

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

1. File Number: <p style="text-align: center; font-weight: bold; font-size: 1.2em;">49,837</p>	2. Status Change Date: <p style="text-align: center; font-size: 1.2em;">8/24/2017</p>	3. Field Office: <p style="text-align: center; font-weight: bold; font-size: 1.2em;">01</p>	4. GMD: <p style="text-align: center; font-weight: bold; font-size: 1.2em;">0</p>
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5. Status:       Approved       Denied by DWR/GMD       Dismiss by Request/Failure to Return

6. Enclosures:     Check Valve     N of C Form     Water Tube     Driller Copy     Meter

<p>7a. Applicant(s)      Person ID <u>64054</u> New to system <input type="checkbox"/>      Add Seq# _____</p> <p><b>WATERSHED INSTITUTE INC FRANK AUSTENFELD 140 CHERRY HILL DR BELTON MO 64012</b></p>    <p>7b. Landowner(s)      Person ID _____ New to system <input type="checkbox"/>      Add Seq# _____</p> <p><b>7a.</b></p>	<p>7c. Landowner(s)      Person ID _____</p>    <p>7d.</p>
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<p>8. WUR Correspondent      Person ID _____ New to system <input type="checkbox"/>      Add Seq# _____ Overlap File (s) WUC      Notarized WUC Form <input type="checkbox"/> Agree <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>7a.</b></p>	<p>9. Use of Water:    Changing?    <input type="checkbox"/> Yes    <input checked="" type="checkbox"/> No</p> <p style="margin-left: 40px;"><input type="checkbox"/> Groundwater    <input checked="" type="checkbox"/> Surface Water</p> <p><input type="checkbox"/> IRR            <input checked="" type="checkbox"/> REC            <input type="checkbox"/> DEW            <input type="checkbox"/> MUN</p> <p><input type="checkbox"/> STK            <input type="checkbox"/> SED            <input type="checkbox"/> DOM            <input type="checkbox"/> CON</p> <p><input type="checkbox"/> HYD DRG    <input type="checkbox"/> WTR PWR    <input type="checkbox"/> ART RECHRG</p> <p><input type="checkbox"/> IND SIC: _____    <input type="checkbox"/> OTHER: _____</p>
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10. Completion Date: 12/31/2018      11. Perfection Date: 12/31/2022      12. Exp Date: \_\_\_\_\_

13. Conservation Plan Required?  Yes  No    Date Required: \_\_\_\_\_    Date Approved: \_\_\_\_\_    Date to Comply: \_\_\_\_\_

14. Water Level Measuring Device?  Yes  No    Date to Comply: \_\_\_\_\_    Date WLMD Installed: \_\_\_\_\_

Date Prepared: **08/1/17**      By: **DWS**  
Date Entered: **8/28/2017**      By: **UM**

File No. **49,837**      15. Formation Code:      Drainage Basin: **MARAIS DES CYGNES RIVER**      County: **LN**      Special Use:      Stream: **MARAIS DES CYGNES**

16. Points of Diversion										17. Rate and Quantity					
MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Authorized		Additional		Overlap PD Files
											Rate gpm	Quantity af	Rate gpm	Quantity af	
MOD			86118	LOT 11	30	19	24E	1	341	4053	<del>NF</del>	<del>250</del>	<del>NF</del>	<del>250</del>	NONE
MOD			86119	LOT 11	30	19	24E	2	169	4117	○	○	○	○	
MOD			86120	LOT <del>X</del> 4	31	19	24E	4	5042	3705					
MOD			86121	LOT 10	30	19	24E	3	168	3165					
MOD			86122	LOT 9	30	19	24E	4	546	1530					
MOD			86123	LOT <del>X</del> 1	31	19	24E	5	5192	1539					
MOD			86124	LOT 2	32	19	24E	2	4266	5250					
MOD			86125	LOT 2	32	19	24E	3	4847	5230					

18. Storage: Rate                      **(NF)** Quantity 250 ac/ft      Additional Rate                      **(NF)** Additional Quantity 250 ac/ft

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

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

21. Place of Use						NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg? 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				
MOD			68360	30	19	24E	1	WILDLIFE MARSH (LOTS 8, 9, 10, & 11)																	7a.	NO	NONE
ENT			68522	31	19	24E		WILDLIFE MARSH (LOTS 1, 2, 3, & 4)																	7a.	NO	NONE
ENT			68523	32	19	24E		WILDLIFE MARSH (LOT 2)																	7a.	NO	NONE

Comments:

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

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

**TO:** Files

**DATE:** August 1, 2017

**FROM:** Doug Schemm

**RE:** Application, File No. 49,837

The Watershed Institute Inc. has filed the above-referenced application to appropriate 250 acre-feet of surface water from natural flows of the Marais des Cygnes River, for recreational use in wildlife marshes. As typical for these types of projects, the surface water will be collected via natural flows (especially during flood events). It is very probable that flood waters from the Marais des Cygnes River will spill into the marsh area. The marshes are located in portions of Section 30, 31 and 32, all in Township 19 South, Range 24 East, in Linn County, Kansas. The points of diversion represent multiple water control structures (stop logs). The marshes are being permitted under Structures Program File No. LLN-0122. Per a review of Original Survey Plat, the points of diversion are located in Lots, and the application was revised to show this.

