

Kansas Department of Agriculture  
 Division of Water Resources  
**CHANGE: P/U WORKSHEET**

Document Signature \_\_\_\_\_

1. File Number: <b>13984</b>	2. Status Change Date: <u>6/27/2017</u>	3. Change Num: <b>C1</b>	4. Field Office: <b>04</b>	5. GMD: <b>03</b>
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6. Status: <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied by DWR/GMD <input type="checkbox"/> Dismiss by Request/Failure to Return	7. Filing Date of Change: <b>24-FEB-2017</b>
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8a. Applicant(s) New to system <input type="checkbox"/>  <b>PENNER PARTNERS</b> <b>13104 F RD</b> <b>INGALLS KS 67853</b>	Person ID <u><b>59934</b></u> Add Seq# <u><b>1</b></u>  8c. Landowner(s) New to system <input type="checkbox"/>  <b>PENNER PARTNERS</b> <b>13104 F RD</b> <b>INGALLS KS 67853</b>
	Person ID <u><b>59934</b></u> Add Seq# <u><b>1</b></u>  8d. Landowner(s) New to system <input type="checkbox"/>  Person ID _____ Add Seq# _____

8b. Landowner(s) New to system <input type="checkbox"/>  <b>PENNER FARMS INC</b> <b>13104 F RD</b> <b>INGALLS KS 67853-9019</b>	Person ID <u><b>63873</b></u> Add Seq# <u><b>1</b></u>  8e. WUC New to system <input type="checkbox"/>  <b>NO CHANGE</b> <b>PENNER PARTNERS</b> <b>13104 F RD</b> <b>INGALLS KS 67853</b>
	Person ID <u><b>59934</b></u> Add Seq# <u><b>1</b></u>

9. Documents and Enclosure(s):  DWR Meter(s) Date to Comply: **12/31/17**     N & P Date to Comply: **12/31/17**

Check Valve     N & P Form     Water Tube     Driller Copy     H & E Letter

Conservation Plan    Date Required: \_\_\_\_\_    Date Approved: \_\_\_\_\_    Date to Comply: \_\_\_\_\_

10. Use Made of Water    From:   |      To: \_\_\_\_\_

Date Prepared: **06/19/17**    By: **RAK**  
 Date Entered: 6/27/2017    By: UM

File No. **13984**      11. County: **GY**      Basin: **BUCKNER CREEK**      Stream:      Formation Code **211**      Special Use:

12. Points of Diversion										Rate and Quantity						
MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Comment	Authorized		Additional		Overlap PD Files
												Rate gpm	Quantity af/mgy	Rate gpm	Quantity af/mgy	
IRR	MOD	3597		SE¼ SE¼ SW¼	6	25S	28W	1	110	3071		365 g.p.m.	134 AF	365 g.p.m.	134 AF	20147013 MF

13. Storage: Rate \_\_\_\_\_ NF      Quantity \_\_\_\_\_ ac/ft      A dditional Rate \_\_\_\_\_ NF      Additional Quantity \_\_\_\_\_ ac/ft

14. Limitation: \_\_\_\_\_  
 Limitation: \_\_\_\_\_ af/yr at \_\_\_\_\_ gpm ( \_\_\_\_\_ cfs) when combined with file number(s) \_\_\_\_\_

15. 5YR Allocation:    Allocation Type \_\_\_\_\_    Start Year \_\_\_\_\_    5 YR Amount \_\_\_\_\_    Amount Unit \_\_\_\_\_    Base Acres \_\_\_\_\_    Comment \_\_\_\_\_

16. Place of Use										NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg?	Overlap Files
MOD	DEL	ENT	PUSE	S	T	R	ID	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼						
ENT	16936	6	25	28W	2							Lot 3 39.92	Lot 4 38.22	Lot 5 38.33	40										156.47	8C	YES	13690; 20147013 MF	
MOD	11577	6	25	2W 28W	3										40.00	Lot 6 38.43	Lot 7 38.51	40	40	40	40	40		316.94	8B	YES	13690; 20147013 MF		

Comments:      **DATA ENTRY: PLEASE UPDATE MYFA PD FEET DISTANCES AND PU FOR FILE NO 20147013 MF**

**KANSAS DEPARTMENT OF AGRICULTURE**  
**Division of Water Resources**  
**M E M O R A N D U M**

**TO:** Files  
**FROM:** Richelle A. Krueger

**DATE:** June 20, 2017  
**RE:** Water Right  
File Nos. 13,690 and 13,984

Robert Penner, on behalf of Penner Partners and Penner Farms Inc., owners of the above referenced water rights, filed an application for approval to change the place of use, point of diversion and use made of water for Water Right, File No. 13,690, and place of use for Water Right, File No. 13,984, both authorized groundwater for irrigation use in the Buckner Creek drainage basin. It should be noted that File No. 13,984 is presently enrolled in MYFA File No. 20147013-MF which expires December 31, 2018.

The referenced file numbers do not appear abandoned pursuant to K.S.A. 82a-718.

File No. 13,690 has no overlaps and is authorized 320 acre-feet at a diversion rate of 980 gallons per minute (all additional no limitations) for irrigation use on 160 acres in the Northwest Quarter (NW¼) of Section 6, Township 25 South, Range 28 West, Gray County, Kansas. The water right owner proposes to convert 10 acre-feet (3.259 million gallons) of water from irrigation use to stockwatering use pursuant to K.A.R. 5-5-10 *Partial changes in the use made of water from irrigation to another type of beneficial use*. After application of the K.A.R. 5-5-10 regulation a total of 302 acre-feet of water will remain authorized by File No. 13,690 on the presently authorized well. No reduction in irrigation acres is required. The application to change the place of use of File No. 13,984 will create an exact overlap in place of use with the irrigation place of use of File No. 13,690 for a total of 473.41 acres to be irrigated. No new acres will be irrigated. Gray Co. 50% NIR with 85% efficiency is 1.35 acre-feet per acre. The 436 acre-feet to be authorized by File Nos. 13,690 and 13,984 will irrigate the proposed 473.41 acres with 0.92 acre-feet which appears more reasonable than the 0.42 acre-feet per acre now authorized by File No. 13,984. As indicated in a March 27, 2017 e-mail from Mike Meyer, Water Commissioner of the Garden City Field Office, effluent is available.

The water right owner also proposes to unstack 10 acre-feet (3.259 million gallons) and 7 gallons per minute to be authorized for stockwatering use under File No. 13,690 pursuant to K.A.R. 5-5-16 *Additional wells*, moving the authorized quantity and rate to the existing battery of two stockwatering wells authorized by Water Right, File Nos. 25,553.01 and 39,663. The geocenter of the proposed battery of two wells, located 1,275 feet and 4,860 feet West of the Southeast corner of Section 31, Township 24 South, Range 28 West, Gray County, involves a distance move of approximately 1,500 feet. An April 20, 2017 pump test conducted by Garden City Field Office staff indicated that the aquifer can pump a maximum of 500 gallons per minute, so the requested 7 gallons per minute for the stockwatering well and the 493 gallons per minute to remain authorized for irrigation use under File No. 13,690 appears reasonable.

The only wells within one-half mile of the geocenter of the proposed stockwatering battery is the irrigation well to remain authorized by File No. 13,690 and a domestic well located at the proposed feed yard. Nearby wells within one-half mile of the proposed existing well were not notified of the proposed change because they appear to be under common ownership. Nearby well owners within one-half mile of the point of diversion for File No. 13,984 were also not notified of the proposed change by this office because a complete overlap in place of use is being created.

The proposed stockwatering place of use for File No. 13,690 will be the Southwest Quarter (SW¼) of Section 31 as shown on the map. The place of use will overlap Water Right, File Nos. 21,638, 25,553.01 and 39,663. The total quantity to be authorized for stockwatering use, 27.697 m.g.y. (85 acre-feet), can potentially supply the 6,750 maximum capacity head of cattle with 11.1 gallons per day per head, which complies with K.A.R. 5-3-22 *Maximum reasonable quantity of water for livestock and poultry*.

The local source of supply will not change, previously determined to be Ogallala Formation (211).

Approval of the application for File No. 13,690 will be subject to the condition that for the sole purpose of administering wells concerning direct impairment, the additional well shall be considered to have the priority of the date the application was filed (February 24, 2017) to add the additional well.

In a letter dated June 14, 2017 Jason Norquest, Assistant Manager of Southwest Kansas Groundwater Management District No. 3, indicated that the Board of Directors of GMD No. 3 recommended approval of the applications. The Board also recommended approval of the application for File No. 13,690 with a waiver of K.A.R 5-23-3(a)(1) since the geocenter of the proposed existing additional stockwatering battery of wells will not meet well spacing regulations to the irrigation well to remain authorized by File No. 13,690 or to the domestic well at the feed yard. Dennis Penner attended the meeting representing the applicant and indicated to the Board that the purpose of the change is to facilitate the sale of the stock pens. Board discussion included the fact that a small amount of water is being converted, there is a consumptive use reduction in quantity, that all wells with spacing issues are part of the selling process for the pens, and that the wells in question did not meet spacing in the past and still will not meet spacing. K.A.R. 5-5-16 (c)(1) should also be waived since it also pertains to well spacing.

In an e-mail dated June 15, 2017 Michael Meyer, Water Commissioner of the Garden City Field Office, recommended approval of the applications.

Water flow meters are required. Check valves are required if chemigating.

Based on the above discussion, that the changes are reasonable, that impairment to existing water rights is unlikely, that no change in the local source of supply will occur, and if the Chief Engineer grants waivers of K.A.R. 5-5-16 (c)(1) and K.A.R. 5-23-3(a)(1), it has been recommended that the referenced applications be approved.



Richelle A. Krueger  
Environmental Scientist

1320 Research Park Drive  
Manhattan, Kansas 66502  
(785) 564-6700



900 SW Jackson, Room 456  
Topeka, Kansas 66612  
(785) 296-3556

Jackie McClaskey, Secretary

Governor Sam Brownback

June 28, 2017

**FILE COPY**

PENNER PARTNERS/PENNER FARMS  
ATTN ROBERT PENNER  
13104 F RD  
INGALLS KS 67853

RE: Water Right, File Nos. 13,690 and 13,984

Dear Mr. Penner:

Enclosed are the orders executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the applications for change under the above referenced file numbers.

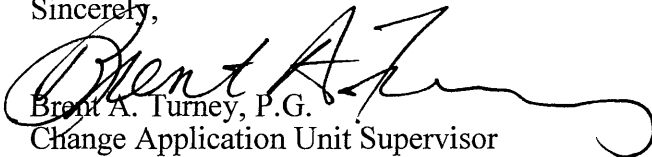
Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in these approvals for change. A condition of these approvals is that acceptable water flow meters must be installed on the diversion works authorized under the referenced file numbers. Please return the required notification of completion of the diversion works and/or installation of the required meters as soon as these actions are completed.

