

File No. **50948** 15. Formation Code: **211** Drainage Basin: **ARKANSAS RIVER** County: **GY** Special Use: Stream:

16. Points of Diversion										17. Rate and Quantity					
MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Authorized		Additional		
											Rate gpm	Quantity mgy	Rate gpm	Quantity mgy	Overlap PD Files
MOD	90030	SW SW SE			24	27S	30W	5	400	2530	99	4.89	99	4.89	NONE
											(15 AF)		(15 AF)		

18. Storage: Rate _____ NF Quantity _____ ac/ft Additional Rate _____ NF Additional Quantity _____ ac/ft

19. Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____
 Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____

20. Meter Required? Yes No To be installed by **12/31/2024** Date Acceptable Meter Installed _____

21. Place of Use										NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg?	Overlap Files
MOD	DEL	ENT	PUSE	S	T	R	ID	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼						
CHK	71233	30	27S29W	1				EGG PRODUCTION (NW NW)																	7a	N	NONE		

Comments: **15 ACRE-FEET EXEMPTION; WAIVER OF K.A.R. 5/23/3 – WELL TO WELL SPACING INCLUDED**

Kansas Department of Agriculture
 Division of Water Resources
WAIVER REQUEST & WAIVER RULE WORKSHEET

File Number: 50,948

FO: 4 GMD: 3

WAIVER REQUEST:

UMW	Date Requested	Rule ID	Applies	Rule Type	Rule Subtype
IRR	1/30/2023	26	GMD 3	Well Spacing	Well to Well Spacing
Rule Number	Date Granted	Date Denied	Justification:	Application proposes a low yield well (99 g.p.m.) with a small annual quantity (15 AF). Reduced spacing should be sufficient to prevent impairment.	
K.A.R. 5-23-3(a)(1)	9/26/2023				

WAIVER RULE:

Rule ID	Applicability	Type	Subtype	Rule Number	Date Active	Date Inactive

Date Prepared 9/25/2023 By AM

Date Entered 10/3/2023 By KAnderson

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources
M E M O R A N D U M

TO: Files

DATE: September 22, 2023

FROM: Austin McColloch

RE: New Application, File No. 50,948

Charles Koehn has filed the above referenced application proposing to appropriate water at a maximum rate of 99 gallons per minute, and at 15 acre-feet per calendar year for industrial use at a chicken egg production facility. The applicant is requesting a 15 acre-feet exemption based on K.A.R. 5-23-4. The application was received in the Office of the Chief Engineer on January 30, 2023. The proposed application is in the drainage basin of the Arkansas River. The source of supply appears to be the Ogallala formation (211).

The point of diversion is located in the Southwest Quarter of the Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 24 more particularly described as being near a point 400 feet North and 2530 feet West of the Southeast Quarter of said section, in Township 27 South, Range 30 West, Gray County, Kansas. There are no other 15 acre-feet exemption files located within two miles of the proposed point of diversion.

The proposed place of use is chicken egg production facilities located in the Northwest Quarter of the Northwest Quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 30, in Township 27 South, Range 29 West.

Five (5) irrigation wells are located within a half ($\frac{1}{2}$) mile of the point of diversion were identified. All but one well identified meet well spacing requirements as per K.A.R. 5-23-3, however the irrigation well under Water Right, File No. 18317 (ID 3) does not meet spacing requirements. Water Right, File No. 18317 (ID 3) is authorized at 244 acre-feet with a required spacing of 1,600 feet. The proposed point of diversion is located approximately 1,507 feet away. A waiver request for K.A.R. 5-23-3 has been submitted. Nearby letters were sent out on August 10, 2023, notifying of the diversion works proposed. Though no official comments were received, the surrounding owners have been previously aware of the proposed project.

The point of diversion is located within the boundary of Groundwater Management District No. 3. A letter was sent to GMD No. 3 for a recommendation on the application on August 25, 2023. GMD No. 3 provided a recommendation for approval on September 14, 2023 along with the recommendation to approve the waiver of well spacing.

The application has been reviewed by Mike Meyer, Water Commissioner at the Garden City Field Office. In an email dated September 22, 2023, Mr. Meyer recommended the approval of the application.

In accordance with K.S.A. 82a-706(c), the Chief Engineer retains full authority to require any water user to install meters, gauges, or other measuring 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 thru 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.

Based on the above discussion, well spacing regulations are recommended to be waived, the application is not subject to safe yield criteria, and approval of the application will not impair senior water rights nor prejudicially or unreasonably affect the public interest, it is recommended that the referenced application be approved.

A handwritten signature in blue ink, appearing to read "Austin McColloch".

