

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



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

January 10, 2017

HARSHBERGER LAND LLC
10905 WILDFIRE RD
MINNEOLA KS 67865

RE: Change in Point of Diversion Water Right, File No 26998

Dear Mr. Harshberger:

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

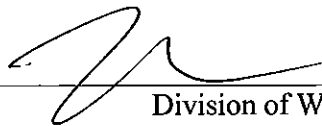
TPM:tpm
Enclosures
GMD#3

CERTIFICATE OF SERVICE

On this 11th day of January 2017, I hereby certify that the attached original Approval of Application to Change the Point of Diversion under Water Right, File No. 26998 dated January 10, 2017 was mailed postage prepaid, first class, US mail to the following:

HARSHBERGER LAND LLC
10905 WILDFIRE RD
MINNEOLA KS 67865

Copy provided to GMD#3

A handwritten signature in black ink, consisting of a stylized 'M' followed by a horizontal line and a small flourish.

Division of Water Resources

Completed application to:
Department of Agriculture
Water Resources

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



STATE OF KANSAS

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>

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.

RECEIVED
9:59 AM
DEC 20 2016

File No. 26998

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: HARSHBERGER ENTERPRISES

10905 WILDFIRE RD MINNEOLA KS 67865

Phone Number: (620)338-0888

Email address: _____

Name and address of Water Use Correspondent: KANS LLC

190 MONTCLAIR DR SHERMAN TX 75092-4433

Phone Number: () _____

Email address: _____

3. The presently authorized place of use is:

Owner of Land ---- NAME: KANS LLC

ADDRESS: 190 MONTCLAIR DR SHERMAN TX 75092-4433

(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 TO ACRES INDICATED

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 \$ 100 TR # _____ Receipt Date 12/20/16 Check # 5271

5. **Presently authorized point of diversion:**
 One in the ne Quarter of the nw Quarter of the sw Quarter
 of Section 12, Township 31 South, Range 27 W,
 in Meade County, Kansas, 2540 feet North 4323 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)
 One in the ne Quarter of the nw Quarter of the sw Quarter
 of Section 12, Township 31 South, Range 27 W,
 in Meade County, Kansas, 2540 feet North 4280 feet West of Southeast corner of section.
 Proposed Rate _____ Proposed Quantity _____ Proposed well depth (feet) 288
 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? _____
 old well needs to be replaced _____

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

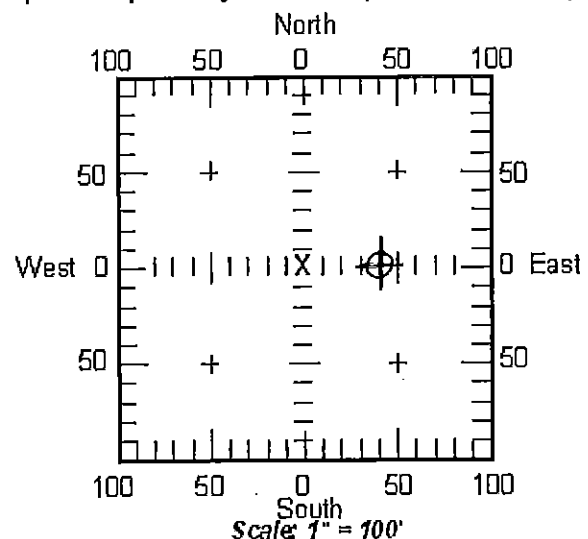
9. When do you propose to complete the new point of diversion?
January 1, 2017

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? 2017

11. Groundwater Management District recommendation attached? Yes No

12. Assisted by tpm

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.

APPLICATION FOR APPROVAL TO CHANGE
THE PLACE OF USE AND/OR POINT OF DIVERSION
SUPPLEMENTAL SHEET
FILE NO. 26998

Presently authorized point of diversion:

One in the Quarter of the Quarter of the Quarter
of Section Township South, Range W,
in Meade County, Kansas, 5245 feet North 4670 feet West of Southeast corner of section.
Authorized Rate Authorized Quantity Depth of well (feet)
(DWR use only: Computer ID No. 2 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 .

Presently authorized point of diversion:

One in the Quarter of the Quarter of the Quarter
of Section Township South, Range W,
in Meade County, Kansas, 3960 feet North 3960 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)

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 .

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 .

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 .

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.)

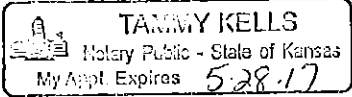
If the application proposes a surface water change in point of diversion, a groundwater change in point of diversion greater than 300 feet, or a change in place of use, the application must be signed by all owners of the currently authorized place of use, or their duly authorized agent (attach notarized 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 20th day of DECEMBER, 2016.

<u>[Signature]</u> (Owner)	_____	(Spouse)
<u>Cathy Hays Hays</u> (Please Print)	_____	(Please Print)
_____	_____	(Spouse)
_____	_____	(Please Print)
_____	_____	(Spouse)
_____	_____	(Please Print)

State of Kansas }
County of Finney } SS



I hereby certify that the foregoing application was signed in my presence and sworn to before me this 20 day of Dec, 2016.

