

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

1. File No.: <b>51030</b>	2. Status Change Date: <b>08/22/2024</b>	4. Field Office: <b>02 - Stafford</b> GMD: Structures File No.: Filing/Priority Date: <b>05/01/2023</b> Application Complete Date:
3. Package File No(s):		
5a. <input checked="" type="checkbox"/> Applicant <input type="checkbox"/> Owner <input type="checkbox"/> WUC <input type="checkbox"/> Address Change  <b>BRIAN ERTLE</b> <b>PO BOX 2135</b> <b>LAKE DALLAS, TX 75065</b>	Person ID <b>69011</b> Add Seq#	5b. <input checked="" type="checkbox"/> Owner <input checked="" type="checkbox"/> WUC <input type="checkbox"/> Address Change  <b>CHARELS E &amp; ALOAHA M VOTH</b> <b>2660 S 327TH ST W</b> <b>GARDEN PLAIN, KS 67050</b>
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
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: <b>12/31/2025</b> Perfection/Expiration Date: <b>12/31/2029</b>	7. Use of Water <input checked="" type="checkbox"/> Groundwater <input type="checkbox"/> Surface Water UMW: <b>REC-Recreational</b> 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 <b>Ownership changed while application was pending. Ertle is/was the applicant but permit is being issued to the Voths.</b>	Processed <b>CCB</b> <b>08/22/2024</b>	Entered <b>8/23/2024</b> <b>KAnderson</b>
	Reviewed <b>KAK</b> <b>8/22/2024</b>	

File No. **51,030**      13. County: **KM - Kingman** Basin: **SF Ninnescah River** Stream:  
 Structures File No:      Aquifer Code: **110 and 532 Recent and Ninnescah Shale**      Special Use Area:

14. Points of Diversion, Rates & Quantities										Qty <b>AF</b>		Rate <b>gpm</b>		Storage Qty <b>AF</b>		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>90310</b>	<b>NW SE NE</b>	<b>34</b>	<b>28S</b>	<b>5W</b>	<b>1</b>	<b>3597</b>	<b>1099</b>		<b>41.67</b>	<b>41.67</b>	<b>800</b>	<b>800</b>				<b>+</b>
																	<b>+</b>
																	<b>#</b>
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																	<b>**</b>
																	<b>++</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					
																				<input type="checkbox"/>	<b>+</b>
																				<input type="checkbox"/>	<b>+</b>
																				<input type="checkbox"/>	<b>#</b>
																				<input type="checkbox"/>	<b>^</b>
<b>MOD</b>	<b>71383</b>	<b>34</b>	<b>28S</b>	<b>5W</b>	<b>1</b>	<b>10 Acre Reservoir (SE¼ NE¼)</b>												<b>5b</b>	<input type="checkbox"/>	<b>**</b>	
																			<input type="checkbox"/>	<b>++</b>	

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: August 8, 2024

From: Colin Barclay, Environmental Scientist

Re: New Application File No. 51,030 – Charles & Aloaha Voth

## Summary

Brian Ertle on behalf of Charles and Aloaha Voth has filed the above referenced application to appropriate 41.67 acre-feet of ground water for storage in a 10-acre waterfowl marsh for recreational purposes. The rate of diversion is a maximum of 800 gallons per minute from a well located near the confluence of Smoots Creek and the South Fork Ninnescah River in Kingman County, Kansas and within DUA SNI 26 which is open to new appropriations. The place of use is solely owned by the Charles and Aloaha Voth and have signed the application form affirming legal access to the point of diversion. DWR Structures has made the determination that dam, stream obstruction, and floodplain fill permits are not required for the 10-acre marsh.

## Reasonable Rate and Quantity

Reasonable quantity of water for recreational use was defined as one year of net evaporation, seepage, and one reservoir fill per year. As confirmed through areal measurements, the proposed reservoir will have a surface area of roughly 10 acres and an average depth of 1 foot. Maximum reasonable capacity was found to be 10 acre-feet.

Net evaporation is 10 acres surface area x 25 inches of evaporation / 12 inches per foot = 20.83 acre-feet per year of net evaporation.

Seepage is 10 acres surface area x .25 inches per day x 365 days / 12 inches per foot = 76.04 acre-feet per year.

Reservoir capacity is 10 acres surface area x 1 foot depth = 10 acre-feet per year per filling.

20.83 acre-feet per year of evaporation + 76.04 acre-feet of seepage + 10.0 acre-feet per year of reservoir capacity = 106.87 acre-feet.

