

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

1. File No.: <b>51,074</b>	2. Status Change Date: <b>8/30/2024</b>	4. Field Office: <b>02 - Stafford</b> GMD: <b>05 - Big Bend</b> Structures File No.: Filing/Priority Date: <b>7/27/23</b>
3. Associated File No(s):		
5a. <input checked="" type="checkbox"/> Applicant <input checked="" type="checkbox"/> Owner <input checked="" type="checkbox"/> WUC <input type="checkbox"/> Address Change Person ID <b>25242</b> Add Seq# <b>1</b>  <b>STAFFORD COUNTY FLOUR MILLS CO</b> <b>108 S CHURCH ST</b> <b>HUDSON, KS 67545</b>	5b. <input type="checkbox"/> Owner <input type="checkbox"/> WUC <input type="checkbox"/> Address Change Person ID Add Seq#	
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: MDS Gauge:           Active Admin? <input type="checkbox"/> Completion/Start Date: <b>12/31/25</b> Perfection/Expiration Date: <b>12/31/29</b>		7. Use of Water <input checked="" type="checkbox"/> Groundwater <input type="checkbox"/> Surface Water UMW: <b>THX-Thermal Exchange</b> 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: <b>151</b> <input type="checkbox"/> New   Date Requested: <b>8/28/24</b> Applies: <b>GMD 5</b> Rule No.: <b>K.A.R. 5-25-2</b> Rule Type: <b>Well Spacing</b> Rule SubType: <b>Well Spacing</b>		Justification: <b>The proposed well will be located less than the required spacing distance from 5 domestic wells and less than the required spacing from 1 non-domestic well. The low quantity is unlikely to impair existing wells. GMD 5 recommends approval.</b>
Comments	Processed <b>CLA 8/28/24</b>	Entered <b>9/4/2024</b> <b>KAnderson</b>
	Reviewed	



THE STATE OF KANSAS



**KANSAS DEPARTMENT OF AGRICULTURE**  
Mike Beam, Secretary of Agriculture

**DIVISION OF WATER RESOURCES**  
Christopher W. Beightel, Acting Chief Engineer

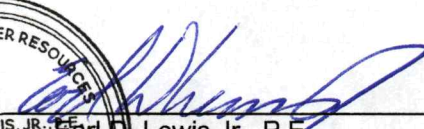
**WAIVER OF REGULATION**  
**K.A.R. 5-25-2 Well Spacing**

Date: August 30, 2024

RE: Application, File No. 51,074

1. That K.A.R. 5-25-2 requires a minimum well spacing of 1,320 feet to any existing non-domestic wells and 660 feet to any existing domestic wells.
2. That the existing well under the above-referenced application is located less than the required spacing distance of 660 feet from five (5) domestic wells.
3. That the existing well under the above-referenced application is also located less than the required spacing distance of 1,320 from one non-domestic well, authorized under Water Right, File No. 41,099, at approximately 500 feet away.
4. That the proposed point of diversion is currently authorized by existing Water Right, File No. 37,155, and the application is proposing no additional rate and only 10 acre-feet of additional water.
5. That this existing well has been in existence since 1984 without any known impairment concerns and no comments were received during the nearby notification period.
6. That the combined rate (105 g.p.m.) and quantity (23 acre-feet) proposed by this application is unlikely to impair any existing wells.
7. That the water is being used for thermal exchange, in a non-consumptive manner, which requires that the pumped water will be discharged back into the source of supply through a underground injection well.
8. That Big Bend Groundwater Management District #5 has recommended approval of the application.
9. That a waiver of K.A.R. 5-25-2 will not prejudicially or unreasonably affect public interest and will not impair any existing water rights.

Comments:

  
EARL D. LEWIS, JR., P.E.  
CHIEF ENGINEER  
Division of Water Resources  
Kansas Department of Agriculture

# MEMORANDUM TO FILE

Division of Water Resources, Water Appropriation Program

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Date: August 28, 2024

From: Christa Anhold, Environmental Scientist

Re: New Application File No. 51,074 – Stafford County Flour Mills Co.

