

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;">50,397</p>	2. Status Change Date: <p style="text-align: center; color: purple;">1/29/2021</p>	3. Field Office: <p style="text-align: center; font-size: 1.2em;">3</p>	4. GMD: <p style="text-align: center; font-size: 1.2em;">0</p>
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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

<p>7a. Applicant(s) Person ID 63121 New to system <input type="checkbox"/> Add Seq# _____</p> <p style="margin-left: 20px;">MATTHEW TOLL PO BOX 45 LINDSBORG, KS 67456</p>	<p>7c. Landowner(s) Person ID _____ New to system <input type="checkbox"/> Add Seq# _____</p>
<p>7b. Landowner(s) Person ID 66924 New to system <input type="checkbox"/> Add Seq# _____</p> <p style="margin-left: 20px;">CRAIG L MYERS 15735 STONINGTON DR WAMEGO, KS 66547</p>	<p>7d. Misc. Person ID 28976 New to system <input type="checkbox"/> Add Seq# _____</p> <p style="margin-left: 20px;">KANSAS WATER OFFICE 900 SW JACKSON ST STE 404 TOPEKA KS 66612</p>

<p>8. WUR Correspondent Person ID _____ New to system <input type="checkbox"/> Add Seq# _____ Overlap File (s) WUC Notarized WUC Form <input type="checkbox"/> Agree <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p style="margin-left: 20px;">7a.</p>	<p>9. Use of Water: Changing? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p style="margin-left: 40px;"><input type="checkbox"/> Groundwater <input checked="" type="checkbox"/> Surface Water</p> <p><input checked="" type="checkbox"/> IRR <input type="checkbox"/> REC <input type="checkbox"/> DEW <input type="checkbox"/> MUN</p> <p><input type="checkbox"/> STK <input type="checkbox"/> SED <input type="checkbox"/> DOM <input type="checkbox"/> CON</p> <p><input type="checkbox"/> HYD DRG <input type="checkbox"/> WTR PWR <input type="checkbox"/> ART RECHRG</p> <p><input type="checkbox"/> IND SIC: _____ <input type="checkbox"/> OTHER: _____</p>
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10. Completion Date: ~~12/31/2021~~ 2022 11. Perfection Date: ~~12/31/2025~~ 2026 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: _____ Date WLMD Installed: _____

<p style="color: red; font-weight: bold;">12/7/2020 KJN</p>	<p>Date Prepared: 7/28/2020 By: DWS</p> <p>Date Entered: 2/1/2021 By: LMoody</p>
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File No. **50,397** 15. Formation Code: Drainage Basin: SMOKY HILL RIVER County: **MP** Special Use: Stream: SMOKY HILL RIVER

16. Points of Diversion										
MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W
√				88213 SW SW SW	5	17	5W	2	257	5122
Pd Comment: LOWER SMOKY HILL RIVER										

17. Rate and Quantity MOD ADDL QTY				
Authorized		Additional		
Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files
750	85	750	40	2960-D2

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

19. Limitation: **85** af/yr at _____ gpm (_____ cfs) when combined with file number(s) **2,960-D2**
 Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____

20. Meter Required? Yes No To be installed by **12/31/2021** ²⁰²² Date Acceptable Meter Installed _____

21. Place of Use										Total	Owner	Chg? NO	Overlap Files																
MOD	DEL	ENT	PUSE	S	T	R	ID	NE¼						NW¼				SW¼				SE¼							
								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						
√			8913	8	17	5W	1						37	38											75	7b.	No	2,960-D2	

Comments: **LOWER SMOKY HILL RIVER IRRIGATION ACCESS DISTRICT OVERLAP.**
PERMISSION TO DIVERT

1/13/2021
 KAB

12/7/2020
 KJN

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: July 28, 2020

FROM: Doug Schemm

RE: Application, File No. 50,397

Matt Toll has filed the above referenced application to appropriate surface water directly from the Smoky Hill River for irrigation use. The applicant is proposing a single pump site, and requesting 85 acre-feet of surface water at a diversion rate of 750 gallons per minute to irrigate 75 acres in McPherson County. The place of use is owned by Craig Meyers, and the landowner has signed the application form stating he has access to the point of diversion. Water Right, File No. 2960-D2 overlaps in both point of diversion and place of use.

