

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

1. File Number: <b>49,568</b>	2. Status Change Date: <b>4/25/2019</b>	3. Field Office: <b>01</b>	4. GMD: <b>0</b>
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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 <b>64533</b> New to system <input type="checkbox"/>    Add Seq# _____</p> <p><b>MARGARET F PRELLWITZ REV TRUST</b> 3545 NW 86TH ST TOPEKA KS 66618</p>	<p>7c. Landowner(s)    Person ID <b>64532</b> New to system <input type="checkbox"/>    Add Seq# _____</p> <p><b>THOMAS O &amp; AMY L PHILLIPS</b> 1470 ROAD 200 EMPORIA KS 66801</p>
<p>7b. Landowner(s)    Person ID _____ New to system <input type="checkbox"/>    Add Seq# _____</p> <p><b>7a.</b></p>	<p>7d. Misc.    Person ID _____ New to system <input type="checkbox"/>    Add Seq# _____</p> <p><b>MIDWEST IRRIGATION</b> % KEITH GRIMM 1215 OREGON ST HIAWATHA KS 66434</p>

<p>8. WUR Correspondent    Person ID _____ New to system <input type="checkbox"/>    Add Seq# _____ Overlap File (s) WUC    Notarized WUC Form <input type="checkbox"/> Agree <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>7a.</b></p>	<p>9. Use of Water:    Changing?    <input type="checkbox"/> Yes    <input checked="" type="checkbox"/> No</p> <p style="padding-left: 40px;"><input type="checkbox"/> Groundwater    <input checked="" type="checkbox"/> Surface Water</p> <p><input checked="" type="checkbox"/> IRR    <input 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: 12/31/2020    11. Perfection Date: 12/31/2024    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: **3/25/2019**    By: **DWS**  
Date Entered: **4/25/2019**    By: **LLM**

File No. <b>49,568</b>	15. Formation Code:	Drainage Basin: <b>NEOSHO RIVER</b>	County: <b>LYON</b>	Special Use:	Stream: <b>PLUMB CREEK TRIB 2 (NEOSHO)</b>																				
16. Points of Diversion					17. Rate and Quantity																				
T MOD DEL ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Authorized Rate gpm	Quantity af	Additional Rate gpm	Quantity af	Overlap PD Files												
√	<b>85066</b>	<b>SW NE SW</b>	<b>32</b>	<b>18S</b>	<b>12E</b>	<b>2</b>	<b>1675</b>	<b>3704</b>	<b>1000</b>	<b>400</b>	<b>1000</b>	<b>248.9</b>	<b>NONE</b>												
18. Storage: Rate _____ NF    Quantity <b>400</b> ac/ft    Additional Rate _____ NF    Additional Quantity <b>400</b> ac/ft																									
19. Limitation: <b>858.9</b> af/yr at _____ gpm ( _____ cfs) when combined with file number(s): <b>49,406 and 49,567 (ON PU)</b>																									
Limitation: _____ af/yr at _____ gpm ( _____ cfs) when combined with file number(s) _____																									
20. Meter Required? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No    To be installed by <b>12/31/2020</b> Date Acceptable Meter Installed _____																									
21. Place of Use		NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg? NO	Overlap Files				
T MOD DEL ENT	PUSE	S	T	R	ID	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼								
√	<b>66968</b>	<b>31</b>	<b>18</b>	<b>12E</b>	<b>1</b>	<b>37</b>	<b>40</b>	<b>40</b>	<b>22</b>	<b>40</b>	<b>33.43</b>	<b>33.87</b>	<b>40</b>	<b>40</b>	<b>34.33</b>	<b>34.77</b>	<b>40</b>					<b>435.4</b>	<b>7c.</b>	<b>NO</b>	<b>49,406 &amp; 49,567</b>
√	<b>66967</b>	<b>32</b>	<b>18</b>	<b>12E</b>	<b>1</b>					<b>40</b>	<b>40</b>	<b>40</b>	<b>36</b>	<b>5</b>	<b>13</b>							<b>174</b>	<b>7a.</b>	<b>NO</b>	<b>49,406 &amp; 49,567</b>
√	<b>67601</b>	<b>32</b>	<b>18</b>	<b>12E</b>	<b>2</b>	<b>29</b>	<b>1</b>	<b>29</b>	<b>40</b>				<b>2.5</b>	<b>25</b>	<b>5</b>	<b>12</b>	<b>16</b>	<b>40</b>	<b>37</b>	<b>6.5</b>	<b>6.5</b>	<b>249.5</b>	<b>7c.</b>	<b>NO</b>	<b>49,406 &amp; 49,567</b>
																			<b>858.9</b>						
Comments:																									

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

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

**TO:** Files

**DATE:** March 25, 2019

**FROM:** Doug Schemm

**RE:** Applications, File Nos. 49,567 and 49,568

Thomas Phillips (Applicant, File No. 49,567) and Margaret F. Prellwitz Trust (Applicant, File No. 49,568) have filed the above referenced new applications proposing to appropriate surface water by both the direct diversion of surface water from one pump site on Plumb Creek (File No. 49,567), and the collection and storage of natural flows from Plumb Creek Trib 2 (Neosho) in an existing reservoir (File No. 49,568). Both applications will be used for the same irrigation project (i.e. overlap in place of use). Application, File No. 49,567 will allow water to be pumped directly from Plumb Creek (when flows are adequate and permission has been granted) either directly to the place of use or into the reservoir requested under Application, File No. 49,568 (and/or File No. 49,406 – see below), to be stored for subsequent re-diversion for irrigation use. The points of diversion are located in the Southwest Quarter of Section 32, Township 18 South, Range 12 East, Lyon County, Kansas. The applications' place of use comprises 858.9 acres, wholly owned by the two applicants. The applicants have signed the application forms stating that they have legal access to the points of diversion.

Please note that a senior pending application, File No. 49,406 will also overlap in place of use. It is requesting storage of 414.2 acre-feet in a second existing reservoir, and the re-diversion of 210 acre-feet. The reservoir under File No. 49,406 is located in the Northeast Quarter of Section 31, Township 18 South, Range 12 East.

