

# STATE OF KANSAS

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GOVERNOR JEFF COLYER, M.D.  
JACKIE McCLASKEY, SECRETARY OF AGRICULTURE

May 15, 2018

Big Bend Groundwater Management District #5  
125 S. Main  
Stafford, KS 67578

RE: DWR summary & tentative timeline concerning review  
of Hays/Russell R9 Ranch change applications

Mr. Feril,

As you know, on May 4, 2018, I sent you copies of a draft proposed master order and related draft documents, regarding Hays' and Russell's request to contingently convert water rights on the R9 Ranch from irrigation to municipal use for such Cities. This letter provides additional information, as promised.

First, we have now scanned the current versions of the Cities' change applications and posted them, adding them to the related documents on our web site for this matter at: <http://agriculture.ks.gov/HaysR9>. As explained in my last letter and its enclosed letter from the Cities, these current change applications will eventually be amended to appropriately conform to the draft proposed master order. We and the Cities focused our attention on the draft proposed documents, with corresponding amendments to be completed later.

Second, enclosed is a summary of the major features of the Cities' desired changes, as reflected in the draft proposed master order and its incorporated individual change approvals. I hope this summary will provide a helpful overview of this significant and complex set of change applications and draft proposed documents. The draft documents include a number of terms and conditions designed to meet the needs of the Cities while ensuring that the requested changes would be consistent with the public interest.

Finally, with respect to the process and schedule going forward, we envision the following: After the GMD and public have had some time to review the aforementioned documents, I will hold a public meeting in the basin to answer questions and take any input regarding the Cities' request and the draft proposed documents. To be clear, this will not be a formal, evidentiary hearing, but it will provide important input to the consideration of the Cities' request. At the present time, my target timeline going forward is as follows:

- Mid-June 2018 – public informational meeting
- Through end of June 2018 – receive any additional public input
- Mid-August 2018 – deadline for GMD 5's recommendation regarding the Cities' request
- End of Sept 2018 – decision on whether to contingently approve the Cities' request, and on what terms.

If I am able to provide contingent approval of the Cities' change applications, as amended, and otherwise deem the Cities' water-transfer application to be complete, then the water transfer process will begin.

That process is governed by the Water Transfer Act, K.S.A. 82a-1501 et seq., and will include a formal public hearing to consider the proposed transfer.

Let me know if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "David W. Barfield". The signature is written in a cursive style with a large initial "D" and "B".

David Barfield P.E.  
Chief Engineer  
Kansas Department of Agriculture

Enclosure

Cc:

Toby Dougherty, City Manager, City of Hays  
Jon Quinday, City Manager, City of Russell  
David Traster, Attorney, Foulston Siefkin LLP  
Dan Buller, Attorney, Foulston Siefkin LLP  
Jeff Lanterman, Water Commissioner, Kansas Department of Agriculture, Stafford Field Office  
WaterPACK

**DWR Summary of Hays/Russell R-9 Ranch Project  
and Related Draft Proposed Approval Documents**

May 15, 2018

- The Cities' desired water-transfer project will require both: (1) contingent approval from KDA-DWR of change applications to convert the R-9 Ranch water rights to the new proposed use and related changes, and (2) approval under the state's Water Transfer Act. Consideration of the change applications is done first.
- The Cities originally requested that 7,647 acre-feet (AF) of water be changed to municipal use from the existing irrigation use. The Cities later amended their request and now ask that 6,756.3 AF be converted to and available for municipal use.
- The Cities initially filed 30 water-right change applications (covering 56 points of diversion) during June 2015 and filed their water-transfer application during January 2016. The Cities filed two additional change applications in April 2018, to account for two water rights that were created as the result of water rights that were divided in January 2018.
- Due to the scope and complexity of the proposed changes, the additional requirements of the Transfer Act, the long-term nature of the project, the possibility that the project may not ultimately move forward, etc., the Cities and KDA-DWR have negotiated detailed, draft proposed approval documents designed to meet the Cities' long-term needs while protecting the public interest.
- These draft proposed approval documents are being presented to the public at this stage in the Chief Engineer's review of the Cities' change applications, to allow GMD 5 and the public to fully understand the proposed terms and conditions associated with any approval of the change applications.
- The draft proposed master order has the following major provisions regarding contingent changes to the R9 Water Rights:
  - 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 more flexibility in locating the municipal wells (up to 1,000 feet) than normally allowed, without filing a subsequent change application, provided that the new location 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.
  - 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.
  - Imposition of a **10-year rolling aggregate limitation** of 48,000 AF (an average of 4,800 AF/year), based on the reasonable long-term yield of the R9 Ranch. The order explains the basis of this determination. The Cities' modeling report shows the projected effects under various future conditions. The order includes terms to allow this limitation to be increased by the Chief Engineer in the future, based on improved science, and for the limitation to be removed if the basin is opened to new appropriations or the restrictions of the Arkansas River IGUCA are lifted.
  - 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 limitations 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.
- Various reductions and limitations regarding **rates of diversion**. Tables 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.
  - Prescribed **reporting requirements**, including a monitoring plan.
  - Imposition of a **delayed effective date**. The order 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.
- KDA-DWR is maintaining the following web site with information on the project and our processes: <http://agriculture.ks.gov/HaysR9>.