

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

1. File Number: <p style="text-align: center;">50311</p>	2. Status Change Date: <p style="text-align: center;">3/26/2021</p>	3. Field Office: <p style="text-align: center;">02</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 **65464**
New to system Add Seq# _____

**HODGEMAN COUNTY
ATTN: DARRIN BOGER
28561 SE L ROAD
JETMORE, KS 67854**

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

7a

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

7d. Misc 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

7a

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~~ **22** 11. Perfection Date: ~~12/31/2021~~ **26** 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: _____

WAIVER INCLUDED

3/26/2021
KAB

Date Prepared: **3/12/20** By: **BMM**

Date Entered: 3/30/2021 By: **LMoody**

16. Points of Diversion											
T	MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W
CHK	87727	NW	SW	NE	7	23S	24W	2	3793	2624	

17. Rate and Quantity				
Authorized		Additional		
Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files
NF	82	NA	NONE	
0	0	0	0	

STRUCTURES PERMIT: DHG-0063

18. Storage: Rate **NF** NF Quantity **82** ac/ft Additional Rate **NF** NF Additional Quantity **82** 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 **12/31/2021** Date Acceptable Meter Installed _____

21. Place of Use												Total	Owner	Chg? NO	Overlap Files														
T	MOD	DEL	ENT	PUSE	S	T	R	ID	NE¼							NW¼				SW¼				SE¼					
									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					
CHK	69666	12	23S	25W	1				EXISTING POND IN E2 OF 12-23S-25W																pond (E2)		7A	N	NA
CHK	69667	7	23S	24W	2				EXISTING POND IN N2 OF 7-23S-24W																pond (N2)		7A	N	NA

3/26/2021
KAB

Comments:

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: June 5, 2020

FROM: Brandon Milner

RE: Application, File No. 50,311

Hodgeman County has filed the application for a permit to appropriate 82 acre-feet of surface water at natural flows to be stored in an existing reservoir for recreational use. The point of diversion is located on property owned by the applicant, and he has signed the application form stating they has legal access to the point of diversion. The source of water for this application is Buckner Creek.

Since this application is for a recreational pond that that is located below Horsethief Reservoir in Hodgeman county, runoff was calculated for water running directly into Buckner Creek below Horsethief Reservoir as releases from the reservoir are not reliable as they fluctuate. Computations determined that there would be 15,187 acres of drainage area with 1.37 inches of runoff per acre that will generate 1729 acre-feet of runoff (21") in 1 out of every five (5) years (a 20% chance). Therefore, per K.A.R. 5-6-5, this quantity is NOT the limiting factor and the application was processed with the 1:1:1 rule.

Annual Amount of Water to be Rediverted 0 AF + 33 AF Reservoir Capacity + 49 AF One Year of Indirect Use = **82 AF**

This application is located within the Pawnee-Buckner Creek IGUCA.

The pond on this application is permitted under dam water structure DHG-0063 and does not require additional permitting from the structures department.

The applicant provided a list of landowners of the adjacent properties within one-half (½) mile upstream and downstream of his property with nearby letters being sent out on March 12, 2020 to three different landowners from the point of diversion. As of today's date, no letters of concern have been received on this application.

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.

The application was recommended for approval on June 26th, 2020 by Jeff Lanterman of the Stafford Field Office. K.A.R. 5-3-26 was recommended to be waived as this reservoir has been in place since 1957 with no impairments on nearby water rights.

Based on the above discussion, the application complies with rules and regulations, no senior rights will not be impacted, it is recommended that the referenced new application be approved.

Runoff calculations are not the limiting factor because the reservoir received sufficient runoff from the area downstream of Horse Thief alone, without factoring in releases from HTR. Application was originally file for 3yrs of evap. It was later determined that 82AF was the maximum we could approve according to KAR 5-6-5 because the storage volume (33AF) was less than the 3yr supply. The max that can be authorized is capacity plus one year of evap.

Brandon Milner
Environmental Scientist
Water Appropriations Unit

3/26/2021
KAB

From: Lanterman, Jeff [KDA]
Sent: Thu 6/25/2020 1:38 PM
To: Letourneau, Lane [KDA]; Titus, Kenneth [KDA]; Baum, Kristen [KDA]; Beightel, Chris [KDA]
Cc: Conant, Cameron [KDA]; Milner, Brandon [KDA]
Subject: RE: New Application 50,311 for Hodgeman County

You know. There used to be some water level problems along the alluvium all the way through to Larned in areas. But I think Horsethief filling up and slowly releasing has helped us. Be interesting to look at those well levels and see what they are doing. Probably closing it is enough with the reg.

Lets work this up for an approval and waiver.

