

Kansas Department of Agriculture
 Division of Water Resources
WAIVER REQUEST & WAIVER RULE WORKSHEET

File Number: 49,715

FO: 3 GMD:

WAIVER REQUEST:

UMW	Date Requested	Rule ID	Applies	Rule Type	Rule Subtype
STK	4/12/2017	1	Statewide	Well Spacing	Confined Dakota
Rule Number	Date Granted	Date Denied	Justification:	Well spacing not met with applicants own well. No other confined Dakota wells within 4 miles. Recommended waiver request and approval from Kelly Stewart, Water Commissioner, Stafford Field Office.	
K.A.R. 5-4-4(c)(1)(A)	5/1/17				

WAIVER RULE:

Rule ID	Applicability	Type	Subtype	Rule Number	Date Active	Date Inactive

Date Prepared 4/12/2017 By AM

Date Entered 5/2/2017 By UM

THE STATE



OF KANSAS

KANSAS DEPARTMENT OF AGRICULTURE
Jackie McClaskey, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

WAIVER OF REGULATION
K.A.R. 5-4-4(c)(1)(A)

Date: 5/1/17

Re: Application of Appropriation, File No. 49,715

1. That K.A.R. 5-4-4(c)(1) states, that the distance from the well which is the subject of the application to all other senior non-domestic and non-temporary wells in the same aquifer or a hydraulically connected aquifer.
2. That K.A.R. 5-4-4(c)(1)(A) requires a minimum well spacing of four (4) miles between wells whose common source of supply is the confined Dakota aquifer system.
3. The proposed point of diversion, for File No. 49,715 and the well authorized by File No. 42,483 are approximately 0.24 miles apart.
4. That the wells authorized under File Nos. 42,483 & 49,715 are both owned by Barry Urban, applicant.
5. Kelly Stewart, Water Commissioner, Stockton Filed Office recommended approval of the proposed application with a waiver of the well spacing.
7. That a waiver of K.A.R. 5-4-4(c)(1)(A) will not prejudicially or unreasonably affect the public interest and will not impair any existing water rights.

Comments:

Handwritten signature of David W. Barfield in black ink.

David W. Barfield, P.E.
Chief Engineer
Division of Water Resources

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

TO: Files

DATE: April 12, 2017

FROM: Austin McColloch

RE: Application, File No. 49,715

Barry Urban on behalf of Professional Swine Management, has filed the above referenced application to appropriate 95.77 acre-feet (31.207 million gallons) of groundwater at a diversion rate of 800 gallons per minute for stockwatering use, from a battery of four wells in the Smoky Hill River Basin. The geographic center of the battery of four (4) wells is located in the Northwest Quarter of the Northwest Quarter of the Southwest Quarter (NW¼ NW¼ SW¼) of Section 3, more particularly described as being near a point 2,593 feet North and 4,920 feet West of the Southeast corner, in Township 16 South, Range 17 West, in Rush County, Kansas.

The place of use is a feedlot located in the Northwest Quarter of the Southwest Quarter (NW¼ SW¼) of Section 3, Township 16 South, Range 17 West, Rush County, Kansas. Water Right, File No. 42,483 will overlap the place of use and was certified at 12.66 acre-feet (4.125 million gallons). Currently the feedlot has approximately 1,000 head of sows and associated pigs, Professional Swine Management has plans of expanding the operation requiring the need of this new appropriation. See attached Stockwatering Use Supplemental Sheet for justification of quantity requested.

The source of water for the pending application appears to be the confined Dakota aquifer system based on the test hole log that was submitted. A sandstone unit was encountered from 340 feet to 370 feet below ground surface; however the full extent of the sandstone aquifer cannot be readily determined by the test hole log or other well logs. Static water level is 143 feet below ground surface, clearly extending above the top of any potential sandstone aquifer. No specific safe yield evaluation has been adopted by the chief engineer for the confined Dakota aquifer system, although it is likely that the confined Dakota aquifer system would receive significantly less recharge than a near-surface, unconfined aquifer. Therefore, in order to better represent the potential recharge to this confined aquifer, it was determined that the saturated thickness of the aquifer and the thickness of the confining unit are critical factors. Limited saturated thickness with a significant confining unit would get less recharge (0.3 times the "standard" K.A.R. 5-3-11 value), while significant saturated thickness with a limited confining unit would get more recharge (0.5 times the "standard" K.A.R. 5-3-11 value).

