

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

1. File Number: <p style="text-align: center;"><b>50,136</b></p>	2. Status Change Date: <p style="text-align: center;">2/11/2019</p>	3. Field Office: <p style="text-align: center;"><b>01</b></p>	4. GMD: <p style="text-align: center;"><b>0</b></p>
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5. Status:     Approved     Denied by DWR/GMD     Dismiss by Request/Failure to Return

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

7a. Applicant(s) \_\_\_\_\_ Person ID **62253**  
 New to system  Add Seq# \_\_\_\_\_

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

7b. Landowner(s) \_\_\_\_\_ Person ID \_\_\_\_\_  
 New to system  Add Seq# \_\_\_\_\_

**7a.**

7c. Landowner(s) \_\_\_\_\_ Person ID \_\_\_\_\_

**7d.**

8. WUR Correspondent \_\_\_\_\_ Person ID \_\_\_\_\_  
 New to system  Add Seq# \_\_\_\_\_  
 Overlap File (s) WUC Notarized WUC Form   
 Agree  Yes  No

**7a.**

9. Use of Water: Changing?     Yes     No

Groundwater     Surface Water

IRR     REC     DEW     MUN

STK     SED     DOM     CON

HYD DRG     WTR PWR     ART RECHRG

IND SIC: \_\_\_\_\_     OTHER: \_\_\_\_\_

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: **1/17/19**    By: **DWS**  
 Date Entered: **2/12/2019**    By: **LLM**

File No. **50,136**      15. Formation Code:      Drainage Basin: **NEOSHO RIVER**      County: **CF**      Special Use:      Stream: **LONG CREEK (NEOSHO)**

16. Points of Diversion									
MOD	PDIV	Qualifier	S	T	R	ID	N	W	
MOD	85100	NE NE SE	21	20	16E	1	2603	613	
√	87077	NE NE SE	21	20	16E	2	2378	390	
√	87078	NE NE SE	21	20	16E	3	2187	258	

17. Rate and Quantity				
Authorized		Additional		
Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files
10000	60	10000	60	49,582*

18. Storage: Rate \_\_\_\_\_ NF      Quantity \_\_\_\_\_ ac/ft      Additional Rate \_\_\_\_\_ NF      Additional Quantity \_\_\_\_\_ ac/ft

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

20. Meter Required?  Yes  No      To be installed by **12/31/2020**      Date Acceptable Meter Installed \_\_\_\_\_

21. Place of Use										NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg? NO	Overlap Files
MOD	PUSE	S	T	R	ID	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼								
√	67626	21	20	16E	1	WATERFOWL MARSH (N2 SE)																	7a.	NO	49,582*				

Comments:  
 \*FILE NO. 49,582 TO BE DISMISSED UPON APPROVAL OF NEW APPLICATION.  
*special conditions: permission to Divert*

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

**TO:** Files

**DATE:** January 17, 2019

**FROM:** Doug Schemm

**RE:** Application, File No. 50,136; and  
Appropriation of Water, File No. 49,582

Doug Livingston has filed the application referred to above requesting 60 acre-feet at a diversion rate of 10,000 gallons per minute for the direct diversion of surface water from three pump sites on Long Creek, within the Neosho River Basin. This application will allow water to be pumped directly from Long Creek (when flows are adequate and permission has been granted). The water will be used to fill and maintain water level in a marsh (i.e. offset evaporative and seepage losses). The project is located in the Southeast Quarter of Section 21, in Township 20 South, Range 16 East, Coffey County, Kansas. The applicant has signed the application form stating that he has legal access to the point of diversion.

Appropriation of Water, File No. 49,582 currently authorizes this same marsh project, however it only authorized one pump site and at 2,000 gallons per minute. The applicant has requested that this current file be dismissed upon approval of this new application.

