



File No. **48,793**      15. Formation Code:      Drainage Basin:      County:      Special Use:      Stream:

16. Points of Diversion											
T	MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W
				<b>82052</b>							

17. Rate and Quantity				
Authorized			Additional	
Rate	Quantity	Rate	Quantity	Overlap PD Files
gpm/cfs	af/mgy	gpm/cfs	af/mgy	
				<b>49627</b>

18. Storage: Rate \_\_\_\_\_ NF      Quantity \_\_\_\_\_ ac/ft      Additional Rate \_\_\_\_\_ NF      Additional Quantity \_\_\_\_\_ ac/ft

19. Limitation: \_\_\_\_\_ af/yr at \_\_\_\_\_ gpm ( \_\_\_\_\_ cfs) when combined with file number(s) \_\_\_\_\_  
 Limitation: \_\_\_\_\_ af/yr at \_\_\_\_\_ gpm ( \_\_\_\_\_ cfs) when combined with file number(s) \_\_\_\_\_

20. Meter Required?  Yes  No      To be installed by \_\_\_\_\_      Date Acceptable Meter Installed \_\_\_\_\_

21. Place of Use										NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg?	Overlap Files	
T	MOD	DEL	ENT	PUSE	S	T	R	ID		NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼					
				<b>65082</b>																							<b>7b.</b>	<b>No</b>	<b>49627</b>	
				<b>65083</b>																							<b>7b.</b>	<b>No</b>	<b>49627</b>	

Comments: **Application is being dismissed and replaced by File No. 49,627. Signed voluntary dismissal form received from applicant.**

**KANSAS DEPARTMENT OF AGRICULTURE**  
**Division of Water Resources**

**M E M O R A N D U M**

**TO:** Files

**DATE:** October 5, 2016

**FROM:** Matt Meier

**RE:** Application, File No. 48,793

John McClure has filed the referenced application for a permit to appropriate water for beneficial use, proposing the appropriation of 130.65 acre-feet of surface water for irrigation use. The proposed control point was to be one (1) dam located in the Southeast Quarter of the Northwest Quarter of the Southwest Quarter (SE $\frac{1}{4}$  NW $\frac{1}{4}$  SW $\frac{1}{4}$ ) of Section 4, more particularly described as being near a point 1,860 feet North and 4,285 feet West of the Southeast corner of said section, in Township 29 South, Range 4 East, Butler County, Kansas. The dam was to be constructed in an old oxbow for collection, storage, and re-diversion of surface water for irrigation use.

During a review of the file it was determined (using aerial imagery) that the applicant had not constructed the proposed dam and had instead dug out the northeast corner of the oxbow and was using the entire oxbow as his storage vessel. This greatly increased the reservoir's storage capacity and evaporation use. The initial application listed the overall surface area as approximately 1.7 acres; however, based on 2015 aerial imagery the reservoir had a surface area that was approximately 11 acres. It should also be noted that the applicant had already installed his pump site and pivot and had been diverting water based on the aerial imagery.

It was determined that the applicant would need to submit a new application to cover the vastly increased reservoir size and application 48,793 would need to be dismissed. A phone call was made to the applicant in March, 2016 to verify that he would not be installing a dam and that the reservoir was constructed as he planned to use it. He verified this and also stated that he had been pumping from the proposed reservoir but had been under the impression that he could do so after supposedly talking with someone in headquarters. The applicant was informed that a new application would need to be submitted and he would need to stop pumping until the new application was approved. A new application was mailed to the applicant on April 5, 2016 (along with a voluntary dismissal form for 48,793 which was not returned). On April 22, 2016 the new application was received in headquarters (assigned File No. 49,627). A review of the file determined that it met all applicable rules and regulations and was recommended for approval. On September 22, 2016 a phone call was had with the applicant discussing 48,793. The applicant agreed to dismiss the application and said would mail in a signed voluntary dismissal form. On September 28, 2016 a signed copy of the voluntary dismissal form was received for File No. 48,793.

Therefore, Application, File No. 48,793 should be dismissed at the applicant's request.

Matt Meier  
Environmental Scientist  
Permits Unit



1320 Research Park Drive  
Manhattan, Kansas 66502

Jackie McClaskey, Secretary

Department of Agriculture

Phone: (785) 564-6700

Fax: (785) 564-6777

Email: [ksag@kda.ks.gov](mailto:ksag@kda.ks.gov)

[www.agriculture.ks.gov](http://www.agriculture.ks.gov)

Sam Brownback, Governor

November 1, 2016

**FILE COPY**

John McClure  
5175 SW 157<sup>th</sup> Terrace  
Douglas, KS 67039

RE: Application, File No. 48,793

Dear Mr. McClure:

Enclosed is the Findings and Order by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, dismissing Application, File No. 48,793, at your request.

This is a final agency action as defined in K.S.A. 77-607(b). You may pursue judicial review of this order as provided in the Kansas Act for Judicial Review (K.S.A. 77-601 *et seq.*). A petition for judicial review must be filed in a Kansas court of competent jurisdiction within 30 days after service of these orders as provided in K.S.A. 77-613. The agency officer designated to receive service of a petition for judicial review on behalf of the Kansas Department of Agriculture is Chief Legal Counsel, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502.

If you have any questions, please contact our office. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

Brent A. Turney, PG.