For this application, the saturated thickness cannot be determined, however from the Kansas Geological Survey "Geohydrology of Rush County" the Dakota formation can be estimated to have a thickness in feet between 200-300, which results in a factor of 1. A factor equal to 1 gets 0.4 times the "normal" recharge. The K.A.R. 5-3-11 safe yield recharge value was determined to be 1.05 inches. Multiplying 1.05 inches x 0.4 results in a recharge of 0.42 inches. There is a very limited number of well logs in the area. However, well logs along the North Half of the circle are sourcing alluvium aquifers from the Smokey Hill River and are excluded from the safe yield calculation. There is only one other well in this area (Water Right, File No. 42,483) that is producing from the confined Dakota aquifer system. It is reasonable to presuppose, that all of the two-mile circle is underlain by the confined Dakota aquifer system. This provides an area of consideration of 8,042 acres. 8,042 acres x 0.42 inches x 75% recharge available / 12 provides a safe yield of 216.13 acre-feet. There is only one other water right in this area of consideration potentially sourcing the confined Dakota aquifer system, which has appropriated 12.66 acre-feet, leaving 203.47 acre-feet available, the application complies with safe yield (see attached calculation sheet).

Per K.A.R. 5-4-4, based on this source of supply, the minimum spacing distance from the point of diversion to all non-domestic wells in the same aquifer is four (4) miles. The proposed point of diversion described in this application was located less than the required spacing distance from one nearby non-domestic well (42,483), also owned by the applicant. A Waiver Request for well to well spacing has been submitted by the applicant, who is the owner of both wells involved. No domestic wells were identified by the applicant or the WWC-5 database, nor any potential domestic wells from homesteads can be found from aerial imagery. Thus, no nearby well owner notices were sent out.

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. The applicant has submitted a signed a Minimum Desirable Streamflow form, which has been properly notarized. By completing this statement, the applicant affirms his/her knowledge that there could be times when the diversion of water may not be allowed under this permit.

In a April 12, 2017 e-mail, Kelly Stewart, Water Commissioner, Stockton Field Office, recommended approval of the referenced application and waiver of well sapping. Based on the above discussion, 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.



Austin McColloch
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

PROFESSIONAL SWINE MANAGEMENT
PO BOX 220
CARTHAGE IL 62321

May 2, 2017

FILE COPY

Re: Appropriation of Water,
File No. 49,715

Dear Sir or Madam:

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 these approval documents. A water meter is required on the proposed diversion works 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 must be used to provide the information required on the annual water use report.

The enclosed form 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 fee within the time allowed, or within any authorized extension of time thereof, will result in the dismissal of this permit. 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 permit. 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,

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

BAT:am

Enclosures

pc: Stockton Field Office
Water Rights Investigative Services

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)

FILE COPY

This is to certify that I have examined Application File No. 49,715 of the applicant

PROFESSIONAL SWINE MANAGEMENT
PO BOX 220
CARTHAGE IL 62321

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 **October 11, 2016**.
2. That the water sought to be appropriated shall be used for stock watering use in the Northwest Quarter of the Southwest Quarter (NW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 3, in Township 16 South, Range 17 West, Rush County, Kansas.
3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of a battery of four (4) wells with a geographic center located in the Northwest Quarter of the Northwest Quarter of the Southwest Quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$), of Section 3, more particularly described as being near a point 2,593 feet North and 4,920 feet West of the Southeast corner of said section, in Township 16 South, Range 17 West, Rush 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 **800 gallons per minute (1.78 c.f.s.)** and to a quantity not to exceed **31.207 million gallons (95.77 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 all wells with a diversion rate of 100 gallons per minute or more drilled under the authority of this permit shall have a tube or other device installed in a manner acceptable to, and in accordance with specifications adopted by, the Chief Engineer. This tube or device shall be suitable for making water level measurements and shall be maintained in a condition satisfactory to the Chief Engineer.

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

14. 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.

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

16. 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.

17. 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.

18. That the quantity of water approved under this permit is further limited to the quantity which combined with Water Right, File No. 42,483, will provide a total **not to exceed 31.207 million gallons (95.77 acre-feet)** of water per calendar year, for irrigation on the land described herein.

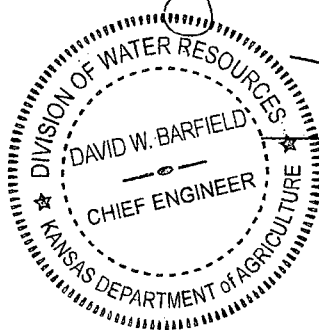
This Order shall become a final agency action, as defined by K.S.A. 77-607(b), without further notice to the parties, if a request for hearing or a petition for administrative review is not filed as set forth below.

