

Schemm, Doug [KDA]

From: mwivalley@gmail.com
Sent: Wednesday, December 18, 2019 4:29 PM
To: Schemm, Doug [KDA]
Cc: Bunger, Brett [KDA]
Subject: RE: Big overlap permit!!
Attachments: Grimm Big Project Metering Map 12-18.pdf

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Doug

So I have attached a sketch over this map of where the line runs. Each of the circles is a metering point that meters the water from 43261 into each of the sites so we can keep track of what is going on. Hope that helps.

Just FWI on the bottom of the map to the left side below section 29 you will see a blue line drawn east and west. I must of put it there but couldn't figure out how to erase it so disregard that!!

Thanks Keith

From: Schemm, Doug [KDA] <Doug.Schemm@ks.gov>
Sent: Wednesday, December 18, 2019 3:19 PM
To: mwivalley@gmail.com
Cc: Bunger, Brett [KDA] <Brett.Bunger@ks.gov>; Tietsort, Katie [KDA] <Katie.Tietsort@ks.gov>
Subject: RE: Big overlap permit!!

Keith,

I have attached a map to indicate how quantities for each of these files would be determined based on the information you provided below.

Can you please review the map and make any modifications or additions that you wish. Anything you can add to further clarify things would be great.

Thank you,

Doug

From: mwivalley@gmail.com [<mailto:mwivalley@gmail.com>]
Sent: Wednesday, November 27, 2019 5:23 PM
To: Schemm, Doug [KDA] <Doug.Schemm@ks.gov>
Cc: Bunger, Brett [KDA] <Brett.Bunger@ks.gov>
Subject: RE: Big overlap permit!!

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Doug

Looks good I will start from the north and work south and explain what we have

File 48770 and 50061 There is a meter for this pump and only serve this point. This has a pipe that dump directs into pond can go nowhere else so all this water has to leave through file 43261 and 48771 to go the the fields
File 43261 and 48771 there is a meter at pump here that serves for this diversion only
File 47156 meter is at center point of this pivot and will get moved to the pump if we connect this farm to the pipe line right now the only water able to go to this pivot come from this pump there is a discharge meter where water flows into pond from file 43261 or 48771 but as for now has to go through the pond to get to pivot.
File 49974 is not built yet but will have meter at pump
File 50152 can pump to all and there is a meter there going out of pump and one coming in for when we pump pond pack full from file 43261 ect
File 43094 has its own meter and stand alone
File 48008 has meter at pump going out of pond and one coming into pond from file 43261 ect
File 49878 meter at pump and can only be applied to the 2 pivots at that site Pipe line does NOT connect there is a incoming meter for when 43261 dump in there
File 50065 is not delvopled
File 50277 has meter at pump site metering all water leaving site and also a return meter if water comes back in from 43261

Hope this helps and don't confuse I could try to draw this out if needed on a map

Happy thanks giving talk next week

Keith

From: Schemm, Doug [KDA] <Doug.Schemm@ks.gov>
Sent: Wednesday, November 27, 2019 10:09 AM
To: mwivalley@gmail.com
Subject: RE: Big overlap permit!!

Keith,
I've put this together. Can you please add anything else that may help us understand the metering?
Like are you putting separate meters on the pump site or one of the ponds, etc. Anything you can add would be great.
Have a wonderful Thanksgiving,
Doug

From: mwivalley@gmail.com [<mailto:mwivalley@gmail.com>]
Sent: Thursday, November 21, 2019 2:15 PM
To: Schemm, Doug [KDA] <Doug.Schemm@ks.gov>
Subject: RE: Big overlap permit!!

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So at each source there is a meter and it's a forward and reverse meter so counts a totalizer each way(separate from eachother) We have lots of other meters on site to account for where we are send water but those should be the only one that really matter. We do have a separate meter on the pipe that dumps down to Menolds clear south site that is not a complete overlap!! Is that sufficient or would you like more explanation ect.

Thanks so much!!

From: Schemm, Doug [KDA] <Doug.Schemm@ks.gov>
Sent: Thursday, November 21, 2019 1:52 PM
To: mwivalley@gmail.com
Subject: RE: Big overlap permit!!

Hello Keith, I've pretty much got the big project ready to move on to HQ for review. However, could you possibly provide some metering diagrams and a discussion of how this project will operate? We need to know how to account for the water from each of the multiple sources.
Thanks, Doug

From: mwivalley@gmail.com [<mailto:mwivalley@gmail.com>]
Sent: Wednesday, November 13, 2019 8:29 AM
To: Schemm, Doug [KDA] <Doug.Schemm@ks.gov>
Subject: RE: Big overlap permit!!

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Yes it does Thanks !!!!!!!!!!!!!!!

From: Schemm, Doug [KDA] <Doug.Schemm@ks.gov>
Sent: Wednesday, November 13, 2019 8:20 AM
To: mwivalley@gmail.com
Subject: RE: Big overlap permit!!

Hello Keith, I'm moving this along. One final go over, File No. 43,094 will be a PU and Use made of water change to IND use at the greenhouses (I sent you the UMW change). File Nos. 50,065 and 49,878 (down south pump site Terrapin Creek and reservoir) will stay on the Dietrich/Menold ground only (860 acres). All other new apps and changes will be complete overlap on the 3,035 acres. Does that sound right?
Thanks, Doug

From: mwivalley@gmail.com [<mailto:mwivalley@gmail.com>]
Sent: Friday, November 1, 2019 9:34 AM
To: Schemm, Doug [KDA] <Doug.Schemm@ks.gov>
Subject: FW: Big overlap permit!!

EXTERNAL: This email originated from outside of the organization. Do not click any links or open any attachments unless you trust the sender and know the content is safe.