Please note that the application to change the point of diversion for File No. 13,690 is approved subject to the condition that for the sole purpose of administering wells concerning direct impairment, the additional well shall be considered to have the priority of the date the application was filed (February 24, 2017) to add the additional well. In addition, the Chief Engineer specifically retains jurisdiction in this matter with authority to review the approval of the additional well at intervals of no fewer than five years, and no more than ten years to determine if the total annual quantity of water actually being withdrawn by all wells authorized by the approval of application for change is exceeding the total annual quantity of water that could have been physically withdrawn if the additional well had not been approved, and based on the review, the Chief Engineer retains authority to make a reasonable reduction in the authorized quantity of water as may be deemed to be in the public interest.

Since the orders for the referenced file numbers modify the original documents referred to above they should be recorded with the Register of Deeds as other instruments affecting real estate.

If you have any questions, please contact this office. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

  
Brent A. Turney, P.G.  
Change Application Unit Supervisor  
Water Appropriation Program

Enclosures

pc: Garden City Field Office  
Groundwater Management District No. 3  
Penner Cattle Inc.



KANSAS DEPARTMENT OF AGRICULTURE  
Jackie McClaskey, Secretary of Agriculture

DIVISION OF WATER RESOURCES  
David W. Barfield, Chief Engineer

**FILE COPY**

**APPROVAL OF APPLICATION  
FOR  
CHANGE IN PLACE OF USE  
POINT OF DIVERSION AND USE MADE OF WATER  
AND ORDER REDUCING THE AUTHORIZED QUANTITY  
AND DIVERSION RATE  
WATER RIGHT  
FILE NO. 13,690**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Robert Penner, on behalf of Penner Partners and Penner Farms, 13104 F Road, Ingalls, Kansas, 67853 and Penner Cattle, Incorporated, 6706 13 Road, Ingalls, Kansas, 67853-9003, received in this office on February 24, 2017, for approval of a change in the location of the place of use, point of diversion and use made of water under the certificate of appropriation issued pursuant to the application for permit to appropriate water for beneficial use, finds that the changes are reasonable and will not impair existing rights, that the changes relate to the same local source of supply and that the application should be and is hereby approved.

This order effectively reduces the authorized quantity to 312 acre-feet of water per calendar year and the authorized diversion rate to 500 gallons per minute (1.11 c.f.s.) in accordance with the Application for Approval to Change the Place of Use, Point of Diversion and Use Made of Water received in this office on February 24, 2017.

The application, therefore, is approved subject to the condition that for the sole purpose of administering wells concerning direct impairment, the additional well shall be considered to have the priority of the date the application was filed (February 24, 2017) to add the additional well.

The effective date of the changes shall be the date this order is executed by the Chief Engineer, after which that portion retained for irrigation use shall be authorized from the following point of diversion:

one(1) well located in Lot 4 (NW $\frac{1}{4}$  NW $\frac{1}{4}$ ) of Section 6, more particularly described as being near a point 5,237 feet North and 5,100 feet West of the Southeast corner of said section, at a diversion rate not in excess of 493 gallons per minute (1.10 c.f.s.) and a quantity not to exceed 302 acre-feet of water per calendar year, in Township 25 South, Range 28 West, Gray County, Kansas, for irrigation use on the following described property:

Sec.	Twp.	Range	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTAL ACRES
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
6	25S	28W					Lot 3 39.92	Lot 4 38.22	Lot 5 38.33	40.00	40.00	Lot 6 38.43	Lot 7 38.51	40.00	40.00	40.00	40.00	40.00	473.41

a total of 473.41 acres in Township 25 South, Range 28 West, Gray County, Kansas, located substantially as shown on the map accompanying the application to change the place of use, point of diversion and use made of water.

The portion changed to stockwatering use shall be authorized from a point of diversion located as follows:

one (1) battery of two (2) wells with a geographic center located in Lot 4 (SW $\frac{1}{4}$  SW $\frac{1}{4}$ ) of Section 31, more particularly described as being near a point 1,275 feet North and 4,860 feet West of the Southeast corner of said section, at a diversion rate not in excess of 7 gallons per minute (0.01 c.f.s.) and a quantity not to exceed 3.259 million gallons (10 acre-feet) of water per calendar year, in Township 24 South, Range 28 West, Gray County, Kansas,

for stockwatering use in the Southwest Quarter (SW $\frac{1}{4}$ ) of Section 31, Township 24 South, Range 28 West, Gray County, Kansas,

located substantially as shown on the map accompanying the application to change the place of use, point of diversion and use made of water.

The point of diversion described herein as a battery of two (2) wells is further limited such that the wells shall be located within a three hundred (300) foot radius circle, in the same local source of supply.

Installation of the works for diversion of water shall be completed on or before December 31, 2017, or within any authorized extension of time. The water right owner shall notify the Chief Engineer of the Division of Water Resources, Kansas Department of Agriculture when construction of the works for diversion has been completed.

All diversion works into which any type of chemical or other foreign substance will be injected into the water pumped from the diversion works shall be equipped with an in-line, automatic, quick-closing check valve capable of preventing pollution of the source of the water supply. The type of valve installed shall meet specifications adopted by the Chief Engineer and shall be maintained in an operating condition satisfactory to the Chief Engineer.

The water right owner shall properly install an acceptable water meter on the diversion works authorized under this water right, prior to the use of water, in strict accordance with the Kansas Administrative Regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer. The water right owner shall notify the Chief Engineer when installation of the water meter has been completed. The water right owner shall maintain the water meter in an operating condition satisfactory to the Chief Engineer, at all times during diversion of water and shall maintain records from which the total quantity of water diverted may be determined. The water right owner shall also report the reading of said water meter and the total quantity of water diverted annually to the Chief Engineer. Such records shall be furnished to the Chief Engineer by March 1 following the end of each calendar year.

The Chief Engineer specifically retains jurisdiction in this matter with authority to review the approval of the additional well at intervals of no fewer than five years, and no more than ten years to determine if the total annual quantity of water actually being withdrawn by all wells authorized by the approval of application for change is exceeding the total annual quantity of water that could have been physically withdrawn if the additional well had not been approved, and based on the review, the Chief Engineer retains authority to make a reasonable reduction in the authorized quantity of water as may be deemed to be in the public interest.

In all other respects, the Certificate of Appropriation issued pursuant to Approval of Application, File No. 13,690, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated January 11, 1980.

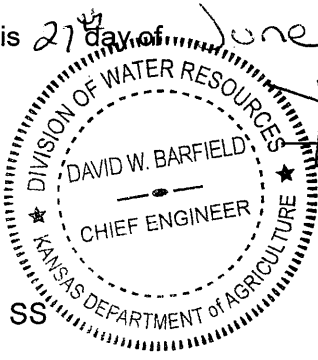
This Order shall become a final agency action, as defined by K.S.A. 77-607(b), without further notice to the parties, if a request for hearing or a petition for administrative review is not filed as set forth below.

Request for Hearing. According to K.A.R. 5-14-3(c), any party who desires a hearing must submit a request within 15 days after the date shown on the Certificate of Service attached to this Order. Filing a request for a hearing will give you the opportunity to submit additional facts for consideration, contest any findings made by the Chief Engineer or present any other information you believe should be considered in this matter. A timely-filed request for hearing will stay the deadline for requesting administrative review of this Order pending the outcome of the hearing.

Petition for Review. Any person aggrieved by this Summary Order may petition for administrative review, pursuant to K.S.A. 82a-708b(a) and K.S.A. 82a-1901(a). The petition must be filed within 30 days after the date shown on the Certificate of Service attached to this Order and must set forth the basis for the review, unless stayed by the timely filing of a request for hearing.

Any request for hearing or petition for administrative review shall be in writing and shall be submitted to the attention of: Chief Legal Counsel, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, Fax: (785) 564 - 6777.

Ordered this 27<sup>th</sup> day of June, 2017, in Topeka, Shawnee County, Kansas.



*David W. Barfield*  
David W. Barfield, P.E.  
Chief Engineer  
Division of Water Resources  
Kansas Department of Agriculture

State of Kansas )  
County of Riley ) SS

The foregoing instrument was acknowledged before me this 27<sup>th</sup> day of June, 2017, by David W. Barfield, P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.



*Karen Hunter*  
Notary Public

**CERTIFICATE OF SERVICE**

On this 28<sup>th</sup> day of June, 2017, I hereby certify that the foregoing Approval of Application for Change in Place of Use, Point of Diversion and Use Made of Water, File No. 13,690, dated June 27, 2017 was mailed postage prepaid, first class, US mail to the following:

PENNER PARTNERS  
PENNER FARMS INC  
13104 F RD  
INGALLS KS 67853

With a true and correct copy to:

PENNER CATTLE INC  
6706 13 RD  
INGALLS KS 67853-9003

With photocopies to:

Garden City Field Office  
Groundwater Management District No. 3

*Danielle Wilson*  
Division of Water Resources



The local source of supply will not change, previously determined to be Ogallala Formation (211).

Approval of the application for File No. 13,690 will be subject to the condition that for the sole purpose of administering wells concerning direct impairment, the additional well shall be considered to have the priority of the date the application was filed (February 24, 2017) to add the additional well.

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In an e-mail dated June 15, 2017 Michael Meyer, Water Commissioner of the Garden City Field Office, recommended approval of the applications.

Water flow meters are required. Check valves are required if chemigating.

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Richelle A. Krueger  
Environmental Scientist

**KANSAS DEPARTMENT OF AGRICULTURE**  
**Division of Water Resources**  
**M E M O R A N D U M**

**TO:** Files  
**FROM:** Richelle A. Krueger

**DATE:** June 20, 2017  
**RE:** Water Right  
File Nos. 13,690 and 13,984

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The only wells within one-half mile of the geocenter of the proposed stockwatering battery is the irrigation well to remain authorized by File No. 13,690 and a domestic well located at the proposed feed yard. Nearby wells within one-half mile of the proposed existing well were not notified of the proposed change because they appear to be under common ownership. Nearby well owners within one-half mile of the point of diversion for File No. 13,984 were also not notified of the proposed change by this office because a complete overlap in place of use is being created.

