

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

1. File Number: <p style="text-align: center; font-size: 1.2em;">50,234</p>	2. Status Change Date: <p style="text-align: center; font-size: 1.2em; color: purple;">7/9/2019</p>	3. Field Office: <p style="text-align: center; font-size: 1.2em;">01</p>	4. GMD: <p style="text-align: center; font-size: 1.2em;">0</p>
5. Status: <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied by DWR/GMD <input type="checkbox"/> Dismiss by Request/Failure to Return			
6. Enclosures: <input checked="" type="checkbox"/> Check Valve <input checked="" type="checkbox"/> N of C Form <input type="checkbox"/> Water Tube <input type="checkbox"/> Driller Copy <input checked="" type="checkbox"/> Meter			
<p>7a. Applicant(s) New to system <input type="checkbox"/></p> <p style="text-align: right;">Person ID 66682 Add Seq# _____</p> <p style="text-align: center; padding: 10px 0;">DURWIN F MALL 825 HIDDEN VALLEY DR CLAY CENTER KS 67432</p>	<p>7c. Landowner(s) New to system <input type="checkbox"/></p> <p style="text-align: right;">Person ID _____ Add Seq# _____</p>		
<p>7b. Landowner(s) New to system <input type="checkbox"/></p> <p style="text-align: right;">Person ID _____ Add Seq# _____</p> <p style="font-size: 1.2em; margin-top: 10px;">7a.</p>	<p>7d. LANDOWNER New to system <input type="checkbox"/></p> <p style="text-align: right;">Person ID _____ Add Seq# _____</p>		
<p>8. WUR Correspondent New to system <input type="checkbox"/></p> <p>Overlap File (s) WUC Agree <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p style="text-align: right;">Person ID _____ Add Seq# _____ Notarized WUC Form <input type="checkbox"/></p> <p style="font-size: 1.2em; margin-top: 10px;">7a.</p>	<p>9. Use of Water: Changing? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p style="text-align: center;"><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>		
10. Completion Date: <u>12/31/2020</u> 11. Perfection Date: <u>12/31/2024</u> 12. Exp Date: _____			
13. Conservation Plan Required? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Date Required: _____ Date Approved: _____ Date to Comply: _____			
14. Water Level Measuring Device? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Date to Comply: _____ Date WLMD Installed: _____			
<p>Date Prepared: 6/13/2019 By: DWS</p> <p>Date Entered: 7/11/2019 By: UM</p>			

File No. 50,234	15. Formation Code:	Drainage Basin: BIG BLUE RIVER	County: CY	Special Use:	Stream: DEADMAN CREEK (BIG BLUE)																
16. Points of Diversion			17. Rate and Quantity																		
T MOD DEL ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Authorized	Additional	Overlap PD Files										
									Rate gpm	Quantity af	Rate gpm	Quantity af									
√	87422	NE SE NW	21	6	4E	1	3410	2742	1200	192	1200	192	NONE								
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? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No																					
To be installed by <u>12/31/2020</u> 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				
√	69374	21	6	4E	1					40	40	40	40					160	7a.	NO	NONE
Comments:																					

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

MEMORANDUM

TO: Files

DATE: June 13, 2019

FROM: Doug Schemm

RE: New Application, File No. 50,234

Durwin Mall has filed the above referenced new application to appropriate 192 acre-feet of surface water directly from Deadman Creek for irrigation use from one proposed pump site, at a diversion rate of 1,200 gallons per minute to irrigate 160 acres in Clay County. The place of use is solely owned by the applicant, and he has signed the application form stating he has access to the point of diversion. The requested quantity of water, 192 acre-feet, is the maximum allowable to irrigate the proposed 160 acres with 1.2 acre-feet per acre allowable in Clay County, Kansas. There are no overlapping files in point of diversion or place of use. The pump site is located within the Big Blue River basin.

The applicant provided a list of upstream and downstream landowners, and notification letters were sent on May 20, 2019. Telephone calls were received from downstream landowners Scott Sump, Lois Lippert, and Reginald Riechers, who all said there was inadequate water in Deadman Creek for this type of project. Mr. Sump and Ms. Lippert both use this stream to water cattle. In addition, Mr. Sump submitted a letter of concern, again reiterating the lack of flow in the creek, and that the applicant may dig a hole or dam the creek, which would not allow his cattle access to water. He waters cattle (35 head) from the stream during most of the year. I told them that the permit would be conditioned to not stop flow at downstream riffle, and that the applicant could not construct a dam or other obstruction in the stream without a permit. A response letter was sent to Mr. Sump on June 11, 2019.

