

File No. **49,598** 15. Formation Code: Drainage Basin: **MARAIS DES CYGNES RIVER** County: **FR** Special Use: Stream: **MIDDLE CREEK (MARAIS DES CYGNES)**

16. Points of Diversion											
T	MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W
√					85136 SE NW SE	27	17	20E	4	1577	1598

17. Rate and Quantity				
Authorized		Additional		
Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files
2000	40	2000	40	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				
√								4		WATERFOWL MARSH (SE)																	7a.	NO	NONE

Comments:
special conditions: off season diversion

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: April 13, 2017

FROM: Doug Schemm

RE: Application, File No. 49,598

Doug Livingston has filed the application referred to above requesting 40 acre-feet at a diversion rate of 2,000 gallons per minute for the direct diversion of surface water from one pump site on Middle Creek, within the Marais des Cygnes River Basin. This application will allow water to be pumped directly from Middle Creek (when flows are adequate and permission is granted). The water will be used to fill and maintain water level in a wildlife marsh (i.e. offset evaporative and seepage losses). The project is located in the Southeast Quarter of Section 27, in Township 17 South, Range 20 East, Franklin 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 also requested 10 acre-feet to refill the marsh, if necessary, for a total of 40 acre-feet. This is equivalent to 4 feet of water per acre, which is still a reasonable quantity. Other wildlife marshes in this area have requested both an initial fill and one additional fill per year.

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 March 28, 2017. Telephone calls were received from two of the adjacent landowners who asked general questions about the pending application but they did not express specific concerns or provide any indication that approval of this application would lead to impairment of a senior right. The callers were informed of the specific permit conditioning for direct diversion of surface water.

There are three other surface water diversions within a two (2) mile radius of the proposed point of diversion, with the nearest of these (File No. 48,684) located just over 2,000 feet away. However, it is **upstream** of this pending application. There are no permitted direct diversions from Middle Creek within two miles downstream of the proposed pump site. 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. 49,598
Page 2

DWR Water Structures Program staff reviewed the project and determined that it is located within a floodplain. However, if the owner does not place more than 1 foot of fill in for the control structure he will not need any structures permitting. The applicant was informed of this finding, and that if the fill exceeded 1 foot, he would need a permit.

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 an April 11, 2017 discussion, 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

May 3, 2017

FILE COPY

DOUG LIVINGSTON
12839 CENTURY ST
OVERLAND PARK KS 66213

RE: Appropriation of Water, File No. 49,598

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. 49,598** 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 25, 2016**.
2. That the water sought to be appropriated shall be used for recreational use in a waterfowl marsh located in the Southeast Quarter (SE $\frac{1}{4}$) of Section 27, in Township 17 South, Range 20 East, Franklin County, Kansas.
3. That the authorized source from which the appropriation shall be made is surface water from Middle Creek (Marais des Cygnes), to be diverted at one (1) pump site located in the Southeast Quarter of the Northwest Quarter of the Southeast Quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 27, more particularly described as being near a point 1,577 feet North and 1,598 feet West of the Southeast corner of said section, in Township 17 South, Range 20 East, Franklin 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 **40 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 2nd day of May, 2017, 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 2nd day of May, 2017, by Lane P. Letourneau, P.G., Program Manager, Division of Water Resources, Kansas Department of Agriculture.



Danielle Wilson

Notary Public

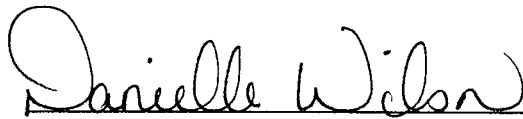
CERTIFICATE OF SERVICE

On this *3rd* day of *May*, 2017, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 49,598, dated *May 2nd*, 2017 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

APPLICATION COMPLETE
4/12/2017
Reviewer DWS

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Jackie McClaskey, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

File Number 49,598
This item to be completed by the Division of Water Resources.