Change Application Unit Supervisor  
Water Appropriation Program

Enclosures

pc: Stafford Field Office

**FILE COPY**

**KANSAS DEPARTMENT OF AGRICULTURE**  
Jackie McClaskey, Secretary of Agriculture

**DIVISION OF WATER RESOURCES**  
David W. Barfield, Chief Engineer

**FINDINGS AND ORDER  
IN THE MATTER OF THE  
DISMISSAL OF APPLICATION  
FILE NO. 48,793**

After due consideration, the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture (hereinafter referred to as the "Chief Engineer"), makes the following findings and order:

**FINDINGS**

1. That on September 17, 2013, the Chief Engineer received an application from John McClure for a permit to appropriate water for beneficial use, assigned File No. 48,793, proposing the appropriation of 130.65 acre-feet of surface water for irrigation use. The control point was to be one (1) dam located in the Southeast Quarter of the Northwest Quarter of the Southwest Quarter (SE $\frac{1}{4}$  NW $\frac{1}{4}$  SW $\frac{1}{4}$ ) of Section 4, more particularly described as being near a point 1,860 feet North and 4,285 feet West of the Southeast corner of said section, in Township 29 South, Range 4 East, Butler County, Kansas.
2. That during a review of the file it was determined that the applicant had constructed the proposed reservoir in a way that significantly increased its storage capacity and evaporation use. The initial application listed the overall surface area as approximately 1.7 acres; however, based on 2015 aerial imagery the reservoir had been constructed with a surface area that was approximately 11 acres. It was determined that the applicant would need to submit a new application to cover the vastly increased reservoir size and application 48,793 would be dismissed. The applicant was informed of this during a phone call in March, 2016 and a new application was mailed to the applicant on April 5, 2016.
3. That on April 22, 2016 the replacement application was received and assigned a File Number of 49,627. A review of File No. 49,627 determined that it met all required rules and regulations and would be recommended for approval. On September 22, 2016 the applicant was called to inform him that File No. 48,793 would need to be dismissed prior to the approval of File No. 49,627. The applicant agreed to this and said would send in signed voluntary dismissal form.
4. That on September 28, 2016 a signed copy of the voluntary dismissal form was received from the applicant.
5. That the application should be dismissed and its priority forfeited at the applicant's request.

ORDER

NOW, THEREFORE, It is the decision and order of the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, that effective the date of this order, in accordance with the law, Application, File No. 48,793, is herewith dismissed and the priority assigned to it is considered to be forfeited.

This is a final agency action. If you choose to appeal this decision or any finding or part thereof, you must do so by filing a petition for review in the manner prescribed by the Kansas Act for Judicial Review and Civil Enforcement of Agency Actions (KJRA K.S.A. 77-601 et seq.) within 30 days of service of this order. Your appeal must be made with the appropriate district court for the district of Kansas.

The Chief Legal Counsel for the Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, is the agency officer who will receive service of a petition for judicial review on behalf of the Kansas Department of Agriculture, Division of Water Resources. If you have questions or would like clarification concerning this order, you may contact the Chief Engineer.

Ordered this 1<sup>st</sup> day of November, 2016, in Topeka, Shawnee County, Kansas.

*Lane P. Letourneau*

Lane P. Letourneau, L.G.  
Program Manager  
Water Appropriation Program  
Division of Water Resources  
Kansas Department of Agriculture

State of Kansas )  
                          ) SS  
County of Riley )

The foregoing instrument was acknowledged before me this 1<sup>st</sup> day of November, 2016, by Lane P. Letourneau, L.G., Program Manager, Division of Water Resources, Kansas Department of Agriculture.

*Danielle Wilson*

Notary Public



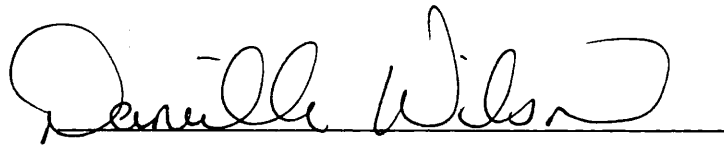
### CERTIFICATE OF SERVICE

On this 1<sup>st</sup> day of November, 2016, I hereby certify that the foregoing Dismissal of Application, File No. 48,793, dated November 1, 2010 was mailed postage prepaid, first class, US mail to the following:

John McClure  
5175 SW 175<sup>th</sup> Terrace  
Douglas, KS 67039

With photocopies to:

Stafford Field Office

A handwritten signature in black ink, appearing to read "Dorell Wilson", written over a horizontal line.

Division of Water Resources

# Voluntary Dismissal of an Application for Permit to Appropriate Water

9-21-16  
(Date)

Kansas Department of Agriculture  
Division of Water Resources  
1320 Research Park Drive  
Manhattan, Kansas 66502

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SEP 28 2016

KS DEPT OF AGRICULTURE

RE: Application File No. 48,793

Chief Engineer:

I am submitting this statement in regard to Application for Permit to Appropriate Water, File No. 48,793. I am (We are) the applicant(s) who filed this application. I (We) now wish to voluntarily withdraw that application. I realize such withdrawal means the application will be dismissed and whatever priority it may have had will be forfeited. Please withdraw Application File No. 48,793.

Sincerely,

Agreeing to dismissal only if replacing new application<sup>5</sup> is approved.

