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

1. File Number: 50,857	2. Status Cha 12/17/20	•	3. Field Office: 03	4. GMD:					
5. Status: Approved	oved								
6. Enclosures:	⊠ N of C Form	☐ Wate	⁻ Tube	☐ Driller Copy	⊠ Meter				
7a. Applicant(s) New to system □	Person ID 152 Add Seq#	249 70	c. Landown New to sy		Person ID Add Seq#				
OSBORNE RWD #1A ATTN: MICHELLE NICH PO BOX 594 GAYLORD KS 67638 7b. Landowner(s) New to system OSBORNE RWD #1A ATTN: MICHELLE NICH	Person ID 152 Add Seq#	249 70	d. Misc. New to sy	∕stem	Person ID Add Seq#				
PO BOX 594 GAYLORD KS 67638									
8. WUR Correspondent New to system ☐ Overlap File (s) WUC Agree ☑ Yes ☐ No 7B	Person ID 152 Add Seq# Notarized WUC	Form] IRR] STK] HYD DRG	☑ Groundwater ☐ REC ☐ SED ☐ WTR PWR	☐ Yes ☐ Surface Wa☐ DEW☐ DOM☐ ART RECH	⊠ MUN □ CON RG			
10. Completion Date: 12/31/2025 26 11. Perfection Date: 12/31/2045 46 12. Exp Date:									
	13. Conservation Plan Required? Yes No Date Required: Date Approved: Date to Comply: Date WLMD Installed: Date WLMD Installed: Plan Required: Date to Comply: Date WLMD Installed: Date WLMD								
			ate Reviev	red: 11/9/24 ved: 12/02/2024 ed: 12/23/2024 KAnderson	By: DLM By: KAK By:				

File No.	50,85	57		1	5. Formatio	on Code: 115 Drainage Basin: 25						County: OB Special U			Use: N/A Stream: N/A												
16. Poin T MOD	ts of Div	ersio	n													17. Ra		ıd Quar uthoriz	•				Addition	nal			
DEL ENT	PDIV		C	Qualifier	· s		Т	R	IE)	ʻN		'\	٧			ate om			intity gy		Rate gpm		Quanti mgy		dap PD Fi	les
MOD	6961	5	<mark>SW</mark>	SW I	<mark>NW</mark> 2		7S	14W	,	5	314	42	4	818		1	00		33	.24		100)	0		NONE	
18. Stora	18. Storage: RateNF Quantityac/ft Additional RateNF Additional Quantityac/ft																										
19. Limita	ation:	_33	.24 <u> </u>	MGY	af/yr a									cfs) w	hen co	mbine	ed with	n file nu	ımber(s) 42 ,	558						
Limit	ation:				af/yr a	<u> </u>			g	pm (cfs) w	hen co	mbine	ed with	า file ทเ	ımber(s)							
20. Mete	20. Meter Required? 🛮 Yes 🗌 No To be installed by																										
21. Plac	e of Use						N	E1⁄4			NV	V ¹⁄₄			SV	SW1/4 SE1/4					Total	Owner	(hg?	Overlap	Files	
MOD DEL ENT	PUSE	S	Т	R	ID	NE 1/4	NW 1⁄4	SW 1/4	SE 1⁄4	NE 1⁄4	NW 1/4	SW 1/4	SE 1/4	NE 1⁄4	NW 1⁄4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4						
CHK 2	0789	8	78	15W	1				,	WITHII	N BO	UND	ARIES	OF C	SBOF	RNE R	WD 1	A					7B	N	24749 42558	27619	37024
CHK 5	8735	2	6S	18W	3					WITH	IIN B	OUNI	DARIE	S OF	ROOF	(S RV	/D 01						7B	N	24749 42558	27619	37024
CHK 5	8737	11	7 S	15W	3					CIT	Y OF	ALT	ON & I	мме	DIATE	VICIN	IITY						7B	N	24749 42558	27619	37024
CHK 5	8736	10	7S	16W	5		CITY OF WOODSTON & IMMEDIATE VICINITY 7B N 24749 27619 37024 42558							37024													
Commer	nts:							<u>'</u>					<u> </u>					<u> </u>	<u> </u>		ı		ı				

