

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

1. File Number: 49508	2. Status Change Date: 5/31/2019	3. Change Num: C1	4. Field Office: 01	5. GMD:
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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: 16-JAN-2019
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8a. Applicant(s) Person ID **28589**
 New to system Add Seq# **1**

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

8d. Landowner(s) Person ID
 New to system Add Seq#

8b. Landowner(s) Person ID **28589**
 New to system Add Seq# **1**

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

8e. Landowner(s) Person ID
 New to system Add Seq#

8c. Landowner(s) Person ID **28966**
 New to system Add Seq# **1**

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

8f. Landowner(s) Person ID **63613**
 New to system Add Seq# **1**

WIETHARN INVESTMENTS LLC
ROBERT WIETHARN - MANAGING MEMBER
1925 KIOWA RD
CLAY CENTER KS 67432

8g. Landowner(s) Person ID **66230**
 New to system Add Seq#

ELSIE MUGLER LLC
1925 KIOWA ROAD
CLAY CENTER KS 67432

8h. WUC Person ID **28589**
 New to system Add Seq# **1**

NO CHANGE 8b

9. Documents and Enclosure(s): DWR Meter(s) Date to Comply: **12/31/2020** N & P Date to Comply: _____

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: **4/25/19** By: **RAK**
 Date Entered: **6/3/2019** By: **UM**

File No. **49508** 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 gpm/cfs af/mgy gpm/cfs af/mgy Overlap PD Files
 ENT PDIV Qualifier S T R ID 'N' 'W' Comment (AKA Line)

BLANKET R AND Q

MOD 86324 Lot 7 11 8 2E 20 72 3040 1250 g.p.m. 186 AF 1250 g.p.m. 160.6 AF NONE

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

14. **MODIFY** Limitation: **327.6 AF/YR COM/W #27121, #34520 & #35749**
 Limitation: _____

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				
MOD	67518	10	8	2E	3																	79.00	8f	No	see above
MOD	67519	10	8	2E	4													36.00			40.00	76.00	8c	No	see above
ENT	67520 LOT 7 (SESW)	11	8	2E	5													<u>Lot 7</u> 30.00				30.00	8g	Yes	see above
ENT	67521 LOT 2 (NWNE)	14	8	2E	8													<u>Lot 2</u> 11.00			39.00	38.00	8g	Yes	see above

Base Acres: Year: Minimum Reasonable Quantity:
 Comments:

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
ELSIE 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:

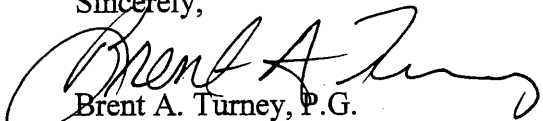
Enclosed are the orders executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the applications for change under the above referenced file numbers.

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 Clea 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 AND ORDER MODIFYING THE ADDITIONAL LIMITATION ON THE AUTHORIZED QUANTITY APPROPRIATION OF WATER FILE NO. 49,508

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, Wietharn Investments, L.L.C., Elsie Mugler, L.L.C., 1925 Kiowa Road, Clay Center, Kansas, 67432, and Galen F. and Cleta Z. Wietharn, on behalf of Galen F. and Cleta Z. Wietharn Trusts, 211 Webster Street, Clay Center, Kansas, 67432, received in this office on January 16, 2019, for approval of a change in the location of the place of use under the Approval of Application, File No. 49,508, for permit to appropriate water for beneficial use, as modified and amended by the Findings and Order of the Chief Engineer dated December 21, 2016, adding an additional limitation to the authorized quantity, and by the Findings and Order of the Chief Engineer dated September 1, 2017, better describing the location of the authorized point of diversion, finds that the change is reasonable and will not impair existing rights, and that the application should be and is hereby approved.

The effective date of the change shall be the date this order is executed by the Chief Engineer, after which the authorized location of the 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		
10	8S	2E													36.00	39.00	40.00	40.00	155.00	
11	8S	2E												Lot 7 30.00					30.00	
14	8S	2E		Lot 2 11.00											39.00				38.00	88.00

a total of 273.00 acres in Clay County, Kansas,

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

This order effectively modifies the additional limitation on the authorized quantity as set forth by the Findings and Order of the Chief Engineer, Appropriation of Water, File No. 49,508 dated December 21, 2016 as follows:

This appropriation right is further limited to a quantity of water which when combined with the water rights set forth in the Certificates of Appropriation issued pursuant to File Nos. 27,121, 34,520 and 35,749 will provide a quantity not to exceed 327.6 acre-feet of water per calendar year for irrigation use on the land described herein.

