

File No. **49,707** 15. Formation Code: **533** Drainage Basin: **Walnut River** County: **BU** Special Use: Stream:

16. Points of Diversion									17. Rate and Quantity				
T MOD DEL ENT	PDIV Qualifier	S	T	R	ID	'N	W		Authorized		Additional		
									Rate gpm	Quantity mgy	Rate gpm	Quantity mgy	Overlap PD Files
√	85622 SWSWSE	10	25S	3E	6	330	2450		99	14	99	14	20160122

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

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

20. Meter Required? Yes No To be installed by **12/31/2018** Date Acceptable Meter Installed _____

21. Place of Use							NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg? NO	Overlap Files				
T MOD DEL ENT	PUSE	S	T	R	ID		NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼								
√	55036	10	25S	3E	1		Stock Facility in South Half of Southeast Quarter (S½ SE¼)																					7b.	NO	46211

Comments:

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M X

TO: Files

DATE: July 28, 2017

FROM: Matt Meier

RE: Application, File No. 49,707

South Springs LLC, Dwight Busenitz, has filed the referenced application to appropriate groundwater for stockwatering use, requesting one (1) well, a quantity of 14 million gallons (42.96 acre-feet), and a diversion rate of 99 gallons per minute. The well is to be 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 10, more particularly described as being near a point 330 feet North and 2,450 feet West of the Southeast corner of said section, Township 25 South, Range 3 East, Butler County, within the drainage basin of the Walnut River. Water Right File No. 46,211 overlaps the proposed place of use. The entire proposed place of use was listed as being owned by Diane Busenitz. The applicant has signed the application form stating that he has legal access to the point of diversion.

The applicant had identified zero domestic wells and one non-domestic (which was owned by the applicant) within one-half mile of the proposed well. No nearby well owner letters were sent out. According to the WRIS database, File No. 46,211 (which is owned by the applicant) is located 1,841 feet away. The site map indicates that there no domestic wells within $\frac{1}{2}$ mile. The proposed point of diversion meets minimum well spacing to all existing wells. Per the requirements in K.A.R. 5-4-4 for all other aquifers, the minimum well spacing should be one-quarter mile to all other non-domestic wells and 660 feet to domestic wells.

A nearby well log was obtained from the Kansas Geological Survey website, which shows top soil from 0 to 3 feet, blue shale from 3 to 20 feet, white gravel clay from 20 to 21 feet, lime stone from 21 to 23 feet, blue shale from 23 to 50 feet, Sandy Blue Shale from 50 to 55 feet, and Blue shale from 55 to 63.5 feet below ground. Static water level was at 18 feet. The applicant listed that the current well was constructed to 120 feet, static water level was 25 feet, and bottom of pump intake pipe is 100 feet.

The source of the water (for overlapping File No. 46,211) had previously been identified as Wellington Formation. Per the requirements in K.A.R. 5-3-11, safe yield is determined by the extent of the aquifer within a two-mile circle radius of the point of diversion, which establishes the area of consideration. Evaluation of the area of consideration included the extent of the aquifer, which provided an area of consideration of 8,042 acres. With a potential annual recharge of 3.66 inches, and 100% of recharge available for appropriation, safe yield was determined to be 2,452.81 acre-feet. Existing water rights have appropriated 17.05 acre-feet, providing a difference of 2435.76 acre-feet available for appropriation, and the application requesting 42.96 acre-feet (14 million gallons) complies with safe yield.

The requested quantity of water, 14 million gallons (42.96 acre-feet), is reasonable for the nondomestic livestock use identified in the application. This brings the authorized quantity on the place of use to 19.554 million gallons (60.01 acre-feet) when combined with File No. 46,211. The requested quantity is for providing drinking water and cleaning operations for 12,000 hogs, which equals 4.46 gallons per head per day. This quantity falls is less than maximum allowable quantity for any swine listed in K.A.R. 5-3-22(a) (the lowest of which is nursery swine which is allowed 5 gallons per head per day). Therefore, the requested quantity is reasonable for the intended use per K.A.R. 5-3-22(a). There are multiple pending applications in this general area of the state, and they are being worked in priority order to ensure that senior applications are provided the available water.

In accordance with K.S.A. 82a-706c, the Chief Engineer retains full authority to require any water user to install meters, gages, or other measuring devices, which devices he or she or his or her agents may read at any time. Water flowmeter requirements are further described in K.A.R. 5-1-4 through K.A.R. 5-1-12. If any chemical or foreign substance is injected into the water pumped under this permit, a check valve will also need to be installed. A water level measurement tube is not required because this is a proposed new well is less than 100 gpm.

The proposed application is subject to minimum desirable streamflow requirements. The applicant signed, notarized, and returned the required form to our office.

Jeff Lanterman, Water Commissioner, Stafford Field Office, recommended approval of the referenced application on July 28, 2017. Based on the above discussion, well spacing and safe yield criteria are met, and approval of the application will not impair senior water rights nor prejudicially or unreasonably affect the public interest, it is recommended that the referenced application be approved.

