

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

1. File No.: 51,015	2. Status Change Date: 5/16/2024	4. Field Office: 01 - Topeka GMD: Structures File No.: LLB-0121 Filing/Priority Date: 04/18/2023 Application Complete Date:
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 TRAVIS WILSON 18090 XAVIER RD OSWEGO, KS 67356	5b. <input type="checkbox"/> Owner <input type="checkbox"/> WUC <input type="checkbox"/> Address Change Person ID 68984 Add Seq#	
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 type="checkbox"/> Groundwater <input checked="" type="checkbox"/> Surface Water UMW: REC-Recreational 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 5/13/2024	Entered 6/11/2024 KAnderson
	Reviewed KAK 5/14/2024	

File No. 51,015	13. County: LB-Labette Basin: 34-Neosho River Stream: 34-Nesho River (Neosho)
Structures File No: LLB-0121	Aquifer Code: _____ 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	90286	NE	NE	SW	16	32S	21E	1	2134	3255	21.65	21.65	5,000	5,000			+
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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					
																									<input type="checkbox"/> +
																									<input type="checkbox"/> +
																									<input type="checkbox"/> #
																									<input type="checkbox"/> ^
CHK	71352	16	32S	21E	1	Wetland (NE SW)																	5a	<input type="checkbox"/>	**
																								<input type="checkbox"/>	++

18. Point of Diversion and Place of Use Overlaps	
* _____	** _____
+ _____	++ _____
# _____	## _____
^ _____	^^ _____

MEMORANDUM TO FILE

Division of Water Resources, Water Appropriation Program

Date: May 13, 2024

From: Christa Anhold, Environmental Scientist

Re: New Application File No. 51,015 – Travis Wilson

Summary

Travis Wilson filed the above reference application proposing to appropriate 21.65 acre-feet of surface water per year at a diversion rate of 5,000 gallons per minute from one (1) direct diversion pump site on the Neosho River for one wetland marsh in Labette County. The applicant has a Water Structures floodplain fill permit File No. LLB-0121 that was approved on May 22, 2023. The applicant owns the place of use and point of diversion. There are no overlapping water right files.

Reasonable Rate and Quantity

The applicant proposes to appropriate 21.65 acre-feet of surface water to fill a 2.4-acre marsh consisting of one (1) individual cell, which is bermed and controlled by a water control structure. The applicant proposes to empty and fill the marsh five (5) times each year. A reasonable amount of water for a 2.4-acre marsh will be limited to indirect use and the marsh capacity as follows.

Indirect Use (EVAP): (5inches/12) x 2.4 acres = 1 acre-foot

Capacity: 3.33 acre-feet

Indirect + capacity = (1AF +3.33 AF) x 5 fills per year = 21.65 acre-feet per year

The management and maintenance of wetlands varies from year to year to control vegetation and attract a variety of wildlife and waterfowl for recreational hunting. Typically, wetlands are filled prior to the waterfowl season. There may be releases and additional pumping throughout the hunting season to attract specific species and hunting experiences. Wetlands are typically drained at the end of the season for maintenance, which can include flooding the cells to remove undesirable vegetation, therefore additional pumping may be used to manage vegetation. The wetland may be pumped full (if precipitate/runoff is not adequate) and water released more than once a year. Due to the variety of management techniques typical of wetland marshes five (5) fills per year and the request quantity of 21.65 acre-feet of water is considered reasonable. A diversion rate of 5,000 gallons per minute seems reasonable for the area.

Safe Yield

This approval will be subject to specific conditions, which stipulate strict requirements for direct surface water diversion. These conditions include the stipulation that no diversion shall occur unless there is water available to satisfy all demands by senior water rights and permits, written or verbal permission from the Chief Engineer is required prior to diverting water, and streamflow cannot be stopped at the first riffle below the point of diversion while diversion is being taken place. The application complies with K.A.R. 5-3-15(c)(5) because the proposed use of water for recreational use is typically during the fall season, and there is no need for direct diversion of water from July 1 through September 30.

Nearby Water Rights

The closest upstream Water Right File No. 19,498 is 4,430 feet from the proposed point of diversion. The closest downstream Water Right File No. 49,597 is 3,300 feet from the proposed point of diversion. The applicant

provided names and address of landowners within one mile up and downstream of the proposed point of diversion. Nearby notifications were mailed on April 23, 2024. No responses have been received to date.

Recommendations

The applicant has signed a Minimum Desirable Streamflow statement for Cottonwood & Neosho River Water Assurance District No. 3, which informs the applicant that there could be times when the diversion of water may not be allowed under this permit. The Cottonwood & Neosho River Water Assurance District was notified of the application via email on April 19, 2024.

The application was sent for consideration to Brett Bungler, Water Commissioner of the Topeka Field Office on May 13, 2024, and recommended for approval in an e-mail dated May 13, 2024.

The application complies with all regulations concerning reasonable quantity, safe yield, and minimum spacing requirements. The applicant signed, notarized, and returned the required form to our office. It does not appear that approval of the application will 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

From: Bunger, Brett [KDA]
Sent: Mon 5/13/2024 2:04 PM
To: Anhold, Christa [KDA]
Subject: RE: 51015 Recommendation Request

Christa, with the fact that the Neosho River is open to “off-season” pumping I see no reason that this application should not be approved.