Austin McColloch
Assistant Water Commissioner
Garden City Field Office

From: Meyer, Mike [KDA]
Sent: Fri 9/22/2023 2:47 PM
To: McColloch, Austin [KDA]
Subject: RE: Recommendation New App File No. 50948

approve

From: McColloch, Austin [KDA] <Austin.McColloch@ks.gov>
Sent: Friday, September 22, 2023 1:35 PM
To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Subject: Recommendation New App File No. 50948

Mike,

Attached is my draft memo for the above referenced new application, along with the GMD recommendation. Let me know if you have any questions.

Thanks,

Austin McColloch
Garden City Field Office
Ph: (620) 276-2901

Water Rights and Points of Diversion Within 2 miles of point defined as:
 400 Feet N and 2530 Feet W of the Southeast Corner of Section 24 Twp 27S Rng 30W
 Located at: 100.551669 West Longitude and 37.680001 North Latitude
 GROUNDWATER ONLY

File Number	Use	ST	SR	Dist (ft)	Q4	Q3	Q2	Q1	FeetN	FeetW	Sec	Twp	Rng	ID	Batt	Auth_Quan	Add_Quan					
A__ AF	4809	00	IRR	NK	G				7104	--	SE	NW	NW	4162	4037	36	27	30W	3		210.00	210.00
A__ AF	10609	00	IRR	NK	G				9810	--	NW	NE	SW	2600	3700	14	27	30W	1		500.00	500.00
A__ AF	12255	00	IRR	NK	G				7902	--	NW	SW	SE	1016	2370	18	27	29W	7		160.00	160.00
A__ AF	12850	00	IRR	NK	G				10127	--	NW	NW	SE	2482	2595	35	27	30W	4		520.00	520.00
A__ AF	13575	00	IRR	NK	G*				2085	--	SE	NW	NE	4000	1400	25	27	30W	8		28.00	28.00
Same AF									3830	--	NE	NE	SE	2500	500	25	27	30W	2		173.00	173.00
A__ AF	15288	00	IRR	NK	G				7104	--	SE	NW	NW	4162	4037	36	27	30W	3		480.00	270.00
A__ AF	15820	00	IRR	NK	G				7877	--	SW	NE	NE	4334	877	19	27	29W	4		308.00	308.00
A__ AF	18317	00	IRR	NK	G				1516	--	--	NC	SE	1320	1320	24	27	30W	3		244.00	244.00
Same AF									1699	--	--	NC	SW	1320	3960	24	27	30W	2		272.00	272.00
Same AF									1914	--	NW	NW	SE	2311	2630	24	27	30W	4		300.00	300.00
A__ AF	18595	00	IRR	NK	G				4292	--	SE	SE	NE	2850	340	26	27	30W	2		293.00	293.00
A__ AF	19160	00	IRR	NK	G				9766	--	NW	SE	NW	3730	3830	20	27	29W	7		272.00	272.00
A__ AF	20165	00	IRR	NK	G				9543	--	--	NC	NE	3970	1330	31	27	29W	3		260.00	260.00
A__ AF	20695	00	IRR	NK	G				7269	--	--	NC	SW	1430	3960	18	27	29W	5		367.00	367.00
Same AF									7660	--	NC	E2	E2	2640	675	13	27	30W	3		315.00	315.00
A__ AF	21051	00	IRR	NK	G				5378	--	--	NC	NE	3960	1295	23	27	30W	2	B2	260.00	260.00
Same									5621	--	NE	SW	NE	3953	1597	23	27	30W	5	G2		
Same									5798	--	NE	SW	NE	3945	1844	23	27	30W	6	B2		
A__ AF	21073	00	IRR	NK	G				2085	--	SE	NW	NE	4000	1400	25	27	30W	8		272.00	272.00
A__ AF	22245	00	IRR	NK	G				7450	--	NE	SW	NE	3750	1315	36	27	30W	2		270.00	270.00
A__ AF	22605	00	IRR	NK	G				3249	--	--	--	--	115	4493	19	27	29W	3		504.00	504.00
A__ AF	24236	00	IRR	NK	G				7902	--	NW	SW	SE	1016	2370	18	27	29W	7		269.00	.00
Same AF									8769	--	NE	SW	NW	3340	4425	18	27	29W	6		228.00	.00
A__ AF	25196	D1	IRR	NK	G				2288	--	--	NC	NW	3970	3960	25	27	30W	4		260.00	260.00
A__ AF	25196	D2	IRR	NK	G				8727	--	SW	SW	NW	2724	4940	36	27	30W	4		250.00	250.00
A__ AF	25962	00	IRR	NK	G				7893	--	NW	NW	NE	5180	2500	35	27	30W	2		380.00	380.00
A__ AF	26983	00	IRR	NK	G				9127	--	--	NC	NW	3960	3960	29	27	29W	2		272.00	272.00