Matthew J. Meier
Environmental Scientist
Permits Unit

1320 Research Park Drive
Manhattan, Kansas 66502

Jackie McClaskey, Secretary



Phone: (785) 564-6700

Fax: (785) 564-6777

Email: ksag@kda.ks.gov

www.agriculture.ks.gov

Sam Brownback, Governor

August 29, 2017

FILE COPY

SOUTH SPRINGS LLC
DWIGHT BUSENITZ
6698 NW INDIANOLA RD
WHITEWATER KS 67154

RE: Application, File No. 49,707

Dear Water User:

There is enclosed a permit to appropriate water authorizing you to proceed with construction of the proposed diversion works (except those dams and stream obstructions regulated by K.S.A. 82a-301 through 305a), to divert such unappropriated water as may be available from the source and at the location specified in the permit, and to use it for the purpose and at the location described in the permit.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in this permit. A water meter is required and you must install it prior to water being put to beneficial use in order for you to maintain accurate records of water use. The meter should be used to provide the information required on the annual water use report.

Failure to notify the Chief Engineer of the Division of Water Resources of the completion of the diversion works within the time allowed, or within any authorized extension of time thereof, will result in the dismissal of this permit. Enclosed is a form which may be used to notify the Chief Engineer that the proposed diversion works have been completed.

All requests for extensions of time to complete diversion works, or to perfect appropriations, must be submitted to the Chief Engineer before the expiration of time originally set forth in the permit to complete diversion works or to perfect an appropriation. If for any reason, you require an extension of time, you must request it before the expiration of time set forth in this permit. Failure to comply with this regulation will result in the dismissal of your permit or your water right. Any request for an extension of time shall be accompanied by the required statutory fee, which is currently \$100.00.

There is also enclosed an information sheet setting forth the procedure to obtain a Certificate of Appropriation which will establish the extent of your water right. If you have any questions, please contact our office. If you wish to discuss this specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

Kristen A. Baum
New Application Unit Supervisor
Water Appropriation Program

Enclosures

pc: Stafford Field Office

THE STATE



OF KANSAS

KANSAS DEPARTMENT OF AGRICULTURE

Jackie McClaskey, 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. 49,707** of the applicant

**SOUTH SPRINGS LLC
DWIGHT BUSENITZ
6698 NW INDIANOLA RD
WHITEWATER KS 67154**

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 19, 2016**.
2. That the water sought to be appropriated shall be used for Stockwatering use at a Hog facility located in the South Half of the Southeast Quarter (S $\frac{1}{2}$ SE $\frac{1}{4}$) of Section 10, Township 25 South, Range 3 East, Butler County, Kansas.
3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of one (1) well, which is to 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 10, more particularly described as being near a point 330 feet North and 2,450 feet West of the Southeast corner of said section, in Township 25 South, Range 3 East, Butler County, located substantially as shown on the map accompanying the application.
4. That the appropriation sought shall be limited to a maximum diversion rate not in excess of **99 gallons per minute (0.221 c.f.s.)** and to a quantity not to exceed **14 million gallons (42.96 acre-feet)** of water for any calendar year.
5. That installation of works for diversion of water shall be completed on or before **December 31, 2018** or within any authorized extension thereof. The applicant shall notify the Chief Engineer and pay the statutorily required field inspection fee of \$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 of \$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, 2022** 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 of \$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 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 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 diversion works authorized by this permit in accordance with 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.

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.

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

Ordered this 28th day of August, 2017, in Topeka, Shawnee County, Kansas.

Lane P. Letourneau

Lane P. Letourneau, L.G.
Program Manager
Water Appropriation Program
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 28th day of August, 2017, by Lane P. Letourneau, L.G., Program Manager, Division of Water Resources, Kansas Department of Agriculture.



Danielle Wilson

Notary Public

CERTIFICATE OF SERVICE

On this ^{29th} day of ^{August}, 2017, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 49,707, dated ^{August 28, 2017} was mailed postage prepaid, first class, US mail to the following:

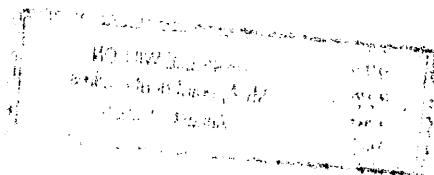
SOUTH SPRINGS LLC
DWIGHT BUSENITZ
6698 NW INDIANOLA RD
WHITEWATER KS 67154

With photocopies to:

Stafford Field Office



Division of Water Resources



APPLICATION COMPLETE
9/19/16
Reviewer MJM

THE STATE OF KANSAS



WATER RESOURCES RECEIVED

SEP 19 2016

12:33

KS DEPT OF AGRICULTURE

KANSAS DEPARTMENT OF AGRICULTURE
Jackie McClaskey, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

File Number 49,707

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

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.)

WATER RESOURCES RECEIVED

UNACCEPTABLE FOR PRIORITY
AUG 29 2016
12:47
KS DEPT OF AGRICULTURE

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

1. Name of Applicant (Please Print): South Springs LLC, Dwight Busenitz
Address: 6698 NW Indianola Rd
City: Whitewater State KS Zip Code 67154
Telephone Number: (316) 737-7402

2. The source of water is: surface water in _____ (stream)
OR groundwater in Walnut River (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 _____ acre-feet OR 14 million gallons per calendar year, to be diverted at a maximum rate of 99 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) 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. <u>2</u>	GMD <input type="radio"/>	Meets K.A.R. 5-3-1 (YES/NO) Use <u>SIC</u>	Source <u>GS</u>	County <u>W</u>	By <u>AW</u>	Date <u>9/19/16</u>	
Code <u>REG</u>	Fee \$ <u>200</u>	TR # _____	Receipt Date <u>9/19/16</u>	Check # <u>2940</u>			

9/20/2016 ULM

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 10, more particularly described as being near a point 330 feet North and 2450 feet West of the Southeast corner of said section, in Township 25 South, Range 3 East, Butler 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 as Applicant Diane Busenitz 316-799-2606
(name, address and telephone number)
6698 New Indianapolis Rd Whitewater KS, 67154
(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 8/26, 2016. Diane Busenitz
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 well and pump
(number of wells, pumps or dams, etc.)
and was completed (by) Existing well
(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 ASAP
(Mo/Day/Year)

WATER RESOURCES
RECEIVED

WATER RESOURCES
RECEIVED

UNACCEPTABLE FOR PRIORITY
AUG 29 2016

SEP 19 2016

- 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.

