



File No. <b>51,409</b>	13. County: <b>McPherson</b> Basin: <b>Little Arkansas River</b> Stream: <b>N/A</b>		
Structures File No:	Aquifer Code: <b>532 Ninnescah Shale</b>	Special Use Area:	

14. Points of Diversion, Rates & Quantities										Qty <b>mgy</b>		Rate <b>gpm</b>		Storage Qty <b>AF</b>		Storage Rate	
PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)		Auth	Add	Auth	Add	Auth	Add	Auth/Add	Overlaps
<b>CHK</b>	<b>91525</b>	<b>NE</b>	<b>NW</b>	<b>SE</b>	<b>5</b>	<b>21S</b>	<b>5W</b>	<b>1</b>	<b>2170</b>	<b>1608</b>	<b>.803</b>	<b>.803</b>	<b>99</b>	<b>99</b>			

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: **12/31/2026**

17. Place of Use		NE¼				NW¼				SW¼				SE¼				Total	Owner(s)	Chg?	Overlaps
PUSE	S T R ID	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE				
																		0.00		<input type="checkbox"/>	
																		0.00		<input type="checkbox"/>	
																		0.00		<input type="checkbox"/>	
																		0.00		<input type="checkbox"/>	
<b>CHK</b>	<b>72122 5 21S 5W 1</b>	<b>Poultry Farm located in East Half (E½)</b>																<b>5b</b>		<input type="checkbox"/>	
																				<input type="checkbox"/>	

18. Point of Diversion and Place of Use Overlaps

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# MEMORANDUM TO FILE

Division of Water Resources, Water Appropriation Program

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Date: March 31, 2025

From: Colin Barclay, Environmental Scientist

Re: New Application File No. 51,409 – Dayne Ensz

## Summary

Dayne Ensz filed the above referenced applications to appropriate 803,000 acre-feet (2.46 acre-feet) of groundwater, at a rate of 99 gallons per minute. The proposed point of diversion would be a single (1) well located in Mcpherson County, Kansas. The applicant has signed the application form affirming legal access to the point of diversion. The proposed place of use would be a planned poultry and egg farm.

## Reasonable Rate and Quantity

Quantity of water requested is 803,000 gallons or 2.46 acre-feet per year at a rate of 99 gallons per minute for stock watering purposes. The example given on the supplemental material indicated they would be creating a chicken and egg poultry farm with an estimated capacity of 20,000 hens. The quantity requested appears reasonable as per K.A.R. 5-3-22. In addition, the applicant has requested additional quantity for “Daily operation, cooling, and cleaning.”

As per K.A.R. 5-3-22. Maximum reasonable quantity is defined as 9 gallons per 100 hens plus an additional 200 gallons for servicing/flushing.

$20,000 \text{ hens} / 100 \text{ hens} = 200$

$200 \times 9 \text{ gallons per day} = 1,800 \text{ gallons per day}$

$1,800 \text{ gallons per day} \times 365 \text{ days} = 657,000 \text{ gallons per year}$  for stock watering. This leaves 146,000 gallons for servicing and flushing. Which would be 400 gallons per day.

## Source of Supply and Safe Yield

The source of supply for the proposed point of diversion appears to be Ninnescah shale. The applicant submitted a well log that indicates an estimated yield of 20 gallons per minute which is consistent with other wells located nearby that source the same bedrock aquifer. Per the requirements in K.A.R. 5-3-11, safe yield is determined by the extent of the unconfined aquifer within a two-mile circle radius of the point of diversion, which establishes the area of consideration. Evaluation of the area of consideration included the extent of the unconfined aquifer, which provided an area of consideration of 8,042 acres. With a potential annual recharge of 2.4 inches, and 75% of recharge available for appropriation (Little Arkansas River above GMD 2), safe yield was determined to be 1,206.3 acre-feet. Existing water rights have appropriated 3.00 acre-feet, providing a difference of 1203.3 acre-feet available for appropriation, and the application requesting 2.46 acre-feet complies with safe yield.

## Nearby Water Rights

No appropriated wells were found to be within a half mile of the proposed point of diversion. Three (3) domestic wells were found to be within one-half ( $\frac{1}{2}$ ) mile of the proposed point of diversion. The nearest prior appropriated well (File No. 5,586) was found to be ~1.45 miles away. The nearest domestic well was found to be roughly ~2,070 feet away. Two comments were received from one of the nearby well owners that were notified.

