

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

1. File No.: 50822	2. Status Change Date: 8/30/2024	4. Field Office: 02 - Stafford GMD: Structures File No.: Filing/Priority Date: 07/01/2022 Application Complete Date:
3. Package File No(s):		
5a. <input checked="" type="checkbox"/> Applicant <input checked="" type="checkbox"/> Owner <input checked="" type="checkbox"/> WUC <input type="checkbox"/> Address Change Person ID 66669 Add Seq#	5b. <input checked="" type="checkbox"/> Owner <input type="checkbox"/> WUC <input type="checkbox"/> Address Change Person ID NEW Add Seq#	
TRENTON K & JAYSA L NICHOLS 1398 N OLIVER RD MULVANE KS 67110-8330	TYLER & JARICA CALDWELL 14832 E 79 ST S DERBY KS 67037-9682	
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: 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: REC-Recreational 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: 52 <input type="checkbox"/> New Date Requested: 7/1/2022 Applies: STATEWIDE Rule No.: YIELD OF THE SOURCE AREA EXCEEDED Rule Type: SAFE YIELD Rule SubType:		Justification: PROPOSED APPROPRIATION IS A REPLACEMENT FOR EXISTING PERMITS. SAND PIT SIZE AND LOCATION ARE DIFFERENT THAN ORIGINALLY AUTHORIZED AND CANNOT BE FIXED WITH A CHANGE APPLICATION
Comments	Processed CCB 08/23/2024	Entered 8/30/2024 KAnderson
	Reviewed KAK 8/28/2024	

File No. **50822** 13. County: **SU - SUMNER** Basin: **ARKANSAS RIVER** Stream:
 Structures File No: Aquifer Code: **113 MAIN STEM ALLUVIUM** 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
MOD	74620	NW	NE	NW	12	30S	1E	6	4738	3745	38.5	38.5	NE	NE			+
																	+
																	#
																	^
																	**
																	++

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

16. Metering 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					
																				<input type="checkbox"/>	+
																				<input type="checkbox"/>	+
																				<input type="checkbox"/>	#
																				<input type="checkbox"/>	^
MOD	70935	12	30S	1E	6	GW PIT (N2 NW) 22 AC												5a & 5b	<input type="checkbox"/>	**	
																			<input type="checkbox"/>	++	

18. Point of Diversion and Place of Use Overlaps

*	**
+	++
#	##
^	^^

MEMORANDUM TO FILE

Division of Water Resources, Water Appropriation Program

Date: August 23, 2024

From: Colin Barclay, Environmental Scientist

Re: New Application File No. 50822 – Trenton and Jaysa Nichols

Summary

Trenton and Jaysa Nichols. filed the above referenced application to appropriate 38.5 acre-feet of groundwater, at a rate of natural flow, to cover evaporative losses from an existing 22-acre groundwater pit formerly authorized under File Nos. 44471 and 44472-D1. The point of diversion is the geographic center of said pit located in the northern area of Sumner County, Kansas near the city of Mulvane. The place of use is partially owned by the applicant, and they have signed the application form affirming legal access to the point of diversion. The proposed place of use is a 22-acre groundwater pit. The applicant owns the north half of the place of use. The requested quantity of 38.5 acre-feet is to cover evaporation losses.

Reasonable Rate and Quantity

Quantity of water requested is 38.5 acre-feet for 22 acres of exposed groundwater. Quantity requested appears to be reasonable to cover evaporative losses of exposed groundwater as per K.A.R. 5-6-3 which determined 1.75 feet of evaporation per acre for this section of Sumner County, Kansas.

Source of Supply and Safe Yield

Source of supply appears to be the shallow groundwater table supplied by the nearby Arkansas River. 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 analysis 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".

DWR 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 appropriate. This is consistent with safe yield appropriation in many other basins across the state and is the current percent available 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 considerations), a Potential Annual Recharge value of 5.4 inches, and a percent of recharge available for appropriation of 75%.

