

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

1. File Number: <p style="text-align: center;">50725</p>	2. Status Change Date: <p style="text-align: center;">12/12/2022</p>	3. Field Office: <p style="text-align: center;">1</p>	4. GMD:
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5. Status: Approved Denied by DWR/GMD Dismiss by Request/Failure to Return

6. Enclosures: Check Valve N of C Form Water Tube Driller Copy Meter

7a. Applicant(s) Person ID **35367**
New to system Add Seq# _____

DEAN HERRS
BOX 329 1117 8TH RD
LINN, KS 66953

7b. Landowner(s) Person ID _____
New to system Add Seq# _____

7a

7c. Landowner(s) Person ID _____
New to system Add Seq# _____

7d. Misc Person ID _____
New to system Add Seq# _____

8. WUR Correspondent Person ID _____
New to system Add Seq# _____
Overlap File (s) WUC Notarized WUC Form
Agree Yes No

7a

9. Use of Water: Changing? Yes No

Groundwater Surface Water

IRR REC DEW MUN

STK SED DOM CON

HYD DRG WTR PWR ART RECHRG

IND SIC: _____ OTHER: _____

10. Completion Date: 12/31/2024 11. Perfection Date: 12/31/2028 12. Exp Date: _____

13. Conservation Plan Required? Yes No Date Required: _____ Date Approved: _____ Date to Comply: _____

14. Water Level Measuring Device? Yes No Date to Comply: _____ Date WLMD Installed: _____

Date Prepared: **12/1/2022** By: **KJN**
Date Entered: 12/14/2022 By: **LMoody**

File No. **50725** 15. Formation Code: **330** Drainage Basin: **Republican River** County: **WS** Special Use: Stream:

16. Points of Diversion										17. Rate and Quantity					
MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Authorized		Additional		
											Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files
MOD			89304	NE SE NW	26	4S	2E	1	3447	3946	1600	137	1600	137	none

18. Storage: Rate _____ NF Quantity _____ ac/ft Additional Rate _____ NF Additional Quantity _____ ac/ft

19. Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____
 Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____

20. Meter Required? Yes No To be installed by **12/31/2024** 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						
MOD			70737	26	4S	2E	1					28.12	25.33	35.64	25.02										114.11	7a	no	none	

Comments: 12/6/2022
KKopp

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

TO: Files

DATE: November 28, 2022

FROM: Kris Neuhauser

RE: Application, File No. 50,725

Dean Herrs has filed the above referenced new application to appropriate 137 acre-feet of groundwater at a diversion rate of 1,600 gallons per minute for irrigation use from one (1) well, with a geocenter located in the Northwest Quarter (NW¼) of Section 26, Township 4 South, Range 2 East, Washington County, Kansas.

The place of use is entirely owned by the applicant, which is comprised of 114.11 acres in the Northwest Quarter (NW¼) of Section 26, Township 4 South, Range 2 East, Washington County, Kansas. The requested quantity of 137 acre-feet is the maximum allowable to irrigate the proposed 114.11 acres (1.2 acre-feet per acre allowed in Washington County). There are no overlaps in point of diversion or place of use.

Based on the test hole log provided, the source of supply appears to be unconfined Dakota aquifer system. Appropriation of Water, File No. 49,800 (owned by the applicant) is just over one-half mile away, which is also considered unconfined Dakota aquifer system. In order to stay consistent, the area of consideration was trimmed in the same fashion as File No. 49,800. 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 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 6,939 acres. With a potential annual recharge of 2.8 inches, and 75% of recharge available for appropriation, safe yield was determined to be 1,214.37 acre-feet. Existing water rights have appropriated 1,030.23 acre-feet, providing a difference of 184.14 acre-feet available for appropriation, and the application requesting 151.71 acre-feet complies with safe yield.

One domestic well within one-half mile of the proposed point of diversion was identified. A review of aerial photograph and the WWC-5 database reinforces this. One nearby letter was mailed on November 22, 2022. No response of any kind was received.

The point of diversion complies with well spacing criteria for the unconfined Dakota aquifer system to domestic wells (closest being roughly 0.35 mile away) as well as non-domestic wells (0.53 mile to Appropriation of Water, File No. 49,800).