From: Letourneau, Lane [KDA] <Lane.Letourneau@ks.gov>
Sent: Thursday, June 25, 2020 12:53 PM
To: Titus, Kenneth [KDA] <Kenneth.Titus@ks.gov>; Baum, Kristen [KDA] <Kristen.Baum@ks.gov>; Beightel, Chris [KDA] <Chris.Beightel@ks.gov>
Cc: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>; Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>; Milner, Brandon [KDA] <Brandon.M.Milner@ks.gov>
Subject: RE: New Application 50,311 for Hodgeman County

Kenny,

I appreciate your thoughts on dismissing the IGUCA.

We went in and told those people that they had a problem. But we could never really define what the problem was. Then we closed the area with a reg.

Thanks

Lane

From: Titus, Kenneth [KDA] <Kenneth.Titus@ks.gov>
Sent: Thursday, June 25, 2020 10:24 AM
To: Letourneau, Lane [KDA] <Lane.Letourneau@ks.gov>; Baum, Kristen [KDA] <Kristen.Baum@ks.gov>; Beightel, Chris [KDA] <Chris.Beightel@ks.gov>
Cc: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>; Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>; Milner, Brandon [KDA] <Brandon.M.Milner@ks.gov>
Subject: RE: New Application 50,311 for Hodgeman County

Or perhaps more appropriately as part of the IGUCA review.

Kenneth B. Titus | Chief Counsel
Kansas Department of Agriculture

1320 Research Park Drive
Manhattan, Kansas 66502

Phone: (785) 564-6717 | Fax: (785) 564-6777

kenneth.titus@ks.gov | www.agriculture.ks.gov

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From: Titus, Kenneth [KDA]
Sent: Thursday, June 25, 2020 10:24 AM
To: Letourneau, Lane [KDA] <Lane.Letourneau@ks.gov>; Baum, Kristen [KDA] <Kristen.Baum@ks.gov>; Beightel,

Chris [KDA] <Chris.Beightel@ks.gov>

Cc: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>; Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>; Milner, Brandon [KDA] <Brandon.M.Milner@ks.gov>

Subject: RE: New Application 50,311 for Hodgeman County

I reviewed the Phase I order and it only expanded the boundary with no additional restrictions or corrective controls put in place. So there are no IGUCA controls to worry about

Frankly, when the CE position is permanent, I think it is time to go back and issue an order dismissing the expansion of the boundaries as no longer in the public interest to clean things up.

Kenneth B. Titus | Chief Counsel

Kansas Department of Agriculture

1320 Research Park Drive

Manhattan, Kansas 66502

Phone: (785) 564-6717 | Fax: (785) 564-6777

kenneth.titus@ks.gov | www.agriculture.ks.gov

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From: Letourneau, Lane [KDA] <Lane.Letourneau@ks.gov>

Sent: Wednesday, June 24, 2020 4:11 PM

To: Baum, Kristen [KDA] <Kristen.Baum@ks.gov>; Titus, Kenneth [KDA] <Kenneth.Titus@ks.gov>; Beightel, Chris [KDA] <Chris.Beightel@ks.gov>

Cc: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>; Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>; Milner, Brandon [KDA] <Brandon.M.Milner@ks.gov>

Subject: RE: New Application 50,311 for Hodgeman County

2007 seems like yesterday for some of us.

As you have determined, there are no correction controls established in the Pawnee-Buckner due to we have never done Phase II. For many reasons.

Did Phase I say anything about closing the basin to new apps? I have my fingers crossed that it did not.

If NO, then we can waive 5-3-26. Are there any nearbys? Because if we send a notice of a new application to the former Sen Salman's, he will really bug us for a waiver for a new app at his old feedlot/irrigation project.

Set up a call to discuss. This is a colorful area.

From: Baum, Kristen [KDA] <Kristen.Baum@ks.gov>

Sent: Wednesday, June 24, 2020 3:58 PM

To: Titus, Kenneth [KDA] <Kenneth.Titus@ks.gov>; Beightel, Chris [KDA] <Chris.Beightel@ks.gov>; Letourneau, Lane [KDA] <Lane.Letourneau@ks.gov>

Cc: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>; Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>; Milner, Brandon [KDA] <Brandon.M.Milner@ks.gov>

Subject: RE: New Application 50,311 for Hodgeman County

We need to get your thoughts on a pending application. This one is for a REC use pond right below the dam of Horse Thief Reservoir – Section 7, T23S, R24W. Structures has information on it dating back to 1957 but it has never been permitted by Appropriations. We would like to get it permitted.

The KAR 5-3-26 closure of Hodgeman Co applies but the Pawnee-Buckner IGUCA also comes into play. We are trying to make sense of the June 18, 2007 "Order following Phase I". This order expanded the boundaries of the original

IGUCA to include the area in question, but then it also says that a Phase II hearing should be held to determine goals and corrective controls, etc. So what IGUCA requirements would our application be subject to – the original IGUCA order or something yet to be determined by the Phase II hearing, in which case maybe all we are dealing with the 5-3-26 closure which can be waived?

