



File No. **50210**      13. County: **NM** Basin: **S F BIG NEMAHA RIVER** Stream: **ROCK CREEK TRIB 1 (SF BEG NEMAHA)**  
 Structures File No: **LNM-0033**      Aquifer Code:      Special Use Area:

14. Points of Diversion, Rates & Quantities										Qty AF		Rate gpm		Storage Qty AF		Storage Rate	
PDIV	Qualifier		S	T	R	ID	'N	'W	Comment (AKA Line)	Auth	Add	Auth	Add	Auth	Add	Auth/Add	Overlaps
<del>MOD 16915</del>	<del>87340 NW NW SE SW NW SW</del>		14	1	14E	1	2513	2565	STRUCTURES PERMIT LNM-0033	640	640	1550	1550	640	640	0.0/ 0.0 NF	+
ENT 91594	SE NE NE		22	1	14E		4585	73	DAM								+
ENT 91595	NW SE NE		22	1	14E		3735	730	DAM								+
ENT 91596	NW NE SW		22	1	14E		2610	3325	STRUCTURES PERMIT DNM-0391								+
																	**
																	++

15. Limitations:  
**NONE**

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

17. Place of Use										NE¼		NW¼		SW¼		SE¼		Total	Owner(s)	Chg?	Overlaps				
PDIV	S	T	R	ID	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE					
NC																								<input type="checkbox"/>	+
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18. Point of Diversion and Place of Use Overlaps  
 \* **NONE**      \*\*  
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# MEMORANDUM TO FILE

Division of Water Resources, Water Appropriation Program

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Date: February 21, 2025

From: Leslie Ireland, Environmental Scientist

Re: Change in Point of Diversion, File No. 50,210 Irrigation Use – Myreon, Lori, Chris & Amy Menold

## Summary

Myreo and, Lori Menold alsong with Chris and Amy Menold, owners, filed an application on January 27, 2022, for approval to change the point of diversion authorized as a surface water reservoir located in the Southeast Quarter (NW¼NW¼SE¼) at the 2021 Compliance Investigation indicated the actual location to be 2,513 feet North and 2,565 feet West of the Southeast corner of Section 14, in Township 1 South, Range 14 East, Nemaha County, Kansas. The dam is located on Rock Creek Trib 1, in the South Fork Big Nemaha River Basin and authorized by Structure Permit LNM-0033. The point of diversion is also authorized for irrigation use as a direct diversion of 640 acre-feet at 1,500 gallons per minute on 710 acres. The irrigated portions are owned by Myreon, Lori, Chris, and Amy Menold, Gordon J. Grimm Trust, and the Sharon E. Grimm Trust. The water right was withheld from Grimm properties during the original permitting process. The requested change is an expansion of reservoirs to complete three(3) new upstream impoundments on this Northeast flowing tributary, the furthest being approximately 1.5 miles (12,390 feet) upstream in the Southwest Quarter (NE¼NE¼SW¼) of Section 22.

Review of the proposed reservoirs by DWR engineers found the proposed dams to be Class A low hazard dams, exempt per K.S.A. 82a-301(d)(1) and assigned Water Structure Numbers: DNM 0381/LNM 0035 and DNM-0391.

## Source of Supply

The topographic mapping of the designated Rock Creek Trib 1, appears to begin in the North Half (N½) of Section 27, in Township 1 South, Range 14 East (27-1-14E) and inclusive of Sections 22, 23, 15 & 14 with a confluence with Rock Creek in Section 11. The topography indicates very steep terrain in the South Fork Big Nemaha River basin with several smaller streams-inlets between the authorized and the most western reservoir that could mitigate the reduced fill to the Section 14 reservoir. The proposed upstream reservoirs appear to be within the initially determined drainage area.