Water Right, File No. 2960-D2 is authorized 45 acre-feet of water. The applicant has purchased only 40 acre-feet from the Lower Smoky Hill Access District, therefore the new application will be limited to 85 acre-feet with this senior file, providing only 40 acre-feet additional water. The requested 85 acre-feet, is less than the maximum allowable to irrigate the proposed 75 acres with 1.3 acre-feet per acre in McPherson County, Kansas, however it provides 1.1 acre-feet per acre, which is still reasonable.

The applicant provided a list of nearby landowners, which complies with K.A.R. 5-3-4. These same nearby landowners were recently notified (on 4/27/20) regarding the change in point of diversion for the senior file 2960-D2, which overlaps this new application. No responses of any kind were received and no further notification letters are required for this new application since the upstream and downstream landowners are certainly aware of this irrigation project. There are multiple surface water rights located both upstream and downstream of the pump site within a two-mile radius. The nearest downstream pump site is located over 2,000 feet away. Therefore, with proper conditioning, approval of this application will not impair any senior water rights.

Since the source of supply will be the direct diversion of surface water from the Smoky Hill River, this application is subject to the restrictions of K.A.R. 5-3-15, which, in part, require the applicant to demonstrate that the direct diversion of surface water is not necessary during the period from July 1 through September 30 of each calendar year. In order to comply with K.A.R. 5-3-15 (c)(5) the applicant is proposing to use stored water from Kanopolis Reservoir, under the newly formed Lower Smoky Hill River Irrigation District. This stored water is now available to irrigators since the special use district has been implemented. Per K.A.R. 5-3-15, the application will be subject to specific conditions, which stipulate strict requirements for direct surface water diversion. These conditions include the stipulation that no diversion shall occur unless there is water available to satisfy all demands by senior water rights and permits, written or verbal permission from the Chief Engineer, or an authorized representative is required prior to diverting water, and streamflow cannot be stopped at the first riffle below the point of diversion while diversion is taking place.

A copy of the application was sent to the Kansas Water Office for their review and comment. In a letter dated July 27, 2020, the KWO stated that the results of the OASIS model run indicate that there is sufficient assurance reservoir storage to support the requested additional water. DWR Technical Services staff also recommended approval of the new application in conjunction with the determination by the KWO.

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.

Matt Toll
Memorandum – File No. 50,397
Page 2

The applicant has submitted a signed Minimum Desirable Streamflow form for the pending new application, which has been properly notarized. By completing this statement, the applicant affirms his/her knowledge that there could be times when the diversion of water may not be allowed under this permit.

Kelly Stewart, Water Commissioner, Stockton Field Office, recommended that the referenced new application be approved in an e-mail received on July 16, 2020.

Based on the above discussion, the application is supported by the Lower Smoky Hill River Access District, Smoky Hill River is open to new appropriations meeting specific criteria, the application complies with all regulations, the Kansas Water Office supports approval, 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.

Doug Schemm
Environmental Scientist
Topeka Field Office

Schemm, Doug [KDA]

From: Stewart, Kelly [KDA]
Sent: Thursday, July 16, 2020 3:21 PM
To: Schemm, Doug [KDA]
Cc: Billinger, Mark [KDA]; Hageman, Rebecca [KDA]
Subject: RE: 50397 Matt Toll

Doug,

I have no objection to the approval of this application.

Kelly

From: Schemm, Doug [KDA] <Doug.Schemm@ks.gov>
Sent: Thursday, July 16, 2020 10:51 AM
To: Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>
Cc: Billinger, Mark [KDA] <Mark.Billinger@ks.gov>
Subject: 50397 Matt Toll

Hello Stockton,

Waiting on KWO letter, but all else is good with this one. However, when I pulled up the nearby water right report, alas there is a pending senior application just upstream (50,332) that is for rate only.

I really need to work that one up as well, I reckon.

