

Kansas Department of Agriculture
 Division of Water Resources
CHANGE: P/U WORKSHEET

1. File Number: 11504	2. Status Change Date: 5/15/2019	3. Change Num: C2	4. Field Office: 03	5. GMD: 04
6. Status: <input type="checkbox"/> Approved <input type="checkbox"/> Denied by DWR/GMD <input type="checkbox"/> Dismiss by Request/Failure to Return				7. Filing Date of Change: 08-MAR-2019
8a. Applicant(s) New to system <input type="checkbox"/> TONY M & ANITA M HORINEK TRUSTS TONY & ANITA HORINEK TRUSTEES 1980 COUNTY ROAD 13 COLBY KS 67701-9511		Person ID <u>66068</u> Add Seq# _____		
8b. Landowner(s) New to system <input type="checkbox"/> TONY M & ANITA M HORINEK TRUSTS TONY & ANITA HORINEK TRUSTEES 1980 COUNTY ROAD 13 COLBY KS 67701-9511		Person ID <u>66068</u> Add Seq# _____		
8c. Landowner(s) New to system <input type="checkbox"/> TOPLIFF REV TRUST 607 KANSAS AVE GOODLAND KS 67735		Person ID 66313 Add Seq# 1		
8d. WUC New to system <input type="checkbox"/> TONY M & ANITA M HORINEK TRUSTS TONY & ANITA TRUSTEES 1980 COUNTY ROAD 13 COLBY KS 67701-9511		Person ID <u>66068</u> Add Seq# _____		
9. Documents and Enclosure(s): <input checked="" type="checkbox"/> DWR Meter(s) Date to Comply: <u>12/31/2019</u> <input type="checkbox"/> N & P Date to Comply: _____				
<input type="checkbox"/> Anti-Reverse Meter <input type="checkbox"/> Meter Seal <input type="checkbox"/> Check Valve <input type="checkbox"/> N & P Form <input type="checkbox"/> Water Tube <input type="checkbox"/> Driller Copy <input type="checkbox"/> H & E Letter <input type="checkbox"/> Conservation Plan Date Required: _____ Date Approved: _____ Date to Comply: _____				
10. Use Made of Water From: _____ To: _____				
Date Prepared: 05/6/19 By: RAK Date Entered: 5/16/2019 By: LM				

File No. **11504** 11. County: **SH** Basin: **SAPPA CREEK** Stream: Formation Code: **211** Special Use:

12. Points of Diversion										Rate and Quantity						
CHK	MOD	DEL	PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Authorized		Additional		
ENT												Rate gpm/cfs	Quantity af/mgy	Rate gpm/cfs	Quantity af/mgy	Overlap PD Files
✓				87224												

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

14. **REMOVE** Limitation: **ROTATION 451AC MAX** gpm (_____ cfs) when combined with file number(s) _____
KEEP Limitation **892AF COM/W #6236 & 9072** cfs when combined with file number(s) _____

15. 5YR Allocation: Allocation Type _____ Start Year _____ 5 YR Amount _____ Amount Unit _____ Base Acres _____ Comment _____

16. Place of Use										NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg?	Overlap Files
CHK	MOD	DEL	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						
MOD	14964	33	8S	40W	4											30.00	30.00	30.00	30.00	120.00	8B	YES	6236; 9072 & 11504						
MOD	19661	34	8S	40W	1							27.50	27.50	27.50	27.50	15.50				15.50	5.00	34.50	34.50	5.00	220.00	8B	YES	6236; 9072 & 11504	
MOD	9665	35	8S	40W	1											30.00	30.00	30.00	30.00	120.00	8B	YES	6236; 9072 & 11504						

Base Acres: Year: Minimum Reasonable Quantity:

Comments: **DATA ENTRY MAIN ACTION TRAIL ENTRY : 21-JUN-1995 B4 LAND ROTATION CANCELLED**

~~PLEASE REMOVE MAIN ACTION TRAIL ENTRY 03-JAN-2019 F & O - P/D NO DOCUMENT IN DOGWARE UNDER 11504~~
** not removed - there is a document 5/16/2019 LHM*

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

TO: Files

DATE: May 9, 2019

FROM: Richelle A. Krueger

RE: Water Right
File Nos. 6,236; 9,072 and 11,504

Tony M. and Anita Horinek, on behalf of Tony M. and Anita M. Horinek Trusts, Randy Topliff, on behalf of Topliff Revocable Trust, and John and Carol Topliff, have filed applications for approval to change the authorized place of use and reduction in place of use requests under the referenced files, authorized groundwater for irrigation use in the Sappa Creek drainage basin.

The referenced water rights do not appear abandoned as per K.S.A. 82a-718.

Water Right, File Nos. 6,236, 9,072 and 11,504 are authorized a limited total of 892 acre-feet per calendar year for irrigation of the same 610 acres located in Sections 33, 34, and 35, Township 8 South, Range 40 West, Sherman County, Kansas. File No. 6,236 is authorized a blanket quantity and diversion rate of 400 acre-feet per calendar year and 1,000 gallons per minute from two wells. The wells are overlapped by File No. 9,072 which is authorized a limited blanket quantity of 630 acre-feet when combined with File No. 6,236 and blanket rate of 1,460 gallons per minute. File No. 11,504 is authorized one well with no overlaps and is authorized 560 acre-feet and 1,235 gallons per minute limited to 892 acre-feet when combined with File Nos. 6,236 and 9,072. The referenced water rights are currently subject to a rotation of acres in accordance with K.A.R. 5-5-11(b)(4); *Rotation of the irrigated land within the authorized place of use*. The water right owners request to remove the land rotation, and to drop and add new acres in the Northwest Quarter of Section 34, reducing the overall acreage from 610 acres to 460 acres. Individual and combined base acres for the referenced file numbers is 451 acres so the applications comply with K.A.R. 5-5-11. The proposal removes land owned by the Topliffs.

The net irrigation requirement for the 50% chance of rainfall in Sherman County (1.18') with 85% efficiency is 1.39 acre-feet/acre. The total quantity of water authorized by the above referenced file numbers, 892 acre-feet, can irrigate the proposed 460 acres with 1.94 acre-feet/acre, which appears reasonable.

The only wells within one-half mile of the authorized points of diversion are under common ownership based on the map and WRIS, so no nearby well owner notices were sent.

The same local source of supply will not change, previously determined to be Ogallala Formation (211).

In a letter dated March 11, 2019, Ray Luhman, Manager of Northwest Kansas Groundwater Management District No. 4, recommended approval of the referenced applications.

In an e-mail dated May 6, 2019, Kelly Stewart, Water Commissioner of the Stockton Field Office stated that he has no objection to the approval of the referenced applications.

Water flow meters are required. Check valves are required if chemigating.

