

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;"><b>50,655</b></p>	2. Status Change Date: <p style="text-align: center; font-size: 1.2em; color: purple;"><b>6/14/2022</b></p>	3. Field Office: <p style="text-align: center; font-size: 1.2em;"><b>3</b></p>	4. GMD:
---	--	---	---------

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 <u><b>64896</b></u> New to system <input type="checkbox"/>                      Add Seq# _____</p> <p style="text-align: center; font-weight: bold; margin-top: 20px;"><b>BERRY FAMILY FARMS LLC 746 PRAIRIE RD MINNEAPOLIS, KS 67467</b></p>	<p>7c. Landowner(s)                      Person ID _____ New to system <input type="checkbox"/>                      Add Seq# _____</p>
<p>7b. Landowner(s)                      Person ID _____ New to system <input type="checkbox"/>                      Add Seq# _____</p> <p style="font-weight: bold; margin-top: 20px;"><b>7a</b></p>	<p>7d. Misc.                                      Person ID _____ New to system <input type="checkbox"/>                      Add Seq# _____</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="font-weight: bold; margin-top: 20px;"><b>7a</b></p>	<p>9. Use of Water:    Changing?    <input type="checkbox"/> Yes    <input checked="" type="checkbox"/> No</p> <p style="padding-left: 40px;"><input checked="" type="checkbox"/> Groundwater                      <input type="checkbox"/> Surface Water</p> <p style="padding-left: 40px;"><input checked="" type="checkbox"/> IRR                      <input type="checkbox"/> REC                      <input type="checkbox"/> DEW                      <input type="checkbox"/> MUN</p> <p style="padding-left: 40px;"><input type="checkbox"/> STK                      <input type="checkbox"/> SED                      <input type="checkbox"/> DOM                      <input type="checkbox"/> CON</p> <p style="padding-left: 40px;"><input type="checkbox"/> HYD DRG    <input type="checkbox"/> WTR PWR                      <input type="checkbox"/> ART RECHRG</p> <p style="padding-left: 40px;"><input type="checkbox"/> IND    SIC: _____                      <input type="checkbox"/> OTHER: _____</p>
--	--

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: \_\_\_\_\_    Date WLMD Installed: \_\_\_\_\_

<p style="font-weight: bold; color: green; margin: 0;">6/9/2022 KAB</p>	<p>Date Prepared: <b>5/24/2022</b>    By: <b>KJN</b></p> <p>Date Entered: <span style="border: 1px solid blue; padding: 2px;">6/16/2022</span>    By: _____</p> <p style="text-align: center; color: blue; margin-top: 5px;"><b>L Moody</b></p>	
---	---	--

