

File No. **51,000** 13. County: **WS - Washington** Basin: **Republican River** Stream: **N/A**
 Structures File No: Aquifer Code: **330 Dakota aquifer system (unconfined)** Special Use Area:

14. Points of Diversion, Rates & Quantities

PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Qty AF		Rate gpm		Storage Qty AF		Storage Rate	
									Auth	Add	Auth	Add	Auth	Add	Auth/Add	Overlaps
MOD	90205	NC NW	8	4S	2E	1	3,960	3,960	192	192	2000	2000				

15. Limitations **NEW** Type: Quantity: **AF** Rate: **gpm** combined with file no(s):
NEW Type: Quantity: **AF** Rate: **gpm** combined with file no(s):

16. Metering Metering Required Anti-Reverse Required Seal Required Compliance Date: **12/31/2025**

17. Place of Use

PUSE	S	T	R	ID	NE¼				NW¼				SW¼				SE¼				Total	Owner(s)	Chg?	Overlaps					
					NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE									
CHK	71308	8	4S	2E	1					40.0	40.0	40.0	40.0													160.00	5a & 5b	<input type="checkbox"/>	
																										0.00		<input type="checkbox"/>	
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18. Point of Diversion and Place of Use Overlaps

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MEMORANDUM TO FILE

Division of Water Resources, Water Appropriation Program

Date: July 3, 2024

From: Colin Barclay, Environmental Scientist

Re: New Application File No. 51,000 – Mark Leiszler

Summary

Mark Leiszler filed the above referenced application to appropriate 192 acre-feet of groundwater, at a rate of 2,000 gallons per minute. The proposed point of diversion would be a single well located in the Republican River drainage basin in Washington County, Kansas. The place of use is fully owned by the applicant, and they have signed the application form affirming legal access to the point of diversion. The proposed place of use is 160 acres of farm ground.

Reasonable Rate and Quantity

Quantity of water requested is 192 acre-feet at a rate of 2,000 gallons per minute for a proposed place of use of 160 acres. Quantity requested appears to be reasonable as it is the maximum quantity of water allowed at 1.2 acre-feet per acre in Washington County, Kansas as per K.A.R. 5-3-24.

Source of Supply and Safe Yield

The source of supply for the proposed point of diversion appears to be the unconfined Dakota aquifer. 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 8,042 acres. With a potential annual recharge of 2.7 inches, and 75% of recharge available for appropriation, safe yield was determined to be 1,357.17 acre-feet. Existing water rights have appropriated 95.00 acre-feet, providing a difference of 1,262.17 acre-feet available for appropriation, and the application requesting 192.00 complies with safe yield.

Nearby Water Rights

No appropriated wells were found to be within one-half ($\frac{1}{2}$) mile of the proposed point of diversion. Four (4) possible nearby domestic wells were found 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 known domestic well is roughly 2,300 feet away and the nearest nondomestic well is located roughly 9,777 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 located within the unconfined Dakota aquifer and 1,320 feet to domestic wells. Nearby well notification letters were sent out on June 5, 2024.

One phone call was received from Firman Brandt, where he was concerned for his domestic well. Mr. Brandt asked about our regulations and what was in place to protect his domestic well. Mr. Brandt was informed to submit any comments in writing that he might want to put in with the application. No written comments were received.

Another phone call was received from Dean Wilkens, where he was concerned for his property's access to water. After a brief discussion of the proposed project and an explanation of our regulations concerning domestic water rights, Mr. Wilkens was informed to submit any comments in writing that he might want to have put in with the application. One written comment from Dean and Connie Wilkens was received, dated June 17, 2024. In this letter, Mr. and Mrs. Wilkens explained that they have a spring fed water tank that they use for watering cattle. They wanted a letter confirming their "first right to water" for their cattle in case of impairment. In a response letter mailed July 1, 2024, a copy of K.S.A. 82a-707 was included to help reaffirm the process for priority and to hopefully answer any final questions they might have about the process.

