

# 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 APPROVAL TO  
CHANGE THE PLACE OF USE, THE  
POINT OF DIVERSION OR THE USE  
MADE OF THE WATER UNDER AN  
EXISTING WATER RIGHT**



State of Kansas

*Filing Fee Must Accompany the Application  
(Please refer to Fee Schedule on signature page of application form.)*

Paragraph Nos. 1, 2, 3, 4 & 8 must be completed. Complete all other applicable portions. A topographic map or detailed plat showing the authorized and proposed points(s) of diversion and /or place of use must accompany this application.

1. Application is hereby made for approval of the Chief Engineer to change the

- Place of Use  
 Point of Diversion  
 Use Made of Water

(Check one or more)

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DEC 26 2023

12.17

KS DEPT OF AGRICULTURE

File No. 43,860

2. Name of applicant: TDN LP

Address: 37000 C Road

City, State and Zip: Ellis, KS 67637

Phone Number: (785)874-8343

E-mail address: jtwhted78@gmail.com

What is your relationship to the water right;  owner  tenant  agent  other? If other, please explain. \_\_\_\_\_

Name of water use correspondent: TDN LP Attn: James Whited

Address: 37000 C Road

City, State and Zip: Ellis, KS 67637

Phone Number: (785) 874-8343

E-mail address: jtwhted78@gmail.com

3. The change(s) proposed herein are desired for the following reasons (please be specific): To change the place of use for an existing feedlot to completely overlap with a new application that is being filed concurrently.

The change(s) (was) (will be) completed by 12/31/24

(Date)

**For Office Use Only:**

F.O. 3 GMD Meets K.A.R. 5-5-1  YES /  NO Use IRR Source  G S County CD By ALB Date 12/26/23  
Code CRU Fee \$ 200 TR # \_\_\_\_\_ Receipt Date 12/26/23 Check # 7759

4. The presently authorized place of use is:

Owner of Land — NAME: TDN LP

ADDRESS: 37000 C Road Ellis, KS 67637

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	
16	11	21W	Feedlot in the N½																

List any other water rights that cover this place of use. \_\_\_\_\_

Owner of Land — NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

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	

List any other water rights that cover this place of use. \_\_\_\_\_

(If there are more than two landowners, attach additional sheets as necessary.)

5. It is proposed that the place of use be changed to:

Owner of Land — NAME: TDN LP

ADDRESS: 37000 C Road Ellis, KS 67637

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	
16	11	21W	5	39.5	32		14			3	Feedlot in the N½								93.5

List any other water rights that cover this place of use. \_\_\_\_\_

Owner of Land — NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

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	

List any other water rights that cover this place of use. \_\_\_\_\_

**IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY**

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- 6. The presently authorized point(s) of diversion is a battery of 4 wells.  
(Provide description and number of points)
- 7. The proposed point(s) of diversion (is) (are) no change requested.  
(Provide description and number of points)

**List all presently authorized point(s) of diversion:**

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

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

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

- 11. Describe the current condition of and future plans for any point(s) of diversion which will no longer be used. \_\_\_\_\_

**IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY**

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12. The presently authorized use of water is for STK purposes.

It is proposed that the use be changed to no change purposes.

13. If changing the place of use and/or use made of water, describe how the consumptive use will not be increased.

Place of use is being changed to completely overlap with a new application covering the feedlot.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Please show any calculations here.)

14. It is requested that the maximum annual quantity of water be reduced to \_\_\_\_\_ (acre-feet or million gallons).

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

16. The application must include either a topographic map or detailed plat. A U.S. Geological Survey Topographic Map, scale 1:24,000, is available through the Kansas Geological Survey, 1930 Constant Avenue, University of Kansas, Lawrence, Kansas 66047-3726 ([www.usgs.gov](http://www.usgs.gov)). The map should show the location of the presently authorized point(s) of diversion. Distances North and West of the Southeast corner of the section must be shown. The presently authorized place of use should also be shown. Identify the center of the section, the section lines and the section corners and show the appropriate section, township, and range numbers on the map. In addition the following information must also be shown on the map.

a. If a change in the location of the point(s) of diversion is proposed, show:

- 1) The location of the proposed point(s) of diversion. Distances North and West of the Southeast corner of the section must be shown. Please be certain that the information shown on the map agrees with the information shown in Paragraph Nos. 9, 10 and 11 of the application.
- 2) If the source of supply is groundwater, please show the location of existing water wells of any kind, including domestic wells, within 1/2 mile of the proposed well or wells. Identify each well as to its use and furnish name and mailing address of the property owner or owners. If there are no wells within 1/2 mile, please indicate so on the map.
- 3) If the source of supply is surface water, the names and mailing addresses of all landowner(s) 1/2 mile downstream and 1/2 mile upstream from your property lines must be shown.

b. If a change in the place of use is desired, show the proposed place of use by crosshatching on the map. Please be certain that the information shown on the map agrees with the information shown in Paragraph No. 5 of the application.

