



File No. **50825**      15. Formation Code:      Drainage Basin: Kansas River      County: Shawnee      Special Use:      Stream: **Solider Creek**

16. Points of Diversion										17. Rate and Quantity				
MOD DEL ENT	PDIV	Qualifier	S	T	R	ID	'N	'W		Authorized Rate gpm	Quantity af	Additional Rate gpm	Quantity mgy	Overlap PD Files
<b>CHK</b>	<b>89692</b>	<del>SW SE SW</del> <b>NW</b>	<b>21</b>	<b>10S</b>	<b>14E</b>	<b>1</b>	<b>2865</b>	<b>3530</b>		<b>1000</b>	<b>100</b>	<b>1000</b>	<b>100</b>	<b>None</b>

18. Storage: Rate \_\_\_\_\_ NF      Quantity \_\_\_\_\_ ac/ft      Additional Rate \_\_\_\_\_ NF      Additional Quantity \_\_\_\_\_ ac/ft

19. Limitation: \_\_\_\_\_ mgy 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 **12/31/2024**      Date Acceptable Meter Installed \_\_\_\_\_

MOD DEL ENT	PUSE	S	T	R	ID	NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg? NO	Overlap Files
						NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼				
<b>CHK</b>	<b>70938</b>	<b>21</b>	<b>10S</b>	<b>14E</b>	<b>1</b>			<b>4.5</b>						<b>26</b>	<b>3.5</b>	<b>17.5</b>	<b>17.5</b>					<b>69</b> <b>64.5</b>	<b>7b</b>	<b>N</b>	<b>NA</b>
<del>CHK</del>	<del>70939</del>	<del>21</del>	<del>10S</del>	<del>14E</del>	<del>2</del>			<del>4.5</del>														<del>4.5</del>	<b>7b</b>	<b>N</b>	<b>NA</b>
<b>CHK</b>	<b>70940</b>	<b>21</b>	<b>10S</b>	<b>14E</b>	<b>3</b>														<b>28</b>			<b>28</b>	<b>7c</b>	<b>N</b>	<b>NA</b>
<b>CHK</b>	<b>70941</b>	<b>21</b>	<b>10S</b>	<b>14E</b>	<b>4</b>								<b>10.5</b>									<b>10.5</b>	<b>7d</b>	<b>N</b>	<b>NA</b>

Comments:

**MOD**  
**DEL**

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

**M E M O R A N D U M**

**TO:** Files

**DATE:** August 14, 2023

**FROM:** Brandon Milner

**RE:** Application, File No. 50,825

J.D. Hanna has filed the referenced application to appropriate 100 acre-feet of surface water from the Soldier Creek (Kansas River) at the rate of 1,000 gallons per minute to irrigate a total of 107.5 acres in Shawnee County. The entire place of use is owned by the applicant. The applicant has signed the application form stating he has access to the point of diversion.

The applicant is proposing to pump surface water from one pump site located in Section 21, Township 10 South, Range 14 East. A list of nearby landowners within one-half mile upstream and downstream of the proposed point of diversion was provided by the applicant, and they were notified by letter dated May 3, 2023 with no responses to date. There are no other pump sites within a two (2) mile radius of the proposed point of diversion.

The requested volume of 100 acre-feet to irrigate 107.5 acres is equal 0.93 acre feet/acre which is reasonable amount for Shawnee County which has a maximum of 1 acre/foot/acre.

Per K.A.R. 5-3-15, Availability of water for appropriation - 'safe yield; surface water. (a) Each application filed to directly divert the natural flow of the Kansas river, the Missouri river, the Big Blue river the Spring river, or **their tributaries**, shall:

- (1) be processed in accordance with K.A.R. 5-3-9; and
- (2) meet all other requirements for the approval of a new application.

In accordance with K.S.A. 82a-706c, the Chief Engineer retains full authority to require any water user to install meters, gages, or other measuring devices, which devices he or she or his or her agents may read at any time. Water flowmeter requirements are further described in K.A.R. 5-1-4 through K.A.R 5-1-12. 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 sent to Brett Bunger of the Topeka Field office for recommendation on August 14, 2023 and was recommended for approval on the same day.

Based on the above discussion, that surface water within the Kansas River Basin remains open to new appropriations with appropriate and consistent permit conditions, and approval of the application will not impair senior water rights, it is recommended that the new referenced application be approved.

