

File No. **50,793** 13. County: **LY-Lyon** Basin: **Neosho River** Stream: **2**
 Structures File No: Aquifer Code: **100** Special Use Area:

14. Points of Diversion, Rates & Quantities

PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Qty		Rate		Storage Qty		Storage Rate		Overlaps
									Auth	Add	Auth	Add	Auth	Add	Auth/Add	Auth/Add	
CHK	89548	(SE NW NW)	12	18	10E	1	4313	4321	5.1	5.1	99	99					

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

PDIV	S	T	R	ID	NE¼				NW¼				SW¼				SE¼				Total	Owner(s)	Chg?	Overlaps
					NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE				
CHK	70864	12	18	10E	1	4.10														5.1	7a	<input type="checkbox"/>		
																							<input type="checkbox"/>	
																							<input type="checkbox"/>	
																							<input type="checkbox"/>	
																							<input type="checkbox"/>	
																							<input type="checkbox"/>	

18. Point of Diversion and Place of Use Overlaps

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MEMORANDUM TO FILE

Division of Water Resources, Water Appropriation Program

Date: April 30, 2024

From: Brandon Milner , Environmental Scientist

Re: New Application File No. 50,793

Summary

The City of Americus has filed the above referenced application proposing to appropriate 5.1 acre-feet (1.67 million gallons) of groundwater at a rate of diversion not to exceed 99 gallons per minute (.22 c.f.s.) for irrigation use. The proposed appropriation is located within the Neosho River Drainage Basin. There are currently no other groundwater appropriations within two (2) mile radius of the proposed point of diversion.

Reasonable Rate and Quantity

The applicant is requesting 5.10 acre feet to irrigate 5.1 acres in Lyon County. This would equate to 1 acre foot per acre which is the maximum reasonable annual quantity for Lyon County.

Source of Supply and Safe Yield

The formation source for this proposed well is quaternary alluvium from the Neosho River. Per the requirements in K.A.R. 5-3-11, safe yield is determined by the extent of the unconfined aquifer within a two-mile radius of the point of diversion, which establishes the area of consideration. Evaluation of the area of consideration included the extent of the unconfined aquifer, provided an area of consideration of 4,644 acres. With a potential annual recharge of 5.1 inches, and 75% of recharge available for appropriation, safe yield was determined to be 1480.36 acre-feet. There is one water right within two miles with 1.53 acre-feet already appropriated, so this application complies with safe-yield with 1478.83 acre-feet available.

Nearby Water Rights

There is one groundwater water right that is 3,300' away and multiple domestic wells with the closest one being more than 660' away. With numerous domestic wells nearby, a newspaper notice was published in the Emporia Gazette for three consecutive weeks running from December 30, 2023 to January 13th, 2024 with no replies or concerns to date. This application meets the standard spacing of 1,320' for nearby water rights/appropriations and 660' for nearby domestic wells from the point of diversion as per the requirements in K.A.R. 5-4-4.

Recommendations

The application was sent to the Topeka Water Commissioner for recommendation on April 29th, 2024 and was recommended for approval on April 30th, 2024.

From: Bunger, Brett [KDA]
Sent: Tue 4/30/2024 7:24 AM
To: Milner, Brandon [KDA]
Subject: RE: 50793 Memo

Brandon, this looks like an easy one. Please proceed with approval.

