

Kansas Department of Agriculture / Division of Water Resources
Stockton Field Office

TO: HEADQUARTERS

RE Vested Right; Water Right; Appropriation of Water; Application

File No(s). 5496 County GH

Enclosed are the following checked items:

- A _____ FIR Full Partial Inspection Return to Field Office
 Proposed Certificate to deliver to Certificate Unit
Meter Order: GMD#4
 Lower Smoky
 Other _____
 A Compliance Check Inspection on _____
 Meter Install New App Chg App Other _____
 In Compliance Not in Compliance, why _____
Modify Point of Diversion No Yes, document attached
Indicate all overlapping p/d files _____

An application and judgment sheet with recommendation.

A memorandum dated _____

A request for an extension of time to perfect or complete.

A verified report.

A closure request.

A field investigation report.

Notice of Non-Compliance _____

Violation

Date

An ownership change (name(s) and address(es) below).

A water use report for _____

A letter dated _____

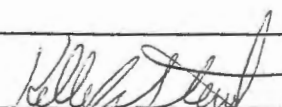
A copy of an Approval to Change the place of use and/or point of diversion,

Filing Fee attached. \$11336
\$100.00

An Advanced copy of a change application and the filing fee, to be processed at the field office.

An original field office change application and the filing fee needing headquarters office review and further processing.

Other: _____


Water Commissioner

3-21-17
Date

CHECK SHEET

Short Change

File No. 5,496

Field Office No. 3

GMD No. _____

1. **Plugging agreement obtained for GMD?** Yes No Non Applicable
2. **Is Landowner correct as currently shown in WRIS?** Yes No **Address Change?** NO
 If applicable, list Place of Use Overlap File Nos. None
3. **Is Water Use Correspondent correct as currently shown in WRIS?** Yes No **Address Change?** NO
 Name of Former WUC _____ Name of New WUC _____
4. a. **Point of diversion computer ID No(s).** 01 for point(s) being changed.
- b. **Show feet distances from the** SE **corner of the section for the new point(s) of diversion:**

| Action | PDIV ID | Geo Ctr? | Sec | Twp | Rng | 'N | 'W | County | Qualifiers |
|--------|---------|----------|-----|-----|-----|------|------|--------|------------|
| DEL | 41390 | NO | 13 | 8 | 21w | | | Graham | NW NW NW |
| ENT | New | NO | 13 | 8 | 21w | 5236 | 5144 | Graham | NW NW NW |
| | | | | | | | | | |
| | | | | | | | | | |

c. **If multiple points of diversion exist and rates and quantities are individually assigned, show:**

| Old PDIV ID | Authorized Rate | Additional Rate | Authorized Quantity | Additional Quantity |
|-------------|-----------------|-----------------|---------------------|---------------------|
| _____ | _____ gpm/cfs | _____ gpm/cfs | _____ af/mgy | _____ af/mgy |
| _____ | _____ gpm/cfs | _____ gpm/cfs | _____ af/mgy | _____ af/mgy |
| _____ | _____ gpm/cfs | _____ gpm/cfs | _____ af/mgy | _____ af/mgy |

d. **Name of Drainage Basin** S. F. Solomon River **Is this correctly shown in WRIS?** Yes No

e. **Formation Name & No.** 113 - Main Stem Alluvium **Special Use Area** SS - S FK Above Webster

5. **Distances from the original p/d:** _____ ' S _____ ' E

6. WATER RIGHT ACTION TRAIL COMMENTS

03/21/17 Change Application Received (date accepted for priority)
03/21/17 Change Approved
 Notice and Proof by 12/31/17
NA/ / Completion Requirement Removed (Change No. C_____)

7. METER ACTION TRAIL COMMENTS

03/21/17 DWR Meter Required by 12/31/17

8. Base Acres _____ Year _____ Minimum Reasonable Quantity _____

Date Created 3/21/17 by KCS/STKFO
 Date Entered _____ by _____

CHECK SHEET ATTACHMENT

9. Changes to the place of use will be:

File Number _____

| Action | Owner Person ID | Place Use ID # | 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 | |
| | | | | | | Acres Authorized | | | | | | | | | | | | | | | | |
| | | | | | | New Acres | | | | | | | | | | | | | | | | |
| | | | | | | Acres Authorized | | | | | | | | | | | | | | | | |
| | | | | | | New Acres | | | | | | | | | | | | | | | | |
| | | | | | | Acres Authorized | | | | | | | | | | | | | | | | |
| | | | | | | New Acres | | | | | | | | | | | | | | | | |