Based on similar wildlife marshes in this area of the state, a typical quantity of water is 3 feet per acre of marsh for filling and maintaining water levels (offset seepage losses). The marsh area will cover 10 acres (10 acres x 3 feet = 30 acre-feet). The applicant also requested 30 acre-feet to refill the marsh, if necessary. This is equivalent to 6 feet of water per acre, which is still a reasonable quantity. Other wildlife marshes have requested both an initial fill and one additional fill per year, which would be the same as what this quantity represents (i.e. (3 feet deep x 10 acres) x 2 = 60 AF).

This approval will be subject to specific conditions, which stipulate strict requirements for direct surface water diversion. These conditions include the stipulation that no diversion shall occur unless there is water available to satisfy all demands by senior water rights and permits, written or verbal permission from the Chief Engineer, or an authorized representative is required prior to diverting water, and streamflow cannot be stopped at the first riffle below the point of diversion while diversion is taking place. The application also complies with K.A.R 5-3-15 (c)(5) because the proposed use of water for recreational use is typically during the fall season, and there is no need for direct diversion of water from July 1 through September 30.

A list of nearby landowners was provided by the applicant (same as senior file) which complies with K.A.R. 5-3-4. Nearby landowner letters were sent out on November 8, 2018. No responses of any kind were received.

There are several other surface water diversions within a two (2) mile radius of the proposed point of diversion, however they are either recreational or sediment control use reservoirs, all located on tributaries to Long Creek. There are no permitted direct diversions from Long Creek within two miles. With proper conditioning, approval of this application will not impair any senior water rights. Based on a review of the current Cottonwood and Neosho River Water Assurance Program Operations Agreement, notifying them regarding this pending nonmember application is not required.

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

This recreational project was also reviewed by DWR Water Structures program, under File No. LCF-008, during processing of the senior file. It was determined that the project is non-jurisdictional for structures permitting because it is located outside of the 100-year floodplain.

Doug Livingston - Memorandum  
File Nos. 50,136 and 49,582  
Page 2

In accordance with K.S.A. 82a-706c, the Chief Engineer retains full authority to require any water user to install meters, gages, or other measuring devices, which devices he or she or his or her agents may read at any time. Water flowmeter requirements are further described in K.A.R. 5-1-4 through K.A.R. 5-1-12.

In a December 5, 2018 discussion, Katie Tietsort, Water Commissioner, Topeka Field Office, gave a recommendation that the application be approved. Based on the above discussion, the area remains open to new appropriations for off-season permits, the approval of this application is subject to specific conditions relative to direct surface water diversions, and there is no indication that existing water rights will be impaired, it is recommended that the referenced new application be approved, and File No. 49,582 be dismissed as requested by the applicant.

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, Interim Secretary

Laura Kelly, Governor

**FILE COPY**

DOUG LIVINGSTON  
12839 CENTURY ST  
OVERLAND PARK KS 66213

February 15, 2019

RE: Appropriation of Water, File Nos. 50,136 and 49,582

Dear Mr. Livingston:

There is enclosed a permit to appropriate water (File No. 50,136) authorizing you to proceed with construction of the proposed diversion works (except those dams and stream obstructions regulated by K.S.A. 82a-301 through 305a), to divert such unappropriated water as may be available from the source and at the location specified in the permit, and to use it for the purpose and at the location described in the permit.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in these approval documents with specific reference to **Paragraph Nos. 19 and 20 requiring that you obtain permission prior to diverting water.** A water meter is required on the proposed diversion works and you must install it prior to water being put to beneficial use in order for you to maintain accurate records of water use. The meter should be used to provide the information required on the annual water use report.

Failure to notify the Chief Engineer of the Division of Water Resources of the completion of the diversion works within the time allowed, or within any authorized extension of time thereof, will result in the dismissal of this permit. Enclosed is a form which may be used to notify the Chief Engineer that the proposed diversion works have been completed.

