

File No. **49,850** 15. Formation Code: Drainage Basin: MARAIS DES CYGNES County: LY Special Use: Stream: HILL CREEK TRIB 1 (MARAIS DES CYGNES)

16. Points of Diversion

T MOD DEL ENT	PDIV	Qualifier	S	T	R	ID	'N	'W
√	70519	NW NW SE	10	16	11E	1	2522	2021

17. Rate and Quantity

Authorized		Additional		Overlap PD Files
Rate gpm	Quantity mgy	Rate gpm	Quantity mgy	
600	19.16	600	19.16	45,961

18. Storage: Rate _____ NF Quantity **109.2** ac/ft Additional Rate _____ NF Additional Quantity **12.26** ac/ft

19. Limitation: **121.5 af** af/yr at _____ gpm (_____ cfs) when combined with file number(s) **45,961 (STORAGE LIMITATION ONLY)**
 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

T MOD DEL ENT	PUSE	S	T	R	ID	NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg? NO	Overlap Files
						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				
√	56479	10	16	11E	1	FEEDLOT (W2 SE)																	7a.	No	45,961

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. 49,850

Brian Keith filed the application referred to above for a permit to appropriate 109.2 acre-feet of surface water at the rate of natural flows to be stored in an existing reservoir and diverted for Stockwatering Use. The project is located in the Southeast Quarter of Section 10, in Township 16 South, Range 11 East, Lyon County, within the Marais des Cygnes River Drainage Basin. The dam is located on Hill Creek Trib 1. The point of diversion is located on property owned by the applicant, and he has signed the application form stating he has legal access to the point of diversion. Water Right, File No. 45,961 overlaps in both point of diversion or place of use, and is authorized 63 acre-feet of storage and 3.997 million gallons for direct use at a cattle feedlot. This senior water right exceeded its authorized quantity of water in 2016, and the purpose of this new application is to provide additional water to prevent future overpumping and allow the feedlot to reach its full capacity of cattle.

Runoff computations for the senior file determined that the 247 acres of drainage area, will generate 329 acre-feet of runoff in 1 out of every five (5) years (a 20% chance). Therefore, per K.A.R. 5-6-5, this quantity is NOT the limiting factor, and the application was processed with the typical one year of direct use (58.8 AF); plus one year of indirect use (9.22 AF); plus the reservoir capacity (41.2AF), for a storage total of 109.2 acre-feet. The requested quantity of water for direct use (rediversion) of 19.16 million gallons was based on providing an adequate supply of water for 3,500 head of cattle. Estimated drinking water needs are as follows: 3,500 head of cattle x 15.0 gallons per head per day x 365 days = 19.16 million gallons. As noted above, the senior file only provides 3.997 million gallons for direct use, which can certainly be accounted for by other typical needs of similar stock facilities such as dust control, sanitation, and cooling. The requested direct use quantity and rate of diversion appear to be reasonable for the intended use and no limitations are required. However, the senior file storage quantity of 63 acre-feet already accounts for one year of indirect use and reservoir capacity, so the storage quantity will be limited to 121.5 acre-feet (109.2 AF + 12.27 AF).

The proposed storage quantity of 121.5 acre-feet, is equivalent to 3 times the capacity, well within the "normal" rule of thumb of 5 times capacity for reasonable storage quantity. The existing reservoir is already permitted by DWR Water Structures Program under File No. DLY-0161.

The applicant provided a list of landowners of the adjacent properties within one-half (½) mile upstream and downstream of his property. Notification letters were sent out on July 18, 2017. The upstream landowner called with general questions about the application, in order to better understand it. However, she did not object to approval of the application. There are three other surface water rights within a two-mile radius according to the WRIS database. The only downstream senior file (39,804 – REC storage) is located over a mile away, directly on Hill Creek, and it has a very large drainage area. No senior water rights will be impaired with approval of this application.

