

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

1. File No.: 50,876	2. Status Change Date: 4/22/2024	4. Field Office: 02 - Stafford GMD: Structures File No.: Filing/Priority Date: 10/04/2022
3. Package File No(s):		
5a. <input checked="" type="checkbox"/> Applicant <input checked="" type="checkbox"/> Owner <input checked="" type="checkbox"/> WUC <input type="checkbox"/> Address Change Person ID 64919 Add Seq# 1 STEVEN L & MARY J ALBERS REV TRUSTS 15140 SW 70TH STREET CUNNINGHAM, KS 67035	5b. <input checked="" type="checkbox"/> Owner <input type="checkbox"/> WUC <input type="checkbox"/> Address Change Person ID 64919 Add Seq# NICHOLAS & SHEENA N ALBERS 14826 SW 80TH ST NASHVILLE, KS 67112	
5c. <input type="checkbox"/> Owner <input type="checkbox"/> WUC <input type="checkbox"/> Address Change Person ID Add Seq#	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.: --- Rule Type: --- Justification: --- Rule SubType: ---		
Comments	Processed 04/15/24 JNE	Entered 4/24/2024 KAnderson
	Reviewed KAK 4/16/2024	

File No. **50,876** 13. County: **KM** Basin: **48 - Chikaskia River** Stream:
 Structures File No: Aquifer Code: **190 - Equus Beds** 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	89826	NC	SW	11	29S	10W	1	1320	3960	312.2	312.2	1200	1200				

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

16. Metering Yes 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		
PDIV	S	T	R	ID		NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE						
CHK	71034	14	29S	10W	1					37.5	37.5												75.0	5a	<input type="checkbox"/>		
CHK	71035	11	29S	10W	1									40.0	40.0		40.0						120.0	5a	<input type="checkbox"/>		
CHK	71036	11	29S	10W	2											28.0							28.0	5b	<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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KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: April 16, 2024

FROM: Jessica Engelbrecht

RE: Application, File No. 50,876

The referenced new application has been filed by Steve Albers on behalf of the Steve and Mary Albers Trust, to appropriate 312.2 acre-feet of groundwater per calendar year, to irrigate 223 acres at a diversion rate not to exceed 1,200 gallons per minute. The proposed point of diversion is to be one (1) well located near the center of the Southwest Quarter (SW¼) of Section 11, more particularly described as being near a point 1,320 feet North and 3,960 feet West of the Southeast corner of said section, in Township 29 South, Range 10 West, in Kingman County. The requested point of diversion is located within the boundaries of the Chikaskia River basin and the Designated Unit Area Chikaskia 3 which is open and prior to this application, had 1,981 acre-feet available. Based on the proposed 223 acres and with 1.4 acre-feet per acre allowed in Kingman County, the maximum allowable quantity of water would be 312.2 acre-feet.

No nearby wells were indicated on the application by the applicant. According to WRIS, there are no non-domestic wells located within two miles of the proposed point of diversion. The proposed point of diversion meets spacing requirements as set forth in K.A.R. 5-4-4.

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 circle 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, which provided an area of consideration of 8,042 acres. With a potential annual recharge of 1.8 inches, and 50% of recharge available for appropriation, safe yield was determined to be 603.19 acre-feet. There are no existing water rights within two miles of the proposed point of diversion. The application is requesting 377.0 acre-feet which complies with safe yield.

A driller's log shows topsoil from 0 to 2 feet, layers of clay and sand from 2 to 85 feet and red shale at 85 feet. The static water level of 20 feet provides a saturated thickness of 65 feet. The likely source is the Kansan.

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.

Jeff Lanterman, Water Commissioner, Stafford Field Office, recommended approval of the referenced application on April 15, 2024. Based on the above discussion, well spacing and safe yield criteria are met, and approval of the application will not impair senior water rights nor prejudicially or unreasonably affect the public interest, it is recommended that the referenced application be approved.

Engelbrecht, Jessica [KDA]

From: Lanterman, Jeff [KDA]
Sent: Monday, April 15, 2024 3:41 PM
To: Engelbrecht, Jessica [KDA]
Subject: 50876 review and recommendation

Importance: High

Follow Up Flag: Follow up
Flag Status: Flagged

Jessica,

I looked this one over and I have no objection to approval.

The only well level I could see nearby was fairly stable. Been measuring it since 2011.

https://geohydro.kgs.ku.edu/geohydro/wizard/wizardwelldetail.cfm?usgs_id=373106098204301

So if the DUA has water available I say go ahead and approve it. Please recheck the DUA as I had thought most of the DUA's there were over appropriated. If it looks good go ahead and approve it.