## Reasonable Rate and Quantity

The authorized storage of 640 acre-feet(AF) at natural flows is authorized to divert the full 640 AF at a maximum of 1,500 gallons per minute (gpm) will not be modified. Review of the permit indicated the 1,350-acre drainage area would yields more than 640 AF of runoff quantity at an estimated runoff 15 inches per acre in one(1) out of every five (5) years at the 20% chance allowance. The requested quantity of water for direct use is the rediversion of 640 acre-feet applied to the authorized 710 acres is an irrigation ratio of 0.90 AF per acre. This is less than the maximum allowable per acre of 1.1 AF/acre, per K.A.R. 5-3-24. It was determined to be reasonable from the initially proposed and authorized reservoir for the irrigation project. The total direct use quantity of 640 acre-feet, is equivalent to 6.5 times the capacity of the currently authorized reservoir which was determined to be 97 AF. The 6.5 times capacity was outside of the normal direct use quantity of the ratio of no more than 5 times capacity for reasonable storage quantity but was considered not to be unreasonable, so the permit was issued for the original reservoir in the (NW¼ NW¼ SE¼) of Section 14, with the secondary the place of use updated in 2021 by a Topeka Field Office change in place of use to the currently authorized 710 acres. The new reservoirs located in Section 22, to the West and upstream will further reduce the fill of the existing reservoir in Section 14, but the referenced appropriation of water is already authorized all of the calculated runoff the basin will yield above the currently authorized dam. It would appear the change complies with K.A.R. 5-5-3, *Change in consumptive use*.

The supplied Stream Obstruction information completed by Jorgensen Surveying indicate the proposed additional reservoirs are defined as:

SEC – TWN - RNG	Feet North	Feet West	Qualifiers	Surface Acres Normal Pool	Volume AF Normal Pool	Volume AF Top of Dam
22 – 1 – 14E	4585	73	SE NE NE	6.4	37.57	80.02
22 – 1 – 14E	3735	730	NW SE NE	4.9	41.22	46.26
22 – 1 – 14E	2610	3325	NW NE SW	8.8	71.83	90.99

The added new reservoirs would have a maximum combined accumulation of 217.27AF and a proximate fill of 150.62AF. The area Water Commissioner indicated the diversion of 640 AF at 1,500 gpm could occur from the proposed new reservoir in the Southwest Quarter (NW¼ NE¼ SW¼) of Section 22. This reservoir’s proximate volume of 71.83 AF equates to 8.9 times the capacity for the authorized 640 AF. It would appear the proposed reservoir in the (SW¼) of Section 22 would irrigate the surrounding 271 acres in Sections 21 & 22. K.A.R. 5-3-24, *Reasonable quantity for irrigation use*, allows for 1.1 acre-foot per acre in Nemaha County, or an annual allowance of 298.1 AF. The storage capacity at normal pool of 71.83 AF. The irrigation of direct use of 298.1 AF and approximately 6.6 AF of evaporation yields a usage quantity of 304.7 AF per year. Approximately 4.24 times the volume of the reservoir at normal pool. The determined area of the basin for the reservoir in the SW¼ of Section 22, appears to be 161 acres, which at an estimated runoff of 15 inches per acre in one(1) out of every five (5) years at the 20% chance allowance yields 201.25 AF per year. The proximate yield is deficient by approximately 103.45 AF, but would provide additional irrigation. The basin yield would provide 0.74 AF per acre for irrigation of the 271 acres in this area at a 20% chance. K.A.R. 5-5- 12, *Net irrigation requirements* lists the 20% chance for this county at 0.65 AF per acre. It appears the irrigation requirement is reasonable.

The applicant was requested to provide information about the structures and details regarding any pipelines per part (i) of K.A.R. 5-5- 2a, *Complete change application*, as the reservoirs and irrigated acres are noncontiguous. In an email dated November 2, 2022, Keith Grimm, MWI LLC provided Stream Obstructions of the proposed reservoirs and stated:

*There are no addition pipelines on this project just valves on the back sides of dams to release water down to the current structure and pump on the bottom dam.*

