

Kansas  
Department of Agriculture  
Division of Water Resources

Garden City Field Office  
2508 Johns Street  
Garden City, Kansas 67846-2804

Jackie McCluskey, Secretary  
David W. Barfield, Chief Engineer  
Michael A. Meyer, Water Commissioner

Phone: (620) 276-2901  
Fax: (620) 276-9315  
[www.agriculture.ks.gov](http://www.agriculture.ks.gov)  
Sam Brownback, Governor

March 14, 2017

HENRY A & MARIETTA J NIGHTENGALE  
694 ROAD SS  
SUBLETTE KS 67877-8039

RE: Change in Point of Diversion Water Right, File No 5255, 15036,  
44047

Dear Mr. Nightengale:

Enclosed you will find a *Summary Order Approving Application for Change in Point of Diversion* for the above referenced file. This order modifies the authorized well location under the referenced file. This order modifies the original document; it should be recorded at the County Register of Deeds.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in this order. The diversion works should be completed and reported to the Division of Water Resources by **December 31, 2017**. Enclosed is a form for this purpose, along with other information for reference.

A condition of this order is that an acceptable flow meter must be properly installed on the diversion works authorized under the referenced file number in accordance with the Kansas Administrative Regulations 5-1-4 through 5-1-12. This water flow meter shall be used to provide information required on the annual water use report.

This order shall become final if a request for a hearing is not filed with the Chief Engineer within 15 days of the date of service of this order. The date of service is the date listed on the enclosed *Certificate of Service*.

Should you have any questions, please feel free to call this office. If you would prefer, you could arrange an appointment for additional assistance.

Sincerely,



Thomas P. Makens  
Assistant Water Commissioner

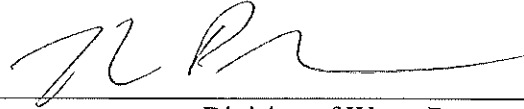
TPM:tpm  
Enclosures  
GMD#3

**CERTIFICATE OF SERVICE**

On this <sup>15<sup>th</sup></sup> day of March 2017, I hereby certify that the attached original Approval of Application to Change the Point of Diversion under Water Right, File No. 5255, 15036, 44047 dated March 14, 2017 was mailed postage prepaid, first class, US mail to the following:

HENRY A & MARIETTA J NIGHTENGALE  
694 ROAD SS  
SUBLETTE KS 67877-8039

Copy provided to GMD#3

A handwritten signature in black ink, appearing to be 'J. R.', written over a horizontal line.

Division of Water Resources

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.

File No. 5255

RECEIVED  
 2:48 pm  
 FEB 21 2017

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

Place of Use       Point of Diversion

Garden City Field Office  
 DIVISION OF WATER RESOURCES

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: HENRY A & MARIETTA J NIGHTENGALE

694 ROAD SS SUBLETTE KS 67877-8039

Phone Number: ( ) \_\_\_\_\_ Email address: \_\_\_\_\_

Name and address of Water Use Correspondent: HENRY A & MARIETTA J NIGHTENGALE

694 ROAD SS SUBLETTE KS 67877-8039

Phone Number: ( ) \_\_\_\_\_ Email address: \_\_\_\_\_

3. The presently authorized place of use is:

Owner of Land ---- NAME: HENRY A & MARIETTA J NIGHTENGALE & DORRELL G GEORGE

ADDRESS: \_\_\_\_\_

(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		

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: no change to acres

ADDRESS: \_\_\_\_\_

(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			

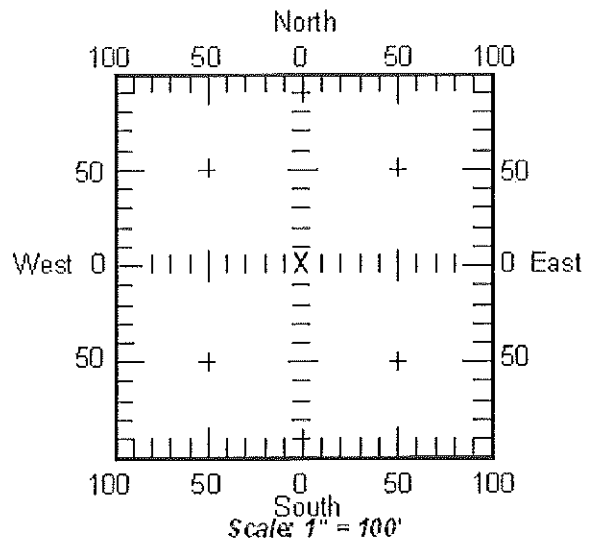
<b>For Office Use Only: Code</b> _____ <b>Fee \$</b> <u>200</u> <b>TR #</b> _____ <b>Receipt Date</b> <u>2/21/17</u> <b>Check #</b> <u>7502</u>
---

