

File No. 49,673	15. Formation Code:	Drainage Basin: KANSAS RIVER	County: JO	Special Use:	Stream: Cedar Creek Trib 2A (Kansas)																			
16. Points of Diversion			17. Rate and Quantity MOD QTY																					
T MOD DEL ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Authorized	Additional	Rate gpm	Quantity mgy	Rate gpm	Quantity mgy	Overlap PD Files									
√	85451	SE NW NE	23	14	23E	1	4176	1755	0	0	0	0	0	NONE										
<i>Structures Permit: D30-0135</i>																								
18. Storage: Rate _____ NF Quantity 30.63 ac/ft Additional Rate _____ NF Additional Quantity 30.63 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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No To be installed by _____ Date Acceptable Meter Installed _____																								
21. Place of Use		NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg? NO	Overlap Files			
T MOD DEL ENT	PUSE	S	T	R	ID	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼							
√	67914	23	14	23E	1	RESERVOIR (NE)																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: April 8, 2019

FROM: Doug Schemm

RE: Application, File No. 49,673

Mark A Clear Rev Trust has filed the above-referenced new application to appropriate 30.63 acre-feet of surface water storage at a rate not to exceed natural flows of Cedar Creek Trib 2A (Kansas) for recreational use in an existing reservoir. The application is designed to cover the indirect use of water (evaporation) from a reservoir located in the Northeast Quarter of Section 23, in Township 14 South, Range 23 East, Johnson County, Kansas. Based on information in the associated structures permit, the reservoir was built in 1976. The point of diversion represents the point at which the center of the dam intersects the stream, and a representative of the applicant has signed the form stating they have access to this point of diversion. The reservoir is already permitted by the DWR Water Structures Program under File No. DJO-0135. DWR appropriation staff assiduously determined that this existing reservoir did not have the required appropriation permit, and assisted in bringing the applicant into compliance with regulations.

Note that the applicant had requested 320 acre-feet of surface water storage when the application was initially filed because they envisioned the possibility of irrigating (re-diverting water) from the reservoir. However, after further discussion, the applicant does not anticipate this happening for quite some time. The applicant was informed that another new application would be required if they did want to irrigate in the future.

The requested quantity of 30.63 acre-feet appears to be reasonable for indirect use, based on the following information. The reservoir surface area at normal pool storage elevation is estimated at 24.51 acres. Potential net evaporation in inches, based on K.A.R. 5-6-3, is 5 inches; therefore the natural evaporation can be estimated as follows:

$$\begin{aligned} 24.51 \text{ acres} \times 5 \text{ inches of evaporation} / 12 \text{ inches} &= 10.21 \text{ acre-feet (1 year of evaporation)} \\ 10.21 \text{ acre-feet} \times 3 \text{ years} &= 30.63 \text{ AF} \end{aligned}$$

No seepage quantity was requested by the applicant. Typically these types of applications request up to three years of evaporation, so it is reasonable. A runoff calculation determined that the drainage area of 396 acres, will provide for 660 acre-feet (20") of runoff in 1 out of every five (5) years (20% annually). The capacity of the reservoir is the controlling factor. As noted above, the dam is already permitted under DWR Water Structures Program, File No. DJO-0135. Since the reservoir is currently storing water, no Special Condition on the Permit is needed to provide an initial fill quantity.

Downstream and upstream landowners adjacent to the stream were notified on March 19, 2019. No responses of any kind were received. As noted above, this is an existing reservoir (in place since 1976), and the appropriation permit is merely to authorize the on-going beneficial recreational use of water (evaporation) from the reservoir. There are no other permitted surface water rights within a two-mile radius circle, and approval of this application will not impair any senior water rights.

Katherine Tietsort, Water Commissioner, Topeka Field Office, recommended approval of the application in a discussion on April 4, 2019. Based upon the above discussion, the area is open to new applications, the structure has been properly permitted under DWR water structures program, approval will bring this beneficial use of water into compliance with rules and regulations, and there is no indication that the proposed beneficial use of water will impair existing water rights, it is recommended that the referenced application be approved.

