

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

1. File Number: <p style="text-align: center;">49,955</p>	2. Status Change Date: <p style="text-align: center;">4/2/2018</p>	3. Field Office: <p style="text-align: center;">01</p>	4. GMD: <p style="text-align: center;">0</p>
---------------------------------------------------------------------	-----------------------------------------------------------------------	------------------------------------------------------------------	--------------------------------------------------------

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 65900 New to system <input type="checkbox"/> Add Seq# _____</p> <p>LIVINGSTON FAMILY FARMS LLC 70663 560 AVE PO BOX 136 REYNOLDS NE 68429</p>	<p>7c. Landowner(s) Person ID _____ New to system <input type="checkbox"/> Add Seq# _____</p>
<p>7b. Landowner(s) Person ID _____ New to system <input type="checkbox"/> Add Seq# _____</p> <p>7a.</p>	<p>7d. Misc. Person ID _____ New to system <input type="checkbox"/> Add Seq# _____</p>

<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</p> <p>7a.</p>	<p>9. Use of Water: Changing? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p style="padding-left: 40px;"><input type="checkbox"/> Groundwater <input checked="" type="checkbox"/> Surface Water</p> <p><input checked="" type="checkbox"/> IRR <input type="checkbox"/> REC <input type="checkbox"/> DEW <input type="checkbox"/> MUN</p> <p><input type="checkbox"/> STK <input type="checkbox"/> SED <input type="checkbox"/> DOM <input type="checkbox"/> CON</p> <p><input type="checkbox"/> HYD DRG <input type="checkbox"/> WTR PWR <input type="checkbox"/> ART RECHRG</p> <p><input type="checkbox"/> IND SIC: _____ <input type="checkbox"/> OTHER: _____</p>
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10. Completion Date: 12/31/2019 11. Perfection Date: 12/31/2023 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: **3/22/2018** By: **DWS**
Date Entered: *4/3/2018* By: *UH*

File No. 49,955	15. Formation Code:	Drainage Basin: MILL CREEK	County: WS	Special Use:	Stream: Riddle Creek Trib 2B (Mill Creek)																				
16. Points of Diversion T MOD DEL ENT			17. Rate and Quantity																						
PDIV	Qualifier	S	T	R	ID	'N	'W	Authorized Rate gpm	Quantity af	Additional Rate gpm	Quantity af	Overlap PD Files													
√	86489 SW SW SW	2	1	2E	4	567	4746	1400	182	1400	182	NONE													
18. Storage: Rate NF Quantity 222 ac/ft Additional Rate NF Additional Quantity 222 ac/ft																									
19. Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____ Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____																									
20. Meter Required? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No To be installed by 12/31/2019 Date Acceptable Meter Installed _____																									
21. Place of Use T MOD DEL ENT		NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg? NO	Overlap Files				
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									
√	68664	2	1	2E	2								40	38	40	34					152	7a.	No	NONE	
Comments:																									

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: March 22, 2018

FROM: Doug Schemm

RE: Application, File No. 49,955

Livingston Family Farms LLC has filed the application referred to above for a permit to appropriate 222 acre-feet of surface water at the rate of natural flows to be stored in a proposed reservoir located in the Southwest Quarter of Section 2, in Township 1 South, Range 2 East, Washington County, Kansas and divert 182 acre-feet for irrigation use. The dam is located on Riddle Creek Trib 2B, within the Mill Creek basin. The point of diversion is located on property owned by the applicant, and a representative of the applicant has signed the application form stating they have legal access to the point of diversion. The place of use is entirely owned by the applicant, and it comprises a total of 152 acres. There are no other overlapping files in point of diversion or place of use.

