

**Kansas Department of Agriculture**  
**Division of Water Resources**  
 APPROVAL OF NEW APPLICATION WORKSHEET

1. File No.: <b>51153</b>	2. Status Change Date: <b>3/27/2025</b>	4. Field Office: <b>01 - Topeka</b> GMD: Structures File No.: Filing/Priority Date: <b>12/11/2023</b>
3. Associated File No(s): <b>49496, 51153, 51153-A</b>		
5a. <input checked="checked" type="checkbox"/> Applicant <input checked="checked" type="checkbox"/> Owner <input checked="checked" type="checkbox"/> WUC <input type="checkbox"/> Address Change Person ID <b>64813</b> Add Seq# <b>1</b>  <b>D &amp; S CATTLE CO LLC</b> <b>Attn: SCOTT VATHAUER</b> <b>158 ALL AMERICAN RD</b> <b>BARNES, KS 66933</b>		5b. <input type="checkbox"/> Owner <input type="checkbox"/> WUC <input type="checkbox"/> Address Change Person ID Add Seq#
5c. <input type="checkbox"/> Owner <input type="checkbox"/> WUC <input type="checkbox"/> Address Change Person ID Add Seq#	5d. <input type="checkbox"/> Owner <input type="checkbox"/> WUC <input type="checkbox"/> Address Change Person ID Add Seq#	
6. Change No.: <input type="checkbox"/> PD <input type="checkbox"/> PU <input type="checkbox"/> UMW Base Acres:        Year:        Min Reasonable Q: Previous UMW: MDS Gauge:        Active Admin? <input type="checkbox"/> Completion/Start Date: <b>12/31/2026</b> Perfection/Expiration Date: <b>12/31/2030</b>		7. Use of Water <input checked="checked" type="checkbox"/> Groundwater <input type="checkbox"/> Surface Water UMW: <b>STK-Stockwatering</b> UMW: UMW:
8. Action Trail <b>GY APPROVED PENDING COMPLETION - Comp Date: 12/31/2026 - Perfect: 12/31/2030</b>		
9. Special Conditions		
10. 5YR Allocation    Type:        Start Year:        5YR Quantity:        Base Acres: Comment:		
11. Sand & Gravel    Proj ID: <input type="checkbox"/> Active <input type="checkbox"/> Dredge <input type="checkbox"/> IND Evap <input type="checkbox"/> Jr Evap <input type="checkbox"/> Other Diversion <input type="checkbox"/> Rpt on Sr		
12. Waiver    Rule ID: <input type="checkbox"/> New    Date Requested: Applies:        Rule No.:        Justification: Rule Type: Rule SubType:		
Comments <b>49496 PU EXPANSION 51153 &amp; 51153-A AS NEW WELLS WITH LIMITED QUANTITY</b>		Processed <b>LI 3/7/2025</b>  Reviewed
		Entered <b>4/1/2025</b> <b>KAnderson</b>

File No. **51153Error!** Reference source not found.  
 Structures File No: 13. County: **WS** Basin: **BIG BLUE RIVER** Stream: **NA**  
 Aquifer Code: **SUMNER GROUP 530** Special Use Area: **NO**

14. Points of Diversion, Rates & Quantities

PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Qty <b>mgy</b>		Rate <b>gpm</b>		Storage Qty		Storage Rate		Overlaps
									Auth	Add	Auth	Add	Auth	Add	Auth/Add	Overlaps	
<b>MOD 90710</b>	<b>CW NW</b>	<b>34</b>	<b>5</b>	<b>5E</b>	<b>1</b>	<b>4000</b>	<b>5140</b>		<del>54.56</del> <b>52.56</b>	<del>397.55</del> <b>200 (ok)</b>	<b>200</b>						<b>^</b>

15. Limitations **NEW** Type: **Combined Quantity** Quantity: **82.125 mgy** Rate: **gpm** combined with file no(s): **49496 NEW** Type: Quantity: **AF**  
 Rate: **gpm** combined with file no(s):

