

File No. **49,998** 15. Formation Code: **100** Drainage Basin: **NINNESCAH RIVER** County: **SUMNER** Special Use: --- Stream: ---

16. Points of Diversion

MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W
MOD					28	31	S	1E	3	4193 1409
								2E	5	

17. Rate and Quantity

Authorized		Additional		Overlap PD Files
Rate gpm	Quantity af	Rate gpm	Quantity af	
690	122.59	90	0	46508

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

19. Limitation: **122.59** af/yr at **690** gpm (_____ cfs) when combined with file number(s) **46508**
 Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____

20. Meter Required? Yes No To be installed by **12/31/2022** **2024** Date Acceptable Meter Installed _____

21. Place of Use

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				
✓			57999	28	31	S	1E	3	33.5	36	12	15										96.5	7b.	NO	46508		

Comments: **Requested rate was reduced to 690 GPM since failed SY, PD & PU overlap with 46508.**
***PD NEEDS CHANGED FROM PDIV 72259 TO PDIV 81992 as it covers same well as 46508 and doesn't currently show as overlap.**

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

MEMORANDUM

TO: Files

DATE: November 3, 2021

FROM: Matt Meier

RE: Application, File No. 49,998

Thane Buss (now Mark Lawless) filed the referenced application to appropriate groundwater for irrigation use, requesting one (1) well, a quantity of 122.59 acre-feet (zero AF additional), and a diversion rate of 800 gallons per minute (200 gpm additional). The well is an existing well located in the Southeast Quarter of the Northwest Quarter of the Northeast Quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 28, more particularly described as being near a point 4,200 feet North and 1,440 feet West of the Southeast corner of said section, in Township 31 South, Range 2 East, Sumner County, within the Ninnescah River drainage basin. The proposed place of use is owned by Mark E & Karla Lawless and David E & Joi D Lawless. The applicant has signed the application form stating that they have legal access to the point of diversion. The application forms a complete point of diversion and place of use overlap with File No. 46,508. Modifications were made to the requested rate during the processing of the application (reducing the rate to 690 gpm) to meet approval requirements. All the changes were verified with the new applicant.

In 2004 the United States Geological Survey (USGS) completed a hydrologic model of a portion of the Arkansas River and associated drainage basins (Ninnescah River), generally bounded by Ranges 2 West to 3 East and Townships 26 South to 34 South (near state line). The USGS model indicated that the aquifer in this area receives more recharge from precipitation than DWR has historically used in safe yield calculations. The data and analyses are detailed in the USGS Scientific Investigations Report 2004-5204 entitled "Characterization and Simulation of Flow in the Lower Arkansas River Alluvial Aquifer, South-Central Kansas". In order to evaluate the potential impact of this study on our safe yield calculations, DWR suspended processing applications for new appropriations of water in the model area.

DWR recently completed an evaluation of the USGS model and has determined that the precipitation recharge value of 5.4 inches per year that is used in the USGS model is reasonable and appropriate. In order to reserve water in the alluvial aquifers that can contribute to base flow to area streams and for domestic use, it was determined that 75 percent of the 5.4 inches of precipitation recharge shall be available for appropriation. This is consistent with safe yield appropriation in many other basins across the state, and is the current percent available in for all applications in the Ninnescah River drainage basin. Therefore, for all pending applications within the model area, safe yield will be evaluated using the standard methodology in K.A.R. 5-3-11, which is based on the extent of the unconfined aquifer (area of consideration), a Potential Annual Recharge value of 5.4 inches, and a percent of recharge available for appropriation of 75%. Current annual recharge across the model area is approximately 3 inches.

Per the requirements in K.A.R. 5-3-11, safe yield is determined by the extent of the unconfined aquifer within a two-mile circle radius of the point of diversion, which establishes the area of consideration. Evaluation of the area of consideration included the extent of the unconfined aquifer, which provided an area of consideration of 7,028 acres. With a potential annual recharge of 5.4 inches, and 75% of recharge available for appropriation, safe yield was determined to be 2,372.1 acre-feet. Existing water rights have appropriated 2,866.79 acre-feet, providing a difference of 0 acre-feet available for appropriation, and the application requesting 122.59 acre-feet fails to comply with safe yield.

