

File No. 136423 (Tracts 1 and 2 combined)

AUCTION CONTRACT FOR THE SALE OF REAL ESTATE

THIS AGREEMENT, Entered into this 29th day of July, 2023, by and between **Pishny Four, LLC, a Kansas Limited Liability Company**, as Seller and _____, as Buyer (collectively referred to herein as the “Parties”):

WITNESSETH: That Seller, for the consideration mentioned agrees to sell to Buyer, or heirs, successors and assigns of Buyer, the following real estate, to wit:

See Exhibit “A”

Tract 2 will be subject to a utility easement across and under this tract granted for the benefit of Tract 5 shown on the Auction bill.

Seller’s interest in mineral rights, if any, will transfer to Buyer at closing.

Regarding water rights appurtenant to Tract 2, Seller will cooperate with Buyer regarding transfer of any water rights to Buyer at the Kansas Division of Water Resources. However, Buyer is responsible for all the cost of the transfer of said rights and Seller makes no warranty regarding the ability of Buyer to perfect and make use of said rights with the Kansas Department of Water Resources. Buyer acknowledges receipt of the documents regarding the water rights, including the document related to the Water Rights Conservation Program and Certificate of Appropriation for Beneficial Use of Water that are attached to this contract. The buyer acknowledges the owner’s policy of title insurance does not cover ownership of water rights. Buyer has completed all due diligence regarding these water rights prior to signing this contract.

Regarding water rights, there are no water rights appurtenant to Tract 1. Buyer acknowledges that Seller makes no warranty regarding Buyer ability to obtain appropriated water rights for this tract through the Kansas Division of Water Resources.

All material showing acres are estimates and actual acres have been determined by a Survey. The purchase price will not change due to actual acres being greater or less than the acres shown in any materials.

(Shown as “Tract 1 and Tract 2” on Midwest Land & Home sale bill and subject to the terms contained herein);

SUBJECT TO (i) 2023 taxes and general and special assessments, (ii) any and all easements, controlled access rights, reservations, restrictions, covenants, roadways, rights of way, encumbrances, exceptions, agreements documents, orders, certificates, resolutions, building restrictions and other matters of record (iii) all encroachments and matters and potential claims of adverse possession both of record which would be shown by an accurate survey or inspection of the, (iv) underground and overhead cables, lines and utility services, and other matters which would be disclosed by a physical inspection of the Property, (v) and all existing zoning ordinances, laws, codes, statutes and subdivision regulations affecting the Property, and (vi) riparian rights, and accretion, erosion and avulsion by reason of future changes of location of the river.

Buyer hereby acknowledges that in order to remain eligible for programs and payments from the United States Department of Agriculture (USDA), Buyer must notify the United States Department of Agriculture (USDA) within 30 days of the date of the recording the deed, that

Buyer has purchased the subject property. Buyer acknowledges that Buyer will be required to enter into a new contract with the USDA in order to enroll in the current farm program and to be eligible to receive payments under the farm program. Buyer hereby acknowledges that Seller shall have no liability to Buyer for any loss caused by Buyer not properly notifying the USDA and Seller shall not be required to reimburse Buyer for any loss, due to the loss of eligibility under the current farm program, caused by Buyer not properly notifying the USDA nor any loss caused by Buyer not entering into a contract with the USDA regarding payments and eligibility under the current farm program.

Buyer acknowledges that the property has been subdivided from a larger parcel and that a part of the property that Buyer with might be subject to USDA programs and that other parties have purchased adjoining land subject to USDA programs. The Buyer and all other purchasers from said parcel will be required to execute documents relating to the proration of crop acres for purposes of USDA programs. Buyer agrees to cooperate with the Buyers of the surrounding property to accomplish proration of the crop acres. Buyer acknowledges that neither seller, Realtors nor the title company/escrow agent have any control over other purchasers and Buyer agrees to hold seller, Realtors and the title company/escrow agent harmless from any loss or damages related to or incurred by Buyer as a result of another purchaser failing to agree to the proration of crop acres by the USDA. This provision will survive the closing and not merge with the deed.

Buyer accepts the Real Estate subject to all applicable zoning ordinances and other codes and regulations imposed by governmental authority. Seller makes no warranty, either expressed or implied regarding the zoning classification of the Real Estate, and Buyer acknowledges that Buyer takes the Real Estate subject to the current zoning classification and that any intended use of Buyer of the property not within said classification may require a change in zoning classification for the property and that is not a contingency of this sale.

