

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

1. File Number: <p style="text-align: center;">49,701</p>	2. Status Change Date: <p style="text-align: center;">11/3/2016</p>	3. Field Office: <p style="text-align: center;">3</p>	4. GMD: <p style="text-align: center;">0</p>
5. Status: <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied by DWR/GMD <input type="checkbox"/> Dismiss by Request/Failure to Return			
6. Enclosures: <input checked="" type="checkbox"/> Check Valve <input checked="" type="checkbox"/> N of C Form <input type="checkbox"/> Water Tube <input type="checkbox"/> Driller Copy <input checked="" type="checkbox"/> Meter			
<p>7a. Applicant(s) Person ID 63610 New to system <input type="checkbox"/> Add Seq# _____</p> <p>MIDWAY DEVELOPMENT LLC PO BOX 504 1108 N INDEPENDENCE BELOIT KS 67420</p> <p>7b. Landowner(s) Person ID _____ New to system <input type="checkbox"/> Add Seq# _____</p> <p>7a.</p>	<p>7c. Landowner(s) Person ID _____ New to system <input type="checkbox"/> Add Seq# _____</p> <p>7d. Misc. Person ID _____ New to system <input type="checkbox"/> Add Seq# _____</p>		
<p>8. WUR Correspondent Person ID _____ New to system <input type="checkbox"/> Add Seq# _____ Overlap File (s) WUC Notarized WUC Form <input type="checkbox"/> Agree <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>7a.</p>	<p>9. Use of Water: Changing? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p style="padding-left: 40px;"><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>		
10. Completion Date: 12/31/2017		11. Perfection Date: 12/31/2021	
12. Exp Date: _____			
13. Conservation Plan Required? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Date Required: _____ Date Approved: _____ Date to Comply: _____			
14. Water Level Measuring Device? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Date to Comply: _____ Date WLMD Installed: _____			
Date Prepared: 10/28/2016 By: AM Date Entered: 11/3/2016 By: LLM			

File No. **49,701** 15. Formation Code: Drainage Basin: SOLOMON RIVER County: MC Special Use: Stream:

16. Points of Diversion										17. Rate and Quantity					
MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Authorized		Additional		Overlap PD Files
											Rate gpm	Quantity af	Rate gpm	Quantity af	
CHK	85613	SW SW NW	25	7S	7W	6	2965	5245			1500	83	1500	83	NONE
CHK	85614	SW SW NE	26	7S	7W	12	2862	2622							

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

19. Limitation: _____ 83 _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) 24,324 Glen Elder Irrigation District
 Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____

20. Meter Required? Yes No To be installed by 12/31/2017 Date Acceptable Meter Installed _____

21. Place of Use							NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg?	Overlap Files		
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					
CHK	68033	25	7S	7W	2									1											1	7a	NO	Glen Elder ID
CHK	68032	26	7S	7W	6			7.5		19.4	37.7														64.6	7a	NO	Glen Elder ID

Comments: PU overlaps with Glen Elder irrigation District Inclusion 2016
special condition: permission for off season diversion

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: October 28, 2016

FROM: Austin McColloch

RE: New Application,
File No. 49,701

Dennis Lutgen on behalf of Midway Development LLC, has filed the above referenced application to appropriate water from the Solomon River for irrigation use. The applicant is proposing two pump sites, and requesting a quantity of 83 acre-feet of surface water at a diversion rate of 1,500 gallons per minute to irrigate 65.6 acres in Mitchell County, Kansas.

The proposed pumpsite (A) is located in the Southwest Quarter of the Southwest Quarter of the Northwest Quarter of Section 25, and pumpsite (B) is located in the Southwest Quarter of the Southwest Quarter of the Northeast Quarter of Section 26, all in Township 7 South, Range 7 West, Mitchell County, Kansas. The pump sites are located on the Solomon River approximately 2,800 feet from each other on opposite sides of the place of use.

The place of use is 65.6 acres as follows: 64.6 acres in the Northeast Quarter of Section 26; 1 acre in the Northwest Quarter of Section 25, all in Township 7 South, Range 7 West, Mitchell County, Kansas. There is no overlap in the points of diversion or place of use.

The property where both pump sites are located as well as the place of use are all owned by the applicant. The applicant has included documents on approval for inclusion into the Glen Elder Irrigation District for the place of use. The applicant has a written contract with the District in order to purchase water from the District for each irrigation season. The overall limitation on the place of use will be based on K.A.R. 5-3-24 for the reasonable quantity for irrigation of 1.3 acre-feet per acre for Mitchell County and the authorized diversion allotted from Water Right, File No. 24,325 Glen Elder Irrigation District No. 8.

There is one non-domestic surface water diversion (File No. 4,164) located within one-half mile from the two pump sites. It is located 1,500 feet from pumpsite (B). Nearby letters were sent to landowners up and downstream from the proposed pumpsites on October 12, 2016. No written correspondence has been received.

In accordance with K.S.A. 82a-706c, the Chief Engineer retains full authority to require any water user to install meters, gauges, 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. The permit will also contain standard conditions related to requesting permission prior to diverting, and not stopping flow at the first riffle below the point of diversion.

Kelly Stewart, Water Commissioner, Stockton Field Office, recommended that the referenced application be approved in an e-mail dated October 28, 2016. The permit will be conditioned with the standard format regarding diverting water from the Solomon River, July 1 through September 31 each year. The applicant then will purchase water from the District during these times.

Based on the above discussion, the area is open to new appropriations, approval of the new application will not impair senior water rights nor prejudicially or unreasonably affect the public interest, and is recommended that the referenced application be approved.



Austin McCulloch
Environmental Scientist

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

November 7, 2016

MIDWAY DEVELOPMENT LLC
ATTN DENNIS LUTGEN
PO BOX 504 1108 N INDEPENDENCE
BELOIT KS 67420

FILE COPY

Re: Appropriation of Water,
File No. 49,701

Dear Mr. Lutgen:

There is enclosed 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 locations 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 the permit, with specific reference to the conditions described in Paragraph Nos. 17 - 21, of the permit. Water meters are required and you must install these 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.

The enclosed forms must be used to notify the Chief Engineer that the proposed diversion works have been completed. Failure to notify the Chief Engineer of the Division of Water Resources of the completion of the diversion works and pay the field inspection fees within the time allowed, or within any authorized extension of time thereof, will result in the dismissal of these permits.

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 enclosed permits to complete diversion works or to perfect an appropriation. 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 rights.

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,

Brent A. Turney, P.G.
Change Application Unit Supervisor
Division of Water Resources

BAT:am

Enclosures

pc: Stockton Field Office



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)

FILE COPY

This is to certify that I have examined Application, **File No. 49,701** of the applicant

**MIDWAY DEVELOPMENT LLC
PO BOX 504 1108 N INDEPENDENCE
BELOIT KS 67420**

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 8, 2016**.

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	
25	7S	7W						1.0											1.0
26	7S	7W	7.5		19.4	37.7													64.6

3. That the authorized source from which the appropriation shall be made is surface water from the Solomon River, to be diverted by means of two (2) pumpsites; one (1) located in the Southwest Quarter of the Southwest Quarter of the Northwest Quarter (SW¼ SW¼ NW¼) of Section 25, more particularly described as being near a point 2,965 feet North and 5,245 feet West of the Southeast corner of said section, and one (1) located in the Southwest Quarter of the Southwest Quarter of the Northeast Quarter (SW¼ SW¼ NE¼) of Section 26, more particularly described as being near a point 2,862 feet North and 2,622 feet West of the Southeast corner of said section, both in Township 7 South, Range 7 West, Mitchell County, Kansas, located substantially as shown on the topographic map accompanying the application.

