

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;">50,051</p>	2. Status Change Date: <p style="text-align: center; color: purple; font-size: 1.2em;">5/20/2021</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;">4</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>39544</u> New to system <input type="checkbox"/> Add Seq# _____</p> <p style="text-align: center; font-weight: bold; margin-top: 20px;">STEPHENS FARMS INC 1551 COUNTY RD 32 MENLO, KS 67753</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 style="font-weight: bold; margin-top: 20px;">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 style="font-weight: bold; margin-top: 20px;">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 type="checkbox"/> IRR <input type="checkbox"/> REC <input type="checkbox"/> DEW <input type="checkbox"/> MUN</p> <p><input checked="" 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~~ 11. Perfection Date: ~~12/31/2025~~ 12. Exp Date: _____
2022 2026

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: **2/6/2020** By: **KJN**

Date Entered: 5/24/2021
LMoody By: _____

5/17/2021
L'Ireland

3/16/2021
L'Ireland

File No. **50,051** 15. Formation Code: **211** Drainage Basin: **S F Solomon River** County: **TH** Special Use: Stream:

16. Points of Diversion										17. Rate and Quantity					
MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Authorized		Additional		Overlap PD Files
											Rate gpm	Quantity mgy	Rate gpm	Quantity mgy	
MOD			60777	NW NW SW	20	8S	31W	4	2600	5200	100	3.26 mgy	100	3.26 mgy	41540
				gps update existing well					2476	5268					

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) **NONE**
 Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____

20. Meter Required? Yes No To be installed by **12/31/2020** ~~2021?!~~ Date Acceptable Meter Installed **currently installed**

21. Place of Use							NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg?	Overlap Files	
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	NE ¼	NW ¼	SW ¼	SE ¼				
CHK			22067	20	8S	31W	3	FEEDLOT (W2) THOMAS COUNTY																	7a	no	41540

Comments: **Just changing units for the quantity in KWIS: 10 AF to 3.26 mgy**

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: January 31, 2020

FROM: Kris Neuhauser

RE: Application, File No. 50,051 and
Water Right, File No. 5,585 A

Stephens Farms Inc. has filed the above referenced new application proposing to appropriate 10 acre-feet (3.26 mgy) of groundwater per calendar year, at a diversion rate not to exceed 100 gallons per minute, for stockwatering use from one well. The application overlaps in points of diversion and place of use with Water Right, File No. 41,540. The well is located in the Southwest Quarter of Section 20, Township 8 South, Range 31 West, Thomas County, Kansas. The proposed place of use is a feedlot in the West Half of the same section. The 10 acre-feet (3.26 mgy) proposed will be in addition to the 5.68 mgy already authorized under Water Right, File No. 41,540.

Bison* The applicant is applying for this Water Right to obtain more water for the growing number of cattle they will have in the next few years. There are four other wells within a half mile of the proposed point of diversion. Water Right, File Nos. 5585-A and 16,743 and two domestic wells. All are owned by the applicant; therefore, no nearby notices were sent. Point of diversion existing and authorized by File No. 41540

K.A.R. 5-3-22 states that the maximum reasonable quantity of water for cattle is 15 gallons per head, per day. On the stockwater use supplemental sheet, the applicant estimated the number of head 5 years from now to be 2,700; and provided the following equation:

$$2,700 \text{ head of cattle} \times 9 \text{ gallons/head (average)} \times 365 \text{ days} = 8.8695 \text{ mgy}$$

9 gallons per head per day is considered a reasonable quantity. The additional 3.26 mgy proposed by this application, combined with the authorized 5.68 mgy under Water Right, File No. 41,540, comes out to be 8.94 mgy, just over the quantity calculated by the applicant.

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.

Northwest Kansas Groundwater Management District No. 4's regulation K.A.R. 5-24-2(b)(6) allows for the approval of this application by reducing the existing Water Right, File No. 5,585-A. On March 5, 2019, Ray Luhman, District Manager of GMD No. 4, recommended the application for approval, provided Water Right, File No. 5,585-A be reduced from 332 acre-feet to 290.5 acre-feet per calendar year.

