

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

1. File No.: <b>51246</b>		2. Status Change Date: <b>3/25/2025</b>		4. Field Office: <b>01 - Topeka</b> GMD: Structures File No.: Filing/Priority Date: <b>05/29/2024</b>		
3. Associated File No(s): <b>50916</b>						
5a. <input checked="" type="checkbox"/> Applicant <input checked="" type="checkbox"/> Owner <input checked="" type="checkbox"/> WUC <input type="checkbox"/> Address Change  <b>BRETT, QUENTIN &amp; TYLER HERRS</b> <b>811 KING ROAD</b> <b>LINN, KS 66953</b>		Person ID <b>69440</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 Date: <b>12/31/2026</b> Perfection Date: <b>12/31/2030</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.: Rule Type:      Justification: Rule SubType:						
Comments <b>voluntary dismissal of 50916. 51246 will replace 50916</b>				Processed <b>CCB</b> <b>03/21/2025</b>		Entered  <b>3/26/2025</b> <b>KAnderson</b>
				Reviewed <b>KAK</b> <b>3/25/2025</b>		

File No. <b>51246</b>		13. County: <b>WS - WASHINGTON</b> Basin: <b>REPUBLICAN RIVER</b> Stream:																			
Structures File No:		Aquifer Code: <b>330 DAKOTA AQUIFER SYSTEM (UNCONFINED)</b>										Special Use Area:									
14. Points of Diversion, Rates & Quantities																					
PDIV		Qualifier		S	T	R	ID	'N	'W	Comment (AKA Line)		Qty <b>AF</b>		Rate <b>gpm</b>		Storage Qty <b>AF</b>		Storage Rate			
												Auth	Add	Auth	Add	Auth	Add	Auth/Add	Overlaps		
<b>MOD</b>	<b>1141</b>	<b>SW NE SE</b>		<b>29</b>	<b>3S</b>	<b>2E</b>	<b>1</b>	<b>1614</b>	<b>1064</b>			<b>156</b>	<b>156</b>	<b>1000</b>	<b>1000</b>						
15. Limitations <b>NEW</b> Type: Quantity: <b>AF</b> Rate: <b>gpm</b> combined with file no(s):																					
<b>NEW</b> Type: Quantity: <b>AF</b> Rate: <b>gpm</b> combined with file no(s):																					
16. Metering <input checked="" type="checkbox"/> Metering Required <input checked="" type="checkbox"/> Anti-Reverse Required <input checked="" type="checkbox"/> Seal Required Compliance Date: <b>12/31/2026</b>																					
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				
<b>CHK</b>	<b>71138</b>	<b>29</b>	<b>3S</b>	<b>2E</b>	<b>2</b>									32.5	32.5	32.5	32.5	130.00	<b>5a</b>	<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

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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, slightly slanted style.

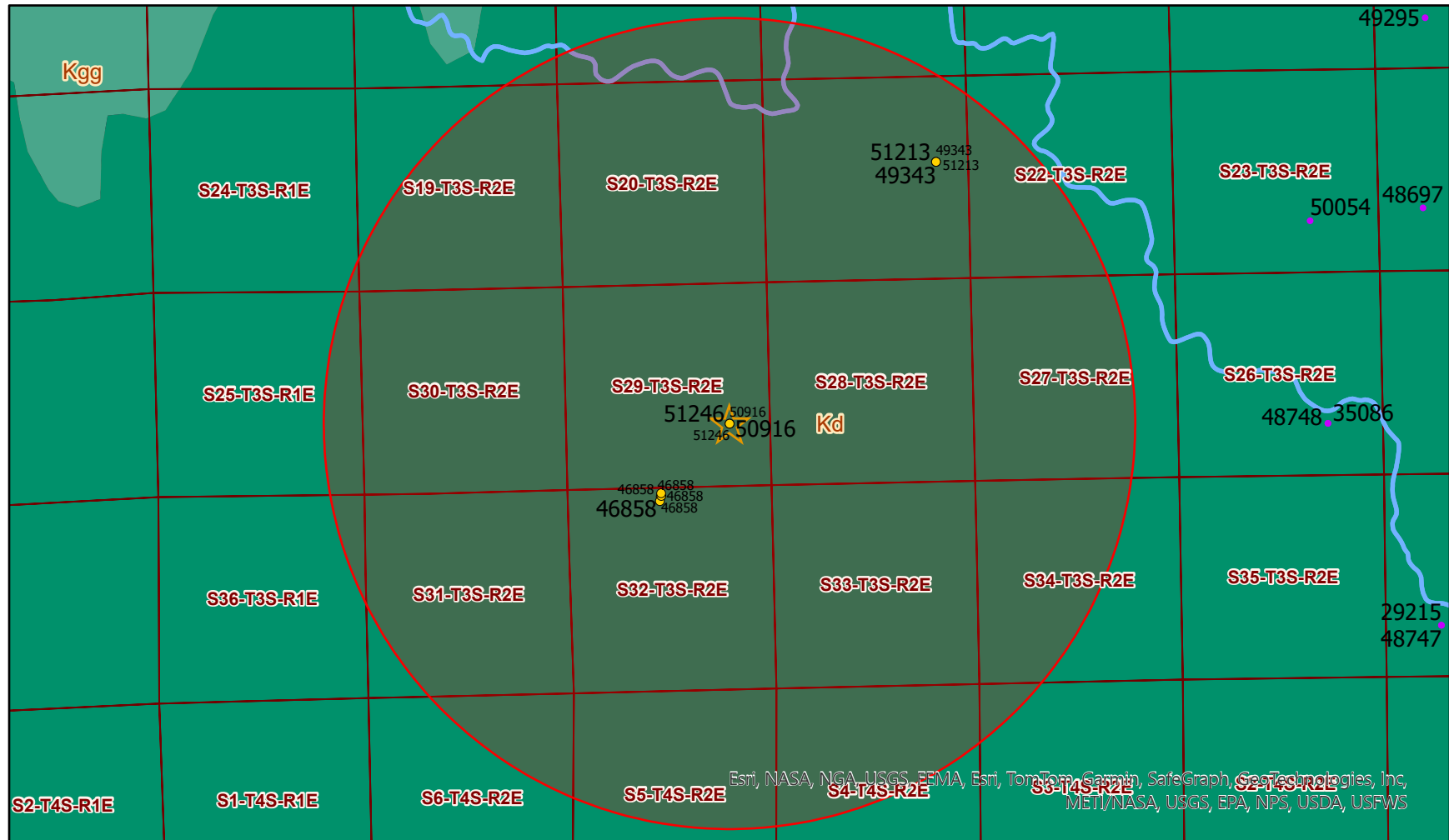
Colin Barclay  
Environmental Scientist  
Water Appropriation Program