Based on the above discussion, that the change is reasonable, that impairment to existing water rights is unlikely and that no change in the local source of supply will occur, it is recommended the referenced applications be approved.


Richelle A. Krueger
Environmental Scientist

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



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

Mike Beam, Secretary

Laura Kelly, Governor

TONY M & ANITA M HORINEK TRUSTS
TONY & ANITA HORINEK TRUSTEES
1980 COUNTY ROAD 13
COLBY KS 67701-9511

May 23, 2019

FILE COPY

RE: Water Right, File Nos. 6,236; 9,072 and 11,504

Dear Mr. and Mrs. Horinek:

Enclosed are the orders executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the applications for change under the above referenced file numbers.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in these approvals for change. A condition of these approvals is that acceptable water flow meters must be installed on the diversion works authorized under the referenced file numbers. Please return the required notification of completion of the diversion works and/or installation of the required meters as soon as these actions are completed.

Since the orders modify the original documents referred to above, they should be recorded with the Register of Deeds as other instruments affecting real estate.

If you have any questions, please contact this office. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

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

BAT:rak

pc: Stockton Field Office
Groundwater Management District No. 4
Topliff Revocable Trust, Attn Randy D. Topliff
John and Carol Topliff

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

APPROVAL OF APPLICATION FOR CHANGE IN PLACE OF USE WATER RIGHT FILE NO. 11,504

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Tony M. Horinek, on behalf of Tony M. Horinek Trust, Anita Horinek, on behalf of Anita M. Horinek Trust, 1980 County Road 13, Colby, Kansas 67701, Randy D. Topliff, on behalf of Topliff Revocable Trust, 607 Kansas, Goodland, Kansas 67735, and John and Carol Topliff, 6250 Road 17, Goodland, Kansas 67735, received in this office on March 8, 2019, for approval of a change in the location of the place of use under the certificate of appropriation issued pursuant to the permit to appropriate water for beneficial use, as modified and amended by the Order of the Chief Engineer dated June 21, 1995, approving the application to change the place of use, and by the Order of the Chief Engineer dated September 19, 2018, approving the application to change the point of diversion, finds that the change is reasonable and will not impair existing rights, and that the application should be and is hereby approved.

This order effectively removes the additional limitations which established the land rotation as set forth by the Approval of Application for Change in Place of Use, Water Right, File No. 11,504, dated June 21, 1995.

The effective date of the change shall be the date this order is executed by the Chief Engineer, after which the authorized location of the irrigation place of use shall be:

Sec.	Twp.	Range	NE¼				NW¼				SW¼				SE¼				TOTAL ACRES
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
33	8S	40W													30.00	30.00	30.00	30.00	120.00
34	8S	40W					27.50	27.50	27.50	27.50	15.50			15.50	5.00	34.50	34.50	5.00	220.00
35	8S	40W									30.00	30.00	30.00	30.00					120.00

a total of 460.00 acres in Township 8 South, Range 40 West, Sherman County, Kansas,

located substantially as shown on the maps accompanying the application to change the place of use.

All 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.

The water right owner shall properly install an acceptable water meter on the diversion works authorized under this water right, prior to the use of water, in strict accordance with the Kansas Administrative Regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer. The water right owner shall notify the Chief Engineer when installation of the water meter has been completed. The water right owner shall maintain the water meter in an operating condition satisfactory to the Chief Engineer, at all times during diversion of water and shall maintain records from which the total quantity of water diverted may be determined. The water right owner shall also report the reading of said water meter and the total quantity of water diverted annually to the Chief Engineer. Such records shall be furnished to the Chief Engineer by March 1 following the end of each calendar year.

In all other respects, the Certificate of Appropriation issued pursuant to Approval of Application, File No. 11,504, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated November 5, 1969, as modified and amended by the aforementioned orders.

RIGHT TO A HEARING AND TO ADMINISTRATIVE REVIEW

If you are aggrieved by this Order, then pursuant to K.S.A. 82a-1901, you may:

- 1) request an evidentiary hearing before the Chief Engineer, or
- 2) request administrative review by the Secretary of Agriculture.

Failure to request an evidentiary hearing before the Chief Engineer does not preclude your right to administrative review by the Secretary.

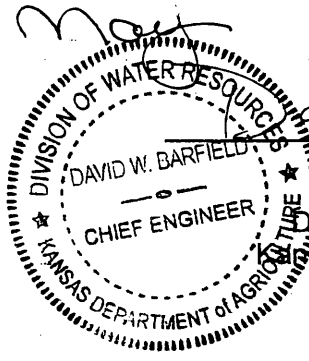
To obtain an evidentiary hearing before the Chief Engineer, a written request for hearing must be filed within 15 days after service of this Order as provided in K.S.A. 77-531 (i.e., within a total of 18 days after this Order was mailed to you), with the Kansas Department of Agriculture, Attn: Legal Section, 1320 Research Park Drive, Manhattan, Kansas 66502, or by FAX (785) 564-6777.

If you do not file a request for an evidentiary hearing before the Chief Engineer, you may petition for administrative review of the Order by the Secretary of Agriculture. A petition for review shall be in writing and state the basis for requesting administrative review. The request for review may be denied if the request fails to clearly establish factual or legal issues for review. See K.S.A. 77-527. The petition must be filed within 30 days after service of this Order as provided in K.S.A. 77-531 (i.e., within a total of 33 days after this Order was mailed to you), and be filed with the Secretary of Agriculture, Attn: Legal Division, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, or by FAX (785) 564-6777.

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

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 15th day of May, 2019, in Manhattan, Riley County, Kansas.



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

State of Kansas)
County of Riley) SS

The foregoing instrument was acknowledged before me this 15th day of May, 2019, 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 23rd day of May, 2019, I hereby certify that the attached Approval of Application for the Change in Place of Use, File No. 11,504, dated May 15th, 2019 was mailed postage prepaid, first class, US mail to the following:

TONY M & ANITA M HORINEK TRUSTS
TONY & ANITA HORINEK TRUSTEES
1980 COUNTY ROAD 13
COLBY KS 67701-9511

With photocopies to:

TOPLIFF REV TRUST
ATTN RANDY D TOPLIFF
607 KANSAS AVE
GOODLAND KS 67735

JOHN AND CAROL TOPLIFF
6250 ROAD 17
GOODLAND KS 67735

Stockton Field Office
Groundwater Management District No. 4

Danielle Weis
Division of Water Resources

Submit completed application to:
 Kansas Department of Agriculture
 Division of Water Resources
 Field Office for your area.

DWR FIELD OFFICE APPLICATION FOR APPROVAL TO CHANGE THE PLACE OF USE AND/OR THE POINT OF DIVERSION



STATE OF KANSAS

Call for address:
 Topeka -- (785) 296-5733
 Stafford -- (620) 234-5311
 Stockton -- (785) 425-6787
 Garden City -- (620) 276-2901
<http://agriculture.ks.gov/dwr>

Filing Fee Must Accompany the Application, K.S.A. 82a-708b(b), as amended.
 Fee Schedule is on the third page of this application form.

