

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

| | | |
|---|--|--|
| 1. File No.: 50,969 | 2. Status Change Date: 6/4/2024 | 4. Field Office: 01 - Topkea GMD: Structures File No.: Filing/Priority Date: 02/16/2023 Application Complete Date: |
| 3. Package File No(s): 50,968 | | |
| 5a. <input checked="" type="checkbox"/> Applicant <input checked="" type="checkbox"/> Owner <input checked="" type="checkbox"/> WUC <input type="checkbox"/> Address Change Person ID 62838 Add Seq# DOUGLAS P JOHNSON 936 170TH RD BENDENA, KS 66008-8126 | 5b. <input checked="" type="checkbox"/> Owner <input type="checkbox"/> WUC <input type="checkbox"/> Address Change Person ID 67133 Add Seq# CRAIG S JOHNSON 952 FRIENDSHIP RD BENDENA, KS 66008 | |
| 5c. <input checked="" type="checkbox"/> Owner <input type="checkbox"/> WUC <input type="checkbox"/> Address Change Person ID 68870 Add Seq# PAUL C & MARY L JOHNSON 930 170TH ROAD BENDENA, KS 66008 | 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.: Justification: Rule Type: Rule SubType: | | |
| Comments | Processed CLA 5/31/24 | Entered 6/4/2024 KAnderson |
| | Reviewed KAK 6/3/2024 | |

File No. **50,969** 13. County: **DP-Doniphan** Basin: **1-Missouri River** Stream:
 Structures File No: Aquifer Code: **140 Kansan Stage** 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 |
| CHK | 90093 | NE NW SE | 33 | 3S | 20E | 5 | 2145 | 1830 | GEO CENTER | 300 | 22 | 800 | 800 | | | | |
| CHK | 90094 | NW NW SE | 33 | 3S | 20E | 6 | 2145 | 2125 | BAT 1 OF 2 | | | | | | | | |
| CHK | 90095 | NE NW SE | 33 | 3S | 20E | 7 | 2145 | 1535 | BAT 2 OF 2 | | | | | | | | |

15. Limitations Type: Quantity Quantity: **322 AF** Rate: combined with file no(s): **50,968**
 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 | | | | | | 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 | 71244 | 33 | 3S | 20E | 2 | 40 | 40 | 37 | 40 | | | | | | | | | | | | | | 157 | 5c | <input type="checkbox"/> | * |
| CHK | 71245 | 33 | 3S | 20E | 3 | | | 1 | | | | | | | | | | | | | | | 1 | 5b | <input type="checkbox"/> | * |
| CHK | 71246 | 33 | 3S | 20E | 4 | | | | | | | | | 40 | 36.5 | 12 | 39.5 | | | | | 128 | 5a | <input type="checkbox"/> | * | |
| CHK | 71247 | 34 | 3S | 20E | 1 | | | | | 18 | 18 | | | | | | | | | | | 36 | 5a | <input type="checkbox"/> | * | |
| | | | | | | | | | | | | | | | | | | | | | | | | | <input type="checkbox"/> | |
| | | | | | | | | | | | | | | | | | | | | | | | | | <input type="checkbox"/> | |

18. Point of Diversion and Place of Use Overlaps
 * **50,968** **
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MEMORANDUM TO FILE

Division of Water Resources, Water Appropriation Program

Date: May 31, 2024

From: Christa Anhold , Environmental Scientist

Re: New Application File Nos. 50,968 and 50,969 – Douglas P. Johnson

Summary

Douglas P. Johnsons has filed the two (2) above referenced applications proposing to appropriate 300 acre-feet of groundwater per year at a diversion rate of 800 gallons per minute, from two (2) batteries of two (2) wells to irrigate 322-acres in Doniphan County. The two (2) above referenced applications overlap place of use but not the point of diversion. Upon approval of these applications, when combined File No. 50,969 would be limited to 300 acre-feet of groundwater with 22 acre-feet additional. The applicant has signed each application stating he has legal access to both the place of use and points of diversion.

