21732-D2

SECOND AMENDED

Submit To: CHIEF ENGINEER
Division of Water Resources
Kansas Department of Agniculture
1320 Research Park Drive
Manhattan, Kansas 66502
http://agriculture.ks.gov/dwr

APPLICATION FOR APPROVAL TO CHANGE THE PLACE OF USE, THE POINT OF DIVERSION OR THE USE MADE OF THE WATER UNDER AN EXISTING WATER RIGHT



Filing Fee Must Accompany the Application (Please refer to Fee Schedule on signature page of application form.)

Paragraph Nos. 1, 2, 3, 4 & 8 must be completed. Complete all other applicable portions. A topographic map or detailed plat showing the authorized and proposed points(s) of diversion and /or place of use must accompany this application.

1.	Application is hereby made for approval of the Chief Engineer to change the Place of Use (Check one or more) Point of Diversion Use Made of Water Water Resources Received MAR 25 2019
	File No. 21,732 - D2 Circle KS Dept Of Agriculture
2.	Name of applicant: City of Hays, Kansas and City of Russell, Kansas (See Section I.A. of the Cover Letter.)
	Address: <u>c/o Foulston Siefkin LLP, 1551 N. Waterfront Parkway, Suite 100</u>
	City, State and Zip: Wichita, Kansas 67206
	Phone Number: (316) 291-9725 E-mail address: dtraster@foulston.com
	What is your relationship to the water right; owner tenant agent other? If other, please explain. Hays and Russell are co-owners of the authorized place of use on the R9 Ranch in Edwards County, Kansas Name of water use correspondent: City of Hays, Kansas
	Address: P.O. Box 490, 1507 Main Street
	City, State and Zip: Hays, Kansas 67601
	Phone Number: (785) 628-7320 E-mail address: tdougherty@haysusa.com
3.	The change(s) proposed herein are desired for the following reasons (please be specific): See Section I.B. of the accompanying Cover Letter which is incorporated by reference. The Cover Letter supersedes the June 25, 2015 Cover Letter that accompanied the original Change Applications.
	The change(s) (was) (will be) completed by December 31, 2029.
Fo F.C	r Office Use Only: D GMD Meets K.A.R. 5-5-1 (YES / NO) Use Source G / S County By Date pde Fee \$ TR # Receipt Date Check #
DW	/R 1-120 (Revised 06/16/2014) Amended Substitute Page Assisted by:

File No. ____21,732 - D2

4.	The	presently	authorized	place of	use is
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Owner of Land — NAME: <u>City of Hays, Kansas</u>

ADDRESS: P.O. Box 490, 1507 Main Street, Hays, Kansas 67601

	NE%					NW¼				SW¼				SE¼			
Sec. Twp. Range	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW¼	SW1/4	SE1/4	ACRES
32-25S-19W	31.25	31.25	31.25	31.25	31.25	31.25	31.25	31.25	38	2	1	33	4	39	35	2	417
·													-	·			

List any other water rights that cover this place of use. 21,732 - D1

Owner of Land — NAME: <u>City of Russell, Kansas</u>

ADDRESS: 113 W. 8th Street, Russell, Kansas 67665

<u> </u>		΄. γ	X.c.1	NE	Ξ1/4			NV	V¼		SW¼				SE¼				TOTAL
Sec.	Twp.	Range	NE%	NW¼	SW1/4	SE1/4	NE1/4	NW¼	SW1/4	SE1/4	NE1/4	NW¼	SW1/4	SE1/4	NE1/4	NW¼	SW1/4	SE1/4	ACRES
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List any other water rights that cover this place of use. Same as above

(If there are more than two landowners, attach additional sheets as necessary.)

5. It is proposed that the place of use be changed to:

Owner of Land — NAME: <u>City of Hays, Kansas</u>

ADDRESS: P.O. Box 490, 1507 Main Street, Hays, Kansas 67601

					NE	≣¼			NV	V1/4		SW¼				SE1/4				TOTAL
_ 8	Sec.	Twp.	Range	NE1/4	NW¼	SW1/4	SE1/4	NE1/4	NW14	SW1/4	SE1/4	NE1/4	NW¼	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	ACRES
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List any other water rights that cover this place of use. See Attachment

Owner of Land — NAME: <u>City of Russell, Kansas</u>

ADDRESS: 113 W. 8th Street, Russell, Kansas 67665

				NE	Ξ1/4		NW1/4					SW1/4				SE¼			
Sec.	Twp.	Range	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	ACRES
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List any other water rights that cover this place of use. See Attachment

IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY

Amended Substitute Page

File No.	21,	732 -	D2
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- 6. The presently authorized point(s) of diversion (is) (are) irrigation well(s) described in paragraphs 8, 9, and 10
- The proposed point(s) of diversion (is) (are) a new municipal well described in paragraphs 8, 9, and/or 10 and in the Attachment.

