

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

1. File Number: <p style="text-align: center; font-size: 1.2em;"><b>50,792</b></p>	2. Status Change Date: <p style="text-align: center; color: blue; font-size: 1.2em;"><b>8/1/2023</b></p>	3. Field Office: <p style="text-align: center; font-size: 1.2em;"><b>01</b></p>	4. GMD: <p style="text-align: center; font-size: 1.2em;"><b>0</b></p>
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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

<p>7a. Applicant(s)                      Person ID <b>67877</b> New to system <input type="checkbox"/>                      Add Seq# <u>1</u></p> <p style="text-align: center; font-weight: bold; margin-top: 20px;">SCHWARTZ WILKE FARMS LLP 32296 190TH STREET SE SLEEPY EYE, MN 56085</p>	<p>7c. Landowner(s)                      Person ID _____</p>
<p>7b. Landowner(s)                      Person ID <b>67877</b> New to system <input type="checkbox"/>                      Add Seq# <u>1</u></p> <p style="font-weight: bold; margin-top: 20px;">7a.</p>	<p>7e. Miscellaneous                      Person ID _____</p>

<p>8. WUR Correspondent                      Person ID <b>67877</b> New to system <input type="checkbox"/>                      Add Seq# <u>1</u> Overlap File (s) WUC                      Notarized WUC Form <input type="checkbox"/> Agree <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p style="font-weight: bold; margin-top: 20px;">7a.</p>	<p>9. Use of Water:    Changing?    <input type="checkbox"/> Yes    <input checked="" type="checkbox"/> No</p> <p style="padding-left: 40px;"><input checked="" type="checkbox"/> Groundwater            <input type="checkbox"/> Surface Water</p> <p style="padding-left: 40px;"><input type="checkbox"/> IRR            <input type="checkbox"/> REC            <input type="checkbox"/> DEW            <input type="checkbox"/> MUN</p> <p style="padding-left: 40px;"><input checked="" type="checkbox"/> STK            <input type="checkbox"/> SED            <input type="checkbox"/> DOM            <input type="checkbox"/> CON</p> <p style="padding-left: 40px;"><input type="checkbox"/> HYD DRG    <input type="checkbox"/> WTR PWR            <input type="checkbox"/> ART RECHRG</p> <p style="padding-left: 40px;"><input type="checkbox"/> IND SIC: _____    <input type="checkbox"/> OTHER: _____</p>
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10. Completion Date: 12/31/2024            11. Perfection Date: 12/31/2028            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: \_\_\_\_\_

<div style="border: 1px solid blue; padding: 5px; display: inline-block;"> <p style="margin: 0;">8/9/2023 L Moody</p> </div>	<p>Date Prepared: 7/6/2023            By: LHH Date Reviewed: 7/6/2023            By: KAK Date Entered: <b>8/9/2023</b>            By: <b>KAnderson</b></p>
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File No. **50,792**      15. Formation Code: **540**      Drainage Basin: **KANSAS RIVER**      County: **MR**      Special Use:      Stream:

16. Points of Diversion											
T	MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W
√				<b>63702</b>	<b>SE SE SE</b>	<b>3</b>	<b>16S</b>	<b>5E</b>	<b>4</b>	<b>500</b>	<b>109</b> GEO CTR
	<b>MOD</b>			<b>63704</b>	<b>*SE SE SE</b>	<b>3</b>	<b>16S</b>	<b>5E</b>	<b>6</b>	<b>386</b>	<b>116</b> BATT 1 OF 3 WELLS - SOUTH WELL
√				<b>63705</b>	<b>SE SE SE</b>	<b>3</b>	<b>16S</b>	<b>5E</b>	<b>7</b>	<b>614</b>	<b>101</b> BATT 1 OF 3 WELLS - NORTH WELL
√				<b>89291</b>	<b>SE SE SE</b>	<b>3</b>	<b>16S</b>	<b>5E</b>	<b>15</b>	<b>500</b>	<b>109</b> BATT 1 OF 3 WELLS - CENTER WELL

17. Rate and Quantity				
Authorized		Additional		
Rate gpm	Quantity mgy	Rate gpm	Quantity mgy	Overlap PD Files
<b>800</b>	<b>155.148</b>	<b>704</b>	<b>0.316</b>	<b>43,819 &amp; 46,351A</b>
* The qualifiers for PDIV 63704 need fixed under the overlapping files. WRIS correction only.				

