

Kansas Department of Agriculture  
 Division of Water Resources  
**CHANGE: PU/PD WORKSHEET**

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

|   |   |  |   |   |
|---|---|--|---|---|
| 1. File Number:<br><b>46,706</b>  | 2. Status Change Date:<br><i>5/2/2017</i> | 3. Change Num:<br><b>1</b>               | 4. Field Office:<br><b>1</b>  | 5. GMD:<br><b>0</b>                         |
| 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:<br><b>2/10/17</b> |
| 8a. Applicant(s)<br>New to system <input type="checkbox"/><br><br>SWAYBACK FARMS LLC<br>JIM PEDERSON<br>6980 W 153RD ST<br>OVERLAND PARK KS 66223   |   | Person ID <b>63461</b><br>Add Seq# _____ | 8c. Landowner(s)<br>New to system <input type="checkbox"/><br><br>Person ID _____<br>Add Seq# _____ |   |
| 8b. Landowner(s)<br>New to system <input type="checkbox"/><br><br>8a.<br><i>change from Jim Pederson<br/>pid 63203</i>  |   | Person ID _____<br>Add Seq# _____        | 8d. Landowners<br>New to system <input type="checkbox"/><br><br>Person ID _____<br>Add Seq# _____   |   |
| 9. Documents and Enclosure(s): <input type="checkbox"/> DWR Meter(s) Date to Comply: <input checked="" type="checkbox"/> N & P Date to Comply: <u>12/31/2018</u>                                    |   |  |   |   |
| <input type="checkbox"/> Check Valve <input checked="" type="checkbox"/> N & P Form <input type="checkbox"/> Water Tube <input type="checkbox"/> Driller Copy <input type="checkbox"/> H & E Letter |   |  |   |   |
| <input type="checkbox"/> Conservation Plan    Date Required: _____    Date Approved: _____    Date to Comply: _____   |   |  |   |   |
| 10. Use Made of Water    From: <u>No Change</u> To: _____   |   |  |   |   |
| Date Prepared: <b>4/20/2017</b> By: <b>DWS</b><br>Date Entered: <i>5/3/2017</i> By: <i>um</i>   |   |  |   |   |

File No. **46,706**      11. County: **LN**      Basin: **Marais Des Cygnes River**      Stream: **North Sugar Creek Trib 4 (Marais des Cygnes)**      Formation Code:      Special Use:

| 12. Points of Diversion |       |           |    |    |     |    |      |      |                        | Rate and Quantity |                    |                 |                    |                            |
|-------------------------|-------|-----------|----|----|-----|----|------|------|------------------------|-------------------|--------------------|-----------------|--------------------|----------------------------|
| MOD<br>DEL<br>ENT       | PDIV  | Qualifier | S  | T  | R   | ID | 'N   | 'W   | Comment                | Rate<br>gpm/cfs   | Quantity<br>af/mgy | Rate<br>gpm/cfs | Quantity<br>af/mgy | Overlap PD Files           |
| √                       | 73623 | SW NW SE  | 19 | 20 | 25E | 10 | 1694 | 2236 | DAM                    |                   |                    |                 |                    | <b>48,840 &amp; 49,774</b> |
| √                       | 82214 | NE SW SW  | 19 | 20 | 25E | 11 | 1285 | 4330 | Water Control Stucture |                   |                    |                 |                    | <b>48,840 &amp; 49,774</b> |
| ENT                     | 85895 | NW NW SE  | 19 | 20 | 25E | 15 | 2331 | 2396 | Water Control Stucture |                   |                    |                 |                    | <b>48,840 &amp; 49,774</b> |

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

14. Limitation: \_\_\_\_\_ af/yr at \_\_\_\_\_ gpm (\_\_\_\_\_ cfs) when combined with file number(s) \_\_\_\_\_  
 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<br>T<br>MOD<br>DEL<br>ENT | PUSE  | S  | T  | R   | ID | NE¼                            |      |      |      | NW¼  |      |      |      | SW¼  |      |      |      | SE¼  |      |      |      | Total | Owner Files | Chg? | Overlap |  |     |    |                 |
|--|-------|----|----|-----|----|--------------------------------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|-------|-------------|------|---------|--|-----|----|-----------------|
|  |       |    |    |     |    | 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 |       |             |      |         |  |     |    |                 |
| √  | 58524 | 28 | 7  | 2E  | 2  | RESERVOIR & MARSH COMPLEX (S2) |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |       |             |      |         |  | 8a. | NO | 48,841 & 49,774 |
|  |       | 19 | 20 | 25E | 4  |                                |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |       |             |      |         |  |     |    |                 |
|  |       |    |    |     |    |                                |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |       |             |      |         |  |     |    |                 |
|  |       |    |    |     |    |                                |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |       |             |      |         |  |     |    |                 |
|  |       |    |    |     |    |                                |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |       |             |      |         |  |     |    |                 |
|  |       |    |    |     |    |                                |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |       |             |      |         |  |     |    |                 |

