

Public Informational meeting Hays/Russell Changes applications

Welcome and overview

Greensburg, Kansas, June 21, 2018

David Barfield, Chief Engineer

Division of Water Resources
Kansas Department of Agriculture

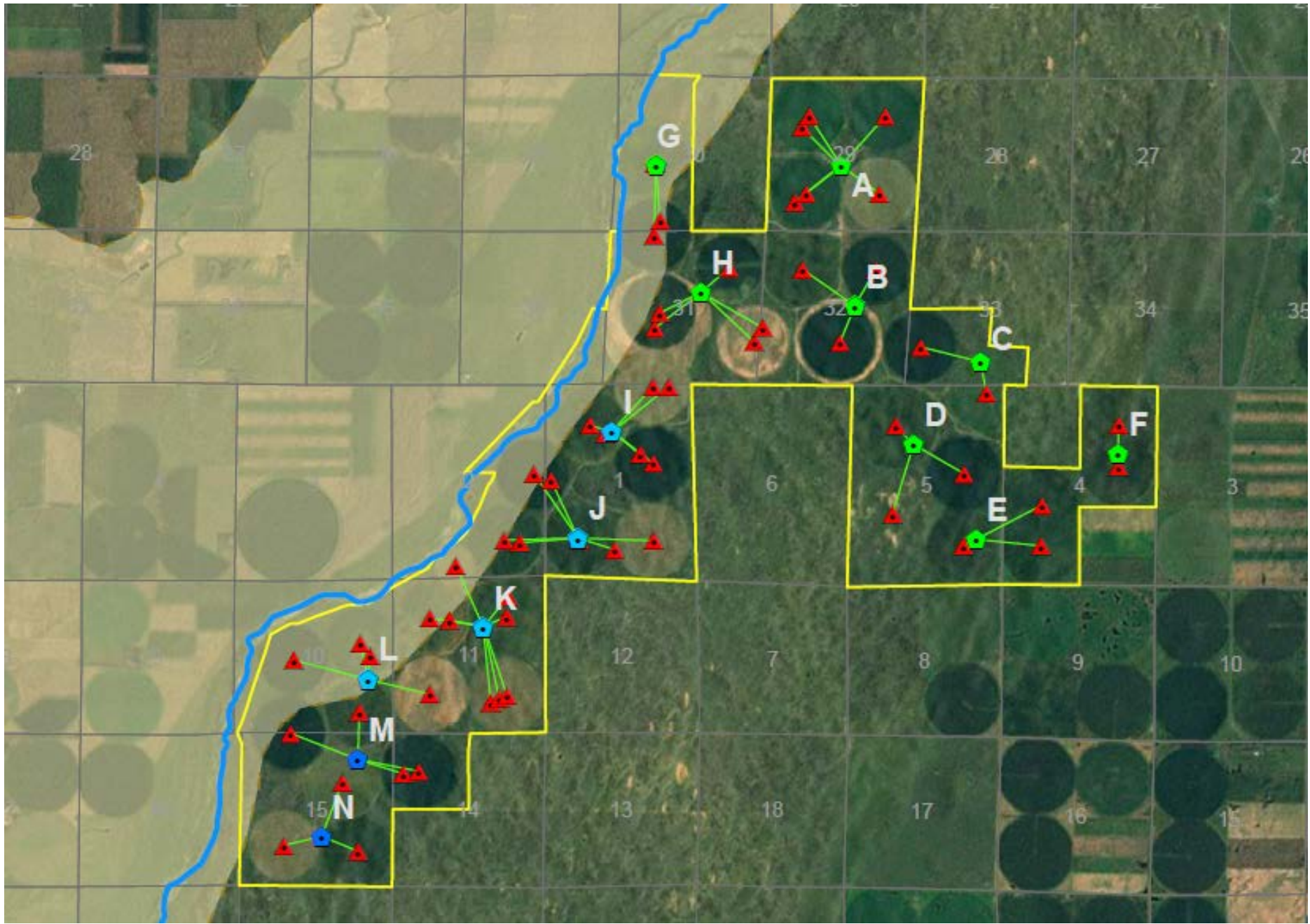


