

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
- (Check one or more) Point of Diversion
- Use Made of Water

WATER RESOURCES
RECEIVED

OCT 31 2016

3:02

KS DEPT OF AGRICULTURE

File No. 45,040

2. Name of applicant: KANSAS DEPT OF WILDLIFE PARKS & TOURISM

Address: ACTIVE DIVERSIONS (TOP) 1020 S KANSAS AVE FL 2

City, State and Zip: TOPEKA, KS 66612-1389

Phone Number: (620) 699-3372

E-mail address: _____

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

Name of water use correspondent: Same as Applicant

Address: _____

City, State and Zip: _____

Phone Number: _____

E-mail address: _____

3. The change(s) proposed herein are desired for the following reasons (please be specific): _____

This change will create a complete overlap with new pending application.

The change(s) (was) (will be) completed by Fall 2017

(Date)

For Office Use Only:

Applicant: 1 GMD 0 Meets K.A.R. 5-5-1 (YES/NO) Use REC Source G/S County OS By AJW Date 11/3/16
Code 02 Fee \$ 400 TR # _____ Receipt Date 10/11/16 Check # Inner

WATER RESOURCES
RECEIVED

OCT 11 2016

UNACCEPTABLE FOR PRIORITY
KS DEPT OF AGRICULTURE

11/7/2016 LLM

4. The presently authorized place of use is:

Owner of Land — NAME: US ARMY CORPS OF ENGINEERS(MELVERN) – MELVERN PROJECT OFFICE

ADDRESS: 31051 MELVERN LAKE PKWY, MELVERN, KS 66510-9179

RESERVOIR/MARSH LOCATED IN THE EAST HALF OF THE EAST HALF (E½ E½) OF SECTION 7, TOWNSHIP 18 SOUTH, RANGE 14 EAST, OSAGE COUNTY, KANSAS.

List any other water rights that cover this place of use. NONE

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: US ARMY CORPS OF ENGINEERS(MELVERN) – MELVERN PROJECT OFFICE

ADDRESS: 31051 MELVERN LAKE PKWY, MELVERN, KS 66510-9179

RESERVOIR/MARSH COMPLEX LOCATED IN SECTION 7, TOWNSHIP 18 SOUTH, RANGE 14 EAST, OSAGE COUNTY, KANSAS.

List any other water rights that cover this place of use. Pending New Application

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

WATER RESOURCES RECEIVED

OCT 31 2016

KS DEPT OF AGRICULTURE

WATER RESOURCES RECEIVED

OCT 11 2016

UNACCEPTABLE FOR PRIORITY
KS DEPT OF AGRICULTURE

6. The presently authorized point(s) of diversion is ONE PUMP SITE.

(Provide description and number of points)

7. The proposed point(s) of diversion are TWO PUMP SITES

(Provide description and number of points)

List all presently authorized point(s) of diversion:

8. Presently authorized point of diversion: **PUMP SITE**

One in the SW Quarter of the SE Quarter of the NE Quarter of Section 7, Township 18 South, Range 14 EAST, in OSAGE County, Kansas, 2,722 feet North 1,102 feet West of Southeast corner of section.

Authorized Rate 2585 gpm Authorized Quantity 100 AF

(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 Section _____, Township _____ South, Range _____, 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 Pending New Application

9. 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 _____

(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) **SECOND PUMP SITE**

One in the SW Quarter of the SW Quarter of the NE Quarter of Section 7, Township 18 South, Range 14 EAST, in OSAGE County, Kansas, 2,775 feet North 2,030 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 Pending New Application

10. Presently authorized point of diversion:

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.

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 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. N/A

N/A

WATER RESOURCES RECEIVED

WATER RESOURCES RECEIVED

OCT 11 2016

OCT 31 2016 UNACCEPTABLE FOR SIGNATURE

IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY

KS DEPT OF AGRICULTURE

12. The presently authorized use of water is for RECREATIONAL purposes.
 It is proposed that the use be changed to _____ purposes.
13. If changing the place of use and/or use made of water, describe how the consumptive use will not be increased.
Pending new application will address any consumptive use concerns.

(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). 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 (Marais des Cygnes River). No intervening tributary streams between pump sites.

Will not impair existing water rights.

