

File No. **50,185** 15. Formation Code: **332** Drainage Basin: **Cimmaron River** County: **CA** Special Use: Stream:

16. Points of Diversion

T	MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	W	AKA Line
				CHK	87228 NW NW NW	15	31S	25W	1	5267	4869	NA new
				MOD								

17. Rate and Quantity

Authorized		Additional		
Rate gpm	Quantity mgy	Rate gpm	Quantity mgy	Overlap PD Files
99	78.6	99	34.905	NA 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: **78.6** mgy at _____ gpm (_____ cfs) when combined with file number(s) **26959, 38,438, 38439, 40,931**

20. Meter Required? Yes No To be installed by **12/31/2021** Date Acceptable Meter Installed _____

21. Place of Use

T	MOD	DEL	ENT	PUSE	S	T	R	ID	NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg? NO	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			11347	16	31	25W	1	FEEDLOT IN THE NE¼ & N ½ SE ¼													7A & 7B	NO	SEE COMMENTS				
	ENT			69881	15	31	25W		FEEDLOT IN THE N ½ NW ¼													7A 7B	NO	SEE COMMENTS				

Comments: **Overlap Files: 26959, 38,438, 38439, 40,931, 50,186, & 50,187**

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources
M E M O R A N D U M

TO: Files

DATE: January 23, 2020

FROM: Brandon Milner

RE: Application, File Nos. 50185, 50,186 & 50,187

Clark County Feed Yard Inc. has filed the referenced new applications to appropriate 78.6 million gallons (241.18 acre-feet) of groundwater from two existing well and one new well at a rate of 99 gallons per minute for stockwatering use at one feedlot located in Section 16, Township 31 South, Range 25 West in Clark County. Application No. 50,185 is for a new well located in the NW Quarter of Section 15, more specifically 5,267 feet North and 4,869 feet West in Township 31 South, Range 25 West in Clark County. Application No. 50,186 is for an existing well located in Section 16, more specifically 4468 feet North and 2118 feet West in Township 31 South, Range 25 West in Clark County. Application No. 50,187 is for an existing well located in Section 15, more specifically 5,287 feet North and 5,222 feet West in Township 31 South, Range 25 West in Clark County. The place of use is owned by the applicant and by Clark County Feed Yard Inc and the applicant has signed the application form stating they have access to the point of diversion.

The purposed feedlot will be located in the Northeast Quarter of Section 16 and is owned by the applicant Clark County Feed Yard Inc, and it currently has four water rights associated with it. The existing feedlot located in the Northeast Quarter of Section 16 is owned by Clark County Feed Yard., and it is currently authorized under File Nos.26,959, 38,438, 38,439 & 40,931. Change applications on these senior files will create a complete overlap in place of use for the feedlot.

241.18 AF

Please note that the application was initially filed requesting 269.157 acre-feet at a diversion rate of 99 gpm. Based on the Designated Unit Area evaluation of BLC-67 (discussed below), the applicant subsequently agreed to a reduction in quantity to 241.18 acre-feet on a phone call on December 30, 2019. The reduced quantity of water of ~~100~~ acre-feet to provide water for 24,000 head of livestock, although the applicant indicated in a December 31, 2019 email that this number would be closer to 22,000 head. This would equate to 9-10 gallons/head of cattle per day which is less than the standard 15 gallons/head of cattle per day. However, looking back at the past five years of water use for this feedlot, it was determined that 9 gallons/head of cattle per day was the normal range of this feedlot.

The point of diversion is located within South Central Kansas Designated Unit Area BLC-67. 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. However, for points of diversion located within a Designated Unit Area (DUA), safe yield evaluation is a two-step approach. The first step is to determine that water is available in the specific Designated Unit Area, and then the 2-mile area of consideration is reviewed. Based on a recent review and determination Designated Unit Area BLC-67 still has 107 acre-feet available for appropriation which is less than the original 135.1 acre-feet of additional water the applicant had requested. With the difference of the original requested quantity of 135.1 acre feet requested and only 107 acre feet from DUA BLC-67 being available therefore there would be 18.15 acre feet available bringing the total quantity of water available to be 269.157 acre feet. Therefore 241.18 acre-feet would be the maximum allowed quantity for this feedlot instead of the requested 269.157-acre feet.

