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

| 1. File Number: | | | 2. Status | Change Date: | 3. Field Office: | 4. GM | 4. GMD: | | | | | | |
|--|-----------------------------------|---------------------------|---|--------------------------|------------------------|------------------|--------------|--|--|--|--|--|--|
| | 50973 | 50972 | 6/15/ | 2023 | 01 | | | | | | | | |
| 5. Status: | ⊠ Approved | ☐ Denied by D | WR/GMD ☐ Dismiss by Request/Failure to Return | | | | | | | | | | |
| 6. Enclosures: | ⊠ Check Valve | ⊠ N of C Form | □ W | ater Tube | ☐ Driller Copy | ⊠ Meter | | | | | | | |
| 7a. Applicant(s New to syst | | Person ID 677 Add Seq# | 737 | 7c. Landown New to sy | | Person Add Se | - | | | | | | |
| | M AG AIL CREEK DY, KS 66866 | | | | | | | | | | | | |
| 7b. Landowner New to syst | | Person ID Add Seq# | | 7d. Misc New to sy | vstem □ | Person Add Se | | | | | | | |
| 7 A | <u></u> | | | | | | | | | | | | |
| 8. WUR Corre New to syst | tem 🗌 | Person ID Add Seq# | | 9. Use of Wat | 3 3 | ☐ Yes | ⊠ No | | | | | | |
| Overlap File Agree ☐ Y | e (s) WUC ∕es No | Notarized WUC | Form | l □ IRR | ☑ Groundwater ☐ REC | ☐ Surface | water MUN | | | | | | |
| 7a | | | | ⊠ STK | SED | ☐ DOM | ☐ CON | | | | | | |
| | | | | ☐ HYD DRG | ☐ WTR PWR | ☐ ART RE | CHRG | | | | | | |
| | | | | ☐ IND SIC: ☐ OTHER: | | | | | | | | | |
| 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: | | | | | | | |
| Date Prepared: 3/13/23 By: BMM Date Reviewed: 6/15/2023 By: KAK Date Entered: 6/19/2023 By: LMoody | | | | | | | | | | | | | |

| File No. | 50973 | 50972 | 15. Forma | ation Co | de: 540 |) | | Drain | nage B | asin: (| Cottor | nwood | d Rive | r (| County | : Mari | ion | Sį | oecial L | Jse: | | Stream | | |
|-------------------|----------------------|--------------------|------------|-----------|----------------|-----------|-----------|-----------|-----------|--------------|-----------|-------------------|-----------|-----------|--------------|-----------|--------|---------------|-----------|-------------|------------|-----------------|-------------|---------------|
| T MOD | | 6/16/2 BMM | 023 | | | | | | | | | | | 17. R | ate an Aı | d Qua | | | | | Addition | al | | |
| DEL ENT | PDIV 90174 | Quali | fier | S | Т | R | | ID | 'N | | " | ·W | | | ate pm | | | antity ngy | | Rate gpm | | Quantity mgy | Over | lap PD Files |
| MOD | 90175 | NW <mark>SW</mark> | / NE | 18 | 228 | 4E | | 1 | 48 | 20 | | 670 | | 1 | 00 | | 32 | 2.15 | | 100 | | 0 | | NA |
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| 18. Stora | age: Rate | | | NF | Qua | ntity _ | | | | | _ ac/ft | Α | dditior | nal Ra | te | | | | NI | = Add | itional Qu | antity | | ac/ft |
| | | 32.15 | | | | | | | | | | | | | | | | | | | | | | |
| Limi | tation: | | af/y | r at | | | | gpm (| | _ | | cfs) w | hen co | ombine | ed with | n file n | ıumbeı | (s) | | | | | | |
| 20. Mete | er Required | ? ⊠ Yes □ |] No | То | be ins | talled l | by | | 12 | <u>2/31/</u> | 2024 | 4 | | _ D | ate Ac | cepta | ble Me | eter Ins | talled _ | | | | | |
| 21. Plac | ce of Use | | | | NE1⁄4 | | | | NW1/4 | | | | sv | SW1/4 | | | SE1/4 | | | Total | Owner | Chg | ? NO | Overlap Files |
| MOD DEL ENT | PUSE | STR | 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 | | | | | |
| ENT 7 | 70295 | 17 22S 4E | ∃ 1 | | | Feed | dlot Fa | acility | in We | st hal | f of N | . ⊑ 1⁄4 a≀ | nd N/2 | of SV | V 1/4 d | of 17- | 22S-4 | E | | | 7a | | N | 50,536,50702 |
| DEL 7 | 1259 | | | | | | | | | | N | 100 | | | | | | | | | | | | |
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KANSAS DEPARTMENT OF AGRICULTURE Division of Water Resources

<u>M E M O R A N D U M</u>

TO: Files DATE: March 17, 2023

FROM: Brandon Milner RE: New Application,

File No. 50,972

Preheim Ag has filed an application to appropriate groundwater for stockwater use, requesting one well for a quantity of 32.15 million gallons (98.67 acre-feet) at a diversion rate of 100 gallons per minute. The proposed point of diversion will be one well located in the Southwest Quarter of the Northwest Quarter of the Northeast Quarter of Section 18, in Township 22 South, Range 4 East in Marion County. The entire place of use is owned by Preheim Ag, and the applicant has signed the application form stating that he has legal access to the point of diversion.