Paragraph Nos. 1, 2, 3 & 5 must be completed. Complete all other applicable portions. If change in point of diversion is greater than 100 feet, or if place of use will be changed, include a topographic map or detailed plat showing the authorized and proposed point(s) of diversion and/or place of use.

RECEIVED

File No. 11504

MAR 08 2019
 3:18 p.m.

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

Place of Use Point of Diversion

Stockton Field Office
 Division of Water Resources

under the water right which is the subject of this application in accordance with the conditions described below.

The source of supply is: Groundwater Surface water

2. Name and address of Applicant: TONY M HORINEK

1980 CTY RD 18 COLBY, KS 67701

Phone Number: (785)694-3281 Email address: _____

Name and address of Water Use Correspondent: SHOULD BE CHANGED TO ABOVE

Phone Number: () _____ Email address: _____

3. The presently authorized place of use is:

Owner of Land ---- NAME: TONY M HORINEK TRUST & ANITA M HORINEK TRUST

ADDRESS: 1980 CTY RD 18 COLBY, KS 67701

(If there is more than one landowner, attach supplemental sheets as necessary.)

Sec.	Twp.	Range	NE¼				NW¼				SW¼				SE¼				TOTAL ACRES				
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼					
33	8	40																	40	40	40	40	160
34	8	40									40	30	25	40	10	40	40	40					235
35	8	40									40	40	40	40									160

4. If this application is for a change in place of use, it is proposed that the place of use be changed to:

Owner of Land ---- NAME: TONY M HORINEK TRUST & ANITA M HORINEK TRUST

ADDRESS: 1980 CTY RD 18 COLBY, KS 67701

(If there is more than one landowner, attach supplemental sheets as necessary.)

Sec.	Twp.	Range	NE¼				NW¼				SW¼				SE¼				TOTAL ACRES				
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼					
33	8	40																	30	30	30	30	120
34	8	40					27.5	27.5	27.5	27.5	15.5			15.5	5	34.5	34.5	5					220
35	8	40									30	30	30	30									120

For Office Use Only: Code CPU Fee \$ 200 TR # _____ Receipt Date 3/18/19 Check # 1594

FO 3 GMD4 G-1RR SH APPLICATION COMPLETE
5/9/19

MAR 18 2019

5. **Presently authorized point of diversion:**
 One in the NE Quarter of the NE Quarter of the SE Quarter of Section 33, Township 8 South, Range 40 W, in SHERMAN County, Kansas, 2673 feet North 18 feet West of Southeast corner of section. Authorized Rate 1235 GPM Authorized Quantity 560 AF Depth of well _____ (feet)
 (DWR use only: Computer ID No. _____ GPS _____ feet North _____ feet West)
 This point will not be changed This point will be changed as follows: No change, point better described with GPS as follows:
Proposed point of diversion: (Complete only if change is requested or if existing point is better described by GPS)
 One in the _____ Quarter of the _____ Quarter of the _____ Quarter of Section _____, Township _____ South, Range _____ (E/W), in _____ County, Kansas, _____ feet North _____ feet West of Southeast corner of section. Proposed Rate _____ Proposed Quantity _____ Proposed well depth (feet) _____
 This point is: Additional Well Geo Center List other water rights that will use this point _____

6. **Presently authorized point of diversion:**
 One in the _____ Quarter of the _____ Quarter of the _____ Quarter of Section _____, Township _____ South, Range _____, in _____ County, Kansas, _____ feet North _____ feet West of Southeast corner of section. Authorized Rate _____ Authorized Quantity _____ Depth of well _____ (feet)
 (DWR use only: Computer ID No. _____ GPS _____ feet North _____ feet West)
 This point will not be changed This point will be changed as follows: No change, point better described with GPS as follows:
Proposed point of diversion: (Complete only if change is requested or if existing point is better described by GPS)
 One in the _____ Quarter of the _____ Quarter of the _____ Quarter of Section _____, Township _____ South, Range _____ (E/W), in _____ County, Kansas, _____ feet North _____ feet West of Southeast corner of section. Proposed Rate _____ Proposed Quantity _____ Proposed well depth (feet) _____
 This point is: Additional Well Geo Center List other water rights that will use this point _____

7. The changes herein are desired for the following reasons?
 (please be specific) REDUCE LAND TO STOP 5-5-11
AND ADD NEW PIVOT

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

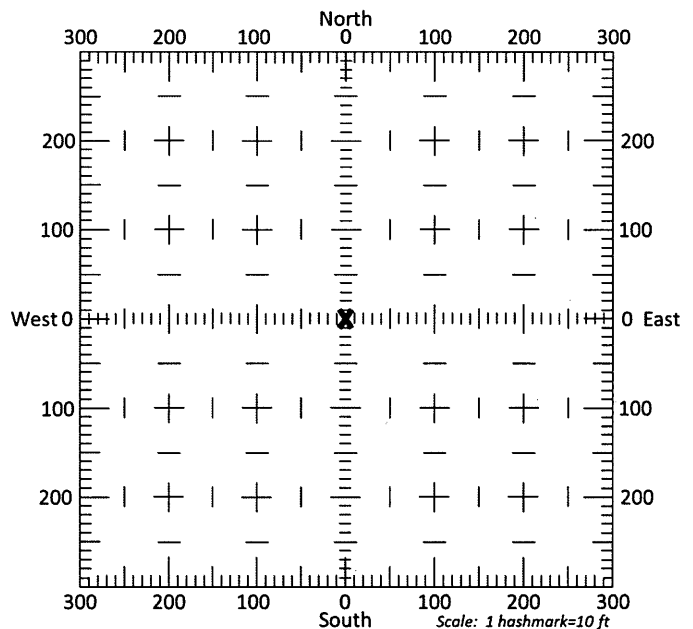
9. The change(s) (was)(will be) completed by?
5/1/19

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

11. Groundwater Management District recommendation attached?
 Yes No

12. Assisted by RL GMD #4 _____

13a. If the proposed point of diversion will be relocated more than 300 feet but within 2,640 feet of the existing point of diversion, attach a topographic map or aerial photograph. For groundwater sources, show all wells (including domestic) within one-half mile of the proposed point of diversion and the names and mailing addresses of the owners. For surface water sources, show the names and addresses of the landowner(s) one-half mile downstream and one-half mile upstream from your property lines



13b. If the proposed point of diversion will be relocated within 300 feet of the existing point of diversion, indicate its location on the diagram shown above in relation to the existing point of diversion. (PLEASE NOTE: The "X" in center of diagram above represents the presently authorized point of diversion.)

