Kansas Department of Agriculture Division of Water Resources

CHANGE: P/U WORKSHEET

Document Signature <u>LP</u> I	L
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1. File Number: 46211	2. Status Cha	•	1	nge Num:	4. Field O	office:	5. GMD:			
6. Status: Approved to Return	☐ Denied	l by DWR/G	MD	Dismis	s by Reque	est/Failure	7. Filing Date of Change: 9/19/2016			
8a. Applicant(s) 56686 New to system SOUTH SPRING DWIGHT BUSEN 6698 NW INDIAN WHITEWATER R	NITZ NOLA RD	Person ID Add Seq#	8c.	Landowne New to sy	• •		Person ID Add Seq#			
8b. Landowner(s) 56686 New to system SOUTH SPRING DWIGHT BUSEN 6698 NW INDIAN WHITEWATER K	Person ID - Add Seq# -	8d.	DWIGH 6698 N	SPRING T BUSE W INDIA			56686			
9. Documents and Enclosur Anti-Reverse Meter H & E Letter Conservation Plan	re(s):	al ⊠ Ch	eck Valv	e □ N 8	P Form	☐ Water Tι	_			
10. Use Made of Water	-rom:				To:			:		
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File No.	46211		11. County:	BU	Ва	sin: W/	ALNU ⁻	TRIVE	ER			St	tream:	NA						Fo	rmation C	ode: 533	Special Use:	NA
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KANSAS DEPARTMENT OF AGRICULTURE Division of Water Resources

MEMORANDUM

TO: Files

DATE: August 15, 2017

FROM: Leslie Ireland

RE: Water Right, File No. 46,211

Dwight & Diane Busenitz on behalf of South Springs LLC, owner of the stockwatering place of use submitted an application for approval to change the place of use which was received in the Office of the Chief Engineer on September 19, 2016. The application was received with a new permit, which was assigned File No. 49,707. This new permit has been recommended for approval, by Jeff Lanterman, Water Commissioner of the Stafford Field Office, and Kristen A. Baum, New Application Unit Supervisor.

The application complies with K.A.R 5-5-2a, *Complete Change Application*. The referenced file was certified in August of 2016. The owner has declared there are no wells within one-half (½) mile of the existing well. No notices of the proposed change were sent, but it appears the application complies with SB 337.

The right is authorized to divert 5.554 million gallons (17 acre-feet) per year at 24 gallons per minute (gpm) from a battery of two (2) wells in Butler County. The source of supply has been determined to be the Wellington Formation (Code 533). The approval will result in a complete overlap in the place of use with File No. 49,707. The new permit will divert water from a separate well, providing an additional 14.0 million gallons per year (43 acre-feet), resulting in a total of 19.554 million gallons (60 acre-feet) per year at the expanded facility. A review of the WRIS database found no other uses of water in the proposed area of expansion for the stockwatering use. As summarized by Matt Meier, ES, Stafford Field Office, for the new permit, there is sufficient quantity for the proposed expansion, to 12,000 hogs, therefore the change in place of use should not result in an increase in consumptive use and the application complies with K.A.R 5-5-3, *Change in consumptive use*.

Jeff Lanterman, Water Commissioner of the Stafford Field Office indicated on July 28, 2017, that he has no objection to the approval of the new application under File No. 46,707 which provides additional quantity and details the place of use as proposed by the change, so he was not contacted for a comment on the proposed change.

A water flowmeter will be required on the existing battery of wells per K.S.A. 82a-706c. A check valve will be required if any chemical or foreign substance is injected into the water through the diversion works according to K.A.R. 5-3-5(c). A water level measurement tube and WWC-5 will not be required as no new well has been authorized to be drilled. The water use correspondent is the same as that for File No. 49,707.

Based on the above discussion, that the new application is approved, the place of use is reasonable, there will be no increase in consumptive use of water, and that impairment to existing water rights is unlikely, it is recommended that the change for File No. 46,211, be approved.

