

File No. **49,723 B** 15. Formation Code: Drainage Basin: MARAIS DES CYGNES RIVER County: OS Special Use: Stream: MARAIS DES CYGNES RIVER

16. Points of Diversion										17. Rate and Quantity						
MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Authorized		Additional			
											Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files	
√				67199	SW SE NE	7	18	14E	1	2722	1102	12000	320	12000	320	45,040
√				85723	SW SW NE	7	18	14E	2	2775	2030					45,040*

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					
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								
√			54831	7	18	14E	1	RESERVOIR/MARSH COMPLEX																					7b.	NO	45,040*

Comments:
Pending Change Application on File No. 45,040 will create a complete overlap in pd and PU.
Special Conditions: Written Permission

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: January 9, 2017

FROM: Doug Schemm

RE: Application, File No. 49,723 B

The Kansas Department of Wildlife Parks and Tourism has filed the above-referenced application requesting to appropriate 320 acre-feet of surface water by direct diversion at a diversion rate of 12,000 gallon per minute, from two pumpsites on the Marais des Cygnes River, both located in the Northeast Quarter of Section 7, Township 18 South, Range 14 East, Osage County. Water Right, File No. 45,040 partially overlaps in authorized place of use and point of diversion. A Change Application has been filed on this senior file to create a complete overlap in both place of use (expanding marsh) and point of diversion (adding a pump site). The current marsh area is referred to as the Willow Marsh, and covers approximately 72 acres. Water Right, File No. 45,040 is authorized 100 acre-feet. The requested quantity of water under the new application (320 acre-feet) was determined by inundating the expanded marsh area (now 200 acres) with 1.6 feet of water for an initial fill (320 AF). The quantity of water authorized under the senior file will allow for subsequent re-filling to maintain water levels. Therefore the quantity of water under the pending application will be all additional.

As typical with these large wildlife refuges, the U.S. Army Corp of Engineers owns the property where the marsh is located and the adjacent property both upstream and downstream for many miles. Therefore, no notification letters are required. As shown on the larger scale map, this marsh is located within the upper reaches (flood pool) of Melvern Reservoir, and is part of the Melvern Lake State Wildlife Management Area. Typically these types of marshes are filled in October prior to waterfowl migration. The existing Willow Marsh is already properly permitted by DWR Structures Program under File Nos. LOS-0021-D & DOS-0200-L. The second marsh area is being permitted under DWR Structures Program File No. LOS-0039.

There are no other surface water rights within a two mile radius of the proposed pump sites. With proper conditioning, approval of this application will not impact any senior water users.

Per K.A.R 5-3-15, this application 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. This 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.

The applicant has submitted a signed Marais des Cygnes River Assurance District form, which has been properly notarized. By completing this statement, the applicant affirms his/her knowledge that there could be times when the diversion of water may not be allowed under this 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. If any chemical or foreign substance is injected into the water pumped under this permit, a check valve will also need to be installed.

Memorandum
Application, File No. 49,723 B
Page 2

In a January 9, 2017 discussion, Katie Tietsort, Water Commissioner, Topeka Field Office, recommended approval of the referenced new application, in conjunction with the approval of the change application for Water Right, File No. 45,040.

Based on the above discussion, the new application will address an over-pumping issue with the senior file, the area is open to new applications, this project is in the public interest, and there is no indication that the proposed beneficial use of water will impair existing water rights, it is recommended that the referenced new application be approved, in conjunction with the change application for Water Right, File No. 45,040.

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

February 9, 2017

KANSAS DEPT OF WILDLIFE PARKS & TOURISM
ACTIVE DIVERSIONS (TOP)
1020 S KANSAS AVE FL 2
TOPEKA KS 66612-1389

FILE COPY

RE: Appropriation of Water, File No. 49,723 B

Dear Sir or Madam:

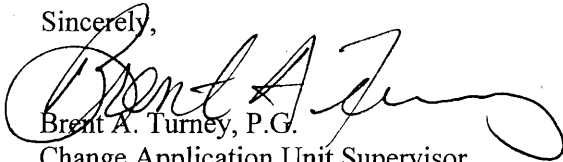
There is enclosed a permit to appropriate water authorizing you to proceed with construction of the proposed diversion works (except those dams and stream obstructions regulated by K.S.A. 82a-301 through 305a), to divert such unappropriated water as may be available from the source and at the location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



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. 49,723 B** of the applicant

