

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, Secretary

Laura Kelly, Governor

March 3, 2021

C & W WHITHAM LIMITED PARTNERSHIP
PO BOX 327
LEOTI, KS 67861

RE: Water Right, File Nos. 664, 6815, 7959, 8799, 22279, 25033

Dear Mr. Whitham:

Enclosed are the Findings and Orders by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, which dismisses the Application for Approval to Change the Place of use under the referenced file numbers that were received in our office on February 16, 2021 and requested to be dismissed on March 1, 2021.

If you have any questions, please contact us at 620-276-2901. 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 blue ink that reads "Michael A. Meyer". The signature is fluid and cursive.

Michael A. Meyer
Water Commissioner

MAM

Enclosures

pc: Groundwater Management District No. 1

Brad Whitham
PO Box 327
Leoti, KS 67861

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Secretary of Agriculture

DIVISION OF WATER RESOURCES
Earl D. Lewis Jr., Chief Engineer

FINDINGS AND ORDER IN THE MATTER OF THE DISMISSAL OF AN APPLICATION FOR APPROVAL TO CHANGE THE AUTHORIZED PLACE OF USE UNDER WATER RIGHT, FILE NO. 8799

After due consideration, the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture (hereinafter referred to as the "Chief Engineer"), makes the following findings and order:

FINDINGS

1. That on October 4, 1971, the Chief Engineer, in accordance with K.S.A. 82a-714, issued a Certificate of Appropriation pursuant to Water Right, File No. 8799, for permit to appropriate water for irrigation use.
2. That on February 16, 2021 an Application for Approval to Change the Place of Use for the file described in paragraph No. 1 of these findings was received in the office of the Chief Engineer.
3. That by means of a written request dated March 1, 2021, received in the office of the Chief Engineer on March 1, 2021, Brad Whitham, PO Box 327, Leoti, Kansas 67861, owner of the authorized place of use, requested that the Application for Approval to Change Place of Use, Water Right, File No. 8799 received on March 1, 2021, described in Finding No. 2 above be dismissed.

ORDER

NOW, THEREFORE, It is the decision and order of the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, that effective the date of this order, the Application for Approval to Change the Place of Use under an Existing Water Right, received in the Office of the Chief Engineer on February 16, 2021, under Water Right, File No. 8799, shall be dismissed and its priority forfeited.

In all other respects, the Certificate of Appropriation for Beneficial Use of Water, issued pursuant to irrigation use under Water Right, File No. 8799, dated October 4, 1971, remains as authorized.

Ordered this 3rd day of March, 2021, in Garden City, Finney County, Kansas.

Michael A. Meyer

Michael A. Meyer
Water Commissioner
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
County of Finney) SS

The foregoing instrument was acknowledged before me this 3rd day of March 2021, by, Michael A. Meyer, Water Commissioner, Division of Water Resources, Kansas Department of Agriculture.



Julie Jones
Notary Public

RIGHT TO A HEARING AND TO ADMINISTRATIVE REVIEW

This is a final agency action. If you choose to appeal this decision or any finding or part thereof, you must do so by filing a petition for review in the manner prescribed by the Kansas Act for Judicial Review and Civil Enforcement of Agency Actions (KJRA K.S.A. 77 601 et seq.) within 30 days of service of this order. Your appeal must be made with the appropriate district court for the district of Kansas. The Chief Legal Counsel for the Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, Fax: (785) 564 - 6777, is the agency officer who will receive service of a petition for judicial review on behalf of the Kansas Department of Agriculture, Division of Water Resources. If you have questions or would like clarification concerning this order, you may contact the Chief Engineer.

CERTIFICATE OF SERVICE

On this 3rd day of March 2021, I hereby certify that the foregoing Findings and Order in the Matter of the Dismissal of Application to Change the Place of Use under Water Right, File No. 8799, dated March 3, 2021 was mailed postage prepaid, first class, US mail to the following:

C & W LIMITED PARTNERSHIP
PO BOX 327
LEOTI, KS 67861

With photocopies to:

BRAD WHITHAM
PO BOX 327
LEOTI, KS 67861

Garden City Field Office
Groundwater Management District No. 1



Julie Jones
Division of Water Resources

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

MEMORANDUM

TO: Files

DATE: March 2, 2021

FROM: Michael A. Meyer
Water Commissioner

RE: Water Right,
File Nos. 664, 6815, 7959, 8799,
22279, 25033

On February 16, 2021, Brad Whitham with C & W Limited Partnership, filed six applications proposing a change in place of use to have a complete overlap in place of use with all files and authorized wells. Mr. Whitham changed his mind to overlap the place of use with another landowner.

The owner has requested the change applications be dismissed. This will allow only his land to remain completely overlapped in place of use and not be joined with another landowner.

Based on the above discussion, it is recommended that the applications to change the place of use filed on February 16, 2021, be dismissed by a Findings and Order.


