

Kansas Department of Agriculture
Division of Water Resources
PERMIT OF NEW APPLICATION WORKSHEET

1. File Number: <p style="text-align: center;">50,124</p>	2. Status Change Date: <p style="text-align: center;">5/15/2019</p>	3. Field Office: <p style="text-align: center;">01</p>	4. GMD: <p style="text-align: center;">0</p>
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5. Status: Approved Denied by DWR/GMD Dismiss by Request/Failure to Return

6. Enclosures: Check Valve N of C Form Water Tube Driller Copy Meter

<p>7a. Applicant(s) New to system <input checked="" type="checkbox"/></p> <p>Person ID: <u>63163</u> Add Seq# _____</p> <p>DEAN & VICTOR MENOLD 2770 HORNED OWL RD HIAWATHA KS 66434</p>	<p>7c. Landowner(s) New to system <input type="checkbox"/></p> <p>Person ID 63164 Add Seq# _____</p> <p>JOSEPH E NOLL 3189 HORNED OWL RD HIAWATHA KS 66434</p>
<p>7b. Landowner(s) New to system <input type="checkbox"/></p> <p>Person ID _____ Add Seq# _____</p> <p>7a.</p>	<p>7d. Misc. New to system <input type="checkbox"/></p> <p>Person ID _____ Add Seq# _____</p> <p>MIDWEST IRRIGATION % KEITH GRIMM 2991 GOLDFINCH RD HIAWATHA KS 66434 8371</p>

<p>8. WUR Correspondent New to system <input type="checkbox"/></p> <p>Overlap File (s) WUC Agree <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Person ID _____ Add Seq# _____ Notarized WUC Form <input type="checkbox"/></p> <p>7a.</p>	<p>9. Use of Water: Changing? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> Groundwater <input checked="" type="checkbox"/> Surface Water</p> <p><input checked="" type="checkbox"/> IRR <input type="checkbox"/> REC <input type="checkbox"/> DEW <input type="checkbox"/> MUN</p> <p><input type="checkbox"/> STK <input type="checkbox"/> SED <input type="checkbox"/> DOM <input type="checkbox"/> CON</p> <p><input type="checkbox"/> HYD DRG <input type="checkbox"/> WTR PWR <input type="checkbox"/> ART RECHRG</p> <p><input type="checkbox"/> IND SIC: _____ <input type="checkbox"/> OTHER: _____</p>
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10. Completion Date: 12/31/2020 11. Perfection Date: 12/31/2024 12. Exp Date: _____

13. Conservation Plan Required? Yes No Date Required: _____ Date Approved: _____ Date to Comply: _____

14. Water Level Measuring Device? Yes No Date to Comply: _____ Date WLMD Installed: _____

***NOTE: THIS IS A SURFACE WATER STORAGE AND REDIVERSION APPLICATION.**

Date Prepared: **4/18/2019** By: **DWS**
Date Entered: **5/16/2019** By: **LLM**

File No. 50,124	15. Formation Code:	Drainage Basin: SF BIG NEMAHA RIVER	County: BR	Special Use:	Stream: Walnut CREEK TRIB 10 (SF BIG NEMAHA)																																					
16. Points of Diversion			17. Rate and Quantity MOD ADDL QUANTITY																																							
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√	81730	SW SW SE	26	1	16E	1	160	2084																																		
18. Storage: Rate NF Quantity 544 ac/ft Additional Rate NF Additional Quantity 544 ac/ft																																										
19. Limitation: 624 af/yr at _____ gpm (_____ cfs) when combined with file number(s) 50,123																																										
Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____																																										
20. Meter Required? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No To be installed by 12/31/2020 Date Acceptable Meter Installed _____																																										
21. Place of Use		NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg?	No/Yes	Overlap Files																				
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Comments:																																										

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources
M E M O R A N D U M

TO: Files

DATE: April 18, 2019

FROM: Doug Schemm

RE: Application, File Nos. 50,123 and 50,124

Dean and Victor Menold have filed the applications referred to above for permits to appropriate surface water for irrigation use. Application, File No. 50,123 is requesting to appropriate 255 acre-feet of surface water per calendar year to be stored in a proposed reservoir, and re-divert 255 acre-feet of the stored water. The proposed point of diversion for File No. 50,123 (where the structure crosses the centerline of the stream) is located in the Southeast Quarter of the Northeast Quarter of the Northeast Quarter (SE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 23, in Township 1 South, Range 16 East, Brown County, Kansas.

Application, File No. 50,124 is requesting to appropriate 544 acre-feet of surface water per calendar year to be stored in a proposed reservoir, and re-divert 544 acre-feet of the stored water. The proposed point of diversion for File No. 50,124 (where the structure crosses the centerline of the stream) is located in the Southwest Quarter of the Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 26, in Township 1 South, Range 16 East, Brown County, Kansas. Both dams are located on tributary streams to Walnut Creek, within the South Fork Big Nemaha drainage basin.

As noted above, the reservoirs are located within the South Fork Big Nemaha basin, on tributaries to Walnut Creek, which drains toward the Sac and Fox Nation of Missouri in Kansas and Nebraska. Therefore, a notification letter was sent to the Sac and Fox Nation of Missouri in Kansas and Nebraska, and the Bureau of Indian Affairs on February 26, 2019, giving them 30 days to provide comments. A response letter was received from Sac and Fox Nation on March 25, 2019. The letter requested that the applications be denied because the Nation believed they would impair their senior water right. A response letter was sent to the Nation and the Bureau on April 4, 2019 to address their concerns. The response letter noted that if the Nation's senior water right is being impaired, owners of non-domestic Kansas Water Rights junior to the Nation's senior water reservation right would have to bypass all inflows. In addition, DWR proposed two specific conditions that would be included on these permits as follows:

"That this approval of application and permit to proceed will be subject to the as yet unquantified, water reservation right of the Sac and Fox Tribal Nation, which will likely have a significantly senior priority. As such, any water right developed under this permit may be administered should impairment occur to the Tribal water reservation right quantified in the future per the provisions of K.S.A. 82a-706."

"That the owner shall ensure that the needs of the senior, downstream water right held by the Nation, will be satisfied by providing an adequate bypass of the dam either by tube, valve, syphon, pump or other acceptable method, over, through, or around the dam to the channel below, each time inflows occur when this senior water right is impaired."

In addition, the applicant identified multiple upstream and downstream landowners within one-half ($\frac{1}{2}$) mile of the property lines for both applications. Nearby landowner letters were sent out on October 10, 2018. Telephone calls were received from several landowners related to File No. 50,124. The downstream landowners were concerned that the proposed reservoir would impact their streamflow. One of the downstream landowners (Dustin Ploeger) has a large reservoir on his property that is permitted under File No. 46,830, a blanket watershed permit for Walnut Creek Watershed Joint District #1. He waters about 25 calves spring through fall from this reservoir, and stated that this watershed reservoir does not stay full. Note that there is another tributary stream which also flows into this downstream reservoir.

Roger Ploeger, Adam Hinton, and Stephen Spare (Euchre Creek Farms) also telephoned our office with concerns related to stream flows. There was also concern that the reservoir was located within the flood easement of the downstream watershed reservoir. No written comments were received from these nearby owners, and no specific evidence of impairment was provided. The permit will be conditioned to require a drawdown tube near the stream bed elevation to bypass water if necessary for the downstream domestic users. Also note that the Structures Program did not receive any negative comments from the USACE or any other government agencies during processing of their File No. LBR-032.

The points of diversion are located on property owned by the applicants, and Victor Menold has signed the application forms stating they have legal access to the points of diversion. The place of use is partly owned by the applicants and partly owned by Joseph and Joan Noll, and it comprises a total of 624 acres. The files will overlap in place of use.

For File No. 50,123 runoff computations determined that the 170 acres of drainage area in this area of the state, will generate a runoff quantity in 1 out of every five (5) years (a 20% chance), of 255 acre-feet (18"). Therefore, per K.A.R. 5-6-5, this quantity IS the limiting factor, and the application was reduced to 255 acre-feet. Keith Grimm agreed to the quantity reduction. For File No. 50,124 runoff computations were completed under a previous application (subsequently dismissed), and it was determined that the drainage area of 1,384 acres will provide 1,730 acre-feet of runoff, significantly more than the requested quantity of 544 acre-feet, in 1 out of every five (5) years (a 20% chance). Therefore, per K.A.R. 5-6-5, this runoff quantity IS NOT the limiting factor, and the application was processed as requested.

The requested combined quantity of water for direct use (rediversion) of 799 acre-feet for irrigation use on 624 acres, provides more than the maximum allowable of 1 acre-feet per acre for Brown County, Kansas, per K.A.R. 5-3-24. Therefore, the junior file, 50,124 will be limited to 624 acre-feet for direct irrigation use, providing 369 acre-feet of additional water (624 AF – 255 AF).

File No. 50,123 has two other surface water rights within a two-mile radius according to the WRIS database. Both of these also authorize storage in reservoirs, and they are located on different streams. File No. 50,124 has four other surface water rights within a two-mile radius according to the WRIS database (including File No. 50,123). All of these also authorize storage in reservoirs (primarily sediment control use), and they are all located on different streams, except for the downstream reservoir in the Northeast Quarter of Section 35, T1S, R16E on Walnut Creek Trib 10. No senior water rights will be impaired with approval of these applications with proper conditioning.

The proposed structures were reviewed by DWR Water Structures Program staff, under File Nos. DBR-0366/LBR-0032 (File No. 50,123) and DBR-0354 (File No. 50,124). It was determined that DBR-0366/LBR-0032 qualified for the hazard class A permit exemption specified in K.S.A. 82a-301(d)(1), and does not need a stream obstruction permit (see November 7, 2018 letter from BJ Edmonston). It was determined that DBR-0354 qualified for the hazard class A permit exemption specified in K.S.A. 82a-301(d)(1), but it required a stream obstruction permit (see January 2, 2019 letter from Laura Gray). The applicant has secured the required floodplain fill permit, and it has been approved.

Dean and Victor Menold
File Nos. 50,123 and 50,124
Page 3

As allowed by K.S.A. 82a-706(c) approved water flow meters shall be installed on the secondary diversion works (pump sites) for these files. If any chemical or foreign substance is injected into the water pumped under these permits, check valves will also need to be installed. Since these are proposed, new reservoirs, a Special Condition on the Permits will be needed to provide an initial fill quantity for each reservoir.

