

Kansas Department of Agriculture
Division of Water Resources

CHANGE: P/U WORKSHEET & ORDER IN MATTER OF PD, OWNERSHIP & WUC

1. File Number: 10290- D1	2. Status Change Date: 4/4/2019	3. Change Num: C1	4. Field Office: 4	5. GMD: 1
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: 10/11/2018
8a. Applicant(s) New to system <input type="checkbox"/> GARY & BETH WILBUR 426 W COUNTY ROAD L LEOTI KS 67861-6270		8c. Landowner(s) New to system <input checked="" type="checkbox"/> VIRGINIA LEE TRUST TERRY LEE POA 2908 ST JAMES PL GARDEN CITY KS 67846		
8b. Landowner(s) New to system <input checked="" type="checkbox"/> KENNETH J & MARY F GERSTBERGER 512 E LOGAN LEOTI KS 67861 ELMER LEE GERSTBERGER DECEASED		8d. WUC New to system <input type="checkbox"/> 8A THIS MAY NEED UPDATEING		
9. Documents and Enclosure(s): <input checked="" type="checkbox"/> DWR Meter(s) Date to Comply: 12/31/2019 <input type="checkbox"/> N & P Date to Comply: _____				
<input type="checkbox"/> Anti-Reverse Meter <input type="checkbox"/> Meter Seal <input type="checkbox"/> Check Valve <input type="checkbox"/> N & P Form <input type="checkbox"/> Water Tube <input type="checkbox"/> Driller Copy <input type="checkbox"/> H & E Letter <input type="checkbox"/> Conservation Plan Date Required: _____ Date Approved: _____ Date to Comply: _____				
10. Use Made of Water From: _____ To: _____				
Date Prepared: 3/28/2019 By: LI Date Entered: 4/9/2019 By: LLM				

File No. **10290 D1** 11. County: WH Basin: LADDER CREEK Stream: NA Formation Code: 211 Special Use:

12. Points of Diversion
 Rate and Quantity
 Authorized Additional
 Rate Quantity Rate Quantity
 gpm/cfs af/mgy gpm/cfs af/mgy Overlap PD Files

MOD 25852 NW NW NE 28 17 36W 3 5301 2459 GPS UPDATE NO CHANGE NONE- 10290-D2

13. Storage: Rate _____ NF Quantity _____ ac/ft Additional Rate _____ NF Additional Quantity _____ ac/ft

14. Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____
 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 CHK MOD DEL ENT	PUSE	S	T	R	ID	NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg?	Overlap Files
						NE %	NW %	SW %	SE %	NE %	NW %	SW %	SE %	NE %	NW %	SW %	SE %	NE %	NW %	SW %	SE %				
DEL	37764	28	17	36W	3					40.0	40.0	40.0	40.0									160.0	8B	YES	25192
DEL	21385	28	17	36W	1	40.00				40.00												80.0	8C	YES	10290 D2
MOD	53206	28	17	36W	4		40.0	40.0														80.0	8A	NO	13831
ENT	25812	21	17	36W														40.00	40.00	40.00	40.00	160	8A	NO	13831

Base Acres: Year: Minimum Reasonable Quantity:
 Comments:

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

MEMORANDUM

TO: Files

DATE: March 26, 2019

FROM: Leslie Ireland

RE: Water Right,
File Nos. 250; 10,290-D1; 13,831 & 25,192

Gary & Beth Wilbur have filed applications for change in place of use along with the owners Kenneth J. and Mary F. Gerstberger and Terry Lee with POA for the Virginia Lee Trust, all owners of the referenced rights authorized for irrigation use. The applications were received on October 11, 2018 in the Garden City Field Office and reassigned to Headquarters Office on November 5, 2018; due to the requested division of File No. 10,290.

The referenced files were found not to be abandoned as per K.S.A. 82a-718 and in compliance with K.S.A. 82a-732. Notification letters as required by K.S.A. 82a-1906, were not needed as all wells in the area are own by the applicants. After much work by Brent Turney, Change Unit Supervisor, the proposals were clarified to separate the property and rights owned by Gary & Beth Wilbur which consist of File Nos. 13,831 & the D1 portion of File No. 10,290. The applications comply with K.A.R. 5-5-2a, *Complete change application*.

The division and reduction of File No. 10,290 into one portion for the wells and two portions for the place of use. It will reduce the quantity and rate will result in both D1 & D2 authorizing only the well in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 28 to divert 360 acre-feet at 502 gallons per minute divided between each portion. File No. 10,290-D1 authorizing 180 AF for 80 acres in the W $\frac{1}{2}$ NE $\frac{1}{4}$, and File No. 10,290-D2 authorizing 180 AF for 80 acres in the E $\frac{1}{2}$ NE $\frac{1}{4}$, all in Section 28, Township 17 South, Range 36 West, Wichita County. The changes propose to overlap the D1 portion with the 160 acres in the SE $\frac{1}{4}$ of Section 21, Township 17 South, Range 36 West, Wichita County authorized by File No. 13,831. The change is allowed by part (b)(1) to create identical place of use per K.A.R. 5-5-11, *Applications for change in place of use for irrigation purposes*. There is no increase in net authorized acres and both rights are certified. File No. 10,290-D1, will have a base-acres of 80 acres, that developed 2.25 acre-foot per acre, for an annual diversion of 180 acre-feet at 251 gallons per minute. The well assigned to this portion is located on the NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ of the section and was determined to by an August 2016, DWR Compliance Investigation to be located 5,301 feet North and 2,459 feet West of the Southeast corner. The approval will update the location of the well to provide the feet distances.

