

File No. 50,171	15. Formation Code: 113	Drainage Basin: Ninnescah River	County: SU	Special Use:	Stream:																
16. Points of Diversion										17. Rate and Quantity MOD RATE & QTY											
T MOD DEL ENT	PDIV	Qualifier	S	T	R	ID	'N	'W		Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files							
CHK 87193	SW SW SW	24	31S	1E	7	205	5166	(Geo-Ctr)	67*	2120	800	400	800	400	None						
CHK 87194	SW SW SW	24	31S	1E	8	50	5050	(Batt 1 of 4)			MOD		MOD								
CHK 87195	SW SW SW	24	31S	1E	9	380	5265	(Batt 1 of 4)					117.25*								
CHK 87196	SW SW SW	24	31S	1E	10	150	5252	(Batt 1 of 4)													
CHK 87197	SW SW SW	24	31S	1E	11	240	5100	(Batt 1 of 4)		2120											
18. Storage: Rate _____ NF Quantity _____ ac/ft Additional Rate _____ NF Additional Quantity _____ ac/ft																					
19. Limitation: 706.55 af/yr at _____ gpm (_____ cfs) when combined with file number(s) 46205, 47040, 47613, & 49257																					
Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____																					
20. Meter Required? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No To be installed by _____ Date Acceptable Meter Installed _____																					
21. Place of Use		NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg? NO	Overlap Files
T 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				
MOD 57042	13	31S	1E	2						0.5	9	23	24.5					57	7a, 7c	Yes	46205, 47040, 47613, 49257
MOD 57043	24	31S	1E	1			21.5	34.5	25	32	40	3	33	34				223	7a, 7c	No	46205, 47040, 47613, 49257
MOD 61446	23	31S	1E	1										12.5	14	9.8	29.2	65.5	7a, 7c	No	46205, 47040, 47613, 49257
MOD 59540	26	31S	1E	1	29.5	34.5	31	14						16			40	198* 109	7a, 7c	No	46205, 47040, 47613, 49257
MOD 67083	26	31S	1E	2						33				16			40	89	7a, 7c	No	46205, 47040, 47613, 49257

DEL 67082 & 67083*

*** PUSE ID 57042 REMOVE COMMENT "RESERVED WATER RIGHT FROM LAND"**

*** 7/1/2021
Llreland**

**6/24/2021
KJN**



KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: June 15, 2021

FROM: Kris Neuhauser

RE: Application File No. 50,171; Change
Application, File Nos. 46,205; 47,040; 47,613; & 49,257

Mark Lawless has filed the above referenced new application proposing to appropriate 400 acre-feet of groundwater at a diversion rate of 800 gallons per minute for irrigation use. There are no other water rights overlapping the point of diversion. Four associated change applications will be worked at the same time, which are designed to create a complete overlap in place of use with the above referenced application. The proposed acreage is jointly owned by Mark and Karla Lawless, and David and Joi Lawless. The applicant has signed the application form stating he has legal access to the point of diversion. The proposed point of diversion is the geographic center of a battery of four wells located in the Southwest Quarter of Section 24, Township 31 South, Range 1 East, Sumner County, within the Ninnescah River Basin.

The four change applications (46,205; 47,040; 47,613; and 49,257) will change the place of use to a total of 543.5 acres in Sections 13, 23, 24, and 26, all in Township 31 South, Range, 1 East, Sumner County.

The maximum reasonable quantity for irrigation in Sumner County for 543.5 acres is 706.55 acre-feet (543.5 acres x 1.3 = 706.55 AF). File No. 50,171 will be limited to 706.55 acre-feet (117.25 acre-feet additional) when combined with all four senior files.

File Nos. 46,205; 47,040; 47,613 = 473.6 AF

File No. 49,257 = 115.7 AF

473.6 AF + 115.7 AF = 589.3 AF, 706.55 AF – 589.3 AF = 117.25 AF additional

The proposed changes comply with K.A.R. 5-5-11, as the changes are only proposing to create a complete overlap in the place of use, therefore, there will be no increase in consumptive use. The referenced files appear to be not abandoned pursuant to K.S.A. 82a-718.

Based on the driller log information that was submitted to our office for File No. 50,171, saturated thickness is 27 feet. The log lists topsoil from 0-3 feet, reddish clay from 3-25 feet, fine/medium sand from 25-46 feet, and grey shale from 46-55 feet. The source of supply appears to terrace deposits.

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. For this application, the area of consideration (alluvial aquifer) provided an area of consideration of 6,011 acres, with a potential annual recharge of 2.9 inches, and 75% of recharge available for appropriation, safe yield was determined to be 1,089.40 acre-feet. Existing water rights have appropriated 249.6 acre-feet, providing a difference of 839.8 acre-feet of water available for appropriation. The application requesting 400 acre-feet complies with safe yield criteria.

Three domestic wells within ½ mile of the proposed point of diversion were identified by the applicant. Nearby notification letters (outlining File No. 50,171 and the four corresponding change applications) were mailed on February 12, 2021 by former Environmental Scientist from the Topeka Field Office, Doug Schemm, who has since retired. No responses of any kind have been received to date.

According to the WRIS database, the nearest non-domestic point of diversion is located over a mile away, while the nearest domestic well is roughly 750 feet to the Southwest. The proposed point of diversion meets minimum well spacing to all existing 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 the rate of diversion will exceed 100 gpm.

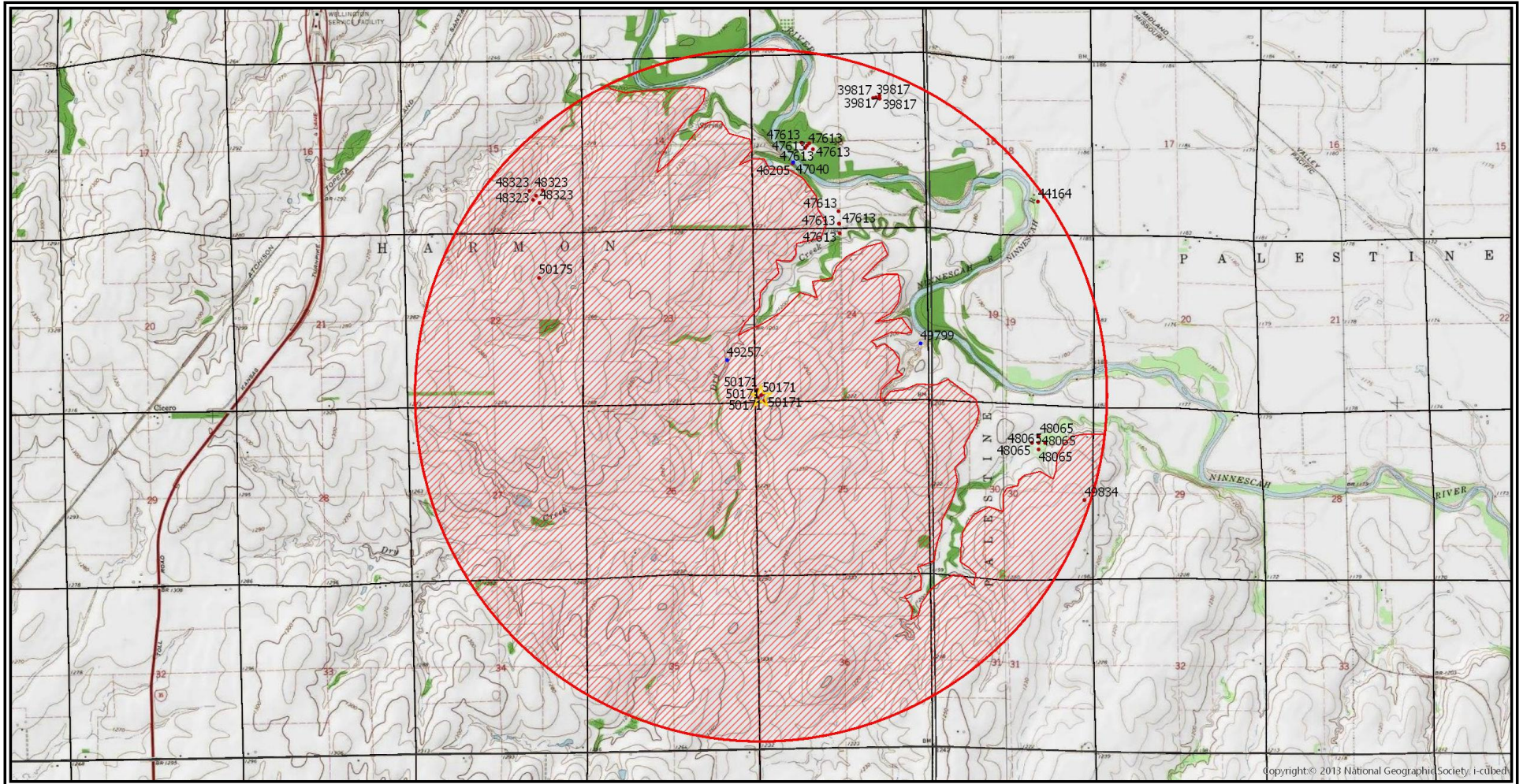
In an email on June 16, 2021, Jeff Lanterman, Water Commissioner, Stafford Field Office, stated that the referenced application should be approved.

