

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

1. File Number: <b>35648</b>	2. Status Change Date: <b>4/3/2019</b>	3. Change Num: <b>C4</b>	4. Field Office: <b>03</b>	5. GMD:
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: <b>18-OCT-2018</b>
8a. Applicant(s) New to system <input type="checkbox"/>  <b>NELSON FARMS INC BOX 38 LONG ISLAND KS 67647</b>		Person ID <b>12683</b> Add Seq# <b>1</b>		8d. Landowner(s) New to system <input type="checkbox"/>  Person ID _____ Add Seq# _____
		8e. Landowner(s) New to system <input type="checkbox"/> <b>HUSKY HOGS LLC TERRY NELSON BOX 8 LONG ISLAND KS 67647</b>		Person ID <b>54614</b> Add Seq# <b>1</b>
8b. Landowner(s) New to system <input type="checkbox"/> <b>NELSON FARMS INC BOX 38 LONG ISLAND KS 67647</b>		Person ID <b>12683</b> Add Seq# <b>1</b>		8f. Landowner(s) New to system <input type="checkbox"/> <b>NELSON HOG FARMS LLC 1304 W FOX RD LONG ISLAND KS 67647</b>
		8g. Landowner(s) New to system <input type="checkbox"/> <b>NTN LP PO BOX 560 NORTON KS 67654-0560</b>		Person ID <b>62512</b> Add Seq# <b>1</b>
8c. Landowner(s) New to system <input type="checkbox"/> <b>N TERRY NELSON BOX 38 LONG ISLAND KS 67647</b>		Person ID <b>28567</b> Add Seq# <b>1</b>		8h. WUC New to system <input type="checkbox"/> <b>NO CHANGES</b>
9. Documents and Enclosure(s): <input checked="" type="checkbox"/> DWR Meter(s) Date to Comply: _____ <input type="checkbox"/> N & P Date to Comply: _____ <input type="checkbox"/> Anti-Reverse Meter <input type="checkbox"/> Meter Seal <input checked="" type="checkbox"/> Check Valve <input type="checkbox"/> N & P Form <input type="checkbox"/> Water Tube <input type="checkbox"/> Driller Copy <input type="checkbox"/> H & E Letter <input type="checkbox"/> Conservation Plan Date Required: _____ Date Approved: _____ Date to Comply: _____				
10. Use Made of Water From: <b>IRR/STK DUAL USE</b> To: <b>STK USE</b>				
Date Prepared: <b>2/21/19</b> By: <b>RAK</b> Date Entered: <b>4/4/2019</b> By: <b>UM</b>				

File No. 35648

11. County: PL

Stream:

Formation Code: 113

Special Use: 005

12. Points of Diversion  
CHK  
MOD  
DEL PDIV  
ENT

Rate and Quantity

Authorized

Additional

Qualifier

S

T

R

ID

'N

'W

Comment (AKA Line)

Rate  
gpm/cfs

Quantity  
af/mgy

Rate  
gpm/cfs

Quantity  
af/mgy

Overlap PD Files

IRR DEL 45164	NCW2SW4	34	1	20W	1	1173	4959	IRR/STK DUAL USE												37191;37269.03;20187043MF
STK MOD 45164	NCW2SW4	34	1	20W	1	1173	4959		300 gpm	<b>(18.04AF)</b>	<b>5.88 mgy</b>	300 gpm	<b>(18.04AF)</b>	<b>5.88mgy</b>						37191;37269.03;20187043MF

13. Storage: Rate \_\_\_\_\_ NF Quantity \_\_\_\_\_ ac/ft Additional Rate \_\_\_\_\_ NF Additional Quantity \_\_\_\_\_ ac/ft

14. REMOVE Limitation: **18.04 AF (5.88 MGY) IRR/STK COMBINED DUAL USE - SEE IMAGE FOR DETAILS**  
REMOVE Limitation: **857.35 AF/YR COM/W - SEE IMAGE FOR FILE NUMBERS**

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

16. Place of Use  
CHK  
MOD  
DEL  
ENT

NE¼

NW¼

SW¼

SE¼

Total

Owner

Chg?

Overlap Files

PUSE S T R ID

NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼			
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IRR OLAPS-PL 016; PL017-D2; 219;  
1970 ;3130; 3688; 4005; 4304; 7947-  
D1; 7947-D2; 8203; 26865; 27754;  
30902; 31484; 35648; 20187041-MF;  
20187042-MF; 20187044-MF;  
20187045-MF; 20187046-MF

IRR DEL 59813	28	1	20W	1																1.00	13.00	14.00	8b	NO	SEE ABOVE		
IRR DEL 23378	33	1	20W	1	28.00	38.00	40.00	40.00	33.00	31.00	31.0	40.00								40.00	30.00	13.00	33.00	397.00	8b	NO	SEE ABOVE
IRR DEL 50451	33	1	20W	10									31.0	13.00	1.50	3.00								48.50	8c	NO	SEE ABOVE
IRR DEL 10065	34	1	20W	3									39.0	7.00	19.0	18.00	17.00	28.0						168.00	8B	NO	SEE ABOVE

IRR DEL 13444 4 2 20W 1 PU COMMENT L-2 (N2 NW), L-1 (S2 NW)					Lot 2 19	Lot 2 34	Lot 1 10	Lot 1 6									69	8C	NO	SEE ABOVE
IRR DEL 59814 4 2 20W 3 PU COMMENT L-1 (S2 NW)							Lot 1 22	Lot 1 5									27	8G	NO	SEE ABOVE
IRR DEL 59815 4 2 20W 4																	3	8b	NO	SEE ABOVE
STK √ 29623 33 1 20W 8	(SW¼) and (W½SE¼)																8B & 8C & 8F	NO	SEE BELOW	
STK √ 28569 34 1 20W 5	(W½SW¼)																8b	NO	SEE BELOW	
STK √ 53358 34 1 20W 6	NC 34-1-20W																8E	NO	SEE BELOW	
STK MOD 65793 3 2 20W 3	(N½; N½S½; SW¼SW¼; and SE¼ SE¼)																8B	NO	SEE BELOW	
STK MOD 65794 4 2 20W 6	(E½); (S½S½ NW¼) and (SW¼)																8B & 8C & 8G	YES	SEE BELOW	
STK ENT <del>35995</del> 9 2 20W	(NE¼)																8B	YES	SEE BELOW	
ST K ENT <del>69356</del> 10 2 20W	(W½ NW¼) AND (SW¼)																8B	YES	SEE BELOW	
STK ENT <del>69357</del> 15 2 20W	(NW¼)																8B	YES	SEE BELOW	
																	STK OLAPS-4005; 4304; 5069; 7947-D2 ;8203; 26865; 31148.08; 35648; 35649; 37191; 37269.01; 37269.02; 37269.03 20187041-MF thru 20187046-MF			