As allowed by K.S.A. 82a-706(c) an approved water flow meter shall be installed on the secondary diversion works (pump site) for this file. If any chemical or foreign substance is injected into the water pumped under this permit, a check valve will also need to be installed. In a July 31, 2017 e-mail, Katie Tietsort, Water Commissioner, Topeka Field Office, stated that the referenced new application should be approved. Based on the above discussion, that this area is open to new appropriations, the proposed appropriation of water is reasonable, the application complies with rules and regulations, approval will give the owner additional water for STK use, and no senior rights will not be impacted, it is recommended that the referenced new 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 29, 2017

BRIAN KEITH
3505 ROAD L
ALLEN KS 66833

FILE COPY

Re: Appropriation of Water, File No. 49,850

Dear Mr. Keith:

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 re-diversion works and you must install it prior to water being put to beneficial use in order for you to maintain accurate records of water use. The meter should be used to provide the information required on the annual water use report.

Failure to notify the Chief Engineer of the Division of Water Resources of the completion of the diversion works within the time allowed, or within any authorized extension of time thereof, will result in the dismissal of this permit. Enclosed is a form which may be used to notify the Chief Engineer that the proposed diversion works have been completed. All requests for extensions of time to complete diversion works, or to perfect appropriations, must be submitted to the Chief Engineer before the expiration of time originally set forth in the permit to complete diversion works or to perfect an appropriation. If for any reason, you require an extension of time, you must request it before the expiration of time set forth in this permit. Failure to comply with this regulation will result in the dismissal of your permit or your water right. Any request for an extension of time shall be accompanied by the required statutory fee, which is currently \$100.00.

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

Sincerely,

Kristen A. Baum
NewApplication 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. 49,850** of the applicant

**BRIAN KEITH
3505 ROAD L
ALLEN KS 66833**

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 **June 1, 2017**.
2. That the water sought to be appropriated shall be used for stockwatering use at a cattle feedlot located in the West Half of the Southeast Quarter (W $\frac{1}{2}$ SE $\frac{1}{4}$) of Section 10, Township 16 South, Range 11 East, Lyon County, Kansas.
3. That the appropriation sought shall be limited to all natural flows of an unnamed tributary to Hill Creek, designated in the office of the Chief Engineer as Hill Creek Trib 1 (Marais des Cygnes), not needed to satisfy all vested rights and prior appropriation rights to be incrementally accumulated as reservoir storage space becomes available to a maximum extent of **109.2 acre-feet** per calendar year in one (1) reservoir created by a dam located in the Northwest Quarter of the Northwest Quarter of the Southeast Quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 10, more particularly described as being near a point 2,522 feet North and 2,021 feet West of the Southeast corner of said section, in Township 16 South, Range 11 East, Lyon County, Kansas, to provide **19.16 million gallons** (58.8 acre-feet) of water as needed for direct stockwatering use to be withdrawn, released or otherwise diverted from the reservoir at a re-diversion rate of approximately **600 gallons per minute (1.34 c.f.s.)**. A reasonable maximum re-diversion rate will be established during the perfection period and assigned at certification.
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 all re-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 re-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.

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

12. 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.

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

14. 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.

15. 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.

16. That the quantity of water approved for storage under this permit is further limited to the storage quantity, which combined with Water Right, File No. 45,961, for the reservoir described herein, will provide a **total not to exceed 121.5 acre-feet** of water per calendar year for storage of water.

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 28th-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 28th day of August, 2017, by Lane P. Letourneau, P.G., Program Manager, Division of Water Resources, Kansas Department of Agriculture.



Danielle Wilson

Notary Public

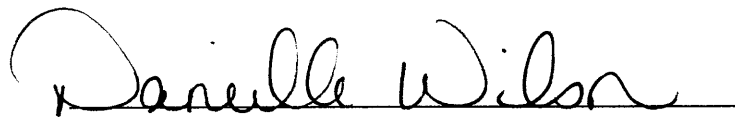
CERTIFICATE OF SERVICE

On this 29th day of August, 2017, I hereby certify that the foregoing Approval of Application, File No. 49,850, dated August 28, 2017 was mailed postage prepaid, first class, US mail to the following:

BRIAN KEITH
3505 ROAD L
ALLEN KS 66833

With photocopies to:

Topeka Field Office

A handwritten signature in cursive script that reads "Danielle Wilson". The signature is written in black ink and is positioned above a horizontal line.

Division of Water Resources

APPLICATION COMPLETE
8/2/2017
Reviewer DWS



KANSAS DEPARTMENT OF AGRICULTURE
Jackie McClaskey, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

File Number 49850
This item to be completed by the Division of Water Resources.

