

# NOTICE

This scan only represents the application as filed. The information contained herein meets the requirements of K.A.R. 5-3-1 or K.A.R. 5-5-1, and has been found acceptable for filing in the office of the Chief Engineer. The application should not be considered to be a complete application as per K.A.R. 5-3-1b or K.A.R. 5-5-2a.

  
**THE STATE OF KANSAS**

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

**DIVISION OF WATER RESOURCES**  
Earl D. Lewis Jr., Chief Engineer

**50915**

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

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**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.)

NOV 22 2022  
1.47  
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): STONYBROOK FARMS INC - TJ MCNERNEY  
Address: 710 S EAST ST  
City: PAOLA State KS Zip Code 66071  
Telephone Number: (913) 557-3202

2. The source of water is:  surface water in MARAIS DES CYGNES (stream)  
OR  groundwater in \_\_\_\_\_ (drainage basin)

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

3. The maximum quantity of water desired is 192 acre-feet OR \_\_\_\_\_ gallons per calendar year, to be diverted at a maximum rate of 5,000 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) <input type="checkbox"/> Artificial Recharge	(b) <input type="checkbox"/> Irrigation	(c) <input checked="" type="checkbox"/> Recreational	(d) <input type="checkbox"/> Water Power
(e) <input type="checkbox"/> Industrial	(f) <input type="checkbox"/> Municipal	(g) <input type="checkbox"/> Stockwatering	(h) <input type="checkbox"/> Sediment Control
(i) <input type="checkbox"/> Domestic	(j) <input type="checkbox"/> Dewatering	(k) <input type="checkbox"/> Hydraulic Dredging	(l) <input type="checkbox"/> Fire Protection
(m) <input type="checkbox"/> Thermal Exchange	(n) <input type="checkbox"/> 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.

<b>For Office Use Only:</b>							
F.O. <u>1</u>	GMD _____	Meets K.A.R. 5-3-1 (YES/NO) <input type="checkbox"/>	Use <b>REC</b>	Source G/S County <u>LN</u>	By <u>ALB</u>	Date <u>11/29/22</u>	
Code <u>RE2</u>	Fee \$ <u>300</u>	TR # _____	Receipt Date <u>11/22/22</u>	Check # <u>1153</u>			

12/8/2022  
LMoody

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 LOT 3 of Section 10, more particularly described as being near a point 2899 feet North and 4995 feet West of the Southeast corner of said section, in Township 21 South, Range 25 East, LINN County, Kansas.

(B) One in the \_\_\_\_\_ quarter of the \_\_\_\_\_ quarter of the \_\_\_\_\_ quarter of Section \_\_\_\_\_, more particularly described as being near a point \_\_\_\_\_ feet North and \_\_\_\_\_ feet West of the Southeast corner of said section, in Township \_\_\_\_\_ South, Range \_\_\_\_\_ East/West (circle one), \_\_\_\_\_ County, Kansas.

(C) One in the \_\_\_\_\_ quarter of the \_\_\_\_\_ quarter of the \_\_\_\_\_ quarter of Section \_\_\_\_\_, more particularly described as being near a point \_\_\_\_\_ feet North and \_\_\_\_\_ feet West of the Southeast corner of said section, in Township \_\_\_\_\_ South, Range \_\_\_\_\_ East/West (circle one), \_\_\_\_\_ County, Kansas.

(D) One in the \_\_\_\_\_ quarter of the \_\_\_\_\_ quarter of the \_\_\_\_\_ quarter of Section \_\_\_\_\_, more particularly described as being near a point \_\_\_\_\_ feet North and \_\_\_\_\_ feet West of the Southeast corner of said section, in Township \_\_\_\_\_ South, Range \_\_\_\_\_ East/West (circle one), \_\_\_\_\_ County, Kansas.

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

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

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

APPLICANT

\_\_\_\_\_  
(name, address and telephone number)

\_\_\_\_\_  
(name, address and telephone number)

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

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

Executed on \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
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 pumpsite  
(number of wells, pumps or dams, etc.)

and was completed (by) 6/10/1996  
(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 \_\_\_\_\_  
(Mo/Day/Year)

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- 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 LLN-43
- 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.