Base Acres:                      Year:                      Minimum Reasonable Quantity:

Comments:                      **REMOVE** POP UP BOX FOR TEMPORARY QUANTITY REDUCTION Quantity limited to 18.04 AF (5.88 m.g.y.)  
**FILE NO 35648 NOW STOCKWATERING USE ONLY PERMANENT QUANTITY REDUCTION NO PATH BACK**

**KANSAS DEPARTMENT OF AGRICULTURE**  
**Division of Water Resources**

**M E M O R A N D U M**

**TO:** Files

**DATE:** February 26, 2019

**FROM:** Brent A. Turney

**RE:** Water Right  
File Nos. 4,005, 4,304, 5,069,  
7,947-D2, 8,203, 26,865,  
31,148.08, 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 the above referenced file numbers. In addition, an application to change the point of diversion and use made of water was filed for Water Right, File No. 4,304, an application to change the use made of water application for Water Right, File No. 35,648 and applications to change the point of diversion for Water Right, File Nos. 31,148.08 and 37,269.01. 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.

Following are the files involved in these series of change applications along with their authorized/proposed uses:

Irrigation use only: File Nos. PL 016; PL 017-D2; 219, 1,970, 3,130, 3,688; 7,947-D1; 27,754, 31,484

Stockwatering use only: File Nos. 5,069; 31,148.08, 35,648; 35,649; 37,191; 37,269.01, 37,269.02 and 37,269.03

Dual irrigation/stockwatering use: File Nos. 4,005; 4,304; 7,947-D2; 8,203; and 26,865

Industrial/irrigation use: File No. 30,902

**PD/UMW Change File No. 4,304**

File No. 4,304 is authorized dual irrigation and stockwatering use from two wells; stockwatering use only from a battery of two wells and a single primary well; and standby stockwatering use only from one of aforementioned dual use wells (WRIS ID 6-1519'N,4845'W). The water right owner now proposes convert the entire file to **dual** irrigation/stockwatering uses, moving all quantities and rates to two wells to be authorized a blanket quantity and rate of 148 acre-feet (48.22 million gallons) - please see Attachment A to this memorandum for details. The file will be limited to 130.7 acre-feet for dual irrigation/stockwatering uses combined; and further limited to 130.7 acre-feet when combined with Vested Right, File No. PL 016 and Water Right, File No. 3,130 for irrigation use on the authorized place of use. The proposed dual use wells will be covered by MYFA Application File Nos. 20187041 MF and 20187042 MF. The currently authorized standby wells will be authorized for standby dual use.

There is an irrigation well not under common ownership (Water Right, File Nos. 2,148/5,248) and numerous stock and irrigation wells under common ownership within one-half mile of WRIS ID 6 and WRIS ID 40 wells. All wells are under common ownership within one-half mile of WRIS ID 5 well. There are two irrigation wells not under common ownership (Water Right, File Nos. 2,148/5,248 and Water Right, File No. 2,979) and numerous wells all under common ownership within one-half mile of the WRIS ID 37 geocenter of the proposed standby well battery.

**PD Change File No. 31,148.08**

File No. 31,148.08 is authorized 3.816 million gallons and 31 gallons per minute from one well for **solely stockwatering** use in the South Half (S½) of Section 4, Township 2 South, Range 20 West, Phillips County, Kansas. There are no overlaps in the current point of diversion located 4,909 feet North and 2,485 feet West of the Southeast corner of Section 4 but there are partial overlaps in place of use with other stockwatering files. The water right owner proposes to move the authorized quantity and diversion rate to an existing well authorized/to be authorized by Water Right, File Nos. 5,069, 37,269.01 and 37,269.02. The proposed existing primary well (WRIS ID 4), located 3,621 feet North and 4,642 feet West of the Southeast corner of the aforementioned Section 4, will involve a move of approximately 2,512 feet from the present location. In addition, the water right owner proposes to add a standby well (WRIS ID 1) located 3,606 feet North and 4,642 feet West of Section 4, also authorized/to be authorized standby use by File Nos. 5,069; 37,269.01 and 37,269.02, involving a distance move of approximately 2,520 feet from the current location.

There are two irrigation wells (Water Right, File Nos. 2,979 and 5,247) and a domestic well (Water Right, File No. 32,533.01) not under common ownership within one-half mile of the proposed/existing well. There are also four other points of diversion under common ownership.

**UMW Change File No. 35,648**

File No. 35,648 is authorized 21 acre-feet, temporarily limited to a **dual** irrigation/stockwatering use quantity of 18.04 acre-feet (5.88 m.g.y.) from one well (WRIS ID 1) located 1,173 feet North and 4,959 feet West of the Southeast corner of Section 34, Township 1 South, Range 20 West, Phillips County, Kansas. The referenced point of diversion overlaps Water Right, File Nos. 37,191 and 37,269.03, and MYFA Application, File No. 20187043-MF. The water right owner now proposes to change the use made of water from dual irrigation/stockwatering use to **solely stockwatering** use. Since the dual use will be removed and only stockwatering use remains, the authorized quantity will be 18.04 acre-feet and there will be **no path back** to the 21 acre-feet quantity. The 857.35 acre-feet limitation will be removed since the right will now be authorized only for stockwatering use.

All wells within one-half mile of the authorized point of diversion are under common ownership.

**PD Change File No. 37,269.01**

File No. 37,269.01 is authorized 4.61 million gallons (14.15 acre-feet) and 50 gallons per minute well for **solely stockwatering** use from one primary well WRIS ID 40 (1518'N,4854'W) in Section 33 also overlapped by File No. 4,304 and MYFA application, File No. 20187042; and one standby well WRIS ID 6 (1519'N,4845'W) in Section 33 also presently authorized dual irrigation/stockwatering use by File No. 4,304. The water right owner proposes to move the authorized quantity and diversion rate to an existing well authorized/to be authorized by Water Right, File Nos. 5,069, 31,148.08 and 37,269.02. The proposed existing well, located 3,621 feet North and 4,642 feet West of the Southeast corner of the aforementioned Section 4, will involve a move of approximately 3,167 feet from the present location. In addition, the water right owner proposes to add a standby well located 3,606 feet North and 4,642 feet West of Section 4, also authorized/to be authorized by File Nos. 5,069; 31,148.08; and 37,269.02, involving a move of approximately 3,168 feet from the present location. However, both proposed moves are less than one-half mile from the originally authorized point of diversion.

