

File No. **50,488** 15. Formation Code: Drainage Basin: **MARAIS DES CYGNES RIVER** County: **MI** Special Use: Stream: **BULL CREEK**

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		
MOD			88526	SE SW SE	34	17S	23E	6			650	1605	3000	80	3000	80	none

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

19. Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____
 Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____

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

21. Place of Use T MOD DEL ENT	PUSE	S	T	R	ID	NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg? NO	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				
CHK	70212	34	17S	23E	6	WILDLIFE MARSH (S2 S2)																	7a	NO	NONE

Comments:
WRITTEN PERMISSION TO PUMP 9/16/2021
KJN

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: July 26, 2021

FROM: Kris Neuhauser

RE: Application, File No. 50,488

Gus Bader on behalf of Bader Farms LLC has filed the above-referenced application requesting to appropriate ~~64.8~~ **80 AF** acre-feet of surface water for recreational use by direct diversion at a maximum diversion rate of 3,000 gallons per minute, from one pumpsite on Bull Creek (Marais Des Cygnes River Basin). The pumpsite is located within the Southeast Quarter of Section 34, Township 17 South, Range 23 East, Miami County, Kansas. The application has been signed by Mr. Bader, stating he has access to the point of diversion. This application was filed to obtain water for a duck marsh.

The place of use will be said marsh (20 acres), located in the South Half of the South Half of Section 34, Township 17 South, Range 23 East, Miami County, Kansas. Mr. Bader owns the entire place of use.

2.4 feet

~~16.7~~ **16.7** The requested quantity of water under this application (80 acre-feet) was determined by inundating the ~~20-acre~~ marsh area with ~~2.0~~ **2.4** feet of water; and the applicant planning to fill the marsh two times per year; an initial fill and as second filling to offset indirect loss of water. Typically, these types of marshes are filled in October prior to waterfowl migration.

16.7 surface acres x 2.4 initial fill = 40 acre-feet
second filling for indirect losses = 40 acre-feet x 2 = 80 acre-feet

The closest surface water right is roughly 1.4 miles away, and is located on the Marais Des Cygnes River, not Bull Creek. The approval of this application should not impact any senior water users. Five landowners were identified as being within ½ mile upstream and downstream of Mr. Bader's land. Nearby notification letters outlining the proposed application were mailed on June 22, 2021. No responses of any kind have been received to date.

Janelle Phillips, Stream Obstruction Team Lead, Water Structures Program, spoke with the applicant on June 17, 2021. Mr. Bader explained that berms are already in place as part of a National Resources Conservation Service (NRCS) wetland reserve. Janelle explained that if no modifications or repairs to the berms, or any work in the stream is done, no permit will be needed from Water Structures. Mr. Bader has no plans to do any of these things.

The applicant has submitted an application for a Compatible Use Agreement (CUA) for water level management to NRCS for pumping water onto a Wetlands Reserve Program easement area. The CUA was approved on July 19, 2021 (via email from Brent Turney).

Per K.A.R 5-3-15, this 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. This application also complies with K.A.R 5-3-15 (c)(5) because the proposed use of water for recreational use is typically during the fall season, and there is no need for direct diversion of water from July 1 through September 30.

The applicant has submitted a signed Minimum Desirable Streamflow form, 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.

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 discussion on September 8, 2021, Katie Tietsort, Water Commissioner of the Topeka Field Office, recommended approval of the referenced application.

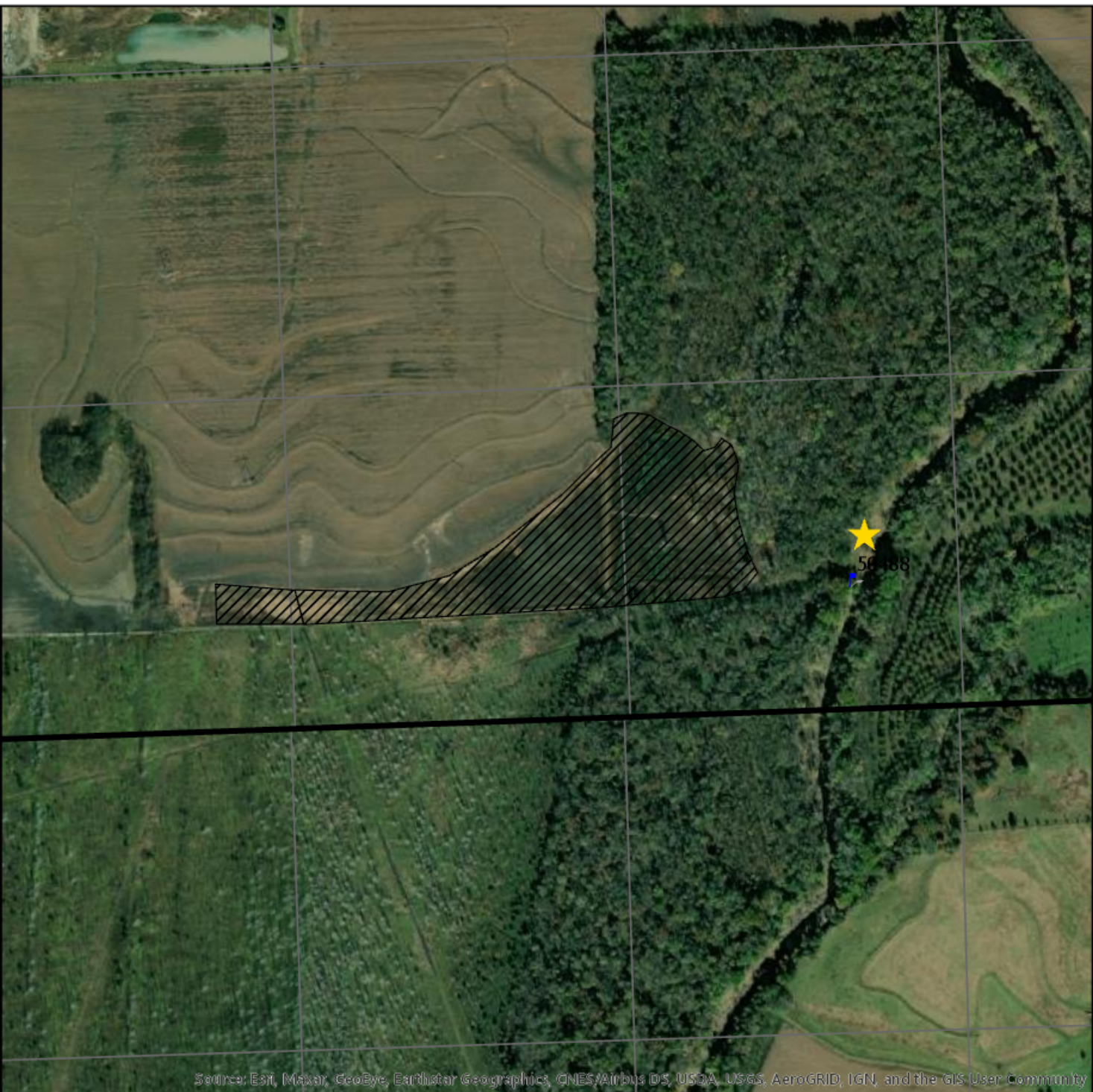
Based on the above discussion, the area is open to new applications and there is no indication that the proposed beneficial use of water will impair existing water rights. Therefore, it is recommended that the referenced application be approved.