# Safe Yield Report Sheet

## File No. 51246

### Point of Diversion in 29-03S-02E

Footages from SE corner: 1614 feet North 1064 feet West



0 0.5 1 2 Miles

# ANALYSIS RESULTS

The selected PD is in an area OPEN to New appropriations

The safe yield based on the variables listed below is 1407.35 AF.

Total prior appropriations in the circle is ~~702.15~~ AF. **546.15 AF**

Total quantity of water available for appropriation is ~~705.2~~ AF. **861.2 AF**

## SAFE YIELD VARIABLES

The area used for the analysis is calculated as 8042 acres. The radius is set at 2.0 miles.

The potential annual recharge at the circle center is estimated to be 2.8 inches.

The percent of recharge available for appropriation is 75%.

Authorized Quantity values are as of 2025-01-28 and are based on Appropriated and Vested ground water rights.

Domestic, Term and Temporary water rights, and GMD #2 Stream Nodes have been excluded.

There are 5 water rights and 6 points of diversion within the circle.

File	Number	Use	ST	SR	DIST	Q4	Q3	Q2	Q1	FtN	FtW	S	TP	RN	ID	Aquifers	QBy	Auth_Qnt	Add_Qnt
A	46858	STK	NK	G	2614		NE	NE	NW	5056	2889	32	03	02E	1	331	WR	15.15	15.15
A	46858	STK	NK	G	2714		NE	NE	NW	4943	2915	32	03	02E	2	331	WR		
A	46858	STK	NK	G	2589		NE	NE	NW	5078	2875	32	03	02E	3	331	WR		
A	46858	STK	NK	G	2542		NE	NE	NW	5147	2878	32	03	02E	4	331	WR		
A	49343	IRR	KK	G	8681		SW	SE	NE	3029	823	21	03	02E	2	330	WR	281.40	281.40
A	50916	IRR	GY	G	4		SW	NE	SE	1614	1064	29	03	02E	1	330	WR	156.00	156.00
A	51213	IRR	AY	G	8681		SW	SE	NE	3029	823	21	03	02E	2	330	WR	93.60	93.60
A	51246	IRR	AY	G	4		SW	NE	SE	1614	1064	29	03	02E	1	330	WR	156.00	<del>156.00</del> <b>-156.00</b>

File	Number	Seq	Limitations
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**RE: 51246 Review and recommendation request**

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

**Date** Tue 3/25/2025 9:45 AM

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

Colin,

I have no objections or concerns about approval of this application and dismissal of 50,916.

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](mailto:Nathan.Westrup@ks.gov)

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

**Sent:** Friday, March 21, 2025 10:09 AM

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

**Subject:** 51246 Review and recommendation request

Good morning Nathan and Shaun,

I have attached my draft memo and safe yield report for File No. 51,246 for your review and recommendation. This application is essentially replacing File No. 50,916 which the applicants are electing to voluntarily dismiss and have the pending new application take its place.

I sent out nearby letters on February 4<sup>th</sup> and have not received any comments or concerns of any kind.

Please let me know if you have any questions.

Thanks!

Colin Barclay

Environmental Scientist

Division of Water Resources

Kansas Department of Agriculture

Phone: (785) 370-1931

[Colin.Barcly@ks.gov](mailto:Colin.Barcly@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. 51,246** of the applicant

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

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 **May 29, 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	
29 - 3S - 2E													32.5	32.5	32.5	32.5	130.0

3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of one (1) well located in the Southwest Quarter of the Northeast Quarter of the Southeast Quarter (SW¼ NE¼ SE¼) 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, 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 **1,000 gallons per minute (2.23 c.f.s.)** and to a quantity not to exceed **156 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 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 required 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).

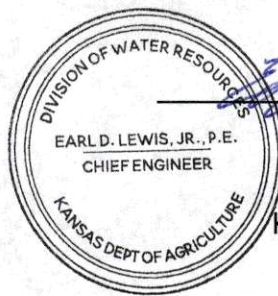
14. That the applicant shall maintain accurate and complete records from which the quantity of water diverted during each calendar year may be readily determined and the applicant shall file an annual water use report with the Chief Engineer by March 1 following the end of each calendar year. Failure 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 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 25<sup>th</sup> 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 25<sup>th</sup> day of March, 2025, by Earl D. Lewis Jr., P.E., Chief Engineer, 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](http://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](http://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: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

  
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Division of Water Resources