

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

1. File Number: <b>41,887</b>	2. Status Change Date: <b>5/31/2019</b>	3. Change Num: <b>C2</b>	4. Field Office: <b>01</b>	5. GMD:
6. Status: <input type="checkbox"/> Approved <input type="checkbox"/> Denied by DWR/GMD <input type="checkbox"/> Dismiss by Request/Failure to Return				7. Filing Date of Change: <b>05-NOV-2018</b>
8a. Applicant(s) New to system <input type="checkbox"/>		Person ID <b>28589</b> Add Seq# <b>1</b>		8d. Landowner(s) New to system <input type="checkbox"/>
<b>ROBERT J &amp; DEBORAH A WIETHARN TRUSTS ROBERT WIETHARN TRUSTEE 1925 KIOWA RD CLAY CENTER KS 67432</b>				Person ID Add Seq#
8b. Landowner(s) New to system <input type="checkbox"/>		Person ID <b>28589</b> Add Seq# <b>1</b>		8e. Landowner(s) New to system <input type="checkbox"/>
<b>ROBERT J &amp; DEBORAH A WIETHARN TRUSTS ROBERT WIETHARN TRUSTEE 1925 KIOWA RD CLAY CENTER KS 67432</b>				Person ID Add Seq#
8c. Landowner(s) New to system <input type="checkbox"/>		Person ID <b>28966</b> Add Seq# <b>1</b>		8f. WUC New to system <input type="checkbox"/>
<b>GALEN F &amp; CLETA WIETHARN TRUSTS 211 WEBSTER ST CLAY CENTER KS 67432</b>				Person ID <b>28589</b> Add Seq# <b>4</b>
		<b>8A NO CHANGE</b>		
9. Documents and Enclosure(s): <input checked="" type="checkbox"/> DWR Meter(s) Date to Comply: <b>12/31/2020</b> <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: <b>4/25/19</b> By: <b>RAK</b> Date Entered: <b>4/3/2019</b> By: <b>UM</b>				

File No. **41,887**      11. County: **CY**      Basin: **REPUBLICAN RIVER**      Stream: **REPUBLICAN RIVER (27)**      Formation Code:      Special Use:

12. Points of Diversion      Rate and Quantity  
 CHK      Authorized      Additional  
 MOD      Rate      Quantity      Rate      Quantity  
 DEL      PDIV      Qualifier      S      T      R      ID      'N      'W      Comment (AKA Line)      gpm/cfs      af/mgy      gpm/cfs      af/mgy      Overlap PD Files  
 ENT

**NO CHANGES**

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

14. Limitation: \_\_\_\_\_ gpm ( \_\_\_\_\_ cfs) when combined with file number(s) \_\_\_\_\_  
 Limitation: \_\_\_\_\_ 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 CHK MOD DEL ENT      PUSE      S      T      R      ID	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				
<b>MOD 34618 33 7S 2E 1</b> <b>SEE IMAGES FOR LOTS AND ACRES</b>			Lot 5 1.5	Lot 6 2.00 0.50				Lot 4 1.0	16.00	16.00			Lot 8 12.00 Lot 7 4.00 4.50	Lot 8 38.5			96.00	<b>8C</b>	<b>NO 37148;41887;50155</b>	
<b>DEL 28976 33 7 2E 5</b>																10.00	10.00	<b>8C</b>	<b>NO</b>	
<b>MOD 5351 34 29 25E 1</b> <b>SEE IMAGES FOR LOTS AND ACRES</b>									Lot 10 9.00	Lot 10 14.50							36.00	<b>8C</b>	<b>NO 37148;41887;50155</b>	
<b>65409 34 7 2E 9</b> <b>SEE IMAGES FOR LOTS AND ACRES INCOMPLETE OLAP</b>									Lot 5 1.50	Lot 10 4.00	Lot 10 2.0	Lot 9 1.50					9.00	<b>8C</b>	<b>NO 21525;37148;41887; 44723; 50155</b>	

Base Acres:      Year:      Minimum Reasonable Quantity:  
 Comments:      **FILE NO. 50,156 DOES NOT OVERLAP IN PLACE OF USE WITH THESE FILES.**

**ORDER**

NOW, THEREFORE, It is the decision and order of the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, that effective the date of this order, the authorized place of use under Water Right, File No. 37,148, shall be:

- 1.5 acres in Lot 5,
- 2.0 acres in Lot 6,
- 0.5 acre in the Southeast Quarter of the Northeast Quarter (SE $\frac{1}{4}$  NE $\frac{1}{4}$ ),
- L-4 → 1.0 acre in Lot 7,
- 8.0 acres in the Northeast Quarter of the Southwest Quarter (NE $\frac{1}{4}$  SW $\frac{1}{4}$ ),
- 50.5 acres in Lot 8,
- 4.0 acres in Lot 7,
- 4.5 acres in the Northeast Quarter of the Southeast Quarter (NE $\frac{1}{4}$  SE $\frac{1}{4}$ ),

a total of 72.0 acres in Section 33,

- 1.5 acres in Lot 5,
- 29.5 acres in Lot 10,
- 1.5 acres in the Northwest Quarter of the Southwest Quarter (NW $\frac{1}{4}$  SW $\frac{1}{4}$ ),
- 11.0 acres in the Southwest Quarter of the Southwest Quarter (SW $\frac{1}{4}$  SW $\frac{1}{4}$ ),
- 1.5 acres in Lot 9,

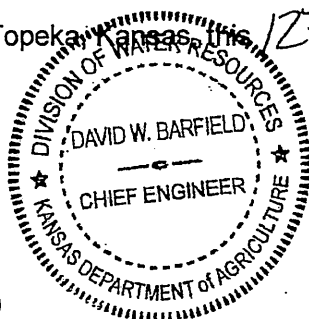
a total of 45.0 acres in Section 34,

all in Township 7 South, Range 2 East, Clay County, Kansas.

In all other respects, the Certificate of Appropriation for Beneficial Use of Water, issued pursuant to File No. 37,148, dated July 15, 1992, remains as authorized and as modified and amended on April 27, 2001, and December 12, 2004.