Runoff computations determined that the 288 acres of drainage area, will generate a runoff quantity (9.5") of 228 acre-feet in 1 out of every five (5) years (a 20% chance). Therefore, per K.A.R. 5-6-5, this runoff quantity **is not** the limiting factor, and the application can be processed with the requested quantity. Of 222 acre-feet. The quantity was based on one year of direct use (182 acre-feet) plus reservoir capacity of 40 acre-feet. The requested quantity of water for direct use (redirection) of 182 acre-feet for irrigation use on 152 acres, provides 1.2 acre-feet per acre, which is the maximum allowable of 1.2 acre-feet per acre in Washington County, Kansas, per K.A.R. 5-3-24. The proposed direct use quantity of 182 acre-feet, is equivalent to 4.5 times the capacity, which is within the normal "rule of thumb" of direct use quantity being no more than 5 times capacity for reasonable storage quantity.

The applicant identified that Gerry Frager and Terry Frager own the property upstream and downstream within one-half (½) mile of the property lines. Therefore, nearby notification letters were sent out on February 1, 2018 to both landowners. No response of any kind was received. There are only two other surface water rights within a two-mile radius according to the WRIS database. These senior files authorize two different dams, on different tributary streams, and no senior water rights will be impaired with approval of this application.

The proposed structure was reviewed by DWR Water Structures Program staff, under File No. DWS-0130, and they determined that it is exempt from dam safety permit requirements specified in K.S.A. 82a-301(a) to 305a (see March 8, 2018 letter). As allowed by K.S.A. 82a-706(c) an approved water flow meter shall be installed on the secondary diversion works (pump site) for this file. If any chemical or foreign substance is injected into the water pumped under this permit, a check valve will also need to be installed. Since this reservoir is existing and storing water, no Special Condition on the Permit will be needed to provide an initial fill quantity.

In a March 20, 2018 discussion, Katie Tietsort, Water Commissioner, Topeka Field Office, stated that the referenced new application should be approved. Based on the above discussion, that this area is open to new appropriations, the proposed appropriation of water is reasonable, the dam is exempt from permitting under the DWR Water Structures Program, and senior rights will not be impacted, it is recommended that the referenced new application be approved.

Doug Schemm
Environmental Scientist
Topeka Field Office

STATE OF KANSAS



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

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

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

April 5, 2018

LIVINGSTON FAMILY FARMS LLC
70663 560 AVE
PO BOX 136
REYNOLDS NE 68429

FILE COPY

Re: Appropriation of Water, File No. 49,955

Dear Mr. Livingston:


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 these approval documents. A water meter is required on the proposed 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,


Kristen A. Baum
New Application Unit Supervisor
Water Appropriation Program

KAB:dws
Enclosures

pc: Topeka 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)

This is to certify that I have examined Application, **File No. 49,955** of the applicant

LIVINGSTON FAMILY FARMS LLC
70663 560 AVE
PO BOX 136
REYNOLDS NE 68429

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 **December 18, 2017**.
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	
2	1S	2E								40	38	40	34					152	

3. That the appropriation sought shall be limited to all natural flows of an unnamed tributary to Riddle Creek, designated in the office of the Chief Engineer as Riddle Creek Trib 2B (Mill Creek), 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 **222 acre-feet** per calendar year in one (1) reservoir created by a dam located in the Southwest Quarter of the Southwest Quarter of the Southwest Quarter (SW¼ SW¼ SW¼) of Section 2, more particularly described as being near a point 567 feet North and 4,746 feet West of the Southeast corner of said section, in Township 1 South, Range 2 East, Washington County, Kansas, to provide **182 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 **1,400 gallons per minute (3.12 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, 2019** 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, 2023** 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.

RIGHT TO A HEARING AND TO ADMINISTRATIVE REVIEW

If you are aggrieved by this Order, then pursuant to K.S.A. 82a-1901, you may:

- 1) request an evidentiary hearing before the Chief Engineer, or
- 2) request administrative review by the Secretary of Agriculture.

Failure to request an evidentiary hearing before the Chief Engineer does not preclude your right to administrative review by the Secretary.

