

File No. **50,321** 15. Formation Code: Drainage Basin: DELAWARE River County: JA Special Use: Stream: ELK CREEK TRIB 5A2 (DELAWARE RIVER)

16. Points of Diversion										17. Rate and Quantity						
MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Authorized		Additional		Overlap PD Files	
										Rate gpm	Quantity af	Rate gpm	Quantity af			
√				87751	NE NE NE	23	6	13E	1	5080	337	1500	315	1500	315	NONE

18. Storage: Rate **NF** Quantity **315** ac/ft Additional Rate **NF** Additional Quantity **315** 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 **12/31/2022** Date Acceptable Meter Installed _____

21. Place of Use							NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg? yes	Overlap Files			
MOD	DEL	ENT	PUSE	S	T	R	ID	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼						
√				69692	23	6S	13E	1	40	40	40	40 ³⁸								40 ³⁹	40	40	40	40	320 ³¹⁷	7b.	YES	NONE	

Comments

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources
MEMORANDUM

TO: Files

DATE: January 11, 2021

FROM: Doug Schemm

RE: Application, File No. 50,321

Andy Renyer has filed the application referred to above for a permit to appropriate 315 acre-feet of surface water at the rate of natural flows to be stored in a proposed reservoir located in the Northeast Quarter of Section 23, in Township 6 South, Range 13 East, Jackson County, Kansas. The dam is located on Elk Creek Trib 5A2, within the Delaware River basin. The point of diversion is located on property owned by the applicant, and he has signed it stating he has legal access to the point of diversion. The place of use is solely owned by the applicant, and it comprises a total of 320 acres. There are no overlapping files in Point of Diversion or Place of Use.

Specific runoff computations are not necessary because Jackson County is known to have runoff values of over 14", and a drainage area of 323 acres will clearly generate greater than 315 acre-feet of runoff quantity in 1 out of every five (5) years (a 20% chance). The requested quantity of water for direct use (re-diversion) of 315 acre-feet applied to 320 acres is just slightly less than the maximum allowable per acre in Jackson County, Kansas of 1.0 AF/acre, per K.A.R. 5-3-24. The direct use quantity of 315 acre-feet is equivalent to 3.5 times the capacity of the reservoir (91 AF), which is well within the normal "rule of thumb" of direct use quantity being no more than 5 times capacity for reasonable storage quantity.

The applicant identified three upstream and downstream landowners within one-half (½) mile of the property lines, and nearby landowner letters were sent out on January 31, 2020. A telephone call was received from Leroy Rieschick on behalf of the Claude and Betty Rieschick Trust, who own the property to the north of the proposed reservoir. Leroy was concerned about impact to stream flows in the stream that runs due north below the reservoir. He runs about 20 to 25 head of cattle that water from the stream below the reservoir year-round. The cattle also water from the downstream watershed reservoir permitted under File No. 45,995. He was concerned that this watershed reservoir would not be filled up enough to water his cattle if this application were approved. However, it appears that there is significant drainage into the watershed district reservoir, that would not be affected by the proposed reservoir. Leroy also said there is a small pond on the west side of the pasture that the cattle can drink from. We discussed his senior, domestic water right and that he was entitled to natural flows in the stream. I instructed him to contact the Topeka Field Office if he had further concerns. The reservoir is located near the top of the drainage for this tributary stream and downstream users would benefit from surface runoff entering the system below this reservoir. Therefore, it does not appear that senior water rights will be impaired. Leroy also noted that the property was recently purchased by Wayne Heinen.

There is only one other surface water right within a two-mile radius circle according to the WRIS database (File No. 45,995), which is a blanket Watershed District file authorizing multiple reservoirs. All of these nearby reservoirs are located on different tributary streams, and no senior file would be impaired with approval of this application.

The dam was initially determined to be jurisdictional for DWR Water Structures Permitting under File No. DJA-0365. However, the applicant subsequently modified the structure and it was then determined to be exempt from structures permitting (see December 4, 2020 letter from B J Edmonston).

As allowed by K.S.A. 82a-706(c) an approved water flow meter shall be installed on the secondary diversion works (pump site) for this file. If any chemical or foreign substance is injected into the water pumped under this permit, a check valve will also need to be installed. Since this is a proposed reservoir, a Special Condition on the Permit will be needed to provide an initial fill quantity.

Andy Renyer
File No. 50,321
Page 2

In a January 4, 2021 e-mail, Katie Tietsort, Water Commissioner, Topeka Field Office, stated that the referenced new application should be approved. Based on the above discussion, that this area is open to new appropriations, the proposed appropriation of water is reasonable and justified, the dam is non-jurisdictional for DWR Water Structures Permitting, and senior rights will not be impacted, it is recommended that the referenced new application be approved.