This is a final agency action. If you choose to appeal this decision or any finding or part thereof, you must do so by filing a petition for review in the manner prescribed by the Kansas Act for Judicial Review and Civil Enforcement of Agency Actions (KJRA K.S.A. 77-601 et seq.) within 30 days of service of this order. Your appeal must be made with the appropriate district court for the district of Kansas. The Chief Legal Counsel for the Kansas Department of Agriculture, 109 SW 9th Street, 4th Floor, Topeka, Kansas 66612, is the agency officer who will receive service of a petition for judicial review on behalf of the Kansas Department of Agriculture, Division of Water Resources. If you have questions or would like clarification concerning this order, you may contact the Chief Engineer.

Dated at Topeka, Kansas, this 12<sup>th</sup> day of December, 2013.



*David W. Barfield*  

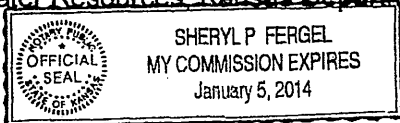

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David W. Barfield, P.E.  
Chief Engineer  
Division of Water Resources  
Kansas Department of Agriculture

State of Kansas )  
) )  
County of Shawnee )

SS

The foregoing instrument was acknowledged before me this 12<sup>th</sup> day of December, 2013, by David W. Barfield, P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.



*Sheryl P Fergel*  


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Notary Public

# ATTACHMENT "B"

Modified P/U description - File Nos. 37148 + 41,887

## Section 33

NW SE (Lot 8) - 38.5  
NE SE (Lot 8) - 12  
NE SE ~~8~~ - 4.5  
NE SE (Lot 7) - 4  
SE NE - .5  
SE NE (Lot 6) - 2  
SW NE (Lot 5) - 1.5  
SE NW (Lot 4) - 1  
NE SW - 8  
TOTAL = 72

## Section 34

NW SW - 1.5  
NW SW (Lot 10) - 13      OVERLAP - 21525 + 44723 (4.0 ~~5~~ ACRES)  
NE SW (Lot 5) - 1.5      OVERLAP - 21525 + 44723 (1.5 ~~2~~ ACRES)  
SW SW (Lot 10) - 16.5      OVERLAP - 21525 + 44723 (2.0 ACRES)  
SW SW - 11  
SE SW (Lot 9) - 1.5      OVERLAP - 21525 + 44723 (1.5 ACRES)  
TOTAL = 45 ACRES      TOTAL = 9 ACRES

WATER RESOURCES  
RECEIVED

APR 11 2013

KS DEPT OF AGRICULTURE

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

**TO:** Files  
**FROM:** Richelle A. Krueger

**DATE:** May 1, 2019  
**RE:** Water Right  
File Nos. 27,121; 34,520;  
35,749; 37,148 and 41,887  
Appropriation of Water  
49,508 and 49,509

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, and applications to change the place of use for Water Right, File Nos. 37,148 and 41,887 and Appropriation of Water, File Nos. 49,508 and 49,509 all authorized surface water from the Republican River for irrigation use.

The referenced changes have been filed along with Application, File Nos. 50,155, 50,156 and 50,183 which are being processed by Doug Schemm, Environmental Scientist, Topeka Field Office.

The referenced files do not appear abandoned as per K.S.A. 82a-718. File Nos. 49,508 and 49,509 perfection periods expire December 31, 2021.

**Changes in PU File Nos. 37,148 and 41,887**

File Nos. 37,148 and 41,887 form a complete overlap in their 127-acre authorized place of use and incompletely overlap File Nos. 21,525 and 44,723 in a 9-acre tract located in the Southwest Quarter of Section 34, Township 7 South, Range 2 East, Clay County. Each file is authorized two pumpsites - File Nos. 37,148 and 41,887 overlap in point of diversion along with File No. 50,156 at one pumpsite (Lot 5 2731'N, 1845'W SE corner 33-7S-2E); the second pumpsite of File No. 37,148 overlaps Water Right, File No. 44,723 and the second pumpsite of File No. 41,887 has no overlap. The reference changes in place of use propose a complete overlap in the place of use with Application File No. 50,155 for a total of 141 acres to be irrigated all in Sections 33 and 34 of the aforementioned township and range, an increase of additional acres. The 9-acre incomplete overlap with File Nos. 21,525 and 44,723 will remain. The total limited quantity of 169.2 acre-feet to be authorized by File Nos. 37,148; 41,887 and 50,155, will irrigate the proposed 141 acres with 1.2 acre-feet per acre, which appears reasonable in Clay County.

**Change in PD/PU File Nos. 27,121; 34,520 and 35,749 PU only File Nos. 49,508 and 49,509**

File Nos. 27,121; 34,520 and 35,749 are all authorized the same three (3) points of diversion. In addition, the southernmost pumpsite authorized by File Nos. 27,121; 34,520 and 35,749 (5,203'N 2,821'W 14-8S-2E) overlaps the pumpsite authorized by Appropriation of Water, File No. 49,509. The referenced changes in point of diversion propose to remove the point of diversion of overlap with File No. 49,509 and move to a pumpsite located 102 feet North and 3,000 feet West of the Southeast corner of Section 11, Township 8 South, Range 2 East, Clay County, a distance of less than 300 feet.

File Nos. 27,121; 34,520 and 35,749 are authorized a limited total quantity of 167 acre-feet for 691 acres, form a complete overlap with each other in place of use and incompletely overlap the place of use with several other water rights, including a 155-acre overlap with File No. 49,508 in Section 10, Township 8 South, Range 2 East. The referenced changes in place of use for File Nos. 27,121; 34,520 and 35,749 propose to add the 118-acre place of use now authorized by Appropriation of Water, File No. 49,509 in Sections 11 and 14, Township 8 South, Range 2 East, creating a 273-acre overlap in place of use among File Nos. 27,121; 34,520; 35,749; 49,508; 49,509; 50,156 and 50,183. The incomplete overlap in place of use with other files to the north will remain, so that File Nos. 27,121; 34,520 and 35,749 will be authorized a total of 809 acres.

