

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**



State of Kansas

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.

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Stafford Field Office
Division of Water Resources

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

File No. 32,527

Water Resources
Received

FEB 26 2018

11:25

KS Dept Of Agriculture

2. Name of applicant: David D Essmiller

Address: 66 SW 30th Avenue

City, State and Zip: Great Bend, KS 67530

Phone Number: (620)786-0349

E-mail address: essmillerfarms@cox.net

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

Name of water use correspondent: David D Essmiller

Address: 66 SW 30th Avenue

City, State and Zip: Great Bend, KS 67530

Phone Number: (620) 786-0349

E-mail address: essmillerfarms@cox.net

3. The change(s) proposed herein are desired for the following reasons (please be specific): A new, additional well is needed to get rid a point of diversion only overlap with BT-019. BT19 is owned by a different owner and irrigates totally separate land. It is in the interest of the owners to get this separated.

The change(s) (will be) completed by as soon as feasible for the applicant.

(Date)

For Office Use Only:

F.O. 2 GMD 5 Meets K.A.R. 5-5-1 (YES/NO) Use IRR Source GS County BT By AM Date 2-26-18
Code 167 Fee \$ 200 TR # _____ Receipt Date 2-26-18 Check # 6432

4. The presently authorized place of use is:

Owner of Land — NAME: David D Essmiller Revocable INTER VIVOS TRUST

ADDRESS: 66 SW 30th Avenue, Great Bend, KS 67530

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	
26	19S	14W	0.5	33.25	39	6	33.25	0.5	6	39									157.5

List any other water rights that cover this place of use. Water Right, File No. 16,718

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. _____

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

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

Owner of Land — NAME: NO CHANGE

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ADDRESS: NO CHANGE

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. _____

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 MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY

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- 6. The presently authorized point(s) of diversion is one well, one pump, one motor
(Provide description and number of points)
- 7. The proposed point(s) of diversion is one well, one pump, one motor (new, additional well)
(Provide description and number of points)

List all presently authorized point(s) of diversion:

8. **Presently authorized point of diversion:**
 One in the SE Quarter of the NW Quarter of the SW Quarter of Section 26, Township 19 South, Range 14 (W), in Barton County, Kansas, 1,910 feet North 4,340 feet West of Southeast corner of section.
 Authorized Rate 1170 gpm (limited) Authorized Quantity 38 acre-feet
 (DWR use only: Computer ID No. 4 GPS feet North feet West)
 This point will not be changed This point will be changed as follows:
Proposed point of diversion: (Complete only if change is requested)
 One in the NE Quarter of the SE Quarter of the NW Quarter of Section 26, Township 19 South, Range 14 (W), in Barton County, Kansas, 3,930 feet North 2,650 feet West of Southeast corner of section.
 Proposed Rate 100 gpm Proposed Quantity 35.3 acre-feet
 This point is: Additional Well Geo Center List other water rights that will use this point 16718

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)
 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

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. The old well is currently authorized by BT-19. It will continue to be authorized and operate under the authority of BT-19.

12. The presently authorized use of water is for Irrigation purposes.
It is proposed that the use be changed to no changes purposes.

13. If changing the place of use and/or use made of water, describe how the consumptive use will not be increased.
25 acres x 1.2/0.85 = 35.3AF (based on additional well regulations, this file should be reduced from 38AF to 35.3AF)

(Please show any calculations here.)

14. It is requested that the maximum annual quantity of water be reduced to 35.3 acre-feet (acre-feet or million gallons).

15. It is requested that the maximum rate of diversion of water be reduced to N/A 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). 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 well location has been recently re-drilled and a completed well log should be on file for 16718.
The existing well for BT-019 was completed to 75' deep and the newly completed irrigation well should be the same source.
Adequate spacing to nearby wells will be maintained.

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.

K.A.R. 5-5-13 needs further review in headquarters to determine if a waiver is necessary.
We do need to schedule a rate test with GMD#5 or DWR during the pumping season so we can fully determine the
rate that can be split for the additional well and understand the proposed rates may need revised based on the test results.

RECEIVED **OF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY** **Water Resources Received**

FEB 19 2018

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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 Great Bend, Barton County, Kansas, this 23rd day of January, 2018.

David D Essmiller
(Owner)

David D Essmiller
(Please Print)

(Owner)

(Please Print)

(Owner)

(Please Print)

Deanna Essmiller
(Spouse)

Deanna Essmiller
(Please Print)

(Spouse)

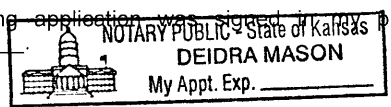
(Please Print)

(Spouse)

(Please Print)

State of Kansas)
County of Barton) SS

I hereby certify that the foregoing application was signed in my presence and sworn to before me this 23rd day of January, 2018.



Deidra Mason
Notary Public

My Commission Expires 10/22/21

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.**

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Jackie McClaskey, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

REQUEST TO REDUCE A PORTION OF AN EXISTING WATER RIGHT
(NO FEE REQUIRED)

Identify the file which is the subject of this request:

- Vested Right, File No. BT-019
- (CHECK ONE) Water Right, File No. _____
- Appropriation of Water, File No. _____

To: CHIEF ENGINEER
Division of Water Resources
Kansas Department of Agriculture
1320 Research Park Drive
Manhattan, Kansas 66502

From: (Names and addresses of owners of authorized place of use. Please see instructions on back.)

Robert H Essmiller

380 W Barton County Road

Great Bend, KS 67530

REQUEST

The above listed owners request a:

[Complete only the sections that apply. Check only the boxes that apply. Fill in only the blanks that apply.]

A. REDUCTION IN AUTHORIZED MAXIMUM ANNUAL QUANTITY OF WATER.

It is requested that the maximum annual quantity of water be reduced to _____
(acre-feet or million gallons; circle one) per calendar year.

B. REDUCTION IN AUTHORIZED MAXIMUM RATE OF DIVERSION OF WATER.

It is requested that the maximum rate of diversion of water be reduced to 1,100 gallons per minute
(-- _____ c.f.s.).

It may be necessary to revise the rate of diversion based on the results of the required flow test that will be administered before the change under File No. 32,527 can be fully processed. The owner must agree to any revisions.

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Assisted by: CRC-SFFO

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C. REDUCTION IN THE SIZE OF THE AUTHORIZED **PLACE OF USE** OF WATER:

(A reduction in place of use may result in a reduction of the authorized rate and quantity to reflect reasonable needs.)

It is requested that the authorized place of use be reduced to:

Owner of Land NAME: _____

ADDRESS: _____

IRRIGATION USE

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	

OR

NON IRRIGATION USE

Describe:

(If more space is needed, attach additional sheets as necessary.)

A copy of a topographic map is attached showing the place of use after the requested reduction.

D. REDUCTION IN THE NUMBER OF **POINTS OF DIVERSION** AUTHORIZED:

(A reduction in the point(s) of diversion may result in the reduction of the rate and quantity authorized by the amounts associated with those points of diversion.)

It is requested that the number of authorized points of diversion be reduced to:

_____ located as follows:
 _____ (No. of points of diversion) _____ (wells, pumps, or other works for diversion of water)

One in the _____ quarter of the _____ quarter of the _____ quarter of Section _____, more particularly described as being near a point _____ feet North and _____ feet West of the Southeast corner of said section, in Township _____ South, Range _____ East/West (circle one), _____ County, Kansas, and

One in the _____ quarter of the _____ quarter of the _____ quarter of Section _____, more particularly described as being near a point _____ feet North and _____ feet West of the Southeast corner of said section, in Township _____ South, Range _____ East/West (circle one), _____ County, Kansas.

(If more space is needed, attach additional sheets as necessary.)

A copy of a topographic map is attached, showing the location of the remaining point(s) of diversion after the requested reduction.

