

STATE OF KANSAS

DEPARTMENT OF AGRICULTURE
DIVISION OF WATER RESOURCES
GARDEN CITY FIELD OFFICE
2508 JOHNS STREET
GARDEN CITY, KS 67846-2804



PHONE: (620) 276-2901
FAX: (620) 276-9315
www.agriculture.ks.gov

GOVERNOR JEFF COLYER, M.D.
JACKIE McCLASKEY, SECRETARY OF AGRICULTURE

June 18, 2018

BATAVIA FARMS LLC
2394 120TH RD
COPELAND KS 67837

RE: Change the Place of Use, File Nos; 6142, 12597, 12763
Change in Point of Diversion Water Right, File No 12597

Dear Mr. Garetson;

Enclosed you will find a *Summary Order Approving Application for Change in Place of Use* for the above referenced files. Since these orders modify the original documents, it should be recorded at the County Register of Deeds.

These orders modify the authorized acres that can be irrigated by these files. The authorized place of use is as shown on the plats within the change approvals.

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 (including the meter reading at the beginning and end of the report year).

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 or arrange an appointment for additional assistance. Please refer to the file number when you contact us if you wish to discuss a specific file.

Sincerely,

Thomas P. Makens
Assistant Water Commissioner

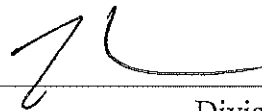
TPM:tpm
Enclosures
GMD#3

CERTIFICATE OF SERVICE

On this 19th day of June 2018, I hereby certify that the attached original Approval of Application to Change the Place of Use under Water Right File 6142, 12597, 12763 & Change in Point of Diversion Water Right, File No 12597 dated June 18, 2018, was mailed postage prepaid, first class, US mail to the following:

BATAVIA FARMS LLC
2394 120TH RD
COPELAND KS 67837

Scanned copy provided to GMD#3

A handwritten signature in black ink, consisting of a stylized 'JL' followed by a horizontal line.

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) 862-6300
 Stafford -- (620) 234-5311
 Stockton -- (785) 425-6787
 Garden City -- (620) 276-2901
www.ksda.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.

RECEIVED
 4:11pm
 MAY 10 2018

File No. 12763

Garden City Field Office
 Division of Water Resources

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: Batavia Farms LLC

2394 120TH RD COPELAND KS 67837

Phone Number: () Email address: _____

Name and address of Water Use Correspondent: Batavia Farms LLC

2394 120TH RD COPELAND KS 67837

Phone Number: () Email address: _____

3. The presently authorized place of use is:

Owner of Land ---- NAME: Batavia Farms LLC

ADDRESS: PO BOX 61020 Denver CO 80206

(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	
22	27	31w									40	33	40	40	33	40	40	26.38	292
27	27	31w	33	40	40	33													146

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: Batavia Farms LLC

ADDRESS: PO BOX 61020 Denver CO 80206

(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	
22	27	31w									40	40	40	40	40	40	40	40	320
23	27	31w									9	33.8	19	7					68.8
27	27	31w	33	40	40	33													146

For Office Use Only: Code _____ Fee \$ 200 TR # _____ Receipt Date 5/10/18 Check # 1030

5. **Presently authorized point of diversion:**
 One in the _____ Quarter of the _____ Quarter of the _____ Quarter
 of Section _____, Township _____ South, Range _____ 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 _____ 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 _____

RECEIVED
 MAY 10 2018

6. **Presently authorized point of diversion:**
 One in the _____ Quarter of the _____ Quarter of the _____ Quarter
 of Section _____, Township _____ South, Range _____ 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? _____
 no change to irrigation wells