Maximum reasonable quantity was determined to be 106.87 acre-feet. The quantity requested of 41.67 appears to be reasonable and accounts for a seepage rate of .0712 inches per day for six (6) months.

## Source of Supply and Safe Yield

The source of supply appears to be the alluvium of the nearby South Fork Ninnescah River and the underlying Ninnescah Shale. The depth of the completed well was 50 feet with the static water level being found at 10 feet. Per the requirements in K.A.R. 5-3-11, safe yield is determined by the extent of the unconfined aquifer within a two-mile circle radius of the point of diversion, which establishes the area of consideration. Evaluation of the area of consideration included the extent of the unconfined aquifer, which provided an area of consideration of 8,042 acres. With a potential annual recharge of 2.0 inches, and 75% of recharge available for appropriation, safe yield was determined to be 1,005.31 acre-feet. Existing water rights have appropriated 153.5 acre-feet, providing a difference of 851.81 acre-feet available for appropriation, and the application requesting 41.67 complies with safe yield.

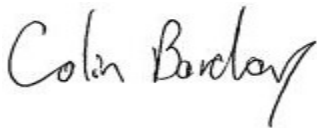
## Nearby Water Rights

No appropriated wells were found to be within one-half ( $\frac{1}{2}$ ) mile of the proposed point of diversion. And no nearby domestic wells were found to be within one-half ( $\frac{1}{2}$ ) mile of the proposed point of diversion. Therefore, no nearby notification letters were sent out regarding the above referenced application.

## Recommendations

The application was sent to Jeff Lanterman, Water Commissioner of the Stafford Field Office and was recommended for approval in an e-mail dated August 22, 2024.

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.

A handwritten signature in black ink that reads "Colin Barclay". The signature is written in a cursive, slightly slanted style.

Colin Barclay  
Environmental Scientist  
Water Appropriation Program


## FW: Application 51030 review and recommendation request

Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>

Thu 8/22/2024 9:35 AM

To: Barclay, Colin [KDA] <Colin.Barclay@ks.gov>

Cc: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>

 3 attachments (845 KB)

51030 Memo.docx; 51030 SafeYieldReport.docx; 51030 well log.pdf;

Colin;

I think this can be approved. What do you call the source in a case like this, It appears that it has about 10' sand and gravel probably alluvium and 30' probable Sumner Group (Wellington)

800 GPM seems pretty unreasonable from that well but it will probably all work itself out in the certification process.

Approve it

Jeff

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**From:** Conant, Cameron [KDA] <Cameron.Conant@ks.gov>

**Sent:** Thursday, August 22, 2024 8:07 AM

**To:** Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>

**Subject:** FW: Application 51030 review and recommendation request

Jeff, this is for a rec marsh in Kingman County. This is open DUA26 which has over 900 AF remaining, there is no irrigation in the 2 mile circle and no nearby wells were notified. We have no water level info cause there is not much out here from a water right standpoint.

The app looks fine to me with regard to quantity and place of use. It's a 10 acre marsh covering evap, filling, and a little storage. Seems to be a duck marsh so it may only be full part of the year. The well log is attached, looks pretty bad but it might be adequate for filling a duck pond. No one is around so that log shouldn't concern us much.

I think we can recommend approval, pass on to Colin if you agree.

*Cameron*

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**From:** Barclay, Colin [KDA] <[Colin.Barclay@ks.gov](mailto:Colin.Barclay@ks.gov)>

**Sent:** Thursday, August 8, 2024 11:39 AM

**To:** Conant, Cameron [KDA] <[Cameron.Conant@ks.gov](mailto:Cameron.Conant@ks.gov)>; Lanterman, Jeff [KDA] <[Jeff.Lanterman@ks.gov](mailto:Jeff.Lanterman@ks.gov)>

**Subject:** Re: Application 51030 review and recommendation request

Yes, I uploaded the structures determination to DocuWare. They will not require permitting as long as fill is not placed or berms are constructed. It appears the applicant only dug out a shallow 10 acre hole on the property.

Colin

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**From:** Conant, Cameron [KDA] <[Cameron.Conant@ks.gov](mailto:Cameron.Conant@ks.gov)>  
**Sent:** Thursday, August 8, 2024 11:36 AM  
**To:** Barclay, Colin [KDA] <[Colin.Barclay@ks.gov](mailto:Colin.Barclay@ks.gov)>; Lanterman, Jeff [KDA] <[Jeff.Lanterman@ks.gov](mailto:Jeff.Lanterman@ks.gov)>  
**Subject:** RE: Application 51030 review and recommendation request

This was having issues with Structures, did that all get cleared up in a satisfactory manner?