The proposed stockwatering place of use for File No. 13,690 will be the Southwest Quarter (SW $\frac{1}{4}$ ) of Section 31 as shown on the map. The place of use will overlap Water Right, File Nos. 21,638, 25,553.01 and 39,663. The total quantity to be authorized for stockwatering use, 27.697 m.g.y. (85 acre-feet), can potentially supply the 6,750 maximum capacity head of cattle with 11.1 gallons per day per head, which complies with K.A.R. 5-3-22 *Maximum reasonable quantity of water for livestock and poultry*.

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



State of Kansas

**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

(Check one or more)

WATER RESOURCES  
RECEIVED  
FEB 24 2017  
12:18  
KS DEPT OF AGRICULTURE

File No. 13984

2. Name of applicant: PENNER PARTNERS

Address: 13104 F RD, INGALLS KS 67853

City, State and Zip: \_\_\_\_\_

Phone Number: ( ) \_\_\_\_\_ E-mail address: \_\_\_\_\_

What is your relationship to the water right;  owner  tenant  agent  other? If other, please explain. \_\_\_\_\_

Name of water use correspondent: no change

Address: \_\_\_\_\_

City, State and Zip: \_\_\_\_\_

Phone Number: ( ) \_\_\_\_\_ E-mail address: \_\_\_\_\_

RECEIVED  
FEB 20 2017

3. The change(s) proposed herein are desired for the following reasons (please be specific): Garden City Field Office

OVERLAP THE PLACE OF USE Division of Water Resources

The change(s) (was) (will be) completed by 2017

(Date)

For Office Use Only:													
F.O.	<u>4</u>	GMD	<u>3</u>	Meets K.A.R. 5-5-1	( <u>YES</u> / NO) Use	<u>IRR</u>	Source	( <u>G</u> ) S County	<u>G4</u>	By	<u>AW</u>	Date	<u>2/24/17</u>
Code	<u>CPU</u>			Fee \$	<u>200</u>	TR #		Receipt Date	<u>2/24/17</u>	Check #	<u>CC</u>		

WATER RESOURCES  
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FEB 24 2017

6 20 17  
RAIK

4. The presently authorized place of use is:

Owner of Land — NAME: PENNER PARTNERS FARMS

ADDRESS: 13104 F RD, INGALLS KS 67853

Sec.	Twp.	Range	NE¼				NW¼				SW¼				SE¼				TOTAL ACRES
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
6	25	28w	40	40	40	40					40	40	40	40	40	40	40	40	320

List any other water rights that cover this place of use. \_\_\_\_\_

Owner of Land — NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

Sec.	Twp.	Range	NE¼				NW¼				SW¼				SE¼				TOTAL ACRES
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

List any other water rights that cover this place of use. \_\_\_\_\_

(If there are more than two landowners, attach additional sheets as necessary.)

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5. It is proposed that the place of use be changed to:

FEB 20 2017

Owner of Land — NAME: PENNER PARTNERS

ADDRESS: 13104 F RD, INGALLS KS 67853

Garden City Field Office  
Division of Water Resources

Sec.	Twp.	Range	NE¼				NW¼				SW¼				SE¼				TOTAL ACRES
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
*	6	25	28w	39.62	38.22	38.33	40	L-3 39.92	L-4 38.22	L-5 35.33	40								156.47 <del>153.17</del>

List any other water rights that cover this place of use. \_\_\_\_\_

Owner of Land — NAME: PENNER FARMS

ADDRESS: 13104 F RD, INGALLS KS 67853

Sec.	Twp.	Range	NE¼				NW¼				SW¼				SE¼				TOTAL ACRES	
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼		
6	25	28W										L-6 40	L-7 38.43	38.51	40	40	40	40	40	316.94

List any other water rights that cover this place of use. \_\_\_\_\_

IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY

\* Modified per Map & Original Survey plat  
\* 2/28/17 3/27/17

WATER RESOURCES 473.41

FEB 24 2017

Acres total

SCANNED

WATER RESOURCES

6. The presently authorized point(s) of diversion (is) (are) \_\_\_\_\_  
(Provide description and number of points)

7. The proposed point(s) of diversion (is) (are) \_\_\_\_\_  
(Provide description and number of points)

**List all presently authorized point(s) of diversion:**

8. **Presently authorized point of diversion:**  
 One in the \_\_\_\_\_ Quarter of the \_\_\_\_\_ Quarter of the \_\_\_\_\_ Quarter  
 of Section \_\_\_\_\_, Township \_\_\_\_\_ South, Range \_\_\_\_\_  
 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 \_\_\_\_\_  
 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 13680

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 \_\_\_\_\_ 4 \_\_\_\_\_ Quarter  
 of Section \_\_\_\_\_, Township \_\_\_\_\_ South, Range \_\_\_\_\_  
 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 \_\_\_\_\_  
 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. \_\_\_\_\_

**IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY**

12. The presently authorized use of water is for IRR purposes.  
It is proposed that the use be changed to NO CHANGE purposes.

13. If changing the place of use and/or use made of water, describe how the consumptive use will not be increased.

KAR 5-5-11

(Please show any calculations here.)

14. It is requested that the maximum annual quantity of water be reduced to \_\_\_\_\_ (acre-feet or million gallons).

15. It is requested that the maximum rate of diversion of water be reduced to \_\_\_\_\_ 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](http://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 1/2 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 1/2 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) 1/2 mile downstream and 1/2 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.

SAME SOURCE OF SUPPLY

**WATER RESOURCES  
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**FEB 20 2017**

**FEB 24 2017**

Garden City Field Office  
Division of Water Resources

**KS DEPT OF AGRICULTURE**

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.

**IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY**

**SCANNED**

Any use of water that is not as authorized by the water right or permit to authorize water **before** the chief engineer approves this application is a violation of the Kansas Water Appropriation Act for which criminal or civil penalties may be assessed. Such violation is a class C misdemeanor, punishable by a fine not to exceed \$500 and/or a term of confinement not to exceed one month in the county jail. K.S.A. 82a-728(b). Civil penalties shall be not less than \$100 nor more than \$1,000 per violation. In the case of a continuing violation, each day such violation continues may be deemed a separate violation. In addition to these penalties the water right may be modified or suspended. K.S.A. 82a-737, as amended.

**The application must be signed by all owners of the place of use authorized under the water right and his or her spouse, if married. Please indicate if there is no spouse.** If land is being purchased under contract, the seller must sign as landowner until such time as the contract is completed.

In the event that all applicants cannot appear before one notary public, they may as necessary sign separate copies of the application before any notary public conveniently available to them. All copies signed in this manner shall be considered to be valid parts of the application.

If the request is signed on behalf of any Owner by someone with legal authority to do so (for example, an agent, one who has power of attorney, or an executor, executrix, conservator), it will be necessary to attach proper documents showing such authority.

**I declare that I am an owner of the currently authorized place of use as identified herein, or that I represent all such owners and am authorized to make this application on their behalf, and declare further that the statements contained herein are true, correct, and complete. By filing this application I authorize the chief engineer to permanently reduce the quantity of water and/or rate of diversion as specified in sections 14 and 15 of this application.**

Dated at Garden City, Kansas, this 20<sup>th</sup> day of February, 2017.

Pepper Farms by Robert Lerner \_\_\_\_\_  
(Owner) (Spouse)

\_\_\_\_\_  
(Please Print) (Please Print)

\_\_\_\_\_  
(Owner) (Spouse)

\_\_\_\_\_  
(Please Print) (Please Print)

\_\_\_\_\_  
(Owner) (Spouse)

\_\_\_\_\_  
(Please Print) (Please Print)

State of Kansas }  
County of Finney } SS

I hereby certify that the foregoing application was signed in my presence and sworn to before me this 20<sup>th</sup> day of February, 2017.



My Commission Expires \_\_\_\_\_

Sue Keeny \_\_\_\_\_  
Notary Public

**FEE SCHEDULE**

Each application to change the place of use, the point of diversion or the use made of the water under this section shall be accompanied by the application fee set forth in the schedule below:

- (1) Application to change a point of diversion 300 feet or less . . . . . \$100
- (2) Application to change a point of diversion more than 300 feet . . . . . \$200
- (3) Application to change the place of use . . . . . \$200
- (4) Application to change the use made of the water . . . . . \$300

Make check payable to **Kansas Department of Agriculture.**

DIVISION OF WATER RESOURCES-KANSAS DEPARTMENT OF AGRICULTURE  
COMPLIANCE INVESTIGATION

Field Office No. 04 G.M.D. No. 03 County Gray

File No. 13984 Overlap NO File No(s). \_\_\_\_\_

Agency DWR Inspector Rachel Duran

In Compliance/ Date	
<input checked="" type="checkbox"/>	Yes <u>5-22-2014</u>
<input type="checkbox"/>	No, see comments _____
<input type="checkbox"/>	Re-investigation _____

Reason:  New Application  Regular P/D Change  P/U Change  
 Meter Installed  Short Move P/D Change  Other moved meter to well

Date of Order \_\_\_\_\_ Date of N of C Ack \_\_\_\_\_ Chg No. C \_\_\_\_\_ Date completed \_\_\_\_\_ If PD chg, old PD ID \_\_\_\_\_

Current Landowner CLARENCE & ANN PENNER Phone No. \_\_\_\_\_

Address 13104 F RD, INGALLS, KS 67853  
Additional landowners and addresses identified in remarks section.

Water Use Correspondent PENNER PARTNERS Phone No. \_\_\_\_\_

Authorized Water Use Classification  Domestic  Industrial  Irrigation  Municipal  Hydraulic Dredging  
 Recreation  Stockwatering  Water Power  Artificial Recharge  Contamination Remediation  
 Dewatering  Fire Protection  Thermal Exchange  Sediment Control  Other \_\_\_\_\_

Water currently being used for Irr.

Source:  Groundwater  Surface Water Basin Buckner Creek

Authorized Point of Diversion: SE SE SW Sec. 6, T. 25S, R. 28W ID No. 1

Approximately \_\_\_\_\_ ft. North and \_\_\_\_\_ ft. West of SE corner of Sec 6.

Actual Point of Diversion: SE SE SW Sec. 6, T. 25S, R. 28W

Approximately 110 ft. North and 3071 ft. West of SE corner of Sec 6.

How were distances determined? GPS & File / NAD 27 Latitude 37.89993 Longitude -100.43873

Distance from old pd NA ft (N / S) and \_\_\_\_\_ ft (E / W) Old well: plugged  capped  equipped  other: \_\_\_\_\_?

