

Kansas Department of Agriculture  
Division of Water Resources  
**PERMIT OF NEW APPLICATION WORKSHEET NAME & ADDRESS UPDATES**

1. File Number: <p style="text-align: center; font-size: 1.2em;"><b>50582</b></p>	2. Status Change Date: <p style="text-align: center; font-size: 1.2em; color: purple;"><b>5/31/2022</b></p>	3. Field Office: <p style="text-align: center; font-size: 1.2em;"><b>01</b></p>	4. GMD:
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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

7a. Applicant(s)                      Person ID **66579**  
New to system                       Add Seq# \_\_\_\_\_

**BRENT HIEGER**  
**5155 WALSH RD**  
**WAMEGO KS 66547**

7b. Landowner(s)                      Person ID **53637**  
New to system                       Add Seq# \_\_\_\_\_

**CHRISTOPHER & MARCEY TORREY**  
**PO BOX 23**  
**ALMA, KS 66401**

7c. Landowner(s)                      Person ID **34207**  
New to system                       Add Seq# \_\_\_\_\_

**RICHARD L & TERESA WEIXELMAN**  
**910 5TH ST**  
**WAMEGO KS 66547**

7d. Misc.                                      Person ID **53636**  
New to system                       Add Seq# \_\_\_\_\_

**LORI WEIXELMAN RICE**  
**AUDRA WEIXELMAN EVANS**  
**910 5TH ST**  
**WAMEGO KS 66547-1442**

8. WUR Correspondent                      Person ID **34207**  
New to system                       Add Seq# \_\_\_\_\_  
Overlap File (s) WUC                      Notarized WUC Form   
Agree  Yes  No

**RICHARD L & TERESA WEIXELMAN**  
**910 5TH ST**  
**WAMEGO KS 66547-1442**

9. Use of Water:    Changing?     Yes     No

Groundwater                       Surface Water

IRR                       REC                       DEW                       MUN

STK                       SED                       DOM                       CON

HYD DRG     WTR PWR                       ART RECHRG

IND SIC: \_\_\_\_\_                       OTHER: \_\_\_\_\_

10. Completion Date: 12/31/2023                      11. Perfection Date: 12/31/2027 <sup>2028</sup>                      12. Exp Date: \_\_\_\_\_

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: **4/21/22**                      By: **LI**  
Date Entered: 6/1/2022                      By: LMoody

5/24/2022  
LIreland

File No. **50582**      15. Formation Code: **113**      Drainage Basin: **8**      County: **WB**      Special Use: **N/A**      Stream: **N/A**

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>49845</b>	<b>LOT 6</b>	<b>9</b>	<b>10</b>	<b>10E</b>	<b>9</b>	<b>495</b>	<b>4032</b>				<b>285</b>	<b>15</b>	<b>285</b>	<b>15</b>	<b>NONE</b>
<b>PD IS EXISTING FILE NO. 40951 IS BEING VOL. DISMISSED</b>																

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 **12/31/2023**      Date Acceptable Meter Installed \_\_\_\_\_

21. Place of Use										NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg?	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	NE ¼	NW ¼	SW ¼	SE ¼					
<b>MOD</b>	<b>8626</b>	<b>9</b>	<b>10</b>	<b>10E</b>	<b>6</b>																									

Comments: **PU: L-6 (SE SW)**  
**SPECIAL CONDITIONS: 15 AF EXEMPTION**

**KANSAS DEPARTMENT OF AGRICULTURE**  
**Division of Water Resources**  
**M E M O R A N D U M**

**TO:** Files

**DATE:** May 20, 2022

**FROM:** Leslie Ireland

**RE:** Application, File No. 50,582  
Change Application, File No. 40,951

Brent Heiger has filed the referenced new application to appropriate a limited 15 acre-feet (AF) of groundwater from an existing well currently authorized by File No. 40,951. The project is to provide acres for a pivot system and efficient reconfiguration for its operation. The place of use is not owned by the applicant for the permit, but he has signed the application stating he has access to the point of diversion. The well is located in Lot 6 (SE $\frac{1}{4}$  SW $\frac{1}{4}$ ) of Section 9, Township 10 South, Range 10 East, in Wabaunsee County, within the Kansas River Drainage Basin, just South of the City of Wamego.

