

**Kansas Department of Agriculture  
Division of Water Resources  
APPROVAL OF NEW APPLICATION WORKSHEET**

1. File No.: <b>50908</b>	2. Status Change Date: <b>4/10/2024</b>	4. Field Office: <b>02 - Stafford</b> GMD: <b>05 - Big Bend</b> Structures File No.: --- Filing/Priority Date: <b>11/14/2022</b> Application Complete Date: <b>11/14/2022</b>
3. Package File No(s): <b>50906</b> <b>Dismissals: 41153 41154 41494 44892 20179009</b>		
5a. <input checked="" type="checkbox"/> Applicant <input checked="" type="checkbox"/> Owner <input checked="" type="checkbox"/> WUC      Person ID <b>35868</b> <input type="checkbox"/> Address Change                                  Add Seq# <b>1</b>  <b>BARTON COUNTY PUBLIC WORKS</b> <b>1400 MAIN ST STE 108</b> <b>GREAT BEND KS 67530</b>	5b. <input type="checkbox"/> Owner <input type="checkbox"/> WUC                                  Person ID <input type="checkbox"/> Address Change                                  Add Seq#	
5c. <input type="checkbox"/> Owner <input type="checkbox"/> WUC                                  Person ID <input type="checkbox"/> Address Change                                  Add Seq#	5d. <input type="checkbox"/> Owner <input type="checkbox"/> WUC                                  Person ID <input type="checkbox"/> Address Change                                  Add Seq#	
6. Change No.: --- <input type="checkbox"/> PD <input type="checkbox"/> PU <input type="checkbox"/> UMW Base Acres: --- Year: --- Min Reasonable Q: --- Previous UMW: <b>Not changing</b> MDS Gauge: <b>Arkansas River @ Hutchinson</b> Active Admin? <input type="checkbox"/> Completion/Start Date: <b>12/30/2029</b> Perfection/Expiration Date: <b>12/31/2044</b>		7. Use of Water <input checked="" type="checkbox"/> Groundwater <input type="checkbox"/> Surface Water UMW: <b>IND-Industrial SIC: 1442</b> UMW: UMW:
8. Action Trail                                  ---		
9. Special Conditions    ---		
10. 5YR Allocation      Type:                  Start Year: ---    5YR Quantity: ---    Base Acres: --- Comment: ---		
11. <b>Sand &amp; Gravel</b> Proj ID: <input type="checkbox"/> Active <input type="checkbox"/> Dredge <input type="checkbox"/> IND Evap <input type="checkbox"/> Jr Evap <input type="checkbox"/> Other Diversion <input type="checkbox"/> Rpt on Sr		
12. Waiver    Rule ID: --- <input type="checkbox"/> New    Date Requested: --- Applies: ---    Rule No.: --- Rule Type: --- Rule SubType: --- <div style="text-align: right;">Justification: ---</div>		
Comments <b>Existing S&amp;G Pit. Use existing Pit Proj ID.</b>	Processed <b>3/15/24 EKF</b>  Reviewed <b>KAK</b> <b>4/10/2024</b>	Entered  <b>4/10/2024</b> <b>KAnderson</b>

File No. <b>50908</b>	13. County: <b>BT - Barton</b> Basin: <b>33 - Arkansas River</b> Stream: ---
Structures File No: ---	Aquifer Code: <b>113 Main Stem Alluvium</b> Special Use Area: ---

14. Points of Diversion, Rates & Quantities

PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Qty mgy		Rate		Storage Qty		Storage Rate	Overlaps
									Auth	Add	Auth	Add	Auth	Add	Auth/Add	
CHK	89911	NE	NW	SE	5	20	11W	6	2095	4355	GEO CTR - GW PIT	44.1051	44.1051	Natural Evaporation		None

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15. Limitations Type: --- Quantity: Rate: combined with file no(s):  
 Type: --- Quantity: Rate: combined with file no(s):

16. Metering  Metering Required  Anti-Reverse Required  Seal Required Compliance Date:

17. Place of Use

PUSE ID	S	T	R	ID	NE¼				NW¼				SW¼				SE¼				Total	Owner(s)	Chg?	Overlaps
					NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE				
																							<input type="checkbox"/>	+
																							<input type="checkbox"/>	+
																							<input type="checkbox"/>	#
																							<input type="checkbox"/>	^
CHK	71121	5	20	11W	4	S&G Pit (E2) 54.14 AC																5b	<input type="checkbox"/>	None
																							<input type="checkbox"/>	

18. Point of Diversion and Place of Use Overlaps

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

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

**TO:** Files

**DATE:** March 5, 2024

**FROM:** Elizabeth K Fitch

**RE:** Application, File No. 50,908 and  
Water Appropriation, File Nos. 41,494 & 44,892

Barton County filed an application to appropriate groundwater for industrial use that was assigned File No. 50,908. This application was proposed as a project permit to cover the natural evaporation from the expansion of an existing sand and gravel groundwater pit that will include hydraulic dredging as a secondary use. A "Voluntary Waiver of Hearing & Dismissal of Water Right" form for File Nos. 41,494 and 44,892 has been received to offset the evaporation from the pit. Not all the quantity authorized by File No. 44,892 will be needed for an offset for File No. 50,908, so the remainder was proposed as an offset for File No. 50,906.