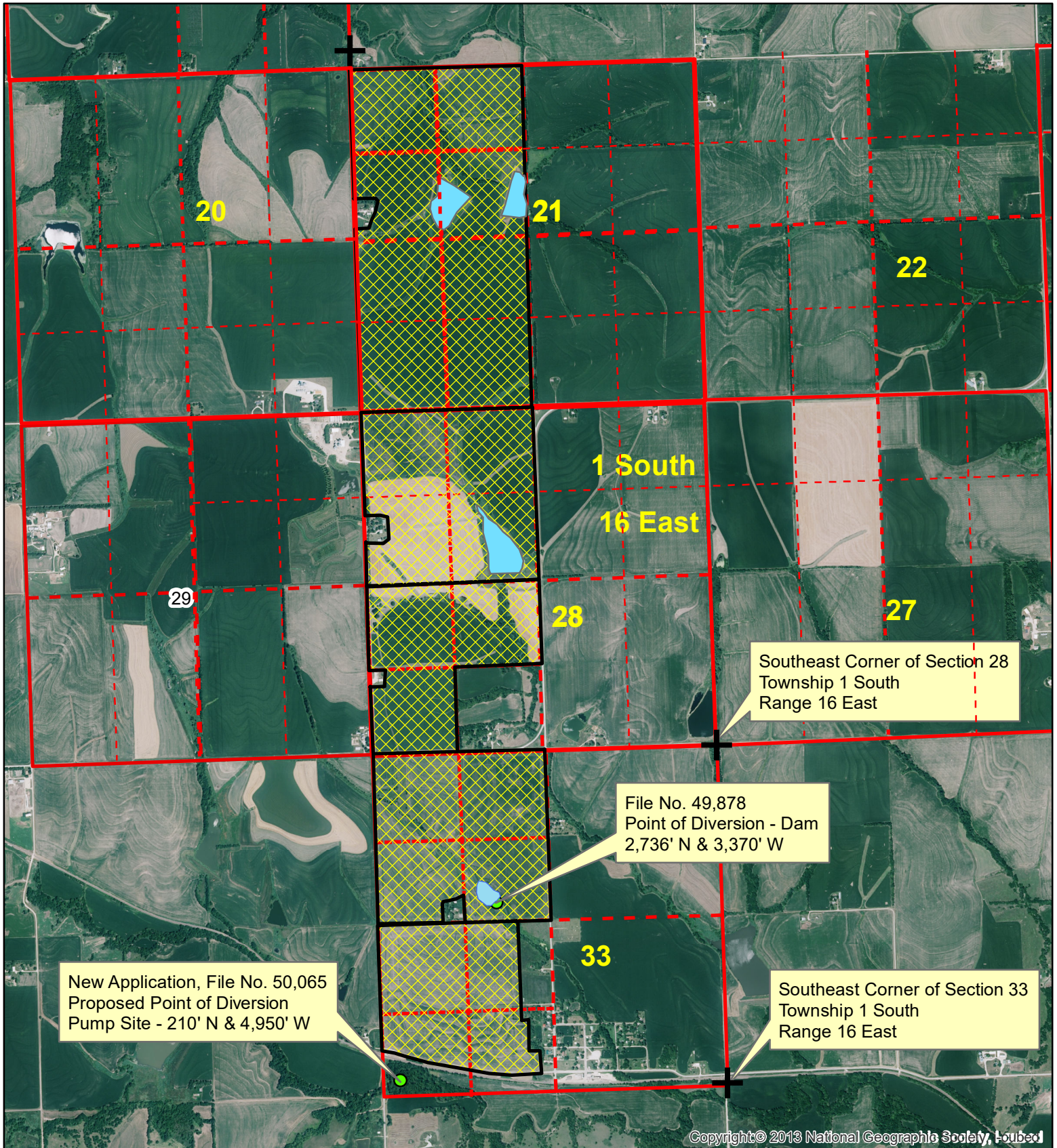
Let send this through

I think we are finally ready to go!!

Thanks Keith

1:24,000

FILE NOS. 49,878 & 50,065
REVISED PLACE OF USE SITE MAP



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Proposed Place of Use



Points of Diversion

From: Bunger, Brett [KDA]
Sent: Mon 5/10/2021 9:33 AM
To: Tietsort, Katie [KDA];Schemm, Doug [KDA]
Cc: Baum, Kristen [KDA]
Subject: RE: Grimm Big Project 50065

My only comment is this. When we talk about the limitation to 820 af I don't believe that it affects the overall additional quantity when it comes to the entire place of use. Obviously it has an affect when it comes to the specific 820 acre place of use but WRIS can only track one additional quantity. So 49878 would be all additional in my mind when we look at the series of water rights whether or not they cover the entire place of use or only the 820 acre place of use only. They are overlapping in some fashion so they should be additive as we work our way through the water right chain. The limitation to 820 af is the classic limitation that cannot be administered because we have no way of knowing how much they applied to any particular part of the place of use. When we look at these rights in a series as they apply partially or fully to the entire place of use, all of them are all additional until we get to file no. 50460. At that point we cross over and end up with more than 1 af/acre on the 2994.7 acre place of use. The limitation to 2994.7 af would be correct under 50460. In combination overall, File No. 50460 would be 38.7 af additional.

From: Tietsort, Katie [KDA] <Katie.Tietsort@ks.gov>
Sent: Friday, May 7, 2021 2:00 PM
To: Bunger, Brett [KDA] <Brett.Bunger@ks.gov>; Schemm, Doug [KDA] <Doug.Schemm@ks.gov>
Cc: Baum, Kristen [KDA] <Kristen.Baum@ks.gov>
Subject: RE: Grimm Big Project 50065

This spreadsheet makes it much easier to go through this -package and shows an explanation of sorts about what is going on here.

I hate to say it, but I come up to some different values. I have looked at this several days because no one else has disagreed with your chart, but I keep coming up with a consistent set of different values. Honestly, this package is really complicated and io may be going off the track somewhere but can you all take a look at what I put in red and my explanation on the second page I added also in red and see what you think?

Katie Tietsort

Water Commissioner

Katie.Tietsort@ks.gov
Ph. 785-296-5733 Cell 785-213-9188
Kansas Department of Agriculture
Topeka Field Office
1131 SW Winding Rd, Suite 400
Topeka, KS 66615

From: Bunger, Brett [KDA] <Brett.Bunger@ks.gov>
Sent: Friday, April 30, 2021 9:38 AM
To: Schemm, Doug [KDA] <Doug.Schemm@ks.gov>; Tietsort, Katie [KDA] <Katie.Tietsort@ks.gov>
Cc: Baum, Kristen [KDA] <Kristen.Baum@ks.gov>
Subject: RE: Grimm Big Project 50065

Here is my two cents.