Application, File No. 49,567 is requesting 400 acre-feet of surface water at a diversion rate of 1,000 gallons per minute. As noted above, the source of water is a stream within the Neosho River basin. Therefore, per K.A.R 5-3-15, Application, File No. 49,567 will be subject to specific conditions, which stipulate strict requirements for direct surface water diversion. These conditions include the stipulation that no diversion shall occur unless there is water available to satisfy all demands by senior water rights and permits, written or verbal permission from the Chief Engineer, or an authorized representative is required prior to diverting water, and streamflow cannot be stopped at the first riffle below the point of diversion while diversion is taking place. The application also complies with K.A.R 5-3-15 (c)(5) because the existing off-stream reservoirs will provide adequate water storage, and there is no need for direct diversion of water from July 1 through September 30.

Application, File No. 49,568 is requesting 400 acre-feet of surface water storage, and the re-diversion of 400 acre-feet of the stored water for irrigation use at 1,000 gallons per minute. Runoff computations have determined that the 600 acre drainage area will result in 900 acre-feet of runoff in 1 out of every five (5) years (a 20% chance). Therefore, runoff is not the limiting factor. A review of this existing reservoir estimated surface acres at 15 acres, and an estimated capacity of 80 acre-feet. The maximum storage quantity would typically be based on a combined total of one year of direct use, one year of indirect use, and the capacity of the reservoir. In addition, a direct use quantity of 5 times the reservoir capacity (5 x 80 AF = 400 AF) is a consistent value for irrigation projects in this area of the state. The requested quantity for storage and re-diversion appears reasonable based on this data.

As noted above, the senior Application, File No. 49,406 has requested the re-diversion of 210 acre-feet, Application, File No. 49,567 is requesting 400 acre-feet, and finally Application, File No. 49,568 is requesting the re-diversion of 400 acre-feet. The maximum quantity of water that could be allowed for 858.9 acres in Lyon County is 858.9 acre-feet (1 AF/acre). The total combined quantity of water requested for irrigation use is 1,010 acre-feet, exceeding the maximum allowable. Therefore, the junior file must have a quantity limitation of 858.9 acre-feet when combined with the senior files for direct IRR use on the proposed place of use.

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

Notification letters for both applications were sent to upstream and downstream landowners on April 25, 2016. A telephone call was received from one adjacent landowner regarding File No. 49,567 who asked general questions about the application, but had no specific concerns. The WRIS database indicates there are currently no other non-domestic surface water rights within a two (2) mile radius of the proposed point of diversion (other than pending senior file 49,406). Thus, the proposed appropriation of water will not impact any senior water rights. As noted above, the direct diversion of water under File No. 49,567 is limited to times when there is sufficient flow and permission has been granted. Therefore, with proper conditioning, approval of these applications will not impact any senior water rights.

The proposed dam for File No. 49,568 was reviewed by DWR Structures Program staff under File No. DLY-0170, and it was determined to be non-jurisdictional for structures permitting.

In accordance with K.S.A. 82a-706c, the Chief Engineer retains full authority to require any water user to install meters, gages, or other measuring devices, which devices he or she or his or her agents may read at any time. Water flowmeter requirements are further described in K.A.R. 5-1-4 through K.A.R. 5-1-12. If any chemical or foreign substance is injected into the water pumped under either of these permits, check valves will also need to be installed.

Katie Tietsort, Water Commissioner, Topeka Field Office, recommended the referenced applications be approved in a discussion on September 20, 2016. Based on the above discussion, Plumb Creek is open to new appropriations meeting specific criteria, and approval of the applications will not impair senior water rights nor prejudicially or unreasonably affect the public interest, it is recommended that the referenced applications be approved.

Doug Schemm  
Environmental Scientist  
Topeka Field Office

1320 Research Park Drive  
Manhattan, KS 66502  
785-564-6700  
www. agriculture.ks.gov



900 SW Jackson, Room 456  
Topeka, KS 66612  
785-296-3556

Mike Beam, Secretary

Laura Kelly, Governor

April 30, 2019

**FILE COPY**

MARGARET F PRELLWITZ REV TRUST  
3545 NW 86TH ST  
TOPEKA KS 66618

RE: Appropriation of Water, File No. 49,568

Dear Sir or Madam:

Enclosed is a permit authorizing you to proceed with construction of the proposed diversion works and to appropriate water for beneficial use as set forth in the permit. Your attention is directed to the enclosures and to the terms, conditions, limitations, and requirements specified in this permit.

Notice must be filed on the enclosed form once the diversion works have been completed. Failure to complete the diversion works within the time allowed, or within any authorized extension of time thereof, will result in dismissal of this permit. If you need an extension of time, you must request it before the deadline for completion set forth in the permit. Any request for an extension of time must be accompanied by the statutorily required fee, which is currently \$100.00.

An acceptable water flowmeter must be installed on the re-diversion works authorized by this permit prior to using water. An annual water use report must be filed with the Chief Engineer by March 1, following the end of each calendar year. If a complete annual water use report is not received by the deadline, then a fine may be assessed and all water use under such permit or right may be suspended. Reports submitted in paper form will be assessed a \$20 per file number paper filing fee. In order to avoid this filing fee, you may submit your report online at [www.kswaterusereport.org](http://www.kswaterusereport.org).

The approval of your application constitutes a permit to appropriate water. It does not give authority to construct any dam or other stream obstruction regulated by K.S.A. 82a-301 through 305a. It does not give authority to access any right-of-way or authorize trespassing upon or injury to public or private property. It may also be necessary for you to comply with other local, state or federal requirements.

Enclosed is an informational sheet that sets forth the procedure to obtain a Certificate of Appropriation which will establish the extent of your perfected water right. Additional information and applicable forms may be found on our website at [agriculture.ks.gov/divisions-programs/dwr](http://agriculture.ks.gov/divisions-programs/dwr). If you have any questions or need assistance with any of these requirements, please contact our office at 785-564-6640 or your local Topeka Field Office at 785-296-5733. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

Kristen A. Baum  
New Application Unit Supervisor  
Division of Water Resources

KAB:dws  
Enclosure(s)

pc: Topeka Field Office  
Thomas & Amy Phillips  
MWI

# THE STATE OF KANSAS



**KANSAS DEPARTMENT OF AGRICULTURE**  
Mike Beam, 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. **49,568** of the applicant

**MARGARET F PRELLWITZ REV TRUST  
3545 NW 86TH ST  
TOPEKA KS 66618**

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 **February 29, 2016**.
2. That the water sought to be appropriated shall be used for irrigation use on land described in the application, as follows:

Sec.	Twp.	Range	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
31	18S	12E	37	40	40	22	40	33.43	33.87	40	40	34.33	34.77	40					435.4
32	18S	12E	29	1	29	40	40	40	40	38.5	30	18	12	16	40	37	6.5	6.5	423.5

3. That the appropriation sought shall be limited to all natural flows of an unnamed tributary to Plumb Creek, designated in the office of the Chief Engineer as Plumb Creek Trib 2 (Neosho), 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 **400 acre-feet** per calendar year in one (1) reservoir created by a dam located in the Southwest Quarter of the Northeast Quarter of the Southwest Quarter (SW¼ NE¼ SW¼) of Section 32, more particularly described as being near a point 1,675 feet North and 3,704 feet West of the Southeast corner of said section, in Township 18 South, Range 12 East, Lyon County, Kansas, to provide **400 acre-feet** of water as needed for direct irrigation use to be withdrawn, released or otherwise diverted from the reservoir at a re-diversion rate of approximately **1,000 gallons per minute (2.23 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, 2020** 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, 2024** 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.





