

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

1. File No.: 51,060	2. Status Change Date: 3/25/2025	4. Field Office: 01-Topeka GMD: Structures File No.: LNO-177 Filing/Priority Date: 6/21/2023 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 ROY E CARTER REV TRUST 108 SAINT JOSEPH ST SAINT PAUL, KS 66771-4093 Person ID 40689 Add Seq# 1		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: Parsons Neosho River Active Admin? <input type="checkbox"/> Completion/Start Date: 12/31/2026 Perfection/Expiration Date: 12/31/2030		7. Use of Water <input type="checkbox"/> Groundwater <input checked="" type="checkbox"/> Surface Water UMW: REC-Recreational 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 LHH/TFO	Entered 3/26/2025 KAnderson
		Reviewed KAK 3/25/2025	

File No. 51,060		13. County: NO-Neosho Basin: Neosho Stream: Neosho																							
Structures File No: LNO-177		Aquifer Code:										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		Storage Rate							
												Auth	Add	Auth	Add	Auth	Add	Auth/Add	Overlaps						
CHK	90415	SE NE SW		20	30S	21E	8	1444	3443			160	160	10,000	10,000										
		SW																							
15. Limitations																									
Type:		Quantity:		Rate:		combined with file no(s):																			
Type:		Quantity:		Rate:		combined with file no(s):																			
16. Metering <input checked="" type="checkbox"/> Metering Required <input type="checkbox"/> Anti-Reverse Required <input type="checkbox"/> Seal Required Compliance Date: 12/31/2026																									
17. Place of Use																									
PUSE		S	T	R	ID	NE¼				NW¼				SW¼				SE¼				Total	Owner(s)	Chg?	Overlaps
ID						NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE				
MOD	71440	20	30S	21E	6	Marsh in Lot 3 (SE SW) and NE SW																	5a	<input type="checkbox"/>	
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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 25, 2025

From: Lloyd Hemphill, Environmental Scientist

Re: New Application File No. 51,060 – Roy Carter

Summary

Roy Carter has filed the above referenced application proposing to appropriate 160 AF/yr of surface water at a maximum diversion rate of 10,000 GPM from one pumpsite on the Neosho River for recreational use. The water will be used to fill and maintain water levels in a marsh for waterfowl habitat and hunting. The proposed point of diversion and place of use are in the Southwest Quarter (SW ¼) of Section 20, Township 30 South, Range 21 East in Neosho County. The point of diversion and place of use are owned by the applicant. The applicant submitted a signed supplemental sheet stating legal access to the point of diversion. No other files overlap this project.

Reasonable Rate and Quantity

The water will be used to fill and maintain water levels in the marsh, offset evaporation and seepage losses from the marsh, or allow water levels to be lowered and subsequently replaced throughout the hunting season to attract specific species and provide different hunting experiences. Supplemental information provided with the application states that the requested quantity (160 AF) is to fill the marsh three times per year plus evaporation. Engineering plans indicate that the surface area at the top of dike is 15.78 acres, and the capacity is 46.96 acre-feet (average depth of 2.98 ft). The net evaporation in this area is 5 in/yr or 6.58 AF over the surface area of the marsh. This represents maximum evaporation as the marsh will likely not be at full capacity for the entire year. The requested quantity is actually about 3.3 times the volume of the structure plus evaporation, due to a miscalculation of evaporation on the application. The water level in the marsh will not be maintained at the top of dike elevation and likely less water will be needed to fill the marsh to the true water level. The actual water depth will be maintained at the desired levels with a water control structure installed at the lowest point in the marsh.

The NRCS web soil survey indicates that this marsh is located on Lanton silt loam soil, described as having a moderately high to moderately low capacity to transmit water ($K_{sat} = 0.06$ to 0.57 in/hr). This indicates that it is possible, under the right hydrologic conditions, seepage in a 180-day period could account for a substantially greater quantity than the total quantity of water requested by this application.