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 1st day of May, 2017, in Topeka, Shawnee County, Kansas.



David W. Barfield

David W. Barfield, P.E.
Chief Engineer
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 1st day of May, 2017, by David W. Barfield, P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.



Karen Hunter

Notary Public

CERTIFICATE OF SERVICE

On this ^{2nd} day of ^{May} ~~May~~, 2017, I hereby certify that the foregoing Approval of Application, File No. 49,715, dated ^{May 1}, 2017 was mailed postage prepaid, first class, US mail to the following:

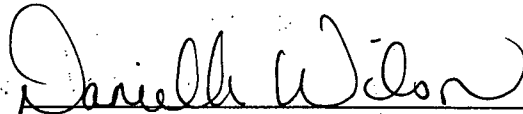
PROFESSIONAL SWINE MANAGEMENT
PO BOX 220
CARTHAGE IL 62321

With photocopies to:

BARRY J URBAN
2981 AVENUE D
BISON KS 67520-9740

WATER RIGHT INVESTIGATIVE SERVICES
209 S ASH ST
STOCKTON KS 67669

Stockton Field Office



Division of Water Resources

APPLICATION COMPLETE

4/12/17

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 49,715

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

WATER RESOURCES RECEIVED

OCT 11 2016

2:35

KS DEPT OF AGRICULTURE

APPLICATION FOR PERMIT TO APPROPRIATE WATER FOR BENEFICIAL USE

Filing Fee Must Accompany the Application
(Please refer to Fee Schedule attached to this application form.)

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

1. Name of Applicant (Please Print): Professional Swine Management
Address: PO Box 220
City: Carthage State IL _____ Zip Code 62321
Telephone Number: (309) 333-2716

2. The source of water is: surface water in _____ (stream)
OR groundwater in Smoky Hill River Basin (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 95.77 acre-feet OR 31,207 mgy gallons per calendar year, to be diverted at a maximum rate of 800 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 STK Source G/S County 2H By ASW Date 10/11/16
Code _____ Fee \$ 200 TR # _____ Receipt Date 10/11/16 Check # 1242

SCANNED



Water Rights Investigative Serv.
209 S. Ash ST.
Stockton, KS. 67669

← PLEASE COPY

10/13/2016 LLM

5. The location of the proposed wells, pump sites or other works for diversion of water is: **battery of (4) wells**

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.

SEO CHL - NW NW SW 2593 N + 4920 W 3-16-17
One in the NW quarter of the NW quarter of the SW quarter of Section 3, more particularly described as being near a point 2593 feet North and 5151 feet West of the Southeast corner of said section, in Township 16 South, Range 17 WEST, RUSH County, Kansas.

(A) One in the NW quarter of the NW quarter of the SW quarter of Section 3, more particularly described as being near a point 2598 feet North and 4989 feet West of the Southeast corner of said section, in Township 16 South, Range 17 WEST, RUSH County, Kansas.

(B) One in the NW quarter of the NW quarter of the SW quarter of Section 3, more particularly described as being near a point 2599 feet North and 4837 feet West of the Southeast corner of said section, in Township 16 South, Range 17 WEST, RUSH County, Kansas.

(C) One in the NW quarter of the NW quarter of the SW quarter of Section 3, more particularly described as being near a point 2580 feet North and 4703 feet West of the Southeast corner of said section, in Township 16 South, Range 17 WEST, RUSH 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):

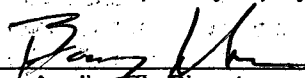
Barry Urban; 2981 Ave D; Bison, Kansas 67520

(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 Oct 5, 2016.


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 up to 4 wells within a battery of wells
(number of wells, pumps or dams, etc.)

and will be completed (by) December of 2016

(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 1-1-2017
(Mo/Day/Year)

XBAT/DCR
4-25-17

1990 22370

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 None
- If no, explain here why a Water Structures permit is not required no fresh water storage is required all Lagoons will be below permitting requirement size

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.

Water Right File No. 42,483. The application proposes to combine the use of this proposed application and Water Right File No. 42,483. The existing infrastructure will be included in the proposed operation.

