



File No. **51,047**      15. Formation Code: **N/A**      Drainage Basin: **27**      County: **RP**      Special Use: **N/A**      Stream: **105 - White Rock Creek**

16. Points of Diversion										17. Rate and Quantity					
MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Authorized		Additional		
											Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files
<b>CHK</b>			<b>30097</b>	<b>SE NE NW</b>	<b>5</b>	<b>2S</b>	<b>5W</b>	<b>3</b>	<b>4158</b>	<b>2937</b>	<b>1,500</b>	<b>289</b>	<b>1,500</b>	<b>289</b>	<b>32,250</b>
<b>CHK</b>			<b>39763</b>	<b>SW NW NW</b>	<b>5</b>	<b>2S</b>	<b>5W</b>	<b>5</b>	<b>4290</b>	<b>4820</b>					<b>32,250</b>

18. Storage: Rate \_\_\_\_\_ NF      Quantity \_\_\_\_\_ ac/ft      Additional Rate \_\_\_\_\_ NF      Additional Quantity \_\_\_\_\_ ac/ft

19. Limitation: **321.6** af/yr at \_\_\_\_\_ gpm ( \_\_\_\_\_ cfs) when combined with file number(s) **32,250**  
 Limitation: **321.6** af/yr at \_\_\_\_\_ gpm ( \_\_\_\_\_ cfs) when combined with file number(s) **385 and 4673 (Bostwick Irrigation District)**

20. Meter Required?  Yes     No      To be installed by **12/31/2025**      Date Acceptable Meter Installed \_\_\_\_\_

21. Place of Use										NE¼								NW¼				SW¼				SE¼				Total	Owner	Chg?	Overlap Files
MOD	DEL	ENT	PUSE	S	T	R	ID	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼						
<b>CHK</b>			<b>24996</b>	<b>5</b>	<b>2S</b>	<b>5W</b>	<b>2</b>		<b>18</b>	<b>25</b>		<b>18</b>	<b>15</b>	<b>36</b>	<b>32</b>	<b>35</b>	<b>40</b>	<b>39</b>	<b>10</b>									<b>268</b>	<b>7A</b>	<b>N 32250, KBID</b>			

Comments: **\*PENDING PU CHANGE ON SENIOR FILE 32250 WILL CREATE COMPLETE OVERLAP IN PU. Kansas Bostwick Irr District also covers PU. Rate & Quantity can be pumped at either p/d. (Rate and Quantity stored by right.)**



# MEMORANDUM TO FILE

Division of Water Resources, Water Appropriation Program

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Date: July 13, 2024

From: David Means, Environmental Compliance/Regulatory Spec II

Re: New Application File No. 51,047 – Tietjen & Sons

## Summary

Tietjen & Sons has filed an application to appropriate surface water to irrigate 268 acres in Republic County, Kansas, requesting two (2) pumpsites, with a quantity of 289 acre-feet of water per calendar year, at a diversion rate of 1,500 gallons per minute. The application proposes a complete overlap in points of diversion with Water Right File No. 32,250 and place of use with Water Right File No. 32,250 and Kansas Bostwick Irrigation District. A change application has been filed on Water Right File No. 32,250 proposing to completely overlap it with this application should it be approved.

## Reasonable Rate and Quantity

The proposed quantity of 289 AF, in addition to the 33 AF authorized under Water Right File No. 32,250, will amount to a total of 322 AF on 268 acres, or 1.2 acre-feet/acre, which is the maximum allowed for irrigation in Republic County, so the requested quantity appears reasonable and meets the requirements of K.A.R. 5-3-20.

## Source of Supply and Safe Yield

The source of supply is surface water from White Rock Creek, a tributary to the Republican River. The applicant has submitted a signed Minimum Desirable Streamflow (MDS) statement which has been properly notarized. This affirms the applicant's knowledge that there could be times when the diversion of water may not be allowed under this permit. Additionally, since the source of water is surface water from a tributary to the Republican River, the permit shall be conditioned as follows: "That in order to implement the provisions of K.A.R. 5-3-11(d)(6), no water shall be diverted unless the written permission of the Chief Engineer, or an authorized representative of the Chief Engineer, is obtained each time the applicant desires to divert water. The approval of this permit is not an indication that surface water will be available from this source of supply, or that written permission will be granted to divert water." The Lower Republican River Basin is open to new applications meeting the criteria required by K.A.R. 5-3-11(d)(6), and the approval of this application is consistent with similar applications requesting surface water in the Republican River basin. The place of use will also be covered by Kansas Bostwick Irrigation District; therefore, the application complies with K.A.R. 5-3-11(d)(6) to show that the direct diversion of surface water will not be necessary during the period of July 1<sup>st</sup> through September 30<sup>th</sup>. The permit will also contain the standard conditions related to requesting permission prior to diverting, and not stopping flow at the first riffle below the point of diversion.