I'd be happy to set up a call if it would be helpful.

Thanks,
Kristen

From: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Sent: Wednesday, June 24, 2020 3:01 PM
To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>; Baum, Kristen [KDA] <Kristen.Baum@ks.gov>; Milner, Brandon [KDA] <Brandon.M.Milner@ks.gov>
Subject: RE: New Application 50,311 for Hodgeman County

I'm thinking so....???? But I've been wrong more than once already today.

From: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>
Sent: Wednesday, June 24, 2020 3:00 PM
To: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>; Baum, Kristen [KDA] <Kristen.Baum@ks.gov>; Milner, Brandon [KDA] <Brandon.M.Milner@ks.gov>
Subject: RE: New Application 50,311 for Hodgeman County

Oooh. So maybe we don't have to revisit the IGUCA just waive 5-3-26? Which we can do without a whole bunch of heartburn.

From: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Sent: Wednesday, June 24, 2020 2:55 PM
To: Baum, Kristen [KDA] <Kristen.Baum@ks.gov>; Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>; Milner, Brandon [KDA] <Brandon.M.Milner@ks.gov>
Subject: RE: New Application 50,311 for Hodgeman County

Hey guys, I was looking a little more on this and reading the Pawnee-Buckner-Sawlog IGUCA Phase I stuff again. I'll be interested to hear Kenny's take on this with regard to our application.

K.A.R 5-3-26 closed Hodgeman County in about 2002. The 2007 IGUCA said there was a problem and the boundaries of the Pawnee Valley IGUCA should be expanded. The order stated a Phase II hearing should be held to determine goals and corrective controls needed to achieve said goals and that a prehearing conference should be held. The Phase I IGUCA expansion may not be in play very much here right now??

I think in the memo Brandon should just reference that this in the Pawnee-Buckner-Sawlog IGUCA boundaries as outlined in the 2007 Order Following Phase I of the Hearing. Brandon, you will get with the applicant to revise the application to 82 AF at a rate of natural flows?

Cameron

From: Conant, Cameron [KDA]
Sent: Wednesday, June 24, 2020 1:25 PM
To: Baum, Kristen [KDA] <Kristen.Baum@ks.gov>; Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>; Milner, Brandon [KDA] <Brandon.M.Milner@ks.gov>
Subject: RE: New Application 50,311 for Hodgeman County

Yep, I think you are correct. I can't honestly make total sense of Leonards table and don't see a 33.16 AF storage...but I would agree that we calculated this incorrectly and I agree it should be $33 + 49 = 82$ AF.

Luckily, this won't matter to the applicant and we should be able to revise it pretty easily! Apologies.

Cameron

From: Baum, Kristen [KDA] <Kristen.Baum@ks.gov>
Sent: Wednesday, June 24, 2020 12:54 PM
To: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>; Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>; Milner, Brandon [KDA] <Brandon.M.Milner@ks.gov>
Subject: RE: New Application 50,311 for Hodgeman County

Yes, Pawnee Buckner – I'm sorry.

So it would seem to me that the most we could permit would be 33 AF storage plus 1 year of evap for about 82AF, wouldn't it? If we are following 5-6-5?

From: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Sent: Wednesday, June 24, 2020 12:33 PM
To: Baum, Kristen [KDA] <Kristen.Baum@ks.gov>; Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>; Milner, Brandon [KDA] <Brandon.M.Milner@ks.gov>
Subject: RE: New Application 50,311 for Hodgeman County

This is actually in the Pawnee-Buckner IGUCA.

I've attached the capacity table and Leonard says the following,
"Unfortunately I do not have any better numbers than this. I believe the 33.16 acre feet is the best available right now. This is calculated using LIDAR which could have some errors, but should be somewhat close."

Cameron

From: Baum, Kristen [KDA] <Kristen.Baum@ks.gov>
Sent: Wednesday, June 24, 2020 12:08 PM
To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>; Milner, Brandon [KDA] <Brandon.M.Milner@ks.gov>
Cc: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Subject: RE: New Application 50,311 for Hodgeman County

Yes, I will set up a call, this could get tricky in a hurry.

In the meantime, Brandon – please update your memo to mention that this is in the Walnut Creek IGUCA.

Also, Cameron you mentioned that Leonard ran some calculations. Do you know what the storage capacity ended up being? In order to give them 3 yrs evap we need to confirm that their storage capacity is greater than that quantity. Otherwise, we would have to give them the 1-1-1 figure.

Brandon, if Cameron doesn't have the storage capacity info, please track it down with Mikayla. They probably have it entered into their database.

Thanks!