The applicant identified three landowners for the adjacent properties both upstream and downstream, and nearby notification letters were sent out on July 18, 2017. No responses of any kind were received. There will be no direct diversion of surface water (i.e. pumping), only the collection of natural flows when available. Typically for these marsh projects, the water is only stored for several months in the fall and winter seasons. There are several other water rights within 2 miles of the proposed points of diversion. Only one of these senior files is located downstream of this project, and it is over a mile away. Therefore, the proposed appropriation of water will not impair any senior water rights.

The application is designed to allow for the maximum storage volume of the marsh at permanent pool elevation, as follows:

70 acres x 2 feet average depth = 140 acre-feet (initial fill)  
Indirect (Evaporation and Seepage) = 110 acre-feet (maintain water level)

A flow meter is not practical and should not be required as a condition of the approval of this application. The applicant will be required to maintain records from which the amount of water actually diverted may be readily determined. This is consistent with permits granted for similar types of projects.

In a July 31, 2017 discussion, Katie Tietsort, Water Commissioner, Topeka Field Office, recommended that the referenced application be approved.

Based upon the above discussion, the area is open to new applications, the project is in the public interest, the project will be properly permitted by the Structures Program, and there is no indication that the proposed beneficial use of water will impair existing water rights, 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

August 28, 2017

WATERSHED INSTITUTE INC  
% FRANK AUSTENFELD  
140 CHERRY HILL DR  
BELTON MO 64012

**FILE COPY**

RE: Appropriation of Water, File No. 49,837

Dear Mr. Austenfeld:

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 this permit. Records must be maintained from which the quantity of water actually diverted may be readily determined. Such records shall be furnished to the Chief Engineer by March 1 following the end of each calendar year.

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,

Kristen A. Baum  
New Application Unit Supervisor  
Water Appropriation Program

KAB: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. 49,837** of the applicant

**WATERSHED INSTITUTE INC  
140 CHERRY HILL DR  
BELTON MO 64012**

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 **May 5, 2017**.
2. That the water sought to be appropriated shall be used for recreational purposes in wildlife marshes located in Lots 8, 9, 10, and 11 of Section 30; Lots 1, 2, 3 and 4 of Section 31; and Lot 2 of Section 32, all in Township 19 South, Range 24 East, Linn County, Kansas.
3. That the appropriation sought shall be limited to all natural flows of the Marais des Cygnes River, not needed to satisfy all vested rights and prior appropriation rights, to be stored to a maximum extent of **250 acre-feet** per calendar year in wildlife marshes created by eight (8) water control structures located as follows:

one (1) in Lot 11 of Section 30, more particularly described as being near a point 341 feet North and 4,053 feet West of the Southeast corner of said section,

one (1) in Lot 11 of Section 30, more particularly described as being near a point 169 feet North and 4,117 feet West of the Southeast corner of said section,

one (1) in Lot 10 of Section 30, more particularly described as being near a point 168 feet North and 3,165 feet West of the Southeast corner of said section,

one (1) in Lot 9 of Section 30, more particularly described as being near a point 546 feet North and 1,530 feet West of the Southeast corner of said section,

one (1) in Lot 4 of Section 31, more particularly described as being near a point 5,042 feet North and 3,705 feet West of the Southeast corner of said section,

one (1) in Lot 1 of Section 31, more particularly described as being near a point 5,192 feet North and 1,539 feet West of the Southeast corner of said section,

one (1) in Lot 2 of Section 32, more particularly described as being near a point 4,266 feet North and 5,250 feet West of the Southeast corner of said section, and

one (1) in Lot 2 of Section 32, more particularly described as being near a point 4,847 feet North and 5,230 feet West of the Southeast corner of said section,

all in Township 19 South, Range 24 East, Linn County, Kansas, located substantially as shown on the topographic map accompanying the application.

4. 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, which is currently \$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, which is currently \$100.00.

5. 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, which is currently \$100.00.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

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

12. 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.

13. 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.

**RIGHT TO A HEARING AND TO ADMINISTRATIVE REVIEW**

If you are aggrieved by this Order, then pursuant to K.S.A. 82a-1901, you may:

- 1) request an evidentiary hearing before the Chief Engineer, or
- 2) request administrative review by the Secretary of Agriculture.

Failure to request an evidentiary hearing before the Chief Engineer does not preclude your right to administrative review by the Secretary.

To obtain an evidentiary hearing before the Chief Engineer, a written request for hearing must be filed within 15 days after service of this Order as provided in K.S.A. 77-531 (i.e., **within a total of 18 days after this Order was mailed to you**), with: Kansas Department of Agriculture, Attn: Legal Section, 1320 Research Park Drive, Manhattan, Kansas 66502, FAX (785) 564-6777.

If you do not file a request for an evidentiary hearing before the Chief Engineer, you may petition for administrative review of the Order by the Secretary of Agriculture. A petition for review shall be in writing and state the basis for requesting administrative review. The request for hearing may be denied if the request fails to clearly establish factual or legal issues for review. See K.S.A. 77-527. The petition must be filed within 30 days after service of this Order as provided in K.S.A. 77-531 (i.e., **within a total of 33 days after this Order was mailed to you**), and be filed with: Secretary of Agriculture, Attn: Legal Division, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, FAX (785) 564-6777.

If neither a request for an evidentiary hearing nor a petition for administrative review is filed as set forth above, then this Order shall be effective and become a final agency action as defined in K.S.A. 77-607(b). Failure to timely request either an evidentiary hearing or administrative review may preclude further judicial review under the Kansas Judicial Review Act.

