

File No. **51,139** 15. Formation Code: **113** Drainage Basin: **23** County: **OT** Special Use: **N/A** Stream: **N/A**

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
CHK			82388	NE SW SW	5	9S	4W	2	1227	4189	GEO 400	11.85	400	11.85	48,872
CHK			82389	SE NW SW	5	9S	4W	3	1355	4268					
CHK			82390	NE SW SW	5	9S	4W	4	1082	4152					
CHK			82391	NE SW SW	5	9S	4W	5	1243	4477					
BATT ID 2212															

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										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										
CHK			65306	5	9S	4W	2									12.5								44	7b.	N	48,872						
CHK			70197	5	9S	4W	3																	10.5	7c, 7d, 7e	N	48,872						

Comments:

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: July 16, 2024

FROM: Mark Billinger

RE: Application, File No. 51,139

Scott Mortimer has filed the above referenced application to appropriate 11.85 acre-feet of groundwater at 400 gpm for irrigation use for 54.5 acres in the Solomon River basin from a battery of 3 wells with a geo center located in the Northeast Quarter of the Southwest Quarter of the Southwest Quarter (NE¼ SW¼ SW¼) of Section 5, approximately 1,227 feet North and 4,189 feet West of the Southeast corner of said section, in Township 9 South, Range 4 West in Ottawa County, Kansas.

The application proposes an additional 11.85 AF of groundwater from the same battery of wells that is authorized by files 48,872. File 48,872 is certified for 59 AF at 400 gpm. 51,139 proposes an additional 11.85 AF when combined with senior file 48,872 will bring the total up to 1.3/AF for 54.5 acres of irrigation.

The proposed point of diversion is in an area that is open to new applications and the application passes safe yield. The area of consideration is the mainstem alluvium and terrace deposits associated with the Solomon River. The recharge area was truncated to the aquifer boundaries at 7,596 acres. The potential annual recharge is estimated to be 2.5 inches with 75% available for appropriation. This results in a safe yield of 1,186.85 AF. Prior appropriations in the 2-mile circle equal 532 AF*. The total quantity of water available for appropriation is 654.85 AF*.

The source of supply is the mainstem alluvium in the Solomon River Basin. K.A.R. 5-4-4 requires minimum spacing of 1,320 feet from non-domestic wells and 660 feet to domestic wells. There does not appear to be any domestic wells within 660 feet of the proposed point of diversion, so the well spacing requirements appear to have been met.

In an email message dated July 16, 2024, Kelly Stewart, Water Commissioner of the Stockton Field Office recommended approval of the application.

Based on the above discussion and the available information, it is recommended that the referenced application be approved.

Mark Billinger
Assistant Water Commissioner
Division of Water Resources

*See revised calculations in the associated Safe Yield Report Sheet. (KAK/DWR)

Report Date: Monday, July 22 2024

Water Rights and Points of Diversion Within 2 miles of point defined as:
 1227 Feet N and 4189 Feet W of the Southeast Corner of Section 5 Twp 9S Rng 4W
 Located at: 97.794018 West Longitude and 39.295437 North Latitude
 GROUNDWATER ONLY

File Number	Use	ST	SR	Dist (mi)	Q4	Q3	Q2	Q1	FeetN	FeetW	Sec	Twp	Rng	ID	Batt	Auth_Quan	Add_Quan		
A__	45505	00	IRR	NK	G	1	--	SE	NW	NW	4109	4002	31	8	4W	6	B2	100.00	100.00
AF																			
Same						1	--	SE	NW	NW	4350	4153	31	8	4W	7	G2		
Same						1	--	SE	NW	NW	4590	4304	31	8	4W	5	B2		
A__	48872	00	IRR	NK	G	0	--	NE	SW	SW	1227	4189	5	9	4W	2	G3	59.00	59.00
AF																			
Same						0	--	SE	NW	SW	1355	4268	5	9	4W	3	B3		
Same						0	--	NE	SW	SW	1082	4152	5	9	4W	4	B3		
Same						0	--	NE	SW	SW	1243	4477	5	9	4W	5	B3		
A__	49046	00	IRR	LR	G	1	--	--	NC	SE	1320	1070	36	8	5W	5	B4	204.00	204.00
AF																			
Same						1	--	--	NC	SE	1320	1195	36	8	5W	4	B4		
Same						1	--	--	NC	SE	1320	1320	36	8	5W	3	G4		
Same						1	--	--	NC	SE	1320	1445	36	8	5W	6	B4		
Same						1	--	--	NC	SE	1320	1570	36	8	5W	7	B4		
A__	50845	00	IRR	GY	G	1	--	--	NC	NW	3960	3960	7	9	4W	5	B3	169.00	169.00
AF																			
Same						1	--	NE	SW	NW	3960	4260	7	9	4W	6	B3		
Same						1	--	NE	SW	NW	3960	4260	7	9	4W	8	G3		
Same						1	--	NE	SW	NW	3960	4560	7	9	4W	7	B3		
A__	51139	00	IRR	AY	G	0	--	NE	SW	SW	1227	4189	5	9	4W	2	G3	11.85	11.85
AF																			
Same						0	--	NE	SW	SW	1082	4152	5	9	4W	4	B3		
Same						0	--	SE	NW	SW	1355	4268	5	9	4W	3	B3		
Same						0	--	NE	SW	SW	1243	4477	5	9	4W	5	B3		
A__	51247	00	IRR	AY	G	0	E2	NW	W2	NE	3960	2640	8	9	4W	7		204.00	204.00
AF																			
T__	20239077	00	IRR	AY	G	0	--	NE	SW	SW	1227	4189	5	9	4W	2	G3	11.85	11.85
AF																			
Same						0	--	SE	NW	SW	1355	4268	5	9	4W	3	B3		
Same						0	--	NE	SW	SW	1082	4152	5	9	4W	4	B3		
Same						0	--	NE	SW	SW	1243	4477	5	9	4W	5	B3		

