

File No. 51,061	13. County: NEMAHA Basin: SF Big Nemaha River Stream: Illinois Creek Trib 1		
Structures File No: LNM-0045	Aquifer Code: N/A		Special Use Area:

14. Points of Diversion, Rates & Quantities										Qty AF		Rate gpm		Storage Qty AF		Storage Rate	
PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)		Auth	Add	Auth	Add	Auth	Add	Auth/Add	Overlaps
CHK	90416	SW NE NW	4	4	12	1	4450	3445		320	320	1000	1000	432.2	432.2	NF	

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 Metering Required Anti-Reverse Required Seal Required Compliance Date: **12/31/2026**

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					
CHK	71441	20	4	12E	1	40	40	21	40									16					0.00	5b	<input type="checkbox"/>	*
CHK	71442	17	4	12E	1	40	21	28	40														0.00	5b	<input type="checkbox"/>	*
CHK	71443	16	4	12E	1					40	40	40	40										0.00	5b	<input type="checkbox"/>	*
CHK	71444	8	4	12E	1	34	31	40	40									40	40	40	40		0.00	5b	<input type="checkbox"/>	*
CHK	71445	4	4	12E	1	40 40 36 40																156	5b	<input type="checkbox"/>	*	
																								<input type="checkbox"/>		

<p>18. Point of Diversion and Place of Use Overlaps</p> <p>* PU overlap with 51,062</p> <p>+ # ^</p>	<p>** ++ ## ^^</p>
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MEMORANDUM TO FILE

Division of Water Resources, Water Appropriation Program

Date: January 21, 2025

From: Colin Barclay, Environmental Scientist

Re: New Applications File Nos. 51061, 51062, – Shawn Becker
Dismissal of File No. 51,087

Summary

Shawn Becker has filed the above referenced application (51,061) to appropriate 432.2 acre-feet of surface water through natural flows of a tributary of Illinois Creek for storage and re-diversion in an 18.46-acre reservoir. The rate of diversion is at a rate of natural flows with a re-diversion quantity of 320 acre-feet at a re-diversion rate of 1000 gallons per minute. This reservoir is permitted under structures file number LNM-0045.

In addition, the applicant has filed the above reference application (51,062) to appropriate an additional 273 acre-feet of surface water through natural flows of a tributary of the Black Vermillion River for storage and re-diversion in a 17.39-acre reservoir. The rate of diversion is at a rate of natural flows with a re-diversion quantity of 273 acre-feet at a re-diversion rate of 1000 gallons per minute. Structures has determined the dam for this reservoir meets the exemption for a class A dam.

In addition, the applicant has filed the above referenced application (51,087) to appropriate 320 acre-feet of groundwater at a rate of 800 gallons per minute from a single well. The place of use for all three applications would be the same. However, the applicant failed to provide a well log as required by K.A.R. 5-3-4d. The applicant was sent a letter on October 28, 2024, with a deadline of December 2, 2024, to provide additional information or to request an extension of time. The applicant was also emailed the same letter with a deadline of December 2, 2024. No additional information or a request for an extension of time has been submitted as of January 21, 2025. Therefore, application 51,087 is recommended to be dismissed as incomplete.

File No. 51,061 Reasonable Storage Quantity and Safe Yield

Maximum reasonable quantity for storage for application file no. 51061 was determined to be 777.58 acre-feet. As per K.A.R. 5-6-5 maximum reasonable annual quantity for storage of water for beneficial use in a reservoir. The maximum reasonable annual quantity in a reservoir shall be limited to the lesser of the following.

As per K.A.R. 5-6-4, a runoff calculation was prepared and found that 777.58 acre-feet of runoff could be expected on a 20% chance of occurrence from the following variables.

- 615-acre drainage area.
- Mean annual precipitation of 35 inches per year.
- Soil covers complex number of 80.

As per K.A.R. 5-6-5(b)(1)(A) and (B) Three years of direct and indirect use was calculated to be 3,033.9 acre-feet of water.

- 907 acres of ground x 1.1 acre-feet per acre per year in Nemaha County = 997.7 acre-feet of direct use.
- 13.6 acre-feet of indirect use = 10 inches of net evaporation /12 inches per foot = .83 feet of net evaporation x 16.3 surface acres = 13.6 acre-feet of net evaporation.
- 997.7 acre-feet of direct use + 13.6 acre-feet of indirect use = 1011.3 acre-feet per year.

- 1011.3 acre-feet per year x 3 years = 3,033.9 acre-feet.

As per K.A.R. 5-6-5(2)(A) 1 year of direct, indirect, and reservoir capacity was calculated to be 1,110 acre-feet of water.

- 907 acres of ground x 1.1 acre-feet per acre per year in Nemaha County = 997.7 acre-feet of direct use.
- 13.6 acre-feet of indirect use = 10 inches of net evaporation /12 inches per foot = .83 feet of net evaporation x 16.3 surface acres = 13.6 acre-feet of net evaporation.
- Reservoir capacity is 98.7 acre-feet.
- 997.7 acre-feet of direct use + 13.6 acre-feet of indirect use + 98.7 acre-feet of reservoir capacity =1,110 acre-feet.