When we get down to 48770 it has a limitation to 655 af when combined with 43094; 43261 & 47156. That makes 48770 an additional 447 af to the files mentioned in the limitation. However, when it comes to File No. 48008 it is all additional so the sub total below 48770 should be (655 af + 394af = 1049 af). We would end up with the same sub total for 48771.

I agree that there should be a (goofy) limitation under 49878. It would have to read something like "Limited to 820 AF when combined with File Nos on the land described herein. We have to have the words on the land described herein, otherwise, we would start limiting how the files operate in combination with each other in an incorrect manner. 50065 and 50460 will need the same limitation.

I am not begging to be in on your Monday chat, but I will if needed.

Brett

From: Schemm, Doug [KDA] <Doug.Schemm@ks.gov>
Sent: Wednesday, April 21, 2021 12:56 PM
To: Tietsort, Katie [KDA] <Katie.Tietsort@ks.gov>; Bunger, Brett [KDA] <Brett.Bunger@ks.gov>
Cc: Baum, Kristen [KDA] <Kristen.Baum@ks.gov>
Subject: RE: Grimm Big Project 50065

So based on the possibility of all these new files overlapping the Partial Overlap, I came up with this. Only the last file needs an additional limitation to the overall quantity for the entire acreage.

From: Tietsort, Katie [KDA]
Sent: Thursday, April 8, 2021 8:41 AM
To: Schemm, Doug [KDA] <Doug.Schemm@ks.gov>; Bunger, Brett [KDA] <Brett.Bunger@ks.gov>
Cc: Baum, Kristen [KDA] <Kristen.Baum@ks.gov>
Subject: RE: Grimm Big Project 50065

So if I understand his map correctly, there is a total number of files of 13 that are the final number of files involved in any way under this project.

11 files overlap on ALL the land.

There are 2 files with partial overlaps on 820 acres of the larger 2994.7 Acre place of use.

So I started working through this the way we did for Wietharn, but I am already running into problems at 49878... the Q authorized up to that point is greater than the value of the acres and the AF/A can be exceeded that file will cover so it needs a limitation added, right?

$$\begin{array}{r}
 \text{Add} \\
 43094 - 21AF \\
 43261 - 41AF \\
 \hline
 62 \\
 47156 \quad 146AF \\
 \hline
 208 \\
 48028 \quad 136 \\
 \hline
 344AF \\
 48770 \quad 655AF \quad 447AF
 \end{array}$$

$$655 \omega | 43094, 43261 + 47156$$

$$\begin{array}{r}
 \overline{791AF} \\
 48771 \quad 579AF \quad \delta
 \end{array}$$

$$655 \omega | 43094, 43261, 47156, 48771$$

$$\overline{791AF}$$

$$\begin{array}{r}
 49878 \quad 267AF \quad 267AF \\
 \text{Needs a limit, . . .}
 \end{array}$$

I didn't get further than that on working out all the Q's.... see attached. Can you send me the one you worked out to help review this that would be way more helpful.

FILE	QUANT	NORTH 163 ACRES (PROPOSED 235 ACRES)	SOUTH 126 ACRES
20,870	54 AF		
27,121	30 AF		
34,520	47 AF		
35,749	90 AF		LIMIT TO 189 AF ON 126 AC W 20,870, 27,121, 34,520
39,355	76 AF	LIMIT TO 242 AF 20,870, 27121, 34,250, 35,749	LIMIT TO 189 AF ON 126 AC W 20,870, 27,121, 34,520, 35,749
48,904	78 AF	LIMIT TO 282 AF 20,870, 27121, 34,250, 35,749, 39,355 LIMIT TO 643.2 AF ALL SENIOR RIGHTS	LIMIT TO 189 AF ON 126 AC W 20,870, 27,121, 34,520, 35,749
		SOUTH 126 ACRES	
38,535	86 AF		LIMIT TO 189 AF ON 126 AC W 20,870, 27,121, 34,520, 35,749
38,537	99 AF		LIMIT TO 189 AF ON 126 AC W 20,870, 27,121, 34,520, 35,749
45,979	145 AF	LIMIT TO 185 AF 38535, 38,537	LIMIT TO 189 AF ON 126 AC W 20,870, 27,121, 34,520, 35,749
		SOUTH 175 ACRES	
17,098	99 AF		
44,612	194 AF	LIMIT TO 194 AF 17,098	

		NORTH 163 ACRES (PROPOSED 235 ACRES)	SOUTH 301 ACRES (PROPOSED)
20,870	54 AF		
27,121	30 AF		
34,520	47 AF		
35,749	90 AF		
39,355	76 AF	LIMIT TO 242 AF 20,870, 27121, 27,121, 34,250, 35,749	
48,904	78 AF	LIMIT TO 282 AF 20,870, 27121, 34,250, 35,749, 39,355 LIMIT TO 643.2 AF ALL SENIOR RIGHTS	LIMIT TO 451.5 AF ON SOUTH 301 AC WITH ALL SENIOR RIGHTS
		SOUTH 126 ACRES	
38,535	86 AF		LIMIT TO 451.5 AF ON SOUTH 301 AC WITH ALL SENIOR RIGHTS
38,537	99 AF		LIMIT TO 451.5 AF ON SOUTH 301 AC WITH ALL SENIOR RIGHTS
45,979	145 AF	LIMIT TO 185 AF 38535, 38,537	LIMIT TO 451.5 AF ON SOUTH 301 AC WITH ALL SENIOR RIGHTS
		SOUTH 175 ACRES	
17,098	99 AF		
44,612	194 AF	LIMIT TO 194 AF 17,098	LIMIT TO 451.5 AF ON SOUTH 301 AC WITH ALL SENIOR RIGHTS

The original permit conditions worked out to the following.
The North/Mitchell property pumping can't exceed 282 AF.
The South/Mugler/Taylor property pumping can't exceed 395 AF.
All these files pumping can't exceed 643.2 AF overall.

