

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

1. File Number: <p style="text-align: center; font-size: 1.2em;"><b>50,423</b></p>	2. Status Change Date: <p style="text-align: center; color: purple;">1/8/2020</p>	3. Field Office: <p style="text-align: center; font-size: 1.2em;"><b>02</b></p>	4. GMD:
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5. Status:     Approved                       Denied by DWR/GMD                       Dismiss by Request/Failure to Return

6. Enclosures:     Check Valve             N of C Form             Water Tube             Driller Copy             Meter

7a. Applicant(s)                      Person ID **67390**  
 New to system                       Add Seq# \_\_\_\_\_

**BART HAMILTON**  
**PO BOX 1235**  
**EL DORADO, KS 67042**

7b. Landowner(s)                      Person ID \_\_\_\_\_  
 New to system                       Add Seq# \_\_\_\_\_

**7A**

7c. Landowner(s)                      Person ID \_\_\_\_\_  
 New to system                       Add Seq# \_\_\_\_\_

7d. Landowner                      Person ID \_\_\_\_\_  
 New to system                       Add Seq# \_\_\_\_\_

8. WUR Correspondent                      Person ID \_\_\_\_\_  
 New to system                       Add Seq# \_\_\_\_\_  
 Overlap File (s) WUC                      Notarized WUC Form   
 Agree  Yes  No

**7b**

9. Use of Water:    Changing?     Yes     No

Groundwater                       Surface Water

IRR                       REC                       DEW                       MUN

STK                       SED                       DOM                       CON

HYD DRG     WTR PWR             ART RECHRG

IND    SIC: \_\_\_\_\_     OTHER: \_\_\_\_\_

10. Completion Date: ~~12/31/2021~~ <sup>22</sup>            11. Perfection Date: **12/31/2026**            12. Exp Date: \_\_\_\_\_

13. Conservation Plan Required?  Yes  No    Date Required: \_\_\_\_\_    Date Approved: \_\_\_\_\_    Date to Comply: \_\_\_\_\_

14. Water Level Measuring Device?  Yes  No    Date to Comply: \_\_\_\_\_    Date WLMD Installed: \_\_\_\_\_

Date Prepared: **10/18/20**    By: **JNE**  
 Date Entered: 1/11/2021    By: **L Moody**

File No. **50,423**      15. Formation Code: ~~100~~      Drainage Basin: **Walnut River**      County: **BU**      Special Use:      Stream: **Bemis Creek**

16. Points of Diversion  
 T  
 MOD  
 DEL  
 ENT      PDIV  
 Qualifier      S      T      R      ID      'N      'W

17. Rate and Quantity  
 Authorized      Additional  
 Rate      Quantity      Rate      Quantity  
 gpm      af      gpm      af      Overlap PD Files

**Trib 1A1  
 (Walnut Creek)  
 RIVER**

**CHK 88361 NW SW NE 2 26S 7E 1 3,590 2,318**

~~Nat Evap~~      ~~71.25~~

**0**

**0      0      0      0      none**

18. Storage: Rate **NF** NF      Quantity **71.25** ac/ft      Additional Rate **NF** NF      Additional Quantity **71.25** 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 \_\_\_\_\_      Date Acceptable Meter Installed \_\_\_\_\_

21. Place of Use  
 T  
 MOD  
 DEL  
 ENT      PUSE      S      T      R      ID

NE¼				NW¼				SW¼				SE¼				Total
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	

