



File No. **50469**      15. Formation Code:      Drainage Basin: **Republican River**      County: **CY**      Special Use:      Stream: **Mulberry Creek**

16. Points of Diversion										17. Rate and Quantity					
MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Authorized		Additional		
ENT											Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files
<b>ENT</b>			<b>88471</b>	<b>NW NW NE</b>	<b>36</b>	<b>6S</b>	<b>1E</b>	<b>2</b>	<b>4915</b>	<b>2289</b>	<b>1200</b>	<b>217</b>	<b>1200</b>	<del>217</del> <b>162</b>	<b>none</b>
<b>ENT</b>			<b>88474</b>	<b>NW SE SE</b>	<b>25</b>	<b>6S</b>	<b>1E</b>	<b>8</b>	<b>792</b>	<b>1118</b>	<del>1200</del>	<del>217</del>	<del>1200</del>	<del>217</del>	
<b>ENT</b>			<b>88472</b>	<b>SW SW SE</b>	<b>25</b>	<b>6S</b>	<b>1E</b>	<b>6</b>	<b>98</b>	<b>2124</b>	<del>1200</del>	<del>217</del>	<del>1200</del>	<del>217</del>	
<del>ENT</del>			<del>6684</del>	<del>CW SE</del>	<del>25</del>	<del>6S</del>	<del>1E</del>	<del>1</del>	<del>1364</del>	<del>2562</del>	<del>1200</del>	<del>217</del>	<del>1200</del>	<del>217</del>	<del>6011</del>
<b>DEL</b>			<b>88473</b>												
<b>DEL</b>			<b>88475</b>												

18. Storage: Rate \_\_\_\_\_ NF      Quantity \_\_\_\_\_ ac/ft      Additional Rate \_\_\_\_\_ NF      Additional Quantity \_\_\_\_\_ ac/ft

19. Limitation: 217 af/yr at \_\_\_\_\_ gpm (\_\_\_\_\_ cfs) when combined with file number(s) **6011**  
 Limitation: \_\_\_\_\_ af/yr at \_\_\_\_\_ gpm (\_\_\_\_\_ cfs) when combined with file number(s) \_\_\_\_\_

20. Meter Required?  Yes     No      To be installed by 12/31/2022      Date Acceptable Meter Installed \_\_\_\_\_

21. Place of Use										NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg? NO	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						
<b>ENT</b>			<b>30207</b>	<b>25</b>	<b>6S</b>	<b>1E</b>	<b>1</b>									<b>35</b>	<b>38</b>	<b>38</b>	<b>23</b>	<b>134</b>	<b>7a</b>		<b>N</b>	<b>6011</b>					
<b>ENT</b>			<b>70169</b>	<b>36</b>	<b>6S</b>	<b>1E</b>	<b>1</b>		<b>9</b>			<b>38</b>								<b>47</b>	<b>7a</b>		<b>N</b>	<b>6011</b>					

Comments: 8/4/2021  
KJN 8/10/2021  
KAB

MOD OK



**KANSAS DEPARTMENT OF AGRICULTURE**  
**Division of Water Resources**

**M E M O R A N D U M**

**TO:** Files

**DATE:** April 8, 2021

**FROM:** Brandon Milner

**RE:** Application, File No. 50,469

Carson Trusts (%Vance Carson) has filed the referenced application to appropriate 217 acre-feet of surface water from the Republican River at the rate of 1,200 gallons per minute to irrigate a total of 181 acres in Clay County. Water Right, File No. 6011 overlaps a portion of the place of use, and a change application has been filed for this senior file to create a complete overlap in the Place of Use with this new application. The entire place of use is owned by the applicant. The applicant has signed the application form stating he has access to the point of diversion.

File No. 6011 is authorized 55 acre-feet and the purpose of the new application is to provide an alternative surface water source directly from Mulberry Creek when available. The requested quantity of water for the new application of 217 acre-feet applied to 181 acres is equivalent to 1.2 acre-feet per acre, which is the maximum allowed for irrigation in Clay County, Kansas and appears to be reasonable for the intended use. The new application will be limited to 217 acre-feet when combined with the senior file, which will result in an additional quantity of water of 162 acre-feet when combined with the senior file on the place of use.

The applicant is proposing to pump surface water from three pump sites located in Sections 25 & 36, Township 6 South, Range 1 East. Pumpsite one will be 792' North and 1118' West in Township 25, Range 6 South, Range 1 East. Pumpsite two will be 98' North and 2124' West in Section 25, Range 6 South, Range 1 East. Lastly pumpsite three would be 4915' North and 2289' West in Section 36, Range 6 South, Range 1 East. A list of nearby landowners within one-half mile upstream and downstream of the proposed point of diversion was provided by the applicant, and they were notified by letter dated March 15, 2021. A telephone call was received from Arlan Sump who had concerns about new surface water diversion and wanted to inquire if he could possibly file a new application downstream. There are eight other pump sites within a two (2) mile radius of the proposed point of diversion. The nearest surface water right is over 4,800 feet away. The adjacent landowners have operated in this area for many years, they are typically aware of their neighbor's irrigation projects, and they are also all familiar with the conditions related to direct surface water diversion from the Republican River. With proper conditioning, there is no indication that approval of this permit will impair any senior water right.

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." The Lower Republican River is currently open to new appropriations meeting the criteria required by K.A.R. 5-3-11(d)(6), and the approval of this application is consistent with similar applications requesting surface water from the Republican River.

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.

