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

State of Kansas

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

File No. 22,338 Circle 28.

WATER RESOURCES  
RECEIVED

NOV 28 2016

KS DEPT OF AGRICULTURE

2. Name of applicant: City of Hays, Kansas and City of Russell, Kansas (See paragraph 2 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.
   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 Paragraph 3 of the cover letter filed concurrently with this application. The cover letter is incorporated herein by reference.
   The change(s) (was) (will be) completed by See Paragraph 3 of the cover letter [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 # _____________

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22338

Substitute  
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Assisted by: ____________________

SCANNED
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>
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<tr>
<th>Sec. Twp. Range</th>
<th>NE 1/4</th>
<th>NW 1/4</th>
<th>SW 1/4</th>
<th>SE 1/4</th>
<th>NE 1/4</th>
<th>NW 1/4</th>
<th>SW 1/4</th>
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</tr>
</tbody>
</table>

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

**Owner of Land — NAME:** City of Russell, Kansas

**ADDRESS:** 133 W. 8th Street, Russell, Kansas 67665

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

List any other water rights that cover this place of use: See paragraph 5 of the cover letter.

**Owner of Land — NAME:** City of Russell, Kansas

**ADDRESS:** 133 W. 8th Street, Russell, Kansas 67665

List any other water rights that cover this place of use: See paragraph 5 of the cover letter.

**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 paragraph 8, infra. (Provide description and number of points)

7. The proposed point(s) of diversion (is) (are) one or more municipal wells; see paragraph 7 of the cover letter. (Provide description and number of points)

List all presently authorized point(s) of diversion:

8. **Presently authorized point of diversion:**
   One in the Lot 7 Quarter of the __________ Quarter of the __________ Quarter of the __________ Quarter of the __________ Quarter
   of Section 10 Township 26 South, Range 20 (E/W), in Edwards County, Kansas, 3,152 feet North 1,043 feet West of Southeast corner of section.
   Authorized Rate 950 gpm Authorized Quantity 89 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 NE Quarter of the SE Quarter of the __________ Quarter
   of Section 10 Township 26 South, Range 20 (E/W), in Edwards County, Kansas, 1,863 feet North 883 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 22,339; 27,760

9. **Presently authorized point of diversion:**
   One in the Lot 7 Quarter of the __________ Quarter of the __________ Quarter of the __________ Quarter
   of Section 10 Township 26 South, Range 20 (E/W), in Edwards County, Kansas, 2,705 feet North 703 feet West of Southeast corner of section.
   Authorized Rate 785 gpm Authorized Quantity 73 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 NE Quarter of the SE Quarter of the __________ Quarter
   of Section 10 Township 26 South, Range 20 (E/W), in Edwards County, Kansas, 1,863 feet North 883 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 22,339; 27,760

10. **Presently authorized point of diversion:**
    One in the __________ Quarter of 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 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 paragraph 11 of the cover letter.
5. It is proposed that the place of use be changed to:

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;

The City of Russell, Kansas and its immediate vicinity;

The City of Victoria, Kansas and its immediate vicinity;

The City of La Crosse, Kansas and its immediate vicinity; and

The City of Ellis, Kansas and its immediate vicinity.

Upon the execution of a contract to purchase water from the Project, the authorized place
of use should include industrial facilities or the corporate limits of the municipality, rural water
district, or other entity entering into such contract for purchase and in the case of a municipality,
its immediate vicinity.

7., 8., 9., and 10. Proposed Rate, Quantity, and Well Location

The Cities requested a total of 141.12 acre-feet at 950 gpm from the wells associated with
this water right, all of which would be diverted from new point of diversion “L,” as shown on
Exhibit J. When combined with existing wells from other water rights, new point of diversion
“L” would have a cumulative total of 426.24 acre-feet at 2,430 gpm.

After extensive negotiation, the Cities and the Chief Engineer have reached a tentative
agreement on numerous terms that are set out in an Initial Order, including an agreement to
reduce the quantity requested to 116.6 acre-feet per year. The Cities understand that the Initial
Order is subject to review by the GMD and others and cannot be finalized until after that review.
The Cities submit these amendments to their original Change Application but the amendments
are contingent upon the entry of an Initial Order and a Final Order with terms that are acceptable
to the Cities.

Subject to the negotiated terms set out in the Initial Order, the proposed municipal well
“L” will be limited to a maximum rate of 950 gallons per minute.

Attached as Exhibits P and Q are additional maps that show the location of the currently
authorized points of diversion, a one-half mile buffer around each irrigation well, the proposed
location of municipal well “L,” a 1,000-foot radius around that location, and the proposed areal
limits within which the new municipal wells can be located.

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
196 acre-feet annually at a rate not to exceed 1,000 gallons per minute for irrigation use\(^1\) on 108

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\(^1\) Permit, HAYS003231, Ex. A.
acres in Sections 10 and 11-T26S-R20W.\textsuperscript{2} The Certificate further limited the wells to a rate of 950 gallons per minute when operated simultaneously.\textsuperscript{3}

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."\textsuperscript{4}

The Field Inspection Reports indicate that all of the 196 acre-feet authorized by the Permit were lawfully perfected.

- 167 acre-feet\textsuperscript{5} and 113.2 acre-feet\textsuperscript{6} (280.2 acre-feet) were applied to 108 approved acres in Sections 10 and 11-T26S-R20W.

While the Certificate limits the total quantity to 162 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.\textsuperscript{7}

Since the perfection period has expired, the "authorized quantity" for this water right is the 196 acre-feet actually perfected even though it exceeds the certified quantity.

Nevertheless, and pursuant to the negotiated terms set out in the Initial Order discussed above, the Cities request that the Chief Engineer approve a total of 116.6 acre-feet per year for municipal use.

Subject to the negotiated terms set out in the Initial Order, the proposed municipal well "L" will be limited to a maximum rate of 950 gallons per minute.

\textsuperscript{2} Application, HAYS003222, Ex. B.
\textsuperscript{3} Certificate, HAYS003242, Ex. C.
\textsuperscript{4} March 19, 1976, letter (emphasis added), HAYS003230, Ex. D.
\textsuperscript{5} FIR, HAYS003207, Ex. E.
\textsuperscript{6} FIR, HAYS003213, Ex. F.