



File No. **42577**      11. County: **CD**    Basin: **REPUBLICAN RIVER**      Stream: **NA**      Formation Code: **331**      Special Use: **NA**

12. Points of Diversion  
 CHK  
 MOD  
 DEL    PDIV  
 ENT  
 Qualifier      S    T    R    ID    'N    'W    Comment (AKA Line)      Rate gpm/cfs    Quantity af/mgy      Rate gpm/cfs    Quantity af/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) **NONE 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 CHK 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>CHK 50102 17 6 1W 3</b>			10.0	5.0					20.0	37.0			20.0	37.0	40.0	38.0	20.0	227	<b>8b</b>	<b>NO</b>	<b>NONE</b>
<b>ENT 7155210 6 1W</b>									32.75	31.75	34.75	33.75						133	<b>8c</b>	<b>NO</b>	<b>NONE</b>

Base Acres: **227**    Year: \_\_\_\_\_    Minimum Reasonable Quantity: \_\_\_\_\_  
 Comments: **ACTION TRAIL ENTRY 'B4 LAND ROTATION'**  
 Special Condition: **LAND ROTATION**

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

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

**TO:** Files

**DATE:** October 19, 2023

**FROM:** Leslie Ireland

**RE:** Water Right, File No. 42,577

Gary F. & Deborah J. Bachand on behalf of the Gary F. & Deborah J. Bachand Trusts #1, owner of the referenced water right filed an application for approval to change the irrigated place of use located in the Republican River, Cloud County. The application was received on April 3, 2023.

The right would appear to be in compliance with K.S.A. 82a-732. It appears there are no wells within one-half mile of the authorized point of diversion not owned by the Bachand Trust. No notices appear to be needed per K.S.A. 82a-1906.

The referenced file authorizes 309 acre-feet (AF) at a maximum rate of 800 gallons per minute for the irrigation of 227 acres mainly in the Southeast Quarter (SE $\frac{1}{4}$ ) of Section 17, from one (1) well located in the (NW $\frac{1}{4}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$ ) Section 17, Township 6 South, Range 1 West, Cloud County. The owners propose to add a pivot of 133 acres in the Southwest Quarter (SW $\frac{1}{4}$ ) Section 16, Township 6 South, Range 1 West, Cloud County. This property is owned by Eleanor Bachand Trust No 1. Both ownerships were confirmed by the ORKA database. Field office confirmation 227 "base acres".

The proposal states they want to alternate watering the currently authorized place of use one year and the added 133 acre pivot the next year. This would be considered a rotation as watering both in the same year would exceed the base acres. The operation under a rotation allows the 227 "base acres". According to K.A.R. 5-5-11(b)(4), **Rotation of the irrigated land within the authorized place of use.**

1. There has been no recent pattern of water use significantly in excess of the authorized maximum annual quantity. An average of 121 AF has been diverted over the past 5 years.
2. A total of 360 acres will be authorized under the proposed place of use but will be limited to the 227 base acres as the maximum acres that would be allowed to be irrigated in a calendar year. The application indicates that the place of use will be comprised of one (1) packman pivot in the (SE $\frac{1}{4}$ ) of Section 17, and one (1) pivot in the (SW $\frac{1}{4}$ ) Section 16, both in Township 6 South, Range 1 West, Cloud County.
3. The file is not located in a Groundwater Management District and does not appear to be in a special use area. The approval will require the Stockton Field Office to monitor the place of use. To assure compliance with the maximum 227 acres that can be irrigated under the proposed rotation the owner must notify the Division in writing of the land to be irrigated before applying water in that year, or by March 1, whichever occurs first.
4. Use of water on more than the maximum number of acres authorized to be irrigated in any one calendar year shall result in a two-year suspension of all water use under the referenced right and subsequent restriction of the authorized place of use to the base acreage at the location specifically set forth in the change approval of the 227 acres in the (SE $\frac{1}{4}$ ) of Section 17.

Kelly Stewart, Water Commissioner of the Stockton Field Office stated in his October 19, 2023, email that he has no objection to the approval of the referenced application to change the place of use to allow for an annual rotation and confirmed the field office will monitor.

A water flowmeter will be required by the approval. A check valve is required if chemigating. A water level measurement tube is not applicable to this change approval, as no new well has been authorized.

Based on the above discussion, that the approval will restrict the irrigation to the base acres in any calendar year, it appears the change is reasonable, the proposal will not increase consumptive use and that impairment to existing water rights is unlikely, it is recommended that the referenced application be approved.