To obtain an evidentiary hearing before the Chief Engineer, a written request for hearing must be filed within 15 days after service of this Order as provided in K.S.A. 77-531 (**i.e., within a total of 18 days after this Order was mailed to you**), with: Kansas Department of Agriculture, Attn: Legal Section, 1320 Research Park Drive, Manhattan, Kansas 66502, FAX (785) 564-6777.

If you do not file a request for an evidentiary hearing before the Chief Engineer, you may petition for administrative review of the Order by the Secretary of Agriculture. A petition for review shall be in writing and state the basis for requesting administrative review. The request for hearing may be denied if the request fails to clearly establish factual or legal issues for review. See K.S.A. 77-527. The petition must be filed within 30 days after service of this Order as provided in K.S.A. 77-531 (**i.e., within a total of 33 days after this Order was mailed to you**), and be filed with: Secretary of Agriculture, Attn: Legal Division, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, FAX (785) 564-6777.

If neither a request for an evidentiary hearing nor a petition for administrative review is filed as set forth above, then this Order shall be effective and become a final agency action as defined in K.S.A. 77-607(b). Failure to timely request either an evidentiary hearing or administrative review may preclude further judicial review under the Kansas Judicial Review Act.

Ordered this 2nd day of April, 2018, in Topeka, Shawnee 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 2nd day of April, 2018, by Lane P. Letourneau, P.G., Program Manager, Division of Water Resources, Kansas Department of Agriculture.



Danielle Wilson

Notary Public

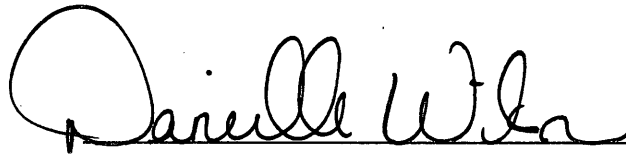
CERTIFICATE OF SERVICE

On this ^{5th} day of ^{April}, 2018, I hereby certify that the foregoing Approval of Application, File No. 49,955, dated ^{April 2nd, 2018} was mailed postage prepaid, first class, US mail to the following:

LIVINGSTON FAMILY FARMS LLC
70663 560 AVE
PO BOX 136
REYNOLDS NE 68429

With photocopies to:

Topeka Field Office



Division of Water Resources

[Faint handwritten notes]

[Faint handwritten notes]

[Faint handwritten notes]

[Faint handwritten notes]

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE DIVISION OF WATER RESOURCES
Jackie McClaskey, Secretary of Agriculture David W. Barfield, Chief Engineer

APPLICATION COMPLETE
3/20/18
Reviewer KAB for DWS

File Number 49955
This item to be completed by the Division of Water Resources

WATER RESOURCES RECEIVED

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.)

DEC 18 2017
1:56
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): Livingston Family Farms LLC
Address: 70663 560 AVE PO 130
City: Reynolds State NE Zip Code 68429
Telephone Number: (402) 520-2337

2. The source of water is: [X] surface water in mill creek drainage basin # 3928 (stream)
OR [] groundwater in Mill Creek (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 222 acre-feet OR 182 Acre Ft Redirected at 1400 gallons per minute
to be diverted at a maximum rate of NE 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) [X] 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. [] GMD [X] Meets K.A.R. 5-3-1 (YES/NO) Use IRR Source G [X] County WS By RW Date 12/18/17
Code [] Fee \$ 300 TR # Receipt Date 12/18/17 Check # 1117

SCANNED
12/26/2017 UM

THE STATE OF KANSAS



beliv @ 992000

KANSAS DEPARTMENT OF AGRICULTURE
Jackie McClaskey, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

File Number 49955

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.)