*Cameron*

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**From:** Barclay, Colin [KDA] <[Colin.Barclay@ks.gov](mailto:Colin.Barclay@ks.gov)>  
**Sent:** Thursday, August 8, 2024 11:10 AM  
**To:** Lanterman, Jeff [KDA] <[Jeff.Lanterman@ks.gov](mailto:Jeff.Lanterman@ks.gov)>; Conant, Cameron [KDA] <[Cameron.Conant@ks.gov](mailto:Cameron.Conant@ks.gov)>  
**Subject:** Application 51030 review and recommendation request

Jeff and Cameron,

I have attached the draft memo and safe yield report for application 51,030 for your review and recommendation. This is for a groundwater well to keep a 10 acre waterfowl marsh full. There were no nearby wells found to be within a half mile. No nearby letters were sent out. In addition there are no nearby WIZARD wells.

Please let me know if you have any questions.

Thank you!

Colin Barclay

Environmental Scientist

Division of Water Resources

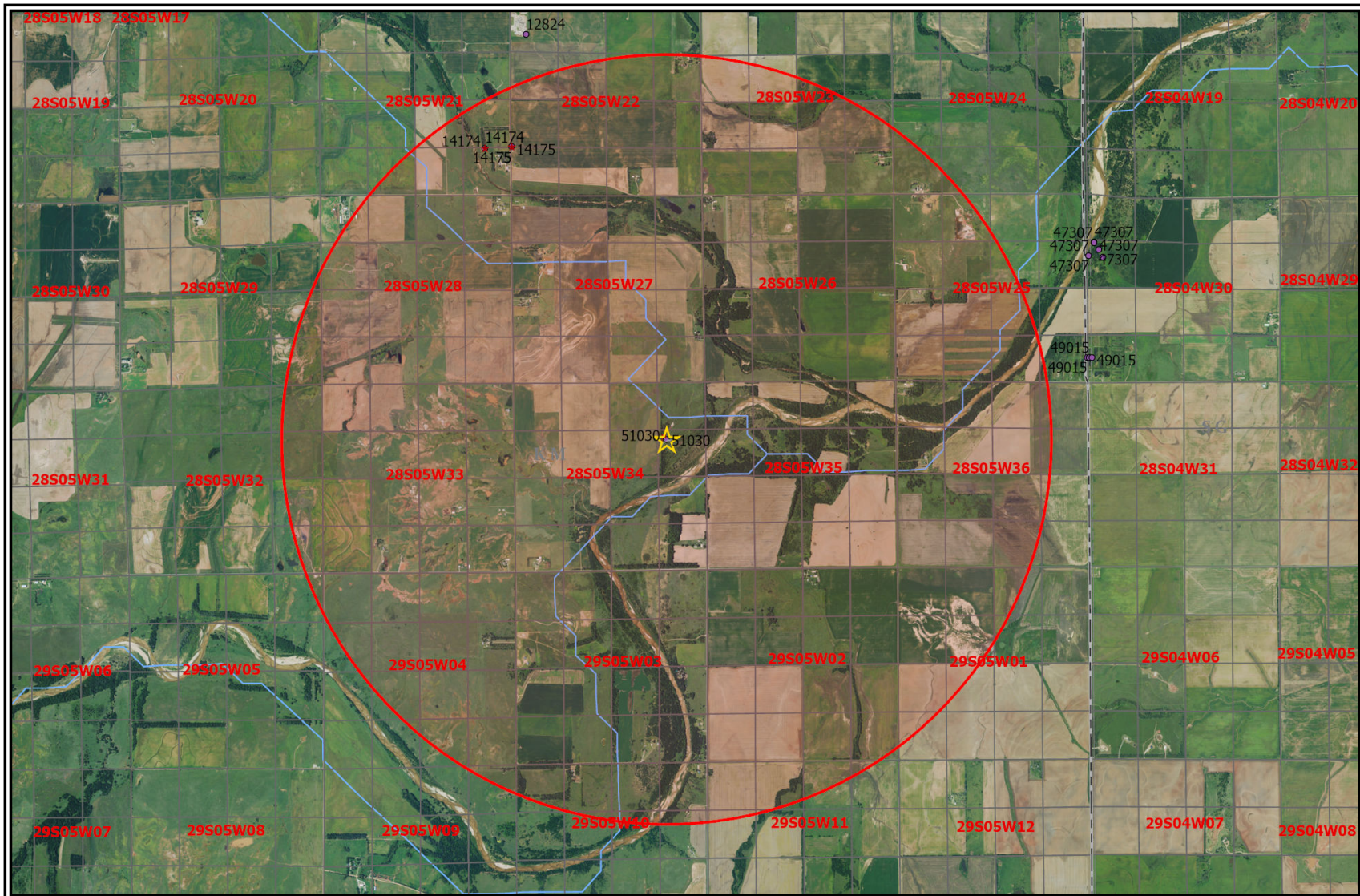
Kansas Department of Agriculture

Phone: (785) 564-6628

[Colin.Barclay@ks.gov](mailto:Colin.Barclay@ks.gov)



**Safe Yield Report Sheet**  
**Water Right- A5103000**  
**Point of Diversion in 34-28S-05W**  
**Footages from SE corner- 3,597 feet North 1,099 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 1,005.31 AF.

Total prior appropriations in the circle is ~~41.84 AF~~. **153.5 AF**

Total quantity of water available for appropriation is ~~963.47 AF~~. **851.81 AF** Application 51,030 meets safe yield for an additional 41.67 AF

## Safe Yield Variables

The area used for the analysis is set at 8,042 acres.

The potential annual recharge at the circle center is estimated to be 2.0 inches.

The percent of recharge available for appropriation is 75%.

Authorized Quantity values are as of 23-JUL-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 3 water rights and 3 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 14174 00	IND	NK	G		NW	SE	SE	1300	695	21	28	05W	1	WR	<del>63.54</del>	<del>0.00</del>		
A 14175 00	IND	NK	G		SW	NW	SW	1365	5210	22	28	05W	2	WR	<del>67.61</del>	<del>0.17</del>		<b>+153.5</b>
A 51030 00	REC	AY	G		NW	SE	NE	3597	1099	34	28	05W	1	WR	41.67	41.67		

## Limitations

File Number	Seq Num	Limitations
A 14174 00	2	49.945MGY COM/W #12824
A 14175 00	1	50 MGY COM/W #12824 & #14174



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. 51,030** of the applicant

