

Kansas Department of Agriculture
Division of Water Resources
CHANGE: P/U WORKSHEET & Order in matter of PD Location

1. File Number: 49,624	2. Status Change Date: 1/29/2021	3. Change Num: C1	4. Field Office: 02	5. GMD: 02
6. Status: <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied by DWR/GMD <input type="checkbox"/> Dismiss by Request/Failure to Return				7. Filing Date of Change: 20-AUG-2020
8a. Applicant(s) New to system <input type="checkbox"/> JOST FARMS LLC % CLYDE JOST 913 220TH HILLSBORO KS 67063		Person ID 22425 Add Seq# _____		8c. Landowner(s) New to system <input type="checkbox"/> Person ID _____ Add Seq# _____
8b. Landowner(s) New to system <input type="checkbox"/> 8a.		Person ID _____ Add Seq# _____		8d. WUC New to system <input type="checkbox"/> 8a.
9. Documents and Enclosure(s): <input checked="" type="checkbox"/> DWR Meter(s) Date to Comply: 12/31/22 <input type="checkbox"/> N & P Date to Comply: _____				
<input type="checkbox"/> Anti-Reverse Meter <input type="checkbox"/> Meter Seal <input checked="" type="checkbox"/> Check Valve <input type="checkbox"/> N & P Form <input type="checkbox"/> Water Tube <input type="checkbox"/> Driller Copy <input type="checkbox"/> H & E Letter				
<input type="checkbox"/> Conservation Plan Date Required: _____ Date Approved: _____ Date to Comply: _____				
10. Use Made of Water From: _____ To: _____				
Date Prepared: 12/22/20 By: DWS Date Entered: 2/1/2021 By: LMoody				

File No. **49,624** 11. County: **MP** Basin: LITTLE ARKANSAS RIVER Stream: Formation Code: 190 Special Use:

12. Points of Diversion										Rate and Quantity								
CHK	MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Rate gpm/cfs	Quantity af/mgy	Rate gpm/cfs	Quantity af/mgy	Overlap PD Files	
MOD	85240				NE SW NW	29	20	1W	17			3435 4024 (Geo-Ctr) (GPS Update)	11/4/2019 COMPLIANCE				NONE	
MOD	85569				SE SW NW	29	20	1W	18			3238 4031 (Batt 1 of 2)	NO QUANTITY OR RATE MODIFICATIONS					
MOD	85570				NE SW NW	29	20	1W	19			3631 4016 (Batt 2 of 2)						
DEL	85571				NW NE NW	29	20	1W	20			3224 3643						
BATTERY #2219																		

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

14. Limitation: _____ gpm (_____ cfs) when combined with file number(s) **353.6 AF/YR COM/W #49279 & #49280**
 Limitation: _____ gpm (_____ cfs) when combined with file number(s) **NO CHANGE**

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
CHK	MOD	DEL	ENT	PUSE	S	T	R	ID		NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼				
√	66686				29	20	1W	2						18	40	40	18	36	40	40	40					272	8a.	NO	See Below*
ENT					31	20	1W		39.5	40	40	37													156.5	8a.	NO	See Below*	

Base Acres: Year: Minimum Reasonable Quantity: Comments:

*** FILE NOS. 50427; 49,279; 49,280; and 49,624 ALL OVERLAP IN PLACE OF USE.**

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

MEMORANDUM

TO: Files

DATE: December 22, 2020

FROM: Doug Schemm

RE: Application, File No. 50,427 and
Appropriation of Water, File Nos. 49,279; 49,280;
and 49,624

Jost Farms LLC %Clyde Jost, has filed the referenced new application to appropriate 203 acre-feet of groundwater for irrigation use from an existing battery of wells. The proposed appropriation is located within the boundaries of Groundwater Management District No. 2, and the source of water is the Equus Beds Aquifer. The new application overlaps in point of diversion with File No. 49,279, and will overlap in place of use with File Nos. 49,279; 49,280; and 49,624. Change in Place of Use Applications have been filed on each of the senior files to create a complete overlap in place of use of 428.5 acres in Sections 29 and 31, in Township 20 South, Range 1 West, McPherson County. These files are located within the Little Arkansas River basin.

