

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

1. File Number: 50,223 A	2. Status Change Date: 5/30/2019	3. Field Office: 01	4. GMD: 0
5. Status: <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied by DWR/GMD <input type="checkbox"/> Dismiss by Request/Failure to Return			
6. Enclosures: <input checked="" type="checkbox"/> Check Valve <input checked="" type="checkbox"/> N of C Form <input type="checkbox"/> Water Tube <input type="checkbox"/> Driller Copy <input checked="" type="checkbox"/> Meter			
<p>7a. Applicant(s) New to system <input type="checkbox"/></p> <p style="text-align: right;">Person ID 66493 Add Seq# _____</p> <p>EPIC LANDSCAPE PRODUCTIONS LLC 23933 W 175 ST GARDNER KS 66030</p>	<p>7c. Landowner(s) New to system <input type="checkbox"/></p> <p style="text-align: right;">Person ID _____ Add Seq# _____</p>		
<p>7b. Landowner(s) New to system <input type="checkbox"/></p> <p style="text-align: right;">Person ID _____ Add Seq# _____</p> <p>7a.</p>	<p>7d. Misc. New to system <input type="checkbox"/></p> <p style="text-align: right;">Person ID _____ Add Seq# _____</p>		
<p>8. WUR Correspondent New to system <input type="checkbox"/> Overlap File (s) WUC Agree <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p style="text-align: right;">Person ID _____ Add Seq# _____ Notarized WUC Form <input type="checkbox"/></p> <p>7a.</p>	<p>9. Use of Water: Changing? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p style="text-align: right;"><input type="checkbox"/> Groundwater <input checked="" type="checkbox"/> Surface Water</p> <p><input checked="" type="checkbox"/> IRR <input type="checkbox"/> REC <input type="checkbox"/> DEW <input type="checkbox"/> MUN</p> <p><input type="checkbox"/> STK <input type="checkbox"/> SED <input type="checkbox"/> DOM <input type="checkbox"/> CON</p> <p><input type="checkbox"/> HYD DRG <input type="checkbox"/> WTR PWR <input type="checkbox"/> ART RECHRG</p> <p><input checked="" type="checkbox"/> IND SIC: 0181 <input type="checkbox"/> OTHER: _____</p>		
10. Completion Date: 12/31/2020 11. Perfection Date: 12/31/2024 12. Exp Date: _____			
13. Conservation Plan Required? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Date Required: _____ Date Approved: _____ Date to Comply: _____			
14. Water Level Measuring Device? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Date to Comply: _____ Date WLMD Installed: _____			
<p>Date Prepared: 4/23/2019 By: DWS Date Entered: 6/4/2019 By: CM</p>			

File No. **50,223 A** 15. Formation Code: Drainage Basin: Marais des Cygnes County: JO Special Use: Stream: **LITTLE BULL CREEK**
TRIBUTARY (MARAIS DES CYGNES)

16. Points of Diversion										17. Rate and Quantity				
T MOD DEL ENT	PDIV	Qualifier	S	T	R	ID	'N	'W		Authorized Rate gpm	Quantity af	Additional Rate gpm	Quantity af	Overlap PD Files
√		87392 NW SE NW	28	14	23E	2	3561	3813		1000	78	1000	78	NONE

18. Storage: Rate **NF** Quantity **103.3** ac/ft Additional Rate **NF** Additional Quantity **103.3** 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
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	NE ¼	NW ¼	SW ¼	SE ¼								
√	69187	28	14S	23E	1					39				39								78	7a.	No	NONE*				

greenhouses / nursery E2 NW4

Comments
***Term Permit, 20189073 was dismissed.**

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

TO: Files

DATE: April 23, 2019

FROM: Doug Schemm

RE: Application, File No. 50,223 A

Epic Landscape Productions, LP Inc. has filed the application referred to above for a permit to appropriate 103.3 acre-feet of surface water at the rate of natural flows to be stored in an existing reservoir located in the Northwest Quarter of Section 28, in Township 14 South, Range 23 East, Johnson County, Kansas. The dam is located on Little Bull Creek Trib 1, within the Marais des Cygnes River basin. The point of diversion is located on property owned by the applicant, and the application has been signed by a representative of the applicant stating they have legal access to the point of diversion. The place of use is totally owned by the applicant, and it comprises a total of 78 acres.