The applicant was informed of the downstream domestic users concerns during a June 13, 2019 telephone call, and the applicant was also informed of the specific permit conditions that he could not stop flow while pumping water, and that downstream senior water rights must be satisfied. The applicant stated that there was only farm ground adjacent to both sides of Deadman Creek, and he was not aware of any domestic uses downstream of his pump site, above the confluence with West Fancy Creek. There are no other permitted surface water rights located within a two-mile radius. Therefore, with proper conditioning, approval of this application will not impair any senior water rights.

Per K.A.R. 5-3-15, Availability of water for appropriation - safe yield; surface water. (a) Each application filed to directly divert the natural flow of the Kansas river, the Missouri river, the Big Blue river, the Spring river, or their tributaries, shall:

- (1) be processed in accordance with K.A.R. 5-3-9; and
- (2) meet all other requirements for the approval of a new application.

(b) The water right owner shall be required by the chief engineer to meet minimum desirable streamflows (MDS), assurance district target flows (assurance target flows) and division of water resources (DWR) target flows where applicable.

The application meets these safe yield criteria. Deadman Creek is a tributary stream to West Fancy Creek, which is a tributary to the Big Blue River. The permit will also contain the conditions that streamflow cannot be stopped at the first riffle below the point of diversion while diversion is taking place, and senior water rights must be satisfied.

Durwin Mall - Memorandum
File No. 50,234
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. If any chemical or foreign substance is injected into the water pumped under this permit, a check valve will also need to be installed.

Katie Tietsort, Water Commissioner, Topeka Field Office, gave a recommendation that the application should be approved in a June 13, 2019 e-mail, wherein she discussed the limited streamflow in this tributary stream. Based on the above discussion, Deadman Creek is open to new appropriations (Big Blue River basin), the new application complies with all rules and regulations, and approval of the application will not impair senior water rights nor prejudicially or unreasonably affect the public interest, it is recommended that the referenced new application 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

July 17, 2019

FILE COPY

DURWIN F MALL
825 HIDDEN VALLEY DR
CLAY CENTER KS 67432

RE: Appropriation of Water, File No. 50,234

Dear Mr. Mall:

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 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.

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. 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

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. 50,234 of the applicant

**DURWIN F MALL
825 HIDDEN VALLEY DR
CLAY CENTER KS 67432**

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 **April 4, 2019**.
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	
21	6S	4E					40	40	40	40									160

3. That the authorized source from which the appropriation shall be made is surface water from Deadman Creek, to be diverted at one (1) pump site located in the Northeast Quarter of the Southeast Quarter of the Northwest Quarter (NE¼ SE¼ NW¼) of Section 21, more particularly described as being near a point 3,410 feet North and 2,742 feet West of the Southeast corner of said section, in Township 6 South, Range 4 East, Clay 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 **1,200 gallons per minute (2.67 c.f.s.)** and to a quantity not to exceed **192 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 Kansas Administrative Regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer. This water flow meter shall be used to provide an accurate quantity of water diverted as required for the annual water use report (including the meter reading at the beginning and end of the report year).

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

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

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

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

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

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

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 9th day of July, 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 9th day of July, 2019, by Lane P. Letourneau, P.G., Program Manager, Division of Water Resources, Kansas Department of Agriculture.



Danielle Wilson
Notary Public

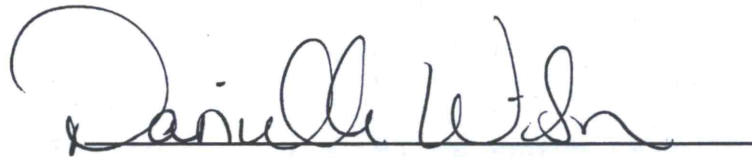
CERTIFICATE OF SERVICE

On this 17th day of July, 2019, I hereby certify that the foregoing Approval of Application, File No. 50,234, dated July 9th, 2019 was mailed postage prepaid, first class, US mail to the following:

DURWIN F MALL
825 HIDDEN VALLEY DR
CLAY CENTER KS 67432

With photocopies to:

Topeka Field Office



Division of Water Resources

File Number 50234
This item to be completed by the Division of Water Resources.

