



File No. <b>50997</b>	13. County: <b>MS Marshall</b> Basin: <b>Big Blue River</b> Stream: <b>Big Blue River</b>		
Structures File No:	Aquifer Code:	Special Use Area:	

14. Points of Diversion, Rates & Quantities										Qty <b>AF</b>		Rate <b>gpm</b>		Storage Qty		Storage Rate	
PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Auth	Add	Auth	Add	Auth	Add	Auth/Add	Overlaps	
<b>CHK</b>	<b>90202</b>	<b>SE</b>	<b>NE</b>	<b>NE</b>	<b>18</b>	<b>3</b>	<b>7E</b>	<b>2</b>	<b>4385</b>	<b>250</b>	<b>157</b>	<b>157</b>	<b>1300</b>	<b>1300</b>			

15. Limitations Type: Quantity: Rate: combined with file no(s):  
 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				
<b>MOD</b>	<b>14329</b>	<b>17</b>	<b>3</b>	<b>7E</b>	<b>1</b>		21.5			40	39	16	27										143.5	<b>5a</b>	<input type="checkbox"/>
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18. Point of Diversion and Place of Use Overlaps

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# MEMORANDUM TO FILE

Division of Water Resources, Water Appropriation Program

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Date: April 25, 2024

From: Colin Barclay, Environmental Scientist

Re: New Application File No. 50,997

Water Right, File No. 8,323

## Summary

Blue River Farms LLC Alan Bruna has filed the above referenced application to appropriate 157 acre-feet of surface water at a rate of 1,300 gallons per minute. The proposed point of diversion is a single pump site located on the Big Blue River in Marshall County, Kansas. The place of use is fully owned by the applicant, and they have signed the application form affirming legal access to the point of diversion. The new application overlaps in place of use with Water Right, File No. 8,323. The existing water right's status is in question given the long record of non-use without due and sufficient cause. Therefore, the owner has submitted a voluntary closure form in order to pursue a new appropriation for the irrigation project. Reasonable Rate and Quantity

The quantity requested is 157.00 acre-feet at a rate of 1300 gallons per minute for a proposed place of use of 143.5 acres. Quantity requested appears to be close to the maximum quantity of water allowed at 1.1 acre-feet per acre in Marshall County, Kansas as per K.A.R. 5-3-24.

## Source of Supply and Safe Yield

As per K.A.R. 5-3-15(a), the application is filed to directly divert the natural flow of the Big Blue River through a pump site for irrigation. The applicant has agreed to meet minimum desirable streamflow and may be required by the Chief Engineer to meet target minimum desirable stream flows. The application meets all requirements as per K.A.R. 5-3-15.

## Nearby Water Rights

The nearest upstream appropriated water right is File No. 8,897 which is roughly 4,500 feet upstream. The nearest downstream appropriated water right is File No. 5,371 which is roughly 1.6 miles downstream. With the location of the pump site in relation to the distances to the upstream and downstream water rights, impairment seems unlikely. Nearby notification letters were sent out on April 8, 2024. No responses of any kind were received during the 15-day period open to comments and concerns.

## Recommendations

The application was sent for consideration to Brett Bunger, Water Commissioner of the Topeka Field Office on April 25, 2024, and recommended for approval in an e-mail dated April 25, 2024.

The application complies with all regulations and the 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.



Colin Barclay

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. 50,997** of the applicant

**ALAN BRUNA**  
**405 E NORTH ST**  
**HANOVER KS 66945-8934**

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 **March 24, 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	
17 - 3 - 7E		21.5			40.0	39.0	16.0	27.0									143.5

3. That the authorized source from which the appropriation shall be made is surface water from the Big Blue River, to be diverted at a pumpsite located in the Southeast Quarter of the Northeast Quarter of the Northeast Quarter (SE¼ NE¼ NE¼) of Section 18, more particularly described as being near a point 4,385 feet North and 250 feet West of the Southeast corner of said section, in Township 3 South, Range 7 East, Marshall 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 **1,300 gallons per minute (2.90 c.f.s.)** and to a quantity not to exceed **157 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 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 diversion of natural flows shall not take place unless there is water available to satisfy all demands by senior water rights and permits.



17. 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.

18. 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 30 day of April, 2024, in Manhattan, Riley County, Kansas.

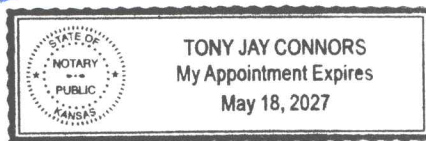
*Lane P. Letourneau*

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 this 30 day of April, 2024, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.

*Tony Jay Connors*  
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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

May 14, 2024

ALAN BRUNA  
BLUE RIVER FARMS LLC  
405 E NORTH ST  
HANOVER KS 66945-8934

RE: Appropriation of Water  
File No. 50,997

Dismissal of Water Right  
File No. 8,323

Dear Mr. Bruna:

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. Also enclosed is a Findings and Order which dismisses Water Right, File No. 8,323, as requested in your voluntary closure form received in this office on March 24, 2023.

For the new permit, a 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.

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 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 Applications and Changes Supervisor  
Division of Water Resources

KAB:kak:ccb  
Enclosure(s)  
pc: 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 14 day of May, 2024, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,997, dated April 30, 2024, was mailed postage prepaid, first class, US mail to the following:

ALAN BRUNA  
BLUE RIVER FARMS LLC  
405 E NORTH ST  
HANOVER KS 66945-8934

With photocopies to:

KDA-DWR Topeka Field Office

  
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Division of Water Resources