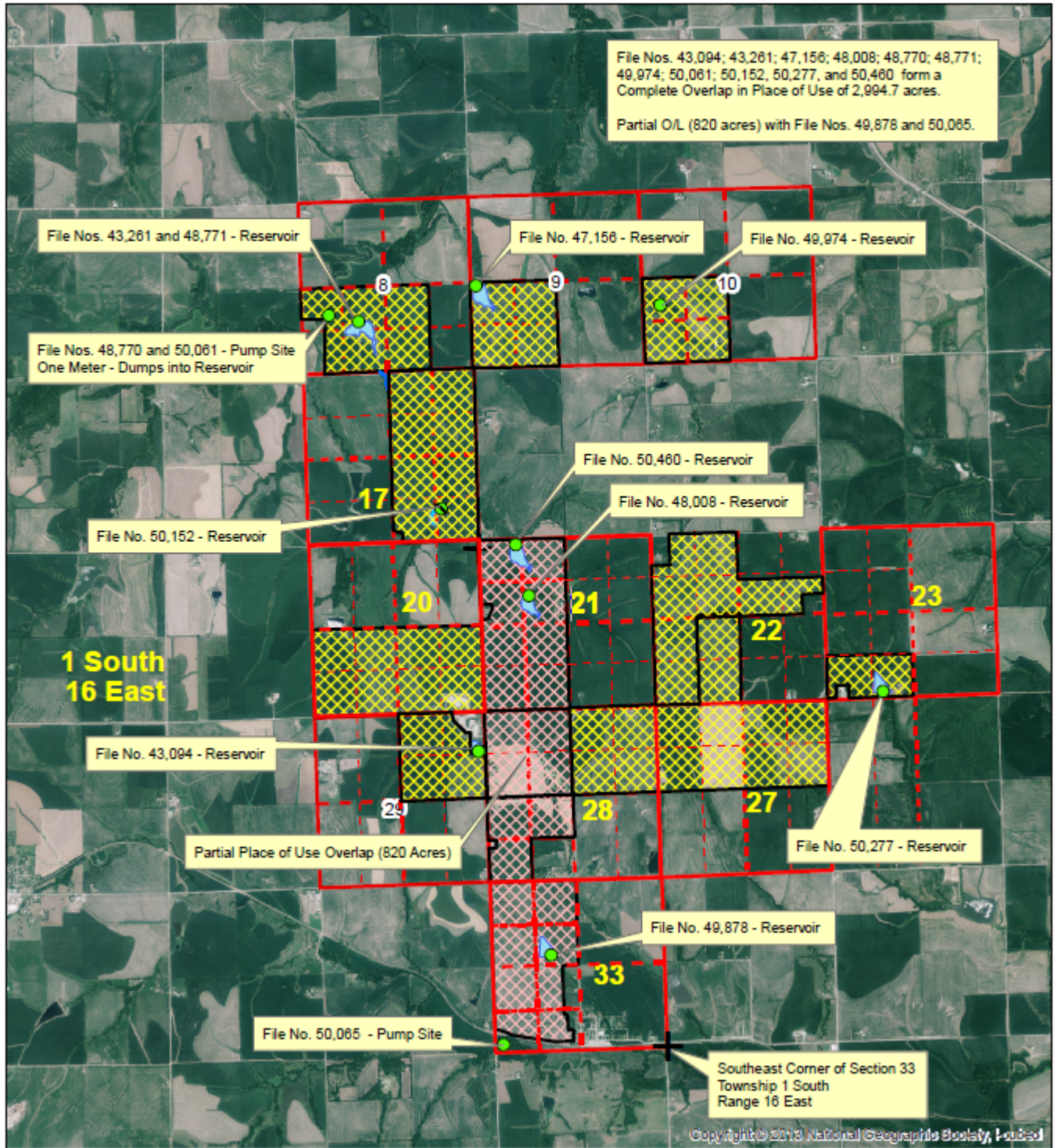
19. That the quantity of water approved under this permit is further limited to the quantity which combined with Water Right, File Nos. 17,098; 20,870; 27,121; 34,520; 35,749; 38,535; 38,537; 39,355; 44,612; and 45,979, will provide a **total not to exceed 643.2 acre-feet** of water per calendar year for irrigation use on the total land described herein.

20. That the quantity of water approved under this permit is further limited to the quantity which combined with Water Right, File Nos. 17,098; 38,535; 38,537; 44,612; and 45,979, will provide a **total not to exceed 395 acre-feet** of water per calendar year for irrigation use on the land in Sections 2 and 36 described herein.

21. That the quantity of water approved under this permit is further limited to the quantity which combined with Water Right, File Nos. 20,870; 27,121; 34,520; 35,749; and 39,355, will provide a **total not to exceed 282 acre-feet** of water per calendar year for irrigation use on the land in Sections 28 and 29 described herein.

1:48,000

SITE MAP FOR BIG PROJECT



Place of Use



Place of Use (Partial O/L)



Points of Diversion

Katie Tietsort

Water Commissioner

Katie.Tietsort@ks.gov

Ph. 785-296-5733 Cell 785-213-9188

Kansas Department of Agriculture

Topeka Field Office

1131 SW Winding Rd, Suite 400

Topeka, KS 66615

From: Schemm, Doug [KDA] <Doug.Schemm@ks.gov>

Sent: Tuesday, April 6, 2021 8:02 AM

To: Tietsort, Katie [KDA] <Katie.Tietsort@ks.gov>; Bunger, Brett [KDA] <Brett.Bunger@ks.gov>

