

NOTICE

This scan only represents the application as filed. The information contained herein meets the requirements of K.A.R. 5-3-1 or K.A.R. 5-5-1, and has been found acceptable for filing in the office of the Chief Engineer. The application should not be considered to be a complete application as per K.A.R. 5-3-1b or K.A.R. 5-5-2a.

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

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

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



STATE OF KANSAS

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

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

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File No. 9072

MAR 08 2019
 3:16 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
 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

Stockton Field Office
 Division of Water Resources

RESOURCES
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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: _____

MAR 18 2019

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 # 594

FO 3 GMD 4 3-12R SH

3/19/2019 CCM

5. **Presently authorized point of diversion:**
 One in the NW Quarter of the NW Quarter of the SW Quarter of Section 35 , Township 8 South, Range 40 W, in SHERMAN County, Kansas, 2150 feet North 5200 feet West of Southeast corner of section. Authorized Rate 1460 GPM Authorized Quantity 630 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 NW Quarter of the SW Quarter of the SW Quarter of Section 35 , Township 8 South, Range 40 W, in SHERMAN County, Kansas, 975 feet North 5200 feet West of Southeast corner of section. Authorized Rate 1460 GPM Authorized Quantity 630 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 .

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

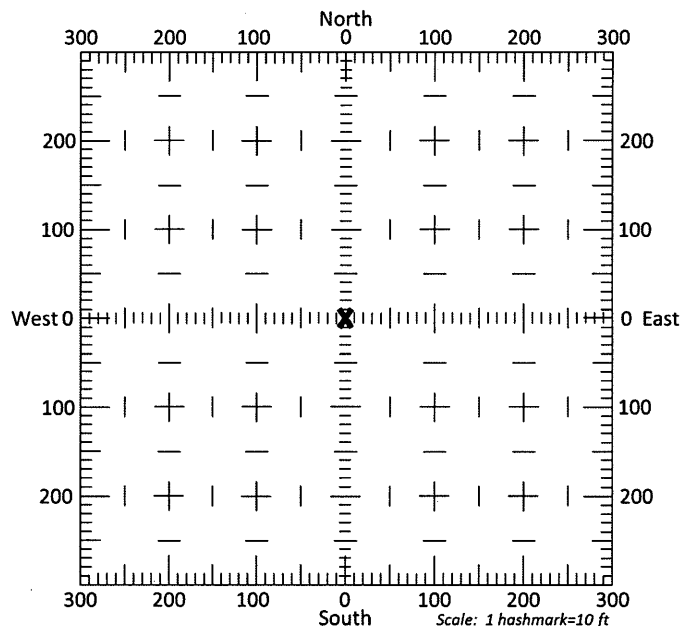
9. The change(s) (was)(will be) completed by?
5/1/19

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 4th day of March, 2019.

Tony Horiner
 (Owner)

 (Spouse)

Tony HORINER TRUSTEE
 (Please Print)

 (Please Print)

Amie Horiner
 (Owner)

 (Spouse)

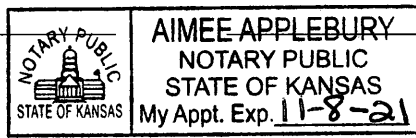
Anita HORINER TRUSTEE
 (Please Print)

 (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

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MAR 18 2019

MAR 08 2019

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)

L O G A N

28

Well



1 : 24000

CHANGE PL/USE
6236, 9072, 11504

← 2 LANE
26 →

26

757

3732

3732

3729

3716

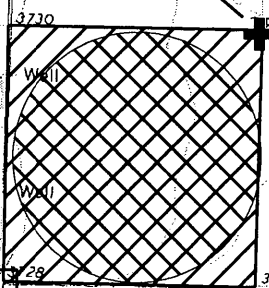
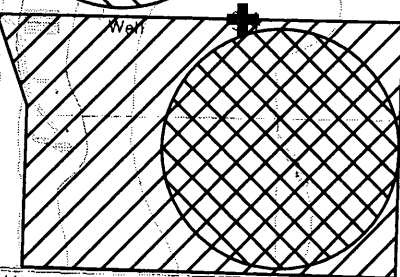
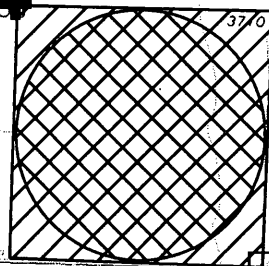
3714

CTR 33-8-40

CTR 34-8-40

CTR 35-8-40

43



35

11

9



PRESENT PL/USE



PROPOSED PL/USE

4

3720

3

3720

3718

2

2

3680

Well

Well

3732

3724

3702

3728

3707

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MAR 08 2019

MAR 18 2019

Stockton Field Office
Division of Water Resources

KS DEPT OF AGRICULTURE

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

WATER RESOURCES RECEIVED

RECEIVED

ACKNOWLEDGEMENT

MAR 18 2019

MAR 08 2019

KS DEPT OF AGRICULTURE

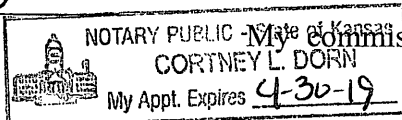
Stockton Field Office
Division of Water Resources

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



My commission expires: 4-30-19

SEAL

ENTERED IN TRANSFER RECORD
IN MY OFFICE THIS

BOOK 198 PAGE 239

1 | Page
17th DAY OF January A.D. 2019
Cortney L. Dorn
COUNTY CLERK

Legal Descriptions:

Tract 1: The Southeast Quarter (SE 1/4) 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 1/4) 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 1/2) 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 1/4 corner of said Section 34; Thence South 02° 20' 25" West along the Easterly line of the SE 1/4 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 1/4 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 1/4) 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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MAR 08 2019

Stockton Field Office
Division of Water Resources

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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INDEXED ✓✓✓

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 9072

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