1. Buyer agrees to purchase the described Real Estate, and to pay to Seller the sum of (\$ _____) in the manner following: **10% of said purchase price, being (\$ _____)**, on the signing of this contract, to be held in escrow with Charlson & Wilson Bonded Abstracters, Inc., Manhattan, Kansas, as earnest money to the date of closing and then applied to the purchase price; and the balance of said purchase price, to be paid on the Closing Date, with the Closing Date to be on or before September 6, 2023.
2. Buyer Acknowledgments
 - a. Buyer acknowledges that the earnest money deposit is non-refundable and that this contract is not contingent upon financing nor the property appraising for the purchase price.
 - b. Buyer acknowledges that they have completed all inspections of the Real Estate prior to the date of this contract, and Buyer accepts the Real Estate in "existing condition" without further requirement or warranty from Seller. Buyer acknowledges that they have made all desired inspections of the Real Estate, is aware of the condition of the Real Estate, and has not relied upon any representations from Seller or Seller's agent(s) concerning the condition of the Real Estate. Seller neither offers nor extends any express or implied warranties with regard to the condition of the Real Estate.
 - c. Buyer acknowledges that all information provided by Seller or Seller's agents is from reliable sources, however, Buyers acknowledge that they verified any information that they relied upon to bid and purchase this property. Seller expressly disclaims any liability for errors, omissions or changes regarding information provided to Buyer prior to the Auction. Buyer acknowledges

that they have not relied upon any representations made by Seller or Seller's agents and that they relied upon their own inspections of the property and opinions from parties other than the Seller or Seller's agents and that they conducted said inspections prior to the Auction. The buyer acknowledges that statements made prior to or during the auction take precedence over all printed material.

- d. Buyer further acknowledges that (i) neither Seller, nor any principal, agent, attorney, officer, employee, broker or other representation of Seller has made any representations or warranties of any kind whatsoever, either express or implied, with respect to the Property or any of such related matters, and (ii) that Buyer is not relying on any warranty, representation, or covenant, express or implied, with respect to the property and is buying the Property in its "as-in" condition with all faults. In particular, but without limitation, Seller makes no representations or warranties with respect to the use, condition, including without limitation the condition of the soils or groundwaters of the Property and the presence or absence of toxic materials or hazardous substances on or under the Property, occupation or management of the Property, compliance with applicable statutes, laws, codes, ordinances, regulations or requirements relating to leasing, zoning, subdivision, planning, building, fire, safety, health or environmental matters, compliance with covenants, conditions and restrictions (whether or not of record), other local, municipal, regional, state or federal requirements, or other statutes, laws, codes, ordinances, regulations or requirements. Buyer acknowledges that it is knowledgeable in real estate matters, and that closing with Buyer will be deemed approval by Buyer without reservation of all aspects of this transaction, including but not limited to the physical condition of the Property, the use, the title, and the financial aspects of the operation of the Property.
 - e. Buyer acknowledges that Buyer and adjoining landowners shall be responsible for the construction of any partition fences between the real estate and adjoining tracts. Seller is not responsible for any partition fencing.
 - f. The escrow agent reserves the right to require the balance of the purchase price to be provided by bank wire transfer to the escrow agent's financial institution at or prior to the Closing Date. Notwithstanding the definition of good funds in Kansas law, it is agreed by the Parties that funds to close must be fully settled and unconditionally credited to the account of the escrow agent at or prior to the Closing Date.
 - g. Buyer shall have possession of the Real Estate on the date of closing of this transaction at 5:00 P.M. The Real Estate is subject to tenants rights in the real estate, being a verbal agricultural lease. Buyer agrees to take the real estate subject to said lease and shall receive the second half of the cash rent due from the tenant on November 15, 2023. Buyer acknowledges that they will be responsible for collecting said rent and for terminating said agricultural lease pursuant to Kansas law.
3. Seller Rights and Responsibilities
- a. Seller shall execute to Buyer a Special Warranty Deed conveying the Real Estate to Buyer, in fee simple, free and clear of all liens and encumbrances, subject only to exceptions hereinbefore stated. Said deed, together with a copy of this agreement, shall be deposited in escrow with Charlson and Wilson Bonded Abstracters, Inc., Manhattan, Kansas, until the Closing Date, when said deed shall be delivered to the Buyer.
 - b. Seller shall furnish to Buyer prior to the Closing Date, the cost to be shared as stated in Section 5(a), a commitment for a standard owner's policy of title insurance from Charlson and Wilson Bonded Abstracters, Inc., showing marketable title in Seller, subject to exceptions hereinbefore

stated. Buyer shall make any objections relative to the marketability of the title in writing to Seller prior to the Closing Date, and any objections not so furnished shall be deemed waived by Buyer. The owner's policy of title insurance shall be issued following the Closing Date, and shall insure Buyer against loss or damage to the extent of the purchase price by reason of defects in Seller's title to the Real Estate, subject to exceptions hereinbefore stated and exceptions noted in Schedule B of said policy.