17. Attach documentation to show the change(s) proposed herein will not impair existing water rights and relates to the same local source of supply as to which the water right relates. This information may include statements, plats, geology reports, well logs, test hole logs, and other information as necessary information to show the above. Additional comments may be made below.

Same source of supply, no impairment will occur.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

18. If the proposed change(s) does not meet all applicable rules and regulations of the Kansas Water Appropriation Act, please identify the rules and regulations for which you request a waiver. State the reason why a waiver is needed and why the request should be granted. Attach documentation showing that granting the request will not impair existing water rights and will not prejudicially and unreasonably affect the public interest.

All regs met.

\_\_\_\_\_  
\_\_\_\_\_

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Any use of water that is not as authorized by the water right or permit to authorize water before the chief engineer approves this application is a violation of the Kansas Water Appropriation Act for which criminal or civil penalties may be assessed. Such violation is a class C misdemeanor, punishable by a fine not to exceed \$500 and/or a term of confinement not to exceed one month in the county jail. K.S.A. 82a-728(b). Civil penalties shall be not less than \$100 nor more than \$1,000 per violation. In the case of a continuing violation, each day such violation continues may be deemed a separate violation. In addition to these penalties the water right may be modified or suspended. K.S.A. 82a-737, as amended.

The application must be signed by all owners of the place of use authorized under the water right and his or her spouse, if married. Please indicate if there is no spouse. If land is being purchased under contract, the seller must sign as landowner until such time as the contract is completed.

In the event that all applicants cannot appear before one notary public, they may as necessary sign separate copies of the application before any notary public conveniently available to them. All copies signed in this manner shall be considered to be valid parts of the application.

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 declare that I am an owner of the currently authorized place of use as identified herein, or that I represent all such owners and am authorized to make this application on their behalf, and declare further that the statements contained herein are true, correct, and complete. By filing this application I authorize the chief engineer to permanently reduce the quantity of water and/or rate of diversion as specified in sections 14 and 15 of this application.

Dated at Edwards County, Kansas, this 20<sup>th</sup> day of December, 20 23.

[Signature]  
\_\_\_\_\_  
(Owner)

\_\_\_\_\_  
(Spouse)

Troy Nelson  
\_\_\_\_\_  
(Please Print)

\_\_\_\_\_  
(Please Print)

\_\_\_\_\_  
(Owner)

\_\_\_\_\_  
(Spouse)

\_\_\_\_\_  
(Please Print)

\_\_\_\_\_  
(Please Print)

\_\_\_\_\_  
(Owner)

\_\_\_\_\_  
(Spouse)

\_\_\_\_\_  
(Please Print)

\_\_\_\_\_  
(Please Print)

State of Kansas }  
County of Edwards } SS



I hereby certify that the foregoing application was signed in my presence and sworn to before me this 20<sup>th</sup> day of December, 20 23.