**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.)

APPLICATION COMPLETE
6/13/19
Reviewer KAB

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

- Name of Applicant (Please Print): DURWIN F MALL
Address: 825 HIDDEN VALLEY DR _____
City: CLAY CENTER _____ State: KS Zip Code 67432
Telephone Number: (785) 632-1364 (Cell) ramexterminators@att.net
- The source of water is: surface water in DEADMAN CREEK _____ (stream)
OR groundwater in BIG BLUE RIVER _____ (drainage basin)

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

- The maximum quantity of water desired is 192 acre-feet OR _____ gallons per calendar year, to be diverted at a maximum rate of 1,200 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.

- The water is intended to be appropriated for (Check use intended):

(a) Artificial Recharge	<input checked="" type="checkbox"/> 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

FOI S-IRR 1
 KEZ \$300 CY 13AW 4/11/19
 4/4/19 3205
 WATER RESOURCES RECEIVED
 APR 04 2019
 1057
 KS DEPT OF AGRICULTURE
 SCANNED 4/16/2019
 W1

INTENDED USE REFERENCED ABOVE.

- 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.

- One in the NE quarter of the SE quarter of the NW quarter of Section 21, more particularly described as being near a point 3,410 feet North and 2,742 feet West of the Southeast corner of said section, in Township 6 South, Range 4 EAST, CLAY County, Kansas.
- 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.
- 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.
- 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.

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

(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 3-28- 2019. Darwin F Mall

WATER RESOURCES RECEIVED

APR 04 2019

SCANNED

KS DEPT OF AGRICULTURE

Applicant's Signature

- The proposed project for diversion of water will consist of ONE PUMP SITE _____
(number of wells, pumps or dams, etc.)
and (was)(will be) completed (by) SPRING 2019 _____
(Month/Day/Year - each was or will be completed)

- The first actual application of water for the proposed beneficial use was or is estimated to be SPRING 2019 _____
(Mo/Day/Year)

- 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.

- 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 _____

- 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:

- 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.

- 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.

- 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.

- The location of the proposed place of use should be shown by crosshatching on the topographic map, aerial photograph or plat.

- Show the location of the pipelines, canals, reservoirs or other facilities for conveying

WATER RESOURCES RECEIVED

APR 04 2019 SCANNED

KS DEPT OF AGRICULTURE

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.

- 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

- 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	_____	_____	_____	_____

- The relationship of the applicant to the proposed place where the water will be used is that of OWNER
(owner, tenant, agent or otherwise)
- The owner(s) of the property where the water is used, if other than the applicant, is (please print):

50234

APPLICANT Durwin F. Mall 825 Hidden Valley Drive Clay Center, KS
(name, address and telephone number) 67432

1-785-632-1364
(name, address and telephone number)

- 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 Clay Center, Kansas, this 28 day of March, 2019.
(month) (year)

Durwin F. Mall
(Applicant Signature)

By _____
(Agent or Officer Signature)

(Agent or Officer - Please Print)

Assisted by DWS _____ TOPEKA FO _____ Date: _____
3/19/2019 (office/title)

FEE SCHEDULE

- 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.

- 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.

WATER RESOURCES RECEIVED

APR 04 2019

KS DEPT OF AGRICULTURE
SCANNED

IRRIGATION USE SUPPLEMENTAL SHEET

File No. 50234

Name of Applicant (Please Print): DURWIN F. MALL

- 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: DURWIN F MALL

ADDRESS: 825 HIDDEN VALLEY DR, CLAY CENTER, KS 67432 _____

S T R	NE¼				NW¼				SW¼				SE¼				TOTAL
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
21 6S 4E					40	40	40	40									160

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	

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	

WATER RESOURCES
RECEIVED

APR 04 2019

KS DEPT OF AGRICULTURE

SCANNED

Schemm, Doug [KDA]

From: Tietsort, Katie [KDA]
Sent: Thursday, June 13, 2019 9:46 AM
To: Schemm, Doug [KDA]
Subject: RE: Durwin Mall 50,234

Doug,

As we discussed today, this application is within the Big Blue River Basins, so it has no restrictions under K.A.R. 5-3-15. With that said, review of the USGS Scientific Report 2004-5033 Estimates of Flow Duration Mean Flow, and Peak-Discharge Frequency Values for Kansas Stream Locations provides that the flow to the confluence with the at West Fancy Creek of the Deadman Creek indicates that mean flow is 7.38 cfs, but the 90th and 75th percentile exceedance flow is 0 and the 50% is only 1.18 cfs (530 gpm) and the 25% is only 3.04 cfs (1364 gpm), meaning there is not much flow on this tributary. We have received concerns from downstream domestic users, that appear to be valid. Please include the conditions specifying that the downstream domestic users use must be satisfied. I appreciate that you gave the applicant a call today to specifically discuss this issue and how any concerns would be handled.