All requests for extensions of time to complete diversion works, or to perfect appropriations, must be submitted to the Chief Engineer before the expiration of time originally set forth in the permit to complete diversion works or to perfect an appropriation. If for any reason, you require an extension of time, you must request it before the expiration of time set forth in this permit. Failure to comply with this regulation will result in the dismissal of your permit or your water right. Any request for an extension of time shall be accompanied by the required statutory fee, which is currently \$100.00. There is also enclosed an information sheet setting forth the procedure to obtain a Certificate of Appropriation which will establish the extent of your water right.

In addition, enclosed is the Findings and Order by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, dismissing Appropriation of Water, File No. 49,582 as you requested in the "Voluntary Waiver of Hearing & Dismissal of Water Right" form received in our office on September 24, 2018. Appropriation of Water, File No. 50,136 essentially replaces this current appropriation.

THE STATE  OF KANSAS

KANSAS DEPARTMENT OF AGRICULTURE  
Mike Beam, Interim 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. 50,136** of the applicant

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

for a permit to appropriate water for beneficial use, together with the maps, plans and other submitted data, and that the application is hereby approved and the applicant is hereby authorized, subject to vested rights and prior appropriations, to proceed with the construction of the proposed diversion works (except those dams and stream obstructions regulated by K.S.A. 82a-301 through 305a, as amended), and to proceed with all steps necessary for the application of the water to the approved and proposed beneficial use and otherwise perfect the proposed appropriation subject to the following terms, conditions and limitations:

1. That the priority date assigned to such application is **September 24, 2018**.
2. That the water sought to be appropriated shall be used for recreational use in a waterfowl marsh located in the North Half of the Southeast Quarter (N $\frac{1}{2}$  SE $\frac{1}{4}$ ) of Section 21, in Township 20 South, Range 16 East, Coffey County, Kansas.
3. That the authorized source from which the appropriation shall be made is surface water from Long Creek (Neosho), to be diverted at three (3) pump sites located as follows: one in the Northeast Quarter of the Northeast Quarter of the Southeast Quarter (NE $\frac{1}{4}$  NE $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section 21, more particularly described as being near a point 2,603 feet North and 613 feet West of the Southeast corner of said section; one in the Northeast Quarter of the Northeast Quarter of the Southeast Quarter (NE $\frac{1}{4}$  NE $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section 21, more particularly described as being near a point 2,378 feet North and 390 feet West of the Southeast corner of said section; and one in the Northeast Quarter of the Northeast Quarter of the Southeast Quarter (NE $\frac{1}{4}$  NE $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section 21, more particularly described as being near a point 2,187 feet North and 258 feet West of the Southeast corner of said section, all in Township 20 South, Range 16 East, Coffey County, Kansas, located substantially as shown on the topographic map accompanying the application.
4. That the appropriation sought shall be limited to a maximum diversion rate not in excess of **10,000 gallons per minute (22.28 c.f.s.)** and to a quantity not to exceed **60 acre-feet** of water for any calendar year.
5. That installation of works for diversion of water shall be completed on or before **December 31, 2020** or within any authorized extension thereof. The applicant shall notify the Chief Engineer and pay the statutorily required field inspection fee of \$400.00 when construction of the works has been completed. Failure to timely submit the notice and the fee will result in revocation of the permit. Any request for an extension of time shall be submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee of \$100.00.

6. That the proposed appropriation shall be perfected by the actual application of water to the proposed beneficial use on or before **December 31, 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 of \$100.00.

7. That the applicant shall not be deemed to have acquired a water appropriation for a quantity in excess of the amount approved herein nor in excess of the amount found by the Chief Engineer to have been actually used for the approved purpose during one calendar year subsequent to approval of the application and within the time specified for perfection or any authorized extension thereof.

8. That the use of water herein authorized shall not be made so as to impair any use under existing water rights nor prejudicially and unreasonably affect the public interest.

9. That the right of the appropriator shall relate to a specific quantity of water and such right must allow for a reasonable raising or lowering of the static water level and for the reasonable increase or decrease of the streamflow at the appropriator's point of diversion.