[Signature]  
\_\_\_\_\_  
Notary Public

My Commission Expires 09/21/2025

**FEE SCHEDULE**

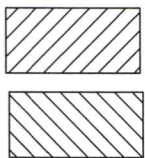
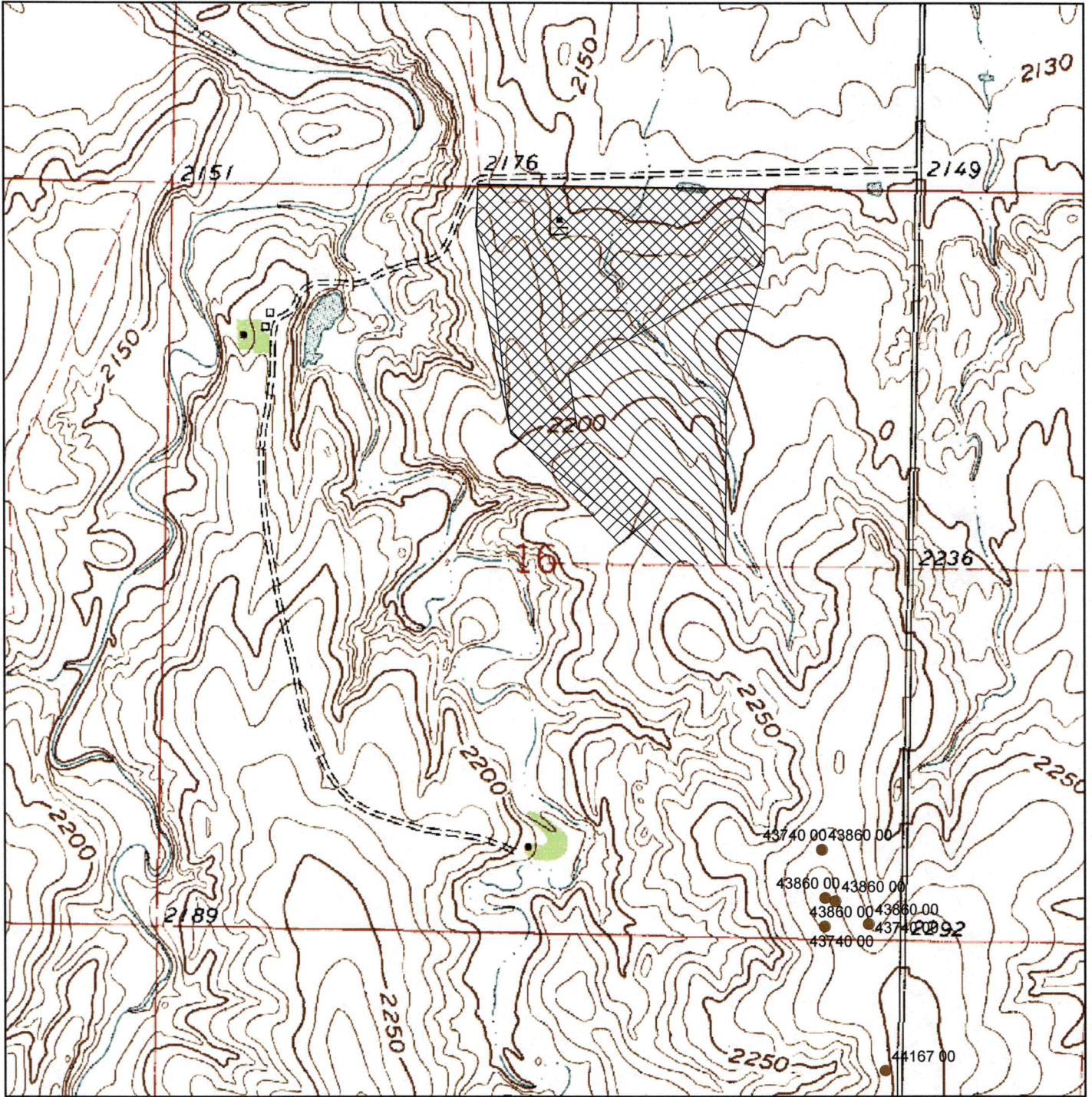
Each application to change the place of use, the point of diversion or the use made of the water under this section shall be accompanied by the application fee set forth in the schedule below:

- (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
- (4) Application to change the use made of the water ..... \$300

Make check payable to Kansas Department of Agriculture.

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Application to Change the Place of Use  
For Water Right File # 43,860



Authorized Place of Use

Proposed Place of Use

▲ Surface Water Point of Diversion

● Groundwater Point of Diversion

1:12,000



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1700 E. IRON AVE. ▪ SALINA, KS 67401  
T 785.823.0097 F 913.273.1493



1303 YUCCA ST. ▪ SCOTT CITY, KS 67871  
WWW.KLAENVIRO.COM

December 20, 2023

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Mr. Earl Lewis, P.E.  
Chief Engineer  
Division of Water Resources  
Kansas Department of Agriculture  
1320 Research Park Drive  
Manhattan, KS 66502

Subject: Change Application Pertaining to Water Right File No. 43860; New Appropriation Application; & Contingent Reduction Request for TDN LP

Dear Mr. Lewis:

The subject applications are enclosed for your consideration. These applications are submitted on behalf of the applicant, TDN LP. The DWR Stockton Field Office and KLA Environmental Services, Inc. assisted with the preparation of these applications. Payment is submitted separately.

Water for livestock consumption at Nelson Land & Cattle LP is currently supplied by a battery of four wells. The wells discharge into an interconnected, pressurized pipe system that supplies water to the entire facility. The operation of the system is based upon variable livestock demand and the physical characteristics of the supply system.