The referenced rights appear not be abandoned as per K.S. A. 82a-718, and in compliance with K.S.A. 82a-732. In conjunction with the processing of File No. 50,427, the change applications appear to comply with K.A.R. 5-5-2a, *Complete application*. The applications for change were also signed by Clyde Jost, on behalf of Jost Farms LLC owner of the acreage requested to be added to the referenced files. The proposed change applications complies with part 6 of K.A.R. 5-5-11, *Applications for change in place of use for irrigation purposes*, indicating the additional 203 AF that will be authorized under File No. 50,427, will be sufficient to cover any potential increase in consumptive use, complying with K.A.R. 5-5-3, *Change in consumptive use*.

Each of the senior files is authorized 320 acre-feet at 800 gallons per minute, from three separate well batteries. They are limited to 353.6 acre-feet when combined. Based on the proposed 428.5 acres and with 1.3 Acre-Feet per acre allowed in Harvey County, the maximum quantity of water that could be authorized is 557.05 acre-feet, a difference of 203.45 acre-feet (557.05 AF – 353.6 AF). Therefore, this pending application does not require an overall quantity limitation because the requested quantity of 203 acre-feet when combined with the senior files is slightly less than the allowed maximum. The rate of diversion will be limited to 800 gallons per minute with the senior file.

The applicant identified three nearby domestic well owners, and notification letters for both the new application and change applications were sent out on September 18, 2020. A telephone call was received from one domestic well owner well (Robert E. Price III) with general concerns of how the approval of the new application might impact his domestic well. He was assured that no new wells were being drilled. No other responses of any kind were received. Per K.A.R. 5-22-2. Well spacing requirements. (b) The minimum spacing interval from the geographic center of a battery of wells to each nondomestic well, groundwater pit, and baseflow node shall be 1,620 feet. The minimum spacing interval from the geographic center of a battery of wells to each domestic well shall be 960 feet. The nearest permitted well (geo-center) is over 1,620 feet away. The nearest domestic well is over 1,200 feet away, so the new application complies with well spacing criteria.

The applicant proposes to create an exact overlap in the place of use between all of the referenced files for a total of 428.5 acres pursuant to K.A.R. 5-5-11(b)(1) *Identical places of use*. As noted above, the total quantity of water to be authorized for the proposed place of use, 557.05 acre-feet, is slightly less than the maximum quantity for the proposed 428.5 acres, of 1.3 acre-feet per acre.

Jost Farms LLC

Applications, File Nos. 50,427; 49,279; 49,280; and ~~49,624~~

Page 2

These files are all sourcing the Equus Beds aquifer, no points of diversion are being changed (being better described), and the same local source of supply will not change for any of the files. Note that the approval will update the location of the wells to their actual feet distances per Compliance Investigations by Stafford Field Office staff. **Number of wells in the battery under File Nos. 49280 & 49624 is being reduced from 4 to 2 per 11/4/2019 compliance investigation moving the geo center less than 300 feet complies with KAR 5-5-6 LI/DWR**

The applicant drilled multiple test hole logs and submitted them with the senior applications during their initial review. In general the well logs show alternating clay and sand layers, with a fine to medium sand layer approximately 20 feet thick (primary aquifer), immediately above the shale bedrock. The shale bedrock was approximately 70 feet below ground surface and static water level was 25 feet below ground surface. Estimated production rates were 200 to 300 gpm.

A copy of the new and change applications was submitted to the Equus Beds Groundwater Management District No. 2 (GMD #2) for their review on October 8, 2020. GMD #2 recommended approval of the applications in a letter received by e-mail on November 24, 2020, with the stipulation that the pending new application be limited to 800 gallons per minute with File No. 49,279.

A review of the KGS Wizard data base shows that there have been minor water level fluctuations over the last several years. However, the last few years show a slight increase, especially in 2020 water levels. With over 45 feet of saturated thickness, and the historical pattern of aquifer recovery, approval of these applications will not impair existing water rights nor prejudicially and unreasonably affect the public interest.