Therefore, for this application the extent of the unconfined Dakota aquifer system was determined to be the full two mile circle or 8,042 acres. Based on a potential recharge of 1.2 inches, with 50% available for appropriation, safe yield was determined to be 402.12 acre-feet for the areas of all three applications. Existing appropriations total only 134.1 acre-feet, leaving 268.02 acre-feet available for appropriation, and the application complies with safe yield criteria. However DUA unit BLC-67 only has 107 acre-feet available. The only water rights in the entire two-mile circle are Clark County Feed Yard Inc.

There are multiple spacing issues with these new applications as they do not meet the spacing requirements of one half mile for unconfined Dakota aquifer spacing. Application No. 50,185 does not meet spacing with Water Appropriation Nos. 40,931 & 38,438. Application No. 50,186 does not meet spacing with Water Appropriation Nos. 40,931, 38,438, 38,439 and 26,595. It does not meet spacing to a domestic well that was part of Water Appropriation No. 26,959 but is being changed to a domestic well. Application No. 50,187 does not meet spacing with Water Appropriation Nos. 40,931, 38,438, 38,439 and 26,595. All of the wells associated with these water rights are part of the same feedlot operation and no impairment has been reported for this feedlot.

The well proposed under this application shows sandstone was encountered at a roughly 60 to 100 feet below ground surface, to 115 feet where shale was. Static water level was located within the sandstone, indicating the unconfined Dakota aquifer system is the source. This is also consistent with the applicant's senior files, Nos. 26,959, 38438, 38,439 and 40,931 in the area.

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.

In a January 14, 2020 discussion, Jeff Lanterman, Water Commissioner, Stafford Field Office, recommended approval of the referenced new application.

Brandon Milner
Environmental Scientist
Manhattan Office

From: Lanterman, Jeff [KDA]
Sent: Tue 1/14/2020 4:55 PM
To: Milner, Brandon [KDA];Ireland, Leslie [KDA]
Cc: Conant, Cameron [KDA]
Subject: FW: Applications 50,185-186, 187

Brandon,

Cameron and I chatted this around. I think we are OK going ahead and approving these things with the associated change in PU applications that Leslie is working under File Nos. 26,959 38,438; 38,439 & 40,931.

What got me is that it surely appears that they can operate the feedyard at 9 GPHD existing so why would the expansion be any different.

Thanks
Jeff

From: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Sent: Tuesday, January 14, 2020 12:28 PM
To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>
Subject: FW: Applications 50,185-186, 187

What are your thoughts on this? We briefly discussed this a while back and I think at that time you leaned towards letting it go as is even though the quantity is lower than the max they could request.

After I get done with Robb, I'll come in and we can chat if need be. There are new apps and pending changes for this setup. They are getting it ready for sale or it just sold, I'm not sure which.

Cam

From: Milner, Brandon [KDA] <Brandon.M.Milner@ks.gov>
Sent: Tuesday, January 14, 2020 12:02 PM
To: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Subject: RE: Applications 50,185-186, 187

Cameron,

I haven't had the chance to talk to Kristen yet, but I did do some research in the years past with the applicant. They have averaged around 9-10 gallons/head since 2014 so maybe it's normal for them?

Brandon Milner

From: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Sent: Monday, December 30, 2019 3:49 PM
To: Milner, Brandon [KDA] <Brandon.M.Milner@ks.gov>; Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>; Baum, Kristen [KDA] <Kristen.Baum@ks.gov>
Subject: RE: Applications 50,185-186, 187

I don't know Brandon. I'm certainly not comfortable recommending approval of the new applications for a total of 241.1 AF while increasing the capacity to 24,000 cattle. This equates to only 9 gallons per head per day. The maximum is 15 GPHD...based on this, we could allow an expansion to 14,350 cattle. The applicant could provide information to us to show how and why they could operate with only 9 gallons per head per day. Has KDHE already approved an increase to 24,000 cattle and do they have any information that could be beneficial to us?

Would you be willing to review the past 5 years of use under the senior files and see what they are reporting for total use and Gallons/head/day?

We don't have a real calculation to determine a minimum reasonable for cattle so I think Jeff and Kristen probably need to weigh in on this. I think we also have a lot of p/u changes pending and on hold for the senior files.

Cameron

From: Milner, Brandon [KDA] <Brandon.M.Milner@ks.gov>

Sent: Monday, December 30, 2019 3:07 PM

To: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>

Subject: Applications 50,185-186, 187

Cameron,

Just wanted to see where we were on the above mentioned applications as the applicant called to check the status today. I think the last item of business was an email I sent to Stafford back in October about a potentially approving the application with a reduced quantity and making sure that would be adequate for the number of cattle. Please see below from October.

