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
   (Check one or more)
   ☐ Place of Use
   ☐ Point of Diversion
   ☐ Use Made of Water

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

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. Range</th>
<th>NE %</th>
<th>NW %</th>
<th>SW %</th>
<th>SE %</th>
<th>TOTAL ACRES</th>
</tr>
</thead>
<tbody>
<tr>
<td>15-T26S-R20W</td>
<td>13</td>
<td>21</td>
<td>39</td>
<td>27</td>
<td>3</td>
<td>7</td>
</tr>
</tbody>
</table>

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

Owner of Land — NAME: City of Russell, Kansas  
ADDRESS: 113 W. 8th Street, Russell, Kansas 67665

<table>
<thead>
<tr>
<th>Sec.</th>
<th>Twp. Range</th>
<th>NE %</th>
<th>NW %</th>
<th>SW %</th>
<th>SE %</th>
<th>TOTAL ACRES</th>
</tr>
</thead>
</table>

Same as above

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

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

<table>
<thead>
<tr>
<th>Sec.</th>
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<th>SW %</th>
<th>SE %</th>
<th>TOTAL ACRES</th>
</tr>
</thead>
</table>

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

<table>
<thead>
<tr>
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<th>Twp. Range</th>
<th>NE %</th>
<th>NW %</th>
<th>SW %</th>
<th>SE %</th>
<th>TOTAL ACRES</th>
</tr>
</thead>
</table>

See Attachment

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) irrigation well(s) described in paragraphs 8, 9, and 10.

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.

List all presently authorized point(s) of diversion:

8. Presently authorized point of diversion:

One in the NE Quarter of the SW Quarter of the NE Quarter of Section 15, Township 26, South, Range 20 (E/W), in Edwards County, Kansas, 3,565 feet North 1,670 feet West of Southeast corner of section.

Authorized Rate 810 gpm

Authorized Quantity 169 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 SW Quarter of the NW Quarter of the SE Quarter of Section 15, Township 26, South, Range 20 (E/W), in Edwards County, Kansas, 1,714 feet North 2,450 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

9. Presently authorized point of diversion:

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.

Authorized Rate

Authorized Quantity

(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 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.

Proposed Rate

Proposed Quantity

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

10. Presently authorized point of diversion:

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.

Authorized Rate

Authorized Quantity

(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 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.

Proposed Rate

Proposed Quantity

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

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

See the Attachment.
12. The presently authorized use of water is for _______purposes.
   It is proposed that the use be changed to _______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.
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 146.16 acre-feet at 810 gpm from the well associated with this water right, all of which would be diverted from new Municipal Well “N,” as shown on Exhibit I. When combined with existing wells from other water rights, new Municipal Well “N” would have a cumulative total of 476.87 acre-feet at 2,230 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 “N” will be limited to 421.4 acre-feet per year for municipal use at a maximum rate of 1,040 gallons per minute with 122.0 acre-feet diverted from File 22,343 and the balance from Files 22,345 and 22,346.

Attached as Exhibits I, J, O and P are maps that show the location of the currently authorized points of diversion, the proposed location of new Municipal Well “N,” 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 Q for the Well Plugging Record for the irrigation well authorized by File 22,343.

1 See Exhibit K.
2 See Exhibit L.
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 March 19, 1976, granting the applicant the right to divert up to 203 acre-feet annually at a rate not to exceed 1,000 gallons per minute for irrigation use\(^3\) on 113 acres in Section 15-T26S-R20W.\(^4\) The Certificate further limited the rate to 810 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 all of the 203 acre-feet authorized by the Permit were lawfully perfected.

- 260 acre-feet were applied to 113 approved acres in Section 15-T26S-R20W.\(^6\)

While the Certificate limits the total quantity to 169 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 203 acre-feet actually perfected even though it exceeds the certified quantity.

*See also*, Exhibits M and N.

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 “N” will be limited to a maximum quantity of 421.4 acre-feet per year for municipal use with 122.0 acre-feet diverted from File 22,343 and the balance from Files 22,345 and 22,346.

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 “N” will be limited to a maximum rate of 1,040 gallons per minute, 2.32 cubic feet per second.

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\(^3\) Permit, HAYS003801, Ex. A.

\(^4\) Application, HAYS003793, Ex. B.

\(^5\) March 19, 1976, letter (emphasis added), HAYS003800, Ex. C.

\(^6\) FIR, HAYS003786, Ex. D.

