

Kansas Department of Agriculture
Division of Water Resources

**CHANGE: P/D P/U UMW WORKSHEET & Order of Reduction in Rate & Quantity
ADDITIONAL WELL**

1. File Number: 3386	2. Status Change Date: 11/23/2020	3. Change Num: C2	4. Field Office: 04	5. GMD: 03
6. Status: <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied by DWR/GMD <input type="checkbox"/> Dismiss by Request/Failure to Return				7. Filing Date of Change: 6/4/20
8a. Applicant(s) New to system <input type="checkbox"/> SOUTHWEST FARMS LLC JOSH TE VELDE 15857 BEAR MOUNTAIN BLVD BAKERSFIELD, CA 93311		8c. Landowner(s) New to system <input type="checkbox"/> ENVIRO AG ENGINEERING INC MARSHA SHOEMAKER 3404 AIRWAY BLVD AMARILLO TX 97118		
8b. Landowner(s) New to system <input type="checkbox"/> SOUTHWEST FARMS LLC 15857 BEAR MOUNTAIN BLVD BAKERSFIELD, CA 93311		8d. WUC New to system <input type="checkbox"/> SOUTHWEST FARMS LLC 15857 BEAR MOUNTAIN BLVD BAKERSFIELD, CA 93311		
9. Documents and Enclosure(s): <input checked="" type="checkbox"/> DWR Meter(s) Date to Comply: <u>12/31/21</u> <input checked="" type="checkbox"/> N & P Date to Comply: <u>12/31/21</u> <input type="checkbox"/> Anti-Reverse Meter <input type="checkbox"/> Meter Seal <input checked="" type="checkbox"/> Check Valve <input checked="" type="checkbox"/> N & P Form <input checked="" type="checkbox"/> Water Tube <input checked="" type="checkbox"/> Driller Copy <input type="checkbox"/> H & E Letter <input type="checkbox"/> Conservation Plan Date Required: _____ Date Approved: _____ Date to Comply: _____				
10. Use Made of Water From: <u>IRR</u> To: <u>IRR & STK</u>				
Date Prepared: 10/14/20 By: LI Date Entered: 12/1/2020 By: LMoody				

File No. **3386** 11. County: **HS** Basin: **ARKANSAS RIVER** Stream: **NA** Formation Code: **210 & 330** Special Use: **NO**

12. Points of Diversion										Rate and Quantity							
CHK	MOD	DEL	PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Authorized		Additional		Overlap PD Files	
ENT												Rate gpm	Quantity af/mgy	Rate gpm	Quantity af/mgy		
MOD	87898	NE SE SE			22	27	33W	5	1114	407	GPS UPDATE	604	284.34 AF	604	284.34 AF	8678	IRR USE
ENT	88490	CS			22	27	33W		250	2640	ADDITIONAL WELL	100	48.88 MGY	100	48.88 MGY (150 AF)	NONE	STK USE

ADDITIONAL WELL PRIORITY DATE JUNE 4, 2020

13. Storage: Rate _____ NF Quantity _____ ac/ft Additional Rate _____ NF Additional Quantity _____ ac/ft

14. Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) **NONE**
 Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____

15. 5YR Allocation: Allocation Type _____ Start Year _____ 5 YR Amount _____ Amount Unit _____ Base Acres _____ Comment _____

16. Place of Use				NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg?	Overlap Files
CHK	MOD	DEL	PUSE	S	T	R	ID	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼				
CHK	35700			22	27	33W	1					40	40	40	40	40	40	40	40	320	8B	NO	8678
ENT	60073			28	27	33W	3	NE/4, E/2 NW, N/2 SE													8B	NO	4451 & 27607

Base Acres: _____ Year: _____ Minimum Reasonable Quantity: _____
 Comments: **10 YR REVIEW ADDITIONAL WELL**

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: November 5, 2020

FROM: Leslie Ireland

RE: Water Right, File No. 3,386

Josh teVelde on behalf of Southwest Farms LLC, owner of the referenced right filed an application for approval to change the place of use, point of diversion and use made of water that was received in this office on June 4, 2020. This application for change proposes to add an additional well for the proposed stockwatering use and will be processed under K.A.R. 5-5-16, with the place of use and use made of water processed by K.A.R. 5-5-10.

