

File No. **49826** 15. Formation Code: **190** Drainage Basin: **33** County: **SG** Special Use: **N/A** Stream: **N/A**

| 16. Points of Diversion | | | | | | | | | | 17. Rate and Quantity | | | | |
|-------------------------|--------------|-----------------|-----------|-----------|-----------|----------|-------------|-------------|--|-----------------------|-------------|------------|-------------|----------------------------|
| T | | | | | | | | | | Authorized | | Additional | | |
| MOD | PDIV | Qualifier | S | T | R | ID | 'N | 'W | | Rate gpm | Quantity af | Rate gpm | Quantity af | Overlap PD Files |
| CHK | 72181 | NE SW SW | 29 | 26 | 1W | 8 | 1096 | 3980 | | 99 | 9.1 | 14 | 5.2 | 46348 IRR & REC |
| PD IS EXISTING | | | | | | | | | | | | | | |

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

19. Limitation: **9.1** af/yr at **99** gpm (**0.22** cfs) when combined with file number(s) **46348 IRR USE**
 Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____

20. Meter Required? 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? | 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 57495 | 29 26 1W | 9 | | | | | | | | | | | | 0.7 | 0.4 | 2.0 | 3.9 | | | | | 7.0 | 7b | NO | 46348 |
| | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | |

Comments:

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files **DATE:** October 19, 2021
FROM: Leslie Ireland **RE:** Application File No. 49,826
Water Right, File No. 46,348

David R. Warren and Gerald Woodard on behalf of Watercress HOA, along with Donna Clasen, Mayor of the City of Maize, Terry L Yancey, Superintendent, Kansas District Council Assemblies of God Incorporated, Gerald Woodard, Walker Lane & Reed LLC, Maize Kansas Public Building Commission, Michael E. Grant , M.D., Lot 4 Block 4 LLC, Walker Lane & Reed Investments LLC, and Lindsay Olsen, President, Mortgage Investments Trust Corporation have supplied signatures for the application to change the place of use for the irrigation and recreational portions of the referenced file. The application was received on April 19, 2017, along with a new application for irrigation use that was assigned File No. 49,826. An updated change application was received on July 17, 2020, it appears to be complete per K.A.R. 5-5-2(a), *Complete change application*. A Quit Claim from the City of Maize was submitted on April 21, 2021, resulting in Watercress HOA as the sole owner of the referenced files.

File No. 46,348 appears to not be abandoned as per K.S.A. 82a-718 and in compliance with K.S.A. 82a-732. As required by K.S.A. 82a-1906, a public notice was published, and letters were sent to nearby well owners. No written comments were received.

Water Right, File No. 46,348, is authorized 85 gallons per minute to divert 3.9 acre-feet (AF) for the irrigation of 2.8 acres and recreational use at 85 gpm to divert 4.9 AF to fill and maintain 4 small reservoirs from one(1) well in the Arkansas River Basin. The well is described as being located in the Northeast Quarter of the Southwest Quarter of the Southwest Quarter (NE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$) approximately 1,096 feet North and 3,980 feet West of the Southeast corner of Section 29, Township 26, Range 1 West, (29-26-1W) Sedgwick County was updated during the certificate process. Base acres were certified to be 2.8 acres and the reservoirs are in the West Half of the Southwest Quarter (W $\frac{1}{2}$ SW $\frac{1}{4}$) and the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$) of 29-26-1W with approximately 7.38 surface acres.

The new application, File No. 49,826 requested quantity of water, 9.1 acre-feet, is to irrigate the proposed 7.0 acres identified in the application and overlapping with that proposed under File No. 46,348. This is the maximum allowable of 1.3 acre-feet per acre for Sedgwick County, Kansas. The application will be limited to 9.1 acre-feet when combined with Water Right, File No. 46,348. The new permit will be authorized only irrigation use, together the irrigation portion will comply with K.A.R. 5-3-24, *Reasonable quantity for irrigation use* in Sedgwick County.

The applications were submitted to Equus Beds Groundwater management District No. 2 on April 23, 2021. Their review of the applications recommended approval as indicated by a letter received on August 31, 2021. It appears the proposed new application is located in an area that has sufficient water available to meet safe yield with the new appropriation. In the letter they said the applications comply with all GMD 2 rules and Regulations, K.A.R. 5-22-1 through 5-22-17, and recommended approval of the application subject to the quantity of water and maximum rate of diversion being limited to 9.1 acre-feet and 99 gallons per minute when combined with Water Right, File No. 46,348.

