

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>50,783</b></p>	2. Status Change Date: <p style="text-align: center; font-size: 1.2em; color: purple;">1/26/2024</p>	3. Field Office: <p style="text-align: center; font-size: 1.2em;"><b>03</b></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 51002  
 New to system                       Add Seq# \_\_\_\_\_

**KANSAS DEPT OF WILDLIFE & PARKS**  
**Attn: ROBERT UNRUH**  
**2446 250 ROAD**  
**WEBBER, KS 66970**

7b. Landowner(s)                      Person ID \_\_\_\_\_  
 New to system                       Add Seq# \_\_\_\_\_

**Kansas Dept of Wildlife & Parks**  
**512 SE 25TH AVE**  
**PRATT, KS 67124-8174**

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  
**7a**

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: 12/31/25                      11. Perfection Date: 12/31/29                      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: \_\_\_\_\_

Date Prepared: 9/25/23                      By: BMM  
 Date Reviewed: 1/10/2024                      By: KAK  
 Date Entered: 2/5/2024                      By:  
KAnderson

File No. **50783**      15. Formation Code:      Drainage Basin: Republican River      County: RP      Special Use:      Stream: **East Salt Creek Trib 2a (Republican)**

16. Points of Diversion										17. Rate and Quantity					
MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Authorized		Additional		
											Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files
<b>CHK</b>			<b>89524</b>	<b>SE SW NW</b>	<b>29</b>	<b>4S</b>	<b>2W</b>	<b>4</b>	<b>2711</b>	<b>4595</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>NA</b>

18. Storage: Rate **NF** NF      Quantity **129** ac/ft      Additional Rate **NF** NF      Additional Quantity **129** 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 \_\_\_\_\_      Date Acceptable Meter Installed \_\_\_\_\_

21. Place of Use		NE <sup>1</sup> / <sub>4</sub>				NW <sup>1</sup> / <sub>4</sub>				SW <sup>1</sup> / <sub>4</sub>				SE <sup>1</sup> / <sub>4</sub>				Total	Owner	Chg? <b>NO</b>	Overlap Files						
MOD	DEL	ENT	PUSE	S	T	R	ID	NE <sup>1</sup> / <sub>4</sub>	NW <sup>1</sup> / <sub>4</sub>	SW <sup>1</sup> / <sub>4</sub>	SE <sup>1</sup> / <sub>4</sub>	NE <sup>1</sup> / <sub>4</sub>	NW <sup>1</sup> / <sub>4</sub>	SW <sup>1</sup> / <sub>4</sub>	SE <sup>1</sup> / <sub>4</sub>	NE <sup>1</sup> / <sub>4</sub>	NW <sup>1</sup> / <sub>4</sub>	SW <sup>1</sup> / <sub>4</sub>	SE <sup>1</sup> / <sub>4</sub>								
<b>CHK</b>			<b>70857</b>	<b>29</b>	<b>4S</b>	<b>2W</b>	<b>1</b>	<b>Wetland Marsh (W<sup>1</sup>/<sub>2</sub> NW<sup>1</sup>/<sub>4</sub>)</b>																	<b>7a</b>	<b>N</b>	<b>NA</b>

Comments:

**KANSAS DEPARTMENT OF AGRICULTURE**  
**Division of Water Resources**

**M E M O R A N D U M**

**TO:** Files

**DATE:** December 20, 2023

**FROM:** Brandon Milner

**RE:** New Application,  
File No. 50,783

The Kansas Department of Wildlife, Parks and Tourism has filed the above-referenced application to appropriate surface water at the rate of natural flows for recreational use in wetlands. File No. 50,783 is requesting 129 acre-feet of surface water storage (Republican). The application is designed to cover the capacity of the marshes and the indirect use of water (evaporation). The overall project includes the (W/2, NW/4) of Section 29 in Township 4 South, Range 2 West, Republic County, Kansas. The applicant has provided supporting information for these projects including Warranty Easement Deeds. Because these are Wetland Reserve Program sites, located on property covered by permanent NRCS easements, no structures permitting is required (see May 2, 2017, e-mail from Kim Hunninghake on 49,733). ~~This application has a complete overlap in the place of use with Senior Water Right Nos. 48,619, 49,733 and 49,734 as part of the same wetland complex.~~

~~This application is part of a wetland project also associated with WRs 48619, 49733, and 49734 but it does not overlap with them.~~

According to Rob Unruh, Public Lands Manager with KDWP, and submitted diagrams, there are four existing water control structures (stoplogs) that currently regulate water usage with Senior Water Right Nos. 48,619, 49,733 and 49,734. A dike has been built on the South end of the proposed reservoir named Dike 4 for application no. 50,783. Water will be collected by natural flows and precipitation that will run into the depression created by Dike 4. The requested quantity of water will be collected via natural flows minimal drainage, -site rainfall, and flood events East Salt Creek). Water will ultimately be released into East Salt Creek from the water control structures.

