

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

1. File No.: <b>50919</b>	2. Status Change Date:	4. Field Office: <b>02 - Stafford</b> GMD: Structures File No.: Filing/Priority Date: <b>12/01/2022</b> Application Complete Date:
3. Package File No(s): <b>43610 &amp; 46664 (PU change apps)</b>		
5a. <input checked="" type="checkbox"/> Applicant <input type="checkbox"/> Owner <input checked="" type="checkbox"/> WUC <input type="checkbox"/> Address Change Person ID <b>51581</b> Add Seq#  <b>JUSTIN NOLAND</b> <b>12728 W 95TH ST S</b> <b>CLEARWATER, KS 67026-9018</b>	5b. <input checked="" type="checkbox"/> Owner <input type="checkbox"/> WUC <input type="checkbox"/> Address Change Person ID <b>53148</b> Add Seq#  <b>MCQUILLAN FARMS INC</b> <b>12624 W 95TH ST S</b> <b>CLEARWATER, KS 67026</b>	
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: <b>12/31/2025</b> Perfection/Expiration Date: <b>12/31/2029</b>	7. Use of Water <input checked="" type="checkbox"/> Groundwater <input type="checkbox"/> Surface Water UMW: <b>IRR-Irrigation</b> 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: <b>3</b> <input type="checkbox"/> New    Date Requested: <b>5/21/2024</b> Applies:      Rule No.: <b>K.A.R. 5-3-1 (b)</b> Rule Type: <b>Application Acceptance</b> Rule SubType: <b>Application acceptable for filing.</b> Justification: <b>DWR staff provided bad advice when assisting the applicant with completion of the application form.</b>		
Comments <b>Complete point of diversion and place of use overlap with file numbers 43610 and 46664</b>	Processed <b>CCB</b> <b>5/15/2024</b>	Entered  <b>7/15/2024</b> <b>KAnderson</b>
	Reviewed <b>KAK</b> <b>7/2/2024</b>	

File No. **50919**      13. County: **SG - Sedgwick** Basin: **Ninnescah River** Stream:  
 Structures File No:      Aquifer Code: **100**      Special Use Area:

14. Points of Diversion, Rates & Quantities										Qty <b>AF</b>		Rate <b>gpm</b>		Storage Qty		Storage Rate	
PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)		Auth	Add	Auth	Add	Auth	Add	Auth/Add	Overlaps
<b>MOD</b>	<b>63037</b>	<b>NC SE</b>	<b>30</b>	<b>29</b>	<b>1W</b>	<b>1</b>	<b>1314</b>	<b>1340</b>		<b>208</b>	<b>84</b>	<b>920</b>	<b>0</b>				<b>+</b>
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																	<b>++</b>