It appears the well under File No. 13,831 will need to be updated by the place of use change approval. Its actual location was determined by a 2106 DWR Compliance Investigation to be 107 feet North and 76 feet West of the Southeast corner of Section 21, Township 17, Range 36 West. This well is authorized 320 acre-feet at a rate of 1,095 gallons per minute. It is proposed to overlap its 160 acres in the SE $\frac{1}{4}$ of Section 21 with the 80 acres under File No. 10,290-D1. The 240 acres to be authorized by File Nos. 10,290-D1 and 13,831 will provide a total of 500 acre-feet of water per year providing 2.08 acre-foot per acre. This quantity appears to be reasonable based on the historical agriculture production. The irrigation ratio meets part (d)(1) of K.A.R. 5-3-23, *Maximum reasonable annual quantity approvable for irrigation use for an application for change in place of use and a request to reduce a water right*, as the property has been used for alfalfa production. The 240 acres of File Nos. 10,290-D1 & 13,831, is and will remain owned by Gay & Beth Wilbur.

The division of File No. 10,290, authorized a separate place of use in the E½ NE¼, of Section 28. This will be irrigated from the same point of diversion with File No. 10,290-D1. The D2 portion will authorize 80 acres in the E½ NE¼ of Section 28, Township 17 South, Range 36 West to be irrigated with its developed 180 acre-feet from the well located in the NW¼ NW¼ NE¼ of Section 28. This well will be authorized both D1 & D2. The D2 portion will become a standalone right, and owned by the Virginia Lee Trust. This change result in an irrigation ratio of 2.25 acre-foot per acre that was historically developed. It appears to comply with K.A.R. 5-3-23, *Maximum reasonable annual quantity approvable for irrigation use for an application for change in place of use and a request to reduce a water right*. The 2.25 AF/A complies with K.A.R. 5-3-24, *Reasonable quantity for irrigation use*, as these rights have historically irrigated alfalfa. This right will become a standalone right it will remain as detailed in the order dividing File No. 10,290, and owned by the Virginia Lee Trust.

The requested changes in place of use under File Nos. 250 & 25,192 will facilitate an overlap in place of use to authorize 160 acres in the Northwest Quarter of Section 28. This place of use has historically been authorized by these two rights. The proposed changes are creating an identical place of use and comply with K.A.R 5-5-11(b)(1). The 160 acres will be authorized a combined total of 360 acre-feet by File Nos. 250 & 25,192. The order for File No. 250, will also update the point of diversion to add the feet distances determined by the April 2013, DWR Compliance Investigation, placing the well 4,191 feet North 3,824 feet West of the Southeast corner of Section 28. The point of diversion under File No. 25,192, is just an alternate well. It's 310 acre feet at a rate of 750 gallons per minute, will remain as authorized, but the additional limitation on File No. 25,192 will be modified to remove File No.10,290, and limited to is developed 2.25 AF/A or 360 acre-feet with File No. 250. These changes will have an irrigation ratio of 2.25 acre-foot per acre, complying with K.A.R. 5-3-23, *Maximum reasonable annual quantity approvable for irrigation use for an application for change in place of use and a request to reduce a water right* as developed and certified.

The summary memo was sent to Michael Meyer, Water Commissioner of the Garden City Field Office who indicated in an e-mail note dated March 14, 2019, that he would recommend approval of the proposed changes. He coordinated the review and recommendation of the proposal with Western Kansas Groundwater Management District No. 1.

In a letter dated March 22, 2019, and received on March 25, 2019, Kyle Spencer, district Manager of Western Kansas Groundwater Management District No. 1 indicated the Districts recommendation for approval as long as no negative responses from nearby well owners were receive, if needed. No nearby notifications were sent as there were only the applicants wells within one-half (½) mile of the wells requesting changes to their place of use.

Water flowmeters would not be a condition of the approvals for File Nos. 10,290-D1 & 13,831, as the proposed changes meet the requirement of part (e) of K.A.R 5-5-11. It does appear these meters were found to be in compliance in 2017. It appears the changes under File Nos. 250 & 25,192 also comply with part e of K.A.R. 5-5-11 and the approval wouldn't need to state the meter requirement, however there was a meter issue under File No. 25,192, in 2013 showing they were out of compliance for an hour meter, therefore the approvals will have the wording that require meters meeting the specifications of K.A.R. 5-1-4, *Water flowmeter specifications*. A water level measurement tube and WWC-5 will not be required by any of the change approvals as no new wells will be authorized, just updated.

Based on the above discussion, that the changes are reasonable, consumptive use will not be increased and that impairment of existing water rights is unlikely, it is recommended that the referenced applications be approved.



Leslie Ireland
Environmental Scientist
Water Appropriation Program

1320 Research Park Drive
Manhattan, KS 66502
785-564-6700
www. agriculture.ks.gov



900 SW Jackson, Room 456
Topeka, KS 66612
785-296-3556

Mike Beam, Acting Secretary

Laura Kelly, Governor

FILE COPY

April 12, 2019

GARY & BETH WILBUR
426 W COUNTY ROAD L
LEOTI KS 67861-6270

RE: Water Right, File No. 10,290

Dear Mr. & Mrs. Wilbur:

Enclosed is the Findings and Order by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, which sets forth the interest in Water Right, File No. 10,290.

This division of interest is pursuant to the Application to Divide a Water Right received in this office on November 5, 2018. The portion of the water right retained by Gary and Beth Wilbur will henceforth be identified as "Water Right, File No. 10,290-D1" and the portion of the water right retained by the Virginia Lee Trust will henceforth be identified as "Water Right, File No. 10,290-D2." As a matter of information, the owner of the right, or his or her legally designated agent, is held responsible for submitting annual water use reports. Future requests for water use reports for Water Right, File Nos. 10,290-D1 and 10,290-D2 will be sent to Gary and Beth Wilbur.

Since the enclosed Findings and Order affects the water right appurtenant to your land, it is important that the information be recorded in the office of the Wichita County Register of Deeds. This is important because it is an instrument affecting the real estate or property value. If you have any questions, please contact Charlotte C. Philip at 785-564-6642. If you wish to discuss a specific file, please have the number ready so that we may help you more efficiently.