A letter and the original application were sent to the new owner/applicant on May 19, 2021 notifying them that the application fails safe yield. They were also notified that Per K.A.R. 5-4-5(a)(1), an application for a permit to appropriate water for beneficial use that requests only an increase in the authorized rate of diversion, and no net increase in maximum annual quantity, from a specific point of diversion already authorized by another water right or approval of application shall be exempt from complying with any safe yield provided the application requests only an increase in the authorized maximum rate of diversion of 15 percent or less. On 8/24/21 a phone call was had with the new applicant to cover what was stated in the letter. They agreed to the reduced rate and returned the original application with the reduction.

The previous applicant identified 2 domestic wells within one-half mile of the proposed wells and 3 non-domestic wells, which Wris confirmed. Nearby well notification letters were sent out on September 14, 2021. No contact of any kind was received. The nearest non-domestic point of diversion (File #43705) is located 1,406 feet away. Based off the map submitted with the application, the nearest domestic well appears to be approximately 700 feet away or further away. The proposed point of diversion meets minimum well spacing to all existing wells but an additional condition requiring the geo-center to be constructed to meet spacing will be added. Per the requirements in K.A.R. 5-4-4 for all other aquifers, the minimum well spacing should be one-quarter mile to all other non-domestic wells and 660 feet to domestic wells.

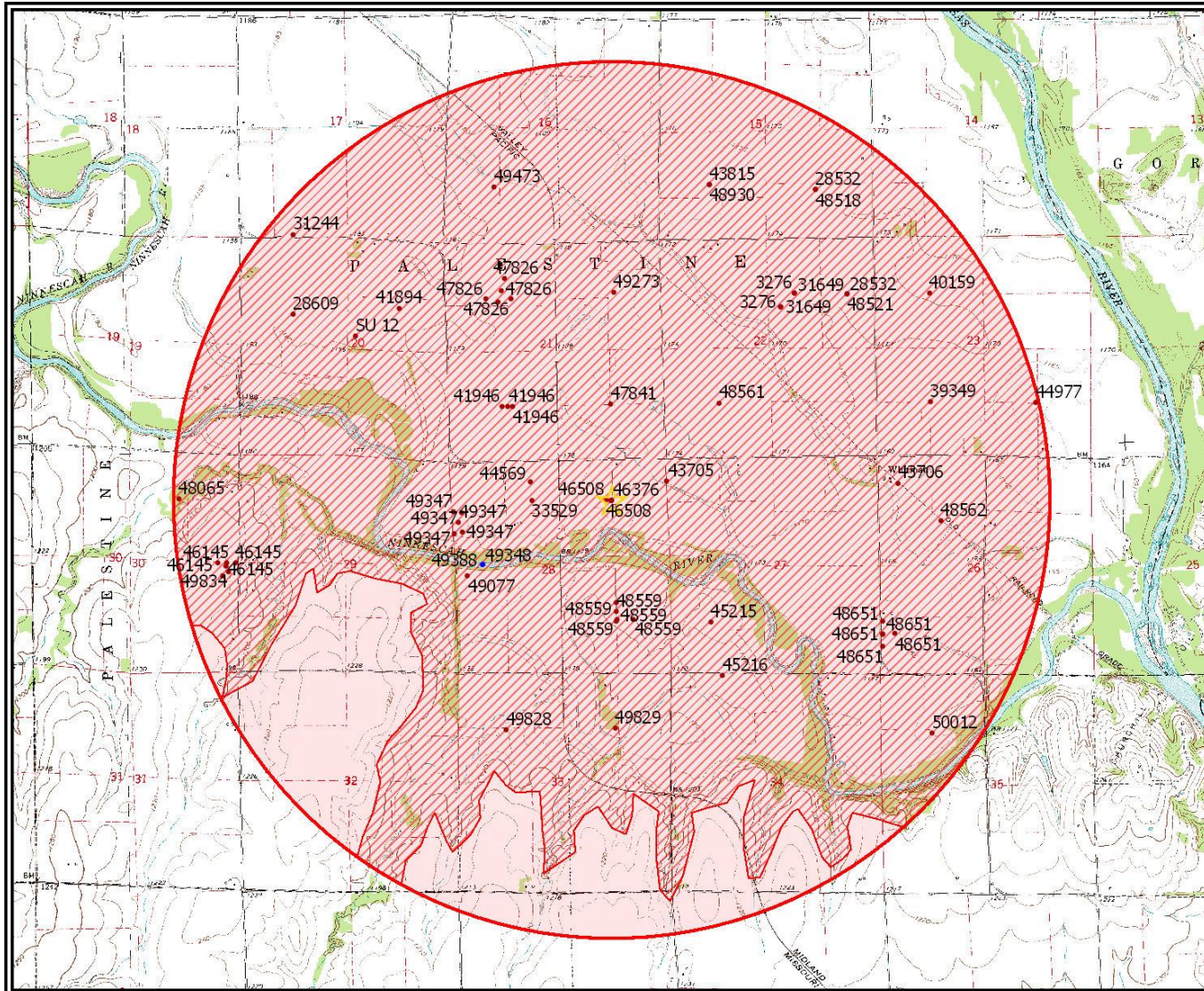
In accordance with K.S.A. 82a-706c, the Chief Engineer retains full authority to require any water user to install meters, gages, or other measuring devices, which devices he or she or his or her agents may read at any time. Water flowmeter requirements are further described in K.A.R. 5-1-4 through K.A.R. 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.

