

NOTICE

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

Submit completed application to:
 Kansas Department of Agriculture
 Division of Water Resources
 Field Office for your area.

Call for address:

Topeka -- (785) 296-5733
 Stafford -- (620) 234-5311
 Stockton -- (785) 425-6787
 Garden City -- (620) 276-2901
<http://agriculture.ks.gov/dwr>

DWR FIELD OFFICE APPLICATION FOR APPROVAL TO CHANGE THE PLACE OF USE AND/OR THE POINT OF DIVERSION



STATE OF KANSAS

Filing Fee Must Accompany the Application, K.S.A. 82a-708b(b), as amended.
 Fee Schedule is on the third page of this application form.

Paragraph Nos. 1, 2, 3 & 5 must be completed. Complete all other applicable portions. If change in point of diversion is greater than 100 feet, or if place of use will be changed, include a topographic map or detailed plat showing the authorized and proposed point(s) of diversion and/or place of use.

RECEIVED

File No. 6236

MAR 08 2019
 3:15 P.M.
 Stockton Field Office
 Division of Water Resources

1. Application is hereby made for approval of the Chief Engineer to change the (check one or both):

Place of Use Point of Diversion

under the water right which is the subject of this application in accordance with the conditions described below.

The source of supply is: Groundwater Surface water

2. Name and address of Applicant: TONY M HORINEK

1980 CTY RD 18 COLBY, KS 67701

Phone Number: (785)694-3281

Email address: _____

Name and address of Water Use Correspondent: SHOULD BE CHANGED TO ABOVE

Phone Number: () _____

Email address: _____

3. The presently authorized place of use is:

Owner of Land ---- NAME: TONY M HORINEK TRUST & ANITA M HORINEK TRUST

ADDRESS: 1980 CTY RD 18 COLBY, KS 67701

(If there is more than one landowner, attach supplemental sheets as necessary.)

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	8	40																	40	40	40	40	160
34	8	40									40	30	25	40	10	40	40	40					235
35	8	40									40	40	40	40									160

4. If this application is for a change in place of use, it is proposed that the place of use be changed to:

Owner of Land ---- NAME: TONY M HORINEK TRUST & ANITA M HORINEK TRUST

ADDRESS: 1980 CTY RD 18 COLBY, KS 67701

(If there is more than one landowner, attach supplemental sheets as necessary.)

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	8	40																	30	30	30	30	120
34	8	40					27.5	27.5	27.5	27.5	15.5			15.5	5	34.5	34.5	5					220
35	8	40									30	30	30	30									120

For Office Use Only: Code WATER RESOURCES TR # _____ Receipt Date 3/18/19 Check # 1594
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F03 GMD4

G-1-R-2
 MAR 18 2019

SH Meets 5-5-1

3/19/2019 LLM

5. **Presently authorized point of diversion:**
 One in the NW Quarter of the NW Quarter of the SW Quarter of Section 35 , Township 8 South, Range 40 W, in SHERMAN County, Kansas, 2150 feet North 5200 feet West of Southeast corner of section. Authorized Rate 1000 GPM Authorized Quantity 400 AF Depth of well (feet)
(DWR use only: Computer ID No. GPS feet North feet West)
 This point will not be changed This point will be changed as follows: No change, point better described with GPS as follows:
Proposed point of diversion: (Complete only if change is requested or if existing point is better described by GPS)
 One in the Quarter of the Quarter of the Quarter of Section , Township South, Range (E/W), in County, Kansas, feet North feet West of Southeast corner of section. Proposed Rate Proposed Quantity Proposed well depth (feet) .
 This point is: Additional Well Geo Center List other water rights that will use this point .

6. **Presently authorized point of diversion:**
 One in the NW Quarter of the SW Quarter of the SW Quarter of Section 35 , Township 8 South, Range 40 W, in SHERMAN County, Kansas, 975 feet North 5200 feet West of Southeast corner of section. Authorized Rate 1000 GPM Authorized Quantity 400 AF Depth of well (feet)
(DWR use only: Computer ID No. GPS feet North feet West)
 This point will not be changed This point will be changed as follows: No change, point better described with GPS as follows:
Proposed point of diversion: (Complete only if change is requested or if existing point is better described by GPS)
 One in the Quarter of the Quarter of the Quarter of Section , Township South, Range (E/W), in County, Kansas, feet North feet West of Southeast corner of section. Proposed Rate Proposed Quantity Proposed well depth (feet) .
 This point is: Additional Well Geo Center List other water rights that will use this point .