Sincerely,

Lane P. Letourneau, P.G.
Water Appropriation Program Manager
Division of Water Resources

LPL:ccp
Enclosure

pc: Garden City Field Office
Groundwater Management District No. 1
Virginia Lee Trust

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Acting Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

APPROVAL OF APPLICATION FOR CHANGE IN PLACE OF USE AND ORDER IN THE MATTER OF THE AUTHORIZED POINT OF DIVERSION WATER RIGHT, FILE NO. 10,290-D1

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Gary and Beth Wilbur, 426 W. County Road L, Leoti, Kansas 67861-6270, along with Kenneth J. and Mary F. Gerstberger, 512 E. Logan, Leoti, Kansas 67861, and Terry Lee, POA for the Virginia Lee Trust, 2908 St. James Place, Garden City, Kansas 67846, received in the office of the Chief Engineer on October 11, 2018, for approval of a change in the location of the place of use under the certificate of appropriation issued pursuant to the permit to appropriate water for beneficial use, as modified and amended by the Findings and Order of the Chief Engineer dated April 2, 2019, determining the interest of Water Right, File No. 10,290, finds that the change is reasonable and will not impair existing rights, and that the application should be and is hereby approved.

The effective date of the change shall be the date this order is executed by the Chief Engineer, after which the authorized location of the place of use shall be:

Sec. Twp. Range	NE¼				NW¼				SW¼				SE¼				TOTAL
	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
21 17 36W													40.00	40.00	40.00	40.00	160.0
28 17 36W		40.00	40.00														80.0

a total of 240.0 acres in Sections 21 & 28, Township 17 South, Range 36 West, Wichita County, Kansas,

located substantially as shown on the topographic map accompanying the application to change the place of use.

That information in the office of the Chief Engineer finds that the point of diversion authorized would more accurately be defined as:

one (1) well located in the Northwest Quarter of the Northwest Quarter of the Northeast Quarter (NW¼ NW¼ NE¼) of Section 28, more particularly described as being near a point 5,301 feet North and 2,459 feet West of the Southeast corner of said section, in Township 17 South, Range 36 West, Wichita County, Kansas.

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.

In all other respects, the Certificate of Appropriation issued pursuant to Approval of Application, File No. 10,290-D1, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated April 25, 1972, as modified and amended by the aforementioned order.

Ordered this 4th day of April, 2019, in Manhattan, Riley County, Kansas.

Lane P. Letourneau
Lane P. Letourneau, P.G.
Program Manager
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 4th day of April 2019, by Lane P. Letourneau, P.G., Program Manager, Division of Water Resources, Kansas Department of Agriculture.

Danielle Wilson
Notary Public



RIGHT TO A HEARING AND TO ADMINISTRATIVE REVIEW

If you are aggrieved by this Order, then pursuant to K.S.A. 82a-1901, you may:

- 1) request an evidentiary hearing before the Chief Engineer, or
- 2) request administrative review by the Secretary of Agriculture.

Failure to request an evidentiary hearing before the Chief Engineer does not preclude your right to administrative review by the Secretary.

To obtain an evidentiary hearing before the Chief Engineer, a written request for hearing must be filed within 15 days after service of this Order as provided in K.S.A. 77-531 (**i.e., within a total of 18 days after this Order was mailed to you**), with: Kansas Department of Agriculture, Attn: Legal Section, 1320 Research Park Drive, Manhattan, KS 66502, FAX (785) 564-6777.

If you do not file a request for an evidentiary hearing before the Chief Engineer, you may petition for administrative review of the Order by the Secretary of Agriculture. A petition for review shall be in writing and state the basis for requesting administrative review. The request for hearing may be denied if the request fails to clearly establish factual or legal issues for review. See K.S.A. 77-527. The petition must be filed within 30 days after service of this Order as provided in K.S.A. 77-531 (**i.e., within a total of 33 days after this Order was mailed to you**), and be filed with: Secretary of Agriculture, Attn: Legal Division, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, KS 66502, FAX (785) 564-6777.

If neither a request for an evidentiary hearing nor a petition for administrative review is filed as set forth above, then this Order shall be effective and become a final agency action as defined in K.S.A. 77-607(b). Failure to timely request either an evidentiary hearing or administrative review may preclude further judicial review under the Kansas Judicial Review Act.

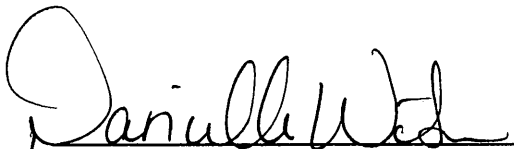
CERTIFICATE OF SERVICE

On this 12th day April, 2019, I hereby certify that the attached Approval of Application for Change in Place of Use and Order in the Matter of the Authorized Point of Diversion, Water Right, File No. 10,290-D1 dated April 4th, 2019 was mailed postage prepaid, first class, US mail to the following:

Gary & Beth Wilbur
426 W County Road L
Leoti, KS 67861-6270

With copies to:

Garden City Field Office
Groundwater Management District No. 1


Division of Water Resources

Submit completed application to:
 Kansas Department of Agriculture
 Division of Water Resources
 Field Office for your area.

DWR FIELD OFFICE APPLICATION FOR APPROVAL TO CHANGE THE PLACE OF USE AND/OR THE POINT OF DIVERSION



STATE OF KANSAS

Call for address:
 Topeka -- (785) 296-5733
 Stafford -- (620) 234-5311
 Stockton -- (785) 425-6787
 Garden City -- (620) 276-2901
<http://agriculture.ks.gov/dwr>

Filing Fee Must Accompany the Application, K.S.A. 82a-708b(b), as amended.
 Fee Schedule is on the third page of this application form.

Paragraph Nos. 1, 2, 3 & 5 must be completed. Complete all other applicable portions. If change in point of diversion is greater than 100 feet, or if place of use will be changed, include a topographic map or detailed plat showing the authorized and proposed point(s) of diversion and/or place of use.

File No. 10290 - DI*

RECEIVED
 3:41 pm
 OCT 11 2018

1. Application is hereby made for approval of the Chief Engineer to change the (check one or both):

Place of Use Point of Diversion

Garden City Field Office
 DIVISION OF WATER RESOURCES

under the water right which is the subject of this application in accordance with the conditions described below.