The requested quantity, while relatively high for a marsh of this size, appears reasonable to allow the actual quantity to be determined during the perfection period. The proposed rate of 10,000 GPM is consistent with similar projects which are designed to fill the wetland as quickly as possible when streamflow is available, and permission can be granted.

Structures Review

This project was reviewed by DWR Structures under WSN: LNO-177. A Floodplain Fill permit was issued on November 13, 2023. This permit was issued with a condition stating that water would not be stored in the structure until the water appropriation permit was issued.

The proposed place of use is a marsh consisting of a single pool. Low berms have been constructed around the full perimeter and this structure is not expected to collect significant natural runoff.

Source of Supply and Safe Yield

This appropriation will divert surface water from the Neosho River and the approval will be subject to specific conditions, which state strict requirements for direct surface water diversion. These conditions include the stipulation that no diversion shall occur unless there is water available to satisfy all demands by senior water rights and permits, written or verbal permission from the Chief Engineer is required prior to diverting water, and streamflow cannot be stopped at the first riffle below the point of diversion while diversion is taking place. The application complies with K.A.R. 5-3-15(c)(5) because the proposed use of water for recreation will occur primarily during the fall season, and there is typically no need for direct diversion of water from July 1 through September 30.

Water Administration

This appropriation will be subject to administration of Minimum Desirable Streamflow (MDS) criteria established for the Neosho River at the Parsons stream gage. It will also be subject to protection of upstream Water Assurance District releases.

Nearby Water Rights

There are numerous water rights within two miles of the proposed point of diversion using the same source of water (Neosho River). All these rights authorize similar recreational use projects. The nearest upstream pumpsite (File No. 40,079) is about 2,030 ft away and the nearest downstream pumpsite (File Nos. 40,414; 42,379; & 50,035) is about 1,770 ft away. With adherence to standard permit conditions (particularly permission requirements), this appropriation is not expected to impair any prior water rights.

Notification letters were mailed to upstream and downstream landowners on January 24, 2025. No response was received.

Recommendations

Nathan Westrup, Water Commissioner of the Topeka Field Office recommended approval of this application in an e-mail dated March 25, 2025. As discussed above, the area remains open to new appropriations, the approval is subject to specific conditions relative to direct surface water diversions, diversion is typically limited to fall "off-season" pumping, the structure is permitting by the Structures Program, and there is no indication that existing water rights will be impaired. Therefore, it is recommended that the referenced new application be approved.

Lloyd Hemphill
Environmental Scientist
Topeka Field Office

Hemphill, Lloyd [KDA]

From: Westrup, Nathan [KDA]
Sent: Tuesday, March 25, 2025 9:54 AM
To: Hemphill, Lloyd [KDA]
Subject: RE: Application, File No. 51060: For your recommendation

Lloyd,

I have no objection or concerns to approval of this application.

Thanks,

Nathan Westrup | Water Commissioner

Kansas Department of Agriculture
Division of Water Resources

Topeka Field Office

1131 SW Winding Rd, Suite 400

Topeka, KS 66615

Phone: 785-296-7064

Mobile: 785-230-2991

Nathan.Westrup@ks.gov

From: Hemphill, Lloyd [KDA] <Lloyd.Hemphill@ks.gov>
Sent: Monday, March 24, 2025 8:45 AM
To: Westrup, Nathan [KDA] <Nathan.Westrup@ks.gov>
Subject: Application, File No. 51060: For your recommendation

Hello Nate,

Will you provide your recommendation on Application, File No. 51,060 (Roy Carter)?

This is a fairly standard project with a pumpsite on the Neosho to fill a duck marsh. The structure has already been permitted by the Structures Program.

