



File No. **43610**      13. County: **SG** Basin: **NINNESCAH RIVER** Stream:  
 Structures File No:      Aquifer Code: **NO CHANGE**      Special Use Area: **NA**

14. Points of Diversion, Rates & Quantities

PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Oty Auth	Add	Rate Auth	Add	Storage Qty Auth	Add	Storage Rate Auth/Add	Overlaps
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**NO CHANGE**

15. Limitations Type:      Quantity:      **AF** Rate:      **gpm** combined with file no(s):  
 Type: **Other** Quantity:      Rate:      combined with file no(s):

16. Metering     Metering Required     Anti-Reverse Required     Seal Required    Compliance Date: 12/31/2024

17. Place of Use						NE¼				NW¼				SW¼				SE¼				Total	Owner(s)	Chg?	Overlaps
PDIV	S	T	R	ID		NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE				
<b>MOD</b>	<b>52264</b>	<b>30</b>	<b>29</b>	<b>1W</b>	<b>1</b>													<b>40.0</b>	<b>40.0</b>	<b>40.0</b>	<b>40.0</b>	<b>160</b>	<b>5b</b>	<input type="checkbox"/>	<b>*</b>
																								<input type="checkbox"/>	<b>**</b>
																								<input type="checkbox"/>	<b>***</b>
																								<input type="checkbox"/>	
																								<input type="checkbox"/>	<b>^</b>
																								<input type="checkbox"/>	<b>^^</b>

18. Point of Diversion and Place of Use Overlaps

+	*	<b>43610 46664 51919</b>
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#	***	
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**KANSAS DEPARTMENT OF AGRICULTURE**  
**Division of Water Resources**

**M E M O R A N D U M**

**TO:** File

**DATE:** June 24, 2024

**FROM:** Leslie Ireland

**RE:** Water Right, File Nos. 43,610 & 46,664

Justin J. Noland on behalf of McQuillan Farms Inc., owners of the place of use authorized by the referenced files, submitted applications for approval to change the place of use on December 1, 2022. Authorized the diversion of groundwater from a shared well for irrigation use in Sedgwick County, Ninnescah River Basin. The applications have been filed with a new permit, File No. 50,919, requesting the diversion of water to expand the place of use. The new permit has been processed by Kris Neuhauser, Environmental Scientist.

The referenced right appears not be abandoned as per K.S.A. 82a-718, and in compliance with K.S.A. 82a-732. Notification per K.S.A. 82a-1906 was completed under the new application. No notices were sent for the referenced change applications since they will create an exact overlap in place of use with a new application that notified the nearby well owners. The notices did result in several replies opposing the new appropriation. It would appear these April received comments and concerns have been addressed and the proposals can move forward. The change applications appear to comply with K.A.R. 5-5-2a, *Complete application*. ORKA indicates the ownership will remain the same with the change adding the corners of the authorized section.

File No. 43,610 was certified on January 31, 2007, as a single well to operate at 800 gallons per minute (gpm) to divert 107 acre-feet (AF). The same well was also certified on February 23, 2016, under File No. 46,664, also as a single well, to divert a limited 920 gpm to divert a limited 124 AF, both limited with File No. 43,610. Together the files irrigate the same 130 acres located in the Southeast Quarter (SE¼) of Section 30, Township 29 South, Range 1 West, Sedgwick County. The maximum acres or "base acres" were listed as 100 acres under the most junior file. The two files have an irrigation ratio of 0.95 AF/A on the 130 acres authorized.

The change to the place of use is to add 40 acres comprised of the corners of the authorized section. This will result in a total of 160 acres as a complete overlap under File Nos. 43,610; 46,664 & 50,919. This area of the state is afforded 1.3 acre-foot per acre (AF/A) per K.A.R 5-3-24, *Reasonable quantity for irrigation use*, resulting in 208 AF that could be permitted for the proposed acres. The new permit will provide a limited 208 AF of water with its quantity limited to 208 AF when combined with File No. 43,610 & 46,664, resulting in 84 AF to be developed by the new appropriation. The increased limited 208 AF provides 1.3 AF/A complying with K.A.R 5-3-24 *Reasonable quantity for irrigation use*.

The proposed change application complies with Part 6 of K.A.R. 5-5-11, *Applications for change in place of use for irrigation purposes* as the review of the new appropriation should not result in an increase in the historic net consumptive use provided File No. 50,919 is authorized. This new application will provide an additional 84 acre-feet assures the applications comply with K.A.R. 5-5-3, *Change in consumptive use*.

A 2015 Compliance Investigation places the well approximately 11 feet from authorized. The location will not be updated as the date of the determination, the slight difference in the error and also the location of the point of diversion within the place of use found it to be unnecessary.

