

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

1. File Number: <p style="text-align: center; font-size: 1.2em;">50,645</p>	2. Status Change Date: <p style="text-align: center; font-size: 1.2em; color: purple;">9/21/2022</p>	3. Field Office: <p style="text-align: center; font-size: 1.2em;">02</p>	4. GMD:
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5. Status: Approved Denied by DWR/GMD Dismiss by Request/Failure to Return

6. Enclosures: Check Valve N of C Form Water Tube Driller Copy Meter

7a. Applicant(s) Person ID **63105**
New to system Add Seq# _____

JOHN HERVEY
785 N WEBB RD
BELLE PLAINE KS 67013

7b. Landowner(s) Person ID **63667**
New to system Add Seq# _____

SHORT LAND COMPANY LLC
PO BOX 729
OXFORD KS 67119

7c. Landowner(s) Person ID _____
New to system Add Seq# _____

7d. Misc. Person ID _____
New to system Add Seq# _____

8. WUR Correspondent Person ID _____
New to system Add Seq# _____
Overlap File (s) WUC Notarized WUC Form
Agree Yes No
7b

9. Use of Water: Changing? Yes No

Groundwater Surface Water

IRR REC DEW MUN

STK SED DOM CON

HYD DRG WTR PWR ART RECHRG

IND SIC: _____ OTHER: _____

10. Completion Date: 12/31/2023 11. Perfection Date: 12/31/2027 12. Exp Date: _____

13. Conservation Plan Required? Yes No Date Required: _____ Date Approved: _____ Date to Comply: _____

14. Water Level Measuring Device? Yes No Date to Comply: 12/31/2023 Date WLMD Installed: _____

Date Prepared: **06/20/22** By: **JNE**

Date Entered: 9/26/2022 By: LMoody

9/2/2022
JDK

File No. **50,645** 15. Formation Code: **113** Drainage Basin: **ARKANSAS RIVER** County: **SU** Special Use: Stream:

16. Points of Diversion									
MOD	PDIV	Qualifier	S	T	R	ID	'N	'W	
CHK	89050	NW SW NE	10	32S	2E	12	3623'	2321'	GEO
ENT	89792	NW SW NE	10	32S	2E		3712'	2430'	1 OF 4
ENT	89793	NW SW NE	10	32S	2E		3533'	2212'	2 OF 4
ENT	89794	SW SW NE	10	32S	2E		2959'	2181'	3 OF 4
ENT	89795	SE SW NE	10	32S	2E		3249'	1891'	4 OF 4

17. Rate and Quantity				
Authorized		Additional		
Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files
800	377	800	377	NONE

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 **12/31/2023** Date Acceptable Meter Installed _____

21. Place of Use										NE¼		LOT 4				SW¼				SE¼				Total	Owner	Chg? NO	Overlap Files
MOD	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	65596	10	32S	2E	2			36.5	39.5					37.5			35.5	39.0	39.0	36.5	26.5	290.0	7b	NO	48964		

Comments: **PU OVERLAPS FILE NO. 49064 WHICH IS BEING DISMISSED**

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: File

DATE: June 20, 2022

FROM: Jessica Engelbrecht

RE: Application, File No. 50,335

John Hervey has filed the referenced application to appropriate groundwater for irrigation use, requesting a battery of four (4) wells, a quantity of 377 acre-feet, and a diversion rate of 800 gallons per minute. The geographic center is to be located in the Northwest Quarter of the Southwest Quarter of the Northeast Quarter (NW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 10, more particularly described as being near a point 3,623 feet North and 2,321 feet West of the Southeast corner of said section, in Township 32 South, Range 2 East, Sumner County, within the Arkansas River drainage basin. The referenced application is being proposed to replace Appropriation File No. 49,064 which was completed 400 feet away from the authorized location. The applicant has signed a voluntary dismissal form for Appropriation, File No. 49,064, contingent upon the approval of the above referenced application. The proposed place of use is owned by Short Land Company. The applicant has signed the application form stating he has legal access to the point of diversion.