4. That the appropriation sought shall be limited to a maximum diversion rate not in excess of **1,500 gallons per minute (3.34 c.f.s.)** and to a total quantity not to exceed **83 acre-feet** of water per calendar year for irrigation.

5. That installation of works for diversion of water shall be completed on or before **December 31, 2017** 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, 2021** 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, checkvalve 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.

17. That the diversion of natural flow shall not take place unless there is water available to satisfy all demands by senior water rights and permits.

18. That the stream flow shall not be stopped at the first riffle below the point of diversion while diversion is taking place under the authority of this permit.

19. That during the period October 1 through June 30, the verbal or written permission of the Chief Engineer, or an authorizing representative of the Chief Engineer, shall be obtained in order to divert water each time the applicant desires to divert water.

20. That during the period July 1 through September 30 each calendar year, no direct diversions of surface water shall be permitted unless written permission is obtained from the Chief Engineer, or the Chief Engineer's authorized representative.

21. That the quantity of water approved under this permit is further limited to the quantity which combined with authorized diversions from the Glen Elder Irrigation District No. 8, Water Right File No. 24,324 will provide a total not to exceed 83 acre-feet of water per calendar year for irrigation use on the land described herein.

This Order shall become a final agency action, as defined by K.S.A. 77-607(b), without further notice to the parties, if a request for hearing or a petition for administrative review is not filed as set forth below.

Request for Hearing. According to K.A.R. 5-14-3(c), any party who desires a hearing must submit a request within 15 days after the date shown on the Certificate of Service attached to this Order. Filing a request for a hearing will give you the opportunity to submit additional facts for consideration, contest any findings made by the Chief Engineer, or present any other information you believe should be considered in this matter. A timely-filed request for hearing will stay the deadline for requesting administrative review of this Order pending the outcome of the hearing.

Petition for Review. The applicant, if aggrieved by this Order, may petition for administrative review, pursuant to K.S.A. 82a-711(c) and K.S.A. 82a-1901(a). The petition must be filed within 30 days after the date shown on the Certificate of Service attached to this Order and must set forth the basis for the review, unless stayed by the timely filing of a request for hearing.

Any request for hearing or petition for administrative review shall be in writing and shall be submitted to the attention of: Chief Legal Counsel, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, Fax: (785) 564-6777.

Ordered this 3rd day of November, 2016, in Topeka, Shawnee County, Kansas.

Lane P. Letourneau

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

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 3rd day of November, 2016, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.



Amber L. Herring
Notary Public

CERTIFICATE OF SERVICE

On this ^{7th} day of *November*, 2016, I hereby certify that the foregoing Approval of Application, File No. 49,701, dated *November 3*, 2016, was mailed postage prepaid, first class, US mail to the following:

MIDWAY DEVELOPMENT LLC
PO BOX 504 1108 N INDEPENDENCE
BELOIT KS 67420

With photocopies to:

Stafford Field Office

A handwritten signature in cursive script, reading "Danielle Wilson", written over a horizontal line.

Division of Water Resources

APPLICATION COMPLETE
10/28/16
Reviewer AM

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Jackie McClaskey, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

File Number 49,701
This item to be completed by the Division of Water Resources.

WATER RESOURCES RECEIVED

WATER RESOURCES RECEIVED

OCT 11 2016

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 08 2016
11:58
KS DEPT OF AGRICULTURE

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): Midway Development LLC - Dennis Lutgen
Address: 1108 North Independence, PO BOX 504
City: Beloit State KS Zip Code 67420
Telephone Number: (785) 738-2422

2. The source of water is: surface water in Solomon River (stream)
OR groundwater in _____ (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 83 acre-feet OR _____ gallons per calendar year, to be diverted at a maximum rate of 1500 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. 3 GMD 0 Meets K.A.R. 5-3-1 (YES/NO) Use FR Source GAS County MC By AW Date 9/8/16
Code REG Fee \$ 200 TR # _____ Receipt Date 9/8/16 Check # 6563

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 NW quarter of Section 25, more particularly described as being near a point 2965 feet North and 5245 feet West of the Southeast corner of said section, in Township 07 South, Range 07 West, Mitchell County, Kansas.

(B) One in the SW quarter of the SW quarter of the NE quarter of Section 26, more particularly described as being near a point 2862 feet North and 2622 feet West of the Southeast corner of said section, in Township 07 South, Range 07 West, Mitchell 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):

(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 Aug 29, 2014 _____
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 pump _____
(number of wells, pumps or dams, etc.)

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

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

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SEP 08 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 _____

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 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.

This will be overlapped with WR # 24324 - Glen Elder Irrigation District

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OCT 11 2016

KS DEPT OF AGRICULTURE

WATER RESOURCES RECEIVED

SEP 08 2016

KS DEPT OF AGRICULTURE

SCANNED

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
(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):

(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 Beloit, Kansas, this 26 day of August, 2016.
(month) (year)



(Applicant Signature)

By _____
(Agent or Officer Signature)

(Agent or Officer - Please Print)

Assisted by Steven Walters STKfo Date: 08/15/2016
(office/title)

WATER RESOURCES RECEIVED
OCT 11 2016
KS DEPT OF AGRICULTURE

WATER RESOURCES RECEIVED
SEP 08 2016

KS DEPT OF AGRICULTURE
SCANNED

IRRIGATION USE SUPPLEMENTAL SHEET

File No. 49,701

Name of Applicant (Please Print): Midway Development LLC

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: Midway Development LLC

ADDRESS: 1108 North Independence, Box 504, Beloit KS 67420

S	T	R	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
26	07S	07W	7.5		19.4	37.7													64.6
25	07S	07W							1										1

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	

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	

WATER RESOURCES
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WATER RESOURCES
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2. Please complete the following information for the description of the operation for the irrigation project. Attach supplemental sheets as needed.

a. Indicate the soils in the field(s) and their intake rates:

Soil Name	Percent of field (%)	Intake Rate (in/hr)	Irrigation Design Group
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
Total:	100 %		

b. Estimate the average land slope in the field(s): _____ %

Estimate the maximum land slope in the field(s): _____ %

c. Type of irrigation system you propose to use (check one):

- Center pivot Center pivot - LEPA "Big gun" sprinkler
 Gravity system (furrows) Gravity system (borders) Sideroll sprinkler

Other, please describe: _____

d. System design features:

i. Describe how you will control tailwater:

ii. For sprinkler systems:

(1) Estimate the operating pressure at the distribution system: _____ psi

(2) What is the sprinkler package design rate? _____ gpm

(3) What is the wetted diameter (twice the distance the sprinkler throws water) of a sprinkler on the outer 100 feet of the system? _____ feet

(4) Please include a copy of the sprinkler package design information.

e. Crop(s) you intend to irrigate. Please note any planned crop rotations:

f. Please describe how you will determine when to irrigate and how much water to apply (particularly important if you do not plan a full irrigation).

