

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**



State of Kansas

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

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
 Point of Diversion
 Use Made of Water

(Check one or more)

WATER RESOURCES
RECEIVED
JAN 06 2017
1:09
KS DEPT OF AGRICULTURE

File No. 3417

2. Name of applicant: Lance Higbie

Address: 2307 130th Ave

City, State and Zip: Lewis KS 67552

Phone Number: (620)234-5311 E-mail address: ---

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

Name of water use correspondent: L & M HOLDINGS LLC

Address: 2360 P RD

City, State and Zip: LEWIS KS 67552

Phone Number: () E-mail address: ---

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

Change in place of use for rotation of the irrigated land. K.A.R. 5-5-11(b)(4)

The change(s) (will be) completed by ASAP

(Date)

For Office Use Only:															
F.O. Code	<u>2</u>	GMD	<u>5</u>	Meets K.A.R. 5-5-1	<u>(YES / NO)</u>	Use	<u>IRR</u>	Source	<u>Ⓞ / S</u>	County	<u>ED</u>	By	<u>ASW</u>	Date	<u>1/6/17</u>
Code	<u>CPU</u>	Fee \$	<u>200</u>	TR #		Receipt Date	<u>1/6/17</u>	Check #	<u>004403</u>						

Kansas

Department of Agriculture
Division of Water Resources

Stafford Field Office
300 S. Main Street
Stafford, Kansas 67578-1521

Jackie McClaskey, Secretary
David W. Barfield, Chief Engineer
Jeff Lanterman, Water Commissioner

Phone: (620) 234-5311
Fax: (620) 234-6900
www.agriculture.ks.gov
Sam Brownback, Governor

December 7, 2016

Lance Higbie
2307 130th Ave
Lewis KS 67552

RE: Water Right, File No(s). 3,417

Dear Mr. Higbie,

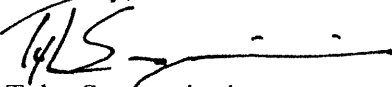
You will find enclosed with this letter an application for approval to change the place of use under Water Right, File No(s). 3,417. The acres involved are located in Section 16-26S-19W. This application was completed based on a recent office visit with Elizabeth Fitch, where the plan is to increase the authorized acreage in order to rotate crops on both the NE and SE quarters of Section 16.

Please review the application and associated maps carefully and make any corrections as needed. Once you are satisfied everything is correct, an authorized representative of all owners of record must sign the application and have their signatures notarized. In addition, all domestic wells within one-half mile of the authorized well locations need to be noted on the map. If there are any wells not shown, please add them and then sign the map.

Also, I have included a "GMD #5 Monitoring Agreement". Per K.A.R. 5-5-11(b)(4), this agreement is required for the groundwater management district to assume monitoring responsibility to ensure compliance with the conditions of the change approval. Please note the "Reversion Acres" attachment. Please review the agreement, have an authorized representative of the owners of record sign the agreement, and have their signatures notarized.

The fee for filing the enclosed application is \$200. Please return the signed application to the Manhattan Office and include a check made payable to the Kansas Department of Agriculture for the total amount. If I can be of any further assistance, or if you have any questions regarding the enclosed application, contact our office at (620)234-5311.

Sincerely,



Tyler Saryerwinnie
Environmental Scientist
tyler.saryerwinnie@ks.gov

Enclosures Change Application
 GMD Monitoring Agreement

**WATER RESOURCES
RECEIVED**

JAN 06 2017

KS DEPT OF AGRICULTURE

4. The presently authorized place of use is:

Owner of Land — NAME: L & M HOLDINGS LLC

ADDRESS: 2360 P RD, LEWIS KS 67552-5233

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	
16	26S	19W	40	40	40	40													160

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: L & M HOLDINGS LLC

ADDRESS: 2360 P RD, LEWIS KS 67552-5233

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	
16	26S	19W	33	34	33	32													264

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 MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY

RESOURCES RECEIVED
 JAN 06 2017
 KS DEPT OF AGRICULTURE

- 6. The presently authorized point(s) of diversion is One (1) well
(Provide description and number of points)
- 7. The proposed point(s) of diversion (is) (are) No Change
(Provide description and number of points)

List all presently authorized point(s) of diversion:

8. **Presently authorized point of diversion:**
 One in the NE Quarter of the SW Quarter of the NE Quarter of Section 16, Township 26 South, Range 19 W, in Edwards County, Kansas, 3595 feet North 1340 feet West of Southeast corner of section.
 Authorized Rate 890 GPM Authorized Quantity 320 AF
 (DWR use only: Computer ID No. 5 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 _____

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. N/A

IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY

12. The presently authorized use of water is for Irrigation 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.
The file will not irrigate more than the base acres in any given year. In addition, the file will be monitored by GMD #5.

(Please show any calculations here.)

14. It is requested that the maximum annual quantity of water be reduced to N/A (acre-feet or million gallons).

15. It is requested that the maximum rate of diversion of water be reduced to N/A 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.

N/A - No Change in Point of Diversion

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.

No waivers are anticipated.

**WATER RESOURCES
RECEIVED**

JAN 06 2017

IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY

KS DEPT OF AGRICULTURE

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 Lewis, Edwards County, Kansas, this 30th day of December, 2016.

L & M Holdings By Leland Higbie
(Owner)

Leland HIGBIE
(Please Print)

(Owner)

(Please Print)

(Owner)

(Please Print)

(Spouse)

(Please Print)

(Spouse)

(Please Print)

(Spouse)

(Please Print)

State of Kansas }
County of Edwards } SS

I hereby certify that the foregoing application was signed in my presence and sworn to before me this 30th day of December, 2016.