Leslie Ireland

Kesti Ivled

Environmental Scientist

Change Application Unit



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

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

Jackie McClaskey, Secretary

Governor Sam Brownback

SOUTH SPRINGS LLC DWIGHT BUSENITZ 6698 NW INDIANOLA RD WHITEWATER KS 67154 August 29, 2017

FILE COPY

RE: Water Right, File No. 46,211

Dear Mr. Busenitz:

Enclosed is the order executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the application for change under the above referenced file.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in the approval for change. A condition of the approvals is that a water flowmeter meeting 5-1-4 through 5-1-12 must be installed on the diversion works.

Since this order modifies the original document referred to above, it should be recorded with the Register of Deeds as other instruments affecting real estate.

Please be reminded that reports of water usage must be submitted to this office annually. Records indicating the amount of water used should be furnished to the Chief Engineer by March 1 following the end of the previous calendar year so that the continued use of water becomes a matter of record in this office. The owner, or his or her legally designated agent, is held responsible for submitting annual water use reports. Failure to file an accurate water use report is a violation of law which makes you subject to civil penalties.

If you have any questions, regarding the enclosed approval documents please contact Leslie Ireland, Environmental Scientist, at (785) 564-6633. Should you have questions regarding the meter requirements please contact the Stafford Field Office at (620) 234-5311. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

Change Applications Unit Supervisor

BAT:LI:li Enclosures

pc: Stafford Field Office

KANSAS DEPARTMENT OF AGRICULTURE

Jackie McClaskey, Secretary of Agriculture

DIVISION OF WATER RESOURCES

David W. Barfield, Chief Engineer

APPROVAL OF APPLICATION FOR CHANGE IN PLACE OF USE WATER RIGHT, FILE NO. 46,211

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Diane and Dwight Busenitz on behalf of South Springs, LLC, 6698 NW Indianola Road, Whitewater, Kansas 67154, received in this office on September 19, 2016, for approval of a change in the place of use under the certificate of appropriation issued pursuant to the application for permit to appropriate water for beneficial use, 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.

Effective date of the change shall be the date this order is executed by the Chief Engineer, after which the authorized location of the place of use shall be the:

a hog facility located in the South Half of the Southeast Quarter (5½ SE½) of Section 10, Township 25 South, Range 3 East, Butler County, Kansas,

located substantially as shown on the topographic map accompanying the application to change the place of use.

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. 46,211, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated August 29, 2017.

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.

Ordered this 384 day of August

, 2017, at Topeka, Shawnee County, Kansas.

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

State of Kansas)
) SS
County of Riley)

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

DANIELLE WILSON
My Appointment Expires
August 23, 2020

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CERTIFICATE OF SERVICE

On this Hay of Logost, 2017, I hereby certify that the attached Approval of Application for Change in the Authorized Place of Use under Water Right, File No. 46,211, dated was mailed postage prepaid, first class, US mail to the following:

South Springs LLC Dwight Busenitz 6698 NW Indianola Rd Whitewater, KS 67154

With photocopies to:

Stafford Field Office

Division of Water Resources

Submit To: CHIEF ENGINEER
Division of Water Resources
Kansas Department of Agriculture
109 SW 9th Street, 2nd Floor
Topeka, KS 66612-1283
www.ksda.gov/dwr

APPLICATION FOR APPROVAL TO CHANGE THE PLACE OF USE, THE POINT OF DIVERSION OR THE USE MADE OF THE WATER UNDER AN EXISTING WATER RIGHT



Filing Fee Must Accompany the Application

(Please refer to Fee Schedule on signature page of application form.)

Paragraph Nos. 1, 2, 3, 4 & 8 must be completed. Complete all other applicable portions. A topographic map or detailed plat showing the authorized and proposed points(s) of diversion and /or place of use must accompany this application.

