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

(Filing Fee Must Accompany the Application)

Water Resources
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MAR 25 2019
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File No. 21,842 Circle 11A.

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:  

21842
4. The presently authorized place of use is:

<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>4-T26S-R19W</td>
<td></td>
<td></td>
<td>40</td>
<td>40</td>
<td>40</td>
<td>40</td>
<td>160</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:

<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></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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 _______ Quarter of the _______ Quarter of the SW Quarter</td>
</tr>
<tr>
<td>of Section _______, Township 26 South, Range 19 (E/W),</td>
</tr>
<tr>
<td>in Edwards County, Kansas, 1,301 feet North 3,910 feet West of Southeast corner of section.</td>
</tr>
<tr>
<td>Authorized Rate 900 gpm Authorized Quantity 195 a/f</td>
</tr>
<tr>
<td>(DWR use only: Computer ID No. GPS _______ feet North _______ feet West)</td>
</tr>
<tr>
<td>□ This point will not be changed □ This point will be changed as follows:</td>
</tr>
<tr>
<td>Proposed point of diversion: (Complete only if change is requested)</td>
</tr>
<tr>
<td>One in the NW Quarter of the SE Quarter of the SE Quarter</td>
</tr>
<tr>
<td>of Section 5, Township 26 South, Range 19 (E/W),</td>
</tr>
<tr>
<td>in Edwards County, Kansas, 1,577 feet North 901 feet West of Southeast corner of section.</td>
</tr>
<tr>
<td>Proposed Rate See Attachment Proposed Quantity See Attachment</td>
</tr>
<tr>
<td>This point is: □ Additional Well □ Geo Center List other water rights that will use this point 21,734 &amp; 29,816</td>
</tr>
</tbody>
</table>

8. Presently authorized point of diversion:

9. Presently authorized point of diversion:

10. Presently authorized point of diversion:

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

See the Attachment.

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IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY

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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.

(Please show any calculations here.)

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 ¼ 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 ¼ 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
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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 900 gpm from the well associated with this water right to be diverted from new point of diversion “E,” as shown on Exhibit H. When combined with existing wells from other water rights, new point of diversion “E” would have a cumulative total of 518.92 acre-feet at 2,561 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 “E” will be limited to 414.0 acre-feet per year for municipal use at a maximum rate of 1,270 gallons per minute with 195.0 acre-feet diverted from File 21,842 and the balance from Files 21,734 and 29,816.

Attached as Exhibits G, H, M, and N are maps that show the location of the currently authorized points of diversion, the proposed location of new Municipal Well “E,” 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 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 O for the Well Plugging Record for the irrigation well authorized by File 21,842.

¹ See Exhibit I.
² See Exhibit J.
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 240 acre-feet annually at a rate not to exceed 1,000 gallons per minute for irrigation use[3], on 160 acres in Section 2-T26S-R19W, or 1.5 acre-feet per acre.[4] The Certificate limited the quantity to 900 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 Report indicates that 269 acre-feet were applied to 130 acres during the year of record.[6] The Permit authorized the perfection of 240 acre-feet on 160 acres, or 1.5 acre-feet per acre, but only 130 of the authorized acres were irrigated during the perfection period, resulting in perfection of 195 acre-feet.

*NIR for Alfalfa*

Alfalfa was grown on this circle during the perfection period.[7] 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 during the perfection period, it is reasonable to use the NIR for alfalfa, which yields a total quantity of 226.42 acre-feet.

See also, Exhibits K and L.

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 “E” will be limited to a maximum quantity of 414.0 acre-feet per year for municipal use with 195.0 acre-feet diverted from File 21,842 and the balance from Files 21,734 and 29,816.

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 “E” will be limited to a maximum rate of 1,270 gallons per minute, 2.83 cubic feet per second.

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[3] Permit, HAYS002099, Ex. A.
[4] Application, HAYS002095, Ex. B.
[7] FIR, HAYS002090, Ex. D.

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WATER WELL PLUGGING RECORD  
Form WWC-5P  
KSA 82a-1212  
ID NO. Well #11A

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 □ 6 3/4 South 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: 125 ft.  
WELL'S STATIC WATER LEVEL: 57 ft.  
WELL WAS USED AS:  
- [ ] Domestic  
- [ ] Irrigation  
- [ ] Public Water Supply  
- [ ] Dewatering  
- [ ] Oil Field Water Supply  
- [ ] Monitoring  
- [ ] Monitoring  
- [ ] Feedlot  
- [ ] Domestic (Lawn & Garden)  
- [ ] Injection Well  
- [ ] Air Conditioning  
- Other:  

Was a chemical/bacteriological sample submitted to Department?  Yes □ No □

5 TYPE OF BLANK CASING USED:  
- [ ] Steel  
- [ ] PVC  
- [ ] RMP (SR)  
- [ ] Wrought  
- [ ] Asbestos-Cement  
- [ ] Fiberglass  
- [ ] Other (Specify below)  
Blank casing diameter: 16 in.  
Casing height above or below land surface: 36 in.

6 GROUT PLUG MATERIAL:  
- [ ] Neat cement  
- [ ] Cement grout  
- [ ] Bentonite  
- Other:  

Grout Plug Intervals:  
From 58 ft. to 3 ft., From _____ ft. to _____ ft., From _____ ft. to _____ ft.

What is the nearest source of possible contamination:  
- [ ] Septic tank  
- [ ] Sewer lines  
- [ ] Water right sewer lines  
- [ ] Lateral lines  
- [ ] Cess pool  
- [ ] Seepage pit  
- [ ] Pit privy  
- [ ] Sewage lagoon  
- [ ] Wastewater lines  
- [ ] Feedyard  
- [ ] Livestock pens  
- [ ] Fuel storage  
- [ ] Fertilizer storage  
- [ ] Insecticide storage  
- [ ] Abandoned water well  
- [ ] Oil well/Gas well  
- Other (specify below): None

FROM  | TO  | PLUGGING MATERIALS  | FROM  | TO  | PLUGGING MATERIALS  
--- | --- | --- | --- | --- | ---  
125 | 58 | Chlorinated gravel |  |  |  
58 | 3 | Cement grout |  |  | Water Resources  
3 | 0 | Top soil |  |  | Received  

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- Benson Ent Inc by (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.

KS Dept Of Agriculture  

KSA82a-1212  
Revised 1/20/2015