

Kansas Department of Agriculture  
 Division of Water Resources  
**CHANGE: P/U WORKSHEET & ORDER IN MATTER OF PD**

1. File Number: <b>43428</b>	2. Status Change Date: <b>8/24/2023</b>	3. Change Num: <b>C2</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>4/25/2022</b>
8a. Applicant(s) New to system <input type="checkbox"/>  <b>JEFFERSON RWD 03 Attn: PAUL J HEINEN PO BOX 129 VALLEY FALLS, KS 66088</b>		Person ID <b>8622</b> Add Seq# <b>1</b>	8c. Landowner(s) New to system <input type="checkbox"/>  Person ID _____ Add Seq# _____	
8b. Landowner(s) New to system <input type="checkbox"/>  <b>8A</b>		Person ID <b>8622</b> Add Seq# <b>1</b>	8d. WUC New to system <input type="checkbox"/>  <b>8A</b>  Person ID <b>8622</b> Add Seq# <b>1</b>	
9. Documents and Enclosure(s): <input checked="" type="checkbox"/> DWR Meter(s) Date to Comply: <b>12/31/2024</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: 8/18/23    By: LHH Date Reviewed: 8/24/2023    By: KAK Date Entered: <span style="border: 1px solid blue; padding: 2px;">8/29/2023</span> By: <span style="border: 1px solid blue; padding: 2px;">LMoody</span>				

File No <b>43428</b>	11. County: <b>JF</b> Basin <b>Delaware River</b>	Stream:	Formation Code: 140 (Kansan Stage)	Special Use:																					
12. Points of Diversion CHK MOD DEL PDIV ENT		Battery #528								Rate and Quantity															
										Authorized		Additional													
										Rate	Quantity	Rate	Quantity	Overlap PD Files											
		Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	gpm/cfs	af/mgy	gpm/cfs	af/mgy												
MOD	838	SW NE NE	3	10	17E	2	4427	1107	BATT 1 OF 2 WELLS; WELL #4 WEST	NO CHANGE TO R & Q		28375;	37282;	43428											
MOD	24822	SW NE NE	3	10	17E	1	4500	806	BATT 1 OF 2 WELLS; WELL #3 EAST	NO CHANGE TO R & Q		28375;	37282;	43428											
MOD	62354	SW NE NE	3	10	17E	3	4464	956	GEO CTR	NO CHANGE TO R & Q		28375;	37282;	43428											
* This modification is to update PD based on GPS data only, no actual change in location.																									
13. Storage: Rate _____ NF Quantity _____ ac/ft Additional Rate _____ NF Additional Quantity _____ ac/ft																									
14. Limitation: _____ Limitation: _____ af/yr at _____ gpm ( cfs) when combined with file number(s) <b>no change to the limitation</b>																									
15. 5YR Allocation: Allocation Type _____ Start Year _____ 5 YR Amount _____ Amount Unit _____ Base Acres _____ Comment _____																									
16. Place of Use CHK MOD DEL ENT						NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg?	Overlap Files
		PUSE	S	T	R	ID	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼							
MOD	31774	3	10S	17E	1	WITHIN THE BOUNDARIES OF JEFFERSON RWD 3														8A	NO	28375;	37282;	43428	
MOD	70670	24	10S	17E	2	WITHIN THE BOUNDARIES OF JEFFERSON RWD 11														8A	NO	28375;	37282;	43428	
ENT	<del>16202</del> 25	9S	17E	1	CITY OF OZAWKIE AND IMMEDIATE VICINITY														8A	NO	28375;	37282;	43428		
DEL	14071	3	10S	17E	2	WITHIN BOUNDARIES OF JEFFERSON RWD 06														8A	NO	28375;	37282;	43428	
Base Acres:		Year:		Minimum Reasonable Quantity:				Comments: None																	

P/U 71503

after a discussion with Ken & Kristen, it was decided that a new place of use should be created. The city of Ozawkie is keeping their own water rights as well as becoming a participant in the rural water district.

## Hemphill, Lloyd [KDA]

---

**From:** Bunger, Brett [KDA]  
**Sent:** Friday, August 18, 2023 11:23 AM  
**To:** Hemphill, Lloyd [KDA]  
**Subject:** RE: File Nos 28375; 37282; & 43428: Change approvals for your recommendation

Lloyd, your memo says it all. Please proceed with approval.

Thanks

Brett

---

**From:** Hemphill, Lloyd [KDA] <Lloyd.Hemphill@ks.gov>  
**Sent:** Friday, August 18, 2023 11:19 AM  
**To:** Bunger, Brett [KDA] <Brett.Bunger@ks.gov>  
**Subject:** File Nos 28375; 37282; & 43428: Change approvals for your recommendation

Brett,

Will you provide your recommendation for these place of use change approvals for JF CO RWD 3? They will add the City of Ozawkie to the authorized place of use to fix a previously unauthorized place of use.






