



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. 32,858**

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 October 29, 2002, the Chief Engineer, in accordance with K.S.A. 82a-714, issued a Certificate of Appropriation pursuant to File No. 32,858, for beneficial use, authorizing the diversion of groundwater by means of two (2) wells:

one (1) well located in the Southwest Quarter of the Southeast Quarter of the Northwest Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 1, more particularly described as being near a point 2,689 feet North and 3,937 feet West of the Southeast corner of said section, at a diversion rate not in excess of **850 gallons per minute (1.89 c.f.s.)** and in a quantity not to exceed **149 acre-feet** of water per calendar year and

one (1) well located in the Southeast Quarter of the Northwest Quarter of the Southwest Quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 1, more particularly described as being near a point 1,404 feet North and 4,245 feet West of the Southeast corner of said section, at a diversion rate not in excess of **850 gallons per minute (1.89 c.f.s.)** and in a quantity not to exceed **158 acre-feet** of water per calendar year,

both in Township 24 South, Range 3 West, Harvey County, Kansas, for irrigation use on the following described property:

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

a total of 210 acres in Section 1, Township 24 South, Range 3 West, Harvey County, Kansas.

2. That on September 14, 2012, the office of the Chief Engineer received a signed and notarized request from the Phillip E. Wendling Trust Et Al with David E. Wendling as trustee, requesting as trustee, that Water Right, File No. 32,858, be divided into two (2) portions as follows:

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- a) That one (1) well located in the Southwest Quarter of the Southeast Quarter of the Northwest Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 1, more particularly described as being near a point 2,689 feet North and 3,937 feet West of the Southeast corner of said section, at a diversion rate not in excess of **850 gallons per minute (1.89 c.f.s.)** and in a quantity not to exceed **149 acre-feet** of water per calendar year, in Township 24 South, Range 3 West, Harvey County, Kansas, for irrigation use on the following described property:

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

a total of 210 acres in Section 1, Township 24 South, Range 3 West, Harvey County, Kansas, to be identified as Water Right, File No. 32,858-D1.

- b) That one (1) well located in the Southeast Quarter of the Northwest Quarter of the Southwest Quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 1, more particularly described as being near a point 1,404 feet North and 4,245 feet West of the Southeast corner of said section, at a diversion rate not in excess of **850 gallons per minute (1.89 c.f.s.)** and in a quantity not to exceed **158 acre-feet** of water per calendar year, in Township 24 South, Range 3 West, Harvey County, Kansas, for irrigation use on the following described property:

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

a total of 210 acres in Section 1, Township 24 South, Range 3 West, Harvey County, Kansas, to be identified as Water Right, File No. 32,858-D2.

3. That Water Right, File No. 32,858-D1 and Water Right, File No. 32,858-D2 are considered to be equal in priority.
4. That Water Right, File No. 32,858-D1 is considered to have 105 base acres.
5. That Water Right, File No. 32,858-D2 is considered to have 105 base acres.
6. 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. 32,858, 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 in the Southwest Quarter of the Southeast Quarter of the Northwest Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 1, more particularly described as being near a point 2,689 feet North and 3,937 feet West of the Southeast corner of said section, at a diversion rate not in excess of **850 gallons per minute (1.89 c.f.s.)** and in a quantity not to exceed **149 acre-feet** of water per calendar year, in Township 24 South, Range 3 West, Harvey County, Kansas, for irrigation use on the following described property:

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

a total of 210 acres in Section 1, Township 24 South, Range 3 West, Harvey County, Kansas, now identified as **Water Right, File No. 32,858-D1.**

2. That one (1) well located in the Southeast Quarter of the Northwest Quarter of the Southwest Quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 1, more particularly described as being near a point 1,404 feet North and 4,245 feet West of the Southeast corner of said section, at a diversion rate not in excess of **850 gallons per minute (1.89 c.f.s.)** and in a quantity not to exceed **158 acre-feet** of water per calendar year, in Township 24 South, Range 3 West, Harvey County, Kansas, for irrigation use on the following described property:

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

a total of 210 acres in Section 1, Township 24 South, Range 3 West, Harvey County, Kansas, now identified as **Water Right, File No. 32,858-D2.**

3. That Water Right, File No. 32,858-D1 and Water Right, File No. 32,858-D2 are considered to be equal in priority.
4. That Water Right, File No. 32,858-D1 is considered to have 105 base acres.
5. That Water Right, File No. 32,858-D2 is considered to have 105 base acres.
6. 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. 32,858, dated October 29, 2003, remains as authorized.

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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.

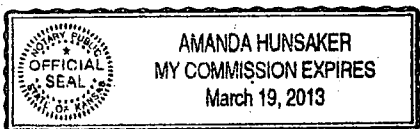
Dated at Topeka, Kansas, this 5th day of October, 2012

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 5th day of October, 2012, by Lane P. Letourneau, L.G., Program Manager, Water Appropriation Program, Division of Water Resources, Kansas Department of Agriculture.



Amanda Hunsaker
Notary Public