SECOND AMENDED
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
☐ Point of Diversion
☐ Use Made of Water

Water Resources
Received
MAR 25 2019

File No. 21841 Circle 8A.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: 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: 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.

(Date)

For Office Use Only:
F.O. GMD Meets K.A.R. 5-5-1 (YES / NO) Use Source G / S County By Date
Code Fee $ TR # Receipt Date Check #

DWR 1-120 (Revised 06/16/2014) Amended Substitute Page
Assisted by: ________________
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 67601

<table>
<thead>
<tr>
<th>Sec.</th>
<th>Twp.</th>
<th>Range</th>
<th>NE%</th>
<th>NW%</th>
<th>SW%</th>
<th>SE%</th>
<th>TOTAL ACRES</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>4-T26S-R19W</td>
<td>Lot 1</td>
<td>Lot 2</td>
<td></td>
<td></td>
<td>172.46</td>
</tr>
</tbody>
</table>

List any other water rights that cover this place of use. None

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

Owner of Land — NAME: City of Hays, Kansas

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

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

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

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

IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY
6. The presently authorized point(s) of diversion is (are) irrigation well(s) described in paragraphs 8, 9, and 10. (Provide description and number of points)

7. The proposed point(s) of diversion is (are) a new municipal well described in paragraphs 8, 9, and/or 10 and in the Attachment. (Provide description and number of points)

List all presently authorized point(s) of diversion:

<table>
<thead>
<tr>
<th>Presently authorized point of diversion:</th>
</tr>
</thead>
<tbody>
<tr>
<td>One in the Lot Quarter of the Quarter of the Quarter of Section , Township South, Range (E/W), in County, Kansas, feet North feet West of Southeast corner of section.</td>
</tr>
<tr>
<td>Authorized Rate gpm Authorized Quantity a/f</td>
</tr>
</tbody>
</table>

Proposed point of diversion: Complete only if change is requested

<table>
<thead>
<tr>
<th>Proposed point of diversion:</th>
</tr>
</thead>
<tbody>
<tr>
<td>One in the Quarter of the Quarter of the Quarter of Section , Township South, Range (E/W), in County, Kansas, feet North feet West of Southeast corner of section.</td>
</tr>
<tr>
<td>Proposed Rate Proposed Quantity</td>
</tr>
</tbody>
</table>

This point is: Additional Well Geo Center List other water rights that will use this point

See the Attachment.

IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY

Amended Substitute Page

MAR 25 2019

KS Dept Of Agriculture
12. The presently authorized use of water is for __irrigation____________ purposes.
   It is proposed that the use be changed to __municipal____________ purposes.

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.

14. It is requested that the maximum annual quantity of water be reduced to _See Attachment____ (acre-feet or million gallons).

15. It is requested that the maximum rate of diversion of water be reduced to _See Attachment_ 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.usgs.gov). The map should show the location of the presently authorized point(s) of diversion. Distances North and West of the Southeast corner 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:
      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. 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.

17. 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.

IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY
Substitute Page
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 195 acre-feet at 890 gpm from the irrigation well associated with this water right to be diverted from new Municipal Well “F,” as shown on Exhibit H. When combined File 29,816, new Municipal Well “F” would have a cumulative total of 285 acre-feet at 1,640 gpm.

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 “F” will be limited to a maximum rate of 1,040 gallons per minute.

Attached as Exhibits H, I, N, and O, are maps that show the location of the currently authorized points of diversion, the proposed location of the new Municipal Well “F,” a one-half mile buffer around the proposed Municipal Well, a 1,000-foot radius around each proposed well location, and the proposed areal limits within which the new Municipal Well can be located without having to file a new change application.

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 P for the Well Plugging Record for the irrigation well authorized by File 21,841.

