



KANSAS DEPARTMENT OF AGRICULTURE
Jackie McClaskey, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

**FINDINGS AND ORDER
IN THE MATTER OF THE DIVISION
OF WATER RIGHT, FILE NO. 32,954**

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

- That on December 20, 1991, the Chief Engineer, in accordance with K.S.A. 82a-714, issued a Certificate of Appropriation pursuant to File No. 32,954, for beneficial use, authorizing the diversion of groundwater by means of a well located in the Southeast Quarter of the Southeast Quarter of the Northwest Quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 21, more particularly described as being near a point 2,711 feet North and 2,828 feet West of the Southeast corner of said section, at a diversion rate not in excess of **1,675 gallons per minute (3.73 c.f.s.)** and a quantity not to exceed **640 acre-feet** of water per calendar year; and

one (1) well located near the center of the Northwest Quarter (NW $\frac{1}{4}$) of Section 21, more particularly described as being near a point 3,920 feet North and 3,955 feet West of the Southeast corner of said section, in Township 24 South, Range 3 West, Harvey County, Kansas, at a diversion rate not in excess of **755 gallons per minute (1.68 c.f.s.)** and a quantity not to exceed **141 acre-feet** of water per calendar year, for **irrigation use** on the following described property:

Sec. Twp. Range	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTAL
	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
21 24S 3W					37	40	40	37									154

all in Township 24 South, Range 3 West, Harvey County, Kansas.

- That on January 18, 2018, the office of the Chief Engineer received a signed and notarized *Application to Divide a Water Right* from; Roger & Lani Pennington; 48120 NW Hillside Rd., Forest Grove, OR 97116; Todd Pennington; 3810 Victoria Way, Newberg, OR 97132; Delaine & Eldon Wallingford; 1508 Milton Rd., Napa, CA 94559; and, Deborah Thach; 5733 Roberts Rd., Sylvania, OH 43560, requesting as owners, that Water Right, File No. 32,954, be divided into three (3) portions with the following assignments:

Water Right, File No. 32,954-D1, to be owned by Roger & Lani Pennington, to have a priority date of April 9, 1979, and to be comprised of:

(over)

RECEIVED

SCANNED JUL 12 2018

one (1) well located near the center of the Northwest Quarter (NW¼) of Section 21, more particularly described as being near a point 3,920 feet North and 3,955 feet West of the Southeast corner of said section, in Township 24 South, Range 3 West, Harvey County, Kansas, at a diversion rate not in excess of **755 gallons per minute (1.68 c.f.s.)** and a quantity not to exceed **35.25 acre-feet** of water per calendar year, for **irrigation use** on the following described property:

Sec. Twp. Range	NE¼				NW¼				SW¼				SE¼				TOTAL
	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
21 24S 3W						40											40

all in Township 24 South, Range 3 West, Harvey County, Kansas;

further limited to a diversion rate which when combined with File Nos. 32,954-D2 & 32,954-D3, will provide a maximum diversion rate not in excess of **755 gallons per minute (1.68 c.f.s.)** for irrigation use from the point of diversion described herein.

Water Right, File No. 32,954-D1, shall have 32.5 base acres as defined by K.A.R. 5-5-11, and 32.5 maximum acres irrigated during the perfection period as defined by K.A.R. 5-5-9.

Water Right, File No. 32,954-D2, to be owned by Todd Pennington, to have a priority date of April 9, 1979, and to be comprised of:

one (1) well located near the center of the Northwest Quarter (NW¼) of Section 21, more particularly described as being near a point 3,920 feet North and 3,955 feet West of the Southeast corner of said section, in Township 24 South, Range 3 West, Harvey County, Kansas, at a diversion rate not in excess of **755 gallons per minute (1.68 c.f.s.)** and a quantity not to exceed **35.25 acre-feet** of water per calendar year, for **irrigation use** on the following described property:

Sec. Twp. Range	NE¼				NW¼				SW¼				SE¼				TOTAL
	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
21 24S 3W					37												37

all in Township 24 South, Range 3 West, Harvey County, Kansas;

further limited to a diversion rate which when combined with File Nos. 32,954-D1 & 32,954-D3, will provide a maximum diversion rate not in excess of **755 gallons per minute (1.68 c.f.s.)** for irrigation use from the point of diversion described herein.

Water Right, File No. 32,954-D2, shall have 32.5 base acres as defined by K.A.R. 5-5-11, and 32.5 maximum acres irrigated during the perfection period as defined by K.A.R. 5-5-9.

Water Right, File No. 32,954-D3, to be owned by Delaine & Eldon Wallingford, and Deborah Thach, to have a priority date of April 9, 1979, and to be comprised of:

one (1) well located near the center of the Northwest Quarter (NW¼) of Section 21, more particularly described as being near a point 3,920 feet North and 3,955 feet West of the Southeast corner of said section, in Township 24 South, Range 3 West, Harvey County, Kansas, at a diversion rate not in excess of **755 gallons per minute (1.68 c.f.s.)** and a quantity not to exceed **70.5 acre-feet** of water per calendar year, for **irrigation use** on the following described property:

Sec. Twp. Range	NE¼				NW¼				SW¼				SE¼				TOTAL
	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
21 24S 3W							40	37									77

all in Township 24 South, Range 3 West, Harvey County, Kansas;

further limited to a diversion rate which when combined with File Nos. 32,954-D1 & 32,954-D2, will provide a maximum diversion rate not in excess of **755 gallons per minute (1.68 c.f.s.)** for irrigation use from the point of diversion described herein.

