

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

| | | | |
|---|---|--|---|
| 1. File Number: <p style="text-align: center;">50,435</p> | 2. Status Change Date: <p style="text-align: center;">7/30/2021</p> | 3. Field Office: <p style="text-align: center;">02</p> | 4. GMD: <p style="text-align: center;">05</p> |
|---|---|--|---|

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

7a. Applicant(s) Person ID **7744**
New to system Add Seq# _____

HIRT FARMS
VERNON HIRT PRES
100082 SE 40TH AVE
SAWYER KS 67134-9560

7c. Landowner(s) Person ID _____
New to system Add Seq# _____

7b. Landowner(s) Person ID _____
New to system Add Seq# _____

7a

7d. Misc. Person ID _____
New to system Add Seq# _____

8. WUR Correspondent Person ID _____
New to system Add Seq# _____
Overlap File (s) WUC Notarized WUC Form
Agree Yes No

7a

9. Use of Water: Changing? Yes No

Groundwater Surface Water

IRR REC DEW MUN

STK SED DOM CON

HYD DRG WTR PWR ART RECHRG

IND SIC: _____ OTHER: _____

10. Completion Date: **12/31/2022** 11. Perfection Date: **12/31/2026** 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: **12/31/2022** Date WLMD Installed: _____

Date Prepared: **4/26/21** By: **JNE**
Date Entered: **8/4/2021** By: **L Moody**

File No. **50,435** 15. Formation Code: Drainage Basin: **MEDICINE LODGE RIVER** County: **PR** Special Use: Stream:

| 16. Points of Diversion | | | | | | | | | | |
|-------------------------|--------------|-----------------|-----------|------------|------------|----------|-------------|-------------|----|----|
| MOD | DEL | ENT | PDIV | Qualifier | S | T | R | ID | 'N | 'W |
| CHK | 76028 | NE SW SE | 15 | 29S | 15W | 2 | 1241 | 1971 | | |
| | | | | | | | | | | |
| | | | | | | | | | | |
| | | | | | | | | | | |
| | | | | | | | | | | |

| 17. Rate and Quantity | | | | |
|-----------------------|-----------------|--------------|-----------------|------------------|
| Authorized | | Additional | | |
| Rate gpm/cfs | Quantity af/mgy | Rate gpm/cfs | Quantity af/mgy | Overlap PD Files |
| 230 | 15 | 230 | 0 | 46944 |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

18. Storage: Rate _____ NF Quantity _____ ac/ft Additional Rate _____ NF Additional Quantity _____ ac/ft

19. Limitation: **15** af/yr at **230** gpm (_____ cfs) when combined with file number(s) **46944**
 Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____

20. Meter Required? Yes No To be installed by **12/31/2022** Date Acceptable Meter Installed _____

| 21. Place of Use | | | | | | | | | | NE¼ | | | | NW¼ | | | | SW¼ | | | | SE¼ | | | | Total | Owner | Chg? NO | Overlap Files |
|------------------|--------------|-----------|------------|------------|----------|---|----|------|------|------|------|-------------|------|------|------|------|------|------|------|------|------|------|------|--|--|-----------|-----------|----------------|---------------|
| MOD | DEL | ENT | PUSE | S | T | R | ID | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | | | | | | |
| CHK | 59292 | 15 | 29S | 15W | 1 | | | | | | | 3.50 | | | | | | | | | | | | | | 7A | no | 46944 | |
| | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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Comments: 7/22/2021
KJN

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

MEMORANDUM

TO: File

DATE: April 20, 2021

FROM: Jessica Engelbrecht

RE: Application, File No. 50,435

Vernon Hirt has filed the referenced application to appropriate groundwater for irrigation use, requesting one (1) well, a quantity of 15 acre-feet, and a diversion rate of 230 gallons per minute. The proposed well is an exact PD and PU overlap of Water Appropriation No. 46944. The proposed well is to be located in the Northeast Quarter of the Southwest Quarter of the Southeast Quarter (NE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 15, more particularly described as being near a point 1241 feet North and 1971 feet West of the Southeast corner of said section, in Township 29 South, Range 15 West, Pratt County, within the Medicine Lodge River drainage basin. The proposed point of diversion is located within the boundaries of Big Bend Groundwater Management District No. 5. The application is for a rate increase of 30 gallons per minute and will be limited to 15 AF in combined with Water Appropriation No. 46944.

The applicant identified three (3) domestic wells within one-half mile of the proposed well and no non-domestic wells. Nearby well notification letters were sent out on March 22, 2021. One nearby landowner submitted a letter expressing their opposition to the approval of the application due to concerns for their domestic well. It was determined that approving the application would not impair the nearby domestic well. According to the WRIS database, the nearest non-domestic point of diversion (Water Right, File No. 46,945) is located approximately 2,640 feet away and is owned by the applicant. Based on the site map the nearest domestic well is approximately 3,340 feet away. The proposed point of diversion meets minimum well spacing to all existing wells. Per the requirements in K.A.R. 5-25-2(a) for wells located within Big Bend Groundwater Management District No. 5, the minimum well spacing should be 1,320 feet to all other non-domestic wells and 660 feet to domestic wells.

