

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

1. File Number: <p style="text-align: center;">50,461</p>	2. Status Change Date: <p style="text-align: center;">1/30/2023</p>	3. Field Office: <p style="text-align: center;">02</p>	4. GMD: <p style="text-align: center;">02</p>
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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 63406 New to system <input type="checkbox"/> Add Seq# _____</p> <p>MARVIN MILLER 13410 W LAKE CABLE RD PARTRIDGE, KS 67566</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 checked="" 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 type="checkbox"/> OTHER: _____</p>
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10. Completion Date: 12/31/2024 11. Perfection Date: 12/31/2029 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: _____

<p>1/26/2023 KKopp</p>	<p>Date Prepared: 1/25/23 By: JNE</p> <p>Date Entered: 1/31/2023 By: LMoody</p>	
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File No. **50,461** 15. Formation Code: **190** Drainage Basin: **NF Ninnescah River** County: **RN** Special Use: Stream:

16. Points of Diversion **BATTERY ID #2328**

T
MOD **Battery of four (4) wells with a geographic center:**
DEL PDIV
ENT Qualifier (CN) S T R ID 'N 'W

MOD	88457	NE NE NW	3 35	24	8W	3	5,259	2,640
ENT	88832	NE NE NW	35	24	8W	4	5259	2940
ENT	88833	NE NE NW	35	24	8W	5	5259	2740
ENT	88834	NW NW NE	35	34	8W	6	5259	2540
ENT	90016	NW NW NE	35	34	8W	?	5259	2340
24								

17. Rate and Quantity

Authorized		Additional		Overlap PD Files
Rate gpm	Quantity af	Rate gpm	Quantity af	
800	177.7	800	177.7	50,584
	187		187	
				Batt 1 of 4
				Batt 1 of 4
				Batt 1 of 4
				Batt 1 of 4

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

19. Limitation: --- af/yr at ~~800~~ gpm (--- cfs) when combined with file number(s) ~~50,584~~
 Limitation: --- af/yr at --- gpm (--- cfs) when combined with file number(s) ---

20. Meter Required? Yes No To be installed by **12/31/2024** 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						
MOD	70160	35	24	8W	2	30.5	30.5	35.5	30.5											29.0	31.0			177.7	7a	NO	50,584
								30.5														26.7					

Comments: 1/26/2023
KKopp

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: January 10, 2023

FROM: Jessica Engelbrecht

RE: Application, File No. 50,461

The referenced new application has been filed by Marvin Miller to appropriate 187 acre-feet of groundwater per calendar year, to irrigate 177.7 acres at a diversion rate not to exceed 800 gallons per minute. The proposed point of diversion is the geo-center of a proposed battery of wells, located in the Northeast Quarter of the Northeast Quarter of the Northwest Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 35, more particularly located as being near a point 5,259 North and 2,640 feet West of the Southeast corner of said section, in Township 24 South, Range 8 West, Reno County within the North Fork Ninnescah River drainage basin. The requested point of diversion is located within the boundaries of the Equus Beds Groundwater Management District 2 (GMD 2). The applicant owns the place of use and has signed the application form stating he has access to the point of diversion. The point of diversion and place of use will be overlapped by pending Application, File No. 50,584.

Based on the requested quantity 187 acre-feet, for irrigation of the proposed 177.7 acres, the requested quantity would be 1.05 acre-feet per acre, which is less than the maximum reasonable quantity of 1.4-acre feet per acre allowed in Reno County.

According to the WRIS database, the nearest non-domestic point of diversion (File No. 48,274) is located 3,469 feet away. Based on the site map the nearest domestic well is 1,500 feet away and is owned by the applicant. The proposed point of diversion meets minimum well spacing to all existing wells. Per the requirements of K.A.R. 5-22-2 for wells located in GMD 2.

A test hole log was submitted with the pending application, which shows topsoil from 0 to 3 feet, layers of Sand and gravel from 3 to 30 feet, yellow clay from 45 to 46 feet, sand and gravel from 45 to 55 feet, and brown-gray clay from 55 to 60 feet. The static water level is 29 feet which gives a saturated thickness of 31 feet.

