



CITY OF COUNCIL GROVE · 205 UNION STREET · PO BOX 313

COUNCIL GROVE, KS 66846 · 620-767-5417 · COUNCILGROVE.COM

**City Council Agenda
January 4, 2022
5:30 P.M. - City Hall**

WELCOME AND CALL TO ORDER

PLEDGE OF ALLEGIANCE

PUBLIC COMMENT PERIOD

Items not already on the agenda may be brought before the Governing Body. Persons must sign in to be eligible. (Three-minute maximum time limit). After three minutes, items will then be voted on to see whether to place the item on the next agenda.

CONSENT AGENDA:

- Minutes from the Previous meeting: Pages 2 – 3
- Appropriations:
- Lake Cabin Transfer: B-40 Pages 4 - 21

Motion:	Seconded:	Action:	Abstention:	Este. Cost:	Appd.	Cost:
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OLD BUSINESS:

- N/A

Motion:	Seconded:	Action:	Abstention:	Este. Cost:	Appd.	Cost:
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NEW BUSINESS:

- BG Consultants: Water and Sewer Infrastructure Improvements Proposal

Motion:	Seconded:	Action:	Abstention:	Este. Cost:	Appd.	Cost:
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- City Lake Committee Recommendation: B-52 Dredging Pages 22 - 40

Motion:	Seconded:	Action:	Abstention:	Este. Cost:	Appd.	Cost:
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- Committee Appointments:

Motion:	Seconded:	Action:	Abstention:	Este. Cost:	Appd.	Cost:
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- Executive Session – City Lake

Motion:	Seconded:	Action:	Abstention:	Este. Cost:	Appd.	Cost:
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Governing Body Comments:

Adjournment:

City Council Meeting Minutes
December 21, 2021

WELCOME AND CALL TO ORDER

Mayor Debi Schwerdtfeger called the regular City Council Meeting to order. Council members present were Jason Booker, Keith Wessel, Mark Brooks, Sharon Haun, Larry Siegrist, City Administrator Nick Jones, and City Attorney Bill Halvorsen were also present. Others attending were Mindy Andres, Marcus Hernandez, John Scarce, Lindsay Hickman, Deidra Knight.

CONSENT AGENDA

Councilperson Sharon Haun made a motion to approve the Consent Agenda as presented in the packet. Councilperson Jason Booker seconded the motion. Motion Carried 6 – 0. The consent agenda consisted of:

- Dec. 21, 2021, Minutes
- Dec. 21, 2021, to Current Appropriations.
- Cabin Transfer: N/A
 - Application for Retail Liquor by the Package and Club Liquor License
 - Hays House, Twin Lakes Liquor, 1881 Liquors
 - Application for License to Sell Cereal Male Beverages in original containers not for consumption on licensed premises
 - Saddlerock Café
 - Application for License to Sell Cereal Male Beverages for consumption on premises
 - SaddleRock Café

OLD BUSINESS

N/A

NEW BUSINESS

- **Superior Systems – John Scarce**
John Scarce with Superior Systems addressed the City Council requesting a rate increase for trash service. Scarce said the rate increase was needed due to inflation and rising cost.
Requested Increase Rate:
\$0.3461 (Amount of Rate Increase Weekly)
\$1.50 (Amount of Rate Increase Weekly)
\$18.00 (Amount of Rate Increase Weekly)
Current Inside City Limits 2021
 - \$14.26
 Proposed Inside City Limits 2022
 - \$15.76
 Current Outside City Limits 2021
 - \$14.00
 Proposed Outside City Limits 2022
 - \$15.50
 After discussion Councilperson Sharon Haun made a motion to approve the rate increase for Superior Systems. The motion was seconded by Councilperson Mark Brooks.
Motion Carried 5 – 0.
- **Story Media – Riverwalk Amphitheater Webpage – Deidra Knight and Lindsay Hickman**
Deidra Knight and Lindsey Hickman with Story Media presented to the City Council the website for the Riverwalk Amphitheater. Included in the presentation a draft of the rental contract with the fees and rental deposit. Mayor Schwerdtfeger said she did not think the deposit was enough. After some discussion it was agreed the rental deposit would match the cost of renting the facility. Councilperson Mark Brooks asked about any liability the city may have if someone was to get injured. Administrator Jones said the city insurance would cover small events, but large events would need to have their own insurance. Administrator Jones said he will also follow up with Tyner Insurance.
- **Lake Committee Recommendation – H-S1**
City Administrator Nick Jones presented the Lake Committee Recommendation to the City Council. The City Lake Committee recommends the approval of a variance request of 6' to the 100' high water setback for the construction of a covered deck for Scott & Beth McGinn, H-S1. The extension will not restrict or interfere with the neighboring cabins or access to the area. The neighboring leasehold are aware of this request and have indicated such in writing.

After discussion Councilperson Keith Wessel made a motion to approve the Lake Committee recommendation. The motion was seconded by Councilperson Larry Siegrist. Motion Carried 4-1 with Councilperson Mark Brooks be opposed.

- **Utilities Department Recommendation – Hourly Rate**

City Administrator Nick Jones presented the recommendation from the Utilities Department to the City Council which, recommends changing the starting pay from \$14.00 an hour to \$15.00 an hour effective January 1, 2022, to compete with other employers in the area. After discussion a motion was made by Councilperson

- **Utilities Department Recommendation**

City Administrator Nick Jones presented the recommendation from the Utilities Department to the City Council which, recommends pay increases for the following employees to create separation with the new starting wage for the Utilities Department effective January 1, 2022.

- Jesse Pavek:
 - Current hourly wage: \$14.50
 - New hourly wage: \$15.50
- David Siemers
 - Current hourly wage: \$15.78
 - New hourly wage: \$16.78
- Michael Stover
 - Current hourly wage: \$14.00
 - New hourly wage: \$15.00

After discussion a motion was made by Councilperson Sharon Haun to approve the Utilities Department recommendation. The motion was seconded by Councilperson Mark Brooks. Motion carried 5 – 0

- **Utilities Department Recommendation**

Mayor Schwerdtfeger presented the recommendation from the Utilities Department to the City Council which, recommends the appointment of Nathan Ross to Utilities Department Apprentice at an hourly pay of \$15.00. The appointment is contingent on passing a physical and drug and alcohol screening. After discussion Councilperson Jason Booker made a motion to approve the Utilities Department recommendation. The motion was seconded by Councilperson Sharon Haun. Motion Carried 5- 0

- **Executive Session – City Lake**

Councilperson Keith Wessel made a motion to go into executive session concerning the City Lake, which include the City Council, Mayor, City Attorney, and City Administrator for 30 minutes. The motion was seconded by Councilperson Larry Siegrist. Motion Carried 5 - 0. On returning to the Council meeting no action was taken.

GOVERNING BODY COMMENTS

- **Councilperson Jason Booker** – Wished all a Merry Christmas and also said that Jennings Street and Sunset Drive are in need of road repair and need to be looked at.
- **Councilperson Mark Berner** – Absent
- **Councilperson Keith Wessel** – Wished everyone a Merry Christmas and Happy New Year. Councilmen Wessel also thanked the Streets and Parks Department for all their work on the limb pickup from the windstorm.
- **Councilperson Mark Brooks** – said that the cottonwood street on Sunset was needing trimming. Councilperson Brooks also said he hoped the Council will continue to move forward with plans for camping spots in town and at the City Lake.
- **Councilperson Larry Siegrist** – N/A
- **Councilperson Sharon Haun** – Wished everyone a Happy Holidays and said that the City had a great year.
- **City Attorney Bill Halvorsen** – N/A
- **City Administrator Nick Jones** – Wished all a Merry Christmas and said that he felt the council had done a lot of good work to move the city in the right direction one the year.
- **Mayor Debi Schwerdtfeger** –N/A

Councilperson Mark Brooks made a motion to adjourn. Councilperson Jason Booker seconded the motion. Motion carried 5 – 0

Debi Schwerdtfeger Mayor

ATTEST:

Nick Jones City Administrator

Application for Cabin Site Transfer
COUNCIL GROVE CITY LAKE

Site Number: B-40 Date: May 3, 2021

Name of Transferee: Rusty and Arjenette Heins

Address: PO Box 642

City: Americus State KS Zip Code 66835

Telephone Number: 620/481-9418

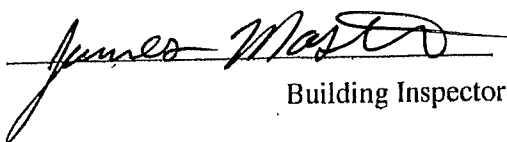
Name of Transferor: Sanders Charitable Remainder Trust

OFFICE USE ONLY BELOW THIS LINE

Septic tank checked: October 18th, 2021

The above application is approved:

this 21st day of December, 2021

Signed 
Building Inspector

Please immediately fill in date, site number, sign and return to City of Council Grove, P.O. Box 313, Council Grove, Kansas 66846, or deliver to City Hall at 205 N Union Street, Council Grove.

GROUND LEASE AGREEMENT
(Modified and Effective October 2, 2018)

This lease pertains to a building on leased ground, pursuant to K.S.A. 79-412.

THIS GROUND LEASE AGREEMENT (the "Lease") made and entered into this 3rd day of May 2021, by and between the City of Council Grove, Kansas, a municipal corporation, hereinafter referred to as the "City" or "Lessor" and Rusty and Anjette Heins, hereinafter referred to as "Lessee". If more than one Lessee is referenced, they shall be deemed to hold their interests hereunder

as joint tenants and not as tenants in common, or

as tenants in common. (check the desired box; only one can apply.)

WHEREAS, the City is the owner of the real estate described within the Final Plat, Council Grove Lake Park, an addition to Morris County, Kansas, also referred to herein as the Council Grove City Lake Park, and;

WHEREAS, the City is also the owner of real estate located in Final Plat, Council Grove Lake Park, Section B, Lot B - 40, to Morris County, Kansas, hereinafter referred to as the "Leased Premises", and,

WHEREAS, the City desires to lease the Leased Premises to Lessee, and Lessee desires to lease the Leased Premises from the City; and,

WHEREAS, the Council Grove City Lake Association (the "CGCLA") is a Kansas not for profit corporation formed for the purpose of representing the interests of the residents of the Council Grove City Lake Park; and,

WHEREAS, the parties hereto recognize the CGCLA as an official representative of the leaseholders at the Council Grove City Lake Park for the purposes set forth herein, provided that the membership includes the majority of all leaseholders.

NOW THEREFORE, in consideration of the mutual promises contained herein, the parties here to do agree as follows:

1. **USE OF PREMISES:** The Leased Premises are only to be used for the construction and use of a residential building designed as a single family living unit along with the normal appurtenances associated therewith.