18. Storage: Rate \_\_\_\_\_ NF      Quantity \_\_\_\_\_ ac/ft      Additional Rate \_\_\_\_\_ NF      Additional Quantity \_\_\_\_\_ ac/ft

19. Limitation: \_\_\_\_\_ af/yr at **800** gpm ( \_\_\_\_\_ cfs) when combined with file number(s) **43,819 & 46,351A**  
 Limitation: **155.148 mgy** af/yr at \_\_\_\_\_ gpm ( \_\_\_\_\_ cfs) when combined with file number(s) **43,819; 46,351A; & 50610**

20. Meter Required?  Yes  No      To be installed by **12/31/2024**      Date Acceptable Meter Installed \_\_\_\_\_

21. Place of Use							NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg? NO	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>CHK</b>			<b>5288</b>	<b>3</b>	<b>16S</b>	<b>5E</b>	<b>1</b>	<b>HOG FACILITY (S2 SE)</b>																	<b>7a</b>	<b>NO</b>	<b>43,819; 46,351A; &amp; 50,610</b>	

Comments:

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

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

**TO:** Files

**DATE:** July 6, 2023

**FROM:** Lloyd Hemphill

**RE:** New Application, File No. 50,792

Schwartz Wilke Farms, LLP has filed the referenced new application to appropriate 155.148 million gallons (476 acre-feet) of groundwater from an existing battery of three wells at a rate of 800 gallons per minute for stockwatering use at an existing hog facility. The battery of three wells is located in the Southeast Quarter of Section 3, Township 16 South, Range 5 East, Morris County, within the Kansas River Drainage Basin. The place of use (hog facility) and point of diversion are owned by the applicant and the application was signed stating legal access to the point of diversion.

The existing hog facility is located in the South half of the Southeast Quarter of Section 3. This facility is supplied water by two separate batteries of three wells, one battery on the east side (Water Right, File Nos. 43,819; 46,351-A; and 50,792) and one battery on the west side (Appropriation of Water, File No. 50,610). The files are authorized as shown on the following table. The earlier files authorize a much smaller quantity. This application was filed to add quantity to these wells so either battery can supply the demand of the facility.

File No.	Authorized Quantity (MGY)	Additional Quantity (MGY)	Authorized Rate (GPM)	Additional Rate (GPM)	Limitation
Water Right, File No. 43,819	8.739	8.739	96	96	NONE
Water Right, File No. 46,351A	9.832	1.093	96	0	9.832 MGY @ 96 GPM COM/W #43819
Appropriation of Water, File No. 50,610	145	145	800	800	NONE
Pending Application, File No. 50,792	155.148	0.316	800	704	155.148 MGY COM/W all senior files @ 800 GPM COM/W #43,819 & 46,351A

The requested quantity of water of 155.148 million gallons was based on providing an adequate supply of water for 16,904 head of swine. The applicant justified the quantity of water based on a per head allowance for each type of hog, as described on supplemental pages with the application. This quantity appears consistent with K.A.R. 5-3-22 (*Maximum reasonable quantity of water for livestock and poultry*). All files associated with this this place of use will be further limited to 155.148 million gallons per year, and files sharing this point of diversion (43,819 & 46,351A) will be limited to a rate of 800 gallons per minute to meet the requirements of a battery.

No non-domestic wells are located within one-half mile of this point of diversion (other than those owned by the applicant). Two potential domestic wells were identified based on features shown on aerial imagery (windmill and stock tanks). Notification letters were sent to the domestic well owners on June 9, 2023. One well owner submitted a letter with questions about the possible impact to their domestic well which is used to water livestock. A response letter was sent on June 23, 2023. The domestic well in question is approximately 980 feet away from the proposed point of diversion. No information was provided or is available to indicate that this well would be impaired.

The nearest non-domestic well is over 2,300 feet away from the proposed point of diversion (geocenter) and the nearest domestic well is about 980 feet away. The point of diversion meets minimum well spacing criteria to all existing wells per the requirements in K.A.R. 5-4-4.

The proposed point of diversion (battery of three wells) includes two wells which were recently re-drilled under point of diversion change applications under Water Right, File Nos. 43,819 and 46,351A. The well logs for these new wells show that the subsurface consists of alternating limestone and shale layers. The wells were completed to an average depth of 114 ft. Static water level was about 35 ft below ground. Based on well logs and geologic maps, the source of water is Chase Group bedrock.

