

# 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 To: CHIEF ENGINEER  
Division of Water Resources  
Kansas Department of Agriculture  
1320 Research Park Drive  
Manhattan, Kansas 66502  
http://agriculture.ks.gov/dwr

APPLICATION FOR TERM PERMIT Water Resources

- GROUNDWATER
 SURFACE WATER
(check one)

Received



KS Dept Of Agriculture

State of Kansas

20209011

STATUTORY FILING FEE MUST ACCOMPANY THIS APPLICATION
(Make check payable to the Kansas Department of Agriculture)

1. Applicant: (Please print or type)
Name KDWP&T
Street 512 SE 25TH AVE
City and State PRATT, KS
Zip Code 67124-8174 Telephone No. (785) 628-8614
E-Mail Address mike.nyhoff@ks.gov
Social Security I.D. No.
and/or Taxpayer I.D. No.

4. Water is to be used for (briefly describe proposed use and explain the rate and quantity requested):
TO AUGMENT STORAGE, EVAP & SEEPAGE FOR
SMOKY GARDENS LAKE

5. Location of place of use:
VETERAN'S MEMORIAL PARK, SMOKY GARDENS LAKE
NW 1/4 OF 14-10S-40W IN SHERMAN COUNTY, KS

6. Period of use:
Commencing date: 01/01/20
Ending Date: 12/31/21 Also enter on Item 12

2. Location of Point of Diversion:
Sec. 10, Twp. 10S, Rng. 40, (W),
SHERMAN County, Kansas.
Distance from Southeast Corner of Section:
2956 feet North from Southeast Corner
673 feet West from Southeast Corner
NOTE: If point of diversion is not site specific (i.e. groundwater pit) show the approximate geographic center.

If off-stream pit, check here [ ]
Will pit floor intersect water table? Yes [ ] No [ ]

7. Location of the proposed point of diversion and those of other water users within 1/2 mile shall be indicated on the diagram to the lower-left, scale 1 inch = 2,000 feet. If surface water, indicate on the diagram the course of the stream, and its name. List other D.W.R. permit numbers that cover the requested point(s) of diversion or place of use here:
SEE ATTACHED MAP

3. Water Use Data:
Proposed Max. Pumping Rate (gpm) 300
Amount Requested (acre-feet) 300 AF per calendar year
Depth of Well (feet) 68
Date (completed) (will be completed) 12/31/1956
Drainage Basin N F SMOKY HILL RIVER
Name of Stream

FEE SCHEDULE

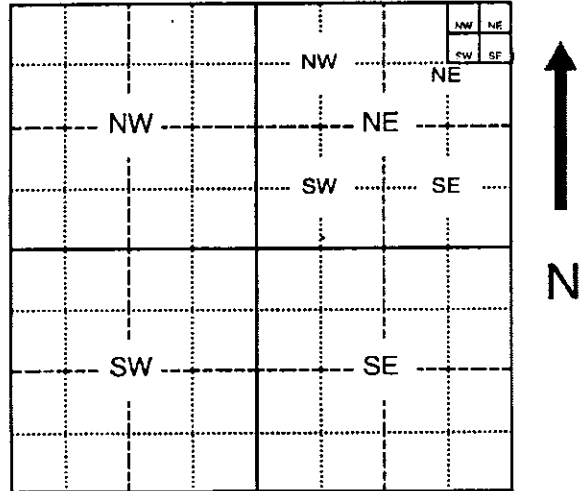
- 1. The filing fee for an application is based on the maximum amount of water use proposed within a year. Except for storage, the fee is:
Acre-feet Fee
0-100 \$200.00
101-320 \$300.00
More than 320 \$300.00
plus \$20 for each additional 100 acre-feet or any part thereof.
2. The fee for an application in which storage is requested, is:
Acre-feet Fee
0-250 \$200.00
More than 250 \$200.00
plus \$20.00 for each additional 250 acre-feet of storage or any part thereof.

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

- 3. A request for an extension of time to extend the term of a term permit shall be accompanied by a fee of \$100.00.
4. There is a separate application form for domestic use. Do not use this form for domestic use.