In an April 11, 2019 discussion, Katie Tietsort, Water Commissioner, Topeka Field Office, stated that the referenced new applications should be approved. Based on the above discussion, that this area is open to new appropriations, the proposed appropriation of water is reasonable, the structures have been reviewed and properly permitted by the DWR Water Structures Program, and senior rights will not be impacted, it is recommended that the referenced new applications be approved, with the special conditioning discussed above.

Doug Schemm
Environmental Scientist
Topeka Field Office

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



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

Mike Beam, Secretary

Laura Kelly, Governor

May 20, 2019 **FILE COPY**

DEAN AND VICTOR MENOLD
2770 HORNE OWL RD
HIAWATHA KS 66434

RE: Appropriation of Water, File Nos. 50,123 and 50,124

Dear Sirs:

Enclosed are permits authorizing you to proceed with construction of the proposed diversion works and to appropriate water for beneficial use as set forth in these permits. Your attention is directed to the enclosures and to the terms, conditions, limitations, and requirements specified in these permits.

Notice must be filed on the enclosed forms once the diversion works have been completed. Failure to complete the diversion works within the time allowed, or within any authorized extension of time thereof, will result in dismissal of these permits. If you need an extension of time, you must request it before the deadline for completion set forth in these permits. Any request for an extension of time must be accompanied by the statutorily required fee, which is currently \$100.00 per file number.

Acceptable water flowmeters must be installed on the redirection works authorized by these permits prior to using water. An annual water use report must be filed with the Chief Engineer by March 1, following the end of each calendar year for each file. If complete annual water use reports are not received by the deadline, then a fine may be assessed and all water use under such permits or rights 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 reports online at www.kswaterusereport.org.

The approval of your applications constitute permits to appropriate water. They do not give authority to construct any dam or other stream obstruction regulated by K.S.A. 82a-301 through 305a. They do 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.

Enclosed is an informational sheet that sets forth the procedure to obtain a Certificate of Appropriation for each file, which will establish the extent of your perfected water rights. Additional information and applicable forms may be found on our website at 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 Topeka Field Office at 785-296-5733. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

Kristen A. Baum
New Application Unit Supervisor
Division of Water Resources

KAB:dws
Enclosure(s)

pc: Topeka Field Office
Joseph E Noll
MWI LLC

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

APPROVAL OF APPLICATION and PERMIT TO PROCEED

(This is not a Certificate of Appropriation)

This is to certify that I have examined Application, File No. 50,124 of the applicant

DEAN & VICTOR MENOLD
2770 HORNED OWL RD
HIAWATHA KS 66434

for a permit to appropriate water for beneficial use, together with the maps, plans and other submitted data, and that the application is hereby approved and the applicant is hereby authorized, subject to vested rights and prior appropriations, to proceed with the construction of the proposed diversion works (except those dams and stream obstructions regulated by K.S.A. 82a-301 through 305a, as amended), and to proceed with all steps necessary for the application of the water to the approved and proposed beneficial use and otherwise perfect the proposed appropriation subject to the following terms, conditions and limitations:

1. That the priority date assigned to such application is **September 6, 2018**.
2. That the water sought to be appropriated shall be used for irrigation use on land described in the application, as follows:

Sec. Twp. Range	NE¼				NW¼				SW¼				SE¼				TOTAL	
	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼		
23 1S 16E	38	40	40	40										34	40	39	38	309
26 1S 16E									40				40	40	40	40	38	238
36 1S 16E						37	40											77

3. That the appropriation sought shall be limited to all natural flows of an unnamed tributary to Walnut Creek, designated in the office of the Chief Engineer as Walnut Creek Trib 10 (SF Big Nemaha), not needed to satisfy all vested rights and prior appropriation rights to be incrementally accumulated as reservoir storage space becomes available to a maximum extent of **544 acre-feet** per calendar year in one (1) reservoir created by a dam located in the Southwest Quarter of the Southwest Quarter of the Southeast Quarter (SW¼ SW¼ SE¼) of Section 26, more particularly described as being near a point 160 feet North and 2,084 feet West of the Southeast corner of said section, in Township 1 South, Range 16 East, Brown County, Kansas, to provide **544 acre-feet** of water as needed for direct irrigation use to be withdrawn, released or otherwise diverted from the reservoir at a re-diversion rate of approximately **2,000 gallons per minute** (4.46 c.f.s.). A reasonable maximum re-diversion rate will be established during the perfection period and assigned at certification.

4. That in accordance with K.A.R. 5-6-6, a maximum quantity not to exceed **45 acre-feet** of water may also be diverted to complete the initial filling of the reservoir only, and shall not count toward perfection of a water right under the authority of this permit. Subsequent refilling of the reservoir shall require authorization under a term permit.

5. That installation of works for diversion of water shall be completed on or before **December 31, 2020** or within any authorized extension thereof. The applicant shall notify the Chief Engineer and pay the statutorily required field inspection fee, which is currently \$400.00, when construction of the works has been completed. Failure to timely submit the notice and the fee will result in revocation of the permit. Any request for an extension of time shall be submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee, which is currently \$100.00.

6. That the proposed appropriation shall be perfected by the actual application of water to the proposed beneficial use on or before **December 31, 2024** or any authorized extension thereof. Any request for an extension of time shall be submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee, which is currently \$100.00.

7. That the applicant shall not be deemed to have acquired a water appropriation for a quantity in excess of the amount approved herein nor in excess of the amount found by the Chief Engineer to have been actually used for the approved purpose during one calendar year subsequent to approval of the application and within the time specified for perfection or any authorized extension thereof.

8. That the use of water herein authorized shall not be made so as to impair any use under existing water rights nor prejudicially and unreasonably affect the public interest.

9. That the right of the appropriator shall relate to a specific quantity of water and such right must allow for a reasonable raising or lowering of the static water level and for the reasonable increase or decrease of the streamflow at the appropriator's point of diversion.

10. That this permit does not constitute authority under K.S.A. 82a-301 through 305a to construct any dam or other obstruction; nor does it grant any right-of-way, or authorize entry upon or injury to, public or private property.

11. That all re-diversion works constructed under the authority of this permit into which any type of chemical or other foreign substance will be injected into the water pumped from the re-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.

12. That an acceptable water flow meter shall be installed and maintained on the re-diversion works authorized by this permit in accordance with the Kansas Administrative Regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer. This water flow meter shall be used to provide an accurate quantity of water diverted as required for the annual water use report (including the meter reading at the beginning and end of the report year).

13. That the applicant shall maintain accurate and complete records from which the quantity of water diverted during each calendar year may be readily determined and the applicant shall file an annual water use report with the Chief Engineer by March 1 following the end of each calendar year. Failure to file the annual water use report by the due date shall cause the applicant to be subject to a civil penalty.

14. That no water user shall engage in nor allow the waste of any water diverted under the authority of this permit.

15. That failure without cause to comply with provisions of the permit and its terms, conditions and limitations will result in the forfeiture of the priority date, revocation of the permit and dismissal of the application.

16. That the right to appropriate water under authority of this permit is subject to any minimum desirable streamflow requirements identified and established pursuant to K.S.A. 82a-703c for the source of supply to which this water right applies.

17. That this approval of application and permit to proceed will be subject to the as yet unquantified, water reservation right of the Sac and Fox Tribal Nation, which will likely have a significantly senior priority. As such, any water right developed under this permit may be administered should impairment occur to the Tribal water reservation right quantified in the future per the provisions of K.S.A. 82a-706.

18. That the owner shall ensure that the needs of the senior, downstream water right held by the Nation, will be satisfied by providing an adequate bypass of the dam either by tube, valve, syphon, pump or other acceptable method, over, through, or around the dam to the channel below, each time inflows occur when this senior water right is impaired.

19. That the quantity of water approved under this permit is further limited to the quantity which combined with Appropriation of Water, File No. 50,123, will provide a **total not to exceed 624 acre-feet** of water per calendar year for irrigation use on the land described herein.

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: Kansas Department of Agriculture, Attn: Legal Section, 1320 Research Park Drive, Manhattan, Kansas 66502, 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 hearing 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: Secretary of Agriculture, Attn: Legal Division, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, FAX (785) 564-6777.

shear
\$360



KANSAS DEPARTMENT OF AGRICULTURE
Jackie McClaskey, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

File Number 50124
This item to be completed by the Division of Water Resources.

Water Resources
Received

APPLICATION COMPLETE
4/11/19
Reviewer EAB

APPLICATION FOR PERMIT TO
APPROPRIATE WATER FOR BENEFICIAL USE
Filing Fee Must Accompany the Application
(Please refer to Fee Schedule attached to this application form.)

SEP 06 2018
11:52
KS Dept Of Agriculture

To the Chief Engineer of the Division of Water Resources, Kansas Department of Agriculture,
1320 Research Park Drive, Manhattan, Kansas 66502:

- Name of Applicant (Please Print): Dean + Victor Mearold
Address: 2770 Horned owl Rd
City: Hiawatha State KS Zip Code 66434
Telephone Number: (785) 547-7952
- The source of water is: surface water in walnut creek Trib 10 # 2991
(stream)
OR groundwater in S F Big Nemaha
(drainage basin)

Certain streams in Kansas have minimum target flows established by law or may be subject to administration when water is released from storage for use by water assurance district members. If your application is subject to these regulations on the date we receive your application, you will be sent the appropriate form to complete and return to the Division of Water Resources.

- The maximum quantity of water desired is Storage: 544 acre-feet OR Redivert 544 AF @ 2,000 gpm gallons per calendar year, to be diverted at a maximum rate of 2000/NF gallons per minute OR _____ cubic feet per second.

Once your application has been assigned a priority, the requested maximum rate of diversion and maximum requested quantity of water under that priority number can **NOT** be increased. Please be certain your requested maximum rate of diversion and maximum quantity of water are appropriate and reasonable for your proposed project and are in agreement with the Division of Water Resources' requirements.