1.	Application is hereby m	ade for approval of t	he Chief Enginee	er to change the	
		☑ Place of Use		WATER RESOURCE RECEIVED	
	(Check one or more)	☐ Point of Diver	sion	RECEIVED	UNACCE RECEIVED
		☐ Use Made of	Water	SEP 1 9 2016	ALIC 9 5 50M DE
		F	File No. <u>46,211</u>	KS DEPT OF AGRICULTU	WATER RESOURCES UNACCEPTABLE AUG 29 2918 PRIORITY JRE KS DEPT OF AGRICULTURE
	2. Name of applicant:	South Springs LLC,	Dwight Busenitz		
	Address: 6698 NW Indi	anola Rd	· · · · · · · · · · · · · · · · · · ·		
	City, State and Zip: Wh	itewater, KS 67154			
	Phone Number: (316)7	37-7402	E-mail	address:	
	What is your relationshi	p to the water right;	owner 🗌 ter	nant 🗌 agent 📗 other? If	other, please explain
	Name of water use corr	espondent: <u>Same as</u>	s Applicant		
	Address:	· · · · · · · · · · · · · · · · · · ·			
	City, State and Zip:				
	Phone Number: ()	E-mail	address:	
2	The change(s) propose	d herein are desired	for the following	reasons (please be specific).	Needing change to form
.5	•		_	, , ,	
3.	33111P1313 31311AP 11131				
3.					
3.	The change(s) (will be)	completed by ASAP		8/26 /10 (Date)	3
3.		completed by <u>ASAP</u>)	8/26 (16 (Date)	'A
E	The change(s) (will be)			Source © S-County & Receipt Date	

APPLICATION COMPLETE

8/14/17

Reviewer LT

Assisted by: MJM SFFO 7/18/16

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List any other water rights that cover this place of use. Pending New Application

IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY WATER RESOURCES
RECEIVED WATER RESOURCES
RECEIVED UNACCEPTABLE FOR PRIORITY

AUG 2 9 2016

		File No. <u>46,211</u>
. Т	The presently authorized use of water is for <u>Stockwatering (hogs)</u>	purposes.
lt	t is proposed that the use be changed to N.A.	purposes.
If	f changing the place of use and/or use made of water, describe how the	consumptive use will not be increased
	Consumptive use increase will be covered by pending new application	
_		
(F	Please show any calculations here.)	
lt	t is requested that the maximum annual quantity of water be reduced to <u>l</u>	N.A. (acre-feet or million gallons).
lt	t is requested that the maximum rate of diversion of water be reduced to	N.A. gallons per minute (c.f.s.).
1 K D s	The application must include either a topographic map or detailed plat. I:24,000, is available through the Kansas Geological Survey, 1930 Cookies as 66047-3726 (www.usgs.gov). The map should show the location Distances North and West of the Southeast corner of the section must should also be shown. Identify the center of the section, the section lines section, township, and range numbers on the map. In addition the follows:	constant Avenue, University of Kansas, Lawrence, on of the presently authorized point(s) of diversion be shown. The presently authorized place of use s and the section corners and show the appropriate
а	a. If a change in the location of the point(s) of diversion is proposed, she	ow:
	 The location of the proposed point(s) of diversion. Distances No must be shown. Please be certain that the information shown Paragraph Nos. 9, 10 and 11 of the application. 	
	2) If the source of supply is groundwater, please show the local domestic wells, within ½ mile of the proposed well or wells. Ide mailing address of the property owner or owners. If there are no	entify each well as to its use and furnish name and
	3) If the source of supply is surface water, the names and mailing and ½ mile upstream from your property lines must be shown.	addresses of all landowner(s) ½ mile downstream
b	 If a change in the place of use is desired, show the proposed place certain that the information shown on the map agrees with the information. 	
ic W	Attach documentation to show the change(s) proposed herein will not in ocal source of supply as to which the water right relates. This informativell logs, test hole logs, and other information as necessary information nade below.	ion may include statements, plats, geology reports,
_		
ic re	f the proposed change(s) does not meet all applicable rules and regulation dentify the rules and regulations for which you request a waiver. State equest should be granted. Attach documentation showing that granting will not prejudicially and unreasonably affect the public interest.	e the reason why a waiver is needed and why the
	WATER RESOUR	WATER RESOURCES RCES AS NECESSARY
	IF MORE SPACE IS NEEDED, ATTACH ADDITION * LY 0wd SEP 1 9 20	UNACCEPTABLE 29281610P
		No Dept of VObiCilinia

