

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

1. File Number: <p style="text-align: center; font-size: 1.2em;"><b>50,898</b></p>	2. Status Change Date: <p style="text-align: center; font-size: 1.2em;"><b>06/28/2024</b></p>	3. Field Office: <p style="text-align: center; font-size: 1.2em;"><b>3</b></p>	4. GMD:
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5. Status:     Approved                       Denied by DWR/GMD                       Dismiss by Request/Failure to Return

6. Enclosures:     Check Valve             N of C Form             Water Tube             Driller Copy             Meter

7a. Applicant(s)                      Person ID **68519**  
New to system                       Add Seq# \_\_\_\_\_

**THOMAS EUGENE JR & REBECCA  
AUSTIN  
1366 N 90TH RD  
MINNEAPOLIS, KS 67467**

7b. Landowner(s)                      Person ID **68713**  
New to system                       Add Seq# \_\_\_\_\_

**KARALEE AUSTIN REV TRUST SHARE OF  
BEHRENDT TRUSTS  
304 E VINE ST  
MINNEAPOLIS, KS 67467**

7c. Landowner(s)                      Person ID \_\_\_\_\_  
New to system                       Add Seq# \_\_\_\_\_

7d. Misc.                                      Person ID \_\_\_\_\_  
New to system                       Add Seq# \_\_\_\_\_

8. WUR Correspondent                      Person ID \_\_\_\_\_  
New to system                       Add Seq# \_\_\_\_\_  
Overlap File (s) WUC                      Notarized WUC Form   
Agree  Yes  No

**7a**

9. Use of Water:    Changing?     Yes     No

Groundwater                       Surface Water

IRR                       REC                       DEW                       MUN

STK                       SED                       DOM                       CON

HYD DRG     WTR PWR             ART RECHRG

IND    SIC: \_\_\_\_\_     OTHER: \_\_\_\_\_

10. Completion Date: 12/31/2025            11. Perfection Date: 12/31/2029            12. Exp Date: \_\_\_\_\_

13. Conservation Plan Required?  Yes  No    Date Required: \_\_\_\_\_    Date Approved: \_\_\_\_\_    Date to Comply: \_\_\_\_\_

14. Water Level Measuring Device?  Yes  No    Date to Comply: \_\_\_\_\_    Date WLMD Installed: \_\_\_\_\_

Date Prepared: 6/27/2024            By: KJN  
Date Reviewed: 6/28/2024            By: KAK  
Date Entered: **6/28/2024**            By:  
**KAnderson**

File No. <b>50,898</b>	15. Formation Code: <b>330</b>	Drainage Basin: <b>SOLOMON RIVER</b>	County: <b>OT</b>	Special Use:	Stream:																																																																																																																																		
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td colspan="10" style="width:50%; vertical-align: top;"> 16. Points of Diversion  T  MOD  DEL PDIV  ENT Qualifier S T R ID 'N 'W </td> <td colspan="5" style="width:50%; vertical-align: top;"> 17. Rate and Quantity  Authorized Additional  Rate gpm Quantity af Rate gpm Quantity af Overlap PD Files </td> </tr> <tr> <td><b>MOD</b></td><td><b>89875</b></td><td><b>SW NE SW</b></td><td><b>29</b></td><td><b>9S</b></td><td><b>3W</b></td><td><b>1</b></td><td><b>1335</b></td><td><b>3538</b></td><td><b>(GEO)</b></td> <td><b>800</b></td><td><b>351</b></td><td><b>800</b></td><td><b>351</b></td><td><b>none</b></td> </tr> <tr> <td><b>ENT</b></td><td><b>91090</b></td><td><b>SW NE SW</b></td><td><b>29</b></td><td><b>9S</b></td><td><b>3W</b></td><td><b>NEW</b></td><td><b>1335</b></td><td><b>3533</b></td><td></td> <td colspan="5"><b>Batt 1 of 4</b></td> </tr> <tr> <td><b>ENT</b></td><td><b>91091</b></td><td><b>SW NE SW</b></td><td><b>29</b></td><td><b>9S</b></td><td><b>3W</b></td><td><b>NEW</b></td><td><b>1335</b></td><td><b>3543</b></td><td></td> <td colspan="5"><b>Batt 1 of 4</b>    <b>BATT ID 2405</b></td> </tr> <tr> <td><b>ENT</b></td><td><b>91092</b></td><td><b>SW NE SW</b></td><td><b>29</b></td><td><b>9S</b></td><td><b>3W</b></td><td><b>NEW</b></td><td><b>1330</b></td><td><b>3538</b></td><td></td> <td colspan="5"><b>Batt 1 of 4</b></td> </tr> <tr> <td><b>ENT</b></td><td><b>91093</b></td><td><b>SW NE SW</b></td><td><b>29</b></td><td><b>9S</b></td><td><b>3W</b></td><td><b>NEW</b></td><td><b>1340</b></td><td><b>3538</b></td><td></td> <td colspan="5"><b>Batt 1 of 4</b></td> </tr> </table>						16. Points of Diversion T MOD DEL PDIV ENT Qualifier S T R ID 'N 'W										17. Rate and Quantity Authorized Additional Rate gpm Quantity af Rate gpm Quantity af Overlap PD Files					<b>MOD</b>	<b>89875</b>	<b>SW NE SW</b>	<b>29</b>	<b>9S</b>	<b>3W</b>	<b>1</b>	<b>1335</b>	<b>3538</b>	<b>(GEO)</b>	<b>800</b>	<b>351</b>	<b>800</b>	<b>351</b>	<b>none</b>	<b>ENT</b>	<b>91090</b>	<b>SW NE SW</b>	<b>29</b>	<b>9S</b>	<b>3W</b>	<b>NEW</b>	<b>1335</b>	<b>3533</b>		<b>Batt 1 of 4</b>					<b>ENT</b>	<b>91091</b>	<b>SW NE SW</b>	<b>29</b>	<b>9S</b>	<b>3W</b>	<b>NEW</b>	<b>1335</b>	<b>3543</b>		<b>Batt 1 of 4</b> <b>BATT ID 2405</b>					<b>ENT</b>	<b>91092</b>	<b>SW NE SW</b>	<b>29</b>	<b>9S</b>	<b>3W</b>	<b>NEW</b>	<b>1330</b>	<b>3538</b>		<b>Batt 1 of 4</b>					<b>ENT</b>	<b>91093</b>	<b>SW NE SW</b>	<b>29</b>	<b>9S</b>	<b>3W</b>	<b>NEW</b>	<b>1340</b>	<b>3538</b>		<b>Batt 1 of 4</b>																																												
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18. Storage: Rate _____ NF    Quantity _____ ac/ft    Additional Rate _____ NF    Additional Quantity _____ ac/ft																																																																																																																																							
19. Limitation: _____ af/yr at _____ gpm ( _____ cfs) when combined with file number(s) _____ Limitation: _____ af/yr at _____ gpm ( _____ cfs) when combined with file number(s) _____																																																																																																																																							
20. Meter Required? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No    To be installed by <b>12/31/2025</b> Date Acceptable Meter Installed _____																																																																																																																																							
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Comments:																																																																																																																																							