WATER RESOURCES
RECEIVED

OCT 11 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	<u>8-16-2016</u>	_____	_____	_____
Total depth of well	<u>370'</u>	_____	_____	_____
Depth to water bearing formation	<u>340'</u>	_____	_____	_____
Depth to static water level	<u>143'</u>	_____	_____	_____
Depth to bottom of pump intake pipe	<u>367'</u>	_____	_____	_____

CONFINED Dakota

14. The relationship of the applicant to the proposed place where the water will be used is that of purchaser
(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):
Barry Urban at present 2981 Ave. D Bison, KS. 67520
(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 Hiup, Kansas, this 5 day of October, 2016
(month) (year)


(Applicant Signature)

By Barry J. Urban current owner
(Agent or Officer Signature)

Agent / Owner
(Agent or Officer - Please Print)

Assisted by Scott Ross GEN MGR Date: 9-29-2016
(office/title)

RECEIVED
WATER RESOURCES
DIVISION

STATE OF KANSAS
DEPARTMENT OF REVENUE

**STOCKWATER USE
SUPPLEMENTAL SHEET**

File No. 49,715

Name of Applicant (Please Print): Professional Swine Management

1. Please indicate type of livestock (cattle, hogs, etc.): Swine
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	780	14239688	5
Last year	751	1371832	5
Present Year	0	0	0

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	See attachment for budget		
Year 2	See attachment for budget		
Year 3	See attachment for budget		
Year 4	See attachment for budget		
Year 5	See attachment for budget		

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		
3	16	17W											40							40

WATER RESOURCES
RECEIVED

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

6000 head of sows and litter x 8 gallons/head (avg.) x 365 days = 17520000 gallons

9000 head of piglets x 1 gallons/head (avg.) x 365 days = 4927500 gallons

1600 head of gilts x 5.5 gallons/head (avg.) x 365 days = 3212000 gallons

COOLING

1000 gallons/hour x 24 hour/day x 154 days = 3696000 gallons

SANITATION

20 g.p.m. x 60 min/hr x 56 hr/wk x 52 wks/yr = 3494400 gallons

OTHER USE (Explain) NA = _____ gallons

TOTAL ----- 31,207,400 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 NA linear feet.

8. Total size of stock pens for confinement area of cattle, hogs, etc. is 132,000 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.

RECEIVED
WATER RESOURCES

Water Right Application File No. 49,715
Professional Swine Management
Confined Hog production in Rush County, KS

This site was previously under the operation of Barry Urban under Water Right File No. 42,483.
 The proposed swine operation is to be a combination of the previous operation with new technology.

The hog production under 42,483 was minimal over the last 5 years at approximately 1000 head of sows and associated pigs. The reported use is as follows:

Year	AF used
2011	4.37
2012	5.21
2013	4.18
2014	4.21
2015	0

The new swine facility is expected to utilize the best available technology, resulting in the following water use.

Head	daily use	days/yr	annual use in gallons
6000 sows	8 gal.	365	17520000
9000 piglets	1 gal.	365	4927500
1600 gilts	5.5 gal	365	3212000

3285000
←

cooling days 154 days at 24 hours/day X 1000 gallons/ hours; or (17 gallons per minute) = 3,696,000 gallons per year

flushing 20 gallons per minute X 60 minutes per hour X 56 hours per week X 52 weeks/ year = 3,494,400 gallons per year.

Total annual water budget 31,207,400 gallons

WATER RESOURCES
RECEIVED

FEB 17 2017

KS DEPT OF AGRICULTURE

SCANNED

(Date)

Kansas Department of Agriculture
Division of Water Resources
David W. Barfield, Chief Engineer
1320 Research Park Drive
Manhattan, Kansas 66502

Re: Application File No. 49,715

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.

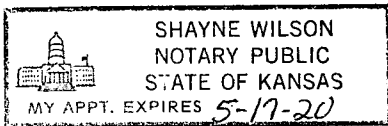
I am aware of the above factors, and with the knowledge thereof, request that the Division of Water Resources proceed with processing and approval, if possible, of the above referenced application.

Barry Urban
Signature of Applicant

State of Kansas)
County of Ellis) ss

Barry Urban
(Print Applicant's Name)

I hereby certify that the foregoing instrument was signed in my presence and sworn to before me this 5 day of October, 2016.



Shayne Wilson
Notary Public

My Commission Expires: May 17, 2020

WATER RESOURCES
RECEIVED

OCT 11 2016

**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

RECEIVED
WATER RESOURCES

DEPT OF AGRICULTURE

Form	WWC5
Contractor	Karst Water Well Drilling & Service, Inc.
Well Owner	Well #3
Doc ID	1318213

