

File No. **50,786** 15. Formation Code: Drainage Basin: **Delaware River** County: NM Special Use: Stream: Muddy Creek Trib 5 (Delaware)

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	
√				89529	NW SW SW	23	3S	14E	2	1015	5250	1000	148	1000	148	NONE

18. Storage: Rate **NF** Quantity **217.4** ac/ft Additional Rate **NF** Additional Quantity **217.4** 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 **12/31/2024** Date Acceptable Meter Installed _____

21. Place of Use							NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg?	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						
CHK	70859	23	3S	14E	2							39	33	30	40										142	7a.	NO	NONE	
CHK	70860	23	3S	14E	3					0.5	3	1	2												6.5	7c.	NO	NONE	

Comments

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

TO: Files

DATE: July 6, 2023

FROM: Lloyd Hemphill

RE: Application, File No. 50,786

Georg Farms LLC has filed the application referenced above for a permit to store 217.4 acre-feet of surface water in a reservoir at the rate of natural flows and to re-divert 148 acre-feet at the rate of 1,000 gallons per minute for irrigation use. The proposed point of diversion is a reservoir located in the Northwest Quarter of the Southwest Quarter of the Southwest Quarter (NW¼ SW¼ SW¼) of Section 23, Township 3 South, Range 14 East, Nemaha County, Kansas. The dam is located on Muddy Creek Trib 5 (Delaware River). No other files overlap this point of diversion. The point of diversion is owned by the applicant and the application was signed stating legal access. The place of use (148.5 acres) is owned by the applicant and Joyceln A Kathrens as described on the irrigation use supplemental sheet. The requested quantity is less than the maximum reasonable quantity for irrigating the proposed acreage, per K.A.R. 5-3-24 (1.1 AF/ac X 148.5 ac. = 163.68 AF) and is reasonable.

The proposed structure was reviewed by DWR Water Structures Program staff, under WSN: DNM-392. The project was determined to be a class "a" exempt dam, was properly registered, and is non-jurisdictional to other Structures permitting.

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

1-yr Direct Use:	148 AF
Reservoir Capacity:	61.8 AF
Reservoir Surface Area:	11.5 ac.
Potential Evaporation:	8 in/yr X 1ft/12 in X 11.5 ac. = 7.6 AF
Storage Quantity:	148 AF + 61.8 AF + 7.6 AF = 217.4 AF

Runoff computations were completed considering a normal precipitation of 36 inches, soil complex number of 76, and drainage area of approximately 179 acres. These calculations determined that the drainage basin will generate 217.4 acre-feet of runoff in 1 out of every five (5) years (a 20% chance).

The proposed direct use quantity of 148 acre-feet, is equivalent to 2.4 times the storage capacity of the reservoir, which appears reasonable. The proposed re-diversion rate of 1,000 gpm appears reasonable for the project.

Notification letters were sent to upstream and downstream landowners on May 12, 2023. A phone call was received from a tenant on behalf of one of the landowners but no information was provided to suggest any prior water rights would be impaired by approval of this application. According to the WRIS database, there are several other surface water rights within a two-mile radius. However, these files are located on 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.

Brett Bunger, Water Commissioner, Topeka Field Office, recommended in a June 14, 2023 e-mail that the referenced new applications should be approved. Based on the above discussion, that this area is open to new appropriations, the proposed appropriation of water is reasonable, the dam is non-jurisdictional to Structures permitting, and senior rights will not be impacted, it is recommended that the referenced new application be approved.

Lloyd Hemphill
Environmental Scientist
Topeka Field Office

Hemphill, Lloyd [KDA]

From: Bunger, Brett [KDA]
Sent: Wednesday, June 14, 2023 10:32 AM
To: Hemphill, Lloyd [KDA]
Subject: RE: Application File No. 50786: For your recommendation

This one is pretty standard. Please proceed with approval.

From: Hemphill, Lloyd [KDA] <Lloyd.Hemphill@ks.gov>
Sent: Wednesday, June 14, 2023 10:07 AM
To: Bunger, Brett [KDA] <Brett.Bunger@ks.gov>
Subject: Application File No. 50786: For your recommendation

Brett,

Will you provide your recommendation on this application for Georg Farms LLC?

It is a standard storage and re-diversion project in the upper Delaware Basin. There are no pending Structures issues. You should be familiar with it.

