

File No. **50,213** 15. Formation Code: Drainage Basin: **SUGAR CREEK** County: **LN** Special Use: Stream: **BIG SUGAR CREEK**

16. Points of Diversion										17. Rate and Quantity				
MOD DEL ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Authorized		Additional			
									Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files	
√	87342	SE NW SW	2	21	24E	4	1580	4103	6000	254	6000	254	NONE	
√	87346	SE NW SW	2	21	24E	7	1780	4376						
DEL	87344	SW NW SW	2	21	24E	5	1342	4915						
DEL	87345	NW NW SW	2	21	24E	6	2191	5266						

18. Storage: Rate _____ NF Quantity _____ ac/ft Additional Rate _____ NF Additional Quantity _____ 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 **12/31/2020** Date Acceptable Meter Installed _____

21. Place of Use							NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg? NO	Overlap Files
MOD DEL ENT	PUSE	S	T	R	ID	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼					
√	69320	2	21	24E	4	WILDLIFE MARSH (SW)																	7a.	NO	NONE	

Comments: **PORTION OF PLACE OF USE AND ONE PD (ID# 87346) IS LOCATED WITHIN NRCS EASEMENT.**
Applicant has submitted required Compatible Use Agreement to NRCS.

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: May 20, 2019

FROM: Doug Schemm

RE: Application, File No. 50,213

Jim Clary has filed the application referred to above proposing to appropriate 254 acre-feet of surface water at a diversion rate of 6,000 gallons per minute from two pump sites, both located directly on Big Sugar Creek, within the Sugar Creek basin, for recreational use in a waterfowl marsh. This application will allow water to be pumped directly from Big Sugar Creek (when flows are adequate, and permission is granted). The water will be used to fill and maintain water levels in this marsh (i.e. offset evaporative and seepage losses). There are no overlapping files in point of diversion or place of use. The marsh is located in the Southwest Quarter Section 2, Township 21 South, Range 24 East, Linn County, on property owned by the applicant. The applicant has signed the application form stating he has access to the point of diversion. The quantity requested on the new application was based on a total marsh area of 63.5 acres, filling it with two feet of water, and two fillings per year.

A list of nearby landowners was provided, and notification letters were sent out on March 13, 2019. No responses of any kind were received.

Please note that this application has been held pending additional information from the applicant. An electronic mail was sent to the applicant on April 9, 2019, informing him that a portion of the proposed marsh is included in a Wetlands Reserve Program (WRP) easement with the United States Department of Agriculture, Natural Resources Conservation Service (NRCS). In order for the applicant to pump water into a marsh, they must complete a Compatible Use Agreement (CUA) application for water level management, and ultimately have it approved. The NRCS will not approve a CUA for water level management where pumping is involved without demonstration of a Division of Water Resources (DWR) Appropriation permit, and DWR cannot issue our appropriation permit without this CUA documentation. We were informed in a May 16, 2019 e-mail from NRCS that the applicant had submitted the required application, and it will be approved in the next few days. Note that the NRCS has requested that two (2) of the four (4) pump sites be removed from the application because they will not be allowed in this portion of the easement area. The applicant was copied on the e-mail, and has not objected to the removal of these pump sites.

Therefore this application can be approved, with a specific permit condition as follows: "That in order for you to pump water into your proposed marsh, you must complete a Compatible Use Agreement (CUA) application for water level management, and ultimately have it approved by the United States Department of Agriculture, Natural Resources Conservation Service (NRCS)."

This approval will be subject to specific conditions, which stipulate strict requirements for direct surface water diversion. These conditions include the stipulation that no diversion shall occur unless there is water available to satisfy all demands by senior water rights and permits, written or verbal permission from the Chief Engineer, or an authorized representative is required prior to diverting water, and streamflow cannot be stopped at the first riffle below the point of diversion while diversion is taking place. The application also complies with K.A.R 5-3-15 (c)(5) because the proposed use of water for recreational use is typically during the fall season, and there is no need for direct diversion of water from July 1 through September 30.