**EXHIBIT Q**

**WATER WELL PLUGGING RECORD** Form WWC-SP

<table>
<thead>
<tr>
<th>1</th>
<th>LOCATION OF WATER WELL:</th>
<th>Fraction</th>
<th>Section Number</th>
<th>Township Number</th>
<th>Range Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>County: Edwards</td>
<td>SW ¾ NE ¼ SW ¾ NE ¼</td>
<td>T 26 S</td>
<td>20</td>
<td>E</td>
<td>W</td>
</tr>
</tbody>
</table>

Street/Rural Address of Well Location: If unknown, distance & direction from nearest town or intersection: If at owner's address, check here: 8 3/4 south & 3 3/4 west of Kinsley Ks.

<table>
<thead>
<tr>
<th>2</th>
<th>WATER WELL OWNER:</th>
<th>City of Hays RR#, St, Address, Box #:</th>
<th>P.O. Box 56</th>
<th>City, State ZIP Code:</th>
<th>Hays, Ks. 67601</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>3</th>
<th>MARK WELL'S LOCATION WITH AN &quot;X&quot; IN SECTION BOX:</th>
<th>4</th>
<th>DEPTH OF WELL 36.20 ft.</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>N</th>
<th>NW</th>
<th>W</th>
<th>SW</th>
<th>E</th>
<th>S</th>
</tr>
</thead>
<tbody>
<tr>
<td>36</td>
<td>20</td>
<td>ft.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>WELL'S STATIC WATER LEVEL 16.70 ft.</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>WELL WAS USED AS:</th>
<th>Domestic</th>
<th>Irrigation</th>
<th>Oil Field Water Supply</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public Water Supply</td>
<td>Feedlot</td>
<td>Domestic (Lawn &amp; Garden)</td>
<td>Water Resources</td>
</tr>
<tr>
<td>Dewatering</td>
<td>Industrial</td>
<td>Air Conditioning</td>
<td>Received</td>
</tr>
<tr>
<td>Monitoring</td>
<td>Injection Well</td>
<td>Other</td>
<td></td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>5</th>
<th>TYPE OF BLANK CASING USED:</th>
</tr>
</thead>
</table>

☐ Steel ☑ PVC ☑ RMP (SR) ☐ Wrought ☩ Asbestos-Cement ☩ Fiberglass ☐ Concrete Tile ☑ Other (Specify below)

Casing height above or below land surface: 36 in.

Blank casing diameter: 16 in.

<table>
<thead>
<tr>
<th>6</th>
<th>GROUT PLUG MATERIAL:</th>
</tr>
</thead>
</table>

☐ Neat cement ☑ Cement grout ☑ Bentonite ☐ Other (Specify below)

<table>
<thead>
<tr>
<th>Grout Plug Intervals:</th>
<th>From 17 ft. to 3 ft.</th>
<th>From ______ ft. to ______ ft.</th>
</tr>
</thead>
</table>

What is the nearest source of possible contamination:

☑ Septic tank ☐ Sewage pit ☐ Fuel Storage ☚ Other (Specify below) ☑ Sewage lagoon ☐ Fertilizer storage ☐ Insecticide storage

☐ Pit privy ☐ Sewage lagoon ☐ Abandoned water well ☑ Direction from well: ______ ft.

☐ Lateral lines ☐ Feedyard ☐ Oil well/Gas well ☑ How many feet?: ______ ft.

☐ Cess pool ☐ Livestock pens ☑ Water Resources

<table>
<thead>
<tr>
<th>FROM</th>
<th>TO</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>PLUGGING MATERIALS</th>
<th>FROM</th>
<th>TO</th>
</tr>
</thead>
</table>

| Water Resources | Received | MAR 25 2019 |

| KS Dept Of Agriculture |

<table>
<thead>
<tr>
<th>CONTRACTOR'S OR LANDOWNER'S CERTIFICATION:</th>
</tr>
</thead>
</table>

This water well was plugged under my jurisdiction and was completed on (mo/day/year) 2-6-15 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) 2-12-15 under the business name of Rosencrantz-Bemis by (signature) ________

INSTRUCTIONS: Use typewriter or ballpoint pen. Please press firmly and print clearly. Please fill in blanks, underline or circle the correct answers. Send one copy to Kansas Department of Health and Environment, Bureau of Water, Geology Section, 1000 SW Jackson St., Ste. 420, Topeka, Kansas 66612-1367. Telephone: 785/296-5524. Send one to Water Well Owner and retain one for your records. Visit us at http://www.ksdeks.gov/waterwell/index.html.