

File No. 49,967	15. Formation Code:	Drainage Basin: KANSAS RIVER	County: PT	Special Use:	Stream: KANSAS RIVER TRIB 3																																																																																																																								
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th colspan="10" style="text-align:left;">16. Points of Diversion</th> <th colspan="5" style="text-align:left;">17. Rate and Quantity</th> </tr> <tr> <td style="font-size:small;">T MOD DEL ENT</td> <td style="font-size:small;">PDIV</td> <td style="font-size:small;">Qualifier</td> <td style="font-size:small;">S</td> <td style="font-size:small;">T</td> <td style="font-size:small;">R</td> <td style="font-size:small;">ID</td> <td style="font-size:small;">'N</td> <td style="font-size:small;">'W</td> <td></td> <td style="font-size:small;">Rate gpm</td> <td style="font-size:small;">Quantity af</td> <td style="font-size:small;">Rate gpm</td> <td style="font-size:small;">Quantity af</td> <td style="font-size:small;">Overlap PD Files</td> </tr> <tr> <td>√</td> <td>13488</td> <td>NW SW SE</td> <td>13</td> <td>9</td> <td>11E</td> <td>1</td> <td>1060</td> <td>2560</td> <td></td> <td>NF</td> <td>1106.9</td> <td>NF</td> <td>1106.9</td> <td>24,234*</td> </tr> <tr> <td>√</td> <td>86529</td> <td>NW NE SE</td> <td>26</td> <td>9</td> <td>11E</td> <td>2</td> <td>2536</td> <td>1288</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> </table>						16. Points of Diversion										17. Rate and Quantity					T MOD DEL ENT	PDIV	Qualifier	S	T	R	ID	'N	'W		Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files	√	13488	NW SW SE	13	9	11E	1	1060	2560		NF	1106.9	NF	1106.9	24,234*	√	86529	NW NE SE	26	9	11E	2	2536	1288																																																																		
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Comments: *Pd change on File No. 24,234 to add second reservoir.

**FILE NOS. 24,233; 24,234; 28,239; 34,442; 45,282; 47,134; 49,933 & 49,967 ALL Overlap in Place of Use.

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: December 3, 2018

FROM: Doug Schemm

RE: Application, File Nos. 49,933 and 49,967
And Water Rights, File Nos. 24,233 and 24,234

Westar Energy (Jeffrey Energy Center) has filed Application, File No. 49,933 proposing to appropriate 287 acre-feet of surface water at the rate of natural flows to be stored in an existing reservoir (Tower Hill Lake) located in the Southeast Quarter of Section 11, in Township 9 South, Range 11 East, Pottawatomie County, Kansas. The dam is located on Lost Creek Trib 1 (Kansas). Water Right, File No. 24,233 is a complete overlap in point of diversion and place of use. The structure associated with this reservoir is already permitted under Structures Program File No. DPT-104. As noted in the application submittal, Tower Hill Lake is a unique situation because the owner is allowed by KDHE to discharge overflow water only under their NPDES permit. Therefore, the owner must be capable of storing and rediverting all of the potential run-off from the entire 1,395 acres within the runoff basin area. Runoff computations determined that the 1,395 acre drainage area will result in 1,337 acre-feet of runoff in 1 out of every five (5) years (a 20% chance). Therefore, per K.A.R. 5-6-5, this quantity **IS** the limiting factor. The senior File No. 24,233 is authorized 1,050 acre-feet of storage and rediversion. Therefore, this pending application has requested the difference of 287 acre-feet of storage and 287 acre-feet rediverted for direct use (1,337 AF – 1,050 AF).

Application, File No. 49,967 is proposing to appropriate 1,106.9 acre-feet of surface water at the rate of natural flows to be stored in two existing reservoirs (Make Up Lake #1 and Make Up Lake #2 – AKA Auxiliary Lake) located in the Southeast Quarter of Section 13, and the Southeast Quarter of Section 26, respectively, in Township 9 South, Range 11 East, Pottawatomie County, Kansas. The dams are located on Kansas River Trib 3. Water Right, File No. 24,234 will be a complete overlap in point of diversion and place of use, after a change in point of diversion is approved. The structures associated with these reservoirs are already permitted under Structures Program File Nos. DPT-105 and DPT-126. Runoff computations determined that the 1,555 acre drainage area will result in 1,490.2 acre-feet of runoff in 1 out of every five (5) years (a 20% chance). Therefore, per K.A.R. 5-6-5, this quantity **IS** the limiting factor. The senior File No. 24,234 is authorized 465 acre-feet of storage and rediversion (which accounts for 383.3 AF of runoff). Therefore, this pending application has requested the difference of 1,106.9 acre-feet of storage and 1,106.9 acre-feet rediverted for direct use (1,490.2 AF – 383.3 AF).

For both files, the points of diversion are located on property owned by the applicant, and a representative of the applicant has signed the application forms stating they have legal access to the points of diversion. Also note that File Nos. 28,239; 34,442; 45,282; and 47,134 all overlap in Place of Use with these two new applications.

The applicant is requesting a waiver of K.A.R. 5-1-4 through K.A.R. 5-1-12 requiring the installation of a water flowmeter for File Nos. 24,233, 24,234, 49,933 & 49,967. This is requested because the lakes recirculate project water. The lakes are used as the primary source to supply water at the Jeffrey Energy Center plant by recirculating process water through the lakes over and over again. Makeup water to replenish the lakes, when necessary, is pumped from the intake under File Nos. 34,442, 45,282, & 47,134 and from the wells under File No. 28,239, all of which are properly metered. Because the water is recirculated through the lakes, there is no ability to use meters to determine the quantities of "new" vs "recirculated" water or to differentiate between sources. Therefore, a waiver appears necessary due to this unique project, and accompanies this package. The applicant will report the entire potential annual run-off at 20% chance as their annual quantity of water stored and rediverted each year on their water use report as follows:

File No. 24,233 = 1337 AF
File No. 24,234 = 1490.2 AF.

Westar Energy

File Nos. 24,233; 24,234; 49,933 and 49,967

Page 2

For File No. 49,933 in combination with Water Right, File No. 24,233 the **reported quantity will be 1,337 acre-feet**, and for File No. 49,967 in combination with Water Right, File No. 24,234 **the reported quantity will be 1,490.2 acre-feet**, which is the potential runoff in 1 out of every five (5) years (a 20% chance) for these basins.

An Order to waive flowmeter installation has also been prepared for both Water Right, File Nos. 24,233 and 24,234, which will be issued with the new application approval.

Note that prior to this package being filed, Make-up Lake No. 2 has been operated as a storage device only for water pumped from the Kansas River, prior to use and re-use in the power plant. There was no intent of collecting and storing natural flows, and this lake did not currently have an appropriation right of any kind. Because this lake was not authorized to store water, when the Chief Engineer approved a Change in Place of Use pursuant to Water Right, File Nos. 28,239 and 34,442, they were conditioned such that all natural flows into Make-up Lake No. 2 shall be bypassed. Application, File No. 49,967 will authorize the storage of natural flows in Make-up Lake #2, therefore Findings and Orders have been prepared to remove this bypass condition from these senior files. The Findings and Orders will be issued simultaneously.

The applicant provided an extensive list of landowners within one-half ($\frac{1}{2}$) mile upstream and downstream of their property, the majority of which are **not** adjacent to the streams. There were two downstream landowners identified relative to File No. 49,967 and letters were sent to them on September 19, 2018, also noting the pending change in point of diversion for Water Right, File No. 24,234. No responses of any kind were received. Obviously, these are existing reservoirs that have been in place for many years, and all downstream landowners would be aware of these reservoirs. The applicant owns a significant expanse of land (over 10,400 acres) which encompasses all of the upstream drainage area and over a mile downstream of the dam under File No. 49,933. The dam is located on a very small tributary to Lost Creek, which has a substantial drainage basin of many square miles. There will be no physical changes to the reservoir or dam, and as noted above the proposed use of water has been ongoing for many years. Therefore, no nearby notifications are necessary for File No. 49,933.

