

Kansas Department of Agriculture
 Division of Water Resources
CHANGE: P/U WORKSHEET

Document Signature _____

1. File Number: 3,417	2. Status Change Date: 3/20/2017	3. Change Num: C1	4. Field Office: 02	5. GMD: 05
---------------------------------	--	-----------------------------	-------------------------------	----------------------

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: 06-JAN-2017
---	---

8a. Applicant(s) New to system <input type="checkbox"/> L & M HOLDINGS LLC 2360 P RD LEWIS KS 67552-5233	Person ID 62055 Add Seq# 1	8c. Landowner(s) New to system <input type="checkbox"/> _____ _____	Person ID _____ Add Seq# _____
8d. Landowner(s) New to system <input type="checkbox"/> _____ _____		Person ID _____ Add Seq# _____	

8b. Landowner(s) New to system <input type="checkbox"/> L & M HOLDINGS LLC 2360 P RD LEWIS KS 67552-5233	Person ID 62055 Add Seq# 1	8e. WUC New to system <input type="checkbox"/> L & M HOLDINGS LLC 2360 P RD LEWIS KS 67552-5233 NO CHANGE	Person ID 62055 Add Seq# 1
---	---	--	---

9. Documents and Enclosure(s): DWR Meter(s) Date to Comply: **12/31/17** 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: **03/14/17** By: **RAK**
 Date Entered: **3/23/2017** By: **UM**

File No. **3,417** 11. County: **ED** Basin: **RATTLNESNAKE CREEK** Stream: Formation Code: **180** Special Use:

12. Points of Diversion										Rate and Quantity						
MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Comment	Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files
✓				NE¼ SW¼ NE¼	16	26S	19W	5	3595	1340	295'N OF ORIG WELL	890	320	890	320	NO

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) _____
ADD Limitation: 160 AC MAX GMD ROTATION MONITORING af/yr at _____ gpm (_____ cfs)

15. 5YR Allocation: Allocation Type _____ Start Year _____ 5 YR Amount _____ Amount Unit _____ Base Acres _____ Comment _____

16. Place of Use								NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg?	Overlap Files
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				
✓				16	26	19W	1	33	34	33	32					34	34.5	32	31.5	264	8B	NO	NO				

Comments : **MAIN ACTION TRAIL ENTRY "B4 LAND ROTATION" SPECIAL CONDITIONS YES "LAND ROTATION"**

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources
MEMORANDUM

TO: Files

DATE: March 14, 2017

FROM: Richelle A. Krueger

RE: Water Right
File No. 3,417

Lance Higbie and Leland Higbie, on behalf of L and M Holdings, L.L.C., have filed an application for approval to change the authorized place of use under the referenced file, authorized groundwater for irrigation use in the Rattlesnake Creek Basin.

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

The referenced file number is authorized 320 acre-feet and 890 gallons per minute, all additional. There are no overlaps in the authorized point of diversion or 160-acre place of use all located in the Northeast Quarter (NE $\frac{1}{4}$) of Section 16, Township 26 South, Range 19 West, Edwards County, Kansas. The water right owner now proposes to authorize a total of 264 acres in the East Half (E $\frac{1}{2}$) of Section 16, pursuant to K.A.R. 5-5-11(b)(4) *Rotation of the irrigated land within the authorized place of use*. Base acres were determined to be 160 acres.

- Big Bend Kansas Groundwater Management District No. 5 will assume monitoring responsibility.
- There has been no recent pattern of water use significantly in excess of the maximum annual quantity of water authorized.
- Limitations: The maximum area authorized to be irrigated per calendar year shall be 160 acres. Use of water on more than the maximum number of acres authorized to be irrigated in any one calendar year 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 a total not to exceed the base acreage at the location specifically set forth in the change approval.

The net irrigation requirement for the 50% chance of rainfall in Edwards County (1.08') with 85% efficiency is 1.27 acre-feet/acre so the water right owners have sufficient water to irrigate.

