

**KANSAS DEPARTMENT OF AGRICULTURE**

**DIVISION OF WATER RESOURCES**

**MEMORANDUM**

**TO:** File  
**DATE:** May 1, 2018  
**FROM:** Amber Herring  
**SUBJECT:** Date Stamping Mail

On June 28<sup>th</sup>, 2015, The Administrative Assistant on the first floor signed for the certified mail containing the following Applications. I, Amber Herring, did not receive the documents until June 29<sup>th</sup>, 2015. Thus, the June 29<sup>th</sup> date is the correct date and time received by the Division of Water Resources.

JUN 26 2015  
4:25  
Chief Engineer  
Division of Water Resources  
Kansas Dept. of Agriculture



State of Kansas

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.

1. Application is hereby made for approval of the Chief Engineer to change the \_\_\_\_\_  
 (Check one or more)  Place of Use  Point of Diversion  Use Made of Water

David. W. Barfield, P.E.  
JUN 28 2015  
4:25  
Chief Engineer  
Division of Water Resources  
Kansas Dept. of Agriculture

WATER RESOURCES  
RECEIVED  
JUN 28 2015  
8:15  
KS DEPT OF AGRICULTURE

File No. 22,346 Circle 37.

2. Name of applicant: City of Hays, Kansas and City of Russell, Kansas (See paragraph 2 of the cover letter.)  
 Address: c/o Foulston Siefkin LLP, 1551 N. Waterfront Parkway, Suite 100  
 City, State and Zip: Wichita, Kansas 67206  
 Phone Number: ( 316 ) 291-9725 E-mail address: dtraster@foulston.com  
 What is your relationship to the water right;  owner  tenant  agent  other? If other, please explain. Hays and Russell are co-owners of the authorized place of use on the R9 Ranch in Edwards County.

Name of water use correspondent: City of Hays, Kansas  
 Address: P. O. Box 490, 1507 Main Street  
 City, State and Zip: Hays, Kansas 67601  
 Phone Number: ( 785 ) 628-7320 E-mail address: tdougherty@haysusa.com

3. The change(s) proposed herein are desired for the following reasons (please be specific): \_\_\_\_\_  
See Paragraph 3 of the cover letter filed concurrently with this application. The cover letter is incorporated herein by reference.

The change(s) (was) (will be) completed by See Paragraph 3 of the cover letter  
 (Date)

For Office Use Only:							
F.O.	<u>2</u>	GMD	<u>5</u>	Meets K.A.R. 5-5-1	(YES / NO)	Use	<u>IRR</u>
Code	<u>C-3</u>	Fee \$	<u>700</u>	TR #		Source	<u>GS</u>
						County	<u>ED</u>
						By	<u>KAB</u>
						Date	<u>6/29/15</u>
						Receipt Date	<u>6/22/15</u>
						Check #	<u>058328</u>

of 21000- 15053305

SCANNED

6/20/2015 CLM

4. The presently authorized place of use is:

Owner of Land — NAME: City of Hays, Kansas

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

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	
15	T26S	R20W																	132

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

Owner of Land — NAME: City of Russell, Kansas

ADDRESS: 133 W. 8th Street, Russell, Kansas 67665

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	
			Same as above																

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

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	
			The City of Hays, Kansas and its immediate vicinity and other locations as more fully described in paragraph 5 of the cover letter.																

List any other water rights that cover this place of use: See paragraph 5 of the cover letter.

Owner of Land — NAME: City of Russell, Kansas

ADDRESS: 133 W. 8th Street, Russell, Kansas 67665

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	
			The City of Russell, Kansas and its immediate vicinity and other locations as more fully described in paragraph 5 of the cover letter.																

List any other water rights that cover this place of use: See paragraph 5 of the cover letter.

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

WATER RESOURCES RECEIVED

JUN 29 2015

- 6. The presently authorized point(s) of diversion (is) (are) irrigation well(s) described in paragraph 8, infra.  
(Provide description and number of points)
- 7. The proposed point(s) of diversion (is) (are) one or more municipal wells; see paragraph 7 of the cover letter.  
(Provide description and number of points)

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

8. **Presently authorized point of diversion:**  
 One in the SW Quarter of the NE Quarter of the SW Quarter of Section 15, Township 26 South, Range 20 (~~E~~/W), in Edwards County, Kansas, 1,395 feet North 3,740 feet West of Southeast corner of section. Authorized Rate 600 gpm Authorized Quantity 162 a/f  
 (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 SW Quarter of the NW Quarter of the SE Quarter of Section 15, Township 26 South, Range 20 (~~E~~/W), in Edwards County, Kansas, 1,714 feet North 2,450 feet West of Southeast corner of section. Proposed Rate 600 gpm Proposed Quantity 146.09 a/f  
 This point is:  Additional Well  Geo Center List other water rights that will use this point 22,343; 22,345

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. \_\_\_\_\_  
 See paragraph 11 of the cover letter.

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

**WATER RESOURCES RECEIVED**

- 12. The presently authorized use of water is for irrigation purposes.  
It is proposed that the use be changed to municipal purposes.
- 13. If changing the place of use and/or use made of water, describe how the consumptive use will not be increased.  
See the attached discussion regarding the quantity of water to be changed to municipal use and paragraph 13 of the cover letter.

(Please show any calculations here.)

- 14. It is requested that the maximum annual quantity of water be reduced to not applicable (acre-feet or million gallons).
- 15. It is requested that the maximum rate of diversion of water be reduced to not applicable gallons per minute (       c.f.s.).
- 16. 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.
- 17. 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.  
See paragraph 17 of the cover letter.

- 18. 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.  
See paragraph 7 of the cover letter.

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

**WATER RESOURCES RECEIVED**

**JUN 29 2015**

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 Russell, Russell County, Kansas, this 23rd day of June, 20 15.

[Signature] (Owner) \_\_\_\_\_ (Spouse) \_\_\_\_\_

City of Hays, Kansas, by Toby Dougherty, City Manager (Please Print) \_\_\_\_\_ (Please Print) \_\_\_\_\_

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

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

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

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

State of Kansas }  
County of Russell } SS



I hereby certify that the foregoing application was signed in my presence and sworn to before me this 23rd day of June, 20 15.

Malinda Morse  
Notary Public

My Commission Expires 6/15/18

**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**

**JUN 29 2015**

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 Russell, Russell County, Kansas, this 23rd day of June, 2015.

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

City of Russell, Kansas, by Jon Quinday, City Manager  
(Please Print) (Please Print)

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

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

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

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

State of Kansas }  
County of Russell } SS



I hereby certify that the foregoing application was signed in my presence and sworn to before me this 23rd day of June, 2015.

Malinda Morse  
Notary Public

My Commission Expires 6/15/18

**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**

**JUN 29 2015**

### Proposed Rate and Quantity

The Cities are requesting a total of 146.09 acre-feet and 600 gpm from the well associated with this water right, all of which will be diverted from new point of diversion N, as shown on Exhibit I. When combined with existing wells from other water rights, new point of diversion N will have a cumulative total of 476.87 acre-feet and 2,230 gpm.

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

The following discussion is subject to paragraph 13 of the cover letter regarding consumptive use.

DWR Regulation, K.A.R. 5-5-9(a), provides that the default calculation used to address the consumptive use issue allows the conversion of 116.64 acre-feet to municipal use.<sup>1</sup> 108 approved acres irrigated during the perfection multiplied by the Edwards County NIR for corn of 1.08 acre-feet per acre equals 116.64 acre-feet.<sup>2</sup>

That same regulation goes on to allow the change to be based on the net consumptive use actually made during the perfection period.<sup>3</sup>

#### *Quantity authorized and perfected*

The permit was issued on March 19, 1976, granting the applicant the right to divert up to 248 acre-feet annually at a rate not to exceed 1,000 gallons per minute for irrigation use<sup>4</sup> on 132 acres in the SE/4 of Section 15-T26S-R20W.<sup>5</sup> The certificate further limited the rate to 600 gallons per minute.<sup>6</sup>

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>7</sup>

The Field Inspection Reports indicate that 202.90 of the 248 acre-feet authorized by the permit were lawfully perfected.

- 232 acre-feet were applied to 108 approved acres in Section 15-T26S-R20W.<sup>8</sup>
- The permit authorized the perfection of 248 acre-feet per acre on 132 acres or 1.88 acre-feet per acre, but only 108 authorized acres were irrigated during the perfection period, resulting in the perfection of 202.90 acre-feet.<sup>9</sup>

<sup>1</sup> K.A.R. 5-5-9(a) and (a)(1).

<sup>2</sup> K.A.R. 5-5-12, NIR Requirements.

<sup>3</sup> K.A.R. 5-5-9(b).

<sup>4</sup> Permit, HAYS003982, Ex. A.

<sup>5</sup> Application, HAYS003974, Ex. B.

<sup>6</sup> Certificate, HAYS003989, Ex. C.

<sup>7</sup> March 19, 1976, letter (emphasis added), HAYS003981, Ex. D.

<sup>8</sup> FIR, HAYS003965, Ex. E.

<sup>9</sup> FIRs, HAYS003965, Ex. E.



While the certificate limits the total quantity to 162 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>10</sup>

Since the perfection period has expired, the "authorized quantity" for this water right is the 202.90 acre-feet actually perfected even though it exceeds the certified quantity.

*An alternative approach*

DWR's use of the NIR of 1.08 feet of water for corn is based on its maximum gross irrigation requirement of 1.5 acre-feet per acre.<sup>11</sup> The regulation allows the conversion of 72% of the maximum quantity to a new use; in other words, it assumes that 28% of the quantity diverted returns to the aquifer.

If 28% of the 202.90 acre-feet legally applied during the perfection period percolates back to the aquifer, then 72%, or 146.09 acre-feet, should be available for conversion to municipal use. This is less than the 202.90 acre-feet authorized so the limitation in K.A.R. 5-5-9(a)(4) is not implicated.

The Applicants request that DWR approve a total of 146.09 acre-feet for municipal use.

