

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF KANSAS**

IN THE MATTER OF

The Application of the Cities of Hays, Kansas
and Russell, Kansas for Approval to Transfer
from Edwards County, Kansas

OAH Case No. 23AG0003 AG

Pursuant to the Kansas Water Transfer Act

AMENDED NOTICE OF SUBMISSION

Kansas Department of Agriculture (KDA) was directed to submit a filing by Friday June 30, 2023, of any written public comments received by KDA in accordance with the amended notice.

Pursuant to this court order KDA filed a Notice of Submission on June 29, 2023, but Exhibit A was not included in that filing as previously indicated. KDA is hereby submitting Exhibit A, forty-five pages of written comments, submitted on or before the June 26, 2023 deadline. No redactions have been made.

I, Kate Langworthy, affiant herein, do hereby affirm and verify that the written comments are a true and correct copy submitted for public comment to be seen by the Water Transfer Hearing Panel in the care of the Chief Engineer. I further affirm that all comments were considered legible and identifiable.

Respectfully submitted,

s/Kate Langworthy

Kate Langworthy # 29310

Staff Attorney

Kansas Department of Agriculture

1320 Research Park Drive

Manhattan, Kansas 66502

TEL: (785) 564-6715

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Kate.Langworthy@ks.gov

*Attorney for the Kansas Department of
Agriculture*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Amended Notice of Submission was served by uploading it to OAH Case No. 23AG0003 which will send notice by electronic mail to the following:

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Attorney for Edwards County

/s/Kate Langworthy
Kate Langworthy, KS # 29310



CITY COMMISSION
SHAUN MUSIL, MAYOR
SANDY JACOBS, REESE BARRICK
ALAINA CUNNIGHAM, MASON RUDER

CITY MANAGER
TOBY DOUGHERTY
DEPUTY CITY MANAGER
COLLIN BIELSER

Public Comment for the Hays/Russell Water Transfer Application, OAH No. 23AG0023 AG

Shaun Musil
3319 Willow
Hays, KS 67601

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JUN 23 2023

Water Transfer Hearing Panel
c/o Chief Engineer – Division of Water Resources
Kansas Department of Agriculture
1320 Research Park Dr.
Manhattan, KS 66502

KS DEPT OF AGRICULTURE

This is written public comment to be included in the record of the Public Comment Hearing for the Hays/Russell Water Transfer Application, OAH No. 23AG0023 AG.

This is written in support of the approval of the water transfer application submitted by the cities of Hays and Russell, Kansas nearly 8 years ago.

Hays, and subsequently Russell, had the foresight nearly 3 decades ago to search and secure additional water resources. They did not do so with disregard for their neighbors or their taxpayers, but in an organized, methodical manner. Hundreds of water studies were conducted and evaluated before landing on the R9 as the best possible long-term solution to their water needs.

I was a part of the Hays City Commission when the applications were first submitted in 2015. It was clear then that the R9 was our best opportunity at long term growth, and it remains so today.

The highest use of this resource for the state, for taxpayers, for the region and for the specific communities is to approve this transfer. Hays and Russell represent a \$3 billion economic driver in a key region of the state. Because the communities have been so extraordinarily successful in changing their culture to conserve and stretch resources, they have continued to grow their economies. However, they are quickly approaching, if they have not already met, the limits of conservation and thus this economic engine will be throttled moving forward.

Through the change of use process the cities voluntarily agreed to limit their use of the R9 to an average of 4,800 acre-feet per year. This was no small concession as we were legally entitled to a much larger annual usage. However, this was an easy decision for the governing body. Hays as a community has a culture of extraordinary water management. The thought of expending millions of taxpayer dollars to quickly deplete the R9 over just a few decades was not in the interests of anyone.

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In retrospect however, this relatively quick and easy decision by community leaders has not been fully appreciated or recognized by our neighbors, agricultural leaders or state authorities. Hays and Russell are leaders in water conservation and management, not just in Kansas, but across the nation. The decision by Hays and Russell to voluntarily limit themselves should have been celebrated and serve as the final piece of evidence that the communities intend to utilize the R9 in the best way possible for the benefit of everyone. Instead, the cities were subjected to years of litigation.

The Transfer Panel has the opportunity to recognize the outstanding culture the communities have developed over the past 3 decades. Cities like Wichita are just now beginning to realize their water resources are not infinite. Hays and Russell may be the first transfer applicants, but they will not be the last. If Hays and Russell cannot gain approval, then who can?

Denial of the transfer means limiting a \$3 billion economic engine and the future growth of these communities. Denial means surrounding communities will also be forever limited in population and economic growth. Denial means reduced future revenue to the state.

Currently the R9 is pumping no water at all. Denial of the transfer means the cities will need to ask themselves if no water utilization is the best use of the R9. Denial could potentially mean more water being used at the R9 in an agricultural use than would ever be used in a municipal use.

Approval of the application means the cities and region can once again grow in population and economic drivers. Surrounding communities can benefit from that growth or even potentially partake of the R9 water themselves. Approval means more revenue to the state. Approval means the creation of the second largest walk-in hunting area in the state, creating additional economic drivers in the Edwards County region. And all done in a sustainable manner with no negative impacts to surrounding land or communities.

Finally, approval means setting a precedent of opportunity and a culture of conservation for future communities who utilize the Water Transfer Act.

I can think of no scenario where denial of the application results in better outcomes. However, approval of the application will result in multiple beneficial outcomes for the cities, for the state and future potential applicants.

I urge you to approve the transfer application without delay and without restrictions.

Sincerely,



Shaun Musil
Mayor



CITY COMMISSION
SHAUN MUSIL, MAYOR
SANDY JACOBS, REESE BARRICK
ALAINA CUNNIGHAM, MASON RUDER

CITY MANAGER
TOBY DOUGHERTY
DEPUTY CITY MANAGER
COLLIN BIELSER

Public Comment for the Hays/Russell Water Transfer Application, OAH No. 23AG0023 AG

June 19, 2023

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Alaina Cunningham
1415 Washington Circle
Hays, KS 67601

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Water Transfer Hearing Panel
c/o Chief Engineer – Division of Water Resources
Kansas Department of Agriculture
1320 Research Park Dr.
Manhattan, KS 66502

This is a written public comment to be included in the record of the Public Comment Hearing for the Hays/Russell Water Transfer Application, OAH No. 23AG0023 AG.

This is written in support of the approval of the water transfer application submitted by the cities of Hays and Russell, Kansas.

Hays and Russell have dealt with limited water resources for decades. Having worked through long periods of decreased rainfall and multiple droughts, their conservation efforts are among the top in the state and being recognized nationally. The residents of these communities average water usage per person per day is almost half of other regions. They have exhausted all efforts in conserving and using their current water resources.

Multiple options for the regions water issues have been explored over the past 3 decades, none of which have been a good fit for a long-term sustainable water source. Studies have shown that Hays and Russell do not have a drought resistant supply of water. Their current water sources are inadequate in a drought.

The R9 Ranch is the answer to this issue and their future to grow. It proves to be a sustainable long term source of water for Hays and Russell. The two cities have owned the R9 and its water rights in Edwards County since 1995. The water rights are being converted to municipal use with an agreement to take 30% less water to operate than legally allowed. The conversion of water rights from agricultural irrigation to municipal use actually help to preserve the aquifer, as less water will be used. This proves they are doing due diligence, not harm, to other regions.

In this process Hays and Russell have worked to convert the R9 Ranch back to its native grasses. They continue to strive towards their goal of making the 6,700 acre ranch available for public use. They are working to create a prairie environment with multiple trees and wildlife. Hays and Russell phased out farming the property in 2017. Converting the property from cropland to grassland will help to retain more water in the aquifer, improve water quality and reduce erosion. This once again proves their efforts in conservation and awareness of water usage.

Hays and Russell are part of the two highest oil-producing counties in the state, Ellis and Russell Counties. Together the two communities house a \$3 billion economy. Ellis County is one of only 20 counties in the state predicted to grow in the next 40 years. Without a sustainable long-term water source the area will be unable to grow. This would be detrimental to the region and its residents. If an extreme long term drought were to occur, over multiple decades, it would result in a humanitarian disaster. This would have a devastating economic effect on the state as a whole.

The R9 is the future of our region and the answer to our need for a long term sustainable water source. I urge you to please approve the Water Transfer Application. Approval of the application will result in multiple beneficial outcomes for both Hays and Russell, the region and the state.

With my regards,



Alaina Cunningham
Hays City Commissioner

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ELLIS COUNTY COMMISSION

718 Main Street
Hays, KS 67601

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06/20/2023

Water Transfer Hearing Panel
c/o Chief Engineer – Division of Water Resources
Kansas Department of Agriculture
1320 Research Park Dr.
Manhattan, KS 66502

Re: Public Comment for the Hays/Russell Water Transfer Application, OAH No. 23AG0023 AG

Submission for Official Record in Support of Hays & Russell Application

I am writing to express my strong support for Hays and Russell as they navigate the Water Transfer Act as it regards the development of the R9 Ranch, a long-term water supply for Hays and Russell. As an Ellis County Commissioner, I have had the privilege of closely following the progress and efforts invested in traversing the regulatory process over the past eight years.

Water is a precious resource that is fundamental to the growth and sustainability of our communities. The Water Transfer Act aims to ensure that the state as a whole benefits from conducting large-scale water transfers. It grants the state the final approval authority over such transfers, recognizing the need to balance water resources while supporting the growth and development of communities.

Hays and Russell have established themselves as true leaders, not only within the state of Kansas but also across the nation, in implementing effective strategies to conserve and manage water resources. Their proactive decision voluntarily limiting to a 30% reduction over and above what was required by statute is a clear demonstration of their responsible and forward-thinking approach.

By implementing self-imposed limitations, Hays and Russell have set a commendable example for other communities to follow. Their actions signify their unwavering commitment to ensuring the best utilization of the R9 water supply for the greater good of everyone involved. We should celebrate this as a significant milestone, which reaffirms their intent to uphold the highest standards of water stewardship and sustainable development.

Opposition to proposed water transfers often stems from a misconception that water resources solely belong to the communities where they are abundant. However, Kansas law clearly establishes that all water belongs to the State until it is lawfully acquired through a "water right," which is considered a real property right. This right is tied to the land it serves and transfers with the conveyance of the land. Moreover, Kansas law does not prioritize agricultural use over other uses. K.S.A. 82a707 (b) grants a higher status to municipal use over irrigation in cases where two water rights have the same date of priority.