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.

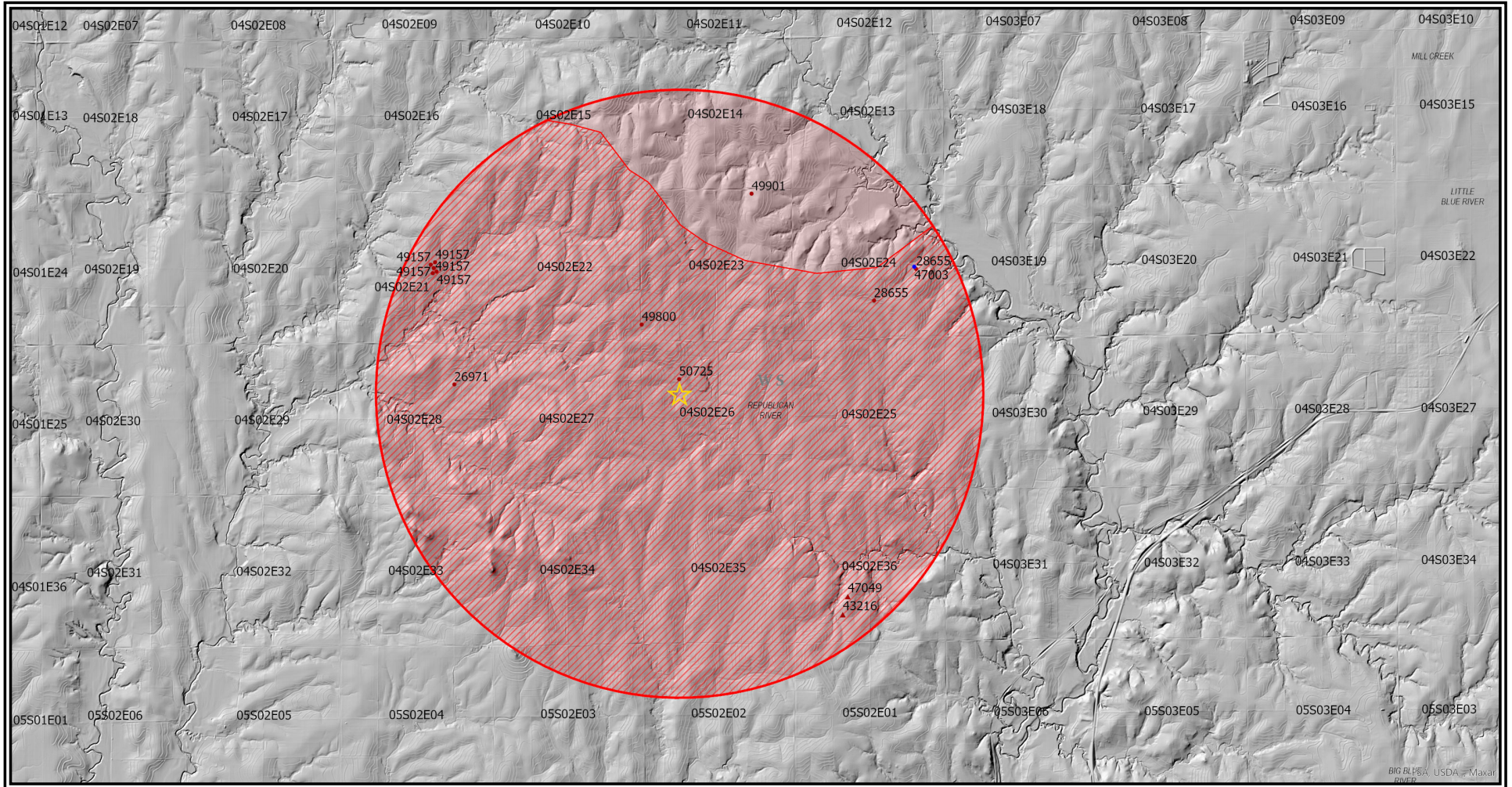
There is currently no water commissioner appointed at the Topeka Field Office, therefore, no recommendation of approval is required.

