

Kansas Department of Agriculture  
 Division of Water Resources  
**CHANGE: PU WORKSHEET**

|                                 |  |                             |                               |         |
|---------------------------------|--|-----------------------------|-------------------------------|---------|
| 1. File Number:<br><b>16611</b> | 2. Status Change Date:<br><b>2/13/2020</b> | 3. Change Num:<br><b>C2</b> | 4. Field Office:<br><b>01</b> | 5. GMD: |
|---------------------------------|--|-----------------------------|-------------------------------|---------|

|  |  |
|--|--|
| 6. Status: <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied by DWR/GMD <input type="checkbox"/> Dismiss by Request/Failure to Return | 7. Filing Date of Change:<br><b>10/29/19</b> |
|--|--|

|  |  |
|--|--|
| 8a. Applicant(s)<br>New to system <input type="checkbox"/> Person ID <b>28589</b><br>Add Seq# _____<br><br><b>ROBERT J &amp; DEBORAH A WIETHARN TRUSTS</b><br><b>ROBERT WIETHARN TRUSTEE</b><br><b>1925 KIOWA RD</b><br><b>CLAY CENTER, KS 67432</b> | 8c. Landowner(s)<br>New to system <input type="checkbox"/> Person ID _____<br>Add Seq# _____ |
|--|--|

|  |   |
|--|---|
| 8b. Landowner(s)<br>New to system <input type="checkbox"/> Person ID _____<br>Add Seq# _____ | 8d. WUC<br>New to system <input type="checkbox"/> Person ID _____<br>Add Seq# _____ |
|--|---|

|  |
|--|
| 9. Documents and Enclosure(s): <input checked="" type="checkbox"/> DWR Meter(s) Date to Comply: <b>12/31/2021</b> <input type="checkbox"/> N & P Date to Comply: _____<br><input type="checkbox"/> Anti-Reverse Meter <input type="checkbox"/> Meter Seal <input checked="" type="checkbox"/> Check Valve <input type="checkbox"/> N & P Form <input type="checkbox"/> Water Tube <input type="checkbox"/> Driller Copy <input type="checkbox"/> H & E Letter<br><input type="checkbox"/> Conservation Plan    Date Required: _____    Date Approved: _____    Date to Comply: _____ |
|--|

|   |
|---|
| 10. Use Made of Water    From: _____    To: _____ |
|---|

|  |
|--|
| Date Prepared: <b>2/6/2020</b> By: <b>li</b><br>Date Entered: <b>2/17/2020</b> By: <span style="border: 1px solid blue; padding: 2px;">LMoody</span> |
|--|

|  |
|--|
|  |
|--|

File No. **16611**      11. County: **CY**      Basin: **REPUBLICAN RIVER**      Stream:      Formation Code: **115**      Special Use: **034**

12. Points of Diversion  
 CHK  
 MOD  
 DEL PDIV  
 ENT  
 Qualifier      S      T      R      ID      'N      'W      Comment (AKA Line)      Rate gpm/cfs      Quantity af/mgy      Rate gpm/cfs      Quantity af/mgy      Overlap PD Files

**NO CHANGE**

13. Storage: Rate \_\_\_\_\_ NF      Quantity \_\_\_\_\_ ac/ft      Additional Rate \_\_\_\_\_ NF      Additional Quantity \_\_\_\_\_ ac/ft

14. Limitation: \_\_\_\_\_ af/yr at \_\_\_\_\_ gpm ( \_\_\_\_\_ cfs) when combined with file number(s) **NONE NO CHANGE**  
 Limitation: \_\_\_\_\_ af/yr at \_\_\_\_\_ gpm ( \_\_\_\_\_ cfs) when combined with file number(s) \_\_\_\_\_

15. 5YR Allocation:      Allocation Type \_\_\_\_\_      Start Year \_\_\_\_\_      5 YR Amount \_\_\_\_\_      Amount Unit \_\_\_\_\_      Base Acres \_\_\_\_\_      Comment \_\_\_\_\_

| 16. Place of Use<br>CHK<br>MOD<br>DEL<br>ENT | PUSE  | S  | T | R  | ID | NE¼  |      |      |      | NW¼  |      |      |      | SW¼  |      |      |      | SE¼  |      |      |      | Total | Owner | Chg? | Overlap Files |
|--|-------|----|---|----|----|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|-------|-------|------|---------------|
|  |       |    |   |    |    | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ |       |       |      |               |
| ENT  | 69648 | 34 | 6 | 2E | 1  |      |      |      |      |      |      |      |      |      |      | 40   | 40   |      |      |      |      | 80    | 8A    | NO   | 17097 & 50307 |
| CHK  | 40342 | 3  | 7 | 2E | 3  |      |      |      |      |      |      | 40   | 37   | 22   | 14   | 22   | 35   | 15   | 15   | 30   | 39   | 269   | 8A    | NO   | 17097 & 50307 |
|  |       |    |   |    |    |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |       |       |      |               |
|  |       |    |   |    |    |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |       |       |      |               |
|  |       |    |   |    |    |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |       |       |      |               |

Base Acres:      Year:      Minimum Reasonable Quantity:  
 Comments:

**KANSAS DEPARTMENT OF AGRICULTURE**  
**Division of Water Resources**

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

**TO:** File

**DATE:** February 11, 2020

**FROM:** Leslie Ireland

**RE:** Water Right, File Nos. 16,611 & 17,097

Robert J. Wietharn trustee for the Robert J and Debora A. Wietharn Trusts, owners of the referenced files, submitted applications for approval to change the place of use on October 29, 2019. The rights authorize groundwater for irrigation use in Clay County, Republican River Basin. The applications for change have been filed with a new permit, File No. 50,307, which is being processed by Doug Schemm, Environmental Scientist, Topeka Field Office to replace the dismissed File No. 47,686, due to failure to complete.

The referenced rights appear not be abandoned as per K.S. A. 82a-718, and in compliance with K.S.A. 82a-732. In conjunction with the processing of File No. 50,307, the change applications appear to comply with K.A.R. 5-5-2a, *Complete application*.

