

Kansas Department of Agriculture
 Division of Water Resources
CHANGE: P/U WORKSHEET
AND BETTER DESCRIBING P/D

1. File Number: 30677	2. Status Change Date: 8/25/2022	3. Change Num: C1	4. Field Office: 02	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: January 29, 2021
8a. Applicant(s) New to system <input type="checkbox"/> STEVEN J & JAREN KAY BUTTS 2411 E 111 STREET SOUTH MULVANE, KS 67110-9286		Person ID 2385 _____ Add Seq# _____	8e. Landowner(s) New to system <input type="checkbox"/> Person ID _____ Add Seq# 1 _____	
8b. Landowner(s) New to system <input type="checkbox"/> BUTTS BROTHERS 205 S CENTRAL AVE MULVANE, KS 67110-1719		Person ID 26966 _____ Add Seq# 1 _____	8f. Landowner(s) New to system <input type="checkbox"/> Person ID _____ Add Seq# 1 _____	
8c. Landowner(s) New to system <input type="checkbox"/>		Person ID _____ Add Seq# 1 _____	8g. Landowner(s) New to system <input type="checkbox"/> Person ID _____ Add Seq# _____	
8d. Landowner(s) New to system <input type="checkbox"/>		Person ID _____ Add Seq# 1 _____	8h. WUC New to system <input type="checkbox"/> Person ID _____ Add Seq# 1 _____ 8a NON-APPLICABLE 4/11/2022 BMM 12/31/2022	
9. Documents and Enclosure(s): <input checked="" type="checkbox"/> DWR Meter(s) Date to Comply: 12/31/2021 <input type="checkbox"/> N & P Date to Comply: _____ <input type="checkbox"/> Anti-Reverse Meter <input type="checkbox"/> Meter Seal <input checked="" 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: 7/6/21 By: BMM Date Entered: 8/25/2022 By: LMoody				

File No. 30,677 11. County: SU Basin: Arkansas River Stream: Formation Code: 120 Special Use:

12. Points of Diversion											Rate and Quantity				
CHK											Authorized		Additional		Overlap PD Files
MOD	DEL	PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Rate gpm	Quantity af	Rate gpm	Quantity af	
ENT	24970	NE SW NE	13	30S	1E	0	3940	2080	NOT ON APP DOG		570	138		31,260	
MOD	24970	NE SW NE	13	30S	1E		3949	2088	GPS UPDATE					31,260	

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																			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					
MOD	6202	13	30S	1E	3				22.6	38.3	40	16.7	26.1			16.3					0.7	9.3			170	8B	Y	31,260	

Base Acres: Year: Minimum Reasonable Quantity:

Comments: Change Application to 30,677 and 31,260

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

TO: Files **DATE:** August 4, 2021 & 11/2/2021
FROM: Brandon Milner **RE:** Water Right
File Nos. 30,677 and 31,260.

Steve Butts has filed an application for approval to change the authorized place of use under Water Right, File Nos. 30677 and 31260. The applicant has requested to add additional acreage to the authorized place of use. Currently, both water rights form a complete overlap in point of diversion and place of use covering 140 acres. A change in 1994 created the complete overlap. The referenced water rights do not appear abandoned as per K.S.A. 82a-718.

A base acre review was completed by Jeff Lanterman in 2016. The review indicates these files have separate and unique base acres that were developed individually prior to 1994. Since there was no overlap in acres prior to 1994, the base acreage can be applied separately to each file. File No. 30677 was determined to have 105 base acres and File No. 31260 has 60 base acres. File No. 30677 could be increased to 115 acres and 31260 could be increased to 66 acres providing a total of 181 acres that could be irrigated under a base acre change.

This change is requesting a swing arm to be added to the pivot which would increase the irrigation from 140 acres to 170 acres. This proposal to increase to 170 acres is allowed and reasonable based on the 2016 base acre review and as further explained in paragraph 2.

File Nos. 30677 and 31260 form a complete point of diversion overlap. File No. 30677 is authorized 138 AF @ 570 GPM and 31260 is authorized 72 AF @ 600 GPM, for a total of 210 AF. 210 AF on 170 acres is 1.23 AF/acre which is considered reasonable to irrigate in Sumner County where the minimum reasonable is 1.01 AF/acre and the maximum allowed is 1.3 AF/acre.

There was one nearby well within one half mile as shown on the revised map. A nearby letter is not necessary to send on this type of place of use change application and furthermore, the marked well is owned by the applicant.

In an e-mail on November 3, 2021, Jeff Lanterman, Water Commissioner of the Stafford Field Office, indicated no objections to approval of the referenced change applications.

A water flow meter is required. A check valve is required if chemigating.

Based on the above discussion that the changes are reasonable, that impairment to existing water rights is unlikely, and that no change in the local source of supply will occur, it is recommended that the referenced applications be approved.

Brandon Milner
Environmental Scientist

From: Lanterman, Jeff [KDA]
Sent: Wed 11/3/2021 2:15 PM
To: Milner, Brandon [KDA]
Cc: Conant, Cameron [KDA]
Subject: FW: Memo for Change Application 30677 and 31260
Attachments: Steve Butts irrigation change.pdf, 30677 and 31260 Memo_crc edits.doc

Brandon;

This one looks good to approve. I recommend approval

Jeff

From: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Sent: Tuesday, November 2, 2021 4:28 PM
To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>
Subject: FW: Memo for Change Application 30677 and 31260

Jeff, Brandon assisted the applicant and worked this p/u change app. Brandon and I had quite a few email discussions early on to get this application reviewed, modified, explained, and then I didn't realize it didn't get formally finished to be sent out with the field office review until Brandon just reminded us last week before I left.

So, this is a field office p/u change that could have been worked in our office. They are proposing to increase the current pivot irrigation acreage by adding a swing arm. In 2016 you did a base acre review on this file and determined File 30677 had 105 base and 31260 had 60 base. Since these were developed separately, they have an individual base so they can technically increase base on each file by 10 ac/10% or 115 + 66 for a maximum of 181 total acres. This is also explained in the memo. This change to a swing arm is requesting 170 acres so we are within the base acre allowance. If approved, the change will authorize 210 AF on 170 acres which is 1.23 AF/acre which is squarely in between the minimum of 1.01 AF/acre and maximum of 1.3 AF/acre.

There was a new application (No. 50515) that was filed to the west and had an incomplete overlap with 30677 & 31260. The new app was modified to be a complete overlap with these files. Brandon is also working the new application. A letter of dismissal was recently sent for failure to meet SY. Brandon said that process is ongoing, perhaps trying to find a new location or something. Regardless, whatever happens with that file doesn't really have anything to do with this P/U change application (if the new app ends up going through in any form, it either needs to be a complete P/U overlap or be a completely different P/U).

The p/u changes that are filed are reasonable and ok, generally would have been a FO change. We can recommend approval of these applications. Please pass on to Brandon. Thanks,

Cameron

From: Milner, Brandon [KDA] <Brandon.M.Milner@ks.gov>
Sent: Friday, August 6, 2021 9:30 AM
To: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>; Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>
Subject: RE: Memo for Change Application 30677 and 31260

Hey Guys,

I have revised the map and memo for these change applications. The map has been revised in docuware and is attached to the original application and the memo is attached here. Let me know if you have any questions or need any additional information. Thanks

From: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Sent: Thursday, August 5, 2021 11:17 AM
To: Milner, Brandon [KDA] <Brandon.M.Milner@ks.gov>
Subject: RE: Memo for Change Application 30677 and 31260

No its fine to just put them on there and initial it, this is more for future reference.

From: Milner, Brandon [KDA] <Brandon.M.Milner@ks.gov>
Sent: Thursday, August 5, 2021 11:15 AM
To: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Subject: RE: Memo for Change Application 30677 and 31260

Does this need resigned by the applicant?

From: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Sent: Thursday, August 5, 2021 10:55 AM
To: Milner, Brandon [KDA] <Brandon.M.Milner@ks.gov>
Subject: RE: Memo for Change Application 30677 and 31260

Just any permitted wells or domestic wells within a ½ mile. That is fine if they are owned by the applicant, just note that on the map or in the memo.

From: Milner, Brandon [KDA] <Brandon.M.Milner@ks.gov>
Sent: Thursday, August 5, 2021 10:51 AM
To: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Subject: Re: Memo for Change Application 30677 and 31260

Are we talking about nearby well owners within ½ mile or 2 miles? If we are talking about ½ mile, the only well nearby was owned by the applicant and owner so I did not list it on the map.