Note that the applicant submitted Term Permit, File No. 20189073 for this irrigation project. However, it was determined that this use of water is a permanent need and should be under a regular appropriation permit. Therefore, the applicant has submitted this new application.

Runoff computations show that the 98-acre drainage area will yield 163 acre-feet (20") of runoff, which is more than 103.3 acre-feet of storage quantity requested, in 1 out of every five (5) years (a 20% chance). The application can be processed with the requested quantity for storage and rediversion. The storage quantity was based on the capacity of the reservoir (24 AF) + evaporation (1.3 AF) + one year of direct use (78 AF), which equals 103.3 acre-feet. The requested quantity of water for direct use (rediversion) of 78 acre-feet under the pending application applied to 78 acres is equivalent to the maximum allowable per acre in Johnson County, Kansas of 1.0 AF/acre, per K.A.R. 5-3-24. Note that this quantity is for normal row crop, while landscaping/nursery operations can use more depending on their irrigation use. The applicant noted on their term permit application that they watered field grown trees, trees in the holding yard, and container plants. Even though these are not normal row crops, the quantity of water is reasonable for the proposed irrigation project.

The total direct use quantity of 78 acre-feet, is equivalent to 3.3 times the capacity of the reservoir (24 AF), which is within the normal "rule of thumb" of direct use quantity being no more than 5 times capacity for reasonable storage quantity.

The applicant identified one upstream and one downstream landowner within one-half (½) mile of the property lines. Nearby landowner letters were sent out on April 4, 2019. The downstream landowner called and asked general questions about the application. She wanted to make sure the reservoir was not going to be on her property. She does water horses from the stream at times, however it tends to dry up in the summer. No specific impairment concerns were identified. There is only one other surface water right within a two-mile radius circle according to the WRIS database (File No. 28,086), which authorizes three pump sites directly on Little Bull Creek. The proposed reservoir represents only a very small portion of the drainage into Little Bull Creek, and would not impair this senior water right.

The proposed dam was reviewed by DWR Water Structures Program staff, and it was determined to be non-jurisdictional for structures permitting. As allowed by K.S.A. 82a-706(c) an approved water flow meter shall be installed on the secondary diversion works (pump site) for this file. If any chemical or foreign substance is injected into the water pumped under this permit, a check valve will also need to be installed. Since this is an existing reservoir currently storing water, no Special Condition on the Permit will be needed to provide an initial fill quantity.

In an April 23, 2019 discussion, Katie Tietsort, Water Commissioner, Topeka Field Office, stated that the referenced new application should be approved. Based on the above discussion, that this area is open to new appropriations, the proposed appropriation of water is reasonable and justified, the dam is non-jurisdictional for DWR Water Structures Permitting, and senior rights will not be impacted, it is recommended that the referenced new application be approved.

Doug Schemm
Environmental Scientist
Topeka Field Office

After discussions w/TFO, we decided this should be permitted as IND use instead of IRR use ("production + storage of products, providing commercial services") 5-20-19 KAB/DWR

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 7, 2019 **FILE COPY**

EPIC LANDSCAPE PRODUCTIONS LLC
23933 W 175 ST
GARDNER KS 66030

RE: Appropriation of Water, File No. 50,223 A

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 acceptable water flowmeter must be installed on the re-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