WATER RESOURCES
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JUN 01 2017

8:34

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): BRIAN KEITH
Address: 3505 ROAD L
City: ALLEN State: KS Zip Code: 66833
Telephone Number: (620) 344-4362

2. The source of water is: surface water in HILL CREEK TRIB 1 #2373
(stream)
OR groundwater in MARAIS DES CYGNES RIVER 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. **58.8 AF to be rediverted for STK use @ 600 gpm**

3. The maximum quantity of water desired is 109.2 (storage) (19.16 mgd) 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 0 Meets K.A.R. 5-3-1 (YES/NO) Use STK Source G(S) County LY By ASW Date 6/2/17
Code _____ REG _____ Fee \$ 200 TR # _____ Receipt Date 6/1/17 Check # 62209

6/5/2017 ULM SCANNED

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 NW quarter of the NW quarter of the SE quarter of Section 10, more particularly described as being near a point 2,522 feet North and 2,021 feet West of the Southeast corner of said section, in Township 16 South, Range 11 EAST, LYON County, Kansas.
- (B) One in the _____ quarter of the _____ quarter of the _____ quarter of Section _____, more particularly described as being near a point _____ feet North and _____ feet West of the Southeast corner of said section, in Township _____ South, Range _____ East/West (circle one), _____ County, Kansas.
- (C) One in the _____ quarter of the _____ quarter of the _____ quarter of Section _____, more particularly described as being near a point _____ feet North and _____ feet West of the Southeast corner of said section, in Township _____ South, Range _____ East/West (circle one), _____ County, Kansas.
- (D) One in the _____ quarter of the _____ quarter of the _____ quarter of Section _____, more particularly described as being near a point _____ feet North and _____ feet West of the Southeast corner of said section, in Township _____ South, Range _____ East/West (circle one), _____ County, Kansas.

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

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

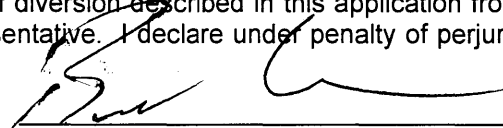
6. The owner of the point of diversion, if other than the applicant is (please print):

(name, address and telephone number)

(name, address and telephone number)

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

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

Executed on 5/25/2017, 2017. 
Applicant's Signature

7. The proposed project for diversion of water will consist of ONE DAM & RESERVOIR
(number of wells, pumps or dams, etc.)
and (was) completed (by) Existing since 2005 _____
(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 Summer 2017 _____.
(Mo/Day/Year)

9. Will pesticide, fertilizer, or other foreign substance be injected into the water pumped from the diversion works?

Yes No If "yes", a check valve shall be required.

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

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

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

• If yes, show the Water Structures permit number here ALREADY PERMITTED UNDER STRUCTURES FILE NO. DLY-0161

• 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 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.

Overlaps in pd & PU with 45,961. Basin Runoff is not limiting factor. Quantity for storage based on 1 year of direct use = 19.163 million (58.8 AF) + 1 year indirect = 9.22 AF + Capacity = 41.2 AF = TOTAL of 109.2 AF of Storage.

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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 owner
(owner, tenant, agent or otherwise)

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

(name, address and telephone number)

(name, address and telephone number)

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

Dated at _____, Kansas, this _____ day of _____, 2017.
(month) (year)



(Applicant Signature)

APPLICANT(S) SOCIAL SECURITY IDENTIFICATION NUMBER(S)

By _____
(Agent or Officer Signature)

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

(Agent or Officer - Please Print)

STOCKWATER USE SUPPLEMENTAL SHEET

File No. _____

Name of Applicant (Please Print): BRIAN KEITH

1. Please indicate type of livestock (cattle, hogs, etc.): CATTLE

2. Please complete the following table showing past and present water requirements:

PAST NUMBER OF HEAD AND WATER DIVERTED, IF APPLICABLE			
LAST 5 YEARS	NUMBER OF HEAD	WATER DIVERTED (GALLONS)	GALLONS PER HEAD PER DAY
5 years ago			
Last year			
Present Year	3000		

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

ESTIMATED FUTURE NUMBER OF HEAD AND WATER DIVERTED			
NEXT 5 YEARS	NUMBER OF HEAD	WATER TO BE DIVERTED (GALLONS)	GALLONS PER HEAD PER DAY
Year 1	3500		15
Year 2			
Year 3			
Year 4			
Year 5	3500		15

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. Show in the space provided below the Section (S), Township (T), and Range (R), and the number of acres in each forty acre tract or fractional portion thereof.

S	T	R	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
10	16	11E	FEEDLOT (W2 SE)																

WATER RESOURCES
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JUN 01 2017

5. Show quantities of water used and all associated water uses at the feedlot such as water used in feed mills, cooling of animals, washing, flushing of wastes, etc.:

DRINKING

3500 head of CATTLE _____ x 15 gallons/head (avg.) x 365 days = 19.163 Million gallons

_____ head of _____ x _____ gallons/head (avg.) x _____ days = _____ gallons

_____ head of _____ x _____ gallons/head (avg.) x _____ days = _____ gallons

COOLING

_____ gallons/hour x _____ hour/day x _____ days = _____ gallons

SANITATION

_____ g.p.m. x 60 min/hr x _____ hr/wk x _____ wks/yr = _____ gallons

OTHER USE (Explain) _____ = _____ gallons

TOTAL ----- _____ gallons

6. Show location of present and future location of confinement pens on your attached maps or photographs.
7. Total feed bunk space for cattle or livestock is _____ linear feet.
8. Total size of stock pens for confinement area of cattle, hogs, etc. is _____ square feet.

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

Schemm, Doug

Subject: Brian Keith 49,850

From: Tietsort, Katie
Sent: Monday, July 31, 2017 12:41 PM
To: Schemm, Doug <Doug.Schemm@ks.gov>
Subject: RE: Brian Keith 49,850

Doug,

Thanks for working up this application for Brian Keith. I recommend approval.

Katie Tietsort

Kansas Department of Agriculture
6531 SE Forbes Ave Ste B
Topeka, KS 66619
katie.tietsort@ks.gov
Phone 785-296-5733

From: Schemm, Doug
Sent: Monday, July 31, 2017 11:12 AM
To: Tietsort, Katie <Katie.Tietsort@ks.gov>
Subject: Brian Keith 49,850

The senior file was certified for 63 AF of storage based on 12.27 AF direct use, one year of indirect use and reservoir capacity. This pending application was based on the same numbers, so I'm proposing that the storage quantity be limited to 121.5 acre-feet (109.2 AF + 12.27 AF), but no direct use limitation.

AMOUNT STATISTICS REPORT FOR POINTS OF DIVERSION UNDER A 49850 00

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AMOUNT STATISTICS REPORT FOR POINTS OF DIVERSION UNDER A 49850 00 STK

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

2522 Feet North and 2021 Feet West of the Southeast Corner of Section 10 T 16S R 11E

SURFACE WATER ONLY

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=====
File Number   Use ST SR Dist (ft) Q4 Q3 Q2 Q1 FeetN FeetW Sec Twp Rng ID Batt Auth_Quan Add_Quan Unit
A__ 19925 11 STK NK S      8778 -- NW SE SW 1145 3900 12 16 11E 1      42.01 42.01 AF
A__ 39804 00 REC NK S      6884 -- NW NE NE 5180 925 14 16 11E 1      .00 .00 AF
A__ 44071 00 STK NK S      7719 -- SE SW NW 2834 4480 9 16 11E 1      35.29 35.29 AF
A__ 45961 00 STK NK S        0 -- NW NW SE 2522 2021 10 16 11E 1      12.27 12.27 AF
A__ 49850 00 STK AY S        0 -- NW NW SE 2522 2021 10 16 11E 1      58.80 .00 AF
=====
    
```

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=====
Total Net Quantities Authorized:   Direct      Storage
Total Requested Amount (AF) =      .00      109.20
Total Permitted Amount (AF) =      .00      .00
Total Inspected Amount (AF) =      .00      .00
Total Pro_Cert Amount (AF) =      .00      .00
Total Certified Amount (AF) =     89.57     306.84
Total Vested Amount (AF) =      .00      .00
TOTAL AMOUNT (AF) =     89.57     416.04
=====
    
```

