

Kansas Department of Agriculture
Division of Water Resources
PERMIT OF NEW APPLICATION WORKSHEET

1. File Number: <p style="text-align: center;">49,582</p>	2. Status Change Date: <p style="text-align: center;"><i>12/29/2016</i></p>	3. Field Office: <p style="text-align: center;">01</p>	4. GMD: <p style="text-align: center;">0</p>
5. Status: <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied by DWR/GMD <input type="checkbox"/> Dismiss by Request/Failure to Return			
6. Enclosures: <input checked="" type="checkbox"/> Check Valve <input checked="" type="checkbox"/> N of C Form <input type="checkbox"/> Water Tube <input type="checkbox"/> Driller Copy <input checked="" type="checkbox"/> Meter			
<p>7a. Applicant(s) Person ID <u>62253</u> New to system <input type="checkbox"/> Add Seq# _____</p> <p style="text-align: center;">DOUG LIVINGSTON 12839 CENTURY ST OVERLAND PARK KS 66213</p> <p>7b. Landowner(s) Person ID _____ New to system <input type="checkbox"/> Add Seq# _____</p> <p>7a.</p>	<p>7c. Landowner(s) Person ID _____</p> <p style="text-align: center;">7d.</p>		
<p>8. WUR Correspondent Person ID _____ New to system <input type="checkbox"/> Add Seq# _____ Overlap File (s) WUC Notarized WUC Form <input type="checkbox"/> Agree <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>7a.</p>	<p>9. Use of Water: Changing? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p style="padding-left: 40px;"><input type="checkbox"/> Groundwater <input checked="" type="checkbox"/> Surface Water</p> <p><input type="checkbox"/> IRR <input checked="" type="checkbox"/> REC <input type="checkbox"/> DEW <input type="checkbox"/> MUN</p> <p><input type="checkbox"/> STK <input type="checkbox"/> SED <input type="checkbox"/> DOM <input type="checkbox"/> CON</p> <p><input type="checkbox"/> HYD DRG <input type="checkbox"/> WTR PWR <input type="checkbox"/> ART RECHRG</p> <p><input type="checkbox"/> IND SIC: _____ <input type="checkbox"/> OTHER: _____</p>		
10. Completion Date: <u>12/31/2018</u> 11. Perfection Date: <u>12/31/2022</u> 12. Exp Date: _____			
13. Conservation Plan Required? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Date Required: _____ Date Approved: _____ Date to Comply: _____			
14. Water Level Measuring Device? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Date to Comply: _____ Date WLMD Installed: _____			
<p>Date Prepared: 12/28/16 By: DWS Date Entered: <i>1/4/2017</i> By: <i>UM</i></p>			

File No. **49,582** 15. Formation Code: Drainage Basin: **NEOSHO RIVER** County: **CF** Special Use: Stream: **LONG CREEK (NEOSHO)**

16. Points of Diversion											
T	MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W
√				85100	NE NE SE	21	20	16E	1	2620	577

17. Rate and Quantity				
Authorized		Additional		
Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files
2000	60	2000	60	NONE

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 **12/31/2018** Date Acceptable Meter Installed _____

21. Place of Use							NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg? NO	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						
√				67626	21	20	16E	1	WATERFOWL MARSH (N2 SE)																	7a.	NO	NONE		

Comments:
Special Condition: Off Season Diversion

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: December 28, 2016

FROM: Doug Schemm

RE: Application, File No. 49,582

Doug Livingston has filed the application referred to above requesting 60 acre-feet at a diversion rate of 2,000 gallons per minute for the direct diversion of surface water from one pump site on Long Creek, within the Neosho River Basin. This application will allow water to be pumped directly from Long Creek (when flows are adequate and permission has been granted). The water will be used to fill and maintain water level in a marsh (i.e. offset evaporative and seepage losses). The project is located in the Southeast Quarter of Section 21, in Township 20 South, Range 16 East, Coffey County, Kansas. The applicant has signed the application form stating that he has legal access to the point of diversion.

Based on similar wildlife marshes in this area of the state, a typical quantity of water is 3 feet per acre of marsh for filling and maintaining water levels (offset seepage losses). The marsh area will cover 10 acres (10 acres x 3 feet = 30 acre-feet). The applicant as also requested 30 acre-feet to refill the marsh, if necessary. This is equivalent to 6 feet of water per acre, which is still a reasonable quantity. Other wildlife marshes have requested both an initial fill and one additional fill per year, which would be the same as what this quantity represents (i.e. (3 feet deep x 10 acres) x 2 = 60 AF).

This approval will be subject to specific conditions, which stipulate strict requirements for direct surface water diversion. These conditions include the stipulation that no diversion shall occur unless there is water available to satisfy all demands by senior water rights and permits, written or verbal permission from the Chief Engineer, or an authorized representative is required prior to diverting water, and streamflow cannot be stopped at the first riffle below the point of diversion while diversion is taking place. The application also complies with K.A.R 5-3-15 (c)(5) because the proposed use of water for recreational use is typically during the fall season, and there is no need for direct diversion of water from July 1 through September 30.

A list of nearby landowners was provided by the applicant, which complies with K.A.R. 5-3-4. Nearby landowner letters were sent out on April 20, 2016. Brenda Noakes (the nearest upstream property owner) met with DWR staff at the Topeka Field Office on April 25, 2016 to better understand the pending application. Her tenant pastures cattle on her property and she was concerned that this diversion would impact streamflow. We discussed the specific permit conditioning, and that her domestic use of water is a senior beneficial use of water. Ms. Noakes has proposed to discuss the application with neighbors and would decide if she would submit a written response at a later date. She was provided additional time to respond. I contacted Ms. Noakes on May 10, 2016 and told her that the application was being moved forward for approval. She appreciated the phone call and expressed no further concerns.

There are several other surface water diversions within a two (2) mile radius of the proposed point of diversion, however they are either recreational or sediment control use reservoirs, all located on tributaries to Long Creek. There are no permitted direct diversions from Long Creek within two miles. With proper conditioning, approval of this application will not impair any senior water rights. Based on a review of the current Cottonwood and Neosho River Water Assurance Program Operations Agreement, notifying them regarding this pending nonmember application is not required.

The applicant submitted a signed Minimum Desirable Streamflow (MDS) statement, which has been notarized, for this application. By completing this statement, the applicant affirms his knowledge that there could be times when the diversion of water may not be allowed under this permit.

