

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

1. File No.: 50906	2. Status Change Date: 4/10/2024	4. Field Office: 02 - Stafford GMD: 05 - Big Bend Structures File No.: --- Filing/Priority Date: 11/7/2022 Application Complete Date: 11/7/2022
3. Package File No(s): 50908 Dismissals: 41153 41154 41494 44892 20179009		
5a. <input checked="" type="checkbox"/> Applicant <input type="checkbox"/> Owner <input checked="" type="checkbox"/> WUC <input type="checkbox"/> Address Change Person ID 54595 Add Seq# 1 KNOP SAND CO INC 305 E SANTA FE ELLINWOOD KS 67526	5b. <input checked="" type="checkbox"/> Owner <input type="checkbox"/> WUC <input checked="" type="checkbox"/> Address Change Person ID 35936 Add Seq# 1 JANICE KNOP <--NAME CHANGE 305 E SANTA FE ELLINWOOD, KS 67526	
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: Not changing MDS Gauge: Arkansas River @ Hutchinson Active Admin? <input type="checkbox"/> Completion/Start Date: 12/30/2029 Perfection/Expiration Date: 12/31/2044		7. Use of Water <input checked="" type="checkbox"/> Groundwater <input type="checkbox"/> Surface Water UMW: IND-Industrial SIC: 1442 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.: --- Justification: --- Rule Type: --- Rule SubType: ---		
Comments Existing S&G Pit. Use existing Pit Proj ID.	Processed 3/15/24 EKF Reviewed KAK 4/10/2024	Entered 4/10/2024 KAnderson

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: March 5, 2024

FROM: Elizabeth K Fitch

RE: Application, File No. 50,906
Water Appropriation, File Nos. 41,153 & 44,892;
Water Right, File No. 41,154 and Term Permit,
File No. 20179009

Knop Sand Co. Inc. filed an application to appropriate groundwater for industrial use that was assigned File No. 50,906. This application was proposed as a project permit to cover the natural evaporation from the expansion of an existing sand and gravel groundwater pit that will include hydraulic dredging as a secondary use. The applicant has also submitted a "Voluntary Waiver of Hearing & Dismissal of Water Right" form for File Nos. 41,153; 41,154 and 44,892 to offset the evaporation from the pit. Not all the quantity authorized by File No. 44,892 will be needed for an offset for File No. 50,906, so the remainder has been proposed as an offset for File No. 50,908.

File No. 50,906 is requesting 106.8818 million gallons per year (mgy), or 328 acre-feet (AF), of groundwater per calendar year at the rate of natural evaporation for industrial use from an existing/proposed groundwater pit. The geographic center of the groundwater pit is in the Southwest Quarter of the Southeast Quarter of the Northeast Quarter (SW¼SE¼NE¼) of Section 6, more particularly described as being near a point 3,050 feet North and 1,030 feet West of the Southeast corner of said section in Township 20 South, Range 11 West, in Barton County, Kansas. The quantity of water requested under File No. 50,906 was based on a pit surface area not to exceed 131.2 acres in size, calculated as follows:

131.2 acres x 30 inches of evaporation/acre / 12 inches/foot = 328.0 AF.

As noted previously, the application was filed as a project permit and proposed to include hydraulic dredging as a secondary use under the water right, as allowed by K.S.A. 82a-734.

The proposed point of diversion is located within Big Bend Groundwater Management District No. 5 (GMD5), which is fully appropriated based on sustainable yield criteria, and is closed to further new surface water and groundwater appropriations. However, as noted above, the applicant has submitted a "Voluntary Waiver of Hearing & Dismissal of Water Right" form for Appropriation of Water, File Nos. 41,153; 41,154 and 44,892 to be used as offsets per K.A.R. 5-13-7 and 5-13-8. These files are authorized as follows:

File No. 41,153: 4.89 mgy (15 AF)

File No. 41,154: 9.776 mgy (30 AF)

File No. 44,892: 383 AF

Total: 428 AF (136.466 mgy)

Because these files already authorize industrial use for evaporation from a groundwater pit, no consumptive use conversion calculations are required. File No. 50906 will utilize all the quantity from File Nos. 41,153 and 41,154 and 92.2158 mgy (283 AF) from File No. 44892 for the offset. As noted previously, the remaining 32.5842 mgy (100 AF) will be used as a partial offset for pending Application, File No. 50,908.

