

# NOTICE

This scan only represents the application as filed. The information contained herein meets the requirements of K.A.R. 5-3-1 or K.A.R. 5-5-1, and has been found acceptable for filing in the office of the Chief Engineer. The application should not be considered to be a complete application as per K.A.R. 5-3-1b or K.A.R. 5-5-2a.

Submit To: CHIEF ENGINEER  
 Division of Water Resources  
 Kansas Department of Agriculture  
 1320 Research Park Drive  
 Manhattan, Kansas 66502  
 http://agriculture.ks.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 made for approval of the Chief Engineer to change the
- Place of Use
  - (Check one or more)  Point of Diversion
  - Use Made of Water

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 11:11  
 KS DEPT OF AGRICULTURE

File No. 14672

2. Name of applicant: Troy Nelson

Address: Nelson Circles, 1566 210<sup>th</sup> Ave

City, State and Zip: Lewis KS 67552

Phone Number: (620)324-5296 E-mail address: \_\_\_\_\_

What is your relationship to the water right;  owner  tenant  agent  other? If other, please explain. \_\_\_\_\_

Name of water use correspondent: Nelson Circles Inc

Address: Troy Nelson, 1566 210<sup>th</sup> Ave

City, State and Zip: Lewis KS 67552

Phone Number: (620) 324-5296 E-mail address: \_\_\_\_\_

3. The change(s) proposed herein are desired for the following reasons (please be specific): The intent of this change is to convert a portion of File No. 14672 to Stockwater use and relocate this quantity to overlap the point of diversion currently authorized by File Nos. 28265.01 & 36628.01 (STK) utilizing K.A.R. 5-5-16. This is proposed in order to facilitate an expansion to the feedlot located in the W1/2, SW 1/4 of 21-26S-17W. Place of use change applications have also been filed under File Nos. 28265.01 & 36628.01 to incorporate the expansion.

The change(s) (will be) completed by upon approval (Date)

For Office Use Only:							
F.O. Code	<u>2</u>	<u>GWD</u>	<u>5</u>	Meets K.A.R. 5-5-1	<input checked="" type="checkbox"/> YES / <input type="checkbox"/> NO	Use	<u>IRP</u>
	<u>13</u>			Fee \$	<u>700</u>	TR #	
				Source	<input checked="" type="checkbox"/> S	County	<u>ED</u>
				By	<u>AJW</u>	Date	<u>1/6/18</u>
				Receipt Date	<u>1/8/18</u>	Check #	<u>5987</u>

4. The presently authorized place of use is:

Owner of Land — NAME: Nelson Circles Inc, Troy Nelson

ADDRESS: 1566 210<sup>th</sup> Ave, Lewis KS 67552

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	
28	26S	17W					40	40	40	40									160

List any other water rights that cover this place of use. None

Owner of Land — NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

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	

List any other water rights that cover this place of use. \_\_\_\_\_

(If there are more than two landowners, attach additional sheets as necessary.)

5. It is proposed that the place of use be changed to:

Owner of Land — NAME: IRRIGATION: Nelson Circles Inc, Troy Nelson

ADDRESS: 1566 210th Ave, Lewis KS 67552

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	
28	26S	17W					Lot 3 30.2	Lot 4 29.3	39.8	33.7									133
28	26S	17W					Lot 6 6.3												6.3
																			Total: 139.3

List any other water rights that cover this place of use. None

Owner of Land — NAME: STOCKWATER: Nelson Circles Inc, Troy Nelson

ADDRESS: 1566 210th Ave, Lewis KS 67552

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	
21	26S	17W	A feedlot in the West Half of the Southwest Quarter																

List any other water rights that cover this place of use. File Nos. 28265.01 & 36628.01

**IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY**

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- 6. The presently authorized point(s) of diversion is One irrigation well with diversion works  
(Provide description and number of points)
- 7. The proposed point(s) of diversion are One irrigation well and one existing stockwater well, both with diversion works  
(Provide description and number of points)

List all presently authorized point(s) of diversion:

8. **Presently authorized point of diversion:**  
 One in the --- Quarter of the --- Quarter of the CN NW Quarter of Section 28, Township 26 South, Range 17 W, in Edwards County, Kansas, 5100 feet North 3960 feet West of Southeast corner of section. Authorized Rate 825 GPM Authorized Quantity 224 AF  
 (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) IRRIGATION USE**  
 One in the --- Quarter of the --- Quarter of the CN NW Quarter of Section 28, Township 26 South, Range 17 W, in Edwards County, Kansas, 5100 feet North 3960 feet West of Southeast corner of section. Proposed Rate 775 GPM Proposed Quantity 195 AF  
 This point is:  Additional Well  Geo Center List other water rights that will use this point None

9. **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 ---  
 (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) STOCKWATER USE**  
 One in the --- Quarter of the --- Quarter of the NC SW Quarter of Section 21, Township 26 South, Range 17 W, in Edwards County, Kansas, 1318 feet North 3970 feet West of Southeast corner of section. Proposed Rate 50 GPM Proposed Quantity 24.186 AF (7.881 mg)  
 This point is:  Additional Well  Geo Center List other water rights that will use this point 28265.01 & 36628.01

10. **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 ---  
 (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 ---  
 This point is:  Additional Well  Geo Center List other water rights that will use this point ---

- 11. Describe the current condition of and future plans for any point(s) of diversion which will no longer be used. all points of diversion will be used after this change

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12. The presently authorized use of water is for Irrigation purposes.  
 It is proposed that the use be changed to Irrigation and Stockwater purposes.
13. If changing the place of use and/or use made of water, describe how the consumptive use will not be increased.  
Consumptive use will not be increased by utilizing the procedures and calculations outlined in K.A.R. 5-5-10.  
Please refer to the attached spreadsheet to see the calculations applied to this water right.  
The feed lot is proposing to expand from the currently permitted 2,500 head to 5,500 head of cattle. As proposed, the facility will use approx. 7.98<sup>TM</sup> gal/head/day at maximum capacity. It is expected that the facility will be run at approx. 80% capacity using 9.98<sup>TM</sup> gal/head/day; both of which are under the maximum reasonable quantity of 15 gal/head/day for cattle as outlined in K.A.R. 5-3-22.  
 (Please show any calculations here.)
14. It is requested that the maximum annual quantity of water be reduced to \_\_\_\_\_ (acre-feet or million gallons).
15. It is requested that the maximum rate of diversion of water be reduced to \_\_\_\_\_ gallons per minute (\_\_\_\_\_ c.f.s.).
16. The application must include either a topographic map or detailed plat. A U.S. Geological Survey Topographic Map, scale 1:24,000, is available through the Kansas Geological Survey, 1930 Constant Avenue, University of Kansas, Lawrence, Kansas 66047-3726 ([www.usgs.gov](http://www.usgs.gov)). The map should show the location of the presently authorized point(s) of diversion. Distances North and West of the Southeast corner of the section must be shown. The presently authorized place of use should also be shown. Identify the center of the section, the section lines and the section corners and show the appropriate section, township, and range numbers on the map. In addition the following information must also be shown on the map.
- a. If a change in the location of the point(s) of diversion is proposed, show:
    - 1) The location of the proposed point(s) of diversion. Distances North and West of the Southeast corner of the section must be shown. Please be certain that the information shown on the map agrees with the information shown in Paragraph Nos. 9, 10 and 11 of the application.
    - 2) If the source of supply is groundwater, please show the location of existing water wells of any kind, including domestic wells, within 1/2 mile of the proposed well or wells. Identify each well as to its use and furnish name and mailing address of the property owner or owners. If there are no wells within 1/2 mile, please indicate so on the map.
    - 3) If the source of supply is surface water, the names and mailing addresses of all landowner(s) 1/2 mile downstream and 1/2 mile upstream from your property lines must be shown.
  - b. If a change in the place of use is desired, show the proposed place of use by crosshatching on the map. Please be certain that the information shown on the map agrees with the information shown in Paragraph No. 5 of the application.
17. Attach documentation to show the change(s) proposed herein will not impair existing water rights and relates to the same local source of supply as to which the water right relates. This information may include statements, plats, geology reports, well logs, test hole logs, and other information as necessary information to show the above. Additional comments may be made below.  
The proposed point of diversion is within 1/2 mile of the currently authorized point of diversion and produces out of the same local source of supply. The proposed point of diversion is an existing well which is authorized by File Nos 28265.01 & 36628.01. Please see the attached log for the proposed point of diversion.  
The well currently authorized by File No. 14672 is 140 feet deep as indicated on the FIR (no log available).
18. If the proposed change(s) does not meet all applicable rules and regulations of the Kansas Water Appropriation Act, please identify the rules and regulations for which you request a waiver. State the reason why a waiver is needed and why the request should be granted. Attach documentation showing that granting the request will not impair existing water rights and will not prejudicially and unreasonably affect the public interest.

