

WALNUT

File No. **49,947** 15. Formation Code: ~~523~~ **533** Drainage Basin: ~~WANUT 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/cfs	Quantity af/mgy	Rate gpm/cfs	Quantity af/mgy		
CHK	66282	SW NE SW	35	27	2E	4	1406	3743	65/0.145	124	65/0.145	124	44,707	
											0	0		

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

19. Limitation: 124 af/yr at ~~65~~ gpm (0.145 cfs) when combined with file number(s) **44704, 44705, 44706, 46362, & 46363** **44707**
 Limitation: _____ af/yr at 65 gpm (_____ cfs) when combined with file number(s) **44707**

20. Meter Required? Yes No To be installed by 12/31/2023 Date Acceptable Meter Installed _____

21. Place of Use T MOD DEL ENT	PUSE	S	T	R	ID	NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg?	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					
CHK	54267	35	27	2E	01									13		7	40					60		7a	NO	44704
														14.5		8.5	37									44705
																										44706
																										44707

Comments: **PU OVERLAPS: 44704, 44705, 44706, 44707, 46362, 46363**

11/1/2021
 KJN

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: File

DATE: August 19, 2021

FROM: Jessica Engelbrecht

RE: Application, File No. 49,947

Gene Vitarelli has filed the referenced application on behalf of United Golf of Wichita Inc., to appropriate groundwater for irrigation use, requesting one (1) well, a quantity of 124 acre-feet, and a diversion rate of 65 gallons per minute. The proposed well is to be located in the ~~Southeast Quarter of the Northwest Quarter of the Northwest Quarter~~ (SW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 35, more particularly described as being near a point 1,406 feet North and 3,743 feet West of the Southeast corner of said section, in Township 27 South, Range 2 East, Sedgwick County, within the Walnut River drainage basin. The above-mentioned application will be an PD overlap with Water Appropriation, File No. 44,707 and a PU overlap of Water Appropriation File Nos. 44,704, 44,705, 44,706, 44,707, 46,362, and 46,363. The proposed place of use (60 acres) for the golf course is an exact overlap for all six files and when combined, File No. 49,947 is limited to 124 acre-feet. The applicant has signed the application form stating that they have legal access to the point of diversion.

The quantity for

File Nos. 44,704, 44705, 44706, 46362, and 46363 is 124 acre-feet. The new application is requesting a quantity of 124 acre-feet, ~~which would bring the total to 248 acre-feet.~~ The proposed place of use will be limited to 124 acre-feet. The applicant has a history of over pumping File No. ~~44,704.~~ The above referenced application was suggested to the applicant to provide the increased quantity needed for that well, without increasing the overall use in the area. **44707**

The application is in proximity to a densely populated area. A public notification was published three consecutive weeks. No contact of any kind was received. On July 30, 2021, letters were sent to all residences within 1,000 feet of the point of diversion. Eight nearby domestic well owners called, and one correspondence was received. All the comments received from nearby domestic well owners expressed concerns over the application. None of the nearby residents have reported any current or past issues with their domestic wells. Since the overall use in the area will not increase from previous use, no nearby domestic wells should be impacted.

According to the WRIS database, the nearest non-domestic point of diversion (Water Right, File Nos. 44,705 and 46,363 (owned by the applicant) are located approximately 1,300 feet away. Based on the site map the nearest domestic well is approximately 50 feet away. The proposed point of diversion does not meet minimum well spacing to multiple domestic wells. Per the requirements in K.A.R. 5-4-4(2)(C), the minimum well spacing should be 1,320 feet to all other non-domestic wells and 660 feet to domestic wells. However, there is no indication that there have been any impairment concerns in the vicinity of the application. The application is requesting a low pumping rate and no overall increase in quantity when combined with the files with overlapping place of use. A waiver of K.A.R. 5-4-4(2)(C) will be included. **Waivers of 5-4-4(c)(1)(C) & (c)(2)(C) included***

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.

Jeff Lanterman, Water Commissioner, Stafford Field Office, recommended approval of the referenced application on August 23, 2021. Based on the above discussion, 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 approve

11/1/2021
KJN

Analysis Results

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

The safe yield based on the variables listed below is 1,421.46 AF.

Total prior appropriations in the circle is 132.00 AF – 124.00 AF = 8 AF

Total quantity of water available for appropriation is ~~1,289.46 AF~~ **1,413.46 AF**

MEETS SAFE YIELD

Safe Yield Variables

The area used for the analysis is set at 5,169 acres.

The potential annual recharge at the circle center is estimated to be 3.3 inches.

The percent of recharge available for appropriation is 100%.