## Nearby Water Rights

There are 5 other pump sites within a two (2) mile radius of the proposed points of diversion, the closest located approximately 6,700 feet downstream authorized by Water Right File No. 16,234. The nearest upstream pump site is authorized by Water Right File No. 39,378 and is approximately 8,570 feet away. With proper conditioning, there is no indication that approval of this permit will impair any senior water rights. Nearby

landowners within one-half mile upstream and downstream of the proposed points of diversion were notified by letters dated July 15, 2024. No responses of any kind were received.

## Recommendations

Kelly Stewart, Water Commissioner of the Stockton field office recommended approval of the application on August 1, 2024. Based on the above discussion, that surface water within the Lower Republican River remains open to new appropriations with appropriate and consistent permit conditions, and approval of the application will not impair senior water rights, it is recommended that the referenced application be approved.

**From:** Stewart, Kelly [KDA]  
**Sent:** Thu 8/1/2024 2:14 PM  
**To:** Means, David [KDA]  
**Cc:** Means, David [KDA]  
**Subject:** RE: New App Recommendation

David,

I recommend approval of this application.

Kelly

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**From:** Means, David [KDA] <David.Means@ks.gov>  
**Sent:** Thursday, August 1, 2024 1:12 PM  
**To:** Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>  
**Subject:** New App Recommendation

Kelly,  
Attached is the memo for 51,047. Please provide your recommendation and/or comments.

Thanks,

David

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. 51,047** of the applicant

**TIETJEN & SONS  
PO BOX 116  
BYRON NE 68325**

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 **June 2, 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	
5 - 2S - 5W		18	25		18	15	36	32	35	40	39	10					268

3. That the authorized source from which the appropriation shall be made is surface water from White Rock Creek, tributary of the Republican River, to be diverted at the following described points:

one (1) pumpsite located in the Southeast Quarter of the Northeast Quarter of the Northwest Quarter (SE¼ NE¼ NW¼) of Section 5, more particularly described as being near a point 4,158 feet North and 2,937 feet West of the Southeast corner of said section, and

one (1) pumpsite located in the Southwest Quarter of the Northwest Quarter of the Northwest Quarter (SW¼ NW¼ NW¼) of Section 5, more particularly described as being near a point 4,290 feet North and 4,820 feet West of the Southeast corner of said section,

both in Township 2 South, Range 5 West, Republic 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 **1,500 gallons per minute (3.34 c.f.s.)** and to a quantity not to exceed **289 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 acceptable water flow meters 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 meters 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 in order to implement the provisions of K.A.R. 5-3-11(d)(6), no water shall be diverted unless the written permission of the Chief Engineer, or an authorized representative of the Chief Engineer, is obtained each time the applicant desires to divert water. The approval of this permit is not an indication that surface water will be available from this source of supply, or that written permission will be granted to divert water.

19. That the quantity of water approved under this permit is further limited to the quantity which combined with Water Right, File Nos. 385 and 4673 (Bostwick Irrigation District), and Water Right, File No. 32,250, will provide a total not to exceed **321.6 acre-feet** of water, for irrigation on the land described herein.

20. 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*

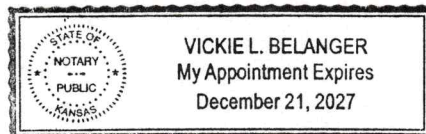
Lane P. Letourneau, P.G.  
Water Appropriation Program Manager  
Division of Water Resources  
Kansas Department of Agriculture

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 19, 2024

TYLER TIETJEN  
TIETJEN & SONS  
PO BOX 116  
BYRON NE 68325

RE: Appropriation of Water  
File No. 51,047

Dear Mr. Tietjen:

Enclosed is a permit authorizing you to proceed with construction of the proposed diversion works and to appropriate water for beneficial use. Your attention is directed to the enclosures and to the terms, conditions, limitations, and requirements specified in this permit, with specific reference to Paragraph Nos. 15, 16, 17, 18 and 19.

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 Stockton Field Office at 785-425-6787. 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:dml  
Enclosure(s)  
pc: Stockton 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 19 day of September, 2024, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 51,047, dated September 10, 2024, was mailed postage prepaid, first class, US mail to the following:

TIETJEN & SONS  
PO BOX 116  
BYRON NE 68325

With photocopies to:

KDA-DWR Stockton Field Office



Division of Water Resources