

Kansas Department of Agriculture  
Division of Water Resources  
**CHANGE: PD WORKSHEET**

& ORDER IN MATTER OF THE PLACE OF USE

1. File Number: <b>33193</b>	2. Status Change Date: <b>6/28/2021</b>	3. Change Num: <b>C2</b>	4. Field Office: <b>2</b>	5. GMD:
6. Status: <input 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>9/14/2020</b>
8a. Applicant(s) New to system <input type="checkbox"/>  <b>BARBARA J PRIEST 22337 41ST RD WINFIELD, KS 67156</b>		Person ID <u>14118</u> Add Seq# _____		
8b. Landowner(s) New to system <input type="checkbox"/>  <b>8a</b>		Person ID _____ Add Seq# _____		
8c. Landowner(s) New to system <input type="checkbox"/>		Person ID _____ Add Seq# _____		
8d. WUC New to system <input type="checkbox"/>		Person ID <u>62468</u> Add Seq# _____		
9. Documents and Enclosure(s): <input checked="" type="checkbox"/> DWR Meter(s) Date to Comply: <u>12/31/21</u> <input checked="" type="checkbox"/> N & P Date to Comply: <u>12/31/21</u>				
<input type="checkbox"/> Anti-Reverse Meter <input type="checkbox"/> Meter Seal <input checked="" type="checkbox"/> Check Valve <input checked="" type="checkbox"/> N & P Form <input checked="" type="checkbox"/> <del>Water Tube</del> <input checked="" type="checkbox"/> <del>Driller Copy</del> <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: <b>4/14/2021</b> By: <b>KJN</b> Date Entered: <span style="border: 1px solid blue; padding: 2px;">6/30/2021</span> By: <span style="border: 1px solid blue; padding: 2px;">LMoody</span>				

6/22/2021  
LIreland

File No. **33193**      11. County **CL**      Basin **Arkansas River**      Stream:      Formation Code: 113      Special Use:

12. Points of Diversion											Rate and Quantity						
CHK	MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Rate gpm/cfs	Quantity af/mgy	Rate gpm/cfs	Quantity af/mgy	Overlap PD Files
												<b>BAT ID</b>					
<b>MOD</b>	<b>26778</b>				<b>SE NE NE</b>	<b>22</b>	<b>33S</b>	<b>3E</b>	<b>3</b>	<b>4198</b>	<b>128</b>	<b>WELL 1 OF 2</b>					
<b>MOD</b>	<b>74000</b>				<b>SE NE NE</b>	<b>22</b>	<b>33S</b>	<b>3E</b>	<b>4</b>	<b>4515</b>	<b>140</b>	<b>WELL 1 OF 2</b>					
<b>ENT</b>	<b>new</b>				<b>SE NE NE</b>	<b>22</b>	<b>33S</b>	<b>3E</b>	<b>new</b>	<b>4356</b>	<b>134</b>	<b>GEOCENTER</b>	<b>313 gpm</b>	<b>50 AF</b>	<b>313 gpm</b>	<b>50 AF</b>	
<b>DEL</b>	<b>9102</b>				<b>NE SE NE</b>	<b>22</b>	<b>33S</b>	<b>3E</b>	<b>1</b>	<b>3750</b>	<b>120</b>						

**Battery ID #2247**

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

14. **ADD** 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																			Total	Owner	Chg?	Overlap Files						
CHK	MOD	DEL	ENT	PUSE	S	T	R	ID	NE¼				NW¼				SW¼				SE¼							
									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				
<del>CHK</del>	<del>3443</del>				<b>22</b>	<b>33S</b>	<b>3E</b>	<b>1</b>	<del>36</del>			<del>35</del>													<del>71</del>	<b>8a</b>	<b>no</b>	<b>50445</b>

~~MOD~~ Base Acres:      Year:      **38.0**      **37.0**      Minimum Reasonable Quantity:      **75**  
 Comments:

**33193 CHANGING FROM BATTERY OF 3 WELLS TO BATTERY OF 2 WELLS, PDIV 9102 WILL NOW BE AUTHORIZED BY 50445**  
**LAURA: F&O BETTER DESCRIBING THE PLACE OF USE UNDER 33193, MODIFYING FROM 71 ACRES TO 75 ACRES**