9/16/2021
KJN

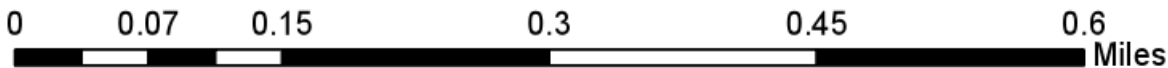


Kris Neuhauser
New Applications Lead
Water Appropriation Program

NEW APPLICATION, FILE NO. 50,488



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



Point of Diversion 650 ft. N
1,605 ft. W 34-17S-23E



Place of Use: 16.7 acres

KRIS NEUHAUSER
8/16/2021
DWR HQ - MANHATTAN



CUA MAP

Date: 3/09/2021

Customer: Bader Farms, LLC

Approximate Acres: 8.5

Legal Description: Southeast Quarter of
Section 34, Township 17 South, Range 23 East,
Miami County, Kansas.

Field Office: Paola Service Center

Agency: USDA-NRCS

Assisted By: Brent Turney



Legend

-  Easement Boundary
-  Pumpsite
-  Water Level Management
-  Semi Permanent Blind



Soil data has been compiled to National Map Accuracy Standards of 1:12,000 scale. Use of this data at larger scales may introduce the appearance of inaccurate line placement.

COMPATIBLE USE AUTHORIZATION

I. To be completed by NRCS: check appropriate box:

This transaction is for CCC

This transaction is for NRCS EWP

2. County: Miami

3. Contract NO.: 20-368, 20-369

4. Agreement NO.: 66-6215-99-008XH

5. Expiration Date: 09-30-25

A. Person Responsible for Agreement Activities (Name and Address):

A 1. Person Responsible for Agreement
(Telephone Number): (913) 645-2323

Bader Farms
% Ghassan (Gus) Bader Member/Manager
9719 Sunset Circle
Lenexa, KS 66220

B. Purpose:

WATER LEVEL MANAGEMENT

Semi-permanent Structure - or undeveloped recreational activities (wildlife viewing and hunting blind).

C. Location Description (Attach a copy of map showing approximate area of compatible use.):

Southeast Quarter of Section 34, Township 17 South, Range 23 East, Miami County. See attached map.

D. Beginning Condition of Site: (CHECK PREDOMINANT SITE CONDITION)

Herbaceous vegetation

Woody vegetation

E. Statement of Affect and Compatibility:

Pumping and water drawdowns will provide various levels of water in a timely manner. This practice will provide for wetland wildlife habitat at times when natural hydrology does not. A variety of drawdown dates and regimes will be used to create a diversity of vegetation. This practice will affect 8.5 acres. Practice may be requested for up to 5 years.
Semi-permanent Structure - 0.1 acres.

F. Special Conditions. Specifications and Other Details Including Information From Consultation with FWS, CD and State Wildlife Agency:

Pumping may occur between September 1 and December 31. DWR permit number for pumping is 50.488. Water may be released at a rate not to exceed 6 inches per two-week period. Refer to easement management guidelines for specific pumping and draw down requirements. Structure(s) must have external dimensions of no more than 80 square feet and 8 feet in height, are to blend into the landscape vegetation and causes minimal ground or vegetation disturbance for installation or removal. Utilities associated with semi-permanent hunting and observation blinds are prohibited. Only one semi-permanent blind is allowed per moist soil wetland area. If moist soil wetlands are adjacent to one another, the semi-permanent structures shall be at least 400 yards apart. Semi-permanent blinds on upland sites are limited to one per easement for easements up to 80 acres, and one semi-permanent blind for each additional 80 acres of easement area. The landowner is responsible for all costs associated with the removal of the blind(s) and the repair of any impacts to the easement area as a result of the removal. Any blinds not maintained will be considered abandoned and are to be removed from the easement area.

NRCS retains the right to modify or cancel this compatible use authorization at any time if the NRCS determines that such activities do not further the protection and enhancement objectives of the easement, or that the landowner has failed to comply with specified terms and conditions. The landowner engages in such activities at his or her own risk. This authorization does not vest any right of any kind in the Landowner. This authorization is null and void after the expiration date specified above. By signing this document, the landowner agrees to the terms described above and on referenced documents.

