

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

1. File Number: <b>50,337</b>	2. Status Change Date: <b>10/29/2020</b>	3. Field Office: <b>01</b>	4. GMD: <b>0</b>
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5. Status:  Approved  Denied by DWR/GMD  Dismiss by Request/Failure to Return

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

7a. Applicant(s)  New to system  
Person ID **61324**  
Add Seq# \_\_\_\_\_

**GARY OLSON**  
**528 CANYON DR**  
**LAWRENCE KS 66049**

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

**7a.**

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

7d. Misc.

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

**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: **12/31/2021** 11. Perfection Date: **12/31/2025** 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: **4/27/20** By: **DWS**  
Date Entered: **11/3/2020** By:  
**LMoody**

File No. **50,337**      15. Formation Code:      Drainage Basin: MARAIS DES CYGNES RIVER      County: LN      Special Use:      Stream: MARAIS DES CYGNES

16. Points of Diversion										17. Rate and Quantity					
MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Authorized		Additional		Overlap PD Files
											Rate gpm	Quantity af	Rate gpm	Quantity af	
ENT			88463	LOT 7	16	20	24E		68	309	0	0	0	0	NONE
DEL				64410											

18. Storage: Rate \_\_\_\_\_ NF      Quantity **30** ac/ft      Additional Rate \_\_\_\_\_ NF      Additional Quantity **30** ac/ft

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

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

21. Place of Use										NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg? NO	Overlap Files
MOD	DEL	ENT	PUSE	S	T	R	ID	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼						
√			53046	16	20	24E	3																			7a.	NO	45,832 & 48,853	

Comments:  
**This is natural flow collector only. This overlaps in PU only with File Nos. 45,832 and 48,853.**  
**Point of diversion is water control structure (stop log).**

**KANSAS DEPARTMENT OF AGRICULTURE**  
**Division of Water Resources**  
**M E M O R A N D U M**

**TO:** Files

**DATE:** April 27, 2020

**FROM:** Doug Schemm

**RE:** Application, File No. 50,337

Gary Olson has filed the above-referenced application to appropriate 30 acre-feet of surface water from natural flows of the Marais des Cygnes River, for recreational use in a wildlife marsh. As typical for these types of projects, the surface water will be collected via natural flows (especially during flood events). It is very probable that flood waters from the Marais des Cygnes River spill into the wetland area, because it is located immediately adjacent to the river. The marsh is located in Lot 7, in the Southeast Quarter of Section 16, Township 20 South, Range 24 East, in Linn County, Kansas. The point of diversion represents one water control structure (stop log). This project is already permitted under Structures Program File No. LLN-0062.

This same marsh is currently authorized under Water Right, File No. 45,832 and Appropriation of Water, File No. 48,853, which both authorize the direct diversion of surface water from the river. Water Right, File No. 45,832 is authorized 20 acre-feet, and Appropriation of Water, File No. 48,853 is authorized 30 acre-feet limited to 30 acre-feet with the senior file (10 acre-feet additional). The pending application has indicated that one filling equals 30 acre-feet (20 acres x 1.5 feet). To provide for two fillings, which is typical for similar projects, this new application will be all additional water.

This is an existing marsh and upstream and downstream landowners were notified during processing of the senior file with no concerns. The application is to collect natural flows (flood events) of the river. Therefore, the proposed appropriation of water will not negatively impact senior water rights, and no additional notification letters are necessary. The nearest pump site is located over 4,000 feet downstream, and would not be impacted by this natural flow collector.

For wetland projects such as this the water levels are typically maintained only between October 1 and April 1 of each year, and then natural vegetation will be allowed to grow in the dry pool during the remaining time. A flow meter is not practical and should not be required as a condition of the approval of this application. The applicant will be required to maintain records from which the amount of water actually diverted may be readily determined. This is consistent with permits granted for similar types of natural flow collector projects. The applicant has submitted a signed and notarized Minimum Desirable Streamflow form acknowledging that there may be times when diversion of water will not be allowed.

In an April 23, 2020 e-mail, Katie Tietsort, Water Commissioner, Topeka Field Office, recommended that the referenced application be approved.

Based upon the above discussion, the area is open to new applications, the application meets all rules and regulations, and there is no indication that the proposed beneficial use of water will impair existing water rights, it is recommended that the referenced application be approved.

