

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.

46,706 - REC use
pd + PU change

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

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10:57

KS DEPT OF AGRICULTURE

File No. 46,706

2. Name of applicant: SWAYBACK FARMS LLC - % JIM PEDERSON

Address: 6980 W 153RD

City, State and Zip: OVERLAND PARK KS 66223

Phone Number: (913) 915-6900 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): _____

Change will allow for an expansion of the Recreational Marsh and add an additional control point. Will also create a complete overlap with both a new application and other existing files.

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

For Office Use Only:															
F.O. Code	<u>1</u>	GMD	<u>0</u>	Meets K.A.R. 5-5-1 (YES/NO)	<u>(YES)</u>	Use	<u>REC</u>	Source	<u>G/S</u>	County	<u>LN</u>	By	<u>ASW</u>	Date	<u>2/10/17</u>
Fee \$	<u>400</u>	TR #		Receipt Date	<u>2/10/17</u>	Check #	<u>254</u>								

2/13/2017 UCM

- 6. The presently authorized point(s) of diversion (is) (are) DAM AND ONE (1) WATER CONTROL STRUCTURE
(Provide description and number of points)
- 7. The proposed point(s) of diversion (is) (are) DAM AND TWO (2) WATER CONTROL STRUCTURES
(Provide description and number of points)

List all presently authorized point(s) of diversion:

8. **Presently authorized point of diversion: DAM**

One in the SW Quarter of the NW Quarter of the SE Quarter of Section 19, Township 20 South, Range 25 (E), in LINN County, Kansas, 1,694 feet North 2,236 feet West of Southeast corner of section.

Authorized Rate NF Authorized Quantity 32 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 _____ (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 48,840 & New Application _____

9. **Presently authorized point of diversion: WATER CONTROL STRUCTURE**

One in the NE Quarter of the SW Quarter of the SW Quarter of Section 19, Township 20 South, Range 25 (E), in LINN County, Kansas, 1,285 feet North 4,330 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 48,840 & 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): WATER CONTROL STRUCTURE

One in the NW Quarter of the NW Quarter of the SE Quarter of Section 19, Township 20 South, Range 25 (E), in LINN County, Kansas, 2,331 feet North 2,396 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 48,840 & New Application _____

- 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 RECREATIONAL 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.
New Application filed in conjunction with change will address any increase in consumptive use.

(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.

Local source of supply will remain the same, which is natural flows of N Sugar Creek Trib 4. Expansion of marsh will add an additional control structure for more efficient operation of the marsh.

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

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 2-9-2017 Overland Park, Kansas, this 9 day of February, 2017.

<u>James A. Pederson</u> (Owner)	_____	(Spouse)
<u>James E. Pederson</u> (Please Print)	_____	(Please Print)
_____	_____	(Spouse)
_____	_____	(Please Print)
_____	_____	(Spouse)
_____	_____	(Please Print)

State of Kansas }
County of Johnson } SS

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

Brenda L. Foster
Notary Public-State of Kansas
My Commission Expires 7/28/18

Brenda L. Foster
Notary Public

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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UPSTREAM & DOWNSTREAM LANDOWNERS