PD & PU OVERLAP WITH FILE NO. 40686  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

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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):  
APPLICANT  
(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  Paola , Kansas, this  8  day of  November ,  2022   
(month) (year)

\_\_\_\_\_  
(Applicant Signature)

By  J. A. McNamey   
(Agent or Officer Signature)

T. J. McNamey   Sec-Treas   
(Agent or Officer - Please Print)

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Assisted by  Lloyd Hemphill   TFO  Date:  6/30/2022   
(office/title)

## FEE SCHEDULE

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

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

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

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

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

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

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

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

#### ATTENTION

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

#### CONVERSION FACTORS

1 acre-foot equals 325,851 gallons

1 million gallons equal 3.07 acre-feet

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**RECREATIONAL USE  
SUPPLEMENTAL SHEET**

File No. \_\_\_\_\_

Name of Applicant (Please Print): Stonybrook Farms Inc

1. Please indicate type of recreational use (boating, fishing, swimming, etc.): \_\_\_\_\_  
Recreational use in a wetland for waterfowl habitat and hunting.

2. Please summarize how the water will be used and justify the quantity of water requested: \_\_\_\_\_  
Wetland Surface Area = 64 acres; Potential evap. = 4"/year X 1 ft/ 12 in X 64 acres = 21.33 acre-feet  
Average depth = 1.5 ft X 64 acres X 2 fills (to offset evaporation & seepage losses) = 192 acre-feet

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	192 AF
Year 2	192 AF
Year 3	192 AF
Year 4	192 AF
Year 5	192 AF

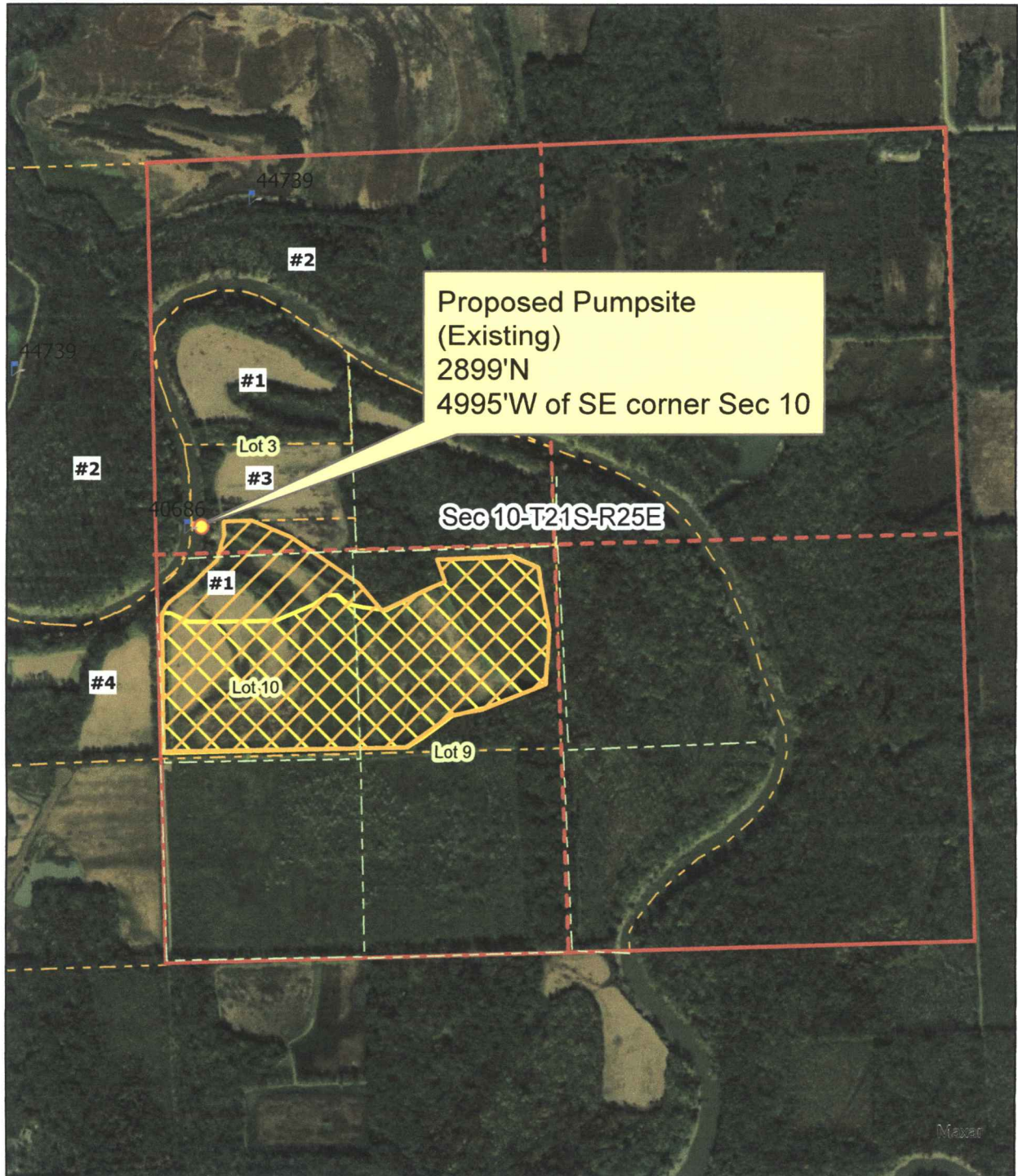
Please attach any additional information, tables, or curves showing past, present and estimated future water requirements to substantiate the amount of water requested.

