

File No. **50,663** 15. Formation Code: Drainage Basin: **Arkansas River** County: **SEDGWICK** 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 af	Rate gpm	Quantity af	Overlap PD Files		
MOD			89091	NE SW SE	20	-	26S	-	1W	48	1245	1757	NF	158	NF	158	None

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

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

20. Meter Required? Yes No To be installed by _____ Date Acceptable Meter Installed _____

21. Place of Use										NE¼								NW¼				SW¼				SE¼				Total	Owner	Chg?	Overlap Files
MOD	DEL	ENT	PUSE	S	T	R	ID	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	NE ¼	NW ¼	SW ¼	SE ¼						
MOD			70607	20	26S	1W	21	95-acre surface area pond in (E½ NE¼ SE¼) and (SE¼)																	7a	NO	NONE						

Comments:

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: August 15, 2022

FROM: Jessica Engelbrecht

RE: Application, File No. 50,663

Jay Russell has filed the above referenced application on behalf of Carlson Investment, LLC., proposing to appropriate 158 acre-feet of groundwater per year to cover evaporative loss from a ninety-five (95) acre groundwater pit for recreational use. The proposed point of diversion is the geographic center of the pit located in the Northeast Quarter of the Southwest Quarter of the Southeast Quarter (NE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 20, more particularly described as being near a point 1,245 feet North and 1,757 feet West of the Southeast Corner of said section, in Township 26 South, Range 1 West, Sedgwick County, Kansas, in the drainage basin of the Arkansas River.

The proposed place of use is a ninety-five (95) acre recreational pond in the Southeast Quarter of Section 20, Township 26 South, Range 1 West, in Sedgwick County, Kansas. The applicant has signed the application stating that he owns the entire place of use. The requested quantity of 158 acre-feet per year was calculated by the applicant with the given equation:

$$95 \text{ acres} \times 20'' \text{ natural evaporation loss} / 12 = 158 \text{ acre-feet.}$$

Due to the amount of potential nearby well owners within the area, the applicant was required to publish a public notice in the local paper for three consecutive weeks. The applicant published a public notice in the Clarion for three consecutive weeks starting on February 10, 2022, with the final publication being February 24, 2022. The applicant provided proof of the publication in an affidavit from the paper received in DWR on February 28, 2022.

On March 25, 2022, a request for recommendation was sent to the Equus Beds Groundwater Management District No. 2 (GMD 2) for a review of the proposed application. GMD 2 submitted a recommendation to deny the application based on the applications failure to meet spacing, Regulation K.A.R. 5-22-2(C), on April 15, 2022, as the proposed groundwater pit edge is less than 1,320 feet to the groundwater pit authorized by Water Right, File No. 45719, the groundwater pit authorized by Water Right No. 47565, the groundwater pit proposed by authorized by Application File No. 50580, the industrial well authorized by Water Right No. 42400, the industrial well authorized by Water Right File No. 46409 and possibly to the irrigation well authorized by Water Permit No. 49337. Additionally, the edge of the groundwater pit proposed by the application appears to be located less than 330 feet to multiple domestic wells. The applicant submitted an appeal to GMD 2 on May 13, 2022. On June 20, 2022, a recommendation of approval and exception to the Well Spacing Rule and Regulation K.A.R. 5-22-2(c). The District's recommendation was subject to the condition of reducing the proposed size of the groundwater pit to comply with the District's Safe Yield Regulation K.A.R. 5-22-7(a).

The proposed application is subject to minimum desirable streamflow requirements. The applicant returned a signed and notarized minimum desirable streamflow form with the application.

Jeff Lanterman, Water Commissioner, Stafford Field Office, recommended approval of the referenced application on May 9, 2023, with a waiver of spacing regulation K.A.R. 5-22-2(c), as well as a waiver of safe yield regulation K.A.R. 5-22-7(a) which would not require the applicant to reduce the size of the groundwater pit.

Based on the above discussion, safe yield criteria met, a waiver of spacing regulation K.A.R. 5-22-2(C), a waiver of safe yield K.A.R. 5-22-7(a), and the 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.

Engelbrecht, Jessica [KDA]

From: Lanterman, Jeff [KDA]
Sent: Tuesday, May 9, 2023 9:17 AM
To: Engelbrecht, Jessica [KDA]
Cc: Conant, Cameron [KDA]; Baum, Kristen [KDA]
Subject: RE: 50663 Memo

Importance: High

Follow Up Flag: Follow up
Flag Status: Flagged

Jessica I recommend approval of this new application limiting permit conditions to what we discussed below.

This will be interesting to see what happens to this thing. If Tim even really reads these when they come in. Sometimes he does.

