



Garden City Field Office
2508 Johns Street
Garden City, Kansas 67846-2804
Jackie McClaskey, Secretary
David W. Barfield, Chief Engineer
Michael A. Meyer, Water Commissioner

Phone: (620) 276-2901
Fax: (620) 276-9315
www.agriculture.ks.gov
Sam Brownback, Governor

December 21, 2016

REX A BROWN
PO BOX 250
SUBLETTE KS 67877-9753

RE: Change in Point of Diversion Water Right, File No 11104 D1,
11104 D3

Dear Mr. Brown:

Enclosed you will find a *Summary Order Approving Application for Change in Point of Diversion* for the above referenced file. This order modifies the authorized well location under the referenced file. This order modifies the original document; it should be recorded at the County Register of Deeds.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in this order. The diversion works should be completed and reported to the Division of Water Resources by **December 31, 2017**. Enclosed is a form for this purpose, along with other information for reference.

A condition of this order is that an acceptable flow meter must be properly installed on the diversion works authorized under the referenced file number in accordance with the Kansas Administrative Regulations 5-1-4 through 5-1-12. This water flow meter shall be used to provide information required on the annual water use report.

This order shall become final if a request for a hearing is not filed with the Chief Engineer within 15 days of the date of service of this order. The date of service is the date listed on the enclosed *Certificate of Service*.

Should you have any questions, please feel free to call this office. If you would prefer, you could arrange an appointment for additional assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas P. Makens".

Thomas P. Makens
Assistant Water Commissioner

TPM:tpm
Enclosures
GMD#3

CERTIFICATE OF SERVICE

On this 21 day of December 2016, I hereby certify that the attached original Approval of Application to Change the Point of Diversion under Water Right, File No. 11104D1, 11104 D3 dated December 21, 2016 was mailed postage prepaid, first class, US mail to the following:

REX A BROWN
PO BOX 250
SUBLETTE KS 67877-9753

Copy provided to GMD#3



Division of Water Resources

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. 11104 D1

RECEIVED
 10:15 AM
 MAR 18 2016

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

Place of Use Point of Diversion

Garden City Field Office
 Division of Water Resources

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: REX A BROWN

PO BOX 250 SUBLETTE KS 67877-9753

Phone Number: () _____ Email address: _____

Name and address of Water Use Correspondent: _____

PO BOX 250 SUBLETTE KS 67877-9753

Phone Number: () _____ Email address: _____

3. The presently authorized place of use is:

Owner of Land ---- NAME: Tice Cattle Inc; RHONDA J BROWN CHILDRENS TRUST

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	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	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: No Current

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	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼				

For Office Use Only: Code _____ Fee \$ 200 TR # _____ Receipt Date 3/18/16 Check # 1250

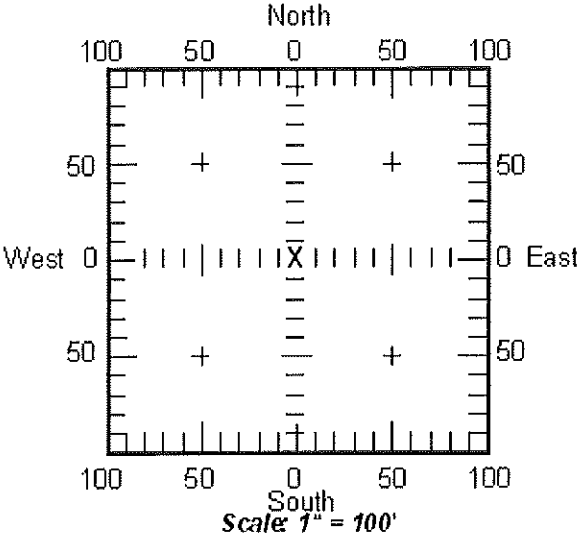
5. **Presently authorized point of diversion:**
 One in the nw Quarter of the nw Quarter of the ne Quarter
 of Section 25 , Township 28 South, Range 33 W,
 in Haskell County, Kansas, 5176 feet North 2573 feet West of Southeast corner of section.
 Authorized Rate _____ Authorized Quantity _____ Depth of well _____ (feet)
 (DWR use only: Computer ID No. 1 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) * TPM New Test
 One in the nw NE Quarter of the nw NE Quarter of the nw NW Quarter
 of Section 25 , Township 5176 28 2024 South, Range 33 W,
 in Haskell County, Kansas, 4716 feet North 5080 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 _____

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? _____
current well no longer producing

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.)

