

# NOTICE

This scan only represents the application as filed. The information contained herein meets the requirements of K.A.R. 5-3-1 or K.A.R. 5-5-1, and has been found acceptable for filing in the office of the Chief Engineer. The application should not be considered to be a complete application as per K.A.R. 5-3-1b or K.A.R. 5-5-2a.

# THE STATE OF KANSAS



**KANSAS DEPARTMENT OF AGRICULTURE**  
Mike Beam, Secretary of Agriculture

**DIVISION OF WATER RESOURCES**  
Earl D. Lewis Jr., Chief Engineer

File Number **50749**  
This item to be completed by the Division of Water Resources.

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**APPLICATION FOR PERMIT TO  
APPROPRIATE WATER FOR BENEFICIAL USE**  
Filing Fee Must Accompany the Application  
(Please refer to Fee Schedule attached to this application form.)

**MAR 21 2022**  
**11:51**  
KS DEPT OF AGRICULTURE

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

1. Name of Applicant (Please Print): Anthony Hartness for Cherry Creek Crossing, LLC  
Address: 3502 Crossgate Circle South  
City: Colleyville State TX Zip Code 76034  
Telephone Number: (316) 644-0301

2. The source of water is:  surface water in adjacent to Cherry Creek (Neosho River)  
(stream)  
OR  groundwater in \_\_\_\_\_  
(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 78 acre-feet OR \_\_\_\_\_ gallons per calendar year, to be diverted at a maximum rate of all natural flows 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) <input type="checkbox"/> Artificial Recharge	(b) <input type="checkbox"/> Irrigation	(c) <input checked="" type="checkbox"/> Recreational	(d) <input type="checkbox"/> Water Power
(e) <input type="checkbox"/> Industrial	(f) <input type="checkbox"/> Municipal	(g) <input type="checkbox"/> Stockwatering	(h) <input type="checkbox"/> Sediment Control
(i) <input type="checkbox"/> Domestic	(j) <input type="checkbox"/> Dewatering	(k) <input type="checkbox"/> Hydraulic Dredging	(l) <input type="checkbox"/> Fire Protection
(m) <input type="checkbox"/> Thermal Exchange	(n) <input type="checkbox"/> 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.

<b>For Office Use Only:</b>							
F.O. <u>1</u>	GMD _____	Meets K.A.R. 5-3-1 (YES/NO) Use <b>REC</b>	Source <u>G</u>	County <u>WO</u>	By <u>BMM</u>	Date <u>3/21/22</u>	
Code _____	<b>REG</b>	Fee \$ <u>200</u>	TR # _____	Receipt Date <u>3-21-22</u>	Check # <u>1002</u>		

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 13, more particularly described as being near a point 3617 feet North and 3359 feet West of the Southeast corner of said section, in Township 25 South, Range 16 East, Woodson County, Kansas.
- (B) One in the NE quarter of the SW quarter of the NW quarter of Section 13, more particularly described as being near a point 3945 feet North and 3965 feet West of the Southeast corner of said section, in Township 25 South, Range 16 East, Woodson County, Kansas.
- (C) One in the \_\_\_\_\_ quarter of the \_\_\_\_\_ quarter of the \_\_\_\_\_ quarter of Section \_\_\_\_\_, more particularly described as being near a point \_\_\_\_\_ feet North and \_\_\_\_\_ feet West of the Southeast corner of said section, in Township \_\_\_\_\_ South, Range \_\_\_\_\_ East/West (circle one), \_\_\_\_\_ County, Kansas.
- (D) One in the \_\_\_\_\_ quarter of the \_\_\_\_\_ quarter of the \_\_\_\_\_ quarter of Section \_\_\_\_\_, more particularly described as being near a point \_\_\_\_\_ feet North and \_\_\_\_\_ feet West of the Southeast corner of said section, in Township \_\_\_\_\_ South, Range \_\_\_\_\_ East/West (circle one), \_\_\_\_\_ County, Kansas.

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

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

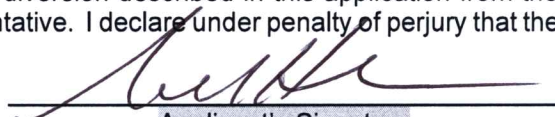
6. The owner of the point of diversion, if other than the applicant is (please print):

Applicant  
 \_\_\_\_\_  
 (name, address and telephone number)  
 \_\_\_\_\_  
 (name, address and telephone number)

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

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

Executed on 3/8, 2022.