G. Recommended (NRCS Signature): [Signature] G 1. Date: 7-21-21

G 2. Title: District Conservationist

H. Landowner or Representative (Signature): [Signature] H 1. Date: 7/12/21

I. Approved (NRCS Signature): **ANDREW BURR** Digitally signed by ANDREW BURR
Date: 2021.07.22 14:54:21 -05'00'

I 2. Title: _____

The signature by the NRCS representative signifies a CCC-NRCS transaction as indicated above.

20-368
20-369

COMPATIBLE USE AUTHORIZATION

OMB DISCLOSURE STATEMENT

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0578-0013. The time required to complete this information collection is estimated to average 0.66 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

NONDISCRIMINATION STATEMENT

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PRIVACY ACT STATEMENT

The above statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. 522a). Furnishing this information is voluntary; however, failure to furnish correct, complete information will result in the withholding or withdrawal of such technical or financial assistance. The information may be furnished to other USDA agencies, the Internal Revenue Service, the Department of Justice, or other State or Federal law enforcement agencies, or in response to orders of a court, magistrate, or administrative tribunal.

CUA MAP

Date: 3/09/2021

Customer: Bader Farms, LLC

Approximate Acres: 8.5

Legal Description: Southeast Quarter of
Section 34, Township 17 South, Range 23 East,
Miami County, Kansas.

Field Office: Paola Service Center

Agency: USDA-NRCS

Assisted By: Brent Turney



Legend

-  Easement Boundary
-  Pumpsite
-  Water Level Management
-  Semi Permanent Blind



Soil data has been compiled to National Map Accuracy Standards of 1:12,000 scale. Use of this data at larger scales may introduce the appearance of inaccurate line placement.

GUS BADER NEW APPLICATION
SITE MAP SEC. 34, T17S, R23E

1:12,000



● Proposed Point of Diversion - Pump Site



Proposed Place of Use - 20 Acre Marsh

All upstream and downstream property owners adjacent to the stream within 1/2 mile of property lines have been identified.

WATER RESOURCES
RECEIVED

DEC 21 2020



WRP/ACEP-WRE EASEMENT MANAGEMENT GUIDELINES (10-2020 revision)

Landowner: Ghassan (Gus) Bader

Date Prepared: 06/21/2021

Agreement Number: 66-6215-99-008XH

Management prescription developed by: Tim McCoy District Conservationist
Brent Turney Easement Specialist

Goal: Manage site to provide a diversity of hydrologic and vegetative conditions that benefit migratory birds, prairie and/or woodland dependent species throughout all seasons of the year. Landowner(s) and the Natural Resources Conservation Service (NRCS) are committed to working together to ensure these goals are maintained through various management activities and implementation procedures. Landowners may be asked to implement maintenance activities to maintain high quality wetland habitat and adjacent vegetative plant communities.

Hydrology Management: Wetland hydrology was restored by construction of low-level dikes and/or micro-depressions. All depressions will fill and dry naturally depending on weather conditions. Water control structures in dikes allow for water level management. Boards may be removed from water control structures after March 1st to allow for vegetation growth during the summer within the wetland cells. Water control structures will have all boards replaced by October 31st. An approved Compatible Use Authorization (CUA) is required for water level management prior to undertaking this activity.

If natural rainfall/runoff does not fill the wetlands, pumping water into the sites may be used by the landowner. Impoundments will be filled slowly to allow soils to saturate. At least one-half foot of freeboard will be left between the water level and the emergency spillway. **An approved CUA is required for pumping water prior to undertaking this activity AND the landowner must provide NRCS the water appropriations application/permit number before the CUA for pumping water will be considered for approval.**

Vegetation Management: Existing and/or restored woodland will be managed to produce a diversity of tree species and age. Fire may be used occasionally to promote openings in the woodland and enhance herbaceous understory. Timber Stand Improvement (TSI) may be utilized to improve the woodland areas for wildlife and enhance the health of the stand. Methods that will release mast trees for improved growth and nut production can be used. A TSI plan must be developed by a certified forester. An approved CUA and TSI plan is required before any tree cutting and/or tree management activities can occur.

Existing and/or restored native grass and forb areas will be managed to provide wildlife habitat and a buffer around wetland areas. These native grass areas may be burned as needed to minimize tree encroachment into the existing and/or restored grassland areas, enhance the grass for use as nesting and brood habitat, and maintain a healthy stand of grass to serve as the wetland buffer. Burns can be done in early spring or late summer but are not allowed during the nesting season from April 15 to July 15. Firebreaks may be identified and maintained by mowing to enhance management of the area and increase safety during prescribed burns. Mowed fire breaks cannot exceed 20' in width unless the purpose of the firebreak is to protect structures on adjacent land outside of the easement. In these cases, firebreak width will adhere to the guidelines set forth in NRCS practice code 338, Prescribed Burning, and 394, Firebreaks. Firebreaks will not be used as roads. **Burning and firebreaks require an approved CUA and a prescribed burn plan (as applicable) prior to undertaking either of these activities.**

Haying and/or grazing may be used occasionally in grassland areas to manipulate the habitat and reduce woody and/or invasive plant encroachment. The prescribed grazing plan will identify the habitat needs necessary to maintain or improve food, cover and shelter for the identified targeted wildlife species and provides a detailed grazing schedule that outlines the grazing intensity, duration, degree of use and periods of rest or deferment necessary. Grazing is not allowed in the same year on the same acreage that is hayed or mowed. Haying will not occur during the nesting season (April 15-July 15). **Haying and grazing require an approved CUA and a prescribed grazing plan (as applicable) prior to undertaking these activities.**

Light disking, or other approved soil disturbance activity, may be used in restored grassland areas to reduce grass dominance and encourage annual and perennial forbs. Disking shall occur between October 1st and April 15th. **Disking or any other soil disturbance activity requires an approved CUA prior to undertaking the activity.**

