



File No. <b>50,399</b>	15. Formation Code: <b>330</b> Drainage Basin: <b>Republican River</b>		County: <b>RP</b>		Special Use:		Stream:																		
16. Points of Diversion										17. Rate and Quantity															
T MOD DEL ENT	PDIV	Qualifier	S	T	R	ID	'N	'W		Authorized	Additional														
										Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files											
<b>CHK</b>	<b>84561</b>	<b>SE SW NE</b>	<b>34</b>	<b>3S</b>	<b>4W</b>	<b>1</b>	<b>2972</b>	<b>1915</b>	<b>GC</b>	<b>800</b>	<b>468.5</b>	<b>800</b>	<b>468.5</b>	<b>none</b>											
<b>CHK</b>	<b>85362</b>	<b>SW SW NE</b>	<b>34</b>	<b>3S</b>	<b>4W</b>	<b>2</b>	<b>3190</b>	<b>2117</b>																	
<b>CHK</b>	<b>84563</b>	<b>SW SW NE</b>	<b>34</b>	<b>3S</b>	<b>4W</b>	<b>3</b>	<b>2702</b>	<b>2035</b>																	
<b>CHK</b>	<b>84564</b>	<b>SE SW NE</b>	<b>34</b>	<b>3S</b>	<b>4W</b>	<b>4</b>	<b>2806</b>	<b>1770</b>																	
<b>CHK</b>	<b>84565</b>	<b>SE SW NE</b>	<b>34</b>	<b>3S</b>	<b>4W</b>	<b>5</b>	<b>3190</b>	<b>1738</b>																	
18. Storage: Rate _____ NF Quantity _____ ac/ft Additional Rate _____ NF Additional Quantity _____ ac/ft																									
19. Limitation: _____ MG/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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No To be installed by _____ Date Acceptable Meter Installed _____																									
21. Place of Use		NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg? <b>NO</b>	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								
<b>CHK</b>	<b>69992</b>	<b>34</b>	<b>3S</b>	<b>4W</b>	<b>3</b>					<b>38.9</b>	<b>38.9</b>			<b>39.25</b>	<b>39.25</b>	<b>39.25</b>	<b>39.25</b>					<b>234.8</b>	<b>7a</b>	<b>no</b>	<b>none</b>
<b>CHK</b>	<b>69993</b>	<b>34</b>	<b>3S</b>	<b>4W</b>	<b>4</b>			<b>38.9</b>	<b>38.9</b>			<b>38.8</b>	<b>38.9</b>									<b>155.6</b>	<b>7c</b>	<b>no</b>	<b>none</b>
Comments: <b>49438 OVERLAPS PD, BUT IS BEING DISMISSED CONTIGENT ON THE APPROVAL OF 50399</b>																									

**KANSAS DEPARTMENT OF AGRICULTURE**  
**Division of Water Resources**

**M E M O R A N D U M**

**TO:** Files

**DATE:** February 12, 2021

**FROM:** Kris Neuhauser

**RE:** New Application, File No. 50,399

Thayne Larson on behalf of Bestifor Farms has filed the above referenced new application proposing to appropriate 468.5 acre-feet of groundwater per calendar year at a maximum diversion rate not to exceed 800 gallons per minute for irrigation use from a battery of four (4) wells. The proposed point of diversion overlaps with existing Water Right, File No. 49,438. The geographic center of this battery is located in the Southeast Quarter of the Southwest Quarter of the Northeast Quarter (SE $\frac{1}{4}$  SW $\frac{1}{4}$  NE $\frac{1}{4}$ ) of Section 34, more particularly described as being near a point 2,972 feet North and 1,915 feet West of the Southeast corner of said section, in Township 3 South, Range 4 West, Republic County, Kansas (Republican River Basin). The point of diversion is owned by Thayne A. Larson Trust No. 1. The source of supply is mixed (Quaternary age) terrace and unconfined Dakota aquifer system.

Mr. Larson has submitted a voluntary dismissal for Appropriation of Water, File No. 49,438 (stockwatering use). This dismissal will be contingent upon the approval of New Application, File No. 50,399. No rate limitation will exist due to the simultaneous dismissal of File No. 49,438.

The proposed place of use is a total of 390.5 acres, located in the Northeast, Northwest, and Southwest Quarters of Section 34, Township 3 South, Range 4 West, Republic County Kansas; owned by both Thayne A. Larson Trust No. 1 and Bestifor Farms LP. It was confirmed with Mark Billinger, STKFO that the place of use didn't contain lots.  
LI/DWR

The maximum quantity allowed for irrigation use in Republic County, Kansas is 1.2 acre-feet per acre. The requested quantity of 468.5 acre-feet is the maximum quantity allowed for the 390.4-acre place of use. (390.4 ~~AF~~ x 1.2 AF/acre = 468.5 AF). Therefore, the quantity appears to be reasonable. acres

The application was evaluated for safe yield based on the same criteria used for other files in the general area. The area of consideration for safe yield evaluation was determined to be the extent of the terrace deposits that overlie the Dakota aquifer system. After review of the area, it was determined that no other appropriations have come into existence since File No. 49,438. Therefore, the safe yield report for File No. 49,438 will be used for this current application, to stay consistent with how the two-mile circle was trimmed (by Doug Schemm, Topeka Field Office – page 36 of Approval in Docuware).

