

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

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

**TO:** Files

**DATE:** June 28, 2016

**FROM:** Brent A. Turney

**RE:** Water Right  
File Nos. 4,840 and 7,238

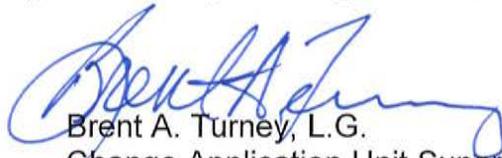
Applications to change the place of use and point of diversion were received in the office of the Chief Engineer on December 3, 2014, under the above referenced water rights, authorized groundwater for irrigation use. The referenced file numbers have an incomplete overlap in the points of diversion and place of use. Water Right, File No. 3,171 also incompletely overlaps the above referenced water rights, however, no changes have been filed under that right. One of the water right owners proposes to relocate one of the wells and to create a complete overlap in the place of use between the referenced files. There would still remain an incomplete overlap with Water Right, File No. 3,171.

It appears that a fairly large portion of the place of use has been subdivided and is within the City of Rossville. It also appears that there are now numerous owners of the referenced water rights. However, the applications only contained the signatures of the principal owners, Wm Scott and Anne B. Hesse. However, all landowners are required to sign an application to change a water right, as per K.A.R. 5-5-5.

In a letter dated November 9, 2015, the water right owner was advised that the Applications to Change the Authorized Place of Use and Points of Diversion for File Nos. 4,840 and 7,238, will be recommended for denial due to the failure of the applications to meet KAR 5-5-5. The water right owner was also advised that if no information was received, the applications would be submitted to the Chief Engineer for final decision.

That on November 19, 2015, the water right owner requested a 90 day extension of time to supply the Chief Engineer with additional information. That further action on the applications was delayed until February 24, 2016, to allow the water right owner to submit additional information.

Since no additional information was received by that date, and no request for a further extension of time has been received, the applications for File Nos. 4,840 and 7,238 should be dismissed and their priority forfeited for failure to meet the requirements of KAR 5-5-5, signatures on an application to change an existing water right.

  
Brent A. Turney, L.G.  
Change Application Unit Supervisor

1320 Research Park Drive  
Manhattan, Kansas 66502  
(785) 564-6700



900 SW Jackson, Room 456  
Topeka, Kansas 66612  
(785) 296-3556

Jackie McClaskey, Secretary

Governor Sam Brownback

July 1, 2016

SCOTT HESSE  
8038 SW HUNTOON  
TOPEKA KS 66615

RE: Water Right  
File Nos. 4,840 and 7,238

Dear Mr. Hesse:

Enclosed are the Findings and Orders by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, which dismisses the changes in place of use and point of diversion under Water Right, File Nos. 4,840 and 7,238.

Please be reminded that reports of water usage must be submitted to this office annually. Records indicating the amount of water used should be furnished to the Chief Engineer by March 1 following the end of the previous calendar year so that the continued use of water becomes a matter of record in this office.

If you have any questions, please contact me at 785-564-6645. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

A handwritten signature in black ink, appearing to read "Brent A. Turney".

Brent A. Turney, L.G.

Change Application Unit Supervisor  
Water Appropriation Program

BAT  
Enclosure  
pc: Topeka Field Office



KANSAS DEPARTMENT OF AGRICULTURE  
Jackie McClaskey, Secretary of Agriculture

DIVISION OF WATER RESOURCES  
David W. Barfield, Chief Engineer

**FINDINGS AND ORDER  
IN THE MATTER THE DISMISSAL  
OF APPLICATION TO CHANGE  
THE AUTHORIZED POINT OF DIVERSION  
AND PLACE OF USE,  
UNDER  
WATER RIGHT, FILE NO. 4,840**

After due consideration, the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture (hereinafter referred to as the "Chief Engineer"), makes the following findings and order:

FINDINGS

1. That on October 27, 1961, the Chief Engineer, in accordance with K.S.A. 82a-714, issued a certificate of appropriation pursuant to Appropriation of Water, File No. 4,840, for permit to appropriate water for irrigation use.
2. That on December 3, 2014, an Application for Approval to Change the Authorized Point of Diversion and Place of Use was received in the office of the Chief Engineer under File No. 4,840.
3. That it has been determined the currently authorized place of use is owned by numerous owners, and that the application only contains only the signatures of Wm. Scott and Anne B. Hesse.
4. That K.A.R. 5-5-5 of the Rules and Regulations of the Kansas Water Appropriation Act states in part:

"If more than one person is the owner of a water right, and an application is filed for a change in the place of use, point of diversion, use made of the water, or any combination thereof, only the signature(s) of the landowner(s) whose portion of the water right(s) is (are) involved in the change shall be required on the application. If the extent of each owners interest in the water right has not been legally determined, then all landowners holding an undetermined portion of the water right must sign the change application . . . "

5. That in a letter dated November 9, 2015, the water right owner was informed that the Application for Approval to Change the Authorized Point of Diversion and Place of Use under Water Right, File No. 4,840, would be denied and dismissed because it does not comply with K.A.R. 5-5-5. The applicant was advised they had a period of 15 days from the date of the letter (until November 24, 2015) to either submit additional information to the office of the Chief Engineer or to request additional time beyond the 15 days to submit additional information. The applicant was further informed that if they did not request more time within the 15 day period, or if their request was not granted, the application would be submitted to the Chief Engineer with a recommendation to deny the application.
6. That on November 19, 2015, a request for a 90 day extension of time until February 24, 2016, was received in the office of the Chief Engineer. That on November 23, 2015, the Chief Engineer granted an extension until February 24, 2016, to submit additional information, before final action will be taken on the application.
6. Since no additional information has been received to show that the proposed change in point of diversion and place of use will comply with K.A.R. 5-5-5, nor was a request for additional time received, the Application for Approval to Change the Authorized Point of Diversion and Place of Use, Water Right, File No. 4,840, should be dismissed for failure to meet the requirements of K.A.R. 5-5-5 of the Rules and Regulations of the Kansas Water Appropriation Act.

### ORDER

NOW, THEREFORE, It is the decision and order of the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, that effective the date of this order, the Application for Approval to Change the Authorized Point of Diversion and Place of Use received on December 3, 2014, under Water Right, File No. 4,840, shall be denied and dismissed.

In all other respects, the Certificate of Appropriation for Beneficial Use of Water, issued pursuant to File No. 4,840, dated October 27, 1961, remains as authorized as modified and amended by the order dated September 7, 1979.

This Order shall become a final agency action, as defined by K.S.A. 77-607(b), without further notice to the parties, if a request for hearing or a petition for administrative review is not filed as set forth below.



**CERTIFICATE OF SERVICE**

On this <sup>1<sup>st</sup></sup> day of <sup>July</sup>, 2016, I hereby certify that the attached Dismissal of Application to Change the Authorized Point of Diversion and Place of Use File No. 4,840, dated <sup>July 1, 2016</sup> was mailed postage prepaid, first class, US mail to the following:

SCOTT HESSE  
8038 SW HUNTOON  
TOPEKA KS 66615

With photocopies to:

Topeka Field Office

Howard F & Rhonda S Parr  
P.O. Box 416  
Rossville Ks 66533-0416

---

Division of Water Resources

Kansas Department of Agriculture  
Division of Water Resources  
**CHANGE: P/D P/U WORKSHEET**

Document Signature LPL

1. File Number: <b>4,840</b>	2. Status Change Date:	3. Change Num: <b>1</b>	4. Field Office: <b>01</b>	5. GMD:
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6. Status: <input type="checkbox"/> Approved <input checked="" type="checkbox"/> Denied by DWR/GMD <input type="checkbox"/> Dismiss by Request/Failure to Return	7. Filing Date of Change: <b>12/3/14</b>
--	---

8a. Applicant(s)                      Person ID **64207**  
New to system                       Add Seq# \_\_\_\_\_

**SCOTT HESSE**  
**8038 SW HUNTOON**  
**TOPEKA KS 66615**

8c. pc                                      Person ID **21417**  
New to system                       Add Seq# \_\_\_\_\_

**HOWARD F & RHONDA S PARR**  
**P.O. BOX 416**  
**ROSSVILLE KS 66533-0416**

8b. Landowner(s)                      Person ID \_\_\_\_\_  
New to system                       Add Seq# \_\_\_\_\_

8d. WUC                                      Person ID \_\_\_\_\_  
New to system                       Add Seq# \_\_\_\_\_

9. Documents and Enclosure(s):  DWR Meter(s) Date to Comply: \_\_\_\_\_  N & P Date to Comply: \_\_\_\_\_

Check Valve     N & P Form     Water Tube     Driller Copy     H & E Letter

Conservation Plan    Date Required: \_\_\_\_\_    Date Approved: \_\_\_\_\_    Date to Comply: \_\_\_\_\_

10. Use Made of Water    From: \_\_\_\_\_    To: \_\_\_\_\_

Date Prepared: **6/28/16**                      By: **BAT**  
Date Entered:                                      By:



1320 Research Park Drive  
Manhattan, Kansas 66502  
(785) 564-6700



900 SW Jackson, Room 456  
Topeka, Kansas 66612  
(785) 296-3556

Jackie McClaskey, Secretary

Governor Sam Brownback

November 23, 2015

SCOTT HESSE  
8083 SW HUNTOON  
TOPEKA KS 66615

**FILE COPY**

RE: Water Right, File Nos. 3,171, 4,840 & 7,268

Dear Mr. Hesse:

This will acknowledge receipt of your request for extension on November 19, 2015, in which you request an extension of time to supply the Chief Engineer with additional information concerning the above referenced applications.

The Chief Engineer has extended until February 24, 2016, the time in which to submit additional information to be considered before final action will be taken on your applications.

If additional information is not supplied by the deadline, or any authorized extension of time thereof, the application will be submitted to the Chief Engineer for final action.

If you wish to request additional time, you must do so in writing, before the period expires. Such a request should state what steps are being taken to supply the requested information.

If you have any questions, please contact our office, my desk phone is (785) 564-6645. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

A handwritten signature in black ink that reads "Brent A. Turney". The signature is fluid and cursive, with a long horizontal stroke at the end.

Brent A. Turney  
Change Application Unit  
Water Appropriation Program

pc: Topeka Field Office

Submit completed application to:  
 Kansas Department of Agriculture  
 Division of Water Resources  
 Field Office for your area.

Call for address:

Topeka -- (785) 296-5733  
 Stafford -- (620) 234-5311  
 Stockton -- (785) 425-6787  
 Garden City -- (620) 276-2901  
<http://agriculture.ks.gov/dwr>

## DWR FIELD OFFICE APPLICATION FOR APPROVAL TO CHANGE THE PLACE OF USE AND/OR THE POINT OF DIVERSION



STATE OF KANSAS

**Filing Fee Must Accompany the Application, K.S.A. 82a-708b(b), as amended.**  
 Fee Schedule is on the third page of this application form.

**Paragraph Nos. 1, 2, 3 & 5 must be completed. Complete all other applicable portions.** If change in point of diversion is greater than 100 feet, or if place of use will be changed, include a topographic map or detailed plat showing the authorized and proposed point(s) of diversion and/or place of use.

UNACCEPTABLE FOR PRIORITY  
 WATER RESOURCES RECEIVED  
 NOV 21 2014 10:00  
 KS DEPT OF AGRICULTURE

File No. 4840

1. Application is hereby made for approval of the Chief Engineer to change the (check one or both):

Place of Use                       Point of Diversion

under the water right which is the subject of this application in accordance with the conditions described below.

The source of supply is:                       Groundwater                       Surface water

2. Name and address of Applicant: SCOTT HESSE

8038 SW HUNTOON TOPEKA KS 66615

Phone Number: (     )

Email address: \_\_\_\_\_

Name and address of Water Use Correspondent: HOWARD F & RHONDA S PARR

13630 NW CARTER RD ROSSVILLE KS 66533

Phone Number: (785)845-9092

Email address: \_\_\_\_\_

RECEIVED  
 DEC 03 2014 4:10 PM  
 TOPEKA FIELD OFFICE  
 DIVISION OF WATER RESOURCES

3. The presently authorized place of use is:

Owner of Land ---- NAME: WM. SCOTT & ANNE B. HESSE

ADDRESS: 8038 SW HUNTOON, TOPEKA KS 66615

(If there is more than one landowner, attach supplemental sheets as necessary.)

