

Kansas Department of Agriculture
 Division of Water Resources
CHANGE: P/U WORKSHEET

1. File Number: 37191	2. Status Change Date: 4/30/2018	3. Change Num: C4	4. Field Office: 3	5. GMD:
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6. Status: <input type="checkbox"/> Approved <input type="checkbox"/> Denied by DWR/GMD <input type="checkbox"/> Dismiss by Request/Failure to Return	7. Filing Date of Change: 20-NOV-2017
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8a. Applicant(s) New to system <input type="checkbox"/> NELSON FARMS INC BOX 38 LONG ISLAND KS 67647	Person ID 12683 Add Seq# 1 8d. Landowner(s) New to system <input type="checkbox"/> HUSKY HOGS LLC TERRY NELSON BOX 8 LONG ISLAND KS 67647
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8b. Landowner(s) New to system <input type="checkbox"/> NELSON FARMS INC BOX 38 LONG ISLAND KS 67647	Person ID 12683 Add Seq# 1 8e. Landowner(s) New to system <input type="checkbox"/> NELSON HOG FARMS LLC 1271 W FOX RD LONG ISLAND KS 67647
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8c. Landowner(s) New to system <input type="checkbox"/> TERRY NELSON BOX 38 LONG ISLAND KS 67647	Person ID 28567 Add Seq# 1 8f. WUC New to system <input type="checkbox"/> NELSON FARMS INC NO CHANGE CATTLE FEEDLOTS BOX 38 LONG ISLAND KS 67647
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9. Documents and Enclosure(s): DWR Meter(s) Date to Comply: **12/31/18** N & P Date to Comply: _____

Anti-Reverse Meter Meter Seal Check Valve N & P Form Water Tube Driller Copy H & E Letter

Conservation Plan Date Required: _____ Date Approved: _____ Date to Comply: _____

10. Use Made of Water From: _____ To: _____

Date Prepared: **4/3/18** By: **RAK**
 Date Entered: **5/2/18** By: **AWM**

File No. **37191** 11. County: **PL** Basin: **PRAIRIE DOG CREEK** Stream: Formation Code: **113** Special Use: **005**

12. Points of Diversion										Rate and Quantity						
CHK	MOD	DEL	PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Authorized		Additional		
ENT												Rate	Quantity	Rate	Quantity	Overlap PD Files
												gpm/cfs	af/mgy	gpm/cfs	af/mgy	

NO CHANGES TO PDS

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

14. Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____
 Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____

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

16. Place of Use		NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg?	Overlap Files				
CHK	MOD	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE								
DEL	ENT	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼								
PUSE	S	T	R	ID																					
MOD	29623	33	1S	20W	8	(SW¼) AND (W½ SE¼)																	8B & 8C & 8E	YES	SEE ABOVE
MOD	28569	34	1S	20W	5	(W½ SW¼)																	8B	NO	SEE ABOVE
ENT	53358	34	1S	20W	6	NC 34-1-20W																	8D	NO	SEE ABOVE
MOD	65793	3	2S	20W	3	(S½NW¼)																	8B	NO	SEE ABOVE
MOD	65794	4	2S	20W	6	E½																	8B & 8C	NO	SEE ABOVE

Base Acres: Year: Minimum Reasonable Quantity:
 Comments:

Water Right Query

Water Right

WR Number: 37191 Right Type: Appropriated Water Right Current Dates: Complete-by: 31-DEC-1985

WR Qualifier: 00 Priority Date: 03-MAY-1984 Perfect-By: 29-DEC-1989

Vested County Code: Legal Action: N

Use Made of Water: STK Current Status: CERT ISSUED

Action Trail

Eff Date	Comment/StatusText	Completion Date	Perf/Compliance Date	Susp Date
11-JUL-2007	C1 CHANGE APP PU FILED			
21-JUL-2008	C1 CHANGE PU APPROVED		31-DEC-2008	
16-OCT-2009	C2 CHANGE APP PD FILED			
04-DEC-2009	C2 CHANGE PD APPROVED	31-DEC-2010		
13-JUL-2011	C1 CHANGE COMPLIANCE CHECK - IN COMPLIANCE			
13-JUL-2011	C2 CHANGE COMPLIANCE CHECK - IN COMPLIANCE			
14-NOV-2013	C3 CHANGE APP PU UMW FILED			
07-APR-2014	CERTIFICATE ISSUED			
07-APR-2014	C3 CHANGE PU APPROVED UMW APPROVED		31-DEC-2014	
25-APR-2016	C3 CHANGE COMPLETION ACKNOWLEDGED			
30-JUN-2016	COMPLIANCE CHECK/IN COMP			
30-JUN-2016	C3 CHANGE COMPLIANCE CHECK - IN COMPLIANCE			

change action trail special conditions legal action trail Waiver Request

Please →
Remove

08-Jul-1998 is the correct certificate date

RAK 2-15-18

Water Right Query

Water Right

WR Number: 37191 Right Type: Appropriated Water Right
 WR Qualifier: 00 Priority Date: 03-MAY-1984
 Vested County Code: Legal Action: N