Litholgy

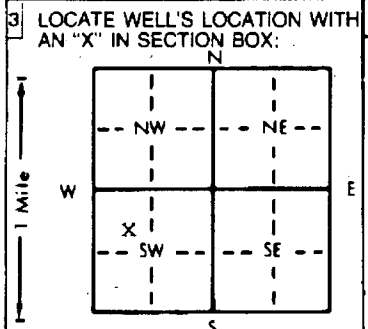
From	To	Lithologic Log
0	7	Top Soil
8	19	Silty clay w/soft rock
20	30	Limestone Clay & Rock
31	38	Limestone Clay and Gritty clay
39	40	Shale & Limestone Clay mix
41	60	Shale with layers of soapstone
61	150	Shale
151	158	Shale & Gray Clay
159	165	Grey Clay & Coal
166	177	Grey & White clay
178	193	White Clay
194	210	White & Grey Clay
211	255	White & Red Clay
256	268	Grey clay
269	280	White Clay
281	290	Grey Clay
291	294	Red Clay
295	300	White Clay
301	339	Red Clay
340	370	Sandrock layers/white & Grey clay

WR # 42,483

1 LOCATION OF WATER WELL: County: Rush Fraction: SE 1/4 NW 1/4 SW 1/4 Section Number: 3 Township Number: T 16 S Range Number: R 17 ~~SW~~

Distance and direction from nearest town or city street address of well if located within city?
2 miles north, 1 mile west, 1/2 mile north of Loretta, Kansas

2 WATER WELL OWNER: Barry Urban
 RR#, St. Address, Box #: BOX 118
 City, State, ZIP Code: Bison, Kansas 67520
 Board of Agriculture, Division of Water Resources
 Application Number: _____



4 DEPTH OF COMPLETED WELL: 425 ft. ELEVATION: Upland

Depth(s) Groundwater Encountered 1. 405 ft. 2. _____ ft. 3. _____ ft.

WELL'S STATIC WATER LEVEL: 160 ft. below land surface measured on mo/day/yr 3/24/97

Pump test data: Well water was 160 ft. after 1 hours pumping 30 gpm

Est. Yield 30 gpm: Well water was _____ ft. after _____ hours pumping _____ gpm

Bore Hole Diameter: 10 in. to 425 ft., and _____ in. to _____ ft.

WELL WATER TO BE USED AS: 4 Industrial 5 Public water supply 8 Air conditioning 11 Injection well
 1 Domestic 3 Feedlot 6 Oil field water supply 9 Dewatering 12 Other (Specify below)
 2 Irrigation 4 Industrial 7 Lawn and garden only 10 Monitoring well

Was a chemical/bacteriological sample submitted to Department? Yes _____ No X; If yes, mo/day/yr sample was submitted _____
 Water Well Disinfected? Yes X No _____

5 TYPE OF BLANK CASING USED: 2 PVC 5 Wrought iron 8 Concrete tile CASING JOINTS: Glued X Clamped _____
 1 Steel 3 RMP (SR) 6 Asbestos-Cement 9 Other (specify below) Welded _____
 2 PVC 4 ABS 7 Fiberglass _____ Threaded _____

Blank casing diameter: 5 in. to 405 ft., Dia _____ in. to _____ ft., Dia _____ in. to _____ ft.

Casing height above land surface: 24 in., weight 2.29 lbs./ft. Wall thickness or gauge No. 26

TYPE OF SCREEN OR PERFORATION MATERIAL: 7 PVC 10 Asbestos-cement
 1 Steel 3 Stainless steel 5 Fiberglass 8 RMP (SR) 11 Other (specify) _____
 2 Brass 4 Galvanized steel 6 Concrete tile 9 ABS 12 None used (open hole)

SCREEN OR PERFORATION OPENINGS ARE: 8 _____ 5 Gauzed wrapped 8 Saw cut 11 None (open hole)
 1 Continuous slot 3 Mill slot 6 Wire wrapped 9 Drilled holes
 2 Louvered shutter 4 Key punched 7 Torch cut 10 Other (specify) _____

SCREEN-PERFORATED INTERVALS: From 425 ft. to 405 ft., From _____ ft. to _____ ft.
 From _____ ft. to _____ ft., From _____ ft. to _____ ft.

GRAVEL PACK INTERVALS: From 20 ft. to 425 ft., From _____ ft. to _____ ft.
 From _____ ft. to _____ ft., From _____ ft. to _____ ft.

6 GROUT MATERIAL: 3 Bentonite 1 Neat cement 2 Cement grout 4 Other _____

Grout Intervals: From 0 ft. to 90 ft., From _____ ft. to _____ ft., From _____ ft. to _____ ft.