Cc: Baum, Kristen [KDA] <Kristen.Baum@ks.gov>

Subject: Grimm Big Project 50065

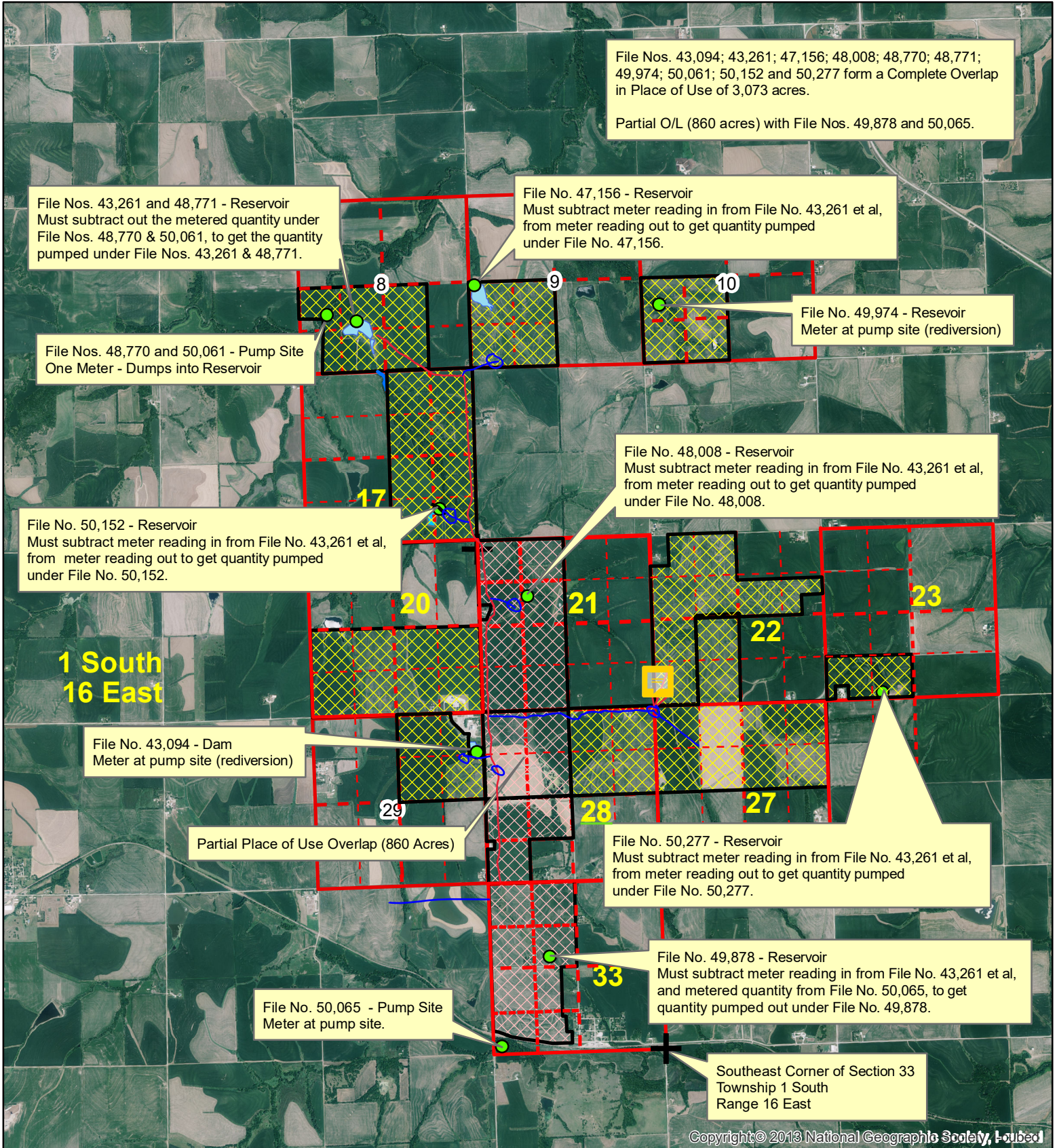
Here's the proposed limitation on the junior pump site file No. 50,065 that will only supply water to the specified 820 acres.

21. That the quantity of water approved under this permit is further limited to the quantity which combined with Water Right, File Nos. 43,094 and 43,261; and Appropriation of Water, File Nos. 47,156; 48,008; 48,770; 48,771; 49,878; 49,974; and 50,061, will provide a **total not to exceed 820 acre-feet** of water per calendar year for irrigation use on the land described herein.

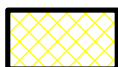
File No.	PD Type	Storage		Direct Use		Current Limitations	Proposed Limitations / Comments
		Quantity (AF)	Rate (GPM)	Quantity (AF)	Rate (GPM)		
43,094	Reservoir	35	Natural Flows	21	855	None	
43,261	Reservoir	56.5	Natural Flows	41	915	None	
47,156	Reservoir	189.5	Natural Flows	146	1000	None	
48,008	Reservoir	178.6	Natural Flows	136	1200	None	
48,770	Pump site	--- --	--- --	655 (447 Add)	1500	Direct Use: 655 AF/YR com/w #43,094; 43,261; & 47,156	
48,771	Reservoir	579	Natural Flows	579 (0 Add)	1000	Direct Use: 655 AF/YR com/w #43,094; 43,261; 47,156; & 48,770	File No. 48,008 not included in overall limitation. Therefore, total to this point would be 655 AF + 136 AF = 791 AF.
49,878	Reservoir	270	Natural Flows	267	1200	None (820 ACRE PU)	Limitation: 820 AF when combined with all senior files on the authorized place of use of 820 acres described in this permit.
PENDING APPLICATIONS							
49,974	Reservoir	160	Natural Flows	160	1000		Limitation: 820 AF when combined with all senior files on the 820 acres in the West Half of Sections 21; 28; & 33 as described herein.
50,061	Pump site	--- --	--- --	673	1500		Limitation: 820 AF when combined with all senior files on the 820 acres in the West Half of Sections 21; 28; & 33 as described herein.
50,065	Pump site	--- --	--- --	270	2000	(820 ACRE PU)	Limitation: 820 AF when combined with all senior files on the 820 acres in the West Half of Sections 21; 28; & 33 as described in this permit.
50,152	Reservoir	480	Natural Flows	480	2000		Limitation: 820 AF when combined with all senior files on the 820 acres in the West Half of Sections 21; 28; & 33 as described herein.
50,277	Reservoir	353	Natural Flows	315	2000		Limitation: 820 AF when combined with all senior files on the 820 acres in the West Half of Sections 21; 28; & 33 as described herein.
50,460	Reservoir	510	Natural Flows	510 (38.7 Add)	2000		Limitation: 820 AF when combined with all senior files on the 820 acres in the West Half of Sections 21; 28; & 33 as described herein. And Limited to 2,994.7 AF when combined with all senior files on the authorized place of use described in the permit.