16. Metering  Metering Required  Anti-Reverse Required  Seal Required Compliance Date: **12/31/2026**  WLM Tube Required

17. Place of Use

PUSE	S	T	R	ID	NE¼				NW¼				SW¼				SE¼				Total	Owner(s)	Chg?	Overlaps
					NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE				
																					0.00		<input type="checkbox"/>	
																					0.00		<input type="checkbox"/>	
																					0.00		<input type="checkbox"/>	
																					0.00		<input type="checkbox"/>	
<b>CHK 67498</b>	<b>27</b>	<b>5</b>	<b>5E</b>	<b>1</b>	<b>CATTLE FEEDLOT (W2)</b>																	<b>5a</b>	<input type="checkbox"/>	<b>^</b>
																							<input type="checkbox"/>	

18. Point of Diversion and Place of Use Overlaps

* <b>NONE</b>	**
+	++
#	##
^ <b>49496, 51153, 51153-A</b>	^^

# MEMORANDUM TO FILE

Division of Water Resources, Water Appropriation Program

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Date: March 25, 2025

From: Leslie Ireland, Environmental Scientist

Re: Change in Place of Use, File No. 49,496

New Applications, File Nos. 51,153 & 51,153-A – D & S Cattle Co. LLC

## Summary

D & S Cattle Co. LLC in the care of Scott Vathauer, on December 11, 2023, filed the referenced new applications, File Nos. 51,153 & 51,153-A, to each authorize a separate well to appropriate 52.560 million gallons (mgy) (161.3 acre-feet) of groundwater for stockwater use. An application to change the existing place of use under File No. 49,496, was filed on the same date. All propose to expand the ex stockwater use at the beef feeder cattle facility located mostly in the Northwest Quarter but proposed to now authorize the West Half ( $W\frac{1}{2}$ ) of Section 27, Township 5 South, Range 5 East, in Washington County, approximately 15 miles South of Barnes, Kansas.

## Source of Supply and Safe Yield

File No. 51,153, proposed well is to be in the Southwest Quarter of the Northwest Quarter of the Southeast Quarter ( $SW\frac{1}{4} NW\frac{1}{4} NW\frac{1}{4}$ ) of Section 34, more particularly described as being near a point approximately 4,000 feet North and 5,140 feet West of the Southeast Corner of Section 34, Township 5 South, Range 5 East, Washington County. It would appear the feet distances of this well may be better described with the quantifiers of being Near the Center of the West side of the Northwest Quarter, ( $CW NW\frac{1}{4}$ ) to divert 52.560 mgy at 200 gallons per minute (gpm). A well log for this well from the KGS web site indicates a well depth of 101 feet below ground surface to limestone and gray shale, with a static water level of 40 feet in October of 2023. The applicant indicates they have a long-term lease to the property owned by David C & Janice K Rosenkranz Trust, a copy of the permit will be sent to this landowner.

File No. 51,153-A, proposed well is to be in the Southwest Quarter of the Southwest Quarter of the Southwest Quarter ( $SW\frac{1}{4} SW\frac{1}{4} SW\frac{1}{4}$ ) of Section 27, more particularly described as being near a point approximately 100 feet North and 5,140 feet West of the Southeast Corner of Section 27, Township 5 South, Range 5 East, Washington County, to divert 52.560 mgy at 200 gallons per minute (gpm). The well log for this well from the KGS web site indicates a well depth of 103 feet below ground surface to gray shale at the maximum depth, with a static water level of 43.5 feet in October of 2023.

The lithology of both wells is comparable to each other and similar to the wells under File No. 49,496, which had its source of supply determined by Douglas Schemm, P.G., to be the Sumner Group. The similarity of these new logs and his information indicates the same lithology extends throughout the entire two-mile circle, with the total of 8,042 acres available for the area yield. The potential recharge of 3.1 inches, and 100% available for appropriation (Big Blue River Basin), safe yield was determined with File No. 49,496 to be 2,077 AF. This existing appropriation and the two proposed appropriations are the only appropriations in the area of consideration. The authorized 130 AF would leave 1,947 AF of water available for File No. 51,153 and 1,785.7 AF of water available for File No. 51,153-A, and the applications meet the safe yield from this source. These appropriations are not in a special use area.

