# Kansas Department of Agriculture Division of Water Resources CHANGE: P/U WORKSHEET & ORDER IN MATTER OF PD LOCATION

1. File Number: <b>48417</b>	2. Status Change Date: 5/6/2020	3. Change Num:	4. Field Office:	5. GMD: <b>02</b>
6. Status: Approved Deni	ed by DWR/GMD	Dismiss by Reques	t/Failure to Return	7. Filing Date of Change:
8a. Applicant(s) New to system   MARY S MCCURRY TRU	Person ID 66011 Add Seq#	8c. Landowno	• •	Person ID 66012 Add Seq#
11913 E ILLINOIS AVE BURRTON KS 67020		3604 N	MAPLE ST IINSON KS 6750	
8b. Landowner(s) New to system □  ANDREW J & MARY S M 11913 E ILLINOIS AVE BURRTON KS 67020	Person ID 62693 Add Seq# 6296 CCURRY TRUST	3 8d. WUC New to sy 8B	stem □	Person ID 62693 Add Seq#
9. Documents and Enclosure(s):	.,	□ N & P Form		Comply: H & E Letter Comply:
10. Use Made of Water From:		To: _		
			Date Prepared: 1/16/1 Date Entered: 5/11/2 LMoo	2020 By:

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## KANSAS DEPARTMENT OF AGRICULTURE Division of Water Resources M E M O R A N D U M

TO: Files DATE: January 28, 2019

**FROM:** Leslie Ireland **RE:** Appropriation of Water, File No. 48,417

Application, File No. 50,026

Mary S. McCurry as an owner of the above referenced right has filed an application to change the irrigated place of use and an application for a new appropriation, all received on March 28, 2018. The applicant was assisted by Tim Boese, Equus Beds Groundwater Management District No. 2 (GMD 2). The place of use for the existing appropriation is in the extreme western portion of the Burton IGUCA in the Little Arkansas River basin, Reno County.

The referenced file does not appear to be abandoned as per K.S.A. 82a-718. The application for change appears to comply with K.A.R. 5-3-2ab, *Complete change application*. The Reno County property database indicates the trusts of Mary S. McCurry along with Andrew J. McCurry then a Charles E. Rudicel III, as owners of the currently authorized and proposed place of use.

The currently authorized place of use under the existing rights is 75 acres in the West Half of the Southwest Quarter (W½ SW½) of Section 35, in Township 23 South, Range 4 West, Reno County. File No. 48,417, is authorized 105 acre-feet (AF) at 800 gallons per minute (gpm) from the point of diversion that is also the proposed well under File No. 50,026. The existing appropriation would have the authorized 75 acres as the "base acres". The feet distances on the well will be updated from the 2017 Compliance Investigation, from 1,356 feet North and 5,176 feet West to 1,325 feet North and 5,290 feet West of the Southeast corner of Section 35, and will remain as designated in the Southwest Quarter of the Northwest Quarter of the Southwest Quarter (SW¼ NW¼ SW¼) of Section 35, Township 23 Range 4 West. A correction of approximately 118 feet. As less than 300 feet the update complies with K.A.R. 5-5-6, Failure to construct diversion works at authorized location.

The proposed change in place of use is to add 79 contiguous acres, authorizing a total of 154 acres. Per KAR 5-3-24, *Reasonable quantity for irrigation use*, Reno county is afforded 1.4 AF per acre, allowing 215.6 AF for the proposed place of use. The new appropriation, File No. 50,026 is proposed to divert a limited 215.6 AF at 800 gpm from the well currently authorized by File No. 48,417. The new appropriation will provide an additional 110.6 AF.

The safe yield for the requested additional quantity was determined in this special use area by the Equus Beds Groundwater Management District No. 2, staff. The extent of the alluvium for the area of consideration is 8,042 acres, with the total area in the 6 inch recharge zone. Safe yield was determined to be 4,021.00 acre-feet. Existing water rights have appropriated 3,553.00 acre-feet within the area of consideration, leaving 468 acre-feet available. The request for the total 215.6 acre-feet is available. File No. 50,026 will be authorized a limited 215.6 acre-feet and 800 gallons per minute when combined with File No. 48,417.

The proposed existing well was constructed in 2014. It appears to have a depth of 41 feet and a static water level of 6 feet. Recent data indicates decreasing chloride values at this point of diversion in the IGUCA. Biannual water quality testing with a maximum of 250 mg/l will continue to be required.

