

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

1. File Number: <p style="text-align: center;">50,232</p>	2. Status Change Date: <p style="text-align: center;">4/22/2021</p>	3. Field Office: <p style="text-align: center;">2</p>	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 2839 New to system <input type="checkbox"/> Add Seq# _____</p> <p>CITIZENS STATE BANK OF CHENEY KS INC Attn: ACCOUNTS PAYABLE PO BOX 509 CHENEY, KS 67025-0509</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>7a</p>	<p>7d. Misc. 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>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 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 checked="" type="checkbox"/> OTHER: THX</p>
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10. Completion Date: **12/31/2021-22** 11. Perfection Date: **12/31/2025²⁶** 12. Exp Date: _____

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

14. Water Level Measuring Device? Yes No Date to Comply: _____ Date WLMD Installed: _____

WAIVER INCLUDED

Date Prepared: **7/22/2020** By: **KJN**
Date Entered: 5/3/2021 By: LMoody

4/11/2021
Llreland

File No. 50,232	15. Formation Code: 532	Drainage Basin: N F Ninescah River	County: SG	Special Use:	Stream:																		
16. Points of Diversion			17. Rate and Quantity																				
T MOD DEL ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Authorized	Additional	Overlap PD Files												
Rate gpm	Quantity mgy	Rate gpm	Quantity mgy																				
CHK 28761	SE NE NW	8	28S	4W	6	3994	2775	99	11.577	49	11.577	34,058											
Lot 14																							
to match PD description of 34058 LI/DWR																							
18. Storage: Rate _____ NF Quantity _____ ac/ft Additional Rate _____ NF Additional Quantity _____ ac/ft																							
19. Limitation: <u>11.577</u> mgy at <u>99</u> gpm (_____ cfs) when combined with file number(s) <u>34,058</u>																							
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 <u>12/31/2021 2022</u> 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						
CHK 19497	8	28S	4W	2	L-14, AIR HEAT PUMP IN CITIZENS STATE BANK CITY OF CHENEY KS																7a	No	34,058
Comments:																							

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: July 9, 2020

FROM: Kris Neuhauser

RE: Application File No. 50,232

Citizens State Bank of Cheney Kansas Inc. has filed the above referenced application proposing to appropriate 11.577 million gallons of groundwater per calendar year (mgy), at a maximum rate of 99 gallons per minute (gpm), for thermal exchange use. The proposed extraction well is located in Lot 14 of Section 8, more specifically described as a point 3,994 feet North and 2,775 feet West of the Southeast corner of said section, Township 28 South, Range 4 West, Sedgwick County, Kansas. The proposed application overlaps in point of diversion and place of use with Water Right, File No. 34,058. The place of use and point of diversion are both owned by the applicant, and a representative has signed the application form affirming legal access to the point of diversion (President Roger Brown).

Water Right, File No. 34,058 is currently authorized 4.977 million gallons at a diversion rate of 50 gallons per minute, for thermal exchange use at this same facility. The application was submitted to increase quantity and correct past over-pumping issues with Water Right, File No. 34,058.

The applicant has requested 11.577 mgy, which was the maximum gallons pumped by Water Right, File No. 34,058 in 2004. The quantity will be limited to 11.577 mgy when combined with Water Right, File No. 34,058. The rate is to not exceed 99 gpm (49 gpm additional).

Per K.A.R. 5-1-1. (iiii) "Thermal exchange" means the **use of water for climate control in a nondomestic building and in a manner that is essentially non-consumptive to the source of supply**. The applicant plans to install two injection wells that will return the water to the source of supply. In order to further ensure the applicant complies with this requirement, the permit approval is conditioned that the applicant must obtain a Class V injection well (UIC) permit from KDHE.

Since there is a large quantity of domestic wells within one-half mile of the proposed point of diversion, the applicant decided to publish a public notice instead of notifying nearby well owner's individually. An affidavit of publication was received in this office on November 21, 2019, showing the public notice was published in The Times-Sentinel once per week for three consecutive weeks (October 17, 2019, October 24, 2019, & October 31, 2019). The affidavit was properly signed and notarized. No responses of any kind were received.

Per the requirements in K.A.R. 5-4-4, minimum well spacing should be 1,320 to non-domestic wells and 660 feet to domestic wells with the same source of supply. The closest Water Right of any kind is over 1,320 feet away from the proposed point of diversion. However, multiple domestic wells are within 660 feet of the proposed point of diversion. Since the proposed use is non-consumptive, no nearby well users should be impacted; but a waiver of K.A.R. 5-4-4(2)(C) will be included with this application

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 A water level measurement tube will not be required as part of the permit conditions, as the applicant is requesting a rate of diversion of less than 100 gpm. In addition, the new permit will be conditioned so that the applicant is aware that all the water diverted for thermal exchange use must be recharged to the aquifer and cannot be used for any other purpose.

The source of supply appears to be Ninnescah shale (Permian).

