

Sandy Road Farm 3&4
Kansas, AC +/-





Common Land Unit

 Cropland
 Non-cropland
 CRP

Farm 3289
Tract 4690

Wetland Determination Identifiers

- Restricted Use
- ▼ Limited Restrictions
- Exempt from Conservation Compliance Provisions

2022 Crop Year



Tract 2 of 2



Feedlot/Confinement Facility License

Kansas Department of Agriculture, Division of Animal Health hereby Certifies that

**Sandy Road Farms: Parity Grain, Inc
Sandy Road Farms
Langhofer, Melissa**



License #: **FL00009G**

Expires: **09/30/2022**

***is licensed to maintain and operate a Feedlot/Confinement Facility License at
Sandy Road Farms: Parity Grain, Inc, 22218 ROAD 11, KISMET KS 67859-5963
according to K.S.A. 47-1501 through 47-1511 as amended and supplemented.***

Operation Type: Finisher
Species: Porcine

Animal Health Commissioner
Dated at Manhattan, KS: 09/20/2021
Print Date: 09/21/2021

Sandy Road Farms: Parity Grain, Inc
Sandy Road Farms
Langhofer, Melissa
23179 No 5 Rd
Plains KS 67869

Kansas Department of Health & Environment

PGI

Division of Environment
Bureau of Water



Topeka, Kansas 66612-1367
Telephone: (785) 296-6432

Kansas Permit No.: **A-CISW-H008**
Federal Permit No.: **KS0093581**

KANSAS WATER POLLUTION CONTROL PERMIT FOR AGRICULTURAL AND RELATED WASTES
AND AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

Pursuant to the Provisions of Kansas Statutes Annotated 65-164 and 65-165 et seq. and the Federal Water Pollution Control Act as amended, (33 U.S.C. 1251 et seq. the "Act"),

Permittee: **Sandy Road Farms, LLC**
Permittee's Address: **23179 #5 Road
Plains, KS 67859**
Facility Name: **Sandy Road Farms PGI**
Facility Location: **NW ¼, Section 34, Township 33 S, Range 31 W
Seward County, Kansas**
River Basin: **Cimarron River Basin**

is authorized to operate, as a pollutant discharge elimination system, water pollution control facilities to collect, retain, and dispose of precipitation induced runoff and/or dry weather wastewater accumulations containing livestock or related agricultural wastes in accordance with requirements as set forth herein.

This permit is effective November 23, 2020, supersedes the previously issued water pollution control permit A-CISW-H008, and expires December 3, 2022.

Facility Summary

This existing facility is under new ownership. The facility will be increasing the permitted capacity to 2,880 animal units of swine weighing more than 55 pounds. Four previously approved confinement buildings will be constructed. Waste from the confinement buildings will drain to an existing wastewater retention structure. The permittee shall initiate the construction **by December 4, 2019** and complete the construction **by December 4, 2020**. (See Section F. – Schedule of Compliance)

Lee A. Norman MD

Secretary, Kansas Department of Health and Environment

November 23, 2020
Date

A. FACILITY DESCRIPTION

Existing Facility

The facility consists of four enclosed swine buildings with a total capacity of 3,360 head (1,344 animal units) of finishing pigs, weighing more than 55 pounds, and a single rectangular-shaped anaerobic lagoon. Animal waste is collected in pull-plug concrete pits, below the buildings, and flushed to the lagoon that is 420 feet by 400 feet by 20 feet deep. The lagoon has 38.3 acre-feet of useable wastewater storage capacity at the 2-foot freeboard level.

The lagoon was designed and built to handle the waste from eight enclosed swine buildings.

Proposed Facility or Modifications (see Section F. "Schedule of Compliance" for the required construction schedule)

Four additional enclosed swine buildings, each 180 ft by 40 ft, will be constructed. These four additional buildings will be built directly south of the existing swine buildings. Head capacity in all eight buildings will be 900 head of swine weighing greater than 55 pounds. Animal waste will be collected in pull-plug concrete pits, below the buildings, and flushed to the existing single cell rectangular-shaped anaerobic lagoon.

B. OPERATION AND MAINTENANCE REQUIREMENTS

Liquid or Slurry Wastes

Table 1 – Operating Level Requirements

Controlled Drainage Area / Wastewater Retention Structure	Operating Level*	Dec. 1 st Operating Level*	Minimum Biological Volume as Shown from Bottom** (also from top of berm)
Existing Four swine buildings / Lagoon	3.0 feet	4.0 feet	7.0 feet (13 feet)
Proposed Eight swine buildings / Lagoon	3.0 feet	4.0 feet	13.0 feet (7 feet)

*Operating level is shown in vertical feet below the lowest point of the top of berm.

**Minimum Biological Volume is the required minimum depth of wastewater (also shown in parentheses is the corresponding number of vertical feet below top of berm).