There are two irrigation wells (Water Right, File Nos. 2,979 and 5,247) and a domestic well (Water Right, File No. 32,533.01) not under common ownership within one-half mile of the proposed/existing well. There are also four other points of diversion under common ownership.

**PU Changes File Nos. 4,005, 4,304, 5,069, 7,947-D2, 8,203, 26,865, 31,148.08, 35,648, 35,649; 37,191; 37,269.01, 37,269.02 and 37,269.03**

File No. 4,005 – File No. 4,005 is presently authorized the temporary quantity of 44.11 acre-feet of groundwater for **dual** stockwatering/irrigation purposes from one well (WRIS ID 7 3198'N,3860'W) in aforementioned Section 34. The well is overlapped by Water Right, File No. 8,203 and MYFA Application, File No. 20187044-MF.

File No. 5,069 - File No. 5,069 is presently authorized 15.69 m.g.y. for **solely stockwatering** use from primary (WRIS ID 4 3621'N,4642'W) and standby (WRIS ID 1 3606'N,4642'W) wells located in the previously mentioned Section 4, both wells presently authorized by File No. 37,269.02.

File No. 7947-D2 - File No. 7947-D2 is authorized a temporary **dual** irrigation and stockwatering use quantity of 91.92 AF from one well (WRIS ID 13 2481'N,3950'W) in aforementioned Section 34. The point of diversion overlaps File No. 35,649 and MYFA Application, File No. 20187046-MF.

File No. 8,203 - File No. 8,203 is presently authorized a temporary quantity of 26.63 acre-feet for **dual** irrigation/stockwatering use and a limited rate of 720 g.p.m. from one well (WRIS ID 7 3198'N,3860'W) in previously mentioned Section 34. The well is overlapped by File No. 4,005 and MYFA Application, File No. 20187044-MF.

File No. 26,865 - File No. 26,865 is presently authorized a temporary quantity of 51.54 acre-feet for **dual** irrigation/stockwatering use from one well (WRIS ID 8 3719'N,3877'W) of aforementioned Section 34. The well is overlapped by MYFA Application, File No. 20187045-MF.

File No. 35,649 – File No. 35,649 is authorized 13.03 m.g.y. for **solely stockwatering** use from a primary battery of three wells (geocenter WRIS ID 14 2489'N,3420'W) and a standby well (WRIS ID 13 2481'N,3950'W) both in the aforementioned Section 34. The standby well is overlapped by Water Right, File No. 7,947-D2 and MYFA Application, File No. 20187046-MF. There are no overlaps on the primary well battery.

File No. 37,191 – File No. 37,191 is authorized 22.81 m.g.y. for **solely stockwatering** use from one well (WRIS ID 1 1173'N, 4959'W) in Section 34, presently authorized by File Nos. 35,648; 37,269.03 and 20187043 MF

File No. 37,269.02 – File No. 37,269.02 is authorized 5.83 m.g.y. for **solely stockwatering** use from primary (WRIS ID 4 3621'N,4642'W) and standby (WRIS ID 1 3606'N,4642'W) wells located in the previously mentioned Section 4, both wells presently authorized by File Nos. 5,069.

File No. 37,269.03 – File No. 37,269.03 is authorized 5.83 m.g.y. for **solely stockwatering** use from a primary well (WRIS ID 1 1173'N,4959'W) and a standby battery of two wells (geocenter WRIS ID 10 1455'N,4990'W) all located in the previously mentioned Section 34. The primary well currently overlaps File Nos. 35,648, 37,191 and MYFA Application, File No. 20187043-MF, no current point of diversion overlaps on the standby well battery.

The only wells not under common ownership within one-half mile of the above referenced file numbers are: an irrigation well authorized by Water Right, File No. 24,634 (within one-half mile of the wells for File Nos. 4,005, 7,947-D2, 8,203, 26,865, 35,649); two irrigation wells authorized by Water Right, File Nos. 2,979 and 5,247 and a domestic well authorized by Water Right, File No. 32,533.01 (within one-half mile of the wells for File Nos. 5,069 and 37,269.02).

The stockwatering place of use is being expanded and will be authorized by File Nos. 4,005; 4,304; 5,069; 7,947-D2; 8,203; 26,865; 31,148.08; 35,648; 35,649; 37,191; 37,269.01, 37,269.02 and 37,269.03 and MYFA Application, File Nos. 20187041-MF, 20187042-MF, 20187043-MF, 20187044-MF, 20187045-MF and 20187046-MF, 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; the North Half (N $\frac{1}{2}$ ); the North Half of the South Half (N $\frac{1}{2}$  S $\frac{1}{2}$ ); the Southwest Quarter of the Southwest Quarter (SW $\frac{1}{4}$  SW $\frac{1}{4}$ ); and the Southeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section 3; the East Half (E $\frac{1}{2}$ ); the South Half of the South Half of the Northwest Quarter (S $\frac{1}{2}$ S $\frac{1}{2}$ NW $\frac{1}{4}$ ); and the Southwest Quarter (SW $\frac{1}{4}$ ) of Section 4; the Northeast Quarter (NE $\frac{1}{4}$ ) of Section 9; the West Half of the Northwest Quarter (W $\frac{1}{2}$  NW $\frac{1}{4}$ ); and the Southwest Quarter (SW $\frac{1}{4}$ ) of Section 10; and the Northwest Quarter (NW $\frac{1}{4}$ ) of Section 15; all in Township 2 South, the entire place of use in Range 20 West, Phillips County, Kansas.

The proposed irrigation place of use remains the same, described as 726.50 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-D1; 7,947-D2; 8,203; 26,865; 27,754; 30,902; and 31,484 and by MYFA Application, File Nos. 20187041-MF, 20187042-MF, 20187044-MF, 20187045-MF and 20187046-MF.

No change proposed for the industrial use for File No. 30,902 described as a truck washing facility in the Northeast Quarter of the Northeast Quarter (NE $\frac{1}{4}$  NE $\frac{1}{4}$ ) of the aforementioned Section 33.

Nearby well owners were notified as required for the referenced change applications by letters dated November 29, 2018. On December 6, 2018 a call was returned to Brad Cox regarding the point of diversion changes. Mr. Cox asked what they are proposing and was not in favor of the proposal. He was told to contact the field office for more specific concerns, and to put concerns in writing and submit to the DWR Manhattan office within 15 days of the date of the notification letter. In an e-mail dated December 19, 2018, Kelly Stewart, Water Commissioner of the Stockton Field Office, indicated he spoke with Mr. Cox, and after further explanation by Kelly, Mr. Cox did not have any real concerns, but simply wanted to understand what was happening. No written comments have been received as of today's date.