There are no other surface water rights within a two-mile radius according to the WRIS database. No senior water rights will be impaired with approval of this application.

As noted above, no water flowmeters will be required. Since these are existing reservoirs, no special Condition on the Permits will be needed to provide an initial fill quantity.

In a November 29, 2018 discussion, Katie Tietsort, Water Commissioner, Topeka Field Office, stated that the referenced new applications should be approved. Based on the above discussion, that this area is open to new appropriations, the proposed appropriations of water are reasonable, the reservoirs are already properly permitted by the DWR Water Structures Program, and senior rights will not be impacted, it is recommended that the referenced new applications be approved, with the requested waiver of flow metering for both new applications, and Water Right, File Nos. 24,233 and 24,234.

Doug Schemm
Environmental Scientist
Topeka Field Office

STATE OF KANSAS

DEPARTMENT OF AGRICULTURE
1320 RESEARCH PARK DRIVE
MANHATTAN, KS 66502
PHONE: (785) 564-6700
FAX: (785) 564-6777



900 SW JACKSON, ROOM 456
TOPEKA, KS 66612
PHONE: (785) 296-3556
www.agriculture.ks.gov

GOVERNOR JEFF COLYER, M.D.
JACKIE McCLASKEY, SECRETARY OF AGRICULTURE

WESTAR ENERGY
JEFFREY ENERGY CTR -TOPGO-LL J MORRISON
PO BOX 889
TOPEKA KS 66601

January 14, 2019

FILE COPY

Re: Appropriation of Water, File Nos. 49,933 and 49,967; and
Water Right, File Nos. 24,233 and 24,234

Dear Sir or Madam:

There are enclosed permits to appropriate water authorizing you to proceed with construction of the proposed diversion works (except those dams and stream obstructions regulated by K.S.A. 82a-301 through 305a), to divert such unappropriated water as may be available from the sources and at the locations specified in these permits, and to use it for the purpose and at the location described in these permits.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in these permits. Records must be maintained from which the quantity of water actually diverted may be readily determined. Such records shall be furnished to the Chief Engineer by March 1 following the end of each calendar year. NOTE that you are to report the **entire authorized quantity of water** as the quantity of water diverted each calendar year for the annual water use report for each file.

For File No. 49,933 in combination with Water Right, File No. 24,233 the **reported quantity will be 1,337 acre-feet**, and you will report this under File No. 24,233, the senior file. For File No. 49,967 in combination with Water Right, File No. 24,234 the **reported quantity will be 1,490.2 acre-feet**, and you will report this value under File No. 24,234, which is the senior file. Since a meter waiver has been granted and the Findings and Orders issued removing the conditions requiring the additional monthly reporting, you no longer need to provide any additional monthly reporting under the files associated with the lakes.

Failure to notify the Chief Engineer of the Division of Water Resources of the completion of the diversion works within the time allowed, or within any authorized extension of time thereof, will result in the dismissal of these permits. Enclosed are forms which may be used to notify the Chief Engineer that the proposed diversion works have been completed. All requests for extensions of time to complete diversion works, or to perfect appropriations, must be submitted to the Chief Engineer before the expiration of time originally set forth in these permits to complete diversion works or to perfect an appropriation. If for any reason, you require an extension of time, you must request it before the expiration of time set forth in these permits. Failure to comply with this regulation will result in the dismissal of your permits or your water rights. Any request for an extension of time shall be accompanied by the required statutory fee, which is currently \$100.00 per file number.

Westar Energy

File Nos. 24,233; 24,234; 49,933 and 49,967

Page 2

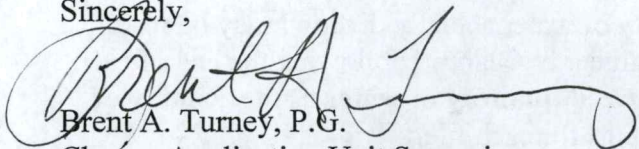
There is also enclosed an information sheet setting forth the procedure to obtain Certificates of Appropriation which will establish the extent of your water rights.

In addition, enclosed is an Order executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, which waives the requirement to install flowmeters under Water Right, File Nos. 24,233 and 24,234. As discussed above, you will be reporting the potential runoff at 20% chance of exceedance for each of these water rights.

This Order is a final agency action. Review of this order may be had pursuant to the Kansas Judicial Review Act (K.S.A. 77-601 *et seq.*). Any petition for such judicial review must be filed within 30 days after service of this order in a Kansas court of competent jurisdiction. The agency officer designated to receive service of a petition for judicial review on behalf of the Kansas Department of Agriculture is Chief Legal Counsel, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502

If you have any questions, please contact our office. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,



Brent A. Turney, P.G.
Change Application Unit Supervisor
Water Appropriation Program

BAT:dws
Enclosures

pc: Topeka Field Office



KANSAS DEPARTMENT OF AGRICULTURE
Jackie McClaskey, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

**APPROVAL OF APPLICATION
and
PERMIT TO PROCEED**

(This is not a Certificate of Appropriation)

This is to certify that I have examined Application, **File No. 49,967** of the applicant

**WESTAR ENERGY
JEFFREY ENERGY CTR -TOPGO-LL J MORRISON
PO BOX 889
TOPEKA KS 66601**

for a permit to appropriate water for beneficial use, together with the maps, plans and other submitted data, and that the application is hereby approved and the applicant is hereby authorized, subject to vested rights and prior appropriations, to proceed with the construction of the proposed diversion works (except those dams and stream obstructions regulated by K.S.A. 82a-301 through 305a, as amended), and to proceed with all steps necessary for the application of the water to the approved and proposed beneficial use and otherwise perfect the proposed appropriation subject to the following terms, conditions and limitations:

1. That the priority date assigned to such application is **January 11, 2018**.
2. That the water sought to be appropriated shall be used for industrial use at the Jeffrey Energy Center, located primarily in Section 4, Township 10 South, Range 11 East, in Pottawatomie County, Kansas.
3. That the appropriation sought shall be limited to all natural flows of an unnamed tributary to the Kansas River, designated in the office of the Chief Engineer as Kansas River Trib 3, not needed to satisfy all vested rights and prior appropriation rights to be incrementally accumulated as reservoir storage space becomes available to a maximum extent of **1,106.9 acre-feet** per calendar year in two (2) reservoirs created by dams located as follows: one dam in the Northwest Quarter of the Southwest Quarter of the Southeast Quarter (NW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 13, more particularly described as being near a point 1,060 feet North and 2,560 feet West of the Southeast corner of said section, and one dam in the Northwest Quarter of the Northeast Quarter of the Southeast Quarter (NW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 26, more particularly described as being near a point 2,536 feet North and 1,288 feet West of the Southeast corner of said section, all in Township 9 South, Range 11 East, Pottawatomie County, Kansas, and subsequently withdrawn or released as needed for industrial use.
4. That installation of works for diversion of water shall be completed on or before **December 31, 2020** or within any authorized extension thereof. The applicant shall notify the Chief Engineer and pay the statutorily required field inspection fee, which is currently \$400.00, when construction of the works has been completed. Failure to timely submit the notice and the fee will result in revocation of the permit. Any request for an extension of time shall be submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee, which is currently \$100.00.
5. That the proposed appropriation shall be perfected by the actual application of water to the proposed beneficial use on or before **December 31, 2024** or any authorized extension thereof. Any request for an extension of time shall be submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee, which is currently \$100.00.

6. That the applicant shall not be deemed to have acquired a water appropriation for a quantity in excess of the amount approved herein nor in excess of the amount found by the Chief Engineer to have been actually used for the approved purpose during one calendar year subsequent to approval of the application and within the time specified for perfection or any authorized extension thereof.