From: Engelbrecht, Jessica [KDA] <Jessica.Engelbrecht@ks.gov>
Sent: Monday, August 15, 2022 12:03 PM
To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>
Subject: 50663 Memo
Importance: High

Jeff,
Attached is the memo and corresponding documents for 50,663.
Below is the permit condition conversation about the application.

Jessica

From: Lewis, Earl [KDA] <Earl.Lewis@ks.gov>
Sent: Wednesday, June 29, 2022 10:35 AM
To: Baum, Kristen [KDA] <Kristen.Baum@ks.gov>; Letourneau, Lane [KDA] <Lane.Letourneau@ks.gov>; Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>; Engelbrecht, Jessica [KDA] <Jessica.Engelbrecht@ks.gov>; Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Subject: Re: Application 50580 Gregg Wilhite and Application 506633 Carlson LLC - GMD2 Recommendations
Importance: High

I'm fine with this as a general condition.

Sent from my Verizon, Samsung Galaxy smartphone
Get [Outlook for Android](#)

From: Baum, Kristen [KDA] <Kristen.Baum@ks.gov>
Sent: Wednesday, June 29, 2022 9:19:17 AM
To: Letourneau, Lane [KDA] <Lane.Letourneau@ks.gov>; Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>; Engelbrecht, Jessica [KDA] <Jessica.Engelbrecht@ks.gov>; Conant, Cameron [KDA] <Cameron.Conant@ks.gov>; Lewis, Earl [KDA] <Earl.Lewis@ks.gov>
Subject: RE: Application 50580 Gregg Wilhite and Application 506633 Carlson LLC - GMD2 Recommendations

Here's the permit condition we discussed. This is the permit condition we use outside GMD2. I'd be in favor of us limiting our special GW pit conditions to just this one (if we want to keep something in there about quality) because it at least ties things back to impairment.

That the groundwater pit shall be constructed, maintained, and operated in a manner that will prevent degradation to the water quality of the source of supply, which would cause impairment to existing water rights.

From: Letourneau, Lane [KDA] <Lane.Letourneau@ks.gov>

Sent: Tuesday, June 28, 2022 1:20 PM

To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>; Engelbrecht, Jessica [KDA] <Jessica.Engelbrecht@ks.gov>; Baum, Kristen [KDA] <Kristen.Baum@ks.gov>; Conant, Cameron [KDA] <Cameron.Conant@ks.gov>; Lewis, Earl [KDA] <Earl.Lewis@ks.gov>

Subject: RE: Application 50580 Gregg Wilhite and Application 506633 Carlson LLC - GMD2 Recommendations

Looping in Earl to see if he wants to be part of the call.

GMD is out of their lane and trying to pull us into the lane with them.

From: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>

Sent: Tuesday, June 28, 2022 12:48 PM

To: Engelbrecht, Jessica [KDA] <Jessica.Engelbrecht@ks.gov>; Letourneau, Lane [KDA] <Lane.Letourneau@ks.gov>; Baum, Kristen [KDA] <Kristen.Baum@ks.gov>; Conant, Cameron [KDA] <Cameron.Conant@ks.gov>

Subject: RE: Application 50580 Gregg Wilhite and Application 506633 Carlson LLC - GMD2 Recommendations

The 95 acre GW pit equates to 93 GPM at 19" evap over the whole year. UGH.

From: Engelbrecht, Jessica [KDA] <Jessica.Engelbrecht@ks.gov>

Sent: Tuesday, June 28, 2022 10:49 AM

To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>; Letourneau, Lane [KDA] <Lane.Letourneau@ks.gov>; Baum, Kristen [KDA] <Kristen.Baum@ks.gov>; Conant, Cameron [KDA] <Cameron.Conant@ks.gov>

Subject: RE: Application 50580 Gregg Wilhite and Application 506633 Carlson LLC - GMD2 Recommendations

50580 is a 7 acre groundwater pit

50663 is a 95 acre groundwater pit

Jessica

From: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>

Sent: Tuesday, June 28, 2022 10:07 AM

To: Engelbrecht, Jessica [KDA] <Jessica.Engelbrecht@ks.gov>; Letourneau, Lane [KDA] <Lane.Letourneau@ks.gov>; Baum, Kristen [KDA] <Kristen.Baum@ks.gov>; Conant, Cameron [KDA] <Cameron.Conant@ks.gov>

Subject: FW: Application 50580 Gregg Wilhite and Application 506633 Carlson LLC - GMD2 Recommendations

Importance: High

Tying Kristen and Cameron in.