Water right, File No. 16,611, is authorized 1,000 gallons per minute (gpm) to divert 131 acre-feet (AF) from a well. Water Right, File No. 17,097 is authorized 930 gpm to divert 140 AF from a different well. The combined 271 AF provides 1.01 AF per acre to the complete overlapping 269 acre place of use located in the South half (S $\frac{1}{2}$ ) and South half of the Northwest Quarter (S $\frac{1}{2}$  NW $\frac{1}{4}$ ) of Section 3, Township 7 South, Range 2 East, Clay County authorized by both of the referenced files. The source of supply for these wells has been determined to be the Terrace deposits (Code 115), but in the Effective Alluvial (Code 034) of the Republican River. As the wells are not being changed, the local source of supply will not change.

The change to the authorized place of use is to add 80 noncontiguous acres in the South half of the Southwest Quarter (S $\frac{1}{2}$  SW $\frac{1}{4}$ ) of Section 34, Township 6 South, Range 2 East, Clay County. This will result in a total of 349 acres to be authorized as a complete overlap under File Nos. 16,611; 17,097 & 50,307. The new permit will provide 100 AF of surface water for a combined total of 371 AF providing 1.063 AF per acre. This is less than the 1.2 AF per acre per K.A.R 5-3-24 *Reasonable quantity for irrigation use*, but is only slightly less than 1.2 at the 80% chance of rain per K.A.R, *Net Irrigation Requirement*, but more than 0.77 AF per acre at the 50% chance. It appears the irrigation ratio is reasonable.


The proposed change applications comply with part 6 of K.A.R. 5-5-11, *Applications for change in place of use for irrigation purposes*, with the approval of File No. 50,307, as the additional 100 AF that will be authorized under File No. 50,307, will be sufficient to cover any potential increase in consumptive use, thus complying with K.A.R. 5-5-3, *Change in consumptive use*.

The review of the applications for nearby wells identified three (3) irrigation wells within one-half mile of the well under File No. 16,611 and two (2) domestic, one (1) municipal and one (1) industrial wells within one-half ( $\frac{1}{2}$ ) mile of the well under File No. 17,097. Notification of these identified nearby landowners, were notified of the requested change in place of use as required by K.S.A. 82a-1906, by letter dated January 31, 2020. A set time period for comments does not appear to be a condition of the required notification. One general call regarding the applications was received from the water use correspondent of File No. 10,434, but no objectionable comments were received. It appears the processing of the applications is in compliance with K.S.A. 82a-1906.

A water conservation plan meeting the guidelines of the Kansas Water Office will not be required as there appears to be sufficient quantity authorized for irrigation use with the new permit. Water flowmeters will be required by the approval pursuant to K.A.R. 5-5-11. Check valves will be required if chemigating.

In an e-mail dated February 7, 2020, Katherine Tietsort, Water Commissioner of the Topeka Field Office, indicated she is not opposed to approval of the applications. Water flow meters are required. Check valves are required if any chemical or foreign substance is injected into the water through the diversion works.

Based on the above discussion, that the changes are reasonable, that impairment to existing water rights is unlikely, that no change in the local source of supply will occur, and if Application, File No. 50,307 can be approved, it is recommended that the applications for change be approved.



Leslie Ireland  
Environmental Scientist  
Water Appropriation Program

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

January 31, 2020

ADDRESS LIST DATED JANUARY 31, 2020

RE: Water Right, File Nos. 16,611 & 17,097  
 Permit, File No. 50,307

Dear Sir or Madam:

This letter is to **provide notice** for the appropriations listed above as required by K.S.A. 82a-1906, which became effective on July 1, 2016.

The owner of the referenced appropriations and permit has filed applications for approval of the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture. The applications under the groundwater rights, File Nos. 16,611 & 17,097, propose to change the place of use authorized for irrigation use in conjunction with a surface water permit, File No. 50,307. A combined total of 371 acre-feet of water per year will be authorized. The applications for change propose the authorized place of use change from:

| Sec. Twp. Range | NE¼ |     |     |     | NW¼ |     |      |      | SW¼  |      |      |      | SE¼  |      |      |      | TOTAL |
|-----------------|-----|-----|-----|-----|-----|-----|------|------|------|------|------|------|------|------|------|------|-------|
|                 | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼  | SE¼  | NE¼  | NW¼  | SW¼  | SE¼  | NE¼  | NW¼  | SW¼  | SE¼  |       |
| 3 7S 2E         |     |     |     |     |     |     | 40.0 | 37.0 | 22.0 | 14.0 | 22.0 | 35.0 | 15.0 | 15.0 | 30.0 | 39.0 | 269.0 |

to:

| Sec. Twp. Range | NE¼ |     |     |     | NW¼ |     |      |      | SW¼  |      |      |      | SE¼  |      |      |      | TOTAL |
|-----------------|-----|-----|-----|-----|-----|-----|------|------|------|------|------|------|------|------|------|------|-------|
|                 | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼  | SE¼  | NE¼  | NW¼  | SW¼  | SE¼  | NE¼  | NW¼  | SW¼  | SE¼  |       |
| 34 6S 2E        |     |     |     |     |     |     |      |      |      |      | 40.0 | 40.0 |      |      |      |      | 80.0  |
| 3 7S 2E         |     |     |     |     |     |     | 40.0 | 37.0 | 22.0 | 14.0 | 22.0 | 35.0 | 15.0 | 15.0 | 30.0 | 39.0 | 269.0 |

Information in this office indicates that you as a nearby landowner may have a well or wells in this vicinity, therefore you are being notified. Should you want to comment or provide other information which you desire to submit, please do so within 15 days for the date of this letter.

If you have any questions, please contact our office, my desk phone is (785) 564-6633. If you wish to discuss a specific file, please have a file number ready so that we may help you more efficiently.

Sincerely,

Leslie Ireland  
 Environmental Scientist  
 Water Appropriation Program

pc: Topeka Field Office

## Ireland, Leslie [KDA]

---

**From:** Tietsort, Katie [KDA]  
**Sent:** Friday, February 7, 2020 10:50 AM  
**To:** Ireland, Leslie [KDA]  
**Subject:** RE: Recommendation for Change in PU File Nos. 16611 & 17097 Wietharn

Good Morning Leslie,

I agree with your recommendation for approval of the referenced changes as they do meet the applicable provisions within the KWAA. Metering should be required and metering is in place under these files.