[Signature]
Notary Public

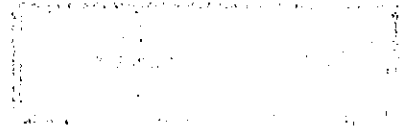
My Commission Expires 5-28-17

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. 26998.

1. A change application was received on December 20, 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 50 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.

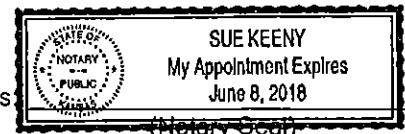
Administrative Appeal and Effective Date of Order

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. MACKERS
Division of Water Resources - Kansas Department of Agriculture
Date of Issuance: JANUARY 6, 2017
State of Kansas)
County of Finnery) SS
Acknowledged before me on January 6, 2017
by Thomas P. Mackers
Signature: [Signature]
Notary Public



My commission expires _____

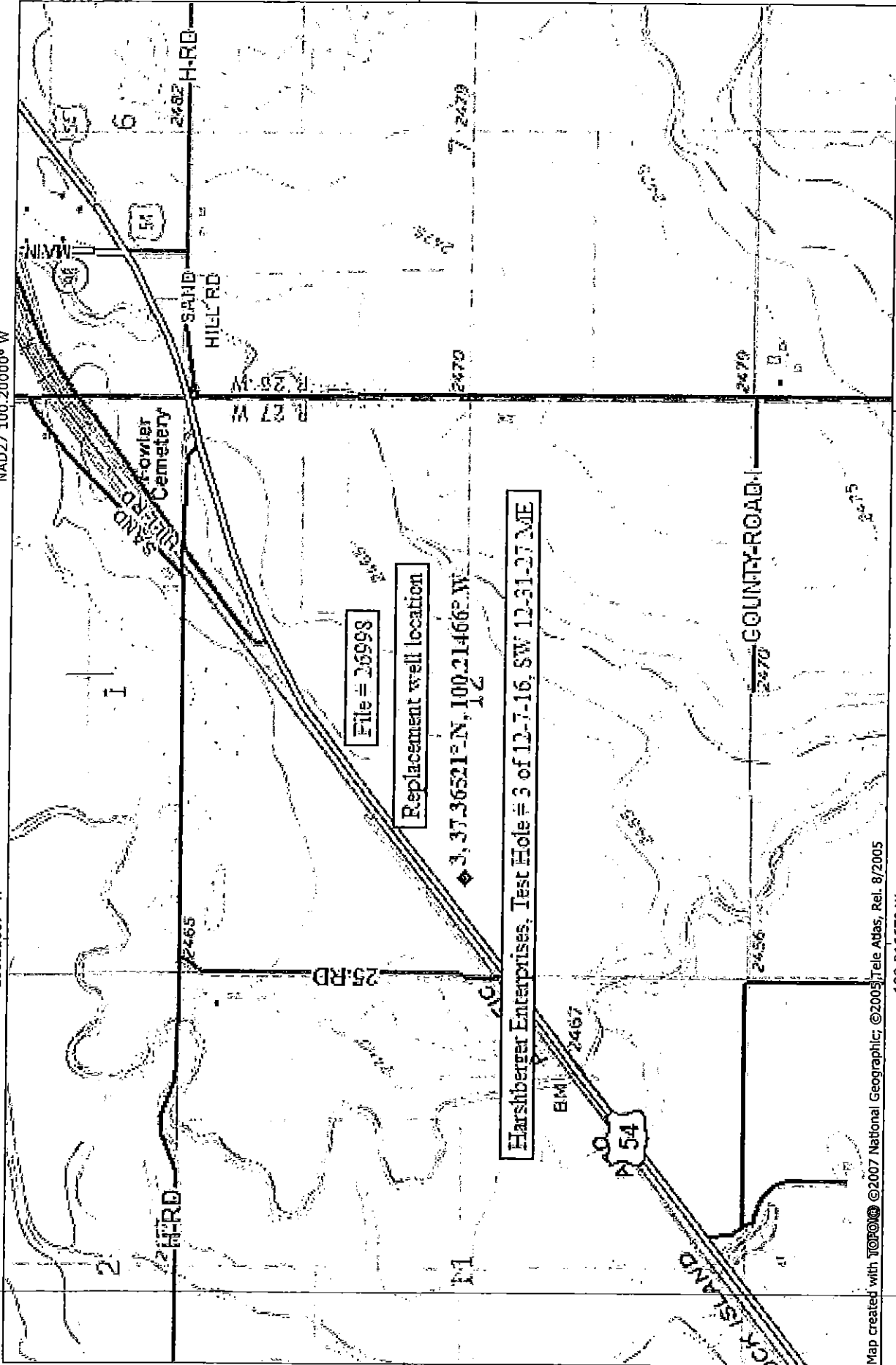
TOPO! map printed on 12/08/16 from "Untitled.tpo"

100.21667° W

NAD27 100.20000° W

37.36667° N

37.36667° N

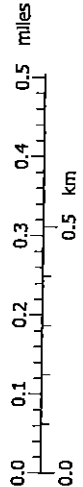


Map created with TOPO! © 2007 National Geographic; © 2005 Tele Atlas, Rel. 8/2005

100.21667° W

NAD27 100.20000° W

NATIONAL GEOGRAPHIC



TNT/MN 5 1/2°

12/08/16