Doug Livingston - Memorandum
File No. 49,582
Page 2

This recreational project was also reviewed by DWR Water Structures program, under File No. LCF-0081. It was determined that the project is non-jurisdictional for structures permitting because it is located outside of the 100-year floodplain.

In accordance with K.S.A. 82a-706c, the Chief Engineer retains full authority to require any water user to install meters, gages, or other measuring devices, which devices he or she or his or her agents may read at any time. Water flowmeter requirements are further described in K.A.R. 5-1-4 through K.A.R. 5-1-12.

In a May 17, 2016 e-mail, Katie Tietsort, Water Commissioner, Topeka Field Office, gave a recommendation that the application be approved. Based on the above discussion, the area remains open to new appropriations for off-season permits, the approval of this application is subject to specific conditions relative to direct surface water diversions, and there is no indication that existing water rights will be impaired, it is recommended that the referenced application be approved.

Doug Schemm
Environmental Scientist
Topeka Field Office

1320 Research Park Drive
Manhattan, Kansas 66502
(785) 564-6700



900 SW Jackson, Room 456
Topeka, Kansas 66612
(785) 296-3556

Jackie McClaskey, Secretary

Governor Sam Brownback

January 4, 2017

DOUG LIVINGSTON
12839 CENTURY ST
OVERLAND PARK KS 66213

RE: Appropriation of Water, File No. 49,582

FILE COPY

Dear Mr. Livingston:

There is enclosed a permit to appropriate water authorizing you to proceed with construction of the proposed diversion works (except those dams and stream obstructions regulated by K.S.A. 82a-301 through 305a), to divert such unappropriated water as may be available from the source and at the location specified in the permit, and to use it for the purpose and at the location described in the permit.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in these approval documents with specific reference to **Paragraph Nos. 19 and 20 requiring that you obtain permission prior to diverting water.** A water meter is required on the proposed diversion works and you must install it prior to water being put to beneficial use in order for you to maintain accurate records of water use. The meter should be used to provide the information required on the annual water use report.

Failure to notify the Chief Engineer of the Division of Water Resources of the completion of the diversion works within the time allowed, or within any authorized extension of time thereof, will result in the dismissal of this permit. Enclosed is a form which may be used to notify the Chief Engineer that the proposed diversion works have been completed.

All requests for extensions of time to complete diversion works, or to perfect appropriations, must be submitted to the Chief Engineer before the expiration of time originally set forth in the permit to complete diversion works or to perfect an appropriation. If for any reason, you require an extension of time, you must request it before the expiration of time set forth in this permit. Failure to comply with this regulation will result in the dismissal of your permit or your water right. Any request for an extension of time shall be accompanied by the required statutory fee, which is currently \$100.00.

There is also enclosed an information sheet setting forth the procedure to obtain a Certificate of Appropriation which will establish the extent of your water right. If you have any questions, please contact our office. If you wish to discuss this specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

Brent A. Turney, P.G.
Change Application Unit Supervisor
Water Appropriation Program

BAT:dws
Enclosures

pc: Topeka Field Office



KANSAS DEPARTMENT OF AGRICULTURE
Jackie McClaskey, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

**APPROVAL OF APPLICATION
and
PERMIT TO PROCEED**

(This Is Not a Certificate of Appropriation)

This is to certify that I have examined Application, **File No. 49,582** of the applicant

**DOUG LIVINGSTON
12839 CENTURY ST
OVERLAND PARK KS 66213**

for a permit to appropriate water for beneficial use, together with the maps, plans and other submitted data, and that the application is hereby approved and the applicant is hereby authorized, subject to vested rights and prior appropriations, to proceed with the construction of the proposed diversion works (except those dams and stream obstructions regulated by K.S.A. 82a-301 through 305a, as amended), and to proceed with all steps necessary for the application of the water to the approved and proposed beneficial use and otherwise perfect the proposed appropriation subject to the following terms, conditions and limitations:

1. That the priority date assigned to such application is **March 21, 2016**.
2. That the water sought to be appropriated shall be used for recreational use in a waterfowl marsh located in the North Half of the Southeast Quarter (N $\frac{1}{2}$ SE $\frac{1}{4}$) of Section 21, in Township 20 South, Range 16 East, Coffey County, Kansas.
3. That the authorized source from which the appropriation shall be made is surface water from Long Creek (Neosho), to be diverted at one (1) pump site located in the Northeast Quarter of the Northeast Quarter of the Southeast Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 21, more particularly described as being near a point 2,620 feet North and 577 feet West of the Southeast corner of said section, in Township 20 South, Range 16 East, Coffey County, Kansas, located substantially as shown on the topographic map accompanying the application.
4. That the appropriation sought shall be limited to a maximum diversion rate not in excess of **2,000 gallons per minute (4.46 c.f.s.)** and to a quantity not to exceed **60 acre-feet** of water for any calendar year.
5. That installation of works for diversion of water shall be completed on or before **December 31, 2018** or within any authorized extension thereof. The applicant shall notify the Chief Engineer and pay the statutorily required field inspection fee of \$400.00 when construction of the works has been completed. Failure to timely submit the notice and the fee will result in revocation of the permit. Any request for an extension of time shall be submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee of \$100.00.
6. That the proposed appropriation shall be perfected by the actual application of water to the proposed beneficial use on or before **December 31, 2022** or any authorized extension thereof. Any request for an extension of time shall be submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee of \$100.00.

7. That the applicant shall not be deemed to have acquired a water appropriation for a quantity in excess of the amount approved herein nor in excess of the amount found by the Chief Engineer to have been actually used for the approved purpose during one calendar year subsequent to approval of the application and within the time specified for perfection or any authorized extension thereof.

8. That the use of water herein authorized shall not be made so as to impair any use under existing water rights nor prejudicially and unreasonably affect the public interest.

9. That the right of the appropriator shall relate to a specific quantity of water and such right must allow for a reasonable raising or lowering of the static water level and for the reasonable increase or decrease of the streamflow at the appropriator's point of diversion.

10. That this permit does not constitute authority under K.S.A. 82a-301 through 305a to construct any dam or other obstruction; nor does it grant any right-of-way, or authorize entry upon or injury to, public or private property.

11. That all diversion works constructed under the authority of this permit into which any type of chemical or other foreign substance will be injected into the water pumped from the diversion works shall be equipped with an in-line, automatic quick-closing, check valve capable of preventing pollution of the source of the water supply. The type of valve installed shall meet specifications adopted by the Chief Engineer and shall be maintained in an operating condition satisfactory to the Chief Engineer.

