

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

1. File Number: <p style="text-align: center;">49,830</p>	2. Status Change Date: <p style="text-align: center;">5/20/2021</p>	3. Field Office: <p style="text-align: center;">02</p>	4. GMD: <p style="text-align: center;">02</p>
5. Status: <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied by DWR/GMD <input type="checkbox"/> Dismiss by Request/Failure to Return			
6. Enclosures: <input checked="" type="checkbox"/> Check Valve <input checked="" type="checkbox"/> N of C Form <input checked="" type="checkbox"/> Water Tube <input checked="" type="checkbox"/> Driller Copy <input checked="" type="checkbox"/> Meter			
7a. Applicant(s) New to system <input type="checkbox"/> Person ID <u>58957</u> Add Seq# _____		7c. Landowner(s) New to system <input type="checkbox"/> Person ID _____ Add Seq# _____	
FREEMAN L & RETHA YODER 15006 W IRISH CREEK RD ARLINGTON, KS 67514			
7b. Landowner(s) New to system <input type="checkbox"/> Person ID _____ Add Seq# _____		7d. Landowner New to system <input type="checkbox"/> Person ID _____ Add Seq# _____	
7A			
8. WUR Correspondent New to system <input type="checkbox"/> Person ID _____ Overlap File (s) WUC Agree <input type="checkbox"/> Yes <input type="checkbox"/> No Add Seq# _____ Notarized WUC Form <input type="checkbox"/>		9. Use of Water: Changing? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/> Groundwater <input type="checkbox"/> Surface Water <input checked="" type="checkbox"/> IRR <input type="checkbox"/> REC <input type="checkbox"/> DEW <input type="checkbox"/> MUN <input type="checkbox"/> STK <input type="checkbox"/> SED <input type="checkbox"/> DOM <input type="checkbox"/> CON <input type="checkbox"/> HYD DRG <input type="checkbox"/> WTR PWR <input type="checkbox"/> ART RECHRG <input type="checkbox"/> IND SIC: _____ <input type="checkbox"/> OTHER: _____	
10. Completion Date: <u>12/31/2022</u>		11. Perfection Date: <u>12/31/2026</u>	
12. Exp Date: _____			
13. Conservation Plan Required? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Date Required: _____ Date Approved: _____ Date to Comply: _____			
14. Water Level Measuring Device? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Date to Comply: <u>12/31/2022</u> Date WLMD Installed: _____			
Date Prepared: 11/30/20 By: MJM Date Entered: 5/26/2021 By: LMoody			

5/18/2021
LIreland

File No. **49830** 15. Formation Code: **190** Drainage Basin: **North Fork Ninescah River** County: **RN** Special Use: Stream:

16. Points of Diversion										
MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W
MOD 86076			SESESE		7	25S	7W	2	323	27 Geo-Cent
ENT 88864			SESESE		7	25S	7W		473	27 Bat 1 of 2
ENT 88865			SESESE		7	25S	7W		173	27 Bat 2 of 2
BATT 1D # 2242										

17. Rate and Quantity				
Authorized		Additional		
Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files
400	179.2	400	179.2	None

18. Storage: Rate _____ NF Quantity _____ ac/ft Additional Rate _____ NF Additional Quantity _____ 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 **12/31/2022** 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						
MOD			68339	7	25S	7W						27	9	24	31	29	8								128	7b.	None		

Comments: **Switched to battery of 2 wells, PU in T25S based on map (likely typo on irrigation supp sheet) and needs updated, quantity reduced to 179.2 AF**

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: November 30, 2020

FROM: Matt Meier

RE: Application, File No. 49,830

Freeman Yoder has filed the referenced application to appropriate groundwater for irrigation use, requesting a battery of two (2) wells, a quantity of 179.2 acre-feet, and a diversion rate of 400 gallons per minute. The proposed geo-center of the well battery is to be located in the Southeast Quarter of the Southeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 7, more particularly described as being near a point 323 feet North and 27 feet West of the Southeast corner of said section, in Township 25 South, Range 7 West, Reno County, within the North Fork Ninescah drainage basin. The proposed point of diversion is located within the boundaries of Equus Beds Groundwater Management District No. 2. There are no existing water rights overlapping the proposed point of diversion and place of use. The proposed place of use is owned by the by Freeman & Retha Yoder. The applicant signed the application form stating that they have legal access to the point of diversion. The requested quantity was reduced to meet maximum acre-feet per acre requirements.

The applicant (with GMD#2 assistance) identified zero domestic wells within one-half mile of the proposed well and 1 non-domestic wells, which WRIS confirmed. Nearby well notification letters were sent out on April 29, 2015. A phone call and letter were received from domestic well owner Brad Mosiman who was against approval of the application. According to the information provided by GMD#2, the nearest non-domestic point of diversion (File No. 48076) is located 1626.7 feet away. Based on the site map and GMD review the nearest domestic well is over 2640 feet away. The proposed point of diversion meets minimum well spacing to all other existing wells. Per the requirements in K.A.R. 5-22-2(b) for a battery of wells located within Equus Beds Groundwater Management District No. 2, the minimum spacing interval from the geographic center of a well battery should be 1,620 feet to all other non-domestic wells and 960 feet to domestic wells.

Multiple test hole logs were submitted with the application, one of which shows top soil from 0 to 2 feet, clay from 2 to 17 feet, medium sand from 17 to 25 feet, fine sand from 25 to 35 feet, medium sand/big pebbles from 35 to 50 feet, fine/medium sand mix from 50 to 60 feet, fine sand from 60 to 75 feet, and shale at 75 feet below ground. Static water level was listed at 25 feet which provides a saturated thickness of 50 feet.

