



File No. **49075**      15. Formation Code:      Drainage Basin:      County: **SD**      Special Use:      Stream:

16. Points of Diversion											
T	MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W
		<b>DEL</b>		<b>83050</b>	<b>NW</b>	<b>4</b>	<b>10S</b>	<b>26W</b>	<b>1</b>		

17. Rate and Quantity				
Authorized		Additional		
Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files

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?  Yes  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>DEL</b>		<b>65935</b>	<b>4</b>	<b>10S</b>	<b>26W</b>	<b>1</b>															<b>120</b>	<b>7a</b>	<b>***</b>				

Comments: **\*\*\*Olap with 49555, which will also be dismissed.**



# THE STATE OF KANSAS



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

**DIVISION OF WATER RESOURCES**  
Earl D. Lewis Jr., Chief Engineer

## **FINDINGS AND ORDER IN THE MATTER OF THE DISMISSAL OF APPLICATION FILE NO. 49,075**

After due consideration, the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture (hereinafter referred to as the "Chief Engineer"), makes the following findings and order:

### FINDINGS

1. That on May 8, 2014, the Chief Engineer received an application from Pat J. Haffner for a permit to appropriate groundwater for beneficial use, assigned File No. 49,075, proposing the appropriation of 180 acre-feet of water, at a maximum requested diversion rate of 700 gallons per minute, for irrigation use. The specific location for the proposed point of diversion was ultimately determined to be the Northwest Quarter of the Northeast Quarter of the Northwest Quarter (NW $\frac{1}{4}$  NE $\frac{1}{4}$  NW $\frac{1}{4}$ ) of Section 4, more particularly described as being near a point 4,994 feet North and 3,817 feet West of the Southeast corner of said section, in Township 10 South, Range 26 West, Sheridan County, Kansas.
2. That the source of water for the pending application appears to be the Ogallala Aquifer based on the test hole log that was submitted and other area well logs. The saturated thickness in this area appears to be approximately 30 feet.
3. That in response to notifying nearby well owners of the application, the Division of Water Resources received a written letter on March 16, 2017 from a concerned individual who owns two domestic wells located to northeast of the proposed project. This individual was concerned that his domestic wells might be impaired if the application is approved.
4. That on March 29, 2017 a recommendation was requested from Northwest Kansas Groundwater Management District No. 4. Initially, the District recommended denial of the application for failure to meet safe yield. The applicant then proposed to move his requested point of diversion. As a result, the District recommended approval of the application in a letter received on August 14, 2017, but strongly recommended that the Division of Water Resources consider possible impairment to the domestic wells.
5. That staff with the Division of Water Resources evaluated the potential for direct impairment of the neighboring domestic wells and determined that the spacing between the proposed battery of wells and the domestic wells would likely be insufficient to prevent direct impairment due to the limited saturated thickness in this area. The applicant was advised in a letter dated August 16, 2017 that it would be recommended that the application be denied and dismissed for failure to comply with K.A.R. 5-4-4.