Water well owners within one-half mile of the authorized point of diversion were notified in letters dated February 24, 2017 of the proposed change in place of use to comply with Senate Bill No. 337 enacted by the Legislature of the State of Kansas, effective July 1, 2016.

The same local source of supply will not change, previously determined to be Undifferentiated Kansan/Nebraskan deposits (180).

In a letter dated March 9, 2017, Orrin Feril, Manager of Big Bend Kansas Groundwater Management District No. 5, recommended that the application be approved.

In an e-mail dated March 10, 2017, Jeff Lanterman, Water Commissioner of the Stafford Field Office, recommended approval of the referenced change application and the requirement of an anti-reverse totalizing water flowmeter and the requirement of a seal on the water flowmeter to the pipe. A check valve is required if any chemical or foreign substance is injected into the water through the diversion works.

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.


Richelle A. Krueger
Environmental Scientist

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

March 24, 2017

L & M HOLDINGS LLC
ATTN LELAND HIGBIE
2360 P RD
LEWIS KS 67552-5233

FILE COPY

RE: Water Right, File No. 3,417

Dear Mr. Higbie:

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. Prior to the diversion of water for irrigation purposes, you must install an anti-reverse totalizing water flowmeter which meets or exceeds specifications adopted by the Chief Engineer. In addition, a seal shall be placed on the water flowmeter by the Division of Water Resources in such a manner as to render the meter non-removable from the measuring chamber without breaking the seal. Please return the required notification of completion of the diversion works and/or installation of the required meter as soon as these actions are completed.

Please be advised that K.S.A. 82a-728 of the Kansas Water Appropriation Act states in pertinent part:

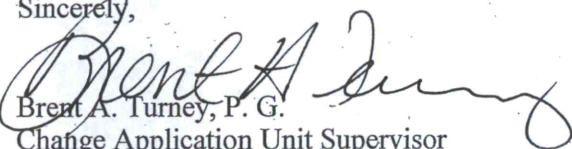
... it shall be unlawful ... for any person to violate any condition of a vested right, appropriation right or an approved application for a permit to appropriate water for beneficial use.

Approval of the application does not allow the diversion of water in excess of the authorized quantity per calendar year or rate of diversion under the above referenced file number. Your attention should be drawn to the fact that this approval has been issued solely for the purpose of allowing rotation of the irrigated land within the authorized place of use, with no more than the base acreage, 160 acres in this case, under irrigation in any one calendar year. The maximum area authorized to be irrigated per calendar year shall be 160 acres. Non-compliance with the terms of this approval will result in substantial penalties.

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

If you have any questions, please contact this office. If you call, please reference the file numbers so we can help you more efficiently.

Sincerely,


Brent A. Turney, P. G.
Change Application Unit Supervisor
BAT:rak

pc: Stafford Field Office
Groundwater Management District No. 5
Lance Higbie



KANSAS DEPARTMENT OF AGRICULTURE
Jackie McClaskey, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

**APPROVAL OF APPLICATION
FOR
CHANGE IN PLACE OF USE
WATER RIGHT
FILE NO. 3,417**

FILE COPY

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Lance Higbie, 2307 130th Avenue, Lewis, Kansas, 67552, and Leland Higbie, on behalf of L and M Holdings, L.L.C., 2360 P Road, Lewis, Kansas, 67552-5233, received in this office on January 6, 2017, 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 Findings and Order of the Chief Engineer dated August 3, 1979, better describing the location of the authorized point of diversion, the Findings and Order of the Chief Engineer dated July 22, 1987, reducing the authorized quantity and place of use, and by the Order of the Chief Engineer dated June 21, 1992, approving the application 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				
16	26S	19W	33.00	34.00	33.00	32.00												34.00	34.50	32.00	31.50	264.00

a total of 264.00 acres in Township 26 South, Range 19 West, Edwards County, Kansas, located substantially as shown on the map accompanying the application to change the place of use.