**KANSAS DEPARTMENT OF AGRICULTURE**  
**Division of Water Resources**

**M E M O R A N D U M**

**TO:** Files

**DATE:** April 2, 2021

**FROM:** Kris Neuhauser

**RE:** New Application, File No.  
50,445 and Change  
Application 33,193

Brian E and Rachel Priest have filed an application to appropriate groundwater for irrigation use, requesting one (1) well, with a quantity of 90 acre-feet of water per calendar year, at a diversion rate of 200 gallons per minute. The proposed well is located in the Northeast Quarter of the Southeast Quarter of the Northeast Quarter (NE $\frac{1}{4}$  SE $\frac{1}{4}$  NE $\frac{1}{4}$ ) of Section 22, more particularly described as being near a point 3,750 feet North and 120 feet West of the Southeast corner of said section, in Township 33 South, Range 3 East, Cowley County, Kansas, within the Arkansas River drainage basin. The applicant owns both the point of diversion and place of use.

Water Right, File No. 33,193 overlaps the proposed point of diversion and place of use. A change application in point of diversion has also been submitted by the applicant, which will move all rate and quantity to the two northern wells authorized under File No. 33,193 (battery of 3 wells). This southernmost well will then be authorized by File No. 50,445. No new wells will be drilled for the new application or change application. A limitation of 90 acre-feet when combined with File No. 33,193 will be on the place of use.

In 2004 the United States Geological Survey (USGS) completed a hydrologic model of a portion of the Arkansas River and associated drainage basins (Ninnescah River), generally bounded by Ranges 2 West to 3 East and Townships 26 South to 34 South (near state line). The USGS model indicated that the aquifer in this area receives more recharge from precipitation than DWR has historically used in safe yield calculations. The data and analyses are detailed in the USGS Scientific Investigations Report 2004—2005 entitled “Characterization and Simulation of Flow in the Lower Arkansas River Alluvial Aquifer, South-Central Kansas”. In order to evaluate the potential impact of this study on our safe yield calculations, DWR suspended processing applications for new appropriations of water in the model area.

DWR completed an evaluation of a USGS model and has determined that the precipitation recharge value of 5.4 inches per year that is used in the USGS model is reasonable and appropriate. In order to reserve water in the alluvial aquifers that can contribute to base flow to area streams and for domestic use, it was determined that 75 percent of the 5.4 inches of precipitation recharge shall be available for appropriation. This is consistent with safe yield appropriation in many other basins across the state and is the current percent available for applications in the Ninnescah River basin in the area. Therefore, for pending applications within the model area, safe yield will be valued using the standard methodology in K.A.R. 5-3-11, which is based on the extent of the unconfined aquifer (area of consideration), a potential annual recharge value of 5.4 inches, and a percent of recharge available for appropriation of 75 percent.

Per the requirements in K.A.R. 5-3-11, safe yield is determined by the extent of the unconfined aquifer within a two-mile radius of the point of diversion, which establishes the area of consideration. Evaluation of the area of consideration included the extent of the unconfined aquifer, which provided an area of consideration of 8,042 acres. With a potential annual recharge of 5.4 inches, and 75% of recharge available for appropriation, safe yield was determined to be 2,714.34 acre-feet. Existing water rights have appropriated 425 acre-feet, providing a difference of 2,289.34 acre-feet available for appropriation, and the application requesting 90 acre-feet complies with safe yield.

No well log was provided with the application, but it is an existing well (drilled in 1967) that's been authorized by File No. 33,193 for many years. Based on existing information and nearby well logs, the source of supply appears to be Arkansas River alluvium.

Elizabeth Fitch, Environmental Scientist, Stafford Field Office, assisted with these applications. During preparation she re-measured the place of use authorized by File No. 33,193 (and now also File No. 50,445) and determined it was incorrect. ~~A Findings and Order~~ to better describe the place of use is included with this package, changing the area from 71 acres to 75 acres. ~~The PU correction was incorporated into the change approval per SOP. LI/DWR~~

The newly proposed place of use for File No. 50,445 is 75 acres in the Northeast Quarter (NW¼) and the Southeast Quarter (SE¼) of Section 22, Township 33 South, Range 3 East, Cowley County, Kansas. The proposed quantity of 90 acre-feet per calendar year provides 1.2 acre-feet per acre, making it the maximum reasonable quantity for Cowley County (75 acres x 1.2 = 90 acre-feet).