Names and Address:

| | | |
|--|--|--|
| 1. Person ID # _____ _____ _____ _____ _____ | 2. Person ID # _____ _____ _____ _____ _____ | 3. Person ID # _____ _____ _____ _____ _____ |
|--|--|--|

GENERAL INSTRUCTIONS

- | | | |
|--|--|---|
| 1. Give to Applicant: a. <u>Original</u> application/approval b. Original receipt (one for <u>each</u> application) c. Information packet containing: <ul style="list-style-type: none"> • Notice and Proof form • Water Meter Specifications • Acceptable Meter list • Water level measurement tube specifications • Check Valve specifications • Pink Sheet - K.S.A. 82a-728 letter • Form stating to record in Register of Deeds Office (OPTIONAL AS NEEDED) | 2. Send to headquarters: a. Good, <u>microfilmable</u> copy of application and/or approval and this check sheet b. Original check and copy of receipt c. Test hole log d. GMD recommendation, if any e. Map or aerial photograph, if any 3. Send to KDHE: Letter (KDHE.LT) advising of location of abandoned well. <input checked="" type="checkbox"/> | 4. Date stamp received and approved. 5. Complete ownership and WUC change information. |
|--|--|---|

ADDITIONAL PHOTOCOPIES

CONDITIONS

1. Insert notice and proof date.
2. Type or print applicant's/owner's name on line.
3. Complete notary statement.



Stockton Field Office
820 S. Walnut
Stockton, Kansas 67669-0192

Jackie McClaskey, Secretary
David W. Barfield, Chief Engineer
Kelly Stewart, Water Commissioner

Phone: (785) 425-6787
Fax: (785) 425-6842
www.agriculture.ks.gov
Sam Brownback, Governor

March 21, 2017

GILBERT E BERLAND TRUST #1
LUCINDA M BERLAND TRST #1
PO BOX 116
DAMAR KS 67632-0116

Re: Water Right, File No. 5,496

Dear Mr. & Mrs. Berland:

Enclosed is the order executed by David W. Barfield, 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 terms, conditions, and limitations specified in this approval for change. Also, the approval of the order requires the installation of a water flow meter(s) on the point(s) of diversion authorized under the above referenced file number by **December 31, 2017**. Please complete and return the enclosed Notice of Completion of Diversion Works when a water flow meter has been installed. A copy of the Chief Engineer's specifications for the water flow meters are found in K.A.R. 5-1-4 through K.A.R. 5-1-12 along with a partial list of those flow meters found to be acceptable for installation in Kansas can be found on our website at the following web address:

<http://agriculture.ks.gov/meters>

Please note that all meters must be installed and maintained in accordance with the specifications for water flow meters referenced above.

The abandoned water well must be plugged in accordance with the requirements of Article 30 of the Rules and Regulations as adopted by the Kansas Department of Health and Environment (KDHE). If the well is to be retained by the landowner for other purposes, a copy of the legal transfer of responsibility for maintenance of the well must be forwarded to KDHE Geology Section, 1000 SW Jackson, Suite 420, Topeka, Kansas 66612, telephone number (785) 296-5524. More information is available online at: <http://kdheks.gov/waterwell>

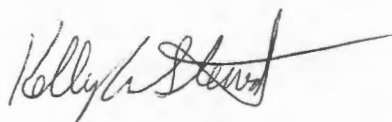
Since this order modifies the original certificate, it should be recorded with the Register of Deeds just as other legal documents affecting real estate. Such records are maintained at the Register of Deeds Office in the county wherein the place of use is located.

This document is a summary order by this agency regarding this matter. This order shall become final if a request for a hearing is not filed with the Chief Engineer within 15 days of the date of service of this order.

(Over)

If you have any questions, please feel free to contact this office at (785)425-6787. If you wish to refer to a specific file, please reference it when you contact us.

Sincerely,



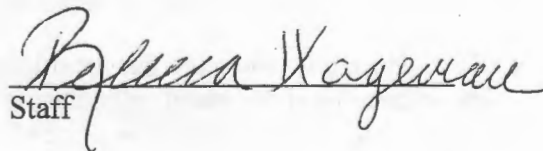
Kelly C. Stewart
Water Commissioner

KCS:rfh
Enclosures

CERTIFICATE OF SERVICE

On this 21st day of March, 2017, I hereby certify that the attached **SUMMARY ORDER APPROVING APPLICATION FOR CHANGE in POINT OF DIVERSION** for water right, File No. 5,496, dated on the 21st day of March, 2017, was mailed postage prepaid, first class, U.S. mail, to the following:

GILBERT E BERLAND TRUST #1
LUCINDA M BERLAND TRST #1
PO BOX 116
DAMAR KS 67632-0116



Staff

Submit completed application to:
 Kansas Department of Agriculture
 Division of Water Resources
 Field Office for your area.
 Call for address:

Topeka -- (785) 296-5733
 Stafford -- (620) 234-5311
 Stockton -- (785) 425-6787
 Garden City -- (620) 276-2901
<http://agriculture.ks.gov/dwr>

DWR FIELD OFFICE APPLICATION FOR APPROVAL TO CHANGE THE PLACE OF USE AND/OR THE POINT OF DIVERSION



WATER METER REQUIRED

STATE OF KANSAS

APPLICATION COMPLETE
3/21/17
 Reviewer: KCS

Filing Fee Must Accompany the Application, K.S.A. 82a-708b(b), as amended.
 Fee Schedule is on the third page of this application form.

Paragraph Nos. 1, 2, 3 & 5 must be completed. Complete all other applicable portions. If change in point of diversion is greater than 100 feet, or if place of use will be changed, include a topographic map or detailed plat showing the authorized and proposed point(s) of diversion and/or place of use.

RECEIVED

File No. 5,496

MAR 20 2017
 4:34 pm
 Stockton Field Office
 Division of Water Resources

1. Application is hereby made for approval of the Chief Engineer to change the (check one or both):

Place of Use Point of Diversion

under the water right which is the subject of this application in accordance with the conditions described below.

The source of supply is: Groundwater Surface water

2. Name and address of Applicant: Gilbert Berland

PO Box 116 Damar, KS 67632-0113

Phone Number: (785) 839-4360

Email address: _____

Name and address of Water Use Correspondent: GILBERT E BERLAND TRUST #1

LUCINDA M BERLAND TRST #1 PO BOX 116 DAMAR, KS 67632-0116

Phone Number: (785) 839-4360

Email address: _____

3. The presently authorized place of use is:

Owner of Land --- NAME: GILBERT E BERLAND TRUST #1

ADDRESS: LUCINDA M BERLAND TRST #1 PO BOX 116 DAMAR, KS 67632-0116

(If there is more than one landowner, attach supplemental sheets as necessary.)

| 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 | |
| 12 | 08S | 21W | | | | | | | | | | | | | | | 10 | 10 | 20 |
| 13 | 08S | 21W | 39 | 39 | 13 | 13 | 32 | 32 | 32 | 32 | 30 | 30 | 30 | 30 | | | | | 352 |

4. If this application is for a change in place of use, it is proposed that the place of use be changed to:

Owner of Land --- NAME: NO CHANGE

ADDRESS: _____

(If there is more than one landowner, attach supplemental sheets as necessary.)

| 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 | |
| | | | | | | | | | | | | | | | | | | | |

For Office Use Only: Code _____ Fee \$ _____ TR # _____ Receipt Date _____ Check # _____

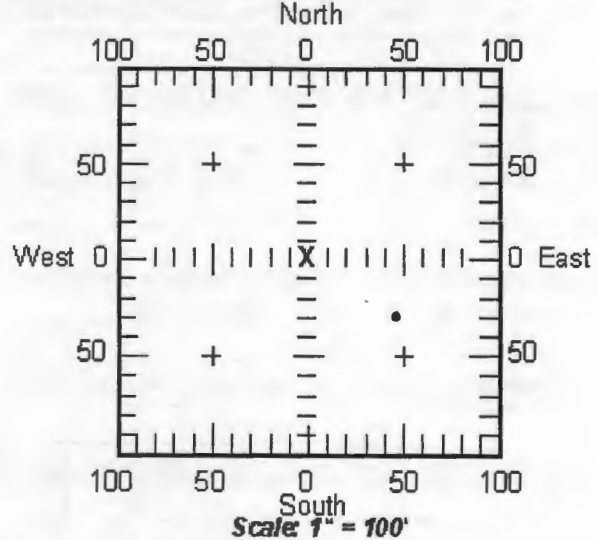
5. **Presently authorized point of diversion:**
 One in the NW Quarter of the NW Quarter of the NW Quarter of Section 13, Township 08 South, Range 21 WEST, in GRAHAM County, Kansas, _____ feet North _____ feet West of Southeast corner of section.
 Authorized Rate 500 GPM Authorized Quantity 120 AF Depth of well _____ (feet)
 (DWR use only: Computer ID No. 1 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 NW Quarter of the NW Quarter of the NW Quarter of Section 13, Township 08 South, Range 21 WEST, in GRAHAM County, Kansas, 5236 feet North 5144 feet West of Southeast corner of section.
 Proposed Rate 500 GPM Proposed Quantity 120 AF Proposed well depth (feet) _____
 This point is: Additional Well Geo Center List other water rights that will use this point _____