The proposed application is subject to minimum desirable streamflow requirements. The applicant signed, notarized, and returned the required form to our office.

Jeff Lanterman, Water Commissioner, Stafford Field Office, recommended approval of the referenced application on October 26, 2021. Based on the above discussion, well spacing is met and safe yield criteria is met, and approval of the application will not impair senior water rights nor prejudicially or unreasonably affect the public interest, it is recommended that the referenced application be approved.

Matthew J. Meier
Environmental Scientist
Water Appropriations Unit

Safe Yield Report Sheet
Water Right- Proposed Point of Diversion
Point of Diversion in 28-31S-02E
Footages from SE corner- 4,193 feet North 1,409 feet West



Analysis Results

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

The safe yield based on the variables listed below is 2,372.10 AF. - 2866.79 AF = **-494.69 AF**

Total prior appropriations in the circle is 3,077.79 AF. -211 = 2866.79 AF appropriated

Total quantity of water available for appropriation is 0.00 AF.

File No. 49998

Fails Safe Yield

5/19/2021 MJM/SFFO

Safe Yield Variables

The area used for the analysis is set at 7,028 acres.

The potential annual recharge at the circle center is estimated to be 5.4 inches.

The percent of recharge available for appropriation is 75%.

Authorized Quantity values are as of 05-NOV-2020 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 24 water rights and 42 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 28532 00	IRR	NK	G		NE	SW	SE	1170	1380	15	31	02E	7	WR	118.00	118.00	88.00	88.00
A 28609 00	IRR	NK	G		NC	S2	NW	3460	3695	20	31	02E	2	WR	148.00	148.00	222.00	222.00
A 31244 00	IRR	NK	G					80	3770	17	31	02E	1	WR	152.00	152.00	317.00	317.00
A 39349 00	IRR	NK	G		SW	NE	SW	1455	3897	23	31	02E	1	WR	201.00	201.00	134.00	134.00
A 40159 00	IRR	NK	G		SW	NE	NW	4060	3871	23	31	02E	2	WR	210.00	210.00	140.00	140.00
A 41894 00	IRR	NK	G		NW	SE	NE	3750	1163	20	31	02E	3	WR	155.00	155.00	103.60	103.60
A 41946 00	IRR	NK	G		NW	SE	SW	1288	3948	21	31	02E	1	WR	151.00	151.00	128.00	128.00
Same	IRR	NK	G		NW	SE	SW	1286	3814	21	31	02E	2	WR				
Same	IRR	NK	G		NW	SE	SW	1285	3680	21	31	02E	3	WR				
A 43705 00	IRR	NK	G		NW	NW	NW	4739	5142	27	31	02E	1	WR	163.50	163.50	135.00	135.00