All domestic and non-domestic (File No. 47,070) wells within one-half mile of the points of diversion under File No. 33,193 and File No. 50,445 are owned by the applicant, therefore no nearby notification letters were required for either the new application or change application.

For File No. 50,445, the closest non-domestic well is just under 1,600 feet away, which is a four well battery authorized by File No. 47,070. For File No. 33,193, the closest non-domestic well is also File No. 47,070; the two northern wells that will retain all quantity and rate under File No. 33,193 are within 1,320 feet. Two domestic wells owned by the applicant appear to be under 660 feet away to both File No. 50,445 and 33,193.

A spacing waiver will not be required for either the new or change app as the proposed points of diversion are not located in a GMD, the nearby domestic wells and File No. 47,070 are owned by the applicant, and with the combined 90 acre-feet limitation; no additional quantity is being authorized. Therefore, the existing spacing appears to be sufficient.

In an e-mail conversation on April 12, 2021, Jeff Lanterman, Water Commissioner of the Stafford Field Office, recommended approval of the application.

In accordance with K.S.A. 82a-706c, the Chief Engineer retains full authority to require any water user to install meters, gages, or other measuring devices, which devices he or she or his or her agents may read at any time. Water flowmeter requirements are further described in K.A.R. 5-1-4 through K.A.R. 5-1-12. If any chemical or foreign substance is injected into the water pumped under this permit, a check valve will also need to be installed.

Based on the above discussion, that the area is open to new appropriations, that the new application complies with safe yield and well spacing criteria, and that the approval of

~~The change will N&P IN 2021 AND THE NEW APP IN 2022 AS ALL WELLS ARE EXISTING,, and should help keep the fee no fee issue straight. LI/DWR~~

the new application will not impair senior water rights nor prejudicially or unreasonably affect the public interest, it is recommended the new application be approved. Also based on the above discussion, that the changes appear reasonable, that impairment to existing water rights is unlikely, and that no change in the local source of supply will occur, it is recommended the referenced change application be approved.

A handwritten signature in black ink, appearing to read "Kris Neuhauser". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Kris Neuhauser  
Environmental Scientist  
Water Appropriation Program

**From:** Lanterman, Jeff [KDA]  
**Sent:** Mon 4/12/2021 12:07 PM  
**To:** Neuhauser, Kris [KDA];Conant, Cameron [KDA]  
**Subject:** RE: New App 50445, Change App 33193 Package: recommendation request

Kris;

I reviewed the water levels nearest to the point of diversion and found that there were no declining trends in the wells I looked at both within a couple miles of the proposed PD.

I think this was done because of an overpumping penalty on 33193 so hopefully we won't have that issue anymore.

I recommend approval.

Thanks  
Jeff

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**From:** Neuhauser, Kris [KDA] <Kris.Neuhauser@ks.gov>  
**Sent:** Friday, April 9, 2021 8:56 AM  
**To:** Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>; Conant, Cameron [KDA] <Cameron.Conant@ks.gov>  
**Subject:** New App 50445, Change App 33193 Package: recommendation request

Good morning guys,

Here is New App 50,445 and a PD Change App for 33193. Elizabeth assisted with the package. I've combined both into one memo.

The change is designed to move all quantity and rate to the two northern wells in the three well battery under 33193. The southernmost well will now be authorized by 50445. A limitation of 90 AF when combined with File No. 33,193 will be put on the place of use. Elizabeth also re-measured the place of use and found that the map shows 75 acres, rather than the authorized 71. She noted a correction order might be needed to fix. Kristen and I decided a F&O better describing the place of use is probably the way to go (if you guys agree).

Lastly, wasn't going to worry about a spacing waiver for 50445 (see page 2 of memo for reasoning), but should a spacing waiver be drafted for the 33193 change? The two northern wells don't meet spacing to nearby WR 44070 (owned by applicant). I also think they don't meet spacing to the two domestics (also owned by applicant). Didn't know if the same non-waiver case could be made for 33193.

Thanks!

