

Kansas Department of Agriculture  
 Division of Water Resources  
**CHANGE: UMW WORKSHEET**

Document Signature \_\_\_\_\_

1. File Number: <b>41321</b>	2. Status Change Date: <b>6/23/2017</b>	3. Change Num: <b>C1</b>	4. Field Office: <b>01</b>	5. GMD:
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6. Status: <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied by DWR/GMD <input type="checkbox"/> Dismiss by Request/Failure to Return	7. Filing Date of Change: <b>13-FEB-2017</b>
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8a. Applicant(s) <input type="checkbox"/> New to system <input type="checkbox"/> Person ID <b>35645</b> Add Seq# <b>1</b>  <b>SCHMIDTLEIN EXCAVATING INC</b> <b>204 NE RICE RD</b> <b>TOPEKA KS 66616</b>	8c. Landowner(s) <input type="checkbox"/> New to system <input type="checkbox"/> Person ID _____ Add Seq# _____
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8b. Landowner(s) <input type="checkbox"/> New to system <input type="checkbox"/> Person ID _____ Add Seq# _____	8d. WUC <input type="checkbox"/> New to system <input type="checkbox"/> Person ID <b>35645</b> Add Seq# _____  <b>SCHMIDTLEIN EXCAVATING INC</b> <b>204 NE RICE RD</b> <b>TOPEKA KS 66616</b>
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9. Documents and Enclosure(s):  DWR Meter(s) Date to Comply: **NO**  N & P Date to Comply: \_\_\_\_\_

Check Valve     N & P Form     Water Tube     Driller Copy     H & E Letter

Conservation Plan    Date Required: \_\_\_\_\_    Date Approved: \_\_\_\_\_    Date to Comply: \_\_\_\_\_

10. Use Made of Water    From: **IND** \_\_\_\_\_    To: **REC** \_\_\_\_\_

Date Prepared: **4/13/2017**    By: **CCP**  
 Date Entered: **6/26/2017**    By: **LLM**

File No. **41321**      11. County: **SN**      Basin: **KANSAS RIVER**      Stream:      Formation Code: **113**      Special Use:

12. Points of Diversion										Rate and Quantity						
MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Comment	Rate gpm	Quantity af/mgy	Rate gpm	Quantity af/mgy	Overlap PD Files
MOD				SE NE SW	23	11	16E	3	1471	3119		NE	17.92 AF	NE	17.92 AF	NO
KEEP PD COMMENT GEO CTR GW PIT																

13. Storage: Rate \_\_\_\_\_ NF      Quantity \_\_\_\_\_ ac/ft      Additional Rate \_\_\_\_\_ NF      Additional Quantity \_\_\_\_\_ ac/ft

14. Limitation: \_\_\_\_\_ af/yr at \_\_\_\_\_ gpm ( \_\_\_\_\_ cfs) when combined / \_\_\_\_\_  
 Limitation: \_\_\_\_\_ af/yr at \_\_\_\_\_ gpm ( \_\_\_\_\_ cfs) when combined with file number(s) \_\_\_\_\_

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

16. Place of Use										NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg?	Overlap Files
MOD	DEL	ENT	PUSE	S	T	R	ID	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼						
NC			33136	23	11	16E	5	A groundwater pit with a surface area of 21.5 acres located in E½ SW¼ of 23-11-16E																	8A	NO	NO		

Comments:

**KANSAS DEPARTMENT OF AGRICULTURE**  
**Division of Water Resources**

**M E M O R A N D U M**

**TO:** Files

**DATE:** April 12, 2017

**FROM:** Charlotte C. Philip

**RE:** Water Right  
File No. 41,321

David J. Schmidlein, on behalf Schmidlein Excavating, Inc., water right owner, filed an application for approval to change the use made of water from industrial to recreational use for File No. 41,321. The change is being processed in conjunction with the certification of the referenced file number.

File No. 41,321 is not abandoned pursuant to K.S.A. 82a-718.

The certificate for the referenced file number, located in the Kansas River Basin, will be issued for a quantity not to exceed 5.84 million gallons (17.92 acre-feet) of water per calendar year for industrial use in a groundwater pit with a surface area of 21.5 acres located in the East Half of the Southwest Quarter (E½ SW¼) of Section 23, Township 11 South, Range 16 East, Shawnee County, Kansas. WRIS shows no current overlaps. Paragraph No. 3 of the application indicates the pit is not being actively used for sand and gravel operations. In fact, Shawnee County has issued a permit for the groundwater pit to be filled in as part of an approved clean-rubble landfill. The application appears to comply with K.A.R. 5-5-8; this proposal does not appear to increase consumptive use. The proposed change in use made of water from industrial to recreational use will be for evaporative losses from the pit which has a surface area of 21.5 acres. Pursuant to K.A.R. 5-6-7, *Determination of average annual potential net evaporative loss:*

(21.5 acre x 10 inches) / 12 inches per foot = 17.92 acre-feet net evaporation  
from the pit.

Nearby well owners identified on the map and in WRIS within one half-mile of the authorized point of diversion were notified of the proposed change in use made of water by letters dated April 13, 2017, in order to comply with Senate Bill 337 enacted by the Kansas State Legislature on July 1, 2016.