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

1. That the maximum area authorized to be irrigated per calendar year shall be 160 acres.
2. That the use of water on more than 160 acres in any one calendar year shall result in a two-year suspension of all water use under this water right, effective the next two (2) calendar years, and a subsequent reduction 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					
16	26S	19W	33.00	34.00	33.00	32.00																28.00	160.00

a total of 160.00 acres in Township 26 South, Range 19 West, Edwards County, Kansas, located substantially as shown on the map accompanying the application to change the place of use.

3. That if the Big Bend Groundwater Management District No. 5 and/or the Division of Water Resources terminate their 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 number 2, 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.

The owner of the Water Right(s) identified in this order shall install an anti-reverse totalizing water flowmeter which meets or exceeds specifications adopted by the Chief Engineer.

A seal shall be placed on the water flowmeter by the Division of Water Resources in such a manner as to render the meter non-removable from the measuring chamber without breaking the seal. If the seal is broken without the written permission of the chief engineer, this shall create a rebuttable presumption that the point of diversion had been unlawfully operated in violation of the order of the chief engineer and that the water right holder had been acting in violation of the conditions of his or her water right. If any such violation occurs, a written order shall be issued by the chief engineer stating the nature of the violation and the civil penalty, suspension of water right or modification to the water right, or any combination of these to be imposed.

In all other respects, the Certificate of Appropriation issued pursuant to Approval of Application, File No. 3,417, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated December 27, 1960, as modified and amended by the aforementioned orders.

This Order shall become a final agency action, as defined by K.S.A. 77-607(b), without further notice to the parties, if a request for hearing or a petition for administrative review is not filed as set forth below.

Request for Hearing. According to K.A.R. 5-14-3(c), any party who desires a hearing must submit a request within 15 days after the date shown on the Certificate of Service attached to this Order. Filing a request for a hearing will give you the opportunity to submit additional facts for consideration, contest any findings made by the Chief Engineer or present any other information you believe should be considered in this matter. A timely-filed request for hearing will stay the deadline for requesting administrative review of this Order pending the outcome of the hearing.

Petition for Review. Any person aggrieved by this Summary Order may petition for administrative review, pursuant to K.S.A. 82a-708b(a) and K.S.A. 82a-1901(a). The petition must be filed within 30 days after the date shown on the Certificate of Service attached to this Order and must set forth the basis for the review, unless stayed by the timely filing of a request for hearing.

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.

Ordered this 20th day of March, 2017, in Topeka, Shawnee County, Kansas.

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

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 20th day of March, 2017, by Lane P. Letourneau, P.G., Program Manager, Water Appropriation Program, Division of Water Resources, Kansas Department of Agriculture.

Danielle Wilson
Notary Public



CERTIFICATE OF SERVICE

On this 20th day of March, 2017, I hereby certify that the attached Approval of Application for the Change in Place of Use, File No. 3,417, dated March 20, 2017 was mailed postage prepaid, first class, US mail to the following:

L & M HOLDINGS LLC
ATTN LELAND HIGBIE
2360 P RD
LEWIS KS 67552-5233

With photocopies to:

LANCE HIGBIE
2307 130TH AVE
LEWIS KS 67552

Stafford Field Office
Groundwater Management District No. 5

Danielle Wilson
Division of Water Resources

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
- (Check one or more) Point of Diversion
- Use Made of Water

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 -5237

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. 2 GMD 5 Meets K.A.R. 5-5-1 (YES/NO) Use IRRL Source G/S County SD By ASW Date 1/6/17
Code CPU Fee \$ 200 TR # _____ Receipt Date 1/6/17 Check # 004403

* Per WMS
*RAIC

APPLICATION COMPLETE
3 9 17
RAIC

1/10/2017 LM


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

- (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

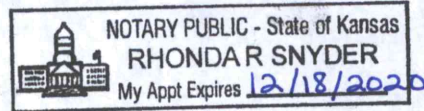
Signature

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

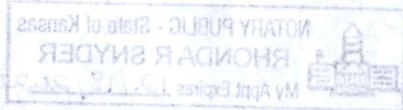
KS DEPT OF AGRICULTURE

SCANNED

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



RECEIVED
WATER RESOURCES

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											34	34.5	32	31.5	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

SCANNED

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 _____ (EW),
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 _____ (EW),
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 _____ (EW),
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 _____ (EW),
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 _____ (EW),
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.