10. That this permit does not constitute authority under K.S.A. 82a-301 through 305a to construct any dam or other obstruction; nor does it grant any right-of-way, or authorize entry upon or injury to, public or private property.

11. That all diversion works constructed under the authority of this permit into which any type of chemical or other foreign substance will be injected into the water pumped from the diversion works shall be equipped with an in-line, automatic quick-closing, check valve capable of preventing pollution of the source of the water supply. The type of valve installed shall meet specifications adopted by the Chief Engineer and shall be maintained in an operating condition satisfactory to the Chief Engineer.

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

13. That the applicant shall maintain accurate and complete records from which the quantity of water diverted during each calendar year may be readily determined and the applicant shall file an annual water use report with the Chief Engineer by March 1 following the end of each calendar year. Failure to file the annual water use report by the due date shall cause the applicant to be subject to a civil penalty.

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

15. That failure without cause to comply with provisions of the permit and its terms, conditions and limitations will result in the forfeiture of the priority date, revocation of the permit and dismissal of the application.

16. That the right to appropriate water under authority of this permit is subject to any minimum desirable streamflow requirements identified and established pursuant to K.S.A. 82a-703c for the source of supply to which this water right applies.

17. That diversion of natural flow shall not take place unless there is water available to satisfy all demands by senior water rights and permits.

18. That the stream flow shall not be stopped at the first riffle below the point of diversion while diversion is taking place under the authority of this water right or permit.

19. That during the period October 1 through June 30, the verbal or written permission of the Chief Engineer, or an authorized representative of the Chief Engineer, shall be obtained in order to divert water each time the applicant desires to divert water.

20. That during the period July 1 through September 30 each calendar year, no direct diversions of surface water shall be permitted unless written permission is obtained from the Chief Engineer, or the Chief Engineer's authorized representative.

**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 11<sup>th</sup> day of February, 2019, in Manhattan, Riley 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 11<sup>th</sup> day of February, 2019, by Lane P. Letourneau, P.G., Program Manager, Division of Water Resources, Kansas Department of Agriculture.



Danielle Wilson

Notary Public



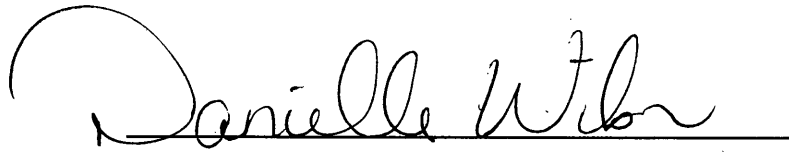
### CERTIFICATE OF SERVICE

On this 15<sup>th</sup> day of February, 2019, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,136, dated February 11, 2019 was mailed postage prepaid, first class, US mail to the following:

DOUG LIVINGSTON  
12839 CENTURY ST  
OVERLAND PARK KS 66213

With photocopies to:

Topeka Field Office

A handwritten signature in black ink, reading "Danielle Weber", is written over a horizontal line. The signature is cursive and includes a large, decorative flourish at the beginning.

Division of Water Resources

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE  
Jackie McClaskey, Secretary of Agriculture

DIVISION OF WATER RESOURCES  
David W. Barfield, Chief Engineer

File Number 50136  
This item to be completed by the Division of Water Resources.

Water Resources  
Received

APPLICATION COMPLETE  
12/5/18  
Reviewer KAB

**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.)

**SEP 24 2018**  
**1:07**  
KS Dept Of Agriculture

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

1. Name of Applicant (Please Print): DOUG LIVINGSTON  
Address: 12839 CENTURY ST  
City: OVERLAND PARK State KS Zip Code 66213  
Telephone Number: (913) 485-9084

2. The source of water is:  surface water in LONG CREEK (stream)

Certain streams in Kansas have minimum target flows established by law or may be subject to administration when water is released from storage for use by water assurance district members. If your application is subject to these regulations on the date we receive your application, you will be sent the appropriate form to complete and return to the Division of Water Resources.