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 7,719 acres. With a potential annual recharge of 3.1 inches, and 100% of recharge available for appropriation, safe yield was determined to be 1,994.2 acre-feet. Existing water rights have appropriated 653.5 acre-feet. Due to the applicant signing a voluntary dismissal form dismissing File No. 49,064 (contingent upon the approval of the referenced application) 162.5 acre-feet can also be removed from the existing appropriated quantity, providing a difference of 1,503.2 acre-feet. The application is requesting 377.0 acre-feet which complies with safe yield.

The applicant identified that there are no nearby domestic wells within one-half mile of the proposed well. According to WRIS, the nearest non-domestic point of diversion (File No. 48,305) is located approximately 1,444 feet away. A nearby notification letter was sent out on January 27, 2022. No contact of any kind was received. It should be noted that the owner of 48,305 (Mark Lawless) contacted DWR staff with concerns on November 4, 2014, after receiving a nearby notification letter for Application, File No. 49,064. Based off the map submitted with the application, the nearest domestic well appears to be approximately 3,000 feet away. The proposed point of diversion meets minimum well spacing criteria to all existing wells. Per the requirements in K.A.R. 5-4-4 for all other aquifers, the minimum well spacing should be 2,640 feet from non-domestic wells and 660 feet to domestic wells.

A driller's log shows clay from 0 to 20 feet, medium sand with clay layers from 20 to 32 feet, clay from 32 to 35 feet, medium sand with clay layers from 35 to 58 feet, and shale from 58 to 63 feet. Static water level was approximately 19 feet below ground surface which provides a saturated thickness of approximately 39 feet.

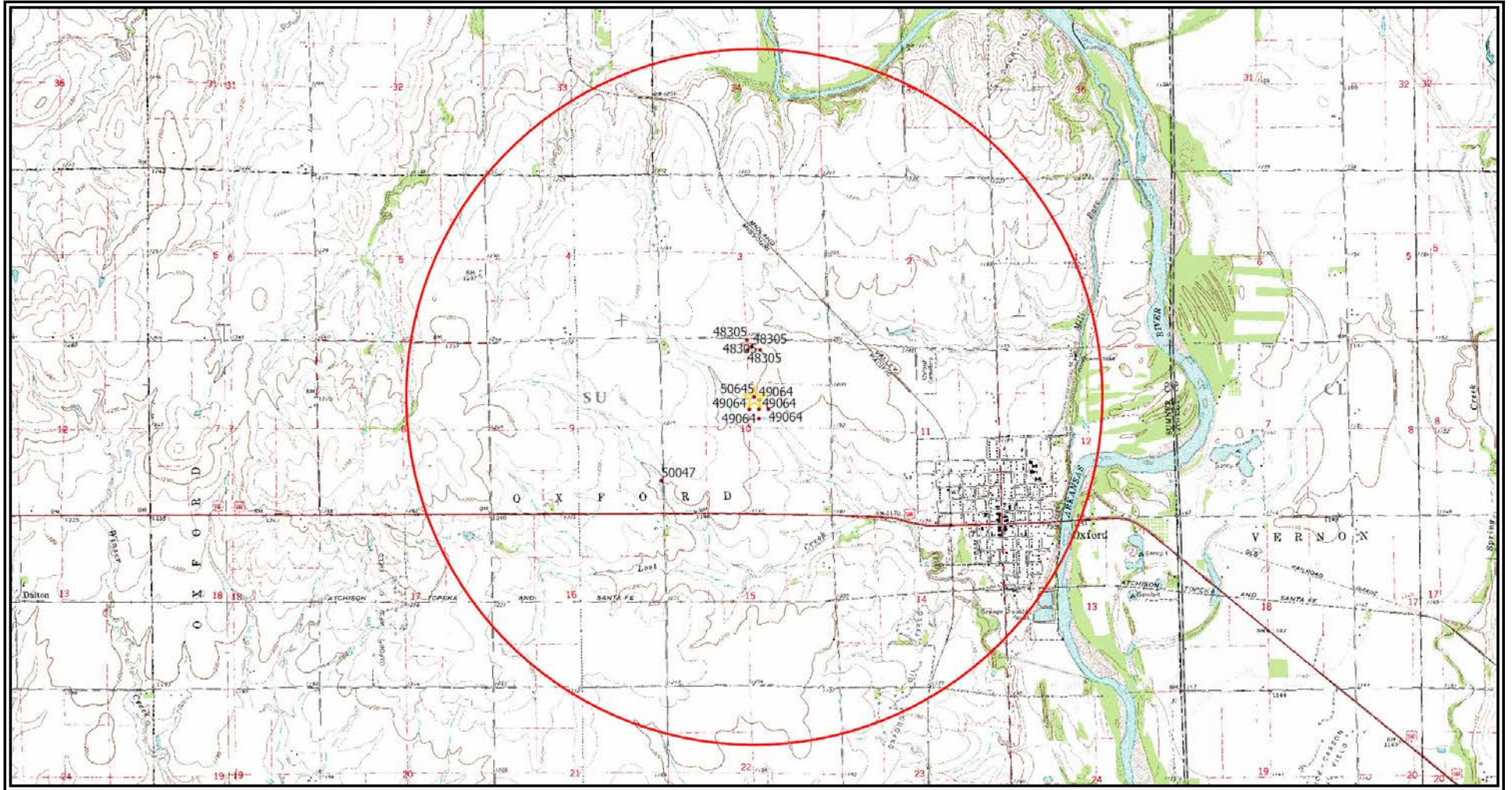
The requested quantity of water, 377 acre-feet, is to irrigate the proposed 290 acres identified in the application. This comes out to 1.3 acre-feet per acre which is the maximum allowable of 1.3 acre-feet per acre for Sumner County, Kansas. The requested rate appears to be reasonable to operate the proposed irrigation system and cover the acreage.