This application does overlap with current water appropriation no. 50,536 and pending applications 50,702 as the current well does not meet the quantity requirements of the feedlot and additional wells are needed. The proposed quantity of water is 32.15 million gallons per year would be used for stockwatering for approximately 4,500 head of cattle. With providing the 15 gallons per head of cattle, this would equate to 24.64 million gallons. However, the applicant wishes to use 6,048 gallons per year for sanitation purposes and 7.5 million gallons per year for other farm and feedlot needs. This has been discussed with the Topeka Field Office and deemed to be a reasonable request. This adds up to the 32.15 million gallons requested by the application. Hence application 50,972 will be limited to 32.15 million gallons when combined with Water Appropriation No. 50,536, and 50,702.

The source of water based on well logs submitted with the application is the Chase Group. 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 8,042 acres. With a potential annual recharge of 3.6 inches, and 100% of recharge available for appropriation, safe yield was determined to be 1809.56 acre-feet. Prior appropriations in this area account for 212.66 acre-feet which leaves 1596.9 acre-feet available.

There is one groundwater appropriation and one pending application within one half mile of this application and no domestic wells within one half mile. This application meets the standard spacing of 1320' for nearby water rights/appropriations and 660' for nearby domestic wells from of the point of the diversion as per the requirements in K.A.R. 5-4-4.

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

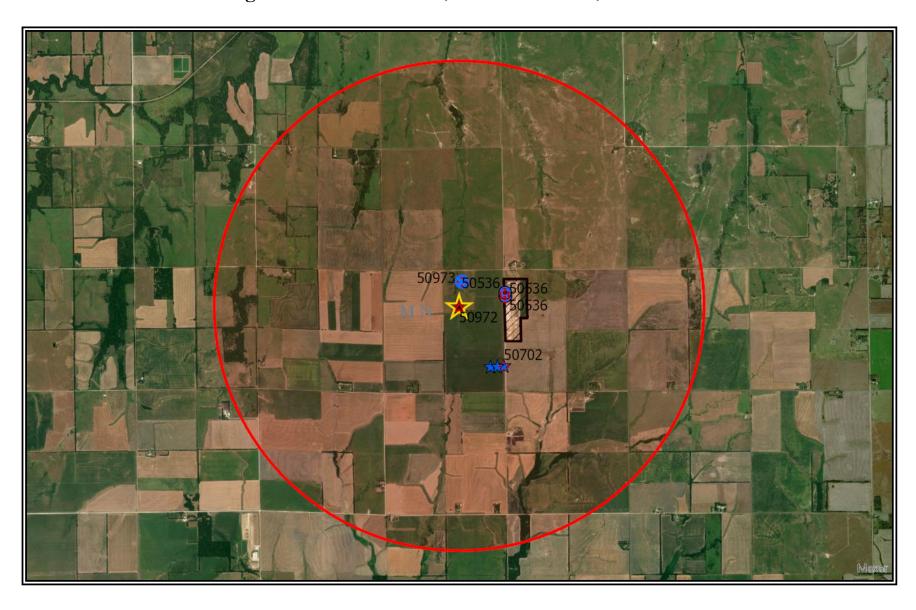
K.A.R. 5-1-4 through K.A.R. 5-1-12. If any chemical or foreign substance is injected into the water pumped under this permit, a check valve will also need to be installed.

This application was sent to the Topeka Field Office on March 22, 2023 and was recommended for approval on March 23, 2023 This application will be limited to Water Appropriation Nos. 50,536 50,702 to 32.15 million gallons per year.

Based on the above discussion, the area is open to new appropriations, the application complies with safe yield and well spacing criteria, approval of the application will not impair senior water rights nor prejudicially or unreasonably affect the public interest. It is recommended that the referenced new application be approved.

Brandon Milner Environmental Scientist Manhattan Headquarters

Safe Yield Report Sheet Water Right- A5097200 Point of Diversion in 18-22S-04E Footages from SE corner- 3,780 feet North 2,000 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 1,809.56 AF.

