

Kansas Department of Agriculture
Division of Water Resources
CHANGE: PD P/U WORKSHEET

Document Signature _____

1. File Number: 34520	2. Status Change Date: <i>12/20/2016</i>	3. Change Num: C2	4. Field Office: 01	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: 08/10/16
---	--

8a. Applicant(s) Person ID 28589 New to system <input type="checkbox"/> Add Seq# 1 ROBERT J & DEBORAH A WIETHARN TRUSTS ROBERT WIETHARN TRUSTEE 1925 KIOWA RD CLAY CENTER KS 67432	8c. Landowner(s) Person ID 53622 New to system <input type="checkbox"/> Add Seq# 1 GARY N & SARAH E GRIFFITHS FAMILY TRUST 1601 2ND ST CLAY CENTER KS 67432 8d. WUC Person ID _____ New to system <input type="checkbox"/> Add Seq# _____ NO CHANGE
---	--

8b. Landowner(s) Person ID 30934 New to system <input type="checkbox"/> Add Seq# 1 RICHARD & ROBERT COTT 1977 INDIAN RD CLAY CENTER KS 67432	8e. Landowner(s) Person ID 63613 New to system <input type="checkbox"/> Add Seq# 1 WIETHARN INVESTMENTS LLC ROBERT WIETHARN - MANAGING MEMBER 1925 KIOWA RD CLAY CENTER KS 67432 8f. Landowner(s) Person ID 28966 New to system <input type="checkbox"/> Add Seq# 1 GALEN F & CLETA WIETHARN TRUSTS 211 WEBSTER ST CLAY CENTER KS 67432 8g. Landowner(s) Person ID 28589 New to system <input type="checkbox"/> Add Seq# 1 ROBERT J & DEBORAH A WIETHARN TRUSTS ROBERT WIETHARN TRUSTEE 1925 KIOWA RD CLAY CENTER KS 67432
---	---

9. Documents and Enclosure(s): DWR Meter(s) Date to Comply: 12/31/2017 N & P Date to Comply: 12/31/17

Anti-Reverse Meter Meter Seal Check Valve N & P Form Water Tube Driller Copy H & E Letter

Conservation Plan Date Required: _____ Date Approved: _____ Date to Comply: _____

10. Use Made of Water From: _____ To: _____

Date Prepared: **11/15/16** By: **RAK**
Date Entered: *12/20/2016* By: *WM*

File No. **34520** 11. County: **CY** Basin: **REPUBLICAN RIVER** Stream: Formation Code: Special Use:

12. Points of Diversion											Rate and Quantity						
MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Comment	Rate gpm/cfs	Quantity af/mgy	Rate gpm/cfs	Quantity af/mgy	Overlap PD Files	
											BLANKET R & Q		695gpm	47AF	195gpm	47AF	
✓				10082	Lot 4	28	7	2E	3	4227	4707					27121; 34520; 35749	
✓				83375	Lot 2	2	8	2E	18	4118	2602					27121; 34520; 35749	
ENT				84853	NE¼ NE¼ NW¼	14	8	2E	14	5203	2821					27121; 34520; 35749 & 49509	

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

14. **KEEP** Limitation: **695 GPM COM/W #27121 ON LAND LISTED IN CERT** _____ 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
	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				
✓ 18420 28 7 2E 2 L-5 (SWNW)								2.00									2.00	No changes		
✓ 35751 28 7 2E 4 19AC L-3 (E2NW), L-4 (NWNW), L-5 (SWNW)					3.00	11.00	27.00	16.00									57.00	No changes		
✓ 16442 29 7 2E 1			34.00	37.00									33.00	40.00	20.00	12.00	176.00	No changes		
✓ 39260 36 7 2E 2									40.00	40.00	40.00	40.00					160.00	No changes		
✓ 5540 2 8 2E 2 L-1 (NENE) L-2 (NWNE)	35.00	25.00	31.00	35.00													126.00	No changes		
✓ 54084 2 8 2E 9 L-2 (NWNE) L-3 (NENW)		7.00			8.00												15.00	No changes		
ENT 67518 10 8 2E 3														39.00	40.00		79.00	8E NO	27121; 34520; 35749 & 49508	
ENT 67519 10 8 2E 4													36.00		40.00		76.00	8F NO	27121; 34520; 35749 & 49508	

Comments: **INCOMPLETE OVERLAPS IN PLACE OF USE**

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources
MEMORANDUM

TO: Files
FROM: Brent A. Turney

DATE: December 8, 2016
RE: Water Right
File Nos. 27,121; 34,520 and
35,749

Robert J. and Deborah A. Wietharn Trusts, etal, water right owners, filed applications for approval to change the authorized point of diversion and place of use for Water Right, File Nos. 27,121; 34,520 and 35,749, all authorized surface water from the Republican River for irrigation use.

The referenced files do not appear abandoned as per K.S.A. 82a-718.

File Nos. 27,121; 34,520 and 35,749, authorized 536 acres, form a complete overlap with each other in place of use and point of diversion and incompletely overlap the place of use with several other water rights. The referenced changes in place of use propose to add the 155 acre place of use now authorized by Appropriation of Water, File No. 49,508 so that File Nos. 27,121; 34,520 and 35,749 will be authorized a total of 691 acres. A Findings and Order will be drafted for File No. 49,508 limiting it to 186 acre-feet when combined with File Nos. 27,121; 34,520 and 35,749 for irrigation on the land (1.2 af/ac). Incomplete overlaps in the place of use will remain.

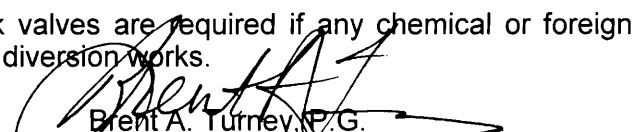
The water right owners also propose to add a pumpsite now authorized by Appropriation of Water, File No. 49,509 to File Nos. 27,121; 34,520 and 35,749. The proposed existing pumpsite, located approximately 1.89 miles downstream from the closest authorized pumpsite, will move senior priorities downstream of junior priority pumpsites not under common ownership – File Nos. 44,867/45,544; 46,836/47,823/49,154 and 47,748. Paragraph No. 3 indicates the purpose of the change is to allow a senior priority pumpsite to irrigate the place of use currently authorized by File No. 49,508.

Notification letters to upstream and downstream landowners were sent on October 13, 2016, referencing the change applications; no responses of any kind were received in this office. However, Katherine Tietz, Water Commissioner of Topeka Field Office, indicated in a November 14, 2016 e-mail that the field office received a call of concern from an adjacent owner but after they explained the unique conditions on this stretch of the Republican River, and how the project would be set up and how it would pump, he apparently agreed that it would not affect his water rights and chose not to provide written comment.