Support for this transfer is essential for economic development of the State and the well-being of our counties residents. Recognizing the increasing demand and the need for a reliable and sustainable water supply, the R9 project holds tremendous significance for our region to support ongoing growth prospects for northwest Kansas.





ELLIS COUNTY COMMISSION

718 Main Street
Hays, KS 67601

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The Hays and Russell constituency represents a thriving and growing \$3 billion economy, with immense potential for further expansion. By obtaining the necessary approvals under the Water Transfer Act, Hays and Russell can secure a sustainable and reliable water source that will drive economic growth, support existing industries, and foster a prosperous environment for our residents. I commend the dedication and perseverance demonstrated by the Hays and Russell teams throughout this process. Their commitment to meeting the regulatory requirements and ensuring the long-term water needs of our communities is commendable. The extensive planning, research, and collaboration undertaken by these entities reflect their deep commitment to the welfare of our residents and the responsible stewardship of our water resources.

The development of the R9 as a long-term water supply will not only provide much-needed security and stability for Hays and Russell but will also contribute to the overall prosperity and growth of our entire region. I firmly believe that the development of the R9 Ranch water supply is not only vital for the Hays and Russell region but also beneficial to the State of Kansas as a whole. It aligns with our shared goals of promoting economic development, ensuring the responsible use of water resources, and safeguarding the long-term sustainability of our communities. The totality of this project is an investment that will yield long-term benefits and ensure a bright and prosperous future for our residents.

I urge you to consider the significance of this venture and the positive impact it will have on both the Hays/Russell region and the State of Kansas. I wholeheartedly support the efforts of Hays and Russell in developing the R9 as a long-term water supply and urge you to consider their proposal favorably. Together, we can make a positive impact and secure the water resources necessary for the continued success and growth of our region.

Thank you for your attention to this matter. Should you require any further information or have any questions, please do not hesitate to reach out to me. Let us work towards a prosperous and sustainable future for our region and the State of Kansas.

Sincerely submitted,

Michael K. Berges as

Resident – Hays, KS
Commissioner – Ellis County
Officer – Development Services of Northwest Kansas, Inc.





ELLIS COUNTY COMMISSION

718 Main Street, Hays, KS 67601

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June 20th, 2023

Public Comment for the Hays/Russell Water Transfer Application
OAH No. 23AG0023 AG

Matthew A. Spurgin
Presiding Officer/Administrative Law Judge
Office of Administrative Hearings

As the board chair of the Ellis County Commissioners, I am supportive of the endeavor taken by the cities of Hays and Russell in finding and obtaining a sustainable water source for the Ellis County region. We are appreciative in the efforts our local governments have done to reduce the amount of water used per capita in our area, making us a leading community and setting the example for water conservation throughout the nation.

Please accept this letter of support to the cities of Hays and Russell for request to the approved for the Water Transfer Act. This water is not only beneficial for our area, but for the entire Northwest Kansas. As you may know, Ellis County ranks second in the State with a retail pull factor of 1.48. A score of higher than 1.00 indicates the county is pulling in trade from beyond our county limits. Have a sustainable water source will allow our county to continue to steadily grow and sustain our way of life, not only for our county, but for all the other county residents who travel to our county for their needs.

I have full confidence that the City of Hays and Russel will keep to their word and continue to strive for efforts of efficient water use to ensure the sustainability of the Edwards County wellfield well into the future.

We appreciate your consideration of approving this Water Transfer Act request, allowing our \$3B economy to continue to grow, our citizens to continue to prosper, and for our local government leaders to set the standard and lead by example throughout this process and project.

Sincerely,

Neal Younger,

Chair, Ellis County Board of County Commissioners

Michael Berges, First District

Neal Younger, Second District

Nathan Leiker, Third District





ELLIS COUNTY COMMISSION

718 Main Street, Hays, KS 67601

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June 20th, 2023

Public Comment for the Hays/Russell Water Transfer Application
OAH No. 23AG0023 AG

Matthew A. Spurgin
Presiding Officer/Administrative Law Judge
Office of Administrative Hearings

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We appreciate your consideration of approving this Water Transfer Act request, allowing our \$3B economy to continue to grow, our citizens to continue to prosper, and for our local government leaders to set the standard and lead by example throughout this process and project.

Sincerely,

Nathan Leiker,

Vice-Chair, Ellis County Board of County Commissioners

Michael Berges, First District

Neal Younger, Second District

Nathan Leiker, Third District



JUN 23 2023

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RE: Public Comment for the Hays/Russell Water Transfer Application
OAH No. 23AG0023 AG

Water Transfer Hearing Panel
c/o Chief Engineer – Division of Water
Resources Kansas Department of Agriculture
1320 Research Park Drive
Manhattan, KS 66502

Dear Panel:

I moved to Hays 38 years ago and the one of the first things my father-in-law said to me was how vital water was to Hays and to always hang on to your water rights. As a City Commissioner in the late 1960's through 1978, he proudly drove me around town and explain the where the wells were and how much research the City of Hays has been doing to find a long-term water source.

I was a Hays City Commissioner from 2005 to 2012 and while the R-9 ranch had already purchased with the City of Russell, the work was far from over. I know that the City of Hays has been looking into every direction to find a long-term water source. In the end, the decision was to buy the ranch and start the water transfer process.

During all of this time the City of Hays has worked to make all citizens realize the value of conserving water with low flow toilets, low flow shower heads, giving rebates for high efficiency washing machines and rebates for planting low water grasses. In the 1980's, the City of Hays used 1.076 billion gallons of water. And in 2022, that amount is only 637 million Gallons of water. And it continues today due to the education of our citizenry and the buy in by them. If only the rest of the State followed its lead.

I am aware of everything that has been done to make sure the use of the R-9 is minimal and I know you have been given the statistics.

I am incredibly proud to be a citizen and representative from Hays. We conserve water. We act with the knowledge that we need to make sure future generations will have the resources to not only live here, but to thrive. This process has been arduous and made more difficult by people who do not know the journey like I do and like many City of Hays citizens do. This water transfer is crucial to the economic health of Western Kansas.

Please understand this and go forward with the Water Transfer.

Barb Wasinger
State Representative District 111
Barb.wasinger@house.ks.gov



FORT HAYS STATE UNIVERSITY

OFFICE OF THE PRESIDENT

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June 15, 2023

Water Transfer Hearing Panel
c/o Chief Engineer - Division of Water Resources Kansas Department of Agriculture
1320 Research Park Dr.
Manhattan, KS 66502

Public Comment for the Hays/Russell Water Transfer Application, OAH No. 23AG0023 AG

RE: Endorsement of the City of Hays and City of Russell's proposal to transfer water rights from irrigation to municipal.

On behalf of the employees and students at Fort Hays State University, I want to share our strongest endorsement of the two cities' efforts to transfer water rights from irrigation to municipal. Access to water resources is essential to the future of our two communities, and we believe the plan put forward, coupled with the conscientious and successful water conservation efforts of both municipalities, offers the best long-term solution.

The cities of Hays and Russell demonstrated remarkable foresight with the purchase of the R9 Ranch as a potential water resource in 1995. Efforts to transition water rights associated with R9 to address expanding water resources in our region began in 2014. The two cities faced opposition from the beginning, despite both agreeing to decrease their water usage under the plan by a further 30%.

We believe the plan to develop R9 as a long-term water resource is sound environmentally and strikes a balance between the needs of our two cities and many of the regional irrigators who currently oppose this effort. The Fort Hays State University community stands with our city leaders and is strongly behind this vital project.

Sincerely,

A handwritten signature in black ink that reads "Tisa Mason". The signature is written in a cursive, flowing style.

Tisa Mason, Ed.D., CAE
President



2501 Timber Dr.
Hays, KS 67601
785-639-2743
tammy@tammywellbrock.com

June 19, 2023

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Re: Hays/Russell Water Transfer – June 20th Public Comment Hearing

To whom it may concern:

Please accept this letter in support of the approval of the water transfer application submitted by the cities of Hays and Russell, Kansas nearly 8 years ago.

For decades, our two communities have been proactively researching water saving techniques and promoting conservation efforts to the public. I am so proud of the efforts our citizens have made to respect this valuable natural resource and have applauded city officials' due diligence in discovering innovative means to offset and stretch current water resources. Therefore, I was part of those rejoicing when they identified the R9 Ranch in Edwards County as a sustainable source of water for our two communities.

While serving as our President/CEO of the Hays Chamber for 9 years, I was able to observe first hand how much our water needs impact our local economy and quality of life. As a regional economic driver for our state, Hays and Russell need to continue to grow and evolve to best meet the needs of the people served in this area. Water is vital for strategic long term success, not only for our communities but for Northwest Kansas and beyond.

I urge you to approve the water transfer application and establish a ground-breaking precedent for the future of all Kansans.

Sincerely,

Tammy Wellbrock
Owner/Founder

City of Hays – Water Supply Hearing

June, 20, 2023

Comments by D. G. Bickle,

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My name is D.G. Bickle, a lifelong Hays resident and business owner. Before I begin my commentary, I would like to thank the Hays City Commission, its Manager, and all other responsible parties associated with conducting this hearing, for the opportunity to comment on such an important issue.

Our community has struggled for decades to source reliable enough water at times to sustain our most basic needs. While our community takes great pride in its ability to persevere through serious issues of many kinds, the availability of water affects many business and personal decisions. We are the largest economic engine in northwest Kansas, and we accept the responsibility of being a job center to a large number of surrounding counties, but without adequate water supplies we are crippled in our ability to rise to that responsibility.

The water issue demands an **extraordinary** level of commitment to achieve a long-term solution that can sustain the city, its many neighbors, and travelers who rely on the community for health care, education, retail/food services, air service, lodging/hotels, etc.

I would ask that whoever hears, and reads, these comments acknowledges this issue is of the utmost importance to the health, and survival, of our community long term.

I will close by saying that we collectively are going to have to make an extraordinary investment of never seen before proportions, and do so with our own resources coupled with others to solve this solution in such a way that it benefits the community, the region, and the state.