No waivers anticipated

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Any use of water that is not as authorized by the water right or permit to authorize water before the chief engineer approves this application is a violation of the Kansas Water Appropriation Act for which criminal or civil penalties may be assessed. Such violation is a class C misdemeanor, punishable by a fine not to exceed \$500 and/or a term of confinement not to exceed one month in the county jail. K.S.A. 82a-728(b). Civil penalties shall be not less than \$100 nor more than \$1,000 per violation. In the case of a continuing violation, each day such violation continues may be deemed a separate violation. In addition to these penalties the water right may be modified or suspended. K.S.A. 82a-737, as amended.

The application must be signed by all owners of the place of use authorized under the water right and his or her spouse, if married. Please indicate if there is no spouse. If land is being purchased under contract, the seller must sign as landowner until such time as the contract is completed.

In the event that all applicants cannot appear before one notary public, they may as necessary sign separate copies of the application before any notary public conveniently available to them. All copies signed in this manner shall be considered to be valid parts of the application.

If the request is signed on behalf of any Owner by someone with legal authority to do so (for example, an agent, one who has power of attorney, or an executor, executrix, conservator), it will be necessary to attach proper documents showing such authority.

I declare that I am an owner of the currently authorized place of use as identified herein, or that I represent all such owners and am authorized to make this application on their behalf, and declare further that the statements contained herein are true, correct, and complete. By filing this application I authorize the chief engineer to permanently reduce the quantity of water and/or rate of diversion as specified in sections 14 and 15 of this application.

Dated at Lewis, Kansas, this 5th day of January, 2018.

Gary Nelson (Owner)

Troy Nelson (Please Print)

Aurelia Denise Nelson (Owner)

AURELIA DENISE NELSON (Please Print)

(Owner) [crossed out]

(Please Print) [crossed out]

(Spouse) [crossed out]

(Please Print) [crossed out]

(Spouse) [crossed out]

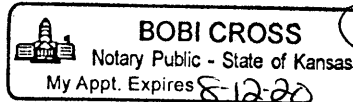
(Please Print) [crossed out]

(Spouse) [crossed out]

(Please Print) [crossed out]

State of Kansas }
County of Edwards } SS

I hereby certify that the foregoing application was signed in my presence and sworn to before me this 5th day of January, 2018.



[Signature of Bobi Cross]
Notary Public.

My Commission Expires 8-12-20

FEE SCHEDULE

Each application to change the place of use, the point of diversion or the use made of the water under this section shall be accompanied by the application fee set forth in the schedule below:

- (1) Application to change a point of diversion 300 feet or less \$100
(2) Application to change a point of diversion more than 300 feet \$200
(3) Application to change the place of use \$200
(4) Application to change the use made of the water \$300

Make check payable to Kansas Department of Agriculture.

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UMW Conversion for File No. 14672

per K.A.R. 5-5-10

Authorized Quantity= 224 AF as Irrigation Use

Perfection Acres= 160 acres

Consumptive Use Percentage = 83.4% Edwards Co.

Step 1

Max Quantity under 5-5-9

$$224 \text{ AF} \times 83.4\% = 186.816 \text{ AF}$$

Step 2

$\frac{\text{Q to be changed to STK}}{\text{Max Q that can be changed}} = \text{\% of reduced right to be changed}$

$$\frac{24.186 \text{ AF}}{186.816 \text{ AF}} = 12.95\%$$

Step 3

Remaining \% of reduced right to be changed x Authorized Q = Final Portion of water right to remain as irrigation use

**87.05% X 224 AF = 195 AF**

---

Proposed Acres Irrigation = 139.3 acres

Proposed Irrigation Quantity = 195 AF

$$1.4 \text{ AF} / 139.3 \text{ acres} = 1.40 \text{ AF} / \text{acre}$$

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USE TYPEWRITER OR BALL POINT PEN—PRESS FIRMLY, PRINT CLEARLY.

WATER WELL RECORD  
KSA 82a-1201-1215

Kansas Department of Health and Environment—Division of Environment  
(Water well Contractors)  
Topeka, Kansas 66620

1. Location of well: County <b>Edwards</b>		Fraction <b>1/4 1/4 1/4</b>		Section number <b>21</b>		Township number <b>T 26 S R 17 E/W</b>		Range number	
2. Distance and direction from nearest town or city: <b>3.5 3/4 W 1/4 N 1/4 E Fellsburg</b> Street address of well location if in city:				3. Owner of well: <b>Norman Nelson</b> R.R. or street: City, state, zip code: <b>Long Island, Ks.</b>					
4. Locate with "X" in section below: N W E S 1 Mile Sketch map:				6. Bore hole dia. <b>2 1/2</b> in. Completion date <b>11-11-75</b> Well depth <b>168</b> ft.					
				7. Cable tool <input checked="" type="checkbox"/> Rotary <input type="checkbox"/> Driven <input type="checkbox"/> Dug <input type="checkbox"/> Hollow rod <input type="checkbox"/> Jetted <input type="checkbox"/> Bored <input type="checkbox"/> Reverse rotary					
				8. Use: <input type="checkbox"/> Domestic <input type="checkbox"/> Public supply <input type="checkbox"/> Industry <input type="checkbox"/> Irrigation <input type="checkbox"/> Air conditioning <input type="checkbox"/> Stock <input type="checkbox"/> Lawn <input type="checkbox"/> Oil field water <input type="checkbox"/> Other					
5. Type and color of material				From		To			
Sandy Top Soil				0		2			
Brown & Gray Clay				2		9			
Fine Sand & Gravel lot of Clay				9		15			
Fine Sand				15		20			
Brown Sandy Clay				20		27			
Sand & Gravel Clean Coarse loose				27		69			
Yellow Brown Clay				69		72			
Sand & Gravel Clean Coarse loose				72		96			
Brown & White Clay				96		103			
Brown & White Clay with Sand Streaks				103		106			
Sand & Gravel				106		108			
Hard White Rock				108		109			
Sand & Gravel with Sand Streaks				109		120			
Sand & Gravel Clean Coarse loose				120		168			
Brown & White Clay				168		172			
(Use a second sheet if needed)									
18. Elevation:		19. Remarks:							
Topography: <input type="checkbox"/> Hill <input type="checkbox"/> Slope <input checked="" type="checkbox"/> Upland <input type="checkbox"/> Valley		20. Water well contractor's certification: This well was drilled under my jurisdiction and this report is true to the best of my knowledge and belief. <b>Rosenkrantz - Bemis 134</b> Business name Address <b>Great Bend, Ks.</b> Signed <b>Fredia Sedum</b> Date <b>9/29/74</b> Authorized representative							