Jessica how big are these pits. Honestly I am not worried about spacing from these things to wells it's a pretty routine spacing waiver. Evap is probably less than 100 GPM.

GW pits don't cause impairment and we don't regulate BMP's. That should be done by Sedgwick county or KDHE via a separate permit.

IF GMD wants to promulgate some stormwater regulations they are more than welcome to do that and do compliance and enforcement on them themselves.

Lane do we want to have a call on this. It seems like a formal request from the applicants consultant about GMD requested permit conditions.

From: Clement, Daniel W <dwclement@burnsmcd.com>
Sent: Tuesday, June 28, 2022 9:51 AM
To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>
Cc: Engelbrecht, Jessica [KDA] <Jessica.Engelbrecht@ks.gov>; Letourneau, Lane [KDA] <Lane.Letourneau@ks.gov>
Subject: Application 50580 Gregg Wilhite and Application 506633 Carlson LLC - GMD2 Recommendations

EXTERNAL: This email originated from outside of the organization. Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Good morning Jeff,

After review of the proposed permit conditions provided in the official recommendation letters from GMD2 for #50580 and #50663, the applicants have found some concerning language regarding additional review and approval authority over stormwater plans by the District. Review and approval of stormwater infrastructure is not defined by the District's rules and regulations, so it is unclear by what standards and timeline any sort of review or approval would take place. The applicant understands the District's desire to have BMPs implemented for this project which are properly engineered and maintained and agrees with this practice as the application record demonstrates, however the approval of stormwater plans, drawings, and specifications is simply not the responsibility of the District.

Attached are letters requesting revised permit language on behalf of the applicant that we believe captures the objective of both the applicant and the District to have properly engineered and constructed stormwater treatment devices without binding the applicant to an undefined District review and approval process.

We greatly appreciate your consideration on this issue, and please let us know if you have any questions

Daniel Clement, P.G. \ Burns & McDonnell
Senior Hydrogeologist \ Water
M 316-518-0893
dwclement@burnsmcd.com \ burnsmcd.com
800 E. 1st Street North, Suite 400 \ Wichita , KS 67202
*Registered in KS

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

File Number: 50,633

FO: 2

GMD: 2

WAIVER REQUEST:

UMW	Date Requested	Rule ID	Applies	Rule Type	Rule Subtype
REC	5/12/23	24		Safe Yield	
Rule Number	Date Granted	Date Denied	Justification:	Safe yield has been calculated by DWR based on K.A.R. 5-3-11, since GMD2 safe yield calculation truncates two-mile circle (area of consideration) at the GMD boundary despite groundwater in that area being hydraulically connected.	
K.A.R. 5-22-7	6/20/2023				