Thank you for allowing me to express my opinions.

Don G. Bickle Jr
1101 Oakmont St.
Hays, Ks. 67601



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PUBLIC COMMENT FOR THE HAYS/RUSSELL WATER TRANSFER APPLICATION, OAH NO. 23AG0023 AG

June 20, 2023

Toby Dougherty
City Manager
City of Hays
1507 Main
Hays, KS 67601

Dear Toby,

As Fort Hays State University and our Hays community continue to thrive and grow, we also must consider providing sustainable ecological solutions for our area, including a future water supply. The Hays and Russell regions represent a prospering \$3 billion economy that can only grow with a reliable water source.

Over the past several years, Hays and Russell have collaborated to search for and secure additional water resources to safeguard our economic future. Key stakeholders, including our city commission and ecological experts, have concluded that implementing a water transfer from the Edwards County wellfield will provide 75 years or more of sustainable water, depending on growth rates.

Having a reliable water source is vital for our university's success. Our employees, students, and their families depend on a system that allows them to live a healthy life. In supporting this initiative, we aim to set a precedent of opportunity for our area and a culture of conservation for all future generations who benefit from this water transfer.

We encourage those deliberating on this matter to approve the transfer application while considering these factors. The prosperity of our region and the success of future generations of FHSU Tigers hinges on this initiative.

Sincerely,

Jason J. Williby
President and CEO
Fort Hays State University Foundation



PUBLIC COMMENT FOR THE HAYS/RUSSELL WATER TRANSFER APPLICATION, OAH NO. 23AG0023 AG

June 20, 2023

Toby Dougherty
City Manager
City of Hays
1507 Main
Hays, KS 67601

Dear Mr. Dougherty,

I am an alumna of Fort Hays State University and currently serve as the FHSU Alumni Director. My dedication to the future of our university is unwavering, as is my commitment to the Hays area, where I have lived for many years and am raising my family. Our region currently faces a critical shortage of sustainable water that will undoubtedly stultify the growth of our communities.

This lack of water challenges the economic development of our growing \$3 billion economy and future generations of students seeking an education at Fort Hays State University. The proposed transfer will secure over 75 years of water for our area and could provide a drought backup for surrounding communities and water suppliers throughout the Hays and Russell areas.

We encourage those deliberating on this matter to approve the transfer application while considering these factors. The prosperity of our region and the success of Fort Hays State University hinges on this critical initiative.

Sincerely,

Carolyn Tatro
FHSU Alumni Director



CITY COMMISSION
SHAUN MUSIL, MAYOR
SANDY JACOBS, REESE BARRICK
ALAINA CUNNNIGHAM, MASON RUDER

CITY MANAGER
TOBY DOUGHERTY
DEPUTY CITY MANAGER
COLLIN BIELSER

Public Comment for the Hays/Russell Water Transfer Application, OAH No. 23AG0023 AG

Water Transfer Hearing Panel c/o Chief Engineer – Division of Water Resources
Kansas Department of Agriculture
1320 Research Park Dr.
Manhattan, KS 66502

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JUN 16 2023

KS DEPT OF AGRICULTURE

This is written public comment to be included in the record of the Public Comment Hearing for the Hays/Russell Water Transfer Application, OAH No. 23AG0023 AG.

This is written in support of the approval of the water transfer application submitted by the cities of Hays and Russell, Kansas nearly 8 years ago.

Almost 30 years ago, Hays had the foresight to seek and secure additional water sources for its community. Subsequently, Russell joined the process. The communities left no stone unturned when searching for additional sources and took into consideration its neighbors and all taxpayers as they conducted and evaluated those sources. Eventually it became clear the R9 Ranch was the most viable solution for their long-term water needs.

The applications were first submitted in 2015, prior to my first term as City Commissioner in Hays. At that time it was clear the R9 was the best opportunity to provide a long term solution enabling the communities to ensure sustainable economic growth and prosperity. This area is a \$3 billion economic driver for the region.

Conservation practices in these communities is second to none. During drought, but moreover during non-drought times, Hays remains the lowest per capita user of water in the state of Kansas and beyond. This does not happen by accident. The educational programs we continue year after year, including programs beginning with elementary school children, has proven successful in preserving our current water sources. That will not last forever.

Approving this transfer is the highest and best use of this resource for all concerned. These communities are quickly approaching the limits of the conservation they have practiced for the past 30+ years, thus limiting the economic growth for its citizens in Hays, Russell and the whole region.

The cities, through this transfer process, agreed to limit their average usage to 4800 acre feet per year – much less than the 6000+ acre feet they are legally entitled to – demonstrating again their extraordinary water management practices. The decision by Hays and Russell to voluntarily limit themselves should have been celebrated and serve as the final piece of evidence that the communities intend to utilize the R9 in the best way possible for the benefit of everyone. Instead, the cities were subjected to years of litigation and increased costs to the project.

Approval of the application means the cities and region can once again grow in population and economic drivers. Surrounding communities can benefit from that growth or even potentially partake of

the R9 water themselves. Approval means more revenue to the state. Approval means the creation of the second largest walk-in hunting area in the state, creating additional economic drivers in the Edwards County region. And all done in a sustainable manner with no negative impacts to surrounding land or communities. Finally, approval means setting a precedent of opportunity and a culture of conservation for future communities who utilize the Water Transfer Act.

In my opinion, there are no better outcomes than are presented by Hays/Russell application.

My best,



Sandy Jacobs
Hays Vice Mayor and City Commissioner
212 West 38th St.
Hays, KS 67601
785-623-3693

WATER RESOURCES
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JUN 16 2023

KS DEPT OF AGRICULTURE



June 9, 2023

WATER RESOURCES
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JUN 13 2023

KS DEPT OF AGRICULTURE

Water Transfer Hearing Panel
C/O Chief Engineer-Div. of Water Res. KS Dept. of Ag.
1320 Research Park Dr.
Manhattan, KS 66502

Re: Public Comment—Hays/Russell Water Transfer Application, OAH No. 23 AG 0023 AG

To Whom It May Concern:

I have been a citizen of the Russell, KS area for most of my 72 years. I have been a business owner here for 45 years and a willing participant in civic opportunities. Presently I am the chairman of the County Hospital Board. For fifty plus years I can remember water availability being a topic of discussion for our community needs. Many ideas have been suggested but the need continues to be present.

Water is essential for communities to survive and prosper. I feel the Edwards County wellfield is a well thought out plan to address the issue for many years into the future. This corridor along the I-70 highway has great economic potential, but adequate water supply has always been a limiting factor for economic development. Your approval on the application in front of you could go a long way toward remedying that persistent problem.

Please give favorable consideration to the application so that we can work toward maintaining and even expanding the economic development in our area. It will not only benefit our communities but will also benefit the state of Kansas.

Thank you for your consideration.

Yours truly,

Ken Elliott, CPA

HAYSMED

Edward Herrman
President and CEO
Administration

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JUN 20 2023

KS DEPT AGRICULTURE

June 14, 2023

Water Transfer Hearing Panel
c/o Chief Engineer – Division of Water Resources
Kansas Department of Agriculture
1320 Research Park Dr.
Manhattan, KS 66502

Subject: Support for Hays/Russell Water Transfer Application - Securing Water for Future Generations and Ensuring Health, Well-being, and Prosperity

Dear OAH Committee,

I am writing to express my strong support for the Hays/Russell water transfer application (OAH No. 23AG0023) and emphasize its utmost importance in securing a sustainable water supply for the communities of Hays and Russell. As we face increasing challenges posed by water scarcity, it is imperative that we take proactive steps to ensure the health, well-being, and prosperity of our present and future generations.

Access to an ample and reliable water source is a vital determinant of community health and well-being. Adequate water supply plays a critical role in maintaining public health standards, supporting sanitation infrastructure, and ensuring the availability of safe drinking water. The approval of the Hays/Russell water transfer application would enable the region to meet the growing demand for water, safeguarding the health and well-being of the residents for years to come.

Furthermore, water scarcity poses significant threats to the economic prosperity of any region. Industries, businesses, and agriculture heavily rely on water for their operations. By granting approval for the water transfer, Hays and Russell would not only secure the future viability of existing enterprises but also attract new investments and foster economic growth. This, in turn, would create employment opportunities, enhance the standard of living, and contribute to the overall prosperity of the region.

The Hays/Russell water transfer application represents a vital step toward ensuring the long-term health, well-being, and prosperity of the communities involved. It exemplifies a responsible and proactive approach to resource management, recognizing the direct link between water availability and the overall quality of life for the residents. By securing a sustainable water supply, we can alleviate the pressures caused by water scarcity, minimize the risk of waterborne diseases, and enable the continued growth of essential sectors that drive economic prosperity.

I urge the OAH Committee to carefully consider the wide-ranging benefits of the Hays/Russell water transfer application. By granting approval, you will not only safeguard the health, well-being, and prosperity of the present generation but also establish a foundation for the future generations to thrive. This decision will pave the way for sustainable development, environmental stewardship, and resilient communities, serving as a shining example for others facing similar water challenges.

Thank you for your thoughtful consideration of this matter. I trust that you will make a decision that prioritizes the health, well-being, and prosperity of Hays and Russell, ensuring a bright and sustainable future for generations to come.



Edward Herrman, BSN, MBA/HCM, FACHE
President and CEO



HAYS USD 489
#EveryStudentEveryDay489

323 W. 12th Street
 Hays, KS 67601
 (785) 623-2400 Office
 (785) 623-2409 Fax
 rwilson@usd489.com

June 12, 2023

RE: Public Comment for the Hays/Russell Water Transfer Application,
OAH No. 23AG0023 AG

Please consider this letter of support for the Hays/Russell Water Transfer. As the Superintendent of Schools for the Hays School District we recently approved a 143.5 million capital improvement bond based on the growth that we are seeing in our schools. Over the course of the last fifteen years, we have seen consistent gains in our district’s enrollment that show tremendous growth for our schools and community.