14. If the proposed groundwater point of diversion is 300 or fewer feet from the existing point of diversion, complete the following:

- (a) Does the undersigned represent all owners of the currently authorized place(s) of use identified in this application?
 Yes No (If no, all owners must sign this application.)
- (b) Will the ownership interest of any owner of the currently authorized place(s) of use identified in this application be adversely affected if this application is approved as requested?
 Yes No (If yes, all owners must sign this application.)
- (c) If this application is not approved expeditiously, will there be substantial damage to property, public health or safety?
 Yes No (If no, all owners must sign this application.)

If the application proposes a surface water change in point of diversion, a groundwater change in point of diversion greater than 300 feet, or a change in place of use, the application must be signed by all owners of the currently authorized place of use, or their duly authorized agent (attach notarized statement authorizing representation).

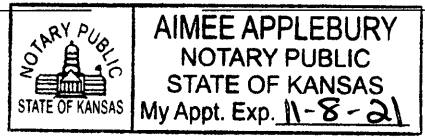
I hereby verify, being first duly sworn upon my oath or affirmation and under penalty of perjury, that I am of lawful age and the owner, the spouse of the owner, or a duly authorized agent of the owner(s) to make this application on their behalf, in regards to the water right(s) to which this application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

Dated at Colby, Kansas, this 4 day of March, 2019.

TONY HORINEK TRUSTEE _____ (Spouse)
 (Owner)
Tony Horinek Trustee _____ (Please Print)
 (Please Print)
Anita M. Horinek _____ (Spouse)
 (Owner)
Anita M. HORINEK TRUSTEE _____ (Please Print)
 (Please Print)
 _____ (Owner) _____ (Spouse)

(Please Print) _____ (Please Print)

State of Kansas }
County of Thomas } SS



I hereby certify that the foregoing application was signed in my presence and sworn to before me this 4th day of March, 2019.

Aimee Applebury
Notary Public

My Commission Expires 11-8-2021

ONLY COMPLETE APPLICATIONS WILL BE PROCESSED. To be complete, all of the applicable portions of the application form must be completed with accurate information; maps, if necessary, must be included; signatures of all the appropriate owners' must be affixed to the application and notarized; and the appropriate fee must be paid.

FEE SCHEDULE

Each application to change the place of use or the point of diversion under this section shall be accompanied by the application fee set forth in the schedule below: Make checks payable to: **Kansas Department of Agriculture**

- (1) Application to change a point of diversion 300 feet or less \$100
- (2) Application to change a point of diversion more than 300 feet \$200
- (3) Application to change the place of use \$200

WATER RIGHTS RECEIVED

MAR 18 2019

RECEIVED

MAR 08 2019

x MAR 16/2019 5/9/19

SUMMARY ORDER APPROVING APPLICATION FOR CHANGE AND IMPOSING CONDITIONS

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

1. A change application was received on _____ requesting that the place of use and / or point of diversion authorized under the above-referenced file number be changed as described in the application.
2. On and after the effective date of this summary order, the authorized place(s) of use shall be located substantially as shown on the topographic map accompanying the application to change the place of use. Applicable Not Applicable
3. The change in point of diversion shall not impair existing rights and shall be limited to the same source or sources of water as previously authorized. The point of diversion authorized by this summary order shall be located within a _____ foot radius of the authorized point(s) of diversion. Applicable Not Applicable
4. The point(s) of diversion described herein is administratively corrected to be more accurately described using the Global Positioning System (GPS), as described in the application. Applicable Not Applicable
5. The point(s) of diversion authorized herein shall not actually be located more than _____ feet from the previously authorized point(s) of diversion. Applicable Not Applicable
6. As required by K.A.R. 5-3-5d, if the works for diversion is a well with a diversion rate of 100 gallons per minute or more, a tube or other device suitable for making water level measurements shall be installed, operated and maintained in accordance with K.A.R. 5-6-13. Applicable Not Applicable
7. **The owner of the authorized place(s) of use shall properly install an acceptable water flow meter on or before December 31, 20____, or before the first use of water, whichever occurs first.** The water flow meter shall be installed, operated and maintained in accordance with K.A.R. 5-1-4 through 5-1-12. As required by K.S.A. 82a-732, as amended, and K.A.R. 5-3-5e, the owner shall maintain records and report the reading of the water flow meter and the total quantity of water diverted annually to the Chief Engineer by March 1 following the end of each calendar year.
 Applicable Not Applicable
8. **Installation of the works for diversion of water shall be completed on or before December 31, 20____, or within any authorized extension of time.** By March 1, 20____ the applicant shall notify the Chief Engineer that construction of the works for diversion has been completed, on the form provided by the Chief Engineer, as required by K.A.R. 5-8-4e.
 Applicable Not Applicable
9. **The completed well log shall be submitted with the required notice.** Applicable Not Applicable
10. All diversion works into which any type of chemical or other foreign substance will be injected into the water shall be equipped with an in-line, automatic, quick-closing check valve capable of preventing pollution of the source of the water supply. The check valve(s) shall be installed, operated and maintained in accordance with K.A.R. 5-3-5c. Applicable Not Applicable
11. Additional Conditions are attached. Yes No
12. In accordance with K.S.A. 82a-708a, as amended, and K.A.R. 5-5-14, all of the owners of the authorized place(s) of use of water appropriated under the above-referenced file number are responsible for compliance with its terms, conditions and limitations, as amended and/or supplemented by this Summary Order, and with applicable provisions of the *Kansas Water Appropriation Law* and the *Rules and Regulations* promulgated thereunder. Failure to comply with these provisions may result in civil penalties pursuant to K.S.A. 82a-737, as amended, and/or the suspension or revocation and dismissal of the water or appropriation right or any other enforcement actions authorized by law.

Administrative Appeal and Effective Date of Order

If you are aggrieved by this order, pursuant to K.S.A. 82a-1901, you may request an evidentiary hearing before the Chief Engineer or request administrative review by the Secretary of Agriculture. A request for hearing by the Chief Engineer must be filed within **15 days** of service of this Order and a request for administrative review by the Secretary must be filed within **30 days** pursuant to K.S.A. 77-531. Any request for administrative review must state a basis for review pursuant to K.S.A. 77-527. File any request with **Kansas Department of Agriculture, Legal Division, 1320 Research Park Drive, Manhattan, KS 66502**. Failure to timely request a hearing or review may preclude review under the Kansas Judicial Review Act.