WATER RESOURCES
RECEIVED

**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.)

MAR 25 2016
12:07 P
KS DEPT OF AGRICULTURE

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 MIDDLE CREEK (stream)
OR groundwater in MARAIS DES CYGNES 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 40 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. 1 GMD 0 Meets K.A.R. 5-3-1 (YES) NO) Use REC Source G(5) County FR By ASW Date 3/25/16
Code REG Fee \$ 200 TR # _____ Receipt Date 3/25/16 Check # 1201

SCANNED

3/15/2016 UCM

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 SE quarter of the NW quarter of the SE quarter of Section 27, more particularly described as being near a point 1,577 feet North and 1,598 feet West of the Southeast corner of said section, in Township 17 South, Range 20 East, FRANKLIN _____ 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 23rd, 2016. Doug Hunter
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
WATER RESOURCES (Mo/Day/Year)
RECEIVED

MAR 25 2016

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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MAR 25 2016

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 23rd day of MARCH, 2016
(month) (year)

Doug Linsington
(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
(office/title)

Date: 3/23/2016

WATER RESOURCES RECEIVED

MAR 25 2016

**RECREATIONAL USE
SUPPLEMENTAL SHEET**

File No. 49,598

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.
Plus additional water to offset seepage = 10 acre-feet. Total requested = 40 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	40 AF
Year 2	40 AF
Year 3	40 AF
Year 4	40 AF
Year 5	40 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 Southeast Quarter of Section 27, in Township 17 South, Range 20 East, Franklin County, Kansas.

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

WATER RESOURCES
RECEIVED

MAR 25 2016

KS DEPT OF AGRICULTURE

SCANNED

WATER RESOURCES
RECEIVED

3-27-17

(Date)

MAR 29 2017

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

KS DEPT OF AGRICULTURE

Re: Application
File No. 49,598

Minimum Desirable Streamflow
Marais des Cygnes River Assurance
District

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.

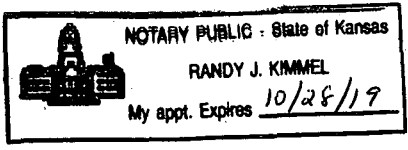
I am aware of the above factors, and with the knowledge thereof, request that the Division of Water Resources proceed with processing and approval, if possible, of the above referenced application.

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 27 day of March, 2017



Randy J. Kimmel
Notary Public

My Commission Expires: 10/28/19

AMOUNT STATISTICS REPORT FOR POINTS OF DIVERSION UNDER A 49598 00

#####

AMOUNT STATISTICS REPORT FOR POINTS OF DIVERSION UNDER A 49598 00 REC

Water Right and Points of Diversion Within 2.00 miles of point defined as:

1577 Feet North and 1598 Feet West of the Southeast Corner of Section 27 T 17S R 20E

SURFACE WATER ONLY

File Number	Use	ST	SR	Dist (ft)	Q4	Q3	Q2	Q1	FeetN	FeetW	Sec	Twp	Rng	ID	Batt	Auth_Quan	Add_Quan	Unit
A__ 48684 00	IRR	KE	S	3068	--	SE	SW	SW	532	4482	27	17	20E	1		260.00	260.00	AF
Same				2098	--	SW	SE	SW	605	3457	27	17	20E	2				
A__ 48685 00	IRR	KE	S	3260	--	NE	SW	NW	3317	4355	27	17	20E	3		110.50	.00	AF
A__ 49296 00	IRR	GY	S	10514	--	SW	SW	NE	3200	2370	36	17	20E	1		65.00	65.00	AF
A__ 49598 00	REC	AY	S	0	--	SE	NW	SE	1577	1598	27	17	20E	4		40.00	40.00	AF

Total Net Quantities Authorized:	Direct	Storage
Total Requested Amount (AF) =	40.00	.00
Total Permitted Amount (AF) =	325.00	286.90
Total Inspected Amount (AF) =	.00	.00
Total Pro_Cert Amount (AF) =	.00	.00
Total Certified Amount (AF) =	.00	.00
Total Vested Amount (AF) =	.00	.00
TOTAL AMOUNT (AF) =	365.00	286.90

An * after the source of supply indicates a pending application for change under the file number.
 An * after the ID indicates a 15 AF exemption was granted under the file number.
 A "G" in the Batt column indicates the GEO CTR of a battery. A "B" indicates a well in the battery.
 The number in the Batt column is the number of wells in the battery.