- c. Seller has had the Real Estate surveyed. Seller shall pay all costs associated with said survey.
 - d. Seller shall also create and provide a utility easement from the City Water meter to the dwelling tract on Tract 5 as shown on the Auction bill, for the water line over, under and across the real estate described on exhibit "A". Seller to pay the cost of preparing and recording said easement prior to or at closing.
 - e. Seller shall have not more than 30 days after the Closing Date to remedy any title defects, and if legal proceedings are necessary, they shall be commenced promptly and prosecuted to completion. The Closing Date of this sale shall be extended until title or other work necessary to render the title marketable shall be concluded. If Seller is unable to furnish marketable title as provided by the 30 days after the Closing Date, then this contract shall terminate, and all monies paid by or on behalf of Buyer, if any, shall be returned to Buyer, and the escrow agent shall return the deed to Seller, and all parties shall be released from further liability hereunder. Buyer shall not have a claim against Seller should the consummation of this contract be prevented because of the inability of the Seller to deliver marketable title. The Title Standards adopted by the Kansas Bar Association and the Kansas Marketable Title Act shall control in the case of dispute between the Parties.
 - f. Seller shall bear all risk of loss or damage to the Real Estate to the Closing Date.
4. Taxes
- a. Seller shall pay all general real estate taxes levied against the Real Estate for the calendar year preceding the year in which closing occurs and all prior years. General real estate taxes for the year in which closing occurs will be prorated to Closing Date; real estate taxes for the current year shall be prorated using the estimated amount of 2023 taxes from the Marshall county appraiser of \$2,379.81 for Tract 1 and \$4,010.63 for Tract 2. Proration of taxes at closing between the parties based upon this amount will be final. Buyer assumes all real estate taxes not yet due and payable, from and after the Closing Date. Neither Seller, the Seller's agent(s) nor the escrow agent shall be responsible for the payment of any increase in taxes resulting from reassessment, classification or increase in mill levy after the date of closing.
5. Costs
- a. The Parties shall **share equally** in the cost of document drafting and escrow/settlement services from Charlson and Wilson Bonded Abstracters, Inc. (\$400.00), and the cost of the premium for an owner's policy of title insurance. Buyer agrees to pay all mortgage closing costs and fees, including the appraisal fee, credit report fee, the premium for the loan policy of title insurance and for recording the deed and mortgage, and for any inspection fees, but acknowledges that this contract is not contingent upon any of these items.
6. Default
- a. Seller or Buyer is in default under this contract if either fails to comply with any material covenant, agreement or obligation within any time limit required by this contract. Following a default by either Seller or Buyer under this contract, the other party shall have the following

remedies, to wit:

- i. If the Seller defaults, Buyer may pursue any remedy and damages available at law or in equity, including an action for specific performance;
- ii. If Buyer defaults, Seller may terminate this contract by written notice to Buyer and, at Seller's option, (i) either retain the earnest money, if any, as liquidated damages and not as penalty, as the Seller's sole remedy, or (ii) pursue any other remedy and damages available at law or in equity, or Seller may elect to treat this contract as being in full force and effect and Seller shall have the right to an action for specific performance or damages or both.

7. Disclosures/Agents/Commission

- a. The real estate firm/firms involved in this transaction are agents only, not parties to this contract, and will in no case be held liable to either party for performance of any term or condition of this contract or for damages for non-performance. Buyer acknowledges that said firm/firms have made no representations and have given no express or implied warranties with regard to the condition of the Real Estate. The Parties agree that the real estate firm/firms shall not be responsible for the conduct of third parties providing specialized services whether those services were arranged by Seller, Buyer or the real estate firm/firms on behalf of either.
- b. The Parties agree that the real estate licensees involved in this transaction are not experts regarding whether any environmental or health hazards, defects in the mechanical equipment or systems, structural defects, or damage from wood destroying organisms exist in and on Real Estate. The Parties shall seek expert advice and obtain inspections to determine such conditions exist in and on the Real Estate. If inspections are not performed regarding all or part of the Real Estate, Buyer is bound by whatever information an inspection would have revealed, and waives any claim, right or cause of action relating to or arising from any condition of the Real Estate that would have been apparent had such inspections been performed.
- c. Buyer shall not sell, assign or transfer this contract or any interest under it, or any interest in or to said Real Estate prior to the Closing Date, without first obtaining the written consent of Seller. Except that either party may assign their interest for the sole purpose of a 1031 exchange as stated below.
- d. **Section 1031 Exchange:** The Parties to this contract acknowledge and agree that either party may wish to make this transaction a part of an exchange or trade for other property pursuant to IRC Section 1031. In the event either party chooses to effectuate such exchange or trade, the other party shall cooperate fully in executing such documents as may be reasonably necessary to consummate such exchange or trade, including real estate contracts. The cooperating party shall incur no liability or cost in connection with said exchange or trade, and the trading party shall indemnify cooperating party against any liability in connection with such exchange or trade. **Either party that decides to complete a 1031 exchange agrees to give the other party notice of their intent to do so within a reasonable time prior to the closing date so that the closing date is not delayed.**
- e. **DISCLOSURE:** Pursuant to applicable state law, Midwest Land & Home, notifies the undersigned Buyer in writing as part of this contract as follows: The licensee will be acting as agent of the Seller with the duty to represent the Seller's interest, the licensee will **not** be

acting as the agent of the undersigned Buyer, and all information given to licensee will be disclosed to Seller;