For Use by Register of Deeds

FOR OFFICE USE ONLY
APPLICATION APPROVED AND SUMMARY ORDER ISSUED

By: _____
Duly Authorized Designee of the Chief Engineer

(Print Name): _____
Division of Water Resources - Kansas Department of Agriculture

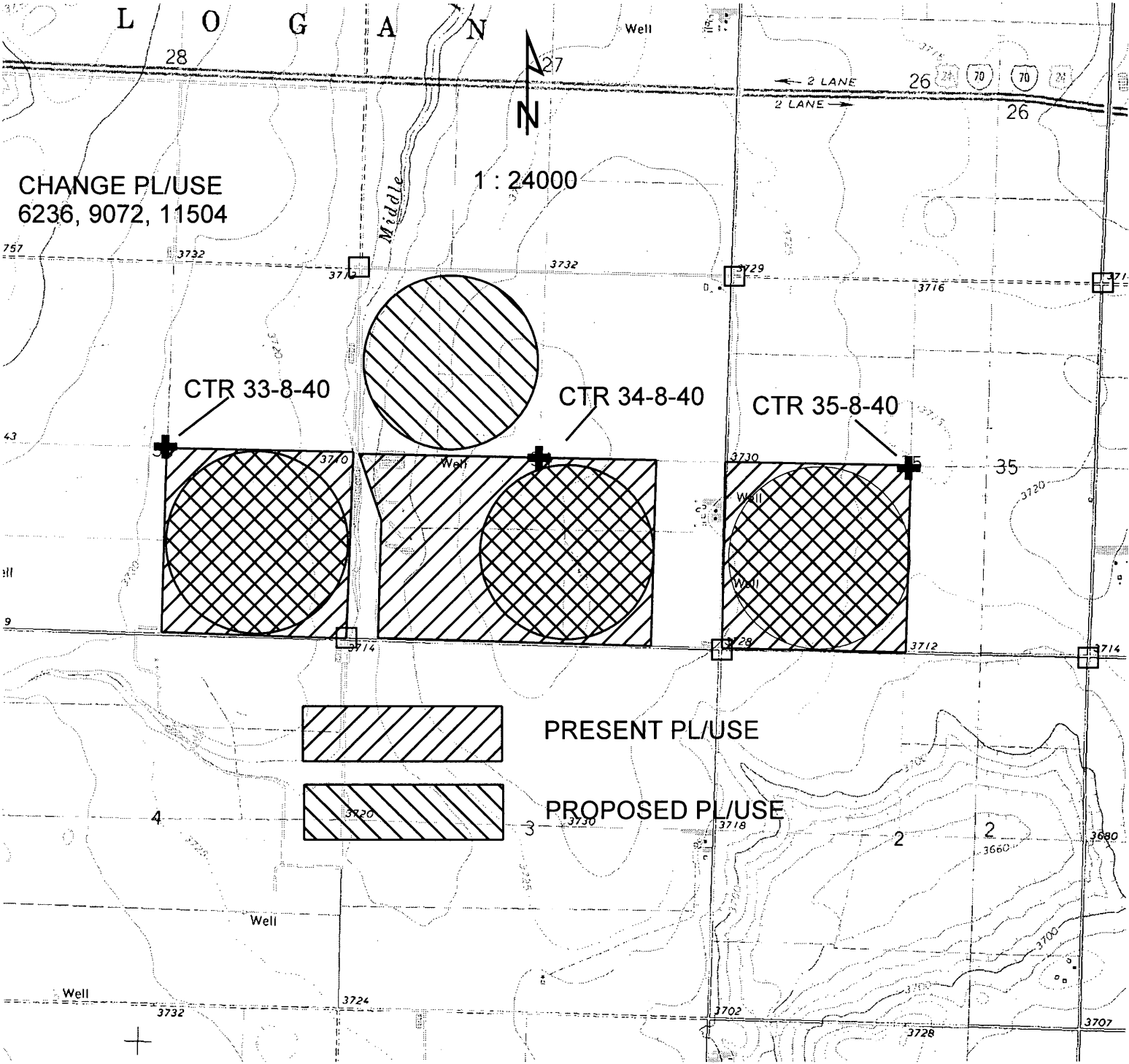
Date of Issuance: _____

State of Kansas)
County of _____) SS

Acknowledged before me on _____
by _____

Signature: _____
Notary Public

My commission expires: _____
(Notary Seal)



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KS DEPT OF AGRICULTURE

* PAUL/MR 5/9/17

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Stockton Field Office
Division of Water Resources

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KANSAS DEPARTMENT OF AGRICULTURE
Jackie McClaskey, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

REQUEST TO REDUCE A PORTION OF AN EXISTING WATER RIGHT
(NO FEE REQUIRED)

Identify the file which is the subject of this request:

- (CHECK ONE) Vested Right, File No. _____
- Water Right, File No. 11504
- Appropriation of Water, File No. _____

Water Resources
Received
JAN 23 2019

To: CHIEF ENGINEER
Division of Water Resources
Kansas Department of Agriculture
1320 Research Park Drive
Manhattan, Kansas 66502

KS Dept Of Agriculture

From: (Names and addresses of owners of authorized place of use. Please see instructions on back.)

TOPLIFF REV TRUST JOHN GALE & CAROL JEAN TOPLIFF

607 KANSAS 6250 RD 17

GOODLAND, KS 67735 GOODLAND, KS 67735

REQUEST

The above listed owners request a:

[Complete only the sections that apply. Check only the boxes that apply. Fill in only the blanks that apply.]

A. REDUCTION IN AUTHORIZED MAXIMUM ANNUAL QUANTITY OF WATER.

It is requested that the maximum annual quantity of water be reduced to _____
(acre-feet or million gallons; circle one) per calendar year.

B. REDUCTION IN AUTHORIZED MAXIMUM RATE OF DIVERSION OF WATER.

It is requested that the maximum rate of diversion of water be reduced to _____ gallons per minute
(_____ c.f.s.).

Assisted by: RL GMD #4

C. REDUCTION IN THE SIZE OF THE AUTHORIZED **PLACE OF USE** OF WATER.
(A reduction in place of use may result in a reduction of the authorized rate and quantity to reflect reasonable needs.)

It is requested that the authorized place of use be reduced to:

Owner of Land - NAME: TOPLIFF REV TRUST

ADDRESS: 607 KANSAS GOODLAND, KS 67735

IRRIGATION USE

Sec.	Twp.	Range	NE¼				NW¼				SW¼				SE¼				TOTAL ACRES
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
33	8	40													40	40	40	40	160
34	8	40									40	30	25	40	10	40	40	10	235
35	8	40									40	40	40	40					160

OR

NON IRRIGATION USE

Describe:

(If more space is needed, attach additional sheets as necessary.)

A copy of a topographic map is attached showing the place of use after the requested reduction.

D. REDUCTION IN THE NUMBER OF **POINTS OF DIVERSION** AUTHORIZED.
(A reduction in the point(s) of diversion may result in the reduction of the rate and quantity authorized by the amounts associated with those points of diversion.)