E. REDUCTION IN THE **TYPES OF BENEFICIAL USE** AUTHORIZED:

It is requested that the types of beneficial use of water be reduced to: _____

I, the undersigned owner of this water right or permit declare that: (1) I am freely and voluntarily choosing to reduce the water right listed; and (2) I am waiving any rights to a hearing or an appeal that I may have had regarding the reduction of the water right listed.

I declare that I am an owner, as identified herein, or that I represent an owner, as identified herein, and am authorized to make this request on his or her behalf.

Dated at Great Bend, Kansas, this 29th day of August, 2017.
(City) (Month) (Year)

Robert H. Essmiller
(Owner)

Evelyn M. Essmiller
(Spouse)

Robert H. Essmiller
(Please Print)

Evelyn M. Essmiller
(Please Print)

(Owner)

(Spouse)

(Please Print)

(Please Print)

(Owner)

(Spouse)

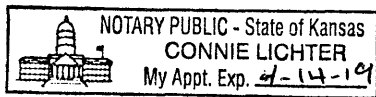
(Please Print)

(Please Print)

State of Kansas)
County of Barton) ss

I hereby certify that the foregoing application was signed in my presence and sworn to before me this

29th day of August, 2017.
(Month) (Year)



Connie Lichter
Notary Public

My Commission expires 4-14-2019

Water Resources
Received

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KS Dept Of Agriculture

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INSTRUCTIONS:

The request must be signed by each owner of the place of use authorized by the water right or permit and his or her spouse, if married. All water right or permit owners, including spouses, must sign this request for it to be valid. Unless the water right or permit has been legally severed from the authorized place of use, the owners of the water right or permit are the owners of the authorized place of use. Please indicate if there is no spouse. If land is being purchased under contract, the seller must sign as owner until such time as the contract is completed.

In the event that all owners cannot sign together in front of one notary public, they may, as necessary, sign appropriate copies of the request in front of any notary public conveniently available to them. All copies signed in this manner shall be accepted as valid parts of the request.

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.

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



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

Secretary Jackie McClaskey

Governor Jeff Colyer, M.D.

DAVID ESSMILLER
66 SW 30TH AVE
GREAT BEND, KS 67530

February 28, 2018

RE: File No 32527

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 PD
- 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.

