

Kansas Department of Agriculture
 Division of Water Resources
**CHANGE: PU WORKSHEET
 ALLOCATION**

Owner modified change to withdraw requested UMW li/DWR

1. File Number: 11742	2. Status Change Date: 5/9/2023	3. Change Num: C5 C4	4. Field Office: 04	5. GMD: 01
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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: 10/10/2022
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8a. Applicant(s) New to system <input type="checkbox"/> GARY & BETH WILBUR PO BOX 579 LEOTI, KS 67861	8c. Landowner(s) New to system <input type="checkbox"/>
Person ID 26508 Add Seq# _____	Person ID _____ Add Seq# _____

8b. Landowner(s) New to system <input type="checkbox"/> 	8d. WUC New to system <input type="checkbox"/>
Person ID 26508 Add Seq# 1	Person ID 26508 Add Seq# 1

9. Documents and Enclosure(s): DWR Meter(s) Date to Comply: **12/31/2023** 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: _____

UMW request withdrawn li/DWR

10. Use Made of Water From: _____ To: _____

	Date Prepared: 5/5/2023 By: LI Date Reviewed: 5/9/2023 By: KAK Date Entered: _____ By:
	5/12/2023 LMoody

File No. **11742** 11. County: **WH** Basin: **LADDER CREEK** Stream: **NA** Formation Code: **211/331** Special Use: **NA**

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

NO CHANGE **5 YR ALLOCATION**

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) _____
 Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____

15. 5YR Allocation: Allocation Type **B2** Start Year **2021** 5 YR Amount **1129** Amount Unit **AF** Base Acres **160** Comment **WICHITA CO LEMA 396.58 AF**

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 23225 7 17 36W 1					30	30	30	30					30	30	30	30	240	8A	NO	NONE
ENT 71384 18 17 36W	30	30	30	30													120	8A	NO	NONE

Base Acres: Year: Minimum Reasonable Quantity:
 Comments:

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: May 5, 2023

FROM: Leslie Ireland

RE: Water Right, File No. 11,742

Gary and Beth Wilbur owners of the referenced water right have filed an application requesting that a change in the authorized irrigated place of use and use made of water to dual use as irrigation and stockwater use. The application received in the office of the Chief Engineer on October 4, 2022, is located in the Ladder Creek Basin, Wichita County.

A review of the reported water use finds that the water right is in compliance with K.S.A. 82a-732. The original application proposed to add File No. 22,281 as the stockwater use portion. The owners of File No. 22,281 chose not to enter into the change at this time. Their application will be dismissed by Order and memo under that file. The change under the referenced file was modified to only propose a change in place of use as a five-year allocation and updated. The modifications appear to comply with K.A.R. 5-5-2(a) *Complete change application*.

The referenced file currently is authorized to irrigate 160 acres in Wichita County with 320 acre-feet (AF) of water at a maximum rate of 1,000 gallons per minute from two (2) wells, with a blanket quantity and rate. The right has no overlaps in point of diversion or place of use and is not in a special use area, but is in Western Kansas Groundwater Management District No. 1, (GMD1). The right has been determined by DWR Field Staff to have 160 base acres. It is authorized to irrigate the Northwest Quarter (NW¼) of Section 7, Township 17 South, Range 36 West, Wichita County. Over the past several years an average of only 45 AF has been diverted.

The proposed place of use change reviewed by K.A.R. 5-5-11(b)(3); **Necessity to install a more efficient irrigation system; limited quantity**. The authorized acres are proposed to increase from 160 to 360 acres under a five (5) year allocation. It will also be assed by the GMD1 LEMA enacted in 2021 which assigned an allocation of 396.58 AF over a five-year period running 2021 to 2025. The place of use is proposed to be expanded to three (3) 120-acre pivots in the Northwest Quarter (NW¼) and Southeast Quarter (SE¼) of Section 7, along with the Northeast Quarter (NE¼) of Section 18, all in Township 17 South, Range 36 West, Wichita County, Kansas.

- The Western Kansas Groundwater Management District No. 1 (GMD) will assume monitoring responsibility, as per the memorandum of understanding between the Division of Water Resources and the GMD. The monitoring paperwork by Gary Wilbur was completed on April 21, 2023 .
- The "base acres" were determined by the Garden City Field Office to be 160 acres. The applicant has proposed an increase of 200 acres above the "base acres" to 360 acres.
- As there is no recent history of pumping over the authorized so a water conservation plan was not requested. A total of 63.71AF was diverted in 2021 & 2022.

- The quantity per K.A.R. 5-5-11(b)(3). the 320 acre-feet authorized to be diverted per year will be allowed, over the **five-year total authorized quantity will be limited to a fixed amount 1,129 acre-feet.**

$1.20 \text{ AF (50\% NIR for Wichita Co.)} \div 0.85 \text{ (irrigation efficiency)} \times 160 \text{ base acres} = 225.88 \text{ AF}$
 $225.88 \text{ AF} \times 5 \text{ years} = 1,129 \text{ AF allocated for use during the 5 years irrigation cycle.}$

However, the **LEMA quantity 396.58 AF** over a five-year period takes precedence.

- The right is restricted to **1,129 AF** by K.A.R. 5-5-11(b)(3), but the owner will be required to operate under the 2021 LEMA allowing 396.58 AF over the five-year period 2021 to 2025. Use in excess of the 1,129 AF on any future time periods 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 base acres which have been indicated on the map and irrigation acreage table. The owners have designated the currently authorized 160 acres as the reversion acres, (NW $\frac{1}{4}$) (7 -17- 36W).

The annual average quantity available under the KAR allocation is 225.88AF. When utilized on the proposed 360 acres it will provide 0.62 acre-feet per acre. This irrigation ratio is below the net irrigation requirement at the 50 percent chance of rain in Wichita County, as allowed by K.A.R. 5-5-12, *Net irrigation requirements*. The irrigation ratio appears to be low. The transmittal letter will emphasize the low irrigation ratio and consequences for exceeding the allowed five-year quantity.

However, this file is located in the Wichita County LEMA and should have an allocation to the quantity of water value that is less than K.A.R. 5-5-11. Michael Meyer, Water Commissioner, determined the Allocation for the referenced file is 396.58 AF from 2021 to 2025, then 2026 to 2030 and will run in five year increments. The approval will afford 332.87 AF for the remaining 23 to 2025 per the LEMA timeline, but list the standard determined allocated quantity of 1,129 AF.

The wells located within one-half $\frac{1}{2}$ mile of each of the wells authorized are not owned by the applicant. It appears no notice per K.S.A 82a-1906 is required.

Pursuant to the Rules and Regulations of the Western Kansas Groundwater Management District No. 1, it appears the district's rules and regulations have been met. A recommendation supporting the allocation was received from Katie Dupree, District Manager, on April 25, 2023.

The Water Commissioner, Michael Meyer, has reviewed the proposed change, and in an email dated May 4, 2023, he recommended approval of the proposed allocation.

A water flowmeter will be required as per K.A.R. 5-5-11(e) and a check valve will be required if chemigating. A water level measurement tube and WWC-5 will not be conditions of the approval as no new wells have been authorized.

Based on the above discussion, that the change is reasonable, that impairment of existing water rights is unlikely, that no change in the local source of supply will occur, that the local groundwater management district will continue monitoring responsibilities for the allocation, the change is recommended for approval



Leslie Ireland
Environmental Scientist
Water Appropriation Program

Ireland, Leslie [KDA]

From: Meyer, Mike [KDA]
Sent: Friday, May 5, 2023 10:56 AM
To: Ireland, Leslie [KDA]
Subject: RE: Review & Recommendation change in PU File No. 11742 Wilbur & 22281 Dismissal

Cant exceed the 396.58 thru 2025, but the 5 year allocation can go thru the next 5 years....

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Friday, May 5, 2023 10:54 AM
To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Subject: RE: Review & Recommendation change in PU File No. 11742 Wilbur & 22281 Dismissal

Is it use in excess of 1,129 AF causes the suspension or the 396.58 AF?

