

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

1. File Number: <p style="text-align: center; font-size: 1.2em;"><b>50236</b></p>	2. Status Change Date: <p style="text-align: center; font-size: 1.2em; color: purple;"><b>6/7/2022</b></p>	3. Field Office: <p style="text-align: center; font-size: 1.2em;"><b>02</b></p>	4. GMD: <p style="text-align: center; font-size: 1.2em; color: red;"><b>2</b></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 **41680**  
 New to system                       Add Seq# \_\_\_\_\_

**WEST HILLS WATER COMPANY**  
**817 N HERREN RD**  
**NICKERSON, KS 67561**

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

**7A**

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

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: **12/31/2023**            11. Perfection Date: **12/31/2023 42**            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: \_\_\_\_\_

6/3/2022  
KAB                      Date Prepared: **1/20/22**                      By: **BMM**  
 Date Entered: 6/9/2022  
L Moody                      By:

File No. 50,236      15. Formation Code: 190      Drainage Basin: Arkansas River      County: Reno      Special Use:      Stream:

16. Points of Diversion										17. Rate and Quantity					
MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Authorized		Additional		
											Rate gpm	Quantity mgy	Rate gpm	Quantity mgy	Overlap PD Files
ENT			31240	NE SE NE	7	23S	6W	5	3,957	52 GEO	200	17 million	<del>200</del> 0	17 million	15,935, 44,273, 47,229
ENT			7967	NE SE NE	7	23S	6W	1	3,959	56 Well 1	200	17 million	200	17 million	15,935, 44,273, 47,229
ENT			22885	SE NE NE	7	23S	6W	2	<del>3957</del> 3961	<del>52</del> 48 Well 2	200	17 million	200	17 million	15,935, 44,273, 47,229
ENT			33690	NE SE NE	7	23S	6W	3	3951	53 Well 3	200	17 million	200	17 million	15,935, 44,273, 47,229
battery id #231															

CHK

18. Storage: Rate \_\_\_\_\_ NF      Quantity \_\_\_\_\_ ac/ft      Additional Rate \_\_\_\_\_ NF      Additional Quantity \_\_\_\_\_ ac/ft

19. Limitation: ~~184~~ af/yr at **200** gpm ( \_\_\_\_\_ cfs) when combined with file number(s) **15935, 44273, 47229**  
 Limitation: \_\_\_\_\_ af/yr at \_\_\_\_\_ gpm ( \_\_\_\_\_ cfs) when combined with file number(s) \_\_\_\_\_

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

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				
ENT			26004	17	23S	6W	1	<del>Within West Hills Water Company and Immediate Vicinity</del> WITHIN BOUNDARIES OF WEST HILLS WATER & IMMEDIATE VICINITY																	7a	N	15,935, 44,273, 47,229
CHK																											

Comments: 6/3/2022  
KAB 2/14/2022  
KJN

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

**TO:** Files

**DATE:** April 13, 2021

**FROM:** Brandon Milner

**RE:** Application, File No. 50,236

The West Hills Water Company has filed the referenced application to appropriate 17 million additional gallons of groundwater per calendar year at a diversion rate not to exceed 200 gallons per minute for municipal use from an existing well battery. The proposed place of use overlaps Water Right Nos. 15,935, 44,273, and 47,229. The application form was signed by Miles Hartman stating West Hills Water Company has access to the point of diversion.

Water Right No. 15,935 is authorized 1.579 million gallons, Water Right File No. 44,273 is authorized 3.53 million gallons, and Water Right File No. 47,229 is authorized 2.311 million gallons, for a total authorized quantity of 7.42 million gallons at a rate of 95 gpm. The Kansas Municipal Water Use report indicates an average of 130 gpcd, for medium public water suppliers in Region 6-S, the applicant has estimated 776 gpcd. However according to K.A.R. 5-22-14 (f) (1), the maximum quantity is 200 gpcd X No. of residents (20<sup>th</sup> year) X 365. With this in mind an estimated quantity of water can be determined as follows: Population of 75 x 200 gpcd x 365 days = 5.475 million gallons. The applicant has requested 17 million additional gallons for a total of 24.42 million gallons but has demonstrated that the water use in this service area is unusual. This area does have water needs for a cemetery, ag sprayers, a gas pipeline company and 23 farmsteads. The cemetery has been shown to potentially use 18.25 million gallons alone when using 1.4 acre-feet/acre. With this in mind, this would potentially leave 6.2 million gallons for the 23 residents and pipeline company. This would average out to 258,000 gallons per residential connections and the industrial user.

