

**Kansas Department of Agriculture
Division of Water Resources
APPROVAL OF NEW APPLICATION WORKSHEET**

1. File No.: 50,807	2. Status Change Date: 4/2/2024	4. Field Office: 01 - Topkea GMD: Structures File No.: LSN-281 Filing/Priority Date: 6/7/22 Application Complete Date:
3. Package File No(s):		
5a. <input checked="" type="checkbox"/> Applicant <input type="checkbox"/> Owner <input type="checkbox"/> WUC Person ID <input type="checkbox"/> Address Change Add Seq#	5b. <input checked="" type="checkbox"/> Owner <input type="checkbox"/> WUC Person ID 37301 <input type="checkbox"/> Address Change Add Seq# 1	
KANSAS DEPT OF WILDLIFE & PARKS Attn: JUSTIN HAMILTON 206N 1600 LECOMPTON KS 66050	US ARMY CORPS OF ENGINEERS(CLINTON) ATTN: CLINTON PROJECT 872 N 1402 RD LAWRENCE, KS 66049-9176	
5c. <input checked="" type="checkbox"/> Owner <input checked="" type="checkbox"/> WUC Person ID 40450 <input type="checkbox"/> Address Change Add Seq# 1	5d. <input type="checkbox"/> Owner <input type="checkbox"/> WUC Person ID <input type="checkbox"/> Address Change Add Seq#	
KANSAS DEPT OF WILDLIFE & PARKS Attn: EMMA GOEMANN (TOP STAGE LEVELS) 512 SE 25TH AVE PRATT, KS 67124		
6. Change No.: <input type="checkbox"/> PD <input type="checkbox"/> PU <input type="checkbox"/> UMW Base Acres: Year: Min Reasonable Q: Previous UMW: MDS Gauge: Active Admin? <input type="checkbox"/> Completion/Start Date: 12/31/2025 Perfection/Expiration Date: 12/31/2029	7. Use of Water <input type="checkbox"/> Groundwater <input checked="" type="checkbox"/> Surface Water UMW: REC-Recreational UMW: UMW:	
8. Action Trail		
9. Special Conditions		
10. 5YR Allocation Type: Start Year: 5YR Quantity: Base Acres: Comment:		
11. Sand & Gravel Proj ID: <input type="checkbox"/> Active <input type="checkbox"/> Dredge <input type="checkbox"/> IND Evap <input type="checkbox"/> Jr Evap <input type="checkbox"/> Other Diversion <input type="checkbox"/> Rpt on Sr		
12. Waiver Rule ID: <input type="checkbox"/> New Date Requested: Applies: Rule No.: Justification: Rule Type: Rule SubType:		
Comments	Processed 3/28/2024	Entered 4/26/2024 KAnderson
	Reviewed KAK 3/28/2024	

File No. 50,807	13. County: SN-Shawnee Basin: Wakarusa Stream: Wakarusa River Trib 19 (Wakarusa River)																												
Structures File No: LSN-281	Aquifer Code:										Special Use Area:																		
14. Points of Diversion, Rates & Quantities																													
	PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Oty Auth	Add	Rate Auth	Add	Storage Qty Auth Add		Storage Rate Auth/Add		Overlaps											
CHK	89608	SE NE NW	28	13S	17E	1	4350	2783	(REMOVE LEVEE COMMENT)					313.3	313.3	NF		+											
ENT	90889	SE NE NW	28	13S	17E		4289	2787										+											
																		#											
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15. Limitations Type: Quantity: Rate: combined with file no(s): Type: Quantity: Rate: combined with file no(s):																													
16. Metering <input checked="" type="checkbox"/> Metering Required <input type="checkbox"/> Anti-Reverse Required <input type="checkbox"/> Seal Required Compliance Date: 12/31/2025																													
17. Place of Use																													
	PUSE ID	S	T	R	ID	NE¼				NW¼				SW¼				SE¼				Total	Owner(s)	Chg?	Overlaps				
						NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE								
CHK	10111	29	13S	17E	1	WATERFOWL MARSH (NE NE)																	5b	<input type="checkbox"/>	+				
MOD	26866	28	13S	17E	1	WATERFOWL MARSH (NW)																			5b	<input type="checkbox"/>	+		
CHK	70885	20	13S	17E	1	WATERFOWL MARSH (SE SE)																				5b	<input type="checkbox"/>	#	
CHK	70886	21	13S	17E	1	WATERFOWL MARSH (S2 SW)																					5b	<input type="checkbox"/>	^
																											<input type="checkbox"/>	**	
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18. Point of Diversion and Place of Use Overlaps																													
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**KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources**