CONVERSION FACTORS

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



Assisted by BILLINGER-STKFO

2/4/2020
L Moody

1/24/2020
KAB

For Office Use Only:
F.O. 3 GMD 4 Meets K.A.R. 5-3-1 (YES/NO) Use REC Source G/S County SH By KAB Date 1/24/2020
Code TR2 Fee \$ 300 TR # PY00011680 Receipt Date 1/24/2020 Check # credit

8. For groundwater use, list below all wells within 1/2 mile of the proposed well, and plot locations upon the diagram on reverse side. If additional space is needed, attach a map.

Other wells –

Well A Owner(s): ALL NEARBY WELLS OWNED BY APPLICANT  
Address: \_\_\_\_\_

Well B Owner(s): \_\_\_\_\_  
Address: \_\_\_\_\_

9. For surface water use, list below the names and addresses of all landowners from a point 1/2 mile upstream to a point 1/2 mile downstream of the tract of land upon which the point of diversion is located. If additional space is needed, attach sheet.

Tract A Owner(s): \_\_\_\_\_  
Address: \_\_\_\_\_

Tract B Owner(s): \_\_\_\_\_  
Address: \_\_\_\_\_

10. The owner of the point of diversion, if other than the applicant is (please print):

KS. Dept. of Wildlife, Parks & Tourism (State of KS); 1020 S. Kansas Ave; Ste. 200; Topeka, KS 66612; (785) 296-2281  
(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:

**see deed** 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 \_\_\_\_\_, 20\_\_\_\_. \_\_\_\_\_  
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.

11. The applicant states that the information set hereon is true and accurate to the best of his/her knowledge.

12. The applicant agrees to waive any right to a hearing on the matter of abandonment of this appropriation right and further agrees that this appropriation right may be dismissed and terminated upon completion of the proposed project, said dismissal date to be on 12/31/2021 or within any extension of time authorized by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.

13. The applicant agrees to provide water to nearby water users, at no charge to said users, should their rights to use water become impaired by the project proposed by this application.

14. Water use contact person (in event emergency contact is needed):

Name: Mike Nyhoff Telephone No. (785) 628-8614

Michael Nyhoff  
Signature of Applicant

or

\_\_\_\_\_  
Authorized Representative 1-22-2020  
Date

Mike Nyhoff  
Applicant's Name Printed

Public Lands Regional Supervisor  
Title

**DO NOT WRITE BELOW THIS LINE**

**CONDITIONS OF APPROVAL:**

The applicant shall maintain accurate and complete records from which the quantity of water diverted during each calendar year may be readily determined. Accurate and complete records shall be furnished to 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.

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.

The Chief Engineer specifically retains jurisdiction in this matter with authority to make such reasonable reductions in the approved rate of diversion and quantity authorized, and such changes in other terms, conditions, and limitation set forth in this approval and permit to proceed as may be deemed to be in the public interest.



MEMORANDUM OF UNDERSTANDING  
between  
KANSAS DEPARTMENT OF WILDLIFE, PARKS and TOURISM  
State of Kansas  
and  
SHERMAN COUNTY, KANSAS  
for  
THE ESTABLISHMENT OF A FISHERY AND RECREATION POOL  
IN  
SMOKY GARDENS LAKE, located in SHERMAN COUNTY, KANSAS

This Memorandum of Understanding (MOU) is entered into this 21<sup>st</sup> day of January, ~~2019~~, <sup>2020</sup>, between the following *Parties*: Sherman County Kansas, *hereinafter referred to as the County*, and the Kansas Department of Wildlife, Parks and Tourism, an agency of the State of Kansas and located at 1020 S. Kansas Ave, Suite 200, Topeka, KS 66612, *hereinafter referred to as the Department*. The provisions contained in this MOU shall expire December 31, 2021.

WHEREAS: The County owns Soldiers Memorial Park and Smoky Gardens Lake, a historically popular outdoor recreation spot that has depleted water levels;

WHEREAS: The Department holds water rights in Section 10, Township 10S, Range 40 West in Sherman County, which is contiguous to Smoky Gardens Lake;

WHEREAS: The Department operates and maintains Kansas Veterans Wildlife Management Area (KVWA) on lands adjacent to Soldiers Memorial Park;

WHEREAS: The mission of the Department is to manage the fish and wildlife resources of the State of Kansas and provide outdoor recreation opportunities for the public; and

**NOW THEREFORE**, in consideration of the premises and of the mutual covenants set forth below, the Parties agree as follows:

**DEPARTMENT AGREES TO THE FOLLOWING:**

1. Make application, at Department's expense, for a Term Permit with the Chief Engineer, Division of Water Resources to supply no more than 300-acre feet of ground water annually to Smoky Gardens Lake to augment storage, evaporation, and seepage at said lake in order to maintain a water level suitable for fishery and recreational use.
2. Allow, with input from County but at Department's sole discretion, for an annual amount of water up to, but not to exceed, Department's approved Term Permit quantity of 300-acre feet.
3. Allow for County to construct and maintain an above-ground water delivery system, including all necessary pipeline, equipment, and appurtenances (pipes, motors, pumps, meters, etc.) from the KVWA point of water supply to the Smoky Gardens Lake point of delivery.



4. If an underground system is installed by the parties to deliver water to Smoky Gardens Lake during the Term of this MOU, Department shall install or construct the underground water delivery system, including the pipeline, equipment, and associated appurtenances (meters, pumps, motors, pipes, etc.), located on Department property from the County property line to point of water supply at KVWA.
5. Permit County to control and monitor the pumping of water to Smoky Gardens Lake, i.e. turning pumping equipment on and off and fueling the pump, but Department will maintain, at its sole discretion, the ability to withdraw such permission when deemed necessary.
6. Communicate with the County on any water level management fluctuations for Smoky Gardens for fisheries habitat management.
7. Manage and monitor fish populations and fishing opportunities in Smoky Gardens Lake.
8. Withhold water to Smoky Gardens Lake if, in Department's sole discretion, the integrity of the lake is not sufficient, at any time during the Term of this MOU, to adequately contain a water level sufficient to maintain a fishery or be used for recreational use.
9. Grant County a license to access to maintain, repair, and replace all equipment, lines, and appurtenances (meters, pumps, pipes, motors, etc.) associated with the water delivery system, whether above or below ground, located on Department property. This provision allows for temporary access for the Term of this MOU, after which it may be revoked, and in no way gives County any rights or interests in Department's property, real or otherwise.

**COUNTY AGREES TO THE FOLLOWING:**

10. Keep the basin of Smoky Gardens Lake adequately sealed so as to prevent excessive water loss. Sealing procedures must follow engineering recommendations and be approved by Department.
11. Provide, at the County's expense, all materials, equipment, and appurtenances (motors, pipes, pumps, meters, etc.) needed to complete an above-ground water delivery system from the point of supply at KVWA to the point of delivery at Smoky Gardens Lake.
12. If an underground system is installed by the parties to deliver water to Smoky Gardens Lake during the Term of this MOU, County shall install, construct, maintain, repair, and replace the underground water delivery system, including the pipeline, equipment, and associated appurtenances (meters, pumps, motors, pipes, etc.) on County property from the County property line to the point of delivery at Smoky Gardens Lake.
13. Maintain, repair, and replace all equipment, pipelines, and appurtenances associated with the water delivery system (pipes, motors, pumps, meters, etc.), whether above or below ground, from the point of supply at KVWA to the point of delivery at Smoky Gardens Lake after any such system has been properly installed or constructed.



14. Have a properly permitted and constructed weir that delimits the upstream extent of the basin and prevents erosion at the point of water supply.
15. Pay all utilities, including, but not limited to, natural gas, for water well and pumping operations to supply water to Smoky Garden Lake.

**ALL PARTIES AGREE TO THE FOLLOWING:**

16. No assignment of this MOU shall be permitted to any other entity, nor the respective rights or duties thereof.
17. Either party shall provide 30-days' written notice to the other of requested modifications and amendments to this MOU. Any modification or amendment must have prior written consent of both parties.
18. County agrees to indemnify, defend, and hold Department, its successors, and its assigns harmless from any and all damages, claims, penalties, fines, costs, attorney's fees, or claims of any type occasioned by, or arising in any way out of, or resulting from the County's negligence, tortious act, breach of contract, or other actionable conduct. Department shall be liable as provided for under the Kansas Tort Claims Act.
19. All metering used to effectuate a water delivery system, in accordance with this MOU, must be approved by the Division of Water Resources.
20. Any notice given pursuant to this MOU shall be as follows:

To the Department:

Regional Public Lands Supervisor  
Kansas Department of Wildlife,  
Parks and Tourism  
Box 338  
Hays, KS 67601

