

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

1. File Number: <p style="text-align: center;"><b>49,627</b></p>	2. Status Change Date: <p style="text-align: center;"><i>11/1/2016</i></p>	3. Field Office: <p style="text-align: center;"><b>02</b></p>	4. GMD:
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5. Status:    Approved       Denied by DWR/GMD       Dismiss by Request/Failure to Return

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

<p>7a. Applicant(s)      Person ID <u><b>38013</b></u>  New to system <input type="checkbox"/>      Add Seq# _____</p> <p><b>JOHN D MCCLURE LIVING TRUST  5175 SW 157TH TER  DOUGLASS KS 67039-8661</b></p> <p>7b. Landowner(s)      Person ID _____  New to system <input type="checkbox"/>      Add Seq# _____</p> <p><b>7A</b></p>	<p>7c. Landowner(s)      Person ID _____  New to system <input type="checkbox"/>      Add Seq# _____</p> <p>7d. Landowner      Person ID _____  New to system <input type="checkbox"/>      Add Seq# _____</p>
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<p>8. WUR Correspondent      Person ID _____  New to system <input type="checkbox"/>      Add Seq# _____  Overlap File (s) WUC      Notarized WUC Form <input type="checkbox"/>  Agree <input type="checkbox"/> Yes <input type="checkbox"/> No  <b>7a</b></p>	<p>9. Use of Water:    Changing?    <input type="checkbox"/> Yes    <input checked="checked" type="checkbox"/> No</p> <p style="margin-left: 20px;"><input type="checkbox"/> Groundwater    <input checked="checked" type="checkbox"/> Surface Water</p> <p><input checked="checked" type="checkbox"/> IRR      <input type="checkbox"/> REC      <input type="checkbox"/> DEW      <input type="checkbox"/> MUN</p> <p><input type="checkbox"/> STK      <input type="checkbox"/> SED      <input type="checkbox"/> DOM      <input type="checkbox"/> CON</p> <p><input type="checkbox"/> HYD DRG    <input type="checkbox"/> WTR PWR    <input type="checkbox"/> ART RECHRG</p> <p><input type="checkbox"/> IND    SIC: _____    <input type="checkbox"/> OTHER: _____</p>
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10. Completion Date: **12/31/2017**      11. Perfection Date: **12/31/2021**      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: **10/5/16**    By: **MJM**  
Date Entered: *11/1/2016*    By: *UM*

File No. **49,627**      15. Formation Code:      Drainage Basin: **Walnut River**      County: **BU**      Special Use:      Stream: **Walnut River Trib 10**

16. Points of Diversion											
T	MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W
	<b>MOD</b>				<b>82052 SENWSW</b>	<b>4</b>	<b>29S</b>	<b>4E</b>	<b>1</b>	<b>1860</b>	<b>4285</b>

17. Rate and Quantity				
Authorized		Additional		
Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files
<b>1000</b>	<b>102.6</b>	<b>1000</b>	<b>102.6</b>	<b>None</b>

18. Storage: Rate \_\_\_\_\_ NF      Quantity **204.7** ac/ft      Additional Rate \_\_\_\_\_ NF      Additional Quantity **204.7** ac/ft

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

20. Meter Required?  Yes     No      To be installed by **12/31/2017**      Date Acceptable Meter Installed \_\_\_\_\_

21. Place of Use										Total	Owner	Chg? NO	Overlap Files									
T	MOD	DEL	ENT	PUSE	S	T	R	ID														
		NE¼				NW¼				SW¼				SE¼								
		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					
√		<b>65082</b>	<b>4</b>	<b>29S</b>	<b>4E</b>	<b>3</b>						<b>37</b>	<b>20.5</b>	<b>9</b>	<b>18</b>					<b>84.5</b>	<b>7b.</b>	<b>None</b>
√		<b>65083</b>	<b>5</b>	<b>29S</b>	<b>4E</b>	<b>2</b>			<b>1</b>											<b>1</b>		
		<b>TOTAL</b>																		<b>85.5</b>	<b>TOTAL</b>	

Comments: **PD modified as was typo on application listing footages North as 1360'N instead of 1860'N.**

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

**TO:** Files

**DATE:** October 5, 2016

**FROM:** Matt Meier

**RE:** Application File No. 49,627

John McClure has filed the above referenced new application proposing to appropriate 204.7 acre-feet (AF) of surface water for irrigation use through the collection and storage of natural flows of Walnut River Trib 10 (Walnut River) in a reservoir (an existing Oxbow). The requested point of diversion is a pumpsite/control point located in the Southeast Quarter of the Northwest Quarter of the Southwest Quarter (SE $\frac{1}{4}$  NW $\frac{1}{4}$  SW $\frac{1}{4}$ ) of Section 4, more particularly described as being near a point 1,860 feet North and 4,285 feet West of the Southeast corner of said section, in Township 29 South, Range 4 East, Butler County. The water will be stored for subsequent re-diversion for irrigation use from the reservoir. There are no overlapping water rights on the proposed point of diversion and place of use. The applicant has signed the application form stating that he has legal access to the point of diversion. This application is replacing Application File No. 48,793 after it was determined the proposed reservoir was much larger than initially requested. A signed voluntary dismissal form for File No. 48,793 was received on September 28, 2016 from the applicant.

The place of use is described as a total of 85.5 acres located in the Northwest Quarter (NW $\frac{1}{4}$ ) and Southwest Quarter (SW $\frac{1}{4}$ ) of Section 4, in Township 29 South, Range 4 East, and in the Southeast Quarter (SE $\frac{1}{4}$ ) of Section 5, in Township 29 South, Range 4 East, Butler County. The entire place of use is owned by the applicant.

Based on 2015 aerial imagery, the surface area of the reservoir is approximately 11 acres, the capacity of the pond is approximately 85.6 AF, and the quantity requested for direct irrigation use is 102.6 AF at a re-diversion rate of 1,000 gallons per minute (gpm).