A copy of the application was submitted to GMD 2 on April 13, 2022. GMD 2 recommended denial of the application in a letter received via email on October 18, 2022. In the letter, GMD 2 stated the application does not comply with Safe Yield and the District's Well Spacing Regulation K.A.R. 5-22-2(b). The applicant worked with GMD 2 to revise the application and submitted the changes to DWR on November 9, 2022. A revised copy of the application was submitted to GMD 2 on December 12, 2022, with a request for recommendation. GMD 2 recommended approval of the application in a letter received via email on January 4, 2023, stating the modified application complied with the Revised Aquifer Management program approved by the Chief Engineer and with the District's Rules and Regulations K.A.R 5-22-1 through 5-22-17.

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 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 January 11, 2023. Based on the above discussion, well spacing and safe yield are met, and approval of this application will not impair senior water rights nor prejudicially or unreasonably affect the public interest, it is recommended that the referenced application be approved.

Engelbrecht, Jessica [KDA]

From: Lanterman, Jeff [KDA]
Sent: Wednesday, January 11, 2023 1:08 PM
To: Engelbrecht, Jessica [KDA]
Cc: Conant, Cameron [KDA]
Subject: RE: 50461 and 50584 Memos

Importance: High

Follow Up Flag: Follow up
Flag Status: Completed

Jessica, this one has been through the ringer. Looks like they reduced SY to our number. And this does now meet minimum reasonable quantity with the 2 files combined.

Glad GMD finally saw it our way.

I recommend approval.

From: Engelbrecht, Jessica [KDA] <Jessica.Engelbrecht@ks.gov>
Sent: Wednesday, January 11, 2023 12:06 PM
To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>
Subject: 50461 and 50584 Memos

Jeff,
Attached are the Memos for Marvin Miller. Could we please make this priority?

Thank you,
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



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. 50,461** of the applicant

MARVIN MILLER
13410 W LAKE CABLE RD
PARTRIDGE KS 67566

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 **October 27, 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 $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTAL	
	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$		
35 - 24S - 8W	30.5	30.5	30.5	30.5										29.0	26.7			177.7

3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of a battery of four (4) wells with a geographic center located near the center of the North Side of Section 35, more particularly described as being near a point 5,259 feet North and 2,640 feet West of the Southeast corner of said section, in Township 24 South, Range 8 West Reno 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 **800 gallons per minute** and to a quantity not to exceed **187 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, 2024**, 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, 2029**, 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 this permit is further limited such that all four (4) wells shall be located within a three hundred (300) foot radius circle, in the same local source of supply and shall be limited to a total maximum diversion rate not in excess of eight hundred (800) gallons per minute (1.78 c.f.s.).
- 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 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.

ORDERED this 30 day of January, 2023, in Manhattan, Riley County, Kansas.

Lane P. Letourneau

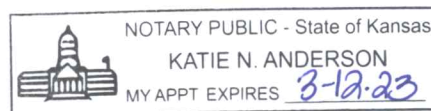
Lane P. Letourneau, P.G.
Water Appropriation Program Manager
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me 30 day January, 2023, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.

Katie Anderson

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

January 31, 2023

MARVIN MILLER
13410 W LAKE CABLE RD
PARTRIDGE KS 67566

RE: Appropriation of Water
File Nos. 50,461 and 50,584

Dear Mr. Miller:

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

The approval of your applications constitute permits to appropriate water. They do not give authority to construct any dam or other stream obstruction regulated by K.S.A. 82a-301 through 305a. They do 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.

Notice must be filed on the enclosed forms 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 the permits. If you need an extension of time, you must request it before the completion deadlines set forth in the permits. Any request for an extension of time must be accompanied by the statutorily required fee, which is currently \$100.00, per file number.

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.

An informational sheet is also included, which sets forth the procedure to obtain a Certificate of Appropriation that will establish the extent of your perfected water rights. Additional information and applicable forms may be found on our website at agriculture.ks.gov/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".

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

KAB:jne
Enclosure(s)

pc: Stafford Field Office
Equus Beds GMD No. 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 31 day of January, 2023, I hereby certify that the attached Approval of Application and Permit to Proceed, File No. 50,461, dated January 30, 2023, was mailed postage prepaid, first class, U.S. Mail to the following:

Original to:

MARVIN MILLER
13410 W LAKE CABLE RD
PARTRIDGE KS 67566

Photocopy to:

DWR Stafford Field Office

Equus Beds GMD No. 2



DWR Staff