

Kansas Department of Agriculture
Division of Water Resources
CHANGE: PU WORKSHEET & ORDER IN MATTER OF LTM & OWNERSHIP

1. File Number: 12,989	2. Status Change Date: 3/22/2021	3. Change Num: C2	4. Field Office: 03	5. GMD: 04
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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: 1/19/21
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8a. Applicant(s) New to system <input type="checkbox"/> JAMES M KREIGER 136 W 650 S KOUTS, IN 46347 -9622	8c. Landowner(s) New to system <input type="checkbox"/>
Person ID 38937 Add Seq# 59052	Person ID _____ Add Seq# _____

8b. Landowner(s) New to system <input checked="" type="checkbox"/> PRAIRIE CREEK AGLAND LLC JAMES M KREIGER 136 W 650 S KOUTS IN 46347 -9622	8d. WUC New to system <input type="checkbox"/> JAMES L & DARLA S MOSBARGER 601 E HWY 24 GOODLAND KS 67735 -9313
Person ID 64213 Add Seq# _____	Person ID 27358 Add Seq# _____

9. Documents and Enclosure(s): DWR Meter(s) Date to Comply: **12/31/21** 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: **1/26/21** By: **BILLINGER**
 Date Entered: **3/23/2021** By: _____
LMoody

3/11/2021
Lireland

File No. **12,989** 11. County: **SH** Basin: **BEAVER CREEK** Stream: Formation Code: **211** Special Use:

12. Points of Diversion											Rate and Quantity						
CHK	MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Rate gpm	Quantity mgy	Rate gpm	Quantity mgy	Overlap PD Files
MOD	19051	NC	SE			5	7S	41W	2	1330	1585		810	302	810	302	

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

14. Limitation: **388.5 AF 2021 & 2022** af/yr at _____ gpm (cfs) when combined with file number(s) **COINCIDE WITH LEMA STARTING 2023**
 Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____

15. 5YR Allocation: Allocation Type _____ Start Year **2023** 5 YR Amount **1055** Amount Unit **AF** Base Acres **152** Comment **AD INFINITUM**

16. Place of Use											NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg?	Overlap Files			
CHK	MOD	DEL	ENT	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	NE ¼	NW ¼	SW ¼	SE ¼									
MOD	2931	5	7S	41W	2																												
MOD	56974	4	7S	41W	4								31	31	31	31																	

Base Acres: **152** Year: **1968** Minimum Reasonable Quantity:
 Comments: **LIMITED TO 388.5 AF FOR 2021 & 2022, 5 YEAR ALLOCATION OF 1055 AF BEGINS IN 2023**
REMOVE ROTATION LIMITATION. NO CHANGE IN ACRES, UPDATE OWNERSHIP, WUC.

3/15/2021
KAB

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: January 26, 2021

FROM: Mark Billinger

RE: Water Right
File No. 12,989

Jim Kreiger, on behalf of Prairie Creek AgLand LLC, has filed an application for approval to change the authorized place of use under the referenced file, authorized groundwater for irrigation use.

The referenced water right does not appear abandoned as per K.S.A. 82a-718.

The referenced file number has no overlaps in the authorized point of diversion or the 275 acre place of use located in Sections 4 and 5, Township 7 South, Range 41 West, Sherman County, in the Beaver Creek Basin. The referenced file number is authorized 302 acre-feet per calendar year and is presently enrolled in a rotation monitoring pursuant to K.A.R 5-5-11(b)(3). The water right owners now propose to utilize a limited quantity 5-year allocation on the same acres in lieu of the rotation limitation. The Water Right will have a limited quantity of 388.5 AF for years 2021 and 2022 and the five-year allocation period will begin in 2023 in order to agree with the LEMA allocation.

- Northwest Kansas Groundwater Management District No. 4 will assume monitoring responsibility.
- Base acres are 152 acres based on a April 29, 1996 memorandum to the files by Duane Harris, former Environmental Technician of the Stockton Field Office, so the applicants have proposed a net increase of 123 acres above the “base acres”.
- There has been no recent pattern of water use significantly in excess of the maximum annual quantity authorized.
- Limitations: Since the K.A.R 5-5-11(b)(3)(E)(i) calculation results in a five-year allocation lesser to the five year quantity authorized by the right, the five year allocation will be limited to 1,055 acre-feet.
- Since the timing of the 5-year allocation should agree with the timing of the upcoming LEMA allocation period that begins in 2023, this right will be limited to 388.5 AF for 2021 & 2022, as determined by GMD 4 see mail 3/12/2021 *
- Use of water in excess of the five-year allocation shall result in a two-year suspension of all water use under the referenced right and subsequent restriction of the authorized place of use to the reversion acres, which have been revised, at the location specifically set forth in the change approval.