In accordance with K.S.A. 82a-706c, the Chief Engineer retains full authority to require any water user to install meters, gages, or other measuring devices, which devices he or she or his or her agents may read at any time. Water flowmeter requirements are further described in K.A.R. 5-1-4 through K.A.R. 5-1-12. If any chemical or foreign substance is injected into the water pumped under these permits, check valves will also need to be installed.

In a December 10, 2020 e-mail, Jeff Lanterman, Water Commissioner, Stafford Field Office, recommended approval of the referenced applications. Based on the above discussion, well spacing and safe yield criteria are met, GMD 2 recommended approval of the new application, and approval of the new application will not impair senior water rights nor prejudicially or unreasonably affect the public interest, it is recommended that the referenced new application be approved.

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, and GMD 2 recommended approval of the change applications, it is recommended the change applications be approved, in conjunction with the pending new application listed above.

Douglas W. Schemm
Environmental Scientist
Topeka Field Office

Schemm, Doug [KDA]

From: Schemm, Doug [KDA]
Sent: Thursday, December 10, 2020 4:58 PM
To: Schemm, Doug [KDA]
Subject: FW: Jost Farms New app 50,427 and PU changes 49,279 49,280 and 49,624
Attachments: 50427 49279 49280 and 49624 Memo.docx; 49279 PU Change Application Approval Recommendation Letter 11-22-20.pdf; 49624 PU Change Application Approval Recommendation Letter 11-22-20.pdf; 49280 PU Change Application Approval Recommendation Letter 11-22-20.pdf; 50427 New Application Approval Recommendation Letter 11-22-20.pdf

From: Lanterman, Jeff [KDA]
Sent: Thursday, December 10, 2020 4:06 PM
To: Schemm, Doug [KDA] <Doug.Schemm@ks.gov>
Cc: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Subject: FW: Jost Farms New app 50,427 and PU changes 49,279 49,280 and 49,624

Doug.

Go ahead and approve this.

And Merry Christmas if I don't talk to you before then.

Jeff

From: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Sent: Thursday, December 10, 2020 3:43 PM
To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>
Subject: FW: Jost Farms New app 50,427 and PU changes 49,279 49,280 and 49,624

Here is an updated review on this packet of changes and a new application-Elizabeth and I discussed limitations-nothing extra is needed, looks good to pass on to Doug with a recommendation of approval.

Cam

From: Conant, Cameron [KDA]
Sent: Wednesday, December 2, 2020 11:58 AM
To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>
Subject: FW: Jost Farms New app 50,427 and PU changes 49,279 49,280 and 49,624

Jeff, this is for a new application on for additional water from an existing battery of wells to an increased place of use--- all files have p/u changes also filed to continue the complete overlap in p/u. The quantity continues to be reasonable b/c additional AF was added with the new file. This is proposed to be 4 files, 3 batteries of wells, 3 pivots, and a complete place of use overlap.

This is in GMD2. We and they have done multiple reviews of this since about 2016 when the first ones were applied for and approved. We have some additional water level measurements from hydrographs we have used in the past for this set of files reviews, neither of which indicate (in my opinion) a decline in area water levels, continues to look pretty steady to me.

[Wizard Water Well Detail \(ku.edu\)](#) (~2.2 miles NE)

[Wizard Water Well Detail \(ku.edu\)](#) (1.7 miles N)

I think this new application can be recommended for approval and I think the 3 place of use change applications can be recommended for approval. We now have a p/u covering 428.5 acres (428.5 x 1.3 = 557.05 AF max reasonable). There does not need to be a limitation on the junior file, the authorized quantities are ok as they stand and this should wash out during perfection. Please pass on to Doug if you agree.

FILE NO	Auth Q	limitation
**49279	320 AF	none
49280	320 AF	353.6 AF comb w/ 49279
49624	320 AF	353.6 AF comb w/ 49279 & 49280 (all currently on 272 acres)
**50427	203 AF add	none, it is all additive.

**pd overlap

Cameron

From: Schemm, Doug [KDA] <Doug.Schemm@ks.gov>

Sent: Tuesday, November 24, 2020 2:16 PM

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

Subject: Jost Farms New app 50,427 and PU changes 49,279 49,280 and 49,624

Hello Stafford,

More water from an existing well battery and increase in the place of use. Meets all the regulations.