Forward the white, blue and pink copies to the Department of Health and Environment

REC Form WWC-5

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MI-1023

1/H  
210  
170  
271  
CSW  
1/4 1/4 1/4



# Kansas Department of Health & Environment

Division of Environment  
Bureau of Water



Topeka, Kansas 66612-1367  
Telephone: (785) 296-6432

Kansas Permit No.: **A-ARED-C002**  
Federal Permit No.: **KS0088251**

## KANSAS WATER POLLUTION CONTROL PERMIT FOR AGRICULTURAL AND RELATED WASTES AND AUTHORIZATION TO DISCHARGE UNDER THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

Pursuant to provisions of Kansas Statutes Annotated 65-164 and 65-165 et seq., and the Federal Water Pollution Control Act as amended, (33 U.S.C. 1251 et seq.; the "Act"),

Permittee: **Bo Nelson**

Permittee's Address: **1566 210<sup>th</sup> Avenue  
Lewis, KS 67552**

Facility Name: **Nelson Circles, Inc.**

Facility Location: **SW ¼ Section 21, & NW ¼ Section 28, Township 26 S, Range 17 W  
Edwards County, Kansas**

River Basin: **Lower Arkansas River Basin**

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is authorized to operate, as a pollutant discharge elimination system, water pollution control facilities to collect, retain, and dispose of precipitation induced runoff and/or dry weather wastewater accumulations containing livestock and related agricultural wastes in accordance with requirements as set forth herein.

This permit is effective December 26, 2017, supersedes the previously issued water pollution control permit A-ARED-C002, and expires December 25, 2022.

### Facility Summary

This is an existing cattle feeding facility expanding capacity to 5,500 head (5,500 animal units) of cattle weighing greater than 700 pounds. Approximately 11 acres of additional pens and a new drainage channel and sedimentation basin will be constructed next to the existing 26 acres of pens and feed storage area. All runoff wastewater will drain to the existing earthen wastewater retention structure. Construction of the approved proposed modifications will be initiated within two (2) years, and completed within three (3) years of the effective date of this permit. See Section F. Schedule of Compliance.

Secretary, Kansas Department of Health and Environment

December 26, 2017  
Date

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**A. FACILITY DESCRIPTION**

Existing Facility

The existing facility is used for starting and the supplemental feeding of lightweight beef cattle before they are turned out for winter grazing. The southwest corner consists of two permanent pens and one temporary pen with 800 feet of total bunk space covering a total drainage area of approximately two acres. An 11 acre feed storage area is located across the road south of the south feeding area.

The confined feeding facility consists of a total drainage area of 26.1 acres including 22 acres of feeding and processing pens in the north central area of the facility, 2 acres of feeding pens in the southwest corner. Surface runoff from the ten north-central feeding pens and processing area is directed south, via a channel, thru a sedimentation basin which discharges thru a 10 inch PVC outlet pipe into a square single cell earthen retention structure (Runoff Control Structure #1). Runoff Control Structure (RCS) #1 measures 344 ft. by 344 ft. at the top of the berm, with 4:1 side slopes and a total depth of 18 ft., providing a storage capacity of 19.2 acre-ft. at the 5 ft. freeboard level.

Surface runoff from the feeding area located in the southwest corner of the facility flows northeast via a channel and thru a 10 inch PVC inlet pipe located on the west berm of RCS #1.

Runoff from the silo area is drained to a sediment basin and is then carried under the road by a 10 inch pipe and into the same drainage channel as the runoff from the southwest pen area.

Proposed Facility or Modifications (see Section F. "Schedule of Compliance" for the required construction schedule)

An additional 11.1 acres of confinement pens, a new runoff wastewater collection channel, East Collection Channel, and an additional sedimentation basin, East Sediment Basin, are proposed along the north and east sides of the existing pens. Wastewater drainage from the additional pens will be contained in the existing Runoff Control Structure #1.

Twenty-five overflow waterers and barn process wastewater also add 2,350 gallons per day to the wastewater retention structure during the winter months.

**B. OPERATION AND MAINTENANCE REQUIREMENTS**

Liquid or Slurry Wastes

**Table 1 – Operating Level Requirements**

Controlled Drainage Area / Wastewater Retention Structure	Operating Level*	Dec. 1 <sup>st</sup> Operating Level*
35.1 acres Pens & 2 acres feed storage/ Runoff Control Structure (RCS) #1	13.0 feet	13.5 feet

\*Operating level is shown in vertical feet below the lowest point of the top of berm.

The water level in the retention structure(s) shall be maintained at least the number of feet below the lowest point of the top of berm as shown in Table 1, above, (Operating Level) to ensure structural stability and provide storage capacity for a two-week period plus precipitation induced flow from a 25-year, 24-hour storm event. Furthermore, on December 1st of each year, the retention structure(s) shall be at or below the levels required in Table 1, above, (Dec. 1st Operating Level) to provide additional storage for accumulations through the winter.

Whenever the available storage capacity is less than the required amount(s) specified in Table 1, dewatering shall be initiated and conducted on all days suitable for land application of waste until the required storage capacity is again available. Unless approved in advance by the Department, liquid livestock wastes shall not be land applied during a precipitation event, or when the ground is frozen, snow covered, or saturated.

A permanent water level measurement device (such as a staff gauge) shall be installed and maintained in each retention structure to be used as the basis for determining appropriate storage capacity. The device shall be marked in increments of feet and shall be readable to the nearest ½ foot.

Runoff and wastewater containing livestock or related wastes not collected or retained by the water pollution control facilities shall be controlled in a manner capable of preventing water pollution.

#### Solid Wastes

Open lots used on a continuous basis shall be cleaned of manure accumulations after each occupancy cycle or at least twice per year. Open lots used seasonally shall be cleaned of solid wastes after each use.

The sediment basins and drainage channels shall be completely dewatered within a maximum of ten days after a 25-yr 24-hour storm event. Sedimentation basin(s) shall be cleaned whenever solids accumulations exceed one half of the depth of the basin(s).