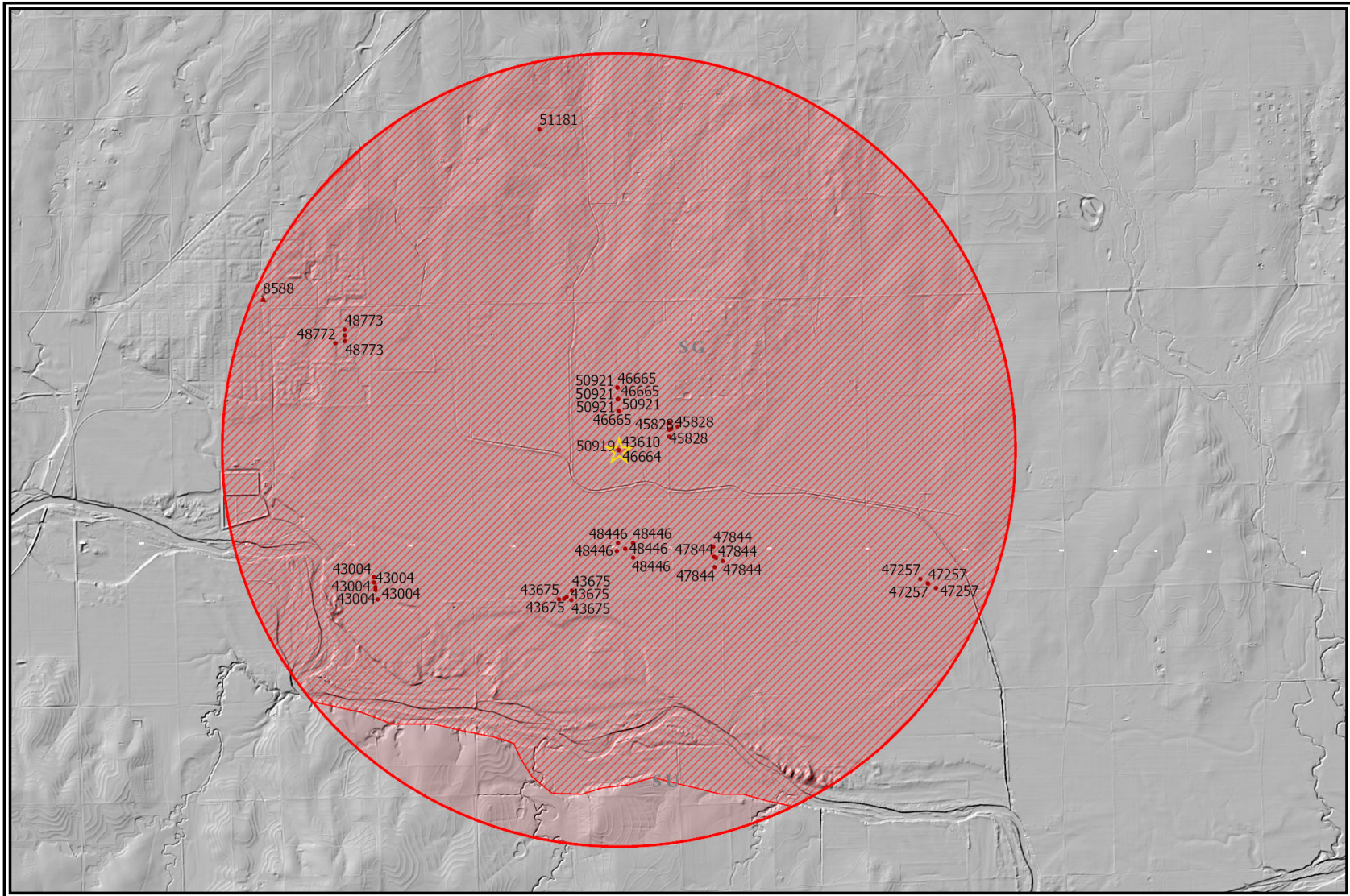
15. Limitations Type: Total combined Quantity: **208** Rate: **920** combined with file no(s): **43610 & 46664**  
 Type: **Other** Quantity: Rate: combined with file no(s):

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	NE	NW	SW	SE					
<b>MOD</b>	<b>52264</b>	<b>30</b>	<b>29</b>	<b>1W</b>	<b>1</b>													<b>40.0</b>	<b>40.0</b>	<b>40.0</b>	<b>40.0</b>	<b>160.0</b>	<b>5b</b>	<input type="checkbox"/>	<b>+</b>	
																										<input type="checkbox"/> <b>+</b>
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																										<input type="checkbox"/> <b>**</b>
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18. Point of Diversion and Place of Use Overlaps  
 \* **43,610 and 46,664**      \*\*  
 +      ++  
 #      ##  
 ^      ^^

**Safe Yield Report Sheet**  
**Water Right- A5091900**  
**Point of Diversion in 30-29S-01W**  
**Footages from SE corner- 1,314 feet North 1,340 feet West**



# Analysis Results

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

The safe yield based on the variables listed below is 2,574.82 AF.

Total prior appropriations in the circle is ~~1,656.16 AF~~. **1531.36 AF**

Total quantity of water available for appropriation is ~~918.66 AF~~. **1043.64 AF 50919 meets safe yield for an additional 84 AF**

## Safe Yield Variables

The area used for the analysis is set at 7,629 acres.