Current Dates
 Complete-by: 31-DEC-1985
 Perfect-By: 29-DEC-1989

Use Made of Water: IRR Current Status: DISM AFTER CERT

Action Trail

Eff Date	Comment/StatusText	Completion Date	Perf/Compliance Date	Susp Date
16-MAY-199E	CHANGE APPROVED			
16-MAY-199E	TESTED-05/06/85-430GPM 34 01 20W ID02			
16-MAY-199E	N&P BY12/31/96 CHG APPROVAL			
16-MAY-199E	RESERVED WATER RIGHT FROM LAND			
17-JAN-1997	LANDOWNER CHG-PART OF LAND-CHANDLER LIFE ESTATE, NORMA			
06-JUN-1997	SUSPENDED FOR DRAFT CERTIFICATE			
07-JUL-1998	RESCIND CHG IN P/U APPROVAL 4-1-1987			
08-JUL-1998	CERTIFICATE ISSUED			
08-JUL-1998	RECORD YR 1985: 430GPM MAX & NORM			
14-SEP-1998	N&P 05/96 (CHG)			
09-MAY-2000	F & O -P/U			
05-MAY-2004	COMPLIANCE CHECK/IN COMP			

change action trail special conditions legal action trail Waiver Request

This is right →

RAK 2-15-18

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: April 30, 2018

FROM: Brent A. Turney

RE: Vested Right
File Nos. PL 016 and PL 017-D2
Water Right
File Nos. 219, 1,970, 3,130,
3,688, 4,005, 4,304, 5,069,
7,947, 8,203, 26,865, 27,754,
30,902, 31,484, 35,648, 35,649;
37,191; 37,269.01, 37,269.02
and 37,269.03

Nelson Farms, Inc., etal filed applications for approval to change the authorized place of use for all of the above referenced file numbers with the exception of File Nos. PL 016; PL 017-D2; 219; 1,970; 3,130; 27,754; 30,902; and 31,484 which are strictly reduction in place of use requests/and or modifications to file limitations. Dual use made of water applications were also filed for Water Right, File Nos. 4,005; 4,304; 7,947; 8,203; 26,865 and 35,648-a change in point of diversion has also been filed for File No. 4,304. The referenced file numbers are in the RRC Prairie Dog Creek Special Use Area.

The referenced file numbers do not appear to be abandoned as per K.S.A. 82a-718.

The referenced applications were discussed in a March 8, 2018 meeting with Lane Letourneau, Water Appropriations Program Manager, and Kelly Stewart, Water Commissioner of the Stockton Field Office, and further reviewed in a water commissioners meeting on April 19, 2018. IT was determined the applications and reductions should be processed as follows:

Change in PU UMW File Nos. 4,005; 4,304; 7,947; 8,203; 26,865 and 35,648/Change in Pd File No. 4,304

The above applications request a dual use of water that will allow for both stockwatering use and irrigation use in any calendar year, and request temporary reductions/limitations in quantity based on K.A.R. 5-5-9 calculations. No changes to any Almena limitations.

File No. 4,005 – File No. 4,005 is presently authorized 51.35 acre-feet of groundwater for irrigation use on 765 acres from one well. The well is overlapped by File No. 8,203. Paragraph No. 13 of the application indicates that 44.11 acre-feet of water can be authorized for irrigation/stockwatering use.

File No. 4,304-File No. 4,304 is presently authorized groundwater from two individual irrigation wells(one is also standby stockwatering), one primary stockwatering well, and one battery of two stockwatering wells all located in Section 33 as outlined below. The applicant proposes to convert the total currently authorized irrigation quantity (123 acre-feet) to dual use irrigation/stockwatering. Paragraph No. 13 calculation indicates 105.7 acre-feet will be authorized dual use, the point of diversion change for File No. 4,304 will transfer 73 acre-feet from WRIS Well ID 5 (2,040'N, 2,605'W) to WRIS Well ID 6(1,519'N, 4,845'W). WRIS Well ID 5 will be authorized 30 acre-feet and WRIS Well ID 6 will be authorized 93 acre-feet all limited to 105.7 acre-feet for dual irrigation/stockwatering use. No rate changes are proposed to either of the wells. WRIS Well ID 6(1519'N,4845'W) will not only be authorized dual use irrigation/stockwatering under File No. 4,304 but remain standby stockwatering for File No. 4,304 and 37,269.01 (for primary WRIS well ID 40). No changes are proposed for the existing stockwatering battery of wells.

Additionally, as discussed in the water commissioners meeting, the existing file limitation on the irrigation portion of File No. 4,304 will be modified from 123 acre-feet when combined with File Nos. PL 016 and 3,130 to 105.7 acre-feet when combined with File Nos. PL 016 and 3,130 as long as dual use occurs under File No. 4,304 so as not to increase the consumptive use of the file. If dual use stockwatering no longer occurs under File No. 4,304 then the limitation reverts back to the 123 acre-feet quantity as stated in the July 21, 2008 change approval.