Potential net evaporation in inches, per K.A.R. 5-6-3, is 18 inches; therefore the natural evaporation can be estimated as follows;

$$11 \text{ acres} \times 18 \text{ inches of evaporation} / 12 \text{ inches} = 16.5 \text{ AF}$$

As per K.A.R. 5-6-5, if the maximum annual quantity of water requested for re-diversion exceeds the reservoir capacity, the maximum annual quantity of water authorized to be diverted and stored in any one year shall not exceed the total of the following:

1. The annual quantity of water re-diverted for beneficial use (102.6 AF);
2. The reservoir capacity (85.6 AF);
3. One year of indirect use from the reservoir (102.6 AF Evap.)

Therefore, the maximum quantity that can be requested is  $102.6\text{AF} + 85.6\text{AF} + 16.5\text{AF} = 204.7\text{AF}$ . As such, the requested quantity of 204.7 AF appears to be reasonable.

Per K.A.R. 5-6-4 a runoff calculation was ran for the drainage area. Based on a drainage area of 806 acres, runoff computations have determined that the drainage area will result in 974 acre-feet of runoff in 1 out of every five (5) years (a 20% chance). Therefore, per K.A.R. 5-6-5, runoff quantity is not a limiting factor.

The applicant stated that they own all adjacent land within one-half ( $\frac{1}{2}$ ) mile upstream and downstream. Therefore, notification letters were not sent out. The WRIS database indicates that there is three other water rights (File Nos. 28149, 27958, & 26435) within a two-mile radius circle of the proposed point of diversion. All the aforementioned water rights are located upstream of the pending application on different branches of the Walnut River. Therefore, approval of this application should not impair any senior water rights.

A DWR Water Structures permit was not required based on K.S.A. 301-328 as the project had previously been determined to be non-jurisdictional.

The requested quantity of water for direct use, 102.6 acre-feet, is to irrigate the proposed 85.5 acres identified in the application. This is the maximum allowable of 1.2 acre-feet per acre for Butler County, Kansas. The requested re-diversion rate of 1,000 gpm also appears reasonable based on the irrigation system design and the area of the place of use. There are multiple pending applications in this general area of the state, and they are being worked in priority order to ensure that senior applications are provided the available water.

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

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. An approved water flow meter shall be installed on the secondary diversion works (pumpsite) for File No. 49,627. If any chemical or foreign substance is injected into the water pumped under these permits, check valves will also need to be installed.

On October 3, 2016, Jeff Lanterman, Water Commissioner, Stafford Field Office, stated that the referenced application should be approved.

Based on the above discussion, that this area is open to new appropriations, the proposed appropriations of water appear reasonable, no DWR Water Structures permit is required per K.S.A. 301-328, and there is no evidence that senior rights will be impaired, it is recommended that the referenced applications be approved.

Matt Meier  
Environmental Scientist  
Stafford Field Office



1320 Research Park Drive  
Manhattan, Kansas 66502

Jackie McClaskey, Secretary

Phone: (785) 564-6700

Fax: (785) 564-6777

Email: ksag@kda.ks.gov

www.agriculture.ks.gov

Sam Brownback, Governor

John McClure  
5175 SW157th Terrace  
Douglass, KS 67039-8661

November 1, 2016

RE: Application, File No. 49,627

Dear Mr. McClure:

There is enclosed a permit to appropriate water authorizing you to proceed with construction of the proposed diversion works (except those dams and stream obstructions regulated by K.S.A. 82a-301 through 305a), to divert such unappropriated water as may be available from the source and at the location specified in the permit, and to use it for the purpose and at the location described in the permit.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in this permit. A water meter is required on the re-diversion works and you must install it prior to water being put to beneficial use in order for you to maintain accurate records of water use. The meter should be used to provide the information required on the annual water use report.

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

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

There is also enclosed an information sheet setting forth the procedure to obtain a Certificate of Appropriation which will establish the extent of your water right. If you have any questions, please contact our office. If you wish to discuss this specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

Brent A. Turney, PG.  
Change Application Unit Supervisor  
Water Appropriation Program

Enclosures

pc: Stafford Field Office



KANSAS DEPARTMENT OF AGRICULTURE  
Jackie McClaskey, 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)

**FILE COPY**

This is to certify that I have examined Application, **File No. 49,627** of the applicant

**John McClure  
5175 SW 157<sup>th</sup> Terrace  
Douglas, KS 67039**

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 22, 2016**.
2. That the water sought to be appropriated shall be used for irrigation use on land described in the application, as follows:

Sec.	Twp.	Range	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
4	29S	4E							37	20.5	9	18							84.5
5	29S	4E				1													1

3. That the appropriation sought shall be limited to all natural flows of an unnamed tributary to Walnut River, designated in the office of the Chief Engineer as Walnut River Trib 10, not needed to satisfy all vested rights and prior appropriation rights to be incrementally accumulated as reservoir storage space becomes available to a maximum extent of **204.7 acre-feet** per calendar year in one (1) reservoir formed by an old oxbow, the control point/pump site will be located in the Southeast Quarter of the Northwest Quarter of the Southwest Quarter (SE¼ NW¼ SW¼) of Section 4, more particularly described as being near a point 1,860 feet North and 4,285 feet West of the Southeast corner of said section, in Township 29 South, Range 4 East, Butler County, Kansas, to provide **102.6 acre-feet** of water as needed for direct irrigation use to be withdrawn, released or otherwise diverted from the reservoir at a re-diversion rate of approximately **1,000 gallons per minute (2.228 c.f.s.)**. A reasonable maximum re-diversion rate will be established during the perfection period and assigned at certification.

4. That installation of works for diversion of water shall be completed on or before **December 31, 2017** 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, 2021** or any authorized extension thereof. Any request for an extension of time shall be submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee, which is currently \$100.00.

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

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

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

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

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

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

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

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

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

15. 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.

This Order shall become a final agency action, as defined by K.S.A. 77-607(b), without further notice to the parties, if a request for hearing or a petition for administrative review is not filed as set forth below.

Request for Hearing. According to K.A.R. 5-14-3(c), any party who desires a hearing must submit a request within 15 days after the date shown on the Certificate of Service attached to this Order. Filing a request for a hearing will give you the opportunity to submit additional facts for consideration, contest any findings made by the Chief Engineer, or present any other information you believe should be considered in this matter. A timely-filed request for hearing will stay the deadline for requesting administrative review of this Order pending the outcome of the hearing.