## Reasonable Rate and Quantity

The existing Appropriation, File No. 49,496, that will perfection in 2027, is currently authorized to divert 42.36 million gallons (130 acre-feet) at a rate of diversion of 100 gallons per minute allowing the diversion in approximately 295 days. This appears reasonable for this use. The proposed new appropriations could divert their quantity in approximately 183 days.

Re: File Nos. 49,496; 51,153 & 51,153-A – D & S Cattle Co. LLC

The submitted Stockwater Supplemental Sheet lists 15,000 head of cattle to be watered in approximately five years. K.A.R. 5-3-22, *Maximum reasonable quantity of water for livestock and poultry*, affords 15 gallons per day per head. The justification indicates a total stockwatering need of 82.125 mgy (252 AF). The owner indicated approximately 9.68 gallons per head per day would be typical water usage for his breed of cattle but listed almost 16,000 head. The owner did not request any additional quantity to operate a feed mill or bunk operation. The new applications each list the quantity being limited to the maximum allowed, 82.125 mgy by K.A.R. 5-3-22. File No. 51,153 will be limited with File No. 49,496, to provide an additional 39.765 mgy and File No. 51,153-A, will provide an alternate point of diversion, with the quantity limited to 82.125 mgy with File Nos. 49,496 & 51,153 with no additional quantity, but the option to divert.

The applicant has submitted a signed Minimum Desirable Streamflow form, which has been properly notarized. By completing this statement, the applicant affirms his/her knowledge that there could be times when the diversion of water may not be allowed under this permit.

## Spacing and Nearby Appropriations

The applicant did not identify any domestic well owners within one-half ( $\frac{1}{2}$ ) mile of the proposed points of diversion. However, the KGS site indicates a domestic well in the Northeast Quarter of Section 33, at a depth of approximately 80 feet and a static water level of 15 feet in 1995. This well is on property owned by the Richter Family Trust in the care of Mary Spence. Notification by mail sent March 6, 2025, resulted in no comments as of today's date.

File No. 49,496, authorizes a battery of two(2) wells geographic center being in the (NW $\frac{1}{4}$  SW $\frac{1}{4}$  NW $\frac{1}{4}$ ), approximately 3,300 feet North and 4,695 feet West of the Southeast corner Section 27, had a Compliance Investigation completed in 2020. It determined the actual location of the wells, resulting in the geographic center to be 3,263 feet North and 4,688 feet West of the Southeast corner of Section 27, with the qualifiers modified to the (SW $\frac{1}{4}$  SW $\frac{1}{4}$  NW $\frac{1}{4}$ ). The updated well locations complies with K.A.R. 5-2-3, *Battery of wells* and as the geographic center is 67 feet from authorized point of diversion description per K.A.R. 5-5-6c, *Failure to construct diversion works at authorized location*. The approval will update the description and WRIS database.

K.A.R. 5-4-4, *Well spacing*, indicates the well to well spacing for nondomestic wells appropriating from this formation is 1,320 feet and domestic to nondomestic wells 660 feet of well spacing. The proposed appropriations are approximately 1,369 feet apart and the domestic well is approximately 1,200 feet to the West of the closest well File No. 51,153-A, in Section 27 which is also approximately 3,200 feet from the corrected geographic center of File No. 49,496. It appears well spacing is met.

## Recommendations

Based on the above discussion, well spacing and safe yield criteria are met, and approval of the applications will not impair senior water rights nor prejudicially or unreasonably affect the public interest, it is recommended that the referenced new applications and proposed change be approved as proposed. In a 3/25/ 2025, email, Nathan Westrup, Water Commissioner, Topeka Field Office, recommended approval of the referenced applications.

## Completion

The applications appear to be complete. The permits will require compliance with K.S.A. 82a-706c, requiring any water user to install meters, gages, or other measuring devices, may read at any time by DWR. Water flowmeters must meet K.A.R. 5-1-4 through K.A.R. 5-1-12. They stated they would not inject any chemical or foreign substance into the water pumped, but the check valve wording will be a permit condition as standard protocol. Completion will be 12/31/2026 and perfection 12/31/2030 for the new appropriations.