One in the		<u>diversion:</u>				
	<u>NC</u>	Quarter of the	S	Quarter of the		Qua
of Section	32	, Township	25	South, Range	19	(E∧
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DWR use only: Cor	mputer ID	No G	PS	feet North	feet West	
This point will no	t be chang	ged 🔳 This point w	ill be changed a	ıs follows:	•	
Proposed point of d	iversion: (Complete only if char	nge is requested	d)		
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of Section	32	. Township	25	South, Range	19	 (E/
n Edwards	Col	unty, Kansas, $\frac{1}{2,724}$	feet North	1,916 feet West of S	outheast corner o	f sectio
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		I AWASHIN				
n	Cou	unty, Kansas,	feet North	feet West of Se		
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Proposed Rate This point is: Addi Presently authorized One in the Of Section Authorized Rate DWR use only: Cor This point will no Proposed point of di One in the Of Section	Count of a	unty, Kansas, Proposed Quantity Geo Center List diversion: Quarter of the , Township Authorized Quantity No. G ged This point with Complete only if chant Quarter of the , Township	feet North other water right feet North PS ill be changed a age is requested feet North	feet West of Some set will use this point set west of Some set will use the set will use this point set will use the set will	outheast corner o	f section Qua (E/ f section

IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY

Amended Substitute Page MAR 25 2019

12	The presently authorized use of water is for <u>irrigation</u> purposes.
	It is proposed that the use be changed to <u>municipal</u> purposes.
40	
13.	If changing the place of use and/or use made of water, describe how the consumptive use will not be increased.
	See the Attachment and the Master Order, Section III, Quantities for Municipal Use.
	(Please show any calculations here.)
14.	It is requested that the maximum annual quantity of water be reduced to <u>See Attachment</u> (acre-feet or million gallons).
15.	It is requested that the maximum rate of diversion of water be reduced to <u>See Attachment</u> gallons per minute (c.f.s.).
16.	The application must include either a topographic map or detailed plat. A U.S. Geological Survey Topographic Map, scale 1:24,000, is available through the Kansas Geological Survey, 1930 Constant Avenue, University of Kansas, Lawrence, Kansas 66047-3726 (www.usqs.gov). The map should show the location of the presently authorized point(s) of diversion. Distances North and West of the Southeast comer of the section must be shown. The presently authorized place of use should also be shown. Identify the center of the section, the section lines and the section corners and show the appropriate section, township, and range numbers on the map. In addition the following information must also be shown on the map.
	a. If a change in the location of the point(s) of diversion is proposed, show:
	 The location of the proposed point(s) of diversion. Distances North and West of the Southeast corner of the section must be shown. Please be certain that the information shown on the map agrees with the information shown in Paragraph Nos. 9, 10 and 11 of the application.
	2) If the source of supply is groundwater, please show the location of existing water wells of any kind, including domestic wells, within ½ mile of the proposed well or wells. Identify each well as to its use and furnish name and mailing address of the property owner or owners. If there are no wells within ½ mile, please indicate so on the map.
	3) If the source of supply is surface water, the names and mailing addresses of all landowner(s) ½ mile downstream and ½ mile upstream from your property lines must be shown.
	b. If a change in the place of use is desired, show the proposed place of use by crosshatching on the map. Please be certain that the information shown on the map agrees with the information shown in Paragraph No. 5 of the application.
	Attach documentation to show the change(s) proposed herein will not impair existing water rights and relates to the same local source of supply as to which the water right relates. This information may include statements, plats, geology reports, well logs, test hole logs, and other information as necessary information to show the above. Additional comments may be made below.
	See the Master Order, Section II, Change in Beneficial Use; Section VI, Change in Places of Use; and
	Section VIII, Change in Points of Diversion.
18.	If the proposed change(s) does not meet all applicable rules and regulations of the Kansas Water Appropriation Act, please identify the rules and regulations for which you request a waiver. State the reason why a waiver is needed and why the request should be granted. Attach documentation showing that granting the request will not impair existing water rights and will not prejudicially and unreasonably affect the public interest.
	No waivers are required.
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21,732 - D2

File No.

IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY Substitute Page

File No. 21,732-D2

This Amended Change Application is contingent on (a) the entry of the Master Order as a Final Order with terms that are acceptable to the Cities and (b) the occurrence of the contingencies in the Effective Date and Expiration Date Section of the Master Order.