The well logs do not provide sufficient information to determine whether the aquifer is confined or unconfined. Based on the lithologies present, it is likely that the aquifer is at least semi-confined. Per K.A.R 5-3-14, safe yield for a confined aquifer is processed on a case-by-case basis using the best available information. Because no specific criteria have been developed for safe yield evaluation of this particular aquifer, it appears that the best method available is the safe yield criteria outlined in K.A.R. 5-3-11 for unconfined aquifers. This is consistent with other applications with a bedrock source of supply. This method of analysis calculates the maximum potential safe yield for this area (i.e. a confined or semi-confined aquifer would receive less recharge than a shallow unconfined aquifer). The procedure outlined by K.A.R. 5-3-11 allows for a potential recharge of 3.3 inches, with 75 percent available for appropriation. The area of consideration, defined by the extent of the bedrock aquifer within a two-mile radius, is 8,042 acres, resulting in a safe yield of 1,659 acre-feet. The only permitted appropriations in the area of consideration are those associated with this place of use, and they will be limited to 155.148 mgy (476 AF). The quantity of water available for appropriation is 1,183 acre-feet. Even if recharge to this aquifer is significantly reduced by confining layers there would be sufficient water for the proposed appropriation and the application complies with safe yield criteria.

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.

Brett Bunger, Water Commissioner, Topeka Field Office, recommended in a July 6, 2023 e-mail that the referenced new application should be approved. Based on the above discussion, the application complies with safe yield and well spacing criteria, the use is reasonable and justified, and approval will not impair senior water rights, it is recommended that the referenced application be approved.

Lloyd Hemphill  
Environmental Scientist  
Topeka Field Office

## Hemphill, Lloyd [KDA]

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**From:** Bunger, Brett [KDA]  
**Sent:** Thursday, July 6, 2023 11:35 AM  
**To:** Hemphill, Lloyd [KDA]  
**Subject:** RE: Application, File No. 50792

I recommend approval. Please proceed.

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**From:** Hemphill, Lloyd [KDA] <Lloyd.Hemphill@ks.gov>  
**Sent:** Thursday, July 6, 2023 11:12 AM  
**To:** Bunger, Brett [KDA] <Brett.Bunger@ks.gov>  
**Subject:** Application, File No. 50792

Brett,

Will you provide your recommendation for this application?