Total Net Quantities Authorized:	Direct	Storage
Total Requested Amount (AF) =	227.70	.00
Total Permitted Amount (AF) =	169.00	.00
Total Inspected Amount (AF) =	204.00	.00
Total Pro_Cert Amount (AF) =	.00	.00
Total Certified Amount (AF) =	159.00	.00
Total Vested Amount (AF) =	.00	.00
TOTAL AMOUNT (AF) =	759.70	.00

An * after the source of supply indicates a pending application for change under the file number.
 An * after the ID indicates a 15 AF exemption was granted under the file number.
 A "G" in the Batt column indicates the GEO CTR of a battery. A "B" indicates a well in the battery.
 The number in the Batt column is the number of wells in the battery.

Water Rights and Points of Diversion Within 2 miles of point defined as:
 1227 Feet North and 4189 Feet West of the Southeast Corner of Section 5 Twp 9S Rng 4W
 Located at: 97.794018 West Longitude and 39.295437 North Latitude
 GROUNDWATER ONLY

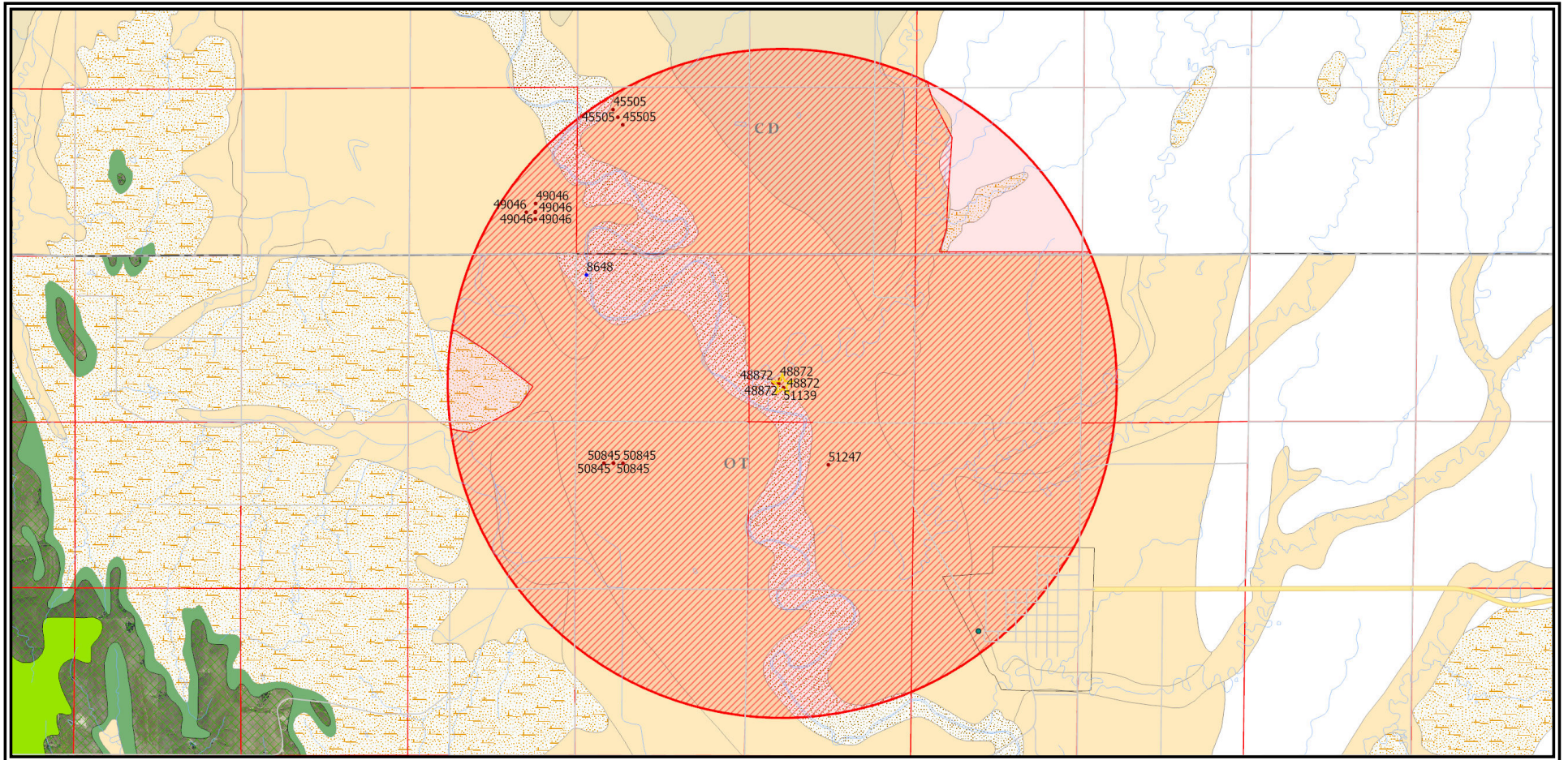
WATER USE CORRESPONDENTS:

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=====
File Number      Use ST SR
> JUSTIN SCHMIDT
>
    
```

```
> 424 N 90TH RD
> GLASCO KS 67445
>-----
> SCOTT MORTIMER
>
> BOX 306
> DELPHOS KS 67436
>-----
> TANNER LITTON
>
> 571 N 30TH RD
> GLASCO KS 67445
>-----
> DANA R HAUCK TRUST
>
> 2395 N 60TH RD
> DELPHOS KS 67436
>-----
> SCOTT MORTIMER
>
> BOX 306
> DELPHOS KS 67436
>-----
> DYLAN CROSSON
>
> 915 RIFLE RD
> MINNEAPOLIS KS 67467
>-----
> SCOTT MORTIMER
>
> BOX 306
> DELPHOS KS 67436
>-----
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Safe Yield Report Sheet
Water Right- Proposed Point of Diversion
Point of Diversion in 05-09S-04W
Footages from SE corner- 1,227 feet North 4,189 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 1,186.85 AF.

Total prior appropriations in the circle is ~~747.85 AF, 736 AF~~ 532.00 AF (KAK/DWR)

Total quantity of water available for appropriation is ~~439.00 AF, 450.85~~ 654.85 (KAK/DWR) (Junior file 51247 also removed from safe yield calculation.)

Safe Yield Variables

The area used for the analysis is set at 7,596 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 16-JUL-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 6 water rights and 17 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 45505 00	IRR	NK	G		SE	NW	NW	4590	4304	31	08	04W	5	WR	100.00	100.00	115.90	115.90
Same	IRR	NK	G		SE	NW	NW	4109	4002	31	08	04W	6	WR				
Same	IRR	NK	G		SE	NW	NW	4350	4153	31	08	04W	7	WR				
A 48872 00	IRR	NK	G		NE	SW	SW	1227	4189	05	09	04W	2	WR	59.00	59.00	54.50	54.50
Same	IRR	NK	G		SE	NW	SW	1355	4268	05	09	04W	3	WR				
Same	IRR	NK	G		NE	SW	SW	1082	4152	05	09	04W	4	WR				
Same	IRR	NK	G		NE	SW	SW	1243	4477	05	09	04W	5	WR				
A 49046 00	IRR	LR	G			NC	SE	1320	1320	36	08	05W	3	WR	204.00	204.00	157.00	157.00
Same	IRR	LR	G			NC	SE	1320	1195	36	08	05W	4	WR				
Same	IRR	LR	G			NC	SE	1320	1070	36	08	05W	5	WR				
Same	IRR	LR	G			NC	SE	1320	1445	36	08	05W	6	WR				
Same	IRR	LR	G			NC	SE	1320	1570	36	08	05W	7	WR				
A 50845 00	IRR	GY	G			NC	NW	3960	3960	07	09	04W	5	WR	169.00	169.00	130.00	130.00
Same	IRR	GY	G		NE	SW	NW	3960	4260	07	09	04W	6	WR				
Same	IRR	GY	G		NE	SW	NW	3960	4560	07	09	04W	7	WR				
Same	IRR	GY	G		NE	SW	NW	3960	4260	07	09	04W	8	WR				
A 51139 00	IRR	AY	G		NE	SW	SW	1227	4189	05	09	04W	2	WR	11.85	11.85	54.50	10.50
Same	IRR	AY	G		SE	NW	SW	1355	4268	05	09	04W	3	WR				
Same	IRR	AY	G		NE	SW	SW	1082	4152	05	09	04W	4	WR				
Same	IRR	AY	G		NE	SW	SW	1243	4477	05	09	04W	5	WR				
A 51247 00	IRR	AY	G	E2	NW	W2	NE	3960	2640	08	09	04W	7	WR	204.00	204.00	157.00	157.00