A 43706 00	IRR	NK	G		NW	NW	NW	4706	4699	26	31	02E	1	WR	152.00	152.00	101.00	101.00
A 44569 00	IRR	NK	G		NW	NE	NW	4659	3369	28	31	02E	2	WR	54.60	54.60	42.00	42.00
A 44977 00	IRR	NK	G		SE	NW	SE	1375	1324	23	31	02E	3	WR	81.00	81.00	62.00	62.00
A 45215 00	IRR	NK	G		NE	SW	SW	1316	4098	27	31	02E	2	WR	91.00	91.00	79.00	79.00
A 45216 00	IRR	NK	G		NW	NE	NW	5319	3874	34	31	02E	1	WR	135.20	135.20	114.00	114.00
A 46508 00	IRR	LR	G		SE	NW	NE	4193	1409	28	31	02E	5	WR	122.59	122.59	96.50	96.50
A 47826 00	IRR	LR	G		NE	SW	NW	3890	4000	21	31	02E	4	WR	169.00	169.00	130.00	130.00
Same	IRR	LR	G		NE	SW	NW	3890	4300	21	31	02E	6	WR				
Same	IRR	LR	G		NW	SE	NW	3890	3700	21	31	02E	7	WR				
Same	IRR	LR	G		SE	NW	NW	4190	4000	21	31	02E	8	WR				
Same	IRR	LR	G		NE	SW	NW	3590	4000	21	31	02E	9	WR				
A 48065 00	IRR	KE	G		SE	NW	NE	4200	1400	30	31	02E	10	WR	169.00	169.00	130.00	130.00
A 48521 00	IRR	LR	G		NC	E2	NE	3932	683	22	31	02E	3	WR	94.90	94.90	73.00	73.00
A 48559 00	IRR	LO	G		NW	SE	SE	1306	1112	28	31	02E	4	WR	77.00	77.00	67.00	67.00
Same	IRR	LO	G		NW	SE	SE	1106	1112	28	31	02E	10	WR				

File Number	Use	ST	SR	Q4	Q3	Q2	Q1	FeetN	FeetW	Sec	Twp	Rng	ID	Qind	Auth Quant	Add Quant	Tot Acres	Net Acres
Same	IRR	LO	G		SW	NE	SE	1506	1112	28	31	02E	11	WR				
Same	IRR	LO	G		NW	SE	SE	1306	1312	28	31	02E	12	WR				
Same	IRR	LO	G		NW	SE	SE	1306	912	28	31	02E	13	WR				
A 48562 00	IRR	LO	G		NE	SE	NW	3592	3731	26	31	02E	2	WR	74.00	74.00	66.00	66.00
A 48651 00	IRR	KE	G		NW	SW	SW	1060	5110	26	31	02E	3	WR	175.00	175.00	146.00	146.00
Same	IRR	KE	G		NW	SW	SW	760	5110	26	31	02E	4	WR				
Same	IRR	KE	G		NW	SW	SW	1060	4810	26	31	02E	5	WR				
Same	IRR	KE	G		NW	SW	SW	1360	5110	26	31	02E	6	WR				
Same	IRR	KE	G		NW	SW	SW	1060	5110	26	31	02E	7	WR				
A 49347 00	IRR	KE	G		NW	SW	NW	3700	5134	28	31	02E	8	WR	94.00	94.00	106.00	106.00
Same	IRR	KE	G		NW	SW	NW	3959	5240	28	31	02E	14	WR				
Same	IRR	KE	G		NW	SW	NW	3940	5039	28	31	02E	15	WR				
Same	IRR	KE	G		NW	SW	NW	3430	5226	28	31	02E	16	WR				
Same	IRR	KE	G		NW	SW	NW	3470	5030	28	31	02E	17	WR				
A 49829 00	IRR	AY	G			NE	NE	3960	1320	33	31	02E	2	WR	110.00	79AF	80.00	80.00
A 49834 00	IRR	AY	G			NE	SE	2430	210	30	31	02E	11	WR	180.00	0 AF	119.00	119.00
															169AF			
Appropriated 2866.79AF																		
A 49998 00	IRR	AY	G		SE	NW	NE	4200	1440	28	31	02E	3	WR	122.59	0.00	96.50	9.20