Tree removal may be used in grassland areas to control undesirable woody vegetation, i.e. cottonwood, elm, cedar, Osage orange, honey locust, etc. Tree removal can occur anytime conditions are dry enough to not cause significant soil disturbance. Removal of woody species by bulldozer is not allowed. Cut trees are to be removed from easement area or can be piled and burned in areas that minimize grass disturbance (within wetland areas or adjacent to existing woodlands). Unburned debris would need to be removed from easement area. **Tree removal requires an approved CUA prior to undertaking the activity.**

Wetland units will be managed by burning, mowing, chemical application or disking to develop and maintain natural moist soil plants that provide food and cover for a variety of wildlife species. Hydrology management will encourage the development of wetland vegetation. Undesirable woody species, i.e. cottonwood, elm, green ash, and honey locust may be cut to enhance wetland functions and values. Tree removal can occur anytime conditions are dry enough to not cause significant soil disturbance. Removal of woody species by bulldozer is not allowed. Cut trees are to be removed from easement area or can be piled and burned in areas that minimize grass disturbance (within wetland areas or adjacent to existing woodlands). Unburned debris would need to be removed from easement area. Herbicides may also be used on the stumps of cut trees or as a foliar spray if applied according to label directions. Depression areas may also be disked occasionally if needed to manipulate plants in these wetlands. Disking may also be used within restored wetland areas to prevent the establishment of woody and perennial vegetation and encourage moist soil vegetation. Disking within wetland areas shall be allowed between March 1st and October 31st. Multiple disking passes may be needed to break up perennial plant roots. **Burning, mowing, disking, chemical application, and tree removal all require approved CUAs prior to undertaking any of these activities.**

Weeds, including noxious weeds, will be controlled by mowing or chemical treatment to reduce competition, prevent seed production, and encourage growth and establishment of desirable grass and forb species. Mowing will occur between July 15th and September 1st and mowing height shall be no less than 6 inches. Refer to the current year “Chemical Weed Control for Field Crops, Pastures, Rangeland, and Non-cropland Guide”, published by Kansas State University (KSU) for all chemical treatment recommendations and methods. Always read and follow all label directions. **An approved CUA is required for mowing prior to undertaking this activity.**

Food plots may be planted on up to 5 per cent of the total easement acres (as designated on an attached map) to provide winter food for wildlife. These areas may be prepared and planted to small grains, row crops, legumes or a variety of cover crops with no harvest allowed. Soybeans are not allowed due to toxicity concerns to quail and other wildlife. No chemical can be used with food plots that are established within moist soil wetland cells. **Food plots require an approved CUA prior to preparing and planting the food plot(s).**

Trails may be developed to provide access by foot or vehicle for management activities, recreational access, and general quiet enjoyment of the easement. The general public will not have access to these trails. Trails can be mowed twice during the year to a maximum width of 15 feet and mowing height shall be no less than 6 inches. Trail mowing may only be done one time during the nesting season (April 15- July 15), an additional mowing will be allowed prior to September 1. Trail use during wet soil conditions is limited to foot traffic only. Gravel or other amendments are not allowed on trails. **Trails require an approved CUA prior to trails being developed.**



Wildlife viewing or hunting blinds considered reserved to the landowner under the terms of the Warranty Easement Deed include hunting or observation blinds that will accommodate no more than four (4) people and are temporary, non-permanent, and easily assembled, disassembled, and moved without heavy equipment are not subject to the CUA process. This includes ladder stands, hanging tree stands, pop up ground blinds, or other blinds that are not attached to the ground or do not disturb the ground surface and are assembled and disassembled on site. Temporary hunting blinds are to be removed at the end of the hunting season.

In contrast, semi-permanent hunting or observation blinds are subject to the CUA process. Hunting and observation blinds that are considered semi-permanent design are subject to the following restrictions: have external dimensions of no more than 80 square feet and 8 feet in height (with a total height not to exceed 25 feet if on an elevated platform), is to blend into the landscape and causes minimal ground or vegetation disturbance for installation or removal. Utilities (e.g. electricity, propane tanks or running water) associated with semi-permanent hunting and observation blinds are prohibited. Only one semi-permanent blind is allowed per moist soil wetland area. If moist soil wetlands are adjacent to one another, the semi-permanent structures shall be at least 400 yards apart. Semi-permanent blinds on upland sites are limited to one per easement for easements up to 80 acres, and one semi-permanent blind for each additional 80 acres of easement area. The landowner is responsible for all costs associated with the removal of the blind(s) and the repair of any impacts to the easement area as a result of construction, installation, or removal. Any blinds not maintained will be considered abandoned and are to be removed from the easement area. The blind is only authorized as long as the CUA is in place. Any non-renewed CUA for semi-permanent blinds will require the structure to be removed immediately upon notification from NRCS. **An approved CUA for semi-permanent hunting or observation blinds is required prior to undertaking this activity.**

Dike(s) represent a major financial investment constructed on the easement to restore wetland hydrology and enhance wildlife habitat. Herbaceous vegetation should be maintained on the dike. Dikes may be maintained by mowing from the front toe of the dike to the back toe of the dike. Dike mowing will be allowed between July 15 and September 1 with a mowing height of no less that 6 inches. **An approved CUA for dike mowing is required prior to undertaking this activity.**

Other: NRCS technical assistance is available at any time. *Any manipulation of vegetation or hydrology requires an approved Compatible Use Agreement prior to implementation.*

By signing this document the landowner acknowledges that the above management guidelines will be followed if CUA(s) are approved by NRCS. It should be understood that these are general guidelines and more specific requirements may be included in the CUA(s). NRCS retains the right to modify or cancel the CUA(s) at any time if NRCS determines that such activities do not further the protection and enhancement objectives of the easement, or that the landowner has failed to comply with specified terms and conditions of the CUA(s).

	7/12/21		7-19-21
Landowner	Date	NRCS Representative	Date

From: Neuhauser, Kris [KDA]
Sent: Thu 6/17/2021 2:58 PM
To: Phillips, Janelle [KDA]
Subject: RE: New App 50488

Very nice – I'll save our email string with the file. I always check with NRCS on these apps too, good to know. Thanks for checking on everything.