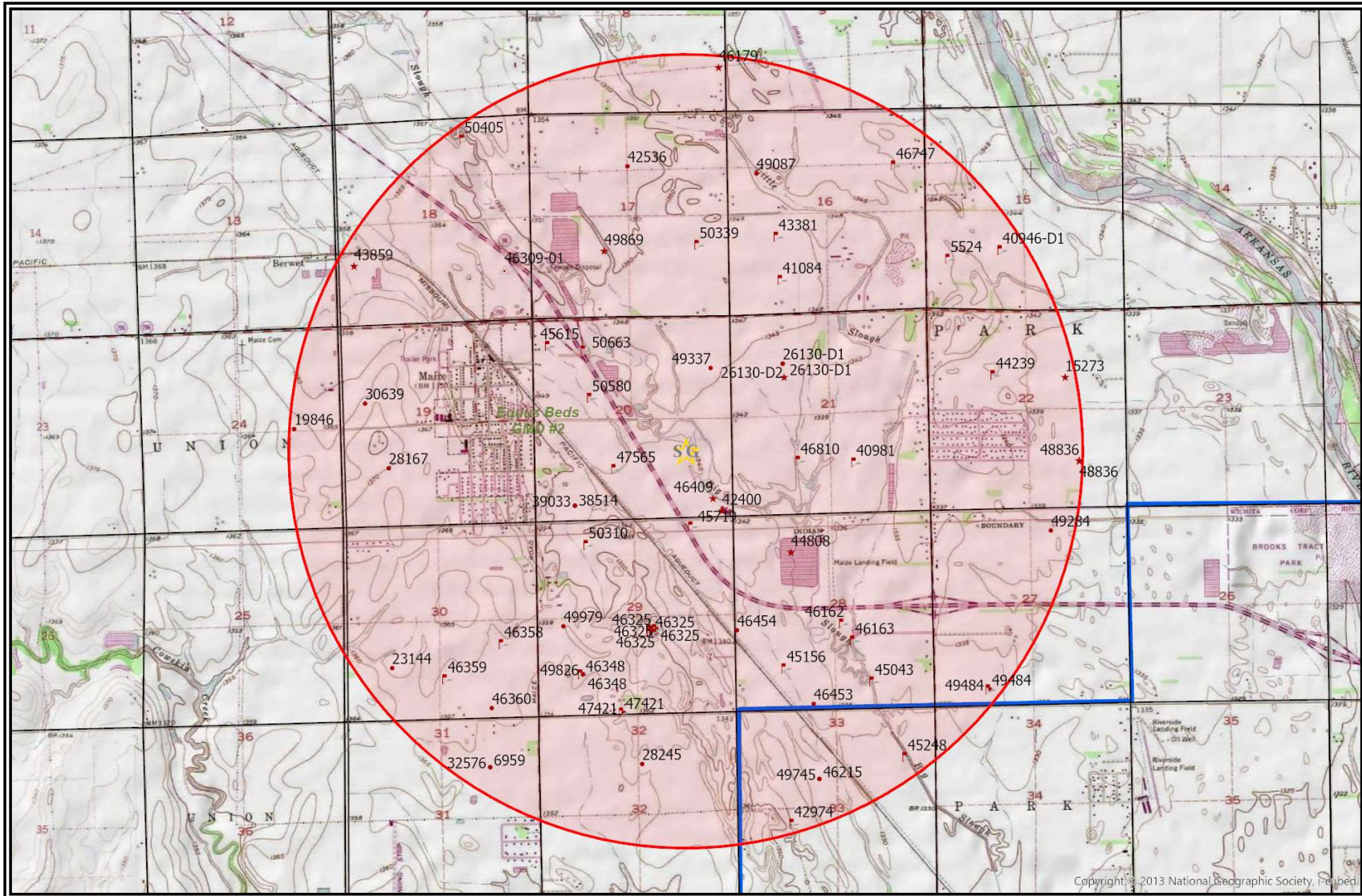
WAIVER RULE (complete only if a new rule needs to be created):

Rule ID	Applicability	Type	Subtype	Rule Number	Date Active	Date Inactive
				K.A.R.		

Date Prepared 5/12/23 By JNE

Date Entered 6/20/2023 By LMoody

Safe Yield Report Sheet
Water Right- Proposed Point of Diversion
Point of Diversion in 20-26S-01W
Footages from SE corner- 1,757 feet North 1,245 feet West



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

File Number: 50,633

FO: 2

GMD: 2

WAIVER REQUEST:

UMW	Date Requested	Rule ID	Applies	Rule Type	Rule Subtype
REC	5/12/23	22		Well Spacing	Well Spacing
Rule Number	Date Granted	Date Denied	Justification:	Minimal drawdown from the proposed groundwater pit will not likely impair senior rights.	
K.A.R. 5-22-2	6/20/2023				