Ordered this 24<sup>th</sup> day of August, 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 24<sup>th</sup> day of August, 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 28<sup>th</sup> day of August, 2017, I hereby certify that the foregoing Approval of Application, File No. 49,837, dated August 24, 2017 was mailed postage prepaid, first class, US mail to the following:

WATERSHED INSTITUTE INC  
140 CHERRY HILL DR  
BELTON MO 64012

With photocopies to:

Topeka Field Office



Division of Water Resources

2017 AUG 28 PM 4:00  
DIVISION OF WATER RESOURCES  
STATE OF MISSOURI  
TOPEKA, MISSOURI



THE STATE

OF



KANSAS

KANSAS DEPARTMENT OF AGRICULTURE  
Jackie McClaskey, Secretary of Agriculture

DIVISION OF WATER RESOURCES  
David W. Barfield, Chief Engineer

APPLICATION COMPLETE

8/2/2017

Reviewer DWS

File Number 49837

This item to be completed by the Division of Water Resources.

WATER RESOURCES  
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MAY 05 2017

11:37

KS DEPT OF AGRICULTURE

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

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

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

1. Name of Applicant (Please Print): WATERSHED LAND TRUST INC  
Address: 140 CHERRY HILL DRIVE  
City: BELTON State: MO Zip Code 64012  
Telephone Number: (913) 685-4600 e-mail: frank@watershedinstitute.biz

2. The source of water is:  surface water in Marais des Cygnes #3  
(stream)  
OR  groundwater in Marais des Cygnes Basin  
(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 250 acre-feet OR \_\_\_\_\_ gallons per calendar year,  
to be diverted at a maximum rate of NF gallons per minute OR \_\_\_\_\_ cubic feet per second.

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

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

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

For Office Use Only:  
F.O. 1 GMD — Meets K.A.R. 5-3-1 (YES / NO) Use REC Source G/S County LN By DW Date 5/8/17  
Code REG Fee \$ 200 TR # \_\_\_\_\_ Receipt Date 5/8/17 Check # CC

5/9/2017 SCANNED  
CW

\*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.

- LOT 11 (A) One in the SE quarter of the SW quarter of the SW quarter of Section 30, more particularly described as being near a point 341 feet North and 4,053 feet West of the Southeast corner of said section, in Township 19 South, Range 24 East, Linn County, Kansas. **Water Control Structure**
- LOT 11 (B) One in the SE quarter of the SW quarter of the SW quarter of Section 30, more particularly described as being near a point 169 feet North and 4,117 feet West of the Southeast corner of said section, in Township 19 South, Range 24 East, Linn County, Kansas. **Water Control Structure**
- LOT ~~11~~ (C) One in the NW quarter of the NE quarter of the NW quarter of Section 31, more particularly described as being near a point 5,042 feet North and 3,705 feet West of the Southeast corner of said section, in Township 19 South, Range 24 East, Linn County, Kansas. **Water Control Structure**
- LOT 10 (D) One in the SE quarter of the SE quarter of the SW quarter of Section 30, more particularly described as being near a point 168 feet North and 3,165 feet West of the Southeast corner of said section, in Township 19 South, Range 24 East, Linn County, Kansas. **Water Control Structure**
- LOT 9 (E) One in the SE quarter of the SW quarter of the SE quarter of Section 30, more particularly described as being near a point 546 feet North and 1,530 feet West of the Southeast corner of said section, in Township 19 South, Range 24 East, Linn County, Kansas. **Water Control Structure**
- LOT ~~11~~ (F) One in the NE quarter of the NW quarter of the NE quarter of Section 31, more particularly described as being near a point 5,192 feet North and 1,539 feet West of the Southeast corner of said section, in Township 19 South, Range 24 East, Linn County, Kansas. **Water Control Structure**
- LOT 2 (G) One in the SW quarter of the NW quarter of the NW quarter of Section 32, more particularly described as being near a point 4,266 feet North and 5,291<sup>52 50'</sup> feet West of the Southeast corner of said section, in Township 19 South, Range 24 East, Linn County, Kansas. **Water Control Structure**
- LOT 2 (H) One in the NW quarter of the NW quarter of the NW quarter of Section 32, more particularly described as being near a point 4,847 feet North and 5,280<sup>52 30'</sup> feet West of the Southeast corner of said section, in Township 19 South, Range 24 East, Linn County, Kansas. **Water Control Structure**

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):

WATER RESOURCES  
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MAY 05 2017

KS DEPT OF AGRICULTURE  
SCANNED

Applicant  
(name, address and telephone number)

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

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

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

Executed on May 3, 2017 . *Brook Emmert*  
Applicant's Signature

7. The proposed project for diversion of water will consist of Water Control Structure (Stop Log)  
(number of wells, pumps or dams, etc.)  
and will be completed (by) Spring 2018  
(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 April 2017  
(Mo/Day/Year)

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MAY 05 2017

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

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

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

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

- If yes, show the Water Structures permit number here LLN-0122
- If no, explain here why a Water Structures permit is not required \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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 ½ 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 ½ mile, please advise us.
- (c) If the application is for surface water, the names and addresses of the landowner(s) ½ mile downstream and ½ 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  
\_\_\_\_\_  
\_\_\_\_\_

