

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

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|--|---|---|
| 1. File No.: 50,800 | 2. Status Change Date: 3/14/2024 | 4. Field Office: 02 - Stafford GMD: 02 - Equus Beds Structures File No.: Filing/Priority Date: 04/03/2023 5/31/2022 |
| 3. Package File No(s): | | |
| 5a. <input checked="" type="checkbox"/> Applicant <input checked="" type="checkbox"/> Owner <input checked="" type="checkbox"/> WUC <input checked="" type="checkbox"/> Address Change Person ID 57334 Add Seq# 1 MERLE & IRENE YODER 3307 S MOHAWK RD HUTCHINSON, KS 67501 | 5b. <input checked="" type="checkbox"/> Owner <input type="checkbox"/> WUC <input type="checkbox"/> Address Change Person ID 69419 Add Seq# HARDY C HUTCHINSON 4015 S MOWHAWK RD HUTCHINSON KS 67501 | |
| 5c. <input type="checkbox"/> Owner <input type="checkbox"/> WUC <input type="checkbox"/> Address Change Person ID Add Seq# | 5d. <input type="checkbox"/> Owner <input type="checkbox"/> WUC <input type="checkbox"/> Address Change Person ID Add Seq# | |
| 6. Change No.: --- <input type="checkbox"/> PD <input type="checkbox"/> PU <input type="checkbox"/> UMW Base Acres: --- Year: --- Min Reasonable Q: --- Previous UMW: Not changing MDS Gauge: --- Active Admin? <input type="checkbox"/> Completion/Start Date: 12/31/2025 Perfection/Expiration Date: 12/31/2029 | | 7. Use of Water <input checked="" type="checkbox"/> Groundwater <input type="checkbox"/> Surface Water UMW: IRR-Irrigation UMW: UMW: |
| 8. Action Trail --- | | |
| 9. Special Conditions --- | | |
| 10. 5YR Allocation Type: Start Year: --- 5YR Quantity: --- Base Acres: --- Comment: --- | | |
| 11. Sand & Gravel Proj ID: --- <input type="checkbox"/> Active <input type="checkbox"/> Dredge <input type="checkbox"/> IND Evap <input type="checkbox"/> Jr Evap <input type="checkbox"/> Other Diversion <input type="checkbox"/> Rpt on Sr | | |
| 12. Waiver Rule ID: --- <input type="checkbox"/> New Date Requested: --- Applies: --- Rule No.: --- Justification: --- Rule Type: --- Rule SubType: --- | | |
| Comments | Processed 02/19/24 JNE Reviewed KAK 3/12/2024 | Entered 3/25/2024 KAnderson |

File No. **50,800** 13. County: **Reno** Basin: **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 | | Storage Rate | |
|---|-----------------------|-----------|------------|-----------|----------|-------------|-------------|--------------------|--|---------------|-------------|-----------------|--------------|-------------|-----|--------------|----------|
| PDIV | Qualifier | S | T | R | ID | 'N | 'W | Comment (AKA Line) | | Auth | Add | Auth | Add | Auth | Add | Auth/Add | Overlaps |
| CHK | 88936 SW SW NE | 32 | 23S | 6W | 4 | 2657 | 2627 | | | 37.1 | 37.1 | 1,000 | 1,000 | | | | * |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | |

15. Limitations Type: Rate Quantity: **AF** Rate: **1,000 gpm** combined with file no(s): **11,203**
 Type: Quantity: Rate: combined with file no(s):

16. Metering Yes Metering Required Anti-Reverse Required Seal Required Compliance Date: 12/31/2025

| 17. Place of Use | | | | | | NE¼ | | | | NW¼ | | | | SW¼ | | | | SE¼ | | | | Total | Owner(s) | Chg? | Overlaps | |
|------------------|--------------|-----------|------------|-----------|----------|-------------|-------------|-------------|-------------|-----|----|----|----|-----|----|----|----|-----|----|-----------|----------|-------|--------------|-----------|--------------------------|----------|
| PDIV | S | T | R | ID | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | | | | | |
| MOD | 19000 | 32 | 23S | 6W | 1 | 28.0 | 32.0 | 40.0 | 40.0 | | | | | | | | | | | 11 | 9 | | 160.0 | 5a | <input type="checkbox"/> | * |
| MOD | 70876 | 32 | 23S | 6W | 4 | | | | | | | | | | | | | | | | 6 | | 6.0 | 5b | <input type="checkbox"/> | * |
| | | | | | | | | | | | | | | | | | | | | | | | | | <input type="checkbox"/> | |
| | | | | | | | | | | | | | | | | | | | | | | | | | <input type="checkbox"/> | |
| | | | | | | | | | | | | | | | | | | | | | | | | | <input type="checkbox"/> | |
| | | | | | | | | | | | | | | | | | | | | | | | | | <input type="checkbox"/> | |