Limitations

File Number	Seq Num	Limitations
A 40159 00	1	5YR ALLOCATION

Report Date: Wednesday, November 4 2020

Water Rights and Points of Diversion Within 2 miles of point defined as:
 4193 Feet N and 1409 Feet W of the Southeast Corner of Section 28 Twp 31S Rng 2E
 Located at: 97.209831 West Longitude and 37.329914 North Latitude
 GROUNDWATER ONLY

File Number	Use	ST	SR	Dist (ft)	Q4	Q3	Q2	Q1	FeetN	FeetW	Sec	Twp	Rng	ID	Batt	Auth_Quan	Add_Quan		
A__ AF	28532	00	IRR	NK	G	9002	--	NE	SW	SE	1170	1380	15	31	2E	7	118.00	118.00	
A__ AF	28609	00	IRR	NK	G	8785	--	NC	S2	NW	3460	3695	20	31	2E	2	148.00	148.00	
A__ AF	39349	00	IRR	NK	G	8070	--	SW	NE	SW	1455	3897	23	31	2E	1	201.00	201.00	
A__ AF	40159	00	IRR	NK	G	9186	--	SW	NE	NW	4060	3871	23	31	2E	2	210.00	210.00	
A__ AF	41894	00	IRR	NK	G	6929	--	NW	SE	NE	3750	1163	20	31	2E	3	155.00	155.00	
A__ AF	41946	00	IRR	NK	G	3293	--	NW	SE	SW	1285	3680	21	31	2E	3	B2	151.00	151.00
Same						3390	--	NW	SE	SW	1286	3814	21	31	2E	2	G2		
Same						3492	--	NW	SE	SW	1288	3948	21	31	2E	1	B2		
A__ AF	43705	00	IRR	NK	G	1406	--	NW	NW	NW	4739	5142	27	31	2E	1	163.50	163.50	
A__ AF	43706	00	IRR	NK	G	6949	--	NW	NW	NW	4706	4699	26	31	2E	1	152.00	152.00	
A__ AF	44569	00	IRR	NK	G	2017	--	NW	NE	NW	4659	3369	28	31	2E	2	54.60	54.60	
A__ AF	44977	00	IRR	NK	G	10543	--	SE	NW	SE	1375	1324	23	31	2E	3	81.00	81.00	
A__ AF	45215	00	IRR	NK	G	3804	--	NE	SW	SW	1316	4098	27	31	2E	2	91.00	91.00	
A__ AF	45216	00	IRR	NK	G	5024	--	NW	NE	NW	5319	3874	34	31	2E	1	135.20	135.20	
A__ AF	46508	00	IRR	LR	G	1	--	SE	NW	NE	4193	1409	28	31	2E	5	122.59	122.59	
A__ AF	47826	00	IRR	LR	G	5326	--	NE	SW	NW	3590	4000	21	31	2E	9	B4	169.00	169.00
Same						5451	--	NW	SE	NW	3890	3700	21	31	2E	7	B4		
Same						5590	--	NE	SW	NW	3890	4000	21	31	2E	4	G4		
Same						5739	--	NE	SW	NW	3890	4300	21	31	2E	6	B4		
Same						5853	--	SE	NW	NW	4190	4000	21	31	2E	8	B4		
A__ AF	48065	00	IRR	KE	G	10480	--	SE	NW	NE	4200	1400	30	31	2E	10	B4	169.00	169.00
A__ AF	48521	00	IRR	LR	G	7588	--	NC	E2	NE	3932	683	22	31	2E	3	94.90	94.90	
A__ AF	48559	00	IRR	LO	G	2705	--	SW	NE	SE	1506	1112	28	31	2E	11	B4	77.00	77.00
Same						2890	--	NW	SE	SE	1306	1312	28	31	2E	12	B4		
Same						2904	--	NW	SE	SE	1306	1112	28	31	2E	4	G4		
Same						2931	--	NW	SE	SE	1306	912	28	31	2E	13	B4		
Same						3103	--	NW	SE	SE	1106	1112	28	31	2E	10	B4		
A__ AF	48562	00	IRR	LO	G	7948	--	NE	SE	NW	3592	3731	26	31	2E	2	74.00	74.00	
A__ AF	48651	00	IRR	KE	G	7193	--	NW	SW	SW	1360	5110	26	31	2E	6	B4	175.00	175.00
Same						7323	--	NW	SW	SW	1060	5110	26	31	2E	7	B4		
Same						7323	--	NW	SW	SW	1060	5110	26	31	2E	3	G4		
Same						7464	--	NW	SW	SW	760	5110	26	31	2E	4	B4		
Same						7591	--	NW	SW	SW	1060	4810	26	31	2E	5	B4		
A__ AF	49347	00	IRR	KE	G	3640	--	NW	SW	NW	3940	5039	28	31	2E	15	B4	94.00	94.00
Same						3692	--	NW	SW	NW	3470	5030	28	31	2E	17	B4		
Same						3757	--	NW	SW	NW	3700	5134	28	31	2E	8	G4		

