

File No. **50962** 15. Formation Code: **211/331** Drainage Basin: **ARKANSAS RIVER** County: **GT** 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/cfs	Quantity af/mgy	Rate gpm/cfs	Quantity af/mgy	Overlap PD Files
MOD			90076	NE SE SW	20	27S	35W	5	1117	2654	50	10	50	10	NONE
												3.258 MGY		3.258 MGY	

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 **12/31/2025** 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			71236	20	27S	35W	5					EGG FARM (N2 SW)															7a	N	NONE

Comments: **REDUCTION F&O IN PU FOR FILE NOS. 3499 & 26906 (INCLUDED WITH PACKET) NEED TO BE DONE FIRST TO PREVENT TWO UMW ON SAME PU**

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

TO: Files

DATE: October 9, 2023

FROM: Austin McColloch

RE: New Application, File No. 50,962

Kendall Koehn has filed the above referenced application proposing to appropriate water at a maximum rate of 50 gallons per minute, and at 3.258 million gallons (10 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 February 8, 2023. The proposed application is in the drainage basin of the Arkansas River. The source of supply appears to be the Ogallala / unconfined Dakota formation (211/331).

The point of diversion is located in the Northeast Quarter of the Southwest Quarter of the Southeast Quarter (NE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 20 more particularly described as being near a point 1,117 feet North and 2,654 feet West of the Southeast Quarter of said section, in Township 27 South, Range 35 West, Grant 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 are chicken egg production facilities located in the North Half of the Southwest Quarter (N $\frac{1}{2}$ SW $\frac{1}{4}$) of Section 20, in Township 27 South, Range 35 West, Grant County, Kansas.

Two (2) irrigation wells and two (2) domestic wells are located within a half ($\frac{1}{2}$) mile of the point of diversion were identified. The two domestic wells and one of the two irrigation wells are owned by the applicant. The other irrigation well is owned by Dale & Mary Beth Koehn, whose water right overlaps with the water right owned by the applicant. 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. 3499 does not meet spacing requirements. Water Right, File No. 3499 is authorized at 960 acre-feet with a required spacing of 2,300 feet. The proposed point of diversion is located approximately 1,500 feet away. A waiver request for K.A.R. 5-23-3 has been submitted. Nearby letters were sent out on August 7, 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 22, 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 October 9, 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

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

File Number: 50,962

FO: 4 GMD: 3

WAIVER REQUEST:

UMW	Date Requested	Rule ID	Applies	Rule Type	Rule Subtype
IRR	2/8/2023	26	GMD 3	Well Spacing	Well to Well Spacing
Rule Number	Date Granted	Date Denied	Justification:	The spacing between wells appears to be sufficient to prevent direct impairment based on the low rate of diversion and small annual quantity of water proposed by the new application.	
K.A.R. 5-23-3(a)(1)	10/16/2023				

WAIVER RULE:

Rule ID	Applicability	Type	Subtype	Rule Number	Date Active	Date Inactive

Date Prepared 10/9/2023 By AM

Date Entered 10/18/2023 By LMoody

Water Rights and Points of Diversion Within 2 miles of point defined as:
 1117 Feet N and 2654 Feet W of the Southeast Corner of Section 20 Twp 27S Rng 35W
 Located at: 101.172629 West Longitude and 37.681190 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	365 00	IRR	NK	G	10237	--	NE	NE	SE	2610	125	13	27	36W	5	400.00	400.00
A__ AF	803 00	IRR	NK	G	10237	--	NE	NE	SE	2610	125	13	27	36W	5	160.00	160.00
A__ AF	2686 00	IRR	NK	G	7786	--	SE	SE	NE	3167	110	17	27	35W	3	640.00	640.00
A__ AF	3175 00	IRR	NK	G	10494	--	NW	NE	SW	2508	3499	27	27	35W	3	1087.00	1087.00
A__ AF	3496 00	IRR	NK	G	7567	--	NW	NW	NW	4742	5060	33	27	35W	4	792.00	792.00
A__ AF	3499 00	IRR	NK	G	1610	--	NW	NE	NW	5195	3645	29	27	35W	3	960.00	960.00
A__ AF	6254 00	IRR	NK	G	9795	--	SW	NE	SE	1953	1088	25	27	36W	4	1264.00	1264.00
A__ AF	7899 00	IRR	NK	G	7786	--	SE	SE	NE	3167	110	17	27	35W	3	232.00	232.00
A__ AF	9217 00	IRR	NK	G	10220	--	NW	NW	SE	2476	2563	24	27	36W	2	640.00	640.00
A__ AF	9279 00	IRR	NK	G	9795	--	SW	NE	SE	1953	1088	25	27	36W	4	1280.00	16.00
A__ AF	10315 00	IRR	NK	G	3601	--	--	CW	NW	-----	-----	28	27	35W	1	680.00	680.00
A__ AF	13190 00	IRR	NK	G	7786	--	SE	SE	NE	3167	110	17	27	35W	3	595.00	.00
A__ AF	13197 00	IRR	NK	G	7786	--	SE	SE	NE	3167	110	17	27	35W	3	548.00	.00
A__ AF	18346 00	IRR	NK	G	2864	--	SE	NE	NW	3961	2980	20	27	35W	4	306.00	306.00
A__ AF	18985 00	IRR	NK	G	7161	--	NW	NW	SE	2082	2274	28	27	35W	4	640.00	488.00
A__ AF	21850 00	IRR	NK	G	7833	--	--	--	--	3308	4862	19	27	35W	3	557.00	557.00
A__ AF	22269 00	IRR	NK	G	7543	--	SE	SE	NE	2890	150	18	27	35W	2	488.00	353.00
A__ AF	22271 00	IRR	NK	G	2864	--	SE	NE	NW	3961	2980	20	27	35W	4	260.00	260.00
A__ AF	23758 00	IRR	NK	G	4104	--	SE	NE	NE	4282	26	20	27	35W	3	320.00	320.00
A__ AF	23783 00	IRR	NK	G	6113	--	--	CE	SE	1320	30	17	27	35W	2	320.00	320.00
A__ AF	25970 00	IRR	NK	G	9890	--	NW	NW	NW	5225	4862	16	27	35W	3	272.00	272.00
A__ AF	26906 00	IRR	NK	G	2517	NC	W2	W2	SW	1320	5150	20	27	35W	2	310.00	310.00
A__ AF	27001 D1	IRR	NK	G	8513	--	NE	NE	SW	2550	2750	16	27	35W	2	493.00	493.00
A__ AF	27001 D2	IRR	NK	G	5472	--	NE	SE	NW	3720	3150	21	27	35W	3	472.00	472.00
A__ AF	27039 00	IRR	NK	G	8103	--	NE	SW	NW	3861	4567	32	27	35W	4	628.00	628.00
A__ AF	27766 00	IRR	NK	G	3990	--	--	NC	SE	1320	1320	19	27	35W	2	255.00	255.00
A__ AF	28761 00	IRR	NK	G	10214	--	SE	SW	SE	30	1328	7	27	35W	4	272.00	272.00

A	31739	00	IRR	NK	G	6439	--	SE	SW	SE	30	1633	21	27	35W	2	638.00	638.00	
AF																			
A	50962	00	IND	AY	G	3129	--	--	--	NW	3960	3960	20	27	35W	5	10.00	10.00	
AF																			

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Total Net Quantities Authorized:   Direct           Storage
Total Requested Amount (AF) =      10.00           .00
Total Permitted Amount (AF) =         .00           .00
Total Inspected Amount (AF) =         .00           .00
Total Pro_Cert Amount (AF) =         .00           .00
Total Certified Amount (AF) =    12815.00           .00
Total Vested Amount (AF) =          .00           .00
TOTAL AMOUNT (AF) =    12825.00           .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:
 1117 Feet North and 2654 Feet West of the Southeast Corner of Section 20 Twp 27S Rng 35W
 Located at: 101.172629 West Longitude and 37.681190 North Latitude
 GROUNDWATER ONLY

WATER USE CORRESPONDENTS:

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File Number Use ST SR
> J & L SMITH FARMS INC
> BRYAN SMITH
> 9170 E ROAD 2
> ULYSSES KS 67880
>-----
> J & L SMITH FARMS INC
> BRYAN SMITH
> 9170 E ROAD 2
> ULYSSES KS 67880
>-----
> MICHAEL MEYER
>
> 8900 N ROAD U
> ULYSSES KS 67880
>-----
> TODD & LORETTA NICHOLS
>
> 5444 N ROAD V
> ULYSSES KS 67880
>-----
> MARK A FAULKNER REV TRUST
>
> PO BOX 629
> ULYSSES KS 67880
>-----
> KENDALL KOEHN
>
> 10018 E ROAD 5
> ULYSSES KS 67880
>-----
> DOUGLAS K & JANA KOEHN
>
> 13880 E ROAD 7
> ULYSSES KS 67880
>-----
> MICHAEL MEYER
>
> 8900 N ROAD U
> ULYSSES KS 67880
>-----

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> J & L SMITH FARMS INC  
> BRYAN SMITH  
> 9170 E ROAD 2  
> ULYSSES KS 67880  
>-----  
> DOUGLAS K & JANA KOEHN  
>  
> 13880 E ROAD 7  
> ULYSSES KS 67880  
>-----  
> CLIFFORD ALEXANDER  
>  
> 337 ROAD 50  
> SATANTA KS 67870  
>-----  
> MICHAEL MEYER  
>  
> 8900 N ROAD U  
> ULYSSES KS 67880  
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> MICHAEL MEYER  
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> 8900 N ROAD U  
> ULYSSES KS 67880  
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> DUSTIN D COVEY  
>  
> 3499 N ROAD T  
> ULYSSES KS 67880  
>-----  
> MARK A FAULKNER REV TRUST  
>  
> PO BOX 629  
> ULYSSES KS 67880  
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> J & L SMITH FARMS INC  
> BRYAN SMITH  
> 9170 E ROAD 2  
> ULYSSES KS 67880  
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> J & L SMITH FARMS INC  
> BRYAN SMITH  
> 9170 E ROAD 2  
> ULYSSES KS 67880  
>-----  
> DUSTIN D COVEY  
>  
> 3499 N ROAD T  
> ULYSSES KS 67880  
>-----  
> STEVEN BETTS  
>  
> PO BOX 16184  
> LUBBOCK TX 79490  
>-----  
> DEW FARMS INC  
> BRAD DEW  
> 525 W 3050 S  
> MAPLETON UT 84664  
>-----  
> MICHAEL MEYER  
>  
> 8900 N ROAD U  
> ULYSSES KS 67880  
>-----  
> KENDALL KOEHN

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> 10018 E ROAD 5  
> ULYSSES KS 67880  
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> DENTON W & MAUREEN JO KOEHN  
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> 7891 N ROAD V  
> ULYSSES KS 67880  
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> DENTON W & MAUREEN JO KOEHN  
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> 7891 N ROAD V  
> ULYSSES KS 67880  
>-----  
> MATT ISAAC  
>  
> 5947 N ROAD U  
> ULYSSES KS 67880  
>-----  
> SYRACUSE DAIRY LLC  
> EAST FARM  
> 751 SE CR 36  
> SYRACUSE KS 67878  
>-----  
> FARMERS NATIONAL COMPANY  
> COLE OWENS  
> PO BOX 1834  
> GARDEN CITY KS 67846  
>-----  
> KENDALL KOEHN  
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> 10018 E ROAD 5  
> ULYSSES KS 67880  
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> KENDALL KOEHN  
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> 10018 E ROAD 5  
> ULYSSES KS 67880  
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**From:** Meyer, Mike [KDA]  
**Sent:** Mon 10/9/2023 2:39 PM  
**To:** McColloch, Austin [KDA]  
**Subject:** RE: Recommendation New App File No. 50962

Approve  
thanks

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**From:** McColloch, Austin [KDA] <Austin.McColloch@ks.gov>  
**Sent:** Monday, October 9, 2023 2:31 PM  
**To:** Meyer, Mike [KDA] <Mike.Meyer@ks.gov>  
**Subject:** Recommendation New App File No. 50962

Mike,

Attached is my draft application for the above referenced new app along with the gmd recommendation. This is a 10 AF exemption application with a request for well to well spacing waiver. Also, there will be reductions on two water rights in place of use to not create an overlap with the proposed industrial use. Let me know if you have any questions.

