

File No. **51,113** 13. County: **WS-Washigton** Basin: **27-Republican 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 AF		Storage Rate	
									Auth	Add	Auth	Add	Auth	Add	Auth/Add	Overlaps
MOD	90592	NW NW SE	3	5S	2E	1	2606	2570	96	96	1000	1000				

15. Limitations **NEW** Type: Quantity: **AF** Rate: **gpm** combined with file no(s):
NEW Type: Quantity: **AF** Rate: **gpm** combined with file no(s):

16. Metering Metering Required Anti-Reverse Required Seal Required Compliance Date: **12/31/2025**

17. Place of Use

PUSE	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	71549	3	5S	2E	1																	40	40		80.00	5a	<input type="checkbox"/>	
																									0.00		<input type="checkbox"/>	
																									0.00		<input type="checkbox"/>	
																									0.00		<input type="checkbox"/>	
																											<input type="checkbox"/>	
																											<input type="checkbox"/>	

18. Point of Diversion and Place of Use Overlaps

* + # ^	** ++ ## ^^
------------------	----------------------

MEMORANDUM TO FILE

Division of Water Resources, Water Appropriation Program

Date: September 3, 2024

From: Christa Anhold, Environmental Scientist

Re: New Application File No. 51,113 – Kent Herrs

Summary

Kent Herrs filed the above referenced new application proposing to appropriate 96 AF of groundwater per calendar year from one (1) well at a diversion rate of 1,000 GPM to irrigate 80-acres in Washington County. There are no overlapping water rights, and the applicant owns the place of use and point of diversion.

Reasonable Rate and Quantity

The requested 96 AF of groundwater applied to 80-acres is equivalent to 1.2 acre-feet per acre, which is the maximum reasonable quantity for Washington County. Based on the area, 1,000 gallons per minute appears reasonable.

Source of Supply and Safe Yield

A well log included in the application indicates topsoil from surface to 10 feet, pyrite and sandstone from 10 to 51 feet, white shale with orange sandstone and pyrite from 51 to 60 feet, sandstone and pyrite from 60 to 148 feet, grey shale with stripes of limestone from 148 to 180 feet below ground surface. Depth to water level was not recorded, static water level was measured at 47 feet below ground surface. Based on geologic maps of the area and surrounding water rights the source of supply is likely unconfined Dakota.

A safe yield report indicates the source of supply covers 8,042-acres. Based on potential recharge of 2.6 inches, with 75% available for appropriation, safe yield was determined to be 1,306.9 AF. Existing appropriations total 206.02 AF, leaving 1,100.88 AF of groundwater to irrigate the requested 80-acres with 96AF.

Nearby Water Rights

From the proposed point of diversion, the closest domestic well is 4,000 feet away, and the closest nondomestic well (File No. 43,202) is 7,938 feet away. Well spacing requirements defined in K.A.R. 5-4-4 for unconfined Dakota wells have been met.

The applicant identified three (3) domestic well owners outside the one-half mile radius around his proposed point of diversion. Nearby notifications were not mailed due to all identified water users being outside the notification radius.

Recommendations

The application was sent for consideration to Nathan Westrup, Water Commissioner of the Topeka Field Office, and Shaun Johnson, Assistant Water Commission of the Topeka Field Office, on September 4, 2024, and recommended for approval on September 6, 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
Manhattan Headquarters

From: Westrup, Nathan [KDA]
Sent: Thu 9/5/2024 4:41 PM
To: Anhold, Christa [KDA]
Cc: Johnson, Shaun [KDA]
Subject: RE: 51113 recommendation request

Hi Christa,

I have no objection to approval.

Thanks,

Nathan Westrup, Water Commissioner

Topeka Field Office

Division of Water Resources

Kansas Department of Agriculture

Phone: 785-296-7064

Mobile: 785-230-2991

Nathan.Westrup@ks.gov

From: Anhold, Christa [KDA] <Christa.Anhold@ks.gov>

Sent: Wednesday, September 4, 2024 11:23 AM

To: Westrup, Nathan [KDA] <Nathan.Westrup@ks.gov>

Cc: Johnson, Shaun [KDA] <Shaun.Johnson@ks.gov>

Subject: 51113 recommendation request

Good morning Nathan,

I have attached a draft memo for new application 51,113 for your review and recommendation. There are no nearby well owners to notify within a half mile.