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



9. When do you propose to complete the new point of diversion?
August 15, 2016

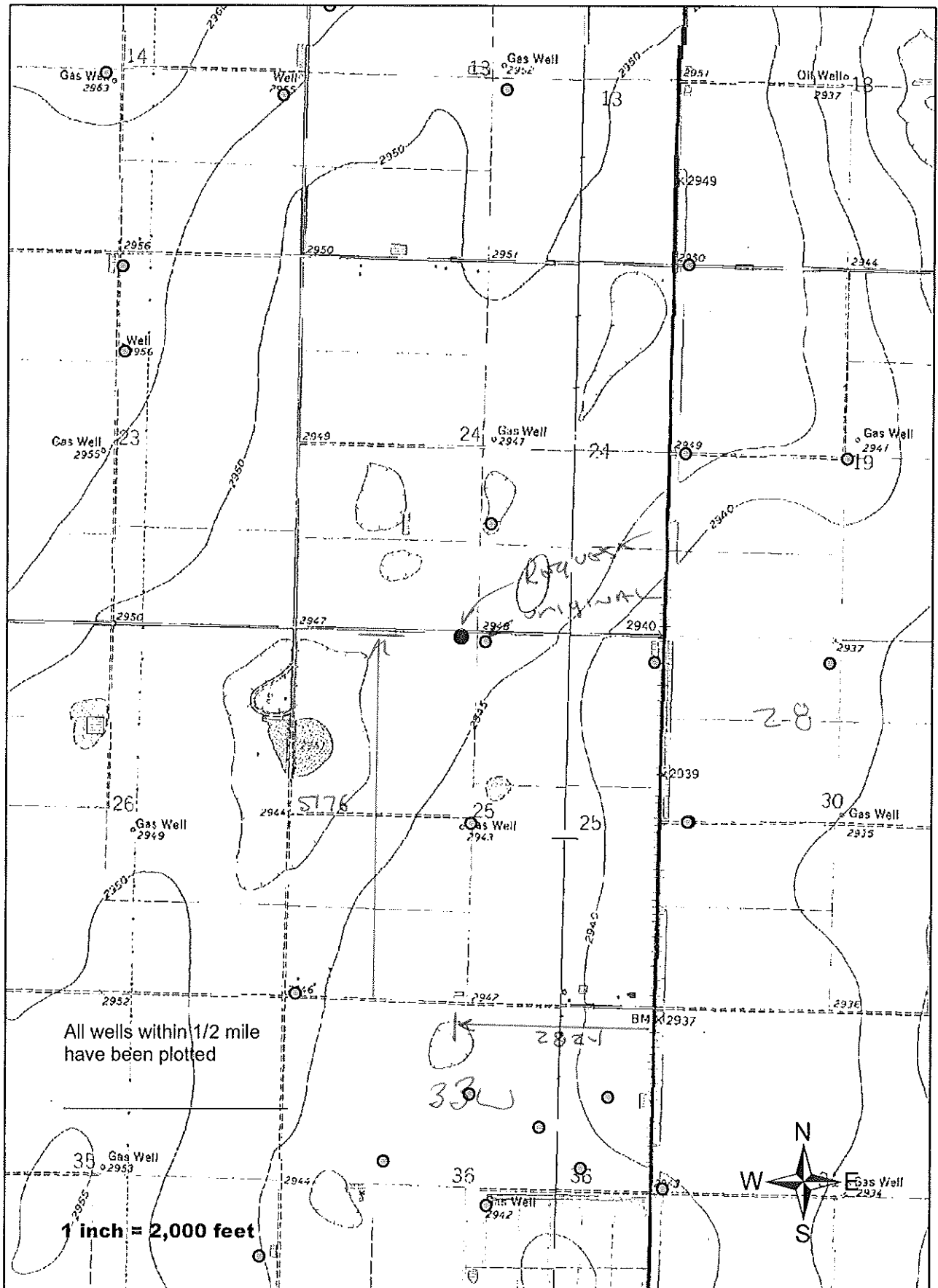
10. If the point of diversion is a well:
 (a) What are you going to do with the old well?
Plug
 (b) When will this be done? aug 2016

11. Groundwater Management District recommendation attached? Yes No

12. Assisted by tpm

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.

11104



I hereby certify that this instrument is a true and correct copy of the original as purported.
Dated at Garden City, Kansas this 21 day of November, 2016

File No. 11104 01

J. R. [Signature]
DIVISION OF WATER RESOURCES
KANSAS DEPARTMENT OF AGRICULTURE

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 Salina, Kansas, this 18th day of March, 2016

[Signature]
(Owner)

(Spouse)

Roy N. Brown Trustee of the
Rhonda J. Brown Children's Trust
(Please Print)

(Please Print)

(Owner)

(Spouse)

(Please Print)

(Please Print)

(Owner)

(Spouse)

(Please Print)

(Please Print)

(Owner)

(Spouse)

(Please Print)

(Please Print)

State of Kansas }
County of Haskell } SS

I hereby certify that the foregoing application was signed in my presence and sworn to before me this 18th day of March, 2016.

Victoria J. [Signature]
Notary Public

My Commission Expires 6-28-2019

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.

RECEIVED

MAR 18 2016

Garden City Field Office
Division of Water Resources

SUMMARY ORDER APPROVING APPLICATION FOR CHANGE AND IMPOSING CONDITIONS

This Summary Order is issued under authority of K.S.A. 82a-708b, as amended, and K.A.R. 5-14-3 and other applicable provisions of the *Kansas Water Appropriation Law*, K.S.A. 82a-701 et. seq., and rules and regulations promulgated thereunder, K.A.R. 5-1-1 et. seq. With the exception of those conditions expressly contained herein, this Summary Order does not change the terms, conditions and limitations of File No. 11104 D1.

- 1. A change application was received on March 18, 2016 requesting that the place of use and / or point of diversion authorized under the above-referenced file number be changed as described in the application.
- 2. On and after the effective date of this summary order, the authorized place(s) of use shall be located substantially as shown on the topographic map accompanying the application to change the place of use. Applicable Not Applicable
- 3. The change in point of diversion shall not impair existing rights and shall be limited to the same source or sources of water as previously authorized. The point of diversion authorized by this summary order shall be located within a 300 foot radius of the authorized point(s) of diversion. Applicable Not Applicable
- 4. The point(s) of diversion authorized herein shall not actually be located more than _____ feet from the previously authorized point(s) of diversion. Applicable Not Applicable
- 5. As required by K.A.R. 5-3-5d, if the works for diversion is a well with a diversion rate of 100 gallons per minute or more, a tube or other device suitable for making water level measurements shall be installed, operated and maintained in accordance with K.A.R. 5-6-13. Applicable Not Applicable
- 6. The owner of the authorized place(s) of use shall properly install an acceptable water flow meter on or before December 31, 2017, or before the first use of water, whichever occurs first. The water flow meter shall be installed, operated and maintained in accordance with K.A.R. 5-1-4 through 5-1-12. As required by K.S.A. 82a-732, as amended, and K.A.R. 5-3-5e, the owner shall maintain records and report the reading of the water flow meter and the total quantity of water diverted annually to the Chief Engineer by March 1 following the end of each calendar year. Applicable Not Applicable
- 7. Installation of the works for diversion of water shall be completed on or before December 31, 2017, or within any authorized extension of time. By March 1, 2018 the applicant shall notify the Chief Engineer that construction of the works for diversion has been completed, on the form provided by the Chief Engineer, as required by K.A.R. 5-8-4e. Applicable Not Applicable
- 8. The completed well log shall be submitted with the required notice. Applicable Not Applicable
- 9. All diversion works into which any type of chemical or other foreign substance will be injected into the water shall be equipped with an in-line, automatic, quick-closing check valve capable of preventing pollution of the source of the water supply. The check valve(s) shall be installed, operated and maintained in accordance with K.A.R. 5-3-5c. Applicable Not Applicable
- 10. Additional Conditions are attached. Yes No
- 11. In accordance with K.S.A. 82a-708a, as amended, and K.A.R. 5-5-14, all of the owners of the authorized place(s) of use of water appropriated under the above-referenced file number are responsible for compliance with its terms, conditions and limitations, as amended and/or supplemented by this Summary Order, and with applicable provisions of the *Kansas Water Appropriation Law* and the *Rules and Regulations* promulgated thereunder. Failure to comply with these provisions may result in civil penalties pursuant to K.S.A. 82a-737, as amended, and/or the suspension or revocation and dismissal of the water or appropriation right or any other enforcement actions authorized by law.