4/12/2021
KJN

The requested quantity of water and rate of diversion appear reasonable based on similar thermal exchange projects. Climate control for a large building typically requires a substantial quantity of water. In this specific case diverting water at 99 gpm x 60 min/hour x 12 hours/day would allow the system to operate for roughly 162 continuous days (or a little over 5 months).

In an email dated July 14, 2020, Jeff Lanterman, Water Commissioner of the Stafford Field Office, and Cameron Conant, Assistant Water Commissioner of the Stafford Field Office, recommended approval of the application.

Based on the above discussion, that the use of water is non-consumptive making it exempt from safe yield criteria, that the use of water will not impact the static water level, and including a waiver of K.A.R. 5-4-4(2)(C), it is recommended that the referenced application be approved

A handwritten signature in black ink, appearing to read "Kris Neuhauser". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Kris Neuhauser
Environmental Scientist

From: Lanterman, Jeff [KDA]
Sent: Tue 7/14/2020 4:34 PM
To: Neuhauser, Kris [KDA]
Cc: Conant, Cameron [KDA]
Subject: FW: New App 50,232 recommendation request
Attachments: 50232 Memo to File.docx

Kris, I think this can be approved. I actually think CU will go down because it was just pump and dump before and now they are installing an injection well. Or already have. Good thing they aren't in GMD #2. You would really see some permit conditions then 😊

Go ahead and approve it.

From: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Sent: Friday, July 10, 2020 8:41 AM
To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>
Subject: FW: New App 50,232 recommendation request

Jeff, I know we are both aware of the problems the bank has had in the past with their old water right, File No. 34058 which is currently authorized 4,977,000 gallons or 15.3 AF. The senior file was originally a IND use for heating and cooling and was administratively changed in 2001 to THX and was operated as a pump and dump. They have consistently exceeded or pumped right up to 15.3 AF since 2001 and I think this new application stemmed from a Settlement Conference call from the most recent over pumping we enforced on.

They are requesting a total of 11,576,000 gal or 35.5 AF per year, which is 20.2 additional AF and 49 gpm additional rate. The new application states they will install 2 injection wells and convert this to a non-consumptive thermal exchange system. I assume they and the driller would of course work with KDHE to make sure the wells are properly constructed. This application has been filed to correct the past OP issues. The additional amount requested by this application more than covers what the recent overages have been, so I think the amount is reasonable and it will get worked out during certification.

Per Kris's question below about a spacing waiver. I think we do need spacing waivers for the multiple domestics within 660' of this well and the justification is simply that this is a non-consumptive use.

I think the FO can recommend approval of this non-consumptive thermal exchange new application with a spacing waiver to nearby domestic well. Please pass on to Kris if you agree.

Cameron

From: Neuhauser, Kris [KDA] <Kris.Neuhauser@ks.gov>
Sent: Thursday, July 9, 2020 11:06 AM
To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>; Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Subject: New App 50,232 recommendation request

Jeff and Cameron,

Here is New App 50,232 for your review and recommendation. THX use at Citizens State Bank of Cheney KS, overlaps PD/PU with 34,058.

I included a blip in the memo that we will need a spacing waiver since there are multiple domestics within 660 feet. Will that be needed? Or are we good since it is non-consumptive use?

Thanks!

Kris Neuhauser

Environmental Scientist

Water Appropriations Program – Kansas Dept of Agriculture

(785) 564-6643

Kansas Department of Agriculture
 Division of Water Resources
WAIVER REQUEST & WAIVER RULE WORKSHEET

File Number: **50,232**

FO: **2**

GMD:

WAIVER REQUEST:

UMW	Date Requested	Rule ID	Applies	Rule Type	Rule Subtype
IND	7/20/2020	6	Statewide	Well Spacing Domestic	Unconfined
Rule Number	Date Granted	Date Denied	Justification:	Multiple domestic wells fall within the allowed 660-foot radius of the proposed well under New Application, File No. 50,232. If approved, New Application, File No. 50,232 will permit a non-consumptive thermal exchange system at Citizens State Bank of Cheney Kansas. Two injection wells will be used to reinject pumped water back into the aquifer. Since this use is non-consumptive, no domestic wells should be impacted by approval of New Application, File No. 50,232.	
K.A.R. 5-4-4(c)(2)(C)	4/22/2021				

WAIVER RULE (complete only if a new rule needs to be created):

Rule ID	Applicability	Type	Subtype	Rule Number	Date Active	Date Inactive
				K.A.R.		