I started working application # 50,185, 50,186 50,187 for Clark County Feed Inc. They are requesting a total of 269.157 Acre-feet of water for stock watering up to 24,000 head of cattle. They are currently authorized 134.1 acre-feet of water for 12,000 head of cattle. They are looking to upsize their operation and hence have filed new applications to appropriate water. They are located in DUA area BLC-67. This area only has 107 acre-feet of available. With these new applications being filed, they are asking for an additional 135 acre-feet of water to get to the total of 269.157 acre-feet. Therefore there would only be 107 acre-feet available instead of the 135 acre-feet requested. This new volume based off of that would be 241 acre-feet for 24,000 cattle. This would equate out to roughly 9 gallon per head of cattle per day. Is this an acceptable number in your mind or what are your thoughts on this? Thanks

Brandon Milner | Environmental Scientist

Kansas Dept. of Agriculture | Division of Water Resources

Address: 1320 Research Park Dr., Manhattan, KS 66502

Phone: 785-564-6631

Website: <http://agriculture.ks.gov/divisions-programs/dwr>

From: Baum, Kristen [KDA]
Sent: Fri 8/23/2019 9:23 AM
To: Neuhauser, Kris [KDA];Milner, Brandon [KDA]
Subject: FW: DUA pending applications

From: Munson, John [KDA] <John.Munson@ks.gov>
Sent: Wednesday, August 7, 2019 5:51 PM
To: Baum, Kristen [KDA] <Kristen.Baum@ks.gov>
Subject: RE: DUA pending applications

Kristen,

As of August 7, 2019, here are the results for the three unit areas you asked about:

1. BLC-67 has only 107 acre-ft available. There are four pending applications in the unit, 50,185, 50,186, 50,187, and 50,243, but this area is already nearly fully appropriated largely due to two reservoirs that are not storage rights in WRIS.
2. NIN-30 has 2,496 acre-ft available. There is one application 50,262 pending.
3. SNI-25 is fully appropriated and no water is available. There are two applications 50,073 and 50,074 pending but they are only for a couple acre-ft each.

As I said below, I will let you know when the entire file is updated. I will direct you to its location.

John

From: Munson, John [KDA]
Sent: Wednesday, August 7, 2019 3:21 PM
To: Baum, Kristen [KDA] <Kristen.Baum@ks.gov>
Subject: RE: DUA pending applications

Hi Kristen,

I have not updated the entire excel file recently. I will update the three unit areas that you are asking about and send you that information. I will then update the remainder of the excel file and let you know when I am done. I got so I tend to update a unit area when someone asks me about a certain unit instead of the whole thing periodically.

I use the WIMAS>Selection/Buffer>Theme>boundaries >Closed_Restricted in ArcGIS Pro. I also have boundaries for the portions of the units that extend into GMDs but you have to draw the polygon to select files in those areas.

John

From: Baum, Kristen [KDA] <Kristen.Baum@ks.gov>
Sent: Wednesday, August 7, 2019 12:40 PM
To: Munson, John [KDA] <John.Munson@ks.gov>
Subject: DUA pending applications

John,

We have a few pending applications coming up that are located within DUAs. Can you provide me with the latest version of the excel file for the DUAs and more specifically, can you see if the following DUAs have water remaining that can be appropriated?

BLC-67
NIN-30
SNI-25

Also, do you have an ArcGIS shapefile for the DUA boundaries that you use?

Thanks,

Kristen A. Baum
Division of Water Resources – Water Appropriations
Kansas Department of Agriculture
1320 Research Park Drive
Manhattan KS 66502
(785) 564-6627

Analysis Results

The selected PD is in an area OPEN to new appropriations.
 The safe yield based on the variables listed below is 402.12 AF.
 Total prior appropriations in the circle is 941.57 AF.
 Total quantity of water available for appropriation is 0.00 AF.

Safe Yield Variables

The area used for the analysis is set at 8,042 acres.
 The potential annual recharge at the circle center is estimated to be 1.2 inches.
 The percent of recharge available for appropriation is 50%.

Authorized Quantity values are as of 21-OCT-2019 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 7 water rights and 12 points of diversion within the circle.