There are multiple existing recreational users within the two-mile radius circle, however all but one of them is either upstream, or for off-stream storage. Only File No. 39,864 is located downstream on Big Sugar Creek, and it is located over 7,000 feet away. Therefore, with proper conditioning, no senior water rights will be impaired with approval of this application. The applicant has submitted a signed Minimum Desirable Streamflow (MDS) statement, which has been notarized. By completing this statement, the applicant affirms his knowledge that there could be times when the diversion of water may not be allowed under this permit.

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.

During our April 9, 2019 phone call, the applicant stated that no berms or fill of any kind will be placed in the floodplain as part of this project. He was informed that if his plans changed he would need to contact DWR Structures Program staff for structures permitting.

In a May 16, 2019 e-mail, Katie Tietsort, Water Commissioner, Topeka Field Office, gave a recommendation that the application be approved. Based on the above discussion, the area remains open to new appropriations, the approval is subject to specific conditions relative to direct surface water diversions, diversion is limited to fall "off-season" pumping, the applicant has submitted the required NRCS-CUA documentation, the project is not proposing to construct any berms or fill that would require structures permitting, and there is no indication that existing water rights will be impaired, it is recommended that the referenced application be approved.

Doug 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

June 10, 2019 **FILE COPY**

JIM CLARY
5672 SOUTH ROBB ST
LITTLETON CO 80127

RE: Appropriation of Water, File No. 50,213

Dear Mr. Clary:

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 acceptable water flowmeter must be installed on the diversion works authorized by this permit prior to using water. 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
NRCS

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. 50,213 of the applicant

**JIM CLARY
5672 SOUTH ROBB ST
LITTLETON CO 80127**

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 **February 22, 2019**.
2. That the water sought to be appropriated shall be used for recreational use in a wildlife marsh located in the Southwest Quarter (SW $\frac{1}{4}$) of Section 2, in Township 21 South, Range 24 East, Linn County, Kansas.
3. That the authorized source from which the appropriation shall be made is surface water from Big Sugar Creek, to be diverted at two (2) pump sites located as follows: one 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 2, more particularly described as being near a point 1,580 feet North and 4,103 feet West of the Southeast corner of said section, and one 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 2, more particularly described as being near a point 1,780 feet North and 4,376 feet West of the Southeast corner of said section, both in Township 21 South, Range 24 East, Linn County, Kansas, located substantially as shown on the map accompanying the application.
4. That the appropriation sought shall be limited to a maximum diversion rate not in excess of **6,000 gallons per minute (13.37 c.f.s.)** and to a quantity not to exceed **254 acre-feet** of water for any calendar year.
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 of \$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 of \$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 of \$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 all 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 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.

12. That an acceptable water flow meter shall be installed and maintained on the 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).

13. 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.

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

15. 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.

16. 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.

17. That diversion of natural flow shall not take place unless there is water available to satisfy all demands by senior water rights and permits.

18. That the stream flow shall not be stopped at the first riffle below the point of diversion while diversion is taking place under the authority of this water right or permit.

19. That during the period October 1 through June 30, the verbal or written permission of the Chief Engineer, or an authorized representative of the Chief Engineer, shall be obtained in order to divert water each time the applicant desires to divert water.

20. That during the period July 1 through September 30 each calendar year, no direct diversions of surface water shall be permitted unless written permission is obtained from the Chief Engineer, or the Chief Engineer's authorized representative.

21. That in order for you to pump water into your proposed marsh, you must complete a Compatible Use Agreement (CUA) application for water level management, and ultimately have it approved by the United States Department of Agriculture, Natural Resources Conservation Service (NRCS).

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.

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Acting Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

File Number 50213
This item to be completed by the Division of Water Resources.

WATER RESOURCES RECEIVED

APPLICATION COMPLETE
5/16/19
Reviewer CAB

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.)

FEB 22 2019
12:15
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): JIM CLARY
Address: 5672 SOUTH ROBB ST
City: LITTLETON State: CO Zip Code 80127
Telephone Number: (303) 947-9797

2. The source of water is: [X] surface water in BIG SUGAR CREEK (stream)
OR [] groundwater in SUGAR CREEK BASIN (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 254 acre-feet OR gallons per calendar year, to be diverted at a maximum rate of 6,000 gallons per minute OR cubic feet per second.

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

4. The water is intended to be appropriated for (Check use intended):
(a) [] Artificial Recharge (b) [] Irrigation (c) [X] 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 [X] Meets K.A.R. 5-3-1 (YES / NO) Use REC Source G/S County LN By DAW Date 4/25/19
Code REG 152 Fee \$ 300 TR # Receipt Date 2/22/19 Check # 1713

2/25/2019 U11
SCANNED

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 SW quarter of Section 2, more particularly described as being near a point 1580 feet North and 4103 feet West of the Southeast corner of said section, in Township 21 South, Range 24 East, LINN County, Kansas.
- (B) One in the SE quarter of the NW quarter of the SW quarter of Section 2, more particularly described as being near a point 1780 feet North and 4376 feet West of the Southeast corner of said section, in Township 21 South, Range 24 East, LINN County, Kansas.
- (C) One in the SW quarter of the NW quarter of the SW quarter of Section 2, more particularly described as being near a point 1342 feet North and 4915 feet West of the Southeast corner of said section, in Township 21 South, Range 24 East, LINN County, Kansas.
- (D) One in the NW quarter of the NW quarter of the SW quarter of Section 2, more particularly described as being near a point 2191 feet North and 5266 feet West of the Southeast corner of said section, in Township 21 South, Range 24 East, LINN 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):

 (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 2/16/19, 2019. _____
 Applicant's Signature

7. The proposed project for diversion of water will consist of FOUR RUMP SITES
 (number of wells, pumps or dams, etc.)
 and (was)(will be) completed (by) FALL 2019
 (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 FALL 2019
 (Mo/Day/Year)

* 2 pumpsites Removed based on NRCS comments.

Not allowed in ^{this portion of} their easement area. DWS/DWR
5/16/19

File No. 50, 213

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 SW quarter of Section 2, more particularly described as being near a point 1580 feet North and 4103 feet West of the Southeast corner of said section, in Township 21 South, Range 24 East, LINN County, Kansas.

(B) One in the SE quarter of the NW quarter of the SW quarter of Section 2, more particularly described as being near a point 1780 feet North and 4376 feet West of the Southeast corner of said section, in Township 21 South, Range 24 East, LINN County, Kansas.

* (C) One in the SW quarter of the NW quarter of the SW quarter of Section 2, more particularly described as being near a point 1342 feet North and 4915 feet West of the Southeast corner of said section, in Township 21 South, Range 24 East, LINN County, Kansas.

* (D) One in the NW quarter of the NW quarter of the SW quarter of Section 2, more particularly described as being near a point 2191 feet North and 5266 feet West of the Southeast corner of said section, in Township 21 South, Range 24 East, LINN County, Kansas.

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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):

(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 2/16/19, 2019. _____
Applicant's Signature

7. The proposed project for diversion of water will consist of FOUR RUMP SITES
(Number of wells, pumps or dams, etc.)
and (was)(will be) completed (by) FALL 2019
(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 FALL 2019
(Mo/Day/Year)

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Acting Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

File Number 50213
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.)

FEB 22 2019 12:15
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): JIM CLARY
Address: 5672 SOUTH ROBB ST
City: LITTLETON State: CO Zip Code 80127
Telephone Number: (303) 947-9797

2. The source of water is: [X] surface water in BIG SUGAR CREEK (stream)
OR [] groundwater in SUGAR CREEK BASIN (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 254 acre-feet OR gallons per calendar year,
to be diverted at a maximum rate of 6,000 gallons per minute OR cubic feet per second.