Let me know if you need anything else.

Christa Anhold

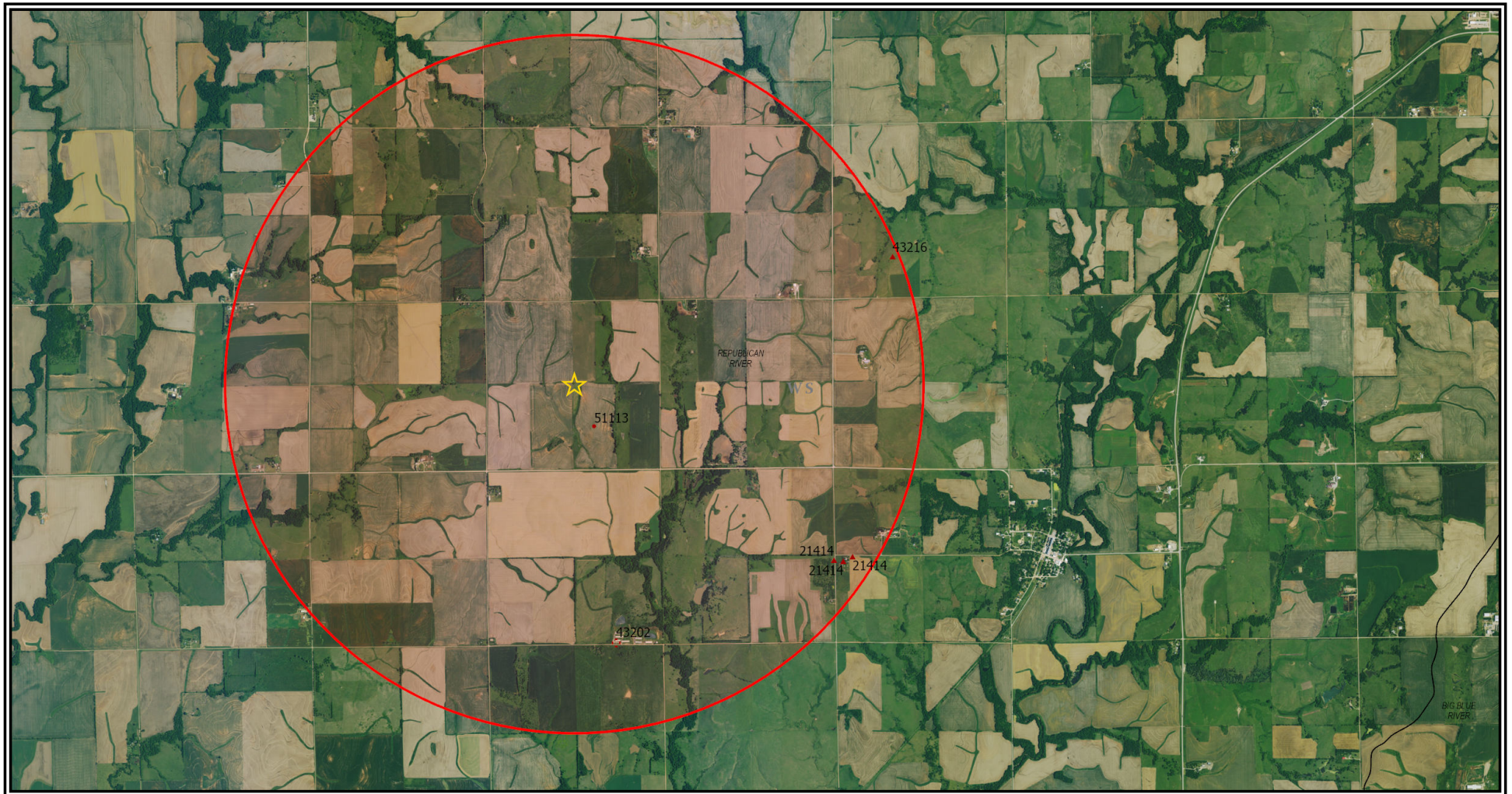
Environmental Scientist

Department of Water Resources

(785)-564-6644

Christa.anhold@ks.gov

Safe Yield Report Sheet
Water Right- Proposed Point of Diversion
Point of Diversion in 03-05S-02E
Footages from SE corner- 2,606 feet North 2,570 feet West



Analysis Results

passes safe yield

The selected PD is in an area OPEN to new appropriations.

The safe yield based on the variables listed below is 1,306.90 AF.

Total prior appropriations in the circle is 170.03 AF. $+2.3 +129.69 -96 = 206.02AF$

Total quantity of water available for appropriation is ~~1,136.88 AF~~. $1306.9 - 206.02 = 1100.88AF$

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 2.6 inches.

The percent of recharge available for appropriation is 75%.

Authorized Quantity values are as of 30-AUG-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 4 water rights and 6 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 21414 00	MUN	NK	G		NW	NW	SW	2520	5086	12	05	02E	4	WR	17.68	15.38	+2.3		
Same	MUN	NK	G		NW	NW	SW	2600	4850	12	05	02E	3	WR					
Same	MUN	NK	G		NE	NE	SE	2440	43	11	05	02E	1	WR					
A 43202 00	STK	NK	G		SE	SW	SE	30	1430	10	05	02E	1	WR	16.48	16.48			
A 43216 00	MUN	LR	G		NW	SE	SW	1248	3452	36	04	02E	1	WR	171.86	42.17	+129.69		
A 51113 00	IRR	AY	G			W2	SE	1320	1980	03	05	02E	1	WR	96.00	96.00	-96	80.00	80.00

Limitations

File Number	Seq Num	Limitations	
A 21414 00	1	5.76MGY @ 40GPM COM/W WS 004	17.67AF
A 43216 00	1	79.5MGY COM/W34253,34378,34379,41143,41144 & 41145	243.97AF

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. 51,113** of the applicant

**KENT HERRS
1321 10 TH RD
LINN, KS 66953**

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 **October 10, 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	
3 - 5S - 2E														40	40		80