Secretary  
Kansas Department of Wildlife,  
Parks and Tourism  
1020 S. Kansas Ave, Suite 200  
Topeka, KS 66612

To the County:

Sherman County Commission  
c/o Sherman County Clerk  
813 Broadway  
Goodland, KS 67735

21. The provisions contained in this MOU shall be made available, upon request, to any member of the public, unless otherwise excluded under the Kansas Open Records Act.
22. In the event any of the provisions of this MOU are deemed to be invalid or unenforceable, the same shall be deemed severable from the remainder of the MOU. If such provision shall be deemed



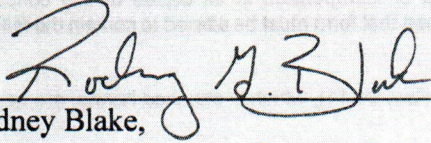
invalid due to its scope and breadth, such provision shall be deemed valid to the extent of the scope and breadth as permitted by law.

23. The Department's failure at any time to require strict performance by the County of any MOU provisions shall not waive or diminish Department's right thereafter to demand strict compliance therewith or with any provision.
24. The provisions found in Contractual Provisions Attachment (form DA-146a), identified as Attachment 1, are hereby incorporated into this MOU.
25. The terms and provisions of this MOU shall be binding upon and inure to the benefit of, the subcontractors, successors, executors, and assignees of County and Department.
26. This MOU constitutes the entire agreement between the parties hereto as to the subject matter herein set forth. This MOU shall supersede and control over all prior written or oral agreements and representations pertaining thereto between the parties to this MOU, or their predecessor in title concerning the subject matter hereof.
27. Nothing in this MOU shall be considered a sale, transfer, or abandonment of any water rights by Department, and County acknowledges that it has no claim to, or interest in, Department's water rights.
28. Each party shall act in their individual capacity and not as agents, employees, partners, in joint venture, or as associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.
29. All parties signing this MOU hereby attest to authorization as a signatory for the respective entities involved.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.  
SIGNATURE ON FOLLOWING PAGE.]

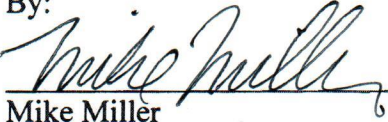
This MOU is effective upon the last signing by a duly authorized representative of the aforementioned parties.

**The Sherman County Commission.**

By:   
\_\_\_\_\_  
Rodney Blake,  
Chairperson, Sherman County Commission

Date 7 Jan. 2020

**Kansas Department of Wildlife, Parks and Tourism**

By:   
\_\_\_\_\_  
Mike Miller  
Assistant Secretary of Fisheries, Wildlife & Boating

Date 1-21-2020



State of Kansas  
 Department of Administration  
 DA-146a (Rev. 04-11)

### CONTRACTUAL PROVISIONS ATTACHMENT

Important: This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

"The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 04-11), which is attached hereto, are hereby incorporated in this contract and made a part thereof."

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the 21<sup>st</sup> day of January, 2020.

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated. Any terms that conflict or could be interpreted to conflict with this attachment are nullified.
2. **Kansas Law and Venue:** This contract shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with this contract shall reside only in courts located in the State of Kansas.
3. **Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of the State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.
4. **Disclaimer Of Liability:** No provision of this contract will be given effect that attempts to require the State of Kansas or its agencies to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The liability of the State of Kansas is defined under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).
5. **Anti-Discrimination Clause:** The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.

Contractor agrees to comply with all applicable state and federal anti-discrimination laws.

The provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting State agency cumulatively total \$5,000 or less during the fiscal year of such agency.

6. **Acceptance Of Contract:** This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.
7. **Arbitration, Damages, Warranties:** Notwithstanding any language to the contrary, no interpretation of this contract shall find that the State or its agencies have agreed to binding arbitration, or the payment of damages or penalties. Further, the State of Kansas and its agencies do not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect that attempts to exclude, modify, disclaim or otherwise attempt to limit any damages available to the State of Kansas or its agencies at law, including but not limited to the implied warranties of merchantability and fitness for a particular purpose.
8. **Representative's Authority To Contract:** By signing this contract, the representative of the contractor thereby represents that such



person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.