Administrative Appeal and Effective Date of Order

You have the right to a hearing in accordance with K.A.R. 5-14-3 before this Summary Order becomes final action of the Kansas Department of Agriculture. Any request for a hearing must be filed with the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, 1320 Research Park Drive, Topeka, Kansas 66502, within 15 days after the date shown on the Certificate of Service attached hereto. If a hearing is not requested in accordance with K.A.R. 5-14-3, this Summary Order will become effective on the 15th day after the date shown on the Certificate of Service.

For Use by Register of Deeds

FOR OFFICE USE ONLY
**APPLICATION APPROVED AND
SUMMARY ORDER ISSUED**

By: [Signature]
Duly Authorized Designee of the Chief Engineer

(Print Name): Thomas P Makens
Division of Water Resources - Kansas Department of Agriculture

Date of Issuance: December 21, 2016

State of Kansas)
County of Linney) SS

Acknowledged before me on December 21, 2016
by Thomas P. Makens

Signature: [Signature]
Notary Public



My commission expires: _____

(Notary Seal)

RECEIVED

DEC 20 2016

Garden City Field Office
Division of Water Resources

WELL LOG



DATE: 12/13/2016

CUSTOMER NAME: TICE CATTLE - REX BROWN

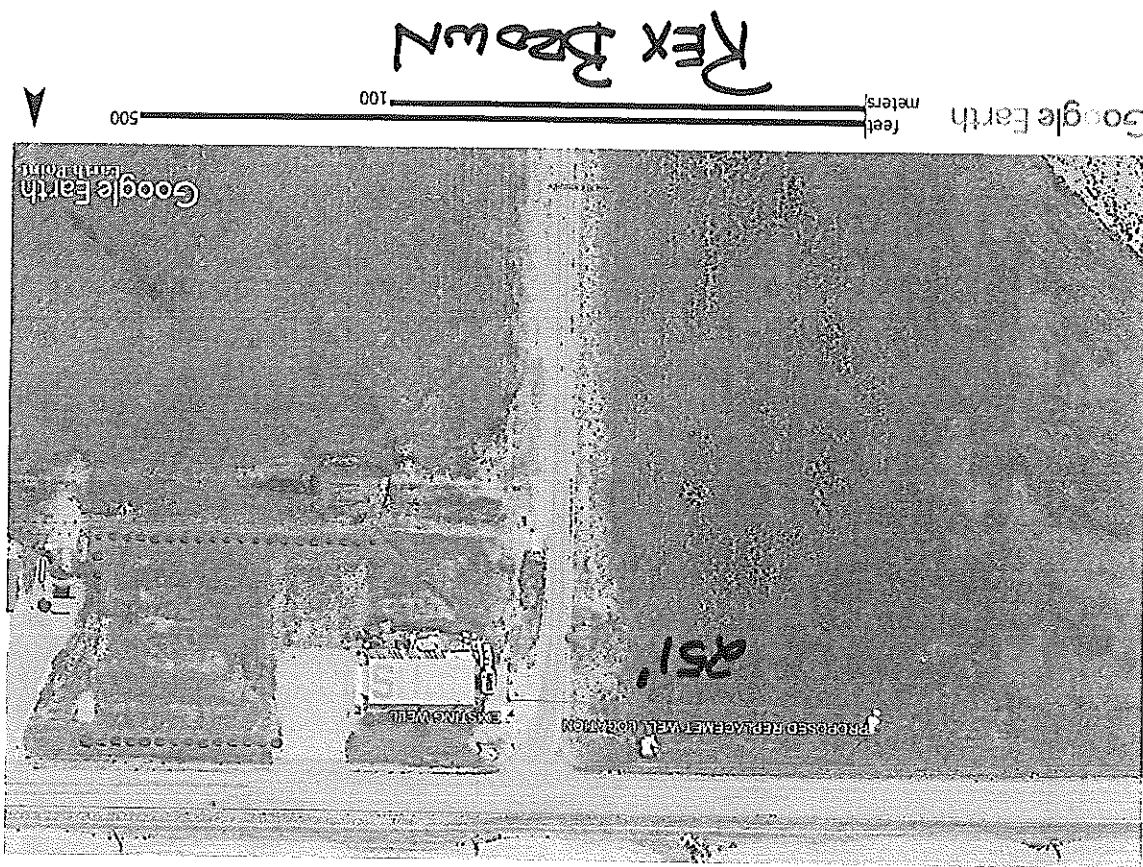
LEGAL: NE1W 25-28S-33W

COUNTY: HASKELL

GPS: 37 35' 28.1292' N

-100 52' 50.6424' W

T W	FROM	TO	TYPE	HARDNESS	COLOR	OTHER / DRILLING ACTION
	0	2	TOP SOIL AND SILT	SOFT	DARK	
	2	63	SANDY CLAY AND FINE SAND		BROWN	
	63	116	MEDIUM-COARSE-VERY COARSE SAND WITH FINE-TRACE OF MEDIUM GRAVEL			
	116	201	VERY COARSE SAND AND FINE-MEDIUM GRAVEL WITH COARSE GRAVEL			
	201	227	SANDY CLAY WITH SAND STRS			
	227	279	CLAY			
	279	286	MEDIUM-COARSE-VERY COARSE SAND WITH A TRACE OF FINE GRAVEL			
	286	290	SANDY CLAY			
	290	328	MEDIUM-COARSE-VERY COARSE SAND WITH FINE GRAVEL			
	328	350	CLAY			
	350	387	SANDY CLAY WITH VERY THIN SAND LENSES			
	387	393	MEDIUM-TRACE OF COARSE SAND			CHATTER
	393	408	SANDY CLAY WITH SAND LENSES			SMOOTHER
X	408	431	COARSE-VERY COARSE SAND AND FINE-TRACE OF MEDIUM GRAVEL			CHATTER
	431	451	SANDY CLAY WITH MEDIUM SAND LENSES			SMOOTHER
X	451	464	COARSE-VERY COARSE SAND AND FINE-TRACE OF MEDIUM GRAVEL			CHATTER
	464	468	SANDY CLAY			SMOOTHER
X	468	475	COARSE-VERY COARSE SAND AND FINE GRAVEL			CHATTER
	475	483	CLAY AND SANDY CLAY			
	483	510	SANDY CLAY WITH MEDIUM SAND LENSES			SLIGHT CHATTER
	510	536	SANDY CLAY			
X	536	545	MEDIUM-COARSE SAND			CHATTER
X	545	590	COARSE-VERY COARSE SAND, FINE-TRACE OF MEDIUM GRAVEL, AND BROWN ROCK			CHATTER
	590	611	CLAY AND SHALE			SMOOTH
X	611	638	FINE SAND WITH CLAY SHALE LAYERS			SLIGHT CHATTER
	638	686	CLAY AND SHALE			SMOOTH
X	686	696	FINE-MEDIUM-COARSE SAND (DAKOTA)			CHATTER / FAST
	696	734	CLAY AND SHALE			SMOOTH
X	734	755	FINE-MEDIUM SAND (DAKOTA)			CHATTER / FAST
	755	763	CLAY AND SHALE			SMOOTH





Garden City Field Office
2508 Johns Street
Garden City, Kansas 67846-2804