¹ See Exhibit J.
² See Exhibit K.
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 May 29, 1975, granting the applicant the right to divert up to 255 acre-feet annually at a rate of up to 1,000 gallons per minute for irrigation use,\(^3\) on 170 acres in Section 4-T26S-R19W.\(^4\) The Certificate limited the rate to 890 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.”\(^5\)

The Field Inspection Reports indicate that only 195 of the 255 acre-feet authorized by the Permit were lawfully perfected.

- 259 acre-feet were applied to 130 approved acres in the NE/4 of Section 4 T26S-R19W.\(^6\)
- The Permit authorized the perfection of 255 acre-feet on 170 acres, or 1.5 acre-feet per acre, but only 130 of the authorized acres were irrigated during the perfection period, resulting in the perfection of 195 acre-feet.

The Certificate limits the total quantity to 195 acre-feet.\(^7\)

*NIR for Alfalfa*

According to the Kansas Irrigation Guide, the NIR for the 50% chance rainfall in Edwards County is 20.9 (1.74 feet) inches for alfalfa.

Since alfalfa was grown on the authorized place of use in at least one year during the perfection period,\(^8\) it is reasonable to use the NIR for alfalfa, which yields a total quantity of 226.42 acre-feet. This quantity is greater than the authorized quantity of 1.5 acre-feet per acre.\(^9\)

*See also,* Exhibits L and M.

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

Subject to the contingencies stated above and the negotiated terms of the Master Order, Municipal Well “F” will be limited to a maximum quantity of 285 acre-feet per year for municipal use with 195.0 acre-feet diverted from File 21,841 and the balance from File 29,816.

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\(^1\) Permit, HAYS002023, Ex. A.

\(^2\) Application, HAYS002016, Ex. B.

\(^3\) May 29, 1975 letter (emphasis added), HAYS002022, Ex. C.

\(^4\) FIR, HAYS002009, Ex. D.

\(^5\) Certificate, HAYS002031; Ex. E; March 4, 1988 Memo, HAYS002027, Ex. F.

\(^6\) HAYS002012, Ex. D.

\(^9\) See K.A.R 5-5-9(a)(4).

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15. The maximum annual rate of diversion:

Subject to the contingencies stated above and the negotiated terms of the Master Order, Municipal Well “F” will be limited to a maximum rate of 1,040 gallons per minute, 2.32 cubic feet per second.
## WATER WELL PLUGGING RECORD

### 1 LOCATION OF WATER WELL
- **County:** Edwards
- **Street/Rural Address of Well Location:** If unknown, distance & direction from nearest town or intersection: If at owner’s address, check here □ 8 1/4 South, 1/4 East of Kinsley

### 2 WATER WELL OWNER
- **City of Hays**
- **RR#, St. Address, Box #:** P.O. Box 56
- **City, State ZIP Code:** Hays, KS 67601

### 3 MARK WELL’S LOCATION WITH AN “X” IN SECTION BOX

### 4 DEPTH OF WELL
- **100 ft.**

### 5 TYPE OF BLANK CASING USED
- **Steel**
- **PVC**
- **RMP (SR)**
- **Wrought**
- **Asbestos-Cement**
- **Fiberglass**
- **Concrete Tile**
- **Other (Specify below)**

### 6 GROUT PLUG MATERIAL
- **Neat cement**
- **Cement grout**
- **Bentonite**
- **Other**

### FROM TO PLUGGING MATERIALS FROM TO PLUGGING MATERIALS
<table>
<thead>
<tr>
<th>FROM</th>
<th>TO</th>
<th>MATERIAL</th>
</tr>
</thead>
<tbody>
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<td>100</td>
<td>62</td>
<td>Chlorinated gravel</td>
</tr>
<tr>
<td>62</td>
<td>3</td>
<td>Cement grout</td>
</tr>
<tr>
<td>3</td>
<td>0</td>
<td>Top soil</td>
</tr>
</tbody>
</table>

## 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- Bemis Ent Inc by (signature) [signature].**

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.


KSA82a-1212 Revised 1/20/2015