

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

1. File No.: <b>50,963</b>	2. Status Change Date: <b>4/30/2024</b>	4. Field Office: <b>01 - Topkea</b> GMD: Structures File No.: Filing/Priority Date: <b>02/10/2023</b> Application Complete Date:
3. Package File No(s):		
5a. <input checked="" type="checkbox"/> Applicant <input checked="" type="checkbox"/> Owner <input checked="" type="checkbox"/> WUC <input type="checkbox"/> Address Change  <b>BRIAN MARTIN</b> <b>2144 BROUGHTON RD</b> <b>CLAY CENTER KS 67432-7442</b>	Person ID <b>61549</b> Add Seq#	5b. <input type="checkbox"/> Owner <input type="checkbox"/> WUC <input type="checkbox"/> Address Change  Person ID Add Seq#
5c. <input type="checkbox"/> Owner <input type="checkbox"/> WUC <input type="checkbox"/> Address Change	Person ID Add Seq#	5d. <input type="checkbox"/> Owner <input type="checkbox"/> WUC <input type="checkbox"/> Address Change  Person ID 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: MDS Gauge:      Active Admin? <input type="checkbox"/> Completion/Start Date: <b>12/30/2025</b> Perfection/Expiration Date: <b>12/31/2029</b>		7. Use of Water <input checked="" type="checkbox"/> Groundwater <input type="checkbox"/> Surface Water UMW: <b>IRR-Irrigation</b> UMW: UMW:
8. Action Trail		
9. Special Conditions		
10. 5YR Allocation    Type:    Start Year:    5YR Quantity:    Base Acres: Comment:		
11. Sand & Gravel    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.:      Justification: Rule Type: Rule SubType:		
Comments	Processed <b>CLA</b> <b>04/25/2024</b>	Entered <b>5/2/2024</b> <b>KAnderson</b>
	Reviewed <b>KAK</b> <b>4/26/2024</b>	

File No. <b>50,963</b>	13. County: <b>CY-Clay</b> Basin: <b>27- Republican River</b> Stream:		
Structures File No:	Aquifer Code: <b>540- Chase Group</b>	Special Use Area:	

14. Points of Diversion, Rates & Quantities										Qty <b>AF</b>		Rate <b>gpm</b>		Storage Qty		Storage Rate	
PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)		Auth	Add	Auth	Add	Auth	Add	Auth/Add	Overlaps
<b>MOD</b>	<b>90075</b>	<b>NW NE SW</b>	<b>33</b>	<b>8S</b>	<b>4E</b>	<b>2</b>	<b>2520</b>	<b>3875</b>	<b>GEO CENTER</b>	<b>12.6</b>	<b>12.6</b>	<b>400</b>	<b>400</b>				
<b>ENT</b>	<b>90899</b>	<b>NW NE SW</b>	<b>33</b>	<b>8S</b>	<b>4E</b>		<b>2520</b>	<b>3880</b>	<b>Bat 1 OF 4</b>								
<b>ENT</b>	<b>90900</b>	<b>NW NE SW</b>	<b>33</b>	<b>8S</b>	<b>4E</b>		<b>2520</b>	<b>3870</b>	<b>Bat 2 OF 4</b>								
<b>ENT</b>	<b>90901</b>	<b>NW NE SW</b>	<b>33</b>	<b>8S</b>	<b>4E</b>		<b>2525</b>	<b>3875</b>	<b>Bat 3 OF 4</b>								
<b>ENT</b>	<b>90902</b>	<b>NW NE SW</b>	<b>33</b>	<b>8S</b>	<b>4E</b>		<b>2515</b>	<b>3875</b>	<b>Bat 4 OF 4</b>								

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: **12/31/2025**

17. Place of Use						NE¼				NW¼				SW¼				SE¼				Total	Owner(s)	Chg?	Overlaps	
PUSE	S	T	R	ID		NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE					
<b>DEL</b>	<b>70593</b>	<b>33</b>	<b>8S</b>	<b>4E</b>	<b>1</b>																					<input type="checkbox"/>
<b>ENT</b>	<b>71725</b>	<b>33</b>	<b>8S</b>	<b>4E</b>						<b>5.0</b>					<b>5.5</b>							<b>10.5</b>	<b>5a</b>		<input type="checkbox"/>	
																									<input type="checkbox"/>	
																									<input type="checkbox"/>	
																									<input type="checkbox"/>	
																									<input type="checkbox"/>	