As indicated in an October 12, 2016 e-mail from Katie, the referenced change applications have been discussed with Lane Letourneau, Water Appropriation Program Manager, and they agreed it met the same criteria as a series of change applications for Wietharns approved on July 31, 2014 - the south pumpsite cannot physically serve land up north, the same local supply is not changed, there are no intervening perennially flowing streams, and no issues with moving a senior pumpsite below junior pumpsites since all juniors require permission and only obtain permission when the flow is sufficient for all juniors. Katie further indicated in the November 14, 2016 e-mail that the Wietharns are essentially requesting to mitigate prolonged MDS administration of the Republican River on their property. By moving/adding the downstream pumpsite, they can choose which properties/crops to pump to in the event of prolonged administration on the junior files. Katie further states that the referenced applications comply with K.A.R. 5-5-11 and will not increase the consumptive use of the water rights.

In the November 14, 2016 e-mail Katie indicated she recommends approval of the package and that this request will not physically create any impairment because the majority of the rights are junior to MDS, so when the proposed pumpsite is operated under the senior right, those rights will be under administration just like the junior right on this property. Where the senior right pumps from is not an issue because the quantity restricts the overall pumping under the senior files.

Water flow meters are required. Check valves are required if any chemical or foreign substance is injected into the water through the diversion works.


Brent A. Turney, P.G.
Change Application Unit Supervisor

1320 Research Park Drive
Manhattan, Kansas 66502
(785) 564-6700



900 SW Jackson, Room 456
Topeka, Kansas 66612
(785) 296-3556

Jackie McClaskey, Secretary

Governor Sam Brownback

December 21, 2016

ROBERT J & DEBORAH A WIETHARN TRUSTS
WIETHARN INVESTMENTS LLC
1925 KIOWA RD
CLAY CENTER KS 67432

FILE COPY

RE: Water Right, File Nos. 27,121; 34,520 and 35,749

Dear Mr. and Mrs. Wietharn:

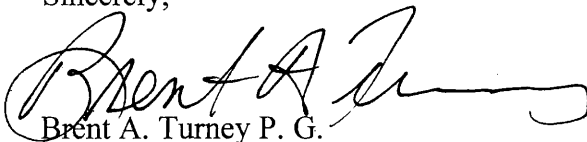
Enclosed are the orders executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the applications for change under the above referenced file numbers.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in these approvals for change. A condition of these approvals is that an acceptable water flow meter must be installed on the diversion works authorized under the referenced file numbers. Please return the required notification of completion of the diversion works and installation of the required meter as soon as these actions are completed.

Since these orders modify the original documents referred to they should be recorded with the Register of Deeds as other instruments affecting real estate.

If you have any questions, please contact this office. If you call, please reference the file number so we can help you more efficiently.

Sincerely,



Brent A. Turney P. G.
Change Application Unit Supervisor

BAT:rak

pc: Topeka Field Office
Galen F. and Clela Wietharn Trusts
Robert and Richard Cott
Gary N. and Sarah E. Griffiths Family Trust

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Jackie McClaskey, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

**APPROVAL OF APPLICATION
FOR
CHANGE IN PLACE OF USE
AND POINT OF DIVERSION
WATER RIGHT
FILE NO. 34,520**

FILE COPY

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Robert J. and Deborah A. Wietharn, on behalf of Robert J. and Deborah A. Wietharn Trusts, and Robert J. Wietharn, Member Manager, on behalf of Wietharn Investments, L.L.C., 1925 Kiowa Road, Clay Center, Kansas, 67432, and Galen F. and Cleta Z. Wietharn, on behalf of Galen F. and Cleta Wietharn Trusts, 211 Webster Street, Clay Center, Kansas, 67432, received in this office on August 10, 2016, for approval of a change in the location of the place of use and 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 Orders of the Chief Engineer dated December 22, 1988 and February 5, 1990, approving the applications to change the place of use, and by the Findings and Order of the Chief Engineer dated July 28, 2004 better defining the authorized point of diversion, and by the Order of the Chief Engineer dated July 31, 2014, approving the application to change the place of use and point of diversion, finds that the changes are reasonable and will not impair existing rights, that the changes relate 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	
28	7S	2E					Lot 3 3.00	Lot 4 11.00	Lot 5 29.00	Lot 3 16.00									59.00
29	7S	2E			34.00	37.00								33.00	40.00	20.00	12.00		176.00
36	7S	2E								40.00	40.00	40.00	40.00						160.00
2	8S	2E	Lot 1 35.00	Lot 2 32.00	31.00	35.00	Lot 3 8.00												141.00
10	8S	2E												36.00	39.00	40.00	40.00		155.00

a total of 691.00 acres in Clay County, Kansas, and the authorized locations of the points of diversion shall be:

one(1) pumpsite located in Lot 4 of Section 28, more particularly described as being near a point 4,227 feet North and 4,707 feet West of the Southeast corner of said section, in Township 7 South,

one(1) pumpsite located in Lot 2 of Section 2, more particularly described as being near a point 4,118 feet North and 2,602 feet West of the Southeast corner of said section, in Township 8 South, and

one(1) pumpsite located in the Northeast Quarter of the Northeast Quarter of the Northwest Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 14, more particularly described as being near a point 5,203 feet North and 2,821 feet West of the Southeast corner of said section, in Township 8 South,

all in Range 2 East, Clay County, Kansas,

located substantially as shown on the map accompanying the application to change the point of diversion and place of use.

Installation of the works for diversion of water shall be completed on or before December 31, 2017, 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. 34,520, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated February 12, 1986, as modified and amended by the aforementioned orders.

This Order shall become a final agency action, as defined by K.S.A. 77-607(b), without further notice to the parties, if a request for hearing or a petition for administrative review is not filed as set forth below.

Request for Hearing. According to K.A.R. 5-14-3(c), any party who desires a hearing must submit a request within 15 days after the date shown on the Certificate of Service attached to this Order. Filing a request for a hearing will give you the opportunity to submit additional facts for consideration, contest any findings made by the Chief Engineer or present any other information you believe should be considered in this matter. A timely-filed request for hearing will stay the deadline for requesting administrative review of this Order pending the outcome of the hearing.

Petition for Review. Any person aggrieved by this Summary Order may petition for administrative review, pursuant to K.S.A. 82a-708b(a) and K.S.A. 82a-1901(a). The petition must be filed within 30 days after the date shown on the Certificate of Service attached to this Order and must set forth the basis for the review, unless stayed by the timely filing of a request for hearing.