Reasonable Rate and Quantity

The maximum reasonable quantity of water to irrigate the requested 322-acres at 1.0 acre-feet per acre is equivalent to 322 acre-feet. The applicants request for 300 acre-feet per battery of wells is reasonable. When the above files are combined, the junior file, File No. 50,969, will be limited to 300 acre-feet of groundwater per year with 22 acre-feet additional. A rate of 800 gallons per minute is considered reasonable for a battery of wells per K.A.R. 5-1-1(n).

Source of Supply and Safe Yield

A well log provided for File No. 50,968 indicates alternating layers of sandy clay and silty clay from 5 feet to 60 feet, sand from 60 feet to 69 feet, a lens of clay to 70 feet, sand and gravel from 70 feet to 75 feet, a hard layer at 75 feet, sand from 75 feet to 106 feet, sand and gravel from 106 feet to 112 feet, and clay and shale to 117 feet. Static water level was measured at 30 feet below ground surface. Using the provided well logs and “Geohydrology of Doniphan County, northeastern Kansas” Hydrologic Atlas 462, the source of supply is likely Quaternary glacial drift.

A well log provided for File No. 50,969 indicates alternating layers of silty clay and silty sand from 5 feet to 82 feet, alternating layers of sand and silty clay from 82 to 104 feet, then alternating layers of sand and gravel and silty clay from 104 to 122 feet, a gray shale from 122 feet to 137 feet and half a foot of limestone at the bottom of the test hole. Static water level was measured at 38 feet below ground surface and drillers estimated a yield of 75 gallons per minute. Using the provided well logs and “Geohydrology of Doniphan County, northeastern Kansas” Hydrologic Atlas 462, the source of supply is likely Quaternary glacial drift.

Areas within the 2-mile safe yield are not part of the glacial deposit source and were thus trimmed out to determine accurate safe yields based solely on glacial deposition. For File No. 50,968, the source of supply was determined to cover 7,869 acres. Based on potential recharge of 5.4 inches, with 100% available to appropriate, safe yield was determined to be 3,540.69 acre-feet. For File No. 50,969, the source of supply was determined to cover 7,864-acres. Based on potential recharge of 5.3 inches, with 100% available to appropriate, safe yield was determined to be 3,473.39 acre-feet. Both safe yield reports indicate adequate water to irrigate the 322-acres requested in both applications.

Nearby Water Rights

For File No. 50,968 the nearest domestic well is 2,370 feet away and the nearest nondomestic well is the applicant's other battery, which is 1,400 feet away. For File No. 50,969, the nearest domestic well is 1,014 feet away and the nearest nondomestic well is a geothermal well 1,000 feet away. There are several monitoring and remediation wells in the immediate area with one (1) active remediation site, identified as Bendena Ag, run by the Kansas Department of Agriculture (KDHE). A nearby letter was mailed to the KDHE on April 15, 2024.

The applicant provided names and addresses for well owners within a one-half mile of the proposed points of diversion. Since the battery of wells is located on the edge of a rural community with more than a dozen nearby notifications to make, a public notice was issued and run for three (3) consecutive weeks from April 25 to May 16, 2024, in The Kansas Chief weekly newspaper. Responses were received by three (3) individuals who relayed their concern over the potential for chemical contamination and depletion of the aquifer as well as availability of water for future generations of farmers. One nearby indicated concern this application could impact their domestic well, which was identified as being 4,300 feet from File No. 50,969 and 5,700 feet from File No. 50,968.