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

The percent of recharge available for appropriation is 75%.

Authorized Quantity values are as of 05-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 15 water rights and 40 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 8588 00	MUN	NK	G		SE	SE	SE	0	0	23	29	02W	2	WR	236.86	236.86		
A 43004 00	IRR	NK	G		SE	SE	NW	3055	2648	36	29	02W	2	WR	150.00	150.00	130.00	130.00
Same	IRR	NK	G		SW	SW	NE	2728	2584	36	29	02W	3	WR				
Same	IRR	NK	G		SE	SE	NW	2983	2645	36	29	02W	4	WR				
Same	IRR	NK	G		SE	SE	NW	3179	2680	36	29	02W	5	WR				
Same	IRR	NK	G		NE	SE	NW	3328	2683	36	29	02W	6	WR				
A 43610 00	IRR	NK	G			NC	SE	1314	1340	30	29	01W	1	WR	107.00	107.00	130.00	130.00
A 43675 00	IRR	NK	G		SE	SE	NW	2707	2853	31	29	01W	1	WR	195.00	195.00	130.00	130.00
Same	IRR	NK	G		SE	SE	NW	2627	2727	31	29	01W	2	WR				
Same	IRR	NK	G		SE	SE	NW	2656	3061	31	29	01W	3	WR				
Same	IRR	NK	G		SE	SE	NW	2882	2712	31	29	01W	4	WR				
Same	IRR	NK	G		SE	SE	NW	2664	2915	31	29	01W	5	WR				
A 45828 00	IRR	NK	G		SW	NW	SW	1802	5219	29	29	01W	7	WR	147.00	147.00	113.00	113.00
Same	IRR	NK	G		SW	NW	SW	1782	5276	29	29	01W	8	WR				
Same	IRR	NK	G		SW	NW	SW	1964	5282	29	29	01W	9	WR				
Same	IRR	NK	G		SW	NW	SW	1600	5270	29	29	01W	10	WR				
Same	IRR	NK	G		SW	NW	SW	1862	5047	29	29	01W	11	WR				
A 46664 00	IRR	NK	G			NC	SE	1314	1340	30	29	01W	1	WR	124.00	17.00	130.00	0.00
A 46665 00	IRR	NK	G		SE	SW	NE	2688	1348	30	29	01W	6	WR	125.00	125.00	120.00	120.00
Same	IRR	NK	G		SE	SW	NE	3000	1360	30	29	01W	7	WR				
Same	IRR	NK	G		SE	SW	NE	2686	1348	30	29	01W	8	WR				
Same	IRR	NK	G		NE	NW	SE	2377	1337	30	29	01W	9	WR				
A 47257 00	IRR	NK	G		SW	SE	NW	2799	3715	33	29	01W	1	WR	166.40	166.40	128.50	128.50
Same	IRR	NK	G		SW	SE	NW	2804	3718	33	29	01W	2	WR				
Same	IRR	NK	G		SW	SE	NW	2921	3924	33	29	01W	3	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		SW	SE	NW	2673	3503	33	29	01W	4	WR				
A 47844 00	IRR	LR	G		NE	SW	NW	3920	4208	32	29	01W	6	WR	169.00	169.00	134.00	134.00
Same	IRR	LR	G		NE	SW	NW	3658	4179	32	29	01W	7	WR				
Same	IRR	LR	G		NE	SW	NW	3370	4161	32	29	01W	8	WR				
Same	IRR	LR	G		NW	SE	NW	3530	3950	32	29	01W	9	WR				
Same	IRR	LR	G		NE	SW	NW	3620	4125	32	29	01W	10	WR				
A 48446 00	IRR	KK	G		SW	NE	NE	4135	1071	31	29	01W	7	WR	169.00	169.00	136.00	136.00
Same	IRR	KK	G		NW	SE	NE	3745	1063	31	29	01W	8	WR				
Same	IRR	KK	G		SE	NW	NE	4135	1472	31	29	01W	9	WR				
Same	IRR	KK	G		SW	NE	NE	3985	1276	31	29	01W	11	WR				
Same	IRR	KK	G		NE	SW	NE	3924	1498	31	29	01W	12	WR				
A 48772 00	IRR	LO	G		SW	NE	NW	4258	3637	25	29	02W	1	WR	24.55	24.55	31.00	31.00
A 48773 00	IRR	LG	G		SW	NE	NW	4471	3388	25	29	02W	2	WR	24.55	24.55	31.00	0.00
Same	IRR	LG	G		SW	NE	NW	4317	3385	25	29	02W	3	WR				
Same	IRR	LG	G		NW	NE	NW	4625	3390	25	29	02W	4	WR				
A 50919 00	IRR	AY	G			NC	SE	1314	1340	30	29	01W	1	WR	208.00	0.00	160.00	0.00
A 50921 00	IRR	AY	G		SE	SW	NE	2688	1348	30	29	01W	6	WR	208.00	0.00	160.00	0.00
Same	IRR	AY	G		SE	SW	NE	3000	1360	30	29	01W	7	WR				
Same	IRR	AY	G		SE	SW	NE	2686	1348	30	29	01W	8	WR				
Same	IRR	AY	G		NE	NW	SE	2377	1337	30	29	01W	9	WR				
A 51181 00	IRR	AY	G		NW	NE	NE	4620	3300	19	29	01W	2	WR	124.80	124.80	-124.80	0.00