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 Approval of Application, File No. 49,508, for permit to appropriate water for beneficial use, is as stated and set forth in the approval dated February 26, 2016, 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.

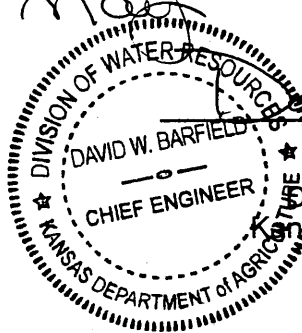
If you do not file a request for an evidentiary hearing before the Chief Engineer, you may petition for administrative review of the Order by the Secretary of Agriculture. A petition for review shall be in writing and state the basis for requesting administrative review. The request for review may be 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 31st 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 31st day of May, 2019, by David W. Barfield, P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.

Karen Hunter
 KAREN HUNTER
 My Appointment Expires
 October 24, 2022
 Notary Public



CERTIFICATE OF SERVICE

On this 7th day of June, 2019, I hereby certify that the attached Approval of Application for the Change in Place of Use, File No. 49,508, dated May 31st, 2019 was mailed postage prepaid, first class, US mail to the following:

ROBERT J. AND DEBORAH A. WIETHARN TRUSTS
WIETHARN INVESTMENTS LLC
ELSIE MUGLER LLC
1925 KIOWA RD
CLAY CENTER KS 67432

With photocopies to:

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

Topeka Field Office

Danielle Wisk
 Danielle Wisk
 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
 Point of Diversion
 Use Made of Water

(Check one or more)

Water Resources
Received

JAN 16 2019
11:25
KS Dept Of Agriculture

File No. 49,508

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 an overlap with File Nos. 27,121; 34,520; 35,749; 49,509 and new applications

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

(Date)

For Office Use Only:	
Applicant: <u>J GMD</u>	Meets K.A.R. 5-5-1 <u>(YES)</u> NO) Use <u>IRR</u> Source <u>G/S</u> County <u>CY</u> By <u>BAT</u> Date <u>1-16-19</u>
Code: <u>CPU</u>	Fee \$ <u>200.00</u> TR # _____ Receipt Date <u>1/10/19</u> Check # <u>50002</u>

APPLICATION COMPLETE
5.10.19
Reviewer RAIC

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					
10	8S	2E																	36			40	76

List any other water rights that cover this place of use. 27,121; 34,520; 35,749

Owner of Land — NAME: WIETHARN INVESTMENTS LLC %ROBERT 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				
10	8S	2E																	39	40		79

List any other water rights that cover this place of use. 27,121; 34,520; 35,749

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

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					
10	8S	2E																	36			40	76

List any other water rights that cover this place of use. 27,121; 34,520; 35,749; 49,509; 50,156 & 50,183

Owner of Land — NAME: WIETHARN INVESTMENTS LLC %ROBERT 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				
10	8S	2E																	39	40		79

List any other water rights that cover this place of use. 27,121; 34,520; 35,749; 49,509; 50,156 & 50,183

Owner of Land — NAME: ELSIE MUGLER LLC

ADDRESS: 1925 KIOWA ROAD, 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				
11	8S	2E																	* 6-7 30		* 30	30
14	8S	2E									39				38							88

List any other water rights that cover this place of use. 27,121; 34,520; 35,749; 49,509; 50,156 & 50,183

IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY

* per original survey plat
* RAK/ponk 4/25/19

* per Map & 4/15/19
email Doug Schmitt TFO
* RAK/ponk 4/25/19

Water Resources
Received

JAN 16 2019

SCANNED

KS Dept Of Agriculture

6. The presently authorized point(s) of diversion (is) (are) ONE PUMP SITE
(Provide description and number of points)

7. The proposed point(s) of diversion (is) (are) NO CHANGE
(Provide description and number of points)

List all presently authorized point(s) of diversion:

8. **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)
 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 _____

9. **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)
 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 _____

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)
 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 _____

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

JAN 16 2019

KS Dept Of Agriculture

SCANNED

Water Resources
Received

11. The presently authorized use of water is for IRRIGATION purposes.

It is proposed that the use be changed to NO CHANGE purposes.

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

NEW APPLICATIONS WILL ENSURE NO INCREASE IN CONSUMPTIVE USE.