Based on the above discussion, that the area is open to new appropriations for groundwater, the proposed appropriation of water complies with safe yield and well spacing criteria, the applicant provided additional information regarding the aquifer, and there is no evidence that senior rights will be impaired, it is recommended that the referenced application be approved.



Kris Neuhauser
New Applications Lead
Water Appropriation Program

Safe Yield Report Sheet
Water Right- Proposed Point of Diversion
Point of Diversion in 24-31S-01E
Footages from SE corner- 205 feet North 5,167 feet West



Analysis Results

The selected PD is in an area OPEN to new appropriations.

The safe yield based on the variables listed below is 1,089.40 AF.

Total prior appropriations in the circle is ~~468.60 AF~~ - ~~208 AF~~ = ~~260.6 AF~~ **249.6 AF**

Total quantity of water available for appropriation is ~~620.80 AF~~

~~828.8 AF~~ **839.8 AF available***

50,171 Meets safe yield even if quantity is all additional.

Safe Yield Variables

The area used for the analysis is set at 6,011 acres.

The potential annual recharge at the circle center is estimated to be 2.9 inches.

The percent of recharge available for appropriation is 75%.

Authorized Quantity values are as of 07-DEC-2020 and are based on Appropriated and Vested ground water right and possible stream nodes for GMD #2. Domestic, Term and Temporary water rights have been excluded.

There are 4 water rights and 12 points of diversion within the circle.