9. **Responsibility For Taxes:** The State of Kansas and its agencies shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.
10. **Insurance:** The State of Kansas and its agencies shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this contract, nor shall this contract require them to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the contractor shall bear the risk of any loss or damage to any property in which the contractor holds title.
11. **Information:** No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101 et seq.
12. **The Eleventh Amendment:** "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."
13. **Campaign Contributions / Lobbying:** Funds provided through a grant award or contract shall not be given or received in exchange for the making of a campaign contribution. No part of the funds provided through this contract shall be used to influence or attempt to influence an officer or employee of any State of Kansas agency or a member of the Legislature regarding any pending legislation or the awarding, extension, continuation, renewal, amendment or modification of any government contract, grant, loan, or cooperative agreement.



BOOK 195 PAGE 955  
SPECIAL WARRANTY DEED

THIS DEED, Made this 29<sup>th</sup> day of May, 2018, between

**Pheasants Forever, Inc. a Minnesota nonprofit corporation**, acting herein by and through its President & CEO, Howard K. Vincent, hereinafter called "Grantor", and

**Department of Wildlife, Parks and Tourism, State of Kansas**, hereinafter called "Grantee"

**WITNESSETH:** In consideration of the sum of \$1.00 and other valuable consideration the receipt of which is hereby acknowledged, first parties hereby convey and warrant unto second party, all the following real estate situated in the County of Sherman State of Kansas, to-wit:

SEE EXHIBIT A

**TO HAVE AND TO HOLD THE** – the above described premises, together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, unto said Grantee, their successors and assigns forever, as joint tenants, the survivor to take the whole estate.

Grantors do hereby covenant, promise and agree to and with second parties that at the delivery of these presents, they are lawfully seized in their own right of an absolute and indefeasible estate of inheritance, in fee simple, of and in all and singular the above described premises together with the appurtenances; that the same are free, clear, discharged and unencumbered of and from all former and other grants, estates, taxes, assessments and incumbrances of what nature or kind soever, except; **EASEMENTS AND RESTRICTIONS OF RECORD.**

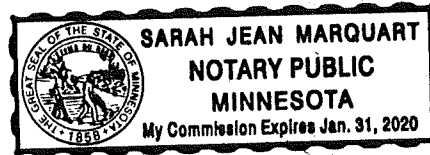
Grantor hereby binds itself and its successors to **WARRANT AND FOREVER DEFEND** all and singular the said premises unto the said Grantee as joint tenants with the right of survivorship and not as tenants in common, their successor and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, by, through or under, but not otherwise.

**IN WITNESS WHEREOF**, the Grantor has caused this Deed to be signed on its behalf by its President, duly authorized so to do, the day and year first above written.

Pheasants Forever, Inc.



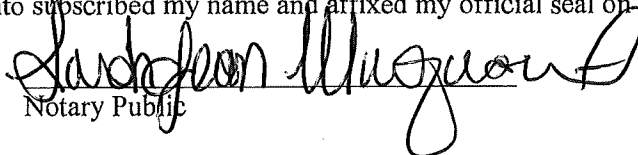
Howard K. Vincent  
President & CEO



STATE OF Minnesota, COUNTY OF Ramsey, ss:

**BE IT REMEMBERED**, That on this 29<sup>th</sup> day of May, 2018, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Howard K. Vincent, President & CEO, of Pheasants Forever, Inc., a Minnesota nonprofit organization, and who is personally known to me to be the same person(s) who executed, the foregoing deed, and duly acknowledged the execution of the same to be the act and deed of the corporation.

**IN TESTIMONY WHEREOF**, I have hereunto subscribed my name and affixed my official seal on the day and year last above written.

  
Notary Public

My appointment expires: Jan. 31, 2020

**Legal Descriptions:**

**Tract A:** The Southwest Quarter (SW ¼) of Section Three (3), Township Ten (10) South, Range Forty (40) West of the 6th P.M. in Sherman County, Kansas, LESS THE FOLLOWING DESCRIBED TRACT:

Referring to the S1/4 corner of said Section 3, thence S89°48'57"W (assumed and all bearings relative to) along the south section line a distance of 47.00 feet to the Point of Beginning. Thence continuing along the south section line a distance of 434.67 feet to a point, thence N 00°05'32"E a distance of 656.91 feet to a point, thence S89°03'30"E a distance of 440.02 feet to a point 41.70 feet west of the ¼ section line, thence S 00°33'38"W a distance of 648.32 feet to the Point of Beginning. Said tract containing 6.55 acres, more or less.