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.

Application, File No. 50,645
Page 2

Jeff Lanterman, Water Commissioner, Stafford Field Office, recommended approval of the referenced application on June 29, 2022. Based on the above discussion, well spacing and safe yield criteria are met, 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.

Safe Yield Report Sheet
Water Right- Proposed Point of Diversion
Point of Diversion in 10-32S-02E
Footages from SE corner- 3,623 feet North 2,321 feet West



Analysis Results

The selected PD is in an area OPEN to new appropriations.

The safe yield based on the variables listed below is 2,077.64 AF.

Total prior appropriations in the circle is 1,030.50 AF.

Total quantity of water available for appropriation is 1,047.14 AF.

Safe Yield Variables

The area used for the analysis is set at 8,042 acres.

The potential annual recharge at the circle center is estimated to be 3.1 inches.

The percent of recharge available for appropriation is 100%.

Authorized Quantity values are as of 07-MAR-2022 and are based on Appropriated and Vested ground water right and possible stream nodes for GMD #2. Domestic, Term and Temporary water rights have been excluded.

There are 4 water rights and 11 points of diversion within the circle.

File Number	Use	ST	SR	Q4	Q3	Q2	Q1	FeetN	FeetW	Sec	Twp	Rng	ID	Qind	Auth Quant	Add Quant	Tot Acres	Net Acres
A 48305 00	IRR	NK	G		NW	NW	NE	5158	2384	10	32	02E	1	WR	91.00	91.00	75.00	75.00
Same	IRR	NK	G		NW	NW	NE	5054	2118	10	32	02E	2	WR				
Same	IRR	NK	G		NW	NW	NE	5054	2514	10	32	02E	3	WR				
Same	IRR	NK	G		NW	NW	NE	5367	2520	10	32	02E	4	WR				
A 49064 00	IRR	KK	G		SW	SW	NE	3249	2181	10	32	02E	7	WR	162.50	162.50	160.00	160.00
Same	IRR	KK	G		NW	SW	NE	3539	2181	10	32	02E	8	WR				
Same	IRR	KK	G		SW	SW	NE	2959	2181	10	32	02E	9	WR				
Same	IRR	KK	G		SW	SW	NE	3249	2471	10	32	02E	10	WR				
Same	IRR	KK	G		SE	SW	NE	3249	1891	10	32	02E	11	WR				
A 50047 00	IRR	KE	G		NE	SE	SE	1001	72	09	32	02E	5	WR	400.00	400.00	308.00	308.00
A 50645 00	IRR	AY	G		NW	SW	NE	3623	2321	10	32	02E	12	WR	377.00	377.00	290.00	141.50