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.

N/A

IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY

WATER RESOURCES
RECEIVED

OCT 31 2016

KS DEPT OF AGRICULTURE

WATER RESOURCES
RECEIVED

OCT 11 2016

UNACCEPTABLE FOR PRIORITY

KS DEPT OF AGRICULTURE

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 Emporia, Kansas, this 3rd day of October, 2016.

[Signature] (Owner)

(Spouse)

Brad Nixman (Please Print)

(Please Print)

(Owner)

(Spouse)

(Please Print)

(Please Print)

(Owner)

(Spouse)

(Please Print)

(Please Print)

State of Kansas }
County of Lyon } SS



I hereby certify that the foregoing application was signed in my presence and sworn to before me this 3rd day of Oct, 2016.

[Signature] Notary Public

My Commission Expires 11-15-16.

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.

WATER RESOURCES RECEIVED
OCT 31 2016
KS DEPT OF AGRICULTURE

WATER RESOURCES RECEIVED
UNACCEPTABLE FOR PRIORITY
OCT 11 2016
KS DEPT OF AGRICULTURE

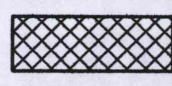
WATER RIGHT, FILE NO. 45,040
 AUTHORIZED PLACE OF USE AND POINT OF DIVERSION
 Section 7, Township 18 South, Range 14 East
 Osage County



WATER RESOURCES RECEIVED
 2016
 KS DEPT OF AGRICULTURE

Copyright © 2013 National Geographic Society, I-cubed

1:12,000



Authorized Place of Use
 UNACCEPTABLE FOR PRIORITY

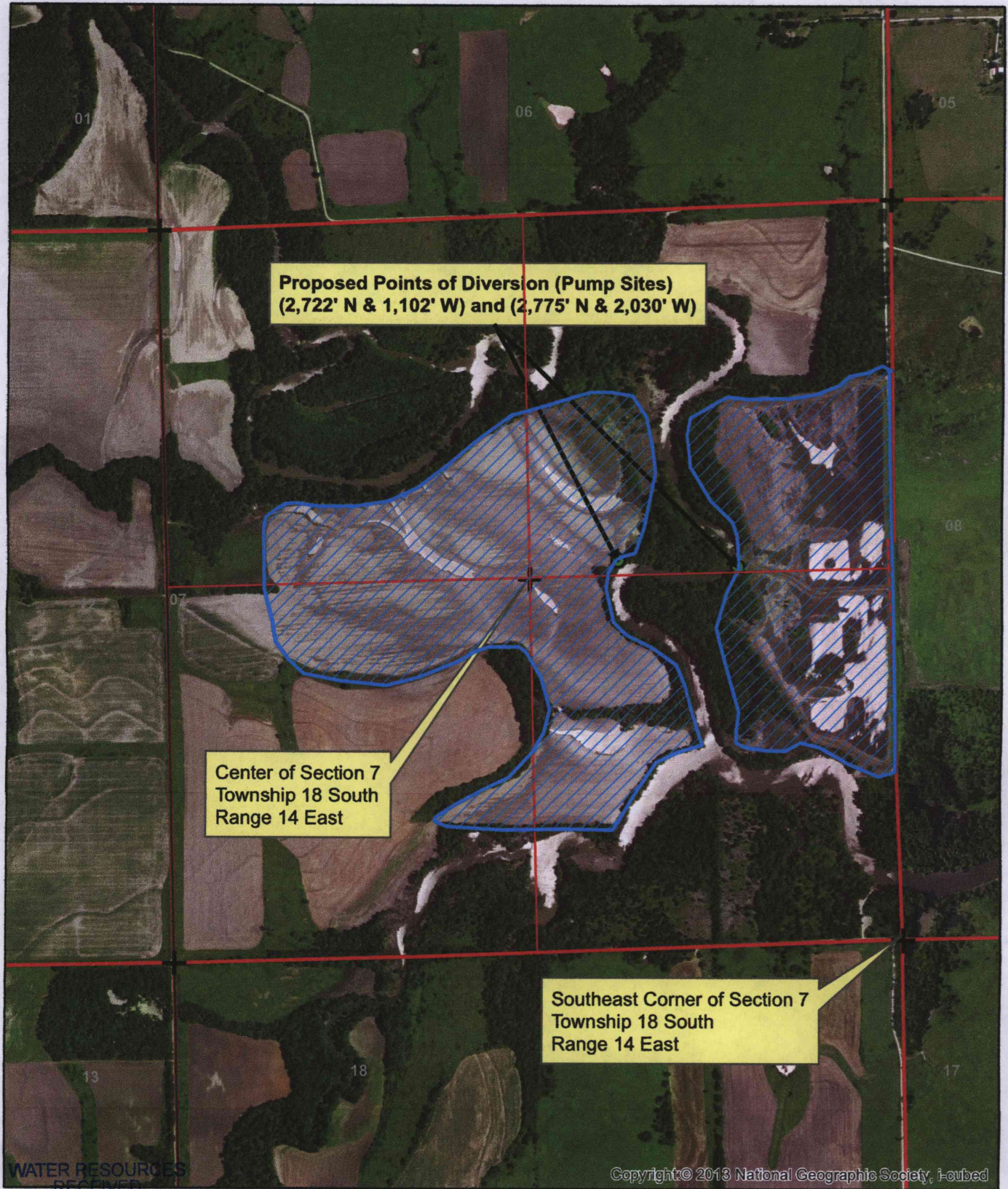
● Authorized Point of Diversion (Pump site)