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<sup>10</sup> Certificate, HAYS003989, Ex. C; Doug Bush Memo dated October 1, 1987, HAYS003985, Ex. F; and *Clawson v. Kansas Dept. of Agriculture, Div. of Water Resources*, 49 Kan. App. 2d 789, 315 P.3d 896 (2013).

<sup>11</sup> Administrative Policy No. 86-8, dated Nov. 5, 1986, Ex. G, stating that: "In that area of Kansas located between the Range 5 East/Range 6 East Line and the Range 20 West/Range 21 West line, the maximum allowable quantity shall not exceed an average of 1.50 acre-feet per acre irrigated." See also, K.A.R. 5-3-24 and Doug Bush Memo dated October 1, 1987, HAYS003985, Ex. F.

SCANNED

WATER RESOURCES  
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JUN 29 2015

KS DEPT OF AGRICULTURE

THE STATE



OF KANSAS

STATE BOARD OF AGRICULTURE  
Roy Freeland, Secretary

DIVISION OF WATER RESOURCES  
Guy E. Gibson, 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 No. 22,346 of the applicant

Midwest Land and Cattle Co.  
Box 208  
Kinsley, Kansas 67547

for a permit to appropriate water to 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 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 May 2, 1974.
2. That the water sought to be appropriated shall be used for irrigation on the land described in the application.

3. That the source from which the appropriation is made shall be from ground water in the drainage basin of the Arkansas River to be withdrawn by means of two (2) wells: one well in the Southwest Quarter of the Northeast Quarter of the Southwest Quarter (SW<sub>1/4</sub> NE<sub>1/4</sub> SW<sub>1/4</sub>) and one well near the center of the Southwest Quarter (SW<sub>1/4</sub>) of Section 15, Township 26 South, Range 20 West, in Edwards County, Kansas, located substantially as shown on the aerial photograph accompanying the application.

4. That the appropriation sought shall be limited to a maximum diversion rate not in excess of

1000 gallons per minute (2.23 c.f.s.)

and to a quantity of not to exceed

248 acre-feet

for any calendar year  
MICROFILMED

SCANNED

RECEIVED

WATER RESOURCES  
RECEIVED

(OVER)

MAR 29 1976

MAY 30 1982  
EX-100

JUN 29 2015

FIELD OFFICE  
DIVISION OF WATER RESOURCES  
STAFFORD

22346

6. That installation of works for diversion of water shall be completed on or before December 31, 19 77. The applicant shall notify the Chief Engineer of the Division of Water Resources when construction of the works has been completed.

6. That the proposed appropriation shall be perfected by the actual application of water to the proposed beneficial use on or before December 31, 19 81.

7. That the applicant shall maintain records from which the quantity of water actually diverted during each calendar year may be readily determined. Such records shall be furnished to the Chief Engineer as soon as practicable after the close of each calendar year.

8. 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 or any authorized extension thereof.

9. That the use of water herein authorized shall not impair any use under existing water rights nor prejudicially and unreasonably affect the public interest.

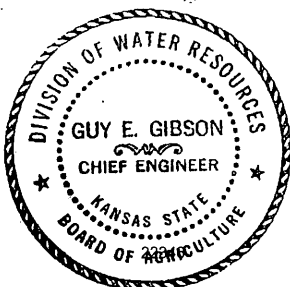
10. That the right of the appropriator shall relate to a specific quantity of water and such right must allow for a reasonable raising or lowering of the static water level and for the reasonable increase or decrease of the streamflow at the appropriator's point of diversion.

11. That this permit does not constitute authority under K. S. A. 82a-301 to 305 to construct any dam or other obstruction; it does not give any right-of-way, or authorize any injury to, or trespass upon, public or private property; it does not obviate the necessity of obtaining assent from Federal or Local Governmental authorities when necessary.

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

Dated this 19th day of March

1976



*Guy E. Gibson*  
Guy E. Gibson, Chief Engineer  
Division of Water Resources  
Kansas State Board of Agriculture

WATER RESOURCES  
RECEIVED

JUN 29 2015

HAYS003983 KS DEPT OF AGRICULTURE

476-H



8-72-5M 5ETS

THE STATE OF KANSAS



37

STATE BOARD OF AGRICULTURE

Roy Freeland, Secretary

DIVISION OF WATER RESOURCES

Guy E. Gibson, Chief Engineer

Rec'd check \$50<sup>00</sup> 5-2-74  
sa

22,346

NUMBER 27

APPLICATION FOR PERMIT TO APPROPRIATE WATER FOR BENEFICIAL USE

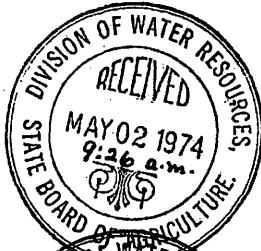
(The Statutory Filing Fee of \$50.00 Must Accompany the Application)

To the Chief Engineer of the Division of Water Resources, Kansas State Board of Agriculture:

(Mr.)  
(Mrs.)  
Comes now the applicant (Miss) Midwest Land and Cattle Co. whose post office address is Box 208 Kinsley, Kansas 67547

and makes application to the Chief Engineer of the Division of Water Resources, Kansas State Board of Agriculture, for a permit to appropriate for beneficial use such unappropriated groundwater (surface water or groundwater) as may be available in the Arkansas River basin in the county of Edwards (name of stream or drainage basin) state of Kansas, to the extent and in accordance with the particulars hereinafter described:

- The quantity of water desired is in the amount of ~~2,400,000~~ <sup>248</sup> ~~320~~ acre feet per year, to be diverted at a maximum rate of 1000 gallons per minute (gallons per minute or cubic feet per second) 2 wells; 1 well near
- The location of the proposed wells or other works for diversion of water is in the the center quarter of the SW quarter of section 15, township South 26, range 20W, in Edwards County, Kansas. and 1 well in the SW 1/4 of the NE 1/4 of the SW 1/4 of Section 15-26-20W  
~~Location of second well can not be determined until test well is drilled~~
- The water is intended to be appropriated for:



	Amount
(a) Domestic use	( ) _____
(b) Municipal use	( ) <u>248</u>
(c) Irrigation use	(X) <u>320</u> <u>2</u> <u>acre ft./yr. - 1000 gals./min.</u>
(d) Industrial use	( ) _____
(e) Recreational use	( ) _____
(f) Water Power use	( ) _____

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(check intended use or uses and show intended quantity for each use)



MAR 29 1976

FIELD OFFICE  
DIVISION OF WATER RESOURCES  
STAFFORD

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4. If for municipal use, attach tables or curves showing past, present and estimated future population and water requirements of the city.

5. If for industrial use, attach tables or curves showing past, present and estimated future water requirements.

6. If for irrigation use list below or attach name and address of each landowner and the legal description of the lands to be irrigated by designating the actual number of acres to be irrigated in each forty acre tract or fractional portion thereof:

Owner of Land—NAME: Midwest Land & Cattle Co.

ADDRESS: P.O. Box 208 Kinsley, Kansas 67547

Sec. Twp. Range	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				Total
	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
15 26 20										24	34	34	34				126
										40	40	40	40				160
										33	33	33	33				132

*2-26-76*  
*[Signature]*

Owner of Land—NAME: \_\_\_\_\_

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

Sec. Twp. Range	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				Total
	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	

Owner of Land—NAME: \_\_\_\_\_

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

Sec. Twp. Range	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				Total
	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	

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\* Larry Kennedy is authorized by HAYS003974 KS DEPT OF AGRICULTURE Harrahan to make corrections the application.  
*[Signature]*

7. The works for diversion of water will consist of two wells with two pumps  
irrigation system (two motors)  
(wells, pumps, etc.)  
and will be completed by July of 1974  
(Date)

8. The first actual application of water for the beneficial use proposed was or is estimated to be  
July of 1974  
(Date)

9. The application must be accompanied either by a detailed plat prepared from an actual survey or by an aerial photograph of the area.

The plat or aerial photograph should show

- (a) Location of the proposed point or points of diversion
- (b) Location of the pipe lines, canals, reservoirs or other facilities for conveying water from the point of diversion to the place of use
- (c) If for irrigation, show the location of the land proposed to be irrigated
- (d) If for industrial or other use, show the location of the land where water will be used.

10. List and describe other applications filed or vested rights held by applicant:  
Irrigation wells and land is in the process of being bought from a  
company known as the Kinsley Joint Venture (Wheatheart Land Co.)  
Applications for water rights have been filed

11. The relation of the subscriber to this application is that of agent  
(Owner, agent or otherwise)  
and he is authorized to make this application in behalf of the interest affected.

Dated at Kinsley, Kansas, this 22 day of April, 1974

Midwest Land & Cattle Co.  
(Applicant)  
By Johnny Carson MGR.  
(Agent or Officer)

NOTE:

1 cubic foot per second = 448.8 gallons per minute = 646,317 gallons per day = 1.98 acre feet per day.  
1 million gallons per day = 1.547 cubic feet per second = 3.07 acre feet per day.  
1 acre foot = 43,560 cubic feet = 325,851 gallons.