Submit To: CHIEF ENGINEER
Division of Water Resources
Kansas Department of Agriculture
1320 Research Park Drive
Manhattan, Kansas 66502
http://agriculture.ks.gov/dwr

**APPLICATION FOR APPROVAL TO
CHANGE THE PLACE OF USE, THE
POINT OF DIVERSION OR THE USE
MADE OF THE WATER UNDER AN
EXISTING WATER RIGHT**



State of Kansas

Filing Fee Must Accompany the Application
(Please refer to Fee Schedule on signature page of application form.)

Paragraph Nos. 1, 2, 3, 4 & 8 must be completed. Complete all other applicable portions. A topographic map or detailed plat showing the authorized and proposed points(s) of diversion and /or place of use must accompany this application.

1. Application is hereby made for approval of the Chief Engineer to change the

- Place of Use
 Point of Diversion
 Use Made of Water

(Check one or more)

WATER RESOURCES
RECEIVED

AUG 10 2016

11:14
KS DEPT OF AGRICULTURE

File No. 34520

2. Name of applicant: Robert J & Deborah A. Wietharn Trusts

Address: Robert Wietharn Trustee 1925 Kiowa Rd

City, State and Zip: Clay Center KS 67432

Phone Number: () E-mail address: _____

What is your relationship to the water right; owner tenant agent other? If other, please explain. _____

Name of water use correspondent: Same as above

Address: _____

City, State and Zip: _____

Phone Number: () E-mail address: _____

3. The change(s) proposed herein are desired for the following reasons (please be specific): To add a SR water pumpsite to new portion of the project and create overlap. This change adds PD in 1A-TBS-RZE & adds PU in 10-TBS-RZE.

The change(s) (was) (will be) completed by upon approval

(Date)

For Office Use Only:

F.O. 1 GMD 0 Meets K.A.R. 5-5-1 (YES/NO) Use IKR Source G/S County CY By AdW Date 8/10/16
Code C-2 Fee \$ 40 TR # _____ Receipt Date 8/10/16 Check # 2014

SCANNED

Assisted by: MEK - TFO

8/10/2016 CCM

4A The presently authorized place of use is:

Owner of Land — NAME: Wietharn Investments LLC
Bob Wietharn Managing Member
 ADDRESS: 1925 Kiowa Rd Clay Center KS 67432

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	7S	2E					10+3	10+4	10+5	10+3									59
29	7S	2E			3A	37								33	40	20	12	176	
																		235A	

List any other water rights that cover this place of use. File NOS. 27121, 20870, 34520, 35749, 21199, 39355, 39858, 40842, 48904, 41978, 41979, 42598, 43824, 44111, 45025, 46842, 49168

4B

Owner of Land — NAME: Galen F. Clea Wietharn Trusts
211 Webster St. Clay Center KS 67432 AND 4a Owner
 ADDRESS: 49168

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	
30	7S	2E										40	40	40	40				160
10-8S	2E			10+2			10+3												15
																		175A	

4a only

List any other water rights that cover this place of use. 17090, 20870, 27121, 34520, 35749, 39355, 44612, 48904.

(If there are more than two landowners, attach additional sheets as necessary.)

Presently Authorized

5. It is proposed that the place of use be changed to:

Owner of Land — NAME: Robert J & Deborah A. Wietharn Trusts Wietharn Investments LLC
Robert Wietharn Trustee Bob Wietharn
 ADDRESS: 1925 Kiowa Rd Clay Center KS 67432 Managing Member
 4a

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	
2	8S	2E	10+1	10+2	31	35													126
																		126A	

List any other water rights that cover this place of use. 20870, 27121, 34520, 35749, 38535, 38537, 39355, 45979, 48904.

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	

List any other water rights that cover this place of use. _____

All land under 4a, 4b, & 5 will remain authorized.

Add the 155 Acres in 10-8s-2E.

APPLICATION FOR APPROVAL TO CHANGE
THE PLACE OF USE AND/OR POINT OF DIVERSION
SUPPLEMENTAL SHEET
FILE NO. _____

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:

Proposed point of diversion: (Complete only if change is requested)

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 _____

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:

Proposed point of diversion: (Complete only if change is requested)

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 _____

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:

Proposed point of diversion: (Complete only if change is requested)

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 _____

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:

Proposed point of diversion: (Complete only if change is requested)

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 _____

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

FILE NO. 34520

MAKE ADDITIONAL COPIES AS NECESSARY

ADD

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

Owner of Land --- NAME: Galen F & Cleta Wietharn Trusts
ADDRESS: 211 Webster St. Clay Center KS 67432

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				
<u>10</u>	<u>85</u>	<u>2E</u>																	<u>36</u>		<u>40</u>	<u>76</u>

ADD Owner of Land --- NAME: Wietharn Investments LLC Robert Wietharn 49508
ADDRESS: 1925 Kiowa Rd Clay Center KS 67432 Managing Member

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				
<u>10</u>	<u>85</u>	<u>2E</u>																	<u>39</u>	<u>40</u>		<u>79</u>

Owner of Land --- NAME: _____ 49508
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: _____
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				

WATER RESOURCES
RECEIVED

AUG 10 2016

SCANNED

6. The presently authorized point(s) of diversion (is) (are) 2 pumpsites
(Provide description and number of points)

7. The proposed point(s) of diversion (is) (are) 3 pumpsites
(Provide description and number of points)

List all presently authorized point(s) of diversion:

8. **Presently authorized point of diversion:**
 One in the 10+ 4 Quarter of the _____ Quarter of the _____ Quarter of the _____ Quarter of the _____
 of Section 28, Township 7 South, Range 2 (EW),
 in Clay County, Kansas, 4227 feet North 4707 feet West of Southeast corner of section.
 Authorized Rate _____ Authorized Quantity _____
 (DWR use only: Computer ID No. _____ GPS _____ feet North _____ feet West)
 This point will not be changed This point will be changed as follows:
Proposed point of diversion: (Complete only if change is requested)
 One in the _____ Quarter of the _____ Quarter of the _____ Quarter of the _____
 of Section _____, Township _____ South, Range _____ (EW),
 in _____ County, Kansas, _____ feet North _____ feet West of Southeast corner of section.
 Proposed Rate _____ Proposed Quantity _____
 This point is: Additional Well Geo Center List other water rights that will use this point _____