- The water is intended to be appropriated for (Check use intended):
 (a) Artificial Recharge (b) Irrigation (c) Recreational (d) Water Power
 (e) Industrial (f) Municipal (g) Stockwatering (h) Sediment Control
 (i) Domestic (j) Dewatering (k) Hydraulic Dredging (l) Fire Protection
 (m) Thermal Exchange (n) Contamination Remediation

YOU **MUST** COMPLETE AND ATTACH ADDITIONAL DIVISION OF WATER RESOURCES FORM(S) PROVIDING INFORMATION TO SUBSTANTIATE YOUR REQUEST FOR THE AMOUNT OF WATER FOR THE INTENDED USE REFERENCED ABOVE.

For Office Use Only:							
F.O. Code	<u>I</u>	GMD	<u>0</u>	Meets K.A.R. 5-3-1 (YES/NO)	Use	Source	County
	<u>105</u>			<u>(YES)</u>	<u>IRR</u>	<u>G</u>	<u>ERC</u>
Fee \$	<u>300</u>	TR #		Receipt Date	<u>9/6/18</u>	By	Date
						<u>AW</u>	<u>9/7/18</u>
				Check #	<u>1099</u>		

5. The location of the proposed wells, pump sites or other works for diversion of water is:

Note: For the application to be accepted, the point of diversion location must be described to at least a 10 acre tract, unless you specifically request a 60 day period of time in which to locate the site within a specifically described, minimal legal quarter section of land.

- (A) One in the SW quarter of the SW quarter of the SE quarter of Section 26, more particularly described as being near a point 160 feet North and 2084 feet West of the Southeast corner of said section, in Township 1 South, Range 16 East/West (circle one), Brown County, Kansas.
- (B) One in the _____ quarter of the _____ quarter of the _____ quarter of Section _____, more particularly described as being near a point _____ feet North and _____ feet West of the Southeast corner of said section, in Township _____ South, Range _____ East/West (circle one), _____ County, Kansas.
- (C) One in the _____ quarter of the _____ quarter of the _____ quarter of Section _____, more particularly described as being near a point _____ feet North and _____ feet West of the Southeast corner of said section, in Township _____ South, Range _____ East/West (circle one), _____ County, Kansas.
- (D) One in the _____ quarter of the _____ quarter of the _____ quarter of Section _____, more particularly described as being near a point _____ feet North and _____ feet West of the Southeast corner of said section, in Township _____ South, Range _____ East/West (circle one), _____ County, Kansas.

If the source of supply is groundwater, a separate application shall be filed for each proposed well or battery of wells, except that a single application may include up to four wells within a circle with a quarter (1/4) mile radius in the same local source of supply which do not exceed a maximum diversion rate of 20 gallons per minute per well.

A battery of wells is defined as two or more wells connected to a common pump by a manifold; or not more than four wells in the same local source of supply within a 300 foot radius circle which are being operated by pumps not to exceed a total maximum diversion rate of 800 gallons per minute and which supply water to a common distribution system.

6. The owner of the point of diversion, if other than the applicant is (please print):

same

 (name, address and telephone number)

 (name, address and telephone number)

You must provide evidence of legal access to, or control of, the point of diversion from the landowner or the landowner's authorized representative. Provide a copy of a recorded deed, lease, easement or other document with this application. In lieu thereof, you may sign the following sworn statement:

I have legal access to, or control of, the point of diversion described in this application from the landowner or the landowner's authorized representative. I declare under penalty of perjury that the foregoing is true and correct.

Executed on 8-27, 2018. [Signature]
 Applicant's Signature

The applicant must provide the required information or signature irrespective of whether they are the landowner. Failure to complete this portion of the application will cause it to be unacceptable for filing and the application will be returned to the applicant.

7. The proposed project for diversion of water will consist of 1 Dam & Pump

 (number of wells, pumps or dams, etc.)
 and (was)(will be) completed (by) Dec 2019

 (Month/Day/Year - each was or will be completed)

8. The first actual application of water for the proposed beneficial use was or is estimated to be July 2020

 (Mo/Day/Year)

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 KS Dept Of Agriculture

5. The location of the proposed wells, pump sites or other works for diversion of water is:

Note: For the application to be accepted, the point of diversion location must be described to at least a 10 acre tract, unless you specifically request a 60 day period of time in which to locate the site within a specifically described, minimal legal quarter section of land.

(A) One in the SW quarter of the SW quarter of the SE quarter of Section 26, more particularly described as being near a point 160 feet North and 2084 feet West of the Southeast corner of said section, in Township 1 South, Range 16 East West (circle one), Brown County, Kansas.

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

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

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

If the source of supply is groundwater, a separate application shall be filed for each proposed well or battery of wells, except that a single application may include up to four wells within a circle with a quarter (1/4) mile radius in the same local source of supply which do not exceed a maximum diversion rate of 20 gallons per minute per well.

A battery of wells is defined as two or more wells connected to a common pump by a manifold; or not more than four wells in the same local source of supply within a 300 foot radius circle which are being operated by pumps not to exceed a total maximum diversion rate of 800 gallons per minute and which supply water to a common distribution system.

6. The owner of the point of diversion, if other than the applicant is (please print):

same

(name, address and telephone number)

(name, address and telephone number)

You must provide evidence of legal access to, or control of, the point of diversion from the landowner or the landowner's authorized representative. Provide a copy of a recorded deed, lease, easement or other document with this application. In lieu thereof, you may sign the following sworn statement:

I have legal access to, or control of, the point of diversion described in this application from the landowner or the landowner's authorized representative. I declare under penalty of perjury that the foregoing is true and correct.

Executed on 8-27, 2018. [Signature]
Applicant's Signature

The applicant must provide the required information or signature irrespective of whether they are the landowner. Failure to complete this portion of the application will cause it to be unacceptable for filing and the application will be returned to the applicant.

7. The proposed project for diversion of water will consist of 1 Dam & Pump
(number of wells, pumps or dams, etc.)
and (was)(will be) completed (by) Dec 2019
(Month/Day/Year - each was or will be completed)

8. The first actual application of water for the proposed beneficial use was or is estimated to be July 2020
(Mo/Day/Year)

Water Resources
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KS Dept Of Agriculture

9. Will pesticide, fertilizer, or other foreign substance be injected into the water pumped from the diversion works?
 Yes No If "yes", a check valve shall be required.

All chemigation safety requirements must be met including a chemigation permit and reporting requirements.

10. If you are planning to impound water, please contact the Division of Water Resources for assistance, prior to submitting the application. Please attach a reservoir area capacity table and inform us of the total acres of surface drainage area above the reservoir. *Attached*

Have you also made an application for a permit for construction of this dam and reservoir with the Division of Water Resources? Yes No

- If yes, show the Water Structures permit number here _____
- If no, explain here why a Water Structures permit is not required _____

11. The application must be supplemented by a U.S.G.S. topographic map, aerial photograph or a detailed plat showing the following information. On the topographic map, aerial photograph, or plat, identify the center of the section, the section lines or the section corners and show the appropriate section, township and range numbers. Also, please show the following information:

(a) The location of the proposed point(s) of diversion (wells, stream-bank installations, dams, or other diversion works) should be plotted as described in Paragraph No. 5 of the application, showing the North-South distance and the East-West distance from a section line or southeast corner of section.

MA (b) If the application is for groundwater, please show the location of any existing water wells of any kind within 1/2 mile of the proposed well or wells. Identify each existing well as to its use and furnish the name and mailing address of the property owner or owners. If there are no wells within 1/2 mile, please advise us.

(c) If the application is for surface water, the names and addresses of the landowner(s) 1/2 mile downstream and 1/2 mile upstream from your property lines must be shown.

(d) The location of the proposed place of use should be shown by crosshatching on the topographic map, aerial photograph or plat.

(e) Show the location of the pipelines, canals, reservoirs or other facilities for conveying water from the point of diversion to the place of use.

A 7.5 minute U.S.G.S. topographic map may be obtained by providing the section, township and range numbers to: Kansas Geological Survey, 1930 Constant, Campus West, University of Kansas, Lawrence, Kansas 66047.

12. List any application, appropriation of water, water right, or vested right file number that covers the same diversion points or any of the same place of use described in this application. Also list any other recent modifications made to existing permits or water rights in conjunction with the filing of this application.

none

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NA

13. Furnish the following well information if the proposed appropriation is for the use of groundwater. If the well has not been completed, give information obtained from test holes, if available.

Information below is from: Test holes Well as completed Drillers log attached

Well location as shown in paragraph No.	(A)	(B)	(C)	(D)
Date Drilled	_____	_____	_____	_____
Total depth of well	_____	_____	_____	_____
Depth to water bearing formation	_____	_____	_____	_____
Depth to static water level	_____	_____	_____	_____
Depth to bottom of pump intake pipe	_____	_____	_____	_____

14. The relationship of the applicant to the proposed place where the water will be used is that of

Owner/Agent
(owner, tenant, agent or otherwise)

15. The owner(s) of the property where the water is used, if other than the applicant, is (please print):

Joseph E & Joan M Noll 3189 Horned owl Rd Hiawatha, KS 66434
(name, address and telephone number)

(name, address and telephone number)

16. The undersigned states that the information set forth above is true to the best of his/her knowledge and that this application is submitted in good faith.

Dated at Hiawatha, Kansas, this 27 day of August, 2018.
(month) (year)

Victor Marshall
(Applicant Signature)

By _____
(Agent or Officer Signature)

(Agent or Officer - Please Print)

Assisted by Keith Grimm MWD, LLC Date: 8/27/18
(office/title)

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KS Dept Of Agriculture
SCANNED

**IRRIGATION USE
SUPPLEMENTAL SHEET**

File No. 50124

Name of Applicant (Please Print): Dean & Victor Menold

1. Please supply the name and address of each landowner, the legal description of the lands to be irrigated, and designate the actual number of acres to be irrigated in each forty acre tract or fractional portion thereof:

Landowner of Record NAME: Dean & Victor Menold
ADDRESS: 2770 Horned owl Rd Hiawatha KS 66424

S	T	R	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
23	1/2	1/6E	38	40	40	40										39	38	235	
26	1/2	1/6E								40			40	40	40	40	38	238	
36	1/2	1/6E					37	40										77	

Landowner of Record NAME: Joseph E & Joan M Holl
ADDRESS: 3189 Horned owl Rd Hiawatha KS 66424

S	T	R	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
23	1/2	1/6E												34	40			74	

*Total
547 Acres*

Landowner of Record NAME: _____
ADDRESS: _____

S	T	R	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

Topeka Field Office
6531 SE Forbes Ave., Suite B
Topeka, KS 66619



Phone: 785-296-5733
Fax: 785-296-8298
www.agriculture.ks.gov

Mike Beam, Acting Secretary

Laura Kelly, Governor

April 4, 2019

SAC AND FOX NATION OF MISSOURI IN
KANSAS AND NEBRASKA
TIAUNA CARNES CHAIRPERSON
KEVIN BURNISON EXECUTIVE DIRECTOR
305 N MAIN ST
RESERVE KS 66434

Re: Pending Applications, File Nos. 50,123 and 50,124

Dear Sir or Madam:

This will acknowledge receipt of your letter received in this office on March 29, 2019, in which you expressed your concerns regarding the appropriation of surface water for irrigation use by Dean and Victor Menold under the above referenced applications. The Kansas Department of Agriculture, Division of Water Resources (DWR) appreciates your comments, and we are supportive of the Sac and Fox Nation of Missouri in Kansas and Nebraska's (the "Nation") ongoing study to quantify your senior water right.

