

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

1. File No.: 51011	2. Status Change Date: 9/3/2024	4. Field Office: 02 - Stafford GMD: Structures File No.: Filing/Priority Date: 04/14/2023 Application Complete Date: 04/10/2023
3. Associated File No(s): 51011		
5a. <input checked="" type="checkbox"/> Applicant <input checked="" type="checkbox"/> Owner <input checked="" type="checkbox"/> WUC <input checked="" type="checkbox"/> Address Change Person ID 68969 Add Seq#	5b. <input type="checkbox"/> Owner <input type="checkbox"/> WUC <input type="checkbox"/> Address Change Person ID Add Seq#	
AEONARD R BOREL 131 NE 100 RD HARPER, KS 67058		
5c. <input type="checkbox"/> Owner <input type="checkbox"/> WUC <input type="checkbox"/> Address Change Person ID Add Seq#	5d. <input type="checkbox"/> Owner <input type="checkbox"/> WUC <input type="checkbox"/> Address Change Person ID Add Seq#	
6. Change No.: <input type="checkbox"/> PD <input type="checkbox"/> PU <input type="checkbox"/> UMW Base Acres: Year: Min Reasonable Q: Previous UMW: IRR-Irrigation MDS Gauge: Active Admin? <input type="checkbox"/> Completion/Start Date: 12/30/2023 2025 Perfection/Expiration Date: 12/31/2023 2029		7. Use of Water <input type="checkbox"/> Groundwater <input type="checkbox"/> Surface Water UMW: IRR-Irrigation UMW: UMW:
8. Action Trail		
9. Special Conditions		
10. 5YR Allocation Type: Start Year: 5YR Quantity: Base Acres: Comment:		
11. Sand & Gravel Proj ID: <input type="checkbox"/> Active <input type="checkbox"/> Dredge <input type="checkbox"/> IND Evap <input type="checkbox"/> Jr Evap <input type="checkbox"/> Other Diversion <input type="checkbox"/> Rpt on Sr		
12. Waiver Rule ID: <input checked="" type="checkbox"/> New Date Requested: 8/15/2024 Applies: Statewide Rule No.: K.A.R. 5-4-4 Rule Type: Well Spacing Non-Domestic Rule SubType: Well To Well Spacing Non-Domestic Justification: Point of division for 51,011 is within 1320' of the groundwater pit of 48,114		
Comments 51,011 and 51,012 are tied together and have to be limited in quantity and rate have to be approved or denied together.	Processed DKB	Entered 9/10/2024 KAnderson
	Reviewed	

File No. **51011** 13. County: **HP-Harper** Basin: **48 - Chikaskia River** Stream:
 Structures File No: Aquifer Code: 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	90259	NW	NE	NW	6	32	6W	8	4493	3340	12.47		50				*

15. Limitations Type: Rate and Quantity Quantity: **12.47 AF** Rate: **99 gpm** combined with file no(s): **51,012**
 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							
CHK	6	32	6W							30													30	68969	<input checked="" type="checkbox"/>	*		
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18. Point of Diversion and Place of Use Overlaps
 * **51,012** **
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MEMORANDUM

To: Files

Date: September 3, 2024

From: Kenneth A. Kopp, P.G.

RE: File Nos. 51,011 and 51,012

The referenced applications propose to use 12.47 acre-feet of water, at a maximum combined rate of 50 gallons per minute, from two (2) closely spaced wells, for watering a 30-acre orchard near Harper. The wells are located approximately 500 feet apart and appear to have been operated without a permit for a number of years. The applications were accompanied by well logs completed by Harp Well & Pump Service in 2006, who indicated the wells would be used for “domestic” uses and for “lawn and garden only.” The law requires that the irrigation of more than 2 acres of lawns, gardens and orchards be permitted as irrigation use. Temporary permits under File Nos. 20230086 and 20230087 were issued during 2023 while these regular new applications were being evaluated.

The following regulations allow multiple wells under one application:

K.A.R. 5-1-1(n), which defines a “battery of wells” as two or more wells connected to a common pump by a manifold, or not more than four wells in the same local source of supply within a 300-foot-radius circle that are being operated by pumps not to exceed a total maximum rate of diversion of 800 gallons per minute and that supply water to a common distribution system.

K.A.R. 5-3-4(d)(1), which allows up to four (4) wells within a circle with a quarter-mile radius in the same local source of supply that do not exceed a maximum diversion rate of 20 gallons per minute per well.