Petition for Review. The applicant, if aggrieved by this Order, may petition for administrative review, pursuant to K.S.A. 82a-711(c) and K.S.A. 82a-1901(a). The petition must be filed within 30 days after the date shown on the Certificate of Service attached to this Order and must set forth the basis for the review, unless stayed by the timely filing of a request for hearing.

Any request for hearing or petition for administrative review shall be in writing and shall be submitted to the attention of: Chief Legal Counsel, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, Fax: (785) 564-6777.

Ordered this 1<sup>st</sup> day of November, 2016, in Topeka, Shawnee County, Kansas.

Lane P. Letourneau

Lane P. Letourneau, L.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 1<sup>st</sup> day of November, 2016, by Lane P. Letourneau, L.G., Program Manager, Division of Water Resources, Kansas Department of Agriculture.



Danielle Wilson

Notary Public



### CERTIFICATE OF SERVICE

On this 1<sup>st</sup> day of November, 2016, I hereby certify that the foregoing Approval of Application, File No. 49,627, dated November 1, 2016 was mailed postage prepaid, first class, US mail to the following:

John McClure  
5175 SW157th Terrace  
Douglass, KS 67039-8661

With photocopies to:

Stafford Field Office



Division of Water Resources

49,627-11-01-16  
NOV 01 2016  
STAFFORD FIELD OFFICE

APPLICATION COMPLETE  
4 22 16  
Reviewer: MTM

THE STATE OF KANSAS



APPLICATION COMPLETE

KANSAS DEPARTMENT OF AGRICULTURE  
Jackie McClaskey, Secretary of Agriculture

DIVISION OF WATER RESOURCES  
David W. Barfield, Chief Engineer

File Number 49,627  
This item to be completed by the Division of Water Resources.

WATER RESOURCES RECEIVED

WATER RESOURCES RECEIVED

APR 22 2016  
11:39  
KS DEPT OF AGRICULTURE

APPLICATION FOR PERMIT TO APPROPRIATE WATER FOR BENEFICIAL USE

Filing Fee Must Accompany the Application  
(Please refer to Fee Schedule attached to this application form.)

APR 14 2016  
10:48  
UNACCEPTABLE FOR PRIORITY  
KS DEPT OF AGRICULTURE

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

1. Name of Applicant (Please Print): John McClure  
Address: 5175 SW 157<sup>th</sup> Terrace  
City: Douglas State KS Zip Code 67039  
Telephone Number: (316) 644-4385

2. The source of water is:  surface water in Walnut River Trib 10  
(stream)  
OR  groundwater in (Walnut 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. **102.6 AF to be re-diverted at approx. 1,000 gpm**

3. The maximum quantity of water desired is 204.7 acre-feet OR \_\_\_\_\_ gallons per calendar year, to be diverted at a maximum rate of NF gallons per minute OR \_\_\_\_\_ cubic feet per second.

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

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

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

For Office Use Only:  
F.O. 2 GMD 0 Meets K.A.R. 5-3-1 (YES/NO) Use IRL Source RES (County) By AW Date 4/22/16  
Code 162 Fee \$ 300 TR # \_\_\_\_\_ Receipt Date 4/22/16 Check # 10164

7/27/16  
\* NSJM/SFFO Typo on app & map  
for footages north, corrected  
to fit actual RA loc thoo

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

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.

Pump Site/  
Control point

- (A) One in the SE quarter of the NW quarter of the SW quarter of Section 4, more particularly described as being near a point 1,660 feet North and 4,285 feet West of the Southeast corner of said section, in Township 29 South, Range 4 East, Butler 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):

Same as 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 4-20, 2016. John McCune  
Applicant's Signature

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

7. The proposed project for diversion of water will consist of 1 pond formed by an existing oxbow, 1 pumpsite  
(number of wells, pumps or dams, etc.)  
and was completed (by) Existing Oxbow  
(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 ASAP  
(Mo/Day/Year)

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

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

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

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

- If yes, show the Water Structures permit number here \_\_\_\_\_
- If no, explain here why a Water Structures permit is not required Was previously identified as  
non-jurisdictional

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 ½ 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 ½ mile, please advise us.
- (c) If the application is for surface water, the names and addresses of the landowner(s) ½ mile downstream and ½ 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.

Overlaps PU with pending application # 48,793. Application # 48,793 to be dismissed once new application is approved.

New application was required as storage area was expanded to include entire oxbow.

Initial application (#48,793) requested pond with surface area of 1.7 acres.

New surface area is roughly 10.7 acres

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	<u>N.A.</u>	_____	_____	_____
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):

Same as 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 Deary Pass, Kansas, this 12 day of April, 2016.  
(month) (year)

John McCune  
(Applicant Signature)

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

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

Assisted by MJM/SFFO ESII Date: 4/5/2016  
(office/title)

WATER RESOURCES  
RECEIVED

APR 22 2016

KS DEPT OF AGRICULTURE

WATER RESOURCES  
RECEIVED  
UNACCEPTABLE FOR PRIORITY  
APR 14 2016

SCANNED  
KS DEPT OF AGRICULTURE

## FEE SCHEDULE

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

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

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

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

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

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

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

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

#### ATTENTION

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

#### CONVERSION FACTORS

1 acre-foot equals 325,851 gallons

1 million gallons equal 3.07 acre-feet

WATER RESOURCES  
RECEIVED

APR 22 2016

KS DEPT OF AGRICULTURE

WATER RESOURCES  
RECEIVED

UNACCEPTABLE FOR PRIORITY  
APR 14 2016

KS DEPT OF AGRICULTURE

SCANNED

## IRRIGATION USE SUPPLEMENTAL SHEET

File No. 49,627

Name of Applicant (Please Print): John McClure

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

**Landowner of Record** NAME: John McClure

ADDRESS: 5175 SW 157<sup>th</sup> Terrace Douglas, KS 67039

S	T	R	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4	29S	4E							37	20.5	9	18							84.5
5	29S	4E				1													1
Total																		85.5	

**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

WATER RESOURCES  
RECEIVED  
**UNACCEPTABLE FOR PRIORITY**  
APR 14 2016

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

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

Soil Name	Percent of field (%)	Intake Rate (in/hr)	Irrigation Design Group
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
Total:	100 %		

b. Estimate the average land slope in the field(s): \_\_\_\_\_%

Estimate the maximum land slope in the field(s): \_\_\_\_\_%

c. 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: \_\_\_\_\_

d. System design features:

i. Describe how you will control tailwater:

ii. For sprinkler systems:

(1) Estimate the operating pressure at the distribution system: \_\_\_\_\_ psi

(2) What is the sprinkler package design rate? \_\_\_\_\_ gpm

(3) What is the wetted diameter (twice the distance the sprinkler throws water) of a sprinkler on the outer 100 feet of the system? \_\_\_\_\_ feet

(4) Please include a copy of the sprinkler package design information.

e. Crop(s) you intend to irrigate. Please note any planned crop rotations:

f. 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).