Please review,

Doug

LOWER SMOKY VALLEY IRRIGATION DISTRICT

ATTN: Kelly Stewart
March 20, 2020

These are the applications for additional water rights. The district has been authorized by the Kansas State Water Office to purchase an additional 510 acre feet. Four of the applications will be for additional water to supplement existing rights. Two of them will be for new water rights totally backed by purchased water.

ADDITIONAL WATER FOR EXISTING RIGHTS:

Dean Evans Jr. - owner	
Mike Becker – operator	100 Acre feet
Craig Myers – owner	
Matt Toll – operator	40 Acre feet
Eric Peterson - owner / operator	50 Acre feet
Chad Ellwood – owner	
Tim Larson – operator	80 Acre feet

NEW WATER RIGHTS:

Gary Harbin – owner	
Chris Short – operator	130 Acre feet
Tom Toll – owner / operator	110 Acre feet

The place of use and amounts allocated will be up to the owners to negotiate with the Division of Water Resources.

Tom Toll
President of Lower Smoky Valley Irrigation District

RECEIVED

MAR 23 2020

Stockton Field Office
Division of Water Resources

900 SW Jackson Street, Suite 404
Topeka, KS 66612



Phone: (785)-296-3185
Fax: (785)-296-0878
www.kwo.org

Earl Lewis, Director

Laura Kelly, Governor

July 27, 2020

Doug Schemm
Topeka Field Office
1131 SW Winding Rd, Suite 400
Topeka, KS 66615

Basin scale modeling has been conducted by the Kansas Water Office (KWO) within the Smoky Hill River basin to determine required water supply storage for drought periods given historical drought conditions. To do so, the Smoky Hill River basin was simulated for the period of 1950-2014 using historical conditions, except with reservoir inflows being depleted early in the simulation based on the trends through time.

The Smoky Hill River basin model is made up of Kanopolis Lake and downstream users to the confluence with the Republican River near Junction City, Kansas. Kanopolis Lake holds water for the Smoky Hill Access District, containing accounts for municipal and irrigation water users. For the irrigation portion of the Smoky Hill Access District, 1952-1957 represents the multi-year drought of record whereas 2012 represents the single-year drought of record.

KWO modeling of member demands indicates that the 24.23% of Kanopolis conservation storage (approximately 11,259 acre-feet in 2020) currently owned by the Smoky Hill Access District would be sufficient to supply water use authorized by Application, File No. 50,397 along with current appropriations during the historic droughts, given both current capacity of Kanopolis and the capacity in 20 years.

Richard Rockel

Kansas Water Office

Schemm, Doug [KDA]

From: Schemm, Doug [KDA]
Sent: Thursday, July 16, 2020 8:02 AM
To: 'Shultz, Chris'
Cc: Westrup, Nathan; Stewart, Kelly [KDA]
Subject: Matt Toll 50,397
Attachments: 50397 Application.pdf

Good Morning all,
Another IRR file for storage water from Smoky Hill Access District.
Matt has applied for 85 AF, but it will be limited in quantity to the senior file, providing only 40 AF additional water.
Can you please provide letter response regarding storage in the reservoir?
Have a great day,
Thanks, Doug

From: Shultz, Chris [mailto:Chris.Shultz@kwo.ks.gov]
Sent: Tuesday, May 12, 2020 7:53 AM
To: Schemm, Doug [KDA] <Doug.Schemm@ks.gov>
Cc: Westrup, Nathan <Nathan.Westrup@kwo.ks.gov>; Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>
Subject: RE: Thomas Toll File No. 49,183

EXTERNAL: This email originated from outside of the organization. Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Doug, sorry for the delayed response, a similar letter is attached for the File 49,991.