18. Point of Diversion and Place of Use Overlaps	
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# MEMORANDUM TO FILE

Division of Water Resources, Water Appropriation Program

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Date: April 24, 2024

From: Christa Anhold, Environmental Scientist

Re: New Application File No. 50,963 – Brian Martin

## Summary

Brian Martin filed the above referenced application to appropriate 12.6 acre-feet of groundwater per calendar year at a rate of 400 gallons per minute from a battery of four (4) wells to irrigate 10.5-acres in Clay County. There are no overlapping water right files as the applicant owns both the place of use and proposed points of diversion and has signed the legal access agreement.

## Reasonable Rate and Quantity

The application originally proposed to appropriate 48 acre-feet of groundwater per year at a rate of 500 gallons per minute from one (1) well to irrigate 40 acres. This was considered reasonable for the area but the low productivity of the test well brought up concerns of transporting the water across a road to the original proposed place of use. In a discuss with Topeka Field Office Water Commissioner Brett Bunger, dated March 27, 2024, the applicant agreed to reduce the requested quantity and rate to 12.6 acre-feet per year at a rate of 400 gallons per minute from a battery of four (4) wells to irrigate a reduced area of 10.5-acres.

The requested 12.6 acre-feet of water applied to 10.5-acres is equivalent to 1.2 acre-feet per acre, which is the maximum reasonable quantity for Clay County. The requested rate of 400 gallons per minute appears reasonable as defined by K.A.R. 5-1-1(n).

## Source of Supply and Safe Yield

A test well log indicates alternating limestone and shale from 15 feet to 120 feet below ground surface. According to the test log, water was first encountered in the second limestone unit 30 feet below ground surface and the driller noted that, "static water level rose to 20 feet below ground surface". This indicates the source of water is from a confined aquifer system, nearby wells also appear to be supplied by confined sources. From the test log and "Geology and Ground-water Resources of Clay County, Kansas" Bulletin 136 the source of recharge is likely the Chase Group. The primary limestone formations within the Chase Group are the Nolans; Winfield; and Barneston Limestones, which are all listed as yielding small to moderate quantities of water.

If the aquifer is confined, per K.A.R. 5-3-14 safe yield for a confined aquifer is processed on a case-by-case basis using the best available information. Since the upper limestone unit is shallow and no specific criteria have been developed for safe yield evaluation of this confined aquifer, it appears that the new application can be reviewed using safe yield criteria in K.A.R. 5-3-11, which is consistent with other applications in similar bedrock sources of supply.

Safe yield was calculated manually using 2.5 inches as the estimated recharge for the area and the entire 2-mile circle, 8,042 acres, assuming 75% affective recharge, safe yield is 1,256.55 acre-feet. Note, that assuming effective recharge of 75% of the safe yield available instead of 100% is a more conservative approach and provides the possibility that this aquifer could contribute to baseflow in a stream, per K.A.R. 5-3-11. Existing appropriations total 320 acre-feet, leaving 936.55 acre-feet of groundwater to irrigate the requested 10.5 acres with 12.6 acre-feet of water.

It should be noted that this safe yield value per K.A.R. 5-3-11 provides the maximum allowable recharge (2.5 inches) for the area considered. A deeper confined aquifer would receive only a portion of that recharge. The minimum quantity of recharge required to sustain the senior water right file and new application would be no less than 0.66 inches per year (25% of maximum).

## Nearby Water Rights

The nearest nondomestic point of diversion is owned by the applicant and is a surface water pump site 680 feet from the proposed point of diversion. The nearest nondomestic well is over a mile from the proposed point of diversion and closest domestic well is 900 feet from the proposed point of diversion. The applicant provided names and addresses for two (2) potential well owners within one-half mile. Nearby letters were mailed on March 26, 2024. Written concerns were received on April 8 and April 9, 2024, as both addressed concerns for their domestic wells which are used for their stock animals as well as concerns over the declining water levels of the aquifer. All concerns are included in the application.

## Recommendations

The application was sent for consideration to Brett Bungler, Water Commissioner of the Topeka Field Office on April 23, 2024, and recommended for approval in an email dated April 24, 2024.