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 N.A.

- 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.
- (b) If the application is for groundwater, please show the location of any existing water wells of any kind within ½ 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 ½ mile, please advise us.
- (c) If the application is for surface water, the names and addresses of the landowner(s) ½ mile downstream and ½ 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.

Overlaps PU with 46,211

WATER RESOURCES
RECEIVED

SEP 19 2016

WATER RESOURCES
RECEIVED
UNACCEPTABLE FOR PRIORITY

AUG 29 2016

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	<u>6/15/14</u>	_____	_____	_____
Total depth of well	<u>120'</u>	_____	_____	_____
Depth to water bearing formation	<u>30'</u>	_____	_____	_____
Depth to static water level	<u>25'</u>	_____	_____	_____
Depth to bottom of pump intake pipe	<u>100'</u>	_____	_____	_____

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

owner
(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):

Same as Applicant
(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 Whitewater, Kansas, this 26 day of August, 2016.
(month) (year)

Diane Busenitz
(Applicant Signature)

By _____
(Agent or Officer Signature)

(Agent or Officer - Please Print)

Assisted by MJM/SFFO ESII Date: 7/18/2016
(office/title)

WATER RESOURCES
RECEIVED

SEP 19 2016

KS DEPT OF AGRICULTURE

WATER RESOURCES
RECEIVED

UNACCEPTABLE FOR PRIORITY
AUG 29 2016

KS DEPT OF AGRICULTURE

**STOCKWATER USE
SUPPLEMENTAL SHEET**

File No. 49,707

Name of Applicant (Please Print): South Springs LLC

1. Please indicate type of livestock (cattle, hogs, etc.): Hogs

2. Please complete the following table showing past and present water requirements:

PAST NUMBER OF HEAD AND WATER DIVERTED, IF APPLICABLE

LAST 5 YEARS	NUMBER OF HEAD	WATER DIVERTED (GALLONS)	GALLONS PER HEAD PER DAY
5 years ago	8,000	4,528,000	1.55
Last year	12,000	14,110,000	3.22
Present Year			

3. Please complete the following table showing estimated future water requirements:

ESTIMATED FUTURE NUMBER OF HEAD AND WATER DIVERTED

NEXT 5 YEARS	NUMBER OF HEAD	WATER TO BE DIVERTED (GALLONS)	GALLONS PER HEAD PER DAY
Year 1			
Year 2			
Year 3			
Year 4			
Year 5			

Please attach any additional information, tables, or curves showing past, present and estimated future water requirements to substantiate the amount of water requested.

4. Please designate the legal description of the location where the water is to be used. Show in the space provided below the Section (S), Township (T), and Range (R), and the number of acres in each forty acre tract or fractional portion thereof.

S	T	R	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
10	25S	3E	Stock facility in South Half of Southeast Quarter																

5. Show quantities of water used and all associated water uses at the feedlot such as water used in feed mills, cooling of animals, washing, flushing of wastes, etc.:

DRINKING

12,000 head of hogs x 2 gallons/head (avg.) x 365 days = 8,760,000 gallons
_____ head of _____ x _____ gallons/head (avg.) x _____ days = _____ gallons
_____ head of _____ x _____ gallons/head (avg.) x _____ days = _____ gallons

COOLING

800 gallons/hour x 18 hour/day x 120 days = 1,728,000 gallons

SANITATION + Flushing pits

3 g.p.m. x 60 min/hr x 168 hr/wk x 52 wks/yr = 1,572,480 gallons

OTHER USE (Explain) _____ = _____ gallons

TOTAL ----- 12,060,480 gallons

6. Show location of present and future location of confinement pens on your attached maps or photographs.

7. Total feed bunk space for cattle or livestock is N/A linear feet.

8. Total size of stock pens for confinement area of cattle, hogs, etc. is 85,000 square feet.

You may attach any additional information you believe will assist in informing the Division of Water Resources of the need for your request.

WATER RESOURCES RECEIVED

SEP 19 2016

KS DEPT OF AGRICULTURE

WATER RESOURCES RECEIVED

UNACCEPTABLE FOR PRIORITY
AUG 29 2016

KS DEPT OF AGRICULTURE

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

#49707

330 ft N and 2450 ft W of the SE Corner of Section 10, T 25S, R 3E

Located at: 97.086828 West Longitude and 37.884329 North Latitude

GROUNDWATER ONLY

meets spacing

```

=====
File Number   Use ST SR Dist (ft) Q4 Q3 Q2 Q1 FeetN FeetW Sec Twp Rng ID Batt Auth_Quan Add_Quan Unit
A__ 46211 00 STK NK G*      1841 -- SW SE SE   77  627 10 25 3E  4 G 2      17.05   17.05 AF
Same          1983 -- SE SE SE   68  485 10 25 3E  2 B 2
Same          1700 -- SW SE SE   86  768 10 25 3E  3 B 2
A__ 49707 00 STK AY G        0 -- SW SW SE   330 2450 10 25 3E  6          42.96   42.96 AF
P__20160122 00 STK GY G      0 -- SW SW SE   330 2450 10 25 3E  6          12.28   12.28 AF
=====

