

Kansas Department of Agriculture
Division of Water Resources
PERMIT OF NEW APPLICATION WORKSHEET

1. File Number: <p style="text-align: center; font-size: 1.2em;">50,149</p>	2. Status Change Date: <p style="text-align: center; font-size: 1.2em; color: purple;">1/13/2021</p>	3. Field Office: <p style="text-align: center; font-size: 1.2em;">3</p>	4. GMD:
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5. Status: <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied by DWR/GMD <input type="checkbox"/> Dismiss by Request/Failure to Return			
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6. Enclosures: <input checked="" type="checkbox"/> Check Valve <input checked="" type="checkbox"/> N of C Form <input type="checkbox"/> Water Tube <input type="checkbox"/> Driller Copy <input checked="" type="checkbox"/> Meter					
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<p>7a. Applicant(s) Person ID <u>66390</u> New to system <input type="checkbox"/> Add Seq# _____</p> <p>ISSAC JOHN NIXON LIVING TRUST Attn: MONTY SMITH PO BOX 2126 SALINA, KS 67402</p> <p>7b. Landowner(s) Person ID _____ New to system <input type="checkbox"/> Add Seq# _____</p> <p style="font-weight: bold; font-size: 1.2em;">7a</p>	<p>7c. Landowner(s) Person ID _____</p> <p>7d.</p>
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<p>8. WUR Correspondent Person ID _____ New to system <input type="checkbox"/> Add Seq# _____ Overlap File (s) WUC Notarized WUC Form <input type="checkbox"/> Agree <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p style="font-weight: bold; font-size: 1.2em;">7a</p>	<p>9. Use of Water: Changing? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p> <input type="checkbox"/> Groundwater <input checked="" type="checkbox"/> Surface Water</p> <p><input type="checkbox"/> IRR <input checked="" type="checkbox"/> REC <input type="checkbox"/> DEW <input type="checkbox"/> MUN</p> <p><input type="checkbox"/> STK <input type="checkbox"/> SED <input type="checkbox"/> DOM <input type="checkbox"/> CON</p> <p><input type="checkbox"/> HYD DRG <input type="checkbox"/> WTR PWR <input type="checkbox"/> ART RECHRG</p> <p><input type="checkbox"/> IND SIC: _____ <input type="checkbox"/> OTHER: _____</p>
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10. Completion Date: <u>12/31/2021</u> 22	11. Perfection Date: <u>12/31/2025</u> 26	12. Exp Date: _____
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13. Conservation Plan Required? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Date Required: _____ Date Approved: _____ Date to Comply: _____		
14. Water Level Measuring Device? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Date to Comply: _____ Date WLMD Installed: _____		

Date Prepared: <u>4/17/2020</u> By: KJN	
Date Entered: 1/19/2021 LMoody	By:

File No. **50,149** 15. Formation Code: Drainage Basin: **Big Creek** County: **TR** Special Use: Stream: **Spring Creek**

16. Points of Diversion										17. Rate and Quantity						
T	MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Authorized		Additional		
												Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files
	MOD				SE NE NE	15	12S	22W	1	4082	424	0	0	0	0	
MOD										PD Comment: (Structures Permit DTR-99)						

18. Storage: Rate **natural flows** NF Quantity **153** ac/ft Additional Rate _____ NF Additional Quantity **153** 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 ~~12/31/2021~~ **2022** Date Acceptable Meter Installed **6/1/2021** **LMoody**

REC use, natural flows collector - no meter required. KAB 6/1/2021

21. Place of Use		NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg? NO	Overlap Files						
T	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							
	CHK				15	12S	22W	1	RESERVOIR (NE)																7a	no	none

Comments:
WAIVER OF K.A.R. 5-3-11 (d)(5) attached

1/13/2021
KJN

12/16/2020
KAB

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: April 14, 2020

FROM: Kris Neuhauser

RE: New Application, File No. 50,149

Monty Smith (farm manager) on behalf of Isaac John Nixon Living Trust has filed the above referenced application to appropriate 153 acre-feet of surface water storage not to exceed natural flows of Spring Creek, a tributary of Big Creek. The point of diversion is an existing structure, permitted by the Division of Water Structures (DTR-99), located in the Northeast Quarter of Section 15, Township 12 South, Range 22 West, Trego County, Kansas. ~~It was~~ constructed in 1950, but no permit for beneficial use was required at the time. The point of diversion represents the point at which the center of the dam intersects the stream, and the applicant has signed the form stating he has access to this point of diversion.

