## SECOND AMENDED

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



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.

ode		Fee \$	TR #	Rec	eipt Date	Check #_	
or Office Use Only: O GMD	Meets K.A	.R. 5-5-1 (YES / NO) Fee \$	Use	Source_G	S County	By	_ Date
The change(s) (w	as) (will be)	) completed by <u>Dec</u>	ember 31	, 2029.	(Date)		
			1 21		<u> </u>		-
supersedes the	June 25, 2	2015 Cover Letter	that acco	mpanied the c	original Change	e Applications	S
• . , .	•	ccompanying Cov	_		-		over Letter
		ein are desired for th	-				
-		3-7320	E-mail	address: tdou	igherty@haysi	ısa.com	
City, State and Zi	p: <u>Hays</u> , ]	Kansas 67601					
Address: P.O.	Box 490, 1	1507 Main Street			-		
Name of water us	e correspo	ndent: <u>City of Hay</u>	s, Kansa	s ·			
		owners of the aut					•
		he water right, ☑ ow		nant 🗆 agent	☐ other? If oth	ner, please expla	ain.
Phone Number: (	316 ) 291	-9725	E-mail	address: dtra	ster@foulston.	com	
City, State and Zi	p: Wichit	ta, Kansas 67206					
Address: <u>c/o F</u>	oulston Si	efkin LLP, 1551 N	N. Waterf	ront Parkway.	Suite 100		-
Name of applican	t: <u>City o</u>	of Hays, Kansas an	d City of	Russell, Kans	as (See Section	n I.A. of the C	Cover Letter
		File No	)	22,339	Circle 29.		
	V	Use Made of Water			KS D	ept Of Agric	ulture
(Check one or mo	· · ·	Point of Diversion			· · · · · · · · · · · · · · · · · · ·	MAR 26 2019	)
		Place of Use				Received	
Application is her	ebv made fo	or approval of the Ch	ief Engine	er to change the		ater Resourc	,63

File No.	22,339
THE INU.	

4. The presently authorized place of use is:

Owner of Land — NAME: <u>City of Hays, Kansas</u>

ADDRESS: P.O. Box 490, 1507 Main Street, Hays, Kansas 67601

		Ni	Ξ¼			, NV	V¼			sv	V1/4			SE	1/4		TOTAL
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10-T26S-R20W		,	Lot 6 5				5	20	Lot 5 41.90					15			110
10-T26S-R20W									8.10								110

List any other water rights that cover this place of use. None

Owner of Land - NAME: <u>City of Russell, Kansas</u>

ADDRESS: 113 W. 8th Street, Russell, Kansas 67665

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									Sa	ıme a	s abo	ve							
• .			٠				,												

List any other water rights that cover this place of use. None

(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: City of Hays, Kansas

ADDRESS: P.O. Box 490, 1507 Main Street, Hays, Kansas 67601

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							Se	e Atta	achm	ent							

List any other water rights that cover this place of use. See Attachment

Owner of Land — NAME: <u>City of Russell, Kansas</u>

ADDRESS: 113 W. 8th Street, Russell, Kansas 67665

				NE	≣¼			, NV	V'/4			. sv	V1/4			SE	1/4		TOTAL
Sec.	Twp.	Range	NE1/4	NW¼	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	ACRES
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List any other water rights that cover this place of use. See Attachment

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

Amended Substitute Page

File No.	22,339
File No.	22,333

- 6. The presently authorized point(s) of diversion (is) (are) <u>irrigation well(s) described in paragraphs 8, 9, and 10</u>.
- 7. The proposed point(s) of diversion (is) (are) a new municipal well described in paragraphs 8, 9, and/or 10 and in the Attachment.