It is requested that the number of authorized points of diversion be reduced to: _____ located as follows:
 (No. of points of diversion) (wells, pumps, or other works for diversion of water)

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, and

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 more space is needed, attach additional sheets as necessary.)

A copy of a topographic map is attached, showing the location of the remaining point(s) of diversion after the requested reduction.

E. REDUCTION IN THE **TYPES OF BENEFICIAL USE** AUTHORIZED.

It is requested that the types of beneficial use of water be reduced to: _____.

I, the undersigned owner of this water right or permit declare that: (1) I am freely and voluntarily choosing to reduce the water right listed; and (2) I am waiving any rights to a hearing or an appeal that I may have had regarding the reduction of the water right listed.

I declare that I am an owner, as identified herein, or that I represent an owner, as identified herein, and am authorized to make this request on his or her behalf.

Dated at Goodland, Kansas, this 17th day of January, 2019.
(Month) (Year)

Topliff Reverend Trust
Randy D. Topliff, TTE
(Owner)

(Spouse)

Randy D. Topliff
(Please Print)

(Please Print)

(Owner)

(Spouse)

John Topliff
(Please Print)

Cara I Topliff
(Please Print)

[Signature]
(Owner)

Cara Topliff
(Spouse)

(Please Print)

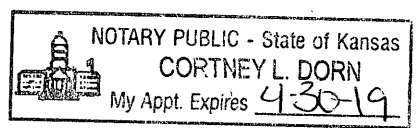
(Please Print)

State of Kansas)
County of Sherman) ss

I hereby certify that the foregoing application was signed in my presence and sworn to before me this
17 day of January, 2019.
(Month) (Year)

Courtney L. Dorn
Notary Public

My Commission expires 4-30-19



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INSTRUCTIONS:

The request must be signed by each owner of the place of use authorized by the water right or permit and his or her spouse, if married. All water right or permit owners, including spouses, must sign this request for it to be valid. Unless the water right or permit has been legally severed from the authorized place of use, the owners of the water right or permit are the owners of the authorized place of use. Please indicate if there is no spouse. If land is being purchased under contract, the seller must sign as owner until such time as the contract is completed.

In the event that all owners cannot sign together in front of one notary public, they may, as necessary, sign appropriate copies of the request in front of any notary public conveniently available to them. All copies signed in this manner shall be accepted as valid parts of the request.

If the request is signed on behalf of any owner by someone with legal authority to do so (for example, an agent, one who has power of attorney, or an executor, executrix, conservator), it will be necessary to attach proper documents showing such authority.

I, the undersigned owner of this water right or permit declare that: (1) I am freely and voluntarily choosing to reduce the water right listed; and (2) I am waiving any rights to a hearing or an appeal that I may have had regarding the reduction of the water right listed.

I declare that I am an owner, as identified herein, or that I represent an owner, as identified herein, and am authorized to make this request on his or her behalf.

Dated at _____, Kansas, this _____ day of _____, _____
(City) (Month) (Year)

(Owner)

(Spouse)

(Please Print)

(Please Print)

(Owner)

(Spouse)

(Please Print)

(Please Print)

(Owner)

(Spouse)

(Please Print)

(Please Print)

State of Kansas)
County of _____) ss

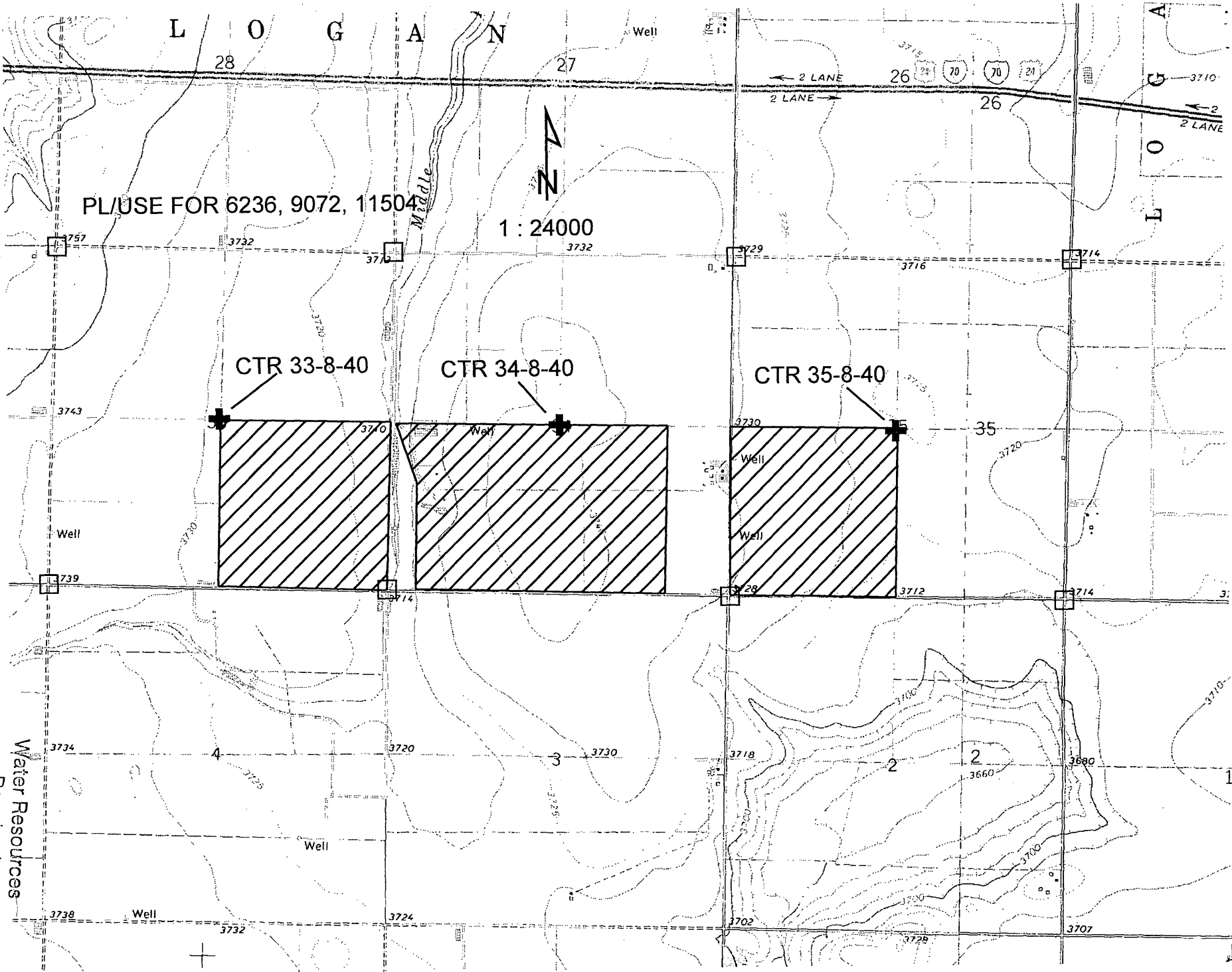
I hereby certify that the foregoing application was signed in my presence and sworn to before me this