From: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>
Sent: Wednesday, June 24, 2020 11:36 AM
To: Baum, Kristen [KDA] <Kristen.Baum@ks.gov>; Milner, Brandon [KDA] <Brandon.M.Milner@ks.gov>
Cc: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Subject: FW: New Application 50,311 for Hodgeman County

Kristen and Brandon;

I think this should be approved. This has been in place for a long time. Earliest information we have from structures is 1957.

BUT maybe we need to have a call with Lane and maybe Kenny because I don't think the IGUCA order would allow us to approve this and we cant waive it. So we might have to do a quick IGUCA amendment if we want to get this approved similar to what we did in WCIGUCA for that saltwater app.

Thanks
Jeff

From: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Sent: Tuesday, June 23, 2020 1:59 PM
To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>
Subject: FW: New Application 50,311 for Hodgeman County

Jeff, this application is for a surface water appropriation right on Buckner Creek, downstream of Horsethief. This is for Buckner Valley Park, an existing dam on Buckner Creek that is owned by Hodgeman County and has been in place for a long time. This application was filed after discussions I had with them as they worked with Structures to repair the existing dam. Originally we thought this might hold only 14 AF based on LIDAR, but Leonard Bristow ran additional calculations and came up with much more than that so they chose to try to get this properly permitted even though it has been existing for a long time. Structures appears to be good to go with what has been done to repair the existing structure, Brandon checked with Mikayla on 2/27/20 and got the following response, *"This pond has an associated water structure number of DHG-0063. This dam does not meet the definition of a jurisdictional dam so no permitting from structures will be required now. However, if the owners are modifying the dam in any way it will require a permit from Janelle Phillips. Leonard Bristow has had contact with Darin Boger informing him of our water structures permitting requirements."*

They are not modifying the dam in any way, so we believe it to be good to go from a Structures standpoint. Structures had dam plans on file in 1957 and made an additional determination in 1976 saying it was an existing structure, but there is really no additional history on this project but suffice to say it has been around in its current form for a long time!

The requested quantity of 147 AF is based on the 3 year quantity per 5-6-5 (b)(1)(B) at a rate of natural flows in Buckner Creek. This is based replacement of the evaporation losses of the 13 acre pond x 3 years which is a given method of calculating the quantity in the SW ponds. Brandon also ran some drainage numbers and showed there is adequate water to fill this using only the drainage downstream of Horsethief. This didn't even take into account the required releases from HT based on the Revised Operations Plan.

Upstream and downstream owners were notified, no responses were received.

Remember, this is an existing dam structure and surface water impoundment that has been in place on Buckner Creek since possibly the 1950's, it is not being modified, the County is just pursuing some fixes to the existing structure. This is not "grandfathered in" from a water rights perspective and does require a permit so it is good the county pursued this application. I think we should recommend approval of this application and we need to make sure the applicant/owners understand that if impairment concerns downstream arise they may be required to bypass inflow to satisfy downstream uses. I think it is appropriate to approve this with whatever necessary waivers are required because of the IGUCA (not sure what that looks like exactly).

Please pass on to Brandon and Kristen if you agree. Let me know if you have any questions.

Cameron

From: Milner, Brandon [KDA] <Brandon.M.Milner@ks.gov>
Sent: Friday, June 5, 2020 12:26 PM
To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>
Cc: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Subject: New Application 50,311 for Hodgeman County

Good afternoon Guys,

I have attached a new application review for a recreational lake in Hodgeman Count. This is somewhat of new territory for me as this application is below a major reservoir and is relying on natural flows to ensure volume for the lake. I have calculated the runoff for the area draining into Buckner Creek that is below Horsethief Reservoir as I do not think you can trust the discharge volumes coming from the reservoir. Even without discharge from the reservoir, there should be plenty of runoff from the area below the dam to satisfy this application. I will attach the streamstats maps so you can see the comparison. Could you please provide a recommendation on this? If we need to discuss it more, I'm more than happy to as this one is a little different than some.

Brandon

PDFs
Mean Annual Precipitation
Soil Cover Complex

Mean Annual Precip, in	21
Soil Cover Complex No.	73
Drainage Area, acres	15187
Runoff at 20% Chance, AF	#####

1729

DO NOT EDIT BELOW

% 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%	0.27	0.27
80%	0.06	0.06
90%	0.02	0.02
20%		1.37

OW THIS LINE

Std. Dev. 90%	1.93
Std. Dev. 80%	1.88
Avg	1.91

Mean annual runoff for CN = 70, inches	0.35
Mean annual runoff for CN = 75, inches	0.68
Interp. Mean annual runoff for CN = 73, inches	0.54

Kansas Department of Agriculture
 Division of Water Resources
WAIVER REQUEST & WAIVER RULE WORKSHEET

File Number: 50311

FO: 2

GMD: 2

WAIVER REQUEST:

UMW	Date Requested	Rule ID	Applies	Rule Type	Rule Subtype
REC	7/2/20	130	Statewide	Closed Township	Yield of the Source Area Exceeded
Rule Number	Date Granted	Date Denied	Justification:	Reservoir has been active in the area for many years without impairment to nearby water rights. Drainage in the area is adequate for requested volume from evaporation. Dam was permitted by Structures prior to closure.	
K.A.R. 5-3-26	3/26/2021				

WAIVER RULE (complete only if a new rule needs to be created):

Rule ID	Applicability	Type	Subtype	Rule Number	Date Active	Date Inactive

3/26/2021
KAB

Date Prepared 6/18/20 By BMM

Date Entered 3/30/2021 By LMoody

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: July 2, 2020

FROM: Brandon Milner

RE: Appropriation of Water, New
Application No. 50,311

On November 4, 2019 DWR received a new application from Hodgeman County requesting 82 Acre-feet of water for recreation use. However, after further review from DWR, it was determined that the application did not meet K.A.R. 5-3-26 as it is in a closed area for new appropriations. After review by the Stafford Field Office and DWR, it was determined that the reservoir has been in the area since 1957 without causing impairment to nearby water rights. Therefore, a waiver of K.A.R. 5-2-26 has been prepared for application no. 50,311.

Brandon Milner
Environmental Scientist
Water Appropriation Program

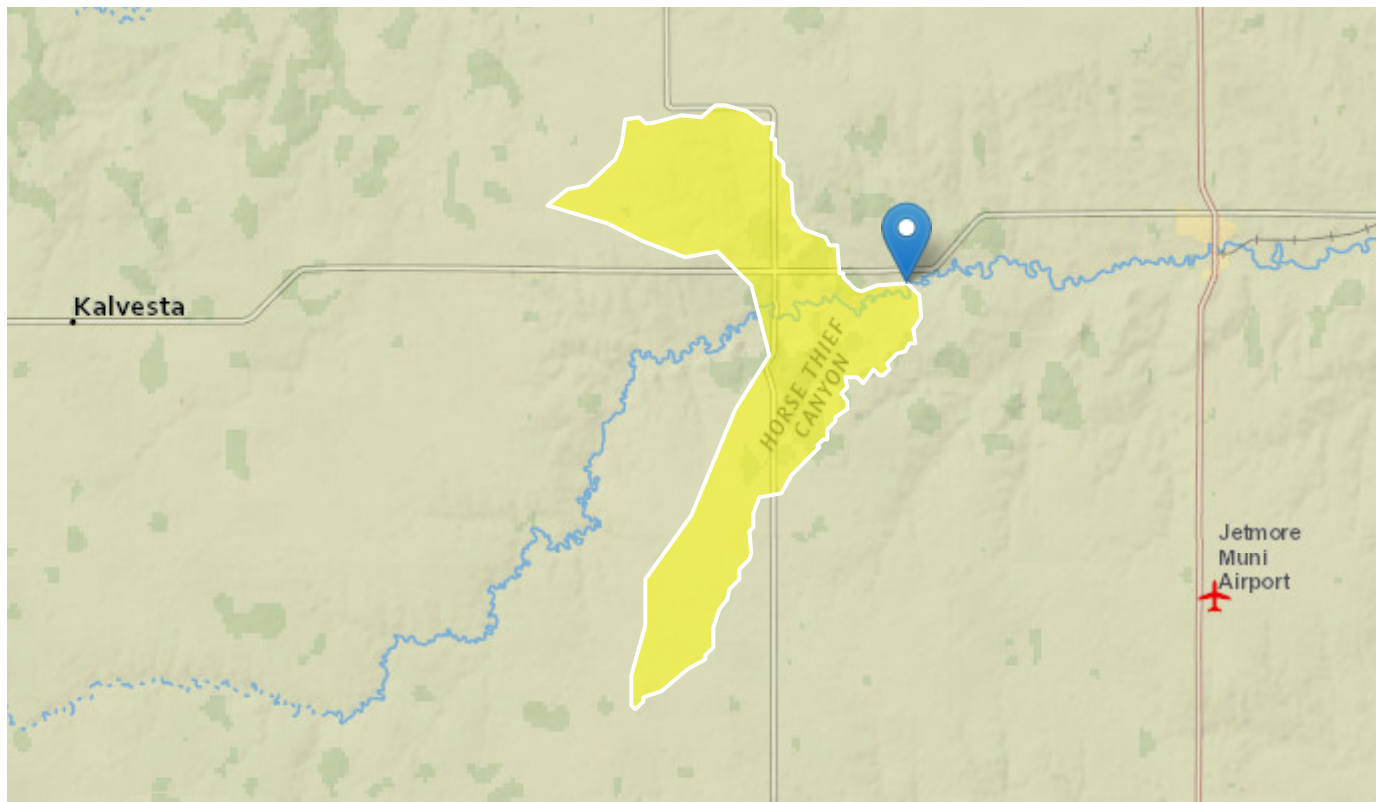
StreamStats Report

Region ID: KS

Workspace ID: KS20200603170602670000

Clicked Point (Latitude, Longitude): 38.06908, -100.00022

Time: 2020-06-03 12:06:16 -0500



Basin Characteristics

Parameter Code	Parameter Description	Value	Unit
DRNAREA	Area that drains to a point on a stream	23.73	square miles

General Disclaimers

This watershed has been edited, computed flows may not apply.