Location (site) map attached? NO  Sketch or Map below

Comments: \_\_\_\_\_

Timed Test (5-22-14)

Beg Read - 236.276 Beg Time - 0:00:00  
End Read - 236.282 End Time - 10:20:88  
Total - 0.006 AF Total - 10.348 Minutes

1955.106 (Gallons) = 189 gpm  
10.348 (Minutes)



## Krueger, Richelle

---

**From:** Meyer, Mike  
**Sent:** Thursday, June 15, 2017 4:52 PM  
**To:** Krueger, Richelle  
**Subject:** RE: Request for Recommendation File Nos. 13690 and 13984 Penner Partners

Approve please  
thanks

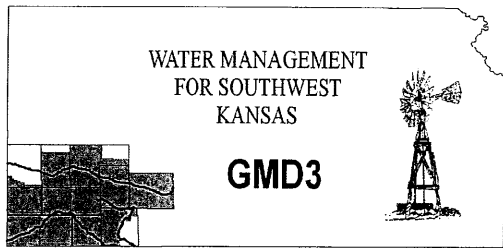
*Mike*

---

**From:** Krueger, Richelle  
**Sent:** Thursday, June 15, 2017 4:16 PM  
**To:** Meyer, Mike <Mike.Meyer@ks.gov>  
**Cc:** Makens, Thom <Thom.Makens@ks.gov>; Turney, Brent <Brent.Turney@ks.gov>  
**Subject:** Request for Recommendation File Nos. 13690 and 13984 Penner Partners

Hi Mike,  
Attached is a draft memo for the referenced change in pu pd umw for File No. 13690 and pu change for File No. 13,984. Do you recommend approval?

Thanks,  
Richelle



**Southwest Kansas**  
**Groundwater Management District No. 3**  
2009 E. Spruce Street  
Garden City, Kansas 67846  
(620) 275-7147 phone (620) 275-1431 fax  
www.gmd3.org

June 14, 2017

Richelle A. Krueger  
Kansas Department of Ag  
Division of Water Resources  
1320 Research Park Drive  
Manhattan, Kansas 66502

RE: Change Applications  
Water Right, File Nos. 13690 & 13984

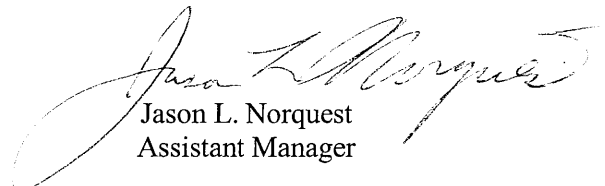
Dear Richelle:

We have completed a review of the applications for the above referenced water rights. The proposals for change in place of use is not conflict with the Management Program of the Southwest Kansas Groundwater Management District No. 3 (GMD3) and is in accordance with K.A.R. 5-5-11. However, the application to change 10AF to stock watering and move the authority to the battery of wells under the stock rights is in conflict with the management plan for GMD3. More specifically as it pertains to spacing to neighboring wells in accordance with K.A.R. 5-23-3(a). We reviewed this application at our June 14, 2017 Board meeting.

Dennis Penner was in attendance representing the applicant. The purpose of this change is to facilitate the sale of the stock pens. Penner Cattle is converting 10AF and moving the authority to the battery of wells under the stock rights. Spacing is not met to a domestic well at the feed yard and to the well under 13690, which is being reduced with the use made of water. The stock wells and irrigation well have not met spacing in the past and still won't after the change. The domestic well in question will be taken over by the possible new owners of the feed yard pens and has not concern with the change and support it. The irrigation wells in the area are mainly owned by the Penner family. No other response from our notice letter was received. Board discussion continued on the small amount of the change and also the reduction on top of that that 13690 will take with consumptive use. They also pointed out that all the wells with spacing issues are or part of the selling process for the pens and have no concern. Seeing as how this is a small amount of authority being moved and the wells have not met spacing in the past, the Board recommends a waiver to K.A.R. 5-23-3(a) and that the applications be approved at this time.

Thank you for the opportunity to review the applications and to provide a recommendation. If you have any questions, please don't hesitate to contact us.

Sincerely,

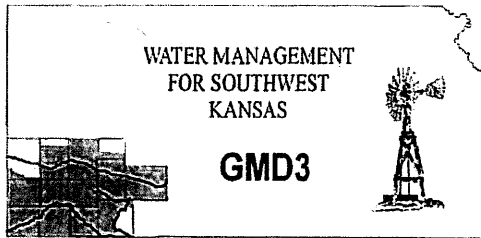


Jason L. Norquest  
Assistant Manager

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JUN 19 2017

KS DEPT OF AGRICULTURE



**Southwest Kansas**  
**Groundwater Management District No. 3**  
2009 E. Spruce Street  
Garden City, Kansas 67846  
(620) 275-7147 phone (620) 275-1431 fax  
www.gmd3.org

June 14, 2017

Richelle A. Krueger  
Kansas Department of Ag  
Division of Water Resources  
1320 Research Park Drive  
Manhattan, Kansas 66502

RE: Change Applications  
Water Right, File Nos. 13690 & 13984

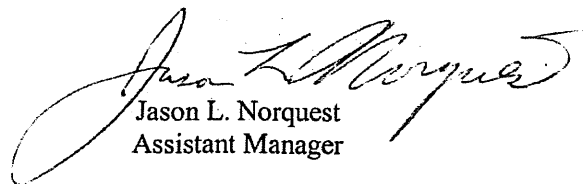
Dear Richelle:

We have completed a review of the applications for the above referenced water rights. The proposals for change in place of use is not conflict with the Management Program of the Southwest Kansas Groundwater Management District No. 3 (GMD3) and is in accordance with K.A.R. 5-5-11. However, the application to change 10AF to stock watering and move the authority to the battery of wells under the stock rights is in conflict with the management plan for GMD3. More specifically as it pertains to spacing to neighboring wells in accordance with K.A.R. 5-23-3(a). We reviewed this application at our June 14, 2017 Board meeting.

Dennis Penner was in attendance representing the applicant. The purpose of this change is to facilitate the sale of the stock pens. Penner Cattle is converting 10AF and moving the authority to the battery of wells under the stock rights. Spacing is not met to a domestic well at the feed yard and to the well under 13690, which is being reduced with the use made of water. The stock wells and irrigation well have not met spacing in the past and still won't after the change. The domestic well in question will be taken over by the possible new owners of the feed yard pens and has not concern with the change and support it. The irrigation wells in the area are mainly owned by the Penner family. No other response from our notice letter was received. Board discussion continued on the small amount of the change and also the reduction on top of that that 13690 will take with consumptive use. They also pointed out that all the wells with spacing issues are or part of the selling process for the pens and have no concern. Seeing as how this is a small amount of authority being moved and the wells have not met spacing in the past, the Board recommends a waiver to K.A.R. 5-23-3(a) and that the applications be approved at this time.

Thank you for the opportunity to review the applications and to provide a recommendation. If you have any questions, please don't hesitate to contact us.

Sincerely,



Jason L. Norquest  
Assistant Manager

WATER RESOURCES  
RECEIVED  
JUN 15 2017  
KS DEPT OF AGRICULTURE

## GMD3 Change Review

---

Change Application(s); 13690: PU, PD, UMW; 13984 PU

File No(s). Penner Cattle

See additional pages for plats.

	ft. North	ft. West	
Authorized PD	5237	5100	Sect. 6-25-28
Proposed PD	1275	4860	Sect. 31-24-28, GEO Center
Difference	1318 N	240 E	
$a^2 + b^2 = c^2$	1737124	57600	1339.673 foot move NE

The change in place of use for both water rights is straight forward and will have a complete overlap in acres once approved. Also the STK portion of 13690 will now cover the cattle pens.

The application for 13690 is also converting 10AF to STK and moving it to the battery of wells at the cattle pens. The feedyard is in the process of selling and part of the offer is to allocate another 10AF to ensure water needs can be met. The IRR portion will go from 320AF down to 302AF, 10AF going to STK and 8AF lost in the calculation, so KAR 5-5-10 is met. By moving the authority to the STK battery, we have to also look at the additional well rule. Currently there is less than 1600' between these wells and even with the reduction to IRR, 302AF requires 1900' spacing which is not met.

Neighboring wells: Spacing would be met between all wells except the two in these applications.

Domestic wells: On domestic in SW of Sect. 31 that currently doesn't meet spacing to the IRR well under 13690, will sell with the feed lots.

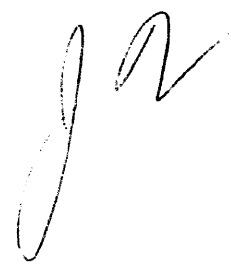
Regulation(s) Reviewed: KAR 5-5-11, KAR 5-23-3, KAR 5-5-16 & KAR 5-5-10

Board Review Date: June 14, 2017

Board Recommendation: Waiver of spacing due to small amount between wells that have not met spacing and all neighboring wells involved are owned by the applicant or prospective buy of the feedlot

Waiver Reason:

Final Recommendation: After discussion with the Board and applicant, staff recommends a waiver to spacing and the application be approved at this time.



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JUN 15 2017

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Water Rights and Points of Diversion Within 1.00 miles of point defined as:

1275 ft N and 4860 ft W of the SE Corner of Section 31, T 24S, R 28W

Located at: 100.444780 West Longitude and 37.917609 North Latitude

GROUNDWATER ONLY

File Number	Use	ST	SR	Dist	(ft)	Q4	Q3	Q2	Q1	FeetN	FeetW	Sec	Twp	Rng	ID	Batt	Auth_Quan	Add_Quan	Unit
A_ 8912	00	IRR	NK	G	4484	--	SE	SE	SE	231	500	31	24	28W	5		607.00	607.00	AF
A_ 12632	00	IRR	NK	G	4984	--	NW	SW	SW	-----	-----	30	24	28W	1		306.00	306.00	AF
A_ 13690	00	IRR	NK	G*	1570	--	NW	NW	NW	-----	-----	6	25	28W	2		<del>320.00</del> <sup>302</sup>	320.00	AF
A_ 16912	00	IRR	NK	G	2712	--	--	--	--	5120	2500	6	25	28W	3		250.00	250.00	AF
A_ 20675	00	IRR	NK	G	4930	--	--	CW	SW	1320	5210	32	24	28W	2		472.00	25.00	AF
A_ 21638	00	IRR	NK	G	3805	--	--	--	--	4100	2550	1	25	29W	2		105.00	105.00	AF
A_ 21638	00	STK	NK	G	3805	--	--	--	--	4100	2550	1	25	29W	2		50.00	50.00	AF?
A_ 25553	01	STK	NK	G	16	--	--	--	--	1275	4860	31	24	28W	3 G 2		15.12	15.12	AF
Same					75	--	--	--	--	1275	4935	31	24	28W	2 B 2				
Same					75	--	--	--	--	1275	4785	31	24	28W	4 B 2				
A_ 39663	00	STK	NK	G	16	--	--	--	--	1275	4860	31	24	28W	3 G 2		9.88	9.88	AF
Same					75	--	--	--	--	1275	4935	31	24	28W	2 B 2				
Same					75	--	--	--	--	1275	4785	31	24	28W	4 B 2				

spacing

FN  
35.00 AF 1.00'

Total Net Quantities Authorized:	Direct	Storage
Total Requested Amount (AF) =	.00	.00
Total Permitted Amount (AF) =	.00	.00
Total Inspected Amount (AF) =	.00	.00
Total Pro_Cert Amount (AF) =	.00	.00
Total Certified Amount (AF) =	1688.00	.00
Total Vested Amount (AF) =	.00	.00
TOTAL AMOUNT (AF) =	1688.00	.00

An \* after the source of supply indicates a pending application for change for the file number.  
 An \* after the ID indicates a 15 AF exemption was granted for the file number.  
 A "G" in the Batt column indicates the GEO CTR of a battery. A "B" indicates a well in the battery.  
 The number in the Batt column is the number of wells in the battery.