Jackie McClaskey, Secretary
David W. Barfield, Chief Engineer
Michael A. Meyer, Water Commissioner

Phone: (620) 276-2901
Fax: (620) 276-9315
www.agriculture.ks.gov
Sam Brownback, Governor

November 10, 2016

Southwest Kansas Groundwater
Management District No 3
409 Campus Drive, Suite 106
Garden City KS 67846

Re: Water Right file number 11104 D1 & D3

Dear Mr. Norquest;

Brown Family Trust has applied to relocate the well authorized by the above water right number. There are no neighboring wells within ½ mile of the requested.

We are delaying action for 15 days on the change application to allow you time to review and provide a recommendation if you feel one is warranted.

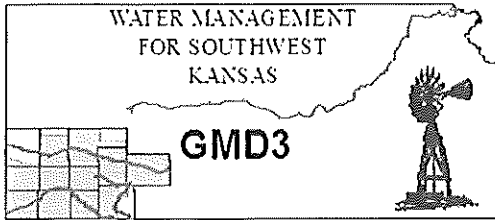
Thank you and as always feel free to call or write us at any time.

Sincerely;

A handwritten signature in black ink, appearing to read "T. P. Makens".

Thomas P Makens

TPM:tpm
enc



Southwest Kansas
Groundwater Management District No. 3
2009 E. Spruce Street
Garden City, Kansas 67846
(620) 275-7147 phone (620) 275-1431 fax
www.gmd3.org

November 17, 2016

Thomas P. Makens
Division of Water Resources
2508 N Johns Street
Garden City, Kansas 67846

RECEIVED

NOV 17 2016

Garden City Field Office
Division of Water Resources

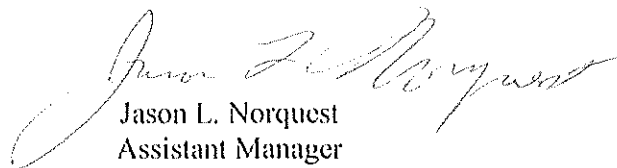
RE: Application for Change in Point of Diversion
Water Right, File Nos. 11,104 D1 & D3

Dear Thomas:

We have completed a review of the applications for the above referenced water rights. The proposals are not in conflict with the Management Program of the Southwest Kansas Groundwater Management District No. 3 (GMD3). The proposed distance moved and well spacing to neighboring wells is in accordance with K.A.R. 5-23-3. It is therefore recommended that the applications be approved at this time.

Thank you for the opportunity to review the applications and to provide a recommendation. If you have any questions, please don't hesitate to contact us.

Sincerely,


Jason L. Norquest
Assistant Manager

**AGREEMENT CONCERNING WATER RIGHT
FILE NO. 11,104-D1**

THIS AGREEMENT is made by and between the following parties:

Tice Cattle, Inc., having an address of HCR 1, Box 4, Sublette, Kansas 67877 (hereinafter referred to as the "Tice"); and,

Kent Ochs and Renee Ochs, husband and wife, having an address of ~~HCR 1, Box 15-D, Sublette, Kansas, 67877~~ (hereinafter referred to as "Ochs").

*P.O. Box 1021
K.O.
R.O.*

WHEREAS, the parties to this agreement desire to divide Appropriation Water Right File No. 11,104-D1;

NOW, THEREFORE, in consideration of the following recitals, promises, covenants, agreements, restrictions and grants, and for other good and valuable consideration, the parties agree as follows:

A. SUBJECT WATER RIGHT. The water right subject to this agreement is: Appropriation Water Right File No. 11,104-D1. Tice has previously transferred 100 g.p.m. and 75 acre-ft. to Clausen-Koch Corporation under File No. 11,104-D2.