Chris

From: Schemm, Doug [KDA] <Doug.Schemm@ks.gov>
Sent: Wednesday, May 6, 2020 11:02 AM
To: Shultz, Chris <Chris.Shultz@kwo.ks.gov>
Cc: Westrup, Nathan <Nathan.Westrup@kwo.ks.gov>; Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>
Subject: RE: Thomas Toll File No. 49,183

Hello Chris,
Thanks so much for the quick response. I really appreciate it. I'm also in the process of working on File No. 49,991 Gary Harbin, which we will need the same letter from you regarding storage.
When you have the time.
Have a great day,
Doug

From: Shultz, Chris [mailto:Chris.Shultz@kwo.ks.gov]
Sent: Wednesday, May 6, 2020 10:51 AM
To: Schemm, Doug [KDA] <Doug.Schemm@ks.gov>
Cc: Westrup, Nathan <Nathan.Westrup@kwo.ks.gov>; Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>
Subject: RE: Thomas Toll File No. 49,183

EXTERNAL: This email originated from outside of the organization. Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Doug, attached is the KWO letter documenting sufficient storage for the Smoky Hill Access District.

Let me know if there are any questions or issues.

Chris Shultz

Associate Engineer

Kansas Water Office

p: (785) 296-0862

From: Schemm, Doug [KDA] <Doug.Schemm@ks.gov>

Sent: Tuesday, May 5, 2020 4:03 PM

To: Westrup, Nathan <Nathan.Westrup@kwo.ks.gov>; Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>

Cc: Shultz, Chris <Chris.Shultz@kwo.ks.gov>

Subject: RE: Thomas Toll File No. 49,183

Here's our new address:

Topeka Field Office

1131 SW Winding Rd, Suite 400

Topeka, KS 66615

From: Westrup, Nathan [<mailto:Nathan.Westrup@kwo.ks.gov>]

Sent: Tuesday, May 5, 2020 3:45 PM

To: Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>; Schemm, Doug [KDA] <Doug.Schemm@ks.gov>

Cc: Shultz, Chris <Chris.Shultz@kwo.ks.gov>

Subject: RE: Thomas Toll File No. 49,183

EXTERNAL: This email originated from outside of the organization. Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Kelly and Doug,

Chris has drafted a letter. I figured we could just e-mail it but what is your preference on who the letter is addressed to? I was thinking Doug since he was processing it but does it look weird with Doug having a Topeka FO address?

Just reply with name and address.

Thanks

Nathan Westrup

Chief of Hydrology & Evaluation

Kansas Water Office

p: (785) 296-0689

From: Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>

Sent: Tuesday, May 5, 2020 8:35 AM

To: Schemm, Doug [KDA] <Doug.Schemm@ks.gov>; Westrup, Nathan <Nathan.Westrup@kwo.ks.gov>
Cc: Shultz, Chris <Chris.Shultz@kwo.ks.gov>
Subject: RE: Thomas Toll File No. 49,183

Nate,

Because Tom Toll is anxiously awaiting his approval so he can start pumping, can Doug move forward with this knowing the letter from KWO is forthcoming?

Kelly

From: Schemm, Doug [KDA] <Doug.Schemm@ks.gov>
Sent: Tuesday, May 5, 2020 8:34 AM
To: Westrup, Nathan <Nathan.Westrup@kwo.ks.gov>
Cc: Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>; Shultz, Chris <Chris.Shultz@kwo.ks.gov>
Subject: RE: Thomas Toll File No. 49,183

Ok, thanks for the response. I will wait for your letter regarding sufficient storage.
Doug

From: Westrup, Nathan [<mailto:Nathan.Westrup@kwo.ks.gov>]
Sent: Tuesday, May 5, 2020 8:30 AM
To: Schemm, Doug [KDA] <Doug.Schemm@ks.gov>
Cc: Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>; Shultz, Chris <Chris.Shultz@kwo.ks.gov>
Subject: RE: Thomas Toll File No. 49,183

EXTERNAL: This email originated from outside of the organization. Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Hi Doug,

Yes, we should get a copy of the approval documents.

We should also provide a letter to your files, documenting that our model shows there is sufficient storage for this application.

Thanks,

Nathan Westrup

Chief of Hydrology & Evaluation

Kansas Water Office

p: (785) 296-0689

From: Schemm, Doug [KDA] <Doug.Schemm@ks.gov>
Sent: Monday, May 4, 2020 8:41 AM
To: Westrup, Nathan <Nathan.Westrup@kwo.ks.gov>
Cc: Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>
Subject: Thomas Toll File No. 49,183

Good Morning Nathan,

Just to let you know, we are moving this application on for approval because the applicant has acquired the necessary water from the IRR District.