WATER RESOURCES  
RECEIVED

MAY 05 2017

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):

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

\_\_\_\_\_

\_\_\_\_\_

(name, address and telephone number)

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

Dated at Manhattan, Kansas, this 7 day of May, 2017.  
(month) (year)

_____ (Applicant Signature)	_____ APPLICANT(S) SOCIAL SECURITY IDENTIFICATION NUMBER(S)
By <u>Brock Emmert</u> (Agent or Officer Signature)	<u>20-8378417</u> and/or APPLICANT(S) TAXPAYER I.D. NO.(S)
<u>Brock Emmert</u> (Agent or Officer - Please Print)	

Assisted by DWS TOPEKA FO Date: 4/18/2017  
(office/title)

WATER RESOURCES  
RECEIVED

MAY 05 2017

KS DEPT OF AGRICULTURE  
SCANNED

**RECREATIONAL USE  
SUPPLEMENTAL SHEET**

File No. 49,837

Name of Applicant (Please Print): WATERSHED LAND TRUST INC

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 Marsh = 70 acres. Filled to a maximum depth of 2.0 feet  
70 acres x 2.0 feet = 140 acre-feet.  
Indirect (evaporation and seepage) = 110 AF TOTAL = 250 AF

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

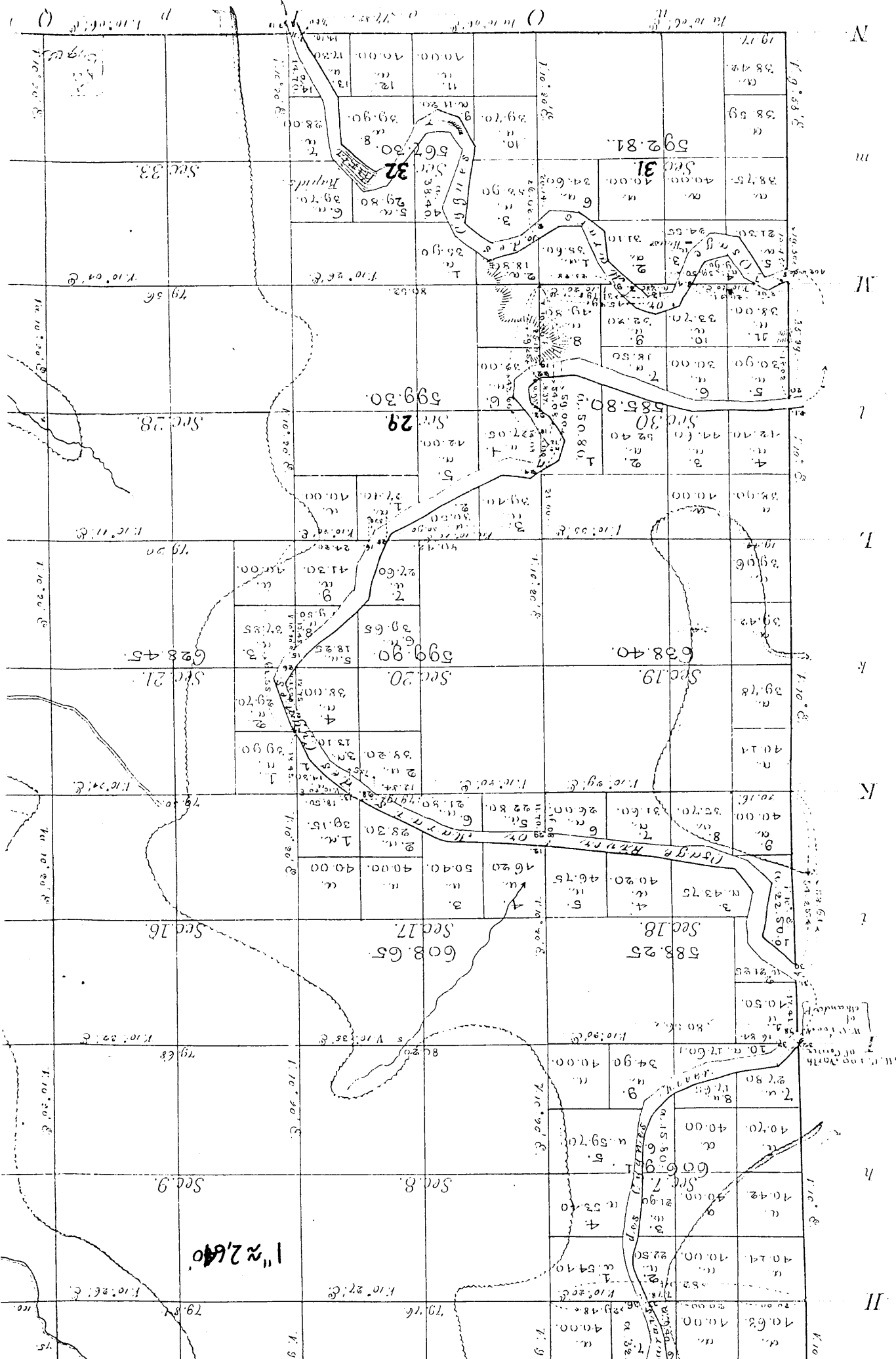
<b>ESTIMATED FUTURE WATER DIVERTED/STORED</b>	
<b>NEXT 5 YEARS</b>	<b>WATER TO BE DIVERTED (ACRE-FEET OR GALLONS)</b>
Year 1	250 AF
Year 2	
Year 3	
Year 4	
Year 5	250 AF

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 South Half of the South Half of Section 30; the North Half of the North Half of Section 31; and the West Half of the Northwest Quarter of the Northwest Quarter of Section 32; all in Township 19 South, Range 24 East, Linn County, Kansas.