In an e-mail dated January 16, 2019, 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 dual use water rights. Check valves are required if any chemical or foreign substance is injected into the water through the diversion works.

**ATTACHMENT A**  
**FILE NO. 4304 – AUTHORIZED/PROPOSED QUANTITIES RATES AND USES**

	33-1S-20W SW¼NW¼SW¼ 1518'N,4854'W (GPS 1540'N, 4846'W) <b>WRIS ID 40</b> PDIV ID 83510	33-1S-20W CWNW¼SE¼ 2040'N,2605'W <b>WRIS ID 5</b> PDIV ID 22925	33-1S-20W SW¼NW¼SW¼ 1519'N,4845'W <b>WRIS ID 6</b> PDIV ID 17026	33-1S-20W SW¼SW¼SW¼ 226'N,5040'W Geocenter of Two-Well Battery <b>WRIS ID 37</b> PDIV ID 75790
Current uses, quantities and diversion rates File No. 4304	PRIMARY WELL STK USE- 6.52 mgly (20AF) @50gpm (Additional Well)	DUAL USE IRR/STK 30AF(9.78mgly) @600 gpm	DUAL USE IRR/STK 93AF (30.30mgly) @290 gpm also STDBY STK USE for PRIMARY STK WELL File No. 4304 (WRIS ID 40 PDIV ID 83510)	STK USE- 1.63 mgly (5AF) @ 10 gpm
		Wells Limited to 105.7 acre-feet (34.44mgly) when combined for IRR/STK DUAL USE		
		Wells Limited to 105.7 acre-feet for IRR USE w/c with File Nos. PL 016 and 3,130.		
Current overlaps File No. 4304	PRIMARY WELL STK USE- File No. 37269.01	NONE	STDBY WELL STK USE- File No. 37269.01	NONE
Proposed uses, quantities and diversion rates File No. 4304	DUAL USE IRR/STK 148 AF @950 gpm BLANKET RATE AND QUANTITY		STDBY DUAL USE IRR/STK	STDBY DUAL USE IRR/STK
	Wells Limited to 130.7 AF when combined for IRR/STK DUAL USE			
	Wells Limited to 130.7 AF when combined for IRR/STK DUAL USE			
Proposed overlaps File No. 4304	20187042-MF PRIMARY WELL DUAL USE IRR/STK	20187041MF PRIMARY WELL DUAL USE IRR/STK	20187041-MF and 20187042-MF STANDBY WELL DUAL USE IRR/STK	20187041-MF and 20187042-MF STANDBY WELLS DUAL USE IRR/STK



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

Mike Beam, Acting Secretary

Laura Kelly, Governor

April 9, 2019

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

**FILE COPY**

RE: Water Right, File Nos. 3,130; 4,005; 4,304; 5,069; 7,947-D2; 8,203; 26,865; 31,148.08; 35,648; 35,649; 37,191, 37,269.01, 37,269.02 and 37,269.03

Multi-Year Flex Account Term Permit, File Nos. 20187041-MF (Base Water Right, File No. 4,304); 20187042-MF (Base Water Right, File No. 4,304); 20187043-MF (Base Water Right, File Nos. 35,648; 37,191 and 37,269.03); 20187044-MF (Base Water Right, File Nos. 4,005 and 8,203); 20187045-MF (Base Water Right File No. 26,865); 20187046-MF (Base Water Right, File No. 7,947-D2)

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. Also enclosed is the Findings and Order by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, which modifies the additional quantity limitation under File No. 3,130.

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 the order/permits executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, suspending the base water rights referenced above, and approving your Applications for Term Permit to Establish a Multi-Year Flex Account. Your attention is directed to the enclosures and to the terms, conditions, limitations, and requirements specified in the Applications and its "Attachment A", which are incorporated in these enclosed orders/permits. The approval of these multi-year flex account term permits affords you the ability to divert water without annual limits, during the set period of January 1, 2018 through December 31, 2022, inclusive. However, the use of water in excess of the authorized quantity within the five-year set period listed above, shall result in the immediate revocation of the multi-year flex account term permits and the imposition of penalties as provided in K.A.R. 5-14-10.

Prior to any further diversion of water, an acceptable water flowmeter must be installed on each point of diversion authorized by the base right. A seal will be placed on the water flowmeter by the Division of Water Resources in such a manner as to render the meter non-removable from the measuring chamber without breaking the seal. If the seal is broken without the written permission of the Chief Engineer, it shall constitute a violation of the order of the Chief Engineer. If the water flowmeter is repaired or replaced during the duration of the multi-year flex account term permit, then such flowmeter must be equipped with an anti-reverse flow mechanism. Also, 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.

An annual water use report must be filed with the Chief Engineer by March 1, following the end of each calendar year. If a complete annual water use report is not received by the deadline, then a fine may be assessed and all water use under such permit or right may be suspended. Reports submitted in paper form will be assessed a \$20 per file number paper filing fee. In order to avoid this filing fee, you may submit your report online at [www.kswaterusereport.org](http://www.kswaterusereport.org).

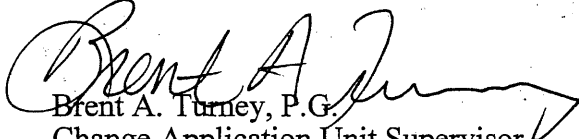
OVER→

Nelson Farms, Inc.  
File Nos. 4,005 etal  
Page 2

The approval of your applications constitutes term permits to appropriate water. It does not give authority to construct any dam or other stream obstruction regulated by K.S.A. 82a-301 through 305a. It does not give authority to access any right-of-way or authorize trespassing upon or injury to public or private property. It may also be necessary for you to comply with other local, state or federal requirements.

Additional information and applicable forms may be found on our website at [agriculture.ks.gov/divisions-programs/dwr](http://agriculture.ks.gov/divisions-programs/dwr). If you have any questions or need assistance with any of these requirements, please contact our office at 785-564-6640 or your local Stockton Field Office at 785-425-6787. If you call, please reference the file numbers 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.P.  
Husky Hogs, L.L.C.  
Nelson Hog Farms, L.L.C.