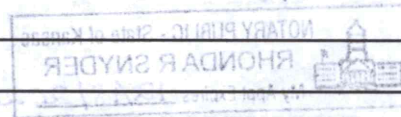
a. If a change in the location of the point(s) of diversion is proposed, show:

- 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

SCANNED

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)

(Spouse)

Leland Higbie
(Please Print)

(Please Print)

(Owner)

(Spouse)

(Please Print)

(Please Print)

(Owner)

(Spouse)

(Please Print)

(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.**

Krueger, Richelle

From: Lanterman, Jeff
Sent: Friday, March 10, 2017 8:52 AM
To: Krueger, Richelle
Cc: Conant, Cameron
Subject: RE: Application for Change, Water Right, File No. 3417

Richelle;

Jumping the gun here but I reviewed this change application prior to the GMD meeting and I agree with them. As long as GMD is monitoring it go ahead and approve it.

I would like to add anti reverse gears and a seal condition as we are on all GMD monitoring changes. I think there is wording so that either GMD or DWR can do the sealing and have it be enforceable.

Thanks
Jeff

From: Orrin Feril [mailto:oferil@gmd5.org]
Sent: Thursday, March 9, 2017 2:59 PM
To: Krueger, Richelle <Richelle.Krueger@ks.gov>; Lanterman, Jeff <Jeff.Lanterman@ks.gov>
Subject: Application for Change, Water Right, File No. 3417

Richelle,
I'm attaching the recommendation requested by your office in a letter dated February 24, 2017. Please let me know if you have any questions.

Thank you for your consideration in this matter,

Orrin

--

Orrin Feril
Manager
Big Bend GMD#5
Email: oferil@gmd5.org
Phone: (620) 234-5352
Mobile: (620) 388-0172
Fax: (620) 234-5718
www.gmd5.org

Krueger, Richelle

From: Orrin Feril <oferil@gmd5.org>
Sent: Thursday, March 9, 2017 2:59 PM
To: Krueger, Richelle; Lanterman, Jeff
Subject: Application for Change, Water Right, File No. 3417
Attachments: 3417 2017-03-09 POU.pdf; 3417 2017-03-09 Rec.pdf

Richelle,

I'm attaching the recommendation requested by your office in a letter dated February 24, 2017. Please let me know if you have any questions.

Thank you for your consideration in this matter,

Orrin

--
Orrin Feril
Manager
Big Bend GMD#5
Email: oferil@gmd5.org
Phone: (620) 234-5352
Mobile: (620) 388-0172
Fax: (620) 234-5718
www.gmd5.org

WATER RESOURCES
RECEIVED

MAR 09 2017

KS DEPT OF AGRICULTURE

Darrell Wood - Edwards (Pres.)
Fred Grunder - Pratt (V Pres.)
John Janssen - Kiowa (Treas.)
Curtis Tobias - Rice (Sec.)
Justin Gatz - Reno
Kent Lamb - Stafford
Phil Martin - Barton
Bob Standish - Pawnee
Tom Taylor - At-Large



Orrin Feril, Manager
125 South Main Street
Stafford, Kansas 67578
ph: (620) 234-5352
fx: (620) 234-5718
gmd5@gmd5.org
www.gmd5.org

March 9, 2017

Richelle Krueger
Division of Water Resources
Kansas Department of Agriculture
1320 Research Park Drive
Manhattan, Kansas 66502

WATER RESOURCES
RECEIVED

MAR 09 2017

KS DEPT OF AGRICULTURE

RE: Water Right File No. 3,417
Change in the Place of Use

Dear Ms. Krueger,

The Big Bend Groundwater Management District #5 has reviewed the above referenced application to change the place of use under Water Right File No. 3,417. Currently the authorized place of use for this file is 160 acres in the NE quarter of 16-26S-19W in Edwards County. Through the application of K.A.R. 5-5-11, the applicant is requesting to increase the place of use reduces the acreage in the NE to 132 acres and adds the circle in the SE quarter to the authorized place of use for this water right file. The monitoring agreement would limit the acres irrigated in any one calendar year to 160 acres.

