

GARY E. REBENSTORF  
City Attorney  
JOE ALLEN LANG  
First Assistant City Attorney  
JAY C. HINKEL  
Assistant City Attorney  
City Hall - 13th Floor  
455 North Main  
Wichita, Kansas 67202  
(316) 268-4681

WATER RESOURCES  
RECEIVED

NOV 05 2004

KS DEPT OF AGRICULTURE

Original  
Motion  
(Pope)

**BEFORE THE CHIEF ENGINEER OF THE DIVISION OF WATER RESOURCES,  
KANSAS DEPARTMENT OF AGRICULTURE**

**IN THE MATTER OF THE CITY  
OF WICHITA'S APPLICATIONS  
TO OPERATE AN AQUIFER STORAGE  
RECOVERY PROJECT IN HARVEY  
COUNTY, KANSAS.**

) Case No. 04 WATER 2869  
) Application to Appropriate Water  
) File No's 45,567; 45,568; 45,569;  
) 45,570; 45,571; 45,472; 45,473; 45,474;  
) 45,575; and 45,576

**MOTION OF THE CITY OF WICHITA  
FOR MODIFICATION OF THE PERMIT APPLICATIONS**

COMES NOW the City of Wichita, the applicant herein, and moves for a modification of three of the above permit applications, nos. 45,567, 45,572, 45,669. In support of this request, the City of Wichita states as follows:

1. Nos. 45,572 and 45,569

The City requests to change the proposed point of diversion of the two most southerly bank storage wells, nos. 45,572 and 45,569, to two new locations north of the current sites. Specifically, move no. 45,572 from a site 69 feet north and 2,037 feet west of the southeast corner of Section 8, T. 23 S., R. 2 W., to a site, called DW 8, which is 3,515 feet north and 4,860 feet west of the southeast corner of said section; and move no. 45,569 from a site 512 feet north and 2,405 feet west of the southeast corner of Section 8, T. 23 S., R. 2 W., to a site, called DW 9, which is 3,665 feet north and 5,195 feet west of the southeast corner of said section.

The purpose of moving these points of diversion is to obtain better water quality, specifically a reduction in arsenic. Initial water quality tests measured 15.1 parts per billion (ppb) at the site of no. 45,572, and 21.4 ppb at the site for no. 45,569. The arsenic levels are substantially lower at the new sites, being 8.4 ppb at DW-8 and 6.7 ppb at DW-9. The new drinking water standard for arsenic is 10 ppb. By using these new sites, the City of Wichita will be able to improve substantially the water quality of the water obtained from the diversion wells, and the water treatment needed prior to recharge will be reduced.

The estimated depth of a well at DW-8 would be 136 feet, and the estimated depth of a well at DW-9 would be 124 feet.

Depth to water at DW-8 is approximately 10 feet below land surface, and depth to water at DW-9 is approximately 7.5 feet below land surface.

The top of the well at DW-8 is approximately 27 feet above the normal flow line of the river, and the top of DW-9 is approximately 25 feet above the normal flow line of the river.

The locations of these wells are shown in **Attachment A** attached hereto.

## 2. No. 45,567

The City of Wichita also requests a proposed change in point of diversion for the recharge and recovery well in application no. 45,567. The point of diversion for this proposed well was originally 5,124 feet north and 5,272 west of the southeast corner of Section 25, T. 23 S., R 3 W. In order to resolve problems in acquiring access to that site, the City proposes to move the point of diversion approximately 210 feet north to an adjacent property. The new point of diversion would be approximately 105 feet north and approximately 5.195 feet west of the southeast corner of Section 24, T. 23 S., R 3. W. While this point of diversion is within 300 feet of the original

point of diversion, it places the point of diversion within approximately 1,120 feet of an existing non-domestic well, which is less than the 1,320 feet required as part of K.A.R. 5-22-2.

The City submits that granting an exception from the well spacing requirement for this recharge and recovery well is appropriate. The purpose of the well spacing requirement is to assure that an existing non-domestic well is not impaired by the operation of a new well. This well can only operate under specific conditions, and can only operate if there are recharge credits available. In order for the well to have recharge credits, the aquifer has to have more water in it than the lowest index level. By that definition, this well can only operate if the aquifer is in better condition than it was at the time the index levels are established, so the existing well cannot be impaired by the operation of the recharge and recovery well. This well will also have numerous monitoring wells located around it, which can be used to assure that it does not impair any existing water rights.

The locations of these wells are shown in **Attachment A** attached hereto.