12. That an acceptable water flow meter shall be installed and maintained on the diversion works authorized by this permit in accordance with the Kansas Administrative Regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer. This water flow meter shall be used to provide an accurate quantity of water diverted as required for the annual water use report (including the meter reading at the beginning and end of the report year).

13. That the applicant shall maintain accurate and complete records from which the quantity of water diverted during each calendar year may be readily determined and the applicant shall file an annual water use report with the Chief Engineer by March 1 following the end of each calendar year. Failure to file the annual water use report by the due date shall cause the applicant to be subject to a civil penalty.

14. That no water user shall engage in nor allow the waste of any water diverted under the authority of this permit.

15. That failure without cause to comply with provisions of the permit and its terms, conditions and limitations will result in the forfeiture of the priority date, revocation of the permit and dismissal of the application.

16. That the right to appropriate water under authority of this permit is subject to any minimum desirable streamflow requirements identified and established pursuant to K.S.A. 82a-703c for the source of supply to which this water right applies.

17. That diversion of natural flow shall not take place unless there is water available to satisfy all demands by senior water rights and permits.

18. That the stream flow shall not be stopped at the first riffle below the point of diversion while diversion is taking place under the authority of this water right or permit.

19. That during the period October 1 through June 30, the verbal or written permission of the Chief Engineer, or an authorized representative of the Chief Engineer, shall be obtained in order to divert water each time the applicant desires to divert water.

20. That during the period July 1 through September 30 each calendar year, no direct diversions of surface water shall be permitted unless written permission is obtained from the Chief Engineer, or the Chief Engineer's authorized representative.

This Order shall become a final agency action, as defined by K.S.A. 77-607(b), without further notice to the parties, if a request for hearing or a petition for administrative review is not filed as set forth below.

Request for Hearing. According to K.A.R. 5-14-3(c), any party who desires a hearing must submit a request within 15 days after the date shown on the Certificate of Service attached to this Order. Filing a request for a hearing will give you the opportunity to submit additional facts for consideration, contest any findings made by the Chief Engineer, or present any other information you believe should be considered in this matter. A timely-filed request for hearing will stay the deadline for requesting administrative review of this Order pending the outcome of the hearing.

Petition for Review. The applicant, if aggrieved by this Order, may petition for administrative review, pursuant to K.S.A. 82a-711(c) and K.S.A. 82a-1901(a). The petition must be filed within 30 days after the date shown on the Certificate of Service attached to this Order and must set forth the basis for the review, unless stayed by the timely filing of a request for hearing.

Any request for hearing or petition for administrative review shall be in writing and shall be submitted to the attention of: Chief Legal Counsel, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, Fax: (785) 564-6777.

Ordered this 29th day of December, 2016, in Topeka, Shawnee County, Kansas.

Lane P. Letourneau

Lane P. Letourneau, P.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 29th day of December, 2016, by Lane P. Letourneau, P.G., Program Manager, Division of Water Resources, Kansas Department of Agriculture.



Danielle Wilson

Notary Public

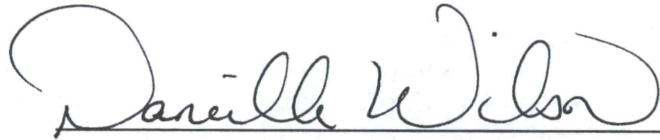
CERTIFICATE OF SERVICE

On this 4th day of January, 2017, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 49,582, dated December 29, 2016 was mailed postage prepaid, first class, US mail to the following:

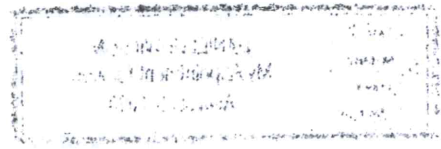
DOUG LIVINGSTON
12839 CENTURY ST
OVERLAND PARK KS 66213

With photocopies to:

Topeka Field Office



Division of Water Resources



1320 Research Park Drive
Manhattan, Kansas 66502
(785) 564-6700



900 SW Jackson, Room 456
Topeka, Kansas 66612
(785) 296-3556

Jackie McClaskey, Secretary

Governor Sam Brownback

December 27, 2016

MIDDLECREEK FARM, LLC
DOUG LIVINGSTON
12839 CENTURY STREET
OVERLAND PARK KS 66213

RE: Proj.: Tract 7 - Recreational Wetland
Non-Jurisdictional Project
Floodplain Fill
Coffey County
Long Creek
WSN: LCF-0081

Dear Mr. Livingston:

This will acknowledge receipt of your request for a permit. The project will consist of the placement of fill for construction of a 6 acre wetland at a location in the NE 1/4 of the SE 1/4 of Section 21, Township 20 South, Range 16 East, Coffey County, Kansas.

We have reviewed the submitted documentation to this office. Upon review of the provided plans we have concluded that this project is not in our jurisdiction by K.S.A. 24-126 by observing that the project is outside of the 100-year (0.01%) floodplain. A state permit will not be required from this agency unless special public interest issues are identified

A refund request will be made and will arrive at a later date. This project does not in any way relieve the project sponsor from complying with any other local, state, or federal requirements which may be applicable. If you have any questions or comments please contact this office by writing or calling (785) 564-6649 or mike.calderwood@ks.gov.

Sincerely,

Mike Calderwood
Water Structures Engineer

Enclosure

pc: Doug Schemm- Topeka Field Office
Robert Harkrader- NRCS- Burlington

Bank Of Oklahoma
Office: (913) 234-6650
Fax: (913) 234 6640
Cell: (913) 485 9084

From: Phillips, Janelle [<mailto:Janelle.Phillips@KDA.KS.GOV>]
Sent: Wednesday, May 11, 2016 12:39 PM
To: Livingston, Doug; Schemm, Doug
Subject: RE: File Nos. 49,582 and 49,598

Mr. Livingston –

I would be happy to help in any way with your application. I have attached a blank application to this email for your use. In addition to plan and cross sections on the proposed structure, I will need construction specifications, the location of a benchmark, and a \$300 fee. Thank you

Janelle N. Phillips, P.E., C.F.M., LEED-AP
Water Structures Program
Kansas Department of Agriculture
Division of Water Resources
1320 Research Park Drive
Manhattan, KS 66502
785-564-6656
janelle.phillips@kda.ks.gov
<http://agriculture.ks.gov/dwr>

Our applications have changed. Please visit our website to get current applications for new projects at:
<http://agriculture.ks.gov/divisions-programs/dwr/stream-and-floodplain-permits>

From: Livingston, Doug [<mailto:DLivingston@mail.bokf.com>]
Sent: Wednesday, May 11, 2016 12:35 PM
To: Schemm, Doug
Cc: Phillips, Janelle
Subject: RE: File Nos. 49,582 and 49,598

Hello Doug, we are working with Robert Harkrader from the NRCS out of Burlington. He is working on getting their engineers to shoot elevations and draw up a plan to submit a structures permit. This is for the tract 7 project in Coffey county. So after we get that stuff from Robert then Janelle can help us submit it? And on the one in Franklin Co. file 49,582 we may put this one on hold until this fall.