COMMENTS: Will not be a new rule

Date Prepared **7/22/2020** By **KJN**

Date Entered **5/3/2021** By **LMoody**

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Secretary of Agriculture

DIVISION OF WATER RESOURCES
Earl D. Lewis Jr., Chief Engineer

WAIVER OF REGULATION
K.A.R. 5-4-4 (c)(2)(C) Well spacing

Date: April 22, 2021


RE: Appropriation of Water, File No. 50,232

1. That K.A.R. 5-4-4(c)(2) states in part: In addition to meeting the minimum spacing requirements of paragraph (1) above, the minimum distance from the well which is the subject of the application to all domestic wells, except where the domestic well owner has given the applicant written permission to reduce the spacing interval, shall be:

(C) 660 feet for wells whose common source of supply is any other aquifer.
2. That multiple domestic wells fall within this 660-foot radius of the proposed existing well under New Application, File No. 50,232.
3. That if approved, New Application, File No. 50,232 will permit a non-consumptive thermal exchange system at Citizens State Bank of Cheney Kansas. Two injection wells will be used to reinject pumped water back into the aquifer.
4. That since this use is non-consumptive, no domestic wells should be impacted by approval of New Application, File No. 50,232.
5. That a waiver of K.A.R. 5-4-4(c)(2)(C) will not prejudicially or unreasonably affect the public interest.

Comments:




Earl D. Lewis Jr., P.E.
Chief Engineer
Division of Water Resources
Kansas Department of Agriculture

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. 50,232** of the applicant

CITIZENS STATE BANK OF CHENEY KS INC
Attn: ACCOUNTS PAYABLE
PO BOX 509
CHENEY, KS 67025-0509

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 1, 2019**.
2. That the water sought to be appropriated shall be used for thermal exchange use at a commercial building located in Lot 14, in Section 8, Township 28 South, Range 4 West, Sedgwick 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 Lot 14, of Section 8, more particularly described as being near a point 3,994 feet North and 2,775 feet West of the Southeast corner of said section, in Township 28 South, Range 4 West, Sedgwick 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 **99 gallons per minute (0.22 c.f.s.)** and to a quantity not to exceed **11.577 million gallons (35.529 acre-feet)** per 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 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 ending of the report year).

13. That the applicant shall maintain accurate and complete records from which the quantity of water diverted during each calendar year may be readily determined and the applicant shall file an annual water use report with the Chief Engineer by March 1 following the end of each calendar year. Failure to file the annual water use report by the due date shall cause the applicant to be subject to a civil penalty.

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

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

16. That the right to appropriate water under authority of this permit is subject to any minimum desirable streamflow requirements identified and established pursuant to K.S.A. 82a-703c for the source of supply to which this water right applies.

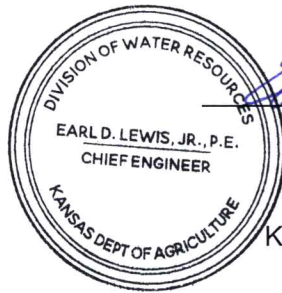
17. That in addition to the water appropriation permit, the applicant shall obtain all necessary permits required for installation and operation of the proposed groundwater injection well, from the Kansas Department of Health and Environment.

18. That the entire quantity of water diverted for beneficial use, shall be recharged into the aquifer through the proposed injection well, which is considered to be a non-consumptive use of water. Any other use of the water diverted under the authority of this permit will result in the forfeiture of the priority date, revocation of the permit and dismissal of the application.

19. That the rate of diversion approved under this permit is further limited the rate which combined with Water Right, File No. 34,058, will provide a total **not to exceed 99 gallons per minute** (0.22 c.f.s.) from the authorized point of diversion.

20. That the quantity of water approved under this permit is further limited to the quantity which combined with Water Right, File No. 34,058, will provide a total **not to exceed 11.577 million gallons** of water (35.53 acre-foot) per calendar year.

Ordered this *22nd* day of *April*, 2021, in Manhattan, Riley County, Kansas.



Earl D. Lewis Jr.

Earl D. Lewis Jr., P.E.
Chief Engineer
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this *22* day of *April* 2021, by Earl D. Lewis Jr., P.E., Chief Engineer, 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

CITIZENS STATE BANK OF CHENEY KS INC
Attn: ACCOUNTS PAYABLE
PO BOX 509
CHENEY, KS 67025-0509

May 4, 2021

Re: Appropriation of Water, File No. 50,232

Dear Sir or Madam:

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 these approval documents, **with specific reference to Paragraph Nos. 17 and 18**. As noted in your permit, you must obtain the required groundwater injection permit from the Kansas Department of Health and Environment prior to installation of the proposed injection well. In addition, please note that this permit was approved based on the non-consumptive nature of your proposed project, that the water diverted and used for thermal exchange use, will be recharged back into the aquifer. Any other use of the diverted water would violate your permit conditions. A water meter is required on the proposed diversion works 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. If you have any questions, please contact our office. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

Kristen A. Baum
New Applications and Changes Supervisor
Water Appropriation Program

KAB: kjn
Enclosures

pc: Stafford Field Office

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 5 day of may, 2021, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50.232, dated 22 April 2021 was mailed postage prepaid, first class, US mail to the following:

CITIZENS STATE BANK OF CHENEY KS INC
Attn: ACCOUNTS PAYABLE
PO BOX 509
CHENEY, KS 67025-0509

With photocopies to:

Stafford Field Office



Division of Water Resources