Change applications will create a complete overlap in PU. Tim recommended approval of all the applications.

Please review,

Thanks, Doug

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Secretary of Agriculture

DIVISION OF WATER RESOURCES
Earl D. Lewis Jr., Chief Engineer

APPROVAL OF APPLICATION FOR CHANGE IN PLACE OF USE AND ORDER IN THE MATTER OF THE AUTHORIZED POINT OF DIVERSION APPROPRIATION OF WATER, FILE NO. 49,624

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Clyde and Sharon Jost, on behalf of Jost Farms, LLC, 913 220th, Hillsboro, Kansas 67063, received in this office on August 20, 2020, for approval of a change in the location of the place of use under the Approval of Application, File No. 49,624 for permit to appropriate water for beneficial use, 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 irrigation place of use shall be:

Sec.	Twp.	Range	NE ¹ / ₄				NW ¹ / ₄				SW ¹ / ₄				SE ¹ / ₄				TOTAL
			NE ¹ / ₄	NW ¹ / ₄	SW ¹ / ₄	SE ¹ / ₄	NE ¹ / ₄	NW ¹ / ₄	SW ¹ / ₄	SE ¹ / ₄	NE ¹ / ₄	NW ¹ / ₄	SW ¹ / ₄	SE ¹ / ₄	NE ¹ / ₄	NW ¹ / ₄	SW ¹ / ₄	SE ¹ / ₄	
29	20S	1W					18.0	40.0	40.0	18.0	36.0	40.0	40.0	40.0					272.0
31	20S	1W	39.5	40.0	40.0	37.0													156.5

a total of 428.5 acres in Township 20 South, Range 1 West, McPherson County, Kansas,

located substantially as shown on the map accompanying the application to change the place of use, and the location of the authorized point of diversion shall be better described as:

a battery of two (2) wells with a geographic center located in the Northeast Quarter of the Southwest Quarter of the Northwest Quarter (NE¹/₄ SW¹/₄ NW¹/₄) of Section 29, more particularly described as being near a point 3,435 feet North and 4,024 feet West of the Southeast corner of said section, in Township 20 South, Range 1 West, McPherson County, Kansas.

All diversion works shall be equipped with an in-line, automatic, quick-closing check valve capable of preventing pollution of the source of the water supply. The type of valve installed shall meet specifications adopted by the Chief Engineer and shall be maintained in an operating condition satisfactory to the Chief Engineer.

The water right owner shall properly install an acceptable water meter on the diversion works authorized under this water right, prior to the use of water, in strict accordance with the Kansas Administrative Regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer. The water right owner shall notify the Chief Engineer when installation of the water meter has been completed. The water right owner shall maintain the water meter in an operating condition satisfactory to the Chief Engineer, at all times during diversion of water and shall maintain records from which the total quantity of water diverted may be determined. The water right owner shall also report the reading of said water meter and the total quantity of water diverted annually to the Chief Engineer. Such records shall be furnished to the Chief Engineer by March 1 following the end of each calendar year.

In all other respects, the Approval of Application, File No. 49,624, for permit to appropriate water for beneficial use, is as stated and set forth in the approval dated August 26, 2016.

Ordered this *29* day of *January*, 2021, in Manhattan, Riley 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 *29* day of *January*, 2021, by Lane P. Letourneau, P.G., Program Manager, Water Appropriation Program, Division of Water Resources, Kansas Department of Agriculture.



Ashlee Freeman
Notary Public

1320 Research Park Drive
Manhattan, KS 66502
785-564-6700
[www. agriculture.ks.gov](http://www.agriculture.ks.gov)



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

Mike Beam, Secretary

Laura Kelly, Governor

JOST FARMS LLC
Attn: CLYDE JOST
913 220TH
HILLSBORO KS 67063

February 2, 2021

RE: Appropriation of Water, File Nos. 50,427; 49,279; 49,280; and 49,624

Dear Mr. Jost:

Enclosed is a new permit (File No. 50,427) authorizing you to proceed with construction of the proposed diversion works and to appropriate water for beneficial use as set forth in the permit. Your attention is directed to the enclosures and to the terms, conditions, limitations, and requirements specified in this permit.