### 3. Proposed Addition of a Recharge Well to Replace a Recharge Basin

Attached hereto as **Attachment B** is a “draft” Application for Permit to Appropriate Water for Beneficial Use (ASR Project, RW-1). The City of Wichita intends to file this Application with DWR. If filed and approved, the City of Wichita proposes to install a recharge well (tentatively labeled “RW-1”) instead of a recharge basin in the Project. The City had originally intended to install a recharge basin in the southwest corner of Section 25, T. 23 S. R. 3 W. Unfortunately, the City had problems acquiring that site, and the City now wants to install a recharge well on the northwest corner of Section 36, T. 23 S. R. 3 W., at a site just south of the proposed recharge basin. Unlike the other proposed wells in the recharge area, this well would

only be a recharge well, and not a recharge and recovery well. It would add no additional recovery capacity to the system. In order to keep the well from plugging, the well must be operated periodically in order to “backwash” the well. Therefore, the well still needs a water appropriation for maintenance of the well. It is estimated that the maintenance of the well could use up to 43 acre-feet of water per year in a year with maximum recharge opportunity. Even though the source of the water for this maintenance will be recharged water, it appears that a separate appropriation may be needed for that maintenance water. It is estimated that the amount of water needed to maintain the well would be less than 2 percent of the water recharged into the well.

#### 4. Evidence and GMD Recommendation

These modifications are requested to accommodate property owners in the Project area and to improve water quality in the Project. It is submitted that these application modifications would not change the intent and purpose of the Project.

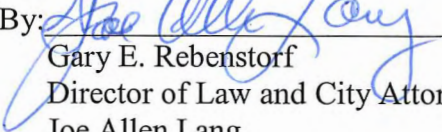
The City of Wichita intends to submit the information on these proposed permit modifications and proposed Application to the Equus Beds Groundwater Management District and its Manager, and to present the information and rationale to the Board at its meeting on November 9, 2004. The City of Wichita will request the support of the GMD for these modifications. If the GMD makes any changes or additions to its Recommendations in support of these modifications, that information will be filed with the Chief Engineer immediately in this matter as a supplemental filing. It is submitted that any party will have the ability to timely respond to such recommendations in the comments requested by November 24, 2004 (Pre-Hearing Order, Hearing Procedures #6).

Further descriptions and data relative to the proposed modifications to the permit applications is included in the Exhibits filed with the Hearing Submittal filed by the City of Wichita this date.

WHEREFORE, the City of Wichita requests that its Motion for Modification of the Permit Applications be granted as set forth herein.

Respectfully Submitted,

THE CITY OF WICHITA, KANSAS

By:  \_\_\_\_\_  
Gary E. Rebenstorf  
Director of Law and City Attorney  
Joe Allen Lang  
First Assistant City Attorney  
Jay C. Hinkel  
Assistant City Attorney  
455 N. Main, 13<sup>th</sup> Floor  
Wichita, Kansas 67202  
316-268-4681  
316-268-4335 (Fax)

**CERTIFICATE OF SERVICE**

I hereby certify that the above and foregoing was sent on this 5th day of November, 2004 as follows :

**Originals by Hand Delivery to**

David L. Pope, P.E.  
Hearing Officer, Chief Engineer and Director  
Division of Water Resources  
Kansas Department of Agriculture  
109 SW 9<sup>th</sup> St, 2<sup>nd</sup> Floor  
Topeka, KS 66612-1283

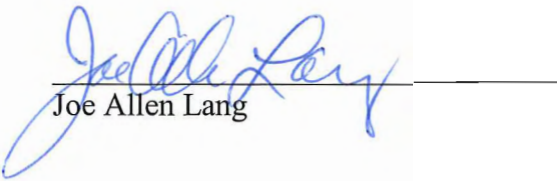
And **Copies by U.S. Mail**, postage prepaid, to the following:

Mike Dealy  
Equus Beds GMD No. 2  
313 Spruce Street  
Halstead, KS 67056

Leland E. Rolfs **[included with Originals]**  
Department of Agriculture  
109 SW 9<sup>th</sup> St, 4<sup>th</sup> Floor  
Topeka, KS 66612

Joe Bergkamp  
2004 South Willow Lake Rd  
Halstead, KS 67056

Ronald Neuway  
903 N. Willow Lake Rd  
Burrton, KS 67020



Joe Allen Lang



COPY

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE  
Jamie Clover Adams, Secretary of Agriculture

DIVISION OF WATER RESOURCES  
David L. Pope, Chief Engineer

File Number \_\_\_\_\_  
This item to be completed by the Division of Water Resources.