Brett

From: Anhold, Christa [KDA] <Christa.Anhold@ks.gov>
Sent: Monday, May 13, 2024 12:56 PM
To: Bunger, Brett [KDA] <Brett.Bunger@ks.gov>
Subject: 51015 Recommendation Request

Brett,

Attached is a draft memo for 51,015, for your review and recommendation. Nearby notifications were mailed on April 23, 2024. No responses have been received to date.

Let me know if you need anything else.

Christa Anhold
Environmental Scientist
Department of Water Resources
(785)-564-6644
Christa.anhold@ks.gov

From: Turney, Brent - FPAC-NRCS, KS
Sent: Mon 5/6/2024 12:32 PM
To: Anhold, Christa [KDA]
Subject: RE: Water right files and NRCS Easements

EXTERNAL: This email originated from outside of the organization. Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Christa,

Its good to hear from a fellow DWR person. First things first, that's Brent, Not Mr. Turney. Are you based out of Topeka or Parsons?

I have reviewed the three applications and have found that only 51,021 (Dan Wright) is proposing to pump to an easement. The others are not involved with NRCS in any way. I appreciate that you have taken the time to give me a heads up. The only thing I ask is that you let me know if and when a permit is approved. I will need to grant Dan the proper paperwork to allow him to put water on his easement.

Thanks,

Brent

Brent A. Turney
Easement Specialist



3020 West 18th Avenue, Suite B, Emporia, Kansas, 66801
p: (620) 487-3413 | c: (620) 682-3538
e: brent.turney@usda.gov | w: www.ks.nrcs.usda.gov

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From: Anhold, Christa [KDA] <Christa.Anhold@ks.gov>
Sent: Monday, May 6, 2024 11:14 AM
To: Turney, Brent - FPAC-NRCS, KS <Brent.Turney@usda.gov>
Subject: Water right files and NRCS Easements

Mr. Turney,

I have a few water right applications being processed and was wondering if there are any NRCS easements associated with the properties.

File No. 51,010 – Bobby Glover to pump water directly from Hickory Creek (Neosho River Tributary) to maintain a marsh in the SW SW SE Section 34 Township 30S, Range 21E, Neosho County. Near 37.38383963, -95.09484615.

File No. 51,015 – Travis Wilson to pump water directly from Neosho River to maintain a marsh in the NE NE SW Section 16, Township 34S, Range 21E, Labette County. Near 37.25780012, -95.11517266.

File No. 51,021 – Dan Wright to pump water from the Neosho River to maintain an existing marsh in the S/2 SW Section 14, Township 29S, Range 20E, Neosho County. Near 37.51731644, -95.19003334

Maps of each are attached.

Thank you,

Christa Anhold
Environmental Scientist
Department of Water Resources
(785)-564-6644
Christa.anhold@ks.gov

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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. 51,015** of the applicant

**TRAVIS WILSON
18090 XAVIER RD
OSWEGO KS 67356**

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 **April 18, 2023**.
2. That the water sought to be appropriated shall be used for recreational use in a wetland marsh, located in the Northeast Quarter of the Southwest Quarter (NE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 16, Township 32 South, Range 21 East, Labette County, Kansas.
3. That the authorized source from which the appropriation shall be made is surface water from Neosho River, to be diverted at a pumpsite located in the Northeast Quarter of the Northeast Quarter of the Southwest Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 16, more particularly described as being near a point 2,134 feet North and 3,255 feet West of the Southeast corner of said section, in Township 32 South, Range 21 East, Labette 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 **5,000 gallons per minute (11.14 c.f.s.)** and to a quantity not to exceed **21.65 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 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).

12. 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.

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

14. 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.

15. That diversion of natural flows shall not take place unless there is water available to satisfy all demands by senior water rights and permits.

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 during the period July 1 through September 30 each calendar year, no direct diversions of surface water shall be permitted unless written permission is obtained from the Chief Engineer, or the Chief Engineer's authorized representative.

18. That during the period October 1 through June 30, the verbal or written permission of the Chief Engineer, or an authorized representative of the Chief Engineer, shall be obtained in order to divert water each time the applicant desires to divert water.

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 *16* day of *May*, 2024, in Manhattan, Riley County, Kansas.

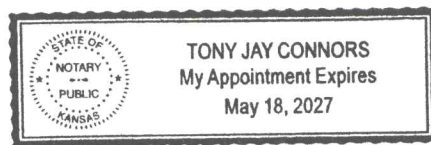
Lane P. Letourneau

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 *16* day of *May*, 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

TRAVIS WILSON
18090 XAVIER RD
OSWEGO KS 67356

RE: Appropriation of Water
File No. 51,015

Dear Mr. Wilson,

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.

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. 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 Application Unit Supervisor
Division of Water Resources

KAB:kak:cla
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 *12* day of *June*, 2024, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 51,015, dated *May 16*, 2024, was mailed postage prepaid, first class, US mail to the following:

Original to:

TRAVIS WILSON
18090 XAVIER RD
OSWEGO KS 67356

With photocopies to:

KDA-DWR Topeka Field Office



Division of Water Resources