The information for the upper structure in the Southwest Quarter of Section 22, was submitted as a Stream Obstruction. Mr. Grimm does state the upper reservoirs will have valves to release water to the currently authorized structure. It is difficult to see from 2023 and WRIS aerials if the currently completed reservoirs in the Northeast Quarter of Section 22 have release structures. As the authorized irrigated acres are noncontagious and no pipeline is indicated it appears the reservoir in the Southwest Quarter (SW¼) of Section 22 might be slated to divert directly to the 151 acres in Sections 21 and 22 with no release into the Rock Creek Trib 1 and the currently authorized downstream reservoir, however this was not indicated in the application. Further review of the application found the page listing the additional points of diversion was modified to not include any rate or diversion quantities. This confirms the irrigation of the acres in Sections 21 and 22 would be irrigated by the most upstream reservoir proposed for the Southwest Quarter (SW¼) of Section 22.

### Spacing and Nearby Water Rights

Nearby landowners located one-half (½) mile upstream and downstream from the proposed reservoirs on land owned or controlled by the applicants were notified of the proposed change in point of diversion by letters dated November 21, 2022. Written responses were received from all landowners upstream and downstream of the reservoir located in the Southwest Quarter (SW¼). They expressed concerns about the loss of stream flow, loss of domestic use and a substantial negative economic impact on their property. A hearing was requested by Matt & Janelle Popkess. The request for a hearing was reviewed by Kristen Baum, New Application Unit Supervisor and Stephanie Kramer, Agency Chief Legal Counsel. It was determined a hearing would not be needed if there was no domestic use. Review found no domestic use by this landowner who appears to have obtained counsel by Topeka attorney, Richard S. Schoenfeld, Stevens & Brand, L.L.P.

A written request for denial was also received from commenter, Carson Ukele, Ukele Farms LLC, owner/farmer of the South Half of the Southwest Quarter (S½ SW¼) of Section 22. It does not appear he diverts water or has any domestic use in the area and no standing for his request for a hearing. It does appear that the reservoir is far enough to the North and sized to not impound water on his property.

The submitted comments by Robert C. Evans, owner of the Northwest of the Northeast Quarter (NW¼ NE¼) of Section 22, with approximately 400 feet of stream access, beginning approximately 900 feet downstream of the dam proposed in the Southwest Quarter (SW¼) of Section 22. He indicated domestic stockwater use from the creek and supplied property photos with assistance of his daughter Shanna Bauer, PG (Texas) a hydrogeoscientist and aqueous geochemist at ERM. He did not request a hearing but indicated his concerns about loss of streamflow. His letter inquired as to why the proposed reservoirs in the Northeast Quarter (NE¼) on Wenger property are already constructed. Review of these two reservoirs determined the proximate surface acres to be 4.9 and 6.4 (6.9 and 15 maximum) meeting K.A.R. 5-3-3, *Storage of surface water for domestic use, which affords 20 acres for Township 1 South, Range 14 East, Nemaha County for domestic storage*. While they meet this criteria, the area Water Commissioner indicated there is no evidence these ponds are being used for domestic purposes and it would be more accurate response is these ponds have a class “A” low hazard exemption determination which allowed them to build. If they aren’t using these for domestic purposes, they should be bypassing inflows. This change will bring those ponds into compliance with water appropriations. The “A” classification as low hazard will be included in the reply to Mr. Evans and his daughter Shanna Bauer.

The portion of the stream on the Evans property is located below the reservoir in the Southwest Quarter (SW¼) of Section 22. It appears this most western reservoir would utilize approximately 304.7 AF of streamflow. The portion of the basin which could provide streamflow to the Evans owned portion was evaluated. The Northwest Quarter (NW¼) of Section 22 appears to be comprised of approximately 139.84 basin acres. This equates to 174.85 AF utilizing the 15 inches per acre runoff value. A portion of the acres are authorized for irrigation use, but it does appear an area of the basin could provide stream flow.

This area was visited on September 17, 2024, by Bobbie Lutjohann, Environmental Scientist, Topeka Field Office to observe the stream and gauge site options. Information indicated there was no evidence of domestic use from the stream at the time of her visit.

