

File No. **48009** 11. County: **NM** Basin: **S F BIG NEMAHA RIVER** Stream: **SOUTH FORK BIG NEMAHA RIVER**
TRIB 4 (S F BIG NEMAHA) Formation Code: Special Use:

12. Points of Diversion Rate and Quantity
 CHK Authorized Additional
 MOD Rate Quantity Rate Quantity
 DEL PDIV Qualifier S T R ID 'N 'W Comment (AKA Line) gpm/cfs af/mgy gpm/cfs af/mgy Overlap PD Files
 ENT

MOD 79388 SW NE SW 1 1S 12E 2 1682 3675 no change to rate or quantity none

***feet disances updated based on GPS Data only- no PD change**

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

14. Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) **NONE (NO CHANGE) ***
 Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____

15. 5YR Allocation: Allocation Type _____ Start Year _____ 5 YR Amount _____ Amount Unit _____ Base Acres _____ Comment _____

16. Place of Use CHK MOD DEL ENT	PUSE	S	T	R	ID	NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg?	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				
MOD 62617	1	1S	12E	1					6	36	38.5	8.5	33.5	22.5	32					177	8a	Yes	50680; 48306; 49962		
MOD 62618	2	1S	12E	1	21				22									8		10	61	8a	Yes	50680; 48306; 49962	
MOD 64358	12	1S	12E	1					37	24	9.5	33								103.5	8a	Yes	50680; 48306; 49962		
ENT 71164	7	1S	13E						35.5	35	30	32.5	7.5							140.5	8a	No	50680; 48306; 49962		
ENT 71165	12	1S	12E						32.5	29	18.5	33.5								113.5	8b	No	50680; 48306; 49962		

Base Acres: Year: Minimum Reasonable Quantity:
 Comments:

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

TO: Files

DATE: December 6, 2022

FROM: Lloyd Hemphill

RE: Application, File No. 50,680
Change Applications,
File Nos. 48,009; 48,306; & 49,962

Nemaha Valley LLC has filed the application referenced above for a permit to store 405.4 acre-feet of surface water in a reservoir at the rate of natural flows and to re-divert 300 acre-feet at the rate of 1,500 gallons per minute for irrigation use. The proposed point of diversion is a reservoir located in the Southeast Quarter of the Southwest Quarter of the Northwest Quarter (SE¼ SW¼ NW¼) of Section 7, Township 1 South, Range 13 East, Nemaha County, Kansas. The dam is located on South Fork Big Nemaha Trib 6 (South Fork Big Nemaha). No other files overlap this point of diversion. The point of diversion is owned by the applicant and the application was signed by Robert Haverkamp stating he has legal access to, or control of, the point of diversion. The place of use (595.5 acres) is owned by the applicant and Leon Haverkamp Farms LLC as described on the irrigation use supplemental sheet. The new application is accompanied by place of use change applications for File Nos. 48,009; 48,306; and 49,962 which create a complete overlap in the place of use with all four files. The three senior files previously authorized a place of use including 526 acres. The new application (File No. 50,680) will cover the additional quantity due to the expanded acreage. The direct use quantity authorized by all four files combined will be limited to 655.05 acre-feet, which is the maximum allowable in Nemaha County, per K.A.R. 5-3-24 (1.1 AF/ac X 595.5 ac. = 655.05 AF). The new file will authorize an additional direct use quantity of 195.05 AF as shown below.

File No.	Direct Use Quantity (AF)	Limitation	Additional Quantity (AF)
48,009	165	NONE	165
48,306	200	363 AF/YR COM/W #48009	198
49,962	97	NONE	97
50,680	300	655.05 AF/YR COM/W SR FILES	195.05

The proposed structure was reviewed by DWR Water Structures Program staff, under WSN: DNM-388 and LNM-40. The project was properly registered as an exempt dam and was determined non-jurisdictional to floodplain fill or stream obstruction permitting. According to the WSI database, the storage capacity at principal spillway elevation is 94.1 acre-feet.

The quantities requested on the Water Appropriation application are justified as follows:

1-yr Direct Use:	300 AF
Reservoir Capacity:	94.1 AF
Reservoir Surface Area:	13.6 ac.
Potential Evaporation:	10 in/yr X 1ft/12 in X 13.6 ac. = 11.3 AF
Storage Quantity:	300 AF + 94.1 AF + 11.3 AF = 405.4 AF

Runoff computations were completed considering a normal precipitation of 34 inches, soil complex number of 80, and drainage area of approximately 598 acres. These calculations determined that the drainage basin will generate nearly 600 acre-feet of runoff in 1 out of every five (5) years (a 20% chance). Therefore, the drainage area will provide the requested storage quantity.

The proposed direct use quantity of 300 acre-feet, is equivalent to 3.2 times the storage capacity of the reservoir, which appears reasonable. The proposed re-diversion rate of 1,500 gpm appears reasonable for the project.

Notification letters were sent to upstream and downstream landowners on September 16, 2022. No responses of any kind were received. According to the WRIS database, there are no other surface water rights within a two-mile radius, other than the overlapping files. The overlapping files are either located on the main stem of the river or other tributary streams. No senior water rights will be impaired with approval of this application.