Water Right, File No. 32,954-D3, shall have 65 base acres as defined by K.A.R. 5-5-11, and 65 maximum acres irrigated during the perfection period as defined by K.A.R. 5-5-9.

- That the Water Right, File Nos. 32,954-D1; Water Right, File No. 32,954-D2; and Water Right, File No. 32,954-D3, shall share equal priorities in time within the overall priority established under Water Right, File No. 32,954.
- That the agreement is binding on heirs and 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. 32,954, should be divided as such separation will be entered into the records for administrative purposes as set forth below.

Water Right, File No. 32,954-D1, to be owned by Roger & Lani Pennington, to have a priority date of April 9, 1979, and to be comprised of:

one (1) well located near the center of the Northwest Quarter (NW¼) of Section 21, more particularly described as being near a point 3,920 feet North and 3,955 feet West of the Southeast corner of said section, in Township 24 South, Range 3 West, Harvey County, Kansas, at a diversion rate not in excess of **755 gallons per minute (1.68 c.f.s.)** and a quantity not to exceed **35.25 acre-feet** of water per calendar year, for **irrigation use** on the following described property:

Sec. Twp. Range	NE¼				NW¼				SW¼				SE¼				TOTAL
	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
21 24S 3W						40											40

all in Township 24 South, Range 3 West, Harvey County, Kansas;

RECEIVED

JUL 12 2018

(over)

SCANNED

Starford Field Office
Division of Water Resources

further limited to a diversion rate which when combined with File Nos. 32,954-D2 & 32,954-D3, will provide a maximum diversion rate not in excess of **755 gallons per minute (1.68 c.f.s.)** for irrigation use from the point of diversion described herein.

Water Right, File No. 32,954-D1, shall have 32.5 base acres as defined by K.A.R. 5-5-11, and 32.5 maximum acres irrigated during the perfection period as defined by K.A.R. 5-5-9.

Water Right, File No. 32,954-D2, to be owned by Todd Pennington, to have a priority date of April 9, 1979, and to be comprised of:

one (1) well located near the center of the Northwest Quarter (NW¼) of Section 21, more particularly described as being near a point 3,920 feet North and 3,955 feet West of the Southeast corner of said section, in Township 24 South, Range 3 West, Harvey County, Kansas, at a diversion rate not in excess of **755 gallons per minute (1.68 c.f.s.)** and a quantity not to exceed **35.25 acre-feet** of water per calendar year, for **irrigation use** on the following described property:

Sec. Twp. Range	NE¼				NW¼				SW¼				SE¼				TOTAL
	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
21 24S 3W					37												37

all in Township 24 South, Range 3 West, Harvey County, Kansas;

further limited to a diversion rate which when combined with File Nos. 32,954-D1 & 32,954-D3, will provide a maximum diversion rate not in excess of **755 gallons per minute (1.68 c.f.s.)** for irrigation use from the point of diversion described herein.

Water Right, File No. 32,954-D2, shall have 32.5 base acres as defined by K.A.R. 5-5-11, and 32.5 maximum acres irrigated during the perfection period as defined by K.A.R. 5-5-9.

Water Right, File No. 32,954-D3, to be owned by Delaine & Eldon Wallingford, and Deborah Thach, to have a priority date of April 9, 1979, and to be comprised of:

one (1) well located near the center of the Northwest Quarter (NW¼) of Section 21, more particularly described as being near a point 3,920 feet North and 3,955 feet West of the Southeast corner of said section, in Township 24 South, Range 3 West, Harvey County, Kansas, at a diversion rate not in excess of **755 gallons per minute (1.68 c.f.s.)** and a quantity not to exceed **70.5 acre-feet** of water per calendar year, for **irrigation use** on the following described property:

Sec. Twp. Range	NE¼				NW¼				SW¼				SE¼				TOTAL
	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
21 24S 3W							40	37									77

all in Township 24 South, Range 3 West, Harvey County, Kansas;

further limited to a diversion rate which when combined with File Nos. 32,954-D1 & 32,954-D2, will provide a maximum diversion rate not in excess of **755 gallons per minute (1.68 c.f.s.)** for irrigation use from the point of diversion described herein.

Water Right, File No. 32,954-D3, shall have 65 base acres as defined by K.A.R. 5-5-11, and 65 maximum acres irrigated during the perfection period as defined by K.A.R. 5-5-9.

That the Water Right, File No. 32,954-D1; Water Right, File No. 32,954-D2; and Water Right, File No. 32,954-D3, shall share equal priorities in time within the overall priority established under Water Right, File No. 32,954.

That this division agreement is binding on heirs and successors in interest.

In all other respects, the Certificate of Appropriation for Beneficial Use of Water, issued pursuant to Water Right, File No. 32,954, dated December 20, 1991, remains as authorized.

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, 1320 Research Park Drive, Manhattan, Kansas 66502, 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.

Ordered this 2nd day of July, 2018, Topeka, Shawnee 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 2nd day of July, 2018, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.



Danielle Wilson
Notary Public

RECEIVED

SCANNED 12 2018