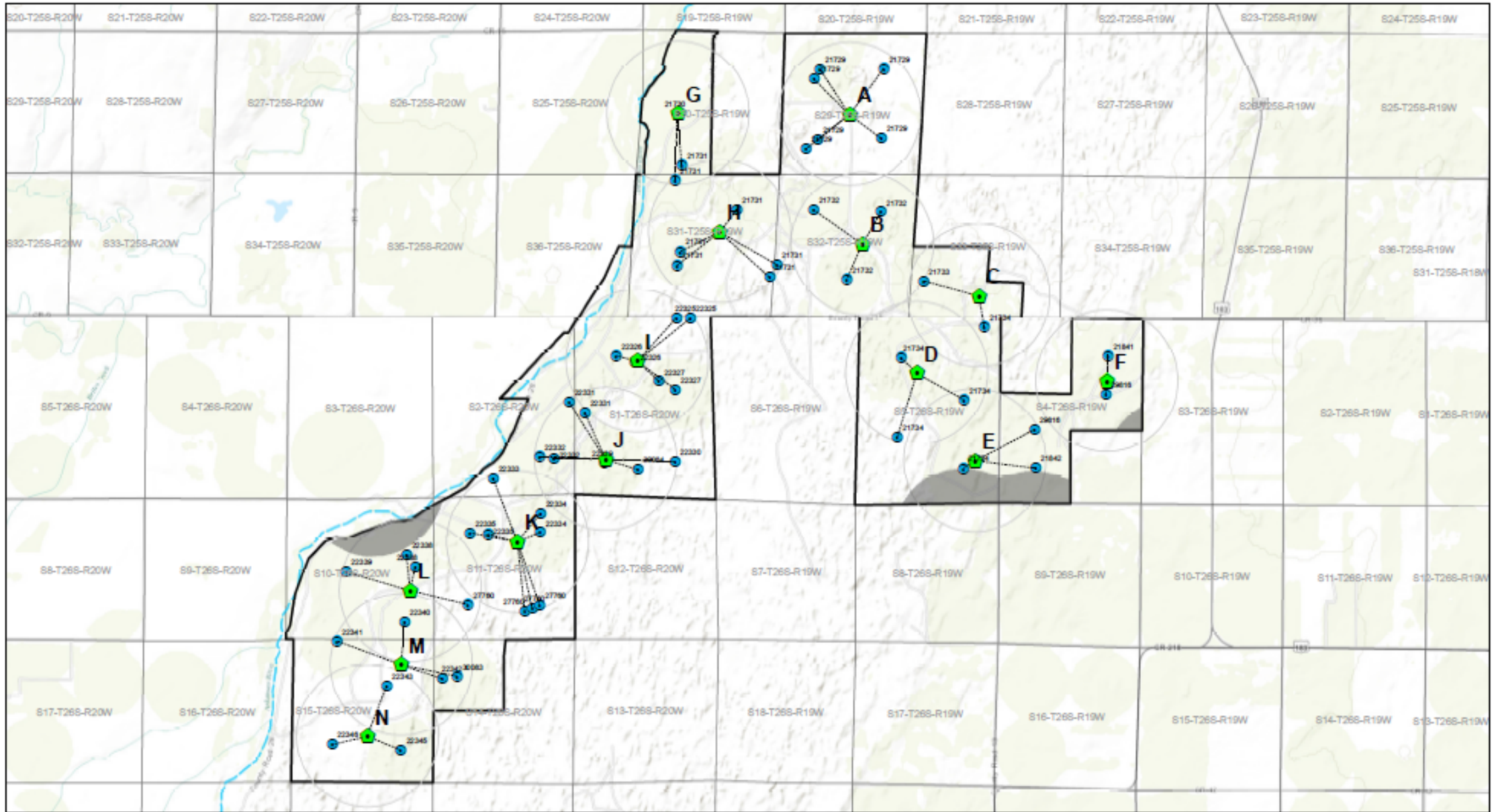
Outline of the meeting

- Welcome & overview
- Cities' presentation
- DWR summary of draft, proposed approval documents
- Questions and Answers
- Break
- Public comment period