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	
<u>34</u>	<u>10</u>	<u>13E</u>	<u>40</u>																<u>40.0</u>
<u>35</u>	<u>10</u>	<u>13E</u>						<u>25</u>	<u>26</u>										<u>51.0</u>
																			<u>TOTAL 91.0 *</u>

\* QUANTITY LIMITED TO 119 ACRES- FEET ON PLACE OF USE AUTHORIZED.

4. If this application is for a change in place of use, it is proposed that the place of use be changed to:

Owner of Land ---- NAME: Scott Hesse

ADDRESS: 8038 SW Huntoon, Topeka, KS, 66615

(If there is more than one landowner, attach supplemental sheets as necessary.)

Sec.	Twp.	Range	NE¼				NW¼				SW¼				SE¼				TOTAL ACRES
			NE¼	NW¼	SW¼	SE¼													
<u>See box begin Attached</u>																			

For Office Use Only: Code 020 Fee \$ 400 TR # 15017338 Receipt Date 12/3/14 Check # 1055

FOI NO 6MO IRR SNCs.                      \* LI/OVR 7/21/15                      12/11/2014 LLM

5. **Presently authorized point of diversion:**  
 One in the NE Quarter of the SW Quarter of the NW Quarter of Section 35, Township 10 South, Range 13E (E/W), in SHAWNEE County, Kansas, \_\_\_\_\_ feet North \_\_\_\_\_ feet West of Southeast corner of section.  
 Authorized Rate \_\_\_\_\_ Authorized Quantity \_\_\_\_\_ Depth of well \_\_\_\_\_ (feet)  
 (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 NE Quarter of the SW Quarter of the NW Quarter of Section 35, Township 10 South, Range 13E (E/W), in SHAWNEE County, Kansas, 3730 feet North 4595 feet West of Southeast corner of section.  
 Proposed Rate \_\_\_\_\_ Proposed Quantity \_\_\_\_\_ Proposed well depth (feet) \_\_\_\_\_  
 This point is:  Additional Well  Geo Center List other water rights that will use this point 7238

6. **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 \_\_\_\_\_ Depth of well \_\_\_\_\_ (feet)  
 (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 \_\_\_\_\_ Proposed well depth (feet) \_\_\_\_\_  
 This point is:  Additional Well  Geo Center List other water rights that will use this point \_\_\_\_\_

7. Why do you need a new point of diversion? \_\_\_\_\_  
CASING HAS FAILED AND THE WELL IS PUMPING  
SAND

8. If a well, is the test hole log attached?  Yes  No

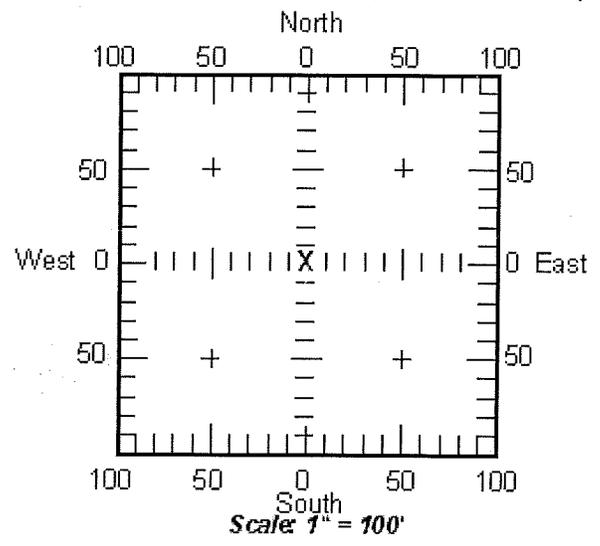
9. When do you propose to complete the new point of diversion?  
UPON APPROVAL OF THE APPLICATION

10. If the point of diversion is a well:  
 (a) What are you going to do with the old well?  
PLUG IT  
 (b) When will this be done? UPON COMPLETION OF THE  
NEW WELL

11. Groundwater Management District recommendation attached?  Yes  No

12. Assisted by BLB/TFO 10-24-14

13a. If the proposed point of diversion will be relocated within 100 feet of the existing point of diversion, indicate its location on the diagram below in relation to the existing point of diversion. (PLEASE NOTE: The "X" in center of diagram below represents presently authorized point of diversion.)



13b. If the proposed point of diversion will be relocated more than 100 feet but within 1320 feet from the existing point of diversion, attach a topographic map or aerial photograph. For groundwater sources, show all wells (including domestic) within one-half mile of the proposed point of diversion and the names and mailing addresses of the owners. For surface water sources, show the names and addresses of the landowner(s) one-half mile downstream and one-half mile upstream from your property lines.

14. If the proposed groundwater point of diversion is 300 or fewer feet from existing point of diversion, complete the following:
- (a) Does the undersigned represent all owners of the currently authorized place(s) of use identified in this application?  
 Yes     No    (If no, all owners must sign this application.)
  - (b) Will the ownership interest of any owner of the currently authorized place(s) of use identified in this application be adversely affected if this application is approved as requested?  
 Yes     No    (If yes, all owners must sign this application.)
  - (c) If this application is not approved expeditiously, will there be substantial damage to property, public health or safety?  
 Yes     No    (If no, all owners must sign this application.)

If the application proposes a surface water change in point of diversion, a groundwater change in point of diversion greater than 300 feet, or a change in place of use, the application must be signed by all owners of the currently authorized place of use, or their duly authorized agent (attach notarized statement authorizing representation).

I hereby verify, being first duly sworn upon my oath or affirmation and under penalty of perjury, that I am of lawful age and the owner, the spouse of the owner, or a duly authorized agent of the owner(s) to make this application on their behalf, in regard to the water right(s) to which this application pertains. I further verify that the statements contained in this application are true, correct and complete.

Dated at Topeka, Kansas, this 18 day of November, 2014.

Jim Scott  
 \_\_\_\_\_  
 (Owner)  
Jim Scott Hesse  
 \_\_\_\_\_  
 (Please Print)

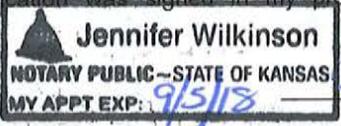
[Signature]  
 \_\_\_\_\_  
 (Spouse)  
ANNIE B. HESSE  
 \_\_\_\_\_  
 (Please Print)

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

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

State of Kansas }  
 County of \_\_\_\_\_ } SS

I hereby certify that the foregoing application was signed in my presence and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.



Jennifer Wilkinson  
 \_\_\_\_\_  
 Notary Public

My Commission Expires 9/5/18

**ONLY COMPLETE APPLICATIONS WILL BE PROCESSED.** To be complete, all of the applicable portions of the application form must be completed with accurate information; maps, if necessary, must be included; signatures of all the appropriate owners' must be affixed to the application and notarized; and the appropriate fee must be paid.

**FEE SCHEDULE**

Each application to change the place of use or the point of diversion under this section shall be accompanied by the application fee set forth in the schedule below: Make checks payable to: **Kansas Department of Agriculture**

(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

WATER RESOURCES RECEIVED  
 UNACCEPTABLE FOR PRIORITY  
 NOV 21 2014  
 SCANNED  
 File No. 7238  
 KS DEPT OF AGRICULTURE



Block D, Hesse Subdivision No. 1; thence North 89 degrees 07 minutes 43 seconds East 149.66 feet; thence South 0 degrees 52 minutes 17 seconds East 60.00 feet; thence South 89 degrees 07 minutes 43 seconds West, 150.00 feet to the point of beginning.

TRACT 3: The West half of the Northwest Quarter of Section 35, Township 10 South, Range 13 East of the 6th P.M., Shawnee County, Kansas;

EXCEPT:

A tract of land described as follows: Beginning at the Northeast corner of the West half of said Northwest Quarter; thence South coincident with the East line of the West half of said Quarter Section, 330 feet; thence West 264.00 feet; thence North 330.00 feet to the North line of said Quarter Section; thence East coincident with the North line of said Quarter Section 264 feet to the point of beginning;

AND ALSO EXCEPT:

A tract of land described as follows: Commencing at the Northeast corner of the West half of said Northwest Quarter; thence south coincident with the East line of the West half of said Quarter Section, 330 feet to the point of beginning, said point being the Northeast corner of Stanley Addition to Rossville Cemetary; thence continuing South coincident with last said course 330 feet; thence West coincident with the South line of Stanley Addition, 264 feet; thence North coincident with the West line of Stanley Addition, 330 feet; thence East coincident with the North line of Stanley Addition, 264 feet to the point of beginning;

AND ALSO EXCEPT:

A tract of land described as follows: Commencing at the Northwest corner of the Northwest Quarter of Section 35, Township 10 South, Range 13 East of the 6th P.M. Shawnee County, Kansas; thence on Az 90 degrees 00 minutes 00 seconds, 846.27 feet along the North line of the Northwest Quarter of said Section 35 to the point of beginning; thence continuing on Az 90 degrees 00 minutes 00 seconds, 210.00 feet along said North line; thence on Az 180 degrees 00 minutes 00 seconds, 874.00 feet; thence on Az 299 degrees 19 minutes 55 seconds, 240.88 feet; thence on Az 360 degrees 00 minutes 00 seconds, 756.00 feet to the point of beginning;

AND EXCEPT:

A tract of land described as follows: Commencing at the Northwest corner of the Northwest Quarter of Section 35, Township 10 South, Range 13 East of the 6th P.M., Shawnee County, Kansas; thence on Az 90 degrees 00 minutes 00 seconds, 590.23 feet along the North line of the Northwest Quarter of said Section 35 to the point of beginning; thence continuing on Az 90 degrees 00 minutes 00 seconds, 256.04 feet along said North line; thence on Az 180 degrees 00 minutes 00 seconds, 756.00 feet; thence on Az 299 degrees 19 minutes 55 seconds, 169.00 feet; thence on Az 347 degrees 55 minutes 01 seconds, 199.24 feet; thence on Az 300 degrees 36 minutes 37 seconds, 77.85 feet; thence on Az 360 degrees 00 minutes 00 seconds, 438.75 feet to the point of beginning, more or less, including road right of way;

AND ALSO EXCEPT:

A Tract of land described as follows: Commencing at the Northwest corner of the Northwest Quarter of said Section 35; thence East coincident with the North line of said Northwest Quarter Section, 100 feet to the point of beginning; thence continuing on North 90 degrees 00 minutes 00 seconds East coincident with the North line of said Northwest Quarter, 490.23 feet; thence South 00 degrees 00 minutes 00 seconds East, 438.75 feet; thence North 62 degrees 05 minutes 07 seconds West, 180.43 feet; thence North 53 degrees 56 minutes 09 seconds West 193.43 feet; thence North 35 degrees 57 minutes 35 seconds West, 296.97 feet to the point of beginning.

TRACT 4: The East half of the Northeast Quarter of Section 34, Township 10 South, Range 13 East of 6th P.M., in Shawnee County, Kansas,

EXCEPT:

A tract of land described as follows: Beginning at the Southwest corner of the East half of said Northeast Quarter; thence North coincident with the West line of the East half of said Quarter, 264 feet; thence East 165 feet; thence South 264 feet to the South line of said Quarter Section; thence West coincident with the South line of said Quarter, 165 feet to the point of beginning;

AND EXCEPT:

SCANNED

WATER RIGHT INFORMATION REPORT FOR : 4840 00

RIGHT TYPE: Appropriation

SOURCE: Groundwater USE: IRR

CURRENT STATUS: Certificate Issued

PRIORITY DATE: 05-DEC-55

CURRENT COMPLETE BY DATE: 31-DEC-57

COMPLETION ACKNOWLEDGED DATE: 01-APR-57

CURRENT PERFECT BY DATE: 31-DEC-61

YEAR PERFECTED:

CERTIFICATE ISSUED DATE: 27-OCT-61

.....

APPLICANT(S):

> RUTH S HESSE ROSSVILLE KS 66533  
 > PERSON ID (Old Address Code): 7551  
 > CORRESPONDENT SEQUENCE NUMBER: 1  
 -----

.....

WATER USE CORRESPONDENT(S):

> HOWARD F & RHONDA S PARR PO BOX 416 P.O. BOX 416 ROSSVILLE KS 66533  
 > PERSON ID (Old Address Code): 21417  
 > CORRESPONDENT SEQUENCE NUMBER: 1  
 -----

.....