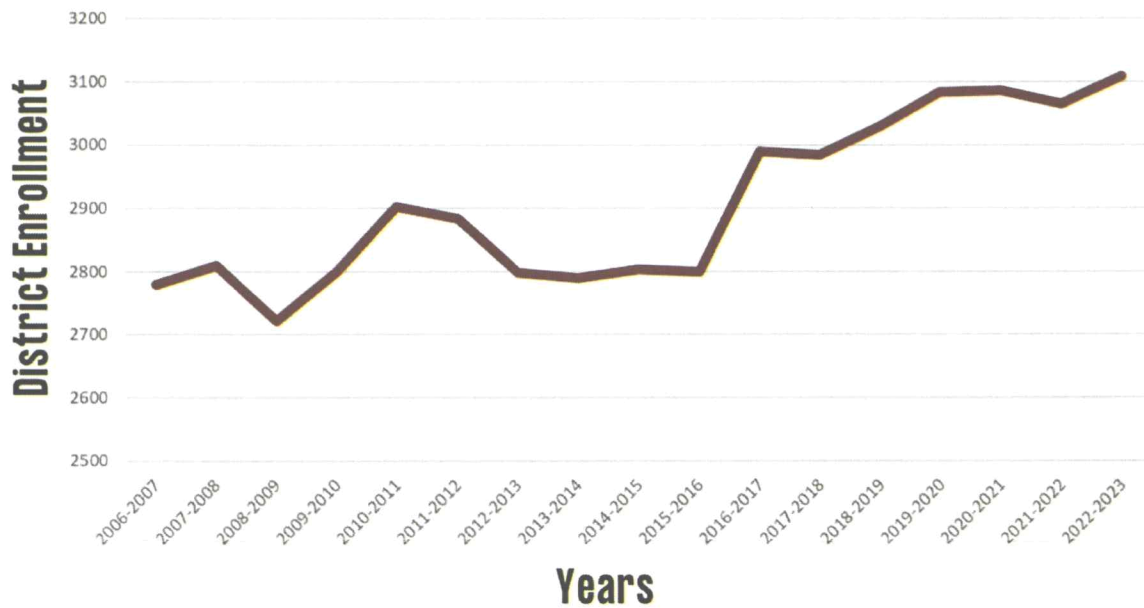


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Enrollment Increase



The need for a sustainable, reliable water supply for the community of Hays long term progress is so important to the consistent expansion of our schools and community that we promoted for our successful school bond. We expect our new schools to be the catalyst for continued growth in the Hays community and feel the upgraded enhancements we will be bringing to our schools and community will no doubt be a reflection of the great place Hays is to live and educate their kids.

Hays USD 489 Schools strongly supports the Hays/ Russell Water Transfer.

Ron Wilson

Hays 489 Superintendent
 #EveryStudentEveryDay489
 785-623-2400
rwilson@usd489.com

WATER RESOURCES
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WATER RESOURCES
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JUN 26 2023

KS DEPT OF AGRICULTURE

Friday, June 23, 2023

To: Water Transfer Hearing Panel

C/O Chief Engineer – Division of Water Resources – KDA

1320 Research Park Drive

Manhattan, KS 66502

Email: Ronda.Hutton@ks.gov

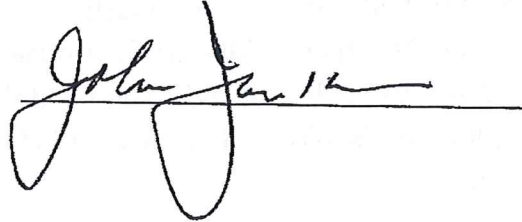
Fr: John Janssen

P.O. Box 207

Kinsley, KS 67547-0207

Email: zjinc@unitedwireless.com

Cell: 620-546-4636



Re: R-9 transfer – please use science to do it right

Why am I interested in the R-9 transfer? My wife and I own 725 irrigated acres...

425 of those acres are in South Brown Township, Edwards County. Our farm headquarters and my son's home are located on S/2-09-26-19... ½ mile south of R-9's sections 4 and 5-26-19. Our original farm purchase, the N/2-21-26-19... is located one mile south of our headquarters. Actions taken at R-9 do affect my property rights, water rights and future financial security.

I am a dues paying member of the Water Protection Association of Central Kansas. I am currently a member of the Ground Water Management #5 board... representing Kiowa County. I have a personal and fiduciary interest in water quantity and quality in the entire GMD #5 area. Any views expressed in this dialog are personal and do not represent the views of Water PACK or GMD #5.

GMD #5 is unique in the state of Kansas... the aquifer is sustainable! In the early nineties... GMD #5 employed a common sense hydrologist... he saw water over-development as a real threat to the area. The district manager and board agreed with this threat and closed the district to further development. The water levels do fluctuate; but, they are reasonably stable.

JUN 26 2023

Re: R-9 transfer – please use science to do it right Page 2 of 4

This stability makes GMD #5 a destination for agricultural business ventures requiring water and stable feed supplies. This stability makes GMD #5 a target for municipal water users with inadequate local water supplies. Maintaining the stability and quality of the GMD #5 water supply is essential.

GMD #5 has invested in excess of \$750,000 in a seven layer water model to provide the best information possible to everyone involved with water in the Big Bend of the Arkansas. Balleau Groundwater Inc., a world class water modeling organization built the model. The model was peer reviewed by the State of Kansas, Kansas Geological Survey and US Fish and Wildlife Service. The tool exists... use it!

Why R-9 is so important... Hays and Russell acquired a large block of real property and the associated water rights to stabilize their municipal water situations. I do not question the R-9 transfer effort. I do question the quantity of water being transferred.

The R-9 Ranch consists of deep dune sand... with water infiltration rates in excess of 5" per hour... when it rains. The water holding capacity of these sands is less than 1" per foot of soil. This lack of water holding capacity caused the operators of R-9 to pump the water permits to the limit to obtain mediocre crop production. This lack of water holding capacity results in much of the pumped water and rainfall returning to aquifer... aquifer recharge.

Water pumped into a north bound pipeline is 100% lost to the local (R-9 Ranch)... no aquifer recharge.

The R-9 has been planted to permanent grass cover. The water consumption by the grass cover is almost the same as a dryland corn or alfalfa crop... nominal recharge.

It is my understanding... the modeling used by Hays and Russell... used recharge computations based on irrigated row crop production; not, permanent, dryland grass cover. This approach would over state annual recharge and under state the impact of water removed from the R-9 Ranch. I understand the safe removal amount goes to 2,500 acre feet; instead of the proposed 4,800 acre feet.

A world class model is available. This transfer action will set the standard for future transfers. Please use science to do it right.

JUN 26 2023

Re: R-9 transfer – please use science to do it right Page 3 of 4

KS DEPT OF AGRICULTURE

R-9 water quality and quantity issues... the original acquisition of R-9 Ranch appeared almost “spur of the moment” to outsiders. The public meeting in the early days indicated the water was all top quality and quantity.

The truth is water in the south-half is loaded with nitrides, sulfides and who knows what else... it seems to grow fair crops; however, it literally rots galvanized center pivots and steel well casings in five years. This water would require serious treatment BEFORE it can be delivered to customers.

The water in the north-half is better quality; however, the saturated thickness of water is less and tends to decline seasonally in July and August when usage is highest.

The best water on R-9 is located directly north of our headquarters in the south east corner of the ranch.

DWR has tentatively approved the “merger” of wells across R-9. This process allows four irrigation wells to be consolidated into one municipal well. The result is 10 or 12 municipal wells disbursed around the ranch.

These “merged” wells would pump for an extended period (possibly year round). The extended pumping period increases the cone of depression. The increased cone of depression reaches out further from the point of diversion and takes longer to recover.

A typical irrigation well is pumped hard in July, August and September. The aquifer then has nine months to rest and recover. Municipal wells pumped year round do not enjoy this same recovery period and thus have a greater local impact on the aquifer.

The cone of depression occurs when the water in the alluvial sand and gravel is withdrawn by mechanical means... pumping. The easiest example I know, is a straw in a shaved ice Slurpee... the straw pulls the semi-liquid fluid in and a cone forms in the shaved ice. Small straw... suck slow to avoid brain freeze... small cone of depression. Big straw... suck hard... big brain freeze... big cone of depression. Big brain freeze caused by big brain fart!

Over withdrawal of precious water causes problems for Hays/Russell and neighboring producers in Edwards County.

JUN 26 2023

Re: R-9 transfer – please use science to do it right Page 4 of 4 KS DEPT OF AGRICULTURE

R-9 and Water Conservation Area... I have been told my concerns about a WCA for R-9 are mote; but, it is a real concern to me. WCA is a program created by DWR. WCA is intended to allow the combination of multiple water rights to “conserve” water.

Properly structured... a WCA on R-9 would allow the 10 or 12 municipal wells disbursed over 8,000 acres to become six wells disbursed over 960 acres at the extreme east margin of R-9. The intense pumping from these six wells would create havoc in our local area from draw down and cone of depression.

This potential WCA configuration makes perfect sense for R-9. The water quality and quantity of this area are very desirable. The need for extensive pretreatment is eliminated. The need for an extended collection system is eliminated.

The north bound pipeline starts at the heart of the concentrated well field. An efficient and economical delivery system for water customers along the pipeline route and Hays and Russell.

Summary of R-9 comments... Hays and Russel are to be commended for their conservation efforts. The per capita water consumption of both communities ranks among the lowest in the state. The ability to share water with their neighbors along the pipeline route through a “water quality assurance district” is noble and good business. I think 4,800 acre feet on a rolling average is excessive... based on science based information.

I would like assurances the water would be withdrawn from multiple wells disbursed over the entire R-9 Ranch.

If Hays/Russell needs and or wants more water... they can buy more water rights and use the existing delivery system... and maintain a sustainable water supply. The science is available to determine the amount of water that should be transferred on a long term basis... without damaging to Big Bend Aquifer.

This transfer process will set a precedent for all future water movement out of the Big Bend aquifer... please use the best science available and preserve our water resource for future generations.

This should be science based decision... NOT a politically expedient one!

Thanks for your time!