7. The changes herein are desired for the following reasons?
 (please be specific) REDUCE LAND TO STOP 5-5-11
AND ADD NEW PIVOT

8. If a well, is the test hole log attached? Yes No

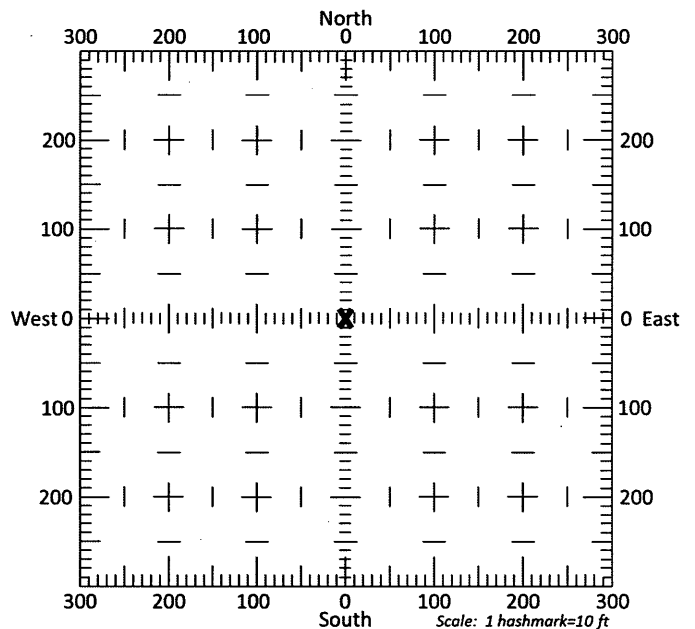
9. The change(s) (was)(will be) completed by?
5/1/19

10. If the point of diversion is a well:
 (a) What are you going to do with the old well?
NA
 (b) When will this be done? NA

11. Groundwater Management District recommendation attached?
 Yes No

12. Assisted by RL GMD #4

13a. If the proposed point of diversion will be relocated more than 300 feet but within 2,640 feet of the existing point of diversion, attach a topographic map or aerial photograph. For groundwater sources, show all wells (including domestic) within one-half mile of the proposed point of diversion and the names and mailing addresses of the owners. For surface water sources, show the names and addresses of the landowner(s) one-half mile downstream and one-half mile upstream from your property lines



13b. If the proposed point of diversion will be relocated within 300 feet of the existing point of diversion, indicate its location on the diagram shown above in relation to the existing point of diversion. (PLEASE NOTE: The "X" in center of diagram above represents the presently authorized point of diversion.)

14. If the proposed groundwater point of diversion is 300 or fewer feet from the existing point of diversion, complete the following:
- (a) Does the undersigned represent all owners of the currently authorized place(s) of use identified in this application?
 Yes No (If no, all owners must sign this application.)
 - (b) Will the ownership interest of any owner of the currently authorized place(s) of use identified in this application be adversely affected if this application is approved as requested?
 Yes No (If yes, all owners must sign this application.)
 - (c) If this application is not approved expeditiously, will there be substantial damage to property, public health or safety?
 Yes No (If no, all owners must sign this application.)

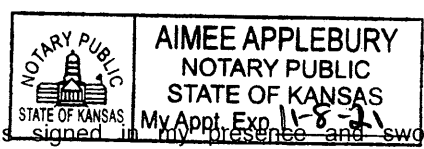
If the application proposes a surface water change in point of diversion, a groundwater change in point of diversion greater than 300 feet, or a change in place of use, the application must be signed by all owners of the currently authorized place of use, or their duly authorized agent (attach notarized statement authorizing representation).

I hereby verify, being first duly sworn upon my oath or affirmation and under penalty of perjury, that I am of lawful age and the owner, the spouse of the owner, or a duly authorized agent of the owner(s) to make this application on their behalf, in regards to the water right(s) to which this application pertains. I further verify that the statements contained in this application are true, correct and complete.

Dated at Colby, Kansas, this 4th day of March, 2019.

<u>Tony M. Horinek Trustee</u>	
(Owner)	(Spouse)
<u>Tony M. Horinek Trustee</u>	
(Please Print)	(Please Print)
<u>Anita M. Horinek</u>	
(Owner)	(Spouse)
<u>Anita M. Horinek Trustee</u>	
(Please Print)	(Please Print)
(Owner)	(Spouse)
(Please Print)	(Please Print)

State of Kansas }
 County of Thomas } SS



I hereby certify that the foregoing application was signed in my presence and sworn to before me this 4th day of March, 2019.