DEC 18 2017

1:56
KS DEPT OF AGRICULTURE

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1320 Research Park Drive, Manhattan, Kansas 66502:

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Address: 70663 560 AVE PO 136
City: Reynolds State NE Zip Code 68429
Telephone Number: (402) 520-2337

2. The source of water is: surface water in mill creek drainage basin # 3928
(stream)
OR groundwater in Mill Creek
(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 222 acre-feet OR _____ gallons per calendar year, to be diverted at a maximum rate of NE gallons per minute OR _____ cubic feet per second.

182 Acre Ft Rediverted at 1400 gallons per minute

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. 1 GMD 0 Meets K.A.R. 5-3-1 (YES/NO) Use IRR Source G(3) County WS By AW Date 12/18/17
Code 136 Fee \$ 300 TR # _____ Receipt Date 12/18/17 Check # 1117

rediverted w/m

5. The location of the proposed wells, pump sites or other works for diversion of water is:

Note: For the application to be accepted, the point of diversion location must be described to at least a 10 acre tract, unless you specifically request a 60 day period of time in which to locate the site within a specifically described, minimal legal quarter section of land.

- (A) One in the SW quarter of the SW quarter of the SW quarter of Section 2, more particularly described as being near a point 567 feet North and 4746 feet West of the Southeast corner of said section, in Township 1 South, Range 2 (East) West (circle one), Washington 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):

OWNER IS 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 Dec 12, 2017.

[Signature]

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 _____

dam

(number of wells, pumps or dams, etc.)

and (was)(will be) completed (by) _____

already done

(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 _____

Spring 2018

(Mo/Day/Year)

WATER RESOURCES RECEIVED

DEC 18 2017

5. The location of the proposed wells, pump sites or other works for diversion of water is:

Note: For the application to be accepted, the point of diversion location must be described to at least a 10 acre tract, unless you specifically request a 60 day period of time in which to locate the site within a specifically described, minimal legal quarter section of land.

- (A) One in the SW quarter of the SW quarter of the SW quarter of Section 2, more particularly described as being near a point 567 feet North and 4746 feet West of the Southeast corner of said section, in Township 1 South, Range 2 (East/West (circle one)), Washington 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.

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(name, address and telephone number)

(name, address and telephone number)

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Executed on Dec 12, 2017. [Signature]
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 dam
(number of wells, pumps or dams, etc.)
and (was)(will be) completed (by) already done
(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 Spring 2018
(Mo/Day/Year)

WATER RESOURCES
RECEIVED

DEC 18 2017

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.

NO All chemigation safety requirements must be met including a chemigation permit and reporting requirements.

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

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

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

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

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

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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)

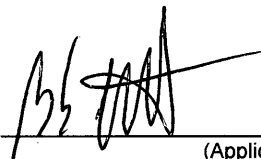
15. The owner(s) of the property where the water is used, if other than the applicant, is (please print):
Same

(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 _____, Kansas, this _____ day of _____ (month) _____ (year)



(Applicant Signature)

By _____
(Agent or Officer Signature)

(Agent or Officer - Please Print)

Assisted by _____ (office/title) Date: _____

**IRRIGATION USE
SUPPLEMENTAL SHEET**

File No. 49955

Name of Applicant (Please Print): Livingston Family Farms LLC

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: Livingston Family Farms
 ADDRESS: 70603 560 AVE PO Box 130 Reynolds Ne 68429

S	T	R	NE¼				NW¼				SW¼				SE¼				TOTAL	
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
2	1	2E										40	38	40	34					152

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		

STATE OF KANSAS

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



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

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

#49,955

March 8, 2018

Livingston Family Farms
70663 560 Avenue
PO Box 136
Reynolds NE 68429

RE: Dam Determination
WSN: DWS-0130

Dear Mr. Livingston:

This will acknowledge receipt of your request for a permit determination. DWS-0130 is located in the SW 1/4 of the SW 1/4 of the SW 1/4 of Section 2, Township 1 South, Range 2 East in Washington County Kansas.