```

```

=====
Total Net Quantities Authorized:   Direct      Storage
Total Requested Amount (AF) =      42.96        .00
Total Permitted Amount (AF) =      12.28        .00
Total Inspected Amount (AF) =         .00        .00
Total Pro_Cert Amount (AF) =         .00        .00
Total Certified Amount (AF) =      17.05        .00
Total Vested Amount (AF) =          .00        .00
TOTAL AMOUNT (AF) =      72.29        .00
=====

```

An * after the source of supply indicates a pending application for change for the file number.
 An * after the ID indicates a 15 AF exemption was granted for 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:

97.086828 West Longitude and 37.884329 North Latitude

GROUNDWATER ONLY

WATER USE CORRESPONDENTS:

```

=====
File Number   Use ST SR
A__ 46211 00 STK NK G
> SOUTH SPRINGS LLC
> DWIGHT BUSENITZ
> 6698 NW INDIANOLA RD
> WHITEWATER KS 67154
-----
A__ 49707 00 STK AY G
> SOUTH SPRINGS LLC
> DWIGHT BUSENITZ
> 6698 NW INDIANOLA RD
> WHITEWATER KS 67154
-----
P__20160122 00 STK GY G
> SOUTH SPRINGS LLC
> DWIGHT BUSENITZ
> 6698 NW INDIANOLA RD
> WHITEWATER KS 67154
=====

```


Draft

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

M E M O R A N D U M X

TO: Files

DATE: July 20, 2017

FROM: Matt Meier

RE: Application, File No. 49,707

South Springs LLC, Dwight Busenitz, has filed the referenced application to appropriate groundwater for stockwatering use, requesting one (1) well, a quantity of 14 million gallons (42.96 acre-feet), and a diversion rate of 99 gallons per minute. The well is to be 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 10, more particularly described as being near a point 330 feet North and 2,450 feet West of the Southeast corner of said section, Township 25 South, Range 3 East, Butler County, within the drainage basin of the Walnut River. Water Right File No. 46,211 overlaps the proposed place of use. The entire proposed place of use is owned by Diane Busenitz. The applicant has signed the application form stating that he has legal access to the point of diversion.

The applicant had identified zero domestic wells and one non-domestic (which was owned by the applicant) within one-half mile of the proposed well. No nearby well owner letters were sent out. According to the WRIS database, File No. 46,211 (which is owned by the applicant) is located 1,841 feet away. The site map indicates that there no domestic wells within $\frac{1}{2}$ mile. The proposed point of diversion meets minimum well spacing to all existing wells. Per the requirements in K.A.R. 5-4-4 for all other aquifers, the minimum well spacing should be one-quarter mile to all other non-domestic wells and 660 feet to domestic wells.

A nearby well log was obtained from the Kansas Geological Survey webiste, which shows top soil from 0 to 3 feet, blue shale from 3 to 20 feet, white gravel clay from 20 to 21 feet, lime stone from 21 to 23 feet, blue shale from 23 to 50 feet, Sandy Blue Shale from 50 to 55 feet, and Blue shale from 55 to 63.5 feet below ground. Static water level was at 18 feet. The applicant listed that the current well was constructed to 120 feet, static water level was 25 feet, and bottom of pump intake pipe is 100 feet.

The source of the water (for overlapping File No. 46,211) had previously been identified as Wellington Formation. Per the requirements in K.A.R. 5-3-11, safe yield is determined by the extent of the aquifer within a two-mile circle radius of the point of diversion, which establishes the area of consideration. Evaluation of the area of consideration included the extent of the aquifer, which provided an area of consideration of 8,042 acres. With a potential annual recharge of 3.66 inches, and 100% of recharge available for appropriation, safe yield was determined to be 2,452.81 acre-feet. Existing water rights have appropriated 17.05 acre-feet, providing a difference of 2435.76 acre-feet available for appropriation, and the application requesting 42.96 acre-feet (14 million gallons) complies with safe yield.

The requested quantity of water, 14 million gallons (42.96 acre-feet), is reasonable for the nondomestic livestock use identified in the application. This brings the authorized quantity on the place of use to 19.554 million gallons (60.01 acre-feet) when combined with File No. 46,211. The requested quantity is for providing drinking water and cleaning operations for 12,000 hogs, which equals 4.46 gallons per head per day. This is quantity falls is less than maximum allowable quantity for any swine listed in K.A.R. 5-3-22(a) (the lowest of which is nursery swine which is allowed 5 gallons per head per day) . Therefore the requested quantity is reasonable for the intended use per K.A.R. 5-3-22(a). There are multiple pending applications in this general area of the state, and they are being worked in priority order to ensure that senior applications are provided the available water.

In accordance with K.S.A. 82a-706c, the Chief Engineer retains full authority to require any water user to install meters, gages, or other measuring devices, which devices he or she or his or her agents may read at any time. Water flowmeter requirements are further described in K.A.R. 5-1-4 through K.A.R. 5-1-12. If any chemical or foreign substance is injected into the water pumped under this permit, a check valve will also need to be installed. A water level measurement tube is not required because this is a proposed new well is less than 100 gpm.

The proposed application is subject to minimum desirable streamflow requirements. The applicant signed, notarized, and returned the required form to our office.