**KANSAS DEPT OF WILDLIFE PARKS & TOURISM
ACTIVE DIVERSIONS (TOP)
1020 S KANSAS AVE FL 2
TOPEKA KS 66612-1389**

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 **October 31, 2016**.
2. That the water sought to be appropriated shall be used for recreational use in a waterfowl marsh located in Section 7, in Township 18 South, Range 14 East, Osage County, Kansas.
3. That the authorized source from which the appropriation shall be made is surface water from the Marais des Cygnes River, to be diverted at two (2) points located as follows: one in the Southwest Quarter of the Southeast Quarter of the Northeast Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 7, more particularly described as being near a point 2,722 feet North and 1,102 feet West of the Southeast corner of said section, and one in the Southwest Quarter of the Southwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 7, more particularly described as being near a point 2,775 feet North and 2,030 feet West of the Southeast corner of said section, all in Township 18 South, Range 14 East, Osage 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 **12,000 gallons per minute (26.74 c.f.s.)** and to a quantity not to exceed **320 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 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 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.
17. That diversion of natural flows shall not take place unless there is water available to satisfy all demands by senior water rights and permits.
18. 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.

CERTIFICATE OF SERVICE

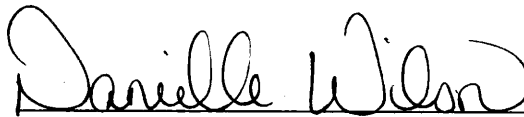
On this 9th day of February, 2017, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 49,723 B, dated February 6, 2017 was mailed postage prepaid, first class, US mail to the following:

KANSAS DEPT OF WILDLIFE PARKS & TOURISM
ACTIVE DIVERSIONS (TOP)
1020 S KANSAS AVE FL 2
TOPEKA KS 66612-1389

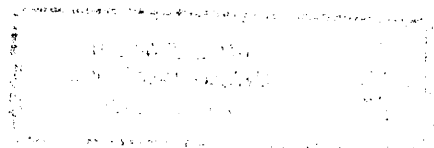
With photocopies to:

US ARMY CORPS OF ENGINEERS (MELVERN)
MELVERN PROJECT OFFICE
31051 MELVERN LAKE PKWY
MELVERN KS 66510-9179

Topeka Field Office



Division of Water Resources



10/31/2016
DWS

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Jackie McClaskey, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

RECEIVED
NOV 29 2016
9:31 am
DIVISION OF WATER RESOURCES

WATER RESOURCES RECEIVED

File Number 49,723 B
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.)

OCT 31 2016
3:01
KS DEPT OF AGRICULTURE

UNACCEPTABLE FOR PRIORITY
OCT 11 2016
2:45
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): KANSAS DEPARTMENT OF WILDLIFE PARKS & TOURISM
Address: ACTIVE DIVERSIONS (TOP) 1020 S KANSAS AVE FL 2
City: TOPEKA State: KS Zip Code 66612-1389
Telephone Number: (620) 699-3372 e-mail: cody.miller@ksoutdoors.com

2. The source of water is: surface water in Marais des Cygnes River (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 320 acre-feet OR _____ gallons per calendar year, to be diverted at a maximum rate of 12,000 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:
I.O. GMD Meets K.A.R. 5-3-1 (YES/NO) Use REC Source G County OS By AW Date 11/3/16
Code REG REC Fee \$ 500 TR # _____ Receipt Date 10/11/16 Check # Enn And

SCANNED

11/7/2016 LLM

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 SW_ quarter of the SE_ quarter of the NE quarter of Section 7, more particularly described as being near a point 2,722 feet North and 1,102 feet West of the Southeast corner of said section, in Township 18 South, Range 14 East, OSAGE County, Kansas.

(B) One in the SW_ quarter of the SW_ quarter of the NE quarter of Section 7, more particularly described as being near a point 2,775 feet North and 2,030 feet West of the Southeast corner of said section, in Township 18 South, Range 14 East, OSAGE 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):

U.S. CORP OF ENGINEERS (MELVERN), MELVERN PROJECT OFFICE, 31051 MELVERN LAKE PKWY, MELVERN, KS 66510-9179

(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 October 3rd, 2016. [Signature]
Applicant's Signature

7. The proposed project for diversion of water will consist of TWO PUMP SITES
(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)

WATER RESOURCES RECEIVED

WATER RESOURCES RECEIVED

OCT 31 2016

UNACCEPTABLE FOR PRIORITY

SCANNED

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 LOS-0021-D & DOS-0200-L _____

• If no, explain here why a Water Structures permit is not required _____

Structures Permit issued for east marsh (Willow Marsh) with senior appropriation file (45,040).

