

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

AND UPDATING P/D

| | | | | |
|--|---|---|---|---|
| 1. File Number: 12,591 | 2. Status Change Date: 12/14/2021 | 3. Change Num: C1 | 4. Field Office: 01 | 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: 8/18/20 |
| 8a. Applicant(s) New to system <input checked="" type="checkbox"/> CHARLES HASLOUER 1268 HIGHWAY 4 HOPE, KS 67451 | | Person ID <u>7137</u> Add Seq# <u>1</u> | 8c. Landowner(s) New to system <input type="checkbox"/> Person ID _____ Add Seq# <u>1</u> | |
| 8b. Landowner(s) New to system <input type="checkbox"/> CHARLES & ELLEN HASLOUER 1268 HIGHWAY 4 HOPE, KS 67451 | | Person ID <u>40515</u> Add Seq# <u>1</u> | 8d. WUC New to system <input type="checkbox"/> CHARLES HASLOUER 1268 HIGHWAY 4 HOPE, KS 67451-9131 | |
| 9. Documents and Enclosure(s): <input checked="" type="checkbox"/> DWR Meter(s) Date to Comply: <u>12/31/22</u> <input type="checkbox"/> N & P Date to Comply: _____ <input type="checkbox"/> Anti-Reverse Meter <input type="checkbox"/> Meter Seal <input 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: 11/3/21 By: LHH/TFO Date Entered: 12/22/2021 By: LMoody | | |

File No. **12,591** 11. County: **DICKINSON** Basin: **Smoky Hill River** Stream: **Middle BR Turkey Creek** Formation Code: Special Use:

| 12. Points of Diversion | | | | | | | | | | | Rate and Quantity | | | | | | | |
|-------------------------|----------------|-----|-----|------|-----------|---|---|---|----|----|-------------------|--------------------------------------|-----------------|--------------------|-----------------|--------------------|------------------|-------------|
| CHK | MOD | DEL | ENT | PDIV | 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 | |
| MOD | CHK | | | | | | | | | | | | | | | | | NONE |
| | | | | | | | | | | | | no change to rate or quantity | | | | | | NONE |
| | | | | | | | | | | | | | | | | | | NONE |
| MOD | CHK | | | | | | | | | | | [update per GPS only] | | | | | | NONE |
| | | | | | | | | | | | | | | | | | | NONE |

12/8/2021
LHH

NE SW NW 12 16S 2E 4 3635 4402

13. Storage: Rate _____ NF Quantity _____ ac/ft Additional Rate _____ NF Additional Quantity _____ ac/ft

14. Limitation: _____ af/yr at **500** gpm (_____ cfs) when combined with file number(s) **947**
 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 | | | | |
| DEL | 14320 | 12 | 16S | 2E | 1 | | | | | 20 | 34 | 36 | 25 | | | | | | | | | 115 | 8b | NO | *947 (partial) |
| ENT | 70669 | 12 | 16S | 2E | | | | | | 24 | 34 | 32 | 35 | | | | | | | | | 125 | 8b | NO | *947 (partial) |
| | | | | | | | | | | 22 | 14 | 17 | 35 | | | | | | | | | | | | (new acres auth.) |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |

Base Acres: **115** Year: Minimum Reasonable Quantity:
 Comments: ***NOTE: The place of use under File No. 947 will not be changing. The change application for that file will be dismissed.**

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

TO: Files

DATE: November 4, 2021

FROM: Lloyd Hemphill

RE: Water Right
 File Nos. 947 and 12, 591

Charles Haslouer, water right owner, has filed an application for approval to change the authorized points of diversion and place of use for Water Right, File No. 947 and an application for approval to change the authorized place of use for File No. 12,591 on August 18, 2020.

Prior to the proposed changes, these two files share partially overlapping places of use and authorize separate points of diversion (pumpsites on Middle Branch Turkey Creek in the Smoky Hill River Basin). The best information on file indicates that the land covered under File No. 947 (62 acres) is owned by Charles and Ellen Haslouer; the Harvey & Rose Falen Family Revocable Trusts; and the Sandow Family Trust, although the maps accompanying the original application filed in 1952 and subsequent Field Inspection are of questionable quality. The land covered under File No. 12,591 (115 acres) is owned by Charles and Ellen Haslouer. The two files share a common 37 acres.