Hays/Russell Changes - Overview

- Second water transfer in state history; the first under current requirements.
- Proposal to change 7,647 acre-feet (AF) of water from irrigation use on the R9 Ranch to municipal use for Hays/Russell
- As the Cities propose to move more than 2000 acre-feet of water greater than 35 miles, two approvals required:
 - 1) contingent approval from KDA-DWR to change applications
 - 2) then from Transfer Panel for water transfer approval.
- The Cities filed their 30 water right change applications covering 57 points of diversion during June 2015 and their Water Transfer application during January 2016.





Legend

- Proposed Municipal Wells (A-N)
- Existing R9 Ranch Points of Diversion
- 1/2 Mile Buffer Around Proposed Wells
- Water Rights Consolidation Lines
- Area Excluded From Proposed Wells
- River Centerline
- R9 Ranch Property Boundary
- PLSS Sections

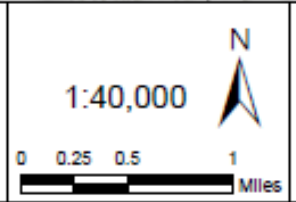


EXHIBIT
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Change Applications

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Hays Change and Water Transfer

City of Hays / R9 Ranch Water Right Changes and Water Transfer Application

The City of Hays purchased the approximately 7,000-acre R9 Ranch and its thirty water rights in southwestern Edwards County in 1995 with the intention of someday using the water as part of the City's water supply.

During June 2015, the City submitted applications to KDA-DWR to change the use made of water from irrigation to municipal use for the R9 Ranch water rights. As these proposed changes envision moving greater than 2,000 acre-feet more than 35 miles, during January 2016, the cities of Hays and Russell submitted an application to transfer water from Edwards County to the cities of Hays and Russell pursuant to the Water Transfer Act (K.S.A. 82a-1501, et seq.).

The water right change applications, the water transfer application, and other information are available in the table below. KDA-DWR will update this page as new information becomes available.

As of April 5, 2016, there is no set timeline to complete the processing of the water right change applications or to hold the water transfer hearing. As those dates are set, this page and the timeline below will be updated accordingly.

In response to a request by a basin stakeholder, the chief engineer has agreed to hold a meeting in the basin prior to his action to contingently approve the change applications. No date has been set for this meeting as KDA-DWR is still working with the City of Hays to clarify its applications (see the correspondence included in the table below).

The water transfer proceeding will not be initiated until the change applications are contingently approved.

Meeting purpose

- This meeting concerns itself with the change applications filed by the Cities of Hays and Russell to change water rights of the R9 Ranch from their current irrigation use on the Ranch to municipal use for the Cities.
- While not required as part of the change application process, due to the scope and complexity of the changes:
 - I am holding this informational meeting to provide more information on the proposed changes and
 - I am providing the expanded opportunity to take public comment on the proposed changes.
- When the change applications can be contingently approved, the Water Transfer Process will follow, which includes a formal public hearing.

Changes in water rights

K.S.A. 82a-708b. Application for change in place of use, point of diversion or use; fee; review of action on application.

(a) **Any owner of a water right may change** the place of use, the point of diversion or the use made of the water, without losing priority of right, **provided** such owner shall:

(1) Apply in writing to the chief engineer for approval of any proposed change;

(2) **demonstrate** to the chief engineer that any proposed **change is reasonable** and **will not impair** existing rights;

(3) demonstrate to the chief engineer that any proposed change relates to the **same local source of supply** as that to which the water right relates; and

(4) receive the approval of the chief engineer with respect to any proposed change...