The reservoir is located in Section 15, Township 12 South, Range 22 West, Trego County, Kansas and has a surface area of ~~roughly 19 acres~~. **Surface area = 24.07 acres via Structures***

Two nearby landowners within one-half mile upstream and downstream of the proposed point of diversion were notified via letter on September 25, 2019. Tammy M. on behalf of landowner Cathey Lynn, called with concern for the application.

A structure already exists, which is permitted by the Division of Water Structures under DTR-99. No application for beneficial use was required at the time of construction (1950). No complaints or other issues pertaining to this structure are known.

There are no surface water rights within a two (2) mile radius of the proposed point of diversion. There is no indication that the approval of this permit will impair any senior water right.

If approved, the application will require a waiver of K.A.R. 5-3-11~~(5)(A)~~ as the reservoir is located in a closed area (tributary of Big Creek). **(d)(5)**

The applicant has submitted a signed Minimum Desirable Streamflow (MDS) statement, which has been notarized. By completing this statement, the applicant affirms their knowledge that there could be times when the diversion of water may not be allowed under this permit. Additionally, the permit is conditioned as follows: "That in order to implement the provisions of K.A.R. 5-3-11(d)(6), no water shall be diverted unless the written permission of the Chief Engineer, or an authorized representative of the Chief Engineer, is obtained each time the applicant desires to divert water. The approval of this permit is not an indication that surface water will be available from this source of supply, or that written permission will be granted to divert water.

In accordance with K.S.A. 82a-706c, the Chief Engineer retains full authority to require any water user to install meters, gages, or other measuring devices, which devices he or she or his or her agents may read at any time. Water flowmeter requirements are further described in K.A.R. 5-1-4 through K.A.R. 5-1-12. If any chemical or foreign substance is injected into the water pumped under this permit, a check valve will also need to be installed. The permit will also contain standard conditions related to requesting permission prior to diverting, and not stopping flow at the first riffle below the point of diversion.

Kelly Stewart, Water Commissioner of the Stockton Field Office, recommended that the referenced application be approved in an email received on April 14, 2020.

1/13/2021
KJN

Based on the above discussion, with inclusion of a waiver of K.A.R. 5-3-11(5)(A), the approval of the new 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.

A handwritten signature in black ink, appearing to read "Kris Neuhauser". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Kris Neuhauser
Environmental Scientist
Water Appropriation Program

From: Stewart, Kelly [KDA]
Sent: Tue 4/14/2020 1:30 PM
To: Neuhauser, Kris [KDA];Billinger, Mark [KDA];Hageman, Rebecca [KDA]
Subject: FW: File No. 50,149 Recommendation Request
Attachments: 50149_Memo.docx

Kris,

I would recommend the granting of the waiver and the approval of this application.

Kelly

From: Neuhauser, Kris [KDA] <Kris.Neuhauser@ks.gov>
Sent: Tuesday, April 14, 2020 11:26 AM
To: Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>
Subject: RE: File No. 50,149 Recommendation Request

From: Neuhauser, Kris [KDA]
Sent: Tuesday, April 14, 2020 11:26 AM
To: Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>
Subject: RE: File No. 50,149 Recommendation Request

Hey Kelly, went ahead and finished up the memo quickly! So here is the app for your recommendation.

Was going to add a bit in the second paragraph about the size of the reservoir- was going to measure the area in ArcPro.. but it's been giving me fits at home. This laptop can't support it very well. So I can always add that in later when we're back in the office (and it doesn't take a year to load anything!) Will plan to draft up a waiver as you mentioned too.

Kris

From: Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>
Sent: Tuesday, April 14, 2020 11:00 AM
To: Baum, Kristen [KDA] <Kristen.Baum@ks.gov>; Neuhauser, Kris [KDA] <Kris.Neuhauser@ks.gov>
Subject: RE: File No. 50,149

We had briefly discussed this situation in a water commissioner conference call a long time ago. Lane seemed generally supportive of the waiver in this situation.

From: Baum, Kristen [KDA] <Kristen.Baum@ks.gov>
Sent: Tuesday, April 14, 2020 10:58 AM
To: Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>; Neuhauser, Kris [KDA] <Kris.Neuhauser@ks.gov>
Subject: RE: File No. 50,149

Kris – We will need to draft a waiver but the justification is largely laid out in the application under #12.

From: Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>
Sent: Tuesday, April 14, 2020 10:55 AM
To: Neuhauser, Kris [KDA] <Kris.Neuhauser@ks.gov>; Baum, Kristen [KDA] <Kristen.Baum@ks.gov>
Subject: RE: File No. 50,149

Thanks team!

