

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

1. File Number: <b>40805</b>	2. Status Change Date: <b>11/15/2022</b>	3. Change Num: <b>C1</b>	4. Field Office: <b>01</b>	5. GMD:
6. Status: <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied by DWR/GMD <input type="checkbox"/> Dismiss by Request/Failure to Return				7. Filing Date of Change: <b>4/5/2022</b>
8a. Applicant(s) New to system <input type="checkbox"/>  <b>3MK PORK LLC MICHELE WALTER 2069 PRAIRIE RD WASHINGTON, KS 66968</b>		8c. Landowner(s) New to system <input type="checkbox"/>  Person ID _____ Add Seq# _____		
8b. Landowner(s) New to system <input type="checkbox"/>  <b>3MK PORK LLC 2069 PRAIRIE RD WASHINGTON, KS 66968</b>		8d. WUC New to system <input type="checkbox"/>  <b>8b</b>  Person ID <b>37276</b> Add Seq# _____		
9. Documents and Enclosure(s): <input checked="" type="checkbox"/> DWR Meter(s) Date to Comply: <b>12/31/2023</b> Date to Comply: _____				
<input type="checkbox"/> Anti-Reverse Meter <input type="checkbox"/> Meter Seal <input type="checkbox"/> Check Valve <input type="checkbox"/> N & P Form <input type="checkbox"/> Water Tube <input type="checkbox"/> Driller Copy <input type="checkbox"/> H & E Letter				
<input type="checkbox"/> Conservation Plan    Date Required: _____    Date Approved: _____    Date to Comply: _____				
10. Use Made of Water    From: _____    To: _____				
Date Prepared: <del>10/27/22</del> <b>11/29/2022</b> By: <b>LI</b> Date Entered: <b>LMoody</b> By:				

File No. **40805**      11. County: **WS**      Basin: **MILL CREEK**      Stream: **NA**      Formation Code: **331**      Special Use:

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

**NO CHANGE**

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

14. Limitation: \_\_\_\_\_ af/yr at \_\_\_\_\_ gpm (\_\_\_\_\_ cfs) when combined with file number(s) **STANDBY BATTERY OF 2 WELLS NO CHANGE**  
 Limitation: \_\_\_\_\_ af/yr at \_\_\_\_\_ gpm (\_\_\_\_\_ cfs) when combined with file number(s) \_\_\_\_\_

15. 5YR Allocation:      Allocation Type \_\_\_\_\_      Start Year \_\_\_\_\_      5 YR Amount \_\_\_\_\_      Amount Unit \_\_\_\_\_      Base Acres \_\_\_\_\_      Comment \_\_\_\_\_

16. Place of Use 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</b>	<b>37469</b>	<b>17</b>	<b>2</b>	<b>3E</b>	<b>1</b>	<b>HOGS, SW¼ SW¼</b>																	<b>8b</b>	<b>NO</b>	<b>NONE</b>
<b>ENT</b>	<b>71104</b>	<b>20</b>	<b>2</b>	<b>3E</b>		<b>HOGS, N½ NW¼</b>																	<b>8b</b>	<b>NO</b>	<b>NONE</b>

Base Acres:      Year:      Minimum Reasonable Quantity:  
 Comments: **EXISTING PU BETTER DEFINED DUE TO IRR PU IN THE ORIGINAL DESCRIBE AREA. CHANGE IS TO ADD A NEW FACILITY.**

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

**M E M O R A N D U M**

**TO:** Files

**DATE:** November 8, 2022

**FROM:** Leslie Ireland

**RE:** Water Right, File No. 40,805

Michele Walter on behalf of Three M Pork LLC, owner of the stockwatering place of use submitted an application for approval to change the place of use on May 4, 2022. The referenced file is in the Mill Creek Basin in Washington County.