M E M O R A N D U M

TO: Files

DATE: March 28, 2024

FROM: Lloyd Hemphill

RE: New Application, File No 50,807

Justin Hamilton, on behalf of the Kansas Department of Wildlife and Parks has filed the new application referenced above proposing to appropriate surface water for recreational use in a marsh located as described on the application, generally in Sections 20, 21, & 29 in Township 13 South, Range 17 East, Shawnee County, Kansas. The place of use and the points of diversion are on land owned by the US Army CORP of Engineers. The application was signed by the applicant stating legal access to the points of diversion. This project does not overlap any other water rights or permits.

This project was designed by Ducks Unlimited in partnership with the applicant. The marsh will consist of two pools (North and South) as shown below. The proposed points of diversion represent one water control structure in each of the marsh pools. The source of water will be designated as Wakarusa River Trib 19 (Wakarusa), although there is no discrete stream in the area.

	Surface Area (ac.)	Storage Capacity (AF)	Average Depth (ft)
North	88.9	223.9	2.52
South	42.9	44	1.03
*At Full Service Level (FSL)			

The requested quantity of 313.3 acre-feet was determined by Ducks Unlimited, based on the total storage capacity plus the net evaporation when the marsh is holding water (August to February). The total storage capacity is 267.9 acre-feet, leaving 45.4 acre-feet for evaporation. The potential net evaporation in this area is 9 inches per year. The quantity requested for evaporation is slightly less than half of a full year of evaporation.

Runoff computations were completed considering a normal precipitation of 37 inches, soil complex number of 77, and drainage area of approximately 300 acres. These calculations determined that the drainage basin will generate 404 acre-feet of runoff in 1 out of every five years (a 20% chance), plenty to provide the requested storage quantity.

All the land downstream from this project to Clinton Reservoir is owned by the USACE and no stream is present upstream of the project. Thus, it is not necessary to send nearby landowner notification letters. According to the WRIS database, there are four water rights within two miles of this application. These water rights authorize a single pump site on the main stem of the Wakarusa River and are also owned by the applicant. Approval of this application will not impair senior water rights.

This project was reviewed by DWR Structures under WSN: LSN-281 and a permit was issued on August 23, 2022.

KDW&P - Memorandum
File No. 50,807
Page 2

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. As a permit for storage of natural flows, no meter requirement is expected.

Brett Bungler, Water Commissioner, Topeka Field Office, recommended in an March 28, 2024 e-mail that the referenced new application should be approved. Based on the above discussion, the area remains open to new appropriations, the project is properly permitted by the Structures Program, and there is no indication that existing water rights will be impaired, it is recommended that the referenced application be approved.

Lloyd Hemphill
Environmental Scientist
Topeka Field Office

Hemphill, Lloyd [KDA]

From: Bunger, Brett [KDA]
Sent: Thursday, March 28, 2024 12:34 PM
To: Hemphill, Lloyd [KDA]
Subject: RE: Application File No. 50807: For your recommendation

Sounds good Lloyd. Please proceed with approval.

