

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.

*****Came in with a voluntary dismissal form for file no. 48891. Would need to be worked together. -ALB

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Secretary of Agriculture

DIVISION OF WATER RESOURCES
Earl D. Lewis Jr., Chief Engineer

3/20/2023, 12:46 PM

File Number **50993**
This item to be completed by the Division of Water Resources.

Water Resources
Received

APPLICATION FOR PERMIT TO APPROPRIATE WATER FOR BENEFICIAL USE

Filing Fee Must Accompany the Application
(Please refer to Fee Schedule attached to this application form.)

KS Dept Of Agriculture

To the Chief Engineer of the Division of Water Resources, Kansas Department of Agriculture,
1320 Research Park Drive, Manhattan, Kansas 66502:

- Name of Applicant (Please Print): East Kansas Agri-Energy
Address: 1304 S. Main
City: Garnett State KS Zip Code 66032
Telephone Number: (785) 504-4508 (Todd Barnes)
- The source of water is: surface water in Pottawatomie Creek Trib 1 (Pottawatomie) (stream)
OR groundwater in _____ (drainage basin)

Certain streams in Kansas have minimum target flows established by law or may be subject to administration when water is released from storage for use by water assurance district members. If your application is subject to these regulations on the date we receive your application, you will be sent the appropriate form to complete and return to the Division of Water Resources.

Storage Quantity: **796.5 AF**

Storage Rate: **Natural Flows**

- The maximum quantity of water desired is 245.5 AF (80 MGY) Direct Use gallons per calendar year, to be diverted at a maximum rate of 2,000 gpm (Re-diversion Rate) OR 4.46 cubic feet per second.

Once your application has been assigned a priority, the requested maximum rate of diversion and maximum requested quantity of water under that priority number can **NOT** be increased. Please be certain your requested maximum rate of diversion and maximum quantity of water are appropriate and reasonable for your proposed project and are in agreement with the Division of Water Resources' requirements.

- The water is intended to be appropriated for (Check use intended):

(a) <input type="checkbox"/> Artificial Recharge	(b) <input type="checkbox"/> Irrigation	(c) <input type="checkbox"/> Recreational	(d) <input type="checkbox"/> Water Power
(e) <input checked="" type="checkbox"/> Industrial	(f) <input type="checkbox"/> Municipal	(g) <input type="checkbox"/> Stockwatering	(h) <input type="checkbox"/> Sediment Control
(i) <input type="checkbox"/> Domestic	(j) <input type="checkbox"/> Dewatering	(k) <input type="checkbox"/> Hydraulic Dredging	(l) <input type="checkbox"/> Fire Protection
(m) <input type="checkbox"/> Thermal Exchange	(n) <input type="checkbox"/> Contamination Remediation		

YOU **MUST** COMPLETE AND ATTACH ADDITIONAL DIVISION OF WATER RESOURCES FORM(S) PROVIDING INFORMATION TO

For Office Use Only:	IND	AN	By ALB	Date 3/20/23
F.O. <u>RE2</u> GMD _____ Meets K.A.R. 5-3-1 (YES/NO) Use <u>IND</u> Source <u>G/S</u> County _____	Fee \$ <u>300</u>	TR # <u>PY0005271</u>	Receipt Date <u>3/20/23</u>	Check # _____

3/22/2023
LMoody

KS Dept Of Agriculture

5. The location of the proposed wells, pump sites or other works for diversion of water is:

Note: For the application to be accepted, the point of diversion location must be described to at least a 10 acre tract, unless you specifically request a 60 day period of time in which to locate the site within a specifically described, minimal legal quarter section of land. **POINT OF DIVERSION IS A DAM**

(A) One in the NW quarter of the SE quarter of the SW quarter of Section 18, more particularly described as being near a point 950 feet North and 3658 feet West of the Southeast corner of said section, in Township 20 South, Range 20 East, Anderson County, Kansas.

(B) One in the _____ quarter of the _____ quarter of the _____ quarter of Section _____, more particularly described as being near a point _____ feet North and _____ feet West of the Southeast corner of said section, in Township _____ South, Range _____ East/West (circle one), _____ County, Kansas.

(C) One in the _____ quarter of the _____ quarter of the _____ quarter of Section _____, more particularly described as being near a point _____ feet North and _____ feet West of the Southeast corner of said section, in Township _____ South, Range _____ East/West (circle one), _____ County, Kansas.

(D) One in the _____ quarter of the _____ quarter of the _____ quarter of Section _____, more particularly described as being near a point _____ feet North and _____ feet West of the Southeast corner of said section, in Township _____ South, Range _____ East/West (circle one), _____ County, Kansas.

If the source of supply is groundwater, a separate application shall be filed for each proposed well or battery of wells, except that a single application may include up to four wells within a circle with a quarter (1/4) mile radius in the same local source of supply which do not exceed a maximum diversion rate of 20 gallons per minute per well.