**Tract B:** The East Half (E ½) of Section Nine (9), Township Ten (10) South, Range Forty (40) West of the 6th P.M., in Sherman County, Kansas, LESS THE FOLLOWING DESCRIBED TRACT:

The South 440 feet of the Southeast Quarter (SE ¼) of Section Nine (9), Township Ten (10) South, Range Forty (40) West of the 6th P.M., Sherman County, Kansas

**Tract C:** All of Section Ten (10), Township Ten (10) South, Range Forty (40) West of the 6th P.M., Sherman County, Kansas

This property was acquired in part with grant funds provided by the U.S. Department of the Interior, Fish and Wildlife Service, pursuant to the Pittman-Robertson Wildlife Restoration Grant Program, and will be managed for the purposes of this grant, in accordance with applicable Federal and State law. Property may not be encumbered, disposed of in any manner, or used for purposes inconsistent with the Program for which it was acquired without the prior written approval of the Regional Director, U.S. Fish and Wildlife Service, Region 6, Denver, Colorado.

ENTERED IN TRANSFER RECORD  
IN MY OFFICE THIS  
1 DAY OF June A.D. 2018  
Mary Ann Suthen Deputy  
COUNTY CLERK

STATE OF KANSAS, COUNTY OF SHERMAN, SS  
This instrument was filed this 1st  
day of June 2018 at 2:02 P.M.  
and recorded in Microfilm Book 195  
at Page 955-956 FEE \$ 38.00

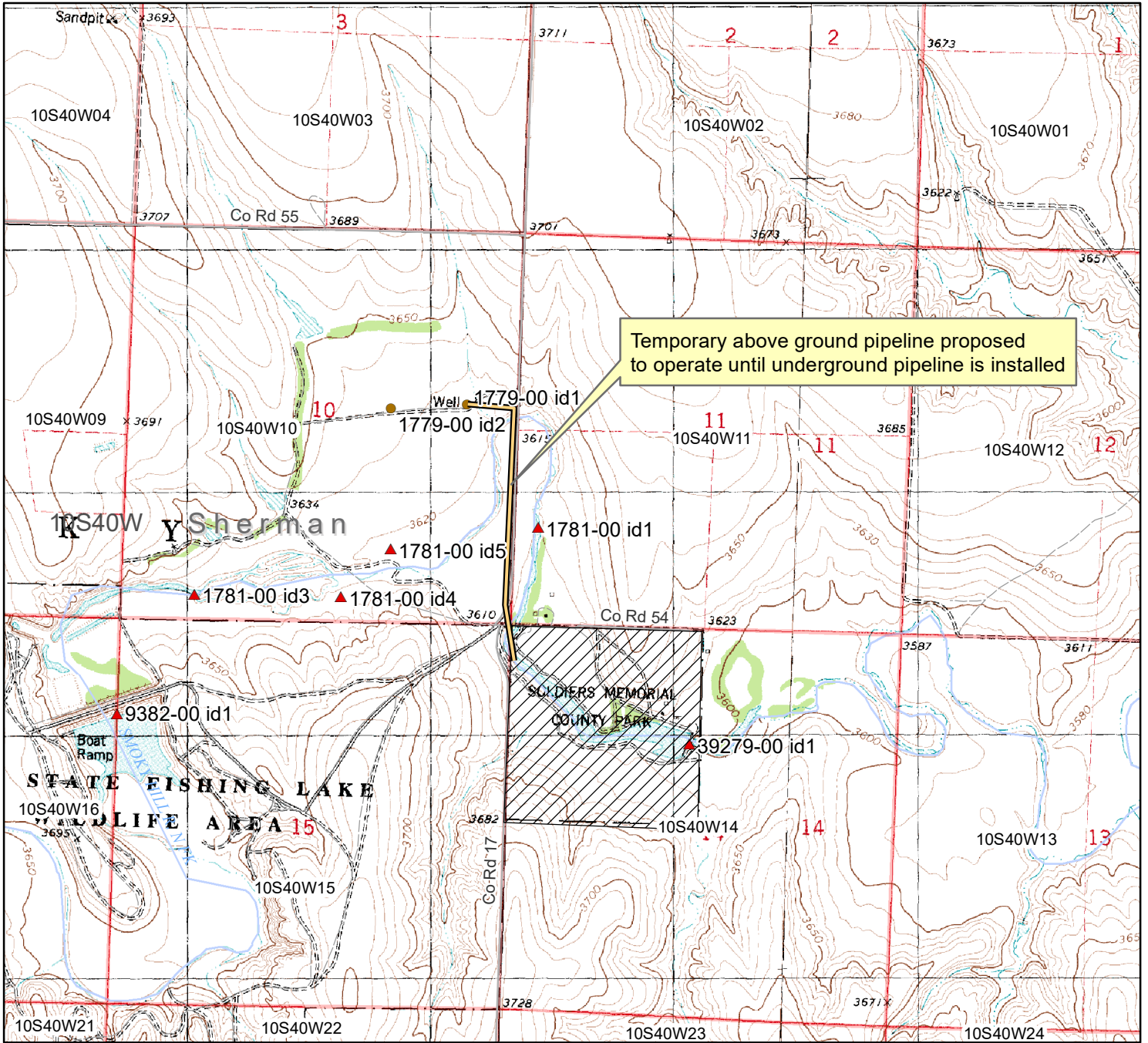
Billie R Hoyt  
Register of Deeds  
Billie R. Hoyt