**CERTIFICATE OF SERVICE**

On this 30<sup>th</sup> day of April, 2019, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 49,568, dated April 25<sup>th</sup> 2019 was mailed postage prepaid, first class, US mail to the following:

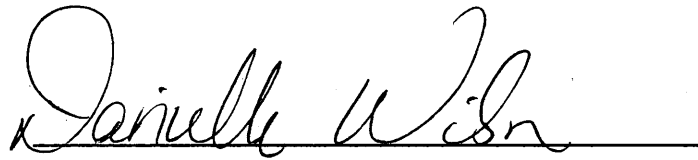
MARGARET F PRELLWITZ REV TRUST  
3545 NW 86TH ST  
TOPEKA KS 66618

With photocopies to:

THOMAS O & AMY L PHILLIPS  
1470 ROAD 200  
EMPORIA KS 66801

MIDWEST IRRIGATION  
% KEITH GRIMM  
1215 OREGON ST  
HIAWATHA KS 66434

Topeka Field Office



Division of Water Resources

Pond

APPLICATION COMPLETE

9/19/2016

Reviewer DWS

THE STATE OF KANSAS  
3-22-19  
KAB



OF KANSAS

KANSAS DEPARTMENT OF AGRICULTURE  
Dale A. Rodman, Secretary of Agriculture

DIVISION OF WATER RESOURCES  
David W. Barfield, Chief Engineer

File Number 49,568  
This item to be completed by the Division of Water Resources.

WATER RESOURCES RECEIVED

FEB 29 2016

1:19  
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,  
109 SW 9<sup>th</sup> Street, Second Floor, Topeka, KS 66612-1283:

1. Name of Applicant (Please Print): Margaret F. Prellwitz Trust  
Address: 3545 NW 86th  
City: Topeka State Ks Zip Code 66618  
Telephone Number: (785) 246 2482

2. The source of water is:  surface water in Plumb Creek Trib 2 (Neosho) \*  
(stream)  
OR  groundwater in \_\_\_\_\_  
(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.

\*Re diversion of 400 acre-feet @ 1000 gpm

3. The maximum quantity of water desired is Storage 400 acre-feet OR \_\_\_\_\_ gallons per calendar year, to be diverted at a maximum rate of 1000/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. \* ASW

For Office Use Only:  
F.O. 1 GMD 0 Meets K.A.R. 5-3-1 (YES/NO) Use FICR Source G/S County LY By ASW Date 2/29/16  
Code 10E3 Fee \$ 320 TR # 110030890 Receipt Date 2/29/16 Check # 1015

\* DWS/DWR 5/17/16

SCANNED

3/3/2016 LLM

5. The location of the proposed wells, pump sites or other works for diversion of water is:

**Note:** For the application to be accepted, the point of diversion location must be described to at least a 10 acre tract, unless you specifically request a 60 day period of time in which to locate the site within a specifically described, minimal legal quarter section of land.

- (A) One in the SW quarter of the NE quarter of the SW quarter of Section 32, more particularly described as being near a point 1675 feet North and 3704 feet West of the Southeast corner of said section, in Township 18 South, Range 12 East East/West (circle one), 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):

\* Robert R. Prellwitz Trustee  
(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 2-4, 2016 by Robert R. Prellwitz  
Applicant's Signature

The applicant must provide the required information or signature irrespective of whether they are the landowner. Failure to complete this portion of the application will cause it to be unacceptable for filing and the application will be returned to the applicant.

7. The proposed project for diversion of water will consist of 1 Pond (Excels) and Pump  
(number of wells, pumps or dams, etc.)  
and (was)(will be) completed (by) January 1st 2017  
(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 July 1st 2017  
(Mo/Day/Year)

WATER RESOURCES  
RECEIVED

FEB 29 2016

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

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

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

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

• If yes, show the Water Structures permit number here \_\_\_\_\_

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

Needs to be Reviewed by Structures Program DWS/DWR  
9/20/16

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.

complete overlap with file 49406 and another file App  
under Thomas Phillips (49,567)

WATER RESOURCES  
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13. *NA* 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/Agent  
(owner, tenant, agent or otherwise)

15. The owner(s) of the property where the water is used, if other than the applicant, is (please print):  
Thomas O & Amy L Phillips 1470 Rd 200  
(name, address and telephone number)  
Emporia KS 66801  
(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 Topeka, Kansas, this 4 day of Feb, 2016.  
(month) (year)

Robert R. Prellwitz  
(Applicant Signature)

515-54-6026  
APPLICANT(S) SOCIAL SECURITY IDENTIFICATION NUMBER(S)

By \_\_\_\_\_  
(Agent or Officer Signature)

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

\_\_\_\_\_  
(Agent or Officer - Please Print)

Assisted by Keith Grimm

MWT, LLC  
(office/title)

Date: 2-26-16

WATER RESOURCES RECEIVED  
FEB 29 2016

SCANNED DEPT OF AGRICULTURE

**\*\*Revised per request by Keith Grimm on 2-15-2016.\*\***

**IRRIGATION USE  
SUPPLEMENTAL SHEET**

File No. 49,568

Name of Applicant (Please Print): Margaret F Prellwitz Trust

1. Please supply the name and address of each landowner, the legal description of the lands to be irrigated, and designate the actual number of acres to be irrigated in each forty acre tract or fractional portion thereof:

**Landowner of Record** NAME: Thomas O. and Amy L Phillips

ADDRESS: 3955 Rd V Allen KS 66833

S	T	R	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
32	18S	12E					40	40	40	36	5	13							174

**Landowner of Record** NAME: Margaret F. Prellwitz Revocable Living Trust

ADDRESS: 3545 NW 86<sup>th</sup> St Topeka KS 66618

S	T	R	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
31	18S	12E	37	40	40	22	40	33.43	33.87	40	40	34.33	34.77	40					435.4
32	18S	12E	29	1	29	40				2.5	25	5	12	16	40	37	6.5	6.5	249.5
																			Total: 858.9 ac.