	33-1S-20W CWNW¼SE¼ 2040'N, 2605'W WRIS ID 5 PDIV ID 22925	33-1S-20W SW¼NW¼SW¼ 1519'N, 4845'W WRIS ID 6 PDIV ID 17026	33-1S-20W SW¼NW¼SW¼ 1518'N, 4854'W WRIS ID 40 PDIV ID 83510 (Additional Well)	33-1S-20W SW¼SW¼SW¼ 226'N, 5040'W GEOCENTER OF TWO WELL BATTERY WRIS ID 37 PDIV ID 75790
Current uses, quantities and diversion rates File No. 4304	IRR USE- 103AF @600g.p.m	IRR USE- 20 AF @290g.p.m. ALSO STDBY STK USE for PRIMARY STK WELL File No. 4304	PRIMARY WELL STK USE- 6.52m.g.y.(20AF) @50gpm	STK USE- 1.63 m.g.y. @ 10 g.p.m.
Current overlaps File No. 4304	NONE	STDBY STK USE- File No. 37269.01	PRIMARY WELL STK USE- File No. 37269.01	NONE
Proposed Uses, quantities and diversion rates File No. 4304	DUAL USE IRR/STK 30 AF@600 g.p.m.	DUAL USE IRR/STK 93 AF@290 g.p.m. ALSO REMAINS STDBY STK USE for PRIMARY STK WELL File No. 4304	NO CHANGES	NO CHANGES
	Wells Limited to 105.7 acre-feet when combined for IRR/STK DUAL USE			
Proposed overlaps File No. 4304	NONE	STDBY STK USE- File No. 37269.01	PRIMARY WELL STK USE- File No. 37269.01	NONE

File No. 7,947- File No. 7,947 is presently authorized assigned rates and quantities to two wells for irrigation use – WRIS Well ID 26 (1359'N,1923'W) in Section 33 is authorized 15 AF and 660 g.p.m., and overlaps File No. 1,970; and WRIS Well ID 13 (2481'N 3950'W) is authorized 107 AF and 750 g.p.m. in Section 34, and overlaps File No. 35,649. Paragraph No. 13 of the application indicates only WRIS Well ID 13 will be converted to dual irrigation and stockwatering use, so that 91.92 acre-feet will be authorized for dual irrigation/stockwatering use from the well. No changes proposed for WRIS Well ID 26.

File No. 8,203- File No. 8,203 is presently authorized 31 acre-feet of groundwater and a limited rate of 720 g.p.m. for irrigation use on 765 acres from one well. The well is overlapped by File No. 4,005. Paragraph No. 13 of the application indicates that 26.63 acre-feet of water can be authorized for dual irrigation/stockwatering use.

File No. 26,865- File No. 26,865 is presently authorized 60 acre-feet of groundwater for irrigation use on 765 acres from one well. The well has no overlaps. Paragraph No. 13 of the application indicates that 51.54 acre-feet of water can be authorized for dual irrigation/stockwatering use.

File No. 35,648- File No. 35,648 is presently authorized 21 acre-feet of groundwater for irrigation use on 765 acres from one well. The well overlaps File Nos. 37,191 and 37,269.03. Paragraph No. 13 of the application indicates that 18.04 acre-feet of water can be authorized for dual irrigation/stockwatering use. No changes to the 857.35 acre-feet limitation.

The applicant proposes a complete overlap in all of the stockwatering places of use, including the dual use permits, to pump stock water to a tower where it can then be distributed to any of the cattle feedlots or hog facilities. In a phone conversation dated February 21, 2018, Kelly indicated that the quantity requested for stockwatering use is justified since the applicant is expanding their operation.

The proposed irrigation place of use will be reduced to 726.5 acres in Sections 28, 33 and 34, Township 1 South, and Section 4, Township 2 South, all in Range 20 West, Phillips County. The irrigation place of use will be authorized by File Nos. PL 016 and PL 017-D2; 219; 1,970; 3,130; 3,688; 4,005; 4,304, 7,947; 8,203; 26,865; 27,754; 30,902; 31,484 and 35,648.

The proposed stockwatering place of use will be authorized by File Nos. 4,005; 4,304; 5,069; 7,947; 8,203; 26,865; 35,648; 35,649; 37,191; 37,269.01, 37,269.02 and 37,269.03 and described as: the Southwest Quarter (SW $\frac{1}{4}$) and the West Half of the Southeast Quarter (W $\frac{1}{2}$ SE $\frac{1}{4}$) of Section 33, the West Half of the Southwest Quarter (W $\frac{1}{2}$ SW $\frac{1}{4}$) and near the center of Section 34, both sections in Township 1 South; and the South Half of the Northwest Quarter (S $\frac{1}{2}$ NW $\frac{1}{4}$) of Section 3, and the East Half (E $\frac{1}{2}$) of Section 4, both sections in Township 2 South, the entire place of use in Range 20 West, Phillips County.

Change in PU File No. 3,688/Reduction in PU Requests File Nos. PL 016; PL 017-D2; 219; 1,970; 3,130; 27,754; 30,902; 31,484

The referenced change in place of use application and reduction requests were filed with the dual use change applications for File Nos. 4,005; 4,304; 7,947; 8,203; 26,865 and 35,648 with the goal of reducing the irrigation place of use from 775 acres to 726.5 acres in the above described location. No changes to any Almena limitations however, the limitation on File No. 3,130 limiting the file to 123 acre-feet when combined with File No. PL 016 will be modified to 105.7 acre-feet as long as dual use stockwatering occurs under File Nos. 4,304. If dual use stockwatering ceases under File No. 4,304 then the limitation for File No. 3,130 will revert to 123 acre-feet when combined with PL 016. The purpose of this temporary modification to the limitation is to prevent an increase in the consumptive use of File Nos. PL 016, 3,130 and 4,304, which shared an incomplete overlap in acres during perfection (see David L Means April 13, 2016 memorandum to the files with map for further explanation). No changes to the industrial use under File No. 30,902.