A	27166	00	IRR	NK	G	6228	--	--	NC	SE	1320	1320	13	27	30W	2	244.00	189.00
	AF																	
A	29756	00	IRR	NK	G	5804	--	--	--	--	68	2985	23	27	30W	8	248.00	248.00
	AF																	
A	36810	00	IRR	NK	G	9030	--	SE	NW	SW	1352	4068	20	27	29W	6	254.00	254.00
	AF																	
A	50948	00	IND	AY	G	0	--	SW	SW	SE	400	2530	24	27	30W	5	15.00	15.00
	AF																	
T	20197001	MF	IRR	GY	G	9766	--	NW	SE	NW	3730	3830	20	27	29W	7	1258.49	.00
	AF																	
VG	29	00	IRR	AA	G	8880	--	SW	NW	NW	4255	5230	23	27	30W	1	280.00	280.00
	AF																	

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Total Net Quantities Authorized:   Direct           Storage
Total Requested Amount (AF) =      15.00           .00
Total Permitted Amount (AF) =         .00           .00
Total Inspected Amount (AF) =         .00           .00
Total Pro_Cert Amount (AF) =         .00           .00
Total Certified Amount (AF) =      7651.00           .00
Total Vested Amount (AF) =         280.00           .00
TOTAL AMOUNT (AF) =      7946.00           .00

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An * after the source of supply indicates a pending application for change under the file number.
 An * after the ID indicates a 15 AF exemption was granted under the file number.
 A "G" in the Batt column indicates the GEO CTR of a battery. A "B" indicates a well in the battery.
 The number in the Batt column is the number of wells in the battery.

Water Rights and Points of Diversion Within 2 miles of point defined as:
 400 Feet North and 2530 Feet West of the Southeast Corner of Section 24 Twp 27S Rng 30W
 Located at: 100.551669 West Longitude and 37.680001 North Latitude
 GROUNDWATER ONLY
 WATER USE CORRESPONDENTS:

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File Number Use ST SR
> HAMILTON BROS PARTNERSHIP
>
> PO BOX 149
> ENSIGN KS 67841
>-----
> TRAVIS & DAWN WENDEL
>
> PO BOX 664
> CIMARRON KS 67835
>-----
> ROGER W & MARILEE YOST
>
> 21505 8 RD
> MONTEZUMA KS 67867
>-----
> GREGORY C & SUE LOVE
>
> 24506 13 RD
> MONTEZUMA KS 67867
>-----
> PATRICIA KOEHN TRUST
>
> PO BOX 13
> MONTEZUMA KS 67867
>-----
> HAMILTON BROS PARTNERSHIP
>
> PO BOX 149
> ENSIGN KS 67841
>-----
> RALPH & PAMELA S MILLERSHASKI
>

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> 17104 11 RD
> INGALLS KS 67853
>-----
> PATRICIA KOEHN TRUST
>
> PO BOX 13
> MONTEZUMA KS 67867
>-----
> ROSS E & SHERRY R KOEHN
>
> 7505 BB RD
> MONTEZUMA KS 67867
>-----
> JEFF & JENNIFER JANTZ
>
> 28705 9 RD
> MONTEZUMA KS 67867
>-----
> CHARLES L & ANNA M KOEHN
>
> 10202 Y RD
> MONTEZUMA KS 67867
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> CHARLES L & ANNA M KOEHN
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> 10202 Y RD
> MONTEZUMA KS 67867
>-----
> ROGER W & MARILEE YOST
>
> 21505 8 RD
> MONTEZUMA KS 67867
>-----
> JAMES SMITH
>
> 20105 10 ROAD
> INGALLS KS 67853
>-----
> PATRICIA KOEHN TRUST
>
> PO BOX 13
> MONTEZUMA KS 67867
>-----
> R SHANE KOEHN
>
> 28306 8 RD
> MONTEZUMA KS 67867
>-----
> RALPH & PAMELA S MILLERSHASKI
>
> 17104 11 RD
> INGALLS KS 67853
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> ROGER W & MARILEE YOST
>
> 21505 8 RD
> MONTEZUMA KS 67867
>-----
> JEFF & JENNIFER JANTZ
>
> 28705 9 RD
> MONTEZUMA KS 67867
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> HAMILTON BROS PARTNERSHIP
>
> PO BOX 149
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> ENSIGN KS 67841  
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> GREGORY C & SUE LOVE  
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> 24506 13 RD  
> MONTEZUMA KS 67867  
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> TRAVIS & VALERIE ISAAC  
>  
> 28403 6 RD  
> MONTEZUMA KS 67867  
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> ROGER W & MARILEE YOST  
>  
> 21505 8 RD  
> MONTEZUMA KS 67867  
>-----  
> NICHOLAS C & CARLA J KOEHN  
>  
> 2304 W RD  
> COPELAND KS 67837  
>-----  
> TRAVIS & VALERIE ISAAC  
>  
> 28403 6 RD  
> MONTEZUMA KS 67867  
>-----  
> CHARLES L & ANNA M KOEHN  
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> 10202 Y RD  
> MONTEZUMA KS 67867  
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> CHARLES L & ANNA M KOEHN  
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> MONTEZUMA KS 67867  
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> JAMES SMITH  
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> 20105 10 ROAD  
> INGALLS KS 67853  
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# 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. 50,948** of the applicant