## Limitations

File Number	Seq Num	Limitations
A 45828 00	1	OBSERVATION WELL REQUIRED 12-31-2005
A 46664 00	2	124 AF/YR @ 920 GPM COM/W #43610

# MEMORANDUM TO FILE

Division of Water Resources, Water Appropriation Program

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Date: April 23, 2024

From: Colin Barclay, Environmental Scientist

Re: New Application File No. 50,919 – Justin Noland

## Summary

Justin Noland filed the above referenced application to appropriate an additional 84 acre-feet of groundwater for a new combined authorized quantity of 208 acre-feet limited by file nos. 46,664 and 43,610 at a rate of 920 gallons per minute. The overlapping point of diversion would be an existing well located near Clearwater Kansas in the Ninnescah River basin in Sedgwick County, Kansas. The place of use is not owned by the applicant, however, they have signed the application form affirming legal access to the point of diversion. The proposed place of use is 160 acres of farm ground with a partial place of use overlap of 130 acres with file nos. 46664 and 43610. A change application will be filed to create a complete place of use and point of diversion overlap with file nos. 46664 and 43610. A waiver is being used to match the rate of application 50,919 to the perfected rate of Water Right File No. 46,664. DWR assisted the applicant with the application and unintentionally created an error with the point of diversion. Correspondence with the applicant has confirmed the applicant will not be putting in a battery of wells and the applicant will be using the same point of diversion as 46,664 and 43,610 and wants to keep the perfected rate of the senior files.

## Reasonable Rate and Quantity

Quantity of water requested is 208.00 acre-feet at a rate of 920 gallons per minute for a proposed place of use of 160 acres. **A waiver of K.A.R. 5-3-1(b) will be used to match rate to senior file 46,664 at 920 gallons per minute.** Quantity requested appears to be the maximum quantity of water allowed at 1.3 acre-feet per acre in Sedgwick County, Kansas as per K.A.R. 5-3-24. As mentioned previously, this application seeks to appropriate an additional 84 acre-feet of groundwater for a new combined authorized quantity of 208.00 acre-feet when combined with file nos. 46,664 and 43,610 which authorized 124.00 acre-feet previously.

## Source of Supply and Safe Yield

The source of supply appears to be the alluvial aquifer fed by the nearby Ninnescah 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 7,629 acres. With a potential annual recharge of 5.4 inches, and 75% of recharge available for appropriation, safe yield was determined to be 2,574.82 acre-feet. Existing water rights have appropriated 1,531.36 acre-feet, providing a difference of 1,043.64 acre-feet available for appropriation, and the application requesting an additional 84 acre-feet complies with safe yield.