From: Phillips, Janelle [KDA] <Janelle.Phillips@ks.gov>
Sent: Thursday, June 17, 2021 2:53 PM
To: Neuhauser, Kris [KDA] <Kris.Neuhauser@ks.gov>
Subject: RE: New App 50488

Mr. Bader says that the berms are already there as part of a NRCS wetland reserve. I told him as long as he doesn't do any modifications or repairs to the berms or any work in the stream, he doesn't need a permit from Water Structures.

From: Neuhauser, Kris [KDA] <Kris.Neuhauser@ks.gov>
Sent: Thursday, June 17, 2021 11:38 AM
To: Phillips, Janelle [KDA] <Janelle.Phillips@ks.gov>
Subject: RE: New App 50488

Here's another for you to check out when you have time – File No. 50488. Another Doug assisted app. Think I'm going to go through my pending list soon and pull any that may need structures review.

Kris

From: Neuhauser, Kris [KDA]
Sent: Thursday, June 17, 2021 11:25 AM
To: Phillips, Janelle [KDA] <Janelle.Phillips@ks.gov>
Subject: RE: New App 50517

Good deal, thanks for looking into it. I'll probably get this one going soon!

Kris

From: Phillips, Janelle [KDA] <Janelle.Phillips@ks.gov>
Sent: Thursday, June 17, 2021 11:20 AM
To: Neuhauser, Kris [KDA] <Kris.Neuhauser@ks.gov>
Subject: RE: New App 50517

Kris –

The proposed wetlands are not jurisdictional to water structures. I spoke to the applicant and he not proposing to do any work within Otter Creek to make his pumps work. He says there are existing pool with the creek that will work for his pumps.

Janelle N. Phillips, P.E. C.F.M
Stream obstruction team lead
Water Structures Program
Division of Water Resources
Kansas Department of Agriculture
1320 Research Park Drive

Manhattan, KS 66502
785-564-6656 – office
785-307-8292 – cell
Janelle.phillips@ks.gov

From: Neuhauser, Kris [KDA] <Kris.Neuhauser@ks.gov>
Sent: Thursday, June 17, 2021 10:44 AM
To: Phillips, Janelle [KDA] <Janelle.Phillips@ks.gov>
Subject: New App 50517

Hey Janelle,

Here is that app I mentioned yesterday. Talked to the applicant, real nice guy – Karl Dieterich. Doug assisted from the beginning on it, Karl heard he retired so was checking in. It recently got reassigned to me, not quite there in priority order yet to work, but figured it wouldn't hurt to get it to you guys ahead of time to review.

Let me know if you need anything else for it. His phone # is 719-440-7700 in case you need it.

Thanks!

Kris

From: Turney, Brent - NRCS, Emporia, KS
Sent: Wed 6/30/2021 3:09 PM
To: Baum, Kristen [KDA]
Cc: Neuhauser, Kris [KDA];Kohler, Brady - FPAC-NRCS, SALINA, KS
Subject: RE: Gus Bader, File No. 50488

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.

Kristen,

I enjoyed talking with you today, we had a lot to catch up on! Thank you for the maps showing the location of the point of diversion (pump site) for Mr. Baders application. I am drafting a CUA and will have that to Mr. Bader to sign very soon. Once the CUA is completed and approved by NRCs I will forward you a copy for your records.

Please don't hesitate to contact me if you have any questions.

Thanks, and take care,

Brent

Brent Turney

Easement Specialist

3020 W. 18th Ave Suite B

Emporia, KS 66801

Office 620-487-3413

Cell 620-682-3538

brent.turney@usda.gov

From: Baum, Kristen [KDA] <Kristen.Baum@ks.gov>
Sent: Wednesday, June 30, 2021 11:30 AM
To: Turney, Brent - NRCS, Emporia, KS <Brent.Turney@usda.gov>
Subject: Gus Bader, File No. 50488 map

Kristen A. Baum
Division of Water Resources – Water Appropriations
Kansas Department of Agriculture
1320 Research Park Drive
Manhattan KS 66502
(785) 564-6627

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From: Turney, Brent - NRCS, Emporia, KS
Sent: Wed 7/14/2021 1:49 PM
To: Neuhauser, Kris [KDA]; Baum, Kristen [KDA]
Subject: RE: Gus Bader, File No. 50488 map

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.

As soon as I have approval of the CUA I will get a copy to you.

Brent

Brent Turney

Easement Specialist

3020 W. 18th Ave Suite B

Emporia, KS 66801

Office 620-487-3413

Cell 620-682-3538

brent.turney@usda.gov

From: Neuhauser, Kris [KDA] <Kris.Neuhauser@ks.gov>
Sent: Wednesday, July 14, 2021 11:56 AM
To: Baum, Kristen [KDA] <Kristen.Baum@ks.gov>; Turney, Brent - NRCS, Emporia, KS <Brent.Turney@usda.gov>
Subject: RE: Gus Bader, File No. 50488 map

Yes that's great, have it saved with the file. Thanks Brent!

Kris Neuhauser

Environmental Scientist

Water Appropriations Program – Kansas Dept of Agriculture

(785) 564-6643

From: Baum, Kristen [KDA] <Kristen.Baum@ks.gov>
Sent: Wednesday, July 14, 2021 11:49 AM
To: Turney, Brent - NRCS, Emporia, KS <Brent.Turney@usda.gov>; Neuhauser, Kris [KDA] <Kris.Neuhauser@ks.gov>
Subject: RE: Gus Bader, File No. 50488 map

That's helpful, Brent – thanks!

It was nice catching up with you. You take care as well.

Kristen

From: Turney, Brent - NRCS, Emporia, KS <Brent.Turney@usda.gov>
Sent: Tuesday, July 13, 2021 9:05 AM
To: Baum, Kristen [KDA] <Kristen.Baum@ks.gov>; Neuhauser, Kris [KDA] <Kris.Neuhauser@ks.gov>
Cc: Gus Bader <gbader@tristararms.com>
Subject: RE: Gus Bader, File No. 50488 map

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.