Recommendations

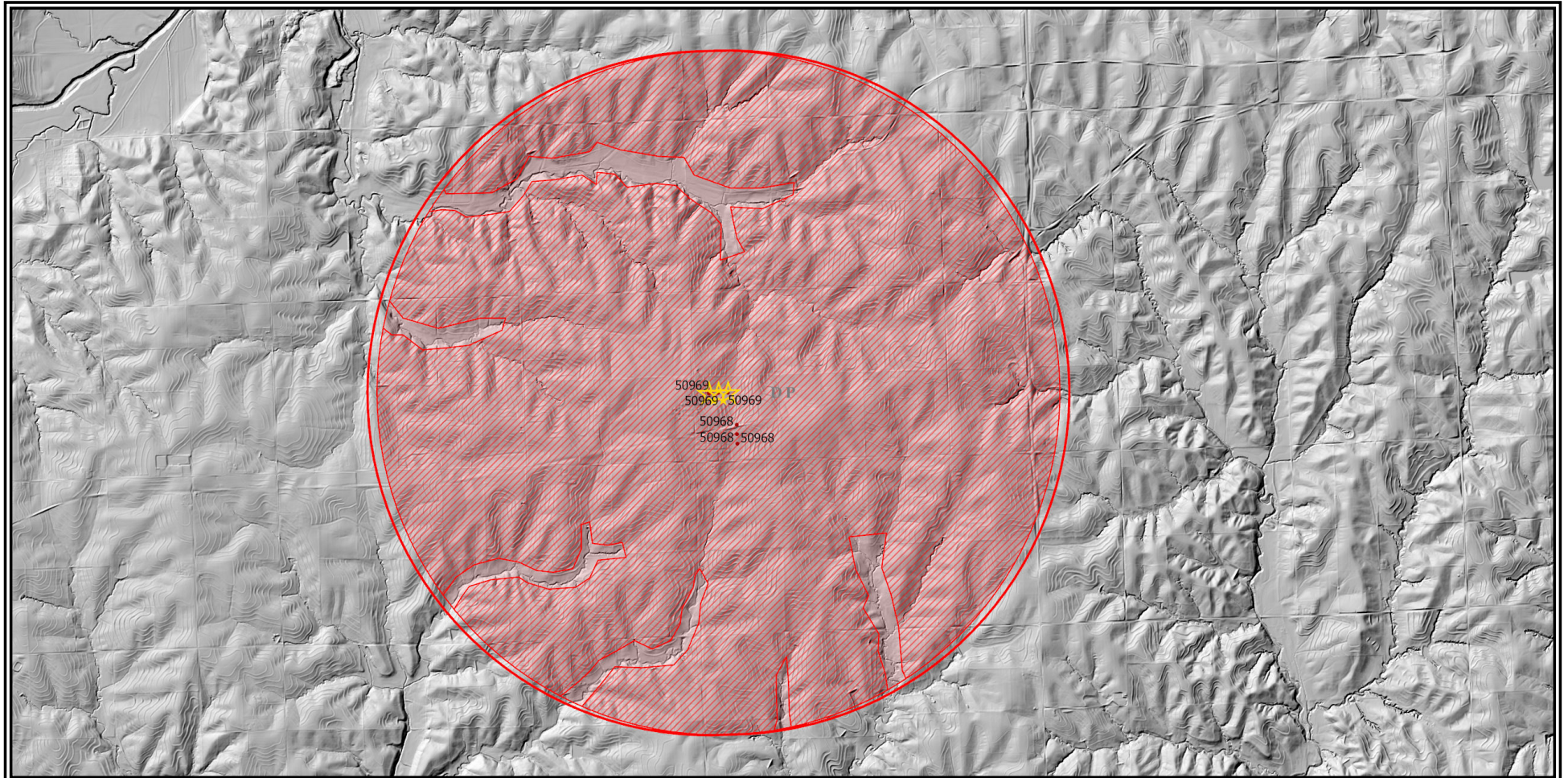
Topeka Field Office does not have a Water Commissioner at the moment, so a recommendation was not received regarding these applications. The applications was sent directly to Manhattan Headquarters for approval.

The application complies with all regulations concerning reasonable quantity, safe yield, and minimum spacing requirements. The proposed application is subject to minimum desirable streamflow requirements. Approval of the application will not impair senior water rights nor prejudicially or unreasonably affect the public interest. Therefore, it is recommended that the referenced application be approved.



Christa Anhold
Environmental Scientist
Water Appropriation Program

Safe Yield Report Sheet
Water Right- A5096900
Point of Diversion in 33-03S-20E
Footages from SE corner- 2,145 feet North 1,830 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 3,317.65 AF.

Total prior appropriations in the circle is 322.00 AF. **-322AF = 0AF**

Total quantity of water available for appropriation is 2,995.65 AF. **+322AF = 3,317.65**

Safe Yield Variables

The area used for the analysis is set at 7,512 acres.

The potential annual recharge at the circle center is estimated to be 5.3 inches.

The percent of recharge available for appropriation is 100%.