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



(Date)

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

Re: Application  
File No. 49,627

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.

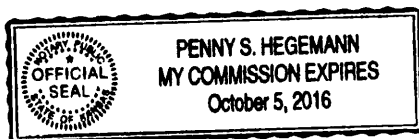
I am aware of the above factors, and with the knowledge thereof, request that the Division of Water Resources proceed with processing and approval, if possible, of the above referenced application.

John McClure  
Signature of Applicant

John McClure  
(Print Applicant's Name)

State of Kansas )  
County of Shawnee ) ss

I hereby certify that the foregoing instrument was signed in my presence and sworn to before me this 16<sup>th</sup> day of September, 2013.



Penny S. Hegemann  
Notary Public

My Commission Expires:

WATER RESOURCES RECEIVED

APR 14 2016

WATER RESOURCES RECEIVED

APR 22 2016

RECEIVED

JUL 20 2015

KS DEPT OF AGRICULTURE

WATER RESOURCES RECEIVED

UNACCEPTABLE FOR PRIORITY  
SEP 17 2013

SCANNED

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

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

Arkansas River  
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

**Upstream and Downstream Landowners**

**Storage Quantity** = 1 yrs direct use + storage Capacity + 1 yrs Net Evap

Direct Use = 102.6 AF

Estimated Surface Area = 10.7 Acres

Estimated Depth = 8 FT

Estimated Capacity = 85.6 AF

Net Evaporation = 18 inches

1 yr Net Evap = 11 Acres x 18"/12" = 16.5 AF

Storage Quantity = 102.6 AF + 85.6 AF + 16.5 AF = 204.7 AF

WATER RESOURCES  
RECEIVED

APR 22 2016

KS DEPT OF AGRICULTURE

WATER RESOURCES  
RECEIVED

APR 14 2016  
UNACCEPTABLE FOR PRIORITY  
KS DEPT OF AGRICULTURE

SCANNED

1320 Research Park Drive  
Manhattan, Kansas 66502  
(785) 564-6700



900 SW Jackson, Room 456  
Topeka, Kansas 66612  
(785) 296-3556

Jackie McClaskey, Secretary

Governor Sam Brownback

April 15, 2016

JOHN MCCLURE  
5175 SW 157<sup>TH</sup> TERRACE  
DOUGLAS KS 67039

Re: Unacceptable Application

Dear Mr. McClure:

Returned herewith is your Application for Permit to Appropriate Water for Beneficial Use received by the Division of Water Resources on April 14, 2016. This application is not acceptable for filing in its present form.

Effective July 1, 2009, K.S.A. 82a-709 requires all applicants for new appropriation rights for the beneficial use of water in the State of Kansas to provide evidence of legal access to or control of the point of diversion from the landowner or the landowner's authorized representative. Applicants may provide a copy of a recorded deed, lease, easement or other document with the application. **In lieu of providing this documentary evidence, you may sign Paragraph No. 6 of the original permit application (where indicated), which constitutes a sworn statement.** Please note that the enclosed new application must bear an **original signature**. Photocopies or fax signatures are not acceptable.

The required fee as stated on the enclosed fee schedule OR as stated on the bottom of the signature page of the application was not included. Therefore, we find it necessary to return the application to you. Upon submitting the application to this office with the required fee, it will be further examined and processed. Based on the information received, \$300 is needed for the filing fee.

Upon return of the acceptable application with required original signatures and information, it will be assigned a priority based upon the date and time it is received in the office of the Chief Engineer. If you have any questions, please contact me at (785) 564-6631 or [alex.whitesell@kda.ks.gov](mailto:alex.whitesell@kda.ks.gov).

Sincerely,

Alex Whitesell  
Environmental Scientist  
Water Appropriation Program

enclosure

#49627

Report Date Wednesday, July 27 2016

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

1860 ft N and 4285 ft W of the SE Corner of Section 4, T 29S, R 4E

Located at: 97.004802 West Longitude and 37.553768 North Latitude

Both SURFACE WATER and GROUNDWATER

```

=====
File Number  Use ST SR Dist (mi) Q4 Q3 Q2 Q1 FeetN FeetW Sec Twp Rng ID Batt Auth_Quan  Add_Quan Unit
A__ 26435 00 IRR NK S      1.32 -- NE SE SW  695 2731  3 29  4E  1      16.00    10.90 AF
Same          .72 -- SE NW NE  4490 1624  9 29  4E  1      73.00    50.40 AF
Same          1.21 -- SW NE NW  4388 3867 10 29  4E  1      17.00    11.70 AF
A__ 27958 00 IRR NK S      .93 -- NW SE SE   1000 1300 32 28  4E  3      217.00   217.00 AF
A__ 28149 00 IRR NK S      .93 -- NW SE SE   1000 1300 32 28  4E  3      176.00   176.00 AF
A__ 48793 00 IRR AY S      .09 -- SE NW SW   1360 4285  4 29  4E  1      102.60   102.60 AF
A__ 49627 00 IRR AY S      .09 -- SE NW SW   1360 4285  4 29  4E  1      102.60   102.60 AF
=====

```

```

=====
Total Net Quantities Authorized:  Direct      Storage
Total Requested Amount (AF) =    205.20      335.35
Total Permitted Amount (AF) =         .00         .00
Total Inspected Amount (AF) =         .00         .00
Total Pro_Cert Amount (AF) =         .00         .00
Total Certified Amount (AF) =    466.00         .00
Total Vested Amount (AF) =         .00         .00
TOTAL AMOUNT (AF) =    671.20      335.35
=====