## Nearby Water Rights

Two (2) appropriated wells were found to be within one-half ( $\frac{1}{2}$ ) mile of the proposed point of diversion. One (1) nearby domestic well was 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 proposed point of diversion meets well spacing requirements as the nearest domestic well is roughly 2,000 feet away and the nearest nondomestic well is located roughly 1,354.95 feet away. 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 21<sup>st</sup>, 2024. No comments of any kind were received during the 15-day period open to comments and concerns.

## Recommendations

The application complies with all regulations concerning reasonable quantity, safe yield, and minimum spacing requirements. A waiver of K.A.R. 5-3-1(b) will be used to bring the requested rate into compliance. The proposed application is subject to minimum desirable streamflow requirements. The applicant signed, notarized, and returned the required form to our office. 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  
Water Appropriation Program

**RE: 50919 review and recommendation (complete overlap with 43610 & 46664---pending p/u changes in HQ)**

Neuhauser, Kris [KDA] <Kris.Neuhauser@ks.gov>

Fri 5/24/2024 9:20 AM

To:Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>;Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>;Barclay, Colin [KDA] <Colin.Barclay@ks.gov>

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

Just talked to Colin, yes I can work these up and we'll coordinate on the package!

Kris

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**From:** Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>

**Sent:** Friday, May 24, 2024 7:48 AM

**To:** Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>; Barclay, Colin [KDA] <Colin.Barclay@ks.gov>

**Cc:** Conant, Cameron [KDA] <Cameron.Conant@ks.gov>; Neuhauser, Kris [KDA] <Kris.Neuhauser@ks.gov>

**Subject:** RE: 50919 review and recommendation (complete overlap with 43610 & 46664---pending p/u changes in HQ)

Jeff,

It would appear the changes in PU are signed out to Kris Neuhauser... so maybe he is working them.....???

I've added him to this email.. however if that is not where we need to be... the changes are probably pretty straight forward and can do.. good news is no GMD.

Leslie

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**From:** Lanterman, Jeff [KDA] <[Jeff.Lanterman@ks.gov](mailto:Jeff.Lanterman@ks.gov)>

**Sent:** Thursday, May 23, 2024 5:05 PM

**To:** Barclay, Colin [KDA] <[Colin.Barclay@ks.gov](mailto:Colin.Barclay@ks.gov)>; Ireland, Leslie [KDA] <[Leslie.Ireland@ks.gov](mailto:Leslie.Ireland@ks.gov)>

**Cc:** Conant, Cameron [KDA] <[Cameron.Conant@ks.gov](mailto:Cameron.Conant@ks.gov)>

**Subject:** FW: 50919 review and recommendation (complete overlap with 43610 & 46664---pending p/u changes in HQ)

Leslie;

We have this new app which appears ready to go for approval. But I think we should do the changes as a package to get them all approved at the same time. To make sure that we are not approving an incomplete overlap here.

Where are the associated changes at on this file? I can recommend approval on the new app if the changes are good to go.

Thanks

Jeff

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**From:** Conant, Cameron [KDA] <[Cameron.Conant@ks.gov](mailto:Cameron.Conant@ks.gov)>

**Sent:** Thursday, May 23, 2024 12:04 PM

**To:** Lanterman, Jeff [KDA] <[Jeff.Lanterman@ks.gov](mailto:Jeff.Lanterman@ks.gov)>

**Subject:** FW: 50919 review and recommendation (complete overlap with 43610 & 46664---pending p/u changes in HQ)



Jeff, see the emails that got to this point. Colin was able to get it cleared up with the applicant. The way it was filled out and showing in WRIS, I was worried this was going from a single well to a battery of wells with a couple other existing overlapping rights which would need changes and such. Thankfully that is not the case-they are simply asking for additional acres and quantity with the new application which will be stacked on the existing well and existing two files. They just aren't getting this perfected well so they are adding another file to it is what I think is happening. They currently have 2 files on a p/d overlap providing a total of 124 AF @ 920 GPM for a 130 acre pivot and are requesting an additional 84 AF (208AF total on 160 acres which is reasonable).