Authorized Quantity values are as of 15-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 6 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 50968 00 | IRR | AY | G | | NW | SE | SE | 845 | 1295 | 33 | 03 | 20E | 2 | WR | 300.00 | 300.00 | -300 | 322.00 | 322.00 |
| Same | IRR | AY | G | | NW | SE | SE | 1140 | 1295 | 33 | 03 | 20E | 3 | WR | | | | | |
| Same | IRR | AY | G | | SW | SE | SE | 550 | 1295 | 33 | 03 | 20E | 4 | WR | | | | | |
| A 50969 00 | IRR | AY | G | | NE | NW | SE | 2145 | 1830 | 33 | 03 | 20E | 5 | WR | 300.00 | 22.00 | -22 | 322.00 | 0.00 |
| Same | IRR | AY | G | | NW | NW | SE | 2145 | 2125 | 33 | 03 | 20E | 6 | WR | | | | | |
| Same | IRR | AY | G | | NE | NW | SE | 2145 | 1535 | 33 | 03 | 20E | 7 | WR | | | | | |

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. 50,969** of the applicant

**DOUGLAS P JOHNSON
936 170TH RD
BENDENA, KS 66008-8126**

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 **February 16, 2023**.

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 | |
| 33 – 3S – 20E | 40.0 | 40.0 | 38.0 | 40.0 | | | | | | | | | 40.0 | 36.5 | 12.0 | 39.5 | 286.0 |
| 34 – 3S – 20E | | | | | | 18.0 | 18.0 | | | | | | | | | | 36.0 |

3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of a battery of (2) wells with a geographical center located in the Northeast Quarter of the Northwest Quarter of the Southeast Quarter (NE¼ NW¼ SE¼) of Section 33, more particularly described as being near a point 2,145 feet North and 1,830 feet West of the Southeast corner of said section, in Township 3 South, Range 20 East, Doniphan 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 **300 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. 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).

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 this permit is further limited such that both wells shall be located within a three hundred (300) foot radius circle, in the same local source of supply, shall be limited to a total maximum diversion rate not in excess of **800 gallons per minute (1.78 c.f.s.)** and shall supply water to a common distribution system.

18. That the quantity of water approved under this permit is further limited to the quantity which combined with File No. 50,968, will provide a total not to exceed **322 acre-feet** of water per calendar year for irrigation use on the land described herein.

19. That failure without cause to comply with the provisions of this 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 4 day of June, 2024, in Manhattan, Riley County, Kansas.

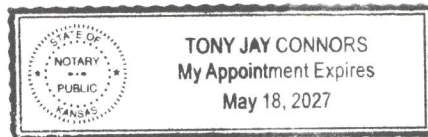
Lane P. Letourneau

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 4 day of June, 2024, 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

June 5, 2024

DOUGLAS P JOHNSON
936 170TH RD
BENDENA KS 66008-8126

RE: Appropriation of Water
File Nos. 50,968 and 50,969

Dear Mr. Johnson,

Enclosed are permits authorizing you to proceed with construction of the proposed diversion works and to appropriate water for beneficial use. Your attention is directed to the enclosures and to the terms, conditions, limitations, and requirements specified in each permit.

Notices must be filed on the enclosed forms 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 these permits. If you need an extension of time, you must request it before the deadline for completion set forth in the permits. Any request for an extension of time must be accompanied by the statutorily required fee, which is currently \$100.00, per file number.

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 applications constitutes permits to appropriate water. They do not give authority to construct any dam or other stream obstruction regulated by K.S.A. 82a-301 through 305a. They do 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 rights. 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)-296-5733. 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:cla

Enclosure(s)

pc: Craig S Johnson
Paul C & Mary L Johnson
Topeka 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 5 day of June, 2024, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File Nos. 50,968 and File No. 50,969, dated June 4, 2024, were mailed postage prepaid, first class, US mail to the following:

Original to:

DOUGLAS P JOHNSON
936 170TH RD
BENDENA KS 66008-8126

With photocopies to:

CRAIG S JOHNSON
952 FRIENDSHIP RD
BENDENA KS 66008

PAUL C & MARY L JOHNSON
930 170HTH ROAD
BENDENA KS 66008

KDA-DWR Topeka Field Office



Tracy Cummings

Division of Water Resources