

Kansas Department of Agriculture
Division of Water Resources
PERMIT OF NEW APPLICATION WORKSHEET

1. File Number: <p style="text-align: center; font-size: 1.2em;">50,985</p>	2. Status Change Date: <p style="text-align: center; font-size: 1.2em; color: purple;">6/6/2023</p>	3. Field Office: <p style="text-align: center; font-size: 1.2em;">01</p>	4. GMD: <p style="text-align: center; font-size: 1.2em;">0</p>
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5. Status: Approved Denied by DWR/GMD Dismiss by Request/Failure to Return

6. Enclosures: Check Valve N of C Form Water Tube Driller Copy Meter

<p>7a. Applicant(s) Person ID 29122 New to system <input type="checkbox"/> Add Seq# 1</p> <p style="margin-left: 20px;">MARK & JODIE M BRUNA 2852 HILLTOP AVE HANOVER, KS 66945</p>	<p>7c. Landowner(s) Person ID _____</p>
<p>7b. Landowner(s) Person ID 29122 New to system <input type="checkbox"/> Add Seq# 1</p> <p style="margin-left: 20px;">MARK & JODIE M BRUNA 2852 HILLTOP AVE HANOVER, KS 66945</p>	<p>7e. Miscellaneous Person ID _____</p>

<p>8. WUR Correspondent Person ID 29122 New to system <input type="checkbox"/> Add Seq# _____ Overlap File (s) WUC Notarized WUC Form <input type="checkbox"/> Agree <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p style="margin-left: 20px;">7a.</p>	<p>9. Use of Water: Changing? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p style="margin-left: 40px;"><input type="checkbox"/> Groundwater <input checked="" type="checkbox"/> Surface Water</p> <p style="margin-left: 20px;"><input checked="" type="checkbox"/> IRR <input type="checkbox"/> REC <input type="checkbox"/> DEW <input type="checkbox"/> MUN</p> <p style="margin-left: 20px;"><input type="checkbox"/> STK <input type="checkbox"/> SED <input type="checkbox"/> DOM <input type="checkbox"/> CON</p> <p style="margin-left: 20px;"><input type="checkbox"/> HYD DRG <input type="checkbox"/> WTR PWR <input type="checkbox"/> ART RECHRG</p> <p style="margin-left: 20px;"><input type="checkbox"/> IND SIC: _____ <input type="checkbox"/> OTHER: _____</p>
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10. Completion Date: 12/31/2024 11. Perfection Date: 12/31/2028 12. Exp Date: _____

13. Conservation Plan Required? Yes No Date Required: _____ Date Approved: _____ Date to Comply: _____

14. Water Level Measuring Device? Yes No Date to Comply: _____ Date WLMD Installed: _____

Date Prepared: 6/6/2022	By: LHH
Date Reviewed: 6/6/2023	By: KAK
Date Entered: 6/7/2023	By: _____
	LMoody

File No. **50,985** 15. Formation Code: Drainage Basin: **Little Blue River** County: **WS** Special Use: Stream: **Little Blue River**

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
√			90141	NE NE SE	32	2	5E	14	2589	576	1,000	192	1,000	192	NONE

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

19. Limitation: **192** af/yr at _____ gpm (_____ cfs) when combined with file number(s) **50,729**
 Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____

20. Meter Required? Yes No To be installed by **12/31/2023 2024** Date Acceptable Meter Installed _____

21. Place of Use							NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg? NO	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								
√			70738	33	2	5E	1																	40	40	40	40	160	7a	NO	50729

Comments:

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: June 6, 2023

FROM: Lloyd Hemphill

RE: New Application, File Nos. 50,729
and 50,985

Mark Bruna has filed Application, File Nos. 50,729 and 50,985 proposing to appropriate surface water for irrigation use. Application, File No. 50,729 is a Multiple Reservoir Project including two ponds (see note below) and Application, File No. 50,985 proposes direct diversion from the Little Blue River. Because of limited potential runoff, Application, File No. 50,729 was intended to be filed simultaneously with a direct diversion application and these two permits would operate as a pair. However, the only application initially submitted was File No. 50,729 (received on February 25, 2022). The applicant was advised of the limitations of this application, and he submitted File No. 50,985 on March 2023. There are only two prior pending applications in the Little Blue River basin and neither file will be affected in any way by the approval of these applications. The referenced applications will be processed together as a package.

The proposed place of use includes 160 acres in the southeast quarter of Section 33, Township 2 South, Range 5 East. Per K.A.R 5-3-24, the maximum reasonable quantity for irrigation of standard crops in Washington County is 192 acre-feet (160 AF X 1.2 AF/ac). The combined direct use quantity under these two applications will be limited to 192 acre-feet. The place of use is owned by Mark Bruna and Jodie Schmidt as described on the application.