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

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**GLEN ELDER IRRIGATION DISTRICT # 8
INDIVIDUAL MEMBER WATER CONTRACT**

CONTRACT NO: 35
DATE: 9/30/2016

DISTRICT MEMBER:

WHEREAS, Glen Elder Irrigation District #8 hereinafter referred to as the "District" has entered into a contract with the United States Department of the Interior, Bureau of Reclamation, Great Plains Region, for the purchase of up to 18,000 acre-feet of water from the Waconda Lake for sale to its members and,

WHEREAS, Midway Development, hereinafter referred to as "Member," is a member of the District and entitled to purchase water, the parties agree as follows:

PURPOSE: District shall furnish irrigation water service to supplement the Member's natural flow water rights.

TERM: This contract becomes effective on the date first-above written and will continue in force through December 31, ~~2016~~ 2017 EVG 9/30/16

WATER ENTITLEMENT: Subject to the terms and conditions herein stated, the District shall make available the maximum acre-feet of water to the Member allowable under State and Federal Law.

PAYMENTS: The rate for water made available pursuant to this contract shall be \$32.00 per acre foot. A minimum payment of \$150.00 or the number of acres to be irrigated x 3/12 \$32.00 whichever is greater, must accompany the signed contract. All payments for additional water must be made in advance of use. Any contract not signed and minimum paid by July 15, 2016, is subject to an 18% penalty on minimum payment.

DELINQUENT PAYMENTS: The District shall have the absolute right to refuse to provide water to any member who owes the District any funds whether it be for assessments or water charges or any other obligation whatsoever.

SPECIAL CONDITIONS AND STANDARD PROVISIONS: Special conditions are specified in Exhibit A.

The parties have executed this contract the day and year written above and agree to the terms, provisions, special conditions, and standard provisions expressed or referenced herein.

GLEN ELDER IRRIGATION DISTRICT #8

MEMBER

By [Signature]
Title District Supervisor

By [Signature]
Title President

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REVERSE EXCHANGE AGREEMENT

THIS AGREEMENT is entered into by and between Midway Development, LLC, hereinafter referred to as "Exchangor", and Northwest Mortgage Co., hereinafter referred to as "Intermediary".

RECITALS

WHEREAS, Exchangor is purchasing that real property, hereinafter referred to as "Property A", described in Exhibit "A" attached hereto and hereby incorporated by reference herein; and

WHEREAS, Exchangor has entered into an agreement to close the transaction to purchase the Exchanged Property with NCK Title, LLC, hereinafter referred to as "Closing Agent"; and

WHEREAS, Exchangor desires only to exchange Property A for like-kind property, hereinafter referred to as "Replacement Property", in such a way as to qualify for tax-deferred treatment under I.R.C. Section 1031 and similar state statutes; and

WHEREAS, Exchangor, with a continued intent to complete a tax-deferred exchange pursuant to I.R.C. Section 1031, is willing to allow the amendment of the agreement to close the Exchanged Property to substitute Intermediary as the Buyer of Property A pending the sale of suitable Replacement Property as specified herein; and

WHEREAS, Intermediary is willing to accept and to hold the title to Property A as set forth in and received from the Closing Agent, and to utilize the same in transferring said property to Exchangor upon the sale of Exchangor's Replacement Property to complete the tax-deferred exchange according to the terms and conditions set forth herein;

WHEREAS, Exchangor shall indemnify, defend, protect and hold Intermediary free and harmless from and against any and all claims, liabilities, penalties, forfeitures, losses or expenses (including attorney fees) or death of, or injury to any person or damage to any property whatsoever, arising from or caused in whole or in part, directly or indirectly, by the presence in, on, under or

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about the Relinquished Property or the Replacement Property or any improvements thereon of any "Hazardous Materials" (as hereinafter defined) or the use, analysis, discharge or generation of Hazardous Materials to, in, on, under or about or from any such property or improvements thereon. Exchangor's obligations hereunder shall include, without limitation, and whether foreseeable or unforeseeable, all costs of any required or necessary repair, clean-up or detoxification or decontamination of any of said Property or any improvements, and the preparation and implementation of any closure, remedial action or other required plans in connection therewith, and these obligations to indemnify Intermediary shall survive the transfer of any such Property or improvements to Intermediary's successor in interest. For purposes of the indemnity provisions hereof, any acts or omissions of, or by, employees, agents, assignees, or representatives of Exchangor or others acting for or on behalf of Exchangor (whether or not they are negligent, intentional, willful or unlawful) shall be strictly attributable to Exchangor. For the purposes of this paragraph, "Hazardous Materials" shall include but not be limited to substances defined as "hazardous substance," "Hazardous Materials" or "toxic substances" in the comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq.; the Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq.; or as any said above mentioned laws may be amended from time to time, and in the regulations adopted and the publications promulgated pursuant to said laws.

NOW, THEREFORE, the parties hereto agree as follows:

1. Subject to and conditioned upon the close of the Exchange Property Purchase and subject to and upon the terms and conditions set forth in this Agreement, including the authority for direct deedding contained in Paragraph 13 hereof, Exchangor hereby agrees to advance

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sufficient sums to the Intermediary for the purchase of Property A to be titled in the Intermediary's name until such time as the Exchangor shall sell the Replacement Property identified and to the extent that the sale of the Replacement Property does not secure sufficient funds with which to repay to Exchangor the monies advanced by Exchangor to the Intermediary said indebtedness will be discharged.

2. Exchangor shall convey all of Exchangor's right, title and interest in and to Property A, under the provisions of Paragraph 13 hereof authorizing direct deeding, by delivery to the Closing Agent, on or before the closing of the Exchange Property Purchase Agreement, the total purchase price owed by the Purchaser. Exchangor shall also execute and deliver to the Closing Agent on or before closing the Exchange Property Purchase Agreement and Assignment of Real Estate Purchase and Sale Agreement for Property A, assigning Exchangor's rights and obligations thereunder to Intermediary.

PROVIDED, HOWEVER, that if Exchangor so requests, and Intermediary agrees, title shall be conveyed by Seller to Intermediary who will then convey to the Exchangor (sequential deeding) rather than by direct deeding.

3. In order to account for and monitor the Exchange Value in respect to Property A, Intermediary agrees to establish an exchange account concerning this transaction in Intermediary's books and records in favor of Exchangor (hereinafter referred to as the "Exchange Account"). The opening entry for the Exchange Account shall be the Exchange Value with respect to Property A as determined under Paragraph 4 below. Thereafter, the balance in the Exchange Account shall be reduced from time to time by (i) Intermediary's fees and costs, (ii) the Exchange Value with respect to each Replacement Property (i.e., all amounts expended by Intermediary in connection with the sale of each Replacement Property

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as determined under Paragraph 5 below), and (iii) any other payments made or costs or expenses incurred by Intermediary for which Exchangor is obligated or responsible under this Agreement. The balance of the Exchange Value remaining in the Exchange Account also shall be increased in accordance with Paragraph 16 below. Intermediary shall provide Exchangor with an accounting, hereinafter referred to as "Closing Statement", of the Exchange Value in the Exchange Account as soon after the one hundred eightieth (180th) day (or closing of the final Replacement Property if sooner) as is practical. In preparing the Closing Statement, Intermediary shall be relying upon information and settlement statements supplied by third party escrow companies, and Exchangor hereby releases Intermediary from any liability whatsoever in connection with such reliance.