Same		3839	--	NW	SW	NW	3959	5240	28	31	2E	14	B4						
Same		3893	--	NW	SW	NW	3430	5226	28	31	2E	16	B4						
A__	49829 00	IRR	AY	G			5525	--	--	NE	NE	3960	1320	33	31	2E	2	110.00	110.00
	AF																		
A__	49834 00	IRR	AY	G			9431	--	--	NE	SE	2430	210	30	31	2E	11	180.00	180.00
	AF																		
A__	49998 00	IRR	AY	G			32	--	SE	NW	NE	4200	1440	28	31	2E	3	122.59	.00
	AF																		

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Total Net Quantities Authorized:   Direct           Storage
Total Requested Amount (AF) =      290.00           .00
Total Permitted Amount (AF) =      438.00           .00
Total Inspected Amount (AF) =      537.49           .00
Total Pro_Cert Amount (AF) =         .00           .00
Total Certified Amount (AF) =     1660.30           .00
Total Vested Amount (AF) =          .00           .00
TOTAL AMOUNT (AF) =                2925.79           .00

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An * after the source of supply indicates a pending application for change under the file number.

An * after the ID indicates a 15 AF exemption was granted under the file number.

A "G" in the Batt column indicates the GEO CTR of a battery. A "B" indicates a well in the battery.

The number in the Batt column is the number of wells in the battery.

Water Rights and Points of Diversion Within 2 miles of point defined as:

4193 Feet North and 1409 Feet West of the Southeast Corner of Section 28 Twp 31S Rng 2E
 Located at: 97.209831 West Longitude and 37.329914 North Latitude

GROUNDWATER ONLY

WATER USE CORRESPONDENTS:

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=====
File Number   Use ST SR
> CHARLES C & LOU ANN BUSS
>
> 1692 E 30TH AVE N
> OXFORD KS 67119
>-----
> MICHAEL NEISES
>
> 1277 E 50TH AVE N
> BELLE PLAINE KS 67013
>-----
> FORREST G BUTTS
>
> 205 S CENTRAL AVE
> MULVANE KS 67110
>-----
> FORREST G BUTTS
>
> 205 S CENTRAL AVE
> MULVANE KS 67110
>-----
> DOUGLAS E & EDITH A HISKEN
>
> 1459 E 60TH AVE N
> BELLE PLAINE KS 67013
>-----
> CURT HOOBLER
>
> 1346 E 130TH AVE N
> MULVANE KS 67110
>-----
> FORREST G BUTTS
>
> 205 S CENTRAL AVE
> MULVANE KS 67110
>-----
> FORREST G BUTTS
>