2. **DEMISE:**

a. The City does hereby lease to the Lessee, and Lessee does hereby accept from the City, subject to the

terms and conditions set forth herein, the Leased Premises.

b. The actual boundaries of the Leased Premises have been previously established and are as set forth in Final Plat, Council Lake Park, to Morris County, Kansas, which is of record at the Morris County Register of Deeds office.

c. As a part of the grant of the Leased Premises, if Leased Premises abut the Council Grove City Lake, the Lessee is hereby granted access, to and from the Leased Premises to the Council Grove City Lake.

3. **MODIFICATION OF THIS LEASE:** Other than the term of this lease as set forth in paragraph 4 and modification of rent as set forth in paragraph 5, the City may, if reasonably necessary, with consultation with the CGCLA, modify terms and conditions of the Lease and the Lessee agrees to be bound by any such modification.

4. **TERM:** The term of this Lease shall expire on December 31, 2041, regardless of its commencement date. Provided, however, this Lease, upon its expiration, shall automatically renew for a period of thirty years, and shall continue to renew for successive terms of thirty years perpetually. Notwithstanding the perpetual nature of this Lease, nothing herein shall be construed as divesting Lessor of legal title to the Leased Premises.

5. **RENT:** The Lessee agrees to pay the City rental for this Lease as follows:
 a. For the year 2012, the sum of \$1,000.00; for the year of 2013, the sum of \$1,100.00; and for the year of 2014 the sum of \$1,200.00 per year. Said rental amount has been determined based upon the historical expenses (the "Expenses") incurred by the City, related to the Council Grove City Lake Park, and for matters that directly and specifically benefit the Residential Lots, such as, security, road repair and maintenance, maintenance to common areas, equipment costs, caretaker salary and that portion of general services apportioned to such purposes. It is estimated the recent annual cost of such historical expenses has been approximately \$261,000.00, which has resulted in the established rent. The rent for all subsequent three year periods shall remain at an amount equal to the third year amount of the preceding three year period, unless adjusted as set forth hereinafter.

b. Subject to the provisions of subparagraph (c), in the event there is a significant increase in the Expenses, or if there are other factors that occur which reasonably and in good faith should require an increase in rent, the City may, within reason and good faith, require an adjustment of the rent for the second three year period of the Lease and may also require adjustments to the rent for any three year period thereafter under the same factors and requirements. Prior to implementing any adjustment, the City shall notify Lessee, and also the CGCLA, of its intention to modify the rent, and the proposed new annual rental amount. Such notice shall be delivered, in writing at least 180 days prior to the end of the current three year period of the Lease. Such notice shall include the basis of the proposed increase which shall include:

1. The actual annual itemized Expenses for the period commencing January 1 and ending December 31, every year the Lease is effective.
2. Calculated average of the annual Expenses applicable to such period and a comparison of that average to the average annual Expenses during the period when the current Rent was established.
3. An itemization of all other factors which the City relies upon to justify the modification.

The proposed modified rent shall go into effect on January 1 of the year following the notice. The CGCLA may request to negotiate the proposed amount, provided they do so within sixty (60) days of receipt of the notice, in writing, to the City Clerk. Upon such request the City and CGCLA shall enter into good faith negotiations to establish a fair and equitable annual rental amount by forming a committee of three lake leaseholders, appointed by the CGCLA, three City Council members, appointed by the City Council, one representative from Ward 1, Ward 2, and Ward 3 who are not lake leaseholders, appointed by the City Council and three Council Grove business people who are not lake leaseholders, appointed by the City Council. During such negotiations the factors set forth above shall provide the criteria upon which the Committee shall base its recommendation. The Committee shall recommend a fair and equitable rent to the City Council and the City Council shall thereafter reasonably and in good faith establish a rental amount, however the City Council shall not be bound to follow the committee's recommendation. Written notice of the new Rent shall be provided to Lessee and shall become effective on January 1 of the year following such notice.

c. The City shall only be entitled to modify the Rent, as set forth in subparagraph (b), if, from the commencement of the current three year period until the notification of the modified Rent, the City has:

1. Provided the CGCLA with accurate annual itemizations of both Expenses and Rental Revenue generated by the Residential Lots; and,
2. After the first year, set aside 10% of the Revenue in a special fund designated for use only as capital improvements at the Council Grove City Lake Park. Expenditures from this fund shall be reviewed and recommended by a committee established for such purpose and including representatives from the CGCLA. The City Council shall thereafter reasonably and in good faith determine the amount and purpose of expenditure from the fund, but shall not be bound to follow the Committee's recommendation.
3. Beginning in 2014, 10% of the 10% referred to in Paragraph 5c2 above, shall be set aside by the City for a capital improvement fund to be held as a contingency fund for future major projects mutually agreed upon by the CGCLA Board of Directors and the City Council.

d. Rental payments shall be made to the Office of the City Clerk of the City. The Lessee has an option to pay one-half of a given year's rent on or before January 15 of that year and the second half on or before July 15 of that year. If at least one-half of the rent is not paid by February 15 of each year then the entire year's rent will be immediately due and payable, plus a late payment penalty in the amount of \$75.00. If the lessee makes timely payment of the first half rent, but does not make the second half payment by July 15, a \$75.00 late payment fee shall be due to Lessor. If Lessee fails to make the rental payments required hereunder, the amount due shall accrue interest at the rate of 5% per annum from and after such date, and may be collected by the City under terms of the default provisions set forth hereinafter. The City shall have a first and prior lien on the Leased Premises for all Rent due hereunder.

6. ENCUMBRANCE AND TRANSFER OF LEASEHOLD INTEREST:

a. Lessee may encumber by mortgage or deed of trust, or other proper instrument, its leasehold interest and estate in the Leased Premises, together with all buildings and improvements on the premises, as security for any indebtedness of Lessee, however such encumbrance shall be subject to the obligations of the Lessee to the City as set forth herein. The execution of any mortgage, or deed of trust, or other instrument, or the foreclosure of any mortgage, or deed of trust, or other instrument, or any sale, either by judicial proceedings or by virtue of any power reserved in a mortgage or deed of trust, or conveyance by Lessee to the holder of the indebtedness, or the exercising of any right, power, or privilege reserved

in any mortgage or deed of trust, shall not be held as a violation of any of the terms or conditions of this Lease, or as an assumption by the holder of the indebtedness personally of the obligations of this Lease.

b. If Lessee shall encumber its leasehold interest in the Leased Premises, the Lessee or the holder of the indebtedness secured by the encumbrance, shall give written notice to the City of the existence of the encumbrance. The notice shall state the name, address and telephone number of the holder of the indebtedness. The holder of the indebtedness may, at its option, at any time before the rights of Lessee shall be terminated as provided in this Lease, pay any of the rents due under this Lease, or pay any taxes and assessments, or do any other act or thing required of Lessee by the terms of this Lease, or do any act or thing that may be necessary and proper to be done in the observance of the covenants and conditions of this Lease to prevent the termination of this Lease. All payments so made and all things so done and performed by the holder shall be as effective to prevent a foreclosure of the rights of Lessee hereunder as the same would have been if done and performed by Lessee.

c. Lessee may sell, transfer, assign, gift, devise by will or other instrument, its interest in this Lease, but only with prior approval of the Lessor. The transferee of any lease must sign a lease with the City and pay a transfer fee prior to approval of the transfer. The transferor must be in full compliance with City requirements before the transfer is approved. In addition, Lessee's interest in this Lease shall pass by the laws of intestate succession and descent and distribution, pursuant to the laws of the state of Kansas.

7. LIENS:

a. Lessee shall keep all and every part of the Leased Premises and all buildings and other improvements at any time located on the premises free and clear of any and all mechanics, material suppliers, and other liens for or arising out of or in connection with work or labor done, services performed, or materials or appliances used or furnished for or in connection with any operations of Lessee, any alteration, improvement, or repairs or additions that Lessee may make or permit or cause to be made, or any work or construction, by, for, or permitted by Lessee on or about the premises, or any obligations of any kind incurred by Lessee, and at all times promptly and fully to pay and discharge any and all claims on which any such lien may or could be based, and shall indemnify Lessor and all of the Leased Premises and all buildings and improvements on the Leased Premises from and against any and all such liens and claims of liens and suits, including reasonable attorney fees, or other proceedings pertaining to the premises.

b. Lessor does not consent to any such lien attaching to the Leased Premises. In the event of a breach of this section by Lessee, Lessor shall have the rights and remedies set forth in the section on Default hereinafter.

8. TAXES AND ASSESSMENTS:

a. **IMPROVEMENTS TAXES.** As long as the county assesses taxes against the improvements separately from the real estate, Lessee shall be obligated to pay, when due, all taxes assessed against the improvements placed upon the Leased Premises. Lessee shall hold Lessor harmless from all such taxes. In the event Lessor, as owner of the land, shall receive notice of taxes due on the improvements, Lessor shall promptly notify Lessee of such notice within a time, and in a manner, allowing Lessee to make the payments, when due.

b. **TAXES IMPOSED ONLY UPON THE LAND.** Beginning with the year 2017, with the platting of the lots within the Council Grove City Lake Park, the County is assessing each lot therein separately. However, because the City is the owner of all of said lots, the Valuation Notice, as well as the statement

for taxes due, for all of said lots is provided only to the City. Therefore, the City shall, within ten (10) business days after receipt of the Valuation Notice, the statement for taxes due, or any other communication related to the taxes upon the land, mail a copy of such via first class mail to the Primary Lessee. It shall be the Lessee's responsibility to make sure they obtain the tax statement within a time frame necessary to pay the taxes in a timely manner. It shall be Lessee's obligation to pay all taxes due from the City, and related to the Leased Premises. Lessee shall pay such taxes in one of two methods, depending upon how the County will accept such payments. Under the first method, beginning in 2018 and continuing each year thereafter as long as the County will accept this method, Lessee shall make such payment directly to the County, on or before the due date set forth in the County's statement to the City. Lessee may pay such taxes in the same manner as the City could make such payment, i.e., Lessee may pay one-half of said taxes on, or before, the due date in December, and one-half of said taxes on, or before, the due date in May. If Lessee fails to make any such payment when due, the City may make such payment and recover such amounts, plus penalties, interest and attorney fees from Lessee, pursuant to Section 12 of this Lease. Under the second method, if, and when, the county has indicated that the tax payment must be made by the City the Lessee shall be obligated to pay, in full, to Lessor, within thirty days after the City gives notice of such amount being due, all taxes on the leasehold real estate which are assessed to the Lessor, as set forth on the tax statement, and the Lessor shall use such payment to pay the taxes due on the land within the time frames required. Provided, however, in the event the due date of such taxes is less than thirty days after the City gives notice of such amount, Lessor shall make such payment at least ten (10) days prior to their due date, as long as the City has provided such notice at least fifteen (15) days prior to the due date. If the City fails to provide such notice at least fifteen (15) days prior to the due date, Lessor shall make such payment within five (5) days after receipt of the notice. (The payments made by Lessee, as set forth in the preceding sentence, shall only be made to Lessor. The Lessee shall not make such payments directly to the County.) It shall be the City's obligation to determine how the county will accept the tax payment, and to notify Lessee of which method is applicable if that method has changed from the previous year, at the time the City provides notice of the amount due. Under the first method, Lessee shall have full authority to pay any, or all, of such taxes under protest, and Lessee may do so in the name of the City, to the extent any such taxes are technically the city's responsibility. Under the second method, in the event directed to do so by the Lessee, or their agent(s), the City shall pay such taxes under protest; however, the City shall only be obligated to do so if the Lessee has fulfilled their obligations to make the payment required hereunder. Lessee shall be responsible for any penalties and interest incurred by reason of their failure to pay any taxes when due. Since the Lessee is responsible hereunder for all taxes imposed upon the land, the City hereby authorizes the Lessee, or the Lessee's authorized agent(s), including but not limited to the CGCLA, to appeal the Valuation or classification of their lot, as well as any taxes imposed thereon, on behalf of and in the name of the City, without any further action of the City authorizing such appeal. The Lessee and/or their authorized agent shall have full authority, and responsibility, for filing the appeal and paying all fees and costs associated therewith and shall hold the City harmless from any obligations related thereto. The City shall have no responsibility to pursue any such appeal; however, the City agrees to cooperate, in good faith, with the Lessee, or their authorized agent(s), in their pursuit of any such appeal. The rights to appeal granted herein shall include the right to pursue such appeal throughout the statutory process, including any judicial review.