1:48,000

METERING MAP FOR BIG PROJECT



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Place of Use



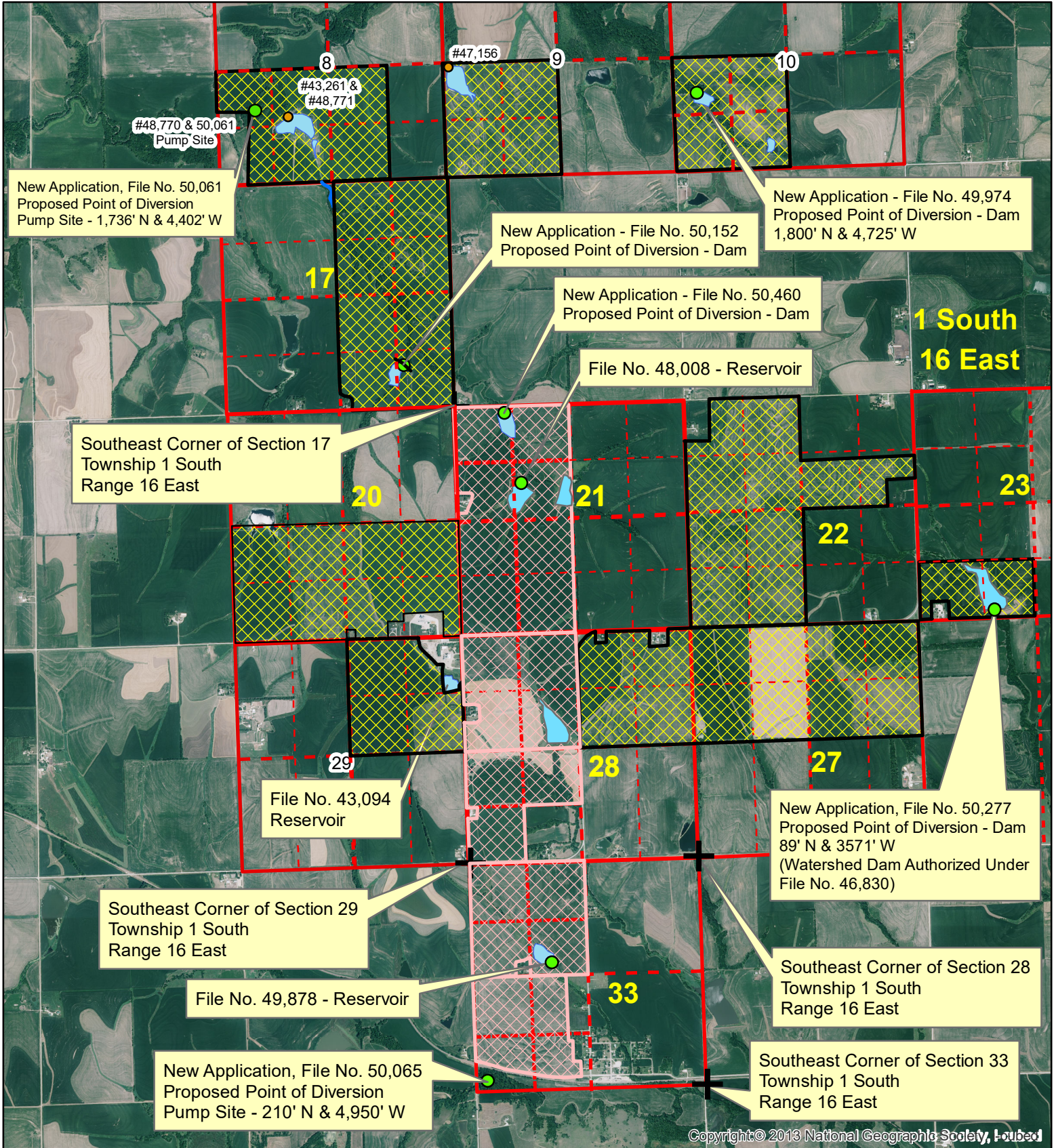
Place of Use (Partial O/L)



Points of Diversion

1:36,000

REVISED PLACE OF USE
OVERLAP SITE MAP



Proposed Place of Use



Partial Overlap PU (820 Acres)

● Points of Diversion

From: [Bunger, Brett \[KDA\]](#)
To: [Baum, Kristen \[KDA\]](#)
Cc: [Moody, Laura \[KDA\]](#)
Subject: RE: Big Grimm Package WUC
Date: Thursday, July 8, 2021 7:32:51 AM

I am sorry I was out yesterday. I thought this sounded a little fishy so I called Keith. Everything should go to Keith except for File Nos. 48008; 49878 & 50065. The water use for those files should be directed to Terry & Dayra Menold.. Person ID #65629

From: Baum, Kristen [KDA] <Kristen.Baum@ks.gov>
Sent: Wednesday, July 7, 2021 3:23 PM
To: Bunger, Brett [KDA] <Brett.Bunger@ks.gov>
Cc: Moody, Laura [KDA] <Laura.Moody@ks.gov>
Subject: Big Grimm Package WUC

Hi Brett,

Laura is getting these entered into WRIS so we are on the home stretch. Doug has Keith Grimm as the WUC for everything but 49878. He is keeping Menold as the WUC for it. This is the reservoir in the south part of the 820 acres (just north of the pump site that may not be developed). Should we switch this to Keith?

Kristen A. Baum
Division of Water Resources – Water Appropriations
Kansas Department of Agriculture
1320 Research Park Drive
Manhattan KS 66502
(785) 564-6627

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: April 8, 2021

FROM: Doug Schemm

RE: New Application, File No. 50,065, and Change in Place of Use, File No. 49,878

George & Mary Anne Dietrich have filed the above referenced new application requesting 270 acre-feet of surface water at a diversion rate of 2,000 gallons per minute. This requested rate of diversion appears to be reasonable to provide a large quantity of water in a short time period to fill the existing reservoir under File No. 49,878, and take advantage of high flow conditions on the stream, which may be of short duration. The proposed pump site is located on Terrapin Creek in the S.F. Big Nemaha River Basin, in the Southwest Quarter of Section 33 in Township 1 South, Range 16 East, Brown County. The application place of use comprises a total of 831 acres, with three landowners, George G. Dietrich Trust, Terry and Dayton Menold, and the Elmer F. Dietrich Trust. The applicant has signed the application form stating that he has legal access to the point of diversion.

