



File No. <b>50,680</b>	15. Formation Code:	Drainage Basin: <b>S. F. Big Nemaha River</b>	County: NM	Special Use:	Stream: SF Big Nemaha Trib 6 (S. F. Big Nemaha)																
16. Points of Diversion T MOD DEL PDIV ENT Qualifier S T R ID 'N 'W			17. Rate and Quantity Authorized Additional Rate gpm Quantity af Rate gpm Quantity af Overlap PD Files																		
√ <b>89151 SE SW NW 7 1 13E 1 3240 4190</b>			<b>1500 300 1500 195.05 NONE</b>																		
18. Storage: Rate <b>NF</b> Quantity <b>405.4</b> ac/ft Additional Rate <b>NF</b> Additional Quantity <b>405.4</b> ac/ft																					
19. Limitation: <b>655.05</b> af/yr at _____ gpm (_____ cfs) when combined with file number(s) <b>48009; 48306; &amp; 49962 (DIRECT USE)</b>																					
Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____																					
20. Meter Required? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No To be installed by <b>12/31/2024</b> Date Acceptable Meter Installed _____																					
21. Place of Use T MOD DEL ENT PUSE S T R ID		NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg?	Overlap Files
		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				
MOD 62617 1 1S 12E 1						6	36	38.5	8.5	33.5	22.5	32						177	7a.	Yes	48009; 48306; 49962
MOD 62618 2 1S 12E 1		21			22									8			10	61	7a.	Yes	48009; 48306; 49962
MOD 64358 12 1S 12E 1						37	24	9.5	33									103.5	7a.	Yes	48009; 48306; 49962
ENT 71164 7 1S 13E						35.5	35	30	32.5	7.5								140.5	7a.	No	48009; 48306; 49962
ENT 71165 12 1S 12E		32.5	29	18.5	33.5													113.5	7c.	No	48009; 48306; 49962
Comments																					

**KANSAS DEPARTMENT OF AGRICULTURE**  
**Division of Water Resources**  
**M E M O R A N D U M**

**TO:** Files

**DATE:** December 6, 2022

**FROM:** Lloyd Hemphill

**RE:** Application, File No. 50,680  
Change Applications,  
File Nos. 48,009; 48,306; & 49,962

Nemaha Valley LLC has filed the application referenced above for a permit to store 405.4 acre-feet of surface water in a reservoir at the rate of natural flows and to re-divert 300 acre-feet at the rate of 1,500 gallons per minute for irrigation use. The proposed point of diversion is a reservoir located in the Southeast Quarter of the Southwest Quarter of the Northwest Quarter (SE¼ SW¼ NW¼) of Section 7, Township 1 South, Range 13 East, Nemaha County, Kansas. The dam is located on South Fork Big Nemaha Trib 6 (South Fork Big Nemaha). No other files overlap this point of diversion. The point of diversion is owned by the applicant and the application was signed by Robert Haverkamp stating he has legal access to, or control of, the point of diversion. The place of use (595.5 acres) is owned by the applicant and Leon Haverkamp Farms LLC as described on the irrigation use supplemental sheet. The new application is accompanied by place of use change applications for File Nos. 48,009; 48,306; and 49,962 which create a complete overlap in the place of use with all four files. The three senior files previously authorized a place of use including 526 acres. The new application (File No. 50,680) will cover the additional quantity due to the expanded acreage. The direct use quantity authorized by all four files combined will be limited to 655.05 acre-feet, which is the maximum allowable in Nemaha County, per K.A.R. 5-3-24 (1.1 AF/ac X 595.5 ac. = 655.05 AF). The new file will authorize an additional direct use quantity of 195.05 AF as shown below.

<b>File No.</b>	<b>Direct Use Quantity (AF)</b>	<b>Limitation</b>	<b>Additional Quantity (AF)</b>
48,009	165	NONE	165
48,306	200	363 AF/YR COM/W #48009	198
49,962	97	NONE	97
50,680	300	655.05 AF/YR COM/W SR FILES	195.05

The proposed structure was reviewed by DWR Water Structures Program staff, under WSN: DNM-388 and LNM-40. The project was properly registered as an exempt dam and was determined non-jurisdictional to floodplain fill or stream obstruction permitting. According to the WSI database, the storage capacity at principal spillway elevation is 94.1 acre-feet.

The quantities requested on the Water Appropriation application are justified as follows:

<b>1-yr Direct Use:</b>	300 AF
<b>Reservoir Capacity:</b>	94.1 AF
<b>Reservoir Surface Area:</b>	13.6 ac.
<b>Potential Evaporation:</b>	10 in/yr X 1ft/12 in X 13.6 ac. = 11.3 AF
<b>Storage Quantity:</b>	300 AF + 94.1 AF + 11.3 AF = 405.4 AF

Runoff computations were completed considering a normal precipitation of 34 inches, soil complex number of 80, and drainage area of approximately 598 acres. These calculations determined that the drainage basin will generate nearly 600 acre-feet of runoff in 1 out of every five (5) years (a 20% chance). Therefore, the drainage area will provide the requested storage quantity.

