

File No. **50,926** 13. County: **SF-Stafford** Basin: **53-N F Ninnescah River** Stream:
 Structures File No: Aquifer Code: **180 undifferentiated Kansan/Nebraskan** 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	89949	NE	NE	SW	35	25S	12W	2	2578	2986	15	15	300	300			

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	NE	NW	SW	SE					
MOD	71156	35	25S	12W	2	WETLANDS (S2 SE NE) & (S2 SW NE) 5.8 Acres																	5a & 5b	<input type="checkbox"/>	
																								<input type="checkbox"/>	

18. Point of Diversion and Place of Use Overlaps

<p>* + # ^</p>	<p>** ++ ## ^^</p>
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MEMORANDUM TO FILE

Division of Water Resources, Water Appropriation Program

Date: May 7, 2024

From: Christa Anhold, Environmental Scientist

Re: New Application File No. 50,926 – Jason Hildebrand

Summary

Jason Hildebrand filled the above referenced application to appropriate 15 acre-feet (or 4,887,765 gallons) per calendar year of groundwater to be diverted at a maximum rate of 300 gallons per minute to fill two (2) ponds for recreational purposes from one (1) existing well in Stafford County. The point of diversion is in the North Fork Ninnescah drainage basin of Big Bend GMD No. 5. This appropriation falls under an exemption for the use of 15 acre-feet of groundwater per K.A.R. 5-25-15(a). There are no other water rights overlapping the point of diversion or place of use. The applicant signed the application stating they have legal access to the point of diversion and place of use.

Reasonable Rate and Quantity

The requested water will be used to fill and maintain water levels in two (2) lowland marsh areas over a four (4) month period each year. The lowland marshes cover roughly 5.8 acres with an average depth of 1.5 feet. The quantity of water requested was calculated as follows:

Evaporation: $5.8 \text{ acres} \times 32 \text{ inches} \times (1 \text{ foot} / 12 \text{ inches}) = 15.46 \text{ AF/year}$

Evap. cont.: $15.46 \text{ AF/year} \times (1 \text{ yr} / 12 \text{ months}) \times 4 \text{ months} = 5.15 \text{ AF}$

Storage: $5.8 \text{ acres} \times 1.5' \text{ average depth} = 8.7 \text{ AF}$

Seepage = 1.15 AF

Total AF: $5.15 \text{ AF} + 8.7 \text{ AF} + 1.15 \text{ AF} = 15 \text{ AF}$

A diversion rate of 300 gallons per minute appears to be reasonable for the area based on nearby pumping rates.

Source of Supply and Safe Yield

This application must comply with GMD No. 5 regulations for small use exemptions put forth in K.A.R. 5-25-15 for approval. The following outlines how the applicant meets these regulatory requirements.

(a)(1): According to WWC5 there are several domestic, irrigation and oil field water supply wells within a one-mile radius of the proposed point of diversion but no small use exemption wells.

(a)(2): The proposed point of diversion is 1,400 feet from the nearest non-domestic well and 2,800 feet from the nearest domestic well.

(a)(3): the application does not seek to appropriate additional water from an existing non-domestic vested right, permit or water right. There are no water rights that overlap the place of use or point of diversion.

(a)(4): the applicant does not appear to impair existing water rights or unreasonably affect public interest.

(a)(5): all requirements for processing a new application for water appropriation are met.

(b): this application does not conflict with any provisions set forth by K.S.A. 82a-1036 through K.S.A 82a-1040.

(c) and (d): this application is to appropriate water from the North Fork Ninnescah drainage basin.

Permits to appropriate 15 acre-feet of water or less are exempt from safe yield pursuant to K.A.R. 5-25-15. Therefore, no safe yield analysis was performed.

A well log provided with the application indicates topsoil and clay from surface to 32 feet, sand and clay from 32 to 40 feet and sand and gravel from 40 to 69 feet. Static water level was measured at 32 feet below ground surface. From the well log provided, neighboring wells and the “Geology and Ground-water Resources of Barton and Stafford Counties, Kansas” KGS Bulletin 88, the source of supply is likely undifferentiated Kansan/Nebraskan formations.