From: Stewart, Kelly
Sent: Tue 7/16/2024 3:41 PM
To: Billinger, Mark [KDA]
Cc: Hageman, Nancy [KDA]
Subject: RE: 51139 recommendation

Mark,

I recommend approval of this application.

Kelly

From: Billinger, Mark [KDA] <Mark.Billinger@ks.gov>
Sent: Tuesday, July 16, 2024 3:39 PM
To: Stewart, Kelly <Kelly.Stewart@ks.gov>
Subject: 51139 recommendation

Kelly,
Please provide a recommendation for the attached application.

Mark Billinger
Assistant Water Commissioner
Division of Water Resources
Stockton Field Office
820 S Walnut
785-425-6787

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. 51,139** of the applicant

SCOTT MORTIMER
P.O. BOX 306
DELPHOS, KS 67436

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 **November 17, 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	NE ¹ / ₄				NW ¹ / ₄				SW ¹ / ₄				SE ¹ / ₄				TOTAL
	NE ¹ / ₄	NW ¹ / ₄	SW ¹ / ₄	SE ¹ / ₄	NE ¹ / ₄	NW ¹ / ₄	SW ¹ / ₄	SE ¹ / ₄	NE ¹ / ₄	NW ¹ / ₄	SW ¹ / ₄	SE ¹ / ₄	NE ¹ / ₄	NW ¹ / ₄	SW ¹ / ₄	SE ¹ / ₄	
5 - 9S - 4W									12.5			31.5		1.5	9.0		54.5

3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of a battery of three (3) wells with a geographical center located in the Northeast Quarter of the Southwest Quarter of the Southwest Quarter (NE¹/₄ SW¹/₄ SW¹/₄) of Section 5, more particularly described as being near a point 1,227 feet North and 4,189 feet West of the Southeast corner of said section, in Township 9 South, Range 4 West, Ottawa 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 **400 gallons per minute (0.89 c.f.s.)** and to a quantity not to exceed **11.85 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 wells shall be located within a three hundred (300) foot radius circle, in the same local source of supply and shall supply water to a common distribution system.

18. That the rate of diversion of water approved under this permit is further limited to the rate which combined with Water Right, File No. 48,872, will provide a maximum diversion rate not in excess of 400 gallons per minute (0.89 c.f.s.) from the battery of wells described herein.

19. 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 25th day of July, 2024, in Manhattan, Riley County, Kansas.

Lane P. Letourneau

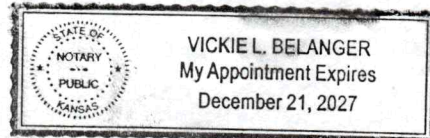
Lane P. Letourneau, P.G.
Water Appropriation Program Manager
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 25th day of July, 2024, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.

Vickie L. Belanger

Notary Public



[Faint circular notary seal impression]

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

July 31, 2024

SCOTT MORTIMER
PO BOX 306
DELPHOS KS 67436

RE: Appropriation of Water
File No. 51,139

Dear Mr. Mortimer:

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.

Enclosed 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:mab

Enclosure(s)

pc: Stockton Field Office
Emley McGarvan, Lisa Barge and Jennifer Maass

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 31st day of July, 2024, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 51,139, dated July 25, 2024, was mailed postage prepaid, first class, US mail to the following:

Original to:

SCOTT MORTIMER
PO BOX 306
DELPHOS KS 67436

With photocopies to:

EMLEY MCGARVAN LISA BARGE AND JENNIFER MAASS
821 SUNBEAM ST
MINNEAPOLIS KS 67467