

File No. **50479** 15. Formation Code: ~~100~~ **113** Drainage Basin: **Saline River** County: **EL** Special Use: Stream:

16. Points of Diversion

T
MOD
DEL PDIV
ENT
MOD

NEW BATTERY ID#2266

Qualifier	S	T	R	ID	'N	'W
CHK 88513 SW SE SE	17	11S	18W	1	355	1122 GEOCTR
ENT 89137 SW SE SE	17	11S	18W		355	1112
ENT 89138 SW SE SE	17	11S	18W		355	1132
ENT 89139 SW SE SE	17	11S	18W		345	1122
ENT 89140 SW SE SE	17	11S	18W		365	1122

17. Rate and Quantity

Authorized		Additional		Overlap PD Files
Rate gpm	Quantity af	Rate gpm	Quantity af	
800	149.7	800	149.7	NA

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 **12/31/2022 23** Date Acceptable Meter Installed _____

21. Place of Use

T
MOD
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ENT PUSE S T R ID

	NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg? NO	Overlap Files
	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 70198 19 11S 18W 2	2	34	35	3	22				23								120	7a	N	NA
MOD		3																		

Comments: 10/28/2021
KJN

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: September 13, 2021

FROM: Brandon Milner

RE: New Application,
File No. 50,479

battery of 4 wells

geocenter: DCT LLC has filed an application to appropriate groundwater for irrigation use, requesting a one new well with a requested quantity 149.7 acre-feet at a diversion rate of 800 gallons per minute. The proposed point of diversion will be a ~~single well~~ located in the Southwest quarter of the Southeast quarter of the Southeast quarter of Section 17 more specifically described as being near a point at 355' North and 1122' West of the Southeast corner of said section, in Township 11 South, Range 18 West in Ellis County. The entire place of use is owned by the applicant. The applicant has signed the application form stating that he has legal access to the point of diversion.

This application originally requested 176 acre-feet to irrigate 126 acres. However, after running safeyield in this area, there was only 149.7 acre-feet available. Ellis County is allowed 1.4 acre-feet per acre for irrigation however, 1.25 acre-feet was deemed reasonable by the Stockton Field office. Therefore, 120 acres will be irrigated for this application at 1.25 acre-feet per acre.

The source of water for this application would be the alluvium from the Saline River Basin. Per the requirements in K.A.R. 5-3-11, safe yield is determined by the extent of the unconfined aquifer within a two-mile radius of the point of diversion, which establishes the area of consideration. Evaluation of the area of consideration included the extent of the unconfined aquifer, provided an area of consideration of 3,399 acres with a potential annual recharge of 1.1 inches with 75% recharge available for appropriation. Safe yield was determined to be 233.71 Acre-feet. There is one existing water right within the area of consideration, with the total prior appropriation being 84 acre-feet. This leaves 149.7 acre-feet available for appropriation for this irrigation application.

There is one one water right within ½ mile of the point of diversion and is roughly 1600' away. The nearby letter was sent out on August 13, 2021 and one phone call was received by the nearby water right on August 18, 2021 but had no particular concerns about this application. Therefore, this application meets spacing requirements as set by K.A.R. 5-4-4.

This application was recommended for approval by Kelly Stewart from the Stockton Field Office on September 14, 2021.

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

11/2/2021
KJN

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.

Based on the above discussion, the area is open to new appropriations, the application complies with safe yield, it is recommended that the referenced new application be approved.

Brandon Milner
Environmental Scientist
Water Appropriation Program

From: Stewart, Kelly [KDA]
Sent: Tue 9/14/2021 11:46 AM
To: Milner, Brandon [KDA]
Cc: Billinger, Mark [KDA];Hageman, Nancy [KDA]
Subject: RE: 50479 Memo

Brandon,

I have no objection to the approval of this application. I would comment on the place of use though. 1.4 acre-foot/acre is the maximum reasonable. I don't think we need to reduce the place of use down to maximum reasonable. I believe a lower ratio of water per acre is acceptable if we think its reasonable. I wouldn't object if he wanted to keep approximately 120 acres (standard pivot size without end-gun). This would give him approximately 1.25'/acre or 15"/acre. I would recommend you reach back out to the applicant and see if he'd like to retain 120ish acres.