**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.)

ASR Project RW-1

To the Chief Engineer of the Division of Water Resources, Kansas Department of Agriculture,  
109 SW 9<sup>th</sup> Street, Second Floor, Topeka, KS 66612-1283:

1. Name of Applicant (Please Print): City of Wichita, Water & Sewer Dept.  
Address: 455 N. Main  
City: Wichita State KS Zip Code 67202  
Telephone Number: (316) 268-4504

2. The source of water is: G surface water in \_\_\_\_\_ (stream)  
OR  groundwater in Equus Beds, Arkansas River Basin (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.

3. The maximum quantity of water desired is 43 acre-feet OR \_\_\_\_\_ gallons per calendar year,  
to be diverted at a maximum rate of 1,500 gallons per minute OR \_\_\_\_\_ 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.

4. The water is intended to be appropriated for (Check use intended):  
(a) G Artificial Recharge (c) G Irrigation Use (e) G Recreational Use (g) G Water Power use  
(b) G Industrial Use (d)  Municipal Use (f) G Stockwatering Use

YOU **MUST** COMPLETE AND ATTACH ADDITIONAL DIVISION OF WATER RESOURCES FORM(S) PROVIDING INFORMATION TO SUBSTANTIATE YOUR REQUEST FOR THE AMOUNT OF WATER FOR THE INTENDED USE REFERENCED ABOVE.

For Office Use Only: Code REG Fee \$ \_\_\_\_\_ TR # \_\_\_\_\_ Receipt Date \_\_\_\_\_ Check # \_\_\_\_\_



File No. \_\_\_\_\_

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 60 days in which to locate the site within a quarter section tract. Any request for an extension of time in which to locate the point of diversion shall include a contract with a well driller or a contractor for the necessary test holes.

- (A) One in the NW quarter of the NW quarter of the NW quarter of Section 36, more particularly described as being near a point 5170 feet North and 5170 feet West of the Southeast corner of said section, in Township 23 South, Range 3 East (West) (circle one), Harvey 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 and which are operated by means of submersible pumps.

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 proposed project for diversion of water will consist of one recharge well  
(number of wells, pumps or dams, etc.)  
and (was) (will be) completed (by) November 30, 2005  
(Month/Day/Year - each was or will be completed)
7. The first actual application of water for the proposed beneficial use was or is estimated to be 03/01/06  
(Mo/Day/Year)
8. 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.

File No. \_\_\_\_\_

9. 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?    G Yes    G No

! If yes, show the Water Structures permit number here \_\_\_\_\_

! If no, explain here why a Water Structures permit is not required \_\_\_\_\_

\_\_\_\_\_

10. 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 ½ 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 ½ mile, please advise us.
- (c) If the application is for surface water, the names and addresses of the landowner(s) ½ mile downstream and ½ 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.

11. 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.

*Part of City of Wichita's ASR project. Water will be used to maintain recharge well and can only be withdrawn when recharge credits are available.*

\_\_\_\_\_

File No. \_\_\_\_\_

12. 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) |
|---|----------|-----|-----|-----|
| Date Drilled                            | 07-15-03 |     |     |     |
| Total depth of well                     | 244      |     |     |     |
| Depth to water bearing formation        | 16       |     |     |     |
| Depth to static water level             | 30       |     |     |     |
| Depth to bottom of pump intake pipe     | —        |     |     |     |

13. The relationship of the applicant to the proposed place where the water will be used is that of

agent  
(owner, tenant, agent or otherwise)

14. The owner(s) of the property where the water is used, if other than the applicant, is (please print):

\_\_\_\_\_  
(name, address and telephone number)

\_\_\_\_\_  
(name, address and telephone number)

15. 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 Wichita, Kansas, this 3<sup>rd</sup> day of November, 2004  
(month) (year)

\_\_\_\_\_  
(Applicant Signature)