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. 50,223-A of the applicant

EPIC LANDSCAPE PRODUCTIONS LLC
23933 W 175 ST
GARDNER KS 66030

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 **March 20, 2019**.
2. That the water sought to be appropriated shall be used for industrial use in the East Half of the Northwest Quarter (E $\frac{1}{2}$ NW $\frac{1}{4}$) of Section 28, 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 Little Bull Creek, designated in the office of the Chief Engineer as Little Bull Creek Trib 4A (Marais des Cygnes), not needed to satisfy all vested rights and prior appropriation rights to be incrementally accumulated as reservoir storage space becomes available to a maximum extent of **103.3 acre-feet** per calendar year in one (1) reservoir created by a dam located in the Northwest Quarter of the Southeast Quarter of the Northwest Quarter (NW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 28, more particularly described as being near a point 3,561 feet North and 3,813 feet West of the Southeast corner of said section, in Township 14 South, Range 23 East, Johnson County, Kansas, to provide **78 acre-feet** of water as needed for direct industrial use to be withdrawn, released or otherwise diverted from the reservoir at a re-diversion rate of approximately **1,000 gallons per minute (2.23 c.f.s.)**. A reasonable maximum re-diversion rate will be established during the perfection period and assigned at certification.
4. That installation of works for diversion of water shall be completed on or before **December 31, 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 submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee, which is currently \$100.00.

5. That the proposed appropriation shall be perfected by the actual application of water to the proposed beneficial use on or before **December 31, 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.
6. That the applicant shall not be deemed to have acquired a water appropriation for a quantity in excess of the amount approved herein nor in excess of the amount found by the Chief Engineer to have been actually used for the approved purpose during one calendar year subsequent to approval of the application and within the time specified for perfection or any authorized extension thereof.
7. That the use of water herein authorized shall not be made so as to impair any use under existing water rights nor prejudicially and unreasonably affect the public interest.
8. That the right of the appropriator shall relate to a specific quantity of water and such right must allow for a reasonable raising or lowering of the static water level and for the reasonable increase or decrease of the streamflow at the appropriator's point of diversion.
9. That this permit does not constitute authority under K.S.A. 82a-301 through 305a to construct any dam or other obstruction; nor does it grant any right-of-way, or authorize entry upon or injury to, public or private property.
10. That all re-diversion works constructed under the authority of this permit into which any type of chemical or other foreign substance will be injected into the water pumped from the re-diversion works shall be equipped with an in-line, automatic quick-closing, check valve capable of preventing pollution of the source of the water supply. The type of valve installed shall meet specifications adopted by the Chief Engineer and shall be maintained in an operating condition satisfactory to the Chief Engineer.
11. That an acceptable water flow meter shall be installed and maintained on the re-diversion works authorized by this permit in accordance with the Kansas Administrative Regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer. This water flow meter shall be used to provide an accurate quantity of water diverted as required for the annual water use report (including the meter reading at the beginning and end of the report year).
12. That the applicant shall maintain accurate and complete records from which the quantity of water diverted during each calendar year may be readily determined and the applicant shall file an annual water use report with the Chief Engineer by March 1 following the end of each calendar year. Failure to file the annual water use report by the due date shall cause the applicant to be subject to a civil penalty.
13. That no water user shall engage in nor allow the waste of any water diverted under the authority of this permit.
14. That failure without cause to comply with provisions of the permit and its terms, conditions and limitations will result in the forfeiture of the priority date, revocation of the permit and dismissal of the application.
15. That the right to appropriate water under authority of this permit is subject to any minimum desirable streamflow requirements identified and established pursuant to K.S.A. 82a-703c for the source of supply to which this water right applies.

RIGHT TO A HEARING AND TO ADMINISTRATIVE REVIEW

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

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

Failure to request an evidentiary hearing before the Chief Engineer does not preclude your right to administrative review by the Secretary. To obtain an evidentiary hearing before the Chief Engineer, a written request for hearing must be filed within 15 days after service of this Order as provided in K.S.A. 77-531 (i.e., **within a total of 18 days after this Order was mailed to you**), with: Kansas Department of Agriculture, Attn: Legal Section, 1320 Research Park Drive, Manhattan, Kansas 66502, FAX (785) 564-6777.