(File No. 49,627)

John McCleave  
(Applicant)

\_\_\_\_\_  
(Applicant)

5775 SW 157<sup>th</sup> Ter  
(Mailing Address)

\_\_\_\_\_  
(Mailing Address)

Douglas KS 67039  
(City, State, Zip)

\_\_\_\_\_  
(City, State, Zip)

\_\_\_\_\_  
(Applicant)

\_\_\_\_\_  
(Applicant)

\_\_\_\_\_  
(Mailing Address)

\_\_\_\_\_  
(Mailing Address)

\_\_\_\_\_  
(City, State, Zip)

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(City, State, Zip)

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OCT 05 2016

Stafford Field Office  
Division of Water Resources



THE STATE OF KANSAS



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

DIVISION OF WATER RESOURCES  
David W. Barfield, Chief Engineer

File Number 4-8793  
This item to be completed by the Division of Water Resources.

**APPLICATION FOR PERMIT TO APPROPRIATE WATER FOR BENEFICIAL USE**

Filing Fee Must Accompany the Application  
(Please refer to Fee Schedule attached to this application form.)

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SEP 17 2013  
2:38 PM  
KS DEPT OF AGRICULTURE

To the Chief Engineer of the Division of Water Resources, Kansas Department of Agriculture,  
109 SW 9<sup>th</sup> Street, Second Floor, Topeka, KS 66612-1283:

1. Name of Applicant (Please Print): John McClure  
Address: 5175 SW 157<sup>th</sup> Terrace  
City: Douglas State KS Zip Code 67039  
Telephone Number: (316) 644-4385

2. The source of water is:  surface water in Unnamed Trib to Walnut Creek *Walnut River Trib 10*  
(stream)  groundwater in Walnut River  
(drainage basin)

Certain streams in Kansas have minimum target flows established by law or may be subject to administration when water is released from storage for use by water assurance district members. If your application is subject to these regulations on the date we receive your application, you will be sent the appropriate form to complete and return to the Division of Water Resources. 102.6 AF to re-diverted at approx. 1,000 gpm

3. The maximum quantity of water desired is 130.65 acre-feet OR \_\_\_\_\_ gallons per calendar year, to be diverted at a maximum rate of NF gallons per minute OR \_\_\_\_\_ cubic feet per second.

Once your application has been assigned a priority, the requested maximum rate of diversion and maximum requested quantity of water under that priority number can **NOT** be increased. Please be certain your requested maximum rate of diversion and maximum quantity of water are appropriate and reasonable for your proposed project and are in agreement with the Division of Water Resources' requirements.

4. The water is intended to be appropriated for (Check use intended):  
(a)  Artificial Recharge (b)  Irrigation (c)  Recreational (d)  Water Power  
(e)  Industrial (f)  Municipal (g)  Stockwatering (h)  Sediment Control  
(i)  Domestic (j)  Dewatering (k)  Hydraulic Dredging (l)  Fire Protection  
(m)  Thermal Exchange (n)  Contamination Remediation

YOU **MUST** COMPLETE AND ATTACH ADDITIONAL DIVISION OF WATER RESOURCES FORM(S) PROVIDING INFORMATION TO SUBSTANTIATE YOUR REQUEST FOR THE AMOUNT OF WATER FOR THE INTENDED USE REFERENCED ABOVE.

For Office Use Only		F.O. <u>2</u> GMD <u>RIE</u>		Meets K.A.R. 5-3-1 (YES/NO) Use <u>IR</u>		Source <u>G/S</u> County <u>By</u>		Date <u>9-17-13</u>	
Code <u>RIE</u>		Fee \$ <u>300</u>		TR # <u>14008348</u>		Receipt Date <u>9-17-13</u>		Check # <u>8403</u>	

JUL 20 2015

9-18-13  
JSD

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5. The location of the proposed wells, pump sites or other works for diversion of water is:

**Note:** For the application to be accepted, the point of diversion location must be described to at least a 10 acre tract, unless you specifically request a 60 day period of time in which to locate the site within a specifically described, minimal legal quarter section of land.

**ONE(1) DAM**

- (A) One in the SE quarter of the NW quarter of the SW quarter of Section 4, more particularly described as being near a point 1360 feet North and 4295 feet West of the Southeast corner of said section, in Township 29 South, Range 4 East, Butler County, Kansas.
- (B) One in the \_\_\_\_\_ quarter of the \_\_\_\_\_ quarter of the \_\_\_\_\_ quarter of Section \_\_\_\_\_, more particularly described as being near a point \_\_\_\_\_ feet North and \_\_\_\_\_ feet West of the Southeast corner of said section, in Township \_\_\_\_\_ South, Range \_\_\_\_\_ East/West (circle one), \_\_\_\_\_ County, Kansas.
- (C) One in the \_\_\_\_\_ quarter of the \_\_\_\_\_ quarter of the \_\_\_\_\_ quarter of Section \_\_\_\_\_, more particularly described as being near a point \_\_\_\_\_ feet North and \_\_\_\_\_ feet West of the Southeast corner of said section, in Township \_\_\_\_\_ South, Range \_\_\_\_\_ East/West (circle one), \_\_\_\_\_ County, Kansas.
- (D) One in the \_\_\_\_\_ quarter of the \_\_\_\_\_ quarter of the \_\_\_\_\_ quarter of Section \_\_\_\_\_, more particularly described as being near a point \_\_\_\_\_ feet North and \_\_\_\_\_ feet West of the Southeast corner of said section, in Township \_\_\_\_\_ South, Range \_\_\_\_\_ East/West (circle one), \_\_\_\_\_ County, Kansas.

If the source of supply is groundwater, a separate application shall be filed for each proposed well or battery of wells, except that a single application may include up to four wells within a circle with a quarter (1/4) mile radius in the same local source of supply which do not exceed a maximum diversion rate of 20 gallons per minute per well.

A battery of wells is defined as two or more wells connected to a common pump by a manifold; or not more than four wells in the same local source of supply within a 300 foot radius circle which are being operated by pumps not to exceed a total maximum diversion rate of 800 gallons per minute and which supply water to a common distribution system.

6. The owner of the point of diversion, if other than the applicant is (please print):

Applicant \_\_\_\_\_  
 (name, address and telephone number)

\_\_\_\_\_

(name, address and telephone number)

You must provide evidence of legal access to, or control of, the point of diversion from the landowner or the landowner's authorized representative. Provide a copy of a recorded deed, lease, easement or other document with this application. In lieu thereof, you may sign the following sworn statement:

I have legal access to, or control of, the point of diversion described in this application from the landowner or the landowner's authorized representative. I declare under penalty of perjury that the foregoing is true and correct.

Executed on 9-16, 2013. John McClure  
 Applicant's Signature

The applicant must provide the required information or signature irrespective of whether they are the landowner. Failure to complete this portion of the application will cause it to be unacceptable for filing and the application will be returned to the applicant.

7. The proposed project for diversion of water will consist of Dam & Reservoir  
 (number of wells, pumps or dams, etc.)  
 and (will be) completed (by) ASAP  
 (Month/Day/Year - each was or will be completed)

8. The first actual application of water for the proposed beneficial use was or is estimated to be ASAP  
 (Mo/Day/Year)

- 9. Will pesticide, fertilizer, or other foreign substance be injected into the water pumped from the diversion works?  
 Yes    No   If "yes", a check valve shall be required.

All chemigation safety requirements must be met including a chemigation permit and reporting requirements.

- 10. If you are planning to impound water, please contact the Division of Water Resources for assistance, prior to submitting the application. Please attach a reservoir area capacity table and inform us of the total acres of surface drainage area above the reservoir.

Have you also made an application for a permit for construction of this dam and reservoir with the Division of Water Resources?    Yes    No

- If yes, show the Water Structures permit number here \_\_\_\_\_
- If no, explain here why a Water Structures permit is not required Proposed dam is non-jurisdictional.

- 11. The application must be supplemented by a U.S.G.S. topographic map, aerial photograph or a detailed plat showing the following information. On the topographic map, aerial photograph, or plat, identify the center of the section, the section lines or the section corners and show the appropriate section, township and range numbers. Also, please show the following information:

- (a) The location of the proposed point(s) of diversion (wells, stream-bank installations, dams, or other diversion works) should be plotted as described in Paragraph No. 5 of the application, showing the North-South distance and the East-West distance from a section line or southeast corner of section.
- (b) If the application is for groundwater, please show the location of any existing water wells of any kind within 1/2 mile of the proposed well or wells. Identify each existing well as to its use and furnish the name and mailing address of the property owner or owners. If there are no wells within 1/2 mile, please advise us.
- (c) If the application is for surface water, the names and addresses of the landowner(s) 1/2 mile downstream and 1/2 mile upstream from your property lines must be shown.
- (d) The location of the proposed place of use should be shown by crosshatching on the topographic map, aerial photograph or plat.
- (e) Show the location of the pipelines, canals, reservoirs or other facilities for conveying water from the point of diversion to the place of use.

A 7.5 minute U.S.G.S. topographic map may be obtained by providing the section, township and range numbers to: Kansas Geological Survey, 1930 Constant, Campus West, University of Kansas, Lawrence, Kansas 66047.

- 12. List any application, appropriation of water, water right, or vested right file number that covers the same diversion points or any of the same place of use described in this application. Also list any other recent modifications made to existing permits or water rights in conjunction with the filing of this application.

None:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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Division of Water Resources

13. Furnish the following well information if the proposed appropriation is for the use of groundwater. If the well has not been completed, give information obtained from test holes, if available.

Information below is from:  Test holes  Well as completed  Drillers log attached

Well location as shown in paragraph No.	(A)	(B)	(C)	(D)
Date Drilled	N.A	_____	_____	_____
Total depth of well	_____	_____	_____	_____
Depth to water bearing formation	_____	_____	_____	_____
Depth to static water level	_____	_____	_____	_____
Depth to bottom of pump intake pipe	_____	_____	_____	_____

14. The relationship of the applicant to the proposed place where the water will be used is that of

Owner  
(owner, tenant, agent or otherwise)

15. The owner(s) of the property where the water is used, if other than the applicant, is (please print):

Applicant  
\_\_\_\_\_  
(name, address and telephone number)  
\_\_\_\_\_  
(name, address and telephone number)

16. The undersigned states that the information set forth above is true to the best of his/her knowledge and that this application is submitted in good faith.