ACTION TRAIL:

05-DEC-55 Pending Initial Review  
 04-JAN-56 Approved Pending Completion N+P BY 31-DEC-57 PERF BY 31-DEC-57  
 01-APR-57 Completed Pending Inspection  
 27-OCT-61 Completed - Extended Time To Perfect PERF BY 31-DEC-61  
 27-OCT-61 Certificate Issued  
 07-SEP-79 F & O 10 Ac Tr  
 11-MAR-92 Land Owner Chg-William S Hesse & Burns Hesse  
 11-MAR-92 Corres & Wur From Mrs Ruth Hesse To William S Hesse  
 02-APR-92 Corres & Wur From William S Hesse To Howard D French  
 02-APR-92 Land Owner Chg-Part Of Land-William Hesse & Burns Hesse  
 07-DEC-04 Name Chg - F Burns Hesse  
 27-MAY-08 Wur From Howard D French To Howard F Parr  
 27-MAY-08 Notarized Wuc  
 24-OCT-14 Landowner Chg - Scott Hesse  
 03-DEC-14 C1 Change App Pd Pu Filed

.....

CONSERVATION CONTRACT ACTION TRAIL:

.....

CONSERVATION PLAN ACTION TRAIL:

.....

SPECIAL CONDITIONS:

.....

QUANTITIES:

> AUTHORIZED 119.000 AF ADDITIONAL 11.000 AF

.....

RATES:

> AUTHORIZED 900.000 gpm ADDITIONAL 900.000 gpm

.....

• 6/5/15  
 • 6/21/15

APPLICANT HAS REQUESTED  
A HEARING?

Summary - 119 acres all authorized by  
 2nd well

	AUTM		ADL		
	Q	R	Q	R	
3171	108	1000	108	1000	- 119 AF ON THIS LAND
4840	119	900	11	900	
7238	178	1795	59	1795	- 178 AF/yr @ 4.0 CFS ON THIS 119 AC OF LAND.

PU INCOMPLETE OVERLAP OF 3171 WITH THE  
 PU UNDER FILE # 4840 & 7238.

3171  
 34-10-13E 40.00  
 35-10-13E

NENE 28.00  
 NW NW 20.00  
 SWNW 20.00  
 (x5) (x6) acres each

108 acres -  
 4840 & 7238 HAVE 11 ADDITIONAL  
 ACRES IN 35-10-13E NWNW 5.0  
 SWNW 20.0

LIMITATIONS:

> LIMITED TO 119 AF/YR ON THIS LAND

::::::::::::::::::

STORAGE QUANTITIES: No active storage quantities associated with IRR use under this water right

STORAGE RATES: No active storage rates associated with IRR use under this water right

::::::::::::::::::

AUTHORIZED POINTS(S) OF DIVERSION

Section 35, T 10, R 13E, ID 1 (Internal PDIV\_ID = 40442)

QUALIFIERS: NE SW NW

DIST. FROM SE CORNER: 3730 ft North 4160 ft West

NUMBER OF WELLS: 1

COMMENT:

OLD LONGITUDE: 95.939999 OLD LATITUDE: 39.139947

NEW LONGITUDE: 95.938676 NEW LATITUDE: 39.139925

GPS LONGITUDE: GPS LATITUDE:

GPS FEET NORTH: GPS FEET WEST:

COUNTY: SHAWNEE

FIELD OFFICE: TOPEKA FIELD OFFICE

GMD :

BASIN: KANSAS RIVER

STREAM:

SPECIAL\_USE\_AREA(S):

AQUIFER(S):

> WISCONSINAN STAGE

TEST INFORMATION:

> 12-JUL-61 900 gpm Field Inspection Test

METER ACTION TRAIL:

OVERLAPS:

> A 7238 00 IRR

-----

::::::::::::::::::

AUTHORIZED PLACE(S) OF USE

Section 35, T 10, R 13E, ID 1 (Internal PUSE\_ID = 34456)

OWNER: SCOTT HESSE

Address:

\*\* 8038 SW HUNTOON

\*\* TOPEKA KS 66615

Total acres authorized = 51.00 Acres

NE				NW				SW				SE			
NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
.00	.00	.00	.00	.00	25.00	26.00	.00	.00	.00	.00	.00	.00	.00	.00	.00

COMMENT:

OVERLAPS:

> A 3171 00 IRR

> A 7238 00 IRR

-----

Section 34, T 10, R 13E, ID 1 (Internal PUSE\_ID = 36887)

OWNER: SCOTT HESSE

Address:

\*\* 8038 SW HUNTOON

\*\* TOPEKA KS 66615

Total acres authorized = 68.00 Acres

NE				NW				SW				SE			
NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
40.00	28.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00	.00

COMMENT:

OVERLAPS:

> A 3171 00 IRR  
 > A 7238 00 IRR

.....

WATER USE INFORMATION:

Year	Qualifiers	SC	ID	Date Rcvd	Hours	GPM	Acre-feet	Code	Ac_Irr	Date Msrd	Wtr_Dp	Well_Dp	Reel	Blip
2014	3730N	4160W	35	1 04-MAR-15	500	900	82.9	G	82		N/A	N/A	89	1958
2013	3730N	4160W	35	1 03-MAR-14	480	900	79.5	G	82		N/A	N/A	84	1333
2012	3730N	4160W	35	1 28-FEB-13	493	900	81.7	G	82		N/A	N/A	79	1267
2011	3730N	4160W	35	1 27-JAN-12	400	900	66.3	G	82		N/A	N/A	71	2271
2010	3730N	4160W	35	1 01-MAR-11	280	900	46.4	G	92		N/A	N/A	68	184
2009	3730N	4160W	35	1 26-FEB-10	100	900	16.6	G	82		N/A	N/A	61	1996
2008	3730N	4160W	35	1 26-FEB-09		900	3 N/A			N/A	N/A	55	1524	
2007	3730N	4160W	35	1 26-FEB-08	491	1000	90.4	G	82		N/A	N/A	49	64
2006	3730N	4160W	35	1 28-FEB-07	130	1000	23.9	G	65		N/A	N/A	43	780
2005	3730N	4160W	35	1 18-JAN-06	35	1000	6.4	G	65		N/A	N/A	35	1451
2004	3730N	4160W	35	1 01-MAR-05			E N/A		N/A	N/A		31	2931	
2004	3730N	4160W	35	1 01-MAR-05	Comment: ADEQUATE RAINFALL									
2003	3730N	4160W	35	1 02-MAR-04	590	1000	108.6	G	65		N/A	N/A	26	427
2002	3730N	4160W	35	1 21-FEB-03	470	1000	86.5	G	65		N/A	N/A	18	2622
2001	3730N	4160W	35	1 20-FEB-02	250	1000	46.0	G	65		N/A	N/A	12	2512
2000	3730N	4160W	35	1 28-FEB-01	295	1000	54.3	G	65		N/A	N/A	7	1397
1999	3730N	4160W	35	1 02-FEB-00	280	1000	51.6	G	65		N/A	N/A	1	2861
1998	3730N	4160W	35	1 18-FEB-99	170	1000	31.3	G	65		N/A	N/A	93	1963
1997	3730N	4160W	35	1 23-FEB-98	286	1000	52.7	G	65		N/A	N/A	88	148
1996	3730N	4160W	35	1 04-FEB-97	264	1000	48.6	G	65		N/A	N/A	81	288
1995	3730N	4160W	35	1 21-FEB-96	140	1000	25.8	G	65		N/A	N/A	75	2655
1994	3730N	4160W	35	1 17-FEB-95	265	1000	48.8	G	65		N/A	N/A	70	2400
1993	3730N	4160W	35	1 27-JAN-94	0	0	.0	E			N/A	N/A	62	2731
1993	3730N	4160W	35	1 27-JAN-94	Comment: RAINFALL									
1992	3730N	4160W	35	1 20-JAN-93	0	0	.0	E			N/A	N/A	56	2011
1992	3730N	4160W	35	1 20-JAN-93	Comment: RAIN									
1991	3730N	4160W	35	1 18-FEB-92	360	1000	66.3	G	65		N/A	N/A	52	2716
1990	3730N	4160W	35	1 31-JAN-91	200	1000	36.8	G	65		N/A	N/A	45	3585
1990	3730N	4160W	35	1 31-JAN-91	Comment: 65-AC, 200-HRS, 1000-GPM ON 4840 & 7238									
1989	3730N	4160W	35	1 06-FEB-90	350	1000	64.4	G	65		N/A	N/A	40	1451
1988	3730N	4160W	35	1	410	1000	75.5	G	108		N/A	N/A	36	1128
1987	3730N	4160W	35	1	500	1000	92.1	G	108		N/A	N/A	31	2607
1986	3730N	4160W	35	1	0	0	.0	0			N/A	N/A	0	0
1985	3730N	4160W	35	1	500	1000	92.1	G	108		N/A	N/A	22	1015
1984	3730N	4160W	35	1	600	1000	110.5	G	108		N/A	N/A	17	3685
1983	3730N	4160W	35	1	360	1000	66.3	G	60		N/A	N/A	10	1206
1982	3730N	4160W	35	1	0	0	.0	5			N/A	N/A	6	2628
1981	3730N	4160W	35	1	0	0	.0	5			N/A	N/A	2	2709

ONLY WELL THAT WAS CHANGED WITH THE 9-1-98 APPROVAL

\* WELL ID # 10 ONLY \*

DIVISION OF WATER RESOURCES-KANSAS DEPARTMENT OF AGRICULTURE  
COMPLIANCE INVESTIGATION

Field Office No. 1 G.M.D. No. - County SN

In Compliance/ Date	
<input checked="" type="checkbox"/> Yes	<u>9-1-11</u>
<input type="checkbox"/> No, see comments	_____
<input type="checkbox"/> Re-investigation	_____

File No. 7238 Overlap P/D or P/U File No(s) P/D-3171 P/U-3171+4040

Agency DWR Inspector BUNGER

Reason:  New Application  Regular P/D Change  P/U Change  
 Meter Installed  Short Move P/D Change  Other \_\_\_\_\_

Date of Order 9-1-98 Date of N of C Ack 1-27-99 Chg No. C \_\_\_\_\_ Date completed \_\_\_\_\_ If PD chg, old PD ID \_\_\_\_\_

Current Landowner WILLIAM S. HESSE / F. BUNDS HESSE Phone No. \_\_\_\_\_

Address PO Box 57 Rossville, KS. 66533 / PO Box 4387 Topeka, KS. 66604-9618  
Additional landowners and addresses identified in remarks section.

Water Use Correspondent HOWARD F. + RHONDA S. PARR Phone No. 705-584-6359

Authorized Water Use Classification:  Domestic  Industrial  Irrigation  Municipal  Hydraulic Dredging  
 Recreation  Stockwatering  Water Power  Artificial Recharge  Contamination Remediation  
 Dewatering  Fire Protection  Thermal Exchange  Sediment Control  Other \_\_\_\_\_

Water currently being used for Irrigation

Source:  Groundwater  Surface Water Basin/Stream KANSAS RIVER

Authorized Point of Diversion: NW NW NE Sec. 34, T. 10 S, R. 13E W ID No. 10

Approximately 5200 ft. North and 2043 ft. West of SE corner of Sec 34.

Actual Point of Diversion: NW NW NE Sec. 34, T. 10 S, R. 13E W

Approximately 5217 ft. North and 2157 ft. West of SE corner of Sec 34. Diff. Between Authorized + Actual = 115 FEET

How were distances determined? GPS DATA Latitude 39.14407 Longitude 95.95011

Distance from old pd \_\_\_\_\_ ft (N/S) and \_\_\_\_\_ ft (E/W) Old well: plugged  capped  equipped  other: \_\_\_\_\_?