9. **Presently authorized point of diversion:**
 One in the 10+ 2 Quarter of the _____ Quarter of the _____ Quarter of the _____ Quarter of the _____
 of Section 2, Township 8 South, Range 2 (EW),
 in Clay County, Kansas, 4118 feet North 2602 feet West of Southeast corner of section.
 Authorized Rate _____ Authorized Quantity _____
 (DWR use only: Computer ID No. _____ GPS _____ feet North _____ feet West)
 This point will not be changed This point will be changed as follows:
Proposed point of diversion: (Complete only if change is requested)
 One in the _____ Quarter of the _____ Quarter of the _____ Quarter of the _____
 of Section _____, Township _____ South, Range _____ (EW),
 in _____ County, Kansas, _____ feet North _____ feet West of Southeast corner of section.
 Proposed Rate _____ Proposed Quantity _____
 This point is: Additional Well Geo Center List other water rights that will use this point _____

10. **Presently authorized point of diversion: TO BE ADDED**
 One in the NE Quarter of the NE Quarter of the NW Quarter of the _____ Quarter of the _____
 of Section 1A, Township 8 South, Range 2 (EW),
 in Clay County, Kansas, 5203 feet North 2821 feet West of Southeast corner of section.
 Authorized Rate _____ Authorized Quantity _____
 (DWR use only: Computer ID No. _____ GPS _____ feet North _____ feet West)
 This point will not be changed This point will be changed as follows:
Proposed point of diversion: (Complete only if change is requested)
 One in the _____ Quarter of the _____ Quarter of the _____ Quarter of the _____
 of Section _____, Township _____ South, Range _____ (EW),
 in _____ County, Kansas, _____ feet North _____ feet West of Southeast corner of section.
 Proposed Rate _____ Proposed Quantity _____
 This point is: Additional Well Geo Center List other water rights that will use this point _____

11. Describe the current condition of and future plans for any point(s) of diversion which will no longer be used. _____

WATER RESOURCES RECEIVED

AUG 10 2016

SCANNED

12. The presently authorized use of water is for NO purposes.

It is proposed that the use be changed to CHANGE purposes.

13. If changing the place of use and/or use made of water, describe how the consumptive use will not be increased.

All the land is currently authorized under various files & New approval.

(Please show any calculations here.)

14. It is requested that the maximum annual quantity of water be reduced to _____ (acre-feet or million gallons).

15. It is requested that the maximum rate of diversion of water be reduced to _____ gallons per minute (____ c.f.s.).

16. The application must include either a topographic map or detailed plat. A U.S. Geological Survey Topographic Map, scale 1:24,000, is available through the Kansas Geological Survey, 1930 Constant Avenue, University of Kansas, Lawrence, Kansas 66047-3726 (www.usgs.gov). The map should show the location of the presently authorized point(s) of diversion. Distances North and West of the Southeast corner of the section must be shown. The presently authorized place of use should also be shown. Identify the center of the section, the section lines and the section corners and show the appropriate section, township, and range numbers on the map. In addition the following information must also be shown on the map.

- ✓ a. If a change in the location of the point(s) of diversion is proposed, show:
 - ✓ 1) The location of the proposed point(s) of diversion. Distances North and West of the Southeast corner of the section must be shown. Please be certain that the information shown on the map agrees with the information shown in Paragraph Nos. 9, 10 and 11 of the application.
 - 2) If the source of supply is groundwater, please show the location of existing water wells of any kind, including domestic wells, within 1/2 mile of the proposed well or wells. Identify each well as to its use and furnish name and mailing address of the property owner or owners. If there are no wells within 1/2 mile, please indicate so on the map.
 - 3) If the source of supply is surface water, the names and mailing addresses of all landowner(s) 1/2 mile downstream and 1/2 mile upstream from your property lines must be shown.
- ✓ b. If a change in the place of use is desired, show the proposed place of use by crosshatching on the map. Please be certain that the information shown on the map agrees with the information shown in Paragraph No. 5 of the application.

17. Attach documentation to show the change(s) proposed herein will not impair existing water rights and relates to the same local source of supply as to which the water right relates. This information may include statements, plats, geology reports, well logs, test hole logs, and other information as necessary information to show the above. Additional comments may be made below.

Attached maps. Discussed with lane letouneau.

18. If the proposed change(s) does not meet all applicable rules and regulations of the Kansas Water Appropriation Act, please identify the rules and regulations for which you request a waiver. State the reason why a waiver is needed and why the request should be granted. Attach documentation showing that granting the request will not impair existing water rights and will not prejudicially and unreasonably affect the public interest.

Meets all applicable Rules & Regulations

WATER RESOURCES RECEIVED

AUG 10 2016

SCANNED

Any use of water that is not as authorized by the water right or permit to authorize water **before** the chief engineer approves this application is a violation of the Kansas Water Appropriation Act for which criminal or civil penalties may be assessed. Such violation is a class C misdemeanor, punishable by a fine not to exceed \$500 and/or a term of confinement not to exceed one month in the county jail. K.S.A. 82a-728(b). Civil penalties shall be not less than \$100 nor more than \$1,000 per violation. In the case of a continuing violation, each day such violation continues may be deemed a separate violation. In addition to these penalties the water right may be modified or suspended. K.S.A. 82a-737, as amended.

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 currently authorized place of use as identified herein, 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. By filing this application I authorize the chief engineer to permanently reduce the quantity of water and/or rate of diversion as specified in sections 14 and 15 of this application.

Dated at Clay Center, Kansas, this 8th day of August, 2016.

Robert J. Wiethorn
(Owner)

(Spouse)

Robert J. Wiethorn
(Please Print)

(Please Print)

Deborah A. Wiethorn
(Owner)

(Spouse)

Deborah A. Wiethorn
(Please Print)

(Please Print)

(Owner)

(Spouse)

(Please Print)

(Please Print)

State of Kansas }
County of Clay } SS

I hereby certify that the foregoing application was signed in my presence and sworn to before me this 8th day of August, 2016.

Kris Kissinger
Notary Public

My Commission Expires 8/12/17

FEE SCHEDULE

KRIS KISSINGER
Notary Public - State of Kansas
My Appt. Expires 8/12/17

Each application to change the place of use, the point of diversion or the use made of the water under this section shall be accompanied by the application fee set forth in the schedule below:

- (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
- (4) Application to change the use made of the water \$300

Make check payable to **Kansas Department of Agriculture.**

**WATER RESOURCES
RECEIVED**

AUG 10 2016

SCANNED

Any use of water that is not as authorized by the water right or permit to authorize water **before** the chief engineer approves this application is a violation of the Kansas Water Appropriation Act for which criminal or civil penalties may be assessed. Such violation is a class C misdemeanor, punishable by a fine not to exceed \$500 and/or a term of confinement not to exceed one month in the county jail. K.S.A. 82a-728(b). Civil penalties shall be not less than \$100 nor more than \$1,000 per violation. In the case of a continuing violation, each day such violation continues may be deemed a separate violation. In addition to these penalties the water right may be modified or suspended. K.S.A. 82a-737, as amended.