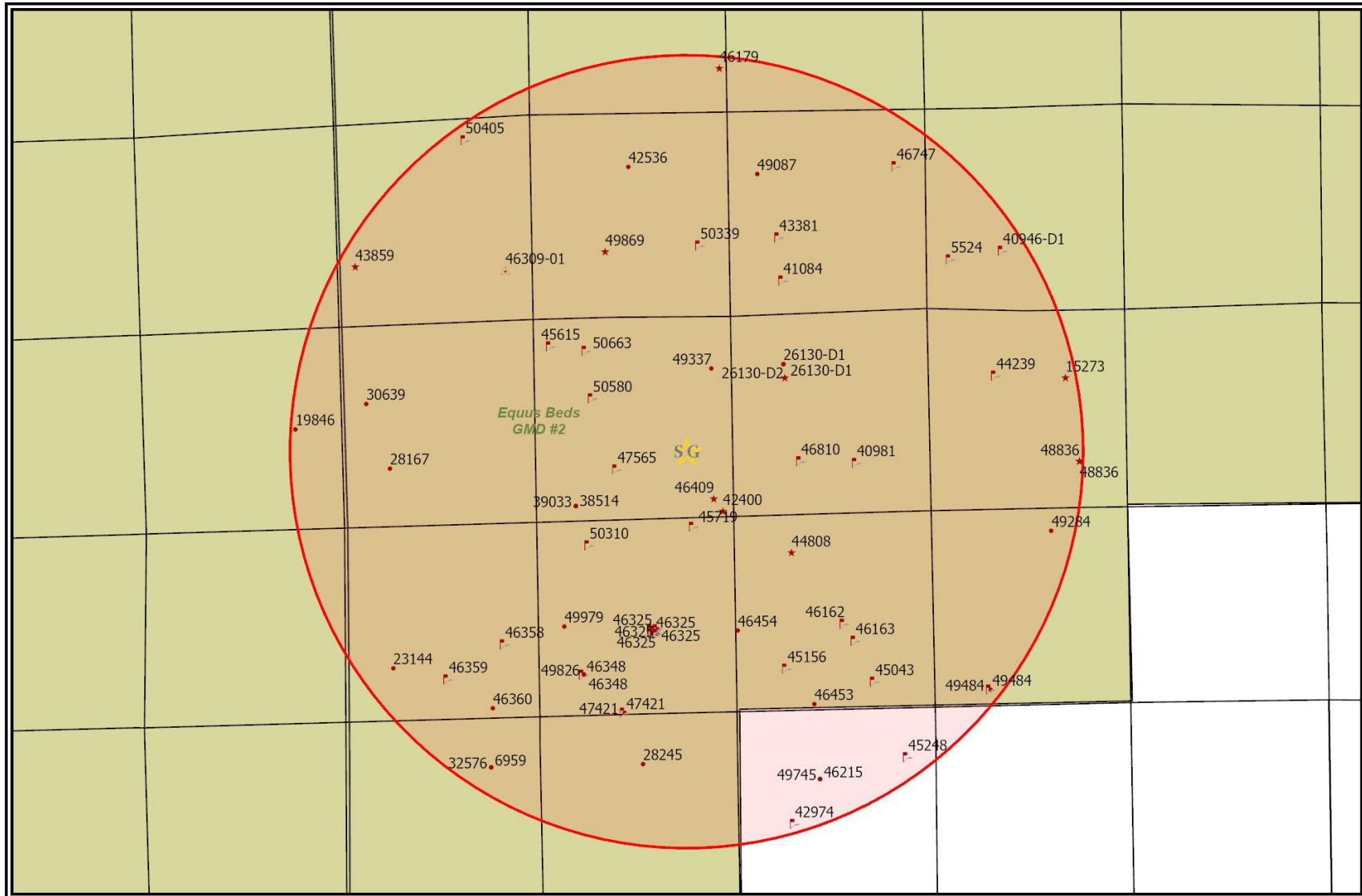
WAIVER RULE (complete only if a new rule needs to be created):

Rule ID	Applicability	Type	Subtype	Rule Number	Date Active	Date Inactive
				K.A.R.		

Date Prepared 5/12/23 By JNE

Date Entered 6/20/2023 By LMoody

Safe Yield Report Sheet
Water Right- Proposed Point of Diversion
Point of Diversion in 20-26S-01W
Footages from SE corner- 1,757 feet North 1,245 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 **4,003.35 AF**. (GMD2 Area = 3844.5 AF. Non-GMD Area = 158.85 AF.)

Total prior appropriations in the circle is **3,667.68 AF**.

Total quantity of water available for appropriation is **335.67 AF**.

Safe Yield Variables

The area used for the analysis is set at 8,042 acres. (7689 acres within GMD2. 353 acres outside of GMD2)

The potential annual recharge at the circle center is estimated to be 6.0 inches within GMD2 and 5.4 inches outside of GMD2.

The percent of recharge available for appropriation is 100%.