Colin has increased the rate on the application from 800 GPM to 920 GPM and I agree with that. 920 GPM is the rate perfected by a senior file so I'm good with a waiver of 5-3-1 (b) (increasing the rate after the app has been filed is what needs waived).

Change applications are pending on the junior files to cover the entire 160 acres to make a complete overlap with the new application. I talked to Justin on 5/23/24 and asked if he was planning to do anything different with the current pivot or corners or would he just be doing what he has been doing. I got worried this could make a very awkward perfection if he only continues to irrigate 130 acres but we have everything changed to 160. He said he does plan to modify the pivot some and would appreciate the ability to get water to the entire 160 acres. He may not end up doing it, but he does have some ideas to irrigate more than he is currently doing.

The source listed on both senior files is 100 (Quaternary) and 113 (main stem alluvium). I find it a little odd to call it both and lean towards just calling it 100, but it is just fine to maintain both sources since the seniors call it that and a new well isn't being drilled. I've attached a completed well log that I believe goes with this application even though they listed the file wrong on the log.

Area water levels are shallow and stable as evidenced by the hydrograph below which is just over a quarter mile east of this application.  
[https://geohydro.kgs.ku.edu/geohydro/wizard/wizardwelldetail.cfm?usgs\\_id=374951097273601](https://geohydro.kgs.ku.edu/geohydro/wizard/wizardwelldetail.cfm?usgs_id=374951097273601) (located just over a quarter mile east)

I think we can recommend approval of this new application for additional water and additional acreage out of an existing well and I think we need to have Colin get with Leslie and make sure the pending change applications are processed in conjunction with this new application. Providing the changes are filled out to only make a complete overlap in place of use covering 160 acres, we can recommend approval of them also----double check to make sure the changes correctly reference the single well, not a battery!

Pass on to Colin if you agree. Thanks,

*Cameron*

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**From:** Barclay, Colin [KDA] <[Colin.Barcly@ks.gov](mailto:Colin.Barcly@ks.gov)>  
**Sent:** Wednesday, May 22, 2024 11:10 AM  
**To:** Conant, Cameron [KDA] <[Cameron.Conant@ks.gov](mailto:Cameron.Conant@ks.gov)>  
**Subject:** Re: 50919 review and recommendation

Good morning Cameron,

We have cleared up confusion with the applicant and 50,919 is good to go. They are going to be using the same point of diversion that was perfected in the senior files. I am attaching my updated memo to this email for review. Please let me know if you have anymore questions.

Colin

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**From:** Conant, Cameron [KDA] <[Cameron.Conant@ks.gov](mailto:Cameron.Conant@ks.gov)>  
**Sent:** Thursday, May 16, 2024 4:10 PM  
**To:** Barclay, Colin [KDA] <[Colin.Barcly@ks.gov](mailto:Colin.Barcly@ks.gov)>  
**Subject:** RE: 50919 review and recommendation

I think we will need actual pd changes to make all this come together. Here is what I think has happened.

The original file started as a battery of 4 wells but he only completed a single well so he got certified for one well only so in WRIS the original approved wells go to inactive since they were never developed. The second file came along and overlapped a new "paper" water right on top of the existing single well for more rate and quantity out of the single well. But now it seems he wants to go back to the battery of wells that he originally started with but didn't complete! What a mess, there is an easy way and then there is this way!