Katie

Katie Tietsort

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

From: Schemm, Doug [KDA]
Sent: Tuesday, June 11, 2019 8:19 AM
To: Tietsort, Katie [KDA] <Katie.Tietsort@ks.gov>
Subject: Durwin Mall 50,234

Nearby concerns from downstream cattle waterers. I don't think Durwin will get much out of this unless he teams it up with an off-site pond at some point.

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



Phone: 785-296-5733
Fax: 785-296-8298
www.agriculture.ks.gov

Mike Beam, Secretary

Laura Kelly, Governor

June 11, 2019

SCOTT SUMP
2033 27TH ROAD
GREEN KS 67447-9021

Re: Pending New Application, File No. 50,234

Dear Mr. Sump:

This will acknowledge receipt of your letter, received in our office on June 6, 2019 in which you expressed concerns regarding the proposed appropriation of surface water by Durwin Mall under the above referenced application. The application is proposing to appropriate surface water directly from Deadman Creek for irrigation use. We are in the process of thoroughly reviewing this pending application to ensure that it complies with the Kansas Water Appropriation Act and applicable rules and regulations. The Chief Engineer is required to approve applications for water appropriation unless the proposed appropriation will impair existing water rights or prejudicially and unreasonably affect the public interest.

Note that any permit would have the following condition of approval: "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."

Additionally, the rules and regulations (K.A.R. 5-4-1) require the Chief Engineer to investigate any complaint that a prior right to the use of water is being impaired. If such impairment is found, the Chief Engineer must secure water to satisfy prior water rights. Therefore, if this permit application is approved by the Chief Engineer and you believe the diversion of water is impairing your existing water right, you should notify Katie Tietsort, Water Commissioner, Topeka Field Office, as follows, so that an investigation can be made.

Division of Water Resources
Topeka Field Office
6531 SE Forbes Avenue, Suite B
Topeka, Kansas 66619
Telephone: 785-296-5733

If an applicant without cause fails to comply with the provisions of the permit and its terms, conditions and limitations, it could result in the forfeiture of the priority date, revocation of the permit and dismissal of the application. If you have any further questions, please contact me at 785-296-3495. If you wish to discuss a specific file, please have the file number ready so that I may help you more efficiently.

Sincerely,

A handwritten signature in black ink that reads "Doug Schemm".

Douglas W. Schemm
Environmental Scientist
Topeka Field Office

RECEIVED

JUN 06 2019

Topeka Field Office
DIVISION OF WATER RESOURCES

Dear Doug

My name is Scott Sump and I am writing about Durwin Mall's irrigation request I don't want that at all because I have cattle right across the fence from him and my cattle drink out of the creek during the summer and in winter down stream about a mile. It is a dry creek much of the time there is no way it could come close to 1200 gallons a minute and if that happens my cattle may not get water. I know he owns a big backhoe on tracks very easy to dig a big hole in creek or dam it up and if these things are not watched by someone it will happen. just want you to know I don't want this at all he has just bought this farm 160 acres about 40 acres is farm ground rest is pasture he is probably wanting to farm the pasture also the reason for the irrigation I would guess anyway

Thank you
Scott Sump

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



Phone: 785-296-5733
Fax: 785-296-8298
www.agriculture.ks.gov

Mike Beam, Secretary

Laura Kelly, Governor

May 20, 2019

SCOTT & PAMELA SUMP TRUST
2033 27TH ROAD
GREEN KS 67447-9021

Re: Pending Application, File No. 50,234

Dear Sir or Madam:

This is to advise you that Durwin F Mall has filed the application referred to above for a permit to appropriate 192 acre-feet of surface water per calendar year from Deadman Creek, for irrigation use to be diverted at a maximum rate of 1,200 gallons per minute from one pump site. The pump site is in the Northeast Quarter of the Southeast Quarter of the Northwest Quarter of Section 21, in Township 6 South, Range 4 East, Clay County, Kansas.

Records in this office indicate that you own land along the stream in this vicinity and you are being notified of receipt of this application in order that you may be fully informed of the proposed location of the applicant's point of diversion and proposed use of water. Consideration will be given to comments or other information which you desire to submit to this office **within 15 days** from the date of this letter.