The applicant was notified in a November 6, 2020 letter that signatures from all landowners are required for approval of the change applications and a deadline of December 7, 2020 was established. In various telephone conversations, Mr. and Mrs. Haslouer indicated to the Topeka Field Office that some of the other landowners were unwilling to provide or they were otherwise unable to obtain the signatures. All water right owners were notified in an April 2, 2021 letter that the place of use change application for File No. 12,591 could be approved provided that a waiver of K.A.R.5-3-5n is approved and a Cease and Desist Order is placed on File No. 947 to cease diversion under this file. The place of use and point of diversion change applications will be dismissed for File No. 947, for failure to provide the required signatures.

Based on a review of the water use history, Water Right, File No. 12,591 does not appear abandoned as per K.S.A. 82a-718. The pumpsites authorized under Water Right, File No. 947 have not been active in the recent past but some of the common land authorized by both water rights has been routinely irrigated. The case can be made that the same pumping equipment used for File No. 12,591 could have been moved to the pumpsites under the other file if there had been the need to do so. Therefore, File No. 947 would not be abandoned either.

The purpose of the place of use change application for File No. 12,591 is to reconfigure the place of use to include all land under the existing pivot. The pivot has previously irrigated some unauthorized land. This change application proposes to reconfigure the authorized 115 acres and add 10 acres, resulting in a total of 125 irrigated acres. The base acreage established for this file is 115 acres, thus the increase in acreage to 125 acres complies with K.A.R. 5-5-11. The new place of use will be described as follows:

| Sec. | Twp. | Range | NE¼ | | | | NW¼ | | | | SW¼ | | | | SE¼ | | | | TOTAL |
|------|------|-------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-------|
| | | | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | |
| 12 | 16S | 2E | | | | | 24 | 34 | 32 | 35 | | | | | | | | | 125 |

The point of diversion description for File No. 12,591 will not be modified as a result of this change application, although the feet distances for one of the points will be updated based on G.P.S. data collected during an August 2, 2018 compliance investigation. The updated description for (PDIV ID: 40798 - ID #4) will be:

one (1) point located in the Northeast Quarter of the Southwest Quarter of the Northwest Quarter (NE¼ SW¼ NW¼) of Section 12, more particularly described as being near a point 3,635 feet North and 4,402 feet West of the Southeast corner of said section in Township 16 South, Range 2 East, Dickinson County, Kansas.

No nearby landowners were notified as the proposed change under File No. 12,591 is a change in place of use involving only land owned by the applicant. No change will occur as a result of this application in the quantity of water pumped or the rate of diversion.

File No. 12,591 is authorized a quantity of 68 acre-feet and this change application proposes a place of use of 125 acres. This is 0.54 acre-feet per acre which appears reasonable.

A water flow meter is required. A check valve is required if any chemical or foreign substance is injected into the water through the diversion works.

Katie Tietsort, Water Commissioner of the Topeka Field Office recommended approval of the referenced change application in an e-mail dated November 4, 2021 along with the Cease & Desist Order for Water Right, File No. 947

Lloyd Hemphill
Environmental Scientist

Hemphill, Lloyd [KDA]

From: Tietsort, Katie [KDA]
Sent: Thursday, November 4, 2021 11:06 AM
To: Hemphill, Lloyd [KDA]
Cc: Baum, Kristen [KDA]
Subject: RE: Water Right File Nos. 947 & 12591: Haslouer - For your recommendation

Lloyd,

Please proceed with this package. This appears to meet all the requirements of the KWAA. Haslouer will receive the formal CD on the senior right 947, and will be pumping from the junior right only, 12591, which will not cover his pivot. Thanks for working this package.

Katie Tietsort

Water Commissioner

Katie.Tietsort@ks.gov
Ph. 785-296-5733 Cell 785-213-9188
Kansas Department of Agriculture
Topeka Field Office
1131 SW Winding Rd, Suite 400
Topeka, KS 66615

From: Hemphill, Lloyd [KDA] <Lloyd.Hemphill@ks.gov>
Sent: Wednesday, November 3, 2021 3:48 PM
To: Tietsort, Katie [KDA] <Katie.Tietsort@ks.gov>
Cc: Baum, Kristen [KDA] <Kristen.Baum@ks.gov>
Subject: Water Right File Nos. 947 & 12591: Haslouer - For your recommendation

Katie,

Will you provide your recommendation on the Haslouer package? This includes a change in PU application for Water Right, File No. 12,591; and the dismissal of change application and cease and desist order for Water Right File No. 947.