Change application decision

- Are the proposed changes reasonable?
- Will the terms and conditions proposed for the changes approval prevent impairment?
- Do the change applications relate to the same local source of supply?

If a city or industry within 35 miles needed this water, under what terms and conditions could these rights be changed to meet that need?

Water Transfer questions will come later.

Hays/Russell Changes - Process ahead

- June 21 – Today's public meeting
- Next 3 weeks - Receive written stakeholder input
- August 2018 – GMD input and recommendation on the change applications.
- Fall 2018 - Contingent approval of the change applications.
- When contingently approved, initiate the Water Transfer proceeding (9-15 months to complete).

Public Informational meeting Hays/Russell Changes applications

Overview of Draft, Proposed Approval Documents

Greensburg, Kansas, June 21, 2018

David Barfield, Chief Engineer

Division of Water Resources
Kansas Department of Agriculture



Why draft, proposed approval documents

- Our normal process (within GMDs):
 - DWR reviews applications for completeness, conformity to rules
 - When application complete, gather public comment from nearbys
 - Sent package to GMD for recommendations [draft approval documents not normally provided]
 - Decision
- Due to the complexity of the project, draft approval documents provided to help public to fully understand the proposed terms and conditions being considered.
- No decision has been made, but we have worked hard to develop a set of potential terms that meets the Cities' needs and meets statutory and regulatory requirements.

In the Matter of the City of Hays’ and the City of Russell’s
Applications for Approval to Change the Place of Use, the Point of Diversion or the
Use Made of the Water Under an Existing Water Right,
regarding the following existing water rights:

FILE NOS.

21,729-D1; 21,729-D2; 21,730; 21,731; 21,732-D1; 21,732-D2; 21,733; 21,734; 21,841; 21,842;
22,325; 22,326; 22,327; 22,329; 22,330; 22,331; 22,332; 22,333; 22,334; 22,335; 22,338; 22,339;
22,340; 22,341; 22,342; 22,343; 22,345; 22,346; 27,760; 29,816; 30,083; and 30,084.

**MASTER ORDER CONTINGENTLY APPROVING
CHANGE APPLICATIONS REGARDING R9 WATER RIGHTS**

The Chief Engineer of the Division of Water Resources, Kansas Department of
Agriculture, after giving careful consideration to the Change Applications submitted by
the Cities in the above matter, makes the following factual findings, legal conclusions,
and order, which are contingent on the approval of the Cities’ Water Transfer
Application and on other conditions, as explained herein.

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**APPROVAL OF APPLICATION
TO CHANGE
THE PLACE OF USE, THE POINT OF DIVERSION OR THE USE MADE
OF THE WATER UNDER AN EXISTING WATER RIGHT**

**WATER RIGHT
FILE NO. 21,729-D1**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written 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, submitted by Toby Dougherty, City Manager, on behalf of the City of Hays, 1507 Main Street, Hays, Kansas 67601, and by Jon Quinday, City Manager, on behalf of the City of Russell, 133 W. 8th Street, Russell, Kansas 67665, and received in this office on June 26, 2015, as amended (the “Change Application”), for approval of changes in the location of the place of use, the point of diversion, and the use made of water under the Certificate of Appropriation issued on June 5, 1987 (the “Certificate”), pursuant to the application for permit to appropriate water for beneficial use regarding the above-mentioned Water Right, File No. 21,729-D1 (the “Water Right”), as modified and amended by the Order of the Chief Engineer dated January 17, 2018, dividing Water Right, File No. 21,729, into File Nos. 21,729-D1 and 21,729-D2 (the “Division Order”), finds that the changes requested in the Change Application are reasonable and will not impair existing rights, that such changes relate to the same local source of supply, and that the Change Application

Summary of proposed terms and conditions

- Changes to the water rights' **use made of water** from irrigation to municipal use.
- Changes to the **places of use** from just the R9 Ranch to the Cities and their immediate vicinities, in addition to the Ranch.
- Changes to the **points of diversion** from the existing 56 irrigation wells to 14 consolidated municipal wells.
 - The order provides flexibility in locating the municipal wells up to 1,000 feet, as long as will meet all existing requirements in rules as well as a spacing of at least ½ mile to the locations of existing wells just outside the R9 Ranch.