The request to add additional acres of new irrigated land appears to comply with Part (b)(6) of K.A.R. 5-5-11, *Applications for change in place of use for irrigation purposes*, with the determination that new quantity will be available and permitted. The increase in acres should not result in an increase in consumptive use as required by K.A.R. 5-5-3, *Consumptive use*. The change in the irrigated place of use will also update the irrigated acres to overlap with the permit.

The change under File No. 46,348 for the recreational use portion authorized 4.9 acre feet at a rate of 85 gallons per minute is to fill and maintain four reservoirs and their evaporative loss. These reservoirs are now on property held by the signers above and are either too small to justify permitting or are authorized by other rights. This area has an evaporation rate of 20 inches per year. The recreational use will shift to the East to authorize the South Entrance Reservoir, the Backward "C" Reservoir just to the North and is connected to the Wishbone Reservoir to the East. The proposed existing reservoirs are currently authorized by File No. 46,347 for the surface water component and certified 12.3 AF of storage. The 3 reservoirs legally described as located in the East Half of the Southwest Quarter (E $\frac{1}{2}$ SW $\frac{1}{4}$) and the Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$) all in 29-26-1W. These reservoirs are also authorized by File No. 47,421 with 12.3 acre-feet at a rate of 95 gallons per minute from the well located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ of 29-26-1W, Sedgwick County, Kansas. Under File No. 46,347 the total volume of these ponds was determined to be 104.45 AF. Together File Nos. 46,348 and 47,421 will provide 17.2AF of water to fill and maintain these reservoirs. It appears the reservoirs have 7.38 surface acres as determined by the permitting of File No. 46,347 which equates to 12.3 AF for evaporative loss and the remaining 5.1 AF for any seepage.

The applicant completed a public notice for both applications in August 2020 and nearby notification letters in September 2020, were sent to well owners identified within 1,000 feet of the proposed existing point of diversion. One phone call from a well owner in reference to the notification letter as to its reason was received. No other comments of any kind were received.

Jeff Lanterman, Water Commissioner was contacted for a recommendation. In his email dated October 13, 2021, indicated that the applications should be approved.

The change approval will require a water flowmeter as required by K.A.R. 5-5-11(e)(2) for the irrigation use and a meter will be required for the recreational use. A 2018 Field Inspection Report found meters currently installed for each use. A check valve will be required if chemigating. A conservation plan will not be a condition of the approval. The permit will also require a meter and check valve. No water level measurement tube will be required as the well is existing past reports indicate one has not been required for the authorized rate and a tube is not present.

Based on the above discussion, that the permit will be issued, the change should not significantly increase consumptive use, impairment to existing water rights is unlikely and that no change in the local source of supply will occur, it is recommended that the new permit be issued and the application for change be approved.



Leslie Ireland
Environmental Scientist
Water Appropriation Program

From: Lanterman, Jeff [KDA]
Sent: Wed 10/13/2021 9:55 AM
To: Conant, Cameron [KDA];Ireland, Leslie [KDA]
Subject: RE: Review and Recommendation, Permit, File Nos. 49,826 & CHG, File No. 46,348, Watercress HOA

Leslie;

This one looks good to go as well. Hopefully they will be in compliance when we do a CI in the future.

Thanks
Jeff

From: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Sent: Wednesday, October 13, 2021 9:49 AM
To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>
Subject: FW: Review and Recommendation, Permit, File Nos. 49,826 & CHG, File No. 46,348, Watercress HOA

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Thursday, October 7, 2021 10:14 AM
To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>
Cc: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Subject: Review and Recommendation, Permit, File Nos. 49,826 & CHG, File No. 46,348, Watercress HOA

Please let me know if you could recommend this permit and change. The permit is for additional irrigation use only and the change will overlap said irrigation, but move the recreational use 4.9 AF to fill and maintain three small existing reservoirs that are currently authorized by File Nos. 46,347 & 47,421. GMD 2 has recommended approval.

As always comments and concerns are welcome.

Leslie Ireland
Environmental Scientist
Change Application Unit
Division of Water Resources



From: Lanterman, Jeff [KDA]
Sent: Wed 10/13/2021 9:55 AM
To: Conant, Cameron [KDA];Ireland, Leslie [KDA]
Subject: RE: Review and Recommendation, Permit, File Nos. 49,826 & CHG, File No. 46,348, Watercress HOA

Leslie;

This one looks good to go as well. Hopefully they will be in compliance when we do a CI in the future.