Authorized Quantity values are as of 06-JUN-2023 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 58 water rights and 59 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 5524 00	REC	NK	G		NC	W2	SW	1386	4620	15	26	01W	7	WR	67.00	67.00		
A 6959 00	IRR	NK	G			NC	NE	3960	1360	31	26	01W	1	WR	26.00	26.00	99.00	99.00
A 15273 00	IND	NK	G		NE	SW	NE	3459	1622	22	26	01W	17	WRF	58.34	58.34		
A 19846 00	IRR	NK	G			CS	NE	2660	1280	24	26	02W	4	WR	168.00	168.00	158.00	158.00
A 23144 00	IRR	NK	G			NC	SW	1340	3900	30	26	01W	1	WR	187.50	187.50	160.00	160.00
A 28167 00	IRR	NK	G			NC	SW	1505	3920	19	26	01W	15	WRF	24.00	24.00	40.00	40.00
A 28245 00	IRR	NK	G		NW	SW	NE	3900	2550	32	26	01W	3	WR	165.00	165.00	164.00	164.00
A 30639 00	IRR	NK	G					3400	4620	19	26	01W	3	WR	44.00	44.00	36.93	36.93
A 32576 00	IRR	NK	G			NC	NE	3960	1360	31	26	01W	1	WR	79.00	53.00	99.00	0.00
A 38514 00	IRR	NK	G		SE	SW	SW	331	4222	20	26	01W	2	WR	17.80	17.80	17.00	17.00
A 39033 00	IRR	NK	G		SE	SW	SW	331	4222	20	26	01W	2	WR	6.20	6.20	17.00	0.00
A 40981 00	REC	NK	G		NC	W2	SE	1295	1980	21	26	01W	3	WR	70.00	70.00		
A 41084 00	REC	NK	G		NW	SE	SW	792	3828	16	26	01W	4	WR	55.00	55.00		
A 42400 00	IND	NK	G		SE	SE	SE	188	375	20	26	01W	35	WR	15.01	15.01		
A 42536 00	IRR	NK	G		SE	NE	NW	4024	2693	17	26	01W	15	WR	207.00	207.00	138.00	138.00
A 42974 00	REC	NK	G		NW	NE	SW	2200	3800	33	26	01W	46	WR	5.70	5.70		
A 43381 00	REC	NK	G		NC	N2	SW	1944	3926	16	26	01W	6	WR	70.00	70.00		
A 43859 00	IND	NK	G					1453	4724	18	26	01W	10	WR	9.76	9.76		
A 44239 00	REC	NK	G		NW	SE	NW	3529	3479	22	26	01W	8	WR	20.00	20.00		
A 44808 00	IND	KK	G			NC	NW	4150	3800	28	26	01W	2	WR	78.29	78.29		
A 45043 00	REC	NK	G		NE	SW	SE	675	1595	28	26	01W	4	WR	18.33	18.33		
A 45156 00	REC	NK	G		NW	SE	SW	1044	3946	28	26	01W	3	WR	26.00	26.00		
A 45248 00	REC	NK	G		NW	SE	NE	3958	753	33	26	01W	59	WR	60.00	60.00		
A 45615 00	REC	NK	G		SW	NW	NW	4608	4851	20	26	01W	25	WR	5.00	5.00		
A 45719 00	REC	NK	G		NW	NE	NE	4951	1104	29	26	01W	2	WR	0.50	0.50		

