

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

1. File Number: <div style="text-align: center; font-size: 1.2em;">50,053</div>	2. Status Change Date: <div style="text-align: center; color: purple; font-weight: bold;">5/6/2021</div>	3. Field Office: <div style="text-align: center; font-size: 1.2em;">02</div>	4. GMD:
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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 23583 New to system <input type="checkbox"/> Add Seq# _____</p> <p style="text-align: center; font-weight: bold; margin-top: 10px;">KANSAS STATE UNIVERSITY FOUNDATION 1800 KIMBALL AVE STE 200 MANHATTAN, KS 66502-3373</p>	<p>7c. Landowner(s) Person ID _____ New to system <input type="checkbox"/> Add Seq# _____</p>
<p>7b. Landowner(s) Person ID _____ New to system <input type="checkbox"/> Add Seq# _____</p> <p style="font-size: 1.2em; margin-top: 10px;">7A</p>	<p>7d. Landowner Person ID _____ New to system <input type="checkbox"/> Add Seq# _____</p>

<p>8. WUR Correspondent Person ID _____ 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="font-weight: bold; margin-top: 5px;">7a</p>	<p>9. Use of Water: Changing? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p style="padding-left: 40px;"><input checked="" type="checkbox"/> Groundwater <input type="checkbox"/> Surface Water</p> <p><input checked="" type="checkbox"/> IRR <input type="checkbox"/> REC <input type="checkbox"/> DEW <input type="checkbox"/> MUN</p> <p><input type="checkbox"/> STK <input type="checkbox"/> SED <input type="checkbox"/> DOM <input type="checkbox"/> CON</p> <p><input type="checkbox"/> HYD DRG <input type="checkbox"/> WTR PWR <input type="checkbox"/> ART RECHRG</p> <p><input type="checkbox"/> IND SIC: _____ <input type="checkbox"/> OTHER: _____</p>
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10. Completion Date: ~~12/31/2021~~ 2022 11. Perfection Date: ~~12/31/2025~~ 2026 12. Exp Date: _____

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

12/31/2022

14. Water Level Measuring Device? Yes No Date to Comply: ~~12/31/2021~~ Date WLMD Installed: _____

Date Prepared: **10/30/20** By: **MJM**
Date Entered: 5/11/2021
L Moody

File No. **50053** 15. Formation Code: **100** Drainage Basin: **Ninnescah River** County: **SG** Special Use: Stream:

16. Points of Diversion									
MOD DEL ENT	PDIV Qualifier	S	T	R	ID	'N	'W		
√	86760 NWNWSE	8	29S	1W	1	2003	2357	Geo-Cent	
√	86761 NWNWSE	8	29S	1W	2	2303	2357	Bat 1 of 4	
√	86762 NWNWSE	8	29S	1W	3	2153	2357	Bat 2 of 4	
√	86763 SWNWSE	8	29S	1W	4	1853	2357	Bat 3 of 4	
√	86764 SWNWSE	8	29S	1W	5	1703	2357	Bat 4 of 4	

17. Rate and Quantity				
Authorized		Additional		
Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files
800	175	800	175	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 **12/31/2021 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								
√	68884	8	29S	1W	1									34	35	29	33		2	2		135	7b. 7a	no	None				

Comments: 3/15/2021
KJN

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: October 30, 2020

FROM: Matt Meier

RE: Application, File No. 50,053

The KSU Real Estate Foundation has filed the referenced application to appropriate groundwater for irrigation use, requesting a battery of four (4) wells, a quantity of 175 acre-feet, and a diversion rate of 800 gallons per minute. The Geo-Center is to be located in the Northwest Quarter of the Northwest Quarter of the Southeast Quarter (NW¼ NW¼ SE¼) of Section 8, more particularly described as being near a point 2,003 feet North and 2,357 feet West of the Southeast corner of said section, in Township 29 South, Range 1 West, Sedgwick County, within the Ninnescah River drainage basin. There are no other water rights overlapping the proposed place of use or point of diversion. The proposed place of use is owned by the Kansas State University Foundation. The applicant has signed the application form stating that he has legal access to the point of diversion.

In 2004 the United States Geological Survey (USGS) completed a hydrologic model of a portion of the Arkansas River and associated drainage basins (Ninnescah River), generally bounded by Ranges 2 West to 3 East and Townships 26 South to 34 South (near state line). The USGS model indicated that the aquifer in this area receives more recharge from precipitation than DWR has historically used in safe yield calculations. The data and analyses are detailed in the USGS Scientific Investigations Report 2004-5204 entitled "Characterization and Simulation of Flow in the Lower Arkansas River Alluvial Aquifer, South-Central Kansas". In order to evaluate the potential impact of this study on our safe yield calculations, Division of Water Resources (DWR) suspended processing applications for new appropriations of water in the model area.

DWR recently completed an evaluation of the USGS model and has determined that the precipitation recharge value of 5.4 inches per year that is used in the USGS model is reasonable and appropriate. In order to reserve water in the alluvial aquifers that can contribute to base flow to area streams and for domestic use, it was determined that 75 percent of the 5.4 inches of precipitation recharge shall be available for appropriation. This is consistent with safe yield appropriation in many other basins across the state, and is the current percent available in for all applications in the Ninnescah River drainage basin. Therefore, for all pending applications within the model area, safe yield will be evaluated using the standard methodology in K.A.R. 5-3-11, which is based on the extent of the unconfined aquifer (area of consideration), a Potential Annual Recharge value of 5.4 inches, and a percent of recharge available for appropriation of 75%. Current annual recharge across the model area is approximately 3 inches.