**CHARLES L KOEHN  
10202 Y RD  
MONTEZUMA KS 67867-9045**

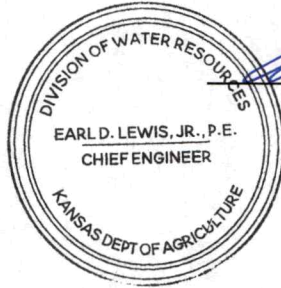
for a permit to appropriate water for beneficial use, together with the maps, plans and other submitted data, and that the application is hereby approved and the applicant is hereby authorized, subject to vested rights and prior appropriations, to proceed with the construction of the proposed diversion 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 **January 30, 2023**.
2. That the water sought to be appropriated shall be used for industrial use in the Northwest Quarter of the Northwest Quarter (NW $\frac{1}{4}$  NW $\frac{1}{4}$ ) of Section 30, in Township 27 South, Range 29 West, Gray County, Kansas.
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 Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section 24, more particularly described as being near a point 400 feet North and 2,530 feet West of the Southeast corner of said section, in Township 27 South, Range 30 West, Gray 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 **99 gallons per minute (0.22 c.f.s.)** and to a quantity not to exceed **4.89 million gallons of water (15 acre-feet)** for any calendar year.
5. That installation of works for diversion of water shall be completed on or before **December 31, 2024**, 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, 2028**, 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 failure without cause to comply with provisions of the 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 26<sup>th</sup> day of September, 2023, 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 26 day of September, 2023, by Earl D. Lewis Jr., P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.

*Melinda Jennings*  
\_\_\_\_\_  
Notary Public



THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE  
Mike Beam, Secretary of Agriculture

DIVISION OF WATER RESOURCES  
Earl D. Lewis Jr., Chief Engineer

WAIVER OF REGULATION

K.A.R. 5-23-3(a)(1)

Date: September 26, 2023

Re: Application of Appropriation, File No. 50,948

1. That K.A.R. 5-23-3(a)(1) states in part, that the minimum well spacing shall be based on the maximum annual quantity of water in acre-feet authorized and requested for the proposed well or authorized and requested by a senior application, permit or water right.
2. K.A.R. 5-23-3(a)(1) requires a minimum well spacing of 1,600 feet between wells authorized between 201 and 300 acre-feet.
3. The proposed point of diversion, for File No. 50,948 and a well authorized by Water Right, File No. 18,317 is approximately 1,500 feet apart.
4. That the rate and quantity proposed by the new application for the new well is 99 gallons per minute and 15 acre-feet per year.
5. That the proposed reduced spacing appears to be sufficient to prevent direct impairment.
6. That the Southwest Groundwater Management District No. 3, Board of Directors recommended approval of the proposed application with a waiver of the well spacing requirements.
7. That a waiver of K.A.R. 5-23-3(a)(1) will not prejudicially or unreasonably affect the public interest and will not impair any existing water rights.

Comments:

A handwritten signature in blue ink, appearing to read "Earl D. Lewis Jr.", written over a horizontal line.

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

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

October 12, 2023

CHARLES L KOEHN  
10202 Y RD  
MONTEZUMA KS 67867-9045

RE: Appropriation of Water  
File No. 50,948

Dear Mr. Koehn:

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.

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 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 [www.kswaterusereport.org](http://www.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.

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](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 Garden City Field Office at 620-276-2901. 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:am

Enclosure(s)

pc: Garden City Field Office  
Southwest Kansas GMD No. 3



## 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:

- 1) request an evidentiary hearing before the Chief Engineer, or
- 2) 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 Section, 1320 Research Park Drive, Manhattan, KS 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 hearing 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, KS 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.

Any request for hearing or petition for administrative review shall be in writing and shall be submitted to the attention of: Chief Legal Counsel, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, Fax: (785) 564-6777.

## CERTIFICATE OF SERVICE

On this 12 day of October, 2023, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,948, dated September 26, 2023, was mailed postage prepaid, first class, US mail to the following:

CHARLES L & ANNA M KOEHN  
10202 Y RD  
MONTEZUMA KS 67867-9045

With photocopies to:

Garden City Field Office

Southwest Kansas GMD No. 3

  
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Division of Water Resources