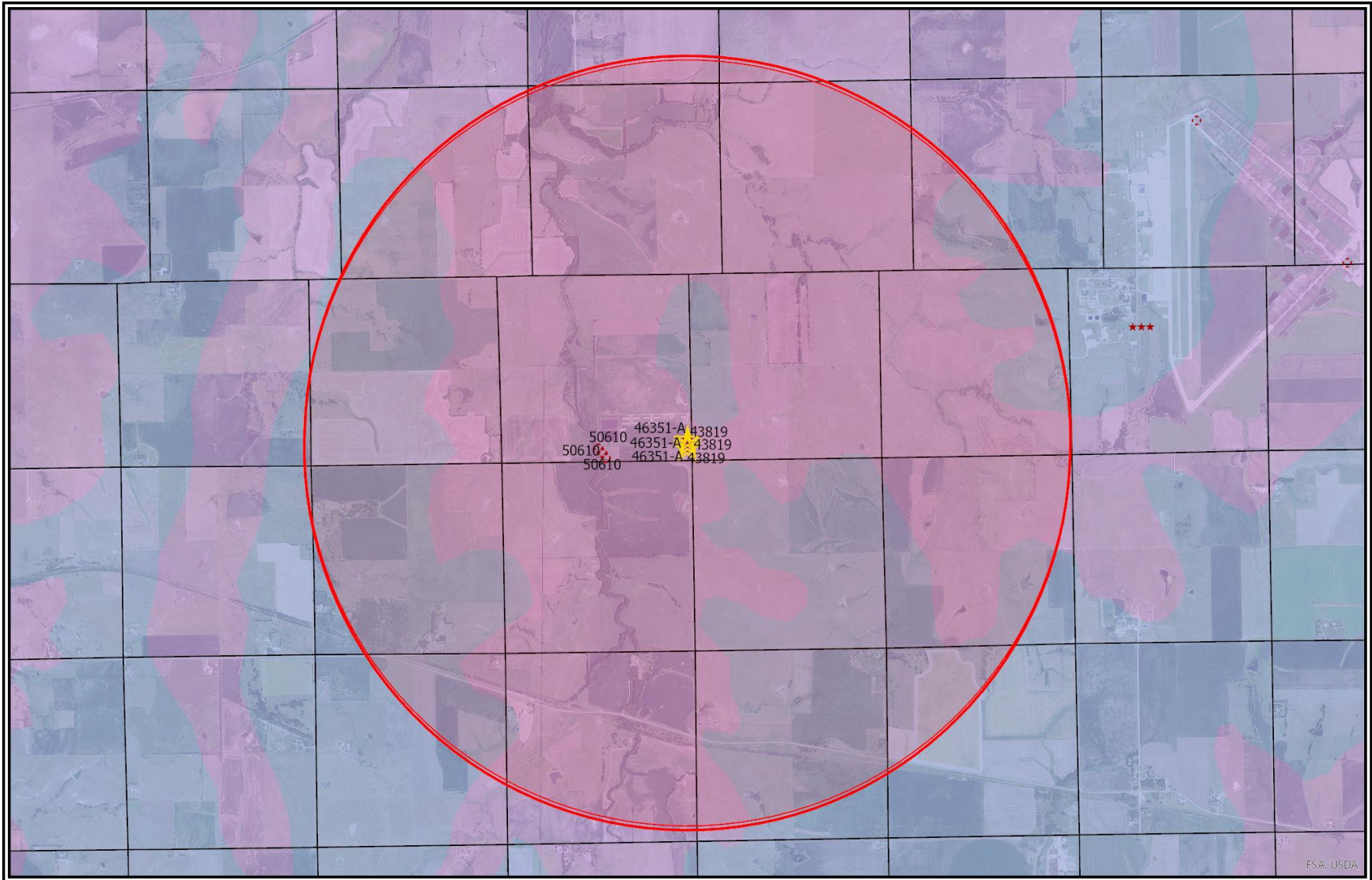
This is for use of groundwater in a hog facility in MR CO (Schwartz-Willke Farm). The facility currently uses two 3-well batteries. Not much water was originally perfected under the older battery of wells and this application requests additional quantity so the facility can be served completely by either battery if needed. Very little additional quantity is requested by this application.

One nearby domestic well owner provided some general concerns about the possible impact to a well which is used to water livestock. This domestic well is about 980 feet away and meets well spacing criteria. Most likely the new application will be operated at a rate significantly lower than the requested 800 gpm (based on the type of use) and there does not appear to be any information suggesting that this appropriation will cause impairment.

Thanks,  
Lloyd

Lloyd Hemphill, Environmental Scientist  
Kansas Department of Agriculture  
Division of Water Resources, Topeka Field Office  
1131 SW Winding Rd, Suite 400  
Topeka, KS 66615  
Office: (785) 296-5733

**Safe Yield Report Sheet**  
**Water Right- A5079200**  
**Point of Diversion in 03-16S-05E**  
**Footages from SE corner- 500 feet North 109 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 1,658.76 AF.

Total prior appropriations in the circle is 951.29 AF  $- 476.13 \text{ AF} + 0.97 \text{ AF} = 476.13 \text{ AF}$

Total quantity of water available for appropriation is ~~707.47 AF~~  $- 1182.63 \text{ AF}$

## Safe Yield Variables

The area used for the analysis is set at 8,042 acres.

The potential annual recharge at the circle center is estimated to be 3.3 inches.

The percent of recharge available for appropriation is 75%.

Authorized Quantity values are as of 15-JUN-2023 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 4 water rights and 8 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 43819 00	STK	NK	G		SE	SE	SE	500	109	03	16	05E	4	WR	26.82	26.82		
Same	STK	NK	G		NE	SE	SE	386	116	03	16	05E	6	WR				
Same	STK	NK	G		SE	SE	SE	614	101	03	16	05E	7	WR				
Same	STK	NK	G		SE	SE	SE	500	109	03	16	05E	15	WR				
A 46351 A	STK	NK	G		SE	SE	SE	500	109	03	16	05E	4	WR	30.17	3.35		
Same	STK	NK	G		NE	SE	SE	386	116	03	16	05E	6	WR				
Same	STK	NK	G		SE	SE	SE	614	101	03	16	05E	7	WR				
Same	STK	NK	G		SE	SE	SE	500	109	03	16	05E	15	WR				
A 50610 00	STK	KE	G		SW	SW	SE	251	2475	03	16	05E	11	WR	444.99	444.99		
Same	STK	KE	G		SW	SW	SE	251	2475	03	16	05E	12	WR				
Same	STK	KE	G		SW	SW	SE	384	2573	03	16	05E	13	WR				
Same	STK	KE	G		SW	SW	SE	117	2376	03	16	05E	14	WR				
A 50792 00	STK	AY	G		SE	SE	SE	500	109	03	16	05E	4	WR	476.13	<del>0.97-476.13</del>		
Same	STK	AY	G		NE	SE	SE	386	116	03	16	05E	6	WR				
Same	STK	AY	G		SE	SE	SE	614	101	03	16	05E	7	WR				
Same	STK	AY	G		SE	SE	SE	500	109	03	16	05E	15	WR				