  (Provide description and number of points)

Presently authorized	point of d	liversion:			
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of Section	10	, Township	26	South, Range	20 (🗵
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Authorized Rate 68					
				feet North	feet West)
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Proposed Rate See A		-			
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DWR use only: Com	nuter ID I	No.	PS	feet North	feet West)
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IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NEEDES & AND SECOND STATES OF THE SECOND

Amended Substitute Page

12.	Th	e pre	resently authorized use of water is for <u>irrigation</u>	purposes.	
	lt is	s pro	roposed that the use be changed to <u>municipal</u>	purposes.	
13.	lf c	hang	nging the place of use and/or use made of water, describe how the con	sumptive use will not be increased.	
		S	See the Attachment and the Master Order, Section III, Quantit	ies for Municipal Use.	
	_				
	_				· · · ·
	7PIE	ease s	e show any calculations here.)		
				Attachment / care foot or william as	
14.	It is	s req	equested that the maximum annual quantity of water be reduced to $\underline{\operatorname{See}}$	Attachment (acre-feet or million ga	ilions).
15.	It is	s req	equested that the maximum rate of diversion of water be reduced to <u>Se</u>	e Attachment gallons per minute (	c.f.s.).
16.	1:2 Kar Dis	4,00 nsas staric ould	pplication must include either a topographic map or detailed plat. A U000, is available through the Kansas Geological Survey, 1930 Constas 66047-3726 ( <a href="https://www.usqs.gov">www.usqs.gov</a> ). The map should show the location onces North and West of the Southeast corner of the section must be dialso be shown. Identify the center of the section, the section lines and in, township, and range numbers on the map. In addition the following in the section is a section of the section of the section in the following in the section is a section of the section of the section of the section is a section of the sectio	tant Avenue, University of Kansas, Law f the presently authorized point(s) of diventions. The presently authorized place d the section corners and show the approximately.	rence, ersion, of use opnate
	a.	If a	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 a must be shown. Please be certain that the information shown on Paragraph Nos. 9, 10 and 11 of the application.	and West of the Southeast corner of the s the map agrees with the information sho	ection own in
		2)	If the source of supply is groundwater, please show the location domestic wells, within ½ mile of the proposed well or wells. Identification mailing address of the property owner or owners. If there are no well the source of the property owner or owners.	y each well as to its use and furnish nam	ne and
		3)	If the source of supply is surface water, the names and mailing add and ½ mile upstream from your property lines must be shown.	dresses of all landowner(s) ½ mile downs	stream
	b.		a change in the place of use is desired, show the proposed place of ertain that the information shown on the map agrees with the informatio		
17.	loc we	al so Il log	n documentation to show the change(s) proposed herein will not impassource of supply as to which the water right relates. This information ogs, test hole logs, and other information as necessary information to below.	may include statements, plats, geology re	eports,
	<u>Se</u>	e th	he Master Order, Section II, Change in Beneficial Use; Section	n VI, Change in Places of Use;	
	an	d Se	Section VIII, Change in Points of Diversion.		
					,
			<del></del>		
18.	ide req	ntify uest	proposed change(s) does not meet all applicable rules and regulations by the rules and regulations for which you request a waiver. State the st should be granted. Attach documentation showing that granting the of prejudicially and unreasonably affect the public interest.	e reason why a waiver is needed and w	hy the
	_	N	No waivers are required.	•	
		:			
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22,339

File No. \_

Substitute Page

This Amended Change Application is contingent on (a) the entry of the Master Order as a Final Order with terms that are acceptable to the Cities and (b) the occurrence of the contingencies in the *Effective Date and Expiration Date* Section of the Master Order.

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

- a. The various parcels of land known as the R9 Ranch located in Edwards County, Kansas, as specifically described in **Appendix A** of the Master Order.
- b. The City of Hays, Kansas and its immediate vicinity as well as related areas in the Northeast Quarter (NE/4) of Section 19 and the Northwest Quarter (NW/4) of Section 36, T13S-R18W, Ellis County, Kansas.<sup>1</sup>
  - c. The City of Russell, Kansas and its immediate vicinity.<sup>2</sup>

Other water rights owned by the City of Hays: EL 002; 1,248; 5,757; 18,857; 18,858; 33,296; 33,548; 36,519; 36,520; 36,804; 40,367; 40,368; 40,702; 40,703; 40,704; 40,705; 40,706; and 40,707.

Other water rights owned by the City of Russell: RS 08; 206; 1,267; 1,861; 7,628; 17,586; 17,587; 36,680; and 20139006.