Good Morning Kristen and Kris,

I have been working with Mr. Bader to complete his CUA for Water Level Management. Once I have the final document with all NRCS approval, I will forward that copy on to you. I have attached a map that Gus and I completed. Please note the updated location of the proposed pumpsite. It is located approximately 650 feet North and 1,605 feet West of the Southeast corner of Section 34.

Great working with you guys! Take care.

Brent

Brent Turney

Easement Specialist

3020 W. 18th Ave Suite B

Emporia, KS 66801

Office 620-487-3413

Cell 620-682-3538

brent.turney@usda.gov

From: Baum, Kristen [KDA] <Kristen.Baum@ks.gov>

Sent: Wednesday, June 30, 2021 11:30 AM

To: Turney, Brent - NRCS, Emporia, KS <Brent.Turney@usda.gov>

Subject: Gus Bader, File No. 50488 map

Kristen A. Baum

Division of Water Resources – Water Appropriations

Kansas Department of Agriculture

1320 Research Park Drive

Manhattan KS 66502

(785) 564-6627

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From: Neuhauser, Kris [KDA]
Sent: Fri 8/13/2021 3:12 PM
To: Gus Bader
Subject: RE: Water Level Management CUA
Attachments: 50488_updatedmap.jpg

9/16/2021
KJN

Worked with Gus over the phone and email to determine more accurate PU = 16.2 acres*

Gus,

Cut off the marsh at the powerlines/pipeline that runs N-S. Moved the pump-site, to make sure it's a touch north of the pipeline that runs E-W – to match the NRCS map Brent sent us.

All look good to you?

Kris Neuhauser

New Applications Lead
Kansas Department of Agriculture, Division of Water Resources
Phone: (785)564-6643

From: Neuhauser, Kris [KDA]
Sent: Friday, August 13, 2021 12:25 PM
To: Gus Bader <gbader@tristarams.com>
Subject: RE: Water Level Management CUA

Gus, no problem at all. I'll have to mention that to her!

In the meantime, I went ahead and attached a map view of the area. Wanted to confirm with you where the marsh will actually be located – and wanted to have an accurate map of surface area. From aerial vies it almost looked like it extended all the way west to that black top road.

Does this look correct to you? Feel free to draw in a more accurate representation of the outline of the marsh, and email it back to me.

Thanks!

Kris Neuhauser

New Applications Lead
Kansas Department of Agriculture, Division of Water Resources
Phone: (785)564-6643

From: Gus Bader <gbader@tristarams.com>
Sent: Friday, August 13, 2021 9:41 AM
To: Neuhauser, Kris [KDA] <Kris.Neuhauser@ks.gov>
Subject: RE: Water Level Management CUA

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Thank you Kris,

I met Katie several times at our other place, Hillcrest Duck Club. We used to host a get together with all the clubs in the La Cygne valley and Katie used to join. Not sure if she remembers me personally but I am sure she remembers our club and knows about us.

So far with all the rains we are getting, I doubt if I will need to pump this year, but naturally, we all want to complete the process as soon as possible.

Regards
Gus Bader



gbader@tristararms.com

PH: 816.421.1400

FX: 816.421.4182

From: Neuhauser, Kris [KDA] [<mailto:Kris.Neuhauser@ks.gov>]

Sent: Friday, August 13, 2021 9:11 AM

To: Gus Bader <gbader@tristararms.com>

Subject: RE: Water Level Management CUA

Hi Gus,

I finished my review a while back and shot it to the water commissioner of our Topeka Field Office, Katie Tietsort, for her approval/denial recommendation. I know she had some issues she wanted to work out with it. Since we're so understaffed, things have really slowed down around here unfortunately..

Katie is out this week on vacation, but will be back next week. I'll shoot her an email and bring your app back to the forefront of her mind. Want to make sure she's okay with how everything is drafted up. Already let my supervisor know you checked in, we'll tag team this one and see what we can't get figured out. Can definitely rush this one for final signatures, as soon as I have an approval recommendation from Katie.

Thanks for your patience on this one! Feel free to check in again, otherwise I'll try and keep you in the loop when I know more.

Kris Neuhauser

New Applications Lead

Kansas Department of Agriculture, Division of Water Resources

Phone: 785-564-6643

From: Gus Bader <gbader@tristararms.com>

Sent: Friday, August 13, 2021 7:19 AM

To: Baum, Kristen [KDA] <Kristen.Baum@ks.gov>; Neuhauser, Kris [KDA] <Kris.Neuhauser@ks.gov>

Subject: RE: Water Level Management CUA

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.

Good morning Kris,

Any update on the Water Permit.

Not sure what the next step or timing is, but since NRCS approved the CUA, I thought I would reach out to you for follow up.

Have a good weekend.

Regards
Gus Bader



gbader@tristararms.com

PH: 816.421.1400

FX: 816.421.4182

From: Turney, Brent - NRCS, Emporia, KS <Brent.Turney@usda.gov>

Sent: Friday, July 23, 2021 8:21 AM

To: Gus Bader <gbader@tristararms.com>; Baum, Kristen [KDA] <Kristen.Baum@ks.gov>; Neuhauser, Kris [KDA] <Kris.Neuhauser@ks.gov>

Cc: Lyon, Alexander - NRCS, Emporia, KS <alex.lyon@usda.gov>; McCoy, Timothy - NRCS, Paola, KS <timothy.mccoy@usda.gov>; Kohler, Brady - FPAC-NRCS, SALINA, KS <Brady.Kohler@usda.gov>

Subject: Water Level Management CUA

Gus,
Please find attached an approved CUA for Water Level Management and Semi-permanent Blind. I have copied the folks at the Division of Water Resources so they should be able to proceed with your application to appropriate water. If you have any questions please don't hesitate to give me a call.