Doug Livingston, SVP, Sales/Trading
Bank Of Oklahoma
Office: (913) 234-6650
Fax: (913) 234 6640
Cell: (913) 485 9084

From: Schemm, Doug [<mailto:Doug.Schemm@KDA.KS.GOV>]
Sent: Wednesday, May 11, 2016 7:26 AM
To: Livingston, Doug

Phillips, Janelle

From: Phillips, Janelle
Sent: Tuesday, May 17, 2016 9:33 AM
To: 'Livingston, Doug'
Cc: Schemm, Doug
Subject: RE: File Nos. 49,582 and 49,598

Mr. Livingston –

The front of the application (all that was attached) looks fine. In addition to the application you will need to send:

1. \$300 fee
2. plan view showing the length and width of the proposed berms
3. cross sections on the proposed structure showing the height and side slopes of the proposed berms
4. construction specifications
5. the location of a benchmark

You will need to send the application and supporting material to:

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

Thank you

Janelle N. Phillips, P.E., C.F.M., LEED-AP
Water Structures Program
Kansas Department of Agriculture
Division of Water Resources
1320 Research Park Drive
Manhattan, KS 66502
785-564-6656
janelle.phillips@kda.ks.gov
<http://agriculture.ks.gov/dwr>

Our applications have changed. Please visit our website to get current applications for new projects at:
<http://agriculture.ks.gov/divisions-programs/dwr/stream-and-floodplain-permits>

From: Livingston, Doug [mailto:DLivingston@mail.bokf.com]
Sent: Tuesday, May 17, 2016 9:09 AM
To: Phillips, Janelle
Subject: RE: File Nos. 49,582 and 49,598

Good morning Janelle, can you please look over the application I filled out and make sure I didn't leave anything out? Also where do I send the application and the 300.00?

Doug Livingston, SVP, Sales/Trading

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Jackie McClaskey, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

APPLICATION COMPLETE

5/9/2016

Reviewer DWS

File Number 49,582
This item to be completed by the Division of Water Resources.

WATER RESOURCES RECEIVED

MAR 21 2016

12:16p

KS DEPT OF AGRICULTURE

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.)

To the Chief Engineer of the Division of Water Resources, Kansas Department of Agriculture,
1320 Research Park Drive, Manhattan, KS 66502:

1. Name of Applicant (Please Print): DOUG LIVINGSTON
Address: 12839 CENTURY ST.
City: Overland Park State: KS Zip Code 66213
Telephone Number: (913) 485-9084 e-mail: DLivingston@mail.bokf.com

2. The source of water is: surface water in LONG CREEK (stream)
OR groundwater in NEOSHO 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.

3. The maximum quantity of water desired is 60 acre-feet OR _____ gallons per calendar year, to be diverted at a maximum rate of 2000 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>1</u>	GMD <u>0</u>	Meets K.A.R. 5-3-1 (YES/NO)	Use <u>REC</u>	Source <u>G/S</u>	County <u>CF</u>	By <u>ASW</u>	Date <u>3/21/16</u>
Code _____	REG	Fee \$ <u>200</u>	TR # _____	Receipt Date <u>3/21/16</u>	Check # <u>1200</u>		

SCANNED

3/22/2016 LCM

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.

- (A) One in the NE quarter of the NE quarter of the SE quarter of Section 21, more particularly described as being near a point 2,620 feet North and 577 feet West of the Southeast corner of said section, in Township 20 South, Range 16 East, COFFEY _____ 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):

(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 MARCH 17th, 2016. _____
Applicant's Signature

7. The proposed project for diversion of water will consist of ONE PUMP SITE
(number of wells, pumps or dams, etc.)
and (was)(will be) completed (by) FALL 2016
(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 FALL 2016
(Mo/Day/Year)

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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 _____

To be Determined by Structures Program Review.

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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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	_____	_____	_____	_____
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):

(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 _____, Kansas, this 17th day of MARCH, 2016.
(month) (year)

Doug Livingston
(Applicant Signature)

APPLICANT(S) SOCIAL SECURITY IDENTIFICATION NUMBER(S)

By _____
(Agent or Officer Signature)

46-2424574
and/or
APPLICANT(S) TAXPAYER I.D. NO.(S)

(Agent or Officer - Please Print)

Assisted by DWS TOPEKA FO Date: 3/2/2016
(office/title)

