

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

| | | |
|---|--|---|
| 1. File No.: 50,054 | 2. Status Change Date: 8/29/2024 | 4. Field Office: 01-Topeka GMD: Structures File No.: Filing/Priority Date: 5/11/18 Application Complete Date: |
| 3. Package File No(s): | | |
| 5a. <input checked="" type="checkbox"/> Applicant <input checked="" type="checkbox"/> Owner <input type="checkbox"/> WUC <input type="checkbox"/> Address Change Person ID 66080 Add Seq# 1 GH, LLC 955 13TH RD WASHINGTON, KS 66968 | 5b. <input type="checkbox"/> Owner <input checked="" type="checkbox"/> WUC <input checked="" type="checkbox"/> Address Change Person ID 69615 Add Seq# GENE HERRS 955 13TH RD WASHINGTON, KS 66968 [please make a new PID separate from 66080.] | |
| 5c. <input type="checkbox"/> Owner <input type="checkbox"/> WUC <input type="checkbox"/> Address Change Person ID 66081 Add Seq# [PLEASE REMOVE THIS PID] | 5d. <input type="checkbox"/> Owner <input type="checkbox"/> WUC <input type="checkbox"/> Address Change Person ID Add Seq# | |
| 6. Change No.: <input type="checkbox"/> PD <input type="checkbox"/> PU <input type="checkbox"/> UMW Base Acres: Year: Min Reasonable Q: Previous UMW: MDS Gauge: Active Admin? <input type="checkbox"/> Completion/Start Date: 12/31/2025 Perfection/Expiration Date: 12/31/2029 | | 7. Use of Water <input checked="" type="checkbox"/> Groundwater <input type="checkbox"/> Surface Water UMW: IRR-Irrigation UMW: UMW: |
| 8. Action Trail | | |
| 9. Special Conditions | | |
| 10. 5YR Allocation Type: Start Year: 5YR Quantity: Base Acres: Comment: | | |
| 11. Sand & Gravel Proj ID: <input type="checkbox"/> Active <input type="checkbox"/> Dredge <input type="checkbox"/> IND Evap <input type="checkbox"/> Jr Evap <input type="checkbox"/> Other Diversion <input type="checkbox"/> Rpt on Sr | | |
| 12. Waiver Rule ID: <input type="checkbox"/> New Date Requested: Applies: Rule No.: Justification: Rule Type: Rule SubType: | | |
| Comments | Processed LHH 8/28/2024 | Entered 8/30/2024 KAnderson |
| | Reviewed KAK 8/28/2024 | |

File No. **50,054** 13. County: **WS-Washington** Basin: **Mill Creek** Stream:
 Structures File No: Aquifer Code: **330 Dakota Aquifer System (Unconfined)** Special Use Area:

| 14. Points of Diversion, Rates & Quantities | | | | | | | | | | Qty AF | | Rate gpm | | Storage Qty | | Storage Rate | |
|---|--------------|-----------|-----------|-----------|-----------|-----------|-----------|--------------------|-------------|---------------|------------|-----------------|-------------|-------------|-----|--------------|----------|
| PDIV | Qualifier | S | T | R | ID | 'N | 'W | Comment (AKA Line) | | Auth | Add | Auth | Add | Auth | Add | Auth/Add | Overlaps |
| MOD | 86768 | SE | NW | SE | 23 | 3S | 2E | 1 | 1346 | 1788 | 192 | 192 | 1200 | 1200 | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |

15. Limitations Type: Quantity: Rate: combined with file no(s):
 Type: Quantity: Rate: combined with file no(s):

16. Metering Metering Required Anti-Reverse Required Seal Required Compliance Date: **12/31/2025**

| 17. Place of Use | | | | | | NE¼ | | | | NW¼ | | | | SW¼ | | | | SE¼ | | | | Total | Owner(s) | Chg? | Overlaps | | |
|------------------|--------------|-----------|-----------|-----------|----------|-----|----|----|----|-----|----|----|----|-----|----|----|----|-----------|-----------|-----------|-----------|------------|----------|--------------------------|----------|--------------------------|--|
| PUSE ID | S | T | R | ID | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | | | | | | |
| CHK | 68894 | 23 | 3S | 2E | 1 | | | | | | | | | | | | | 40 | 40 | 40 | 40 | 160 | | <input type="checkbox"/> | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | | <input type="checkbox"/> | |
| | | | | | | | | | | | | | | | | | | | | | | | | | | <input type="checkbox"/> | |
| | | | | | | | | | | | | | | | | | | | | | | | | | | <input type="checkbox"/> | |
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| | | | | | | | | | | | | | | | | | | | | | | | | | | <input type="checkbox"/> | |