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

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

Ordered this 30th 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)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 30th day of May, 2019, by Lane P. Letourneau, P.G., Program Manager, Division of Water Resources, Kansas Department of Agriculture.



Danielle Wilson
Notary Public

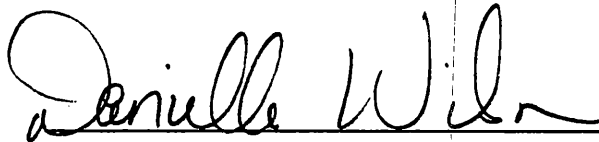
CERTIFICATE OF SERVICE

On this 7th day of June, 2019, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,223-A, dated May 30th, 2019 was mailed postage prepaid, first class, US mail to the following:

EPIC LANDSCAPE PRODUCTIONS LLC
23933 W 175 ST
GARDNER KS 66030

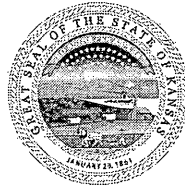
With photocopies to:

Topeka Field Office



Division of Water Resources

THE STATE OF KANSAS



MAR 20 2019

1058

KS DEPT OF AGRICULTURE

KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Acting Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

5-20-19

APPLICATION COMPLETE

4-23-19

Reviewer KAS

File Number 50223-A

This item to be completed by the 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): EPIC LANDSCAPE PRODUCTIONS, LC
Address: 23933 W 175 STREET
City: GARDNER State: KS Zip Code 66030
Telephone Number: (913) 897-3858

2. The source of water is: [X] surface water in Tributary to Little Bull Creek Trib 4A (stream)
OR [] groundwater in Marais Des Cygnes (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. REDIVERSION OF 78 AF @ 1,000 GPM

3. The maximum quantity of water desired is 103.3 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) [X] Irrigation (c) [] Recreational (d) [] Water Power
(e) [X] 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.

IND use as per discussion with TFO 5-20-19

For Office Use Only:
F.O. 1 GMD [X] Meets K.A.R. 5-3-1 (YES / NO) Use 12R Source G(S) County 10 By DAW Date 3/20/19
Code REG Fee \$ 200 * TR # Receipt Date 3/22/19 Check # Adjustment from TRR

DWR 1-100 (Revised 02/16/2011) *Filing Fee to be paid by Applying Filing Fee From Term Permit #20189073. DWS/DWR 2/27/19 3/25/2019 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 NW quarter of the SE quarter of the NW quarter of Section 28, more particularly described as being near a point 3561 feet North and 3813 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):

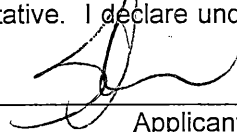
EPIC NURSERY PROPERTIES, LLC, 23933 W. 175 ST, GARDNER, KS 66030
(name, address and telephone number)

(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 March 8th, 2019.



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 SUMMER 2019.
(Mo/Day/Year)

9. Will pesticide, fertilizer, or other foreign substance be injected into the water pumped from the diversion works?

Yes No If "yes", a check valve shall be required.

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

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

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

• If yes, show the Water Structures permit number here _____

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

To be Reviewed by Structures staff

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. Capacity of Reservoir = 24 acre-feet; Surface Area = 3.2 Acres (3.2 x 5"/12 = 1.3 AF of evaporation)

Direct Use Quantity = 78 acre-feet. 24 AF + 1.3 AF + 78 AF = 103.3 AF of Storage

WATER RESOURCES
RECEIVED

MAR 20 2019

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	1998			
Total depth of well	16'			
Depth to water bearing formation				
Depth to static water level				
Depth to bottom of pump intake pipe	6'			

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)

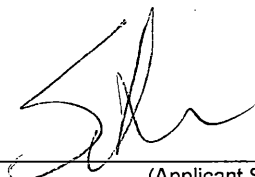
15. The owner(s) of the property where the water is used, if other than the applicant, is (please print):