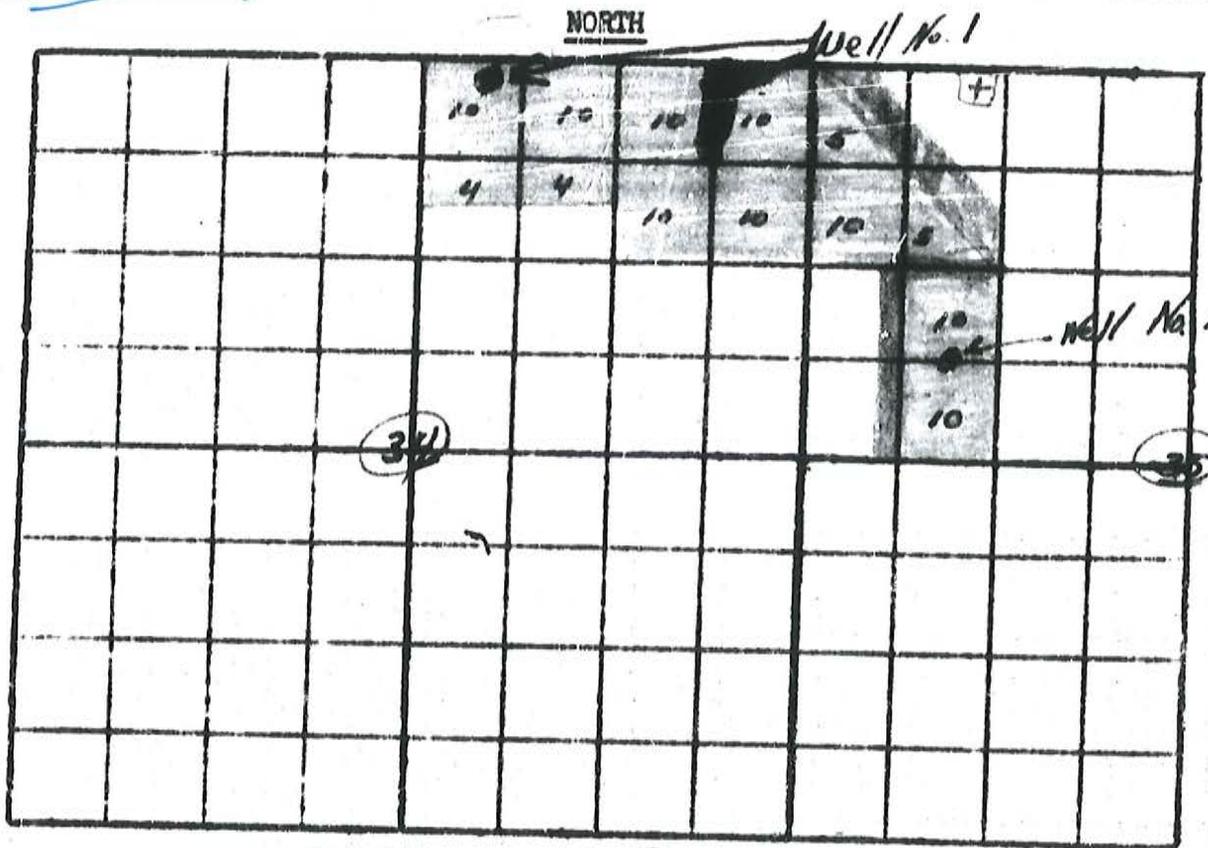
Location (site) map attached? Y/N  Sketch or Map below

Comments: ↳ See ATTACHED PICTURES

Application requested A new well to be drilled 57 Feet East of the old well. Approval required that the new well be drilled within 10 feet of the authorized point. With the fact that GPS data was not available for the original well, it would be nearly impossible to stay within the 10 foot restriction. As shown above, the difference between authorized + actual is 115 feet. For the purpose of this comp. ck, it should be acknowledged that the new well was certainly drilled substantially as shown on the topo map accompanying the change application, thus there should not be a compliance issue.

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Atlas 1957



Township 10 S  
 Range 13 E  
 County Shawnee

- Covered by App. No. 1  
 - Covered by App. No. 2

LEGEND

- Land to be Irrigated - - - - -
- Well Location - - - - -
- Pump Sites - - - - -

Well Information

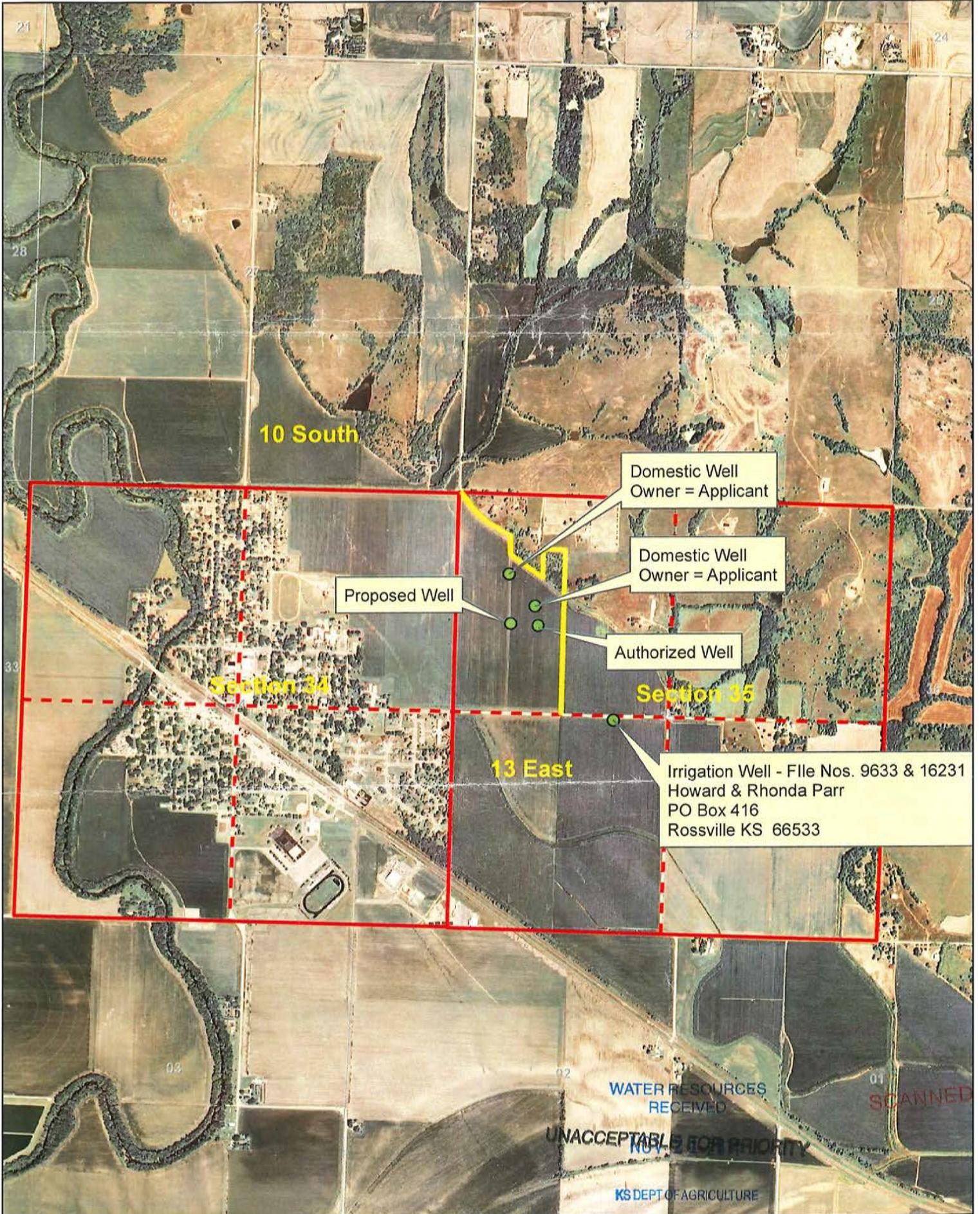
Pumping Plant Information

Depth to Water 2.3'  
 Depth of Well 80'  
 Diameter of Well 18"

Size and Type of Pump 8" Turbine  
 Size and Type of Power Unit 75 H.P. ind.  
 Estimated Capacity 1200 gal. min.

Estimated Yield 2000 gal. per minute

# 1:18,000 Application to Change the Point of Diversion File No. 4840



## Kopp, Kenneth

---

**From:** Kopp, Kenneth  
**Sent:** Monday, November 23, 2015 1:50 PM  
**To:** 'scott@nrmlaw.com'  
**Subject:** KDA/DWR: Open Records Request #7397  
**Attachments:** KORA7397.Data.pdf

Mr. Hesse,

In response to your open records request, please find attached the information which was used to evaluate your application to change the point(s) of diversion and place of use under File Nos. 3171, 4840 and 7238.

Our determination was based on comparing the water rights' certified acres to the ownership data available online through the [Shawnee County appraiser's website](#). Copies of the plats and maps used to certify the water rights are attached. Copies of the certificates of appropriation are also included. It appears that a portion of the certified acres, notably the West Half of the Northwest Quarter of the Northeast Quarter (W½ NW¼ NE¼) of Section 34, has been subdivided and sold to various parties.

Please note that the ownership of a water right in Kansas is based on ownership of the place of use. The Kansas Water Appropriation Act further defines a water right as a real property right appurtenant to and severable from the land on or in connection with which the water is used and such water right passes as an appurtenance with a conveyance of the land by deed, lease, mortgage, will, or other disposal, or by inheritance. Nothing in this office indicates the water rights have been severed from the certified place of use.

Mr. Turney has granted your request for additional time to submit more information to be considered. Your application has not been denied and no appeal or hearing will be scheduled at this time. No further action will be taken until February 24, 2016, to allow you to time submit additional information regarding ownership of all certified land covered by the water rights in question. A formal extension letter is also being mailed to you this week.

Please feel free to call Mr. Turney at (785) 564-6645 to discuss your applications.

Kenneth A. Kopp, P.G.  
Division of Water Resources  
Kansas Department of Agriculture  
1320 Research Park Drive  
Manhattan, Kansas 66502-5000  
Web: <http://agriculture.ks.gov/dwr>

**Request Number:** 7397

### **Contact Information:**

**Company:** Newman, Hesse & Associates, P.A.  
**First Name:** Wm. Scott  
**Address:** 1613 SW 37th Street  
**Last Name:** Hesse

Topeka  
**Phone:** (785) 267-0660  
**Email Address:** [scott@nrrelaw.com](mailto:scott@nrrelaw.com)

KS 66611  
**Fax:** (785) 267-1525

**Requested Information:**

**Date Request Received:**

11/19/2015

**Record information Requested:**

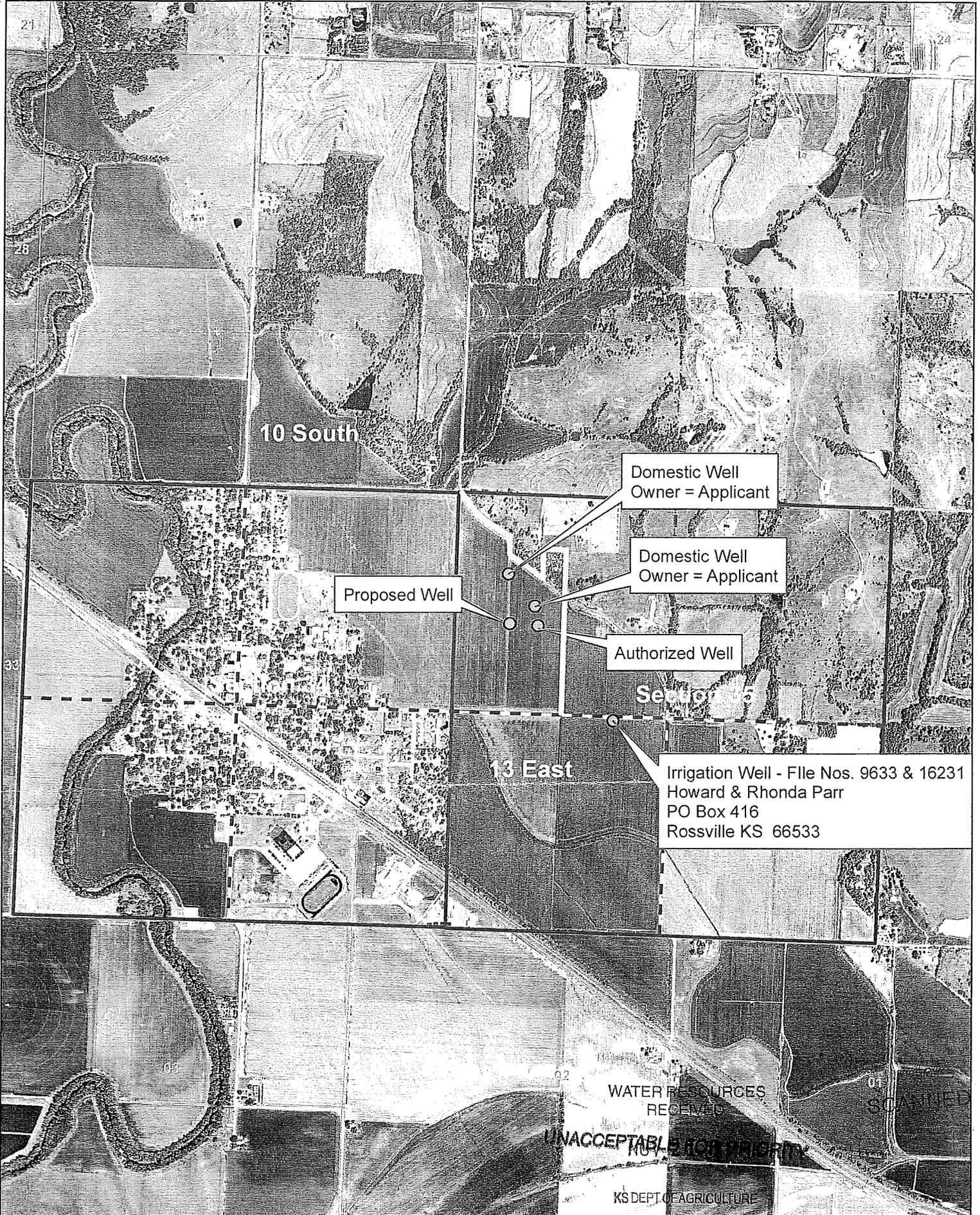
Please forward me the "Records in this office and records available through Shawnee County, indicate that the there are numerous owners associated with the currently authorized place of use." See enclosed letter from the Kansas Department of Agriculture.