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.

Based on the above discussion, that this area is open to new appropriations, the proposed appropriation of water is reasonable, the dam is exempt from permitting under the DWR Water Structures Program, and senior rights will not be impacted, it is recommended that the referenced new application be approved in conjunction with the accompanying applications to change the place of use.

Lloyd Hemphill
Environmental Scientist
Topeka Field Office

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 FOR CHANGE IN PLACE OF USE AND ORDER BETTER DESCRIBING THE AUTHORIZED POINT OF DIVERSION APPROPRIATION OF WATER FILE NO. 48,009

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Robert G. and Mary A. Haverkamp on behalf of Nemaha Valley LLC, 2961 L4 Road, Bern, Kansas 66408 and Leon Haverkamp on behalf of Leon Haverkamp Farms LLC, 3073 L4 Road, Bern, Kansas 66408, received in this office on November 12, 2021 for approval of a change in the location of the place of use under the Approval of Application, File No. 48,009, for permit to appropriate water for beneficial use, as modified and amended by the Orders of the Chief Engineer dated March 18, 2013 and June 28, 2018, approving the application to change the authorized place of use, finds that the change is reasonable and will not impair existing rights, and that the application should be and are hereby approved.

The effective date of the change shall be the date this order is executed by the Chief Engineer, after which the authorized location of the place of use shall be:

Sec. Twp. Range	NE¼				NW¼				SW¼				SE¼				TOTAL
	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
1 1S 12E					6	36	38.5	8.5	33.5	22.5	32						177
2 1S 12E	21			22									8			10	61
12 1S 12E	32.5	29	18.5	33.5	37	24	9.5	33									217
7 1S 13E					35.5	35	30	32.5	7.5								140.5

a total of 595.5 acres, with 455 acres in Township 1 South, Range 12 East, and 140.5 acres in Township 1 South, Range 13 East, all in Nemaha County, Kansas, located substantially as shown on the map accompanying the application to change the place of use, and the location of the authorized point of diversion shall be better described as:

one (1) dam located in the Southwest Quarter of the Northeast Quarter of the Southwest Quarter (SW¼ NE¼ SW¼) of Section 1, more particularly described as being near a point 1,682 feet North and 3,675 feet West of the Southeast corner of the said section, in Township 1 South, Range 12 East, Nemaha County, Kansas.

All diversion works 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.

The water right owner shall properly install acceptable water meters on the diversion works authorized under this water right, prior to the use of water, in strict accordance with the Kansas Administrative Regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer. The water right owner shall notify the Chief Engineer when installation of the water meters has been completed. The water right owner shall maintain the water meters in an operating condition satisfactory to the Chief Engineer, at all times during diversion of water and shall maintain records from which the total quantity of water diverted may be determined. The water right owner shall also report the reading of said water meters and the total quantity of water diverted annually to the Chief Engineer. Such records shall be furnished to the Chief Engineer by March 1 following the end of each calendar year.

In all other respects, the Approval of Application, File No. 48,009, for permit to appropriate water for beneficial use, is as stated and set forth in the Approval dated July 27, 2012, as modified and amended by the aforementioned orders.

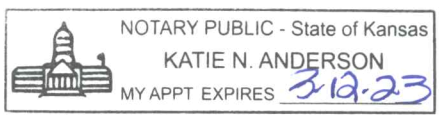
Ordered this 21 day of December, 2022, in Manhattan, Riley County, Kansas.

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 21 day of December, 2022, by Lane P. Letourneau, P.G., Program Manager, Division of Water Resources, Kansas Department of Agriculture.

Katie Anderson
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

January 3, 2023

NEMAHA VALLEY LLC
ROBERT G. HAVERKAMP
2961 L4 RD
BERN, KS 66408

RE: Appropriation of Water, File Nos. 48,009; 48,306; 49,962; & 50,680
Subject: Permit and Approvals of Applications for Change

Dear Mr. Haverkamp:

Enclosed is a permit under File No. 50.680, 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.

Also enclosed are the orders executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the applications for change under Appropriation of Water, File Nos. 48,009; 48,306; & 49,962.

RE: Appropriation of Water, File Nos. 48,009; 48,306; 49,962; & 50,680
Subject: Permit and Approvals of Applications for Change

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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 Application Unit Supervisor
Division of Water Resources

KAB:lh:li

Enclosure(s)

pc: Leon Haverkamp Farms LLC
Topeka Field Office

RIGHT TO A HEARING AND TO ADMINISTRATIVE REVIEW

If you are aggrieved by these Orders, 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 3 day of January, 2023, I hereby certify that the foregoing Approvals of Application for Change in Place of Use and Orders to Better Describe the Authorized Points of Diversion under the Appropriation of Water, File Nos. 48,009; 48,306 49,962 and the Approval of Application and Permit to Proceed, File No. 50,680, all dated December 21, 2022 were mailed postage prepaid, first class, US mail to the following:

NEMAHA VALLEY LLC
ROBERT G HAVERKAMP
2961 L4 RD
BERN, KS 66408

With photocopies to:

LEON HAVERKAMP FARMS LLC
3073 L4 RD
BERN KS 66408

Topeka Field Office



Division of Water Resources