The wells don’t meet the definition of a battery of wells, which requires a common distribution system. And although the applicant reports the pump rates at 16 g.p.m., the Stafford Field Office recommended permitting the wells on two (2) separate applications with waivers of well spacing and limitations on rate and quantity, since the rate of diversion of the individual wells might ultimately exceed 20 g.p.m.

The source of supply for the existing wells is Quaternary. With an 8,022 acre area of consideration and 2.0 inches of potential natural recharge, of which the regulations allow 50% to be appropriated, safe yield in the area is calculated to 670 acre-feet. Currently there are 1377.5 acre-feet appropriated in the same area. Therefore, the area is fully appropriated. K.A.R. 5-3-16 allows for small use exemptions to safe yield provided the sum of the annual quantity requested by the proposed appropriation does not exceed 15 acre-feet and does not authorize a rate of diversion in excess of 50 gallons per minute. These requirements can be achieved for these applications through a limiting endorsement on the junior file.

MEMORANDUM

File Nos. 51,011 and 51,012

Page 2 of 2

K.A.R. 5-4-4 requires that the minimum spacing between wells be sufficient to prevent direct impairment. The regulation requires a minimum spacing of 1,320 feet to other prior appropriated wells and 660 feet to existing domestic wells.

- The wells located approximately 500 feet apart do not meet minimum well spacing requirements to each other.
- One of the wells does not meet minimum spacing requirements to the edge of a groundwater pit permitted by Appropriation of Water, File No. 48,114.

Given the low capacity of the wells proposed in the applications, with small rates of diversion and limited quantities of water, the standard well spacing guidelines do not appear to be necessary to prevent direct impairment. Therefore, no waiver of the regulation is required.

Nearby well owners identified by the applicant were notified of the proposed application, with no responses received.

The proposed quantity of water is within the quantity considered to be reasonable for the proposed use. The applicant does not intend to irrigate row crops, such as corn. Therefore, the quantities outlined in K.A.R. 5-3-23 are not applicable.

Based on the available information, it is recommended that the referenced application be approved with limitation on total rate and quantity.

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. 51,011** of the applicant

AEONARD R BOREL
131 NE 100 RD
HARPER, KS 67058

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 **April 14, 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	
6 - 32S - 6W					30												30

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 Southwest Quarter of the Northeast Quarter of the Northwest Quarter (SW¼ NE¼ NW¼) of Section 6, more particularly described as being near a point 4,493 feet North and 3,340 feet West of the Southeast corner of said section, in Township 32 South, Range 6 West, Harper 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 **50 gallons per minute (0.11 c.f.s.)** and to a quantity not to exceed **12.47 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 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).

13. 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.


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

15. 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.

16. 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 3rd day of September, 2024, in Manhattan, Riley County, Kansas.




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

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 3rd day of September, 2024, by Earl D. Lewis Jr., P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.



Notary Public



THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Secretary of Agriculture

DIVISION OF WATER RESOURCES
Earl D. Lewis Jr., Chief Engineer

WAIVER OF REGULATION
K.A.R. 5-4-4 Well Spacing


Date: September 3, 2024.

Re: Application, File Nos. 51,011 and 51,012

1. K.A.R. 5-4-4 requires the minimum spacing between wells should be That the geographical center of the battery of wells under the above referenced application does not meet the minimum well spacing criteria as required by K.A.R. 5-4-4(c)(1)(C), because it is located approximately 1,209 feet from the geographical center of a battery wells also proposed by Application, File No. 50,903.
2. That K.A.R. 5-4-4(c)(1)(C) requires minimum well spacing of 1,320 feet between non-domestic wells whose common source of supply is an alluvial aquifer system.
3. That the proposed point of diversion is very close to meeting well spacing from File No. 50,903 (121 feet short), but the wells under both projects will supply water to an overlapping place of use, are designed to operate together and will have a limiting endorsement for the proposed combined quantity of water.
4. That this waiver will not prejudicially or unreasonably affect the public interest, and no senior rights will be impaired by the proposed use.

Comments:




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

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 12, 2024

AEONARD R BOREL
131 NE 100 RD
HARPER KS 67058

RE: Appropriation of Water
File Nos. 51,011 and 51,012

Dear Mr. Borel:

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 the permits, with specific reference to Paragraph No. 16 on File No. 51,012. The total water use between these permits is 12.47 acre-feet.

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 permit. 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(s). 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:dkb
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 12 day of September, 2024, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File Nos. 51,011 and 51,012, dated September 3, 2024, were mailed postage prepaid, first class, US mail to the following:

AEONARD R BOREL
131 NE 100 RD
HARPER KS 67058

With photocopies to:

KDA-DWR Stafford Field Office



Division of Water Resources