NOTARY PUBLIC - State of Kansas
RHONDA R SNYDER
My Appt Expires 12/18/2020

Rhonda R. Snyder
Notary Public

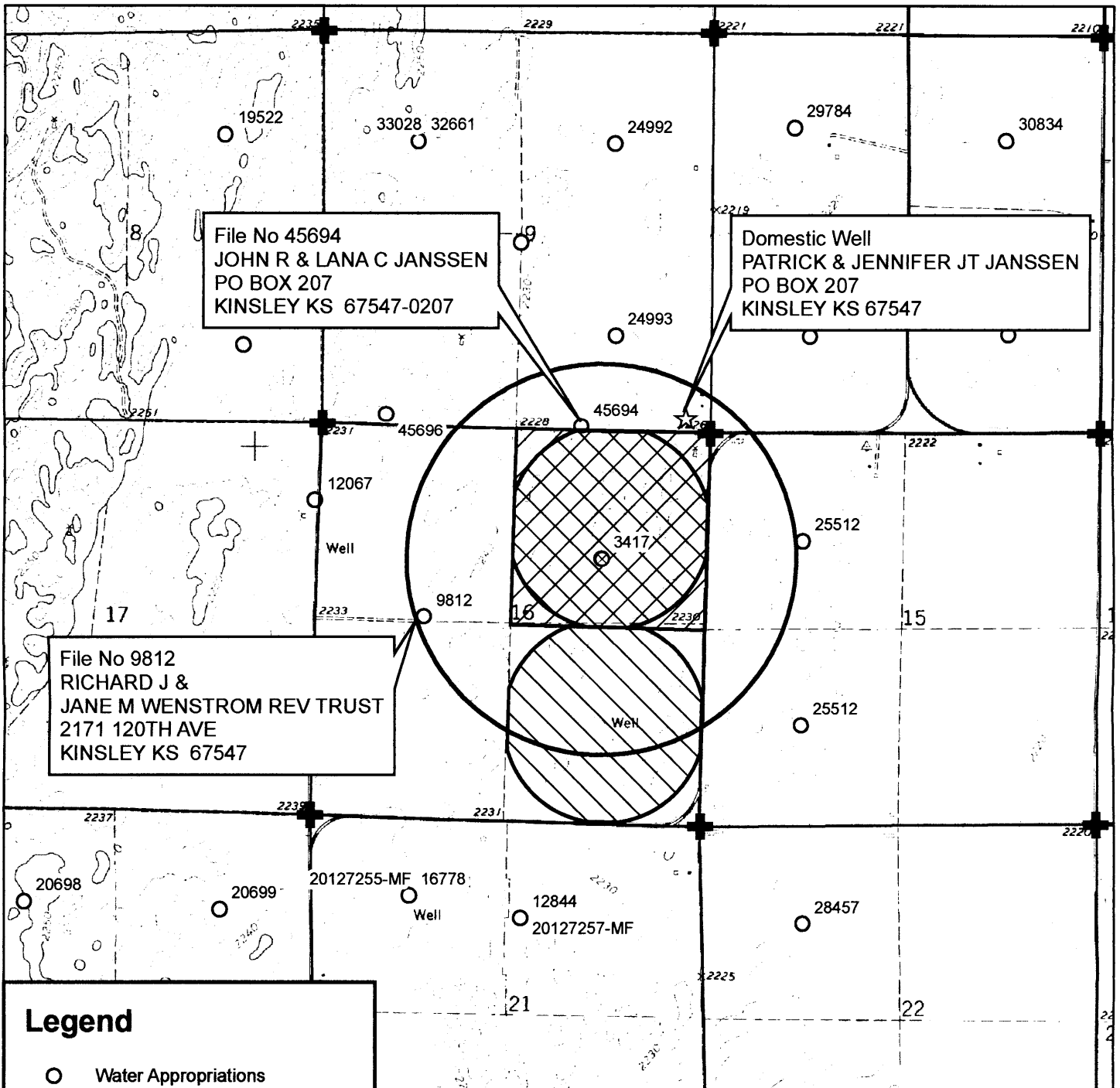
My Commission Expires _____

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.**



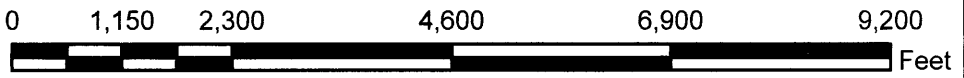
File No 45694
 JOHN R & LANA C JANSSEN
 PO BOX 207
 KINSLEY KS 67547-0207

Domestic Well
 PATRICK & JENNIFER JT JANSSEN
 PO BOX 207
 KINSLEY KS 67547

File No 9812
 RICHARD J &
 JANE M WENSTROM REV TRUST
 2171 120TH AVE
 KINSLEY KS 67547

Legend

- Water Appropriations
- ⊗ Authorized Point of Diversion
3595' N, 1340' W
- ⊕ Section Corner
- ▭ Section Line
- ☆ Domestic Well
- ▭ 1/2 Mile Buffer
- Place of Use**
- ▨ Authorized
- ▩ Proposed



Water Right, File No. 3417 WATER RESOURCES RECEIVED

Change in Place of Use Application Map JAN 06 2017 s
 16-26S-19W // Edwards County

To the best of my knowledge, all water wells including domestic, within 1/2 mile of the authorized point of diversion have been shown.

Signature

12/06/16 TJS-SFFO 1:24,000 scale

STATEMENT OF REVIEW
under K.A.R. 5-5-11(b)(3), (4) and (5)
for a Point of Diversion located within GMD No. 5

The items listed below were reviewed by the undersigned person(s) at _____, Kansas, on this _____ day of _____, 20_____. This review was related to the proposed *Change in Place of Use Under Water Right* for File No. 3,417.

- (1) Water flow meters will be required on all wells authorized by the above-referenced file number. These flow meter(s) shall be properly installed and maintained on each well to the satisfaction of the Chief Engineer. The metered quantity of water diverted during the past year by each well shall be reported on the annual water use report required by law to be provided to the Division of Water Resources (Division).
- (2) Big Bend Groundwater Management District No. 5 (GMD No. 5) will make at least one visit per calendar year to this farm. The purpose of this visit is to monitor the compliance with conditions under which this change will be approved, if granted. Reports of verification of compliance and status reports will be completed by GMD No. 5 and furnished to the Division.
- ~~(3) The amount of water required to irrigate the acreage proposed under this change application has been reviewed. The five year allocation, if required, has been reviewed and is understood to be _____ acre feet. The five-year allocation is the quantity of water that will be authorized for diversion under this water right for each five-year period.~~
- ~~(4) The approval of this application will be conditioned so that any use of water in excess of the five-year allocation will result in a two-year suspension of all water use under that water right and a subsequent restriction of the authorized place of use to a place of use equivalent to the base acres at a location specifically set forth on the change application approval.~~
- (5) For an application that proposes an increase in authorized acres solely for the purpose of rotation of the irrigated land within the authorized place of use, the base acres are 160 acres. The acres irrigated in any one calendar year shall not exceed 160 base acres each calendar year. The land to be irrigated will be certified to GMD No. 5 in writing before applying any water in that calendar year.
- (6) The approval of this application will be conditioned so that the use of water on more than the base acres certified to GMD No. 5 in any calendar year will result in a two-year suspension of all water use under this water right and a subsequent restriction of the authorized place of use equivalent to the base acres at a location specifically set forth on the change application approval.

- (7) Changes in the Memorandum of Understanding between GMD No. 5 and the Division may affect the above-referenced files. If the Memorandum of Understanding related to K.A.R. 5-5-11 between the GMD No. 5 and the Division is rescinded because of the fault of GMD No. 5, the authorized place of use will revert to the equivalent of the base acres at a location specifically set forth in the change approval.

By signing below, I am indicating that I have reviewed and understand the items set forth above and agree that I am willing to abide by those conditions if my application for change in place of use is approved.

[Handwritten Signature]
Signature

Signature

Signature

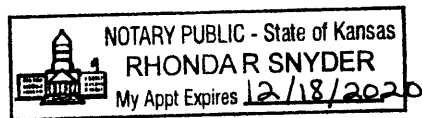
Signature

State of Kansas)
County of Edwards)

I hereby certify that the foregoing document was signed in my presence and sworn before me this 30th day of December, 2016.

[Handwritten Signature]
Notary Public

My commission expires 12/18/2020



[Handwritten Signature]
Signature, Division of Water Resources' Staff
Person Assisting in the Review