7. That the use of water herein authorized shall not be made so as to impair any use under existing water rights nor prejudicially and unreasonably affect the public interest.

8. That the right of the appropriator shall relate to a specific quantity of water and such right must allow for a reasonable raising or lowering of the static water level and for the reasonable increase or decrease of the streamflow at the appropriator's point of diversion.

9. That this permit does not constitute authority under K.S.A. 82a-301 through 305a to construct any dam or other obstruction; nor does it grant any right-of-way, or authorize entry upon or injury to, public or private property.

10. That the applicant shall maintain accurate and complete records from which the quantity of water diverted during each calendar year may be readily determined and the applicant shall file an annual water use report with the Chief Engineer by March 1 following the end of each calendar year. Failure to file the annual water use report by the due date shall cause the applicant to be subject to a civil penalty.

11. That no water user shall engage in nor allow the waste of any water diverted under the authority of this permit.

12. That failure without cause to comply with provisions of the permit and its terms, conditions and limitations will result in the forfeiture of the priority date, revocation of the permit and dismissal of the application.

13. That the right to appropriate water under authority of this permit is subject to any minimum desirable streamflow requirements identified and established pursuant to K.S.A. 82a-703c for the source of supply to which this water right applies.

14. That computations determined the 1,555 acre drainage area will result in 1,490.2 acre-feet of runoff. File No. 49,967 in combination with Water Right, File No. 24,234 will have an **authorized quantity of 1,490.2 acre-feet**, which will be reported under Water Right, File No. 24,234, on the annual water use report.

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:

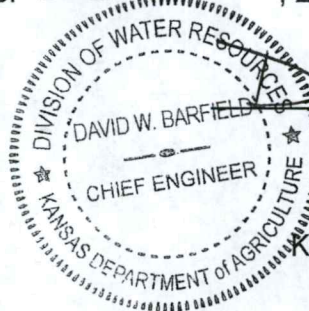
- 1) request an evidentiary hearing before the Chief Engineer, or
- 2) request administrative review by the Secretary of Agriculture.

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, 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 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.

Ordered this 20th day of December, 2018, in Manhattan, Riley County, Kansas.



David W. Barfield
David W. Barfield, 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 20th day of December, 2018, by David W. Barfield, P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.



Karen Hunter
Notary Public

CERTIFICATE OF SERVICE

On this 14th day of January, 2019, I hereby certify that the foregoing Approval of Application, File No. 49,967, dated December 20, 2018 was mailed postage prepaid, first class, US mail to the following:

WESTAR ENERGY
JEFFREY ENERGY CTR -TOPGO-LL J MORRISON
PO BOX 889
TOPEKA KS 66601

With photocopies to:
Topeka Field Office

Danielle Wilson
Division of Water Resources

ADDITIONAL INFORMATION

Runoff computations determined that the 1,555 acre drainage area will result in 1,490.2 acre-feet of runoff in 1 out of every five (5) years (a 20% chance). Therefore, per K.A.R. 5-6-5, this quantity **IS** the limiting factor. The senior File No. 24,234 is authorized 465 acre-feet of storage and rediversion (which accounts for 383.3 acre-feet of the run-off into the lake). Therefore, this pending application will be requesting the difference of 1,106.9 acre-feet of storage and 1,106.9 acre-feet rediverted for direct use (1,490.2 AF – 383.3 AF).

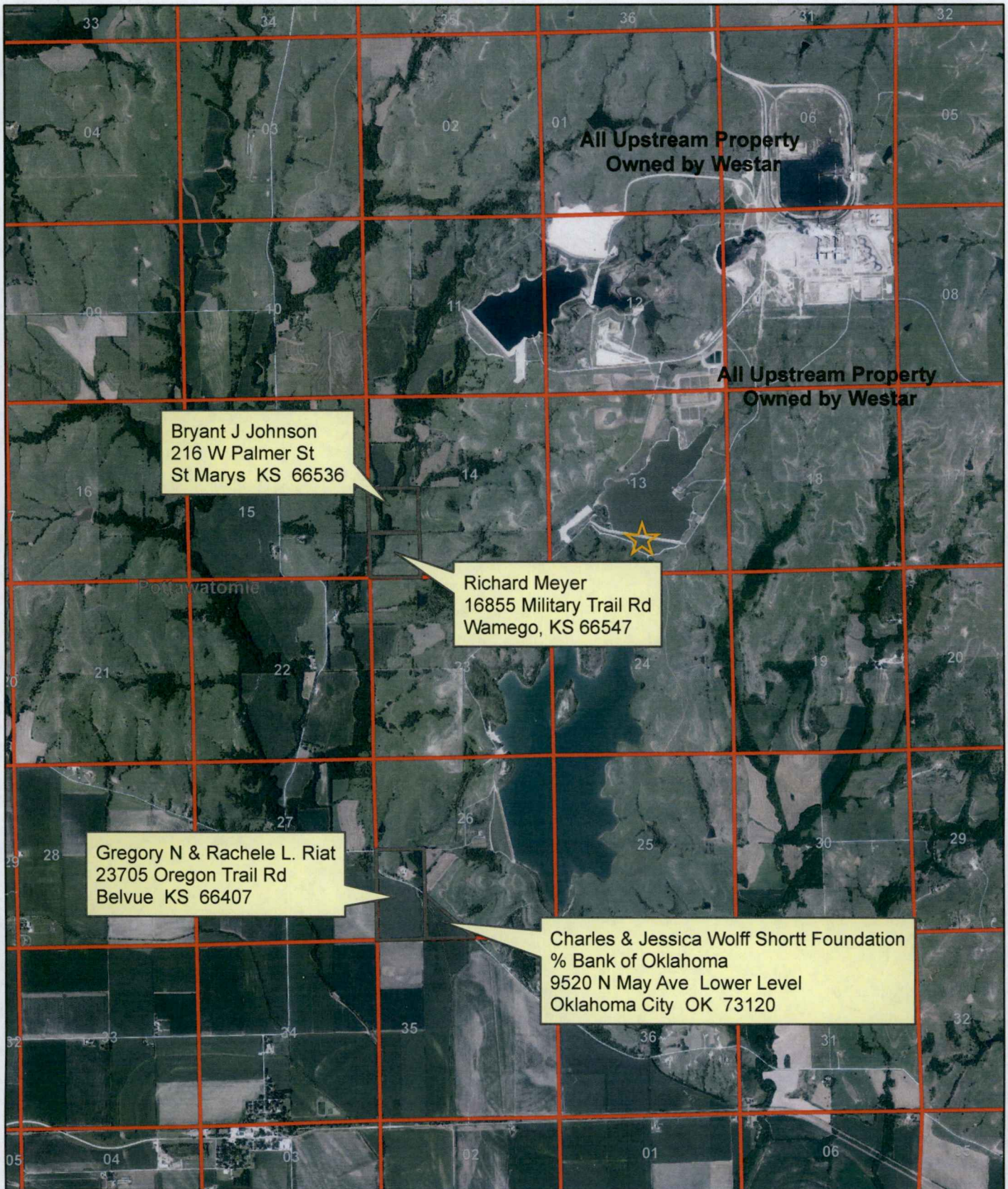
WAIVER REQUEST**K.A.R. 5-1-4 – 5-1-12**

The applicant is requesting a waiver of K.A.R. 5-1-4 through K.A.R. 5-1-12 requiring the installation of a water flowmeter. This is requested because the lakes recirculate project water. The lakes are used as the primary source to supply water at the Jeffrey Energy Center plant by recirculating process water through the lakes over and over again. Makeup water to replenish the lakes, when necessary, is pumped from the intake under File Nos. 34,442, 45,282, & 47,134 and from the wells under File No. 28,239, all of which are properly metered. Because the water is recirculated through the lakes, there is no ability to use meters to determine the quantities of “new” vs “re-circulated” water or to differentiate between sources.