It is proposed that the place of use be changed to:

- The various parcels of land known as the R9 Ranch located in Edwards County, Kansas, as specifically described in **Appendix A** of the Master Order.
- b. The City of Hays, Kansas and its immediate vicinity as well as related areas in the Northeast Ouarter (NE/4) of Section 19 and the Northwest Ouarter (NW/4) of Section 36, T13S-R18W, Ellis County, Kansas.¹
 - The City of Russell, Kansas and its immediate vicinity.²

Other water rights owned by the City of Hays: EL 002; 1,248; 5,757; 18,857; 18,858; 33,296; 33,548; 36,519; 36,520; 36,804; 40,367; 40,368; 40,702; 40,703; 40,704; 40,705; 40,706; and 40,707.

Other water rights owned by the City of Russell: RS 08; 206; 1,267; 1,861; 7,628; 17,586; 17,587; 36,680; and 20139006.

Proposed Rate, Quantity, and Well Location 8., 9., and 10.

The Cities requested a total of 687.96 acre-feet and 2.380 gallons per minute from the three wells associated with File 21,732, all of which would be diverted from new Municipal Well "B" as shown on Exhibits J, K, L, and M. New Municipal Well "B" would have a cumulative total of 687.96 acre-feet and 2,380 gallons per minute.

In an Order dated January 17, 2018, attached as Exhibit R, File 21,732 was divided into File 21,732-D1 and File 21,732-D2. File 21,732-D2 was assigned one well in the S/2 of Section 32, T25S-R19W, with a total quantity of 240 acre-feet per year and a total rate of 885 gallons per minute.

After extensive negotiation, the Cities and the Chief Engineer have reached an agreement on numerous terms that are set out in the Master Order, including an agreement that, subject to the negotiated terms and the contingencies in the Master Order, the proposed Municipal Well "B" will be limited to 593.0 acre-feet per year for municipal use at a maximum rate of 885 gallons per minute with 240.0 acre-feet diverted from File 21,732-D2 and the balance from File 21,732-D1.

Attached as Exhibits J, K, L, and M are maps that show the location of the currently authorized points of diversion, the proposed location of new Municipal Well "B," a one-half mile buffer around the proposed Municipal Well, a 1,000-foot radius around that location, and the proposed areal limits within which the new Municipal Wells can be located without having to file a new change application.

² See Exhibit O

Water Resources Received

MAR 25 2019

¹ See Exhibit N

11. Describe the current condition of and future plans for any point(s) of diversion that will no longer be used.

All but a few of the irrigation wells on the R9 Ranch have been properly plugged and WWC-5P well plugging forms have been prepared and submitted to KDHE. See Exhibit S for the Well Plugging Record for the irrigation well authorized by File 21,732-D2. This Report incorrectly states that the well is in Section 31 T25S-R19W. The report is being corrected.

13. If changing the place of use and the use made of water, describe how the consumptive use will not be increased:

Quantity authorized and perfected

The Permit was issued on February 27, 1976, granting the applicant the right to divert up to 834 acre-feet annually at a rate of up to 2,400 gallons per minute for irrigation use,³ on 417 acres in Section 32-T25S-R19W,⁴ or 2.0 acre-feet per acre. The Certificate limited the rate to 2,380 gallons per minute.

In the cover letter transmitting the Permit, DWR made findings of fact stating that "the proposed use is for a beneficial purpose and is within reasonable limitations. If priorities are observed and respected, the proposed use will neither impair any use under existing water rights nor prejudicially and unreasonably affect the public interest." 5

DWR's Field Inspection Reports indicate that 310 acre-feet authorized by the Permit were lawfully perfected by applying that quantity to 160 approved acres in the S/2 of Section 32 T25S-R19W.⁶

While the Certificate, as amended by the January 17, 2018, Order limits the total quantity to 240 acre-feet based on DWR's after-the-fact determination that 1.5 acre-feet per acre was a reasonable quantity for irrigation use, DWR did not have jurisdiction to make this reduction.⁷

Since the perfection period has expired, the "authorized quantity" for this water right is the 310.00 acre-feet actually perfected even though it exceeds the certified quantity.

NIR for Alfalfa

According to the Kansas Irrigation Guide, the NIR for the 50% chance rainfall in Edwards County is 20.9 (1.741666 feet) inches for alfalfa.

Since alfalfa was grown on the authorized place of use during the perfection period,⁸ it is reasonable to use the NIR for alfalfa, which yields a total quantity of 278.67 acre-feet consumed.

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³ Permit, HAYS001328, Ex. B.

⁴ Application, HAYS001322, Ex. C.

⁵ February 27, 1976, letter (emphasis added), HAYS001327, Ex. D.

⁶ FIR, HAYS0001314, Ex. E.