The review and recommendation by the Equus Beds Groundwater Management District No. 2, required the same conditions as the permit for File No. 48,417. The required testing for chloride levels will be continued and a condition of the new permit to further verify the additional pumping will not cause the chloride concentrations to increase. The Equus Beds Groundwater Management District No. 2, recommendation was further detailed in Tim Boese, Manager, letter of December 19, 2018, summarizes the conditions and recommended approval by the District Board of Directors. The portion of the recommendation concerning review actions for elevated chlorides was further explained by Tim Boese in emails dated April 4, 2019, and January 8, 2020. The recommendation also contained the standard requirement of the Districts Rules and Regulations K.A.R 5-22-1 through 5-22-17, be applicable to the permit and approval.

As a new permit has been recommended to be approved, it appears the change in place of use meets part No. 6 of the regulation, with no increase in historic net consumptive use of K.A.R. 5-5-11, *Applications for change in place of use for irrigation purposes*. This will result in acres being authorized. The new appropriation will provide an additional 110.6 acre-feet, bringing the total combined quantity to 215.6 acre-feet. The additional quantity will assure that the historical consumptive use under the referenced files will not increase and the proposal complies with K.A.R. 5-5-3, *Change in consumptive use*.

A water conservation plan meeting the guidelines of the Kansas Water Office will not be required as there appears to be sufficient quantity authorized for irrigation use.

There are four (4) domestic wells located within one-half (½) mile of the proposed existing point of diversion. Letters providing notice were mailed on September 19, 2018. No comments of any kind were received.

In an email dated January 24, 2019, Jeff Lanterman, Water Commissioner of the Stafford Field Office recommended approval of the application for change with the approval of the new appropriation.

If the applicant is proposing to chemigate, an approved check valve will be required on the diversion works. An approved flow meter will be required on the diversion works in accordance K.S.A 82a-706c, and will be required to meet the GMDs meter regulations. Water level measurement tubes and WWC-5s will not be conditions of the change. The permit will contain the additional conditions for permits in the Burrton IGUCA that have historically been in place.

Based on the above discussion, that water is available for the new appropriation, that consumptive use will not substantially increase, impairment to existing water rights is unlikely, the application for permit and approval for change have been recommended for approval.

Leslie Ireland

Keelie Ireland

Environmental Scientist Water Appropriation Program From: Ireland, Leslie [KDA]

Sent: Thu 4/30/2020 4:27 PM

To: Baum, Kristen [KDA]

Subject: FW: Recommendation for Permit File No. 50026 & change File No. 48417\_PU McCurry

Attachments: 50026\_app irr 48417\_PU\_ memo2\_2.docx

From: Lanterman, Jeff [KDA] < Jeff.Lanterman@ks.gov>

Sent: Thursday, January 24, 2019 3:32 PM

To: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>; Conant, Cameron [KDA] <Cameron.Conant@ks.gov>

Subject: RE: Recommendation for Permit File No. 50026 & change File No. 48417\_PU McCurry

Leslie.

I think as part of the IGUCA review this one might eventually be out of the IGUCA. The plume is moving east and I think one of the recommendations was to move the IGUCA east a township. Of course if we change any of the provisions of the IGUCA we will have to have another hearing to do it. That happens to be something I agree with. That said the chlorides were a little elevated in the recent Servitech sample. Although some of the earlier ones collected by GMD 2 were fresher.

Looks like we did a good job contacting surroundings, and thank you for updating the feet distances on both files based on our GPS and compliance check.

The Irrigation supplemental sheet says that they will be pivot irrigating and I am not sure how they will do that place of use with a pivot but we can work all that out at certification time.

The authorized quantity represents 1.4 af/a which is the maximum allowable in Reno county and is a reasonable quantity for both files when operated together.

Nearest water levels bracketing this proposed water right appear rock solid, and is not in an area of know water level declines.

http://hercules.kgs.ku.edu/geohydro/wizard/wizardwelldetail.cfm?usgs\_id=380000097463001 http://hercules.kgs.ku.edu/geohydro/wizard/wizardwelldetail.cfm?usgs\_id=380000097463003 http://hercules.kgs.ku.edu/geohydro/wizard/wizardwelldetail.cfm?usgs\_id=380139097420604 http://hercules.kgs.ku.edu/geohydro/wizard/wizardwelldetail.cfm?usgs\_id=375909097434402

I recommend approval of the change application as well as the new application.