c. In the unlikely event the taxing authority does not itemize taxes by leasehold, and the Lessor only receives a tax bill for the total amount due at the Lake Park, such taxes shall be distributed 1/350 to each of the 350 leasehold lots.

d. Any assessments made by the county or other taxing authority, made by reason of the use of the premises by Lessee shall be reimbursed by Lessee within thirty (30) days after the City gives notice of such amount being due.

e. In the event the CGCLA pursues an appeal pursuant to the authority granted herein, CGCLA agrees to indemnify, and hold harmless, the Lessor from any claims of leaseholders arising from such appeal, except to the extent such claims arise from the actions or omissions of the Lessor.

9. **NO MANAGEMENT AUTHORITY:** No Lessee may individually, nor acting on behalf of any organization or entity, at any time represent that they have authority over the management or maintenance of the Council Grove City Lake Park.

10. **CONSTRUCTION REPAIR AND MAINTENANCE:**

a. All construction, repair and maintenance of any improvement upon the Leased Premises shall comply with the duly adopted Building Codes of the City, in effect at the time of such construction, repair and maintenance, the same as though the Leased Premises were located within the corporate limits of the City. Lessee shall be required to obtain any permit, and pay any fee, associated with such construction, repair and maintenance as though the Leased Premises were located within the corporate limits of the City.

b. Lessee shall, throughout the term of this Lease, at its own cost, and without any expense to Lessor, keep and maintain the premises, including all buildings and improvements of every kind that may be a part of the Leased Premises, and all appurtenances to the Leased Premises, in good, sanitary, and neat order, condition and repair, and except as specifically provided in this Lease, restore and rehabilitate any improvements of any kind that may be destroyed or damaged by fire, casualty, or any other cause whatsoever.

c. The damage, destruction, or partial destruction of any building or other improvement that is a part of the Leased Premises shall not release Lessee from any obligation under this Lease, except as expressly provided below. In case of damage to or destruction of any such building or improvement, Lessee shall at its own expense promptly repair and restore it to a condition as good or better than that which existed prior to the damage or destruction or remove such building or improvement & restore property to a clean condition.

d. In spite of anything to the contrary in the immediately preceding paragraphs of this section, in case of damage or destruction to improvements on the Leased Premises, to an extent that they are no longer useable by Lessee, Lessee may elect to terminate this Lease by written notice to Lessor; however, such termination shall not be effective until Lessee shall have either removed all of the improvements from the Leased Premises, and restored the property to a clean, sanitary and safe condition, or if Lessor at its sole discretion has waived in writing such action by Lessee.

e. The Lessor does not contemplate black-topping or hard-surfacing any of the roads at the Council Grove City Lake Park, however in the event that seventy-five percent (75%) or more of the leaseholders in any particular section should petition for hard-surfacing of roads serving that section, the Lessor shall have the right to make a special assessment against the leaseholders receiving the benefit of such improvements. Such assessment shall be on a "per lot" basis, or any other means the Lessor deems appropriate and payment of that special assessment is in addition to any other obligations herein.

f. The Lessor does not contemplate making any improvements for a sewage disposal system in the Council Grove Lake Park, however in the event that seventy-five percent (75%) or more of the leaseholders in any particular section should petition the Lessor for such a sewage disposal system, then the Lessor shall have the right to make a special assessment upon the leaseholders for payment for any and all costs and expenses for such system. Such special assessments shall be based upon a "per lot" basis or any other manner as the Lessor deems appropriate, and shall be in addition to any other obligations set forth herein.

11. **UTILITIES:** Lessee shall fully and promptly pay all monthly service charges for all water, gas, heat, light, power, telephone service, and other public utilities of every kind furnished to the leased premises throughout the term of this Lease, and all other costs and expenses of every kind whatsoever of or in connection with the use, operation, and maintenance of the leased premises and all activities conducted on the Leased Premises, and Lessor shall have no responsibility of any kind for any such costs and expenses.

12. **DEFAULT:**

a. Lessee shall be in default under the terms of this Lease if he/she/it shall fail to comply with any provision hereunder, and such failure continues for a period of sixty (60) days after Lessor has provided notice of such default, in writing. Such notice, on the part of Lessor, shall provide Lessee with a description of the default, the actions necessary to remedy the default, and shall allow the Lessee sixty (60) days within which to correct the default.

b. Except for a default by Lessee regarding the payment of rent under Section 5, or reimbursement of taxes and assessments under Section 8, Lessor shall have the right, upon the expiration of sixty (60) days following delivery of the notice set forth above, to either proceed to remedy the default itself and to assess the cost of such action against the Lessee, or bring an injunctive action, requesting a court of competent jurisdiction to order the Lessee to correct the default. In the event Lessor takes action, it shall be entitled to recover its actual costs, including reasonable attorney fees, plus an administrative fee of five percent of those costs. The administrative fee shall not exceed \$500.00. The costs and administrative fee imposed by the Lessor shall be billed to the Lessee and if not paid within thirty (30) days of such billing, Lessor shall be entitled to file notice of such costs with the Morris County Register of Deeds and such shall become a lien on the Leased Premises. If Lessor elects to bring an injunctive action to enforce the provisions hereunder, the prevailing party shall be entitled to recover their costs, including reasonable attorney fees.

c. If Lessee is in default for failure to pay rent, or other fees, pursuant to Section 5, or reimbursement of taxes and assessments under Section 8, upon expiration of sixty (60) days following delivery of the notice set forth above, Lessor shall be entitled to bring an action in a court of competent jurisdiction to recover such amounts and to also foreclose its first and prior lien on the Leased Premises, and shall be entitled to recover its costs, including reasonable attorney fees.

13. **QUIET ENJOYMENT/LESSORS RIGHT OF ENTRY:** Lessor covenants that Lessor is seized of the Leased Premises, in fee simple, and has full right to make and enter into this Lease and that Lessee shall have quiet and peaceable possession of the leased premises and improvements during the term of this Lease. Lessee shall permit Lessor and the agents and employees of Lessor to enter upon the unimproved portion of the leased premises at any time. Lessor and the agents and employees of the

Lessor may enter improvements at all reasonable times, with prior reasonable notice to the Lessee, for the purpose of inspecting the leased premises and improvements, inspecting for compliance with this Lease and any ordinances, or for the purpose of posting any notices.

14. SPECIAL OBLIGATIONS OF THE CITY:

a. The city shall maintain all main roads within the Council Grove City Lake subdivision in order to provide the Leased Premises with access to public right-of-ways, consistent with the policy used within the City limits.

b. The City agrees to work with CGCLA and any leaseholders to establish an Advisory Committee to the City Council on matters pertaining to the City Lake Park.

c. The City shall maintain the Park, including the lake, and its supporting infrastructure, in compliance with all applicable statues, laws, rules and regulations. However nothing herein shall require the maintenance of the infrastructure which would be contrary to the best interest of the City.

d. The Lake is the primary water source for the City and the City shall have the right to impose such ordinances, rules and regulations as it deems necessary to protect the water supply.

e. The City agrees to compile and make public a semi-annual accounting of all revenues generated by, and expenses incurred for, the Council Grove City Lake Park. After the first year, the City further agrees to set aside and reserve 10% of the lease rent fee to be placed in a special Capital Improvement Fund to help finance improvements at the Council Grove City Lake Park that provide benefit to the Lessees and public access facilities. A committee, including representatives of CGCLA, shall be established for the purpose of reviewing and recommending expenditures from this fund. The City Council shall thereafter reasonably and in good faith determine the amount and purpose of expenditure from the fund, but shall not be bound to follow the committee's recommendations.

f. Notice of any new ordinances enacted by the Lessor applicable to the Council Grove City Lake Park shall be sent, at the end of each calendar year to the Lessee.

15. SPECIAL OBLIGATIONS OF THE LESSEE:

a. Lessee shall not do, or permit, anything upon the leased premises that will jeopardize the water supply of the City.

b. This Lease does not, and is not intended to, contain all matters regarding the Lake Park and each leasehold. Lessee shall obtain, read and comply with all applicable laws, statues, ordinances, rules and regulations regarding the use of the Leased Premises.

c. Lessee shall not use the premises so as to constitute a nuisance.

d. Lessee shall be responsible for removal of garbage, rubbish, other waste and waste disposal from the Leased Premises, at Lessee's expense.

e. Chemicals may only be used on leased premises with a Chemical Permit as set forth by city ordinance.

- f. On all cabins, homes, residences or dwellings located upon the lease site, there shall be displayed, clearly visible to the public, both the section number and lot number. The letters shall be at least three (3) inches in size.
- g. Nothing in this Lease shall be deemed to lease any tenant any surface water nor does it permit any Tenant to pump water out of the lake for any use without the approval of the City Council.
- h. Lessee may not make any new roads or ways of access to any leasehold in, upon or across the Lake Park or any part thereof.
- i. Before any building or improvement is placed upon the leasehold, the Lessee shall submit to the Lessor an application in writing setting forth a description of the outside dimensions of the building or improvement, the material to be used, the type of construction, and whether the same is new material or used material and such other information as may be requested by the Lessor.

16. EMINENT DOMAIN: In the event all, or any significant portion, of the Leased Premises is taken by an entity, using the entity's power of eminent domain, this Lease shall terminate. In such event, the parties hereto shall each be entitled to make claim against the condemning authority for the amount of any damages they have sustained as a result of such taking.

