

MEMORANDUM TO FILE

Division of Water Resources, Water Appropriation Program

Date: June 25, 2024

From: Christa Anhold , Environmental Scientist

Re: New Application File No. 51,052 – Pike Trail Cattle Co

Summary

Pike Trail Cattle Company filed the above referenced application proposed to appropriate 9.27 million gallons per year (MGY) at a rate of 90 gallons per minute from a battery of two (2) wells for stock watering of 3,000 head of cattle in Mitchell County. The above file is proposed to overlap the place of use and point of diversion covered under Water Appropriation File No. 46,563. When combined with File No. 46,563, the new application will be limited to a quantity of 13.14 MGY and a rate of 90 GPM. The senior file has over pumped in previous years due to an expansion; the above new file was submitted to prevent over pumping in the future. The applicant owns both the place of use and points of diversion.

Reasonable Rate and Quantity

Under File No. 46,563 the applicant is permitted 3.87 MGY, the requested additional 9.27 MGY would authorize the applicant a combined total of 13.14 MGY. Per K.A.R. 5-3-22 the maximum reasonable quantity for 3,000 head of cattle is 16.425 MGY which is equivalent to 15 gallons of drinking water per day per head of cattle. The combined quantity under both files is less than the maximum, therefore the requested 9.27 MGY can be considered reasonable.

The applicant's overlapping battery of wells has a rate of 90 gallons per minute. The applicant is not requesting any additional rate, therefore the 90 gallons a minute can still be considered reasonable.

Source of Supply and Safe Yield

The original test hole log for Water Appropriation File No. 46,563 was found in KDA-DWR image files. This test log indicates topsoil from surface to 4 feet, clay from 4 to 14 feet, clay with sand streaks from 14 to 21 feet, medium sand from 21 to 30 feet, medium sand with large gravel from 30 to 37 feet and shale from 37 to 41 feet below ground surface. The new application states static water level is 28.5 and 35.8 feet below ground surface. The Senior overlapping file stated the source of supply as terrace. Utilizing nearby well logs, water rights and "Geology and Ground-water Resources of Mitchell County, Kansas" KGS Bulletin 140 it has been confirmed the source remains terrace and recent alluvium.

A safe yield report was run with Carlile Shale and Greenhorn Limestone excluded from the two-mile circle. The area of consideration was 6,512 acres. Estimating a potential annual recharge of 2.2 inches and a percent recharge available for recharge of 75%, safe yield was determined to be 895.44 AF. Existing appropriations total 807.88 AF, leaving 87.56 AF available. The applicants request for an additional quantity of 9.27 million gallons (28.45 AF) meets safe yield criteria per K.A.R. 5-3-11.

Nearby Water Rights

From the geographic center of the battery of wells the nearest nondomestic well (Water Appropriation File No. 35,544) is 4,500 feet away and the nearest domestic well is 750 feet away. The new application meets well spacing requirements per K.A.R. 5-4-4.

The applicant did not identify nearby domestic water users. During the initial review of the application eleven (11) potential domestic water users were identified using WWC5. Nearby notifications were mailed on June 7, 2024. No written responses have been received to date.