Based on the above discussion, safe yield criteria is met and approval of the application should not impair senior water rights nor prejudicially or unreasonably affect the public interest. Therefore, it is recommended that the referenced application be approved.



Kris Neuhauser
New Applications Lead
Water Appropriation Program

Safe Yield Report Sheet
Water Right- Proposed Point of Diversion
Point of Diversion in 26-04S-02E
Footages from SE corner- 3,447 feet North 3,946 feet West



Analysis Results

50725 PASSES SY*

The selected PD is in an area OPEN to new appropriations.

The safe yield based on the variables listed below is 1,214.37 AF.

Total prior appropriations in the circle is 1,181.42 AF. **- 151.2 AF = 1030.22 AF**

Total quantity of water available for appropriation is ~~32.95 AF~~. **1214.37 AF - 184.15 AF**

Safe Yield Variables

The area used for the analysis is set at 6,939 acres.

The potential annual recharge at the circle center is estimated to be 2.8 inches.

The percent of recharge available for appropriation is 75%.

Authorized Quantity values are as of 15-NOV-2022 and are based on Appropriated and Vested ground water right and possible stream nodes for GMD #2. Domestic, Term and Temporary water rights have been excluded.

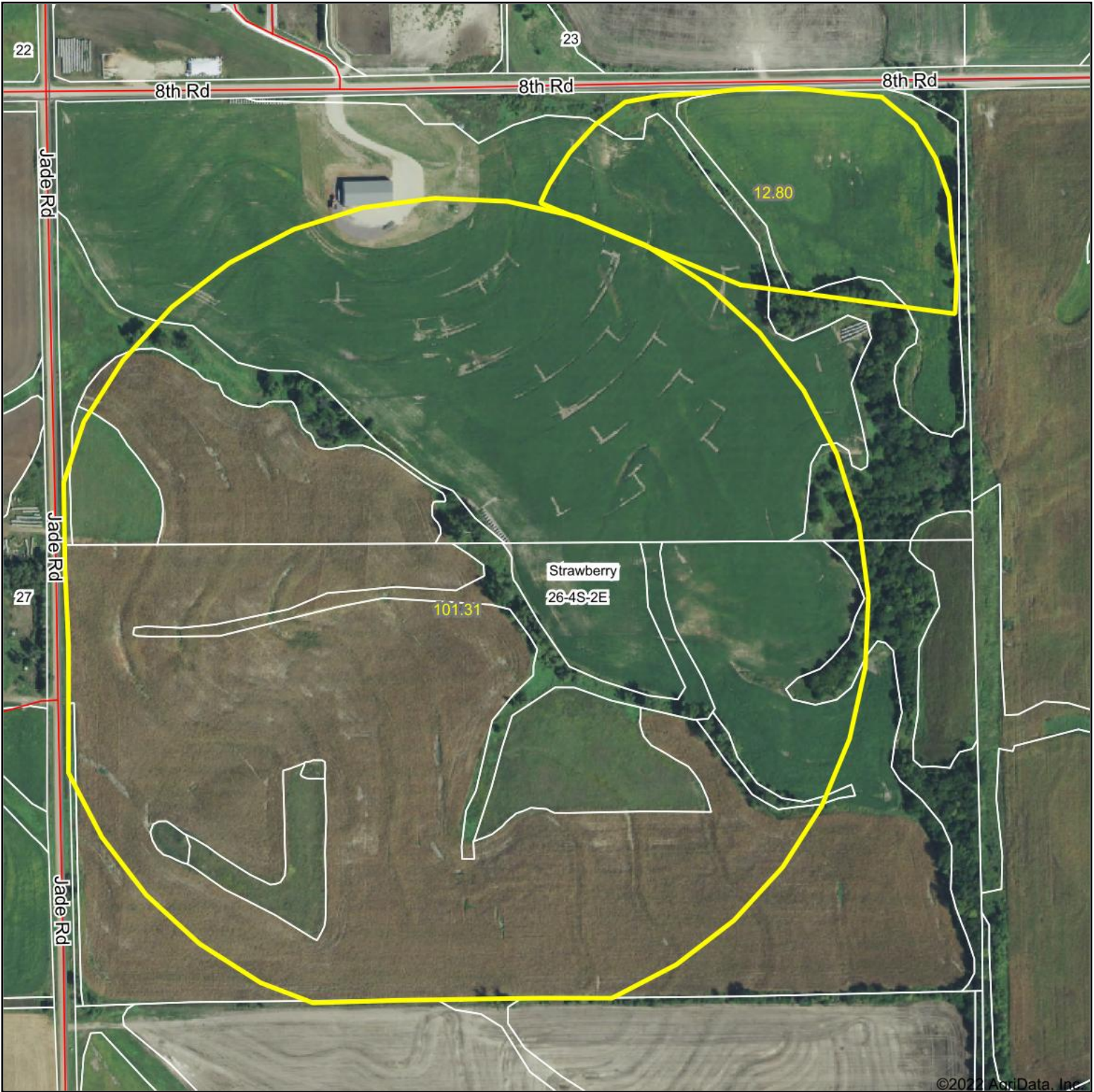
There are 7 water rights and 12 points of diversion within the circle.