Doug Schemm  
Environmental Scientist  
Topeka Field Office

## Schemm, Doug [KDA]

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**From:** Tietsort, Katie [KDA]  
**Sent:** Thursday, April 23, 2020 8:01 AM  
**To:** Schemm, Doug [KDA]  
**Subject:** RE: 50337 Gary Olson

Proceed.

Katie Tietsort  
Water Commissioner

[Katie.Tietsort@ks.gov](mailto:Katie.Tietsort@ks.gov)

785-296-5733

**PLEASE NOTE OUR NEW ADDRESS:**

**Kansas Department of Agriculture**

**Topeka Field Office**

**1131 SW Winding Rd, Suite 400**

**Topeka, KS 66615**

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**From:** Schemm, Doug [KDA] <Doug.Schemm@ks.gov>  
**Sent:** Monday, April 20, 2020 12:24 PM  
**To:** Tietsort, Katie [KDA] <Katie.Tietsort@ks.gov>  
**Subject:** 50337 Gary Olson

This is merely to authorize the collection of natural flows in a marsh. Gary already has a pump site to fill the marsh. No issues. Please review.

# THE STATE OF KANSAS



**KANSAS DEPARTMENT OF AGRICULTURE**  
Mike Beam, Secretary of Agriculture

**DIVISION OF WATER RESOURCES**  
Christopher W. Beightel, Acting 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. 50,337** of the applicant

**GARY OLSON  
528 CANYON DR  
LAWRENCE KS 66049**

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 **January 24, 2020**.
2. That the water sought to be appropriated shall be used for recreational purposes in a wildlife marsh located in Lot 7, of Section 16, Township 20 South, Range 24 East, Linn County, Kansas.
3. That the appropriation sought shall be limited to all natural flows of the Marais des Cygnes River, not needed to satisfy all vested rights and prior appropriation rights, to be stored to a maximum extent of **30 acre-feet** per calendar year in a wildlife marsh created by one (1) water control structure located in Lot 7, of Section 16, more particularly described as being near a point 68 feet North and 309 feet West of the Southeast corner of said section, in Township 20 South, Range 24 East, Linn County, Kansas, located substantially as shown on the topographic map accompanying the application.
4. That installation of works for diversion of water shall be completed on or before **December 31, 2021** or within any authorized extension thereof. The applicant shall notify the Chief Engineer and pay the statutorily required field inspection fee, which is currently \$400.00, when construction of the works has been completed. Failure to timely submit the notice and the fee will result in revocation of the permit. Any request for an extension of time shall be submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee, which is currently \$100.00.
5. That the proposed appropriation shall be perfected by the actual application of water to the proposed beneficial use on or before **December 31, 2025** or any authorized extension thereof. Any request for an extension of time shall be submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee, which is currently \$100.00.

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

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

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

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

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

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

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

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

Ordered this 29 day of October, 2020, 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 29 day of October, 2020, by Lane P. Letourneau, P.G., Program Manager, Division of Water Resources, Kansas Department of Agriculture.



*Ashlee Freeman*  
Notary Public

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

November 9, 2020

GARY OLSON  
528 CANYONDR  
LAWRENCE KS 66049

RE: Appropriation of Water, File No. 50,337

Dear Mr. Olson:

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

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

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

Sincerely,

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

KAB:dws  
Enclosure(s)

pc: Topeka Field Office

**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.

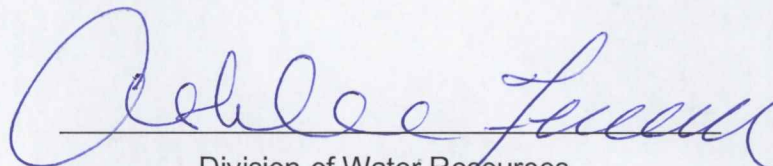
**CERTIFICATE OF SERVICE**

On this 10 day of November, 2020, I hereby certify that the foregoing Approval of Application, File No. 50,337, dated 29 October was mailed postage prepaid, first class, US mail to the following:

GARY OLSON  
528 CANYON DR  
LAWRENCE KS 66049

With photocopies to:

Topeka Field Office



Division of Water Resources