Thanks

Brett

From: Hemphill, Lloyd [KDA] <Lloyd.Hemphill@ks.gov>
Sent: Thursday, March 28, 2024 10:57 AM
To: Bunger, Brett [KDA] <Brett.Bunger@ks.gov>
Subject: Application File No. 50807: For your recommendation

Brett,

Will you provide your recommendation on Application, File No. 50,807? This is a natural flow storage permit for a new KS Wildlife & Parks marsh (Shadden Marsh) upstream of Clinton Reservoir. A Structures permit has already been issued.

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. 50,807** of the applicant

**KANSAS DEPT OF WILDLIFE & PARKS
206 N 1600 RD
LECOMPTON KS 66050**

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 **June 7, 2022**.
2. That the water sought to be appropriated shall be used for recreational use in a marsh located in the Southeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 20, the South Half of the Southwest Quarter (S $\frac{1}{2}$ SW $\frac{1}{4}$) of Section 21, the Northwest Quarter (NW $\frac{1}{4}$) of Section 28, and the Northeast Quarter of the Northeast Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 29, all in Township 13 South, Range 17 East, Shawnee County, Kansas.
3. That the appropriation sought shall be limited to all natural flows of an unnamed tributary to the Wakarusa River, designated in the office of the Chief Engineer as Wakarusa River Trib 19 (Wakarusa River), not needed to satisfy all vested rights and prior appropriation rights, to be stored to a maximum extent of **313.3 acre-feet** per calendar year in a marsh created by two (2) water control structures:

one (1) located in the Southeast Quarter of the Northeast Quarter of the Northwest Quarter (SE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 28, more particularly described as being near a point 4,350 feet North and 2,783 feet West of the Southeast corner of said section, and

one (1) located in the Southeast Quarter of the Northeast Quarter of the Northeast Quarter (SE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 28, more particularly described as being near a point 4,289 feet North and 2,787 feet West of the Southeast corner of said section,

both in Township 13 South, Range 17 East, Shawnee County, Kansas, located substantially as shown on the map accompanying the application.

4. That installation of works for diversion of water shall be completed on or before **December 31, 2025**, or within any authorized extension thereof. The applicant shall notify the Chief Engineer and pay the statutorily required field inspection fee, which is currently \$400.00, when construction of the works has been completed. Failure to timely submit the notice and the fee will result in revocation of the permit. Any request for an extension of time shall be submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee, which is currently \$100.00.

5. That the proposed appropriation shall be perfected by the actual application of water to the proposed beneficial use on or before **December 31, 2029**, or any authorized extension thereof. Any request for an extension of time shall be submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee, which is currently \$100.00.

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

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

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

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

10. That 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.

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

12. 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.

13. 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 2 day of April, 2024, in Manhattan, Riley County, Kansas.

Lane P. Letourneau

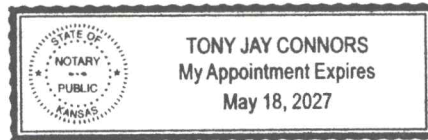
Lane P. Letourneau, P.G.
Water Appropriation Program Manager
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 2 day of April, 2024, 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

April 26, 2024

JUSTIN HAMILTON
KANSAS DEPT OF WILDLIFE & PARKS
206 N 1600 RD
LECOMPTON KS 66050

RE: Appropriation of Water
File No. 50,807

Dear Mr. Hamilton:

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 this 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 the 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. You may submit your report online for no fee 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 is available on our website at agriculture.ks.gov/dwr. If you have any questions or need assistance, please contact our office at 785-564-6640, or the 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:lhk:kak
Enclosure(s)
pc: 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

CERTIFICATE OF SERVICE

On this 26 day of April, 2024, I hereby certify that the foregoing Approval of Application, File No. 50,807, dated April 2, 2024, was mailed postage prepaid, first class, US mail to the following:

KANSAS DEPT OF WILDLIFE & PARKS
206 N 1600 RD
LECOMPTON KS 66050

With photocopies to:

KDA-DWR Topeka Field Office



Division of Water Resources