(Please show any calculations here.)

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

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

15. 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.

16. 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)

17. 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
Received

JAN 16 2019

SCANNED Of Agriculture

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 14 day of January, 20 19.

Robert J. Wietharn
(Owner)

Deborah A. Wietharn
(Spouse)

Robert J. Wietharn
(Please Print)

Deborah A. Wietharn
(Please Print)

Elsie Muehl LLC by Robert J. Wietharn
(Owner)

Deborah A. Wietharn
(Spouse)

(Please Print)

(Please Print)

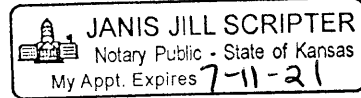
Galen F. Wietharn
(Owner)

Cleta Z. Wietharn
(Spouse)

Galen F. Wietharn
(Please Print)

Cleta Z. Wietharn
(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 14 day of January, 20 19.

My Commission Expires 07/11/2021.

Janis Jill Scripter
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

JAN 16 2019

SCANNED

KS Dept Of Agriculture

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
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: Monday, April 15, 2019 2:05 PM
To: Krueger, Richelle [KDA]
Subject: RE: Wietharn applications

Richelle,
I have worked through the questions and believe they are all answered except for #1.

From: Krueger, Richelle [KDA]
Sent: Wednesday, April 10, 2019 9:05 AM
To: Schemm, Doug [KDA] <Doug.Schemm@ks.gov>
Subject: Wietharn applications

Hi Doug!

How's it going this morning? Pretty quiet here at the moment...Hey I have looked over the Wietharn changes and here are things I need to confirm..

- That he only wants the one pumpsite for File No. 50155 and 50156 at Lot 4 of Section 33, 3014'N and 3420'W of SE corner 33-7S-2E?
- Guess we need the two reservoir pds for File No 50183 confirmed? Yes, these are as shown on the new application.
- On the place of use description on the Elsie Mugler LLC Tract in 11-8S-2E based on the map and approval for File No. 49509 - the 30 acre tract should be in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ (Lot 7) not the SE $\frac{1}{4}$ SE $\frac{1}{4}$ correct? Yes, you are correct, should be SE SW qtr.
- The limitation on File No. 49508 will be modified 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 (1.2 AF/AC)? Yes, agreed.
- A limitation on File No. 49509 will be added limiting it to 327.6 acre-feet when combined with File Nos. 27,121, 34,520; 35,749 and 49508 to reflect the increase in acres to 273 acres (1.2 AF/AC)? Yes, agreed.

I guess that's the questions I have, thanks as always, for your help!

Richelle

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



Phone: 785-296-5733
Fax: 785-296-8298
www.agriculture.ks.gov

Mike Beam, Acting Secretary

Laura Kelly, Governor

February 21, 2019

GARY N & SARAH E GRIFFITHS FAMILY TRUST
1601 2ND 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

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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, appearing to read "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

Mike Beam, Acting Secretary

Laura Kelly, Governor

February 21, 2019

JANA L COTT TRUST
1977 INDIAN ROAD
CLAY CENTER KS 67432

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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

Mike Beam, Acting Secretary

Laura Kelly, Governor

February 21, 2019

RICHARD & JODY COTT
1047 20TH 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
Topeka, KS 66619



Phone: 785-296-5733
Fax: 785-296-8298
www.agriculture.ks.gov

Mike Beam, Acting Secretary

Laura Kelly, Governor

February 21, 2019

CROSSVIEW PROPERTIES LLC
1488 ELK ROAD
CLAY CENTER KS 67432

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

pc: Robert Wietharn



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Mike Beam, Acting Secretary

Laura Kelly, Governor

February 21, 2019

BRETT & JENNA PFIZENMAIER
1831 HACKBERRY ROAD
CLAY CENTER KS 67432

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Topeka Field Office

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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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Mike Beam, Acting Secretary

Laura Kelly, Governor

February 21, 2019

CORALEE GRIFFITHS
1042 LINCOLN AVE
CLAY CENTER KS 67432

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Mike Beam, Acting Secretary

Laura Kelly, Governor

February 21, 2019

R & R COTT
1047 20TH ROAD
CLAY CENTER KS 67432

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Topeka Field Office

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Laura Kelly, Governor

February 21, 2019

VIRGINIA COUPAL SMITH
190 18 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.

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

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, Interim Secretary

Laura Kelly, Governor

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

January 18, 2019

RE: File No **49508**

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
- 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.