KS DEPT OF AGRICULTURE

U.S. Army COE owns all land adjacent to the stream within one-half mile upstream and downstream of the property lines.



WATER RIGHT, FILE NO. 45,040 - SITE MAP
 PROPOSED PLACE OF USE AND POINTS OF DIVERSION
 Section 7, Township 18 South, Range 14 East
 Osage County



WATER RESOURCES RECEIVED

Copyright © 2013 National Geographic Society, i-cubed

OCT 31 2016



WATER RESOURCES RECEIVED

Proposed Place of Use
 UNACCEPTABLE FOR PRIORITY

U.S. Army COE owns all land adjacent to the stream within one-half mile upstream and downstream of the property lines.

1:12,000

Proposed Points of Diversion (Pump sites)

Bud [Signature]

KS DEPT OF AGRICULTURE

KS DEPT OF AGRICULTURE



1320 Research Park Drive
Manhattan, Kansas 66502
(785) 564-6700

900 SW Jackson, Room 456
Topeka, Kansas 66612
(785) 296-3556

Jackie McClaskey, Secretary

Governor Sam Brownback

KANSAS DEPT OF WILDLIFE PARKS & TOURISM
1020 S KANSAS AVE FL 2
TOPEKA, KS

FILE COPY

November 4, 2016

RE: File No. 45040

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/PD
- 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 A Turney, L.G.
Change Applications Unit Supervisor
Water Appropriation Program

BAT: dlw



1320 Research Park Drive
Manhattan, Kansas 66502
(785) 564-6700

900 SW Jackson, Room 456
Topeka, Kansas 66612
(785) 296-3556

Jackie McClaskey, Secretary

Governor Sam Brownback

pc: TOPEKA Field Office GMD

FILE COPY

KANSAS DEPT OF WILDLIFE PARKS & TOURISM
1020 S KANSAS AVE FL 2
TOPEKA KS

RE: File No. 45040

Dear Sir or Madam:

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

- place of use
- 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. It may be that we can process these applications on hand to the other files were received. We intend to concentrate on the backlog of applications until the issue is resolved. You will be contacted leading 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 for approval of the application is unlawful. You should not proceed and divert water as indicated by your plan in your application for a change for this until you receive approval from the Chief Engineer. Once approved, you must comply with the terms, conditions and limitations of the permit as necessary. Conservation of the water reported in Kansas is required.

Section 82a-23 of the Kansas Water Appropriation Act provides (a) except for the application of water for the purpose of domestic use, it shall be unlawful for any person to appropriate or divert water for any purpose which is not approved for a permit or otherwise 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 shall mean a person's application for a permit to appropriate water for beneficial uses.

(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) 564-6818. If you wish to discuss a specific issue, please have the file number ready so that we may help you more efficiently.

Christy
Bertie Turner, I.G.
Change Application Unit Supervisor
Water Appropriation Program

BAT:blw