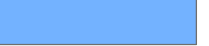

Thanks,  
Lloyd

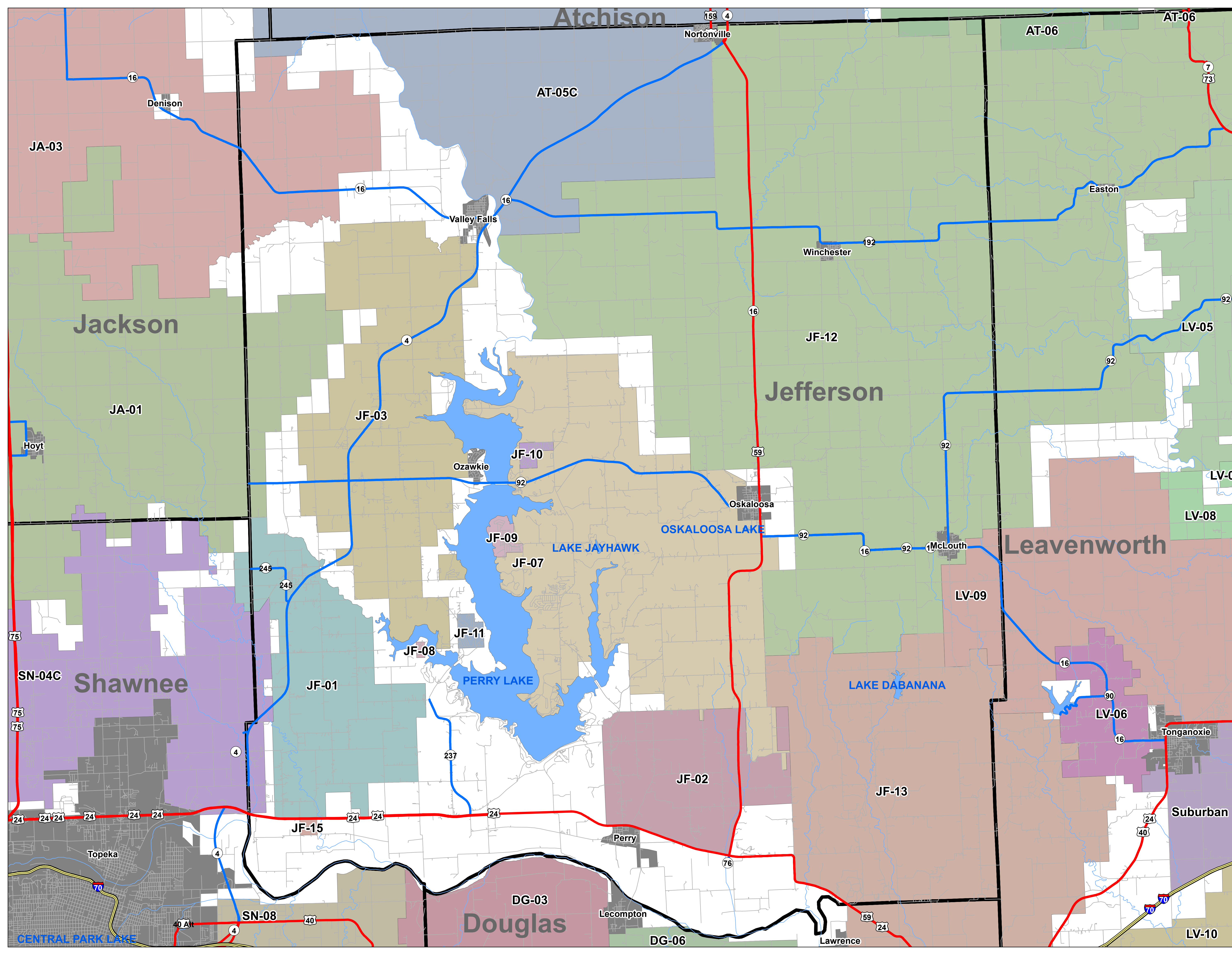
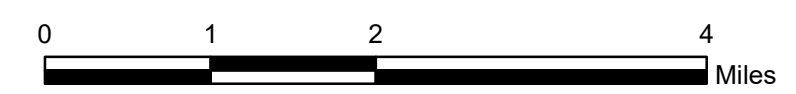
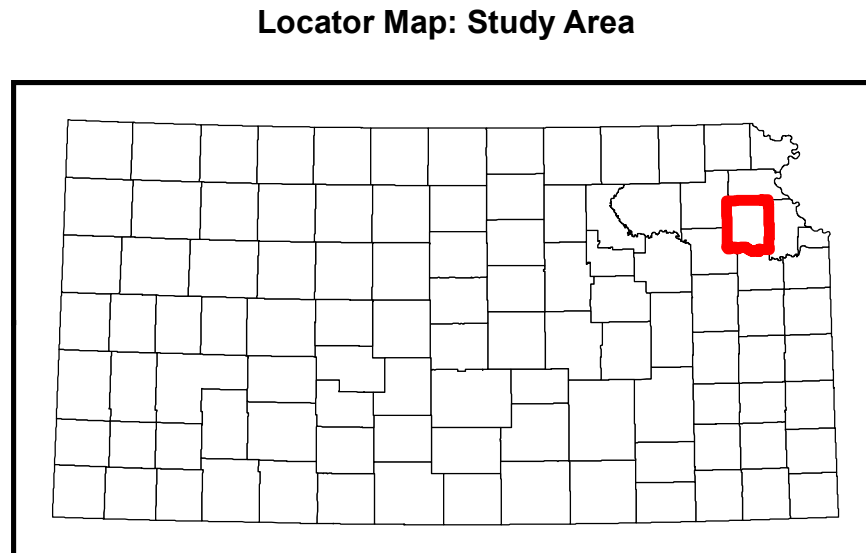
Lloyd Hemphill, Environmental Scientist  
Kansas Department of Agriculture  
Division of Water Resources, Topeka Field Office  
1131 SW Winding Rd, Suite 400  
Topeka, KS 66615  
Office: (785) 296-5733