Thanks for your work on this package,  
Katie

Katie Tietsort  
Water Commissioner

[Katie.Tietsort@ks.gov](mailto:Katie.Tietsort@ks.gov)  
785-296-5733

Kansas Department of Agriculture  
Division of Water Resources  
Topeka Field Office  
6531 S.E. Forbes Ave, Suite B  
Topeka, KS 66619

---

**From:** Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>  
**Sent:** Thursday, February 6, 2020 2:06 PM  
**To:** Tietsort, Katie [KDA] <Katie.Tietsort@ks.gov>  
**Subject:** FW: Recommendation for Change in PU File Nos. 16611 & 17097 Wietharn

Katie,

Please let me know if you could recommend the change in place of use for these irrigation rights. They are in conjunction with the new permit File No. 50307 which you have recommended for approval.

The changes should require the wells to install meters as they do not meet part e of 5-5-11, as they have to meet both conditions and are in the LRR.

The nearby notifications did not result in any calls or comments.

As always comments and concerns are welcome.

Leslie Ireland, Environmental Scientist  
Kansas Department of Agriculture  
Division of Water Resources - Change Unit  
(785) 564-6633  
[Leslie.Ireland@ks.gov](mailto:Leslie.Ireland@ks.gov)  
[www.agriculture.ks.gov](http://www.agriculture.ks.gov)

**Schemm, Doug [KDA]**

---

**From:** Tietsort, Katie [KDA]  
**Sent:** Thursday, January 9, 2020 4:44 PM  
**To:** Schemm, Doug [KDA]  
**Subject:** RE: 50307 Wietharn

YES

Katie Tietsort  
Water Commissioner

[Katie.Tietsort@ks.gov](mailto:Katie.Tietsort@ks.gov)  
785-296-5733

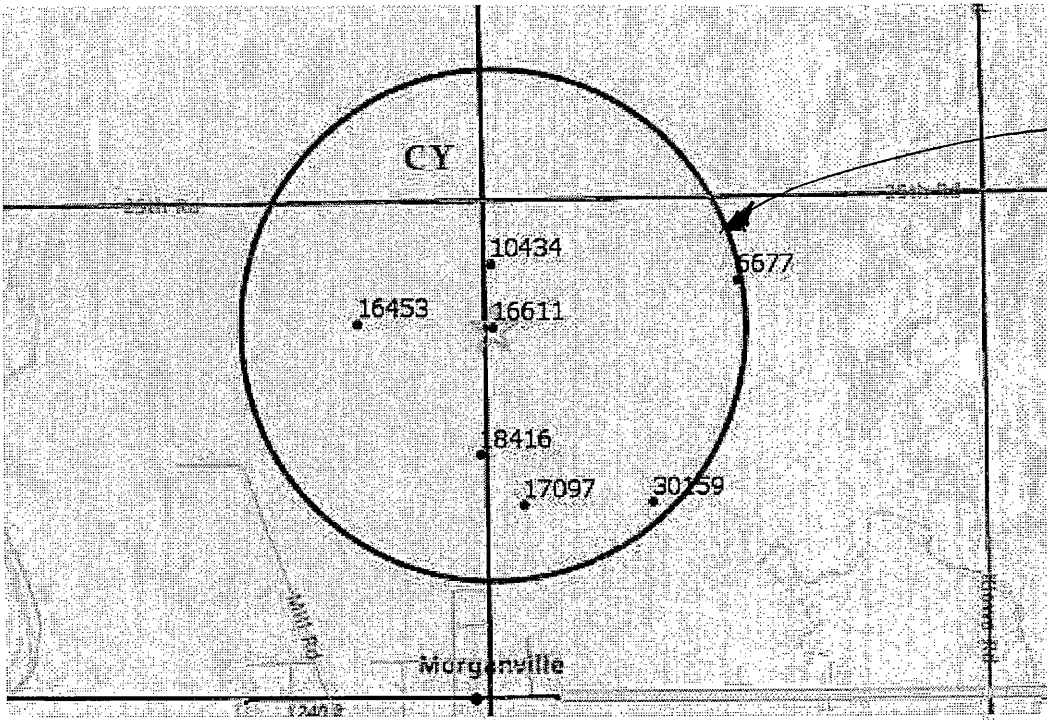
Kansas Department of Agriculture  
Division of Water Resources  
Topeka Field Office  
6531 S.E. Forbes Ave, Suite B  
Topeka, KS 66619

---

**From:** Schemm, Doug [KDA] <Doug.Schemm@ks.gov>  
**Sent:** Thursday, January 9, 2020 6:55 AM  
**To:** Tietsort, Katie [KDA] <Katie.Tietsort@ks.gov>  
**Subject:** 50307 Wietharn

No issues. Pump site on Dry Creek. Replaces previous file for Bob that was not completed.