I have made the modifications suggested by Brett.

If you care to see the transmittals and worksheets, I will make them available. Let me know if you have any questions.

Thanks,
Lloyd

Lloyd Hemphill, Environmental Scientist
Kansas Department of Agriculture
Division of Water Resources, Topeka Field Office
1131 SW Winding Rd, Suite 400
Topeka, KS 66615
(785) 296-5733

NOTE NEW ADDRESS

Kansas Department of Agriculture
 Division of Water Resources
WAIVER REQUEST & WAIVER RULE WORKSHEET

File Number: 12,591

FO: 1

GMD: _____

WAIVER REQUEST:

| | | | | | |
|----------------------|----------------|-------------|------------------|---|------------------------|
| UMW | Date Requested | Rule ID | Applies | Rule Type | Rule Subtype |
| IRR | 5/27/21 | | Statewide | Change Approval | Change Approval |
| Rule Number | Date Granted | Date Denied | Justification: | The applicant is unable to get the signatures required to make a complete overlap in place of use. Lane Letourneau Program Manager and Katie Tietort Water Commissioner recommended the waiver request and approval of the change application to solve a compliance problem concerning irrigation of unauthorized land. | |
| K.A.R. 5-3-5n | | | | | |

WAIVER RULE (complete only if a new rule needs to be created):

| Rule ID | Applicability | Type | Subtype | Rule Number | Date Active | Date Inactive |
|---------|---------------|------|---------|---------------|-------------|---------------|
| | | | | K.A.R. | | |

Date Prepared 11/3/21 By LHH/TFO

Date Entered _____ By _____

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Secretary of Agriculture

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

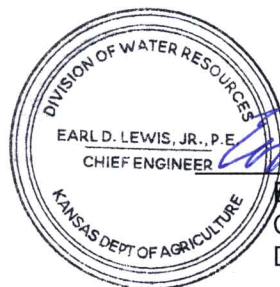
WAIVER OF REGULATION K.A.R. 5-3-5n – Authorized Place of Use


Date: December 14, 2021

Re: Water Right, File No. 12,591

1. That in an August 2, 2018 compliance investigation for Water Right, File No. 12,591, it was observed that water was being applied to land not authorized under this water right.
2. That on August 18, 2020, the Chief Engineer received a DWR Field Office Application For Approval to Change the Place of Use and Points of Diversion pursuant to Water Right, File No. 947 and a DWR Field Office Application For Approval to Change the Place of Use pursuant to Water Right, File No. 12,591; both submitted by Charles Haslouer. Since these applications were signed by one owner they were considered acceptable for filing per K.A.R. 5-5-1.
3. That K.A.R. 5-3-5n states in part, that the approval of any application for change shall describe the authorized place of use as either: land not authorized for beneficial use of water by any other water right or approval of application; or exactly the same land authorized for beneficial use of water by one or more prior approvals of applications or water rights.
4. That the existing water rights currently authorize an incomplete overlap in the place of use. The change applications, as submitted, propose to modify the authorized place of use under both files to create a complete overlap and comply with K.A.R. 5-3-5n and resolve the identified compliance issue.
5. That the authorized place of use for Water Right, File No. 947 is owned by multiple parties and, per K.A.R. 5-5-5, all landowners must sign the application for approval.
6. That the water right owners were notified in a November 6, 2020 letter that the signatures of all landowners are required for approval of the change applications. Mr. Haslouer notified the Topeka Field Office that he was unable to obtain the signatures of all landowners.
7. That in discussions with various DWR personnel it was determined that the place of use change application for Water Right, File No. 12,591 could be approved if a Cease and Desist Order is placed on Water Right, File No. 947 ordering that the diversion of water cease until the place of use issue is resolved. As long as only one file is being used, the incomplete overlap will not create a water use reporting problem.
8. That a waiver of K.A.R. 5-3-5n will not prejudicially or unreasonably affect the public interest and no senior rights will be impaired by the proposed use.