I may have another one that is similar coming up so I wanted the foundation laid.

From: Neuhauser, Kris [KDA] <Kris.Neuhauser@ks.gov>
Sent: Tuesday, April 14, 2020 10:54 AM
To: Baum, Kristen [KDA] <Kristen.Baum@ks.gov>; Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>
Subject: RE: File No. 50,149

Actually I don't think I was needing anything in particular on this one Kristen.

I've already sent nearby's, I've just had this one off to the side as I've worked on other things. Think I have most of the memo done, so I can finish that up soon and get it to you this week Kelly!

Kris

From: Baum, Kristen [KDA] <Kristen.Baum@ks.gov>
Sent: Tuesday, April 14, 2020 10:42 AM
To: Neuhauser, Kris [KDA] <Kris.Neuhauser@ks.gov>
Cc: Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>
Subject: FW: File No. 50,149

Hi Kris,

Do you recall where we are at with this one? I think it is assigned to you. You are probably waiting on me for something.

Thanks,
Kristen

From: Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>
Sent: Tuesday, April 14, 2020 10:38 AM
To: Baum, Kristen [KDA] <Kristen.Baum@ks.gov>
Subject: File No. 50,149

Kristen,

Has your shop looked at this application yet? It will take a waiver of the closed area to get approved and I'm kind of wanting to see how we'll handle it. This pond has an old structures permit on it, but no water right.

Kelly C. Stewart, Water Commissioner
Kansas Department of Agriculture
Division of Water Resources
Stockton Field Office
(785)425-6787
kelly.stewart@ks.gov

<http://www.agriculture.ks.gov/>

Kansas Department of Agriculture
 Division of Water Resources
WAIVER REQUEST & WAIVER RULE WORKSHEET

File Number: 50149

FO: 3

GMD:

WAIVER REQUEST:

UMW	Date Requested	Rule ID	Applies	Rule Type	Rule Subtype
REC	4717/2020	140	Statewide	Safe Yield	Close Hydrologic Units
Rule Number	Date Granted	Date Denied	Justification:	The reservoir has been in existence since 1950, when a dam was constructed on Spring Creek. The existing structure is permitted by the Division of Water Structures (DTR-99). No application for beneficial use was required at the time of construction. Such an application would have been approvable at the time the Structures permit was issued. No complaint or other issues pertaining to this structure are known.	
K.A.R. 5-3-11 (d)(5)	1/13/2021				

WAIVER RULE (complete only if a new rule needs to be created):

Rule ID	Applicability	Type	Subtype	Rule Number	Date Active	Date Inactive
				K.A.R.		

COMMENTS: Will not be a new rule

1/19/2021
LMoody

1/13/2021
KJN

Date Prepared 4/17/20 By KJN

Date Entered _____ By _____

Quantity justification*

Surface acres & volume from DWR Structures*

1/4/2021
KJN

RECREATIONAL USE
SUPPLEMENTAL SHEET

File No. 50149

Name of Applicant (Please Print): Isaac John Nixon Living Trust c/o Monty Smith

1. Please indicate type of recreational use (boating, fishing, swimming, etc.): _____

Existing reservoir, existing structure (permit DTR-99).

2. Please summarize how the water will be used and justify the quantity of water requested: _____

24.07 acres x 37 inches evaporation / 12 inches = 74.2 AF

74.2 AF + 78.8 AF runoff = 153 AF total

10,592 square acre drainage basin, more than enough to justify runoff amount*

3. Please complete the following table showing estimated future water requirements:

ESTIMATED FUTURE WATER DIVERTED/STORED

NEXT 5 YEARS	WATER TO BE DIVERTED (ACRE-FEET OR GALLONS)
Year 1	153 AF
Year 2	153 AF
Year 3	153 AF
Year 4	153 AF
Year 5	153 AF

Please attach any additional information, tables, or curves showing past, present and estimated future water requirements to substantiate the amount of water requested.

4. Please designate the legal description of the location where the water is to be used by providing the fractional part of the Section, Township and Range.

NE ¼ 15-12S-22W Trego County, KS

You may attach any additional information you believe will assist in informing the Division of the need for your request.