The water right is considered not to be abandoned per K.S.A. 82a-718 and appears to be in compliance with K.S.A. 82a-732. A review of well ownership within one-half mile found there to be no wells other than the applicants. It appears the application complies with K.S.A. 82a-1906 with no notifications being required. After several updates the application appears to comply with K.A.R. 5-5-2a, *Complete change application*.

File No. 3,386 is authorized 461 acre-feet (AF) at 1,000 gallons per minute (gpm) for irrigation use on 320 acres. It has a complete overlap with File No. 8,678 that is authorized to divert 192 AF and an additional 615 gpm to authorize a limited 1,615 gpm with File No. 3,386. The currently authorized well is located in the Northeast Quarter of the Southeast Quarter of the Southeast Quarter, (NE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$) at the 2020 Compliance Inspection location of approximately 1,117 feet North and 407 feet West of the Southeast corner of Section 22, Township 27 South, Range 33 West, Haskell County, and within the Arkansas River Basin. Together the files developed approximately 2.0 acre-foot per acre to irrigate the South Half of Section 22, Township 27, Range 33 West, Haskell County. The referenced file is not located with a special use area but is within Southwest Kansas Groundwater Management District No. 3. (GMD No. 3).

The new owner proposes to add a newly constructed well as an additional well for stockwatering use under File No. 3,386. The additional stockwatering well location is proposed to be in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ approximately 250 feet North and 2,640 feet West of Southeast corner of Section 22, Township 27, Range 33 West, Haskell County. The qualifier descriptions of the proposed well will be updated to near the center of the South side (CS) due to the proposed feet distances and ownership of the South Half (S $\frac{1}{2}$) of Section 22. The proposed new well location is approximately 2,394 feet to the Southwest of the well authorized by the referenced file per the January 2020 change approval. Review of the log for the newly completed irrigation well appears it maintained the original size and depth. The submitted well log completed by Downey Drilling Inc., lists shale at 513 feet and the red bed formation at 849 feet. It appears the static water level was encountered at 350 feet. The October 12, 2020 well log of the proposed additional well indicates static water level at 340 feet and listed shale at 632 feet and red bed formation at 828 feet. Comparison of the logs indicates the source of supply is the same, Ogallala Aquifer (Code 210) and Dakota Aquifer System (Unconfined) (Code 330). The location appears to be acceptable pursuant to GMD No. 3, K.A.R. 5-23-3(b) maximum move of 2,640 feet. The proposed 150 AF meets appears to meet the well to well spacing of 1,300 feet per K.A.R. 5-23-3(a) to non-domestic wells and the 2,100 feet required for the 476.31 AF at the well remaining under File Nos. 3,386 & 8,678. The only domestic well in the area is near the irrigation well under File Nos. 3,386 & 8,678 and is the owners.

The applicant worked with Chris Law, of Groundwater Management District No. 3, (GMD) for the required rate test. The GMD completed a flow rate test on September 4, 2020, indicating a flow rate of 704 gallons per minute. This test was reviewed with the area water commissioner who indicated the tested 704 gallons per minute would be acceptable. The rate will be reduced from 1000 to 704 gpm with the assignment of 604 gpm at the irrigation well and the new stockwatering well authorized to divert 100 gpm. The rate has been tested for the referenced file with the owner agreeing to reduce and assigning as specified in K.A.R. 5-5-16(d). The order will reduce the rate under the referenced file and the additional limitation on File No. 8,678 will be modified to not exceed 1,219 gpm from the point of diversion remaining for irrigation use.

The new stockwatering well requested a rate of 100 gpm would divert the proposed 150AF in approximately 334 days. The 604 gpm remain for irrigation use would divert the remaining authorized quantity in 240 days. The assignments appear to be reasonable.