The applications to change the place of use for File Nos. 49,508 (155 acres) and 49,509 (118 acres) propose to create a complete overlap in place of use with each other along with Application, File Nos. 50,156 and 50,183 for a total of 273 acres in Sections 10, 11 and 14, Township 8 South, Range 2 East and as mentioned above, this 273 acres will incompletely overlap File Nos. 27,121; 34,520 and 35,749.

Memorandum

File Nos. 27,121; 34,520; 35,749; 37,148; 41,887; 49,508 and 49,509

May 1, 2019

Page 2

File No. 49,508 is authorized 186 acre-feet limited to 186 acre-feet for irrigation on the currently authorized 155-acre place of use (1.2 AF/ac). The existing quantity limitation will be changed to 327.6 acre-feet when combined with File Nos. 27,121, 34,520 and 35,749 to reflect the increase in acres to 273 acres.

File No. 49,509 is authorized 141.6 acre-feet for 118 acres with no current overlaps in the authorized place of use. A quantity limitation will be added to File No. 49,509 limiting the file to 327.6 acre-feet when combined with File Nos. 27,121, 34,520, 35,749 and 49,508 to keep the quantity reasonable for the 273-acre place of use (1.2 AF/ac).

Doug sent nearby landowner letters on February 21, 2019 for both new applications and changes. Note that the notification letters listed each of the new applications and the related change applications for File Nos. 27,121; 34,520; 35,749; 37,148; 41,887; 49,508; and 49,509. Doug indicated that two telephone calls were received, asking general questions about the applications, but they did not express any specific impairment concerns. No written responses of any kind were received.

In an April 19, 2019 e-mail Katherine Tietsort, Water Commissioner of the Topeka Field Office, indicated she recommends approval of the package.

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

  
Richelle A. Krueger  
Environmental Scientist

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

ROBERT J & DEBORAH A WIETHARN TRUSTS  
ROBERT WIETHARN TRUSTEE  
ELSIIE MUGLER LLC  
1925 KIOWA RD  
CLAY CENTER KS 67432

June 7, 2019

**FILE COPY**

RE: Water Right, File Nos. 27,121; 34,520; 35,749; 37,148 and 41,887  
Appropriation of Water, File Nos. 49,508 and 49,509

Dear Mr. and Mrs. Wietharn:

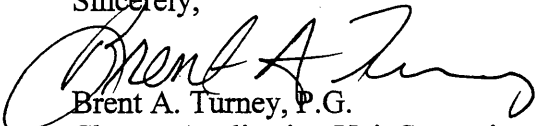
Enclosed are the orders executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the applications for change under the above referenced file numbers.

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 acceptable water flow meters 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/or installation of the required meters as soon as these actions are completed.

Since the orders modify the original documents referred to above, the orders for File Nos. 27,121; 34,520; 35,749; 37,148 and 41,887 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  
Water Appropriation Program

BAT:rak

pc: Topeka Field Office  
Galen F. and Clela Z. Wietharn Trusts

# THE STATE OF KANSAS



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

**DIVISION OF WATER RESOURCES**  
David W. Barfield, Chief Engineer

## APPROVAL OF APPLICATION FOR CHANGE IN PLACE OF USE WATER RIGHT FILE NO. 41,887

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, 1925 Kiowa Road, Clay Center, Kansas, 67432, and Galen F. and Clela Z. Wietharn, on behalf of Galen F. and Clela Z. Wietharn Trusts, 211 Webster Street, Clay Center, Kansas, 67432, received in this office on November 5, 2018, for approval of a change in the location of the place of use under the certificate of appropriation issued pursuant to the permit to appropriate water for beneficial use, as modified and amended by the Order of the Chief Engineer dated December 12, 2004, approving the application to change the place of use and point of diversion, and by the Findings and Order of the Chief Engineer dated December 12, 2013, more accurately describing the location of the authorized place of use, finds that the change is reasonable and will not impair existing rights, and that the application should be and is hereby approved.

The effective date of the change shall be the date this order is executed by the Chief Engineer, after which the authorized location of the 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				
33	7S	2E			Lot 5 1.50	Lot 6 2.00							Lot 4 1.00	16.00	16.00			Lot 8 12.00	Lot 8 38.50			87.00
33	7S	2E				0.50												Lot 7 4.00				4.50
33	7S	2E																4.50				4.50
34	7S	2E									1.50	11.00										12.50
34	7S	2E								Lot 5 1.50	Lot 10 13.00	Lot 10 16.50	Lot 9 1.50									32.50

a total of 141.00 acres in Clay County, Kansas,

located substantially as shown on the maps accompanying the application to change the place of use.

All 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. 41,887, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated April 12, 2002, as modified and amended by the aforementioned orders.

#### **RIGHT TO A HEARING AND TO ADMINISTRATIVE REVIEW**

If you are aggrieved by this Order, then pursuant to K.S.A. 82a-1901, you may:

- 1) request an evidentiary hearing before the Chief Engineer, or
- 2) request administrative review by the Secretary of Agriculture.

Failure to request an evidentiary hearing before the Chief Engineer does not preclude your right to administrative review by the Secretary.

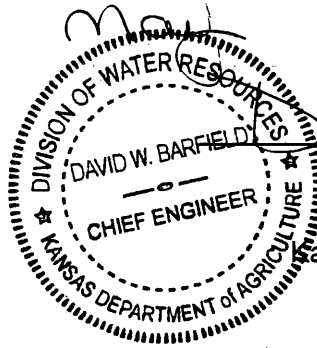
To obtain an evidentiary hearing before the Chief Engineer, a written request for hearing must be filed within 15 days after service of this Order as provided in K.S.A. 77-531 (i.e., within a total of 18 days after this Order was mailed to you), with the Kansas Department of Agriculture, Attn: Legal Section, 1320 Research Park Drive, Manhattan, Kansas 66502, or by 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 the Secretary of Agriculture, Attn: Legal Division, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, or by FAX (785) 564-6777.

If neither a request for an evidentiary hearing nor a petition for administrative review is filed as set forth above, then this Order shall be effective and become a final agency action as defined in K.S.A. 77-607(b). Failure to timely request either an evidentiary hearing or administrative review may preclude further judicial review under the Kansas Judicial Review Act.

Any request for hearing or petition for administrative review shall be in writing and shall be submitted to the attention of: Chief Legal Counsel, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, Fax: (785) 564 - 6777.

