

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

1. File Number: <p style="text-align: center; font-size: 1.2em;">49,245</p>	2. Status Change Date: <p style="text-align: center; color: purple;">1/8/2021</p>	3. Field Office: <p style="text-align: center; font-size: 1.2em;">3</p>	4. GMD: <p style="text-align: center; font-size: 1.2em;">0</p>
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5. Status: Approved Denied by DWR/GMD Dismiss by Request/Failure to Return

6. Enclosures: Check Valve N of C Form Water Tube Driller Copy Meter

<p>7a. Applicant(s) Person ID <u>64326</u> New to system <input type="checkbox"/> Add Seq# _____</p> <p>BRIAN H ROSENE 1460 80 RD SCANDIA KS 66966 PO BOX 374 BELLEVILLE KS 66935</p>	<p>7c. Landowner(s) Person ID _____ New to system <input type="checkbox"/> Add Seq# _____</p>
<p>7b. Landowner(s) Person ID _____ New to system <input type="checkbox"/> Add Seq# _____</p> <p>7a.</p>	<p>7d. Misc. Person ID _____ New to system <input type="checkbox"/> Add Seq# _____</p>

<p>8. WUR Correspondent Person ID _____ New to system <input type="checkbox"/> Add Seq# _____ Overlap File (s) WUC Notarized WUC Form <input type="checkbox"/> Agree <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>7a.</p>	<p>9. Use of Water: Changing? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p style="padding-left: 40px;"><input checked="" type="checkbox"/> Groundwater <input type="checkbox"/> Surface Water</p> <p><input checked="" type="checkbox"/> IRR <input type="checkbox"/> REC <input type="checkbox"/> DEW <input type="checkbox"/> MUN</p> <p><input type="checkbox"/> STK <input type="checkbox"/> SED <input type="checkbox"/> DOM <input type="checkbox"/> CON</p> <p><input type="checkbox"/> HYD DRG <input type="checkbox"/> WTR PWR <input type="checkbox"/> ART RECHRG</p> <p><input type="checkbox"/> IND SIC: _____ <input type="checkbox"/> OTHER: _____</p>
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10. Completion Date: ~~12/31/2021~~ 22 11. Perfection Date: ~~12/31/2025~~ 26 12. Exp Date: _____

13. Conservation Plan Required? Yes No Date Required: _____ Date Approved: _____ Date to Comply: _____

14. Water Level Measuring Device? Yes No Date to Comply: _____ Date WLMD Installed: _____

Date Prepared: **10/19/2020** By: **DWS**
Date Entered: 1/11/2021 By: **LMoody**

File No. 49,245	15. Formation Code: 113	Drainage Basin: REPUBLICAN RIVER	County: RP	Special Use: RRC	Stream:																	
16. Points of Diversion			17. Rate and Quantity																			
T MOD DEL ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files									
√	83915	NW NW NE	25	2S	5W	11	5250	2620	90	3	90	3	NONE									
18. Storage: Rate _____ NF Quantity _____ ac/ft Additional Rate _____ NF Additional Quantity _____ ac/ft																						
19. Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____ Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____																						
20. Meter Required? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No To be installed by <u>12/31/2021</u> ²² Date Acceptable Meter Installed _____																						
21. Place of Use		NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg? NO	Overlap Files	
T MOD DEL ENT	PUSE	S	T	R	ID	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼					
√	66608	25	2S	5W	7		2.5											2.5	7a.	NO	NONE	
Comments: Action Trail Entry: "5 AF Exemption". Special condition: small use exemption																						
																				12/17/2020 TLV		

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: October 19, 2020

FROM: Doug Schemm

RE: Application, File No. 49,245

Brian H. Rosene has filed the above referenced new application to appropriate 3 acre-feet of groundwater at a rate of diversion of 90 gallons per minute for irrigation use. The application is proposing one (1) well to be completed in the Republican River alluvium that per K.A.R. 5-3-11 (d) (6), has restrictions on new groundwater appropriations. However, per K.A.R. 5-3-16a, the applicant can request up to 5 acre-feet of water and be exempt from meeting safe yield criteria and the regulation regarding restrictions for new appropriations, if specific criteria are met. The irrigation project is to cover 2.5 acres located in the Northeast Quarter of Section 25, 2 South, 5 West in Republic County. The place of use is owned by the applicant, who has signed the application form stating he has access to the point of diversion.