The top one (1) foot of the pits shall be kept empty. The water level in the retention structure(s) shall be maintained at least the number of feet below the top of the berm as shown in Table 1, above, (Operating Level) to ensure structural stability and prevent any discharge of manure, litter, or process wastewater from the production area. Furthermore, on December 1st of each year, the retention structure(s) shall be at or below the levels required in Table 1, above, (Dec. 1st Operating Level) to provide additional storage for accumulations through the winter.

Whenever the available storage capacity is less than the required amount(s) specified in Table 1, dewatering shall be initiated and conducted on all days suitable for land application of waste until the required storage capacity is again available. Unless approved in advance by the Department, liquid livestock wastes shall not be land applied during a precipitation event, or when the ground is frozen, snow covered, or saturated.

The retention structure(s) shall be properly managed to establish and maintain biological activity. A minimum volume of water must be maintained in the retention structure(s). Additional water shall be added as needed to maintain the required minimum biological volume in the retention structure(s) as

shown in Table 1. When the facility is at less than full capacity, the required minimum biological volume can be reduced in proportion to the waste loading.

Runoff and wastewater containing livestock or related wastes not collected or retained by the water pollution control facilities shall be controlled in a manner capable of preventing water pollution.

Solid Wastes

Open lots used on a continuous basis shall be cleaned of manure accumulations after each occupancy cycle or at least twice per year. Open lots used seasonally shall be cleaned of manure after each use.

Sedimentation basin(s) shall be cleaned whenever solids accumulations exceed one half of the depth of the basin(s).

Retention structure(s) shall be cleaned whenever the solids accumulations infringe on the required operating level specified in Table 1. Removed solids shall be applied to agricultural land on days suitable for land application of waste.

Solids such as manure may be stockpiled temporarily (not to exceed six months). Stockpiles shall not create nuisance conditions and shall not be located in areas subject to uncontrolled runoff or leaching.

Visual Inspections

Weekly visual inspections shall be conducted of all storm water diversion devices, runoff diversion structures, and devices channeling runoff and wastewater containing livestock or related wastes to the water pollution control facilities.

Weekly visual inspections shall be conducted of the retention structure(s) noting the level as indicated by the water level measurement device installed in the structure.

Daily visual inspections shall be conducted of all water lines, including drinking water and cooling water lines.

Any deficiencies that are identified in the daily and weekly visual inspections must be corrected in a timely manner. If deficiencies are not corrected within 30 days, the permittee must submit to the Department an explanation of the factors preventing immediate correction.

C. NUTRIENT MANAGEMENT PLAN REQUIREMENTS

Site-Specific Requirements

Livestock waste management systems shall be designed, constructed, maintained and operated to prevent the pollution of waters of the State and to protect public health and the environment. The permittee shall ensure the adequate storage of manure, litter, and process wastewater, including procedures to ensure proper operation and maintenance of the water pollution control facilities in accordance with the effluent limitations and conditions of this permit.

To the extent possible, clean water shall be diverted away from manure, litter, process wastewater, feed, byproducts and other potential sources of contaminants in the production area. All runoff that is not diverted from the production area must be collected in accordance with the effluent limitations and conditions of this permit.

The permittee shall maintain all structures necessary to prevent contact of animals with waters of the State which may pass over, across, through or adjacent to the production area.

Chemicals and other contaminants shall not be disposed of in any manure, litter, process wastewater, or the pollution control system unless specifically authorized in writing by the Department. Chemicals should be disposed of in accordance with manufacturer recommendations.

Site specific conservation practices shall be implemented to control runoff of pollutants to waters of the State. Unless the Concentrated Animal Feeding Operation (CAFO) exercises a KDHE approved compliance alternative, manure, litter, and process wastewater may not be applied closer than 100 feet to any downgradient surface waters; open tile line intake structures; sinkholes; agricultural, public, or private well heads; or other conduits to groundwater or surface waters of the State. As a compliance alternative, the CAFO may substitute the 100-foot setback with a permanent 35-foot wide vegetated buffer on which applications of manure, litter, or process wastewater are prohibited.

Manure or wastewater shall not be applied upon bare ground within 1,000 feet of a habitable structure, wildlife refuge or government owned park, unless the waste can be incorporated into the soil within the same day, or has been treated for odor reduction, or is applied using approved innovative technology, or the habitable structure owner agrees, in writing, to surface application without incorporation.

Manure, litter, compost, and process wastewater shall be analyzed a minimum of once annually as indicated in the KDHE approved Nutrient Management Plan.

Soil sampling and analysis shall be conducted on soils from fields as indicated in the KDHE approved Nutrient Management Plan.

The permittee shall adhere to the protocols established in the KDHE approved Nutrient Management Plan and Nutrient Utilization Plan to land apply manure, litter, or process wastewater in accordance with site specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients in the manure, litter, or process wastewater.