The source of supply is: Groundwater Surface water

2. Name and address of Applicant: GARY & BETH WILBUR

426 W COUNTY ROAD L, LEOTI KS 67861-6270

Water Resources

Phone Number: (620)375-4838

Email address: _____

Received

Name and address of Water Use Correspondent: Same

NOV 05 2018

Phone Number: () _____

Email address: _____

KS Dept Of Agriculture

3. The presently authorized place of use is:

Owner of Land ---- NAME: Same see attached

ADDRESS: _____

(If there is more than one landowner, attach supplemental sheets as necessary.)

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	
28	17	36	40	40	40	40	40	40	40	40									320

4. If this application is for a change in place of use, it is proposed that the place of use be changed to:

Owner of Land ---- NAME: Same see attached

ADDRESS: _____

(If there is more than one landowner, attach supplemental sheets as necessary.)

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	
28	17	36	40	40	40	40	40	40	40	40									320
21	17	36																	160

For Office Use Only: Code _____ Fee \$ 200.00 TR # _____ Receipt Date 10-11-18 Check # 13346
 RECEIVED

OCT 25 2018

APPLICATION COMPLETE
 Page 1 3/25/19
 Reviewer LI

SCANNED File No. 10290
 11/6/2018 LM

5. **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 _____ Depth of well _____ (feet)
 (DWR use only: Computer ID No. _____ GPS _____ feet North _____ feet West)
 This point will not be changed This point will be changed as follows: No change, point better described with GPS as follows:
Proposed point of diversion: (Complete only if change is requested or if existing point is better described by GPS)
 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 _____ Proposed well depth (feet) _____
 This point is: Additional Well Geo Center List other water rights that will use this point _____

6. **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 _____ Depth of well _____ (feet)
 (DWR use only: Computer ID No. _____ GPS _____ feet North _____ feet West)
 This point will not be changed This point will be changed as follows: No change, point better described with GPS as follows:
Proposed point of diversion: (Complete only if change is requested or if existing point is better described by GPS)
 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.
 Proposed Rate _____ Proposed Quantity _____ Proposed well depth (feet) _____
 This point is: Additional Well Geo Center List other water rights that will use this point _____

7. The changes herein are desired for the following reasons?
 (please be specific) Place of use overlap

8. If a well, is the test hole log attached? Yes No

9. The change(s) (was)(will be) completed by?
ASAP

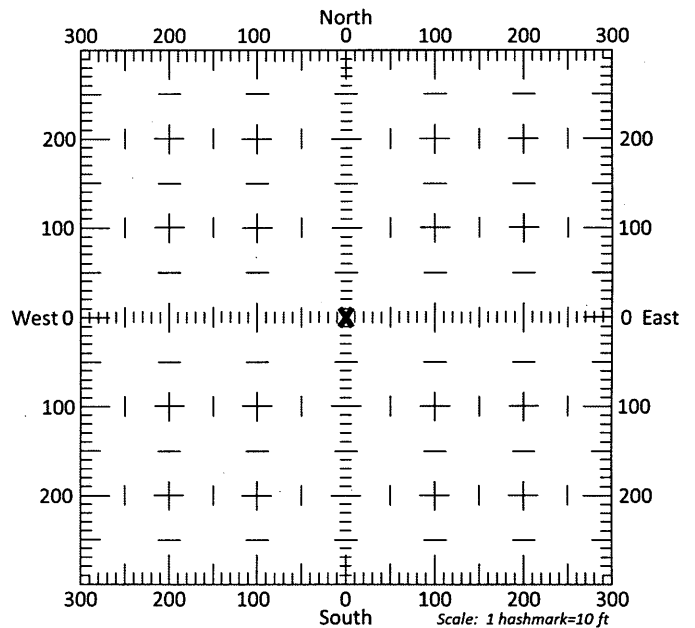
10. If the point of diversion is a well:
 (a) What are you going to do with the old well?

 (b) When will this be done? _____

11. Groundwater Management District recommendation attached?
 Yes No

12. Assisted by mf/GCFO _____

13a. If the proposed point of diversion will be relocated more than 300 feet but within 2,640 feet of the existing point of diversion, attach a topographic map or aerial photograph. For groundwater sources, show all wells (including domestic) within one-half mile of the proposed point of diversion and the names and mailing addresses of the owners. For surface water sources, show the names and addresses of the landowner(s) one-half mile downstream and one-half mile upstream from your property lines



13b. If the proposed point of diversion will be relocated within 300 feet of the existing point of diversion, indicate its location on the diagram shown above in relation to the existing point of diversion. (PLEASE NOTE: The "X" in center of diagram above represents the presently authorized point of diversion.)

APPLICATION FOR APPROVAL TO CHANGE
THE PLACE OF USE AND/OR POINT OF DIVERSION
SUPPLEMENTAL SHEET

FILE NO. 10290

MAKE ADDITIONAL COPIES AS NECESSARY

G.W. 10-30-18
B.W. 10-30-18
KPH 10-31-18
MFB 10-31-18

*

3. Continued: The presently authorized place of use is:

Owner of Land ---- NAME: GARY WILBUR

- DI PORTION *

ADDRESS: 426 W COUNTY ROAD L, LEOTI KS 67861

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	
28	17	36W		40	40													80	

Owner of Land ---- NAME: KENNETH J GERTSBERGER

OVERLAPS FILE #S 250, 251, 2 *

ADDRESS: 512 E LOGAN, LEOTI KS 67861

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	
28	17	36W					40	40	40	40								160	

Owner of Land ---- NAME: VIRGINIA LEE TURST, ATTN TERRY LEE

OVERLAPS FILE NOS. 250, 251, 92 *

ADDRESS: 2908 ST JAMES PL, GARDEN CITY KS 67846

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	
28	17	36W	40			40												80	