The neighbor to the South submitted two comments that expressed concerns for their domestic well. Their major concern includes the state of groundwater in their area. They have explained that they have had to lower the pump in their well several times. They are concerned that the applicants well may impact their domestic well. Both the applicants well and the nearby neighbors well appear to be located within the same bedrock aquifer and are located approximately 2,070 feet away. The applicants well log indicated an estimated yield of 20 gallons per minute, in addition it is noted on the well log that the static water level was found to be at the bottom of the well after a 1-hour pump test.

## Recommendations

The application was recommended for approval by Jeff Lanterman, Water Commissioner of the Stafford Field Office in an email dated March 31, 2025.

The application complies with all regulations concerning reasonable quantity, safe yield, and minimum well spacing requirements. The proposed applications are subject to minimum desirable streamflow requirements. Approval of the applications will not impair senior water rights nor prejudicially or unreasonably affect the public interest. Therefore, it is recommended that the referenced application be approved.

A handwritten signature in black ink that reads "Colin Barclay". The signature is written in a cursive, slightly slanted style.

Colin Barclay  
Environmental Scientist  
Water Appropriation Program


**FW: 51409 review and recommendation request**

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**From** Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>

**Date** Mon 3/31/2025 9:55 AM

**To** Barclay, Colin [KDA] <Colin.Barclay@ks.gov>

 3 attachments (1 MB)

51409 Memo.docx; 51409 SafeYieldReport.pdf; 51409 well log.pdf;

Colin,

Im ok with approving this small poultry application.

Man the entire well log is clay almost. Wonder if they will get a 20 GPM well.

Thanks

Jeff

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**From:** Conant, Cameron [KDA] <Cameron.Conant@ks.gov>

**Sent:** Monday, March 31, 2025 9:04 AM

**To:** Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>

**Subject:** FW: 51409 review and recommendation request

Needs reviewed and sent to Colin.

*Cameron*

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**From:** Conant, Cameron [KDA]

**Sent:** Thursday, March 27, 2025 11:33 AM

**To:** Lanterman, Jeff [KDA] <[Jeff.Lanterman@ks.gov](mailto:Jeff.Lanterman@ks.gov)>

**Subject:** FW: 51409 review and recommendation request

Jeff, this is a poultry application requesting water for a “dry barn”. Colin confirmed the quantity was adequate at 2.46 AF.

I’ve attached the well log. SWL was 27’ and well depth is 66’, it’s not a good looking well log at all. A nearby well located about ½ mile away wrote in to us with concerns about the chicken operation. I do not find the well log for John Hagen, the domestic with concern. They are no doubt pulling from the same source though as there just isn’t much aquifer out here.

As we understand it, these chicken barns are not going to use much water and they can be operated fine with low rates. The total amount of water here is not much different than a couple 4 person households would use along with watering a small garden or yard. I really don’t think that will impact the area adversely and I don’t know how else to look at these. It is located in an area that is not great aquifer, but it meets all the rules and regs by a wide margin. I think we can recommend approval of this application. Please pass on to Colin if you agree and let me know you need more or different information on these poultry barn recommendations.

*Cameron*

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**From:** Barclay, Colin [KDA] <[Colin.Barclay@ks.gov](mailto:Colin.Barclay@ks.gov)>  
**Sent:** Thursday, March 27, 2025 9:25 AM  
**To:** Conant, Cameron [KDA] <[Cameron.Conant@ks.gov](mailto:Cameron.Conant@ks.gov)>  
**Subject:** Re: 51409 review and recommendation request

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**From:** Conant, Cameron [KDA] <[Cameron.Conant@ks.gov](mailto:Cameron.Conant@ks.gov)>  
**Sent:** Friday, March 7, 2025 9:31 AM  
**To:** Barclay, Colin [KDA] <[Colin.Barclay@ks.gov](mailto:Colin.Barclay@ks.gov)>  
**Subject:** RE: 51409 review and recommendation request

That sounds fine to me, long as we have a good reason for doing this one first, I don't much care! Just didn't want to get in a weird situation and it sounds like Ken and Kristen are on top of it.

*Cameron*

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**From:** Barclay, Colin [KDA] <[Colin.Barclay@ks.gov](mailto:Colin.Barclay@ks.gov)>  
**Sent:** Friday, March 7, 2025 9:16 AM  
**To:** Conant, Cameron [KDA] <[Cameron.Conant@ks.gov](mailto:Cameron.Conant@ks.gov)>  
**Subject:** Re: 51409 review and recommendation request

I believe all of the chicken applications are being assigned/processed as they come in. I have another one located in GMD 2 to the South that I am about to send to the GMD for review. I think most of the chicken applications are 60 day to locates so that's why Ken and Kristen said it would be okay to move this one forward.