- f. Seller acknowledges that Charlson & Wilson Bonded Abstracters, Inc., will pay Midwest Land & Home, its commission based on the purchase price set forth herein pursuant to the listing agreement between Seller and Midwest Land & Home from the escrow proceeds at date of closing of this transaction.

8. Miscellaneous

- a. Charlson and Wilson Bonded Abstracters, Inc., Manhattan, Kansas, is appointed as escrow agent for this sale and shall have the authority to do whatever necessary to aid in the handling of this escrow. In accepting any funds or documents delivered hereunder, it is agreed and understood that, in the event of disagreement between the Parties to this contract, the escrow agent reserves the right to hold all money and documents concerning this escrow until the Parties agree or until delivery is legally authorized by final judgment or decree from a court of competent jurisdiction. The escrow agent may bring an appropriate action or proceeding for leave to deposit said money and/or documents in court pending such determination, and shall have the right to employ attorneys for the reasonable protection of the escrow property, and of itself and shall have the right to reimburse itself out of any funds in its possession for costs, expenses, attorney fees and its compensation, and shall have a lien on all money and documents held in escrow to cover same. The Parties agree that the escrow agent may retain any interest earned on escrowed funds and that if this contract is canceled by the parties or if the earnest money is to be forfeited or refunded, the amount to be distributed shall first be reduced by any unpaid charges for credit reports, appraisals, surveys, termite, mechanical and other inspections, and title investigation fees, if any, incurred by the escrow agent on behalf of the party receiving the funds.
- b. The parties acknowledge that the Escrow Agent does not pay interest to either party on earnest money or any other funds held by the Escrow Agent.
- c. This contract may be executed by facsimile or electronic signature by any party and such signature will be binding without delivery of an original signature being required. This contract may be executed in several counterparts, each of which will be considered an original, and all of which together shall constitute one agreement.
- d. This contract constitutes the complete agreement of the Parties concerning the Real Estate, shall supersede all previous agreements, whether oral or written, and may be modified only by a subsequent written agreement signed by all the Parties.
- e. The parties acknowledge that Todd A. Sheppard is an attorney licensed in the State of Kansas, is employed by Charlson & Wilson Bonded Abstracters, Inc., and that he drafted this contract at the request of the Parties, according to their instructions. The Parties acknowledge that such party has had the opportunity to employ such party's own independent attorney and/or tax advisor in regard to this contract. The Parties acknowledge that neither Todd A. Sheppard nor Charlson & Wilson Bonded Abstracters, Inc., represents the parties as an attorney in this transaction and, in the event of a dispute, the Parties will need to retain independent counsel.

f. Time is of the essence of this contract and that all covenants and agreements herein shall extend to and be binding upon the respective heirs, executors, administrators, successors and assigns of the Parties.

Seller:

Pishny Four, LLC, a Kansas Limited Liability Company

By:

Date

Buyer:

Date

Date

Buyer Current Address:

_____.

Phone Number: _____.

E-mail address: _____.

Exhibit "A

(Tracts 1 and 2 on the Auction bill and Survey.)

TRACT 1:

A tract of land in the West Half of the East Half (W 1/2 of the E 1/2) of Section 15, Township 4 South, Range 6 East, of the 6th P.M., in Marshall County, Kansas, prepared by Clint J. Friedrichs, PLS #1709 on July 27, 2023, being more particularly described as follows:
BEGINNING at the Southwest (SW) Corner of the W 1/2 of the E 1/2 of said Section 15;
THENCE South 89°11'50" East along the south line of said W 1/2 for 1326.36 feet to the Southeast (SE) corner of the W 1/2 of said E 1/2;
THENCE North 00°53'02" East along the east line of the W 1/2 of said E 1/2 for 3055.00 feet;
THENCE North 69°47'13" West for 240.00 feet;
THENCE North 71°46'35" West for 209.00 feet;
THENCE North 77°33'22" West for 738.00 feet;
THENCE North 71°12'50" West for 200.00 feet to the west line of the W 1/2 of said E 1/2;
THENCE South 00°39'57" West along the west line of the W 1/2 of said E 1/2 for 3408.00 feet to the POINT OF BEGINNING.
Containing 99.15 acres more or less.