Stated another way, provide to me copies of each document which were considered by the person who is making the recommendation to the Chief Engineer to deny the application for changes in the place of use in Water Right File Number 3,171, 4,840 and 7,238.

Please consider this an expedited request because the Kansas Department of Agriculture has given me until November 24, 2015, to respond to its decision.

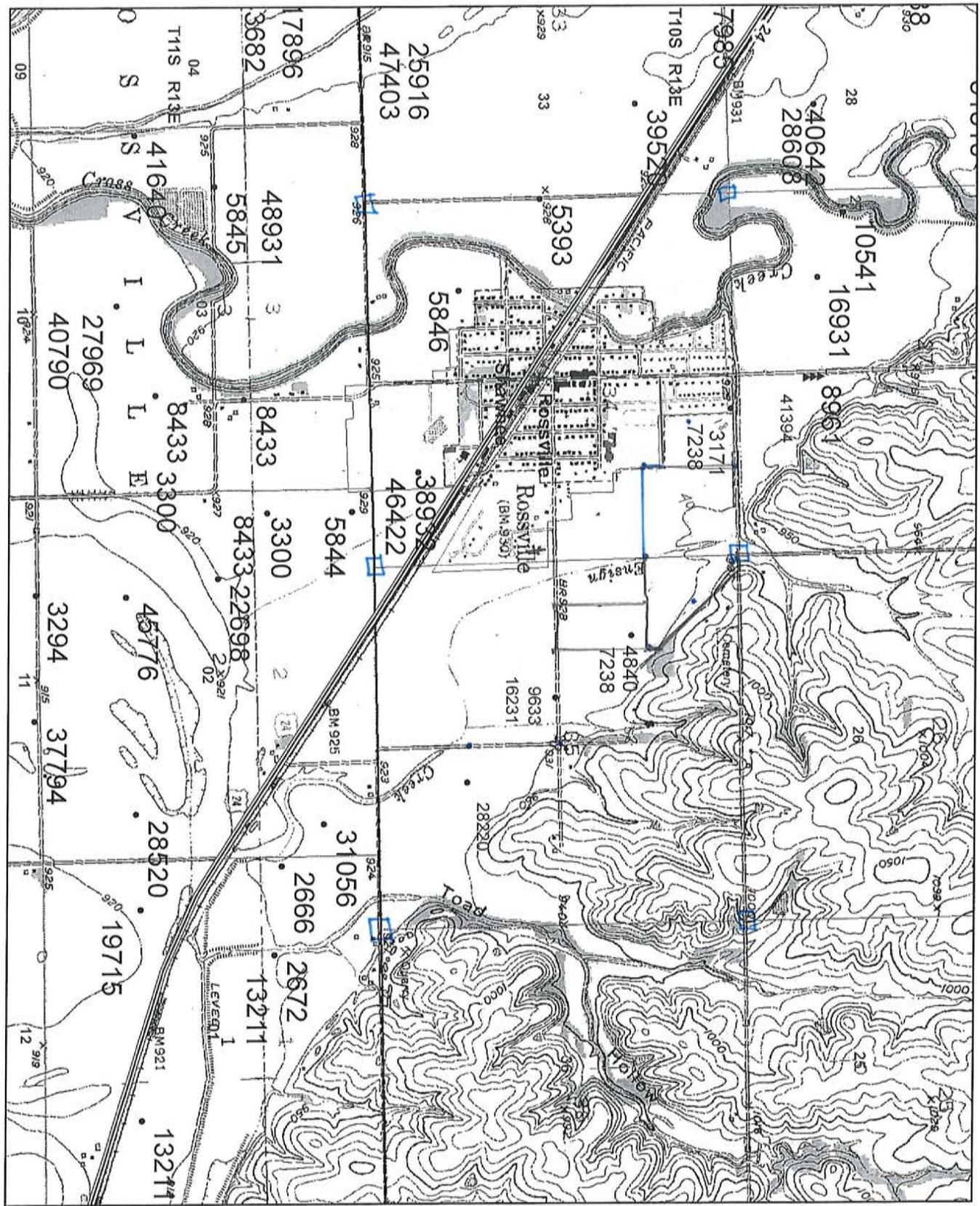
(Please see original scanned letter in Attachments)

# 1:18,000 Application to Change the Point of Diversion File No. 4840

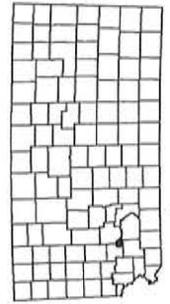


6/18/18

# Water Right File Nos. 4840 & 7238 Change PD & PU



- Legend**
- WIMAS\_PD
  - S\_UMW
  - G\_IRR
  - ▲ G\_MUN
  - S\_IRR
  - ▭ S\_REC



This map was created by L. Ireland in WIMAS on 7/21/2015

## SCHEDULE A

### *First American Title Insurance Company*

Name and Address of Title Insurance Company:  
First American Title Insurance Company  
1 First American Way  
Santa Ana, CA 92707

Policy No.: **OP 1286743**

File No.: **1286743**

Address Reference: N/A, N/A

Amount of Insurance: \$762,600.00

Date of Policy: November 16, 2012 at 11:49:44 A.M.

1. Name of Insured:

Wm. Scott Hesse

2. The estate or interest in the Land that is insured by this policy is:

Fee Simple

3. Title is vested in:

Wm. Scott Hesse

4. The Land referred to in this policy is described as follows:

TRACT 1: Lot 3, less the South 66 feet thereof, Block B, Hesse Subdivision No. 1 in the City of Rossville, Shawnee County, Kansas;

TRACT 2: A tract of land located in the West half of the Northeast Quarter of Section 34, Township 10 South, Range 13 East of the 6th P.M., in Shawnee County, Kansas, more particularly described as follows: Commencing at the Northwest corner of the Northeast Quarter of said Section 34; thence East coincident with the North line of said Quarter Section, 517.90 feet to the Northeast corner of Hesse Subdivision No. 1, City of Rossville, Kansas; said point being the point of beginning; thence continuing East coincident with the North line of said Quarter Section to the East line of the West half of said Northeast Quarter Section; thence South coincident with the said East line to the South line of the North half of the South half of the Northwest Quarter of said Northeast Quarter; thence West coincident with last said South line to the Southeast corner of Hesse Subdivision No. 1; thence North coincident with the East line of said Subdivision to the point of beginning;

Less the following:

Part of the Northwest Quarter of the Northeast Quarter of Section 34, Township 10 South, Range 13 East of the 6th P.M., Shawnee County, Kansas, described as follows: Beginning at the Southeast corner of said Lot 2, Block E, Hesse Subdivision No. 1 as platted in said Northeast Quarter; thence North 0 degrees 52 minutes 17 seconds West 125.12 feet along the East line of said Lot 2 to the Northeast corner thereof; thence North 89 degrees 07 minutes 43 seconds East 150.00 feet; thence South 0 degrees 52 minutes 17 seconds East 125.12 feet; thence South 89 degrees 07 minutes 43 seconds West, 150.00 feet to the point of beginning,

And Less:

Part of the Northwest Quarter of the Northeast Quarter of Section 34, Township 10 South, Range 13 East of the 6th P.M., Shawnee County, Kansas, described as follows: Beginning at the Northeast corner of Lot 2, Block E, Hesse Subdivision No. 1 as platted in said Northeast Quarter; thence North 0 degree 32 minutes 35 seconds West, 60.00 feet to the Southeast corner of Lot 1,

Wm. Scott Hesse  
8038 SW Huntoon  
Topeka, KS 66615  
785 554 5440 Cell  
wm\_scott\_hesse@cox.net

BEFORE THE KANSAS DEPARTMENT OF AGRICULTURE

In the Matter of the Application }  
Of Wm. Scott Hesse to Change the Place }  
Of Use of Water under Existing Appropriation }  
Right Numbers 3171, 4840 and 7238 }  
\_\_\_\_\_ }

SUPPLEMENT TO THE APPLICATION

COMES NOW, the applicant, Wm. Scott Hesse, pro se, to supplement the application to change the place of use of water under existing appropriation right numbers 3171, 4840, 7238. In support of his application, the applicant states as follows:

PARTIES

1. Due to no fault of his own, the form for the application to change the place of use of the water under an existing water appropriation drafted by the Chief Engineer of the Division of Water Resources, Kansas Department of Agriculture, does not adequately allow for the facts unique to this application. This matter is being brought pursuant to the Kansas Administrative Procedures Act, K.S.A. 77-501 et seq.

2. The applicant, Wm. Scott Hesse, is the owner of several tracts of land which make up 151 acres of tillable real estate (hereafter known as "farm") located near the City of Rossville, Kansas. Various portions of the farm have been in the applicant's family for four generations. Anne B. Hesse is the spouse of Wm. Scott Hesse. Hereinafter known as applicant.

3. Howard F. Parr and Rhonda S. Parr are the tenants and Water Use Correspondents (Hereafter "tenants.")

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4. Between 1954 and 1979 the farmers subdivided the west edge of the farm by selling off 22 lots to homeowners (hereinafter "homeowners") whose property was annexed by the City of Rossville (hereafter "City").

#### FACTS

5. The applicant's predecessors in title (hereinafter known as "farmers") obtained the right to appropriate water from the State of Kansas which is outlined by agricultural appropriation rights No. 3171, No. 4840, No. 7238 (herein after "appropriation rights"). Water appropriation number 3171 was granted December 6, 1954. Water appropriation number 4840 was granted December 5, 1955. Water appropriation number 7238 was granted April 3, 1957.

6. The appropriation rights do not give the applicant or his tenant the right to irrigate the entire 151 acres making up the farm.

7. The farmers drilled two irrigation wells to irrigate the farm. The well serving appropriation right no. 3171 and 7238 was replaced in 1997 and has a water flow meter attached to it. The second well serving appropriation right no. 4840 and 7238 is still in use and has no water meter. The Chief Engineer of the Division of Water Resources has not ordered the applicant to place a meter on well number 2.

8. The appropriation rights allow the applicant or his tenant to cover the irrigable portion of the farm with over 3,000 acre feet of water.

9. Since the receipt of the above mentioned appropriation rights, the farmers have irrigated the farm using flood irrigation techniques. A portion of the farm was leveled to allow for the drainage of flood irrigation water. The water appropriated from the state drains to the middle of the farm and evaporates. The flood irrigation farming was the most efficient method

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of irrigation available to the farmers when they obtained the water appropriation in the 1950's. Flood irrigation farming is no longer the most efficient method of irrigation.

10. The farmers were also businessmen that owned the local lumber yard and real estate businesses. Between 1954 and 1979 the farmers subdivided the west edge of the farm by selling off 22 lots to homeowners whose property was annexed by the City of Rossville. The farmers failed to reserve the agricultural appropriation rights for the houses which were sold to the homeowners.

11. The homeowners receive domestic residential water service from the City of Rossville. The homeowners have not used, and cannot use, the agricultural water appropriation of Water Appropriation No. 3171 and 4840.