File No. <b>50,655</b>	15. Formation Code: <b>330</b>	Drainage Basin: <b>SOLOMON RIVER</b>	County: <b>CD</b>	Special Use:	Stream:																																																																																																								
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%; vertical-align: top;">                 16. Points of Diversion                  T                  MOD                  DEL                  ENT                  PDIV                  Qualifier                  S                  T                  R                  ID                  'N                  'W    <b>BATTERY ID # 2304</b> </td> <td style="width:50%; vertical-align: top;">                 17. Rate and Quantity                  Authorized                  Additional                  Rate                  gpm                  Quantity                  af                  Rate                  gpm                  Quantity                  af                  Overlap PD Files             </td> </tr> <tr> <td> <b>CHK 89067 SW NW NE 24 8S 5W 1 4166 2608 (GEO)</b> </td> <td> <b>800 345 800 345 none</b> </td> </tr> <tr> <td> <b>ENT/CHK 89622 SW NW NE 24 8S 5W 4166 2618 (1)</b> </td> <td></td> </tr> <tr> <td> <b>ENT/CHK 89623 SW NW NE 24 8S 5W 4166 2598 (2)</b> </td> <td></td> </tr> <tr> <td> <b>ENT/CHK 89624 SW NW NE 24 8S 5W 4156 2608 (3)</b> </td> <td></td> </tr> <tr> <td> <b>ENT/CHK 89625 SW NW NE 24 8S 5W 4176 2608 (4)</b> </td> <td></td> </tr> </table>						16. Points of Diversion T MOD DEL ENT PDIV Qualifier S T R ID 'N 'W  <b>BATTERY ID # 2304</b>	17. Rate and Quantity Authorized Additional Rate gpm Quantity af Rate gpm Quantity af Overlap PD Files	<b>CHK 89067 SW NW NE 24 8S 5W 1 4166 2608 (GEO)</b>	<b>800 345 800 345 none</b>	<b>ENT/CHK 89622 SW NW NE 24 8S 5W 4166 2618 (1)</b>		<b>ENT/CHK 89623 SW NW NE 24 8S 5W 4166 2598 (2)</b>		<b>ENT/CHK 89624 SW NW NE 24 8S 5W 4156 2608 (3)</b>		<b>ENT/CHK 89625 SW NW NE 24 8S 5W 4176 2608 (4)</b>																																																																																													
16. Points of Diversion T MOD DEL ENT PDIV Qualifier S T R ID 'N 'W  <b>BATTERY ID # 2304</b>	17. Rate and Quantity Authorized Additional Rate gpm Quantity af Rate gpm Quantity af Overlap PD Files																																																																																																												
<b>CHK 89067 SW NW NE 24 8S 5W 1 4166 2608 (GEO)</b>	<b>800 345 800 345 none</b>																																																																																																												
<b>ENT/CHK 89622 SW NW NE 24 8S 5W 4166 2618 (1)</b>																																																																																																													
<b>ENT/CHK 89623 SW NW NE 24 8S 5W 4166 2598 (2)</b>																																																																																																													
<b>ENT/CHK 89624 SW NW NE 24 8S 5W 4156 2608 (3)</b>																																																																																																													
<b>ENT/CHK 89625 SW NW NE 24 8S 5W 4176 2608 (4)</b>																																																																																																													
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? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No    To be installed by <b>12/31/2023</b> Date Acceptable Meter Installed _____																																																																																																													
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:20%;">21. Place of Use T MOD DEL ENT PUSE S T R ID</td> <td colspan="4" style="text-align:center">NE¼</td> <td colspan="4" style="text-align:center">NW¼</td> <td colspan="4" style="text-align:center">SW¼</td> <td colspan="4" style="text-align:center">SE¼</td> <td style="text-align:center">Total</td> <td style="text-align:center">Owner</td> <td style="text-align:center">Chg? <b>NO</b></td> <td style="text-align:center">Overlap Files</td> </tr> <tr> <td></td> <td style="text-align:center">NE ¼</td> <td style="text-align:center">NW ¼</td> <td style="text-align:center">SW ¼</td> <td style="text-align:center">SE ¼</td> <td style="text-align:center">NE ¼</td> <td style="text-align:center">NW ¼</td> <td style="text-align:center">SW ¼</td> <td style="text-align:center">SE ¼</td> <td style="text-align:center">NE ¼</td> <td style="text-align:center">NW ¼</td> <td style="text-align:center">SW ¼</td> <td style="text-align:center">SE ¼</td> <td style="text-align:center">NE ¼</td> <td style="text-align:center">NW ¼</td> <td style="text-align:center">SW ¼</td> <td style="text-align:center">SE ¼</td> <td></td> <td></td> <td></td> </tr> <tr> <td><b>CHK 70585 24 8S 5W 1</b></td> <td style="text-align:center"><b>40</b></td> <td style="text-align:center"><b>40</b></td> <td style="text-align:center"><b>36</b></td> <td style="text-align:center"><b>40</b></td> <td style="text-align:center"><b>34</b></td> <td style="text-align:center"><b>4</b></td> <td></td> <td style="text-align:center"><b>5</b></td> <td></td> <td></td> <td></td> <td></td> <td style="text-align:center"><b>38</b></td> <td style="text-align:center"><b>8</b></td> <td></td> <td style="text-align:center"><b>19</b></td> <td style="text-align:center"><b>264</b></td> <td style="text-align:center"><b>7a</b></td> <td style="text-align:center"><b>no</b></td> <td style="text-align:center"><b>none</b></td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </table>						21. Place of Use T MOD DEL ENT PUSE S T R ID	NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg? <b>NO</b>	Overlap Files		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				<b>CHK 70585 24 8S 5W 1</b>	<b>40</b>	<b>40</b>	<b>36</b>	<b>40</b>	<b>34</b>	<b>4</b>		<b>5</b>					<b>38</b>	<b>8</b>		<b>19</b>	<b>264</b>	<b>7a</b>	<b>no</b>	<b>none</b>																																										
21. Place of Use T MOD DEL ENT PUSE S T R ID	NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg? <b>NO</b>	Overlap Files																																																																																									
	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																																																																																													
<b>CHK 70585 24 8S 5W 1</b>	<b>40</b>	<b>40</b>	<b>36</b>	<b>40</b>	<b>34</b>	<b>4</b>		<b>5</b>					<b>38</b>	<b>8</b>		<b>19</b>	<b>264</b>	<b>7a</b>	<b>no</b>	<b>none</b>																																																																																									
Comments:																																																																																																													