Thanks

Brett

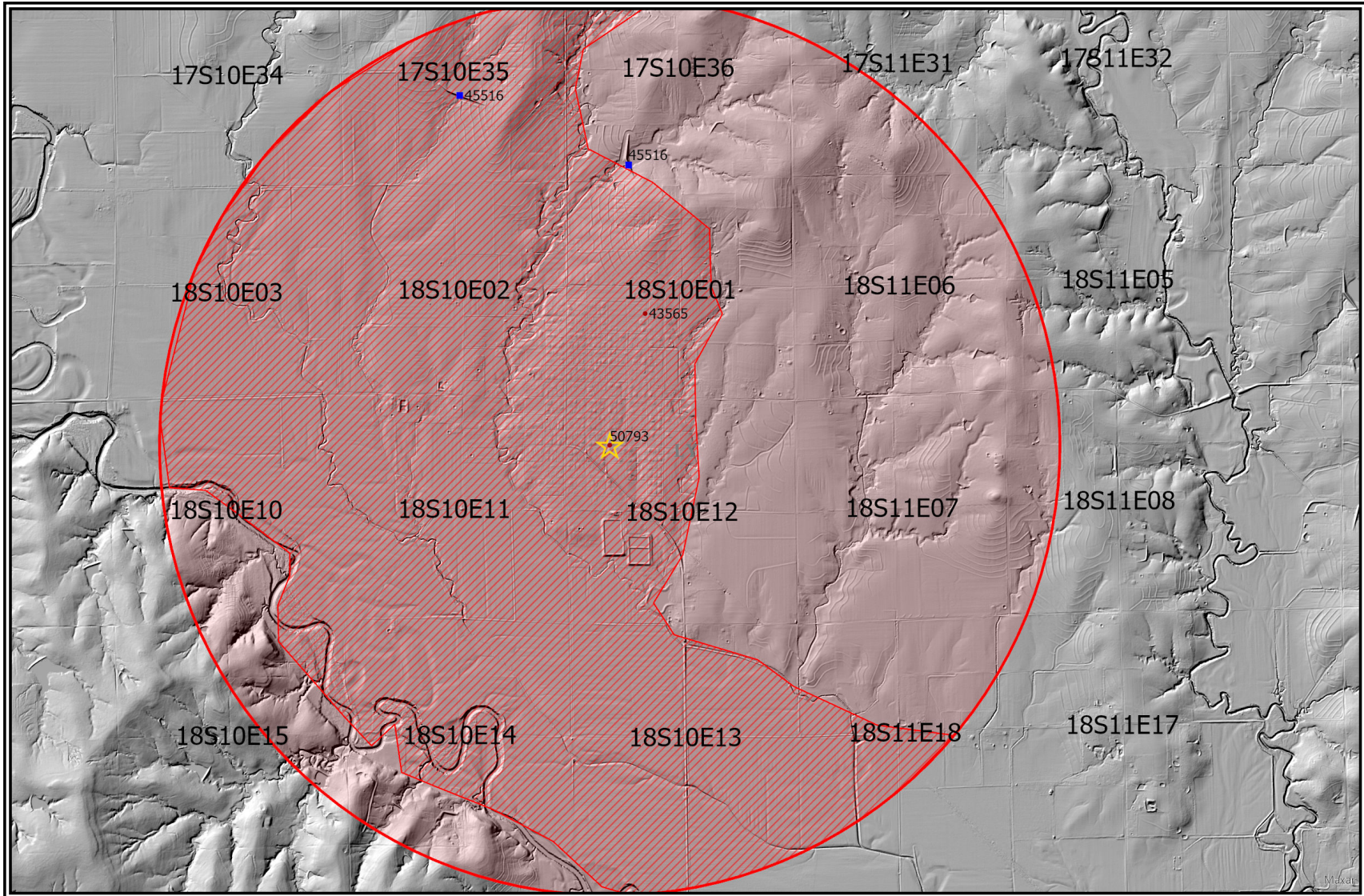
From: Milner, Brandon [KDA] <Brandon.M.Milner@ks.gov>
Sent: Monday, April 29, 2024 4:25 PM
To: Bunger, Brett [KDA] <Brett.Bunger@ks.gov>
Subject: 50793 Memo

Good afternoon Brett,

I'm back to working on new apps moving forward after leave. Attached is a memo for application no. 50,793 for the city of Americus. Could you provide a recommendation?

Brandon Milner
Environmental Scientist
Water Appropriation Program

Safe Yield Report Sheet
Water Right- A5079300
Point of Diversion in 12-18S-10E
Footages from SE corner- 4,313 feet North 4,321 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 1,480.36 AF.

Total prior appropriations in the circle is 6.63 AF.-5.10

Total quantity of water available for appropriation is 1,473.73 AF. **1478.83 acre feet**

Safe Yield Variables

The area used for the analysis is set at 4,644 acres.

The potential annual recharge at the circle center is estimated to be 5.1 inches.

The percent of recharge available for appropriation is 75%.

Authorized Quantity values are as of 29-APR-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 2 water rights and 2 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 43565 00	IRR	NK	G		NW	NE	SW	2124	3482	01	18	10E	1	WR	1.53	1.53	7.00	7.00
A 50793 00	IRR	AY	G		SE	NW	NW	4313	4321	12	18	10E	1	WR	5.10	5.10	5.10	5.10

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. 50,793** of the applicant

**CITY OF AMERICUS
PO BOX 526
AMERICUS, KS 66835-0526**

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 20, 2022**.

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	
12 - 18S - 10E					1.0	4.1											5.1

3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of one (1) well located in the Southeast Quarter of the Northwest Quarter of the Northwest Quarter (SE¼ NW¼ NW¼) of Section 12, more particularly described as being near a point 4,313 feet North and 4,321 feet West of the Southeast corner of said section, in Township 18 South, Range 10 East, Lyon County, Kansas, located substantially as shown on the topographic map accompanying the application.

4. That the appropriation sought shall be limited to a maximum diversion rate not in excess of **99 gallons per minute (0.22 c.f.s.)** and to a quantity not to exceed **5.1 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 Kansas Administrative Regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer. The required 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 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 7 day of May, 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 7 day of May, 2024, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.

Thy Commis
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

May 14, 2024

BRIAN ANSTEY
CITY OF AMERICUS
PO BOX 526
AMERICUS KS 66835-0526

RE: Appropriation of Water
File No. 50,793

Dear Mr. Anstey:

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 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.

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 your local Topeka Field Office at 785-368-8251. 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:kak:bmm

Enclosure(s)

pc: Topeka Field Office
Douglas S. Helmke (KRWA)

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 14 day of May, 2024, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,793, dated May 7, 2024, was mailed postage prepaid, first class, US mail to the following:

CITY OF AMERICUS
PO BOX 526
AMERICUS KS 66835-0526

With photocopies to:

KDA-DWR Topeka Field Office

DOUGLAS S HELMKE
KANSAS RURAL WATER ASSN
6847 SE 29TH ST
TECUMSEH KS 66542-9571



Division of Water Resources