Since 1894

June 26, 2023

Water Transfer Hearing Panel
c/o Mr. Earl Lewis, Chief Engineer
Division of Water Resources, Kansas Department of Agriculture
1320 Research Park Drive
Manhattan, KS 66502

Re: Public comments of the Kansas Livestock Association on Hays/Russell Water Transfer Application, OAH No. 23AG0003

Water Transfer Hearing Panel Members:

The Kansas Livestock Association (KLA), located at 6031 SW 37th Street, Topeka, KS 66614-5129, was formed in 1894, and is a trade association representing more than 5,700 members on legislative and regulatory issues. KLA members are involved in many aspects of the livestock industry, including seed stock, cow-calf, and stocker cattle production; cattle feeding; dairy production; swine production; grazing land management; and diversified farming operations. KLA has numerous members in the Arkansas River basin that have both stockwater and irrigated water rights that would be affected by the Hays/Russell Water Transfer Application, OAH No. 23AG0003 (hereinafter “the Transfer”). KLA opposes the Transfer as it was submitted, and asks that the presiding officer, consistent with K.S.A. 82a-1504, approve the transfer of a smaller amount of water along with additional terms and conditions that would protect the cities in times of drought and allow the cities to access the water necessary for actual growth, but at the same time, protect the Arkansas River basin and existing water users near the R-9 Ranch.

The Water Transfer Act was enacted by the Kansas legislature to place an additional check on water right owners who seek to transfer water out of one basin for use in another. This limitation gives the water transfer hearing panel additional administrative powers to limit water use beyond the chief engineer’s authority pursuant to a change in use application. In K.S.A. 82a-1502(a), an applicant must show “that the benefits to the state for approving the transfer outweigh the benefits to the state for not approving the transfer” K.S.A. 1502(c) outlines certain items that should be considered in weighing the benefits to the state, but allows the presiding officer to consider items beyond those specifically listed, when it states, “the presiding officer shall consider all matters pertaining thereto”

Central to these additional administrative powers is a concern that an influential actor, like a large municipality, could exploit water resources in a distant basin while avoiding beneficial use of existing resources in the basin where place of use will occur. The Transfer application, as submitted, presents such a problem, and limitations must be imposed to protect the Arkansas River basin. In particular, KLA believes the Transfer fails to produce benefits to the state to

outweigh the benefits of a more limited approach to the transfer because it fails the tests found in paragraphs (3) and (4) of K.S.A. 82a-1502(c).

The initial issue with the Transfer application is that it overestimates populations growth.¹ The application for water transfer claims population growth of two percent, but Hays has grown at less than one percent in the last decade and Russell has lost population.² This glaring error overstates the needs of the cities.

The second problem is Hays and Russell are attempting to transfer more water than either city currently uses or could reasonably be expected to need in the future, even in extreme drought scenarios.³ Based solely on Chief Engineer David Barfield's Master Order in the change in use application, the cities would have available, on average, 4,800 acre feet of water, but analysis shows the 2040 demand of the cities is only 3,228 acre feet.⁴ This amount of future use could be met by the cities' existing water supplies under average climatic conditions.

Even under a generous one percent growth rate and extreme drought, Hays would only be short 643 acre-feet of water in 2040 and it is not anticipated that Russell would be short water.⁵ This begs the question, what are the cities going to do with the water they are asking for via the Transfer? Abandoning the cities' current water conservation activities would weigh against the cities in K.S.A. 82a-1502(c)(7) and is something the cities' application denies. Without additional information, it would seem the cities plan to simply forego use of existing water supplies in the basin where the cities are located, conserving these supplies for the future, while initiating a significant demand on an out-of-basin supply. KLA would argue this is the exact type of activity the Water Transfer Act was meant to prevent.

Although Chief Engineer Barfield seemed confident his Master Order, which granted the cities a ten-year rolling average of 48,000 acre-feet,⁶ would protect safe yield in the Arkansas River basin, that is a contested issue.⁷ Given the cities' lack of current or immediate need for this amount of water and the significant concerns and varying professional opinions around safe yield, KLA proposes the presiding officer use his discretion under K.S.A. 82a-1505 to do the following:

¹ Harvey Economics, *Review of the Reasonable-Need Limitations Determining Future Water Needs for the Cities of Hays and Russell, Kansas*, at 3-1 (May 25, 2023).

² *Id.* at 3-2.

³ *Id.* at 5-4.

⁴ *Id.*

⁵ Harvey Economics, *Rebuttal Response to Selected Expert Reports Filed on Behalf of the Cities of Hays and Russell*, at Table 3-3 (forthcoming June 29, 2023).

⁶ MASTER ORDER CONTINGENTLY APPROVING CHANGE APPLICATIONS REGARDING R9 WATER RIGHTS, at 18 (March 27, 2019), available at https://agriculture.ks.gov/docs/default-source/dwr-water-appropriation-documents/haysr9_master-order_final_complete.pdf?sfvrsn=7e168ac1_4.

⁷ See Petition for Judicial Review, *Water Prot. Ass'n. of Cent. Kan. v. Barfield* (May 29, 2019), available at https://agriculture.ks.gov/docs/default-source/dwr-water-appropriation-documents/2019-05-29_waterpack_v_barfield_petition_63291.pdf?sfvrsn=b7d18bc1_0.

1. Limit the immediate transfer to approximately 650 acre-feet, the amount of future need in an exceptional drought that can realistically be expected given the cities' current water resources.
2. Condition the use of transferred water on the cities' continued use of existing available water resources, meaning the cities cannot abandon current water supplies in favor of water from another basin until such available local resources are fully utilized.
3. Allow the cities to make requests for additional water transfers at regular intervals, like every five years, up to the amount of water allowed under a final version of the change in use order. The panel could allow future transfer requests, consistent with the water rights, to be approved by the Chief Engineer up to an amount shown by the cities to be actually necessary because existing supplies are insufficient due to either deteriorating supplies of in-basin water resources or unexpected population growth. Such future transfer approvals should also be conditioned on whether safe yield goals in the basin surrounding the R-9 Ranch have been met by past transfers and are projected to be met for the additional request.

KLA believes a limited and conditional transfer will provide the cities with a more than adequate water supply and allow the cities additional access to their out-of-basin water rights upon a showing of need. Such an approach will also safeguard existing water uses in the basin surrounding the R-9 Ranch by allowing real-time analysis of impact on safe yield.

Sincerely,



Aaron M. Popelka
V.P. Legal & Governmental Affairs.

**Public Comment for the Hays/Russell Water Transfer Application, OAH No. 23AG0023
AG**

Dustin Madden
765 E. 7th St.
Russell, KS 67665

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JUN 23 2023

KS DEPT AGRICULTURE

Water Transfer Hearing Panel
c/o Chief Engineer – Division of Water Resources
Kansas Department of Agriculture
1320 Research Park Dr.
Manhattan, KS 66502

This is a written public comment to be included in the record of the Public Comment Hearing for the Hays/Russell Water Transfer Application, OAH No. 23AG0023 AG.

This is written in support of the approval of the water transfer application submitted by the cities of Hays and Russell, Kansas, in 2015.

Hays bought the R9 ranch in 1994, with the city of Russell buying an 18% share the following year. This, however, wasn't the beginning of the search for water. That search began back in the 1970s and 1980s. It has, however, culminated in the R9 Ranch being deemed the most feasible and sustainable source of water for the two communities.

The cities of Russell and Hays represent over \$3 billion in economic activity. Take a moment and imagine what the loss of that would do to the state of Kansas as a whole and the 35,000 people in this area that rely on that economy. The loss of the use of the R9 ranch by both cities would have a devastating impact on the people of this area and the economy. Those effects would ripple through the entire state.

The average water use for one person in our region of the country is 172 gallons per day. The average water use for one person in the state of Kansas is 130 gallons per day. The cities of Russell and Hays are leading the way both in the state and in our region of the country in water conservation. Again, think about the fact that we are using 52% less water than the average user in this region and 36% less than the average Kansan. That sort of water conservation is mind-blowing to me.

Imagine if everyone else in the state of Kansas cut their water usage by 36%. What would that do to help water levels in the state? Imagine what that would do if just those in and around Edwards County, GMD 5, and WaterPACK members reduced their water usage by 36%. Actually, we don't need to imagine; we know what that would do. GMD 5 and WaterPACK have been fighting with the U.S. Fish and Wildlife Service over the Quivira NWR impairment complaint, Water Right File No. 7571, for years. In that complaint, the chief engineer at the time, David Barfield, contended that significant reductions in streamflow from junior pumping, mainly farmers, have led to the regular and significant impairment of Quivira's senior water rights. KDA's chief engineer said a 30% reduction in pumping is required to alleviate the impairment.

Take a moment and read that again. A reduction of 30% would have solved the impairment issues at Quivira. However, GWD 5 and WaterPACK refused to reduce their water consumption. Instead, they want to solve the problem through augmentation. Or, to put it another way, by taking water from somewhere else (potentially hurting others) and bringing it to them to fix their issue of using too much. Just imagine if they took water conservation as seriously as Russell and Hays and reduced their usage by 36%.

The R9 ranch was bought on the open market in 1994. The purchase of the ranch included the rights to 7,647 acre-feet of water for agricultural use. The land and water rights were not condemned or taken from anyone else. They were bought fair and square. After the application of the consumptive use calculation to convert from agricultural to municipal usage, the rights were lowered by 11.65% to 6,756 acre-feet. Because the cities of Russell and Hays truly believe in water conservation and being good stewards of our water, they voluntarily agreed to limit their water usage to 4,800 acre-feet based on a 10-year rolling average. That represents a further 28.9% reduction from consumptive use and a 37.23% reduction overall. However, according to GMD 5 and WaterPACK, the cities should further reduce the 4,800 acre-feet by an additional 16.66% to 4,000 acre-feet. That would represent a 40.79% reduction in consumptive use and a 47.69% reduction overall. Think about that for a minute: GMD 5 and WaterPACK want the cities of Russell and Hays to reduce the amount of water they legally have a right to for municipal use by an additional 16.66% over what they have already voluntarily reduced. Yet when they are told that they need to reduce their water usage by 30% to alleviate the Quivira NWR impairment, they believe they shouldn't have to reduce their usage at all! That is an interesting and troubling double standard that is being set by GMD 5 and WaterPACK.

The survivability, sustainability, and prosperity of the cities of Russell, Hays, and surrounding areas are dependent on the approval of the transfer of water from R9 to Russell and Hays. The Transfer Panel has the opportunity to recognize the outstanding water conservation and forward thinking of Russell and Hays. A model that the entire state of Kansas could use going forward. Approval of the application means the cities and our area can once again grow and prosper economically. This growth and prosperity will not be limited to just Russell and Hays but will benefit surrounding communities and the state as a whole. Approval of this transfer will also lead to the creation of the second largest walk-in hunting area in the state, creating additional economic opportunities in Edwards County and the surrounding area.