3. The maximum quantity of water desired is 60 acre-feet OR \_\_\_\_\_ gallons per calendar year, to be diverted at a maximum rate of 10,000 gallons per minute OR \_\_\_\_\_ cubic feet per second.

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

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

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

For Office Use Only:														
F.O. Code	<u>1</u>	GMD	<input checked="" type="checkbox"/>	Meets K.A.R. 5-3-1 (YES/NO)	Use	<u>REC</u>	Source	<u>G(S)</u>	County	<u>CF</u>	By	<u>DW</u>	Date	<u>9/24/18</u>
Code	<u>REG</u>	Fee \$	<u>200</u>	TR #		Receipt Date	<u>9/24/18</u>	Check #	<u>1212</u>					

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 NE quarter of the NE quarter of the SE quarter of Section 21, more particularly described as being near a point 2603 feet North and 613 feet West of the Southeast corner of said section, in Township 20 South, Range 16 East, COFFEY County, Kansas.

(B) One in the NE quarter of the NE quarter of the SE quarter of Section 21, more particularly described as being near a point 2378 feet North and 390 feet West of the Southeast corner of said section, in Township 20 South, Range 16 East, COFFEY County, Kansas.

(C) One in the NE quarter of the NE quarter of the SE quarter of Section 21, more particularly described as being near a point 2187 feet North and 258 feet West of the Southeast corner of said section, in Township 20 South, Range 16 East, COFFEY 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):

SAME AS OWNER  
(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 9-20, 2018. Ray Smith  
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 ONE POWER UNIT, PUMP & METER  
(number of wells, pumps or dams, etc.)

and was completed on June 26, 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 UPON APPROVAL  
Water Resources (Mo/Day/Year)

Received  
SEP 24 2018  
SCANNED  
KS Dept Of Agriculture

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

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

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

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

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

11. The application must be supplemented by a U.S.G.S. topographic map, aerial photograph or a detailed plat showing the following information. On the topographic map, aerial photograph, or plat, identify the center of the section, the section lines or the section corners and show the appropriate section, township and range numbers. Also, please show the following information:

- (a) The location of the proposed point(s) of diversion (wells, stream-bank installations, dams, or other diversion works) should be plotted as described in Paragraph No. 5 of the application, showing the North-South distance and the East-West distance from a section line or southeast corner of section.
- (b) If the application is for groundwater, please show the location of any existing water wells of any kind within 1/2 mile of the proposed well or wells. Identify each existing well as to its use and furnish the name and mailing address of the property owner or owners. If there are no wells within 1/2 mile, please advise us.
- (c) If the application is for surface water, the names and addresses of the landowner(s) 1/2 mile downstream and 1/2 mile upstream from your property lines must be shown.
- (d) The location of the proposed place of use should be shown by crosshatching on the topographic map, aerial photograph or plat.
- (e) Show the location of the pipelines, canals, reservoirs or other facilities for conveying water from the point of diversion to the place of use.

A 7.5 minute U.S.G.S. topographic map may be obtained by providing the section, township and range numbers to: Kansas Geological Survey, 1930 Constant, Campus West, University of Kansas, Lawrence, Kansas 66047.

12. List any application, appropriation of water, water right, or vested right file number that covers the same diversion points or any of the same place of use described in this application. Also list any other recent modifications made to existing permits or water rights in conjunction with the filing of this application.

**NONE FILE NO. 49,582 WILL BE DISMISSED UPON APPROVAL OF THIS APPLICATION.**

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Water Resources  
Received

SEP 24 2018 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 Overland Park, Kansas, this 20<sup>th</sup> day of Sept., 2018.  
(month) (year)

  
(Applicant Signature)

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

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

Assisted by Shaun Johnson ES II/Topeka Field Office Date: 9/18/18  
(office/title)

Water Resources  
Received  
SEP 24 2018  
SCANNED  
KS Dept Of Agriculture

**RECREATIONAL USE  
SUPPLEMENTAL SHEET**

File No. 50134

Name of Applicant (Please Print): Doug Livingston

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

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

Surface Area of marsh= 10 acres                      Depth of marsh is 3 Feet.