#### 8., 9., and 10. Proposed Rate, Quantity, and Well Location

The Cities requested a total of 142.56 acre-feet at 680 gpm from the well associated with this water right, all of which would be diverted from new Municipal Well "L," as shown on Exhibit I. When combined with existing wells from other water rights, new Municipal Well "L" would have a cumulative total of 426.24 acre-feet at 2,430 gpm.

After extensive negotiation, the Cities and the Chief Engineer have reached an agreement on numerous terms that are set out in the Master Order, including an agreement that, subject to the negotiated terms and the contingencies in the Master Order, the proposed Municipal Well "L" will be limited to 377.9 acre-feet per year for municipal use at a maximum rate of 950 gallons per minute with 118.8 acre-feet diverted from File 22,339 and the balance from File 22,338 and 27,760.

Attached as Exhibits I, J, O, and P, are maps that show the location of the currently authorized points of diversion, the proposed location of new Municipal Well "L," a one-half mile buffer around the proposed Municipal Well, a 1,000-foot radius around that location, and the proposed areal limits within which the new Municipal Well can be located without having to file a new change application.

As shown on Exhibit R, new Municipal Well L is farther from the center line of the Arkansas River than the irrigation well and therefore complies with K.A.R. 5-5-13.

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

Water Resources Received

MAR 26 2019

<sup>1</sup> See Exhibit K.

<sup>&</sup>lt;sup>2</sup> See Exhibit L.

All but a few of the irrigation wells on the R9 Ranch have been properly plugged and WWC-5P well plugging forms have been prepared and submitted to KDHE. *See* Exhibit Q for the Well Plugging Record for the irrigation well authorized by File 22,339.

# 13. If changing the place of use and the use made of water, describe how the consumptive use will not be increased:

Quantity authorized and perfected

The Permit was issued on March 19, 1976, granting the applicant the right to divert up to 198 acre-feet annually at a rate not to exceed 1,000 gallons per minute for irrigation use<sup>3</sup> on 110 acres in Section 10-T26S-R20W.<sup>4</sup> The Certificate further limited the rate to 680 gallons per minute.

In the cover letter transmitting the Permit, DWR made findings of fact stating that "the proposed use is for a beneficial purpose and is *within reasonable limitations*. If priorities are observed and respected, the proposed use will neither impair any use under existing water rights nor prejudicially and unreasonably affect the public interest."<sup>5</sup>

The Field Inspection Report indicates that all of the 198 acre-feet authorized by the Permit were lawfully perfected.

218 acre-feet were applied to 110 approved acres in Section 10-T26S-R20W.<sup>6</sup>

While the Certificate limits the total quantity to 165 acre-feet based on DWR's after-the-fact determination that 1.5 acre-feet per acre was a reasonable quantity for irrigation use, DWR did not have jurisdiction to make this reduction.<sup>7</sup>

Since the perfection period has expired, the "authorized quantity" for this water right is the 198 acre-feet actually perfected even though it exceeds the certified quantity.

See also. Exhibits M and N.

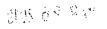
### 14. The maximum annual quantity of water for municipal use:

Subject to the contingencies stated above and the negotiated terms of the Master Order, the proposed Municipal Well "L" will be limited to a maximum quantity of 377.9 acre-feet per year for municipal use with 118.8 acre-feet diverted from File 22,339 and the balance from File 22,338 and 27,760.

#### 15. The maximum annual rate of diversion:

Subject to the contingencies stated above and the negotiated terms of the Master Order, the proposed Municipal Well "L" will be limited to a maximum rate of 950 gallons per minute, 2.12 cubic feet per second.

<sup>&</sup>lt;sup>7</sup> Certificate, HAYS003326, Ex. E; Larry Sheets Memo dated March 26, 1987, HAYS003320, Ex. F; and *Clawson v. Kansas Dept. of Agriculture, Div. of Water Resources*, 49 Kan. App. 2d 789, 315 P.3d 896 (2013).