The requested quantity of water, 179.2 acre-feet, is to irrigate the proposed 128 acres identified in the application. This is the maximum reasonable quantity allowable of 1.4 acre-feet per acre for Reno County, Kansas. There are multiple pending applications in this general area of the state, and they are being worked in priority order to ensure that senior applications are provided the available water.

A copy of the application was submitted to Equus Beds Groundwater Management District No. 2 on July 28, 2018. GMD #2 recommended approval of the application in an email received on April 15, 2020. In the letter they said the application complies with all GMD #2s rules and Regulations, K.A.R. 5-22-1 through 5-22-17, and recommended approval of the application subject to the to the following conditions:

1. The quantity of water is reduced to 179.2 acre-feet per year to comply with the maximum allowable water to land ration of 1.4 acre-feet per acre for irrigation in Reno pursuant to K.A.R. 5-22-14(a)(2); and
2. The authorized well battery, as drilled and constructed, complies with the minimum well spacing requirements to senior domestic and non-domestic wells as described in K.A.R. 5-22-2

The application was filed before the expansion of GMD#2 boundaries and was processed as such. Using the safe yield rules which were in place at the time of the application filing (which only included the area inside the district boundaries at the time of the application filing as the safe yield extent), the application meets Safe Yield based on the GMD#2 review.

A review of nearby water level measurements showed steady levels (see hydrographs included with approval docs).

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. If any chemical or foreign substance is injected into the water pumped under this permit, a check valve will also need to be installed.

The proposed application is subject to minimum desirable streamflow requirements. The applicant signed, notarized, and returned the required form to our office.

Jeff Lanterman, Water Commissioner, Stafford Field Office, recommended approval of the referenced application via email chain and follow up phone call on 10/30/2020.

Based on the above discussion, well spacing and safe yield criteria are met, and approval of the application will not impair senior water rights nor prejudicially or unreasonably affect the public interest, it is recommended that the referenced application be approved.

Matthew J. Meier
Environmental Scientist
Water Appropriations Unit

**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. 49,830** of the applicant

**FREEMAN YODER
15006 W IRISH CREEK RD
ARLINGTON, KS 67514**

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 **April 24, 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	
7	25S	7W					27	9	24	31	29	8							128

3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of a battery of two (2) wells, the geo-center of which is to located in the Southeast Quarter of the Southeast Quarter of the Southeast Quarter (SE¼ SE¼ SE¼) of Section 7, more particularly described as being near a point 323 feet North and 27 feet West of the Southeast corner of said section, in Township 25 South, Range 7 West, Reno County, 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 **400 gallons per minute (0.891 c.f.s.)** and to a quantity not to exceed **179.2 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 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, 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 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 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 all wells with a diversion rate of 100 gallons per minute or more drilled under the authority of this permit shall have a tube or other device installed in a manner acceptable to, and in accordance with specifications adopted by, the Chief Engineer. This tube or device shall be suitable for making water level measurements and shall be maintained in a condition satisfactory to the Chief Engineer.

14. 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.

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

16. 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.

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 this permit is further limited such that all wells shall be located within a three hundred (300) foot radius circle, in the same local source of supply, and shall supply water to a common distribution system.

19. The authorized well battery, as drilled and constructed, complies with the minimum well spacing requirements to senior domestic and non-domestic wells as described in K.A.R. 5-22-2.

Ordered this *20* day of *May*, 2021, in Manhattan, Riley County, Kansas.

Lane P. Letourneau

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

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this *20* day of *May*, 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

Laura Kelly, Governor

May 26, 2021

FREEMAN L & RETHA YODER
15006 W IRISH CREEK RD
ARLINGTON, KS 67514

RE: Appropriation of Water, File No. 49,830

Dear Mr. & Mrs. Yoder:

There is enclosed a permit to appropriate water authorizing you to proceed with construction of the proposed diversion works (except those dams and stream obstructions regulated by K.S.A. 82a-301 through 305a), to divert such unappropriated water as may be available from the source and at the location specified in the permit, and to use it for the purpose and at the location described in the permit.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in this permit. A water meter is required and you must install it prior to water being put to beneficial use in order for you to maintain accurate records of water use. The meter should be used to provide the information required on the annual water use report.

Failure to notify the Chief Engineer of the Division of Water Resources of the completion of the diversion works within the time allowed, or within any authorized extension of time thereof, will result in the dismissal of this permit. Enclosed is a form which may be used to notify the Chief Engineer that the proposed diversion works have been completed.

All requests for extensions of time to complete diversion works, or to perfect appropriations, must be submitted to the Chief Engineer before the expiration of time originally set forth in the permit to complete diversion works or to perfect an appropriation. If for any reason, you require an extension of time, you must request it before the expiration of time set forth in this permit. Failure to comply with this regulation will result in the dismissal of your permit or your water right. Any request for an extension of time shall be accompanied by the required statutory fee, which is currently \$100.00.

There is also enclosed an information sheet setting forth the procedure to obtain a Certificate of Appropriation which will establish the extent of your water right. Additional information and applicable forms may be found on our website at: agriculture.ks.gov/divisions-programs/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 Stafford Field Office at 620-234-5311. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

Kristen A. Baum
New Application Unit Supervisor
Water Appropriation Program

KAB: MJM:li

Enclosures

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:

- 1) request an evidentiary hearing before the Chief Engineer, or
- 2) 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 Section, 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 hearing 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 26 day of May, 2021, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 49,830, dated 20 May, 2021, was mailed postage prepaid, first class, US mail to the following:

FREEMAN L & RETHA YODER
15006 W IRISH CREEK RD
ARLINGTON, KS 67514

With photocopies to:

Stafford Field Office

Groundwater Management District No. 2



Division of Water Resources