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USGS Product Names Disclaimer: Any use of trade, firm, or product names is for descriptive purposes only and does not imply endorsement by the U.S. Government.

Application Version: 4.3.11

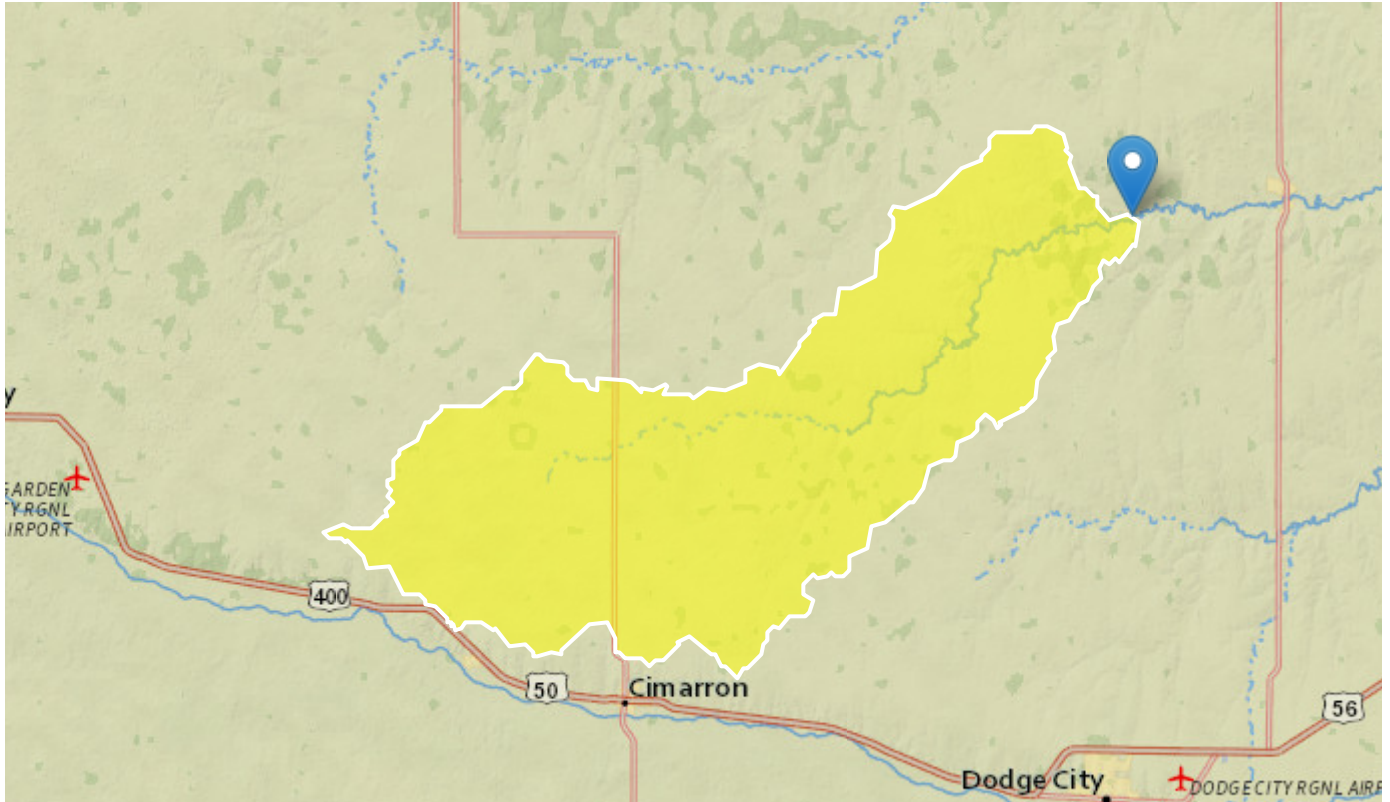
StreamStats Report

Region ID: KS

Workspace ID: KS20200601183739622000

Clicked Point (Latitude, Longitude): 38.06897, -100.00026

Time: 2020-06-01 13:37:54 -0500



Basin Characteristics

Parameter Code	Parameter Description	Value	Unit
DRNAREA	Area that drains to a point on a stream	252.56	square miles