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

4. The water is intended to be appropriated for (Check use intended):
(a) [] Artificial Recharge (b) [] Irrigation (c) [X] 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 [X] Meets K.A.R. 5-3-1 (YES / NO) Use REC Source G/S County LN By DW Date 2/25/19
Code REC 152 Fee \$ 300 TR # Receipt Date 2/22/19 Check # 1713

2/25/2019 UH

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 _____

Project to be reviewed by DWR Structures Program for permitting.

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

WATER RESOURCES
RECEIVED

FEB 22 2019

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 _____ (month) (year)



(Applicant Signature)

By _____
(Agent or Officer Signature)

(Agent or Officer - Please Print)

**RECREATIONAL USE
SUPPLEMENTAL SHEET**

File No. 50213

Name of Applicant (Please Print): JIM CLARY

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

2. Please summarize how the water will be used and justify the quantity of water requested: _____
Total Acres of Wetland 63.5 acres. Initial filling at 2-foot depth = 127 Acre-Feet
Second Filling to maintain water level = 127 Acre-feet, for a total of 254 Acre-feet

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	254 AF
Year 2	
Year 3	
Year 4	
Year 5	254 AF

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

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

Wildlife Marshes Located in the Southwest Quarter of Section 2, in Township 21 South, Range 24 East, Linn County, Kansas.

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

WATER RESOURCES
RECEIVED

FEB 22 2019

#50,213

Schemm, Doug [KDA]

From: Tietsort, Katie [KDA]
Sent: Thursday, May 16, 2019 2:48 PM
To: Schemm, Doug [KDA]
Subject: RE: 50213 Clary marsh

Doug,

Thanks for working with NRCS to get this one all set. Appreciate your coordination efforts with the NRCS and in putting the new permit condition in place.

Have a great day, Katie

Katie Tietsort

Kansas Department of Agriculture
6531 SE Forbes Ave Ste B
Topeka, KS 66619
katie.tietsort@ks.gov
Phone 785-296-5733

From: Schemm, Doug [KDA]
Sent: Thursday, May 16, 2019 12:11 PM
To: Tietsort, Katie [KDA] <Katie.Tietsort@ks.gov>
Subject: 50213 Clary marsh

I got the go ahead from Lynn on this one. Two of the pump sites have to be taken off the permit.

From: Thurlow, Lynn - NRCS, Salina, KS [<mailto:lynn.thurlow@usda.gov>]
Sent: Thursday, May 16, 2019 10:03 AM
To: Schemm, Doug [KDA] <Doug.Schemm@ks.gov>; jclary@q.com
Cc: Masenthin, Roger - NRCS, Salina, KS <roger.masenthin@usda.gov>; Anderson, Brittany - NRCS, Burlington, KS <brittany.anderson2@usda.gov>; Thurlow, Lynn - NRCS, Salina, KS <lynn.thurlow@usda.gov>
Subject: RE: NRCS WRP easement

EXTERNAL: This email originated from outside of the organization. Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Hi Doug; NRCS State Office has received the CUA request for water level management which may include a temporary pumping site in order to add water to a wetland. It will be approved in the next few days. As I reviewed the request and the new application map you had previously provided to NRCS, there is only one site that NRCS would allow on the easement area. The attachment is a scan of the original application map and I have noted which sites are not approved on the WRP easement. There are still two sites, one possibly being along the eastern edge of the WRP easement. In your approval process ~~please remove the two points of diversion that I "X" out. Thanks.~~

Lynn Thurlow
Soil Conservationist
Natural Resources Conservation Service

760 South Broadway
Salina, Kansas 67401
785-823-4548

From: Schemm, Doug [KDA] <Doug.Schemm@ks.gov>
Sent: Tuesday, April 9, 2019 11:20 AM
To: jclary@q.com
Cc: Thurlow, Lynn - NRCS, Salina, KS <Lynn.Thurlow@ks.usda.gov>; Masenthin, Roger - NRCS, Salina, KS <roger.masenthin@ks.usda.gov>
Subject: NRCS WRP easement

Hello Jim,

Thanks for speaking with me this morning. As we discussed, and as noted below in Lynn's e-mail, a portion of your proposed marsh area is located within a WRP easement. I have attached a cover letter to explain that you must get approval of a Compatible Use Agreement (CUA), before we can approve our appropriation permit. I have also attached a site map of your project.