```

An \* after the source of supply indicates a pending application for change for the file number.  
 An \* after the ID indicates a 15 AF exemption was granted for 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:

97.004802 West Longitude and 37.553768 North Latitude

Both SURFACE WATER and GROUNDWATER

WATER USE CORRESPONDENTS:

```

=====
File Number  Use ST SR
A__ 26435 00 IRR NK S
> MCCLURE BROTHERS FARMS LLC
>
> 22548 SW ADAMS RD
> DOUGLASS KS 67039
>-----
A__ 27958 00 IRR NK S
> JOHN D MCCLURE LIVING TRUST
>
> 5175 SW 157TH TER
> DOUGLASS KS 67039
>-----
A__ 28149 00 IRR NK S
> JOHN D MCCLURE LIVING TRUST
>
> 5175 SW 157TH TER
> DOUGLASS KS 67039
>-----
A__ 48793 00 IRR AY S

```

> JOHN D MCCLURE LIVING TRUST

>

> 5175 SW 157TH TER

> DOUGLASS KS 67039

>-----

A\_\_ 49627 00 IRR AY S

> JOHN D MCCLURE LIVING TRUST

>

> 5175 SW 157TH TER

> DOUGLASS KS 67039

>-----

=====

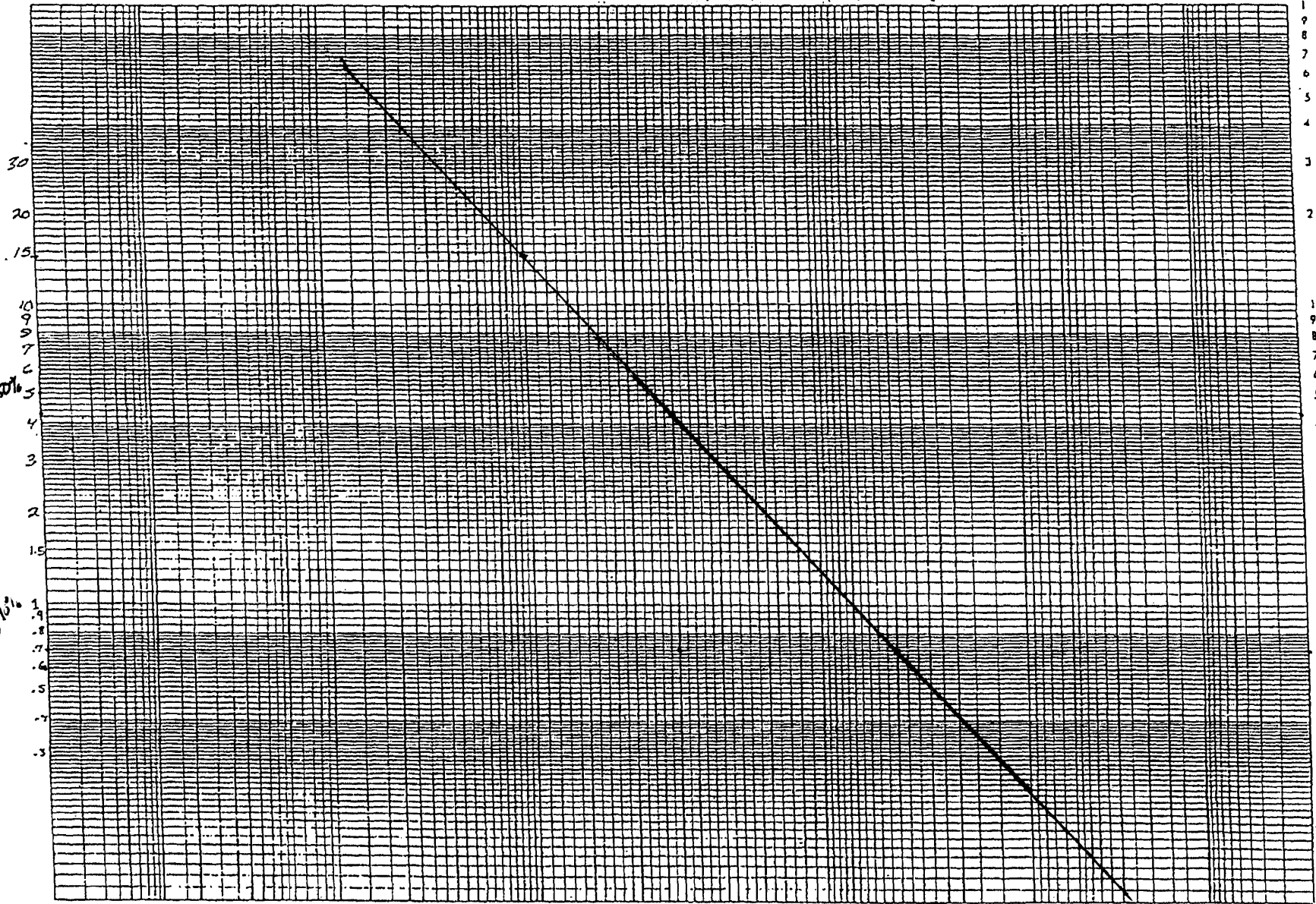
FILE No. 49627

806 ACRES IN DRAINAGE x 14.5 " = 11687 " / 12"  $\Rightarrow$  974 AF OF RUNOFF (20% CHANCE ANNUALLY)

SOIL: "80" PRECIP: 34 "

INCHES RUNOFF / ACRE: "

99.9 99.8 99 98 95 90 80 70 60 50 40 30 20 10 5 2 1 0.5 0.2 0.1 0.05 0.01



14.5

43% 0%

0.20%

2.4% 1.1% 0.5%

0.1% 0.05% 0.02% 0.01%

1% CHANCE

PREPARED BY:

## Meier, Matt

---

**From:** Lanterman, Jeff  
**Sent:** Wednesday, February 24, 2016 11:59 AM  
**To:** Kopp, Kenneth; Meier, Matt  
**Subject:** RE: APP 48,793 Issues

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

I wonder if all that work is consistent with a structures permits. I think at a minimum he was working in the floodplain. He has always been one of those folks who uses "easier to ask for forgiveness than permission."