Thanks,
Lloyd

Lloyd Hemphill, Environmental Scientist
Kansas Department of Agriculture
Division of Water Resources, Topeka Field Office
1131 SW Winding Rd, Suite 400
Topeka, KS 66615
Office: (785) 296-5733

NOTE NEW ADDRESS

PDFs
Mean Annual Precipitation
Soil Cover Complex

Mean Annual Precip, in	36
Soil Cover Complex No.	76
Drainage Area, acres	179
Runoff at 20% Chance, AF	217.26

DO NOT EDIT BELOW THIS LINE

% Chance Firm Coefficients			
	50%	80%	90%
a	0.5317	0.1216	0.0527
b	1.0815	1.2538	1.3547

%Chance Firm	Runoff, in	Comp. Runoff, in
50%	4.64	4.64
80%	1.50	1.48
90%	0.79	0.81
20%		14.56

Std. Dev. 90%	1.38
Std. Dev. 80%	1.34
Avg	1.36

Mean annual runoff for CN = 75, inches	7.16
Mean annual runoff for CN = 80, inches	8.40
Interp. Mean annual runoff for CN = 76, inches	7.41

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. 50,786** of the applicant

**GEORG FARMS LLC
2490 136TH RD
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 **May 11, 2022**.

2. That the water sought to be appropriated shall be used for irrigation use on land described in the application, as follows:

Sec. Twp. Range	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTAL
	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
23 - 3S - 14E							0.5	3.0	40.0	35.0	30.0	40.0					148.5

3. That the appropriation sought shall be limited to all natural flows of an unnamed tributary of Muddy Creek, designated in the office of the Chief Engineer as Muddy Creek Trib 5 (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 **217.4 acre-feet** of water per calendar year in one (1) reservoir created by a dam located in the Northwest Quarter of the Southwest Quarter of the Southwest Quarter (NW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 23, more particularly described as being near a point 1,015 feet North and 5,250 feet West of the Southeast corner of said section, in Township 3 South, Range 14 East, Nemaha County, Kansas, to provide **148 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 **1,000 gallons per minute (2.23 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, 2024**, or within any authorized extension thereof. The applicant shall notify the Chief Engineer and pay the statutorily required field inspection fee of \$400.00 when construction of the works has been completed. Failure to timely submit the notice and the fee will result in revocation of the permit. Any request for an extension of time shall be submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee of \$100.00.

5. That the proposed appropriation shall be perfected by the actual application of water to the proposed beneficial use on or before December 31, 2028, or any authorized extension thereof. Any request for an extension of time shall be submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee of \$100.00.

6. That the applicant shall not be deemed to have acquired a water appropriation for a quantity in excess of the amount approved herein nor in excess of the amount found by the Chief Engineer to have been actually used for the approved purpose during one calendar year subsequent to approval of the application and within the time specified for perfection or any authorized extension thereof.

7. That the use of water herein authorized shall not be made so as to impair any use under existing water rights nor prejudicially and unreasonably affect the public interest.

8. That the right of the appropriator shall relate to a specific quantity of water and such right must allow for a reasonable raising or lowering of the static water level and for the reasonable increase or decrease of the streamflow at the appropriator's point of diversion.

9. That this permit does not constitute authority under K.S.A. 82a-301 through 305a to construct any dam or other obstruction; nor does it grant any right-of-way, or authorize entry upon or injury to, public or private property.

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

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 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.

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.

Ordered this 1 day of August, 2023, in Manhattan, Riley County, Kansas.

Lane P. Letourneau

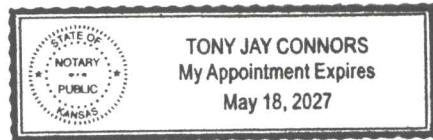
Lane P. Letourneau, P.G.
Water Appropriation Program Manager
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 1 day of August, 2023, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.

Tony Jay Connors

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

August 10, 2023

GEORG FARMS LLC
2490 136TH RD
SABETHA KS 66534

RE: Appropriation of Water
File No. 50,786

Dear Sir or Madam:

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 may be submitted online for no charge at www.kswaterusereport.org. Reports submitted in paper form will be assessed a \$20 per file number paper filing fee.

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/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 Application Unit Supervisor
Division of Water Resources

KAB:kak:lh

Enclosure(s)

pc: Jocelyn A Kathrens
Topeka Field Office

RIGHT TO A HEARING AND TO ADMINISTRATIVE REVIEW

If you are aggrieved by this Order, then pursuant to K.S.A. 82a-1901, you may 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 10 day of August, 2023, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,786, dated August 1, 2023, was mailed postage prepaid, first class, US mail to the following:

GEORG FARMS LLC
2490 136TH RD
SABETHA KS 66534

With photocopies to:

JOCELYN A KATHRENS
2316 116TH ROAD
SABETHA KS 66534

KDA-DWR Topeka Field Office



Division of Water Resources