Finally, these types of projects typically require a corresponding structures permit for any floodplain fill, or construction of berms. You have stated that none of this construction is proposed at this site. If you change your plans, then structures permitting may be required.

Have a great day,

Doug

Hi Doug; See attached. The area shaded in purple is in a permanent WRP easement. The red lines are section lines. I checked our easement files for the easement in the SW1/4 and the ownership is in another person. However, NRCS State Office doesn't get immediate notification when the WRP easement properties change hands. My guess is a change is in the works. If per chance the application is for the easement area shown on the map, I would ask that you send the application request back and tell the landowner that they will need to contact NRCS. If you have any further questions let me know. I appreciate you taking the time to send these to us to check if application affects a WRP easement.

Lynn Thurlow
Soil Conservationist
Natural Resources Conservation Service
760 South Broadway
Salina, Kansas 67401
785-823-4548

This electronic message contains information generated by the USDA solely for the intended recipients. Any unauthorized interception of this message or the use or disclosure of the information it contains may violate the law and subject the violator to civil or criminal penalties. If you believe you have received this message in error, please notify the sender and delete the email immediately.

50213 00

AMOUNT STATISTICS REPORT FOR POINTS OF DIVERSION UNDER A

#####

AMOUNT STATISTICS REPORT FOR POINTS OF DIVERSION UNDER A 50213 00 REC

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

1580 Feet North and 4103 Feet West of the Southeast Corner of Section 2 T 21S R 24E

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__ 26866 00 REC NK S      3702 -- SW SE NE 3250 800 2 21 24E 1      .00      .00 AF
A__ 39864 00 REC NK S      7390 -- SW NW SE 1509 2012 1 21 24E 2      93.00    93.00 AF
A__ 40715 00 REC NK S      6882 -- -- -- -- 5300 3600 1 21 24E 3     156.00   156.00 AF
A__ 40885 00 REC NK S      8037 -- NE SW NE 3749 1658 1 21 24E 6     166.00   166.00 AF
A__ 41012 00 REC NK S      8037 -- NE SW NE 3749 1658 1 21 24E 6     90.00    90.00 AF
A__ 46843 00 REC NK S      9406 -- SW SE SE 76 884 35 20 24E 2      .00      .00 AF
A__ 50084 00 REC GY S      4884 -- NE SE NW 3939 3073 3 21 24E 1      8.00     8.00 AF
A__ 50122 00 REC AY S      6601 -- NW SW NW 3430 5128 3 21 24E 3     120.00   120.00 AF
A__ 50213 00 REC AY S        0 -- SE NW SW 1580 4103 2 21 24E 4     254.00   254.00 AF
Same                846 -- SW NW SW 1342 4915 2 21 24E 5
Same                1314 -- NW NW SW 2191 5266 2 21 24E 6
Same                338 -- SE NW SW 1780 4376 2 21 24E 7
=====

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(Senior pending)

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=====
Total Net Quantities Authorized:   Direct           Storage
Total Requested Amount (AF) =      374.00           .00
Total Permitted Amount (AF) =         8.00           .00
Total Inspected Amount (AF) =         .00           .00
Total Pro_Cert Amount (AF) =         .00           .00
Total Certified Amount (AF) =      505.00          439.00
Total Vested Amount (AF) =         .00           .00
TOTAL AMOUNT (AF) =      887.00          439.00
=====

```

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:

1580 Feet North and 4103 Feet West of the Southeast Corner of Section 2 T 21S R 24E

SURFACE WATER ONLY

WATER USE CORRESPONDENTS:

=====