Change in PU File Nos. 5,069; 35,649; 37,191; 37,269.01; 37,269.02 and 37,269.03 -all stockwatering files

File No. 35,649 is authorized stockwatering use at a hog operation located near the center of Section 34, Township 1 South, Range 20 West, Phillips County-no current place of use overlaps. File Nos. 5,069; 37,191; 37,269.01; 37,269.02 and 37,269.03 all overlap the stockwatering place of use of File No. 4,304 and the current place of use is in the Southwest Quarter (SW $\frac{1}{4}$) of Section 33 and the West Half of the Southwest Quarter (W $\frac{1}{2}$ SW $\frac{1}{4}$) of Section 34, both in Township 1 South, and the Southwest Quarter of the Northwest Quarter (SW $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 3 and the Northeast Quarter (NE $\frac{1}{4}$) of Section 4, both in Township 2 South, all in Range 20 West, Phillips County. As previously mentioned, the proposed stockwatering place of use will be authorized by File Nos. 4,005; 4,304; 5,069; 7,947; 8,203; 26,865; 35,648; 35,649; 37,191; 37,269.01, 37,269.02 and 37,269.03 at the above referenced proposed location.

Nearby water right owners identified on the map or in WRIS within one half-mile of the authorized points of diversion of all of the above referenced change applications were notified of the proposed changes by letter dated March 6, 2018 in order to comply with K.S.A. 82a 1906. The nearby well owners within one-half mile of the proposed well for File No. 4,304 were given 15 days for comments; no written responses were received.

In an e-mail dated April 26, 2018, Kelly Stewart, Water Commissioner of the Stockton Field Office, recommended approval of the applications.

Water flow meters are required and separate meters will be required for the dual use. Check valves are required if any chemical or foreign substance is injected into the water through the diversion works.

STATE OF KANSAS

DEPARTMENT OF AGRICULTURE
1320 RESEARCH PARK DRIVE
MANHATTAN, KS 66502
PHONE: (785) 564-6700
FAX: (785) 564-6777



900 SW JACKSON, ROOM 456
TOPEKA, KS 66612
PHONE: (785) 296-3556
www.agriculture.ks.gov

GOVERNOR JEFF COLYER, M.D.
JACKIE McCLASKEY, SECRETARY OF AGRICULTURE

FILE COPY

NELSON FARMS INC
N TERRY NELSON
BOX 38
LONG ISLAND KS 67647

May 3, 2018

RE: Vested Right, File Nos. PL 016 and PL 017-D2; Water Right, File Nos. 219; 1,970; 3,130; 3,688; 4,005; 4,304; 5,069; 7,947; 8,203; 26,865; 27,754; 30,902; 31,484; 35,648; 35,649; 37,191, 37,269.01, 37,269.02 and 37,269.03

Dear Mr. Nelson:

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

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in these approvals for change. A condition of the approvals is that acceptable water flow meters must be installed so that both irrigation and stockwatering uses can be metered independent of each other. Please return the required notification of completion of the diversion works and/or installation of the required meters as soon as these actions are completed.

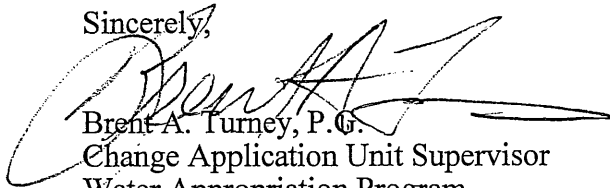
Also enclosed are Findings and Orders by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, which set forth the authorized place of use under File Nos. PL 016; PL 017-D2; 219; 1,970; 3,130; 27,754; 30,902 and 31,484.

Please be reminded that reports of water usage must be submitted to this office annually. Records indicating the amount of water used should be furnished to the Chief Engineer by March 1 following the end of the previous calendar year so that the continued use of water becomes a matter of record in this office.

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

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

Sincerely,


Brent A. Turney, P.G.
Change Application Unit Supervisor
Water Appropriation Program

BAT:rak

pc: Stockton Field Office
NTN, L.L.P.
Husky Hogs, L.L.C.
Nelson Hog Farms, L.L.C.



KANSAS DEPARTMENT OF AGRICULTURE
Jackie McClaskey, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

**APPROVAL OF APPLICATION
FOR
CHANGE IN PLACE OF USE
WATER RIGHT
FILE NO. 37,191**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of N. Terry Nelson, on behalf of Nelson Farms, Incorporated, P.O. Box 38 Long Island, Kansas 67647, Husky Hogs, L.L.C., Terry Nelson, Box 8, Long Island, Kansas, 67647 and Nelson Hog Farms, L.L.C., 1271 West Fox Road, Long Island, Kansas, 67647, received in this office on November 20, 2017, for approval of a change in the location of the place of use under the certificate of appropriation issued pursuant to the permit to appropriate water for beneficial use, as modified and amended by the Findings and Order of the Chief Engineer dated May 9, 2000, reducing the authorized place of use, by the Order of the Chief Engineer dated July 21, 2008, approving the application to change the place of use, by the Order of the Chief Engineer dated December 4, 2009, approving the application to change the point of diversion, by the Findings and Order of the Chief Engineer dated March 6, 2012, modifying the additional limitation on the authorized quantity, and by the Order of the Chief Engineer dated April 7, 2014, approving the application to change the place of use and use made of water, finds that the change is reasonable and will not impair existing rights, and that the application should be and is hereby approved.