B. PRE-AGREEMENT PLACE OF USE AND LAND OWNERSHIP. The place of use of the subject water rights, prior to the application of this agreement, and the ownership of such lands in Finney County, Kansas is as follows:

Pre-agreement Place of Use	Acreage	Owner
E/2 25-T28S-R33W, excluding Ochs' land	293.66	Tice
NE/4 25-T28S-R33W	2.0	Ochs

Tice has filed a change application for 11,104-D1, that is now pending, seeking to change the place of use to three center pivot circles: 120 acres in the NE/4, 120 acres in the SE/4 and 115 acres in the NW/4 of 25-T28S-R33W, excluding Ochs' land. Clausen-Koch owns water right file no. 11,104-D2 and has filed a change application for 11,104-D2, that is now pending, seeking to change the place of use to its facility in the SE/4 of 25-T28S-R33W, and to change the use from irrigation to industrial and the point of diversion to Clausen-Koch Corporation located in the SE/ of SE/4 of SE/4 of 25-T28S-R33W.

STATE OF KANSAS } ss 116.00
 FINNEY COUNTY }
 This instrument was filed for record
April 27 1999
 at 9:00 o'clock A. M and recorded in Vol. 146
 on page 886-891
Dijie Sutherland
 Register of Deeds



C. DIVERSION POINTS. As of the reference date the authorized point of diversion and the authorized rate and quantity for each point of diversion are as follows:

Id.	Well Location (S.-T.-R.)	Feet North	Feet West	Rate (g.p.m.)	Quantity (A.Ft.)
1	25-28-33	5,176	2,573	1,490*	565*

* Prior to the transfer to Clausen-Koch Corporation of file no. 11,104-D2, the authorized rate and quantity for File No. 11,104 was 1,590 g.p.m. and 1,590 acre-ft.

D. WELLS. Tice owns the well described as point of diversion Id. no. 1 in the preceding paragraph, (hereinafter referred to as the "Tice well"). Ochs owns a domestic water supply well located on Ochs' land, described as follows:

A tract of land in the Northeast Quarter (NE/4) of Section Twenty-five (25), Township Twenty-eight (28) South, Range Thirty-three (33) West of the Sixth P.M., Haskell County, Kansas, more particularly described as follows: Commencing at the Northwest corner of the said Northeast Quarter of Section 25, T28, R33, thence easterly along the North line of said quarter a distance of 59.0 feet, to the point of beginning, thence southerly and parallel with the West line of said quarter a distance of 175.0 feet, thence easterly and parallel with the North line of said quarter a distance of 497.83 feet, thence northerly and parallel to the said West line a distance of 175.0 feet, thence westerly 497.83 feet to the point of beginning. The above described tract contains 2.0 acres more or less,

hereinafter called "Ochs' Well".

E. REFERENCE DATE. The reference date of this agreement is January 1, 1999, without regard to the date of execution (hereinafter referred to as the "reference date").

F. DIVISION OF WATER RIGHT. The parties agree that subject to and conditioned on the approval of the Chief Engineer of the Division of Water Resources, Appropriation Water Right File No. 11,104-D1 shall be divided into Water Right File No. 11,104-D1 and Water Right File No. 11,104-D3 as follows:

1. **Appropriation Water Right 11,104-D1.** Appropriation Water Right File No. 11,104-D1 will be owned by Tice and will have the following attributes:

a. Point of Diversion. Water may be diverted from Tice's well as the point of diversion as follows:

Diversion Rate: Not be in excess of 1,480 gallons/minute, and
Annual Quantity: Not to exceed 563 acre-feet per calendar year;

b. Place of Use and Authorized Use: Subject to the approval of applications to change the place of use, the authorized place of use and use shall be the irrigation of Tice's lands described in paragraph B, above; and,

c. Priority: Priority Date: May 25, 1965.

2. Appropriation Water Right 11,104-D3. Appropriation Water Right File No. 11,104-D3 will be owned by Ochs and will have the following attributes :

a. Point of Diversion. Water may be diverted from Ochs's Well as the point of diversion as follows:

Diversion Rate: Not be in excess of 10 gallons/minute, and
Annual Quantity: Not to exceed 2.0 acre-feet (651,702 gal.) per calendar year;

b. Place of Use and Authorized Use: The authorized place of use and use shall be the irrigation of Ochs's lands described in paragraph B and D, above; and,

c. Priority: Priority Date: May 25, 1965.

G. CONSENT TO CHANGE OF PLACE OF USE. Ochs consent to the pending change applications of Tice and Clausen Koch Corporation, described in paragraph B.

H. PRIORITY OF RIGHTS. Water Right File No. 11,104-D1 and Water Right File No. 11,104-D3 shall be afforded identical priorities in time within the overall priority established under Water Right File No. 11,104-D1. No person owning a well authorized under the divided water rights under this agreement shall maintain a claim of impairment against any other owner of an authorized well under the divided water rights under this agreement, on the condition that such water rights are being lawfully exercised. Between and among the owners of the divided water right, should the operation of any one well under the divided water right ever be found to impair another water right not governed by this agreement, such impairment shall not be attributed to the other well under the water right divided under this agreement. Should any water right divided under this agreement, ever be lawfully be ordered to be reduced by an

authority having jurisdiction, all other water rights, sharing the same priority date under this agreement, shall be reduced ratably, in the same proportion.

I. SEPARATE OWNERSHIP. Any of the owners of each water right, separated as provided in this agreement, shall be free to change, alienate, transfer, encumber, convey or exchange such water right in any manner allowed by law, without any requirement or necessity for the joinder, consent or approval of the owners of other separate rights.

J. SEPARATE RESPONSIBILITIES AND INDEMNIFICATION. After the division of Water Right File No. 11,104-D1, each of the owners of the water rights separated under this agreement shall be separately responsible for submitting their own water use reports and any other administrative requirements for the water rights separated under this agreement.

K. GOOD STANDING. After the division of the water rights under this agreement, each of the owners of the separated water rights shall be responsible for maintaining the good standing of their separate water rights. Nonuse, or any other unauthorized act that jeopardizes good standing, of any separated water right shall not be attributed to another separated water right.