This is a unique project, and in lieu of installing a flowmeter, the applicant is proposing to report the entire potential annual run-off at 20% chance (1,490.2 acre-feet) as their annual quantity of water stored and rediverted each year on their water use report. The actual quantity of water used would almost certainly be lower than this value, due to both seepage from the reservoir and evaporation from the reservoirs surface.

Therefore, since the water used will be accounted for, and installation of a water flowmeter is impractical, the applicant is requesting a waiver of K.A.R. 5-1-4 through K.A.R. 5-1-12.

WESTAR ENERGY NEARBY LANDOWNER MAP



1:48,000

Downstream Landowners Adjacent To The Stream within 1/2 mile are Indicated On This Map. Westar Owns all Upstream Property.



DEPARTMENT OF AGRICULTURE
DIVISION OF WATER RESOURCES
TOPEKA FIELD OFFICE
6531 SE FORBES AVE., SUITE B
TOPEKA, KS 66619

STATE OF KANSAS



PHONE: (785) 296-5733
FAX: (785) 296-8298
www.agriculture.ks.gov

GOVERNOR JEFF COLYER, M.D.
JACKIE McCLASKEY, SECRETARY OF AGRICULTURE

September 19, 2018

CHARLES & JESSICA WOLFF SHORTT FOUNDATION
C/O BANK OF OKLAHOMA
9520 N MAY AVENUE – LOWER LEVEL
OKLAHOMA CITY OK 73120

Re: Pending New Application, File No. 49,967, and
Water Right, File No. 24,234 Change Application (Point of Diversion)

Dear Sir or Madam:

This is to advise you that Westar Energy has filed the new application referred to above for a permit to appropriate 1,106.9 acre-feet of surface water per calendar year to be stored in two existing reservoirs and re-divert 1,106.9 acre-feet of the stored water for industrial use. Please note that these are **existing** reservoirs with one of them currently authorized under File No. 24,234. The Application to Change the Point of Diversion for File No. 24,234 will add the second, lower reservoir to create a complete overlap with the new application. The points of diversion (where the dams cross the centerline of the stream) are located in the Southeast Quarter (SE¹/₄) of Section 13 and Section 26, in Township 9 South, Range 11 East, Pottawatomie County, Kansas.

Records in this office indicate that you own land along the stream in this vicinity and you are being notified of receipt of these applications in order that you may be fully informed of the proposed location of the applicant's points of diversion and proposed use of water. Consideration will be given to comments or other information which you desire to submit to this office **within 15 days** from the date of this letter.

You can find the applications and site maps posted by the file numbers referenced above at:
<http://agriculture.ks.gov/divisions-programs/dwr/water-appropriation/notices>

If you have any questions or comments, you may also contact me at (785) 296-3495. If you call, please reference the file number so I can help you more efficiently.

Sincerely,

Douglas W. Schemm
Environmental Scientist
Topeka Field Office

pc: Westar Energy

DEPARTMENT OF AGRICULTURE
DIVISION OF WATER RESOURCES
TOPEKA FIELD OFFICE
6531 SE FORBES AVE., SUITE B
TOPEKA, KS 66619

STATE OF KANSAS



PHONE: (785) 296-5733
FAX: (785) 296-8298
www.agriculture.ks.gov

GOVERNOR JEFF COLYER, M.D.
JACKIE MCCLASKEY, SECRETARY OF AGRICULTURE

September 19, 2018

GREGORY N & RACHELE L RIAT
23705 OREGON TRAIL RD
BELVUE KS 66407

Re: Pending New Application, File No. 49,967, and
Water Right, File No. 24,234 Change Application (Point of Diversion)

Dear Sir or Madam:

This is to advise you that Westar Energy has filed the new application referred to above for a permit to appropriate 1,106.9 acre-feet of surface water per calendar year to be stored in two existing reservoirs and re-divert 1,106.9 acre-feet of the stored water for industrial use. Please note that these are **existing** reservoirs with one of them currently authorized under File No. 24,234. The Application to Change the Point of Diversion for File No. 24,234 will add the second, lower reservoir to create a complete overlap with the new application. The points of diversion (where the dams cross the centerline of the stream) are located in the Southeast Quarter (SE $\frac{1}{4}$) of Section 13 and Section 26, in Township 9 South, Range 11 East, Pottawatomie County, Kansas.

Records in this office indicate that you own land along the stream in this vicinity and you are being notified of receipt of these applications in order that you may be fully informed of the proposed location of the applicant's points of diversion and proposed use of water. Consideration will be given to comments or other information which you desire to submit to this office **within 15 days** from the date of this letter.

You can find the applications and site maps posted by the file numbers referenced above at:
<http://agriculture.ks.gov/divisions-programs/dwr/water-appropriation/notices>

If you have any questions or comments, you may also contact me at (785) 296-3495. If you call, please reference the file number so I can help you more efficiently.

Sincerely,

Douglas W. Schemm
Environmental Scientist
Topeka Field Office

pc: Westar Energy

1320 Research Park Drive
Manhattan, Kansas 66502
Jackie McClaskey, Secretary



Phone: (785) 564-6700
Fax: (785) 564-6777
Email: ksag@kda.ks.gov
www.agriculture.ks.gov
Sam Brownback, Governor

January 12, 2018

WESTAR ENERGY JEFFREY ENERGY CTR
TOPGO- LL J MORRISON
PO BOX 889
TOPEKA KS 66601

RE: Application
File No. 49967

Dear Sir or Madam:

Your application for permit to appropriate water in 13-9S-11E in Pottawatomie County, was received and has been assigned the file number noted above.

As a matter of record, the Division of Water Resources has on hand a large number of applications awaiting processing. Therefore to be fair to all concerned, and so that we can process those applications on hand in the order they were received, we intend to concentrate on the backlog of applications until the issue is resolved. Once review of your application has begun, we will contact you, if additional information is required.

In accordance with the provisions of the Kansas Water Appropriation Act, a portion of which is included below, the use of water as proposed prior to approval of the application is unlawful. Once approved, compliance with the terms, conditions and limitations of the permit is necessary. Conservation of the water resources of Kansas is required.

Section 82a-728 of the Kansas Water Appropriation Act, provides (a) except for the appropriation of water for the purpose of domestic use, . . . it shall be unlawful for any person to appropriate or threaten to appropriate water from any source without first applying for and obtaining a permit to appropriate water in accordance with the provisions of the Water Appropriation Act or for any person to violate any condition of a vested right, appropriation right or an approved application for a permit to appropriate water for beneficial use.

(b) (1) The violation of any provision of this section by any person is a class C misdemeanor . . .

A class C misdemeanor is punishable by a fine not to exceed \$500 and/or a term of confinement not to exceed one month in the county jail. Each day that the violation occurs constitutes a separate offense.

If you have any questions, please contact me at (785) 564-6637. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

A handwritten signature in black ink that reads "Kristen A. Baum". The signature is written in a cursive, flowing style.

Kristen A. Baum
New Applications Unit Supervisor
Water Appropriation Program

BAT: dlw
pc: TOPEKA Field Office
GMD

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THE STATE

OF



KANSAS

KANSAS DEPARTMENT OF AGRICULTURE
Jackie McClaskey, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

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11:59

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File Number

49967

This item to be completed by the Division of Water Resources.

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DEC 13 2017
11:39
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APPLICATION FOR PERMIT TO APPROPRIATE WATER FOR BENEFICIAL USE

Filing Fee Must Accompany the Application
(Please refer to Fee Schedule attached to this application form.)