Douglas W. Schemm
Environmental Scientist
Topeka Field Office

1320 Research Park Drive
Manhattan, KS 66502
785-564-6700
www. agriculture.ks.gov



900 SW Jackson, Room 456
Topeka, KS 66612
785-296-3556

Mike Beam, Secretary

Laura Kelly, Governor

May 23, 2019 **FILE COPY**

MARK A CLEAR REV TRUST
1107 E 23RD ST
OTTAWA KS 66067

RE: Appropriation of Water, File No. 49,673

Dear Sir or Madam:

Enclosed is a permit authorizing you to proceed with construction of the proposed diversion works and to appropriate water for beneficial use as set forth in the permit. Your attention is directed to the enclosures and to the terms, conditions, limitations, and requirements specified in this permit.

Notice must be filed on the enclosed form once the diversion works have been completed. Failure to complete the diversion works within the time allowed, or within any authorized extension of time thereof, will result in dismissal of this permit. If you need an extension of time, you must request it before the deadline for completion set forth in the permit. Any request for an extension of time must be accompanied by the statutorily required fee, which is currently \$100.00.

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

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

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

Sincerely,

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

KAB:dws
Enclosure(s)

pc: Topeka Field Office

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

**APPROVAL OF APPLICATION
and
PERMIT TO PROCEED**

(This Is Not a Certificate of Appropriation)

This is to certify that I have examined Application, **File No. 49,673** of the applicant

**MARK A CLEAR REV TRUST
1107 E 23RD ST
OTTAWA KS 66067**

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 **July 15, 2016**.
2. That the water sought to be appropriated shall be used for recreational use at a reservoir located in the Northeast (NE $\frac{1}{4}$) of Section 23, in Township 14 South, Range 23 East, Johnson County, Kansas.
3. That the appropriation sought shall be limited to all natural flows of an unnamed tributary to Cedar Creek, designated in the office of the Chief Engineer as Cedar Creek Trib 2A (Kansas), not needed to satisfy all vested rights and prior appropriation rights to be stored to a maximum extent of **30.63 acre-feet** per calendar year, in a reservoir created by a dam located in the Southeast Quarter of the Northwest Quarter of the Northeast Quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 23, more particularly described as being near a point 4,176 feet North and 1,755 feet West of the Southeast corner of said section, in Township 14 South, Range 23 East, Johnson County, Kansas, located substantially as shown on the topographic map accompanying the application.
4. That the structure creating the above referenced reservoir has been assigned Division of Water Resources Structures Permit No. DJO-0135.
5. That installation of works for diversion of water shall be completed on or before **December 31, 2020**, or within any authorized extension thereof. The applicant shall notify the Chief Engineer and pay the statutorily required field inspection fee, 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 accompanied by the required statutory fee, which is currently \$100.00.
6. That the proposed appropriation shall be perfected by the actual application of water to the proposed beneficial use on or before **December 31, 2024**, or any authorized extension thereof. Any request for an extension of time shall be submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee, which is currently \$100.00.

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

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

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

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

11. That 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.

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

13. 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.

14. 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 15th day of May, 2019, in Manhattan, Riley County, Kansas.

Lane P. Letourneau

Lane P. Letourneau, P.G.
Program Manager
Water Appropriation Program
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
County of Riley) SS

The foregoing instrument was acknowledged before me this 15th day of May, 2019, by Lane P. Letourneau, P.G., Program Manager, Division of Water Resources, Kansas Department of Agriculture.



Danielle Wilson

Notary Public

CERTIFICATE OF SERVICE

On this 23rd day of May, 2019, I hereby certify that the foregoing Approval of Application, File No. 49,673, dated May 15th, 2019 was mailed postage prepaid, first class, US mail to the following:

MARK A CLEAR REV TRUST
1107 E 23RD ST
OTTAWA KS 66067

With photocopies to:

Topeka Field Office

Danielle Wilson

Division of Water Resources

APPLICATION COMPLETE

4/8/2019

Reviewer DWS

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Jackie McClaskey, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

WATER RESOURCES RECEIVED

JUL 15 2016

11:32
KS DEPT OF AGRICULTURE

File Number 49,673

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

RECEIVED

JUL 12 2016

Topeka Field Office
DIVISION OF WATER RESOURCES

APPLICATION FOR PERMIT TO APPROPRIATE WATER FOR BENEFICIAL USE

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

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): MARK A CLEAR REV TRUST

Address: 1107 E 23RD ST

City: OTTAWA State: KS Zip Code 66067

Telephone Number: (785) 229-7200 (913) 915-0773 Lindsey cell

2. The source of water is: surface water in Tributary to Cedar Creek Trib 2A *DWS/DWR 10/26/16
(stream)

OR groundwater in KANSAS 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.