12. Between 1976 and 1980 the farmers subdivided the northeast edge of the farm by selling off three lots to homeowners who remain residents of Shawnee County, Kansas. There are no agricultural water appropriations to the homeowners of the three lots.

13. The farmers have allowed the homeowners of the three lots to pump water from the farm for domestic use. The applicant does not want to change the domestic water appropriation of the three homeowners.

14. The farmers continued to use the water appropriation by irrigating the farm until the farm was leased to a tenant. The tenant continues to use the water appropriation by irrigating the farm by flood irrigation techniques.

15. The applicant and the tenant desire to more efficiently use the water resources of the State of Kansas to irrigate the farm using a center pivot form of irrigation. By using a pivot irrigation system, the applicant and the tenant expect to use less water on more land to grow more crops.

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## LAW

16. K.S.A. 82a-707(a) states: **“Principles governing appropriations; priorities.** (a) Surface or groundwaters of the state may be appropriated as herein provided. Such appropriation shall not constitute ownership of such water, and appropriation rights shall remain subject to the principle of beneficial use.”

17. The State of Kansas is the owner of the groundwater of this state. Landowners do not own the water running onto or under their land. Groundwater in Kansas is appropriated by the State of Kansas, through the Department of Agriculture, Department of Water Resources by the Chief Engineer subject to the principal of beneficial use.

18. The Chief Engineer found the most beneficial use of the water resources of this state is the irrigation of crops and has issued appropriation numbers 3171, 4840 and 7238 to the applicant for irrigation purposes.

19. The homeowners are not using the groundwater subject to the principal of beneficial use.

20. K.S.A. 82a-707(b) states:

The date of priority of every water right of every kind, and not the purpose of use, determines the right to divert and use water at any time when the supply is not sufficient to satisfy all water rights. Where lawful uses of water have the same date of priority, such uses shall have priority in the following order of preference: Domestic, municipal, irrigation, industrial, recreational and water power uses. The holder of a water right for an inferior beneficial use of water shall not be deprived of the use of the water either temporarily or permanently as long as such holder is making proper use of it under the terms and conditions of such holder's water right and the laws of this state, other than through condemnation.

21. The applicant has priority over the use of the water because of the date of priority of the water appropriations, specifically December 6, 1954; December 5, 1955 and April 3, 1957.

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22. The applicant has priority over the use of the water because the use of the water is for irrigation. The water appropriation of the homeowners is not being used at all. The homeowners receive their domestic water from the City of Rossville.

23. The water appropriation was issued for irrigation. The tenant and applicant are using the water appropriation for irrigation. The homeowners are not using the water right for irrigation.

24. The rules and regulations of the Kansas Department of Agriculture, Division of Water Resources prohibits the moving of a water appropriation more than one-half mile.

25. K.S.A. 82a-1904 states:

**Same; exemption from or waiver of rule and regulation.** The chief engineer of the division of water resources of the Kansas department of agriculture, for good cause shown, may grant an exemption from or waiver of a rule and regulation adopted by the chief engineer if the chief engineer determines that the exemption or waiver will not prejudicially or unreasonably affect the public interest and will not impair any existing water right. The exemption or waiver shall be in writing and shall include the reason for the exemption or waiver.

26. The Kansas Legislature allows the Chief Engineer to waive a regulation where the waiver will not affect the public interest or impair and existing water right.

27. The public interest will be served by allowing the holder of the water appropriation to irrigate the farm by a pivot system and not a flood irrigation system.

28. The public interest will be served by allowing one well to serve water to appropriation numbers 3171; 4840 and 7238.

WHEREUPON, the applicant and the tenant request:

1. A finding of fact the homeowners are not using the agricultural irrigation water appropriation underlying the homeowners homes.

WATER RESOURCES  
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2. A finding of fact irrigation is the beneficial use of the groundwater which is allocated to numbers 3171; 4840 and 7238.

3. The agricultural irrigation water appropriation underlying the homeowner's property be reallocated to allow irrigation upon the farm owned by the applicant and farmed by the tenant. Stated another way, have the Department of Agriculture change the water place of use to more efficiently irrigate the farm.

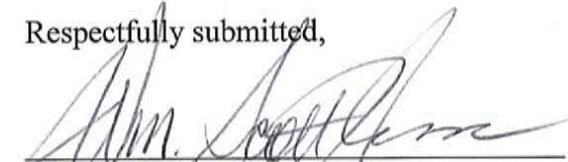
4. A waiver by the Chief Engineer of the regulation that an appropriation right may not be moved more than one mile.

5. Permission to pump water from well number one to all property covered by appropriation number 3171, 4840 and 7238 and property owned by the applicant that is not covered by appropriation number 3171, 4840 and 7238.

6. Any other relief "subject to the principal of beneficial use."

7. In the alternative, a permit to drill a new well within three hundred feet of the existing well to allow the parties the continue irrigation as it is currently constituted.

Respectfully submitted,

  
Wm. Scott Hesse, Applicant

  
Anne B. Hesse, Applicant

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NOV 21 2014

KS DEPT OF AGRICULTURE  
SCANNED

Wm. Scott Hesse  
8038 SW Huntoon  
Topeka, KS 66615  
785 554 5440 Cell  
wm\_scott\_hesse@cox.net

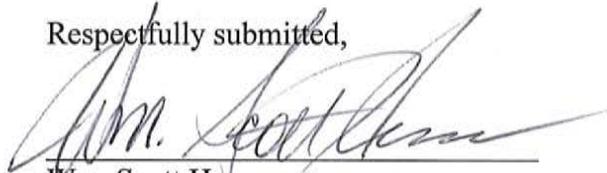
BEFORE THE KANSAS DEPARTMENT OF AGRICULTURE

In the Matter of the Application }  
Of Wm. Scott Hesse to Change the Place }  
Of Use of Water under Existing Appropriation }  
Right Numbers 3171, 4840 and 7238 }  
\_\_\_\_\_ }

REQUEST FOR HEARING

COMES NOW, the applicant, Wm. Scott Hesse, to request a hearing on his application for a ground water change of place of use and/or point of diversion for Water Right Numbers 3171, 4840 and 7238.

Respectfully submitted,

  
\_\_\_\_\_  
Wm. Scott Hesse

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SCANNED

Wm. Scott Hesse  
8038 SW Huntoon  
Topeka, KS 66615  
785 554 5440 Cell  
wm\_scott\_hesse@cox.net

BEFORE THE KANSAS DEPARTMENT OF AGRICULTURE

In the Matter of the Application }  
Of Wm. Scott Hesse to Change the Place }  
Of Use of Water under Existing Appropriation }  
Right Numbers 3171, 4840 and 7238 }  
\_\_\_\_\_ }

SUPPLEMENT TO THE APPLICATION

COMES NOW, the applicant, Wm. Scott Hesse, pro se, to supplement the application to change the place of use of water under existing appropriation right numbers 3171, 4840, 7238. In support of his application, the applicant states as follows:

PARTIES

1. Due to no fault of his own, the form for the application to change the place of use of the water under an existing water appropriation drafted by the Chief Engineer of the Division of Water Resources, Kansas Department of Agriculture, does not adequately allow for the facts unique to this application. This matter is being brought pursuant to the Kansas Administrative Procedures Act, K.S.A. 77-501 et seq.

2. The applicant, Wm. Scott Hesse, is the owner of several tracts of land which make up 151 acres of tillable real estate (hereafter known as "farm") located near the City of Rossville, Kansas. Various portions of the farm have been in the applicant's family for four generations. Anne B. Hesse is the spouse of Wm. Scott Hesse. Hereinafter known as applicant.

3. Howard F. Parr and Rhonda S. Parr are the tenants and Water Use Correspondents (Hereafter "tenants.")

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4. Between 1954 and 1979 the farmers subdivided the west edge of the farm by selling off 22 lots to homeowners (hereinafter "homeowners") whose property was annexed by the City of Rossville (hereafter "City").

#### FACTS

5. The applicant's predecessors in title (hereinafter known as "farmers") obtained the right to appropriate water from the State of Kansas which is outlined by agricultural appropriation rights No. 3171, No. 4840, No. 7238 (herein after "appropriation rights"). Water appropriation number 3171 was granted December 6, 1954. Water appropriation number 4840 was granted December 5, 1955. Water appropriation number 7238 was granted April 3, 1957.

6. The appropriation rights do not give the applicant or his tenant the right to irrigate the entire 151 acres making up the farm.

7. The farmers drilled two irrigation wells to irrigate the farm. The well serving appropriation right no. 3171 and 7238 was replaced in 1997 and has a water flow meter attached to it. The second well serving appropriation right no. 4840 and 7238 is still in use and has no water meter. The Chief Engineer of the Division of Water Resources has not ordered the applicant to place a meter on well number 2.

8. The appropriation rights allow the applicant or his tenant to cover the irrigable portion of the farm with over 3,000 acre feet of water.

9. Since the receipt of the above mentioned appropriation rights, the farmers have irrigated the farm using flood irrigation techniques. A portion of the farm was leveled to allow for the drainage of flood irrigation water. The water appropriated from the state drains to the middle of the farm and evaporates. The flood irrigation farming was the most efficient method

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of irrigation available to the farmers when they obtained the water appropriation in the 1950's. Flood irrigation farming is no longer the most efficient method of irrigation.

10. The farmers were also businessmen that owned the local lumber yard and real estate businesses. Between 1954 and 1979 the farmers subdivided the west edge of the farm by selling off 22 lots to homeowners whose property was annexed by the City of Rossville. The farmers failed to reserve the agricultural appropriation rights for the houses which were sold to the homeowners.

11. The homeowners receive domestic residential water service from the City of Rossville. The homeowners have not used, and cannot use, the agricultural water appropriation of Water Appropriation No. 3171 and 4840.

12. Between 1976 and 1980 the farmers subdivided the northeast edge of the farm by selling off three lots to homeowners who remain residents of Shawnee County, Kansas. There are no agricultural water appropriations to the homeowners of the three lots.

13. The farmers have allowed the homeowners of the three lots to pump water from the farm for domestic use. The applicant does not want to change the domestic water appropriation of the three homeowners.

14. The farmers continued to use the water appropriation by irrigating the farm until the farm was leased to a tenant. The tenant continues to use the water appropriation by irrigating the farm by flood irrigation techniques.

15. The applicant and the tenant desire to more efficiently use the water resources of the State of Kansas to irrigate the farm using a center pivot form of irrigation. By using a pivot irrigation system, the applicant and the tenant expect to use less water on more land to grow more crops.

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## LAW

16. K.S.A. 82a-707(a) states: **“Principles governing appropriations; priorities.** (a) Surface or groundwaters of the state may be appropriated as herein provided. Such appropriation shall not constitute ownership of such water, and appropriation rights shall remain subject to the principle of beneficial use.”

17. The State of Kansas is the owner of the groundwater of this state. Landowners do not own the water running onto or under their land. Groundwater in Kansas is appropriated by the State of Kansas, through the Department of Agriculture, Department of Water Resources by the Chief Engineer subject to the principal of beneficial use.

18. The Chief Engineer found the most beneficial use of the water resources of this state is the irrigation of crops and has issued appropriation numbers 3171, 4840 and 7238 to the applicant for irrigation purposes.

19. The homeowners are not using the groundwater subject to the principal of beneficial use.

20. K.S.A. 82a-707(b) states:

The date of priority of every water right of every kind, and not the purpose of use, determines the right to divert and use water at any time when the supply is not sufficient to satisfy all water rights. Where lawful uses of water have the same date of priority, such uses shall have priority in the following order of preference: Domestic, municipal, irrigation, industrial, recreational and water power uses. The holder of a water right for an inferior beneficial use of water shall not be deprived of the use of the water either temporarily or permanently as long as such holder is making proper use of it under the terms and conditions of such holder's water right and the laws of this state, other than through condemnation.

21. The applicant has priority over the use of the water because of the date of priority of the water appropriations, specifically December 6, 1954; December 5, 1955 and April 3, 1957.

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22. The applicant has priority over the use of the water because the use of the water is for irrigation. The water appropriation of the homeowners is not being used at all. The homeowners receive their domestic water from the City of Rossville.

23. The water appropriation was issued for irrigation. The tenant and applicant are using the water appropriation for irrigation. The homeowners are not using the water right for irrigation.

24. The rules and regulations of the Kansas Department of Agriculture, Division of Water Resources prohibits the moving of a water appropriation more than one-half mile.

25. K.S.A. 82a-1904 states:

**Same; exemption from or waiver of rule and regulation.** The chief engineer of the division of water resources of the Kansas department of agriculture, for good cause shown, may grant an exemption from or waiver of a rule and regulation adopted by the chief engineer if the chief engineer determines that the exemption or waiver will not prejudicially or unreasonably affect the public interest and will not impair any existing water right. The exemption or waiver shall be in writing and shall include the reason for the exemption or waiver.

26. The Kansas Legislature allows the Chief Engineer to waive a regulation where the waiver will not affect the public interest or impair and existing water right.

27. The public interest will be served by allowing the holder of the water appropriation to irrigate the farm by a pivot system and not a flood irrigation system.

28. The public interest will be served by allowing one well to serve water to appropriation numbers 3171; 4840 and 7238.

WHEREUPON, the applicant and the tenant request:

1. A finding of fact the homeowners are not using the agricultural irrigation water appropriation underlying the homeowners homes.

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2. A finding of fact irrigation is the beneficial use of the groundwater which is allocated to numbers 3171; 4840 and 7238.

3. The agricultural irrigation water appropriation underlying the homeowner's property be reallocated to allow irrigation upon the farm owned by the applicant and farmed by the tenant. Stated another way, have the Department of Agriculture change the water place of use to more efficiently irrigate the farm.

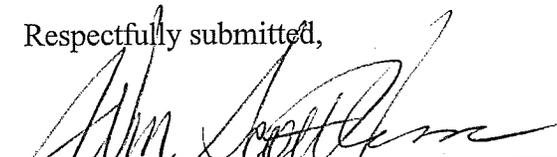
4. A waiver by the Chief Engineer of the regulation that an appropriation right may not be moved more than one mile.

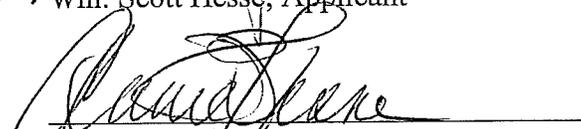
5. Permission to pump water from well number one to all property covered by appropriation number 3171, 4840 and 7238 and property owned by the applicant that is not covered by appropriation number 3171, 4840 and 7238.

6. Any other relief "subject to the principal of beneficial use."

7. In the alternative, a permit to drill a new well within three hundred feet of the existing well to allow the parties the continue irrigation as it is currently constituted.

Respectfully submitted,

  
\_\_\_\_\_  
Wm. Scott Hesse, Applicant

  
\_\_\_\_\_  
Anne B. Hesse, Applicant

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Wm. Scott Hesse  
8038 SW Huntoon  
Topeka, KS 66615  
785 554 5440 Cell  
wm\_scott\_hesse@cox.net

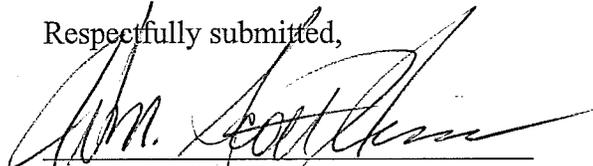
BEFORE THE KANSAS DEPARTMENT OF AGRICULTURE

In the Matter of the Application }  
Of Wm. Scott Hesse to Change the Place }  
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REQUEST FOR HEARING

COMES NOW, the applicant, Wm. Scott Hesse, to request a hearing on his application for a ground water change of place of use and/or point of diversion for Water Right Numbers 3171, 4840 and 7238.

Respectfully submitted,

  
\_\_\_\_\_  
Wm. Scott Hesse

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Submit completed application to:  
 Kansas Department of Agriculture  
 Division of Water Resources  
 Field Office for your area.  
 Call for address:  
 Topeka -- (785) 296-5733  
 Stafford -- (620) 234-5311  
 Stockton -- (785) 425-6787  
 Garden City -- (620) 276-2901  
<http://agriculture.ks.gov/dwr>

## DWR FIELD OFFICE APPLICATION FOR APPROVAL TO CHANGE THE PLACE OF USE AND/OR THE POINT OF DIVERSION



STATE OF KANSAS

Filing Fee Must Accompany the Application, K.S.A. 82a-708b(b), as amended.  
 Fee Schedule is on the third page of this application form.

Paragraph Nos. 1, 2, 3 & 5 must be completed. Complete all other applicable portions. If change in point of diversion is greater than 100 feet, or if place of use will be changed, include a topographic map or detailed plat showing the authorized and proposed point(s) of diversion and/or place of use.

File No. 4840

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 KS DEPT OF AGRICULTURE

1. Application is hereby made for approval of the Chief Engineer to change the (check one or both):
- Place of Use                       Point of Diversion
- under the water right which is the subject of this application in accordance with the conditions described below.
- The source of supply is:                       Groundwater                       Surface water

2. Name and address of Applicant: SCOTT HESSE

8038 SW HUNTOON TOPEKA KS 66615

Phone Number: (     )                      Email address: \_\_\_\_\_

Name and address of Water Use Correspondent: HOWARD F & RHONDA S PARR

13630 NW CARTER RD ROSSVILLE KS 66533

Phone Number: (785)845-9092                      Email address: \_\_\_\_\_

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 DEC 03 2014  
 4:10 PM  
 TOPEKA FIELD OFFICE  
 DIVISION OF WATER RESOURCES

3. The presently authorized place of use is:
- Owner of Land ---- NAME: \_\_\_\_\_
- ADDRESS: \_\_\_\_\_
- (If there is more than one landowner, attach supplemental sheets as necessary.)

Sec.	Twp.	Range	NE¼				NW¼				SW¼				SE¼				TOTAL ACRES
			NE¼	NW¼	SW¼	SE¼													

4. If this application is for a change in place of use, it is proposed that the place of use be changed to:
- Owner of Land ---- NAME: Scott Hesse
- ADDRESS: 8038 SW Huntoon, Topeka, KS, 66615
- (If there is more than one landowner, attach supplemental sheets as necessary.)

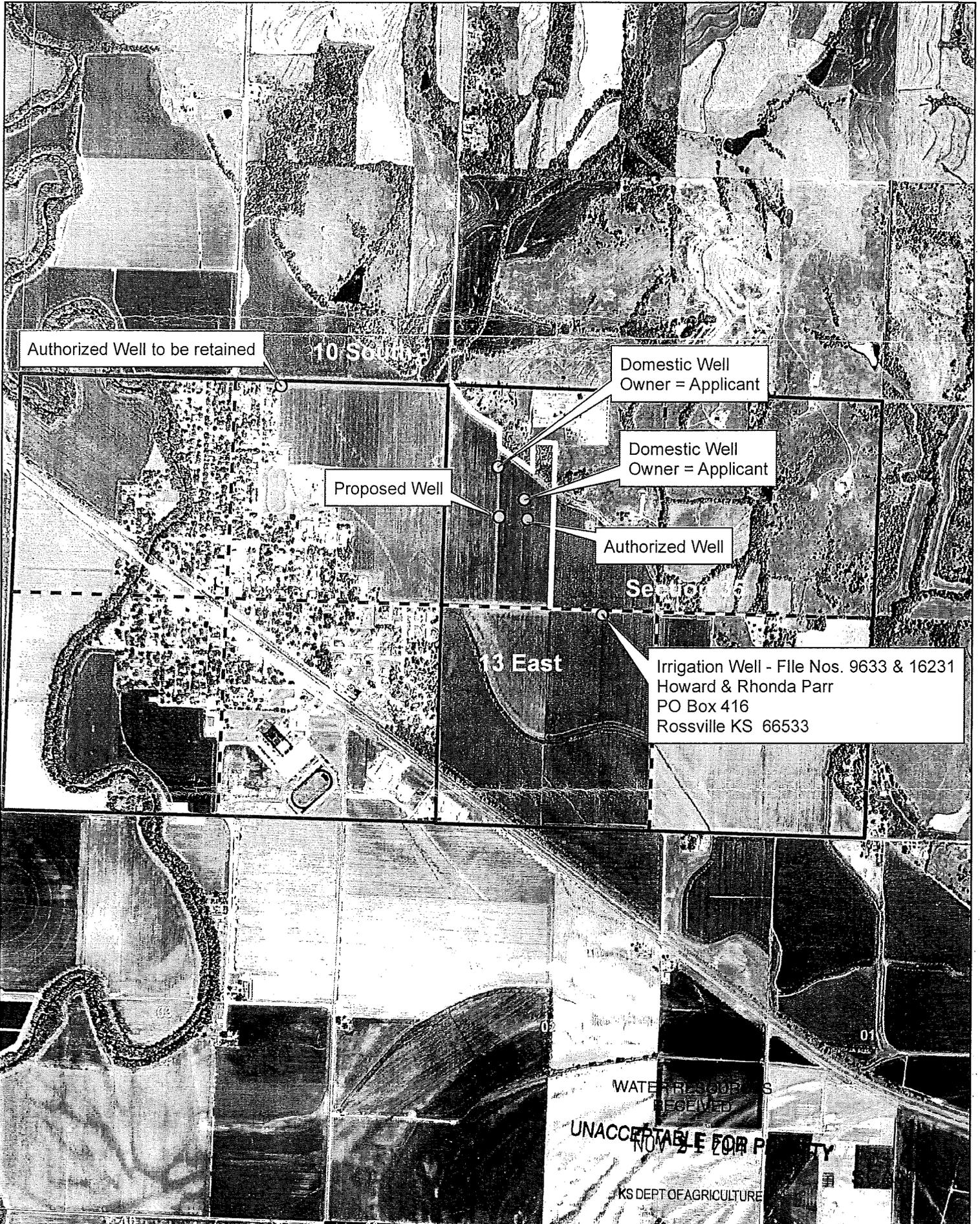
Sec.	Twp.	Range	NE¼				NW¼				SW¼				SE¼				TOTAL ACRES
			NE¼	NW¼	SW¼	SE¼													

For Office Use Only: Code C-2 Fee \$ 400 TR # 15017338 Receipt Date 12/3/14 Check # 1055

*FOI NO GMD IRP SNC.*

*12/11/2014 LLM*

# 1:18,000 Application to Change the Point of Diversion File No. 7238



# 1:18,000 Application to Change the Point of Diversion File No. 4840



14. If the proposed groundwater point of diversion is 300 or fewer feet from existing point of diversion, complete the following:

- (a) Does the undersigned represent all owners of the currently authorized place(s) of use identified in this application?  
 Yes     No    (If no, all owners must sign this application.)
- (b) Will the ownership interest of any owner of the currently authorized place(s) of use identified in this application be adversely affected if this application is approved as requested?  
 Yes     No    (If yes, all owners must sign this application.)
- (c) If this application is not approved expeditiously, will there be substantial damage to property, public health or safety?  
 Yes     No    (If no, all owners must sign this application.)

If the application proposes a surface water change in point of diversion, a groundwater change in point of diversion greater than 300 feet, or a change in place of use, the application must be signed by all owners of the currently authorized place of use, or their duly authorized agent (attach notarized statement authorizing representation).

I hereby verify, being first duly sworn upon my oath or affirmation and under penalty of perjury, that I am of lawful age and the owner, the spouse of the owner, or a duly authorized agent of the owner(s) to make this application on their behalf, in regard to the water right(s) to which this application pertains. I further verify that the statements contained in this application are true, correct and complete.

Dated at Topeka, Kansas, this 18 day of November, 2014.

[Signature]  
 \_\_\_\_\_  
 (Owner)  
Wm. Scott Hesse  
 \_\_\_\_\_  
 (Please Print)

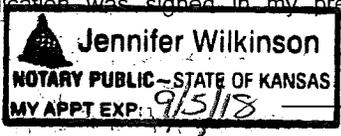
[Signature]  
 \_\_\_\_\_  
 (Spouse)  
ANCE B. HESSE  
 \_\_\_\_\_  
 (Please Print)

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

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

State of Kansas }  
County of \_\_\_\_\_ } SS

I hereby certify that the foregoing application was signed in my presence and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.



[Signature]  
 \_\_\_\_\_  
 Notary Public

My Commission Expires 9/5/18

ONLY COMPLETE APPLICATIONS WILL BE PROCESSED. To be complete, all of the applicable portions of the application form must be completed with accurate information; maps, if necessary, must be included; signatures of all the appropriate owners' must be affixed to the application and notarized; and the appropriate fee must be paid.