Comments:

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

**TO:** Files

**DATE:** April 20, 2017

**FROM:** Doug Schemm

**RE:** New Application, File No. 49,774  
Change Applications, File Nos. 46,706; 48,840;  
and 48,841

Swayback Farms LLC has filed the referenced new application (File No. 49,774) to appropriate 248 acre-feet of surface water at the rate of natural flows of North Sugar Creek Trib 4, for recreational use in a reservoir and marsh complex. The project is located in the South Half of Section 19, Township 20 South, Range 25 East in Linn County, Kansas. The new application will allow for an expansion of an existing marsh to cover approximately 52 acres. Change applications will be processed in conjunction with the nw application, on File Nos. 46,706; 48,840; and 48,841 to ensure a complete overlap in place of use, and or specific points of diversion. The points of diversion include a dam and two water control structures (stop logs). Previous review of this project by Structures Program staff has determined that this project is non-jurisdictional for structures permitting (the marsh is in an NRCS easement and the dam is non-jurisdictional per HB 2363).

The new application is designed to allow for the maximum storage volume of the marsh at permanent pool elevation, as follows:

52 acres x 2 feet average depth = 104 acre-feet,  
Allow for a second filling and offset indirect losses = 148 acre-feet  
Total requested quantity of water = 248 acre-feet

A flow meter is not practical and should not be required as a condition of the approval of this new application. The applicant will be required to maintain records from which the amount of water actually diverted may be readily determined. This is consistent with permits granted for similar types of marsh projects.

**Water Right, File No. 46,706 – Change in Place of Use and Point of Diversion**

Water Right, File No. 46,706 (REC use only) currently authorizes two points of diversion, a dam and one water control structure, and a smaller marsh complex. This file is authorized 32 acre-feet at the rate of natural flows for recreational use. Approval of the change application will increase the place of use and add a second water control point of diversion.

**Appropriation of Water, File No. 48,840 - Change in Point of Diversion Only**

Note that File No. 48,840 is authorized for Irrigation Use, not Recreational Use. It overlaps in point of diversion only because it collects and stores water in the same reservoir and marsh complex as the recreational files. File No. 48,840 is authorized 83.5 acre-feet of storage and the re-diversion of 83.5 acre-feet of the stored water for irrigation use at a rate of 1,000 gallons per minute. Approval of the change application will add a second water control point of diversion.

**Appropriation of Water, File No. 48,841 - Change in Place of Use Only**

Note that File No. 48,841 is authorized for BOTH Irrigation Use and Recreational Use. It does not overlap in point of diversion with any other file because its authorized point of diversion is a pump site on North Sugar Creek. It overlaps with File No. 48,840 in place of use (IRR Use) and it overlaps with File No. 46,706 and the pending new application in place of use (REC use). There is no change in the irrigation place of use. Approval of the change application will increase the place of use for recreational use only.

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

May 4, 2017

SWAYBACK FARMS LLC  
% JIM PEDERSON  
6980 W 153RD ST  
OVERLAND PARK KS 66223

**FILE COPY**

Re: Appropriation of Water, File Nos. 49,774; 48,840; and 48,841 and  
Water Right, File No. 46,706

Dear Mr. Pederson:

There is enclosed a permit (File No. 49,774) to appropriate water authorizing you to proceed with construction of the proposed diversion works (except those dams and stream obstructions regulated by K.S.A. 82a-301 through 305a), to divert such unappropriated water as may be available from the source and at the location specified in the permit, and to use it for the purpose and at the location described in the permit.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in this permit. Records must be maintained from which the quantity of water actually diverted may be readily determined. Such records shall be furnished to the Chief Engineer by March 1 following the end of each calendar year.