The most recent KDHE approved Nutrient Management Plan shall be maintained on-site; additionally, the permittee shall maintain records documenting the implementation and management of the Nutrient Management Plan. The permittee must retain the Nutrient Management Plan and records on file or at a central records location for five years, and make available upon request by the Department or EPA inspector.

Mortality Management

Routine mortalities shall be handled by burial. For catastrophic events, the permittee shall contact the Department for instructions.

Mortalities shall not be disposed of in any liquid manure, storm water, or process wastewater storage or treatment system that is not specifically designed to treat animal mortalities and shall be handled in such a way as to prevent the discharge of pollutants to surface water or groundwater.

Land Application

The permittee shall have equipment available which has pumping capacity to dewater the wastewater retention structure(s) to the required operating level in ten days. The permittee shall also have the land application sites as specified in the fields worksheet of the most recent KDHE approved Nutrient Utilization Plan.

Solid livestock wastes may be applied to frozen ground provided that the waste is retained at the application site.

Livestock wastes shall be applied to land using rates and methods that prevent surface runoff of pollutants and/or leaching of pollutants into groundwater. Waste application rates shall be calculated using the methodology in the NUP version 3.5 workbook. Additionally, the application rates shall not exceed the application rate limitations listed on the fields tab of the NUP version 3.5 workbook. Wastes shall be applied to the crops with the expected yield goals and nutrient requirements as listed in the Removal tab of the NUP version 3.5 workbook or the narrative Nutrient Management Plan.

Prior to the transferring of manure or process wastewater to another person, the permittee must provide the recipient the most current nutrient analysis of the waste. The analysis provided must be consistent with the requirements of 40 CFR part 412 and the approved manure management plan. The permittee must retain for five years records of the date, recipient name and address, and the approximate amount of waste transferred.

D. STANDARD CONDITIONS

In addition to the specified conditions stated herein, the permittee shall comply with the attached Standard Conditions for Swine Facilities with NPDES Permits dated July 3, 2017.

E. REPORTING AND RECORD KEEPING

1. Any significant operational changes, modifications, or capacity increases shall be reported and approved by the Department prior to implementation.
2. All overflows or discharges from the water pollution control structures, the land application sites, any water pollution incident, or any permit violation shall be reported to the Department by telephone at (785) 296-1679, immediately upon discovery [within two hours]. A written report shall be submitted to the Department within three days of the incident.
3. A written Operations Report shall be maintained on forms available from the Department. The wastewater level shall be recorded for all retention structures once per week. Whenever the water level infringes on the required operating level or the required storage capacity is not available in any retention structure, the available storage depth shall be recorded daily until the required storage capacity is again available.
4. The Operations Report shall be submitted to the Department for each calendar month by the 10th day of the following month to verify proper management of pollution controls. A copy of the Report shall also be kept on file at the facility or at a central records location for a period of five calendar years plus the current calendar year and shall be made available upon request by the Department or EPA.
5. An Annual Report shall be submitted to the Department by February 28th of each year for the previous calendar year. The Annual Report shall be completed on forms available from the Department and include the following information for the previous calendar year: (a) maximum number and type of animals confined at any one time during the reporting period; (b) estimated amount of total manure, litter, and process wastewater generated; (c) estimated amount of total manure, litter and process wastewater transferred to a third party; (d) total number of acres for land application included in the Nutrient Management Plan; (e) total number of acres under control of the CAFO that were used for land application of livestock waste, (f) summary of all manure, litter and process wastewater discharges from the production area that occurred, including date, time and approximate volume; (g) a statement indicating whether the current version of the Nutrient Management Plan was developed or approved by a certified nutrient management planner; (h) the actual crops planted and actual yields for each field; (i) results of all samples of manure, litter, or process wastewater; (j) results of calculations conducted in accordance with

those submitted in the approved Nutrient Management Plan; (k) amount of manure, litter, and process wastewater applied to each field; (l) the results of any soil testing conducted; and (m) the amount of any supplemental fertilizer applied.

F. SCHEDULE OF COMPLIANCE

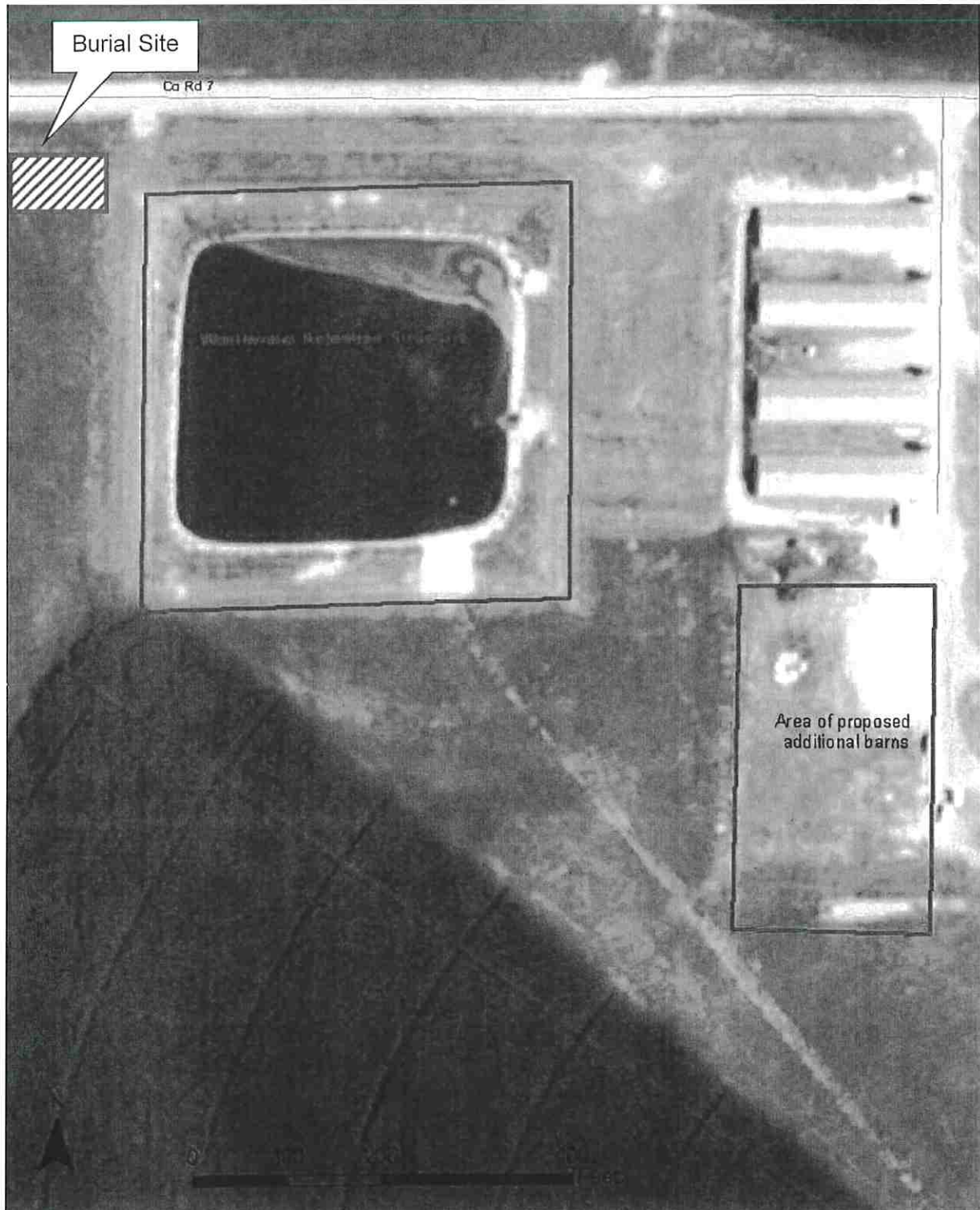
Construction Timeframe and Expiration of Plan Approval

Failure to initiate the approved proposed construction **by December 4, 2019** and complete construction **by December 4, 2020** shall void the Department's approval of the construction plans, specifications, and other associated plans. If the Department's approval becomes void, then the permittee shall resubmit the plans with any required modifications. The permittee shall not initiate construction or expansion prior to the Department's approval of the resubmitted plans.

If significant changes or modifications from the approved plan(s) become necessary, the changes shall be submitted to the KDHE Livestock Waste Management Section for review and approval prior to implementation. Significant changes may require modification of permit terms and conditions. Any such changes shall be included in the as-built plans provided to the Department following construction completion.

As-Built Plans / Construction Certification

The operator is responsible for ensuring as-built plans detailing any deviations from the approved plans and specifications, or a post construction certification to assure the system is constructed in accordance with the approved plans and specifications, is provided to the KDHE Livestock Waste Management Section with within thirty (30) days of the completion of construction.



**STANDARD CONDITIONS FOR
KANSAS WATER POLLUTION CONTROL PERMITS FOR AGRICULTURAL AND RELATED WASTES AND
AUTHORIZATIONS TO DISCHARGE UNDER THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
for Swine Facilities with NPDES Permits**