Recommendations

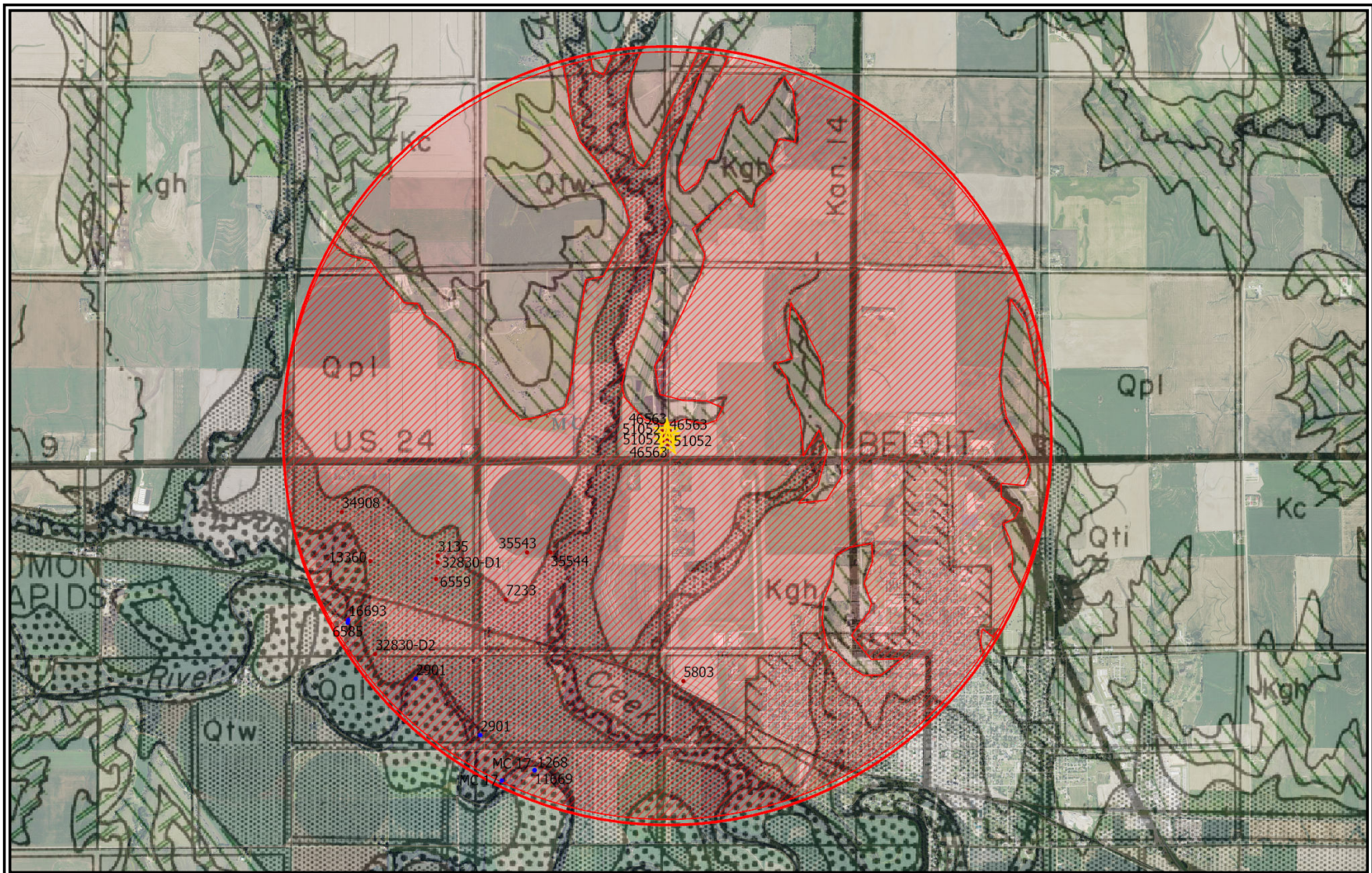
The application was sent for consideration to Kelly Stewart, Water Commissioner of the Stockton Field Office on June 27, 2024, and recommended for approval in an e-mail dated June 27, 2024.

The application complies with all regulations concerning reasonable quantity, safe yield, and minimum spacing requirements. It does not appear that approval of the application will 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
Manhattan Headquarters

Safe Yield Report Sheet
Water Right- A5105200
Point of Diversion in 31-06S-07W
Footages from SE corner- 718 feet North 79 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 895.44 AF.

Total prior appropriations in the circle is 836.33 AF. -28.45 = **807.88AF**

Total quantity of water available for appropriation is ~~59.11 AF~~. **895.44-807.88 = 87.56AF**

Safe Yield Variables

The area used for the analysis is set at 6,512 acres.

The potential annual recharge at the circle center is estimated to be 2.2 inches.

The percent of recharge available for appropriation is 75%.