17. VOLUNTARY SURRENDER: Lessee, at any time during the term of this Lease, as long as Lessee is not in default of any provision hereunder, may voluntarily surrender its rights hereunder to Lessor, and upon doing so this Lease shall terminate, and both parties shall be released from the terms hereof. In order to voluntarily surrender its rights, Lessee shall notify Lessor of its intention to do so, in writing, and shall also file such notice with the Morris County Register of Deeds. Lessor shall have 60 days, from the date the notice is filed with the Register of Deeds, within which to either deny or accept such voluntary surrender, or to notify Lessee of any existing defaults that must be corrected by Lessee before such is acceptable. If Lessor fails to notify Lessee of any such defaults within such time, Lessor shall have been deemed to accept the voluntary surrender on the date the notice was filed with the Register of Deeds. If Lessor notifies Lessee of defaults to be corrected, such notice shall also be filed with the Register of Deeds. In the event Lessor notifies Lessee of defaults to be corrected, this Lease shall not terminate until such defaults are corrected and both parties have filed a consent to terminate the Lease with the Register of Deeds.

18. RIGHT OF FIRST REFUSAL: If at any time during the term of this Lease, Lessor shall receive from any third party a bona fide offer to purchase an individual leasehold the property to which this Lease is subject at a price and on terms acceptable to Lessor, Lessor shall give written notice of the price and terms to Lessee, and Lessee shall have thirty (30) days thereafter in which to execute a written agreement with Lessor for the purchase of such property at that price and on those terms. If Lessor shall so notify Lessee and Lessee shall fail to execute such agreement within the 30 day period, Lessor shall thereafter be free to sell the Property to the third party making the offer on the same terms and conditions set forth in the offer, subject to the terms of this Lease. Nothing herein shall be construed to require a right of first refusal if the Lake real estate is being sold in its entirety.

19. **REGISTER OF DEEDS:** As soon as practical after the execution of this Lease, the parties shall cooperate in its filing with the Morris County Register of Deeds. Lessee shall be responsible for all costs associated with such filing.

20. **NOTICES:** Any notices given by the Lessor to the Lessee will be given to the Primary Leaseholder designated herein at the address to which such Primary Leaseholder authorizes notice until such time, if any, the Primary Leaseholder authorizes a change in such by notice in writing. Any notices to the Lessor shall be given to the City Clerk at the Office of the City clerk of the City of Council Grove, Kansas. Notices or other communication pursuant to this lease shall be given by first class mail, postage prepaid, to:

the City: City of Council Grove
Attn: City Clerk
P.O. Box 313
Council Grove, KS 66846

Primary Lessee: Rusty Heins
Po Box 642
Americus, KS 66835

21. **GENERAL TERMS:**

a. **NO WAIVER:** The waiver of either party, or the failure to take action by that party, with the respect to any breach of any term, covenant or condition contained in this Lease shall not be deemed to be a waiver of such term, covenant or condition or subsequent breach of the same, or any other term, covenant or condition contained in this Lease, nor will it bar enforcement of any term.

b. **BINDING:** The provisions of this Lease shall be binding upon and shall inure to the benefit of the parties, their heirs, executors, administrators, successors and assigns.

c. **TIME OF ESSENCE:** Time is of the essence of this Lease and of each and every covenant, term, condition and provision of this Lease.

d. **PARAGRAPH HEADINGS:** Paragraph headings are for convenience only and are not to be used in construing this agreement.

e. **GOVERNING LAW:** This Lease is entered into, and shall be governed by, the laws of the State of Kansas.

f. **ENTIRE AGREEMENT:** This Lease shall constitute the entire agreement between the parties. Any prior understanding or representation of any kind preceding the date of this Lease shall not be binding upon either party except to the extent incorporated in this Lease. Any prior written leases, whether oral or written, between the parties hereto, regarding the Leased Premises are hereby deemed to be null and void.

g. MODIFICATION: Any modification of this Lease or additional obligation assumed by either party in connection with this Lease shall be binding only if evidenced in writing signed by each party or an authorized representative of each party. This provision shall not apply to modifications of this Lease pursuant to paragraph 3 hereof.

IN WITNESS WHEREOF, the parties have set their hands the date set forth above.

CITY OF COUNCIL GROVE, KANSAS

By: _____
Mayor _____

ATTEST:

City Clerk

LESSEE:

Rusty Heins
Primary Leaseholder Rusty Heins

Anjenette Heins
Lessee Anjenette Heins

Lessee

Address to which Primary Leaseholder authorizes Notices:

PO. Box 642

Americus, KS 66835

The 911 Mailing address for this Leasehold address is as follows:

120 Scenic Circle

Council Grove, KS 66846

BILL OF SALE

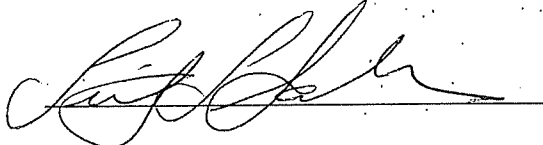
KNOW ALL PERSONS BY THESE PRESENTS, I/we the undersigned Grantor(s), in consideration of the sum of Ten Dollars (\$10.00) and other valuable considerations do, at the time of closing of the contract between the two parties, I/we do GRANT, SELL, TRANSFER AND DELIVER unto Rusty and Anjenette Heins

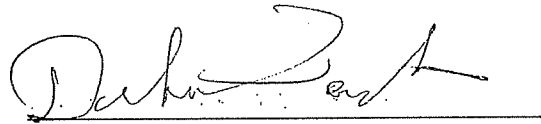
and/or his/her heirs, executors, administrators, and assigns, hereinafter referred to as Grantee(s), the following existing goods and chattels, to wit:

Lake home and related improvements located in Final Plat, Council Grove Lake Park, Section B , LotB -40 , to Morris County, Kansas, 66846, including but not limited to: Water well & well equipment, septic system, all buildings, lake home, dock, boathouse and contents thereof, as well as the assignment of all of the grantors' rights under a Lease Agreement with the City of Council Grove.

TO HAVE AND TO HOLD, all and singular, the said goods and chattels forever; And the said grantor hereby covenants with said grantee(s) that he/she/they are the lawful owner(s) of said goods and chattels; that they are free from all liens and encumbrances; that he/she/they have good right to sell the same as aforesaid, and that he/she/they will warrant and defend the same against the lawful claims and demands of all persons whomsoever.

IN WITNESS WHEREOF, the said grantor(s) have hereunto set their hands this 3rd day of May , 2021





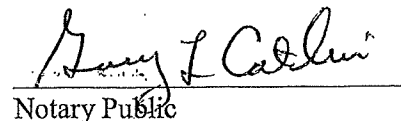
STATE OF Kansas , Morris COUNTY, ss.

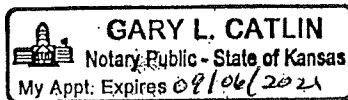
BE IT REMEMBERED, That on this 3rd day of May , 2021 , before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Timothy L. and Debra Sanders of Sanders Charitable Remainder Trust who are/is personally known to me to be the same person(s) who executed the foregoing bill of sale, and such person(s) duly acknowledged the execution of the same.

IN TESTIMONY THEROF, I have hereunto set my hand and affixed my notary seal on the day and year last above written.



www.CGLakeside.net


Notary Public





SEPTIC SYSTEM INSPECTION RESULTS

Section: B Site: B-40 Date: December 21, 2021

Address: 120 SCENIC CIRCLE

Septic System Type: Anaerobic: ()

Aerobic (ATU/AWTDS): ()

Septic Tank Capacity: 1500 GALLON

Septic Tank Material: Concrete: (X) Steel: ()

Lift Pump: Yes: () No: (X)

Pumped By: _____ Date: _____

Inspected By: JAMES MASTERS Date: 10-18-2021

Inspected By: _____ Date: _____

Septic System Approved: Yes: (X) No: ()

Comments: New septic tank. This is a holding tank only. No laterals installed.

Sincerely,

James Masters
City Inspector

Plumbing Permit Application

City of Council Grove, Kansas

10-18-2021
Inspected
Pass (JM)

To be completed by Applicant...

Job Address: <u>110 Jeanne Circle</u> B-40			
Owner: <u>Russ Heins</u>		Phone: <u>620-481-5411</u>	
Mailing Address: <u>PO 642</u>	City: <u>American</u>	State: <u>Ks</u>	Zip: <u>66805</u>
Contractor: <u>Russ Heins</u>		License No.:	
Mailing Address:		City:	State: Zip:
Use of Building:		Area (ft ²):	
Class of Work (circle): New Addition Alteration Repair Move Remove			
Describe Work: <u>Put in new holding tank & 1000^{1,500} gallon Tank</u>			

Job Address: P18
 Owner: Russ Heins
 B-40

NOTICE

Separate permits are required for electrical, plumbing, mechanical and building. This permit becomes null and void if work or construction authorized is not commenced within 180 days, or if construction or work is suspended or abandoned for a period of 180 days at any time after work is commenced. I hereby certify that I have read and examined this application and know the same to be true and correct. All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not. The granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local law regulating construction or the performance of construction.

Permit not validated until Permit Fee is paid.

Signature of Contractor or Authorized Agent	Date
<u>Russ Heins</u>	<u>Oct 4, 2021</u>
Signature of Owner (if owner builder)	Date

OFFICE USE ONLY

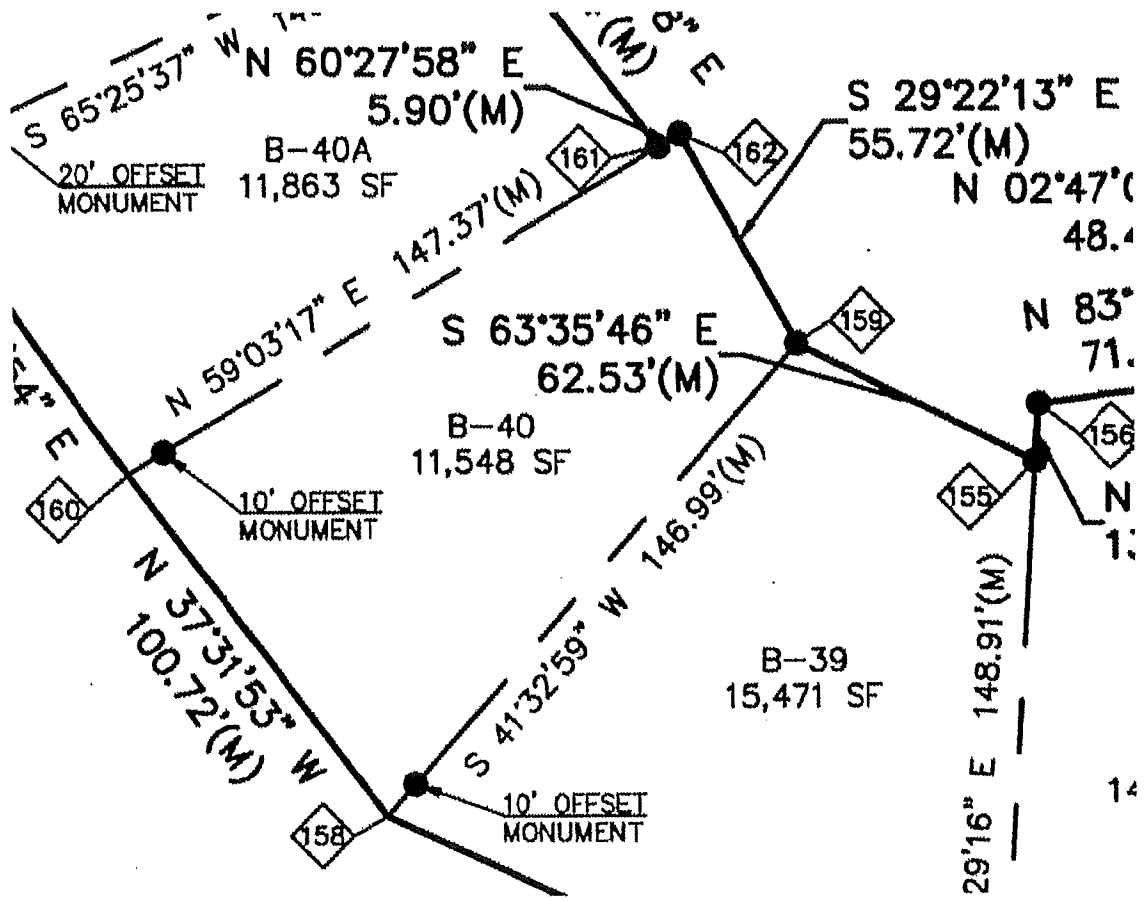
Special Conditions:

Permit No.: 101921P1 Approval Date: 10-19-2021

Approved By: James Mast

PERMIT FEES

Qty.	TYPE OF WORK	Fee
	Water Closet (toilet)	\$
	Bathtub	
	Lavatory (wash basin)	
	Shower	
	Kitchen Sink & Disposal	
	Dishwasher	
	Laundry Tray	
	Clothes Washer	
	Urinal	
	Drinking Fountain	
	Floor - Sink or Drain	
	Slop Sink	
	Sewer	
	Cesspool	
/	Septic Tank & Pit	40.00
	Water Heater	
	Waste Interceptor	
	Water Piping & Treating Equipment	
	Lawn Sprinkler System	
	Vacuum Breakers	
	Gas Systems: No. of Outlets	
		PAID
		OCT 19 2021
		CITY OF COUNCIL GROVE
PERMIT ISSUING FEE		\$ 20.00
PERMIT FEE:		\$ 60.00

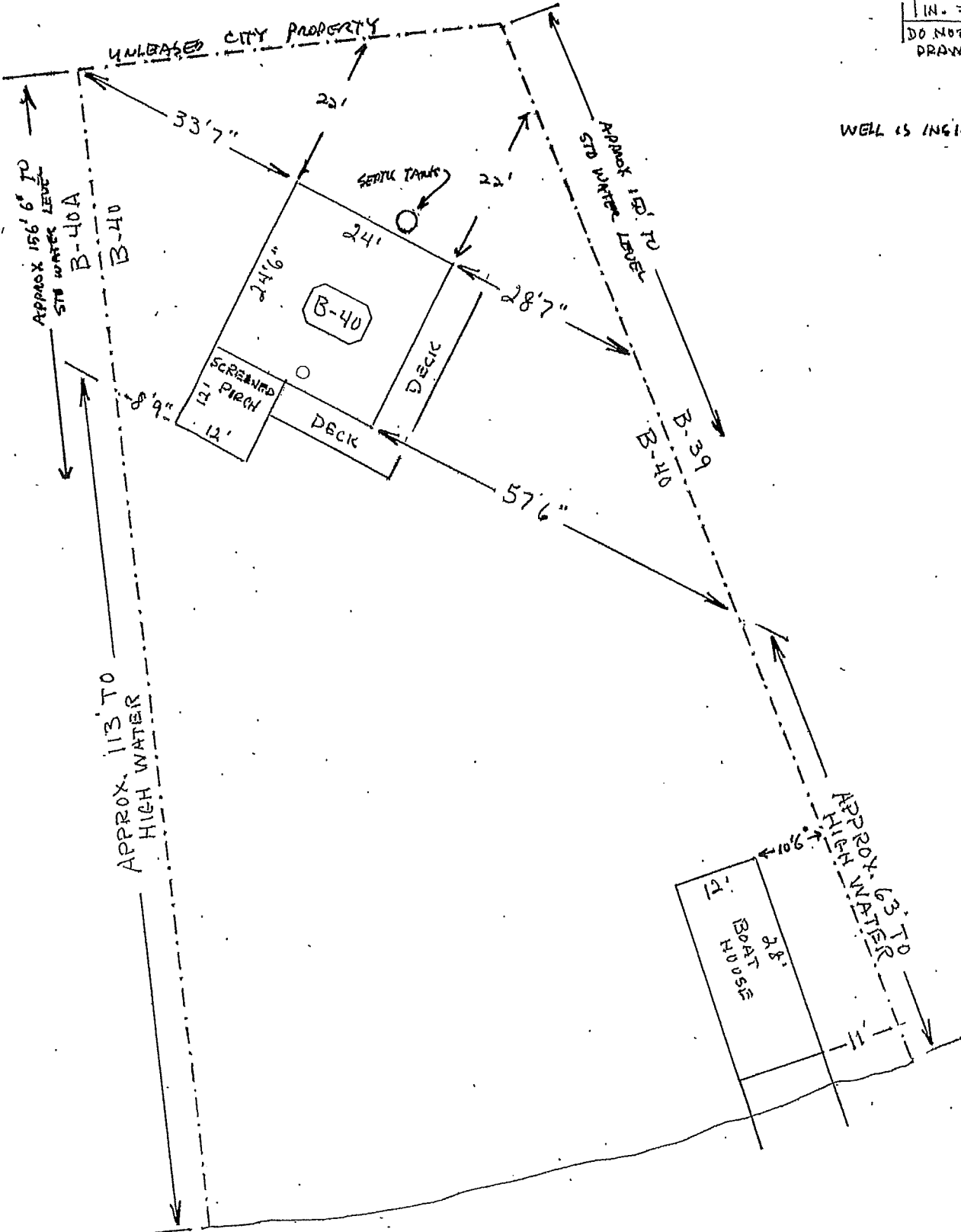


BOUNDARY CORNER COORDINATES				
◇	NORTHING	EASTING	LATITUDE	LONGITUDE
	155	129767.2887	1722376.5359	N38.68070425 W96.56361791
	156	129780.7306	1722377.4188	N38.68074112 W96.56361407
	157	129789.3966	1722448.6962	N38.68076180 W96.56336395
+	158	129685.0891	1722223.0352	N38.68048527 W96.56416010
+	159	129795.0947	1722320.5304	N38.68078303 W96.56381252
+	160	129764.9619	1722161.6771	N38.68070722 W96.56437057
+	161	129840.7410	1722288.0679	N38.68090976 W96.56392368
+	162	129843.6507	1722293.2037	N38.68091752 W96.56390553
	163	129838.1501	1722109.6683	N38.68091041 W96.56454866
	164	129899.1362	1722243.0398	N38.68107203 W96.56407815
	165	129950.7070	1722079.7884	N38.68122072 W96.56464706
	166	129986.1672	1722225.2380	N38.68131174 W96.56413566
	167	129989.2246	1722236.5119	N38.68131964 W96.56409601
	168	129904.4429	1722255.2431	N38.68108607 W96.56403511
	169	130033.1687	1722073.6402	N38.68144737 W96.56466402
	170	130063.6910	1722222.0139	N38.68152471 W96.56414265
	171	130095.3238	1722052.6560	N38.68161893 W96.56473406
	172	130162.9578	1722192.8739	N38.68179850 W96.56423920
	173	130142.9769	1722217.0001	N38.68174260 W96.56415581
	174	130070.8245	1722257.6795	N38.68154274 W96.56401734
	175	130176.3000	1722028.8056	N38.68184227 W96.56481310
	176	130245.0167	1722143.7375	N38.68202592 W96.56440674
	177	130024.9863	1721791.3957	N38.68143719 W96.56565302
	178	129945.8179	1721770.9177	N38.68122073 W96.56572913
	179	129965.6407	1721619.2946	N38.68128175 W96.56625909
	180	129967.8847	1721602.1779	N38.68128865 W96.56631891
	181	130055.2704	1721618.0312	N38.68152787 W96.56625854
	182	129882.2251	1721767.6847	N38.68104629 W96.56574399
	183	129880.9948	1721620.9262	N38.68104929 W96.56625807
	184	129806.9947	1721771.0647	N38.68083961 W96.56573632
	185	129805.6049	1721722.0257	N38.68083793 W96.56590815
	186	129802.7456	1721619.4449	N38.68083454 W96.56626759
	187	129802.3369	1721610.6985	N38.68083379 W96.56629825
	188	129880.7707	1721608.6175	N38.68104921 W96.56630119
	189	129677.5097	1721780.3865	N38.68048372 W96.56571086
	190	129722.6539	1721641.0639	N38.68061372 W96.56619632
	191	129725.7022	1721632.1132	N38.68062247 W96.56622750
	192	129540.8252	1721648.1892	N38.68011422 W96.56618145
	193	129684.8079	1721610.1729	N38.68051116 W96.56630661
	194	129558.9489	1721546.0763	N38.68016842 W96.56653808
	195	129721.6763	1721557.8275	N38.68061465 W96.56648790
STATE PLANE COORDINATES (UNADJUSTED) KANSAS NORTH ZONE 1501, NAD 1983, US SURVEY FEET			LATITUDE & LONGITUDE DECIMAL DEGREES	

B-40 P21

1 IN. = 20 FT.
DO NOT SCALE
DRAWING

WELL IS INSIDE CABIN





CITY OF COUNCIL GROVE • 205 UNION STREET • PO BOX 313 ^{P22}
COUNCIL GROVE, KS 66846 • 620-767-5417 • COUNCILGROVE.COM

CITY LAKE COMMITTEE

CITY COUNCIL MEETING RECOMMENDATION, JANUARY 4, 2022

THE LAKE COMMITTEE RECOMMENDS THE COUNCIL APPROVE THE TREE REMOVAL AND DREDGING BETWEEN B-52 AND C-W4.

