

File No. 50,605	13. County: WS-Washington Basin: Mill Creek Stream: Ash Creek Trib 2A (Mill Creek)																								
Structures File No: DWS-133	Aquifer Code:								Special Use Area:																
14. Points of Diversion, Rates & Quantities																									
	PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Qty AF		Rate gpm		Storage Qty AF		Storage Rate									
										Auth	Add	Auth	Add	Auth	Add	Auth/Add	Overlaps								
MOD	88949	NW NW NW	2	4S	3E	1	4681	5093		347	347	2400	2400	347	347	NF									
15. Limitations																									
Type:			Quantity:			Rate:			combined with file no(s):																
Type:			Quantity:			Rate:			combined with file no(s):																
16. Metering <input checked="" type="checkbox"/> Metering Required <input type="checkbox"/> Anti-Reverse Required <input type="checkbox"/> Seal Required Compliance Date: 12/31/2025																									
17. Place of Use																									
	PUSE	S	T	R	ID	NE¼				NW¼				SW¼				SE¼				Total	Owner(s)	Chg?	Overlaps
	ID					NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE				
CHK	70489	35	3S	3E	1													39	38	38	39	154	5a	<input type="checkbox"/>	
CHK	70490	2	4S	3E	1					39	39	39	40									157	5a	<input type="checkbox"/>	
CHK	70491	2	4S	3E	2									40	39							79	5b	<input type="checkbox"/>	
																								<input type="checkbox"/>	
																								<input type="checkbox"/>	
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18. Point of Diversion and Place of Use Overlaps																									
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KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources
M E M O R A N D U M

TO: Files

DATE: September 4, 2024

FROM: Lloyd Hemphill

RE: Application, File No. 50,605

Kevin Holsch has filed an application for a permit to store 347 acre-feet of surface water in a reservoir at the rate of natural flows and to re-divert 347 acre-feet at the rate of 2,400 gallons per minute for irrigation use. The point of diversion is a proposed reservoir located in the Northwest Quarter (NW¹/₄) of Section 2, Township 4 South, Range 3 East, Washington County, Kansas. The dam is located on Ash Creek Trib 2A (Mill Creek). The point of diversion is owned by the Kevin Holsch Family Trust. The applicant signed a supplemental page indicating that he has legal access to the point of diversion. The place of use (390 acres) is owned by the Kevin Holsch Family Trust and Kevin and Rebecca Holsch as described in the application. This application does not overlap any other files in point of diversion or place of use.

The proposed structure was reviewed by DWR Water Structures Program staff, under WSN: DWS-133. The structure was determined to require permitting as a dam. A Structures permit will be approved along with this water appropriation permit.

Engineering plans dated September 14, 2023 define the surface area as 19 acres and the capacity as 90.5 acre-feet, at the primary spillway elevation. The drainage area will include 499 acres.

The quantities requested on the Water Appropriation application were determined as follows:

1-yr Direct Use:	468 AF (1.2AF X 390 ac.)
Reservoir Capacity:	90.5 AF
Reservoir Surface Area:	19 ac.
Potential Evaporation:	17 in/yr X 1ft/12 in X 19 ac. = 26.9 AF
Storage Quantity:	468 AF + 90.5 AF + 26.9 AF = 585.4 AF *
<i>* storage will be limited by potential runoff as discussed below</i>	

Runoff calculations were completed using a normal annual precipitation of 30 inches; soil complex number of 76; and drainage area of 499 acres. The potential runoff is 347 acre-feet in 1 out of every five (5) years (a 20% chance). Potential runoff is the limiting factor, and the storage quantity is limited to 347 acre-feet. The direct use quantity (re-diversion) is 347 acre-feet which is less than the maximum allowable per K.A.R. 5-3-24 (1.2 AF/ac. X 390 ac.). The proposed direct use quantity of 347 acre-feet is 3.8 times the capacity. The proposed re-diversion rate of 2,400 gpm appears reasonable for the project.

Several upstream and downstream property owners within one-half (1/2) mile of the property lines were identified on the application. Nearby notification letters were sent on March 25, 2022. No response was received. There are no other surface water rights within a two-mile radius according to the WRIS database. No senior water rights will be impaired with approval of this application.

Kevin Holsch
File No. 50,605
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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.

Nathan Westrup, Water Commissioner, Topeka Field Office, recommended in a September 4, 2024 e-mail that this new application should be approved. Based on the above discussion, that this area is open to new appropriations, the proposed appropriation of water is reasonable, DWR Water Structures requirements have been fulfilled, and senior rights will not be impacted, 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, September 4, 2024 10:47 AM
To: Hemphill, Lloyd [KDA]
Subject: RE: Application, File No. 50605: 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: Tuesday, September 3, 2024 1:50 PM
To: Westrup, Nathan [KDA] <Nathan.Westrup@ks.gov>
Subject: Application, File No. 50605: For Your Recommendation

Hello Nate,

Will you provide your recommendation on Application, File No. 50605 (Kevin Holsch)?

This is a storage and re-diversion project for irrigation. The pond is on a tributary to Mill Creek (Washington County).

A Structures permit will be signed concurrently under WSN: DWS-0133.