Ordered this 31<sup>st</sup> day of May, 2019, in Manhattan, Riley County, Kansas.



*David W. Barfield*  
David W. Barfield, P.E.  
Chief Engineer  
Division of Water Resources  
Kansas Department of Agriculture

State of Kansas )  
County of Riley ) SS

The foregoing instrument was acknowledged before me this 31<sup>st</sup> day of May, 2019, by David W. Barfield, P.E, Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.



*Karen Hunter*  
Notary Public

**CERTIFICATE OF SERVICE**

On this 7<sup>th</sup> day of June, 2019, I hereby certify that the attached Approval of Application for the Change in Place of Use, File No. 41,887, dated May 31<sup>st</sup>, 2019 was mailed postage prepaid, first class, US mail to the following:

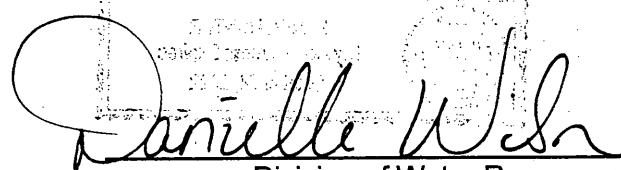
GALEN F & CLETA WIETHARN TRUSTS  
211 WEBSTER ST  
CLAY CENTER KS 67432



With photocopies to:

ROBERT J. AND DEBORAH A. WIETHARN TRUSTS  
1925 KIOWA RD  
CLAY CENTER KS 67432

Topeka Field Office

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

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
- (Check one or more)  ~~Point of Diversion~~ \*
- Use Made of Water

WATER RESOURCES  
RECEIVED

NOV 05 2018  
3:31  
KS DEPT OF AGRICULTURE

File No. 41,887

2. Name of applicant: ROBERT J & DEBRA A WIETHARN TRUSTS %ROBERT WIETHARN TRUSTEE

Address: 1925 KIOWA RD

City, State and Zip: CLAY CENTER, KS 67432

Phone Number: (785) 630-0611 OR 447-0671 E-mail address: bob@riverscreen.com

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

Name of water use correspondent: Same as applicant

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): \_\_\_\_\_

PU Change will create a complete overlap with new application and File No. 37,148 in expanded place of use.

Pd change will add a third pump site for more efficient use of water.

The change(s) (was) (will be) completed by Spring 2019

(Date)

**For Office Use Only:**

F.O. 1 GMD Meets K.A.R. 5-5-1 (YES / NO) Use 1R2 Source G/S County CY By DAW Date 11/6/18  
Code C-2 CPD Fee \$ 400\* TR # \_\_\_\_\_ Receipt Date 11/5/18 Check # 3138  
200

APPLICATION COMPLETE  
5/10/19  
Reviewer [Signature]

\*BAT DAW  
12-13-18

SCANNED

Assisted by: DWS - FO 1 \_\_\_\_\_

11/6/2018 uM

4. 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		
* 33	7S	2E			L-5 1.5	2.5				1.0	8.0					20.5	38.5			72
* 34	7S	2E										10.5	25.5	L-9						36
* 34	7S	2E								L-5 1.5		4	2	L-9 1.5 1.0						9

(20 ac L-6  
10.5 ac SE NE)

(L-7 Correct to L-4)

List any other water rights that cover this place of use. 37,148

\* incomplete PU o/s 9 acres 34-7-2E  
Owner of Land — NAME: W/ File Nos 21525 & 44723

ADDRESS: \_\_\_\_\_

(1.3 ac L-10)  
(1.5 ac NW SW)  
(16.5 ac L-10)  
(11 ac SW SW)

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. \_\_\_\_\_

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

\* Collection Lots PU modified per F&D pu 12-12-13

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

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		
33	7S	2E			Lot 5 1.5	Lot 6 2.0				Lot 4 1.0	16.0	16.0			Lot 8 12	Lot 8 38.5				87
33	7S	2E				0.5									Lot 7 4.0					4.5
33	7S	2E													4.5					4.5
34	7S	2E										1.5	11.0							12.5
34	7S	2E									Lot 5 1.5	Lot 10 13.5	Lot 10 16.0	Lot 9 1.5						32.5

List any other water rights that cover this place of use. 37,148 and NEW APPLICATION TO BE FILED \* 50155

Owner of Land — NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\* incomplete o/s 9 ac remains w File Nos 21525 & 44723

\*\* 13.0 \*\* 16.50

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. \_\_\_\_\_

\*\* Modified per 4/25/19 email Doug Schramm TFO & BLB Attachment B to 6/25/10 Memo WATER RESOURCES \*\* RAK/pwr 4/25/19

IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY

\* RAK 10/11 4/8/19

⊗ per map

⊗ RAK/pwr 4/8/19

NOV 05 2018

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6. The presently authorized point(s) of diversion (is) (are) TWO PUMP SITES (Provide description and number of points)
7. The proposed point(s) of diversion (is) (are) THREE PUMP SITES \* No changes (Provide description and number of points)

\* per 4/8/19 email Doug Schemm TFO

List all presently authorized point(s) of diversion:

8. **Presently authorized point of diversion:**  
 One in the LOT 5 Quarter of the \_\_\_\_\_ Quarter of the \_\_\_\_\_ Quarter  
 of Section 33, Township 7 South, Range 2 EAST  
 in CLAY County, Kansas, 2731 feet North 1845 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 Section \_\_\_\_\_, Township \_\_\_\_\_ South, Range \_\_\_\_\_ (E/W),  
 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 37,148 AND NEW APP

9. **Presently authorized point of diversion:**  
 One in the LOT 10 Quarter of the \_\_\_\_\_ Quarter of the \_\_\_\_\_ Quarter  
 of Section 34, Township 7 South, Range 2 EAST  
 in CLAY County, Kansas, 1120 feet North 5075 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 Section \_\_\_\_\_, Township \_\_\_\_\_ South, Range \_\_\_\_\_ (E/W),  
 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. NONE

10. **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 \_\_\_\_\_  
 (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)** \* No pd change  
 One in the LOT 4 Quarter of the \_\_\_\_\_ Quarter of the \_\_\_\_\_ Quarter  
 of Section 33, Township 7 South, Range 2 EAST  
 in CLAY County, Kansas, 3,014 feet North 3,420 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 37,148 AND NEW APP

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

IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY

WATER RESOURCES

\* PAK/Ann 4/8/19

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12. The presently authorized use of water is for IRRIGATION purposes.  
It is proposed that the use be changed to NO CHANGE purposes.