To the Chief Engineer of the Division of Water Resources, Kansas Department of Agriculture,
1320 Research Park Drive, Manhattan, KS 66502:

1. Name of Applicant (Please Print): WESTAR ENERGY JEFFREY ENERGY CTR -TOPGO-LL J MORRISON
Address: P.O. BOX 889
City: TOPEKA State: KS Zip Code 66601
Telephone Number: (785) 575-1548 8273 Jared.Morrison
heath.horyna@westarenergy.com

2. The source of water is: surface water in KANSAS RIVER TRIB 3 # 320
(stream)
OR groundwater in KANSAS RIVER
(drainage basin)

Certain streams in Kansas have minimum target flows established by law or may be subject to administration when water is released from storage for use by water assurance district members. If your application is subject to these regulations on the date we receive your application, you will be sent the appropriate form to complete and return to the Division of Water Resources. Redivert 1,106.9 AF

3. The maximum quantity of water desired is 1,106.9 (storage) acre-feet OR _____ gallons per calendar year, to be diverted at a maximum rate of NF gallons per minute OR _____ cubic feet per second.

Once your application has been assigned a priority, the requested maximum rate of diversion and maximum requested quantity of water under that priority number can **NOT** be increased. Please be certain your requested maximum rate of diversion and maximum quantity of water are appropriate and reasonable for your proposed project and are in agreement with the Division of Water Resources' requirements.

4. The water is intended to be appropriated for (Check use intended):
(a) Artificial Recharge (b) Irrigation (c) Recreational (d) Water Power
(e) Industrial (f) Municipal (g) Stockwatering (h) Sediment Control
(i) Domestic (j) Dewatering (k) Hydraulic Dredging (l) Fire Protection
(m) Thermal Exchange (n) Contamination Remediation

YOU **MUST** COMPLETE AND ATTACH ADDITIONAL DIVISION OF WATER RESOURCES FORM(S) PROVIDING INFORMATION TO SUBSTANTIATE YOUR REQUEST FOR THE AMOUNT OF WATER FOR THE INTENDED USE REFERENCED ABOVE.

For Office Use Only:
F.O. 1 GMD 0 Meets K.A.R. 5-3-1 (YES / NO) Use IND Source G/S County PT By AW Date 1/10/18
Code REG RE3 Fee \$ 460 TR # _____ Receipt Date 12/13/17 Check # 275039

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1/10/2018 CM

5. The location of the proposed wells, pump sites or other works for diversion of water is:

Note: For the application to be accepted, the point of diversion location must be described to at least a 10 acre tract, unless you specifically request a 60 day period of time in which to locate the site within a specifically described, minimal legal quarter section of land.

(A) One in the NW quarter of the SW quarter of the SE quarter of Section 13, more particularly described as being near a point 1,060 feet North and 2,560 feet West of the Southeast corner of said section, in Township 9 South, Range 11 EAST, PT County, Kansas.

(B) One in the NW quarter of the NE quarter of the SE quarter of Section 26, more particularly described as being near a point 2,536 feet North and 1,288 feet West of the Southeast corner of said section, in Township 9 South, Range 11 EAST, PT County, Kansas.

(C) One in the _____ quarter of the _____ quarter of the _____ quarter of Section _____, more particularly described as being near a point _____ feet North and _____ feet West of the Southeast corner of said section, in Township _____ South, Range _____ East/West (circle one), _____ County, Kansas.

If the source of supply is groundwater, a separate application shall be filed for each proposed well or battery of wells, except that a single application may include up to four wells within a circle with a quarter (¼) mile radius in the same local source of supply which do not exceed a maximum diversion rate of 20 gallons per minute per well.

A battery of wells is defined as two or more wells connected to a common pump by a manifold; or not more than four wells in the same local source of supply within a 300 foot radius circle which are being operated by pumps not to exceed a total maximum diversion rate of 800 gallons per minute and which supply water to a common distribution system.

6. The owner of the point of diversion, if other than the applicant is (please print):

APPLICANT _____
(name, address and telephone number)

(name, address and telephone number)

You must provide evidence of legal access to, or control of, the point of diversion from the landowner or the landowner's authorized representative. Provide a copy of a recorded deed, lease, easement or other document with this application. In lieu thereof, you may sign the following sworn statement:

I have legal access to, or control of, the point of diversion described in this application from the landowner or the landowner's authorized representative. I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____, 2017___. _____
Applicant's Signature

7. The proposed project for diversion of water will consist of TWO DAMS AND RESERVOIRS _____
(number of wells, pumps or dams, etc.)
and (was)(will be) completed (by) EXISTING _____
(Month/Day/Year - each was or will be completed)

8. The first actual application of water for the proposed beneficial use was or is estimated to be SUMMER
2017 _____
(Mo/Day/Year)

5. The location of the proposed wells, pump sites or other works for diversion of water is:

Note: For the application to be accepted, the point of diversion location must be described to at least a 10 acre tract, unless you specifically request a 60 day period of time in which to locate the site within a specifically described, minimal legal quarter section of land.

(A) One in the NW quarter of the SW quarter of the SE quarter of Section 13, more particularly described as being near a point 1,060 feet North and 2,560 feet West of the Southeast corner of said section, in Township 9 South, Range 11 EAST, PT County, Kansas.

(B) One in the NW quarter of the NE quarter of the SE quarter of Section 26, more particularly described as being near a point 2,536 feet North and 1,288 feet West of the Southeast corner of said section, in Township 9 South, Range 11 EAST, PT County, Kansas.

(C) One in the _____ quarter of the _____ quarter of the _____ quarter of Section _____, more particularly described as being near a point _____ feet North and _____ feet West of the Southeast corner of said section, in Township _____ South, Range _____ East/West (circle one), _____ County, Kansas.

(D) One in the _____ quarter of the _____ quarter of the _____ quarter of Section _____, more particularly described as being near a point _____ feet North and _____ feet West of the Southeast corner of said section, in Township _____ South, Range _____ East/West (circle one), _____ County, Kansas.

If the source of supply is groundwater, a separate application shall be filed for each proposed well or battery of wells, except that a single application may include up to four wells within a circle with a quarter (1/4) mile radius in the same local source of supply which do not exceed a maximum diversion rate of 20 gallons per minute per well.

A battery of wells is defined as two or more wells connected to a common pump by a manifold; or not more than four wells in the same local source of supply within a 300 foot radius circle which are being operated by pumps not to exceed a total maximum diversion rate of 800 gallons per minute and which supply water to a common distribution system.

6. The owner of the point of diversion, if other than the applicant is (please print):

APPLICANT

(name, address and telephone number)

(name, address and telephone number)

You must provide evidence of legal access to, or control of, the point of diversion from the landowner or the landowner's authorized representative. Provide a copy of a recorded deed, lease, easement or other document with this application. In lieu thereof, you may sign the following sworn statement:

I have legal access to, or control of, the point of diversion described in this application from the landowner or the landowner's authorized representative. I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 4, 2018. [Signature]
Applicant's Signature

7. The proposed project for diversion of water will consist of TWO DAMS AND RESERVOIRS
(number of wells, pumps or dams, etc.)
and (was)(will be) completed (by) EXISTING
(Month/Day/Year - each was or will be completed)

8. The first actual application of water for the proposed beneficial use was or is estimated to be SUMMER 2017

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- 9. Will pesticide, fertilizer, or other foreign substance be injected into the water pumped from the diversion works?
 Yes No If "yes", a check valve shall be required.

All chemigation safety requirements must be met including a chemigation permit and reporting requirements.

- 10. If you are planning to impound water, please contact the Division of Water Resources for assistance, prior to submitting the application. Please attach a reservoir area capacity table and inform us of the total acres of surface drainage area above the reservoir.

Have you also made an application for a permit for construction of this dam and reservoir with the Division of Water Resources? Yes No

- If yes, show the Water Structures permit number here _____
- If no, explain here why a Water Structures permit is not required ALREADY PERMITTED UNDER STRUCTURES PERMIT NO. DPT-105 and DPT-126.

