

File No. 51023	13. County: SU Basin: NINNESCAH RIVER Stream: NINNESCAH 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
CHK	90297	(SE SE NW)	19	31S	2E	3	2711	4297		130	0	1200	1200				
SW																	

15. Limitations **NEW** Type: **Combined Quantity** Quantity: **130 AF** Rate: **gpm** combined with file no(s): **49799**
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						
CHK	60314	24	31S	1E	2	1.5	0.5	31.75	22.25														56	5b	<input type="checkbox"/>	*	
CHK	60315	24	31S	1E	3									11.25	31.75	1	1.5					45.5	5c	<input type="checkbox"/>	*		

18. Point of Diversion and Place of Use Overlaps * 49799 + # ^	** ++ ## ^^
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MEMORANDUM TO FILE

Division of Water Resources, Water Appropriation Program

Date: May 3, 2024

From: Daniel Bird, Environmental Scientist

Re: New Application File No. 51,023 – Jefferey D Neises

Summary

Applicant Jeffery Neises would like to direct divert 130AF of surface water from Ninnescah River at a rate 1200 GPM. This diversion of water is to irrigate 100 acres of farmland via a center pivot. This application is limited to 130AF when in combination with 49799.

Reasonable Rate and Quantity

The reasonable quantity for irrigation is 1.3AF per acre in Sumner Co. 51023 is applying for water for irrigation for a 100-acre field in Sumner Co. $100\text{acres} \times 1.3 = 130 \text{ AF}$. The requested rate of 1200 GPM seems to be appropriate.

Source of Supply and Safe Yield

This application does require an alternate source during the off season. Mr. Neises has water right 49799 which includes a pond with a volume of 48.1AF. This is considered adequate storage to be used as an alternate source as it is greater than 40% of the 50% NIR 44.72AF.

Nearby Water Rights

There are four water rights within a mile of the point of diversion: 49799, 44164, 47613, and 48065. File no. 44164, 47613, and 48065 are all groundwater rights and have no interference with 51023. 49799 however is a ground water right with a full PU overlap with 51023. 49799 is a permit for 178.1AF of water at 1200GPM. Part of the 178.1AF is 48.1AF for storage in the pond.

Recommendations

No GMD recommendation is necessary.

Statements regarding waivers should be in bold.

This is a continuation onto the next page.

**Kansas Department of Agriculture
Division of Water Resources
Earl Lewis, Chief Engineer
1320 Research Park Drive
Manhattan, Kansas 66502**

Date: _____

Re: Application, File No. 51,023

K.A.R. 5-3-15. Availability of Water for Appropriation – safe yield; surface water.

I understand that the direct diversion of natural flow from the source of supply to which the above referenced application applies is subject to the provisions of K.A.R. 5-3-15, which provides for specific conditions of approval. I also understand that if this application is approved, it will be subject to the following conditions of approval.

(1) If MDS or assurance target flows or DWR target flows have been set for that stream, and MDS administration has been requested by the Kansas water office, diversion of natural flow shall only be permitted if MDS, assurance target flows or DWR target flows, if applicable, are being met at the gage or gages immediately below the proposed point of diversion.

(2) Diversion of natural flow shall not take place unless there is water available to satisfy all demands by senior water rights and permits.

(3) The streamflow shall not be stopped at the first riffle below the point of diversion while diversion is taking place under the authority of that water right or permit.

(4) 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.

(5) During the period July 1 through September 30 each calendar year, 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.

(6) The applicant shall have adequate water storage or alternative water supplies, relative to the proposed place of use, ensuring that sufficient irrigation water is available from July 1 through September 30, **WITHOUT** the need to supplement with a direct diversion of water.

(7) If utilizing water storage, the applicant shall ensure that the structure is designed and constructed so that it does not intersect the groundwater table. The completed water storage device should be lined to minimize seepage and loss of stored water.

I understand that if this application is approved, there could be times, as determined by the Division of Water Resources, when I would not be allowed to divert water. In addition, there are likely to be periods of significantly low streamflows, making diversion of surface water impossible. I realize that this could affect the economics of my decision to appropriate water. I am aware of the above factors, and with the knowledge thereof, request that the Division of Water Resources proceed with processing and approval, if possible, of the above referenced application.

Signature of Applicant

(Print Applicant's Name)

State of Kansas)
) ss
County of)

I hereby certify that the foregoing instrument was signed in my presence and sworn to before me this _____ day of _____, 2024.

Notary Public



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. 51,023** of the applicant

JEFFREY D NEISES
2236 BASSWOOD CT
DERBY, KS 67037

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 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	
24 - 31S - 1E	1.50	0.50	31.75	22.25									11.25	31.75	1.00	1.50	101.50

3. That the authorized source from which the appropriation shall be made is surface water from the Ninnescah River, to be diverted by a pumpsite located in the Southeast Quarter of the Southwest Quarter of the Northwest Quarter (SE¼ SW¼ NW¼) of Section 19, more particularly described as being near a point 2,711 feet North and 4,297 feet West of the Southeast corner of said section, in Township 31 South, Range 2 East, Sumner 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 **1,200 gallons per minute** and to a quantity not to exceed **130 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.

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 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.

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

18. 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.

19. 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.

20. 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.

21. That the quantity of water approved under this permit is further limited to the quantity which combined with Appropriation of Water, File No. 49,799, will provide a total quantity not to exceed **130 acre-feet** per calendar year, for irrigation use on the place of use described herein.

22. 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 2 day of July, 2024, in Manhattan, Riley County, Kansas.

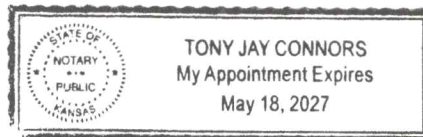
Lane P. Letourneau

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 2 day of July, 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

July 10, 2024

JEFFREY D NEISES
2236 BASSWOOD CT
DERBY KS 67037

RE: Appropriation of Water
File No. 51,023

Dear Mr. Neises:

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 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:dkb
Enclosure(s)
pc: 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 10 day of July, 2024, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 51,023, dated July 2, 2024, was mailed postage prepaid, first class, US mail to the following:

JEFFREY D NEISES
2236 BASSWOOD CT
DERBY KS 67037

With photocopies to:

JEANNETTE NUNEMAKER LIVING TRUST
53 WESTBOROUGH RD
WELLINGTON KS 67152

KDA-DWR Stafford Field Office


Division of Water Resources