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

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Secretary of Agriculture

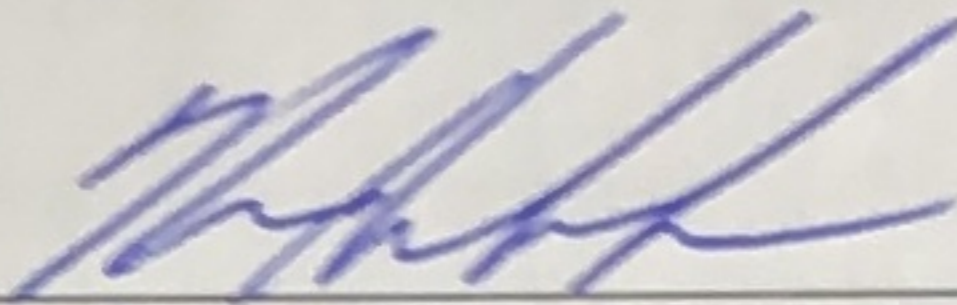
DIVISION OF WATER RESOURCES
Earl D. Lewis Jr., Chief Engineer

SWORN STATEMENT
PURSUANT TO K.S.A. 82a-709

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 APRIL 18, 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.

KANSAS DEPARTMENT OF AGRICULTURE
Jackie McClaskey, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

**APPROVAL OF APPLICATION
and
PERMIT TO PROCEED**
(This is not a Certificate of Appropriation)

This is to certify that I have examined Application **File No. 50,605** of the applicant

**KEVIN HOLSCH FAMILY TRUST
1344 RAINBOW 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 **July 12, 2021**.
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	W¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
35 - 3S - 3E													39	38	38	39	154
2 - 4S - 3E					39	39	39	40	40	39							236

3. That the appropriation sought shall be limited to all natural flows of an unnamed tributary to Ash Creek, designated in the office of the Chief Engineer as Ash Creek Trib 2A (Mill Creek), not needed to satisfy all vested rights and prior appropriation rights to be incrementally accumulated as reservoir storage space becomes available to a maximum extent of **347 acre-feet** per calendar year in a reservoir created by a dam located in the Northwest Quarter of the Northwest Quarter of the Northwest Quarter (NW¼ NW¼ NW¼) of Section 2, more particularly described as being near a point 4,681 feet North and 5,093 feet West of the Southeast corner of said section, in Township 4 South, Range 3 East, Washington County, Kansas, to provide **347 acre-feet** of water as needed for direct irrigation use to be withdrawn, released or otherwise diverted from the reservoir at a re-diversion rate of approximately **2,400 gallons per minute** (5.35 c.f.s.). A reasonable maximum re-diversion rate will be established during the perfection period and assigned at certification.

4. That installation of works for diversion of water shall be completed on or before **December 31, 2025**, 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, 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, which is currently \$100.00.

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

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

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

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

10. That all re-diversion works constructed under the authority of this permit into which any type of chemical or other foreign substance will be injected into the water pumped from the re-diversion works shall be equipped with an in-line, automatic quick-closing, check valve capable of preventing pollution of the source of the water supply. The type of valve installed shall meet specifications adopted by the Chief Engineer and shall be maintained in an operating condition satisfactory to the Chief Engineer.

11. That an acceptable water flow meter shall be installed and maintained on the re-diversion works authorized by this permit in accordance with the Kansas Administrative Regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer. This water flow meter shall be used to provide an accurate quantity of water diverted as required for the annual water use report (including the meter reading at the beginning and end of the report year).

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

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

14. That 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.

15. That failure without cause to comply with the provisions of this 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 6th day of September, 2024, 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)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 6th day of September, 2024, by Earl D. Lewis Jr., P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.

Melinda Jennings

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 9, 2024

KEVIN HOLSCH FAMILY TRUST
1344 RAINBOW RD
WASHINGTON KS 66968

RE: Appropriation of Water
File No. 50,605

Dear Mr. Holsch:

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

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

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

The approval of your application constitutes a permit to appropriate water. It does not give authority to construct any dam or other stream obstruction regulated by K.S.A. 82a-301 through 305a. It does not give authority to access any right-of-way or authorize trespassing upon or injury to public or private property. It may also be necessary for you to comply with other local, state or federal requirements.

Also included with your permit is an information 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
Division of Water Resources

KAB:kak:lh
Enclosure(s)
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.

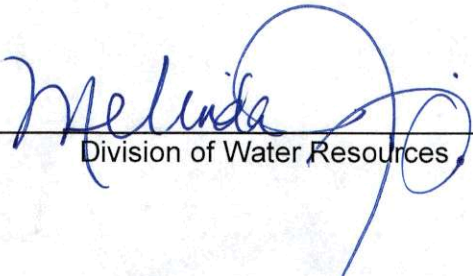
CERTIFICATE OF SERVICE

On this 9 day of September, 2024, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,605, dated 6 September, 2024, was mailed postage prepaid, first class, US mail to the following:

KEVIN HOLSCH FAMILY TRUST
1344 RAINBOW RD
WASHINGTON KS 66968

With photocopies to:

KDA-DWR Topeka Field Office



Division of Water Resources