18. Point of Diversion and Place of Use Overlaps
 * **File No. 11,203** **
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KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: November 13, 2023

FROM: Jessica Engelbrecht

RE: Application, File No. 50,800
Water Right, File No. 11,203

Merle Yoder has filed an application for approval to change the authorized place of use under Water Right, File No. 11,203. The applicant has requested to add additional acreage with a full overlap in point of diversion and place of use with New Application, File No. 50,800 which overlaps in the point of diversion with File No, 11,203. The proposed point of diversion would be one (1) well located in the Southwest Quarter of the Southwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$) in Section 32, near a point 2,629 feet North and 2,596 feet West of the Southeast corner of said Section, in Township 23 South, Range 6 West, Reno County, within the Arkansas River Basin. The point of diversion is within the boundaries of Equus Beds Groundwater Management District No. 2 (GMD 2). The referenced water rights do not appear abandoned as per K.S.A. 82a-718.

New Application, File No. 50,800 was filed on May 31, 2022, requesting 37.1 acre-feet of additional water to irrigate 166 acres in Section 32, Township 23 South, Range 6 West in Reno County. File No. 11,203 currently authorizes 192 acre-feet on 140 acres. The place of use will be 160 acres in the Northeast Quarter and 6 acres in the Southeast Quarter of Section 32, Township 23 South, Range 6 West, Reno County, Kansas. The total quantity between both file numbers is 229.1 acre-feet which would be 1.38 acre-feet per acre, slightly less than the maximum of 1.4 acre-feet per acre allowed in Reno County as allowed under K.A.R. 5-3-24. The requested rate of 1,000 gallons per minute seems reasonable to operate the proposed irrigation system and cover the acreage.

Nearby notification letters were mailed on March 2, 2023. Two of the nearby landowners called in response to the notification letter they received. Neither caller submitted their concerns in writing. According to the aerial map, the nearest possible domestic well is approximately 2,230 feet away. According to WRIS, the closest non-domestic well (File No. 47,246) is located 2,988 feet away. The proposed point of diversion meets minimum spacing to all existing wells. Per the requirements in K.A.R. 5-2-2 for wells located in Groundwater Management District t 2, the minimum well spacing should be 660 feet to domestic well and 1,320 feet to all non-domestic wells.

A well log obtained from a point of diversion change in 2021, shows topsoil from 0 to 3 feet, Clay from 3 to 32 feet and sand and gravel from 32 to 85 feet. The completed well has a maximum depth of 85 feet and a static water level of 40 feet which shows a saturated thickness of at least 45 feet. The likely source would be the Equus Beds.

Copies of the applications were submitted to GMD 2 on May 23, 2023. A recommendation for approval was received from GMD #2 for each application on September 7, 2023, via email.

The applicant has submitted a signed and notarized Minimum Desirable Streamflow form and acknowledges that this appropriation may be subject to Minimum Desirable Streamflow administration.

MEMORANDUM

File Nos. 11,203 and 50,800

Page 2 of 2

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.

Based on the above discussion, that the area is open to new appropriations for groundwater, the proposed appropriation of water complies with safe yield and well spacing criteria, and approval of the applications will not impair senior water rights nor prejudicially or unreasonably affect the public interest, it is recommended that the referenced applications be approved. Jeff Lanterman, Water Commissioner, Stafford Field Office, recommended approval of the referenced application on February 13, 2024.

Engelbrecht, Jessica [KDA]

From: Lanterman, Jeff
Sent: Tuesday, February 13, 2024 3:39 PM
To: Engelbrecht, Jessica [KDA]
Subject: FW: Change Application 11203 plus new application 50800

Importance: High

Follow Up Flag: Follow up
Flag Status: Completed

Jessica. I recommend approval of this package. See the discussion below regarding sending it all up to MHK with the change to be processed together as a package. Seems to work best that way usually.

I'll throw the files back on your desk.

Thanks

From: Baum, Kristen [KDA] <Kristen.Baum@ks.gov>
Sent: Tuesday, February 13, 2024 2:25 PM
To: Lanterman, Jeff <Jeff.Lanterman@ks.gov>; Engelbrecht, Jessica [KDA] <Jessica.Engelbrecht@ks.gov>; Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Cc: Neuhauser, Kris [KDA] <Kris.Neuhauser@ks.gov>
Subject: RE: Change Application 11203 plus new application 50800

I think it would be best to get them signed as a package at HQ. If Jessica has the new application ready, she can process the change with it as an HQ change and package it with the new application. Leslie, do you have an overlapping Puse example you could provide?