3. The maximum quantity of water desired is 320 ~~30.63~~ 30.63* 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. 1 GMD 0 Meets K.A.R. 5-3-1 (YES/NO) Use REC Source G County JO By ASW Date 7/15/16
Code REG R22 Fee \$ 300 TR # _____ Receipt Date 7/15/16 Check # 14558

DWR 1-100 (Revised 02/16/2011) * Discussed file with applicant on 3/18/2019. Agreed to proceed with just REC use, for original amount. DWS/DWR 7/21/2016 LCM

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 SE quarter of the NW quarter of the NE quarter of Section 23, more particularly described as being near a point 4,176 feet North and 1,755 feet West of the Southeast corner of said section, in Township 14 South, Range 23 EAST, JOHNSON County, Kansas.
- (B) One in the _____ quarter of the _____ quarter of the _____ quarter of Section _____, more particularly described as being near a point _____ feet North and _____ feet West of the Southeast corner of said section, in Township _____ South, Range _____ East/West (circle one), _____ County, Kansas.
- (C) One in the _____ quarter of the _____ quarter of the _____ quarter of Section _____, more particularly described as being near a point _____ feet North and _____ feet West of the Southeast corner of said section, in Township _____ South, Range _____ East/West (circle one), _____ County, Kansas.
- (D) One in the _____ quarter of the _____ quarter of the _____ quarter of Section _____, more particularly described as being near a point _____ feet North and _____ feet West of the Southeast corner of said section, in Township _____ South, Range _____ East/West (circle one), _____ County, Kansas.

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

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

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

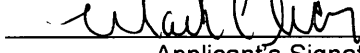
APPLICANT

 (name, address and telephone number)

 (name, address and telephone number)

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

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

Executed on July 6th, 2016. 
 Applicant's Signature

7. The proposed project for diversion of water will consist of ONE DAM AND RESERVOIR
 (number of wells, pumps or dams, etc.)
 and (will be) completed (by) EXISTING
 (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 Upon Approval.
 (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 DJO-0135

• If no, explain here why a Water Structures permit is not required _____

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

(a) The location of the proposed point(s) of diversion (wells, stream-bank installations, dams, or other diversion works) should be plotted as described in Paragraph No. 5 of the application, showing the North-South distance and the East-West distance from a section line or southeast corner of section.

(b) If the application is for groundwater, please show the location of any existing water wells of any kind within 1/2 mile of the proposed well or wells. Identify each existing well as to its use and furnish the name and mailing address of the property owner or owners. If there are no wells within 1/2 mile, please advise us.

~~(c) If the application is for surface water, the names and addresses of the landowner(s) 1/2 mile downstream and 1/2 mile upstream from your property lines must be shown.~~

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

(e) Show the location of the pipelines, canals, reservoirs or other facilities for conveying water from the point of diversion to the place of use.

A 7.5 minute U.S.G.S. topographic map may be obtained by providing the section, township and range numbers to: Kansas Geological Survey, 1930 Constant, Campus West, University of Kansas, Lawrence, Kansas 66047.

12. List any application, appropriation of water, water right, or vested right file number that covers the same diversion points or any of the same place of use described in this application. Also list any other recent modifications made to existing permits or water rights in conjunction with the filing of this application.

NONE.

DJO-0135 Structures data: Capacity is 98 Acre-feet at principal spillway.

Surface Acreage is 24.51 acres, and there are 396 Acres of drainage area.

WATER RESOURCES RECEIVED

JUL 15 2016

SCANNED

KS DEPT OF AGRICULTURE

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):

(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 _____, 2016
(month) (year)



(Applicant Signature)



APPLICANT(S) SOCIAL SECURITY IDENTIFICATION NUMBER(S)

By _____
(Agent or Officer Signature)

and/or
APPLICANT(S) TAXPAYER I.D. NO.(S)

(Agent or Officer - Please Print)

Assisted by DWS TOPEKA FO Date: 6/9/2016
(office/title)