Thanks

Jeff Lanterman PG, Water Commissioner

Kansas Department of Agriculture

Division of Water Resources

(620)234-5311

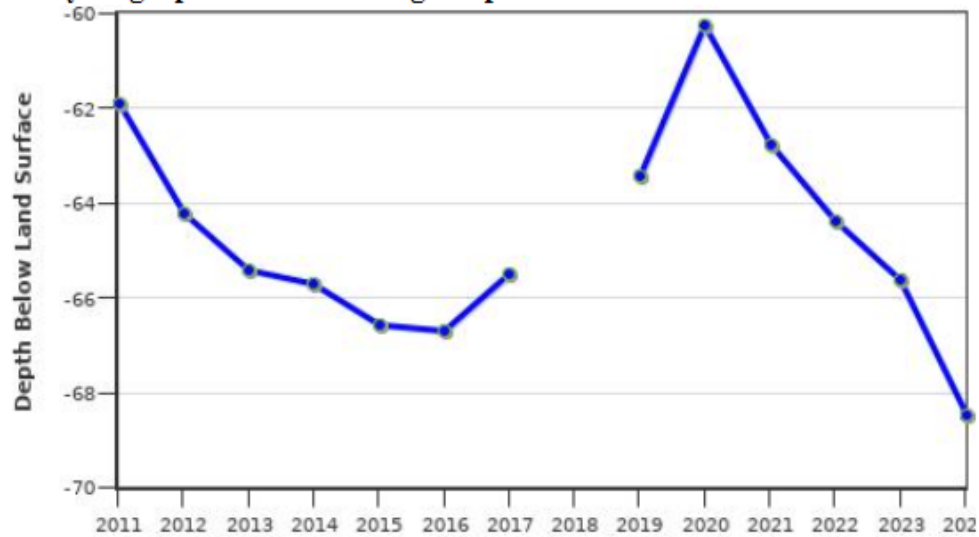
jeff.lanterman@ks.gov

<https://agriculture.ks.gov/divisions-programs/dwr>

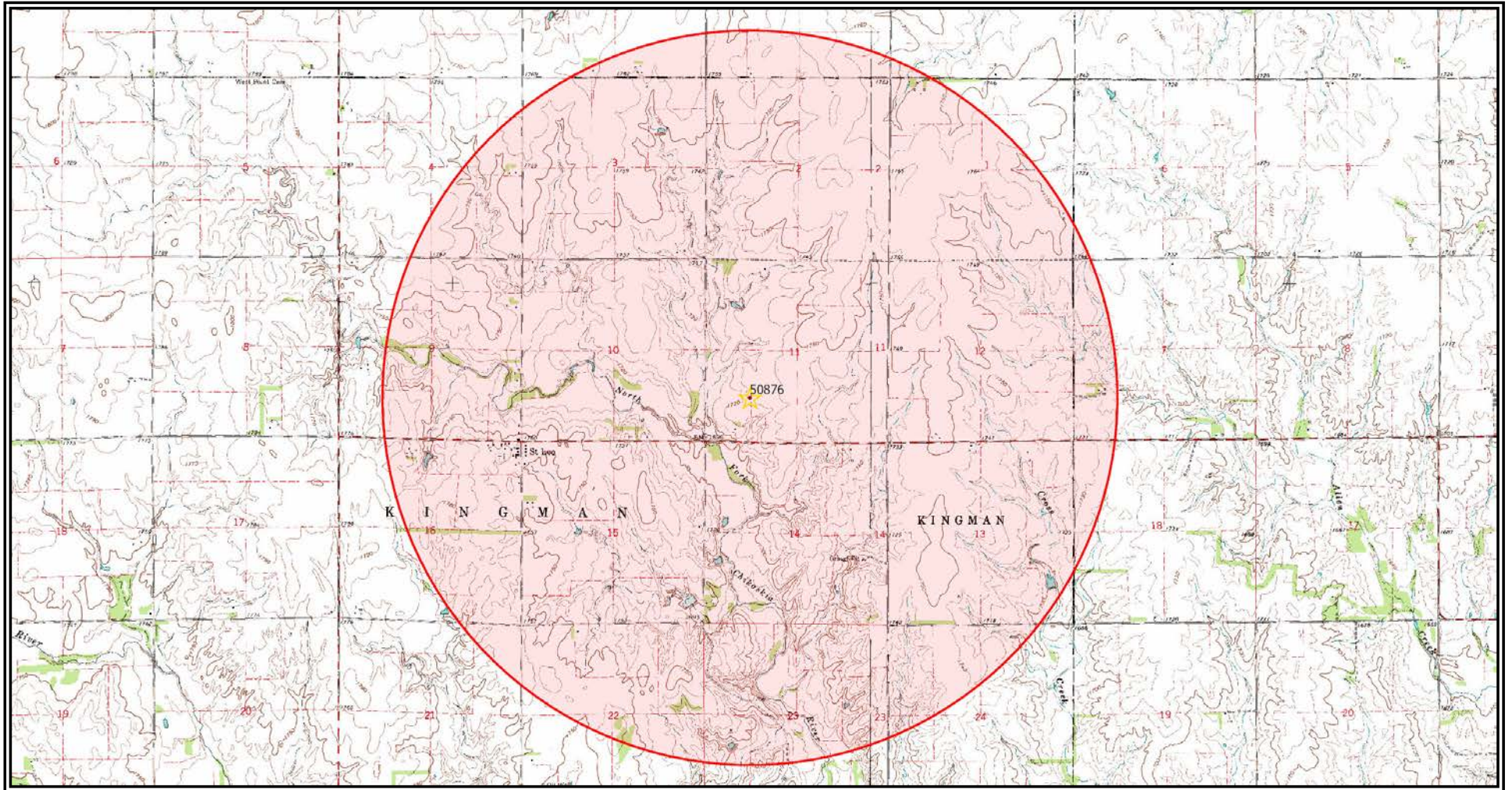
General Well Site Information ?