It appears the information required by K.A.R. 5-5-16, *Additional well*, has been provided and the proposed change to add an additional well is reasonable. As per K.A.R. 5-5-16(a)(4), a condition will be placed on the approval that should direct impairment result the additional well will have the priority date of the date the application for change was received in the office of the Chief Engineer, June 4, 2020. The approval will also contain the jurisdictional wording affording the Chief Engineer to retain jurisdiction to make modifications as may be deemed to be in the public interest as required by K.A.R. 5-5-16(f).

Both the additional well regulation and a change in use made of water require compliance with K.A.R. 5-5-3, *Consumptive use*. K.A.R. 5-5-16 defers to the use made of water regulation in this instance. Per K.A.R. 5-5-10, *Partial changes in the use made of water from irrigation to another type of beneficial use*. The regulation affords a consumptive use of 84.9 % if all changed to another use. The 150 acre-feet (48.88 mgy) requested for stockwatering use is 27.06% of the 554.397 AF allowed to be changed from the 653 AF authorized under File Nos. 3,386 & 8,678. The 72.94% allows for 476.31 AF to remain for irrigation use providing the 192 AF by File No. 8,678 to be retained and as requested File No. 3,386 to retain 284.34 AF for the irrigation use. Calculating the consumptive use with the files that authorized the irrigation place of use or under only File No. 3,386 as shown on the application made no difference to the final values. The irrigated acres that may be reduced in proportion the reduction in quantity caused by the change per part b of K.A.R. 5-5-10:

$$(476.31 \text{ acre-feet} \times 0.85 \div 1.37 \text{ (80\%NIR HS Co.)}) = 295.5 \text{ acres}$$

The owner has provided the KDHE summary of the facility permitting that shows an annual wastewater of 224.91AF. The use made of water change allows 476.31 acre-feet to remain for irrigation use providing 1.49 acre-feet of water on the authorized 320 acres. The addition of only 66% of the wastewater allows the irrigation ratio to return to the level before the change. This information indicates no reduction in the irrigated place of use is needed due to the availability of wastewater and the place of use is reasonable per K.A.R. 5-3-24, *Reasonable quantity for irrigation use*. The 84.9% reduction in quantity appears to assure the compliance with K.A.R. 5-5-3, *Consumptive use*.

There was no request to change the stockwatering place of use as it was updated in 2019, to authorize the Northeast Quarter (NE $\frac{1}{4}$), the East Half of the Northwest Quarter (E $\frac{1}{2}$ NW $\frac{1}{4}$) and the North Half of the Southeast Quarter (N $\frac{1}{2}$ SE $\frac{1}{4}$), all in Section 28, Township 27 South, Range 33 West, Haskell County. This stockwatering place of use will be authorized under File Nos. 3,386, 4,451 & 27,607. A Stockwatering Supplemental Sheet for Southwest Farms LLC was also submitted at that time. The addition of 150 AF will result in a total of 570 AF or 185.74 mgy to be authorized for the 72,500 head of cattle and operation of the dairy.

The historical use of afforded 13.693 million gallons of water per year used for milk mixing operations and sanitation, milk production and trough spillage and 123.164 mgd for drinking allowing 5.0 gallons per head per day. Discussion with Marsha Shoemaker indicated the operation will remain with the additional water utilized for drinking. This affords approximately 6.5 gallons per head per day. It appears the additional water meets the requirements of K.A.R. 5-3-22, *Maximum reasonable quantity of water for livestock and poultry*.

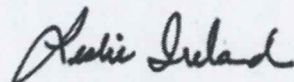
Only the applicant's irrigation well under the referenced file and domestic well are located within one-half (½) mile of the proposed additional and remaining wells. A review of ownership and KGS well log information did not find any other wells.

In a letter dated October 27, 2020, Jason Norquest, Assistant Manager, Southwest Kansas Groundwater Management District No. 3, indicated the proposed change is not in conflict with their Management Program and recommended approval.

Mike Meyer, Water Commissioner of the Garden City Field Office was supplied this summary memo for review. He indicated by E-mail on November 3, 2020, that he has no objection to the approval of the proposed changes to the reference file.

A water flow meter will be required on each well as per K.A.R. 5-5-16(e) and per 5-25-5(b) a check valve is required if any chemical or foreign substance is injected through the diversion works. A water level measurement tube will be required on the newly constructed additional well.

Based on the above discussion, that no change in the local source of supply will occur, the change is reasonable, that impairment to existing water rights is unlikely, that there are no pending applications within the vicinity of this proposed change request that may be affected by this approval, it is recommended that the referenced application be approved.



Leslie Ireland
Environmental Scientist
Change Application Unit

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Secretary of Agriculture

DIVISION OF WATER RESOURCES
Earl D. Lewis Jr., Chief Engineer

**APPROVAL OF APPLICATION
FOR
CHANGE IN USE MADE OF WATER
PLACE OF USE, POINT OF DIVERSION
AND
ORDER IN THE MATTER OF THE AUTHORIZED
QUANTITY OF WATER AND RATE OF DIVERSION
WATER RIGHT, FILE NO. 3,386**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Josh TeVelde on behalf of Southwest Farms LLC, 15857 Bear Mountain Boulevard, Bakersfield California 93311, received in this office on June 4, 2020, for approval of a change in the authorized use made of water, place of use and point of diversion under the certificate of appropriation issued pursuant to the application for permit to appropriate water for beneficial use, as modified and amended by the Order of the Chief Engineer dated October 6, 2009, in the matter of the authorized point of diversion, by the Order of the Chief Engineer dated January 24, 2020, approving the application to change the point of diversion, finds that the change is reasonable and will not impair existing rights, and that the change relates to the same local source of supply and that the application should be and is hereby approved.

This order effectively reduces the total authorized quantity of water to 434.34 acre-feet (141.53 million gallons) per calendar year and the rate of diversion not to exceed 704 gallons per minute (1.57 c.f.s) in accordance with the Application for Approval to Change the Use Made of Water, Place of Use and Point of Diversion received in this office on June 4, 2020.

The effective date of the change shall be the date this order is executed by the Chief Engineer, after which the portion change to stockwatering use shall authorize a maximum quantity not to exceed 48.88 million gallons (150.0 acre-feet) of groundwater per calendar year at a diversion rate not in excess of 100 gallons per minute (0.22 c.f.s.) from the following point of diversion:

one (1) well located near the center of the South side (CS) of Section 22, more particularly described as being near a point 250 feet North and 2,640 feet West of the Southeast corner of said section, in Township 27 South, Range 33 West, Haskell County, Kansas, and

the authorized place of use for stockwatering shall be:

a feedlot located in the Northeast Quarter (NE $\frac{1}{4}$), the East Half of the Northwest Quarter (E $\frac{1}{2}$ NW $\frac{1}{4}$) and the North Half of the Southeast Quarter (N $\frac{1}{2}$ SE $\frac{1}{4}$) of Section 28, Township 27 South, Range 33 West, Haskell County, Kansas,

located substantially as shown on the topographic map accompanying the application to change the use made of water, place of use and point of diversion.

The portion retained for irrigation use shall authorize a maximum quantity not to exceed 284.34 acre-feet of groundwater per calendar year at a diversion rate not in excess of 604 gallons per minute (1.35 c.f.s.) from the following point of diversion:

one (1) well located in the Northeast Quarter of the Southeast Quarter of the Southeast Quarter (NE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 22, more particularly described as being near a point 1,114 feet North and 407 feet West of the Southeast corner of said section, in Township 27 South, Range 33 West, Haskell County, Kansas,

at the place of use authorized for irrigation use described as:

Sec.	Twp.	Range	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTAL
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
22	27S	33W									40.00	40.00	40.00	40.00	40.00	40.00	40.00	40.00	320.00

a total of 320 acres in Section 22, Township 27 South, Range 33 West, Haskell County, Kansas,

located substantially as shown on the topographic map accompanying the application to change the use made of water, place of use and point of diversion.