Thanks,
Lloyd

Lloyd Hemphill, Environmental Scientist
Kansas Department of Agriculture
Division of Water Resources, Topeka Field Office
1131 SW Winding Rd, Suite 400
Topeka, KS 66615
Office: (785) 296-5733

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. 51,060** of the applicant

**ROY E CARTER REV TRUST
108 SAINT JOSEPH ST
SAINT PAUL, KS 66771-4093**

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 **June 21, 2023**.
2. That the water sought to be appropriated shall be used for recreational use in a marsh located in Lot 3 and the Northeast Quarter of the Southwest Quarter (NE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 20, Township 30 South, Range 21 East, Neosho County, Kansas.
3. That the authorized source from which the appropriation shall be made is surface water from the Neosho River, to be withdrawn by means of one (1) pump site located in the Southwest Quarter of the Northeast Quarter of the Southwest Quarter (SW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 20, more particularly described as being near a point 1,444 feet North and 3,443 feet West of the Southeast corner of said section, in Township 30 South, Range 21 East, Neosho County, Kansas, located substantially as shown on the map accompanying the application.
4. That the appropriation sought shall be limited to a maximum diversion rate not in excess of **10,000 gallons per minute (22.28 c.f.s.)** and to a quantity not to exceed **160 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, 2026**, 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, 2030**, 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 an acceptable water flow meter shall be installed and maintained on the diversion works authorized by this permit in accordance with the Kansas Administrative Regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer. This 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).

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.

15. 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.

16. That diversion of natural flow shall not take place unless there is water available to satisfy all demands by senior water rights and permits.

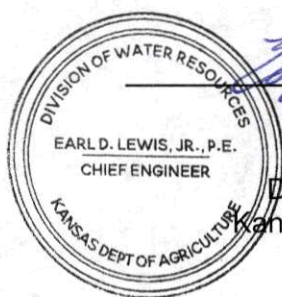
17. That the stream flow shall not be stopped at the first riffle below the point of diversion while diversion is taking place under the authority of this water right or permit.

18. That during the period July 1 through September 30, of each calendar year, no direct diversions of surface water shall occur unless written permission is obtained from the Chief Engineer, or the Chief Engineer's authorized representative.

19. That during the period October 1 through June 30, the verbal or written permission of the Chief Engineer, or an authorized representative of the Chief Engineer, shall be obtained in order to divert water each time the applicant desires to divert water.

20. That failure without cause to comply with the provisions of this 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 25th day of March, 2025, in Manhattan, Riley County, Kansas.

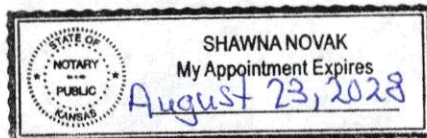


Earl D. Lewis Jr.
Earl D. Lewis Jr., P.E.
Chief Engineer
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 25th day of March, 2025, by Lane P. Letourneau, P.G., Program Manager, Division of Water Resources, Kansas Department of Agriculture.

[Signature]
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

ROY E CARTER REV TRUST
108 SAINT JOSEPH ST
SAINT PAUL KS 66771-4093

RE: Appropriation of Water
File No. 51,060

Dear Mr. Carter:

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, with specific reference to Paragraph Nos. 19 and 20. **As a condition to the approval of your application, you must obtain permission each time you intend to pump by contacting the Topeka Field office at 785-296-5733.** The approval of this permit is not an indication that surface water will be available from this source of supply, or that permission will be granted.

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 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 may be submitted online for no fee at kswaterusereport.org. Reports submitted in paper form will be assessed a \$20 per file number paper filing fee.

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 is available on our website at agriculture.ks.gov/dwr. If you have any questions or need assistance, please contact our office at 785-564-6640, or the 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:kak:llh
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.

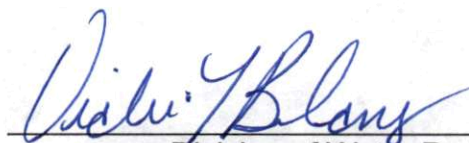
CERTIFICATE OF SERVICE

On this 28 day of March, 2025, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 51,060, dated March 25, 2025, was mailed postage prepaid, first class, US mail to the following:

ROY E CARTER REV TRUST
108 SAINT JOSEPH ST
SAINT PAUL KS 66771-4093

With photocopies to:

KDA-DWR Topeka Field Office



Division of Water Resources