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 7,846 acres. With a potential annual recharge of 5.4 inches, and 75% of recharge available for appropriation, safe yield was determined to be 2648.00 acre-feet. Existing water rights have appropriated 3,923.28 acre-feet, providing a difference of -1,275.28 acre-feet. **The application does not meet safe yield.**

However, the groundwater pit has been in existence for several years and was previously permitted under File Nos. 44471 and 44472-D1 which authorized appropriation without impairment of nearby wells. Therefore, a waiver of K.A.R. 5-3-10 and approval of the application, will have no additional impact to the groundwater supply.

Nearby Water Rights

One (1) appropriated water right was found to be within one-half ($\frac{1}{2}$) mile of the proposed point of diversion. Six (6) nearby domestic wells were provided by the applicant and confirmed through areal imagery to be within one-half ($\frac{1}{2}$) mile of the proposed point of diversion. **The existing point of diversion does not meet well spacing requirements** as the nearest domestic well is roughly 300 feet away, however, this domestic well is owned by the applicant. Other than the applicants own domestic well, the nearest domestic well (not owned by the applicant) is roughly 1,500 feet away. The nearest nondomestic well is located roughly 3,600 feet away. However, there is an appropriated water right (File No. 44876) which is a proposed sand and gravel pit that is located within one-half ($\frac{1}{2}$) mile of the point of diversion. Per the requirements of K.A.R. 5-4-4 for all other aquifers, the minimum well spacing should be one-quarter ($\frac{1}{4}$) mile to all other non-domestic wells and 660 feet to domestic wells. Nearby well notification letters were sent out on March 26, April 2, and April 24, 2024. No comments of any kind were received during the 15-day period open to comments and concerns.

Recommendations

The application was sent to Jeff Lanterman, Water Commissioner of the Stafford Field Office, and recommended for approval in an e-mail dated August 23, 2024.

The application does not comply with our regulations concerning safe yield and well spacing. However, as mentioned previously, the groundwater pit has been in existence for several years and was previously permitted under File Nos. 44471 and 44472-D1 which had previously authorized the groundwater pit without impairment of nearby wells therefore a waiver of K.A.R. 5-3-11 and a waiver of K.A.R. 5-4-4 will have no additional impact to the groundwater supply. Based on the above discussion approval of the application will not impair senior water rights nor prejudicially or unreasonably affect the public interest. Therefore, it is recommended that the referenced application be approved.



Colin Barclay
Environmental Scientist
Division of Water Resources

FW: 50822 review and recommendation

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

Fri 8/23/2024 1:13 PM

To: Barclay, Colin [KDA] <Colin.Barclay@ks.gov>; Conant, Cameron [KDA] <Cameron.Conant@ks.gov>

Ya this looks like a better way to go about it than with changes. Cleans it up a lot and we and the applicant don't really lose anything by doing it this way.

Approve it.

Thanks

From: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>

Sent: Friday, August 23, 2024 9:09 AM

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

Subject: FW: 50822 review and recommendation

Apologies Colin-this didn't get moved into the correct folder and was lost.

Jeff, this was a royal mess. They had been working with Leslie to fix a non-compliant place of use with change applications. Those changes came to us for review and we determined the issues couldn't be fixed with changes and they needed to file new apps and dismiss the rec sand pit files. We filled out new apps to properly cover the pits and new ownerships, Leslie held the changes until ultimately the changes and the old files were dismissed so the new and correct applications could be approved. This file is pretty much the same as 50646 and they probably should have went through at the same time in a perfect world since the old files were dismissed to allow these in. But, we waited on the owners for this one for a long time (many emails between myself and Trent to that end!). File No. 50646 covering the other pit has been approved and 44471 and 44472-D1 have both been dismissed already. This is all lined out and in good shape.