After multiple letters and phone calls that went unanswered, contact was made with landowner Janet Ewing via phone call, who was emailed a Request to Reduce a Portion of an Existing Water right. Mrs. Ewing completed the reduction request and sent a signed scan back via email on January 14, 2020. In another phone call on January 31, 2020, Mrs. Ewing explained she was the sole landowner for Water Right, File No. 5,585 A, therefore making her signature alone suffice for the reduction request. ***

In an email conversation on February 3, 2020, Kelly Stewart, Water Commissioner of the Stockton Field Office, gave a recommendation that the new application be approved.

* LI/DWR 5/17/2021

*** For her portion of the PU owner by her.
Stephens other owner of a additional portion authorized *

Based on the above discussion, the 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, in conjunction with the reduction of Water Right, File No. 5,585-A.

Kris Neuhauser
Environmental Scientist
Water Appropriation Program



**NORTHWEST KANSAS
GROUNDWATER MANAGEMENT
DISTRICT NO. 4**

1290 West 4th Street
P.O. Box 905
Colby, Kansas 67701-0905

March 5, 2019

Kris Neuhauser
Division of Water Resources
1320 Research Park Drive
Manhattan KS 66502

RE: Application 50051
Stephens Farms, Inc.

Dear Kris,

The Northwest Kansas Groundwater Management District has reviewed the above referenced application and based on our records and the information supplied by the applicant, we have determined that the following recommendations be made to the Chief Engineer:
If you have any questions, please contact this office.

Approve application, provided 5585 A is reduced to 290.5 AF.

Sincerely,

Ray Luhman
Manager

RPL: jem

From: Stewart, Kelly [KDA]
Sent: Mon 2/3/2020 2:43 PM
To: Neuhauser, Kris [KDA]
Cc: Billinger, Mark [KDA];Hageman, Rebecca [KDA]
Subject: RE: Rec request New App 50,051 (reduction for 5585 A)

Kris,

I have no objection to the approval of 50,051.

Kelly

From: Neuhauser, Kris [KDA] <Kris.Neuhauser@ks.gov>
Sent: Monday, February 3, 2020 10:29 AM
To: Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>
Cc: Billinger, Mark [KDA] <Mark.Billinger@ks.gov>
Subject: Rec request New App 50,051 (reduction for 5585 A)

Morning Kelly,

Here is my recommendation request for 50,051, from Stephens Farms Inc. Long time coming on this one; finally made contact with the owner Janet Ewing after a lot of failed letters/phone calls.. Got the reduction request signed for 5,585 A, in accordance with the GMD recommendation.

Let me know if you have any questions or if I need to make any changes.

Kris

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. 50,051** of the applicant

**STEPHENS FARMS INC
1551 COUNTY RD 32
MENLO KS 67753**

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 30, 2018**.
2. That the water sought to be appropriated shall be used for stockwatering use in a feedlot located in the West Half (W $\frac{1}{2}$) of Section 20, in Township 8 South, Range 31 West, Thomas 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 Northwest Quarter of the Southwest Quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 20, more particularly described as a point 2,476 feet North and 5,268 feet West of the Southeast corner of said section, in Township 8 South, Range 31 West, Thomas 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 **100 gallons per minute (0.22 c.f.s.)** and to a quantity not to exceed **3.26 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, 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 the 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.

17. 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.

Ordered this 20 day of May, 2021, 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 20 day of May, 2021, by Lane P. Letourneau, P.G., Program Manager, Division of Water Resources, Kansas Department of Agriculture.



Ashlee Freeman
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

May 25, 2021

STEPHENS FARMS INC
CHARLES STEPHENS
1551 COUNTY RD 32
MENLO, KS 67753

Re: Appropriation of Water, File No. 50,051

Dear Mr. Stephens:

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 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 and Change Unit Supervisor
Water Appropriation Program

KAB: kjn: li
Enclosures
pc: Stockton Field Office
Groundwater Management District No. 4

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

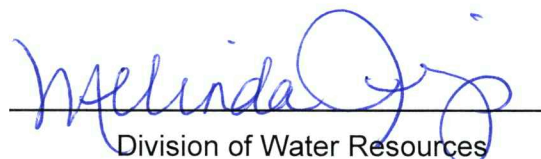
On this 25 day of May, 2021, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,051, dated 20 May 2021, was mailed postage prepaid, first class, US mail to the following:

STEPHENS FARMS INC
1551 COUNTY RD 32
MENLO, KS 67753

With photocopies to:

Stockton Field Office

Groundwater Management District No. 4


Division of Water Resources