



File No. **51,070**      15. Formation Code: **N/A**      Drainage Basin: **23**      County: **MC**      Special Use: **N/A**      Stream: **23 - SOLOMON R.**

16. Points of Diversion										17. Rate and Quantity					
MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Authorized		Additional		Overlap PD Files
											Rate gpm	Quantity af	Rate gpm	Quantity af	
<b>MOD</b>	<b>90561</b>			<b>NE NE NE</b>	<b>9</b>	<b>7S</b>	<b>8W</b>	<b>1</b>	<b>4900</b>	<b>200</b>	<b>1,000</b>	<b>38.5</b>	<b>1,000</b>	<b>38.5</b>	<b>NONE</b>
<b>DEL</b>	<b>69115</b>			<b>SE SE NE</b>	<b>33</b>	<b>26S</b>	<b>1W</b>	<b>110</b>	<b>2740</b>	<b>120</b>					

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

19. Limitation: \_\_\_\_\_ af/yr at \_\_\_\_\_ gpm ( \_\_\_\_\_ cfs) when combined with file number(s) \_\_\_\_\_  
 Limitation: \_\_\_\_\_ af/yr at \_\_\_\_\_ gpm ( \_\_\_\_\_ cfs) when combined with file number(s) \_\_\_\_\_

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

21. Place of Use																		Total	Owner	Chg?	Overlap Files						
MOD	DEL	ENT	PUSE	S	T	R	ID	NE¼				NW¼				SW¼				SE¼							
								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>MOD</b>	<b>71471</b>			<b>9</b>	<b>7S</b>	<b>8W</b>	<b>7</b>	<del>MARSH (E2 NE)</del> <b>(E2 NE NE)</b>																	<b>7C</b>	<b>N</b>	<b>NONE</b>
<b>MOD</b>	<b>71472</b>			<b>10</b>	<b>7S</b>	<b>8W</b>	<b>5</b>	<del>MARSH (W2 NW)</del> <b>(W2 NW NW)</b>																	<b>7B</b>	<b>N</b>	<b>2,576 &amp; 30,097</b>

Comments: **PARTIAL OVERLAP IN PU WITH IRR FILE NOS. 2,576 & 30,097. MARSH AREA IN SECTION 10 TO BE FLOODED IS ALSO AUTH. FOR IRR AND MAY STILL BE FARMED WHEN NOT FLOODED FOR OFF-SEASON REC USE. MODIFIED OWNERSHIP FOR EACH PUSE. PDIV 69115 IS IN ERROR AND SHOULD BE REMOVED.**



# MEMORANDUM TO FILE

Division of Water Resources, Water Appropriation Program

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Date: September 14, 2024

From: David Means, Environmental Compliance/Regulatory Spec II

Re: New Application File No. 51,070 – Alex Mears

## Summary

Alex Mears has filed an application to appropriate 38.5 acre-feet of surface water at a diversion rate of 1,000 gallons per minute out of the Solomon River for recreation use in a seasonal wildlife marsh in Mitchell County, Kansas. The application proposes to cover the storage and indirect use (evaporation and seepage) of water from said marsh of approximately 7 acres in size. No other permits authorize the proposed point of diversion, and the proposed place of use will partially overlap with Water Right File Nos. 2,576 & 30,097. The area where the proposed marsh is located is authorized for irrigation by these files and may be farmed when not flooded off-season for recreational use. The applicant has also signed the application form stating they have legal access to the point of diversion.

No water structures permitting will be required as no fill greater than 1 foot in height above original ground elevation will be placed; and excavated material will not be placed in the floodplain. The applicant will also not be required to obtain a Compatible Use Agreement (CUA) for water level management from NRCS; and there are no NRCS easements present at the location per phone call with Brent Turney –Easement Specialist—on September 9, 2024.

## Reasonable Rate and Quantity

The proposed quantity was calculated as follows:

Filling of the 7 acre marsh to a depth of approximately 1' annually = 7 AF

Annual Evaporation = 27 inches x 7 acres (surface area) / 12 = 15.75 AF

7 AF (storage) + 15.75 AF (evaporation) + 15.75 AF (seepage) = 38.5 AF

## Source of Supply and Safe Yield

The source of supply is surface water from the Solomon 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. Per K.A.R. 5-3-15, this application 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, or an authorized representative is required prior to diverting water, and streamflow cannot be stopped at the first riffle below the point of diversion while diversion is taking place. This application also complies with K.A.R. 5-3-15 (c)(5) as the proposed use of water for recreation is typically during the fall season, and therefore will not need direct diversion of water from July 1<sup>st</sup> through September 30<sup>th</sup>.

## 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 September 16, 2024. Based on the above discussion, that surface water within the Solomon 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:** Mon 9/16/2024 10:01 AM  
**To:** Means, David [KDA]  
**Cc:** Hageman, Nancy [KDA]  
**Subject:** RE: New Application Recommendation

David,

I have no objection to the approval of this application.

Kelly

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**From:** Means, David [KDA] <David.Means@ks.gov>  
**Sent:** Saturday, September 14, 2024 11:52 AM  
**To:** Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>  
**Subject:** New Application Recommendation

Kelly,  
Attached is the memo for 51,070. 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. 51,070** of the applicant

**ALEX MEARS  
614 N HIGHLAND  
BELOIT KS 67420**

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 **July 17, 2023**.
2. That the water sought to be appropriated shall be used for recreational use in a wetland marsh located in the East Half of the Northeast Quarter of the Northeast Quarter (E $\frac{1}{2}$  NE $\frac{1}{4}$  NE $\frac{1}{4}$ ) of Section 9 and the West Half of the Northwest Quarter of the Northwest Quarter (W $\frac{1}{2}$  NW $\frac{1}{4}$  NW $\frac{1}{4}$ ) of Section 10, all in Township 7 South, Range 8 West, Mitchell County, Kansas.
3. That the authorized source from which the appropriation shall be made is surface water from the Solomon River, to be diverted by means of one (1) pumpsite located in the Northeast Quarter of the Northeast Quarter of the Northeast Quarter (NE $\frac{1}{4}$  NE $\frac{1}{4}$  NE $\frac{1}{4}$ ) of Section 9, more particularly described as being near a point 4,900 feet North and 200 feet West of the Southeast corner of said section, in Township 7 South, Range 8 West, Mitchell 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 **1,000 gallons per minute (2.23 c.f.s.)** and to a quantity not to exceed **38.5 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 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 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).

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.



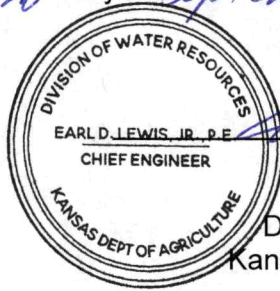
17. That the right to appropriate water under authority of this permit is subject to any minimum desirable streamflow requirements identified and established pursuant to K.S.A. 82a-703c for the source of supply to which this water right applies.

18. That 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.

19. 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.

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 20<sup>th</sup> day of September, 2024, in Manhattan, Riley County, Kansas.



*Earl D. Lewis Jr.*  
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Earl D. Lewis Jr., P.E.  
Chief Engineer  
Division of Water Resources  
Kansas Department of Agriculture

State of Kansas        )  
                                  ) SS  
County of Riley        )

The foregoing instrument was acknowledged before me this 20<sup>th</sup> day of September, 2024, by Earl D. Lewis Jr., P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.

*Shawna Novak*  
\_\_\_\_\_  
Notary Public