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



T19S  
R24E

1" ≈ 2640'

1/4 Sec. 10 North  
of Center  
of Range

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AMOUNT STATISTICS REPORT FOR POINTS OF DIVERSION UNDER A 49837 00

#####

AMOUNT STATISTICS REPORT FOR POINTS OF DIVERSION UNDER A 49837 00 REC

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

341 Feet North and 4053 Feet West of the Southeast Corner of Section 30 T 19S R 24E

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__ 10825 00 REC NK S      7049 -- -- -- -- 2972    3 26 19 23E 1      102.60 102.60 AF
A__ 30253 00 REC NK S      6159 -- -- -- -- 3500 4054 25 19 23E 1      307.00 307.00 AF
A__ 35323 00 REC NK S      6715 -- -- -- -- 3908 3639 29 19 24E 3        10.40 10.40 AF
A__ 37245 00 REC NK S      6715 -- -- -- -- 3908 3639 29 19 24E 3         6.60 6.60 AF
A__ 41792 00 REC NK S      6715 -- -- -- -- 3908 3639 29 19 24E 3        62.50 62.50 AF
A__ 45795 00 REC LR S      6715 -- -- -- -- 3908 3639 29 19 24E 3        90.00 10.50 AF
A__ 46321 00 REC LR S      6909 -- -- -- -- 820 350 26 19 23E 3      232.00 232.00 AF
Same          7396 -- -- -- -- 5190 830 35 19 23E 2
A__ 46929 00 REC LO S      7049 -- -- -- -- 2972    3 26 19 23E 1      378.00 275.40 AF
A__ 49837 00 REC AY S         0 -- SE SW SW 341 4053 30 19 24E 1      250.00 250.00 AF
Same          184 -- SE SW SW 169 4117 30 19 24E 2
Same          905 -- SE SE SW 168 3165 30 19 24E 3
Same          2532 -- SE SW SE 546 1530 30 19 24E 4
Same          692 -- NW NE NW 5042 3705 31 19 24E 4
Same          2550 -- NE NW NE 5192 1539 31 19 24E 5
Same          4284 -- SW NW NW 4266 5269 32 19 24E 2
Same          4133 -- NW NW NW 4847 5269 32 19 24E 3
=====

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=====
Total Net Quantities Authorized:   Direct      Storage
Total Requested Amount (AF) =      250.00        .00
Total Permitted Amount (AF) =         .00        .00
Total Inspected Amount (AF) =      517.90        .00
Total Pro_Cert Amount (AF) =         .00        .00
Total Certified Amount (AF) =      489.10        .00
Total Vested Amount (AF) =         .00        .00
TOTAL AMOUNT (AF) =      1257.00        .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:

341 Feet North and 4053 Feet West of the Southeast Corner of Section 30 T 19S R 24E

SURFACE WATER ONLY

WATER USE CORRESPONDENTS:

```

=====
File Number   Use ST SR
A__ 10825 00 REC NK S
> HILLCREST ENTERPRISES INC
>
> 1000 WALNUT SUITE 1500
> KANSAS CITY MO 64105
>-----
A__ 30253 00 REC NK S

```



> FONTANA FARMS INC  
> BOB DILLMAN  
> 8511 HALLET ST  
> LENEXA KS 66215

>-----  
A\_\_ 35323 00 REC NK S

> H M H FARMS  
> JOHN G HONDROS  
> 4140 EXECUTIVE PARKWAY  
> WESTERVILLE OH 43081

>-----  
A\_\_ 37245 00 REC NK S

> H M H FARMS  
> JOHN G HONDROS  
> 4140 EXECUTIVE PARKWAY  
> WESTERVILLE OH 43081

>-----  
A\_\_ 41792 00 REC NK S

> H M H FARMS  
> JOHN G HONDROS  
> 4140 EXECUTIVE PARKWAY  
> WESTERVILLE OH 43081

>-----  
A\_\_ 45795 00 REC LR S

> H M H FARMS  
> JOHN G HONDROS  
> 4140 EXECUTIVE PARKWAY  
> WESTERVILLE OH 43081

>-----  
A\_\_ 46321 00 REC LR S

> ELM CREEK FARMS LLC  
> SCOTT LAWRENCE  
> 10832 W 40TH  
> OVERLAND PARK KS 66221

>-----  
A\_\_ 46929 00 REC LO S

> HILLCREST ENTERPRISES INC  
>  
> 1000 WALNUT SUITE 1500  
> KANSAS CITY MO 64105

>-----  
A\_\_ 49837 00 REC AY S

> WATERSHED INSTITUTE INC  
> FRANK AUSTENFELD  
> 140 CHERRY HILL DR  
> BELTON MO 64012

>-----  
=====

#####

AMOUNT STATISTICS REPORT FOR POINTS OF DIVERSION UNDER A 49837 00 REC  
Water Right and Points of Diversion Within 2.00 miles of point defined as:

  
Kansas  
Department of Agriculture  
Division of Water Resources

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

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

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

July 18, 2017

HUDSON MICHAEL WAYNE SHARE TRUST  
UMB BANK TRUSTEE %TRUST REAL ESTATE  
1010 GRAND BLVD  
KANSAS CITY MO 64106

Re: Pending New Application, File No. 49,837

Dear Sir or Madam:

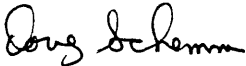
This is to advise you that Watershed Land Trust, Inc. has filed the application referred to above for permit to appropriate surface water at the rate of natural flows of the Marais des Cygnes River, for recreational use in a series of wildlife marshes. The application is requesting 250 acre-feet per calendar year for marshes created by multiple water control structures located in the South Half of the South Half of Section 30; the North Half of the North Half of Section 31; and the West Half of the Northwest Quarter of the Northwest Quarter of Section 32; all in Township 19 South, Range 24 East, Linn County, Kansas.

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 in order that you may be fully informed of the proposed location of the applicant's points 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 can find the application and site map posted by the file number referenced above at:  
<http://agriculture.ks.gov/divisions-programs/dwr/water-appropriation/notices>

If you have any questions or comments, you may also contact me at (785) 296-3495. If you call, please reference the file number so I can help you more efficiently.

Sincerely,



Douglas W. Schemm  
Environmental Scientist  
Topeka Field Office

pc: Watershed Land Trust, Inc.

The logo features the word "Kansas" in a large, serif font. Above the letters "a", "s", and "s" are the outlines of the state of Kansas. Below "Kansas" are the words "Department of Agriculture" and "Division of Water Resources" in a smaller, sans-serif font.

Kansas  
Department of Agriculture  
Division of Water Resources

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

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

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

July 18, 2017

CHARLES AND MARY SCHROEDER  
17701 E 2300 ROAD  
LACYGNE KS 66040

Re: Pending New Application, File No. 49,837

Dear Sir or Madam:

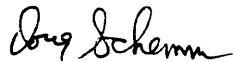
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Sincerely,

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

Douglas W. Schemm  
Environmental Scientist  
Topeka Field Office

pc: Watershed Land Trust, Inc.

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

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

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

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

July 18, 2017

DAN CAREY  
2311 EMPIRE AVE  
BURBANK CA 91504

Re: Pending New Application, File No. 49,837

Dear Sir or Madam:

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Sincerely,



Douglas W. Schemm  
Environmental Scientist  
Topeka Field Office

pc: Watershed Land Trust, Inc.

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

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

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

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

July 18, 2017

DAN CAREY  
2311 EMPIRE AVE  
BURBANK CA 91504

Re: Pending New Application, File No. 49,837

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If you have any questions or comments, you may also contact me at (785) 296-3495. If you call, please reference the file number so I can help you more efficiently.

Sincerely,



Douglas W. Schemm  
Environmental Scientist  
Topeka Field Office

pc: Watershed Land Trust, Inc.

49837

**Whitesell, Alex**

**From:** Frank Austenfeld <frank@watershedinstitute.biz>  
**Sent:** Friday, May 05, 2017 4:07 PM  
**To:** Whitesell, Alex  
**Cc:** Brock Emmert; Dani Crabb  
**Subject:** Re: New Application - Watershed Lnd Trust Inc

Alex,

Per our conversation today the property is located in:

The northern half of the site is located in Section 30, Township 19 South, Range 24 East and the southern portion is located in Section 31, Township 19 South, Range 24 East. The approximate center of the site is 38.362322 degrees north latitude and -94.797971 degrees west longitude. Appendix B contains property information for each parcel located at the property that TWI obtained from the Linn County Tax Assessor's website (Linn County [LC] 2016).

Let me know if you have any other questions.

Thanks,

Frank L. Austenfeld, J.D.

913-685-4600 Office  
913-449-8000 Cell

Place of use

160 acres in 30-19S -24E

SW	SE	SWSE	SE
SW	SW		SE
40	40	40	40

Dictated directly to my iPad using Siri.

On May 5, 2017, at 1:39 PM, Whitesell, Alex <[Alex.Whitesell@ks.gov](mailto:Alex.Whitesell@ks.gov)> wrote:

Frank,

We received a new application and I need the place of use to be defined for the application.

Please fill out the attached recreational use form and return it to me via email.

If you have any questions, please let me know.

Alex Whitesell  
Division of Water Resources  
Kansas Department of Agriculture  
1320 Research Park Drive  
Manhattan, KS  
(785) 564 - 6631

**My email has changed** [alex.whitesell@ks.gov](mailto:alex.whitesell@ks.gov)

<1-100-25 Recreational use Supp sheet.doc>

5/3/17

(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. \_\_\_\_\_

Minimum Desirable Streamflow  
MARAIS DES CYGNES River Assurance District  
Water Reservation Rights

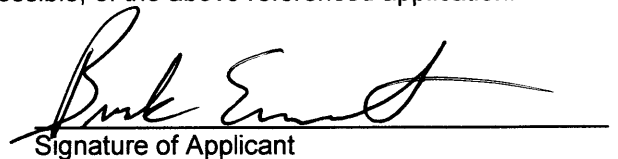
Dear Sir:

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.