Thank You Leslie.

Jeff

**From:** Ireland, Leslie [KDA]

Sent: Wednesday, January 16, 2019 11:59 AM

To: Lanterman, Jeff [KDA] < Jeff.Lanterman@ks.gov>; Conant, Cameron [KDA] < Cameron.Conant@ks.gov>

Subject: FW: Recommendation for Permit File No. 50026 & change File No. 48417 PU McCurry

Jeff & Cameron

I added a paragraph about the notification.. didn't receive any comments.. so forgot to put it in my original summary memo.

Let me know if there is anything else,, when you can.

From: Ireland, Leslie [KDA]

Sent: Friday, January 11, 2019 9:26 AM

To: Lanterman, Jeff [KDA] < <a href="mailto:Lanterman@ks.gov">
<a href="mailto:Lanterm

Subject: Recommendation for Permit File No. 50026 & change File No. 48417\_PU McCurry

Jeff & Cameron,

It has been a long time since I've had to do a package for your area.

Please let me know if you see anything needing clarification or perhaps I missed in this summary memo, and mainly if you'd recommend this project.

Leslie Ireland, Environmental Scientist Kansas Department of Agriculture Division of Water Resources - Change Unit (785) 564-6633 Leslie.Ireland@ks.gov www.agriculture.ks.gov From: Ireland, Leslie [KDA]

Sent: Thu 4/30/2020 4:39 PM

To: Baum, Kristen [KDA]

**Subject:** FW: 48417 and 50026 Approval Recommendation Letters

Attachments: 48417 Approval Recommendation Letter 12-19-18.pdf, 50026 Approval Recommendation

Letter 12-19-18.pdf

From: Rebecca Wilson <rwilson@gmd2.org>
Sent: Tuesday, January 8, 2019 11:45 AM

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

Subject: 48417 and 50026 Approval Recommendation Letters

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

Hi, Leslie!

Attached you will find the Approval Recommendation Letters from Manager Tim Boese for #48417 and #50026.

I apologize that these are late in getting to you, but I believed that I sent them prior to the holidays. If so, I apologize for sending them twice!

Please let me know if you have any difficulties opening the attachments.

Thanks!

#### Rebecca Wilson

Rebecca Wilson
Administrative Assistant
Equus Beds GMD2
313 Spruce Street
Halstead, KS 67056
316-835-2224
316-835-2225 Fax
rwilson@gmd2.org
www.gmd2.org

JEFF WINTER, PRESIDENT VIN KISSICK, VICE PRESIDENT ALAN BURGHART, SECRETARY MIKE MCGINN, TREASURER TIM BOESE, MANAGER THOMAS A. ADRIAN, ATTORNEY



DIRECTORS:
DAVID BOGNER
JOE PAJOR
DALE SCHMIDT
BOB SEILER
DAVID STROBERG

#### EQUUS BEDS GROUNDWATER MANAGEMENT DISTRICT NO. 2

313 SPRUCE STREET • HALSTEAD, KANSAS 67056-1925 • PHONE (316) 835-2224 • FAX (316) 835-2225 • equusbeds@gmd2.org • www.gmd2.org

December 19, 2018

Chief Engineer, Division of Water Resources Attn: Leslie Ireland 1320 Research Park Drive Manhattan, Kansas 66502

Re: Place of Use Change Application, File No. 48417 – Mary S. McCurry

Dear Ms. Ireland:

The Equus Beds Groundwater Management District No. 2 reviewed the referenced change in place of use application on December 5, 2018, using the District's Revised Management Program (effective May 1, 1995) and Rules and Regulations K.A.R. 5-22-1 through 5-22-17.

The change application proposes to increase the place of use from 75 acres to 154 acres and creates an identical place of use overlap with new Application No. 50026. The combined water to land ratio is 1.4 acre-feet per acre.

The District's review found that the change application complies with the Revised Aquifer Management program approved by the Chief Engineer and with the District's Rules and Regulations K.A.R. 5-22-1 through 5-22-17. Based upon the review, the application is recommended for approval by the Equus Beds Groundwater Management District No. 2, subject to the approval of new Application No. 50026.

A District decision may be appealed to the District Board of Directors by submitting a written petition to the District office within 30 days from date of this notification, pursuant to K.A.R. 5-22-12. Please contact the District should you have any questions regarding the review or recommendation.