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.

Marsh in the North Half of the Southwest Quarter (N1/2 SW1/4) and South Half of the Northwest Quarter (S1/2 NW1/4) of Section 10-T21S-R25E

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

# NEW APPLICATION AND APPLICATION TO CHANGE THE PLACE OF USE, WATER RIGHT, FILE NO. 40,686



- Proposed Place of Use
- Authorized Place of Use
- River Lot Boundary
- Parcel Boundaries

Map prepared by: LHH-TFO 7/1/2022

N



Scale: 1:12,000

0 0.13 0.25 0.5 Mile

0.5 Mile

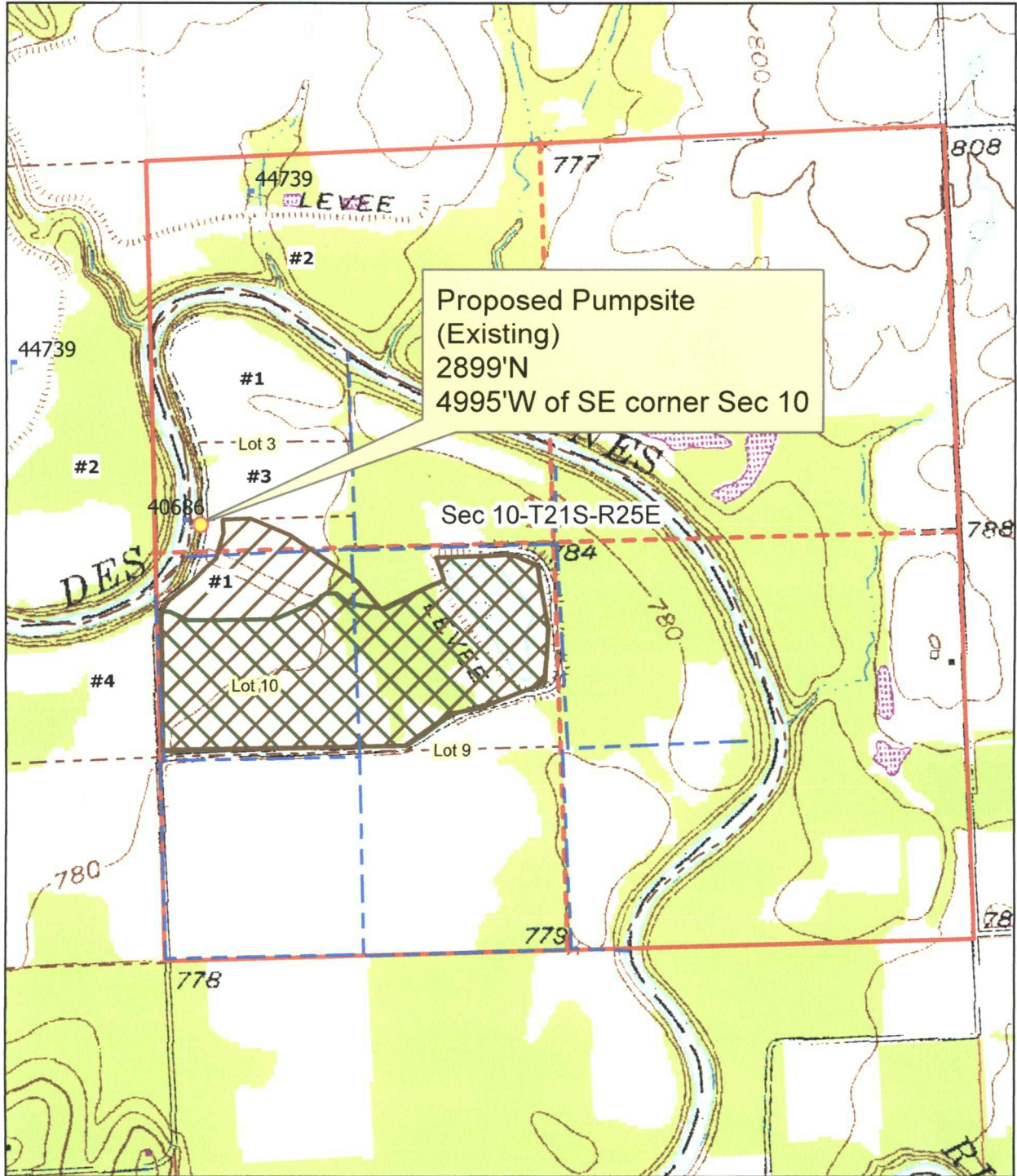
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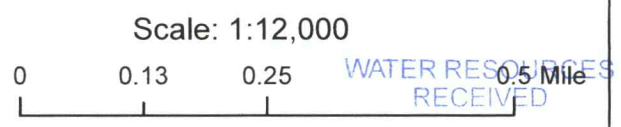
# NEW APPLICATION AND APPLICATION TO CHANGE THE PLACE OF USE, WATER RIGHT, FILE NO. 40,686