Summary of proposed terms (con't)

- As a result of changing the use made of water, reductions to the authorized quantities under 15 of the water rights, with a total authorized quantity of all rights of 6756.8 AF/year.
- Principally based on our rules related to consumptive use (K.A.R. 5-5-9 through K.A.R. 5-5-12)
- Cities demonstrated many of the circles irrigated alfalfa.
- See Table 1

Appendix B:

Table 1

Table 1							
DWR File No.	Circle No.	Well Location	Section, Township & Range	Crop	Acre Feet Converted from Irrigation to Municipal Use by Water Right (authorized quantity after change)	Acre Feet Converted from Irrigation to Municipal Use By Well	New Well Location
21,729-D1	8	NC NW/4	Sec.29-T25S-R19W	Alfalfa		86.0	A
		NE/4 SW/4 NW/4	Sec.29-T25S-R19W			102.0	A
	9	NC NE/4	Sec.29-T25S-R19W	Alfalfa		188.0	A
21,729-D1 Totals					376.0		
21,729-D2	7	NC SW/4	Sec.29-T25S-R19W	Alfalfa		74.0	A
		NE/4 SW/4 SW/4	Sec.29-T25S-R19W			114.0	A
	10	NC SE/4	Sec.29-T25S-R19W	Alfalfa		188.0	A
21,729-D2 Totals					376.0		
			Sec.30-T25S-				

Summary of proposed terms (con't)

- Imposition of a **10-year rolling aggregate limitation of 48,000 AF** (an average of 4,800AF/year), based on the reasonable long-term yield of the R9 Ranch.
- The order explains the basis of this determination.
- The order includes terms to allow this amount of water to be increased by the Chief Engineer in the future, based on improved science, and
- The order includes terms for the limitation to be removed if the basin is opened to new appropriations or the restrictions of the Arkansas River IGUCA are lifted.

Summary of proposed terms (con't)

- Imposition of reasonable municipal need limitations of 5670.23 AF/year and 1841.3 AF/year for Hays and Russell, respectively.
- The order allows for these values to be increased in the future based on an explicit method using defined, objective data and documentation regarding any increased municipal need of the Cities.

Appendix E: Calculation of Hays' Reasonable-Need Limitation

The following calculation illustrates the result of the formula in Master Order Subsection XII.B.b., "Method to Establish Reasonable-Need Limitation," as applied to Hays.

Region 5 Hays, Kansas	2012-2021 Reasonable Need	2022-2031 Reasonable Need	2032-2041 Reasonable Need
Hays' 2016 U.S. Census Bureau Estimated Population (Used for the initial Reasonable-Need Limitation calculation only.)	21,027		
2% growth multiplier for 4 years (1.02 ⁴) (Used for the initial Reasonable-Need Limitation calculation only.)	1.0824322		
2% growth multiplier for 10 years (1.02 ¹⁰)		1.2189944	1.2189944
Hays' Assumed Population (Based on 2% growth over 10 years.)		22,760	27,744
Hays' Estimated End-of-Decade Population (Starting point for the Reasonable-Need Limitation calculation)	22,760 (Based on 2% growth over 4 years for the initial	27,744 (Based on 2% growth over 10 years)	33,820 (Based on 2% growth over 10 years)

Summary of proposed terms (con't)

- **Various reductions and limitations regarding rates of diversion.**
- Table 2 specify the rates for the consolidated municipal wells.
- Table 3 provides specifics of the rate limitations imposed in the proposed individual approvals. Table 3 also shows the flexibilities that the Cities potentially would have, via future change applications, should they need to restore one or more wells to meet the needed rates and/or operational flexibility.

