

File No. 51,077	13. County: CD - Cloud Basin: 23 - Solomon river Stream:																							
Structures File No:	Aquifer Code: 330 Dakota aquifer system (unconfined)										Special Use Area:													
14. Points of Diversion, Rates & Quantities																								
PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Qty AF		Rate gpm		Storage Qty		Storage Rate		Overlaps							
									Auth	Add	Auth	Add	Auth	Add	Auth/Add	Overlaps								
CHK 90470	SE NE SW	15	8S	4W	1	1853	2883	GEO CENTER	416	416	800	800												
ENT 91032	SE NE SW	15	8S	4W		1903	2883	BATT 1 OF 4																
ENT 91033	SE NE SW	15	8S	4W		1853	2933	BATT 1 OF 4	BATT ID 2403															
ENT 91034	SE NE SW	15	8S	4W		1803	2883	BATT 1 OF 4																
ENT 91035	SE NE SW	15	8S	4W		1853	2783	BATT 1 OF 4																
15. Limitations Type: Quantity: Rate: combined with file no(s): Type: Quantity: Rate: combined with file no(s):																								
16. Metering <input checked="" type="checkbox"/> Metering Required <input type="checkbox"/> Anti-Reverse Required <input type="checkbox"/> Seal Required Compliance Date: 12/31/2025																								
17. Place of Use																								
PDIV	S	T	R	ID	NE¼				NW¼				SW¼				SE¼				Total	Owner(s)	Chg?	Overlaps
					NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE				
CHK 71484	15	8S	4W	1					40	40	40	40	40	40	40	40					320	5a	<input type="checkbox"/>	
																							<input type="checkbox"/>	
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18. Point of Diversion and Place of Use Overlaps																								
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MOD

MEMORANDUM TO FILE

Division of Water Resources, Water Appropriation Program

Date: June 11, 2024

From: Christa Anhold, Environmental Scientist

Re: New Application File No. 51,077 – K&K Land LLC

Summary

K&K Land LLC filed the above referenced application proposing to appropriate 416 acre-feet per year of groundwater per calendar year at a rate of 800 gallons per minute from a battery of four (4) wells to irrigate 320-acres in Cloud County. The applicant owns the place of use and points of diversion. There are no overlapping files associated with the place of use or proposed points of diversion.

Reasonable Rate and Quantity

The requested 416 AF of water applied to 320-acres is equivalent to 1.3 acre-feet per acre, which is the maximum reasonable quantity for Cloud County. The requested rate of 800 GPM appears reasonable as defined by K.A.R. 5-1-1(n).

Source of Supply and Safe Yield

A test hole log for the geographic center was provided with the application. The test hole indicates topsoil from surface to 3 feet, brown-gray clay from 3 to 30 feet, soft tan sandrock from 30 to 68 feet, gray shale from 68 to 120 feet, fire clay from 120 to 150 feet, and gray shale from 150 to 160 feet below ground surface. Static water level was measured at 25 feet below ground surface, depth at which water was encountered was not denoted. Based on nearby well logs, appropriated water rights, and “Geology and Ground-water Resources of Cloud County, Kansas” KGS Bulletin 139 indicate unconfined Dakota Aquifer as the main source of water.

A safe yield report indicates the source of supply covers 8,042 acres. Based on a potential recharge of 2.5 inches, with 75% available for appropriation, safe yield was determined to be 1,256.64 AF. Existing appropriations total 346 AF, leaving 910.64 AF available to irrigate the 320-acres with 416 AF of water requested by the applicant.

Nearby Water Rights

The unconfined Dakota aquifer has specific well spacing regulations per K.A.R. 5-4-4. From the proposed geographic center the nearest domestic well is 5,500 feet away and the nearest non-domestic well (Water Appropriation File No. 50,007) is 5,800 feet away. Well spacing requirements have been met.

The applicant stated there were no wells within a half mile of the proposed point of diversion. This was confirmed during the application review process. No nearby notifications were made.