Handwritten calculations:
 95.67 AF
 33.29 AF
 S. 14 AF
~~269.16~~
 + 107.00
 134.095
 402.12
 - 124.095
 268.03 available
 Total Dura RLC-67 value

Handwritten notes:
 241.1
 97
 may

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 26959 00	STK	NK	G		SE	NW	NE	4205	1975	16	31	25W	4	WR	95.67	95.67		
Same	STK	NK	G		NW	NW	NE	4885	2250	16	31	25W	2	WR				
Same	STK	NK	G		SW	NW	NE	4350	2200	16	31	25W	6	WR				
Same	STK	NK	G		NW	NW	NE	5160	2200	16	31	25W	1	WR				
A 38438 00	STK	NK	G		SW	NE	NE	4200	1200	16	31	25W	5	WR	33.76	33.29		
A 38439 00	STK	NK	G		SW	NW	NE	4350	2200	16	31	25W	6	WR	33.76	0.00		
A 40931 00	STK	NK	G		NW	SE	NW	3889	807	16	31	25W	10	WR	32.16	5.14		
Same	STK	NK	G		SW	NE	NE	4160	749	16	31	25W	9	WR				
Same	STK	NK	G		NW	SE	NE	3884	839	16	31	25W	8	WR				
Same	STK	NK	G		NW	SE	NE	3621	834	16	31	25W	7	WR				
A 50185 00	STK	AY	G		SW	NW	NE	3960	3960	15	31	25W	1	WR	269.16	269.16		
A 50186 00	STK	AY	G		SW	NW	NE	4468	2118	16	31	25W	11	WR	269.16	269.16		
A 50187 00	STK	AY	G		NW	NW	NW	5287	5222	15	31	25W	2	WR	269.16	269.16		

Limitations

File Number	Seq Num	Limitations
A 38438 00	1	42.02MGY COM/W #26,959
A 38439 00	1	55GPM COM/W #26,959
Same	2	42.02MGY COM/W #26,959 & 38,438
A 40931 00	1	43.695MGY COM/W #26,959; 38,438 & 38,439

134.095

**Safe Yield Report Sheet
Water Right-**

Point of Diversion in 15-31S-25W

Footages from SE corner- 3,960 feet North 3,960 feet West



Source: National Resources Inventory, 2001. Digitized by the National Center for Geographic Information Science, 2002.

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

FILE COPY

CLARK COUNTY FEEDYARD INC
461 CRI
MINNEOLA, KS 67865

March 20, 2020

RE: Appropriation of Water, File Nos. 50,185,
50,186, & 50,187

Dear Sir or Madam:

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

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 permits. 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 these permits 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 permits or rights 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 applications constitutes permits 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 Application Unit Supervisor
Division of Water Resources

KAB:bmm

Enclosure(s)

pc: Stafford Field Office

THE STATE  OF KANSAS

KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Secretary of Agriculture

DIVISION OF WATER RESOURCES
Christopher W. Beightel, Acting 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. 50,185** of the applicant

**CLARK COUNTY FEEDYARD INC
461 CRI
MINNEOLA, KS 67865**

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 **December 17, 2018**
2. That the water sought to be appropriated shall be used for stockwatering use at a cattle feedlot located in the North Half of the Northwest Quarter (N ½ NW ¼) of Section 15 and in the Northeast Quarter (NE ¼), and the North Half of the Southeast Quarter (N ½ SE ½) of Section 16, all in Township 31 South, Range 25 West, Clark County Kansas.
3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of one (1) well located in the Northwest Quarter of the Northwest Quarter of the Northwest Quarter (NW¼ NW¼ NW¼) of Section 15, more particularly described as being near a point 5,267 feet North and 4,869 feet West of the Southeast corner of said section, in Township 31 South, Range 25 West, Clark County, Kansas.
4. That the appropriation sought 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 **78.6 million gallons (241.18 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, 2021** 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, 2025** 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 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.

13. 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).

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.

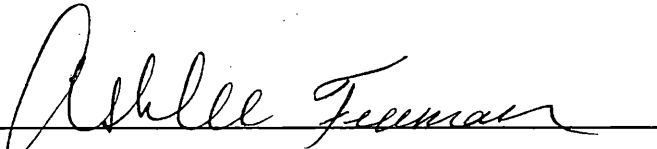
16. That failure without cause to comply with provisions of the permit and its terms, conditions and limitations will result in the forfeiture of the priority date, revocation of the permit and dismissal of the application.

CERTIFICATE OF SERVICE

On this 20 day of March, 2020, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,185, dated March 16, 2020 was mailed postage prepaid, first class, US mail to the following:

CLARK COUNTY FEEDYARD INC
461 CRI
MINNEOLA, KS 67865

With photocopies to:
Stafford Field Office


Division of Water Resources