18. Point of Diversion and Place of Use Overlaps

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|------------------------------|----------------------------------|
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MEMORANDUM TO FILE

Division of Water Resources, Water Appropriation Program

Date: August 28, 2024

From: Lloyd Hemphill, Environmental Scientist

Re: New Application File No. 50,054 – GH, LLC

Summary

Gene Herrs, on behalf of GH, LLC, filed the application referenced above to appropriate 192 acre-feet of groundwater per year for irrigation use at a diversion rate of 1,200 gallons per minute. The proposed point of diversion is one well in the Mill Creek drainage basin. The proposed place of use is 160 acres in Washington County. The point of diversion and place of use are owned by the applicant. No other water rights overlap this point of diversion or place of use.

Reasonable Rate and Quantity

The proposed quantity of 192 acre-feet per calendar year provides 1.2 acre-feet per acre, making it the maximum reasonable quantity for Washington County ($1.2 \times 160 \text{ acres} = 192 \text{ acre-feet}$).

Source of Supply and Safe Yield

Based on an initial review of the submitted test hole log, nearby well logs, and existing water rights, the source of supply was originally determined to be the confined Dakota aquifer system. Given this source of supply, the proposed well did not meet the required four mile spacing to other non-domestic wells. The Topeka Field Office and DWR Water Management Services worked with the applicant to plan a possible aquifer test to show that the required well spacing criteria was not necessary to prevent direct impairment. Numerous internal DWR discussions occurred regarding the processing of this application and other similar Dakota aquifer applications. Following these discussions, it was determined that the distinction between confined and unconfined Dakota aquifer sources would rely heavily on the mapped areas described in Water Resources of the Dakota Aquifer in Kansas, published in Kansas Geological Survey Bulletin 260 in 2014. This publication delineates a confined Dakota aquifer region and a Dakota aquifer outcrop/subcrop zone. The subcrop zone refers to portions of the outcrop zone where the Dakota formation would be exposed at the surface but is covered by alluvial deposits. Most of the outcrop/subcrop zone will be considered unconfined, unless well logs or other information substantially suggests otherwise. The proposed point of diversion is centrally located within the outcrop/subcrop zone and the source will be considered to be the **unconfined Dakota aquifer system**. Based on this source of supply, the required well spacing to other non-domestic wells is $\frac{1}{2}$ mile. The applicant agreed to move the proposed well location to a point that would meet these criteria. With this modification, regulations are met, and an aquifer test is no longer necessary.

Based on geologic maps, the proposed point of diversion is located within the Dakota formation outcrop area. The test hole log submitted with the application shows clay to a depth of 133 feet, with relatively small proportions of sandstone; underlain by sandstone layers with small proportions of clay to a depth of 240 feet. The lower sandstone formation appears to be the main aquifer. No static water level was reported on the log but is estimated to be at about 95 feet depth based on nearby well logs. This would place the static water level above what appears to be the top of the sandstone aquifer zone. However, the lithology of the Dakota aquifer is highly variable and consists of many discontinuous layers of sandstone. These sandstone layers have varying extents and varying degree of inter-connection and connection to sources of recharge. The source of supply for existing files within a mile of this location has previously been defined as both the confined Dakota and unconfined Dakota aquifers, but in a broader regional context

there is no available information suggesting that the aquifer in this area is under confined conditions. Based on the best available information, it appears that this well can be evaluated as having an unconfined Dakota aquifer source.

Safe yield was evaluated using the method described in K.A.R 5-3-11 for unconfined groundwater aquifers. Even though the aquifer source has been defined as the unconfined Dakota aquifer, shallow low-permeability layers may restrict some recharge. Thus, this analysis provides a maximum value of safe yield. The area of consideration covers 8,042 acres. With a potential annual recharge of 2.9 inches, and 75% of recharge available for appropriation, safe yield was determined to be 1,457.7 acre-feet. Existing water rights have appropriated 823.8 acre-feet, providing a difference of 633.9 acre-feet available for appropriation, and the application requesting 192 acre-feet complies with safe yield. This appropriation would still meet safe yield criteria even if recharge were reduced by about 30%.

