

NOTICE

This scan only represents the application as filed. The information contained herein meets the requirements of K.A.R. 5-3-1 or K.A.R. 5-5-1, and has been found acceptable for filing in the office of the Chief Engineer. The application should not be considered to be a complete application as per K.A.R. 5-3-1b or K.A.R. 5-5-2a.

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

Water Resources
Received

JUN 29 2018

11:00

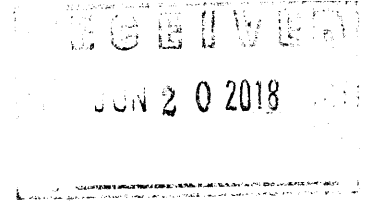


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Filing Fee Must Accompany the Application
(Please refer to Fee Schedule on signature page of application form.)

JUN 25 2018

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

File No. 34466

2. Name of applicant: Whitham Farms Fdyd, LP (operator)

Address: 462 N Co Rd 5

City, State and Zip: Leoti, Ks 67861

Phone Number: (620) 375 4684 E-mail address: wfdyd@wbsnet.org

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

Name of water use correspondent: Janis R. Whitham

Address: 462 N Co Rd 5

City, State and Zip: Leoti, Ks 67861

Phone Number: (620) 375 4684 E-mail address: X

3. The change(s) proposed herein are desired for the following reasons (please be specific): _____

Replace well which has begun pumping fine sand.

The change(s) (was) (will be) completed by as soon as possible
(Date)

For Office Use Only:		Meets K.A.R. 5-5-1 (YES / NO) Use <u>STC</u> Source <u>(S)</u> County <u>W4</u> By <u>AW</u> Date <u>6/29/18</u>	
F.O. <u>4</u>	GMD <u>1</u>	Fee \$ <u>200</u>	TR # _____
Code <u>CGT</u>		Receipt Date <u>6/29/18</u>	Check # <u>4019</u>

JUN 29 2010

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4. The presently authorized place of use is:

Owner of Land — NAME: No Change

ADDRESS: _____

Sec.	Twp.	Range	NE¼				NW¼				SW¼				SE¼				TOTAL ACRES
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
<u>34</u>	<u>17</u>	<u>38</u>																	

Feed lot in the East 1/2

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

Owner of Land — NAME: _____

ADDRESS: _____

Sec.	Twp.	Range	NE¼				NW¼				SW¼				SE¼				TOTAL ACRES
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

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

(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: _____

ADDRESS: _____

Sec.	Twp.	Range	NE¼				NW¼				SW¼				SE¼				TOTAL ACRES
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

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

Owner of Land — NAME: _____

ADDRESS: _____

Sec.	Twp.	Range	NE¼				NW¼				SW¼				SE¼				TOTAL ACRES
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

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

JUN 29 2010

IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY
KS Dept Of Agriculture

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6. The presently authorized point(s) of diversion (is) (are) 1 well
(Provide description and number of points)
7. The proposed point(s) of diversion (is) (are) 1 well
(Provide description and number of points)

List all presently authorized point(s) of diversion:

8. **Presently authorized point of diversion:**
 One in the SW Quarter of the SW Quarter of the SE Quarter of Section 34, Township 17 South, Range 38 (E/W), in Wichita County, Kansas, 35 feet North 2393 feet West of Southeast corner of section. Authorized Rate 160 gpm Authorized Quantity 36.025 mgy/28.512 mgy (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 SE Quarter of the SW Quarter of the SE Quarter of Section 34, Township 17 South, Range 38 (E/W), in Wichita County, Kansas, 25 feet North 1871 feet West of Southeast corner of section. Proposed Rate No Change Proposed Quantity No Change
 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. old well will be plugged

IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY

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12. The presently authorized use of water is for Stockwater 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.

No Change

(Please show any calculations here.)

14. It is requested that the maximum annual quantity of water be reduced to No Change (acre-feet or million gallons).

15. It is requested that the maximum rate of diversion of water be reduced to No Change gallons per minute (___ c.f.s.).

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

a. If a change in the location of the point(s) of diversion is proposed, show:

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

b. If a change in the place of use is desired, show the proposed place of use by crosshatching on the map. Please be certain that the information shown on the map agrees with the information shown in Paragraph No. 5 of the application.

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

Test hole log attached; No non-applicant owned wells within 1/2 mile of Proposed Change
Maintains or increases 1/2 mile spacing requirement to Non-applicant owned wells.