Ireland, Leslie [KDA]

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**From:** Westrup, Nathan [KDA]  
**Sent:** Tuesday, March 25, 2025 10:14 AM  
**To:** Ireland, Leslie [KDA]  
**Subject:** RE: Review and Recommendation Change 49496 & New Applications, File Nos. 51153 & 51153-A

Hi Leslie,

I have no objection or concerns with approval of the new applications and the change.

Thank you,

**Nathan Westrup | Water Commissioner**

Kansas Department of Agriculture

Division of Water Resources

**Topeka Field Office**

*1131 SW Winding Rd, Suite 400*

*Topeka, KS 66615*

Phone: 785-296-7064

Mobile: 785-230-2991

[Nathan.Westrup@ks.gov](mailto:Nathan.Westrup@ks.gov)

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**From:** Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>  
**Sent:** Friday, March 21, 2025 11:44 AM  
**To:** Westrup, Nathan [KDA] <Nathan.Westrup@ks.gov>  
**Subject:** Review and Recommendation Change 49496 & New Applications, File Nos. 51153 & 51153-A

Nathan,

The summary memo reflects no comments to the one nearby notice to an old domestic well. It all meets the rules.

Please let me know if you'd recommend the project. I did suggest the Sec 34 well, 51153 be identified with the qualifiers of near the center of the West Side NW/4. If not OK with that please let me know.

As always comments and concerns are welcome.

Leslie Ireland  
Environmental Scientist  
Change Application Unit  
Division of Water Resources



THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE  
Mike Beam, Secretary of Agriculture

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

**APPROVAL OF APPLICATION  
and  
PERMIT TO PROCEED**

(This Is Not a Certificate of Appropriation)

This is to certify that I have examined Application, **File No. 51,153** of the applicant

**D&S CATTLE CO LLC  
158 ALL AMERICAN RD  
BARNES, KS 66933**

for a permit to appropriate water for beneficial use, together with the maps, plans and other submitted data, and that the application is hereby approved and the applicant is hereby authorized, subject to vested rights and prior appropriations, to proceed with the construction of the proposed diversion works (except those dams and stream obstructions regulated by K.S.A. 82a-301 through 305a, as amended), and to proceed with all steps necessary for the application of the water to the approved and proposed beneficial use and otherwise perfect the proposed appropriation subject to the following terms, conditions and limitations:

1. That the priority date assigned to such application is **December 11, 2023**.
2. That the water sought to be appropriated shall be used for stockwatering use in the West Half (W $\frac{1}{2}$ ) of Section 27, Township 5 South, Range 5 East, Washington County, Kansas.
3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of one (1) well located near the center of the West Side of the Northwest Quarter (NW $\frac{1}{4}$ ) of Section 34, more particularly described as being near a point 4,000 feet North and 5,140 feet West of the Southeast corner of said section, in Township 5 South, Range 5 East, Washington County, Kansas, located substantially as shown on the topographic map accompanying the application.
4. That this appropriation shall be limited to a maximum diversion rate not in excess of **200 gallons per minute (0.45 c.f.s.)** and to a quantity not to exceed **52.56 million gallons of water (161.3 acre-feet)** for any calendar year.
5. That the quantity of water approved under this permit is further limited to the quantity which combined with Appropriation of Water, File No. 49,496, will provide a total not to exceed **82.125 million gallons of water (252.03 acre-feet)** per calendar year for stockwatering use at the place of use described herein.
6. That installation of works for diversion of water shall be completed on or before **December 31, 2026**, or within any authorized extension thereof. The applicant shall notify the Chief Engineer and pay the statutorily required field inspection fee, which is currently \$400.00, when construction of the works has been completed. Failure to timely submit the notice and the fee will result in revocation of the permit. Any request for an extension of time shall be accompanied by the required statutory fee, which is currently \$100.00.