L. OTHER AGREEMENTS. Except as expressly stated herein, this agreement is not intended to and shall not be deemed to amend, substitute, terminate, rescind or in any manner alter any preexisting agreements between or among the parties or their predecessors, or the subject land, including but not limited to easements and landlord-tenant agreements.

M. TITLE. To the extent that each and every party to this agreement represents herein that the party owns any land or water rights, that are the subject matter of this agreement, each party warrants good and merchantable title to such land or water rights free and clear from any and all encumbrances, except and excluding oil and gas leases, easements and rights-of-way of record. If any of the subject land or water rights, herein described, are mortgaged or the subject of any unsatisfied lien, the owner of such land or water rights agrees to seek the consent of such mortgagee or lien holder to this agreement, using the owner's best efforts. With respect to the warranties of title made in this paragraph, each of the parties to this agreement agrees to indemnify and hold harmless all other parties to the agreement for all costs, liability and expense suffered by any other party for breach of warranty of title.

N. CONSTRUCTION AND SEVERABILITY. Paragraph headings are intended to be used for reference, and shall not be used in the construction of this agreement. If any part of this agreement shall be determined illegal, unlawful, unconstitutional or unenforceable, the specific paragraph or part hereof shall be

reformed to the extent necessary to make the same legal, lawful, constitutional and enforceable, within the intent and spirit of this agreement. If such specific part or paragraph is not capable of reformation, and if such specific part or paragraph is determined not to be interdependent with other parts of this agreement, then such part or paragraph shall be severed from this agreement, and the balance of the agreement shall remain in full force and effect. The provisions in this paragraph regarding reformation shall also apply to any part of this agreement that may be deemed in violation of the rule against perpetuities or any other rule regarding vesting of estates, and any part or paragraph of this agreement that may be determined in violation of ~~any such rule shall be reformed to come into compliance with any such rule.~~

O. COUNTERPARTS. This agreement may be executed in two or more counterparts, each of which shall be deemed the original, but all of which together shall constitute one and the same instrument.

P. MODIFICATION AND AMENDMENT. The terms of this agreement may be supplemented, altered, amended or deleted by mutual consent of all parties, subject to the condition that such modification shall not be binding until the same is set forth in writing, signed by all parties hereto.

Q. GOVERNING LAW. This agreement shall be governed by, construed and enforced in accordance with the laws of the State of Kansas.


R. BINDING EFFECT. This agreement shall be binding upon and inure to the benefit of the respective parties and their assigns, successors, personal representatives, heirs and devisees. Further, the covenants set forth herein shall constitute covenants running with the land or water rights described herein, binding upon and inuring to the benefit of the subsequent owners of the land and water rights described herein, however acquired.

IN WITNESS WHEREOF, the parties have executed this agreement on the dates set forth below

TICE CATTLE, INC.

BY: 
REX A. BROWN, PRESIDENT


KENT OCHS


RENEE OCHS

STATE OF KANSAS, COUNTY OF Finney, ss:

The foregoing Agreement was sign, acknowledged and sworn to before me on the 20th day of April, 1999, by Rex A. Brown, President, Tice Cattle, Inc.

Michael K. Ramsey

MICHAEL K. RAMSEY Notary Public
Notary Public - State of Kansas
My Appt. Expires 6/25/2002

My Appointment Expires: 6/25/2002

STATE OF KANSAS, COUNTY OF Haskell, ss:

The foregoing Agreement was sign, acknowledged and sworn to before me on the 20th day of April, 1999, by Kent Ochs and Renee Ochs, husband and wife.

Michael K. Ramsey

MICHAEL K. RAMSEY Notary Public
Notary Public - State of Kansas
My Appt. Expires 6/25/2002

My Appointment Expires: 6/25/2002

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. 11104 D3

RECEIVED
 11:00 AM
 NOV 07 2016

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

Garden City Field Office
 Division of Water Resources

2. Name and address of Applicant: REX A BROWN
PO BOX 250 SUBLETTE KS 67877-9753
 Phone Number: () Email address: _____
 Name and address of Water Use Correspondent: _____
PO BOX 250 SUBLETTE KS 67877-9753
 Phone Number: () Email address: _____

3. The presently authorized place of use is:
 Owner of Land ---- NAME: Tice Cattle Inc; APC-Sublette; Kent & Renee Ochs
 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	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	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: No CHANGE
 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	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼				

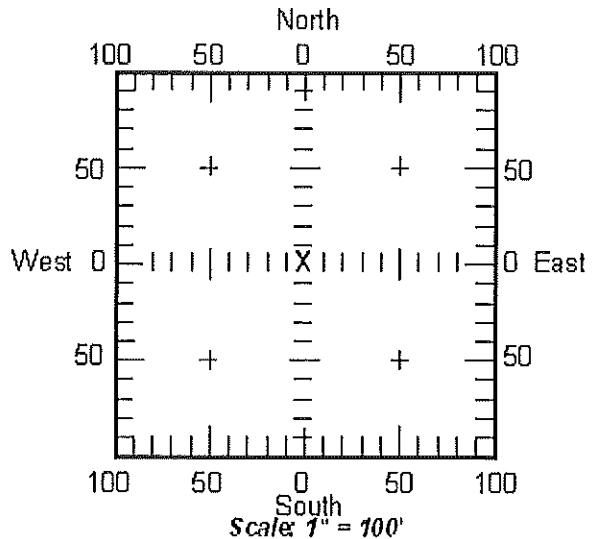
For Office Use Only: Code _____ Fee \$ 200 TR # _____ Receipt Date 11/7/16 Check # 8141

5. **Presently authorized point of diversion:**
 One in the nw Quarter of the nw Quarter of the ne Quarter
 of Section 25 , Township 28 South, Range 33 W,
 in Haskell County, Kansas, 5176 feet North 2573 feet West of Southeast corner of section.
 Authorized Rate _____ Authorized Quantity _____ Depth of well _____ (feet)
 (DWR use only: Computer ID No. 1 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) *X from NW corner*
 One in the nw-NE Quarter of the nw-NE Quarter of the nw Quarter
 of Section 25 , Township 5176 28 South, Range 33 W,
 in Haskell County, Kansas, 4715 feet North 5080 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 _____

