

Kansas Department of Agriculture
Division of Water Resources
 APPROVAL OF CHANGE APPLICATION
 PU CHANGE & ORDER TO BETTER DESCRIBE PD WORKSHEET

1. File No.: 49,489	2. Status Change Date: 2/25/2025	4. Field Office: 02 - Stafford GMD: 05 - Big Bend Structures File No.: Filing Date: 09/19/2022
3. Package File No(s):		
5a. <input checked="" type="checkbox"/> Applicant <input checked="" type="checkbox"/> Owner <input checked="" type="checkbox"/> WUC <input type="checkbox"/> Address Change ABE & AMBER PETERS 70429 SE 90TH STREET SAWYER, KS 67134	Person ID 64789 Add Seq#	5b. <input type="checkbox"/> Owner <input type="checkbox"/> WUC <input type="checkbox"/> Address Change Person ID Add Seq#
5c. <input type="checkbox"/> Owner <input type="checkbox"/> WUC <input type="checkbox"/> Address Change	Person ID Add Seq#	5d. <input type="checkbox"/> Owner <input type="checkbox"/> WUC <input type="checkbox"/> Address Change Person ID Add Seq#
6. Change No.: 1 <input type="checkbox"/> PD <input type="checkbox"/> PU <input type="checkbox"/> UMW Base Acres: 15 Year: 2016 Min Reasonable Q: 1.24 Previous UMW: Not changing MDS Gauge: --- Active Admin? <input type="checkbox"/> Completion Date:		7. Use of Water <input checked="" type="checkbox"/> Groundwater <input type="checkbox"/> Surface Water UMW: IRR-Irrigation UMW: UMW:
8. Action Trail ---		
9. Special Conditions ---		
10. 5YR Allocation Type: Start Year: --- 5YR Quantity: --- Base Acres: --- Comment: ---		
11. Sand & Gravel Proj ID: --- <input type="checkbox"/> Active <input type="checkbox"/> Dredge <input type="checkbox"/> IND Evap <input type="checkbox"/> Jr Evap <input type="checkbox"/> Other Diversion <input type="checkbox"/> Rpt on Sr		
12. Waiver Rule ID: --- <input type="checkbox"/> New Date Requested: --- Applies: --- Rule No.: --- Rule Type: --- Rule SubType: --- <div style="text-align: right;">Justification: ---</div>		
Comments This change approval relates to different land within the currently authorized 40-acre tract. (KAK/DWR) GMD 5 monitoring agreement required.	Processed 2/20/25 JNE Reviewed KAK 2/20/2025	Entered 3/6/2025 KAnderson

File No. **49,489** 13. County: **PR** Basin: **48 - CHIKASKIA RIVER** Stream:
 Structures File No: Aquifer Code: **100 - QUATERNARY SYSTEM** Special Use Area: --- ---

14. Points of Diversion, Rates & Quantities										Qty AF		Rate gpm		Storage Qty		Storage Rate	
PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)		Auth	Add	Auth	Add	Auth	Add	Auth/Add	Overlaps
MOD	84764	NW NE NE	23	29S	12W	2	5176	1082		15	15	300	300				

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

16. Metering Metering Required Anti-Reverse Required Seal Required Compliance Date: **12/31/2025**

17. Place of Use		NE¼				NW¼				SW¼				SE¼				Total	Owner(s)	Chg?	Overlaps
PUSE	S T R ID	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE				
MOD	67346 23 29S 12W 2	15.0																15.0	5a	<input type="checkbox"/>	
																				<input type="checkbox"/>	
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18. Point of Diversion and Place of Use Overlaps

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MEMORANDUM TO FILE

Division of Water Resources, Water Appropriation Program

Date: December 30, 2024

From: Jessica Engelbrecht, Environmental Scientist

Re: Change Application, Water Right, File No. 49,489 – Place of Use

1. Summary

An *Application to Change an Existing Water Right* was received in this office on September 19, 2022. Abe and Amber Peters submitted a change in place of use for the referenced file number.

This file does not appear to be abandoned as per K.S.A. 82a-718. The notification for the proposed change per K.S.A. 82a-1906 does not appear to be needed as the point of diversion is not moving and the quantity and rate of diversion will not be modified.

The place of use is located in the Northeast Quarter of Section 23, Township 29 South, Range 12 West in Pratt County, Kansas.

2. Source of Supply

As the well is not moving the local source of supply will remain the same. The source of supply has been listed in the WRIS database as Quaternary System (Code 100) of the Chikaskia River Basin. A test log submitted with the application for appropriation shows a depth of approximately 125 feet with a static water level of 80 feet. The file is located in the Big Bend Groundwater Management District No. 5 (GMD 5) and is enrolled in a GMD 5 Place of Use Monitoring Agreement.