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

9. When do you propose to complete the new point of diversion?

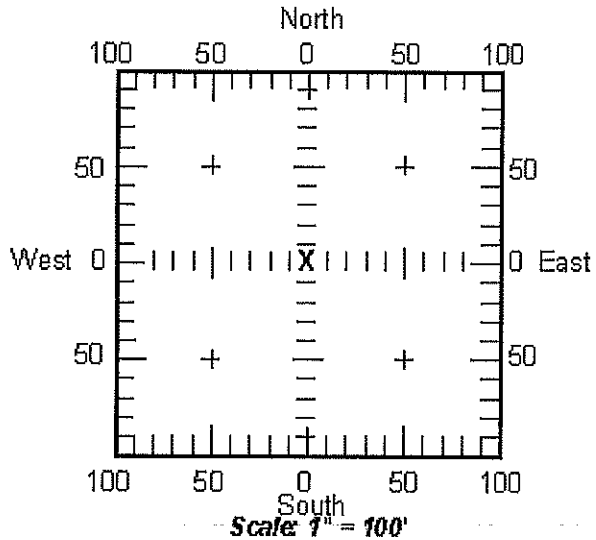
10. If the point of diversion is a well:
 (a) What are you going to do with the old well?

 (b) When will this be done? _____

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.

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.)

RECEIVED
MAY 10 2018

Garden City Field Office
Division of Water Resources

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 Denver, ~~Kansas~~ ^{Colorado}, this 18th day of April, 20 18.

Anthony D Holland
(Owner)

Melissa L Holland
(Spouse)

Zachary D Holland
(Please Print)

Melissa L Holland
(Please Print)

(Owner)

(Spouse)

(Please Print)

(Please Print)

(Owner)

(Spouse)

(Please Print)

(Please Print)

State of Colorado ~~Kansas~~ }
County of Denver } SS

I hereby certify that the foregoing application was signed in my presence and sworn to before me this 18th day of April, 20 18.

CRYSTAL M. HINK
Notary Public
State of Colorado
Notary ID # 20124050475
My Commission Expires 09-19-2020

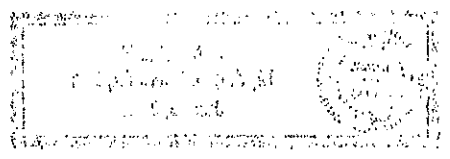
Crystal Mink
Notary Public

My Commission Expires _____

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. 12763.

1. A change application was received on MAY 10, 2018 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 _____ 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, 2018**, 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, 20_____**, or within any authorized extension of time. By March 1, 20____ 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, 109 SW 9th Street, Topeka, Kansas 66612**, 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.

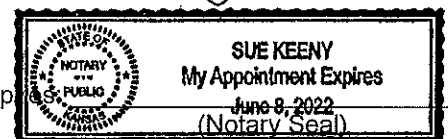
For Use by Register of Deeds

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

By: *TL P*

 Duty Authorized Designee of the Chief Engineer
 (Print Name): THOMAS P. MAKENS
 Division of Water Resources - Kansas Department of Agriculture
 Date of Issuance: JUNE 18, 2018
 State of Kansas)
 County of Finney) SS
 Acknowledged before me on June 18, 2018
 by Thomas P. Makens
 Signature: *Sue Keeny*

 Notary Public



My commission expires _____


SUPPLEMENTAL SHEET
File No. 12763

SUMMARY ORDER APPROVING APPLICATION FOR CHANGE AND IMPOSING CONDITIONS

12. This appropriation right is further limited to a quantity which when combined with the water rights 6142, 12597 shall not exceed 1,036 acre-feet of water per calendar year for irrigation use on the land described herein.

Above is additional condition to those shown on the attached FIELD OFFICE PROCESSED APPLICATION FOR APPROVAL TO CHANGE THE PLACE OF USE.

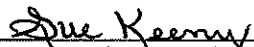
Dated at Garden City, Kansas, this 18th day of June 2018 by



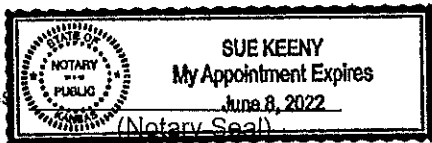
(Print Name): Thomas P Makens
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
) SS
County of Finney)

