

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 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	63042	SE SW NE	30	29	1W	6	2688	1348	GEO CTR	208	83	800	0				+
CHK	63043	SE SW NE	30	29	1W	7	3000	1360	BATT 1 OF 3								+
CHK	63044	SE SW NE	30	29	1W	8	2686	1348	BATT 2 OF 3								#
CHK	63045	NE NW SE	30	29	1W	9	2377	1337	BATT 3 OF 3								^
BATT ID 550																	**
																	++

15. Limitations Type: Total combined Quantity: **208** Rate: **800** combined with file no(s): **46665**
 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									
MOD	52265	30	29	1W	2	40.0	40.0	40.0	40.0													160.0	5b	<input type="checkbox"/>	+				
																									<input type="checkbox"/>	+			
																									<input type="checkbox"/>	#			
																									<input type="checkbox"/>	^			
																									<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: July 22, 2024

From: Colin Barclay, Environmental Scientist

Re: New Application File No. 50921 – Justin Noland

Summary

Justin Noland filed the above referenced application to appropriate an additional 83 acre-feet of groundwater for a new combined authorized quantity of 208 acre-feet limited by file no. 46,665 at a rate of 800 gallons per minute. The overlapping point of diversion would be an existing battery of three (3) wells located near Clearwater Kansas in the Ninnescah River basin in Sedgwick County, Kansas. The existing points of diversion foot distances indicate the battery is larger than 600 feet squared and would not meet K.A.R. 5-1-1(n). However, upon closer inspection of aerial imagery, the battery of three (3) wells are located within 597.27 feet of each other and do comply with K.A.R. 5-1-1(n) definition of a battery. 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 partial place of use overlap of 120 acres with file no. 46,665. A change application has been filed to create a complete place of use overlap with file no. 46,665.

Reasonable Rate and Quantity

Quantity of water requested is 208.00 acre-feet at a rate of 800 gallons per minute for a proposed place of use of 160 acres. 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. The rate requested appears to be reasonable as defined by K.A.R. 5-1-1(n). As mentioned previously, this application seeks to appropriate an additional 83 acre-feet of groundwater for a new combined authorized quantity of 208.00 acre-feet when combined with file no. 46,665 which authorized 125.00 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 located approximately 1.6 miles South of the proposed point of diversion. 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 appropriation. 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 7,957 acres. With a potential annual recharge of 5.4 inches, and 75% of recharge available for appropriation, safe yield was determined to be 2,685.48 acre-feet. Existing water rights have appropriated 1,615.36 AF providing a difference of 1,070.12 acre-feet available for appropriation, and the application requesting an additional 83 acre-feet complies with safe yield.

Nearby Water Rights

The applicant identified 9 domestic wells and 2 nondomestic wells (one owned by the applicant) located within ½ mile of the proposed point of diversion. The proposed point of diversion meets well spacing requirements as the nearest domestic well is roughly 1,600 feet away and the nearest nondomestic well is located 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 mile to all other non-domestic wells and 660 feet to domestic wells. In total 15 nearby neighbors were identified, and 15 letters were mailed out on March 26, 2024. Five (5) written complaints were submitted by well owners within one-half (½) mile of the existing point of diversion. All complaints stressed concern about the additional increase in water proposed by the applicant including concern for the possibility of future impairment of their domestic wells. However, these concerns did not provide any evidence of past impairment. Nearby USGS WIZARD groundwater monitoring well number 374951097273601, which is located approximately 1,500 feet to the Southeast of the applicant's battery has shown a stable average well depth that has fluctuated between -3 and -9 feet below land surface over the past decade. The applicant's prior water right number 46,665 has been in continuous use since 2007 and does not seem to have an impact on the WIZARD monitoring well. Taking into consideration the above discussion, impairment of nearby domestic wells seems unlikely.

Recommendations

The application was sent for consideration to Jeff Lanterman, Water Commissioner of the Stafford Field Office on June 3, 2024, and recommended for approval in an e-mail dated July 8, 2024.

The application complies with all regulations concerning reasonable quantity, safe yield, and minimum spacing requirements. Based upon the above discussion, approval of the application will most likely not impair senior water rights nor prejudicially or unreasonably affect the public interest. Therefore, it is recommended that the referenced application be approved.


FW: 50,921 review and recommendation & 46665 P/U recommendation

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

Mon 7/8/2024 10:14 AM

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

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

 4 attachments (2 MB)

50921 Memo.docx; 50921 SafeYieldReport.docx; 46665 MEMO PU_irr_with_new app meter req_2_0.docx; 50921 map.pdf;

Colin and Leslie;

I looked this over and I think the new app can be approved with the associated change application on 46665. We have a well we measure in the area and some possible observation wells we can fall back on if we get further complaints.

Lets go ahead and approve these.

Thanks

Jeff

From: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>**Sent:** Monday, July 8, 2024 8:35 AM**To:** Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>**Subject:** FW: 50,921 review and recommendation & 46665 P/U recommendation

Jeff, this is a new application stacked on top of an existing file for additional water and acreage. The senior file No. 46665 was certified for 125 AF on 120 acres (filed in 2006 certified in 2016). The new app is requesting the entire 160 acres and a full quantity of 208 AF which is reasonable for Sedgwick County.