# MEMORANDUM TO FILE

Division of Water Resources, Water Appropriation Program

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Date: June 25, 2024

From: Kris Neuhauser, Environmental Scientist

Re: New Application File No. 50,898 – Thomas Austin Jr.

## Summary

Thomas Austin Jr. has filed an application to appropriate groundwater to irrigate 270 acres in Ottawa County, Kansas, requesting a battery of (4) four wells, with a quantity of 351 acre-feet of water per calendar year, at a diversion rate of 800 gallons per minute. There are no other appropriations or water rights that will overlap in point of diversion or place of use.

## Reasonable Rate and Quantity

The proposed quantity of 351 acre-feet per calendar year provides 1.3 acre-feet per acre, making it the maximum reasonable quantity for Ottawa County ( $1.3 \times 270 \text{ acres} = 351 \text{ acre-feet}$ ).

## Source of Supply and Safe Yield

Based on the well log, nearby logs and the 'Top Configuration of the Dakota Aquifer' geologic map (via KGS, circa 1995), the source of supply appears to be the unconfined Dakota Aquifer. Evaluation of the area of consideration included the extent of the confined aquifer, which provided an area of consideration of 8,042 acres. With a potential annual recharge of 2.6 inches, and 75% of recharge available for appropriation, safe yield was determined to be 1,306.90 acre-feet. Existing water rights have appropriated 480.21 acre-feet, providing a difference of 826.69 acre-feet available for appropriation, and the application requesting 351 acre-feet complies with safe yield.

## Nearby Water Rights

The closest non-domestic well is over 6,000 feet away, authorized by Appropriation of Water, File No. 48,894, which also sources the unconfined Dakota aquifer. The closest domestic well is roughly 2,300 feet away. Based on K.A.R. 5-4-4, well spacing criteria for wells sourcing unconfined Dakota is met. One domestic well falls within one half mile of the point of diversion, therefore, one nearby notification letter was required. The letter was mailed on March 18, 2024. No responses have been received to date.

## Recommendations

Kelly Stewart, Water Commissioner of the Stockton field office recommended approval of the application on June 26, 2024. Based on the above discussion, the area is open to new appropriations, the application complies with safe yield and well spacing criteria, and approval of the application should not impair senior water rights nor prejudicially or unreasonably affect the public interest. Therefore, it is recommended that the referenced application be approved.

**Safe Yield Report Sheet**  
**Water Right- Proposed Point of Diversion**  
**Point of Diversion in 29-09S-03W**  
**Footages from SE corner- 1,335 feet North 3,538 feet West**





# Analysis Results

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

**50898 PASSES SY\***

The safe yield based on the variables listed below is 1,306.90 AF.

Total prior appropriations in the circle is 1,271.21 AF. **- 260 -180 - 351 = 480.21 AF**

Total quantity of water available for appropriation is ~~35.70 AF.~~

**826.69 AF AVAILABLE\***

## 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 2.6 inches.

The percent of recharge available for appropriation is 75%.