The application is approved subject to the condition that for the sole purpose of administering wells concerning direct impairment, the well located near the center of the South side (CS) of Section 22, more particularly described as being near a point 250 feet North and 2,640 feet West of the Southeast corner of said section, in Township 27 South, Range 33 West, Haskell County, Kansas, approved by this order shall be considered to have the priority of the date the application was filed (June 4, 2020).

The Chief Engineer specifically retains jurisdiction in this matter with authority to make such reasonable reductions in the authorized rate of diversion, and such changes in other terms, conditions, and limitations set forth in this approval of application to change the point of diversion as may be deemed to be in the public interest.

All wells with a diversion rate of 100 gallons per minute or more drilled under the authority of this order shall have a tube or other device installed in a manner acceptable to, and in accordance with specifications adopted by, the Chief Engineer. This tube or device shall be suitable for making water level measurements and shall be maintained in a condition satisfactory to the Chief Engineer.

Installation of the works for diversion of water shall be completed on or before December 31, 2021, or within any authorized extension of time. The applicant shall notify the Chief Engineer of the Division of Water Resources, Kansas Department of Agriculture, when construction of the works for diversion has been completed.

All diversion works into which any type of chemical or other foreign substance will be injected into the water pumped from the diversion works shall be equipped with an in-line, automatic, quick-closing check valve capable of preventing pollution of the source of the water supply. The type of valve installed shall meet specifications adopted by the Chief Engineer and shall be maintained in an operating condition satisfactory to the Chief Engineer.

The water right owner shall properly install an acceptable water meter on the diversion works authorized under this water right, prior to the use of water, in strict accordance with the Kansas Administrative Regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer. The water right owner shall notify the Chief Engineer when installation of the water meter has been completed. The water right owner shall maintain the water meter in an operating condition satisfactory to the Chief Engineer, at all times during diversion of water and shall maintain records from which the total quantity of water diverted may be determined. The water right owner shall also report the reading of said water meter and the total quantity of water diverted annually to the Chief Engineer. Such records shall be furnished to the Chief Engineer by March 1 following the end of each calendar year.

In all other respects, the Certificate of Appropriation issued pursuant to Approval of Application, File No. 3,386, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated June 21, 1983, as modified and amended by the aforementioned orders.

Ordered this 23 day of November, 2020, in Manhattan, Riley County, Kansas.

Lane P. Letourneau

Lane P. Letourneau, P.G.
Water Appropriation Program Manager
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
)
County of Riley) SS

The foregoing instrument was acknowledged before me this 23 day of November, 2020, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.

Ashlee Freeman
Notary Public



RIGHT TO A HEARING AND TO ADMINISTRATIVE REVIEW

If you are aggrieved by this Order, then pursuant to K.S.A. 82a-1901, you may:

- 1) request an evidentiary hearing before the Chief Engineer, or
- 2) request administrative review by the Secretary of Agriculture.

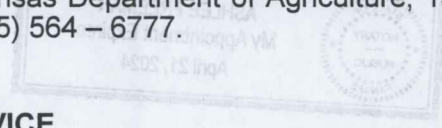
Failure to request an evidentiary hearing before the Chief Engineer does not preclude your right to administrative review by the Secretary.

To obtain an evidentiary hearing before the Chief Engineer, a written request for hearing must be filed within 15 days after service of this Order as provided in K.S.A. 77-531 (i.e., **within a total of 18 days after this Order was mailed to you**), with: Kansas Department of Agriculture, Attn: Legal Section, 1320 Research Park Drive, Manhattan, KS 66502, FAX (785) 564-6777.