RECEIVED
JUN 10 2016

TOPEKA, KANSAS

**RECREATIONAL USE
SUPPLEMENTAL SHEET**

File No. 49673

Name of Applicant (Please Print): Mark A Clear Rev Trust _____

1. Please indicate type of recreational use (boating, fishing, swimming, etc.): _____
fishing

2. Please summarize how the water will be used and justify the quantity of water requested: _____
Surface Area of Reservoir = 24.51 acres. (24.51 acres x 5") / 12 = 10.21 acre-feet of annual evaporation
10.21 acre-feet x 3 years = 30.63 acre-feet (3 years of indirect evaporation). ✓

3. Please complete the following table showing estimated future water requirements:

ESTIMATED FUTURE WATER DIVERTED/STORED	
NEXT 5 YEARS	WATER TO BE DIVERTED (ACRE-FEET OR GALLONS)
Year 1	30.63 AF <u>320</u> <u>30.63</u> DWS/DWR 3/18/19
Year 2	<u>320</u>
Year 3	<u>320</u>
Year 4	<u>320</u>
Year 5	30.63 AF <u>320</u> <u>30.63</u>

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

4. Please designate the legal description of the location where the water is to be used by providing the fractional part of the Section, Township and Range.

Reservoir Located in the Northeast Quarter of Section 23, in Township 14 South, Range 23 East, Johnson Co.

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

WATER RESOURCES
RECEIVED

JUL 15 2016

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



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

Mike Beam, Acting Secretary

Laura Kelly, Governor

March 19, 2019

JOHN T HERMES FAMILY
13030 W 87TH ST PKWY
LENEXA KS 66215

Re: Pending New Application, File No. 49,673

Dear Sir or Madam:

This is to advise you that Mark A Clear Rev Trust has filed the new application referred to above for a permit to appropriate 30.63 acre-feet of surface water per calendar year to be stored in **an existing reservoir**, for recreational use. The proposed point of diversion (where the dam crosses the centerline of the stream) is located in the Southeast Quarter of the Northwest Quarter of the Northeast Quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 23, in Township 14 South, Range 23 East, Johnson County, Kansas. This permit is to authorize the indirect use of water (evaporation) from the reservoir. There will be no physical changes or modifications to the dam or reservoir.

A site map is attached for your review. 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.

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

Enclosure

pc: Mark A Clear Rev Trust

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



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

Mike Beam, Acting Secretary

Laura Kelly, Governor

March 19, 2019

MCCRAY LUMBER CO
10741 EL MONTE ST
OVERLAND PARK KS 66211

Re: Pending New Application, File No. 49,673

Dear Sir or Madam:

This is to advise you that Mark A Clear Rev Trust has filed the new application referred to above for a permit to appropriate 30.63 acre-feet of surface water per calendar year to be stored in an existing reservoir, for recreational use. The proposed point of diversion (where the dam crosses the centerline of the stream) is located in the Southeast Quarter of the Northwest Quarter of the Northeast Quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 23, in Township 14 South, Range 23 East, Johnson County, Kansas. This permit is to authorize the indirect use of water (evaporation) from the reservoir. There will be no physical changes or modifications to the dam or reservoir.

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

Sincerely,

A handwritten signature in cursive script, appearing to read "Doug Schemm".

Douglas W. Schemm
Environmental Scientist
Topeka Field Office

Enclosure

pc: Mark A Clear Rev Trust

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



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

Mike Beam, Acting Secretary

Laura Kelly, Governor

March 19, 2019

CITY OF OLATHE
PO BOX 768
OLATHE KS 66051-0768

Re: Pending New Application, File No. 49,673

Dear Sir or Madam:

This is to advise you that Mark A Clear Rev Trust has filed the new application referred to above for a permit to appropriate 30.63 acre-feet of surface water per calendar year to be stored in **an existing reservoir**, for recreational use. The proposed point of diversion (where the dam crosses the centerline of the stream) is located in the Southeast Quarter of the Northwest Quarter of the Northeast Quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 23, in Township 14 South, Range 23 East, Johnson County, Kansas. This permit is to authorize the indirect use of water (evaporation) from the reservoir. There will be no physical changes or modifications to the dam or reservoir.

A site map is attached for your review. 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.

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.