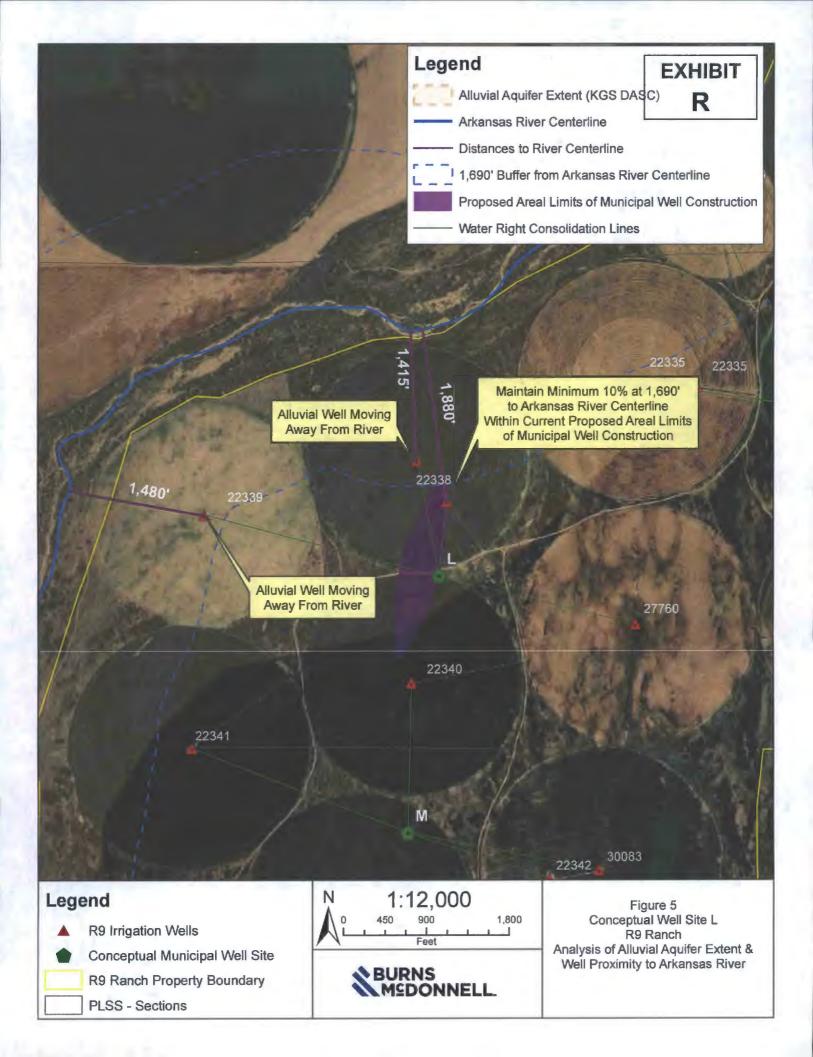


<sup>&</sup>lt;sup>3</sup> Permit, HAYS003317, Ex. A.

<sup>&</sup>lt;sup>4</sup> Application, HAYS003310, Ex. B.

<sup>&</sup>lt;sup>5</sup> March 19, 1976, letter (emphasis added), HAYS003316, Ex. C.

<sup>&</sup>lt;sup>6</sup> FIR, HAYS003302, Ex. D.