- 11. The application must be supplemented by a U.S.G.S. topographic map, aerial photograph or a detailed plat showing the following information. On the topographic map, aerial photograph, or plat, identify the center of the section, the section lines or the section corners and show the appropriate section, township and range numbers. Also, please show the following information:

- (a) The location of the proposed point(s) of diversion (wells, stream-bank installations, dams, or other diversion works) should be plotted as described in Paragraph No. 5 of the application, showing the North-South distance and the East-West distance from a section line or southeast corner of section.
- (b) If the application is for groundwater, please show the location of any existing water wells of any kind within 1/2 mile of the proposed well or wells. Identify each existing well as to its use and furnish the name and mailing address of the property owner or owners. If there are no wells within 1/2 mile, please advise us.
- (c) If the application is for surface water, the names and addresses of the landowner(s) 1/2 mile downstream and 1/2 mile upstream from your property lines must be shown.
- (d) The location of the proposed place of use should be shown by crosshatching on the topographic map, aerial photograph or plat.
- (e) Show the location of the pipelines, canals, reservoirs or other facilities for conveying water from the point of diversion to the place of use.

A 7.5 minute U.S.G.S. topographic map may be obtained by providing the section, township and range numbers to: Kansas Geological Survey, 1930 Constant, Campus West, University of Kansas, Lawrence, Kansas 66047.

- 12. List any application, appropriation of water, water right, or vested right file number that covers the same diversion points or any of the same place of use described in this application. Also list any other recent modifications made to existing permits or water rights in conjunction with the filing of this application.

FILE NO. 24,234 - COMPLETE OVERLAP IN PU AND PD (After Change)

FILE NOS. 24,233; 28,239; 34,442; 45,282; 47,134 - OL IN PU (JEFFREY ENERGY CENTER)

Requested Storage Quantity is limited to Basin Runoff potential. Runoff Basin = 1,555 acres x 11.5" of runoff / 12 = 1,490.2 AF. Senior File is authorized 465 AF, and covers 383.3 AF difference is 1,106.9 Acre-Feet.

Waiver of Metering is being requested (see Attachments)

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File No. _____

- 13. Furnish the following well information if the proposed appropriation is for the use of groundwater. If the well has not been completed, give information obtained from test holes, if available.

Information below is from: Test holes Well as completed Drillers log attached

Well location as shown in paragraph No.	(A)	(B)	(C)	(D)
Date Drilled	_____	_____	_____	_____
Total depth of well	_____	_____	_____	_____
Depth to water bearing formation	_____	_____	_____	_____
Depth to static water level	_____	_____	_____	_____
Depth to bottom of pump intake pipe	_____	_____	_____	_____

- 14. The relationship of the applicant to the proposed place where the water will be used is that of Owner
(owner, tenant, agent or otherwise)

- 15. The owner(s) of the property where the water is used, if other than the applicant, is (please print):

(name, address and telephone number)

(name, address and telephone number)

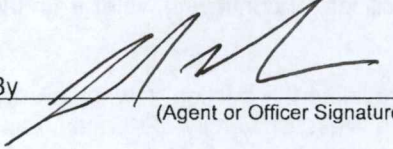
- 16. The undersigned states that the information set forth above is true to the best of his/her knowledge and that this application is submitted in good faith.

Dated at Topeka, Kansas, this 5 day of December, 2017.
(month) (year)



(Applicant Signature)

~~_____
APPLICANT(S) SOCIAL SECURITY IDENTIFICATION NUMBER(S)~~

By 

(Agent or Officer Signature)

~~_____
and/or
APPLICANT(S) TAXPAYER I.D. NO.(S)~~

Jared Morrison

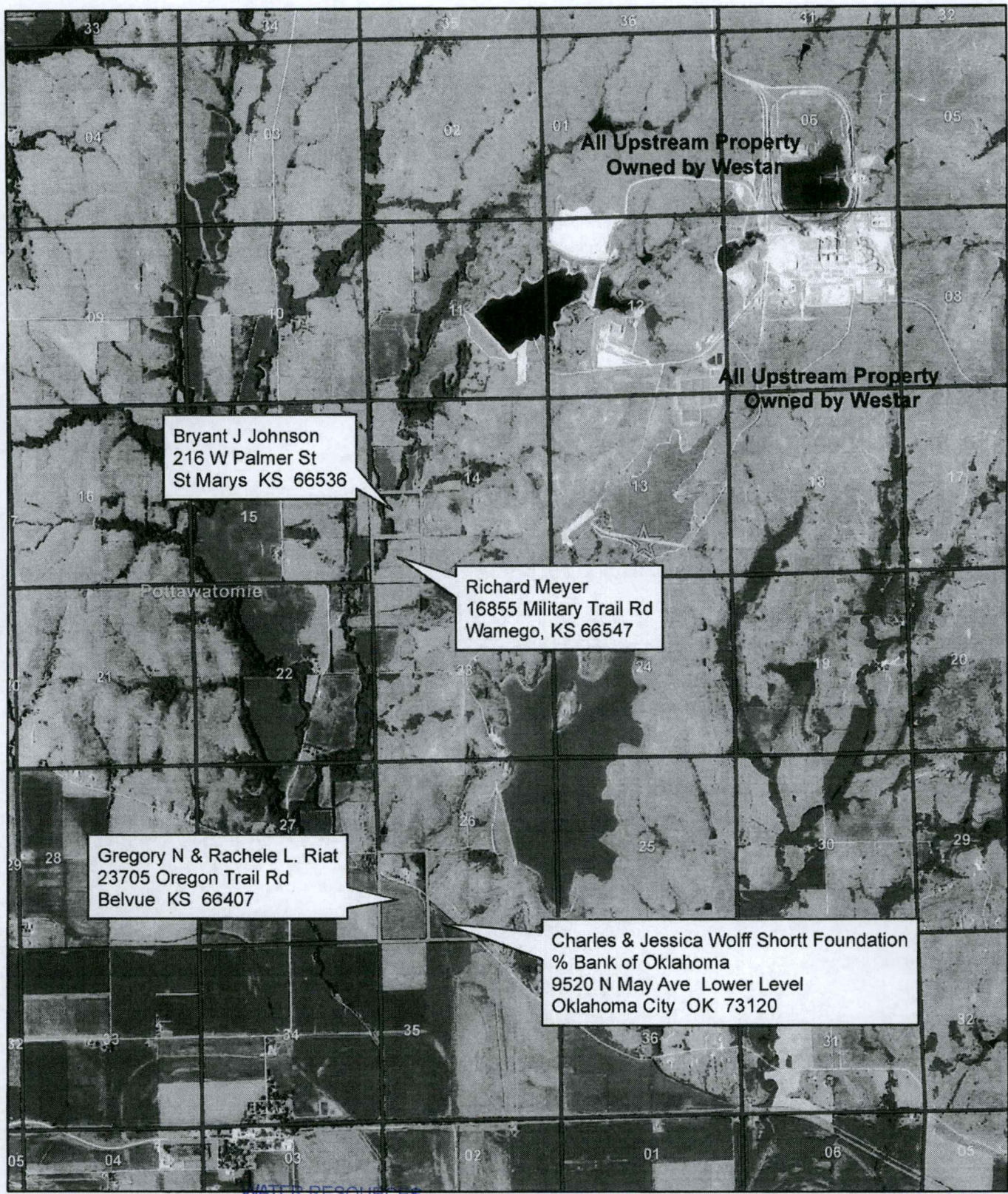
(Agent or Officer - Please Print)

Assisted by DWS TOPEKA FO Date: 5/10/2017
(office/title)

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499107

WESTAR ENERGY NEARBY LANDOWNER MAP



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Downstream Landowners Adjacent To The Stream within 1/2 mile are Indicated On This Map. Westar Owns all Upstream Property.