Dated at Topeka, Kansas, this 16<sup>th</sup> day of September, 2013.  
(month) (year)

X John McQueen  
(Applicant Signature)

\_\_\_\_\_  
APPLICANT(S) SOCIAL SECURITY IDENTIFICATION NUMBER(S)

By \_\_\_\_\_  
(Agent or Officer Signature)

\_\_\_\_\_  
and/or  
APPLICANT(S) TAXPAYER I.D. NO.(S)

\_\_\_\_\_  
(Agent or Officer - Please Print)

Assisted by Matt Meier \_\_\_\_\_ Environmental Scientist \_\_\_\_\_ Date: 8-23-13  
(office/title)

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KS DEPT OF AGRICULTURE

## IRRIGATION USE SUPPLEMENTAL SHEET

File No. \_\_\_\_\_

Name of Applicant (Please Print): John McClure

1. Please supply the name and address of each landowner, the legal description of the lands to be irrigated, and designate the actual number of acres to be irrigated in each forty acre tract or fractional portion thereof:

**Landowner of Record** NAME: John McClure  
 ADDRESS: 5175 SW 157<sup>th</sup> Terrace Douglas, KS 67039

S	T	R	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4	29S	4E								37	205	9	18						84.5
5	29	4E				1													1

**Total = 85.5**

**Landowner of Record** NAME: \_\_\_\_\_  
 ADDRESS: \_\_\_\_\_

S	T	R	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

**Landowner of Record** NAME: \_\_\_\_\_  
 ADDRESS: \_\_\_\_\_

S	T	R	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

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Page 1 of 2  
**SEP 17 2013**

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2. Please complete the following information for the description of the operation for the irrigation project. Attach supplemental sheets as needed.

a. Indicate the soils in the field(s) and their intake rates:

Soil Name	Percent of field (%)	Intake Rate (in/hr)	Irrigation Design Group
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
Total:	100 %		

b. Estimate the average land slope in the field(s): \_\_\_\_\_%

Estimate the maximum land slope in the field(s): \_\_\_\_\_%

c. Type of irrigation system you propose to use (check one):

- Center pivot     
  Center pivot - LEPA     
  "Big gun" sprinkler  
 Gravity system (furrows)     
  Gravity system (borders)     
  Sideroll sprinkler

Other, please describe: \_\_\_\_\_

d. System design features:

i. Describe how you will control tailwater:

ii. For sprinkler systems:

(1) Estimate the operating pressure at the distribution system: \_\_\_\_\_ psi

(2) What is the sprinkler package design rate? \_\_\_\_\_ gpm

(3) What is the wetted diameter (twice the distance the sprinkler throws water) of a sprinkler on the outer 100 feet of the system? \_\_\_\_\_ feet

(4) Please include a copy of the sprinkler package design information.

e. Crop(s) you intend to irrigate. Please note any planned crop rotations:

f. Please describe how you will determine when to irrigate and how much water to apply (particularly important if you do not plan a full irrigation).

You may attach any additional information you believe will assist in informing the Division of the need for your request.

\_\_\_\_\_  
(Date)

Kansas Department of Agriculture  
Division of Water Resources  
David W. Barfield, Chief Engineer  
109 SW 9<sup>th</sup> Street, 2nd Floor  
Topeka, Kansas 66612-1283

Re: Application  
File No. \_\_\_\_\_

Minimum Desirable Streamflow

Dear Sir:

I understand that a Minimum Desirable Streamflow requirement has been established by the legislature for the source of supply to which the above referenced application applies.

I understand that diversion of water pursuant to this application will be subject to regulation any time Minimum Desirable Streamflow requirements are not being met.

I also understand that if this application is approved, there could be times, as determined by the Division of Water Resources, when I would not be allowed to divert water. I realize that this could affect the economics of my decision to appropriate water.

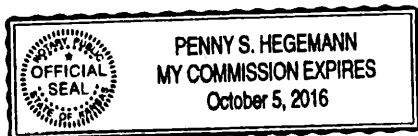
I am aware of the above factors, and with the knowledge thereof, request that the Division of Water Resources proceed with processing and approval, if possible, of the above referenced application.

John McClure  
Signature of Applicant

State of Kansas )  
County of Shawnee ) ss

John McClure  
(Print Applicant's Name)

I hereby certify that the foregoing instrument was signed in my presence and sworn to before me this 16<sup>th</sup> day of September, 2013.



Penny S. Hegemann  
Notary Public

My Commission Expires:

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**MINIMUM DESIRABLE STREAMFLOW FORM TO BE USED WHEN  
APPLICABLE WHEN FILING AN APPLICATION FOR PERMIT  
TO APPROPRIATE WATER FOR BENEFICIAL USE**

The Kansas Legislature has established minimum desirable streamflows for the streams listed below. If your proposed diversion of water is going to be from one of these watercourses or adjacent alluvial aquifers, please complete the back side of this page and submit it along with your application for permit to appropriate water.

Arkansas River  
Big Blue River  
Chapman Creek  
Chikaskia River  
Cottonwood River  
Delaware River  
Little Arkansas River  
Little Blue River  
Marais des Cygnes River  
Medicine Lodge River  
Mill Creek (Wabaunsee Co. area)  
Neosho River

Ninnescah River  
North Fork Ninnescah River  
Rattlesnake Creek  
Republican River  
Saline River  
Smoky Hill River  
Solomon River  
South Fork Ninnescah  
Spring River  
Walnut River  
Whitewater River



**Upstream and Downstream Landowners**

The applicant owns all land associated with this tributary upstream and downstream of the point of diversion, so there are no landowners to notify.