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> 205 S CENTRAL AVE
> MULVANE KS 67110
>-----
> LEOLA L & JAMES H NEISES TRUST
>
> 1318 E WOODBROOK ST
> DERBY KS 67037
>-----
> FORREST G BUTTS
>
> 205 S CENTRAL AVE
> MULVANE KS 67110
>-----
> CHARLES C & LOU ANN BUSS
>
> 1692 E 30TH AVE N
> OXFORD KS 67119
>-----
> CHARLES C & LOU ANN BUSS
>
> 1692 E 30TH AVE N
> OXFORD KS 67119
>-----
> MARK E & KARLA LAWLESS
>
> PO BOX 515
> BELLE PLAINE KS 67013
>-----
> DOUGLAS E & EDITH A HISKEN
>
> 1459 E 60TH AVE N
> BELLE PLAINE KS 67013
>-----
> RON NEISES
>
> 409 N ROCK RD
> BELLE PLAINE KS 67013
>-----
> CHARLES C & LOU ANN BUSS
>
> 1692 E 30TH AVE N
> OXFORD KS 67119
>-----
> CHARLES C & LOU ANN BUSS
>
> 1692 E 30TH AVE N
> OXFORD KS 67119
>-----
> KEVIN A RUYLE
>
> 215 N GREENWICH RD
> OXFORD KS 67119
>-----
> IAN & MELISSA PARKER
>
> 1457 N ESTFAN RD
> MULVANE KS 67110
>-----
> MARK E & KARLA LAWLESS
>
> PO BOX 515
> BELLE PLAINE KS 67013
>-----
> LEOLA L & JAMES H NEISES TRUST
>
> 1318 E WOODBROOK ST
> DERBY KS 67037
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>-----

> RON NEISES
>
> 409 N ROCK RD
> BELLE PLAINE KS 67013

>-----

> MARK E & KARLA LAWLESS
>
> PO BOX 515
> BELLE PLAINE KS 67013

>-----

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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. 49,998** of the applicant

MARK LAWLESS
573 N MOUNT ZION RD
BELLE PLAINE KS 67013

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 **February 23, 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	
28 - 31S - 2E	33.5	36.0	12.0	15.0													96.5

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 Southeast Quarter of the Northwest Quarter of the Northeast Quarter (SE¼ NW¼ NE¼) of Section 28, more particularly described as being near a point 4,193 feet North and 1,409 feet West of the Southeast corner of said section, in Township 31 South, Range 2 East, Sumner 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 **690 gallons per minute (1.537 c.f.s.)** and to a quantity not to exceed **122.59 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, 2028**, 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 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 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.

16. That the quantity of water and rate of diversion of water approved under this permit is further limited to the quantity and rate which combined with Water Right, File No. 46,508, will provide a total not to exceed **122.59 acre-feet** of water per calendar year, to be diverted at a maximum diversion rate not in excess of **690 gallons per minute (1.537 c.f.s.)** from the well at the location described herein, for irrigation purposes on the land described herein.

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.

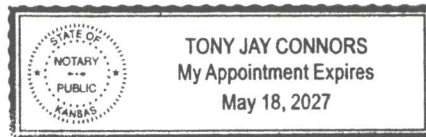
Ordered this *26* day of *June*, 2023, in Manhattan, Riley County, Kansas.

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 this *26* day of *June*, 2023, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.

Tony Jay Connors
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

July 5, 2023

MARK LAWLESS
573 N MOUNT ZION RD
BELLE PLAINE, KS 67013

RE: Application
File No. 49,998

Dear Mr. Lawless:

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.

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.

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.

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/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 Application Unit Supervisor
Water Appropriation Program

KAB:kak:mjm

Enclosures

pc: Stafford Field Office
David and Joi Lawless

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 5 day of July, 2023, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 49,998, dated June 26, 2023, was mailed postage prepaid, first class, US mail to the following:

MARK E & KARLA LAWLESS
573 N MOUNT ZION RD
BELLE PLAINE KS 67013

With photocopies to:

DAVID E & JOI D LAWLESS
532 N OLIVER RD
BELLE PLAINE KS 67013

KDA-DWR Stafford Field Office



Division of Water Resources