TRACT 2:

A tract of land in Lots 6 & 7 of Block 29 of Railroad Addition to the City of Waterville, the Southwest Quarter (SW 1/4) and the South Half of the Northwest Quarter (S 1/2 of the NW 1/4) of Section 15, the North Half of the Northwest Quarter (N 1/2 of the NW 1/4) of Section 22, and the East Half of the Southeast Quarter (E 1/2 of the SE 1/4) of Section 16 all in Township 4 South, Range 6 East, of the 6th P.M., in Marshall County, Kansas, prepared by Clint J. Friedrichs, PLS #1709 on July 27, 2023, being more particularly described as follows:
BEGINNING at the Northwest (NW) corner of said Section 22;
THENCE South 00°38'02" West along the west line of said section 22 for 449.34 feet to the NW corner of Railroad Addition to the City of Waterville;
THENCE South 76°20'38" East along the north line of said Railroad Addition for 35.93 feet to Northwest (NW) corner of Lot 7 of said Block 29;
THENCE South 00°40'13" West along the west line of said Block 29 for 111.63 feet to the Southwest (SW) corner of Lot 6 of said Block 29;
THENCE South 89°23'17" East along the south line of said Lot 6 for 198.29 feet to the centerline of the vacated alley in said Block 29;
THENCE North 00°44'02" East along said centerline for 66.75 feet to the north line of said Railroad Addition;
THENCE along the north line of said Railroad addition for the following three (3) courses:
THENCE South 76°39'16" East for 365.61 feet;
THENCE South 76°38'00" East for 765.30 feet;
THENCE South 89°14'39" East for 617.59 feet;
THENCE North 40°42'55" East for 66.00 feet;
THENCE North 14°48'39" East for 62.00 feet;
THENCE North 00°38'58" East for 212.00 feet;
THENCE North 02°18'03" East for 535.00 feet;
THENCE North 71°09'52" West for 89.00 feet;
THENCE North 03°14'44" West for 72.00 feet;

THENCE North 17°14'44" East for 194.00 feet;
THENCE North 89°39'12" East for 667.00 feet to the east line of the West Half (W 1/2) of said Section 15;
THENCE North 00°39'57" East along the east line of the W 1/2 of said Section 15 for 3003.00 feet;
THENCE North 71°12'50" West for 250.00 feet;
THENCE North 75°26'11" West for 180.00 feet;
THENCE North 89°16'54" West for 164.00 feet;
THENCE South 67°51'42" West for 132.00 feet;
THENCE South 39°35'02" West for 180.00 feet;
THENCE South 16°32'36" West for 266.00 feet;
THENCE South 26°05'01" West for 232.00 feet;
THENCE South 55°19'03" West for 204.00 feet;
THENCE South 72°49'56" West for 253.00 feet;
THENCE South 84°31'06" West for 585.00 feet;
THENCE South 70°35'46" West for 201.00 feet;
THENCE South 56°05'52" West for 178.00 feet;
THENCE South 39°04'32" West for 680.00 feet;
THENCE South 49°10'40" West for 348.00 feet;
THENCE South 61°05'06" West for 688.00 feet to the east Right-of-Way (R/W) line of 4th Road;
THENCE along the east R/W line of said 4th Road for the following five (5) courses:
THENCE South 29°28'21" East for 147.00 feet;
THENCE South 38°00'12" East for 101.12 feet;
THENCE South 29°28'21" East for 100.00 feet;
THENCE South 14°45'33" East for 59.06 feet;
THENCE along a curve to the right having a radius of 879.02 feet, a chord bearing South 14°16'15" East, chord length of 460.99 feet and an arc length of 466.44 feet;
THENCE North 89°04'09" West for 60.00 feet to the centerline of said 4th Road;
THENCE South 00°55'50" West along the centerline of said 4th Road for 547.00 feet to the south line of the SE 1/4 of said Section 16;
THENCE South 89°30'40" East along the south line of the SE 1/4 of said Section 16 for 669.88 feet to the POINT OF BEGINNING.
Containing 227.34 acres more or less.



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

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

**IN THE MATTER OF
WATER RIGHTS CONSERVATION PROGRAM**

The Chief Engineer of the Kansas Department of Agriculture, Division of Water Resources (Chief Engineer), hereby enrolls this water right in the Water Rights Conservation Program (WRCP). Enrollment of a water right in the WRCP is authorized by K.S.A. 82a-718(d), as amended by 2011 Kansas Session Laws Ch. 89, for the purpose of demonstrating due and sufficient cause for non-use.