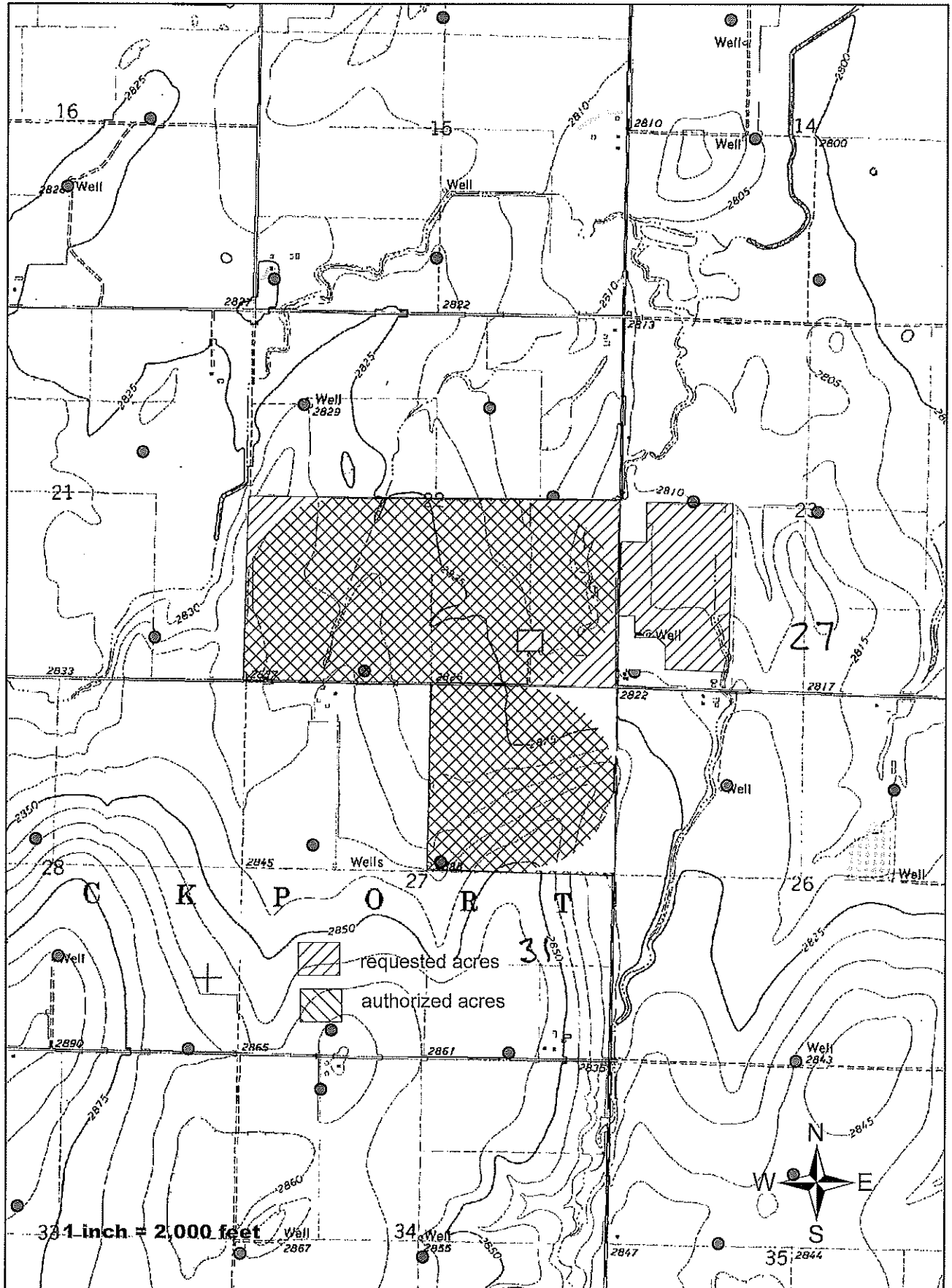
The foregoing instrument was acknowledged before me on the 18th day of June 2018 by, Division of Water Resources, Kansas Department of Agriculture.


Notary Public

My Commission expires



12763 PU



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MAR 15 2018

Garden City Field Office
Division of Water Resources

RECORDING INFORMATION

WARRANTY DEED

GARETSON BROTHERS PARTNERSHIP, a Kansas general partnership, *Grantor*

CONVEYS AND WARRANTS TO

BATAVIA FARMS, LLC, a Kansas limited liability company, *Grantee*

THE SURFACE RIGHTS AND THE APPURTENANT WATER RIGHTS including, but not limited to, those water rights associated with Kansas Water Right File Nos. 12763 and 6142, in and to the following real estate in the County of HASKELL and the State of KANSAS, to-wit:

The South Half (S½) of Section Twenty-two (22), Township Twenty-seven (27) South, Range Thirty-one (31) West of the 6th P.M.; and

The Northeast Quarter (NE¼) of Section Twenty-seven (27), Township Twenty-seven (27) South, Range Thirty-one (31) West of the 6th P.M.

