

~~FINDINGS AND~~

DWR 1-660 (Revised 08/08/2024)

File No. 50916		13. County: WS -WASHINGTON Basin: REPUBLICAN RIVER Stream:																			
Structures File No:		Aquifer Code: 330 DAKOTA AQUIFER SYSTEM (UNCONFINED)										Special Use Area:									
14. Points of Diversion, Rates & Quantities																					
PDIV		Qualifier		S	T	R	ID	'N	'W	Comment (AKA Line)		Qty AF		Rate gpm		Storage Qty AF		Storage Rate			
												Auth	Add	Auth	Add	Auth	Add	Auth/Add	Overlaps		
DEL	1141	SW NE SE		29	3S	2E	1	1614	1064			156	156	750	750						
15. Limitations NEW Type: Quantity: AF Rate: gpm combined with file no(s):																					
NEW Type: Quantity: AF Rate: gpm combined with file no(s):																					
16. Metering <input type="checkbox"/> Metering Required <input type="checkbox"/> Anti-Reverse Required <input type="checkbox"/> Seal Required Compliance Date:																					
17. Place of Use																		Total	Owner(s)	Chg?	Overlaps
PUSE S T R ID		NE¼				NW¼				SW¼				SE¼							
		NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE				
NC	71138	29	3	2E	2									32.5	32.5	32.5	32.5	130.00	5a	<input type="checkbox"/>	
																		0.00		<input type="checkbox"/>	
																		0.00		<input type="checkbox"/>	
																		0.00		<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

Date: March 21, 2025

From: Colin Barclay, Environmental Scientist

Re: New Application File No. 51,246 – Quentin, Tyler, and Brett Herrs

& Dismissal of Water Appropriation File No. 50,916

Summary

Quentin, Tyler, and Brett Herrs filed the above referenced application to appropriate 156 acre-feet of groundwater, at a rate of 1,000 gallons per minute for irrigation use. The proposed point of diversion would be an existing single (1) well located in Washington County, Kansas. The applicant has signed the application form affirming legal access to the point of diversion. The proposed place of use is a 130-acre pivot. This application will replace an existing file, File No. 50,916. The applicant wants to add additional rate and has decided to voluntarily dismiss the senior file in favor of this new application. A voluntary dismissal form has been filed for File No. 50,916 and includes all of the owners' signatures.

Reasonable Rate and Quantity

Quantity of water requested is an additional 156 acre-feet at a rate of 1,000 gallons per minute for a 130-acre place of use. Quantity requested appears to be reasonable as it is the maximum quantity of water allowed at 1.2 acre-feet per acre in Washington County, Kansas as per K.A.R. 5-3-24. This application will essentially be replacing senior appropriation File No. 50,916 which was authorized for the same quantity and place of use.

Source of Supply and Safe Yield

Based on the applicants well log and nearby well logs and the Kansas Geological Surveys geologic map 'Top Configuration of the Dakota Aquifer' (KGS, 1995). The source of supply for the proposed point of diversion appears to be the unconfined Dakota aquifer. As 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 circle 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 8,042 acres. With a potential annual recharge of 2.8 inches, and 75% of recharge (Republican River Basin) available for appropriation, safe yield was determined to be 1,407.35 acre-feet. Existing water rights have appropriated 546.15 acre-feet, providing a difference of 861.2 acre-feet available for appropriation, and the application requesting no additional quantity complies with safe yield.

Nearby Water Rights

One (1) appropriation (File No. 46,858) and one (1) possible domestic wells were found to be within a half mile of the proposed point of diversion. The nearest prior appropriated well (File No. 46,858) was found to be at least ~2,613 feet away. It should be noted that the location determined by the completed Water Well Completion form was found to be ~2,635 feet away and was determined using a Global Positioning System. This number is within the margin of error for locations determined by most Global Positioning Systems (GPS.gov, 2022). In addition, the point of diversion was previously authorized by File No. 50,916. Taking this into account it appears the currently authorized well can be considered as being one-half mile away and therefore complies with K.A.R. 5-4-4(c)(B).

The nearest possible domestic well was found to be roughly ~1,800 feet away. The above referenced application complies with K.A.R. 5-4-4. Two nearby notification letters were sent out and no comments of any kind were received during the 15-day period open to comments and concerns.

Recommendations

The application complies with all regulations concerning reasonable quantity, safe yield, and minimum well spacing requirements. The proposed applications are subject to minimum desirable streamflow requirements. Approval of the application will not impair senior water rights nor prejudicially or unreasonably affect the public interest. Therefore, as per the applicants' request, it is recommended that the referenced senior appropriation be dismissed and the new application be approved in its place.

A handwritten signature in black ink that reads "Colin Barclay". The signature is written in a cursive, flowing style.

Colin Barclay
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

IN THE MATTER OF THE DISMISSAL OF WATER APPROPRIATION FILE NO. 50,916

This is to certify that on March 21, 2025, a voluntary request to dismiss Water Right, File No. 50,916, was filed with the office of the Chief Engineer by the following appropriation right owner(s):

QUENTIN, TYLER, AND BRETT HERRS
122 NORTH PENNSYLVANIA ST
PALMER, KS 66962

Per this request, those above have agreed to waive any and all rights that they might have to a hearing pursuant to K.S.A. 82a-718 or any other applicable statute.

ORDER

The Chief Engineer of the Division of Water Resources, Kansas Department of Agriculture, acknowledges this request, and so orders the dismissal of Water Appropriation, File No. 50,916, and forfeiture of its priority. The dismissed file pertains to the point(s) of diversion and place(s) of use described as follows:

one (1) well located in the Southwest Quarter of the Northeast Quarter of the Southeast Quarter (SW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 29, more particularly described as being near a point 1,614 feet North and 1,064 feet West of the Southeast corner of said section, in Township 3 South, Range 2 East, Washington County, Kansas, for irrigation use on the following described property:

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 $\frac{1}{4}$	
29 - 3S - 2E													32.5	32.5	32.5	32.5	130.0

Any further diversion of water pursuant to the conditions and terms of the dismissed file shall be unlawful and subject to the penalties of K.S.A. 82a-728 and K.S.A. 82a-737.

Ordered this 25th day of March, 2025, in Manhattan, Riley County, Kansas.



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

State of Kansas)
County of Riley) SS

The foregoing instrument was acknowledged before me this 25th day of March, 2025, by Earl D. Lewis Jr., P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.



Shawna Novak
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

March 28, 2025

QUENTIN TYLER AND BRETT HERRS
811 KING ROAD
LINN KS 66953-9290

RE: Appropriation of Water
File No. 50,916 and 51,246

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.

Also enclosed is a Findings and Order by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, dismissing Water Appropriation, File No. 50,916, as you had requested in your form letter received in this office on May 21, 2024.

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 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. 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:ccb
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 28 day of March, 2025, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 51,246, and the Dismissal of Appropriation of Water, File No. 50,916 dated March 25, 2025, was mailed postage prepaid, first class, US mail to the following:

QUENTIN TYLER AND BRETT HERRS
811 KING ROAD
LINN KS 66953-9290

With photocopies to:

KDA-DWR Topeka Field Office



Division of Water Resources