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

the Southwest Quarter (SW $\frac{1}{4}$) and the West Half of the Southeast Quarter (W $\frac{1}{2}$ SE $\frac{1}{4}$) of Section 33,
the West Half of the Southwest Quarter (W $\frac{1}{2}$ SW $\frac{1}{4}$) and near the center of Section 34,

both in Township 1 South; and

the South Half of the Northwest Quarter (S $\frac{1}{2}$ NW $\frac{1}{4}$) of Section 3,
the East Half (E $\frac{1}{2}$) of Section 4,

both in Township 2 South;

all in Range 20 West, Phillips County, Kansas,

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

All diversion works shall be equipped with an in-line, automatic, quick-closing check valve capable of preventing pollution of the source of the water supply. The type of valve installed shall meet specifications adopted by the Chief Engineer and shall be maintained in an operating condition satisfactory to the Chief Engineer.

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

In all other respects, the Certificate of Appropriation issued pursuant to Approval of Application, File No. 37,191, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated July 8, 1998, as modified and amended by the aforementioned orders.

RIGHT TO A HEARING AND TO ADMINISTRATIVE REVIEW

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

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

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

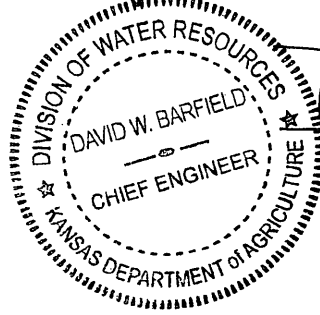
To obtain an evidentiary hearing before the Chief Engineer, a written request for hearing must be filed within 15 days after service of this Order as provided in K.S.A. 77-531 (i.e., within a total of 18 days after this Order was mailed to you), with the Kansas Department of Agriculture, Attn: Legal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

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

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

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

Ordered this 30th day of April, 2018, in Topeka, Shawnee County, Kansas.



David W. Barfield

David W. Barfield, P.E.
Chief Engineer
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 30th day of April, 2018, by David W. Barfield, P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.



Karen Hunter

Notary Public

CERTIFICATE OF SERVICE

On this 30th day of May, 2018, I hereby certify that the attached Approval of Application for the Change in Place of Use, File No. 37,191, dated April 30th, 2018 was mailed postage prepaid, first class, US mail to the following:

NELSON FARMS INC
N TERRY NELSON
BOX 38
LONG ISLAND KS 67647

With true and correct copies sent to

HUSKY HOGS LLC
TERRY NELSON
BOX 8
LONG ISLAND KS 67647

NELSON HOG FARMS LLC
1271 W FOX RD
LONG ISLAND KS 67647

With photocopies sent to:

Stockton Field Office

Danielle Wilson

Division of Water Resources

Submit To: CHIEF ENGINEER
Division of Water Resources
Kansas Department of Agriculture
1320 Research Park Drive
Manhattan, KS 66502
www.ksda.gov/dwr

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



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.

1. Application is hereby made for approval of the Chief Engineer to change the

- Place of Use
 Point of Diversion
 Use Made of Water

(Check one or more)

WATER RESOURCES
RECEIVED
NOV 20 2017
12:42
KS DEPT OF AGRICULTURE

File No. 37,191

2. Name of applicant: Nelson Farms Inc

Address: PO Box 38

City, State and Zip: Long Island, KS 67647

Phone Number: (785)854-7611 E-mail address: terrynelson@ruraltel.net

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

Name of water use correspondent: Nelson Farms Inc

Address: PO Box 38

City, State and Zip: Long Island, KS 67647

Phone Number: (785)854-7611 E-mail address: terrynelson@ruraltel.net

3. The change(s) proposed herein are desired for the following reasons (please be specific): To change the authorized place of use to cover expanding stockwater operations.

The change(s) (was) (will be) completed by 12/31/18.

(Date)

For Office Use Only:							
F.O. <u>3</u>	GMD <u>0</u>	Meets K.A.R. 5-5-1 (YES/NO) <u>YES</u>	Use <u>SR/LR</u>	Source <u>GS</u>	County <u>PL</u>	By <u>AW</u>	Date <u>11/20/17</u>
Code <u>CPU</u>	Fee \$ <u>200</u>	TR # _____	Receipt Date <u>11/20/17</u>	Check # <u>23054</u>			

APPLICATION COMPLETE
4.12.31.18
Reviewer RAIL

11/20/17 DAW

4. The presently authorized place of use is:

Owner of Land — NAME: Nelson Farms Inc.

ADDRESS: PO Box 38 Long Island, KS 67647

Stockwatering use in the Southwest Quarter of Section 33 and the West Half of the Southwest Quarter of Section 34, both in Township 1 South, Range 20 West, Phillips County, Kansas and

Stockwatering use in the Southwest Quarter of the Northwest Quarter of Section 3, Township 2 South, Range 20 West, Phillips County, Kansas.