10 acres x 3 feet = 30 Acre-Feet

30 Acre-Feet for seepage and evaporation.

Total Acre-Feet requested = 60 AF

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

<b>ESTIMATED FUTURE WATER DIVERTED/STORED</b>	
<b>NEXT 5 YEARS</b>	<b>WATER TO BE DIVERTED (ACRE-FEET OR GALLONS)</b>
Year 1	60 AF
Year 2	60 AF
Year 3	60 AF
Year 4	60 AF
Year 5	60 AF

Please attach any additional information, tables, or curves showing past, present and estimated future water requirements to substantiate the amount of water requested.

4. Please designate the legal description of the location where the water is to be used by providing the fractional part of the Section, Township and Range.

A Waterfowl marsh located in the North Half of the Southeast Quarter (N 1/2 SE 1/4) of Section 21  
, Township 20 South, Range 16 East, in Coffey County, Kansas

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

Water Resources  
Received  
**SEP 24 2018**

9-20-18

(Date)

Kansas Department of Agriculture  
Division of Water Resources  
David W. Barfield, Chief Engineer  
109 SW 9<sup>th</sup> Street, 2nd Floor  
Topeka, Kansas 66612-1283

Re: Application File No. 50130

Minimum Desirable Streamflow

Dear Sir:

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

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

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

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

Ray Smith  
Signature of Applicant

Doug Livingston  
(Print Applicant's Name)

State of Kansas )  
County of Johnson ) ss

I hereby certify that the foregoing instrument was signed in my presence and sworn to before me this 20 day of Sept, 2018.



Stephanie Keltner  
Notary Public

My Commission Expires:

Water Resources  
Received

SEP 24 2018

AMOUNT STATISTICS REPORT FOR POINTS OF DIVERSION UNDER A 50136 00

#####

AMOUNT STATISTICS REPORT FOR POINTS OF DIVERSION UNDER A 50136 00 REC

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

2620 Feet North and 577 Feet West of the Southeast Corner of Section 21 T 20S R 16E

SURFACE WATER ONLY

File Number	Use	ST	SR	Dist (ft)	Q4	Q3	Q2	Q1	FeetN	FeetW	Sec	Twp	Rng	ID	Batt	Auth_Quan	Add_Quan	Unit
A__ 44350	00	SED	NK	S	9357	--	NE	SW	NW	3450	4050	14	20	16E	1	.00	.00	AF
A__ 45578	00	REC	NK	S	8449	--	SW	SE	SE	459	1267	9	20	16E	1	.00	.00	AF
A__ 46444	00	SED	NK	S	5873	--	SW	SE	SE	440	780	20	20	16E	1	.00	.00	AF
***** Authorized storage =					36.42	AF	Additional storage =					36.42	AF					
Same					9212	--	SE	SE	NW	2678	2865	29	20	16E	1	.00	.00	AF
***** Authorized storage =					51.30	AF	Additional storage =					51.30	AF					
A__ 49582	00	REC	LO	S	0	--	NE	NE	SE	2620	577	21	20	16E	1	60.00	60.00	AF
A__ 50136	00	REC	AY	S	0	--	NE	NE	SE	2620	577	21	20	16E	1	60.00	60.00	AF
Same					306	--	NE	NE	SE	2378	390	21	20	16E	2			
Same					538	--	NE	NE	SE	2187	258	21	20	16E	3			

*← To be voluntary dismissal*

Total Net Quantities Authorized:		Direct	Storage
Total Requested Amount (AF) =		60.00	.00
Total Permitted Amount (AF) =		.00	.00
Total Inspected Amount (AF) =		60.00	.00
Total Pro_Cert Amount (AF) =		.00	.00
Total Certified Amount (AF) =		.00	242.22
Total Vested Amount (AF) =		.00	.00
TOTAL AMOUNT (AF) =		120.00	242.22