7. That the proposed appropriation shall be perfected by the actual application of water to the proposed beneficial use on or before December 31, 2030, or any authorized extension thereof. Any request for an extension of time shall be submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee, which is currently \$100.00.
8. That the applicant shall not be deemed to have acquired a water appropriation for a quantity in excess of the amount approved herein nor in excess of the amount found by the Chief Engineer to have been actually used for the approved purpose during one calendar year subsequent to approval of the application and within the time specified for perfection or any authorized extension thereof.
9. That the use of water herein authorized shall not be made so as to impair any use under existing water rights nor prejudicially and unreasonably affect the public interest.
10. That the right of the appropriator shall relate to a specific quantity of water and such right must allow for a reasonable raising or lowering of the static water level and for the reasonable increase or decrease of the streamflow at the appropriator's point of diversion.
11. That this permit does not constitute authority under K.S.A. 82a-301 through 305a to construct any dam or other obstruction; nor does it grant any right-of-way, or authorize entry upon or injury to, public or private property.
12. That all wells with a diversion rate of 100 gallons per minute or more drilled under the authority of this permit shall have a tube or other device installed in a manner acceptable to, and in accordance with specifications adopted by, the Chief Engineer. This tube or device shall be suitable for making water level measurements and shall be maintained in a condition satisfactory to the Chief Engineer.
13. That all diversion works authorized under the authority of this permit into which any type of chemical or other foreign substance will be injected into the water pumped from the diversion works shall be equipped with an in-line, automatic quick-closing, check valve capable of preventing pollution of the source of the water supply. The type of valve installed shall meet specifications adopted by the Chief Engineer and shall be maintained in an operating condition satisfactory to the Chief Engineer.
14. That an acceptable water flow meter shall be installed and maintained on the diversion works authorized by this permit in accordance with the Kansas Administrative Regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer. This water flow meter shall be used to provide an accurate quantity of water diverted as required for the annual water use report (including the meter reading at the beginning and end of the report year).
15. That the applicant shall maintain accurate and complete records from which the quantity of water diverted during each calendar year may be readily determined and the applicant shall file an annual water use report with the Chief Engineer by March 1, following the end of each calendar year. Failure to file the annual water use report by the due date shall cause the applicant to be subject to a civil penalty.
16. That the right to appropriate water under authority of this permit is subject to any minimum desirable streamflow requirements identified and established pursuant to K.S.A. 82a 703c for the source of supply to which this water right applies.
17. That no water user shall engage in nor allow the waste of any water diverted under the authority of this permit.

18. That failure without cause to comply with the provisions of this permit and its terms, conditions and limitations will result in the forfeiture of the priority date, revocation of the permit and dismissal of the application.

Ordered this 27 day of March, 2025, in Manhattan, Riley County, Kansas.

Lane P. Letourneau

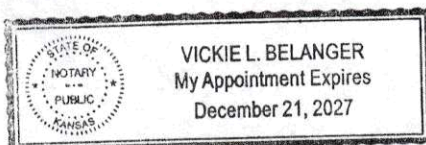
Lane P. Letourneau, P.G.  
Water Appropriation Program Manager  
Division of Water Resources  
Kansas Department of Agriculture

State of Kansas )  
                          ) SS  
County of Riley )

The foregoing instrument was acknowledged before me this 27 day of March, 2025, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.

Vickie L. Belanger

Notary Public





1320 Research Park Drive  
Manhattan, KS 66502  
785-564-6700  
www. agriculture.ks.gov



900 SW Jackson, Room 456  
Topeka, KS 66612  
785-296-3556

Mike Beam, Secretary

Laura Kelly, Governor

April 2, 2025

SCOTT VATHAUER  
D&S CATTLE CO LLC  
158 ALL AMERICAN RD  
BARNES KS 66933

RE: Appropriation of Water  
File Nos. 51,153 and 51,153-A

Water Right  
File No. 49,496

Dear Mr. Vathauer:

Enclosed is a permit authorizing you to proceed with the appropriation of water for beneficial use as set forth in the permit. Your attention is directed to the enclosures and to the terms, conditions, limitations, and requirements specified in this permit. Also enclosed is an order executed by the Chief Engineer approving the application for change in place of use, under the referenced file number.

Notice must be filed on the enclosed form for the completion of the referenced file. Acceptable water flowmeters must be installed on the diversion works authorized by the enclosed approval documents. Failure to complete the diversion works and inform the Chief Engineer of the required installation of the meter for these files, within the time allowed, or within any authorized extension of time thereof, will result in dismissal of the permits and/or enforcement against the water right. If you need an extension of time, you must request it before the deadline for completion set forth in the enclosed orders. Any request for an extension of time must be accompanied by the statutorily required fee, which is currently \$100.00, per file number.