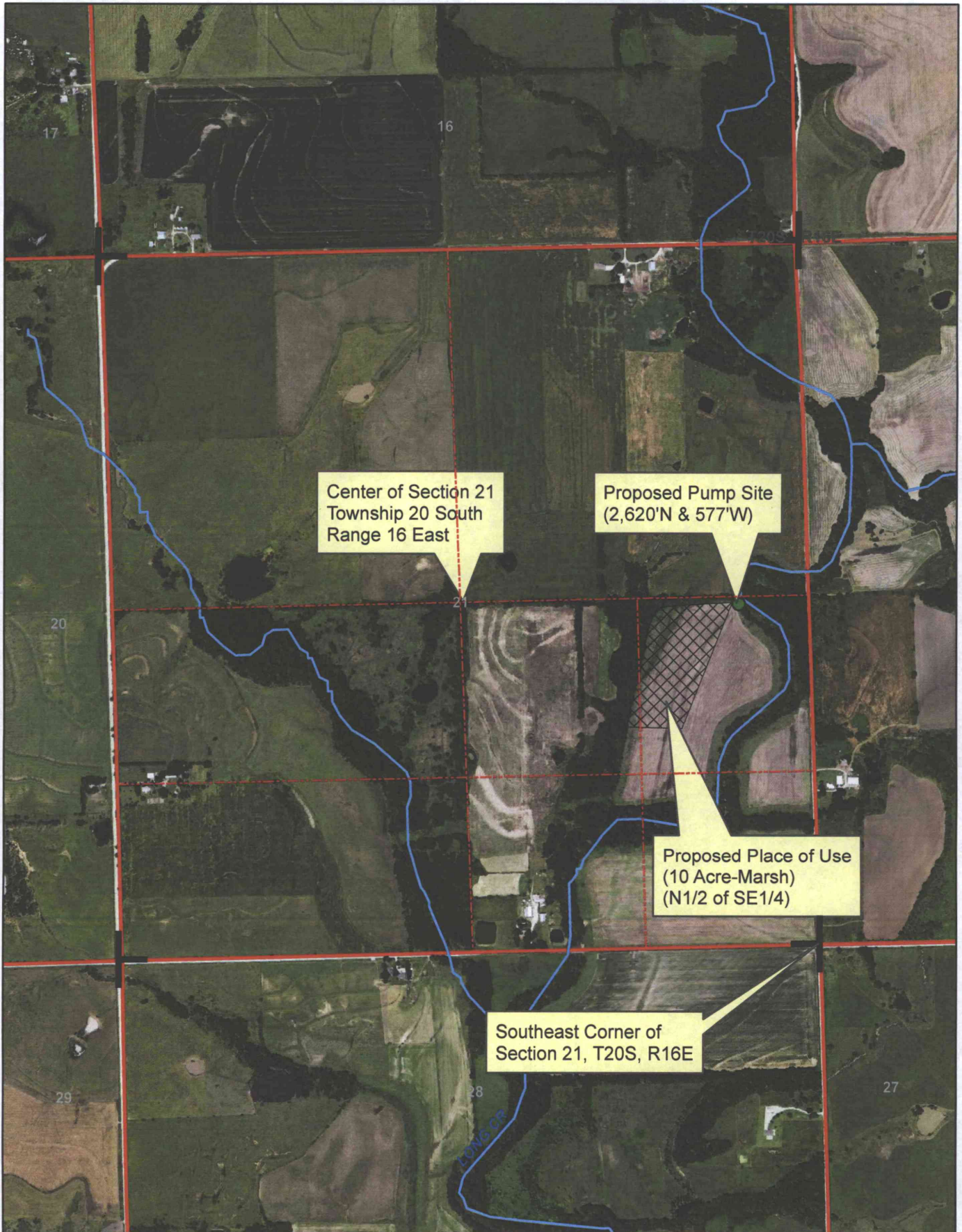
WATER RESOURCES RECEIVED

MAR 21 2016

KS DEPT OF AGRICULTURE

SCANNED

FILE NO. 49,582 - DOUG LIVINGSTON SITE MAP
SEC. 21, T20S, R16E, COFFEY CO.



1:12,000

See April 19, 2016 e-mail from Applicant providing list of upstream and downstream landowners.



**RECREATIONAL USE
SUPPLEMENTAL SHEET**

File No. 49,582

Name of Applicant (Please Print): DOUG LIVINGSTON _____

1. Please indicate type of recreational use (boating, fishing, swimming, etc.): _____
Wildlife, Hunting

2. Please summarize how the water will be used and justify the quantity of water requested: _____

Surface Area of Marsh = 10 acres. Filled to a maximum depth of 3.0 feet
10 acres x 3.0 feet = 30 acre-feet.
30 A.F. for seepage and evaporation for a total of 60 Acre-feet

3. Please complete the following table showing estimated future water requirements:

ESTIMATED FUTURE WATER DIVERTED/STORED	
NEXT 5 YEARS	WATER TO BE DIVERTED (ACRE-FEET OR GALLONS)
Year 1	30 AF 60 AF
Year 2	30 AF 60 AF
Year 3	30 AF 60 AF
Year 4	30 AF 60 AF
Year 5	30 AF 60 AF

Please attach any additional information, tables, or curves showing past, present and estimated future water requirements to substantiate the amount of water requested.

4. Please designate the legal description of the location where the water is to be used by providing the fractional part of the Section, Township and Range.

Wildlife Marsh Located in the North Half of the Southeast Quarter of Section 21, in Township 20 South, Range 16 East, Coffey County, Kansas.

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

SCANNED

Schemm, Doug

From: Livingston, Doug <DLivingston@mail.bokf.com>
Sent: Tuesday, April 19, 2016 1:04 PM
To: Schemm, Doug
Subject: RE: Pending Application File No. 49,582

Immediate neighbors, let me know if you need others. I assume I need to mail you the notarized agreement?

Jay B Biggs
PO Box 334
Waverly Ks 66871

Brenda Sue Noakes
3324 Meriden Rd
Topeka Ks. 66617

David J Carlson
1758 18th road
Waverly Ks. 66871

Kenneth L Combes
2329 26th Rd.
Waverly Ks. 66871

Thomas W Yokum
1825 Reaper Rd
Waverly Ks. 66871

Doug,

Just beginning to review your application, and will ultimately need 2 more items.

First the attached MDS form must be **signed and your signature notarized**.

Secondly, I will need the names and addresses of the upstream and downstream property owners adjacent to the stream (Long Creek) within ½ mile of your property lines. You may either write their names and addresses on the attached map or provide me a list.

Once you have signed and notarized the MDS form and collected the landowner information, you can mail it back to me at:

Kansas Department of Agriculture
6531 SE Forbes Avenue, Suite B
Topeka, KS 66619

Thanks, Doug

The company reserves the right to amend statements made herein in the event of a mistake. Unless expressly stated herein to the contrary, only agreements in writing signed by an authorized officer of the Company may be enforced against it.

4/19/16

(Date)

Kansas Department of Agriculture
Division of Water Resources
David W. Barfield, Chief Engineer
1320 Research Park Drive
Manhattan, Kansas 66502

RECEIVED
APR 22 2016
Topeka Field Office
DIVISION OF WATER RESOURCES

Re: Application
File No. 49,582

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.