**Appendix D:
Table 3**

A	B	C	D	E	F	G	H	I
FILE NO.	AUTHORIZED (CERTIFIED) RATE PER IRRIGATION WELL (GPM)	MUNICIPAL WELL (TABLE 2)	MUNICIPAL WELL RATE (TABLE 2) (GPM)	RATE BY WELL AND BY RIGHT (GPM)	NET RATE REDUCTION BY RIGHT (GPM)	RATE LIMITATION BY WELL AND BY RIGHT (GPM)	POTENTIAL FUTURE CHANGES BY WELL	POTENTIAL FUTURE CHANGES BY RIGHT
21,729 D1	615	A	945	945		NONE	UP TO 3 WELLS WITH A TOTAL COMBINED RATE OF 945 GPM	UP TO 3 WELLS WITH A TOTAL COMBINED RATE OF 945 GPM
	325	A						
	275	A						
TOTAL RATE	1,215			945	-270			
21,729 D2	720	A	945	945		945	UP TO 3 WELLS WITH A TOTAL COMBINED RATE OF 945 GPM	UP TO 3 WELLS WITH A TOTAL COMBINED RATE OF 945 GPM
	360	A						
	635	A						
TOTAL RATE	LIMIT TO 1,685			945	-740			
21,730	795	G	1,040	795		NONE	1 WELL AT 795 GPM	1 WELL AT 795 GPM
TOTAL RATE	795			795	0			
21,731	380	H	765	765		NONE	UP TO 5 WELLS WITH A TOTAL COMBINED RATE OF 765 GPM	UP TO 7 WELLS WITH A TOTAL COMBINED RATE OF 1,805 GPM
	245	H						
	525	H						
	735	H						
	605	H						

Summary of proposed terms (con't)

- Prescribed **reporting requirements**, including a **monitoring plan**.
- Imposition of a **delayed effective date**.
 - The order to change these water does not become effective unless and until both a final, non-appealable Transfer Order is issued by the transfer panel, and Hays enters into a written contract to begin construction of the project.
 - If these events do not occur by December 31, 2029 (or by any authorized extension), or if before then the Cities expressly abandon the project, then the changes do not become effective and the water rights revert back to their original characteristics.

**APPROVAL OF APPLICATION
TO CHANGE
THE PLACE OF USE, THE POINT OF DIVERSION OR THE USE MADE
OF THE WATER UNDER AN EXISTING WATER RIGHT**

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CHANGE APPLICATION PROCESSING

Description	Document File	File Size	Date Posted	Provided by
DWR summary and tentative timeline concerning review of Hays/Russell R9 Ranch change applications	Summary and tentative timeline	61 KB	05/15/2018	DWR
Transmittal to GMD No. 5	Transmittal to GMD No. 5	46 KB	05/07/2018	DWR
Draft proposed master order	Draft proposed master order	1 MB	05/07/2018	DWR
Draft proposed master order exhibits	Draft proposed master order exhibits	5 MB	05/07/2018	DWR
Letter to DWR confirming intent to amend change applications	Intent to amend change applications	80 KB	05/07/2018	City of Hays
Notice of posting modeling report and modeling files	R9 Notice of Posting Modeling Report	40 KB	02/19/2018	DWR
R9 Ranch Groundwater Modeling Report	R9 Ranch Modeling Report	3.4 MB	02/16/2018	City of Hays
KDA-DWR letter with comments from its initial review of the change applications 01/21/2106	DWR Initial Review Letter	894 KB	04/08/2016	DWR
KDA-DWR letter with additional comments on review of the change applications 03/08/2016	DWR Meeting Preparation	446 KB	04/08/2016	DWR
Meeting Follow-up Letter 04/06/2016	DWR Additional Comments	2 MB	04/08/2016	DWR

CHANGE APPLICATIONS

Hays/Russell Changes - Process ahead

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Questions