5. **Presently authorized point of diversion:**  
 One in the sw Quarter of the nw Quarter of the nw Quarter of Section 36, Township 27 South, Range 32 W, in Haskell County, Kansas, 4315 feet North 5250 feet West of Southeast corner of section.  
 Authorized Rate \_\_\_\_\_ Authorized Quantity \_\_\_\_\_ Depth of well \_\_\_\_\_ (feet)  
 (DWR use only: Computer ID No. 4 GPS \_\_\_\_\_ feet North \_\_\_\_\_ feet West)  
 This point will not be changed  This point will be changed as follows:  
**Proposed point of diversion: (Complete only if change is requested)**  
 One in the sw Quarter of the nw Quarter of the nw Quarter of Section 36, Township 27 South, Range 32 W, in Haskell County, Kansas, 4333 feet North 5075 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 \_\_\_\_\_ Quarter of the \_\_\_\_\_ Quarter of the \_\_\_\_\_ Quarter of Section \_\_\_\_\_, Township \_\_\_\_\_ South, Range \_\_\_\_\_ (E/W), in \_\_\_\_\_ County, Kansas, \_\_\_\_\_ feet North \_\_\_\_\_ feet West of Southeast corner of section.  
 Authorized Rate \_\_\_\_\_ Authorized Quantity \_\_\_\_\_ 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:  
**Proposed point of diversion: (Complete only if change is requested)**  
 One in the \_\_\_\_\_ Quarter of the \_\_\_\_\_ Quarter of the \_\_\_\_\_ Quarter of Section \_\_\_\_\_, Township \_\_\_\_\_ South, Range \_\_\_\_\_ (E/W), in \_\_\_\_\_ County, Kansas, \_\_\_\_\_ feet North \_\_\_\_\_ feet West of Southeast corner of section.  
 Proposed Rate \_\_\_\_\_ Proposed Quantity \_\_\_\_\_ Proposed well depth (feet) \_\_\_\_\_  
 This point is:  Additional Well  Geo Center List other water rights that will use this point \_\_\_\_\_

7. Why do you need a new point of diversion? \_\_\_\_\_  
 old well needs to be replaced deeper \_\_\_\_\_

13a. If the proposed point of diversion will be relocated within 100 feet of the existing point of diversion, indicate its location on the diagram below in relation to the existing point of diversion. (PLEASE NOTE: The "X" in center of diagram below represents presently authorized point of diversion.)



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

9. When do you propose to complete the new point of diversion?  
March 1, 2017

10. If the point of diversion is a well:  
 (a) What are you going to do with the old well?  
plug  
 (b) When will this be done? 2017

11. Groundwater Management District recommendation attached?  Yes  No

12. Assisted by tpm

13b. If the proposed point of diversion will be relocated more than 100 feet but within 1320 feet from 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.

14. If the proposed groundwater point of diversion is 300 or fewer feet from 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).

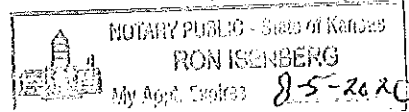
I hereby verify, being first duly sworn upon my oath or affirmation and under penalty of perjury, that I am of lawful age and the owner, the spouse of the owner, or a duly authorized agent of the owner(s) to make this application on their behalf, in regard to the water right(s) to which this application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

Dated at SUBLETTE KS, Kansas, this 21 day of FEBRUARY, 2017.

Henry Nightengale  
 (Owner)  
 Henry  
 (Please Print)  
 (Owner)  
 (Please Print)  
 (Owner)  
 (Please Print)

Marietta Nightengale  
 (Spouse)  
 MARIETTA  
 (Please Print)  
 (Spouse)  
 (Please Print)  
 (Spouse)  
 (Please Print)

State of Kansas }  
County of Haskell } SS



I hereby certify that the foregoing application was signed in my presence and sworn to before me this 22 day of February, 2017.