Failure to notify the Chief Engineer of the Division of Water Resources of the completion of the diversion works within the time allowed, or within any authorized extension of time thereof, will result in the dismissal of this permit. Enclosed is a form which may be used to notify the Chief Engineer that the proposed diversion works have been completed.

All requests for extensions of time to complete diversion works, or to perfect appropriations, must be submitted to the Chief Engineer before the expiration of time originally set forth in the permit to complete diversion works or to perfect an appropriation. If for any reason, you require an extension of time, you must request it before the expiration of time set forth in this permit. Failure to comply with this regulation will result in the dismissal of your permit or your water right. Any request for an extension of time shall be accompanied by the required statutory fee, which is currently \$100.00. There is also enclosed an information sheet setting forth the procedure to obtain a Certificate of Appropriation which will establish the extent of your water right.

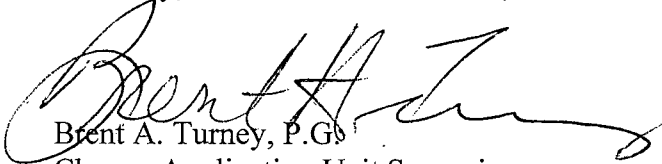
Swayback Farms LLC

Page 2

In addition, enclosed is an Order executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the Application for Change in the Place of Use and Point of Diversion under Water Right, File No. 46,706. The Water Appropriation Act requires that the Certificate of Appropriation shall be recorded with the Register of Deeds in the county or counties wherein the point of diversion is located as other instruments affecting real estate. Since the enclosed Order by the Chief Engineer modifies said Certificate of Appropriation, it should also be recorded with the Register of Deeds.

Finally, enclosed are Orders approving the Applications for Change in the Point of Diversion under Appropriation of Water, File No. 48,840 and the Change in Place of Use under Appropriation of Water, File No. 48,841. Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in these approvals for change.

Sincerely,



Brent A. Turney, P.G.  
Change Application Unit Supervisor  
Water Appropriation Program  
BAT:dws

Enclosures

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  
POINT OF DIVERSION  
AND PLACE OF USE  
WATER RIGHT, FILE NO. 46,706**

**FILE COPY**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of James E Pederson, Owner of Swayback Farms LLC, 6980 W 153<sup>RD</sup> St, Overland Park, KS 66223, received in this office on February 10, 2017, for approval of a change in the location of the point of diversion and place of use 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 location of the place of use shall be:

a reservoir and marsh complex located in the South Half (S $\frac{1}{2}$ ) of Section 19, Township 20 South, Range 25 East, Linn County, Kansas,

and the authorized location of the points of diversion shall be:

a dam located in the Southwest Quarter of the Northwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$  NW $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section 19, more particularly described as being near a point 1,694 feet North and 2,236 feet West of the Southeast corner of said section,

a water control structure located in the Northeast Quarter of the Southwest Quarter of the Southwest Quarter (NE $\frac{1}{4}$  SW $\frac{1}{4}$  SW $\frac{1}{4}$ ) of Section 19, more particularly described as being near a point 1,285 feet North and 4,330 feet West of the Southeast corner of said section, and

a water control structure located in the Northwest Quarter of the Northwest Quarter of the Southeast Quarter (NW $\frac{1}{4}$  NW $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section 19, more particularly described as being near a point 2,331 feet North and 2,396 feet West of the Southeast corner of said section,

all in Township 20 South, Range 25 East, Linn County, Kansas, located substantially as shown on the topographic map accompanying the application to change the place of use and point of diversion.

Installation of the works for diversion of water shall be completed on or before December 31, 2018, or within any authorized extension of time. The water right owner shall notify the Chief Engineer of the Division of Water Resources, Kansas Department of Agriculture, when construction of the works for diversion has been completed.

In all other respects, the Certificate of Appropriation issued pursuant to Approval of Application, File No. 46,706, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated May 22, 2014.

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 *2nd* day of *May*, 2017, in Topeka, Shawnee County, Kansas.

*Lane P. Letourneau*

Lane P. Letourneau, P.G.  
Program Manager  
Water Appropriation Program  
Division of Water Resources  
Kansas Department of Agriculture

State of Kansas )  
                          ) SS  
County of Riley )

The foregoing instrument was acknowledged before me this *2nd* day of *May*, 2017, by Lane P. Letourneau, P.G., Program Manager, Division of Water Resources, Kansas Department of Agriculture.