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 currently authorized place of use as identified herein, 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. By filing this application I authorize the chief engineer to permanently reduce the quantity of water and/or rate of diversion as specified in sections 14 and 15 of this application.

Dated at Clay Center, Kansas, this 8th day of 8 months, 2016.

Isabel F. Wietharn (Owner) _____ (Spouse) _____

Isabel F. Wietharn (Please Print) _____ (Please Print) _____

Clata J. Wietharn (Owner) _____ (Spouse) _____

Clata J. Wietharn (Please Print) _____ (Please Print) _____

Wietharn Investments by Robert J. Wietharn (Owner) _____ member manager (Spouse) _____

Wietharn Investments by Robert J. Wietharn (Please Print) _____ Member manager (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_____.

Notary Public

My Commission Expires _____

FEE SCHEDULE

Each application to change the place of use, the point of diversion or the use made of the water under this section shall be accompanied by the application fee set forth in the schedule below:

- (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 ~~100~~
- (3) Application to change the place of use ~~100~~
- (4) Application to change the use made of the water \$300

Make check payable to **Kansas Department of Agriculture.**

WATER RESOURCES
RECEIVED

AUG 10 2016

KS DEPT OF AGRICULTURE

\$400

SCANNED

UPSTREAM AND DOWNSTREAM LANDOWNERS

UPSTREAM

1. MAUREEN E PFIZENMAIER TRUST
933 18TH RD
CLAY CENTER KS 67432 7835

2. RANDY J AND ZITA M MILLIGAN
1369 14TH RD
CLAY CENTER KS 67432 7877

3. LORENZE KARMANN TRUST
1821 5TH ST
CLAY CENTER KS 67432 1718

DOWNSTREAM

1. LORENZE KARMANN TRUST
1821 5TH ST
CLAY CENTER KS 67432 1718

2. JAMES M AND CINDY A WOHLER TRUST
1127 16TH RD
CLAY CENTER KS 67432 7805

**WATER RESOURCES
RECEIVED**

AUG 10 2016

KS DEPT OF AGRICULTURE

SCANNED

Krueger, Richelle

From: Tietsort, Katie
Sent: Monday, November 14, 2016 2:02 PM
To: Krueger, Richelle
Subject: Fwd: Request for Recommendation Changes in PD PU File Nos. 27121,34520 & 35749

Sent from my iPhone

Begin forwarded message:

From: "Tietsort, Katie" <Katie.Tietsort@ks.gov>
Date: November 14, 2016 at 1:24:44 PM CST
To: "Krueger, Richelle" <Richelle.Krueger@ks.gov>
Cc: "Bunger, Brett" <Brett.Bunger@ks.gov>, "Turney, Brent" <Brent.Turney@ks.gov>
Subject: **Re: Request for Recommendation Changes in PD PU File Nos. 27121,34520 & 35749**

Good Afternoon Richelle,

The Wietharn's are essentially requesting to mitigate prolonged MDS administration of the Republican River on their property. By moving/adding the downstream pump site, they can choose which properties/crops to pump to in the event of prolonged administration on the junior files. It is essentially a good business set up. As you mentioned we did previously approve a very similar set of change applications, which has allowed the senior water to be used on the "home place" properties. Bob is now asking to do the same on the south property he has acquired.

A couple things that have been specifically considered in these change package requests includes that this specific area and stretch of the Republican River has no intervening tributaries, which is pretty unique. Additionally, as you mention, there are a number of intervening water rights. However, this request will not physically create any impairment, because the majority of the rights are junior to MDS, so when this pump site is operated under the senior right, those rights will be under administration just like the junior right on this property. Where the senior right pumps from is not an issue because the quantity restricts the overall pumping under the senior files.

The TFO did field a call of concern from an adjacent owner, however after we explained the unique conditions on his stretch of the Republican River and how this was set up and how it would pump, he apparently agreed that it would not affect his water rights and chose not to provide written comment.

The TFO recommends approval of this package. Thank you for your significant work on this package.

Have a great day,
Katie

Sent from my iPhone

On Nov 14, 2016, at 12:02 PM, Krueger, Richelle <Richelle.Krueger@ks.gov> wrote:

Hi Katie,

Attached is a draft memo for the referenced change in pd and pu for Wietharns, do you recommend approval?

Thanks,
Richelle

<27121,34520,35749surfaceirrpdpumem.docx>

1320 Research Park Drive
Manhattan, Kansas 66502
(785) 564-6700



900 SW Jackson, Room 456
Topeka, Kansas 66612
(785) 296-3556

Jackie McClaskey, Secretary

Governor Sam Brownback

FILE COPY

MAUREEN E PFIZENMAIER TRUST
933 18TH RD
CLAY CENTER KS 67432-7835

October 13, 2016

RE: Water Right
File Nos. 27,121; 34,520 and 35,749

Dear Sir or Madam:

This is to advise you that Robert J. and Deborah A. Wietharn Trusts, have filed applications for approval of the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, to change the point of diversion and place of use under the above referenced file numbers. The applications will create an overlap in the authorized place of use with Appropriation of Water, File No. 49,508 and point of diversion with Appropriation of Water, File No. 49,509. The applications for File Nos. 27,121; 34,520 and 35,749 propose the following change in point of diversion.

from: one (1) pumpsite located in Lot 4 of Section 28, more particularly described as being near a point 4,227 feet North and 4,707 feet West of the Southeast corner of said section, in Township 7 South, and

one (1) pumpsite located in Lot 2 of Section 2, more particularly described as being near a point 4,118 feet North and 2,602 feet West of the Southeast corner of said section, in Township 8 South,

both in Range 2 East, Clay County, Kansas,

to: one (1) pumpsite located in Lot 4 of Section 28, more particularly described as being near a point 4,227 feet North and 4,707 feet West of the Southeast corner of said section, in Township 7 South,

one (1) pumpsite located in Lot 2 of Section 2, more particularly described as being near a point 4,118 feet North and 2,602 feet West of the Southeast corner of said section, in Township 8 South, and

one (1) pumpsite located in the Northeast Quarter of the Northeast Quarter of the Northwest Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 14, more particularly described as being near a point 5,203 feet North and 2,821 feet West of the Southeast corner of said section, in Township 8 South,

all in Range 2 East, Clay County, Kansas.