Per the requirements in K.A.R. 5-22-2 for all other aquifers, the minimum well spacing should be 1,620 feet to non-domestic wells and 960 feet to domestic wells from the geographical center of a battery. There are two domestic wells and fourteen Water rights within two miles of the geo-center of the battery. However, the domestic well is within 960' of the geo-center so a domestic well spacing form was signed by the owner. The closest non-domestic well is approximately 5,300' away. Nearby well owner letters were sent out on September 6, 2019, and there have been no responses to date.

**Equus Beds aquifer\***

No well log was submitted with the application as this is an existing battery site, but the likely source of water is ~~alluvium from the Arkansas River Valley~~. Groundwater Management District No. 2 calculated the safetyfield for the area is 4021 acre-feet with 2022.67 acre-feet of existing appropriations. This would leave 1998.33 acre-feet of water available for 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. If any chemical or foreign substance is injected into the water pumped under this permit, a check valve will also need to be installed.

GMD #2 Manager recommended approval in an email date April 2, 2021. Jeff Lanterman, Water Commissioner of the Stafford Field Office, recommended approval of the referenced application in a January 19, 2022 e-mail. Based on the above discussion, the application complies with rules and regulations, 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.

2/14/2022  
KJN

Brandon Milner  
Environmental Scientist  
New Applications Unit

**From:** Lanterman, Jeff [KDA]  
**Sent:** Wed 1/19/2022 12:56 PM  
**To:** Conant, Cameron [KDA];Milner, Brandon [KDA];Baum, Kristen [KDA]  
**Subject:** RE: New Application 50,236

Im OK with approving this.

Personally I only want to know about the one meter that meters everything from the source of supply. Perhaps if we leave the condition in we could add to it that compliance with the pond meter is the responsibility of the GMD and that water use in the pond should be reported to the GMD on a daily basis in a personal phone call to Tim. lol j/k.

Really that permit condition doesn't mean anything and GMD is not doing anything about compliance with that condition on the senior file so maybe we leave it off and don't cause ourselves a future compliance issue.

But if you see the need to leave it in there to mirror the senior file I am OK with approval that way as well.

Jeff

---

**From:** Conant, Cameron [KDA] <Cameron.Conant@ks.gov>  
**Sent:** Wednesday, January 19, 2022 9:33 AM  
**To:** Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>  
**Subject:** FW: New Application 50,236

Brandon found this file that was needing a recommendation. This is an application from West Hills Water Company to use an existing battery to increase by 17 MGY additional water to the service area. This will completely overlap 3 senior files and should help with some over pumping issues on the senior files. GMD#2 has recommended approval and they also took steps to ensure the quantity of water was "reasonable" by justifying/explaining with some of their own calculations. I'm good with all this and they are using a lot of water and they and GMD have determined it appropriate and I am ok with their reasoning.

We received no responses from nearby wells, SY is met by a wide margin, and GMD has recommended approval. Tim did include 2 additional conditions.

#18 would be a rate limitation of 200 GPM which is ok.

#19 would be the same additional condition that was applied to 47229 about metering the cemetery and pond. *"That this permit is further limited such that an additional two (2) acceptable water flow meters shall be installed at the Penwell Gable Cemetery in accordance with Kansas Administrative Regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer. These two (2) separate water flow meters shall be used to provide an accurate quantity of water diverted to the pond for recreational use, and for irrigation use at the cemetery. The quantity diverted to each shall be reported annually (including the meter reading at the beginning and end of the report year)."*

FYI back in 2009 when you recommended on this file you noted compliance with the permit condition #19 would be difficult to stay up on. In 2013 field staff noted there was a "cemetery" meter installed but that municipal water is not being put into the pond, I don't see meter readings being reported separately. I guess we have 2 options. We can mirror the condition #19 and move on or we can remove #19 b/c it isn't being done and it isn't being reported on the annual WUR or in the file, and neither DWR nor GMD seems to be following up on it.

I don't think at this time (or really anytime) that #19 is necessary but I don't know when the best time is to clean the condition up on file 47229. Heck, if it was important to Tim he'd have been looking at it and making sure annual water use was submitted and that there were 2 meters installed at the cemetery! I think we can recommend approval of this application, not sure about condition #19, we can discuss more if you like. Please pass on to Brandon if you agree.