Water Rights and Points of Diversion Within 2.00 miles of point defined as:

1577 Feet North and 1598 Feet West of the Southeast Corner of Section 27 T 17S R 20E

SURFACE WATER ONLY

WATER USE CORRESPONDENTS:

=====

File Number	Use	ST	SR
A__ 48684 00	IRR	KE	S
>	SPENCER FARMS LLC		
>	3960 ROCK CREEK RD		
>	RANTOUL KS 66079		

A__ 48685 00	IRR	KE	S
>	SPENCER FARMS LLC		
>	3960 ROCK CREEK RD		
>	RANTOUL KS 66079		

A__ 49296 00	IRR	GY	S
>	FRANKLIN HOLDINGS LLC		
>	CLIFF MCHUGH		
>	14515 SERRANO CREEK LANE		
>	HUMBLE TX 77396		

A__ 49598 00	REC	AY	S

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

>-----
=====

#####

Schemm, Doug

From: Livingston, Doug <DLivingston@mail.bokf.com>
Sent: Thursday, March 23, 2017 1:03 PM
To: Schemm, Doug
Subject: RE: File No. 49,598

Hello Doug, hope things are going well. I want to go ahead and proceed on this file. The land owners are listed below. I will get the MDS form signed and notarized and sent to you. Does that need to be mailed?

Kevin Spencer
3960 Rock Creek Road
Rantoul Ks 66079

Leo T & Nellie Blackstone

Agland Management LLC

Dwayne K & Rhonda L Lagalle

Deborah A Lagalle-& Dave Richardson

I do not have access to four of the addresses:

Doug Livingston
Sr. Vice President Sales/Trading
BOK Financial Securities Inc.
7500 College Blvd Suite 650
Overland Park Ks 66210
Dlivingston@bokf.com
Work 913-234-6650
Cell 913-485-9084

Securities, insurance and advisory services offered through BOK
Financial Securities, Inc., member FINRA/SIPC and a subsidiary
of BOK Financial Corporation. Services may be offered under our
trade name, BOK Financial Advisors. NOT FDIC INSURED | NO BANK
GUARANTEE | MAY LOSE VALUE

Schemm, Doug

From: Livingston, Doug <DLivingston@mail.bokf.com>
Sent: Wednesday, April 5, 2017 7:57 AM
To: Schemm, Doug
Subject: RE: 49598 Doug Livingston

Thanks Doug! We are good to go.

Doug Livingston
Sr. Vice President Sales/Trading
BOK Financial Securities Inc.
7500 College Blvd Suite 650
Overland Park Ks 66210
Dlivingston@bokf.com
Work 913-234-6650
Cell 913-485-9084

Securities, insurance and advisory services offered through BOK Financial Securities, Inc., member FINRA/SIPC and a subsidiary of BOK Financial Corporation. Services may be offered under our trade name, BOK Financial Advisors. NOT FDIC INSURED | NO BANK GUARANTEE | MAY LOSE VALUE

From: Schemm, Doug [mailto:Doug.Schemm@ks.gov]
Sent: Tuesday, April 04, 2017 5:04 PM
To: Livingston, Doug <DLivingston@mail.bokf.com>
Subject: FW: 49598 Doug Livingston

Doug,

I just wanted to double-check with Janelle on this project. I didn't want you to get everything going and then find out you needed more permitting. See her comment below the map, as long as you don't put more than 1 foot of fill in, you are good to go.

I will be wrapping up the appropriation permit in the next couple of weeks.