Brandon

From: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Sent: Thursday, August 5, 2021 10:18 AM
To: Milner, Brandon [KDA] <Brandon.M.Milner@ks.gov>
Subject: RE: Memo for Change Application 30677 and 31260

Brandon,

I think it would be good to explain more in the memo about the 1994 change application that originally overlapped these rights to cover the currently authorized 140 acres. Explain that both rights have separate and unique base acres that were developed prior to the 1994 change application. File 30677 has 105 base acres and File 31260 has 60 base acres (per the base acre review from Jeff Lanterman noted in emails in 2016). Per the reg we can increase 10 acres or 10% on base whichever is less, so the proposal to irrigate 170 acres with the swing arm is reasonable based on the developed base acres of both files.

Also, the map needs to be showing nearby well owners names and addresses.

Cameron

From: Milner, Brandon [KDA] <Brandon.M.Milner@ks.gov>
Sent: Thursday, August 5, 2021 9:18 AM
To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>; Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Subject: Memo for Change Application 30677 and 31260

Good morning guys,

I have attached a memo for a couple of change applications for Water Right Nos 30,677 and 31,260. Steve Butts is requesting to add additional acreage to the authorized place of use in the amount of 30 acres for a total of 170 acres. I have attached a new map made for the application with the signature of the owner. Let me know if any additional information is needed for the application or the memo as I'm still not 100% on change applications yet. Could you provide a recommendation? Thanks!

Brandon Milner
Environmental Scientist
Water Appropriation Program

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 PLACE OF USE AND ORDER BETTER DESCRIBING THE AUTHORIZED POINT OF DIVERSION WATER RIGHT FILE NO. 30,677

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Steve Butts, of 2411 E. 111 Street South, Mulvane, KS 67110 received in this office on January 29, 2021, for approval of a change in the location of the place of use under the certificate of appropriation issued pursuant to the application for permit to appropriate water for beneficial use, as amended and modified by the Order of the Chief Engineer dated October 7, 1994 approving the application to change the point of diversion and place of use finds that the change is reasonable and will not impair existing rights, that the change relates to the same local source of supply 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 ACRES
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
13	30S	1E	22.6	38.3	40	16.7	26.1			16.3					0.7	9.3			170

a total of 170 acres in Township 30 South, Range 1 East, Sumner County, Kansas,

located substantially as shown on the topographic map accompanying the application to change the place of use, and the location of the authorized point of diversion shall be better described as:

one (1) well located in the Northeast Quarter of the Southwest Quarter of the Northeast (NE¼ SW¼ NE¼) of Section 13, more particularly described as being near a point 3,949 feet North and 2,088 feet West of the Southeast corner of said section, in Township 30 South, Range 1 East, Sumner 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 each of 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

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 request an evidentiary hearing before the Chief Engineer, or 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 Division, 1320 Research Park Drive, Manhattan, Kansas 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 review 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, Kansas 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 day of , 2022, I hereby certify that the foregoing Approval of Application for Change in Place of Use Water Right and Order Better Describing the Authorized Point of Diversion under Water Right, File No. 30,677 dated , 2022, was mailed postage prepaid, first class, US mail to the following:

STEVEN J & JAREN KAY BUTTS
2411 E 111 STREET SOUTH
MULVANE, KS 67110-9286

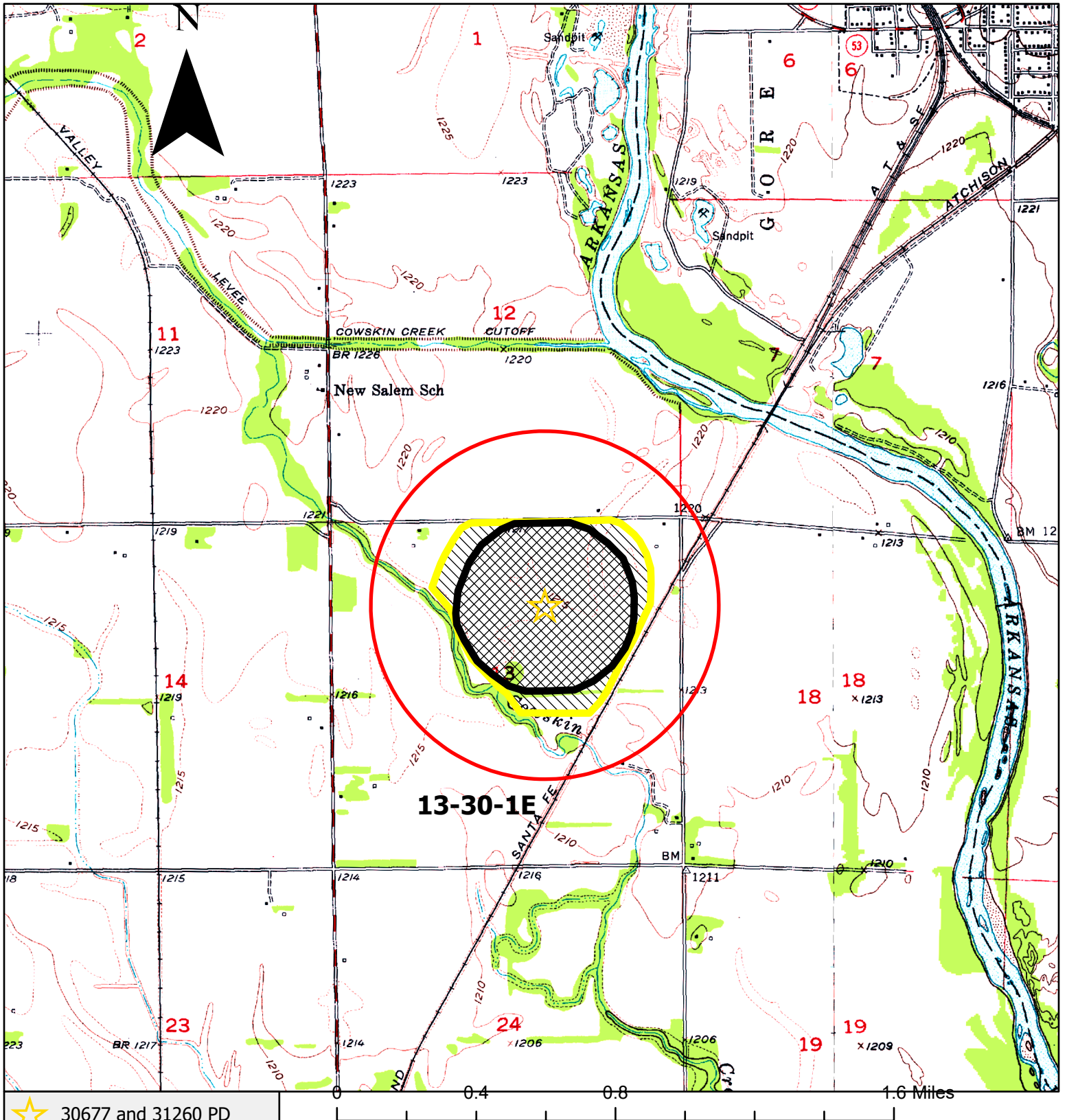
With a photocopy to:





Stafford Field Office

Butts Brothers

Division of Water Resources Staff

30677 and 31260 Place of Use Change Map



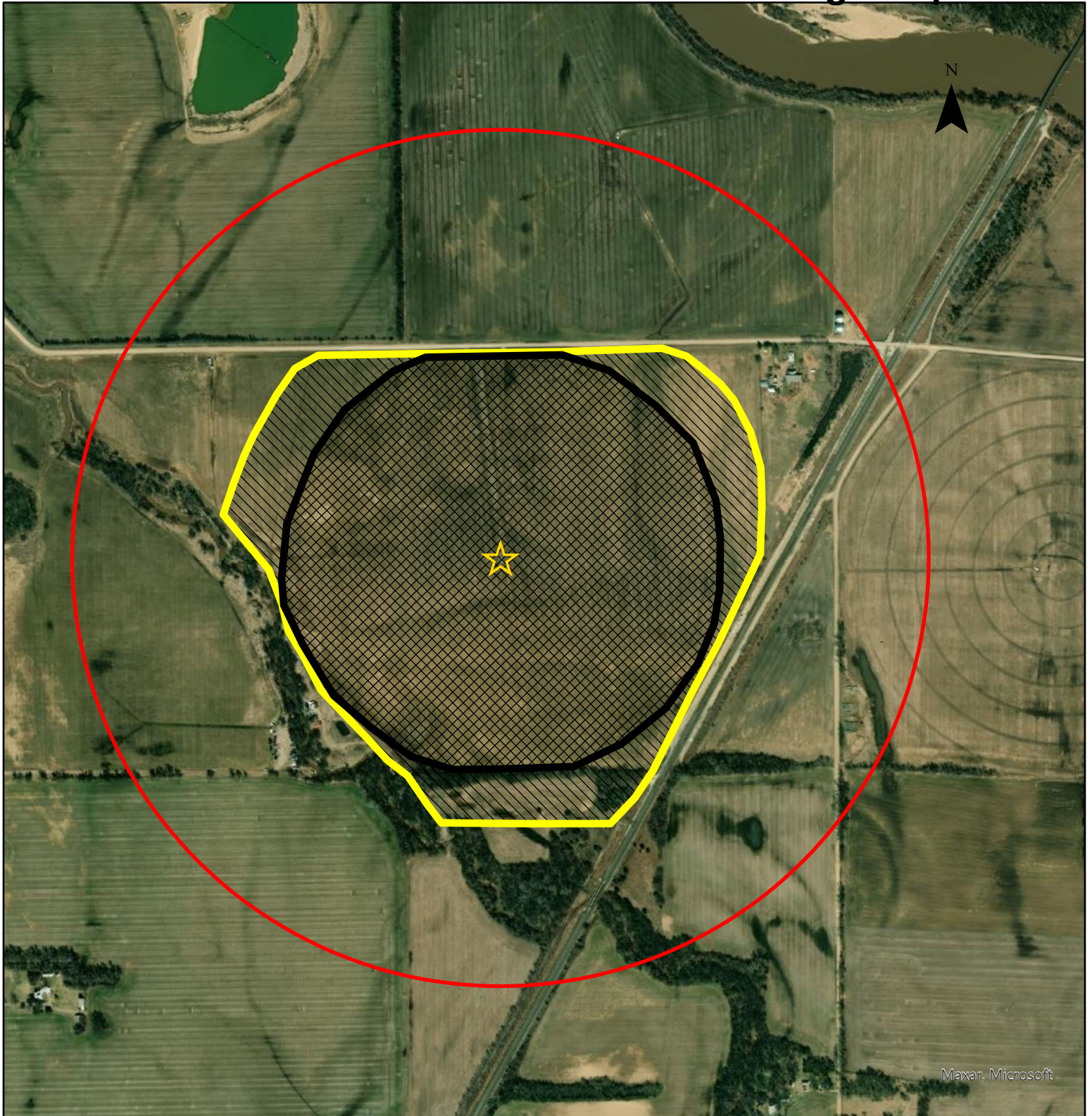
-  30677 and 31260 PD
-  1/2 mile circle around well
-  Authorized Place of Use
-  Proposed Place of Use





All wells within a half mile of the proposed point of diversion have been shown.

Created 7/29/21

Signature _____ Date _____

30677 and 31260 Place of Use Change Map



-  30677 and 31260 PD
-  1/2 mile circle around well
-  Authorized Place of Use
-  Proposed Place of Use

0 0.15 0.3 0.6 Miles

All wells within a half mile of the proposed point of diversion have been shown.

Created 7/29/21

Signature _____

Date _____

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

August 26, 2022

STEVEN J & JAREN KAY BUTTS
2411 E 111 STREET SOUTH
MULVANE, KS 67110-9286

RE: Water Right
File No. 30,677

Dear Sir or Madam:

Enclosed is the order executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the application for change 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 an acceptable water flow meter must be installed on the diversion works authorized under the referenced file number. Please return the required and enclosed form, Notification of Completion of the Diversion Works and/or Installation of the Required Flowmeter, as soon as these actions are completed.

Since this order modifies the original document referred to above, they should be recorded with the Register of Deeds as other instruments affecting real estate.

If you have any questions, please contact our main office line at 785-564-6640 or by email at Brandon.M.Milner@ks.gov. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

A handwritten signature in blue ink that reads "Brandon Milner". The signature is written in a cursive, flowing style.

Brandon Milner
Environmental Scientist

KAB:BMM
Enclosure(s)
pc: Stafford Field Office
Butts Brothers

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 request an evidentiary hearing before the Chief Engineer, or 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 Division, 1320 Research Park Drive, Manhattan, Kansas 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 review 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, Kansas 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 26 day of August, 2022, I hereby certify that the foregoing Approval of Application for Change in Place of Use Water Right and Order Better Describing the Authorized Point of Diversion under Water Right, File No. 30,677 dated 25 August, 2022, was mailed postage prepaid, first class, US mail to the following:

STEVEN J & JAREN KAY BUTTS
2411 E 111 STREET SOUTH
MULVANE, KS 67110-9286

With a photocopy to:

Stafford Field Office

Butts Brothers



Division of Water Resources Staff