Thanks
Jeff

From: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Sent: Wednesday, October 13, 2021 9:49 AM
To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>
Subject: FW: Review and Recommendation, Permit, File Nos. 49,826 & CHG, File No. 46,348, Watercress HOA

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Thursday, October 7, 2021 10:14 AM
To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>
Cc: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Subject: Review and Recommendation, Permit, File Nos. 49,826 & CHG, File No. 46,348, Watercress HOA

Please let me know if you could recommend this permit and change. The permit is for additional irrigation use only and the change will overlap said irrigation, but move the recreational use 4.9 AF to fill and maintain three small existing reservoirs that are currently authorized by File Nos. 46,347 & 47,421. GMD 2 has recommended approval.

As always comments and concerns are welcome.

Leslie Ireland
Environmental Scientist
Change Application Unit
Division of Water Resources



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. 49,826** of the applicant

**WATERCRESS HOA
3845 N WATERCRESS CT
MAIZE, KS 67101**

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:

That the priority date assigned to such application is **April 19, 2017**.

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 | |
| 29 26S 1W | | | | | | | | | 0.7 | 0.4 | 2.0 | 3.9 | | | | | 7.0 |

3. That the authorized source from which the appropriation shall be made is groundwater from the alluvial aquifer, to be withdrawn by means of a one(1) well located in the Northeast Quarter of the Southwest Quarter of the Southwest Quarter (NE¼ SW¼ SW¼) of Section 29, more particularly described as being near a point 1,096 feet North and 3,980 feet West of the Southeast corner of said section, in Township 26 South, Range 1 West, Sedgwick County, located substantially as shown on the topographic map accompanying the application.

4. That this appropriation shall be limited to a maximum diversion rate not in excess of **99 gallons per minute (0.22 c.f.s.)** and to a quantity not to exceed **9.1 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, 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 accompanied by the required statutory fee, which is currently \$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, which is currently \$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 with the 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 the quantity of water and rate of diversion approved under this permit is further limited to the quantity and rate which combined with Water Right, File No. 46,348, will provide a total not to exceed **9.1 acre-feet** of water per calendar year to be diverted at a maximum diversion rate not in excess of **99 gallons per minute** (0.22 c.f.s.) from the point of diversion described herein.

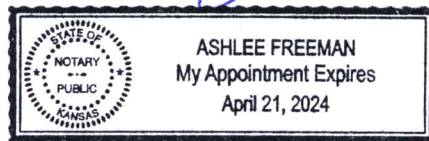
Ordered this *26* day of *October*, 2021, in Manhattan, Riley County, Kansas.

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 *26* day of *October*, 2021, by Lane P. Letourneau, P.G., Program Manager, Division of Water Resources, Kansas Department of Agriculture.

Ashlee Freeman
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

November 2, 2021

Laura Kelly, Governor

WATERCRESS HOA
ATTN. KIM GOODNIGHT
3845 N. WATERCRESS COURT
MAIZE, KS 67101

RE: Appropriation of Water, File No. 49,826
Water Right, File No. 46,348

Dear Mr. Goodnight:

Enclosed is the permit under File No. 49,826 authorizing the appropriation of 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 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.

In addition, enclosed is an Order executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the application for change under File No. 46,348. Your attention is directed to the enclosure and to the terms, conditions, and limitations specified in this approval for change. A condition of this approval is that an acceptable water flow meter for each authorized use must be installed on the diversion works authorized under the referenced file number.

Watercress HOA
File Nos. 46,348 and 49,826
Page 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 Stafford Field Office at 785-234-5311. 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:li:

Enclosure(s)

pc: Stafford Field Office
Groundwater Management District No. 2

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.

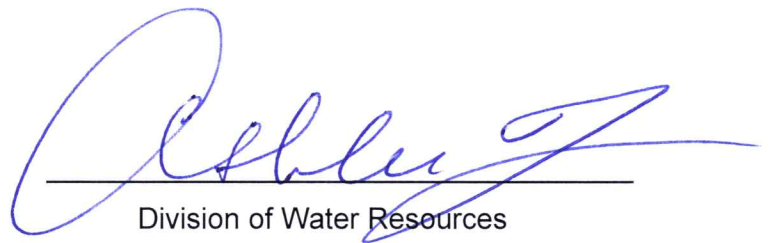
CERTIFICATE OF SERVICE

On this 2 day of November, 2021, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 49,826, dated 26 October 2021 was mailed postage prepaid, first class, US mail to the following:

Watercress HOA
Attn. Kim Goodnight
3845 N. Watercress Court
Maize, KS 67101

With photocopies to:

Stafford Field Office
Groundwater Management District No. 2



Division of Water Resources