13. If changing the place of use and/or use made of water, describe how the consumptive use will not be increased.  
NEW APPLICATION WILL ENSURE NO INCREASE IN CONSUMPTIVE USE.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(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](http://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.

SOURCE REMAINS THE SAME (REPUBLICAN RIVER)  
\_\_\_\_\_  
\_\_\_\_\_

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.

N/A  
\_\_\_\_\_  
\_\_\_\_\_

**IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY**

WATER RESOURCES  
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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 2 day of November, 2018.

Galen J. Wiethorn  
(Owner)

Galen F. Wiethorn  
(Please Print)

Robert J. Wiethorn  
(Owner)

Robert J. Wiethorn  
(Please Print)

\_\_\_\_\_  
(Owner)

\_\_\_\_\_  
(Please Print)

Cleta Z. Wiethorn  
(Spouse)

Cleta Z. Wiethorn  
(Please Print)

\_\_\_\_\_  
(Spouse)

\_\_\_\_\_  
(Please Print)

\_\_\_\_\_  
(Spouse)

\_\_\_\_\_  
(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 2nd day of November, 2018.

My Commission Expires 8/12/2021



[Signature]  
Notary Public

**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 ..... \$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

NOV 05 2018

KS DEPT OF AGRICULTURE

SCANNED



## Krueger, Richelle [KDA]

---

**From:** Schemm, Doug [KDA]  
**Sent:** Thursday, April 25, 2019 9:24 AM  
**To:** Krueger, Richelle [KDA]  
**Subject:** RE: mind numbing micro question on 37148

Hello Richelle,  
Dang it. I agree with you, let's list it like Brett has it.  
Thanks, Doug

---

**From:** Krueger, Richelle [KDA]  
**Sent:** Thursday, April 25, 2019 8:55 AM  
**To:** Schemm, Doug [KDA] <Doug.Schemm@ks.gov>  
**Subject:** mind numbing micro question on 37148

Hiya Doug,  
Hey I have a proly insignificant little question on this.....compared to Bretts June 23 2010 attachment b memo - he shows in Sec. 34 13 acres in NWSW(lot 10) and 16.5 acres in SWSW (lot 10) - the applications today show 13.5 acres in NWSW(lot 10) and 16 acres in SWSW(lot 10).

I guess I was wondering whether shifting that 0.5 acre was intentional or not?

Like I say, proly insignificant but thought I better ask.....

Thanks!

Richelle

## Krueger, Richelle [KDA]

---

**From:** Tietsort, Katie [KDA]  
**Sent:** Friday, April 19, 2019 8:00 AM  
**To:** Krueger, Richelle [KDA]  
**Cc:** Bunger, Brett [KDA]; Schemm, Doug [KDA]; Turney, Brent [KDA]  
**Subject:** RE: Request for Recommendation, Change in PD PU File Nos. 27121; 34520; 35,749  
Change in PU File Nos. 37148; 41887; 49508; 49509 Wietharn

Good Morning,

If you are both confident that this final package represents what the intended project was and incorporates all of the modifications made along the way to address requirements of pumping these ponds and to incorporate the metering, I agree with both your recommendations for approval. The package does meet the regulations of the KWAA and is a new way to mitigate MDS on the Republican. Please include the overall map and the metering map with the package before it moves on. Doug- for the overall map, each PD should be labeled with the total quantity authorized on each PD and the sr vs jrs marked.

Have a great weekend, Katie

Katie Tietsort

Kansas Department of Agriculture  
6531 SE Forbes Ave Ste B  
Topeka, KS 66619  
[katie.tietsort@ks.gov](mailto:katie.tietsort@ks.gov)  
Phone 785-296-5733

---

**From:** Krueger, Richelle [KDA]  
**Sent:** Thursday, April 18, 2019 12:48 PM  
**To:** Tietsort, Katie [KDA] <Katie.Tietsort@ks.gov>  
**Cc:** Bunger, Brett [KDA] <Brett.Bunger@ks.gov>; Schemm, Doug [KDA] <Doug.Schemm@ks.gov>; Turney, Brent [KDA] <Brent.Turney@ks.gov>  
**Subject:** Request for Recommendation, Change in PD PU File Nos. 27121; 34520; 35,749 Change in PU File Nos. 37148; 41887; 49508; 49509 Wietharn

Hi Katie,

Attached is a draft memo for the referenced changes, I think Doug and I have this figured out. Do you recommend approval of the referenced changes?

Thanks,  
Richelle

## Krueger, Richelle [KDA]

---

**From:** Schemm, Doug [KDA]  
**Sent:** Tuesday, April 16, 2019 6:58 AM  
**To:** Bob Wietharn  
**Cc:** Krueger, Richelle [KDA]  
**Subject:** RE: New Applications File Nos. 50,155 & 50,156

Thanks Bob. I think we should have these wrapped up in the next few weeks and ready for final review.  
Doug

---

**From:** Bob Wietharn <bob@riverscreen.com>  
**Sent:** Tuesday, April 16, 2019 6:52 AM  
**To:** Schemm, Doug [KDA] <Doug.Schemm@ks.gov>  
**Cc:** Krueger, Richelle [KDA] <Richelle.Krueger@ks.gov>  
**Subject:** Re: New Applications File Nos. 50,155 & 50,156

**EXTERNAL:** This email originated from outside of the organization. Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Doug,

Yes, I thought we had that all clear that there would be 2 meters at this site. This would be the old 37148 pump site. When pumping on the bottom ground (original point of use for 37148) or new ground it would be using senior file 37148 water. When pumping into the pond the water would be going through a different meter that would be the new right.

How is all of these new permit and changes coming?