## Recommendations

Nathan Westrup, Water Commissioner, Topeka Field Office, was contacted for a recommendation. In his email of February 21, 2025, he recommended approval.

## Conditions and Completion

All diversions for irrigation use will be required to be metered. The project will have a completion date of December 31, 2025. At the owners request the Chief Engineer extended the perfection date to 2030.

From: [Westrup, Nathan \[KDA\]](#)  
To: [Ireland, Leslie \[KDA\]](#)  
Subject: RE: Review & Recommendation Change PD File No. 50210 Menold  
Date: Friday, February 21, 2025 1:32:18 PM  
Attachments: [image001.png](#)

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Leslie,

I have no objection or concerns with approval of this change application.

Regarding the response to Mr. Evans. I think you correctly describe the allowable surface acres of a domestic pond. However, I do not have any evidence that these ponds are being used for domestic purposes. I believe the most accurate response would be to point to the class "A" low hazard exemption determination, which allowed them to build. If they aren't using these for domestic purposes, they should be bypassing inflows. This change will bring those ponds into compliance with water appropriations.

**Nathan Westrup, Water Commissioner**

Topeka Field Office  
Division of Water Resources  
Kansas Department of Agriculture  
Phone: 785-296-7064  
Mobile: 785-230-2991  
[Nathan.Westrup@ks.gov](mailto:Nathan.Westrup@ks.gov)

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**From:** Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>  
**Sent:** Friday, February 21, 2025 11:45 AM  
**To:** Westrup, Nathan [KDA] <Nathan.Westrup@ks.gov>  
**Subject:** Review & Recommendation Change PD File No. 50210 Menold

Nathan,

Please let me know if you'd recommend the change for the final processing.

As there were comments, the reply letters are also attached. Did I correctly word the allowance for domestic reservoirs (highlighted in yellow)?

Any revisions are welcome and as always comments and concerns are welcome.

Leslie Ireland  
Environmental Scientist  
Change Application Unit  
Division of Water Resources





THE STATE  OF KANSAS

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

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

**APPROVAL OF APPLICATION  
FOR  
CHANGE IN POINT OF DIVERSION  
APPROPRIATION OF WATER  
FILE NO. 50,210**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Myreon and Lori Menold, along with Chris and Amy Menold, 2742 V Road, Sabetha, Kansas 66534, received in this office on January 27, 2022, for approval of a change in the location of the point of diversion under the Approval of Application, File No. 50,210, for permit to appropriate water for beneficial use, as modified and amended by the Order of the Chief Engineer dated March 18, 2021, approving the application to change the authorized place of use, finds that the change is reasonable and will not impair existing rights, and that the application should be and are hereby approved.

The effective date of the change shall be the date this order is executed by the Chief Engineer, after which the authorized locations of the points of diversion shall be:

one (1) dam located in the Northwest Quarter of the Northwest Quarter of the Southeast Quarter (NW $\frac{1}{4}$  NW $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section 14, more particularly described as being near a point 2,513 feet North and 2,565 feet West of the Southeast corner of said section,

one (1) dam located in the Southeast Quarter of the Northeast Quarter of the Northeast Quarter (SE $\frac{1}{4}$  NE $\frac{1}{4}$  NE $\frac{1}{4}$ ) of Section 22, more particularly described as being near a point 4,585 feet North and 73 feet West of the Southeast corner of said section,

one (1) dam located in the Northwest Quarter of the Southeast Quarter of the Northeast Quarter (NW $\frac{1}{4}$  SE $\frac{1}{4}$  NE $\frac{1}{4}$ ) of Section 22, more particularly described as being near a point 3,735 feet North and 730 feet West of the Southeast corner of said section, and

one (1) dam located in the Northwest Quarter of the Northeast Quarter of the Southwest Quarter (NW $\frac{1}{4}$  NE $\frac{1}{4}$  SW $\frac{1}{4}$ ) of Section 22, more particularly described as being near a point 2,610 feet North and 3,325 feet West of the Southeast corner of said section,

all in Township 1 South, Range 14 East, Nemaha County, Kansas,

located substantially as shown on the map accompanying the application to change the point of diversion.