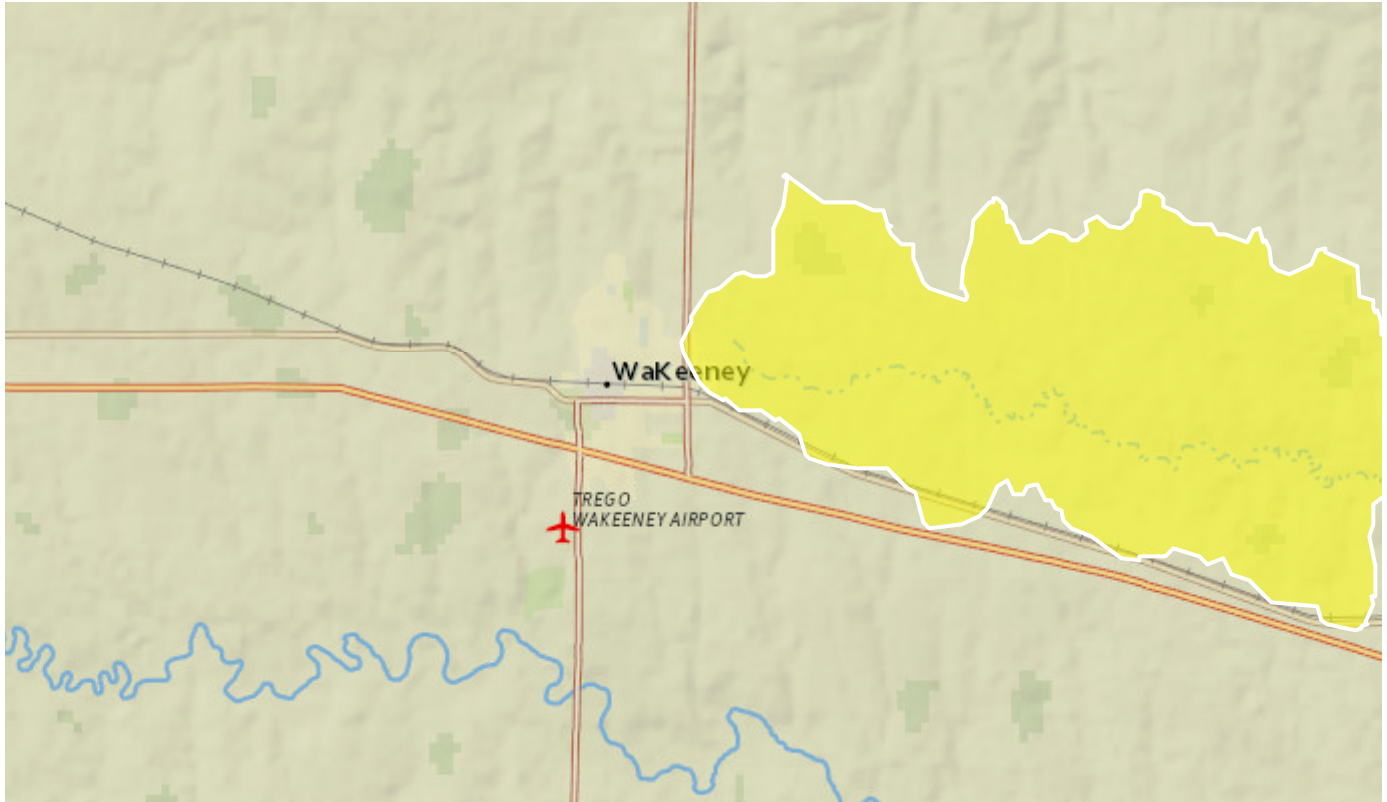
50149

Region ID: KS

Workspace ID: KS20210111204324255000

Clicked Point (Latitude, Longitude): 39.01168, -99.74236

Time: 2021-01-11 14:43:41 -0600



Basin Characteristics

Parameter Code	Parameter Description	Value	Unit
CONTDA	Area that contributes flow to a point on a stream		square miles
DRNAREA	Area that drains to a point on a stream	16.55	square miles
		= 10,592 square acres	

Peak-Flow Statistics Parameters^[Peak Flow Region 2 2017 5063]

Parameter Code	Parameter Name	Value	Units	Min Limit	Max Limit
CONTDA	Contributing Drainage Area		square miles	1.02	14600

Peak-Flow Statistics Flow Report[Peak Flow Region 2 2017 5063]**Statistic****Value****Unit***Peak-Flow Statistics Citations*

USGS Data Disclaimer: Unless otherwise stated, all data, metadata and related materials are considered to satisfy the quality standards relative to the purpose for which the data were collected. Although these data and associated metadata have been reviewed for accuracy and completeness and approved for release by the U.S. Geological Survey (USGS), no warranty expressed or implied is made regarding the display or utility of the data for other purposes, nor on all computer systems, nor shall the act of distribution constitute any such warranty.