I urge you to approve the transfer application without delay and without restrictions.

Sincerely,



Dustin Madden
June 21, 2023

Public Comment for the Hays/Russell Water Transfer Application, OAH No. 23AG0023 AG

James Meier
11945 N 159th St E
Benton, KS 67017

RECEIVED WATER RESOURCES

JUN 12 2023

KS DEPT AGRICULTURE

Water Transfer Hearing Panel
c/o Chief Engineer – Division of Water Resources
Kansas Department of Agriculture
1320 Research Park Dr.
Manhattan, KS 66502

This is written public comment to be included in the record of the Public Comment Hearing for the Hays/Russell Water Transfer Application, OAH No. 23AG0023 AG.

This is written in support of the approval of the water transfer application submitted by the cities of Hays and Russell, Kansas nearly 8 years ago.

Hays, and subsequently Russell, had the foresight nearly 3 decades ago to search and secure additional water resources. They did not do so with disregard for their neighbors or their taxpayers, but in an organized, methodical manner. Hundreds of water studies were conducted and evaluated before landing on the R9 as the best possible long-term solution to their water needs.

I was a part of the Hays City Commission when the applications were first submitted in 2015. It was clear then that the R9 was our best opportunity at long term growth, and it remains so today.

The highest use of this resource for the state, for taxpayers, for the region and for the specific communities is to approve this transfer. Hays and Russell represent a \$3 billion economic driver in a key region of the state. Because the communities have been so extraordinarily successful in changing their culture to conserve and stretch resources, they have continued to grow their economies. However, they are quickly approaching, if they have not already met, the limits of conservation and thus this economic engine will be throttled moving forward.

Through the change of use process the cities voluntarily agreed to limit their use of the R9 to an average of 4,800 acre-feet per year. This was no small concession as we were legally entitled to a much larger annual usage. However, this was an easy decision for the governing body. Hays as a community has a culture of extraordinary water management. The thought of expending millions of taxpayer dollars to quickly deplete the R9 over just a few decades was not in the interests of anyone.

In retrospect however, this relatively quick and easy decision by community leaders has not been fully appreciated or recognized by our neighbors, agricultural leaders or state authorities. Hays and Russell are leaders in water conservation and management, not just in Kansas, but across the nation. The decision by Hays and Russell to voluntarily limit themselves should have been celebrated and serve as the final piece of evidence that the communities intend to utilize the R9 in the best way possible for the benefit of everyone. Instead, the cities were subjected to years of litigation.

The Transfer Panel has the opportunity to recognize the outstanding culture the communities have developed over the past 3 decades. Cities like Wichita are just now beginning to realize their water resources are not infinite. Hays and Russell may be the first transfer applicants, but they will not be the last. If Hays and Russell cannot gain approval, then who can?

Denial of the transfer means limiting a \$3 billion economic engine and the future growth of these communities. Denial means surrounding communities will also be forever limited in population and economic growth. Denial means reduced future revenue to the state.

Currently the R9 is pumping no water at all. Denial of the transfer means the cities will need to ask themselves if no water utilization is the best use of the R9. Denial could potentially mean more water being used at the R9 in an agricultural use than would ever be used in a municipal use.

Approval of the application means the cities and region can once again grow in population and economic drivers. Surrounding communities can benefit from that growth or even potentially partake of the R9 water themselves. Approval means more revenue to the state. Approval means the creation of the second largest walk-in hunting area in the state, creating additional economic drivers in the Edwards County region. And all done in a sustainable manner with no negative impacts to surrounding land or communities.

Finally, approval means setting a precedent of opportunity and a culture of conservation for future communities who utilize the Water Transfer Act.

I can think of no scenario where denial of the application results in better outcomes. However, approval of the application will result in multiple beneficial outcomes for the cities, for the state and future potential applicants.

I urge you to approve the transfer application without delay and without restrictions.

Regards,



James Meier

Past Hays City Commissioner and Mayor

RECEIVED WATER RESOURCES

JUN 12 2023

KS DEPT AGRICULTURE

Public comment for the Hays/Russell Water Transfer Application
OAH No. 23AG0023AG

RECEIVED WATER RESOURCES

JUN 21 2023

June 14, 2023

KS DEPT AGRICULTURE

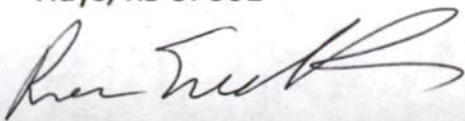
Sirs:

Approval of this application would be beneficial for Hays, Russell and area regions, as well as for the State of Kansas. Approval would keep the two-billion-dollar regional economy thriving, and continuing to grow.

Depopulation of the region is a major concern, for not only the region, but for the state of Kansas. This year the legislature approved two million dollars for a campaign aimed at bringing people back to Kansas, which lost about 7,400 people due to domestic migration from 2021 to 2022. Commerce officials say they need to get aggressive about luring people back to Kansas.

Approval of this application would benefit the State with their battle of depopulation, by creating more jobs and opportunities, and in the retention of younger workers leaving the region in search of employment.

Respectfully,
Ron Mellick
2524 Henry Dr
Hays, KS 67601



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Public Comment for the Hays/Russell Water Transfer Application, OAH No. 23AG0023AG.

JUN 26 2023

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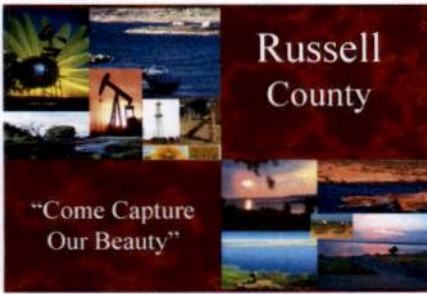
My name is Reed Strate and I am a fourth generation farmer in Edwards county. Our farm does neighbor the R9 ranch, so it does have great concern for our operation as to the outcome the panel decides to do. I am not opposed to the city of Hays/Russell for taking water and using it for municipal use, it is in their right to do so. The only concern I have and every farmer in our area would agree is the quantity they are asking for. I certainly do not believe that a quota of 4,800-acre feet on a rolling ten-year average would be sustainable for our aquifer and will pose the threat for impairment to surrounding farmers. You must understand that an irrigation does have some recharge to the aquifer while pumping and whatever rainfall is received, we shut down our systems in order to preserve our aquifer. During the winter is when we benefit the most for recharge to our aquifer due to us not pumping and no surface vegetation is growing. There will be zero recharge on the R9 ranch due to the municipal pumps running year-round resulting in a catastrophic drop in the aquifer and poses a huge threat to water sources downstream. Also, a very serious and real concern I must present to the panel is the precedent you are creating. Since the water transfer act is the first of its kind, I know this whole process is new to everyone and there is no right/wrong way to handle this. I just want to make it clear how the panel votes will set the stage for future water transfers and other conversions of agricultural water rights to municipal uses. So please take this into consideration and hear both sides, because when you make your final decision and get it wrong you make the state, and everybody involved look very poor. You have got to get this right that way it is right for both parties and focuses the conservation for our states aquifer that way everyone can have a sustainable resource for years to come. With water being a scarce resource in the future think what example the panel can be making for neighboring cities and states and knowing you handled this properly and that we set an example as leaders in water conservation. Finally, I ask that you please hear both sides and take every detail into consideration because many communities, businesses and families will be deeply affected by your decision.

Thank you!

Reed Strate

1521 M Road

Lewis, KS 67552



Russell County

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401 N. Main Street; P.O. Box 113 Russell, Kansas 67665 Telephone: (785) 483-3418 Fax: (785) 483-2756

June 16, 2023

Water Transfer Hearing Panel
c/o Chief Engineer – Division of Water Resources
Kansas Dept. of Agriculture
1320 Research Park Drive
Manhattan, KS 66502

Re: Public Comment for the Hays/Russell Water Transfer Application, OAH No. 23AG0023 AG

To Whom It May Concern,

This letter is on behalf of the Russell County Commissioners and is to express our support for the Cities of Russell and Hays in their efforts to use the water rights that they both respectively own from the Edwards County property jointly owned by both cities.

Allowing the waters rights to be used by both cities will guarantee the future of the communities and will allow them grow and prosper with a secured water source for many years to come which will in turn benefit the state.

Both communities are the largest cities in their respective counties and being such anything that benefits the ~~state will benefit the counties and in turn benefit the state. This will allow both the communities to~~ their Economic Development prospects knowing that they have a secured water source for years to come.

In closing the Russell County Commissioners fully support the transfer of water from the Edwards County property to the Cities of Russell and Hays.

Thank you for your attention to this very important matter for Russell and Hays and as always if you have any questions or there is anything else we can do to help get this project completed please feel free to contact us.

Sincerely,

John "Duke" Strobel
Chairman Russell County Commissioners
P.O. Box 113
Russell, Kansas 67665
Office 785-483-6226



VIA ELECTRONIC TRANSMISSION

June 26, 2023

Water Transfer Hearing Panel
C/O Chief Engineer – Division of Water Resources
Kansas Department of Agriculture
1320 Research Park Drive
Manhattan, Kansas 66502

Re: OAG No. 23AG0003 AG (**R9 Ranch Water Transfer Matter**)

To Whomsoever It May Concern:

The Water Protection Association of Central Kansas (**Water PACK**) does not oppose the R9 Ranch water transfer in principle. Instead, Water PACK expects that the rolling average of 4,800 acre-feet per year (**AFY**) sought by the Cities will impair the water rights and private property rights of Water PACK's members. To prevent future impairment proceedings, the amount of water available to the Cities from the R9 Ranch should be significantly reduced to a more sustainable level (ideally 2,000-2700 AFY) or to a level based upon their actual projected needs (643 AFY in Hays). The Cities should also be required to satisfy burdens of proof regarding the proposed benefits of the transfer.