Do you want to receive a copy of the approval documents also?

Have a great day,

Doug

Report Date: Thursday, July 16 2020

AMOUNT STATISTICS REPORT FOR POINTS OF DIVERSION UNDER A 50397 00

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AMOUNT STATISTICS REPORT FOR POINTS OF DIVERSION UNDER A 50397 00 IRR

Water Right and Points of Diversion Within 2.00 of a point defined as:

257 Feet North and 5122 Feet West of the Southeast Corner of Section 5 Twp 17S Rng 5W

SURFACE WATER ONLY

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File Number      Use ST SR Dist (ft) Q4 Q3 Q2 Q1 FeetN FeetW Sec Twp Rng ID Batt Auth_Quan Add_Quan
Unit
A__ 2960 D1 IRR NK S      368 -- SE SE SE   125  160  6 17 5W 5          95.00  95.00
  AF
Same              1353 -- SW SE SE    80 1160  6 17 5W 2
Same              2605 -- SW SW SE   210 2430  6 17 5W 1
A__ 2960 D2 IRR NK S      0 -- SW SW SW   257 5122  5 17 5W 2          45.00  45.00
  AF
A__ 4098 00 IRR NK S     9024 S2 S2 SW SE ----- ----- 36 16 6W 1          104.00 104.00
  AF
A__ 4133 00 IRR NK S     3080 -- SE SE SW ----- -----  6 17 5W 3          94.00  94.00
  AF
A__ 4203 00 IRR NK S     3977 -- NW SE SW   750 3750  6 17 5W 4          390.00 390.00
  AF
Same              5908 -- SE NE SE  1400  450  1 17 6W 3
Same              8218 -- SW SW NE  3225 2300  1 17 6W 2
A__ 4392 00 IRR NK S     9422 -- SW SW SE    30 2575 36 16 6W 2          80.00  80.00
  AF
A__ 5712 00 IRR NK S     4329 -- CE NE SW ----- -----  8 17 5W 3          69.00  69.00
  AF
A__ 10207 00 IRR NK S    7545 -- SW NE NE ----- -----  1 17 6W 1          120.00 120.00
  AF
A__ 34198 00 IRR NK S    2187 -- NW SE NW  3840 3800  8 17 5W 6          26.00  26.00
  AF
A__ 34411 00 IRR NK S     192 -- SW SW SW   400 5230  5 17 5W 1           4.30   4.30
  AF
A__ 50332 00 IRR AY S     368 -- SE SE SE   125  160  6 17 5W 5          95.00   .00
  AF
Same              1353 -- SW SE SE    80 1160  6 17 5W 2
Same              2605 -- SW SW SE   210 2430  6 17 5W 1
A__ 50397 00 IRR AY S      0 -- SW SW SW   257 5122  5 17 5W 2          85.00  85.00
  AF
=====

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Total Net Quantities Authorized:   Direct      Storage
Total Requested Amount (AF) =      85.00        .00
Total Permitted Amount (AF) =       .00        .00
Total Inspected Amount (AF) =       .00        .00
Total Pro_Cert Amount (AF) =       .00        .00
Total Certified Amount (AF) =     1027.30        .00
Total Vested Amount (AF) =         .00        .00
TOTAL AMOUNT (AF) =     1112.30        .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 Right and Points of Diversion Within 2.00 of a point defined as:

257 Feet North and 5122 Feet West of the Southeast Corner of Section 5 Twp 17S Rng 5W

SURFACE WATER ONLY

WATER USE CORRESPONDENTS:

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=====
File Number      Use ST SR
> JOHNSON 4K FARMS LLC
> RICHARD K JOHNSON
> 1421 N GRIMES ST