You are being notified of this proposed change in the point of diversion so that you may furnish this office such comments or other information you may desire to submit. Such comments or other information must be received in this office within 15 days from the date of this letter.

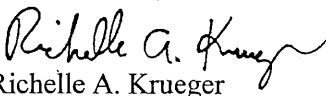
Effective July 1, 2016, Senate Bill No. 337 enacted by the Legislature of the State of Kansas requires the Division of Water Resources to notify all water right owners with a point of diversion within half a mile of a water right pending a request to change the water right. In order to comply with the statute, you are being notified of the above referenced applications for change.

OVER →

SCANNED

If you have any questions, please contact me at (785) 564-6635. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,


Richelle A. Krueger
Environmental Scientist
Water Appropriation Program

RAK

pc: Topeka Field Office
Robert J. and Deborah A. Wietham Trusts
Galen F. and Cleta Wietham Trusts



1320 Research Park Drive
Manhattan, Kansas 66502
(785) 564-6700

900 SW Jackson, Room 456
Topeka, Kansas 66612
(785) 296-3556

Jackie McClaskey, Secretary

Governor Sam Brownback

RANDY J AND ZITA M MILLIGAN
1369 14TH RD
CLAY CENTER KS 67432-7877

October 13, 2016

RE: Water Right
File Nos. 27,121; 34,520 and 35,749

FILE COPY

Dear Sir or Madam:

This is to advise you that Robert J. and Deborah A. Wietharn Trusts, have filed applications for approval of the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, to change the point of diversion and place of use under the above referenced file numbers. The applications will create an overlap in the authorized place of use with Appropriation of Water, File No. 49,508 and point of diversion with Appropriation of Water, File No. 49,509. The applications for File Nos. 27,121; 34,520 and 35,749 propose the following change in point of diversion.

from: one (1) pumpsite located in Lot 4 of Section 28, more particularly described as being near a point 4,227 feet North and 4,707 feet West of the Southeast corner of said section, in Township 7 South, and

one (1) pumpsite located in Lot 2 of Section 2, more particularly described as being near a point 4,118 feet North and 2,602 feet West of the Southeast corner of said section, in Township 8 South,

both in Range 2 East, Clay County, Kansas,

to: one (1) pumpsite located in Lot 4 of Section 28, more particularly described as being near a point 4,227 feet North and 4,707 feet West of the Southeast corner of said section, in Township 7 South,

one (1) pumpsite located in Lot 2 of Section 2, more particularly described as being near a point 4,118 feet North and 2,602 feet West of the Southeast corner of said section, in Township 8 South, and

one (1) pumpsite located in the Northeast Quarter of the Northeast Quarter of the Northwest Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 14, more particularly described as being near a point 5,203 feet North and 2,821 feet West of the Southeast corner of said section, in Township 8 South,

all in Range 2 East, Clay County, Kansas.

You are being notified of this proposed change in the point of diversion so that you may furnish this office such comments or other information you may desire to submit. Such comments or other information must be received in this office within 15 days from the date of this letter.

Effective July 1, 2016, Senate Bill No. 337 enacted by the Legislature of the State of Kansas requires the Division of Water Resources to notify all water right owners with a point of diversion within half a mile of a water right pending a request to change the water right. In order to comply with the statute, you are being notified of the above referenced applications for change.

OVER →

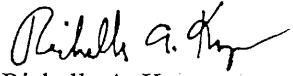
SCANNED

RE: File Nos. 27,121; 34,520; and 35,749

Page 2

If you have any questions, please contact me at (785) 564-6635. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,



Richelle A. Krueger
Environmental Scientist
Water Appropriation Program

RAK

pc: Topeka Field Office
Robert J. and Deborah A. Wietharn Trusts
Galen F. and Cleta Wietharn Trusts

1320 Research Park Drive
Manhattan, Kansas 66502
(785) 564-6700



900 SW Jackson, Room 456
Topeka, Kansas 66612
(785) 296-3556

Jackie McClaskey, Secretary

Governor Sam Brownback

LORENZE KARMANN TRUST
1821 5TH ST
CLAY CENTER KS 67432-1718

October 13, 2016

FILE COPY

RE: Water Right
File Nos. 27,121; 34,520 and 35,749

Dear Sir or Madam:

This is to advise you that Robert J. and Deborah A. Wietham Trusts, have filed applications for approval of the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, to change the point of diversion and place of use under the above referenced file numbers. The applications will create an overlap in the authorized place of use with Appropriation of Water, File No. 49,508 and point of diversion with Appropriation of Water, File No. 49,509. The applications for File Nos. 27,121; 34,520 and 35,749 propose the following change in point of diversion.

from: one (1) pumpsite located in Lot 4 of Section 28, more particularly described as being near a point 4,227 feet North and 4,707 feet West of the Southeast corner of said section, in Township 7 South, and

one (1) pumpsite located in Lot 2 of Section 2, more particularly described as being near a point 4,118 feet North and 2,602 feet West of the Southeast corner of said section, in Township 8 South,

both in Range 2 East, Clay County, Kansas,

to: one (1) pumpsite located in Lot 4 of Section 28, more particularly described as being near a point 4,227 feet North and 4,707 feet West of the Southeast corner of said section, in Township 7 South,

one (1) pumpsite located in Lot 2 of Section 2, more particularly described as being near a point 4,118 feet North and 2,602 feet West of the Southeast corner of said section, in Township 8 South, and

one (1) pumpsite located in the Northeast Quarter of the Northeast Quarter of the Northwest Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 14, more particularly described as being near a point 5,203 feet North and 2,821 feet West of the Southeast corner of said section, in Township 8 South,

all in Range 2 East, Clay County, Kansas.

You are being notified of this proposed change in the point of diversion so that you may furnish this office such comments or other information you may desire to submit. Such comments or other information must be received in this office within 15 days from the date of this letter.

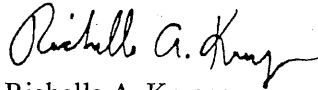
Effective July 1, 2016, Senate Bill No. 337 enacted by the Legislature of the State of Kansas requires the Division of Water Resources to notify all water right owners with a point of diversion within half a mile of a water right pending a request to change the water right. In order to comply with the statute, you are being notified of the above referenced applications for change.