Thanks,
Brent

Brent Turney

Easement Specialist

3020 W. 18th Ave Suite B

Emporia, KS 66801

Office 620-487-3413

Cell 620-682-3538

brent.turney@usda.gov

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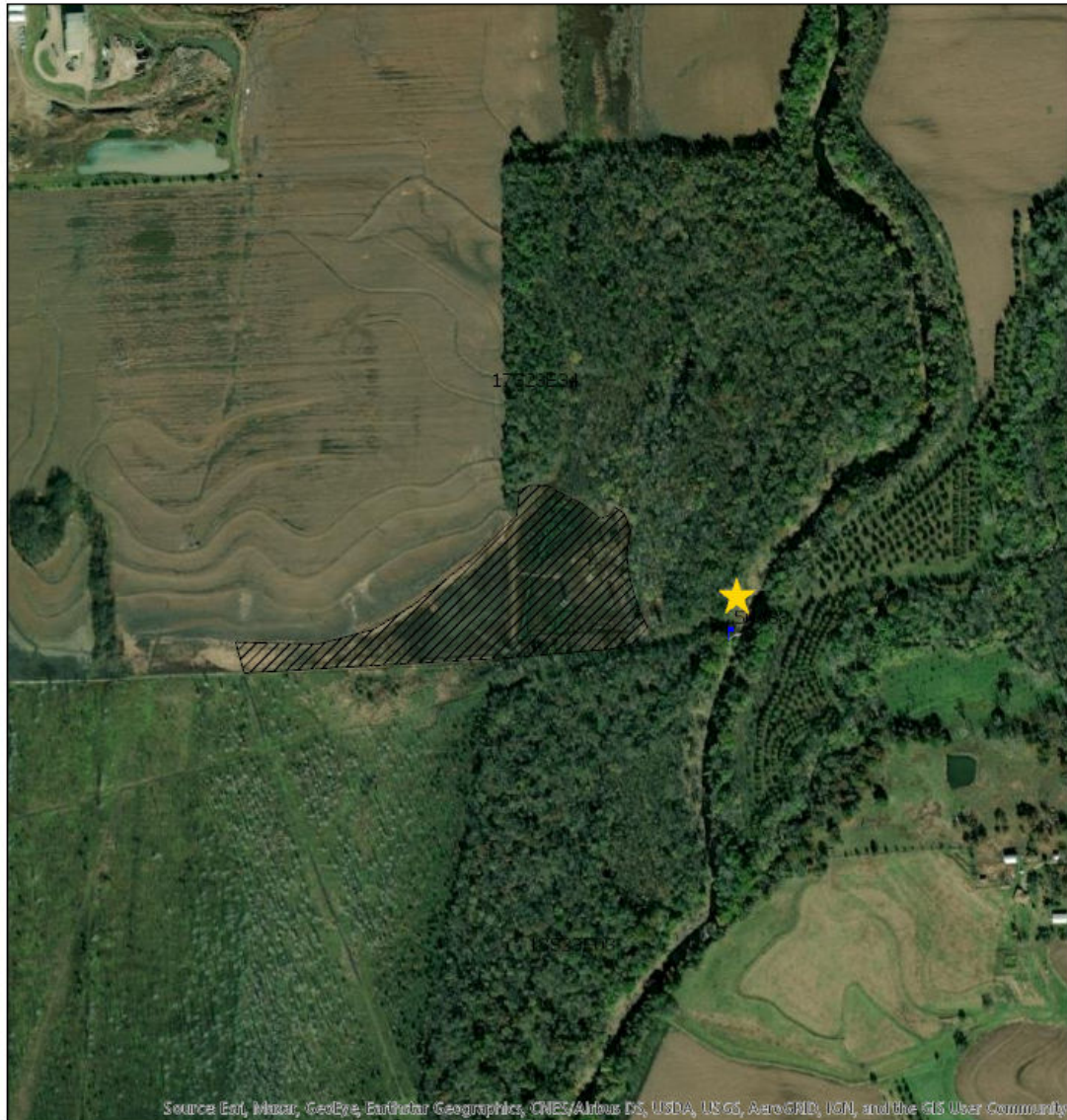
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This email has been scanned for viruses and malware, and may have been automatically archived by **Mimecast Ltd.**

NEW APPLICATION, FILE NO. 50,488



0 0.1 0.2 0.4 0.6 0.8 Miles

	Point of Diversion 627 ft. N 1,680 ft. W 34-17S-23E
	Place of Use: 14.8 acre marsh

KRIS NEUHAUSER
8/13/2021
DWR HQ - MANHATTAN



From: Tietsort, Katie [KDA]
Sent: Wed 9/8/2021 10:52 AM
To: Neuhauser, Kris [KDA]
Subject: RE: 50488

This works for me.

Katie Tietsort

Water Commissioner

Katie.Tietsort@ks.gov

Ph. 785-296-5733 Cell 785-213-9188

Kansas Department of Agriculture

Topeka Field Office

1131 SW Winding Rd, Suite 400

Topeka, KS 66615

From: Neuhauser, Kris [KDA] <Kris.Neuhauser@ks.gov>
Sent: Wednesday, September 8, 2021 10:46 AM
To: Tietsort, Katie [KDA] <Katie.Tietsort@ks.gov>
Subject: RE: 50488

Morning Katie,

Yes, I believe we were leaning that way after that meeting. Though I did talk to the applicant Gus further over the phone and we figured out a more accurate map. Also moved the PD slightly north after talking things out with him.

The marsh will cover 16.2 acres – Gus gave the verbal okay and I've adjusted the app in Docuware. I've attached the map I made above.

Glad you brought this one back up – been meaning to get your final thoughts on it. With the updated surface area and using Doug's calculations on the rec supp sheet, the new quantity would come out to be 64.8 AF (16.2 acres, initial filling at 2 feet = 32.4 AF. Second filling to offset indirect losses: 32.4 AF x 2 = 64.8 AF).