The application complies with all regulations concerning reasonable quantity, safe yield, and minimum spacing requirements. The proposed application is subject to minimum desirable streamflow requirements. It does not appear that approval of the application will impair senior water rights nor prejudicially or unreasonably affect the public interest. Therefore, it is recommended that the referenced application be approved.



Christa Anhold  
Environmental Scientist  
Manhattan Headquarters



**Safe Yield Report Sheet**  
**Water Right- A5096300**  
**Point of Diversion in 33-08S-04E**  
**Footages from SE corner- 2,520 feet North 3,875 feet West**



## Analysis Results

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

The safe yield based on the variables listed below is ~~0.00 AF~~. Based on 2.5 inches of recharge over an area of 8,042 acres safe yield was calculated as follows:

$((8,042 \text{ acres} * 2.5 \text{ inches}) / 12 \text{ feet}) * (.75) = 1,256.56 \text{ acre-feet}$

Total prior appropriations in the circle is ~~368.00 AF~~. ~~-48 AF~~ = 320 AF

Total quantity of water available for appropriation is ~~0.00 AF~~.  $1,256.56 \text{ AF} - 320 \text{ AF} = 936.55 \text{ AF}$

## Safe Yield Variables

The area used for the analysis is set at 8,042 acres.

The potential annual recharge at the circle center is estimated to be 2.5 inches.

The percent of recharge available for appropriation is ~~0%~~ 75% available per K.A.R. 5-3-11.

Authorized Quantity values are as of 22-MAR-2024 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 2 water rights and 6 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 49557 00	IRR	KE	G		NW	NE	SE	2514	990	29	08	04E	1	WR	320.00	320.00		301.00	301.00
Same	IRR	KE	G		NW	NE	SE	2364	891	29	08	04E	4	WR					
Same	IRR	KE	G		NW	NE	SE	2241	1001	29	08	04E	5	WR					
Same	IRR	KE	G		SW	NE	SE	2509	781	29	08	04E	6	WR					
Same	IRR	KE	G		SW	NE	SE	2193	790	29	08	04E	7	WR					
A 50963 00	IRR	AY	G		NW	NE	SW	2520	3875	33	08	04E	2	WR	48.00	48.00	-48.00	40.00	0.00




  
**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. 50,963** of the applicant

**BRIAN MARTIN**  
**2144 BROUGHTON RD**  
**CLAY CENTER KS 67432-7442**

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 10, 2023**.
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	
33 - 8S - 4E									5.0					5.5			10.5

3. That the authorized source from which the appropriation shall be made is groundwater to be diverted by means of a battery of four (4) wells with a geographic center located in the Northwest Quarter of the Northeast Quarter of the Southwest Quarter (NW¼ NE¼ SW¼) of Section 33, more particularly described as being near a point 2,520 feet North and 3,875 feet West of the Southeast corner of said section, in Township 8 South, Range 4 East, Clay 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 **400 gallons per minute (0.89 c.f.s.)** and to a quantity not to exceed **12.6 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, 2025**, 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, 2029**, 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 an acceptable water flow meter 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. The 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 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 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.

17. That this permit is further limited such that all four (4) wells shall be located within a three hundred (300) foot radius circle, in the same local source of supply, shall be limited to a total maximum diversion rate not in excess of 400 gallons per minute (0.89 c.f.s.) and shall supply water to a common distribution system.

18. 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 30 day of April, 2024, in Manhattan, Riley County, Kansas.

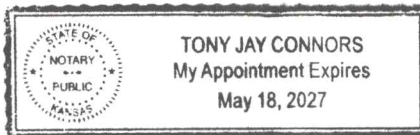
*Lane P. Letourneau*

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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 30 day of April, 2024, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.

*Tony Jay Connors*  
\_\_\_\_\_  
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

May 14, 2024

BRIAN MARTIN  
2144 BROUGHTON RD  
CLAY CENTER KS 67432-7442

RE: Appropriation of Water  
File No. 50,963

Dear Mr. Martin,

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.

Also included 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 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:kak:cla  
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 14 day of May, 2024, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,963, dated April 30, 2024, was mailed postage prepaid, first class, US mail to the following:

Original to:

BRIAN MARTIN  
2144 BROUGHTON RD  
CLAY CENTER KS 67432-7442

With photocopies to:

KDA-DWR Topeka Field Office

  
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Division of Water Resources