What is the nearest source of possible contamination: NONE

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)
 13 Insecticide storage

Direction from well? _____ How many feet? _____

FROM	TO	LITHOLOGIC LOG	FROM	TO	PLUGGING INTERVALS
0	3	Topsoil	295	330	Gray clay
3	8	Gumbo	330	345	Red clay
8	20	Gumbo, rock mix	345	405	Sandy Dakota clay
20	35	Rock and clay	405	425	Sandrock
35	37	Rock			
37	55	Clay, rock layers			
55	125	Shale			
125	130	Hard white rock			
130	165	Shale			
165	180	Coal and shale mix			
180	200	White clay			
200	206	Coal and sandrock			
206	230	White clay			
230	285	Red clay			
285	295	Whitem hard rock			

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) 3/24/97 and this record is true to the best of my knowledge and belief. Kansas Water Well Contractor's License No. 199 This Water Well Record was completed on (mo/day/yr) 4/18/97 under the business name of Karst Water Well Drilling & Service, Inc. by (signature) [Signature]

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, Bureau of Water, Topeka, Kansas 66620-0001. Telephone: 913-296-5545. Send one to WATER WELL OWNER and retain one for your records.

OFFICE USE ONLY
T
R
EW
SEC
1/4
1/4
1/4

McColloch, Austin

From: Stewart, Kelly
Sent: Wednesday, April 12, 2017 1:58 PM
To: McColloch, Austin
Cc: Billinger, Mark; Hageman, Rebecca
Subject: RE: Recommendation New Application, File No. 49,715

Austin,

I have no objection to the approval of this application and the granting of the well spacing waiver.

Kelly

From: McColloch, Austin
Sent: Wednesday, April 12, 2017 1:46 PM
To: Stewart, Kelly <Kelly.Stewart@ks.gov>
Cc: Billinger, Mark <Mark.Billinger@ks.gov>
Subject: Recommendation New Application, File No. 49,715

Kelly,

Attached is my draft memo for File No. 49,715 submitted by Barry Urban of Professional Swine Management. The source of supply appears to be confined Dakota and he will need a well to well spacing waiver to his other well (File No. 42,483).

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

Turney, Brent

From: Scott Ross <water.rights.llc@gmail.com>
Sent: Friday, February 17, 2017 7:25 AM
To: Turney, Brent
Subject: Application File No. 49,715 Professional Swine Management
Attachments: Pro Swine NA supplement.ods

Brent,

As per our conversation of yesterday I have attached the missing Water Budget for this application. Further, in reviewing this application with the operator, I found that their intent is to utilize the water right under place of use as a separate facility. Therefore, we would like to request a waiver of spacing. As this application and Water Right File No. 42,483 are to be operated by the same owner in and through the same facility, they are willing to manage any influence between the two operations.

Thanks for the help.