Nearby Water Rights

The closest non-domestic well is 2,984 feet away, authorized by Water Right, File No. 48,697. The closest domestic well is an unused farm well about 1,720 feet away, owned by the applicant. The well spacing criteria for wells sourcing the unconfined Dakota aquifer is ½ mile to non-domestic wells and ¼ mile to domestic wells, per K.A.R. 5-4-4. The original point of diversion location did not meet the required spacing to File No. 48,697 but the applicant selected a new location to meet all spacing criteria. No wells within ½ mile were identified, other than the applicant's domestic well so no nearby notification letters were sent.

Recommendations

Nate Westrup, Water Commissioner, Topeka Field Office, recommended in an August 28, 2024 e-mail that the referenced new application should be approved. Based on the above discussion, the area is open to new appropriations, well spacing and safe yield criteria are met, and approval of this application is not expected to impair senior water rights nor prejudicially or unreasonably affect the public interest, it is recommended that the referenced new application be approved.

Lloyd Hemphill
Environmental Scientist
Topeka Field Office

Hemphill, Lloyd [KDA]

From: Westrup, Nathan [KDA]
Sent: Wednesday, August 28, 2024 3:34 PM
To: Hemphill, Lloyd [KDA]
Subject: RE: Application, File No. 50,054: For your recommendation

Lloyd,

I have no objection to approval.

Thanks,

Nathan Westrup, Water Commissioner

Topeka Field Office
Division of Water Resources
Kansas Department of Agriculture
Phone: 785-296-7064
Mobile: 785-230-2991
Nathan.Westrup@ks.gov

From: Hemphill, Lloyd [KDA] <Lloyd.Hemphill@ks.gov>
Sent: Wednesday, August 28, 2024 3:03 PM
To: Westrup, Nathan [KDA] <Nathan.Westrup@ks.gov>
Subject: Application, File No. 50,054: For your recommendation

Hello Nate,

Will you provide your recommendation on Application, File No. 50,054? This is a groundwater irrigation project in Washington Co sourcing the Dakota aquifer.

There was a fair amount of discussion involving this application and similar applications. You may find additional background information in Docuware. Ultimately, we determined that the source of water is the unconfined Dakota aquifer and well spacing and safe yield criteria are met.

Let me know if you would like additional information.

Thanks,
Lloyd

Lloyd Hemphill, Environmental Scientist
Kansas Department of Agriculture
Division of Water Resources, Topeka Field Office
1131 SW Winding Rd, Suite 400
Topeka, KS 66615
Office: (785) 296-5733

Water Rights and Points of Diversion Within 2 miles of point defined as:
1346 Feet N and 1788 Feet W of the Southeast Corner of Section 23 Twp 3S Rng 2E
Located at: 97.168107 West Longitude and 39.773824 North Latitude
GROUNDWATER ONLY

Table with columns: File Number, Use, ST, SR, Dist, (ft), Q4, Q3, Q2, Q1, FeetN, FeetW, Sec, Twp, Rng, ID, Batt, Auth_Quan, Add_Quan, Unit. Includes handwritten annotations '0', '1346', and '1788'.

Summary table with columns: Total Net Quantities Authorized, Direct, Storage. Rows include Total Requested Amount, Total Permitted Amount, Total Inspected Amount, Total Pro_Cert Amount, Total Certified Amount, Total Vested Amount, and TOTAL AMOUNT.