Leslie Ireland  
Environmental Scientist  
Water Appropriation Program

## Ireland, Leslie [KDA]

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**From:** Stewart, Kelly [KDA]  
**Sent:** Thursday, October 19, 2023 8:45 AM  
**To:** Ireland, Leslie [KDA]  
**Cc:** Billinger, Mark [KDA]  
**Subject:** RE: Review & Recommendation Change in Place of Use, File No. 42577 Bachand

Leslie,

We already have one monitoring situation with Mr. Bachand and it has been working quite well. Please refer to his approval under 39,286 (9-24-2014 doc entry). Specifically, please see paragraphs 1, 2, and 3 on the front page of the approval document. Mr. Bachand is very good about e-mailing me early in the year to advise which pivot he will be running. I envision the same here.

I recommend approval of this application and your memo could be completed by stating the applicant will be required to notify the Stockton Field Office in writing before applying any water in that year, or March 1, whichever occurs first.

Thanks for double checking on the monitoring requirements. I initially was opposed to allowing his situation under 39,286, but it has worked quite well actually.

Kelly

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**From:** Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>  
**Sent:** Thursday, October 19, 2023 8:26 AM  
**To:** Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>  
**Subject:** Review & Recommendation Change in Place of Use, File No. 42577 Bachand

Kelly,

The monitoring will be the FOs,,, so not sure if you want anything specific in the approval requiring your office to be notified or if WUR OK? Does your office have a standard email address like HQ that you want an email sent to? I have to say most have been GMD and we leave it to them.

Please let me know if you'd recommend and if notice to your office should be a specific requirement and how to notify.

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 PLACE OF USE WATER RIGHT FILE NO. 42,577

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Gary F. & Deborah J. Bachand, on behalf of the Gary F. & Deborah J. Bachand Trusts #1, 1471 North 260 Road, Clyde, Kansas 66938 received in this office on April 3, 2023, 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 Correction Order of the Chief Engineer, dated September 9, 2005, to correct the authorized point of diversion, 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 place of use shall be:

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	
16	6S	1W									32.75	31.75	34.75	33.75					133.0
17	6S	1W			10.00	5.00				20.00	37.00			20.00	37.00	40.00	38.00	20.00	227.0

a total of 360 acres in Cloud County, Kansas, located substantially as shown on the map accompanying the application to change the place of use.

1. The maximum area authorized to be irrigated per calendar year shall be 227 acres.
2. The land to be irrigated each calendar year shall be certified by the water right owner to the Division in writing before applying any water in that year, or March 1, whichever occurs first.
3. The use of water on more than 227 acres in any one calendar year shall result in a two-year suspension of all water use under this water right, effective the next two (2) calendar years, and a subsequent reduction of the authorized place of use to the following described property:

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	
17	6S	1W			10.00	5.00				20.00	37.00			20.00	37.00	40.00	38.00	20.00	227.0

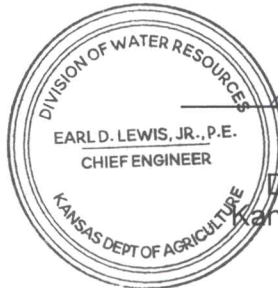
a total of 227 acres in Cloud County, Kansas, located substantially as shown on the map accompanying the application to change the place of use.

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.

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. 42,577, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated September 14, 2004, and as modified and amended by the aforementioned order.

Ordered this 24<sup>th</sup> day of October, 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 24<sup>th</sup> day of October 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 26, 2023

GARY F & DEBORAH J BACHAND TRUSTS #1  
1471 N 260 RD  
CLYDE KS 66938

RE: Water Right  
File No. 42,577

Dear Mr. & Mrs. Bachand:

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.

You should be advised that the land to be irrigated each calendar year shall be certified by the water right owner to the Division in writing before applying any water in that year, or March 1, whichever occurs first. Please contact the Water Commissioner at the Stockton Field Office at:

Division of Water Resources Stockton Field Office  
Attn: Water Commissioner  
820 S Walnut Street  
Stockton, KS 67669

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in the approval for change that will permit the diversion of water from the well authorized under the referenced file for irrigation use. A condition of the approval is that a water flowmeter meeting the requirements of K.A.R. 5-1-4 through 5-1-12 must be installed on the diversion works authorized under the referenced file.

Since this order modifies the Certificate of Appropriation for the file number referred to above, it should be recorded with the Register of Deeds as other instruments affecting real estate.

If you have any questions please contact our staff at your local area office in Stockton, Kansas at 785-425-6787. 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:li

Enclosures

pc: Stockton Field Office  
Eleanor Bachand Trust No 1



## 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 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.

## CERTIFICATE OF SERVICE

On this 26 day of October, 2023, I hereby certify that the attached Approval of Application for the Change in Place of Use under, Water Right, File No. 42,577, dated October 24, 2023, was mailed postage prepaid, first class, US mail to the following:

GARY F & DEBORAH J BACHAND TRUSTS #1  
1471 N 260 RD  
CLYDE KS 66938

With photocopies sent to:

ELEANOR BACHAND TRUST NO 1  
550 N 270TH RD  
CLYDE KS 66938

KDA-DWR Stockton Field Office

  
Division of Water Resources