Brandon  
Environmental Scientist  
New Applications Unit

**From:** Bungler, Brett [KDA]  
**Sent:** Mon 8/14/2023 3:52 PM  
**To:** Milner, Brandon [KDA]  
**Subject:** RE: 50825 Memo

This one needed a little thought. Under KAR 5-3-15 the Kansas River and its tributaries are open to filing applications. There are 3 water rights/permits for irrigation on Soldier Creek. Adam Foster has one (46568) that he uses from time to time. He is the farthest upstream. His water right provides for 450 gpm. The Niehues family is downstream of Foster about 1 mile. They have File No. 50204. They have drip tape and pump around 800 gpm. J D Hanna will be next in line and then there will be Steve Porubsky with File No. 50664. Pumping rate will probably be around 800 gpm for Hanna and Porubsky. I looked at 2 gages on Soldier Creek. The Delia gage and the Topeka Gage. Even under the current dry conditions, there are some gains between the 2 gages. Niehues is below the Delia gage and above Topeka and we are still seeing gains. For the most part the Topeka Gage runs at or above 10 cfs (4,488 gpm). However, during times of extreme drought, there is little to no water. These are rare events and tend to happen in the fall of the year. I don't think we have the ammunition to say no to approving this application, however, this does provide some serious questions for future applications that are filed on Soldier Creek. I am recommending approval of this application.

Brett

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**From:** Milner, Brandon [KDA] <Brandon.M.Milner@ks.gov>  
**Sent:** Monday, August 14, 2023 1:27 PM  
**To:** Bungler, Brett [KDA] <Brett.Bunger@ks.gov>  
**Subject:** 50825 Memo

Brett,

How does this look for recommendation on application no. 50,825? It looks pretty straight forward on my end with not much activity in the area.

Brandon Milner  
Environmental Scientist  
Water Appropriation Program

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. 50,825** of the applicant

**J D HANNA  
6120 NW TIBBS RD  
SILVER LAKE KS 66539-9447**

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 7, 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	
21 - 10S - 14E			4.5				26.0	14.0	17.5	17.5					28.0		107.5

3. That the authorized source from which the appropriation shall be made is surface water from Solider Creek to be diverted at a pumpsite located in the Southwest Quarter of the Southeast Quarter of the Northwest Quarter (SW¼ SE¼ NW¼) of Section 21, more particularly described as being near a point 2,865 feet North and 3,530 feet West of the Southeast corner of said section, in Township 10 South, Range 14 East, Shawnee County, Kansas, located substantially as shown on the aerial photo accompanying the application.

4. That the appropriation sought shall be limited to a maximum diversion rate not in excess of **1000 gallons per minute (2.23 c.f.s.)** and to a quantity not to exceed **100 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, 2024**, 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, 2028**, 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 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 stream flow shall not be stopped at the first riffle below the point of diversion while diversion is taking place under the authority of this water right or permit.

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 24 day of August, 2023, in Manhattan, Riley County, Kansas.

*Lane P. Letourneau*

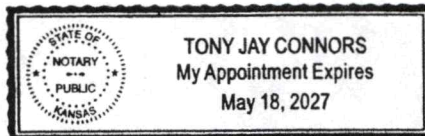
Lane P. Letourneau, P.G.  
Water Appropriation Program Manager  
Division of Water Resources  
Kansas Department of Agriculture

State of Kansas )  
                          ) SS  
County of Riley )

The foregoing instrument was acknowledged before me this 24 day of August, 2023, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.

*Tony Jay Connors*

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

August 30, 2023

J D HANNA  
6120 NW TIBBS RD  
SILVER LAKE KS 66539-9447

RE: Appropriation of Water  
File No. 50,825

Dear Mr. Hanna:

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 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 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](http://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.

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/dwr](http://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 785-296-5733. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

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

KAB:kak:bmm

Enclosure(s)

pc: Topeka Field Office  
C. Duane Anderson  
Ronald Kramer



## 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 30 day of August, 2023, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,825, dated August 24, 2023, was mailed postage prepaid, first class, US mail to the following:

J D HANNA  
6120 NW TIBBS RD  
SILVER LAKE KS 66539-9447

With photocopies to:

C DUANE ANDERSON  
305 MADORE ST  
SILVER LAKE KS 66539-9401

RONALD B KRAMER TRUST  
8231 NW HOCH RD  
SILVER LAKE KS 66539-9435

KDA-DWR Topeka Field Office

  
Division of Water Resources