Ron Isenberg  
Notary Public

My Commission Expires 8-5-2020

**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

**SUMMARY ORDER APPROVING APPLICATION FOR CHANGE AND IMPOSING CONDITIONS**

This Summary Order is issued under authority of K.S.A. 82a-708b, as amended, and K.A.R. 5-14-3 and other applicable provisions of the *Kansas Water Appropriation Law, K.S.A. 82a-701 et. seq.*, and rules and regulations promulgated thereunder, K.A.R. 5-1-1 *et. seq.* With the exception of those conditions expressly contained herein, this Summary Order does not change the terms, conditions and limitations of File No. 5255.

1. A change application was received on FEBRUARY 21, 2017 requesting that the place of use and / or point of diversion authorized under the above-referenced file number be changed as described in the application.
2. On and after the effective date of this summary order, the authorized place(s) of use shall be located substantially as shown on the topographic map accompanying the application to change the place of use.  Applicable  Not Applicable
3. The change in point of diversion shall not impair existing rights and shall be limited to the same source or sources of water as previously authorized. The point of diversion authorized by this summary order shall be located within a 300 foot radius of the authorized point(s) of diversion.  Applicable  Not Applicable
4. The point(s) of diversion authorized herein shall not actually be located more than \_\_\_\_\_ feet from the previously authorized point(s) of diversion.  Applicable  Not Applicable
5. As required by K.A.R. 5-3-5d, if the works for diversion is a well with a diversion rate of 100 gallons per minute or more, a tube or other device suitable for making water level measurements shall be installed, operated and maintained in accordance with K.A.R. 5-6-13.  Applicable  Not Applicable
6. **The owner of the authorized place(s) of use shall properly install an acceptable water flow meter on or before December 31, 2017**, or before the first use of water, whichever occurs first. The water flow meter shall be installed, operated and maintained in accordance with K.A.R. 5-1-4 through 5-1-12. As required by K.S.A. 82a-732, as amended, and K.A.R. 5-3-5e, the owner shall maintain records and report the reading of the water flow meter and the total quantity of water diverted annually to the Chief Engineer by March 1 following the end of each calendar year.  Applicable  Not Applicable
7. **Installation of the works for diversion of water shall be completed on or before December 31, 2017**, or within any authorized extension of time. By March 1, 2018 the applicant shall notify the Chief Engineer that construction of the works for diversion has been completed, on the form provided by the Chief Engineer, as required by K.A.R. 5-8-4e.  Applicable  Not Applicable
8. **The completed well log shall be submitted with the required notice.**  Applicable  Not Applicable
9. All diversion works into which any type of chemical or other foreign substance will be injected into the water shall be equipped with an in-line, automatic, quick-closing check valve capable of preventing pollution of the source of the water supply. The check valve(s) shall be installed, operated and maintained in accordance with K.A.R. 5-3-5c.  Applicable  Not Applicable
10. Additional Conditions are attached.  Yes  No
11. In accordance with K.S.A. 82a-708a, as amended, and K.A.R. 5-5-14, all of the owners of the authorized place(s) of use of water appropriated under the above-referenced file number are responsible for compliance with its terms, conditions and limitations, as amended and/or supplemented by this Summary Order, and with applicable provisions of the *Kansas Water Appropriation Law* and the *Rules and Regulations* promulgated thereunder. Failure to comply with these provisions may result in civil penalties pursuant to K.S.A. 82a-737, as amended, and/or the suspension or revocation and dismissal of the water or appropriation right or any other enforcement actions authorized by law.

**Administrative Appeal and Effective Date of Order**

You have the right to a hearing in accordance with K.A.R. 5-14-3 before this Summary Order becomes final action of the Kansas Department of Agriculture. Any request for a hearing must be filed with the **Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, 1320 Research Park Drive, Topeka, Kansas 66502**, within 15 days after the date shown on the Certificate of Service attached hereto. If a hearing is not requested in accordance with K.A.R. 5-14-3, this Summary Order will become effective on the 15<sup>th</sup> day after the date shown on the Certificate of Service.