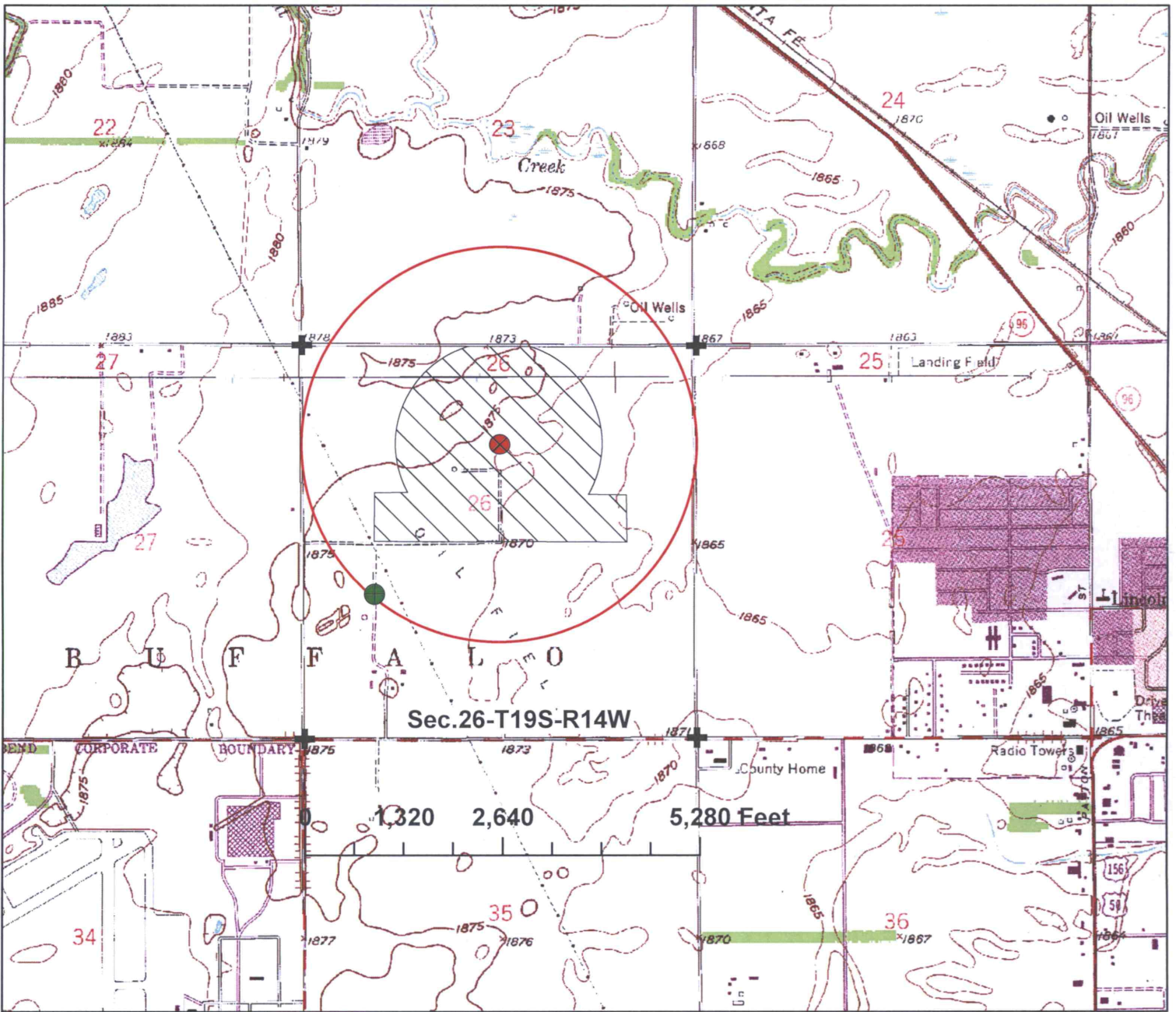
Sincerely,

A handwritten signature in cursive script that reads "Brent A. Tourney".

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

BAT: DLW
pc: STAFFORD Field Office GMD5

Headquarters P/D Change Application Map, File No. 32,527
Sec.26-T19S-R14W in Barton County



- authorized P/D 1,910' N & 4,340'W (overlap w/ BT-19)
- ⊗ proposed P/D 3,930' N & 2,650' W (overlap w/ 16718)
- currently authorized place of use covering 157.5 acres
- + section corners ○ 1/2 mile circle around proposed P/D

-NEARBY WELLS-

BT-019 (currently auth well)
 Robert H Essmiller
 380 W Barton County RD
 Great Bend, KS 67530



**Water Resources
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FEB 26 2018

KS Dept Of Agriculture

By signing below I agree that all wells, including domestic, within 1/2 mile of the point of diversion have been shown on the map.