Doug Schemm
Environmental Scientist
Topeka Field Office

Schemm, Doug [KDA]

From: Tietsort, Katie [KDA]
Sent: Monday, January 4, 2021 9:39 AM
To: Schemm, Doug [KDA]
Subject: RE: 50321 Andy Renyer

Doug,

It looks like this application is ready to move forward for review. The file will be subject to MDS administration of the Delaware River at Muscotah.

Thanks, Katie

Katie Tietsort
Water Commissioner

Katie.Tietsort@ks.gov

785-296-5733

PLEASE NOTE OUR NEW ADDRESS:

Kansas Department of Agriculture

Topeka Field Office

1131 SW Winding Rd, Suite 400

Topeka, KS 66615

From: Schemm, Doug [KDA] <Doug.Schemm@ks.gov>
Sent: Tuesday, December 22, 2020 12:06 PM
To: Tietsort, Katie [KDA] <Katie.Tietsort@ks.gov>
Subject: 50321 Andy Renyer

An old one we can wrap up. I've held it because first review by structures determined it to be a dam. However, after revising the plans, it is now non-jurisdictional for structures permitting.
No other issues. No comments from nearbys.
Please review.

Report Date: Tuesday, December 8 2020

AMOUNT STATISTICS REPORT FOR POINTS OF DIVERSION UNDER A 50321 00

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AMOUNT STATISTICS REPORT FOR POINTS OF DIVERSION UNDER A 50321 00 IRR

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

5080 Feet North and 337 Feet West of the Southeast Corner of Section 23 Twp 6S Rng 13E

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__ 45995 00 SED NK S          3686 -- SE SW NW 3200 4214 13 6 13E 1          .00      .00
AF
***** Authorized storage = 1887.03 AF Additional storage = 0.00 AF AF
Same          5468 -- SW SE NE 2771 1063 13 6 13E 2
***** Authorized storage = 0.00 AF Additional storage = 0.00 AF AF
Same          9134 -- NE SW SE 1293 1736 18 6 14E 1
***** Authorized storage = 0.00 AF Additional storage = 0.00 AF AF
Same          9643 -- NE NE SE 2323 400 25 6 13E 1
***** Authorized storage = 0.00 AF Additional storage = 0.00 AF AF
A__ 50321 00 IRR AY S          0 -- NE NE NE 5080 337 23 6 13E 1          315.00 315.00
AF
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Total Net Quantities Authorized:   Direct      Storage
Total Requested Amount (AF) =      315.00      .00
Total Permitted Amount (AF) =         .00      .00
Total Inspected Amount (AF) =         .00      .00
Total Pro_Cert Amount (AF) =         .00      .00
Total Certified Amount (AF) =         .00      .00
Total Vested Amount (AF) =          .00      .00
TOTAL AMOUNT (AF) =          315.00      .00
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An * after the source of supply indicates a pending application for change under the file number.
An * after the ID indicates a 15 AF exemption was granted under the file number.
A "G" in the Batt column indicates the GEO CTR of a battery. A "B" indicates a well in the battery.
The number in the Batt column is the number of wells in the battery.

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

5080 Feet North and 337 Feet West of the Southeast Corner of Section 23 Twp 6S Rng 13E

SURFACE WATER ONLY

WATER USE CORRESPONDENTS:

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File Number      Use ST SR
> DELAWARE WATERSHED JOINT DIST #10
>
> PO BOX 70
> HOLTON KS 66436
>-----
> ANDY RENYER
>
> 2381 128TH
> SABETHA KS 66534
>-----
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Schemm, Doug [KDA]

From: Tietsort, Katie [KDA]
Sent: Monday, January 11, 2021 7:54 AM
To: Schemm, Doug [KDA]
Subject: CONTACT

Please call Leroy at 785-285-1490 (home phone 785-834-5382) its about 50,321 and you know what its about because you talked to him before he is the son of the Claude & Betty (? Garbled) Trust that is nearby and he objected to the pond and now a new owner bought the property and he says he has the rights obtained in NE 23-6S-13E in Jackson CO.

Katie Tietsort
Water Commissioner

Katie.Tietsort@ks.gov

785-296-5733

PLEASE NOTE OUR NEW ADDRESS:

Kansas Department of Agriculture

Topeka Field Office

1131 SW Winding Rd, Suite 400

Topeka, KS 66615

Schemm, Doug [KDA]

From: Keith Grimm <Keith@mwivalley.com>
Sent: Monday, January 11, 2021 9:19 AM
To: Schemm, Doug [KDA]
Subject: RE: Andy Renyer 50321

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.