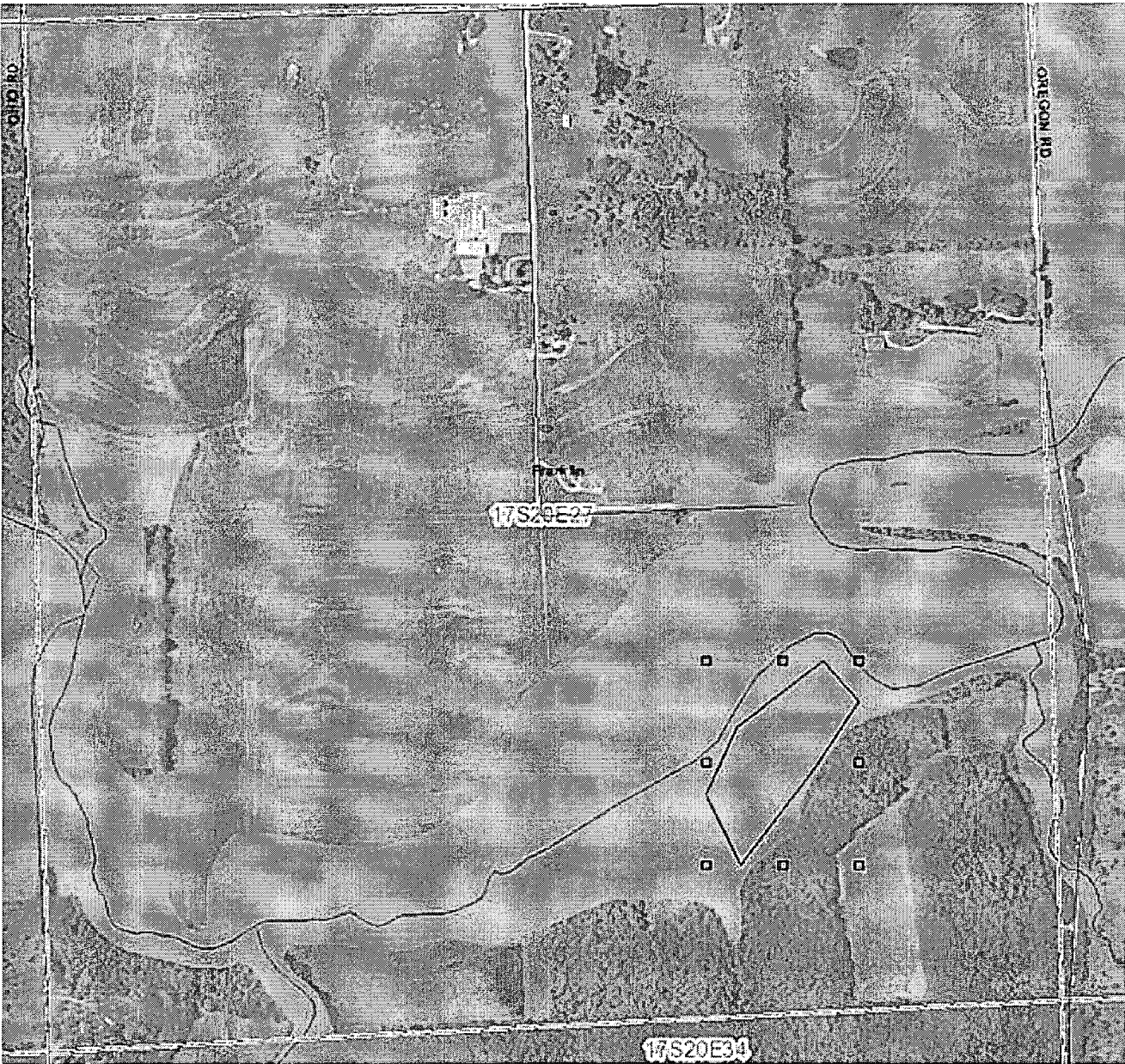
Have a great day,

Doug

From: Phillips, Janelle
Sent: Monday, April 3, 2017 2:02 PM
To: Schemm, Doug <Doug.Schemm@ks.gov>
Subject: FW: 49598 Doug Livingston

