

File No. **51,021** 13. County: **NO- Neosho** Basin: **34 - Neosho Basin** Stream: **4045 - Neosho River Trib 27 (Neosho River)**
 Structures File No: Aquifer Code: Special Use Area:

14. Points of Diversion, Rates & Quantities										Qty AF		Rate gpm		Storage Qty AF		Storage Rate	
PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)		Auth	Add	Auth	Add	Auth	Add	Auth/Add	Overlaps
MOD	90295	NE SE SW	14	29S	20E	1	1069	2914		57.5	57.5	800	800				

15. Limitations **NEW** Type: Quantity: **AF** Rate: **gpm** combined with file no(s):
NEW Type: Quantity: **AF** Rate: **gpm** 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
PUSE	S T R ID	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE				
																		0.00		<input type="checkbox"/>	
																		0.00		<input type="checkbox"/>	
																		0.00		<input type="checkbox"/>	
																		0.00		<input type="checkbox"/>	
CHK	71359 14 29S 20E 1	MARSH (S/2 SW/4)																	5a	<input type="checkbox"/>	
																				<input type="checkbox"/>	

18. Point of Diversion and Place of Use Overlaps
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MEMORANDUM TO FILE

Division of Water Resources, Water Appropriation Program

Date: August 27, 2024

From: Christa Anhold , Environmental Scientist

Re: New Application File No. 51,021 – Dan Wright

Summary

Dan Wright has filed the above referenced application proposing to appropriate 57.5 AF per year of surface water at a rate of 800 GPM from one (1) pump site to fill an existing marsh in Neosho County. The applicant owns both the place of use and point of diversion. There are no files overlapping the place of use or point of diversion.

The United States Department of Agriculture, Natural Resources Conservation Services (NRCS) has confirmed that there is a Wetland Reserve Program (WRP) easement on the property. DWR Structures reviewed the application and determined that Water Structures permitting will not be required. File No. 51,021 will be permitted with the condition that the applicant cannot pump water from the stream into their marsh until they have an approved Compatible Use Agreement from the NRCS.

Reasonable Rate and Quantity

The applicant proposed to appropriate 57.5 AF of surface water in one (1) marsh with a surface area of 11.5 acres and an average depth of 2 feet, which is equivalent to a capacity of 23 AF. To offset water lost by saturation and evaporation the applicant request two and a half (2.5) times the capacity of the reservoir. This can be considered reasonable for the area as it is consistent with other water use applications in 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 nearest downstream water right (Vested Water Right File No. NO-4) is located at the mouth of Neosho River Trib 27 and the Neosho River, two (2) miles from the proposed point of diversion. There are no water rights upstream of the proposed application. The applicant provided names and address of landowners one half mile up and downstream of the proposed point of diversion. Nearby letters were mailed on May 8, 2024. One nearby called to discuss the application on May 16, 2024, but a written concern was never received.

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 May 8, 2024.

The application was sent for consideration to Nathan Westrup, Water Commissioner of the Topeka Field Office, and Shaun Johnson, Assistant Water Commission of the Topeka Field Office, on August 27, 2024, and recommended for approval in an email dated August 27, 2024.

The application complies with all regulations concerning reasonable quantity, safe yield, and minimum spacing requirements. 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: Westrup, Nathan [KDA]
Sent: Tue 8/27/2024 1:40 PM
To: Anhold, Christa [KDA]
Cc: Johnson, Shaun [KDA]
Subject: RE: 51021 recommendation request

Hi Christa,

I have no objection to approval.

Thanks,

Nathan Westrup, Water Commissioner

Topeka Field Office

Division of Water Resources

Kansas Department of Agriculture

Phone: 785-296-7064

Mobile: 785-230-2991

Nathan.Westrup@ks.gov

From: Anhold, Christa [KDA] <Christa.Anhold@ks.gov>

Sent: Tuesday, August 27, 2024 11:13 AM

To: Westrup, Nathan [KDA] <Nathan.Westrup@ks.gov>

Cc: Johnson, Shaun [KDA] <Shaun.Johnson@ks.gov>

Subject: 51021 recommendation request

Nathan,

I have attached a draft memo for new application 51,021 for your review and recommendation. The applicant has an NRCS WRP easement on the property and we will be waiting for the compatible use agreement from the NRCS before approving the application. Nearby notifications were mailed on May 8, 2024. One nearby called with questions about the application, but no written comments 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. 51,021** of the applicant

**DAN WRIGHT
4025 RATCLIFFE DR
BENTONVILLE, AR 72713**

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 25, 2023**.
2. That the water sought to be appropriated shall be used for recreational use in a marsh, located in the South Half of the Southwest Quarter (S $\frac{1}{2}$ SW $\frac{1}{4}$) of Section 14, in Township 29 South, Range 20 East, Neosho County, Kansas.
3. That the authorized source from which the appropriation shall be made is surface water from an unnamed tributary of the Neosho River, designated in the office of the Chief Engineer as Neosho River Trib 27 (Neosho), to be diverted at a pumpsite located in the Northeast Quarter of the Southeast Quarter of the Southwest Quarter (NE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 14, more particularly described as being near a point 1,069 feet North and 2,914 feet West of the Southeast corner of said section, in Township 29 South, Range 20 East, Neosho 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 **57.5 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 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.

16. 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.

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

18. That in order for you to pump water into your proposed marsh, you must complete a Compatible Use Agreement (CUA) application for water level management, and ultimately have it approved by the United States Department of Agriculture, Natural Resources Conservation Service.

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 *10* day of *September*, 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 *10* day of *September*, 2024, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.

Vickie L. Belanger

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

September 13, 2024

DAN WRIGHT
4025 RATCLIFFE DR
BENTONVILLE AR 72713

RE: Appropriation of Water
File No. 51,021

Dear Mr. Wright:

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 the permit, with specific reference to Paragraph 18.

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 with your permit 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 Applications and Changes Supervisor
Division of Water Resources

KAB:kak:cla

Enclosure(s)

pc: Topeka Field Office
USDA NRCS (Brent Turney)

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 13 day of September, 2024, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 51,021, dated September 10, 2024, was mailed postage prepaid, first class, US mail to the following:

Original to:

DAN WRIGHT
4025 RATCLIFFE DR
BENTONVILLE AR 72713

With photocopies to:

KDA-DWR Topeka Field Office

BRENT TURNEY
USDA NRCS
3020 W 18TH AVE STE B
EMPORIA KS 66801-6192



Division of Water Resources