List any other water rights that cover this place of use. 4304, 5069, 37191, 37269.01, 37269.02, and 37269.03

Owner of Land — NAME: N. Terry Nelson

ADDRESS: PO Box 38 Long Island, KS 67647

Stockwatering use in the Northeast Quarter of Section 4, Township 2 South, Range 20 West, Phillips County, Kansas.

List any other water rights that cover this place of use. 4304, 5069, 37191, 37269.01, 37269.02, and 37269.03

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

Owner of Land — NAME: Nelson Farms Inc.

ADDRESS: PO Box 38 Long Island, KS 67647

Stockwatering use in the Southwest Quarter and the West Half of the Southeast Quarter, both in Section 33 and the West Half of the Southwest Quarter of Section 34, both in Township 1 South, Range 20 West, Phillips County, Kansas and

Stockwatering use in the Southwest Quarter of the Northwest Quarter and the West Half of the Southeast Quarter of the Northwest Quarter, both in Section 3, Township 2 South, Range 20 West, Phillips County, Kansas.

Stockwatering use in the East Half of the Northeast Quarter and the South Half of the Southeast Quarter of Section 4, both in Township 2 South, Range 20 West, Phillips County, Kansas.

List any other water rights that cover this place of use. 4005, 4304, 5069, 7947, 8203, 26865, 35648, 35649, 37191, 37269.01, 37269.02, and 37269.03

Owner of Land — NAME: N. Terry Nelson

ADDRESS: PO Box 38 Long Island, KS 67647

Stockwatering use in the West Half of the Northeast Quarter and the North Half of the Southeast Quarter of Section 4, Township 2 South, Range 20 West, Phillips County, Kansas.

List any other water rights that cover this place of use. 4005, 4304, 5069, 7947, 8203, 26865, 35648, 35649, 37191, 37269.01, 37269.02, and 37269.03

Owner of Land — NAME: Husky Hogs LLC

ADDRESS: Terry Nelson Box 8 Long Island, KS 67647

Stockwatering use (hog facility) near the center of Section 34, in Township 1 South, Range 20 West, Phillips County, Kansas.

List any other water rights that cover this place of use. 4005, 4304, 5069, 7947, 8203, 26865, 35648, 35649, 37191, 37269.01, 37269.02, and 37269.03

Owner of Land — NAME: Nelson Hog Farms LLC

ADDRESS: 1271 W Fox Rd Long Island, KS 67647

Stockwatering use (hog facility) in the Southwest Quarter of the Southwest Quarter of Section 33, in Township 1 South, Range 20 West, Phillips County, Kansas.

List any other water rights that cover this place of use. 4005, 4304, 5069, 7947, 8203, 26865, 35648, 35649, 37191, 37269.01, 37269.02, and 37269.03

IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY

6. The presently authorized point(s) of diversion is 1 well
(Provide description and number of points)
7. The proposed point(s) of diversion is no change requested.
(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 _____ Quarter
 of Section _____, Township _____ South, Range _____ 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 _____ 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 _____ 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 _____ 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 _____
 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 _____ 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

WATER RESOURCES
 RECEIVED

IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY

NOV 20 2017

12. The presently authorized use of water is for STK purposes.
It is proposed that the use be changed to no change requested. purposes.

13. If changing the place of use and/or use made of water, describe how the consumptive use will not be increased.
Place of use is being modified to allow for the use of all other stockwater permits, along with dual use permits, to pump stockwater to a tower where it can then be distributed to any of the feedlots or hog facilities. The additional water from the dual use permits should allow for expansion without increasing consumptive use.

(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). 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.

No change in source of supply. Place of use will be modified on all corresponding files to cover all the places water will be used for stockwater.

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.

All regs met.

IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY

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 Long Island, Kansas, this 14th day of November, 2017.

Nelson James Be
(Owner)
Nelson Farms, Inc
(Please Print)

[Signature]
(Spouse)
N. Terry Nelson
(Please Print)

(Owner)

(Please Print)

(Owner)

(Please Print)

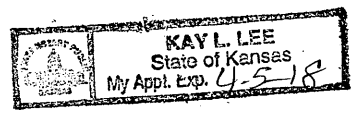
(Spouse)

(Please Print)

(Spouse)

(Please Print)

State of Kansas }
County of Phillips } SS



I hereby certify that the foregoing application was signed in my presence and sworn to before me this 14th day of November, 2017.

[Signature]
Notary Public

My Commission Expires 4-5-18

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.**

WATER RESOURCES RECEIVED

NOV 20 2017

KS DEPT OF AGRICULTURE

SCANNED

Krueger, Richelle [KDA]

From: Stewart, Kelly [KDA]
Sent: Thursday, April 26, 2018 1:04 PM
To: Turney, Brent [KDA]; Krueger, Richelle [KDA]
Cc: Means, David [KDA]; Hageman, Rebecca [KDA]
Subject: FW: Request for Recommendation, Nelson and Ingram change applications
Attachments: 3688,4005,4304,5069,7947,8203,26865,35648,35649,37191,37269.01,37269.02,37269.03
Nelson2018dualusechgs pkgmemrev4.docx;
11424etal3Nelson2018dualusechgs pkgmemrev.docx;
18328tempducepdpuumwirrstkaddwellbattmemrev.docx

Brent,

I recommend approval of these applications. Per Richelle's memo regarding File No. 35,016 each well will get 12 a.f. instead of 36.