NEARBY WELL OWNERS FILE NOS. 16611 & 17,097 CHGS

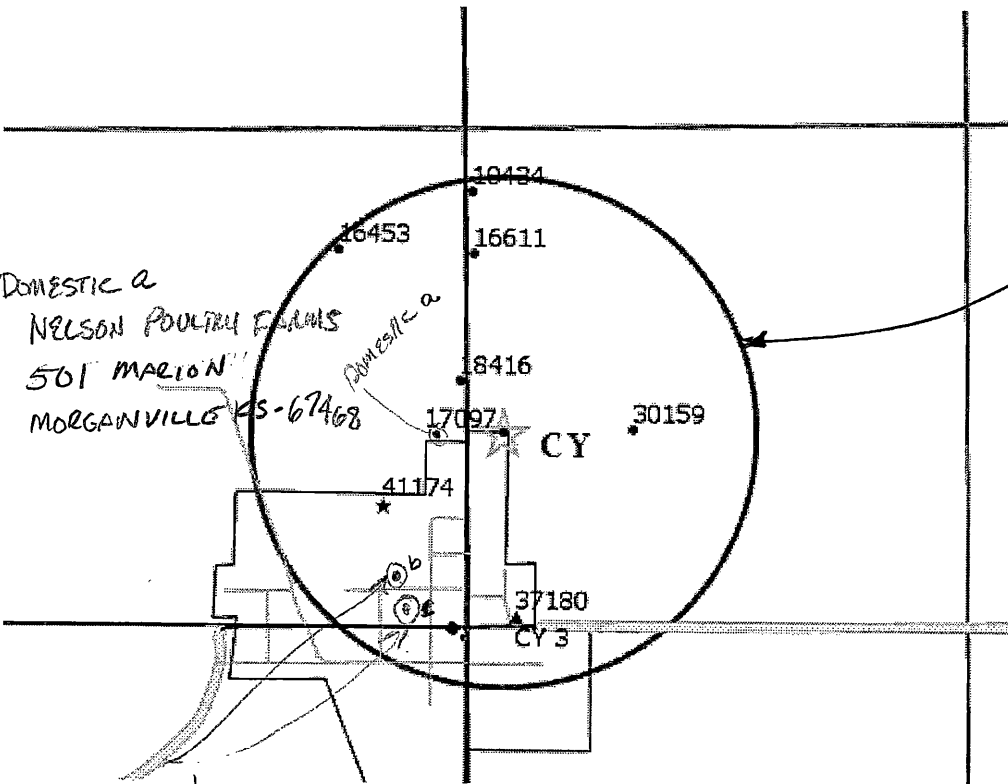


1/2 MILE OF FILE NO. 16,611

FILE NOS  
10434  
6677  
30159  
17097

18416  
16453

w/35789 & 16453



1/2 MILE OF FILE NO. 17,097

SAME AS ABOVE +  
41174 -  
37180 & CY003 -

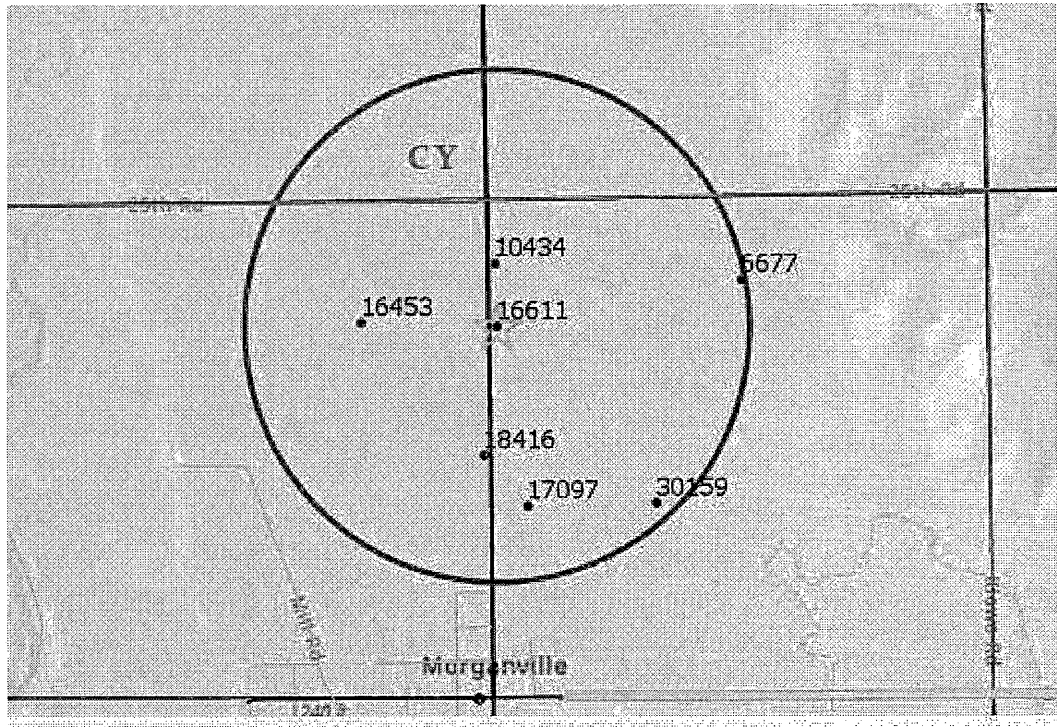
⊙ - DOMESTIC PER KGS

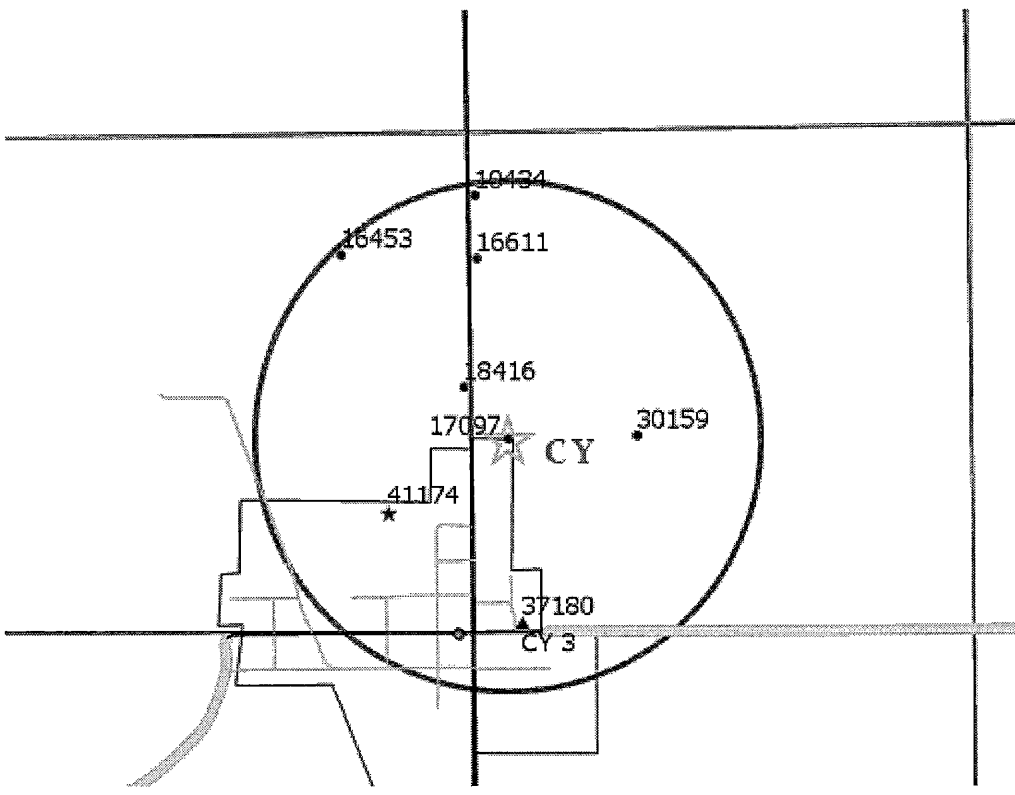
DOMESTIC a  
NELSON POULTRY FARMS  
501 MARION  
MORGANVILLE KS 67468

DOMESTIC b  
LARRY SAMUELSON  
215 ELIZABETH ST  
MORGANVILLE KS 67468

DOMESTIC c 2014  
JAMES MALLIES  
213 ALLEN AVE  
MORGANVILLE KS 67468







ADDRESS LISTING NEARBY NOTIFICATION LETTER DATED January 31, 2020  
Water Right, File Nos. 16,611 & 17,097  
Permit, File No. 50,307

File No. 16,611 nearby wells

File No. 10434 IRR Owner  
JAMES M & ALICE M BARRON  
1215 SW 29TH TER  
BIRCHWOOD 8  
TOPEKA, KS 66611

File No. 10434 Water Use Correspondent Pc'd on Barron letter  
RUSS TADDIKEN  
PO BOX 137  
MORGANVILLE, KS 67468

File Nos. 6677 & 30159 IRR  
DWIGHT R & MYRNA K KOCH TRUST  
770 12TH RD  
CLAY CENTER, KS 67432

File Nos. 18,416 & 16,453  
MITCHELL & DENISE MCMAHAN  
1071 22ND RD  
CLAY CENTER, KS 67432-8126

File No. 17,097

KGS site indicates three domestic wells in the area.

- a) Nelson Poultry Farms (DUPLICATE)  
501 Marion  
Morganville KS 67468
- b) LARRY SAMUELSSON sent to OWNER  
215 ELIZABETH STREET  
MORGANVILLE KS 67468
- c) JAMES MALLIES sent to OWNER  
213 ALLEN AVE  
MORGANVILLE KS 67468

File Nos. CY 003 & 37180 MUN  
CITY OF MORGANVILLE  
Attn: SUPT OF UTILITIES  
PO BOX 82  
MORGANVILLE, KS 67468-0082

File No. 41,174 IND  
NELSON POULTRY FARMS INC  
Attn: GREG NELSON  
8530 E US HIGHWAY 24  
MANHATTAN, KS 66502-8663

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

ROBERT J & DEBORAH A. WIETHARN TRUSTS February 18, 2020  
ROBERT J WIETHARN TRUSTEE  
1925 KIOWA ROAD  
CLAY CENTER KS 67432

**FILE COPY**

RE: Water Right, File Nos. 16,611 & 17097

Dear Mr. Wietharn:

Enclosed are the orders executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the applications for change under the reference files.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in the approvals for change. A condition of the approvals is that an acceptable water flowmeter must be installed on the diversion works authorized under the referenced files.

Since these orders modify the original documents referred to above, they should be recorded with the Register of Deeds as other instruments affecting real estate.

If you have any questions, please contract Leslie Ireland, Environmental Scientist, at (785) 564-6633. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

Kristen A. Baum  
New Applications Unit Supervisor  
Water Appropriation Program

KAB:LI:li:  
Enclosures  
pc: Topeka Field Office