---

**From:** Kopp, Kenneth  
**Sent:** Wednesday, February 24, 2016 9:57 AM  
**To:** Meier, Matt  
**Cc:** Lanterman, Jeff  
**Subject:** RE: APP 48,793 Issues

He should file another application based on the expanded surface area. I think you could work the new application concurrently with the old one.

Before we tell him to file another application, let's make sure we're comfortable this is all surface water and that he hasn't turned this into more of a groundwater pit to pump groundwater.

Ken

---

**From:** Meier, Matt  
**Sent:** Thursday, January 14, 2016 11:52 AM  
**To:** Kopp, Kenneth  
**Cc:** Lanterman, Jeff; Conant, Cameron  
**Subject:** APP 48,793 Issues

Hello Ken,

Attached are some photos from google earth showing the oxbow John McClure is using for surface water storage. The 2013 image shows the oxbow prior to any work on it. In 2014 it looks like he dug out a portion of it which roughly fits with what had shown as his storage pond in the application although he may not have completed all his planned work at the time. A picture of his pivot was also included. The 2015 image however makes it look like he further dug the "pond" out to allow him access to the entire oxbow. In the application he stated he would have a dam which isn't present. Additionally, his pump site appears to be in the area which had previously served as a shallow choke point between his requested pond and the rest of the oxbow so he likely dug it out to make it deeper for the pump. Since it looks like he has already illegally been running his pivot for at least one year, possibly 2, it is unlikely that he is going to make any changes to his set up. Also his drainage area is going to be significantly smaller if he were to change everything to fit the application which makes it less likely he will do anything different.

If he is using the entire oxbow as a storage pond it is roughly 11 acres in size, 9.3 acres larger than what he requested. This would have a yearly evap of 16.5 AF vs the 2.55 AF covered in the app. The storage capacity would also be vastly different. In App lists it at 25.5AF (1.7 acres x average depth of 15 feet). Assuming he dug out the one corner



to the depth of around 15 feet he would have the 25.5 AF storage plus whatever the storage was for the remaining 9.3 acres in the oxbow. Even if the rest of the oxbow is quite a bit shallower, perhaps max average depth of 5 feet, there would still be an extra 46.5 AF of storage unaccounted for. His total requested quantity in app is 130.65af (102.6 AF direct, 25.5 AF storage, and 2.55 AF evap). Going with full oxbow quantities could be more along line of 191 AF (102.6 AF direct, 72 AF storage, and 16.5 AF evap), so roughly 60.35 AF more than requested, with the actual difference possibly being higher.

At this point making him file a new application to cover the vast changes he has made vs his original application wouldn't appear to be out of line but I wanted to run this all past you before doing anything. Jeff and Cameron will be taking care of his current illegal diversion without a water right.

Let me know if you have any questions or need any more information.

Thanks,  
Matt

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

**TO:** Files

**DATE:** October 3, 2016

**FROM:** Matt Meier

**RE:** Application File No. 49,627

John McClure has filed the above referenced new application proposing to appropriate 204.7 acre-feet (AF) of surface water for irrigation use through the collection and storage of natural flows of Walnut River Trib 10 (Walnut River) in a reservoir (an existing Oxbow). The requested point of diversion is a pumpsite/control point located in the Southeast Quarter of the Northwest Quarter of the Southwest Quarter (SE¼ NW¼ SW¼) of Section 4, more particularly described as being near a point 1,860 feet North and 4,285 feet West of the Southeast corner of said section, in Township 29 South, Range 4 East, Butler County. The water will be stored for subsequent re-diversion for irrigation use from the reservoir. There are no overlapping water rights on the proposed point of diversion and place of use. The applicant has signed the application form stating that he has legal access to the point of diversion. This application is replacing Application File No. 48,793 after it was determined the proposed reservoir was much larger than initially requested. A signed voluntary dismissal form for File No. 48,793 was received on September 28, 2016 from the applicant.

The place of use is described as a total of 85.5 acres located in the Northwest Quarter (NW1/4) and Southwest Quarter (SW1/4) of Section 4, in Township 29 South, Range 4 East, and in the Southeast Quarter (SE1/4) of Section 5, in Township 29 South, Range 4 East, Butler County. The entire place of use is owned by the applicant.

Based on 2015 aerial imagery, the surface area of the reservoir is approximately 11 acres, the capacity of the pond is approximately 85.6 AF, and the quantity requested for direct irrigation use is 102.6 AF at a re-diversion rate of 1,000 gallons per minute (gpm).

Potential net evaporation in inches, per K.A.R. 5-6-3, is 18 inches; therefore the natural evaporation can be estimated as follows;

$$11 \text{ acres} \times 18 \text{ inches of evaporation} / 12 \text{ inches} = 16.5 \text{ AF}$$

As per K.A.R. 5-6-5, if the maximum annual quantity of water requested for re-diversion exceeds the reservoir capacity, the maximum annual quantity of water authorized to be diverted and stored in any one year shall not exceed the total of the following:

1. The annual quantity of water re-diverted for beneficial use (102.6 AF);
2. The reservoir capacity (85.6 AF);
3. One year of indirect use from the reservoir (102.6 AF Evap.)

Therefore, the maximum quantity that can be requested is  $102.6\text{AF} + 85.6\text{AF} + 16.5\text{AF} = 204.7\text{AF}$ . As such, the requested quantity of 204.7 AF appears to be reasonable.

Per K.A.R. 5-6-4 a runoff calculation was ran for the drainage area. Based on a drainage area of 806 acres, runoff computations have determined that the drainage area will result in 974 acre-feet of runoff in 1 out of every five (5) years (a 20% chance). Therefore, per K.A.R. 5-6-5, runoff quantity is not a limiting factor.

The applicant stated that they own all adjacent land within one-half (½) mile upstream and downstream. Therefore, notification letters were not sent out. The WRIS database indicates that there is three other water rights (File Nos. 28149, 27958, & 26435) within a two-mile radius circle of the proposed point of diversion. All the aforementioned water rights are located upstream of the pending application on different branches of the Walnut River. Therefore, approval of this application should not impair any senior water rights.