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.

K.A.R. 5-21-3 spacing to Applicant Owned Wells - File #'s 10225 + 23193
Proposed site maintains or increases spacing to Applicant Owned Wells.

IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY

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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 Scott City, Ks, Kansas, this 20th day of June, 2018.

<u>Stewart A. Whitham</u> (Owner)	_____	(Spouse)
<u>Stewart A. Whitham</u> (Please Print)	_____	(Please Print)
<u>Stewart A. Whitham</u> (Owner)	_____	(Spouse)
<u>Janis R. Whitham</u> (Please Print)	<u>By: Stewart A. Whitham</u> <u>authorized signor</u>	(Please Print)
_____	_____	(Spouse)
_____	_____	(Please Print)

 KYLE SPENCER
Notary Public - State of Kansas
My Appt. Expires _____

State of Kansas }
County of Scott } SS

I hereby certify that the foregoing application was signed in my presence and sworn to before me this 20th day of June, 2018.

[Signature]
Notary Public

My Commission Expires 9/26/2018

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.**

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Test Log

Woofter Pump & Well

Whitham Feedlot

1024 Oak, P.O. Box 689

DATE: 6/19/2018

Hoxie, Kansas 67740

TEST: #2 600' E of existing

Ph (785)-675-3991, Fax (785)-675-39

LEGAL: 34-17-38 wichita
n 38 31.480
W 101 30.054

E-Mail woofpw@ruraltel.net

Static: _____

Better Hole

Total Depth: 220'

0	2	surface
2	23	loess
23	48	clay and caliche w/ sand lenses
48	83	fine and medium sand with w/ clay and caliche streaks
83	122	clay and caliche w/ sand lenses
122	131	Fine sand with clay lenses
131	161	fine and medium sand with w/ clay lenses
161	183	fine to some medium sand w/ traces of clay
183	200	fine sand w/ clay streaks
200	220	yellow ochre/black shale

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WESTERN KANSAS GROUNDWATER MANAGEMENT DISTRICT NO.1
June 20, 2018

Mike Meyer, Water Commissioner
Ks Division of Water Resources
2508 Johns Street
Garden City, Ks 67846

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JUN 25 2018

Garden City Field Office
Division of Water Resources

Re: P.O.D. Change Application
File No. 34466

Dear Mike:

With the information presented with this application, GMD1 recommends approval by waiving K.A.R. 5-21-3. The proposed change maintains or increases the existing well spacing to applicant owned wells, and maintains ½ mile spacing to non-applicant wells per the District's management plan.

The only wells within a half mile of the proposed change are owned by the applicant. This recommendation is contingent upon your office or DWR headquarters finding no other disqualifying issues.

Sincerely,

Kyle Spencer
District Manager

ks/vr

Water Resources
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KS Dept Of Agriculture

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

WHITHAM FARMS FDYD, LP
462 N CO RD 5
LEOTI, KS 67861

July 3, 2018

RE: File No 34466

Dear Sir or Madam:

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

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

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

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

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

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

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

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

Sincerely,

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

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

BAT: DLW
pc: GARDEN CITY Field Office GMD1

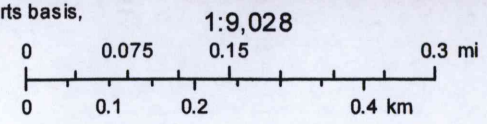


June 20, 2018
13:56 PM

DISCLAIMER: This map is not intended for conveyances, nor is it a legal survey. The information is presented on a best-efforts basis, and should not be relied upon for making financial, survey, legal or other commitments.

- Wells**
- + CON
 - ? Other
 - IRR
 - ☒ DEW
 - ⊕ DOM
 - ⊕ FPR
 - ⊕ HYD
 - ★ IND
 - ▲ MUN
 - ▢ REC
 - ⊗ STK
 - ⚡ THX
 - ? Empty
 - WIMAS WELLS GMD1

Sections





June 20, 2018
16:04 PM

DISCLAIMER: This map is not intended for conveyances, nor is it a legal survey. The information is presented on a best-efforts basis, and should not be relied upon for making financial, survey, legal or other commitments.

- Wells**
- ? Other
 - + CON
 - x DEW
 - Δ DOM
 - FPR
 - + HYD
 - ★ IND
 - + MUN
 - + REC
 - + STK
 - THX
 - ? Empty
 - WIMAS WELLS GMD1

Sections