# THE STATE OF KANSAS



**KANSAS DEPARTMENT OF AGRICULTURE**  
Mike Beam, Acting Secretary of Agriculture

**DIVISION OF WATER RESOURCES**  
David W. Barfield, Chief Engineer

**APPROVAL OF APPLICATION  
FOR  
CHANGE IN PLACE OF USE  
AND USE MADE OF WATER AND  
ORDER REDUCING THE AUTHORIZED QUANTITY AND REMOVING AN  
ADDITIONAL QUANTITY LIMITATION  
WATER RIGHT  
FILE NO. 35,648**

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, Nelson Hog Farms, L.L.C., 1304 West Fox Road, Long Island, Kansas, 67647, and NTN L.P., PO Box 560, Norton, Kansas, 67654, received in this office on October 18, 2018, for approval of a change in the place of use and use made of water under the certificate of appropriation issued pursuant to the application for 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, the Order of the Chief Engineer dated July 21, 2008, approving the application to change the place of use and better describing the location of the authorized point of diversion, the Findings and Order of the Chief Engineer dated March 6, 2012, modifying the additional limitation on the authorized quantity, the Findings and Order of the Chief Engineer dated April 8, 2014, reducing the authorized place of use and modifying the additional limitation on the authorized quantity, the Order of the Chief Engineer dated November 22, 2016, approving the application to change the place of use, and by the Order of the Chief Engineer dated April 30, 2018, approving the application to change the place of use and use made of water, finds that the changes are reasonable and will not impair existing rights and that the application should be and is hereby approved.

This order effectively reduces the authorized quantity of water to 18.04 acre-feet (5.88 million gallons) of water per calendar year in accordance with the Application for Approval to Change the Place of Use and Use Made of Water, File No. 35,648, received in the office of the Chief Engineer on October 18, 2018.

This order also effectively removes the additional limitation on the authorized quantity as set forth in the Findings and Order of the Chief Engineer dated April 8, 2014, described as follows:

That the quantity of water authorized under this water right is further limited to a quantity which combined with Vested Right, PL 016, and Water Right, File Nos. 219; 1,970; 3,130; 4,005; 4,304; 6,938A (Almena Irrigation District No. 5); 7,947; 8,203; 26,865; 27,754; 30,902; and 31,484 will provide a total not to exceed 857.35 acre-feet of water per calendar year for irrigation use.

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

Stockwatering Use

and the 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; and 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 North Half (N $\frac{1}{2}$ ), the North Half of the South Half (N $\frac{1}{2}$  S $\frac{1}{2}$ ), the Southwest Quarter of the Southwest Quarter (SW $\frac{1}{4}$  SW $\frac{1}{4}$ ), and the Southeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section 3; the East Half (E $\frac{1}{2}$ ), the South Half of the South Half of the Northwest Quarter (S $\frac{1}{2}$  S $\frac{1}{2}$  NW $\frac{1}{4}$ ), and the Southwest Quarter (SW $\frac{1}{4}$ ) of Section 4; the Northeast Quarter (NE $\frac{1}{4}$ ) of Section 9; the West Half of the Northwest Quarter (W $\frac{1}{2}$  NW $\frac{1}{4}$ ), and the Southwest Quarter (SW $\frac{1}{4}$ ) of Section 10; and the Northwest Quarter (NW $\frac{1}{4}$ ) of Section 15; all in Township 2 South;

all in Range 20 West, Phillips County, Kansas,

located substantially as shown on the map accompanying the application to change the place of use and use made of water.

All diversion works into which any type of chemical or other foreign substance will be injected into the water pumped from the diversion works shall be equipped with an in-line, automatic, quick-closing check valve capable of preventing pollution of the source of the water supply. The type of valve installed shall meet specifications adopted by the Chief Engineer and shall be maintained in an operating condition satisfactory to the Chief Engineer.

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

In all other respects, the Certificate of Appropriation issued pursuant to Approval of Application, File No. 35,648, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated June 23, 1997, 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.

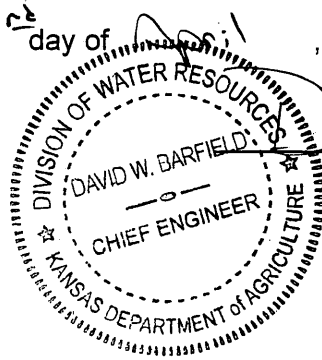
To obtain an evidentiary hearing before the Chief Engineer, a written request for hearing must be filed within 15 days after service of this Order as provided in K.S.A. 77-531 (i.e., within a total of 18 days after this Order was mailed to you), with the Kansas Department of Agriculture, Attn: Legal 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 3<sup>rd</sup> day of April, 2019, in Manhattan, Riley 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 3<sup>rd</sup> day of April, 2019, 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 9<sup>th</sup> day of April, 2019, I hereby certify that the attached original Approval of Change in Place of Use and Use Made of Water, File No. 35,648, dated April 3<sup>rd</sup>, 2019, 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

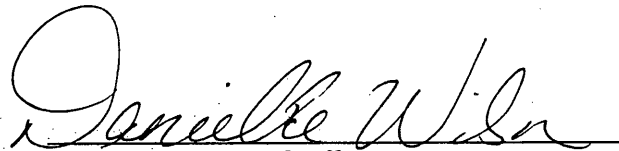
HUSKY HOGS LLC  
TERRY NELSON  
BOX 8  
LONG ISLAND KS 67647

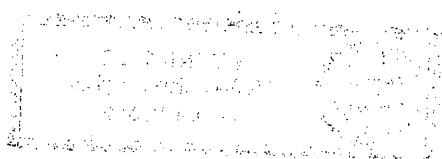
NELSON HOG FARMS LLC  
1304 W FOX RD  
LONG ISLAND KS 67647

NTN LP  
PO BOX 560  
NORTON KS 67654

With photocopies to:

Stockton Field Office

  
Staff



Submit To: CHIEF ENGINEER  
Division of Water Resources  
Kansas Department of Agriculture  
1320 Research Park Drive  
Manhattan, KS 66502  
[www.ksda.gov/dwr](http://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  
(Check one or more)  Point of Diversion  
 Use Made of Water

Water Resources  
Received  
**OCT 18 2018**  
1:00  
KS Dept Of Agriculture

File No. 35,648

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: terry@valleyfeeds.com

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: terry@valleyfeeds.com

3. The change(s) proposed herein are desired for the following reasons (please be specific): To change the authorized place of use to add more tracts of land where water can be used for STK purposes. Use made of water will be changed from dual use (IRR & STK) to just STK. IRR place of use will be removed.

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

(Date)

**For Office Use Only:**

F.O. 3 GMD 1 Meets K.A.R. 5-5-1 (YES) / NO Use IRR/STK Source G/S County PL By KAB Date 10-18-18  
Code C-2 Fee \$ 500 TR # \_\_\_\_\_ Receipt Date 10-18-18 Check # 20811

2/21/19  
RAK

4. The presently authorized place of use is:

Owner of Land — NAME: Nelson Farms Inc.