Aimee Applebury
 Notary Public

My Commission Expires 11-8-2021

ONLY COMPLETE APPLICATIONS WILL BE PROCESSED. To be complete, all of the applicable portions of the application form must be completed with accurate information; maps, if necessary, must be included; signatures of all the appropriate owners' must be affixed to the application and notarized; and the appropriate fee must be paid.

FEE SCHEDULE

Each application to change the place of use or the point of diversion under this section shall be accompanied by the application fee set forth in the schedule below: Make checks payable to: **Kansas Department of Agriculture**

- (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

WATER RESOURCES
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MAR 18 2019

MAR 08 2019

L O G A N

28

Well



1 : 24000

CHANGE PL/USE
6236, 9072, 11504

← 2 LANE

→ 2 LANE

3715

26

24

70

70

24

26

757

3732

3732

3729

3716

3714

CTR 33-8-40

CTR 34-8-40

CTR 35-8-40

43

3730

Well

3730

Well

Well

35

3720

11

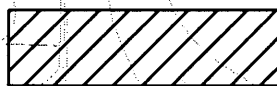
9

3714

3728

3712

3714



PRESENT PL/USE



PROPOSED PL/USE

4

3720

3

3730

3718

2

2

3660

3680

Well

Well

3732

3724

3702

3728

3707

WATER RESOURCES
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MAR 18 2019

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MAR 08 2019

Stockton Field Office
Division of Water Resources

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



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

Mike Beam, Interim Secretary

Laura Kelly, Governor

TONY M HORINEK
1980 CTY RD 18
COLBY, KS 67701

March 19, 2019

RE: File No 6236

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: DLW4

Legal Descriptions:

Tract 1: The Southeast Quarter (SE ¼) of Section Thirty-three (33), Township Eight (8) South, Range Forty (40), West of the 6th P.M., Sherman County, Kansas

Tract 2: The Northwest Quarter (NW ¼) of Section Thirty-four (34), Township Eight (8) South, Range Forty (40), West of the 6th P.M., Sherman County, Kansas

Tract 3: The South Half (S ½) of Section Thirty-four (34), Township Eight (8) South, Range Forty (40) West of the 6th P.M., Sherman County, Kansas, LESS THE FOLLOWING DESCRIBED TRACTS:

(North Tract) A tract of land situate in the Southeast Quarter (SE 1/4) of Section Thirty-four (34), Township Eight (8) South, Range Forty (40) West of the 6th P.M., Sherman County, Kansas, and being more particularly described as follows:

Commencing at the East ¼ corner of said Section 34; Thence South 02° 20' 25" West along the Easterly line of the SE ¼ of said Section 34 a distance of 370.00 to the Northeast corner of that tract of land described in Book 194 Microfilm at Page 313 of Sherman County, Kansas records; Thence North 87° 39' 35" West along the Northerly line of said tract a distance of 1000 feet to the Northwest corner of said tract; Thence North 02° 20' 25" East a distance of 365.64 feet to a point on the Northerly line of said Southeast Quarter of Section 34; Thence South 87° 54' 34" East along said Northerly line of the Southeast Quarter a distance of 1,000.01 feet to the point of beginning, described parcel containing 8.44 acres, more or less.

And Less

(House and surrounding) A tract of land situate in the Southeast Quarter (SE 1.4) of Section Thirty-four (34), Township Eight (8) South, Range Forty (40) West of the 6th P.M., Sherman County, Kansas, and being more particularly described as follows:

Commencing at the East ¼ corner of said Section 34; Thence South 02° 20' 25" West along the Easterly line of said Southeast Quarter a distance of 370.00 feet to the true point of beginning; Thence South 02° 20' 25" West along said Easterly line of the Southeast Quarter a distance of 695.00 feet; Thence North 87° 39' 35" West a distance of 1,000.00 feet; Thence North 02° 20' 25" East a distance of 695.00 feet; Thence South 87° 39' 35" East a distance of 1,000.00 feet to the point of beginning.