Owner      Chg? **NO**      Overlap Files

**CHK 70085 2 26S 7E 1**

**Pond in NW¼ of SW¼ of the NE¼ of Section 2  
 9.5 ac pond (SW NE)**

**7b.**

Comments: **12/4/2020  
KAB**

**KANSAS DEPARTMENT OF AGRICULTURE**  
**Division of Water Resources**

**MEMORANDUM**

**TO:** File

**DATE:** November 4, 2020

**FROM:** Jessica Engelbrecht

**RE:** Application, File No. 50,423

Bart Hamilton has filed the referenced application to appropriate surface water for recreational use. The applicant is requesting a quantity of 71.25 acre-feet of surface water at a rate not to exceed natural flows out of the Bemis Creek Trib 1A1 (Walnut River). The application is designed to cover the indirect use of water (evaporation) from a proposed pond. The point of diversion is located at the proposed spillway located in the Northwest Quarter of the Southwest Quarter of the Northeast Quarter (NW $\frac{1}{4}$  SW $\frac{1}{4}$  NE $\frac{1}{4}$ ) of Section 2, more particularly described as being near a point 3,590 feet North and 2,318 feet West of the Southeast corner of said section, in Township 26 South, Range 7 East, Butler County, within the Walnut River drainage basin. There are no overlapping water rights on the proposed point of diversion and place of use. DWR Water Structures Program reviewed the project and concluded that the project is not in their jurisdiction by K.S.A. 82a-301 to 305a. The drainage area is less than 640 acres, the structure has a storage volume less than 50 acre-feet at the auxiliary spillway elevation, and it's less than 25 feet in height.

The quantity of water requested for the application (71.25 acre-feet) is was based on a proposed pond surface area not to exceed 9.5 acres in size, as follows: 9.5 acres x 30 inches of evaporation / 12"/foot = 71.25 acre-feet.

The applicant identified 10 domestic wells within one-half mile of the proposed groundwater pit and 3 non-domestic wells (1 of which is owned by the applicant), which WRIS confirmed. Nearby notification letters were sent out on October 16, 2020. A nearby landowner called to express her concerns over the new application. It was determined that she had a domestic use pond to water her cattle and that the pond also was covered by 45,789 which is a water right for sediment control. According to the WRIS database, the nearest non-domestic point of diversion (File No. 45,789) is located over 6,000 feet away. The nearest domestic well would be further than 700 feet away. The proposed point of diversion meets minimum well spacing to all domestic and non-domestic spacing. Per the requirements in K.A.R. 5-4-4 for all other aquifers, the minimum well spacing should be one-quarter mile to all other non-domestic wells and 660 feet to domestic wells.

The proposed application is subject to minimum desirable streamflow requirements. The applicant signed, notarized, and returned the required form to our office.

Jeff Lanterman, Water Commissioner, Stafford Field Office, recommended approval of the referenced application on November 18, 2020. Based on the above discussion, the area is open to new application, and approval of the application will not impair senior water rights nor prejudicially or unreasonably affect the public interest, it is recommended that the referenced application be approved.

Jessica Engelbrecht  
Environmental Scientist  
Water Appropriations Unit

## Engelbrecht, Jessica [KDA]

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**From:** Engelbrecht, Jessica [KDA]  
**Sent:** Tuesday, November 17, 2020 12:40 PM  
**To:** Lanterman, Jeff [KDA]  
**Subject:** RE: 50423 Memo

Sounds good. Thanks!

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**From:** Lanterman, Jeff [KDA] <[Jeff.Lanterman@ks.gov](mailto:Jeff.Lanterman@ks.gov)>  
**Sent:** Tuesday, November 17, 2020 10:23 AM  
**To:** Engelbrecht, Jessica [KDA] <[Jessica.Engelbrecht@ks.gov](mailto:Jessica.Engelbrecht@ks.gov)>  
**Subject:** RE: 50423 Memo

Sorry this one got buried in my email.

Ya. I don't have any objections to the approval of this application. Now that we got Susan's concerns addressed. Lol. Approve it.

Thanks  
Jeff

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**From:** Engelbrecht, Jessica [KDA] <[Jessica.Engelbrecht@ks.gov](mailto:Jessica.Engelbrecht@ks.gov)>  
**Sent:** Monday, November 16, 2020 2:33 PM  
**To:** Lanterman, Jeff [KDA] <[Jeff.Lanterman@ks.gov](mailto:Jeff.Lanterman@ks.gov)>  
**Subject:** FW: 50423 Memo

Hey, have you had a chance to look over this one yet?

Thanks!  
Jessica

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**From:** Engelbrecht, Jessica [KDA]  
**Sent:** Thursday, November 5, 2020 9:46 AM  
**To:** Lanterman, Jeff [KDA] <[Jeff.Lanterman@ks.gov](mailto:Jeff.Lanterman@ks.gov)>  
**Subject:** 50423 Memo

Jeff,  
Attached is a memo for 50423.  
Bart Hamilton is requesting 71.25 are-feet or recreational use for a fishing pond in Butler county. As you may remember, the only opposition this application received was from Susan Royer. She was concerned until she realized the size and use of the proposed pond.  
Bart has already checked with DWR Structures and will not require any permitting through them. The application and nearby letters are saved in Docuware.