File No. 50,729 – Two Ponds

File No. 50,729 proposes to appropriate 37 acre-feet of surface water at the rate of natural flows to be stored in two reservoirs located in the Southwest Quarter of Section 33, in Township 2 South, Range 5 East in Washington County, Kansas. The dams are located on separate tributaries or drainages adjacent to the Little Blue River. The points of diversion are located on property owned by the applicant, and the application was signed stating legal access to the points of diversion. The points of diversion do not overlap any other files, although they will be used as off-season storage devices for direct diversion proposed by pending application, File No. 50,985.

Please note that the Division of Water Resources has developed a Multiple Reservoir Program (aka: Hydra-Pond), which is applicable to multiple reservoirs located on different tributary streams. Therefore, these reservoirs can be listed under one application. The Multiple Reservoir Program is designed to simplify the management of multiple reservoirs which are used for the same irrigation project. The reservoirs can collect natural flows or store water pumped from other sources (e.g. groundwater wells or stream pump sites). In addition, water can be moved between individual reservoirs. As a requirement of the Multiple Reservoir program, the applicant is required to sign a form stating he understands and agrees that the owner shall bypass natural flow and/or release water from storage when directed by the Chief Engineer to satisfy reasonable requests by senior water rights and permits, and to comply with any applicable minimum desirable streamflow requirements. That for purposes of administration, all water contained within the primary pools of the reservoirs shall be considered to be stored from natural flows.

File No. 50,729 consists of two ponds, an east pond which was recently constructed (PDIV: 89305) and the west pond which is at the site of an existing small pond (PDIV: 89306). The existing pond at the western site is relatively small (about 0.5 surface acres) and the applicant plans to excavate the pond and modify the structure to increase its capacity. The application indicates that the final design and modification of this existing pond will depend on the success of the first pond in the operation of the project.

The DWR Water Structures program reviewed information submitted on May 11, 2023 for the eastern pond under WSN: DWS-136. This structure was determined to be a class “A” low hazard dam, has a storage volume less than 125 acre-feet at the auxiliary spillway elevation, and it is less than 30 feet in height. The structure is not located in a FEMA regulated floodplain, and it has a drainage area less than 1 square mile. A structures permit will not be required for this pond. The western pond will be built as a second phase of the project and only preliminary dimensions are available. The applicant will be advised in the permit approval transmittal letter that once final plans are established, but prior to construction, sufficient information must be submitted to DWR Water Structures for a determination of permitting requirements to be made.

Area, capacity, and drainage area for the ponds are summarized in the following table.

NAME	PDIV ID	NORMAL POOL		DRAINAGE AREA (ac.)
		AREA (ac.)	CAPACITY (AF)	
East Pond*	89305	3.4	25.4	34
West Pond**	89306	5.2	34.4	13
* Area and capacity for the east pond is based on DWR Structures review.				
** Area and capacity for the west pond is based on preliminary information.				

Both reservoirs have very limited drainage areas and limited runoff potential. Runoff computations (total drainage area = 47 acres; soil complex number = 76; normal precipitation = 31”) determined that the combined drainage area for the reservoirs, will generate 37 acre-feet of runoff in one of every five years (a 20% chance). Therefore, potential runoff is the limiting factor.

File No. 50,985 – Direct Diversion – Little Blue River

File No. 50,985 proposes to appropriate 192 acre-feet of surface water from the Little Blue River at a diversion rate of 1,000 gallons per minute for irrigation use. This application will allow water to be pumped directly from the stream (when flows are adequate, and permission is granted), into off-stream reservoirs permitted under File No. 50,729 for storage and subsequent re-diversion. The point of diversion (pump site) is located in the Southeast Quarter of Section 32, in Township 2 South, Range 5 East, Washington County, Kansas. The point of diversion is located on property owned by the applicant, and the application was signed stating legal access. The point of diversion does not overlap any other files.

Per K.A.R 5-3-15, this application will be subject to specific conditions, which stipulate specific 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. The application complies with K.A.R 5-3-15 (c)(5) because the off-stream storage ponds authorized by File No. 50,729 will provide adequate water storage and there is no need for direct diversion of water from July 1 through September 30.

Several upstream and downstream landowners were identified on the applications. Notification letters were sent on December 9, 2022 (File No. 50,729) and March 17, 2023 (File No. 50,985). No response was received. There are no other files on the same tributaries as the proposed ponds. There are several prior surface water rights within two miles of the pumpsite proposed by File No. 50,985. The nearest pumpsites are 1,128 feet downstream (File No. 5,612) and 2,075 feet upstream (File No. 9,790). With adherence to standard permit conditions, these applications will not impair any existing water rights.