⁷ Certificate, HAYS001336, Ex. F; Doug Bush Memo dated March 19, 1987, HAYS001332; Ex. G; Exs. H and I; and Clawson v. Kansas Dept. of Agriculture, Div. of Water Resources, 49 Kan. App. 2d 789, 315 P.3d 896 (2013).

⁸ Ex. E. See also HAYS004448-4453, Ex. I.

File No. 21,732-D2

While this quantity is greater than the quantity set out in the Certificate, it is less than 310 perfected acre-feet, the "maximum annual quantity authorized by the water right."

See also, Exhibits P and Q.

14. The maximum annual quantity of water for municipal use:

Subject to the contingencies stated above and the negotiated terms of the Master Order, the proposed Municipal Well "B" will be limited to a maximum quantity of 593.0 acre-feet per year for municipal use with 240.0 acre-feet diverted from File 21,732-D2 and the balance from File 21,732-D1.

15. The maximum annual rate of diversion:

Subject to the contingencies stated above and the negotiated terms of the Master Order, the proposed Municipal Well "B" will be limited to a maximum rate of 885 gallons per minute, 1.97 cubic feet per second.

⁹ See K.A.R. 5-5-9(a)(4).

MAR 25 2019

Water Resources Received

KS Dept Of Agriculture

21732-D2 S Well #12 WATER WELL PLUGGING RECORD Form WWC-5P KSA 82a-1212 ID NO. Section Number | Township Number LOCATION OF WATER WELL: Fraction Range Number T 19 □E 71W County: Edwards % NE % SW % SE % 25 S Global Positioning Systems (GPS) information: Street/Rural Address of Well Location; if unknown, distance & 37.8281 (in decimal degrees) Latitude: direction from nearest town or intersection: If at owner's address, Longitude: 99.4496 (in decimal degrees) check here 5 3/4 South, 1 1/4 West of Kinsley Elevation: Horizontal Datum: WGS84, ☑ NAD83, ☐ NAD27 Collection Method: GPS unit (Make/Model: WATER WELL OWNER: City of Hays Digital Map/Photo, Topographic Map, Land Survey P.O. Box 56 RR#, St. Address, Box #: City, State ZIP Code: Hays, KS 67601 MARK WELL'S LOCATION WITH AN "X" IN SECTION DEPTH OF WELL 83 WELL'S STATIC WATER LEVEL BOX: WELL WAS USED AS: NW Dewatering **Domestic** Public Water Supply Irrigation Oil Field Water Supply Monitoring Injection Well W E Feedlot Domestic (Lawn & Garden) Industrial Air Conditioning Other SW SE Was a chemical/bacteriological sample submitted to Department? Yes No 🗸 TYPE OF BLANK CASING USED: Other (Specify below) Steel RMP (SR) Wrought **Fiberglass** Asbestos-Cement l PVC TABS Concrete Tile Blank casing diameter 16 in. Was casing pulled? Yes No V If yes, how much Casing height above or below land surface 36 in. Cement grout Bentonite Other ☐ Neat cement GROUT PLUG MATERIAL: From _____ ft. to _____ft., From 22 ft. to 3 ft., What is the nearest source of possible contamination: Other (specify below) Septic tank Seepage pit Fuel storage None Sewer lines Pit privy Fertilizer storage Watertight sewer lines Sewage lagoon Insecticide storage Lateral lines Abandoned water well Direction from well? Feedyard How many feet? Cess pool Livestock pens Oil well/Gas well PLUGGING MATERIALS FROM PLUGGING MATERIALS FROM 83 22 Chlorinated gravel 22 Cement grout 3 Top soil 0 7 CONTRACTOR'S OR LANDOWNER'S CERTIFICATION: This water well was plugged under my jurisdiction and was completed on (mo/day/year) ___2-21-18 and this record is true to the best of my knowledge and belief. Kansas Water . This Water Well Record was completed on (mo/day/year) 2-28-18 under the Well Contractor's License No. 134 business name of Rosencrantz-Bemis Ent Inc by (signature) Nova alela Send one white copy to Kansas Department of Health & Environment, Geology Section, 1000 SW Jackson Street, Ste. 420, Topeka, KS 66612-1367. Send one copy to WATER WELL OWNER and retain one for your records. Visit us at http://www.kdheks.gov/waterwell/index.html Telephone 785-296-5524.

KSA82a-1212

Revised 1/20/2015

March March March 1985 March 1985

EXHIBIT

21732-D2

SECOND AMENDED

Submit To: CHIEF ENGINEER Division of Water Resources Kansas Department of Agriculture 1320 Research Park Drive Manhattan, Kansas 66502 http://agriculture.ks.gov/dwr

APPLICATION FOR APPROVAL TO CHANGE THE PLACE OF USE, THE POINT OF DIVERSION OR THE USE MADE OF THE WATER UNDER AN **EXISTING WATER RIGHT**



Filing Fee Must Accompany the Application (Please refer to Fee Schedule on signature page of application form.)

