

File No. 49,979	13. County: SG-Sedgwick Basin: 33-Arkansas River Stream:		
Structures File No:	Aquifer Code: 190 Equus Beds	Special Use Area:	

14. Points of Diversion, Rates & Quantities										Qty AF		Rate gpm		Storage Qty AF		Storage Rate	
PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)		Auth	Add	Auth	Add	Auth	Add	Auth/Add	Overlaps
CHK	86571	NE	NW	SW	29	26	1W	21	2315	4590	15	15	300	300			

15. Limitations NEW Type:	Quantity:	AF Rate:	gpm combined with file no(s):
NEW Type:	Quantity:	AF Rate:	gpm combined with file no(s):

16. Metering Metering Required Anti-Reverse Required Seal Required Compliance Date: **12/31/2026**

17. Place of Use										NE¼		NW¼		SW¼		SE¼		Total	Owner(s)	Chg?	Overlaps
PUSE	S	T	R	ID	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE					
CHK	68729	29	26	1W	11					2	3							5.00	5a	<input type="checkbox"/>	
																		0.00		<input type="checkbox"/>	
																		0.00		<input type="checkbox"/>	
																		0.00		<input type="checkbox"/>	
																				<input type="checkbox"/>	
																				<input type="checkbox"/>	

18. Point of Diversion and Place of Use Overlaps	
* + # ^	** ++ ## ^^

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

File Number: 49,979

FO: 2

GMD: 2

WAIVER REQUEST:

UMW	Date Requested	Rule ID	Applies	Rule Type	Rule Subtype
IRR	12/4/24 1/25/2018	154	GMD 2	Maximum Reasonable Quantity	Maximum Allowances
Rule Number	Date Granted	Date Denied	Justification:	Maximum reasonable quantity for irrigation is based upon common agricultural crops in Kansas, not turf grass which typically has greater irrigation requirements.	
K.A.R. 5-22-14(a)(1)					

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.		

Date Prepared 12/4/24 By CLA

Date Entered _____ By _____

MEMORANDUM TO FILE

Division of Water Resources, Water Appropriation Program

Date: December 4, 2024

From: Christa Anhold , Environmental Scientist

Re: New Application File No. 49,979 – Watercress Apartments LLC

Summary

Clint Case on behalf of Watercress Apartments LLC has filed the above referenced new application proposing to appropriate 15 AF of groundwater per year at a rate of 300 GPM from one (1) well to irrigate 5-acres in Sedgwick County. The applicants proposed well falls in Equus Beds GMD 2. The application is signed stated the applicant have legal access to the proposed point of diversion and place of use. There are no overlapping water rights.

Reasonable Rate and Quantity

The requested 15 AF of groundwater applied to 5-acres is equivalent to 3 acre-feet per acre, which is more than the 1.3 acre-foot per acre reasonable quantity for Sedgwick County per K.A.R. 5-3-24. **The applicant proposes to irrigate 5-acres of turf grass, which is defined as a specialty crop under K.A.R. 5-1-1(zzz). Per K.A.R. 5-3-20(c)(1) the quantity requested is allowed to exceed the maximum reasonable quantity per K.A.R. 5-3-19 if being used on a specialty crop. GMD 2 has granted exceptions for maximum reasonable quantity for the irrigation of turf grass in similar applications. A waiver for K.A.R. 5-22-14(a)(1) will be required for approval of this application.**

Source of Supply and Safe Yield

A well log provided with the application indicates topsoil from surface to 1ft, clay from 1 to 6ft, sandy clay from 6 to 10ft, fine sand from 10 to 15ft, clay from 15 to 16ft, coarse sand from 16 to 22ft, clay from 22 to 23ft, medium sand from 23 to 31ft, clay from 31 to 32ft, medium gravel from 32 to 35ft, clay from 35 to 43ft, and medium gravel from 43 to 60ft below ground surface. The water bearing unit was noted as 16 feet below ground surface.

Equus Beds GMD 2 ran a safe yield evaluation on this application. Allowable appropriations total 3,711 AF, existing appropriations total 3,359.4 AF, leaving 351.6 AF available to irrigate the proposed 5-acres. The new proposed application complies with GMD 2 safe yield per K.A.R. 5-22-7.