File No. 51,062 Reasonable Storage Quantity and Safe Yield

Maximum reasonable quantity for storage for application file no. 51062 was determined to be 273.3 acre-feet. As per K.A.R. 5-6-5 maximum reasonable annual quantity for storage of water for beneficial use in a reservoir. The maximum reasonable annual quantity in a reservoir shall be limited to the lesser of the following.

As per K.A.R. 5-6-4, a runoff calculation was prepared and found that 273.3 acre-feet of runoff could be expected on a 20% chance of occurrence from the following variables.

- 245-acre drainage area.
- Mean annual precipitation of 35 inches per year.
- Soil covers complex number of 76.

As per K.A.R. 5-6-5(b)(1)(A) and (B) Three years of direct and indirect use was calculated to be 3,033.9 acre-feet of water.

- 907 acres of ground x 1.1 acre-feet per acre per year in Nemaha County = 997.7 acre-feet of direct use.
- 12.6 acre-feet of indirect use = 10 inches of net evaporation /12 inches per foot = .83 feet of net evaporation x 15.2 surface acres = 12.6 acre-feet of net evaporation.
- 997.7 acre-feet of direct use + 12.6 acre-feet of indirect use = 1010.3 acre-feet per year.
- 1010.3 acre-feet per year x 3 years = 3,030.9 acre-feet.

As per K.A.R. 5-6-5(2)(A) 1 year of direct, indirect, and reservoir capacity was calculated to be 1,110 acre-feet of water.

- 907 acres of ground x 1.1 acre-feet per acre per year in Nemaha County = 997.7 acre-feet of direct use.
- 13.6 acre-feet of indirect use = 10 inches of net evaporation /12 inches per foot = .83 feet of net evaporation x 16.3 surface acres = 13.6 acre-feet of net evaporation.
- Reservoir capacity is 93.1 acre-feet.
- 997.7 acre-feet of direct use + 12.6 acre-feet of indirect use + 93.1 acre-feet of reservoir capacity =1,103.4 acre-feet.

The combined requested quantity of 705.2 acre-feet is below the maximum reasonable quantity of the drainage basins which allows for a total combined quantity of 1050.88 acre-feet. However, as the applications are located in Nemaha County which receives a significant amount of precipitation. The applications appear to be supplementing the natural rainfall of the county and should be considered reasonable. A re-diversion quantity of 593.3 acre-feet will provide 0.65 acre-feet per acre which is the Net Irrigation Requirement for Nemaha County as per K.A.R. 5-5-12.

Nearby Water Rights

Two upstream and downstream landowners were notified for application 51,061. One phone call was received from a downstream landowner who had questions about the proposed appropriation. A written request for an extension of time was received by email requesting an extension of time to submit additional comments. An extension was granted with a deadline to submit additional comments ending on January 21, 2025. No additional comments or concerns were received during the comment period.

One landowner was notified for application 51,062. No comments of any kind were received during the comment period.

Recommendations

The applications were sent to Nathan Westrup, Water Commissioner of the Topeka Field Office and were recommended for approval in an email dated January 21, 2025.

Applications 51,061 and 51,062 comply with all regulations and the applications are subject to minimum desirable streamflow requirements. Approval of the applications will not impair senior water rights nor prejudicially or unreasonably affect the public interest. Therefore, it is recommended that the referenced applications be approved.

Application 51,087 is recommended to be dismissed as incomplete in accordance with K.S.A. 82a-710.



Colin Barclay
Environmental Scientist
Water Appropriation Program

RE: 51,061 and 51,062 review and recommendation request

From Westrup, Nathan [KDA] <Nathan.Westrup@ks.gov>

Date Tue 1/21/2025 5:06 PM

To Barclay, Colin [KDA] <Colin.Barclay@ks.gov>; Johnson, Shaun [KDA] <Shaun.Johnson@ks.gov>

Hey Colin,

I have no objection to approval of the two new applications and dismissal of 51087.

Thank you,

Nathan Westrup, Water Commissioner

Topeka Field Office

Division of Water Resources

Kansas Department of Agriculture

Phone: 785-296-7064

Mobile: 785-230-2991

Nathan.Westrup@ks.gov

From: Barclay, Colin [KDA] <Colin.Barclay@ks.gov>

Sent: Tuesday, January 21, 2025 9:58 AM

To: Westrup, Nathan [KDA] <Nathan.Westrup@ks.gov>; Johnson, Shaun [KDA] <Shaun.Johnson@ks.gov>

Subject: 51,061 and 51,062 review and recommendation request

Good morning Nathan and Shaun,

I have attached my draft memo for application 51,061 and 51,062 for your review and recommendation. I sent out nearby letters on December 4, 2024 and received one phone call and a request for an extension of time to submit additional comments that I have documented in my combined memo.