## Limitations

File Number	Seq Num	Limitations
A 46351 A	2	9.832 MGY @ 96 GPM COM/W #43819

50792 will be limited to 155.148 MGY w/ 43819; 46351A; & 50610. 155.148 MGY – 9.832 MGY – 145 MGY = 0.316 MGY (0.97 AF) Additional

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. 50,792** of the applicant

**SCHWARTZ WILKE FARMS LLP  
32296 190TH STREET SE  
SLEEPY EYE MN 56085**

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 20, 2022**.
2. That the water sought to be appropriated shall be used for stockwatering in the South Half of the Southeast Quarter (S $\frac{1}{2}$  SE $\frac{1}{4}$ ) of Section 3, in Township 16 South, Range 5 East, Morris County, Kansas.
3. That the authorized source from which the appropriation shall be made is groundwater to be withdrawn by means a battery of three (3) wells with a geographic center located in the Southeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$  SE $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section 3, more particularly described as being near a point 500 feet North and 109 feet West of the Southeast corner of said section, in Township 16 South, Range 5 East, Morris 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 **155.148 million gallons of water (476 acre-feet)** for any calendar year.
5. That installation of works for diversion of water shall be completed on or before **December 31, 2024**, 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, 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 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 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 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.

17. 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.

18. That the rate of diversion approved under this permit is further limited to the rate which combined with Water Right, File Nos. 43,819 and 46,351-A, will provide a maximum diversion rate not in excess of **800 gallons per minute (1.78 c.f.s)** from the point of diversion described herein.

19. That the quantity of water approved under this permit is further limited to the quantity which combined with Water Right, File Nos. 43,819 and 46,351-A, and Appropriation of Water, File No. 50,610, will provide a total not to exceed **155.148 million gallons of water (476 acre-feet)** per calendar year for stockwatering use at the place of use described herein.

20. 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.

Ordered this 1 day of August, 2023, in Manhattan, Riley County, Kansas.

*Lane P. Letourneau*

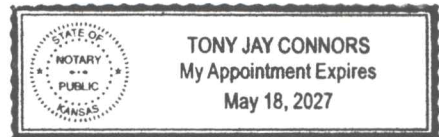
Lane P. Letourneau, P.G.  
Water Appropriation Program Manager  
Division of Water Resources  
Kansas Department of Agriculture

State of Kansas )  
                          ) SS  
County of Riley )

The foregoing instrument was acknowledged before me this 1 day of August, 2023, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.

*Tony Jay Connors*

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

August 10, 2023

SCHWARTZ WILKE FARMS LLP  
32296 190TH STREET SE  
SLEEPY EYE MN 56085

RE: Appropriation of Water  
File No. 50,792

Dear Sir:

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, with specific reference to Paragraph Nos. 18 and 19.

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 may be submitted online for no charge at [www.kswaterusereport.org](http://www.kswaterusereport.org). Reports submitted in paper form will be assessed a \$20 per file number paper filing fee.

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 is available on our website at [agriculture.ks.gov/dwr](http://agriculture.ks.gov/dwr). If you have any questions or need assistance, please contact our office at 785-564-6640 or the local Topeka Field Office at 785-296-5733. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

Kristen A. Baum  
New Application Unit Supervisor  
Division of Water Resources

KAB:kak:lh  
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 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 10 day of August, 2023, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,792, dated August 1 was mailed postage prepaid, first class, US mail to the following:

SCHWARTZ WILKE FARMS LLP  
32296 190TH STREET SE  
SLEEPY EYE MN 56085

With photocopies to:

KDA-DWR Topeka Field Office



Division of Water Resources