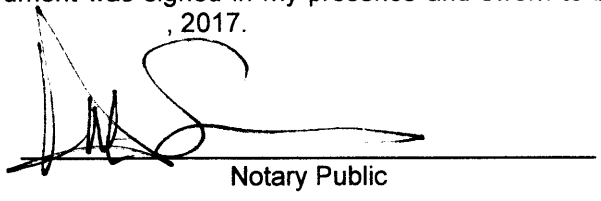
Signature of Applicant

Brock Emmert

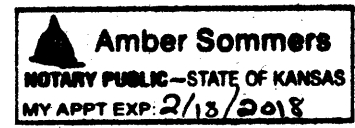
Print Applicant Name

State of Kansas )  
County of Shawnee ) SS

I hereby certify that the foregoing instrument was signed in my presence and sworn to before me this 3 day of May, 2017.

  
Notary Public

My Commission Expires: 2/18/2018



WATER RESOURCES  
RECEIVED  
MAY 05 2017



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

May 8, 2017

WATERSHED LAND TRUST INC  
140 CHERRY HILL DRIVE  
BELTON MO 64012

**FILE COPY**

RE: Application  
File No. 49837

Dear Sir or Madam:

Your application for permit to appropriate water in 30-19S-24E in Linn 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,

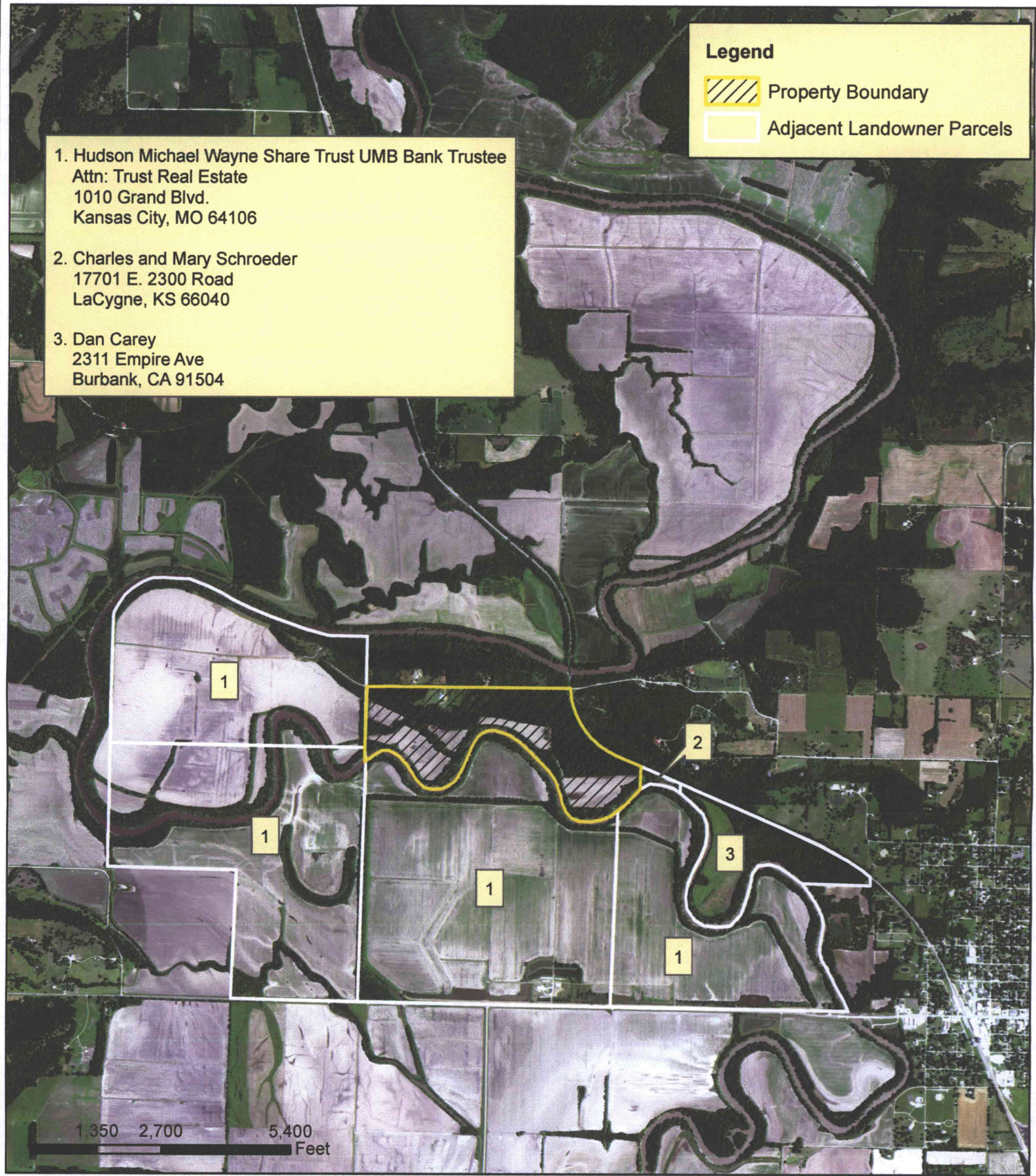
A handwritten signature in cursive script that reads "Kristen A. Baum".