1. Definitions:

- A. A "grab sample" is an individual sample collected at one time.
- B. A "composite sample" is a combination of individual samples collected over time.
- C. The terms "Director", "Division", and "Department or KDHE" refer to the Director of the Division of Environment in the Kansas Department of Health and Environment, respectively.
- D. "Severe property damage" means substantial physical damage to the animal waste management system reasonably expected to cause it to become inoperable in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- E. "Bypass" means the diversion of any process waste streams from any portion of the animal waste management system.
- F. "Process wastes" means any of the following:
 - i. Excrement from animals, wastewater, and animal carcasses;
 - ii. precipitation that comes into contact with any manure, litter, bedding, or other raw, intermediate, or final material or product used in or resulting from the production of animals or direct products, including meat, milk, and eggs;
 - iii. spillage or overflow from animal or poultry watering systems;
 - iv. wastes from washing, cleaning, or flushing pens, barns, manure pits, equipment, trucks, trailers, milking parlors, milking equipment, and other associated animal facilities;
 - v. wastes from washing animals or spraying of animals for cooling;
 - vi. wastes from dust control;
 - vii. boiler blowdown and water softener regenerate wastes;
 - viii. precipitation runoff from confinement, loading, and unloading areas;
 - ix. spillage of feed, molasses, animal wastes, and any other process wastes described herein;
 - x. discharges from land application fields that occur during application;
 - xi. precipitation runoff from land application fields, if liquid or concentrated liquid wastes are applied during frozen, snow-covered, or saturated soil conditions without approval by the department;
 - xii. raw, intermediate, or finished materials associated with wastes or contaminated stormwater runoff from animal waste or dead animal composting operations;
 - xiii. silo liquors; or
 - xiv. flows or runoff from waste storage areas.

Process wastes do not include animal wastes spilled by trucks transporting livestock on city, township, county, state, or federal streets, roads, or highways.

- G. "Nutrient management plan" means a written document that identifies the practices and procedures that the operator of a confined feeding facility uses to operate and maintain the animal waste management system and to manage the handling, storage, utilization and disposal of wastes generated by the facility that is approved by the Department or any approved amendments thereto.
 - H. "Nutrient utilization plan" means a written document, on forms prescribed by the Secretary of the Kansas Department of Health and Environment, addressing site-specific conditions for the land application of manure, wastewater, and other nutrient sources from swine facilities that is approved by the Department or any approved amendments thereto.
2. Animal waste management systems shall be designed, constructed, maintained and operated to prevent the pollution of waters of the state and to protect public health and the environment.
3. Neither the approval of construction plans, specifications, Nutrient Management Plan, or any other plan, nor the issuance of a permit or certification by the Department shall prohibit the Department from taking any enforcement action if the animal waste management system fails to protect the waters of the State, meet any specified effluent criteria, or comply with State Surface Water Quality Standards. In addition, this approval, permit issuance, or certification shall not constitute a defense by the permittee regarding violation

of any statute, regulation, permit condition, or requirement.

4. Representative Sampling and Reporting:

- A. Samples and measurements taken as required in this permit shall be representative of the physical and chemical nature of the monitored material. All samples and measurements shall be taken at the locations designated in the permit, and unless specified otherwise, at locations before the material being sampled joins, mixes with or is diluted by any other material.
- B. Monitoring, testing and reporting requirements shall be recorded and reported on forms acceptable to the Department. Signed copies of the reports, prepared in accordance with K.A.R. 28-16-59, shall be submitted unless otherwise specified in the permit to:

Kansas Department of Health & Environment
Bureau of Water-Livestock Waste Management Section
1000 SW Jackson Street, Suite 420
Topeka, KS 66612-1367

5. Soil Sampling Protocol: For each land application site (field) to be sampled, soil samples shall be collected from areas representative of the soil types and nutrient application activities according to Kansas Administrative Regulations (K.A.R. 4-21-3 and 4-21-4), the most recently approved Nutrient Management Plan or Nutrient Utilization Plan. A representative number of cores shall be collected from each field via either of the following methods:

(A) Two composite samples shall be collected from each field by separating the top six inches of each core collected from the bottom of the core sample. If multiple cores are taken, all samples from the top six inches of soil shall be mixed together. The bottom segment of each soil core sample from six through 24 inches shall then be mixed together.

(B) Two composite samples shall be collected by obtaining individual core samples. A composite sample shall be collected from the top six inches of the soil and mixed if multiple cores are collected. The second composite sample shall be collected by taking a core sample from the soil surface to a soil depth of 24 inches. If multiple cores are taken, the samples shall be mixed before testing.

- The composite sample from the top 6 inches shall be tested for phosphorus (Bray-1, Mehlich III or Olsen P test), copper, nitrate (as N), chloride, zinc, pH, electrical conductivity, and other parameters as specified in the permit.
- The composite sample from 0 to 24 or 6 to 24 inches shall be tested for nitrate (as N), chloride, and other parameters as specified in the permit.
- Soil test results shall be sent to the address shown in paragraph 4B above and submitted pursuant to the requirements of the permit.

6. Test Procedures: All analysis required by this permit shall conform to the requirements of 40 CFR Part 136 and the North Central Regional Research Publication No. 221, "Recommended Chemical Soil Test Procedures for the North Central Region" unless otherwise designated. Testing shall be conducted in a laboratory certified or otherwise accepted by the Department. For each measurement or sample, the permittee shall record the exact place, date, and time of sampling/measurement as appropriate. The laboratory report shall include the date of the analysis, the analytical techniques or methods used, the name of the individual(s) who performed the analysis, and the results. If the permittee monitors any material or takes any measurement at the location(s) designated in this permit more frequently than required by this permit, using approved procedures; the results shall be included in the report form required in paragraph 4B above. Such increased frequencies shall also be indicated.
7. Records Retention: A copy of all records and information resulting from the monitoring activities required by this permit, including all records of analyses and calibration and maintenance of instrumentation shall be retained on-site or at a central records location for a minimum of five calendar years or longer if requested by the Director of the Division of Environment.
8. Availability of Permit and Permit Records/Falsification of Data: The permittee shall retain a copy of the

current permit issued by the Department and approved plans at the facility's site office or such other site as approved by KDHE. Construction plans, specifications, sample test results and other plans are not confidential material unless specifically so designated by KDHE pursuant to Federal and State law. Knowingly making any false statement on any report or tampering with equipment to falsify data may result in the imposition of criminal penalties as provided for in 33 USC Section 1319 and K.S.A. 65-170c.

9. Change in Operations: Any significant anticipated change in operations shall be reported to the Division at least one hundred eighty (180) days before such change occurs. A significant Change in Operations means any of the following: (1) Expansion or enlargement of a facility beyond the scope or boundaries established by registration, permit, certification, or approved plans and specifications; (2) any increase in the animal unit capacity beyond that authorized by a permit or certification; or (3) a change in construction or operation of a confined feeding facility that may affect the collecting, storage, handling, treatment, utilization, or disposal of animal or other process wastes. Minor changes shall be submitted to the Department for review and approval prior to construction, implementation or use.

Notification to and approval by the Director is required prior to a significant change in disposal method, a change in the method of treatment which would significantly alter the characteristics of the process waste, discharging to a disposal area different from the existing approved area, or other circumstances which result in a change in character, amount or location of process waste disposal or re-use.

For any change which will result in an expanded capacity of the facility or operation, permittee shall provide the Department a new application and supporting documentation.

10. Facilities Operation: The permittee shall, at all times, properly operate and maintain the animal waste management system and any related appurtenances that are installed or utilized by the permittee to achieve compliance with Kansas law and the conditions of the permit. The permittee shall operate the facility in a manner to prevent any discharge that is in violation of the permit or that has a potential to adversely affect human health or the environment. When necessary to maintain compliance with the permit conditions, the permittee shall stop or reduce those activities under its control, which generate process wastes routed to the animal waste management system.

11. Immediate Reporting Required:

- A. Any emergency or accidental discharge, overflow, or unplanned release of animal or other process wastes, any water pollution incident, or any permit violation shall be reported to the Department by telephone at (785) 296-1679 within two hours of discovery. A written report explaining the cause of the incident and what actions the permittee has taken, or will take to prevent recurrence shall be submitted to the Department at the address provided in paragraph 4B within three days of the incident.
- B. Any discharge from, or bypass of any part of the animal waste management system not in compliance with this permit is prohibited except: where no feasible alternatives to the bypass exists and 1) where necessary to prevent loss of human life, personal injury or severe property damage; or 2) where excessive storm water inflow or infiltration would damage any part of the animal waste management system necessary to comply with this permit or 3) where the permittee notifies the Director seven days in advance of an anticipated bypass or discharge. The Director or Director's designee may approve a bypass or discharge, after considering its adverse effects, if any of the three conditions listed above are met. The permittee shall report such discharges or bypasses pursuant to paragraph A above.

12. Right of Entry and Bio-Security: The permittee shall allow authorized representatives of the Division of Environment and the Environmental Protection Agency (EPA) to enter upon the permitted premises to inspect the animal waste management system, and at reasonable times, to have access to and copy any records required by this permit, to review any practices required by this permit, and to sample any influents to, discharges from or materials in the animal waste management system. Any permittee that develops or modifies bio-security protocols and requests KDHE conformance with the protocols shall submit a copy of the protocols to the Department. Upon request of the permittee, KDHE or EPA officials shall present their credentials to the permittee. However, the presentation of credentials shall not be a basis to deny entry to the permitted facility.

The permittee shall provide all necessary specialized equipment, clothing, etc. to enable the Department and EPA inspectors to enter the facility for inspection. Bio-security protocols shall not inhibit reasonable access by any Department or EPA inspector.

13. **Property Rights:** The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights nor any infringement of or violation of federal, state or local laws or regulations.
14. **Permit Modifications and Terminations:** As provided by K.A.R. 28-16-62, after notice and opportunity for a hearing, this permit may be modified, suspended, revoked or terminated in whole or in part during its term for cause as provided, but not limited to those set forth in K.A.R. 28-16-62 and K.A.R. 28-16-28b through f. The permittee shall furnish to the Director, within a reasonable amount of time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish upon request, copies of all records this permit requires to be kept.
15. **Void of Plan Approval:** Failure to initiate the approved construction or expansion within two years and to complete the approved construction or expansion within three years after the effective date of the permit shall void the secretary's approval of the construction plans, specifications, and other associated plans. If phased construction is proposed, the initiation and completion of construction shall conform to the schedule stipulated by the secretary.

If the approval becomes void, the permit shall remain in effect for the term of the permit, but the operator shall resubmit the construction plans, specifications, and other associated plans to the secretary for review and consideration for approval before initiating the construction or expansion of the facility.
16. **Severability:** The provisions of this permit are severable. If any provision of this permit or any circumstance is held invalid, the remainder of the permit shall not be affected thereby.
17. **Transfer of Ownership:** The permittee shall notify the succeeding owner or controlling person of the existence of this permit and shall provide the Department a copy of an agreement indicating the date when the transfer of permit responsibility, coverage and liability will take place. The permit is not transferable to any person except after notice to and approval by the Director. The existing permit remains in effect until the Department authorizes the transfer by letter or reissues the permit. The Director may require modification or revocation and reissuance of the permit to update the permit to comply with current Federal and State requirements.
18. **Change in Permittee Address/Telephone No.:** The permittee shall notify the Department within 60 days of any changes in mailing address or telephone number regarding the facility or the designated facility contact.
19. **Retention Structure Wastewater, Liquid Process Waste Level Monitoring:** A permanent water level measurement device (such as a staff gauge) shall be installed and maintained in each retention structure used as the basis for determining appropriate storage capacity. The device shall be marked in increments of feet and shall be readable to the nearest $\frac{1}{2}$ foot.
20. **Irrigation Practices:** Irrigation practices shall be managed to minimize pooling of animal or other process wastes at the land application site. Irrigation practices shall be managed to ensure that animal or other process wastes are not discharged from the waste application sites.
21. **Removed Substances:** Solids, sludge, or other process wastes removed from the animal waste management system shall be disposed of or re-used in a manner acceptable to the Division.
22. **Transport of Animal or Process Wastes:** The permittee shall haul or transport animal or process wastes to land application sites in a manner that prevents loss or spillage during transport.
23. **Cease Operations/Removal from Service:** Each permittee shall notify the Department of plans to cease operations of, close, or abandon the facility, and shall maintain and comply with the permit until the

Department approves the closure of the facility. The permittee shall inform the Division prior to removing from service any part of the animal waste management system that would affect compliance with the permit. The permittee shall make arrangements acceptable to the Division to decommission any portion of the animal waste management system being permanently removed from service such that the public health and waters of the state are protected.

24. **Retention Structure Liners:** The permittee shall install and maintain the liner to comply with K.A.R. 28-18-1 *et seq.* When soil liners are utilized, no trees or other deep-rooted vegetation shall be allowed to grow within 100 feet of the liner. Any mechanical or structural damage to the liner shall be reported to the Department within two workdays of identification and shall be repaired in a time frame approved by the Department.
25. **Permeability Tests:** The permittee shall conduct permeability tests using methods acceptable to the Department. For a description of the acceptable methods, the permittee may contact KDHE at the address in paragraph 4B. Permeability tests shall be conducted anytime the retention structure is altered by cleanout and/or reconstruction or anytime there is damage to the liner. Results of the permeability test shall be submitted to the Department within 30 days of completing the test. Should any structure not meet the permeability requirements, additional sealing will be required.
26. **Annual Permit Fee:** Each permittee shall submit the appropriate annual permit fee according to the schedule of fees provided in K.A.R. 28-16-56d. The Department will bill the permittee annually. Failure to pay the annual permit fee shall result in revocation of the permit.
27. **Duty to Reapply:** A permittee wishing to continue any activity regulated by this permit after the expiration date of this permit must apply for a new permit at least 180 days prior to expiration of the permit.
28. **Stocking of New/Expanded Facility:** The permittee shall not stock a new facility or the expanded portion of an existing facility nor place in use any animal waste management system until after the construction or expansion of the facility, including the animal waste management system, is completed, the Department has reviewed and approved any requested construction certifications, and the new or modified permit is issued or re-issued by the Department.
29. **Swine Facility Plans:** The permittee shall comply with the approved manure management plan, emergency response plan, odor control plan and dead animal handling plan as approved by the Department pursuant to Kansas and Federal law. The permittee shall amend these plans whenever warranted by changes in the management and operation of the facility and pollution controls.
30. **Updates to Nutrient Management or Utilization Plans:** Updates to the Nutrient Management Plan or Nutrient Utilization Plan shall be provided to the Department prior to any significant change to the facility or plan. All updates shall be developed in accordance with the Kansas Technical Standards for Nutrient Management – Revised 2010. The permittee shall notify the Department prior to implementing any changes to the approved plan.
31. **Whenever the permittee does not own all the swine at the facility, the permittee shall provide the Department a copy of the executed contract with the owner of the swine that specifies responsibility for management of the swine or other process wastes.**
32. **Operator Certification:** The permittee shall ensure the swine pollution control system is under the supervision of an operator certified by the Department. If the permittee does not have a certified operator or loses its certified operator, the permittee shall immediately contact the Department at the address provided in paragraph 4B above and begin the process of obtaining the services of a certified operator as required by Kansas law.
33. **Additional Information and Contacts:** Additional information and KDHE contacts can be found on the KDHE-Livestock Waste Management Section's web page at www.kdheks.gov/feedlots.