Recycled Paper

Sincerely,

EQUUS BEDS GROUNDWATER MANAGEMENT DISTRICT NO. 2

T- Ruese

Tim Boese Manager

TDB/db

pc: Andrew J. McCurry Trust and Mary S. McCurry Trust, Landowners Charles E. Rudicel III, Landowner

Leff Lantannan Division of Water D

Jeff Lanterman, Division of Water Resources, Stafford



### EQUUS BEDS GROUNDWATER MANAGEMENT DISTRICT NO. 2 FINAL APPLICATION REVIEW CHECKLIST

<ol> <li>Application No. <u>48417</u></li> <li>Applicant: <u>Mary S. McCurry</u></li> <li>Proposed maximum quantity:</li> </ol>	105 acre-feet/year	Date filed: County: Rate:	3/29/18 RN 800 GPM
<ul> <li>4) Proposed Use: <u>Irrigation</u></li> <li>5) P/D location: <u>SW NW SW</u></li> <li>6) Number and type of points of diversity</li> </ul>	<u>35-23S-4W</u> sion listed on the appli		1356 ft, West 5176 ft 1 Well
			⊠Yes □No, Why <u> </u>
13) Meets Max Reasonable Quantity K (a) Irrigation max quantity: (b) Stockwater max quantity: (c) Industry max quantity: Industry standard: 14) Reasonable rate for intended use?	.A.R. 5-22-14? <u>0.68</u> acre-f GPI Acre	) unit	⊠Yes □No □N/A □Yes □No ⊠N/A
15) Depth to water: bls at obser	vation well:		
16) Date reviewed: 12/5/2018 17) Reviewed by: T. Boese 18) District recommendation:	Title: <u>Manager</u> ⊠Approve	]Deny	er, see comment
19) Comments and Calculations: Change in place of use application submited by Mar County. Water Permit is still in perfection period, so base acr Proposed place of use creates an identical place of	es equals authorized acres - 7	5 acres.	

Proposed place of use creates an identical place of use overlap with pending new application No. 50026. Same PD also. Located in the Burrton IGUCA. GMD2 Board reviewed No. 50026 on December 5, 2018 and recommended it for approval. Item 13: 105 AF / 154 acres = 0.68 AF/A. No. 50026 proposes 215.60 AF on 154 acres = 1.4 AF/A. No. 50026 to be limited to 215.6 AF and 800 GPM when combined with No. 48417.

Recommend approval, complies with K.A.R. 5-22-1 through 5-22-17, subject to No. 50026 being approved.

1320 Research Park Drive Manhattan, KS 66502 785-564-6700 www. agriculture.ks.gov



900 SW Jackson, Room 456 Topeka, KS 66612 785-296-3556

Laura Kelly, Governor

Mike Beam, Secretary

MARY S MCCURRY ANDREW J & MARY S MCCURRY TRUST 11913 E ILLINOIS AVE BURRTON KS 67020

RE: Appropriation of Water, File No. 48,417

Dear Mrs. McCurry:

Enclosed is the order executed by the Chief Engineer, Division of Water Resources, Kans as Department of Agriculture, approving the application for change under the referenced file.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in the approval for change. A condition of the approval for is that an acceptable water flowmeter must be installed on the diversion works.

If you have any questions, please contact me at 785-564-6640, or our staff at the Stafford Field Office, 785-234-5311. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

Kristen A. Baum

New Applications Unit Supervisor

Srister a Baum

Water Appropriation Program

KAB:LI:li: Enclosures

pc: Stafford Field Office

Groundwater Management District No. 2

Charles E. Rudicel III

### KANSAS DEPARTMENT OF AGRICULTURE

Mike Beam, Secretary of Agriculture

**DIVISION OF WATER RESOURCES**Christopher W. Beightel, Acting Chief Engineer

APPROVAL OF APPLICATION
FOR
CHANGE IN PLACE OF USE
AND
ORDER TO BETTER DESCRIBE THE

LOCATION OF THE AUTHORIZED POINT OF DIVERSION APPROPRIATION OF WATER FILE NO. 48,417

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Mary S McCurry on behalf of the Andrew J. & Mary S. McCurry Trust, 11913 E Illinois Avenue, Burrton, Kansas 67020, along with Charles E. Rudicel III, 3604 N. Maple Street, Hutchinson, Kansas 67502, received in this office on March 29, 2018, for approval of a change in the location of the place of use under the Approval of Application, File No. 48,417, for permit to appropriate water for beneficial use, finds that the change is reasonable and will not impair existing rights, that the change relates to the same local source of supply and that the application should be and is hereby approved.