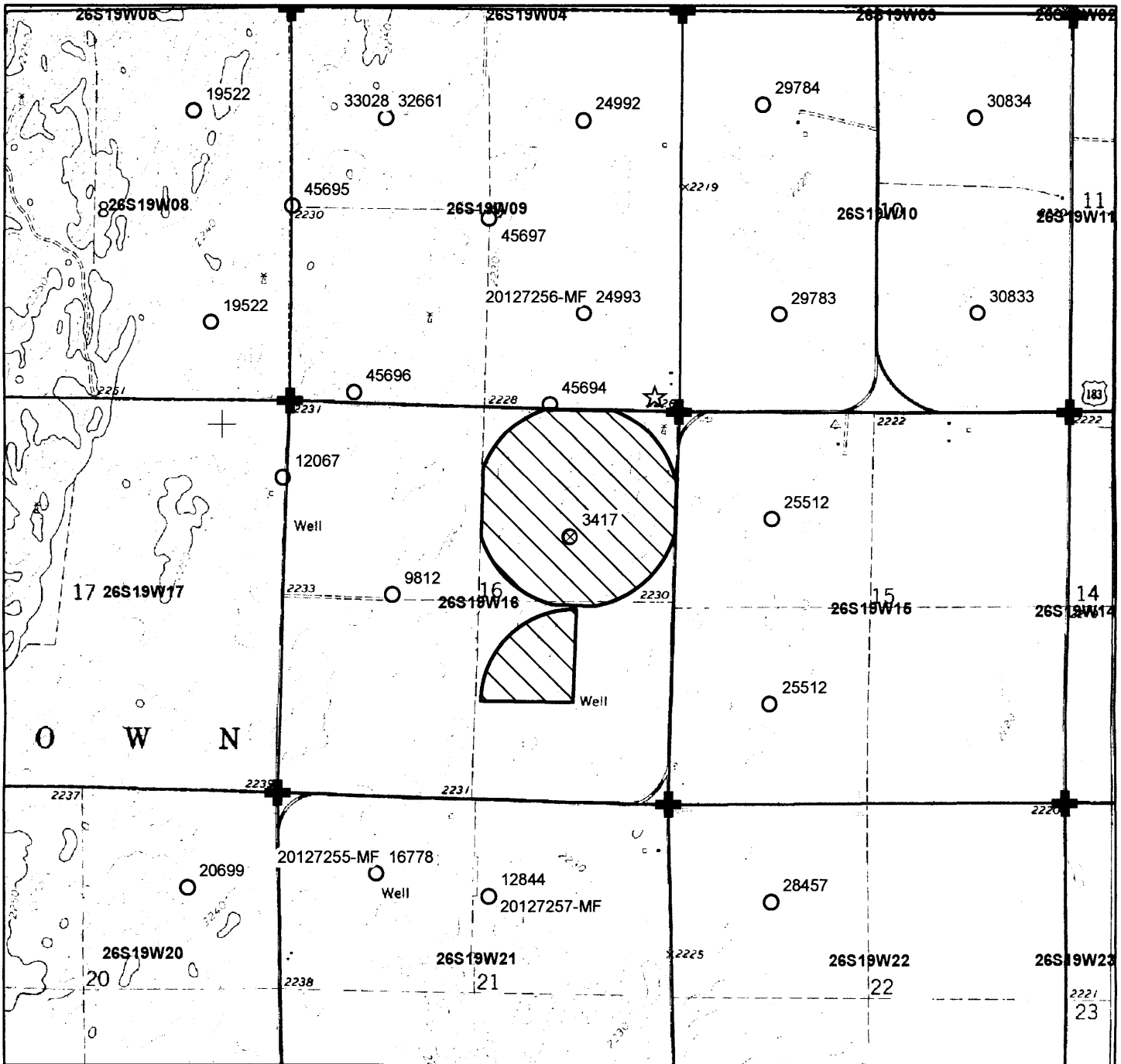
**WATER RESOURCES
RECEIVED**

JAN 06 2017

APPLICATION FOR APPROVAL TO CHANGE
 THE PLACE OF USE AND/OR POINT OF DIVERSION
 SUPPLEMENTAL SHEET
FILE NO. 3417 REVERSION ACRES
 MAKE ADDITIONAL COPIES AS NECESSARY

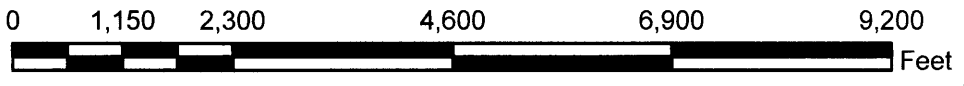
Owner of Land — NAME: L & M HOLDINGS LLC
 ADDRESS: 2360 P RD, LEWIS KS 67552-5233

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			
16	26S	19W	33	34	33	32											28				160



Legend

- Water Appropriations
- ⊗ Authorized Point of Diversion 3595' N, 1340' W
- ⊕ Section Corner
- ▭ Section Line
- ☆ Domestic Well
- ▨ Reversion Acres



Water Right, File No. 3417

Change in Place of Use Application Map
 Reversion Acres
 16-26S-19W // Edwards County



JAN 06 2017

KS DEPT OF AGRICULTURE

1320 Research Park Drive
Manhattan, Kansas 66502
(785) 564-6700



900 SW Jackson, Room 456
Topeka, Kansas 66612
(785) 296-3556

Jackie McClaskey, Secretary

Governor Sam Brownback

LANCE HIGBIE
2307 130TH AVE
LEWIS, KS

FILE COPY

January 6, 2017

RE: File No. 3417

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 PU
- 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. Turney".

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

BAT: dlw
pc: STAFFORD Field Office GMD 5