Authorized Quantity values are as of 25-JUN-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 8 water rights and 14 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 30051 00	IRR	NK	G		SE	SE	SE	50	235	24	09	04W	4	WR	113.00	113.00	132.00	132.00
A 41839 00	IND	NK	G		NE	NE	NE	5200	165	01	10	04W	1	WR	2.46	2.46		
A 48140 00	IND	LR	G		NE	NE	NE	5200	165	01	10	04W	1	WR	6.75	6.75		
A 48894 00	IRR	LR	G		NE	NE	SW	2314	2666	31	09	03W	1	WR	208.00	208.00	160.00	160.00
A 50699 00	IRR	GY	G				NE	2495	600	33	09	03W	1	WR	150.00	150.00	160.00	160.00
Same	IRR	GY	G		NE	NE	SE	2490	600	33	09	03W	2	WR				
Same	IRR	GY	G		NE	NE	SE	2500	600	33	09	03W	3	WR				
Same	IRR	GY	G		NE	NE	SE	2495	595	33	09	03W	4	WR				
A 50898 00	IRR	AY	G				SW	1320	3960	29	09	03W	1	WR	<del>351.00</del>	<del>351.00</del>	270.00	270.00
<del>A 50904 00</del>	<del>IRR</del>	<del>AY</del>	<del>G</del>		<del>NW</del>	<del>NW</del>	<del>SE</del>	<del>2170</del>	<del>2065</del>	<del>20</del>	<del>09</del>	<del>03W</del>	<del>2</del>	<del>WR</del>	<del>180.00</del>	<del>180.00</del>	<del>138.50</del>	<del>0.00</del>
Same	IRR	AY	G		NW	NW	SE	2470	2065	20	09	03W	3	WR				
Same	IRR	AY	G		SW	NW	SE	1870	2065	20	09	03W	4	WR				
Same	IRR	AY	G		NE	NW	SE	2170	1765	20	09	03W	5	WR				
Same	IRR	AY	G		NW	NW	SE	2170	2365	20	09	03W	6	WR				
<del>A 51231 00</del>	<del>IRR</del>	<del>AY</del>	<del>G</del>				<del>SW</del>	<del>1980</del>	<del>3300</del>	<del>25</del>	<del>09</del>	<del>04W</del>	<del>4</del>	<del>WR</del>	<del>260.00</del>	<del>260.00</del>	<del>200.00</del>	<del>0.00</del>



**From:** Stewart, Kelly [KDA]  
**Sent:** Wed 6/26/2024 8:01 AM  
**To:** Neuhauser, Kris [KDA]  
**Cc:** Billinger, Mark [KDA]; Hageman, Nancy [KDA]  
**Subject:** RE: 50898 recommendation request

Kris,

I recommend approval of this application.

Kelly

---

**From:** Neuhauser, Kris [KDA] <Kris.Neuhauser@ks.gov>  
**Sent:** Tuesday, June 25, 2024 4:29 PM  
**To:** Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>  
**Cc:** Billinger, Mark [KDA] <Mark.Billinger@ks.gov>  
**Subject:** 50898 recommendation request

Kelly,

Attached is my draft memo and SY report for 50898, a new app from Thomas Austin Jr. in Ottawa County. Brandon ran me this safe yield, as my tool is still not fixed. Based on our current Dakota method, using the KGS top configuration of the Dakota aquifer map, we are calling this unconfined and using the full two-mile circle. Spacing and SY pass.

Let me know if you want to discuss or need anything further. Thanks!

***Kris Neuhauser***

New Applications Lead

Kansas Department of Agriculture, Division of Water Resources

Phone: 785-564-6643

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. 50,898** of the applicant

**THOMAS AUSTIN JR.  
1366 N 90TH RD  
MINNEAPOLIS, KS 67467**

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 26, 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	
29 - 9S - 3W									40	18	23	39	36	40	39	35	270

3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of a battery of four (4) wells, with a geographical center located in the Southwest Quarter of the Northeast Quarter of the Southwest Quarter (SW¼ NE¼ SW¼) of Section 29, more particularly described as being near a point 1,335 feet North and 3,538 feet West of the Southeast corner of said section, in Township 9 South, Range 3 West, Ottawa 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 **800 gallons per minute (1.78 c.f.s.)** and to a quantity not to exceed **351 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. 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).

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.



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

July 2, 2024

THOMAS AUSTIN JR  
1366 N 90TH RD  
MINNEAPOLIS KS 67467

RE: Appropriation of Water  
File No. 50,898

Dear Mr. Austin:

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](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 Stockton Field Office at 785-425-6787. 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:kjn

Enclosure(s)

pc: Karalee Austin Rev. Trust Share of Behrendt Trusts  
Stockton 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 2 day of July, 2024, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,898, dated June 28, 2024, was mailed postage prepaid, first class, US mail to the following:

THOMAS AUSTIN JR  
1366 N 90TH RD  
MINNEAPOLIS KS 67467

With photocopies to:

KARALEE AUSTIN REV TRUST SHARE OF BEHRENDT TRUSTS  
304 E VINE ST  
MINNEAPOLIS KS 67467

KDA-DWR Stockton Field Office

  
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Division of Water Resources