File No. 50,908 is requesting 44.1051 million gallons per year (mgy), or 135.35 acre-feet (AF), of groundwater per calendar year at the rate of natural evaporation for industrial use from a proposed groundwater pit. The geographic center of the groundwater pit is in the Northeast Quarter of the Northwest Quarter of the Southwest Quarter (NE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ ) of Section 5, more particularly described as being near a point 2,095 feet North and 4,355 feet West of the Southeast corner of said section in Township 20 South, Range 11 West, in Barton County, Kansas. The quantity of water requested under File No. 50,908 was based on a pit surface area not to exceed 54.14 acres in size, calculated as follows:

$$54.14 \text{ acres} \times 30 \text{ inches of evaporation/acre} / 12 \text{ inches/foot} = 135.35 \text{ AF.}$$

As noted previously, the application was filed as a project permit and proposed to include hydraulic dredging as a secondary use under the water right, as allowed by K.S.A. 82a-734.

The proposed point of diversion is located within Big Bend Groundwater Management District No. 5, (GMD5) which is fully appropriated based on sustainable yield criteria and is closed to further new surface water and groundwater appropriations. However, as noted above, a "Voluntary Waiver of Hearing & Dismissal of Water Right" form has been submitted for Appropriation of Water, File Nos. 41,494 and 44,892 to be used as offsets per K.A.R. 5-13-7 and 5-13-8. The files are authorized as follows:

File No. 41,494: 11.52 mgy (35.34 AF)

File No. 44,892: 383 AF (283 AF already committed to offset File No. 50,906)

Because these files already authorize industrial use for evaporation from a groundwater pit, no consumptive use conversion calculations are required. File No. 50,908 will utilize all the quantity from File Nos. 41,494 and 32.5842 mgy (100 AF) from File No. 44,892 for the offset.

K.A.R. 5-13-7(d) allows evaporation from a groundwater pit to be offset by acquiring a water right meeting specific criteria, and restricting the future use of this water right, or a portion of it, to ensure it will no longer be exercised. Water Appropriation, File No. 44,892 is located less than 2.5 miles away, in the same source of water supply (Arkansas River alluvium).

Three (3) domestic wells and two (2) water appropriations within one-half mile of the proposed geographic center of the groundwater pit were identified. A nearby notification letter was sent to the owner of each of the noted nearby wells/groundwater pits. No response was received by this office. The proposed geographic center of the groundwater pit appears to meet spacing to all known domestic wells. The two (2) nearby water appropriations meet spacing to the proposed geographic center of File No. 50,908 of 1,320 feet per K.A.R. 5-25-2.

GMD5 was asked to review the pending application in an email dated February 12, 2024. GMD5 Manager Orrin Feril recommended approval of File No. 50,908 in a letter dated February 22, 2024. In his recommendation, Mr. Feril noted that per K.A.R. 5-25-4(b)(9), the proposed application is exempt from the GMD5 closure to new surface and groundwater appropriations.

During an office meeting on March 4, 2024, Jeff Lanterman, Water Commissioner of the Stafford Field Office, recommended approval of the new applications with related dismissal of File Nos. 41,494 and 44,892.

*concur w memo Jeff Lanterman 3/7/2024*

Based on the above discussion, the proposed offset of water will provide sufficient water to cover evaporation from the proposed sand pit, GMD No. 5 has recommended approval, the pit complies with minimum spacing regulations, and approval will not impair senior water rights, it is recommended that the referenced applications be approved.

Elizabeth K Fitch  
Environmental Scientist

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. 50,908** of the applicant

**BARTON COUNTY  
1400 MAIN ST ROOM 108  
GREAT BEND KS 67530**

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 14, 2022**.
2. That the water sought to be appropriated shall be used for industrial use in a sand and gravel pit located in the East Half (E½) of Section 5, Township 20 South, Range 11 West, Barton County, Kansas.
3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of a sand and gravel pit with a geographical center located in the Northeast Quarter of the Northwest Quarter of the Southwest Quarter (NE¼ NW¼ SW¼) of Section 5, more particularly described as being near a point 2,095 feet North and 4,355 feet West of the Southeast corner of said section, in Township 20 South, Range 11 West, Barton County, Kansas.
4. That the appropriation sought shall be limited to a maximum diversion rate not in excess of **natural evaporation** and to a quantity not to exceed **44.1051 million gallons (135.35 acre-feet)** of water for any calendar year, from a groundwater surface area exposure not to exceed 54.14 acres
5. That installation of works for diversion of water shall be completed on or before **December 31, 2029**, or within any authorized extension thereof. The applicant shall notify the Chief Engineer and pay the statutorily required field inspection fee of \$200.00 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, 2044**, 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 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 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.

15. That the applicant shall report the exposed surface area of the groundwater pit each calendar year on the annual water use report.

16. That any secondary uses must be located within the same source of supply, must be associated with the operation, and shall use water in a manner in which there is no significant net consumptive use.

17. 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.

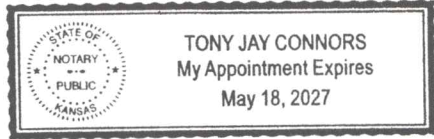
Ordered this 10<sup>th</sup> day of April, 2024, in Manhattan, Riley County, Kansas.

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

State of Kansas )  
                          ) SS  
County of Riley )

The foregoing instrument was acknowledged before me this 10 day of April, 2024, by Earl D. Lewis Jr., P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.

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 25, 2024

BARRY C MCMANAMAN  
BARTON COUNTY  
1400 MAIN ST RM 108  
GREAT BEND KS 67530

RE: Appropriation of Water  
File No. 50,908

Dear Mr. McManaman:

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.

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](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:ekf

Enclosure(s)

pc: Big Bend GMD No. 5  
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 25 day of April, 2024, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,908, dated April 10, 2024, was mailed postage prepaid, first class, US mail to the following:

BARTON COUNTY  
1400 MAIN ST RM 108  
GREAT BEND KS 67530

With photocopies to:

Big Bend GMD No. 5

KDA-DWR Stafford Field Office



Division of Water Resources