There is a development just east of this location with domestic wells, they aren't hooked to city water or RWD water. There were 5 letters of concern that came in, Colin summed it up in his memo so take a look at the nearby water rights section. In that section he also noted the nearby hydrograph that we have been measuring since 2010 which has been pretty stable (we are measuring a battery well of 45828 which is just south of the housing development). A quick look at the domestic logs in the western part of the housing development shows a total depth of 45, 62, 75, 61, 63. One of the guys that sent in a complaint letter, Suttles, isn't even in the half mile circle and his well is 75' deep. I understand the nearby folks concerns but the irrigation wells are drilled to about 58', have SWL of ~6' according to the logs which matches the hydrograph at 8.3' in December of 2023. Spacing is met by a wide margin and there is plenty of SY available, and the nearby hydrograph looks solid, based on everything I see, this irrigation expansion is something we can approve.

I think this new application can be recommended for approval and I think the P/U change on the senior file to make a complete overlap can be recommended for approval also. Please pass on to Colin and Leslie if you agree.

Cameron

From: Barclay, Colin [KDA] <Colin.Barcly@ks.gov>**Sent:** Monday, June 3, 2024 10:06 AM

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

Subject: 50,921 review and recommendation

Jeff and Cameron,

I have attached the draft memo and safe yield report for application 50,921. This application will be stacked on top of and limited to 46,665 which is an existing battery of three wells. A change application for 46,665 has been filed and will be completed as a package with 50,921.

This application received a lot of feedback from the public. I sent out nearby letters on March 26th and we received 5 written concerns for this application. They all come from a nearby neighborhood located about a quarter mile to the North of this application. All of the written comments expressed concern for their domestic wells, however they did not provide any evidence of past impairment.

This application is the other Justin Noland app and is near 50,919 which was recommended for approval a couple of weeks ago. There is a USGS WIZARD monitoring well [linked here](#) which is about 1,500 feet to the Southeast of the existing battery of wells. Senior file 46,665 has been in continuous use since 2007.

Please let me know if you have any questions.

Thank you!