The FO can recommend approval of this application with the SY waiver, it serves to properly permit the existing pits and the old files have been dismissed! We should be ok waiving SY due to the offset of water from the same location from the old pits. We should use the same waiver and same justification for 50646. Please pass on to Colin if you agree.

Cameron

From: Barclay, Colin [KDA] <Colin.Barclay@ks.gov>

Sent: Thursday, May 30, 2024 3:41 PM

To: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>

Subject: Re: 50822 review and recommendation

Yes it looks like the two apps got dismissed alongside 50646 when that was approved.

50646 had a waiver for safe yield but not for well spacing. 50822 has been filed after the applicant built a new house backing up to the groundwater pit. They seemed to have put in a well when they built the house.

Colin

From: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>

Sent: Thursday, May 30, 2024 3:36 PM

To: Barclay, Colin [KDA] <Colin.Barclay@ks.gov>

Subject: RE: 50822 review and recommendation

Hmmm. These were supposed to all go through as a big packet but the landowners on the one you are working on drug their feet terrible so there was a big priority difference between them. I thought the voluntary dismissal was contingent upon approval of this one! Oh well, shouldn't really matter too much in the grand scheme of things as long as this is approved. I'll try to look it over quick tomorrow and send on to Jeff.

Did we waive spacing and all on the 50646 when it got processed?

Cameron

From: Barclay, Colin [KDA] <Colin.Barclay@ks.gov>

Sent: Thursday, May 30, 2024 3:27 PM

To: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>

Subject: Re: 50822 review and recommendation

Yes this is pretty much exactly like 50646. I misspoke on my initial email. 44472-D1 covered the previous place of use alongside 44471. 44471 and 44472-D1 has already been dismissed.

Colin

From: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>

Sent: Thursday, May 30, 2024 3:17 PM

To: Barclay, Colin [KDA] <Colin.Barclay@ks.gov>

Subject: RE: 50822 review and recommendation

Good deal, is the one you did pretty much exactly like 50646? I believe both apps and the dismissals were all fixing the same issues related to the same two pits.

Cameron

From: Barclay, Colin [KDA] <Colin.Barclay@ks.gov>
Sent: Thursday, May 30, 2024 1:25 PM
To: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Subject: Re: 50822 review and recommendation

Hey Cameron, it looks like 50646 has already been approved.

Colin

From: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Sent: Thursday, May 30, 2024 12:48 PM
To: Barclay, Colin [KDA] <Colin.Barclay@ks.gov>; Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>
Subject: RE: 50822 review and recommendation

Thanks Colin, do you also have 50646 which I think was another pending application to cover a pit that was right next to this one. This was quite a mess, I helped a lot in 2022 getting this together, I'll have to refresh myself on it a bit!

Cameron

From: Barclay, Colin [KDA] <Colin.Barclay@ks.gov>
Sent: Thursday, May 30, 2024 11:47 AM
To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>; Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Subject: 50822 review and recommendation

Jeff and Cameron,

I have attached the draft memo and safe yield report for application 50,822 for your review and recommendation. This is an existing groundwater pit that previously fell out of compliance under file numbers 44,471 and 44,472-D2. This new application is to replace the previous water right and bring the pit back into compliance with regard to place of use.

There have been a few files that have shown up since 44,472 and all of the safe yield in the area is now gone. However this is an existing groundwater pit that was previously permitted. In addition there is a well spacing

concern with regard to the applicants own domestic well, however they put that well in after the pit was already there.

I sent out nearby letters on March 26, April 2, and April 24. I have not heard back from anyone.

Please let me know if you need anything else. Thank you!

Colin Barclay

Environmental Scientist

Division of Water Resources

Kansas Department of Agriculture

Phone: (785) 564-6628

Colin.Barclay@ks.gov

Analysis Results

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

The safe yield based on the variables listed below is 2,648.00 AF.