From: Schemm, Doug
Sent: Monday, April 03, 2017 10:11 AM
To: Phillips, Janelle
Subject: 49598 Doug Livingston

Good Morning Janelle,
I just wanted to verify this project is non-jurisdictional for structures permitting.
Thanks, Doug



Doug –

Based on my mapping it is in a floodplain. If he doesn't put more than 1 foot of fill in for the control structure he won't need a permit. But anything else he will need a permit.

Janelle N. Phillips, P.E., C.F.M., LEED-AP
Stream Permit Team Lead
Water Structures Program
Kansas Department of Agriculture
Division of Water Resources
1320 Research Park Drive
Manhattan, KS 66502
785-564-6656
My email has changed: janelle.phillips@ks.gov

Analytical-Consistency-Learner-Discipline-Deliberative



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

Department of Agriculture
Division of Water Resources

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

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

Sam Brownback, Governor

March 28, 2017

LEO T & NELLIE BLACKSTONE
2099 OHIO ROAD
PRINCETON KS 66078-9138

Re: Pending Application, File No. 49,598

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 Middle Creek for recreational use. The application is requesting 40 acre-feet of water to be diverted at 2,000 gallons per minute, from one (1) pump site, located in the Southeast Quarter of the Northwest Quarter of the Southeast Quarter of Section 27, in Township 17 South, Range 20 East, Franklin 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,

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

Department of Agriculture
Division of Water Resources

Phone: (785) 296-5733

Fax: (785) 862-2460

www.agriculture.ks.gov

Sam Brownback, Governor

March 28, 2017

KEVIN SPENCER
AGLAND MANAGEMENT LLC
3960 ROCK CREEK ROAD
RANTOUL KS 66079

Re: Pending Application, File No. 49,598

Dear Sir or Madam:

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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

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

Department of Agriculture
Division of Water Resources

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

March 28, 2017

DWAYNE K & RHONDA L LAGALLE
2383 OHIO ROAD
OTTAWA KS 66067-8637

Re: Pending Application, File No. 49,598

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 Middle Creek for recreational use. The application is requesting 40 acre-feet of water to be diverted at 2,000 gallons per minute, from one (1) pump site, located in the Southeast Quarter of the Northwest Quarter of the Southeast Quarter of Section 27, in Township 17 South, Range 20 East, Franklin County, Kansas. Please note that the direct diversion of surface water is subject to specific permit conditions including requesting permission prior to diverting.

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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

Department of Agriculture
Division of Water Resources

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

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

Sam Brownback, Governor

March 28, 2017

DEBORAH A LAGALLE
DAVE RICHARDSON
2234 OREGON ROAD
OTTAWA KS 66067-8644

Re: Pending Application, File No. 49,598

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 Middle Creek for recreational use. The application is requesting 40 acre-feet of water to be diverted at 2,000 gallons per minute, from one (1) pump site, located in the Southeast Quarter of the Northwest Quarter of the Southeast Quarter of Section 27, in Township 17 South, Range 20 East, Franklin County, Kansas. Please note that the direct diversion of surface water is subject to specific permit conditions including requesting permission prior to diverting.

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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

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

Department of Agriculture
Division of Water Resources

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

March 28, 2017

BRAD & JENNIFER B SPENCER
2246 OHIO TERR
OTTAWA KS 66067

Re: Pending Application, File No. 49,598

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 Middle Creek for recreational use. The application is requesting 40 acre-feet of water to be diverted at 2,000 gallons per minute, from one (1) pump site, located in the Southeast Quarter of the Northwest Quarter of the Southeast Quarter of Section 27, in Township 17 South, Range 20 East, Franklin County, Kansas. Please note that the direct diversion of surface water is subject to specific permit conditions including requesting permission prior to diverting.