Kristen A. Baum  
New Applications Unit Supervisor  
Water Appropriation Program

BAT: dlw  
pc: TOPEKA Field Office  
GMD

SCANNED







1. Hudson Michael Wayne Share Trust UMB Bank Trustee  
 Attn: Trust Real Estate  
 1010 Grand Blvd.  
 Kansas City, MO 64106

2. Charles and Mary Schroeder  
 17701 E. 2300 Road  
 LaCygne, KS 66040

3. Dan Carey  
 2311 Empire Ave  
 Burbank, CA 91504

**Legend**

 Property Boundary

 Adjacent Landowner Parcels

THE  
**WATERSHED**  
 INSTITUTE AND LAND TRUST

Figure 2  
 Adjacent Landowners Map  
 WLT ILF MDC Linn County  
 Linn County, Kansas

WATER RESOURCES  
 RECEIVED  
 MAY 05 2017





# WATERSHED LAND TRUST INC NEW APPLICATION SITE MAP



1:24,000

----- PROPERTY BOUNDARY

● WATER RESOURCES RECEIVED

MAY 05 2017

KS DEPT OF AGRICULTURE

All known landowners adjacent to the stream within one-half mile upstream and downstream of the property lines have been shown.

*Brock Emmert*

See attached landowner and point of diversion map. **SCANNED**





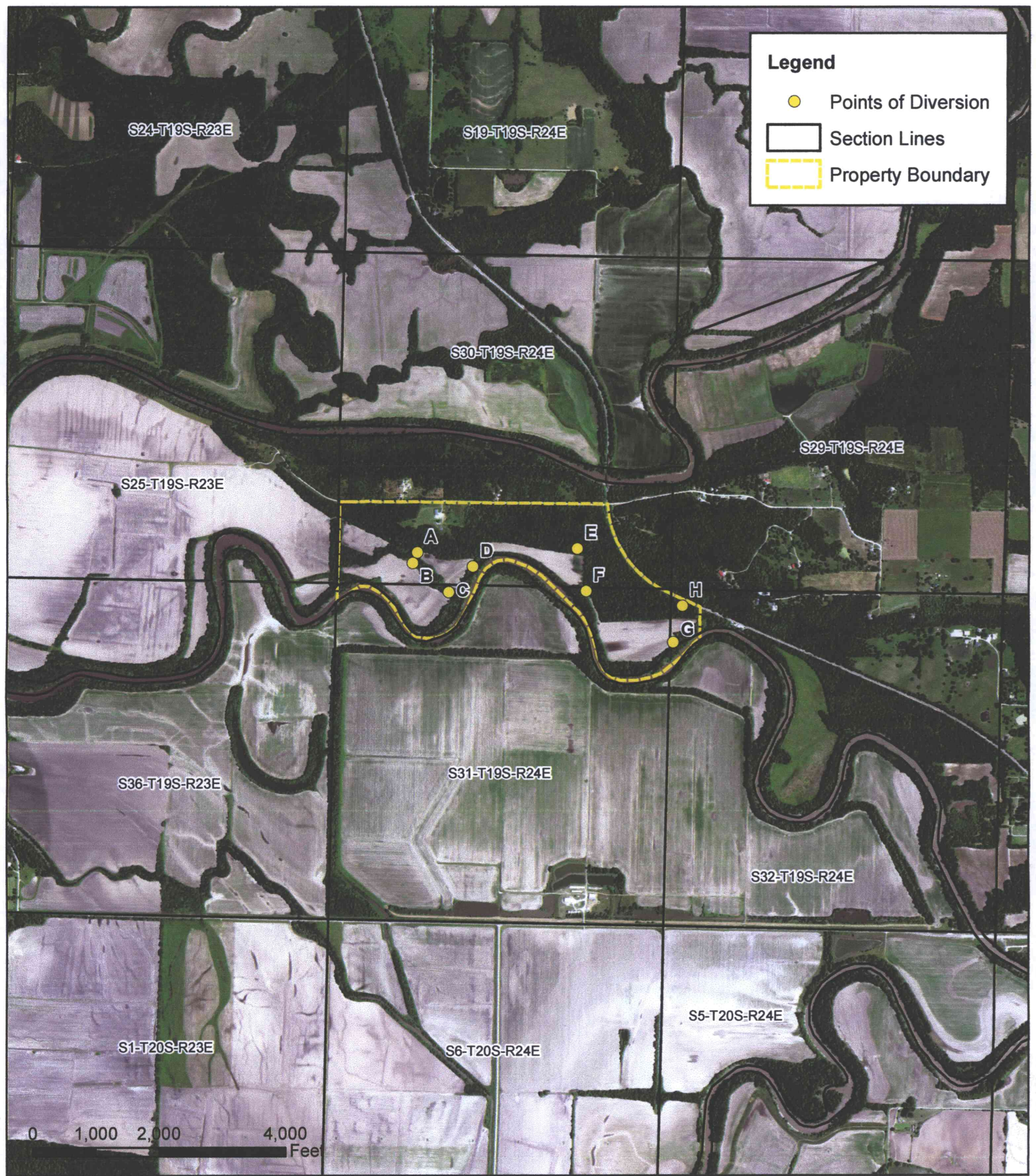
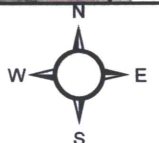


Figure 1  
 Points of Diversion Map  
 WLT ILF MDC Linn County  
 Linn County, Kansas

THE  
**WATERSHED**  
 INSTITUTE AND LAND TRUST

WATER RESOURCES  
 RECEIVED

MAY 05 2017



KS DEPT OF AGRICULTURE

Source: <http://service.kansas.gov>