Colin

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**From:** Conant, Cameron [KDA] <[Cameron.Conant@ks.gov](mailto:Cameron.Conant@ks.gov)>  
**Sent:** Friday, March 7, 2025 9:13 AM  
**To:** Barclay, Colin [KDA] <[Colin.Barclay@ks.gov](mailto:Colin.Barclay@ks.gov)>; Lanterman, Jeff [KDA] <[Jeff.Lanterman@ks.gov](mailto:Jeff.Lanterman@ks.gov)>  
**Subject:** RE: 51409 review and recommendation request

I think there are a few of these chicken applications that are far senior to this application, are all being processed in a chunk together? I don't want to be approving this one if there are ones before it that are still waiting to be processed. I don't know this, but I could see them being in touch with each other to some degree and I don't want to be accused of bumping one file over another.

*Cameron*

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**From:** Barclay, Colin [KDA] <[Colin.Barclay@ks.gov](mailto:Colin.Barclay@ks.gov)>  
**Sent:** Friday, March 7, 2025 9:07 AM  
**To:** Lanterman, Jeff [KDA] <[Jeff.Lanterman@ks.gov](mailto:Jeff.Lanterman@ks.gov)>; Conant, Cameron [KDA] <[Cameron.Conant@ks.gov](mailto:Cameron.Conant@ks.gov)>  
**Subject:** 51409 review and recommendation request

Good morning Jeff and Cameron,

I have attached my draft memo and safe yield report to this email for your review and recommendation. This is one of the new applications for a poultry/egg farm in McPherson county.

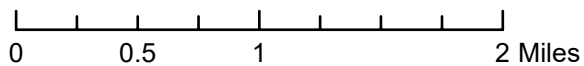
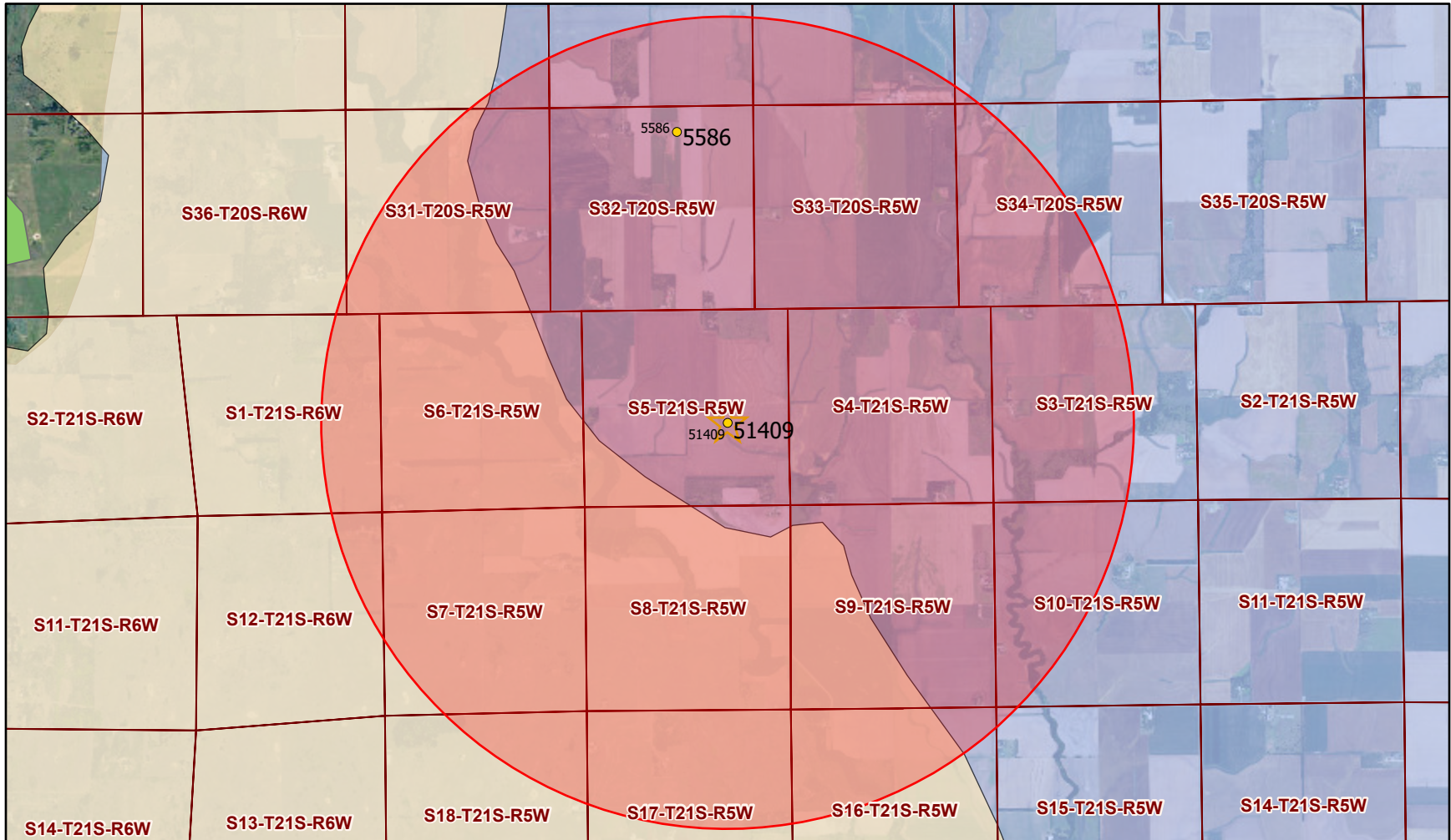
I sent out nearby letters on February 14 and have received two letters from one of the notified neighbors to the South of the proposed point of diversion. I have documented their concerns in my memo.