EXHIBIT

0		ER WELL:	Fraction	Section N		Township Number	Range Number
County: E		Wall I nestion.	INE 1/4 NW 1/4 NE 1/4 SW if unknown, distance &			T 26 S Systems (GPS) inform	20 TE 7 W
			ion: If at owner's address,	Latitude: 3		ystems (G1 3) mion	(in decimal degrees)
check here	phony			Longitude:	99.4982	8	(in decimal degrees)
CHOOK HOTO	1 / 3/4	south & 4 1/	8 west of Kinsley Ks.	Elevation:			
					□ WG	S84, Z NAD83	, NAD27
				Collection N		24.11	
		NER: City	of Hays			e/Model:	Map,    Land Survey
	Address, Bo		Box 56				
City, State	ZIP Code:	Hays	, Ks. 67601	Est. Accuracy	(; □ <	3 m, 3-5 m, 1	5-15 m, > 15 m
MARK W	ELL'S LO	CATION	4 DEPTH OF WELL	35	n.		
WITH AN	"X" IN S						
BOX:	N		WELL'S STATIC W	ATER LEVEL	13.20	ft	
	<del>- i</del>		WELL WAS USED	AS:			
_ NW		NE -	Domestic	Public W	ater Sunn	tv Dew	atering
		1	✓ Irrigation	Oil Field			itoring
N	X	E	Feedlot	Domestic	(Lawn &	Garden) Injec	tion Well
sw	*	SE _	Industrial	Air Cond		Othe	г
- "		SE -	nr 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1				
			Was a chemical/bacte	riological samp	ole submi	ited to Department?	Yes No M
TYPE OF	BLANK	CASING USE	ED:				
<b>▼</b> Steel	RM	MP (SR)	Wrought	Fiberglass		Other (Specify below)	
PVC				Concrete Tile		care (opening constitution)	
			100				
Blank cas	ing diamete	er 16 in.	Was casing pulled? Yes	No.	If was he		
				T 140 E	II Acs' uc	w mucn	
Casing he	ight above	or below land		C NOE	II yes, ne	w mucn	
Casing he	ight above				II yes, ne	w mucn	
		or below land	surface 36 in.				
GROUT	PLUG MA	or <u>below</u> land	surface 36 in.  Neat cernent Cer	ment grout	Benton	nite Other	
GROUT	PLUG MA	or <u>below</u> land	surface 36 in.	ment grout	Benton	nite Other	toft.
GROUT I	PLUG MA	TERIAL:	surface 36 in.  Neat cernent Cert  ft. to 3 ft.,	ment grout	Benton	nite Other	
GROUT I	PLUG MA	TERIAL: From 14	surface 36 in.  Neat cement Cer  ft. to 3 ft.,	nent grout	Benton	nite Otherft., From	toft.
GROUT I Grout Plug What is the	PLUG MA's Intervals:	TERIAL: From 14 purce of possib	Surface 36 in.  Neat cement Cer  ft. to 3 ft.,  ole contamination: eepage pit Fuel	rent grout	Benton	nite Otherft., From	toft.
GROUT I Grout Plug What is the	PLUG MA  3 Intervals: e nearest so c tank r lines	TERIAL: From 14  purce of possib	Surface 36 in.  Neat cement Cer  ft. to 3 ft.,  ple contamination:  deepage pit Fuel Ferti	From Storage	Benton	nite Otherft., From	toft.
GROUT I	PLUG MA  3 Intervals: e nearest so c tank r lines rtight sewee	TERIAL: From 14 purce of possib	surface 36 in.  Neat cement Cer  th. to 3 ft.,  cle contamination: deepage pit Fuel Fertific privy Ewage lagoon Insection.	From  Storage lizer storage eticide storage	Benton	other	toft.
GROUT I Grout Plug What is the Septic Sewe Water Later	PLUG MA g Intervals: e nearest so c tank r lines rtight sewer al lines	TERIAL: From 14  purce of possib	surface 36 in.  Neat cement Cer  ft. to 3 ft.,  ple contamination: deepage pit Fuel fit privy Ferti dewage lagoon Insert feedyard Abar	rent grout  From  Storage lizer storage cticide storage adoned water w	Benton	other	toft.
GROUT I	PLUG MA g Intervals: e nearest so c tank r lines rtight sewer al lines	TERIAL: From 14  purce of possib	surface 36 in.  Neat cement Cer  ft. to 3 ft.,  ple contamination: deepage pit Fuel fit privy Ferti dewage lagoon leedyard Abar	From  Storage lizer storage eticide storage	Benton	other	toft.
GROUT I Grout Plug What is the Septic Sewe Water Later	PLUG MA g Intervals: e nearest so c tank r lines rtight sewer al lines	TERIAL: From 14  purce of possible purce of poss	surface 36 in.  Neat cement Cer  ft. to 3 ft.,  ple contamination: deepage pit Fuel fit privy Ferti dewage lagoon Insert feedyard Abar	rent grout  From  Storage lizer storage cticide storage adoned water w	Benton	other (specify below None rection from well?	toft.