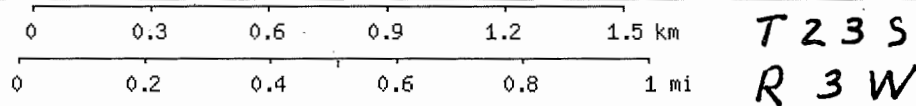
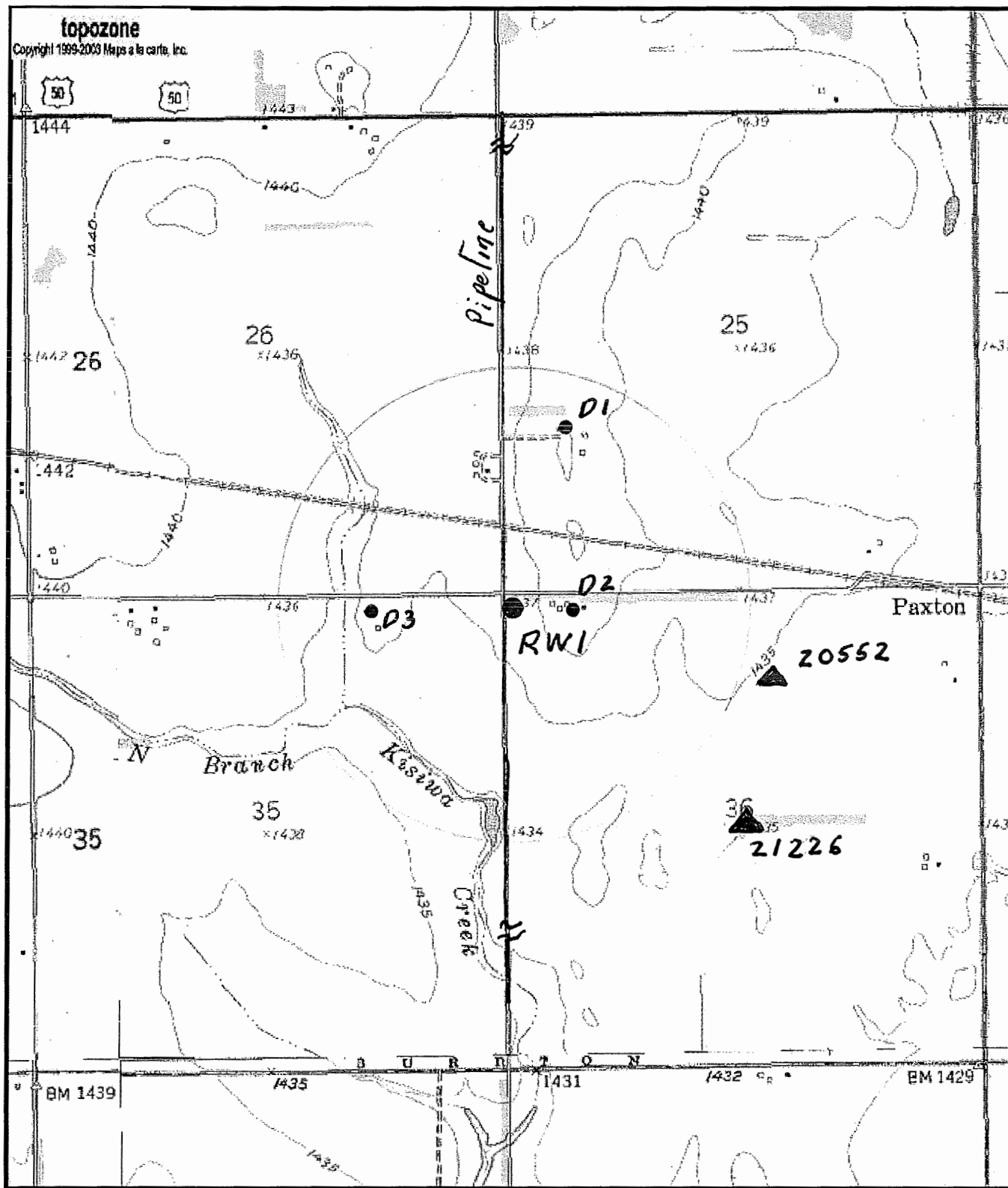
\_\_\_\_\_  
APPLICANT(S) SOCIAL SECURITY IDENTIFICATION NUMBER(S)

By Gerald T. Blain  
(Agent or Officer Signature)

48-6000653  
and/or  
APPLICANT(S) TAXPAYER I.D. NO.(S)

Gerald T. Blain  
(Agent or Officer - Please Print)

Assisted by \_\_\_\_\_ Date: \_\_\_\_\_  
(office/title)



Map center is UTM 14 622012E 4208266N (WGS84/NAD83)  
**Halstead** quadrangle  
 Projection is UTM Zone 14 NAD83 Datum

M=5.981  
 G=0.856

Recharge Well No. 1

5,170 ft. N. and 5,170 ft. W. of SE Corner of Sec. 36, T 23 S, R 3 W.

Diversions within 1/2 mile:

Irrigation Wells –

# 21226

Leo & Edna Koehn Trust

8935 SW 24<sup>th</sup> St.

Halstead, KS 67056

# 20552

Marvin and Betty Baehr

Address not available

Domestic Wells

D1

Joe and Joanna Bergkamp

2004 S. Willow Lake Rd.

Halstead, KS

D2

Larry Koehn

8935 SW 24<sup>th</sup> St.

Halstead, KS 67056

D3

JC Welch

18307 SW 24<sup>th</sup> St.

Burrton, KS 67020