6. **Presently authorized point of diversion:**
 One in the _____ Quarter of the _____ Quarter of the _____ Quarter
 of Section _____, Township _____ South, Range _____ (EW),
 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 _____ (EW),
 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? _____
current well no longer producing

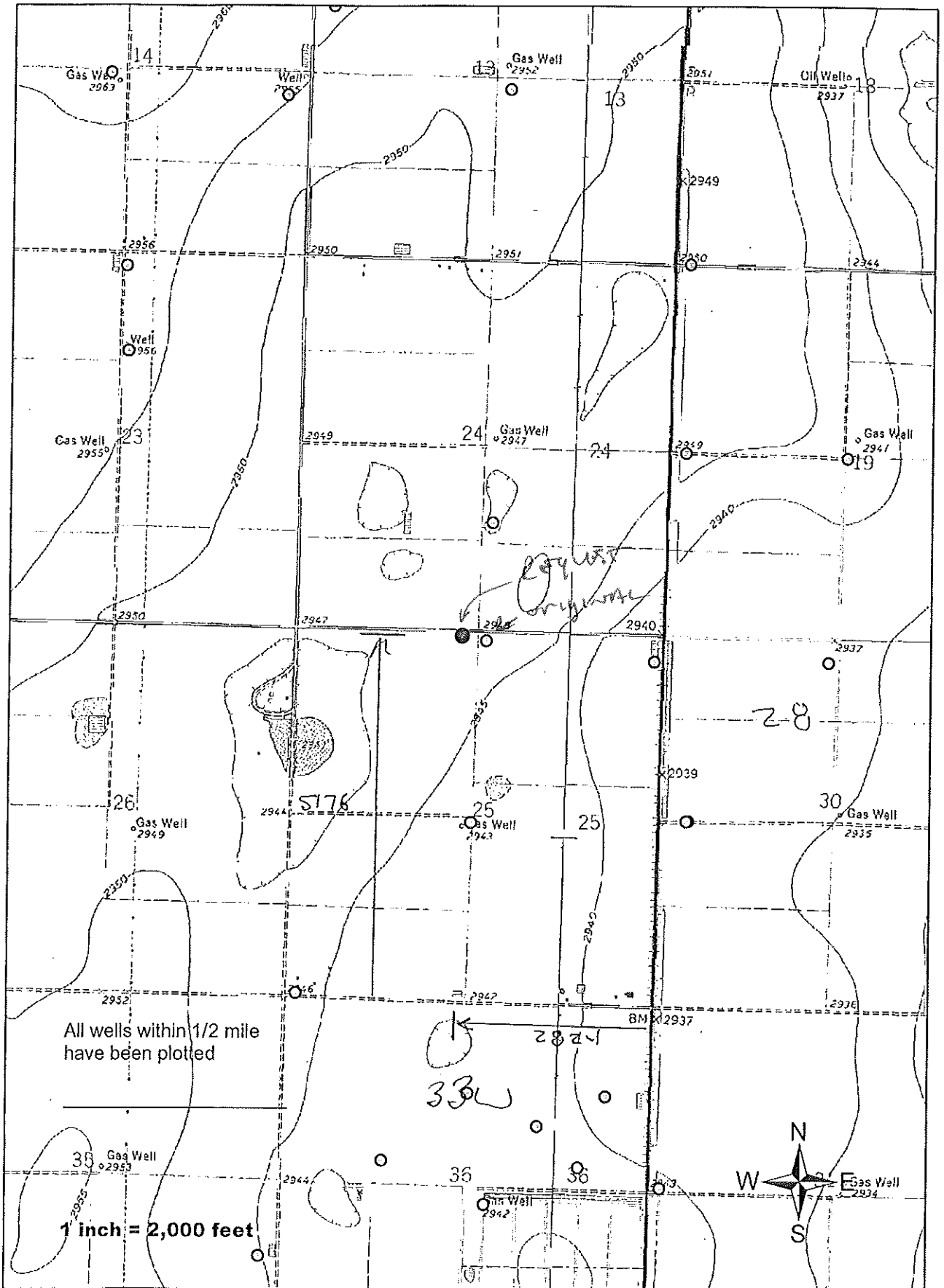
13a. If the proposed point of diversion will be relocated within 100 feet of the existing point of diversion, indicate its location on the diagram below in relation to the existing point of diversion. (PLEASE NOTE: The "X" in center of diagram below represents presently authorized point of diversion.)



8. If a well, is the test hole log attached? Yes No
9. When do you propose to complete the new point of diversion?
August 15, 2016
10. If the point of diversion is a well:
 (a) What are you going to do with the old well?
Plug
 (b) When will this be done? aug 2016
11. Groundwater Management District recommendation attached? Yes No
12. Assisted by tpm

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.

11104



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 Garden City, Kansas, this 7th day of November, 2016.

Julie Cottle Inc by Rex Brewer
(Owner)

(Spouse)

(Please Print)

(Please Print)

(Owner)

(Spouse)

(Please Print)

(Please Print)

(Owner)

(Spouse)

(Please Print)

(Please Print)

State of Kansas }
County of Stimmes } SS

I hereby certify that the foregoing application was signed in my presence and sworn to before me this 7th day of November, 2016.



My Commission Expires _____

Julie Jones
Notary Public

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

SUMMARY ORDER APPROVING APPLICATION FOR CHANGE AND IMPOSING CONDITIONS

This Summary Order is issued under authority of K.S.A. 82a-708b, as amended, and K.A.R. 5-14-3 and other applicable provisions of the *Kansas Water Appropriation Law, K.S.A. 82a-701 et. seq.*, and rules and regulations promulgated thereunder, K.A.R. 5-1-1 *et. seq.* With the exception of those conditions expressly contained herein, this Summary Order does not change the terms, conditions and limitations of File No. 11104 D3.