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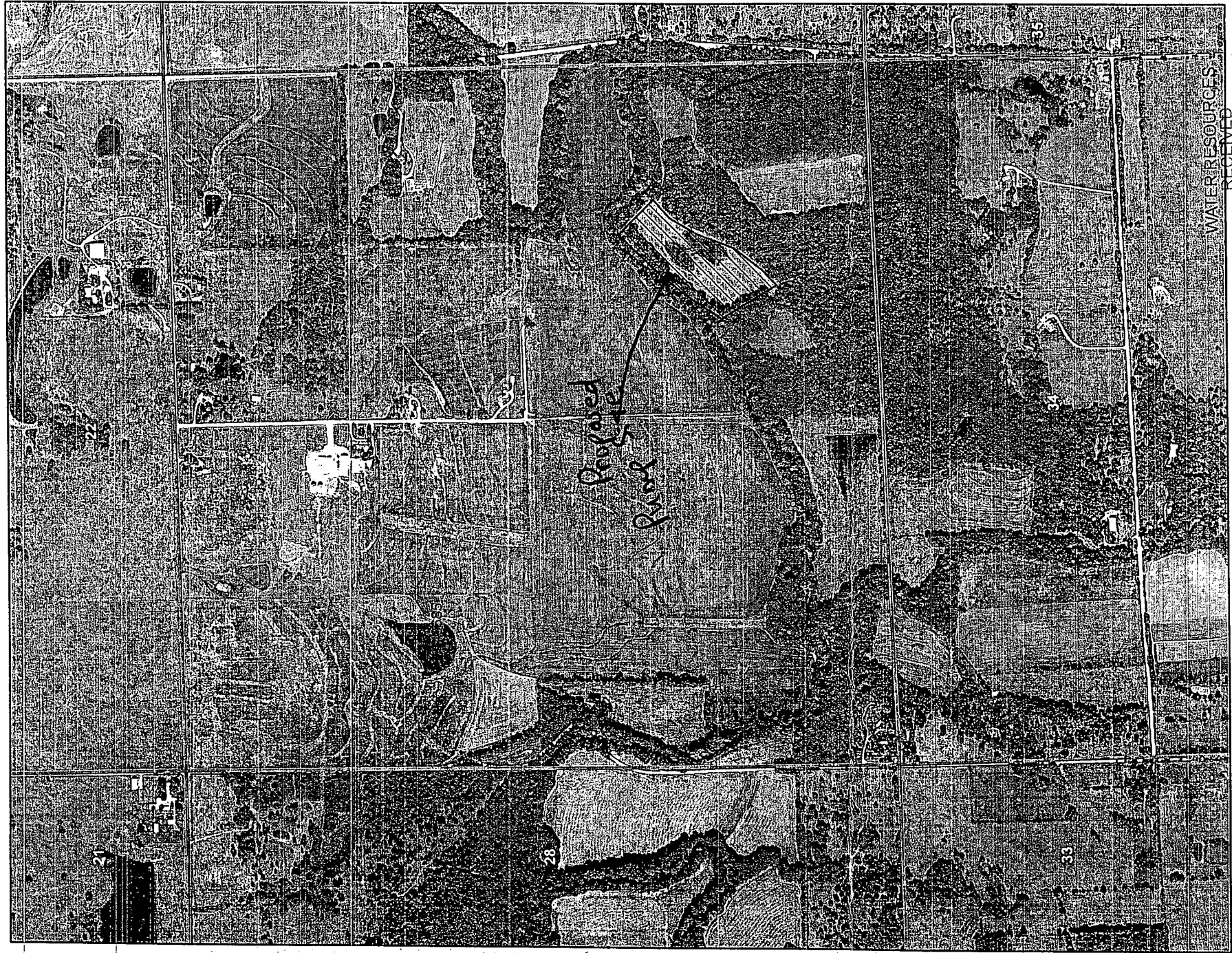
Sincerely,