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 miles of point defined as:
1346 Feet North and 1788 Feet West of the Southeast Corner of Section 23 Twp 3S Rng 2E
Located at: 97.168107 West Longitude and 39.773824 North Latitude
GROUNDWATER ONLY
WATER USE CORRESPONDENTS:

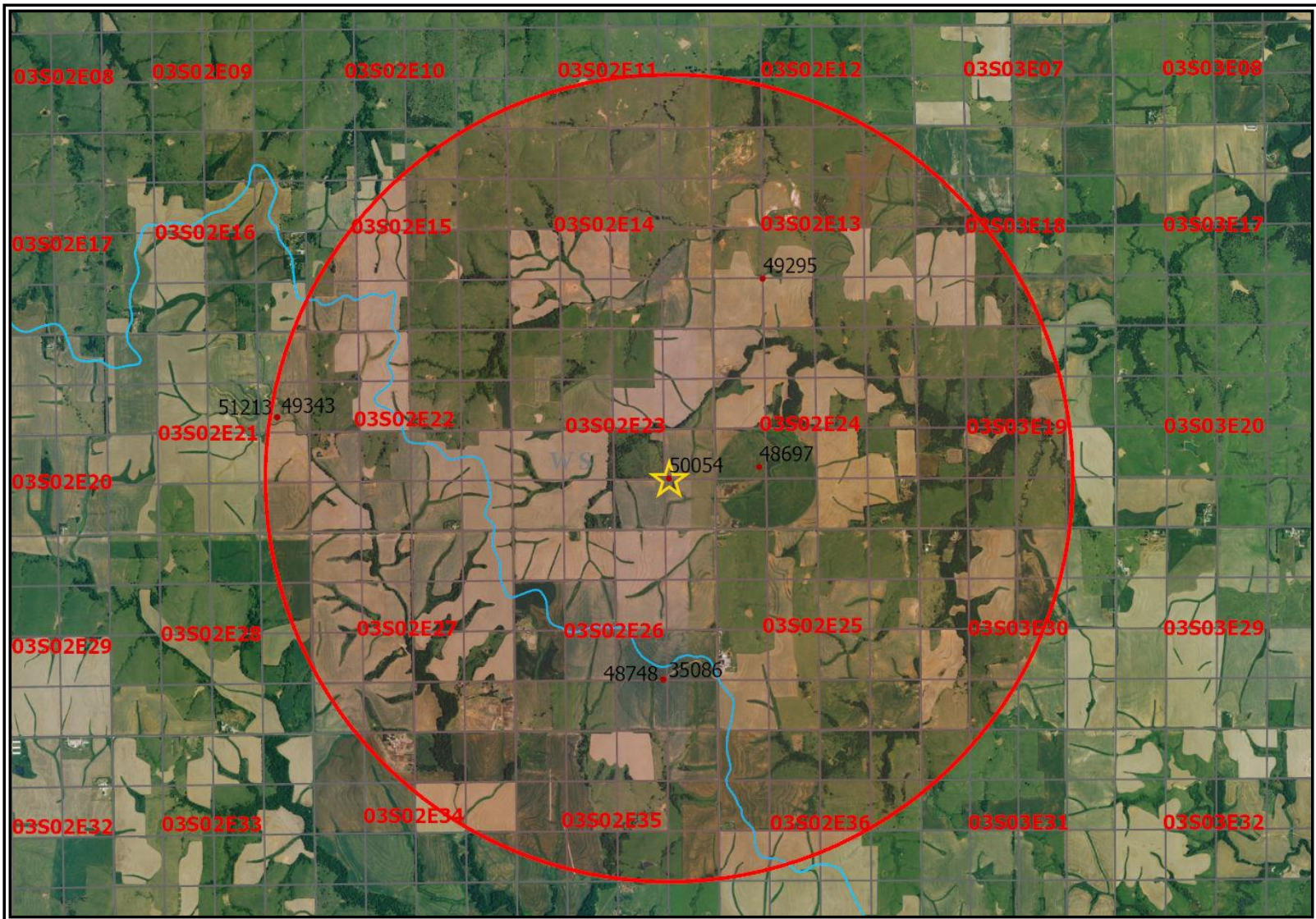
- List of water use correspondents including: CHAD A WURTZ, SCOTT WEBER, CHAD A WURTZ, BRETT HERRS, GH, LLC, BRETT HERRS.

Safe Yield Report Sheet

Water Right- A5005400

Point of Diversion in 23-03S-02E

Footages from SE corner- 1,350 feet North 1,220 feet West



Analysis Results

The selected PD is in an area OPEN to new appropriations.

The safe yield based on the variables listed below is 1,457.70 AF.