MI-539  8-72-10M SETS

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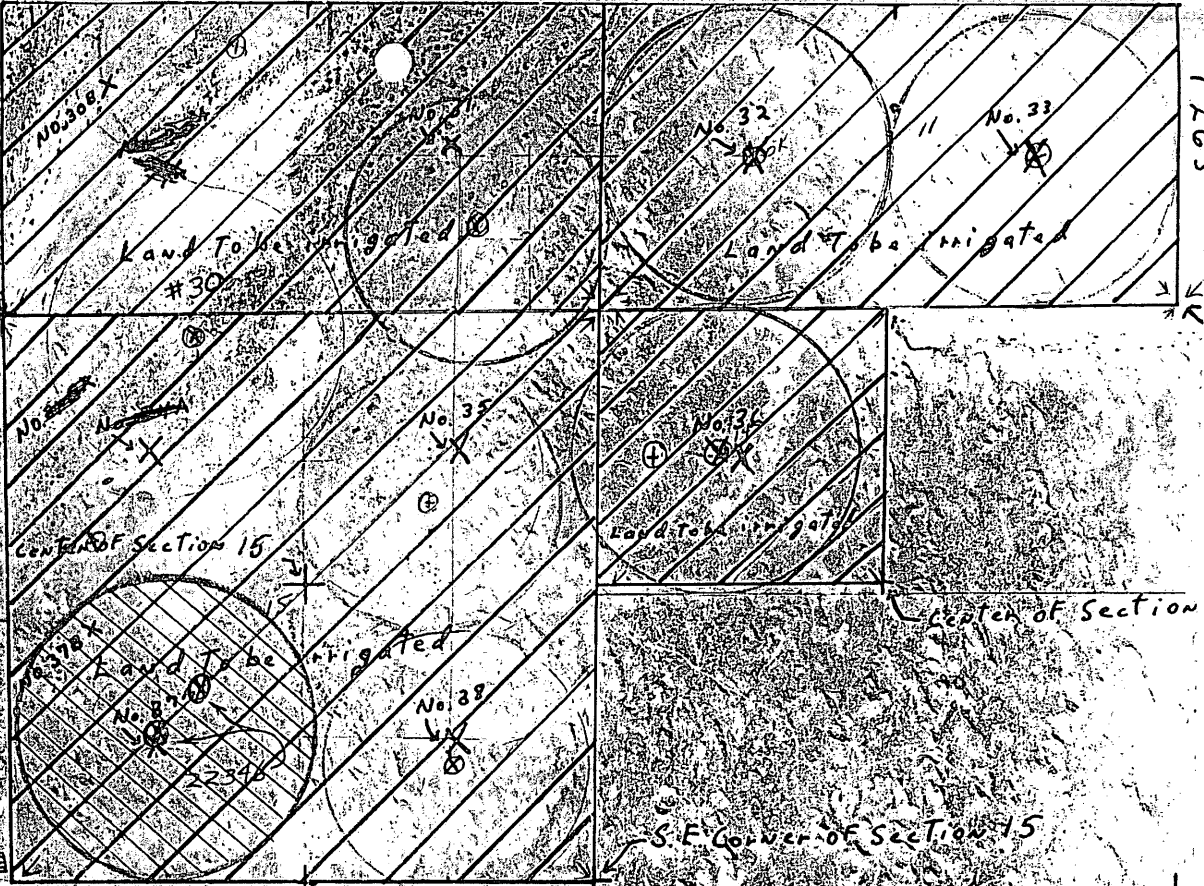
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HAYS003975 KS DEPT OF AGRICULTURE



2-1358  
 250  
 250  
 S.E. Corner of Section 14  
 Appl. 22346  
 All wells within 1/2 mile of  
 subject wells belong to applicant

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 MAY 02 1974  
 STATE BOARD OF AGRICULTURE

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 MAY 09 1975  
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 HAYS003976  
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THE STATE



OF KANSAS

STATE BOARD OF AGRICULTURE  
Sam Brownback, Secretary

DIVISION OF WATER RESOURCES  
David L. Pope, Chief Engineer

### CERTIFICATE OF APPROPRIATION FOR BENEFICIAL USE OF WATER

WATER RIGHT, File No. 22,346  
PRIORITY DATE May 2, 1974

WHEREAS, It has been determined by the undersigned that construction of the appropriation diversion works has been completed, that water has been used for beneficial purposes and that the appropriation right has been perfected, all in conformity with the conditions of approval of the application pursuant to the water right referred to above and in conformity with the laws of the State of Kansas,

NOW, THEREFORE, Be It Known that DAVID L. POPE, the duly appointed, qualified and acting Chief Engineer of the Division of Water Resources of the Kansas State Board of Agriculture, by authority of the laws of the State of Kansas, and particularly K.S.A. 82a-714, does hereby certify that, subject to vested rights and prior appropriation rights, the appropriator is entitled to make use of groundwater in the drainage basin of the Arkansas River to be withdrawn by means of a well located in the Southwest Quarter of the Northeast Quarter of the Southwest Quarter (SW $\frac{1}{4}$  NE $\frac{1}{4}$  SW $\frac{1}{4}$ ) of Section 15, more particularly described as being near a point 1,395 feet North and 3,740 feet West of the Southeast corner of said Section, in Township 26 South, Range 20 West, Edwards County, Kansas, at a diversion rate not in excess of 600 gallons per minute (1.34 c.f.s.) and in a quantity not to exceed 162 acre-feet per calendar year for irrigation use on the following described property:

- 33 acres in the Northeast Quarter of the Southwest Quarter (NE $\frac{1}{4}$  SW $\frac{1}{4}$ ),
- 33 acres in the Northwest Quarter of the Southwest Quarter (NW $\frac{1}{4}$  SW $\frac{1}{4}$ ),
- 33 acres in the Southwest Quarter of the Southwest Quarter (SW $\frac{1}{4}$  SW $\frac{1}{4}$ ),
- 33 acres in the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$  SW $\frac{1}{4}$ ),

a total of 132 acres in Section 15, Township 26 South, Range 20 West, Edwards County, Kansas.

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DESIGN

DIVISION

HAYS003989



**EXHIBIT**

22346

**D**

E-N 2

March 19, 1976

Midwest Land and Cattle Co.  
Box 208  
Kinsley, Kansas 67547

ATTENTION: Mr. Johnny Carson, Manager

Re: Appropriation of Water  
Application No. 22,346

Gentlemen:

Your application has been examined and is found to be in proper form. Further, we find 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. It is presumed that the application is made in good faith, and that you are ready to proceed with the proposed diversion works and the application of water to the proposed use. The application has, therefore, been approved.

There is enclosed the approval of the application authorizing you to proceed with construction of the proposed diversion works, to divert such unappropriated water as may be available from the source and at the location specified in the approval of application, and to use it for the purpose and at the location described in the application.

There is also enclosed a memorandum setting forth the procedure to obtain a certificate of appropriation which will establish the extent of your water rights.

Should you have any questions or if we can be of any assistance to you, please feel free to write or call us.

Very truly yours,

Riley M. Dixon  
Hydrologist

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Encs.

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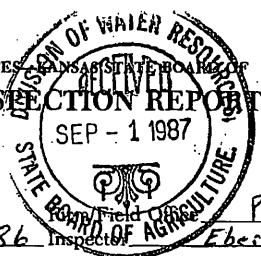
MAR 29 1976

HAYS003981

**EXHIBIT**  
22346  
**E**

DIVISION OF WATER RESOURCES AND STATE BOARD OF AGRICULTURE

**FIELD INSPECTION REPORT**



- Partial
- Full
- Re-Test

Test 1 of 2 Diversion points

Application No. 22346 Date 9/24/86 Inspector Pumping Plant Testing Inc. Ebert/Klassen

Field Area No. 2 G.M.D. No. 5 County Edwards

Current Landowner Connecticut General Life Insurance Co. % Agri Affiliates Inc

Address Box 1162 North Platte, Nebraska 69103 ATTN: Jerry Weaver  
 Additional landowners and addresses identified in remarks section.

Water Use Classification: 1. Domestic ( ) 2. Industrial ( ) 3. Irrigation ()  
4. Municipal ( ) 5. Recreation ( ) 6. Stockwatering ( ) 7. Water Power ( )

Groundwater ( Drainage Basin Arkansas River

Surface Water ( ) Stream \_\_\_\_\_

Authorized Point of Diversion: Well NC SW 1/4 Sec. 15, T. 26, R. 20  
Approximately \_\_\_\_\_ ft. North and \_\_\_\_\_ ft. West of SE corner of Sec. \_\_\_\_\_

Actual Point of Diversion: Well SW 1/4 NE 1/4 SW 1/4 Sec. 15, T. 26, R. 20  
Approximately 1395 ft. North and 3740 ft. West of SE corner of Sec. 15 *assuming 9200*  
How were distances determined? By scaling off aerial photo

"Approved" Quantity 248 AF "Approved" Diversion Rate 1000 g.p.m. (2.23 c.f.s.)

Priority Date May 2, 1974 Approval of Application Date March 19, 1976

Perfection Date Dec. 31, 1981

Other applications covering land and/or point of diversion None  
(include discussion of overlapping files in remarks section)

**LAND TO BE INCLUDED ON CERTIFICATE:**

S	T	R	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTAL ACRES		
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE			
15	26	20										33	33	33	33					132	

**LAND IRRIGATED - YEAR OF RECORD: 1985 SEE ATTACHED SHEET**

S	T	R	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTAL ACRES		
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE			
15	26	20										34	22	19	32	.5	.5				108

APPLICATION OF WATER: **SEE ATTACHED SHEET**  
Year of Record 1985 Hours Pumped 2100 or Quantity 232 AF

Normal Operating G.P.M. 599 Equiv. c.f.s. 1.33

Maximum Operating G.P.M. \_\_\_\_\_ Equiv. c.f.s. \_\_\_\_\_

**FOR D.W.R. USE ONLY**

Year of Record 1985 Extension of time requested: Yes \_\_\_\_\_ No

Total No. of Hours on land covered by this application 2100

Ac. Ft. Applied = 2100 hrs. x 599 g.p.m. x  $\frac{4.419}{24 \times 1000}$  = 232 AF

Acres of "Approved" Land irrigated 108

Ac. Ft. on "Approved" Land 232 (1.76 Ac. Ft./Ac.)

Ac. Ft. Used on "Approved" Land at "Approved" Rate or Less 232

Proration Calculations 108 acres x 1.5 AF per acre = 162 AF

Perfected Rate 600 g.p.m. Perfected Quantity 162 AF

DWR-101 22346

*Completed by Douglas E. Bush 10-5-87*

Revised March 1986

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GENERAL INFORMATION ON IRRIGATION SYSTEM:

Center Pivot     High Pressure     Low Pressure  
 Manufacturer Valley    Model 4071    Serial No. 13376  
 Drive Electric    Length of Pivot Arm \_\_\_\_\_  
 Design Pressure-Pivot \_\_\_\_\_ p.s.i.    Operating Pressure-Pivot \_\_\_\_\_ p.s.i.  
 End Gun? yes    End Gun Rating \_\_\_\_\_ g.p.m. 2 Rain Bird 85's  
 Is end gun operating during test? yes

Gravity Irrigation (show test set on sketch)  
 Number of gates open \_\_\_\_\_    Normal Pipe Size \_\_\_\_\_  
 Pressure at pump \_\_\_\_\_ p.s.i.