EPIC NURSERY PROPERTIES, LLC, 23933 W. 175 ST, GARDNER, KS 66030
(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 Gardner, Kansas, this 3 day of March, 2019.
(month) (year)



(Applicant Signature)

By _____
(Agent or Officer Signature)

(Agent or Officer - Please Print)

**IRRIGATION USE
SUPPLEMENTAL SHEET**

File No. 50223-A

Name of Applicant (Please Print): EPIC LANDSCAPE PRODUCTIONS, LC

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

Landowner of Record NAME: EPIC LANDSCAPE PRODUCTIONS, LC
ADDRESS: 23933 W 175 STREET, GARDNER, KS 66030

S	T	R	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
28	14	23E					39			39									78

Landowner of Record NAME: _____
ADDRESS: _____

S	T	R	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

Landowner of Record NAME: _____
ADDRESS: _____

S	T	R	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

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

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

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

b. Estimate the average land slope in the field(s): 1 %

Estimate the maximum land slope in the field(s): 2 %

c. Type of irrigation system you propose to use (check one):

Center pivot Center pivot - LEPA "Big gun" sprinkler

Gravity system (furrows) Gravity system (borders) Sideroll sprinkler

Other, please describe: Drip For Fruit Trees and Holding area Trees.

d. System design features: Lawn mist Heads For Shade Houses

i. Describe how you will control tailwater:

The outflow of panel drains into a swale that feeds a detention pond. The detention pond drains to the southeast. The 2nd pond is existing from previous owners.

ii. For sprinkler systems:

(1) Estimate the operating pressure at the distribution system: 75 psi

(2) What is the sprinkler package design rate? 600 gpm

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

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

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

Trees and Container plants

f. Please describe how you will determine when to irrigate and how much water to apply (particularly important if you do not plan a full irrigation).

Tree growing - as needed during hot/dry conditions, or during bare root plantings. Containers/potted plants: once in morning and once in afternoon.

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

Baum, Kristen [KDA]

From: Tietsort, Katie [KDA]
Sent: Monday, May 20, 2019 8:33 AM
To: Baum, Kristen [KDA]
Subject: IND vs IRR

Doug agreed these probably all should be IND.

Katie Tietsort

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

AMOUNT STATISTICS REPORT FOR POINTS OF DIVERSION UNDER A

50223 A

#####

AMOUNT STATISTICS REPORT FOR POINTS OF DIVERSION UNDER A

50223 A IRR

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

3561 Feet North and 3813 Feet West of the Southeast Corner of Section 28 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__ 28086 00 IRR NK S      8982 -- NE NW SW 2350 4750 32 14 23E 1      16.00    16.00 AF
Same
      8956 -- SE NW SW 1950 4250 32 14 23E 2
Same
      9472 -- SE NW SW 1450 4450 32 14 23E 3
A__ 50223 A IRR AY S        0 -- NW SE NW 3561 3813 28 14 23E 2      78.00    78.00 AF
T__20189073 00 IRR AY S    1513 -- -- -- NW 2655 2601 28 14 23E 1      2.24     2.24 AF
=====

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=====
Total Net Quantities Authorized:   Direct      Storage
Total Requested Amount (AF) =      80.24      103.30
Total Permitted Amount (AF) =         .00         .00
Total Inspected Amount (AF) =         .00         .00
Total Pro_Cert Amount (AF) =         .00         .00
Total Certified Amount (AF) =      16.00         .00
Total Vested Amount (AF) =          .00         .00
TOTAL AMOUNT (AF) =      96.24      103.30
=====

```

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:

3561 Feet North and 3813 Feet West of the Southeast Corner of Section 28 T 14S R 23E

SURFACE WATER ONLY

WATER USE CORRESPONDENTS:

```

=====
File Number   Use ST SR
A__ 28086 00 IRR NK S
> KENNETH KEARNEY
>
> 21040 CEDAR NILES RD
> SPRING HILL KS 66083
>-----
A__ 50223 A IRR AY S
> EPIC LANDSCAPE PRODUCTIONS LLC
>
> 23933 W 175 ST
> GARDNER KS 66030
>-----
T__20189073 00 IRR AY S
> EPIC LANDSCAPE PRODUCTIONS LLC
>
> 23933 W 175 ST
> GARDNER KS 66030
>-----
=====

```

#####

(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. 50223-A

Minimum Desirable Streamflow

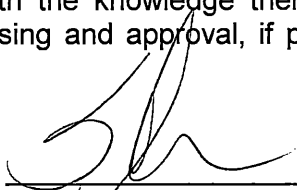
Dear Sir:

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.



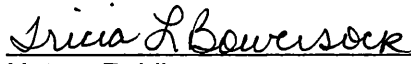
Signature of Applicant

State of Kansas)
County of Johnson) ss

Steve Nelson

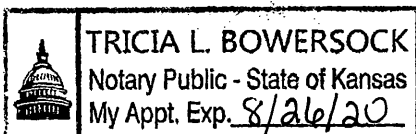
(Print Applicant's Name)

I hereby certify that the foregoing instrument was signed in my presence and sworn to before me this 8 day of March, 2019.



Notary Public

My Commission Expires:



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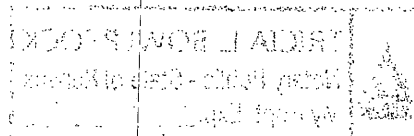
MAR 20 2019

**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



50223-A



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

February 27, 2019

EPIC LANDSCAPE PRODUCTIONS LLC
23933 W 175 ST
GARDNER KS 66030

RE: New Application for Appropriation of Water

Dear Sir or Madam:

Enclosed is an application form related to completing a new application for permit to appropriate water for beneficial use. Please review the "Application For Permit To Appropriate Water For Beneficial Use" form, and make any modifications you wish. **You must sign the application at Paragraph Nos. 6 and 16.** In addition, please **sign the site map** where indicated, and **sign and have notarized** the Minimum Desirable Streamflow form.

Note that this regular application will replace the Term Permit, File No. 20189073, which you previously submitted. The filing fee for this term permit will be applied to this new application.

Please submit the completed application to the **Kansas Department of Agriculture, Division of Water Resources, 1320 Research Park Drive, Manhattan, KS 66502.**

You may contact the Topeka Field Office at (785) 296-5733, or myself at (785) 296-3495, for any additional assistance in completing these application forms.

Sincerely,

Douglas Schemm
Environmental Scientist
Topeka Field Office

Enclosures

WATER RESOURCES
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MAR 20 2019
KS DEPT OF AGRICULTURE
SCANNED

50223-A

NEARBY LANDOWNERS

UPSTREAM

SJC LLC
5946 COUNTY LINE RD
KANSAS CITY KS 66061

DOWNSTREAM

WALTER G CRUZ