DWR wishes to assure the Nation that any potential impairment of your senior water right, will be addressed through the Kansas Water Appropriation Act, K.S.A. 82a-701 *et seq.*, which requires the Chief Engineer to "control, conserve, regulate, allot and aid in the distribution of the water resources of the state for the benefits and beneficial uses of all its inhabitants in accordance with the rights of priority of appropriation." K.S.A. 82a-706. Pursuant to K.S.A. 82a-706b, "[i]t shall be unlawful for any person to prevent, by diversion or otherwise, any waters of this state from moving to a person having a prior right to use the same . . ." For instance, this would mean that if your senior water right is being impaired, owners of non-domestic Kansas Water Rights junior to the Nation's senior water reservation right would have to bypass all inflows. There is no evidence that approval of these applications would impair an existing water right.

Furthermore, DWR is proposing to condition these permits as follows:

"That this approval of application and permit to proceed will be subject to the as yet unquantified, reserved water right of the Sac and Fox Nation of Missouri in Kansas and Nebraska, which will likely have a significantly senior priority. As such, any water right developed under this permit may be administered should impairment occur to the Nations' reserved water right as it may be quantified in the future. "

"That the owner shall ensure that the needs of the senior, downstream water right held by the Nation, will be satisfied by providing an adequate bypass of the dam either by tube, valve, syphon, pump or other acceptable method, over, through, or around the dam to the channel below, each time inflows occur when this senior water right is impaired."

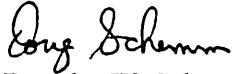
The Chief Engineer is required to approve applications for water appropriations unless the proposed appropriation will impair existing water rights or prejudicially and unreasonably affect the public interest per K.S.A. 82a-711. Your comments will be considered, and approval of the applications, if granted, will authorize diversion of water only when it does not impair existing rights. Additionally, rules and regulations (K.A.R. 5-4-1) require the Chief Engineer to investigate any complaint that a prior right to the use of water is being impaired. If such impairment is found, the Chief Engineer must secure water to satisfy prior water rights.

Therefore, if these permit applications are approved by the Chief Engineer and you believe the diversion of water is impairing your existing water right, you should notify Katie Tietsort, Water Commissioner, Topeka Field Office, as follows, so that an investigation can be made.

Division of Water Resources
Topeka Field Office
6531 SE Forbes Ave., Suite B
Topeka, KS 66619
Telephone: (785) 296-5733

If an applicant without cause fails to comply with the provisions of the permit and its terms, conditions and limitations, it could result in the forfeiture of the priority date, revocation of the permit and dismissal of the application. If you have any further questions, please contact me at 785-296-3495. If you wish to discuss a specific file, please have the file number ready so that I may help you more efficiently.

Sincerely,



Douglas W. Schemm
Environmental Scientist
Topeka Field Office

Pc: US DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
% ANTOINETTE HOULE SUPERINTENDENT
908 1ST AVE EAST PO BOX 31
HORTON KS 66439-0031

DEAN & VICTOR MENOLD
2770 HORNED OWL RD
HIAWATHA KS 66434

JOSEPH E NOLL
3189 HORNED OWL RD
HIAWATHA KS 66434

KDA Legal Section



Sac and Fox Nation of Missouri in Kansas and Nebraska

305 North Main Street • Reserve, Kansas 66434
Phone (785) 742-0053 • Fax (785) 742-3785

RECEIVED

MAR 29 2019

Topeka Field Office
DIVISION OF WATER RESOURCES

March 25, 2019

Mr. Douglas W. Schemm
Environmental Scientist
Topeka Field Office
Kansas Department of Agriculture
Division of Water Resources
6531 SE Forbes Ave., Suite B
Topeka, Kansas 66619

VIA FAX: 1-785-296-8298

Re: Pending Applications
Your file Nos.: 50,123 and 50,124
Applicants: Dean and Victor Menold

Dear Mr. Schemm:

Thank you for your letter of February 26, 2019 notifying the Sac and Fox Nation of Missouri in Kansas and Nebraska of pending application files 50,123 and 50,124 for permits to appropriate surface water for irrigation use. In response and in furtherance of the government to government relationship between the State of Kansas and the Sac and Fox Nation of Missouri in Kansas and Nebraska (the "Nation"), the Nation offers the following comments and information.

For the reasons set forth below, the Nation opposes and objects to the Appropriations of Water contained in File Nos. 50,123 and 50,124 and requests that the State of Kansas reject the proposed applications at this time.

As a federally-recognized Indian tribe, the Nation retains its status as a sovereign government. It has occupied and governed the Sac and Fox Reservation prior to the existence of the State of Kansas. Consequently, the Nation's priority to water supersedes and is prior to any right which may possibly be acquired through the State of Kansas for both ground and surface water rights.

Applications Nos. 50,123 and 50,124 propose appropriations and diversions of water within the Walnut Creek watershed in the State of Kansas upstream from the Sac and Fox Reservation. The Nation believes that these proposed appropriations will impair the Nation's senior water rights within the Walnut Creek watershed.

Mr. Douglas W. Schemm
March 25, 2019
Page Two

As of the date of this letter, the Nation is not certain of precise impact of the proposed appropriations and diversions would be. That lack of currently available information is reason in itself for denying the application.

The Nation is in the process of determining the precise nature of its senior water rights. Its Environmental Department is currently conducting a federally-funded study of water resources, and hydrologic cycle of ground and surface waters of the Sac and Fox Reservation and nearby areas. Among the goals of the study is to quantify the Nation's water resources and surface water flows. While the study is pending, the Nation has enacted Moratorium on the issuance of all licenses and permits for water diversion that runs until January 1, 2020. Until such time only waivers for diversions for Domestic Use will be permitted. New tribal regulations regarding permits and licenses for the use of water resources will be developed based on the results of that study. Similarly, the State of Kansas should not authorize any appropriations or diversions within the Walnut Creek watershed until additional information is available.

Additionally, the Nation has enjoyed and looks forward to continuing the positive government to government relationship which it has with the State of Kansas, its Department of Agriculture and its Division of Water Resources. All parties involved benefit from continued cooperation and working together to manage and conserve water resources. However, as you are aware, currently there is no Compact or Agreement between the Nation and the State of Kansas regarding allocation of water. The approval of any applications within the Walnut Creek watershed without full knowledge of how the diversion impacts the Nation will prejudice future negotiations regarding the allocation of water between the Nation and the State of Kansas and increase the likelihood of litigation between them. Again, the Nation greatly enjoys its positive working relationship with the State of Kansas and believes that working together is most beneficial for all involved in matters related to water resources.

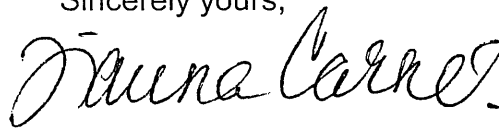
Finally, the internal laws, regulations and procedures of the State of Kansas and your agency require that these applications be denied at this time. Your regulations provide that when a substantive question has been raised concerning whether approval of the application could cause impairment of senior water rights or prejudicially and unreasonably affect the public interest, the applicant shall submit sufficient information to resolve that question. The applicant has not provided evidence that the proposed appropriations will not impact the senior water rights of the Nation and prejudice and unreasonably affect the public interest.

As a result of the foregoing, the Sac and Fox Nation of Missouri in Kansas and Nebraska respectfully requests that the State of Kansas reject the proposed applications at this time.

Mr. Douglas W. Schemm
March 25, 2019
Page Three

Thank you for the opportunity to provide information and comments regarding these applications.

Sincerely yours,

A handwritten signature in black ink that reads "Tiauna Carnes". The signature is written in a cursive style with a large initial 'T' and a long, sweeping underline.

TIAUNA CARNES
Sac and Fox Tribal Chairperson

cc Dean and Victor Menold, Applicant
2770 Horned Owl Road
Hiawatha, Kansas 66434

Joseph E. & Joan M. Noll, Landowner
3189 Horned Owl Road
Hiawatha, Kansas 66434

Antoinette Houle, Superintendent
U.S. Department of Interior
Bureau of Indian Affairs
PO Box 31
Horton, Kansas 66439

Topeka Field Office
6531 SE Forbes Ave., Suite B
Topeka, KS 66619



Phone: 785-296-5733
Fax: 785-296-8298
www.agriculture.ks.gov

Mike Beam, Acting Secretary

Laura Kelly, Governor

February 26, 2019

SAC AND FOX NATION OF MISSOURI IN
KANSAS AND NEBRASKA
TIANA CARNES CHAIRPERSON
KEVIN BURNISON EXECUTIVE DIRECTOR
305 N MAIN ST
RESERVE KS 66434

Re: Pending Applications, File Nos. 50,123 and 50,124

Dear Sir or Madam:

This is to advise you that Dean and Victor Menold have filed the applications referred to above for permits to appropriate surface water for irrigation use. Application, File No. 50,123 is requesting to appropriate 255 acre-feet of surface water per calendar year to be stored in a proposed reservoir, and re-divert 255 acre-feet of the stored water. The proposed point of diversion for File No. 50,123 (where the structure crosses the centerline of the stream) is located in the Southeast Quarter of the Northeast Quarter of the Northeast Quarter (SE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 23, in Township 1 South, Range 16 East, Brown County, Kansas.