**Storage Quantity**

Storage = 1 yrs direct use + storage capacity + 1 yrs net evap

Direct Use = 102.6 AF

Estimated Surface Area = 1.7 acres

Estimated Depth = 15 feet

Estimated Capacity = 25.5 AF

Net Evaporation = 18 inches

1 yr net evap = 1.7 acres x 18"/12" = 2.55 AF

Storage Quantity = 102.6 AF + 25.5 AF + 2.55 AF = 130.65 AF

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JUL 20 2015

Stafford Field Office  
Division of Water Resources

WATER RESOURCES  
RECEIVED

SEP 17 2013

KS DEPT OF AGRICULTURE

SCANNED

## Meier, Matt

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**From:** Lanterman, Jeff  
**Sent:** Wednesday, February 24, 2016 11:59 AM  
**To:** Kopp, Kenneth; Meier, Matt  
**Subject:** RE: APP 48,793 Issues

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

I wonder if all that work is consistent with a structures permits. I think at a minimum he was working in the floodplain. He has always been one of those folks who uses "easier to ask for forgiveness than permission."

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**From:** Kopp, Kenneth  
**Sent:** Wednesday, February 24, 2016 9:57 AM  
**To:** Meier, Matt  
**Cc:** Lanterman, Jeff  
**Subject:** RE: APP 48,793 Issues

He should file another application based on the expanded surface area. I think you could work the new application concurrently with the old one.

Before we tell him to file another application, let's make sure we're comfortable this is all surface water and that he hasn't turned this into more of a groundwater pit to pump groundwater.

Ken

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**From:** Meier, Matt  
**Sent:** Thursday, January 14, 2016 11:52 AM  
**To:** Kopp, Kenneth  
**Cc:** Lanterman, Jeff; Conant, Cameron  
**Subject:** APP 48,793 Issues

Hello Ken,

Attached are some photos from google earth showing the oxbow John McClure is using for surface water storage. The 2013 image shows the oxbow prior to any work on it. In 2014 it looks like he dug out a portion of it which roughly fits with what had shown as his storage pond in the application although he may not have completed all his planned work at the time. A picture of his pivot was also included. The 2015 image however makes it look like he further dug the "pond" out to allow him access to the entire oxbow. In the application he stated he would have a dam which isn't present. Additionally, his pump site appears to be in the area which had previously served as a shallow choke point between his requested pond and the rest of the oxbow so he likely dug it out to make it deeper for the pump. Since it looks like he has already illegally been running his pivot for at least one year, possibly 2, it is unlikely that he is going to make any changes to his set up. Also his drainage area is going to be significantly smaller if he were to change everything to fit the application which makes it less likely he will do anything different.

If he is using the entire oxbow as a storage pond it is roughly 11 acres in size, 9.3 acres larger than what he requested. This would have a yearly evap of 16.5 AF vs the 2.55 AF covered in the app. The storage capacity would also be vastly different. In App lists it at 25.5AF (1.7 acres x average depth of 15 feet). Assuming he dug out the one corner

to the depth of around 15 feet he would have the 25.5 AF storage plus whatever the storage was for the remaining 9.3 acres in the oxbow. Even if the rest of the oxbow is quite a bit shallower, perhaps max average depth of 5 feet, there would still be an extra 46.5 AF of storage unaccounted for. His total requested quantity in app is 130.65af (102.6 AF direct, 25.5 AF storage, and 2.55 AF evap). Going with full oxbow quantities could be more along line of 191 AF (102.6 AF direct, 72 AF storage, and 16.5 AF evap), so roughly 60.35 AF more than requested, with the actual difference possibly being higher.

At this point making him file a new application to cover the vast changes he has made vs his original application wouldn't appear to be out of line but I wanted to run this all past you before doing anything. Jeff and Cameron will be taking care of his current illegal diversion without a water right.

Let me know if you have any questions or need any more information.

Thanks,  
Matt

# Kansas

Department of Agriculture  
Division of Water Resources

Stafford Field Office  
300 S. Main Street  
Stafford, Kansas 67578-1521

Jackie McClaskey, Secretary  
David W. Barfield, Chief Engineer  
Jeff Lanterman, Water Commissioner

Phone: (620) 234-5311  
Fax: (620) 234-6900  
[www.agriculture.ks.gov](http://www.agriculture.ks.gov)  
Sam Brownback, Governor

September 22, 2016

John McClure  
5175 SW 157<sup>th</sup> Terrace  
Douglas, KS 67039

RE: Pending Application, File No. 48,793

Dear Mr. McClure:

As we discussed on the phone today, I am including a voluntary dismissal form for you to sign to dismiss File No. 48,793. File No. 48,793 will need to be dismissed before we can make our final approval recommendation for File No. 49,627 (which is replacing File No. 48,793). Once we receive the signed dismissal form for File No. 48,793 I can complete my review of File No. 49,627 and send it to headquarters.

If you have any questions, please contact me at (620) 234-5311. If you wish to discuss a specific file, please have the file number ready so that I may help you more efficiently.

Sincerely,  


Matt Meier  
New Application Unit  
Water Appropriation Program

Enclosure: Dismissal Form  
pc:

**SCANNED**

## Kopp, Kenneth

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**From:** Kopp, Kenneth  
**Sent:** Thursday, July 16, 2015 7:48 AM  
**To:** Lanterman, Jeff; Conant, Cameron  
**Subject:** John McClure - File No. 48793

I'm going to go ahead and send this one out for Matt to process. I was initially thinking we could deny it similar to Luke McClure's application, but this one is a little different from Luke's, since there is a small storage component proposed. Whether or not it qualifies as "adequate water storage" is likely to be a matter of debate.