The same local source of supply will not change, which has been previously determined to be Ogallala Formation (211) based on available information.

In a letter dated January 20, 2021, received in the office of the Chief Engineer on January 20, 2021, Shannon Kenyon, Manager of the Northwest Kansas Groundwater Management District No. 4, recommended the application be approved.

In an e-mail dated January 29, 2021, Kelly Stewart, Water Commissioner of the Stockton Field Office, indicated that he has no objection to the approval of the referenced application.

A water flow meter is required. A check valve is required if chemigating.

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

Mark Billinger
Assistant Water Commissioner

* LI/DWR

From: Stewart, Kelly
Sent: Fri 1/29/2021 1:42 PM
To: Billinger, Mark [KDA]
Cc: Baum, Kristen [KDA];Hageman, Rebecca [KDA]
Subject: RE: rec for 5-5-11 change from rotation to 5 yr reduced quantity allocation file 12989

Mark,

I would recommend approval of this change application proposing to go from a 5-5-11 rotation to a 5-5-11 five year allocation. As we have discussed, the change approval should be temporarily limited to a total of 388.5 acre-feet for 2021 and 2022 to coincide with the GMD 4 LEMA allocation. Beginning in 2023, the 5 year allocation should be 1,055 acre-feet.

Kelly

From: Billinger, Mark [KDA] <Mark.Billinger@ks.gov>
Sent: Wednesday, January 27, 2021 3:40 PM
To: Stewart, Kelly <Kelly.Stewart@ks.gov>
Subject: FW: rec for 5-5-11 change from rotation to 5 yr reduced quantity allocation file 12989

I have attached the revised memo to increase the 5 yr allocation from 1051 to 1055 AF.

From: Billinger, Mark [KDA]
Sent: Tuesday, January 26, 2021 2:43 PM
To: Stewart, Kelly <Kelly.Stewart@ks.gov>
Cc: Baum, Kristen [KDA] <Kristen.Baum@ks.gov>
Subject: rec for 5-5-11 change from rotation to 5 yr reduced quantity allocation file 12989

Kelly,
Attached is my memo regarding the pending change for 12,989.

Its going from a 5-5-11 rotation to a 5-5-11 limited quantity.

I have all the paperwork here if you need to review prior to providing your recommendation.

Mark Billinger
Assistant Water Commissioner
Stockton Field Office
Division of Water Resources
Kansas Department of Agriculture
mark.billinger@ks.gov
785-425-6787

12989 OWNERSHIP 3/11/2021

SEC 5

List

Parcels matching undefined

Results

0910830500000003000 00000 CO RD, , KS	PRAIRIE CREEK AG LANDS LLC
0910830500000001000 00000 CO RD, , KS	WILKENING, GLADYS
0910830500000001020 00000 CO RD, , KS	WILKENING, GLADYS
0910830500000002000 00000 CO RD, , KS	WILKENING, TIMOTHY & SAMANTHA
0910830500000001010 7358 ROAD 8, Goodland, KS 67735	WILKENING, TIMOTHY & SAMANTHA



List

Parcels matching undefined

Results

0910820400000002000 00000 CO RD, , KS	GOLDEN, JOHN HOLLISTER TR
0910820400000001000 00000 CO RD, , KS	HOOKEE, L SCOTT & KAREN S
0910820400000004000 00000 CO RD, , KS	HOOKEE, LYLE SCOTT & KAREN SUE
0910820400000003000 00000 CO RD, , KS	PRAIRIE CREEK AG LANDS LLC



ZIP Code™ by Address

You entered:

136 W 650 S
KOUTS IN

If more than one address matches the information provided, try narrowing your search by entering number. **Edit and search again.**

136 W 650 S
KOUTS IN 46347-9622

From: Shannon Kenyon
Sent: Fri 3/12/2021 9:31 AM
To: Ireland, Leslie [KDA]
Subject: Re: Quantity for 2020 & 2021 on Change File No. 12989

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

Hey Leslie,

I can explain! the 388.5 is what was left of their LEMA quantity beginning 2021. That's what they have for the next two years.

On Fri, Mar 12, 2021 at 9:07 AM Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov> wrote:

Shannon,

Working on this change. Spreadsheet.. for keeping track of their value is attached.

The approval for the change (I'm reviewing (how crazy is that....) anyway it states...

That the quantity of water authorized under Water Right, File No. 12,989 shall not exceed 1,055 acre-feet per five (5)-year period; the first period being calendar years 2021 & 2022, where the quantity will be limited to 388.5 acre-feet to coincide with the LEMA

Are you the right one to ask about the 388.5? Not sure how the 388.5 AF was obtained for this allocation? My thoughts were... If I took the five year quantity of $1055 / 5 = 211 \times 2 = 422$ AF over the two year time period and not to exceed 302 in any year...but not sure what is correct..

Sure you've done lots of these quantity explanations....How did you get the 388.5 AF for the two year maximum allowed allocation? If your not the right person to contact please point me in the right direction.

Thanks,

Take care,

Leslie Ireland

Environmental Scientist

Change Application Unit

Division of Water Resources



--

Shannon Kenyon

Manager

GMD 4

skenyon@gmd4.org

www.gmd4.org

785-462-3915

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 REMOVING ADDITIONAL LIMITATIONS WATER RIGHT FILE NO. 12,989

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Jim. Krieger on behalf of Prairie Creek AgLand LLC, 136 W 650 South, Kouts, Indiana 46347, received in this office on January 19, 2021, for approval of a change in the location of the place of use, under the certificate of appropriation issued pursuant to the application for permit to appropriate water for beneficial use, as modified and amended by the Order of the Chief Engineer dated September 16, 1988 to correct the location of the authorized point of diversion and place of use, the Order of the Chief Engineer dated March 14, 2005, 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.

This order effectively removes the additional limitations which established the rotation of acres on the place of use as set forth by the Approval of Application for Change in Place of Use under File No. 12,989 dated March 14, 2005.

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			
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼				
4	7	41W												31.0	31.0	31.0	31.0					124.0
5	7	41W																31.0	40.0	40.0	40.0	151.0

a total of 275 acres in Sections 4 and 5, Township 7 South, Range 41 West,
Sherman County, Kansas,

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

By this order, this water right is subject to the following conditions:

1. That the quantity of water authorized under Water Right, File No. 12,989 shall not exceed 388.5 acre-feet for the calendar years 2021 through 2022; thereafter the quantity of water authorized under Water Right, File No. 12,989 shall not exceed 1,055 acre-feet per five (5)-year period; the first five (5) year period being calendar years 2023 through 2027, ad infinitum.
2. That the quantity of water authorized under Water Right, File No. 12,989, shall not exceed 302 acre-feet per calendar year, provided that 1,055 acre feet per five (5)-year period is not exceeded.

- 3. That use of water in excess of 1,055 acre-feet per five (5)-year period shall result in a two (2)-year suspension of all water use under this water right, effective the next two (2) calendar years, and a subsequent restriction of the authorized place of use to the following described property:

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				
5	7	41W																31.0	40.0	40.0	40.0	151.0

a total of 151 acres in Section 5, Township 7 South, Range 41 West, Sherman County, Kansas, located substantially as shown on the topographic map accompanying the application to change the place of use.

- 4. That if the Northwestern Kansas Groundwater Management District No. 4 and/or the Division of Water Resources terminate(s) their/its Memorandum of Understanding (MOU) pertaining to K.A.R. 5-5-11(b)(3), (4) and (5), by which the District assumes monitoring responsibility, then the place of use authorized by this change approval, which was issued by the Division pursuant to the MOU shall revert to the property described in paragraph No. 3, above, starting the calendar year following the year of termination.

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, the Certificate of Appropriation issued pursuant to Approval of Application, File No. 12,989, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated March 14, 1983, as modified and amended by the aforementioned orders.

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 *22* day of *March*, 2021, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.