Michael A. Meyer
Water Commissioner

Meyer, Mike [KDA]

From: Meyer, Mike [KDA]
Sent: Monday, March 1, 2021 11:05 AM
To: bcwhitham@gmail.com
Subject: water right form to complete
Attachments: 20210301105235917.pdf

Importance: High

Brad,
please see the attached form if you can sign and return. this is a request to dismiss the applications filed on section 10, 11, 14 and 22. recall our conversation that sections 10,11, and 14 are already tied together and it is your request not to include section 22 at this time.
please sign and return so we can dismiss this applications.

let me know if you get this email

thank you

Michael A. Meyer, PG
Kansas Department of Agriculture
Division of Water Resources
Garden City Field Office
4532 W Jones Ave, Suite B
Garden City KS 67846
Lat 37.98820, Lon -100.944470
(620)-276-2901
mike.meyer@ks.gov

**VOLUNTARY DISMISSAL OF AN
APPLICATION FOR CHANGE**

To: Chief Engineer
Kansas Department of Agriculture
Division of Water Resources
1320 Research Park Drive
Manhattan, Kansas 66502

Re: Appropriation of Water
Water Right
Vested Right
Term Permit

File No. 664, 6815, 7959, 8799, 22279,

Application to Change: Place of Use Point of Diversion Use Made of Water 25033

Application filed with DWR on: 2/16/2021
Date

The undersigned owner(s) and/or authorized agent(s) of the above referenced water right, or permit, freely and voluntarily request that the application for change described above be dismissed. By signing this waiver, I am indicating my understanding and agreement that I am relinquishing all right, title and interest in said application for change.

The signature(s) below represent all present owners (or an authorized agent) for the file number shown above (attach duplicate copies of this document as necessary).

The signature(s) below also indicate(s) a waiver of any right to a hearing or an appeal that I/we may have had regarding the dismissal of the application for change described above. I/we recognize that if this request is submitted to the Division of Water Resources, it will result in the dismissal of this referenced application for change.

Check the following if applicable:

Processing dismissal is contingent upon approval of: _____
New or Change Application, etc., include File No.

Bradley C. Witham
Signature of Owner or Authorized Agent

Signature of Spouse or Title of Authorized Agent

Bradley C. Witham
Print Name

Print Name

PO Box 327
Address

Address

Leoti KS 67861
City, State, Zip

City, State, Zip

Date: 3-1-21

MM/GCFO
DWR Initials

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

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>

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



STATE OF KANSAS

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.

RECEIVED
 4:33pm
 FEB 16 2021

_____ File No. 8799 _____

Garden City Field Office
 Division of Water Resources

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

Place of Use Point of Diversion

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: BRAD WHITHAM

3. PO BOX 327, LEOTI, KS 67861

Phone Number: (620)272-4219 Email address: bcwhitham@gmail.com

Name and address of Water Use Correspondent: Same

Phone Number: () _____ Email address: _____

4. The presently authorized place of use is:

Owner of Land --- NAME: C & W LIMITED PARTNERSHIP, Attn: CHARLES WHITHAM

ADDRESS: PO BOX 327, LEOTI, KS 67861

(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					
10	16	38W	31.25	40	40	31.25													31.25	40	40	31.25	285
11	16	38W	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	33	633
14	16	38W	14	36	40	37.5	40	40	40	40	40	40	40	40	40	40	40	40	37.5	40	36	14	575

5. 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

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					
10	16	38W	31.25	40	40	31.25													31.25	40	40	31.25	285
11	16	38W	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	33	633
14	16	38W	14	36	40	37.5	40	40	40	40	40	40	40	40	40	40	40	40	37.5	40	36	14	575

For Office Use Only: Code _____ Fee \$ <u>200.00</u> TR # _____ Receipt Date <u>2-16-21</u> Check # <u>2830</u>
--

APPLICATION FOR APPROVAL TO CHANGE
THE PLACE OF USE AND/OR POINT OF DIVERSION
SUPPLEMENTAL SHEET
FILE NO. 8799
MAKE ADDITIONAL COPIES AS NECESSARY

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

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			

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				

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					

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: C & W LIMITED PARTNERSHIP, Attn: CHARLES WHITHAM
ADDRESS: PO BOX 327, 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						
22	16	38W	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	615	

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						

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						

5. **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 _____

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) more efficient use of irrigation
resources

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

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

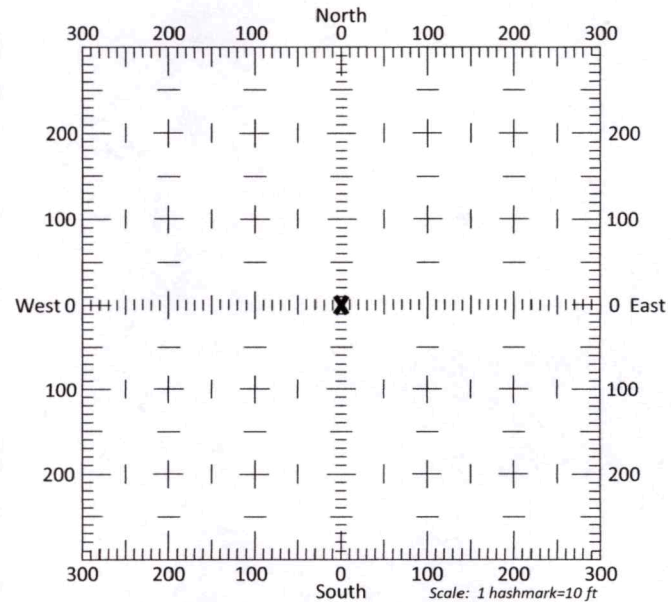
10. If the point of diversion is a well:
 (a) What are you going to do with the old well?