*Cameron*

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**From:** Barclay, Colin [KDA] <[Colin.Barcly@ks.gov](mailto:Colin.Barcly@ks.gov)>  
**Sent:** Thursday, May 16, 2024 3:46 PM  
**To:** Conant, Cameron [KDA] <[Cameron.Conant@ks.gov](mailto:Cameron.Conant@ks.gov)>  
**Subject:** Re: 50919 review and recommendation

Cameron, I apologize, I forgot to mention the PU overlap with the senior files. The applicant has filed the change apps on the senior files and I was going to use this opportunity to learn how to do change apps as part of a package. The battery of 4 well PDs are in WRIS under 43610 but they are listed as inactive and only the geocenter is active. I will double check with Ken about seeing if they can be made active again and reducing the rate down to 800. I am not too sure what happened between 43610 and 46664 that made the PDs inactive and the rate to increase to 920 on a battery of 4 wells.

I will double check with Ken and Kristen about these and see what we need to do to get the PDs matched up and then I will reach back out to you for next steps. Thank you Cameron!

Colin

**From:** Conant, Cameron [KDA] <[Cameron.Conant@ks.gov](mailto:Cameron.Conant@ks.gov)>  
**Sent:** Thursday, May 16, 2024 3:27 PM  
**To:** Barclay, Colin [KDA] <[Colin.Barclay@ks.gov](mailto:Colin.Barclay@ks.gov)>  
**Subject:** FW: 50919 review and recommendation

Hey Colin, the two senior files are overlapped in point of diversion and place of use right now and both files only cover a single well and 130 acres. This new application is for a battery of 4 wells and 160 acres. We need to get all three apps synced up a little better I think. I don't know this for sure but it appears the goal is to go from a single well and 130 acres to a battery of 4 wells, 160 acres, and an increase in quantity to cover the additional acres. If that is the end goal, I think we need to do p/d and p/u changes on the senior files (right now we only have p/u changes filed) to create a complete p/d and p/u overlap. If we do this we'll also need voluntary reductions on File No. 46664 to get the rate down to 800 GPM per the battery of well limit and we'll need new changes filed for p/u and p/d changes on both senior files.

File 43610 is a single well authorizing 107 AF @ 800 GPM on 130 acres

File 46664 is a single well authorizing 124 AF @ 920 GPM (limited to 124 AF and 920 GPM comb with 43610)

File 50919 is a battery of 4 wells requesting 208 AF @ 800 GPM (84 additional AF)

Let me know if you have any questions. Might also check in with Kristin as to handling the p/u changes we have pending and getting new ones going for p/d change. If you need help filling out changes you can let me or Leslie know. I'm not sure where at in the process Leslie is with the pending p/u changes, not sure if we can revise them to be p/d changes also or if we need to refile them?

*Cameron*

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**From:** Barclay, Colin [KDA] <[Colin.Barclay@ks.gov](mailto:Colin.Barclay@ks.gov)>  
**Sent:** Tuesday, April 23, 2024 8:59 AM  
**To:** Lanterman, Jeff [KDA] <[Jeff.Lanterman@ks.gov](mailto:Jeff.Lanterman@ks.gov)>; Conant, Cameron [KDA] <[Cameron.Conant@ks.gov](mailto:Cameron.Conant@ks.gov)>  
**Subject:** 50919 review and recommendation

Jeff and Cameron,

I have attached the draft memo and safe yield report for 50919 for your review and recommendation. I sent out nearby letters on March 21st. We have not had any comments regarding 50919. I have also linked the nearby Wizard water wells. The nearest one, [374951097273601](#) is located about a quarter of a mile to the East of 50919. Wizard well [373020097294901](#) is located almost two miles to the Northwest in the middle of the town of Clearwater. 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](mailto:Colin.Barclay@ks.gov)

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. 50,919** of the applicant

**JUSTIN NOLAND  
12728 W 95TH ST SOUTH  
CLEARWATER KS 67026-9018**

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 **December 1, 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					
30 - 29 - 1W																	40	40	40	40	160

3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of one (1) well located near the center of the Southeast Quarter (SE¼) of Section 30, more particularly described as being near a point 1,314 feet North and 1,340 feet West of the Southeast corner of said section, in Township 29 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 **920 gallons per minute (2.05 c.f.s.)** and to a quantity not to exceed **208 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. The required water flow meter shall be used to provide an accurate quantity of water diverted as required for the annual water use report (including the meter reading at the beginning and end of the report year).