Water Rights and Points of Diversion Within 1.00 miles of point defined as:

100.444780 West Longitude and 37.917609 North Latitude

GROUNDWATER ONLY

WATER USE CORRESPONDENTS:

File Number	Use	ST	SR
A_ 8912	00	IRR	NK G
> ARLIN & LOIS PENNER			
>			
> 425 W HERMOSA DR			
> FULLERTON CA 92835			
-----			
A_ 12632	00	IRR	NK G
> PENNER PARTNERS			
>			
> 13104 F RD			
> INGALLS KS 67853			
-----			
A_ 13690	00	IRR	NK G

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> PENNER PARTNERS  
>  
> 13104 F RD  
> INGALLS KS 67853

-----  
A\_\_ 16912 00 IRR NK G  
> ERIC LEIGH JANOF  
> STEPHEN D SCHARTZ  
> PO BOX 706  
> CIMARRON KS 67835

-----  
A\_\_ 20675 00 IRR NK G  
> PENNER PARTNERS  
>  
> 13104 F RD  
> INGALLS KS 67853

-----  
A\_\_ 21638 00 IRR NK G  
> PENNER PARTNERS  
>  
> 13104 F RD  
> INGALLS KS 67853

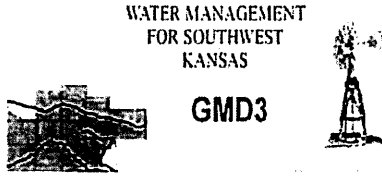
-----  
A\_\_ 21638 00 STK NK G  
> PENNER CATTLE INC  
> DENNIS PENNER  
> 6706 13 RD  
> INGALLS KS 67853

-----  
A\_\_ 25553 01 STK NK G  
> PENNER CATTLE INC  
> DENNIS PENNER  
> 6706 13 RD  
> INGALLS KS 67853

-----  
A\_\_ 39663 00 STK NK G  
> PENNER CATTLE INC  
> DENNIS PENNER  
> 6706 13 RD  
> INGALLS KS 67853  
-----

=====

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Southwest Kansas  
Groundwater Management District No. 3  
2009 E. Spruce Street  
Garden City, Kansas 67846  
(620) 275-7147 phone (620) 275-1431 fax  
www.gmd3.org

May 22, 2017

Penner Partners  
13104 F RD  
Ingalls, KS 67853

RE: Water Right, File No. 13690

Dear Penner Partners and Neighbors,

This is to advise you that your application for approval of the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, to change the point of diversion and use made of water under the above referenced application requires a waiver of a rule, specifically, K.A.R. 5-23-3 and K.A.R. 5-5-16 as it pertains to spacing to neighboring wells.

The application proposes to add another well under Water Right 13960 to convert an additional 10 acre feet for stock use to a battery of wells with a GEO center location described as being 1275 feet North and 4860 feet West of the SE corner of Section 31, Township 24s, Range 28w, in Gray County. A plat and groundwater resource review information is enclosed for your reference.

Changing a water right in a local aquifer area can affect the water supply to the project and to other water rights and users. Kansas law (K.S.A. 82a-708b (2)) requires a demonstration that any change is reasonable and will not impair existing rights. Spacing rules provide a standard for implementing this requirement. Conversely, not meeting the spacing standard creates a presumption that impairment will occur

To meet the need for added due process beyond the ½ mile courtesy notice from the state, the GMD3 Board passed Resolution 2013-6, adopted December 17, 2013. This resolution established a process of seeking more information from you and the neighboring water right owners whose wells are located within a mile of a proposed location requiring a rule waiver.

Accordingly, local resource information is included with this letter and you are requested to provide information in response to the following questions:

- 1) Can the aquifer yield a similar water supply at both the present well location and at the proposed well location(s)? In other words, how might the well yield differ in the proposed location from the present location?
- 2) Can the addition of infrastructure, such as pipelines or purchase of neighboring wells with water rights, meet the need without a rule waiver?
- 3) How do the specifics of the proposal conserve energy and/or water over other alternatives?

The GMD3 board supports the pursuit of high value water use, through reasonable changes that don't have an unreasonable affect to other water rights. We request that any response you or your neighbors wish to provide should occur within 15 days from the date of this letter or any extension of

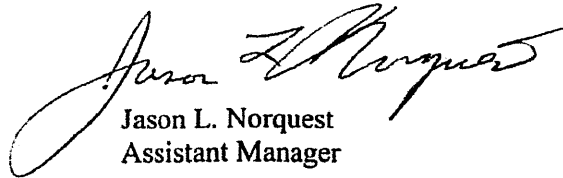
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time granted. If no response is received from you, the applicant, and concerns of merit are received from the area water right owners, within that time, we may recommend that the rule be upheld and the application denied. We will consider information from the neighbors responding to their copy of this letter.

Should you have any questions, please feel free to call this office. If you would prefer, an appointment could be arranged for additional assistance. Please refer to the water right file number when you contact us.

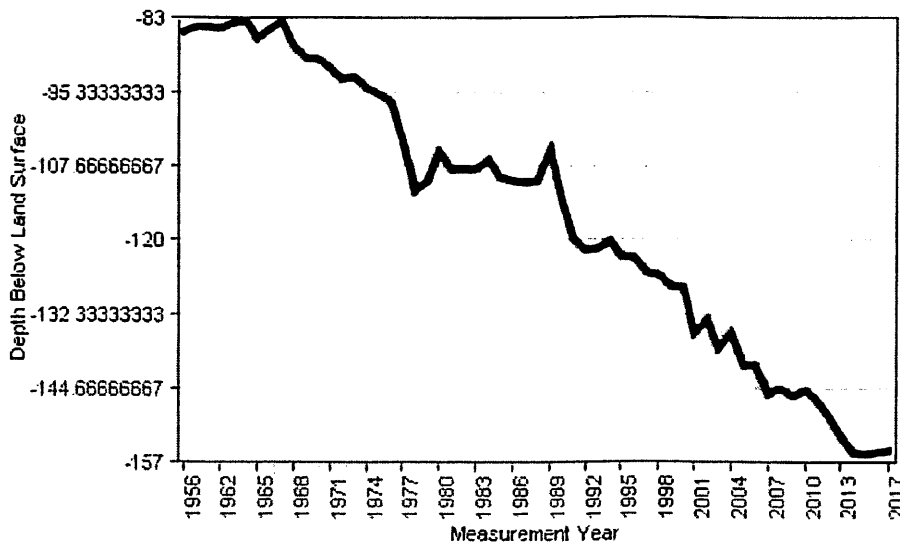
Sincerely,



Jason L. Norquest  
Assistant Manager

Attachment: GMD3 General Groundwater Resource Review, File No. 13690  
Copy to: Eric Leigh Janof & Stephen D Scharz

Regional Average Tend, from  
<http://hercules.kus.ku.edu/geohydro/wizard/wizardregional.cfm>



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<b>From: 180 ft. to 190 ft.</b>	Course sand
<b>From: 190 ft. to 204 ft.</b>	Brown sandy clay
<b>From: 204 ft. to 211 ft.</b>	Course sand
<b>From: 211 ft. to 213 ft.</b>	Brown clay
<b>From: 213 ft. to 265 ft.</b>	Course sand
<b>From: 265 ft. to 270 ft.</b>	Yellow clay and shale

Kansas Geological Survey

Comments to [webadmin@kgs.ku.edu](mailto:webadmin@kgs.ku.edu)

URL=<http://www.kgs.ku.edu/Magellan/WaterWell/index.html>

Display Programs Updated July 2, 2014

Data added continuously.

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*Penner domestic that will be part of sale!*



Specific Water Well Detail

**Well T24S, R28W, Sec. 31, SW SW SW, Action: Constructed**

Location Info	
<b>Owner:</b> Penner, Dennis	<b>Status:</b> Constructed
<b>Location:</b> T24S, R28W, Sec. 31, SW SW SW	<b>County:</b> Gray
<b>Directions:</b> from Ingalls: 5.75 mi N on blacktop	
<b>Longitude:</b> -100.445012	<b>Latitude:</b> 37.9151056
<b>Datum:</b> NAD 27	
Longitude and latitude calculated by Survey from township-range-section-quarter calls. Only good to within the quarter call accuracy.	
<a href="#">View well on interactive map</a> This link will create a new window and display an interactive map of this well and its neighbors.	
General Info	
<b>Well Depth:</b> 265 ft.	<b>Elevation:</b> ft.
<b>Static Water Level:</b> 170 ft.	<b>Est. Yield:</b> gpm.
<b>Comp. Date:</b> 20-Sep-2001	<b>Well Use:</b> Domestic
<b>DWR Applic. #:</b>	<b>Other ID:</b>
Driller Info	
<b>Driller:</b> Jantzen Water Well	<b>License #:</b> 533
Scanned Form	
<a href="#">View form(s) on screen</a>	<a href="#">Download scan(s)</a>
<p>The file you download contains one or more TIFF images compressed into a ZIP archive. Your browser may be already set up to decompress these files. Commercial software to perform this is available from <a href="#">PKWARE, Inc.</a>, the company that invented the format. A web page from a group of people creating shareware or public domain software is available at <a href="#">Info-ZIP</a>. The TIFFs are 300 dpi archival-quality scans of the WWC5 forms and can be viewed by software like Corel PhotoPaint or Adobe PhotoShop.</p>	
Lithologic Log	
(Log data entered by KGS.)	
<b>From:</b> 0 ft. to 2 ft.	Topsoil
<b>From:</b> 2 ft. to 78 ft.	Brown clay and caliche
<b>From:</b> 78 ft. to 100 ft.	Medium to Course sand
<b>From:</b> 100 ft. to 163 ft.	Brown sandy clay
<b>From:</b> 163 ft. to 166 ft.	Course sand
<b>From:</b> 166 ft. to 180 ft.	Brown clay

*~570' from ERR well now*

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## Water Appropriations

There are four water rights associated with the Penner Cattle, Inc. facility. Each of these water rights is authorized for stockwatering use (i.e. water for livestock consumption) only. There are two wells within the facility that provide the primary supply of stockwater. These wells are located near the shipping/receiving pens and are approximately 150 feet apart. For regulatory purposes, DWR considers these to be a battery of two wells that effectively act as one well. Two water rights are associated with these wells: File Nos. 25,553.01 and 39,663. These water rights authorize a maximum quantity of 25 acre-feet per year for stockwatering use within the facility. The wells may be pumped at a maximum rate of 50 gallons per minute (gpm).