We have reviewed the submitted documentation. It is our conclusion that this structure is not under our jurisdiction as per K.S.A. 82a-301 to 305a. The drainage area is less than 640 acres. The storage volume is less than 50 acre-feet at the auxiliary spillway elevation and the structure is less than 25 feet in height.

This determination does not in any way relieve you from complying with any other local, state, or federal requirements which may be applicable. For information concerning a water rights permit, please contact Doug Schemm of the Topeka Field Office at (785) 296-3495.

Should you have further questions, please feel free to contact me at (785) 564-6653, or e-mail at ambrose.ketter@kda.ks.gov.

Sincerely,

Ambrose J. Ketter, P.E.
Water Structures Engineer

PC: Doug Schemm, Topeka Field Office



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

Jackie McClaskey, Secretary
David W. Barfield, Chief Engineer
Katherine A. Tietsort, Water Commissioner

Phone: 785-296-5733
Fax: 785-296-8298
www.agriculture.ks.gov
Governor Jeff Colyer, M.D.

February 1, 2018

GERRY FRAGER
1234 26TH RD
MORROWVILLE KS 66958

Re: Pending Application, File No. 49,955

Dear Sir or Madam:

This is to advise you that Livingston Family Farms LLC has filed the application referred to above for a permit to appropriate 222 acre-feet of surface water per calendar year to be stored in an existing reservoir, and re-divert 182 acre-feet of the stored water for irrigation use. The proposed point of diversion (where the dam crosses the centerline of the stream) is located in the Southwest Quarter of the Southwest Quarter of the Southwest Quarter (SW¹/₄ SW¹/₄ SW¹/₄) of Section 2, Township 1 South, Range 2 East, Washington County, Kansas.

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

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

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

Sincerely,

A handwritten signature in cursive script that reads "Douglas W. Schemm".

Douglas W. Schemm
Environmental Scientist
Topeka Field Office

pc: Livingston Family Farms LLC



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

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

Jackie McClaskey, Secretary
David W. Barfield, Chief Engineer
Katherine A. Tietsort, Water Commissioner

Governor Jeff Colyer, M.D.

February 1, 2018

TERRY FRAGER
2779 KING ROAD
MORROWVILLE KS 66958

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Sincerely,

A handwritten signature in black ink that reads "Douglas W. Schemm".