You can find the application and site map posted by the file number referenced above under Topeka Field Office 2019 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,

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

Douglas W. Schemm
Environmental Scientist
Topeka Field Office

pc: Durwin F Mall

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



Phone: 785-296-5733
Fax: 785-296-8298
www.agriculture.ks.gov

Mike Beam, Secretary

Laura Kelly, Governor

May 20, 2019

LOIS E LIPPERT TRUST
1043 LANE ST
CLAY CENTER KS 67432-2210

Re: Pending Application, File No. 50,234

Dear Sir or Madam:

This is to advise you that Durwin F Mall has filed the application referred to above for a permit to appropriate 192 acre-feet of surface water per calendar year from Deadman Creek, for irrigation use to be diverted at a maximum rate of 1,200 gallons per minute from one pump site. The pump site is in the Northeast Quarter of the Southeast Quarter of the Northwest Quarter of Section 21, in Township 6 South, Range 4 East, Clay County, Kansas.

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Sincerely,

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

Douglas W. Schemm
Environmental Scientist
Topeka Field Office

pc: Durwin F Mall

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



Phone: 785-296-5733
Fax: 785-296-8298
www.agriculture.ks.gov

Mike Beam, Secretary

Laura Kelly, Governor

May 20, 2019

REGINALD J RIECHERS
19375 E HORSESHOE BEND RD
PARK HILL OK 74451-4112

Re: Pending Application, File No. 50,234

Dear Sir or Madam:

This is to advise you that Durwin F Mall has filed the application referred to above for a permit to appropriate 192 acre-feet of surface water per calendar year from Deadman Creek, for irrigation use to be diverted at a maximum rate of 1,200 gallons per minute from one pump site. The pump site is in the Northeast Quarter of the Southeast Quarter of the Northwest Quarter of Section 21, in Township 6 South, Range 4 East, Clay County, Kansas.

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Sincerely,

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

Douglas W. Schemm
Environmental Scientist
Topeka Field Office

pc: Durwin F Mall

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



Phone: 785-296-5733
Fax: 785-296-8298
www.agriculture.ks.gov

Mike Beam, Secretary

Laura Kelly, Governor

May 20, 2019

MICHAEL J ELLEDGE
GEOFFREY N ELLEDGE
2678 UTAH RD
GREEN KS 67447

Re: Pending Application, File No. 50,234

Dear Sir or Madam:

This is to advise you that Durwin F Mall has filed the application referred to above for a permit to appropriate 192 acre-feet of surface water per calendar year from Deadman Creek, for irrigation use to be diverted at a maximum rate of 1,200 gallons per minute from one pump site. The pump site is in the Northeast Quarter of the Southeast Quarter of the Northwest Quarter of Section 21, in Township 6 South, Range 4 East, Clay County, Kansas.

Records in this office indicate that you own land along the stream in this vicinity and you are being notified of receipt of this application in order that you may be fully informed of the proposed location of the applicant's point of diversion and proposed use of water. Consideration will be given to comments or other information which you desire to submit to this office **within 15 days** from the date of this letter.

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

Sincerely,

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

Douglas W. Schemm
Environmental Scientist
Topeka Field Office

pc: Durwin F Mall

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



Phone: 785-296-5733
Fax: 785-296-8298
www.agriculture.ks.gov

Mike Beam, Secretary

Laura Kelly, Governor

May 20, 2019

ELLEDGE FAMILY TRUST
235 S NEVADA ST
OCEANSIDE CA 92054-3135

Re: Pending Application, File No. 50,234

Dear Sir or Madam:

This is to advise you that Durwin F Mall has filed the application referred to above for a permit to appropriate 192 acre-feet of surface water per calendar year from Deadman Creek, for irrigation use to be diverted at a maximum rate of 1,200 gallons per minute from one pump site. The pump site is in the Northeast Quarter of the Southeast Quarter of the Northwest Quarter of Section 21, in Township 6 South, Range 4 East, Clay County, Kansas.

Records in this office indicate that you own land along the stream in this vicinity and you are being notified of receipt of this application in order that you may be fully informed of the proposed location of the applicant's point of diversion and proposed use of water. Consideration will be given to comments or other information which you desire to submit to this office **within 15 days** from the date of this letter.