Douglas W. Schemm
Environmental Scientist
Topeka Field Office

Enclosure

pc: Doug Livingston

Doug Livingston # 49,598
NEW APPLICATION - SE QTR. SEC. 27, T17S, R20E



1:12,000

MAR 25 2016

SCANNED
KS DEPT. OF AGRICULTURE

The Parcel Number for this Property is 030-128-27-0-00-00-008.00-0
 Quick Ref ID: R7487



Owner Information

Owner(s) Name	Owner Address
BLACKSTONE, LEO T & NELLIE - (P)	2099 OHIO RD PRINCETON, KS 66078-9138

General Information

Property Situs Address
2099 OHIO RD, Princeton, KS 66078

Tract Description
S27, T17, R20E, ACRES 41.5, S OF CRK S2 SW4 LESS ROW

General Property Information	
Property Class	Farm Homesite - F
Living Units	1
Zoning	A1
Neighborhood	014.4
Tax Unit Group	101

Property Factors	
Topography	Level - 1 Rolling - 4
Utilities	Well - 5 Septic - 6
Access	Semi Improved Road - 2
Fronting	Secondary Street - 3
Location	Neighborhood or Spot - 6
Parking Type	On and Off Street - 3
Parking Quantity	Abundant - 3
Parking Proximity	On Site - 3
Parking Covered	Not Available
Parking UnCovered	Not Available

Land Based Classification	
Function	Farming / ranch operation (with improvements)
Activity	Farming, plowing, tilling, harvesting, or related activities
Ownership	Private-fee simple
Site	Dev Site - crops, grazing etc - with structures

Sales Information
Appraised Information
Building Permit Information
Deed Information
Market Land Information
Dwelling Information
Agriculture Information
Other Improvements Information
Other Improvements Components Information

Exit Documents Tax Detail

The Parcel Number for this Property is 030-128-27-0-00-00-001.00-0
Quick Ref ID: R7479



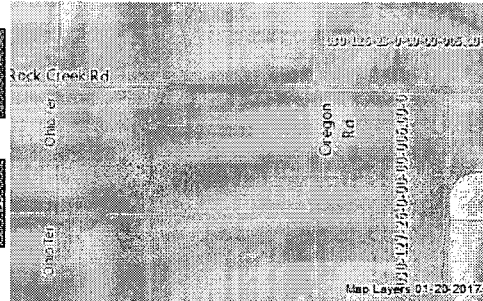
Owner Information

Owner(s) Name AGLAND MANAGEMENT LLC - (P)	Owner Address 3960 ROCK CREEK RD RANTOUL, KS 66079-9046
---	---

General Information

Property Situs Address 3660 ROCK CREEK RD, Ottawa, KS 66067

Tract Description S27 , T17 , R20E , ACRES 37.6 , NE4 NE4 LESS ROW
--



General Property Information	
Property Class	Agricultural Use - A
Living Units	Not Available
Zoning	A1
Neighborhood	014.4
Tax Unit Group	101

Property Factors	
Topography	Rolling - 4
Utilities	None - 8
Access	Semi Improved Road - 2
Fronting	Secondary Street - 3
Location	Neighborhood or Spot - 6
Parking Type	On and Off Street - 3
Parking Quantity	Abundant - 3
Parking Proximity	On Site - 3
Parking Covered	Not Available
Parking UnCovered	Not Available

Land Based Classification	
Function	Farming / ranch land (no improvements)
Activity	Farming, plowing, tilling, harvesting, or related activities
Ownership	Private-fee simple
Site	Dev Site - crops, grazing etc - no structures

Sales Information
Appraised Information
Building Permit Information
Deed Information
Agriculture Information

Exit Documents Tax Detail

The Parcel Number for this Property is 030-127-26-0-00-00-007.02-0
Quick Ref ID: R303501