Comments:




Earl D. Lewis Jr., P.E.
Chief Engineer
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 AND
ORDER IN THE MATTER OF THE AUTHORIZED POINT OF DIVERSION
WATER RIGHT
FILE NO. 12,591**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Charles and Ellen Haslouer, 1268 Highway 4, Hope, Kansas 67451, received in this office on August 18, 2020, 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, 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 | NE $\frac{1}{4}$ | | | | NW $\frac{1}{4}$ | | | | SW $\frac{1}{4}$ | | | | SE $\frac{1}{4}$ | | | | TOTAL ACRES |
|------|------|-------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|-------------|
| | | | NE $\frac{1}{4}$ | NW $\frac{1}{4}$ | SW $\frac{1}{4}$ | SE $\frac{1}{4}$ | NE $\frac{1}{4}$ | NW $\frac{1}{4}$ | SW $\frac{1}{4}$ | SE $\frac{1}{4}$ | NE $\frac{1}{4}$ | NW $\frac{1}{4}$ | SW $\frac{1}{4}$ | SE $\frac{1}{4}$ | NE $\frac{1}{4}$ | NW $\frac{1}{4}$ | SW $\frac{1}{4}$ | SE $\frac{1}{4}$ | |
| 12 | 16S | 2E | | | | | 24 | 34 | 32 | 35 | | | | | | | | | 125 |

a total of 125 acres in Section 12, Township 16 South, Range 2 East, Dickinson County, Kansas,

located substantially as shown on the map accompanying the application to change the place of use, and the location of the authorized points of diversion shall be more accurately described as:

one (1) pumpsite located in the Southeast Quarter of the Northwest Quarter of the Northwest Quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 12, more particularly described as being near a point 4,300 feet North and 4,400 feet West of the Southeast corner of said section,

one (1) pumpsite located in the Southeast Quarter of the Northwest Quarter of the Northwest Quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 12, more particularly described as being near a point 4,100 feet North and 4,600 feet West of the Southeast corner of said section,

one (1) pumpsite located in the Northeast Quarter of the Southwest Quarter of the Northwest Quarter (NE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 12, more particularly described as being near a point 3,635 feet North and 4,402 feet West of the Southeast corner of said section, and

one (1) pumpsite located in the Southeast Quarter of the Southwest Quarter of the Northwest Quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 12, more particularly described as being near a point 3,100 feet North and 4,500 feet West of the Southeast corner of said section;

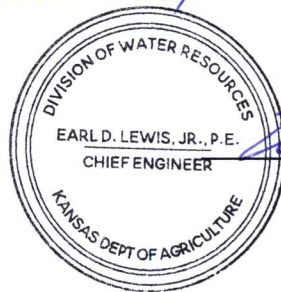
all in Township 16 South, Range 2 East, Dickinson County, Kansas.

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. 12,591, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated August 13, 1986.

Ordered this 14th day of December, 2021, 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 14 day of December, 2021 by Earl D. Lewis Jr., P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.

Ashlee Freeman

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

December 23, 2021

CHARLES & ELLEN HASLOUER
1268 HIGHWAY 4
HOPE, KS 67451

RE: Water Right, File No. 12,591

Dear Mr. and Mrs. Haslouer:

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 number.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in this approval for change. A condition of this approval is that an acceptable water flow meter must be installed on the diversion works authorized under the referenced file number, if not already installed. A list of certified water flowmeters can be obtained from our website at the following web address:

<http://agriculture.ks.gov/meters>

Since the order modifies the original document 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 this office at 785-564-6640 or your local Topeka Field Office at 785-296-5733. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

A handwritten signature in black ink that reads "Kristen A. Baum".

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

KAB:llh
Enclosure(s)

pc: Topeka 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:

- 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.

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.

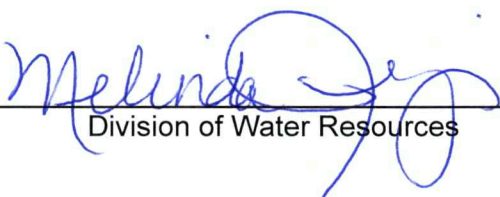
CERTIFICATE OF SERVICE

On this 23 day of December, 2021, I hereby certify that the attached Approval of Application for the Change in Place of Use and Order in the Matter of the Authorized Point of Diversion, under Water Right, File No. 12,591, dated 14 December, 2021, was mailed postage prepaid, first class, US mail to the following:

CHARLES & ELLEN HASLOUER
1268 HIGHWAY 4
HOPE, KS 67451

With photocopies to:

Topeka Field Office



Division of Water Resources