USGS ID:	373106098204301	KGS Local Well ID:	29S 09W 18DCB 01
County:	Kingman	PLSS Description:	29S 9W 18 W2SE
HUC 8 Code:	11060005	GMD:	None
Longitude:	-98.345276	Lat/Long Source:	GPS (within 50 feet)
Latitude:	37.518333	Lat/Long Accuracy:	5 seconds
Surface Elevation (ft):	1731	Depth of Well (ft):	143
Geological Unit Codes:	QU	USGS Map Name:	Willowdale
Use of Site:	Withdrawal of Water	Use of Water:	Irrigation
WWC5 Links:	32963	WIMAS Link:	50923

Hydrograph- Annual Average Depth to Water Below Land Surface



Safe Yield Report Sheet
Water Right- Proposed Point of Diversion
Point of Diversion in 11-29S-10W
Footages from SE corner- 1,320 feet North 3,960 feet West



***MEETS SAFE YIELD**

Analysis Results

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

The safe yield based on the variables listed below is 603.19 AF.

Total prior appropriations in the circle is 312.20 AF – 312.20 AF = 0 AF

Total quantity of water available for appropriation is 290.99 AF + 312.20 AF = **603.19 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 1.8 inches.

The percent of recharge available for appropriation is 50%.

Authorized Quantity values are as of 27-NOV-2023 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 is 1 water right and 1 point 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 50876 00	IRR	AY	G				SW	1320	3960	11	29	10W	1	WR	312.20	312.20	223.00	223.00

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. 50,876** of the applicant

**STEVEN L & MARY J ALBERS REV TRUSTS
15140 SW 70TH STREET
CUNNINGHAM, KS 67035**

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 **October 4, 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	
11 - 29S - 10W									40.0	40.0	28.0	40.0					148.0
14 - 29S - 10W					37.5	37.5											75.0

3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of one (1) well located near the center of the Southwest Quarter (SW¼) of Section 11, more particularly described as being near a point 1,320 feet North and 3,960 feet West of the Southeast corner of said section, in Township 29 South, Range 10 West, Kingman 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 **1,200 gallons per minute (2.67 c.f.s.)** and to a quantity not to exceed **312.2 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 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 a condition satisfactory to the Chief Engineer.
13. 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. These water flow meters 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).

- 14. 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.
- 15. That no water user shall engage in nor allow the waste of any water diverted under the authority of this permit.
- 16. 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.
- 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 22nd day of April, 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 22nd day of April, 2024, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.

Katie N. Anderson

 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

April 25, 2024

STEVEN L ALBERS
STEVEN L & MARY J ALBERS REV TRUSTS
15140 SW 70TH STREET
CUNNINGHAM KS 67035

RE: Appropriation of Water
File No. 50,876

Dear Mr. Albers:

There is enclosed a permit to appropriate water authorizing you to proceed with construction of the proposed diversion works (except those dams and stream obstructions regulated by K.S.A. 82a 301 through 305a), to divert such unappropriated water as may be available from the source and at the location specified in the permit, and to use it for the purpose and at the location described in the permit.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in this permit. A water meter is required and you must install it prior to water being put to beneficial use in order for you to maintain accurate records of water use. The meter should be used to provide the information required on the annual water use report.

Failure to notify the Chief Engineer of the Division of Water Resources of the completion of the diversion works within the time allowed, or within any authorized extension of time thereof, will result in the dismissal of this permit. Enclosed is a form which may be used to notify the Chief Engineer that the proposed diversion works have been completed.

All requests for extensions of time to complete diversion works, or to perfect appropriations, must be submitted to the Chief Engineer before the expiration of time originally set forth in the permit to complete diversion works or to perfect an appropriation. If for any reason, you require an extension of time, you must request it before the expiration of time set forth in this permit. Failure to comply with this regulation will result in the dismissal of your permit or your water right. Any request for an extension of time shall be accompanied by the required statutory fee, which is currently \$100.00.

There is also enclosed an information sheet setting forth the procedure to obtain a Certificate of Appropriation which will establish the extent of your 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 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 Application Unit Supervisor
Water Appropriation Program

KAB:kak:jne
Enclosures
pc: Stafford 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 25 day of April, 2024, I hereby certify that the attached Approval of Application and Permit to Proceed, File No. 50,876, dated April 22, 2024, was mailed postage prepaid, first class, U.S. Mail to the following:

Original to:

STEVEN L & MARY J ALBERS REV TRUSTS
15140 SW 70TH STREET
CUNNINGHAM KS 67035

Photocopy to:

KDA-DWR Stafford Field Office



DWR Staff