4. With respect to the Replacement Property, "Exchange Value" shall mean the total costs and expenses incurred by Intermediary, in accordance with the provisions of this Agreement in connection with the acquisition by and conveyance thereof to Exchangor, including, without limitation, the aggregate amount of all deposits and expenditures by Intermediary in respect to the purchase price, real estate commissions, prorations of income and expenses (including rents, interest on encumbrances, real estate taxes, etc.), closing costs, title insurance premiums, escrow fees, and any other amounts otherwise chargeable to Intermediary in connection with the acquisition and conveyance of the Replacement Property to Exchangor, but excluding any existing mortgage, trust deed or other secured loans which may be assumed or taken subject to by Exchangor.
5. With respect to Property A, "Exchange Value" shall mean the total consideration paid by Intermediary at the closing of the Purchase and Sale Agreement of the Exchange Property. All real estate commissions, prorations of income and expenses (including rents, interest on

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encumbrances, real estate taxes, etc.), closing costs, title insurance premiums, escrow fees, and any other amounts otherwise chargeable to Exchangor in the closing of the Purchase and Sale Agreement on the Exchange Property as Buyer of Property A, shall be charged to Intermediary and shall reduce the Exchange Value of Property A.

6. Upon the closing of the Purchase and Sale Agreement of the Exchange Property, the title to the real property will be held by Intermediary pursuant to the terms of this Agreement.
7. Intermediary is instructed to deposit all cash funds received into banks, savings and loan accounts, money market deposit accounts, repurchase agreements, in time deposits, or in such other investments as Exchangor may direct.
8. In no event shall Intermediary be required to make a cash payment for Exchange Property, including all costs and expenses of said purchase, in excess of the amount of the Exchange Value then remaining in the Exchange Account.
9. In the event additional cash is necessary to acquire the Exchange Property, said amount (i) shall be advanced by Exchangor to Intermediary; (ii) shall be used by Intermediary to acquire the Exchange Property; (iii) shall be considered an interest-free loan from Exchangor to Intermediary (fully satisfied upon the payment of proceeds from the sale of Replacement Property to Exchangor); and (iv) in the event the Replacement Property is not sold to Exchangor, shall be repaid by Intermediary to Exchangor upon the written demand of Exchangor; OR said amount (v) shall be advanced by Exchangor to Closing Agent of the Exchange Property.
10. For purposes of this Agreement:
 - a. The period between the "conveyance date" and midnight of the 45th day thereafter is defined as the identification period; and

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- b. The period between the "conveyance date" and midnight of the earlier of the 180th day thereafter or the due date (including extensions) of the taxpayer's tax return for the taxable year in which the transfer of the exchange property occurs is defined as the exchange period.
11. Within forty-five (45) days after the purchase of Property A by Intermediary on behalf of the Exchangor, hereinafter referred to as the "Conveyance Date", Exchangor shall, by written notice to Intermediary, identify the sale of the Replacement Property anywhere in the United States. Such notice from Exchangor shall unambiguously identify the Replacement Property by street address or legal description. Thereafter, Intermediary shall undertake to sell the Replacement Property upon such terms or pursuant to such agreement as Exchangor has negotiated with the Buyer of such Replacement Property. Provided, however, that Intermediary shall incur no liability to Exchangor hereunder if efforts to sell Replacement Property on the terms and conditions specified by Exchangor shall be unsuccessful. All agreements to sell shall be executed by or assigned to Intermediary and title to the Replacement Property shall be recorded in Intermediary's name. Intermediary shall immediately thereafter convey the Replacement Property to Buyer subject to, and subject only to, such title defects or exceptions as Exchangor has approved, in writing, prior to the sale; provided, however, that Intermediary's conveyance to Exchangor shall constitute full compliance with any express or implied warranties to which Intermediary would otherwise be subject. In the alternative, title to the Replacement Property may be conveyed by direct deed from the Exchangor to Buyer in accordance with Paragraph 13 hereof.
12. The Intermediary shall not be required to make any warranties or representations regarding Property A which are not guaranteed by Exchangor. Further, the Intermediary shall not be required to make any warranties or representations regarding the Replacement Property

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which would survive as to the Intermediary following conveyance of the Replacement Property.

13. To the extent permitted by I.R.C. Section 1031 and the Regulations promulgated thereunder and Private Letter Rulings, legal title to Property A and/or the Replacement Property may be transferred directly from the Exchangor to the Purchaser of Property A and/or from the Replacement Property Buyer to Exchangor. The means for accomplishing such direct deedding may require the execution of an Assignment of Real Estate Purchase and Sale Agreement between the Exchangor and the Intermediary for Property A and a separate such agreement between the Exchangor and the Intermediary for the Replacement Property.
14. Exchangor acknowledges and agrees that:
 - a. The Intermediary shall not be required to assume any secured loan on any Exchange Property or to execute any promissory notes or other evidence of indebtedness in connection with such acquisitions which would impose any personal liability on officers and/or directors of the Intermediary for the payment thereof.
 - b. In no event shall the Intermediary be required to pay a cash amount for the Exchange Property, including all costs and expenses incurred in connection with such purchase, in excess of the Exchange Value then held in the Exchange Account.
 - c. The Intermediary shall act only in accordance with the written instructions of Exchangor and on the terms of this Agreement in making said acquisition, and may refuse to proceed with said acquisition in the event said instructions exceed the scope of this Agreement.
15. Except for payments made from the Exchange Account to reimburse Exchangor for expenses paid by Exchangor for the purchase of Property A or the sale of the Replacement Property, such as appraisal or title reports, earnest money, etc., which reimbursement shall be permitted upon written request from Exchangor and which payments are authorized under Treas. Reg. 1.1031(k)-1(g)(7)(ii), the Exchangor shall not be entitled to receive any portion of the Exchange Account or any growth factor thereof nor to receive, pledge, borrow or

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otherwise obtain the benefits of money or other property prior to the termination of this Agreement.

16. All interest earned on the Exchange Account shall be for the benefit of Exchangor and shall be reported as interest income on Exchangor's tax return, regardless of whether said interest is applied to the purchase of Exchange Property or is received by Exchangor in cash as part of the distribution of the Exchange Account to Exchangor upon termination of this agreement.
17. This Agreement shall terminate and the Exchange Account shall be paid to Exchangor by the Intermediary under the following conditions:
 - a. If the Exchangor fails to identify Replacement Property within forty-five (45) days after the Conveyance Date, the exchange has failed and this Agreement shall terminate and the Intermediary shall pay the Exchange Account to Exchangor after the 45th day.
 - b. If Exchangor has timely identified Replacement Property, after Exchangor has received all of the identified Replacement Property to which Exchangor is entitled, this Agreement shall terminate and the Intermediary shall pay the Exchange Account to Exchangor.
 - c. If Exchangor identifies Replacement Property, following the occurrence after the end of the identification period of a material and substantial contingency that (i) relates to the deferred exchange, (ii) is provided for in writing, and (iii) is beyond the control of Exchangor and of any disqualified person as defined in Treas. Reg. 1.1031(k)-1(k), other than the person obligated to transfer the Replacement Property to the Exchangor, this Agreement shall terminate and the Intermediary shall pay the Exchange Account to Exchangor.
 - d. Otherwise, at the end of the Exchange Period.
18. Any dispute as to the interpretation of the content, extent or applicability of this Agreement or Exchangor's instructions to Intermediary shall be immediately arbitrated.
 - a. Exchangor shall select any arbitrator on the then existing arbitration panel of the Sheridan County District Court who primarily deals in real property matters.