A DWR Water Structures permit was not required based on K.S.A. 301-328 as the project had previously been determined to be non-jurisdictional.

The requested quantity of water for direct use, 102.6 acre-feet, is to irrigate the proposed 85.5 acres identified in the application. This is the maximum allowable of 1.2 acre-feet per acre for Butler County, Kansas. The requested re-diversion rate of 1,000 gpm also appears reasonable based on the irrigation system design and the area of the place of use. There are multiple pending applications in this general area of the state, and they are being worked in priority order to ensure that senior applications are provided the available water.

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

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. An approved water flow meter shall be installed on the secondary diversion works (pumpsite) for File No. 49,627. If any chemical or foreign substance is injected into the water pumped under these permits, check valves will also need to be installed.

Based on the above discussion, that this area is open to new appropriations, the proposed appropriations of water appear reasonable, no DWR Water Structures permit is required per K.S.A. 301-328, and there is no evidence that senior rights will be impaired, it is recommended that the referenced applications be approved.

Matt Meier  
Environmental Scientist  
Stafford Field Office

*Concur w/ recommendation  
when processed w/ Dismissal  
SL 10/3/16*

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



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

April 26, 2016

JOHN MCCLURE  
5175 SW 157TH TERRACE  
DOUGLAS KS 67039

RE: Application  
File No. 49627

Dear Sir or Madam:

Your application for permit to appropriate water in 4-29S-4E in Butler County, was received and has been assigned the file number noted above.

As a matter of record, the Division of Water Resources has on hand a large number of applications awaiting processing. Therefore to be fair to all concerned, and so that we can process those applications on hand in the order they were received, we intend to concentrate on the backlog of applications until the issue is resolved. Once review of your application has begun, we will contact you, if additional information is required.

In accordance with the provisions of the Kansas Water Appropriation Act, a portion of which is included below, the use of water as proposed prior to approval of the application is unlawful. Once approved, compliance with the terms, conditions and limitations of the permit is necessary. Conservation of the water resources of Kansas is required.

**Section 82a-728 of the Kansas Water Appropriation Act, provides (a) except for the appropriation of water for the purpose of domestic use, . . . it shall be unlawful for any person to appropriate or threaten to appropriate water from any source without first applying for and obtaining a permit to appropriate water in accordance with the provisions of the Water Appropriation Act or for any person to violate any condition of a vested right, appropriation right or an approved application for a permit to appropriate water for beneficial use.**

**(b) (1) The violation of any provision of this section by any person is a class C misdemeanor . . .**

**A class C misdemeanor is punishable by a fine not to exceed \$500 and/or a term of confinement not to exceed one month in the county jail. Each day that the violation occurs constitutes a separate offense.**

If you have any questions, please contact me at (785) 564-6645. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

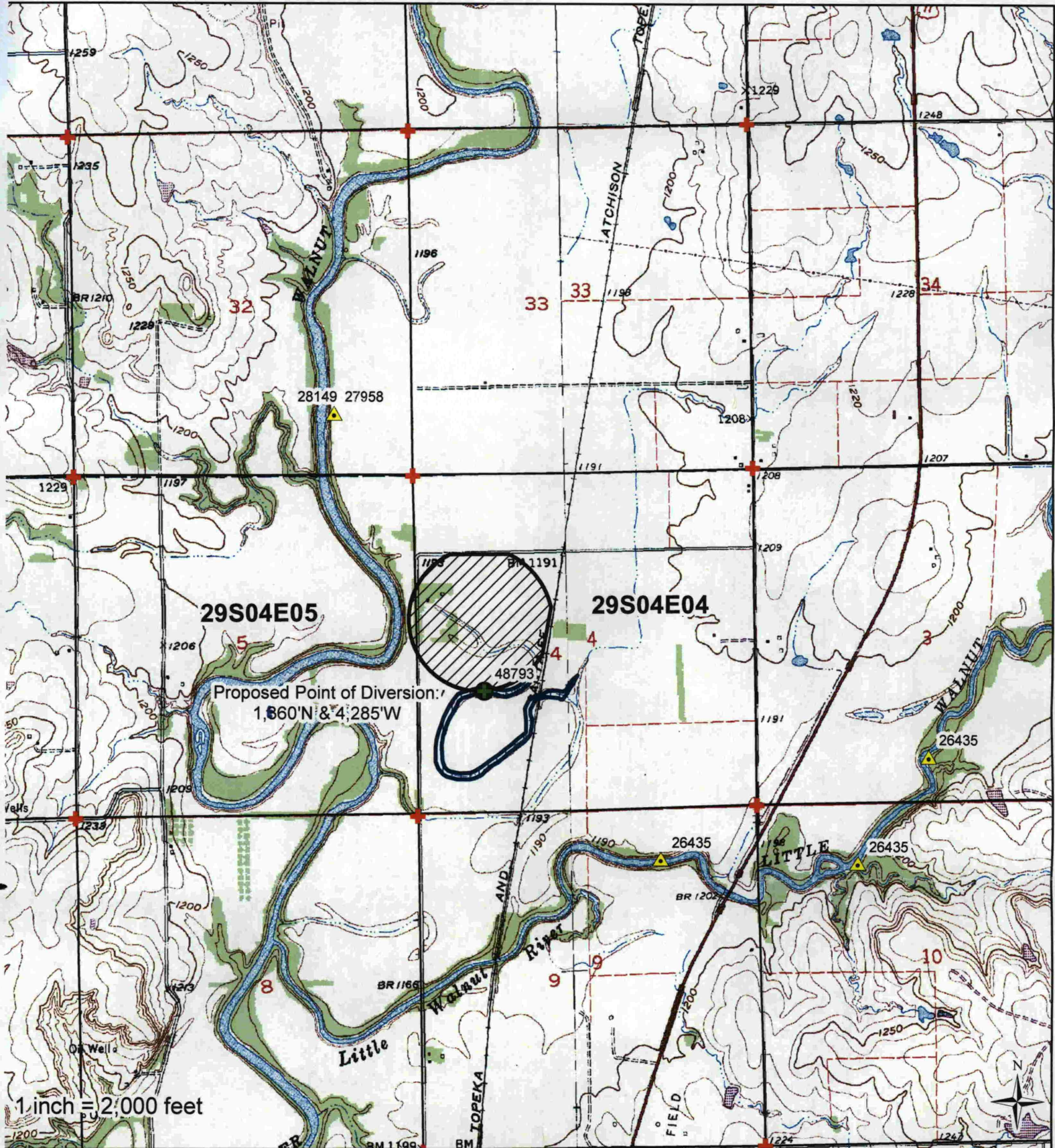
Sincerely,

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

Brent A Turney, L.G.  
New Application Unit Supervisor  
Water Appropriation Program

KAK: DLW  
pc: STAFFORDField Office  
GMD

SCANNED



1 inch = 2,000 feet

I declare that all water wells or diversion sites using the same source of supply and within 1/2 mile of the proposed point of diversion have been plotted on the application map.