Nearby Water Rights

The applicant provided the location of one non-domestic well (File No. 22,998) which is 1,400 feet from the point of diversion. The closest domestic well is 2,800 feet from the proposed point of diversion. Minimum well spacing criteria per K.A.R. 6-25-2 is met. Both wells are owned by the applicant, no notifications were made.

Recommendations

In a letter date March 27, 2024, Big Bend GMD No. 5 Manager, Orrin Feril, recommended approval of the application.

The application was sent for consideration to Jeff Lanterman, Water Commissioner, and Cameron Conant, Assistant Water Commissioner, of the Stafford Field Office on May 7, 2024, and was recommended for approval by Jeff Lanterman in an email dated May 15, 2024.

The application complies with all regulations concerning reasonable quantity, safe yield, and minimum spacing requirements. 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.



Christa Anhold
Environmental Scientist
Water Appropriation Program

Tom Taylor - At-Large (Pres.)
Fred Grunder - Pratt (V Pres.)
John Janssen - Kiowa (Treas.)
Marlyn Spare - Stafford (Sec.)
Darrell Wood - Edwards
Craig Zwick - Rice
Joe Schlessiger - Barton
Kerry Froetschner - Pawnee
Gary Hornbaker - Reno



Orrin Feril, Manager
125 South Main Street
Stafford, Kansas 67578
ph: (620) 234-5352
fx: (620) 234-5718
gmd5@gmd5.org
www.gmd5.org

March 27, 2024

Christa Anhold
Division of Water Resources
Kansas Department of Agriculture
300 S. Main Street
Stafford, Kansas 67578-1342

RE: Application File No. 50,926

Dear Ms. Anhold,

The Big Bend Groundwater Management District #5 has reviewed the above referenced application for appropriation. The District is closed to further new surface and groundwater appropriations except those that are exempt from the closure per K.A.R. 5-25-4 (b).

Based upon information received in the District office, the application meets the requirements of K.A.R. 5-25-4 (b)(9) and is therefore recommended for approval provided that the total size of the ponds do not exceed 5.8 acres collectively.

Please feel free to give me a call if you have any questions.

Sincerely,

Orrin Feril
Manager

From: Lanterman, Jeff [KDA]
Sent: Wed 5/15/2024 12:51 PM
To: Anhold, Christa [KDA]
Cc: Conant, Cameron [KDA]
Subject: RE: 50926 Recommendation Request
Attachments: 50926_Memo.docx

Christa;

Thank you so much for including area water level hydrographs with your recommendation requests! Helps us review these things.

I recommend approval of this application.

I did make some pretty significant comments and revisions to your memorandum in redline and strikethrough attached.

Let me know if you have any questions on that.

Thanks

Jeff Lanterman PG, Water Commissioner
Kansas Department of Agriculture
Division of Water Resources
(620)234-5311
jeff.lanterman@ks.gov
<https://agriculture.ks.gov/divisions-programs/dwr>

From: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Sent: Wednesday, May 15, 2024 9:29 AM
To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>
Subject: FW: 50926 Recommendation Request

I won't review this for you unless you want me to. This is a 15 AF exemption of Hildebrand and does not require an offset. This has gone through GMD and nearby well notifications with no issue I think this should be ok to move forward. They are using an existing well to fill small recreational waterfowl ponds.

The two Hildebrand apps were filed before Brensing's 15 AF exemptions you just recommended approval on, so I'd like to make sure the Hildebrand ones are going through the final approval up in HQ at the same time as Brensing if that makes sense. Let me know if you want a full review from me.

Cameron

From: Anhold, Christa [KDA] <Christa.Anhold@ks.gov>
Sent: Tuesday, May 7, 2024 7:52 AM
To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>; Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Subject: 50926 Recommendation Request

Good morning,

Attached is a draft memo for 50,926 for your review and recommendation. There are no nearby water users in a half-mile to notify. Big Bend GMD 5 recommended approval of the application on March 27, 2024.

