

JAN 17 2024

11:13

KS Dept. of Agriculture



State of Kansas

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

File No. 49710

2. Name of applicant: Miro Penheiro

Address: 219 W 6th Avenue

City, State and Zip: Augusta, KS 67010-1251

Phone Number: (316)775-1212 E-mail address: mpenheiro@djgrp.com

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

Engineer

Name of water use correspondent: D-J Lodge LLC

Address: 219 W 6th Avenue

City, State and Zip: Augusta, KS 67010-1251

Phone Number: (---) E-mail address: ---

3. The change(s) proposed herein are desired for the following reasons (please be specific): _____

We would like to construct a new wetland/pond area that is located outside the current boundary of a WRP area. The new wetland/pond will be designed and constructed to hold water more efficiently than the current pond. DWR structures was notified of this proposed change and based on their understanding of the project, no permits are needed from them.

The change(s) (will be) completed by as soon as the changes are approved.

(Date)

For Office Use Only:													
F.O. Code	<u>2</u>	GMD	<u>5</u>	Meets K.A.R. 5-5-1	(YES/NO)	Use	REC	Source	BT	By	ALB	Date	<u>1/17/24</u>
Code	<u>CPU</u>	Fee \$	<u>200</u>	TR #		Receipt Date	<u>1-17-24</u>	Check #	<u>97215</u>				

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4. The presently authorized place of use is:

Owner of Land — NAME: D-J Lodge LLC

KS Dept. of Agriculture

ADDRESS: 219 W 6th Avenue, Augusta, KS 67010-1251

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	20S	11W																	0.7 acre pond

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

Owner of Land — NAME: D-J Lodge LLC

ADDRESS: 219 W 6th Avenue, Augusta, KS 67010-1251

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	20S	11W	The proposed pond/wetland will cover up to 3.3 acres in the NC W2 W2 E2 of Section 26.																3.3 acre pond

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

(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: n/a

ADDRESS: n/a

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. n/a

Owner of Land — NAME: n/a

ADDRESS: n/a

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. n/a

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

(Provide description and number of points)

7. The proposed point(s) of diversion is one well, one pump

KS Dept. of Agriculture

(Provide description and number of points)

List all presently authorized point(s) of diversion:

8. Presently authorized point of diversion:

One in the SW Quarter of the NW Quarter of the SE Quarter of Section 26, Township 20 South, Range 11 (W), in Barton County, Kansas, 1699 feet North 2528 feet West of Southeast corner of section.

Authorized Rate 99 GPM Authorized Quantity 12.5 acre-feet

(DWR use only: Computer ID No. 73922 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 _____

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. _____

N/A

IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY

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12. The presently authorized use of water is for recreational KS Dept. of Agriculture purposes.
It is proposed that the use be changed to no change purposes.
13. If changing the place of use and/or use made of water, describe how the consumptive use will not be increased.
The authorized quantity is 12.5 AF of groundwater from the well to fill the pond and that is unchanged. The proposed pond will be designed and constructed so that it will utilize some additional surface water runoff the old pond was not able to use. The new wetland/pond area will cover up ~3.3 acres when full, the deepest point will be 8', the average depth will be 3.5' and the pond will have a total capacity of less than 14 AF. The surface water component falls under the small storage small use exception and does not need to be permitted. The 12.5 AF is justified by replacing evaporation at (2.75 AF) and seepage (8 AF) during 4 months of the year and topping off as needed with the remaining 2 AF.
- (Please show any calculations here.)
14. It is requested that the maximum annual quantity of water be reduced to N/A (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 (N/A 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 ½ 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 ½ 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) ½ mile downstream and ½ 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.
No impairment should occur as the p/d remains unchanged with regard to location and authorized quantity.
DWR Water Structures confirmed there are no additional permits needed based on the proposed scope of work.
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.
There are no anticipated waivers.

IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY

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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.