Application, File No. 50,124 is requesting to appropriate 544 acre-feet of surface water per calendar year to be stored in a proposed reservoir, and re-divert 544 acre-feet of the stored water. The proposed point of diversion for File No. 50,124 (where the structure crosses the centerline of the stream) is located in the Southwest Quarter of the Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 26, in Township 1 South, Range 16 East, Brown County, Kansas. Both dams are located on tributary streams to Walnut Creek.

You are being notified of receipt of these applications in order that you may be fully informed of the proposed location of the applicant's points of diversion and proposed use of water. Consideration will be given to comments or other information which you desire to submit to this office **within 30 days** from the date of this letter. You can find the applications and site maps posted by the file numbers referenced under Topeka Field Office 2018, above at: <http://agriculture.ks.gov/divisions-programs/dwr/water-appropriation/notices>

If you have any questions or comments, you may also contact me at (785) 296-3495. If you call, please reference the file number so I can help you more efficiently.

Sincerely,

A handwritten signature in cursive script that reads "Doug Schemm".

Douglas W. Schemm
Environmental Scientist
Topeka Field Office

Pc: US DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
% ANTOINETTE HOULE SUPERINTENDENT
908 1ST AVE EAST PO BOX 31
HORTON KS 66439-0031

KDA Legal Section

AMOUNT STATISTICS REPORT FOR POINTS OF DIVERSION UNDER A 50124 00

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AMOUNT STATISTICS REPORT FOR POINTS OF DIVERSION UNDER A 50124 00 IRR

Water Right and Points of Diversion Within 2.00 miles of point defined as:

160 Feet North and 2084 Feet West of the Southeast Corner of Section 26 T 1S R 16E

SURFACE WATER ONLY

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=====
File Number   Use ST SR Dist (ft) Q4 Q3 Q2 Q1 FeetN FeetW Sec Twp Rng ID Batt Auth_Quan Add_Quan Unit
A__ 46830 00 SED NK S      5431 -- SW SE SW   89 3571 23  1 16E  1          .00      .00 AF
***** Authorized storage =      14.00 AF Additional storage =      14.00 AF
Same
***** Authorized storage =      8972 -- NW SW SW  1177 4651 34  1 16E  1
***** Authorized storage =      29.80 AF Additional storage =      29.80 AF
Same
***** Authorized storage =      2385 -- NE SE NE  3913  243 35  1 16E  1
***** Authorized storage =      26.30 AF Additional storage =      26.30 AF
A__ 47023 00 IRR LR S      8628 -- SE SE SE   96  180 28  1 16E  4          125.00    32.87 AF
A__ 48434 00 IRR LR S      6315 -- SE NE NW  4480 2809 25  1 16E  1          160.00   160.00 AF
A__ 50123 00 IRR AY S      9614 -- SE NE NE  4284  130 23  1 16E  2          300.00   300.00 AF
A__ 50124 00 IRR AY S         0 -- SW SW SE   160 2084 26  1 16E  1          544.00   544.00 AF
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Total Net Quantities Authorized:   Direct      Storage
Total Requested Amount (AF) =      844.00          .00
Total Permitted Amount (AF) =         .00          .00
Total Inspected Amount (AF) =      192.87        360.50
Total Pro_Cert Amount (AF) =         .00          .00
Total Certified Amount (AF) =         .00         70.10
Total Vested Amount (AF) =         .00          .00
TOTAL AMOUNT (AF) =      1036.87        430.60
=====

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An * after the source of supply indicates a pending application for change under the file number.
 An * after the ID indicates a 15 AF exemption was granted under the file number.
 A "G" in the Batt column indicates the GEO CTR of a battery. A "B" indicates a well in the battery.
 The number in the Batt column is the number of wells in the battery.

Water Rights and Points of Diversion Within 2.00 miles of point defined as:

160 Feet North and 2084 Feet West of the Southeast Corner of Section 26 T 1S R 16E

SURFACE WATER ONLY

WATER USE CORRESPONDENTS:

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File Number   Use ST SR
A__ 46830 00 SED NK S
> WALNUT CREEK WATERSHED JOINT DIST #1
>
> 532 S 7TH ST
> HIAWATHA KS 66434
>-----
A__ 47023 00 IRR LR S
> KURT GRIMM
>
> 1215 OREGON ST
> HIAWATHA KS 66434
>-----
A__ 48434 00 IRR LR S
> KEITH GRIMM

```

>
> 1215 OREGON ST
> HIAWATHA KS 66434

>-----
A__ 50123 00 IRR AY S
> VICTOR MENOLD

>
> 2770 HORNED OWL RD
> HIAWATHA KS 66434

>-----
A__ 50124 00 IRR AY S
> VICTOR MENOLD

>
> 2770 HORNED OWL RD
> HIAWATHA KS 66434

>-----
=====

#####

#50,124

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

January 2, 2019

Victor Menold
2770 Horned Owl Rd
Hiawatha, KS 66434

RE: Dam Determination
WSN: DBR-0354

Dear Mr. Menold:

This will acknowledge receipt of your request for a permit determination. You reported that your proposed dam is located in the SW 1/4 of the SW 1/4 of the SE 1/4 of Section 26, Township 1 South, Range 16 East in Brown County.

We have reviewed the submitted documentation to this office. We have concluded that this project is not a dam. However, it is considered a stream obstruction by K.S.A. 82a-301 to 305a. The drainage area is 1,280 acres, the structure has a storage volume less than 50 acre-feet at the auxiliary spillway elevation, and it is less than 25 feet in height. You will need to contact Janelle Phillips at (785) 564-6656 or janelle.phillips@ks.gov to discuss the requirements for a stream obstruction.

This finding does not in any way relieve the project sponsor from complying with any other local, state, or federal requirements which may be applicable.

Should you have any questions, please feel free to contact me at (785) 564-6678, or e-mail me at laura.gray@ks.gov.

Sincerely,

Laura Gray, I.E.
Water Structures Engineer

P.C. Topeka Field Office
Keith Grimm
Janelle Phillips, Kansas Department of Agriculture

Schemm, Doug [KDA]

From: Medley, Terry [KDA]
Sent: Monday, October 29, 2018 2:35 PM
To: Ketter, Ambrose [KDA]
Cc: Letourneau, Lane; Gray, Laura [KDA]; Darrah, Jean [KDA]; Hubka, Elene; Schemm, Doug [KDA]; Hunter, Karen [KDA]
Subject: DBR-0354

I returned Mr. Dustin Ploeger's (712-216-3058) call from last Friday regarding the Menold proposed structure. He stated his (and his neighbor's) concerns about the proposed structure. The concerns he raised were from both a dam safety and water appropriations stand point. The first concern was safety issue due to possible damage/overtopping of Mr. Ploeger's dam in the event of a breach of the proposed structure. He is also concerned that the proposed structure is within the pool of his structure. He also feels that the proposed structure would leave him without water. I told Mr. Ploeger that until Mr. Menold re-submits his application and data that DWR would not know all of the details to his questions and if the proposed structure would be eligible for the class A exemption. I explained the class A exemption criteria as well as hazard classifications. I told him that he could speak to Lane or Doug regarding the water appropriations issues. He said that he had already talked to Doug, but he asked for Lane's number. He concluded by saying he was going to call David Hibbs (USACE) to get this proposal stopped.

Terry Medley, P.E.
Water Structures Program Manager
Kansas Department of Agriculture
1320 Research Park Drive
Manhattan, KS 66502
Phone: 785-564-6657
Mobile: 785-370-5452
Email: Terry.Medley@ks.gov
<http://agriculture.ks.gov/dwr>

Deliberative Analytical Context Restorative Learner

STATE OF KANSAS

DEPARTMENT OF AGRICULTURE
DIVISION OF WATER RESOURCES
TOPEKA FIELD OFFICE
6531 SE FORBES AVE., SUITE B
TOPEKA, KS 66619



PHONE: (785) 296-5733
FAX: (785) 296-8298
www.agriculture.ks.gov

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

October 10, 2018

EVERGREEN HEIGHTS INC
1621 VALLEY AVENUE
FALLS CITY NE 68355

Re: Pending Application, File No. 50,124

Dear Sir or Madam:

This is to advise you that Dean and Victor Menold have filed the application referred to above for a permit to appropriate 544 acre-feet of surface water per calendar year to be stored in a proposed reservoir, and re-divert 544 acre-feet of the stored water for irrigation use. The proposed point of diversion (where the structure crosses the centerline of the stream) is located in the Southwest Quarter of the Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 26, in Township 1 South, Range 16 East, Brown County, Kansas.

Records in this office indicate that you own land along the stream in this vicinity and you are being notified of receipt of this application in order that you may be fully informed of the proposed location of the applicant's points of diversion and proposed use of water. Consideration will be given to comments or other information which you desire to submit to this office **within 15 days** from the date of this letter.

You can find the application and site map posted by the file number referenced above at:
<http://agriculture.ks.gov/divisions-programs/dwr/water-appropriation/notices>

If you have any questions or comments, you may also contact me at (785) 296-3495. If you call, please reference the file number so I can help you more efficiently.

Sincerely,

Douglas W. Schemm
Environmental Scientist
Topeka Field Office

pc: Dean & Victor Menold
Keith Grimm – MWI, LLC

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JACKIE McCLASKEY, SECRETARY OF AGRICULTURE

October 10, 2018

EUCHRE CREEK FARMS INC
ATTN STEPHEN SPARE
1290 275TH STREET
HIAWATHA KS 66434

Re: Pending Application, File No. 50,124

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JACKIE McCLASKEY, SECRETARY OF AGRICULTURE

October 10, 2018

JOHN V PICTON TRUST
1419 BARADA STREET