**Landowner of Record** NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

S	T	R	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

## Baum, Kristen [KDA]

---

**From:** Schemm, Doug [KDA]  
**Sent:** Monday, March 25, 2019 6:54 AM  
**To:** Dendurent, Mikayla [KDA]  
**Cc:** Baum, Kristen [KDA]; Ketter, Ambrose [KDA]  
**Subject:** RE: Structure status File Nos. 49,406 and 49,568

Awesome!! Thanks Mikayla.

---

**From:** Dendurent, Mikayla [KDA]  
**Sent:** Friday, March 22, 2019 1:39 PM  
**To:** Schemm, Doug [KDA] <Doug.Schemm@ks.gov>  
**Cc:** Baum, Kristen [KDA] <Kristen.Baum@ks.gov>; Ketter, Ambrose [KDA] <Ambrose.Ketter@ks.gov>  
**Subject:** RE: Structure status File Nos. 49,406 and 49,568

Hi Doug,

I have had a chance to look into the water rights you asked about in your email below. Both structures are non-jurisdictional for water structures. The water structures numbers are

49406 DLN-0130  
49568 DLN-0170

Let me know if you have any questions!

Mikayla E. Dendurent, I.E.  
Engineering Associate  
Kansas Department of Agriculture  
[Mikayla.Dendurent@ks.gov](mailto:Mikayla.Dendurent@ks.gov)  
785.564.6651

---

**From:** Ketter, Ambrose [KDA]  
**Sent:** Thursday, March 21, 2019 1:13 PM  
**To:** Dendurent, Mikayla [KDA] <[Mikayla.Dendurent@ks.gov](mailto:Mikayla.Dendurent@ks.gov)>  
**Subject:** FW: Structure status File Nos. 49,406 and 49,568

Please check the height and volume of these structures. We may need to get them permitted.

Ambrose J. Ketter, P.E.  
Dam Safety Team Leader  
Division of Water Resources  
Kansas Department of Agriculture  
(785) 564-6653  
[Ambrose.Ketter@ks.gov](mailto:Ambrose.Ketter@ks.gov)  
[www.agriculture.ks.gov](http://www.agriculture.ks.gov)

---

**From:** Schemm, Doug [KDA]  
**Sent:** Wednesday, March 20, 2019 11:22 AM  
**To:** Ketter, Ambrose [KDA]  
**Cc:** Baum, Kristen [KDA]  
**Subject:** Structure status File Nos. 49,406 and 49,568

Good Morning Ambrose,

I'm just following up on some old files we got hanging around, File No.s 49,406; 49,567; and 49,568.

These involve 2 existing reservoirs and a pump site. One of the dams is listed under DLY-130. It looks like structures sent them a letter way back when, but nothing else. Is there any chance this is non-jurisdictional now? I don't see any structures permit for the second dam.

Do you have any information on these 2 dams. Or is there anything I can do?

By the way, these are Keith Grimm files from long ago, but I can see if Keith is still involved and he might help on the structures stuff.

Thanks, Doug





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) 296-8298  
[www.agriculture.ks.gov](http://www.agriculture.ks.gov)  
Sam Brownback, Governor

April 25, 2016

DAVID WAYNE DELONG  
1262 ROAD 210  
EMPORIA KS 66801 8173

Re: Application, File No. 49,568

Dear Sir:

This is to advise you that the Margaret F Prellwitz Trust has filed the application referred to above for a permit to appropriate surface water at the rate of natural flows to be stored in an existing reservoir. The application is requesting to appropriate 400 acre-feet of surface water per calendar year, and re-divert 400 acre-feet of the stored water for irrigation use. The point of diversion (where dam crosses centerline of the stream) is located as follows:

in the Southwest Quarter of the Northeast Quarter of the Southwest Quarter (SW $\frac{1}{4}$  NE $\frac{1}{4}$  SW $\frac{1}{4}$ ) of Section 32, in Township 18 South, Range 12 East, Lyon County, Kansas.

A map is enclosed indicating the location of the proposed point of diversion. Records in this office indicate that you own land along the stream in this vicinity and you are being notified of receipt of this application 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 may also contact me at (785) 296-8682 with any questions or comments.