Memorandum File No. 50,469  
Page 2

Katie Tietsort, Water Commissioner of the Topeka Field Office, recommended approval of the referenced new application in an April 13, 2021 e-mail, in conjunction with the required change applications on File No. 6011.

Based on the above discussion, that surface water within the Lower Republican River remains open to new appropriations with appropriate and consistent permit conditions, and approval of the application will not impair senior water rights, it is recommended that the new referenced application be approved in conjunction with the place of use change on Water Right No. 6011.

Brandon  
Environmental Scientist  
New Applications Unit

**From:** Tietsort, Katie [KDA]  
**Sent:** Tue 4/13/2021 8:02 AM  
**To:** Milner, Brandon [KDA]  
**Subject:** RE: Applications 50469, 23381 & 6011

Good Morning Brandon,

Looks like you have the Carson package ready to move forward for approval. Thanks for working this up it looks great! I do agree with your recommendation for approval as the KWAA rules and regulations pertinent are met.

Have a great day,

Katie

## Katie Tietsort

Water Commissioner

[Katie.Tietsort@ks.gov](mailto:Katie.Tietsort@ks.gov)

Ph. 785-296-5733 Cell 785-213-9188

Kansas Department of Agriculture

Topeka Field Office

1131 SW Winding Rd, Suite 400

Topeka, KS 66615

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**From:** Milner, Brandon [KDA] <Brandon.M.Milner@ks.gov>  
**Sent:** Monday, April 12, 2021 12:35 PM  
**To:** Tietsort, Katie [KDA] <Katie.Tietsort@ks.gov>  
**Subject:** Applications 50469, 23381 & 6011

Good afternoon Katie,

Attached are three memos for a package deal for an irrigation project in Clay County. Ty worked on the reduction and I have worked on the change and new app for this. First of all, a reduction was filed for Water Right No. 23381 as two owners are splitting up irrigated acres. A change application was filed for Water Right No. 6011 to list a complete lap in the place of use with application no. 50,469. Finally, application 50,469 is requesting 217 Acre-feet to irrigate 181 acres to be pumped from three pumpsites along Mulberry Creek which is part of the Republican River drainage basin. Could you please provide a recommendation or let me know of any changes that are needed? Thanks!

Brandon Milner  
Environmental Scientist  
Water Appropriation Program

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. 50,469** of the applicant

**CARSON TRUST  
4722 CASTLE RD LACANADA  
FLINTRIDGE, CA 91011-1443**

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 3, 2020**.
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	
25	6S	1E																	134
36	6S	1E		9			38												47

3. That the authorized source from which the appropriation shall be made is surface water from Mulberry Creek (Republican), to be withdrawn by means of three (3) pump sites located as follows: one in Section 36, more particularly described as being near a point 4,915 feet North and 2,289 feet West of the Southeast corner of said section, one located in Section 25, more particularly described as being near a point 98 feet North and 2,124 feet West of the Southeast corner of said section, and one located in Section 25, more particularly described as being near a point 792 feet North and 1,118 feet West of the Southeast corner of said section, all located in Township 6 South, Range 1 East, Clay County, Kansas, located substantially as shown on the map accompanying the application.

4. That the appropriation sought shall be limited to a maximum diversion rate not in excess of **1,200 gallons per minute (2.67 c.f.s.)** and to a quantity not to exceed **217 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, 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 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, 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 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 on the diversion works authorized by this permit in accordance with the Kansas Administrative Regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer. This 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 ending 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 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.
16. That the stream flow shall not be stopped at the first riffle below the point of diversion while diversion is taking place under the authority of this water right or permit.





### 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 \_\_\_\_\_ day of \_\_\_\_\_, 2021, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,469, dated \_\_\_\_\_, 2021, was mailed postage prepaid, first class, US mail to the following:

CARSON TRUST  
4722 CASTLE RD LACANADA  
FLINTRIDGE, CA 91011-1443

With photocopies to:

STEVEN V & JANICE PETERSON  
1931 4TH ST  
CLAY CENTER, KS 67432-1742

Topeka Field Office

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

August 13, 2021

CARSON TRUST  
4722 CASTLE RD LACANADA  
FLINTRIDGE, CA 91011-1443

RE: Appropriation of Water, File No. 50,469

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.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in these approval documents with **specific reference to Paragraph Nos. 19 and 20 requiring you to obtain permission prior to diverting water.** 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.kswateruserreport.org](http://www.kswateruserreport.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](http://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 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:bmm  
Enclosure(s)

pc: Topeka Field Office  
Steven & Janice Peterson

**RIGHT TO A HEARING AND TO ADMINISTRATIVE REVIEW**

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**CERTIFICATE OF SERVICE**

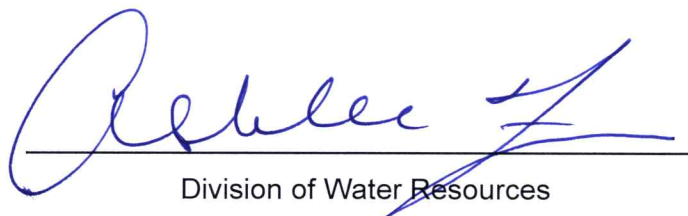
On this 13 day of August, 2021, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,469, dated 10 August, 2021, was mailed postage prepaid, first class, US mail to the following:

CARSON TRUST  
4722 CASTLE RD LACANADA  
FLINTRIDGE, CA 91011-1443

With photocopies to:

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Topeka Field Office

  
Division of Water Resources