  
 \_\_\_\_\_  
 Applicant's Signature

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

7. The proposed project for diversion of water will consist of two wetland pools and two water control structures and will be completed (by) following approval  
 \_\_\_\_\_  
 (Month/Day/Year - each was or will be completed)

8. The first actual application of water for the proposed beneficial use is estimated to be Fall after approval  
 (Mo/Day/Year)

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- 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 In Progress
- If no, explain here why a Water Structures permit is not required \_\_\_\_\_

The applicant will provide information to Structures Program in order to determine permit requirements.

- 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.

A separate new application will be filed to propose a pumpsite to supplement natural runoff to fill and  
maintain wetland water level.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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13. ~~Furnish the following well information if the proposed appropriation is for the use of groundwater. If the well has not been completed, give information obtained from test holes, if available.~~

Information below is from:  Test holes  Well as completed  Drillers log attached

~~Well location as shown in paragraph~~

~~No.~~

(A)

(B)

(C)

(D)

~~Date Drilled~~

\_\_\_\_\_

~~Total depth of well~~

\_\_\_\_\_

~~Depth to water bearing formation~~

\_\_\_\_\_

~~Depth to static water level~~

\_\_\_\_\_

~~Depth to bottom of pump intake pipe~~

\_\_\_\_\_

14. The relationship of the applicant to the proposed place where the water will be used is that of

owner

(owner, tenant, agent or otherwise)

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

Applicant

(name, address and telephone number)

(name, address and telephone number)

16. The undersigned states that the information set forth above is true to the best of his/her knowledge and that this application is submitted in good faith.

Dated at Augusta, Kansas, this 8 day of March, 2022.  
(month) (year)

  
\_\_\_\_\_  
(Applicant Signature)

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

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

Assisted by Lloyd Hemphill \_\_\_\_\_ TFO/ES \_\_\_\_\_ Date: 2/23/2022  
(office/title)

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## FEE SCHEDULE

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

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

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

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

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

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

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

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

### ATTENTION

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

### CONVERSION FACTORS

1 acre-foot equals 325,851 gallons

1 million gallons equal 3.07 acre-feet

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**RECREATIONAL USE  
SUPPLEMENTAL SHEET**

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

Name of Applicant (Please Print): Cherry Creek Crossing, LLC

1. Please indicate type of recreational use (boating, fishing, swimming, etc.): \_\_\_\_\_  
Wetland for waterfowl habitat/hunting

2. Please summarize how the water will be used and justify the quantity of water requested: \_\_\_\_\_

Pool 1 + Pool 2 capacity = 43 AF + 28 AF = 71 AF

Pool 1 + Pool 2 surface area = 16.6 ac. + 10.9 ac. = 27.6 ac

Potential Evaporation = 6 in/year X 1/2 year X 1ft/12 in X 27.6 ac surface area = 6.9 AF

Requested quantity = capacity + evaporation = 71 AF + 7 AF = 78 AF

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	78
Year 2	78
Year 3	78
Year 4	78
Year 5	78

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.

wetland in the NW 1/4 of Sec 13-T25S-R16E

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

**LANDOWNERS LOCATED WITHIN ½ MILE UPSTREAM AND DOWNSTREAM OF  
PROJECT PROPERTY.**

**UPSTREAM**

- 1.) LYNN BARRY SCHORNICK,  
6833 KEDZIE AVE #APT 813  
CHICAGO, IL 60645-2880
- 2.) PHYLLIS ANN ROSENHAGEN TR  
ATTN: CALVIN SHEPARD  
1523 190TH RD  
YATES CENTER, KS 66783
- 3.) GERALD WEBER  
1915 100TH RD  
YATES CENTER, KS 66783

**DOWNSTREAM**

- 4.) GERALD WEBER  
1915 100TH RD  
YATES CENTER, KS 66783
- 5.) SHELTON & KELLEY SYKES  
186 CROOKED CREEK LN  
ALEDO, TX 76008

