

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Dale A. Rodman, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

**IN THE MATTER OF THE DIVISION
OF WATER RIGHT, FILE NO. 32,857**

After due consideration, the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture (hereinafter referred to as the "Chief Engineer"), makes the following findings and order:

FINDINGS

1. That on February 25, 1992, the Chief Engineer, in accordance with K.S.A. 82a-714, issued a Certificate of Appropriation pursuant to File No. 32,857, for beneficial use, subsequently modified and amended on June 28, 2005; December 23, 2005 and July 30, 2007, to currently be authorizing the diversion of groundwater by means of two (2) wells: one (1) well located near the center of the North Half of the Southeast Quarter (N $\frac{1}{2}$ SE $\frac{1}{4}$) of Section 16, more particularly described as being near a point 1,960 feet North and 1,320 feet West of the Southeast corner of said section, at a diversion rate not in excess of **480 gallons per minute (1.07 c.f.s.)** and in a quantity not to exceed **61 acre-feet** of water per calendar year and one (1) well located near the center of the South side of the Southeast Quarter (SE $\frac{1}{4}$) of Section 16, more particularly described as being near a point 20 feet North and 1,350 feet West of the Southeast corner of said section, at a diversion rate not in excess of **550 gallons per minute (1.23 c.f.s.)** and in a quantity not to exceed **95 acre-feet** of water per calendar year, both in Township 24 South, Range 2 West, Harvey County, Kansas, for irrigation use on the following described property:

- 32.5 acres in the Southwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$ NE $\frac{1}{4}$),
- 32.5 acres in the Southeast Quarter of the Northwest Quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$),
- 32.5 acres in the Northeast Quarter of the Southwest Quarter (NE $\frac{1}{4}$ SW $\frac{1}{4}$),
- 32.5 acres in the Northwest Quarter of the Southeast Quarter (NW $\frac{1}{4}$ SE $\frac{1}{4}$),
- 28.0 acres in the Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$),
- 22.0 acres in the Southeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$),

a total of 180.0 acres in Section 16, Township 24 South, Range 2 West, Harvey County, Kansas and

one (1) well located in the Northeast Quarter of the Northeast Quarter of the Southeast Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 16, more particularly described as being near a point 2,100 feet North and 400 feet West of the Southeast corner of said section, at a diversion rate not in excess of **15 gallons per minute (0.03 c.f.s.)** and in a quantity not to exceed **17 acre-feet** of water per calendar year, in Township 24 South, Range 2 West, Harvey County, Kansas, for stockwatering use in the Northeast Quarter of the Southeast Quarter (NE $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 16, Township 24 South, Range 2 West, Harvey County, Kansas.

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2. That on July 17, 2012, the office of the Chief Engineer received a signed and notarized request, (application), and \$300.00 filing fee from: Wendling Farm (David E. and Nina J. Wendling) and the Phillip E. Wendling Trust Et Al, (David E. Wendling, TTEE), requesting as owners/trustee, that Water Right, File No. 32,857, be separated into three (3) portions as follows:

(over)

- a) That one (1) well located near the center of the South side of the Southeast Quarter (SE $\frac{1}{4}$) of Section 16, more particularly described as being near a point 20 feet North and 1,350 feet West of the Southeast corner of said section, at a diversion rate not in excess of **550 gallons per minute (1.23 c.f.s.)** and in a quantity not to exceed **95 acre-feet** of water per calendar year, in Township 24 South, Range 2 West, Harvey County, Kansas, for irrigation use on the following described property:

32.5 acres in the Southwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$ NE $\frac{1}{4}$),
32.5 acres in the Southeast Quarter of the Northwest Quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$),
32.5 acres in the Northeast Quarter of the Southwest Quarter (NE $\frac{1}{4}$ SW $\frac{1}{4}$),
32.5 acres in the Northwest Quarter of the Southeast Quarter (NW $\frac{1}{4}$ SE $\frac{1}{4}$),
28.0 acres in the Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$),
22.0 acres in the Southeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$),

a total of 180.0 acres in Section 16, Township 24 South, Range 2 West, Harvey County, Kansas, to be identified as Water Right, File No. 32,857-D1.

- b) That one (1) well located near the center of the North Half of the Southeast Quarter (N $\frac{1}{2}$ SE $\frac{1}{4}$) of Section 16, more particularly described as being near a point 1,960 feet North and 1,320 feet West of the Southeast corner of said section, at a diversion rate not in excess of **480 gallons per minute (1.07 c.f.s.)** and in a quantity not to exceed **61 acre-feet** of water per calendar year, in Township 24 South, Range 2 West, Harvey County, Kansas, for irrigation use on the following described property:

32.5 acres in the Southwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$ NE $\frac{1}{4}$),
32.5 acres in the Southeast Quarter of the Northwest Quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$),
32.5 acres in the Northeast Quarter of the Southwest Quarter (NE $\frac{1}{4}$ SW $\frac{1}{4}$),
32.5 acres in the Northwest Quarter of the Southeast Quarter (NW $\frac{1}{4}$ SE $\frac{1}{4}$),
28.0 acres in the Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$),
22.0 acres in the Southeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$),

a total of 180.0 acres in Section 16, Township 24 South, Range 2 West, Harvey County, Kansas, to be identified as Water Right, File No. 32,857-D2.

- c) That one (1) well located one (1) well located in the Northeast Quarter of the Northeast Quarter of the Southeast Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 16, more particularly described as being near a point 2,100 feet North and 400 feet West of the Southeast corner of said section, at a diversion rate not in excess of **15 gallons per minute (0.03 c.f.s.)** and in a quantity not to exceed **17 acre-feet** of water per calendar year, in Township 24 South, Range 2 West, Harvey County, Kansas, for stockwatering use in the Northeast Quarter of the Southeast Quarter (NE $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 16, Township 24 South, Range 2 West, Harvey County, Kansas, to be identified as Water Right, File No. 32,857-D3.