In an e-mail dated April 12, 2017, Katie Tietsort, Water Commissioner of the Topeka Field Office, indicated that she has no objection to approval of the application.

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



Charlotte C. Philip  
Environmental Scientist

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

June 26, 2017

Schmidtlein Excavating, Inc.  
204 NE Rice Rd.  
Topeka, KS 66616

**FILE COPY**

RE: Water Right, File No. 41,321

Dear Mr. Schmidtlein:

Enclosed is the order executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the application for change under the above referenced file number.

Since this order modifies the original document referred to above it should be recorded with the Register of Deeds as other instruments affecting real estate.

If you have any questions, please contact Charlotte Philip at 785-564-6642. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

A handwritten signature in cursive script, appearing to read "Brent A. Turney".

Brent A. Turney P. G.  
Change Application Unit Supervisor  
Division of Water Resources

BAT:ccp

pc: Topeka Field Office

THE STATE



OF KANSAS

KANSAS DEPARTMENT OF AGRICULTURE  
Jackie McClaskey, Secretary of Agriculture

DIVISION OF WATER RESOURCES  
David W. Barfield, Chief Engineer

**APPROVAL OF APPLICATION  
FOR  
CHANGE IN USE MADE OF WATER  
WATER RIGHT  
FILE NO. 41,321**

**FILE COPY**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of David J. Schmidlein, on behalf of Schmidlein Excavating, Incorporated, 204 NE Rice Rd., Topeka, Kansas, 66616, received in this office on February 13, 2017, for approval of a change in the use made of water under the certificate of appropriation issued pursuant to the permit to appropriate water for beneficial use, finds that the change is reasonable and will not impair existing rights, and that the application should be and is hereby approved.

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

Recreational use in a groundwater pit with a surface area of 21.5 acres located in the East Half of the Southwest Quarter (E $\frac{1}{2}$  SW $\frac{1}{4}$ ) Section 23, Township 11 South, Range 16 East, Shawnee County, Kansas,

located substantially as shown on the map accompanying the application to change the use made of water.

In all other respects, the Certificate of Appropriation issued pursuant to Approval of Application, File No. 41,321, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated *June 20*, 2017.

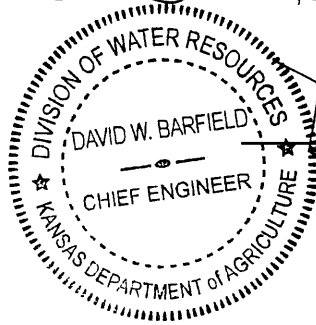
This Order shall become a final agency action, as defined by K.S.A. 77-607(b), without further notice to the parties, if a request for hearing or a petition for administrative review is not filed as set forth below.

**Request for Hearing.** According to K.A.R. 5-14-3(c), any party who desires a hearing must submit a request within 15 days after the date shown on the Certificate of Service attached to this Order. Filing a request for a hearing will give you the opportunity to submit additional facts for consideration, contest any findings made by the Chief Engineer or present any other information you believe should be considered in this matter. A timely-filed request for hearing will stay the deadline for requesting administrative review of this Order pending the outcome of the hearing.

**Petition for Review.** Any person aggrieved by this Summary Order may petition for administrative review, pursuant to K.S.A. 82a-708b(a) and K.S.A. 82a-1901(a). The petition must be filed within 30 days after the date shown on the Certificate of Service attached to this Order and must set forth the basis for the review, unless stayed by the timely filing of a request for hearing.

Any request for hearing or petition for administrative review shall be in writing and shall be submitted to the attention of: Chief Legal Counsel, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, Fax: (785) 564 - 6777.

Ordered this 23<sup>rd</sup> day of June, 2017, in Topeka, Shawnee County, Kansas.



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

State of Kansas )  
                                  ) SS  
County of Riley )

The foregoing instrument was acknowledged before me this 23<sup>rd</sup> day of June, 2017, by David W. Barfield, P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.



*Karen Hunter*  
Notary Public

**CERTIFICATE OF SERVICE**

On this 26<sup>th</sup> day of June, 2017, I hereby certify that the attached Approval of Application for the Change in Use Made of Water, File No. 41,321, dated June 23<sup>rd</sup>, 2017, was mailed postage prepaid, first class, US mail to the following:

Original to:

Schmidtlein Excavating, Inc.  
204 NE Rice Rd.  
Topeka, KS 66616

Photocopy to:

Topeka Field Office

*Danielle Wilson*  
Division of Water Resources

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

April 13, 2017

Penny's Concrete, LLC  
Joe Marney  
P.O. Box 4449  
Topeka, KS 66604

**FILE COPY**

RE: Appropriation of Water, File No. 41,321

Dear Mr. Marney:

This is to advise you that Schmidtlein Excavating, Inc. has filed an application for approval of the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, to change the authorized use made of water under the above referenced file number from industrial use to recreational use.