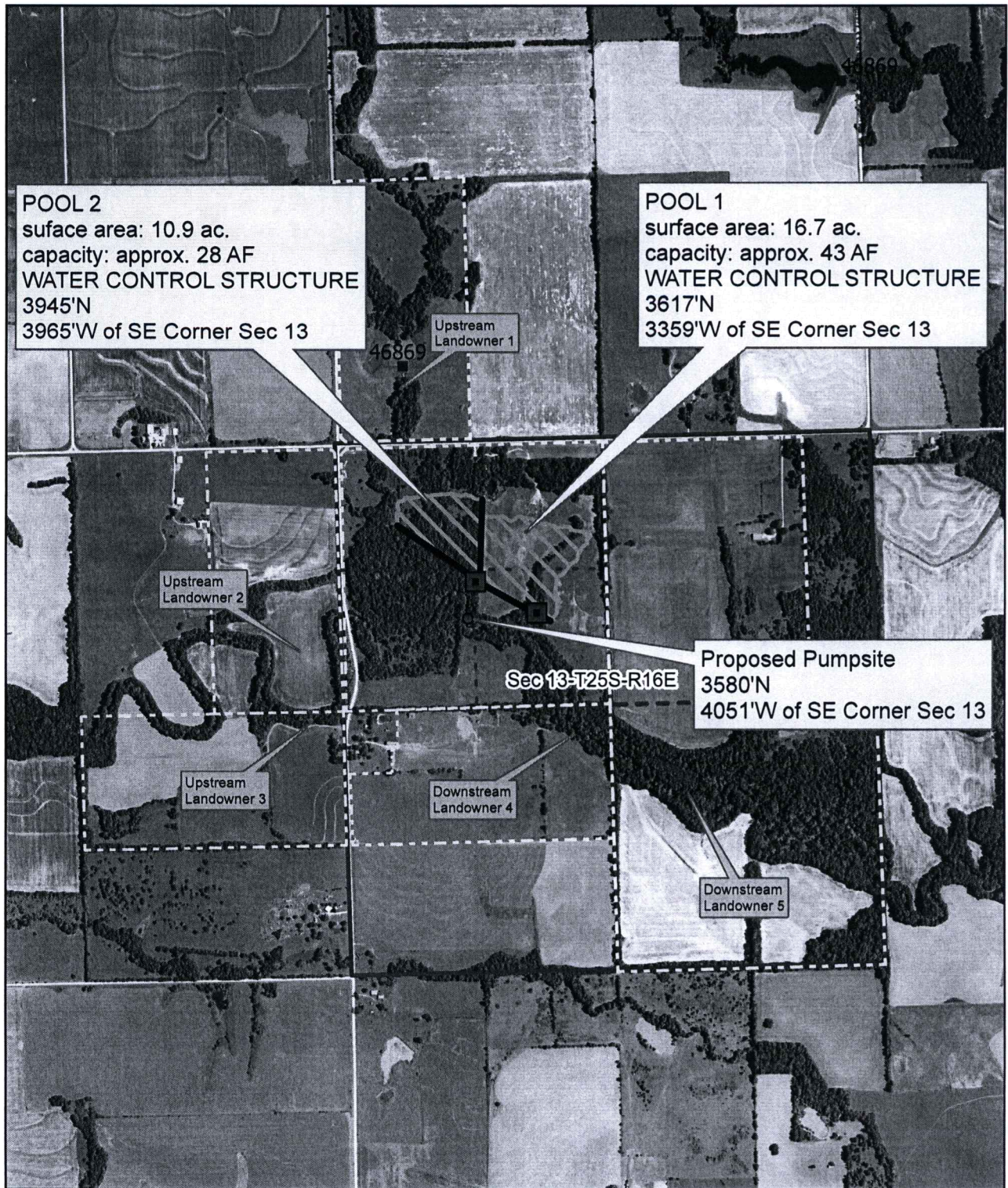
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# NEW APPLICATION - WETLAND CHERRY CREEK