Kelly

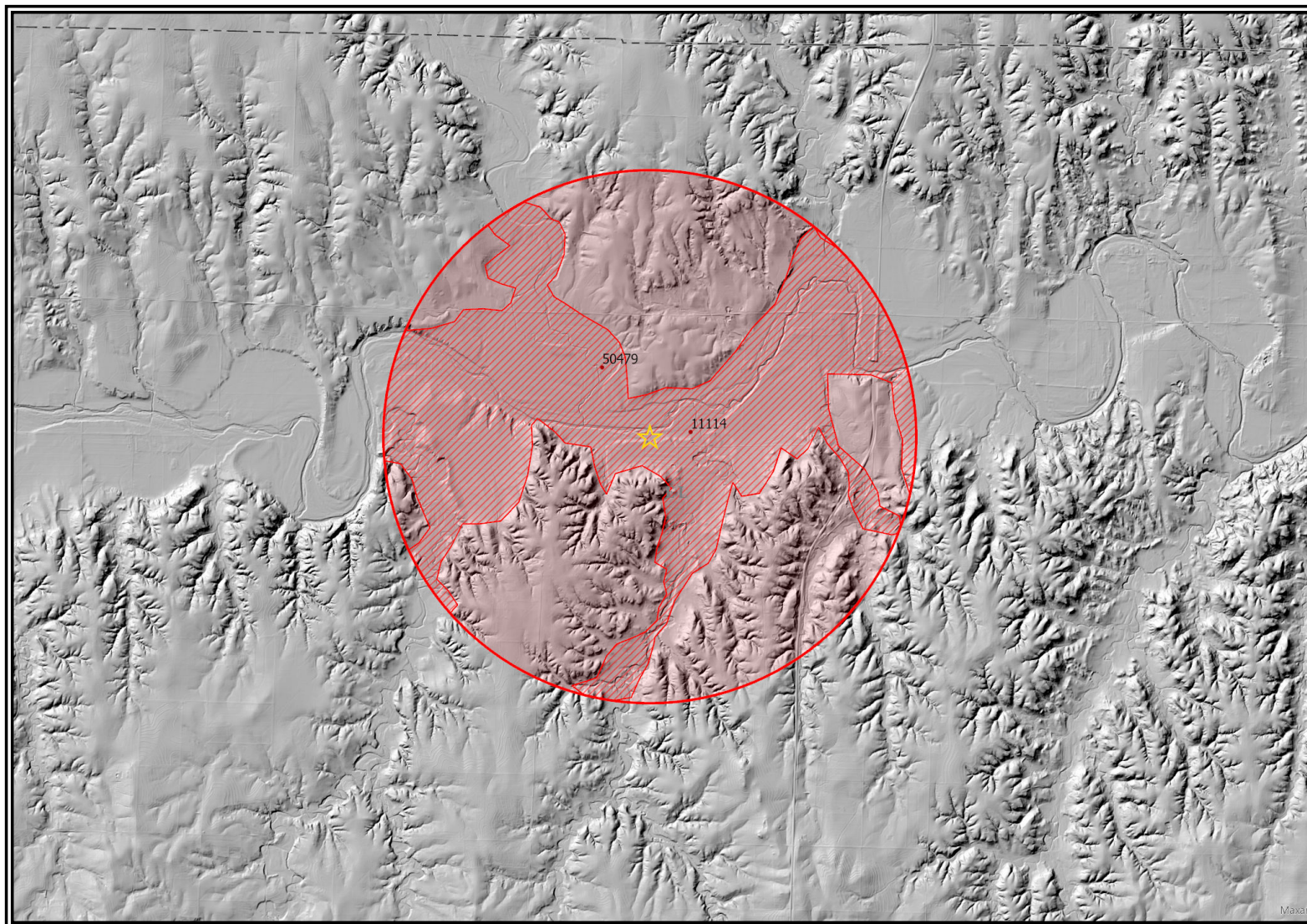
From: Milner, Brandon [KDA] <Brandon.M.Milner@ks.gov>
Sent: Monday, September 13, 2021 3:00 PM
To: Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>
Cc: Billinger, Mark [KDA] <Mark.Billinger@ks.gov>; Hageman, Nancy [KDA] <Nancy.Hageman@ks.gov>
Subject: 50479 Memo