Total prior appropriations in the circle is 4,517.78 AF. 3923.28 AF

Total quantity of water available for appropriation is 0.00 AF. -1275.28 AF

Safe Yield Variables

The area used for the analysis is set at 7,846 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 01-MAR-2024 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 36 water rights and 51 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 2699 00	IRR	NK	G					3130	4650	01	30	01E	1	WR	174.00	174.00	300.00	300.00
Same	IRR	NK	G		SE	NW	SE	1450	168	35	29	01E	1	WR				
Same	IRR	NK	G		NE	NE	SE	2635	40	02	30	01E	5	WR				
A 2724 00	MUN	NK	G		NW	NE	SW	0	0	06	30	02E	2	PD	165.85	165.85		
Same	MUN	NK	G		NW	NE	SW	0	0	06	30	02E	1	PD	295.80	295.80		
A 5180 00	IRR	NK	G			NC	NW	3830	3580	18	30	02E	3	WR	90.00	90.00	128.00	128.00
A 5786 00	IRR	NK	G		NC	E2	NE	0	0	35	29	01E	2	WR	74.00	74.00	222.00	222.00
A 16544 00	IRR	NK	G			NC	NW	3849	4101	11	30	01E	7	PD	57.00	57.00	120.00	120.00
Same	IRR	NK	G		NC	NE	SE	1967	616	10	30	01E	2	PD	16.00	16.00		
A 30677 00	IRR	NK	G		NE	SW	NE	3949	2088	13	30	01E	8	WR	138.00	138.00	170.00	170.00
A 31078 00	IRR	NK	G		SW	SW	SW	360	4640	35	29	01E	4	WR	112.00	112.00	80.00	80.00
A 31260 00	IRR	NK	G		NE	SW	NE	3949	2088	13	30	01E	8	WR	72.00	72.00	170.00	0.00
A 31261 00	IRR	NK	G		NC	N2	NW	4630	4120	36	29	01E	1	PD	50.00	50.00	200.00	200.00
Same	IRR	NK	G		NC	S2	NW	3200	3860	36	29	01E	2	PD	37.00	37.00		
A 31685 00	IRR	NK	G		SE	NW	SE	1325	1396	12	30	01E	1	WR	153.00	153.00	102.00	102.00
A 31869 00	MUN	NK	G		SW	SW	SW	110	4916	36	29	01E	4	PD	90.95	0.00		
Same	MUN	NK	G		SW	SW	SW	110	4660	36	29	01E	3	PD	89.29	0.00		
A 32205 00	IRR	NK	G		SE	NE	SW	1540	3180	36	29	01E	5	WR	234.00	234.00	162.00	162.00
A 34031 00	IRR	NK	G		SW	NW	SW	1970	5140	35	29	01E	8	WR	135.00	135.00	90.00	90.00
A 34563 00	IRR	NK	G		NE	NE	SW	2575	2656	14	30	01E	5	WR	54.00	54.00	156.00	156.00
A 34564 00	IRR	NK	G			NC	SW	1320	4000	11	30	01E	2	WR	178.00	178.00	134.80	134.80
A 36475 00	IRR	NK	G				NC	2643	2913	02	30	01E	4	WR	131.00	131.00	88.50	88.50
A 37597 00	IRR	NK	G		NW	SE	SW	1025	3855	11	30	01E	4	WR	24.00	24.00	135.00	0.00
A 39212 00	IRR	NK	G		NE	NE	SW	2575	2656	14	30	01E	5	WR	180.00	134.00	156.00	0.00
Same	IRR	NK	G		NE	NE	SW	2480	2750	14	30	01E	4	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	NK	G		NE	NE	SW	2525	2802	14	30	01E	6	WR				
Same	IRR	NK	G		NE	NE	SW	2520	3000	14	30	01E	7	WR				
A 39449 00	IRR	NK	G		NE	SW	SE	1285	1376	11	30	01E	5	WR	113.00	113.00	75.00	75.00
A 40113 00	IRR	NK	G		SW	SE	NE	2970	940	07	30	02E	21	WR	108.00	108.00	72.00	72.00
V SU 2 00	MUN	AA	G		SE	SW	NE	0	0	06	30	02E	3	WR	168.79	168.79		
A 43167 00	IRR	NK	G		NE	SW	NW	3876	4262	08	30	02E	3	WR	121.00	121.00	160.00	160.00
Same	IRR	NK	G		SE	NW	NW	4142	4259	08	30	02E	4	WR				
Same	IRR	NK	G		NE	SW	NW	3585	4323	08	30	02E	10	WR				
Same	IRR	NK	G		NE	SW	NW	3851	4010	08	30	02E	12	WR				
Same	IRR	NK	G		NE	SW	NW	3864	4214	08	30	02E	13	WR				
A 44876 00	IND	LO	G		SW	NE	SW	1600	3780	01	30	01E	5	WR	244.99	244.99		
A 46012 00	REC	NK	G					936	850	36	29	01E	6	WR	13.33	13.33		
A 49502 00	IRR	KE	G		SW	SW	NE	2874	2461	10	30	01E	3	WR	156.00	156.00	120.00	120.00
Same	IRR	KE	G		SW	SW	NE	2790	2355	10	30	01E	5	WR				
Same	IRR	KE	G		SW	SW	NE	3107	2340	10	30	01E	6	WR				
Same	IRR	KE	G		SE	SE	NW	2725	2689	10	30	01E	7	WR				
A 49518 00	IRR	KK	G		NE	NW	NW	5100	4310	24	30	01E	6	WR	88.40	88.40	68.00	68.00
Same	IRR	KK	G		NE	NW	NW	5100	4010	24	30	01E	7	WR				
Same	IRR	KK	G		NE	NW	NW	5100	4160	24	30	01E	8	WR				
A 44472 D2	IND	LR	G			NC	SW	1347	3944	12	30	01E	3	WR	167.87	167.87		
A 49585 00	IRR	KE	G		SW	SW	SW	111	4915	08	30	02E	16	WR	285.00	285.00	272.50	272.50
A 49877 00	MUN	KE	G		SW	SW	SW	110	4660	36	29	01E	3	WR	630.44	0.00		
A 49883 00	MUN	KE	G		SW	SW	SW	110	4916	36	29	01E	4	WR	630.44	0.00		
A 50515 00	IRR	AY	G		SW	SW	NW	2740	5278	13	30	01E	9	WR	208.00	208.00	160.00	49.00
Same	IRR	AY	G		SW	SW	NW	3038	5278	13	30	01E	10	WR				
Same	IRR	AY	G		SW	SW	NW	3322	5278	13	30	01E	11	WR				
A 50646 00	REC	GY	G		NW	NW	NE	5121	2159	12	30	01E	7	WR	124.25	124.25		
A 50805 00	IRR	AY	G			NC	NW	3849	4101	11	30	01E	7	WR	39.00	39.00	30.00	30.00
A 50822 00	REC	AY	G		NW	NE	NW	4732	3723	12	30	01E	6		0.00	0.00		
A 51040 00	IRR	AY	G					3259	2135	01	30	01E	7	WR	192.50	192.50	440.07	191.57
A 51157 00	IRR	AY	G		NE	SW	SW	1328	4070	13	30	01E	12	WR	163.00	163.00	125.00	0.00