Ken

NEW STREAM WORKSHEET

ES \_\_\_\_\_

Date: \_\_\_\_\_

File No. \_\_\_\_\_

Basin Name: Walnut River Basin No. \_\_\_\_\_

Stream Name: Walnut River Trib 10

Stream location (confluence with parent stream):

Section 5, Township 29 South, Range 4 (East)

Map Color Coding:

Basin Stream – Blue

Named Main Stream off Basin Stream – Yellow

Named Stream off Main Stream – Green

Unnamed Trib (1, 2, 3, 4, etc.) – Pink

Unnamed Trib to Unnamed Trib (A, B, C, etc.) – Orange

Unnamed Trib to Unnamed Trib to Unnamed Trib (1, 2, 3, etc.) – Purple

Stream No. 3726 (computer assigned - entered by data entry staff)

Date Entered 9-18-13 By BAD

  
**Kansas**  
Department of Agriculture  
*Division of Water Resources*

109 SW 9th Street, 2nd Floor  
Topeka, Kansas 66612-1283

phone: (785) 296-3717  
fax: (785) 296-1176  
www.ksda.gov/dwr

Dale A. Rodman, Secretary  
David W. Barfield, Chief Engineer

Sam Brownback, Governor

September 18, 2013

JOHN MCCLURE  
5175 SW 157TH TERRACE  
DOUGLAS KS 67039

RE: Application  
File No. 48,793

Dear Sir or Madam:

Your application for permit to appropriate water in 4-29S-4E, in Butler County, was received and has been assigned the file number noted above.

As a matter of record, the Division of Water Resources has on hand a large number of applications awaiting processing. Therefore to be fair to all concerned, and so that we can process those applications on hand in the order they were received, we intend to concentrate on the backlog of applications until the issue is resolved. Once review of your application has begun, we will contact you, if additional information is required.

In accordance with the provisions of the Kansas Water Appropriation Act, a portion of which is included below, the use of water as proposed prior to approval of the application is unlawful. Once approved, compliance with the terms, conditions and limitations of the permit is necessary. Conservation of the water resources of Kansas is required.

**Section 82a-728 of the Kansas Water Appropriation Act, provides (a) except for the appropriation of water for the purpose of domestic use, . . . it shall be unlawful for any person to appropriate or threaten to appropriate water from any source without first applying for and obtaining a permit to appropriate water in accordance with the provisions of the Water Appropriation Act or for any person to violate any condition of a vested right, appropriation right or an approved application for a permit to appropriate water for beneficial use.**

**(b) (1) The violation of any provision of this section by any person is a class C misdemeanor . . .**

**A class C misdemeanor is punishable by a fine not to exceed \$500 and/or a term of confinement not to exceed one month in the county jail. Each day that the violation occurs constitutes a separate offense.**

If you have any questions, please contact our office. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,



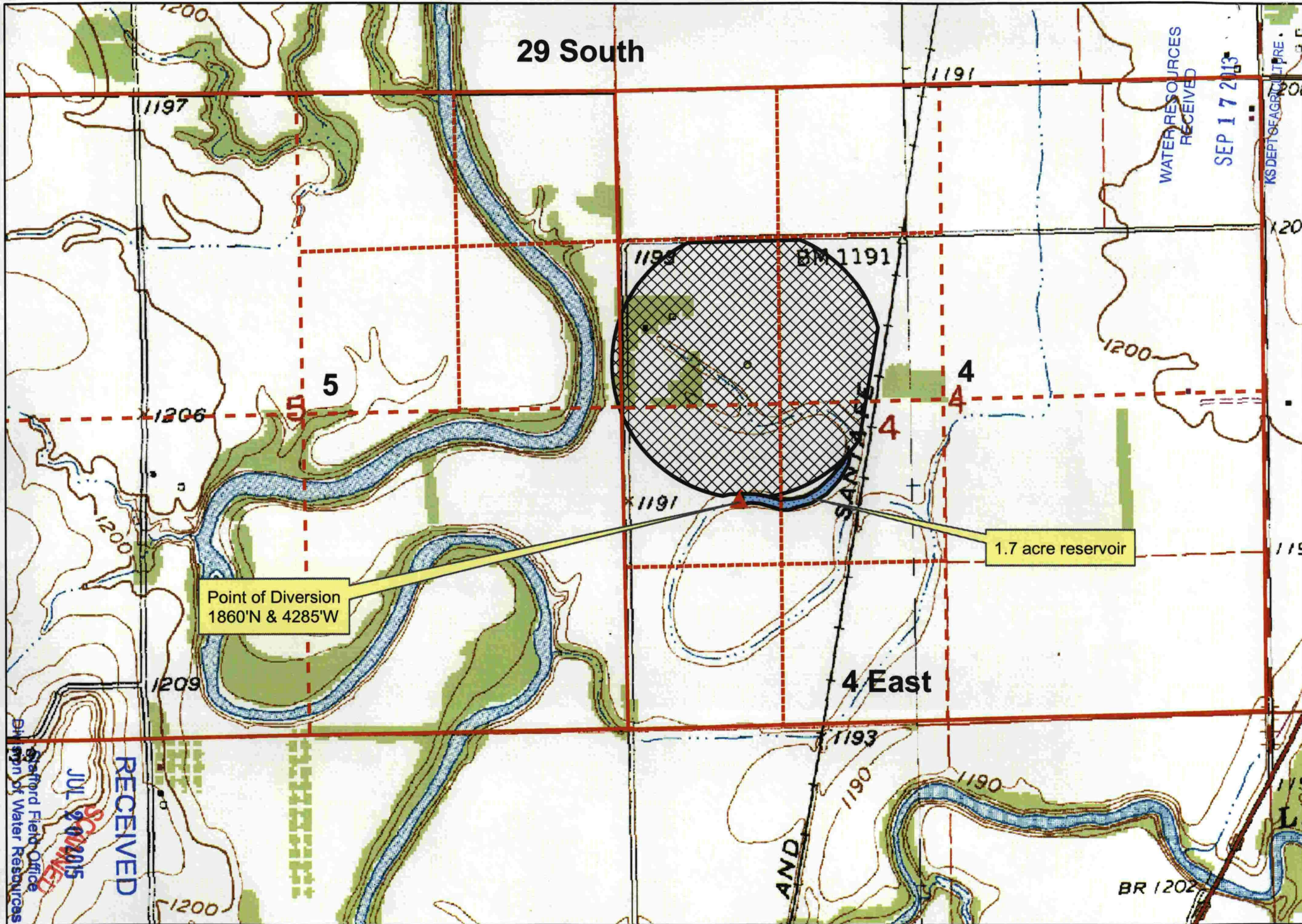
Douglas W. Schemm  
New Application Unit Supervisor  
Water Appropriation Program