Total prior appropriations in the circle is 410.00 AF.-98.67-98.67=212.66

Total quantity of water available for appropriation is 1,399.55 AF.1596.9 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 3.6 inches.

The percent of recharge available for appropriation is 75%.

Authorized Quantity values are as of 22-MAR-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 6 points of diversion within the circle.

| File Number | Use | ST | SR | Q4 Q | 3 (| Q2 | Q1 | FeetN | FeetW | Sec | Twp | Rng | ID | Qind | Auth Quant | Add Quant | Tot Acres | Net Acres |
|-------------|-----|----|----|------|-----|------|----|-------|-------|-----|-----|-----|----|------|------------|-----------|-----------|-----------|
| A 50536 00 | STK | GY | G | SV | V S | W 1 | ٧W | 4082 | 5308 | 17 | 22 | 04E | 1 | WR | 98.67 | 98.67 | | |
| Same | STK | GY | G | NV | V S | W 1 | NW | 4318 | 5309 | 17 | 22 | 04E | 2 | WR | | | | |
| Same | STK | GY | G | NV | N S | W 1 | NW | 4200 | 5309 | 17 | 22 | 04E | 3 | WR | | | | |
| A 50702 00 | STK | AY | G | N. | E S | SE | SE | 1130 | 100 | 18 | 22 | 04E | 1 | WR | 98.67 | 98.67 | | |
| A 50972 00 | STK | AY | G | SV | V N | W] | NE | 3780 | 2000 | 18 | 22 | 04E | 2 | WR | 114.01 | 114.01 | | |
| A 50973 00 | STK | AY | G | NV | V N | [W] | NE | 4820 | 1870 | 18 | 22 | 04E | 3 | WR | 98.67 | 98.67 | | |

From: Bunger, Brett [KDA]
Sent: Fri 6/9/2023 2:46 PM

To: Lanterman, Jeff [KDA]; Milner, Brandon [KDA]

Cc: Conant, Cameron [KDA]

Subject: RE: Preheim Ag Questions 50702

Jeff, I have debated this a couple times. I guess I really don't care either way. I was initially concerned that it would become lost because it will be defined in a drainage basin that we don't have anything to do with. But after putting more thought in it, it only makes sense to keep it all together. Brandon, please designate this as a TFO file and we will take care of it. And for the record I have no objections to its approval either.

From: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>

Sent: Thursday, June 8, 2023 2:37 PM

To: Bunger, Brett [KDA] <Brett.Bunger@ks.gov>; Milner, Brandon [KDA] <Brandon.M.Milner@ks.gov>

Cc: Conant, Cameron [KDA] < Cameron. Conant@ks.gov>

Subject: FW: Preheim Ag Questions 50702

Brandon I don't have any objections to the approval of this application.

Brett we were wondering about whether or not this one should be in your field office. The majority if the operation (entire PU and battery of 2 wells) is in the TFO.

Would probably be better for everyone involved if they only had one field office to deal with with for inspections, FIR's, changes etc.

Whatcha think?

Jeff

From: Conant, Cameron [KDA] < Cameron.Conant@ks.gov >

Sent: Thursday, June 8, 2023 11:33 AM

To: Lanterman, Jeff [KDA] < Jeff.Lanterman@ks.gov>

Subject: FW: Preheim Ag Questions 50702

Jeff, Brandon sent this request a while ago. You can refresh yourself with the email string. This is a new feedyard spanning TFO area and SFFO area. I don't have a problem with approval of this application, 50702 is the only well in our area and it is a long ways from any nearby wells spacing and distance to nearby wells is met. The test log is attached.

Please take a look at the attached application map. I don't have much interest in keeping a single file in our area when the majority of the feedlot and the rest of the wells are in TFO area and I'm sure the owners would also appreciate dealing with a single field office. Do you think we should try to get this moved over to TFO area, and if so how do we get that done?

Cameron

From: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>

Sent: Tuesday, February 7, 2023 4:20 PM

To: Bunger, Brett [KDA] < Brett.Bunger@ks.gov >; Conant, Cameron [KDA] < Cameron.Conant@ks.gov >; Milner,

Brandon [KDA] <<u>Brandon.M.Milner@ks.gov</u>>
Cc: Baum, Kristen [KDA] <<u>Kristen.Baum@ks.gov</u>>
Subject: RE: Preheim Ag Questions 50536

Concur on the free to fail. As long as neighbors are protected.

I wonder about housing all these overlapped water appropriations in TFO since they have almost the entire project?

From: Bunger, Brett [KDA] < Brett.Bunger@ks.gov>

Sent: Tuesday, February 7, 2023 2:45 PM

To: Conant, Cameron [KDA] < Cameron.Conant@ks.gov >; Milner, