup> / <sub>4</sub>	NW <sup>1</sup> / <sub>4</sub>	SW <sup>1</sup> / <sub>4</sub>	SE <sup>1</sup> / <sub>4</sub>	NE <sup>1</sup> / <sub>4</sub>	NW <sup>1</sup> / <sub>4</sub>	SW <sup>1</sup> / <sub>4</sub>	SE <sup>1</sup> / <sub>4</sub>	
14 -11S - 20W	25	13	10	22													70

a total of 70 acres in in Section 14, in Township 11 South, Range 20 West, Ellis County, Kansas, located substantially as shown on the maps accompanying the application to change the place of use.

All diversion works shall be equipped with an in-line, automatic, quick-closing check valve capable of preventing pollution of the source of the water supply. The type of valve installed shall meet specifications adopted by the Chief Engineer and shall be maintained in an operating condition satisfactory to the Chief Engineer.

The water right owner shall properly install an acceptable water meter on the diversion works authorized under this water right, prior to the use of water, in strict accordance with the Kansas Administrative Regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer. The water right owner shall notify the Chief Engineer when installation of the water meter has been completed. The water right owner shall maintain the water meter in an operating condition satisfactory to the Chief Engineer, at all times during diversion of water and shall maintain records from which the total quantity of water diverted may be determined. The water right owner shall also report the reading of said water meter and the total quantity of water diverted annually to the Chief Engineer. Such records shall be furnished to the Chief Engineer by March 1 following the end of each calendar year.

In all other respects, the Certificate of Appropriation issued pursuant to Approval of Application, File No. 37,126, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated July 12, 1995.

Ordered this 30<sup>th</sup> day of May, 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 30 day of May, 2023, by Earl D. Lewis Jr., P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.

*Melinda Jennings*

Notary Public



## 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 the Kansas Department of Agriculture, Attn: Legal Section, 1320 Research Park Drive, Manhattan, Kansas 66502, or by 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 the Secretary of Agriculture, Attn: Legal Division, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, or by 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.

Any request for hearing or petition for administrative review shall be in writing and shall be submitted to the attention of: Chief Legal Counsel, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, Fax: (785) 564-6777.

## CERTIFICATE OF SERVICE

On this 31 day of May, 2023, I hereby certify that the foregoing Approval of Application for Change in Place of Use, File No. 37,126, dated May 30, 2023, was mailed postage prepaid, first class, US mail to the following:

DUSTIN & ANNE BEMIS  
1581 170TH AVE  
HAYS KS 67601

With photocopies to:

KDA-DWR Stockton Field Office

  
\_\_\_\_\_  
Division of Water Resources

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

May 31, 2023

DUSTIN & ANNE BEMIS  
1581 170TH AVE  
HAYS, KS 67601

RE: Appropriation of Water  
File No. 50,692

Water Right  
File No. 37,126

Dear Sir or Madam:

Enclosed is a permit authorizing you to proceed with construction of the proposed diversion works and to appropriate water for beneficial use as set forth in the permit. Also enclosed is an order executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the application for change under the above referenced water right file number. Your attention is directed to the enclosures and to the terms, conditions, limitations, and requirements specified in both orders.

For the approved permit, a notice must be filed on the enclosed form once the diversion works have been completed. Failure to complete the diversion works within the time allowed, or within any authorized extension of time thereof, will result in dismissal of this permit. If you need an extension of time, you must request it before the deadline for completion set forth in the permit. Any request for an extension of time must be accompanied by the statutorily required fee, which is currently \$100.00.

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, then 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 [www.kswaterusereport.org](http://www.kswaterusereport.org).

The approval of your application constitutes a 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.

Since the change order for the referenced water right file number modifies the original document, it should be recorded with the Register of Deeds as other instruments affecting real estate.

DUSTIN & ANNE BEMIS  
File Nos. 37,126 and 50,692  
Page 2 of 2

Also included is an informational sheet that sets forth the procedure to obtain a Certificate of Appropriation which will establish the extent of your perfected water right. Additional information and applicable forms may be found on our website at [agriculture.ks.gov/dwr](http://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 Stockton Field Office at 785-425-6787. If you call, please reference the file number so we can help you more efficiently.

Sincerely,



Kristen A. Baum  
New Applications and Changes Supervisor  
Division of Water Resources

KAB:rrp  
Enclosure(s)  
pc: Stockton Field Office



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