SWAYBACK FARMS LLC - NEW APPLICATION

PATTERSON DUCK CLUB
CHAIRMAN HUNTING MGT COMM
12009 ABERDEEN RD
LEAWOOD KS 66209

JOSEPH T BATTEN
33260 COLD WATER
LOUISBURG KS 66053

B & H ENTERPRISES LLC
16910 BELINDER
STILWELL KS 66085

WAYNE K & WANDA L HEIN
9221 CHEROKEE PL
LEAWOOD KS 66206

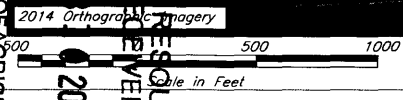
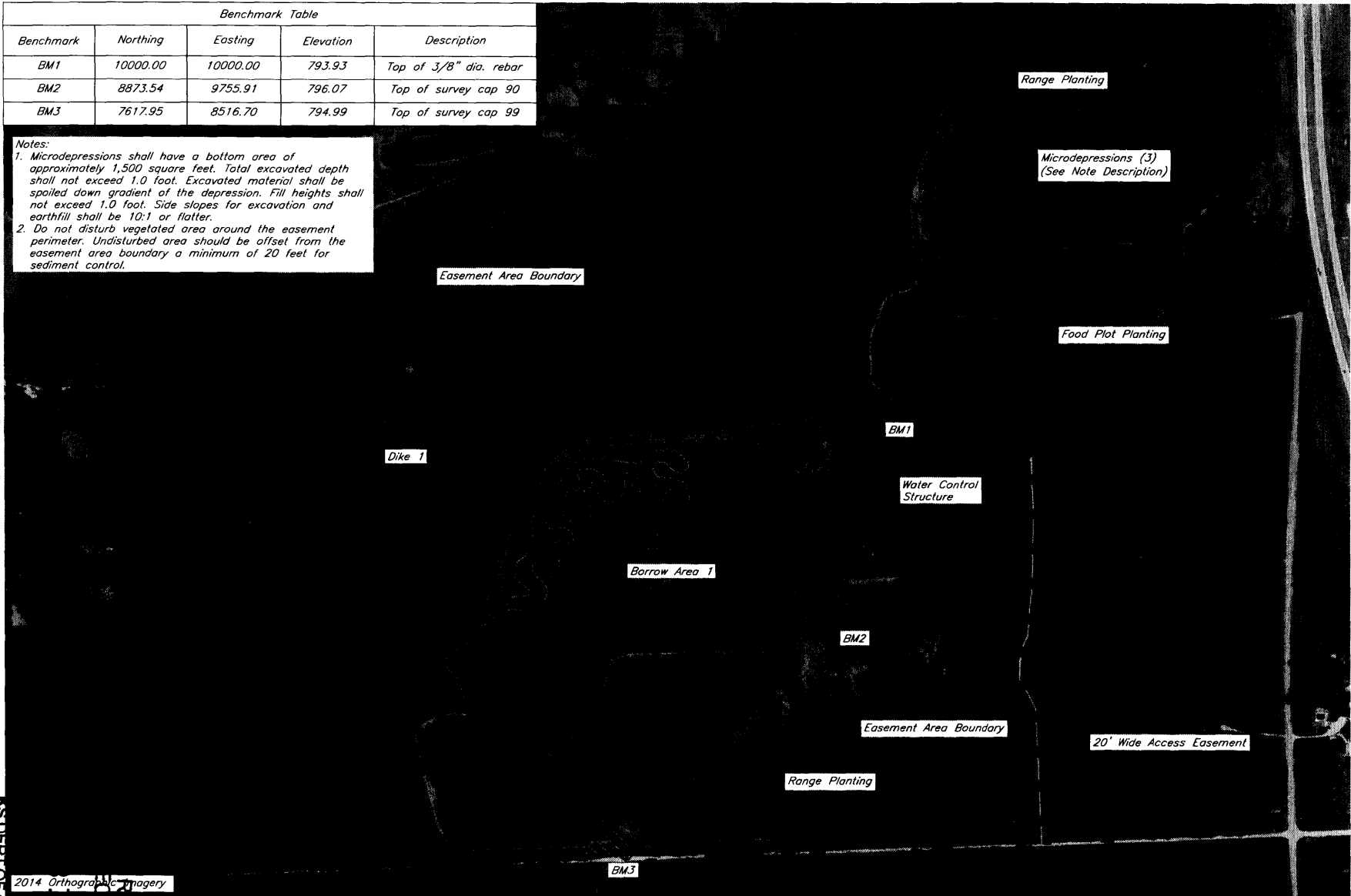
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Benchmark Table				
Benchmark	Northing	Easting	Elevation	Description
BM1	10000.00	10000.00	793.93	Top of 3/8" dia. rebar
BM2	8873.54	9755.91	796.07	Top of survey cap 90
BM3	7617.95	8516.70	794.99	Top of survey cap 99

Notes:
 1. Microdepressions shall have a bottom area of approximately 1,500 square feet. Total excavated depth shall not exceed 1.0 foot. Excavated material shall be spoiled down gradient of the depression. Fill heights shall not exceed 1.0 foot. Side slopes for excavation and earthfill shall be 10:1 or flatter.
 2. Do not disturb vegetated area around the easement perimeter. Undisturbed area should be offset from the easement area boundary a minimum of 20 feet for sediment control.