As allowed by K.S.A. 82a-706(c) approved water flow meters shall be installed on the diversion works (File No. 50,985) and re-diversion works (File No. 50,729), which directly serve the places of use. If water from the river (File No. 50,985) is pumped directly to the place of use in addition to the reservoirs for storage and later use, then acceptable water flow meters must be installed on all places of use, providing the total quantity of water applied. This total quantity of water will allow the Division of Water Resources to determine the natural flow quantity that has been diverted, in conjunction with the water flow meters installed on all non-reservoir sources (i.e. pump sites). 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 6, 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, proper metering will be installed, the ponds will provide water storage to be available from July 1 through September 30 when direct diversion may not be allowed, and senior rights will not be impacted, it is recommended that the referenced new applications be approved.

Lloyd Hemphill
Environmental Scientist
Topeka Field Office

Hemphill, Lloyd [KDA]

From: Bunger, Brett [KDA]
Sent: Tuesday, June 6, 2023 7:57 AM
To: Hemphill, Lloyd [KDA]
Subject: RE: Application File Nos 50729 & 50985: For your recommendation

Lloyd, after our discussion last week I think I have a pretty good handle on this. I have no objections to the approval of these applications.

Brett

From: Hemphill, Lloyd [KDA] <Lloyd.Hemphill@ks.gov>
Sent: Monday, June 5, 2023 2:49 PM
To: Bunger, Brett [KDA] <Brett.Bunger@ks.gov>
Subject: Application File Nos 50729 & 50985: For your recommendation

Brett,

Will you provide your recommendation for Mark Bruna's approvals for File Nos. 50729 & 50985. This is the Multi-Reservoir and direct diversion package we talked about last week.

The approval for File No. 50985 will be accompanied by a MDS Order for the Little Blue.

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

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. 50,985** of the applicant

**MARK & JODIE M BRUNA
2852 HILLTOP AVE
HANOVER KS 66945**

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 **March 2, 2023**.
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					
33 - 2S - 5E																	40	40	40	40	160

3. That the authorized source from which the appropriation shall be made is surface water from the Little Blue River, to be diverted at one (1) pump site located in the Northeast Quarter of the Northeast Quarter of the Southeast Quarter (NE¼ NE¼ SE¼), of Section 32, more particularly described as being near a point 2,589 feet North and 576 feet West of the Southeast corner of said section, in Township 2 South, Range 5 East, Washington County, Kansas, located substantially as shown on the map accompanying the application.

4. That the appropriation sought shall be limited to a maximum diversion rate not in excess of **1,000 gallons per minute (2.23 c.f.s.)** and to a quantity not to exceed **192 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, 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.

6. 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 within 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 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.

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

17. 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.

18. That during the period July 1 through September 30 each calendar year, no direct diversions of surface water shall occur unless written permission is obtained from the Chief Engineer, or the Chief Engineer's authorized representative.

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 the quantity of water approved under this permit is further limited to the quantity which combined with Appropriation of Water, File No. 50,729, will provide a total not to exceed **192 acre-feet** of water per calendar year for irrigation use on the land described herein.

21. 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 6 day of June, 2023, in Manhattan, Riley County, Kansas.

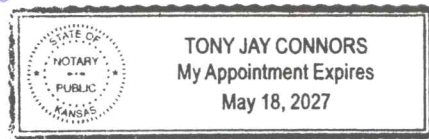
Lane P. Letourneau

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 6 day of June, 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

June 8, 2023

MARK & JODIE M BRUNA
2852 HILLTOP AVE
HANOVER KS 66945

RE: Appropriation of Water
File Nos. 50,729 & 50,985

Dear Mr. and Mrs. Bruna:

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

According to information included with Application, File No. 50,729, the final design of your proposed western pond depends on the success of the eastern pond in management of the water supply for this project. When final plans are established for this pond, sufficient information must be provided to the DWR Water Structures Program prior to construction, in order that a determination of permit requirements may be made.

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 these permits. If you need an extension of time, you must request it before the deadline for completion set forth in the permit. Any request for an extension of time must be accompanied by the statutorily required fee, which is currently \$100.00.

An acceptable water flowmeter must be installed at the diversion works for File No. 50,985 and one or more acceptable water flowmeter(s) must be installed on the re-diversion works and/or place of use authorized by File No. 50,729 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 applications constitutes permits to appropriate water. They do not give authority to construct any dam or other stream obstruction regulated by K.S.A. 82a-301 through 305a. They do not give authority to access any right-of-way or authorize trespassing upon or injury to public or private property. It may also be necessary for you to comply with other local, state or federal requirements.

Also included is an informational sheet that sets forth the procedure to obtain 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.

MARK & JODIE M BRUNA
File Nos. 50,729 & 50,985
Page 2 of 2

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 numbers so we can help you more efficiently.

Sincerely,



Kristen A. Baum
New Application Unit Supervisor
Division of Water Resources

KAB:lh

Enclosure(s)
pc: Topeka Field Office

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 8 day of June, 2023, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,985, dated June 6, 2023, was mailed postage prepaid, first class, US mail to the following:

MARK & JODIE M BRUNA
2852 HILLTOP AVE
HANOVER KS 66945

With photocopies to:

KDA-DWR Topeka Field Office



Division of Water Resources