FALLS CITY NE 68355

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Environmental Scientist
Topeka Field Office

pc: Dean & Victor Menold
Keith Grimm – MWI, LLC

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

October 10, 2018

TIM E & CAROLE J MISER
1245 ROCK CREEK ROAD
COTTONWOOD FALLS KS 66845

Re: Pending Application, File No. 50,124

Dear Sir or Madam:

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Topeka Field Office

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Keith Grimm – MWI, LLC

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

October 10, 2018

HILLYER FARMS INC
GENE HILLYER
1414 320TH ST
HIAWATHA KS 66434

Re: Pending Application, File No. 50,124

Dear Sir or Madam:

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Environmental Scientist
Topeka Field Office

pc: Dean & Victor Menold
Keith Grimm – MWI, LLC

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JACKIE McCLASKEY, SECRETARY OF AGRICULTURE

October 10, 2018

DUSTIN PLOEGER
58459 KIDD ROAD
GLENWOOD IA 51534

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Topeka Field Office

pc: Dean & Victor Menold
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JACKIE McCLASKEY, SECRETARY OF AGRICULTURE

October 10, 2018

ADAM S & GAYLA K HINTON
1167 290TH STREET
HIAWATHA KS 66434

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Sincerely,

A handwritten signature in cursive script that reads 'Doug Schemm'.

Douglas W. Schemm
Environmental Scientist
Topeka Field Office

pc: Dean & Victor Menold
Keith Grimm – MWI, LLC

STATE OF KANSAS

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October 10, 2018

ROGER A & ELIZABETH A PLOEGER TRUST
2970 FOXTAIL ROAD
MORRILL KS 66515

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Environmental Scientist
Topeka Field Office

pc: Dean & Victor Menold
Keith Grimm – MWI, LLC

Menold show

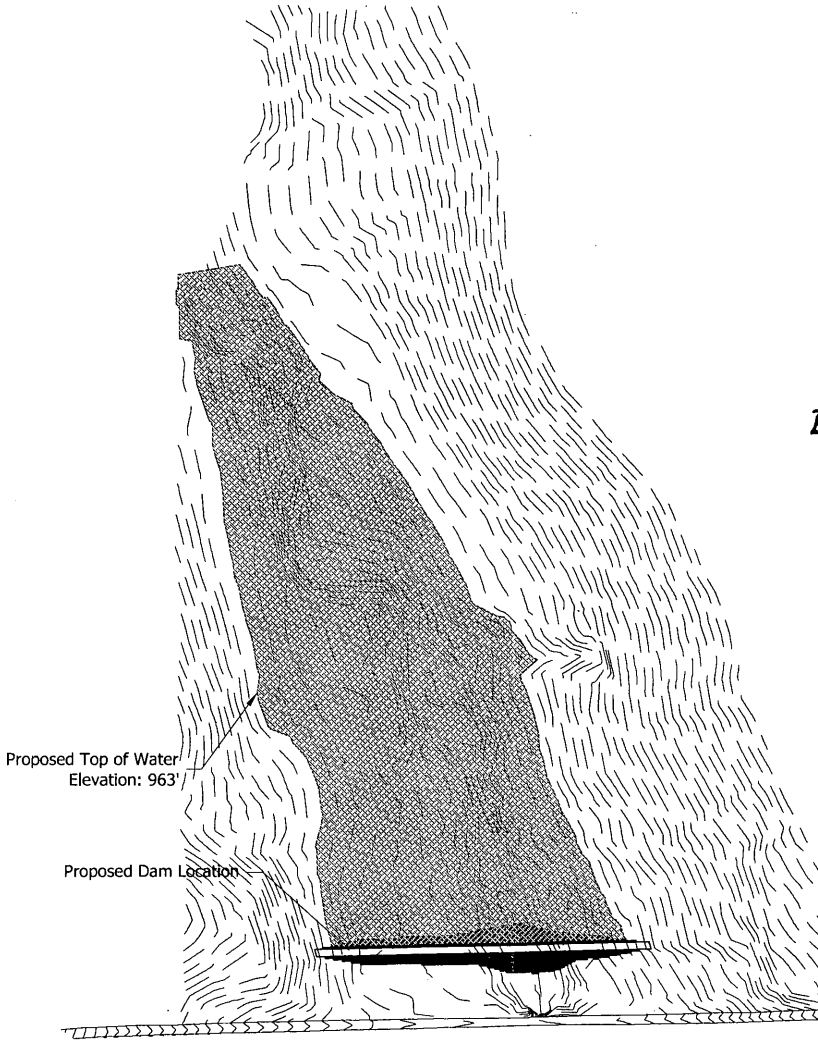
50124

TOPOGRAPHIC SURVEY
 Compute Proposed Pond Volume in the Southeast One-Quarter
 of Section 26, Township 1 South, Range 16 East of the
 Sixth Principal Meridian, Brown County, Kansas

Water Resources
 Received

SEP 06 2010

KS Dept Of Agriculture

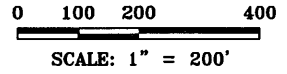
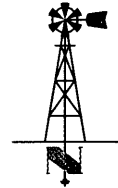


Contour	Area	1' Volume	Total Volume	Ac. Ft.
952	0.00			
953	180.03	90.015	90.015	0.00207
954	4724.26	2452.145	2542.160	0.05836
955	27165.97	15945.115	18487.275	0.42441
956	49055.83	38110.900	56598.175	1.29932
957	77828.79	63442.310	120040.485	2.75575
958	109642.44	93735.615	213776.100	4.90762
959	155106.56	132374.500	346150.600	7.94652
960	216176.57	185641.565	531792.165	12.20827
961	277226.68	246701.625	778493.790	17.87176
962	334993.83	306110.255	1084604.045	24.89908
963	392592.27	363793.050	1448397.095	33.25062
964	446720.14	419656.205	1868053.300	42.88460
964.25	459696.82	113302.120	1981355.420	45.48566
964.50	473267.62	116620.555	2097975.975	48.16290

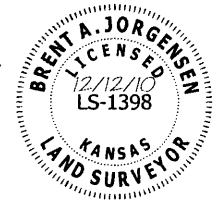
ES →

968 Top of Dam

General Notes:
 Top of dam elevation: 964.50'
 Top of water elevation: 963'
 Rear toe of dam elevation: 952.87'
 Front toe of dam elevation: 952.94'
 Maximum height of dam: 11.63'
 Assumed top of dam width: 12'
 Assumed front and back slope: 3:1
 Total Embankment: 4309 yd.
 Total Freeboard: 1.5'



LAND SURVEYOR'S CERTIFICATE
 THIS IS TO CERTIFY THAT THIS SURVEY
 WAS DONE BY THE UNDERSIGNED, AND
 THAT THE SURVEY WAS DONE ON THE
 GROUND ON 10/20/10.



THIS DRAWING ORIGINALLY CREATED AT SPECIFIED SCALE. IF LINE BELOW DOES NOT MEASURE 1 INCH, DRAWING HAS BEEN REDUCED.
 ORIGINAL DRAWING SIZE: 1 INCH

JORGENSEN SURVEYING
 64007 710 Trail
 Dawson, NE 68337
 (402) 855-3265
 (402) 855-3235 FAX

Pond Volume Calculations
 SE 1/4 Sec 26
 T1S, R16E, Brown County
 PREPARED FOR
 Keith Grimm - Victor Menold Property

SCALE	1"=200'
FIELD ON:	10/20/10
CHK. BY	MARCY
DWN. BY	BRENT
DATE:	12/12/10
SHEET	1 OF 2
JOB NO.	5262.04

SCANNED

50124

Shear Farm Permit

Under 50ac/ ft to ES 964.50

Top of dam 968 around 10000 Yards dirt

1310 acres Drainage

47.0 acres Dean and Victor Menold

74acre Joesph Noll

Total acres 544 will be Complete overlap with Shannon Farm permit

Upstream Landowners

HILLYER FARMS, INC.

Attn: EUGENE HILLYER 1414 320TH ST HIAWATHA, KS 66434

MISER, TIM E. & CAROLE J.

1245 ROCK CREEK RD COTTONWOOD FALLS, KS 66845

PICTON, JOHN V. TRUST

1419 BARADA ST FALLS CITY, NE 68355

EUCHRE CREEK FARMS, INC.

Attn: STEPHEN SPARE 1290 275TH ST HIAWATHA, KS 66434

EVERGREEN HEIGHTS, INC.

1621 VALLEY AVE FALLS CITY, NE 68355

PLOEGER, ROGER A. AND ELIZABETH A. TRUST

Owner Mailing Address:

2970 FOXTAIL RD MORRILL, KS 66515

Downstream Landowners

HINTON ADAM S. & GAYLA K 1167 290TH ST Hiawatha Ks 66434

PLOEGER DUSTIN 58459 KIDD RD Glenwood, IA

PLOEGER ROGER A. AND ELIZABETH A. TRUST 2970 FOXTAIL RD MORRILL, KS 66515

Water Resources
Received

SEP 06 2018

KS Dept Of Agriculture

SCANNED

**IRRIGATION USE
SUPPLEMENTAL SHEET**

File No. 50124

Name of Applicant (Please Print): Dean & Victor Merold

1. Please supply the name and address of each landowner, the legal description of the lands to be irrigated, and designate the actual number of acres to be irrigated in each forty acre tract or fractional portion thereof:

Landowner of Record NAME: Dean & Victor Merold
ADDRESS: 2770 Horned Owl Rd Hiawatha KS 66421

S	T	R	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
23	1s	16E	38	40	40	40										39	38	235	
26	1s	16E													40	40	40	38	158
36	1s	16E						37	40										77

470

Landowner of Record NAME: Joseph E & Joan M Holl
ADDRESS: 3189 Horned Owl Rd Hiawatha KS 66434

S	T	R	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
23	1s	16E													34	40			74

Total
544 Acres

Landowner of Record NAME: _____