David Essmiller 1/20/2018

signature

date

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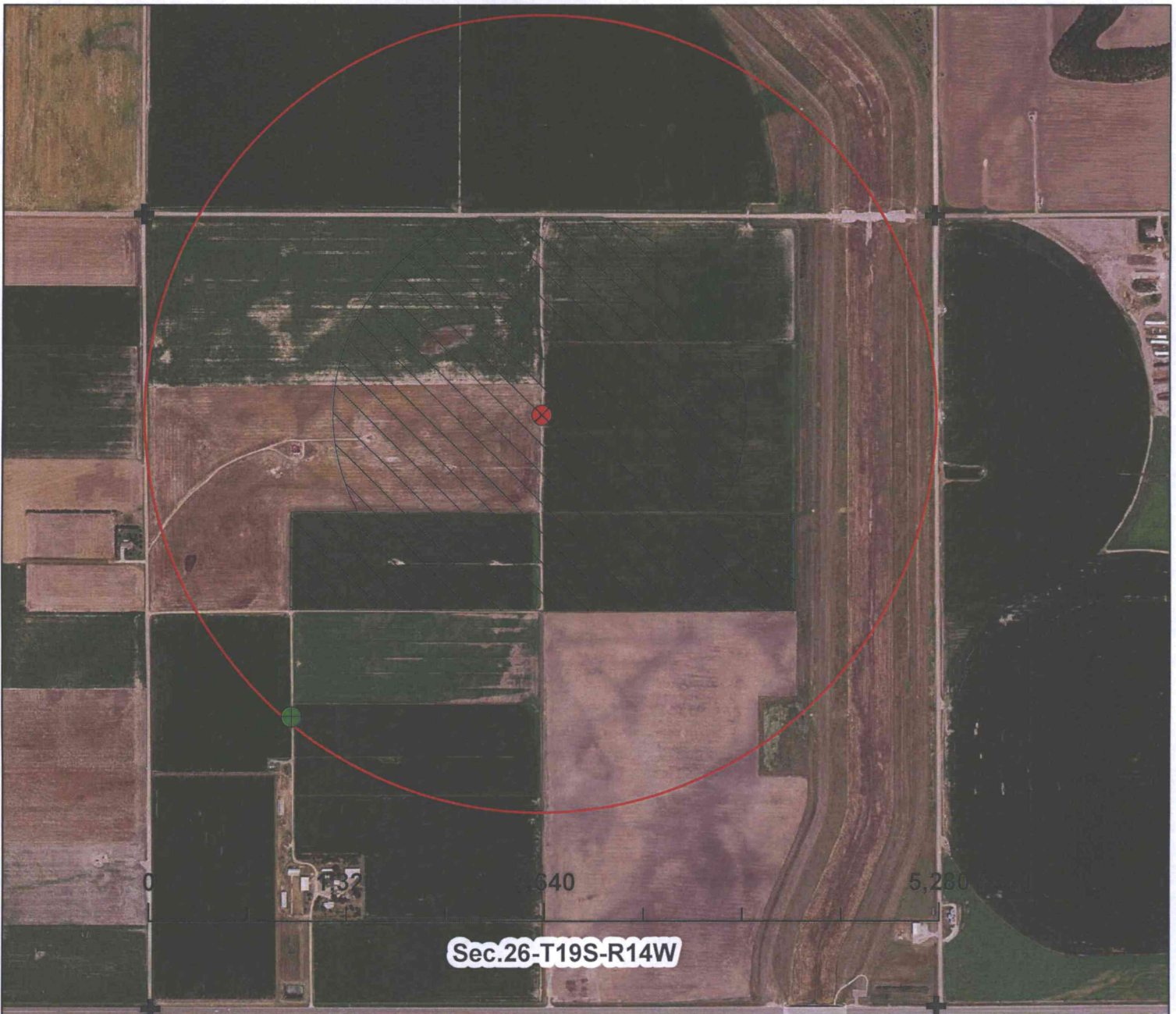
1 inch = 2,000 feet

Stafford Field Office
 Division of Water Resources

map created on 1/9/18

scale 1:24,000

Headquarters P/D Change Application Map, File No. 32,527
Sec.26-T19S-R14W in Barton County



Sec.26-T19S-R14W

- authorized P/D 1,910' N & 4,340'W (overlap w/ BT-19)
- ⊗ proposed P/D 3,930 'N & 2,650' W (overlap w/ 16718)
- currently authorized place of use covering 157.5 acres
- + section corners ○ 1/2 mile circle around proposed P/D

-NEARBY WELLS-

BT-019 (currently auth well)
 Robert H Essmiller
 380 W Barton County RD
 Great Bend, KS 67530



**Water Resources
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FEB 26 2018

KS Dept Of Agriculture

By signing below I agree that all wells, including domestic, within 1/2 mile of the point of diversion have been shown on the map.

David Essmiller *1/20/2018*

signature

date

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Stafford Field Office
 Division of Water Resources

1 inch = 1,000 feet

scale 1:12,000

map created on 1/9/18