Proposed Marsh will be reviewed for structures permitting. - LOS - 0039

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.

File No. 45,040 partial overlap in point of diversion and place of use. Change Application will create a complete overlap in place of use and points of diversion.

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OCT 31 2016

KS DEPT OF AGRICULTURE

WATER RESOURCES RECEIVED

UNACCEPTABLE FOR PRIORITY

KS DEPT OF AGRICULTURE SCANNED

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 AGENT
(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):

U.S. CORP OF ENGINEERS (MELVERN), MELVERN PROJECT OFFICE, 31051 MELVERN LAKE PKWY, MELVERN, KS 66510-9179
(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 Emporia, Kansas, this 3rd day of October, 2014.
(month) (year)


(Applicant Signature)

483-17-5953
APPLICANT(S) SOCIAL SECURITY IDENTIFICATION NUMBER(S)

By _____
(Agent or Officer Signature)

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

(Agent or Officer - Please Print)

Assisted by DWS TOPEKA FO Date: 9/27/2016
(office/title)

WATER RESOURCES RECEIVED

OCT 31 2016

KS DEPT OF AGRICULTURE

WATER RESOURCES RECEIVED

OCT 11 2016

UNACCEPTABLE FOR PRIORITY
KS DEPT OF AGRICULTURE

SCANNED

**RECREATIONAL USE
SUPPLEMENTAL SHEET**

File No. 49,723 B

Name of Applicant (Please Print): KDWP&T _____

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

Wildlife Habitat

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

Surface Area of Combined Marshes = 200 acres. Filled to an average depth of 1.6 feet
200 acres x 1.6 feet = 320 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	320 AF
Year 2	320 AF
Year 3	320 AF
Year 4	320 AF
Year 5	320 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.

Reservoir/Marsh Complex located in Section 7, in Township 18 South, Range 14 East, Osage 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

OCT 31 2016

WATER RESOURCES
RECEIVED
UNACCEPTABLE FOR PRIORITY
OCT 11 2016

(Date)

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

Re: Application
File No. 49,723 B

Minimum Desirable Streamflow
Marais des Cygnes River Assurance District
Water Reservation Rights

Dear Sir:

I understand that a Minimum Desirable Streamflow requirement has been established, an Assurance District has been formed and established or a Water Reservation Right is held by the Kansas Water Office (**circle the appropriate item**) for the source of supply to which the above referenced application applies, namely the Marais des Cygnes River.

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, Assurance District or Water Marketing releases are being made from storage in Federal Reservoirs or when a Reservation Right upstream of a Federal Reservoir is being administered.

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.

Brad Nieman
Signature of Applicant

Brad Nieman
Print Applicant Name

State of Kansas)
County of Wyandotte) SS

I hereby certify that the foregoing instrument was signed in my presence and sworn to before me this 3rd day of October, 2016.

Evelyn R. Pierce
Notary Public

My Commission Expires:

11-15-16

WATER RESOURCES RECEIVED

EVELYN R. PIERCE
Notary Public - State of Kansas
My Appt. Expires 11-15-16

WATER RESOURCES RECEIVED

ACCEPTABLE FOR PRIORITY
OCT 11 2016

OCT 31 2016

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

OCT 31 2016

KS DEPT OF AGRICULTURE

WATER RESOURCES
RECEIVED

OCT 11 2016
UNACCEPTABLE FOR PRIORITY

KS DEPT OF AGRICULTURE

SCANNED

**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

Assurance Districts have been formed on the following rivers:

Kansas River Marias des Cygnes River Neosho River

The Kansas Water Office has Water Reservation Rights for the following reservoirs:

Big Hill Marion
Clinton Melvern
Council Grove Milford
Elk City Perry
Hillsdale Pomona
John Redmond Tuttle Creek

WATER RESOURCES
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WATER RESOURCES
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UNACCEPTABLE FOR PRIORITY
SCANNED BY KS DEPT OF AGRICULTURE