Bob Wietharn  
[bob@riverscreen.com](mailto:bob@riverscreen.com)  
785-632-5452 Office  
785-630-0611 Cell  
785-632-6141 Fax

On Mon, Apr 15, 2019 at 2:02 PM Schemm, Doug [KDA] <[Doug.Schemm@ks.gov](mailto:Doug.Schemm@ks.gov)> wrote:

Bob,

Richelle and I are working on your new apps and changes. Just a quick question on your pump sites.

File No. 50,155 and 50,156 are going to both overlap on the new (west) pump site in Lot 4. Application, File No. 50,155 will pump to the expanded acreage (same as File Nos. 37,148 & 41,887).

File No. 50,156 will be used to fill the ponds.

The question is, did you want a second pump site authorized under File No. 50,156 (it would be your current pump site in Lot 5 under you senior files), or just the new site only?

Topeka Field Office  
6531 SE Forbes Ave., Suite B  
Topeka, KS 66619



Phone: 785-296-5733  
Fax: 785-296-8298  
[www.agriculture.ks.gov](http://www.agriculture.ks.gov)

Mike Beam, Acting Secretary

Laura Kelly, Governor

February 21, 2019

GARY N & SARAH E GRIFFITHS FAMILY TRUST  
1601 2<sup>ND</sup> STREET  
CLAY CENTER KS 67432

Re: Pending New Applications, File Nos. 50,155; 50,156; and 50,183; and  
Change Applications, Water Right, File Nos. 27,121; 34,520; 35,749; 37,148; 41,887; 49,508; and 49,509

Dear Sir or Madam:

This is to advise you that Robert Wietharn has filed the pending new applications referred to above for permits to appropriate surface water for irrigation use. Application, File No. 50,155 is requesting 169.2 acre-feet of surface water per calendar year from the Republican River, for irrigation use to be diverted at a maximum rate of 3,000 gallons per minute from one pump site. Application, File No. 50,156 is requesting 339.07 acre-feet of surface water per calendar year from the Republican River, for irrigation use to be diverted at a maximum rate of 5,000 gallons per minute from two pump sites. This water will be used to fill two off-stream storage reservoirs. Application, File No. 50,183 is requesting to appropriate 235.5 acre-feet of surface water per calendar year at the rate of natural flows to be stored in two proposed reservoirs, and re-divert 235.5 acre-feet of the stored water for irrigation use. All of these applications are located in Section 33, Township 7 South, Range 2 East, Clay County, Kansas.

In conjunction with these new applications, Robert Wietharn has filed change applications proposing to modify both the points of diversion and place of use authorized under Water Right, File Nos. 27,121; 34,520; and 35,749; and modify the place of use under File Nos. 37,148; 41,887; 49,508 and 49,509.

Records in this office indicate that you own land along the stream in this vicinity and you are being notified of receipt of these applications in order that you may be fully informed of the proposed locations of the applicant's points of diversion and proposed use of water. Consideration will be given to comments or other information which you desire to submit to this office **within 15 days** from the date of this letter.

You can find the applications and site maps posted by the file numbers referenced above at:  
<http://agriculture.ks.gov/divisions-programs/dwr/water-appropriation/notices>

If you have any questions or comments, you may also contact me at (785) 296-3495. If you call, please reference the file number so I can help you more efficiently.

Sincerely,

A handwritten signature in black ink that reads "Doug Schemm".

Douglas Schemm  
Environmental Scientist  
Topeka Field Office

pc: Robert Wietharn

Topeka Field Office  
6531 SE Forbes Ave., Suite B  
Topeka, KS 66619



Phone: 785-296-5733  
Fax: 785-296-8298  
[www.agriculture.ks.gov](http://www.agriculture.ks.gov)

Mike Beam, Acting Secretary

Laura Kelly, Governor

February 21, 2019

JANA L COTT TRUST  
1977 INDIAN ROAD  
CLAY CENTER KS 67432

Re: Pending New Applications, File Nos. 50,155; 50,156; and 50,183; and  
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Douglas Schemm  
Environmental Scientist  
Topeka Field Office

pc: Robert Wietharn

Topeka Field Office  
6531 SE Forbes Ave., Suite B  
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Phone: 785-296-5733  
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Mike Beam, Acting Secretary

Laura Kelly, Governor

February 21, 2019

RICHARD & JODY COTT  
1047 20<sup>TH</sup> ROAD  
CLAY CENTER KS 67432

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Environmental Scientist  
Topeka Field Office

pc: Robert Wietharn

Topeka Field Office  
6531 SE Forbes Ave., Suite B  
Topeka, KS 66619



Phone: 785-296-5733  
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[www.agriculture.ks.gov](http://www.agriculture.ks.gov)

Mike Beam, Acting Secretary

Laura Kelly, Governor

February 21, 2019

CROSSVIEW PROPERTIES LLC  
1488 ELK ROAD  
CLAY CENTER KS 67432

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Douglas Schemm  
Environmental Scientist  
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pc: Robert Wietharn

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www.agriculture.ks.gov

Mike Beam, Acting Secretary

Laura Kelly, Governor

February 21, 2019

BRETT & JENNA PFIZENMAIER  
1831 HACKBERRY ROAD  
CLAY CENTER KS 67432

Re: Pending New Applications, File Nos. 50,155; 50,156; and 50,183; and  
Change Applications, Water Right, File Nos. 27,121; 34,520; 35,749; 37,148; 41,887; 49,508; and 49,509

Dear Sir or Madam:

This is to advise you that Robert Wietharn has filed the pending new applications referred to above for permits to appropriate surface water for irrigation use. Application, File No. 50,155 is requesting 169.2 acre-feet of surface water per calendar year from the Republican River, for irrigation use to be diverted at a maximum rate of 3,000 gallons per minute from one pump site. Application, File No. 50,156 is requesting 339.07 acre-feet of surface water per calendar year from the Republican River, for irrigation use to be diverted at a maximum rate of 5,000 gallons per minute from two pump sites. This water will be used to fill two off-stream storage reservoirs. Application, File No. 50,183 is requesting to appropriate 235.5 acre-feet of surface water per calendar year at the rate of natural flows to be stored in two proposed reservoirs, and re-divert 235.5 acre-feet of the stored water for irrigation use. All of these applications are located in Section 33, Township 7 South, Range 2 East, Clay County, Kansas.