Retention structure(s) shall be cleaned whenever the solids accumulations infringe on the required operating level specified in Table 1. Removed solids shall be applied to agricultural land on days suitable for land application of waste.

Solids such as manure may be stockpiled temporarily (not to exceed six months). Stockpiles shall not create nuisance conditions and shall be located in areas not subject to uncontrolled runoff or leaching.

#### Visual Inspections

Weekly visual inspections shall be conducted of all storm water diversion devices, runoff diversion structures, and devices channeling runoff and wastewater containing livestock or related wastes to the water pollution control facilities.

Weekly visual inspections shall be conducted of the retention structure(s) noting the level as indicated by the water level measurement device installed in the structure.

Daily visual inspections shall be conducted of all water lines, including drinking water and cooling water lines.

Any deficiencies that are identified in the daily and weekly visual inspections must be corrected in a timely manner. If deficiencies are not corrected within 30 days, the permittee must submit to the Department an explanation of the factors preventing immediate correction.

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### **C. NUTRIENT MANAGEMENT PLAN REQUIREMENTS**

#### Site-Specific Requirements

Livestock waste management systems shall be designed, constructed, maintained and operated to prevent the pollution of waters of the State and to protect public health and the environment. The

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permittee shall ensure the adequate storage of manure, litter, and process wastewater, including procedures to ensure proper operation and maintenance of the water pollution control facilities in accordance with the effluent limitations and conditions of this permit.

To the extent possible, clean water shall be diverted away from manure, litter, process wastewater, feed, byproducts and other potential sources of contaminants in the production area. All runoff that is not diverted from the production area must be collected in accordance with the effluent limitations and conditions of this permit.

The permittee shall maintain all structures necessary to prevent contact of animals with waters of the State which may pass over, across, through or adjacent to the production area.

Chemicals and other contaminants shall not be disposed of in any manure, litter, process wastewater, or the pollution control system unless specifically authorized in writing by the Department. Chemicals should be disposed of in accordance with manufacturer recommendations.

Site specific conservation practices shall be implemented to control runoff of pollutants to waters of the State. Unless the Concentrated Animal Feeding Operation (CAFO) exercises a KDHE approved compliance alternative, manure, litter, and process wastewater may not be applied closer than 100 feet to any downgradient surface waters; open tile line intake structures; sinkholes; agricultural, public, or private well heads; or other conduits to groundwater or surface waters of the State. As a compliance alternative, the CAFO may substitute the 100-foot setback with a permanent 35-foot wide vegetated buffer on which applications of manure, litter, or process wastewater are prohibited. The permittee shall adhere to the field specific conservation practices listed in section 3.6 of the Nutrient Management Plan.

Manure, litter, compost, and process wastewater shall be analyzed a minimum of once annually as indicated in the KDHE approved Nutrient Management Plan.

Soil sampling and analysis shall be conducted on soils from fields as indicated in the KDHE approved Nutrient Management Plan.

The permittee shall adhere to the protocols established in the KDHE approved Nutrient Management Plan to land apply manure, litter, or process wastewater in accordance with site specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter, or process wastewater.

The most recent KDHE approved Nutrient Management Plan shall be maintained on-site; additionally, the permittee shall maintain records documenting the implementation and management of the Nutrient Management Plan. The permittee must retain the Nutrient Management Plan and records on file or at a central records location for five years, and make available upon request by the Department or EPA inspector.

#### Mortality Management

Routine mortalities shall be handled by rendering. For catastrophic events, the permittee shall contact the Department for instructions.

Mortalities shall not be disposed of in any liquid manure, stormwater, or process wastewater storage or treatment system that is not specifically designed to treat animal mortalities and shall be handled in such a way as to prevent the discharge of pollutants to surface water or groundwater.

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### Land Application

The permittee shall have equipment available which has pumping capacity to dewater the wastewater retention structure(s) to the required operating level in ten days. The permittee shall also have the land application sites as specified in table 4.1 of the most recent KDHE approved narrative Nutrient Management Plan.

Solid livestock wastes may be applied to frozen ground provided that the waste is retained at the application site.

Livestock wastes shall be applied to land using rates and methods that prevent surface runoff of pollutants and/or leaching of pollutants into groundwater. Waste application rates shall be calculated using the methodology described in section 2.3 of the Nutrient Management Plan. Additionally, the application rates shall not exceed the application rate limitations listed in section 2.3. Wastes shall be applied to the crops with the expected yield goals and nutrient requirements as listed in Table 4.3 in the Nutrient Management Plan.

Prior to the transferring of manure or process wastewater to another person, the permittee must provide the recipient the most current nutrient analysis of the waste. The analysis provided must be consistent with the requirements of 40 CFR part 412. The permittee must retain for five years records of the date, recipient name and address, and the approximate amount of waste transferred.

### **D. STANDARD CONDITIONS**

In addition to the requirements specified herein, the permittee shall comply with the attached Standard Conditions for all Animal Types and Related Agricultural Operations with NPDES Permits Except Swine dated July 3, 2017.

### **E. REPORTING AND RECORDKEEPING**

1. Any significant operational changes, modifications, or capacity increases shall be reported and approved by the Department prior to implementation.
2. All overflows or discharges from the water pollution control structures, the land application sites, any water pollution incident, or any permit violation shall be reported to the Department by telephone at (785) 296-1679, immediately upon discovery [within two hours]. A written report shall be submitted to the Department within three days of the incident.
3. A written Operations Report shall be maintained on forms available from the Department. The wastewater level shall be recorded for all retention structures once per week. Whenever the water level infringes on the required operating level or the required storage capacity is not available in any retention structure, the available storage depth shall be recorded daily until the required storage capacity is again available.
4. The Operations Report shall be retained on-site or at a central records location and made available upon request by the KDHE or EPA inspector to verify proper management of pollution controls. The Report shall be kept on file at the facility or at a central records location for a period of five calendar years plus the current calendar year. The Report need not be submitted to KDHE unless so requested.
5. An Annual Report shall be submitted to the Department by February 28th of each year for the previous calendar year. The Annual Report shall be completed on forms available from the Department and include the following information for the previous calendar year: (a) maximum

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number and type of animals confined at any one time during the reporting period; (b) estimated amount of total manure, litter, and process wastewater generated; (c) estimated amount of total manure, litter and process wastewater transferred to a third party; (d) total number of acres for land application included in the Nutrient Management Plan; (e) total number of acres under control of the CAFO that were used for land application of livestock waste, (f) summary of all manure, litter and process wastewater discharges from the production area that occurred, including date, time and approximate volume; (g) a statement indicating whether the current version of the Nutrient Management Plan was developed or approved by a certified nutrient management planner; (h) the actual crops planted and actual yields for each field; (i) results of all samples of manure, litter, or process wastewater; (j) results of calculations conducted in accordance with those submitted in the approved Nutrient Management Plan; (k) amount of manure, litter, and process wastewater applied to each field; (l) the results of any soil testing conducted; and (m) the amount of any supplemental fertilizer applied.