Recommendations

The application was sent for consideration to Nathan Westrup, Water Commissioner of the Topeka Field Office on July 1, 2024, and recommended for approval in an e-mail dated July 3, 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.



Colin Barclay
Environmental Scientist
Water Appropriation Program

RE: 51000 review and recommendation request

Westrup, Nathan <Nathan.Westrup@ks.gov>

Wed 7/3/2024 11:12 AM

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

Hey Colin,

I don't have any major concerns with this application but I do have some questions.

Generally, I am seeking a better understanding of how the Dakota applications are processed/evaluated. Are you strictly using the KGS delineated boundary between confined and outcrop areas as confined/unconfined? I seem to remember (20 years ago or so) that Munson was working on defining some units within the Dakota – maybe even calling some areas semi-confined. I can't remember if he was working on alternative recharge numbers or what. Do we ever specify at what levels the well can be screened? Do you have a map with the location of the nearby wells and spring? Maybe it is in Docuware but I can't access now... Did you attempt to find well logs for the 4 domestics?

Thanks,

Nathan Westrup, Water Commissioner

Topeka Field Office

Division of Water Resources

Kansas Department of Agriculture

Phone: 785-296-7064

Mobile: 785-230-2991

Nathan.Westrup@ks.gov

From: Barclay, Colin [KDA] <Colin.Barclay@ks.gov>**Sent:** Monday, July 1, 2024 2:48 PM**To:** Westrup, Nathan [KDA] <Nathan.Westrup@ks.gov>; Johnson, Shaun [KDA] <Shaun.Johnson@ks.gov>**Subject:** 51000 review and recommendation request

Nathan and Shaun,

I have attached my draft memo and safe yield report for application 51,000 for your review and recommendation. This appears to be an unconfined Dakota well. I sent out nearby letters on June 5. I had two phone calls and one written comment that I have documented in my memo.

Please let me know if you have any questions.