17845 CLEIRE RD
GARDNER KS 66030

WATER RESOURCES
RECEIVED

MAR 20 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

March 25, 2019

EPIC LANDSCAPE PRODUCTIONS, LC
23933 W 175 ST
GARDNER, KS 66030

RE: Application, File No. **50223-A**

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 cursive script that reads "Kristen A. Baum".

Kristen A. Baum
New Applications Unit Supervisor
Water Appropriation Program

SCANNED

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

April 4, 2019

SJC LLC
5946 COUNTY LINE RD
KANSAS CITY KS 66061

Re: Pending Application, File No. 50,223 A

Dear Sir or Madam:

This is to advise you that Epic Landscape Productions LC has filed the application referred to above for a permit to appropriate 103.3 acre-feet of surface water per calendar year to be stored in an existing reservoir, and re-divert 78 acre-feet of the stored water for irrigation use. The proposed point of diversion (where the dam crosses the centerline of the stream) is located in the Northwest Quarter of the Southeast Quarter of the Northwest Quarter (NW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 28, in Township 14 South, Range 23 East, Johnson County, Kansas. The dam would be located on a tributary to Little Bull Creek.

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

You can find the application and site map posted by the file number referenced above under the Topeka Field Office 2019 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: Epic Landscape Productions LC

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

April 4, 2019

WALTER G CRUZ
17845 CLEIRE RD
GARDNER KS 66030

Re: Pending Application, File No. 50,223 A

Dear Sir or Madam:

This is to advise you that Epic Landscape Productions LC has filed the application referred to above for a permit to appropriate 103.3 acre-feet of surface water per calendar year to be stored in an existing reservoir, and re-divert 78 acre-feet of the stored water for irrigation use. The proposed point of diversion (where the dam crosses the centerline of the stream) is located in the Northwest Quarter of the Southeast Quarter of the Northwest Quarter (NW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 28, in Township 14 South, Range 23 East, Johnson County, Kansas. The dam would be located on a tributary to Little Bull Creek.

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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 black ink that reads "Doug Schemm".

Douglas W. Schemm
Environmental Scientist
Topeka Field Office

pc: Epic Landscape Productions LC

