

**Kansas Department of Agriculture
Division of Water Resources**

CHANGE: PU WORKSHEET

1. File Number: 23504	2. Status Change Date: 11/27/2023	3. Change Num: 1	4. Field Office: 03	5. GMD: 04
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6. Status: <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied by DWR/GMD <input type="checkbox"/> Dismiss by Request/Failure to Return	7. Filing Date of Change: 5/8/23
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8a. Applicant(s) New to system <input type="checkbox"/> JON MCKEE 167 COUNTY ROAD T BREWSTER, KS 67732-8638 Person ID 32335 Add Seq# 1	8c. Landowner(s) New to system <input type="checkbox"/> WICKS FARMS LLC 1115 LA HACIENDA COLBY, KS 67701 Person ID 65656 Add Seq# 1
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8b. Landowner(s) New to system <input type="checkbox"/> JON C & LYND A S MCKEE 167 COUNTY ROAD T BREWSTER, KS 67732-8638 Person ID 40808 Add Seq# 1	8d. WUC New to system <input type="checkbox"/> 8B Person ID 40808 Add Seq# 1
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9. Documents and Enclosure(s): <input checked="" type="checkbox"/> DWR Meter(s) Date to Comply: 12/31/24 <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: 11/2/23 By: EKF
Date Entered: 11/28/2023 L Moody By: _____

File No. **23504** | 11. County: **T~~M~~TH** Basin: **SAPPA CREEK** Stream: --- Formation Code: **211** Special Use: **043**

12. Points of Diversion										Rate and Quantity							
CHK	MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Quantity af	Rate gpm	Quantity af	Rate gpm	Overlap PD Files
NC	6977	SW SW SE	30	7S	36W	1	80	2500					248	940	248	940	NONE

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										NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg?	Overlap Files		
CHK	MOD	DEL	ENT	PUSE	S	T	R	ID		NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼						
MOD	447	30	7S	36W	1																										
DEL	34274	31	7S	36W	3					39	40	40	39																		
DEL	38653	31	7S	36W	1									40	Lot 1 37	Lot 2 37	40														

Base Acres: **130** Year: **1977** Minimum Reasonable Quantity: **1.33**
 Comments: **P/U overlap w/ 19101 and 30049 is being removed**

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

M E M O R A N D U M

To: Files

Date: November 2, 2023

From: Elizabeth K Fitch

RE: Water Right, File Nos. 19101,
23504 & 30049

Three (3) *Request to Reduce a Portion of an Existing Water Right* applications were received in this office on December 27, 2022, for the referenced file numbers. The referenced file numbers share a place of use overlap and not point of diversion overlaps. While reviewing the files, it was noted that a change application had also been submitted on File No. 23504 to be processed after the reduction.

The reduction request on File No. 23504 proposed to reduce the acres to 105, which would require a reduction in the authorized quantity and base acres. Subsequently, the change application was taking the proposed acres back up to 122. The change application was not approvable as submitted and did not fulfill the intent of the application needed to cover unauthorized acres.

I reached out to Jon McKee by email and phone to discuss the matter. He agreed that not processing the reduction request and modifying the change application would be the better course of action. A revised application completed and returned with notarized signatures were obtained from Lynda McKee and David Wicks of Wicks Farms LLC. Jon's signature was already on file with the original application.

File No. 19101 & 30049: Reduction Request

The landowners of record have requested that the authorized Place of Use for Water Right, File Nos. 19101 and 30049, be reduced from that presently authorized to:

Sec.	Twp.	Range	NE ¹ / ₄				NW ¹ / ₄				SW ¹ / ₄				SE ¹ / ₄				TOTAL
			NE ¹ / ₄	NW ¹ / ₄	SW ¹ / ₄	SE ¹ / ₄	NE ¹ / ₄	NW ¹ / ₄	SW ¹ / ₄	SE ¹ / ₄	NE ¹ / ₄	NW ¹ / ₄	SW ¹ / ₄	SE ¹ / ₄	NE ¹ / ₄	NW ¹ / ₄	SW ¹ / ₄	SE ¹ / ₄	
31	7S	36W	39	40	40	39	40	Lot 1 37	Lot 2 37	40									312

The reduced acres are owned by Wicks Farms LLC. File No. 19101 authorizes 270 AF and File No. 30049 authorizes 307 AF for a total of 577 AF. The resulting ratio of 1.85 AF/acre is less than the 2.0 AF/acre maximum allowed by K.A.R. 5-3-23 for Thomas County based on the priority dates for these files.

File No. 23504: Change in Place of Use

The referenced file appears to be in compliance with K.S.A. 82a-732 *Annual water use report required*. A review of the application found that it complies with K.A.R. 5-5-1 *Filing an application for change*. In addition, the referenced file does not appear abandoned as per K.S.A. 82a-718(e) *Abandonment of water rights*.