Thanks!

Jessica Engelbrecht, Environmental Scientist  
KDA Division of Water Resources  
Stafford Field Office  
(620) 234-5311 Office  
(620) 234-6900 Fax  
[Jessica.engelbrecht@ks.gov](mailto:Jessica.engelbrecht@ks.gov)  
[agriculture.ks.gov](http://agriculture.ks.gov)



Have you completed your 2020 Census?  
It's not too late! Take action now!  
[my2020census.gov](http://my2020census.gov)

Memorandum  
 Kansas Department of Agriculture  
 Division of Water Resources

**To: File**  
**From: Mikayla Dendurent, I.E.**  
**Date: 8/5/2020**  
**Subject: Non-jurisdictional Review of Dam Registration Form**  
**WSN: DBU-0341**

**Legal Location:** NW ¼ of the SW ¼ of the NE ¼ of Section 2 Township 26S Range 7E

**Dam meets low hazard exemption criteria**

**[x] Submitted Complete Registration Form**

**[x] Less than 25 feet in height and less than 50 acre-feet of storage at the auxiliary spillway**

**[x] Non-Jurisdictional**

**Stream Obstruction and Floodplain fill is not required**

**[x] Less than 640 acres of Drainage (zone 1)**

**[x] Not in a designated floodplain**

**Drainage Area:** 12.8 acres

On August 5, 2020 the landowner contacted Janelle Phillips about building a pond in Butler county. The land owner mentioned that he would like the pond to be 20 feet tall and in this location, it's not possible without excavating the pond below streambed elevation. Dam safety will not include this excavation in our calculations. I created a reservoir capacity table from 2012 LiDAR. The dam will be 11 feet tall and have a capacity of 23.1 acre-feet at the top of the dam. This dam is not in the floodplain and is not on a jurisdictional stream.

<b>DBU-0341</b>				
<b>RESERVOIR CAPACITY TABLE</b>				
	<b>ELEV.</b>	<b>AREA (ACRES)</b>	<b>ACRE-FEET</b>	<b>TOTAL ACRE-FEET</b>
SB	1483	0	0	0
	1484	0.079419793	0.0	0.0
	1485	0.268077011	0.2	0.2
	1486	0.581319365	0.4	0.6
	1487	0.988843374	0.8	1.4
	1488	1.495052548	1.2	2.7
	1489	2.012304247	1.8	4.4
	1490	2.612356026	2.3	6.7
	1491	3.32633599	3.0	9.7
	1492	4.053719296	3.7	13.4
	1493	4.832246388	4.4	17.8
TOD	1494	5.730628127	5.3	23.1

<b>PDFs</b>
<a href="#">Mean Annual Precipitation</a>
<a href="#">Soil Cover Complex</a>

Mean Annual Precip, in	<b>36</b>
Soil Cover Complex No.	<b>78</b>
Drainage Area, acres	<b>56</b>
<b>Runoff at 20% Chance, AF</b>	<b>72.08</b>

**DO NOT EDIT BELOW THIS LINE**

% Chance Firm Coefficients			
	50%	80%	90%
a	0.5317	0.1216	0.0527
b	1.0815	1.2538	1.3547

%Chance Firm	Runoff, in	Comp. Runoff, in
50%	4.97	<b>4.97</b>
80%	1.62	<b>1.60</b>
90%	0.87	<b>0.89</b>
20%		<b>15.45</b>

Std. Dev. 90%	1.36
Std. Dev. 80%	1.33
Avg	1.35

Mean annual runoff for CN = 75, inches	7.16
Mean annual runoff for CN = 80, inches	8.40
Interp. Mean annual runoff for CN = 78, inches	7.90

<b>PDFs</b>
<a href="#">Mean Annual Precipitation</a>
<a href="#">Soil Cover Complex</a>

Mean Annual Precip, in	<b>36</b>
Soil Cover Complex No.	<b>78</b>
Drainage Area, acres	<b>12.8</b>
<b>Runoff at 20% Chance, AF</b>	<b>16.47</b>

**DO NOT EDIT BELOW THIS LINE**

% Chance Firm Coefficients			
	50%	80%	90%
a	0.5317	0.1216	0.0527
b	1.0815	1.2538	1.3547