*For Use by Register of Deeds*

FOR OFFICE USE ONLY  
**APPLICATION APPROVED AND SUMMARY ORDER ISSUED**

By: [Signature]  
Duly Authorized Designee of the Chief Engineer

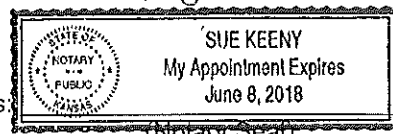
(Print Name): THOMAS P. MAKENS  
Division of Water Resources - Kansas Department of Agriculture

Date of Issuance: MARCH 14, 2017

State of Kansas )  
County of Finnney ) SS

Acknowledged before me on March 14, 2017  
by Thomas P. Makens

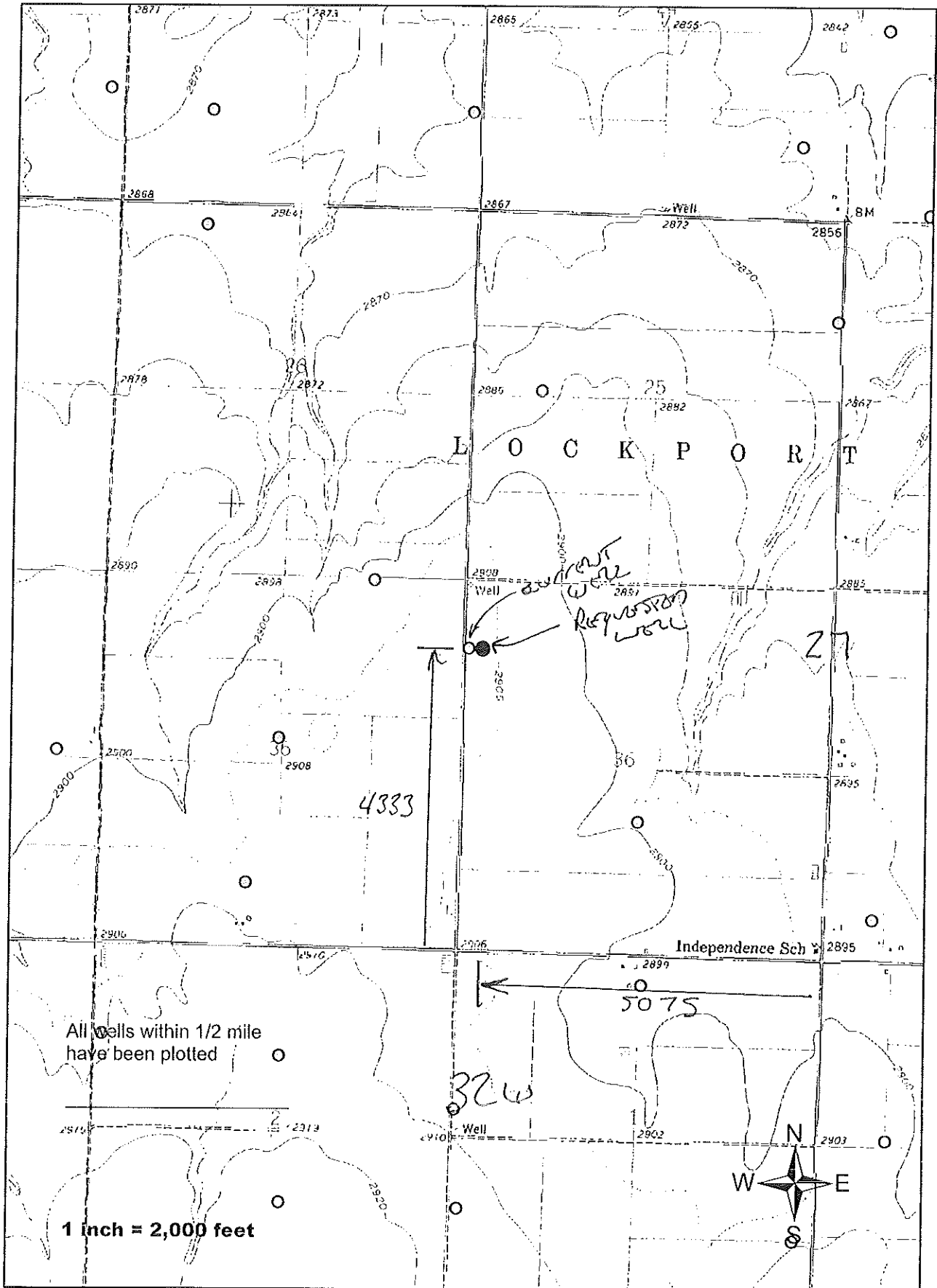
Signature: [Signature]  
Notary Public

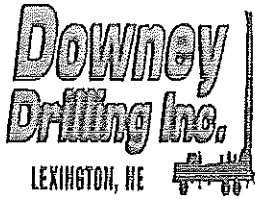


My commission expires \_\_\_\_\_

(Notary Seal)