14. That the applicant shall maintain accurate and complete records from which the quantity of water diverted during each calendar year may be readily determined and the applicant shall file an annual water use report with the Chief Engineer by March 1 following the end of each calendar year. Failure to file the annual water use report by the due date shall cause the applicant to be subject to a civil penalty.

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

16. That the right to appropriate water under authority of this permit is subject to any minimum desirable streamflow requirements identified and established pursuant to K.S.A. 82a-703c for the source of supply to which this water right applies.

17. That the quantity of water and rate of diversion approved under this permit is further limited to the quantity and rate which combined with Water Right, File Nos. 43,610 and 46,664, will provide a total not to exceed **208 acre-feet** of water per calendar year for irrigation on the land described herein, to be diverted at a maximum diversion rate not in excess of **920 gallons per minute (2.05 c.f.s.)** from the well described herein.

18. That failure without cause to comply with the provisions of this 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 *12<sup>th</sup>* day of *July*, 2024, in Manhattan, Riley County, Kansas.

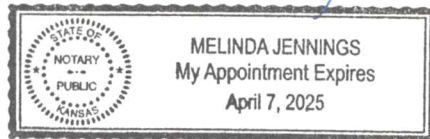


*Earl D. Lewis Jr.*  
\_\_\_\_\_  
Earl D. Lewis Jr., P.E.  
Chief Engineer  
Division of Water Resources  
Kansas Department of Agriculture

State of Kansas )  
                                  ) SS  
County of Riley )

The foregoing instrument was acknowledged before me this *12* day of *July*, 2024, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, 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. 5-3-1(b)**

Date: July 12, 2024

Re: Application, File No. 50,919

1. K.A.R. 5-3-1(b) states that when an application is received in the office of the chief engineer and assigned a number, the maximum quantity of water per calendar year and the maximum rate of diversion shall not be increased.
2. The above referenced application was filed on December 1, 2022, as part of a package of applications, which also included two (2) applications for change in place of use, under Water Right, File Nos. 43,610 and 46,664, for additional water from an existing well, for irrigation of additional acres representing an increase in place of use.
3. The application overlaps in point of diversion with Water Right, File Nos. 43,610 and 46,664, authorizing a single well with a known capacity of 920 gallons per minute, as certified under File No. 46,664.
4. The applicant was assisted with completion of the application by DWR staff.
5. The applicant should have been advised to submit the application proposing a rate of diversion of 920 gallons per minute, to match the capacity of the existing well and the maximum rate of diversion currently authorized by the existing water rights.
6. A waiver of K.A.R. 5-3-1(b) will not prejudicially or unreasonably affect the public interest and will not impair any existing water rights.

Comments:

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



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

JUSTIN NOLAND  
12728 W 95TH ST SOUTH  
CLEARWATER KS 67026-9018

RE: Appropriation of Water  
File No. 50,919

Water Right  
File Nos. 43,610 and 46,664

Dear Mr. Noland:

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.

Also enclosed are orders executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the applications for change under the referenced water rights. Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in those approvals. A condition of the approvals is that an acceptable water flowmeter must be installed on the diversion works authorized. Since these orders modify the certificates of appropriation for the above referenced water rights, they should be recorded with the Register of Deeds as other instruments affecting real estate.

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](http://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.

JUSTIN NOLAND

File Nos. 43,610, 46,664 and 50,919

Page 2 of 2

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](http://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



## 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 16 day of July, 2024, I hereby certify that the foregoing Approval of Applications for Change in Place of Use, File No. 43,610 and 46,664, and Approval of Application and Permit to Proceed, File No. 50,919, dated July 12, 2024, were mailed postage prepaid, first class, US mail to the following:

JUSTIN NOLAND  
12728 W 95TH ST SOUTH  
CLEARWATER KS 67026-9018

With photocopies to:

KDA-DWR Stafford Field Office

  
Division of Water Resources