Designed	B. Severn	Date	11/16
Drawn	B. Severn	Checked	11/16
Checked		Approved	

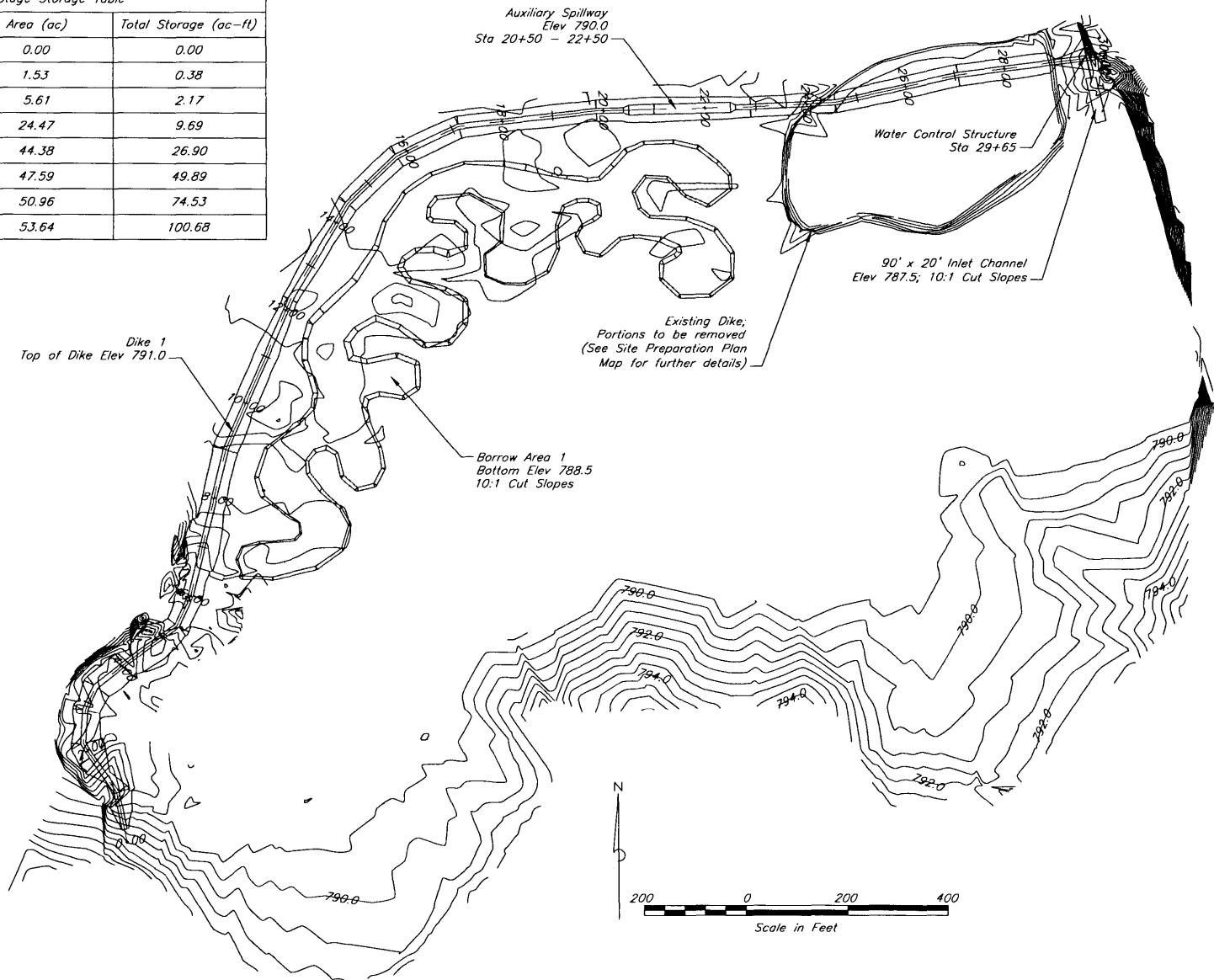
Swayback Farms LLC
 Wetland Restoration
 Sec 19 T20S R25E
 Linn County, Kansas

United States
 Department of
 Agriculture
 Natural Resources
 Conservation Service

Drawing Name
 Swayback
 AM
 Sheet 3 of 9

Orthographic Plan Map

Elevation (ft)	Area (ac)	Total Storage (ac-ft)
787.5	0.00	0.00
788.0	1.53	0.38
788.5	5.61	2.17
789.0	24.47	9.69
789.5	44.38	26.90
ASW 790.0	47.59	49.89
790.5	50.96	74.53
TOD 791.0	53.64	100.68



Date 11/16
 Designed B Severin
 Drawn B Severin
 Checked _____
 Approved _____

Swayback Farms LLC
 Wetland Restoration
 Sec 19 T20S R25E
 Linn County, Kansas

United States
 Department of
 Agriculture
USDA
 Natural Resources
 Conservation Service
 Drawing Name Swayback
 AM
 Sheet 6 of 9

Dike 1 Plan View

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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 13, 2017

SWAYBACK FARMS LLC % JIM PEDERSON
6980 W 153RD ST
OVERLAND PARK, KS

RE: File No. 46706

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 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.