Owner Information

Owner(s) Name	Owner Address
LAGALLE, DWAYNE K & RHONDA L - (P)	2383 OHIO RD OTTAWA, KS 66067-8637

General Information

Property Situs Address
2187 OREGON RD, Ottawa, KS 66067

Tract Description
S26, T17, R20E, ACRES 34.9, TR BEG SW/C N2 SW4 N1534.7 WLY1642.7 ALG CRK SLY813.8 WLY281.6 S345.5 WLY901.8 S288.2 W127.9 TO POB EXC W ROW LESS ROW



General Property Information	
Property Class	Agricultural Use - A
Living Units	Not Available
Zoning	A1
Neighborhood	014.4
Tax Unit Group	092

Property Factors	
Topography	Rolling - 4
Utilities	None - 8
Access	Semi Improved Road - 2
Fronting	Secondary Street - 3
Location	Neighborhood or Spot - 6
Parking Type	On and Off Street - 3
Parking Quantity	Abundant - 3
Parking Proximity	On Site - 3
Parking Covered	Not Available
Parking UnCovered	Not Available

Land Based Classification	
Function	Farming / ranch land (no improvements)
Activity	Farming, plowing, tilling, harvesting, or related activities
Ownership	Private-fee simple
Site	Dev Site - crops, grazing etc - no structures

Sales Information
Appraised Information
Building Permit Information
Deed Information
Agriculture Information

The Parcel Number for this Property is 030-128-27-0-00-00-010-00-0
 Quick Ref ID: R7490



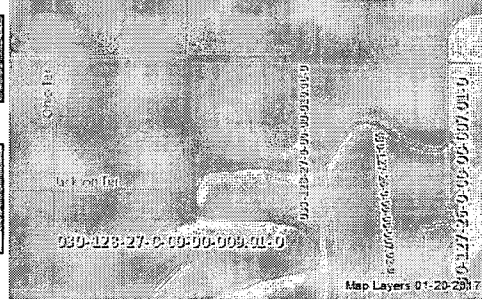
Owner Information

Owner(s) Name RICHARDSON, DEBORAH A LAGALLE- & DAVE - (P)	Owner Address 2234 OREGON RD OTTAWA, KS 66067-8644
---	--

General Information

Property Situs Address 2234 OREGON RD, Ottawa, KS 66067

Tract Description S27, T17, R20E, ACRES 48.7, SE4 NE4 & N2 NE4 SE4 N OF CRK LESS ROW



General Property Information	
Property Class	Farm Homesite - F
Living Units	1
Zoning	A1
Neighborhood	014.4
Tax Unit Group	101

Property Factors	
Topography	Level - 1 Rolling - 4
Utilities	Public Water - 3 Septic - 6
Access	Semi Improved Road - 2
Fronting	Secondary Street - 3
Location	Neighborhood or Spot - 6
Parking Type	On and Off Street - 3
Parking Quantity	Adequate - 2
Parking Proximity	On Site - 3
Parking Covered	Not Available
Parking UnCovered	Not Available

Land Based Classification	
Function	Farming / ranch operation (with improvements)
Activity	Farming, plowing, tilling, harvesting, or related activities
Ownership	Private-fee simple
Site	Dev Site - crops, grazing etc - with structures

Sales Information
Appraised Information
Building Permit Information
Deed Information
Market Land Information
Dwelling Information
Agriculture Information
Other Improvements Information
Other Improvements Components Information

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 25 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 28, 2016

DOUG LIVINGSTON
12839 CENTURY ST
OVERLAND PARK KS 66213

RE: Application
File No. 49598

Dear Sir or Madam:

Your application for permit to appropriate water in 27-17S-20E in Franklin 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

49,598

NEW APPLICATION - SE QTR. SEC. 27, T17S, R20E



WATER RESOURCES RECEIVED



1:12,000



- Proposed PLACE OF USE

● - Proposed Point of Diversion (Pump Site)

MAR 25 2016

SCANNED

KS DEPT OF AGRICULTURE