OVER →

SCANNED

If you have any questions, please contact me at (785) 564-6635. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,



Richelle A. Krueger
Environmental Scientist
Water Appropriation Program

RAK

pc: Topeka Field Office
Robert J. and Deborah A. Wietharn Trusts
Galen F. and Cleta Wietharn Trusts

1320 Research Park Drive
Manhattan, Kansas 66502
(785) 564-6700



900 SW Jackson, Room 456
Topeka, Kansas 66612
(785) 296-3556

Jackie McClaskey, Secretary

Governor Sam Brownback

JAMES M AND CINDY A WOHLER TRUST
1127 16TH RD
CLAY CENTER KS 67432-7805

October 13, 2016

FILE COPY

RE: Water Right
File Nos. 27,121; 34,520 and 35,749

Dear Sir or Madam:

This is to advise you that Robert J. and Deborah A. Wietharn Trusts, have filed applications for approval of the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, to change the point of diversion and place of use under the above referenced file numbers. The applications will create an overlap in the authorized place of use with Appropriation of Water, File No. 49,508 and point of diversion with Appropriation of Water, File No. 49,509. The applications for File Nos. 27,121; 34,520 and 35,749 propose the following change in point of diversion.

from: one (1) pumpsite located in Lot 4 of Section 28, more particularly described as being near a point 4,227 feet North and 4,707 feet West of the Southeast corner of said section, in Township 7 South, and

one (1) pumpsite located in Lot 2 of Section 2, more particularly described as being near a point 4,118 feet North and 2,602 feet West of the Southeast corner of said section, in Township 8 South,

both in Range 2 East, Clay County, Kansas,

to: one (1) pumpsite located in Lot 4 of Section 28, more particularly described as being near a point 4,227 feet North and 4,707 feet West of the Southeast corner of said section, in Township 7 South,

one (1) pumpsite located in Lot 2 of Section 2, more particularly described as being near a point 4,118 feet North and 2,602 feet West of the Southeast corner of said section, in Township 8 South, and

one (1) pumpsite located in the Northeast Quarter of the Northeast Quarter of the Northwest Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 14, more particularly described as being near a point 5,203 feet North and 2,821 feet West of the Southeast corner of said section, in Township 8 South,

all in Range 2 East, Clay County, Kansas.

You are being notified of this proposed change in the point of diversion so that you may furnish this office such comments or other information you may desire to submit. Such comments or other information must be received in this office within 15 days from the date of this letter.

Effective July 1, 2016, Senate Bill No. 337 enacted by the Legislature of the State of Kansas requires the Division of Water Resources to notify all water right owners with a point of diversion within half a mile of a water right pending a request to change the water right. In order to comply with the statute, you are being notified of the above referenced applications for change.

OVER →

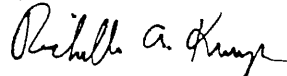
SCANNED

RE: File Nos. 27,121; 34,520; and 35,749

Page 2

If you have any questions, please contact me at (785) 564-6635. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,



Richelle A. Krueger
Environmental Scientist
Water Appropriation Program

RAK

pc: Topeka Field Office
Robert J. and Deborah A. Wietharn Trusts
Galen F. and Cleta Wietharn Trusts

Krueger, Richelle

From: Krueger, Richelle
Sent: Wednesday, October 12, 2016 1:02 PM
To: Tietsort, Katie
Cc: Bunger, Brett; Turney, Brent; Letourneau, Lane
Subject: RE: Applications to change the PD PU File Nos. 27121, 34520 and 35749 Wietharn

Hi Katie,
Thanks for your help, I will get working on them!
Richelle

From: Tietsort, Katie
Sent: Wednesday, October 12, 2016 12:48 PM
To: Krueger, Richelle
Cc: Bunger, Brett; Turney, Brent; Letourneau, Lane
Subject: RE: Applications to change the PD PU File Nos. 27121, 34520 and 35749 Wietharn

Hi Richelle,

I ran this package by Lane when Bob came to me with the request before it was drafted up in final form and went out and we agreed it met the same criteria as the package Wietharn did previously- Brent has all the file numbers for the references. It should be written up, processed and justified the exact same way.

- The incomplete overlap is justified by 5-5-11 because the south pumpsite cannot physically serve land up north.
- You guys can add whatever land limitations you wish.
- As I recall, the water right has been severed off the 2 acre tract owned by Cott. You can put that on your worksheet however you need to. The water right has no ownership by Cott's but they do own the two-acre tract. It doesn't matter how you guys want to put that in the computer it is clear in the hard files.
- The same local supply is not changed. There are no intervening perennially flowing streams.
- Nope. The senior files will keep on pumping and all the juniors require permission and only obtain permission when the flow is sufficient for all juniors. The proposed Republican Access District would make all this a non-issue too.

It is really just exactly like that last set of changes we did for Bob. You have a perfect example in those files so this should be smooth.

Thanks for working it up! I know Bob will appreciate it.

Katie

Katie Tietsort
Water Commissioner, Topeka Field Office
Kansas Department of Agriculture, Division of Water Resources
6531 SE Forbes Ave, Ste B
Topeka, KS 66619
(785) 296-5733
Katie.Tietsort@ks.gov

From: Krueger, Richelle

Sent: Tuesday, October 11, 2016 2:28 PM

To: Tietsort, Katie <Katie.Tietsort@ks.gov>

Cc: Bunger, Brett <Brett.Bunger@ks.gov>; Turney, Brent <Brent.Turney@ks.gov>

Subject: Applications to change the PD PU File Nos. 27121, 34520 and 35749 Wietharn

Hi Katie,

How's it going? Hey I have begun looking at the referenced changes and have some questions I thought I better clear with you before I proceed. As you probably recall, the package is proposing to add a pumpsite now authorized by File No. 49,509 and a place of use now authorized by File No. 49508 to File Nos. 27121; 34520 and 35749.

- It looks like the proposal will create an incomplete overlap in pu between File Nos. 49508 and File Nos. 27121; 34520 and 35749. What are the base acres for this package and are you comfortable that this complies with 5-5-11?
- I am thinking we will need to do an F&O on File No. 49,508 limiting it to 186 AF when combined with File Nos. 27121; 34520 and 35749 for irrigation on the land in 10-8-2E- do you agree?
- Do the Griffiths and Cotts still own that 2 acre overlap piece in the SW¼ NW¼ 28-7-2E as shown in WRIS, or did they sell it to Wietharn Investments, as indicated in Paragraph 4 A of the application? I didn't know if I was supposed to do an ownership change on that piece, or if I am supposed to get their signatures on the applications?
- Do you think the same local source of supply will not change?
- Do you think there are any issues with File Nos. 27121; 34520 and 35749 moving a pumpsite downstream of the junior priority pumpsites of File Nos. 44867/45544; 46836/47823/49154 and 47748, none under common ownership?