The change and new application were to comply with "Base Acres". Upon further review it was determined File No. 40,951 was authorized as a fifteen-acre-foot (15 AF) exemption file as a replacement of File No. 34,933 that was dismissed in 1989. The filing of a new appropriation to afford compliance with "Base Acres", would result in an additional fifteen-acre-foot exemption file in the area. It was determined it would be best to dismiss File No. 40,951 and replace it with File No. 50,582 authorized as a fifteen-acre-foot exemption permit. The dismissal of File No. 40,951 found the change application deemed as unnecessary and the change processing fee was refunded to the applicant. The document for the dismissal of File No. 40,951 has been signed by all the owners and was received on April 20, 2022. File No. 40,951 will be dismissed.

The point of diversion consists of a single well completed in the Kansas River alluvium which is open to new appropriations. K.A.R. 5-3-11, *Availability of water for appropriation- safe yield* states that calculated recharge in the Kansas River alluvium shall be determined by taking 25% of the average annual rainfall in the area of consideration. The calculated recharge was determined to be 8.4 inches. The extent of the alluvium (per topographic data) and south of the river the 5,607 acres for the area of consideration allowing 75% available for appropriation, safe yield was determined to be 2,943.42 acre-feet. Existing unadjusted water rights have appropriated 3,957.71 acre-feet within the area of consideration, confirming the 1994 determination of "0" acre-feet available.

The replacement appropriation will not authorize any new acres to be irrigated from an existing well, that will remain at the previously authorized rate of 285 gallons per minute. The proposed 24.5 acres will be a small packman pivot with the 15 AF providing 0.61 AF per acre in the Southeast of the Southwest Quarter, Lot 6, Section 9, Township 10 South, Range 10 East, Wabaunsee County, Kansas. Per K.A.R. 5-3-16, *Safe Yield; exemptions for up to 15 acre-feet of groundwater*, the permitting of File No. 50,582, will not authorize a new well and as a replacement for File No. 40,951, would be considered to not authorize any additional quantity of water to be diverted. Review of the area found File No. 43,690-A authorized as another 15 AF exemption and under the Torrey ownership as is a portion of the proposed place of use for File No. 50,582. It appears this file was authorized due to a change in allowances for 15 AF permitting in the area. The replacement permit will be subject to MDS conditions like File No. 40,951. y exemption in the area which complies with K.A.R. 5-3-16.

There are four nondomestic and approximately five domestic wells within one-half ( $\frac{1}{2}$ ) mile of the well. Nearby notification letters were sent out on October 11, 2021, which resulted in a telephone call from domestic well owner (Megan Radmer) who asked general question but expressed no specific concerns. The proposed existing point of diversion does not meet the 1,320 feet of designated minimum well spacing criteria to the well authorized by File Nos. 8395 & 19,337 being only 1,223 feet away. Per Part (a) of K.A.R. 5-4-4, *Well spacing*, the 1,223 feet between the nondomestic wells appears to be sufficient to prevent direct well to well impairment based on the historical pumping records. The domestic wells all appear to be 660 feet from the proposed existing well.

The KRWAD was notified of the requested permit and change, with no comments returned.

The permit will be subject to the condition of minimum desirable streamflow. 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. The requirement of a check valve will be a permit condition should chemigation occur. A water level measurement tube will not be a condition of the approval as it appears none is present as per the permitting issues with File No. 40,951.

In a May xx, 2022, email, Katie Tietsort, Water Commissioner, Topeka Field Office, recommended approval of the referenced new application, in conjunction with the dismissal of the senior file.

Based on the above discussion, approval of the new permit with the terms and conditions summarized, no impairment of senior water rights should occur, nor will it prejudicially or unreasonably affect the public interest.



Leslie Ireland  
Environmental Scientist

**From:** Tietsort, Katie [KDA]  
**Sent:** Thu 5/19/2022 10:18 AM  
**To:** Ireland, Leslie [KDA]  
**Subject:** RE: Review and Recommendation File No. 50582 Dismissal 40951 Heiger

Hello Leslie,

This package now looks like we all agreed upon with the Dismissal of File No. 40951 and approval of the 15 AF exemption File No. 50582. Thanks for all your work on this package- it wasn't easy. Please proceed.

Thanks!

## Katie Tietsort

Water Commissioner

[Katie.Tietsort@ks.gov](mailto:Katie.Tietsort@ks.gov)

Ph. 785-296-5733 Cell 785-213-9188

Kansas Department of Agriculture

Topeka Field Office

1131 SW Winding Rd, Suite 400

Topeka, KS 66615

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**From:** Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>  
**Sent:** Tuesday, May 17, 2022 9:36 AM  
**To:** Tietsort, Katie [KDA] <Katie.Tietsort@ks.gov>  
**Subject:** Review and Recommendation File No. 50582 Dismissal 40951 Heiger

Katie,

Please let me know if you would recommend the dismissal and then the permit. It appears the refund of the change fee for 40951 has been processed and this file as requested by all the owners can be dismissed.

As always comments and concerns are welcome.

Leslie Ireland  
Environmental Scientist  
Change Application Unit  
Division of Water Resources



# THE STATE OF KANSAS



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

**DIVISION OF WATER RESOURCES**  
David W. Barfield, 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. 50,582** of the applicant

**BRENT HIEGER**  
**5155 WALSH ROAD**  
**WAMEGO KS 66547**

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 **May 14, 2021**.

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	
09 10S 10E												Lot 6 24.5					24.5

a total of 24.5 acres in Section 9, Township 10 South, Range 10 East, Wabaunsee County, Kansas.

3. That the authorized source from which the appropriation shall be made is groundwater from the drainage basin of the Kansas River to be withdrawn by means of a one (1) well located in Lot 6 of Section 9, more particularly described as being near a point 495 feet North and 4,032 feet West of the Southeast corner of said section, in Township 10 South, Range 10 East, Wabaunsee County, Kansas located substantially as shown on the map accompanying the application.

4. That this appropriation shall be limited to a maximum diversion rate not in excess of **285 gallons per minute (0.64 c.f.s.)** and to a quantity not to exceed **15.0 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, 2028**, 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 authorized 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 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.





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

June 6, 2022

BRENT HIEGER  
5155 WALSH RD  
WAMEGO, KS 66547

RE: Appropriation of Water, File No. 50,582

Dear Mr. Hieger:

Enclosed is a permit authorizing you to proceed with the appropriation of 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 for the completion of the referenced file. Completion is an acceptable water flowmeter installed on the diversion works authorized by this permit prior to using water. Failure to complete the diversion works and inform the Chief Engineer of the required installation of the meter for this permit 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 Topeka Field Office at 785-296-5733. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

A handwritten signature in black ink that reads "Kristen A. Baum". The signature is written in a cursive style.

Kristen A. Baum  
New Applications and Changes Supervisor  
Division of Water Resources

KAB:li  
Enclosure(s)  
pc: Topeka 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, KS 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, KS 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.

Any request for a hearing or petition for administrative review shall be in writing and shall be submitted to the attention of : Chief Legal Counsel, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, Fax: (785) 564 – 6777.

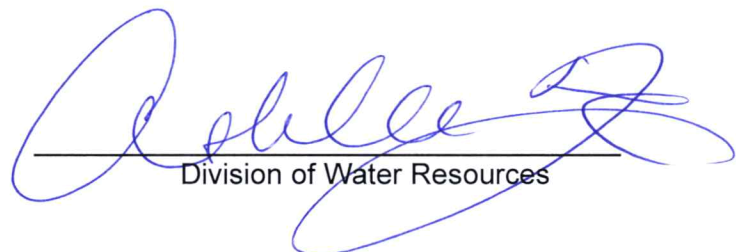
## CERTIFICATE OF SERVICE

On this 6 day of June, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,582, dated 25 May 2022 was mailed postage prepaid, first class, US mail to the following:

BRENT HIEGER  
5155 WALSH ROAD  
WAMEGO KS 66547

With photocopies to:

Topeka Field Office

  
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 Division of Water Resources