Anthony and Amy Deboer, B-52

Shawn Dooly with PMI will be doing the dredging and tree removal. Attached are photos of the trees to be removed. They are marked in red and orange. Also shown in the photos are the materials to be removed in front of B-52. The Corp of Engineers has determined that the material to be removed is silt that has washed into the lake over the years. The Corp of Engineers has issued a special permit for the removal of materials (attached).

LAKE COMMITTEE: KEITH WESSEL
LARRY SIEGRIST

CITY INSPECTOR: JAMES MASTERS



Trees to be removed for B-52 Dredging 12-27-2021



Trees to be
Removed marked
In Red P24



2021-12-27 14:03

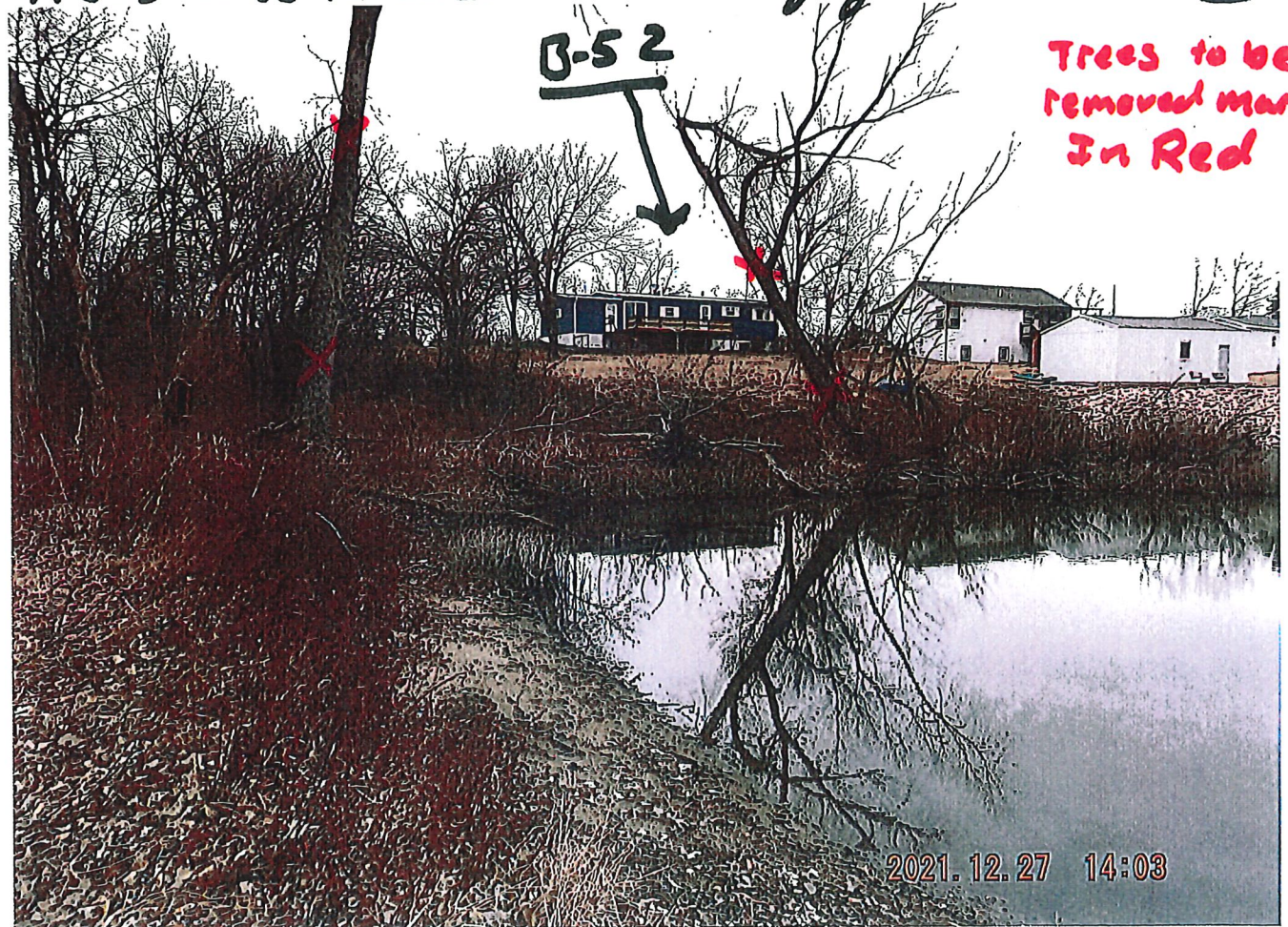
Trees to be removed for B-52 Dredging 12-27-2021 (m)



2021-12-27 14:03



Trees to be removed for B-52 Dredging 12-27-2021 (JM)



Open Records for Kansas Appraisers - Morris County





REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
KANSAS CITY DISTRICT, CORPS OF ENGINEERS
KANOPOLIS REGULATORY SATELLITE OFFICE
107 RIVERSIDE DRIVE
MARQUETTE, KANSAS 67464

November 17, 2021

Kanopolis Satellite Office
 (NWK-2021-00813)
 (Morris Co., GP-43)

Mr. Randy Kufahl
 501 Summit St.
 Wheaton, Kansas 66521

Dear Mr. Kufahl:

This letter pertains to an application submitted on behalf of Anthony DeBoer for a Department of the Army (DA) permit. It was received on October 29, 2021. The proposed work concerns the removal of approximately 0.25 acres of accumulated silt and debris from Council Grove City Lake adjacent to the property located at 100 Sunrise Point. As indicated, all excavated material will be disposed of in an upland location. The project is located on Council Grove City Lake in Section 7, Township 16 South, Range 8 East, Morris County, Kansas [Lat: 38.6803, Long: -96.5677].

The Corps of Engineers has jurisdiction over all waters of the United States. Discharges of dredged or fill material in waters of the United States, including wetlands, require prior authorization from the Corps under Section 404 of the Clean Water Act (33 USC 1344). The implementing regulation for this Act is found at 33 CFR 320.332.

We have reviewed the information furnished and have determined that your project is authorized by General Permit No. 43 (GP-43), provided you ensure that the general and special conditions listed in the permit are met. The general and special conditions may be downloaded from the following location:
<https://usace.contentdm.oclc.org/utills/getfile/collection/p16021coll7/id/12913>.

The Kansas Department of Health and Environment (KDHE) has certified that this general permit will not violate existing state water quality standards provided you comply with the conditions included in their attached water quality certification. All conditions included in the water quality certification become conditions of this GP-43 verification, please carefully review all conditions associated with this permit. If you have any questions concerning state water quality standards or compliance issues with the associated certification conditions, please contact KDHE at 785-296-5573, Bureau of Environmental Field Services, Watershed Management Section, 1000 SW Jackson Street, Suite 430, Topeka, Kansas 66612-1367.

Special condition "a" of the GP-43 requires you to sign and submit the enclosed "Compliance Certification" upon completion of the authorized work and any required mitigation.

This general permit is valid until December 5, 2024, unless it is modified, revoked or specifically extended. It is incumbent upon you to remain informed of changes to this general permit. We will issue a public notice when this general permit is reissued. Furthermore, if you commence or are under contract to commence this activity before the date that this general permit is modified or revoked, you will have twelve (12) months from the date of the modifications or revocation of the general permit to complete the activity under the present terms and conditions of this general permit. Should the scope of the project change, the general permit may not apply and you must notify the Corps for another permit determination. Other Federal, state and/or local permits may be required and you should verify this yourself.

We are interested in your thoughts and opinions concerning your experience with the Kansas City District, Corps of Engineers Regulatory Program. Please feel free to complete our Customer Service Survey form on our website at: <https://regulatory.ops.usace.army.mil/customer-service-survey/>. You may also call and request a paper copy of the survey which you may complete and return to us by mail.

Mr. Steven Whetzel, Regulatory Specialist, reviewed the information furnished and made this determination. If you have any questions concerning this matter, please feel free to contact Mr. Whetzel at 816-389-3098 or at steven.m.whetzel@usace.army.mil. Please reference Permit No. 2021-00813 in all comments and/or inquiries relating to this project. This letter is only being provided to you electronically at: randy.kufahl@midwestconcretematerials.com

Enclosures

Copies Furnished (electronically wo/enclosures):

Environmental Protection Agency,
Watershed Planning and Implementation Branch
U.S. Fish and Wildlife Service, Manhattan, Kansas
Kansas Department of Wildlife and Parks
Kansas Department of Health and Environment
Kansas Department of Agriculture
James Masters, Inspector,
Citycg4@tctelco.net
Anthony and Amy DeBoer,
adeboer@ymail.com

COMPLIANCE CERTIFICATION

Special condition (a) of this General Permit requires that you submit a signed certification regarding the completed work and any required mitigation. This certification page satisfies this condition if it is provided to the Kansas City District at the address shown at the bottom of this page upon completion of the project.

APPLICATION NUMBER: NWK-2021-00813

APPLICANT:

Anthony and Amy DeBoer
17304 Jessica Lane
Gretna, NE 68028

PROJECT LOCATION: The project is located on Council Grove City Lake in Section 7, Township 16 South, Range 8 East, Morris County, Kansas [Lat: 38.6803, Long: -96.5677].

- a. I certify that the authorized work was done in accordance with the Corps authorization, including any general or specific conditions.
- b. I certify that any required mitigation was completed in accordance with the permit conditions.
- c. Your signature below, as permittee, indicates that you have completed the authorized project as certified in paragraphs a and b above.

(PERMITTEE)

(DATE)

Return this certification to:

U.S. Army Corps of Engineers (Whetzel)
Kanopolis Satellite Office
107 Riverside Drive
Marquette, KS 67464



DEPARTMENT OF THE ARMY PERMIT

Permittee: General Public, Government Agencies

Permit No. GP 43 (Maintenance of Man-Made Lakes and Ponds)

Issuing Office: U.S. Army Engineer District, Kansas City

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: This Regional General Permit (RGP) authorizes activities designed to improve water quality, improve fish and wildlife habitat, and extend the lifespan of man-made lakes and ponds. This permit authorizes the removal and discharge of lakebed/pond sediment in conjunction with mechanical dredging, hydraulic dredging and excavation activities. The use of standard construction equipment to remove accumulated sediment is authorized by this permit. The dredged/excavated material may be used in the construction of jetties/breakwaters, shoreline stabilization structures, fish and wildlife habitat improvement structures and other similar activities. No additional material from an off-site location, other than riprap, may be used as fill material. The original depths, elevations, contours and size of the water body shall not be exceeded as a result of the sediment removal process. This RGP will also authorize the construction of jetties, breakwaters, hard points, bank stabilization or similar features designed to attenuate wave action not associated with sediment removal.