Kansas Department of Agriculture Division of Water Resources WAIVER REQUEST & WAIVER RULE WORKSHEET

File Number: <u>50,857</u>	FO: <u>3</u>	GMD:
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WAIVER REQUEST:

UMW	Date Requested	Rule ID	Applies	Rule Type	Rule Subtype				
MUN	9/12/22	3	Statewide	Well Spacing	Unconfined				
Rule Number	Date Granted	Date Denied	Justification:	The proposed well for File No. 50,857 is located 766 feet from a non-domestic well authorized by File No. 37,024, which is also owned by the applicant of File No. 50,857. K.A.R. 5-4-4(c)(1)(C) requires 1,320 ft of spacing from non-domestic wells. The wells in question have been in operation since 2003 and no concerns have been reported.					
K.A.R. 5-4-4 (c)(1)(C)	12/17/2024								

WAIVER RULE (complete only if a new rule needs to be created):

Rule ID	Applicability	Туре	Subtype	Rule Number	Date Active	Date Inactive
				K.A.R.		

Date Prepared	By DLM	
Date Entered	12/23/2024	Ву
_	KAnderson	

Kansas Department of Agriculture Division of Water Resources WAIVER REQUEST & WAIVER RULE WORKSHEET

File Numl	ber: <u>50,857</u>					FO: <u>3</u>	GM	1D:		
WAIVER	REQUEST:									
ι	JMW	Date Requested	Rule ID	Applies	Rule Ty	ре		Rule Subtyp	е	
MUN 9/12/22			174 New Rule	Statewide	Safe Yi	CLOSED HYDROLOGIC UNITS				
Rule	Rule Number		Date Denied	Justification:	The proposed well for					
K.A.R. 5-3-11 (b)(5)(F)		12/17/2024			authorized by Water Right File No. 42,558 located within the closed South Fork Solomon River Basin. No additional quantity is being requested as it will be limited when combined with File No. 42,558.					
WAIVER	RULE (com	plete only i	if a new ru	ule needs to	b be created):					
Rule ID	Applicability		Туре		Subtype	Rule Numb	er	Date Active	Date Inactive	
						K.A.R.				
						Date Prep	ared 11/9 /2	24 By	, DLM	

Date Entered _____ By ____

MEMORANDUM TO FILE

Division of Water Resources, Water Appropriation Program

Date: November 9, 2024

From: David Means, Environmental Compliance/Regulatory Spec Re: New Application File No. 50,857 – Osborne Co. RWD #1A

Summary

Osborne Co. RWD #1A has filed an application to appropriate groundwater for municipal use in Osborne County, Kansas, requesting one (1) well, with a quantity of 33.24 million gallons (102 acre-feet) of water per calendar year, at a diversion rate of 100 gallons per minute. There are no other appropriations or water rights that will overlap the point of diversion. The proposed place of use is currently authorized by Water Right File Nos. 24,749; 27,619; 37,024 and Appropriation of Water, File No. 42,558.

Reasonable Rate and Quantity

Osborne Co. RWD #1A's current water rights give them a total of 55.998 mgy. The requested quantity for this application is proposed to be limited to 33.24 mgy when combined with Appropriation of Water, File No. 42,558, which is authorized 33.24 mgy. The district does not propose any additional water above what they already have allocated, and did not state that any expansion in customers is proposed, so the requested quantity appears to be reasonable.

Source of Supply and Safe Yield

The well log with the application shows Loess from 2-9 feet, chalk from 9-38 feet, fine to medium sand with chalk streaks from 38-45.5 feet, and black shale from 45.5 to 54 feet. The static water level was noted to be around 41 feet at the time this well was drilled in 2003. This well was previously authorized by Appropriation of Water, File No. 42,558 until a recent change in point of diversion. This application was filed to allow Osborne 1A to continue using this well to supplement 42,558 in times of high demand. The source of supply appears to be terrace deposits in the South Fork Solomon River basin, and the area is closed to new applications. As no additional quantity is being requested, the safe yield is not changed, so a waiver of the closed area will be required to approve this application.

Nearby Water Rights

The source of supply is terrace deposits; K.A.R. 5-4-4 requires a minimum spacing of 1,320 feet from non-domestic wells and 660 feet to domestic wells. Review of the aerial photography and the WWC-5 database indicates the closest non-domestic well is approximately 766 feet away, authorized by Water Right, File No. 37,024, which is owned by the applicant. The only other non-domestic well within a half mile is File No. 42,558, located approximately 1,750 feet away. No domestic wells were identified within 660 feet of the proposed point of diversion. A waiver of spacing from file no. 37,024 will be required. One nearby letter was sent out to a potential well owner within ½ mile. The letter was mailed on September 24, 2024. No response was received.

Recommendations

Kelly Stewart, Water Commissioner of the Stockton field office recommended approval of the application on November 12, 2024. Based on the above discussion, with approval of the requested waivers, this application should not impair senior water rights nor prejudicially or unreasonably affect the public interest. Therefore, it is recommended that the referenced application be approved.

From: "Stewart, Kelly [KDA]"

Sent: Tue 11/12/2024 6:55 AM

To: "Means, David [KDA]" <David.Means@ks.gov>; "Hageman, Nancy [KDA]"

<Nancy.Hageman@ks.gov>

Subject: FW: New Application Recommendation **Attachments:** 50857 Application.pdf, 50857 Memo.docx

David,

I recommend approval of this application and the necessary waivers.

Kelly

From: Means, David [KDA] <David.Means@ks.gov> Sent: Saturday, November 9, 2024 11:03 AM To: Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov> Subject: New Application Recommendation

Kelly,

Attached is the memo for 50,857. Please provide your recommendation and/or comments.

Thanks,

David



KANSAS DEPARTMENT OF AGRICULTURE Mike Beam, Secretary of Agriculture

DIVISION OF WATER RESOURCESEarl D. Lewis Jr., Chief Engineer

WAIVER OF REGULATION K.A.R. 5-4-4 Well Spacing

Date: December 17, 2024.

Re: Application, File No. 50,857

- 1. K.A.R. 5-4-4(c)(1)(C) requires minimum well spacing of 1,320 feet between non-domestic wells whose common source of supply is an alluvial aquifer system.
- 2. The well under the above referenced application does not meet minimum well spacing criteria as required by K.A.R. 5-4-4(c)(1)(C) because it is located approximately 766 feet from a well authorized by Water Right, File No. 37,024.
- 3. All wells in question are owned by the same entity, Osborne County RWD 1A.
- 4. The wells in question are of generally low yield, yielding less than 100 gallons per minute.
- 5. Operation of low yield wells in this manner allows the public water supplier greater flexibility in operating the well field and allows redundancy of supply should any of the wells require maintenance.
- 6. The wells in question have been in operation since 2003 and no concerns have been reported.
- 7. The waiver will not prejudicially or unreasonably affect the public interest, and no senior rights will be impaired by the proposed use.

EARL D. LEWIS, JR., P.E.

CHIEF ENGINEER

Comments:

Earl D. Lewis Jr., P.E. Chief Engineer

Division of Water Resources

ansas Department of Agriculture

KANSAS DEPARTMENT OF AGRICULTURE

Mike Beam, Secretary of Agriculture

DIVISION OF WATER RESOURCESEarl D. Lewis Jr., Chief Engineer

WAIVER OF REGULATION K.A.R. 5-3-11(b)(5)(F) Closed Hydrologic Units

Date:

December 17, 2024.