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- b. Within three (3) working days after the arbitrator's selection and acceptance of appointment and written notification to Intermediary, Exchangor and Intermediary shall each furnish to the other and to said selected arbitrator a written statement of their respective positions regarding said dispute and shall furnish, as reasonably requested by arbitrator, any further answering or explanatory statements that the arbitrator may require.
 - c. The parties agree to be bound by the decision of said arbitrator and agree that said arbitration is in lieu of and instead of any rights to judicial proceedings and determinations that the parties may have.
 - d. Except as provided in subparagraphs E and F below, the costs of arbitration are to be borne equally between Exchangor and Intermediary and each party shall be responsible for its own attorney fees.
 - e. In any controversy, claim or dispute between the parties hereto arising out of or relating to this Agreement or the breach thereof, the prevailing party shall be entitled to receive from the other party reasonable expenses, attorney fees and costs.
 - f. The prevailing party shall be entitled to enforce the decision of the arbitrator by receiving a judgment, including attorney fees in obtaining such judgment, in the Sheridan County District Court.
19. All notices provided or required to be given under this Agreement shall be deemed to have been duly given, served and delivered if mailed by United States registered or certified mail addressed to the party entitled to receive the same at the address specified in this Agreement; provided, however, that any party may change its mailing address by giving to the other parties written notice of its new mailing address, and any notice so given shall be deemed to have been given, served and delivered on the date following the date on which said notice was mailed in the manner herein provided.
20. Time is of the essence of this Agreement.
21. This Agreement may not be amended or modified in any respect whatsoever except by an instrument in writing signed by the parties hereto. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof. If any provisions

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of this Agreement shall be held invalid, such invalidity shall not affect any other provision hereof.

22. This Agreement shall be construed in accordance with the laws of the State of Kansas. This Agreement may be executed in duplicate counterparts, each of which so executed shall, irrespective of the date of its execution and delivery, be deemed an original, and said counterparts together shall constitute one and the same agreement.

23. This Agreement inures to the benefit of and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns.

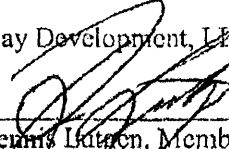
IN WITNESS WHEREOF, the parties have caused this Agreement to be executed this _____ day of July, 2016.

ADDRESSES FOR NOTICES
TO BE MAILED:

Midway Development, LLC
PO Box 504
Beloit, KS 67420
785-738-8418

EXCHANGOR:

Midway Development, LLC

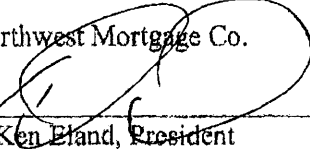
By 
Dennis Lutgen, Member

Tax I.D. No. 48-1253190

Attachment: Exhibit A

INTERMEDIARY:

Northwest Mortgage Co.

By 
Ken Eland, President
P.O. Box 565
Hoxie, KS 67740
785-675-3217
785-675-3983 Fax

Exchange File Number: 2016-44

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EXHIBIT "A"

LEGAL DESCRIPTION

Part of NE/4 26-7-7, lying South of the center of the Solomon River, Mitchell County, Kansas.

E/2SE/4 6-8-5, except the North 16'. Cloud County, Kansas.

East 8' of the W/2SE/4 6-8-5, Cloud County, Kansas.

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Lutjen Landowner List

ZIEGLER, PATRICK J & CATHLEEN L
1401 N MILL
BELOIT KS 67420

KADEL FARMS LLC
3196 J RD
BELOIT KS 67420

THOMAS, MAX, SUTTER, MADELYN, THOMAS, COLE
3192 KALA TR
BELOIT KS 67420

FILE, ALLYN LEE
3633 J RD
BELOIT KS 67420

HUNTER SALES COMPANY INC
1050 MURCHISON RD
GOLDSTON NC 27252

FILE, DAN J
710 N CONROY
BELOIT KS 67420

SMITH FAMILY LIVING TR & FILE, DAN J
1400 E FAIRVIEW ST
CHANDLER AZ 85225

KADEL LIMITED PARTNERSHIP
3196 J RD
BELOIT KS 67420

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FEE SCHEDULE

- 1. The fee for an application for a permit to appropriate water for beneficial use, except for domestic use, shall be (see paragraph No. 2 below if requesting storage):

ACRE-FEET	FEE
0-100	\$200.00
101-320	\$300.00
More than 320	\$300.00 plus \$20.00 for each additional 100 acre-feet or any part thereof.

- 2. The fee for an application in which storage is requested, except for domestic use, shall be:

ACRE-FEET	FEE
0-250	\$200.00
More than 250	\$200.00 plus \$20.00 for each additional 250 acre-feet of storage or any part thereof.

Note: If an application requests both direct use *and* storage, the fee charged shall be as determined under No. 1 or No. 2 above, whichever is greater, but not both fees.

- 3. The fee for an application for a permit to appropriate water for water power or dewatering purposes shall be \$100.00 plus \$200.00 for each 100 cubic feet per second, or part thereof, of the diversion rate requested.

Note: The applicant shall notify the Chief Engineer and pay the statutorily required field inspection fee of \$400.00 when construction of the works for diversion has been completed, except that for applications filed on or after July 1, 2009, for works constructed for sediment control use and for evaporation from a groundwater pit for industrial use shall be accompanied by a field inspection fee of \$200.00.

MAKE CHECKS PAYABLE TO THE KANSAS DEPARTMENT OF AGRICULTURE

ATTENTION

A Water Conservation Plan may be required per K.S.A. 82a-733. A statement that your application for permit to appropriate water may be subject to the minimum desirable streamflow requirements per K.S.A. 82a-703a, b, and c may also be required from you. After the Division of Water Resources has had the opportunity to review your application, you will be notified whether or not you will need to submit a Water Conservation Plan. You also may be required to install a water flow meter or water stage measuring device on your diversion works prior to diverting water. There may be other special conditions or Groundwater Management District regulations that you will need to comply with if this application is approved.

CONVERSION FACTORS

- 1 acre-foot equals 325,851 gallons
- 1 million gallons equal 3.07 acre-feet

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SCANNED

McColloch, Austin

From: Stewart, Kelly
Sent: Friday, October 28, 2016 9:28 AM
To: McColloch, Austin
Cc: Billinger, Mark; Hageman, Rebecca
Subject: RE: Recommendation, File No. 49,701

Austin,

I have no objection to the approval of this application.

Kelly

From: McColloch, Austin
Sent: Friday, October 28, 2016 9:06 AM
To: Stewart, Kelly <Kelly.Stewart@ks.gov>
Cc: Billinger, Mark <Mark.Billinger@ks.gov>
Subject: Recommendation, File No. 49,701

Morning,

I would like your recommendation on the referenced application. Attached is my memo.