File Number	Use	ST	SR	Q4	Q3	Q2	Q1	FeetN	FeetW	Sec	Twp	Rng	ID	Qind	Auth Quant	Add Quant	Tot Acres	Net Acres
A 26971 00	IRR	NK	G	NC	N2	S2	NE	3565	1270	28	04	02E	1	WR	123.00	123.00	92.00	92.00
A 28655 00	IRR	NK	G		NW	NE	SE	2395	968	24	04	02E	2	PD	81.00	81.00	240.00	240.00
Same	IRR	NK	G		SW	NW	SE	1347	2451	24	04	02E	4	PD	27.00	27.00		
A 43216 00	MUN	LR	G		NW	SE	SW	942	3577	36	04	02E	1	WR	171.86	42.17		
A 47049 00	MUN	KE	G		SW	NE	SW	1554	3327	36	04	02E	2	WR	171.86	153.06		
A 49157 00	IRR	KE	G		NE	NW	SE	2488	1950	21	04	02E	1	WR	220.00	220.00	193.00	193.00
Same	IRR	KE	G		SE	SW	NE	2864	1867	21	04	02E	2	WR				
Same	IRR	KE	G		SE	SW	NE	2669	1914	21	04	02E	3	WR				
Same	IRR	KE	G		SW	SW	NE	2782	2019	21	04	02E	4	WR				
Same	IRR	KE	G		NE	NW	SE	2541	1821	21	04	02E	5	WR				
A 49800 00	IRR	KE	G		SW	SW	SW	652	5270	23	04	02E	3	WR	384.00	384.00	320.00	320.00
A 50725 00	IRR	AY	G		NW			3960	3960	26	04	02E	1	WR	151.20	151.20	126.00	126.00

Limitations

File Number	Seq Num	Limitations
A 43216 00	1	79.5MGY COM/W34253,34378,34379,41143,41144 & 41145 243.98 AF
A 47049 00	1	129.373MGY COM/W #34253, 34378, 41143, 41145 & 43216 397.03 AF

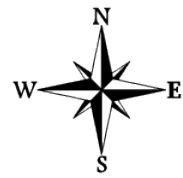
Aerial Map



Map Center: 39° 40' 44.11, -97° 10' 34.27



26-4S-2E
Washington County
Kansas



11/30/2022

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. 50,725** of the applicant

DEAN HERRS
BOX 329 1117 8TH RD
LINN KS 66953

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 **February 22, 2022**.

2. That the water sought to be appropriated shall be used for irrigation use on land described in the application, as follows:

Sec. Twp. Range	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTAL	
	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$		
26 - 4S - 2E					28.12	25.33	35.64	25.02										114.11

3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of one (1) well, located in the Northeast Quarter of the Southeast Quarter of the Northwest Quarter (NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 26, more particularly described as being near a point 3,447 feet North and 3,946 feet West of the Southeast corner of said section, in Township 4 South, Range 2 East, Washington 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 **1,600 gallons per minute (2.23 c.f.s.)** and to a quantity not to exceed **137 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, 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.

6. 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.