Cameron

---

**From:** Milner, Brandon [KDA] <[Brandon.M.Milner@ks.gov](mailto:Brandon.M.Milner@ks.gov)>

**Sent:** Tuesday, April 13, 2021 11:31 AM

**To:** Lanterman, Jeff [KDA] <[Jeff.Lanterman@ks.gov](mailto:Jeff.Lanterman@ks.gov)>; Conant, Cameron [KDA] <[Cameron.Conant@ks.gov](mailto:Cameron.Conant@ks.gov)>

**Subject:** New Application 50,236

Good morning guys,

Attached is a memo for new application 50,236 for the West Hills Water Company for municipal use. I've seen that this file and related senior files has had quite a history with it so I will admit that I'm a little behind on the history here. It appears that this your office and Brent decided that this should be a municipal use application area even as some of the water for this application is used for a cemetery and pipeline company along with 23 residents. GMD #2 did an extensive review that I have attached to this email that provides the explanation for the need for extra water for this area but I have figured the math on the memo here that should match up with GMD #2. Let me know if I'm missing anything on this review but otherwise could you please provide a recommendation? Thanks!

Brandon Milner  
Environmental Scientist  
Water Appropriation Program

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. 50,236** of the applicant

**WEST HILLS WATER COMPANY  
817 N HERREN RD  
NICKERSON, KS 67561**

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 8, 2019**.
2. That the water sought to be appropriated shall be used for municipal use within the boundaries of West Hills Water Company and the immediate vicinity.
3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of a battery of three (3) wells with a geographic center located in the Northeast Quarter of the Southeast Quarter of the Northeast Quarter (NE $\frac{1}{4}$  SE $\frac{1}{4}$  NE $\frac{1}{4}$ ) of Section 7, more particularly described as being near a point 3,957 feet North and 52 feet West of the Southeast corner of said section, in Township 23 South, Range 6 West, Reno County, Kansas, located substantially as shown on the map accompanying the application.
4. That the appropriation sought shall be limited to a maximum diversion rate not in excess of **200 gallons per minute** (0.45 c.f.s.) and to a quantity not to exceed **17 million gallons** (52.17 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, 2042** 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 re-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 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).

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 the permit holder shall submit a progress report to the office of the Chief Engineer by March 1, following the tenth full calendar year after the permit was issued. The progress report must be submitted on a form prescribed by the Chief Engineer, and shall compare annual water use projected in the original application with the actual annual water use for the prior 10 years. The progress report must document compliance with the approved conservation plan, contain sufficient details to determine the extent of perfection of the water right during the previous ten years, and demonstrate how the water right, in association with other water rights, meets the municipal use need.

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. 15,935 and Appropriation of Water, File Nos. 44,273 and 47,229, will provide a total **not to exceed 200 gallons per minute** (0.45 c.f.s.) from the authorized point of diversion.

19. That this permit is further limited such that all wells shall be located within a three hundred (300) foot radius circle in the same local source of supply and shall supply water to a common distribution system.

Ordered this 7 day of June, 2022, 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 7 day of June, 2022, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, 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

WEST HILLS WATER COMPANY  
817 N HERREN RD  
NICKERSON, KS 67561

June 14, 2022

RE: Appropriation of Water, File No. 50,236

Dear Sir or Madam:

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

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

An acceptable water flowmeter must be installed on the diversion works authorized by this permit prior to using water. An annual water use report must be filed with the Chief Engineer by March 1, following the end of each calendar year. If a complete annual water use report is not received by the deadline, then a fine may be assessed, and all water use under such permit or right may be suspended. Reports submitted in paper form will be assessed a \$20 per file number paper filing fee. In order to avoid this filing fee, you may submit your report online at [www.kswateruserreport.org](http://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](http://agriculture.ks.gov/divisions-programs/dwr). If you have any questions or need assistance with any of these requirements, please contact our office at 785-564-6640 or your local Stafford Field Office at 620-234-5311. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

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

KAB:bmm  
Enclosure(s)

pc: Stafford Field Office  
GMD #2

**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**

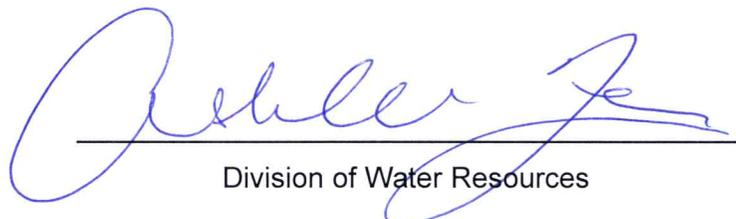
On this 14 day of June, 2022, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,236, dated 7 June, 2022, was mailed postage prepaid, first class, US mail to the following:

WEST HILLS WATER COMPANY  
817 N HERREN RD  
NICKERSON, KS 67561

With photocopies to:

Stafford Field Office

GMD #2



Division of Water Resources