1:48,000

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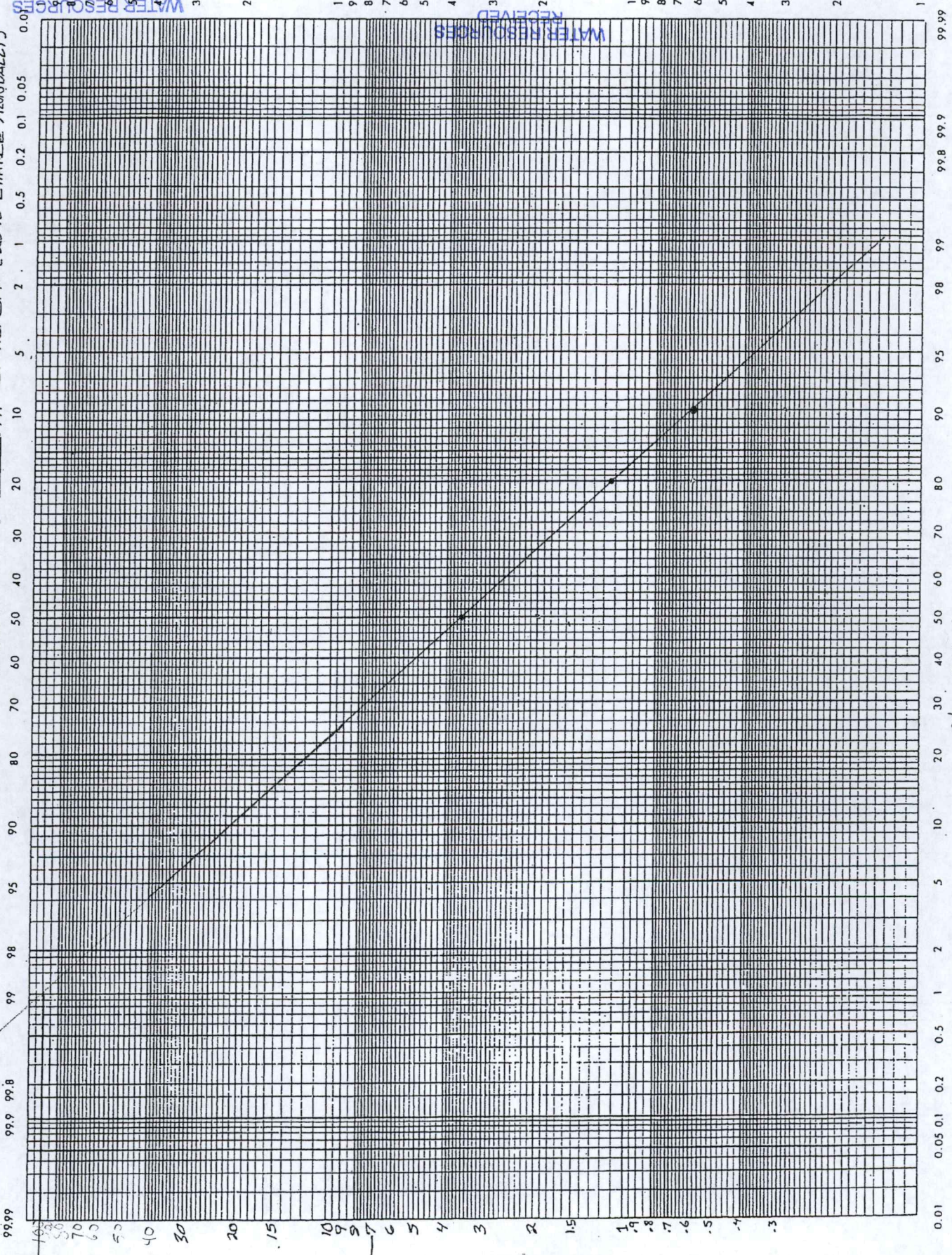
WATER RESOURCES UNACCEPTABLE FOR PRIORITY

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FILE NO. _____
 SOIL: "16" PRECIP: 34"
 1555 ACRES IN DRAINAGE x 11.5" = 17882.5" / 12" ⇒ 1490.2 A.F. OF RUNOFF (20% CHANCE ANNUALLY)



49907

PREPARED BY: _____
 010 CHANCE

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49967

99 WSIQ1 Query: WSI, ENG, WSI_TRANSACTIONS, WATER_RIGHTS, LOCATIONS, WAMERS, ECA, ITRAIL, COMPLIANCE, IMAGES, WSI_ACTIONS

STRUCTURE NUMBER: 0105, Ws Id: 14110, LAST#: 172, APPLICATION: App Recd Date: 06-30-1975

REVIEWER: [FSA], CURRENT STATUS: Permit, Project Activity: [], INDICATORS: Pending Complaint: [], App Mod: [], Pending Mod: [], After the Fact: [], General Permits: []

File Location: CAB, Compliance: [], Site Name: JEFFERY ENERGY CENTER-MAKEL, Stream: KANSAS RIVER-TR, KDOT Type: [], Level: [], Corps: [], App Proc Time: [], DWB: [], Total: [], Location: [], Pull Date: []

APPLICANT: LAST: KANSAS POWER & LIGHT, FIRST: [], OWNER: LAST: WESTAR ENERGY, FIRST: [], DESIGNER: LAST: UNKNOWN, FIRST: [], Const Comp Date: 01-01-1977, DDA: 400, Remarks: [], Fd: [], CEHA: []

Buttons: VGI ACT, ALL ACT, LOCATION, ECA, APPLICANT, OWNER, DESIGNER, ENG, COMPLAINT, MOD ACT, PROJECT

Buttons: ACTIONS, LOCATION, ECA, FEE, ITRAIL, LEGAL, WAIVER, YR, IMAGE, CMP, MODIFICATION, TAXED, AFF ID

P Loc	SEC	TWP	Dr	RNG	Dr	County	FL	LA	Q4	Q3	Q2	Q1	Computed List	Computed
13	9	S	11	E	PT					NY	SW	SE	30 26 29 36	1 98 13 65

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WSI01 Query WSI, ENG, WSI_TRANSACTIONS, WATER_RIGHTS, LOCATIONS, WAIVERS, ECA, ITRAIL, COMPLIANCE, IMAGES, WSI_ACTIONS

STRUCTURE NUMBER: D PT 0126 Ws Id: 14131 LAST#: 172

APPLICATION: App Recd Date: 11-05-1984

REVEAER: INT File Location: [] CURRENT STATUS: Perml: [] Compliance: [] Perml: []

PROJECT ACTIVITY: Site Name: JEFFERY EC, ALX MAKE-UP Stream: KANSAS RIVER-TR KDOT Type: []

INDICATORS: Pending Compliance: [] App Mod: [] Pending Mod: [] After the Fact: [] General Permits: []

APPLICANT: LAST: KANSAS POWER & LIGHT FIRST: [] Levee Ind: [] Corps: []

OWNER: LAST: WESTAR ENERGY FIRST: [] App Proc Time: [] Total: []

DESIGNER: LAST: UNKNOWN FIRST: [] Location: [] PUA Date: []

Const Comp Date: [] GDA: [] ISS: [] Remarks: [] POC: []

WSI ACT ALL ACT LOCATION ECA AFFICANT OWNER DESIGNER ENG COMPLAINT MOD ACT PROJECT

ACTIONS LOCATION ECA FEE ITRAIL LEGAL WAIVER VR IMAGE CWP MODIFICATION TAXED AFF IND

P Loc	SEC	TYP	Dir	RNO	Dir	County	FL	LA	G4	G3	G2	G1	Computed_Lat	Computed
Y	08	D	S	11	E	PT							39.239536	-98.15300