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Sincerely,

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

Douglas W. Schemm
Environmental Scientist
Topeka Field Office

pc: Durwin F Mall

AMOUNT STATISTICS REPORT FOR POINTS OF DIVERSION UNDER A 50234 00

#####

AMOUNT STATISTICS REPORT FOR POINTS OF DIVERSION UNDER A 50234 00 IRR

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

*NO
Water Rights
in 2 miles*

3410 Feet North and 2742 Feet West of the Southeast Corner of Section 21 T 6S R 4E

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__	50234	00	IRR	AY	S				0	--	NE	SE	NW	3410	2742	21	6	4E	1		192.00	192.00	AF

=====

Total Net Quantities Authorized: Direct Storage

Total Requested Amount (AF) = 192.00 .00

Total Permitted Amount (AF) = .00 .00

Total Inspected Amount (AF) = .00 .00

Total Pro_Cert Amount (AF) = .00 .00

Total Certified Amount (AF) = .00 .00

Total Vested Amount (AF) = .00 .00

TOTAL AMOUNT (AF) = 192.00 .00

An * after the source of supply indicates a pending application for change under the file number.

An * after the ID indicates a 15 AF exemption was granted under the file number.

A "G" in the Batt column indicates the GEO CTR of a battery. A "B" indicates a well in the battery.

The number in the Batt column is the number of wells in the battery.

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

3410 Feet North and 2742 Feet West of the Southeast Corner of Section 21 T 6S R 4E

SURFACE WATER ONLY

WATER USE CORRESPONDENTS:

=====

File Number Use ST SR

A__ 50234 00 IRR AY S

> DURWIN F MALL

>

> 825 HIDDEN VALLEY DR

> CLAY CENTER KS 67432

>-----

=====

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- Please complete the following information for the description of the operation for the irrigation project. Attach supplemental sheets as needed.

- Indicate the soils in the field(s) and their intake rates:

Soil Name	Percent of field (%)	Intake Rate (in/hr)	Irrigation Design Group
3801 Crete Silt Loam 1 to 3% slopes loess plains & Breaks	36.5%	0.30	3
3830 Crete silty Clay loam 3 to 7% Slopes	24.8%	0.30	3
4725 Kipson - Sogn Complex 5 to 30% Slopes	19.3%	0.60	
3561 Hobbs silt Loam occasionally flooded	13.1%	0.50	5
3802 Crete silty clay loam 3 to 7% slopes eroded loess	6.3%	0.30	3
Total: Plains + breaks	100%		

- field(s): Estimate the average land slope in the 4%

Estimate the maximum land slope in the field(s):

18%

- Type of irrigation system you propose to use (check one):

Center pivot _____ Center pivot - LEPA _____ "Big gun" sprinkler
 Gravity system (furrows) _____ Gravity system (borders) _____ Sideroll sprinkler

Other, please describe: _____

- System design features:

- Describe how you will control tailwater:
Cover Crops, residue, Terraces, Pond

- For sprinkler systems:

- Estimate the operating pressure at the distribution system: 25.7 psi
- What is the sprinkler package design rate? 450 gpm
- What is the wetted diameter (twice the distance the sprinkler throws water) of a sprinkler on the outer 100 feet of the system? 28' feet
- Please include a copy of the sprinkler package design information.

- Crop(s) you intend to irrigate. Please note any planned crop rotations:
Corn, Soybeans, Milo, Wheat
- Please describe how you will determine when to irrigate and how much water to apply (particularly important if you do not plan a full irrigation). *Crop consultant probes field every monday*

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

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.

- 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

(Date)

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

Re: Application File No. 50234

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.

Darwin F. Mall
Signature of Applicant

State of Kansas)
County of Clay) ss

Darwin F. Mall
(Print Applicant's Name)

I hereby certify that the foregoing instrument was signed in my presence and sworn to before me this 28 day of March, 2019.

Patrick Slingsby 03/28/19
Notary Public

My Commission Expires:



WATER RESOURCES RECEIVED
APR 04 2019
SCANNED
KS DEPT OF AGRICULTURE

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

April 17, 2019

DURWIN F MALL
825 HIDDEN VALLEY DR
CLAY CENTER, KS 67432

RE: Application, File No. **50234**

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. 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.