Douglas W. Schemm
Environmental Scientist
Topeka Field Office

pc: Livingston Family Farms LLC



288 Ave
of Drainage

KANSAS

BLUE RIVER

MILL CREEK

10

11

3

35

34

48689

44022

1554

49946

49430

49955

48256

43925

48859

1548

1590

15

1554

1500

1500

1500

1600

1600

1600

1550

1550

1550

1550

1580

1550

1550

1600

1600

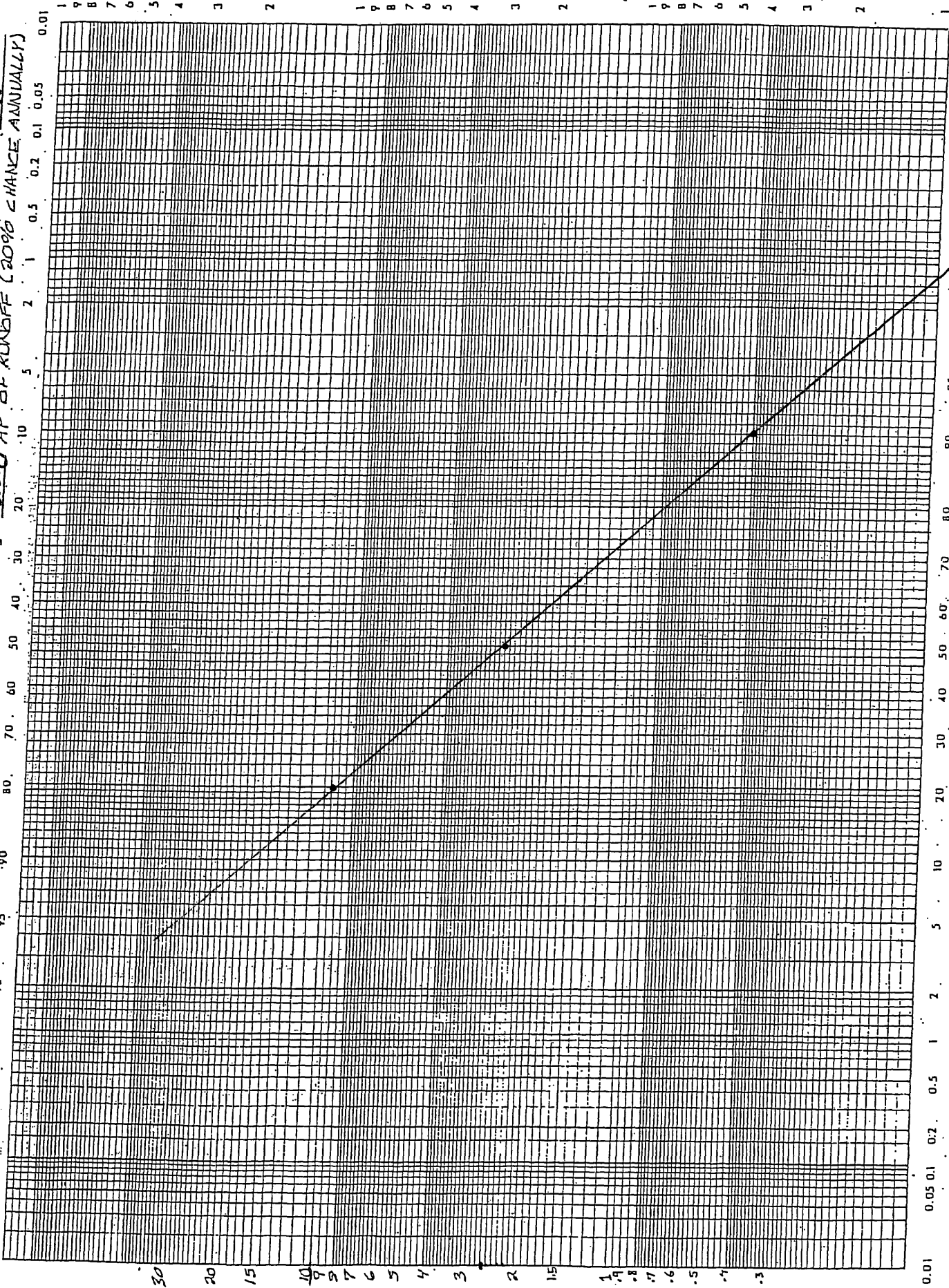
1600

1600



FILE NO. 49955

SOIL: "76" PRECIP: 31"
 200 ACRES IN DRAINAGE x 9.5" = 2736" / 12" = 228 AF OF RUNOFF (20% CHANCE ANNUALLY)
 INCHES RUNOFF / YEAR: 9.5"