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

**TO:** Files

**DATE:** May 20, 2022

**FROM:** Kris Neuhauser

**RE:** Application, File No. 50,655

Berry Family Farms LLC has filed the above referenced new application to appropriate 345 acre-feet of groundwater at a diversion rate of 800 gallons per minute for irrigation use from a battery of four (4) wells. The geocenter of the proposed battery will be located in the Northeast Quarter (NE $\frac{1}{4}$ ) of Section 24, Township 8 South, Range 5 West, Cloud County, Kansas.

The place of use is wholly owned by the applicant, comprised of 264 acres throughout Section 24, Township 8 South, Range 5 West, Cloud County, Kansas. The requested quantity of 345 acre-feet is the maximum allowable to irrigate the proposed 264 acres (1.3 Acre-Feet per acre allowed in Cloud County). There are no overlaps in point of diversion or place of use.

The source of water for the pending application appears to be unconfined Dakota aquifer system based on the test hole log, nearby well logs, and the geographical location of the well. The test log submitted with the application shows top-soil and brown clay from 0 to 20 feet, brown clay and gray clay from 20 to 35 feet, fine/medium/course sand and fine/medium gravel from 35 to 40 feet, sand and clay from 40 to 44 feet, sandstone from 44 to 60 feet, fine/medium sandstone and pyrite from 60 to 100 feet, sandstone from 100 to 124 feet, and shale from 124 feet to 140 feet.

Other nearby wells sourcing the unconfined Dakota aquifer system within the two-mile circle generally have depths to top of the sandstone aquifer of 30 feet or less, and have static water levels at or below top of the sandstone aquifer, also supporting the unconfined Dakota aquifer system extends to the East-Northeast from this application. However, the Solomon River and associated alluvium extend throughout the West-Southwest portion of the circle. K.A.R. 5-3-11 applies to safe yield evaluations for all unconfined aquifers. One of the specific criteria is to determine the extent of the unconfined aquifer, which as discussed above, it was determined that a portion of the two-mile circle containing alluvium be excluded, providing 3,918 acres. Safe yield was determined to be 587.76 acre-feet, with Appropriation of Water, File No. 50,531 taking 208 acre-feet, leaving 379.76 acre-feet available. Therefore, this application requesting 345 acre-feet meets safe yield.

The applicant only identified one domestic well within one-half mile of the proposed point of diversion, and it is also owned by Berry Family Farms LLC. A review of aerial photograph and the WWC-5 database reinforces this proclamation. Therefore, no nearby well owner letters are required.

The point of diversion complies with well spacing criteria for the unconfined Dakota aquifer system of one-quarter mile to domestic wells (closest domestic roughly 0.6 miles away) and one-half mile to non-domestic wells (closest appropriation or water right is over a mile away; Appropriation of Water, File No. 50,531).

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.