Good afternoon Kelly,

Attached is a memo for application no. 50,479 for DCT LLC in Ellis county. This application was originally filed by Mike Woofter but was sold during the application process. The original quantity of 176 acre-feet was not backed up by safeyield data, therefore the new volume of 149.7 acre-feet was signed off on by the applicant. Mark has helped me tremendously on this application and I really appreciate the help. Could you provide a recommendation on this application? Thanks!

Brandon Milner
Environmental Scientist
Water Appropriation Program

Safe Yield Report Sheet
Water Right- Proposed Point of Diversion
Point of Diversion in 17-11S-18W
Footages from SE corner- 355 feet North 1,122 feet West



Analysis Results

The selected PD is in an area OPEN to new appropriations.

The safe yield based on the variables listed below is 233.71 AF.

260-176=84 AF

233.71-84 AF= **149.71 AF Available**

Total prior appropriations in the circle is 260.00 AF.

Total quantity of water available for appropriation is 0.00 AF.

Safe Yield Variables

The area used for the analysis is set at 3,399 acres.

The potential annual recharge at the circle center is estimated to be 1.1 inches.

The percent of recharge available for appropriation is 75%.

Authorized Quantity values are as of 09-AUG-2021 and are based on Appropriated and Vested ground water right and possible stream nodes for GMD #2. Domestic, Term and Temporary water rights have been excluded.

There are 2 water rights and 2 points of diversion within the circle.

File Number	Use	ST	SR	Q4	Q3	Q2	Q1	FeetN	FeetW	Sec	Twp	Rng	ID	Qind	Auth Quant	Add Quant	Tot Acres	Net Acres
A 11114 00	IRR	NK	G		SW	SW	SW	407	4648	16	11	18W	1	WR	84.00	84.00	128.00	128.00
A 50479 00	IRR	AY	G				S2	3075	3075	17	11	18W	1	WR	176.00	176.00	126.00	126.00

10/28/2021
KJN

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. 50,479** of the applicant

**DCT LLC
P.O. BOX 87
PAXICO, KS 66526**

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 2, 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	
19	11S	18W	3	34	35	3	22			23									120

3. That the authorized source from which the appropriation shall be made is to be withdrawn by means of a battery of four (4) wells, with a geographical center located in the Southwest Quarter of the Southeast Quarter of the Southeast Quarter (SW¼ SE¼ SE¼) of Section 17, more particularly described as being near a point 355 feet North and 1,122 feet West of the Southeast corner of said section, in Township 11 South, Range 18 West, Ellis County, Kansas, located substantially as shown on the 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 **149.7 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, 2023**, or within any authorized extension thereof. The applicant shall notify the Chief Engineer and pay the statutorily required field inspection fee, which is currently \$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 accompanied by the required statutory fee, which is currently \$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, 2027**, 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, which is currently \$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 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. 82a703c 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 8 day of November, 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 8 day of November, 2021, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.



Ashlee F

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

DCT LLC
P.O. Box 87
Paxico, KS 66526

November 18, 2021

RE: Appropriation of Water, File No. 50,479

Dear Sir or Madam:

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 Applications and Changes Supervisor
Division of Water Resources

KAB: bmm
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 18 day of November, 2021, I hereby certify that the foregoing Approval of Application, File No. 50,479, dated 8 November, 2021, was mailed postage prepaid, first class, US mail to the following:

DCT LLC
P.O. BOX 87
PAXICO, KS 66526

With photocopies to:

Stockton Field Office



Division of Water Resources