From: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Sent: Friday, May 5, 2023 8:35 AM
To: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Subject: RE: Review & Recommendation change in PU File No. 11742 Wilbur & 22281 Dismissal

Yes they can pump the base right. We just issue our normal order, and let the accounting play out even though it is staggered

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Friday, May 5, 2023 8:17 AM
To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Subject: RE: Review & Recommendation change in PU File No. 11742 Wilbur & 22281 Dismissal

Mike

Does the LEMA allow the 320 acre-feet authorized to be diverted in any year?

Looking at some of my GMD 4 orders to see what was done when you jump in the middle of an allocation.... or start early. Still looking at that paperwork.. unless you just want to say it is that 396.58 AF cuz the allocation technically started and this is just an expansion of the PU... could word it that way. Is that what you envisioned the order to look like?

He has diverted a total 63.71 AF in 21 &22.. has 332.87 AF left for 23 24 25.
Leslie

From: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Sent: Thursday, May 4, 2023 3:32 PM
To: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Subject: RE: Review & Recommendation change in PU File No. 11742 Wilbur & 22281 Dismissal

I recommend approval, the rule allows these expanded acres with the 5 year allocation. Please put in the memo that it currently is limited to the 5 year Wichita county LEMA allocation. The LEMA states whichever is less allocation is the

ruling allocation. The allocation is 396.58 AF from 2021- thru 2025. An accounting from GMD1 and DWR will need to be done to track

thanks

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>

Sent: Thursday, May 4, 2023 8:10 AM

To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>

Subject: Review & Recommendation change in PU File No. 11742 Wilbur & 22281 Dismissal

Mike,

File No. 11742 proposed PU will result in an irrigation ratio is below the 50% level,, by almost half... 0.62 vs 1.2. They have not pumped very much water over the past several years and none in 2019.

Please let me know if you recommend this allocation.
As always comments and concerns are welcome.

The summary memo for the change dismissal under File No. 22281 has also been attached.

Take care,

Leslie Ireland
Environmental Scientist
Change Application Unit
Division of Water Resources




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. 11,742**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Gary and Beth Wilbur, P.O. Box 579, Leoti, Kansas 67861, received in this office on October 4, 2022, for approval of a change in the location of the place of use under the certificate of appropriation issued pursuant to the permit to appropriate water for beneficial use, as modified and amended by the Orders of the Chief Engineer, dated October 13, 2014, May 18, 2017, and April 21, 2022, approving the applications to change the 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	
7	17S	36W					30	30	30	30					30	30	30	30	240
18	17S	36W	30	30	30	30													120

a total of 360 acres in Sections 7 & 18, Township 17 South, Range 36 West, Wichita County, Kansas, located substantially as shown on the map accompanying the application to change the place of use.

By this approval, this water right becomes subject to the following conditions:

1. That the quantity of water authorized under Water Right, File No. 11,742, shall not exceed 1,129 acre-feet per five (5)-year period; for the period being calendar years 2021 through 2025; then 2026 through 2030, ad infinitum.
2. That the quantity of water authorized under Water Right, File No. 11,742, shall not exceed 320 acre-feet per calendar year, provided that 1,129 acre-feet per five (5) year period is not exceeded.

3. That the use of water in excess of 1,129 acre-feet per five (5) year period shall result in a two (2) year suspension of all water use under this water right, effective during the subsequent two (2) calendar years, and a 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	
7	17S	36W					40	40	40	40									160

a total of 160 acres in Section 7, Township 17 South, Range 36 West, Wichita County, Kansas.

4. That if the Western Kansas Groundwater Management District No. 1 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.
5. That this water right continues to be further limited to a more restrictive five (5) year allocation of water, pursuant to the Order of Designation for the Wichita County Local Enhanced Management Area (LEMA), which is currently 396.58 acre-feet, in effect from January 1, 2021, to December 31, 2025, and to any subsequent LEMA allocation issued thereafter.
6. That 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.
7. That 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. 11,742, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated April 15, 1977, as modified, and amended by the aforementioned orders.

Ordered this 9 day of May, 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 9 day of May, 2023, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.

Katie N. Anderson

Notary Public