The referenced file number does not appear abandoned pursuant to K.S.A. 82a-718 and in compliance with K.S.A. 82a-718. The application complies with K.A.R 5-5-2a, *Complete Change Application*. The referenced file was certified in December 2004. The K.S.A, 82a-1906 required notice of the proposed change was sent to one irrigation well owner within one-half (1/2) mile of the existing wells. No comments were received.

The right is authorized to divert 50.781 million gallons (155.841 acre-feet) per year at 155 gallons per minute (gpm) from a battery of two (2) wells as primary wells and a battery of two (2) wells as standby wells from the Dakota Formation. It appears the stockwater use has been used as a farrow finishing facility and will continue as such.

A review of the WRIS database found the currently authorized place of use description of the Southwest Quarter (SW<sup>1</sup>/<sub>4</sub>) to have irrigation use authorized by File Nos. 40,806; 46,047; 48,533 49,179 & 49,565 in the quarter. The stockwater use will be corrected to the Southwest Quarter of the Southwest Quarter (SW<sup>1</sup>/<sub>4</sub> SW<sup>1</sup>/<sub>4</sub>) of Section 17, Township 8 South, Range 3 East.

The proposed place of use is to add another swine facility in the Northwest Quarter (NW<sup>1</sup>/<sub>4</sub>) of Section 20, Township 8 South, Range 3 East. Washington County. The footprint of the facility was determined to be in the North Half so was updated to the North Half of the Northwest Quarter (N<sup>1</sup>/<sub>2</sub> NW<sup>1</sup>/<sub>4</sub>). The correction and update of the proposed place of use was reviewed with the owner via email on October 26, 2022.

As summarized by the owner the projected head county has averaged 8,000 head utilizing 28.006 mgy (85.95 AF) in 2021. The proposed expansion is to add 2,496 head of finishing pigs utilizing 4 gallons drinking and 2 gallons servicing water or 6 gallons per head per day to divert 5,466,240 gallons (16.77 AF) per year. The detailed *Stockwater Supplemental Sheet* states the authorized quantity of 50.781 mgy (155.841 AF) will not be exceeded. It appears the change in place of use should not result in an increase in consumptive use and the application complies with K.A.R 5-5-3, *Change in consumptive use*.

As detailed in KAR 5-3-22, *Maximum reasonable quantity of water for livestock and poultry*, would afford 5 gallons drinking and 15 gallons servicing water or 20 gallons per head per day. It also appears the facility operation by increasing the animal population by 2,496 head per year, would result in the fourth year total of 49.89 mgy, less than the 50.781 mgy certified.

Water Commissioner review of the project was not requested at it appears the project meets the regulations, no adverse comments were received, and it would appear permitting of the project would also be completed by KDHE.

A water flowmeter will be required on all the authorized points of diversions per K.S.A. 82a-706c. A check valve will be required if any chemical or foreign substance is injected into the water through the diversion works according to K.A.R. 5-3-5(c). A water level measurement tube and WWC-5 will not be required as no new well has been authorized.

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

A handwritten signature in blue ink that reads "Leslie Ireland". The signature is cursive and fluid.

Leslie Ireland  
Environmental Scientist  
Water Appropriation Program

THE STATE  OF KANSAS

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

**DIVISION OF WATER RESOURCES**  
Earl D. Lewis Jr., Chief Engineer

**APPROVAL OF APPLICATION  
FOR  
CHANGE IN PLACE OF USE  
WATER RIGHT  
FILE NO. 40,805**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application Michele Walter on behalf of 3MK Pork LLC, 2069 Prairie Road, Washington, Kansas 66968, received in this office on May 4, 2022, for approval of a change in the location of the place of use under the certificate of application, issued pursuant to the permit to appropriate water for beneficial 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:

stockwatering use in the of the Southwest Quarter Southwest Quarter (SW $\frac{1}{4}$  SW $\frac{1}{4}$ ) of Section 17, and in the North Half of the Northwest Quarter (N $\frac{1}{2}$  NW $\frac{1}{4}$ ) of Section 20, all in Township 2 South, Range 3 East, Washington County, Kansas,

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

All diversion works into which any type of chemical or other foreign substance will be injected into the water pumped from the diversion works shall be equipped with an in line, automatic, quick-closing check valve capable of preventing pollution of the source of the water supply. The type of valve installed shall meet specifications adopted by the Chief Engineer and shall be maintained in an operating condition satisfactory to the Chief Engineer.