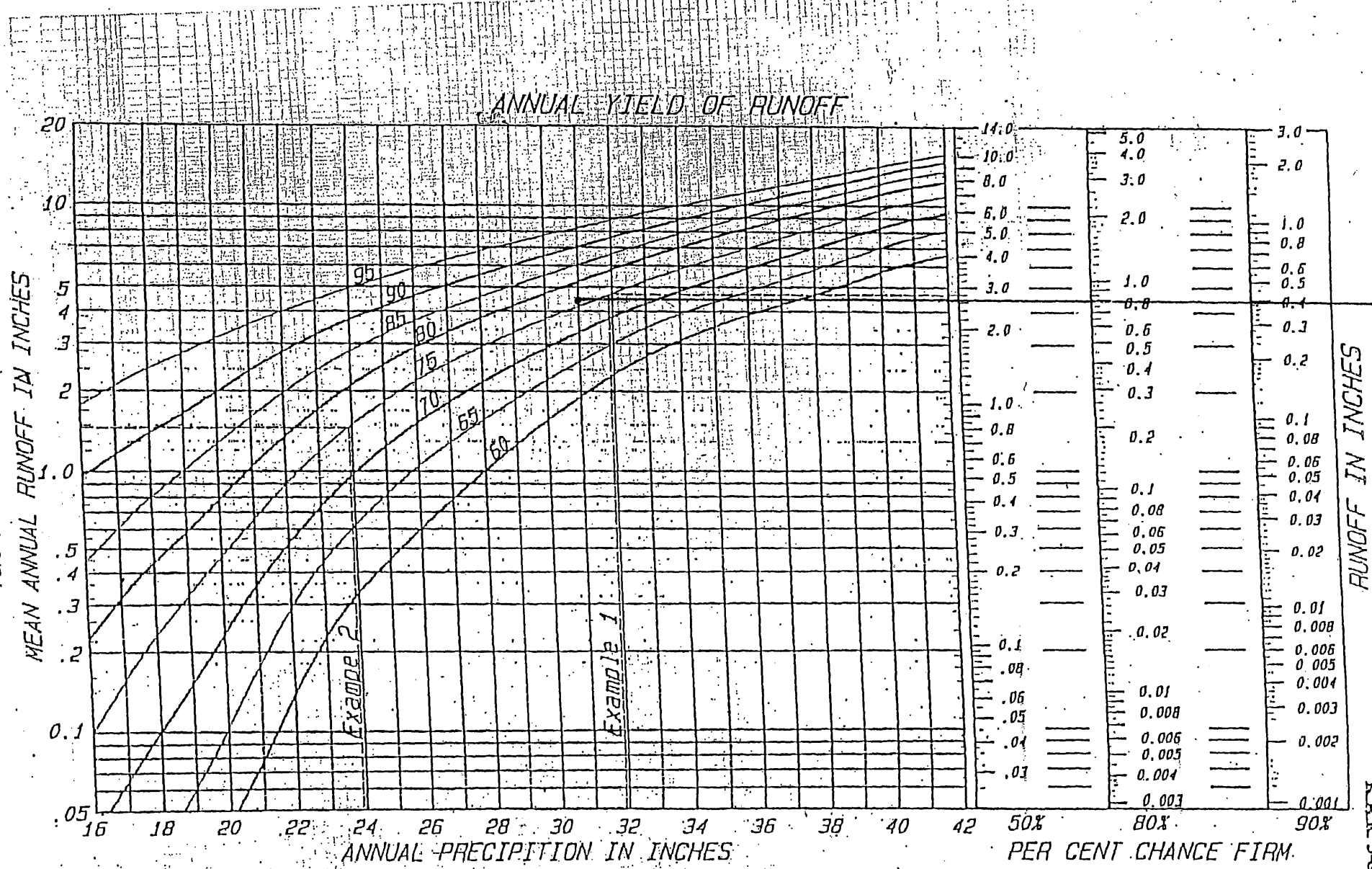


9.5" RUNOFF IN INCHES

10% CHANCE

PREPARED BY:

EFM Notice KS-38, 12/12/91



RUNOFF IN INCHES

KS-2-36

KAR 5-6-4(a)(1)

United States department of agriculture, natural resources conservation service, nation engineering handbook series, part 650, engineering field handbook.