Please let me know if you have any questions.

Thanks!

Colin Barclay  
Environmental Scientist  
Division of Water Resources  
Kansas Department of Agriculture  
Phone: (785) 370-1931  
[Colin.Barcly@ks.gov](mailto:Colin.Barcly@ks.gov)

Safe Yield Report Sheet  
Proposed Point of Diversion  
Point of Diversion in 05-21S-05W  
Footages from SE corner: 2170 feet North 1608 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 1206.3 AF.  
 Total prior appropriations in the circle is ~~5.46~~ AF. **3.00 AF**  
 Total quantity of water available for appropriation is ~~1200.84~~ AF. **1,203.3 AF**

SAFE YIELD VARIABLES

The area used for the analysis is calculated as 8042 acres. The radius is set at 2.0 miles.  
 The potential annual recharge at the circle center is estimated to be 2.4 inches.  
 The percent of recharge available for appropriation is 75%.

Authorized Quantity values are as of 2025-02-13 and are based on Appropriated and Vested ground water rights.  
 Domestic, Term and Temporary water rights, and GMD #2 Stream Nodes have been excluded.  
 There are 2 water rights and 2 points of diversion within the circle.

File Number	Use	ST	SR	DIST	Q4	Q3	Q2	Q1	FtN	FtW	S	TP	RN	ID	Aquifers	QBy	Auth_Qnt	Add_Qnt
A	5586	IRR	NK	G	7678	NC	NW	NE	0	0	32	20	05W	1		WR	3.00	3.00
A	51409	IND	AY	G	0	NE	NW	SE	2170	1608	05	21	05W	1		WR	2.46	<del>2.46</del> -2.46

File Number	Seq	Limitations

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. 51,409** of the applicant

**DAYNE ENSZ  
648 PLUM AVE  
INMAN KS 67546**

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 **January 28, 2025**.
2. That the water sought to be appropriated shall be used for industrial use in the East Half of Section 5, Township 21 South, Range 5 West, McPherson County, Kansas.
3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by a one (1) well located in the Northeast Quarter of the Northwest Quarter of the Southeast Quarter (NE $\frac{1}{4}$  NW $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section 5, more particularly described as being near a point 2,170 feet North and 1,608 feet West of the Southeast corner of said section, in Township 21 South, Range 5 West, McPherson 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 **99 gallons per minute (0.22 c.f.s.)** and to a quantity not to exceed **803,000 gallons of water (2.46 acre-feet)** for any calendar year.
5. That installation of works for diversion of water shall be completed on or before **December 31, 2026**, 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, 2030**, 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 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 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.

16. 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 1<sup>st</sup> day of April, 2025, in Manhattan, Riley County, Kansas.

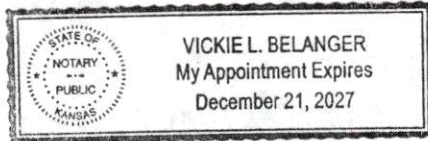
*Lane P. Letourneau*

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 1<sup>st</sup> day of April, 2025, 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

April 3, 2025

DAYNE ENSZ  
648 PLUM AVE  
INMAN KS 67546-8617

RE: Appropriation of Water  
File No. 51,409

Dear Mr. Ensz:

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](http://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 with your permit 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:kak:ccb  
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 3<sup>rd</sup> day of April, 2025, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 51,409, dated April 1, 2025, was mailed postage prepaid, first class, US mail to the following:

DAYNE ENSZ  
648 PLUM AVE  
INMAN KS 67546-8617

With photocopies to:

KDA-DWR Stafford Field Office



Division of Water Resources