The application was presented to the Board of Directors at the March regular board meeting for review. Based upon information received in the District office and provided by the applicant, the Board voted to recommend approval of this application provided the applicant enter into a monitoring agreement with the District. The District received this agreement in our office following the meeting. Therefore, the application for change in place of use is recommended for approval. A copy of the monitoring agreement is included with this recommendation for your records.

The application to change is subject to the District's well equipment regulation K.A.R. 5-25-5 for a required flow meter.

Please feel free to give me a call if you have any questions.

Sincerely,

Orrin Feril
Manager

Enclosure

SCANNED

BIG BEND GROUNDWATER MANAGEMENT DISTRICT NO. FIVE
125 S. MAIN ST.
STAFFORD KANSAS 67578

When an application for a change in place of use for irrigation purposes is approved by the Chief Engineer, Division of Water Resources, for Water Right File No.(s) 3,417 the Big Bend Groundwater Management District No. 5 (GMD) will monitor compliance with the conditions of that approval. Monitoring by the GMD will take place only when the following service agreement is signed and returned to the GMD office.

SERVICE AGREEMENT

RECEIVED

MAR 09 2017

Big Bend GMD #5

1. **Customer:** Lance Higbie
2307 130th Ave
Lewis, KS 67552

2. **Term:** This agreement shall be for a five year term, beginning January 1, 2017, and ending December 31, 2021, subject to the annual fee.

3. **Fee schedule:** Customer will be billed for services performed at a rate of \$250.00 per year plus round trip mileage to site. Mileage rate will be based on State of Kansas adopted rate.

Payment shall be received in the GMD office upon receipt of the annual billing for services performed for that current year.

4. **On Site Monitoring:** Monitoring service will be performed by GMD staff and may include but shall not be limited to:

a. Inspection of flow meter to ensure proper installation and satisfactory operating conditions.

b. Compliance with conditions of required conservation plan.

c. Irrigation of authorized acres.

d. Compliance with water use limitations.

e. Determination of crops grown on authorized place of use.

WATER RESOURCES
RECEIVED

MAR 09 2017

KS DEPT OF AGRICULTURE

5. **Landowner's responsibility:** Landowner agrees to prepay annually for services. A change approved pursuant to K.A.R. 5-5-11 (b)(4) will require certification of acreage with payment. A copy of the Water Use Report shall be sent to the GMD by March 1st each year throughout the duration of the agreement.

6. **Limitations of liability:** The GMD assumes responsibility for the safety of its personnel, property and equipment. The GMD shall not be responsible for any damages caused by the public or its employees except as provided in the Kansas Tort Claims Act, K.S.A. 1980 Supp. 75-6101 et seq.

7. **Termination:** This agreement may be terminated by the GMD if payment for services is not rendered.

Landowner , Dated 3/9/17

GMD #5 , Dated 3/9/17

SCANNED

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

February 24, 2017

JOHN R AND LANA C JANSSEN
PO BOX 207
KINSLEY KS 67547-0207

FILE COPY

RE: Water Right, File No. 3,417

Dear Sir or Madam:

This is to advise you that Lance Higbie and Leland Higbie, on behalf of L and M Holdings, L.L.C., have filed an application for approval of the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, to change the authorized place of use under the above referenced file number.

Effective July 1, 2016, Senate Bill No. 337 enacted by the Legislature of the State of Kansas requires the Division of Water Resources to notify all water right owners with a point of diversion within half a mile of a water right pending a request to change the water right. In order to comply with the statute, you are being notified of the above referenced application for change.

If you have any questions, please contact me at (785) 564-6635. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

Richelle A. Krueger
Environmental Scientist
Water Appropriation Program

RAK

pc: Stafford Field Office
Groundwater Management District No. 5
Lance Higbie
L and M Holdings, L.L.C.