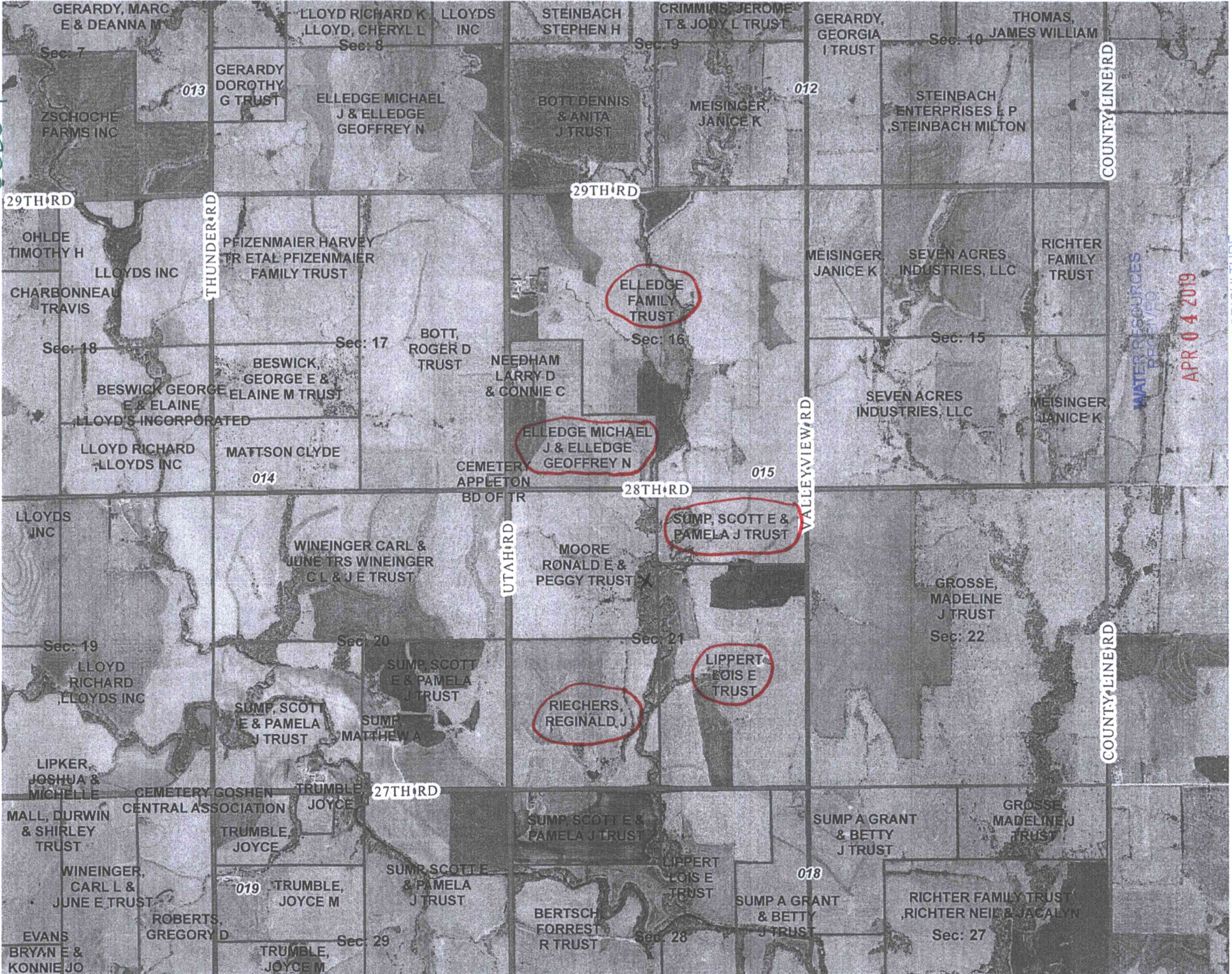
Sincerely,

A handwritten signature in black ink that reads "Kristen A. Baum". The signature is written in a cursive style.

Kristen A. Baum
New Applications Unit Supervisor
Water Appropriation Program

SCANNED

50234



COUNTY LINE RD

COUNTY LINE RD

WATER RESOURCES RECEIVED

APR 04 2019

KS DEPT OF AGRICULTURE

SCANNED

1. Michael J. Elledge & Geoffrey N. Elledge
2678 Utah Road Green, Kansas 67447
2. Elledge Family Trust
235 S. Nevada St. Oceanside, CA 92054-3135
3. Sump. Scott E & Pamela J. Trust
2033 27th Road Green, Kansas 67447-9021
4. Lippert Lois E. Trust
1043 Lane St. Clay Center, Kansas 67432-2210
5. Reginald J. Riechers
19375 E. Horseshoe Bend Road
Park Hill, OK 74451-4112