Sincerely,

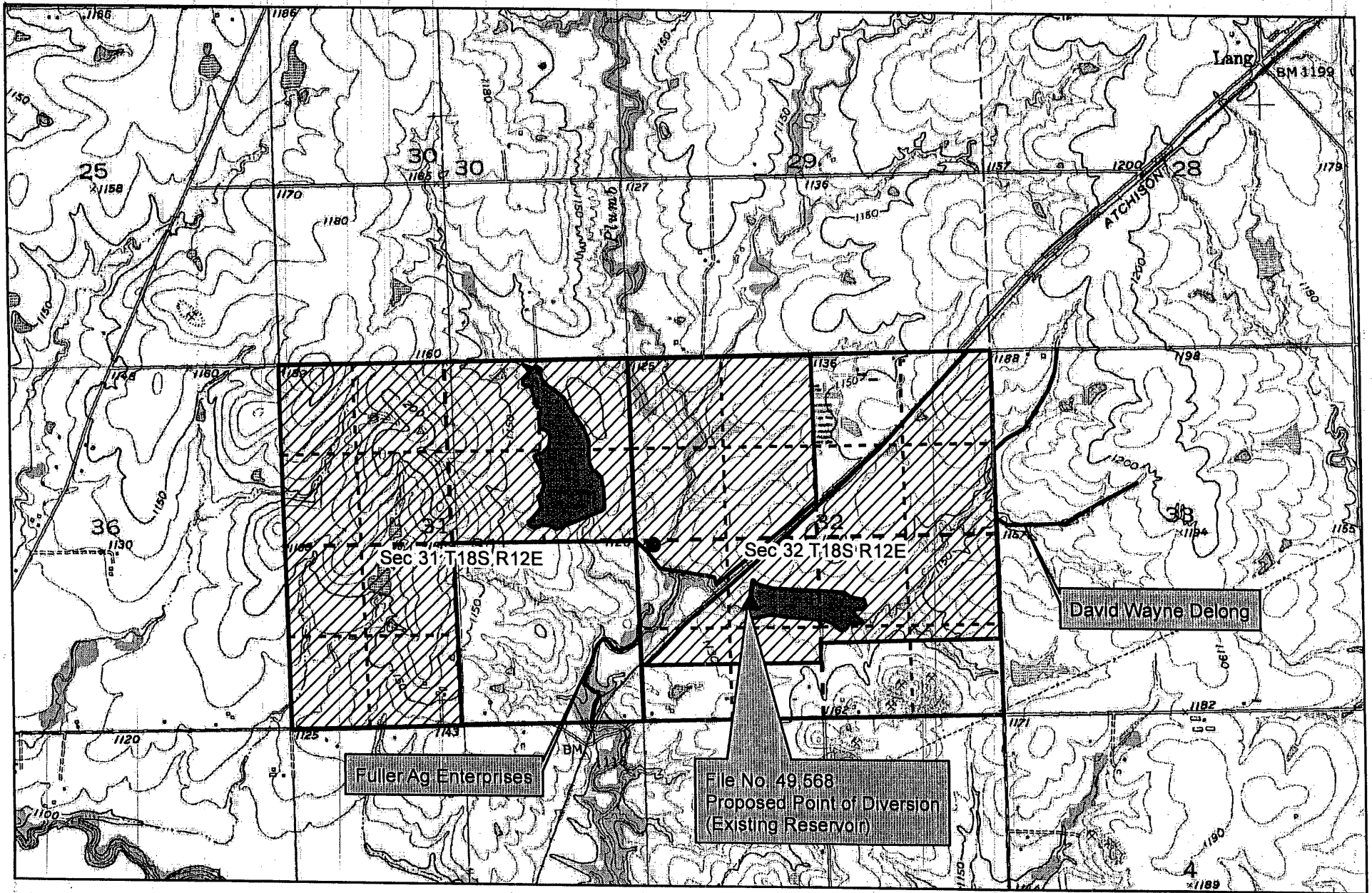
A handwritten signature in black ink that reads "Lloyd Hemphill".

Lloyd Hemphill  
Environmental Scientist  
Topeka Field Office

pc: Margaret F Prellwitz Trust  
Keith Grimm - MWI

SCANNED

# Upstream and Downstream Landowners

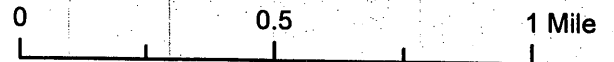


Proposed Place of Use

Map Prepared by LHH/TFO 4-22-2016.



N



1:24,000



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) 296-8298  
www.agriculture.ks.gov  
Sam Brownback, Governor

April 25, 2016

FULLER AG ENTERPRISES  
1953 RD M  
EMPORIA KS 66801

Re: Application, File No. 49,568

Dear Sir or Madam:

This is to advise you that the Margaret F Prellwitz Trust has filed the application referred to above for a permit to appropriate surface water at the rate of natural flows to be stored in an existing reservoir. The application is requesting to appropriate 400 acre-feet of surface water per calendar year, and re-divert 400 acre-feet of the stored water for irrigation use. The point of diversion (where dam crosses centerline of the stream) is located as follows:

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Sincerely,

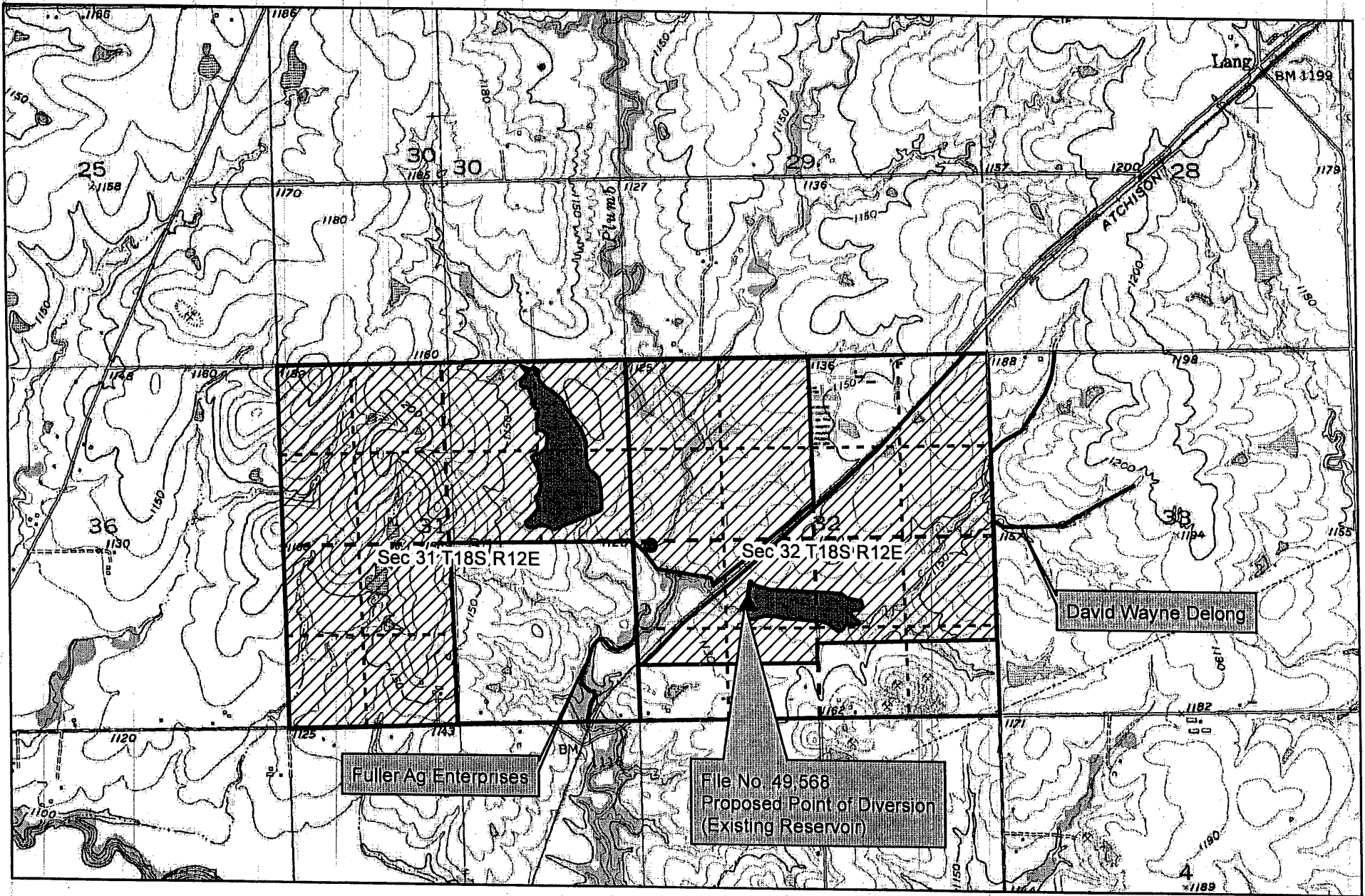
A handwritten signature in black ink that reads "Lloyd Hemphill".