Colin Barclay

Environmental Scientist

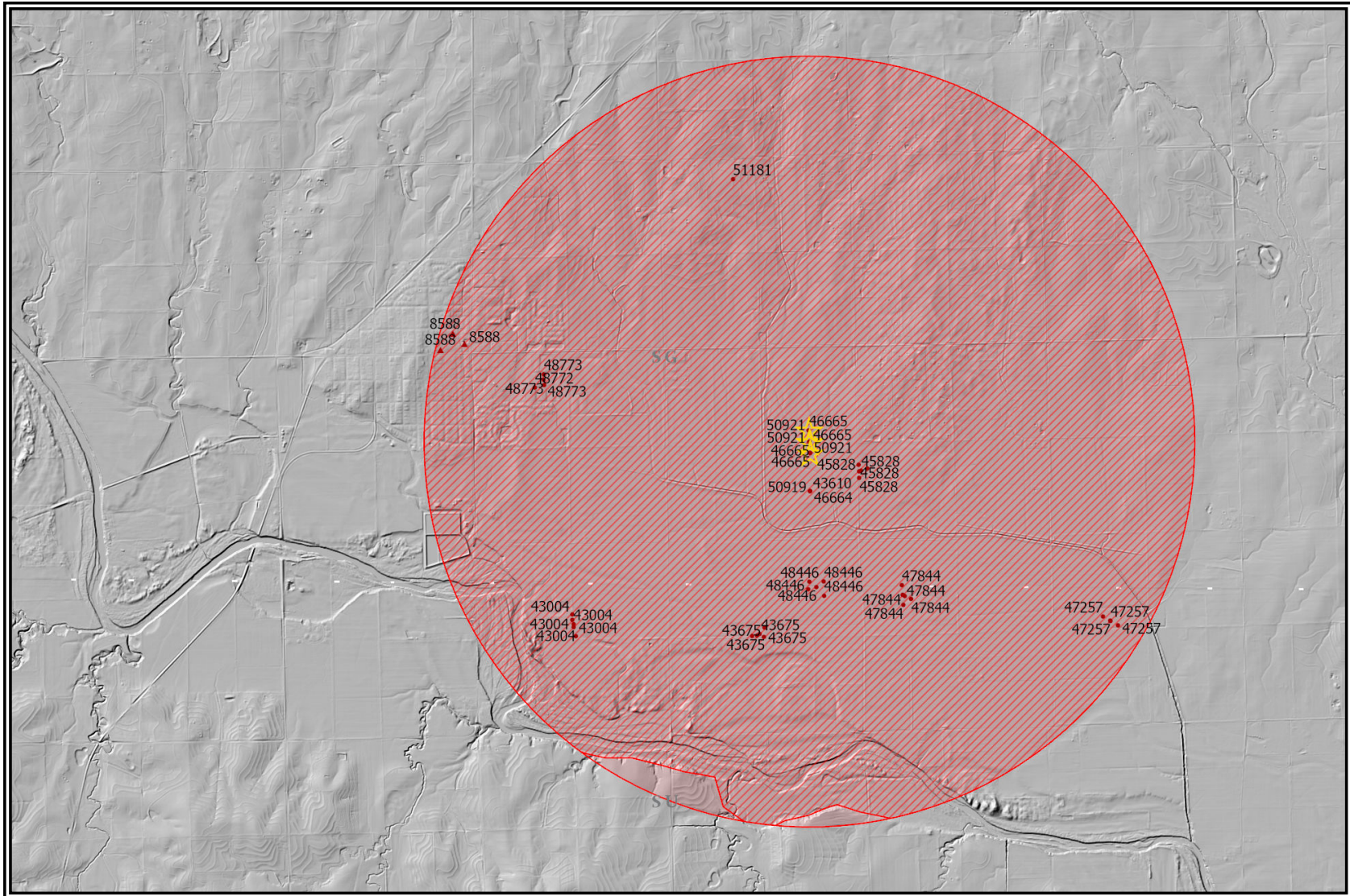
Division of Water Resources

Kansas Department of Agriculture

Phone: (785) 564-6628

Colin.Barcly@ks.gov

Safe Yield Report Sheet
Water Right- A5092100
Point of Diversion in 30-29S-01W
Footages from SE corner- 2,688 feet North 1,348 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 2,685.48 AF.

Total prior appropriations in the circle is ~~1,656.16 AF~~. **1615.36 AF**

Total quantity of water available for appropriation is ~~1,029.33 AF~~. **1070.12 AF** **50921 meets safe yield for an additional 83 AF**

Safe Yield Variables

The area used for the analysis is set at 7,957 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 42 points of diversion within the circle.

File Number	Use	ST	SR	Q4	Q3	Q2	Q1	FeetN	FeetW	Sec	Twp	Rng	ID	Qind	Auth Quant	Add Quant	Tot Acres	Net Acres
A 8588 00	MUN	NK	G		SW	SE	SE	0	0	23	29	02W	1	WR	236.86	236.86		
Same	MUN	NK	G		SE	SE	SE	0	0	23	29	02W	2	WR				
Same	MUN	NK	G		SE	SE	SE	0	0	23	29	02W	3	WR				
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

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	2804	3718	33	29	01W	2	WR					
Same	IRR	NK	G		SW	SE	NW	2921	3924	33	29	01W	3	WR					
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	+84.00	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	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

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. 50,921** 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 a battery of three (3) wells with a geographical center located in the Southeast Quarter of the Southwest Quarter of the Northeast Quarter (SE¼ SW¼ NE¼) of Section 30, more particularly described as being near a point 2,688 feet North and 1,348 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 **800 gallons per minute (1.78 c.f.s.)** and to a quantity not to exceed **208 acre-feet** of water for any calendar year.

5. 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 No. 46,665, will provide a total not to exceed **208 acre-feet** of water per calendar year to be diverted at a maximum rate of **800 gallons per minute (1.78 c.f.s.)** from the battery of wells authorized herein.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. That an acceptable water flow meter shall be installed and maintained on the diversion works authorized by this permit in accordance with Kansas Administrative Regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer. This 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).

15. 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.

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

17. 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.

18. That this permit is further limited such that all three (3) wells shall be located within a three hundred (300) foot radius circle, in the same local source of supply, shall be limited to a total maximum diversion rate not in excess of **800 gallons per minute (1.78 c.f.s.)** and shall supply water to a common distribution system.

19. 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 25th day of July, 2024, in Manhattan, Riley County, Kansas.

Lane P. Letourneau

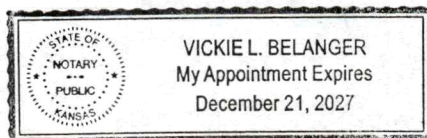
Lane P. Letourneau, P.G.
Water Appropriation Program Manager
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 25th day of July, 2024, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.

Vickie Belanger

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

August 2, 2024

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

RE: Appropriation of Water
File No. 50,921

Water Right
File No. 46,665

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, with specific reference to Paragraph Nos. 5 and 18.

Also enclosed is an order executed by the Chief Engineer approving the application for change under the referenced water right. Since the change order modifies the certificate of appropriation for the above referenced water right, it should be recorded with the Register of Deeds as other instruments affecting real estate.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in the enclosed approval documents.

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.

JUSTIN NOLAND
File No. 46,665 and 50,921
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. 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
McQuillan Farms, Inc.

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 2 day of August, 2024, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,921, and Approval of Application for Change in Place of Use under Water Right, File No. 46,665, dated July 25, 2024, were mailed postage prepaid, first class, US mail to the following:

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

With photocopies to:

KDA-DWR Stafford Field Office

MCQUILLAN FARMS INC
12624 W 95 ST S
CLEARWATER KS 67026-9017


Division of Water Resources