WATER RESOURCES
RECEIVED

APR 04 2019

KS DEPT OF AGRICULTURE

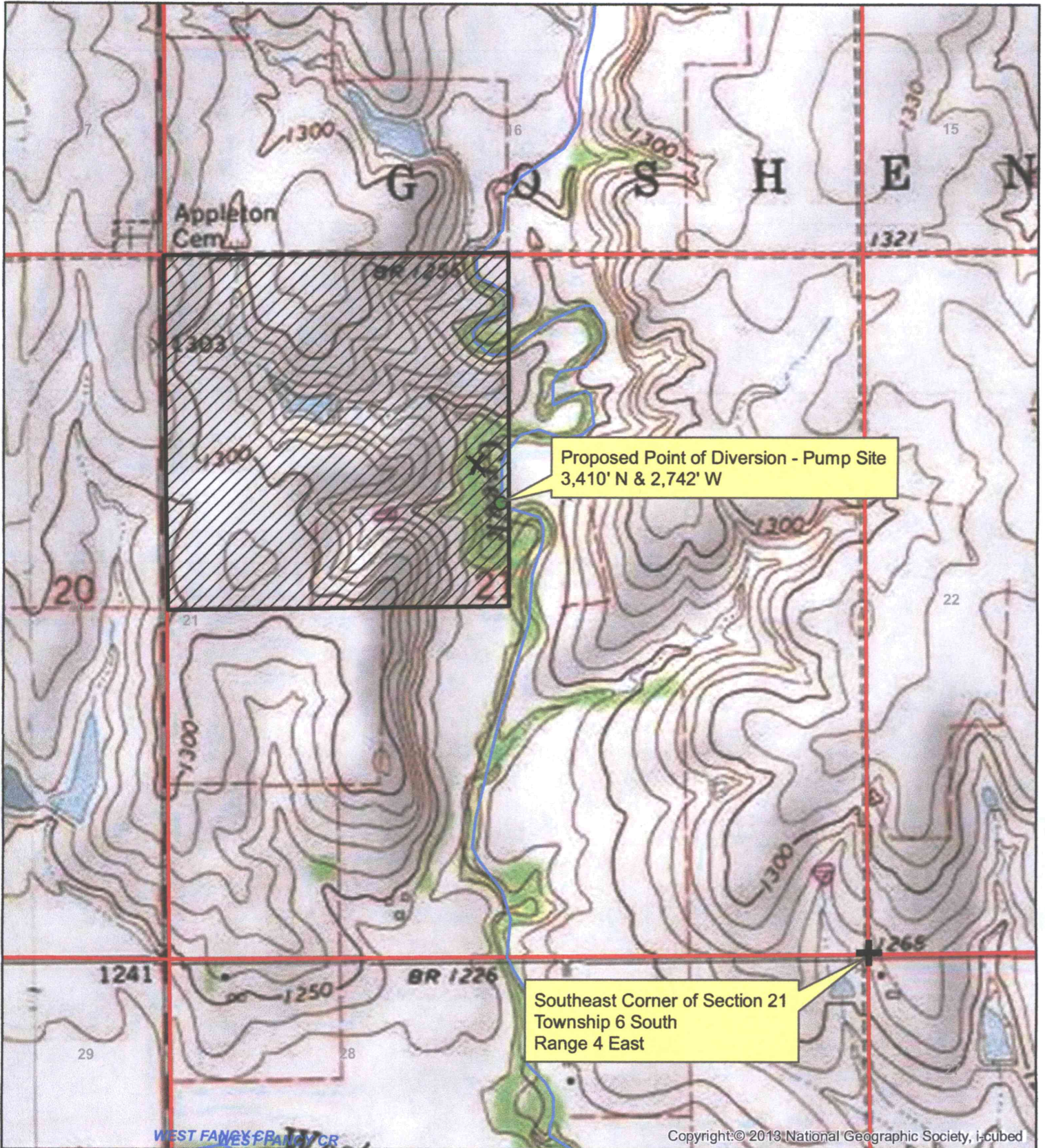
SCANNED

50234



DURWIN MALL - NEW APPLICATION SITE MAP

1:12,000



Proposed Point of Diversion - Pump Site
3,410' N & 2,742' W

Southeast Corner of Section 21
Township 6 South
Range 4 East

● Proposed Point of Diversion

▨ Proposed Place of Use

All upstream and downstream landowners adjacent to the stream within 1/2 mile of property boundaries have been identified.

RECEIVED

APR 04 2019

KS DEPT OF AGRICULTURE
SCANNED

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