

MEMORANDUM TO FILE

Division of Water Resources, Water Appropriation Program

Date: July 10, 2024

From: Colin Barclay, Environmental Scientist

Re: New Application File No. 50982 – Coljud 1 LLC

Summary

Coljud 1 LLC has filed the above referenced application to appropriate 20.0 acre-feet of surface water directly out of a tributary of Cow Creek for storage in a 5-acre reservoir for recreational use in Rice County, Kansas. The rate of diversion is at a rate of natural flows. Application, File No. 50,982, was filed in conjunction with Application, File No. 50,983, which proposes an additional 15 acre-feet for maintaining water levels in the reservoir. The applicant has signed the application form affirming legal access to the point of diversion. File Nos. 50,982 and 50,983 will have a complete place of use overlap. Structures has determined the reservoir does not require permitting.

Reasonable Quantity and Safe Yield

Maximum reasonable quantity was determined to be 20.0 acre-feet. As per K.A.R. 5-6-5 maximum reasonable annual quantity for storage of water for beneficial use in a reservoir. The maximum reasonable annual quantity in a reservoir shall be limited to the lesser of the following.

As per K.A.R. 5-6-4, a runoff calculation was prepared and found that 2313.32 acre-feet of runoff could be expected on a 20% chance of occurrence from the following variables.

- 4428.8-acre drainage area.
- Mean annual precipitation of 27 inches per year.
- Soil covers complex number of 77.

As per K.A.R. 5-6-5(b)(1)(A) and (B) Three years of direct and indirect use was calculated to be 45 acre-feet of water.

- 0 acre-feet of direct use per year (recreational use).
- 15 acre-feet of indirect use = 12.08 acre-feet of evaporation + 2.92 acre-feet of seepage.
 - 12.08 acre-feet of evaporation per year = 29 inches of net evaporation / 12 inches per foot = 2.417 feet of net evaporation x 5 surface acres.
 - 2.92 acre-feet of seepage per year = .0192 inches of seepage per acre per day (.0192 / 12) x 5.0 acres x 365 days.
- 45 acre-feet = 15.0 acre-feet per year x 3 years.

As per K.A.R. 5-6-5(2)(A) 1 year of direct, indirect, and reservoir capacity was calculated to be 20.0 acre-feet of water.

- 0 acre-feet of direct use (recreational use).
- 15 acre-feet of indirect use = 12.08 acre-feet of evaporation + 2.92 acre-feet of seepage.
 - 12.08 acre-feet of evaporation per year = 29 inches of net evaporation / 12 inches per foot = 2.417 feet of net evaporation x 5 surface acres.
 - 2.92 acre-feet of seepage per year = .0192 inches of seepage per acre per day (.0192 / 12) x 5.0 acres x 365 days.

- Reservoir capacity is 6 acre-feet (5 acres x 4 feet of depth x .3).
- 20 acre-feet = 0 acre-feet of direct use + 15 acre-feet of indirect use + 5 acre-feet of reservoir capacity.

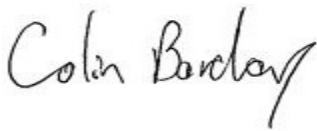
Nearby Water Rights

Four nearby neighbors were found to be within one-half ($\frac{1}{2}$) mile upstream and downstream from the edge of the property boundary. Four (4) nearby notification letters were sent out on April 30, 2024. No responses of any kind were received during the 15-day period open to comments and concerns.

Recommendations

The application was sent for consideration to Jeff Lanterman, Water Commissioner of the Stafford Field Office on May 21, 2024, and recommended for approval in an e-mail dated July 9, 2024.

The application complies with all regulations concerning reasonable quantity, safe yield, and minimum spacing requirements. 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: 50982 and 50983 review and recommendation

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

Tue 7/9/2024 11:04 AM

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

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

Yes, that works. Thank you!

From: Barclay, Colin [KDA] <Colin.Barclay@ks.gov>**Sent:** Tuesday, July 9, 2024 11:03 AM**To:** Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>**Cc:** Conant, Cameron [KDA] <Cameron.Conant@ks.gov>**Subject:** Re: 50982 and 50983 review and recommendation

Jeff,

Thank you for catching that. I just received permission from the applicant in an email that is now in DocuWare. I have updated the rate to 50 gallons per minute to comply with 5-3-16(b)(5).

Is the application good to go?

Best,

Colin

From: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>**Sent:** Monday, July 8, 2024 4:03 PM**To:** Barclay, Colin [KDA] <Colin.Barclay@ks.gov>**Cc:** Conant, Cameron [KDA] <Cameron.Conant@ks.gov>**Subject:** FW: 50982 and 50983 review and recommendation

Colin;

Cameron and I chatted these over. I think I am OK with the approval of these two files with one change below.

On 50983 Since this we reduced this to a SY exemption don't we need to reduce the rate to 50 GPM per 5-3-16(b)(5)

Thanks

Jeff

From: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>**Sent:** Monday, July 8, 2024 3:06 PM**To:** Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>**Subject:** FW: 50982 and 50983 review and recommendation

Jeff, this is a set of files, 50892 is a surface water permit that is covering an existing pond that has been around for a very long time. It doesn't appear that they are changing the pond size at all it is remaining right around 5 acres, they are just wanting to cover it with a recreational SW permit and also a GW permit to pump a well into it to replace evaporation/seepage in dry years. Most years the pond has water...2011 was dry, 2021 had less water than normal but wasn't dry. I wonder if the surface water

portion could be considered a small use, small storage exemption under KSA 82a-728? Look that over with me will you? We have revised the SW application to be 20 AF (15 AF of indirect use (evap and seepage) + 5 AF of capacity for 20 AF total)-----a 5 acre pond that has capacity of 5 AF + 12.08 AF of evap + 2.92 AF of seepage = 20 AF. I feel like if we saw just the pond we'd not chase a permit on it, holds only 5 AF and evaps 12 AF when totally full, not something we'd seek to permit. Also there are cattle at this pond frequently in aerial photos, a case could be made to get rid of the surface application and just go with the GW app. All that said, they have filed it as a rec use for hunting, so we could keep on the same track and go with both the SW and GW, just wanted to point it out to you and see if you wanted to try to simplify the packet or not.