DWS:cd  
pc: Stafford Field Office

SCANNED

1:12,000

New Application

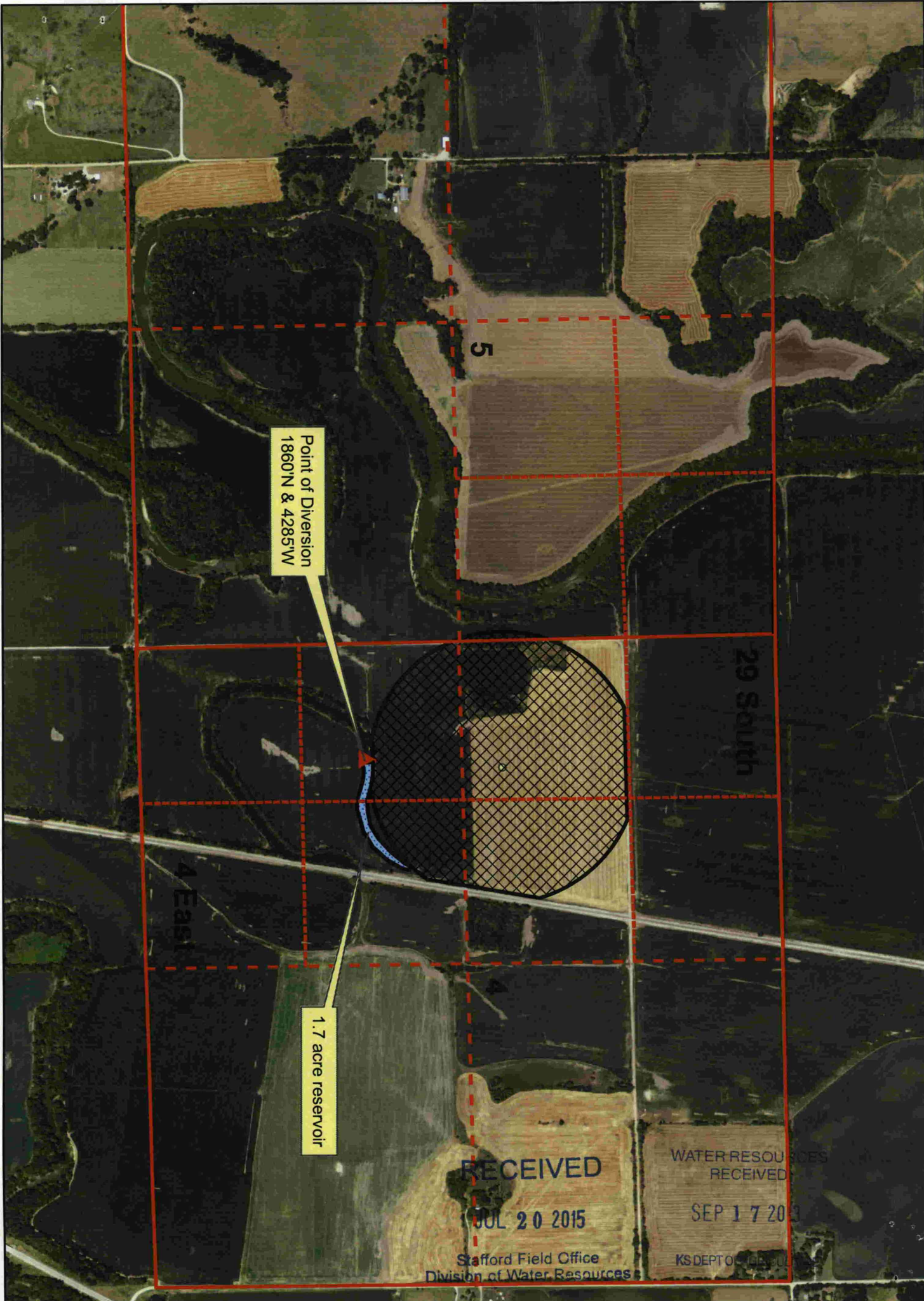




1:12,000

New Application

SCANNED



Point of Diversion  
1860'N & 4285'W

1.7 acre reservoir

RECEIVED

JUL 20 2015

Stafford Field Office  
Division of Water Resources

WATER RESOURCES RECEIVED

SEP 17 2015

KS DEPT OF REVENUE