Total prior appropriations in the circle is 1,109.40 AF – 93.6 AF – 192 AF = 823.8 AF [159.6 AF will be added if PD move ~250 south. Does not appear to matter.]

Total quantity of water available for appropriation is 633.9 AF.

Safe Yield Variables

The area used for the analysis is set at 8,042 acres.

The potential annual recharge at the circle center is estimated to be 2.9 inches.

The percent of recharge available for appropriation is 75%.

Authorized Quantity values are as of 12-JUL-2024 and are based on Appropriated and Vested ground water right and possible stream nodes for GMD #2. Domestic, Term and Temporary water rights have been excluded.

There are 7 water rights and 5 points of diversion within the circle.

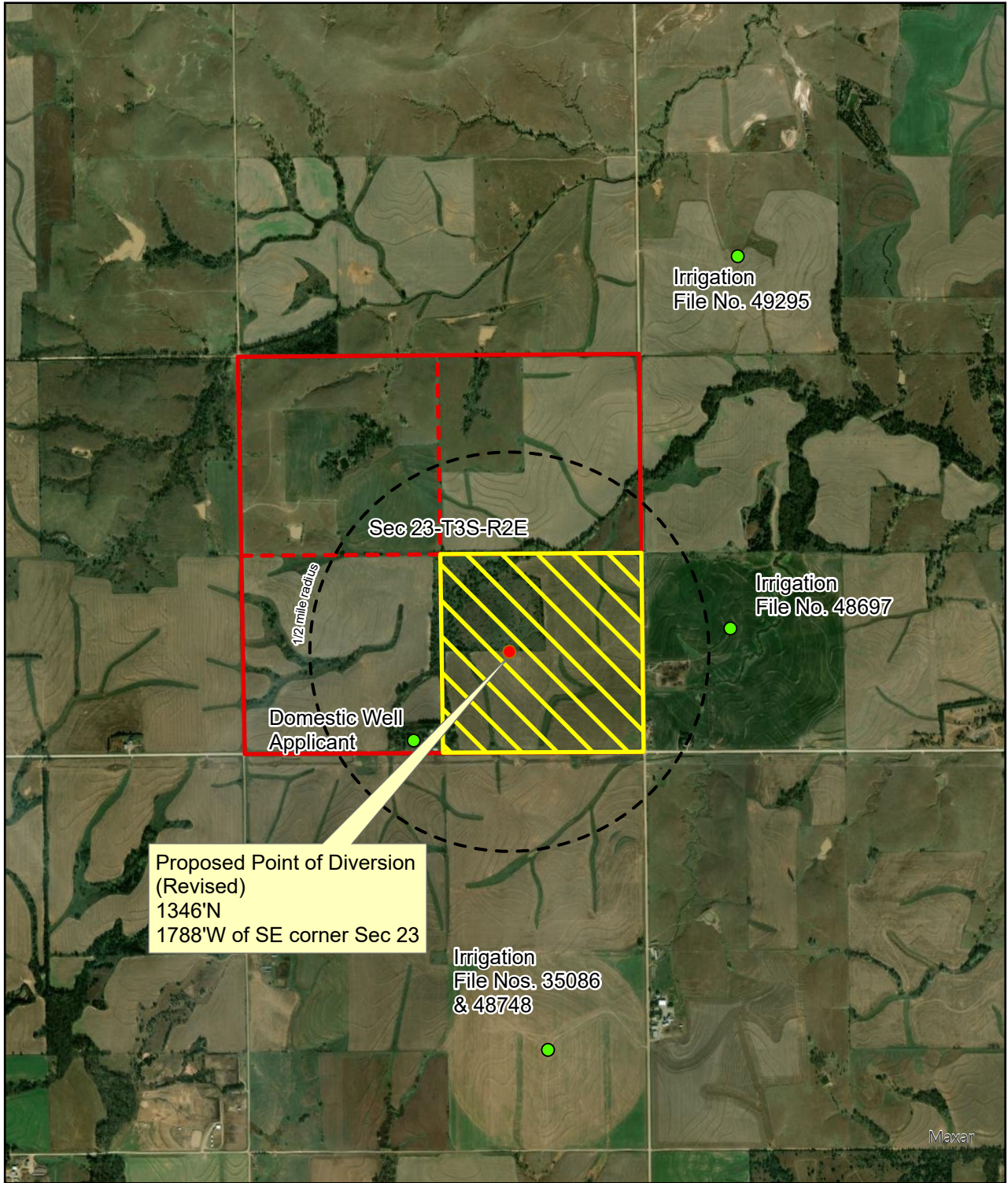
| File Number | Use | ST | SR | Q4 | Q3 | Q2 | Q1 | FeetN | FeetW | Sec | Twp | Rng | ID | Qind | Auth Quant | Add Quant | Tot Acres | Net Acres |
|-------------|-----|----|----|----|----|----|----|-------|-------|-----|-----|-----|----|------|-------------------|-------------------|-----------|-----------|
| A 35086 00 | IRR | NK | G | | | NC | SE | 1280 | 1300 | 26 | 03 | 02E | 1 | WR | 107.00 | 107.00 | 132.00 | 132.00 |
| A 48697 00 | IRR | KK | G | | SE | NW | SW | 1565 | 4152 | 24 | 03 | 02E | 1 | WR | 192.00 | 192.00 | 160.00 | 160.00 |
| A 48748 00 | IRR | KK | G | | | NC | SE | 1280 | 1300 | 26 | 03 | 02E | 1 | WR | 158.40 | 51.40 | 132.00 | 0.00 |
| A 49295 00 | IRR | KK | G | | SE | NW | SW | 1392 | 4038 | 13 | 03 | 02E | 1 | WR | 192.00 | 192.00 | 160.00 | 160.00 |
| A 49343 00 | IRR | KK | G | | SW | SE | NE | 3029 | 823 | 21 | 03 | 02E | 2 | WR | 281.40 | 281.40 | 234.00 | 234.00 |
| A 50054 00 | IRR | AY | G | | SW | NE | SE | 1350 | 1220 | 23 | 03 | 02E | 1 | WR | 192.00 | 192.00 | 160.00 | 160.00 |
| A 51213 00 | IRR | AY | G | | SW | SE | NE | 3029 | 823 | 21 | 03 | 02E | 2 | WR | 93.60 | 93.60 | 312.00 | 0.00 |