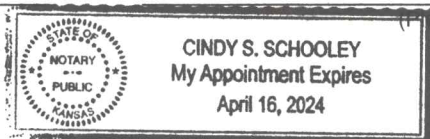
If the request is signed on behalf of any Owner by someone with legal authority to do so (for example, an agent, one who has power of attorney, or an executor, executrix, conservator), it will be necessary to attach proper documents showing such authority.

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 1-9-24 Augusta, Kansas, this 9 day of January, 2024.

<u>ppm</u> (Owner)	_____	(Spouse)
<u>Rezaul Chowdhury</u> (Please Print)	_____	(Please Print)
(Owner)	_____	(Spouse)
(Please Print)	_____	(Please Print)
(Owner)	_____	(Spouse)
(Please Print)	_____	(Please Print)

State of Kansas }
County of Butler } SS



I hereby certify that the foregoing application was signed in my presence and sworn to before me this 9 day of January, 2024.

Cindy S. Schooley
Notary Public

My Commission Expires 4-16-24

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:

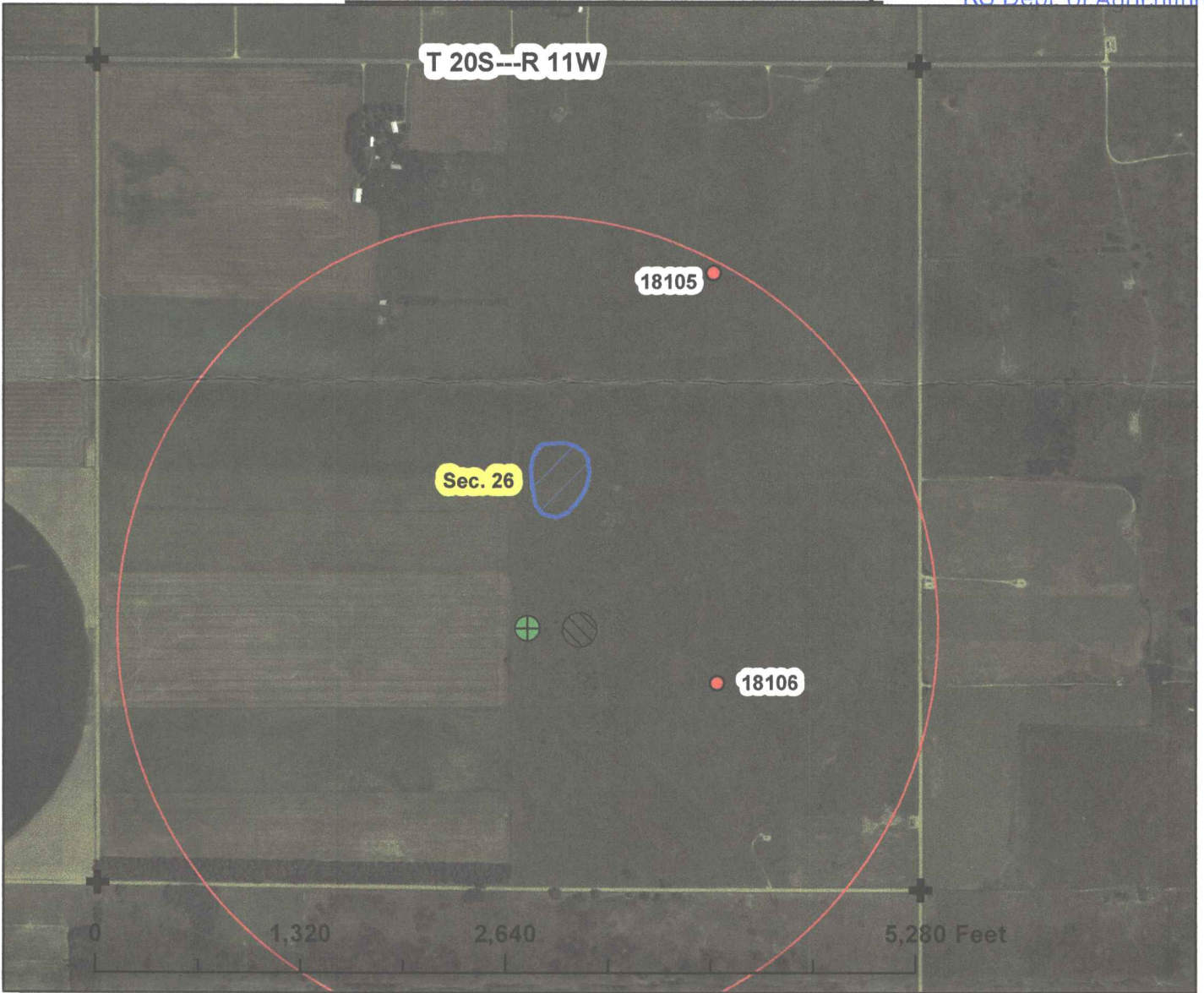
- (1) Application to change a point of diversion 300 feet or less \$100
- (2) Application to change a point of diversion more than 300 feet \$200
- (3) Application to change the place of use \$200
- (4) Application to change the use made of the water \$300