Kristen Baum, Environmental Scientist
DWR – Water Appropriations

From: Lanterman, Jeff <Jeff.Lanterman@ks.gov>
Sent: Tuesday, February 13, 2024 12:26 PM
To: Baum, Kristen [KDA] <Kristen.Baum@ks.gov>; Engelbrecht, Jessica [KDA] <Jessica.Engelbrecht@ks.gov>; Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Cc: Neuhauser, Kris [KDA] <Kris.Neuhauser@ks.gov>
Subject: Change Application 11203 plus new application 50800

Hey I have a change application here on 11203 to add 26 acres then a new app 50800 to add water for those additional acres. The change application is on a FO form but I don't think I have the delegation to approve it without the new app approval. Can't go past 10 acres or 10% on base per my delegation on an irrigation change PU. I could potentially sign that to make complete overlap with 50800 to make complete overlap and meet the delegation.

In the past we have sent the new app up and worked in tandem with HQ on the change app.

I am recommending approval of the new application and change application today BUT I was wondering if we should send the whole shooting match to MHK to be worked as a package?

Let me know how you want to handle this one.

Thanks
Jeff

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. 50,800** of the applicant

**MERLE YODER
3307 S MOHAWK RD
HUTCHINSON, KS 67501**

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 **May 31, 2022**.

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 | |
| 32 - 23S - 6W | 28 | 32 | 40 | 40 | | | | | | | | | 11 | 15 | | | 166 |

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 Southwest Quarter of the Southwest Quarter of the Northeast Quarter (SW¼ SW¼ NE¼) of Section 32, more particularly described as being near a point 2,650 feet North and 2,604 feet West of the Southeast corner of said section, in Township 23 South, Range 6 West, Reno County, Kansas, located substantially as shown on the topographic map accompanying the application.

4. That the appropriation sought shall be limited to a maximum diversion rate not in excess of **1,000 gallons per minute (2.23 c.f.s.)** and to a quantity not to exceed **37.1 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, 2025**, 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 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. These water flow meters 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.

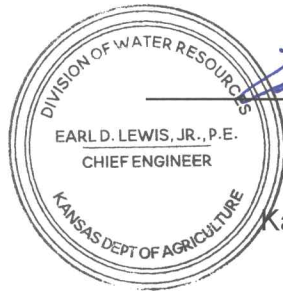
15. That no water user shall engage in nor allow the waste of any water diverted under the authority of this permit.

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 the rate of diversion of water approved under this permit is further limited to a rate which combined with Water Right, File No. 11,203, will provide a maximum diversion rate not in excess of **1,000 gallons per minute (2.23 c.f.s.)** from the well described herein.

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 14th day of March, 2024, 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 this 14 day of March, 2024, by Earl D. Lewis Jr., P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.

Melinda Jennings
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

March 26, 2024

MERLE & IRENE YODER
3307 S MOHAWK RD
HUTCHINSON KS 67501

RE: Water Right
File No. 11,203

Appropriation of Water
File Nos. 50,800

Dear Sir or Madam:

Enclosed is a permit authorizing you to proceed with construction of the proposed diversion works and to appropriate water for beneficial use as set forth in the permit. The new application has been processed in conjunction with your Application to Change the Authorized Place of Use, under Water Right, File No. 11,203, the approvals of which are also enclosed. Your attention is directed to the enclosures and to the terms, conditions, limitations, and requirements specified in the approved permit and the change orders.

For the approved permit, a 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.

Acceptable water flowmeters must be installed on all diversion works prior to using water. An annual water use report must be filed with the Chief Engineer by March 1, following the end of each calendar year. If a complete annual water use report is not received by the deadline, then a fine may be assessed, and all water use under such permit or right may be suspended. Reports submitted in paper form will be assessed a \$20 per file number paper filing fee. In order to avoid this filing fee, you may submit your report online at www.kswaterusereport.org.

The approval of your new 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 enclosed is an informational sheet that sets forth the procedure to obtain a Certificate of Appropriation which will establish the extent of the water right perfected under the new permit. 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 and Change Applications Unit Supervisor
Division of Water Resources

KAB:kak:jne

Enclosure(s)

pc: Stafford Field Office
Equus Beds GMD No. 2
Hardy C. Hutchinson

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 26 day of March, 2024, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,800, and Approval of Change in Place of Use, File No. 11,203, dated March 14, 2024, were mailed postage prepaid, first class, US mail to the following:

MERLE & IRENE YODER
3307 S MOHAWK RD
HUTCHINSON KS 67501

With photocopies to:

HARDY C HUTCHINSON
4015 S MOHAWK RD
HUTCHINSON KS 67501

KDA-DWR Stafford Field Office

Equus Beds GMD No. 2



Division of Water Resources