The proposed direct use quantity of 300 acre-feet, is equivalent to 3.2 times the storage capacity of the reservoir, which appears reasonable. The proposed re-diversion rate of 1,500 gpm appears reasonable for the project.

Notification letters were sent to upstream and downstream landowners on September 16, 2022. No responses of any kind were received. According to the WRIS database, there are no other surface water rights within a two-mile radius, other than the overlapping files. The overlapping files are either located on the main stem of the river or other tributary streams. No senior water rights will be impaired with approval of this application.

As allowed by K.S.A. 82a-706(c) an approved water flow meter shall be installed on the secondary diversion works (pump site) for this file. If any chemical or foreign substance is injected into the water pumped under this permit, a check valve will also need to be installed.

Based on the above discussion, that this area is open to new appropriations, the proposed appropriation of water is reasonable, the dam is exempt from permitting under the DWR Water Structures Program, and senior rights will not be impacted, it is recommended that the referenced new application be approved in conjunction with the accompanying applications to change the place of use.

Lloyd Hemphill  
Environmental Scientist  
Topeka Field Office

# 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. 50,680** of the applicant

**NEMAHA VALLEY LLC**  
2961 L4 RD  
BERN, KS 66408

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 12, 2021**.

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	
1	1S	12E					6	36	38.5	8.5	33.5	22.5	32						177
2	1S	12E	21			22								8				10	61
12	1S	12E	32.5	29	18.5	33.5	37	24	9.5	33									217
7	1S	13E					35.5	35	30	32.5	7.5								140.5

3. That the appropriation sought shall be limited to all natural flows of an unnamed tributary of the South Fork Big Nemaha River, designated in the office of the Chief Engineer as South Fork Big Nemaha Trib 6, not needed to satisfy all vested rights and prior appropriation rights to be incrementally accumulated as reservoir storage space becomes available to a maximum extent of **405.4 acre-feet (132.1 million gallons)** of water per calendar year in one (1) reservoir created by a dam located in the Southeast Quarter of the Southwest Quarter of the Northwest Quarter (SE¼ SW¼ NW¼) of Section 7, more particularly described as being near a point 3,240 feet North and 4,190 feet West of the Southeast corner of said section, in Township 1 South, Range 13 East, Nemaha County, Kansas, to provide **300 acre-feet (97.76 million gallons)** of water as needed for direct irrigation use, to be withdrawn, released or otherwise diverted from the reservoir at a re-diversion rate of approximately **1,500 gallons per minute (3.34 c.f.s.)**. A reasonable maximum re-diversion rate will be established during the perfection period and assigned at certification.



4. That installation of works for diversion of water shall be completed on or before **December 31, 2024** 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.

5. That the proposed appropriation shall be perfected by the actual application of water to the proposed beneficial use on or before **December 31, 2028** 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. That all re-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 acceptable water flow meters shall be installed and maintained on the re-diversion works authorized by this permit in accordance with Kansas Administrative Regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer. These water flow meters 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.



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

January 3, 2023

NEMAHA VALLEY LLC  
ROBERT G. HAVERKAMP  
2961 L4 RD  
BERN, KS 66408

RE: Appropriation of Water, File Nos. 48,009; 48,306; 49,962; & 50,680  
Subject: Permit and Approvals of Applications for Change

Dear Mr. Haverkamp:

Enclosed is a permit under File No. 50.680, 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 re-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](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.

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).

Also enclosed are the orders executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the applications for change under Appropriation of Water, File Nos. 48,009; 48,306; & 49,962.



RE: Appropriation of Water, File Nos. 48,009; 48,306; 49,962; & 50,680  
Subject: Permit and Approvals of Applications for Change

Page 2

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 Application Unit Supervisor  
Division of Water Resources

KAB:lh:li

Enclosure(s)

pc: Leon Haverkamp Farms LLC  
Topeka Field Office

## RIGHT TO A HEARING AND TO ADMINISTRATIVE REVIEW

If you are aggrieved by these Orders, 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 day of January, 2023, I hereby certify that the foregoing Approvals of Application for Change in Place of Use and Orders to Better Describe the Authorized Points of Diversion under the Appropriation of Water, File Nos. 48,009; 48,306 49,962 and the Approval of Application and Permit to Proceed, File No. 50,680, all dated December 21, 2022 were mailed postage prepaid, first class, US mail to the following:

NEMAHA VALLEY LLC  
ROBERT G HAVERKAMP  
2961 L4 RD  
BERN, KS 66408

With photocopies to:

LEON HAVERKAMP FARMS LLC  
3073 L4 RD  
BERN KS 66408

Topeka Field Office



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Division of Water Resources