Nearby Water Rights

To the proposed point of diversion, the closest domestic well is 860 feet away and the closest nondomestic well (WR File 46,348) is 1,360 feet away. The application complies with GMD 2 well spacing per K.A.R. 5-22-2. A public notice was run for three (3) consecutive weeks from May 7 to May 28, 2021 in the Wichita Eagle. No responses of any kind have been received to date. Based on the well log provided, water rights in the surrounding area and Kansas Geological Survey Bulletin 176 the source of supply is likely the Equus Beds.

Recommendations

This application has a priority date of January 25, 2018, and was reviewed and submitted to Equus Beds GMD 2 for a recommendation on June 24, 2021. GMD 2 recommended denial of the application on December 24, 2021, for failure to meet maximum reasonable quantity per K.A.R 5-22-14(a)(1). All other requirements used by GMD 2 to assess applications were met.

The application complies with all regulations concerning safe yield and minimum spacing requirements. It does not appear that approval of the application will impair senior water rights nor prejudicially or unreasonably affect the public interest. Therefore, it is recommended that the referenced application be approved.

Christa Anhold
Environmental Scientist
Manhattan Headquarters

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. 49,979** of the applicant

**WATERCRESS APARTMENTS LLC
4200 EAST SKELLY DR SUITE 800
TULSA OK 74135**

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 **January 25, 2018**.
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	NE¼				NW¼				SW¼				SE¼				TOTAL
	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
29 - 26S - 1W									2	3							5

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 Northeast Quarter of the Northwest Quarter of the Southwest Quarter (NE¼ NW¼ SW¼) of Section 29, more particularly described as being near a point 2,315 feet North and 4,590 feet West of the Southeast corner of said section, in Township 26 South, Range 1 West, Sedgwick County, Kansas, located substantially as shown on the topographic map accompanying the application.

4. That the appropriation sought shall be limited to a maximum diversion rate not in excess of **300 gallons per minute (0.67 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, 2026**, 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, 2030**, 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 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.

13. 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. The required 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).

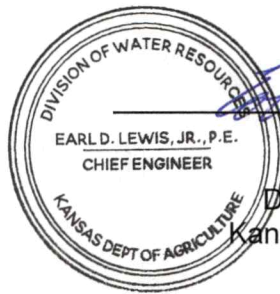
14. That the applicant shall maintain accurate and complete records from which the quantity of water diverted during each calendar year may be readily determined and the applicant shall file an annual water use report with the Chief Engineer by March 1 following the end of each calendar year. Failure 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 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 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 5th day of December, 2024, in Manhattan, Riley County, Kansas.



[Signature]
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 5th day of December, 2024, by Earl D. Lewis Jr., P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.

[Signature]
Notary Public



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
Maximum Reasonable Quantity for Beneficial Regulation
K.A.R. 5-22-14(a)(1)

Date: December 4, 2024

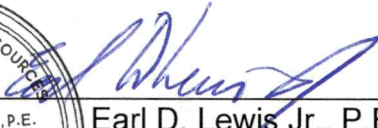
RE: Application, File No. 49,979

1. K.A.R. 5-22-14(a)(1) states in part that the maximum annual quantity of water deemed reasonable for irrigation is 1.3 acre-feet per acre in Sedgwick County, Kansas.
2. The maximum annual quantity of water reasonable for irrigation is based upon common agricultural crops grown in Kansas as opposed to turf grasses or other specialty crops which typically have greater irrigation requirements.
3. The Equus Beds Groundwater Management District No. 2 has previously reviewed similar applications that did not meet maximum water to land ratio and recommended exemptions to this regulation.
4. The application complies with all other requirements for a new application put forth by The Equus Beds Groundwater Management District No. 2, such as safe yield and well spacing.
5. A waiver of K.A.R. 5-22-14(a)(1) will not prejudicially or unreasonably affect public interest and will not impair any existing water rights.

Comments:



EARL D. LEWIS, JR., P.E.
CHIEF ENGINEER


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

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

December 10, 2024

CLINT CASE
WATERCRESS APARTMENTS LLC
4200 EAST SKELLY DR SUITE 800
TULSA OK 74135

RE: Appropriation of Water
File No. 49,979

Dear Mr. Case:

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.

Also included 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/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:kak:cla
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 request an evidentiary hearing before the Chief Engineer or 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 Division, 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 review 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 10 day of December, 2024, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 49,979, dated December 5, 2024, was mailed postage prepaid, first class, US mail to the following:


Original to:

WATERCRESS APARTMENTS LLC
4200 EAST SKELLY DR SUITE 800
TULSA OK 74135

With photocopies to:

KDA-DWR Stafford Field Office

Equus Beds GMD No. 2



Division of Water Resources