6. That the applicant agreed to reduce the requested diversion rate and eventually agreed to conduct a pumping test. The results of this test were received on March 7, 2018. Division of Water Resources Technical Services staff evaluated the aquifer test data, which was based on the reduced rate of diversion, and concluded that drawdown at the nearest domestic well would result in a lowering of the static water level by approximately 10 feet after the first year of pumping, increasing to approximately 13 feet over the course of 50 years.
7. That K.S.A. 82a-711 directs the Chief Engineer to approve a permit to appropriate water if the "proposed use neither impairs...an existing water right nor prejudicially and unreasonably affects the public interest..." The public interest shall include "the area, safe yield and recharge rate of the appropriate water supply...the priority of existing claims...the amount of each claim...[and] all other matters pertaining to such question" and "impairment shall include the unreasonable raising or lowering of the static water level...beyond a reasonable economic limit."
8. That K.S.A. 82a-706a provide the Chief Engineer the authority to adopt and enforce such reasonable rules, regulations and standards as necessary for the discharge of his duties.
9. That K.A.R. 5-4-4 requires that "spacing between wells shall be sufficient to prevent direct impairment between wells located in a common source of supply and to protect the public interest" and that whenever "an applicant proposes to divert water from a source of supply in a location where there is a significant hydraulic connection...the Chief Engineer shall determine the spacing necessary to prevent impairment and to protect the public interest on a case by case basis." Further, K.A.R. 5-4-4(c) requires the applicant to meet "minimum spacing requirements...to all domestic wells, except where the domestic well owner has given...written permission to reduce the spacing interval..."
10. That upon review of all available information, including a Theis Analysis on the impact of the proposed point of diversion, the Chief Engineer believes that the lowering of the static water level at the projected rate is unreasonable and constitutes impairment, resulting in the static water level being lowered beyond a reasonable economic limit by approval of the permit. Further, it is not in the public interest to impair a senior domestic water right.
11. That the applicant was informed in a letter dated November 19, 2018 that it would be recommended that the application be denied and dismissed unless the quantity of water being requested was reduced to 26.59 acre-feet pursuant to K.S.A. 82a-711.
12. That the Division of Water Resources considered additional proposals put forth by the applicant but concluded that the proposed actions would not be sufficient to prevent impairment. In a letter dated March 18, 2021 the applicant was informed that his application would be dismissed after a period of 45 days unless he submitted new information or requested additional time.
13. That after additional extensions of time, a letter was submitted on the applicant's behalf and received on July 7, 2021, but no new information was supplied in the letter.
14. That the applicant has not submitted new information for consideration, nor requested an extension of time for Application, File No. 49,075.
15. That the application should be denied and dismissed and its priority forfeited for failure to comply with K.S.A. 82a-711 and K.A.R. 5-4-4.

**ORDER**





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Manhattan, KS 66502  
785-564-6700  
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900 SW Jackson, Room 456  
Topeka, KS 66612  
785-296-3556

Mike Beam, Secretary

Laura Kelly, Governor

January 7, 2022

PAT J HAFFNER  
7380 E ROAD 10 S  
HOXIE, KS 67740-4116

Re: Application, File No. 49,075

Dear Mr. Haffner:

Enclosed is the Findings and Order by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, dismissing Application, File No. 49,075 for failure to meet the requirements of the Kansas Water Appropriation Act.

If after reviewing this Order, you wish to amend your application to request a quantity of no more than 26.59 acre-feet and a place of use no more than 21 acres as described in our November 19, 2018 letter to you, the Chief Engineer would be willing to withdraw the enclosed Order and approve your application, if such request is received in the office of the Chief Engineer within 15 days after service of this Order.

This order shall become final agency action without further notice to the parties, if a request for hearing or a petition for administrative review is not filed in a manner set forth in the enclosed order.

If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

Kristen A. Baum  
New Applications and Changes Supervisor  
Water Appropriation Program

KAB:kab  
Enclosures

pc: Stockton Field Office  
Northwest Groundwater Management District No. 4  
KDHE BOW Geology & Well Technology Unit  
Kennedy Berkly Yarnevich & Williamson, Chartered  
Water Rights Investigative Services LLC

### CERTIFICATE OF SERVICE

On this 7 day of January, 2022 | hereby certify that the foregoing Dismissal of Application, File No. 49,075, dated 21 December 2021 was mailed postage prepaid, first class, US mail to the following:

PAT J HAFFNER  
7380 E ROAD 10 S  
HOXIE, KS 67740-4116

With photocopies to:

KENNEDY BERKLEY YARNEVICH & WILLIAMSON, CHARTED  
ATTN: QUINN R. KENDRICK  
PO BOX 2567  
SALINA KS 67402-2567

WATER RIGHTS INVESTIGATIVE SERVICES LLC  
508 S 3<sup>RD</sup> ST  
ATWOOD KS 67730-2118

Kansas Department of Health and Environment Bureau of Water  
Geology & Well Technology Unit

Stockton Field Office

  
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Division of Water Resources