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 Northwest Quarter of the Southeast Quarter (NW¼ NW¼ SE¼) of Section 3, more particularly described as being near a point 2,606 feet North and 2,570 feet West of the Southeast corner of said section, in Township 5 South, Range 2 East, Washington 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 **96 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. This 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).

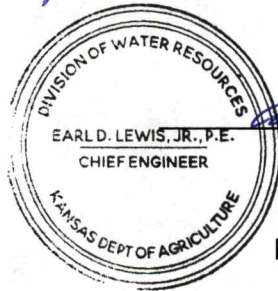
14. That the applicant shall maintain accurate and complete records from which the quantity of water diverted during each calendar year may be readily determined and the applicant shall file an annual water use report with the Chief Engineer by March 1 following the end of each calendar year. Failure 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 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 6th day of September, 2024, in Manhattan, Riley County, Kansas.



Earl D. Lewis Jr.

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 6th day of September, 2024, by Earl D. Lewis Jr., P.E., Chief Engineer, Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.

Shawna Novak

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 12, 2024

KENT HERRS
1321 10 TH RD
LINN KS 66953

RE: Appropriation of Water
File No. 51,113

Dear Mr. Herrs:

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 Topeka Field Office at (785)-296-5733. 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: Topeka 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 *12* day of *September*, 2024, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 51,113, dated *September 6*, 2024, was mailed postage prepaid, first class, US mail to the following:

Original to:

KENT HERRS
1321 10 TH RD
LINN, KS 66953

With photocopies to:

KDA-DWR Topeka Field Office



Division of Water Resources