Best,

Colin Barclay

Environmental Scientist

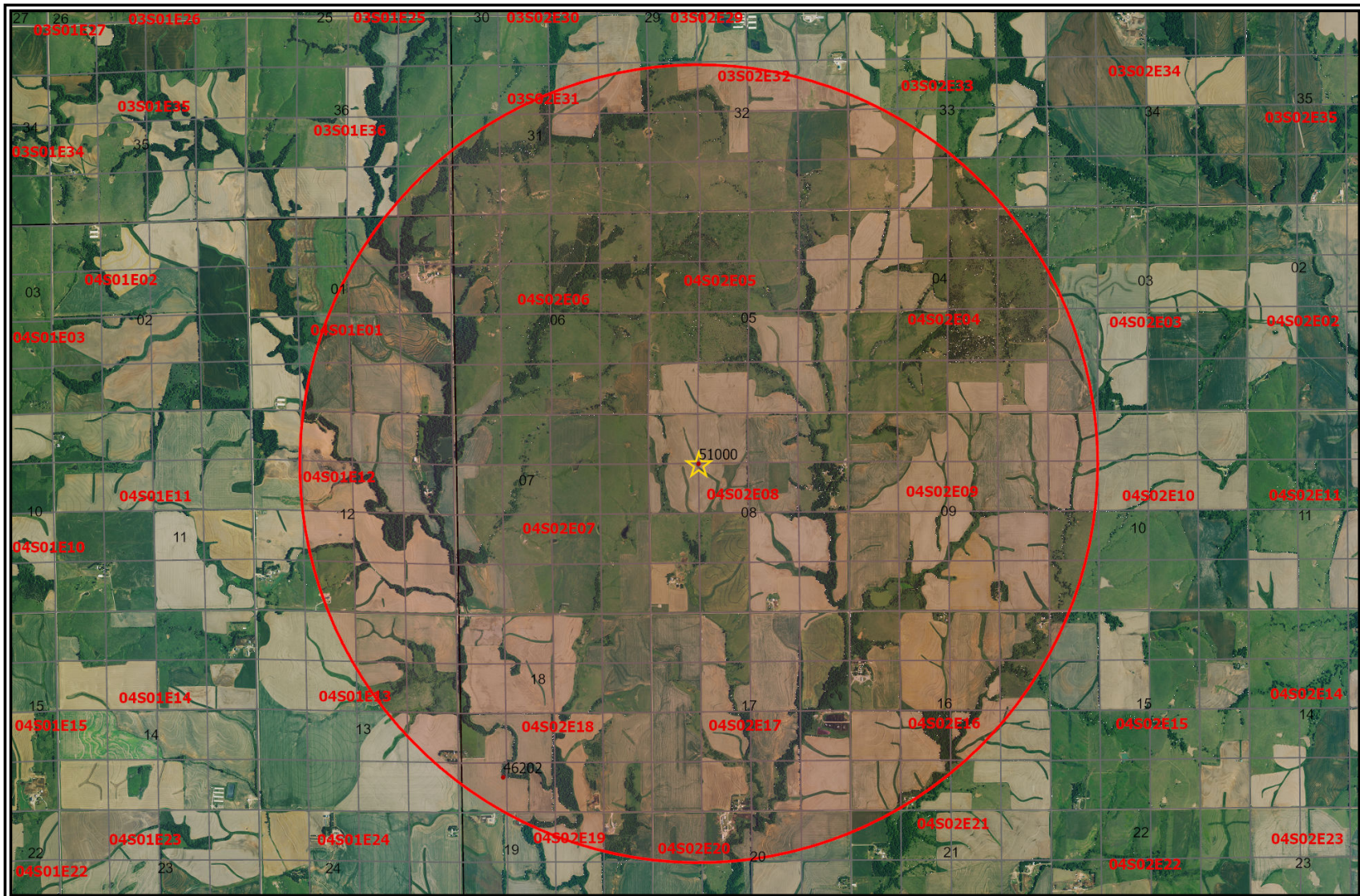
Division of Water Resources

Kansas Department of Agriculture

Phone: (785) 564-6628

Colin.Barclay@ks.gov

Safe Yield Report Sheet
Water Right- A5100000
Point of Diversion in 08-04S-02E
Footages from SE corner- 3,960 feet North 3,960 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 1,357.17 AF.

Total prior appropriations in the circle is ~~192.00 AF~~ **95.00 AF**

Total quantity of water available for appropriation is ~~1,165.17 AF~~ **122.17 AF** 51000 meets safe yield for an additional 192 AF.

Safe Yield Variables

The area used for the analysis is set at 8,042 acres.

The potential annual recharge at the circle center is estimated to be 2.7 inches.

The percent of recharge available for appropriation is 75%.

Authorized Quantity values are as of 31-MAY-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 2 water rights and 2 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 46202 00	IRR	NK	G		NW	SE	SW	974	3936	18	04	02E	3	WR	13.00	0.00	+95.00	118.00	0.00
A 51000 00	IRR	AY	G		SE	NW	NW	3960	3960	08	04	02E	1	WR	192.00	192.00	-192.00	160.00	160.00

Limitations

File Number	Seq Num	Limitations
A 46202 00	3	95AF/YR COM/W #26791 & 43730

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. 51,000** of the applicant

**MARK LEISZLER
417 DEER RD
CLIFTON, KS 66937**

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 **March 27, 2023**.

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	
8 - 4S - 2E					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 Northwest Quarter (NW¼) of Section 8, more particularly described as being near a point 3,960 feet North and 3,960 feet West of the Southeast corner of said section, in Township 4 South, Range 2 East, Washington 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 **2,000 gallons per minute (4.46 c.f.s.)** and to a quantity not to exceed **192 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 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 3 day of September, 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 3 day of September, 2024, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.