Limitations

File Number	Seq Num	Limitations
A 31260 00	1	1170GPM COM/W 30677
A 31869 00	2	205.43MGY COM/W #SU002 & 2724
A 39212 00	2	188AF/YR @ 600GPM COM/W #34563
A 49877 00	1	205.430 MGY COM/W #SU-2, #2724 & #31869
A 49883 00	1	205.430 MGY COM/W ##SU-2, #2724, #31869, & #49877

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. 50,822** of the applicant

**Trenton K & Jaysa L Nichols
1398 N Oliver RD
Mulvane KS 67110-8330**

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 **July 1, 2022**.
2. That the water sought to be appropriated shall be used for recreational use to cover evaporative losses from a groundwater pit with a surface area of 22 acres, located in the North Half of the Northwest Quarter (N $\frac{1}{2}$, NW $\frac{1}{4}$) of Section 12, Township 30 South, Range 1 East, Sumner County, Kansas.
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 Northwest Quarter of the Northeast Quarter of the Northwest Quarter (NW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 12, more particularly described as being near a point 4,738 feet North and 3,745 feet West of the Southeast corner of said section, in Township 30 South, Range 1 East, Sumner 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 **38.5** 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 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.

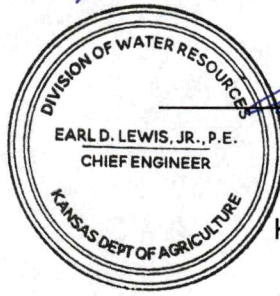
12. That no water user shall engage in nor allow the waste of any water diverted under the authority of this permit.

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, and shall not cause an unreasonable deterioration of the water quality for existing water users.

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 30th day of August, 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 30 day of August, 2024, 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

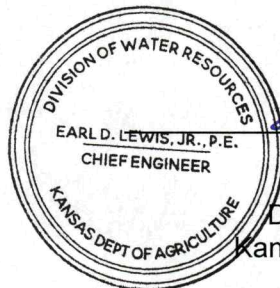
WAIVER OF REGULATION
K.A.R. 5-3-10 - Safe Yield

Date: August 30, 2024

Re: Application, File No. 50,822

1. That K.A.R. 5-3-10 states in part, that the approval of any new application to appropriate groundwater for beneficial use, shall not cause the safe yield of the source of water supply to be exceeded.
2. That the reference application contemplates the appropriation of groundwater for recreational use at the rate of natural evaporation from an existing groundwater pit.
3. That based on the safe yield calculation, when comparing precipitation recharge with existing appropriations, the area is considered to be fully appropriated.
4. That the groundwater pit was originally covered by Appropriation of Water, File Nos. 44,471 and 44,472-D1, which were voluntarily dismissed in order that this new application could be approved.
5. That the project was not completed as authorized with the completed pit being approximately 1.5 acres larger than originally authorized, requiring an appropriation for slightly more water (1.95 acre-feet) than was originally permitted.
6. That the discrepancies between what was originally authorized and what was actually constructed cannot readily be addressed with the approval of a change application on the existing file, or by other administrative orders or actions.
7. That unlike other types of beneficial use of water, such as those with wells, pumpsites or dams, the evaporative loss of water from this existing groundwater pit cannot be easily curtailed, likewise the permit holder cannot take reasonable actions to modify the water use, and doing so could result in significant loss of investment and infrastructure.
8. That approving the application with a junior priority would bring the existing (as constructed) groundwater pit into compliance with the Kansas Water Appropriation Act.
9. That a waiver of safe yield would not prejudicially or unreasonably affect the public interest, nor result in direct impairment of existing water rights.

Comments:



Earl D. Lewis Jr.

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

September 6, 2024

TRENTON K & JAYSA L NICHOLS
1398 N OLIVER RD
MULVANE KS 67110-8330

RE: Appropriation of Water
File No. 50,822

Dear Mr. and Mrs. Nichols:

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:ccb

Enclosure(s)

pc: Stafford Field Office
Tyler & Jerica Caldwell

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 6th day of September, 2024, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,822, dated August 30, 2024, was mailed postage prepaid, first class, US mail to the following:

TRENTON K & JAYSA L NICHOLS
1398 N OLIVER RD
MULVANE KS 67110-833

With photocopies to:

TYLER & JARICA WARREN
14832 E 79 ST S
DERBY KS 67037-9682

KDA-DWR Stafford Field Office



Division of Water Resources