6. **Presently authorized point of diversion:**
 One in the _____ Quarter of the _____ Quarter of the _____ Quarter of Section _____, Township _____ South, Range _____ WEST, in _____ County, Kansas, _____ feet North _____ feet West of Southeast corner of section.
 Authorized Rate _____ Authorized Quantity _____ Depth of well _____ (feet)
 (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 _____ WEST, in _____ County, Kansas, _____ feet North _____ feet West of Southeast corner of section.
 Proposed Rate _____ Proposed Quantity _____ Proposed well depth (feet) _____
 This point is: Additional Well Geo Center List other water rights that will use this point _____

7. Why do you need a new point of diversion? OLD WELL IS NOT PRODUCING SUFFICIENT RATE

13a. If the proposed point of diversion will be relocated within 100 feet of the existing point of diversion, indicate its location on the diagram below in relation to the existing point of diversion. (PLEASE NOTE: The "X" in center of diagram below represents presently authorized point of diversion.)

8. If a well, is the test hole log attached? Yes No



9. When do you propose to complete the new point of diversion?
UPON APPROVAL

10. If the point of diversion is a well:
 (a) What are you going to do with the old well?
PLUG OR CAP

(b) When will this be done? UPON WELL COMPLETION

11. Groundwater Management District recommendation attached? Yes No

12. Assisted by M. BILLINGER

13b. If the proposed point of diversion will be relocated more than 100 feet but within 1320 feet from the existing point of diversion, attach a topographic map or aerial photograph. For groundwater sources, show all wells (including domestic) within one-half mile of the proposed point of diversion and the names and mailing addresses of the owners. For surface water sources, show the names and addresses of the landowner(s) one-half mile downstream and one-half mile upstream from your property lines.

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MAR 20 2017

14. If the proposed groundwater point of diversion is 300 or fewer feet from existing point of diversion, complete the following:

- (a) Does the undersigned represent all owners of the currently authorized place(s) of use identified in this application?
 Yes No (If no, all owners must sign this application.)
- (b) Will the ownership interest of any owner of the currently authorized place(s) of use identified in this application be adversely affected if this application is approved as requested?
 Yes No (If yes, all owners must sign this application.)
- (c) If this application is not approved expeditiously, will there be substantial damage to property, public health or safety?
 Yes No (If no, all owners must sign this application.)

If the application proposes a surface water change in point of diversion, a groundwater change in point of diversion greater than 300 feet, or a change in place of use, the application must be signed by all owners of the currently authorized place of use, or their duly authorized agent (attach notarized statement authorizing representation).

I hereby verify, being first duly sworn upon my oath or affirmation and under penalty of perjury, that I am of lawful age and the owner, the spouse of the owner, or a duly authorized agent of the owner(s) to make this application on their behalf, in regard to the water right(s) to which this application pertains. I further verify that the statements contained in this application are true, correct and complete.

Dated at Hill City, Kansas, this 17th day of March, 2017.

x Gilbert Berland
 (Owner)
Gilbert Berland
 (Please Print)

x LuCinda Berland
 (Spouse)
LuCinda Berland
 (Please Print)

x LuCinda Berland
 (Owner)
LuCinda Berland
 (Please Print)

x Gitt Gilbert Berland
 (Spouse)
Gilbert Berland
 (Please Print)

 (Owner)

 (Please Print)

 (Spouse)

 (Please Print)

State of Kansas }
 County of Graham } SS

I hereby certify that the foregoing application was signed in my presence and sworn to before me this 17th day of March, 2017.

NOTARY PUBLIC - State of Kansas
 KATHERINE DARLENE RIGGS
 My Appt. Exp. 05/03/18

Katherine Darlene Riggs
 Notary Public

My Commission Expires _____

ONLY COMPLETE APPLICATIONS WILL BE PROCESSED. To be complete, all of the applicable portions of the application form must be completed with accurate information; maps, if necessary, must be included; signatures of all the appropriate owners' must be affixed to the application and notarized; and the appropriate fee must be paid.