For File No. 50983, they are requesting a single well to fill the pond, the hydrograph link in Colins email is from an irrigation well about ¾ mile to the SW of these files, it shows stable water level. There isn't much development around here, this is located about 1.5 miles south of cow creek in Rice County, 2 miles outside GMD#5. SY is not met so they have applied for a 15 AF exemption. There are 5 irrigation rights in the 2 mile circle and that ate up all the SY.

I haven't seen the well log but Colin noted it was 60' deep with a SWL of 5'. He called it Wisconsinan and Illinoian stage Sanborn. The irrigation wells that eat up the 2 mile circle are similar depth and they stop in a clay layer around 70' deep, seem to have varying sands from the 30's to 60's, logs don't look amazing but the irrigation wells are getting 800 GPM from the batteries. There really should be plenty for this recreational well to operate in it's limited requested capacity. Spacing is met by a wide margin, well over a ¼ mile from nearest domestic and over 4,000 feet to the nearest permitted right. I don't have any concerns with the GW portion and I don't think anything is harmed by pumping into the pond.

I'd like your thoughts on the surface water portion falling under the small use small storage exemption KSA 82a-728 and I'm good with the GW well pumping into the pond either way. We can recommend approval of both apps or just the GW, whichever way you think is most appropriate. Please pass on to Colin if you agree.

Cameron

From: Barclay, Colin [KDA] <Colin.Barcly@ks.gov>
Sent: Tuesday, June 25, 2024 8:41 AM
To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>; Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Subject: Re: 50982 and 50983 review and recommendation

Good morning Jeff and Cameron,

I am following up on applications 50,982 and 50,983 for my applicant J.C. Bosch with Coljud 1 LLC. Has there been any update on these applications?

Best,

Colin

From: Barclay, Colin [KDA]
Sent: Tuesday, May 21, 2024 9:15 AM
To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>; Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Subject: 50982 and 50983 review and recommendation

Jeff and Cameron,

I have attached my draft memo's for applications 50982 and 50983 for your review and recommendation. These two apps are paired together for a recreational reservoir in Rice County. The applicant is claiming the 15 acre-foot exemption on 50983 for his groundwater well as the area is fully appropriated. The nearest wizard well in the area is roughly a mile south of the proposed well and I have linked it [here](#). I have also included my safe yield report for 50983. I sent out nearby letters on April 30th and have not heard back from anyone. Please let me know if you need any additional info.

Thank you!

Colin Barclay

Environmental Scientist

Division of Water Resources

Kansas Department of Agriculture

Phone: (785) 564-6628

Colin.Barcly@ks.gov

RE: Possible permitting

Phillips, Janelle [KDA] <Janelle.Phillips@ks.gov>

Mon 4/15/2024 11:41 AM

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

Good morning Colin –

A structures permit is not required for this pond. Thank you

Janelle

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

Sent: Monday, April 15, 2024 11:33 AM

To: Phillips, Janelle [KDA] <Janelle.Phillips@ks.gov>

Subject: Possible permitting

Good morning Janelle,

I wanted to check with you to see if a reservoir has any permitting or needs any permitting. The reservoir is located in Section 5, Township 19S, Range 10 West. (38.42296, -98.45041) (WR. File Nos. 50982, 50983). The applicant is Coljud 1 LLC.

Thank you!

-Colin

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. 50,982** of the applicant

**COLJUD 1 LLC
3208 BROADWAY
GREAT BEND, KS 67530**

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 **February, 27, 2023**.
2. That the water sought to be appropriated shall be used for recreational use in a reservoir, with a surface area of not greater than five (5) acres, located in the North Half of the Southwest Quarter of the Southeast Quarter (N $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 5, in Township 19 South, Range 10 West, Rice County, Kansas.
3. That the appropriation sought shall be limited to all natural flows of an unnamed tributary of Cow Creek, designated in the office of the Chief Engineer as Cow Creek Trib 2, not needed to satisfy all vested rights and prior appropriation rights to be incrementally accumulated as reservoir storage space becomes available to a maximum extent of **20 acre-feet** of water per calendar year in a reservoir created by a water control structure located in the Northwest Quarter of the Southwest Quarter of the Southeast Quarter (NW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 5, more particularly described as being near a point 1,073 feet North and 2,148 feet West of the Southeast corner of said section, in Township 19 South, Range 10 West, Rice County, Kansas, located substantially as shown on the topographic map accompanying the application.
4. 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.

5. 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

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

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

13. That the 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.

14. That diversion of natural flows shall not take place unless there is water available to satisfy all demands by senior water rights and permits.

15. 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 18 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 18 day of July, 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

July 25, 2024

COLJUD 1 LLC
3208 BROADWAY
GREAT BEND KS 67530-3716

RE: Appropriation of Water
File Nos. 50,982 and 50,983

Dear Sir or Madam:

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 each permit.

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 permits. If you need an extension of time, you must request it before the deadlines 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 Certificates of Appropriation which will establish the extent of your perfected water rights. 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

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 25th day of July, 2024, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File Nos. 50,982 and 50,983, dated July 18, 2024, were mailed postage prepaid, first class, US mail to the following:

COLJUD 1 LLC
3208 BROADWAY
GREAT BEND, KS 67530

With photocopies to:

KDA-DWR Stafford Field Office



Division of Water Resources