Kansas Department of Wildlife, Parks, and Tourism owns the land where the dikes are located and the majority of the drainage area to the North and East (see attached "Easement Area Boundary" map). There are no other water rights located 2 miles upstream or downstream on East Salt Creek, except for similar KDWP water rights. However, nearby letters were sent out on November 9<sup>th</sup>, 2023, with no responses to date.

For File No. 50,783, capacity information included with the application indicates that at normal pool storage elevation, the surface area of the marsh is 36 acres, and the total capacity at the top of the stoplogs is 72 acre-feet. The requested quantity of 129 acre-feet appears to be reasonable, allowing for the appropriation of one year of net evaporation plus the capacity, as follows: 36 surface acres x 19 inches of net evaporation / 12 inches = 57 acre-feet. Capacity is 36 acre-feet, for a combined total of 129 acre-feet.

By definition in K.A.R. 5-1-1 (pp), indirect use includes the total of seepage loss and annual net evaporation. However, the applicant must provide relevant, credible information, or it will be

assumed that there is no seepage loss per K.A.R. 5-6-8. The applicant did not provide any seepage information; therefore, the maximum allowed quantity would be the requested quantities of water. Typically, for these types of projects, the wetland will not be constantly at full pool height and will likely be empty at times throughout the year.

Flow meters are not practical and should not be required as a condition of the approval of these applications. The applicant will be required to maintain records from which the amount of water actually diverted may be readily determined. This is consistent with permits granted for similar types of wetlands projects.

In an email received on December 28, 2023, Kelly Stewart, Water Commissioner, Stockton Field Office, recommended approval of the applications. Based upon the above discussion, the area is open to new applications, these projects are in the public interest, and there is no indication that the proposed beneficial use of water will impair existing water rights, it is recommended that the referenced applications be approved.

Brandon Milner  
Environmental Scientist  
Manhattan Office

From: [Bristow, Leonard \[KDA\]](#)  
To: [Unruh, Rob \[KDWP\]](#)  
Cc: [Phillips, Janelle \[KDA\]](#); [Billinger, Mark \[KDA\]](#)  
Subject: Talmo WA, Trost plans, WSNos. SRP-0086, SRP-0104, CRP-0070, CRP-0071, CRP-0072, LRP-0033, and LRP-0039  
Date: Wednesday, August 31, 2022 3:26:00 PM

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Rob,

This is in regard to your request received by email on August 29, 2022, concerning the Talmo WA located in the S ½ of the NW ¼ and the E ½ of the SE ¼ of Section 29, Township 04 South, Range 02 West, Republic County, Kansas. It is our understanding this is a continuation of the project started in 2012. This project was previously referenced as WSNos. SRP-0086, SRP-0104, CRP-0070, CRP-0071, CRP-0072, LRP-0033, and LRP-0039. We also understand the NRCS has a WRP contract with a 99 year easement with this project. If the project is located on property that is under a WRP contract with a 99 year lease then no permit or approval will be required from this office for the project.

Thank you,

Leonard

Please be advised that my e-mail address has changed to: [leonard.bristow@ks.gov](mailto:leonard.bristow@ks.gov)

Leonard B. Bristow, P.E.  
Water Structures Engineer  
Kansas Department of Agriculture  
Division of Water Resources  
Stockton Field Office  
820 S. Walnut  
Stockton KS 67669  
785/425-6787  
[leonard.bristow@ks.gov](mailto:leonard.bristow@ks.gov)  
<http://agriculture.ks.gov/dwr>

Our applications have changed. Please visit our website to get current applications for new projects at:

<http://agriculture.ks.gov/divisions-programs/dwr/stream-and-floodplain-permits>

**From:** Billinger, Mark [KDA]  
**Sent:** Thu 12/28/2023 11:58 AM  
**To:** Milner, Brandon [KDA]; Stewart, Kelly [KDA]  
**Cc:** Hageman, Nancy [KDA]  
**Subject:** RE: Memos for 50,783 and 50,784

Brandon,  
I have no objection to these approvals.

Thanks and have a great day,  
Mark

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**From:** Milner, Brandon [KDA] <Brandon.M.Milner@ks.gov>  
**Sent:** Thursday, December 28, 2023 11:17 AM  
**To:** Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>  
**Cc:** Billinger, Mark [KDA] <Mark.Billinger@ks.gov>; Hageman, Nancy [KDA] <Nancy.Hageman@ks.gov>  
**Subject:** Memos for 50,783 and 50,784

Good morning everyone,

I've attached memos for review on applications 50,783 and 50,784 for KDWP in Republic County. Could you provide a recommendation on these? Thanks

Brandon Milner  
Environmental Scientist  
Water Appropriation Program

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. 50,783** of the applicant

KANSAS DEPARTMENT OF WILDLIFE  
PARKS AND TOURISM  
2446 250 ROAD  
WEBBER, KS 66970

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 6, 2022**.
2. That the water sought to be appropriated shall be used for recreational use in a wetland marsh, located in the West Half of the Northwest Quarter ( $W\frac{1}{2} NW\frac{1}{4}$ ) of Section 29, Township 4 South, Range 2 West, Republic County, Kansas.
3. That the appropriation sought shall be limited to all natural flows of an unnamed tributary of the East Salt Creek, designated in the office of the Chief Engineer as East Salt Creek Trib 2A (Republican), not needed to satisfy all vested rights and prior appropriation rights to be incrementally accumulated as reservoir storage space becomes available to a maximum extent of **129 acre-feet** per calendar year in one (1) reservoir created by a water control structure located in the Southeast Quarter of the Southwest Quarter of the Northwest Quarter ( $SE\frac{1}{4} SW\frac{1}{4} NW\frac{1}{4}$ ) of Section 29, more particularly described as being near a point 2,711 feet North and 4,595 feet West of the Southeast corner of said section, in Township 4 South, Range 2 West, Republic County, Kansas, located substantially as shown on the topographic map accompanying the application.
4. 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.

5. 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. That no water user shall engage in nor allow the waste of any water diverted under the authority of this permit.

12. 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.



13. That failure without cause to comply with provisions of the permit and its terms, conditions and limitations will result in the forfeiture of the priority date, revocation of the permit and dismissal of the application.

Ordered this 26<sup>th</sup> day of January, 2024, in Manhattan, Riley County, Kansas.



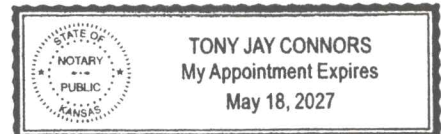
Earl D. Lewis Jr., P.E.  
Chief Engineer  
Division of Water Resources  
Kansas Department of Agriculture

State of Kansas )  
                          ) SS  
County of Riley )

The foregoing instrument was acknowledged before me this 26 day of January, 2024, by Earl D. Lewis Jr., P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.



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 5, 2024

ROBERT UNRUH  
KANSAS DEPT OF WILDLIFE & PARKS  
2446 250 ROAD  
WEBBER KS 66970

RE: Appropriation of Water  
File Nos. 50,783 and 50,784

Dear Mr. Unruh:

Enclosed are permits authorizing you to proceed with construction of the proposed diversion works and to appropriate water for beneficial use as set forth in the permits. Your attention is directed to the enclosures and to the terms, conditions, limitations, and requirements specified in the permits.

Notices must be submitted to this office 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 the permits. 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, per file number.

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 applications constitutes permits to appropriate water. They do not give authority to construct any dam or other stream obstruction regulated by K.S.A. 82a-301 through 305a. They do 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.

Also included is an informational sheet that sets forth the procedure to obtain the Certificates of Appropriation which will establish the extent of your perfected water rights. 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 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 and Change Applications Unit Supervisor  
Division of Water Resources

KAB:kak:bmm

Enclosure(s)

pc: Stafford Field Office  
USDA Natural Resources Conservation Service

## 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 Act.

## CERTIFICATE OF SERVICE

On this 5 day of February, 2024, I hereby certify that the foregoing Approvals of Applications and Permits to Proceed, File Nos. 50,783 and 50,784, dated January 26, 2024, were mailed postage prepaid, first class, US mail to the following:

ROBERT UNRUH  
KANSAS DEPT OF WILDLIFE PARKS AND TOURISM  
2446 250 ROAD  
WEBBER KS 66970

With photocopies to:

USDA NATURAL RESOURCES CONSERVATION SERVICE  
760 S BROADWAY  
SALINA KS 67401-4604

KDA-DWR Stockton Field Office

  
\_\_\_\_\_  
Division of Water Resources