Limitations

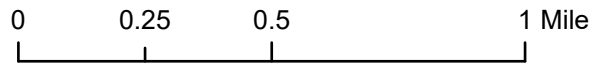
| File Number | Seq Num | Limitations |
|-------------|---------|------------------------------------|
| A 48748 00 | 1 | 158.4 AF/YR @ 900 GPM COM/W #35086 |

APPLICATION FILE NO. 50,054

Revised



Scale: 1:24,000



Map prepared by: LHH/TFO 8.26.2024

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. 50,054** of the applicant

GH, LLC
955 13TH RD
WASHINGTON, KS 66968

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 **May 11, 2018**.
2. That the water sought to be appropriated shall be used for irrigation use on land described in the application as follows:

| Sec. Twp. Range | NE¼ | | | | NW¼ | | | | SW¼ | | | | SE¼ | | | | TOTAL |
|-----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-------|
| | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | |
| 23 - 3S - 2E | | | | | | | | | | | | | 40 | 40 | 40 | 40 | 160 |

3. That the authorized source from which the appropriation shall be made is groundwater in the Mill Creek basin, to be withdrawn by means of a well located in the Southeast Quarter of the Northwest Quarter of the Southeast Quarter (SE¼ NW¼ SE¼) of Section 23, more particularly described as being near a point 1,346 feet North and 1,788 feet West of the Southeast corner of said section, in Township 3 South, Range 2 East, Washington County, Kansas, located substantially as shown on the map accompanying the application.

4. That the appropriation sought shall be limited to a maximum diversion rate not in excess of **1,200 gallons per minute (2.67 c.f.s.)** and to a quantity not to exceed **192 acre-feet** of water for any calendar year.

5. That installation of works for diversion of water shall be completed on or before **December 31, 2025**, or within any authorized extension thereof. The applicant shall notify the Chief Engineer and pay the statutorily required field inspection fee of \$400.00 when construction of the works has been completed. Failure to timely submit the notice and the fee will result in revocation of the permit. Any request for an extension of time shall be submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee of \$100.00.