Thanks,

Austin McColloch
Environmental Scientist
Ph: (785) 564-6643



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

October 12, 2016

FILE COPY

ZIEGLER, PATRICK J & CATHLEEN L
1401 N MILL
BELOIT KS 67420

RE: Application, File No. 49,701

Dear Mr. & Mrs. Ziegler:

This is to advise you that Midway Development, LLC represented by Dennis Lutgen has filed the application referred to above for permit to appropriate 83 acre-feet of surface water per calendar year from the Solomon River, for irrigation use to be diverted by at a maximum rate of 1,500 gallons per minute. The locations of the proposed pumpsites are as follows:

One (1) pumpsite located in the Southwest Quarter of the Southwest Quarter of the Northwest Quarter (SW $\frac{1}{4}$, SW $\frac{1}{4}$, NW $\frac{1}{4}$) of Section 25, more particularly described as being near a point 2,965 feet North and 5,245 feet West of the Southeast corner of said section, in Township 7 South, Range 7 West, Mitchell County, Kansas.

One (1) pumpsite located in the Southwest Quarter of the Southwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$, SW $\frac{1}{4}$, NE $\frac{1}{4}$) of Section 25, more particularly described as being near a point 2,862 feet North and 2,622 feet West of the Southeast corner of said section, in Township 7 South, Range 7 West, Mitchell County, Kansas.

A map is enclosed indicating the location of the points of diversion. Records in this office indicate that you may own land along the stream in this vicinity and you are notified of receipt of this application in order that you may be fully informed of the proposal locations of the applicant's point 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.

If you have any questions, please contact me at (785) 564-6643. If you wish to discuss a specific file, please have the file number ready to that we may help you more efficiently.

Sincerely,

Austin McColloch
Environmental Scientist
Water Appropriation Program

Enclosures
pc: Stockton Field Office

SCANNED

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

October 12, 2016

KADEL FARMS
3196 J ROAD
BELOIT KS 67420

FILE COPY

RE: Application, File No. 49,701

Dear Sir or Madam:

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A map is enclosed indicating the location of the points of diversion. Records in this office indicate that you may own land along the stream in this vicinity and you are notified of receipt of this application in order that you may be fully informed of the proposal locations of the applicant's point 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.

If you have any questions, please contact me at (785) 564-6643. If you wish to discuss a specific file, please have the file number ready to that we may help you more efficiently.

Sincerely,

A handwritten signature in black ink that reads "Austin McColloch".

Austin McColloch
Environmental Scientist
Water Appropriation Program

Enclosures

pc: Stockton Field Office

SCANNED

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

October 12, 2016

FILE COPY

THOMAS, MAX, SUTTER,
MADELYN, THOMAS, COLE
3192 KALA TR
BELOIT KS 67420

RE: Application, File No. 49,701

Dear Sir or Madam:

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A map is enclosed indicating the location of the points of diversion. Records in this office indicate that you may own land along the stream in this vicinity and you are notified of receipt of this application in order that you may be fully informed of the proposal locations of the applicant's point 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.

If you have any questions, please contact me at (785) 564-6643. If you wish to discuss a specific file, please have the file number ready to that we may help you more efficiently.

Sincerely,

A handwritten signature in black ink that reads "Austin McColloch".

Austin McColloch
Environmental Scientist
Water Appropriation Program

Enclosures
pc: Stockton Field Office

SCANNED

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

October 12, 2016

FILE COPY

FILE, ALLYN LEE
3633 J ROAD
BELOIT KS 67420

RE: Application, File No. 49,701

Dear Mr. File:

This is to advise you that Midway Development, LLC represented by Dennis Lutgen has filed the application referred to above for permit to appropriate 83 acre-feet of surface water per calendar year from the Solomon River, for irrigation use to be diverted by at a maximum rate of 1,500 gallons per minute. The locations of the proposed pumpsites are as follows:

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Austin McColloch
Environmental Scientist
Water Appropriation Program

Enclosures

pc: Stockton Field Office

SCANNED



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Manhattan, Kansas 66502
(785) 564-6700

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

Jackie McClaskey, Secretary

Governor Sam Brownback

October 12, 2016

FILE COPY

HUNTER SALES COMPANY INC
1050 MURCHISON RD
GOLDSTON NC 27252

RE: Application, File No. 49,701

Dear Sir or Madam:

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Sincerely,

Austin McColloch
Environmental Scientist
Water Appropriation Program

Enclosures
pc: Stockton Field Office

SCANNED



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

October 12, 2016

FILE COPY

FILE, DAN J
710 N CONROY
BELOIT KS 67420

RE: Application, File No. 49,701

Dear Mr. File:

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Sincerely,

Austin McColloch
Environmental Scientist
Water Appropriation Program

Enclosures

pc: Stockton Field Office

SCANNED

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

**Kansas**
Department of Agriculture
agriculture.ks.gov

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

Jackie McClaskey, Secretary

Governor Sam Brownback

October 12, 2016

SMITH FAMILY LIVING TR & FILE, DAN J
1400 E FAIRVIEW ST
CHANDLER AZ 85225

FILE COPY

RE: Application, File No. 49,701

Dear Sir or Madam:

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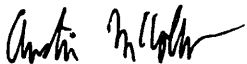
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Sincerely,



Austin McColloch
Environmental Scientist
Water Appropriation Program

Enclosures
pc: Stockton Field Office

SCANNED

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

October 12, 2016

FILE COPY

KADEL LIMITED PARTNERSHIP
3196 J ROAD
BELOIT KS 67420

RE: Application, File No. 49,701

Dear Sir or Madam:

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Sincerely,

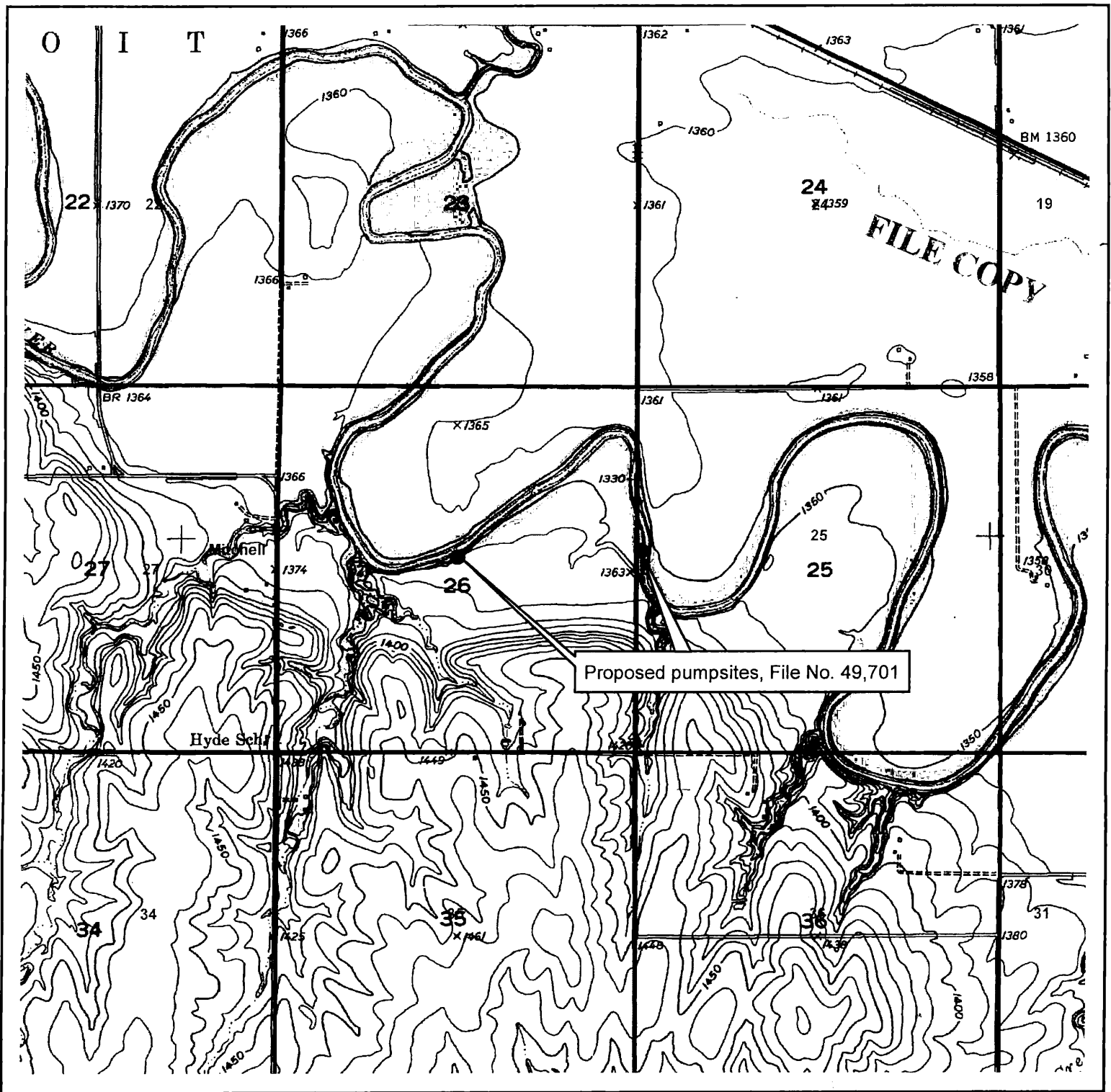
A handwritten signature in black ink, appearing to read "Austin McColloch".

Austin McColloch
Environmental Scientist
Water Appropriation Program

Enclosures

pc: Stockton Field Office

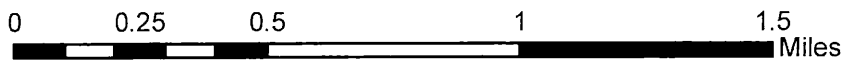
SCANNED



FILE COPY

Proposed pumpsites, File No. 49,701

1:24,000



Legend

- Point of Diversion



New Application, File No. 49,701

Proposed Point of Diversion
 Section 25 & 26 - Township 7 South - Range 7 West
 Mitchell County, Kansas

SCANNED

AM/DWR
 Date: 9/22/2016

Austin McColloch
Kansas Dept of Ag
Environmental Scientist / Water Appropriators
900 SW Jackson Room 456
Topeka, KS 66612
785 296 3556

**WATER RESOURCES
RECEIVED**

OCT 11 2016

KS DEPT OF AGRICULTURE

Dear Austin : 9/30/16

Enclosed is items you were needing to move forward with the water permit 49,701.

- A. Glen Elder Water Contract
- B. Reverse Exchange Agreement showing Midway Development LLC as owner .
(Note : I visited with the attorney Sloan and Eland/ Hoxie , Kansas who is doing
the reverse exchange and they told me this document would show the information
you were needing .)

Thank you

Sincerely,


Dennis Lutgen
Midway Development LLC
Box 504
Beloit, KS 67420
785 738 8418 cell
dennis@gomidway.com

49,701



KANSAS DEPARTMENT OF AGRICULTURE

Division of Water Resources

Stockton Field Office

MEMORANDUM

WATER RESOURCES
RECEIVED
SEP 08 2016
KS DEPT OF AGRICULTURE

TO: Dennis Lutgen

DATE: 29August2016

FROM: Steven Walters

RE: New Application,
File No. TBD

Mr. Lutgen,

Per the email sent regarding your new application please complete Section 6 which details your legal right to the point of diversion. In order to expedite the process please mail the application to the Manhattan Headquarters.

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

Cheers
Steven Walters

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 22, 2016

MIDWAY DEVELOPMENT LLC
ATTN DENNIS LUTGEN
1108 NORTH INDEPENDENCE BOX 504
BELOIT KS 67420

FILE COPY

RE: New Application, File No. 49,701

Dear Mr. Lutgen:

Reference is made to the application for permit to appropriate water for beneficial use assigned File No. 49,701. Upon review of the application and attachments, we find that the following issues must be resolved in order to continue processing the application.

Please provide a copy of the contractual agreement for purchasing water with the Glen Elder Irrigation District. The agreement should include the amount of water purchased, availability, and place of use for this water.

Mitchell County Appraisers Office has the proposed point of diversion and place of use being owned by Northwest Mortgage Company. Please provide proof of purchase or provide evidence of legal access to, or control of, the point of diversion from the landowner or landowner's representatives.

Your application is being returned so that you may supply the requested information. In order for the application retain its priority of filing the requested information must be supplied to complete the applications on or before **October 22, 2016**. According to law, default in supplying the requested information as outlined above within the time allowed or any authorized extension of time, shall cause dismissal of the application for change under the above referenced file number.

Should you need additional time in which to review and or provide the information and you want to request additional time, you must do so in writing, before the 30 day period expires. Such a request should state what steps are being taken to obtain the information and the amount of time you will need to supply the information to our office.

If you have any questions, please contact me at (785) 564-6643. If you wish to discuss a specific file, please have the file number ready so we may help you more efficiently.

Sincerely,

Austin McColloch
Environmental Scientist
Water Appropriation Program

Enclosures

pc: Stockton Field Office

SCANNED



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 9, 2016

FILE COPY

DENNIS LUTGEN
PO BOX 504
BELOIT KS 67420

RE: Application
File No. 49701

Dear Sir or Madam:

Your application for permit to appropriate water in 25-7S-7W in Mitchell 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,