A battery of wells is defined as two or more wells connected to a common pump by a manifold; or not more than four wells in the same local source of supply within a 300 foot radius circle which are being operated by pumps not to exceed a total maximum diversion rate of 800 gallons per minute and which supply water to a common distribution system.

6. The owner of the point of diversion, if other than the applicant is (please print):

City of Garnett 131 W 5th St PO BOX H Garnett, KS 66032
(name, address and telephone number)

You must provide evidence of legal access to, or control of, the point of diversion from the landowner or the landowner's authorized representative. Provide a copy of a recorded deed, lease, easement or other document with this application. In lieu thereof, you may sign the following sworn statement:

I have legal access to, or control of, the point of diversion described in this application from the landowner or the landowner's authorized representative. I declare under penalty of perjury that the foregoing is true and correct.

Executed on 3-15, 2023.

Applicant's Signature

The applicant must provide the required information or signature irrespective of whether they are the landowner. Failure to complete this portion of the application will cause it to be unacceptable for filing and the application will be returned to the applicant.

7. The proposed project for diversion of water will consist of 1 DAM, INTAKE PUMP(S) & ETHANOL PLANT
(number of wells, pumps or dams, etc.)

and was completed (by) IN 2016 (Month/Day/Year - each was or will be completed)

8. The first actual application of water for the proposed beneficial use was or is estimated to be 2021
(Mo/Day/Year)

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Received

File No. _____

KS Dept Of Agriculture

9. Will pesticide, fertilizer, or other foreign substance be injected into the water pumped from the diversion works?

Yes No If "yes", a check valve shall be required.

All chemigation safety requirements must be met including a chemigation permit and reporting requirements.

10. If you are planning to impound water, please contact the Division of Water Resources for assistance, prior to submitting the application. Please attach a reservoir area capacity table and inform us of the total acres of surface drainage area above the reservoir.

Have you also made an application for a permit for construction of this dam and reservoir with the Division of Water Resources? Yes No

• If yes, show the Water Structures permit number here DAN- 56

• If no, explain here why a Water Structures permit is not required ALREADY PERMITTED UNDER MULTIPLE RIGHTS (LAKE GARNETT)

11. The application must be supplemented by a U.S.G.S. topographic map, aerial photograph or a detailed plat showing the following information. On the topographic map, aerial photograph, or plat, identify the center of the section, the section lines or the section corners and show the appropriate section, township and range numbers. Also, please show the following information:

(a) The location of the proposed point(s) of diversion (wells, stream-bank installations, dams, or other diversion works) should be plotted as described in Paragraph No. 5 of the application, showing the North-South distance and the East-West distance from a section line or southeast corner of section.

(b) If the application is for groundwater, please show the location of any existing water wells of any kind within 1/2 mile of the proposed well or wells. Identify each existing well as to its use and furnish the name and mailing address of the property owner or owners. If there are no wells within 1/2 mile, please advise us.

(c) If the application is for surface water, the names and addresses of the landowner(s) 1/2 mile downstream and 1/2 mile upstream from your property lines must be shown.

(d) The location of the proposed place of use should be shown by crosshatching on the topographic map, aerial photograph or plat.

(e) Show the location of the pipelines, canals, reservoirs or other facilities for conveying water from the point of diversion to the place of use.

A 7.5 minute U.S.G.S. topographic map may be obtained by providing the section, township and range numbers to: Kansas Geological Survey, 1930 Constant, Campus West, University of Kansas, Lawrence, Kansas 66047.

12. List any application, appropriation of water, water right, or vested right file number that covers the same diversion points or any of the same place of use described in this application. Also list any other recent modifications made to existing permits or water rights in conjunction with the filing of this application.

Vested Right File Nos. AN-001 & AN-006 & Appropriation of Water, File Nos. 36,493 & 48,890

File No. 48,891 will be dismissed upon approval of this application. This application is a replacement for File No. 48,891.

13. Furnish the following well information if the proposed appropriation is for the use of groundwater. If the well has not been completed, give information obtained from test holes, if available.

Information below is from: Test holes Well as completed Drillers log attached

Well location as shown in paragraph No.	(A)	(B)	(C)	(D)
THIS IS SURFACE WATER				
Date Drilled	_____	_____	_____	_____
Total depth of well	_____	_____	_____	_____
Depth to water bearing formation	_____	_____	_____	_____
Depth to static water level	_____	_____	_____	_____
Depth to bottom of pump intake pipe	_____	_____	_____	_____

14. The relationship of the applicant to the proposed place where the water will be used is that of **OWNER** (owner, tenant, agent or otherwise).

15. The owner(s) of the property where the water is used, if other than the applicant, is (please print): **APPLICANT IS OWNER** (name, address and telephone number)

_____ (name, address and telephone number)

16. The undersigned states that the information set forth above is true to the best of his/her knowledge and that this application is submitted in good faith.