MICROFILM  
INDEXED ✓✓✓



Term Permit Application - Groundwater  
 Assisted by Division of Water Resources  
 Stockton Field Office



Proposed Place of Use

1:24,000

- ▲ Surface Water Point of Diversion
- Groundwater Point of Diversion

This term permit is requesting 300 AF of groundwater for a two year period commencing January 1, 2020 for the initial filling and maintenance of an 80 AF lake known in Veteran's Memorial Park otherwise known as Smoky Gardens. The permit request the initial filling (80 AF) and the remaining 220 AF will be used to maintain the level due to evaporation and seepage (which is unknown at this time). All other use of the water right 1779 will be voluntarily suspended pending permanent UMW changes.



**From:** Billinger, Mark [KDA]  
**Sent:** Wed 1/22/2020 11:33 AM  
**To:** Baum, Kristen [KDA];Neuhauser, Kris [KDA];Milner, Brandon [KDA]  
**Cc:** Moody, Laura [KDA];Stewart, Kelly [KDA];Letourneau, Lane [KDA];Hageman, Rebecca [KDA]  
**Subject:** FW: Smoky Gardens Application for Term Water Permit  
**Attachments:** KDWPT 1779 ID1 1-100-7 Term Permit Application (signed 1-22-20).doc.pdf, Smoky Garden Term Apps (map) 12-18-19.pdf, Sherman County Deed - May 2018.pdf, Sherman County - Smoky Lake (Executed Agreement 1-21-20).pdf

Hello,

KDWP&T is mailing this term in today for Smoky Gardens. I said if he sent a scanned copy I would forward on to give you a head start if you need it.

I've cc'd Kelly and Lane due to a Senator being involved in this recently so they can know this is being filed now in case they get any more questions.

Also included Laura due this deed will change ownership for water rights 1779, 16372 and most of 1781 (however this one will have a dual ownership for the pu in section 11).

If you have any questions let me know.

Thanks,  
Mark

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**From:** Nyhoff, Mike [KDWPT] <Mike.Nyhoff@KS.GOV>  
**Sent:** Wednesday, January 22, 2020 11:16 AM  
**To:** Billinger, Mark [KDA] <Mark.Billinger@ks.gov>  
**Subject:** Smoky Gardens Application for Term Water Permit

Mark: Attached is the Signed Term Water Permit Application, Map and property deed.

Also attached is the executed copy of the MOA between KDWPT and Sherman County.

Please let me know if you have any questions.

Mike Nyhoff

Region 1 Public Land Supervisor

Kansas Department of Wildlife, Parks & Tourism

PO Box 338, 1426 Hwy 183 Alt

Hays, KS. 67601

Office: 785-628-8614

Cell: 785-342-6438



**From:** Billinger, Mark [KDA]  
**Sent:** Thu 1/23/2020 10:19 AM  
**To:** Stewart, Kelly [KDA];Letourneau, Lane [KDA];Bristow, Leonard [KDA]  
**Cc:** Baum, Kristen [KDA]  
**Subject:** FW: Moving Forward at Smoky Gardens Lake  
**Attachments:** Sherman County - Smoky Lake (Executed Agreement 1-21-20).pdf

FYI, here is the latest I have gotten.