Authorized Quantity values are as of 06-JUN-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 12 water rights and 13 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 3135 00	IRR	NK	G		SW	SE	NE	2721	1330	01	07	08W	12	WR	335.00	335.00		280.00	280.00
A 5803 00	IRR	NK	G		SW	NW	NW	0	0	08	07	07W	1	WR	21.00	21.00		39.00	39.00
A 6559 00	IRR	NK	G		NC	N2	SE	2050	1260	01	07	08W	2	WR	55.00	0.00	0.0	280.00	0.00
A 7233 00	IRR	NK	G		SW	NW	SW	0	0	06	07	07W	1	WR	74.00	74.00		111.00	111.00
A 13360 00	IRR	NK	G		NE	NE	SW	2598	3173	01	07	08W	6	WR	85.00	85.00		280.00	0.00
A 34908 00	IRR	NK	G			NC	NW	3960	3960	01	07	08W	11	WR	50.00	50.00		150.00	150.00
A 35543 00	IRR	NK	G			CS	NW	2750	4000	06	07	07W	2	WR	161.00	161.00		139.00	139.00
A 35544 00	IRR	NK	G		CS	SE	NW	2750	3350	06	07	07W	3	WR	54.00	54.00		139.00	0.00
A 46563 00	STK	NK	G		NE	SE	SE	718	79	31	06	07W	1	WR	11.88	11.88			
Same	STK	NK	G		NE	SE	SE	864	88	31	06	07W	2	WR					
Same	STK	NK	G		SE	SE	SE	565	68	31	06	07W	3	WR					
A 32830 D1	IRR	NK	G		NW	NE	SE	2450	1200	01	07	08W	9	WR	58.00	0.00	0.0	280.00	0.00
A 32830 D2	IRR	NK	G		SE	SE	SW	50	3120	01	07	08W	10	WR	16.00	16.00		47.00	0.00
A 51052 00	STK	AY	G		NE	SE	SE	718	79	31	06	07W	1	WR	28.45	28.45	-28.45		
Same	STK	AY	G		NE	SE	SE	864	88	31	06	07W	2	WR					
Same	STK	AY	G		SE	SE	SE	565	68	31	06	07W	3	WR					

Limitations

File Number	Seq Num	Limitations
A 6559 00	2	335 AF/YR @ COM/W #3135
A 32830 D1	1	420 AF/YR COM/W #3135, #6559 & #13360

From: Stewart, Kelly [KDA]
Sent: Thu 6/27/2024 11:18 AM
To: Anhold, Christa [KDA]
Cc: Billinger, Mark [KDA]; Hageman, Nancy [KDA]
Subject: FW: 51,052 recommendation request
Attachments: 51052 memo.docx

Christa,

I recommend approval of this application.

Kelly

From: Anhold, Christa [KDA] <Christa.Anhold@ks.gov>
Sent: Thursday, June 27, 2024 10:13 AM
To: Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>
Subject: 51,052 recommendation request

Good morning Kelly,

Attached is a draft memo of 51,052 for your review and recommendation. Nearby notifications were mailed on June 7, 2024. No written responses have been received to date.

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. 51,052** of the applicant

**PIKE TRAIL CATTLE CO
1940 290 RD
BELOIT, KS 67420**

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 **June 8, 2023**.
2. That the water sought to be appropriated shall be used for stockwatering use in the East Half of the East Half (E $\frac{1}{2}$ E $\frac{1}{2}$) of Section 31, Township 6 South, Range 7 West, Mitchell County, Kansas.
3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of a battery of two (2) wells, with a geographical center located in the Northeast Quarter of the Southeast Quarter of the Southeast Quarter (NE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 31, more particularly described as being near a point 718 feet North and 79 feet West of the Southeast corner of said section, in Township 6 South, Range 7 West, Mitchell 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 **90 gallons per minute (0.20 c.f.s.)** and to a quantity not to exceed **9.27 million gallons** 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 this permit is further limited such that both wells shall be located within a three hundred (300) foot radius circle, in the same local source of supply, and shall supply water to a common distribution system.

17. That the rate of diversion of water approved under this permit is further limited to the rate which combined with File No. 46,563, will provide a maximum diversion rate not in excess of **90 gallons per minute (0.20 c.f.s)** from the wells authorized herein.

18. That failure without cause to comply with the 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 2 day of July, 2024, in Manhattan, Riley County, Kansas.

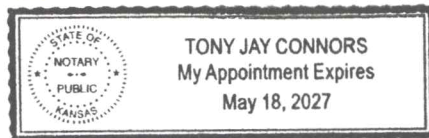
Lane P. Letourneau

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 2 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 10, 2024

TANER & LEANNE LITTON
PIKE TRAIL CATTLE CO
1940 290 RD
BELOIT KS 67420

RE: Appropriation of Water
File No. 51,052

Dear Sir or Madam:

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 Stockton Field Office at (785)-425-6787. 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:cla
Enclosure(s)
pc: Stockton 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 10 day of July, 2024, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 51,052, dated July 2, 2024, was mailed postage prepaid, first class, US mail to the following:

Original to:

TANER & LEANNE LITTON
PIKE TRAIL CATTLE CO
1940 290 RD
BELOIT, KS 67420

With photocopies to:

KDA-DWR Stockton Field Office


Division of Water Resources