**FEE SCHEDULE**

Each application to change the place of use or the point of diversion under this section shall be accompanied by the application fee set forth in the schedule below: Make checks payable to: Kansas Department of Agriculture

- (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

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 NOV 21 2014  
 File No. 7238

## SCHEDULE A

### *First American Title Insurance Company*

Name and Address of Title Insurance Company:  
First American Title Insurance Company  
1 First American Way  
Santa Ana, CA 92707

File No.: **1286743**

Policy No.: **OP 1286743**

Address Reference: N/A, N/A

Amount of Insurance: \$762,600.00

Date of Policy: November 16, 2012 at 11:49:44 A.M.

1. Name of Insured:

Wm. Scott Hesse

2. The estate or interest in the Land that is insured by this policy is:

Fee Simple

3. Title is vested in:

Wm. Scott Hesse

4. The Land referred to in this policy is described as follows:

TRACT 1: Lot 3, less the South 66 feet thereof, Block B, Hesse Subdivision No. 1 in the City of Rossville, Shawnee County, Kansas;

TRACT 2: A tract of land located in the West half of the Northeast Quarter of Section 34, Township 10 South, Range 13 East of the 6th P.M., in Shawnee County, Kansas, more particularly described as follows: Commencing at the Northwest corner of the Northeast Quarter of said Section 34; thence East coincident with the North line of said Quarter Section, 517.90 feet to the Northeast corner of Hesse Subdivision No. 1, City of Rossville, Kansas; said point being the point of beginning; thence continuing East coincident with the North line of said Quarter Section to the East line of the West half of said Northeast Quarter Section; thence South coincident with the said East line to the South line of the North half of the South half of the Northwest Quarter of said Northeast Quarter; thence West coincident with last said South line to the Southeast corner of Hesse Subdivision No. 1; thence North coincident with the East line of said Subdivision to the point of beginning;

Less the following:

Part of the Northwest Quarter of the Northeast Quarter of Section 34, Township 10 South, Range 13 East of the 6th P.M., Shawnee County, Kansas, described as follows: Beginning at the Southeast corner of said Lot 2, Block E, Hesse Subdivision No. 1 as platted in said Northeast Quarter; thence North 0 degrees 52 minutes 17 seconds West 125.12 feet along the East line of said Lot 2 to the Northeast corner thereof; thence North 89 degrees 07 minutes 43 seconds East 150.00 feet; thence South 0 degrees 52 minutes 17 seconds East 125.12 feet; thence South 89 degrees 07 minutes 43 seconds West, 150.00 feet to the point of beginning,

And Less:

Part of the Northwest Quarter of the Northeast Quarter of Section 34, Township 10 South, Range 13 East of the 6th P.M., Shawnee County, Kansas, described as follows: Beginning at the Northeast corner of Lot 2, Block E, Hesse Subdivision No. 1 as platted in said Northeast Quarter; thence North 0 degree 32 minutes 35 seconds West, 60.00 feet to the Southeast corner of Lot 1,

A tract of land described as follows: Commencing at the Southwest corner of the East half of said Quarter; thence North coincident with the West line of the East half of said Quarter, 264 feet to the point of beginning; thence continuing North coincident with last said course, 396.00 feet; thence East 165 feet; thence South 396 feet; thence West 165 feet to the point of beginning;  
AND EXCEPT:

A tract of land described as follows: Commencing at the Southwest corner of the East half of said Quarter; thence North coincident with the West line of the East half of said Quarter, 660 feet to the point of beginning; thence continuing North coincident with last said course, 264 feet; thence East 165 feet; thence South 264 feet; thence West 165 feet to the point of beginning;  
AND ALSO EXCEPT:

A tract of land described as follows: Commencing at the Southwest corner of the East half of said Quarter; thence East coincident with the South line of said Quarter, 165 feet to the point of beginning; thence North 264 feet parallel to the West line of said East half; thence East 12 feet; thence South 85 feet; thence East 120 feet; thence South 179 feet to the South line of said Quarter; thence West coincident with the South line of said Quarter 132 feet to the point of beginning;

AND ALSO EXCEPT:

A Tract of land described as follows: Commencing at the Southwest corner of said East half; thence East coincident with the South line of said Quarter, 297 feet to the point of beginning; thence North parallel to the West line of said East half, 179 feet; thence West parallel to the South line of said Quarter, 120 feet; thence North 85 feet; thence West 12 feet; thence North 46 feet; thence East 240 feet; thence South 310 feet; to the South line of said Quarter; thence West 108 feet coincident with the South line of said Quarter to the point of beginning;

AND ALSO EXCEPT:

A tract of land described as follows: Commencing at the Southwest corner of said East half; thence East coincident with the South line of said Quarter, 405 feet to the point of beginning; thence North parallel to the West line of said East half, 310 feet; thence East parallel to the South line of said Quarter, 140.00 feet; thence South 310 feet to the South line of said Quarter; thence West coincident with the South line of said Quarter, 140 feet to the point of beginning.

## SCHEDULE A

### *First American Title Insurance Company*

Name and Address of Title Insurance Company:  
First American Title Insurance Company  
1 First American Way  
Santa Ana, CA 92707

File No.: **1286743**

Policy No.: **OP 1286743**

Address Reference: N/A, N/A

Amount of Insurance: \$762,600.00

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Fee Simple

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Less the following:

Part of the Northwest Quarter of the Northeast Quarter of Section 34, Township 10 South, Range 13 East of the 6th P.M., Shawnee County, Kansas, described as follows: Beginning at the Southeast corner of said Lot 2, Block E, Hesse Subdivision No. 1 as platted in said Northeast Quarter; thence North 0 degrees 52 minutes 17 seconds West 125.12 feet along the East line of said Lot 2 to the Northeast corner thereof; thence North 89 degrees 07 minutes 43 seconds East 150.00 feet; thence South 0 degrees 52 minutes 17 seconds East 125.12 feet; thence South 89 degrees 07 minutes 43 seconds West, 150.00 feet to the point of beginning,

And Less:

Part of the Northwest Quarter of the Northeast Quarter of Section 34, Township 10 South, Range 13 East of the 6th P.M., Shawnee County, Kansas, described as follows: Beginning at the Northeast corner of Lot 2, Block E, Hesse Subdivision No. 1 as platted in said Northeast Quarter; thence North 0 degree 32 minutes 35 seconds West, 60.00 feet to the Southeast corner of Lot 1,

Block D, Hesse Subdivision No. 1; thence North 89 degrees 07 minutes 43 seconds East 149.66 feet; thence South 0 degrees 52 minutes 17 seconds East 60.00 feet; thence South 89 degrees 07 minutes 43 seconds West, 150.00 feet to the point of beginning.

TRACT 3: The West half of the Northwest Quarter of Section 35, Township 10 South, Range 13 East of the 6th P.M., Shawnee County, Kansas;

EXCEPT:

A tract of land described as follows: Beginning at the Northeast corner of the West half of said Northwest Quarter; thence South coincident with the East line of the West half of said Quarter Section, 330 feet; thence West 264.00 feet; thence North 330.00 feet to the North line of said Quarter Section; thence East coincident with the North line of said Quarter Section 264 feet to the point of beginning;

AND ALSO EXCEPT:

A tract of land described as follows: Commencing at the Northeast corner of the West half of said Northwest Quarter; thence south coincident with the East line of the West half of said Quarter Section, 330 feet to the point of beginning, said point being the Northeast corner of Stanley Addition to Rossville Cemetary; thence continuing South coincident with last said course 330 feet; thence West coincident with the South line of Stanley Addition, 264 feet; thence North coincident with the West line of Stanley Addition, 330 feet; thence East coincident with the North line of Stanley Addition, 264 feet to the point of beginning;

AND ALSO EXCEPT:

A tract of land described as follows: Commencing at the Northwest corner of the Northwest Quarter of Section 35, Township 10 South, Range 13 East of the 6th P.M. Shawnee County, Kansas; thence on Az 90 degrees 00 minutes 00 seconds, 846.27 feet along the North line of the Northwest Quarter of said Section 35 to the point of beginning; thence continuing on Az 90 degrees 00 minutes 00 seconds, 210.00 feet along said North line; thence on Az 180 degrees 00 minutes 00 seconds, 874.00 feet; thence on Az 299 degrees 19 minutes 55 seconds, 240.88 feet; thence on Az 360 degrees 00 minutes 00 seconds, 756.00 feet to the point of beginning;

AND EXCEPT:

A tract of land described as follows: Commencing at the Northwest corner of the Northwest Quarter of Section 35, Township 10 South, Range 13 East of the 6th P.M., Shawnee County, Kansas; thence on Az 90 degrees 00 minutes 00 seconds, 590.23 feet along the North line of the Northwest Quarter of said Section 35 to the point of beginning; thence continuing on Az 90 degrees 00 minutes 00 seconds, 256.04 feet along said North line; thence on Az 180 degrees 00 minutes 00 seconds, 756.00 feet; thence on Az 299 degrees 19 minutes 55 seconds, 169.00 feet; thence on Az 347 degrees 55 minutes 01 seconds, 199.24 feet; thence on Az 300 degrees 36 minutes 37 seconds, 77.85 feet; thence on Az 360 degrees 00 minutes 00 seconds, 438.75 feet to the point of beginning, more or less, including road right of way;

AND ALSO EXCEPT:

A Tract of land described as follows: Commencing at the Northwest corner of the Northwest Quarter of said Section 35; thence East coincident with the North line of said Northwest Quarter Section, 100 feet to the point of beginning; thence continuing on North 90 degrees 00 minutes 00 seconds East coincident with the North line of said Northwest Quarter, 490.23 feet; thence South 00 degrees 00 minutes 00 seconds East, 438.75 feet; thence North 62 degrees 05 minutes 07 seconds West, 180.43 feet; thence North 53 degrees 56 minutes 09 seconds West 193.43 feet; thence North 35 degrees 57 minutes 35 seconds West, 296.97 feet to the point of beginning.

TRACT 4: The East half of the Northeast Quarter of Section 34, Township 10 South, Range 13 East of 6th P.M., in Shawnee County, Kansas,

EXCEPT:

A tract of land described as follows: Beginning at the Southwest corner of the East half of said Northeast Quarter; thence North coincident with the West line of the East half of said Quarter, 264 feet; thence East 165 feet; thence South 264 feet to the South line of said Quarter Section; thence West coincident with the South line of said Quarter, 165 feet to the point of beginning;

AND EXCEPT:

SCANNED



1320 Research Park Drive  
Manhattan, Kansas 66502  
Jackie McClaskey, Secretary

Phone: (785) 564-6700  
Fax: (785) 564-6777  
Email: ksag@kda.ks.gov  
www.agriculture.ks.gov  
Sam Brownback, Governor

December 11, 2014

SCOTT HESSE  
8038 SW HUNTOON  
TOPEKA KS 66615

RE: File No. 4840

Dear Sir or Madam:

An application for approval of the Chief Engineer to change the following condition or conditions of the file number referred to above has been received:

- place of use PU/PD
- point of diversion
- use made of water

As a matter of record, the Division of Water Resources has on hand a large number of applications awaiting processing. Therefore to be fair to all concerned, and so that we can process those applications on hand in the order they were received, we intend to concentrate on the backlog of applications until the issue is resolved. You will be contacted regarding this application as soon as it has been examined.

In accordance with the provisions of the Kansas Water Appropriation Act, a portion of which is included below, the use of water prior to approval of the application is unlawful. You should not proceed and divert water as indicated by your plans in your application for a change for this file until you receive approval for this change from the Chief Engineer. Once approved, compliance with the terms, conditions and limitations of the permit is necessary. Conservation of the water resources of Kansas is required.

**Section 82a-728 of the Kansas Water Appropriation Act, provides (a) except for the appropriation of water for the purpose of domestic use, . . . it shall be unlawful for any person to appropriate or threaten to appropriate water from any source without first applying for and obtaining a permit to appropriate water in accordance with the provisions of the Water Appropriation Act or for any person to violate any condition of a vested right, appropriation right or an approved application for a permit to appropriate water for beneficial use.**

**(b) (1) The violation of any provision of this section by any person is a class C misdemeanor...**

**A class C misdemeanor is punishable by a fine not to exceed \$500 and/or a term of confinement not to exceed one month in the county jail. Each day that the violation occurs constitutes a separate offense.**

If you have any questions, please contact me at (785) 564-6645. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

Brent A Turney, L.G.  
Change Applications Unit Supervisor  
Water Appropriation Program

BAT: al  
pc: Topeka Field Office

SCANNED