The effective date of the change shall be the date this order is executed by the Chief Engineer, after which the authorized location for of the place of use for irrigation use shall be:

Sec. Twp. Range		NE	Ε1⁄4	7	NW1/4					SV	V1/4	ing the last	SE1/4				
Sec. Twp. Ivange	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	TOTAL
35 23S 4W									40.0	40.0	38.0	36.0	it doubl		OLIS		154.0

a total of 154 acres in Section 35, Township 23 South, Range 4 West, Reno County, Kansas,

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

That information in the office of the Chief Engineer finds that the point of diversion would be more accurately defined as being:

one (1) well located in the Southwest Quarter of the Northwest Quarter of the Southwest Quarter (SW½ NW½ SW½) of Section 35, more particularly described as being near a point 1,325 feet North and 5,290 feet West of the Southeast corner of said section, in Township 23 South, Range 4 West, Reno County, Kansas.

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.

In all other respects, the Approval of Appropriation, File No. 48,417, for permit to appropriate water for beneficial use, is as stated and set forth in the approval dated August 26, 2014.

Ordered this day of May 2020, in Manhattan, Riley County, Kansas.

Christopher W. Beightel, P.E. Acting Chief Engineer
Division of Water Resources
Kansas Department of Agriculture

State of Kansas

County of Riley

Ordered this day of May 2020, in Manhattan, Riley County, Kansas.

The foregoing instrument was acknowledged before me this day of May 2020, by Christopher W. Beightel, P.E., Acting Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.

KATIE N. ANDERSON
My Appointment Expires
March 12, 2023

Notary Public

#### RIGHT TO A HEARING AND TO ADMINISTRATIVE REVIEW

If you are aggrieved by this Order, then pursuant to K.S.A. 82a-1901, you may:

1) request an evidentiary hearing before the Chief Engineer, or

2) request administrative review by the Secretary of Agriculture.

Failure to request an evidentiary hearing before the Chief Engineer does not preclude your right to administrative review by the Secretary.

To obtain an evidentiary hearing before the Chief Engineer, a written request for hearing must be filed within 15 days after service of this Order as provided in K.S.A. 77-531 (i.e., within a total of 18 days after this Order was mailed to you), with: Kansas Department of Agriculture, Attn: Legal Section, 1320 Research Park Drive, Manhattan, KS 66502, FAX (785) 564-6777.

If you do not file a request for an evidentiary hearing before the Chief Engineer, you may petition for administrative review of the Order by the Secretary of Agriculture. A petition for review shall be in writing and state the basis for requesting administrative review. The request for hearing may be denied if the request fails to clearly establish factual or legal issues for review. See K.S.A. 77-527. The petition must be filed within 30 days after service of this Order as provided in K.S.A. 77-531 (i.e., within a total of 33 days after this Order was mailed to you), and be filed with: Secretary of Agriculture, Attn: Legal Division, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, KS 66502, FAX (785) 564-6777.

If neither a request for an evidentiary hearing nor a petition for administrative review is filed as set forth above, then this Order shall be effective and become a final agency action as defined in K.S.A. 77-607(b). Failure to timely request either an evidentiary hearing or administrative review may preclude further judicial review under the Kansas Judicial Review Act.

Any request for a hearing or petition for administrative review shall be in writing and shall be submitted to the attention of : Chief Legal Counsel, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, Fax: (785) 564 – 6777.

#### CERTIFICATE OF SERVICE

On this day of May 2020, I hereby certify that the attached Approval of Application for Change in Place of Use Order to Better Describe the Location of the Authorized Point of Diversion, Appropriation of Water, File No. 48,417, dated May (2020, was mailed postage prepaid, first class, US mail to the following:

MARY S MCCURRY ANDREW J & MARY S MCCURRY TRUST 11913 E ILLINOIS AVE BURRTON KS 67020

With photocopies to:

CHARLES E RUDICEL III 3604 N MAPLE ST HUTCHINSON KS 67502

Stafford Field Office Groundwater Management District No. 2 Division of Water Resources