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WATER RESOURCES RECEIVED

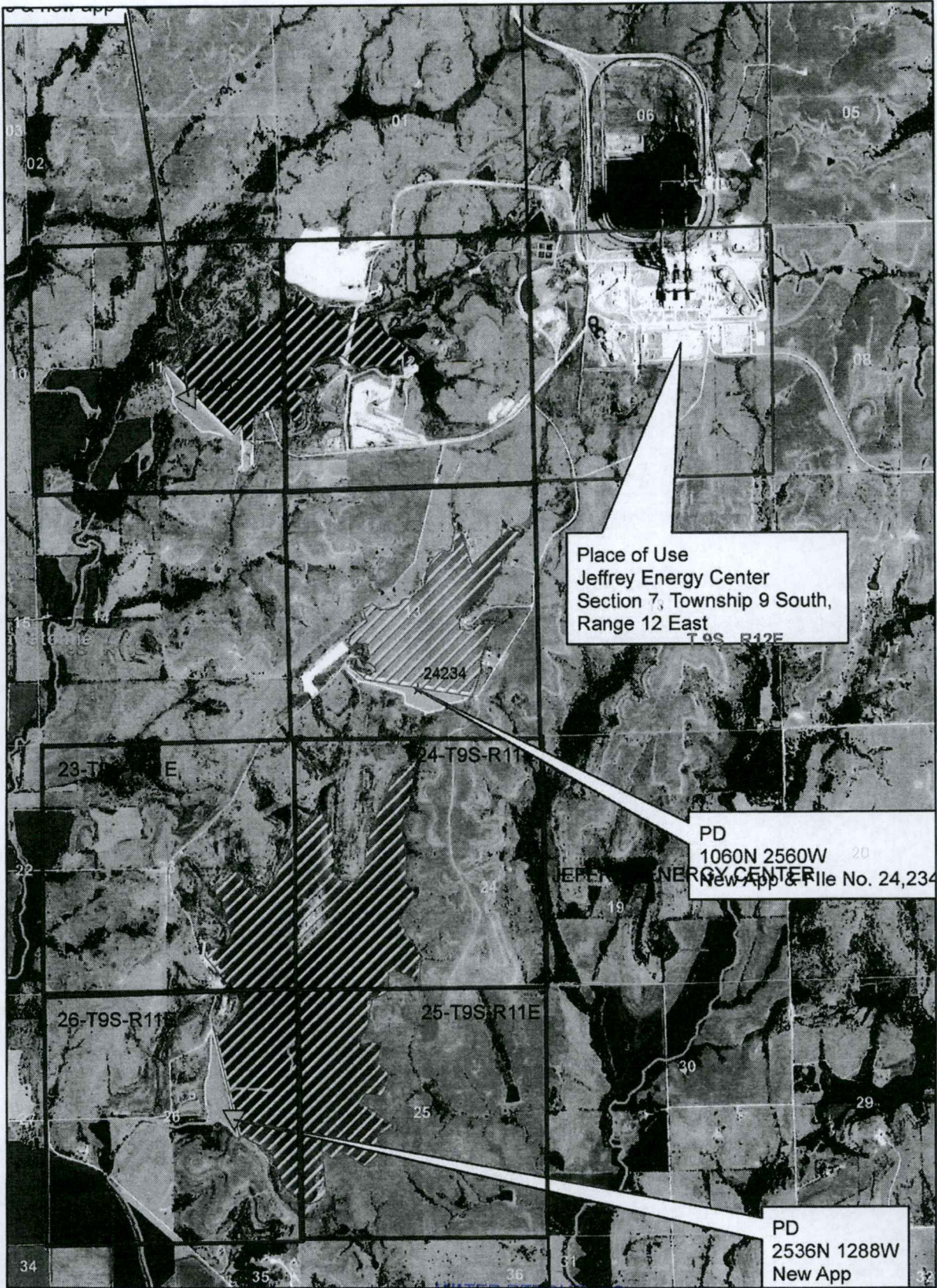
UNACC... DEC 15 2017

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JEC, New App 2 lakes & Change App PD File No. 24,223



1:36,000

JAN 11 2018

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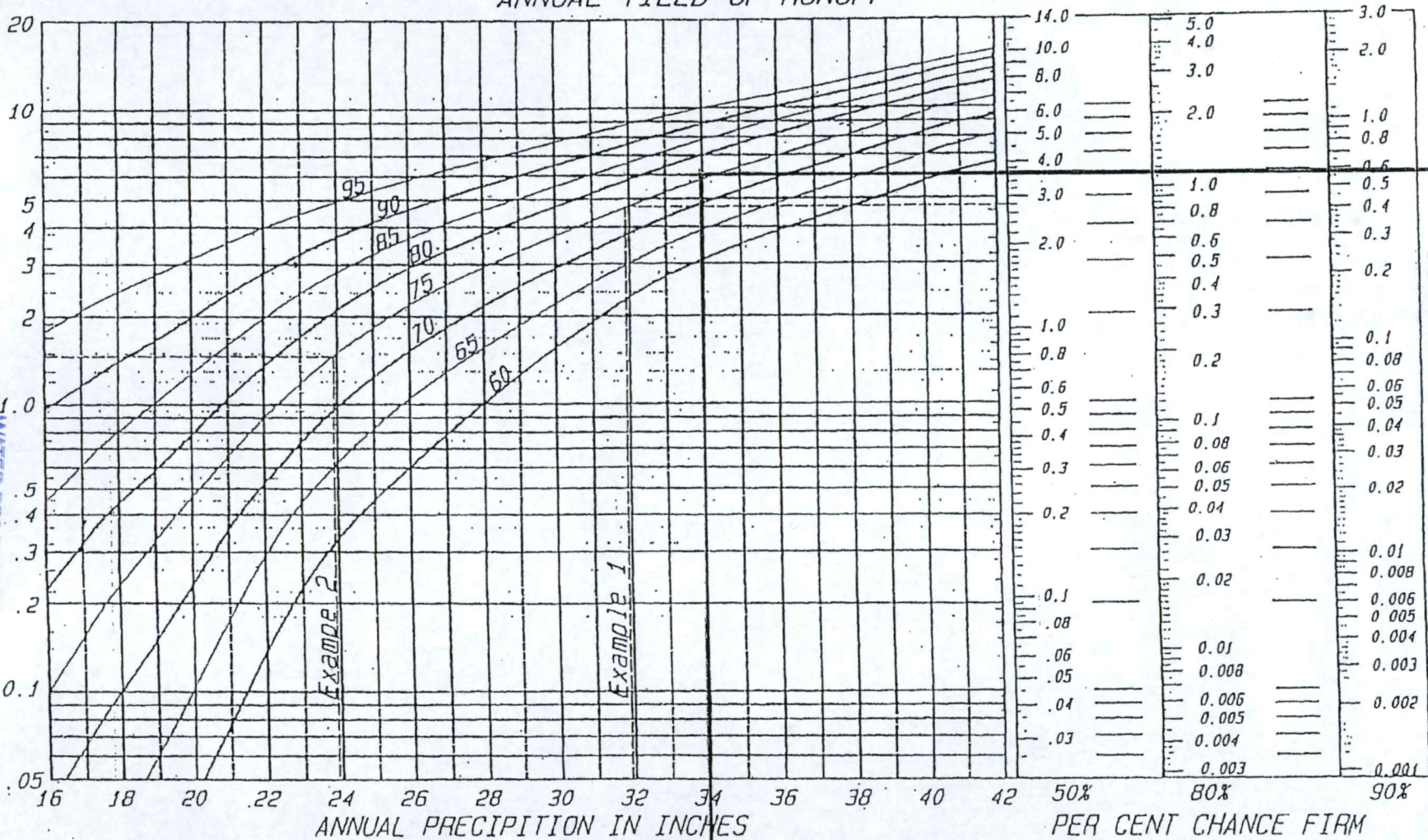
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ANNUAL YIELD OF RUNOFF



United States department of agriculture, natural resources conservation service, nation engineering handbook series, part 650, engineering field handbook.

SEHONI NI JFONRA

KS-2-36

KAR 5-6-4(x)(1)

49907

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EFM Notice KS-38, 12/12/91
JAN 11 2018

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