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.

١.	Application is hereby made for approval of the Chief Engineer to change the Place of Use	Water Resources Received						
	(Check one or more)	MAR 25 2019						
	✓ Use Made of Water	KS Dept Of Agriculture						
	File No27,760	Circles 32 & 33.						
	Name of applicant: City of Hays, Kansas and City of Russell, Kansas (S	See Section I.A. of the Cover Letter.)						
	Address: <u>c/o Foulston Siefkin LLP, 1551 N. Waterfront Parkway, Su</u>	iite 100						
	City, State and Zip: Wichita, Kansas 67206							
	Phone Number: (316) 291-9725 E-mail address: dtraste	r@foulston.com						
	What is your relationship to the water right; ✓ owner ☐ tenant ☐ agent ☐ Hays and Russell are co-owners of the authorized place of use on the	•						
	Name of water use correspondent: <u>City of Hays, Kansas</u>							
	Address: P.O. Box 490, 1507 Main Street							
	City, State and Zip: <u>Hays, Kansas 67601</u>							
	Phone Number: (785) 628-7320 E-mail address: tdough	erty@haysusa.com						
.	The change(s) proposed herein are desired for the following reasons (please be							
	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>	(Date)						
Fo F.C	r Office Use Only: D GMD Meets K.A.R. 5-5-1 (YES / NO) Use Source G / S de Fee \$ TR # Receipt	County By Date t Date Check #						
L								

															File N	o	27,	760
4. The	presently a		·															
	Owner of L				_									7.601				
		AD	DRES	SS: <u>P</u>	.O. B	ox 45	90, 15	07 M	ain S	treet,	Hays	, Kar	isas 6	7601				
			Ĭ	E¼ I	1	NW¼			SW¼			SE1/4			TOTAL ACRES			
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11-12	6S-R20W									40	40	40	40	40	40	40	40	320 ·
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liet any	other water	r righte	that co	wer th	ie nla	e of u	L N	one						<u> </u>				
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	respectively.	8	1.352	1 577	<u> </u>													
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List any	other wate	rights	that co	ver th	is plac	ce of u	se. N	lone						I				
5. It is	(If there are proposed t	hat the	place	of use	be ch	angeo	d to:											
4	Owner of L				_	_			<u> </u>	******	Harr	. V.		7601				
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List any	other wate	rights	that co	over th	is plac	ce of u	se. <u>S</u>	ee At	tachn	nent							***************************************	"
	Owner of L	and —	- NAM	1E: C	itv o	f Rus	sell. F	Cansa	S			. •						
Owner of Land — NAME: City of Russell, Kansas ADDRESS: 113 W. 8th Street, Russell, Kansas 67665																		
	NE½ NW½ SW½							SE1/4			TOTAL							
Sec.	Twp. Rang	e NE%	T T	T	SE1/4	NE¾	F	SW1/4	SE1/4	NE1/4	NW¼		SE1/4	NE1/4	NW1/4		SE1/4	ACRES
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List any	other water	rights	that co	over th	is plac	ce of u	ise\$	see A	ttach	ment								

File No.	27,760
FIIE NO.	27,700.

- 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)

	List all presently authorize	d point(s) of diversion:				<u> </u>			
8.	Presently authorized point	of diversion:							
	One in the NE	Quarter of the	SW	Quarter of the	SW	Quarter			
	of Section 11	, Township	26	South, Range	20	(E /W),			
	in <u>Edwards</u>	outheast corne	r of section.						
	Authorized Rate 800 gpr	m Authorized Quantity	233.26 a/s	<u>f</u>		•			
	(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	n: (Complete only if chan	ge is requeste	ed)					
					SE	Quarter			
	One in the SW of Section 10	, Township	26	South, Range	20	(\$ E /W),			
	in Edwards	outheast corne	r of section.						
	Proposed Rate See Attach	ment Proposed Quantity	See Attachm	ent	•				
	This point is: Additional V	Vell Geo Center List o	other water rigl	nts that will use this point _	22,338 &	<u>22,339 </u>			
€.	Presently authorized point	of diversion:			0.77	•			
	One in the(Battery) N	LE Quarter of the	SW	Quarter of the	SE SE	Quarter			
	of Section 11	, Township	26	South, Range	20	() X/VV),			
	in Edwards County, Kansas, 1,150 feet North 1,615 feet West of Southeast corner of section								
	Authorized Rate 670 gpm Authorized Quantity 196.51 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								
	One in the <u>NW</u>								
	of Section 11, Township 26 South, Range 20								
	in <u>Edwards</u> County, Kansas, <u>3,646</u> feet North <u>2,143</u> feet West of Southeast corner of section								
	Proposed Rate See Attach								
	This point is: Additional V	Vell Geo Center List o	other water righ	nts that will use this point _	& 22,.	335			
_ 1	Danis Alexandra de alexandra de la consta	-6 1:							
0.	Presently authorized point			Occarton of the		Quarter			
	One in the	Quarter of the		Quarter of the		Quarter			
	of Section								
	Authorized Rate				utileast come	i oi section.			
	(DWR use only: Computer	ID No.			foot \No	et)			
	☐ This point will not be ch				TOOL WE				
	•		•			*			
ı	Proposed point of diversion					0			
	One in the	Quarter of the		Quarter of the		Quarter (E/W),			
İ	of Section, Township South, Range (E in County, Kansas, feet North feet West of Southeast corner of sect								
	Dranged Data	Dronger County, Kansas,	reer North _	ieet vvest of So	outneast corne	or section.			
	Proposed Rate								
	This point is: Additional V				tor Da-	· · · · · · · · · · · · · · · · · · ·			
11.	Describe the current condition	n of and future plans for an	y point(s) of di	version which will no longe	nen ⊓≊eeeon.	ces			
	See the Attachment.				Received				

IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NEEDED, ATTAC

					File No	27,760					
12.	The	e pre	sently authorized use of water is for <u>irrigation</u> p	urposes							
		•	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 the Attachment and the Master Order, Section III, Quantities for N			ased.					
					•						
	(Ple	ease s	show any calculations here.)								
14.	lt is	s req	uested that the maximum annual quantity of water be reduced to See Attachi	nent	_ (acre-feet	or million gallons).					
15.	It is	s req	uested that the maximum rate of diversion of water be reduced to <u>See Attach</u>	<u>nent</u> ga	llons per mir	nute (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 must be shown. Please be certain that the information shown on the map Paragraph Nos. 9, 10 and 11 of the application.								
		2)	If the source of supply is groundwater, please show the location of existi domestic wells, within $\frac{1}{2}$ mile of the proposed well or wells. Identify each w mailing address of the property owner or owners. If there are no wells within	ell as to	its use and	furnish name and					
		3)	If the source of supply is surface water, the names and mailing addresses of and $\frac{1}{2}$ mile upstream from your property lines must be shown.	f all lan	downer(s) 1/2	mile downstream					
	b.		change in the place of use is desired, show the proposed place of use by cain that the information shown on the map agrees with the information shown								
17.	loc we	al so Il log	documentation to show the change(s) proposed herein will not impair existing urce of supply as to which the water right relates. This information may inclus, test hole logs, and other information as necessary information to show the elow.	de state	ements, plats	s, geology reports,					
	See the Master Order, Section II, Change in Beneficial Use; Section VI, Change in Places of Use;										
	and	d Se	ction VIII, Change in Points of Diversion.								
18.	ide req	ntify uest	oposed change(s) does not meet all applicable rules and regulations of the Kathe rules and regulations for which you request a waiver. State the reason should be granted. Attach documentation showing that granting the request uprejudicially and unreasonably affect the public interest.	why a	waiver is ne	eded and why the					
			lo waivers are required.								
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IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY punional tillipe 80

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 284.05 acre-feet at 1,770 gpm from the well associated with this water right. Of those amounts, 141.49 acre-feet at 970 gpm would be diverted from new Municipal Well "K," and 142.56 acre-feet at 800 gpm would be diverted from new Municipal Well "L," as shown on Exhibit L. When combined with existing wells from other water rights, new Municipal Well "K" would have a cumulative total of 533.2 acre-feet at 3,380 gpm, and new Municipal Well "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 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, File 27,760 will be limited to a total of 285.1 acre-feet per year for municipal use with 142.5 acre-feet will be allocated to new Municipal Well "L" and 142.6 acre-feet will be allocated to new Municipal Well "K." Municipal Well "K" will be limited to a maximum rate of 700 gallons per minute and Municipal Well "L" will be limited to a maximum rate of 950 gallons per minute.

Attached as Exhibits L, M, R, S, T, and U are maps that show the location of the currently authorized points of diversion, the proposed location of new Municipal Wells "L" and "K," a one-half mile buffer around the proposed Municipal Wells, a 1,000-foot radius around the locations, 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 Exhibits V and

² See Exhibit O.

Water Resources
Received

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¹ See Exhibit N.

W for the Well Plugging Records for the irrigation wells authorized by File 27,760. Well 32 in the Southwest Quarter of Section 11, T26S-R20W was left unplugged but decommissioned and capped for potential livestock use. There may be another unplugged irrigation well in the Southeast Quarter of Section 11. If so, it will be properly dealt with in the near future.

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 July 6, 1977, granting the applicant the right to divert up to 480 acre-feet annually from two wells at a rate not to exceed 2,000 gallons per minute for irrigation use³ on 320 acres in the S/2 of Section 11-T26S-R20W.⁴

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

However, there was always a third well that was evidently left off the original application. An application to change the point of diversion to add the third well was filed on March 14, 1986, but it "languished somewhat" in DWR's office. The change application was eventually granted on July 21, 1994. It approved a "battery of two wells" in the SE/4 of Section 11, limiting the combined rate to 800 gpm.