3. Change Application, File No. 49,489

3.1 Currently Authorized Rate, Quantity and Use Made of Water

The currently authorized point of diversion is a well for irrigation use, located as follows:

- One well is located in the Northwest Quarter of the Northeast Quarter of the Northeast Quarter (NW¼ NE¼ NE¼) of Section 23, Township 29 South, Range 12 West.
- The well authorizes 15 acre-feet at a rate of 300 gallons per minute on 15 acres.
- The maximum reasonable quantity for irrigation in Pratt County is 1.4 acre-feet per acre. The referenced water appropriation is 1 acre-foot per acre.

3.2 Proposed Changes

The applicants have requested a small modification to the place of use with no increase in acres. On September 27, 2021, a compliance investigation found the applicant was irrigating unauthorized acres. The point of diversion will also be modified to reflect more accurate location using GPS obtained by DWR staff during the compliance investigation.

A 2021 Compliance Investigation by DWR determined by GPS the actual location to be approximately 5,176 feet North and 1,082 feet West of the Southeast corner

3.3.a Compliance of proposed changes

- **See GMD 5 Monitoring Agreement**

- GMD 5 will assume monitoring responsibility.
- The authorized quantity of water under File No. 49,489 will remain limited to a five-year fixed allocation of 75 acre-feet.
- Use of water in excess of the five-year allocation shall result in a two-year suspension of all water use under the referenced rights and subsequent restriction of the authorized place of use to the base acres at the location specifically set forth in the change approvals.

3.4 Nearby Water Rights and Landowners

There are no other appropriation wells within 1,320 feet, or domestic wells within reported 660 feet of the authorized point of diversion. No nearby well owners were notified since a new well is not being drilled and source and quantity will not be changed.

4. Recommendations

In a letter dated December 12, 2024, Orrin Feril, Manager of the Big Bend Kansas Groundwater Management District No. 5, recommended the application be approved. **Water Commissioner recommendation place holder.** Based on the above discussion, that the change is 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 proposed change be approved for File No. 49,489.

Engelbrecht, Jessica [KDA]

From: Lanterman, Jeff [KDA]
Sent: Thursday, January 23, 2025 2:19 PM
To: Conant, Cameron; Engelbrecht, Jessica [KDA]
Subject: RE: File No. 49,489 HQ PU Change Memo

Importance: High

Follow Up Flag: Follow up
Flag Status: Flagged

Shoot. Sorry I missed this one.

Seems like a slam dunk approval.

I recommend approval. Hope we don't have a bunch more of these things. Doesn't look like GMD was looking closely at the PU in their monitoring reports. ./

Thanks
Jeff

From: Conant, Cameron <Cameron.Conant@ks.gov>
Sent: Monday, January 13, 2025 1:47 PM
To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>
Subject: FW: File No. 49,489 HQ PU Change Memo
Importance: High

Jeff, I know you are doing the reviews for HQ changes when they come along, but I thought I'd send you a review on this one to keep it moving since it was filed in September of 2022 (Taylor assisted on it) and they've been operating illegally for the last couple years with a pivot on unauthorized acres while still in the GMD monitoring agreement. They are still in the perfection period and this is a very odd file, here is a brief history on it:

This is a 15 AF exemption that applied to irrigate 80 acres in 2015. After back and forth with GMD, the applicant brought it down to 15 acres and the GMD board recommended approval with the stipulation it is enrolled in a 5 year place of use monitoring agreement. My review and recommendation for the new app during the Field Office review in 2016 was to "recommend approval with the additional conditions of AR gears and seal to pipe". I noted the GMD recommendation when I forwarded the recommendation with my GMD notes from the meeting, but didn't say much more than that on it. You concurred with the seal to pipe and AR gear requirement and passed on the recommendation of approval. Once it got done in HQ it had come out with a pretty non-standard condition of being approved with a 5 year monitoring agreement right out of the gates. We even conditioned the permit to say they must enter in to a monitoring agreement with GMD and if either party ever terminates the agreement for any reason the permit will be forfeited. I don't think we can do that and I really don't recall having a discussion on it either?

Here is more history: They didn't complete for a number of years. They did in 2019 and we checked it in 2021 and there was an unauthorized place of use noted during that check. Pat did it, Elizabeth wrote it up later and we finished addressing it in 2022 with the change application from Taylor. They are going from a side-roll system to a pivot now. They prematurely installed the pivot and in 2023 GMD noted they had a pivot and pivot had 22.3 acres and they requested the owner plug ~100' to get back to 15 acres. He ended up removing the overhang and plugging drops to a 456' system length (14.99 acres). A subsequent 2024 check by GMD confirmed they are back to a 15 acre pivot...which is still totally unauthorized because it is way outside authorized!

The pending change fixes this and I think we can recommend approval with the continuation of being enrolled in a 5 year monitoring agreement. Perfection on this might be a little odd. Is the requirement of a monitoring agreement something

we will seek to get rid of during certification or do you think we'll try to do the certificate with the inclusion of the 5 year monitoring agreement wording and allocation??