SCANNED



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

February 24, 2017

PATRICK AND JENNIFER JT JANSSEN
PO BOX 207
KINSLEY KS 67547

FILE COPY

RE: Water Right, File No. 3,417

Dear Sir or Madam:

This is to advise you that Lance Higbie and Leland Higbie, on behalf of L and M Holdings, L.L.C., have filed an application for approval of the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, to change the authorized place of use under the above referenced file number.

Effective July 1, 2016, Senate Bill No. 337 enacted by the Legislature of the State of Kansas requires the Division of Water Resources to notify all water right owners with a point of diversion within half a mile of a water right pending a request to change the water right. In order to comply with the statute, you are being notified of the above referenced application for change.

If you have any questions, please contact me at (785) 564-6635. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

Richelle A. Krueger
Environmental Scientist
Water Appropriation Program

RAK

pc: Stafford Field Office
Groundwater Management District No. 5
Lance Higbie
L and M Holdings, L.L.C.

SCANNED

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

February 24, 2017

RICHARD J AND JANE M WENSTROM REV TRUST
2171 120TH AVE
KINSLEY KS 67547

FILE COPY

RE: Water Right, File No. 3,417

Dear Sir or Madam:

This is to advise you that Lance Higbie and Leland Higbie, on behalf of L and M Holdings, L.L.C., have filed an application for approval of the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, to change the authorized place of use under the above referenced file number.

Effective July 1, 2016, Senate Bill No. 337 enacted by the Legislature of the State of Kansas requires the Division of Water Resources to notify all water right owners with a point of diversion within half a mile of a water right pending a request to change the water right. In order to comply with the statute, you are being notified of the above referenced application for change.

If you have any questions, please contact me at (785) 564-6635. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

Richelle A. Krueger
Environmental Scientist
Water Appropriation Program

RAK

pc: Stafford Field Office
Groundwater Management District No. 5
Lance Higbie
L and M Holdings, L.L.C.

SCANNED

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

February 24, 2017

BIG BEND GROUNDWATER
MANAGEMENT DISTRICT NO 5
ATTN ORRIN FERIL
125 S MAIN
STAFFORD KANSAS 67578

FILE COPY

Re: Water Right, File No. 3,417

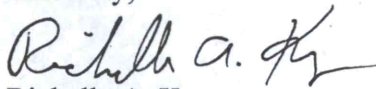
Dear Orrin:

We are enclosing a copy of the application to change the place of use for File No. 3,417.

We are delaying further action for a period of 15 days from the date of this letter to allow you time to submit your recommendations concerning this application.

Please submit your recommendations within the allowed time, or any authorized extension of time thereof. If you have any questions, please contact me at (785) 564-6635. If you call, please reference the file number so we can help you more efficiently.

Sincerely,


Richelle A. Krueger
Environmental Scientist
Water Appropriation Program

Enclosures

pc: Stafford Field Office

SCANNED

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

January 6, 2017

FILE COPY

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...