3. That Water Right, File No. 32,857-D1; Water Right, File No. 32,857-D2 and Water Right, File No. 32,857-D3, are considered to be equal in priority.
4. That Water Right, File No. 32,857-D1 is considered to have 55 base acres.
5. That Water Right, File No. 32,857-D2 is considered to have 125 base acres.
6. That Water Right, File No. 32,857-D3 is considered to have not applicable base acres.
7. That the division agreement is binding on successors in interest.

ORDER

NOW, THEREFORE, It is the conclusion of the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, that Water Right, File No. 32,857, should be divided and such separation will be entered into the records for administrative purposes as set forth below.

1. That one (1) well located near the center of the South side of the Southeast Quarter (SE $\frac{1}{4}$) of Section 16, more particularly described as being near a point 20 feet North and 1,350 feet West of the Southeast corner of said section, at a diversion rate not in excess of **550 gallons per minute (1.23 c.f.s.)** and in a quantity not to exceed **95 acre-feet** of water per calendar year, in Township 24 South, Range 2 West, Harvey County, Kansas, for irrigation use on the following described property:

32.5 acres in the Southwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$ NE $\frac{1}{4}$),
 32.5 acres in the Southeast Quarter of the Northwest Quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$),
 32.5 acres in the Northeast Quarter of the Southwest Quarter (NE $\frac{1}{4}$ SW $\frac{1}{4}$),
 32.5 acres in the Northwest Quarter of the Southeast Quarter (NW $\frac{1}{4}$ SE $\frac{1}{4}$),
 28.0 acres in the Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$),
 22.0 acres in the Southeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$),

a total of 180.0 acres in Section 16, Township 24 South, Range 2 West, Harvey County, Kansas, now identified as Water Right, File No. 32,857-D1.

2. That one (1) well located near the center of the North Half of the Southeast Quarter (N $\frac{1}{2}$ SE $\frac{1}{4}$) of Section 16, more particularly described as being near a point 1,960 feet North and 1,320 feet West of the Southeast corner of said section, at a diversion rate not in excess of **480 gallons per minute (1.07 c.f.s.)** and in a quantity not to exceed **61 acre-feet** of water per calendar year, in Township 24 South, Range 2 West, Harvey County, Kansas, for irrigation use on the following described property:

32.5 acres in the Southwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$ NE $\frac{1}{4}$),
 32.5 acres in the Southeast Quarter of the Northwest Quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$),
 32.5 acres in the Northeast Quarter of the Southwest Quarter (NE $\frac{1}{4}$ SW $\frac{1}{4}$),
 32.5 acres in the Northwest Quarter of the Southeast Quarter (NW $\frac{1}{4}$ SE $\frac{1}{4}$),
 28.0 acres in the Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$),
 22.0 acres in the Southeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$),

a total of 180.0 acres in Section 16, Township 24 South, Range 2 West, Harvey County, Kansas, now identified as Water Right, File No. 32,857-D2.

3. That one (1) well located one (1) well located in the Northeast Quarter of the Northeast Quarter of the Southeast Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 16, more particularly described as being near a point 2,100 feet North and 400 feet West of the Southeast corner of said section, at a diversion rate not in excess of **15 gallons per minute (0.03 c.f.s.)** and in a quantity not to exceed **17 acre-feet** of water per calendar year, in Township 24 South, Range 2 West, Harvey County, Kansas, for stockwatering use in the Northeast Quarter of the Southeast Quarter (NE $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 16, Township 24 South, Range 2 West, Harvey County, Kansas, now identified as Water Right, File No. 32,857-D3.

4. That Water Right, File No. 32,857-D1; Water Right, File No. 32,857-D2 and Water Right, File No. 32,857-D3, are considered to be equal in priority.

5. That That Water Right, File No. 32,857-D1 is considered to have 55 base acres.

(over)

Stafford Field Office
 Water Resources

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- 6. That Water Right, File No. 32,857-D2 is considered to have 125 base acres.
- 7. That Water Right, File No. 32,857-D3 is considered to have not applicable base acres.
- 8. That the division agreement is binding on successors in interest.

In all other respects, the Certificate of Appropriation for Beneficial Use of Water, issued pursuant to Water Right, File No. 32,857, dated February 25, 1992, remains as authorized and as modified and amended on June 28, 2005; December 23, 2005 and July 30, 2007.

This is a final agency action. If you choose to appeal this decision or any finding or part thereof, you must do so by filing a petition for review in the manner prescribed by the Kansas Act for Judicial Review and Civil Enforcement of Agency Actions (KJRA K.S.A. 77-601 et seq.) within 30 days of service of this order. Your appeal must be made with the appropriate district court for the district of Kansas. The Chief Legal Counsel for the Kansas Department of Agriculture, 109 SW 9th Street, 4th Floor, Topeka, Kansas 66612, is the agency officer who will receive service of a petition for judicial review on behalf of the Kansas Department of Agriculture, Division of Water Resources. If you have questions or would like clarification concerning this order, you may contact the Chief Engineer.

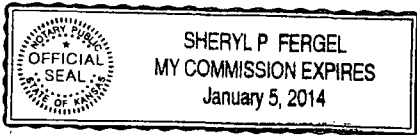
Dated at Topeka, Kansas, this *29th* day of *May*, 2013.

Lane P. Letourneau

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

State of Kansas)
) SS
 County of Shawnee)

The foregoing instrument was acknowledged before me this *29th* day of *May*, 2013, by Lane P. Letourneau, L.G., Program Manager, Water Appropriation Program, Division of Water Resources, Kansas Department of Agriculture.



Sheryl P. Fergel
 Notary Public