AMOUNT STATISTICS REPORT FOR POINTS OF DIVERSION UNDER A 49723 B

#####

AMOUNT STATISTICS REPORT FOR POINTS OF DIVERSION UNDER A 49723 B REC

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

2722 Feet North and 1102 Feet West of the Southeast Corner of Section 7 T 18S R 14E

SURFACE WATER ONLY

2 mile Radius

File Number	Use	ST	SR	Dist (ft)	Q4	Q3	Q2	Q1	FeetN	FeetW	Sec	Twp	Rng	ID	Batt	Auth_Quan	Add_Quan	Unit
A__ 45040	00 REC NK S*			0	--	SW	SE	NE	2722	1102	7	18	14E	1		100.00	100.00	AF
A__ 49723	B REC AY S			0	--	SW	SE	NE	2722	1102	7	18	14E	1		320.00	320.00	AF
Same				930	--	SW	SW	NE	2775	2030	7	18	14E	2				

Total Net Quantities Authorized: Direct Storage

Total Requested Amount (AF) =	320.00	.00
Total Permitted Amount (AF) =	.00	.00
Total Inspected Amount (AF) =	.00	.00
Total Pro_Cert Amount (AF) =	.00	.00
Total Certified Amount (AF) =	100.00	.00
Total Vested Amount (AF) =	.00	.00
TOTAL AMOUNT (AF) =	420.00	.00

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:

2722 Feet North and 1102 Feet West of the Southeast Corner of Section 7 T 18S R 14E

SURFACE WATER ONLY

WATER USE CORRESPONDENTS:

File Number Use ST SR

A__ 45040 00 REC NK S

> KANSAS DEPT OF WILDLIFE PARKS & TOURISM

> ACTIVE DIVERSIONS (TOP)

> 1020 S KANSAS AVE FL 2

> TOPEKA KS 66612

A__ 49723 B REC AY S

> KANSAS DEPT OF WILDLIFE PARKS & TOURISM

> ACTIVE DIVERSIONS (TOP)

> 1020 S KANSAS AVE FL 2

> TOPEKA KS 66612

#####

AMOUNT STATISTICS REPORT FOR POINTS OF DIVERSION UNDER A 49723 B REC

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

2775 Feet North and 2030 Feet West of the Southeast Corner of Section 7 T 18S R 14E

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__ 45040 00 REC NK S*	930 -- SW SE NE	2722 1102	7 18 14E	1	100.00	100.00	AF
A__ 49723 B REC AY S	930 -- SW SE NE	2722 1102	7 18 14E	1	320.00	320.00	AF
Same	0 -- SW SW NE	2775 2030	7 18 14E	2			

```

=====
Total Net Quantities Authorized:  Direct      Storage
Total Requested Amount (AF) =    320.00      .00
Total Permitted Amount (AF) =       .00      .00
Total Inspected Amount (AF) =       .00      .00
Total Pro_Cert Amount (AF) =       .00      .00
Total Certified Amount (AF) =    100.00      .00
Total Vested Amount (AF) =       .00      .00
TOTAL AMOUNT (AF) =    420.00      .00

```

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:
 2775 Feet North and 2030 Feet West of the Southeast Corner of Section 7 T 18S R 14E