- Proposed P.D.
- Water Rights
- Section Corners
- Proposed Place of Use
- Proposed Pond

Signature \_\_\_\_\_ Date APR 14 2016

0 800 1,600 3,200 4,800 6,400 Feet

APR 22 2016

KS DEPT OF AGRICULTURE

UNACCEPTED WATER RESOURCES RECEIVED FOR PRIORITY

Created By: Matt Meier  
Date: 4/5/2016

SCANNED



Proposed Point of Diversion:  
1,860'N & 4,285'W

1 inch = 2,000 feet

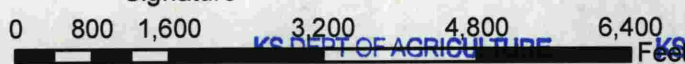


I declare that all water wells or diversion sites using the same source of supply and within 1/2 mile of the proposed point of diversion have been plotted on the application map.

- Proposed P.D.
- Water Rights
- Section Corners
- Proposed Place of Use
- Proposed Pond

WATER RESOURCES RECEIVED  
UNACCEPTABLE FOR PRIORITY RECEIVED

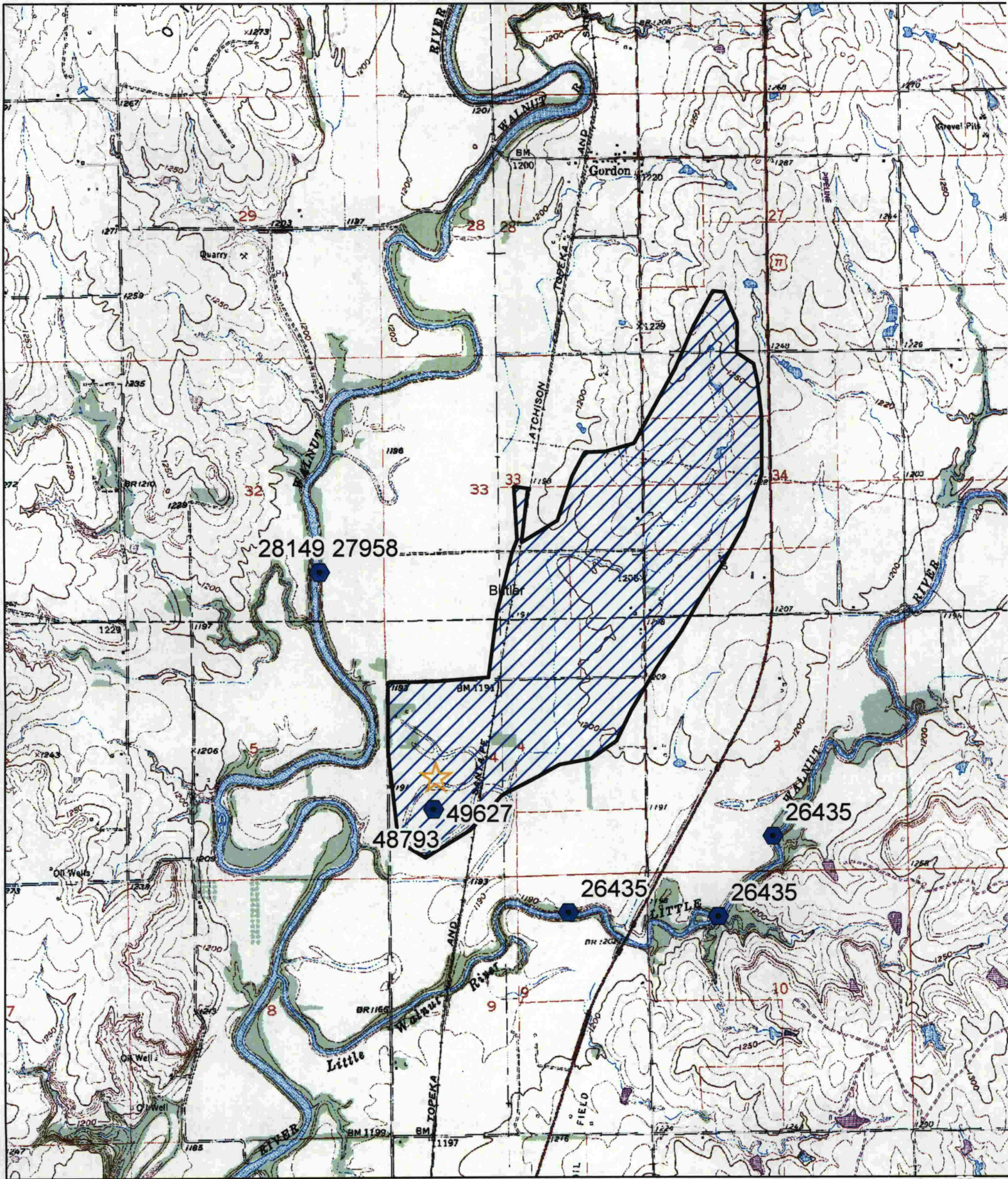
Signature \_\_\_\_\_ Date APR 22 2016  
Created By: Matt Meier  
Date: 4/5/2016



KS DEPT OF AGRICULTURE  
KS DEPT OF AGRICULTURE

SCANNED

# Drainage Area - 806 Acres



- Wells
- Surface
- Drainage Area

1 inch = 2,500 feet