*Danielle Wilson*

Notary Public

## CERTIFICATE OF SERVICE

On this *4<sup>th</sup>* day of *May*, 2017, I hereby certify that the foregoing Approval of Application for Change in Point of Diversion and Place of Use, Water Right, File No. 46,706, dated *May 2, 2017* was mailed postage prepaid, first class, US mail to the following:

SWAYBACK FARMS LLC  
JIM PEDERSON  
6980 W 153RD ST  
OVERLAND PARK KS 66223

With photocopies to:

Topeka Field Office



Division of Water Resources



APPLICATION COMPLETE

4/20/17

Reviewer DWS

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

WATER RESOURCES  
RECEIVED

FEB 10 2017

10:57

KS DEPT OF AGRICULTURE

File No. 46,706

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

Address: 6980 W 153<sup>RD</sup>

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>1</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>234</u> |        |            |        |           |    |            |      |                |

4. The presently authorized place of use is:

Owner of Land — NAME: SWAYBACK FARMS LLC

ADDRESS: 6980 W 153<sup>RD</sup>, OVERLAND PARK KS 66223

| 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 |             |
| RECREATIONAL USE IN A RESERVOIR/MARSH COMPLEX LOCATED IN THE SOUTH HALF (S½) OF SECTION 19, TOWNSHIP 20 SOUTH, RANGE 25 EAST, LINN COUNTY, KANSAS. |      |       |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |             |
|  |      |       |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |             |
|  |      |       |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |             |

List any other water rights that cover this place of use. 48,841 (REC)

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: SWAYBACK FARMS LLC

ADDRESS: 6980 W 153<sup>RD</sup>, OVERLAND PARK KS 66223

| 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 |             |
| RECREATIONAL USE IN A RESERVOIR/MARSH COMPLEX LOCATED IN THE SOUTH HALF (S½) OF SECTION 19, TOWNSHIP 20 SOUTH, RANGE 25 EAST, LINN COUNTY, KANSAS. |      |       |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |             |
|  |      |       |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |             |

List any other water rights that cover this place of use. 48,841 (REC), and new application. (49,774)

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**

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](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.

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**

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

WATER RESOURCES RECEIVED

SCANNED

FEB 10 2017

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 Overalls Park, Kansas, this 9 day of February, 2017.

James A. Pederson  
(Owner)

James E. Pederson  
(Please Print)