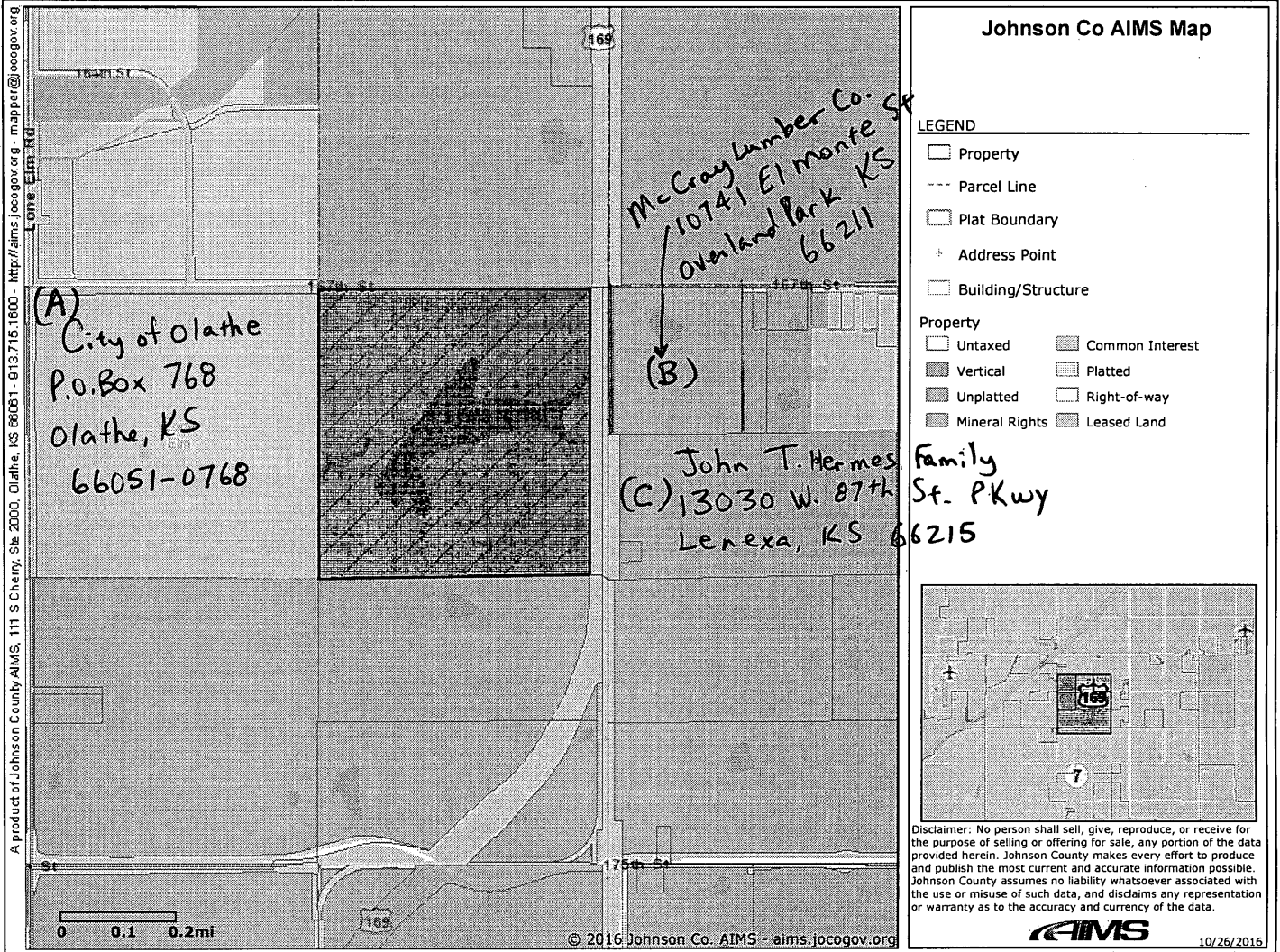
Sincerely,

A handwritten signature in cursive script, appearing to read "Doug Schemm".

Douglas W. Schemm
Environmental Scientist
Topeka Field Office

Enclosure

pc: Mark A Clear Rev Trust



ENGINEERING INFORMATION

Eng Data # 4166

Group

National # 4166

Water Right#

Size Class

Purpose

Nearest City Town

Distance To City Town

Funding

Purpose 3

Elevation

Stream# 92.8

PS 106

ES 108

TOP 112

Area

PS 24.51

ES 155.27

TOP 100.210

Stages (c.f.)