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:  
 2620 Feet North and 577 Feet West of the Southeast Corner of Section 21 T 20S R 16E

SURFACE WATER ONLY

WATER USE CORRESPONDENTS:

File Number	Use	ST	SR
A__ 44350	00	SED	NK S
> LONG-SCOTT CREEKS WATERSHED DIST #93			
> KING ENGINEERING AGENT			
> 24400 M RD			
> HOLTON KS 66436			
-----			
A__ 45578	00	REC	NK S
> LONG-SCOTT CREEKS WATERSHED DIST #93			
> KING ENGINEERING AGENT			
> 24400 M RD			
> HOLTON KS 66436			
-----			
A__ 46444	00	SED	NK S
> LONG-SCOTT CREEKS WATERSHED DIST #93			



Livingston, Doug <DLivingston@mailbox.com>  
Tuesday, April 19, 2016 1:04 PM  
Schemm, Doug  
RE: Pending Application File No. ~~49,582~~

#50,136

Immediate neighbors, let me know if you need others. I assume I need to mail you the notarized agreement?

Jay B Biggs  
PO Box 334  
Waverly Ks 66871

Brenda Sue Noakes  
3324 Meriden Rd  
Topeka Ks. 66617

David J Carlson  
1758 18<sup>th</sup> road  
Waverly Ks. 66871

Kenneth L Combes  
2329 26<sup>th</sup> Rd.  
Waverly Ks. 66871

Thomas W Yokum  
1825 Reaper Rd  
Waverly Ks. 66871

Doug,

Just beginning to review your application, and will ultimately need 2 more items.

First the attached MDS form must be **signed and your signature notarized**.

Secondly, I will need the names and addresses of the upstream and downstream property owners adjacent to the stream (Long Creek) within ½ mile of your property lines. You may either write their names and addresses on the attached map or provide me a list.

Once you have signed and notarized the MDS form and collected the landowner information, you can mail it back to me at:

**Kansas Department of Agriculture  
6531 SE Forbes Avenue, Suite B  
Topeka, KS 66619**

Thanks, Doug

# STATE OF KANSAS



DEPARTMENT OF AGRICULTURE  
DIVISION OF WATER RESOURCES  
TOPEKA FIELD OFFICE  
6531 SE FORBES AVE., SUITE B  
TOPEKA, KS 66619

PHONE: (785) 296-5733  
FAX: (785) 296-8298  
www.agriculture.ks.gov

GOVERNOR JEFF COLYER, M.D.  
JACKIE McCLASKEY, SECRETARY OF AGRICULTURE

November 8, 2018

JAY B BIGGS  
PO BOX 334  
WAVERLY KS 66871

Re: Pending Application, File No. 50,136

Dear Sir or Madam:

This is to advise you that Doug Livingston has filed the application referred to above for a permit to appropriate surface water from Long Creek for recreational use. The application is requesting 60 acre-feet of water to be diverted at 10,000 gallons per minute, from three (3) pump sites, located in the Northeast Quarter of the Northeast Quarter of the Southeast Quarter of Section 21, in Township 20 South, Range 16 East, Coffey County, Kansas. Please note that one of these is an existing pump site currently authorized under Appropriation of Water, File No. 49,582. Please note that the direct diversion of surface water is subject to specific permit conditions including requesting permission prior to diverting.

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 locations of the applicant's points of diversion and proposed use of water. Consideration will be given to comments or other information which you desire to submit to this office **within 15 days** from the date of this letter.