ADDRESS: PO Box 38 Long Island, KS 67647

Sec.	Twp.	Range	NE¼				NW¼				SW¼				SE¼				TOTAL ACRES
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
28	1 S	20 W															1	13	14
33	1 S	20 W	28	38	40	40	33	31	31	40					40	30	13	33	397
34	1 S	20 W							39	7	19	18	17	28		17.5	22.5		168

List any other water rights that cover this place of use. PL 16, PL 17.D2, 219, 1970, 3130, 3688, 4005, 4304, 7947, 8203, 26865, 27754, 30902, 31484

Owner of Land — NAME: NTN, LLP

ADDRESS: 1304 W Fox Rd Long Island, KS 67647

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	
4	2 S	20 W							Lot 1 22	Lot 1 5									27

List any other water rights that cover this place of use. PL 16, PL 17.D2, 219, 1970, 3130, 3688, 4005, 4304, 7947, 8203, 26865, 27754, 30902, 31484

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

5. It is proposed that the place of use be changed to Proposed M  
Also includes 7947-D2 + MYFA F/c Nos 20187041-MF  
TRW 20187046-MF

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 all of Section 3, excluding the Southeast Quarter of the Southwest Quarter and the Southwest Quarter of the Southeast Quarter, 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 and the Southwest Quarter of Section 4, all in Township 2 South, Range 20 West, Phillips County, Kansas.

Stockwatering use in the West Half of the Northwest Quarter and the Southwest Quarter of Section 10, Township 2 South, Range 20 West, Phillips County, Kansas.

Stockwatering use in the Northeast Quarter of Section 9, Township 2 South, Range 20 West, Phillips County, Kansas.

Stockwatering use in the Northwest Quarter of Section 15, 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, 31148.08, 35648, 35649, 37191, 37269.01, 37269.02, and 37269.03

IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY

*(\*) Nelson 2/26/17*

Water Resources  
Received

OCT 18 2018



6. The presently authorized point(s) of diversion is one 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 \_\_\_\_\_ 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 \_\_\_\_\_

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**

12. The presently authorized use of water is for IRR/STK purposes.  
It is proposed that the use be changed to STK purposes.

13. If changing the place of use and/or use made of water, describe how the consumptive use will not be increased.  
Proposing a complete overlap with all files that authorize stockwater use. UMW will change from dual use (IRR & STK) to just STK. Consumptive use will not increase as this water right already took a consumptive use reduction when converting from IRR to dual use. \* Quantity permanently reduced to 18.04 AF (5.88 mgd) Since total conversion to STK use - no path back per 2/14/19 email from Kelly Stewart Stockton Fo to Brent Tunney Hq change units  
(Please show any calculations here.)

14. It is requested that the maximum annual quantity of water be reduced to n/a 18.04 AF (5.88 mgd) permanent (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](http://www.usgs.gov)). The map should show the location of the presently authorized point(s) of diversion. Distances North and West of the Southeast corner of the section must be shown. The presently authorized place of use should also be shown. Identify the center of the section, the section lines and the section corners and show the appropriate section, township, and range numbers on the map. In addition the following information must also be shown on the map.

- a. If a change in the location of the point(s) of diversion is proposed, show:
  - 1) The location of the proposed point(s) of diversion. Distances North and West of the Southeast corner of the section must be shown. Please be certain that the information shown on the map agrees with the information shown in Paragraph Nos. 9, 10 and 11 of the application.
  - 2) If the source of supply is groundwater, please show the location of existing water wells of any kind, including domestic wells, within 1/2 mile of the proposed well or wells. Identify each well as to its use and furnish name and mailing address of the property owner or owners. If there are no wells within 1/2 mile, please indicate so on the map.
  - 3) If the source of supply is surface water, the names and mailing addresses of all landowner(s) 1/2 mile downstream and 1/2 mile upstream from your property lines must be shown.
- b. If a change in the place of use is desired, show the proposed place of use by crosshatching on the map. Please be certain that the information shown on the map agrees with the information shown in Paragraph No. 5 of the application.

17. Attach documentation to show the change(s) proposed herein will not impair existing water rights and relates to the same local source of supply as to which the water right relates. This information may include statements, plats, geology reports, well logs, test hole logs, and other information as necessary information to show the above. Additional comments may be made below.

No change in source of supply. Stockwater 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. Water Resources

IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY

\* Roll down 2/19/19

Received  
OCT 18 2018

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 Stockton, Kansas, this 15 day of Oct, 2018.

[Signature]  
(Owner)

\_\_\_\_\_  
(Spouse)

[Signature]  
(Please Print)

\_\_\_\_\_  
(Please Print)

N. Terry Nelson  
(Owner)

\_\_\_\_\_  
(Spouse)

\_\_\_\_\_  
(Please Print)

\_\_\_\_\_  
(Please Print)

\_\_\_\_\_  
(Owner)

\_\_\_\_\_  
(Spouse)

\_\_\_\_\_  
(Please Print)

\_\_\_\_\_  
(Please Print)

State of Kansas }  
County of ROOKS } SS



I hereby certify that the foregoing application was signed in my presence and sworn to before me this 15 day of OCT, 2018.

[Signature]  
Notary Public

My Commission Expires 9-27-21

**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.**

RECEIVED  
DIVISION  
ROOKS COUNTY

APPROVED BY

1. The presently authorized place of use is:

Owner of Land — NAME: N. Terry Nelson

ADDRESS: PO Box 38 Long Island, KS 67647

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	
33	1S	20W									31	13	1.5	3					48.5
4	2S	20W					Lot 2 19	Lot 2 34	Lot 1 10	Lot 1 6									69

List any other water rights that cover this place of use. PL16, PL17.D2, 219, 1970, 3130, 3688, 4005, 4304, 7947, 8203, 26865, 27754, 30902, 31484

Owner of Land — NAME: Nelson Farms Inc.

ADDRESS: PO Box 38 Long Island, KS 67647

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	
4	2S	20W									3								3

List any other water rights that cover this place of use. PL16, PL17.D2, 219, 1970, 3130, 3688, 4005, 4304, 7947, 8203, 26865, 27754, 30902, 31484

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

2. It is proposed that the place of use be changed to: See attached supplement sheets. This file will no longer authorize IRR.