## Summary

Stafford County Flour Mills Co. has filed the above reference application proposing to appropriate 3.2585 MGY (10AF) of groundwater at a rate of 105 GPM per calendar year from one (1) well to be used for thermal exchange non-consumptive use in industrial air conditioning and refrigeration equipment in Stafford County. This new application will overlap the place of use and point of diversion with Water Appropriation File No. 37,155, which is authorized a quantity of 4.236 MGY (13 AF) and rate of 105 GPM. The applicant proposes an additional 10 AF of water for a total of 23AF from the shared point of diversion. The applicant has a history of over pumping, this new application is to prevent that in the future as they plan to expand operational to 150 days per year. The applicant owns both the place of use and point of diversion. The point of diversion is in GMD 5 and Rattlesnake Creek Zone A.

## Reasonable Rate and Quantity

The new application will overlap the place of use and point of diversion of the senior water right File No. 37,155. When combined, File No. 51,074 and 37,155 will be allow a combined quantity of 7.4945 MGY (23AF). The new application does not request an additional rate, therefor the perfected rate of 105 GPM will remain reasonable.

## Source of Supply and Safe Yield

According to GMD 5 K.A.R. 5-25-4(b)(9), the area is closed to new surface and groundwater appropriations except for applications that use water in a manner that is not significantly consumptive (thermal exchange). The applicant discharges water back into the ground using an injection well and can there for be considered non consumptive.

The original well log from 1984 was found on WWC5. It indicates topsoil from surface to 3 feet, brown clay from 3 to 15 feet, green clay with fine sand from 15 to 21 feet, sand clay from 21 to 30 feet, gray clay from 30 to 48 feet, medium sand from 48 to 55 feet, clay from 55 to 56 feet and medium sand from 56 to 80 feet below ground surface. In 1984 the static water level was measured at 31 feet below ground surface and had an estimated yield of 500 gallons per minute. In a 2014 water use report the applicant reported water depth at 25 feet and total depth at 80 feet below ground surface. The applicants 1984 well is referenced in "Geology and Ground-Water Resources of Barton and Stafford Counties, Kansas" KGS Bulletin 88 well records and is identified as sourcing the Meade formation.

## Nearby Water Rights

The nearest nondomestic well is the applicants industrial use well (File Nos. 41,099 and 50,312) and is 500 feet away. The nearest domestic well is 350 feet from the proposed point of diversion. On WWC5 five (5) domestic wells were identified within the 660-foot distance required for non-domestic wells. **The application does not meet well spacing requirements per K.A.R. 5-25-2, however there were no nearby responses to the public notice, the thermal exchange well has been in operation since 1984 with no complaints and GMD 5 recommended approval of this application. A waiver was created to waive K.A.R 5-25-2 since it is unlikely that this application will prejudicially or unreasonably affect the public interest.**

Due to the dense population around the PD a public notice was run in the Tri-County Tribune for three (3) consecutive weeks from July 11, 2024, to August 1, 2024. No responses have been received to date.

## Recommendations

In a letter date August 19, 2024, Big Bend GMD No. 5 Manager, Orrin Feril, recommended approval of the application.

The application was sent for consideration to Cameron Conant, Assistant Water Commissioner, and Jeff Lanterman, Water Commissioner, of the Stafford Field Office on August 19, 2024, and recommended for approval on August 28, 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.



Christa Anhold  
Environmental Scientist  
Water Appropriation Program

**From:** Lanterman, Jeff [KDA]  
**Sent:** Wed 8/28/2024 10:14 AM  
**To:** Anhold, Christa [KDA]; Conant, Cameron [KDA]  
**Subject:** RE: 51074 recommendation request

Christa, I found an old email that showed 37155 does have an injection well on site. That was good news.

Should probably still have the permit conditions that include it on the new app though.

Thanks  
Jeff

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**From:** Lanterman, Jeff [KDA]  
**Sent:** Wednesday, August 28, 2024 9:52 AM  
**To:** Anhold, Christa [KDA] <Christa.Anhold@ks.gov>  
**Subject:** FW: 51074 recommendation request

Christa, I am recommend approval of this THX application.

Technically they would need to install an injection well in order for this to be non- consumptive. Will you add those permit conditions requiring the inj well?

Im pretty sure they don't have an injection well for the old THX well under 37155, but a lot of those old AC wells were just changed to THX from IND when we created THX as a type of use. But since this is an add quantity app its time to add that in.

Jeff.