File 1	Vo.	46,211

Any use of water that is not as authorized by the water right or permit to authorize water <u>before</u> 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 authorized to make this application on their behalf, and declare furthe complete. By filing this application I authorize the chief engineer to per	er that the statements contained herein are true, correct, and
Dated at Emprise Bank, Potwin, Kansas, this_	26 day of <u>August</u> , 20/6.
Digne Busenitz (Owner) Digne Busenitz (Please Print)	Dwight Buseritz (Spouse) (Please Print)
(Owner)	(Spouse)
(Please Print)	(Please Print)
(Owner)	(Spouse)
(Please Print)	(Please Print)
State of Kansas County of Butter SS	LORI DELLETT Notary Public - State of Kansas My Appt. Expires [[-[4-[8]
I hereby certify that the foregoing application was signed in my produced by the state of the signed in the produced by the signed b	resence and sworn to before me this 26 day of
My Commission Expires 11-14-16.	Notary Public
FEE SCHEDU	<u>LE</u>
Each application to change the place of use, the point of diversion or the use application fee set forth in the schedule below:	made of the water under this section shall be accompanied by the
 (1) Application to change a point of diversion 300 feet or less (2) Application to change a point of diversion more than 300 feet (3) Application to change the place of use	
Make check payable to Kansas Department of Agriculture.	

KS DEPT OF AGRICULTURE

WATER RESOURCES

RECEIVED

SEP 1 9 2016

KS DEPT OF AGRICULTURE

WATER RESOURCES

RECEIVED

UNACCEPTABLE FOR PRIORITY
AUG 2 9 2016

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



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

Iackie McClaskey. Secretary

Governor Sam Brownback

FILE COPY

September 20, 2016

SOUTH SPRINGS LLC DWIGHT BUZENTIZ 6698 NW INDIANOLA RD WHITEWATER, KS 67154

RE: File No. 46211

Dear Sir or Madam:

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

> PU place of use point of diversion use made of water

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

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

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

(b) (1) The violation of any provision of this section by any person is a class C misdemeanor... A class C misdemeanor is punishable by a fine not to exceed \$500 and/or a term of confinement not to exceed one month in the county jail. Each day that the violation occurs constitutes a separate offense.

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

Sincerely,

Brent A Turney, L.G.