# THE STATE OF KANSAS

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

**DIVISION OF WATER RESOURCES**  
David W. Barfield, Chief Engineer

## APPROVAL OF APPLICATION FOR CHANGE IN PLACE OF USE WATER RIGHT, FILE NO. 16,611

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Robert J. Wietharn Trustee on behalf of the Robert J. & Deborah A. Wietharn Trusts, 1925 Kiowa Road, Clay Center, Kansas 67432, received in this office on October 29, 2019, for approval of change in the location of the place of use under the certificate of appropriation issued pursuant to the application for permit to appropriate water for beneficial use, as modified and amended by the Order of the Chief Engineer dated March 28, 2011, approving the application to change the place of use and in the matter of the authorized point of diversion, finds that the change is reasonable and will not impair existing rights, and that the application should be and is hereby approved.

The effective date of the change shall be the date this order is executed by the Chief Engineer, after which the authorized location of the 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   |       |
| 34   | 6S   | 2E    |     |     |     |     |     |      |      |      |      | 40.0 | 40.0 |      |      |      |      | 80.0  |       |
| 3    | 7S   | 2E    |     |     |     |     |     | 40.0 | 37.0 | 22.0 | 14.0 | 22.0 | 35.0 | 15.0 | 15.0 | 30.0 | 39.0 | 269.0 |       |

a total of 80.0 acres in Section 34, Township 6 South, and 269.0 acres in Section 3, Township 7 South, all in Range 2 East, Clay County, Kansas,

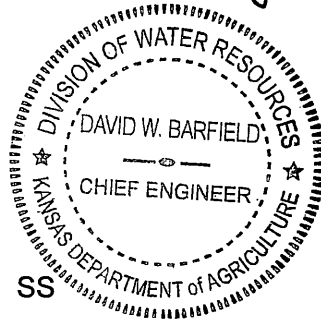
located substantially as shown on the topographic map accompanying the application to change the place of use.

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

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, the Certificate of Appropriation issued pursuant to Approval of Application, File No. 16,611, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated February 22, 1980, as modified and amended by the aforementioned order.

Ordered this 13<sup>th</sup> day of February, 2020, 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 )  
County of Riley ) SS

The foregoing instrument was acknowledged before me this 13<sup>th</sup> day of February 2020, by David W. Barfield, P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.



*Katie N. Anderson*  
Notary Public

## 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, 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, KS 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.

Any request for a hearing or petition for administrative review shall be in writing and shall be submitted to the attention of : Chief Legal Counsel, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, Fax: (785) 564 – 6777.