Paragraph Nos. 1, 2, 3, 4 & 8 must be completed. Complete all other applicable portions. A topographic map or detailed plat showing the authorized and proposed points(s) of diversion and /or place of use must accompany this application.

1.	Application is hereby made for approval of the Chief Engineer to change the
	✓ Place of Use
	(Check one or more)
	✓ Use Made of Water
	File No21,732 - D2 Circle 12.
2.	Name of applicant: City of Hays, Kansas and City of Russell, Kansas (See Section I.A. of the Cover Letter.)
	Address:c/o Foulston Siefkin LLP, 1551 N. Waterfront Parkway. Suite 100
	City, State and Zip: Wichita, Kansas 67206
	Phone Number: (316) 291-9725 E-mail address: dtraster@foulston.com
	What is your relationship to the water right; ✓ owner ☐ tenant ☐ agent ☐ other? If other, please explain.
	Hays and Russell are co-owners of the authorized place of use on the R9 Ranch in Edwards County, Kansas
	Name of water use correspondent: <u>City of Hays, Kansas</u>
	Address: P.O. Box 490, 1507 Main Street
	City, State and Zip: Hays, Kansas 67601
	Phone Number: (785) 628-7320 E-mail address: tdougherty@haysusa.com
3.	The change(s) proposed herein are desired for the following reasons (please be specific):
	See Section I.B. of the accompanying Cover Letter which is incorporated by reference. The Cover Letter
	supersedes the June 25, 2015 Cover Letter that accompanied the original Change Applications.
	The change(s) (was) (will be) completed by <u>December 31, 2029.</u>
I —	r Office Use Only:
F.C	ode Fee \$ TR # Receipt Date Check #
	Water Resources
	Received
D۷	/R 1-120 (Revised 06/16/2014) Amended Substitute Page MAR 2.5 2019 Assisted by:
217	32-D2 KS Dept Of Agriculture

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	4	39	35	2	417
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6	7601				
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	NE1/4	NW¼		SE1/4	ACRES

4. The presently authorized place of use is:

Owner of Land — NAME: City of Hays, Kansas

ADDRESS: P.O. Box 490, 1507 Main Street, Hays, Kansas 6760

		Ni	E¼			NW¼			SW¼			SE1/4				TOTAL	
Sec. Twp. Range	NE1/4	NW1/4	sw¼	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE%	ACRES
32-25S-19W	31.25	31.25	31.25	31.25	31.25	31.25	31.25	31.25	38	2	1	33	4	39	35	2	417
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List any other water rights that cover this place of use. 21,732 - D1

Owner of Land — NAME: <u>City of Russell, Kansas</u>

ADDRESS: 113 W. 8th Street, Russell, Kansas 67665

				NE	1/4		NW1/4				sv	V1/4		SE1/4				TOTAL	
Sec.	Twp.	Range	NE1/4	NW%	SW1/4	SE1/4	NE%	NW1/4	SW1/4	SE1/4	NE1/4	NW¼	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE%	ACRES
											<u></u>								
									Sa	ıme a	s abo	ve			,				
 		,																	
					,							,							

List any other water rights that cover this place of use. Same as above

(If there are more than two landowners, attach additional sheets as necessary.)

5. It is proposed that the place of use be changed to:

Owner of Land — NAME: <u>City of Hays, Kansas</u>

ADDRESS: P.O. Box 490, 1507 Main Street, Hays, Kansas 67601

				NE	1/4		NW¼				sv	V1/4		SE¼				TOTÁL	
Sec.	Twp.	Range	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW¼	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	ACRES
	-																		
								See Attachment											
		-								·								,	

List any other water rights that cover this place of use. See Attachment

Owner of Land — NAME: City of Russell, Kansas

ADDRESS: 113 W. 8th Street, Russell, Kansas 67665

				NE	1 /4		NW¼			sv	V1/4		SE1/4				TOTAL		
Sec.	Twp.	Range	NE1/4	NW¼	SW1/4	SE1/4	NE1/4	NW¼	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	ACRES
								·	Se	e Att	achm	ent		·					
)			·														

List any other water rights that cover this place of use. See Attachment

IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY

Amended Substitute Page

- 6. The presently authorized point(s) of diversion (is) (are) <u>irrigation well(s) described in paragraphs 8, 9, and 10</u>
 (Provide description and number of points)
- 7. The proposed point(s) of diversion (is) (are) <u>a new municipal well described in paragraphs 8, 9, and/or 10 and in the Attach</u>ment.