Other    Type \_\_\_\_\_  
 Manufacturer \_\_\_\_\_    Model \_\_\_\_\_    Serial No. \_\_\_\_\_  
 Unusual Conditions/Other Info. This system originally had another tower. At some time in the 1970's (probably around 1978) the end tower blew over and they simply took it off and have never replaced it. Also, at one time there was another well that pumped into this system but it hasn't been used for quite some time either.

POWER UNIT INFORMATION:

Manufacturer Ford    Model No. 42861-6003-C    HP \_\_\_\_\_  
 Serial No. 34729 F-13-HK    Fuel Propane    Rated RPM \_\_\_\_\_

PUMP INFORMATION:

Manufacturer Johnston    Model No. \_\_\_\_\_    Rated RPM \_\_\_\_\_  
 Serial No. CF21228    Type Vertical Turbine    No. stages \_\_\_\_\_

GEAR HEAD INFORMATION:

Manufacturer Randolph    Model No. G 80  
 Serial No. 83710    Drive Right Angle    Ratio 6:5

WELL INFORMATION:

Date Drilled 2-7-75    Original Depth 72 ft.    Static Water Level When Drilled 10 ft.  
 Tape Down Possible? yes 11'    Water Level Measurement Tube? no  
 Measuring Point 0 ft. above or below L.S.D.

ADDITIONAL REQUIREMENTS:

Meter Required? no    Make of Meter \_\_\_\_\_  
 Meter Model No. \_\_\_\_\_    Serial No. \_\_\_\_\_    Size \_\_\_\_\_  
 Is Meter Installed Properly? \_\_\_\_\_  
 Chemical Injection System? yes    Check Valve? yes    Low Pressure Drain? no  
 Vacuum Breaker? no    Are these anti-pollution devices installed properly? yes    HAYS003966

If chemicals are injected into system, please attach sketch of system:  
 22346    Page 18 of 32

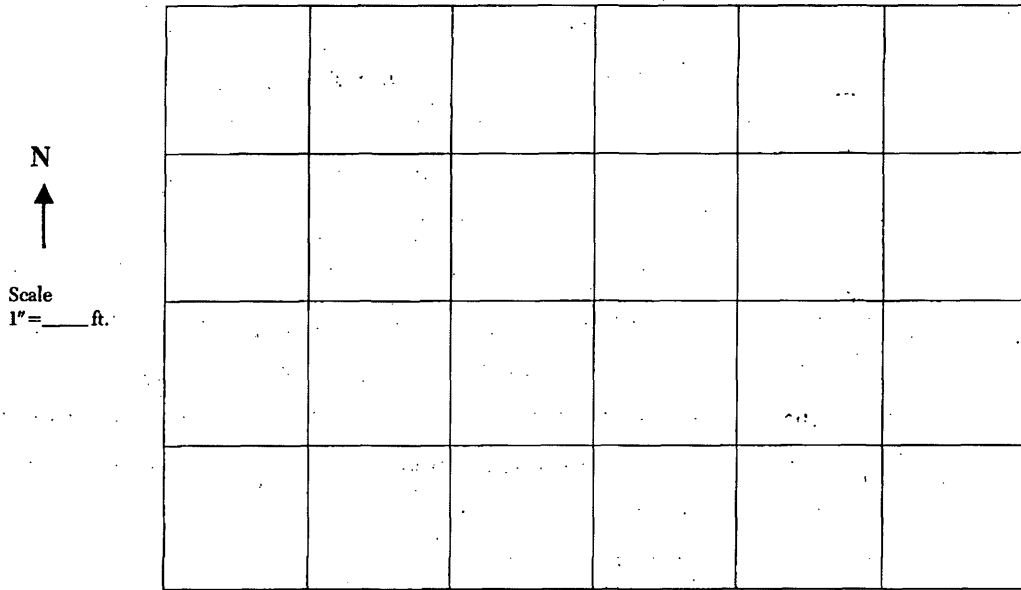
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SKETCH OF ACTUAL PLACE OF USE, LOCATION OF DIVERSION WORKS, AND DISTRIBUTION SYSTEM.  
(Indicate distribution system layout at time of field test).



TEST OF DIVERSION RATE:

Length of time well has been operating prior to test 0  
 Location of test In vertical pipe at pivot  
 Pipe Diameter (I.D.) 7 3/4 inches

Test No. 1—Normal Conditions

R.P.M. POWER UNIT 2136  
 R.P.M. PUMP UNIT 1780  
 Pressure at Pump 88 psi

Test No. 2—Maximum Conditions

R.P.M. POWER UNIT \_\_\_\_\_  
 R.P.M. PUMP UNIT \_\_\_\_\_  
 Pressure at Pump \_\_\_\_\_ psi

Jacuzzi Meter Test

Meter Identification No. \_\_\_\_\_

Area Constant  $K = 2.45 \times I.D.^2 =$  \_\_\_\_\_  $Q (gpm) = VK$

Velocity (fps)

- 1. \_\_\_\_\_
- 2. \_\_\_\_\_
- 3. \_\_\_\_\_
- 4. \_\_\_\_\_
- 5. \_\_\_\_\_
- 6. \_\_\_\_\_
- 7. \_\_\_\_\_
- 8. \_\_\_\_\_
- 9. \_\_\_\_\_
- 10. \_\_\_\_\_

Total \_\_\_\_\_  
 Avg. \_\_\_\_\_  
 G.P.M. \_\_\_\_\_

Velocity (fps)

- 1. \_\_\_\_\_
- 2. \_\_\_\_\_
- 3. \_\_\_\_\_
- 4. \_\_\_\_\_
- 5. \_\_\_\_\_
- 6. \_\_\_\_\_
- 7. \_\_\_\_\_
- 8. \_\_\_\_\_
- 9. \_\_\_\_\_
- 10. \_\_\_\_\_

Total \_\_\_\_\_  
 Avg. \_\_\_\_\_  
 G.P.M. \_\_\_\_\_

Propeller Meter Test

Manufacturer \_\_\_\_\_ Model \_\_\_\_\_ Serial No. \_\_\_\_\_

Meter Diameter \_\_\_\_\_ inches

Ending \_\_\_\_\_ gal.  
 Beginning \_\_\_\_\_ gal.  
 Difference \_\_\_\_\_ gal.  
 Time \_\_\_\_\_ min.  
 Rate \_\_\_\_\_ gpm

Ending \_\_\_\_\_ gal.  
 Beginning \_\_\_\_\_ gal.  
 Difference \_\_\_\_\_ gal.  
 Time \_\_\_\_\_ min.  
 Rate \_\_\_\_\_ gpm

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Other Flow Meter

Use Supplemental Sheet (include meter identification, data and calculations).

HAYS003967

NE-SW-15-26-20W 06

FUEL RECORDS:

22344

Electricity Supplier \_\_\_\_\_  
Meter Manufacturer \_\_\_\_\_ Type \_\_\_\_\_ Serial No. \_\_\_\_\_

K \_\_\_\_\_ watt/rev r \_\_\_\_\_ revolutions t \_\_\_\_\_ seconds

Rate =  $\frac{Kr \times 3.6}{t}$  = \_\_\_\_\_ kw/hr Hours =  $\frac{\text{kw-hr}}{\text{rate}}$  = \_\_\_\_\_

Other Fuels Type Propane Supplier Mid-Continent

Rate =  $\frac{\text{Volume (test)}}{\text{time}}$  = \_\_\_\_\_

How was the test volume determined? Not Determined representative didn't know

TABULATION OF WATER USE:

Year	Hours Pumped ( hr )	Tested Pumping Rate ( gpm )	Water Used ( AF )	Acres Irrigated
1975	840	1000		125
1976				
1977	965	1000		130
1978				
1979	336	800		108
1980				
1981	1080			103
1982				108 (From Tenant)
1983	PIK*			108 (From Tenant)
1984	1750*	625*		108 (From Tenant)
*1985	2100*	599**	232**	108 (From Tenant)
1986		599**		108 (From Tenant)

\*\* obtained from test on 9/24/86

\* from WUR sent by Jerry Weaver of Agri-Affiliates

Indicate Year of Record with (\*) Source of Information Stafford Files

Crops Irrigated: this year corn Year of record wheat

REMARKS: The second well SW, NE, SW, Sec 15, 26-20 is no longer being used, and therefore could not be tested.

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Person present at test Randy Ardery (name) tenant (relationship)

Water Use Correspondent Agri-Affiliates (name) Box 1162 North Platte, Nebraska (address) 65903 (phone number) 308-534-9240

Conducted by [Signature] (signature) Date 9/24/86

Approved by [Signature] (signature) P.E. (title) Date 8/14/87 HAYS003968

SCANNED

24928 22346

24690

KANSAS STATE BOARD OF AGRICULTURE  
Division of Water Resources

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

To: Files

Date: October 1, 1987

From: Douglas E. Bush

Re: Appropriation of Water  
File No. 22,346

The Field Inspection Report for the above referenced file, conducted under contract by Pumping Plant Testing, Inc., has been reviewed. It meets the requirements specified in the Scope of Work. Based on the 1985 Water Use Report, 2,100 hours of pumping the well in the Southwest Quarter of the Northeast Quarter of the Southwest Quarter (SW $\frac{1}{4}$  NE $\frac{1}{4}$  SW $\frac{1}{4}$ ) of Section 15, Township 26 South, Range 20 West, Edwards County, Kansas, provided 232 acre-feet of water for irrigating 108 acres or 2.15 acre-feet per acre. The certificate of appropriation has been drafted using the maximum quantity for irrigating 108 acres at 1.5 acre-feet per acre.