_____ day of _____, _____
(Month) (Year)

Notary Public

My Commission expires _____

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JAN 23 2019
KS Dept Of Agriculture



PL/USE FOR 6236, 9072, 11504

1 : 24000

CTR 33-8-40

CTR 34-8-40

CTR 35-8-40

SCANNED

JAN 23 2019

Water Resources
Received

KS Dept Of Agriculture

* RAK/OW 5/4/17

* FILE NO 11504

Krueger, Richelle [KDA]

From: Stewart, Kelly [KDA]
Sent: Monday, May 6, 2019 11:17 AM
To: Krueger, Richelle [KDA]
Cc: Billinger, Mark [KDA]; Hageman, Rebecca [KDA]
Subject: RE: Request for Recommendation Change in PU File Nos. 6236; 9072 and 11504 Horinek

Richelle,

I have no objection to the approval of these change applications.

Kelly

From: Krueger, Richelle [KDA]
Sent: Monday, May 6, 2019 10:45 AM
To: Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>
Cc: Billinger, Mark [KDA] <Mark.Billinger@ks.gov>
Subject: Request for Recommendation Change in PU File Nos. 6236; 9072 and 110540 Horinek

Hi Kelly,
Attached is a draft memo for the referenced changes, do you recommend approval?

Thanks,
Richelle



**NORTHWEST KANSAS
GROUNDWATER MANAGEMENT
DISTRICT NO. 4**

1290 West 4th Street
P.O. Box 905
Colby, Kansas 67701-0905

March 11, 2019

Kelly Stewart
Stockton Field Office
820 South Walnut Street
Stockton KS 67669

RE: WR File Nos. 6,236, 9,072, & 11,504
Tony M. Horinek Trust & Anita M Horinek Trust

Dear Kelly,

The Northwest Kansas Groundwater Management District has reviewed the above referenced application and based on our records and the information supplied by the applicant, we have determined that the following recommendations be made to the Chief Engineer:

Approve application. Resource Development Plan attached.
Remember to remove from 5-5-11.

If you have any questions, please contact this office.

Sincerely,

Ray Luhman
Manager

RPL: jem
attachments

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LEGAL (OPT) NE 34-8-40 6236, 9072, 11504
PIVOT LENGTH (REQD) 1235
ROTATION DEGREES (REQD) 360
GPM (REQD) 500
NOZZLE SPACING IN FT (OPT) 6.6666
RESIDUE IN LBS/ACR (REQD) 4000
ACRES OF CLASS VI SOIL
IN GRASS, ALFALFA, ETC. 0

CROPS ANY IRRIGABLE CROPS MAY
BE PRODUCED

ADDED PROVISIONS/NOTES NONE

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CALCULATIONS FOR AVERAGE FIELD SLOPE

ACRES IN FIELD:

110.0008

MAP UNIT NUMBER	SOIL TYPE		AVERAGE SLOPE		ACRES OF THE SOIL TYPE		WEIGHTE AVERAGE
1859	Ulysses silt loam, 3 to 6 percent slopes	+	4.5	+	2.3	+	0.09409
1620	Keith silt loam, 1 to 3 percent slopes	+	2	+	23.1	+	0.42
1619	Keith silt loam, 0 to 1 percent slopes	+	0.5	+	84.6	+	0.38454
		0 +	0	+		+	0
		0 +	0	+		+	0
		0 +	0	+		+	0
		0 +	0	+		+	0
		0 +	0	+		+	0
		0 +	0	+		+	0

AVERAGE WEIGHTED FIELD SLOPE:

0.90 %

ENTER CLASS VI ACRES HERE:
 ENTER STEEPEST SLOPE IF CLASS VI:
 WEIGHTED AVERAGE FIELD SLOPE:
 PER CENT CLASS VI SOIL
 DESIGN SLOPE FOR CENTER PIVOT:

0 ACRES
 0 %
 0.89863 %
 0 %
 0.89863 %

DESIGN GROUP 5

design slope 0.89863 %
residue 4000 lbs/acre

1
4000

1 4.2
3 2.5
5 1.5
7 1.1

max all. Appl. Rate 5.04 in/hr

900 0.85
1000 0.9
1500 0.95
2000 1
2500 1.05
3000 1.1
3500 1.15
4000 1.2
4500 1.25

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CALCULATED

MAX ALLOW
APPL RATE
5.04

PIVOT
LENGTH
1235

GPM:WTD DIA
32.33

GPM
500.00

WTD DIA
15.46

GPM = 500

APPL RT= 5.04

RADIUS
1235

GPM
500

NZL SPCNG
6.6666

GPM/AC
4.55

501.34 =SUM NZL GPM
5.39 =GPM END NZL

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Water Resources



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Stockton Field Office
820 S. Walnut
Stockton, KS 67669-0192



Phone: 785-425-6787
Fax: 785-425-6842
www.agriculture.ks.gov

Mike Beam, Interim Secretary

Laura Kelly, Governor

March 11, 2019

GROUNDWATER MANAGEMENT DISTRICT NO 4
PO BOX 905
COLBY KS 67701

Re: Water Right, File Nos. 6,236; 9,072; & 11,504

Dear Ladies and Gentlemen:

Reference is made to the applications referred to above which appear to be in proper form.

We are delaying any further action until April 1, 2019 to allow you time to submit your recommendation concerning these applications.

Please submit your recommendation within the allotted time or any authorized extension of time thereof. If you wish to refer to a specific file, please reference it when you contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "Kelly C. Stewart". The signature is written in a cursive style with a long horizontal line extending to the right.

Kelly C. Stewart
Water Commissioner

KCS:rfh
Enclosures

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



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

Mike Beam, Interim Secretary

Laura Kelly, Governor

TONY M HORINEK
1980 CTY RD 18
COLBY, KS 67701

March 19, 2019

RE: File No 11504

Dear Sir or Madam:

An application for approval of the Chief Engineer to change the following condition or conditions of the file number referred to above has been received:

- place of use PU
- point of diversion
- use made of water

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. You will be contacted regarding this application as soon as it has been examined.

In accordance with the provisions of the Kansas Water Appropriation Act, a portion of which is included below, the use of water prior to approval of the application is unlawful. You should not proceed and divert water as indicated by your plans in your application for a change for this file until you receive approval for this change from the Chief Engineer. 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 Tourney, L.G.
Change Applications Unit Supervisor
Water Appropriation Program

BAT: DLW4

SCANNED

TRUSTEE'S DEED

THIS INDENTURE, made this 17th day of January, 2019, by and between **Randy Dean Topliff, Trustee and Donald Ray Topliff, Trustee of the Topliff Revocable Trust, UTA dated April 21, 1997**, as GRANTOR, and **The Tony M. Horinek Trust Agreement, dated June 21, 2002 AND The Anita M. Horinek Trust Agreement, dated June 21, 2002**, as GRANTEES.