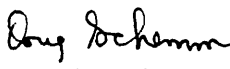
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Records in this office indicate that you own land along the stream in this vicinity and you are being notified of receipt of these applications in order that you may be fully informed of the proposed locations of the applicant's points of diversion and proposed use of water. Consideration will be given to comments or other information which you desire to submit to this office **within 15 days** from the date of this letter.

You can find the applications and site maps posted by the file numbers referenced above at:  
<http://agriculture.ks.gov/divisions-programs/dwr/water-appropriation/notices>

If you have any questions or comments, you may also contact me at (785) 296-3495. If you call, please reference the file number so I can help you more efficiently.

Sincerely,

  
Douglas Schemm  
Environmental Scientist  
Topeka Field Office

pc: Robert Wietharn



Topeka Field Office  
6531 SE Forbes Ave., Suite B  
Topeka, KS 66619



Phone: 785-296-5733  
Fax: 785-296-8298  
[www.agriculture.ks.gov](http://www.agriculture.ks.gov)

Mike Beam, Acting Secretary

Laura Kelly, Governor

February 21, 2019

STEFANIE L GISSELBECK TRUST  
1933 INDIAN ROAD  
CLAY CENTER KS 67432

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CORALEE GRIFFITHS  
1042 LINCOLN AVE  
CLAY CENTER KS 67432

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R & R COTT  
1047 20<sup>TH</sup> ROAD  
CLAY CENTER KS 67432

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Laura Kelly, Governor

February 21, 2019

VIRGINIA COUPAL SMITH  
190 18 ROAD  
CLAY CENTER KS 67432

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Douglas Schemm  
Environmental Scientist  
Topeka Field Office

pc: Robert Wietharn

# STATE OF KANSAS

DEPARTMENT OF AGRICULTURE  
1320 RESEARCH PARK DRIVE  
MANHATTAN, KS 66502  
PHONE: (785) 564-6700  
FAX: (785) 564-6777



900 SW JACKSON, ROOM 456  
TOPEKA, KS 66612  
PHONE: (785) 296-3556  
www.agriculture.ks.gov

GOVERNOR JEFF COLYER, M.D.  
JACKIE McCLASKEY, SECRETARY OF AGRICULTURE

ROBERT & DEBRA A WIETHARN, TRUSTS  
1925 KIOWA RD  
CLAY CENTER, KS

November 6, 2018

RE: File No 41887

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 PU/PD
- 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,

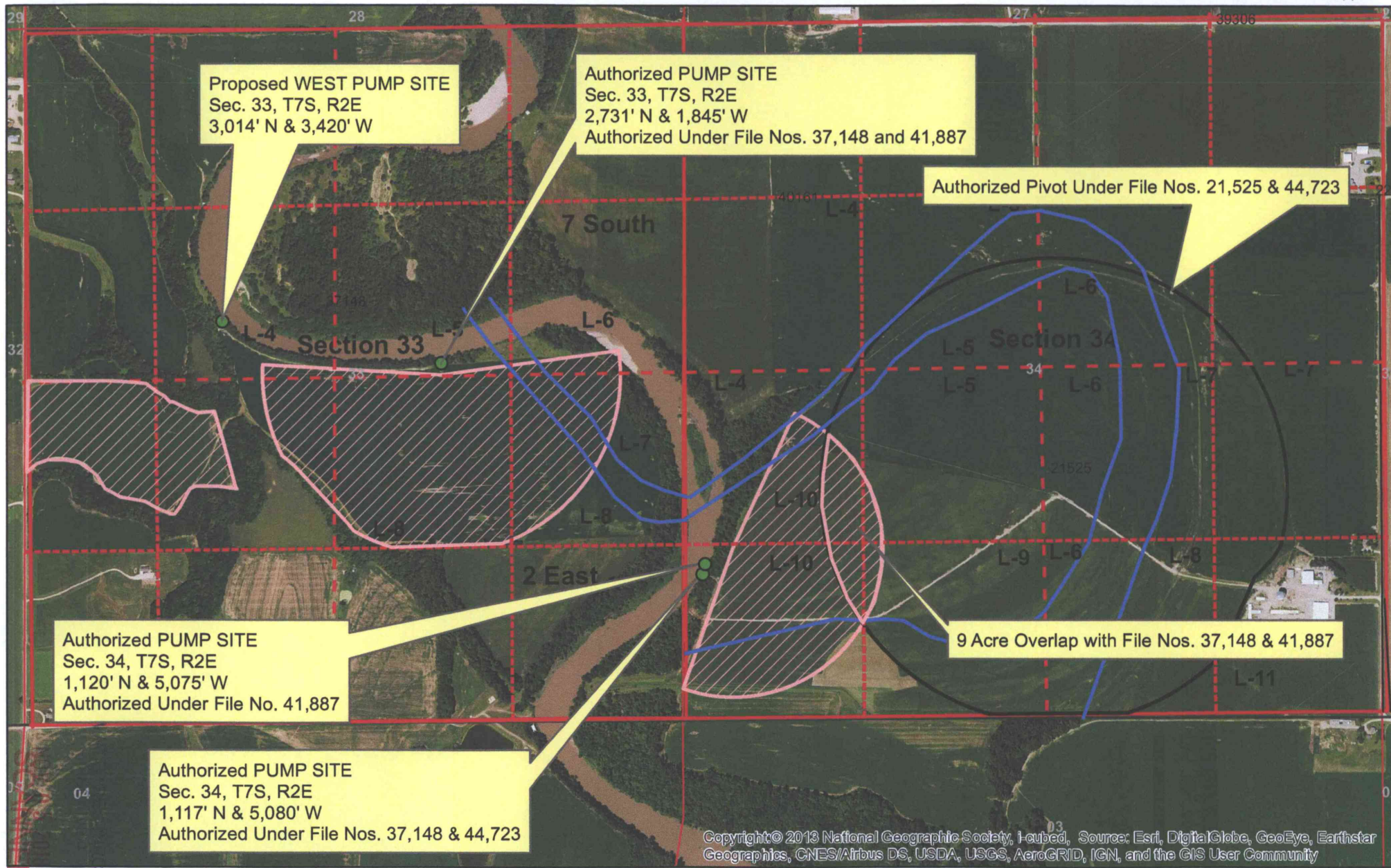
Brent Tourney, L.G.  
Change Applications Unit Supervisor  
Water Appropriation Program