Per the requirements in K.A.R. 5-3-11, safe yield is determined by the extent of the unconfined aquifer within a two-mile circle radius of the point of diversion, which establishes the area of consideration. Evaluation of the area of consideration included the extent of the unconfined aquifer, which provided an area of consideration of 6,131 acres. With a potential annual recharge of 5.4 inches, and 75% of recharge available for appropriation, safe yield was determined to be 2,069.2 acre-feet. Existing water rights have appropriated 868.83 acre-feet, providing a difference of 1200.37 acre-feet available for appropriation, and the application requesting 175 acre-feet complies with safe yield.

A test hole log submitted with the application shows top soil from 0 to 2 feet, brown clay from 2 to 20 feet, medium sand from 20 to 25 feet, fine sand with clay layers from 25 to 50 feet, medium sand from 50 to 58 feet, and shale from 58 to 60 feet below ground. Static water level was at 16 feet which provides a saturated thickness of 42 feet.

The requested quantity of water, 175 acre-feet, is reasonable to irrigate the proposed 135 acres identified in the application. This is the maximum reasonable quantity allowable of 1.3 acre-feet per acre for Sedgwick 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.

The applicant identified 10 domestic wells within one-half mile of the proposed wells and no non-domestic wells, which Wris confirmed. Nearby well notification letters were sent out on August 27, 2020. Phone calls were received from nearby well owners Rex Smith and Kevin Davis to ask questions and express concerns. Letters were received from Scott & Carrie Klausmeyer, Phillip Crabtree, Chad Harman, and Adam Gonsalves who all expressed their opposition to approval of the application. Copies of the letters are included in the file. The nearest non-domestic point of diversion (File #41472) is located 4,226 feet away. Based off the map submitted with the application, the nearest domestic well appears to be approximately 1,250 feet away or further away. The proposed point of diversion meets minimum well spacing to all existing wells. Per the requirements in K.A.R. 5-4-4 for all other aquifers, the minimum well spacing should be one-quarter mile to all other non-domestic wells and 660 feet to domestic wells.

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. A water level measurement tube is required because this is a proposed new well exceeding 100 gpm.

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 on October 29, 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

Meier, Matt [KDA]

From: Meier, Matt [KDA]
Sent: Thursday, October 29, 2020 10:26 AM
To: Lanterman, Jeff [KDA]
Subject: RE: 50053 review request

Sounds good and I'll get it sent on to HQ,

Thanks!

From: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>
Sent: Thursday, October 29, 2020 10:25 AM
To: Meier, Matt [KDA] <Matt.Meier@ks.gov>
Subject: RE: 50053 review request

Looks like a pretty good well log and local water levels. I think we should go ahead and approve it.

Thanks Matt!

From: Meier, Matt [KDA] <Matt.Meier@ks.gov>
Sent: Thursday, October 29, 2020 9:45 AM
To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>
Subject: 50053 review request

Hello Jeff,

Attached are the draft memo for application 50053 and some nearby water levels (which look to be fairly steady). Received multiple nearby reply letters against approval of the app. Nearest domestic well approximately 1250 feet or further away. Let me know if you have any questions or would like to do a quick teams/phone call to cover anything.

Thanks,

Matt Meier
Environmental Scientist
Stafford Field Office
Matt.meier@ks.gov
620-234-5311

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. 50,053** of the applicant

**KANSAS STATE UNIVERSITY FOUNDATION
1800 KIMBALL AVE STE 200
MANHATTAN, KS 66502-3373**

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 30, 2018**.
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	
8	29S	1W								34	35	29	33		2	2		135	

3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of a battery of four (4) wells, the geo-center of which is to located in the Northwest Quarter of the Northwest Quarter of the Southeast Quarter (NW¼ NW¼ SE¼) of Section 8, more particularly described as being near a point 2,003 feet North and 2,357 feet West of the Southeast corner of said section, in Township 29 South, Range 1 West, Sedgwick 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 **800 gallons per minute (1.783 c.f.s.)** and to a quantity not to exceed **175 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.

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.

Ordered this 6 day of May, 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 6 day of May, 2021, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.



Ashlee Freeman
Notary Public

Stafford Field Office
300 S. Main Street
Stafford, KS 67578-1521



Phone: 620-234-5311
Fax: 620-234-6900
www.agriculture.ks.gov

Mike Beam, Secretary

Laura Kelly, Governor

May 11, 2021

KANSAS STATE UNIVERSITY FOUNDATION
1800 KIMBALL AVE STE 200
MANHATTAN, KS 66502-3373

RE: Appropriation of Water, File No. 50,053

Dear Sir or Madam:

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

Notice must be filed on the enclosed form once the diversion works have been completed. Failure to complete the diversion works within the time allowed, or within any authorized extension of time thereof, will result in dismissal of this permit. If you need an extension of time, you must request it before the deadline for completion set forth in the permit. Any request for an extension of time must be accompanied by the statutorily required fee, which is currently \$100.00.

An 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.kswateruserreport.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. 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,

A handwritten signature in black ink that reads "Kristen A. Baum". The signature is written in a cursive style.

Kristen A. Baum
New Applications and Changes Supervisor
Division of Water Resources

KAB: kjn
Enclosure(s)

pc: Stafford Field Office

CERTIFICATE OF SERVICE

On this 11 day of May, 2021, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,053, dated 6 May was mailed postage prepaid, first class, US mail to the following:

KANSAS STATE UNIVERSITY FOUNDATION
1800 KIMBALL AVE STE 200
MANHATTAN, KS 66502-3373

With photocopies to:

Stafford Field Office



Division of Water Resources