

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

1. File No.: 51,194		2. Status Change Date: 4/1/2025		4. Field Office: 01 - Topeka GMD: Structures File No.: Filing/Priority Date: 03/04/2024 Application Complete Date:		
3. Package File No(s): OWNERSHIP 21079 30503 48640						
5a. <input checked="" type="checkbox"/> Applicant <input checked="" type="checkbox"/> Owner <input type="checkbox"/> WUC <input type="checkbox"/> Address Change AARON SYLVESTER 4605 GENN RD WAMEGO, KS 66547		Person ID 70005 Add Seq#		5b. <input checked="" type="checkbox"/> Owner <input checked="" type="checkbox"/> WUC <input type="checkbox"/> Address Change LEON E & JANET M SYLVESTER 4605 GENN RD WAMEGO, KS 66547		
5c. <input checked="" type="checkbox"/> Owner <input type="checkbox"/> WUC <input type="checkbox"/> Address Change SPA Land LLC 4605 GENN RD WAMEGO, KS 66547		Person ID 64910 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: 12/31/2026 Perfection/Expiration Date: 12/31/2030				7. Use of Water <input type="checkbox"/> Groundwater <input checked="" type="checkbox"/> Surface Water UMW: IRR-Irrigation 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 Sharon A Richards (Person ID: 63128) needs to be removed as landowner on PUSE 64616				Processed BGL		Entered 4/2/2025 KAnderson
				Reviewed KAK 4/1/2025		

File No. 51,194	13. County: PT-Pottawatomie Basin: KANSAS RIVER Stream: Kansas River																	
Structures File No:	Aquifer Code:										Special Use Area:							

14. Points of Diversion, Rates & Quantities										Qty		Rate		Storage Qty		Storage Rate		Overlaps
PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Auth	Add	Auth	Add	Auth	Add	Auth/Add			
CHK	90800	SE SW SW	31	9S	11E	2	300	4035	198	0	1600	1600						

15. Limitations	Type:	Quantity: 198.55 AF	Rate:	combined with file no(s): 21079, 30503, & 48640									
	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																	
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17. Place of Use PUSE 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					
CHK	14941	1	10S	10E	1	39.5	39	21	L-1 12.5	9.5			4						121.5 125.5	5A & 5B	<input checked="" type="checkbox"/>	+
CHK	64615	31	9S	11E	8										15				15	5B	<input type="checkbox"/>	+
CHK	64616	6	10S	11E	5					37	L-2 3								40	5C	<input type="checkbox"/>	+
ENT		1	10S	10E									4						4	5A	<input checked="" type="checkbox"/>	
																				<input type="checkbox"/>		
																				<input type="checkbox"/>		

18. Point of Diversion and Place of Use Overlaps	
* + 21079, 30503, 48640 # ^	** ++ ## ^^

OWNERSHIP CHANGE VERIFIED BY SAW 4/2/2025

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: March 31, 2025

FROM: Bobbi Luttjohann

RE: Application, File No. 51,194

Aaron Sylvester has filed the referenced application to appropriate 198 acre-feet of surface water at the rate of 1,600 gallons per minute from the backwaters of the Kansas River via Vermillion Creek (Kansas River Basin), for irrigation use. Verification of the source of water as the backwaters of the Kansas River is referenced in the memorandum dated December 20, 2011, for File No. 47,969, which is located approximately one mile upstream of the proposed pumpsite. The point of diversion (pumpsite) is located in the Southeast Quarter of the Southwest Quarter of the Southwest Quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$) Section 31, more particularly described as being near a point 300 feet North and 4,035 feet West of the Southeast corner of said Section, Township 9 South, Range 11 East, Pottawatomie County, Kansas. There are no overlapping files using this point of diversion. The application was signed by the applicant stating legal access to the point of diversion.

The place of use includes 180.5 acres in Pottawatomie County as described on the Irrigation Use Supplemental Sheet. Of that acreage, 136.5 acres are owned by Leon E. and Janet M. Sylvester (15 acres in Section 31, Township 9 South, Range 11 East and 121.1 acres in Section 1, Township 10 South, Range 10 East), 4 acres in the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 1, Township 10 South, Range 10 East are owned by the applicant, and 40 acres in Section 6, Township 10 South, Range 11 East are owned by SPA Land LLC. Ownership was verified using the Pottawatomie County ORKA parcel website and confirmed with the applicant via email.

The quantity of water requested by this application (198 acre-feet) is approximately the maximum allowable quantity of water to irrigate the proposed acreage, with 1.1 acre-feet per acre allowed in Pottawatomie County. This application overlaps the place of use authorized by Water Right, File Nos. 21,079 and 30,503 and Appropriation of Water, File No. 48,640. File No. 48,640 is limited to 198.55 acre-feet when combined with File Nos. 21,079 and 30,503. Therefore, this application will be limited to 198.55 acre-feet when combined with the senior water rights.