Here are the links to hydrographs within a 2-mile radius as well as their distance from the proposed point of diversion.

set of 3 at 0.6 miles:

https://geohydro.kgs.ku.edu/geohydro/wizard/wizardwelldetail.cfm?usgs_id=374950098355703

https://geohydro.kgs.ku.edu/geohydro/wizard/wizardwelldetail.cfm?usgs_id=374950098355702

https://geohydro.kgs.ku.edu/geohydro/wizard/wizardwelldetail.cfm?usgs_id=374950098355701

1 mile:

https://geohydro.kgs.ku.edu/geohydro/wizard/wizardwelldetail.cfm?usgs_id=3749180983552011

1.5 miles:

https://geohydro.kgs.ku.edu/geohydro/wizard/wizardwelldetail.cfm?usgs_id=3748410983552011

Please let me know if you need anything else.

Christa Anhold
Environmental Scientist
Department of Water Resources
(785)-564-6644
Christa.anhold@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. 50,926** of the applicant

**JASON HILDEBRAND
718 NE 20TH ST
STAFFORD KS 67578-7802**

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 15, 2022**.
2. That the water sought to be appropriated shall be used for recreational use in wetlands with a maximum combined surface area of 5.8 acres, one (1) located in the South Half of the Southeast Quarter of the Northwest Quarter (S $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$), and one (1) located in the South Half of the Southwest Quarter of the Northeast Quarter (S $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$), both in Section 35, Township 25 South, Range 12 West, Stafford County, Kansas.
3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of one (1) well located in the Northeast Quarter of the Northeast Quarter of the Southwest Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 35, more particularly described as being near a point 2,578 feet North and 2,986 feet West of the Southeast corner of said section, in Township 25 South, Range 12 West, Stafford 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 **300 gallons per minute (0.67 c.f.s.)** and to a quantity not to exceed **15 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 failure without cause to comply with 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 23 day of May, 2024, in Manhattan, Riley County, Kansas.

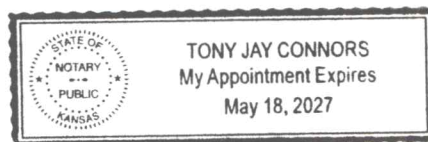
Lane P. Letourneau

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 23 day of May, 2024, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.

Tony Jay Connors
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

May 28, 2024

JASON HILDEBRAND
718 NE 20TH ST
STAFFORD KS 67578-7802

RE: Appropriation of Water
File Nos. 50,926 and 50,927

Dear Mr. Hildebrand:

Enclosed are permits authorizing you to proceed with construction of the proposed diversion works and to appropriate water for beneficial use. Your attention is directed to the enclosures and to the terms, conditions, limitations, and requirements specified in these permits.

Notices must be filed on the enclosed forms 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 the permit(s). If you need an extension of time, you must request it before the deadline for completion set forth in the permits. Any request for an extension of time must be accompanied by the statutorily required fee, which is currently \$100.00, per file number.

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 applications constitutes permits to appropriate water. They do not give authority to construct any dam or other stream obstruction regulated by K.S.A. 82a-301 through 305a. They do 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 Unit Supervisor
Division of Water Resources

KAB:kak:cla

Enclosure(s)

pc: Mary K. and Mary E. Living Trust
Stafford Field Office
Big Bend GMD No. 5

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 28 day of May, 2024, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File Nos. 50,926 and 50,927, dated May 23, 2024, were mailed postage prepaid, first class, US mail to the following:

Original to:

JASON HILDEBRAND
718 NE 20TH ST
STAFFORD KS 67578-7802

With photocopies to:

NORMAN K & MARY E LIVING TRUST
723 SE 80TH STREET
STAFFORD KS 67578

KDA-DWR STAFFORD Field Office

Big Bend GMD No. 5


Division of Water Resources