**F. SCHEDULE OF COMPLIANCE**

Construction Timeframe, Construction Certification, and Expiration of Plan Approval

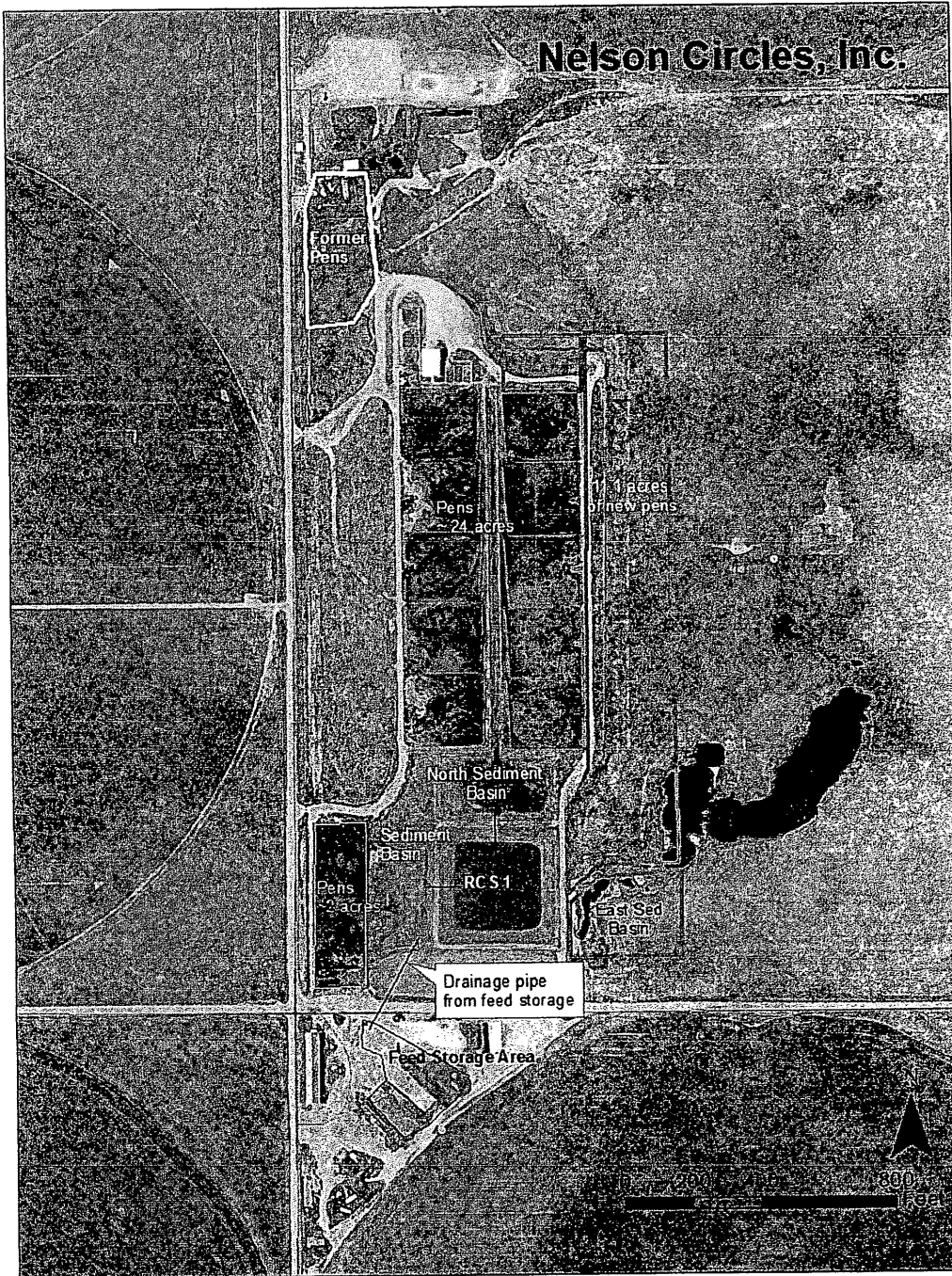
Failure to initiate the approved proposed construction **by December 26, 2019** and complete construction **by December 26, 2020** shall void the Department's approval of the construction plans, specifications, and other associated plans. If the Department's approval becomes void, then the permittee shall resubmit the plans with any required modifications. The permittee shall not initiate construction or expansion prior to the Department's approval of the resubmitted plans.

The operator is responsible for ensuring the Department is provided with as-built plans detailing any deviations from the approved plans and specifications or a post construction certification to assure the system is constructed in accordance with the approved plans and specifications within thirty (30) days of the completion of construction. If significant changes or modifications from the approved plan(s) become necessary, the changes shall be submitted to the KDHE Livestock Waste Management Section for review and approval prior to implementation. Significant changes may require modification of permit terms and conditions. Any such changes shall be included in the as-built plans provided to the Department following construction completion.

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**STANDARD CONDITIONS FOR  
KANSAS WATER POLLUTION CONTROL PERMITS FOR AGRICULTURAL AND RELATED WASTES AND  
AUTHORIZATIONS TO DISCHARGE UNDER THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
for all Animal Types and Related Agricultural Operations with NPDES Permits Except Swine**

1. Definitions:

- A. A "grab sample" is an individual sample collected at one time.
- B. A "composite sample" is a combination of individual samples collected over time.
- C. The terms "Director", "Division", and "Department or KDHE" refer to the Director of the Division of Environment in the Kansas Department of Health and Environment, respectively.
- D. "Severe property damage" means substantial physical damage to the animal waste management system reasonably expected to cause it to become inoperable in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- E. "Bypass" means the diversion of any process waste streams from any portion of the animal waste management system.
- F. "Process wastes" means any of the following:
  - i. excrement from animals, animal carcasses, and wastewater;
  - ii. precipitation that comes into contact with any manure, litter, bedding, or other raw, intermediate, or final material or product used in or resulting from the production of animals or direct products, including meat, milk, and eggs;
  - iii. spillage or overflow from animal or poultry watering systems;
  - iv. wastes from washing, cleaning, or flushing pens, barns, manure pits, equipment, trucks, trailers, milking parlors, milking equipment, and other associated animal facilities;
  - v. wastes from washing animals or spraying of animals for cooling;
  - vi. wastes from dust control;
  - vii. boiler blowdown and water softener regenerate wastes;
  - viii. precipitation runoff from confinement, loading, and unloading areas;
  - ix. spillage of feed, molasses, animal wastes, and any other process wastes described herein;
  - x. discharges from land application fields that occur during application;
  - xi. precipitation runoff from land application fields, if liquid or concentrated liquid wastes are applied during frozen, snow-covered, or saturated soil conditions without approval by the department;
  - xii. raw, intermediate, or finished materials associated with wastes or contaminated stormwater runoff from animal waste or dead animal composting operations;
  - xiii. silo liquors; or
  - xiv. flows or runoff from waste storage areas.

Process wastes do not include animal wastes spilled by trucks transporting livestock on city, township, county, state, or federal streets, roads, or highways.