Notification letters were sent to upstream and downstream landowners on March 7, 2025. In response, one phone call was received from Michael Raine. Mr. Raine expressed concerns about low flow conditions and the impact the proposed pumping rate would have on the ecological system within Vermillion Creek. He was assured that the project would be reviewed to make sure that all applicable laws are met. No further comments were provided by Mr. Raine. Also in response, one phone call was received from Clifford Tessendorf. Mr. Tessendorf called to inform DWR that he and his wife Elizabeth were giving their full approval of the project proposed by this application. No further comments were provided by Mr. Tessendorf. A third comment from George Hieger with Hieger and Hieger Farms LLC was received by mail. Mr. Hieger stated that his observation was that when there is no flow from Rock Creek and the Vermilion, pumping from the new point of diversion would not lower the pool his operation is pumping from under File No. 47,969. A response letter was sent to Mr. Hieger. No further comments were provided by Mr. Hieger.

Per K.A.R. 5-3-15, Availability of water for appropriation - safe yield; surface water. (a) Each application filed to directly divert the natural flow of the Kansas river, the Missouri river, the Big Blue river, Spring river, or their tributaries, shall:

- (1) be processed in accordance with K.A.R. 5-3-9; and
- (2) meet all other requirements for the approval of a new application.

(b) The water right owner shall be required by the chief engineer to meet minimum desirable streamflows (MDS), assurance district target flows (assurance target flows) and division of water resources (DWR) target flows where applicable.

The application meets these safe yield criteria. The permit will also contain the condition that streamflow cannot be stopped at the first riffle below the point of diversion while diversion is taking place.

The applicant has signed an Assurance District statement, which informs the applicant that there could be times when the diversion of water may not be allowed under this permit. The Kansas River Water Assurance District (KRWAD) was notified of the applicant's intent to appropriate water. A response was received on March 12, 2025 from the KRWAD stating that the application was reviewed and they had no further comments.

According to the WRIS database there are two prior surface water rights within a two (2) mile radius of the proposed point of diversion. One water right is located more than a mile upstream of the pumpsite on Vermillion Creek (source is the backwater of the Kansas River) and the second water right is located more than a mile downstream on the Kansas River. This application will not impact any senior water rights.

In accordance with K.S.A. 82a-706c, the Chief Engineer retains full authority to require any water user to install meters, gages, or other measuring devices, which devices he or she or his or her agents may read at any time. Water flowmeter requirements are further described in K.A.R. 5-1-4 through K.A.R 5-1-12. If any chemical or foreign substance is injected into the water pumped under this permit, a check valve will also need to be installed.

Nathan Westrup, Water Commissioner, Topeka Field Office, recommended in a March 31, 2025 e-mail that the referenced new application should be approved. Based on the above discussion, that surface water in this river basin remains open to new appropriations, and approval of the application will not impair senior water rights, it is recommended that the referenced application be approved.

Bobbi Luttjohann
Environmental Scientist
Topeka Field Office

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. 51,194** of the applicant,

AARON SYLVESTER
4605 GENN RD
WAMEGO, KS 66547

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 **March 4, 2024**.
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	
31 - 9S - 11E											15.0						15.0
1 - 10S - 10E	39.5	39.0	21.0	Lot 1 12.5	9.5			4.0									125.5
6 - 10S - 11E						37.0	Lot 2 3.0										40.0

3. That the authorized source from which the appropriation shall be made is surface water from the Kansas River, to be withdrawn by means of a pumpsite located in the Southeast Quarter of the Southwest Quarter of the Southwest Quarter (SE¼ SW¼ SW¼) of Section 31, more particularly described as being near a point 300 feet North and 4,035 feet West of the Southeast corner of said section, in Township 9 South, Range 11 East, Pottawatomie 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 **1,600 gallons per minute (3.57 c.f.s.)** and to a quantity not to exceed **198 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, which is currently \$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, which is currently \$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, which is currently \$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 the quantity of water approved under this permit is further limited to the quantity which combined with Water Right, File Nos. 21,079 and 30,503, and Appropriation of Water, File No. 48,640, will provide a total not to exceed **198.55 acre-feet** of water per calendar year for irrigation use on the land described herein.

19. 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 1st day of Apr. 1, 2025, in Manhattan, Riley County, Kansas.

Lane P. Letourneau

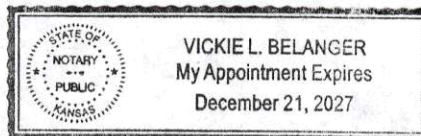
Lane P. Letourneau, P.G.
Water Appropriation Program Manager
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 1st day of Apr. 1, 2025, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.

Vickie L. Belanger

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 3, 2025

AARON SYLVESTER
4605 GENN RD
WAMEGO KS 66547

RE: Appropriation of Water,
File No. 51,194

Dear Mr. Sylvester:

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. The approval of this permit is not an indication that surface water will be available from this source of supply.

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 and re-diversion works authorized by these permits 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 charge at kswaterusereport.org. Reports submitted in paper form will be assessed a \$20 per file number paper filing fee.

The approval of your applications constitutes permits 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. 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 Application Unit Supervisor
Division of Water Resources

KAB:kak:bgl
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 3rd day of April, 2025, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 51,194, dated April 1, 2025, was mailed postage prepaid, first class, US mail to the following:

LEON & JANET SYLVESTER
SPA LAND LLC
c/o AARON SYLVESTER
4605 GENN RD
WAMEGO KS 66547

With photocopies to:

KDA-DWR Topeka Field Office



Division of Water Resources