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

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

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

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

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

\_\_\_\_\_  
(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.**

**WATER RESOURCES  
RECEIVED**

**FEB 10 2017**

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

---

WATER RESOURCES  
RECEIVED

FEB 10 2017

KS DEPT OF AGRICULTURE SCANNED

SCANNED

KS DEPT OF AGRICULTURE

WATER RESOURCES  
REMOVED

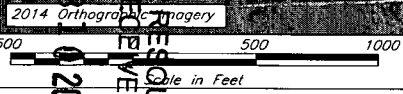
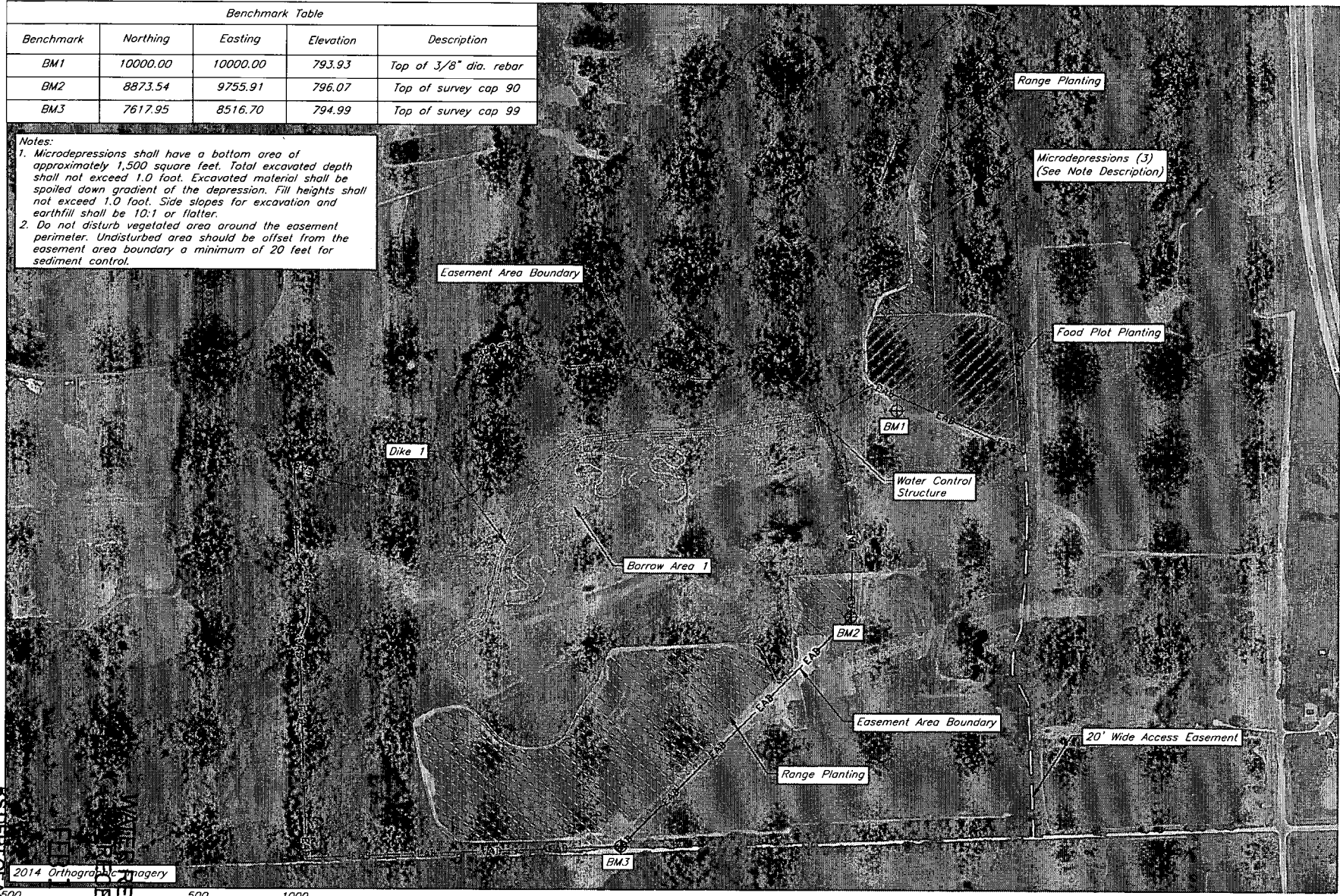
2017

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.