4. Continued: If this application is for a change in place of use, it is proposed that the place of use be changed to:

Owner of Land ---- NAME: GARY WILBUR

FILE NO. 290-DI *

ADDRESS: 426 W COUNTY ROAD L, LEOTI KS 67861

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	
28	17	36W		40	40													80	
21	17	36W												40	40	40	40	160*	

Owner of Land ---- NAME: VIRGINIA LEE TURST, ATTN TERRY LEE

PROPOSED OVERLAP WITH FILE NO. 13,831 *

ADDRESS: 2908 ST JAMES PL, GARDEN CITY KS 67846

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	
28	17	36W	40			40												80	

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	

Water Resources
Received

NOV 05 2018

KS Dept Of Agriculture

XBAT/DWE 218-19
ASPED Phone call
G-wilbur

SCANNED
11/13/19

14. If the proposed groundwater point of diversion is 300 or fewer feet from the existing point of diversion, complete the following:
- (a) Does the undersigned represent all owners of the currently authorized place(s) of use identified in this application?
 Yes No (If no, all owners must sign this application.)
 - (b) Will the ownership interest of any owner of the currently authorized place(s) of use identified in this application be adversely affected if this application is approved as requested?
 Yes No (If yes, all owners must sign this application.)
 - (c) If this application is not approved expeditiously, will there be substantial damage to property, public health or safety?
 Yes No (If no, all owners must sign this application.)

If the application proposes a surface water change in point of diversion, a groundwater change in point of diversion greater than 300 feet, or a change in place of use, the application must be signed by all owners of the currently authorized place of use, or their duly authorized agent (attach notarized statement authorizing representation).

I hereby verify, being first duly sworn upon my oath or affirmation and under penalty of perjury, that I am of lawful age and the owner, the spouse of the owner, or a duly authorized agent of the owner(s) to make this application on their behalf, in regards to the water right(s) to which this application pertains. I further verify that the statements contained in this application are true, correct and complete.

Dated at Leoti, Kansas, this 8th day of October, 20 18.

Gary Wilbur
 (Owner)

Beth Wilbur
 (Spouse)

Gary Wilbur
 (Please Print)

Beth Wilbur
 (Please Print)

(Owner)

(Spouse)

(Please Print)

(Please Print)

(Owner)

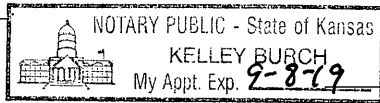
(Spouse)

(Please Print)

(Please Print)

State of Kansas }
 County of _____ } SS

I hereby certify that the foregoing application was signed in my presence and sworn to before me this 8th day of October, 20 18



Kelley Burch
 Notary Public

My Commission Expires 9-8-19

ONLY COMPLETE APPLICATIONS WILL BE PROCESSED. To be complete, all of the applicable portions of the application form must be completed with accurate information; maps, if necessary, must be included; signatures of all the appropriate owners' must be affixed to the application and notarized; and the appropriate fee must be paid.

FEE SCHEDULE

Each application to change the place of use or the point of diversion under this section shall be accompanied by the application fee set forth in the schedule below: Make checks payable to: **Kansas Department of Agriculture**

- (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

RECEIVED

Water Resources
 Received

OCT 25 2018

NOV 05 2018

SUMMARY ORDER APPROVING APPLICATION FOR CHANGE AND IMPOSING CONDITIONS

This Summary Order is issued under authority of K.S.A. 82a-708b, as amended, and K.A.R. 5-5-1, *et seq.* and other applicable provisions of the *Kansas Water Appropriation Law, K.S.A. 82a-701 et. seq.*, and rules and regulations promulgated thereunder. With the exception of those conditions expressly contained herein, this Summary Order does not change the terms, conditions and limitations of File No. 13831

1. A change application was received on _____ requesting that the place of use and / or point of diversion authorized under the above-referenced file number be changed as described in the application.
2. On and after the effective date of this summary order, the authorized place(s) of use shall be located substantially as shown on the topographic map accompanying the application to change the place of use. Applicable Not Applicable
3. The change in point of diversion shall not impair existing rights and shall be limited to the same source or sources of water as previously authorized. The point of diversion authorized by this summary order shall be located within a _____ foot radius of the authorized point(s) of diversion. Applicable Not Applicable
4. The point(s) of diversion described herein is administratively corrected to be more accurately described using the Global Positioning System (GPS), as described in the application. Applicable Not Applicable
5. The point(s) of diversion authorized herein shall not actually be located more than _____ feet from the previously authorized point(s) of diversion. Applicable Not Applicable
6. As required by K.A.R. 5-3-5d, if the works for diversion is a well with a diversion rate of 100 gallons per minute or more, a tube or other device suitable for making water level measurements shall be installed, operated and maintained in accordance with K.A.R. 5-6-13. Applicable Not Applicable
7. **The owner of the authorized place(s) of use shall properly install an acceptable water flow meter on or before December 31, 2018**, or before the first use of water, whichever occurs first. The water flow meter shall be installed, operated and maintained in accordance with K.A.R. 5-1-4 through 5-1-12. As required by K.S.A. 82a-732, as amended, and K.A.R. 5-3-5e, the owner shall maintain records and report the reading of the water flow meter and the total quantity of water diverted annually to the Chief Engineer by March 1 following the end of each calendar year. Applicable Not Applicable
8. **Installation of the works for diversion of water shall be completed on or before December 31, 20____**, or within any authorized extension of time. By March 1, 20____ the applicant shall notify the Chief Engineer that construction of the works for diversion has been completed, on the form provided by the Chief Engineer, as required by K.A.R. 5-8-4e. Applicable Not Applicable
9. **The completed well log shall be submitted with the required notice.** Applicable Not Applicable
10. All diversion works into which any type of chemical or other foreign substance will be injected into the water shall be equipped with an in-line, automatic, quick-closing check valve capable of preventing pollution of the source of the water supply. The check valve(s) shall be installed, operated and maintained in accordance with K.A.R. 5-3-5c. Applicable Not Applicable
11. Additional Conditions are attached. Yes No
12. In accordance with K.S.A. 82a-708a, as amended, and K.A.R. 5-5-14, all of the owners of the authorized place(s) of use of water appropriated under the above-referenced file number are responsible for compliance with its terms, conditions and limitations, as amended and/or supplemented by this Summary Order, and with applicable provisions of the *Kansas Water Appropriation Law* and the *Rules and Regulations* promulgated thereunder. Failure to comply with these provisions may result in civil penalties pursuant to K.S.A. 82a-737, as amended, and/or the suspension or revocation and dismissal of the water or appropriation right or any other enforcement actions authorized by law.