Nelson Land & Cattle LP was recently approved by KDHE for an expansion to increase maximum permitted capacity to 5,500 head of beef cattle. The water system for the new expansion is planned to be interconnected with the existing feedyard's pipeline system. Changes to the place of use as well as an additional source of stock water are needed to support this expansion and the project is contingent upon acquiring an additional water right that will provide a sufficient and stable water supply.

The maximum reasonable use for the expanded capacity is 92.412 acre-feet per year based upon a maximum unit consumption rate of 15 gallons/head/day. The facility has historically used less than the maximum unit consumption. During the period of 2018-2022, the facility used an average of 12.22 gallons/head/day with a maximum rate of 12.64 gallons/head/day during a year. To provide a safety factor to the average historic use, calculations were made using a rate of 13 gallons/head/day. At this rate, annual use is calculated to be 80.090 acre-feet.



The total of all stockwater rights currently associated with the facility is 40.509 acre-feet per year. This implies a potential supply deficit of 39.581 acre-feet per year, based on historic use, or 51.903 acre-feet per year, based on the maximum reasonable consumption.

To successfully supply the existing feedyard and the new expansion, applications are being submitted in three portions.

**Portion 1: Application for Change in Place of Use to File NO. 43,860**

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Nelson Land & Cattle LP has one water right authorized for stockwatering purposes. The current place of use does not cover the approved expansion plans. It is requested to expand the place of use for File Number 43,860 to cover the entire facility, including the new expansion.

**Portion 2: New Appropriation Application**

We determined that the area of the proposed well is not within a groundwater management district. Preliminary discussions with Division of Water Resources staff (David Means) indicated that new appropriations within the immediate vicinity of this facility will not be entertained without a proposed offset of existing water rights. This application requests a new appropriation with a contingent offset of File Number 43,630.

The New Appropriation Application proposes to convert an existing domestic well in Section 8, Township 11 South, Range 21 West in Trego County to an appropriated stockwater well. The drill record for the domestic well has been included. It is requested that an appropriation of 39.606 acre-feet per year and a diversion rate of 99 gpm be approved for this well for stockwater use. Place of use will completely overlap with the proposed change to File No. 43,860.

We searched the *Water Well Completion Records (WWC5) Database* and the *Water Information Management and Analysis System (WIMAS) Program* operated by the Kansas Geological Survey and the Division of Water Resources and found no evidence of active wells, including no domestic wells, within 1/2 mile of the proposed well associated with this application.

**Portion 3: Contingent Reduction Request**

We acknowledge the need to reduce an existing irrigation right to acquire a new stockwater appropriation. A request to reduce File Number 43,630 to 60 acre-feet upon approval of the new application has been included. Please note the contingency of this application. Trego County's consumptive use factor of 86.1% has been applied to arrive at the new appropriation of 60 acre-feet.

Approval of these applications are critical to supplying water to the expanded headcount. Please process these applications as quickly as possible to ensure a sufficient supply of water for the cattle.

Please contact me if you have any questions concerning these applications. Thank you for your consideration of this matter.

Respectfully,

*Craig Griswold*

Craig Griswold, P.E.  
[cgriswold@klaenviro.com](mailto:cgriswold@klaenviro.com)  
cell: 660-292-0823

Enclosures

cc/enc: JT Whited, TDN LP/Nelson Land & Cattle LP

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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, Secretary

Laura Kelly, Governor

January 2, 2024

TDN LP  
37000 C ROAD  
ELLIS KS 67637

RE: File No(s). **43860**

Dear Sir or Madam:

The Division of Water Resources (Division) has received your application(s) to change the place of use, point of diversion or use made of water for the file number(s) referenced above. Please be aware that the Division may have a large number of pending applications on hand at times and makes every attempt to process them in the order in which they are received. You will be contacted if additional information is required.

Please note, this letter only acknowledges receipt of your application(s) and does not guarantee approval. In accordance with the provisions of the Kansas Water Appropriation(s) Act, the use of water as proposed prior to approval of the application(s) is unlawful.

Additional information about the process may be found on our website at [agriculture.ks.gov/divisions-programs/dwr](http://agriculture.ks.gov/divisions-programs/dwr). If you have any other questions, please contact our office at 785-564-6640 or your local Stockton Field Office at 785-425-6787. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

A handwritten signature in black ink that reads "Kristen A. Baum". The signature is written in a cursive style.

Kristen Baum  
New Applications and Changes Supervisor  
Water Appropriation Program