Three (3) domestic wells and two (2) water appropriations within one-half mile of the proposed geographic center of the groundwater pit were identified. (There are three (3) additional appropriations in the circle, but they will be dismissed contingent upon approval of File No. 50906). A nearby notification letter was sent to the owner of each of the noted nearby wells/groundwater pits. One verbal response was by a nearby water right owner was received by this office and involved basic questions only. The proposed geographic center of the groundwater pit appears to meet spacing to all known domestic wells. The two (2) nearby water appropriations are for groundwater pits themselves and all geographic centers meet spacing of 1,320 feet to each other per K.A.R. 5-25-2. It was noted during this file review that the geographic center for File No. 40433 was incorrect and has been recommended for correction.

GMD5 was asked to review the pending application in an email dated February 12, 2024. GMD5 Manager Orrin Feril recommended approval of File No. 50906 in a letter dated February 22, 2024. In his recommendation, Mr. Feril noted that per K.A.R. 5-25-4(b)(9), the proposed application is exempt from the GMD5 closure to new surface and groundwater appropriations.

During an office meeting on March 4, 2024, Jeff Lanterman, Water Commissioner of the Stafford Field Office, recommended approval of the new applications with related dismissal of File Nos. 41,153; 41,154; 44,892 and 20179009.

concur w/ memo Jeff Lanterman 3/7/2024

Based on the above discussion, the proposed offset of water will provide sufficient water to cover evaporation from the proposed sand pit, GMD No. 5 has recommended approval, the pit complies with minimum spacing regulations, and approval will not impair senior water rights, it is recommended that the referenced applications be approved.

Elizabeth K Fitch
Environmental Scientist

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. 50,906** of the applicant

**KNOP SAND CO INC
305 E SANTA FE
ELLINWOOD, KS 67526**

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 **November 7, 2022**.
2. That the water sought to be appropriated shall be used for industrial use in a sand and gravel pit located in the Southwest Quarter of the Northwest Quarter (SW $\frac{1}{4}$ NW $\frac{1}{4}$) and the Northwest Quarter of the Southwest Quarter (NW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 5 and the East Half (E $\frac{1}{2}$) of Section 6, all in Township 20 South, Range 11 West, Barton County, Kansas.
3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of a sand and gravel pit with a projected geographical center located in the Southwest Quarter of the Southeast Quarter of the Northeast Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 6, more particularly described as being near a point 3,050 feet North and 1,030 feet West of the Southeast corner of said section, in Township 20 South, Range 11 West, Barton County, Kansas.
4. That the appropriation sought shall be limited to a maximum diversion rate not in excess of **natural evaporation** and to a quantity not to exceed **106.8818 million gallons (328 acre-feet)** of water for any calendar year, from a groundwater surface area exposure not to exceed 131.2 acres.
5. That installation of works for diversion of water shall be completed on or before **December 31, 2029**, or within any authorized extension thereof. The applicant shall notify the Chief Engineer and pay the statutorily required field inspection fee of \$200.00 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, 2044, 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 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.

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

13. 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.

14. That the groundwater pit shall be constructed, maintained, and operated in a manner that will prevent degradation to the water quality of the source of supply, which would cause impairment to existing water rights.

15. That the applicant shall report the exposed surface area of the groundwater pit each calendar year on the annual water use report.

16. That any secondary uses must be located within the same source of supply, must be associated with the operation, and shall use water in a manner in which there is no significant net consumptive use.

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.

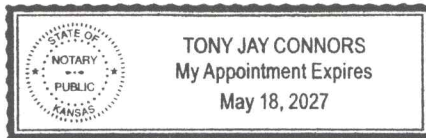
Ordered this 10th day of April, 2024, in Manhattan, Riley County, Kansas.



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 10 day of April, 2024, by Earl D. Lewis Jr., P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.


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

JANICE KNOP
KNOP SAND CO INC
305 E SANTA FE
ELLINWOOD KS 67526

RE: Appropriation of Water
File No. 50,906

Dear Ms. Knop:

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.kswateruserreport.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. 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 Applications and Changes Supervisor
Division of Water Resources

KAB:kak:ekf

Enclosure(s)

pc: Big Bend GMD No. 5
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 foregoing Approval of Application and Permit to Proceed, File No. 50,906, dated April 10, 2024, was mailed postage prepaid, first class, US mail to the following:

KNOP SAND CO INC
305 E SANTA FE
ELLINWOOD KS 67526

With photocopies to:

Big Bend GMD No. 5

KDA-DWR Stafford Field Office



Division of Water Resources