Engelbrecht, Jessica [KDA]

From: Lanterman, Jeff [KDA]
Sent: Wednesday, June 29, 2022 9:54 AM
To: Engelbrecht, Jessica [KDA]
Subject: RE: Memo 50645

Importance: High

Follow Up Flag: Follow up
Flag Status: Flagged

Jessica this one looks good to go. I recommend approval.

Thanks
Jeff

From: Engelbrecht, Jessica [KDA] <Jessica.Engelbrecht@ks.gov>
Sent: Wednesday, June 29, 2022 8:45 AM
To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>
Subject: FW: Memo 50645
Importance: High

I forgot to mark this one as high importance so it might have gotten lost in your email.

Jessica

From: Engelbrecht, Jessica [KDA]
Sent: Monday, June 20, 2022 2:55 PM
To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>
Subject: Memo 50645

Jeff,
Attached is the memo for 50,645 and corresponding documents.
The application is an irrigation application filed to correct File No. 49,064 which will be dismissed contingent upon the approval of this application.

Jessica Engelbrecht, Environmental Scientist
KDA Division of Water Resources
Stafford Field Office
(620) 234-5311 Office
(620) 234-6900 Fax
Jessica.engelbrecht@ks.gov
www.agriculture.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. 50,645** of the applicant

**JOHN R HERVEY
785 N WEBB RD
BELLE PLAINE KS 67013**

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 **September 10, 2021**.
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	
10	32S	2E			36.5	39.5					37.5			35.5	39.0	39.0	36.5	26.5	290

3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of a battery of four (4) wells with a geographic center located in the Northwest Quarter of the Southwest Quarter of the Northeast Quarter (NW¼ SW¼ NE¼) of section 10, more particularly described as being near a point 3,623 feet North and 2,321 feet West of the Southeast corner of said section, in Township 32 South, Range 2 East, Sumner Country, 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 **800 gallons per minute (1.78 c.f.s.)** and to a quantity not to exceed **377 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, 2023**, 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, 2027** 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. 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).

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 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.

17. 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.

18. That this permit is limited such that all wells shall be located within a three hundred (300) foot radius circle in the same local source of supply and shall supply water to a common distribution system.

Ordered this 21 day of September, 2022, in Manhattan, Riley County, Kansas.

Lane P. Letourneau

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

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 21 day of September, 2022, by Lane P. Letourneau, P.G., Program Manager, Division of Water Resources, Kansas Department of Agriculture.



Ashlee Freeman

Notary Public

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

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

JOHN HERVEY
785 N WEBB RD
BELLE PLAINE, KS 67013

September 28, 2022

RE: Application, File No. 50,645

Dear Water User:

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 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.

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/divisions-programs/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 Stafford Field Office at 620-234-5311. 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: jne
Enclosures pc:
Stafford Field Office
Short Land Company LLC

CERTIFICATE OF SERVICE

On this 28 day of September, 2022, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,645, dated 21 September 2022 was mailed postage prepaid, first class, US mail to the following:

JOHN HERVEY
785 N WEBB RD
BELLE PLAINE KS 67013

With photocopies to:

Stafford Field Office

SHORT LAND COMPANY LLC
PO BOX 729
OXFORD KS 67119



Division of Water Resources