 (Provide description and number of points)

One in the NC Quarter of the S Quarter of the Quarter of Section 32 Township 25 South, Range 19 (E/N), in Edwards County, Kansas, 1,441 feet North 2,632 feet West of Southeast corner of section. Authorized Rate 885 gpm Authorized Quantity 240 a/f (DWR use only: Computer ID No. GPS feet North feet West) This point will not be changed This point will be changed as follows: Proposed point of diversion: (Complete only if change is requested) One in the SE Quarter of the SW Quarter of the NW Quarter of Section 32 Township 25 South, Range 19 (E/N), in Edwards County, Kansas, 2,724 feet North 1,916 feet West of Southeast corner of section. Proposed Rate See Attachment Proposed Quantity See Attachment This point is: Additional Well Geo Center List other water rights that will use this point		List all presently authorized point(s) of diversion:		.*								
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South August Pagaived	11	Describe the current condition of and future plans for a	any point(s) of div	version which will no lond	Vaters Resource	ces						
		01			Received							

IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NEMERS 2019

12.	Th	e pre	esently authorized use of water is for <u>irrigation</u> purposes.
	It is	s pro	posed that the use be changed to <u>municipal</u> purposes.
13.	If c		ging the place of use and/or use made of water, describe how the consumptive use will not be increased. ee the Attachment and the Master Order, Section III, Quantities for Municipal Use.
	-		
	7012	220	show any calculations here.)
	•		
14.	It is	req	uested that the maximum annual quantity of water be reduced to <u>See Attachment</u> (acre-feet or million gallons)
15.	It is	s req	uested that the maximum rate of diversion of water be reduced to <u>See Attachment</u> gallons per minute (c.f.s.)
16.	1:2 Kar Dis	4,00 nsas tanc ould	plication must include either a topographic map or detailed plat. A U.S. Geological Survey Topographic Map, scale 10, is available through the Kansas Geological Survey, 1930 Constant Avenue, University of Kansas, Lawrence 166047-3726 (www.usgs.gov). The map should show the location of the presently authorized point(s) of diversion less North and West of the Southeast corner of the section must be shown. The presently authorized place of use also be shown. Identify the center of the section, the section lines and the section corners and show the appropriate 1, township, and range numbers on the map. In addition the following information must also be shown on the map.
	a.	If a	change in the location of the point(s) of diversion is proposed, show:
		1)	The location of the proposed point(s) of diversion. Distances North and West of the Southeast corner of the section must be shown. Please be certain that the information shown on the map agrees with the information shown in Paragraph Nos. 9, 10 and 11 of the application.
		2)	If the source of supply is groundwater, please show the location of existing water wells of any kind, including domestic wells, within ½ mile of the proposed well or wells. Identify each well as to its use and furnish name and mailing address of the property owner or owners. If there are no wells within ½ mile, please indicate so on the map.
		3)	If the source of supply is surface water, the names and mailing addresses of all landowner(s) ½ mile downstream and ½ mile upstream from your property lines must be shown.
	b.		change in the place of use is desired, show the proposed place of use by crosshatching on the map. Please be tain that the information shown on the map agrees with the information shown in Paragraph No. 5 of the application.
17.	loc we	al so Il log	documentation to show the change(s) proposed herein will not impair existing water rights and relates to the same burce of supply as to which the water right relates. This information may include statements, plats, geology reports is, test hole logs, and other information as necessary information to show the above. Additional comments may be elow.
	Se	e th	e Master Order, Section II, Change in Beneficial Use; Section VI, Change in Places of Use; and
	Se	ctio	n VIII, Change in Points of Diversion.
	_		
18.	ide red	ntify Juest	roposed change(s) does not meet all applicable rules and regulations of the Kansas Water Appropriation Act, please the rules and regulations for which you request a waiver. State the reason why a waiver is needed and why the should be granted. Attach documentation showing that granting the request will not impair existing water rights and prejudicially and unreasonably affect the public interest.
I		N	No waivers are required.
	_	200	Player I van Late
			Paravier.

21,732 - D2

File No.

IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY
Substitute Page

Sufficiency Of Agriculture

This Amended Change Application is contingent on (a) the entry of the Master Order as a Final Order with terms that are acceptable to the Cities and (b) the occurrence of the contingencies in the *Effective Date and Expiration Date* Section of the Master Order.