FINDINGS

That based on an investigation of the records by the Division of Water Resources as shown on the application for enrollment in the WRCP, received in the office of the Chief Engineer on February 4, 2013, and information provided by the Owner or Owners of the above-referenced water right, the Chief Engineer has found the following:

1. That the water right to be enrolled in the WRCP and to which this **Water Rights Conservation Program Order** applies is **Water Right, File No. 2,237**, which presently authorizes one (1) pumpsite, identified as follows:

one (1) pumpsite located in the Southeast Quarter of the Northeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 16, Township 4 South, Range 6 East, Marshall County, Kansas.
2. That the total maximum rate of diversion authorized under this water right is **830 gallons per minute (1.85 c.f.s.)**.
3. That the total quantity authorized under this water right is **36 acre-feet** of water per calendar year.
4. That the currently authorized use made of water for this water right is **irrigation use**.
5. That the Owner or Owners of this water right have made application for its enrollment in the WRCP, and at the time of application, each of the signing persons and on any supplement sheet(s) has represented that he or she is an owner of this water right, that he or she has named his or her lawful spouse at the time of application and that all such legal owners and their spouses have signed this document indicating their agreement to its terms and conditions, including the requirement to suspend all water uses authorized under this water right.

(over)

6. That each point of diversion authorized by this water right is located in an area that is closed to new appropriations of water except for temporary permits, term permits and domestic use, or is located in an area designated by the Chief Engineer as an area where it would be in the public interest to allow water rights to be placed in the WRCP.
7. That neither this water right nor any portion of this water right has been abandoned or, if any portion of this water right has been abandoned, only the portion(s) that have not been abandoned are to be enrolled in the WRCP and, therefore, this water right or the portion(s) of the water right to be enrolled in the WRCP is in good standing.
8. That this water right has not been administratively divided by the Chief Engineer or, if this water right has been administratively divided, each portion is considered to be a separate water right.
9. That by their signature(s) shown on the application for enrollment in the WRCP, the Owner or Owners of this water right have agreed to the following:
 - a) The Owner or Owners will totally suspend the diversion of water for all uses authorized (excluding Domestic use) under **Water Right, File No. 2,237**, for a period of ten (10) years from the date of enrollment of this water right in the WRCP until **December 31, 2023**.
 - b) The Owner or Owners will continue to submit to the Chief Engineer a complete and accurate annual Water Use Report (WUR) as required by K.S.A. 82a-732 annually each year of enrollment in the WRCP, and if no water is used during the reporting period, the WUR will state the reason for such non-use as being the enrollment in the WRCP.
 - c) If the source of water supply to this water right is groundwater and the pump is removed from the well during the term of enrollment in the **Water Rights Conservation Program**, the Owner or Owners will properly cap or seal the well in accordance with K.A.R. 28-30-1 *et seq.* of the rules and regulations of the Kansas Department of Health and Environment.
 - d) The Owner or Owners will record this **Water Rights Conservation Program Order** with the Register of Deeds in the county in which each point of diversion listed herein is located.
 - e) The Owner or Owners will notify the Chief Engineer in writing within thirty (30) days following of any change in ownership, interests or operators of this water right.
10. That the Owner or Owners are not required to maintain appropriate diversion and distribution equipment to allow water to be put to beneficial use during the term of this contract.

ORDER

1. That **Water Right, File No. 2,237**, shall be enrolled in the WRCP from the date of issuance of this **Water Rights Conservation Program Order** through **December 31, 2023**.
2. That the Owner or Owners may make application for enrollment in the **Water Rights Conservation Program** for a period of five to ten years after its expiration and applications for renewal shall be subject to the approval of the Chief Engineer in accordance with applicable regulations.
3. That compliance with this **Water Rights Conservation Program Order** shall be deemed to be due and sufficient cause for non-use pursuant to K.S.A. 82a-718 sufficient to prevent the water right identified herein from being declared abandoned and terminated for non-use during the time the water right is enrolled in the WRCP.
4. That failure to comply with this **Water Rights Conservation Program Order** shall be deemed to be a violation of the *Kansas Water Appropriation Act*, K.S.A. 82a-701 *et seq.*, and the *Rules and Regulations of the Kansas Water Appropriation Act*, K.A.R. 5-1-1 *et seq.* Violation of the *Kansas Water Appropriation Act* and/or the rules and regulations promulgated thereunder may result in civil penalties, the modification or suspension of this water right or use of water under this right, as provided in K.S.A. 82a-737, and any other penalty provided by law.
5. That this order shall not be amended without written agreement from all owners.

ISSUED THIS 24th DAY OF April, 2013, IN SHAWNEE COUNTY, TOPEKA, KANSAS.