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 46162 00	REC	NK	G		NW	NW	SE	2234	2399	28	26	01W	54	WR	4.00	4.00		
A 46163 00	REC	NK	G		SW	NW	SE	1778	2106	28	26	01W	55	WR	2.00	2.00		
A 46179 00	IND	KE	G		NE	SE	SE	1210	180	08	26	01W	2	WR	1,392.00	1,392.00		
A 46215 00	IRR	NK	G		NE	SE	NW	3394	3115	33	26	01W	219	WR	6.50	6.50	5.00	5.00
A 46325 00	IRR	NK	G		NW	NW	SE	2167	2172	29	26	01W	4	WRF	18.00	18.00	8.00	8.00
Same	IRR	NK	G		NW	NW	SE	2227	2249	29	26	01W	14	WRF				
Same	IRR	NK	G		NW	NW	SE	2220	2102	29	26	01W	15	WRF				
Same	IRR	NK	G		SW	NW	SE	2122	2232	29	26	01W	16	WRF				
Same	IRR	NK	G		SW	NW	SE	2100	2107	29	26	01W	17	WRF				
Same	REC	NK	G		NW	NW	SE	2167	2172	29	26	01W	4	WRF				
Same	REC	NK	G		NW	NW	SE	2227	2249	29	26	01W	14	WRF				
Same	REC	NK	G		NW	NW	SE	2220	2102	29	26	01W	15	WRF				
Same	REC	NK	G		SW	NW	SE	2122	2232	29	26	01W	16	WRF				
Same	REC	NK	G		SW	NW	SE	2100	2107	29	26	01W	17	WRF				
A 46348 00	IRR	NK	G		NE	SW	SW	1096	3980	29	26	01W	8	WRF	3.90	3.90	7.00	7.00
A 46348 00	REC	NK	G		NE	SW	SW	1096	3980	29	26	01W	8	WRF	4.90	4.90		
A 46359 00	REC	NK	G		NW	SW	SE	1035	2418	30	26	01W	15	WR	21.67	21.67		
A 46360 00	IRR	NK	G		SW	SE	SE	244	1250	30	26	01W	16	WR	5.59	5.59	2.70	2.70
A 46358 00	REC	NK	G		SW	NE	SE	1949	909	30	26	01W	18	WR	5.43	5.43		
A 46409 00	IND	NK	G		SE	SE	SE	491	525	20	26	01W	36	WR	9.05	0.61		
A 46453 00	IRR	NK	G		SE	SE	SW	95	3228	28	26	01W	74	WR	7.74	7.74	5.95	5.95
A 46454 00	IRR	NK	G		NW	NW	SW	2076	5258	28	26	01W	75	WR	4.80	4.80	6.00	6.00
A 46747 00	REC	NK	G		NW	SE	NE	3828	772	16	26	01W	7	WR	3.33	3.33		
A 46810 00	REC	NK	G		SW	NE	SW	1357	3473	21	26	01W	13	WR	9.40	9.40		
A 47421 00	IRR	NK	G		SE	SE	SW	-9	2995	29	26	01W	18	WRF	10.30	10.30	4.00	4.00
A 47421 00	REC	NK	G		SE	SE	SW	-9	2995	29	26	01W	18	WRF	12.30	12.30		
A 47565 00	REC	NK	G		NE	SE	SW	1295	3008	20	26	01W	39	WR	22.30	22.30		
A 26130 D1	IND	NK	G		NW	SE	NW	3590	3885	21	26	01W	19	WRF	63.33	63.33		
Same	IRR	NK	G			NC	NW	3960	3921	21	26	01W	4	WRF				
A 26130 D2	IRR	NK	G			NC	NW	3960	3921	21	26	01W	4	WR	46.55	46.55	34.10	34.10
A 40946 D1	REC	NK	G		SE	NE	SW	1607	3226	15	26	01W	5	WR	48.50	48.50		
A 48836 00	IND	GY	G		SW	NE	SE	1220	1270	22	26	01W	14	PD	143.72	143.72		
Same	IND	GY	G		SW	NE	SE	1221	1271	22	26	01W	16	PD	6.28	6.28		
A 49087 00	IRR	KE	G		NE	SW	NW	3650	4500	16	26	01W	9	WR	32.50	32.50	25.00	25.00
A 49284 00	IRR	KE	G		NW	NW	NE	4629	2085	27	26	01W	8	WR	28.00	28.00	9.00	9.00
A 49337 00	IRR	KE	G		NE	SE	NE	3955	597	20	26	01W	42	WR	109.20	109.20	84.00	84.00
A 49484 00	IRR	KK	G		SW	SE	SW	630	3756	27	26	01W	9	WRF	31.28	31.28	24.06	24.06
A 49484 00	REC	KK	G		SW	SE	SW	630	3756	27	26	01W	9	WRF	9.33	9.33		
A 49745 00	IRR	GY	G		NE	SE	NW	3394	3115	33	26	01W	219	WR	12.28	12.28	5.00	0.00
A 49826 00	IRR	KE	G		NE	SW	SW	1096	3980	29	26	01W	8	WR	9.10	5.20	7.00	0.00
A 49869 00	IND	GY	G		SW	NE	SW	1762	3333	17	26	01W	12	WR	83.33	83.33		
A 49979 00	IRR	AY	G		NE	NW	SW	2315	4590	29	26	01W	21	WR	15.00	15.00	5.00	5.00

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 50310 00	REC	GY	G		NW	NE	NW	4478	3898	29	26	01W	22	WR	18.67	18.67		
A 50339 00	REC	GY	G		SW	NE	SE	1897	792	17	26	01W	13	WR	5.00	5.00		
A 50405 00	REC	KE	G		NE	NW	NE	4814	1745	18	26	01W	13	WR	5.65	5.65		
A 50580 00	REC	GY	G		SW	SE	NW	3208	3736	20	26	01W	46	WR	11.67	11.67		
A 50663 00	REC	AY	G		SW	NE	SE	4478	3898	20	26	01W	48		0.00	0.00		

Limitations

File Number	Seq Num	Limitations
A 28167 00	1	835GPM COM/W #28167-IR
A 32576 00	2	79AF/YR @1000GPM COM/W #6,959
A 46179 00	1	EXPOSURE 852 AC WITHOUT CHG TO FILE #42536
A 46325 00	1	465 GPM COMBINED TOTAL RATE FOR BOTH USES WHEN PUMPED SIMULTANEOUSLY
A 46409 00	1	5.090 MGY COM/W #42400
A 26130 D1	1	875GPM COM/W #26130-D2
A 26130 D2	1	875GPM COM/W #26130-D1
A 49745 00	1	12.28 AF/YR COM/W #46215
A 49826 00	1	9.1 AF @ 99 GPM COM/W #46348 (IRR USE)