Installation of the works for diversion of water shall be completed on or before December 31, 2025, or within any authorized extension of time. The water right owner shall notify the Chief Engineer of the Division of Water Resources, Kansas Department of Agriculture, when construction of the works for diversion has been completed.

All re-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.

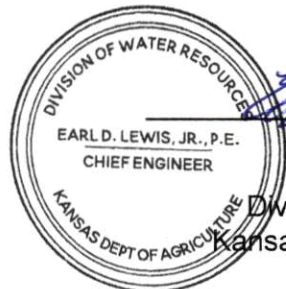
The water right owner shall properly install an acceptable water meter on the re-diversion works authorized under this water right, prior to the use of water, in strict accordance with the Kansas Administrative Regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer. The water right owner shall 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.

In all other respects, the Approval of Application, File No. 50,210, for permit to appropriate water for beneficial use, is as stated and set forth in the Approval dated September 24, 2019, as modified and amended by the aforementioned order.

Ordered this 10<sup>th</sup> day of March, 2025, in Manhattan, Riley County, Kansas.



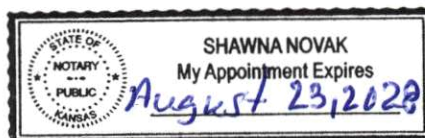
Earl D. Lewis Jr., P.E.  
 Chief Engineer  
 Division of Water Resources  
 Kansas Department of Agriculture



State of Kansas )  
) SS  
County of Riley )

The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of March, 2025, by Earl D. Lewis Jr., P.E., Chief Engineer, Water Appropriation Program, Division of Water Resources, Kansas Department of Agriculture.

  
Notary Public



SHAWNA NOVAK  
 My Appointment Expires  
August 23, 2028

1320 Research Park Drive  
Manhattan, KS 66502  
785-564-6700  
www. agriculture.ks.gov



900 SW Jackson, Room 456  
Topeka, KS 66612  
785-296-3556

Mike Beam, Secretary

Laura Kelly, Governor

March 26, 2025

MAC FARMS INC  
2742 V ROAD  
SABETHA KS 66534

RE: Appropriation of Water,  
File No. 50,210

Dear Sir or Madam:

Enclosed is the order executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the application for change under the above referenced file.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in the approval for change. A condition of the approval is that water flowmeter(s) meeting K.A.R. 5-1-4 through 5-1-12 must be installed on all re-diversion works. Please return the required notification of completion of the diversion works and installation of the required meter. Additional information and the Notice of Completion form may be found at our general website of [agriculture.ks.gov/dwr](http://agriculture.ks.gov/dwr). There is no fee required for this notification.

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,

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

Kristen A. Baum  
New Application Unit Supervisor  
Division of Water Resources

KAB:kak:li  
Enclosure(s)  
pc: Topeka Field Office

## RIGHT TO A HEARING AND TO ADMINISTRATIVE REVIEW

If you are aggrieved by this Order, then pursuant to K.S.A. 82a-1901, you may request an evidentiary hearing before the Chief Engineer or request administrative review by the Secretary of Agriculture. Failure to request an evidentiary hearing before the Chief Engineer does not preclude your right to administrative review by the Secretary.

To obtain an evidentiary hearing before the Chief Engineer, a written request for hearing must be filed within 15 days after service of this Order as provided in K.S.A. 77-531 (**i.e., within a total of 18 days after this Order was mailed to you**), with: Kansas Department of Agriculture, Attn: Legal Division, 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 review 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 26 day of March, 2025, I hereby certify that the attached Approval of Application for Change, Appropriation of Water, File No. 50,210, dated March 10, 2025, was mailed postage prepaid, first class, US mail to the following:

MAC FARMS INC  
2742 V ROAD  
SABETHA KS 66534

With a Photocopy to:

KDA-DWR Topeka Field Office



Staff