Water Right File No. 21,638 pertains to an irrigation well located in the NE ¼ of Section 1 T25S R29W. This well is approximately 4,000 feet southwest of the battery of wells within the facility. There are two uses authorized for this water right: irrigation and stockwatering. The authorized place of use for stockwatering is the Penner Cattle, Inc. facility. This is the only place where this portion of the water right may be used. Observations from the on-site inspection and information obtained from Mr. Penner indicate that the stockwatering quantity can only be pumped when the irrigation well is being operated to supply a center pivot sprinkler. Under these conditions, the stockwater portion is conveyed through a pipeline to a pump house located near the southwest corner of the facility. The water passes through a flow meter for measurement purposes and then enters the cattle feeding facility. This arrangement is manageable since Mr. Penner currently operates the irrigation well, the land that is irrigated with the sprinkler, and the cattle feeding facility. This situation becomes complicated when the cattle feeding facility is separated from the rest of Mr. Penner's operation. There must be some legally binding agreement to provide access to the irrigation well to operate it in order to obtain the stockwatering portion of File No. 21,638. There must also be some agreement relating to maintenance, repair and/or replacement in the event of a malfunction of the well. This water right could potentially become useless if the well cannot be accessed to provide stockwater when needed. The stockwatering portion of File No. 21,638 is authorized to provide a maximum quantity of 50 acre-feet per year at a maximum rate of 50 gpm. This represents the majority of the water supply for the facility. One alternative to simplify this situation is to file an application with DWR to drill a new well that is dedicated to the stockwater portion of the water right. The maximum distance that the well can be moved by regulation is ½ mile. This distance is not sufficient to place the new well within



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the facility or in the SW ¼ of Section 31. Therefore, a legally binding agreement is still needed for access to the well site. This alternative does eliminate the complication of relying on operation of the irrigation system in order to pump water through the pipeline to the pump house. A variance from the regulation which limits the distance that a well may be moved can be requested, but there is no assurance that it would be granted.

The fourth water right relating to this facility is File No. 13,690. This water right currently pertains to an irrigation well located in the northwest corner of Section 6 T25S R28W. This well is south of the facility and just across the county road that separates Section 31 and Section 6. Mr. Penner indicated that he had filed an application to move a quantity of 10 acre-feet per year from this well to the battery of wells located within the facility. This action was verified by Mr. Mike Meyer, Water Commissioner, DWR, Garden City. This application is still pending approval. Mr. Meyer thought that it would likely be approved in 2017.

Mr. Meyer indicated that there have been no recent violations related to any of these four water rights in response to my inquiry about this.

The permit capacity of this facility is 6,750 head of beef cattle. Estimates based upon measurements from aerial photos indicate bunk space of approximately 5,030 feet. The capacity of the facility based upon unit bunk space of 9 inches per head is approximately 6,710 head. This amount of bunk space is generally considered appropriate for feeder cattle fed to market weight. A unit bunk space of 12 inches per head is often applied to lighter cattle being fed a growing ration. This implies a capacity of approximately 5,030 head. It appears that the facility is capable of supporting the permit capacity.

DWR regulations base the maximum reasonable water use for beef cattle on a unit consumption rate of 15 gallons per head per day. For a capacity of 6,750 head, this equates to 113.4 acre-feet per year. The regional average consumption rate for beef cattle is 10 gallons per head per day. This equates to a water quantity of 75.6 acre-feet per year to continuously support 6,750 head of beef cattle. This is the quantity of stockwater that would be considered as the minimum needed to support the facility.

The water rights associated with the battery of wells within the facility provide a quantity of 25 acre-feet per year. This would be increased by 10 acre-feet per year when the pending change application for File No. 13,960 is approved. The water right associated with the irrigation well, File No. 21,638, provides 50 acre-feet per year. The total authorized quantity of stockwater is potentially 85 acre-feet per year. This is slightly more than the minimum recommended quantity of stockwater needed to support the permit capacity of this facility. It is therefore imperative that access to the water associated with File No. 21,638 is secured.

Recommendation:

10. Execute a legally binding agreement to provide access to the irrigation well to operate it in order to obtain the stockwatering portion of File No. 21,638. Also execute an agreement relating to maintenance, repair and/or replacement in the event of a malfunction of the well.

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## Krueger, Richelle

---

**From:** Jason Norquest <norquest@gmd3.org>  
**Sent:** Wednesday, June 14, 2017 4:33 PM  
**To:** Krueger, Richelle  
**Subject:** 13690+  
**Attachments:** 13690+\_ReviewMat\_061417.pdf

Good afternoon Richelle. How you like the heat wave. It looks like you guys might have gotten a touch of the storms last night. Most of that went east of us. Folks are really jumpy to get stuff planted, sprayed or harvested right now.

We got the Board review done for Penner Cattle. Attached is my review notes and letter. I will send the letter in the mail with the rest of the reviews. Let me know if you need something else.

Have a good day!!

*Jason Norquest*

Assistant Manager, GMD3

Office: 620-275-7147 Cell: 620-271-1289

[norquest@gmd3.org](mailto:norquest@gmd3.org)

[www.gmd3.org](http://www.gmd3.org)

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1320 Research Park Drive  
Manhattan, Kansas 66502  
(785) 564-6700



900 SW Jackson, Room 456  
Topeka, Kansas 66612  
(785) 296-3556

Jackie McClaskey, Secretary

Governor Sam Brownback

May 10, 2017

SOUTHWEST KANSAS GROUNDWATER  
MANAGEMENT DISTRICT NO 3  
ATTN JASON NORQUEST  
2009 E SPRUCE ST  
GARDEN CITY KS 67846

Re: Water Right, File Nos. 13,690 and 13,984

Dear Jason:

In accordance with the request received in this office on May 9, 2017, the Chief Engineer has extended until June 15, 2017, the time in which to submit your recommendations concerning the Application for Approval to Change the Place of Use, Point of Diversion and Use Made of Water for Water Right, File No. 13,690 and the Application for Approval to Change the Place of Use for Water Right, File No. 13,984.

If you have any questions, please contact me at (785) 564-6635. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

A handwritten signature in black ink that reads "Richelle A. Krueger".

Richelle A. Krueger  
Environmental Scientist  
Water Appropriation Program

Enclosures

pc: Garden City Field Office

## Krueger, Richelle

---

**From:** Jason Norquest <norquest@gmd3.org>  
**Sent:** Tuesday, May 9, 2017 1:56 PM  
**To:** Meyer, Mike; Krueger, Richelle  
**Cc:** Mark Rude  
**Subject:** RE: 13690

Mike, with our Board and Resolution 2013-6, we do notices out a mile to all well owners and there would be at least one that is not Penners. I went through that with him a couple months ago when he was in my office.

Also, going off recent discussion, the matter of KSA 82a-711 and ensuring no effects from a change. Has any data pertaining to this area been gathered and if it has, can we have it for our records.

With the discussion of rewriting our management plan and the increasing wishes of the Board to make sure that a waiver is fully reviewed, I don't know if we could do a hurry up review.

If there is additional information, please let us know.

*Jason Norquest*

Assistant Manager, GMD3  
Office: 620-275-7147 Cell: 620-271-1289  
[norquest@gmd3.org](mailto:norquest@gmd3.org)  
[www.gmd3.org](http://www.gmd3.org)

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---

**From:** Meyer, Mike [mailto:Mike.Meyer@ks.gov]  
**Sent:** Tuesday, May 09, 2017 12:06 PM  
**To:** Jason Norquest <norquest@gmd3.org>; Krueger, Richelle <Richelle.Krueger@ks.gov>  
**Cc:** Mark Rude <mrude@gmd3.org>  
**Subject:** RE: 13690

Jason

Just talked to Bob Penner, he was very disappointed about the time frame as they need to close the deal or have assurance of an approved application before the close the deal.

He did not feel comfortable enough to call as I already called you asking for options.

But again, he expressed a desire to ask again if this can be reviewed tomorrow since it is just a domestic well and the proposed owners of this whole project will own the well...

Would it help for the current owners to write a letter that they do not object to get this thing reviewed. No other wells are within one half mile

Thanks for any consideration

Mike

*Mike*

---

**From:** Jason Norquest [mailto:norquest@gmd3.org]  
**Sent:** Tuesday, May 9, 2017 11:50 AM

To: Krueger, Richelle <[Richelle.Krueger@ks.gov](mailto:Richelle.Krueger@ks.gov)>

Cc: Meyer, Mike <[Mike.Meyer@ks.gov](mailto:Mike.Meyer@ks.gov)>; Mark Rude <[mrude@gmd3.org](mailto:mrude@gmd3.org)>

Subject: 13690

Good day Richelle. I have started an initial review for the mentioned water right that I got in the mail yesterday. I am requesting an extension for the review until June 15<sup>th</sup>. The change involves converting and moving authority that won't meet spacing between the proposed wells and a domestic. Granted the wells don't currently meet spacing. I am unable to get it on tomorrow's meeting, but will have it on the June meeting. If you have any questions please let me know. Thanks for your time and have a good day.

*Jason Norquest*

Assistant Manager, GMD3

Office: 620-275-7147 Cell: 620-271-1289

[norquest@gmd3.org](mailto:norquest@gmd3.org)

[www.gmd3.org](http://www.gmd3.org)

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1320 Research Park Drive  
Manhattan, Kansas 66502  
(785) 564-6700



900 SW Jackson, Room 456  
Topeka, Kansas 66612  
(785) 296-3556

Jackie McClaskey, Secretary

Governor Sam Brownback

May 3, 2017

SOUTHWEST KANSAS GROUNDWATER  
MANAGEMENT DISTRICT NO 3  
ATTN JASON NORQUEST  
2009 E SPRUCE ST  
GARDEN CITY KS 67846

Re: Water Right, File Nos. 13,690 and 13,984

Dear Jason:

We are enclosing copies of the application to change the place of use, point of diversion and use made of water for File No. 13,690 and the application to change the place of use for File No. 13,984.