I know this is a complex project and do not want to add problems, so thought I better get your input. Thanks, as always, for your help!

Richelle

1320 Research Park Drive
Manhattan, Kansas 66502
(785) 564-6700



900 SW Jackson, Room 456
Topeka, Kansas 66612
(785) 296-3556

Jackie McClaskey, Secretary

Governor Sam Brownback

ROBERT J & DEBORAH A WIETHARN TRUSTS
1925 KIOWA RD
CLAY CENTER, KS 67432

FILE COPY

August 9, 2016

RE: File No. 34520

Dear Sir or Madam:

An application for approval of the Chief Engineer to change the following condition or conditions of the file number referred to above has been received:

- place of use PD/PU
- point of diversion
- use made of water

As a matter of record, the Division of Water Resources has on hand a large number of applications awaiting processing. Therefore to be fair to all concerned, and so that we can process those applications on hand in the order they were received, we intend to concentrate on the backlog of applications until the issue is resolved. You will be contacted regarding this application as soon as it has been examined.

In accordance with the provisions of the Kansas Water Appropriation Act, a portion of which is included below, the use of water prior to approval of the application is unlawful. You should not proceed and divert water as indicated by your plans in your application for a change for this file until you receive approval for this change from the Chief Engineer. Once approved, compliance with the terms, conditions and limitations of the permit is necessary. Conservation of the water resources of Kansas is required.

Section 82a-728 of the Kansas Water Appropriation Act, provides (a) except for the appropriation of water for the purpose of domestic use, . . . it shall be unlawful for any person to appropriate or threaten to appropriate water from any source without first applying for and obtaining a permit to appropriate water in accordance with the provisions of the Water Appropriation Act or for any person to violate any condition of a vested right, appropriation right or an approved application for a permit to appropriate water for beneficial use.

(b) (1) The violation of any provision of this section by any person is a class C misdemeanor...

A class C misdemeanor is punishable by a fine not to exceed \$500 and/or a term of confinement not to exceed one month in the county jail. Each day that the violation occurs constitutes a separate offense.

If you have any questions, please contact me at (785) 564-6645. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

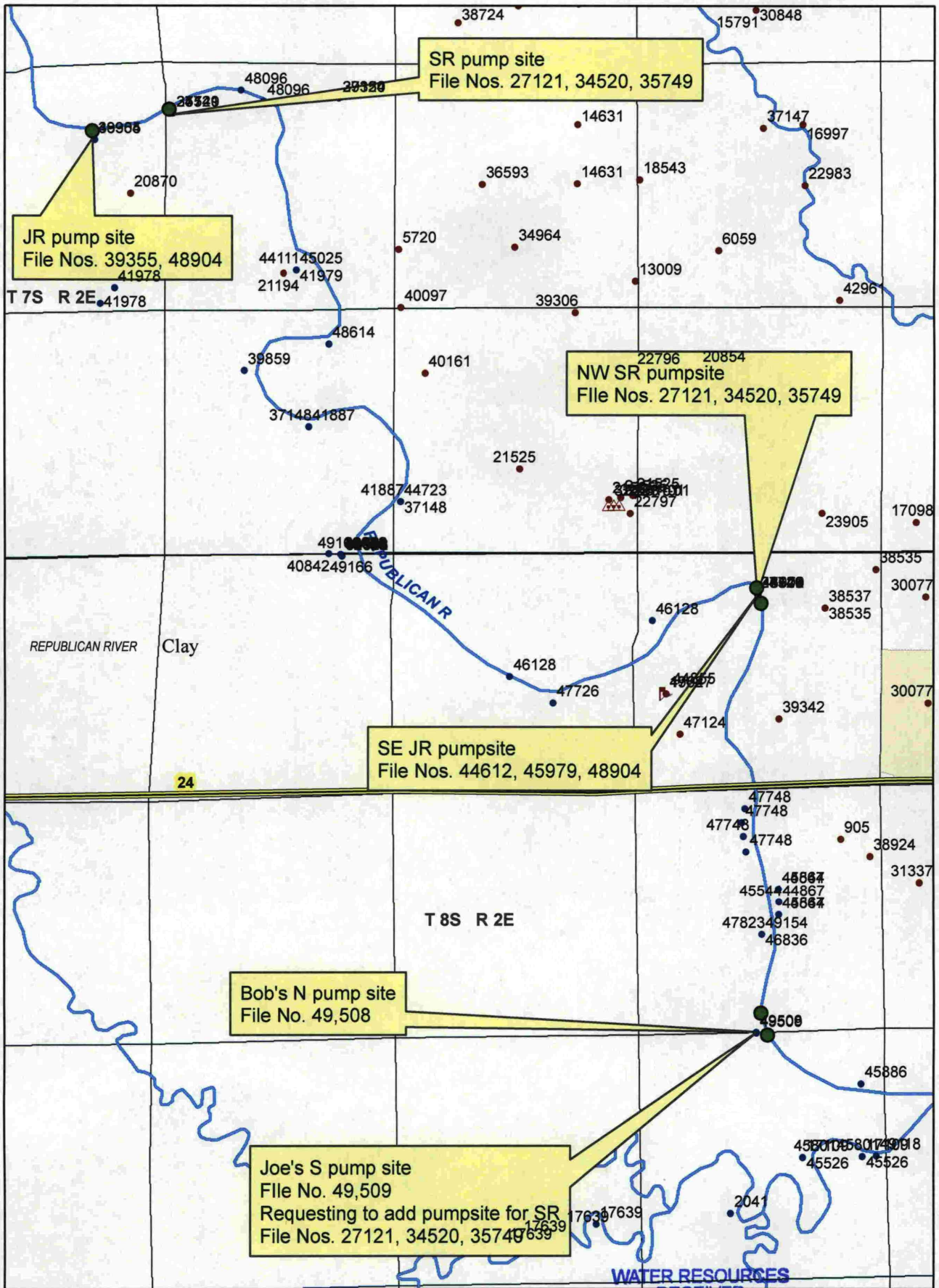
A handwritten signature in cursive script that reads "Brent A. Turney".

Brent A Turney, L.G.
Change Applications Unit Supervisor
Water Appropriation Program

BAT: DLW
pc: TOPEKA Field Office GMD

SCANNED

Wietharn, Change Applications to Move SR water to new PU



AUG 10 2016

SCANNED

KS DEPT OF AGRICULTURE



Authorized Files



AUG 10 2016

1:45,000

KS DEPT OF AGRICULTURE

SCANNED