





# MEMORANDUM TO FILE

Division of Water Resources, Water Appropriation Program

---

Date: July 31, 2024

From: Christa Anhold, Environmental Scientist

Re: New Application File No. 51,100 – Mennonite Board of Missions & Charities of Kansas Inc.

## Summary

Ryan Goering filed the above reference new application on behalf of the Mennonite Board of Missions and Charities of Kansas Inc. proposing to appropriate 29.375 AF of surface water per calendar year at a diversion rate of 1,000 gallons per minute from one (1) pump site in Dry Creek for recreational use in Harvey County. The applicant signed the application stating they have legal access to the proposed point of diversion and place of use. There are no overlapping water right files.

## Reasonable Rate and Quantity and Safe Yield

The applicant proposes to appropriate 29.375 AF of surface water to prevent grasses and other plants from growing in the 2.5-acre recreational pond. The applicant request 1 year of evaporation and 1 year of storage, which is calculated as follows:

Evaporation: 2.5-acres x (22"/acre) x (1'/12") = 4.583 AF

Storage: 2.5-acre x 10 feet deep = 25AF

Evaporation + storage = 4.583 AF + 25 AF = 29.583 AF

The requested 29.375 AF can be considered reasonable. A diversion rate of 1,000 gallons per minute appears reasonable for the area.

## Safe Yield

The approval of 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 is required prior to diverting water, and streamflow cannot be stopped at the first riffle below the point of diversion while diversion is being taken place.

## Nearby Water Rights

There are no upstream water rights, and the nearest downstream water right (File No. 25,832) is over 13-miles from the proposed point of diversion. The applicant provided names and addresses of adjacent landowner's one-half mile up and downstream. Nearby notifications were mailed on July 15, 2024. Two written responses were received via email. One response on July 24, 2024, from the Executive Director for the Dyck Arboretum of the Plains with concerns. The arboretum has a set of ponds upstream of the applicant's proposed pumpsite. One response on July 28, 2024, from a downstream neighbor who owns pastureland roughly half-mile from the proposed pumpsite. This neighbor raised concerns over a future with longer and more severe droughts and the desire to preserve water for livestock and wildlife rather than it be used for aesthetic purposes.

## Recommendations

The application was sent for consideration to Jeff Lanterman, Water Commissioner, and Cameron Conant, Assistant Water Commissioner, of the Stafford Field Office on July 31, 2024, and was recommended for approval in an email dated August 22, 2024.

The application complies with all regulations concerning reasonable quantity, safe yield, and minimum spacing 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.



Christa Anhold  
Environmental Scientist  
Water Appropriation Program



**From:** Lanterman, Jeff [KDA]  
**Sent:** Thu 8/22/2024 12:55 PM  
**To:** Anhold, Christa [KDA]; Conant, Cameron [KDA]  
**Subject:** RE: 51100 Recommendation Request

Christa I like how you worded the nearby letter. Perfect!

I believe our permit condition for this thing would normally be “cannot stop streamflow at the first riffle below the point of diversion” isn’t it? which I think should get us where we want to want to be with regards to most of the surrounding concerned inquiries. (Besides MDS and other issues)

I think you can go ahead and approve this. I don’t know if they plan to add in a little low head dam to make it easier for them to pump or not. May require structures., if not no harm checking. Wouldn’t surprise me to have them want to put in a little low head something to help. I bet it is jurisdictional to our structures laws but it may not be.

Maybe we just tell them that they cant put in any structures without a permit such as a low head dam. In the transmittal.

Thanks

Jeff

---

**From:** Anhold, Christa [KDA] <Christa.Anhold@ks.gov>  
**Sent:** Wednesday, July 31, 2024 7:43 AM  
**To:** Conant, Cameron [KDA] <Cameron.Conant@ks.gov>; Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>  
**Subject:** 51100 Recommendation Request

Good morning,

Attached is the draft memo for 51,100 for your review and recommendation. Nearby notifications were mailed on July 15, 2024. Two responses were received via email and are cataloged in DW.

Here are the links to the hydrographs within a 2-mile radius around the proposed point of diversion.

[https://geohydro.kgs.ku.edu/geohydro/wizard/wizardwelldetail.cfm?usgs\\_id=380746097260501](https://geohydro.kgs.ku.edu/geohydro/wizard/wizardwelldetail.cfm?usgs_id=380746097260501)  
0.23 mi

[https://geohydro.kgs.ku.edu/geohydro/wizard/wizardwelldetail.cfm?usgs\\_id=380832097243901](https://geohydro.kgs.ku.edu/geohydro/wizard/wizardwelldetail.cfm?usgs_id=380832097243901)  
1.83mi

Please let me know if you need anything else.

Christa Anhold  
Environmental Scientist  
Department of Water Resources  
(785)-564-6644  
[Christa.anhold@ks.gov](mailto: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. 51,100** of the applicant

**MENNONITE BOARD OF MISSIONS & CHARITIES OF KANSAS INC**  
**200 W CEDAR**  
**HESSTON, KS 67062**

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 **August 28, 2023**.
2. That the water sought to be appropriated shall be used for recreational use, to maintain water levels in a reservoir located in the Southwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$  NE $\frac{1}{4}$ ) of Section 21, Township 22 South, Range 1 West, Harvey County, Kansas.
3. That the authorized source from which the appropriation shall be made is surface water from Dry Creek (Little Arkansas River), to be diverted at a pumpsite located in the Northeast Quarter of the Southeast Quarter of the Northwest Quarter (NE $\frac{1}{4}$  SE $\frac{1}{4}$  NW $\frac{1}{4}$ ) of Section 21, more particularly described as being near a point 3,955 feet North and 2,710 feet West of the Southeast corner of said section, in Township 22 South, Range 1 West, Harvey 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 **29.375 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 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).

12. 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.

13. That no water user shall engage in nor allow the waste of any water diverted under the authority of this permit.

14. 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.

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

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 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.

18. That during the period July 1 through September 30, of each calendar year, no direct diversions of surface water shall be permitted unless written permission is obtained from the Chief Engineer, or the Chief Engineer's authorized representative.

19. That failure without cause to comply with provisions of the 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 29 day of August, 2024, in Manhattan, Riley County, Kansas.

Lane P. Letourneau

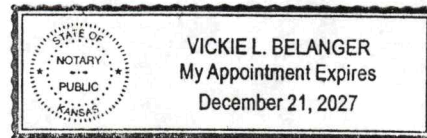
Lane P. Letourneau, P.G.  
Water Appropriation Program Manager  
Division of Water Resources  
Kansas Department of Agriculture

State of Kansas )  
                          ) SS  
County of Riley )

The foregoing instrument was acknowledged before me this 29 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

September 6, 2024

RYAN GOERING  
Mennonite Board of Missions & Charities of Kansas Inc  
200 W CEDAR  
HESSTON KS 67062

RE: Appropriation of Water  
File No. 51,100

Dear Mr. Goering:

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, with specific reference to Paragraph Nos. 14, 15, 16, 17 and 18.

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. **This permit does not grant 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:cla  
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 6<sup>th</sup> day of September, 2024, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 51,100, dated August 29, 2024, was mailed postage prepaid, first class, US mail to the following:

Original to:

MENNONITE BOARD OF MISSIONS & CHARITIES OF KANSAS INC  
200 W CEDAR  
HESSTON KS 67062

With photocopies to:

KDA-DWR Stafford Field Office



Division of Water Resources