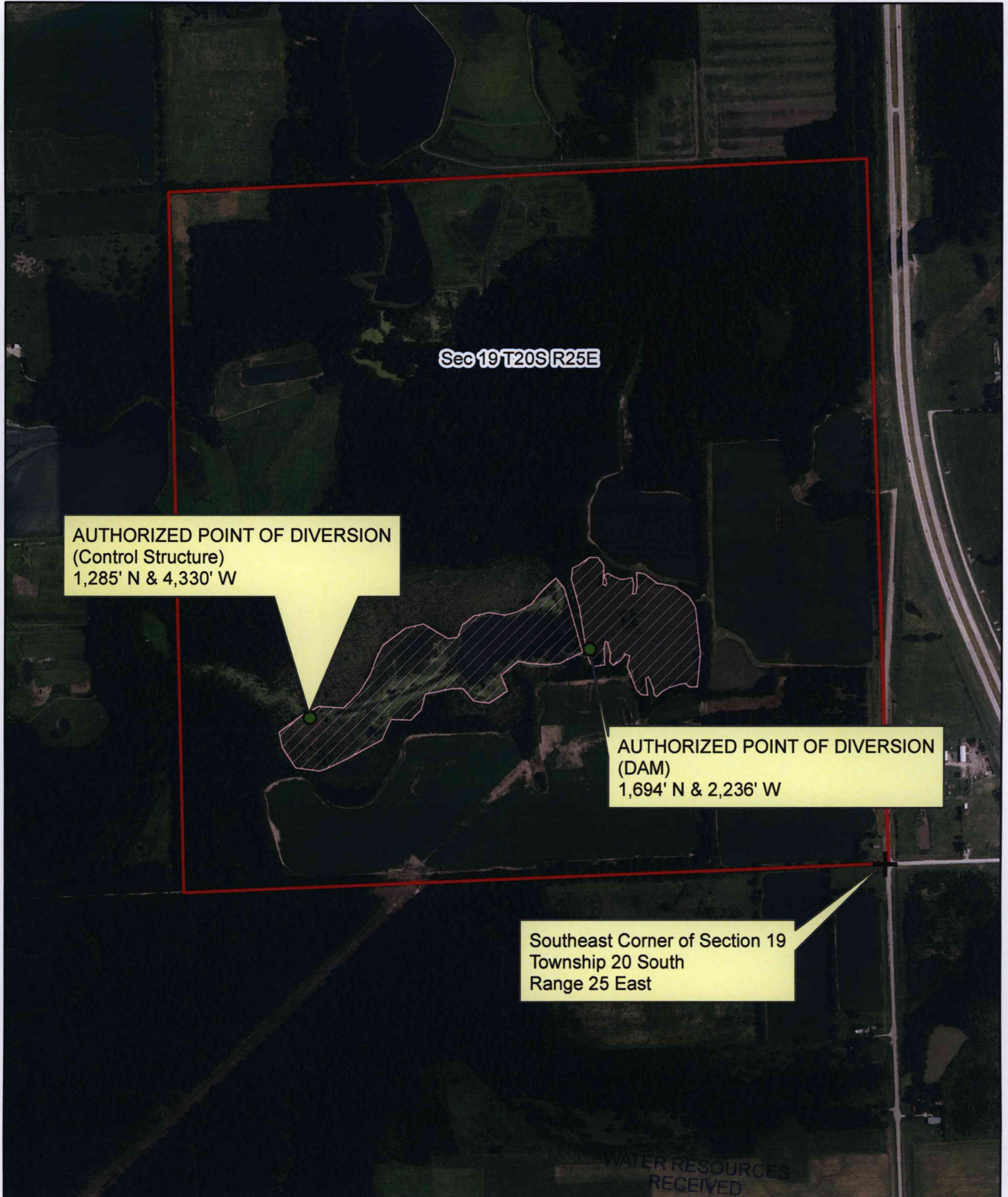
Sincerely,

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

SWAYBACK FARMS LLC
FILE NO. 46,706 - AUTHORIZED PLACE OF USE
AND POINTS OF DIVERSION MAP



 Authorized Place of Use (Recreational)