Based on the above discussion, well spacing and safe yield criteria are met, and approval of the application will not impair senior water rights nor prejudicially or unreasonably affect the public interest, it is recommended that the referenced application be approved.

Matthew J. Meier
Environmental Scientist
Permits Unit

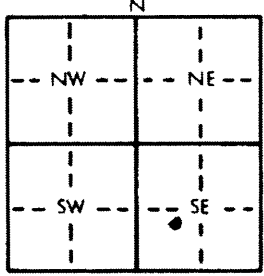
* 7/28/17

Concur w/ Recommendation
Approve It.

1 LOCATION OF WATER WELL: County: Butler Fraction: $\frac{1}{4}$ SE $\frac{1}{4}$ Section Number: 10 Township Number: T 25 S Range Number: R 3 EW

Distance and direction from nearest town or city street address of well if located within city?
 $\frac{1}{2}$ E = $\frac{1}{2}$ S = 2 E = $\frac{3}{4}$ S Whitewater Kansas

2 WATER WELL OWNER: John Budde
 RR#, St. Address, Box #: 421 main Whitewater Kansas
 City, State, ZIP Code: 67154
 Board of Agriculture, Division of Water Resources
 Application Number:

3 LOCATE WELL'S LOCATION WITH AN "X" IN SECTION BOX:

 4 DEPTH OF COMPLETED WELL: 63 1/2 ft. ELEVATION:
 Depth(s) Groundwater Encountered 1. _____ ft. 2. _____ ft. 3. _____ ft.
 WELL'S STATIC WATER LEVEL: 18 ft. below land surface measured on mo/day/yr sep 9, 1983
 Pump test data: Well water was 30 ft. after 1 hours pumping 15 gpm
 Est. Yield 12 gpm: Well water was _____ ft. after _____ hours pumping _____ gpm
 Bore Hole Diameter: 8 in. to 6 3/4 ft., and _____ in. to _____ ft.
 WELL WATER TO BE USED AS:
 Domestic 3 Feedlot 6 Oil field water supply 9 Dewatering 12 Other (Specify below) Livestock
 2 Irrigation 4 Industrial 7 Lawn and garden only 10 Observation well
 Was a chemical/bacteriological sample submitted to Department? Yes _____ No _____; If yes, mo/day/yr sample was submitted _____
 Water Well Disinfected? Yes No

5 TYPE OF BLANK CASING USED:
 1 Steel 3 RMP (SR) 5 Wrought iron 8 Concrete tile CASING JOINTS: Glued _____ Clamped _____
 2 PVC 4 ABS 6 Asbestos-Cement 9 Other (specify below) Welded
 7 Fiberglass SDR Threaded _____
 Blank casing diameter: 5 in. to _____ ft., Dia. 5 in. to 50 ft., Dia. _____ in. to _____ ft.
 Casing height above land surface: 18 in., weight _____ lbs./ft. Wall thickness or gauge No. 3/16
 TYPE OF SCREEN OR PERFORATION MATERIAL:
 1 Steel 3 Stainless steel 5 Fiberglass 8 RMP (SR) 10 Asbestos-cement 11 Other (specify) SDR 26
 2 Brass 4 Galvanized steel 6 Concrete tile 9 ABS 12 None used (open hole)
 SCREEN OR PERFORATION OPENINGS ARE:
 1 Continuous slot 3 Mill slot 5 Gauzed wrapped 8 Saw cut 11 None (open hole)
 2 Louvered shutter 4 Key punched 6 Wire wrapped 9 Drilled holes
 7 Torch cut 10 Other (specify) _____
 SCREEN-PERFORATED INTERVALS: From 20 ft. to 40 ft., From 50 ft. to 60 ft.
 From _____ ft. to _____ ft., From _____ ft. to _____ ft.
 GRAVEL PACK INTERVALS: From 18 ft. to 63 1/2 ft., From _____ ft. to _____ ft.
 From _____ ft. to _____ ft., From _____ ft. to _____ ft.

6 GROUT MATERIAL: 1 Neat cement 2 Cement grout 3 Bentonite 4 Other _____
 Grout intervals: From Top ft. to 10 ft., From _____ ft. to _____ ft.
 What is the nearest source of possible contamination:
 1 Septic tank 4 Lateral lines 7 Pit privy 10 Livestock pens 14 Abandoned water well
 2 Sewer lines 5 Cess pool 8 Sewage lagoon 11 Fuel storage 15 Oil well/Gas well
 3 Watertight sewer lines 6 Seepage pit 9 Feedyard 12 Fertilizer storage 16 Other (specify below) pond
 13 Insecticide storage
 Direction from well? S = E How many feet? 100

FROM	TO	LITHOLOGIC LOG	FROM	TO	LITHOLOGIC LOG
0	3	Top Soil			
3	20	Blue Shale			
20	21	White gravel clay			
21	23	lime Stone Rock			
23	50	Blue Shale			
50	55	Sanding Blue Shale			
55	63 1/2	Blue Shale			

7 CONTRACTOR'S OR LANDOWNER'S CERTIFICATION: This water well was (1) constructed, (2) reconstructed, or (3) plugged under my jurisdiction and was completed on (mo/day/year) sep 9, 1983 and this record is true to the best of my knowledge and belief. Kansas Water Well Contractor's License No. 221 This Water Well Record was completed on (mo/day/yr) Dec 18, 1983
 under the business name of Frank Budde by (signature) Frank Budde

INSTRUCTIONS: Use typewriter or ball point pen, PLEASE PRESS FIRMLY and PRINT clearly. Please fill in blanks, underline or circle the correct answers. Send top three copies to Kansas Department of Health and Environment, Division of Environment, Environmental Geology Section, Topeka, KS 66620. Send one to WATER WELL OWNER and retain one for your records.