BAT: DLW  
pc: TOPEKA Field Office GMD

SCANNED



# WIETHARN - SITE MAP - CHANGE APPLICATIONS, FILE NOS. 37,148 & 41,887



Proposed WEST PUMP SITE  
 Sec. 33, T7S, R2E  
 3,014' N & 3,420' W



Authorized PUMP SITE  
 Sec. 33, T7S, R2E  
 2,731' N & 1,845' W  
 Authorized Under File Nos. 37,148 and 41,887

Authorized Pivot Under File Nos. 21,525 & 44,723

Authorized PUMP SITE  
 Sec. 34, T7S, R2E  
 1,120' N & 5,075' W  
 Authorized Under File No. 41,887

Authorized PUMP SITE  
 Sec. 34, T7S, R2E  
 1,117' N & 5,080' W  
 Authorized Under File Nos. 37,148 & 44,723

9 Acre Overlap with File Nos. 37,148 & 41,887

-  Proposed Point of Diversion
-  Proposed Place of Use

1:12,000

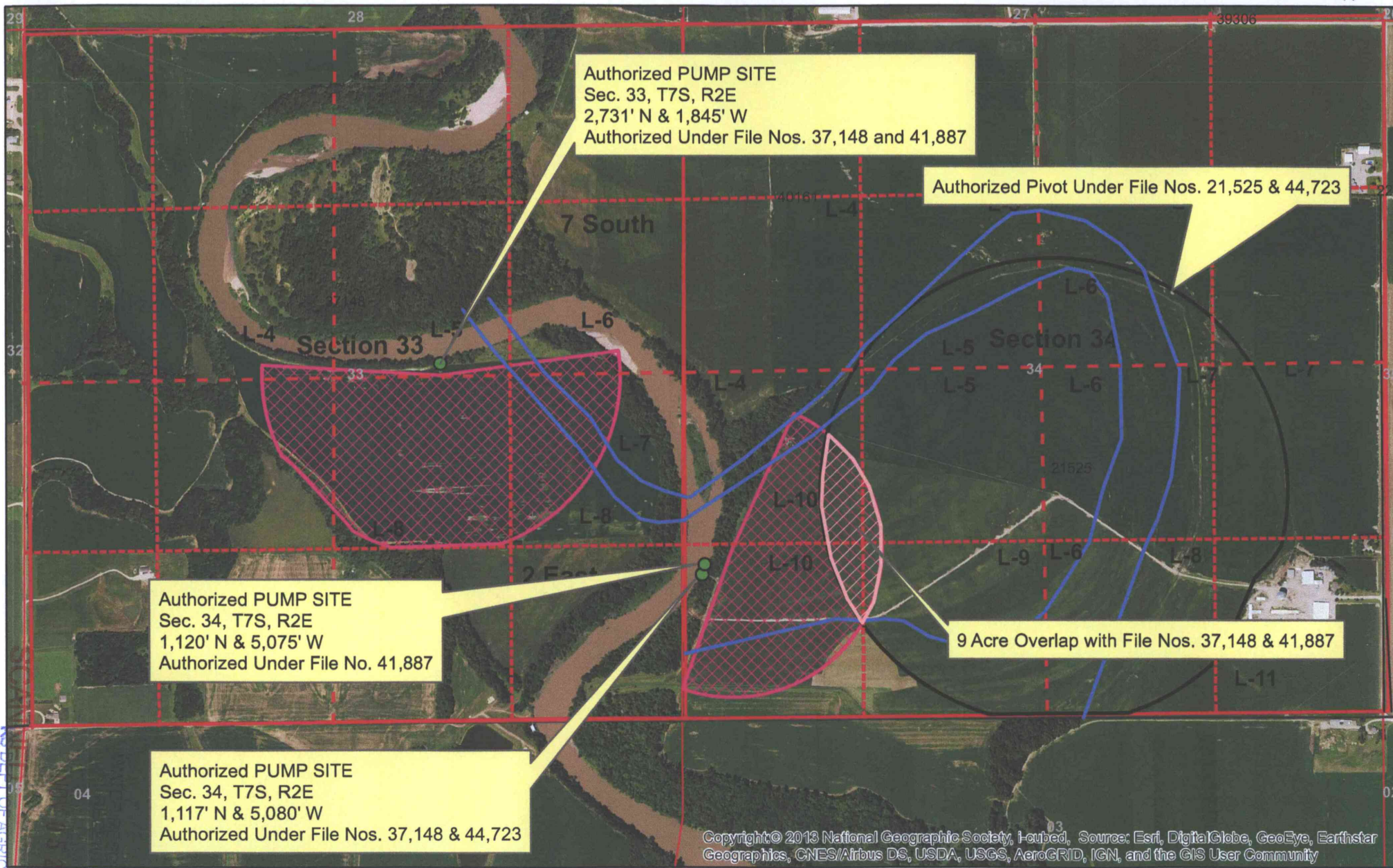
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All upstream and downstream landowners within 1/2 mile of property lines have been identified.

KS DEPT OF AGRICULTURE



# WIETHARN - SITE MAP - CHANGE APPLICATIONS, FILE NOS. 37,148 & 41,887 AUTHORIZED PLACE OF USE AND POINTS OF DIVERSION



Authorized PUMP SITE  
Sec. 33, T7S, R2E  
2,731' N & 1,845' W  
Authorized Under File Nos. 37,148 and 41,887

Authorized Pivot Under File Nos. 21,525 & 44,723

Authorized PUMP SITE  
Sec. 34, T7S, R2E  
1,120' N & 5,075' W  
Authorized Under File No. 41,887

9 Acre Overlap with File Nos. 37,148 & 41,887

Authorized PUMP SITE  
Sec. 34, T7S, R2E  
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DEPARTMENT OF AGRICULTURE

018



Authorized Point of Diversion



Authorized Place of Use

1:12,000