```

File Number   Use ST SR
A__ 26866 00 REC NK S
> KANSAS DEPT OF WILDLIFE PARKS & TOURISM
> STAGE LEVELS ONLY (TOP)
> 1020 S KANSAS AVE FL 2
> TOPEKA KS 66612
>-----
A__ 39864 00 REC NK S
> SUGAR CREEK HUNTING CLUB LLC
> MARK A SWICKARD
> 20885 S WALMER
> BUCYRUS KS 66013
>-----

```

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 13, 2019

BRIAN DANIELSON
1814 MANCHESTER AVE
EDMOND OK 73034

Re: Pending Application, File No. 50,213

Dear Sir or Madam:

This is to advise you that Jim Clary has filed the application referred to above for a permit to appropriate 254 acre-feet of surface water per calendar year from Big Sugar Creek for recreational use, to be diverted at a maximum rate of 6,000 gallons per minute. Please note that the purpose of this application, if approved, would be to divert surface water to supplement recreational use at a wildlife marsh. This direct diversion of surface water would be subject to specific permit conditions including requesting permission prior to diverting and not stopping flow at the first riffle below the point of diversion.

Surface water will be diverted from four (4) pump sites located in the Northwest Quarter of the Southwest Quarter (NW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 2, in Township 21 South, Range 24 East, Linn 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 points 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 "Doug Schemm".

Douglas W. Schemm
Environmental Scientist
Topeka Field Office

pc: Jim Clary



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 13, 2019

MICHAEL WAYNE HUDSON TRUST
UMB BANK TRUSTEE TRUST REAL ESTATE
1010 GRAND BLVD
KANSAS CITY MO 64106

Re: Pending Application, File No. 50,213

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Sincerely,


Douglas W. Schemm
Environmental Scientist
Topeka Field Office

pc: Jim Clary

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 13, 2019

GRAY FAMILY HOLDINGS LLC
FRANKLIN GRAY
1310 VIEW ST
MORRILTON AR 72110-3700

Re: Pending Application, File No. 50,213

Dear Sir or Madam:

This is to advise you that Jim Clary has filed the application referred to above for a permit to appropriate 254 acre-feet of surface water per calendar year from Big Sugar Creek for recreational use, to be diverted at a maximum rate of 6,000 gallons per minute. Please note that the purpose of this application, if approved, would be to divert surface water to supplement recreational use at a wildlife marsh. This direct diversion of surface water would be subject to specific permit conditions including requesting permission prior to diverting and not stopping flow at the first riffle below the point of diversion.