**Legend**

-  Interstate
-  US Highway
-  State Highway
-  Roads
-  Streams
-  Lakes
-  County Boundary





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

**TO:** Files

**DATE:** August 18, 2023

**FROM:** Lloyd Hemphill

**RE:** Place of Use Change  
Water Right, File Nos. 28,375 & 37,282  
Appropriation of Water, File No. 43,428

Paul Heinen, on behalf of Rural Water District No. 3, Jefferson County, Kansas, has filed applications for approval to change the place of use for the referenced file numbers. These files are authorized to appropriate groundwater in the Delaware River basin for municipal use. These files overlap the same point of diversion (battery of two wells) and the same place of use.

The District reported selling water to the City of Ozawkie on the 2022 and 2021 annual water use reports. These change approvals will update the authorized place of use to be described as:

within the boundaries of Rural Water District No. 3, Jefferson County, Kansas; Rural Water District No. 11, Jefferson County, Kansas; and the City of Ozawkie; and their immediate vicinities.

Rural Water District No. 6, Jefferson County, Kansas will be removed from the place of use as it was dissolved in 2002. The former boundaries of this district appear to be encompassed by current boundaries of Rural Water District No. 3, Jefferson County, Kansas. A map published by the Kansas Rural Water Association (KRWA) is attached to these approvals to show the boundaries of the entities being served water.

The referenced file numbers are not abandoned per K.S.A. 82a-718. The applications are considered complete per K.A.R. 5-5-2a, *Complete change application*.

This application proposes a change in place of use to include existing areas being served and no new wells will be authorized. Therefore, notification per K.S.A. 82a-1906 is unnecessary. Also, the local source of supply will not change as no new wells will be authorized.

These files authorize a total quantity of 136 million gallons per year as shown below:

File No.	Authorized Quantity (MGY)	Additional Quantity (MGY)	Authorized Rate (GPM)	Additional Rate (GPM)	Limitation
28375	38	38	190	190	None
37282	32.252	26.504	190	190	64.504MGY COM/W #28375
43428	136	71.496	450	60	136.0MGY @450GPM COM/W #28,375 & 37,282

The perfection period for File No. 43,428 ends on December 31, 2023. The maximum authorized quantity has yet to be reached, so it appears the changes should not result in an increase in consumptive use. The District may need to request an extension of this perfection period in order to perfect additional quantity. The District has been selling water to the City of Ozawkie since 2021 without exceeding the authorized quantity. Thus, the existing files appear to authorize sufficient quantity to provide water to the proposed place of use.

These applications do not propose any change to the point of diversion location. However, G.P.S data were collected during a January 12, 2009 Field Inspection which more accurately describe the well locations. The actual location of the geographic center is 135 feet from the authorized location (i.e. less than 300 feet) and so it complies with K.A.R. 5-5-6 (*Failure to construct diversion works at authorized location*).

The point of diversion description will be updated on these approvals based on GPS data as:

A battery of two (2) wells with a geographic center located in the Southwest Quarter of the Northeast Quarter of the Northeast Quarter (SW $\frac{1}{4}$  NE $\frac{1}{4}$  NE $\frac{1}{4}$ ) of Section 3, more particularly described as being near a point 4,464 feet North and 956 feet West of the Southeast corner of said section, in Township 10 South, Range 17 East, Jefferson County, Kansas.