Scott

Scott E. Ross

General Manager

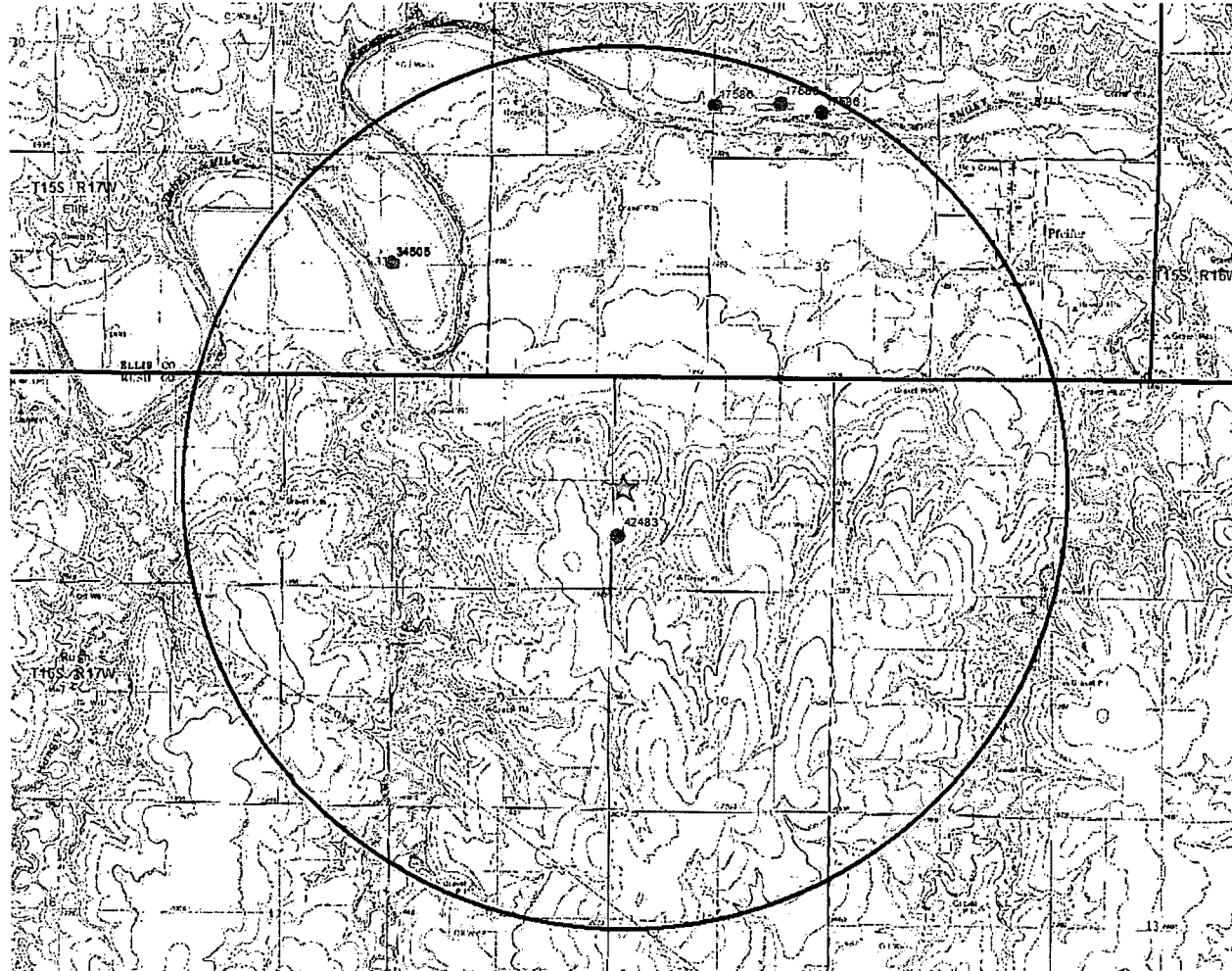
Water Rights Investigative Service LLC
209 South Ash ST. Stockton, KS. 67669
785-543-8254

WATER RESOURCES
RECEIVED
FEB 17 2017
KS DEPT OF AGRICULTURE

Safe Yield Report Sheet

Proposed Water Right Application

Point of Diversion in NWNWNWSW 03-16S-17W



Analysis Results

The selected PD is in an area to new appropriations.
 The safe yield, based on the variables listed below is 527.76 AF.
 Total prior appropriation in the circle is 319.17 AF.
 Total quantity of water available for appropriation is 208.59 AF.

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 1.05 inches.
 The percent of recharge available for appropriation is 75%.
 Authorized Quantity values are as of 06-APR-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 3 water right(s) and 5 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      17586 00 MUN NK G      NE SE SW 1060 2783 26 15 17W 3  PD    109.90    82.63
Same      MUN NK G      NW SW SW 1238 5373 26 15 17W 5  PD    101.19    76.06
Same      MUN NK G      NW SE SW 1314 3855 26 15 17W 4  PD    114.19    85.83
A      34505 00 IRR NK G      SW SW NE 2686 2300 33 15 17W 7  WRF    62.00    62.00    77.00    77.00
A      34505 00 MUN NK G      SW SW NE 2686 2300 33 15 17W 7  WRF    61.99     0.00
A      42483 00 STK NK G      CW SW 1320 5000 03 16 17W 1  WR     12.66    12.66
=====
    