SURFACE WATER ONLY

WATER USE CORRESPONDENTS:

```

=====
File Number  Use ST SR
A__ 45040 00 REC NK S
> KANSAS DEPT OF WILDLIFE PARKS & TOURISM
> ACTIVE DIVERSIONS (TOP)
> 1020 S KANSAS AVE FL 2
> TOPEKA KS 66612
>-----
A__ 49723 B REC AY S
> KANSAS DEPT OF WILDLIFE PARKS & TOURISM
> ACTIVE DIVERSIONS (TOP)
> 1020 S KANSAS AVE FL 2
> TOPEKA KS 66612
>-----
=====

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AMOUNT STATISTICS REPORT FOR POINTS OF DIVERSION UNDER A 49723 B

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AMOUNT STATISTICS REPORT FOR POINTS OF DIVERSION UNDER A 49723 B REC

Water Right and Points of Diversion Within 4.00 miles of point defined as:

2722 Feet North and 1102 Feet West of the Southeast Corner of Section 7 T 18S R 14E

SURFACE WATER ONLY

4 mile radius

File Number	Use	ST	SR	Dist (ft)	Q4	Q3	Q2	Q1	FeetN	FeetW	Sec	Twp	Rng	ID	Batt	Auth_Quan	Add_Quan	Unit
A__ 32359	00 REC NK S			15714	--	NE	NE	SE	2450	345	21	18	14E	1		7.10	7.10	AF
A__ 44828	00 REC NK S			15364	--	SW	NW	SE	1822	2523	35	17	13E	2		67.00	67.00	AF
A__ 44829	00 REC NK S			15714	--	NE	NE	SE	2450	345	21	18	14E	1		50.00	42.90	AF
A__ 45040	00 REC NK S*			0	--	SW	SE	NE	2722	1102	7	18	14E	1		100.00	100.00	AF
A__ 47200	00 REC NK S			15714	--	NE	NE	SE	2450	345	21	18	14E	1		90.00	40.00	AF
A__ 49723	A REC AY S			15364	--	SW	NW	SE	1822	2523	35	17	13E	2		100.00	100.00	AF
A__ 49723	B REC AY S			0	--	SW	SE	NE	2722	1102	7	18	14E	1		320.00	320.00	AF
Same				930	--	SW	SW	NE	2775	2030	7	18	14E	2				

Total Net Quantities Authorized:	Direct	Storage
Total Requested Amount (AF) =	420.00	.00
Total Permitted Amount (AF) =	.00	.00
Total Inspected Amount (AF) =	.00	.00
Total Pro_Cert Amount (AF) =	.00	.00
Total Certified Amount (AF) =	257.00	.00
Total Vested Amount (AF) =	.00	.00
TOTAL AMOUNT (AF) =	677.00	.00

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 4.00 miles of point defined as:
 2722 Feet North and 1102 Feet West of the Southeast Corner of Section 7 T 18S R 14E

SURFACE WATER ONLY
 WATER USE CORRESPONDENTS:

- =====
 File Number Use ST SR
 A__ 32359 00 REC NK S
 > KANSAS DEPT OF WILDLIFE PARKS & TOURISM
 > ACTIVE DIVERSIONS (TOP)
 > 1020 S KANSAS AVE FL 2
 > TOPEKA KS 66612

 A__ 44828 00 REC NK S
 > KANSAS DEPT OF WILDLIFE PARKS & TOURISM
 > ACTIVE DIVERSIONS (TOP)
 > 1020 S KANSAS AVE FL 2