Doug Livingston
Signature of Applicant

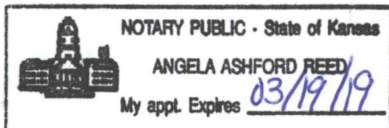
State of Kansas)
County of Johnson) ss

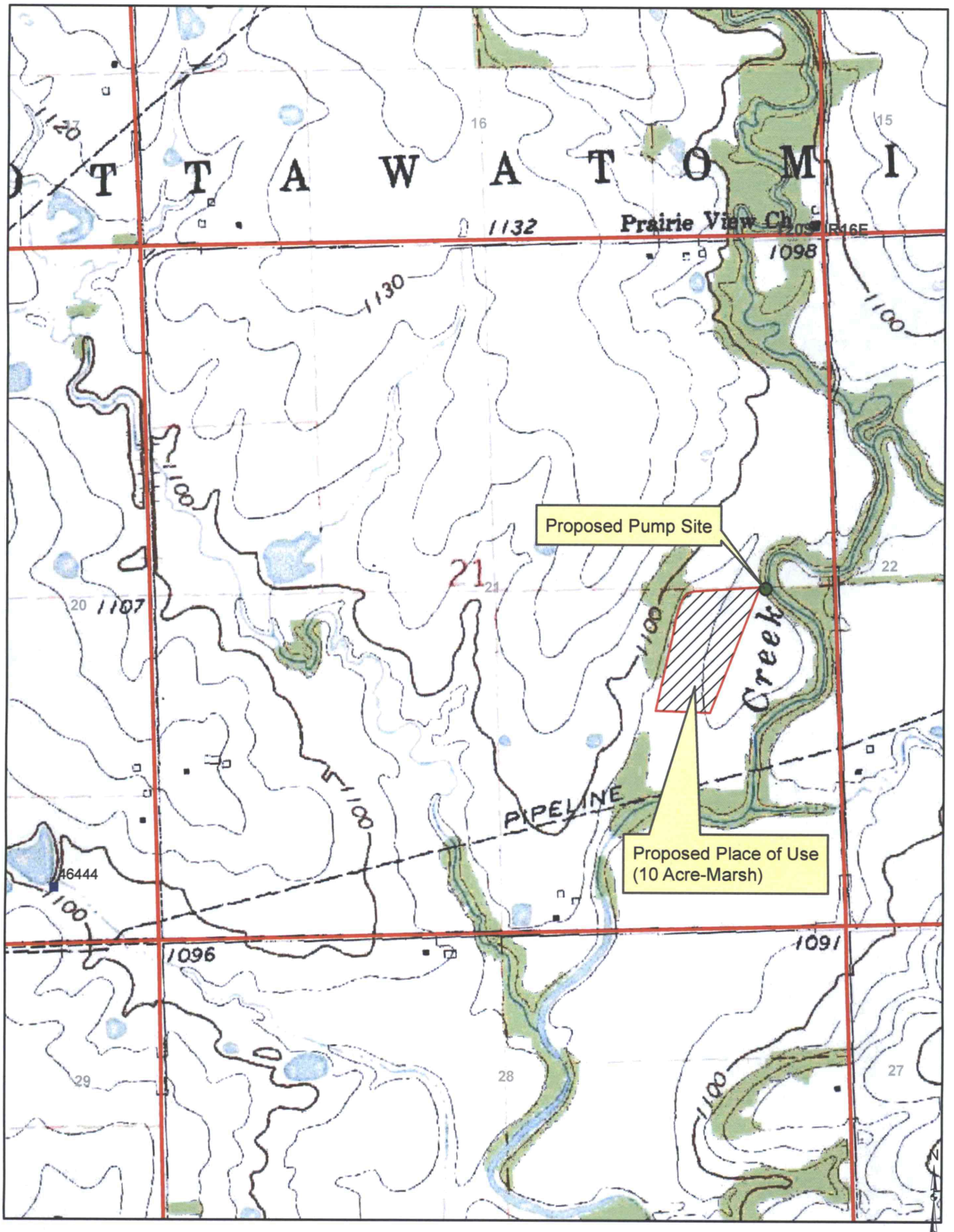
Doug Livingston
(Print Applicant's Name)

I hereby certify that the foregoing instrument was signed in my presence and sworn to before me this 19th day of April, 2016.

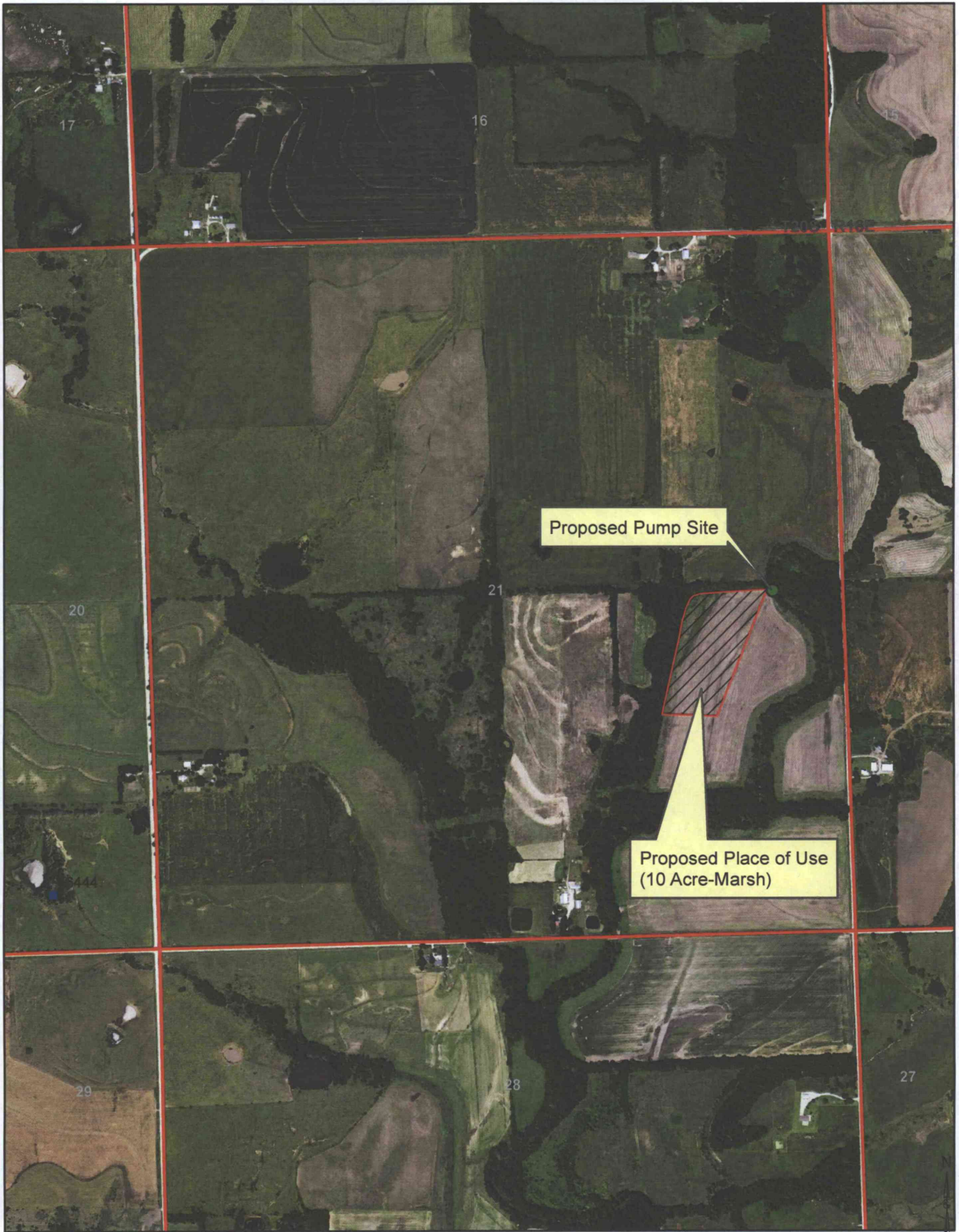
Angela Ashford Reed
Notary Public

My Commission Expires:





1:12,000



1:12,000

Livingston, Doug

From: Schemm, Doug [Doug.Schemm@KDA.KS.GOV]
Sent: Tuesday, April 19, 2016 1:15 PM
To: Livingston, Doug
Subject: RE: Pending Application File No. 49,582
Attachments: 49598 MDS Form.docx

Yes, we need original signature and notary. Also to save some time print this one off as well and it will cover your other pending application.

From: Livingston, Doug [mailto:DLivingston@mail.bokf.com]
Sent: Tuesday, April 19, 2016 1:04 PM
To: Schemm, Doug
Subject: RE: Pending Application File No. 49,582

Immediate neighbors, let me know if you need others. I assume I need to mail you the notarized agreement?

Jay B Biggs
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Waverly Ks 66871

Brenda Sue Noakes
3324 Meriden Rd
Topeka Ks. 66617

David J Carlson
1758 18th road
Waverly Ks. 66871

Kenneth L Combes
2329 26th Rd.
Waverly Ks. 66871

Thomas W Yokum
1825 Reaper Rd
Waverly Ks. 66871

RECEIVED
APR 22 2016
Topeka Field Office
DIVISION OF WATER RESOURCES

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Just beginning to review your application, and will ultimately need 2 more items.

First the attached MDS form must be **signed and your signature notarized**.

Secondly, I will need the names and addresses of the upstream and downstream property owners adjacent to the stream (Long Creek) within ½ mile of your property lines. You may either write their names and addresses on the attached map or provide me a list.

**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

RECEIVED
APR 22 2016
Topeka Field Office
DIVISION OF WATER RESOURCES



Topeka Field Office
6531 SE Forbes Ave., Suite B
Topeka, Kansas 66619

Jackie McClaskey, Secretary
David W. Barfield, Chief Engineer
Katherine A. Tietsort, Water Commissioner

Phone: (785) 296-5733
Fax: (785) 862-2460
www.agriculture.ks.gov
Sam Brownback, Governor

April 20, 2016

JAY B BIGGS
PO BOX 334
WAVERLY KS 66871

Re: Pending Application, File No. 49,582

Dear Sir or Madam:

This is to advise you that Doug Livingston has filed the application referred to above for a permit to appropriate surface water from Long Creek for recreational use. The application is requesting 60 acre-feet of water to be diverted at 2,000 gallons per minute, from one (1) pump site, located in the Northeast Quarter of the Northeast Quarter of the Southeast Quarter of Section 21, in Township 20 South, Range 16 East, Coffey County, Kansas. Please note that the direct diversion of surface water is subject to specific permit conditions including requesting permission prior to diverting.

A map is enclosed indicating the location of the proposed point of diversion. Records in this office indicate that you own land along the stream in this vicinity and you are being notified of receipt of this application so that you may be fully informed of the proposed location of the applicant's point of diversion and proposed use of water. Consideration will be given to comments or other information which you desire to submit to this office **within 15 days** from the date of this letter. You may also contact me at (785) 296-3495 with any questions or comments.

Sincerely,

A handwritten signature in cursive script that reads "Doug Schemm".

Douglas W. Schemm
Environmental Scientist
Topeka Field Office

Enclosure

pc: Doug Livingston



Topeka Field Office
6531 SE Forbes Ave., Suite B
Topeka, Kansas 66619

Jackie McClaskey, Secretary
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Katherine A. Tietsort, Water Commissioner

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Fax: (785) 862-2460
www.agriculture.ks.gov
Sam Brownback, Governor

April 20, 2016

BRENDA SUE NOAKES
3324 MERIDEN RD
TOPEKA KS 66617

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A handwritten signature in cursive script that reads "Doug Schemm".

Douglas W. Schemm
Environmental Scientist
Topeka Field Office

Enclosure

pc: Doug Livingston

AGRICULTURA PER AMERICA
Kansas
Department of Agriculture
Division of Water Resources

Topeka Field Office
6531 SE Forbes Ave., Suite B
Topeka, Kansas 66619

Jackie McClaskey, Secretary
David W. Barfield, Chief Engineer
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Phone: (785) 296-5733
Fax: (785) 862-2460
www.agriculture.ks.gov
Sam Brownback, Governor

April 20, 2016

THOMAS W YOKUM
1825 REAPER ROAD
WAVERLY KS 66871

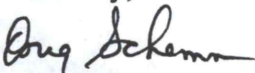
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Sincerely,



Douglas W. Schemm
Environmental Scientist
Topeka Field Office

Enclosure

pc: Doug Livingston



Topeka Field Office
6531 SE Forbes Ave., Suite B
Topeka, Kansas 66619

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Katherine A. Tietsort, Water Commissioner

Phone: (785) 296-5733
Fax: (785) 862-2460
www.agriculture.ks.gov
Sam Brownback, Governor

April 20, 2016

KENNETH L COMBES
2329 26th ROAD
WAVERLY KS 66871

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Douglas W. Schemm
Environmental Scientist
Topeka Field Office

Enclosure

pc: Doug Livingston



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Fax: (785) 862-2460
www.agriculture.ks.gov
Sam Brownback, Governor