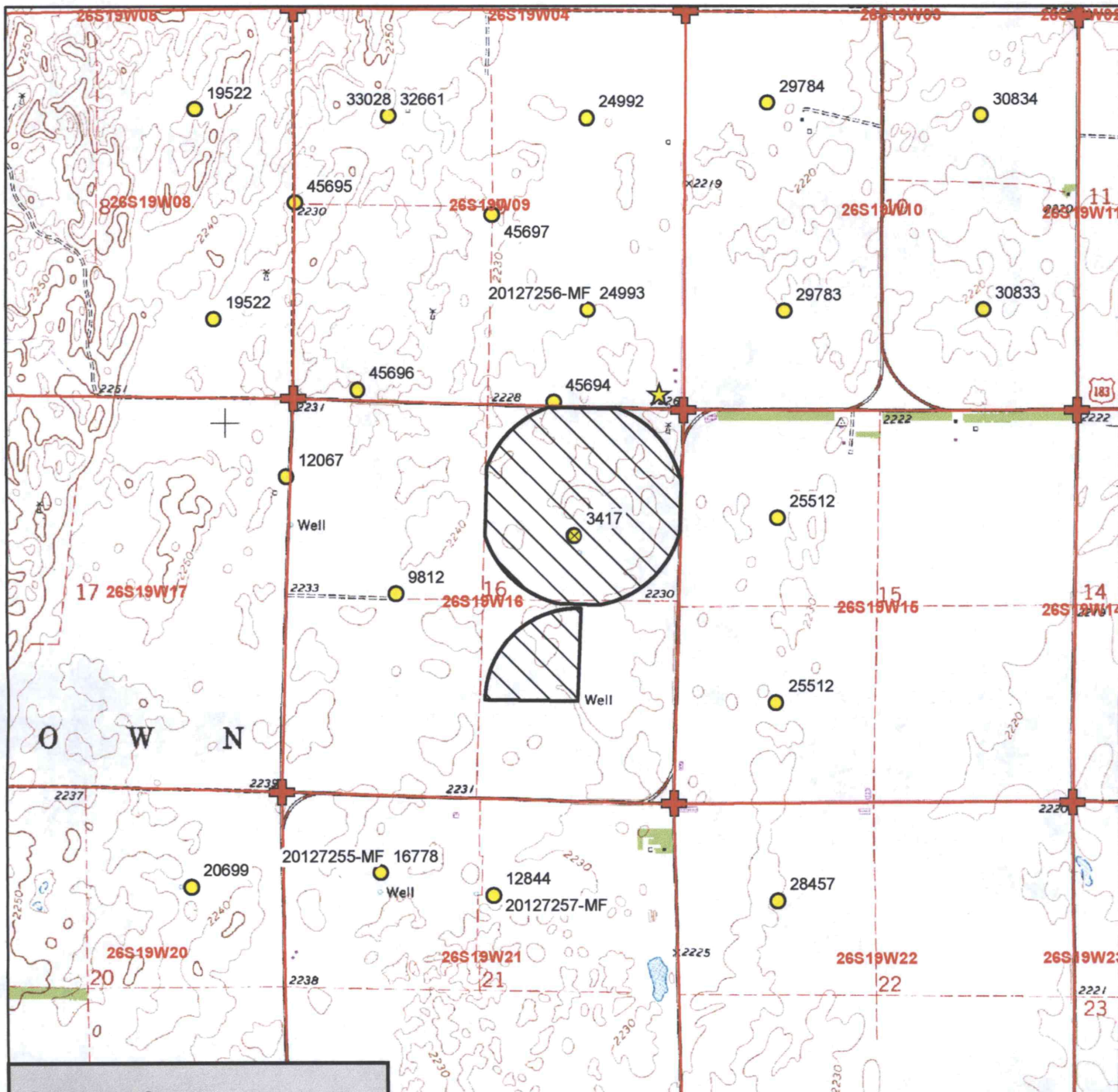
A class C misdemeanor is punishable by a fine not to exceed \$500 and/or a term of confinement not to exceed one month in the county jail. Each day that the violation occurs constitutes a separate offense.

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,

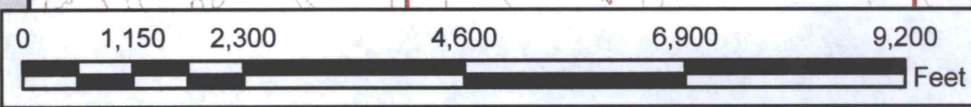
Brent A Turney, L.G.
Change Applications Unit Supervisor
Water Appropriation Program