Map prepared by: LHH 3.3.2022

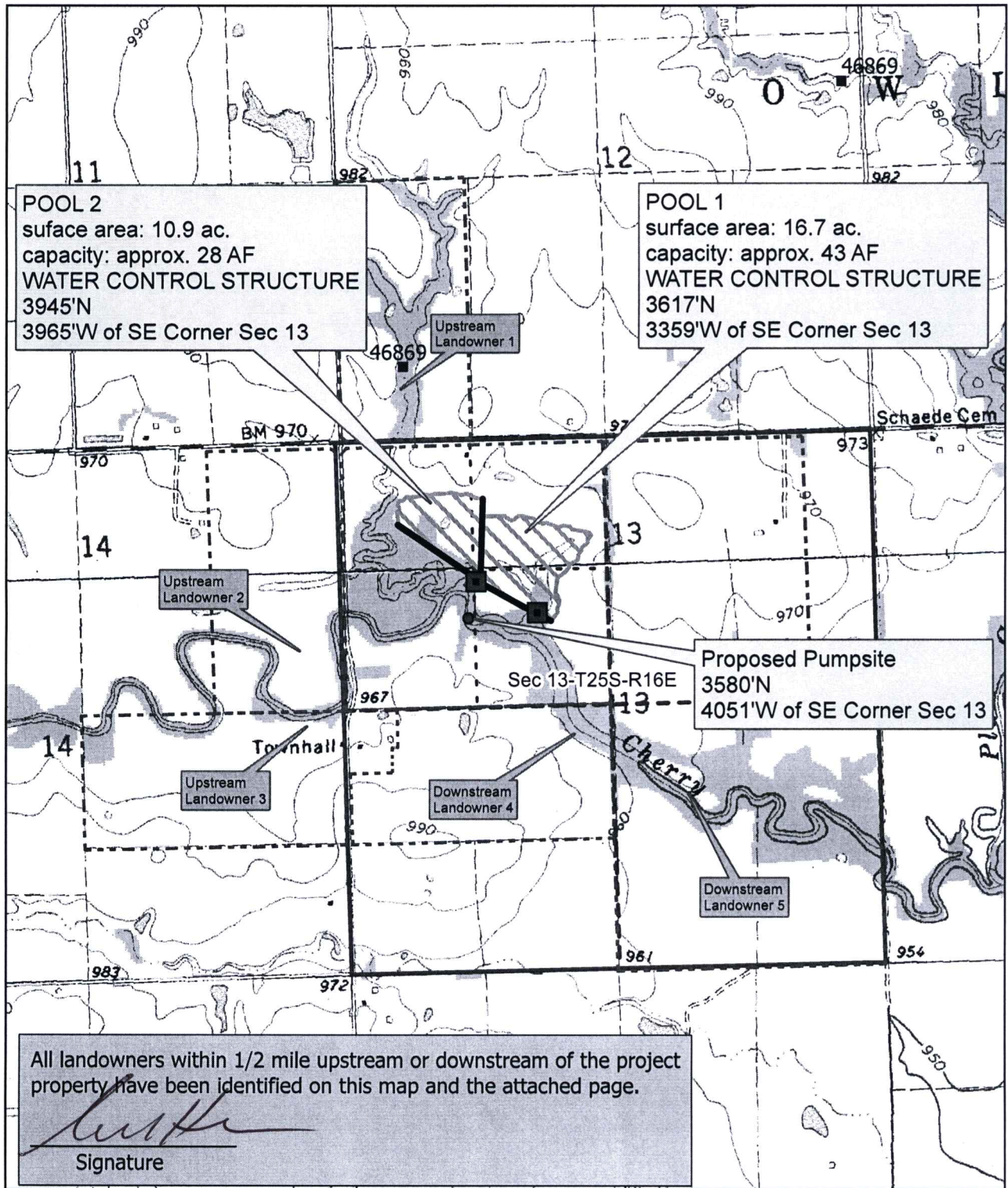


Scale: 1:18,000

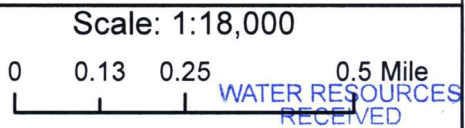


MAR 21 2022

# NEW APPLICATION - WETLAND CHERRY CREEK



Map prepared by: LHH 3.3.2022



MAR 21 2022

3/8/2022

(Date)

Kansas Department of Agriculture  
Division of Water Resources  
Earl D. Lewis, Jr., Chief Engineer  
1320 Research Park Drive  
Manhattan, Kansas 66502

Re: Application  
File No. \_\_\_\_\_

Minimum Desirable Streamflow -  
Neosho River

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.

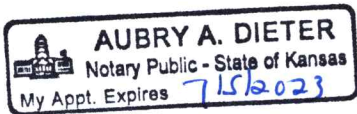


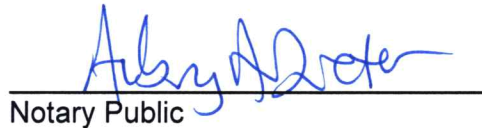
Signature of Applicant

Anthony Hartness  
(Print Applicant's Name)

State of Kansas )  
County of Butler ) ss

I hereby certify that the foregoing instrument was signed in my presence and sworn to before me this 8th day of March, 20 22.



  
Notary Public

My Commission Expires: July 5, 2023

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**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

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