AMOUNT STATISTICS REPORT FOR POINTS OF DIVERSION UNDER A

49955 00

#####

AMOUNT STATISTICS REPORT FOR POINTS OF DIVERSION UNDER A

49955 00 IRR

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

567 Feet North and 4746 Feet West of the Southeast Corner of Section 2 T 1S R 2E

SURFACE WATER ONLY

```

=====
File Number   Use ST SR Dist (ft) Q4 Q3 Q2 Q1 FeetN FeetW Sec Twp Rng ID Batt Auth_Quan Add_Quan Unit
A__ 48032 00 IRR LO S      8675 -- SW SW NE 2700 2195 9 1 2E 9          71.30    71.30 AF
A__ 49430 00 REC KE S      3736 -- SE SE SW 300 3160 3 1 2E 1          76.70    76.70 AF
A__ 49946 00 IRR GY S      3736 -- SE SE SW 300 3160 3 1 2E 1          144.00   144.00 AF
A__ 49955 00 IRR AY S         0 -- SW SW SW 567 4746 2 1 2E 4          182.00   182.00 AF
=====

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=====
Total Net Quantities Authorized:   Direct           Storage
Total Requested Amount (AF) =      182.00           222.00
Total Permitted Amount (AF) =      220.70           225.60
Total Inspected Amount (AF) =       71.30            71.30
Total Pro_Cert Amount (AF) =         .00              .00
Total Certified Amount (AF) =         .00              .00
Total Vested Amount (AF) =           .00              .00
TOTAL AMOUNT (AF) =                 474.00           518.90
=====

```

An * after the source of supply indicates a pending application for change under the file number.
 An * after the ID indicates a 15 AF exemption was granted under the file number.
 A "G" in the Batt column indicates the GEO CTR of a battery. A "B" indicates a well in the battery.
 The number in the Batt column is the number of wells in the battery.

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

567 Feet North and 4746 Feet West of the Southeast Corner of Section 2 T 1S R 2E

SURFACE WATER ONLY

WATER USE CORRESPONDENTS:

```

=====
File Number   Use ST SR
A__ 48032 00 IRR LO S
> FRAGER FARMS
>
> 2782 KING RD
> MORROWVILLE KS 66958
>-----
A__ 49430 00 REC KE S
> ROLAND MOELLENBERNDT
>
> 70324 HWY 15
> FAIRBURY NE 68352
>-----
A__ 49946 00 IRR GY S
> ROLAND MOELLENBERNDT
>
> 70324 HWY 15
> FAIRBURY NE 68352
>-----
A__ 49955 00 IRR AY S
> LIVINGSTON FAMILY FARMS LLC

```

> 70663 560 AVE
> PO BOX 136
> REYNOLDS NE 68429

>-----

=====

#####

49955

Gerry Frager
1234 26th Rd
Marionville, Kansas
66958

Owens North of 2-15-2E
W.S. Cty, Kansas

Owens South of 2-15-2E
W.S. Cty, Kansas

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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.

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NEW STREAM WORKSHEET

ES ADW

Date: 12/18/17

File No. 49955

Basin Name: Mill Creek Basin No. 16

Stream Name: Riddle Creek Trip 2B (Mill Creek)

Stream location (confluence with parent stream):

Section 14, Township 1 South, Range 2 (East)

Map Color Coding:

Basin Stream – Blue

Named Main Stream off Basin Stream – Yellow

Named Stream off Main Stream – Green

Unnamed Trib (1, 2, 3, 4, etc.) – Pink

Unnamed Trib to Unnamed Trib (A, B, C, etc.) – Orange

Unnamed Trib to Unnamed Trib to Unnamed Trib (1, 2, 3, etc.) – Purple

Stream No. 3 9 2 8 (computer assigned - entered by data entry staff)

Date Entered 12/26/2017 By UM



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

December 20, 2017

LIVINGSTON FAMILY FARMS, LLC
70663 560 AVE, PO BOX 136
REYNOLDS NE 68429

FILE COPY

RE: Application
File No. 49955

Dear Sir or Madam:

Your application for permit to appropriate water in 2-1S-2E in Washington 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) 564-6637. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

Kristen A. Baum
New Applications Unit Supervisor
Water Appropriation Program

BAT: dlw
pc: TOPEKA Field Office
GMD

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