The Field Inspection Reports indicate that 396.00 of the 480 acre-feet authorized by the Permit were lawfully perfected.

- The rate at the center pivot in the SW/4 with all three wells pumping is 970 gpm.⁸ That center pivot system was operated for 1,306 hours in 1995,⁹ the year of record 10 resulting in the application of 233.26 acre-feet.
- The rate at the center pivot in the SE/4 with all three wells pumping is 978 gpm, ¹¹ but is limited to 800 gpm. That center pivot system was operated for 1,334 hours in 1995, ¹² the year of record, ¹³ resulting in the application of 196.51 acre-feet.

³ Permit, HAYS004110, Ex. A.

⁴ Application, HAYS004104, Ex. B.

⁵ July 6, 1977, letter (emphasis added), HAYS004113, Ex. C.

⁶ July 11, 1994 Memo, HAYS004121, Ex. D.

⁷ Approval of Application, HAYS004124, Ex. E

⁸ FIR, HAYS004077, Ex. F.

⁹ July 22, 1994 letter extending the perfection period to December 31, 1995, HAYS004125, Ex. G

¹⁰ 1995 WUR, HAYS004057, Ex. H.

¹¹ FIR, HAYS004087, Ex. I.

¹² 1995 WUR, HAYS004057, Ex. H.

¹³ July 22, 1994 letter extending the perfection period to December 31, 1995, HAYS004125, Ex. G.

• The Permit authorized the perfection of 480 acre-feet on 320 acres, or 1.5 acre-feet per acre, but only 264 authorized acres were irrigated during the perfection period, resulting in perfection of 394.51 acre-feet.

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, File 27,760 will be limited to a total of 285.1 acre-feet per year for municipal use with 142.5 acre-feet will be allocated to new Municipal Well "L" and 142.6 acre-feet will be allocated to new Municipal Well "K."

15. The maximum annual rate of diversion:

Subject to the contingencies stated above and the negotiated terms of the Master Order, Municipal Well "K" will be limited to a maximum rate of 700 gallons per minute, 1.56 cubic feet per second and Municipal Well "L" will be limited to a maximum rate of 950 gallons per minute, 2.12 cubic feet per second.

Water Resources Received

MAR 25 2019

Amended Substitute Page

KS Dept Of Agriculture

7 CONTRACTOR'S OR LANDOWNER'S CERTIFICATION: 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-Bernis 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.kdheks.gov/waterwell/index.html.

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EXHIBIT VA/

	ļ	VV]				1 33 0				
WA	TER W	ELL PLU	JGGING RE	CORD Form WV		KSA 82					
	COCATION COUNTY: E			Fraction NW 1/4 NE 1/4 SW 1/4 SE		Number 11	Township Number	Range Number 20 DE 7 W			
S	treet/Rural	Address of		unknown, distance &	Global Po	sitioning S	Systems (GPS) inform	ation:			
		* . *		: If at owner's address,	Latitude:	37.79559		(in decimal degrees)			
c	heck here	. 8 sout	th & 3 west of	Kinsley Ks.	Latitude: 37.79559 (in decimal dégrees) Longitude: 99.47484 (in decimal degrees) Elevation: 2260						
			•		Datum: WGS84, NAD83, NAD27						
l	<u> </u>	Sept. 18 Communication of the	A Section		Collection						
			NER: City of	Hays		unit (Mak					
		ddress, Bo		5x 56		ital Map/Pho	oto, 🔲 Topographic M	ap, Land Survey			
	City, State	ZIP Code:	Hays, I	Ks. 67601	Est. Accura	cy: 🔲 <	3 m, 🔲 3-5 m, 🔲	5-15 m, □ > 15 m			
3 MARK WELL'S LOCATION WITH AN "X" IN SECTION BOX: N											
	Blank casi Casing he	ing diamete ight above o	r <u>16</u> in v or <u>below</u> land su	Was casing pulled? Yes reface 36 in.			w much				
6	GROUT	LUG MAT	TERIAL:	Neat cement		Benton	ite Other				
C	Grout Plug	Intervals:		fi. to 3 fi., 1	•						
	What is the nearest source of possible contamination: Septic tank										
ſ	FROM	ТО	PLUGG	ING MATERIALS	FROM	ТО	PLUGGING	MATERIALS			
⊢	69/3	26.3	Chlorinated c								
	26.3	3	Cement grou				Water Re	esources			
· •	3	0	Top soil		1		Race				
ľ											
							MAR 2	5 2019			
KS Dept Of Agriculture 7 CONTRACTOR'S OR L'ANDOWNER'S CERTIFICATION: 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)											
corre Jacks	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.kdheks.gov/waterwell/index.html.										