ADDRESS: _____

S	T	R	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

shear
360



THE STATE OF KANSAS

KANSAS DEPARTMENT OF AGRICULTURE
Jackie McClaskey, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

File Number 50124
This item to be completed by the Division of Water Resources.

Water Resources
Received
SEP 06 2018
11:52
KS Dept Of Agriculture

APPLICATION FOR PERMIT TO
APPROPRIATE WATER FOR BENEFICIAL USE
Filing Fee Must Accompany the Application
(Please refer to Fee Schedule attached to this application form.)

To the Chief Engineer of the Division of Water Resources, Kansas Department of Agriculture,
1320 Research Park Drive, Manhattan, Kansas 66502:

- 1. Name of Applicant (Please Print): Dean + Victor Menold
Address: 2770 Horned owl Rd
City: Hiawatha State KS Zip Code 66434
Telephone Number: (785) 547-7952
- 2. The source of water is: surface water in walnut creek Trib 10 # 2991
unnamed tributary to walnut creek
(stream)
OR groundwater in S F Big Nemaha
(drainage basin)

Certain streams in Kansas have minimum target flows established by law or may be subject to administration when water is released from storage for use by water assurance district members. If your application is subject to these regulations on the date we receive your application, you will be sent the appropriate form to complete and return to the Division of Water Resources.

- 3. The maximum quantity of water desired is 544 acre-feet OR _____ gallons per calendar year, to be diverted at a maximum rate of 2000 gallons per minute OR _____ cubic feet per second.

Once your application has been assigned a priority, the requested maximum rate of diversion and maximum requested quantity of water under that priority number can **NOT** be increased. Please be certain your requested maximum rate of diversion and maximum quantity of water are appropriate and reasonable for your proposed project and are in agreement with the Division of Water Resources' requirements.

- 4. The water is intended to be appropriated for (Check use intended):

(a) <input type="checkbox"/> Artificial Recharge	(b) <input checked="" type="checkbox"/> Irrigation	(c) <input type="checkbox"/> Recreational	(d) <input type="checkbox"/> Water Power
(e) <input type="checkbox"/> Industrial	(f) <input type="checkbox"/> Municipal	(g) <input type="checkbox"/> Stockwatering	(h) <input type="checkbox"/> Sediment Control
(i) <input type="checkbox"/> Domestic	(j) <input type="checkbox"/> Dewatering	(k) <input type="checkbox"/> Hydraulic Dredging	(l) <input type="checkbox"/> Fire Protection
(m) <input type="checkbox"/> Thermal Exchange	(n) <input type="checkbox"/> Contamination Remediation		

YOU **MUST** COMPLETE AND ATTACH ADDITIONAL DIVISION OF WATER RESOURCES FORM(S) PROVIDING INFORMATION TO SUBSTANTIATE YOUR REQUEST FOR THE AMOUNT OF WATER FOR THE INTENDED USE REFERENCED ABOVE.

For Office Use Only:							
F.O. <u>1</u>	GMD <u>0</u>	Meets K.A.R. 5-3-1 (YES/NO) Use <u>IRR</u>	Source G <u>(S)</u>	County <u>BR</u>	By <u>AW</u>	Date <u>9/7/18</u>	
Code <u>KE3</u>	Fee \$ <u>300</u>	TR # _____	Receipt Date <u>9/16/18</u>	Check # <u>1099</u>			

9/16/18 DAW
SCANNED

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

9/10/2018

DEAN & VICTOR MENOLD
2770 HORNED OWL RD
HIAWATHA, KS 66434

RE: Application, File No. **50124**

Dear Sir or Madam:

The Division of Water Resources (Division) has received your application for a permit to appropriate water for beneficial use. Your application has been assigned the file number referenced above. Please be aware that the Division may have a large number of pending applications on hand at times and makes every attempt to process them in the order in which they are received. You will be contacted if additional information is required.

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

Additional information about the process may be found on our website at agriculture.ks.gov/divisions-programs/dwr. If you have any other questions, please contact our office at 785-564-6640 or your local Topeka Field Office at 785-296-5733. If you call, please reference the file number so we can help you more efficiently.

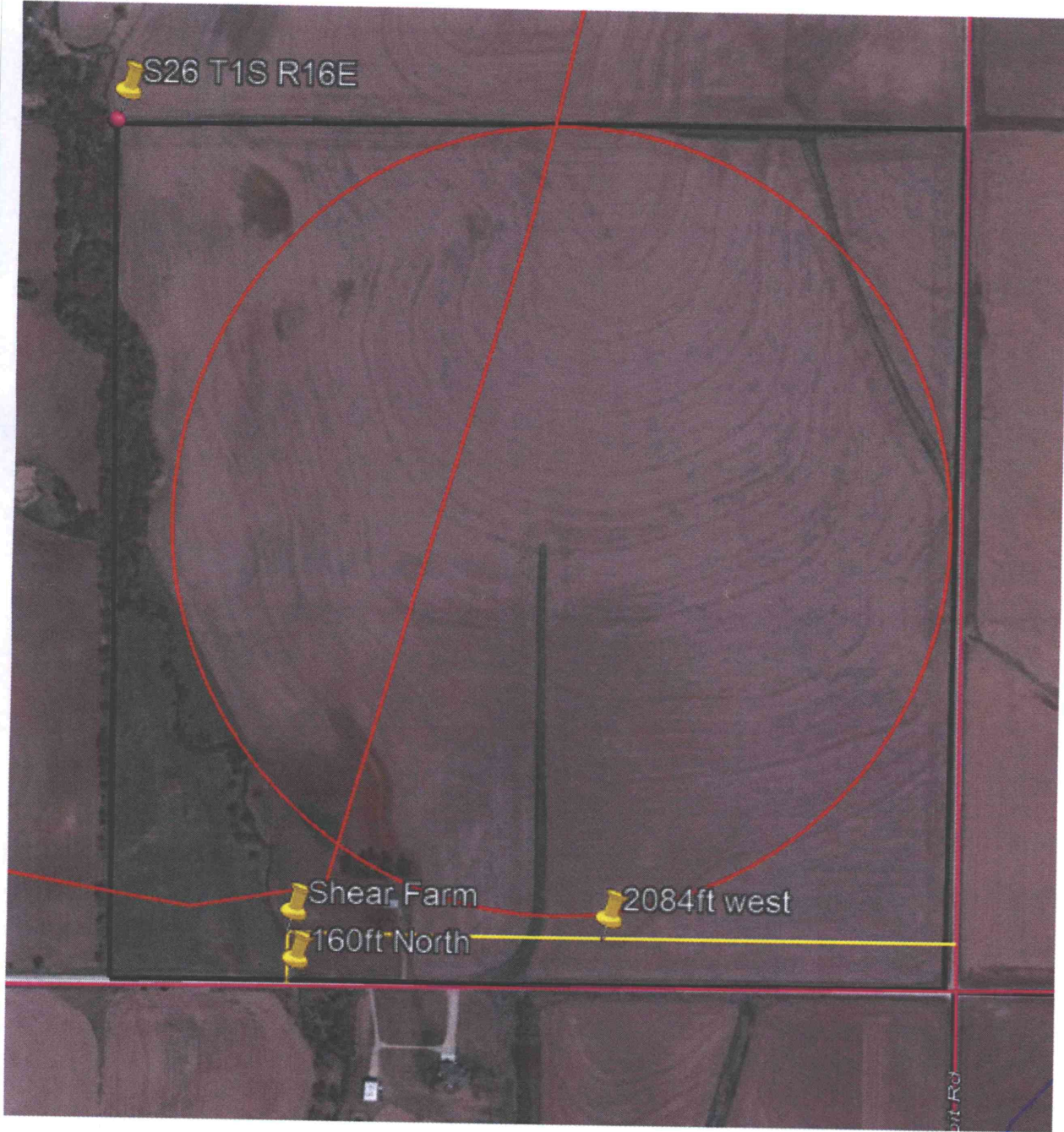
Sincerely,

A handwritten signature in black ink that reads "Kristen A. Baum".

Kristen A. Baum
New Application Unit Supervisor
Division of Water Resources

SCANNED

50124



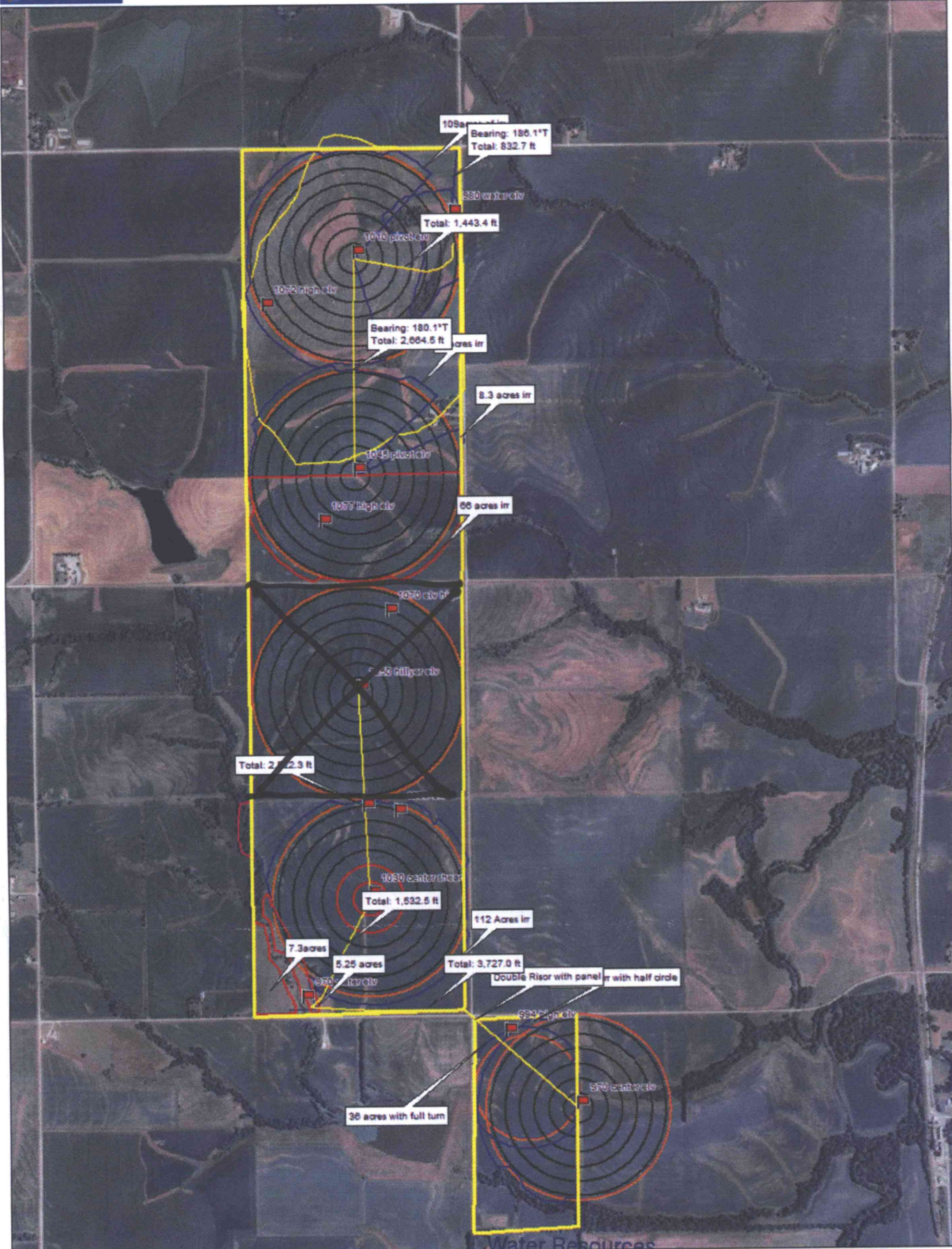
Water Resources
Received

SEP 06 2018

KS Dept Of Agriculture

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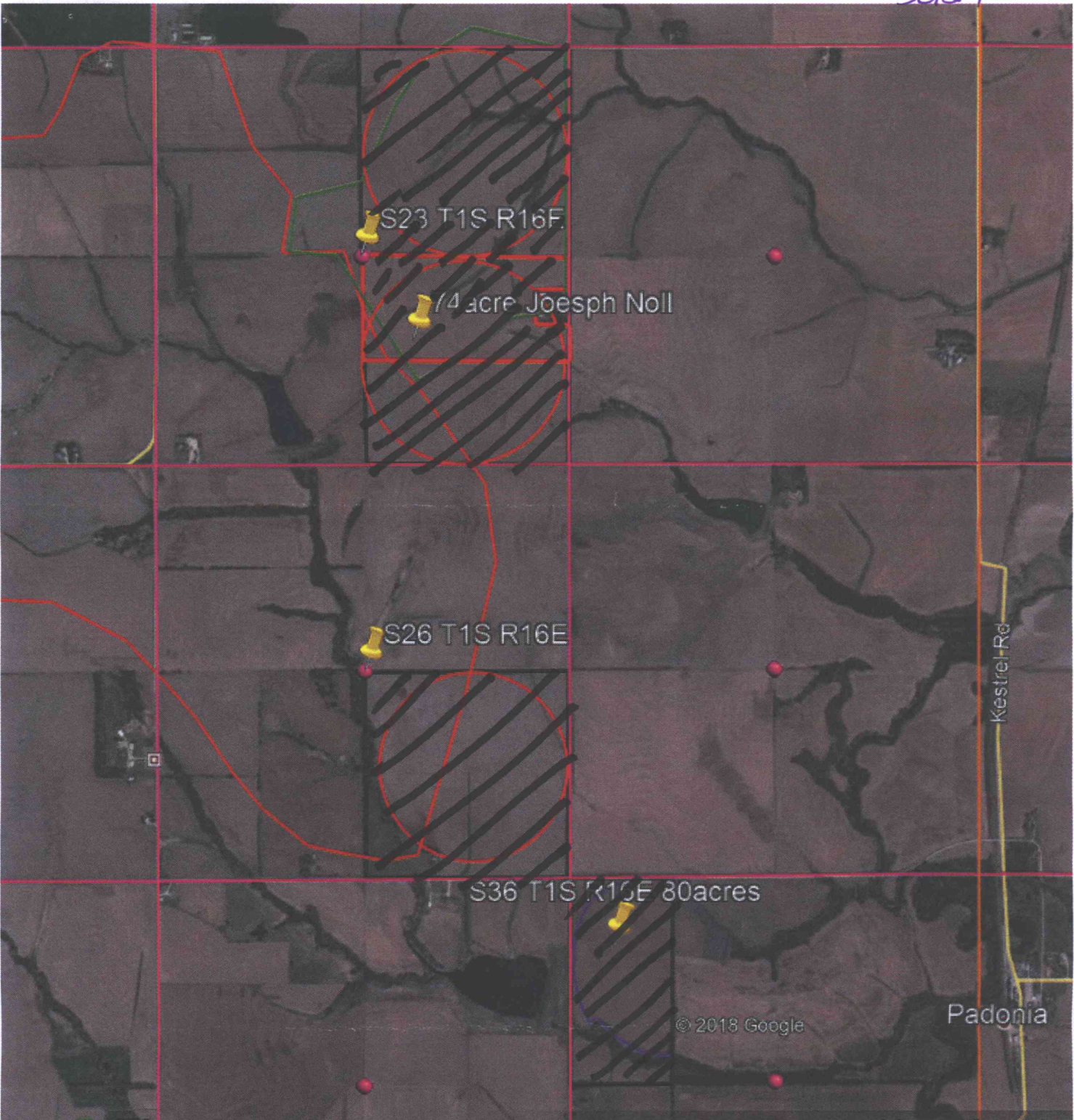
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 MN (2.7° E)
 KS Dept Of Agriculture



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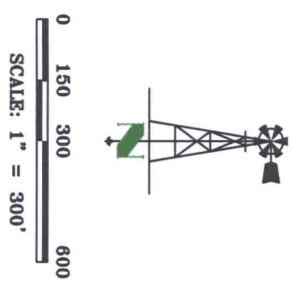
KS Dept Of Agriculture

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TOPOGRAPHIC SURVEY
 Compute Proposed Pond Volume in the Southeast One-Quarter
 of Section 26, Township 1 South, Range 16 East of the
 Sixth Principal Meridian, Brown County, Kansas



Water Resources
 Received
SEP 06 2018

KS Dept Of Agriculture

JOB NO. 5262.04	SHEET 2 OF 2	DATE: 12/12/10	DWN. BY BRENT	CHK. BY MARCY	FIELD CHK. 10/20/10	SCALE 1"=300'	Pond Volume Calculations	64007 710 Trail Dawson, NE 68337 (402) 855-3265 (402) 855-3235 FAX	THIS DRAWING ORIGINALLY CREATED AT SPECIFIED SCALE. IF LINE BELOW DOES NOT MEASURE 1 INCH, DRAWING HAS BEEN REDUCED. ORIGINAL DRAWING SIZE: 1 INCH
							SE 1/4 Sec 26 T1S, R16E, Brown County		

SCANNED

DEAN & VICTOR MENOLD
FILE NOS. 50,123 & 50,124 SITE MAP

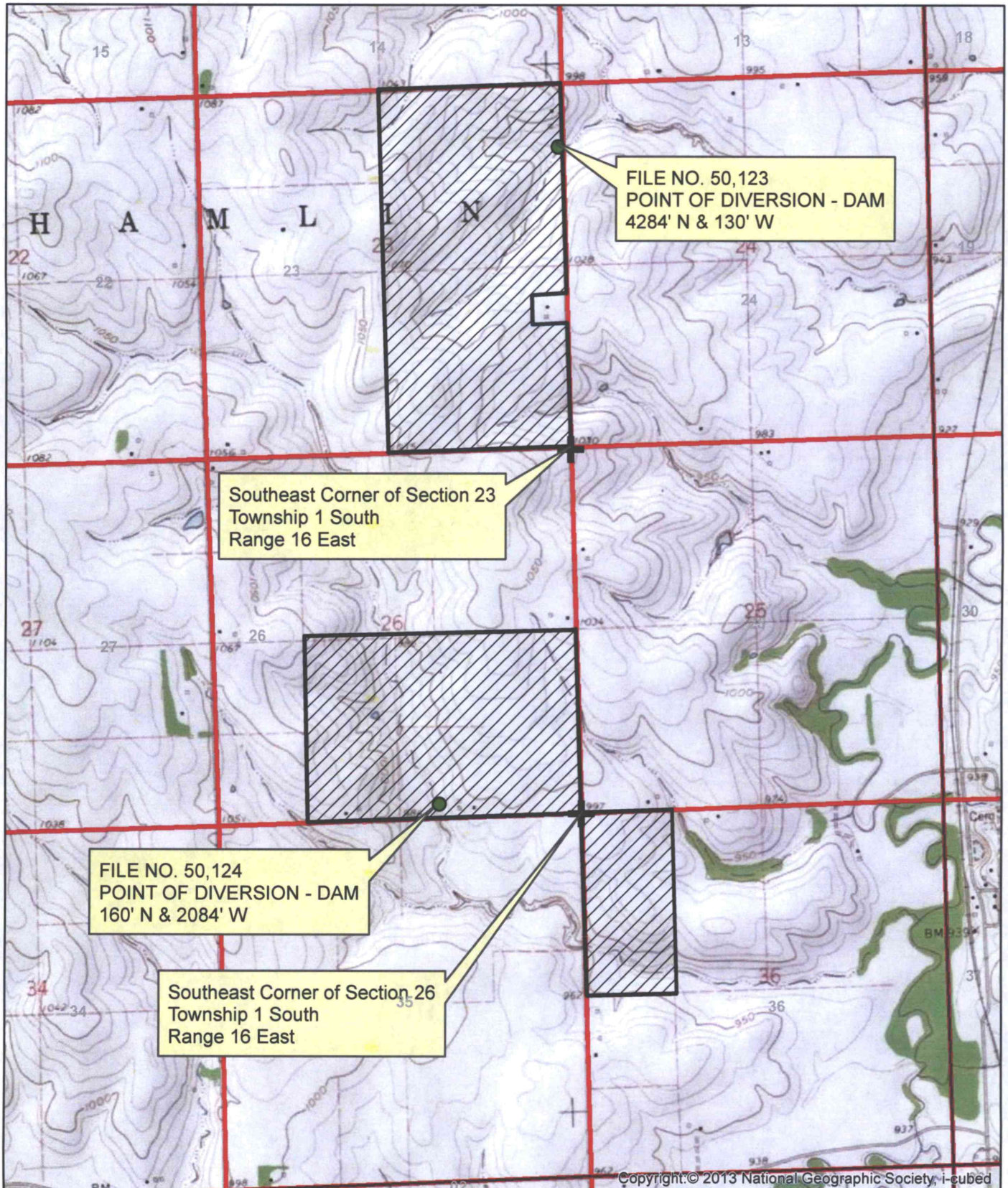


1:24,000



Proposed Place of Use

DEAN & VICTOR MENOLD
FILE NOS. 50,123 & 50,124 SITE MAP



1:24,000

● Proposed Point of Diversion



Proposed Place of Use