Notice must be filed on the enclosed form once the diversion works have been completed. Failure to complete the diversion works within the time allowed, or within any authorized extension of time thereof, will result in dismissal of this permit. If you need an extension of time, you must request it before the deadline for completion set forth in the permit. Any request for an extension of time must be accompanied by the statutorily required fee, which is currently \$100.00.

An acceptable water flowmeter must be installed on the diversion works authorized by this permit prior to using water. An annual water use report must be filed with the Chief Engineer by March 1, following the end of each calendar year. If a complete annual water use report is not received by the deadline, then a fine may be assessed and all water use under such permit or right may be suspended. Reports submitted in paper form will be assessed a \$20 per file number paper filing fee. In order to avoid this filing fee, you may submit your report online at www.kswaterusereport.org.

The approval of your application constitutes a permit to appropriate water. It does not give authority to construct any dam or other stream obstruction regulated by K.S.A. 82a-301 through 305a. It does not give authority to access any right-of-way or authorize trespassing upon or injury to public or private property. It may also be necessary for you to comply with other local, state or federal requirements.

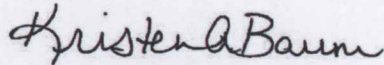
Enclosed is an informational sheet that sets forth the procedure to obtain a Certificate of Appropriation which will establish the extent of your perfected water right. Additional information and applicable forms may be found on our website at agriculture.ks.gov/divisions-programs/dwr.

In addition, enclosed are the orders executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the applications for change under the above referenced File Nos. 49,279; 49,280; and 49,624. Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in these approvals for change.

A condition of these approvals is that acceptable water flow meters must be installed on the diversion works authorized under the referenced file numbers. Please return the required notification of completion of the diversion works and/or installation of the required meters as soon as these actions are completed.

If you have any questions or need assistance with any of these requirements, please contact our office at 785-564-6640 or your local Stafford Field Office at 620-234-5311. If you call, please reference the file number so we can help you more efficiently.

Sincerely,



Kristen A. Baum
New Applications and Changes Supervisor
Division of Water Resources

KAB:dws
Enclosure(s)

pc: Stafford Field Office
Groundwater Management District No. 2

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 the Kansas Department of Agriculture, Attn: Legal Section, 1320 Research Park Drive, Manhattan, Kansas 66502, or by 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 review 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 the Secretary of Agriculture, Attn: Legal Division, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, or by FAX (785) 564-6777.

If neither a request for an evidentiary hearing nor a petition for administrative review is filed as set forth above, then this Order shall be effective and become a final agency action as defined in K.S.A. 77-607(b). Failure to timely request either an evidentiary hearing or administrative review may preclude further judicial review under the Kansas Judicial Review Act. Any request for hearing or petition for administrative review shall be in writing and shall be submitted to the attention of: Chief Legal Counsel, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, Fax: (785) 564-6777.

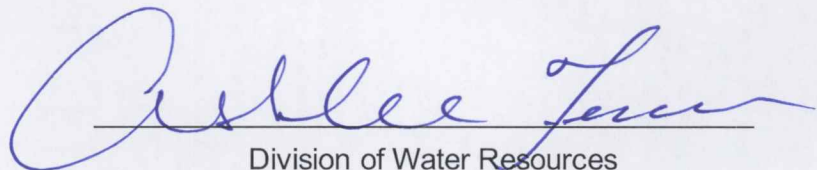
CERTIFICATE OF SERVICE

On this 2 day of February, 2021, I hereby certify that the attached Approval of Application for the Change in Place of Use and Order in the Matter of the Authorized Point of Diversion, File No. 49,624, dated 29 January, 2021 was mailed postage prepaid, first class, US mail to the following:

JOST FARMS LLC
Attn: CLYDE JOST
913 220TH
HILLSBORO KS 67063

With photocopies to:

Stafford Field Office
Groundwater Management District No. 2


Division of Water Resources