Make check payable to **Kansas Department of Agriculture.**

JAN 17 2024

KS Dept. of Agriculture

Place of Use Change Application Map
Appropriation No. 49710
Section 26-20S-11W in Barton County



-  authorized well location
(1699' N & 2528' W of SE corner)
-  proposed pond location
covering < 3.3 acres
-  authorized pond
covering 0.7 acres
-  1/2 mile circle
around well
-  nearby wells
-  section corners

File No. 18105:
Raymond Sand and Gravel Inc

File No. 18106:
David Wirth

By signing I agree that all wells within 1/2 mile of the authorized point of diversion are shown on the map.

<i>Miro Penteiro</i>	<i>1/8/2024</i>
signature	date



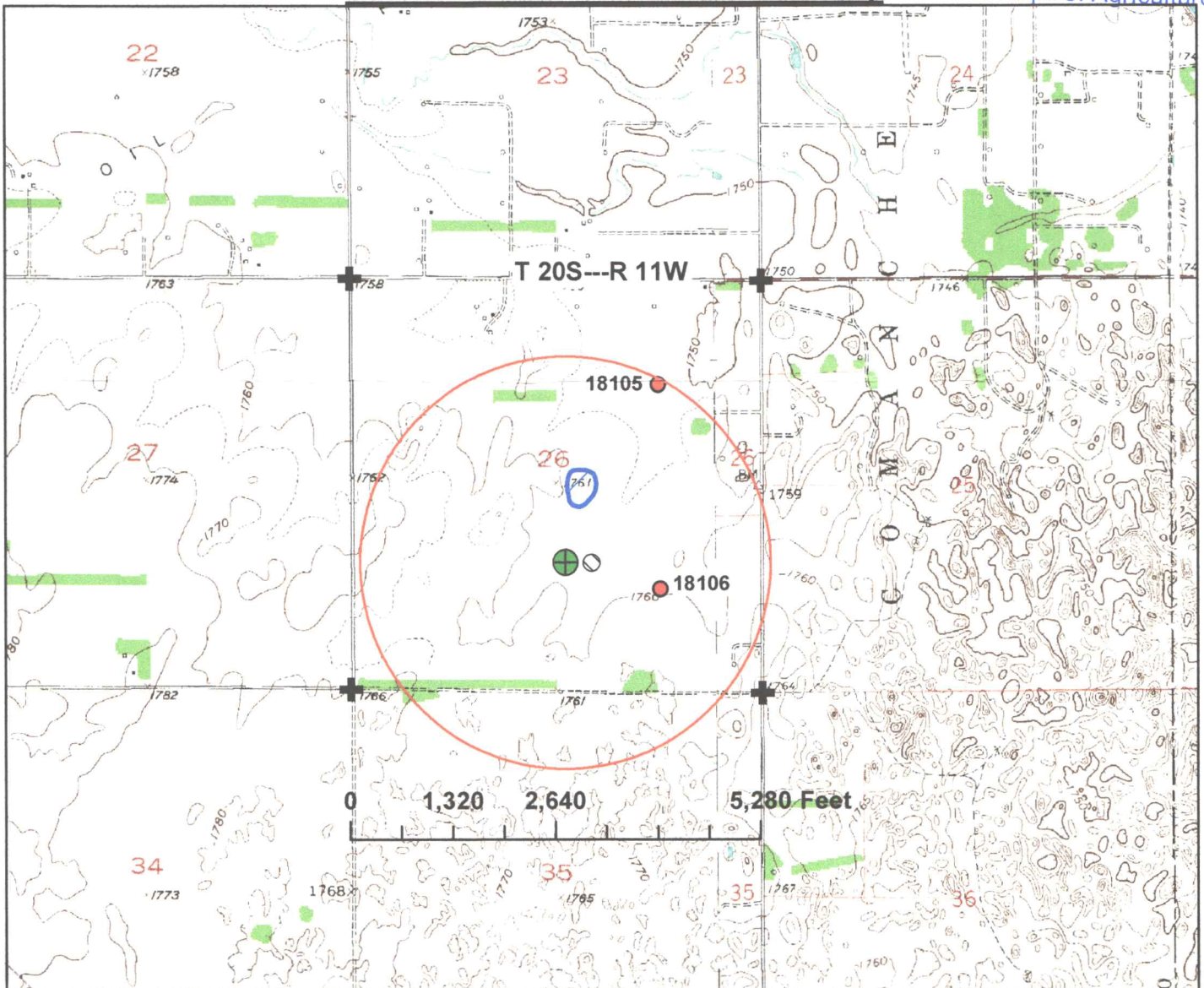
1 inch = 1,000 feet







map created on 12/28/23 scale 1:12,000

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Place of Use Change Application Map
Appropriation No. 49710
Section 26-20S-11W in Barton County



-  authorized well location
(1699' N & 2528' W of SE corner)
-  proposed pond location
covering < 3.3 acres
-  authorized pond
covering 0.7 acres
-  1/2 mile circle
around well
-  nearby wells
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File No. 18105:
Raymond Sand and Gravel Inc