Yes that is correct! He did

MWI, LLC

Keith Grimm, owner
1215 Oregon St
Hiawatha, KS 66434
Office 785-288-1783
Cell 785-547-7556



From: Schemm, Doug [KDA] <Doug.Schemm@ks.gov>
Sent: Monday, January 11, 2021 9:18 AM
To: Keith Grimm <Keith@mwivalley.com>
Subject: Andy Renyer 50321

Hello Keith,

Do you know if Wayne Heinen recently bought all of the Andy Renyer property related to this file?

It's the East Half of Section 23, 6S, 13E in Jackson County.

Thanks, Doug

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

December 4, 2020

ANDY RENYER
2381 128TH ROAD
SABETHA KS 66534

RE: Jurisdictional Determination

WSN: DJA-0365

Site: Renyer Pond

Legal Location: NE 1/4 of the NE 1/4 of the NE 1/4 of Section 23, Township 6 South, Range 13 East

Dear Mr. Renyer:

We have reviewed the revisions submitted to the Division of Water Resources (DWR) for the proposed structure referenced above. Our review has indicated that the structure satisfies the requirements for the hazard class A permit exemption specified in K.S.A. 82a-301(d)(1). The proposed structure was shown to have a height of less than 30 feet and an emergency spillway storage volume of less than 125 acre-feet. The proposed work will not require a permit from the DWR water structures program, but this exemption does not absolve the owner from compliance with other local, state, or federal requirements that may apply.

Please note that your dam could be reclassified to a hazard class B or C structure as a result of many factors, including but not limited to downstream development or property changes. **If this occurs, you will be required to obtain a permit in compliance with all aspects of K.S.A. 82a-301 through 82a-305a.** A change in hazard classification has the potential to involve redesign and/or reconstruction to meet applicable state statutes and regulations.

If you have any questions, please contact me by phone at (785) 564-6652, or by email at bj.edmonston@ks.gov.

Sincerely,

BJ Edmonston, P.E.

Water Structures Engineer

PC: Keith Grimm – MWI LLC

Doug Schemm – Topeka Field Office (WR# 50321)


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. 50,321** of the applicant

ANDY RENYER
2381 128TH
SABETHA KS 66534

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 **December 5, 2019**.
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				
23	6S	13E	40	40	40	38												39	40	40	40	320

3. That the appropriation sought shall be limited to all natural flows of an unnamed tributary to Elk Creek, designated in the office of the Chief Engineer as Elk Creek Trib 5A2 (Delaware), 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 **315 acre-feet** per calendar year in one (1) reservoir created by a dam located in the Northeast Quarter of the Northeast Quarter of the Northeast Quarter (NE¼ NE¼ NE¼) of Section 23, more particularly described as being near a point 5,080 feet North and 337 feet West of the Southeast corner of said section, in Township 6 South, Range 13 East, Jackson County, Kansas, to provide **315 acre-feet** of water as needed for direct irrigation use to be withdrawn, released or otherwise diverted from the reservoir at a re-diversion rate of approximately **1,500 gallons per minute** (3.34 c.f.s.). A reasonable maximum re-diversion rate will be established during the perfection period and assigned at certification.

4. 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, which is currently \$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, which is currently \$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, 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, which is currently \$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 all re-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 re-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.

11. That an acceptable water flow meter shall be installed and maintained on the re-diversion works authorized by this permit in accordance with the Kansas Administrative Regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer. This water flow meter shall be used to provide an accurate quantity of water diverted as required for the annual water use report (including the meter reading at the beginning and end of the report year).

12. 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.

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

14. 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

ANDY RENYER
2381 128TH
SABETHA KS 66534

January 21, 2021

RE: Appropriation of Water, File No. 50,321

Dear Mr. Renyer:

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 re-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 Topeka Field Office at 785-296-5733. 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: Topeka Field Office
Keith Grimm - MWI

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 21 day of January, 2021, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,321, dated 15 January 2021 was mailed postage prepaid, first class, US mail to the following:

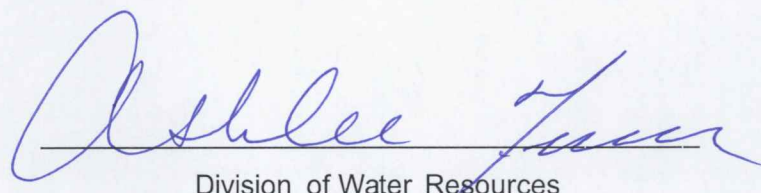
ANDY RENYER
2381 128TH
SABETHA KS 66534

With photocopies to:

MIDWEST IRRIGATION
1215 OREGON ST
HIAWATHA KS 66434

WAYNE & LINDA HEINEN
1441 96TH RD
GOFF, KS 66428-8233

Topeka Field Office



Division of Water Resources