5. It is proposed that the place of use be changed to:

- a. The various parcels of land known as the R9 Ranch located in Edwards County, Kansas, as specifically described in **Appendix A** of the Master Order.
- b. The City of Hays, Kansas and its immediate vicinity as well as related areas in the Northeast Quarter (NE/4) of Section 19 and the Northwest Quarter (NW/4) of Section 36, T13S-R18W, Ellis County, Kansas.¹
 - c. The City of Russell, Kansas and its immediate vicinity.²

Other water rights owned by the City of Hays: EL 002; 1,248; 5,757; 18,857; 18,858; 33,296; 33,548; 36,519; 36,520; 36,804; 40,367; 40,368; 40,702; 40,703; 40,704; 40,705; 40,706; and 40,707.

Other water rights owned by the City of Russell: RS 08; 206; 1,267; 1,861; 7,628; 17,586; 17,587; 36,680; and 20139006.

8., 9., and 10. Proposed Rate, Quantity, and Well Location

The Cities requested a total of 687.96 acre-feet and 2,380 gallons per minute from the three wells associated with File 21,732, all of which would be diverted from new Municipal Well "B" as shown on Exhibits J, K, L, and M. New Municipal Well "B" would have a cumulative total of 687.96 acre-feet and 2,380 gallons per minute.

In an Order dated January 17, 2018, attached as Exhibit R, File 21,732 was divided into File 21,732-D1 and File 21,732-D2. File 21,732-D2 was assigned one well in the S/2 of Section 32, T25S-R19W, with a total quantity of 240 acre-feet per year and a total rate of 885 gallons per minute.

After extensive negotiation, the Cities and the Chief Engineer have reached an agreement on numerous terms that are set out in the Master Order, including an agreement that, subject to the negotiated terms and the contingencies in the Master Order, the proposed Municipal Well "B" will be limited to 593.0 acre-feet per year for municipal use at a maximum rate of 885 gallons per minute with 240.0 acre-feet diverted from File 21,732-D2 and the balance from File 21,732-D1.

Attached as Exhibits J, K, L, and M are maps that show the location of the currently authorized points of diversion, the proposed location of new Municipal Well "B," a one-half mile buffer around the proposed Municipal Well, a 1,000-foot radius around that location, and the proposed areal limits within which the new Municipal Wells can be located without having to file a new change application.

² See Exhibit O

Water Resources Received

MAR 25 2019

¹ See Exhibit N

11. Describe the current condition of and future plans for any point(s) of diversion that will no longer be used.

All but a few of the irrigation wells on the R9 Ranch have been properly plugged and WWC-5P well plugging forms have been prepared and submitted to KDHE. See Exhibit S for the Well Plugging Record for the irrigation well authorized by File 21,732-D2. This Report incorrectly states that the well is in Section 31 T25S-R19W. The report is being corrected.

13. If changing the place of use and the use made of water, describe how the consumptive use will not be increased:

Quantity authorized and perfected

The Permit was issued on February 27, 1976, granting the applicant the right to divert up to 834 acre-feet annually at a rate of up to 2,400 gallons per minute for irrigation use,³ on 417 acres in Section 32-T25S-R19W,⁴ or 2.0 acre-feet per acre. The Certificate limited the rate to 2,380 gallons per minute.

In the cover letter transmitting the Permit, DWR made findings of fact stating that "the proposed use is for a beneficial purpose and is *within reasonable limitations*. If priorities are observed and respected, the proposed use will neither impair any use under existing water rights nor prejudicially and unreasonably affect the public interest."⁵

DWR's Field Inspection Reports indicate that 310 acre-feet authorized by the Permit were lawfully perfected by applying that quantity to 160 approved acres in the S/2 of Section 32 T25S-R19W.⁶

While the Certificate, as amended by the January 17, 2018, Order limits the total quantity to 240 acre-feet based on DWR's after-the-fact determination that 1.5 acre-feet per acre was a reasonable quantity for irrigation use, DWR did not have jurisdiction to make this reduction.⁷

Since the perfection period has expired, the "authorized quantity" for this water right is the 310.00 acre-feet actually perfected even though it exceeds the certified quantity.

NIR for Alfalfa

According to the Kansas Irrigation Guide, the NIR for the 50% chance rainfall in Edwards County is 20.9 (1.741666 feet) inches for alfalfa.

Since alfalfa was grown on the authorized place of use during the perfection period, 8 it is reasonable to use the NIR for alfalfa, which yields a total quantity of 278.67 acre-feet consumed.

³ Permit, HAYS001328, Ex. B.

⁴ Application, HAYS001322, Ex. C.

⁵ February 27, 1976, letter (emphasis added), HAYS001327, Ex. D.

⁶ FIR, HAYS0001314, Ex. E.

⁷ Certificate, HAYS001336, Ex. F; Doug Bush Memo dated March 19, 1987, HAYS001332; Ex. G; Exs. H and I; and Clawson v. Kansas Dept. of Agriculture, Div. of Water Resources, 49 Kan. App. 2d 789, 315 P.3d 896 (2013).