 (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.)

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 Garden City, Kansas, this 8th day of February, 2021.

Bradley C. Whittem

(Owner)

(Spouse)

Bradley C. Whittem

(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 8th day of February, 2021.



Julie Jones

Notary Public

My Commission Expires _____

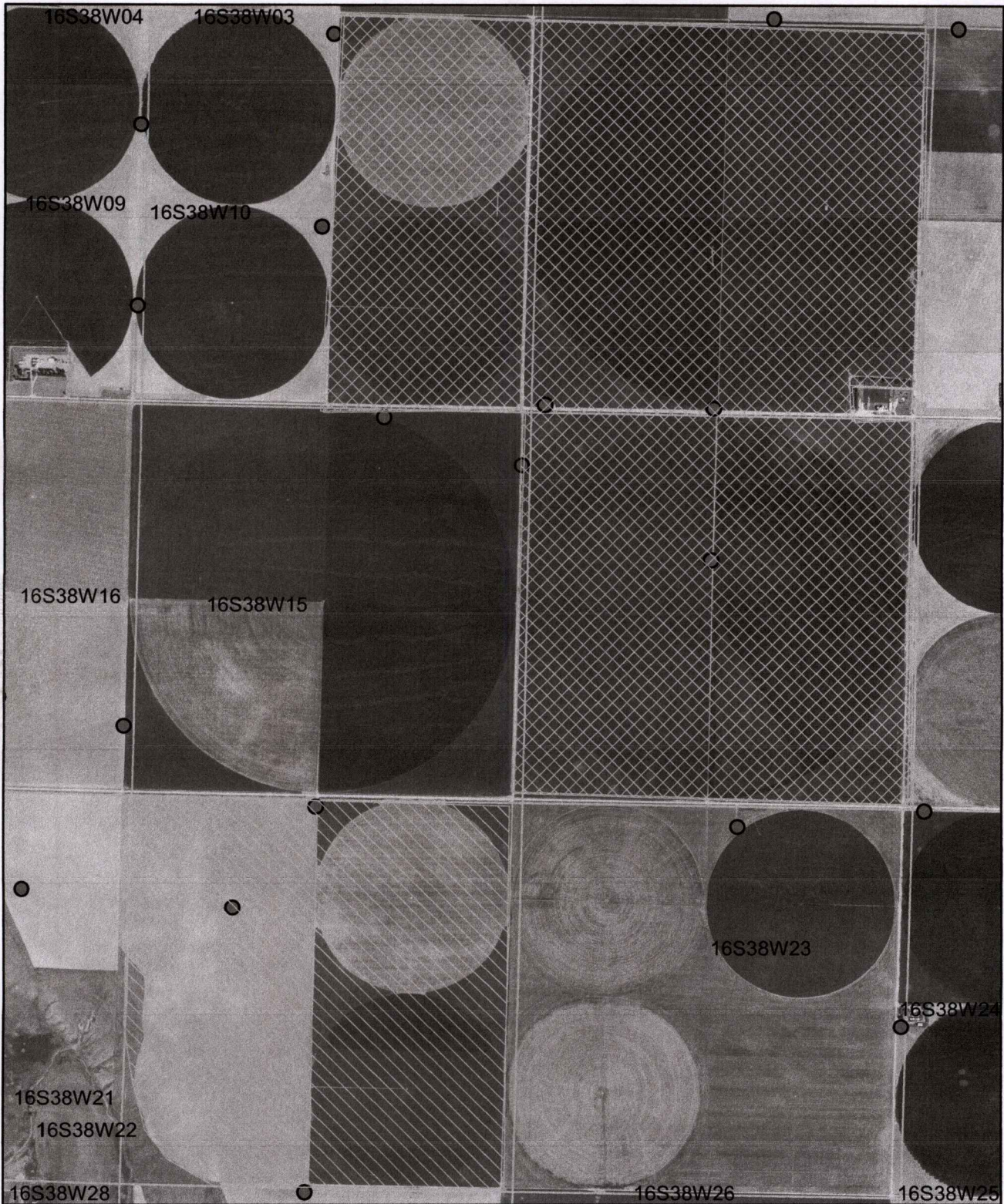
ONLY COMPLETE APPLICATIONS WILL BE PROCESSED. To be complete, all of the applicable portions of the application form must be completed with accurate information; maps, if necessary, must be included; signatures of all the appropriate owners' must be affixed to the application and notarized; and the appropriate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

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

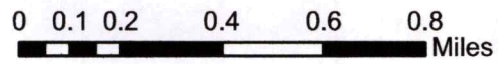
Change in Place of Use for Water Right 8799



Authorized place of use



Proposed place of use



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

X _____