Kelly

From: Turney, Brent [KDA]
Sent: Wednesday, April 25, 2018 5:22 PM
To: Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>
Cc: Krueger, Richelle [KDA] <Richelle.Krueger@ks.gov>
Subject: FW: Request for Recommendation, Nelson and Ingram change applications

Kelly,
Attached are the three draft memos for the three different projects proposed by Nelsons and Ingrams, do you recommend approval?

Richelle did all the heavy lifting on this, but she is going to let me take the credit.

Thanks,
Brent

Brent A. Turney, P.G.
Kansas Department of Agriculture
Division of Water Resources
1320 Research Park Drive
Manhattan Kansas 66502
(785) 564-6645
Brent.Turney@ks.gov
www.agriculture.ks.gov

STATE OF KANSAS

DEPARTMENT OF AGRICULTURE
1320 RESEARCH PARK DRIVE
MANHATTAN, KS 66502
PHONE: (785) 564-6700
FAX: (785) 564-6777



900 SW JACKSON, ROOM 456
TOPEKA, KS 66612
PHONE: (785) 296-3556
www.agriculture.ks.gov

GOVERNOR JEFF COLYER, M.D.
JACKIE McCLASKEY, SECRETARY OF AGRICULTURE

March 6, 2018

FILE COPY

CLINT T & CORINNE J COX
306 WHEELING AVE
LONG ISLAND KS 67647

RE: Water Right, File Nos. 3,688; 4,005; 4,304; 5,069; 7,947; 8,203; 26,865; 35,648; 35,649;
37,191; 37,269.01; 37,269.02 and 37,269.03

Dear Sir or Madam:

This is to advise you that N. Terry Nelson, on behalf of Nelson Farms, Inc. and Husky Hogs, L.L.C., has filed applications for approval of the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, to change the authorized place of use for all of the above referenced file numbers and also the use made of water under Water Right, File Nos. 4,005; 4,304; 7,947; 8,203; 26,865; and 35,648. Based upon K.S.A. 82a-1906, you are being notified of the above referenced applications for change. You can find the applications posted by water right file number as referenced above at www.agriculture.ks.gov/divisions-programs/dwr/water-appropriation/notices

If you have any questions, please contact me at (785) 564-6635 or Change Application Unit Supervisor Brent Turney at (785) 564-6645. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

A handwritten signature in cursive script that reads "Richelle A. Krueger".

Richelle A. Krueger
Environmental Scientist
Water Appropriation Program

RAK

pc: Stockton Field Office
Nelson Farms Inc., Attn Terry Nelson
Husky Hogs, L.L.C., Attn Terry Nelson

SCANNED

STATE OF KANSAS

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GOVERNOR JEFF COLYER, M.D.

JACKIE McCLASKEY, SECRETARY OF AGRICULTURE

March 6, 2018

BARNETT COX
16742 PDRA RD
NORTON KS 67654-5648


RE: Water Right, File Nos. 3,688; 4,005; 4,304; 5,069; 7,947; 8,203; 26,865; 35,648; 35,649;
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Sincerely,


Richelle A. Krueger
Environmental Scientist
Water Appropriation Program

RAK

pc: Stockton Field Office
Nelson Farms Inc., Attn Terry Nelson
Husky Hogs, L.L.C., Attn Terry Nelson

STATE OF KANSAS

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JACKIE McCLASKEY, SECRETARY OF AGRICULTURE

March 6, 2018

BRADLEY B & ANN M COX
1439 W GRANITE RD
LONG ISLAND KS 67647

RE: Water Right, File Nos. 3,688; 4,005; 4,304; 5,069; 7,947; 8,203; 26,865; 35,648; 35,649;
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Richelle A. Krueger
Environmental Scientist
Water Appropriation Program

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Husky Hogs, L.L.C., Attn Terry Nelson

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March 6, 2018

CLINT T & CORINNE J COX
1090 LEAVENWORTH ST
LONG ISLAND KS 67647

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Environmental Scientist
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JACKIE McCLASKEY, SECRETARY OF AGRICULTURE

March 6, 2018

RICHARD C & SANDRA A DOLE
27886 STATE HIGHWAY 383
ALMENA KS 67622-9677

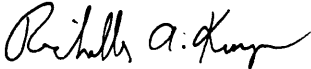
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Husky Hogs, L.L.C., Attn Terry Nelson

STATE OF KANSAS

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GOVERNOR JEFF COLYER, M.D.
JACKIE McCLASKEY, SECRETARY OF AGRICULTURE

March 6, 2018

COXS VALLEY VIEW FARMS
STEVEN L COX
STEVEN COX ASSOCIATES LLC
1476 HWY 383
LONG ISLAND KS 67647

RE: Water Right, File Nos. 3,688; 4,005; 4,304; 5,069; 7,947; 8,203; 26,865; 35,648; 35,649;
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Environmental Scientist
Water Appropriation Program