The source of supply has been determined and will remain as the Quaternary System (Code 100) as the wells will remain as authorized. This file does have an observation well that will remain a required condition.

In an e-mail dated June 24, 2024, Jeff Lanterman, Water Commissioner of the Stafford Field Office, indicated he is not opposed to approval of the applications with the new permit.

A water flowmeter is required by the approval pursuant to K.A.R. 5-5-11. Check valves are required if any chemical or foreign substance is injected into the water through the diversion works.

Based on the above discussion, that the changes are reasonable, that impairment to existing water rights has been determined to be unlikely, there will be no change in the local source of supply, and Application, File No. 50,919 will be approved, it is recommended that the applications for change be approved.



Leslie Ireland  
Environmental Scientist  
Water Appropriation Program

THE STATE  OF KANSAS

**KANSAS DEPARTMENT OF AGRICULTURE**  
Mike Beam, Secretary of Agriculture

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

**APPROVAL OF APPLICATION  
FOR  
CHANGE IN PLACE OF USE  
WATER RIGHT  
FILE NO. 43,610**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Justin J. Noland, on behalf of McQuillan Farms Incorporated, 12624 West 95th Street South, Clearwater, Kansas 67026, received in this office on December 1, 2022, for approval of a change in the location of the place of use under the certificate of appropriation issued pursuant to the application 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 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				
30	29S	1W																40	40	40	40	160

a total of 160 acres in Section 30, Township 29 South, Range 1 West,  
Sedgwick County, Kansas,

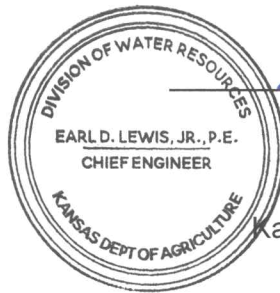
located substantially as shown on the topographic map accompanying the application to change the place of use.

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

In all other respects, the Certificate of Appropriation issued pursuant to Approval of Application File No. 43,610 for permit to appropriate for beneficial use, is as stated and set forth in the Certificate of Appropriation dated January 31, 2007.

It is so ordered this 12<sup>th</sup> day of July, 2024, in Manhattan, Riley County, Kansas.



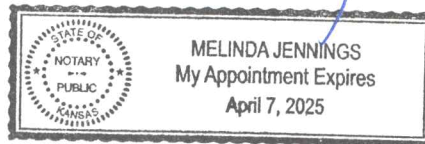
*Earl D. Lewis, Jr.*

Earl D. Lewis Jr., P.E.  
Chief Engineer  
Division of Water Resources  
Kansas Department of Agriculture

State of Kansas )  
                          ) SS  
County of Riley )

The foregoing instrument was acknowledged before me this 12 day of July, 2024, by Earl D. Lewis Jr., P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.

*Melinda Jennings*  
\_\_\_\_\_  
Notary Public



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

Mike Beam, Secretary

Laura Kelly, Governor

JUSTIN NOLAND  
12728 W 95TH ST SOUTH  
CLEARWATER KS 67026-9018

RE: Appropriation of Water  
File No. 50,919

Water Right  
File Nos. 43,610 and 46,664

Dear Mr. Noland:

Enclosed is a permit 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.

Also enclosed are orders executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the applications for change under the referenced water rights. Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in those approvals. A condition of the approvals is that an acceptable water flowmeter must be installed on the diversion works authorized. Since these orders modify the certificates of appropriation for the above referenced water rights, they should be recorded with the Register of Deeds as other instruments affecting real estate.

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](http://www.kswaterusereport.org).

The approval of your new 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.

JUSTIN NOLAND

File Nos. 43,610, 46,664 and 50,919

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Also included 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/dwr](http://agriculture.ks.gov/dwr). 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:kak:ccb

Enclosure(s)

pc: Stafford Field Office



## 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 request an evidentiary hearing before the Chief Engineer or 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 Division, 1320 Research Park Drive, Manhattan, Kansas 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 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: Secretary of Agriculture, Attn: Legal Division, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 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.

## CERTIFICATE OF SERVICE

On this 16 day of July, 2024, I hereby certify that the foregoing Approval of Applications for Change in Place of Use, File No. 43,610 and 46,664, and Approval of Application and Permit to Proceed, File No. 50,919, dated July 12, 2024, were mailed postage prepaid, first class, US mail to the following:

JUSTIN NOLAND  
12728 W 95TH ST SOUTH  
CLEARWATER KS 67026-9018

With photocopies to:

KDA-DWR Stafford Field Office

  
\_\_\_\_\_  
Division of Water Resources