Orthographic Plan Map

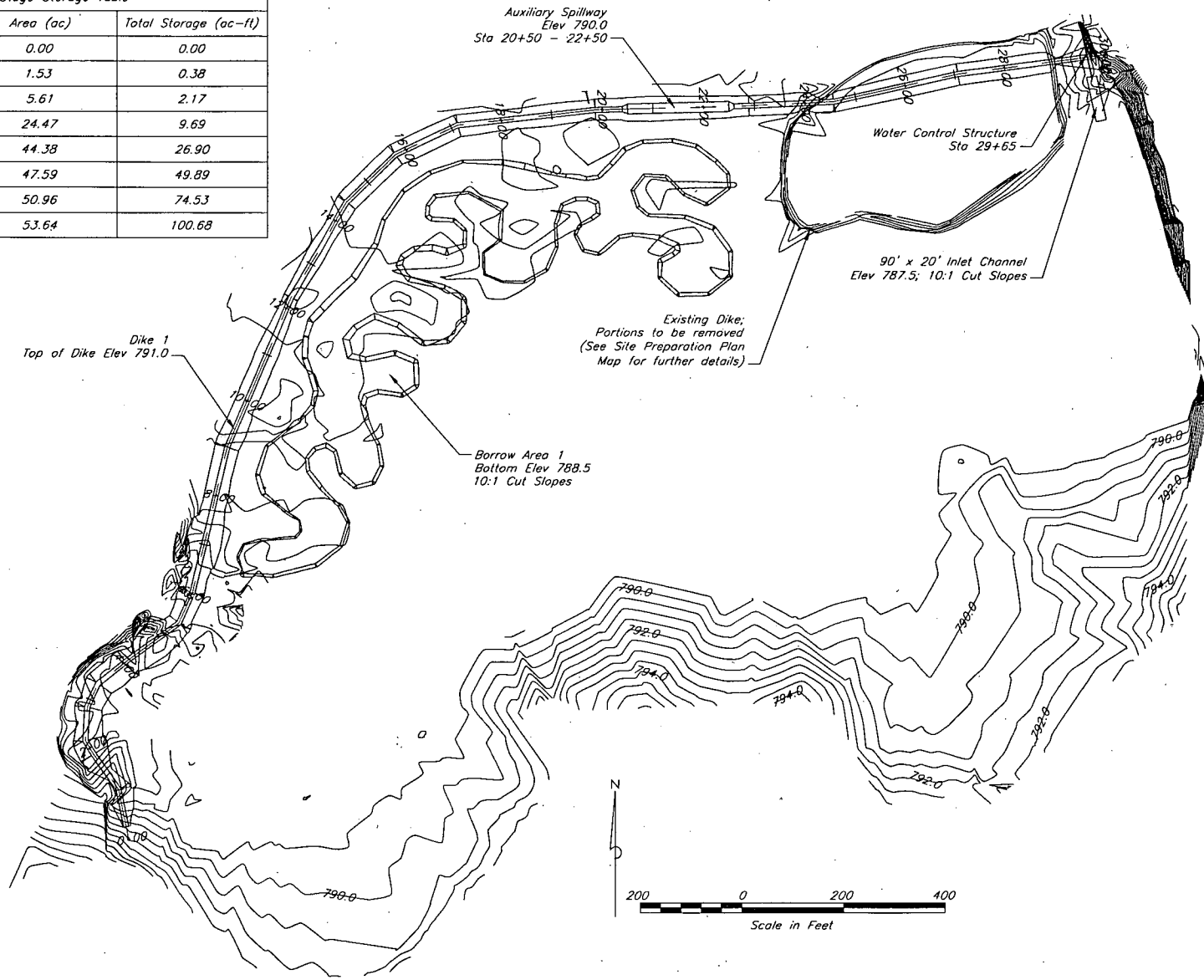
|          |           |         |       |
|----------|-----------|---------|-------|
| Designed | B. Severn | Date    | 11/16 |
| Drawn    | B. Severn | Checked |       |
| Approved |           |         |       |

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

USDA  
 United States Department of Agriculture  
 Natural Resources Conservation Service

Drawing Name  
 Swayback  
 AM  
 Sheet 3 of 9

| 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

SCANNED

KS DEPT OF AGRICULTURE

FEB 10 2017

WATER RESOURCES  
 RECEIVED





Topeka Field Office  
6531 SE Forbes Ave., Suite B  
Topeka, Kansas 66619

Jackie McClaskey, Secretary  
David W. Barfield, Chief Engineer  
Katherine A. Tietsort, Water Commissioner

Phone: (785) 296-5733  
Fax: (785) 862-2460  
[www.agriculture.ks.gov](http://www.agriculture.ks.gov)

Sam Brownback, Governor

April 5, 2017

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

Re: Pending New Application, File No. 49,774 and Change Applications, File Nos. 46,706; 48,840; and 48,841

Dear Sir or Madam:

~~This is to advise you that Swayback Farms, LLC has filed the new application referred to above for a permit to appropriate~~  
248 acre-feet of surface water, at the rate of natural flows, for recreational use in a wetland marsh. Note that this project is an **expansion of an existing wetland marsh** currently authorized under the file numbers referenced above. The pending change applications for File Nos. 46,706; 48,840; and 48,841 will modify the place of use and points of diversion to match the new application recreational project. Surface water will be diverted by means of one (1) dam located in the Southwest Quarter of the Northwest Quarter of the Southeast Quarter of Section 19, more particularly described as being near a point 1,694 feet North and 2,236 feet West of the Southeast corner of said section, and two (2) water control structures located as follows:

one structure in the Northeast Quarter of the Southwest Quarter of the Southwest Quarter (NE $\frac{1}{4}$  SW $\frac{1}{4}$  SW $\frac{1}{4}$ ) of Section 19, more particularly described as being near a point 1,285 feet North and 4,330 feet West of the Southeast corner of said section, and

one structure in the Northwest Quarter of the Northwest Quarter of the Southeast Quarter (NW $\frac{1}{4}$  NW $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section 19, more particularly described as being near a point 2,331 feet North and 2,396 feet West of the Southeast corner of said section,

all in Township 20 South, Range 25 East, Linn County, Kansas.