SCANNED

Water Resources  
Received

OCT 18 2018

KS Dept Of Agriculture

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, 31148.08, 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, 31148.08, 35648, 35649, 37191, 37269.01, 37269.02, and 37269.03

Owner of Land — NAME: NTN L.P.

ADDRESS: P.O. Box 560 Norton, KS 67647 67654

Stockwatering use in the South Half of the Southeast Quarter of the Northwest Quarter and the Southeast Quarter of the Southwest Quarter of the Northwest 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, 31148.08, 35648, 35649, 37191, 37269.01, 37269.02, and 37269.03

*\* per WRS \* RAIL/RR - 2/21/14*

1. 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 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

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

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, 31148.08, 35648, 35649, 37191, 37269.01, 37269.02, and 37269.03

**Krueger, Richelle [KDA]**

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**From:** Turney, Brent [KDA]  
**Sent:** Thursday, February 14, 2019 3:56 PM  
**To:** Krueger, Richelle [KDA]  
**Subject:** FW: Terry Nelson and File No. 35,648

**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](mailto:Brent.Turney@ks.gov)**  
**[www.agriculture.ks.gov](http://www.agriculture.ks.gov)**

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**From:** Stewart, Kelly [KDA]  
**Sent:** Thursday, February 14, 2019 3:54 PM  
**To:** Turney, Brent [KDA] <[Brent.Turney@ks.gov](mailto:Brent.Turney@ks.gov)>  
**Subject:** Terry Nelson and File No. 35,648

Brent,

After laying out the details to Terry, he has instructed us to go ahead and process the change application for this file by converting it to stockwatering only and he understands he won't have the path back to the original 21 acre-feet.

Kelly C. Stewart, Water Commissioner  
Kansas Department of Agriculture  
Division of Water Resources  
Stockton Field Office  
(785)425-6787  
[kelly.stewart@ks.gov](mailto:kelly.stewart@ks.gov)

<http://www.agriculture.ks.gov/>

**Krueger, Richelle [KDA]**

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**From:** Turney, Brent [KDA]  
**Sent:** Thursday, February 14, 2019 10:38 AM  
**To:** Krueger, Richelle [KDA]  
**Subject:** FW: Path back from consumptive use reduction

FYI

**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](mailto:Brent.Turney@ks.gov)**  
**[www.agriculture.ks.gov](http://www.agriculture.ks.gov)**

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**From:** Barfield, David [KDA]  
**Sent:** Thursday, February 14, 2019 9:15 AM  
**To:** Letourneau, Lane [KDA] <Lane.Letourneau@ks.gov>; Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>; Beightel, Chris [KDA] <Chris.Beightel@ks.gov>  
**Cc:** Turney, Brent [KDA] <Brent.Turney@ks.gov>; Meyer, Mike [KDA] <Mike.Meyer@ks.gov>; Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>; Tietsort, Katie [KDA] <Katie.Tietsort@ks.gov>; Philip, Charlotte [KDA] <Charlotte.Philip@ks.gov>  
**Subject:** RE: Path back from consumptive use reduction

I think my recollection is the same as well. The path back is allowed on dual use, not generally.

David

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**From:** Letourneau, Lane [KDA]  
**Sent:** Thursday, February 14, 2019 8:28 AM  
**To:** Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>; Barfield, David [KDA] <David.Barfield@ks.gov>; Beightel, Chris [KDA] <Chris.Beightel@ks.gov>  
**Cc:** Turney, Brent [KDA] <Brent.Turney@ks.gov>; Meyer, Mike [KDA] <Mike.Meyer@ks.gov>; Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>; Tietsort, Katie [KDA] <Katie.Tietsort@ks.gov>; Philip, Charlotte [KDA] <Charlotte.Philip@ks.gov>  
**Subject:** RE: Path back from consumptive use reduction

Team,

I recall this the same as Brent.

I can defend a path back to irrigation as long as irrigation remains a beneficial use of the water right.

If a water right becomes a totally different beneficial use, it now adjusts and operates that way.



For example, It is tougher for me to defend an irrigation water right changed to a municipal water right for 30 years being able to fully go back to the irrigation water right.

Please let me know if I missed something during our discussion.

I look forward to hearing from others.

Thanks

Lane

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**From:** Stewart, Kelly [KDA]

**Sent:** Thursday, February 14, 2019 7:12 AM

**To:** Barfield, David [KDA] <[David.Barfield@ks.gov](mailto:David.Barfield@ks.gov)>; Beightel, Chris [KDA] <[Chris.Beightel@ks.gov](mailto:Chris.Beightel@ks.gov)>; Letourneau, Lane [KDA] <[Lane.Letourneau@ks.gov](mailto:Lane.Letourneau@ks.gov)>

**Cc:** Turney, Brent [KDA] <[Brent.Turney@ks.gov](mailto:Brent.Turney@ks.gov)>; Meyer, Mike [KDA] <[Mike.Meyer@ks.gov](mailto:Mike.Meyer@ks.gov)>; Lanterman, Jeff [KDA] <[Jeff.Lanterman@ks.gov](mailto:Jeff.Lanterman@ks.gov)>; Tietsort, Katie [KDA] <[Katie.Tietsort@ks.gov](mailto:Katie.Tietsort@ks.gov)>; Philip, Charlotte [KDA] <[Charlotte.Philip@ks.gov](mailto:Charlotte.Philip@ks.gov)>

**Subject:** Path back from consumptive use reduction

David and others,

I am seeking clarification or verification on what was decided in our Spring 2018 water commissioner meeting held at MHK.

I came away from that meeting with the thinking and understanding that we would allow a path back to the original irrigated quantity in all changes in the use made of water. For example, if an irrigation right was converted to municipal, industrial, or stockwatering, we would limit (but not reduce) the quantity of water that could be pumped to consumptive use, but then if they changed back to irrigation only, their original quantity would be intact.

After discussing this with Brent this week, his shop believes we only allow the path back for dual use changes and/or partial changes in u/m/w.

I think everyone agrees that if an additional well is incorporated into the change, then we do not allow a path back because we consider the additional well a permanent change.

Can you provide guidance?