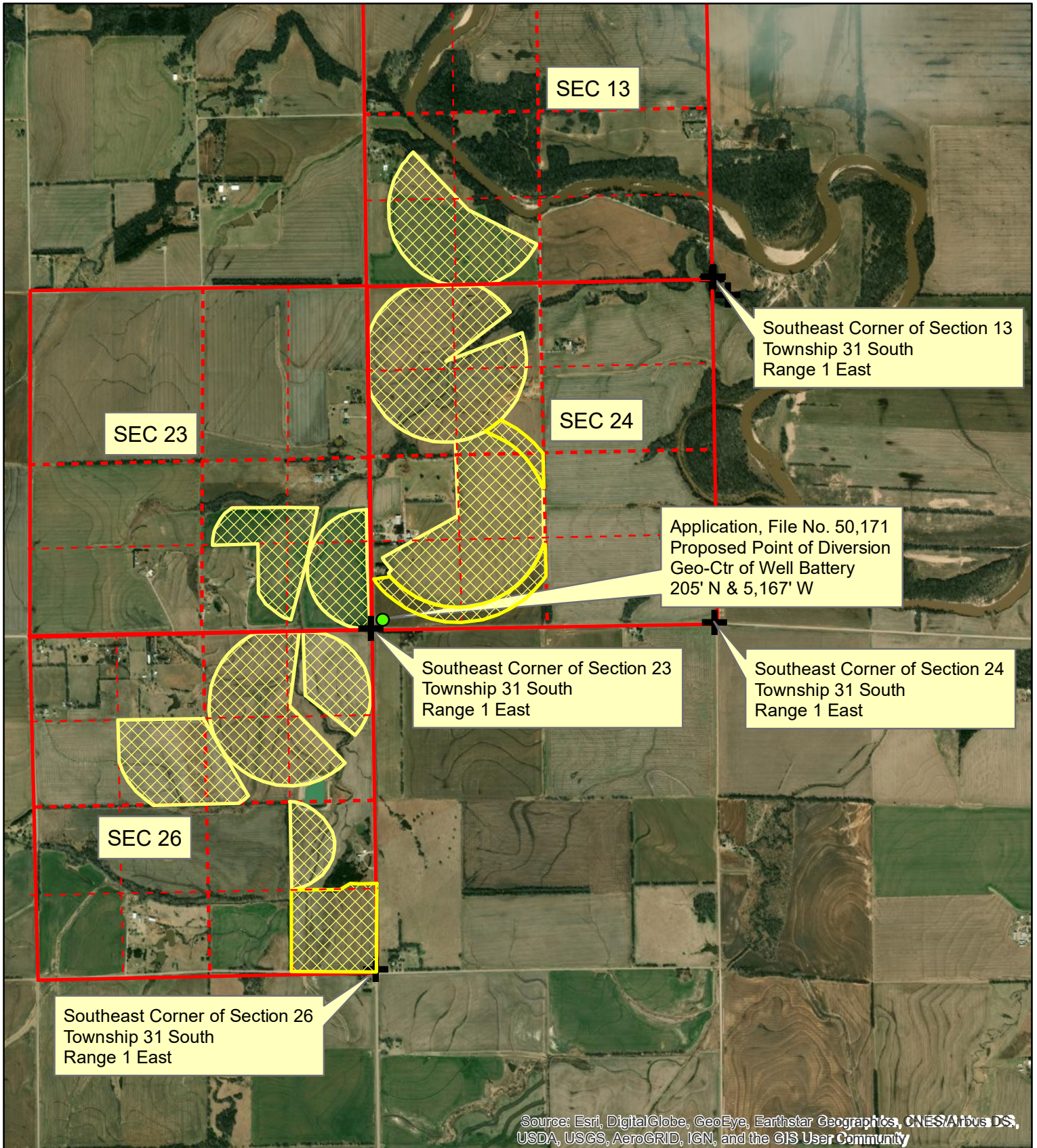
File Number	Use	ST	SR	Q4	Q3	Q2	Q1	FeetN	FeetW	Sec	Twp	Rng	ID	Qind	Auth Quant	Add Quant	Tot Acres	Net Acres
A 48323 00	IRR	NK	G		SE	NW	SE	1313	1651	15	31	01E	2	WR	80.60	80.60	62.00	62.00
Same	IRR	NK	G		NE	SW	SE	942	1343	15	31	01E	3	WR				
Same	IRR	NK	G		NE	SW	SE	1036	1552	15	31	01E	4	WR				
Same	IRR	NK	G		NW	SE	SE	1317	1241	15	31	01E	5	WR				
Same	IRR	NK	G		NE	SW	SE	1152	1447	15	31	01E	6	WR	169	169		
A 49834 00	IRR	AY	G			NE	SE	2430	210	30	31	02E	11	WR	180.00	180.00	119.00	119.00
A 50171 00	IRR	AY	G		SW	SW	SW	205	5166	24	31	01E	7	WR	692.90	0.00	533.00	104.00
Same	IRR	AY	G		SW	SW	SW	50	5050	24	31	01E	8	WR	400			
Same	IRR	AY	G		SW	SW	SW	380	5265	24	31	01E	9	WR				
Same	IRR	AY	G		SW	SW	SW	150	5252	24	31	01E	10	WR				
Same	IRR	AY	G		SW	SW	SW	240	5100	24	31	01E	11	WR				
A 50175 00	IRR	AY	G				NE	3960	1320	22	31	01E	1	WR	208.00	208.00	160.00	160.00

Limitations


File Number	Seq Num	Limitations
A 47613 00	2	473.6 AF/YR COM/W #46205 & #47040

1:24,000

MARK LAWLESS
SITE MAP FILE NO. 50171 (REVISED)



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

 Proposed Place of Use

 Proposed Point of Diversion

All known wells of any kind within 1/2 mile of the proposed point of diversion have been identified.

From: Lanterman, Jeff [KDA]
Sent: Wed 6/16/2021 3:34 PM
To: Neuhauser, Kris [KDA];Conant, Cameron [KDA]
Subject: RE: New App 50171; Change Apps 46205, 47040, 47613, 49257 rec request

Ya. I think Matt was wrong on 49834. But it does look like we separated out the terrace deposits and the alluvium in both SY's. The GIS alluvium extent confirms. Did Doug have anything on the source here? The Geology layer calls it Loess.