Authorized Quantity values are as of 19-JUL-2021 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 8 water rights and 4 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 44704 00	IRR	NK	G		SE	SE	SW	310	2660	35	27	02E	3	WR	18.00	18.00	60.00	60.00
A 44705 00	IRR	NK	G		SE	SW	SW	153	4157	35	27	02E	2	WR	18.00	18.00	60.00	0.00
A 44706 00	IRR	NK	G		SE	SE	SW	310	2660	35	27	02E	3	WR	18.00	18.00	60.00	0.00
A 44707 00	IRR	NK	G		SW	NE	SW	1406	3743	35	27	02E	4	WR	18.00	18.00	60.00	0.00
A 45565 00	REC	NK	G		SW	SE	SE	360	1240	28	27	02E	1	WR	8.00	8.00		
A 46362 00	IRR	NK	G		SE	SE	SW	310	2660	35	27	02E	3	WR	26.00	26.00	60.00	0.00
A 46363 00	IRR	NK	G		SE	SW	SW	153	4157	35	27	02E	2	WR	26.00	26.00	60.00	0.00
A 49947 00	IRR	AY	G		SW	NE	SW	1406	3743	35	27	02E	4	WR	124.00	0.00	60.00	0.00

Limitations

File Number	Seq Num	Limitations
A 46362 00	2	64GPM COM/W #44706
A 46363 00	1	65GPM COM/W #44705

Engelbrecht, Jessica [KDA]

From: Lanterman, Jeff [KDA]
Sent: Monday, August 23, 2021 11:48 AM
To: Engelbrecht, Jessica [KDA]
Subject: RE: 49,947 Memo

Jessica I would like letters sent to everyone in a half mile please.

LOL J/k. Im pretty aware of this application and recommend approval.

From: Engelbrecht, Jessica [KDA] <Jessica.Engelbrecht@ks.gov>
Sent: Thursday, August 19, 2021 3:40 PM
To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>
Subject: 49,947 Memo

Jeff,
Attached is a memo for 49,947. The applicant is requesting 124 AF with a limitation of 124 AF when combined with two wells with overlapping Place of Use. The overall quantity of the overlapping place of use prior to the application was 124 AF. The application is in a densely populated area and will require a spacing waiver of 5-4-4(2)(C).

Thanks,

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



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

File Number: ⁹⁴⁷ ~~49,497~~ _____

FO: 2

GMD: _____

WAIVER REQUEST:

UMW	Date Requested	Rule ID	Applies	Rule Type	Rule Subtype
IRR	8/24/2021	6	Statewide	Well Spacing Domestic	Unconfined
Rule Number	Date Granted	Date Denied	Justification:	The well has been in use since 2001 with no complaints (20 years), has previously pumped over of the permitted quantity (illegally) with no issues, has a low rate of diversion, was filed to bring the well into compliance and avoid possible future over pumping issues, a waiver of K.A.R. 5-4-4(c)(2)(C) seems reasonable.	
K.A.R. 5-4-4(c)(2)(C)	2/7/2022				

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.		

11/2/2021
KJN

Date Prepared JNE By _____

Date Entered 2/8/2022 By LMoody

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

File Number: ~~49,497~~⁹⁴⁷

FO: 2 GMD:

WAIVER REQUEST:

UMW	Date Requested	Rule ID	Applies	Rule Type	Rule Subtype
IRR	8/24/2021	169 ⁶	Statewide	Well Spacing	Unconfined
Rule Number	Date Granted	Date Denied	Justification:	The well has been in use since 2001 with no complaints (20 years), has previously pumped over of the permitted quantity (illegally) with no issues, has a low rate of diversion, was filed to bring the well into compliance and avoid possible future over pumping issues, a waiver of K.A.R. 5-4-4(c)(1)(C) seems reasonable.	
K.A.R. 5-4-4(c)(1)(C)	2/7/2022				

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.		

1/31/2022
KAB

Date Prepared JNE By _____

Date Entered 2/8/2022
L Moody By _____

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)(1)(C) & K.A.R. 5-4-4 (c)(2)(C) Well Spacing

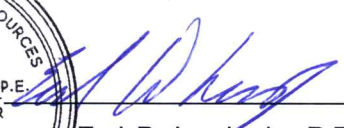
Date: February 7, 2022

Re: Application, File No. 49,947

1. That the well under the above referenced application does not meet minimum well spacing criteria as required by K.A.R. 5-4-4(c)(1)(C) and K.A.R. 5-4-4(c)(2)(C) because it is located approximately 1,300 feet from a non-domestic well and 50 feet from a domestic well.
2. That K.A.R. 5-4-4(c)(1)(C) requires a minimum well spacing of 1,320 feet between a non-domestic well whose common source of supply is an unconfined aquifer system.
3. That 5-4-4(c)(2)(C) requires a minimum well spacing of 660 feet between a domestic well whose common source of supply is an unconfined aquifer system.
4. That the well has already been in use for irrigation since 2001 (20 years), authorized under File No. 44,707, during which, no issues have been reported.
5. That the non-domestic wells that do not meet spacing are owned by the same applicant.
6. That the requested rate of diversion is relatively low (65 gallons-per-minute), which should help limit any possible impact of the well on any nearby wells.
7. That the quantity will be limited to a diversion of 124 acre-feet per calendar year when combined with existing files that overlap in place of use.
8. That no additional quantity will be approved; the same limitation noted above is already in place on the existing files.
9. That a waiver of K.A.R. 5-4-4(c)(1)(C) and K.A.R. 5-4-4(c)(2)(C) will not prejudicially or unreasonably affect the public interest and should not impair any existing water rights.