GRANTOR, acting under express powers conferred upon them by the terms of the **The Topliff Revocable Trust, UTA dated April 21, 1997** and which said trust agreements remain in full force and effect at this time without having been revoked, and in consideration of the sum of \$1.00 and other valuable consideration, does by these presents, GRANT, BARGAIN, SELL AND CONVEY unto GRANTEE, all right, title and interest of the trustees of the **Topliff Revocable Trust, UTA dated April 21, 1997**, and of the said trusts, in and to all the following described real estate located in Sherman County, Kansas, to-wit:

SEE ATTACHMENT

Excepting and Reserving: 50% of all the oil, gas and other minerals in and under the real estate for a term and period of ten years from the date of this deed. Rights to current gas production will terminate at the end of ten years from the date of this deed. If any new oil production exists in commercial quantities at the end of said period, then the term of this reservation and exception shall extend so long thereafter as said production in commercial quantities continues. This reservation shall be participating as to all future bonuses and delay rentals on all future oil and gas leases.

Subject to easements and restrictions of record.

TO HAVE AND TO HOLD the above granted premises, together with the appurtenances and hereditaments and every part thereof, unto GRANTEE, their heirs and assigns forever, and the said GRANTOR does hereby covenant with the said GRANTEE, their heirs and assigns, that they have in all things observed the requirements of law concerning said sale.

IN WITNESS WHEREOF, GRANTOR has signed this instrument this 17 day of Jan., 2019

By Randy Dean Topliff
Randy Dean Topliff, individually and as Trustee of the Topliff Revocable Trust, UTA dated April 21, 1997

By Donald Ray Topliff
Donald Ray Topliff, individually and as Trustee of the Topliff Revocable Trust, UTA dated April 21, 1997

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ACKNOWLEDGEMENT

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MAR 08 2019

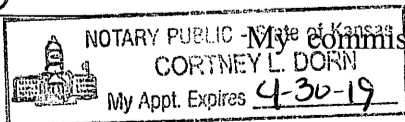
Stockton Field Office
Division of Water Resources

STATE OF Kansas
COUNTY OF Sherman, ss

BE IT REMEMBERED, that on this 17th day of Jan, 2019, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Randy Dean Topliff and Donald Ray Topliff, individually and as trustees of the Topliff Revocable Trust, UTA dated April 21, 1997 who are personally known to me to be the same persons, as trustees, who executed the within instrument of writing and such person duly acknowledged the execution of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Cortney L. Dorn
Notary Public



SEAL

ENTERED IN TRANSFER RECORD
IN MY OFFICE THIS

BOOK 198 PAGE 239

1 | Page

18th DAY OF January A.D. 2019
Ashley N. Mannis
COUNTY CLERK

SCANNED

Legal Descriptions:

Tract 1: The Southeast Quarter (SE ¼) of Section Thirty-three (33), Township Eight (8) South, Range Forty (40), West of the 6th P.M., Sherman County, Kansas

Tract 2: The Northwest Quarter (NW ¼) of Section Thirty-four (34), Township Eight (8) South, Range Forty (40), West of the 6th P.M., Sherman County, Kansas

Tract 3: The South Half (S ½) of Section Thirty-four (34), Township Eight (8) South, Range Forty (40) West of the 6th P.M., Sherman County, Kansas, LESS THE FOLLOWING DESCRIBED TRACTS:

(North Tract) A tract of land situate in the Southeast Quarter (SE 1/4) of Section Thirty-four (34), Township Eight (8) South, Range Forty (40) West of the 6th P.M., Sherman County, Kansas, and being more particularly described as follows:

Commencing at the East ¼ corner of said Section 34; Thence South 02° 20' 25" West along the Easterly line of the SE ¼ of said Section 34 a distance of 370.00 to the Northeast corner of that tract of land described in Book 194 Microfilm at Page 313 of Sherman County, Kansas records; Thence North 87° 39' 35" West along the Northerly line of said tract a distance of 1000 feet to the Northwest corner of said tract; Thence North 02° 20' 25" East a distance of 365.64 feet to a point on the Northerly line of said Southeast Quarter of Section 34; Thence South 87° 54' 34" East along said Northerly line of the Southeast Quarter a distance of 1,000.01 feet to the point of beginning, described parcel containing 8.44 acres, more or less.

And Less

(House and surrounding) A tract of land situate in the Southeast Quarter (SE 1.4) of Section Thirty-four (34), Township Eight (8) South, Range Forty (40) West of the 6th P.M., Sherman County, Kansas, and being more particularly described as follows:

Commencing at the East ¼ corner of said Section 34; Thence South 02° 20' 25" West along the Easterly line of said Southeast Quarter a distance of 370.00 feet to the true point of beginning; Thence South 02° 20' 25" West along said Easterly line of the Southeast Quarter a distance of 695.00 feet; Thence North 87° 39' 35" West a distance of 1,000.00 feet; Thence North 02° 20' 25" East a distance of 695.00 feet; Thence South 87° 39' 35" East a distance of 1,000.00 feet to the point of beginning.

And Less

(South tract) A tract of land situate in the Southeast Quarter (SE 1.4) of Section Thirty-four (34), Township Eight (8) South, Range Forty (40) West of the 6th P.M., Sherman County, Kansas, and being more particularly described as follows:

Commencing at the Southeast corner of said Section 34; Thence North 87° 52' 12" West along the Southerly line of the Southeast Quarter of said Section 34 a distance of 1,000.01 feet; Thence North 02° 20' 25" East a distance of 1,583.38 feet to the Southwest corner of that tract of land described in Book 194 Microfilm at Page 313 of the Sherman County, Kansas, records; Thence South 87° 39' 35" East along the Southerly line of said tract a distance of 1,000.00 feet to the Southeast corner of said tract on the Easterly line of said Southeast Quarter of Section 34; Thence South 02° 20' 25" West along said Easterly line of the Southeast Quarter a distance of 1,579.72 feet to the point of beginning, described parcel containing 36.31 acres, more or less.

Tract 4: The Southwest Quarter (SW ¼) of Section Thirty-five (35), Township Eight (8) South, Range Forty (40) West of the 6th P.M., Sherman County, Kansas

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Division of Water Resources

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STATE OF KANSAS, COUNTY OF SHERMAN, SS
This instrument was filed this 17th
day of January 2019 at 3:11 P.M.
and recorded in Micorfilm Book 198
at Page 239-240 FEE \$ 38.00

Billie R Hoyt
Register of Deeds
Billie R. Hoyt



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