Thanks,

Kelly

Kelly C. Stewart, Water Commissioner  
Kansas Department of Agriculture  
Division of Water Resources  
Stockton Field Office  
(785)425-6787  
[kelly.stewart@ks.gov](mailto:kelly.stewart@ks.gov)

<http://www.agriculture.ks.gov/>

## Krueger, Richelle [KDA]

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**From:** Stewart, Kelly [KDA]  
**Sent:** Wednesday, January 16, 2019 10:22 AM  
**To:** Krueger, Richelle [KDA]  
**Cc:** Billinger, Mark [KDA]; Turney, Brent [KDA]; Hageman, Rebecca [KDA]  
**Subject:** RE: Request for Recommendation, Nelson Farms Change Applications File Nos. 4005 etal

Richelle,

Answers below:

For Rebecca's benefit, here are the file numbers: : Water Right

File Nos. 4,005, 4,304, 5,069, 7,947-D2,  
8,203, 26,865, 31,148.08, 35,648, 35,649;  
37,191; 37,269.01, 37,269.02 and 37,269.03

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**From:** Krueger, Richelle [KDA]  
**Sent:** Tuesday, January 15, 2019 4:55 PM  
**To:** Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>  
**Cc:** Billinger, Mark [KDA] <Mark.Billinger@ks.gov>; Turney, Brent [KDA] <Brent.Turney@ks.gov>  
**Subject:** Request for Recommendation, Nelson Farms Change Applications File Nos. 4005 etal

Hi Kelly,

Attached is a rough draft memo for the referenced change applications.

- I am wondering if the standby well battery proposed under File No. 4304 should really be dual use also instead of stockwatering only – I have bolded it in the Attachment A table so you can see what I am talking about? Yes, this small battery should only be standby stockwatering use. They are too small for irrigation.
- Do I need to do an F&O on File No. 3130 limitation or is it okay as it stands (105.7AF w/c File No. PL 016)? Yes probably. The limitation now needs to be 130.7 acre-feet.
- Do you recommend approval of the referenced change applications? (I will send MYFA memos separately) Yes

Thanks,  
Richelle

STATE OF KANSAS

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

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

NELSON FARMS, INC  
PO BOX 38  
LONG ISLAND, KS 67647

October 24, 2018

RE: File No 35648

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/UMW
- point of diversion
- use made of water

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

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

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

**(b) (1) The violation of any provision of this section by any person is a class C misdemeanor...**

**A class C misdemeanor is punishable by a fine not to exceed \$500 and/or a term of confinement not to exceed one month in the county jail. Each day that the violation occurs constitutes a separate offense.**

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

Sincerely,

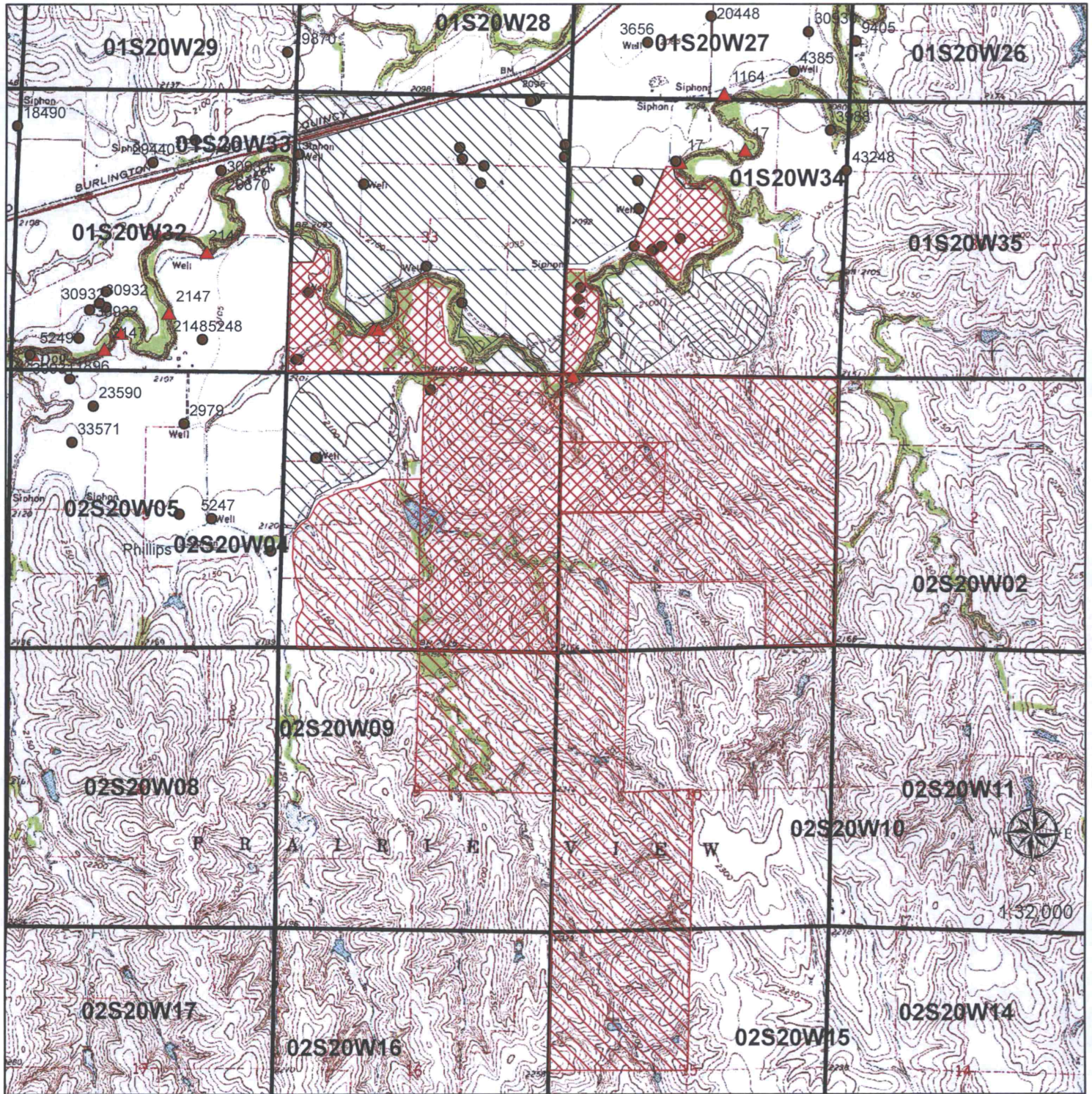
Brent Tourney, L.G.  
Change Applications Unit Supervisor  
Water Appropriation Program

BAT: DLW  
pc: STOCKTON Field Office GMD

SCANNED



# Application to Change the Place of Use and Use Made of Water Water Right File 35,648



**Water Resources  
Received**

**OCT 18 2018**

**KS Dept of Agriculture**



Current IRR place of use (to be deleted)



Current Stockwater Place of Use



Proposed Stockwater Place of Use

▲ Surface Water Point of Diversion

● Groundwater Point of Diversion

*[Handwritten Signature]*  
Signature

10-15-18  
Date

**SCANNED**