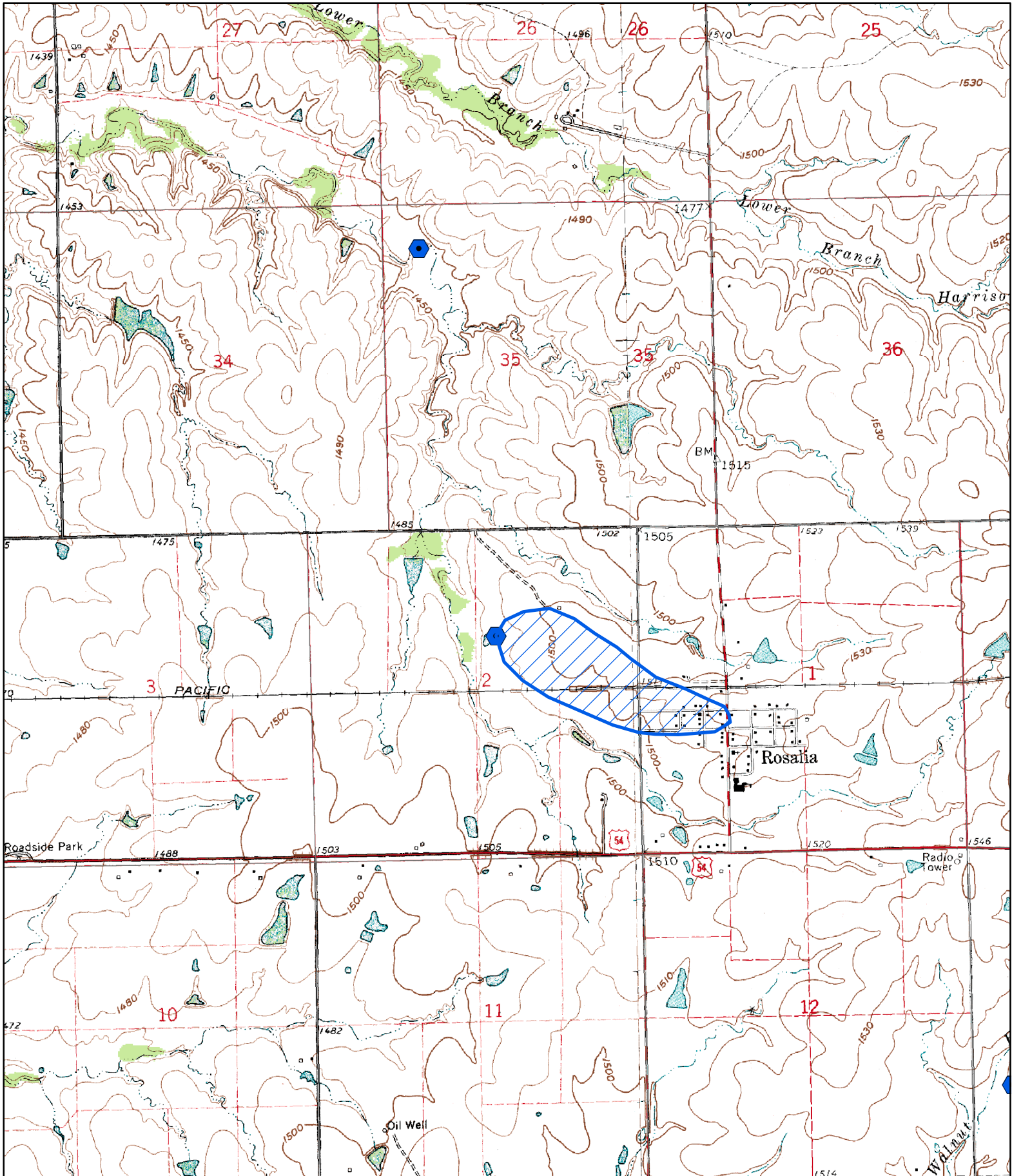
%Chance Firm	Runoff, in	Comp. Runoff, in
50%	4.97	<b>4.97</b>
80%	1.62	<b>1.60</b>
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20%		<b>15.45</b>


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Mean annual runoff for CN = 75, inches	7.16
Mean annual runoff for CN = 80, inches	8.40
Interp. Mean annual runoff for CN = 78, inches	7.90