```

All mine

CONFINED DAKOTA AQUIFER SYSTEM SAFE YIELD EVALUATION

FILE NUMBER: ¹¹⁵
49,122

Safe Yield Calculation			
Thickness of Saturated Aquifer (in feet)	divided by	Thickness of Confining Unit (in feet)	= A Factor
?		190	= #VALUE!
If Factor < 1		Multiply Normal Recharge by 0.3 to get Confined Aquifer Recharge (in inches)	
If Factor is between 1 and 2		Multiply Normal Recharge by 0.4 to get Confined Aquifer Recharge (in inches)	
If Factor > 2		Multiply Normal Recharge by 0.5 to get Confined Aquifer Recharge (in inches)	
Normal Recharge (per 5-3-11) = 2.6 inches		1.05 inches x 0.4 = 0.43 inches of recharge	
Area of consideration =	8042 acres		
Annual Recharge =	0.43 inches		
Percent Recharge =	0.75	75%	
Confined Dakota Aquifer Safe Yield =			216.129 acre-feet

This would provide more recharge to a well that has a thinner confining unit and greater saturated thickness (i.e. a higher factor score).

Further review indicates that saturated thickness of the aquifer and thickness of confining unit are the 2 key variables that would most likely influence well production and recharge, respectively. Therefore, a weighted system was designed to account for this by dividing the saturated thickness by the thickness of the confining unit. The less confining unit you have the higher the recharge potential and the greater the saturated thickness the better production you will get from the well. This ratio provides a factor which can be used to evaluate the percentage of safe yield to consider as reasonable. Saturated thickness is pertinent to safe yield since per definition it is "long-term sustainable yield of the source".

Water Rights and Points of Diversion Within 4.00 miles of point defined as:

2593 ft N and 4920 ft W of the SE Corner of Section 3, T 16S, R 17W

Located at: 99.197122 West Longitude and 38.689936 North Latitude

GROUNDWATER ONLY

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=====
File Number   Use ST SR Dist (mi) Q4 Q3 Q2 Q1 FeetN FeetW Sec Twp Rng ID Batt Auth_Quan Add_Quan Unit
A__ 1861 00 MUN NK G 2.51 -- SE NE SW 1460 3200 25 15 17W 10 102.60 .00 AF
A__ 14082 00 IRR NK G 2.68 -- -- -- -- 4858 3020 6 16 17W 2 27.00 27.00 AF
A__ 17586 00 MUN NK G 2.46 -- NC N2 SW 1899 4012 25 15 17W 4 76.54 57.55 AF
Same 2.25 -- SE NE SE 1507 74 26 15 17W 1 103.00 77.44 AF
Same 2.13 -- SW NE SE 1507 1132 26 15 17W 2 101.75 76.50 AF
Same 1.90 -- NE SE SW 1060 2783 26 15 17W 3 109.90 82.63 AF
Same 1.86 -- NW SE SW 1314 3855 26 15 17W 4 114.19 85.82 AF
Same 1.76 -- NW SW SW 1238 5373 26 15 17W 5 101.19 76.06 AF
A__ 17587 00 MUN NK G 2.90 -- SW SW SW 482 5046 30 15 16W 1 32.29 28.75 AF
Same 2.57 -- NW SW SE 1236 2521 25 15 17W 5 98.70 87.80 AF
Same 2.71 -- NE SW SE 941 1372 25 15 17W 6 82.44 73.35 AF
A__ 34457 00 IRR NK G 2.16 -- NW SE NE 3778 844 32 15 17W 9 76.00 76.00 AF
A__ 34505 00 IRR NK G 1.46 -- SW SW NE 2686 2300 33 15 17W 7 62.00 62.00 AF
A__ 34505 00 MUN NK G 1.46 -- SW SW NE 2686 2300 33 15 17W 7 61.99 .00 AF
A__ 42483 00 STK NK G .24 -- -- CW SW 1320 5000 3 16 17W 1 12.66 12.66 AF
A__ 49715 00 STK-AY G .00 -- NW NW SW 2593 4920 3 16 17W 4 G 4 95.77 95.77 AF
Same .04 -- NW NW SW 2593 5151 3 16 17W 5 B 4
Same .01 -- NW NW SW 2598 4989 3 16 17W 6 B 4
Same .02 -- NW NW SW 2599 4837 3 16 17W 7 B 4
Same .04 -- NW NW SW 2580 4703 3 16 17W 8 B 4
T__ 989053 00 STK GY G .24 -- SW NE SW 1320 4825 3 16 17W 2 13.99 .00 AF
=====

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Total Net Quantities Authorized:   Direct           Storage
Total Requested Amount (AF) =      95.77           .00
Total Permitted Amount (AF) =        .00           .00
Total Inspected Amount (AF) =        .00           .00
Total Pro_Cert Amount (AF) =         .00           .00
Total Certified Amount (AF) =      823.56           .00
Total Vested Amount (AF) =          .00           .00
TOTAL AMOUNT (AF) =                919.33           .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 4.00 miles of point defined as:

99.197122 West Longitude and 38.689936 North Latitude

GROUNDWATER ONLY

WATER USE CORRESPONDENTS:

```

=====
File Number   Use ST SR
A__ 1861 00 MUN NK G
> CITY OF RUSSELL
> CITY CLERK
> PO BOX 112
> RUSSELL KS 67665
=====

```



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

October 13, 2016

PROFESSIONAL SWIN MANAGEMENT
PO BOX 220
CARTHAGE IL 62321

FILE COPY

RE: Application
File No. 49715

Dear Sir or Madam:

Your application for permit to appropriate water in 3-16S-17W in Rush 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