Proposed Pumpsite  
(Existing)  
2899'N  
4995'W of SE corner Sec 10

- Proposed Place of Use
- Authorized Place of Use
- River Lot Boundary
- Parcel Boundaries

Map prepared by: LHH-TFO 7/1/2022



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**Nearby landowners within ½ mile upstream and downstream of the project property lines. (see map attached to the application)**

**Upstream**

- #1. APPLICANT
- #2. US FISH & WILDLIFE SERVICE  
PO BOX 25486  
DENVER, CO 80225
- #3. TAMERA GOODMAN  
BEVERLY MOREELS  
136 S VIRGIL APT 113  
LOS ANGELES, CA 90004

**Downstream**

- #2. UNITED STATES OF AMERICA  
FISH & WILDLIFE SERVICE  
PO BOX 25486  
DENVER, CO 80225
- #4. M D C PARTNERSHIP  
C/O TERRE TANNEY  
22995 TWILIGHT RD  
SPRING HILL, KS 66083

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11/8/2022

(Date)

Kansas Department of Agriculture  
Division of Water Resources  
Earl D. Lewis, Jr., Chief Engineer  
1320 Research Park Drive  
Manhattan, Kansas 66502

Re: Application  
File No. 40686

Minimum Desirable Streamflow  
Marais des Cygnes River Assurance District  
Water Reservation Rights

I understand that a Minimum Desirable Streamflow requirement has been established, an Assurance District has been formed and established or a Water Reservation Right is held by the Kansas Water Office for the source of supply to which the above referenced application applies, namely the Marais Des Cygnes River.

I understand that diversion of water pursuant to this application will be subject to regulation any time Minimum Desirable Streamflow requirements are not being met, Assurance District or Water Marketing releases are being made from storage in Federal Reservoirs or when a Reservation Right upstream of a Federal Reservoir is being administered.

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

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

Stonybrook Farms Inc

Terrence J. McNerney Sec. Treas.  
Signature of Applicant

TERRENCE J. MCNERNEY Sec. Treas.  
Print Applicant Name

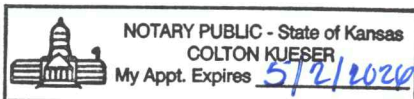
State of Kansas )  
County of Miami ) SS

I hereby certify that the foregoing instrument was signed in my presence and sworn to before me this 11 day of November, 2022.

Colton Kueser

Notary Public

My Commission Expires:



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

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

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

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

Assurance Districts have been formed on the following rivers:

Kansas River                      Marias des Cygnes River                      Neosho River

The Kansas Water Office has Water Reservation Rights for the following reservoirs:

Big Hill	Marion
Clinton	Melvorn
Council Grove	Milford
Elk City	Perry
Hillsdale	Pomona
John Redmond	Tuttle Creek

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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

December 5, 2022

TJ MCNERNEY  
STONYBROOK FARMS INC  
710 S EAST ST  
PAOLA KS 66071

RE: Application, File No(s). **50915**

Dear Sir or Madam:

The Division of Water Resources (Division) has received your application(s) for a permit to appropriate water for beneficial use. Your application(s) has been assigned the file number(s) 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(s) 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(s) 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. *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 "Kris Neuhauser".

Kris Neuhauser  
New Applications Lead  
Water Appropriation Program

**DATA ENTRY SYSTEM ID NUMBER SHEET**

**FILE NUMBER** 50915

<b>APPLICANT PERSON ID &amp; SEQ #</b>	<b>PDIV ID</b>	<b>BATTERY ID</b>
<u>36729</u>	<u>89919</u>	

<b>LANDOWNER PERSON ID &amp; SEQ #</b>	<b>PUSE ID</b>
<u>36729</u>	<u>29936</u>
	<u>71135</u>

**WATER USE CORRESPONDENT  
PERSON ID & SEQ #**

36729

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_