Authorized Uses of Dredged/Excavated Material:

1. Authorized uses of dredged/excavated material within "Waters of the U.S." is limited to the boundary established by the ordinary high water mark of the impoundment from which it was removed.
2. The dredged/excavated material may be used to re-build eroded bank lines, provided the toe of the new slope does not exceed that of the original bank toe. The discharged material must be armored or appropriately stabilized to prevent the dredged/excavated material from re-entering the water body. Alternatively, these structures may be constructed entirely of riprap. The slope of re-shaped or armored banks may vary from 1(h):1(v) to 10(h):1(v).
3. The dredged/excavated material may be used as the foundation/core of jetties, breakwaters, hard points, or similar features that attenuate wave action. The discharged material must be armored or appropriately stabilized to prevent the dredged/excavated material from re-entering the water body. Alternatively, these structures may be constructed entirely of riprap. Breakwater structures will be limited to: 400-foot length, 15-foot top widths, heights varying between 3 and 20 feet and side slopes varying from 1(h):1(v) to 6(h):1(v).
4. The dredged/excavated material may be used to construct temporary structures such as coffer dams, causeways, work platforms or similar features. The temporary structures must be armored or appropriately stabilized to prevent the dredged/excavated material from re-entering the water body. Immediately upon the completion of the construction activity, all temporary fill material shall be removed in its entirety from Waters of the U.S., placed in an upland area and stabilized such that it cannot re-enter the water body. The area in which the temporary structure was placed shall be restored to its pre-construction condition.
5. The dredged/excavated material may be used for other similar activities and structures on a case-by-case basis.

Preconstruction Notification Procedures (PCN): Permit applicants must notify the Kansas City District Regulatory Program to receive authorization under this RGP. The notification must include:

- (1) A completed application form ENG 4345, or equivalent information. Copies of ENG Form 4345, instructions or assistance may be obtained by writing or calling the Kansas City District, Corps of Engineers, or by downloading at: <http://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Obtain-a-Permit/>
- (2) A clearly marked site location map.
- (3) Detailed drawings and sufficient information to determine if the proposed work conforms to the criteria and conditions of the RGP (plan and cross-sectional views of each work area).

Other Information:

1. Project-specific special conditions may be incorporated into project specific permits to further minimize impacts.
2. No activity associated with an environmental remediation activity is authorized under this RGP.
3. Generally, compensatory mitigation will not be required for impacts to wetlands formed as a result of erosion or sedimentation. If other special aquatic sites are impacted, compensatory mitigation will be determined on a case-by-case basis.

Project Location: All Counties in Kansas - Man-made lakes and ponds in the State of Kansas (including Indian Country within Kansas boundaries), excluding those areas identified as Outstanding National Resource Waters (ONRW) pursuant to the Kansas Surface Water Register dated June 1, 1999. This RGP does not apply to the following Corps of Engineers lakes/reservoirs located within the Corps of Engineers, Tulsa District: Big Hill Lake, Council Grove Lake, El Dorado Lake, Elk City Lake, Fall River Lake, John Redmond Reservoir, Marion Reservoir and Toronto Lake.

All authorized work is lakeward of the Ordinary High Water Mark.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on 5 December 2024. For individually authorized projects where notification is required, the work is authorized for two years from the date of permit verification received from the Corps of Engineers. If you find that you need more time to complete the authorized activity when notification is required, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

See continuation sheets, pages 5 and 6, of this document.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:
 - () Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
 - (X) Section 404 of the Clean Water Act (33 U.S.C. 1344).
 - () Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).
2. Limits of this authorization.
 - a. This permit does not obviate the need to obtain other Federal, state, or local authorization required by law.
 - b. This permit does not grant any property rights or exclusive privileges.
 - c. This permit does not authorize any injury to the property or rights of others.
 - d. This permit does not authorize interference with any existing or proposed Federal project.
3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:
 - a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
 - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
 - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
 - d. Design or construction deficiencies associated with the permitted work.
 - e. Damage claims associated with any future modification, suspension, or revocation of this permit.
4. Reliance on Applicant's Data: The determination of this office that verification of this RGP is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this RGP at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

- a. You fail to comply with the terms and conditions of this permit.
- b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.


Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

GENERAL PUBLIC – SIGNATURE NOT REQUIRED
(PERMITTEE) _____ (DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.


 _____ 5 December 2019
 (DISTRICT ENGINEER) (DATE)
 WILLIAM C. HANNAN, JR., COLONEL
 BY: MARK D. FRAZIER
 CHIEF, REGULATORY BRANCH

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFEREE) (DATE)

Special Conditions:

- a. You must sign and return a "Compliance Certification" after you complete the authorized work and any required mitigation. Your signature will certify that you completed the work in accordance with this permit, including general and special conditions, and any required mitigation.
- b. Dredged or excavated material must be disposed of in an upland location or as described in the "Authorized Uses of Dredged/Excavated Material" section of this permit. All material placed in an upland area must be stabilized were it cannot be introduced into the water body or any adjacent wetland as a result of runoff, flooding, wind, or other natural forces.
- c. Return water associated with hydraulic dredging is authorized in accordance with the attached Kansas Department of Health and Environment (KDHE) Water Quality Certification (WQC). For projects located in Indian Country, separate individual Water Quality Certification (WQC) from the U.S. Environmental Protection Agency (USEPA) may be required. See General Condition 5.
- d. The following materials are not suitable for fill activities in waters of the United States: vehicle bodies, construction or demolition debris, asphalt in any form, garbage, tires, treated lumber products that do not comply with the Registration Documents issued by the USEPA under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and that are not in accordance with standards issued by American Wood Protection Association or the International Code Council, liquid concrete not poured into forms, grouted riprap, bagged cement and sewage or organic waste.
- e. You must excavate, dredge and/or fill in the watercourse in a manner that will minimize increases in suspended solids and turbidity which may degrade water quality and damage aquatic life outside the immediate area of operation.
- f. You must immediately remove and properly dispose of all debris during every phase of the project in order to prevent the accumulation of unsightly, deleterious and/or toxic materials in or near the water body.
- g. You must not dispose of any construction debris or waste materials below the ordinary high water mark of any water body, in a wetland area, or at any location where the materials could be introduced into the water body or an adjacent wetland as a result of runoff, flooding, wind, or other natural forces.
- h. You must store all construction materials, equipment, and/or petroleum products, when not in use, above anticipated high water levels.
- i. You must restrict the clearing of timber and other vegetation to the absolute minimum required to accomplish the work. Clearing, grading and replanting should be planned and timed so that only the smallest area necessary is in a disturbed, unstable or un-vegetated condition.
- j. You must use only graded rock, quarry-run rock and/or clean concrete rubble for riprap. The material must be reasonably well graded, consisting of pieces varying in size from 20 pounds up to and including at least 150 pound pieces. Generally, the maximum weight of any piece should not be more than 500 pounds. Gravel and dirt should not exceed 15% of the total fill volume. If you use concrete rubble, you must break all large slabs to conform to the well graded requirement, and remove all exposed reinforcement rods, trash, asphalt, and other extraneous materials before you place the rubble in the water of the United States.
- k. In addition to the requirements of General Condition 3, if any funerary objects or human remains are unearthed at any time during the course of this authorized work, you must halt construction activities and notify the Corps of Engineers at 316-322-8247 immediately.

l. For all vegetative planting you must not plant any plant species listed at: <https://cdm16021.contentdm.oclc.org/utills/getfile/collection/p16021coll11/id/2682> nor shall any of these species be used for re-vegetation unless this requirement is waived by the District Engineer based on a case specific analysis of the re-vegetation plan. Best management practices should be used to reduce the risk of transferring invasive plant and animal species to or from the project site. Known zebra mussel waters within Kansas can be found at <http://nas.er.usgs.gov/queries/zmbyst.asp>.

m. If the activity occurs within the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures, the applicant must identify in the PCN the locations and stakeholders for each water supply intake structure.

n. You must receive Corps verification of GP-43 authorization before you begin any work in waters of the United States. Should any part of the authorized work be performed by a contractor, you must discuss the terms and conditions of this permit with the contractor prior to beginning work; and, you must give a copy of this entire permit to the contractor.

o. Verification of this General Permit may come with additional site specific conditions and you must comply with those site specific conditions identified in the General Permit verification letter.

p. This General Permit does not authorize any activity that would conflict with a Corps civil works project's congressionally authorized purposes, established limitations or restrictions, or limit an agency's ability to conduct necessary operation and maintenance functions. Per Section 14 of the Rivers and Harbors Act of 1899, as amended (33 U.S.C. 408), no project that has the potential to take possession of or make use of for any purpose, or build upon, alter, deface, destroy, move, injure, or obstruct a Corps civil works constructed work or project, including, but not limited to, levees, dams, jetties, navigation channels, borrow areas, dredged material disposal sites, flood control projects, etc., shall be permitted unless the project has been reviewed and approved by the appropriate Corps approval authority. If the proposed activity has the potential to modify or conflict with a Corps civil works authorized project, the permittee must submit the information described in the "Notification Procedures". Permittees shall not begin the activity until notified by the Corps that the activity may proceed under the general permit.

q. No activity is authorized under this RGP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized which "may effect" a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.

r. No activity which may affect historic properties listed or eligible for listing, in the National Register of Historic Places is authorized by GP-43 until the District Engineer has complied with the provisions of 33 CFR part 325, Appendix C (or amended regulations). As a result the National Register of Historic Places and the Federal Register, along with other databases, will be checked for every PCN request received and considered for authorization under the GP-43 to determine if any properties listed or proposed for listing in the National Register would be impacted by the project. Should any such properties be identified, the Corps will coordinate with the Kansas SHPO and comply with the provisions of 33 CFR part 325, Appendix C (or amended regulations).

Division of Environment
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www.kdheks.gov

Lee A. Norman, M.D., Secretary

Laura Kelly, Governor

August 2, 2019

Mr. Steven M. Whetzel
Regulatory Specialist
Kanopolis Regulatory Field Office
107 Riverside Drive
Marquette, Kansas 67464

Section 401 Water Quality Certification

RE: PN2018-01280: Applicant: General Public and Government Agencies in the State of Kansas for Maintenance of Man-Made Lakes and Ponds. This RGP does not apply to the following Corps of Engineers lakes/reservoirs located within the Corps of Engineers, Tulsa District: Big Hill Lake, Council Grove Lake, El Dorado Lake, Elk City Lake, Fall River Lake, John Redmond Reservoir, Marion Reservoir and Toronto Lake.