This memo also contains application 51,087 which was a groundwater file that would have covered the same place of use as 51,061 and 51,062 but will be dismissed as incomplete.

Please let me know if you have any questions.

Thanks,

Colin Barclay

Environmental Scientist

Division of Water Resources

Kansas Department of Agriculture

Phone: (785) 564-6628

Colin.Barclay@ks.gov

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. 51,061** of the applicant

SHAWN BECKER
896 STATE HWY 9
CENTRALIA, KS 66415

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 22, 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	
4 - 4 - 12E									40	40	36	40					156
8 - 4 - 12E	34	31	40	40									40	40	40	40	305
16 - 4 - 12E					40	40	40	40									160
17 - 4 - 12E	40	21	28	40													129
20 - 4 - 12E	40	40	21	40									16				157

3. That the appropriation sought shall be limited to all natural flows of an unnamed tributary of Illinois Creek, designated in the office of the Chief Engineer as Illinois Creek Trib 1 (SF Big Nemaha River), not needed to satisfy all vested rights and prior appropriation rights to be incrementally accumulated as reservoir storage space becomes available to a maximum extent of **432.2 acre-feet** of water per calendar year in a reservoir created by a dam located in the Southwest Quarter of the Northeast Quarter of the Northwest Quarter (SW¼ NE¼ NW¼) of Section 4, more particularly described as being near a point 4,450 feet North and 3,445 feet West of the Southeast corner of said section, in Township 4 South, Range 12 East, Nemaha County, Kansas, to provide **320 acre-feet** of water as needed for direct irrigation use, to be withdrawn, released or otherwise diverted from the reservoir at a re-diversion rate of approximately **1,000 gallons per minute (2.23 c.f.s.)**. A reasonable maximum re-diversion rate will be established during the perfection period and assigned at certification.

4. 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.

5. 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. That acceptable water flow meters shall be installed and maintained on the re-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).

12. 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.

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

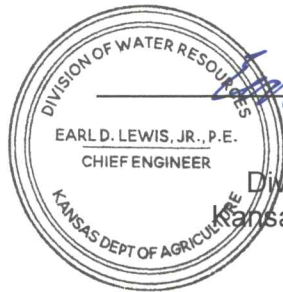
14. That the stream flow shall not be stopped at the first riffle below the point of diversion while diversion is taking place under the authority of this water right or permit.

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

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 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 *3rd* day of *February*, 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 *3rd* day of *February*, 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

February 13, 2025

SHAWN BECKER
896 STATE HWY 9
CENTRALIA KS 66415-8066

RE: Appropriation of Water
File Nos. 51,061 and 51,062

Dismissal of Application
File No. 51,087

Dear Mr. Becker:

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

Also enclosed is a Findings and Order by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, dismissing Application, File No. 51,087, for failure to complete your application by providing required information, prior to the deadline of December 2, 2024. You may refile a new Application to Appropriate Water for Beneficial Use should you wish to proceed with the well(s) proposed by the dismissed application.

For the approved applications, a notice must be filed on the enclosed forms 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 the permits. If you need an extension of time, you must request it before the deadline for completion set forth in the permits. Any request for an extension of time must be accompanied by the statutorily required fee, which is currently \$100.00, per file number.

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.

SHAWN BECKER

File Nos. 51,061, 51,062 and 51,087

Page 2 of 2

Also included with your permits 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,

A handwritten signature in black ink that reads "Kristen A. Baum". The signature is written in a cursive style with a large initial 'K'.

Kristen A. Baum
New Applications and Changes Supervisor
Division of Water Resources

KAB:kak:ccb

Enclosure(s)

pc: Topeka Field Office

**RIGHT TO PETITION FOR REVIEW
UNDER THE KANSAS JUDICIAL REVIEW ACT**

This is a final agency action as defined in K.S.A. 77-607(b). You may pursue judicial review of this Order as provided in the Kansas Judicial Review Act, K.S.A. 77-601 et seq. A petition for judicial review must be filed in a Kansas court of competent jurisdiction within 30 days after service of this Order as provided in K.S.A. 77-613. The agency officer designated to receive service of a petition for judicial review on behalf of the Kansas Department of Agriculture is the Chief Legal Counsel, Kansas Department of Agriculture, 1320 Research Park Dr. Manhattan, KS 66502.

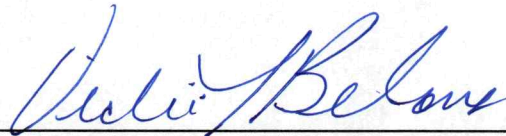
CERTIFICATE OF SERVICE

On this *13th* day of *February*, 2025, I hereby certify that the foregoing Dismissal of Application, File No. 51,087, dated *February 3*, 2025, was mailed postage prepaid, first class, US mail to the following:

SHAWN BECKER
896 STATE HWY 9
CENTRALIA KS 66415-8066

With photocopies to:

KDA-DWR Topeka Field Office



Division of Water Resources