8/26/16

(Date)

Kansas Department of Agriculture
Division of Water Resources
David W. Barfield, Chief Engineer
109 SW 9th Street, 2nd Floor
Topeka, Kansas 66612-1283

Re: Application 49,707
File No. _____

Minimum Desirable Streamflow

Dear Sir:

I understand that a Minimum Desirable Streamflow requirement has been established by the legislature for the source of supply to which the above referenced application applies.

I understand that diversion of water pursuant to this application will be subject to regulation any time Minimum Desirable Streamflow requirements are not being met.

I also understand that if this application is approved, there could be times, as determined by the Division of Water Resources, when I would not be allowed to divert water. I realize that this could affect the economics of my decision to appropriate water.

I am aware of the above factors, and with the knowledge thereof, request that the Division of Water Resources proceed with processing and approval, if possible, of the above referenced application.

Diane Busenitz
Signature of Applicant

Diane Busenitz
(Print Applicant's Name)

State of Kansas)
County of Butter) ss

I hereby certify that the foregoing instrument was signed in my presence and sworn to before me this 26th day of August, 2016.

LORI DELLETT
Notary Public - State of Kansas
My Appt. Expires 11-14-18

Lori Dellett
Notary Public

My Commission Expires: 11-14-18

WATER RESOURCES
RECEIVED

SEP 19 2016

KS DEPT OF AGRICULTURE

WATER RESOURCES
RECEIVED

UNACCEPTABLE PRIORITY
AUG 25 2016

KS DEPT OF AGRICULTURE

**MINIMUM DESIRABLE STREAMFLOW FORM TO BE USED WHEN
APPLICABLE WHEN FILING AN APPLICATION FOR PERMIT
TO APPROPRIATE WATER FOR BENEFICIAL USE**

The Kansas Legislature has established minimum desirable streamflows for the streams listed below. If your proposed diversion of water is going to be from one of these watercourses or adjacent alluvial aquifers, please complete the back side of this page and submit it along with your application for permit to appropriate water.

Arkansas River
Big Blue River
Chapman Creek
Chikaskia River
Cottonwood River
Delaware River
Little Arkansas River
Little Blue River
Marais des Cygnes River
Medicine Lodge River
Mill Creek (Wabaunsee Co. area)
Neosho River

Ninnescah River
North Fork Ninnescah River
Rattlesnake Creek
Republican River
Saline River
Smoky Hill River
Solomon River
South Fork Ninnescah
Spring River
Walnut River
Whitewater River

WATER RESOURCES
RECEIVED

SEP 19 2016

KS DEPT OF AGRICULTURE

WATER RESOURCES
RECEIVED

UNACCEPTABLE FOR PRIORITY
AUG 29 2016

KS DEPT OF AGRICULTURE

1320 Research Park Drive
Manhattan, Kansas 66502

Jackie McClaskey, Secretary



Phone: (785) 564-6700
Fax: (785) 564-6777
Email: ksag@kda.ks.gov
www.agriculture.ks.gov
Sam Brownback, Governor

September 19, 2016

DWIGHT BUSENITZ
6698 NW INDIANOLA RD
WHITEWATER KS 67154

FILE COPY

RE: Application
File No. 49707

Dear Sir or Madam:

Your application for permit to appropriate water in 10-25S-3E in Butler County, was received and has been assigned the file number noted above.

As a matter of record, the Division of Water Resources has on hand a large number of applications awaiting processing. Therefore to be fair to all concerned, and so that we can process those applications on hand in the order they were received, we intend to concentrate on the backlog of applications until the issue is resolved. Once review of your application has begun, we will contact you, if additional information is required.

In accordance with the provisions of the Kansas Water Appropriation Act, a portion of which is included below, the use of water as proposed prior to approval of the application is unlawful. Once approved, compliance with the terms, conditions and limitations of the permit is necessary. Conservation of the water resources of Kansas is required.

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

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

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

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

Sincerely,

A handwritten signature in cursive script that reads "Brent A. Turney".

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

BAT: dlw
pc: STAFFORD Field Office
GMD

49,707



1320 Research Park Drive
Manhattan, Kansas 66502
(785) 564-6700

900 SW Jackson, Room 456
Topeka, Kansas 66612
(785) 296-3556

Jackie McClaskey, Secretary

Governor Sam Brownback

September 1, 2016

DWIGHT BUSENITZ
SOUTH SPRINGS LLC
6698 NW INDIANOLA RD
WHITEATER KS 67154

Re: Unacceptable Application

Dear Mr. Busenitz:

Returned herewith is your Application for Permit to Appropriate Water for Beneficial Use and Application for Approval to Change the Place of Use, the Point of Diversion or the Use Made of the Water Under and Existing Water Right received by the Division of Water Resources on August 29, 2016. These applications are not acceptable for filing in their present form.

The required fee as stated on the enclosed fee schedule OR as stated on the bottom of the signature page of the application was not included. Therefore, we find it necessary to return the applications to you. Upon submitting the applications to this office with the required fee, it will be further examined and processed. Based on the information received, \$200 is needed for the filing fee for each individual application for a total of \$400.

Upon return of the acceptable application with required original signatures and information, it will be assigned a priority based upon the date and time it is received in the office of the Chief Engineer. If you have any questions, please contact me at (785) 564-6631 or alex.whitesell@ks.gov.