We are delaying further action for a period of 15 days from the date of this letter to allow you time to submit your recommendations concerning these applications.

Please submit your recommendations within the allowed time, or any authorized extension of time thereof. If you have any questions, please contact me at (785) 564-6635. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

A handwritten signature in black ink that reads "Richelle A. Krueger".

Richelle A. Krueger  
Environmental Scientist  
Water Appropriation Program

Enclosures

pc: Garden City Field Office

## Krueger, Richelle

---

**From:** Krueger, Richelle  
**Sent:** Tuesday, May 2, 2017 4:44 PM  
**To:** Meyer, Mike  
**Subject:** RE: 13690 flow test for pending application

Okay thanks Mike, I will modify as below and get this out to gmd 3 tomorrow, thanks!

---

**From:** Meyer, Mike  
**Sent:** Tuesday, May 2, 2017 4:33 PM  
**To:** Krueger, Richelle <Richelle.Krueger@ks.gov>  
**Subject:** RE: 13690 flow test for pending application

Well the test sheet footage is wrong. The GPS is correct (37.91401 -100.44576)  
The footage should be 5237 X 5100  
Use this as it is our GPS. I think the one on the application was GMD consultant GPS

*Mike*

---

**From:** Krueger, Richelle  
**Sent:** Tuesday, May 2, 2017 3:43 PM  
**To:** Meyer, Mike <Mike.Meyer@ks.gov>  
**Subject:** RE: 13690 flow test for pending application

Hi Mike,  
Attached are the parts of the application showing feet distances( I modified section township range) and the 4/20/17 flow meter test you sent me yesterday, those feet distances don't match either other quite....so wasn't sure which was correct?  
Richelle

---

**From:** Meyer, Mike  
**Sent:** Tuesday, May 2, 2017 3:23 PM  
**To:** Krueger, Richelle <Richelle.Krueger@ks.gov>  
**Subject:** RE: 13690 flow test for pending application

I hope they say the same location, can you check the GPS to see if it matches the application footage

*Mike*

---

**From:** Krueger, Richelle  
**Sent:** Tuesday, May 2, 2017 2:29 PM  
**To:** Meyer, Mike <Mike.Meyer@ks.gov>  
**Subject:** RE: 13690 flow test for pending application

Hi Mike,  
I am trying to get this package ready to send to gmd 3, just wondering which feet distances/gps should I use for the irrigation well to remain authorized by File No. 13,690. I think on the application it was intended that the feet distances

were to be 5267'N 5117'W 6-25-28W however, the wrong section was listed (31-24-28W). **OR** am I supposed to use the approximate feet distances and gps shown on the meter flow rate test dated 4-20-17 you sent me yesterday?

Thanks as always, for your help!

Richelle

---

**From:** Meyer, Mike

**Sent:** Monday, May 1, 2017 2:35 PM

**To:** Krueger, Richelle <[Richelle.Krueger@ks.gov](mailto:Richelle.Krueger@ks.gov)>

**Subject:** 13690 flow test for pending application

Good afternoon Richelle!

Attached is our verification of flow rate for the change in UMW for the referenced water right. With the information attached I am comfortable on proposing a final rate of 500 GPM. The owner will accept this total to pursue the application and splitting up

This application needs processed as soon as possible

*Mike*

## Krueger, Richelle

---

**From:** Meyer, Mike  
**Sent:** Monday, March 27, 2017 4:29 PM  
**To:** Krueger, Richelle; Turney, Brent  
**Cc:** Makens, Thom  
**Subject:** RE: Question about Chg Pd PU UMW File No. 13690 Penner Partners, Chg Pu File No. 13984

We will contact them  
thanks

*Mike*

---

**From:** Krueger, Richelle  
**Sent:** Monday, March 27, 2017 4:29 PM  
**To:** Meyer, Mike <Mike.Meyer@ks.gov>; Turney, Brent <Brent.Turney@ks.gov>  
**Cc:** Makens, Thom <Thom.Makens@ks.gov>  
**Subject:** RE: Question about Chg Pd PU UMW File No. 13690 Penner Partners, Chg Pu File No. 13984

Hi Mike,  
We don't have any feet distances for File No. 13690, there weren't any on the certificate. Do you want to contact them for the pump test or do you want me to return the applications to them or how do you want me to proceed?  
Thanks,  
Richelle

---

**From:** Meyer, Mike  
**Sent:** Monday, March 27, 2017 4:24 PM  
**To:** Turney, Brent <Brent.Turney@ks.gov>; Krueger, Richelle <Richelle.Krueger@ks.gov>  
**Cc:** Makens, Thom <Thom.Makens@ks.gov>  
**Subject:** RE: Question about Chg Pd PU UMW File No. 13690 Penner Partners, Chg Pu File No. 13984

Yep sorry, was looking at wrong file.  
Richelle,  
Let me get you the right file and see if we have a GPS. (13690)

Lat lon 37.91404, -100.44582 GMD3 lat lon, not sure if we run with it or not, or just use authorized

Thanks again

*Mike*

---

**From:** Turney, Brent  
**Sent:** Monday, March 27, 2017 4:20 PM  
**To:** Meyer, Mike <Mike.Meyer@ks.gov>; Krueger, Richelle <Richelle.Krueger@ks.gov>  
**Cc:** Makens, Thom <Thom.Makens@ks.gov>  
**Subject:** RE: Question about Chg Pd PU UMW File No. 13690 Penner Partners, Chg Pu File No. 13984

Mike,

I just went over this again with Richelle and the file that has the change in use made of water does not have a MYFA. The file that it will be overlapped with does have a MYFA, however, that file is only proposing a place of use change. So, unless I am not seeing something, this should be okay on the MYFA side of things?

Brent

**Brent A. Turney, P.G.**  
**Kansas Department of Agriculture**  
**Division of Water Resources**  
**1320 Research Park Drive**  
**Manhattan Kansas 66502**  
**(785) 564-6645**  
**[Brent.Turney@ks.gov](mailto:Brent.Turney@ks.gov)**  
**[www.agriculture.ks.gov](http://www.agriculture.ks.gov)**

---

**From:** Meyer, Mike  
**Sent:** Monday, March 27, 2017 4:00 PM  
**To:** Krueger, Richelle <[Richelle.Krueger@ks.gov](mailto:Richelle.Krueger@ks.gov)>  
**Cc:** Makens, Thom <[Thom.Makens@ks.gov](mailto:Thom.Makens@ks.gov)>; Turney, Brent <[Brent.Turney@ks.gov](mailto:Brent.Turney@ks.gov)>  
**Subject:** RE: Question about Chg Pd PU UMW File No. 13690 Penner Partners, Chg Pu File No. 13984

So Brent, can we do this change in UMW under the MFYA? I don't think so can we?

Also see other comments below.

*Mike*

---

**From:** Krueger, Richelle  
**Sent:** Monday, March 27, 2017 3:51 PM  
**To:** Meyer, Mike <[Mike.Meyer@ks.gov](mailto:Mike.Meyer@ks.gov)>  
**Cc:** Makens, Thom <[Thom.Makens@ks.gov](mailto:Thom.Makens@ks.gov)>; Turney, Brent <[Brent.Turney@ks.gov](mailto:Brent.Turney@ks.gov)>  
**Subject:** Question about Chg Pd PU UMW File No. 13690 Penner Partners, Chg Pu File No. 13984

Hi Mike,

How goes it? The application for File No. 13690 proposes a partial conversion of 10 AF and 6 g.p.m. to stockwatering use and I think to move that quantity and rate to a stockwatering battery of 2 wells authorized by File Nos. 25553.01 and 39663. This looks like additional well kicks in, do you want to do a rate test, or do you think the quantity and rate are so small that it isn't necessary?

Yes we discussed a flow rate test,

By the way I am bumping up the rate to 7 g.p.m. so the quantity can be pumped in 365 days. That is fine, I thought it was 6 GPM for 365 days

The irrigation changes in pu between File Nos. 13,690 and 13,984 will create a complete overlap in pu, so no consideration of base acres. The proposed acres total 473.41 acres (I modified a bit to reflect correction lots). Total quantity - File No. 13690 has 302 AF + File No. 13984 has 134 AF =  $436 \text{ af} / 473.41 \text{ ac} = 0.92 \text{ af/ac}$  50% Gray NIR  $1.15 / .85 = 1.35 \text{ AF/ac}$ , is that an issue for you? Looks like it will be a better situation than File No. 13984 is now in with 0.42 AF/ac and proly base acres much less than 320 acres.....also File No. 13984 is in a MYFA, File No. 20147013MF, I thought this probably not an issue, but thought I would double check.

They are relying on effluent to send back, so no it is not an issue on af/ac.

Are the feet distances shown for the irrigation well remaining under File No. 13,690 off of a compliance investigation somewhere? I cant find anything in scanned docs so thought I better check.

Attached is a scanned compliance investigation done in 2014 for the myfa with corrected distance

Thanks as always, for your help!

Richelle

1320 Research Park Drive  
Manhattan, Kansas 66502  
(785) 564-6700



900 SW Jackson, Room 456  
Topeka, Kansas 66612  
(785) 296-3556

Jackie McClaskey, Secretary

Governor Sam Brownback

February 28, 2017

**FILE COPY**

PENNER PARTNERS  
13104 F RD  
INGALLS, KS 67853

RE: File No. 13984

Dear Sir or Madam:

An application for approval of the Chief Engineer to change the following condition or conditions of the file number referred to above has been received:

- place of use            PU
- point of diversion
- use made of water

As a matter of record, the Division of Water Resources has on hand a large number of applications awaiting processing. Therefore, to be fair to all concerned, and so that we can process those applications on hand in the order they were received, we intend to concentrate on the backlog of applications until the issue is resolved. You will be contacted regarding this application as soon as it has been examined.

In accordance with the provisions of the Kansas Water Appropriation Act, a portion of which is included below, the use of water prior to approval of the application is unlawful. You should not proceed and divert water as indicated by your plans in your application for a change for this file until you receive approval for this change from the Chief Engineer. Once approved, compliance with the terms, conditions and limitations of the permit is necessary. Conservation of the water resources of Kansas is required.