For swine facilities with animal unit capacities greater than or equal to 3725

34. Facility Closure Plan: Each permittee with an animal unit capacity greater than or equal to 3725 shall develop and implement a swine facility closure plan as approved by the Department and shall amend the plan whenever warranted by changes in the swine facility or in other conditions affecting the facility.
35. Financial Assurance - Swine Facility: Annually before January 1 of each year, each permittee with an animal unit capacity greater than or equal to 3725 shall provide evidence to the Department that the permittee has the financial ability to cover the cost of closure of the swine facility.
36. Financial Assurance - Waste Retention Lagoons: Annually before January 1 of each year, each permittee with an animal unit capacity greater than or equal to 3725 shall provide evidence to the Department that the permittee has the financial ability to cover the cost of closure of the swine wastewater retention lagoons or ponds.

THE STATE



OF KANSAS

KANSAS DEPARTMENT OF AGRICULTURE

Joshua Svaty, Secretary of Agriculture

DIVISION OF WATER RESOURCES

David W. Barfield, Chief Engineer

CERTIFICATE OF APPROPRIATION FOR BENEFICIAL USE OF WATER

WATER RIGHT, File No. 43,493

PRIORITY DATE August 13, 1998

WHEREAS, It has been determined by the undersigned that construction of the appropriation diversion works has been completed, that water has been used for beneficial purposes and that the appropriation right has been perfected, all in conformity with the conditions of approval of the application pursuant to the water right referred to above and in conformity with the laws of the State of Kansas.

NOW, THEREFORE, Be It Known that DAVID W. BARFIELD, the duly appointed, qualified and acting Chief Engineer of the Division of Water Resources of the Kansas Department of Agriculture, by authority of the laws of the State of Kansas, and particularly K.S.A. 82a-714, does hereby certify that, subject to vested rights and prior appropriation rights, the appropriator is entitled to make use of groundwater to be withdrawn by means of a well located in the Northeast Quarter of the Northeast Quarter of the Northwest Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 34, more particularly described as being near a point 4,880 feet North and 2,700 feet West of the Southeast corner of said section, in Township 33 South, Range 31 West, Seward County, Kansas, at a diversion rate not in excess of **90 gallons per minute (0.20 c.f.s.)** and a quantity not to exceed **5.60 million gallons (17.2 acre-feet)** of water per calendar year for stockwatering use in the North Half of the Northwest Quarter of the Northwest Quarter (N $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 34, Township 33 South, Range 31 West, Seward County, Kansas.

This appropriation right is further limited to a quantity of water which when combined with the water right set forth in the Certificate of Appropriation issued pursuant to File No. 41,770, will provide a total quantity not to exceed **8.575 million gallons (26.31 acre-feet)** of water per calendar year for stockwatering use at the location described herein.

RECEIVED

MAR 17 2010

Garden City Field Office
Division of Water Resources

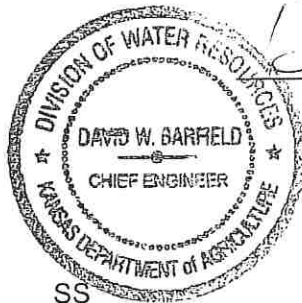
SCANNED

(over)

All terms, conditions and limitation applicable to the Appropriation of Water not expressly changed or removed by the issuance of the Certificate of Appropriation remain in full force and effect. Failure to comply with those terms, conditions and limitations, and those added or amended by this Certificate, will result in the suspension of this appropriation right or revocation and dismissal of this appropriation right.

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.

IN WITNESS WHEREOF, I have hereunto set my hand at my office at Topeka, Kansas, this 17th day of February, 2010.



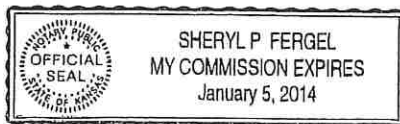
David W. Barfield

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

State of Kansas)
County of Shawnee)

SS

The foregoing instrument was acknowledged before me this 17th day of February, 2010, by David W. Barfield, P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.



Sheryl P Fergel

Notary Public