Brett Bunger, Topeka Field Office Water Commissioner, recommended approval of these change applications in an August 18, 2023 e-mail. Based on the above discussion, that the changes are reasonable, that no change is planned to the authorized point of diversion or the authorized quantity of water and rate of diversion, and the proposed change will not cause impairment of existing water rights, it is recommended that the referenced applications be approved.

Lloyd Hemphill  
Environmental Scientist  
Topeka Field Office

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  
AND  
ORDER BETTER DESCRIBING THE AUTHORIZED POINT OF DIVERSION  
APPROPRIATION OF WATER  
FILE NO. 43,428**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Terry Broxterman and Paul Heinen, on behalf of Rural Water District No. 3, Jefferson County, Post Office Box 129, Valley Falls, Kansas, 66088, received in this office on April 25, 2022, for approval of a change in the location of the place of use under the Approval of Application, File No. 43,428, for permit to appropriate water for beneficial use, as modified and amended by the Order of the Chief Engineer dated December 14, 2021, approving the application to change the place of use, finds that the change is reasonable and will not impair existing rights, that the change relates to the same local source of supply and that the application should be and is hereby approved.

The effective date of the change shall be the date this order is executed by the Chief Engineer, after which the authorized place of use shall be:

within the boundaries of Rural Water District Nos. 3 and 11, Jefferson County, Kansas, and within the City of Ozawkie, Kansas, and its immediate vicinity,

and the location of the authorized point of diversion shall be better described as:

a battery of two (2) wells with a geographic center located in the Southwest Quarter of the Northeast Quarter of the Northeast Quarter (SW $\frac{1}{4}$  NE $\frac{1}{4}$  NE $\frac{1}{4}$ ) of Section 3, more particularly described as being near a point 4,464 feet North and 956 feet West of the Southeast corner of said section, in Township 10 South, Range 17 East, Jefferson County, Kansas.

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

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

The water right owner shall maintain the water meter in an operating condition satisfactory to the Chief Engineer, at all times during diversion of water and shall maintain records from which the total quantity of water diverted may be determined. The water right owner shall also report the reading of said water meter and the total quantity of water diverted annually to the Chief Engineer. Such records shall be furnished to the Chief Engineer by March 1 following the end of each calendar year.

In all other respects, Approval of Application, File No. 43,428, for permit to appropriate water for beneficial use, is as stated and set forth in the approval dated December 28, 1998, as modified and amended by the aforementioned order.

Ordered this **24** day of **August**, 2023, in Manhattan, Riley County, Kansas.

*Lane P. Letourneau*

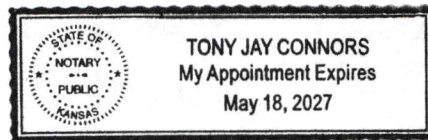
Lane P. Letourneau, P.G.  
Water Appropriation Program Manager  
Division of Water Resources  
Kansas Department of Agriculture

State of Kansas     )  
                                  ) SS  
County of Riley     )

The foregoing instrument was acknowledged before me this **24** day of **August**, 2023, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.

*Tony Jay Connors*

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

August 30, 2023

TERRY BROXTERMAN  
JEFFERSON RWD 3  
PO BOX 129  
VALLEY FALLS KS 66088

RE: Approval of Applications for Change in Place of Use  
Water Right, File Nos. 28,375 and 37,282  
Appropriation of Water, File No. 43,428

Dear Mr. Broxterman:

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 and conditions specified in these approvals for change. A condition of the approvals is that an acceptable water flowmeter must be installed on the diversion works authorized under the referenced files.

Since the orders for Water Right, File Nos. 28,375 and 37,282 modify the original certificates of appropriation referred to above, they should be recorded with the Register of Deeds as other instruments affecting real estate.

An annual water use report must be filed with the Chief Engineer by March 1, following the end of each calendar year. If a complete annual water use report is not received by the deadline, then a fine may be assessed and all water use under such permit or right may be suspended. You may submit your report online at [www.kswaterusereport.org](http://www.kswaterusereport.org) for no fee. Reports submitted in paper form will be assessed a \$20 per file number paper filing fee.

If you have any questions, please contact this office at 785-564-6640, or our staff at the Topeka Field Office at 785-564-5733. If you call, please reference the file numbers listed above so we can help you more efficiently.

Sincerely,

Kristen A. Baum  
New Applications & Change Unit Supervisor  
Water Appropriation Program

KAB:kak:llh  
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 30 day of August, 2023, I hereby certify that the attached Approval of Application for the Change in Place of Use and Order in the Matter of the Authorized Point of Diversion for Appropriation of Water, File No. 43,428, dated, August 24, 2023, was mailed postage prepaid, first class, US mail to the following:

PAUL J HEINEN  
JEFFERSON RWD 03  
PO BOX 129  
VALLEY FALLS, KS 66088

With photocopies to:

KDA-DWR Topeka Field Office

  
Division of Water Resources