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STATE OF KANSAS



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GOVERNOR JEFF COLYER, M.D.
JACKIE McCLASKEY, SECRETARY OF AGRICULTURE

March 6, 2018

B-K COX FARMS INC
BARNET COX PRESIDENT
BRADLEY B AND ANN M COX
1439 W GRANITE RD
LONG ISLAND KS 67647-9632

RE: Water Right, File Nos. 3,688; 4,005; 4,304; 5,069; 7,947; 8,203; 26,865; 35,648; 35,649;
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Environmental Scientist
Water Appropriation Program

RAK

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Nelson Farms Inc., Attn Terry Nelson
Husky Hogs, L.L.C., Attn Terry Nelson

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

NELSON FARMS, INC 11/21/17
PO BOX 38
LONG ISLAND, KS 67647

FILE COPY

RE: File No 37191

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
- 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.

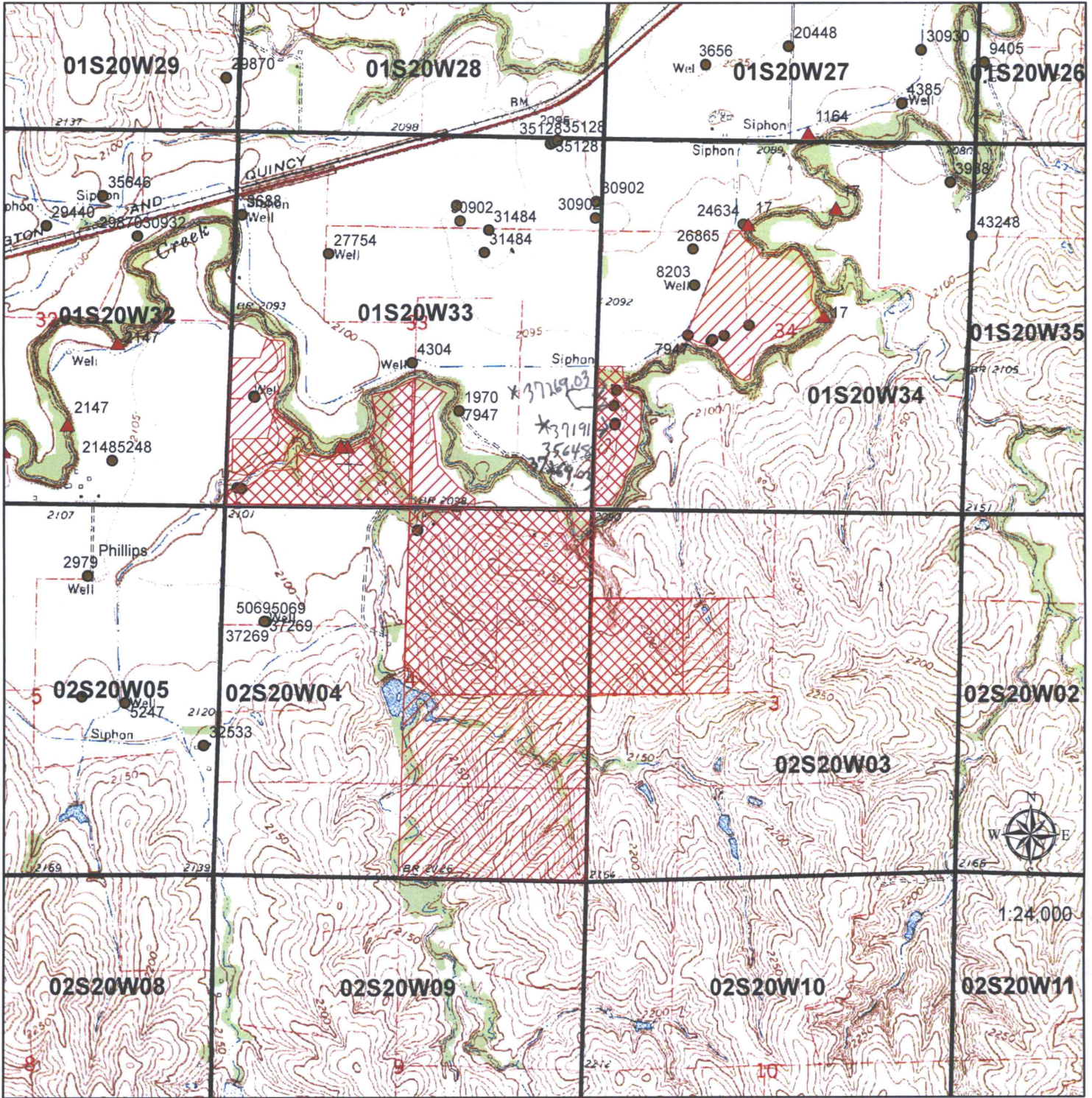
If you have any questions, please contact me at (785) 564-6645. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

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

BAT: DLW
pc: STOCKTON Field Office GMD

Application to Change the Place of Use For Water Right File 37,191



Current Stockwater Place of Use

▲ Surface Water Point of Diversion



Proposed Stockwater Place of Use

● Groundwater Point of Diversion

WATER RESOURCES
RECEIVED

NOV 20 2017

* per WATERS Division
* RAL/DM 3/20/18

KS DEPT OF AGRICULTURE

SCANNED