# Drainage Area - 89 Acres



 Drainage Area

 Wells

 Surface

1 inch = 2,000 feet

0 0.15 0.3 0.6 0.9 1.2 Miles



# THE STATE OF KANSAS



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

**DIVISION OF WATER RESOURCES**  
Earl D. Lewis Jr., 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. 50,423** of the applicant

**BART HAMILTON  
PO BOX 1235  
EL DORADO, KS 67042**

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 **August 17, 2020**.
2. That the water sought to be appropriated shall be used for recreational use in a pond with a maximum surface area of 9.5 acres located in the in the Southwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$  NE $\frac{1}{4}$ ) of Section 2, Township 26, Range 7 East, Butler County, Kansas, located as shown on the map accompanying the application.
3. That the appropriation sought shall be limited to all **natural flows** of an unnamed tributary to Bemis Creek, designated in the office of the Chief Engineer as Bemis Creek Trib 1A1 (Walnut River) not needed to satisfy all vested rights and prior appropriations rights to be incrementally accumulated as reservoir storage space becomes available to a maximum extent of **71.25 acre-feet** of water for any calendar year, in one pond created by a dam located in the Northwest Quarter of the Southwest Quarter of the Northeast Quarter (NW $\frac{1}{4}$  SW $\frac{1}{4}$  NE $\frac{1}{4}$ ) of Section 2, more particularly described as being near a point 3,590 feet North and 2,318 feet West of the Southeast corner of said section, in Township 26 South, Range 7 East, Butler County, Kansas, located substantially as shown on the topographic map accompanying the application.
4. That installation of works for diversion of water shall be completed on or before **December 31, 2022** 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, 2026** 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 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.

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

12. 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.

13. 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.

Ordered this 8 day of January, 2021, in Manhattan, Riley County, Kansas.

*Lane P. Letourneau*

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

State of Kansas            )  
  ) SS  
County of Riley             )

The foregoing instrument was acknowledged before me this 8 day of January, 2021, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.



*Ashlee Freeman*  
\_\_\_\_\_  
Notary Public

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, Acting Secretary

Laura Kelly, Governor

BART HAMILTON  
PO BOX 1235  
EL DORADO, KS 67042

January 14, 2021

RE: Application, File No. 50,423

Dear Water User:

There is enclosed a permit to appropriate water authorizing you to proceed with construction of the proposed diversion works (except those dams and stream obstructions regulated by K.S.A. 82a-301 through 305a), to divert such unappropriated water as may be available from the source and at the location specified in the permit, and to use it for the purpose and at the location described in the permit.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in this permit. Water meters are required, and you must install it prior to water being put to beneficial use in order for you to maintain accurate records of water use. A separate meter will be needed to measure your irrigation use and industrial use. The meters should be used to provide the information required on the annual water use report.

Failure to notify the Chief Engineer of the Division of Water Resources of the completion of the diversion works within the time allowed, or within any authorized extension of time thereof, will result in the dismissal of this permit. Enclosed is a form which may be used to notify the Chief Engineer that the proposed diversion works have been completed.

All requests for extensions of time to complete diversion works, or to perfect appropriations, must be submitted to the Chief Engineer before the expiration of time originally set forth in the permit to complete diversion works or to perfect an appropriation. If for any reason, you require an extension of time, you must request it before the expiration of time set forth in this permit. Failure to comply with this regulation will result in the dismissal of your permit or your water right. Any request for an extension of time shall be accompanied by the required statutory fee, which is currently \$100.00.

There is also enclosed an information sheet setting forth the procedure to obtain a Certificate of Appropriation which will establish the extent of your water right. If you have any questions, please contact our office. If you wish to discuss this specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

Kristen A. Baum  
New Application Unit Supervisor  
Water Appropriation Program

Enclosures  
pc: Stafford Field Office

**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.

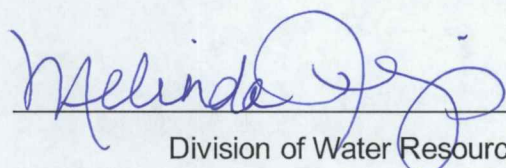
**CERTIFICATE OF SERVICE**

On this 14 day of January, 2021, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,423, dated 8 January, 2021 was mailed postage prepaid, first class, US mail to the following:

BART HAMILTON  
PO BOX 1235  
EL DORADO, KS 67042

With photocopies to:

Stafford Field Office

  
\_\_\_\_\_  
Division of Water Resources