Effective July 1, 2016, Senate Bill No. 337 enacted by the Legislature of the State of Kansas requires the Division of Water Resources to notify all water right owners with a point of diversion within half a mile of a water right pending a request to change the water right. In order to comply with the statute, you are being notified of the above referenced application for change.

If you have any questions, please contact me at (785) 564-6642. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

A handwritten signature in cursive script that reads "Charlotte C. Philip".

Charlotte C. Philip  
Environmental Scientist  
Water Appropriation Program

CCP

pc: Topeka Field Office  
Schmidtlein Excavating, Inc.

SCANNED

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

April 13, 2017

Helen M. Winter Trust  
Helen M. Winter TTEE  
3900 NE Belmont Ave.  
Topeka, KS 66616

**FILE COPY**

RE: Appropriation of Water, File No. 41,321

Dear Sir or Madam:

This is to advise you that Schmidlein Excavating, Inc. has filed an application for approval of the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, to change the authorized use made of water under the above referenced file number from industrial use to recreational use.

Effective July 1, 2016, Senate Bill No. 337 enacted by the Legislature of the State of Kansas requires the Division of Water Resources to notify all water right owners with a point of diversion within half a mile of a water right pending a request to change the water right. In order to comply with the statute, you are being notified of the above referenced application for change.

If you have any questions, please contact me at (785) 564-6642. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

A handwritten signature in cursive script that reads "Charlotte C. Philip".

Charlotte C. Philip  
Environmental Scientist  
Water Appropriation Program

CCP

pc: Topeka Field Office  
Schmidlein Excavating, Inc.

SCANNED



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)

WATER RESOURCES  
RECEIVED

FEB 13 2017

1:03

KS DEPT OF AGRICULTURE

File No. 41321

2. Name of applicant: SCHMIDTLEIN EXCAVATING INC

Address: 204 NE RICE RD

City, State and Zip: TOPEKA, KS 66616

Phone Number: (785)357-7354

E-mail address: daves@schmidtlexcavating.com

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

Name of water use correspondent: SAME AS ABOVE

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): \_\_\_\_\_

The groundwater pit is no longer used for sand and gravel operations.

The change(s) (was) (will be) completed by 2017 or upon certification

(Date)

For Office Use Only:	
F.O. Code	<u>1 GMD 0</u>
Meets K.A.R. 5-5-1 (YES / NO)	<u>Use FND</u>
Source	<u>G/S</u>
County	<u>SN</u>
By	<u>AW</u>
Date	<u>2/13/17</u>
Fee \$	<u>300</u>
TR #	_____
Receipt Date	<u>2/13/17</u>
Check #	<u>2032</u>



- 6. The presently authorized point(s) of diversion (is) (are) GEOCENTER OF THE GROUNDWATER PIT  
(Provide description and number of points)
- 7. The proposed point(s) of diversion (is) (are) GEOCENTER OF THE GROUNDWATER PIT  
(Provide description and number of points)

List all presently authorized point(s) of diversion:

8. **Presently authorized point of diversion:**  
 One in the SE Quarter of the NE Quarter of the SW Quarter of Section 23, Township 11 South, Range 16 EAST, in SHAWNEE County, Kansas, 1700 <sup>1411</sup> feet North 3000 feet West of Southeast corner of section. Authorized Rate NF Authorized Quantity 18 MGY 3119 CCP 4/12/17  
 (DWR use only: Computer ID No. 3 GPS 5.84 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 \_\_\_\_\_

9. **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 \_\_\_\_\_

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

IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY

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

It is proposed that the use be changed to RECREATION purposes.

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

Pit size will not increase. There will no longer be any further removal of material.  
\_\_\_\_\_  
\_\_\_\_\_

(Please show any calculations here.)

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

15. It is requested that the maximum rate of diversion of water be reduced to N/A 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.

Since the pit will not be expanded, and once the file is certified, consumptive use will not increase.  
\_\_\_\_\_  
\_\_\_\_\_

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  
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FEB 13 2017

SCANNED 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 Topeka, Kansas, this 9<sup>th</sup> day of FEBRUARY, 2017.

<u>David J. Schmittlein</u> (Owner)	_____	(Spouse)
<u>DAVID J SCHMITTEIN</u> (Please Print)	_____	(Please Print)
_____	_____	(Spouse)
_____	_____	(Please Print)
_____	_____	(Spouse)
_____	_____	(Please Print)

State of Kansas }  
County of Shawnee } SS

 **Linda L. Rohr**  
Notary Public  
State of Kansas

I hereby certify that the foregoing application was signed in my presence and sworn to before me this 9<sup>th</sup> day of February, 2017.

Linda L. Rohr  
Notary Public

My Commission Expires 5/6/2019.

**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

FEB 13 2017

KS DEPT OF AGRICULTURE  
SCANNED



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

February 14, 2017

SCHMIDTLEIN EXCAVATING INC  
204 NE RICE RD  
TOPEKA, KS

RE: File No. 41321

**FILE COPY**

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            UMW
- 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,

A handwritten signature in cursive script that reads "Brent A. Turney".

Brent A Turney, L.G.  
Change Applications Unit Supervisor  
Water Appropriation Program

BAT: dlw  
pc: TOPEKA Field Office    GMD 0