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:

2522 Feet North and 2021 Feet West of the Southeast Corner of Section 10 T 16S R 11E

SURFACE WATER ONLY

WATER USE CORRESPONDENTS:

```

=====
File Number   Use ST SR
A__ 19925 11 STK NK S
> WHEAT RANCH CO
> PETE WHEAT
> PO BOX 38
> ALLEN KS 66833
>-----
A__ 39804 00 REC NK S
> DOUGLAS A LAUE
>
> 509 COUNTRY LN
> COUNCIL GROVE KS 66846
>-----
A__ 44071 00 STK NK S
> 2 I FEEDERS LLC
>
> 884 RD 350
> ALLEN KS 66833
>-----
A__ 45961 00 STK NK S
    
```


> BRIAN KEITH
>
> 3505 ROAD L
> ALLEN KS 66833

A__ 49850 00 STK AY S

> BRIAN KEITH
>
> 3505 ROAD L
> ALLEN KS 66833

=====

#####

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
Sam Brownback, Governor

July 18, 2017

SUSAN K & STEPHEN J OZGA
11908 W 60TH PL
SHAWNEE KS 66216-2008

Re: Pending Application, File No. 49,850

Dear Sir or Madam:

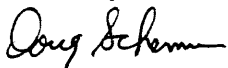
This is to advise you that Brian Keith has filed the application referred to above for a permit to appropriate 109.2 acre-feet of surface water per calendar year to be stored in an existing reservoir, and divert 58.8 acre-feet of the stored water for stockwatering use. Please note that this existing reservoir is currently permitted under Water Right, File No. 45,961, and the new application is requesting additional water for use at the stock facility. The proposed point of diversion (where the structure crosses the centerline of the stream) is located in the Northwest Quarter of the Northwest Quarter of the Southeast Quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 10, in Township 16 South, Range 11 East, Lyon 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 point of diversion and proposed use of water. Consideration will be given to comments or other information which you desire to submit to this office **within 15 days** from the date of this letter.

You 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: Brian Keith


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
Sam Brownback, Governor

July 18, 2017

GILLEN FAMILY TRUST
612 KENSINGTON BLVD
GARDEN CITY KS 67846-8519

Re: Pending Application, File No. 49,850

Dear Sir or Madam:

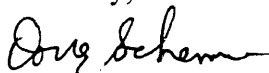
This is to advise you that Brian Keith has filed the application referred to above for a permit to appropriate 109.2 acre-feet of surface water per calendar year to be stored in an existing reservoir, and re-divert 58.8 acre-feet of the stored water for stockwatering use. Please note that this existing reservoir is currently permitted under Water Right, File No. 45,961, and the new application is requesting additional water for use at the stock facility. The proposed point of diversion (where the structure crosses the centerline of the stream) is located in the Northwest Quarter of the Northwest Quarter of the Southeast Quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 10, in Township 16 South, Range 11 East, Lyon 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 point of diversion and proposed use of water. Consideration will be given to comments or other information which you desire to submit to this office **within 15 days** from the date of this letter.

You 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: Brian Keith

(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.

[Handwritten Signature]

Signature of Applicant

Brian K. Keith

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 25 day of May, 2017.

[Handwritten Signature]

Notary Public

My Commission Expires: 4/28/21

WATER RESOURCES
RECEIVED

ANN M. MURPHY
My Appointment Expires
April 28, 2021

JUN 01 2017

**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

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

June 2, 2017

BRIAN KEITH
3505 ROAD L
ALLEN KS 66833

FILE COPY

RE: Application
File No. 49850

Dear Sir or Madam:

Your application for permit to appropriate water in 10-16S-11E in Lyon 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".