Administrative Appeal and Effective Date of Order

If you are aggrieved by this order, pursuant to K.S.A. 82a-1901, you may request an evidentiary hearing before the Chief Engineer or request administrative review by the Secretary of Agriculture. A request for hearing by the Chief Engineer must be filed within **15 days** of service of this Order and a request for administrative review by the Secretary must be filed within **30 days** pursuant to K.S.A. 77-531. Any request for administrative review must state a basis for review pursuant to K.S.A. 77-527. File any request with **Kansas Department of Agriculture, Legal Division, 1320 Research Park Drive, Manhattan, KS 66502**. Failure to timely request a hearing or review may preclude review under the Kansas Judicial Review Act.

For Use by Register of Deeds

FOR OFFICE USE ONLY
APPLICATION APPROVED AND SUMMARY ORDER ISSUED

By: _____
Duly Authorized Designee of the Chief Engineer
(Print Name): _____
Division of Water Resources - Kansas Department of Agriculture

Date of Issuance: _____

State of Kansas)
) SS
County of _____)

Acknowledged before me on _____
by _____

Signature: _____
Notary Public

My commission expires: _____
(Notary Seal)

14. If the proposed groundwater point of diversion is 300 or fewer feet from the existing point of diversion, complete the following:
- (a) Does the undersigned represent all owners of the currently authorized place(s) of use identified in this application?
 Yes No (If no, all owners must sign this application.)
 - (b) Will the ownership interest of any owner of the currently authorized place(s) of use identified in this application be adversely affected if this application is approved as requested?
 Yes No (If yes, all owners must sign this application.)
 - (c) If this application is not approved expeditiously, will there be substantial damage to property, public health or safety?
 Yes No (If no, all owners must sign this application.)

If the application proposes a surface water change in point of diversion, a groundwater change in point of diversion greater than 300 feet, or a change in place of use, the application must be signed by all owners of the currently authorized place of use, or their duly authorized agent (attach notarized statement authorizing representation).

I hereby verify, being first duly sworn upon my oath or affirmation and under penalty of perjury, that I am of lawful age and the owner, the spouse of the owner, or a duly authorized agent of the owner(s) to make this application on their behalf, in regards to the water right(s) to which this application pertains. I further verify that the statements contained in this application are true, correct and complete.

Dated at Leoti, Kansas, this 30th day of October, 2018.

Gary Wilbur
 (Owner)
Gary Wilbur
 (Please Print)

 (Owner)

 (Please Print)

 (Owner)

 (Please Print)

Beth Wilbur
 (Spouse)
Beth Wilbur
 (Please Print)

 (Spouse)

 (Please Print)

 (Spouse)

 (Please Print)

State of Kansas }
 County of Wichita } SS

I hereby certify that the foregoing application was signed in my presence and sworn to before me this 30th day of October, 2018.



Gertrude Estes
 Notary Public

My Commission Expires 1-21-2019

ONLY COMPLETE APPLICATIONS WILL BE PROCESSED. To be complete, all of the applicable portions of the application form must be completed with accurate information; maps, if necessary, must be included; signatures of all the appropriate owners' must be affixed to the application and notarized; and the appropriate fee must be paid.

FEE SCHEDULE

Each application to change the place of use or the point of diversion under this section shall be accompanied by the application fee set forth in the schedule below: Make checks payable to: **Kansas Department of Agriculture**

(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	Water Resources \$200

Received

NOV 05 2018

The application must be supplemented by a U.S.G.S. topographic map showing the location of the subdivided point(s) of diversion (wells, stream-bank installations, dams, or other diversion works) and the location of the subdivided place of use, which should be shown by crosshatching on the topographic map. A 7.5 minute U.S.G.S. topographic map may be obtained from the Kansas Geological Survey, 1930 Constant, Campus West, University of Kansas, Lawrence, Kansas 66047.

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 water right, 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.

Dated at Leoti, Kansas, this 30th day of October, 2018.

Gary Wilbur
(Owner)

Gary Wilbur
(Please Print)

(Owner)

(Please Print)

Babe Wilbur
(Spouse)

Babe Wilbur
(Please Print)

(Spouse)

(Please Print)

State of Kansas)
County of Wichita) SS

I hereby certify that the foregoing application was signed in my presence and sworn to before me this 30th day of October, 2018.

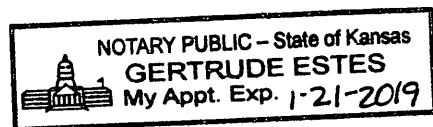
Gertrude Estes
Notary Public

My Commission Expires 1-21-2019

Water Resources
Received

NOV 05 2018

KS Dept Of Agriculture



#10290

SCANNED

Additional signatures related to the Application to Divide File No. _____.

(Owner)

(Spouse)

(Please Print)

(Please Print)

State of Kansas)

) SS

County of _____)

I hereby certify that the foregoing application was signed in my presence and sworn to before me this _____ day of _____, 20_____.

My Commission Expires _____.

Notary Public

(Owner)

(Spouse)

(Please Print)

(Please Print)

State of Kansas)

) SS

County of _____)

I hereby certify that the foregoing application was signed in my presence and sworn to before me this _____ day of _____, 20_____.

My Commission Expires _____.

Notary Public

(Owner)

(Spouse)

(Please Print)

(Please Print)

State of Kansas)

) SS

County of _____)

I hereby certify that the foregoing application was signed in my presence and sworn to before me this _____ day of _____, 20_____.