Recommendations

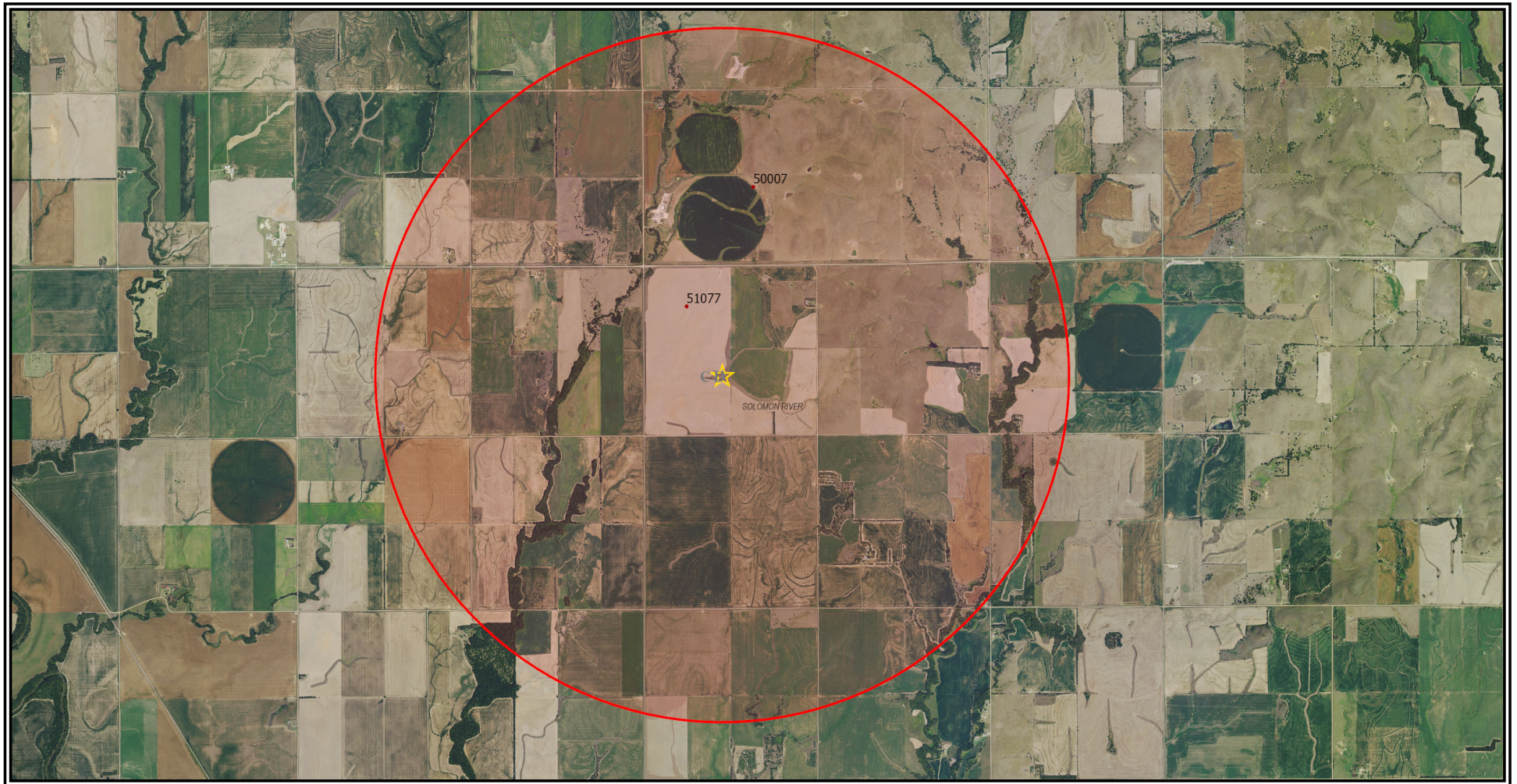
The application was sent for consideration to Kelly Stewart, Water Commissioner of the Stockton Field Office on June 12, 2024, and recommended for approval in an e-mail dated June 13, 2024.

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
Manhattan Headquarters

Safe Yield Report Sheet
Water Right- Proposed Point of Diversion
Point of Diversion in 15-08S-04W
Footages from SE corner- 1,853 feet North 2,883 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 1,256.64 AF.

Total prior appropriations in the circle is 762.00 AF. -416 AF = 346AF

Total quantity of water available for appropriation is 494.64 AF. 1256.64-346 = 910.64

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 2.5 inches.

The percent of recharge available for appropriation is 75%.

Authorized Quantity values are as of 11-JUN-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 2 water rights and 2 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 50007 00	IRR	LO	G		NE	NW	SE	2350	1911	10	08	04W	6	WR	346.00	346.00	266.00	266.00
A 51077 00	IRR	AY	G			W2	W2	3960	3960	15	08	04W	1	WR	416.00	416.00	-416.00	320.00

From: Stewart, Kelly [KDA]
Sent: Thu 6/13/2024 1:13 PM
To: Anhold, Christa [KDA]; Billinger, Mark [KDA]; Hageman, Nancy [KDA]
Subject: FW: 51077 recommendation request
Attachments: 51077 Memo.docx

Christa,

I recommend approval of this application.

Kelly

From: Anhold, Christa [KDA] <Christa.Anhold@ks.gov>
Sent: Wednesday, June 12, 2024 9:21 AM
To: Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>
Subject: 51077 recommendation request

Good Morning Kelly,

Attached is a draft memo for 51,077 for your review and recommendation. There were no nearby neighbors within one-half mile to notify.

Let me know if you need anything else.

Christa Anhold
Environmental Scientist
Department of Water Resources
(785)-564-6644
Christa.anhold@ks.gov

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. 51,077** of the applicant

**K&K LAND LLC
1912 UNION RD
CONCORDIA, KS 66901**

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 31, 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	
15 – 8S – 4W					40	40	40	40	40	40	40	40					320

3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of a battery of four (4) wells with a geographical center located in the Southeast Quarter of the Northeast Quarter of the Southwest Quarter (SE¼ NE¼ SW¼) of Section 15, more particularly described as being near a point 1,853 feet North and 2,883 feet West of the Southeast corner of said section, in Township 8 South, Range 4 West, Cloud 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 **416 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 this permit is further limited such that all four (4) wells shall be located within a three hundred (300) foot radius circle, in the same local source of supply, shall be limited to a total maximum diversion rate not in excess of **800 gallons per minute (1.78 c.f.s.)** and shall supply water to a common distribution system.

18. 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 *13* day of *June*, 2024, in Manhattan, Riley County, Kansas.

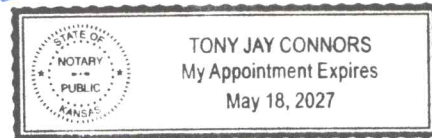
Lane P. Letourneau

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 *13* day of *June*, 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

June 17, 2024

W BENSON KEIL
K&K LAND LLC
1912 UNION RD
CONCORDIA KS 66901

RE: Appropriation of Water
File No. 51,077

Dear Mr. Keil:

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 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:cla
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 17 day of June, 2024, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 51,077, dated June 13, 2024, was mailed postage prepaid, first class, US mail to the following:

Original to:

K&K LAND LLC
1912 UNION RD
CONCORDIA KS 66901

With photocopies to:

KDA-DWR Stockton Field Office



Division of Water Resources