Discharge (cfs)

Arnc. Hgt. 164

Drawn By

Cons

Foundation

Retention Schedule

Ps Type

Ps Material

Ps Size

Ps Type

Phase 1 Insp

Plans

Rev. On Fed

Rac. Updated

State Regulated

Assessment

Spillway Type

Volume Of Fill

Dam Length

Dam Height

192

2270

39499

G

6

151

IS

Cap Status

ES Width

ES Type

ES Type

Design: USDA SCS

Structural Height 18

Outlet Gates

Rvr/Strm CEDAR CREEK TR

Dam Former Name

CH D/ Names: KSNONAME 4166

Remarks

Application File

Location

Rec'd Date

EXT

County Num

136

11-23-1977

CAB

THURMAN COMPANY

Type

County

136

10067

D

10067

WSP

EAP

HAZARD

#49,673

49,673
 DSO-135

WSI Query WSI ENG WSI TRANSACTIONS WATER RIGHTS LOCATIONS WAIVERS ECA ITRAIL COMPLIANCE IMAGES WSI ACTIONS

STRUCTURE NUMBER: D JO 0135 Val 10067 LAST# 253

REVIEWER: INIT UNK

FILE Location: CAB

APPLICATION: App Recd Date 11-23-1977

CURRENT STATUS: Permit PA

Project Activity: []

Site Name: []

Stream: CEDAR CREEK TR

KDOT Type: []

INDICATORS: Pending Complaint N, App Mod N, Pending Mod N, After the Fact N, General Permits N

Lease Ind: [] Corps []

App Proc Time: DWR [] Total []

Location: Pull Date []

APPLICANT: LAST THURMAN COMPANY FIRST []

OWNER: LAST CLEAR REVOCABLE TRUST FIRST MARK A

DESIGNER: LAST UNKNOWN FIRST []

Const Comp Date 02-01-1975 DDA 396 Remarks F01GPEKA1

WSI ACT ALL ACT LOCATION ECA APPLICANT OWNER DESIGNER ENG COMPLAINT MOD ACT PROJECT

ACTIONS LOCATION ECA FEE ITRAIL LEGAL WAIVER WR IMAGE CMP MODIFICATION TAXED AFF IND

Date	Action	Deadline	Remarks
01-23-1975	PERMIT ISSUED PENDING COMPLETION		PERMIT ISS
02-01-1976	PERMIT NOTICE OF COMPLETION		

AMOUNT STATISTICS REPORT FOR POINTS OF DIVERSION UNDER A 49673 00

#####

AMOUNT STATISTICS REPORT FOR POINTS OF DIVERSION UNDER A 49673 00 REC

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

4176 Feet North and 1755 Feet West of the Southeast Corner of Section 23 T 14S R 23E

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__ 49673 00 REC AY S          0 -- SE NW NE 4176 1755 23 14 23E 1          320.00 320.00 AF
=====

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=====
Total Net Quantities Authorized:  Direct          Storage
Total Requested Amount (AF) =      320.00          .00
Total Permitted Amount (AF) =           .00          .00
Total Inspected Amount (AF) =           .00          .00
Total Pro_Cert Amount (AF) =           .00          .00
Total Certified Amount (AF) =           .00          .00
Total Vested Amount (AF) =             .00          .00
TOTAL AMOUNT (AF) =      320.00          .00
=====

```

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

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

4176 Feet North and 1755 Feet West of the Southeast Corner of Section 23 T 14S R 23E

SURFACE WATER ONLY

WATER USE CORRESPONDENTS:

```

=====
File Number      Use ST SR
A__ 49673 00 REC AY S
> MARK A CLEAR REV TRUST
>
> 1107 E 23RD ST
> OTTAWA KS 66067
>-----
=====

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#####

FILE No. 49,673

SOIL: "78" PRECIP.: 40"

Johnson Co.