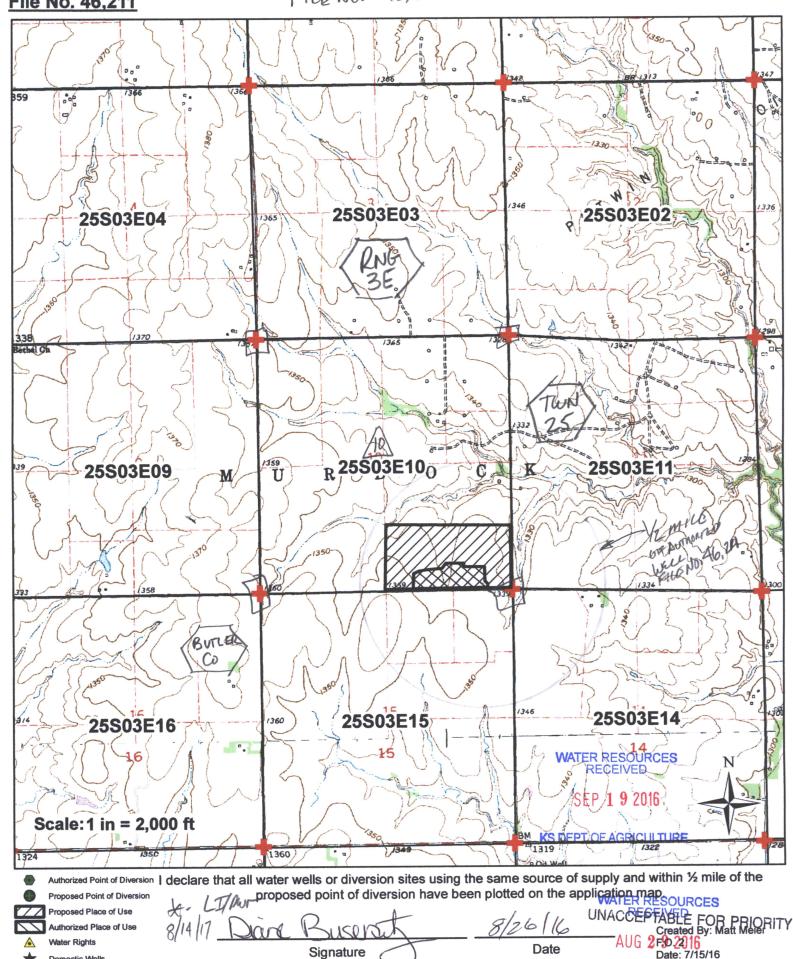
Change Applications Unit Supervisor

Water Appropriation Program

BAT: dlw

pc: STAFFORD Field Office **GMD**

Section Corner

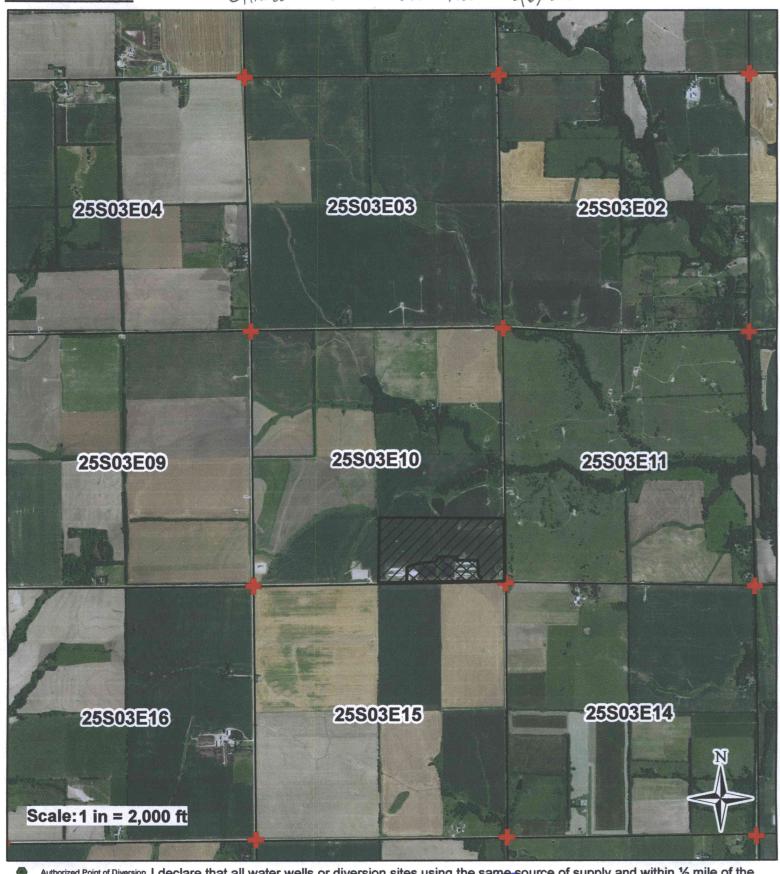


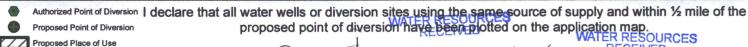
1,550

Date: 7/15/16

Feet KS DEPT OF AGRICULTURE

6,200





Authorized Place of Use Water Rights

Domestic Wells Section Corner

Signature 1,550

Created By: Matt Meier Date: 771516 RIORITY Date DEPT OF AGRICULTURE 6,200 Feet KS DEPT OF AGRICULTURE