Sincerely,

Alex Whitesell
Environmental Scientist
Water Appropriation Program

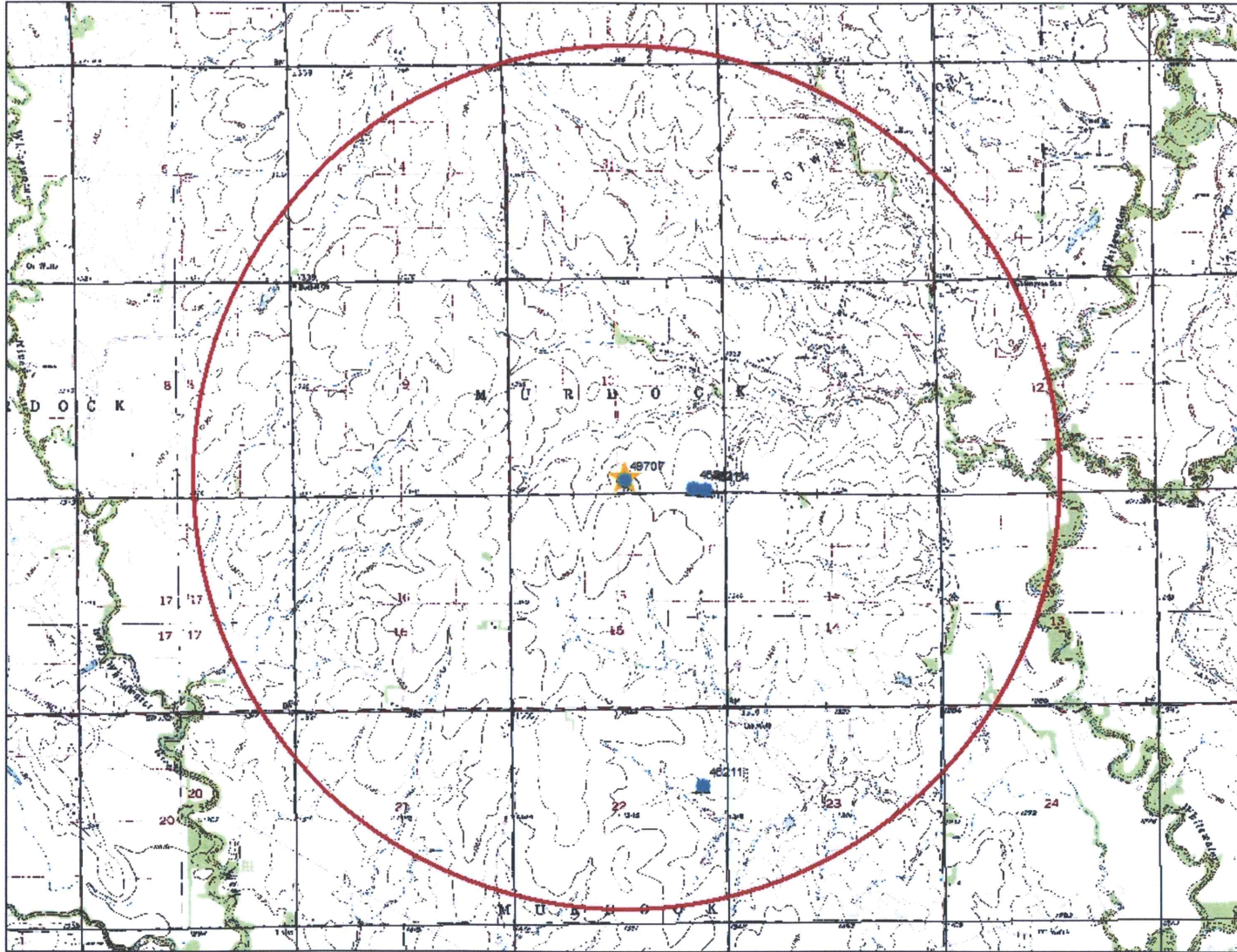
WATER RESOURCES
RECEIVED

SEP 19 2016

KS DEPT OF AGRICULTURE

enclosure

Safe Yield Report Sheet
Proposed Water Right Application
Point of Diversion in NWSWSWE 10-25S-03E



#49,707
meets
S.Y.
available

Analysis Results

 The selected PD is in an area to new appropriations.
 The safe yield, based on the variables listed below is 2,452.81 AF.
 Total prior appropriation in the circle is 60.01 AF.
 Total quantity of water available for appropriation is 2,392.80 AF.

-17.05 = 2435.76

Safe Yield Variables

 The area used for the analysis is set at 8,042 acres.
 Potential annual recharge of the area is estimated to be 3.66 inches.
 The percent of recharge available for appropriation is 100%.

Authorized Quantity values are as of 20-JUL-2017 and are based on Appropriated and Vested ground water right and possible stream nodes for GMD #2. Domestic, Term and Temporary water rights have been excluded.