The applicant identified one domestic well owner within one-half mile of the proposed point of diversion, and a letter was sent to them on February 18, 2015. No response of any kind was received. This domestic well is over 2,200 feet away, and the WRIS database shows that the nearest permitted well is over 8,800 feet away. Therefore, the point of diversion complies with well spacing criteria for this alluvial aquifer, to all other wells. One of the conditions that must be met under the exemption discussed above is minimum well spacing criteria to all other wells.

No well log was provided with the application, however, the physical location of the proposed well, and nearby well logs, clearly show the source of water is the Republican River alluvium. A well log adjacent to the proposed well location shows sand and gravel extending from 21 feet to 35 feet below ground surface, underlain by shale bedrock at 35 feet below ground surface.

In accordance with K.S.A. 82a-706c, the Chief Engineer retains full authority to require any water user to install meters, gages, or other measuring devices, which devices he or she or his or her agents may read at any time. Water flowmeter requirements are further described in K.A.R. 5-1-4 through K.A.R. 5-1-12. If any chemical or foreign substance is injected into the water pumped under this permit, a check valve will also need to be installed.

In a March 4, 2015 e-mail, Kelly Stewart, Water Commissioner, Stockton Field Office, recommended approval of the referenced application. Based on the above discussion, well spacing criterion is met, the application is exempt from meeting safe yield criteria per K.A.R. 5-3-16a, and approval of the application will not impair senior water rights nor prejudicially or unreasonably affect the public interest, it is recommended that the referenced application be approved.

Douglas W. Schemm
Environmental Scientist
Topeka Field Office



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. 49,245** of the applicant

Brian Rosene
PO Box 374
Belleville, KS 66935

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 **December 29, 2014**.
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	
25	2S	5W		2.5															2.5

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 Northwest Quarter of the Northeast Quarter (NW¼ NW¼ NE¼) of Section 25, more particularly described as being near a point 5,250 feet North and 2,620 feet West of the Southeast corner of said section, in Township 2 South, Range 5 West, Republic 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 (0.2 c.f.s.)** and to a quantity not to exceed **3.0 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, 2022** 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, 2026** 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. This 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 failure without cause to comply with 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.

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

Brian Rosene
PO Box 374
Belleville, KS 66935

January 14, 2021

RE: Appropriation of Water, File No. 49,245

Dear Mr. Rosene:

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. Please note that both your existing well and all wells drilled under the authority of this permit must have a tube or other device installed in a manner acceptable to, and in accordance with specifications adopted by, the Chief Engineer.

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 acceptable water flowmeter must be installed on the diversion works authorized by this permit prior to using water. 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. Enclosed 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/divisions-programs/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 Application Unit Supervisor
Division of Water Resources

KAB:dws
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:

- 1) request an evidentiary hearing before the Chief Engineer, or
- 2) 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 Section, 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 hearing 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.

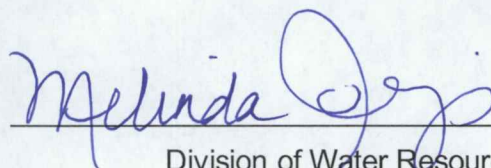
CERTIFICATE OF SERVICE

On this 14 day of January, 2021, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 49,245, dated 8 January, 2021 was mailed postage prepaid, first class, US mail to the following:

Brian Rosene
PO Box 374
Belleville, KS 66935

With photocopies to:

Stockton Field Office



Division of Water Resources