## CERTIFICATE OF SERVICE

On this 18<sup>th</sup> day of February, 2020, I hereby certify that the foregoing Change in Place of Use, Water Right, File No. 16,611, dated February 13, 2020 was mailed postage prepaid, first class, US mail to the following:

ROBERT J. & DEBORAH A. WIETHARN TRUSTS  
ROBERT J. WIETHARN TRUSTEE  
1925 KIOWA ROAD  
CLAY CENTER, KS 67432

With photocopies to:

Topeka Field Office



Division of Water Resources

Submit To: CHIEF ENGINEER  
Division of Water Resources  
Kansas Department of Agriculture  
1320 Research Park Drive  
Manhattan, Kansas 66502  
http://agriculture.ks.gov/dwr

**APPLICATION FOR APPROVAL TO  
CHANGE THE PLACE OF USE, THE  
POINT OF DIVERSION OR THE USE  
MADE OF THE WATER UNDER AN  
EXISTING WATER RIGHT**



State of Kansas

**Filing Fee Must Accompany the Application**  
(Please refer to Fee Schedule on signature page of application form.)

**Paragraph Nos. 1, 2, 3, 4 & 8 must be completed. Complete all other applicable portions.** A topographic map or detailed plat showing the authorized and proposed points(s) of diversion and /or place of use must accompany this application.

WATER RESOURCES  
RECEIVED  
OCT 29 2019  
12:12  
KS DEPT OF AGRICULTURE

1. Application is hereby made for approval of the Chief Engineer to change the

- Place of Use
- (Check one or more)  Point of Diversion
- Use Made of Water

File No. 16,611

2. Name of applicant: ROBERT J & DEBRA A WIETHARN TRUSTS %ROBERT WIETHARN TRUSTEE

Address: 1925 KIOWA RD

City, State and Zip: CLAY CENTER, KS 67432

Phone Number: (785) 630-0611 OR 447-0671 E-mail address: bob@riverscreen.com

What is your relationship to the water right;  owner  tenant  agent  other? If other, please explain. \_\_\_\_\_

Name of water use correspondent: Same as applicant

Address: \_\_\_\_\_

City, State and Zip: \_\_\_\_\_

Phone Number: ( ) \_\_\_\_\_ E-mail address: \_\_\_\_\_

3. The change(s) proposed herein are desired for the following reasons (please be specific): \_\_\_\_\_

PU Change will expand current place of use, and create a complete overlap with File No. 17,097 and new application.

The change(s) (was) (will be) completed by Spring 2020 (Date)

|                      |     |   |                    |          |      |     |              |          |        |    |    |     |      |          |
|----------------------|-----|---|--------------------|----------|------|-----|--------------|----------|--------|----|----|-----|------|----------|
| For Office Use Only: |     |   |                    |          |      |     |              |          |        |    |    |     |      |          |
| Code                 | GMD | - | Meets K.A.R. 5-5-1 | (YES/NO) | Use  | IRR | Source       | (G/S)    | County | CY | By | KON | Date | 10/29/19 |
|                      | CPU |   |                    |          |      |     |              |          |        |    |    |     | 5623 |          |
|                      |     |   | Fee \$             | 200      | TR # |     | Receipt Date | 10/29/19 |        |    |    |     |      |          |

APPLICATION COMPLETE  
1/31/20  
Reviewer LI

SCANNED



4. The presently authorized place of use is:

Owner of Land — NAME: ROBERT J & DEBORAH A WIETHARN TRUSTS %ROBERT WIETHARN TRUSTEE

ADDRESS: 1925 KIOWA RD, CLAY CENTER KS 67432

| 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 |             |
| 3    | 7S   | 2E    |     |     |     |     |     |     | 40  | 37  | 22  | 14  | 22  | 35  | 15  | 15  | 30  | 39  | 269         |

List any other water rights that cover this place of use. 17,097

Owner of Land — NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

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

List any other water rights that cover this place of use. \_\_\_\_\_

(If there are more than two landowners, attach additional sheets as necessary.)

5. It is proposed that the place of use be changed to:

Owner of Land NAME: ROBERT J & DEBORAH A WIETHARN TRUSTS %ROBERT WIETHARN TRUSTEE

ADDRESS: 1925 KIOWA RD, CLAY CENTER KS 67432

| 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 |             |
| 34   | 6S   | 2E    |     |     |     |     |     |     |     |     |     | 40  | 40  |     |     |     |     |     | 80          |
| 3    | 7S   | 2E    |     |     |     |     |     | 40  | 37  | 22  | 14  | 22  | 35  | 15  | 15  | 30  | 39  |     | 269         |

List any other water rights that cover this place of use. 17,097 AND NEW APPLICATION

*50307\* TOTAL 349 ACRES*

Owner of Land — NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

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

List any other water rights that cover this place of use. \_\_\_\_\_

Owner of Land — NAME: \_\_\_\_\_

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

List any other water rights that cover this place of use. \_\_\_\_\_

**IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY**

WATER RESOURCES RECEIVED

OCT 29 2019

SCANNED

- 6. The presently authorized point(s) of diversion (is) (are) ONE WELL  
(Provide description and number of points)
- 7. The proposed point(s) of diversion (is) (are) NO CHANGE  
(Provide description and number of points)

**List all presently authorized point(s) of diversion:**

8. **Presently authorized point of diversion:**  
 One in the \_\_\_\_\_ Quarter of the \_\_\_\_\_ Quarter of the \_\_\_\_\_ Quarter  
 of Section \_\_\_\_\_, Township \_\_\_\_\_ South, Range \_\_\_\_\_ (E/W),  
 in \_\_\_\_\_ County, Kansas, \_\_\_\_\_ feet North \_\_\_\_\_ feet West of Southeast corner of section.  
 Authorized Rate \_\_\_\_\_ Authorized Quantity \_\_\_\_\_  
 (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 \_\_\_\_\_ (E/W),  
 in \_\_\_\_\_ County, Kansas, \_\_\_\_\_ feet North \_\_\_\_\_ feet West of Southeast corner of section.  
 Proposed Rate \_\_\_\_\_ Proposed Quantity \_\_\_\_\_  
 This point is:  Additional Well     Geo Center    List other water rights that will use this point \_\_\_\_\_