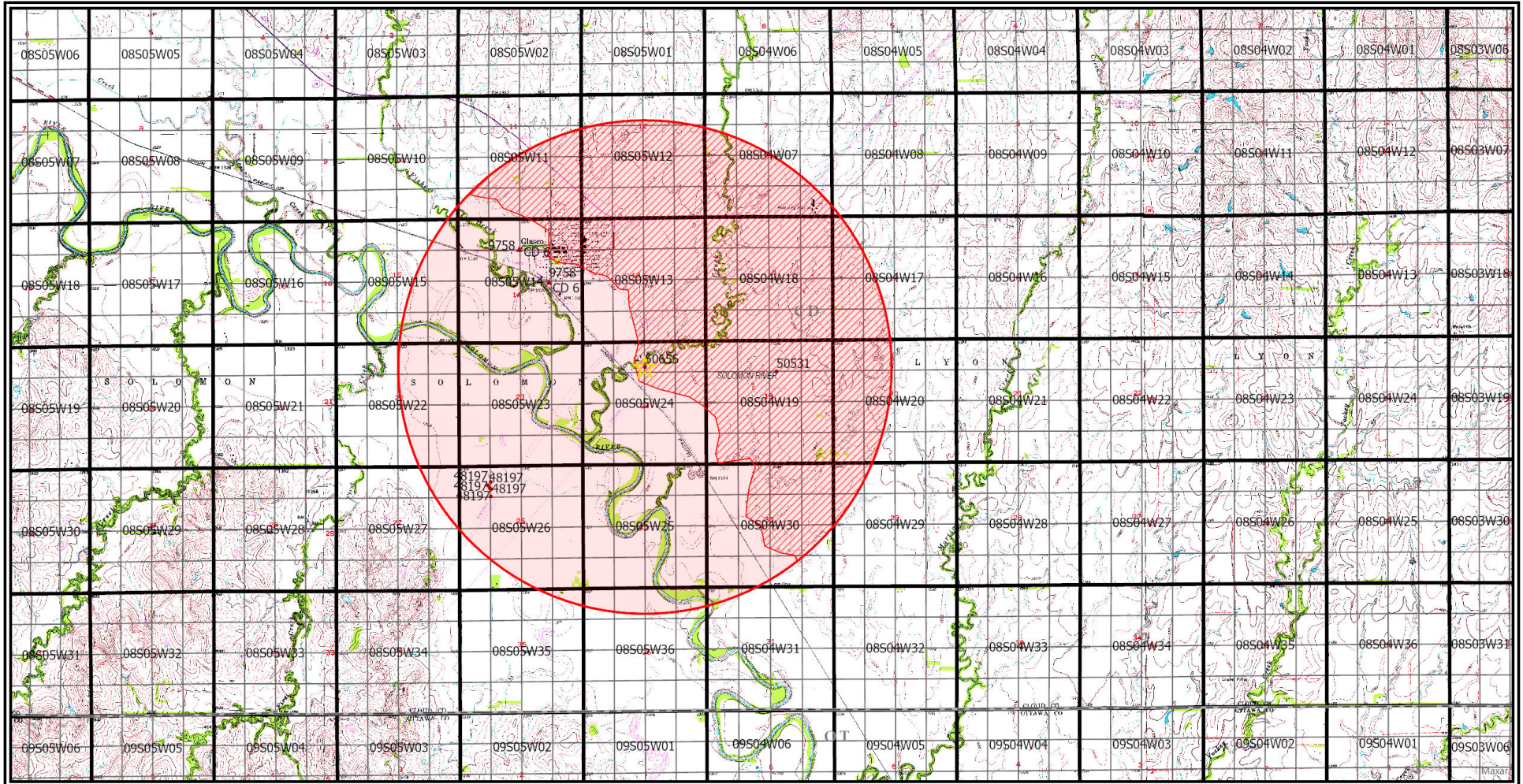
In an email conversation on May 24, 2022, Kelly Stewart, Water Commissioner, Stockton Field Office, recommended approval of the referenced application.

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. Therefore, it is recommended that the referenced application be approved.