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> MCPHERSON KS 67460
>-----
> MATTHEW TOLL
>
> PO BOX 45
> LINDSBORG KS 67456
>-----
> TOM BUFFINGTON
>
> P O BOX 193
> MARQUETTE KS 67464
>-----
> MATTHEW TOLL
>
> PO BOX 45
> LINDSBORG KS 67456
>-----
> JOHNSON 4K FARMS LLC
> RICHARD K JOHNSON
> 1421 N GRIMES ST
> MCPHERSON KS 67460
>-----
> JOHNSON 4K FARMS LLC
> RICHARD K JOHNSON
> 1421 N GRIMES ST
> MCPHERSON KS 67460
>-----
> ANDREW S KRATZER
>
> 163 WELLS FARGO RD
> MARQUETTE KS 67464
>-----
> DARREL & MARI LODER
>
> 121 W LINCOLN ST
> LINDSBORG KS 67456
>-----
> KU ENDOWMENT ASSN
>
> PO BOX 913
> HUTCHINSON KS 67504
>-----
> KU ENDOWMENT ASSN
>
> PO BOX 913
> HUTCHINSON KS 67504
>-----
> DEAN ELVIN
>
> 320 WELLS FARGO RD
> MARQUETTE KS 67464
>-----
> MATTHEW TOLL
>
> PO BOX 45
> LINDSBORG KS 67456
>-----

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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. 50,397** of the applicant

**MATTHEW TOLL
PO BOX 45
LINDSBORG KS 67456**

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 13, 2020**.
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	
8	17S	5W						37	38										75

3. That the authorized source from which the appropriation shall be made is surface water from the Smoky Hill River, to be diverted at one (1) pump site located in the Southwest Quarter of the Southwest Quarter of the Southwest Quarter (SW¼ SW¼ SW¼) of Section 5, more particularly described as being near a point 257 feet North and 5,122 feet West of the Southeast corner of said section, in Township 17 South, Range 5 West, McPherson 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 **750 gallons per minute (1.67 c.f.s.)** and to a quantity not to exceed **85 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, 2022** 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, 2026** 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 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 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.

16. That the stream flow shall not be stopped at the first riffle below the point of diversion while diversion is taking place under the authority of this water right or permit.

17. That diversion of natural flows shall not take place unless there is water available to satisfy all demands by senior water rights and permits.

18. 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.

19. That during the period October 1 through June 30, the verbal or written permission of the Chief Engineer, or an authorized representative of the Chief Engineer, shall be obtained in order to divert water each time the applicant desires to divert water.

20. That during the period July 1 through September 30 each calendar year, no direct diversions of surface water shall be permitted unless written permission is obtained from the Chief Engineer, or the Chief Engineer's authorized representative.

21. That the quantity of water approved under this permit is further limited to the quantity which combined with Water Right, File No. 2,960-D2, will provide a **total not to exceed 85 acre-feet** of water per calendar year for irrigation use from the point of diversion described herein.

Ordered this 29 day of January, 2021, in Manhattan, Riley County, Kansas.

Lane P. Letourneau

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

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 29 day of January, 2021, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.



Ashlee Freeman
Notary Public

1320 Research Park Drive
Manhattan, KS 66502
785-564-6700
www.agriculture.ks.gov



900 SW Jackson, Room 456
Topeka, KS 66612
785-296-3556

Mike Beam, Secretary

Laura Kelly, Governor

February 2, 2021

MATTHEW TOLL
PO BOX 45
LINDSBORG KS 67456

RE: Appropriation of Water, File No. 50,397

Dear Mr. Toll:

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.

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 Stockton Field Office at 785-425-6787. 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: dws
Enclosure(s)

pc: Stockton Field Office
Kansas Water Office
Craig L Myers

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, 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 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, 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 2 day of February, 2021, I hereby certify that the foregoing Approval of Application, File No. 50,397, dated 2 February 2021 was mailed postage prepaid, first class, US mail to the following:

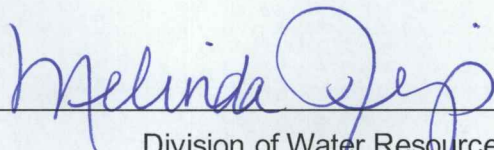
MATTHEW TOLL
 PO BOX 45
 LINDSBORG KS 67456

With photocopies to:

CRAIG L MYERS
 15735 STONINGTON DR
 WAMEGO KS 66547

KANSAS WATER OFFICE
 900 SW JACKSON ST STE 404
 TOPEKA KS 66612

Stockton Field Office



 Division of Water Resources