That question is just something to think about, doesn't pertain right now. We can recommend approval of the p/u change to get this in compliance. Pass on to Jessica if you agree.

Cameron

From: Engelbrecht, Jessica [KDA] <Jessica.Engelbrecht@ks.gov>
Sent: Monday, December 30, 2024 3:53 PM
To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>; Conant, Cameron <Cameron.Conant@ks.gov>
Subject: File No. 49,489 HQ PU Change Memo
Importance: High

Jeff/Cameron,

I've attached a HQ Change in Place of Use application, GMD 5 Recommendation and memo for review. The file is enrolled in a GMD 5 monitoring agreement.

The application is proposing to modify the irrigated acres. The file was irrigating unauthorized acres and the change will bring the file into compliance.

Jessica

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 BETTER DESCRIBING THE
AUTHORIZED POINT OF DIVERSION UNDER
APPROPRIATION OF WATER
FILE NO. 49,489**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Abe and Amber Peters, 70429 Southeast 90th Street, Sawyer, Kansas, 67134, received in this office on September 19, 2022, for approval of a change in place of use under the Approval of Application and Permit to Proceed, issued pursuant to the Appropriation of Water, File No. 49,489, 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 place of use shall be:

Sec. Twp. Range	NE¼				NW¼				SW¼				SE¼				TOTAL
	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
23 - 29S - 12W	15																15

a total of 15 acres in Section 23, Township 29 South, Range 12 West, Pratt County, Kansas,

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

the location of the authorized point of diversion shall be better described as:

one (1) well located in the Northwest Quarter of the Northeast Quarter of the Northeast Quarter (NW¼ NE¼ NE¼) of Section 23, more particularly described as being near a point 5,176 feet North and 1,082 feet West of the Southeast corner of said section, in Township 29 South, Range 12 West, Pratt County, Kansas.

The applicant shall enter and remain in a monitoring services agreement with Big Bend Groundwater Management District No. 5, wherein the District shall monitor compliance with the Approval of Application and Permit to Proceed, all subsequent orders and any water conservation plan requirements, including the acres irrigated, the crops grown, verification of the acceptable installation and operation of an approved water flowmeter, the accuracy of its meter readings, and report the findings of monitoring to the Chief Engineer on an annual basis. The monitoring agreement shall continue perpetually and the permit or any water right developed under the authority of the appropriation right may be modified or suspended by the Chief Engineer, in the event of the agreement being terminated for any reason by either party. This condition shall supersede the requirement for a monitoring agreement with the District that was included as Paragraph No. 18, of the Approval of Application and Permit to Proceed.

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.

The owner of the Appropriation Right shall install an anti-reverse totalizing water flowmeter which meets or exceeds the specifications adopted by the Chief Engineer.

A seal shall be placed on the water flowmeter by 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.

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, File No. 49,489, for permit to appropriate water for beneficial use, is as stated and set forth in the Approval Order, dated August 11, 2016.

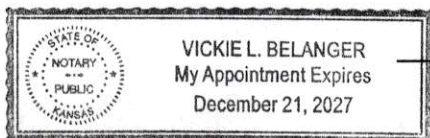
ORDERED this 25 day of February, 2025, Manhattan, Riley County, Kansas.

Lane P. Letourneau

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

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 25 day of February, 2025, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.



Vickie L. Belanger
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

March 7, 2025

ABE AND AMBER PETERS
70429 SE 90TH STREET
SAWYER, KS 67134

RE: Approval of Application for Change in Place of Use

Appropriation of Water
File No. 49,489

Dear Mr. and Mrs. Peters,

Enclosed is the order by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the referenced application for change in place of use and setting forth a more accurate description for the location of the well.

Your attention is directed to the terms, conditions, and limitations specified in this approval. As a condition to the approval, you must maintain your monitoring agreement with Big Bend Groundwater Management District No. 5. A water flowmeter that meets current specifications must be maintained on the diversion works. A seal will be maintained 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, it shall constitute a violation of this order. If your meter needs to be repaired or replaced, please complete the form titled, "Flowmeter Repair or Replacement Report," which can be found on our website at agriculture.ks.gov/dwr.

If you have any questions regarding the enclosed document, please contact our office at 785-564-6640. For all other inquires, including meter questions, please contact your local Stafford Field Office at 785-296-5733.

Sincerely,

Kristen A. Baum
New Application and Change Unit Supervisor
Water Appropriation Program

KAB:kak.jne
Enclosure(s)
pc: Stafford Field Office
Big Bend GMD No. 5

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 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, 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 7th day of March, 2025, I hereby certify that the attached Approval of Application for Change in Place of Use, File No. 49,489, dated February 25, 2025, was mailed postage prepaid, first class, US mail to the following:

ABE & AMBER PETERS
70429 SE 90TH STREET
SAWYER KS 67134

With photocopies to:

KDA-DWR Stafford Field Office

Big Bend GMD No. 5



Division of Water Resources