Records in this office indicate that you own land along the stream in this vicinity and you are being notified of receipt of these applications in order that you may be fully informed of the proposed location of the applicant's points of diversion and proposed use of water. Consideration will be given to comments or other information which you desire to submit to this office **within 15 days** from the date of this letter.

You can find the applications and site maps posted by the file numbers referenced above at:  
<http://agriculture.ks.gov/divisions-programs/dwr/water-appropriation/notices>

If you have any questions or comments, you may also contact me at (785) 296-3495. If you call, please reference the file number so I can help you more efficiently.

Sincerely,

A handwritten signature in cursive script that reads "Doug Schemm".

Douglas W. Schemm  
Environmental Scientist  
Topeka Field Office

pc: Swayback Farms, LLC

  
**Kansas**  
Department of Agriculture  
Division of Water Resources

Topeka Field Office  
6531 SE Forbes Ave., Suite B  
Topeka, Kansas 66619

Jackie McClaskey, Secretary  
David W. Barfield, Chief Engineer  
Katherine A. Tietsort, Water Commissioner

Phone: (785) 296-5733  
Fax: (785) 862-2460  
[www.agriculture.ks.gov](http://www.agriculture.ks.gov)  
Sam Brownback, Governor

April 5, 2017

JOSEPH T BATTEN  
33260 COLD WATER  
LOUISBURG KS 66053

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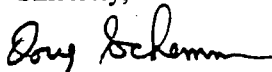
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Sincerely,



Douglas W. Schemm  
Environmental Scientist  
Topeka Field Office

pc: Swayback Farms, LLC

  
**Kansas**  
Department of Agriculture  
Division of Water Resources

Topeka Field Office  
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Topeka, Kansas 66619

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Fax: (785) 862-2460  
[www.agriculture.ks.gov](http://www.agriculture.ks.gov)  
Sam Brownback, Governor

April 5, 2017

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

Re: Pending New Application, File No. 49,774 and Change Applications, File Nos. 46,706; 48,840; and 48,841

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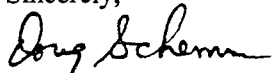
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Sincerely,



Douglas W. Schemm  
Environmental Scientist  
Topeka Field Office

pc: Swayback Farms, LLC

  
**Kansas**  
Department of Agriculture  
Division of Water Resources

Topeka Field Office  
6531 SE Forbes Ave., Suite B  
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Sam Brownback, Governor

April 5, 2017

B & H ENTERPRISES LLC  
16910 BELINDER  
STILWELL KS 66085

Re: Pending New Application, File No. 49,774 and Change Applications, File Nos. 46,706; 48,840; and 48,841

Dear Sir or Madam:

This is to advise you that Swayback Farms, LLC has filed the new application referred to above for a permit to appropriate 248-acre-feet of surface water, at the rate of natural flows, for recreational use in a wetland marsh. Note that this project is an **expansion of an existing wetland marsh** currently authorized under the file numbers referenced above. The pending change applications for File Nos. 46,706; 48,840; and 48,841 will modify the place of use and points of diversion to match the new application recreational project. Surface water will be diverted by means of one (1) dam located in the Southwest Quarter of the Northwest Quarter of the Southeast Quarter of Section 19, more particularly described as being near a point 1,694 feet North and 2,236 feet West of the Southeast corner of said section, and two (2) water control structures located as follows:

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Sincerely,



Douglas W. Schemm  
Environmental Scientist  
Topeka Field Office

pc: Swayback Farms, LLC

**Schemm, Doug**

---

**From:** Tietsort, Katie  
**Sent:** Wednesday, April 19, 2017 3:27 PM  
**To:** Schemm, Doug  
**Subject:** RE: Swayback Farms package

49,774 - New App  
46,706, 48,840, +  
48,841 - Change Apps

Hi Doug,

This package looks exactly like what we discussed when we determined how to best proceed with properly authorizing the irrigation and recreational use by Swayback Farms. I agree that the new application and the change applications meet all the rules and regulations and I agree this package should be moved on for approval.