Lloyd Hemphill  
Environmental Scientist  
Topeka Field Office

pc: Margaret F Prellwitz Trust  
Keith Grimm - MWI

SCANNED

# Upstream and Downstream Landowners

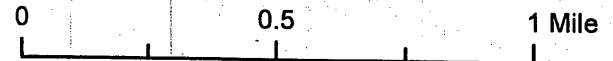


Proposed Place of Use

Map Prepared by LHH/TFO 4-22-2016



1:24,000



File No. 49,568

Nearby landowners with property adjacent to stream ½ mile upstream and downstream of project property lines.

UPSTREAM

DAVID WAYNE DELONG  
1262 ROAD 210  
EMPORIA KS 66801 8173

DOWNSTREAM

FULLER AG ENTERPRISES  
1953 RD M  
EMPORIA KS 66801

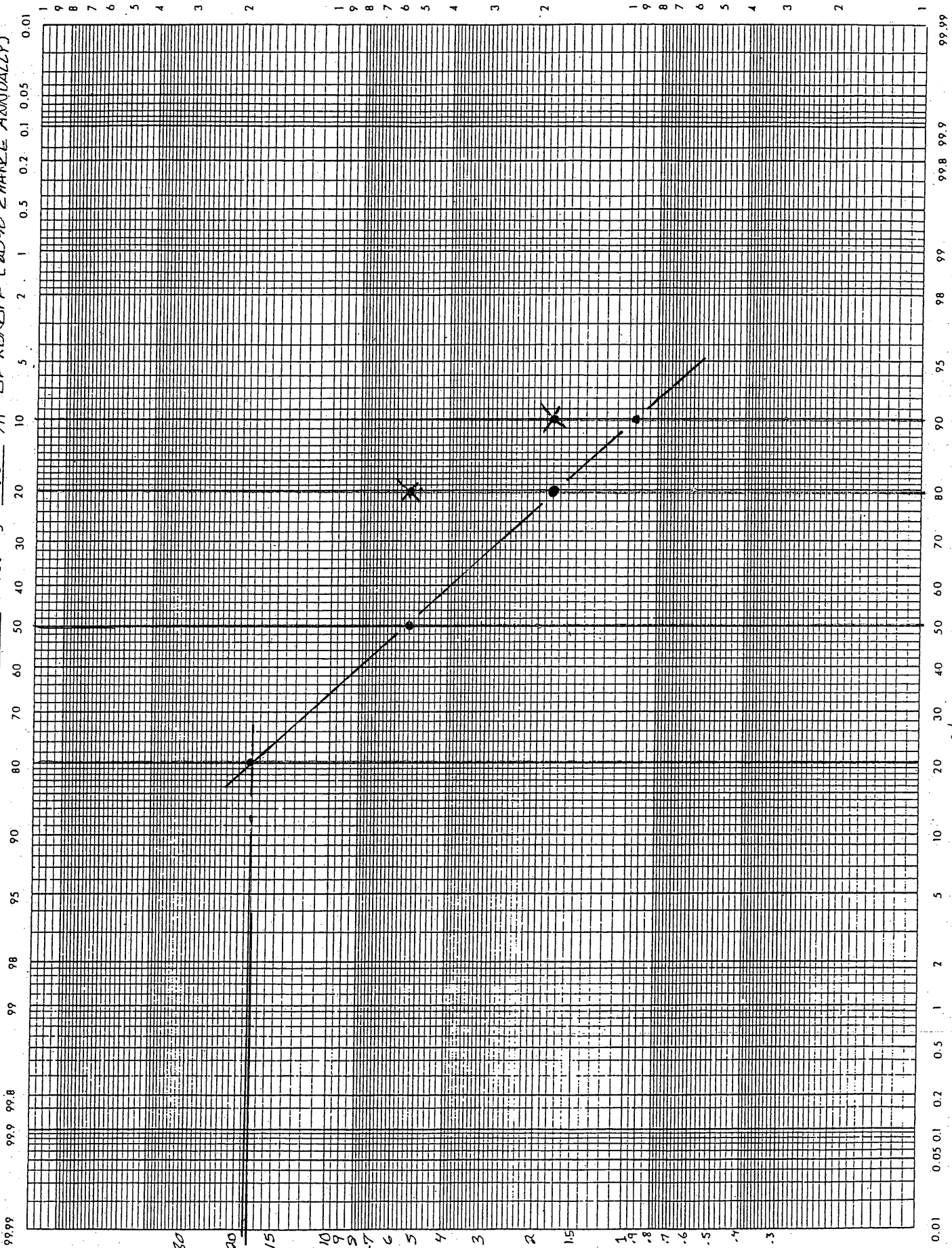
FILE NO. 49,568

SOIL: "80" PRECIP: 37"

INCHES RUNOFF/ACRE: 18"