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. 50,663** of the applicant

**CARLSON INVESTMENT LLC
PO BOX 75337
WICHITA, KS 67275**

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 8, 2021**.
2. That the water sought to be appropriated shall be used for recreation use in a proposed groundwater pit with a maximum surface area of 95 acres, located in the East Half of the Northeast Quarter of the Southwest Quarter (E $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$) and in the Southeast Quarter (SE $\frac{1}{4}$) of Section 20, all in Township 26 South, and Range 1 West, in Sedgwick County, Kansas, located substantially as shown on the topographic map accompanying the application.
3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of a groundwater pit with a geographical center located in the Northeast Quarter of the Southwest Quarter of the Southeast Quarter (NE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 20, more particularly described as being near a point 1,245 feet North and 1,757 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 **natural evaporation** and to a quantity not to exceed **158 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 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.
12. That no water user shall engage in nor allow the waste of any water diverted under the authority of this permit.
13. That the groundwater pit shall be constructed, maintained, and operated in a manner that will prevent degradation to the water quality of the source of supply, which would cause impairment to existing water rights.
14. 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.

- 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.

ORDERED this *20th* day of *June*, 2023, in Manhattan, Riley County, Kansas.



Earl D. Lewis Jr.

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

State of Kansas)
) SS
 County of Riley)

The foregoing instrument was acknowledged before me *20th* day of *June*, 2023, by Earl D. Lewis Jr., P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.

Melinda Jennings

 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 K.A.R. 5-22-7 Safe Yield in GMD No. 2


Date: June 20, 2023

Re: Application, File No. 50,663

1. That the above referenced application proposes the appropriation of 158 acre-feet of groundwater at the rate of natural evaporation from a proposed 95-acre groundwater pit, located within the boundaries of Equus Beds Groundwater Management District No. 2 (GMD 2).
2. That according to their April 14, 2022, and June 17, 2022, recommendations, existing groundwater appropriations exceeded the maximum allowable by 49.85 acre-feet based on an analysis by GMD 2 and the application was deemed to not comply with the safe yield criteria as set forth in K.A.R. 5-22-7.
3. That upon appeal of the GMD recommendation for denial, it was noted that the GMD calculation is truncated at the GMD boundaries and that the excluded area of consideration is within an area where groundwater is present and is hydraulically connected to the source proposed by the above referenced application.
4. That by calculating safe yield in a manner consistent with DWR statewide regulations, in K.A.R. 5-3-10 and K.A.R. 5-3-11, by considering the full two-mile circle, but subtracting quantities authorized by term permits, additional water would be considered available for appropriation and the application would comply with safe yield.
5. That this waiver will not prejudicially or unreasonably affect the public interest, and senior rights will not be impaired by the proposed use.

Comments:




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

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Secretary of Agriculture

DIVISION OF WATER RESOURCES
Earl D. Lewis Jr., Chief Engineer

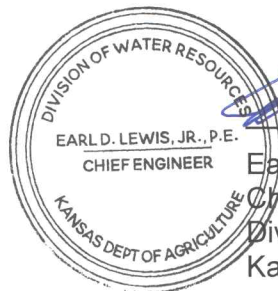
WAIVER OF REGULATION K.A.R. 5-22-2(c) Well Spacing

Date: June 20, 2023


RE: Appropriation of Water, File No. 50,663

1. That the existing well under the above-referenced application does not meet minimum well spacing criteria as set forth in K.A.R. 5-22-2, since the edge of the proposed groundwater pit is located less than the required spacing distance of 330 feet from nearby domestic wells, the edge of the proposed groundwater pit is located less than the required spacing distance of 1,320 feet from groundwater pits authorized by Water Right, File Nos. 26130-D1, 45,719, 47,565, pending application File No. 50,582, and the proposed groundwater pit is located less than the required spacing distance of 1,320 feet from two non-domestic wells authorized by File Nos. 42,400 and 46,409.
2. That the minimal drawdown created by net evaporation effects of the proposed groundwater pit will likely not impair senior domestic and non-domestic points of diversion.
3. That Equus Beds Groundwater Management District No. 2 reviewed the application and has recommended the application be approved with a waiver of spacing.
4. That a waiver of K.A.R. 5-22-2 will not prejudicially or unreasonably affect the public interest.

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

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

June 22, 2023

JAY RUSSELL
CARLSON INVESTMENT LLC
PO BOX 75337
WICHITA, KS 67275

RE: Appropriation of Water
File No. 50,663

Dear Mr. Russell:

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,

A handwritten signature in blue 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

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 22 day of June, 2023, I hereby certify that the attached Approval of Application and Permit to Proceed, File No. 50,663, dated June 20, 2023, was mailed postage prepaid, first class, U.S. Mail to the following:


Original to:

CARLSON INVESTMENT LLC
PO BOX 75337
WICHITA KS 67275

Photocopy to:

KDA-DWR Stafford Field Office

Equus Beds GMD No. 2



DWR Staff