**Section 82a-728 of the Kansas Water Appropriation Act, provides (a) except for the appropriation of water for the purpose of domestic use, . . . it shall be unlawful for any person to appropriate or threaten to appropriate water from any source without first applying for and obtaining a permit to appropriate water in accordance with the provisions of the Water Appropriation Act or for any person to violate any condition of a vested right, appropriation right or an approved application for a permit to appropriate water for beneficial use.**

**(b) (1) The violation of any provision of this section by any person is a class C misdemeanor...**

**A class C misdemeanor is punishable by a fine not to exceed \$500 and/or a term of confinement not to exceed one month in the county jail. Each day that the violation occurs constitutes a separate offense.**

If you have any questions, please contact me at (785) 564-6645. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

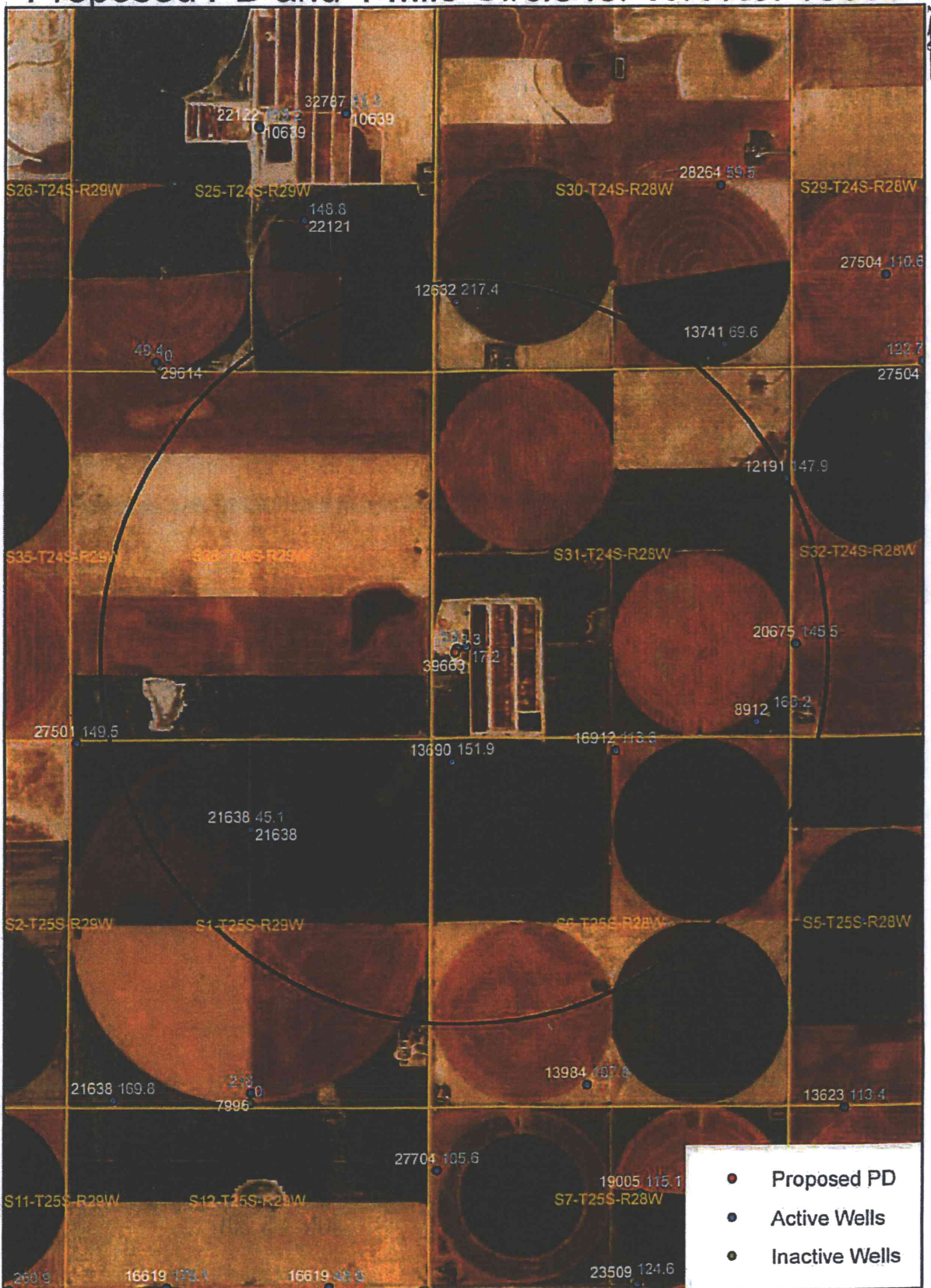
Sincerely,

A handwritten signature in cursive script that reads "Brent A. Turney".

Brent A Turney, L.G.  
Change Applications Unit Supervisor  
Water Appropriation Program

BAT: dlw  
pc: GARDEN CITY Field Office    GMD 3

# Proposed PD and 1 Mile Circle for WR No. 13690



1:24,000

WATER RESOURCES  
RECEIVED

Water right numbers are in white text.  
10 year average use is in blue text.

JUN 15 2017

KS DEPT OF AGR CULTURE



**To Southwest Kansas Groundwater Management**

**District No. 3**

I, Dennis Penner, president of Penner Cattle Inc., am asking for a waiver on the spacing between wells 13690 (irrigation) and 39663. In order to sell the feedlot an additional 10 acre feet was requested from the irrigation well (13690) to be placed on the battery of wells 25553.01.

We realize that by taking 10 acre ft from 13690 we are reducing our acre ft allowable allotment from 320 to 302.

The feedlot is sold based on the approval of this waiver.

WATER RESOURCES  
RECEIVED

JUN 15 2017

KS DEPT OF AGRICULTURE

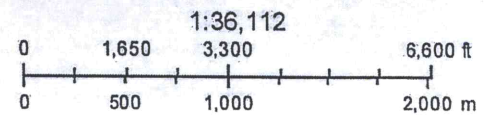
# Penner: 13690



May 15, 2017

- Meters
- WWC5 WELLS GMD3
- Sections
- Wells
- WIMAS WELLS GMD3

WATER RESOURCES  
RECEIVED  
JUN 15 2017  
KS DEPT OF AGRICULTURE



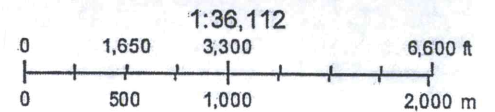
# Penner: 13690 & 13984

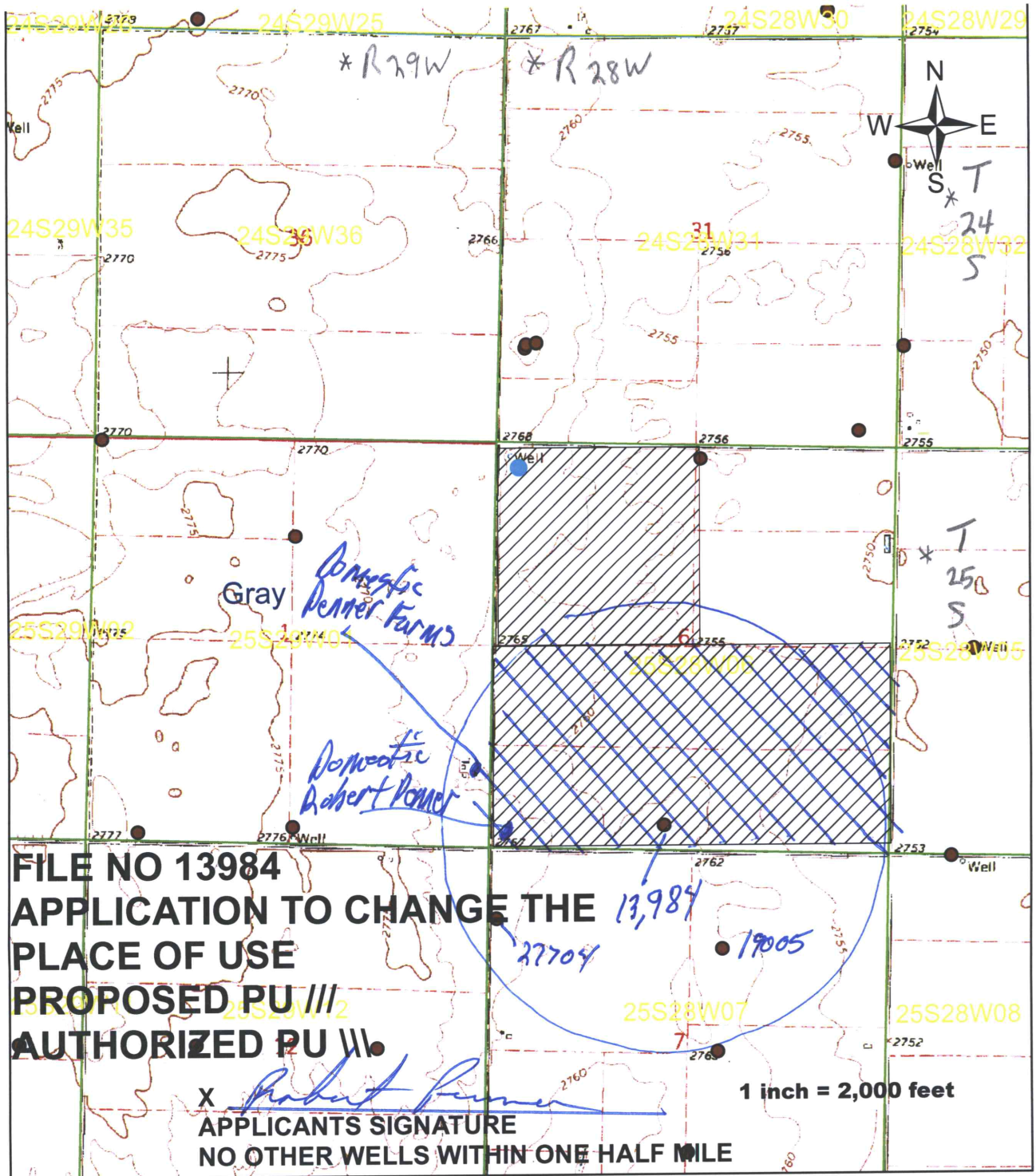


May 15, 2017

- Meters
- WWC5 WELLS GMD3
- Sections
- Wells
- WIMAS WELLS GMD3

RESOURCES RECEIVED  
 JUN 15 2017  
 KS DEPT OF AGRICULTURE





**FILE NO 13984**  
**APPLICATION TO CHANGE THE PLACE OF USE**  
**PROPOSED PU III**  
**AUTHORIZED PU III**

X *Robert Pomer*  
 APPLICANTS SIGNATURE  
 NO OTHER WELLS WITHIN ONE HALF MILE

\* Max/min 6/20/17

WATER RESOURCES  
 RECEIVED

FEB 24 2017

KS DEPT OF AGRICULTURE

RECEIVED

FEB 20 2017

Garden City Field Office  
 Division of Water Resources

SCANNED