And Less

(South tract) A tract of land situate in the Southeast Quarter (SE 1.4) of Section Thirty-four (34), Township Eight (8) South, Range Forty (40) West of the 6th P.M., Sherman County, Kansas, and being more particularly described as follows:

Commencing at the Southeast corner of said Section 34; Thence North 87° 52' 12" West along the Southerly line of the Southeast Quarter of said Section 34 a distance of 1,000.01 feet; Thence North 02° 20' 25" East a distance of 1,583.38 feet to the Southwest corner of that tract of land described in Book 194 Microfilm at Page 313 of the Sherman County, Kansas, records; Thence South 87° 39' 35" East along the Southerly line of said tract a distance of 1,000.00 feet to the Southeast corner of said tract on the Easterly line of said Southeast Quarter of Section 34; Thence South 02° 20' 25" West along said Easterly line of the Southeast Quarter a distance of 1,579.72 feet to the point of beginning, described parcel containing 36.31 acres, more or less.

Tract 4: The Southwest Quarter (SW ¼) of Section Thirty-five (35), Township Eight (8) South, Range Forty (40) West of the 6th P.M., Sherman County, Kansas

RECEIVED

MAR 08 2019

Stockton Field Office
Division of Water Resources

STATE OF KANSAS, COUNTY OF SHERMAN, SS
This instrument was filed this 17th
day of January 2019 at 3:11 P.M.
and recorded in Micorfilm Book 198
at Page 239-240 FEE \$ 38.00

Billie R Hoyt
Register of Deeds
Billie R. Hoyt



MICROFILM
INDEXED *WIXX*

TRUSTEE'S DEED

THIS INDENTURE, made this 17th day of January, 2019, by and between **Randy Dean Topliff, Trustee and Donald Ray Topliff, Trustee of the Topliff Revocable Trust, UTA dated April 21, 1997**, as GRANTOR, and **The Tony M. Horinek Trust Agreement, dated June 21, 2002 AND The Anita M. Horinek Trust Agreement, dated June 21, 2002**, as GRANTEES.

GRANTOR, acting under express powers conferred upon them by the terms of the **The Topliff Revocable Trust, UTA dated April 21, 1997** and which said trust agreements remain in full force and effect at this time without having been revoked, and in consideration of the sum of \$1.00 and other valuable consideration, does by these presents, GRANT, BARGAIN, SELL AND CONVEY unto GRANTEE, all right, title and interest of the trustees of the **Topliff Revocable Trust, UTA dated April 21, 1997**, and of the said trusts, in and to all the following described real estate located in Sherman County, Kansas, to-wit:

SEE ATTACHMENT

Excepting and Reserving: 50% of all the oil, gas and other minerals in and under the real estate for a term and period of ten years from the date of this deed. Rights to current gas production will terminate at the end of ten years from the date of this deed. If any new oil production exists in commercial quantities at the end of said period, then the term of this reservation and exception shall extend so long thereafter as said production in commercial quantities continues. This reservation shall be participating as to all future bonuses and delay rentals on all future oil and gas leases.

Subject to easements and restrictions of record.

TO HAVE AND TO HOLD the above granted premises, together with the appurtenances and hereditaments and every part thereof, unto GRANTEE, their heirs and assigns forever, and the said GRANTOR does hereby covenant with the said GRANTEE, their heirs and assigns, that they have in all things observed the requirements of law concerning said sale.

IN WITNESS WHEREOF, GRANTOR has signed this instrument this 17 day of Jan., 2019

By Randy Dean Topliff
Randy Dean Topliff, individually and as Trustee of the Topliff Revocable Trust, UTA dated April 21, 1997

By Donald Ray Topliff
Donald Ray Topliff, individually and as Trustee of the Topliff Revocable Trust, UTA dated April 21, 1997

RECEIVED

MAR 08 2019

Stockton Field Office
Division of Water Resources
WATER RESOURCES
RECEIVED

MAR 18 2019

KS DEPT OF AGRICULTURE

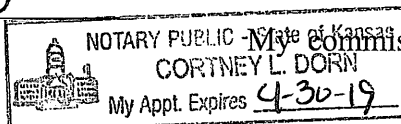
ACKNOWLEDGEMENT

STATE OF Kansas
COUNTY OF Sherman, ss

BE IT REMEMBERED, that on this 17th day of Jan, 2019, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Randy Dean Topliff and Donald Ray Topliff, individually and as trustees of the Topliff Revocable Trust, UTA dated April 21, 1997 who are personally known to me to be the same persons, as trustees, who executed the within instrument of writing and such person duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Cortney L. Dorn
Notary Public



My commission expires: 4-30-19

SEAL

ENTERED IN TRANSFER RECORD
IN MY OFFICE THIS