600 ACRES IN DRAINAGE x 18" = 10800" / 12" = 900 AF OF RUNOFF (20% CHANCE ANNUALLY)

Probability (Long-axis) by 3<sup>rd</sup> Cycle Log



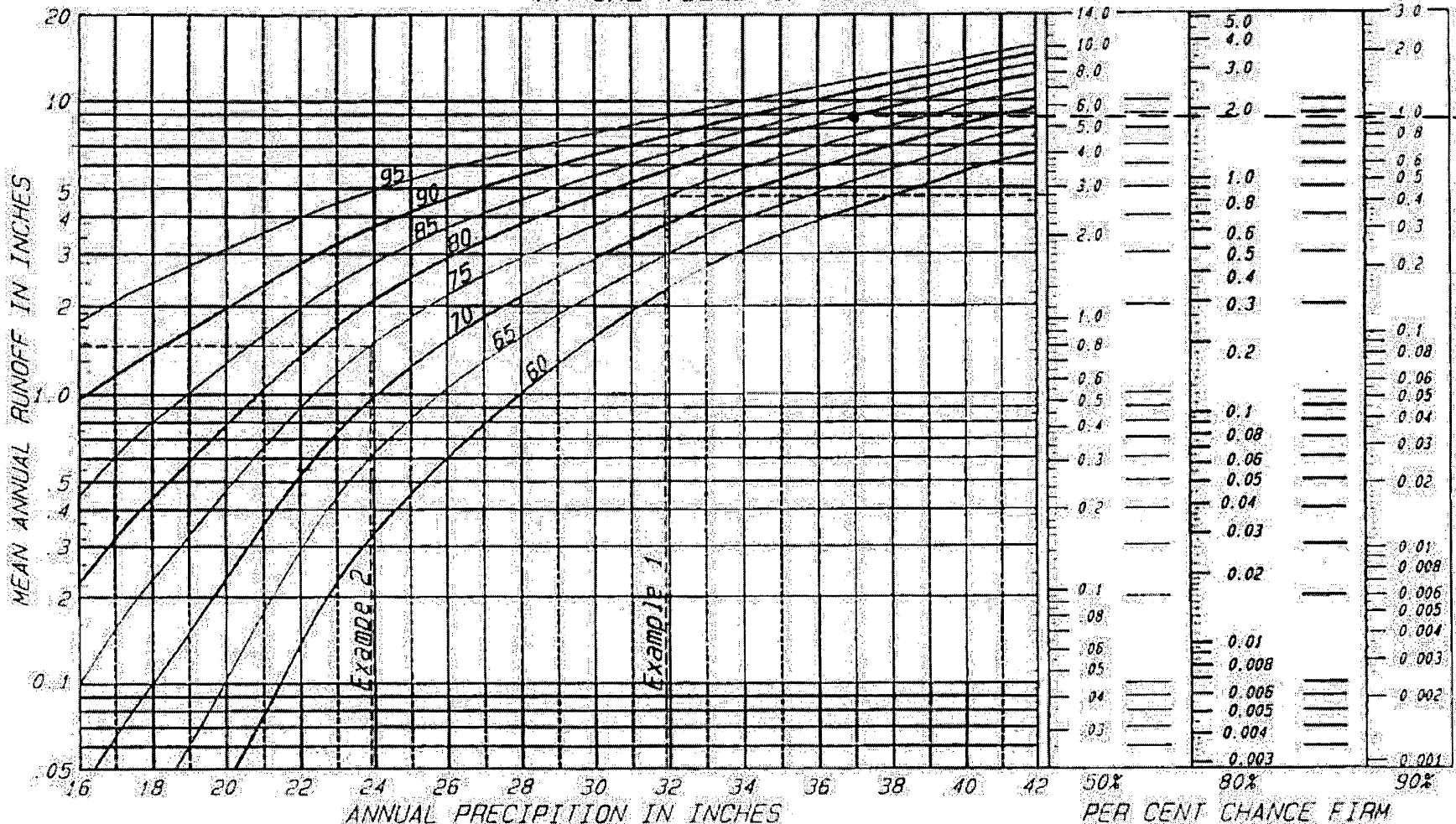
PREPARED BY:

C/O CHANCE

SCANNED

### ANNUAL YIELD OF RUNOFF

5.4      1.8      0.95



RUNOFF IN INCHES

KS-2-36

United States department of agriculture, natural resources conservation service, nation engineering handbook series, part 650, engineering field handbook.

SCANNED



9-14-16

(Date)

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

RECEIVED  
SEP 22 2016  
Topeka Field Office  
DIVISION OF WATER RESOURCES

Re: Application  
File No. 49,568

Minimum Desirable Streamflow  
Neosho River Assurance District

Dear Sir:

I understand that a Minimum Desirable Streamflow requirement has been established by the legislature for the source of supply to which the above referenced application applies, namely the Neosho River Basin.

I understand that diversion of water pursuant to this application will be subject to regulation any time Minimum Desirable Streamflow requirements are not being met.

I also understand that if this application is approved, there could be times, as determined by the Division of Water Resources, when I would not be allowed to divert water. I realize that this could affect the economics of my decision to appropriate water.

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

Robert R. Prellwitz  
Signature of Applicant

State of Kansas )  
) ss  
County of Shawnee )

Robert R. Prellwitz  
(Print Applicant's Name)

I hereby certify that the foregoing instrument was signed in my presence and sworn to before me this 14<sup>th</sup> day of Sept, 2016.

Sue McWilliams  
Notary Public

My Commission Expires:  Sue McWilliams  
NOTARY PUBLIC - STATE OF KANSAS  
MY APPT EXP: 2-25-20

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SEP 16 2016

KS DEPT OF AGRICULTURE



**MINIMUM DESIRABLE STREAMFLOW FORM TO BE USED WHEN  
APPLICABLE WHEN FILING AN APPLICATION FOR PERMIT  
TO APPROPRIATE WATER FOR BENEFICIAL USE**

The Kansas Legislature has established minimum desirable streamflows for the streams listed below. If your proposed diversion of water is going to be from one of these watercourses or adjacent alluvial aquifers, please complete the back side of this page and submit it along with your application for permit to appropriate water.

Arkansas River  
Big Blue River  
Chapman Creek  
Chikaskia River  
Cottonwood River  
Delaware River  
Little Arkansas River  
Little Blue River  
Marais des Cygnes River  
Medicine Lodge River  
Mill Creek (Wabaunsee Co. area)  
Neosho River

Ninnescah River  
North Fork Ninnescah River  
Rattlesnake Creek  
Republican River  
Saline River  
Smoky Hill River  
Solomon River  
South Fork Ninnescah  
Spring River  
Walnut River  
Whitewater River

RECEIVED  
SEP 22 2016  
Topeka Field Office  
DIVISION OF WATER RESOURCES

WATER RESOURCES  
RECEIVED

SEP 16 2016

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## FEE SCHEDULE

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

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

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

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

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

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

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

### MAKE CHECKS PAYABLE TO THE KANSAS DEPARTMENT OF AGRICULTURE

#### ATTENTION

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

#### CONVERSION FACTORS

1 acre-foot equals 325,851 gallons

1 million gallons equal 3.07 acre-feet

WATER RESOURCES  
RECEIVED

FEB 29 2016

KS DEPT OF AGRICULTURE

**SCANNED**



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

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

March 1, 2016

MARGARET F PRELLWITZ TRUST  
3545 NW 86TH  
TOPEKA KS 66618

RE: Application  
File No. 49568

Dear Sir or Madam:

Your application for permit to appropriate water in 32-18S-12E 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) 564-6634. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

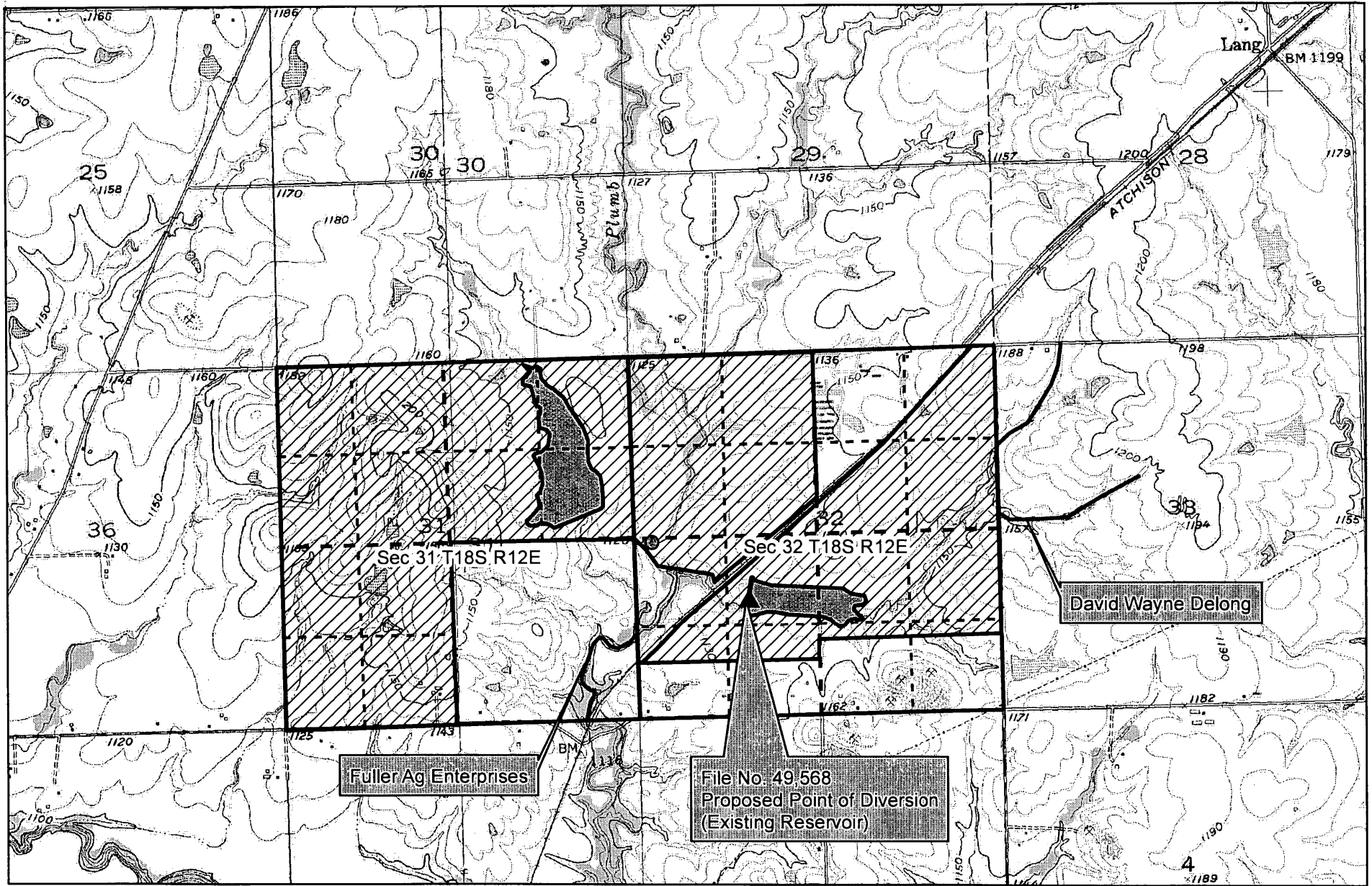
Sincerely,

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

KAK: DLW  
pc: TOPEKA Field Office  
GMD

SCANNED

# Upstream and Downstream Landowners



SCANNED

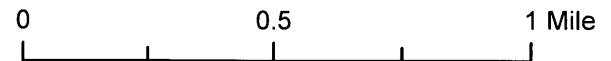


Proposed Place of Use

Map Prepared by LHH/TFO 4-22-2016



1:24,000



NEW STREAM WORKSHEET

ES AW

Date: 2/29/16

File No. 49, 568

Basin Name: Nesho Basin No. 34

Stream Name: Plumb Creek Trib 2 (Nesho)

Stream location (confluence with parent stream):

Section 32, Township 18 South, Range 12 (East)

Map Color Coding:

Basin Stream – Blue

Named Main Stream off Basin Stream – Yellow

Named Stream off Main Stream – Green

Unnamed Trib (1, 2, 3, 4, etc.) – Pink

Unnamed Trib to Unnamed Trib (A, B, C, etc.) – Orange

Unnamed Trib to Unnamed Trib to Unnamed Trib (1, 2, 3, etc.) – Purple

---

Stream No. 3853 (computer assigned - entered by data entry staff)

Date Entered 3/3/2016 By UM



# Site Map - Thomas Phillips Applications

49,568


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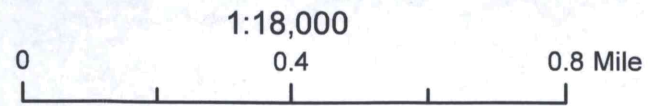
FEB 29 2016

KS DEPT OF AGRICULTURE



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 Proposed Place of Use  
Map Prepared by LHH/TFO 2-15-2016






# Thomas Phillips and Margaret Prellwitz

Permit map Sec 32 T18S R12E

49,500

## Legend

 R12E

5199ft west of section Creek pump

3704ft west of sec

2614ft north of sec Creek pump

1675ft north of sec

Google earth

© 2016 Google



2000 ft

WATER RESOURCES  
RECEIVED  
FEB 20 2016  
WATER RESOURCES