6. That the proposed appropriation shall be perfected by the actual application of water to the proposed beneficial use on or before **December 31, 2029**, or any authorized extension thereof. Any request for an extension of time shall be submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee of \$100.00.
7. That the applicant shall not be deemed to have acquired a water appropriation for a quantity in excess of the amount approved herein nor in excess of the amount found by the Chief Engineer to have been actually used for the approved purpose during one calendar year subsequent to approval of the application and within the time specified for perfection or any authorized extension thereof.
8. That the use of water herein authorized shall not be made so as to impair any use under existing water rights nor prejudicially and unreasonably affect the public interest.
9. That the right of the appropriator shall relate to a specific quantity of water and such right must allow for a reasonable raising or lowering of the static water level and for the reasonable increase or decrease of the streamflow at the appropriator's point of diversion.
10. That this permit does not constitute authority under K.S.A. 82a-301 through 305a to construct any dam or other obstruction; nor does it grant any right-of-way, or authorize entry upon or injury to, public or private property.
11. That all diversion works constructed under the authority of this permit into which any type of chemical or other foreign substance will be injected into the water pumped from the diversion works shall be equipped with an in-line, automatic quick-closing, check valve capable of preventing pollution of the source of the water supply. The type of valve installed shall meet specifications adopted by the Chief Engineer and shall be maintained in an operating condition satisfactory to the Chief Engineer.
12. That an acceptable water flow meter shall be installed and maintained on the diversion works authorized by this permit in accordance with the Kansas Administrative Regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer. This water flow meter shall be used to provide an accurate quantity of water diverted as required for the annual water use report (including the meter reading at the beginning and end of the report year).
13. That the applicant shall maintain accurate and complete records from which the quantity of water diverted during each calendar year may be readily determined and the applicant shall file an annual water use report with the Chief Engineer by March 1 following the end of each calendar year. Failure to file the annual water use report by the due date shall cause the applicant to be subject to a civil penalty.
14. That no water user shall engage in nor allow the waste of any water diverted under the authority of this permit.
15. That 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.
16. That all wells with a diversion rate of 100 gallons per minute or more drilled under the authority of this permit shall have a tube or other device installed in a manner acceptable to, and in accordance with specifications adopted by, the Chief Engineer. This tube or device shall be suitable for making water level measurements and shall be maintained in condition satisfactory to the Chief Engineer.

17. 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.

Ordered this 29 day of August, 2024, in Manhattan, Riley County, Kansas.

Lane P. Letourneau

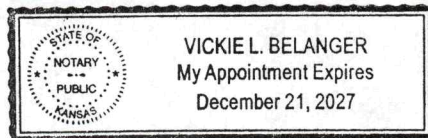
Lane P. Letourneau, P.G.
Water Appropriation Program Manager
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 29 day of August, 2024, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.

Vickie L. Belanger

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, Secretary

Laura Kelly, Governor

September 6, 2024

GENE HERRS
GH, LLC
955 13TH RD
WASHINGTON, KS 66968

RE: Appropriation of Water
File No. 50,054

Dear Mr. Herrs:

Enclosed is a permit authorizing you to proceed with construction of the proposed diversion works, if applicable, and to appropriate water for beneficial use as set forth in the permit. Your attention is directed to the enclosures and to the terms, conditions, limitations, and requirements specified in this permit.

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

An acceptable water flowmeter must be installed on the diversion works authorized by this permit prior to using water. An annual water use report must be filed with the Chief Engineer by March 1, following the end of each calendar year. If a complete annual water use report is not received by the deadline, then a fine may be assessed and all water use under such permit or right may be suspended. Reports may be submitted online for no fee at www.kswaterusereport.org. Reports submitted in paper form will be assessed a \$20 per file number paper filing fee.

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.

Also included 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/dwr. If you have any questions or need assistance with any of these requirements, please contact our office at 785-564-6640, or the 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
Water Appropriation Program

KAB:lh
Enclosures
pc: Topeka 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 request an evidentiary hearing before the Chief Engineer, or 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 Division, 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 review 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 *6th* day of *September*, 2024, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,054, dated *August 29*, 2024, was mailed postage prepaid, first class, US mail to the following:

GH, LLC
955 13TH RD
WASHINGTON KS 66968

With photocopies to:

KDA-DWR Topeka Field Office



Division of Water Resources