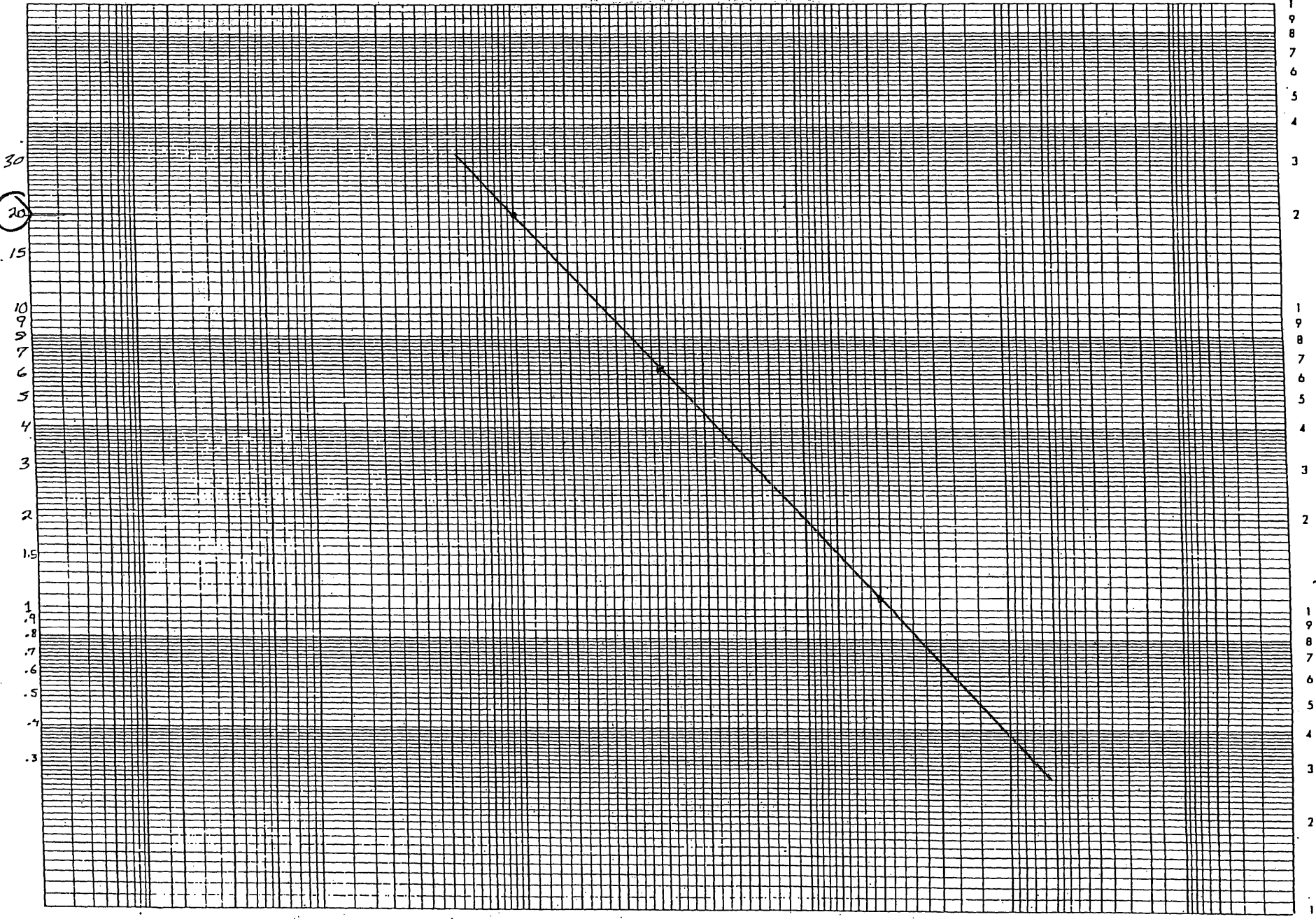
396 ACRES IN DRAINAGE x 20" = 7920" / 12" \Rightarrow 660 AF OF RUNOFF (20% CHANCE ANNUALLY)

INCHES RUNOFF / ACRE: 20"