If you do not file a request for an evidentiary hearing before the Chief Engineer, you may petition for administrative review of the Order by the Secretary of Agriculture. A petition for review shall be in writing and state the basis for requesting administrative review. The request for hearing may be denied if the request fails to clearly establish factual or legal issues for review. See K.S.A. 77-527. The petition must be filed within 30 days after service of this Order as provided in K.S.A. 77-531 (i.e., **within a total of 33 days after this Order was mailed to you**), and be filed with: Secretary of Agriculture, Attn: Legal Division, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, KS 66502, FAX (785) 564-6777.

If neither a request for an evidentiary hearing nor a petition for administrative review is filed as set forth above, then this Order shall be effective and become a final agency action as defined in K.S.A. 77-607(b). Failure to timely request either an evidentiary hearing or administrative review may preclude further judicial review under the Kansas Judicial Review Act.

Any request for a hearing or petition for administrative review shall be in writing and shall be submitted to the attention of: Chief Legal Counsel, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, Fax: (785) 564 – 6777.



CERTIFICATE OF SERVICE

On this _____ day of _____, I hereby certify that the attached Approval of Application for Change in Use Made of Water, Place of Use, Point of Diversion and Order in the Matter of the Authorized Quantity of Water and Rate of Diversion under Water Right, File No. 3,386, dated _____ was mailed postage prepaid, first class, US mail to the following:

SOUTHWEST FARMS LLC
JOSH TE VELDE
15857 BEAR MOUNTAIN BLVD
BAKERSFIELD CA 93311

With photocopies to:

ENVIRO AG ENGINEERING INC
MARSHA SHOEMAKER
3404 AIRWAY BLVD
AMARILLO TX 97118

Garden City Field Office
Groundwater Management District No. 3

1320 Research Park Drive
Manhattan, KS 66502
785-564-6700
www. agriculture.ks.gov



900 SW Jackson, Room 456
Topeka, KS 66612
785-296-3556

Mike Beam, Secretary

Laura Kelly, Governor

SOUTHWEST FARMS LLC
JOSH TE VELDE
15857 BEAR MOUNTAIN BLVD
BAKERSFIELD, CA 93311

December 2, 2020

RE: Water Right, File Nos. 3,386 and 8,678

Dear Mr. TE VELDE:

Enclosed are the orders executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the applications for change under the above referenced file numbers.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in these approvals for change. A condition of these approvals is that an acceptable water flow meter must be installed on the diversion works authorized under the referenced file numbers. Please return the required notification of completion of the diversion works and/or installation of the required meter form as soon as these actions are completed.

Since these orders modify the original documents referred to above, they should be recorded with the Register of Deeds as other instruments affecting real estate.

If you have any questions, please contact this office. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

Justin Koehn
Environmental Scientist
Water Appropriation Program

JDK

pc: Topeka Field Office

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- 2) request administrative review by the Secretary of Agriculture.

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CERTIFICATE OF SERVICE

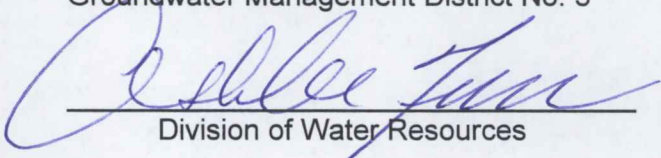
On this 2 day of December, 2020, I hereby certify that the attached Approval of Application for Change in Use Made of Water, Place of Use, Point of Diversion and Order in the Matter of the Authorized Quantity of Water and Rate of Diversion under Water Right, File No. 3,386, dated 23 November 2020 was mailed postage prepaid, first class, US mail to the following:

SOUTHWEST FARMS LLC
 JOSH TE VELDE
 15857 BEAR MOUNTAIN BLVD
 BAKERSFIELD CA 93311

With photocopies to:

ENVIRO AG ENGINEERING INC
 MARSHA SHOEMAKER
 3404 AIRWAY BLVD
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Garden City Field Office
 Groundwater Management District No. 3


 Division of Water Resources