The Field Inspection Report shows that the well located in the Southwest Quarter of the Northeast Quarter of the Southwest Quarter (SW $\frac{1}{4}$  NE $\frac{1}{4}$  SW $\frac{1}{4}$ ) of Section 15, Township 26 South, Range 20 West, has been abandoned. This well was not tested, of course, and will be deleted from this file if no information is obtained from the owner stating otherwise before the certificate has been issued.

The Field Inspection Report showed the possibility of unapproved land being irrigated. Because of this land being in an area where section corners are hard to locate, making the actual place of use hard to pin point, no further action is being taken.

The Field Inspection Report shows the well possibly to be located in an unapproved location. The actual location of this well is less than 300 feet from where it was approved. The description for this well was changed to better describe this well. The description was changed from near the center of the Southwest Quarter (SW $\frac{1}{4}$ ) of said Section, to Southwest Quarter of the Northeast Quarter of the Southwest Quarter (SW $\frac{1}{4}$  NE $\frac{1}{4}$  SW $\frac{1}{4}$ ) of said Section. The latter description better describes a well with coordinates of 1,395 feet North and 3,740 feet West of the Southeast corner of said Section.

*Douglas E. Bush*Douglas E. Bush  
Hydrologist

DEB:jt

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JUN 29 2015 HAYS003985

Kansas State Board of Agriculture  
Division of Water Resources

ADMINISTRATIVE POLICY  
No. 86-8

**Subject:** Allowable Rates of Diversion and Maximum Annual Quantities for Irrigation Use - Permits and Approvals

**Reference:** K.S.A. 82a-708a and K.A.R. 5-3-1

**Date:** November 5, 1986

**History:** Effective November 5, 1986

**Approved by:** David L. Pope *David L. Pope*  
Chief Engineer

During the review of an APPLICATION FOR PERMIT TO APPROPRIATE WATER FOR BENEFICIAL USE for irrigation purposes the following guidelines shall be considered in determining the maximum reasonable rate of diversion to be allowed under any APPROVAL OF APPLICATION AND PERMIT TO PROCEED:

<u>Area, Place of use</u>	<u>Max. Allowable Rate</u>	
up to 10 acres	450 g.p.m.	450
10 - 40 acres	(+) 450 g.p.m.	900
40 - 120 acres	(+) 8 g.p.m./acre	580 + 8X
more than 120 acres	(+) 7 g.p.m./acre	700 + 7X

EXAMPLES:

A. 37 acres requested; since this area is less than 40 acres, a rate of up to 900

B. 83 acres requested;

10 acres	=	450 g.p.m.	} 900 g.p.m.
(+) 40 acres (10 + 30)	=	450 g.p.m.	
(+) 43 acres @ 8 g.p.m./acre	=	344 g.p.m.	
		1,244 (allow 1,245 g.p.m.)	

A further limiting factor of this procedure is the availability of water from the proposed source of supply. In those instances whereby the source of supply is incapable of yielding a reasonably, sustainable (computed) rate, then the source becomes a further limiting factor.

A further limiting factor is well design and equipment, which shall be reasonable to divert the requested rate.

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Administrative Policy No.86-8  
Page 2

Further, the rate authorized should not impair senior water rights in the area, including domestic rights.

In reviewing an APPLICATION FOR PERMIT TO APPROPRIATE WATER FOR BENEFICIAL USE for irrigation purposes, the following guidelines shall be considered when determining a maximum allowable annual quantity of water request:

In that area of Kansas located between the Kansas/Missouri border and the Range 5 East/Range 6 East line, the maximum allowable quantity shall not exceed an average of 1.00 acre-foot per acre to be irrigated.

In that area of Kansas located between the Range 5 East/Range 6 East Line and the Range 20 West/Range 21 West line, the maximum allowable quantity shall not exceed an average of 1.50 acre-feet per acre irrigated.

In that area of Kansas located between the Range 20 West/Range 21 West line and the Kansas/Colorado border, the maximum allowable quantity shall not exceed an average of 2.00 acre-feet per acre irrigated.

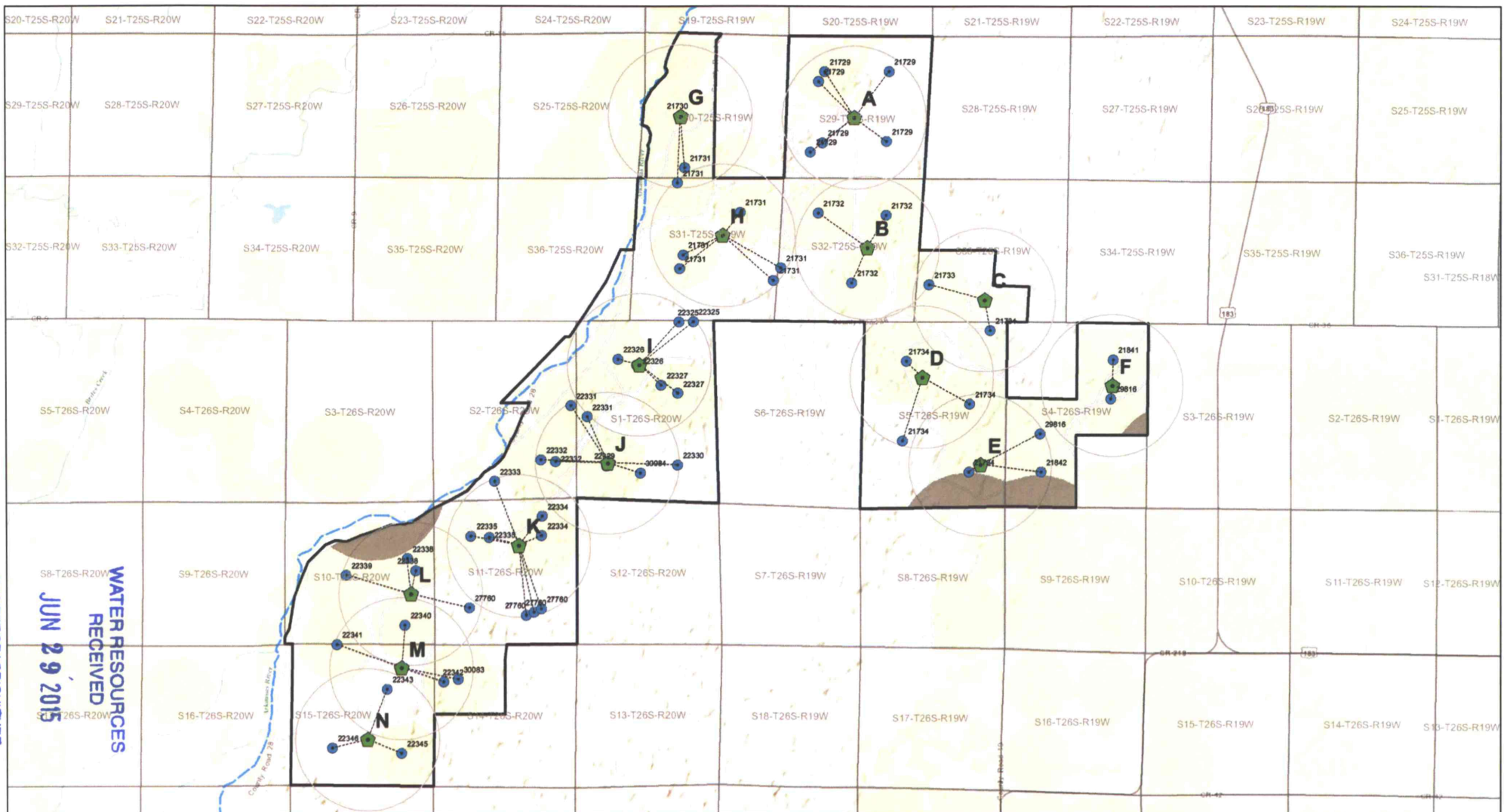
A further limiting factor to maximum allowable quantity is the availability of water from the proposed source of supply. If the source of supply is incapable of yielding a reasonably, sustainable (computed) quantity during the irrigation season in that area of the state, then the source becomes a further limiting factor.

That if an applicant can show that his or her system design is reasonable for the use intended and approval of the proposed rate and/or maximum annual quantity will not impair any senior water right or prejudicially and unreasonably affect the public interest, the Chief Engineer may waive the above guidelines. Documentation shall be placed in the file clearly demonstrating any exceptions to the above policy.

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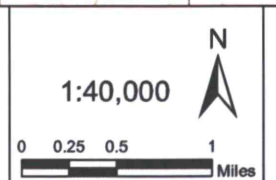


KS DEPT. OF AGRICULTURE

WATER RESOURCES  
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Legend

- Proposed Municipal Wells (A-N)
- Existing R9 Ranch Points of Diversion
- 1/2 Mile Buffer Around Proposed Wells
- Water Rights Consolidation Lines
- Area Excluded From Proposed Wells
- River Centerline
- R9 Ranch Property Boundary
- PLSS Sections