7. That the applicant shall not be deemed to have acquired a water appropriation for a quantity in excess of the amount approved herein nor in excess of the amount found by the Chief Engineer to have been actually used for the approved purpose during one calendar year subsequent to approval of the application and within the time specified for perfection or any authorized extension thereof.

8. That the use of water herein authorized shall not be made so as to impair any use under existing water rights nor prejudicially and unreasonably affect the public interest.

9. That the right of the appropriator shall relate to a specific quantity of water and such right must allow for a reasonable raising or lowering of the static water level and for the reasonable increase or decrease of the streamflow at the appropriator's point of diversion.

10. That this permit does not constitute authority under K.S.A. 82a-301 through 305a to construct any dam or other obstruction; nor does it grant any right-of-way, or authorize entry upon or injury to, public or private property.

11. That all diversion works constructed under the authority of this permit into which any type of chemical or other foreign substance will be injected into the water pumped from the diversion works shall be equipped with an in-line, automatic quick-closing, check valve capable of preventing pollution of the source of the water supply. The type of valve installed shall meet specifications adopted by the Chief Engineer and shall be maintained in an operating condition satisfactory to the Chief Engineer.

12. That all wells with a diversion rate of 100 gallons per minute or more drilled under the authority of this permit shall have a tube or other device installed in a manner acceptable to, and in accordance with specifications adopted by, the Chief Engineer. This tube or device shall be suitable for making water level measurements and shall be maintained in a condition satisfactory to the Chief Engineer.

13. That acceptable water flow meters 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. 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).

14. That the applicant shall maintain accurate and complete records from which the quantity of water diverted during each calendar year may be readily determined and the applicant shall file an annual water use report with the Chief Engineer by March 1 following the end of each calendar year. Failure to file the annual water use report by the due date shall cause the applicant to be subject to a civil penalty.

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

16. That 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.

17. 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 12 day of December, 2022, in Manhattan, Riley County, Kansas.

Lane P. Letourneau

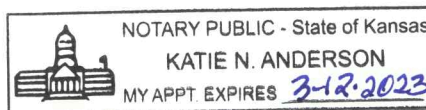
Lane P. Letourneau, P.G.
Water Appropriation Program Manager
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 12 day of December, 2022, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.

Katie N. Anderson

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

December 15, 2022

DEAN HERRS
BOX 329 1117 8TH RD
LINN KS 66953

RE: Appropriation of Water
File No. 50,725

Dear Mr. Herrs:

Enclosed is a permit authorizing you to proceed with construction of the proposed diversion works and to appropriate water for beneficial use as set forth in the permit. Your attention is directed to the enclosures and to the terms, conditions, limitations, and requirements specified in this permit.

Notice must be filed on the enclosed form once the diversion works have been completed. Failure to complete the diversion works within the time allowed, or within any authorized extension of time thereof, will result in dismissal of this permit. If you need an extension of time, you must request it before the deadline for completion set forth in the permit. Any request for an extension of time must be accompanied by the statutorily required fee, which is currently \$100.00.

An annual water use report must be filed with the Chief Engineer by March 1, following the end of each calendar year. If a complete annual water use report is not received by the deadline, then a fine may be assessed and all water use under such permit or right may be suspended. Reports submitted in paper form will be assessed a \$20 per file number paper filing fee. In order to avoid this filing fee, you may submit your report online at www.kswaterusereport.org.

The approval of your application constitutes a permit to appropriate water. It does not give authority to construct any dam or other stream obstruction regulated by K.S.A. 82a-301 through 305a. It does not give authority to access any right-of-way or authorize trespassing upon or injury to public or private property. It may also be necessary for you to comply with other local, state or federal requirements.

Enclosed is an informational sheet that sets forth the procedure to obtain a Certificate of Appropriation which will establish the extent of your perfected water right. Additional information and applicable forms may be found on our website at agriculture.ks.gov/dwr. If you have any questions or need assistance with any of these requirements, please contact our office at 785-564-6640 or your local 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:kjn
Enclosure(s)

pc: Topeka 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 15 day of December, 2022, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,725, dated December 12, 2022, was mailed postage prepaid, first class, US mail to the following:

DEAN HERRS
BOX 329 1117 8TH RD
LINN KS 66953

With photocopies to:

Topeka Field Office



Division of Water Resources