Once they get the dirt work complete we plan on installing a pressure transducer in the reservoir to log stage heights. Then KDWP&T will supply us the metered volume pumped and I will try and work with NWS out of Goodland to get a pan evap estimate for that area. Since there is the upstream weir this reservoir will be little to no runoff entering this reservoir, so we can do a pretty good seepage analysis for them. This is the concern of the parties involved and a nice way we can be of benefit to them.

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**From:** Nyhoff, Mike [KDWPT] <Mike.Nyhoff@KS.GOV>  
**Sent:** Thursday, January 23, 2020 7:34 AM  
**To:** Ashley Mannis <amannis@shermancounty.org>  
**Cc:** Schrag, Stuart [KDWPT] <Stuart.Schrag@KS.GOV>; Miller, Mike [KDWPT] <Mike.Miller@KS.GOV>; Nygren, Doug [KDWPT] <Doug.Nygren@KS.GOV>; Davignon, Lynn [KDWPT] <Lynn.Davignon@KS.GOV>; Spalsbury, David [KDWPT] <David.Spalsbury@KS.GOV>; Hensley, Kent [KDWPT] <Kent.Hensley@KS.GOV>; Bruce, Terry [KDWPT] <Terry.Bruce@KANSAS.GOV>; Conley, Jeff [KDWPT] <Jeff.Conley@KS.GOV>; Schneider, James [KDWPT] <James.Schneider@KS.GOV>; Billinger, Mark [KDA] <Mark.Billinger@ks.gov>  
**Subject:** Moving Forward at Smoky Gardens Lake

Dear Sherman County Commissioners Blake, Topliff and Enfield:

Please find attached a copy of the fully executed MOA between Kansas Department of Wildlife, Parks & Tourism (KDWPT) and Sherman County to provide water and establish a fishery in Smoky Gardens Lake.

KDWPT approves the Sherman County plan to disk and re-compact the clay liner of the lake as soon as possible. KDWPT has submitted (via snail mail) an application for a 2-year Term Water Permit to the KS Division of Water Resources and once it is "officially" recorded, DWR will allow pumping to begin. When the basin work is complete, the County can begin pumping water to fill the lake and preserve the effectiveness of the seal during freeze/thaw events.

KDWPT Engineer James Schneider will contact Jerol DeBoer, Penco Engineering, soon to discuss the project.

We ask that following the re-compaction work, additional sampling is conducted to determine the seal's effectiveness.

It is my understanding that the dam/weir structure permits have been approved or are being expedited. Please contact me before turning the switch to pump water so that we are certain all necessary permits are in place.

We will need to contact Mark Billinger, Div. of Water Resources, Stockton, to make sure the water permit is in place. Mr. Billinger is also planning to place a device in the lake bottom to monitor water loss.

I apologize for the confusion yesterday regarding work at Smoky Gardens Lake. The Department, like the County, is concerned that the project is successful. Yesterday afternoon, KDWPT's Assistant Secretary Mike Miller and Public Lands Division Director Stuart Schrag had additional discussions about the project. The decision was made to move forward, allow the County to re-compact the basin and start pumping water as soon as possible.

The Department appreciates all the efforts of Sherman County to re-establish a fishery and provide outdoor recreation opportunities in Sherman County. The amount of work done at your own expense is impressive and I know you plan to do more. We want to continue working together to get water in the lake and see the vision become reality.

Please continue to update us on your progress and if you have questions, feel free to contact me.

Mike Nyhoff

Region 1 Public Land Supervisor

Kansas Department of Wildlife, Parks & Tourism

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Hays, KS. 67601

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**DATA ENTRY SYSTEM ID NUMBER SHEET**

**FILE NUMBER** 20209011

<b>APPLICANT PERSON ID &amp; SEQ #</b>	<b>PDIV ID</b>	<b>BATTERY ID</b>
<u>40452      1</u>	<u>8259</u>	

<b>LANDOWNER PERSON ID &amp; SEQ #</b>	<b>PUSE ID</b>
<u>40452      1</u>	<u>69818</u>

<b>WATER USE CORRESPONDENT PERSON ID &amp; SEQ #</b>
<u>40452      1</u>