You can find the application and site map posted by the file number referenced above at:  
<http://agriculture.ks.gov/divisions-programs/dwr/water-appropriation/notices>

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

Sincerely,

Douglas W. Schemm  
Environmental Scientist  
Topeka Field Office

pc: Doug Livingston

STATE OF KANSAS

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JACKIE McCLASKEY, SECRETARY OF AGRICULTURE

November 8, 2018

BRENDA SUE NOAKES  
3324 MERIDEN ROAD  
TOPEKA KS 66617

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Douglas W. Schemm  
Environmental Scientist  
Topeka Field Office

pc: Doug Livingston

STATE OF KANSAS



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JACKIE McCLASKEY, SECRETARY OF AGRICULTURE

November 8, 2018

DAVID J CARLSON  
1758 18<sup>TH</sup> ROAD  
WAVERLY KS 66871

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Douglas W. Schemm  
Environmental Scientist  
Topeka Field Office

pc: Doug Livingston

STATE OF KANSAS

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GOVERNOR JEFF COLYER, M.D.  
JACKIE MCCLASKEY, SECRETARY OF AGRICULTURE

November 8, 2018

KENNETH L. COMBES  
2329 26<sup>TH</sup> ROAD  
WAVERLY KS 66871

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Environmental Scientist  
Topeka Field Office

pc: Doug Livingston

STATE OF KANSAS



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TOPEKA, KS 66619

GOVERNOR JEFF COLYER, M.D.  
JACKIE McCLASKEY, SECRETARY OF AGRICULTURE

November 8, 2018

THOMAS W YOKUM  
1825 REAPER ROAD  
WAVERLY KS 66871

Re: Pending Application, File No. 50,136

Dear Sir or Madam:

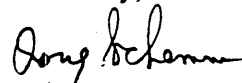
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Sincerely,

  
Douglas W. Schemm  
Environmental Scientist  
Topeka Field Office

pc: Doug Livingston

STATE OF KANSAS

DEPARTMENT OF AGRICULTURE  
1320 RESEARCH PARK DRIVE  
MANHATTAN, KS 66502  
PHONE: (785) 564-6700  
FAX: (785) 564-6777



900 SW JACKSON, ROOM 456  
TOPEKA, KS 66612  
PHONE: (785) 296-3556  
www.agriculture.ks.gov

GOVERNOR JEFF COLYER, M.D.  
JACKIE McCLASKEY, SECRETARY OF AGRICULTURE

9/26/2018

DOUG LIVINGSTON  
12839 CENTURY ST  
OVERLAND PARK, KS 66213

RE: Application, File No. **50136**

Dear Sir or Madam:

The Division of Water Resources (Division) has received your application for a permit to appropriate water for beneficial use. Your application has been assigned the file number referenced above. Please be aware that the Division may have a large number of pending applications on hand at times and makes every attempt to process them in the order in which they are received. You will be contacted if additional information is required.

Please note, this letter only acknowledges receipt of your application and does not guarantee approval. In accordance with the provisions of the Kansas Water Appropriation Act, the use of water as proposed prior to approval of the application is unlawful.

Additional information about the process may be found on our website at [agriculture.ks.gov/divisions-programs/dwr](http://agriculture.ks.gov/divisions-programs/dwr). If you have any other questions, 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,

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

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

SCANNED

**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                  | Ninnescah River            |
| Big Blue River                  | North Fork Ninnescah River |
| Chapman Creek                   | Rattlesnake Creek          |
| Chikaskia River                 | Republican River           |
| Cottonwood River                | Saline River               |
| Delaware River                  | Smoky Hill River           |
| Little Arkansas River           | Solomon River              |
| Little Blue River               | South Fork Ninnescah       |
| Marais des Cygnes River         | Spring River               |
| Medicine Lodge River            | Walnut River               |
| Mill Creek (Wabaunsee Co. area) | Whitewater River           |
| Neosho River                    |                            |

Water Resources  
Received  
**SEP 24 2018**  
KS Dept Of Agriculture  
**SCANNED**



50136

# New Application

1:12,000



Proposed Place of Use

Proposed Pumpsites

Twenshp 20 S

SEP 22 2010

KS Dept of Ag