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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 that reads "Doug Schemm".

Douglas W. Schemm
Environmental Scientist
Topeka Field Office

pc: Jim Clary

2-19-19

(Date)

Kansas Department of Agriculture
Division of Water Resources
David W. Barfield, Chief Engineer
1320 Research Park Drive
Manhattan, Kansas 66502

Re: Application
File No. 50213

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.

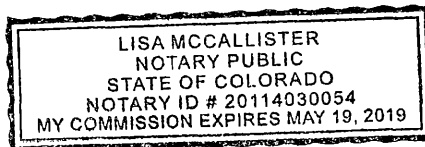
State of Colorado)
~~Kansas~~)
County of Jefferson) ss
LINA)

James A. Clark
Signature of Applicant
James A. Clark
(Print Applicant's Name)

I hereby certify that the foregoing instrument was signed in my presence and sworn to before me this 19 day of February, 2019.

Lisa McCallister
Notary Public

My Commission Expires: 5-19-19



WATER RESOURCES
RECEIVED

FEB 22 2019

**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

50213

NEARBY LANDOWNERS

DOWNSTREAM

Owner Information

Owner : HUDSON MICHAEL WAYNE SHARE TRUST UMB BANK TRUSTEE

Mailing Address : Attn: TRUST REAL ESTATE, 1010 GRAND BLVD,
KANSAS CITY, MO 64106

UPSTREAM

Owner : DANIELSON BRIAN

Mailing Address : 1814 MANCHASTER AVE
EDMOND, OK 73034

Owner : GRAY FAMILY HOLDINGS LLC & GRAY FRANKLIN JOHN JR & *

Mailing Address : 1310 VIEW ST,
MORRILTON, AR 72110-3700

WATER RESOURCES
RECEIVED

FEB 22 2019

KS DEPT OF AGRICULTURE

SCANNED

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, Interim Secretary

Laura Kelly, Governor

February 25, 2019

JIM CLARY
5672 S ROBB ST
LITTLETON, CO 80127

RE: Application, File No. **50213**

Dear Sir or Madam:

The Division of Water Resources (Division) has received your application for a permit to appropriate water for beneficial use. Your application has been assigned the file number referenced above. Please be aware that the Division may have a large number of pending applications on hand at times and makes every attempt to process them in the order in which they are received. You will be contacted if additional information is required.

Please note, this letter only acknowledges receipt of your application and does not guarantee approval. In accordance with the provisions of the Kansas Water Appropriation Act, the use of water as proposed prior to approval of the application is unlawful.