Note that the initial application had included only 267 acres and an overlap with File No. 49,878. However, after a meeting with Keith Grimm, this proposed place of use was expanded. In addition, the change application for File No. 49,878 will also be modified to overlap in place of use. File No. 49,878 authorizes storage of water in a reservoir located in the Northwest Quarter of Section 33, Township 1 South, Range 16 East. This new application is for the direct diversion of surface water, while the senior file is a storage and rediversion file from an existing reservoir.

The change in Place of Use for File No. 49,878 was filed by Terry and Dayton Menold and the referenced file does not appear to be abandoned as per K.S.A. 82a-718. This file is located on Terrapin Creek Trib 6, no point of diversion is being changed, and the same local source of supply will not change for this file.

File No. 49,878 is authorized 270 acre-feet of storage and 267 acre-feet of direct use. File No. 50,065 is requesting 270 acre-feet of water. In addition, File Nos. 43,094; 43,261; 46,934; 47,143; 47,156; 48,008; 48,063; 48,064; 48,770; 48,771; 49,974; 50,061; 50,152; 50,277 and 50,460 all overlap (partially) with this place of use. Therefore, File No. 50,065 will be limited to 820 acre-feet when combined with any other file on the place of use. The maximum allowable per acre in Brown County, Kansas is 1.0 AF/acre, per K.A.R. 5-3-24, or in this instance it would be 820 acre-feet.

As noted above, File Nos. 49,878 and 50,065 are a partial overlap in place of use with all other files (820 acres). These 2 files are not connected to the pipeline associated with the other project files and cannot physically serve any other portion of the expanded place of use. File No. 50,065 will pump into the reservoir authorized under File No. 49,878 only and will only be able to supply water to the specified 820 acres authorized place of use. The applicant has provided metering maps to assist in determining how the water will be accounted for.

Notification letters were sent to upstream and downstream landowners on July 18, 2018. Janet Pasker, a downstream landowner, contacted our office with concern that approval of this application would impair her cattle drinking directly from Terrapin Creek. DWR staff had a conference call with Ms. Pasker, and her tenants (Dean & Victor Menold) to discuss the application. It was determined that they run about 40 pairs of cattle on pasture from April through October. During our initial discussion, we were under the understanding that Terrapin Creek was the sole source of supply for these cattle, and we had suggested some possible restrictive conditioning of this permit, such as no pumping during the summer months. However, subsequent to our discussion, DWR staff determined that there is a Watershed District reservoir on this property owned by Walnut Creek Watershed Joint District #1, that can also supply water to these cattle.

In addition, there is a stock tank, which collects underground flow from a hillside (field drainage tiles) that is another source of water supply. Ms. Pasker was sent a letter on September 24, 2018, that explained the proposed permit conditioning, which we believe are adequate to address her concerns, since there are other sources of supply. Specifically, paragraph Nos. 17 and 18 that prohibit the stopping of stream flow; and provide the requirement that there must be water available in the stream to satisfy all demands by senior water rights. Note that due to bank erosion, the reservoir has received a significant amount of sediment build up, and the tenants have put up fencing to keep the cattle from entering the reservoir directly. A site visit was conducted on September 6, 2018 to verify site conditions (see enclosed pictures).

In addition, the president of Walnut Creek WJD #1 (Victor Menold) was contacted to discuss the reservoir. He stated that it is a source of water, fairly large but shallow, and it can get stagnant and stale if there has been no regular inflow. He noted that there has been no inflow over the last year or so. There is a hot wire around the reservoir to keep the cattle fenced off.

Please note that Terrapin Creek is a tributary to Walnut Creek, which is located within the South Fork Big Nemaha drainage basin, the eastern portion of which drains surface water directly from Kansas toward the Sac and Fox Nation of Missouri in Kansas and Nebraska, and the Iowa Tribe of Kansas & Nebraska Reservation. Walnut Creek flows along the western edge of the Sac and Fox Nation boundary. Therefore, both the Nation and the Bureau of Indian Affairs were notified of this pending application. No response of any kind was received.

Per K.A.R 5-3-15, this application will be subject to specific conditions, which stipulate strict requirements for direct surface water diversion. These conditions include the stipulation that no diversion shall occur unless there is water available to satisfy all demands by senior water rights and permits, written or verbal permission from the Chief Engineer, or an authorized representative is required prior to diverting water, and streamflow cannot be stopped at the first riffle below the point of diversion while diversion is taking place.

The application also complies with K.A.R 5-3-15 (c)(5) because the off-stream reservoir authorized under File No. 49,878 will provide adequate water storage, and there is no need for direct diversion of water from July 1 through September 30.

In accordance with K.S.A. 82a-706c, the Chief Engineer retains full authority to require any water user to install meters, gages, or other measuring devices, which devices he or she or his or her agents may read at any time. Water flowmeter requirements are further described in K.A.R. 5-1-4 through K.A.R. 5-1-12. If any chemical or foreign substance is injected into the water pumped under this new or change permit, check valves will also need to be installed.

Katie Tietsort, Water Commissioner, Topeka Field Office, recommended the referenced new application be approved. Based on the above discussion, the South Fork Big Nemaha River basin is open to new appropriations meeting specific criteria, and approval of the application will not impair senior water rights nor prejudicially or unreasonably affect the public interest, it is recommended that the referenced new application be approved, and in conjunction with change in place of use under the senior files, and other pending new applications. In addition, the change is reasonable, impairment to existing water rights is unlikely, and there will be no change in the local source of supply, it is recommended the change application be approved, in conjunction with the pending new application listed above.

Doug Schemm
Environmental Scientist
Topeka Field Office

THE STATE OF KANSAS

KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Secretary of Agriculture

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

APPROVAL OF APPLICATION and PERMIT TO PROCEED

(This is not a Certificate of Appropriation)

This is to certify that I have examined Application **File No. 50,065** of the applicant

GEORGE G & MARY ANNE DIETRICH
3221 SW 32ND ST
TOPEKA KS 66614

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 **June 14, 2018**.
2. That the water sought to be appropriated shall be used for irrigation use on land described in the application, as follows:

Sec.	Twp.	Range	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
21	1S	16E					34	35	34.5	30	40	40	40	40					293.5
28	1S	16E					40	40	36.8	30.2	40	40	37						264
33	1S	16E					40	40	37.5	38	25	40	22	20					262.5

3. That the authorized source from which the appropriation shall be made is surface water from Terrapin Creek, to be withdrawn by means of one (1) pump site located in the Southwest Quarter of the Southwest Quarter of the Southwest Quarter (SW¼ SW¼ SW¼) of Section 33, more particularly described as being near a point 210 feet North and 4,950 feet West of the Southeast corner of said section, in Township 1 South, Range 16 East, Brown County, Kansas, located substantially as shown on the map accompanying the application.