***Kris Neuhauser***  
Environmental Scientist  
Water Appropriations Program – Kansas Dept of Agriculture  
(785) 564-6643

# THE STATE OF KANSAS



**KANSAS DEPARTMENT OF AGRICULTURE**  
Mike Beam, Secretary of Agriculture

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

## APPROVAL OF APPLICATION FOR CHANGE IN POINT OF DIVERSION AND ORDER IN THE MATTER OF THE AUTHORIZED PLACE OF USE WATER RIGHT FILE NO. 33,193

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Barbara J. Priest, 22337 41<sup>ST</sup> Road, Winfield, Kansas 67156, and B received in this office on September 14, 2020, for approval of a change in the location of the point of diversion under the certificate of appropriation issued pursuant to the application for permit to appropriate water for beneficial use, as modified and amended by the Order of the Chief Engineer dated April 19, 2007, approving the application to change the point of diversion, 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 point of diversion shall be:

a battery of two (2) wells, with a geographical center located in the Southeast Quarter of the Northeast Quarter of the Northeast Quarter (SE $\frac{1}{4}$  NE $\frac{1}{4}$  NE $\frac{1}{4}$ ) of Section 22, more particularly described as being near a point 4,356 feet North and 134 feet West of the Southeast corner of said section, in Township 33 South, Range 3 East, Cowley County Kansas, at a rate not in excess of 313 gallons per minute (0.7 c.f.s) and in a quantity not to exceed 50 acre-feet of water per calendar year,

located substantially as shown on the map accompanying the application to change the point of diversion and the location of the place of use is more accurately described as being:

Sec. Twp. Range	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTAL
	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 $\frac{1}{4}$	
22 33S 3E	38.0			37.0													75.0

a total of 75 acres, in Section 22, Township 33 South, Range 3 East, Cowley County, Kansas.


Installation of the works for diversion of water shall be completed on or before December 31, 2021, 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.

In all other respects, the Certificate of Appropriation issued pursuant to Approval of Application, File No. 33,193, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated November 21, 2001, as modified and amended by the aforementioned order.

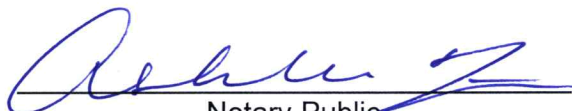
Ordered this 28 day of June, 2021, in Manhattan, Riley County, Kansas.

  
Lane P. Letourneau, P.G.  
Water Appropriation 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 28 day of June, 2021, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Water Appropriation Program, Division of Water Resources, Kansas Department of Agriculture.



  
Notary Public



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

BRIAN E & RACHEL PRIEST  
7497 192ND RD  
WINFIELD, KS 67156

June 30, 2021

RE: Water Right, File No. 33,193

Dear Mr. & Mrs. Priest:

Enclosed is the order executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the application for change and order updating the authorized place of use under the above referenced file number.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in this approval for change. A condition of this approval is that acceptable water flow meter must be installed on the diversion works authorized under the referenced file number. Please return the required notification of completion of the diversion works and installation of the required meters as soon as these actions are completed. Please be reminded there is no fee for the completion of an approval of an application for change in point of diversion.

Since the order for the referenced file number modifies the original document referred to above it should be recorded with the Register of Deeds as other instruments affecting real estate.

If you have any questions, please contact this office at 785-564-6640 or your local Stafford Field Office at 620-234-5311. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

A handwritten signature in black ink that reads "Kristen A. Baum". The signature is written in a cursive, flowing style.

Kristen A. Baum  
New Applications and Changes Supervisor  
Water Appropriation Program

KAB: kjn  
Enclosures

pc: Stafford Field Office  
BARBARA J PRIEST, 22337 41ST RD, WINFIELD, KS 67156

## 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.

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.

## CERTIFICATE OF SERVICE

On this 30 day of June, I hereby certify that the foregoing Approval of Application for Change in Point of Diversion and Order in the Matter of the Authorized Place of Use, Water Right, File No. 33,193, dated 28 June 2021 was mailed postage prepaid, first class, US mail to the following:

BRIAN E & RACHEL PRIEST  
7497 192ND RD  
WINFIELD, KS 67156

With photocopies to:

BARBARA J PRIEST  
22337 41ST RD  
WINFIELD, KS 67156

Stafford Field Office

  
\_\_\_\_\_  
Division of Water Resources