Ashlee Freeman
 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

March 23, 2021

PRAIRIE CREEK AGLAND LLC
JAMES M. KREIGER
136 W 650 SOUTH
KOUTS, IN 46347 - 9622

RE: Water Right, File No. 12,989

Dear Mr. Kreiger:

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, conditions, and limitations specified in this approval for change. A condition of this approval is that an acceptable water flow meter must be installed on the diversion works authorized under the referenced file number. Please return the required notification of completion of the installation of the required meter as soon as this action is completed.

Approval of the application for File No. 12,989 does not allow the diversion of water in excess of the authorized quantity per calendar year or rate of diversion. Your attention should be drawn to the fact that the authorized quantity of water under File No. 12,989 is limited to a fixed allocation, 1,055 acre-feet during a period of five (5) years in this case, and further limited to the annual authorized quantity of 302 acre-feet in any given year, provided that the five (5)-year fixed allocation is not exceeded. To coordinate the timing of the allocation with the Local Enhanced Management Area 2023 start date, the approval has been conditioned to operate in 2021 and 2022 with an allocation of 388.5 acre-feet for the two (2) year time period.

Non-compliance with the terms of this approval will result in substantial penalties.

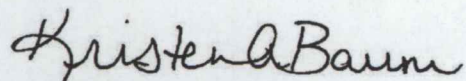
Since the order for the referenced file number modifies the original document referred to above it should be recorded with the Register of Deeds as other instruments affecting real estate.

RE: Water Right, File No. 12,989

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If you have any questions, please contact this office at 785-564-6640 or our Stockton Field Office at 785- 425-6786. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

A handwritten signature in cursive script that reads "Kristen A. Baum".

Kristen A. Baum
New Application and Change Unit Supervisor
Water Appropriation Program

KAB:LI:li

Enclosures

pc: Stockton Field Office
Groundwater Management District No. 4
James L. & Darla S. Mosbarger

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 REMOVING ADDITIONAL LIMITATIONS
WATER RIGHT
FILE NO. 12,989

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

By this order, this water right is subject to the following conditions:

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2. That the quantity of water authorized under Water Right, File No. 12,989, shall not exceed 302 acre-feet per calendar year, provided that 1,055 acre feet per five (5)-year period is not exceeded.

3. That use of water in excess of 1,055 acre-feet per five (5)-year period shall result in a two (2)-year suspension of all water use under this water right, effective the next two (2) calendar years, and a subsequent restriction of the authorized place of use to the following described property:

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				
5	7	41W																31.0	40.0	40.0	40.0	151.0

a total of 151 acres in Section 5, Township 7 South, Range 41 West, Sherman County, Kansas, located substantially as shown on the topographic map accompanying the application to change the place of use.

4. That if the Northwestern Kansas Groundwater Management District No. 4 and/or the Division of Water Resources terminate(s) their/its Memorandum of Understanding (MOU) pertaining to K.A.R. 5-5-11(b)(3), (4) and (5), by which the District assumes monitoring responsibility, then the place of use authorized by this change approval, which was issued by the Division pursuant to the MOU shall revert to the property described in paragraph No. 3, above, starting the calendar year following the year of termination.

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, the Certificate of Appropriation issued pursuant to Approval of Application, File No. 12,989, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated March 14, 1983, as modified and amended by the aforementioned orders.

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 *22* day of *March*, 2021, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.



Ashlee Freeman
 Notary Public

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: Kansas Department of Agriculture, Attn: Legal Section, 1320 Research Park Drive, Manhattan, KS 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 hearing 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, KS 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.

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.

CERTIFICATE OF SERVICE

On this 23 day of March, 2021, I hereby certify that the attached Approval of Application for the Change in Place of Use, File No. 12,989, dated 22 March, 2021, was mailed postage prepaid, first class, US mail to the following:

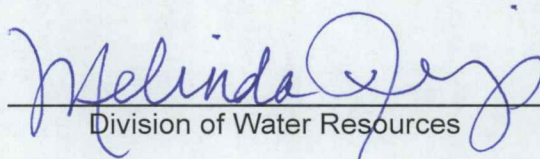
PRAIRIE CREEK AGLAND LLC
JAMES M. KREIGER
136 W 650 SOUTH
KOUTS, IN 46347-9622

With a true and correct copy sent to:

JAMES L. & DARLA S. MOSBARGER
601 E HWY 24
GOODLAND, KS 67735-9313

With photocopies sent to:

Stockton Field Office
Groundwater Management District No. 4


Division of Water Resources