A driller's test log shows clay from 0 to 17 feet, and Medium to Large Sand & Gravel from 17 to 100 feet. Static water level was listed at 32 feet which provides a saturated thickness of 68 feet.

The requested quantity of water, 15 acre-feet, is to irrigate the proposed 12 acres identified in the application. This comes out to 1.25 acre-feet per acre which is less than the maximum allowable of 1.4 acre-feet per acre for ~~Stafford~~ **Pratt** County, Kansas. The requested quantity will be limited when combined with 46,944 which has a authorized quantity of 15 AF.

A copy of the application was submitted to Big Bend Groundwater Management District No. 5 on April 13, 2021. GMD #5 recommended approval of the application in a letter, received via email, on April 19, 2021. In the letter they said the application complies with K.A.R. 5-25-20(b) and recommended approval of the 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. 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.

Jeff Lanterman, Water Commissioner, Stafford Field Office, recommended approval of the referenced application on **4/23/2021**. 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.

7/22/2021
KJN

Engelbrecht, Jessica [KDA]

From: Lanterman, Jeff [KDA]
Sent: Friday, April 23, 2021 11:21 AM
To: Engelbrecht, Jessica [KDA]
Subject: RE: 50435 Memo

Follow Up Flag: Follow up
Flag Status: Completed

Jessica I recommend approval on this one as well!

Thanks

From: Engelbrecht, Jessica [KDA] <Jessica.Engelbrecht@ks.gov>
Sent: Thursday, April 22, 2021 6:14 AM
To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>
Subject: 50435 Memo

Jeff,
Attached is 50435 which is ready for review. The applicant is requesting a rate only increase of 30 gallons per minutes. GMD5 recommended approval.

Jessica Engelbrecht, Environmental Scientist
KDA Division of Water Resources
Stafford Field Office
(620) 234-5311 Office
(620) 234-6900 Fax
Jessica.engelbrecht@ks.gov
agriculture.ks.gov

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. 50,435** of the applicant

**HIRT FARMS INC
VERNON HIRT PRES
100082 SE 40TH AVE
SAWYER KS 67134-9560**

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 **September 2, 2020**.
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 | NE ¹ / ₄ | | | | NW ¹ / ₄ | | | | SW ¹ / ₄ | | | | SE ¹ / ₄ | | | | TOTAL |
|-----------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|-------|
| | NE ¹ / ₄ | NW ¹ / ₄ | SW ¹ / ₄ | SE ¹ / ₄ | NE ¹ / ₄ | NW ¹ / ₄ | SW ¹ / ₄ | SE ¹ / ₄ | NE ¹ / ₄ | NW ¹ / ₄ | SW ¹ / ₄ | SE ¹ / ₄ | NE ¹ / ₄ | NW ¹ / ₄ | SW ¹ / ₄ | SE ¹ / ₄ | |
| 15 29S 15W | | | | | | | | | 3.50 | | | 5.60 | | 2.70 | 0.20 | | 12.00 |

3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of one (1) well, which is located in the Northeast Quarter of the Southwest Quarter of the Southeast Quarter (NE¹/₄ SW¹/₄ SE¹/₄) of Section 15, more particularly described as being near a point 1,241 feet North and 1,971 feet West of the Southeast corner of said section, in Township 29 South, Range 15 West, Pratt 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 **230 gallons per minute (0.51 c.f.s.)** and to a quantity not to exceed **15 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 the quantity of water approved under this permit is further limited to the quantity which combined with Appropriation of Water, File No. 46,944, will provide a total **not to exceed 15 acre-feet** of water per calendar year for irrigation use from the point of diversion described herein.

19. That the rate of diversion of water approved under this permit is further limited to the rate which combined with Appropriation of Water, File No. 46,944, will provide a total **not to exceed 230 gallons per minute (0.51 c.f.s.)** from the authorized point of diversion.

Ordered this 30 day of July, 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 30 day of July, 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

HIRT FARMS INC
VERNON HIRT PRES
100082 SE 40TH AVE
SAWYER KS 67134-9560

August 5, 2021

RE: Application, File No. 50,435

Dear Mr. Hirt,

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.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,

A handwritten signature in cursive script that reads "Kristen A. Baum".

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

Enclosures

pc: Stafford Field Office
Big Bend GMD No. 5

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

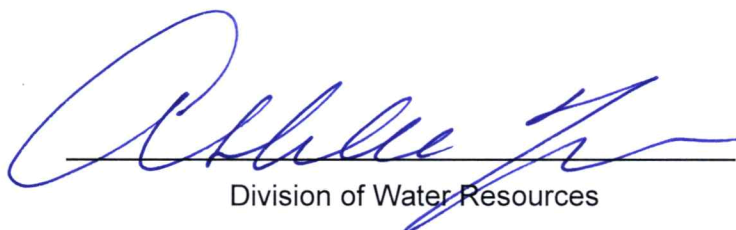
On this 5 day of August, 2021, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,435, dated 30 July, 2021, was mailed postage prepaid, first class, US mail to the following:

HIRT FARMS INC
VERNON HIRT PRES
100082 SE 40TH AVE
SAWYER KS 67134-9560

With photocopies to:

Stafford Field Office

Big Bend GMD No. 5



Division of Water Resources