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. 49,947** of the applicant

UNITED GOLF OF WICHITA INC
ATTN: GENE VITARELLI
13420 E PAWNEE
WICHITA KS 67230

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 30, 2017**.
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	
35 27S 2E									14.5		8.5	37					60

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 Southwest Quarter of the Northeast Quarter of the Southwest Quarter (SW¹/₄ NE¹/₄ SW¹/₄) of Section 35, more particularly described as being near a point 1,406 feet North and 3,743 feet West of the Southeast corner of said section, in Township 27 South, Range 2 East, 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 **65 gallons per minute (0.14 c.f.s.)** and to a quantity not to exceed **124 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, 2023** 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, 2027** 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 \$100.0

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.

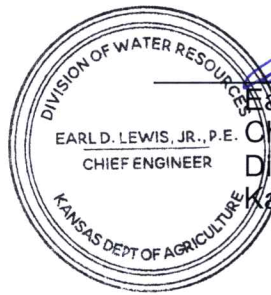
16. That failure without cause to comply with provisions of the permit and its terms, conditions and limitations will result in the forfeiture of the priority date, revocation of the permit and dismissal of the application.

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 rate of diversion of water approved under this permit is further limited to the rate which combined with Water Right, File No. 44,707, will provide a total **not to exceed 65 gallons per minute** (0.14 c.f.s.) from the authorized point of diversion.

19. That the quantity of water approved under this permit is further limited to the quantity which combined with Water Right, File Nos. 44,704; 44,705; 44,706; 44,707; 46,362; and 46,363, will provide a total **not to exceed 124 acre feet** of water per calendar year for irrigation use on the land described herein.

Ordered this 7th day of February, 2022, 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 7 day of February, 2022, by Earl D. Lewis Jr., P.E., Chief Engineer, 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

UNITED GOLF OF WICHITA
ATTN: GENE VITARELLI
13420 E PAWNEE
WICHITA KS 67230

February 8, 2022

RE: Application, File No. 49,947

Dear Water User:

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

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

An annual water use report must be filed with the Chief Engineer by March 1, following the end of each calendar year. If a complete annual water use report is not received by the deadline, then a fine may be assessed and all water use under such permit or right may be suspended. Reports submitted in paper form will be assessed a \$20 per file number paper filing fee. In order to avoid this filing fee, you may submit your report online at www.kswateruserreport.org.

The approval of your application constitutes a permit to appropriate water. It does not give authority to construct any dam or other stream obstruction regulated by K.S.A. 82a-301 through 305a. It does not give authority to access any right-of-way or authorize trespassing upon or injury to public or private property. It may also be necessary for you to comply with other local, state or federal requirements.

Enclosed is an informational sheet that sets forth the procedure to obtain a Certificate of Appropriation which will establish the extent of your perfected water right. Additional information and applicable forms may be found on our website at agriculture.ks.gov/divisions-programs/dwr. If you have any questions or need assistance with any of these requirements, please contact our office at 785-564-6640 or your local Stafford Field Office at 620-234-5311. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

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

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

KAB: jne
Enclosure(s)

pc: Stafford Field Office

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.

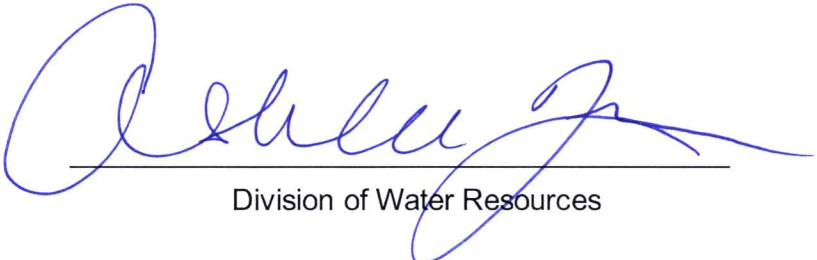
CERTIFICATE OF SERVICE

On this 8 day of February, 2022, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 49,947, dated 7 February, 2022, was mailed postage prepaid, first class, US mail to the following:

UNITED GOLF OF WICHITA INC
ATTN: GENE VITARELLI
13420 E PAWNEE
WICHITA KS 67230

With photocopies to:

Stafford Field Office



Division of Water Resources