- G. "Nutrient management plan" means a written document that identifies the practices and procedures that the operator of a confined feeding facility uses to operate and maintain the animal waste management system and to manage the handling, storage, utilization and disposal of wastes generated by the facility that is approved by the Department or any approved amendments thereto.
2. Animal waste management systems shall be designed, constructed, maintained and operated to prevent the pollution of waters of the state and to protect public health and the environment.
3. Neither the approval of construction plans, specifications, Nutrient Management Plan, or any other plan, nor the issuance of a permit or certification by the Department shall prohibit the Department from taking any enforcement action if the animal waste management system fails to protect the waters of the State, meet any specified effluent criteria, or comply with State Surface Water Quality Standards. In addition, this approval, permit issuance, or certification shall not constitute a defense by the permittee regarding violation of any statute, regulation, permit condition, or requirement.

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## 4. Representative Sampling and Reporting:

- A. Samples and measurements taken as required in this permit shall be representative of the physical and chemical nature of the monitored material. All samples and measurements shall be taken at the locations designated in the permit, and unless specified otherwise, at locations before the material being sampled joins, mixes with or is diluted by any other material.
- B. Monitoring, testing and reporting requirements shall be recorded and reported on forms acceptable to the Department. Signed copies of the reports, prepared in accordance with K.A.R. 28-16-59, shall be submitted unless otherwise specified in the permit, to:

Kansas Department of Health & Environment  
Bureau of Water-Livestock Waste Management Section  
1000 SW Jackson Street, Suite 420  
Topeka, KS 66612-1367

- 5. Soil Sampling Protocol: The permittee shall follow the soil sampling protocol outlined in the most recently approved Nutrient Management Plan.
- 6. Test Procedures: All analysis required by this permit shall conform to the requirements of the most recently approved Nutrient Management Plan unless otherwise designated. Testing shall be conducted in a laboratory certified or otherwise accepted by the Department. For each measurement or sample, the permittee shall use Appendix A of the Kansas Technical Standards for Nutrient Management – Revised 2010 to record the place, date, and time of sampling/measurement as appropriate. The laboratory report shall include the date of the analysis, the analytical techniques or methods used, the name of the individual(s) who performed the analysis, and the results. If the permittee monitors any material or takes any measurement at the location(s) designated in this permit more frequently than required by this permit, using approved procedures, the results shall be included in the report form required in paragraph 4B above. Such increased frequencies shall also be indicated.
- 7. Records Retention: A copy of all records and information resulting from the monitoring activities required by this permit, including all records of analyses and calibration and maintenance of instrumentation shall be retained on-site or at a central records location for a minimum of five calendar years or longer if requested by the Director of the Division of Environment.
- 8. Availability of Permit and Permit Records/Falsification of Data: The permittee shall retain a copy of the current permit issued by the Department and approved plans at the facility's site office or such other site as approved by KDHE. Nutrient Management Plans, construction plans, specifications, sample test results and other plans are not confidential material unless specifically so designated by KDHE pursuant to Federal and State law. Knowingly making any false statement on any report or tampering with equipment to falsify data may result in the imposition of civil and/or criminal penalties as provided for in Federal and State law.
- 9. Change in Operations: Any significant anticipated change in operations shall be reported to the Division at least one hundred eighty (180) days before such change occurs. A significant change in operations means any of the following: (1) expansion or enlargement of a facility beyond the scope or boundaries established by registration, permit, certification, or approved plans and specifications; (2) any increase in the animal unit capacity beyond that authorized by a permit or certification; or (3) a change in construction or operation of a confined feeding facility that may affect the collecting, storage, handling, treatment, utilization, or disposal of animal or other process wastes. Minor changes shall be submitted to the Department for review and approval prior to construction, implementation or use.

Notification to and approval by the Director is required prior to a significant change in disposal method, a change in the method of treatment which would significantly alter the characteristics of

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the process waste, discharging to a disposal area other than the existing approved area, or other circumstances which result in a change in character, amount or location of process waste disposal or re-use.

The permittee shall provide the Department a new application and supporting documentation for any change which will result in a modification or an expanded capacity of the facility or operation.

10. Facilities Operation: The permittee shall, at all times, properly operate and maintain the animal waste management system and any related appurtenances that are installed or utilized by the permittee to achieve compliance with Kansas law and the conditions of the permit. The permittee shall operate the facility in a manner to prevent any discharge that is in violation of the permit or that has a potential to adversely affect human health or the environment. When necessary to maintain compliance with the permit conditions, the permittee shall stop or reduce those activities under its control, which generate process wastes routed to the animal waste management system.

11. Immediate Reporting Required:

A. Any emergency or accidental discharge, overflow, or unplanned release of animal or other process wastes, any water pollution incident, or any permit violation shall be reported to the Department by telephone at (785) 296-1679 within two hours of discovery. A written report explaining the cause of the incident and what actions the permittee has taken, or will take to prevent recurrence shall be submitted to the Department at the address provided in paragraph 4B within three days of the incident.

B. Any discharge from, or bypass of any part of the animal waste management system not in compliance with this permit is prohibited except: where no feasible alternatives to the bypass exists and 1) where necessary to prevent loss of human life, personal injury or severe property damage; or 2) where excessive stormwater inflow or infiltration would damage any part of the animal waste management system necessary to comply with this permit or 3) where the permittee notifies the Director seven days in advance of an anticipated bypass or discharge. The Director or Director's designee may approve a bypass or discharge, after considering its adverse effects, if any of the three conditions listed above are met. The permittee shall report such discharges or bypasses pursuant to paragraph A above.

12. Right of Entry and Bio-Security: The permittee shall allow authorized representatives of KDHE and the Environmental Protection Agency (EPA) to enter upon the permitted premises to inspect the animal waste management system, and at reasonable times, to have access to and copy any records required by this permit, to review any practices required by this permit, and to sample any influents to, discharges from or materials in the animal waste management system or land application field. Any permittee that develops or modifies bio-security protocols and requests KDHE or EPA conformance with the protocols shall submit a copy of the protocols to the Department. Upon request of the permittee, KDHE or EPA officials shall present their credentials to the permittee.

The permittee shall provide all necessary specialized equipment, clothing, etc. to enable the Department and EPA inspectors to enter the facility for inspection. Bio-security protocols shall not inhibit reasonable access by any Department or EPA inspector.

13. Property Rights: The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights nor any infringement of or violation of federal, state or local laws or regulations.

14. Permit Modifications and Terminations: As provided by K.A.R. 28-16-62, after notice and opportunity for a hearing, this permit may be modified, suspended, revoked or terminated in

whole or in part during its term for cause as provided, but not limited to those set forth in K.A.R. 28-16-62 and K.A.R. 28-16-28b through f. The permittee shall furnish to the Director, within a reasonable amount of time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish upon request, copies of all records required by this permit.

15. Voiding of Plan Approval: Failure to initiate the KDHE approved construction or expansion within two years and to complete the approved construction or expansion within three years after the effective date of the permit shall void the secretary's approval of the construction plans, specifications, and other associated plans. If phased construction is proposed, the initiation and completion of construction shall conform to the schedule stipulated by the secretary.

If the approval becomes void, the permit shall remain in effect for the term of the permit, but the operator shall resubmit the construction plans, specifications, and other associated plans to the secretary for review and consideration for approval before initiating the construction or expansion of the facility.