Dated at GARNETT, Kansas, this 15 day of MARCH, 2023 (month) (year)

[Signature]
(Applicant Signature)

3/20/2023

By [Signature]
(Agent or Officer Signature)

Water Resources
Received

Doug Johnson
(Agent or Officer - Please Print)

KS Dept Of Agriculture

3/20/2023

Water Resources
Received

FEE SCHEDULE

KS Dept Of Agriculture

- The fee for an application for a permit to appropriate water for beneficial use, except for domestic use, shall be (see paragraph No. 2 below if requesting storage):

ACRE-FEET	FEE
0-100	\$200.00
101-320	\$300.00
More than 320	\$300.00 plus \$20.00 for each additional 100 acre-feet or any part thereof.

- The fee for an application in which storage is requested, except for domestic use, shall be:

ACRE-FEET	FEE
0-250	\$200.00
More than 250	\$200.00 plus \$20.00 for each additional 250 acre-feet of storage or any part thereof.

Total = \$600

Note: If an application requests both direct use *and* storage, the fee charged shall be as determined under No. 1 or No. 2 above, whichever is greater, but not both fees.

- The fee for an application for a permit to appropriate water for water power or dewatering purposes shall be \$100.00 plus \$200.00 for each 100 cubic feet per second, or part thereof, of the diversion rate requested.

Note: The applicant shall notify the Chief Engineer and pay the statutorily required field inspection fee of \$400.00 when construction of the works for diversion has been completed, except that for applications filed on or after July 1, 2009, for works constructed for sediment control use and for evaporation from a groundwater pit for industrial use shall be accompanied by a field inspection fee of \$200.00.

MAKE CHECKS PAYABLE TO THE KANSAS DEPARTMENT OF AGRICULTURE

ATTENTION

A Water Conservation Plan may be required per K.S.A. 82a-733. A statement that your application for permit to appropriate water may be subject to the minimum desirable streamflow requirements per K.S.A. 82a-703a, b, and c may also be required from you. After the Division of Water Resources has had the opportunity to review your application, you will be notified whether or not you will need to submit a Water Conservation Plan. You also may be required to install a water flow meter or water stage measuring device on your diversion works prior to diverting water. There may be other special conditions or Groundwater Management District regulations that you will need to comply with if this application is approved.

CONVERSION FACTORS

1 acre-foot equals 325,851 gallons

1 million gallons equal 3.07 acre-feet

3/20/2023

Water Resources
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**INDUSTRIAL USE
SUPPLEMENTAL SHEET**

KS Dept Of Agriculture

File No. _____

Name of Applicant (Please Print): EAST KANSAS AGRI-ENERGY

1. Please describe type of industry or product produced: ETHANOL
 _____ Standard Industrial Classification Code Number: _____
2. Please complete the following table to show your past and present water requirements:

PAST PRODUCT PRODUCTION AND WATER DIVERTED, IF APPLICABLE

LAST 5 YEARS	AMOUNT OF PRODUCT	WATER DIVERTED (GALLONS)	GALLONS PER PRODUCT PER DAY
5 years ago			
Last year			
Present year			

3. Please complete the following table to show your future water requirements:

ESTIMATED FUTURE PRODUCT PRODUCTION AND WATER DIVERTED

NEXT 5 YEARS	AMOUNT OF PRODUCT	WATER TO BE DIVERTED (GALLONS)	GALLONS PER PRODUCT PER DAY
Year 1			
Year 2			
Year 3			
Year 4			
Year 5			

Number of days of operation of the industry per year is _____ days.

Please attach any tables, curves or additional information showing past, present and estimated future water requirements to substantiate the amount of water requested.

4. Please designate the legal description of the location where the water is to be used. Show in the space provided below the Section (S), Township (T), and Range (R), and the number of acres in each forty acre tract or fractional portion thereof.

S	T	R	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
31	20S	20E	AN ETHANOL PLANT LOCATED IN THE NORTHEAST QUARTER (NE1/4)																

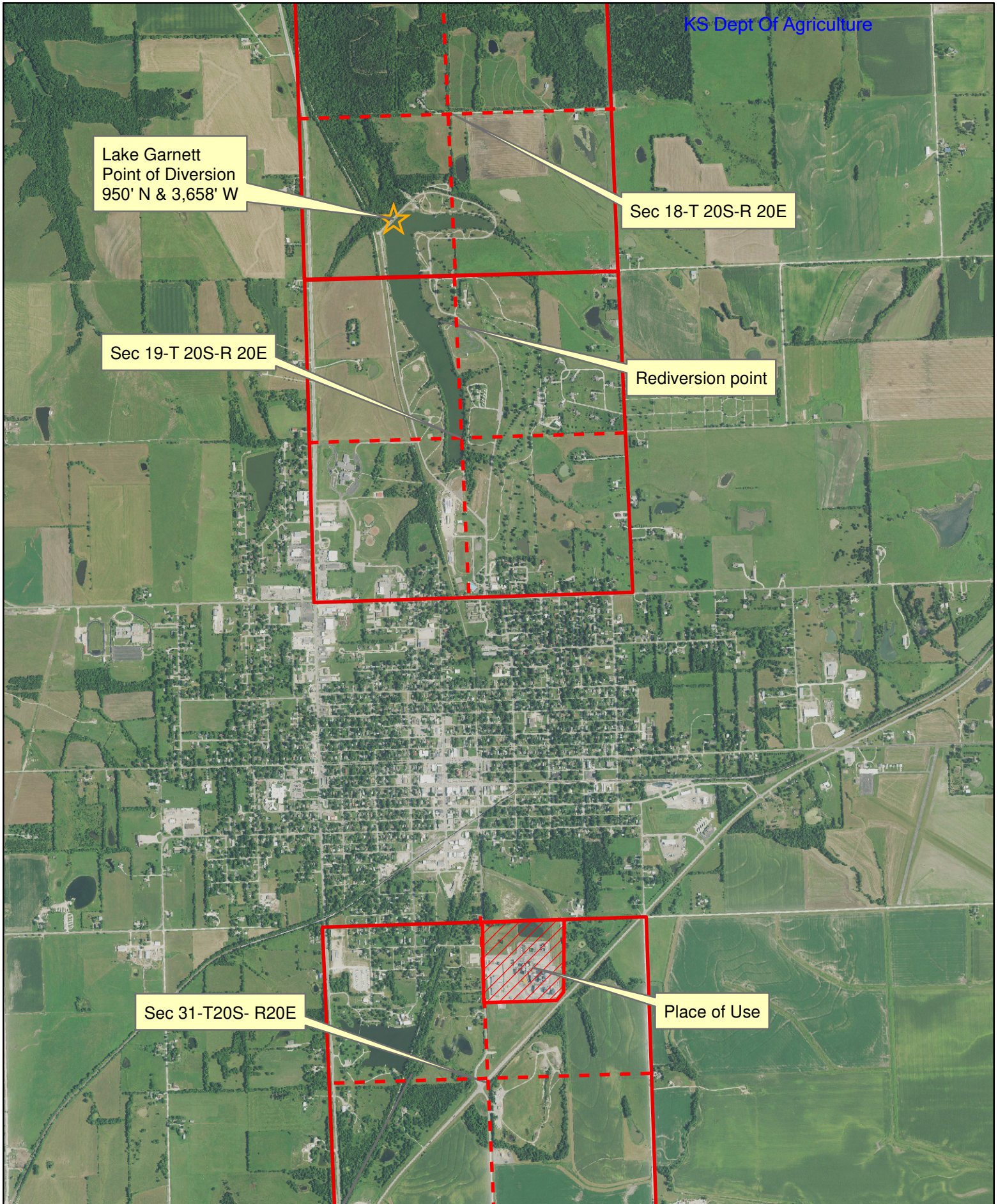
You may attach any additional information you believe will assist in informing the Division of the need for your request.

1:24,000

New Application

3/20/2023

Water Resources
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3/20/2023

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Received

KS Dept Of Agriculture

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources
Topeka Field Office

M E M O R A N D U M

TO: Files

DATE: March 16, 2023

FROM: Shaun A Johnson

RE: New Application

East Kansas Agri-Energy has filed a new application for the ethanol plant located near the City of Garnett, KS. This new application will replace File No. 48,891 as its perfection period has expired and little to no quantity has been perfected under it. I reached out to a Mr. Todd Barnes of the ethanol plant to begin this process and to let him know why this is necessary and that I would be happy to prepare the application for him.

While preparing the application I saw that Doug Schemm prepared a memo discussing File No. 48,891. He felt there wasn't a need to notify upstream and downstream landowners as the proposed Point of Diversion is the dam of Lake Garnett which has been established for many decades. He proposed that it would be redundant to notify upstream and downstream landowners of the existing structure.

Although the City of Garnett, who was the applicant under File No. 48,891, did provide upstream and downstream landowners, no notifications were ever sent. I agree with Doug Schemm's assessment in the idea that again no notices should be sent out as the approval of this application can have no impact on existing water rights and nothing is physically changing.

DATA ENTRY SYSTEM ID NUMBER SHEET

FILE NUMBER 50993

APPLICANT PERSON ID & SEQ #	PDIV ID	BATTERY ID
<u>63596</u>	<u>24894</u>	

LANDOWNER PERSON ID & SEQ #	PUSE ID
<u>63596</u>	<u>66135</u>

WATER USE CORRESPONDENT PERSON ID & SEQ #
<u>63596</u>