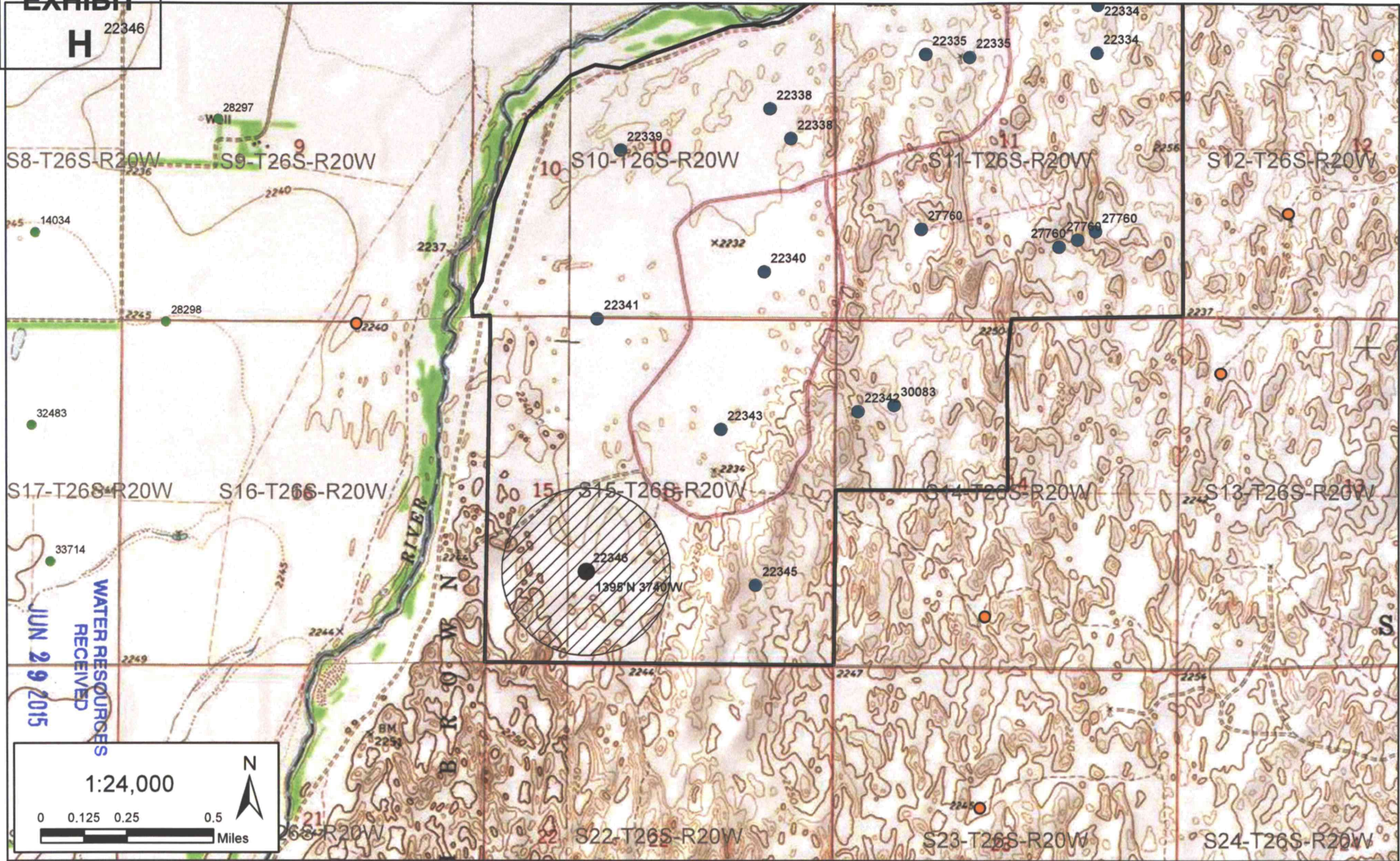


SCANNED

**EXHIBIT**

**H**

22346



KS DEPT OF AGRICULTURE

WATER RESOURCES RECEIVED JUN 29 2015

**Legend**

- 22346 Existing Point(s) of Diversion
- 22346 Existing Place of Use
- ▭ R9 Ranch Property Boundary
- PLSS Sections 22346
- Irrigation Wells (File No.)
- Stockwater Wells (File No.)
- Domestic Well (Non-Permitted)
- Stock Well (Non-Permitted)
- Existing R9 Ranch Irrigation Wells

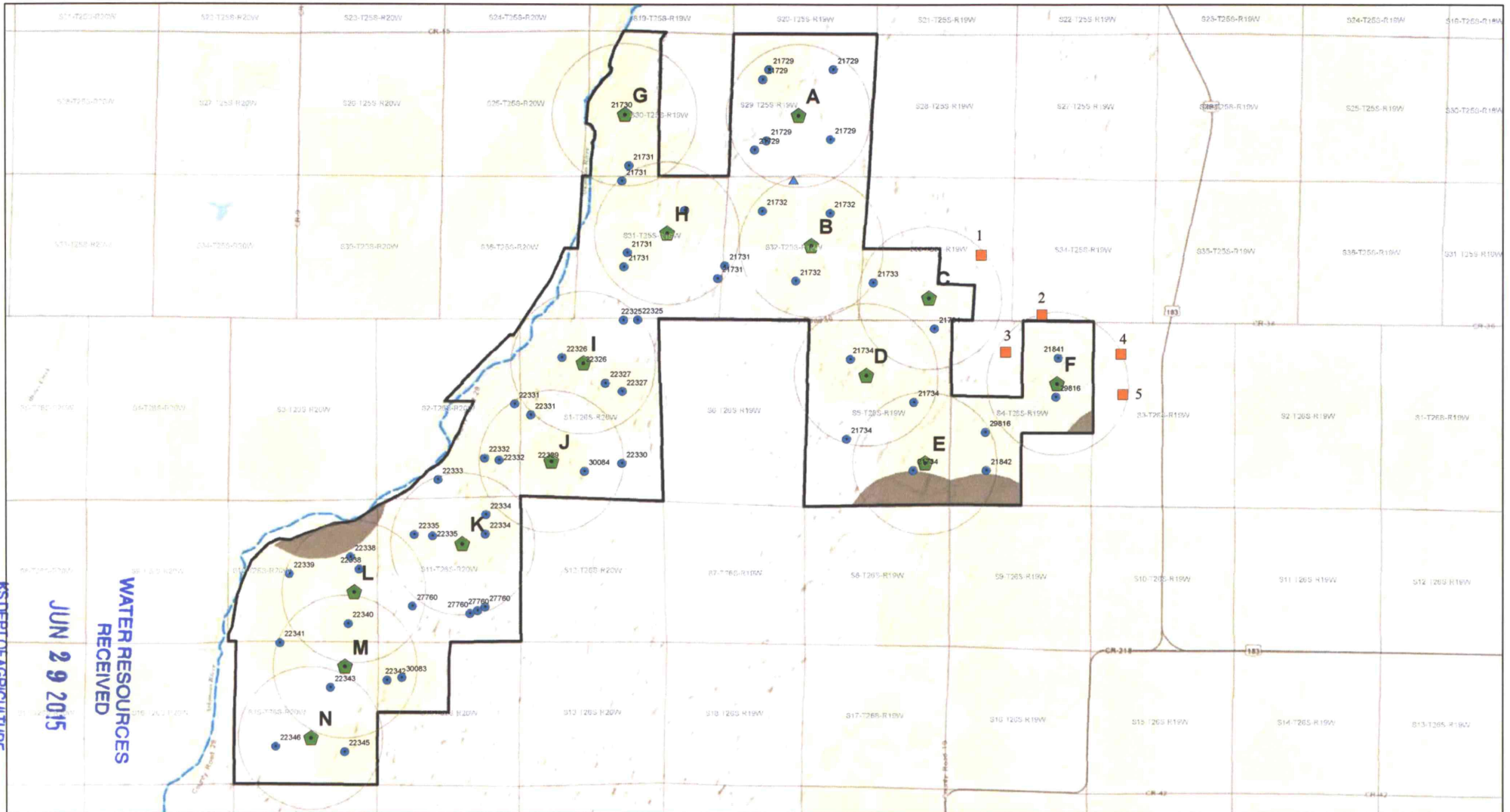


**CHANGE APPLICATION 22346  
APPLICATION MAP  
AUTHORIZED PLACE OF USE &  
POINTS OF DIVERSION**

SCANNED

# EXHIBIT

# J 22346











KANSAS DEPT. OF AGRICULTURE

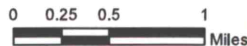
JUN 29 2015

WATER RESOURCES RECEIVED

### Legend

-  Proposed Municipal Wells (A-N)
-  Existing R9 Ranch Points of Diversion
-  1/2 Mile Buffer Around Proposed Wells
-  PLSS Sections
-  Area Excluded From Proposed Wells
-  R9 Ranch Property Boundary
-  Domestic Well (Non-Permitted)
-  Stock Well (Non-Permitted)

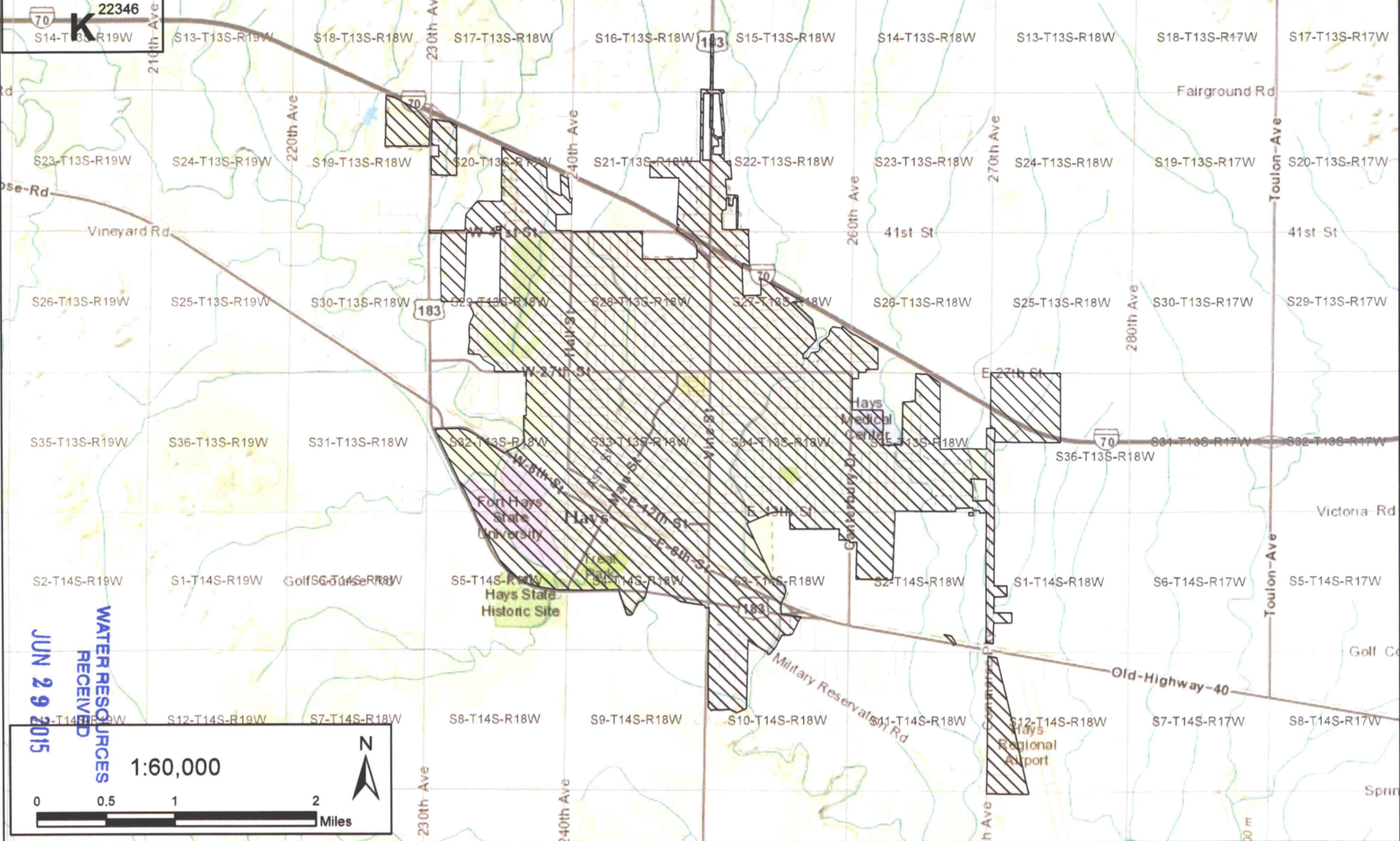
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**EXHIBIT**