16. Severability: The provisions of this permit are severable. If any provision of this permit or any circumstance is held invalid, the remainder of the permit shall not be affected thereby.
17. Transfer of Ownership: The permittee shall notify the succeeding owner or controlling person of the existence of this permit and shall provide the Department a copy of an agreement indicating the date when the transfer of permit responsibility, coverage and liability will take place. The permit is not transferable to any person except after notice to and submission of appropriate documentation and approval by the Director. The existing permit remains in effect until the Department reissues the permit. The Director may require modification or revocation and reissuance of the permit to update the permit to comply with current Federal and State requirements.
18. Change in Permittee Address/Telephone No.: The permittee shall notify the Department within 60 days of any changes in mailing address or telephone number regarding the facility or the designated facility contact.
19. Retention Structure Wastewater, Liquid Process Waste Level Monitoring: A permanent water level measurement device (such as a staff gauge) shall be installed and maintained in each retention structure used as the basis for determining appropriate storage capacity. The device shall be marked in increments of feet and shall be readable to the nearest ½ foot.
20. Irrigation Practices: Irrigation practices shall be managed to minimize pooling of animal or other process wastes at the land application site and to ensure that animal or other process wastes are not discharged from the waste application sites.
21. Removed Substances: Solids, sludge, or other process wastes removed from the animal waste management system shall be disposed of or re-used in a manner acceptable to the Department.
22. Transport of Animal or Process Wastes: The permittee shall haul or transport animal or process wastes to land application sites in a manner that prevents loss or spillage during transport.
23. Cease Operations/Removal from Service: The permittee shall notify the Department of plans to cease operations of, close, or abandon the facility, and shall maintain and comply with the permit until the Department approves the closure of the facility. The permittee shall inform the Department prior to removing from service any part of the animal waste management system that would affect compliance with the permit. The permittee shall make arrangements acceptable to the Department to decommission any portion of the animal waste management system being permanently removed from service such that the public health and waters of the state are

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protected.

24. **Retention Structure Liners:** The permittee shall install and maintain the liner to comply with K.A.R. 28-18-1 *et seq.* When soil liners are utilized, no trees or other deep-rooted vegetation shall be allowed to grow within 100 feet of the liner. Any mechanical or structural damage to the liner shall be reported to the Department within two workdays of identification and shall be repaired in a time frame approved by the Department.
25. **Permeability Tests:** The permittee shall conduct permeability tests using methods acceptable to the Department. For a description of the acceptable methods, the permittee may contact KDHE at the address in paragraph 4B. Permeability tests shall be conducted anytime the retention structure is altered by cleanout and/or reconstruction or anytime there is damage to the liner. Results of the permeability test shall be submitted to the Department within 30 days of completing the test. Should any structure not meet the permeability requirements, additional sealing will be required.
26. **Annual Permit Fee:** Each permittee shall submit the appropriate annual permit fee according to the schedule of fees provided in K.A.R. 28-16-56d. The Department will bill the permittee annually. Failure to pay the annual permit fee shall result in revocation of the permit.
27. **Duty to Reapply:** A permittee wishing to continue any activity regulated by this permit after the expiration date of this permit must apply for a new permit at least 180 days prior to expiration of the permit.
28. **Stocking of New/Expanded Facility:** The permittee shall not stock a new facility or the expanded portion of an existing facility nor place in use any animal waste management system until after the construction or expansion of the facility, including the animal waste management system, is completed, the Department has reviewed and approved any requested construction certifications, and the new or modified permit is issued or re-issued by the Department.
29. **Nutrient Management Plan:** Updates to the Nutrient Management Plan shall be provided to the Department prior to any significant change to the facility or plan. All updates shall be developed in accordance with the Kansas Technical Standards for Nutrient Management – Revised 2010. The permittee shall notify the Department prior to implementing any changes to the approved plan.
30. **Additional Information and Contacts:** Additional information and KDHE contacts can be found on the KDHE-Livestock Waste Management Section's web page at [www.kdheks.gov/feedlots](http://www.kdheks.gov/feedlots).

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

TROY NELSON  
1566 210TH AVE  
LEWIS, KS 67552

January 11, 2018

RE: File No 14672

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:

- place of use            PU/PD/UMW
- 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.**

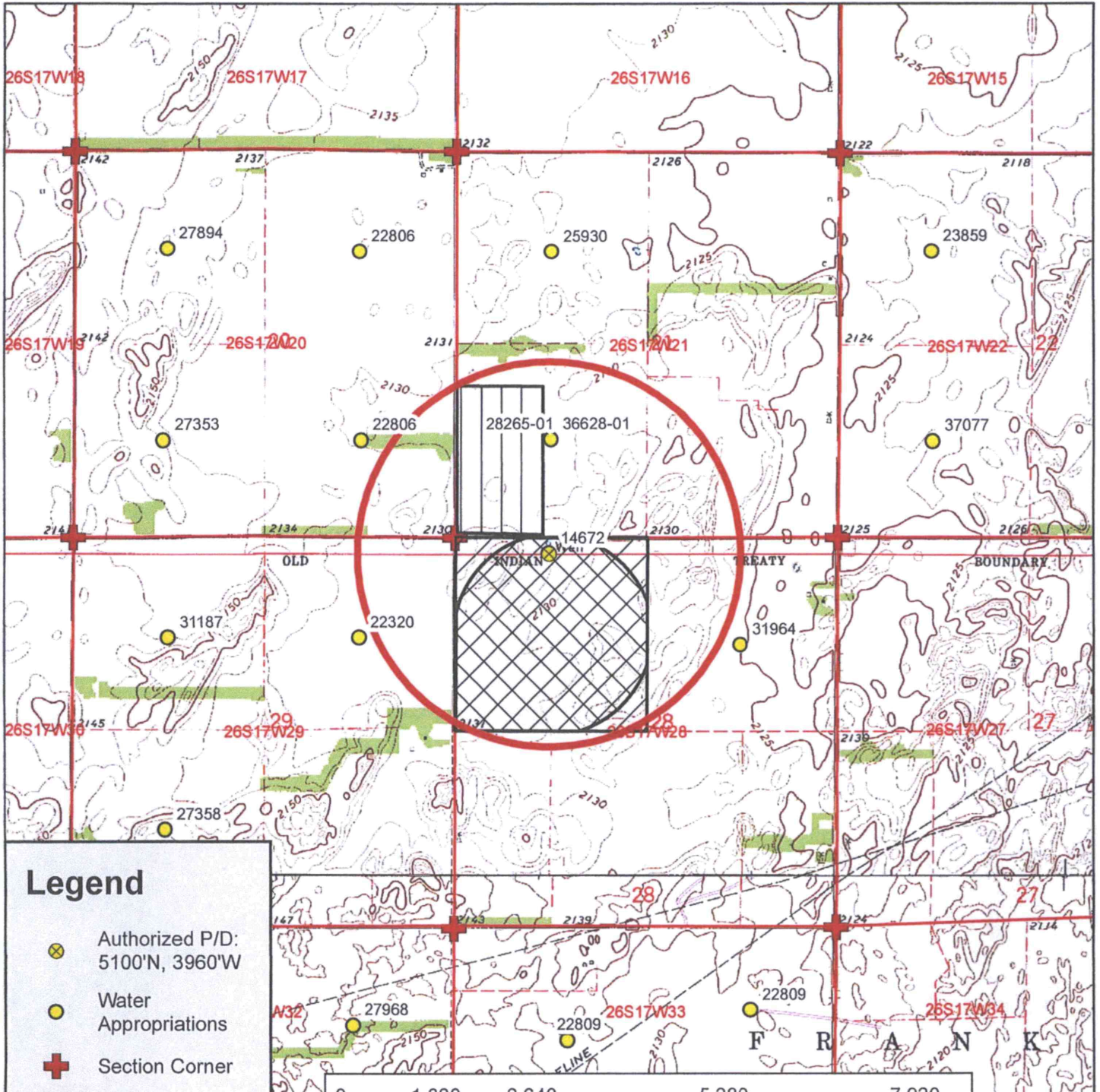
If you have any questions, please contact me at (785) 564-6645. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