**CHARLES AND ALOAHA VOTH  
2660 S 327 ST W  
GARDEN PLAIN KS 67050-9256**

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 **May 1, 2023**.
2. That the water sought to be appropriated shall be used for recreational use to maintain water levels in a reservoir, with a maximum surface area of 10 acres, located in the Southeast Quarter of the Northeast Quarter (SE $\frac{1}{4}$  NE $\frac{1}{4}$ ) of Section 34, Township 28 South, Range 5 West, Kingman County, Kansas.
3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of one (1) well located in the Northwest Quarter of the Southeast Quarter of the Northeast Quarter (NW $\frac{1}{4}$  SE $\frac{1}{4}$  NE $\frac{1}{4}$ ) of Section 34, more particularly described as being near a point 3,597 feet North and 1,099 feet West of the Southeast corner of said section, in Township 28 South, Range 5 West, Kingman 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 **41.67 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 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 22 day of August, 2024, in Manhattan, Riley County, Kansas.

*Lane P. Letourneau*

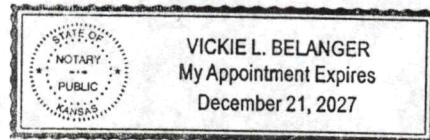
Lane P. Letourneau, P.G.  
Water Appropriation Program Manager  
Division of Water Resources  
Kansas Department of Agriculture

State of Kansas )  
                          ) SS  
County of Riley )

The foregoing instrument was acknowledged before me this 22 day of August, 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

August 26, 2024

CHARLES AND ALOAHA VOTH  
2660 S 327 ST W  
GARDEN PLAIN KS 67050-9256

RE: Appropriation of Water  
File No. 51,030

Dear Mr. and Mrs. Voth:

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](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 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:ccb

Enclosure(s)

pc: Stafford Field Office  
Brian Ertle

## 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 26 day of August, 2024, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 51,030, dated August 22, 2024, was mailed postage prepaid, first class, US mail to the following:

CHARLES AND ALOAHA VOTH  
2660 S 327 ST W  
GARDEN PLAIN KS 67050-9256

With photocopies to:

BRIAN ERTLE  
PO BOX 2135  
LAKE DALLAS TX 75065

KDA-DWR Stafford Field Office

  
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Division of Water Resources