I agree with your safe yield extent.

Of course there are no water levels nearby to hang our hat on. I think you can approve this package.

From: Neuhauser, Kris [KDA] <Kris.Neuhauser@ks.gov>
Sent: Wednesday, June 16, 2021 2:23 PM
To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>; Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Subject: RE: New App 50171; Change Apps 46205, 47040, 47613, 49257 rec request

I called it alluvium based on the log. Looks like Matt called 49834 alluvium, so was trying to stay consistent too. Unless you're thinking otherwise?

From: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>
Sent: Wednesday, June 16, 2021 1:48 PM
To: Neuhauser, Kris [KDA] <Kris.Neuhauser@ks.gov>; Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Subject: RE: New App 50171; Change Apps 46205, 47040, 47613, 49257 rec request

Yes I believe you will need an overall limitation.

Is this considered alluvium or terrace deposits?

From: Neuhauser, Kris [KDA] <Kris.Neuhauser@ks.gov>
Sent: Wednesday, June 16, 2021 12:00 PM
To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>; Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Subject: New App 50171; Change Apps 46205, 47040, 47613, 49257 rec request

Hi guys,

Attached is a draft memo for 50171 and the four PU changes associated – 46205, 47040, 47613, 49257. They will create a complete overlap amongst all. Doug edited 50171 down to 400 AF, which Mark signed off on. The reduced quantity freed up water for another app he had nearby, 50175.

Bumped 49834 (in two mile circle) up to the top of our list for final review. Will need to be signed before we approve 50171.

There will need to be a quantity limitation on 50171, when combined with the four senior files, correct? I'll need to add a bit to my memo before calling it a final draft..

Kris

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. 50,171** of the applicant

MARK E & KARLA LAWLESS
573 N MOUNT ZION RD
BELLE PLAINE, KS 67013

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 **November 29, 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	
13	31S	1E									0.5	9.0	23.0	24.5					57.0
23	31S	1E													12.5	14.0	9.8	29.2	65.5
24	31S	1E					21.5	34.5	25.0	32.0	40.0	3.0	33.0	34.0					223.0
26	31S	1E	29.5	34.5	31.0	14.0									16.0			40.0	198.0

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 with a geographic center located in the Southwest Quarter of the Southwest Quarter of the Southwest Quarter (SW¼ SW¼ SW¼) of Section 24, more particularly described as being near a point 205 feet North and 5,167 feet West of the Southeast corner of said section, in Township 31 South, Range 1 East, Sumner County, Kansas, located substantially as shown on the topographic 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** (1.78 c.f.s.) and to a quantity not to exceed **400 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 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 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.
15. That no water user shall engage in nor allow the waste of any water diverted under the authority of this permit.

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

July 15, 2021

MARK E & KARLA J LAWLESS
PO BOX 515
BELLE PLAINE KS 67013

RE: Appropriation of Water, File No. 50,171

Dear Mr. and Mrs. Lawless:

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 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. 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 Applications and Changes Supervisor
Division of Water Resources

KAB: kjn: li
Enclosure(s)

pc: Stafford Field Office
DAVID E & JOI LAWLESS, 532 N OLIVER RD, BELLE PLAINE, KS 67013

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

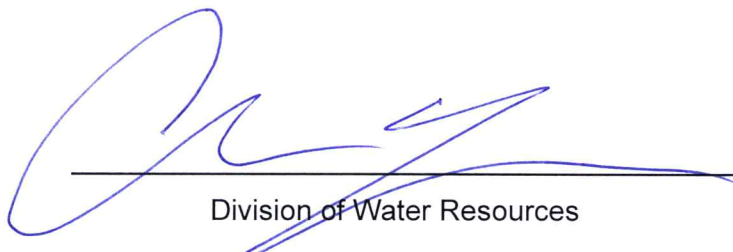
On this 15 day of JULY, 2021, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,171, dated 7 JULY 2021, was mailed postage prepaid, first class, US mail to the following:

MARK E & KARLA LAWLESS
573 N MOUNT ZION RD
BELLE PLAINE, KS 67013

With photocopies to:

DAVID E & JOI LAWLESS
532 N OLIVER RD
BELLE PLAINE, KS 67013

Stafford Field Office



Division of Water Resources