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Application Version: 4.4.0

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Secretary of Agriculture

DIVISION OF WATER RESOURCES
Earl D. Lewis Jr., Chief Engineer

WAIVER OF REGULATION
K.A.R. 5-3-11(d)(5)


Date: January 13, 2021

RE: Appropriation of Water, File No. 50,149

1. That K.A.R. 5-3-11(d)(5) states that Big Creek, its tributaries and their valley alluviums, and any other aquifer that has a substantial hydraulic connection to an alluvium shall be closed to further new surface water and groundwater appropriations, except for domestic use, temporary permits, and term permits for five years or less.
2. That the above referenced application has been filed to cover an existing reservoir that was permitted by the Division of Water Resources Structures Program in 1950 (Structures Permit DTR-99).
3. That this reservoir has existed since 1950 and would've met the regulations to be permitted by Appropriations prior to closure of the area.
4. That no complaints or other issues pertaining to this structure are known.
5. That a waiver of K.A.R. 5-3-11(d)(5) will not prejudicially or unreasonably affect the public interest.

Comments:




Earl D. Lewis Jr., P.E.
Chief Engineer
Division of Water Resources
Kansas Department of Agriculture

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. 50,149** of the applicant

ISSAC JOHN NIXON LIVING TRUST
Attn: **MONTY SMITH**
PO BOX 2126
SALINA, KS 67402

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 22, 2018**.
2. That the water sought to be appropriated shall be used for recreational use at a reservoir located in the Northeast Quarter (NE $\frac{1}{4}$) of Section 15, Township 12 South, Range 22 West, Trego County, Kansas.
3. That the appropriation sought shall be limited to all natural flows of Spring Creek (Big Creek), not needed to satisfy all vested rights and prior appropriation rights to be stored to a maximum extent of **153 acre-feet** per calendar year, in a reservoir created by a dam located in the Southeast Quarter of the Northeast Quarter of the Northeast Quarter (SE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 15, more particularly described as being near a point 4,082 feet North and 424 feet West of the Southeast corner of said section, in Township 12 South, Range 22 West, Trego County, Kansas, located substantially as shown on the topographic map accompanying the application.
4. That the structure creating the above referenced reservoir has been assigned Division of Water Resources Structures Permit No. DTR-99.
5. That installation of works for diversion of water shall be completed on or before **December 31, 2022**, or within any authorized extension thereof. The applicant shall notify the Chief Engineer and pay the statutorily required field inspection fee, which is currently \$400.00, when construction of the diversion 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 accompanied by the required statutory fee, which is currently \$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, 2026**, 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, which is currently \$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 to 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 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.

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

13. 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.

14. 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.

Ordered this 13 day of January, 2021, 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)
County of Riley) SS

The foregoing instrument was acknowledged before me this 13 day of January, 2021, by Earl D. Lewis Jr., P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.



Ashlee Freeman
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

ISSAC JOHN NIXON LIVING TRUST
Attn: MONTY SMITH
PO BOX 2126
SALINA, KS 67402

January 21, 2021

RE: Appropriation of Water, File No. 50,149

Dear Sir or Madam:

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 acceptable water flowmeter must be installed on the diversion works authorized by this permit prior to using water. 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/divisions-programs/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 Application Unit Supervisor
Division of Water Resources

KAB: kjn
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:

- 1) request an evidentiary hearing before the Chief Engineer, or
- 2) 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 Section, 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 hearing 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.

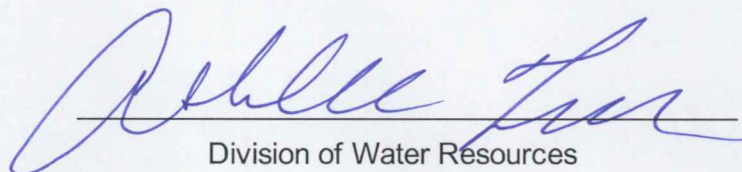
CERTIFICATE OF SERVICE

On this 21 day of January, 2021, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,149, dated 15 January 2021 was mailed postage prepaid, first class, US mail to the following:

ISSAC JOHN NIXON LIVING TRUST
Attn: MONTY SMITH
PO BOX 2126
SALINA, KS 67402

With photocopies to:

Stockton Field Office



Ashley L. Lusk
Division of Water Resources