Thanks,

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

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. 50,962** of the applicant

**KENDALL KOEHN  
10018 E ROAD 5  
ULYSSES KS 67880-8034**

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 **February 8, 2023**.
2. That the water sought to be appropriated shall be used for industrial use in the North Half of the Southwest Quarter (N $\frac{1}{2}$  SW $\frac{1}{4}$ ) of Section 20, in Township 27 South, Range 35 West, Grant 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 Northeast Quarter of the Southeast Quarter of the Southwest Quarter (NE $\frac{1}{4}$  SE $\frac{1}{4}$  SW $\frac{1}{4}$ ) of Section 20, more particularly described as being near a point 1,117 feet North and 2,654 feet West of the Southeast corner of said section, in Township 27 South, Range 35 West, Grant 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 **50 gallons per minute (0.11 c.f.s.)** and to a quantity not to exceed **3.258 million gallons (10 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, 2025**, 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, 2029**, 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).

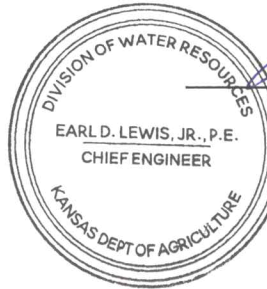
13. That the applicant shall maintain accurate and complete records from which the quantity of water diverted during each calendar year may be readily determined and the applicant shall file an annual water use report with the Chief Engineer by March 1 following the end of each calendar year. Failure 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 *16<sup>th</sup>* day of *October*, 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 *16* day of *October*, 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)

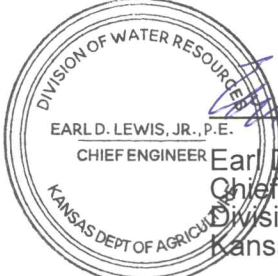
Date: October 16, 2023

Re: Application, File No. 50,962

1. That K.A.R. 5-23-3(a)(1) states in part, that the minimum spacing between wells 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. That in the case of Application, File No. 50,962, K.A.R. 5-23-3(a)(1) requires a minimum well spacing of 2,300 feet between wells authorized greater than 500 acre-feet.
3. That the proposed well, for Application, File No. 50,962, and an existing well authorized by Water Right, File No. 3,499, authorized for 960 acre-feet, are approximately 1,500 feet apart.
4. That Application, File No. 50,962, proposes a maximum diversion rate of 50 gallons per minute and an annual quantity of 10 acre-feet.
5. That the spacing between wells appears to be sufficient to prevent direct impairment based on the low rate of diversion and small annual quantity of water proposed by the new application.
6. That the Southwest Kansas GMD No. 3, Board of Directors recommended approval of the proposed application with a waiver of the spacing.
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:

  
\_\_\_\_\_  
EARL D. LEWIS, JR., P.E.  
CHIEF ENGINEER  
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 19, 2023

KENDALL KOEHN  
10018 E ROAD 5  
ULYSSES KS 67880-8034

RE: Appropriation of Water  
File No. 50,962

Water Right  
File Nos. 3,499 and 26,906

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. Finding and Orders by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, which set forth the modified place of use under Water Right, File Nos. 3,499 and 26,906, are also enclosed. Since these Orders affect the water rights appurtenant to your land, it is important that this information be recorded in the Register of Deeds for the county or counties wherein the place of use is located as an instrument affecting the real estate or property value.

For your new permit a 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 the new 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.



KENDALL KOEHN  
File Nos. 3,499, 26,906 and 50,962  
Page 2 of 2

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 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  
Dale & Mary Beth Koehn

## 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 19 day of October, 2023, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,962, dated October 16 was mailed postage prepaid, first class, US mail to the following:

Original to:

KENDALL KOEHN  
10018 E ROAD 5  
ULYSSES KS 67880-8034

With photocopies to:

Garden City Field Office

Southwest Kansas GMD No. 3

  
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Division of Water Resources