April 20, 2016

DAVID J CARLSON
1758 18TH ROAD
WAVERLY KS 66871

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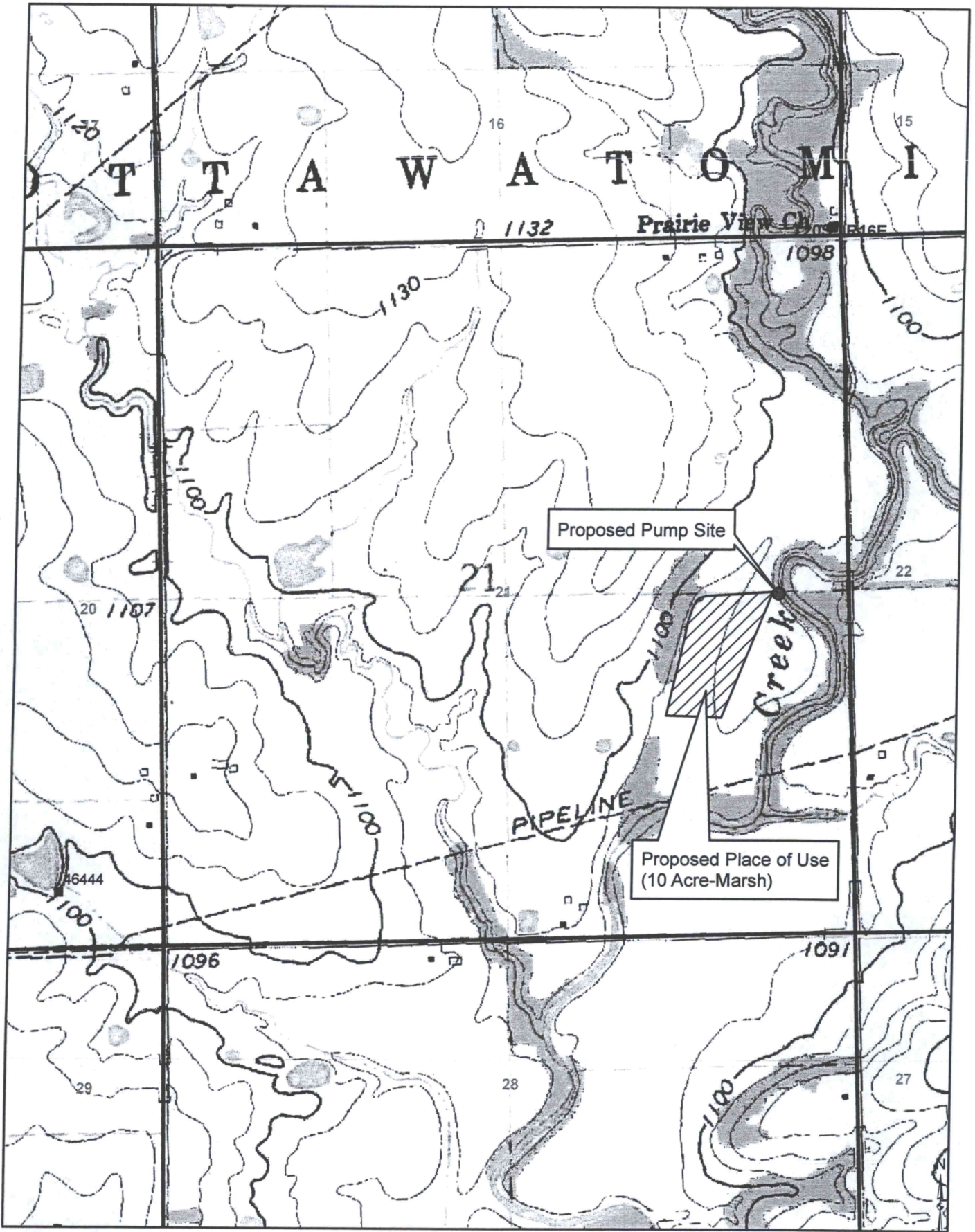
Sincerely,

A handwritten signature in cursive script that reads "Doug Schemm".

Douglas W. Schemm
Environmental Scientist
Topeka Field Office

Enclosure

pc: Doug Livingston



1:12,000

FEE SCHEDULE

- 1. The fee for an application for a permit to appropriate water for beneficial use, except for domestic use, shall be (see paragraph No. 2 below if requesting storage):

ACRE-FEET	FEE
0-100	\$200.00
101-320	\$300.00
More than 320	\$300.00 plus \$20.00 for each additional 100 acre-feet or any part thereof.

- 2. The fee for an application in which storage is requested, except for domestic use, shall be:

ACRE-FEET	FEE
0-250	\$200.00
More than 250	\$200.00 plus \$20.00 for each additional 250 acre-feet of storage or any part thereof.

Note: If an application requests both direct use *and* storage, the fee charged shall be as determined under No. 1 or No. 2 above, whichever is greater, but not both fees.

- 3. The fee for an application for a permit to appropriate water for water power or dewatering purposes shall be \$100.00 plus \$200.00 for each 100 cubic feet per second, or part thereof, of the diversion rate requested.

Note: The applicant shall notify the Chief Engineer and pay the statutorily required field inspection fee of \$400.00 when construction of the works for diversion has been completed, except that for applications filed on or after July 1, 2009, for works constructed for sediment control use and for evaporation from a groundwater pit for industrial use shall be accompanied by a field inspection fee of \$200.00.

MAKE CHECKS PAYABLE TO THE KANSAS DEPARTMENT OF AGRICULTURE

ATTENTION

A Water Conservation Plan may be required per K.S.A. 82a-733. A statement that your application for permit to appropriate water may be subject to the minimum desirable streamflow requirements per K.S.A. 82a-703a, b, and c may also be required from you. After the Division of Water Resources has had the opportunity to review your application, you will be notified whether or not you will need to submit a Water Conservation Plan. You also may be required to install a water flow meter or water stage measuring device on your diversion works prior to diverting water. There may be other special conditions or Groundwater Management District regulations that you will need to comply with if this application is approved.

CONVERSION FACTORS

- 1 acre-foot equals 325,851 gallons
- 1 million gallons equal 3.07 acre-feet

WATER RESOURCES
RECEIVED

MAR 21 2016

KS DEPT OF AGRICULTURE

SCANNED

1320 Research Park Drive
Manhattan, Kansas 66502
Jackie McClaskey, Secretary



Phone: (785) 564-6700
Fax: (785) 564-6777
Email: ksag@kda.ks.gov
www.agriculture.ks.gov
Sam Brownback, Governor

March 21, 2016

DOUG LIVINGSTON
12839 CENTURY ST
OVERLANDPARK KS 66213

RE: Application
File No. 49582

Dear Sir or Madam:

Your application for permit to appropriate water in 21-20S-16E in Coffey 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 me at (785) 564-6634. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

Kenneth A. Kopp, P.G.
New Application Unit Supervisor
Water Appropriation Program

KAK: DLW
pc: TOPEKAField Office
GMD

SCANNED