Thanks for all your work on this one, Katie

Katie Tietsort

Kansas Department of Agriculture  
6531 SE Forbes Ave Ste B  
Topeka, KS 66619  
[katie.tietsort@ks.gov](mailto:katie.tietsort@ks.gov)  
Phone 785-296-5733

---

**From:** Schemm, Doug  
**Sent:** Monday, April 17, 2017 8:37 AM  
**To:** Tietsort, Katie <Katie.Tietsort@ks.gov>  
**Subject:** Swayback Farms package



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,

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

KS DEPT OF AGRICULTURE

1:12,000

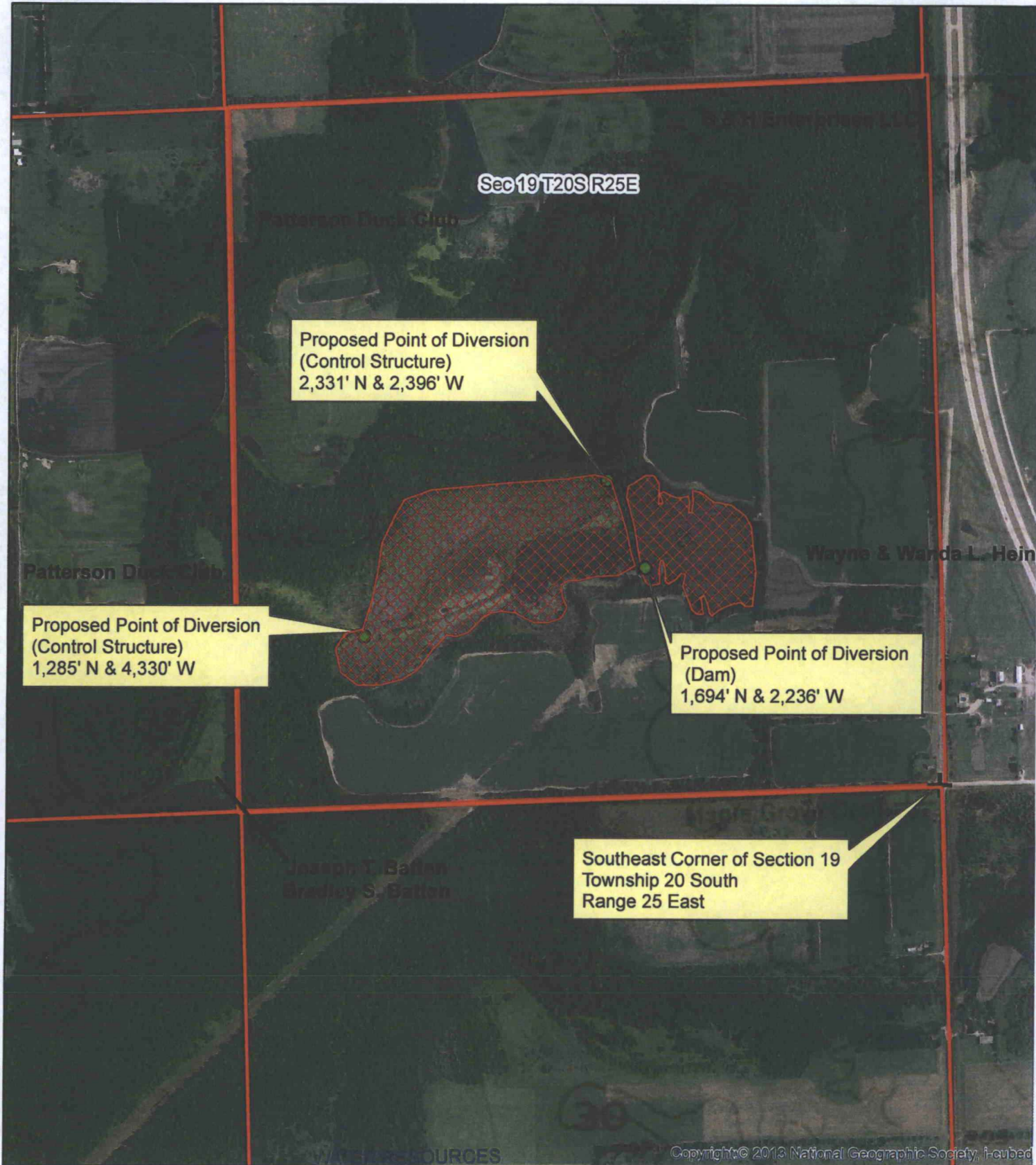
SCANNED





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



RECEIVED



Proposed Place of Use (Recreational)

FEB 10 2017

KS DEPT OF AGRICULTURE

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

*James E. Pederson*

SCANNED