Brent Tourney, L.G.  
Change Applications Unit Supervisor  
Water Appropriation Program

BAT: DLW  
pc: STAFFORD Field Office    GMD5



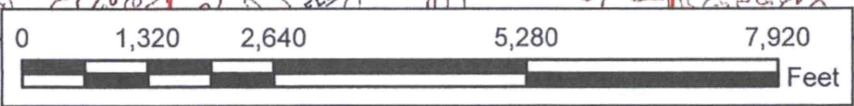


**Legend**

- Authorized P/D: 5100'N, 3960'W
- Water Appropriations
- Section Corner
- Section Line
- Domestic Well
- 1/2 Mile Buffer

**Place of Use**

- Authorized (IRR)
- Proposed (IRR)
- Proposed (STK)



**Water Right, File No. 14,672**

Change in Place of Use, Application Map  
21 & 28-26S-17W // Edwards County



To the best of my knowledge, all water wells including domestic, within 1/2 mile of the authorized point of diversion have been shown.

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Signature

Map 1 of 2

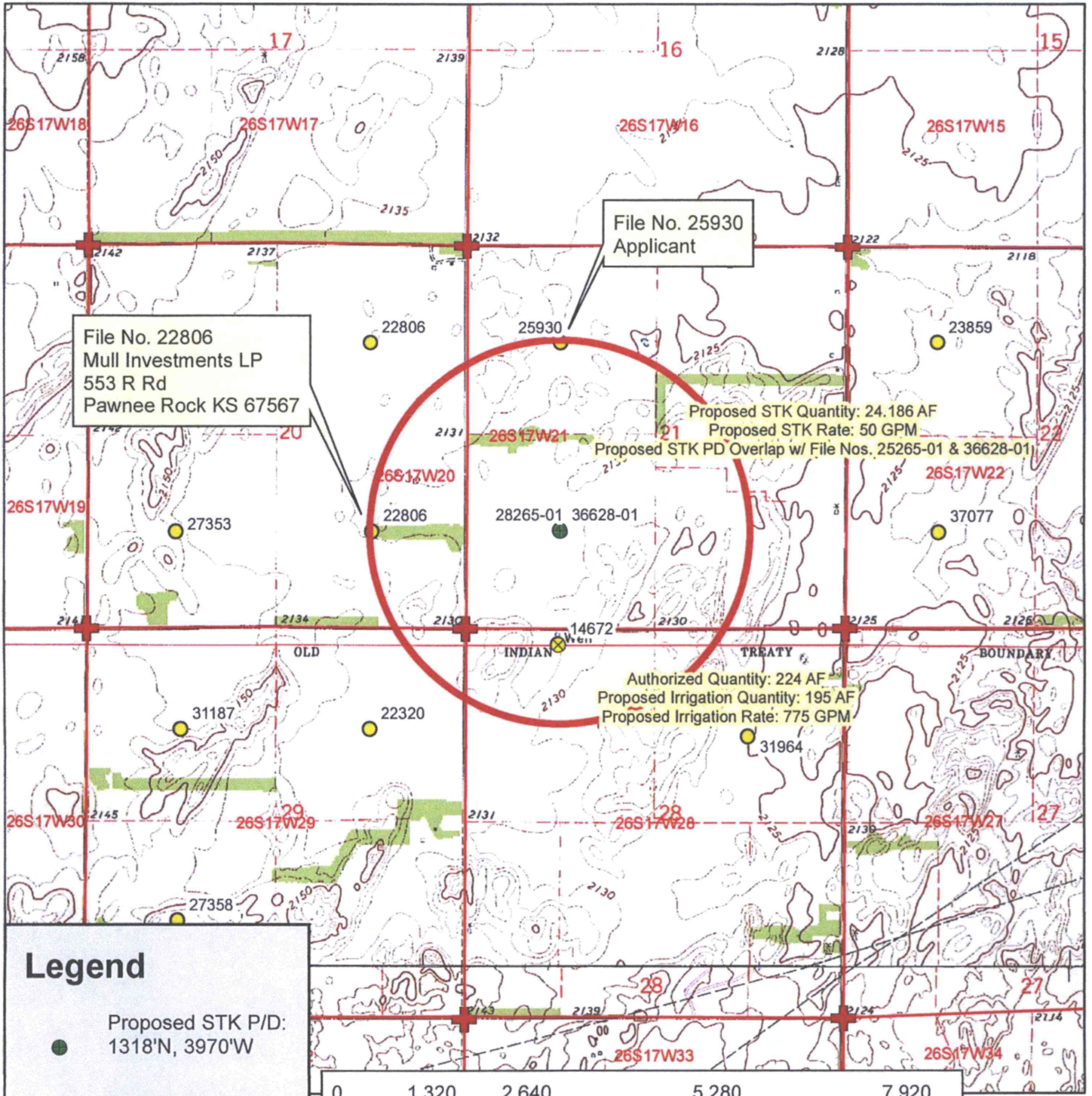
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SFFO 1:24,000 scale

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File No. 25930  
Applicant

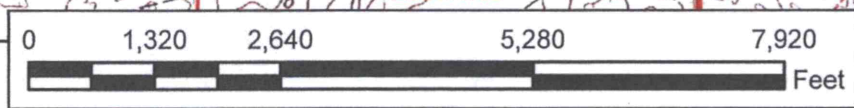
File No. 22806  
Mull Investments LP  
553 R Rd  
Pawnee Rock KS 67567

Proposed STK Quantity: 24.186 AF  
Proposed STK Rate: 50 GPM  
Proposed STK PD Overlap w/ File Nos. 25265-01 & 36628-01

Authorized Quantity: 224 AF  
Proposed Irrigation Quantity: 195 AF  
Proposed Irrigation Rate: 775 GPM

**Legend**

- Proposed STK P/D: 1318°N, 3970°W
- ⊗ Authorized P/D: 5100°N, 3960°W
- Water Appropriations
- + Section Corner
- Section Line
- ★ Domestic Well
- 1/2 Mile Buffer



**Water Right, File No. 14,672**

Change in Point of Diversion/Add' Well, Application Map  
21 & 28-26S-17W // Edwards County

To the best of my knowledge, all water wells including domestic, within 1/2 mile of the proposed point of diversion have been shown.

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Signature

Map 2 of 2 12/28/2017 TJS-SFFO 1:24,000 scale