22346

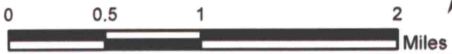


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JUN 29 2015

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1:60,000



Proposed Place of Use City of Hays



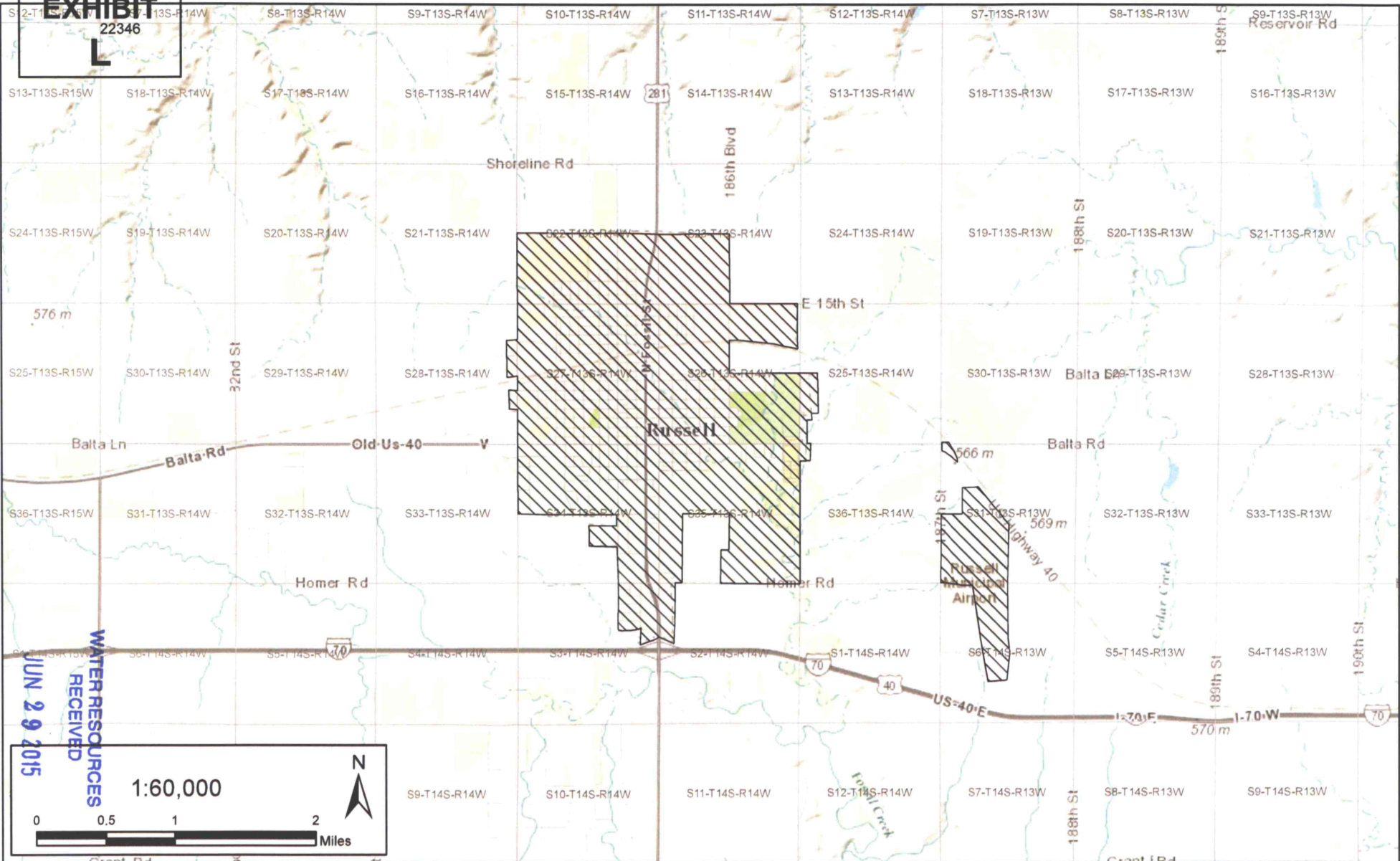
PLSS Sections



SCANNED

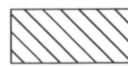
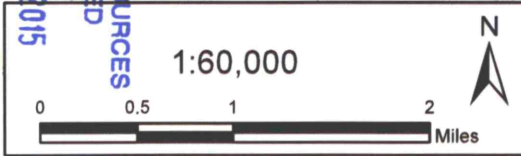
**EXHIBIT**

22346



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Proposed Place of Use - City of Russell



PLSS Sections



SCANNED

22346  
 Applicant's Name City Of Hays KS  
 (Please Print)

**MUNICIPAL (PUBLIC WATER SUPPLY) APPLICATION  
 SUPPLEMENTAL INFORMATION SHEET**

Application File Number  
 \_\_\_\_\_  
 (assigned by DWR)

**SECTION 1: PRESENT WATER USE SUMMARY (IF NO PREVIOUS MUNICIPAL WATER USE HAS BEEN UTILIZED, PROCEED TO SECTION 3)  
 NOTE: WORKSHEET FOR WATER PUMPED, PURCHASED, AND SOLD BY YOUR WATER DISTRIBUTION SYSTEM.**

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
Raw Water Diverted Under Your Rights	Water Purchased From All Sources	Water Sold to Other Public Water Suppliers	Water Sold to Your Industrial, Stock, and Bulk Customers	Water Sold to Your Residential and Commercial Customers	Other Metered Water	Remaining Water Used (See Below Explanation)
684,559,000			10,806,000	595,254,000	16,327,000	62,172,000
<b>TOTAL WATER = Columns 1 + 2</b>		<b>ACCOUNTED FOR WATER = Columns 3 + 4 + 5 + 6</b>				<b>UNACCOUNTED FOR WATER</b>

**UNACCOUNTED FOR WATER = TOTAL WATER - ACCOUNTED FOR WATER**

- Column 1: The amount of raw water diverted from all of your points of diversion.
- Column 2: The amount of water purchased wholesale from all other public water supply systems or the Kansas Water Office.
- Column 3: The amount of water sold wholesale to all other public water supply systems.
- Column 4: The amount of water sold retail to all industrial, pasture, stockwater, feedlot, and bulk water service connections. Include the amount of water sold to all farmsteads using at least 200,000 gallons of water per year.
- Column 5: The amount of water sold retail to your residential and commercial customers and to industries and farmsteads using less than 200,000 gallons of water per year.
- Column 6: The amount of water used that is metered at individual service connections and supplied free, such as for public service, treatment processes, and connections receiving free water.
- Column 7: The amount of remaining water used. The gallons reported in this column are found by adding the numbers in Columns 1 and 2 and subtracting the numbers in Columns 3, 4, 5, and 6.

**UNACCOUNTED FOR WATER**

Use the following to calculate your distribution system's Unaccounted For Water:  
 Start with the amount in Column 1 and add the amount in Column 2, then subtract the amounts in Columns 3, 4, 5, and 6 leaving an amount of water representing your unaccounted for water to enter in Column 7.

Use the following to calculate the percent Unaccounted For Water versus the Total Water of your system:  

$$\text{Percent Unaccounted For Water} = \frac{\text{Unaccounted For Water}}{\text{Total Water (Columns 1,2)}} \times 100$$
  
 If this number exceeds 20%, please explain the large amount of unaccounted for water and describe any steps being taken to reduce it.