The water right owner shall properly install an acceptable water meter on each of the diversion works authorized under this water right, prior to the use of water, in strict accordance with the Kansas Administrative Regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer. The water right owner shall notify the Chief 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. 40,805, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated December 12, 2004.

Ordered this 15<sup>th</sup> day of NOVEMBER, 2022, in Manhattan, Riley County, Kansas.

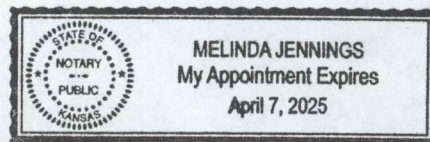
*Lane P. Letourneau*

Lane P. Letourneau, P.G.  
Water Appropriation Program Manager  
Division of Water Resources  
Kansas Department of Agriculture

State of Kansas )  
                          )     SS  
County of Riley    )

The foregoing instrument was acknowledged before me this 15 day of November, 2022, by Lane P. Letourneau, P.G., Program Manager, Division of Water Resources, Kansas Department of Agriculture.

*Melinda Jennings*  
\_\_\_\_\_  
Notary Public





1320 Research Park Drive  
Manhattan, KS 66502  
785-564-6700  
www. agriculture.ks.gov



900 SW Jackson, Room 456  
Topeka, KS 66612  
785-296-3556

Mike Beam, Secretary

Laura Kelly, Governor

November 22, 2022

3MK PORK LLC  
MICHELE WALTER  
2069 PRAIRIE RD  
WASHINGTON, KS 66968

RE: Water Right, File No. 40,805

Dear Ms. Walter:

Enclosed is the order executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the application for change under the above referenced file number.

Your attention is directed to the enclosures and to the terms, and conditions, specified in the approval for change. A condition of the approval is that an acceptable water flowmeter must be installed on the diversion works authorized.

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

If you have any questions, please contact us at 785-564-6640, should you have questions regarding the required metering please contact your local staff at the Topeka Field Office, 785-296-5733. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

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

Kristen A. Baum  
New Applications and Changes Supervisor  
Division of Water Resources

KAB:LI

Enclosures  
pc: Topeka Field Office



## RIGHT TO A HEARING AND TO ADMINISTRATIVE REVIEW

If you are aggrieved by this Order, then pursuant to K.S.A. 82a-1901, you may request an evidentiary hearing before the Chief Engineer or request administrative review by the Secretary of Agriculture. Failure to request an evidentiary hearing before the Chief Engineer does not preclude your right to administrative review by the Secretary.

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

If you do not file a request for an evidentiary hearing before the Chief Engineer, you may petition for administrative review of the Order by the Secretary of Agriculture. A petition for review shall be in writing and state the basis for requesting administrative review. The request for review may be denied if the request fails to clearly establish factual or legal issues for review. See K.S.A. 77-527. The petition must be filed within 30 days after service of this Order as provided in K.S.A. 77-531 (i.e., within a total of 33 days after this Order was mailed to you), and be filed with: Secretary of Agriculture, Attn: Legal Division, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, FAX 785-564-6777.

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

## CERTIFICATE OF SERVICE

On this 22<sup>nd</sup> day of November, 2022, I hereby certify that the attached Approval of Application for the Change in Place of Use for Water Right, File No. 40,805, dated November 15, 2022, was mailed postage prepaid, first class, US mail to the following:

3MK PORK LLC  
MICHELE WALTER  
2069 PRAIRIE RD  
WASHINGTON, KS 66968

With photocopies sent to:

Topeka Field Office



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Division of Water Resources