 > TOPEKA KS 66612

 A__ 44829 00 REC NK S
 > KANSAS DEPT OF WILDLIFE PARKS & TOURISM
 > ACTIVE DIVERSIONS (TOP)
 > 1020 S KANSAS AVE FL 2

49,723-B

LOS-0039 (New marsh Area)

WSI Query WSI, ENG, WSI, TRANSACTIONS, WATER RIGHTS, LOCATIONS, WAIVERS, ECA, ITRAIL, COMPLIANCE, IMAGES, WSI ACTIONS

STRUCTURE NUMBER L OS 0039 We 039632 LAST 039	APPLICATION App Recd Date	INDICATORS Pending Complaint N
REVIEWER INIT	CURRENT STATUS Project Activity WETLAND	App Mod N
File Location	Site Name DAVIES MARSH	Pending Mod N
	Stream MARAIS DES CYGNES RIVER	After the Fact N
	Permit APP INCOMPLETE	General Permits N
	KDOT Type	
APPLICANT LAST KANSAS DEPT OF WILDLIFE PARKS & TOURIS FIRST		Leaves Ind N Corps
OWNER LAST CORPS OF ENGINEERS FIRST		App Proc Time DWR Total
DESIGNER LAST KANSAS DEPT OF WILDLIFE PARKS & TOURIS FIRST		Location Pull Date
Const Comp Date DDA Remarks Fe		

NAVIGATOR: ALL ACT LOCATION ECA APPLICANT OWNER DESIGNER ENG COMPLIANT MOD A IT PROJECT

ACTIONS: LOCATION ECA ECA APPLICANT OWNER DESIGNER ENG COMPLIANT MOD A IT PROJECT

Date	Action	Decode	Deadline	Remarks
12-19-2016	APPLICATION RECEIVED, INCOMPLETE			APP & OTH
12-19-2016	INFORMATION RECEIVED			RECD LTR I



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

November 4, 2016

KANSAS DEPT OF WILDLIFE PARKS & TOURISM
1020 S KANSAS AVE FL 2
TOPKEA KS 66612

FILE COPY

RE: Application
File No. 49723 B

Dear Sir or Madam:

Your application for permit to appropriate water in 35-17E-13E in Osage 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) 564-6645. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

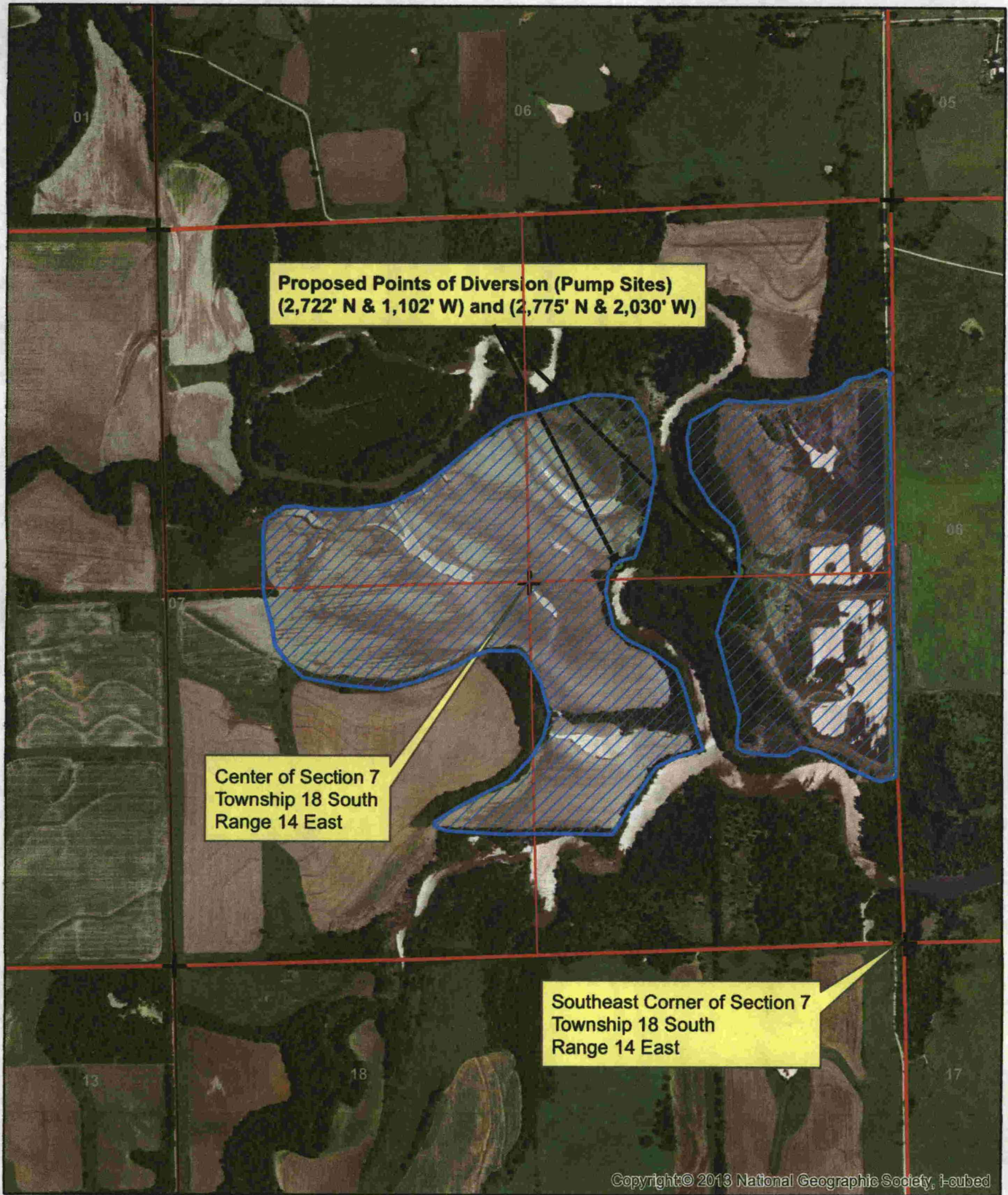
Brent A Turney, P.G.
Change Application Unit Supervisor
Water Appropriation Program

BAT: dlw
pc: TOPEKA Field Office
GMD

SCANNED

NEW APPLICATION - SITE MAP
 PROPOSED PLACE OF USE AND POINTS OF DIVERSION
 Section 7, Township 18 South, Range 14 East
 Osage County

44,723 B



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WATER RESOURCES RECEIVED



WATER RESOURCES RECEIVED

Proposed Place of Use

U.S. Army COE owns all land adjacent to the stream within one-half mile upstream and downstream of the property lines.

1:12,000



Proposed Points of Diversion (Pump Sites)

OCT 11 2016 UNACCEPTABLE PROSPECTIVITY

KS DEPT OF AGRICULTURE

KS DEPT OF AGRICULTURE

Bob Smith



SCANNED