File No. 23504 authorizes one (1) groundwater well in the Sappa Creek Basin in Thomas County. The well is authorized for 248 AF per year at 940 gpm for irrigation use. The current place of use is a complete overlap with File Nos. 19101 and 30049 and is described as:

Sec. Twp. Range	NE¼				NW¼				SW¼				SE¼				TOTAL				
	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼					
30 7S 36W																	20	40	35	10	105
31 7S 36W	39	40	40	39	40	Lot 1 37	Lot 2 37	40													312

The proposed place of use will not share any overlaps and is:

Sec. Twp. Range	NE¼				NW¼				SW¼				SE¼				TOTAL				
	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼					
30 7S 36W									36.5	Lot 3 4	Lot 4 3.5	35.5		26	24.5						130

File No. 23504 has 130 “*Base Acres*” as defined by K.A.R. 5-5-11 *Applications for change in place of use for irrigation purposes*. The proposed 130 acre place of use complies with part (b) of K.A.R. 5-5-11 as there will not be an increase above the *Base Acres*.

The proposed change will result in an authorized quantity of 248 AF irrigating 130 acres, resulting in an irrigation ratio of 1.91 AF per acre. It would appear this irrigation ratio is reasonable as the ratio is less than the 2.0 AF per acre maximum for Thomas County found in K.A.R. 5-3-19, *Maximum reasonable annual quantity of water for irrigation use*, thus 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*. The generally accepted minimum quantity per acre for Thomas County is 1.33 AF per acre, so the proposed quantity meets this threshold as well.

Since the referenced application to change the place of use does not propose to add more than 10 acres or 10% of the *Base Acres* to the authorized place of use, water well owners within one-half mile of the authorized point of diversion were not notified of the

proposed change in place of use (EKF Memo dated 11/1/2023).
File Nos. 19101, 23504 & 30049
Reduction Request and Change in P/U Memo
November 2, 2023
Page 3

The referenced water rights are in the Northwest Kansas Groundwater Management District No. 4 (GMD4), so a recommendation request was sent to the District on November 2, 2023, for File No. 23504. A response was received from GMD4 Manager, Shannon Kenyon on November 2, 2023. In her response, Ms. Kenyon recommended approval for the change application filed under each of the referenced water right in conjunction with the reduction requests under File Nos. 19101 and 30049.

The referenced water rights are in the GMD4 LEMA.

In an email dated November 3, 2023, Kelly Stewart, Water Commissioner of the Stockton Field Office, recommended approval of the referenced change application in conjunction with the reduction requests under File Nos. 19101 and 30049.

No structures permit appears to be needed.

A water flow meter is required for each point of diversion. A check valve is required if any chemical or foreign substance is injected into the water through the diversion works.

Based on the above discussion, that the change and reductions are reasonable, that impairment to existing water rights is unlikely, and that no change in the local source of supply will occur, it has been recommended that the application be approved, and that two (2) Findings and Orders be issued.

Elizabeth K Fitch
Environmental Scientist
Water Appropriation Program

Fitch, Elizabeth [KDA]

From: Stewart, Kelly [KDA]
Sent: Friday, November 3, 2023 7:36 AM
To: Fitch, Elizabeth [KDA]
Cc: Hageman, Nancy [KDA]
Subject: RE: File No. 23504 Change Application GMD Recommendation Request

Elizabeth,

Quick edit: The first sentence in your memo says 12/27/23. It should be 12/27/22.

I recommend approval of the reduction requests under File Nos. 19,101 and 30,049. I also recommend approval of the application to change the place of use under File No. 23,504.

Nice write up!

Kelly

From: Fitch, Elizabeth [KDA] <Elizabeth.Fitch@ks.gov>
Sent: Thursday, November 2, 2023 3:07 PM
To: Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>
Cc: Hageman, Nancy [KDA] <Nancy.Hageman@ks.gov>
Subject: File No. 23504 Change Application GMD Recommendation Request

Kelly,

Attached is a draft memo outlining applications filed under File Nos. 19101, 23504 and 30049. The applications seek to separate the file numbers from a complete place of use overlap into two separate places of use based on ownership. The place of use being retained under File No. 23504 is proposed to be modified to authorize a center pivot system that is already installed.

A copy of the completed applications and the recommendation from GMD4 have also been attached. What is your recommendation regarding the proposed change in place of use under File No. 23504 and associated reduction requests under File Nos. 19101 and 30049?

Elizabeth K Fitch, Environmental Scientist
Kansas Department of Agriculture
Division of Water Resources
Certificate Unit
(620) 268-6033
elizabeth.fitch@ks.gov
agriculture.ks.gov



KANSAS DEPARTMENT OF AGRICULTURE

Division of Water Resources

Stockton Field Office

MEMORANDUM

TO: File

DATE: 11/1/2023

FROM: Elizabeth Fitch

RE: File No. 23504

This is a memorandum regarding surrounding well owner notification for applications to change the place of use for irrigation water rights and the decisions made during the Water Commissioner meeting which took place on 11/16/2016 with directive from Lane Letourneau, Program Manager.