For the sum of Ten Dollars (\$10.00) and other good and valuable consideration.

EXCEPT AND SUBJECT TO: those matters set forth on Exhibit A, attached hereto and incorporated herein, AND LESS AND EXCEPT all of the oil, gas and other minerals in, under and that may be produced, recovered and refined from the above described property, AND RESERVING UNTO GRANTOR all of its interest in the oil, gas, and similar hydrocarbon substances in, under and that may be produced recovered and refined from the above described property.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

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MAR 15 2018

EXHIBIT A
TO
WARRANTY DEED

Garden City Field Office
Division of Water Resources

PERMITTED EXCEPTIONS

1. General taxes and special assessments for the year 2017 and subsequent years, not yet due and payable. None now due and payable.
2. Any oil, gas or other mineral rights, including interests owned by third parties, lessees and assignees of oil and gas leases, oil payments, mortgages and financing statements covering such mineral rights, leasehold estates, overriding royalty or working interests in such leases, as well as the rights of ingress, egress, possessory rights, pollution from producing well(s) or abandoned well(s), test well(s) or "dry hole(s)" on this or any of the adjoining premises or land in a unit of which this land is a part.
3. Right of Way Grant dated September 4, 1996, executed by J.R. Kleysteuber, et ux, in favor of K-N Energy, Inc., covering the S/50' of the S/2 of Section 22, less the road right-of-way, recorded November 8, 1996 in Book 136, Page 516.
4. Certificate of Board of County Commissioners for Official Opening of Roads, recorded June 27, 2011, in Book 206, Page 79. Amended Certificate of Board of County Commissioners for Official Opening of Roads, recorded September 26, 2011 in Book 206, Page 839. Second Amended Certificate of Board of County Commissioners for Official Opening of Roads, recorded October 31, 2011 in Book 207, Page 354. Third Amended Certificate of Board of County Commissioners for Official Opening of Roads, recorded December 12, 2011 in Book 207, Page 676. Fourth Amended Certificate of Board of County Commissioners for Official Opening of Roads, recorded February 13, 2012 in Book 208, Page 500. (relative to both tracts – maintained county roads)
5. Electric access line appurtenant to the land encroaches upon the land adjoining on the North of the SE/4 Section 22.
6. Unrecorded Easement or Easement Rights for underground telephone line and related pedestals along East line of SE/4 and South side of S/2 Section 22, and the East side of NE/4 Section 27.
7. Encroachment of Gas Line outside of the recorded Right-of-way to K-N Energy, Inc. along the south side of S/2 Section 22.
8. Unrecorded Easement or Easement Rights for overhead electric line along South side of Section 22.

STATE OF KANSAS)
) ss.
COUNTY OF HASKELL)

BE IT REMEMBERED, that on the 30th day of January, 2018, before me, a Notary Public in and for the County and State aforesaid, came **JESSE J. GARETSON**, Partner, who is personally known to me to be the same person who executed the foregoing instrument of writing and such person duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have subscribed my name and affixed my seal as of the day and year last above written.



Suzan Kimball
Notary Public

My Appointment Expires: 3/3/20

STATE OF KANSAS)
) ss.
COUNTY OF HASKELL)

BE IT REMEMBERED, that on the 30th day of January, 2018, before me, a Notary Public in and for the County and State aforesaid, came **JERRA GARETSON**, Partner, who is personally known to me to be the same person who executed the foregoing instrument of writing and such person duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have subscribed my name and affixed my seal as of the day and year last above written.



Suzan Kimball
Notary Public

My Appointment Expires: 3/3/20

RECEIVED

MAR 15 2018

Garden City Field Office
Division of Water Resources

Mail Property Tax Statements To:
Batavia Farms, LLC
Attn: Zachary D. Holland
P.O. Box 61020
Denver, CO 80206