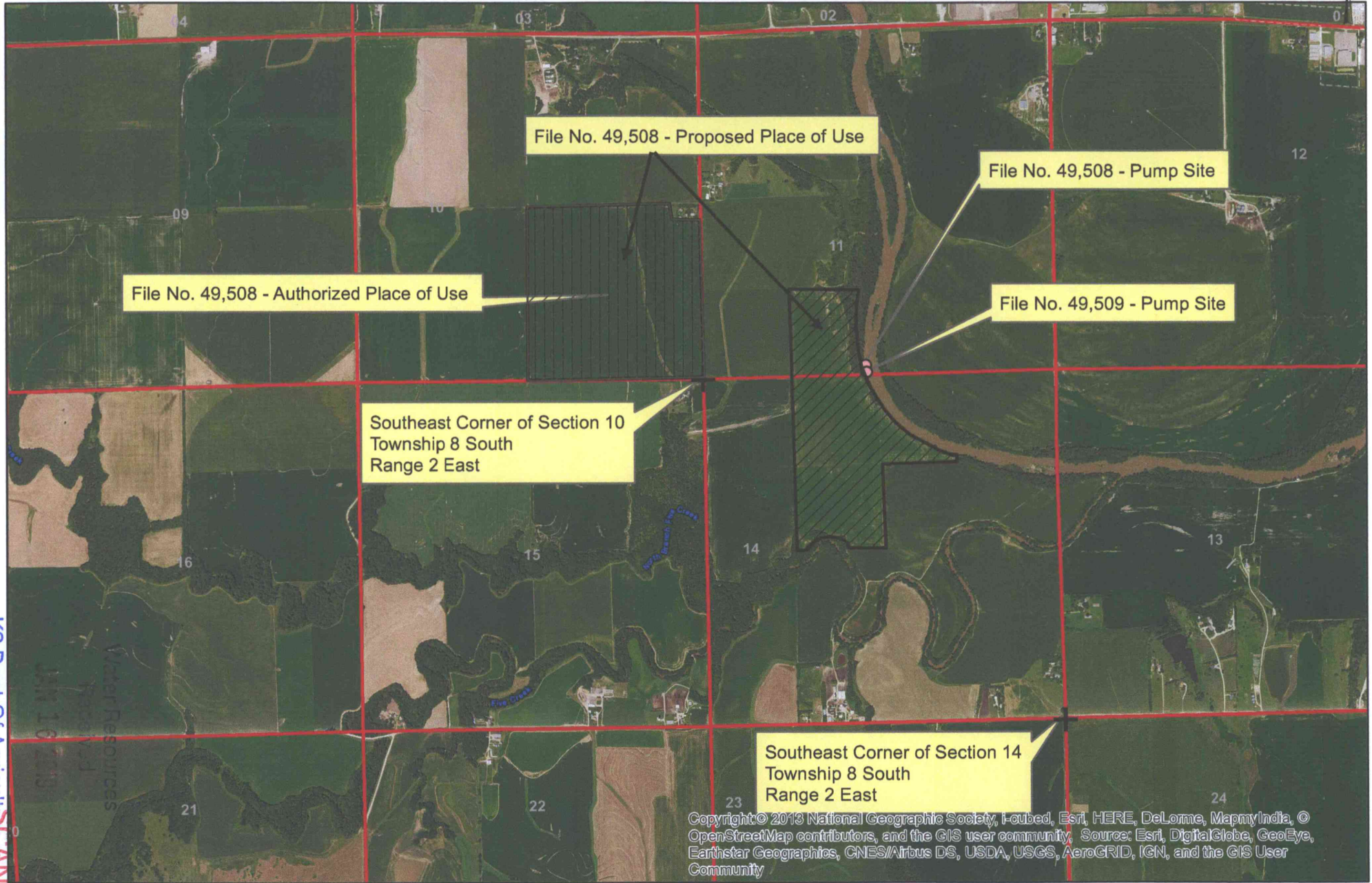
If you have any questions, please contact me at (785) 564-6645. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

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

BAT: DLW

SCANNED



File No. 49,508 - Proposed Place of Use

File No. 49,508 - Pump Site

File No. 49,508 - Authorized Place of Use

File No. 49,509 - Pump Site

Southeast Corner of Section 10
Township 8 South
Range 2 East

Southeast Corner of Section 14
Township 8 South
Range 2 East

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Proposed Place of Use



Authorized Place of Use

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