Additional information about the process may be found on our website at agriculture.ks.gov/divisions-programs/dwr. If you have any other questions, please contact our office at 785-564-6640 or your local Topeka Field Office at 785-296-5733. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

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

Kristen A. Baum
New Applications Unit Supervisor
Water Appropriation Program

SCANNED

JIM CLARY
New Application

50213

1:12,000



Proposed Points of Diversion
4 Pump Sites
1580' N & 4103' W
1780' N & 4376' W
1342' N & 4915' W
2191' N & 5266' W

Southeast Corner of Section 2
Township 21 South
Range 24 East



● Proposed Point of Diversion

▨ Proposed Place of Use

WATER RESOURCES RECEIVED
All upstream and downstream landowners adjacent to the stream within 1/2 mile of property lines have been identified.

FEB 22 2019

James Clary

SCANNED

30 +/- acres

10 +/- acres

10 +/- acres

Possible location for WRP marsh/pond

Big Sugar Creek

Little Sugar Creek

KEY

Property Boundary: ———

Area(s) to be pumped and flooded: - - - - -

Pump locations:

FEB 22 2013

PROJECT: WRP MARSH/POUND

1580' N 4103' W SE NW SW

1780' N & 4376' W SE NW SW

1342' N & 4915' W SW NW SW

2191' N & 5266' W ~~NW~~ NW NW SW

SW $\frac{1}{4}$ 2-215-24E

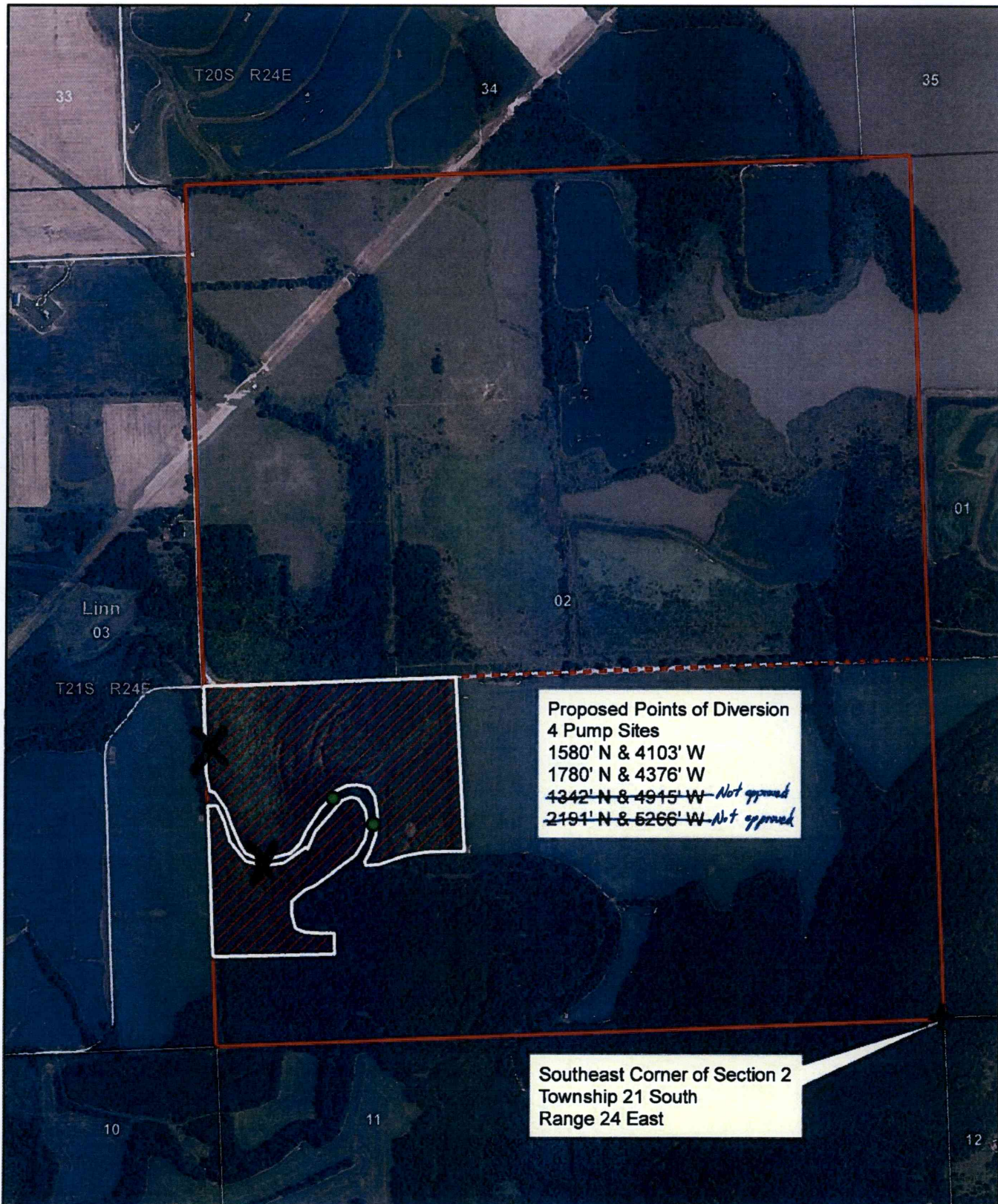
~~67~~ acres
63.5

50,213

JIM CLARY New Application

Pump Sites Removed
per NRCS

1:12,000



Proposed Points of Diversion
 4 Pump Sites
 1580' N & 4103' W
 1780' N & 4376' W
~~4342' N & 4915' W - Not approved~~
~~2191' N & 5266' W - Not approved~~

Southeast Corner of Section 2
 Township 21 South
 Range 24 East



- Proposed Point of Diversion
- //// Proposed Place of Use

All upstream and downstream landowners adjacent to the stream within 1/2 mile of property lines have been identified.

50, 213



34-20-24

35-20-24

3-21-24

2-21-24

1-21-24

Wetlands Reserve Program
66-6215-5-00007
Permanent Base
49.3 Ac.

10-21-24

11-21-24

12-21-24

#50213

JIM CLARY New Application

1:12,000



Proposed Points of Diversion
 4 Pump Sites
 1580' N & 4103' W
 1780' N & 4376' W
~~1342' N & 4915' W *~~
~~2191' N & 5266' W *~~

Southeast Corner of Section 2
 Township 21 South
 Range 24 East

● Proposed Point of Diversion

▨ Proposed Place of Use

All upstream and downstream landowners adjacent to the stream within 1/2 mile of property lines have been identified.

* Removed 2 pump sites per NRCS Request.
 DWS/DWR 5/16/19