Let me know what you think.

Kris Neuhauser

New Applications Lead

Kansas Department of Agriculture, Division of Water Resources

Phone: 785-564-6643

From: Tietsort, Katie [KDA] <Katie.Tietsort@ks.gov>
Sent: Wednesday, September 8, 2021 8:34 AM
To: Neuhauser, Kris [KDA] <Kris.Neuhauser@ks.gov>
Subject: 50488

Hey Kris,

We all ended up being ok with Bader Farms' 50488 in the end right and we are approving it as is?

Katie Tietsort

Water Commissioner

Katie.Tietsort@ks.gov

Ph. 785-296-5733 Cell 785-213-9188

Kansas Department of Agriculture

Topeka Field Office

1131 SW Winding Rd, Suite 400

Topeka, KS 66615

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. 50,488 of the applicant

BADER FARMS LLC
Attn: GUS BADER
9719 SUNSET CIRCLE
LENEXA, KS 66220

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 21, 2020**.
2. That the water sought to be appropriated shall be used for recreational use in a waterfowl marsh located in the South Half of the South Half (S $\frac{1}{2}$ S $\frac{1}{2}$) of Section 34, in Township 17 South, Range 23 East, Miami County, Kansas.
3. That the authorized source from which the appropriation shall be made is surface water from Bull Creek (Marais des Cygnes River) to be diverted by means of one (1) pumpsite located in the Southeast Quarter of the Southwest Quarter of the Southeast Quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 34, more particularly described as being near a point 650 feet North and 1,605 feet West of the Southeast corner of said section, in Township 17 South, Range 23 East, Miami County, Kansas.
4. That the appropriation sought shall be limited to a maximum diversion rate not in excess of **3,000 gallons per minute (6.68 c.f.s.)** and to a quantity not to exceed **80 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 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.

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

18. 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.

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.

Ordered this 28 day of September, 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 28 day of September, 2021, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.

Melinda Jennings
Notary Public



RIGHT TO A HEARING AND TO ADMINISTRATIVE REVIEW

If you are aggrieved by this Order, then pursuant to K.S.A. 82a-1901, you may request an evidentiary hearing before the Chief Engineer, or request administrative review by the Secretary of Agriculture. Failure to request an evidentiary hearing before the Chief Engineer does not preclude your right to administrative review by the Secretary.

To obtain an evidentiary hearing before the Chief Engineer, a written request for hearing must be filed within 15 days after service of this Order as provided in K.S.A. 77-531 (**i.e., within a total of 18 days after this Order was mailed to you**), with: Kansas Department of Agriculture, Attn: Legal Division, 1320 Research Park Drive, Manhattan, Kansas 66502, FAX (785) 564-6777.

If you do not file a request for an evidentiary hearing before the Chief Engineer, you may petition for administrative review of the Order by the Secretary of Agriculture. A petition for review shall be in writing and state the basis for requesting administrative review. The request for review may be denied if the request fails to clearly establish factual or legal issues for review. See K.S.A. 77-527. The petition must be filed within 30 days after service of this Order as provided in K.S.A. 77-531 (**i.e., within a total of 33 days after this Order was mailed to you**), and be filed with: Secretary of Agriculture, Attn: Legal Division, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, FAX (785) 564-6777.

If neither a request for an evidentiary hearing nor a petition for administrative review is filed as set forth above, then this Order shall be effective and become a final agency action as defined in K.S.A. 77-607(b). Failure to timely request either an evidentiary hearing or administrative review may preclude further judicial review under the Kansas Judicial Review Act.

CERTIFICATE OF SERVICE

On this _____ day of _____, 2021, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,488, dated _____ was mailed postage prepaid, first class, US mail to the following:

BADER FARMS LLC
Attn: GUS BADER
9719 SUNSET CIRCLE
LENEXA, KS 66220

With photocopies to:

Topeka Field Office

Division of Water Resources

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

September 30, 2021

BADER FARMS LLC
Attn: GUS BADER
9719 SUNSET CIRCLE
LENEXA, KS 66220

RE: Appropriation of Water, File No. 50,488

Dear Mr. Bader:

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

Notice must be filed on the enclosed form once the diversion works have been completed. Failure to complete the diversion works within the time allowed, or within any authorized extension of time thereof, will result in dismissal of this permit. If you need an extension of time, you must request it before the deadline for completion set forth in the permit. Any request for an extension of time must be accompanied by the statutorily required fee, which is currently \$100.00.

An annual water use report must be filed with the Chief Engineer by March 1, following the end of each calendar year. If a complete annual water use report is not received by the deadline, then a fine may be assessed and all water use under such permit or right may be suspended. Reports submitted in paper form will be assessed a \$20 per file number paper filing fee. In order to avoid this filing fee, you may submit your report online at www.kswaterusereport.org.

The approval of your application constitutes a permit to appropriate water. It does not give authority to construct any dam or other stream obstruction regulated by K.S.A. 82a-301 through 305a. It does not give authority to access any right-of-way or authorize trespassing upon or injury to public or private property. It may also be necessary for you to comply with other local, state or federal requirements.

Enclosed is an informational sheet that sets forth the procedure to obtain a Certificate of Appropriation which will establish the extent of your perfected water right. Additional information and applicable forms may be found on our website at agriculture.ks.gov/divisions-programs/dwr. If you have any questions or need assistance with any of these requirements, please contact our office at 785-564-6640 or your local 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: kjn
Enclosure(s)

pc: Topeka Field Office

RIGHT TO A HEARING AND TO ADMINISTRATIVE REVIEW

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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 30 day of September, 2021, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,488, dated 28 September 2021 was mailed postage prepaid, first class, US mail to the following:

BADER FARMS LLC
Attn: GUS BADER
9719 SUNSET CIRCLE
LENEXA, KS 66220

With photocopies to:

Topeka Field Office



Division of Water Resources