General Disclaimers

The delineation point is in an exclusion area. WARNING: AREA OF REGULATED FLOWS

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Application Version: 4.3.11

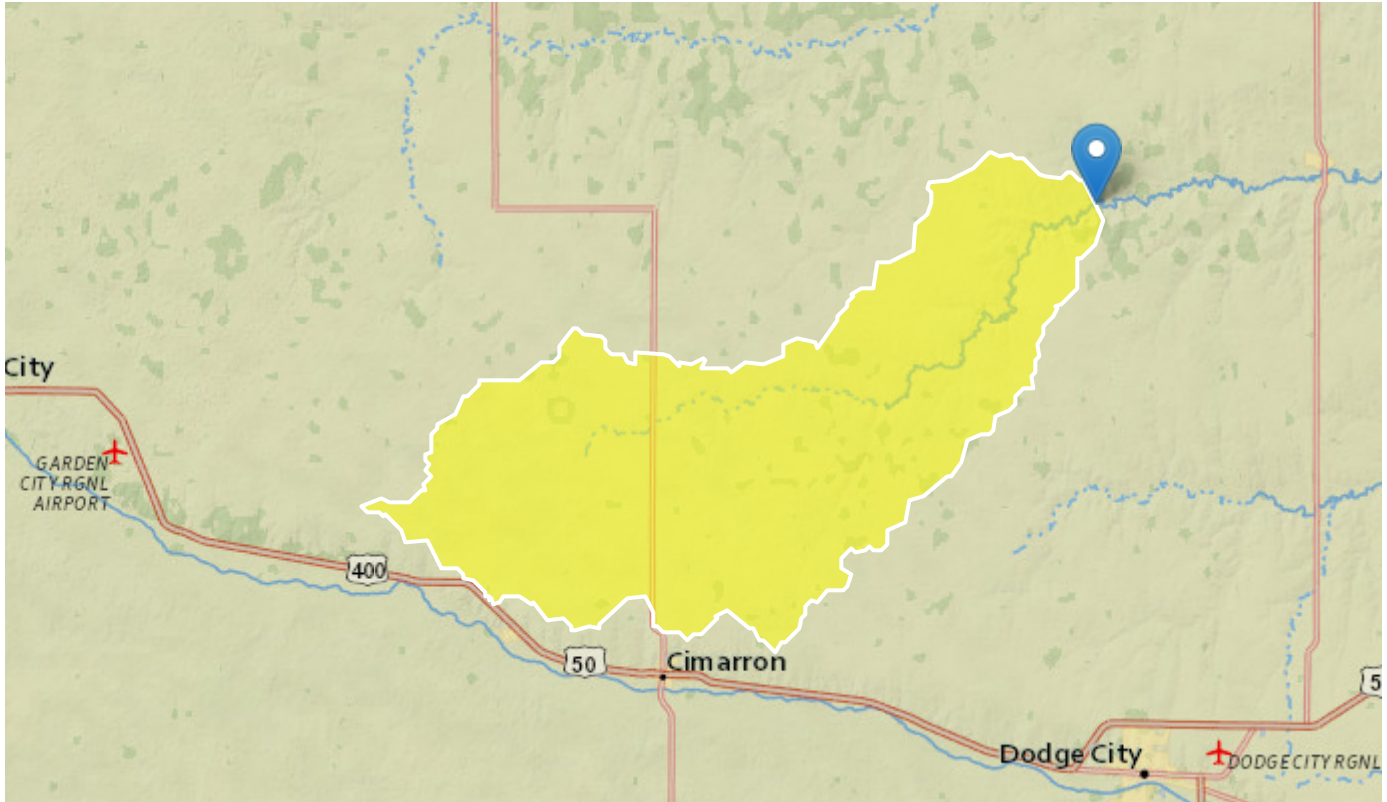
StreamStats Report

Region ID: KS

Workspace ID: KS20200601202832110000

Clicked Point (Latitude, Longitude): 38.06113, -100.05052

Time: 2020-06-01 15:28:47 -0500



Basin Characteristics

Parameter Code	Parameter Description	Value	Unit
DRNAREA	Area that drains to a point on a stream	228.71	square miles