⁸ Ex. E. See also HAYS004448-4453, Ex. I.

File No. 21,732-D2

While this quantity is greater than the quantity set out in the Certificate, it is less than 310 perfected acre-feet, the "maximum annual quantity authorized by the water right."

See also, Exhibits P and Q.

14. The maximum annual quantity of water for municipal use:

Subject to the contingencies stated above and the negotiated terms of the Master Order, the proposed Municipal Well "B" will be limited to a maximum quantity of 593.0 acre-feet per year for municipal use with 240.0 acre-feet diverted from File 21,732-D2 and the balance from File 21,732-D1.

15. The maximum annual rate of diversion:

Subject to the contingencies stated above and the negotiated terms of the Master Order, the proposed Municipal Well "B" will be limited to a maximum rate of 885 gallons per minute, 1.97 cubic feet per second.

Amended Substitute Page

Water Resources Received

MAR 25 2019

KS Dept Of Agriculture

⁹ See K.A.R. 5-5-9(a)(4).

EXHIBIT				:						
21732-D2 S			. ^	246-11-44-0						
WATER WELL PLUGGIN	G RECORD Form WW	C-5P KSA	82a-1212 ID NO.	Well #12						
1 LOCATION OF WATER WEL		1	Township Number	Range Number						
County: Edwards Street/Rural Address of Well Loca	tion: if unknown, distance &	4 31	T 25 S g Systems (GPS) inform	19 □ E 🗗 W						
direction from nearest town or inte		Latitude: 37.	Latitude: 37.8281 (in decimal degrees)							
	1/4 West of Kinsley	Longitude: 99.4496 (in decimal degrees)								
	,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	Elevation: Horizontal Datum	₩GS84, 🔽	NAD83. NAD27						
	·	Collection Method	<u>l:</u>	,						
2 WATER WELL OWNER: (City of Hays	GPS unit (N	fake/Model:							
, et en, a	P.O. Box 56		Photo, Topographic N							
City, State ZIP Code:	lays, KS 67601	Est. Accuracy:	< 3 m, 3-5 m, 3	5-15 m, $\square > 15$ m						
3 MARK WELL'S LOCATION	N 4 DEPTH OF WELL_	83 ft								
WITH AN "X" IN SECTION										
BOX:			11							
	WELL WAS USED A	7	·	٠.						
NW NE	Domestic	Public Water Su Oil Field Water		tering toring						
w	E Irrigation Feedlot	Domestic (Lawn		tion Well						
SW SE	Industrial	Air Conditioning	, , , ,							
	Was a chemical/bacteri	ological sample sub	mitted to Department?	es No 🗸						
<u> </u>	(
5 TYPE OF BLANK CASING	USED:									
Steel RMP (SR)	☐ Wrought ☐ F	iberglass [Other (Specify below)							
PVC ABS		oncrete Tile								
		7[7]								
Blank casing diameter 16 Casing height above or below	in. Was casing pulled? Yes	」 No M∠」 If yes,	how much							
Casing neight above or server										
6 GROUT PLUG MATERIAL	: Neat cement Ceme	ent grout 🔲 Ben	tonite Other							
Grout Plug Intervals: From	22 ft. to 3 ft., From	n ft. to	ft., From	ft. to ft.						
What is the nearest source of p	ossible contamination:									
Septic tank	Seepage pit Fuel s	torage	Other (specify below)							
Sewer lines Watertight sewer lines		zer storage	None							
Lateral lines			Direction from well?							
Cess pool		II/Gas well	How many feet?							
FROM TO F	PLUGGING MATERIALS	FROM TO	PLUGGING	MATERIALS						
	nated gravel	110111	LEGGING	, LEWILD						
	it grout									
3 0 Top so		-		4-1						
7 CONTRACTOR'S OR LANDOWNER'S CERTIFICATION: This water well was plugged under my jurisdiction and was completed on (mo/day/year) 2-21-18 and this record is true to the best of my knowledge and belief. Kansas Water										
Well Contractor's License No. 134 This Water Well Record was completed on (mo/day/year) 2-28-18 under the										
business name of Rosencrantz- Bernis Ent Inc by (signature) Nova alefa										
Send one white copy to Kansas Department of Health & Environment, Geology Section, 1000 SW Jackson Street, Ste. 420, Topeka, KS										
66612-1367. Send one copy to WATER WELL OWNER and retain one for your records.										
Visit us	at http://www.kdheks.gov/waterw	ell index.html Tel	ephone 785-296-5524.							
Attitudes A series	KSA	82a-1212		Revised 1/20/2015						