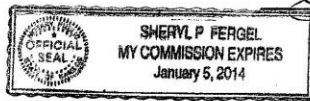


David W. Barfield
David W. Barfield, P.E., Chief Engineer
 Division of Water Resources
 Kansas Department of Agriculture

State of Kansas)
) SS
 County of Shawnee)

The foregoing instrument was acknowledged before me this 24th day of April, 2013, by David W. Barfield, P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.

Sheryl P Fergel
 (Notary Public)



My Commission Expires: _____

(This certificate must be recorded in the Office of Register of Deeds in the county or counties wherein the point of diversion is located)

STATE OF KANSAS
DIVISION OF WATER RESOURCES
STATE BOARD OF AGRICULTURE

CERTIFICATE OF APPROPRIATION
FOR BENEFICIAL USE OF WATER

APPLICATION No. 2237

CERTIFICATE No. 803

WHEREAS, It has been made to appear to the satisfaction of the undersigned, that in conformity with the conditions of approval of the above numbered application and the laws of the State of Kansas, the appropriation of water for beneficial use has been perfected.

Now, THEREFORE, Be It Known that I, R. V. SMRHA, the duly appointed, qualified and acting Chief Engineer of the Division of Water Resources of the Kansas State Board of Agriculture by authority of the laws of the State of Kansas, do hereby certify that Rugo Vogler and Edna Vogler, his wife,

Waterville, Kansas

is entitled and is hereby authorized, subject to vested rights and prior appropriations, to make beneficial use for irrigation purposes of the available unappropriated water from the Little Blue River

_____ said water to be diverted and withdrawn at points in the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 16, Township 4 South, Range 6 East, _____ in Marshall County, Kansas, in an allotted amount of not to exceed 36 acre feet per year and to be diverted and withdrawn at a rate not in excess of 830 gallons per minute and limited to the amount actually used for the aforestated beneficial purposes.

The priority date of the water appropriation herein authorized and allotted for the aforestated beneficial purpose is February 20, 1954

The allotted water appropriation was established and is authorized to be used for irrigation purposes at or upon the following described property:

20 acres in the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 15; 14 acres in the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 16; and 2 acres in the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 22; all in Township 4 South, Range 6 East, in Marshall County, Kansas, a total of 36 acres.

The appropriation right as perfected and as hereby authorized and allotted, is restricted to use on the land or at the location herein described, and shall exist and continue only by the exercise thereof in a lawful manner.

(over)

The appropriation right shall be deemed abandoned and shall terminate when without due and sufficient cause no lawful beneficial use is made of water under this appropriation for three (3) successive years.

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 stream flow at the appropriator's point of diversion.

IN WITNESS WHEREOF, I have hereunto set my hand at my office at Topeka, Kansas, this 5th day of May 1958.

R. V. Smrha
R. V. Smrha, Chief Engineer
Division of Water Resources
KANSAS STATE BOARD OF AGRICULTURE

STATE OF KANSAS, Shawnee COUNTY, ss.

BE IT REMEMBERED, That on this 5th day of May, A. D. 1958, before me, the undersigned, a notary public in and for said County and State, came R. V. Smrha, Chief Engineer, Division of Water Resources of the Kansas State Board of Agriculture, who is personally known to me to be such duly appointed, qualified and acting official, and who is personally known to me to be the same person who executed the within instrument of writing as such official and such person duly acknowledged the execution of the same as such Chief Engineer.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

Signature: *Carmelita Stutton*
Notary Public

My commission expires April 5, 1961

**WATER APPROPRIATION
CERTIFICATE**

STATE OF KANSAS

Application No. _____
Certificate No. _____

To _____

STATE OF KANSAS, _____ COUNTY, ss.

Filed for record this _____ day of _____, 19____
at _____ o'clock _____ m. and _____
recorded in Book _____ Page _____
Fee \$ _____

Register of Deeds.

27-1387d-35 4.8 10-17-58

THE STATE



OF KANSAS

STATE BOARD OF AGRICULTURE

W. W. Dultman, Secretary

DIVISION OF WATER RESOURCES

Guy E. G. Chief Engineer-Director

IN THE MATTER OF THE
LOCATION OF THE POINT OF DIVERSION
UNDER THE CERTIFICATE OF APPROPRIATION
ISSUED PURSUANT TO FILE NO. 2237

FINDINGS

1. That on May 5, 1958, the Chief Engineer, Division of Water Resources, Kansas State Board of Agriculture, in accordance with K.S.A. 82a-714 issued a Certificate of Appropriation pursuant to File No. 2237 for irrigation use, authorizing the use of surface water in the Little Blue River to be diverted at a point located:

one (1) point located in the Northeast Quarter of the Southeast Quarter (NE $\frac{1}{4}$ SE $\frac{1}{4}$),

of Section 16, Township 4 South, Range 6 East, Marshall County, Kansas.