FEE SCHEDULE

Each application to change the place of use or the point of diversion under this section shall be accompanied by the application fee set forth in the schedule below: Make checks payable to: Kansas Department of Agriculture

- (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

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MAR 20 2017

SUMMARY ORDER APPROVING APPLICATION FOR CHANGE AND IMPOSING CONDITIONS

This Summary Order is issued under authority of K.S.A. 82a-708b, as amended, and K.A.R. 5-14-3 and other applicable provisions of the *Kansas Water Appropriation Law, K.S.A. 82a-701 et. seq.*, and rules and regulations promulgated thereunder, K.A.R. 5-1-1 et. seq. With the exception of those conditions expressly contained herein, this Summary Order does not change the terms, conditions and limitations of File No. 5,496.

- 1. A change application was received on 3-20-17 requesting that the place of use and / or point of diversion authorized under the above-referenced file number be changed as described in the application.
- 2. On and after the effective date of this summary order, the authorized place(s) of use shall be located substantially as shown on the topographic map accompanying the application to change the place of use. Applicable Not Applicable
- 3. The change in point of diversion shall not impair existing rights and shall be limited to the same source or sources of water as previously authorized. The point of diversion authorized by this summary order shall be located within a 50 foot radius of the authorized point(s) of diversion. Applicable Not Applicable
- 4. The point(s) of diversion authorized herein shall not actually be located more than NA feet from the previously authorized point(s) of diversion. Applicable Not Applicable
- 5. As required by K.A.R. 5-3-5d, if the works for diversion is a well with a diversion rate of 100 gallons per minute or more, a tube or other device suitable for making water level measurements shall be installed, operated and maintained in accordance with K.A.R. 5-6-13. Applicable Not Applicable
- 6. The owner of the authorized place(s) of use shall properly install an acceptable water flow meter on or before **December 31, 2017**, or before the first use of water, whichever occurs first. The water flow meter shall be installed, operated and maintained in accordance with K.A.R. 5-1-4 through 5-1-12. As required by K.S.A. 82a-732, as amended, and K.A.R. 5-3-5e, the owner shall maintain records and report the reading of the water flow meter and the total quantity of water diverted annually to the Chief Engineer by March 1 following the end of each calendar year. Applicable Not Applicable
- 7. Installation of the works for diversion of water shall be completed on or before **December 31, 2017**, or within any authorized extension of time. By March 1, 2018 the applicant shall notify the Chief Engineer that construction of the works for diversion has been completed, on the form provided by the Chief Engineer, as required by K.A.R. 5-8-4e. Applicable Not Applicable
- 8. The completed well log shall be submitted with the required notice. Applicable Not Applicable
- 9. All diversion works into which any type of chemical or other foreign substance will be injected into the water shall be equipped with an in-line, automatic, quick-closing check valve capable of preventing pollution of the source of the water supply. The check valve(s) shall be installed, operated and maintained in accordance with K.A.R. 5-3-5c. Applicable Not Applicable
- 10. Additional Conditions are attached. Yes No
- 11. In accordance with K.S.A. 82a-708a, as amended, and K.A.R. 5-5-14, all of the owners of the authorized place(s) of use of water appropriated under the above-referenced file number are responsible for compliance with its terms, conditions and limitations, as amended and/or supplemented by this Summary Order, and with applicable provisions of the *Kansas Water Appropriation Law* and the *Rules and Regulations* promulgated thereunder. Failure to comply with these provisions may result in civil penalties pursuant to K.S.A. 82a-737, as amended, and/or the suspension or revocation and dismissal of the water or appropriation right or any other enforcement actions authorized by law.

Administrative Appeal and Effective Date of Order

You have the right to a hearing in accordance with K.A.R. 5-14-3 before this Summary Order becomes final action of the Kansas Department of Agriculture. Any request for a hearing must be filed with the **Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502**, within 15 days after the date shown on the Certificate of Service attached hereto. If a hearing is not requested in accordance with K.A.R. 5-14-3, this Summary Order will become effective on the 15th day after the date shown on the Certificate of Service.

For Use by Register of Deeds

FOR OFFICE USE ONLY
**APPLICATION APPROVED AND
SUMMARY ORDER ISSUED**

By: Kelly C Stewart
Duty Authorized Designee of the Chief Engineer

(Print Name): Kelly C Stewart
Division of Water Resources - Kansas Department of Agriculture

Date of Issuance: 3-21-17

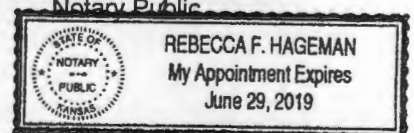
State of Kansas)

County of Rooks) SS

Acknowledged before me on 3-21-17

by Kelly Stewart

Signature: Rebecca Hageman
Notary Public



My commission expires: 6-29-19

(Notary Seal)

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MAR 20 2017