Mr. Whetzel:

On July 17, 2019, the Kansas Department of Health and Environment (KDHE) received, from the U.S. Army Corps of Engineers, Kansas City District, an emailed request for Section 401 Water Quality Certification for the proposed Section 404 project as described below. However, the email stated the following:

Description from the U.S. Army Corps of Engineers, Kansas City District/KDHE Joint Public Notice dated June 28, 2019: "Activity: This RGP authorizes activities designed to improve water quality, improve fish and wildlife habitat, and extend the lifespan of man-made lakes and ponds. This permit authorizes the removal and discharge of lakebed/pond sediment in conjunction with mechanical dredging, hydraulic dredging and excavation activities. The use of standard construction equipment to remove accumulated sediment is authorized by this permit. dredged/excavated material may be used in the construction of jetties/breakwaters, shoreline stabilization structures, fish and wildlife habitat improvement structures and other similar activities. No additional material from an off-site location, other than riprap may be used as fill material. The original depths, elevations, contours and size of the water body shall not be exceeded as a result of the sediment removal process. This RGP will also authorize the construction of jetties, breakwaters, hard points, bank stabilization or similar features designed to attenuate wave action not associated with sediment removal.

RGPs may cause only minimal individual and cumulative environmental impacts. Accordingly, the Kansas City District is specifically requesting public comments on reasonable limits for authorized activities to remain within minimal impact thresholds.

PROJECT LOCATION: Man-made lakes and ponds located within waters of the United States in the State of Kansas. This RGP does not apply to the following Corps of Engineers lakes/reservoirs located within the Corps of Engineers, Tulsa District: Big Hill Lake, Council Grove Lake, El Dorado Lake, Elk City Lake, Fall River Lake, John Redmond Reservoir, Marion Reservoir and Toronto Lake.

All authorized work is lakeward of the Ordinary High-Water Mark

Mr. Whetzel (PN 2018-01280)
 August 2, 2019
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WETLANDS/AQUATIC HABITAT: Compensatory mitigation will not be required for impacts to wetlands formed as a result of erosion or sedimentation within the impoundments. Reference Regulatory Guidance Letter (RGL) 18-01, Determination of Compensatory Mitigation Credits for the Removal of Obsolete Dams and Other Structures from Rivers and Streams concerning loss of wetlands due to ecosystem restoration.

The KDHE has reviewed the project application material and determined the project has the following water pollutant discharge sources:

1. Construction activities including grading and filling, equipment storage, fueling and maintenance.
2. Dredging and material application.

Discharges from these sources if not minimized or otherwise controlled may cause violations of the provisions of Kansas Water Quality Standards found at KAR 28-16-28 et seq. As the locations of the sites are unknown, no designated uses will be noted here. However, since they are identified as "Waters of the US" then they will also be identified as "waters of the state" and need protection under the general water quality standards narrative through compliance with the conditions within.

KDHE has reviewed the certification request materials and associated documents, in response to the joint public notice of the project and find there is a potential for significant water quality impacts. Therefore, KDHE issues this Section 401 Water Quality Certification subject to the conditions enumerated throughout this letter.

- 1) This certification shall be kept on site through the duration of the project.
- 2) **KDHE Notification:** Permit recipients shall email KDHE at NPS@kdheks.gov when dredging or construction starts.
- 3) **Pursuant to Department of Army Permit, Special Condition c.: "Return water associated with hydraulic dredging is authorized in accordance with the attached Kansas Department of Health and Environment (KDHE) Water Quality Certification (WQC)." (Page 5)**
 - a. Return water from the mechanical or hydraulic dredging of a private waterbody does not need an NPDES permit if the return water is routed directly back into the waterbody i.e., piped directly back and not routed to a stream or intermittent drainage considered to be a "Water of the US".

If the routing back into the private waterbody is not direct or if some type of chemical additive such as a flocculent is employed, then an NPDES permit may be required on the return water discharge. Any discharge of return water not directly back into the waterbody where sediment removal is taking place will require an NPDES permit. Any discharge of return water to an Outstanding National Resource Water (ONRW) is prohibited. Discharges into other "high value" waters are only allowed if the water quality can be maintained through the duration of the project (see pages 10 through 15 of the document at this link for list of waters and applicable Kansas surface water quality standards: <https://usace.contentdm.oclc.org/utills/getfile/collection/p16021coll11/id/2651>).

- b. Construction activities associated with the construction of jetties, breakwaters, hard points, fishing piers would not require an NPDES Construction Stormwater Permit. Onshore soil disturbing activities associated with any of the referenced projects that disturb 1 acre or more will require an NPDES Construction Stormwater Permit.

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- c. Construction activities being located next to streams or drainages should have sufficient buffer available.
- d. Consider using dewatering or sediment filter bags for dredged material.
- e. Construction of confined disposal facilities (CDFs), sediment disposal/spreading activities, or construction activities that will disturb 1 acre or more will require an NPDES Construction Stormwater Permit. Sediment spreading activities upon cultivated ground would not require an NPDES Construction Stormwater Permit.
- f. Regarding the application of sediment to agricultural land, we would consider application to cultivated ground, used for building terraces, leveling uneven ground, filling gullies and low areas, or being used as soil enhancers are not subject to NPDES Construction Stormwater Permitting. Placement of sediment onto pasture ground for use as a soil amendment, conditioner, or low-grade fertilizer would not require a permit. Placement onto pasture ground solely as a means for disposal would be subject to permitting requirements. All of the above referenced NPDES permits require a Stormwater Pollution Prevention (SP2) Plan be prepared and kept on site during the project.

Any inquiries should be directed to: Mr. Eric Staab, P.E.- Eric.Staab@ks.gov or (785-296-4347) or Pratik Jnawali, P.E., Pratik.Jnawali@ks.gov (785-296-5553) hydrologic/mechanical dredging and return water discharges and Larry Hook, P.E.- larry.hook@ks.gov (785-296-5549) for Construction Stormwater Permitting.

- 4) The recipient of this RGP shall avoid or control the discharge of suspended solids from construction activities **so that the project does not cause:**
 - a. Any surface waters of the state within and below the project area to contain discarded solid material, including trash, garbage rubbish, offal, grass clippings, discarded building or construction materials, car bodies, tires, wire and other unwanted or discarded materials [KAR 28-16-28e(b)(3)].
 - b. Any surface waters of the state within and below the project to have floating debris, scum, foam, froth and other floating materials directly or indirectly attributable to the project [KAR 28-16-28e(b)(4)].
 - c. Any surface waters of the state within or below the project to have of deposits of sludge or fine solids [KAR 28-16-28e(b)(6)].
 - d. Alteration of the natural appearance of surface waters of the state within or below the project by the addition of color-producing or turbidity-producing substances of artificial origin [KAR 28-16-28e(b)(8)].
- 5) The Recipient of this RGP shall avoid or control the discharge of toxic substances, oil and grease and other fluids from riparian activities, **so that the project does not cause:**
 - a. Any surface waters of the state within and below the project area to have a public health hazard, nuisance condition or impairments of designed uses [KAR 28-16-28e(b)(1)].

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- b. Surface waters of the state within and below the project area to have toxic substances, radioactive isotopes, and infectious microorganisms in concentrations or in combinations that jeopardize the public health or the survival or well-being of livestock, domestic animals, terrestrial wildlife or aquatic or semi-aquatic life [KAR 28-16-28e(b)(2)].
 - c. Any surface waters of the state within and below the project area to have a visible oil and grease film or sheen on the water surface or on submerged substrate or adjoining shore lines, nor have a sludge or emulsion deposit below the water surface of adjoining shorelines [KAR 28-16-28e(b)(5)].
 - d. Any surface waters of the state within and below the project to contain taste and odor producing substances at concentrations which interfere with the production of potable water by conventional water treatment processes, impart an unpalatable flavor to edible aquatic or semi-aquatic life or terrestrial wildlife or that result in noticeable odors in the vicinity [KAR 28-16-28e(b)(7)].
- 6) The activity shall avoid or control the discharge of plant nutrients from wetland removal, removal of permanent riparian vegetation, **so that the project does not cause:**
- a. Any surface waters of the state within and below the project to have floating debris, scum, foam, froth and other floating materials directly or indirectly attributable to the project [KAR 28-16-28e(b)(4)].
 - b. Alteration of the natural appearance of surface waters of the state within or below the project by the addition of color-producing or turbidity-producing substances of artificial origin [KAR 28-16-28e(b)(8)].
- 7) The Recipient of this RGP shall prepare a water quality protection plan describing the actions that will be taken to comply with Certification Conditions 1-6. This condition may be waived depending on the content of the "stormwater pollution prevention plan (SWP3)" prepared pursuant to condition 3. It is suggested that the stormwater pollution prevention plan's description of BMPs, include a. through f. of the following. The KDHE BEFS Watershed Management Section shall be notified (by email) when the SWP3 is submitted to BOW IP.
- a. **Riparian Areas:** Minimize removal or disturbance of riparian areas (areas adjacent to water bodies). Strongly consider the use native vegetation endemic to the area.
 - b. **Erosion and sediment control:** Maintain practices to minimize or avoid soil/sediment loss from the site.

Mr. Whetzel (PN 2018-01280)

August 2, 2019

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- c. **Solid Waste:** All waste materials produced by the construction project shall be disposed of in accordance with the provisions of the Kansas solid waste management statutes and regulations (K.S.A. 65-3401 and K.A.R. 28-29-1 et. seq.) or applicable local rules. Good housekeeping including personal refuse such as food containers, sacks etc. shall be addressed.
 - d. **Fuels, Chemicals and Maintenance Areas:** All fuels and chemicals necessary to complete the project shall be stored in such a manner that accidental spillage is minimized or can be temporarily contained before reaching the water body. Equipment maintenance areas shall also be located in this manner.
 - e. **Spills:** Should a spill of fuel or discharge of pollutants occur, the local emergency staff should be contacted first by dialing 911. The Kansas Department of Health and Environment shall then be notified immediately: (785) 296-1679 (24 hours a day.) These incidences should also be reported to the National Spill Response Center (1-800-424-8802). *Hazardous materials spills and air releases that meet federal reportable quantities must also be reported to Kansas Division of Emergency Management (800-275-0297).* These reporting numbers shall be posted in several locations around the site. A Spill Prevention and Response Plan should be prepared. This should include reportable quantity limits (see www.kansas.gov/kdem).
 - f. **Rock or solid materials** used to construct jetties, breakwater etc. shall be free of pollutants which can wash or leach into waters of the state.
 - g. **Floating Debris:** The applicant shall take appropriate measures to capture any floating debris released to surface waters as a result of this project.
- 8) If the Recipient of this RGP believes the conditions of this certification will result in impairment of important widespread social and economic development, the applicant is advised of the variance provisions of 40 CFR 131.10(g)(6) as adopted by reference in K.A.R. 28-16-28d(1)(B).

Questions concerning this certification may be directed to Mr. Scott Satterthwaite, 785-296-5573 or by email at Scott.Satterthwaite@ks.gov.

Sincerely,



Scott L. Satterthwaite, M.S.

Environmental Specialist

Bureau of Environmental Field Services-Watershed Management Section

EC: KDHE- Glave, Hook, Staab, Jnawali, Lyon, Carlson
KDA DWR- Phillips