2. That information in the office of the Chief Engineer-Director shows the legal description of the tract of land on which the point of diversion is located to be:

one (1) point located in the Southeast Quarter of the Northeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$),

of Section 16, Township 4 South, Range 6 East, Marshall County, Kansas.

ORDER

NOW, THEREFORE, It is the decision and order of the Chief Engineer-Director, Division of Water Resources, Kansas State Board of Agriculture, that the legal description of the tract of land on which the point of diversion, under the Certificate of Appropriation issued pursuant to File No. 2237 is located to be:

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one (1) point located in the Southeast Quarter of the Northeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$),

of Section 16, Township 4 South, Range 6 East, Marshall County, Kansas.

In all other respects, the Certificate of Appropriation issued pursuant to File No. 2237 is as issued on May 5, 1958.

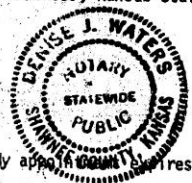
Dated at Topeka, Kansas, this 31st day of August, 1981.



Guy E. Gibson
Guy E. Gibson, P.E.
Chief Engineer-Director
Division of Water Resources
Kansas State Board of Agriculture

State of Kansas }
County of Shawnee } SS

The foregoing instrument was acknowledged before me this 31st day of August, 1981, by Guy E. Gibson, P.E., Chief Engineer-Director, Division of Water Resources, Kansas State Board of Agriculture.



Denise J. Waters
Notary Public

My appointment expires: *March 1, 1982*

NUMBER
ALPHA
COPIED
FILED
FORM
ORIG. COMP

State of Kansas
Marshall County
FILED AND RECORDED

SEP 8 1981
AM 1:35 PM
1981-08-11
Hugo Daplex
R.F.D.
Waterville, KS. 66094

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State of Kansas
Division of Water Resources
State Board of Agriculture

273-1.36

Application No. 2237

CERTIFICATE OF APPROPRIATION
FOR BENEFICIAL USE OF WATER

Certificate No. 603

WHEREAS, It has been made to appear to the satisfaction of the undersigned, that in conformity with the conditions of approval of the above numbered application and the laws of the State of Kansas, the appropriation of water for beneficial use has been perfected.

NOW, THEREFORE, Be It Known that I, R. V. SMRHA, the duly appointed, qualified and acting Chief Engineer of the Division of Water Resources of the Kansas State Board of Agriculture by authority of the laws of the State of Kansas, do hereby certify that Hugo Vogler and Edna Vogler, his wife, Waterville, Kansas, is entitled and is hereby authorized, subject to vested rights and prior appropriations, to make beneficial use for irrigation purposes of the available unappropriated water from the Little Blue River said water to be diverted and withdrawn at points in the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 16, Township 4 South, Range 6 East, in Marshall County, Kansas, in an allotted amount of not to exceed 36 acre feet per year and to be diverted and withdrawn at a rate not in excess of 830 gallons per minute and limited to the amount actually used for the aforesaid beneficial purposes.

The priority date of the water appropriation herein authorized and allotted for the aforesaid beneficial purpose is February 20, 1954.

The allotted water appropriation was established and is authorized to be used for irrigation purposes at or upon the following described property:

20 acres in the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 15; 14 acres in the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 16; and 2 acres in the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 22; all in Township 4 South, Range 6 East, in Marshall County, Kansas, a total of 36 acres.

The appropriation right as perfected and as hereby authorized and allotted, is restricted to use on the land or at the location herein described, and shall exist and continue only the exercise thereof in a lawful manner. The appropriation right shall be deemed abandoned and shall terminate when without due and sufficient cause no lawful beneficial use is made of water under this appropriation for three (3) successive years.

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 stream flow at the appropriator's point of diversion.

IN WITNESS WHEREOF, I have hereunto set my hand at my office at Topeka, Kansas, this 5th day of May, 1958.

(State Seal)

s/ R. V. Smrha
R. V. Smrha, Chief Engineer
Division of Water Resources
Kansas State Board of Agriculture

STATE OF KANSAS, SHAWNEE COUNTY, ss.

BE IT REMEMBERED, That on this 5th day of May, A.D. 1958, before me, the undersigned, a notary public in and for said County and State, came R. V. Smrha, Chief Engineer, Division of Water Resources of the Kansas State Board of Agriculture, who is personally known to me to be such duly appointed, qualified and acting official, and who is personally known to me to be the same person who executed the within instrument of writing as such official and such person duly acknowledged the execution of the same as such Chief Engineer.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

(N.P. Seal)

My commission expires April 5, 1961

Signature: Carmelita Hutton
Notary Public

Filed May 12, 1958, 1:30 P.M.
Minnie Larson, Register of Deeds