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**From:** Conant, Cameron [KDA] <[Cameron.Conant@ks.gov](mailto:Cameron.Conant@ks.gov)>  
**Sent:** Wednesday, August 28, 2024 9:28 AM  
**To:** Lanterman, Jeff [KDA] <[Jeff.Lanterman@ks.gov](mailto:Jeff.Lanterman@ks.gov)>  
**Subject:** FW: 51074 recommendation request

*Cameron*

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**From:** Anhold, Christa [KDA] <[Christa.Anhold@ks.gov](mailto:Christa.Anhold@ks.gov)>  
**Sent:** Monday, August 19, 2024 12:49 PM  
**To:** Lanterman, Jeff [KDA] <[Jeff.Lanterman@ks.gov](mailto:Jeff.Lanterman@ks.gov)>  
**Cc:** Conant, Cameron [KDA] <[Cameron.Conant@ks.gov](mailto:Cameron.Conant@ks.gov)>  
**Subject:** 51074 recommendation request

Good afternoon,

Attached is a draft memo for 51,074, for your review and recommendation. A public notice was run from July 11 to August 1, 2024, and no comments of any kind have been received to date.

Here are the links to hydrographs in a 2-mile radius around the PD.

[https://geohydro.kgs.ku.edu/geohydro/wizard/wizardwelldetail.cfm?usgs\\_id=380644098411901](https://geohydro.kgs.ku.edu/geohydro/wizard/wizardwelldetail.cfm?usgs_id=380644098411901)  
1.7miles

[https://geohydro.kgs.ku.edu/geohydro/wizard/wizardwelldetail.cfm?usgs\\_id=380508098412703](https://geohydro.kgs.ku.edu/geohydro/wizard/wizardwelldetail.cfm?usgs_id=380508098412703)  
2.12 miles

Christa Anhold

Environmental Scientist  
Department of Water Resources  
(785)-564-6644  
[Christa.anhold@ks.gov](mailto: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. 51,074** of the applicant

**STAFFORD COUNTY FLOUR MILLS CO  
108 S CHURCH ST  
HUDSON, KS 67545**

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 **July 27, 2023**.
2. That the water sought to be appropriated shall be used for thermal exchange use at an industrial plant located in the Southeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section 29, Township 22 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 Northwest Quarter of the Southeast Quarter of the Southeast Quarter (NW $\frac{1}{4}$  SE $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section 29, more particularly described as being near a point 910 feet North and 1,035 feet West of the Southeast corner of said section, in Township 22 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 **105 gallons per minute (0.23 c.f.s.)** and to a quantity not to exceed **3.259 million gallons (10 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.

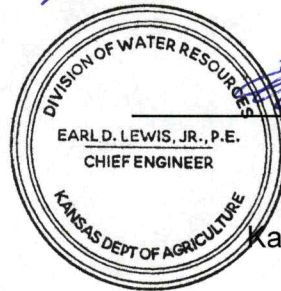
17. That the entire quantity of water pumped under the authority of this permit shall be used in a non-consumptive manner consistent with the authorized use of thermal exchange, as defined by K.A.R. 5-1-1, by disposal through an underground injection well.

18. That the applicant shall maintain all necessary permits required by the Kansas Department of Health and Environment for installation and operation of the required underground injection well.

19. That the rate of diversion of water approved under this permit is further limited to the rate which combined with Water Right, File No. 37,155, will provide a maximum diversion rate not in excess of **105 gallons per minute (0.23 c.f.s.)** from the well at the location described herein.

20. 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 30<sup>th</sup> day of August, 2024, in Manhattan, Riley County, Kansas.



[Signature]  
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 30 day of August, 2024, by Earl D. Lewis Jr., P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.

[Signature]  
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

DEREK FOOTE  
STAFFORD COUNTY FLOUR MILLS CO  
108 S CHURCH ST  
HUDSON KS 67545

RE: Appropriation of Water  
File No. 51,074

Dear Mr. Foote:

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, with specific reference to Paragraph Nos. 17, 18 and 19.

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](http://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](http://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:cla

Enclosure(s)

pc: 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 6<sup>th</sup> day of September, 2024, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 51,074, dated August 30, 2024, was mailed postage prepaid, first class, US mail to the following:

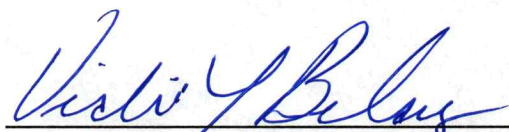
Original to:

STAFFORD COUNTY FLOUR MILLS CO  
108 S CHURCH ST  
HUDSON KS 67545

With photocopies to:

KDA-DWR Stafford Field Office

BIG BEND GMD NO. 5



Division of Water Resources