**EXHIBIT  
M**

**SECTION 2: PAST WATER USE  
 COMPLETE THE FOLLOWING TABLE FROM YOUR PAST WATER USE RECORDS.**

	Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
	Raw Water Diverted Under Your Rights	Water Purchased From All Sources	Water Sold to Other Public Water Suppliers	Water Sold to Your Industrial, Stock, and Bulk Customers	Water Sold to Your Residential and Commercial Customers	Other Metered Water	Remaining Water Used (See Above Explanation)
20 years ago	592,323,000			5,029,000	469,314,000	5,155,000	112,825,000
15 years ago	780,527,000			10,619,000	587,965,000	10,470,000	171,473,000
10 years ago	706,926,000			7,103,000	639,222,000	20,861,000	39,740,000
5 years ago	693,966,000			13,537,000	581,900,000	19,362,000	114,383,000
	<b>TOTAL WATER = Columns 1 + 2</b>		<b>ACCOUNTED FOR WATER = Columns 3 + 4 + 5 + 6</b>				<b>UNACCOUNTED FOR WATER</b>

KS DEPT OF AGRICULTURE

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WATER RESOURCE RECEIVED

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22346  
SECTION 3: PROJECTED FUTURE WATER NEEDS

PLEASE COMPLETE THE FOLLOWING TABLE SHOWING YOUR FUTURE WATER REQUIREMENTS FOR THE NEXT 20 YEARS:

	Column 1 Raw Water Diverted Under Your Rights	Column 2 Water Purchased From All Sources	Column 3 Water Sold to Other Public Water Suppliers	Column 4 Water Sold to Your Industrial, Stock, and Bulk Customers	Column 5 Water Sold to Your Residential and Commercial Customers	Column 6 Other Metered Water	Column 7 Remaining Water Used (See Explanation on other side)
Year 5	753,014,900			11,886,600	654,779,400	17,959,700	68,389,200
Year 10	828,316,390			13,075,260	720,257,340	19,755,670	75,228,120
Year 15	911,148,029			14,382,786	792,283,074	21,731,237	82,750,932
Year 20	1,002,262,832			15,821,065	871,511,381	23,904,361	91,026,025
	<b>TOTAL WATER = Columns 1 + 2</b>		<b>ACCOUNTED FOR WATER = Columns 3 + 4 + 5 + 6</b>				<b>UNACCOUNTED FOR WATER</b>

SECTION 4: POPULATION AND SERVICE CONNECTIONS

ESTIMATE THE NUMBER OF PERSONS DIRECTLY SERVED BY YOUR WATER DISTRIBUTION SYSTEM

PAST POPULATION - PROVIDE INFORMATION BELOW:  
(CENSUS BUREAU INFORMATION)

LAST 20 YEARS	POPULATION
20 years ago	17,636
15 years ago	18,750
10 years ago	20,013
5 years ago	20,106
Last Year	21,038

PROJECTED FUTURE POPULATION

ESTIMATE FUTURE POPULATION AND SUBSTANTIATE NUMBERS ON SEPARATE ATTACHMENTS

NEXT 20 YEARS	POPULATION
Year 5	23,142
Year 10	25,456
Year 15	28,002
Year 20	30,802

Provide number of current active service connections:

6,824 Residential      2 Industrial      \_\_\_\_\_ Other (specify) \_\_\_\_\_  
 1,256 Commercial      \_\_\_\_\_ Pasture/ Stockwater/ Feedlot      8,082 Total

SECTION 5: PRESENT GALLONS PER PERSON PER DAY  
CALCULATE YOUR GALLONS PER PERSON PER DAY

Water in Columns 5, 6, and 7 + Population + 365 Days/Year = Gallons per Person per Day

673,753,000 ÷ 21,038 ÷ 365 Days/Year = 88 GALLONS PER PERSON PER DAY.  
 Amount of water in Columns 5, 6, and 7 of Section 1      Population from Last Year of Section 4

SECTION 6: AREA TO BE SERVED

Describe the area to be served or provide the legal description of the location where the water is to be used including any other city of water supply system (i.e. Rural Water District):  
 City of Hays, KS Municipal Water Supply

2013 is year one and 2033 will be year twenty. 2 percent growth is used for estimate. Hays had a reasonable 9.1 percent unaccounted water in 2013.

You may attach additional information you believe will assist in informing the Division of the need for your request.

Applicant's Name City of Russell  
(Please Print)

### MUNICIPAL (PUBLIC WATER SUPPLY) APPLICATION SUPPLEMENTAL INFORMATION SHEET

Application File Number  
\_\_\_\_\_  
(assigned by DWR)

**SECTION 1: PRESENT WATER USE SUMMARY (IF NO PREVIOUS MUNICIPAL WATER USE HAS BEEN UTILIZED, PROCEED TO SECTION 3)  
NOTE: WORKSHEET FOR WATER PUMPED, PURCHASED, AND SOLD BY YOUR WATER DISTRIBUTION SYSTEM.**

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
Raw Water Diverted Under Your Rights	Water Purchased From All Sources	Water Sold to Other Public Water Suppliers	Water Sold to Your Industrial, Stock, and Bulk Customers	Water Sold to Your Residential and Commercial Customers	Other Metered Water	Remaining Water Used (See Below Explanation)
327,288,100	0	0	105,295,000	108,743,000	19,944,000	93,306,100
<b>TOTAL WATER = Columns 1 + 2</b>		<b>ACCOUNTED FOR WATER = Columns 3 + 4 + 5 + 6</b>			<b>UNACCOUNTED FOR WATER</b>	

**UNACCOUNTED FOR WATER = TOTAL WATER - ACCOUNTED FOR WATER**

- Column 1: The amount of raw water diverted from all of your points of diversion.
- Column 2: The amount of water purchased wholesale from all other public water supply systems or the Kansas Water Office.
- Column 3: The amount of water sold wholesale to all other public water supply systems.
- Column 4: The amount of water sold retail to all industrial, pasture, stockwater, feedlot, and bulk water service connections. Include the amount of water sold to all farmsteads using at least 200,000 gallons of water per year.
- Column 5: The amount of water sold retail to your residential and commercial customers and to industries and farmsteads using less than 200,000 gallons of water per year.
- Column 6: The amount of water used that is metered at individual service connections and supplied free, such as for public service, treatment processes, and connections receiving free water.
- Column 7: The amount of remaining water used. The gallons reported in this column are found by adding the numbers in Columns 1 and 2 and subtracting the numbers in Columns 3, 4, 5, and 6.

**UNACCOUNTED FOR WATER**

Use the following to calculate your distribution system's Unaccounted For Water:  
Start with the amount in Column 1 and add the amount in Column 2, then subtract the amounts in Columns 3, 4, 5, and 6 leaving an amount of water representing your unaccounted for water to enter in Column 7.

Use the following to calculate the percent Unaccounted For Water versus the Total Water of your system:  
Percent Unaccounted For Water =  $\frac{\text{Unaccounted For Water}}{\text{Total Water (Columns 1,2)}} \times 100$   
If this number exceeds 20%, please explain the large amount of unaccounted for water and describe any steps being taken to reduce it.

**EXHIBIT  
N**

**SECTION 2: PAST WATER USE  
COMPLETE THE FOLLOWING TABLE FROM YOUR PAST WATER USE RECORDS.**

	Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
	Raw Water Diverted Under Your Rights	Water Purchased From All Sources	Water Sold to Other Public Water Suppliers	Water Sold to Your Industrial, Stock, and Bulk Customers	Water Sold to Your Residential and Commercial Customers	Other Metered Water	Remaining Water Used (See Above Explanation)
20 years ago							
15 years ago	373,757,000	0	0	171,928,220	115,864,670	18,687,850	67,276,260
10 years ago	477,486,000	0	0	222,781,000	147,340,000	19,483,000	87,882,000
5 years ago	375,790,000	0	0	144,277,000	123,343,000	18,907,000	89,263,000
	<b>TOTAL WATER = Columns 1 + 2</b>		<b>ACCOUNTED FOR WATER = Columns 3 + 4 + 5 + 6</b>			<b>UNACCOUNTED FOR WATER</b>	

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22346  
SECTION 3: PROJECTED FUTURE WATER NEEDS

PLEASE COMPLETE THE FOLLOWING TABLE SHOWING YOUR FUTURE WATER REQUIREMENTS FOR THE NEXT 20 YEARS:

	Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
	Raw Water Diverted Under Your Rights	Water Purchased From All Sources	Water Sold to Other Public Water Suppliers	Water Sold to Your Industrial, Stock, and Bulk Customers	Water Sold to Your Residential and Commercial Customers	Other Metered Water	Remaining Water Used (See Explanation on other side)
Year 5	386,346,512	0	0	177,719,396	119,767,419	15,453,861	73,405,836
Year 10	405,513,682	0	0	186,536,377	125,709,241	16,220,547	77,047,517
Year 15	426,310,852	0	0	196,102,992	132,156,364	17,052,434	80,999,062
Year 20	443,848,022	0	0	204,170,090	137,592,887	17,753,921	84,331,124
	<b>TOTAL WATER = Columns 1 + 2</b>		<b>ACCOUNTED FOR WATER = Columns 3 + 4 + 5 + 6</b>				<b>UNACCOUNTED FOR WATER</b>

SECTION 4: POPULATION AND SERVICE CONNECTIONS

ESTIMATE THE NUMBER OF PERSONS DIRECTLY SERVED BY YOUR WATER DISTRIBUTION SYSTEM

PAST POPULATION - PROVIDE INFORMATION BELOW:  
(CENSUS BUREAU INFORMATION)

LAST 20 YEARS	POPULATION
20 years ago	
15 years ago	4,710
10 years ago	4,696
5 years ago	4,506
Last Year	4,475

PROJECTED FUTURE POPULATION

ESTIMATE FUTURE POPULATION AND SUBSTANTIATE NUMBERS ON SEPARATE ATTACHMENTS

NEXT 20 YEARS	POPULATION
Year 5	4,596
Year 10	4,605
Year 15	4,651
Year 20	4,698

Provide number of current active service connections:

2,049 Residential      9 Industrial      30 Other (specify) Free Service  
 360 Commercial      0 Pasture/ Stockwater/ Feedlot      2448 Total

SECTION 5: PRESENT GALLONS PER PERSON PER DAY  
CALCULATE YOUR GALLONS PER PERSON PER DAY

Water in Columns 5, 6, and 7 + Population + 365 Days/Year = Gallons per Person per Day

$$\frac{21,991,000}{\text{Amount of water in Columns 5, 6, and 7 of Section 1}} \div \frac{4,475}{\text{Population from Last Year of Section 4}} \div 365 \text{ Days/Year} = 135.9 \text{ GALLONS PER PERSON PER DAY.}$$

SECTION 6: AREA TO BE SERVED

Describe the area to be served or provide the legal description of the location where the water is to be used including any other city of water supply system (i.e. Rural Water District): City of Russell  
 Note that the actual quantity of "Unaccounted for Water" is lower than shown here. Large quantities diverted from the Pfeifer Wells are returned to the aquifer in the "Collector Well." See detailed explanation in the cover letter accompanying this application. Projected future water needs include losses in the collector well but when repaired or replaced, total raw water diversion will be reduced.

You may attach additional information you believe will assist in informing the Division of the City of Russell request.