General Disclaimers

The delineation point is in an exclusion area. WARNING: AREA OF REGULATED FLOWS

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Application Version: 4.3.11

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Secretary of Agriculture

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

WAIVER OF REGULATION
K.A.R. 5-3-26

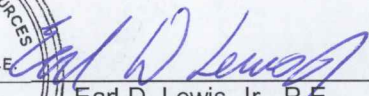
Date: March 26, 2021

RE: Application, File No. 50,311

1. That K.A.R. 5-3-26 states (a) Except as specified in subsection (c) pertaining to well types, the following townships in the Pawnee and Buckner drainage basins shall be closed to new appropriations of water: (4)(A) Township 23 South, Ranges 22-26 West.
2. That the proposed existing point of diversion is located in Township 23 South, Range 24 West, Hodgeman County.
3. That the reservoir was in existence prior to the 2002 adoption of K.A.R. 5-3-26 and the dam was permitted by the Division of Water Resources under File No. DHG-0063.
4. That the reservoir has been in existence and utilized for recreational use since 1957 with no impairment to nearby existing water rights.
5. That the Water Commissioner of the Stafford Field Office has recommended K.A.R. 5-3-26 be waived for File No. 50,311.
6. That this waiver of K.A.R. 5-3-26 will not prejudicially or unreasonably affect public interest and will not impair any existing water rights.

Comments:




Earl D. Lewis Jr., P.E.
Chief Engineer
Division of Water Resources
Kansas Department of Agriculture

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. 50,311** of the applicant

HODGEMAN COUNTY
Attn: DARRIN BOGER
28561 SE L ROAD
JETMORE, KS 67854

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 **November 4, 2019**.
2. That the water sought to be appropriated shall be used for recreational use at a reservoir located in the East Half of Section 12, in Township 23 South, Range 25 West and the North Half of Section 7, Township 23 South 24 West all in Hodgeman County, Kansas.
3. That the appropriation sought shall be limited to all natural flows of Buckner Creek, not needed to satisfy all vested rights and prior appropriation rights to be stored to a maximum extent of 82 acre-feet per calendar year, in a reservoir 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 7, more particularly described as being near a point 3,793 feet North and 2,624 feet West of the Southeast corner of said section, in Township 23 South, Range 24 West, Hodgeman County, Kansas.
4. That the structure creating the above referenced reservoir has been assigned Division of Water Resources Structures Permit No. DHG-0063.
5. 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 accompanied by the required statutory fee, which is currently \$100.00.

6. That the proposed appropriation shall be perfected by the actual application of water to the proposed beneficial use on or before **December 31, 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.

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

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

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

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

11. That the applicant shall maintain accurate and complete records from which the quantity of water diverted during each calendar year may be readily determined and the applicant shall file an annual water use report with the Chief Engineer by March 1 following the end of each calendar year. Failure to file the annual water use report by the due date shall cause the applicant to be subject to a civil penalty.

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

13. That failure without cause to comply with provisions of the permit and its terms, conditions and limitations will result in the forfeiture of the priority date, revocation of the permit and dismissal of the application.

14. That the right to appropriate water under authority of this permit is subject to any minimum desirable streamflow requirements identified and established pursuant to K.S.A. 82a-703c for the source of supply to which this water right applies.

Ordered this *26th* day of *March*, 2021, in Manhattan, Riley County, Kansas.



Earl D. Lewis Jr.

Earl D. Lewis Jr., P.E.
Chief Engineer
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
County of Riley) SS

The foregoing instrument was acknowledged before me this *26* day of *March*, 2021, by Earl D. Lewis Jr., P.E., Chief Engineer, 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

April 1, 2021

HODGEMAN COUNTY
Attn: DARRIN BOGER
28561 SEL ROAD
JETMORE, KS 67854

RE: Appropriation of Water, File No. 50,311

Dear Mr. Boger:

Enclosed is a permit authorizing you 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.

The approval of your application constitutes a permit to appropriate water. It does not give authority to modify, 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.

Notice must be filed on the enclosed form for the diversion of water authorized herein and accompanied by the required \$400.00 Field Inspection Fee. Failure to acknowledge completion of the diversion works within the time allowed, or within any authorized extension of time thereof, will result in dismissal of this permit. If you need an extension of time, you must request it before the deadline for completion set forth in the permit. Any request for an extension of time must be accompanied by the statutorily required fee, which is currently \$100.00.

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

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 Stafford Field Office at 620-234-5311. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

Kristen A. Baum
New Applications and Changes Supervisor
Division of Water Resources

KAB:bmm: li
Enclosure(s)
pc: StaffordField 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.

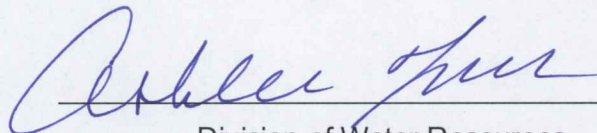
CERTIFICATE OF SERVICE

On this 1 day of April, 2021, I hereby certify that the foregoing Approval of Application, File No. 50,311, dated 29 March 2021 was mailed postage prepaid, first class, US mail to the following:

HODGEMAN COUNTY
Attn: DARRIN BOGER
28561 SE L ROAD
JETMORE, KS 67854

With photocopies to:

Stafford Field Office



Division of Water Resources