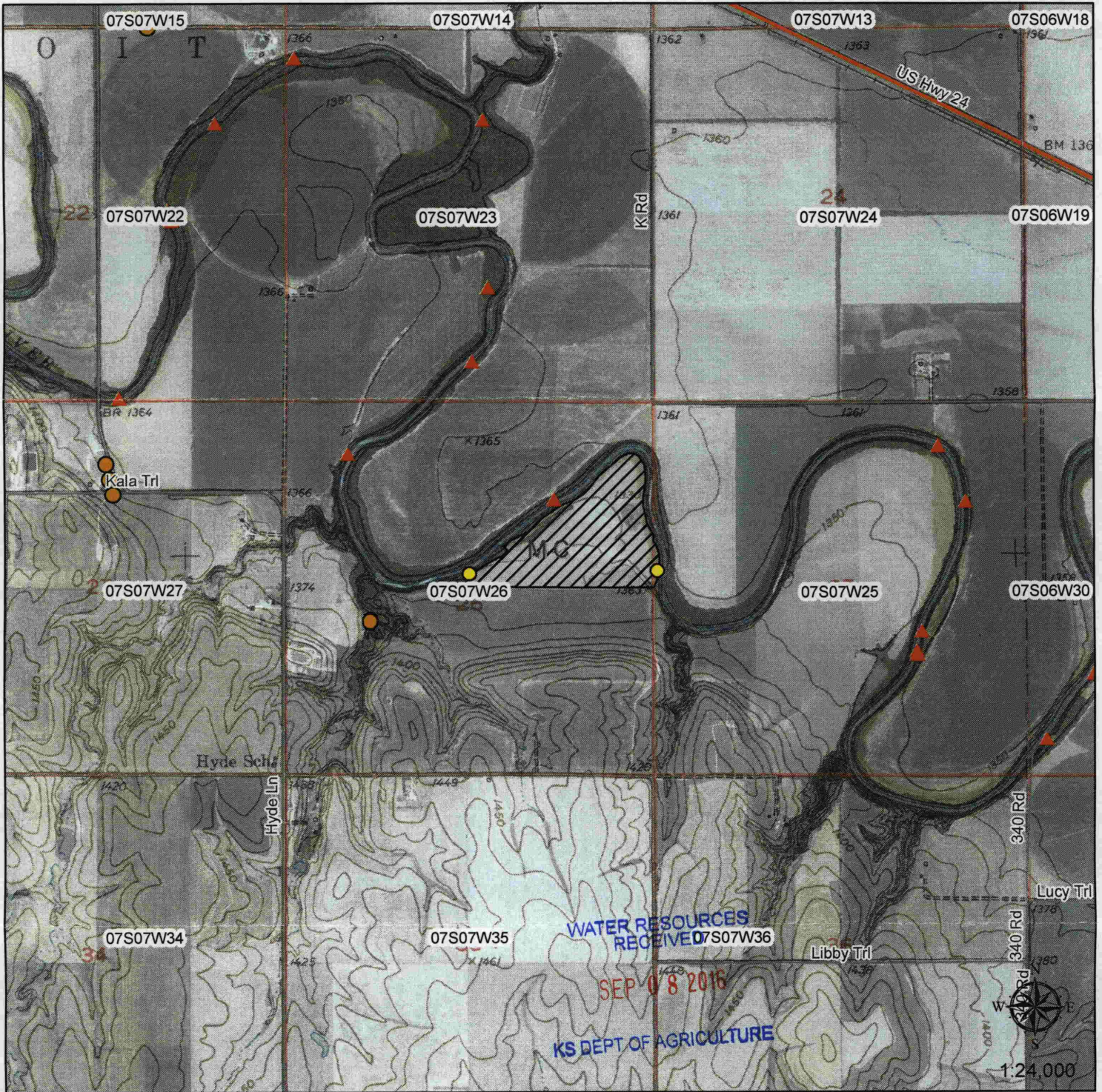
Brent A Turney, P.G.
Change Application Unit Supervisor
Water Appropriation Program

BAT: dlw
pc: STOCKTON Field Office
GMD

SCANNED

49,701

New Application - Surface Water



Signature Required

[Handwritten Signature]

By signing this I am stating that to the best of my knowledge that all landowners within 1/2 mile upstream and downstream of my property are identified on this map or listed on an attachment to this map.

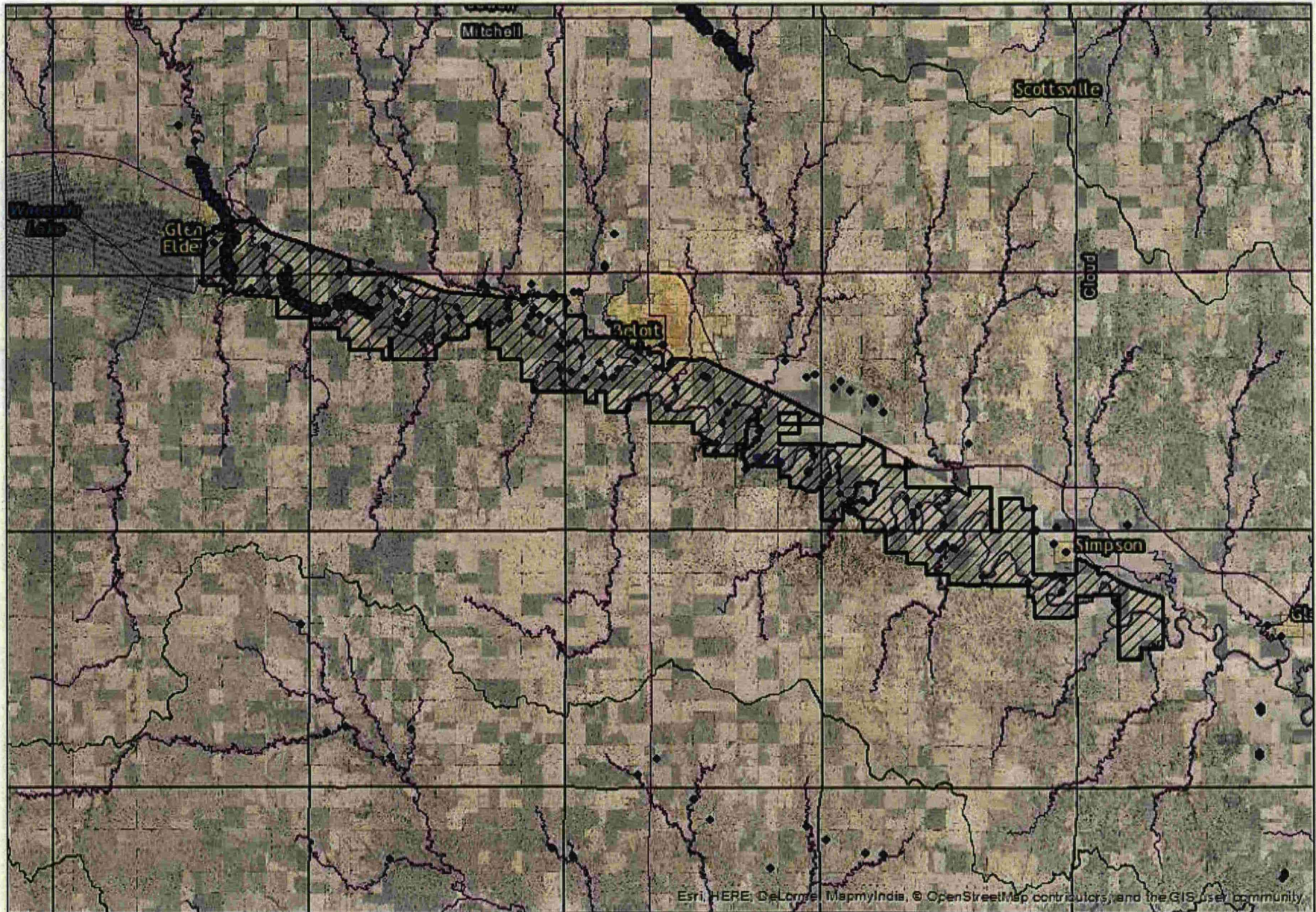
- ▲ Surface Water Point of Diversion
- Groundwater Point of Diversion
- ▨ Proposed Place of Use

OCT 11 2016

KS DEPT OF AGRICULTURE

SCANNED

Glen Elder Irrigation District



1:250,000

1/26/2016 DWR