FEB 10 2017

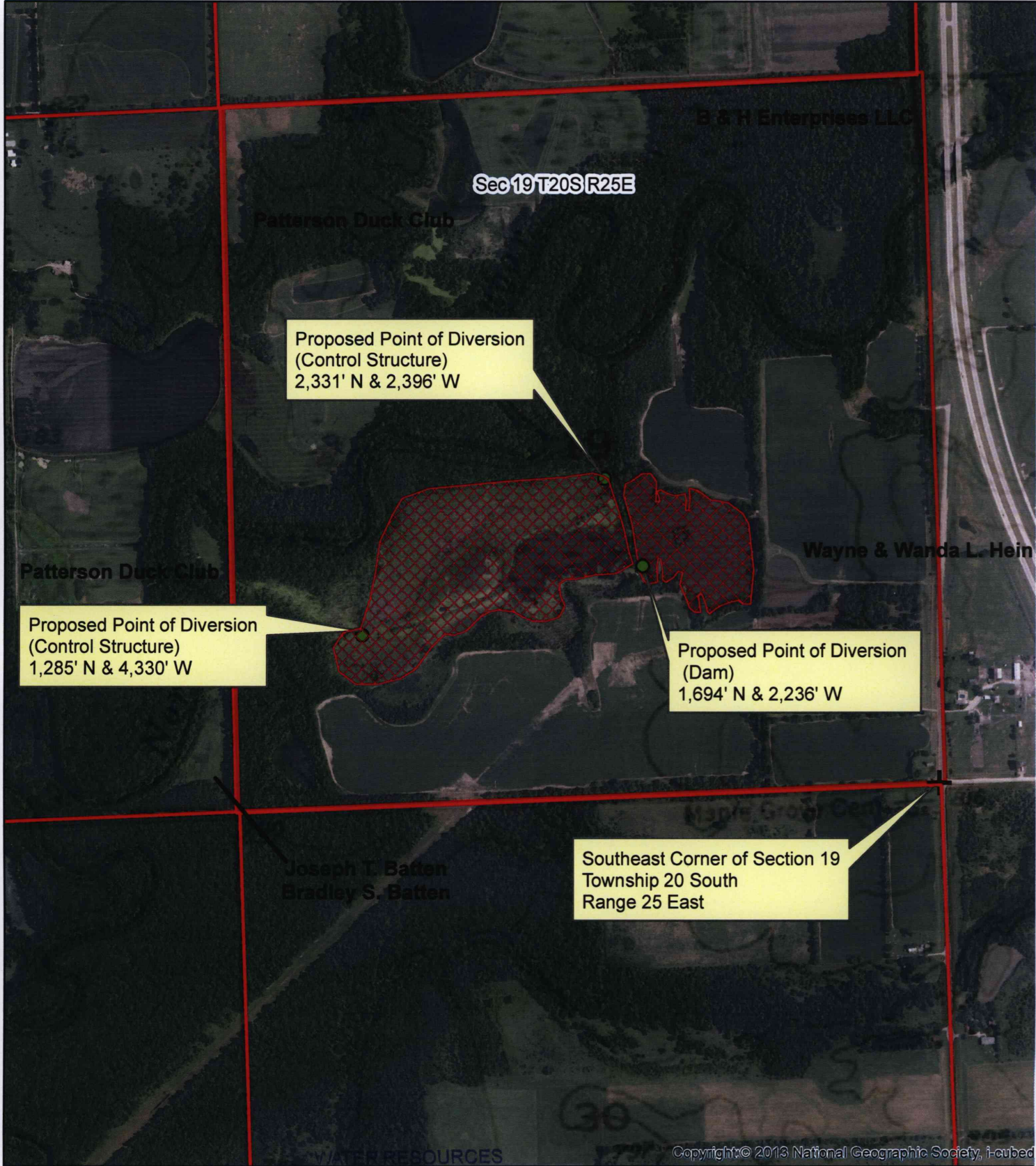
1:12,000

KS DEPT OF AGRICULTURE



SWAYBACK FARMS LLC
File No. 46,706 PROPOSED PLACE OF USE
AND POINTS OF DIVERSION MAP
SEC. 19, T20S, R25E - LINN CO.

1:12,000



Proposed Place of Use (Recreational)

All known landowners adjacent to the stream within one-half mile upstream and downstream of the property lines have been shown.

James E. Pederson