This will provide a total of 5,511 acres. Based on a potential recharge of 2.4 inches, with 75% available for appropriation, safe yield was determined to be 826.65 acre-feet. There are no existing water rights within this area of consideration, leaving the entire quantity available. Therefore, there is water available for appropriation, and the application meets safe yield criteria. Note that the point of diversion is over 1.8 miles from the centerline of the Republican River and per definition is not within “the Lower Republican River Basin” nor the “effective alluvial aquifer.

The applicant identified one domestic well within one-half mile of the proposed point of diversion (roughly  $\frac{1}{2}$  miles away). A review of both aerial photographs and the WWC5 database, also indicates there are no nearby wells. One nearby notification letter was sent on February 11, 2021. No response of any kind was received. The nearest non-domestic well (however it is sourcing the Republican River alluvium) is over one mile away. Therefore, the proposed point of diversion complies with minimum spacing criteria for all other aquifers.

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.

Kelly Stewart, Water Commissioner of the Stockton Field Office, gave a recommendation that the new application should be approved, in an e-mail conversation on February 19, 2021.

Based on the above discussion, the area is open to new appropriations, the application meets safe yield and well spacing criteria, and 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.

A handwritten signature in black ink, appearing to read "Kris Neuhauser". The signature is fluid and cursive, with a long horizontal stroke at the end.

Kris Neuhauser  
Environmental Scientist  
Water Appropriation Program

**From:** Stewart, Kelly [KDA]  
**Sent:** Fri 2/19/2021 8:40 AM  
**To:** Neuhauser, Kris [KDA]  
**Cc:** Billinger, Mark [KDA];Hageman, Rebecca [KDA]  
**Subject:** RE: 50399 recommendation request

Kris,

I would have no objection to the approval of this application provided the senior overlapping file 49,438 is dismissed.

Kelly

---

**From:** Neuhauser, Kris [KDA] <Kris.Neuhauser@ks.gov>  
**Sent:** Thursday, February 18, 2021 11:56 AM  
**To:** Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>  
**Cc:** Billinger, Mark [KDA] <Mark.Billinger@ks.gov>  
**Subject:** 50399 recommendation request

Morning Kelly,

Attached is my memo for New App 50399. I sent out one nearby letter on 2/11/21, so I know the 15 day period isn't up quite yet.. Highly doubt we get any feedback though. Can follow up if we do. This one letter was more of a courtesy send, it's a bit over ½ mile away. 50399 overlaps PD with 49438, and no nearby's were sent for 49438.

The owner submitted a voluntary dismissal for 49438, contingent on the approval of 50399. Let me know if you have any questions or need anything else.

Thanks!

***Kris Neuhauser***  
Environmental Scientist  
Water Appropriations Program – Kansas Dept of Agriculture  
(785) 564-6643

# 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 PERMIT TO PROCEED

(This Is Not a Certificate of Appropriation)

This is to certify that I have examined Application, **File No. 50,399** of the applicant

**BESTIFOR FARMS LP  
PO BOX 220  
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 **June 1, 2020**.
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				
34	3S	4W			38.9	38.9	38.9	38.9	38.9	38.9	38.9	38.9	38.9	39.25	39.25	39.25	39.25					390.4

3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of a battery of four (4) wells, with a geographical center located in the Southeast Quarter of the Southwest Quarter of the Northeast Quarter (SE¼ SW¼ NE¼) of Section 34, more particularly described as being near a point 2,972 feet North and 1,915 feet West of the Southeast corner of said section, in Township 3 South, Range 4 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 **800 gallons per minute (1.78 c.f.s.)** and to a quantity not to exceed **468.5 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 acceptable water flow meters 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. These water flow meters 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.

18. That this permit is further limited such that all 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.

Ordered this 1<sup>st</sup> day of July, 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 1<sup>st</sup> day of July, 2021, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.



*Melinda Jennings*  
Notary Public  
*Melinda Jennings*



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 15, 2021

BESTIFOR FARMS LP  
THAYNE A LARSON TRUST #1  
PO BOX 220  
BELLEVILLE, KS 66935

RE: Appropriation of Water, File No. 50,399

Dear Mr. Larson:

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](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.

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](http://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 Applications and Changes Supervisor  
Division of Water Resources

KAB: kjn: li

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

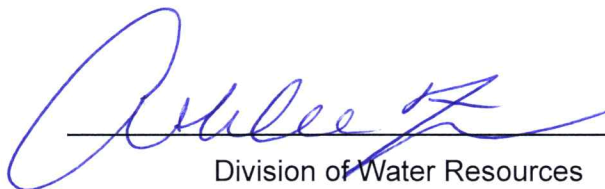
**CERTIFICATE OF SERVICE**

On this 15 day of JULY, 2021, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,399, dated 1 JULY, 2021, was mailed postage prepaid, first class, US mail to the following:

BESTIFOR FARMS LP  
 THAYNE A LARSON TRUST #1  
 PO BOX 220  
 BELLEVILLE, KS 66935

With photocopies to:

Stockton Field Office

  
 \_\_\_\_\_  
 Division of Water Resources