5255, 15036, 44047





Well Design  
& Construction  
Call 308-325-9890

5255  
12/26  
44047

Customer Name: HENRY NIGHTENGALE

Legal: NW 36-27S-32W

County: DAWSON

G.P.S.:

Date:

WO #:

DRILLER:

WATER SUPPLY: IRRIGATION WELL

HELPER(S):

DRILLING RIG: M-100

BOREHOLE DIAMETER: 30" / 28"

DRILLING METHOD: REVERSE CIRCULATION

CASING DIAMETER: 16"

QUIKGEL: TBD

HOLE PLUG: 20'+

TOTAL WELL DEPTH: 792'

GRAVEL: 175 TONS #1 COARSE / #1 FINE DW

DRILLING FLUID: TBD

GRAVEL SUPPLIER: TBD

ADDITIONAL INFO: TEST HOLE #1 - EAST OF EXISTING WELL

GROUT

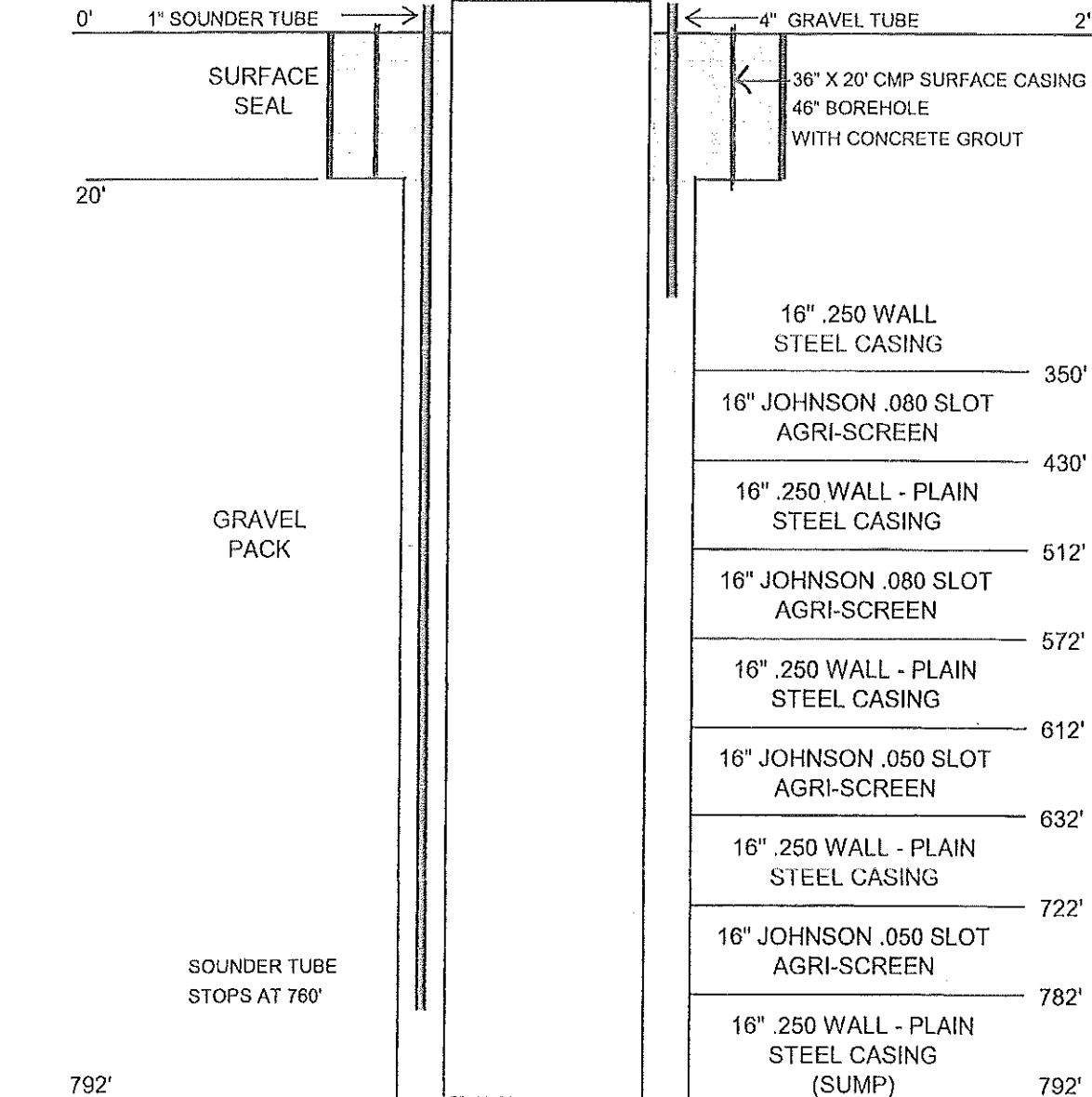
AND

GRAVEL

SCREEN AND

CASING

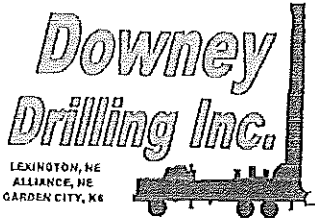
IRRIGATION WELL





# WELL LOG

DATE: 12/20/2016



CUSTOMER NAME: HENRY NIGHTENGALE

LEGAL: NW 36-27S-32W

COUNTY: HASKELL

GPS: 37 39' 40.2" N

37.66111

100 46' 44.6" W

100.77906

DRILLER: N. SHELDEN

WO: 16-821

TW	FROM	TO	TYPE	HARDNESS	COLOR	SPEED	PULL DOWN	OTHER / DRILLING ACTION
0	2		TOP SOIL	SOFT	DARK			
2	80		SANDY CLAY W/ FINE SAND LENSES	SOFT	BROWN			
80	98		MED/COARSE SAND	SOFT	BROWN			
98	126		MED/COARSE/VERY COARSE SAND & FINE GRAVEL	SOFT	RED			CHATTER
126	187		VERY COARSE SAND & FINE/MED/COARSE GRAVEL	SOFT	RED			CHATTER
187	211		VERY COARSE SAND & FINE/MED GRAVEL	SOFT	RED			CHATTER
211	213		CEMENTED SAND	FIRM	WHITE			
213	230		CLAY - STICKY	DENSE	BROWN/YELLOW			SMOOTH
230	289		CLAY - STICKY	DENSE	BLUE			SMOOTH
289	340		MED/ TR. COARSE SAND W/ CLAY STRS		BROWN			SOME CHATTER
340	360		MED/COARSE/VERY COARSE SAND & TR. FINE GRAVEL			2:46		CHATTER
360	375		MED/COARSE/VERY COARSE SAND & TR. FINE GRAVEL					CHATTER
375	380		SANDY CLAY	BROWN		3:18		
380	400		COARSE / VERY COARSE SAND & FINE GRAVEL			3:18		
400	402		COARSE / VERY COARSE SAND & FINE GRAVEL					
402	411		SANDY CLAY	BROWN		3:43		
411	420		COARSE / VERY COARSE W/ FINE GRAVEL					
420	424		COARSE / VERY COARSE W/ FINE GRAVEL					
424	440		FINE / MED SAND W/ SILTY CLAY STRS			5:19		
440	460		FINE SAND W/ SANDY CLAY LAYERS			4:35		
460	480		SANDY CLAY W/ SAND LAYERS TO CEM. SAND			5:26		
480	500		SANDY CLAY W/ SAND LENSES			5:40		
500	510		SANDY CLAY & TR. SAND @ 508			4:25		
510	520		COARSE / VERY COARSE SAND & FINE GRAVEL / TAN ROCK					
520	540		COARSE / VERY COARSE SAND & FINE GRAVEL / TAN ROCK			3:38		
540	547		CLAY					
547	560		MED / COARSE / VERY COARSE SAND & TR. FINE GRAVEL			4:20		
560	580		MED / COARSE / VERY COARSE SAND & TR. FINE GRAVEL & TR. CLAY AFTER 542 ~ 572'			5:10		
580	600		SANDY CLAY, SANDSTONE, SOAPSTONE			5:09		
600	614		CLAY, SOAPSTONE					
614	620		SAND, FINE/MED/ TR. COARSE			3:38		
620	626		SAND, FINE/MED/ TR. COARSE					
626	628		CLAY					
628	633		SAND, FINE/MED			4:20		
633	640		SAND, FINE/MED W/ CLAY					