BAT: dlw
pc: STAFFORD Field Office GMD 5



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

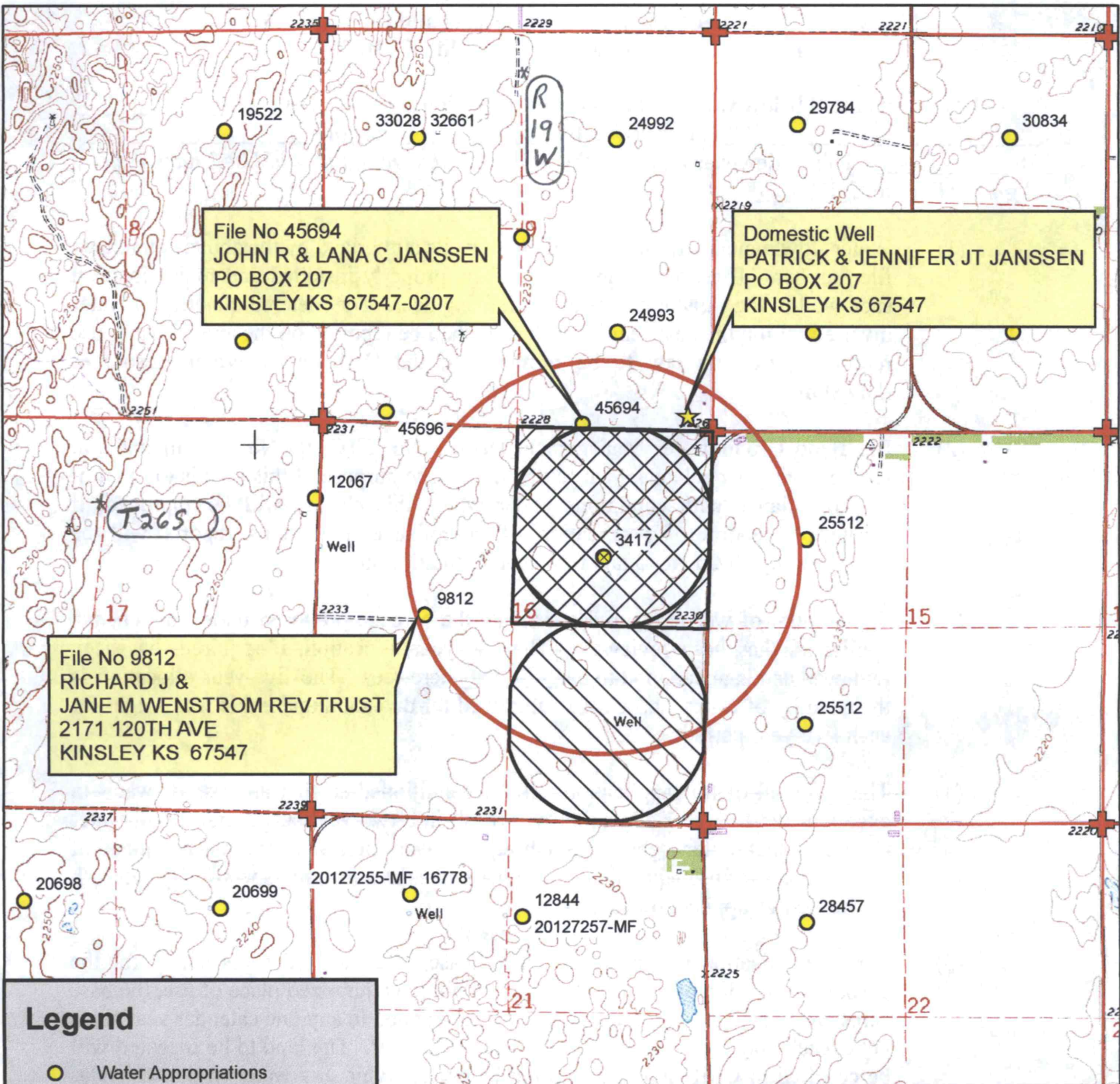
16-26S-19W // Edwards County



JAN 06 2017

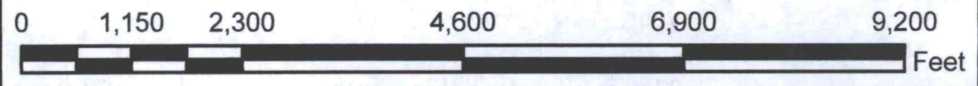
KS DEPT OF AGRICULTURE

SCANNED



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

JAN 06 2017

Change in Place of Use Application Map
 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.

KRAK/Dwn 2/23/17

Signature

SCANNED

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.