A handwritten signature in black ink, appearing to read "Kris Neuhauser", with a long horizontal flourish extending to the right.

Kris Neuhauser  
New Applications Lead  
Water Appropriation Program

**Safe Yield Report Sheet**  
**Water Right- A5065500**  
**Point of Diversion in 24-08S-05W**  
**Footages from SE corner- 4,166 feet North 2,608 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 587.76 AF.

Total prior appropriations in the circle is 553.00 AF. **- 345 AF = 208 AF**

Total quantity of water available for appropriation is ~~34.76 AF~~.

**587.76 AF - 208 AF = 379.76 AF AVAILABLE\***

## Safe Yield Variables

The area used for the analysis is set at 3,918 acres.

The potential annual recharge at the circle center is estimated to be 2.4 inches.

The percent of recharge available for appropriation is 75%.

Authorized Quantity values are as of 23-MAY-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 2 water rights and 2 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 50531 00	IRR	KE	G		NW	SW	NE	3933	2414	19	08	04W	2	WR	208.00	208.00	160.00	160.00
A 50655 00	IRR	AY	G		SW	NW	NE	4166	2608	24	08	05W	1	WR	<del>345.00</del>	<del>345.00</del>	264.00	264.00

## Limitations

File Number	Seq Num	Limitations
A 9758 00	2	400 GPM COM/W #CD-06

**From:** Stewart, Kelly [KDA]  
**Sent:** Tue 5/24/2022 2:01 PM  
**To:** Neuhauser, Kris [KDA]  
**Cc:** Billinger, Mark [KDA];Hageman, Nancy [KDA]  
**Subject:** RE: 50655 recommendation request

Kris,

I recommend approval of this application.

Kelly

---

**From:** Neuhauser, Kris [KDA] <Kris.Neuhauser@ks.gov>  
**Sent:** Tuesday, May 24, 2022 9:58 AM  
**To:** Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>  
**Cc:** Billinger, Mark [KDA] <Mark.Billinger@ks.gov>  
**Subject:** 50655 recommendation request

Morning Kelly,

Attached is my draft memo and SY report for 50655; a GW IRR app from Berry Family Farms in Cloud County. Look like Mark assisted on it. Calling it unconfined Dakota - meets spacing and passes SY. No nearby's required.

Trimmed consistent with nearby 50531, which was approved recently as unconfined Dakota. If you want to discuss any further let me know (this is Dakota after all &#128515;)

Thanks,

***Kris Neuhauser***  
New Applications Lead  
Kansas Department of Agriculture, Division of Water Resources  
Phone: 785-564-6643

# 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. 50,655** of the applicant

**BERRY FAMILY FARMS LLC**  
**746 PRAIRIE RD**  
**MINNEAPOLIS, KS 67467**

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 24, 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	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTAL
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
24	8S	5W	40	40	36	40	34	4		5					38	8		19	264

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 geographical center located in the Southwest Quarter of the Northwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$  NW $\frac{1}{4}$  NE $\frac{1}{4}$ ) of Section 24, more particularly described as being near a point 4,166 feet North and 2,608 feet West of the Southeast corner of said section, in Township 8 South, Range 5 West, Cloud County, Kansas, located substantially as shown on the 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 **345 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.



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

June 23, 2022

BERRY FAMILY FARMS LLC  
746 PRAIRIE RD  
MINNEAPOLIS, KS 67467

RE: Appropriation of Water, File No. 50,655

Dear Applicant:

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](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/divisions-programs/dwr](http://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: kjn  
Enclosure(s)

pc: Stockton Field Office

**RIGHT TO A HEARING AND TO ADMINISTRATIVE REVIEW**

If you are aggrieved by this Order, then pursuant to K.S.A. 82a-1901, you may:

- 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 23 day of June, 2022, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,655, dated 14 June, 2022 was mailed postage prepaid, first class, US mail to the following:

BERRY FAMILY FARMS LLC  
746 PRAIRIE RD  
MINNEAPOLIS, KS 67467

With photocopies to:

Stockton Field Office

  
Division of Water Resources