This is applicable to field office changes to increase the place of use by 10 acres or 10% (whichever is less) or a change in place of use to create a complete overlap in which no new acres are being irrigated.

During that meeting it was determined that no surrounding well owner notification will be sent under this type of place of use change application. All well rates and quantities will remain unchanged, and the referenced change should not cause impairment or impact surrounding well owners.

The application to change the place of use filed on 12/27/2022 for the above referenced file meets this criterion, therefore, well owners surrounding the authorized point of diversion will not be notified.


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
WATER RIGHT
FILE NO. 23,504**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Jon C. and Lynda S. McKee, 167 County Road T, Brewster, Kansas, 67732, and David Wicks, on behalf of Wicks Farms, LLC, 1115 La Hacienda Drive, Colby, Kansas, 67701, as owners of the referenced water right, received in this office on December 27, 2022, for approval of an application for a change in the authorized location of the place of use, under the Certificate of Appropriation issued pursuant to the application for permit to appropriate water for beneficial use on October 4, 1983, 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
	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
30 7S 36W									36.5	Lot 3 4.0	Lot 4 3.5	35.5		26.0	24.5		130.0

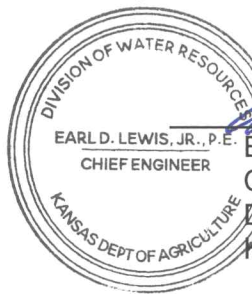
a total of 130 acres in Section 30, Township 7 South, Range 36 West, Thomas County, Kansas, located substantially as shown on the map accompanying the application to change the place of use.

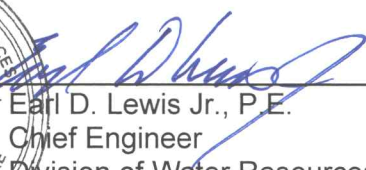
The water right owner shall properly install an acceptable water meter on the diversion works authorized under this water right for each approved use of water, prior to the use of water, in strict accordance with the Kansas Administrative Regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer. 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.

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.

In all other respects, the Certificate of Appropriation issued pursuant to Approval of Application, File No. 23,504, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated October 4, 1983.

Ordered this 27th day of November, 2023, at Manhattan, Riley County, Kansas.





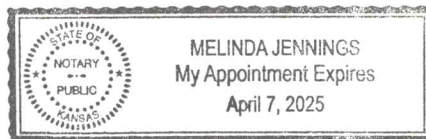
 Earl D. Lewis Jr., P.E.
 Chief Engineer
 Division of Water Resources
 Kansas Department of Agriculture

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 27th day of November, 2023, by Earl D. Lewis Jr., P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.



 Notary Public



MELINDA JENNINGS
 My Appointment Expires
 April 7, 2025

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

November 30, 2023

JON C AND LYNDA S MCKEE
167 COUNTY ROAD T
BREWSTER KS 67732-8638

RE: Water Right
File Nos. 19,101, 23,504 and 30,049

Dear Sir or Madam:

Enclosed are two (2) Finding and Orders and one (1) order executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, which set forth the modified place of use under Water Right, File Nos. 19,101, 23,504 and 30,049. Since these orders modify the original Certificates of Appropriation for the above referenced file numbers, they should be recorded with the Register of Deeds as other instruments affecting real estate.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in the approval for changes. A condition of the approval is that an acceptable water flowmeter must be installed on the diversion works. Please be reminded that the referenced files are located within a Local Enhancement Management Area (LEMA) and the quantity authorized may be subject to an additional allocation limitation.

As requested, the water use correspondent for File No. 23,504 will be Jon C. & Lynda S. McKee. The water use correspondent for File Nos. 19,101 and 30,049 will be Wicks Farms, LLC.

If you have any questions regarding the enclosed document, please contact our office at 785-564-6640, or the Stockton Field Office at 785-425-6787. Please have the file number(s) ready if you call so that we may help you more efficiently.

Sincerely,

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

Kristen A. Baum
New Application and Change Unit Supervisor
Water Appropriation Program

KAB:ekf

Enclosures

pc: Stockton Field Office
Northwest Kansas GMD No. 4
Wicks Farms LLC

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 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, 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 30th day of November, 2023, I hereby certify that the attached Approval of Application for Change in Place of Use, File No. 23,504, and Findings and Order for File Nos. 19,101 and 30,0049, dated November 27, 2023, were mailed postage prepaid, first class, US mail to the following:

Jon C & Lynda S McKee
167 County Road T
Brewster KS 67732-8638

With a Photocopy to:

Wicks Farms LLC
1115 La Hacienda
Colby KS 67701

KDA-DWR Stockton Field Office

Northwest Kansas GMD No. 4



Division of Water Resources