My Commission Expires _____.

NOTARY PUBLIC

Notary Public

14. If the proposed groundwater point of diversion is 300 or fewer feet from the existing point of diversion, complete the following:
- (a) Does the undersigned represent all owners of the currently authorized place(s) of use identified in this application?
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I hereby verify, being first duly sworn upon my oath or affirmation and under penalty of perjury, that I am of lawful age and the owner, the spouse of the owner, or a duly authorized agent of the owner(s) to make this application on their behalf, in regards to the water right(s) to which this application pertains. I further verify that the statements contained in this application are true, correct and complete.

Dated at Leoti, Kansas, this 31 day of October, 2018.

Kenneth J Gerstberger
(Owner)

Mary F Gerstberger
(Spouse)

Kenneth J Gerstberger
(Please Print)

Mary F Gerstberger
(Please Print)

(Owner)

(Spouse)

(Please Print)

(Please Print)

(Owner)

(Spouse)

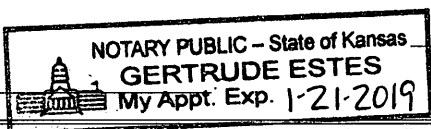
(Please Print)

(Please Print)

State of Kansas }
County of Wichita } SS

I hereby certify that the foregoing application was signed in my presence and sworn to before me this 31 day of October, 2018.

My Commission Expires 1-21-2019



Gertrude Estes
Notary Public

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FEE SCHEDULE

Each application to change the place of use or the point of diversion under this section shall be accompanied by the application fee set forth in the schedule below: Make checks payable to: **Kansas Department of Agriculture**

- (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

Water Resources
Received

NOV 05 2018 SCANNED

14. If the proposed groundwater point of diversion is 300 or fewer feet from the existing point of diversion, complete the following:
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I hereby verify, being first duly sworn upon my oath or affirmation and under penalty of perjury, that I am of lawful age and the owner, the spouse of the owner, or a duly authorized agent of the owner(s) to make this application on their behalf, in regards to the water right(s) to which this application pertains. I further verify that the statements contained in this application are true, correct and complete.

Dated at Marden City, Kansas, this 2nd day of November, 2018.

Terry Lee, POA
 (Owner)
Terry Lee, POA
 (Please Print)

 (Owner)

 (Please Print)

 (Owner)

 (Please Print)

 (Spouse)

 (Please Print)

 (Spouse)

 (Please Print)

 (Spouse)

 (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 2nd day of November, 2018.



Julie Jones
 Notary Public

My Commission Expires _____

ONLY COMPLETE APPLICATIONS WILL BE PROCESSED. To be complete, all of the applicable portions of the application form must be completed with accurate information; maps, if necessary, must be included; signatures of all the appropriate owners' must be affixed to the application and notarized; and the appropriate fee must be paid.

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 - (2) Application to change a point of diversion more than 300 feet \$200
 - (3) Application to change the place of use **Water Resources** \$200

Received
NOV 05 2018



WESTERN KANSAS GROUNDWATER MANAGEMENT DISTRICT NO.1

March 22, 2019

Leslie Ireland
Environmental Scientist
Water Appropriation Program
1320 Research Park Drive
Manhattan, KS. 66502

RE: Water Right, File Nos. 250,10290,13831 and 25192

Dear Ms. Ireland,

After reviewing the referenced change applications, the Western Kansas Groundwater Management District #1 recommends approval contingent upon no negative responses to letters, if any, sent to neighboring well owners.

Sincerely,

Kyle Spencer
District Manager

WATER RESOURCES
RECEIVED

MAR 25 2019

KS DEPT OF AGRICULTURE

1320 Research Park Drive
Manhattan, KS 66502
785-564-6700
www. agriculture.ks.gov



900 SW Jackson, Room 456
Topeka, KS 66612
785-296-3556

Mike Beam, Acting Secretary

Laura Kelly, Governor

March 15, 2019

WESTERN KANSAS GROUNDWATER
MANAGEMENT DISTRICT NO 1
KYLE SPENCER
PO BOX 604
SCOTT CITY KS 67861

FILE COPY

Re: Applications for Change,
Water Right, File Nos. 250; 10,290; 13,831 & 25,192
Application to Divide a Water Right, File No. 10,290

Dear Mr. Spencer:

We are enclosing a copy of each of the applications referred to above which appear to be in proper form. The applicants are proposing to divide and reduce File No. 10,290. The D1 portion is proposed to overlap with File No. 13,831, and the D2 portion of File No. 10,290, to stand alone in the East Half of the Northeast Quarter of Section 28, Township 17, Range 36 West, Hamilton County. The owners have also requested to overlap File Nos. 250 & 25,192 in the Northwest Quarter of Section 28.

We are delaying any further action for a period of 15 days from the date of this letter to allow you time to submit a recommendation concerning the applications referenced above.

Please submit your recommendation within the allotted time, or any authorized extension of time thereof. If you wish to refer to a specific file, please reference it when you contact our office.

Sincerely,

A handwritten signature in cursive script that reads "Leslie Ireland".

Leslie Ireland
Environmental Scientist
Water Appropriation Program

LI:li
Enclosures

pc: Garden City Field Office
Gary Wilber

SCANNED

14. If the proposed groundwater point of diversion is 300 or fewer
- (a) Does the undersigned represent all owners of the current?
 - Yes No (If no, all owners must sign th
 - (b) Will the ownership interest of any owner of the currentl affected if this application is approved as requested?
 - Yes No (If yes, all owners must sign t
 - (c) If this application is not approved expeditiously, will there
 - Yes No (If no, all owners must sign th

If the application proposes a surface water change in point of divi or a change in place of use, the application must be signed by all agent (attach notarized statement authorizing representation).

I hereby verify, being first duly sworn upon my oath or affirmation and that I am of lawful age and the owner, the spouse of the owner, or a duly authorized agent of the owner(s) to make this application on their behalf, in regards to the water right(s) to which this application pertains. I further verify that the statements contained in this application are true, correct and complete.