A reduction in quantities transferred for municipal uses would substantially reduce the likelihood of future litigation regarding impairment and takings, while also satisfying applicable legal standards. *Compare* K.S.A. 82a-1502(b) *with* K.S.A. 82a-706; *see also* Audubon of Kansas, Inc. v. United States Dep't of Interior, 67 F.4th 1093, 1107 (10th Cir. 2023) (“The Water Division enjoys limited discretion under Kansas law, but it always must protect senior water rights above junior rights.”); *See Recommendations on the City of Wichita’s Proposed Modification of the Aquifer Storage and Recovery Project Phase II Water Appropriation Permits*, in *In Re City of Wichita’s Phase II Aquifer Storage and Recovery Project in Harvey and Sedgwick Counties, Kansas*, 18 WATER 14014 at p. 133¹. Reductions in transferrable quantities may also ensure that, per the Water Transfer Act (the **WTA**), the transfer meets present or reasonably foreseeable future beneficial uses in the donor basin, assuming the panel also determines that the benefits to Kansas for approving the transfer outweigh the benefits to the state for rejecting the transfer. WTA at 82a-1502(a).

We also expect that reduced transfer quantities would limit the likelihood of takings proceedings or violations of the Kansas Private Property Protection Act.

With an express purpose of reducing the “risk of undue or inadvertent burdens on private property rights resulting from lawful government actions” (Kansas Statutes. Kansas Legislature, 2013–2014, K.S.A. 77-702) the [Kansas Private Property Protection Act] requires governmental agencies before “any governmental action is initiated” to prepare

¹ <https://www.agriculture.ks.gov/docs/default-source/dwr-water-appropriation-documents/asr-recommendations-2022-executed.pdf>.

reports that follow guidelines that provide for alternatives to the action that may “reduce the extent of limitation of the use of the private property” and that may “reduce the risk to the state that the action will be deemed a taking” (Kansas Statutes. Kansas Legislature, 2013–2014, K.S.A. 77-706).

John C. Peck, *Legal Challenges in Government Imposition of Water Conservation: The Kansas Example*, 107 AGRONOMY J. 1561 (2015).² Water rights are, after all, a private property right subject to the protections of our eminent domain laws.

With the Kansas Private Property Protection Act in mind, we have enclosed as Attachment A to this letter a map identifying water rights in the area surrounding the property known as the R9 Ranch. Orange parcels on the attached map show points of diversion held or operated by Water PACK members or their affiliates that we expect would be impacted by the proposed transfer. We expect the Cities’ transfer (in its present form) will cost water users surrounding the ranch upwards of \$27 million in present dollars. For wells on the west side of the river, 21 wells would be completely written off by their owners because they cannot be redrilled, effectively converting the associated lands back to pre-development (i.e., dryland conditions) with a loss of over \$10 million in irrigated land value. Of the remaining wells, we project that:

- 20% or 143 of the total on the east side of the river would have to be reset deeper, at an estimated approximate cost of \$15,000 per well or \$2,145,000; and
- 21 wells on the west side of the river could be redrilled at an estimated approximate cost of \$25,000 per well, while 285 wells on the east side of the river could be redrilled at an approximate cost of \$40,000 per well.

Thank you in advance for your consideration of this letter.

Yours truly,

Water PACK

By: /s/ Pat Janssen
Patrick M. Janssen, its President

² Mr. Peck is of counsel to Foulston Siefkin.

Water Transfer Hearing Panel
C/O Chief Engineer – Division of Water Resources
Kansas Department of Agriculture
1320 Research Park Drive
Manhattan, Kansas 66502

June 10, 2023

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Water Transfer Hearing Panel Members:

My name is Richard J. Wenstrom, and I am writing these comments on behalf of myself and my wife and business partner Jane M. Wenstrom about negative impacts that we are expecting if the water transfer is approved at expected levels (4,800 Acre-Feet/Year up to a maximum of 6,700 Acre Feet/Year). Our farm consists of 2,960 mostly contiguous acres of center pivot irrigation (including 320 acres of dryland) that extend from the NE ¼ Section 8, 26-19 South & Southeast to the SE ¼ of Section 19, 26-18 in Edwards County including 320 irrigated acres in the northern tier of Kiowa County.

But before I make these comments, please allow me to tell you who I am, where our farm is located, and our personal and business history here in this location. Conservation was already a legacy when Jane and I arrived. Jane's father, Clarence Michaelis, a second generation owner of our farm, served on the Edwards County Soil Conservation Board for over 50 years, where he was a pioneer in soil and water conservation. Jane and I took over this operation when her parents retired in 1976, and we farmed continuously until our retirement in 2007. Our farm is located, for the most part, in South Brown Township, Edwards County, Kansas.

I hold a BS degree in Agricultural Engineering from North Dakota State University and a MS degree in Irrigation Engineering from Colorado State University. I am a licensed Professional Engineer in California (retired), Colorado (retired) and Kansas. Jane holds a BS degree in Horticulture from California Polytechnic University. Because of this strong interest in irrigation, I early on worked on irrigation pumping plant and well efficiency here on our farm, following the testing and analysis procedures pioneered by the University of Nebraska Ag Engineering Department. This led to many improvements on our farm to save irrigation water and energy. Once our pumping plants were improved, we concentrated on computer-based center pivot control & monitoring and irrigation scheduling in order to apply only the amount of water each irrigated crop required during the growing season. For over 15 years, our farm was a cooperator with the USDA-ARS Water Management Unit, Fort Collins, Colorado, performing climate-based irrigation scheduling by computer using software created for that purpose by the USDA-ARS personnel. Using these techniques, our farm was able to save irrigation water on each center pivot location by up to 10 days of pumping per season.

Recognitions followed for our farm:

- 1987 – Kansas Bankers Association Soil Conservation Award
- 1996 – US Dept of Interior, Bureau of Reclamation Water Conservation Award
- 2007 – Kansas Bankers Association Water Conservation Award
- 2014 - Climate + Energy Project Model of Innovation Award, Water & Energy
- 2015 - Be the Vision Award from the Kansas Water Office
- Kansas Farm Bureau Century Farm

In 1983, in an effort to earn extra income, and to capitalize on the knowledge we had gained on our own farm and my PE license, I formed a company named Pumping Plant Testing, whose purpose was to conduct pumping plant performance tests, conduct water right certification tests required by the

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Division of Water Resources, conduct pivot re-nozzling tests, and conduct custom irrigation scheduling.....all for clients located in the area covered by Water PACK and GMD # 5. In the succeeding 10 years, Pumping Plant Testing conducted hundreds of these various tests. One of our early employees was Greg Ebert, a very competent agricultural engineer and now local farm owner & farm manager. Ebert, since 2007 when we retired from active farming, has been the tenant who farms our land.

During this period, Pumping Plant Testing conducted water right certification tests for the Circle K Ranch, in western Edwards County (now the R9 Ranch owned by the cities of Hays & Russell) under contract for the Division of Water Resources, Kansas Department of Agriculture.

Since our farm is located in the area just south and southeast of the R9 Ranch owned by the cities of Hays and Russell, we have been concerned about the future effects on our local groundwater source of supply when and if the cities are successful in transferring water according to the current Master Order by the Chief Engineer. Now those concerns are heightened when we learned of the work performed by consultant Steve Larson, S.S. Papadopulos & Associates, Inc. on behalf of Water PACK, our local private organization dedicated to preserving and protecting local groundwater sources to supply water for beneficial agricultural and local use. Mr. Larson has detailed areas of future impairment on our farm if the cities of Hays and Russell are successful in transferring 4,800 Acre-Feet of water per year up to a maximum of 6,700 Acre Feet per year from the R9 Ranch. The impairment is the most in our circles closest to the R9 Ranch, but it appears that just about every water right on our farm would be adversely affected. Below is a listing of those water rights by number:

Water Right Number	Legal Description of Land Irrigated
19522	NE ¼ Sec 8, 26-19, S. Brown Township, Edwards County, Kansas
19522	SE ¼ Sec 8, 26-19, S Brown Township, Edwards County, Kansas
12067	NW ¼ Sec 16, 26-19, S. Brown Township, Edwards County, Kansas
9812	SW ¼ Sec 16, 26-19, S. Brown Township, Edwards County, Kansas
28457	NW ¼ Sec 22, 26-19, S. Brown Township, Edwards County, Kansas
25512	NW ¼ Sec 15, 26-19, S. Brown Township, Edwards County, Kansas
25512	SW ¼ Sec 15, 26-19, S. Brown Township, Edwards County, Kansas
33288	SW ¼ Sec 14, 26-19, S. Brown Township, Edwards County, Kansas
24524	NW ¼ Sec 23, 26-19, S. Brown Township, Edwards County, Kansas
24524	SW ¼ Sec 23, 26-19, S. Brown Township, Edwards County, Kansas
7579, 29119	SE ¼ Sec 14, 26-19, S. Brown Township, Edwards County, Kansas
33287	SW ¼ Sec 13, 26-19, S. Brown Township, Edwards County, Kansas
28456	NW ¼ Sec 24, 26-19, S. Brown Township, Edwards County, Kansas
22125	SW ¼ Sec 24, 26-19, S. Brown Township, Edwards County, Kansas
25290	SE ¼ Sec 19, 26-18, S. Brown Township, Edwards County, Kansas
24030	NW ¼ Sec 1, 27-19, Butler Township, Kiowa County, Kansas
24030	NE ¼ Sec 1, 27-19, Butler Township, Kiowa County, Kansas

Static water levels recent history in the wells closest to the R9 Ranch are presented next. Please refer to Figure 1 on the next page. The numbers indicate feet below the land surface datum.....the larger the number, the lower the water is in the well. Water levels were measured in January of the succeeding year in each instance. These data are from the Wenstrom farm files, and show static water levels from the year 1989 when we purchased these circles up to the end of 2022. The actual static water levels are shown at the top, and below is a plot showing how the water levels changed over time.