9. **Presently authorized point of diversion:**  
 One in the \_\_\_\_\_ Quarter of the \_\_\_\_\_ Quarter of the \_\_\_\_\_ Quarter  
 of Section \_\_\_\_\_, Township \_\_\_\_\_ South, Range \_\_\_\_\_ (E/W),  
 in \_\_\_\_\_ County, Kansas, \_\_\_\_\_ feet North \_\_\_\_\_ feet West of Southeast corner of section.  
 Authorized Rate \_\_\_\_\_ Authorized Quantity \_\_\_\_\_  
 (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 \_\_\_\_\_ (E/W),  
 in \_\_\_\_\_ County, Kansas, \_\_\_\_\_ feet North \_\_\_\_\_ feet West of Southeast corner of section.  
 Proposed Rate \_\_\_\_\_ Proposed Quantity \_\_\_\_\_  
 This point is:  Additional Well     Geo Center    List other water rights that will use this point \_\_\_\_\_

10. **Presently authorized point of diversion:**  
 One in the \_\_\_\_\_ Quarter of the \_\_\_\_\_ Quarter of the \_\_\_\_\_ Quarter  
 of Section \_\_\_\_\_, Township \_\_\_\_\_ South, Range \_\_\_\_\_ (E/W),  
 in \_\_\_\_\_ County, Kansas, \_\_\_\_\_ feet North \_\_\_\_\_ feet West of Southeast corner of section.  
 Authorized Rate \_\_\_\_\_ Authorized Quantity \_\_\_\_\_  
 (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 \_\_\_\_\_ (E/W),  
 in \_\_\_\_\_ County, Kansas, \_\_\_\_\_ feet North \_\_\_\_\_ feet West of Southeast corner of section.  
 Proposed Rate \_\_\_\_\_ Proposed Quantity \_\_\_\_\_  
 This point is:  Additional Well     Geo Center    List other water rights that will use this point \_\_\_\_\_

11. Describe the current condition of and future plans for any point(s) of diversion which will no longer be used. \_\_\_\_\_

**IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY**

RECEIVED  
 OCT 29 2019  
 SCANNED



11. The presently authorized use of water is for IRRIGATION purposes.  
It is proposed that the use be changed to NO CHANGE purposes.

12. If changing the place of use and/or use made of water, describe how the consumptive use will not be increased.  
NEW APPLICATION WILL ENSURE NO INCREASE IN CONSUMPTIVE USE.

(Please show any calculations here.)

13. It is requested that the maximum annual quantity of water be reduced to \_\_\_\_\_ (acre-feet or million gallons).

14. It is requested that the maximum rate of diversion of water be reduced to \_\_\_\_\_ gallons per minute (\_\_\_\_ c.f.s.).

15. The application must include either a topographic map or detailed plat. A U.S. Geological Survey Topographic Map, scale 1:24,000, is available through the Kansas Geological Survey, 1930 Constant Avenue, University of Kansas, Lawrence, Kansas 66047-3726 ([www.usgs.gov](http://www.usgs.gov)). The map should show the location of the presently authorized point(s) of diversion. Distances North and West of the Southeast corner of the section must be shown. The presently authorized place of use should also be shown. Identify the center of the section, the section lines and the section corners and show the appropriate section, township, and range numbers on the map. In addition the following information must also be shown on the map.

- a. If a change in the location of the point(s) of diversion is proposed, show:
  - 1) The location of the proposed point(s) of diversion. Distances North and West of the Southeast corner of the section must be shown. Please be certain that the information shown on the map agrees with the information shown in Paragraph Nos. 9, 10 and 11 of the application.
  - 2) If the source of supply is groundwater, please show the location of existing water wells of any kind, including domestic wells, within 1/2 mile of the proposed well or wells. Identify each well as to its use and furnish name and mailing address of the property owner or owners. If there are no wells within 1/2 mile, please indicate so on the map.
  - 3) If the source of supply is surface water, the names and mailing addresses of all landowner(s) 1/2 mile downstream and 1/2 mile upstream from your property lines must be shown.
- b. If a change in the place of use is desired, show the proposed place of use by crosshatching on the map. Please be certain that the information shown on the map agrees with the information shown in Paragraph No. 5 of the application.

16. Attach documentation to show the change(s) proposed herein will not impair existing water rights and relates to the same local source of supply as to which the water right relates. This information may include statements, plats, geology reports, well logs, test hole logs, and other information as necessary information to show the above. Additional comments may be made below.

SOURCE REMAINS THE SAME (REPUBLICAN RIVER TERRACE DEPOSITS)

17. If the proposed change(s) does not meet all applicable rules and regulations of the Kansas Water Appropriation Act, please identify the rules and regulations for which you request a waiver. State the reason why a waiver is needed and why the request should be granted. Attach documentation showing that granting the request will not impair existing water rights and will not prejudicially and unreasonably affect the public interest.

N/A

**IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY**

WATER RESOURCES RECEIVED

OCT 9 9 2019

SCANNED

Any use of water that is not as authorized by the water right or permit to authorize water **before** the chief engineer approves this application is a violation of the Kansas Water Appropriation Act for which criminal or civil penalties may be assessed. Such violation is a class C misdemeanor, punishable by a fine not to exceed \$500 and/or a term of confinement not to exceed one month in the county jail. K.S.A. 82a-728(b). Civil penalties shall be not less than \$100 nor more than \$1,000 per violation. In the case of a continuing violation, each day such violation continues may be deemed a separate violation. In addition to these penalties the water right may be modified or suspended. K.S.A. 82a-737, as amended.

**The application must be signed by all owners of the place of use authorized under the water right and his or her spouse, if married. Please indicate if there is no spouse.** If land is being purchased under contract, the seller must sign as landowner until such time as the contract is completed.

In the event that all applicants cannot appear before one notary public, they may as necessary sign separate copies of the application before any notary public conveniently available to them. All copies signed in this manner shall be considered to be valid parts of the application.

If the request is signed on behalf of any Owner by someone with legal authority to do so (for example, an agent, one who has power of attorney, or an executor, executrix, conservator), it will be necessary to attach proper documents showing such authority.

I declare that I am an owner of the currently authorized place of use as identified herein, or that I represent all such owners and am authorized to make this application on their behalf, and declare further that the statements contained herein are true, correct, and complete. By filing this application I authorize the chief engineer to permanently reduce the quantity of water and/or rate of diversion as specified in sections 14 and 15 of this application.

Dated at Clay Center, Kansas, this 18<sup>th</sup> day of October, 2019.

Robert J. Wietharn  
(Owner)

Deborah A. Wietharn  
(Spouse)

Robert J. Wietharn  
(Please Print)

Deborah A. Wietharn  
(Please Print)

\_\_\_\_\_  
(Owner)

\_\_\_\_\_  
(Spouse)

\_\_\_\_\_  
(Please Print)

\_\_\_\_\_  
(Please Print)

\_\_\_\_\_  
(Owner)

\_\_\_\_\_  
(Spouse)

\_\_\_\_\_  
(Please Print)

\_\_\_\_\_  
(Please Print)

State of Kansas }  
County of Clay } SS

I hereby certify that the foregoing application was signed in my presence and sworn to before me this 18<sup>th</sup> day of Oct, 2019.



Shelly D. Miller  
Notary Public

My Commission Expires 5/25/2023

**FEE SCHEDULE**

Each application to change the place of use, the point of diversion or the use made of the water under this section shall be accompanied by the application fee set forth in the schedule below:

- (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**
- (4) Application to change the use made of the water ..... \$300

Make check payable to **Kansas Department of Agriculture.**

WATER RESOURCES  
RECEIVED

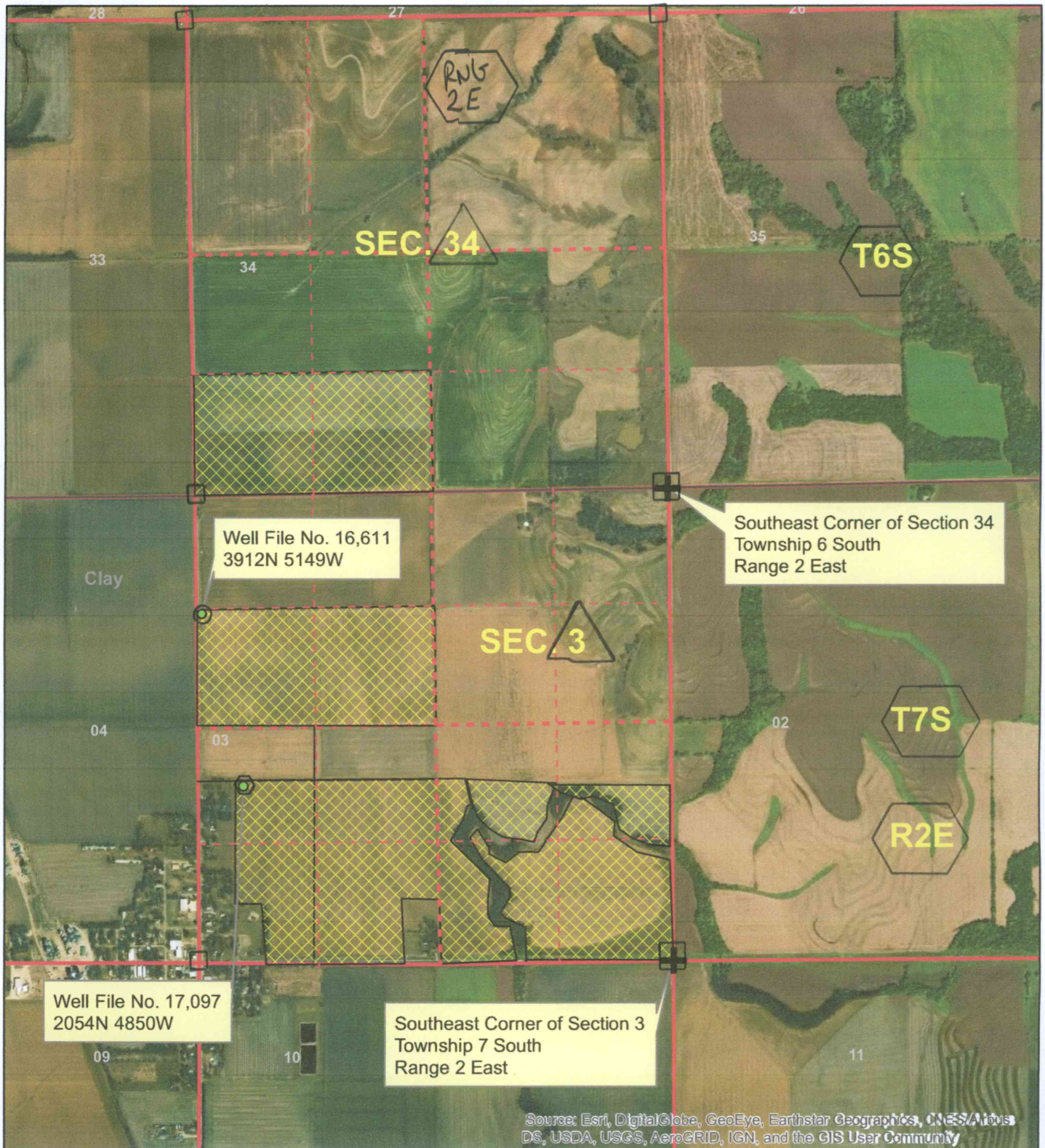
OCT 29 2019

DEPARTMENT OF AGRICULTURE  
SCANNED



ROBERT J & DEBORAH A WIETHARN TRUSTS  
FILE NOS. 16,611 & 17,097 PROPOSED PLACE OF USE SITE MAP

1:18,000



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



Proposed Place of Use

All Known Upstream and Downstream landowners adjacent to the stream within 1/2 mile of property lines have been identified.

OCT 29 2019

SCANNED  
KS DEPT OF AGRICULTURE



ROBERT J & DEBORAH A WIETHARN TRUSTS  
FILE NOS. 16,611 & 17,097 AUTHORIZED PLACE OF USE SITE MAP

1:18,000



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

 Authorized Place of Use

WATER RESOURCES  
RECEIVED

OCT 29 2019

KS DEPT OF AGRICULTURE  
**SCANNED**