Visti Belamy
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

September 6, 2024

MARK LEISZLER
417 DEER RD
CLIFTON KS 66937-8816

RE: Appropriation of Water
File No. 51,000

Dear Mr. Leiszler:

Enclosed is a permit authorizing you to proceed with construction of the proposed diversion works and to appropriate water for beneficial use as set forth in the permit. Your attention is directed to the enclosures and to the terms, conditions, limitations, and requirements specified in this permit.

Notice must be filed on the enclosed form once the diversion works have been completed. Failure to complete the diversion works within the time allowed, or within any authorized extension of time thereof, will result in dismissal of this permit. If you need an extension of time, you must request it before the deadline for completion set forth in the permit. Any request for an extension of time must be accompanied by the statutorily required fee, which is currently \$100.00.

An annual water use report must be filed with the Chief Engineer by March 1, following the end of each calendar year. If a complete annual water use report is not received by the deadline, then a fine may be assessed and all water use under such permit or right may be suspended. Reports submitted in paper form will be assessed a \$20 per file number paper filing fee. In order to avoid this filing fee, you may submit your report online at www.kswaterusereport.org.

The approval of your application constitutes a permit to appropriate water. It does not give authority to construct any dam or other stream obstruction regulated by K.S.A. 82a-301 through 305a. It does not give authority to access any right-of-way or authorize trespassing upon or injury to public or private property. It may also be necessary for you to comply with other local, state or federal requirements.

Also included is an informational sheet that sets forth the procedure to obtain a Certificate of Appropriation which will establish the extent of your perfected water right. Additional information and applicable forms may be found on our website at agriculture.ks.gov/dwr. If you have any questions or need assistance with any of these requirements, please contact our office at 785-564-6640, or your local Topeka Field Office at (785) 296-5733. 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: Topke Field Office
David Leiszler

RIGHT TO A HEARING AND TO ADMINISTRATIVE REVIEW

If you are aggrieved by this Order, then pursuant to K.S.A. 82a-1901, you may request an evidentiary hearing before the Chief Engineer or request administrative review by the Secretary of Agriculture. Failure to request an evidentiary hearing before the Chief Engineer does not preclude your right to administrative review by the Secretary.

To obtain an evidentiary hearing before the Chief Engineer, a written request for hearing must be filed within 15 days after service of this Order as provided in K.S.A. 77-531 (i.e., within a total of 18 days after this Order was mailed to you), with: Kansas Department of Agriculture, Attn: Legal Division, 1320 Research Park Drive, Manhattan, Kansas 66502, FAX (785) 564-6777.

If you do not file a request for an evidentiary hearing before the Chief Engineer, you may petition for administrative review of the Order by the Secretary of Agriculture. A petition for review shall be in writing and state the basis for requesting administrative review. The request for review may be denied if the request fails to clearly establish factual or legal issues for review. See K.S.A. 77-527. The petition must be filed within 30 days after service of this Order as provided in K.S.A. 77-531 (i.e., within a total of 33 days after this Order was mailed to you), and be filed with: Secretary of Agriculture, Attn: Legal Division, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, FAX (785) 564-6777.

If neither a request for an evidentiary hearing nor a petition for administrative review is filed as set forth above, then this Order shall be effective and become a final agency action as defined in K.S.A. 77-607(b). Failure to timely request either an evidentiary hearing or administrative review may preclude further judicial review under the Kansas Judicial Review Act.

CERTIFICATE OF SERVICE

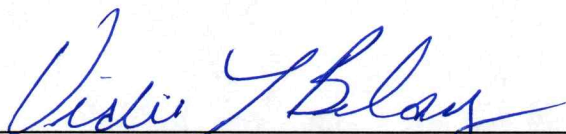
On this 6th day of September, 2024, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 51,000, dated September 3, 2024, was mailed postage prepaid, first class, US mail to the following:

MARK LEISZLER
417 DEER RD
CLIFTON KS 66937-8816

With photocopies to:

KDA-DWR Topeka Field Office

DAVID LEISZLER
417 DEER RD
CLIFTON KS 66937-8816



Division of Water Resources