File No. 18106:
David Wirth

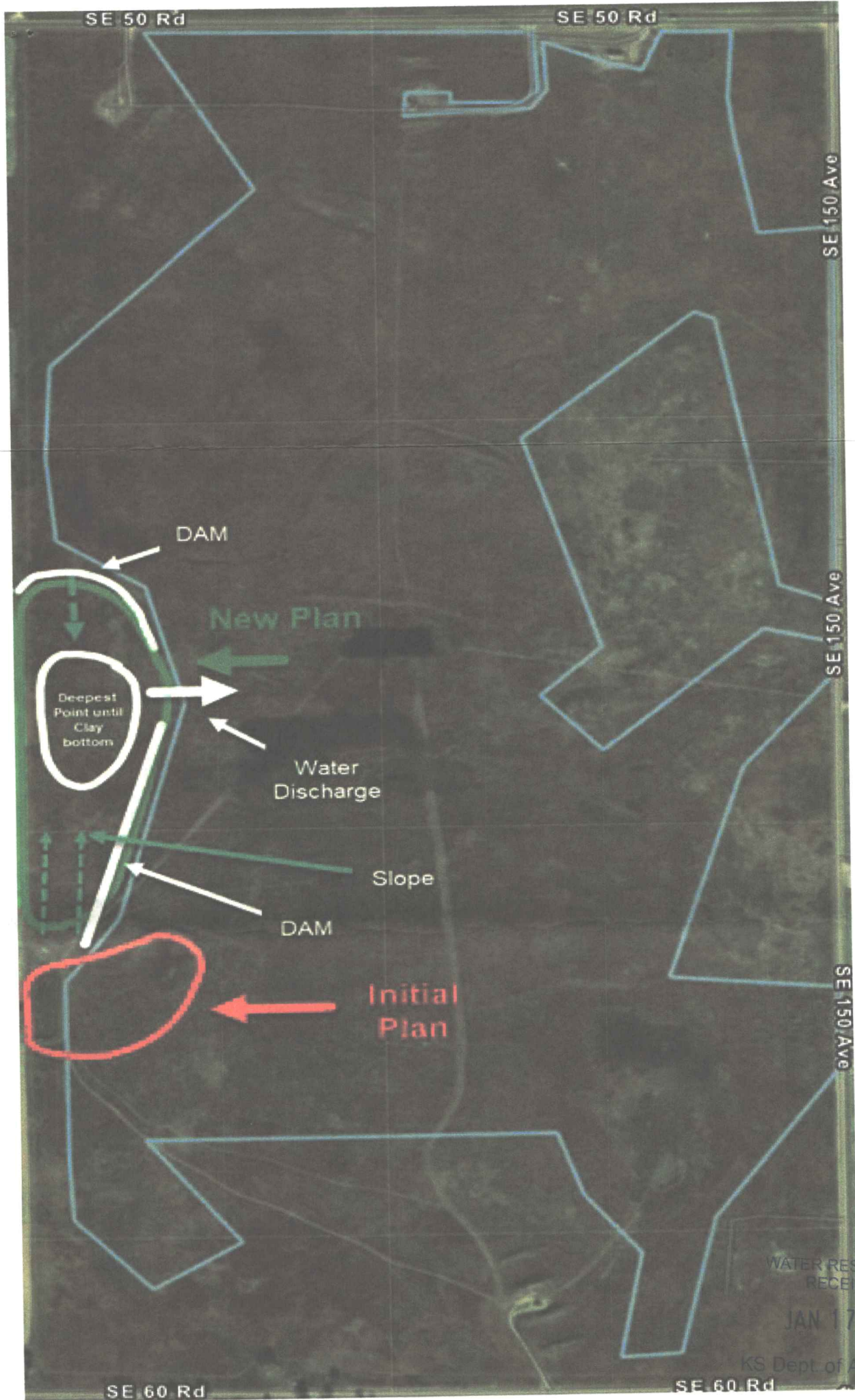
By signing I agree that all wells within 1/2 mile of the authorized point of diversion are shown on the map.

<i>Miro Penteiro</i>	<i>1/8/2024</i>
signature	date



1 inch = 2,000 feet

map created on 12/28/23 scale 1:24,000



WATER RESOURCES
RECEIVED
JAN 17 2024
KS Dept of Agriculture

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



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

Mike Beam, Secretary

Laura Kelly, Governor

January 19, 2024

MIRO PENHEIRO
219 W 6TH AVENUE
AUGUSTA KS 67010-1251

RE: File No(s). **49710**

Dear Sir or Madam:

The Division of Water Resources (Division) has received your application(s) to change the place of use, point of diversion or use made of water for the file number(s) referenced above. Please be aware that the Division may have a large number of pending applications on hand at times and makes every attempt to process them in the order in which they are received. You will be contacted if additional information is required.

Please note, this letter only acknowledges receipt of your application(s) and does not guarantee approval. In accordance with the provisions of the Kansas Water Appropriation(s) Act, the use of water as proposed prior to approval of the application(s) is unlawful.

Additional information about the process may be found on our website at agriculture.ks.gov/divisions-programs/dwr. If you have any other questions, please contact our office at 785-564-6640 or your local Stafford Field Office at 620-234-5311. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

Kristen Baum
New Applications and Changes Supervisor
Water Appropriation Program