Static Water Level History for Selected Wells - Wenstrom Farm
 Key: Water levels are shown as feet below land surface datum

Legal	Circle #	1989	1994	1995	2004	2005	2007	2008	2009	2010	2011	2012	2014	2015	2016	2017	2018	2019	2020	2021	2022
NE 1/4 Sec 8	15	52	52	54	59	54	54	54	54	54	56	59	60	59	58	58	58	56	56	56	57
SE 1/4 Sec 8	16	39	39	45	45	43	42	43	43	44	44	46	49	49	49	48	47	46	45	46	47
NW 1/4 Sec 16	17	40	42	44	44	45	44	45	45	45	47	49	50	50	50	50	49	48	47	48	49
SW 1/4 Sec 16	18	49	51	51	51	50	47	50	50	50	53	54	56	56	56	55	55	54	53	54	55

Wenstrom Farm Static Water Level
 Source: Wenstrom Files

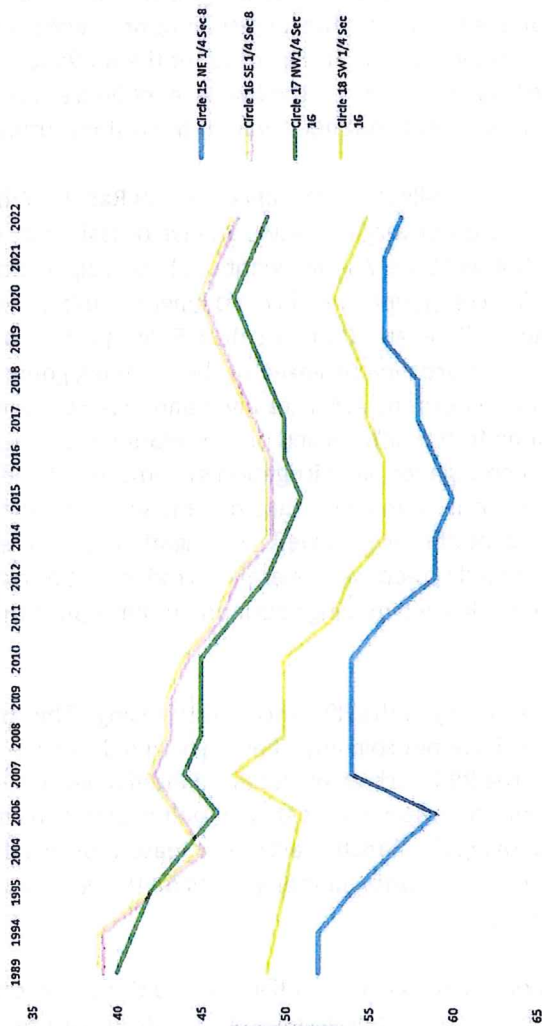


Figure 1. Static Water Level History – Wenstrom Circles 15-18

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Note that there was a steady downward trend in the static water levels until the year 2015. This was the year that the irrigation wells on the R9 Ranch were being taken out of service in anticipation of the water transfer. By the year 2017 all of the irrigation wells on the R9 Ranch had been taken out of service, and the entire ranch was planted to native grasses. There has been no irrigation pumping on the R9 Ranch since that time. **The plot on Figure 1 shows that the static water level since 2015 on our four irrigation wells has been steadily rising, which gives a direct indication of the negative effect the R9 Ranch has had on our adjacent irrigation wells.** This upward trend will undoubtedly change back to dropping static water levels when and if the cities start extracting the projected 4,800 Ac-Ft- 6,700 Ac-Ft per year. Keep in mind that the R9 Ranch will pump water from the aquifer and the output flows will be routed into their pipeline system; there will be little or no chance for recharge back into the aquifer, except for a miniscule amount when and if rainfall happens to occur in amounts that would saturate the native grass deep root systems all over the ranch. Another factor to consider is that the most likely R9 wells to be used for this water transfer diversion are those with the largest amount of water bearing strata. It is common knowledge that these wells are located in the SE corner of the R9 Ranch, closest to our farm property. Again, I refer to the Steve Larson analysis for the impairment figures for this geographical area in his report., which show that this impairment continues on into the distant future.

Water quality is a big concern also on our wells in the vicinity of the R9 Ranch. When we first acquired this land in 1989, the irrigation water was not very corrosive, and we occasionally would drink from the faucet on the discharge line in very hot weather. As time went on, however, we noticed more and more corrosion taking place on our irrigation components, and we no longer drank the water. Water sample history indicates high levels of nitrate, sulfate, and Total Dissolved Solids (TDS). I am not a water analysis expert, but our opinion is these increases are directly linked to the pumping going on within the R9 Ranch, pulling these contaminants away from the Arkansas River and moving them to our wells just south of the R9 Ranch. Stories abound from our farm and others about metal irrigation components corroding away.....in some cases bad enough for pivot irrigation systems to fail and fall to the ground. And the worst part of this story is what one cannot see; down in the well corroding well screens and pump components. This has cost us a lot of money in well and irrigation system replacements. We just redrilled a well in this area where the well screen was severely corroded.....the cost was \$ 37,000. Our concern is that this extreme corrosion will keep moving south on our farm once the cities resume their pumping.

The value of our irrigated land in the vicinity of the R9 Ranch is decreasing. This affects our balance sheet in a negative way. Although we have not sold any of our land and don't intend to, I would estimate that the land in the direct vicinity of the R9 Ranch would be discounted at least 40-50 % below what the rest of our farm would bring, especially once the cities begin pumping enormous quantities of water from the fragile alluvial aquifer underlying the Ranch. Part of the reason for this decrease in value is a decrease in crop production due to lower irrigation pumping rates on the very sandy land next to the R9 Ranch, which we are already experiencing.

On a personal level, some observations. I am a citizen of Kansas, and therefore, one of the owners of the groundwater resource owned by the people of Kansas collectively. We entrust our public servants to act legally and judiciously on our behalf in water issues, to follow the laws and regulations governing these issues. In this water transfer issue, a precedent setting first of its kind, it seems doubly important that the state of Kansas gets this right. All parties must receive accurate technical information; all parties need to know that the technical judgments, statutes and regulations are being followed by those public servants charged with interpreting and ruling on these issues. And when we see this process falling short, especially in this water transfer issue, what is our recourse? Either accept the flaws without a


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whimper, try to provide input to those public servants to assist them in their interpretation, or, if that does not work, the only option is go to the courts for relief.

I am so thankful for an organization that I have been a part of since it was founded in the mid 90's: the Water Protection Association of Central Kansas (Water PACK). We recognize that we have an incredible resource here in central Kansas that will last forever if we take care of it, the benefits will accrue to our children and grandchildren. This organization is made up of members who are some of the best agricultural producers in the world, let alone Kansas and the United States. I have served this organization now off and on for some 20 + years, many of these in the capacity of President of the Board of Directors or a Board Member. I have learned much from this organization, and my association with its members. We are in agreement with Water PACK in that we are not against water transfers, but we feel relevant statutes and regulations need to be followed, and that the conversion of water rights from agricultural to municipal and the resulting transfer must not create impairment of our wells. A look at water law history would reveal that Water PACK was one of the lobbying organizations for the Water Transfer Act in the Kansas Legislature.

In closing, I hope this has served to illuminate what it is like to be a producer facing whether or not a resource we have counted on for so long will be available in the future if the Water Transfer amounts contemplated in the Chief Engineer's Master Order are upheld. Farmers like us must navigate the shoals constantly, such as government regulation, the weather, fluctuating market prices, inflation with its rising prices of inputs, and the degradation of our currency. Yet we persist to provide food, fiber and protein to our communities, our state, our nation, and a whole host of hungry people in the world. The people of Kansas are watching and care about the conservation of their most precious resource: water. Richard & Jane Wenstrom are proud to have been a part of that conservation of water on our farm.


Richard J. Wenstrom


Jane M. Wenstrom

June 24, 2023

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Water Transfer Hearing Panel
c/o Chief Engineer of Division of Water Resources
Kansas Department of Agriculture
1320 Research Park Drive
Manhattan, KS 66502

Water Transfer Hearing Panel Members:

My name is Leroy Wetzel. I live and farm just to the west of the Arkansas River and the R-9 Ranch in Edwards County Kansas. I have lived here all my life except for 5 years when I went to Kansas State University and received a Bachelors Degree in Mechanical Engineering during the early 1970's. Emphasis of my degree was on Fluid Dynamics. My wife Janet and I live in the same home that my grandfather built on land that was homesteaded in 1894. During the 1930's my dad and uncles built and sold irrigation pumps and installed irrigation wells not only on their own land but on the neighbors also.

During my many years on an irrigated farm I have watched the alluvial aquifer rise and fall many times. The Arkansas River is a big part of what kept our alluvium recharged over the years. Now the river is dry and only runs on a rare occasion following periods of heavy rainfall, so we see that the recharge from the river is greatly diminished.

Conservation efforts have helped to alleviate the over appropriation of water in my area. A few years ago I served on the Middle-Ark River Sub Basin committee where we developed voluntary and incentive based solutions to the declining water levels. These solutions undoubtedly helped slow the decline but periods of drought have taken a toll on the aquifer in our area.

I feel that the continuous withdrawal of 4,800 acre feet of water from the alluvial aquifer will hasten the decline to a point where many wells will have reduced production, even to a point where abandonment needs to be considered. I sincerely ask that you as members of the Panel look open minded at the evidence provided by Steve Larson and also by Keller-Bliesner.

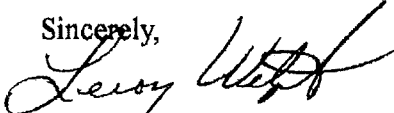
Once the ranch is converted from irrigation to municipal water supply it's difficult to make reductions in appropriation and I hope we don't have to go there. We need to get it right from the beginning. In looking at all the evidence I truly believe that 2600 acre feet of water transferred annually will be sustainable. The Transfer Act requires that the change of use will not impair existing water rites. Both Junior and Senior water right are included.

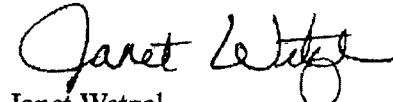
In closing I would like to offer my support for a transfer of a reasonable and sustainable quantity that meets the need of the cities without impairing local water rights. 2600 acre feet transferred from Edwards County combined with existing sources for municipal water supply will meet the cities needs and contribute to the sustainability of the alluvial aquifer.

I am sure that you as members of the Hearing Panel will weigh all the evidence presented as yours is a monumental task: To get the first implementation of the Water Transfer Act right.

Thanks for your consideration.

Sincerely,


Leroy Wetzel


Janet Wetzel

Please note, the following are our current water rights: 8, 33, 34, 37, 1191, 1421, 2665, 5245, 14034, 14252, 15471, 16065, 17912, 18817, 20396, 23576, 25267, 28298, 31038, 32483, 33714, 35583, 35945, 36234 and 36235.