Dated at _____, Kansas, this _____ day of _____, 20_____.

(Owner)

(Please Print)

(Owner)

(Please Print)

(Owner)

(Please Print)

(Spouse)

(Please Print)

(Spouse)

(Please Print)

(Spouse)

(Please Print)

State of Kansas }
County of _____ } SS

I hereby certify that the foregoing application was signed in my presence and sworn to before me this _____ day of _____, 20_____.

My Commission Expires _____.

Notary Public

ONLY COMPLETE APPLICATIONS WILL BE PROCESSED. To be complete, all of the applicable portions of the application form must be completed with accurate information; maps, if necessary, must be included; signatures of all the appropriate owners' must be affixed to the application and notarized; and the appropriate fee must be paid.

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- (2) Application to change a point of diversion more than 300 feet \$200
- (3) Application to change the place of use \$200

Water Resources
Received

NOV 05 2018
SCANNED
File No: _____

Terry Lee sign

DONE 11/2/18 - LT/DM

See 11/2/18 SIGNATURE PAGE

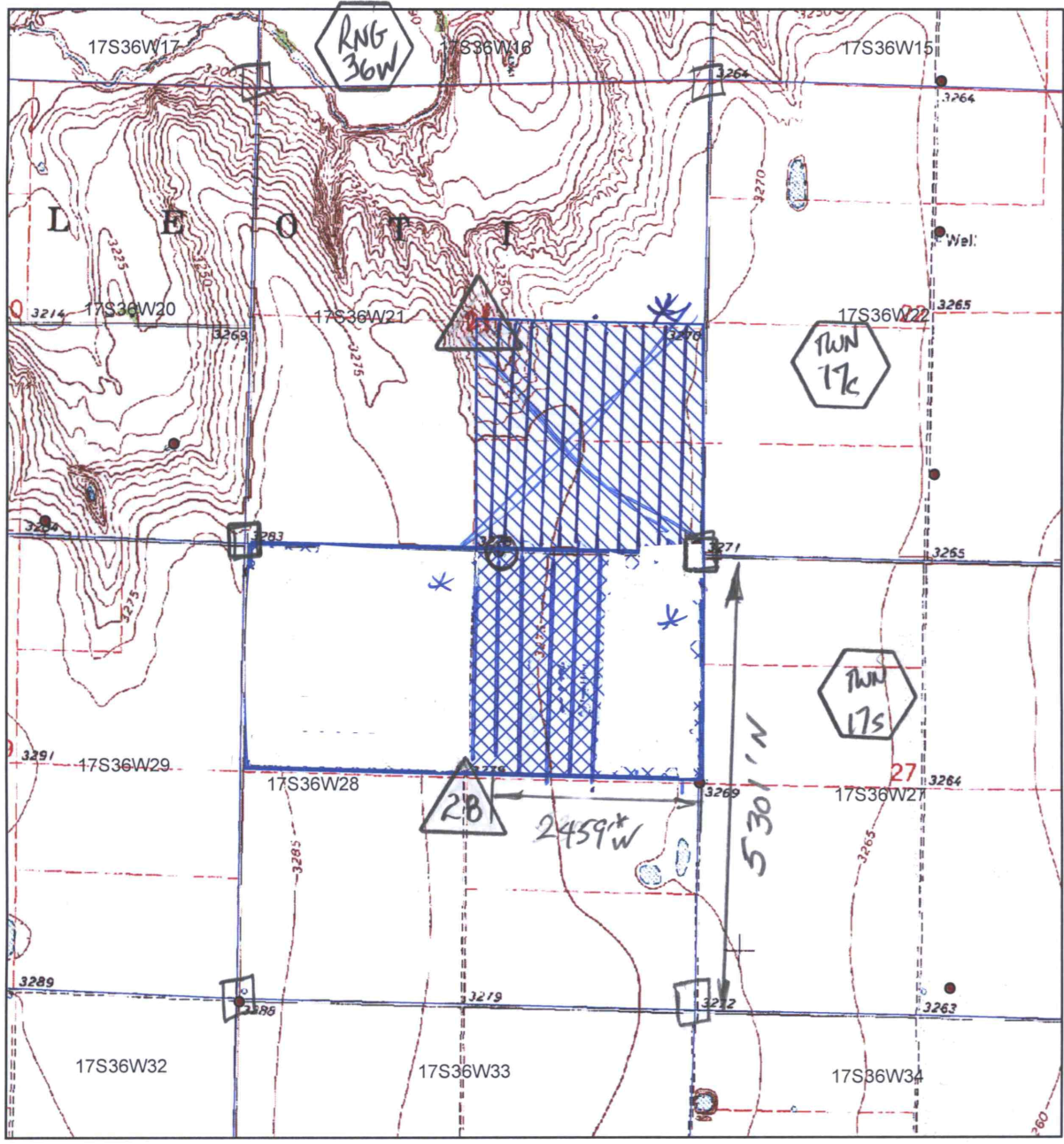
LT/DM

following:
on?
on be adversely
afety?
ater than 300 feet,
air duly authorized

VOID

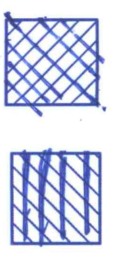
Change in Place of Use for File # 10290-DI
 Sections 21 & 28, Township 17 South, Range 36 West,
 Wichita County, Kansas

BW 10-30-18
 GW 10-30-18
 MAY 10-31-18
 Mfg 10-31-18



Ⓢ 457 down
 3/13/19

XBAT/DWR
 2-18-19
 AS PER PHONE CALL
 G. Wilbur



Authorized Place of Use

Proposed Place of Use

RECEIVED

OCT 25 2018

Garden City Field Office
 Division of Water Resources

Water Resources
 Received
 NOV 05 2018
 KS Dept Of Agriculture



All wells within 1/2 miles are on this map.

X Gary Wilbur
 SCANNED