An annual water use report must be filed with the Chief Engineer by March 1, following the end of each calendar year. If a complete annual water use report is not received by the deadline, then a fine may be assessed and all water use under such permits or rights may be suspended. Reports submitted in paper form will be assessed a \$20 per file number paper filing fee. In order to avoid this filing fee, you may submit your report online at [kswaterusereport.org](http://kswaterusereport.org).

The approval of your application constitutes a permit to appropriate water. It does not give authority to construct any dam or other stream obstruction regulated by K.S.A. 82a-301 through 305a. It does not give authority to access any right-of-way or authorize trespassing upon or injury to public or private property. It may also be necessary for you to comply with other local, state or federal requirements.

D&S CATTLE CO LLC  
File Nos. 49,486, 51,153 and 51,153-A  
Page 2 of 2

Also included with the documents is an informational sheet that sets forth the procedure to obtain a Certificate of Appropriation which will establish the extent of your perfected water rights. Additional information and applicable forms may be found on our website at [agriculture.ks.gov/dwr](http://agriculture.ks.gov/dwr). If you have any questions or need assistance with any of these requirements, please contact our office at 785-564-6640, or your local Topeka Field Office at 785-296-5733. If you call, please reference the file number so we can help you more efficiently.

Sincerely,



Kristen A. Baum  
New Applications  
Division of Water Resources

KAB:kak:li  
Enclosure(s)  
pc: Topeka Field Office  
David C & Janice K Rosenkranz Trust

## RIGHT TO A HEARING AND TO ADMINISTRATIVE REVIEW

If you are aggrieved by this Order, then pursuant to K.S.A. 82a-1901, you may request an evidentiary hearing before the Chief Engineer or request administrative review by the Secretary of Agriculture. Failure to request an evidentiary hearing before the Chief Engineer does not preclude your right to administrative review by the Secretary.

To obtain an evidentiary hearing before the Chief Engineer, a written request for hearing must be filed within 15 days after service of this Order as provided in K.S.A. 77-531 (**i.e., within a total of 18 days after this Order was mailed to you**), with: Kansas Department of Agriculture, Attn: Legal Division, 1320 Research Park Drive, Manhattan, Kansas 66502, FAX 785-564-6777.

If you do not file a request for an evidentiary hearing before the Chief Engineer, you may petition for administrative review of the Order by the Secretary of Agriculture. A petition for review shall be in writing and state the basis for requesting administrative review. The request for review may be denied if the request fails to clearly establish factual or legal issues for review. See K.S.A. 77-527. The petition must be filed within 30 days after service of this Order as provided in K.S.A. 77-531 (**i.e., within a total of 33 days after this Order was mailed to you**), and be filed with: Secretary of Agriculture, Attn: Legal Division, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, FAX 785-564-6777.

If neither a request for an evidentiary hearing nor a petition for administrative review is filed as set forth above, then this Order shall be effective and become a final agency action as defined in K.S.A. 77-607(b). Failure to timely request either an evidentiary hearing or administrative review may preclude further judicial review under the Kansas Judicial Review Act.

## CERTIFICATE OF SERVICE

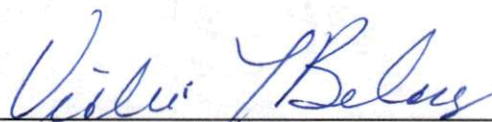
On this 2<sup>nd</sup> day of April, 2025, I hereby certify that the attached Approval of Application and Permit to Proceed, File Nos. 51,153 and 51,153-A, and the Approval of Application for Change in Place of Use, File No. 49,496, dated, March 27, 2025, were mailed postage prepaid, first class, US mail to the following:

D&S CATTLE CO LLC  
158 ALL AMERICAN RD  
BARNES KS 66933

With photocopies to:

DAVID C & JANICE K ROSENKRANZ TRUST  
760 HWY 9  
BLUE RAPIDS KS 66411

KDA-DWR Topeka Field Office

  
Division of Water Resources