1. A change application was received on November 7, 2016 requesting that the place of use and / or point of diversion authorized under the above-referenced file number be changed as described in the application.
2. On and after the effective date of this summary order, the authorized place(s) of use shall be located substantially as shown on the topographic map accompanying the application to change the place of use. Applicable Not Applicable
3. The change in point of diversion shall not impair existing rights and shall be limited to the same source or sources of water as previously authorized. The point of diversion authorized by this summary order shall be located within a 300 foot radius of the authorized point(s) of diversion. Applicable Not Applicable
4. The point(s) of diversion authorized herein shall not actually be located more than _____ feet from the previously authorized point(s) of diversion. Applicable Not Applicable
5. As required by K.A.R. 5-3-5d, if the works for diversion is a well with a diversion rate of 100 gallons per minute or more, a tube or other device suitable for making water level measurements shall be installed, operated and maintained in accordance with K.A.R. 5-6-13. Applicable Not Applicable
6. The owner of the authorized place(s) of use shall properly install an acceptable water flow meter on or before December 31, 2017, or before the first use of water, whichever occurs first. The water flow meter shall be installed, operated and maintained in accordance with K.A.R. 5-1-4 through 5-1-12. As required by K.S.A. 82a-732, as amended, and K.A.R. 5-3-5e, the owner shall maintain records and report the reading of the water flow meter and the total quantity of water diverted annually to the Chief Engineer by March 1 following the end of each calendar year. Applicable Not Applicable
7. Installation of the works for diversion of water shall be completed on or before December 31, 2017, or within any authorized extension of time. By March 1, 2018 the applicant shall notify the Chief Engineer that construction of the works for diversion has been completed, on the form provided by the Chief Engineer, as required by K.A.R. 5-8-4e. Applicable Not Applicable
8. The completed well log shall be submitted with the required notice. Applicable Not Applicable
9. All diversion works into which any type of chemical or other foreign substance will be injected into the water shall be equipped with an in-line, automatic, quick-closing check valve capable of preventing pollution of the source of the water supply. The check valve(s) shall be installed, operated and maintained in accordance with K.A.R. 5-3-5c. Applicable Not Applicable
10. Additional Conditions are attached. Yes No
11. In accordance with K.S.A. 82a-708a, as amended, and K.A.R. 5-5-14, all of the owners of the authorized place(s) of use of water appropriated under the above-referenced file number are responsible for compliance with its terms, conditions and limitations, as amended and/or supplemented by this Summary Order, and with applicable provisions of the *Kansas Water Appropriation Law* and the *Rules and Regulations* promulgated thereunder. Failure to comply with these provisions may result in civil penalties pursuant to K.S.A. 82a-737, as amended, and/or the suspension or revocation and dismissal of the water or appropriation right or any other enforcement actions authorized by law.

Administrative Appeal and Effective Date of Order

You have the right to a hearing in accordance with K.A.R. 5-14-3 before this Summary Order becomes final action of the Kansas Department of Agriculture. Any request for a hearing must be filed with the **Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, 1320 Research Park Drive, Topeka, Kansas 66502**, within 15 days after the date shown on the Certificate of Service attached hereto. If a hearing is not requested in accordance with K.A.R. 5-14-3, this Summary Order will become effective on the 15th day after the date shown on the Certificate of Service.

For Use by Register of Deeds

FOR OFFICE USE ONLY
**APPLICATION APPROVED AND
 SUMMARY ORDER ISSUED**

By: [Signature]
 Duly Authorized Designee of the Chief Engineer

(Print Name): Thomas P Makens
 Division of Water Resources - Kansas Department of Agriculture

Date of Issuance: December 21, 2016

State of Kansas)
 County of Lincoln) SS

Acknowledged before me on December 21, 2016
 by Thomas P. Makens

Signature: [Signature]
 Notary Public

My commission expires: December 15, 2018
 (Notary Seal)



VOLUNTARY WAIVER OF HEARING & DISMISSAL OF WATER RIGHT

To: Kansas Department of Agriculture
Division of Water Resources (DWR)
109 SW 9th Street, 2nd Floor
Topeka, KS 66612-1283
Telephone: (785) 296-3717
www.ksda.gov/dwr

Re: Appropriation of Water
Water Right
Vested Right
Term Permit
(Check Appropriate Box Above)
File No. 11104 D3

The undersigned owner(s) and/or authorized agent(s) of the above referenced water right, or permit, freely and voluntarily request that the file be dismissed and its priority forfeited. By signing this waiver, I am indicating my understanding and agreement that I am relinquishing all right, title and interest in said water right.

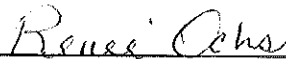
The signature(s) below represent all present owners (or an authorized agent) for the file number shown above (attach duplicate copies of this document as necessary).

The signature(s) below also indicate(s) a waiver of any right to a hearing or an appeal that I/we may have had regarding the dismissal and termination of the above referenced file. I/we recognize that if this closure request is submitted to the Division of Water Resources, it will terminate this water right and forfeit any priority associated with it forever.

Indicate here if you wish to retain the well(s) for domestic use (DWR water right not required):



(Signature of Owner or Authorized Agent)



(Signature of Spouse or Title of Authorized Agent)

Kent Ochs

(Please print name here)

Renee Ochs

(Please print name here)

P.O. Box 1021

(Mailing Address)

P.O. Box 1021

(Mailing Address)

Sublette, Ks. 67877

(City, State, Zip)

Sublette, Ks. 67877

(City, State, Zip)

ACKNOWLEDGMENT

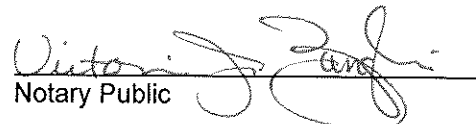
State of Kansas)
County of Haskell)

This instrument was acknowledged before me this 7 day of November, 2016 by
(owners:) Kent & Renee Ochs

(Seal)



My appointment expires: 6-28-2019


Notary Public

tpm
DWR Initials

WORLD BANK
Washington, D.C. 20547
Telephone: 202-473-1000
Fax: 202-473-1001