NEW STREAM WORKSHEET

ES CCP

Date: 4/16/19

File No. 50223-A

Basin Name: Marais Des Cyghes Basin No. _____

Stream Name: Little Bull Creek Trib. 4 (Mar Des Cyg)

Stream location (confluence with parent stream):

Section 32, 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. 3958 (computer assigned - entered by data entry staff)

Date Entered 4/17/2019 By LLM

SCANNED

NEW STREAM WORKSHEET

ES CCP

Date: 4/17/19

File No. 50223-A

Basin Name: Marais Des Cygnes Basin No. _____

Stream Name: Little Bull Creek Trib 4A (Mar Des Cyg)

Stream location (confluence with parent stream):

Section 29, 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. 3959 (computer assigned - entered by data entry staff)

Date Entered 4/17/2019 By LM

SCANNED

Moody, Laura [KDA]

From: Schemm, Doug [KDA]
Sent: Monday, May 20, 2019 7:49 AM
To: Moody, Laura [KDA]
Subject: RE: #50223-A

Good Morning Laura,
Sorry about that, I should have verified the stream name. My fault.
I am certainly on board for whatever Charlotte has named the stream.
Again, sorry about that,
Have a great day,
Doug

From: Moody, Laura [KDA]
Sent: Thursday, May 16, 2019 5:06 PM
To: Schemm, Doug [KDA] <Doug.Schemm@ks.gov>
Subject: #50223-A

Doug:

I am confused. The worksheet and approval doc state that the stream for this file is Little Bull Creek Trib 1 (Marias Des Cygnes); however, the stream worksheets that Charlotte did back on 4/16 to go with this file were for Little Bull Creek Trib 4 & 4A. There is no Trib 1 in WRIS. Do I need to have Charlotte create a Trib 1 or did we accidentally name Trib 1 as Trib 4 or 4A? Thanks for any help you can give me.

Laura L. Moody
Data Management/Environmental Reviews
Kansas Department of Agriculture
Division of Water Resources
(785) 564-6674
Laura.Moody@ks.gov
<http://agriculture.ks.gov/dwr>

Kristen: I need to talk to you about this
file when you have a chance. No rush.

Laura

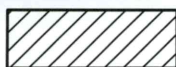
50223-A

EPIC LANDSCAPE PRODUCTIONS, LC
NEW APPLICATION SITE MAP
Sec. 28, T14S, R23E
JOHNSON COUNTY



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

1:12,000



Proposed Place of Use



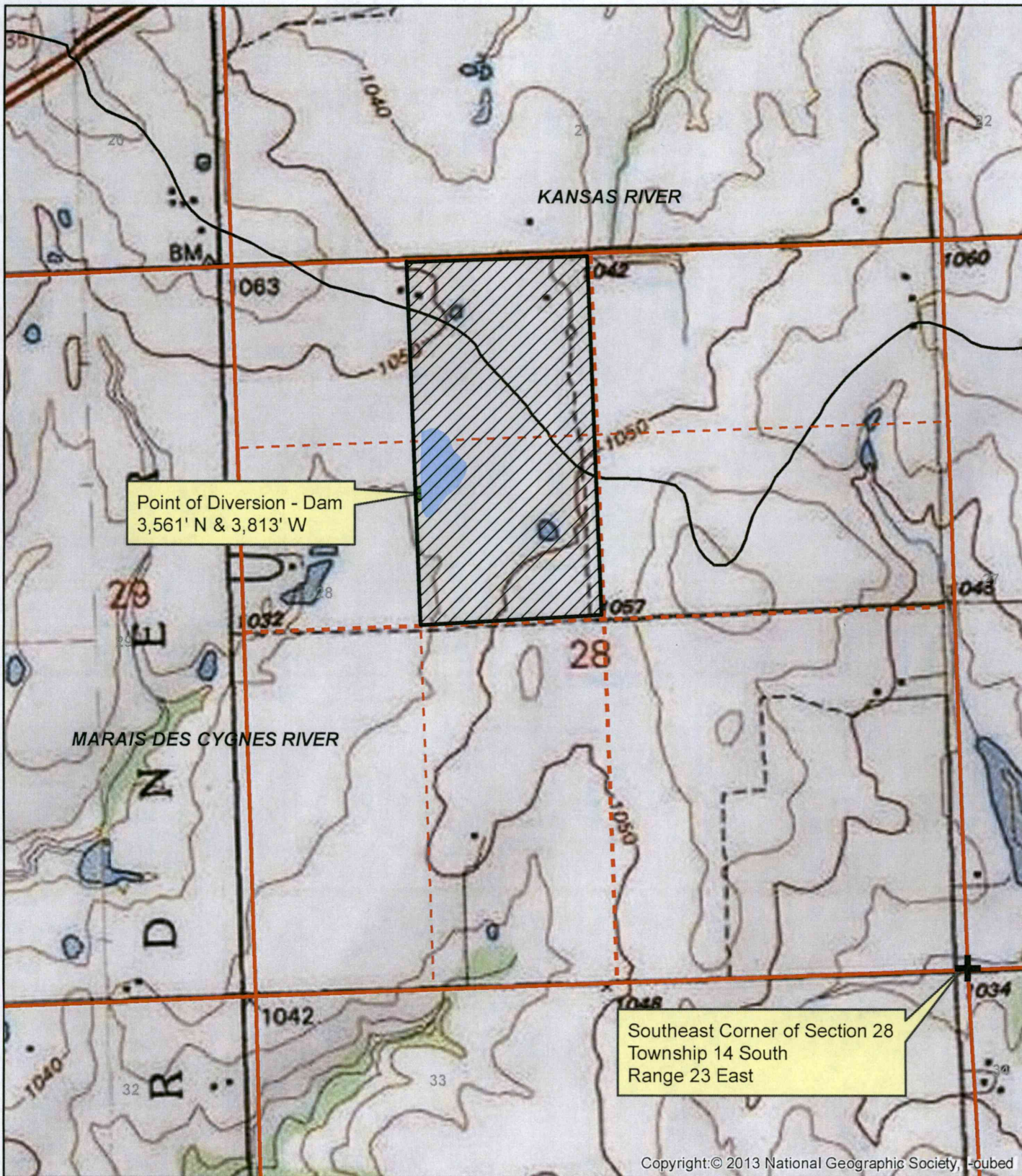
Proposed Point of Diversion

Upstream and Downstream Landowners adjacent to the stream within 1/2 mile of the property lines have been listed.

[Handwritten Signature]

RECEIVED
MAY 20 08 11
KS D SCANNED
SIGNATURE

EPIC LANDSCAPE PRODUCTIONS, LC
FILE NO. 50,223 A SITE MAP
Sec. 28, T14S, R23E
JOHNSON COUNTY



1:12,000



Proposed Place of Use



Proposed Point of Diversion