4. That the appropriation sought shall be limited to a maximum diversion rate not in excess of **2,000 gallons per minute (4.46 c.f.s.)** and to a quantity not to exceed **270 acre-feet** of water for any calendar year.

5. That installation of works for diversion of water shall be completed on or before **December 31, 2022** 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.

6. That the proposed appropriation shall be perfected by the actual application of water to the proposed beneficial use on or before **December 31, 2026** 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. That all diversion works constructed under the authority of this permit 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.

12. That an acceptable water flow meter shall be installed on the diversion works authorized by this permit in accordance with the Kansas Administrative Regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer. This water flow meter shall be used to provide an accurate quantity of water diverted as required for the annual water use report (including the meter reading at the beginning and ending of the report year).

13. 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.

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

15. 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.

16. 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.

17. That the stream flow shall not be stopped at the first riffle below the point of diversion while diversion is taking place under the authority of this water right or permit.

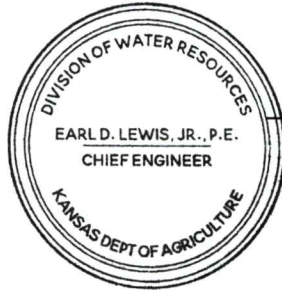
18. That diversion of natural flows shall not take place unless there is water available to satisfy all demands by senior water rights and permits.

19. That during the period October 1 through June 30, the verbal or written permission of the Chief Engineer, or an authorized representative of the Chief Engineer, shall be obtained in order to divert water each time the applicant desires to divert water.

20. That during the period July 1 through September 30 each calendar year, no direct diversions of surface water shall be permitted unless written permission is obtained from the Chief Engineer, or the Chief Engineer's authorized representative.

21. That the quantity of water approved under this permit is further limited to the quantity which combined with Water Right, File Nos. 43,094 and 43,261; and Appropriation of Water, File Nos. 47,156; 48,008; 48,770; 48,771; 49,878; 49,974; and 50,061, will provide a **total not to exceed 820 acre-feet** of water per calendar year for irrigation use on the land described herein.

Ordered this 1st day of July, 2021, in Manhattan, Riley County, Kansas.



Earl D. Lewis Jr.

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

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 1st day of July, 2021, by Earl D. Lewis Jr., P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.



Melinda Jennings
Notary Public
Melinda Jennings

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.

CERTIFICATE OF SERVICE

On this _____ day of _____, 2021, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,065, dated _____ was mailed postage prepaid, first class, US mail to the following:

GEORGE G DIETRICH TRUST
3221 SW 32ND ST
TOPEKA KS 66614

With photocopies to:

TERRY & DAYTON MENOLD
886 300TH ST
HIAWATHA KS 66434

ELMER F DIETRICH TRUST
2966 GOLDFINCH RD
HIAWATHA KS 66434

MIDWEST IRRIGATION
1215 OREGON ST
HIAWATHA KS 66434

Topeka Field Office

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

July 15, 2021

GEORGE G & MARY ANNE DIETRICH
3221 SW 32ND ST
TOPEKA KS 66614

RE: Appropriation of Water, File No. 50,065

Dear Mr. and Mrs. Dietrich:

Enclosed is a permit authorizing you to proceed with construction of the proposed diversion works and to appropriate water for beneficial use as set forth in the permit. Your attention is directed to the enclosures and to the terms, conditions, limitations, and requirements specified in this permit. Notice must be filed on the enclosed form once the diversion works have been completed. Failure to complete the diversion works within the time allowed, or within any authorized extension of time thereof, will result in dismissal of this permit. If you need an extension of time, you must request it before the deadline for completion set forth in the permit. Any request for an extension of time must be accompanied by the statutorily required fee, which is currently \$100.00.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in this permit, with specific reference to **Paragraph Nos. 19 and 20, which describe the need for you to obtain permission prior to diverting water.** An acceptable water flowmeter must be installed on the diversion works authorized by this permit prior to using water. An annual water use report must be filed with the Chief Engineer by March 1, following the end of each calendar year. If a complete annual water use report is not received by the deadline, then a fine may be assessed and all water use under such permit or right may be suspended. Reports submitted in paper form will be assessed a \$20 per file number paper filing fee. In order to avoid this filing fee, you may submit your report online at www.kswaterusereport.org.

The approval of your application constitutes a permit to appropriate water. It does not give authority to construct any dam or other stream obstruction regulated by K.S.A. 82a-301 through 305a. It does not give authority to access any right-of-way or authorize trespassing upon or injury to public or private property. It may also be necessary for you to comply with other local, state or federal requirements. Enclosed is an informational sheet that sets forth the procedure to obtain a Certificate of Appropriation which will establish the extent of your perfected water right.

Additional information and applicable forms may be found on our website at agriculture.ks.gov/divisions-programs/dwr. If you have any questions or need assistance with any of these requirements, please contact our office at 785-564-6640 or your local Topeka Field Office at 785-296-5733. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

Kristen A. Baum
New Applications and Changes Supervisor
Water Appropriation Program

KAB:dws
Enclosures

pc: Topeka Field Office
Terry and Dayton Menold
Elmer F Dietrich Trust
George G Dietrich Trust

RIGHT TO A HEARING AND TO ADMINISTRATIVE REVIEW

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If neither a request for an evidentiary hearing nor a petition for administrative review is filed as set forth above, then this Order shall be effective and become a final agency action as defined in K.S.A. 77-607(b). Failure to timely request either an evidentiary hearing or administrative review may preclude further judicial review under the Kansas Judicial Review Act.

CERTIFICATE OF SERVICE

On this 15 day of July, 2021, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,065, dated 1 July 2021 was mailed postage prepaid, first class, US mail to the following:

GEORGE G DIETRICH TRUST
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TOPEKA KS 66614

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Topeka Field Office



Division of Water Resources