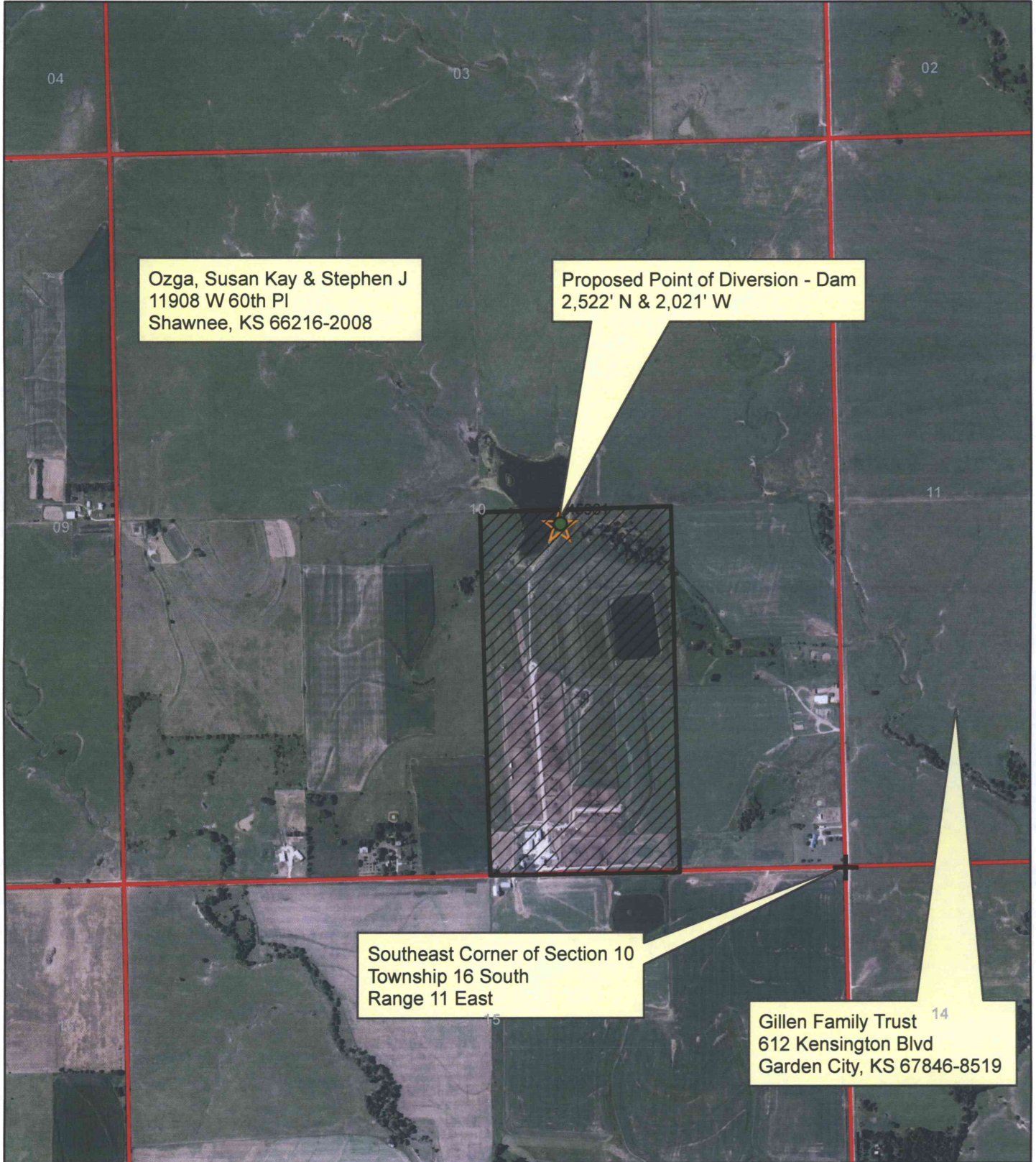
Kristen A. Baum
New Applications Unit Supervisor
Water Appropriation Program

BAT: dlw
pc: TOPEKA Field Office
GMD

SCANNED

BRIAN KEITH - SITE MAP
NEW APPLICATION
SEC. 10, T16S, R11E

49850



Ozga, Susan Kay & Stephen J
11908 W 60th Pl
Shawnee, KS 66216-2008

Proposed Point of Diversion - Dam
2,522' N & 2,021' W

Southeast Corner of Section 10
Township 16 South
Range 11 East

Gillen Family Trust ¹⁴
612 Kensington Blvd
Garden City, KS 67846-8519

1:12,000

WATER RESOURCES RECEIVED
● Proposed Point of Diversion
▨ Proposed Place of Use
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.

[Handwritten Signature]

SCANNED

JUN 01 2017