99.99 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

RUNOFF IN INCHES

Probability (Long-axis) by 3 Cycle Log



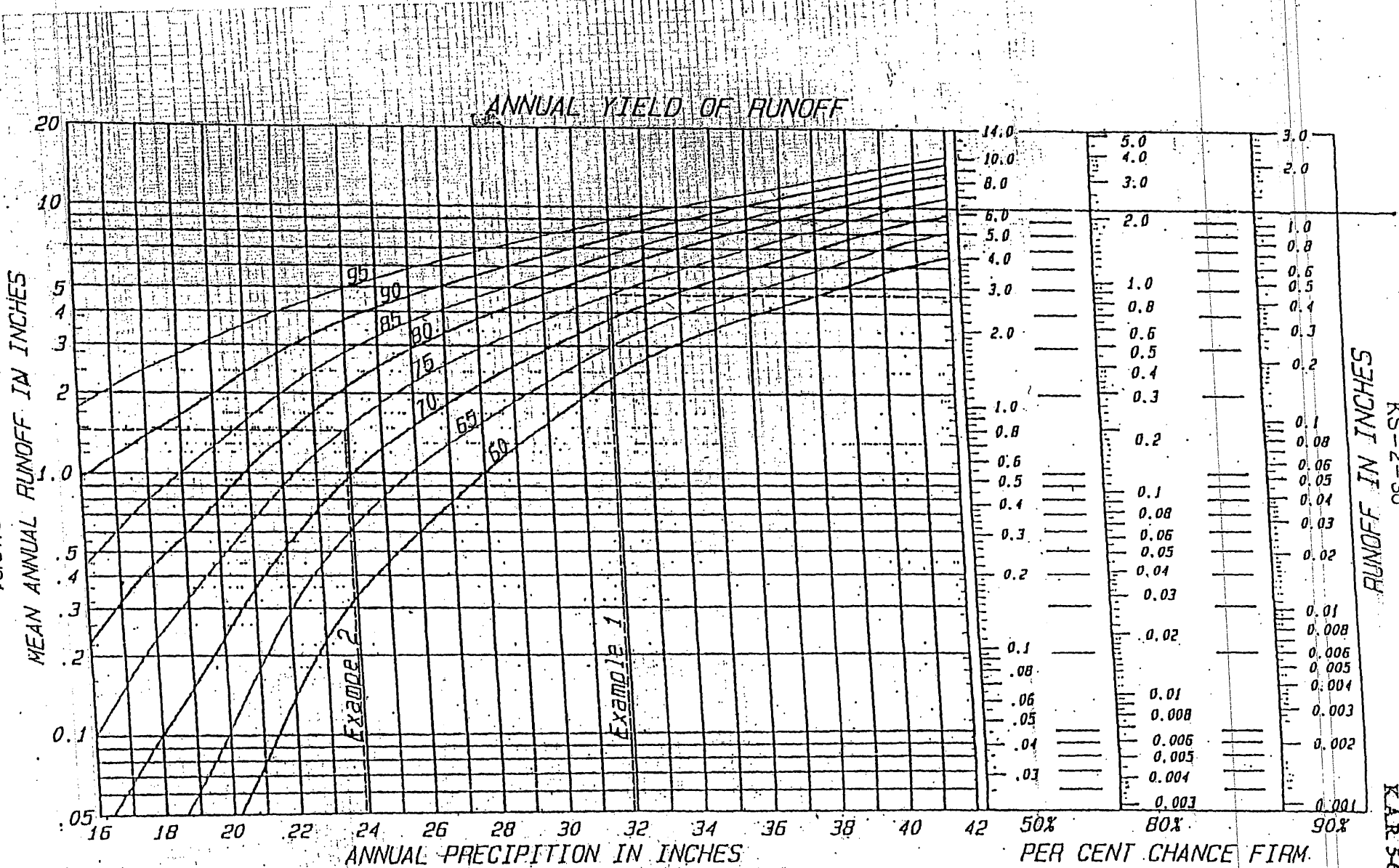
0.10 CHANCE

PREPARED BY:

222

COPIED FROM FILE 49,673

EFM Notice KS-38, 12/12/91



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

KS-2-36
RUNOFF IN INCHES

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



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

July 18, 2016

MARK A CLEAR REV TRUST
1107 E 23RD ST
OTTAWA KS 66067

RE: Application
File No. 49673

Dear Sir or Madam:

Your application for permit to appropriate water in 23-14S-23E in Johnson 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,

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

BAT: ALH
pc: TOPEKA Field Office
GMD

SCANNED

NEW STREAM WORKSHEET

ES AJW

Date: 7/15/16

File No. 491673

Basin Name: Kansas River Basin No. 8

Stream Name: Cedar Creek Trib 2A (Kansas)

Stream location (confluence with parent stream):

Section 10, Township 14 South, Range 23 (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 8 75 (computer assigned - entered by data entry staff)

Date Entered 7/21/2016 By LCM

MARK A CLEAR REV TRUST
Section 23, Township 14 South, Range 23 East
Johnson County

49,673



Proposed Place of Use



Proposed Point of Diversion

WATER RESOURCES
RECEIPTS

All known landowners adjacent to the stream
within one-half mile upstream and downstream
of the property lines have been shown.

1:24,000

SCANNED

JUL 15 2016