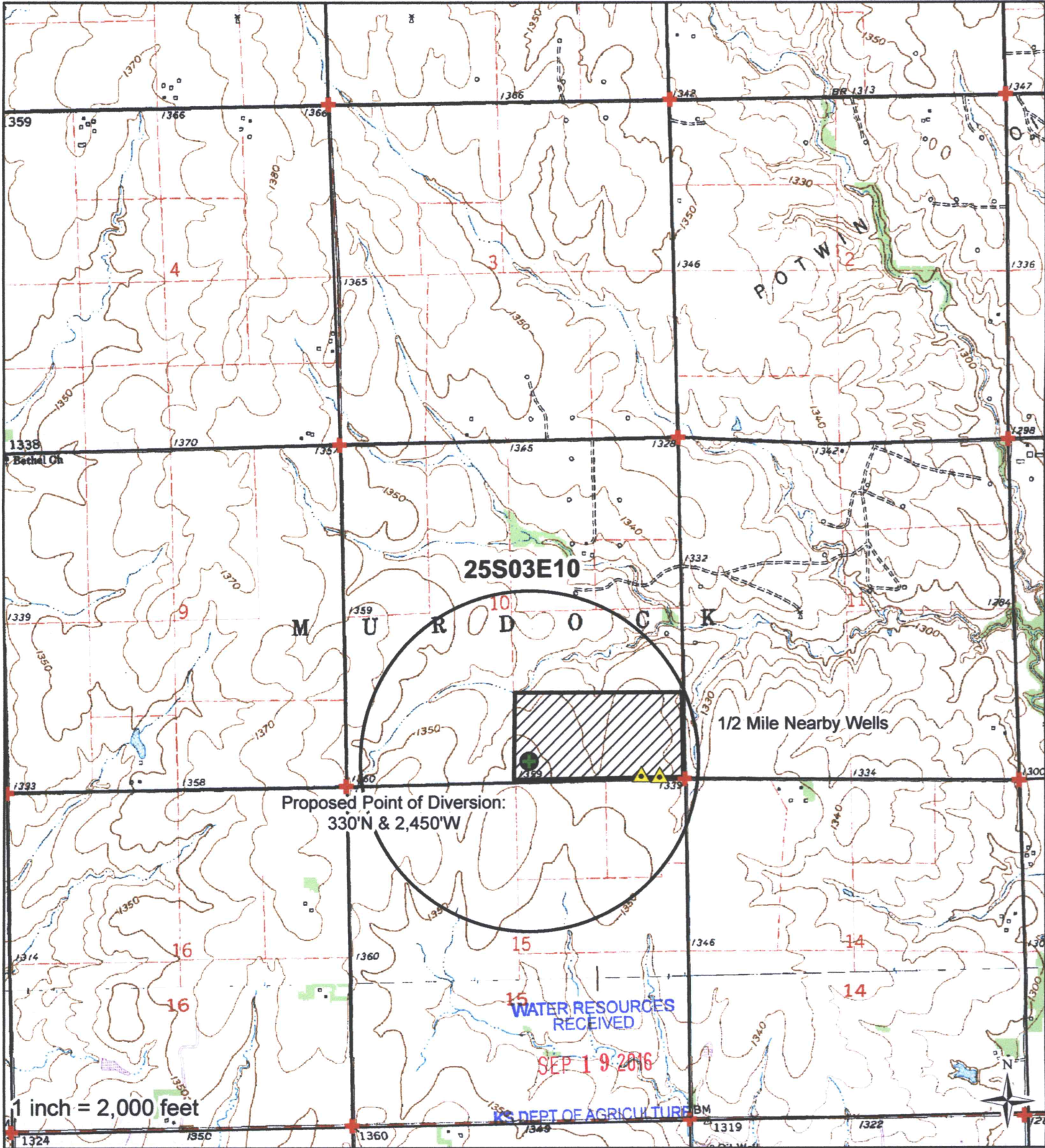
There are 2 water right(s) and 4 point(s) of diversion within the circle.

```

=====
File Number      Use ST SR Q4 Q3 Q2 Q1 FeetN FeetW Sec Twp Rng ID  Qind Auth_Quant  Add_Quant  Tacres  Nacres
-----
A      46211 00 STK NK G      SE SE SE      68  485  10  25 03E  2  WR      17.05      17.05
Same      STK NK G      SW SE SE      86  768  10  25 03E  3  WR
Same      STK NK G      SW SE SE      77  627  10  25 03E  4  WR
A      49707 00 STK AY G      SW SW SE      330 2450 10  25 03E  6  WR      42.96      42.96
=====
  
```

49,707

File No. _____



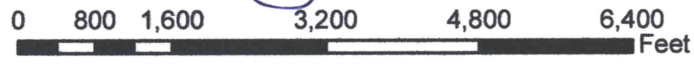
I declare that all water wells or diversion sites using the same source of supply and within 1/2 mile of the proposed point of diversion have been plotted on the application map.

- ★ Domestic Wells
- Proposed PD
- ▲ Water Rights
- ⊕ SFFOsec_corners
- ▨ Proposed Place of Use

Diane Busenich
Signature

8/26/16
Date

UNACCEPTABLE FOR PRIORITY
AUG 29 2016
Created by: Matt Ward
F.O. 2
Date: 7/15/2016



KS DEPT OF AGRICULTURE

WATER RESOURCES RECEIVED

SEP 19 2016

KS DEPT OF AGRICULTURE



I declare that all water wells or diversion sites using the same source of supply and within 1/2 mile of the proposed point of diversion have been plotted on the application map.

- ★ Domestic Wells
- ⊕ Proposed PD
- ▲ Water Rights
- ⊕ SFFOsec_corners

Diane Bustosh

 Signature

8/26/16

 Date

WATER RESOURCES RECEIVED

UNACCEPTABLE FOR PRIORITY
 AUG 29 2016
 Date: 7/15/2016

Created By: Matt Meier
 Date: 7/15/2016

0 800 1,600 3,200 4,800 6,400 Feet

Proposed Place Of Use