Re:

Application, File No. 50,857

- 1. The well under the above referenced application is in the South Fork Solomon River which is a closed area per K.A.R. 5-3-11(b)(5)(F).
- 2. No additional quantity is being proposed by Application, File No. 50,857, so the safe yield will not be changed.
- 3. The well proposed by Application, File No. 50,857, was previously authorized under Appropriation of Water, File No. 42,558, before a change in point of diversion.
- 4. The proposed quantity under File No. 50,857 will be limited when combined with existing files, including File No. 42,558.
- 5. Operation of low yield wells in this manner allows the public water supplier greater flexibility in operating the well field and allows redundancy of supply should any of the wells require maintenance.
- 6. The waiver will not prejudicially or unreasonably affect the public interest, and no senior rights will be impaired by the proposed use.

EARL D. LEWIS, JR., P.E.

Comments:

Earl D. Lewis Jr., P.E. Chief Engineer

Division of Water Resources Kansas Department of Agriculture

KANSAS DEPARTMENT OF AGRICULTURE Mike Beam, Secretary of Agriculture

DIVISION OF WATER RESOURCESEarl 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. 50,857 of the applicant

OSBORNE COUNTY RWD 1A PO BOX 594 GAYLORD KS 67638

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 **September 12, 2022**.
- 2. That the water sought to be appropriated shall be used for municipal use within the boundaries of Osborne County Rural Water District 1A, Rooks County Rural Water District 1, the City of Woodston, Kansas, and immediate vicinity, and the City of Alton, Kansas, and immediate vicinity.
- 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 Southwest Quarter of the Southwest Quarter of the Northwest Quarter (SW½ SW½ NW½) of Section 2, more particularly described as being near a point 3,142 feet North and 4,818 feet West of the Southeast corner of said section, in Township 7 South, Range 14 West, Osborne 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 **33.24 million gallons** of water for any calendar year.
- 5. That the quantity of water approved under this permit is further limited to the quantity which combined with Appropriation of Water, File No. 42,558, will provide total not to exceed **33.24 million gallons** of water per calendar year for municipal use at the place of use described herein.

- 6. That installation of works for diversion of water shall be completed on or before <u>December 31, 2026</u>, 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.
- 7. That the proposed appropriation shall be perfected by the actual application of water to the proposed beneficial use on or before <u>December 31, 2046</u>, 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.
- 8. 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.
- 9. 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.
- 10. 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.
- 11. 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.
- 12. 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.
- 13. 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.
- 14. 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. The required 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).
- 15. 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.

- 16. That no water user shall engage in nor allow the waste of any water diverted under the authority of this permit.
- 17. That the applicant must submit a progress report to the office of the Chief Engineer by March 1 after the tenth year from the date of the approval of this application and permit to proceed. The progress report is to contain sufficient details to explain the extent of development (perfection) of the water right during the previous ten (10) years, the extent of population being served by the water right and how the water right, in association with any other water right(s) meets the demonstrated municipal use need.
- 18. 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.
- 19. That failure without cause to comply with the provisions of this 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.

Ordered this 17 day of December

, 2024, in Manhattan, Riley County, Kansas.

EARLD. LEWIS, JR., P.E.
CHIEF ENGINEER

TANAS DEPT OF AGRICULTURE

Earl D. Lewis, P.E.
Chief Engineer
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)) SS

County of Riley

The foregoing instrument was acknowledged before me this day of been been, 2024, by Earl D. Lewis, P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.

Notary Public

SHAWNA NOVAK
My Appointment Expires
PUBLIC AUGUST 23 | 2029

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

December 26, 2024

MICHELLE NICHOLS OSBORNE RWD 1A PO BOX 594 GAYLORD KS 67638

RE:

Appropriation of Water

File No. 50,857

Dear Ms. Nichols:

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 *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 <u>agriculture.ks.gov/dwr</u>. 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:kak:dlm 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 request an evidentiary hearing before the Chief Engineer or 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 Division, 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 review 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 26 day of December, 2024, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,857, dated December, 2024, was mailed postage prepaid, first class, US mail to the following:

OSBORNE COUNTY RWD 1A PO BOX 594 GAYLORD KS 67638

With photocopies to:

KDA-DWR Stockton Field Office

Division of Water Resources