GROUT I	PLUG MA g Intervals: e nearest so c tank r lines rtight sewer al lines pool	TERIAL: From 14  purce of possible purce of poss	surface 36 in.  Neat cement Cer  ft. to 3 ft.,  ole contamination: Geepage pit Fuel it privy Fertit privy Gewage lagoon Ceedyard Abar ivestock pens Oil v	From Storage lizer storage cticide storage adoned water w	Benton	other (specify below None rection from well?	toft.
GROUT I	PLUG MA g Intervals: e nearest so c tank r lines rtight sewer al lines pool	TERIAL: From 14  purce of possit r lines S r lines S P	Neat cernent  R. to 3 A.,  cle contamination: deepage pit Fuel fit privy Ferti feedyard Abar civestock pens Oil v  GGING MATERIALS d gravel	From Storage lizer storage cticide storage adoned water w	Benton	other	toft.
GROUT II Grout Plug What is the Septic Sewe Water Later Cess FROM 35	PLUG MA 3 Intervals: e nearest so c tank r lines rtight sewer al lines pool  TO 14 3	TERIAL: From 14  Purce of possition of possi	Neat cernent  R. to 3 A.,  cle contamination: deepage pit Fuel fit privy Ferti feedyard Abar civestock pens Oil v  GGING MATERIALS d gravel	From Storage lizer storage cticide storage adoned water w	Benton	Otherft., From  Other (specify below None  rection from well? w many feet?	toft.
GROUT II Grout Plug What is the Septic Sewe Water Later Cess FROM 35	PLUG MA  3 Intervals: e nearest so c tank r lines rtight sewer al lines pool  TO 14	TERIAL: From 14  PLUC Chlorinated	Neat cernent  R. to 3 A.,  cle contamination: deepage pit Fuel fit privy Ferti feedyard Abar civestock pens Oil v  GGING MATERIALS d gravel	From Storage lizer storage cticide storage adoned water w	Benton	Otherft., From  Other (specify below None  rection from well? w many feet?	toft.
GROUT II Grout Plug What is the Septic Sewe Water Later Cess FROM 35	PLUG MA 3 Intervals: e nearest so c tank r lines rtight sewer al lines pool  TO 14 3	TERIAL: From 14  Purce of possition of possi	Neat cernent  R. to 3 A.,  cle contamination: deepage pit Fuel fit privy Ferti feedyard Abar civestock pens Oil v  GGING MATERIALS d gravel	From Storage lizer storage cticide storage adoned water w	Benton	Otherft., From  Other (specify below None  rection from well? w many feet?  PLUGGING	toft. ) GMATERIALS  Resources ceived
GROUT II Grout Plug What is the Septic Sewe Water Later Cess FROM 35	PLUG MA 3 Intervals: e nearest so c tank r lines rtight sewer al lines pool  TO 14 3	TERIAL: From 14  Purce of possition of possi	Neat cernent  R. to 3 A.,  cle contamination: deepage pit Fuel fit privy Ferti feedyard Abar civestock pens Oil v  GGING MATERIALS d gravel	From Storage lizer storage cticide storage adoned water w	Benton	Otherft., From  Other (specify below None  rection from well? w many feet?  PLUGGING	toft.
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GROUT II Grout Plug What is the Septic Sewe Water Later Cess FROM 35 14 3	PLUG MA g Intervals: e nearest so c tank r lines rtight sewer al lines pool  TO 14 3 0  CTOR'S ( (mo/day/ye	TERIAL: From 14  Purce of possition of possi	Surface 36 in.  Neat cernent Cer  ft. to 3 ft.,  ole contamination: Geepage pit Fuel Ferti it privy Ferti cewage lagoon Abar civestock pens Oil v  GGING MATERIALS d gravel out  WNER'S CERTIFICATIO and this re	Storage lizer storage cticide storage adoned water w vell/Gas well  FROM  ON: This was ecord is true to	Benton ft. to  rell Din Ho TO	Other (specify below None  Tection from well? w many feet?  PLUGGING  Water  Re  Was plugged under m of my knowledge as	toft.  Theft.  The
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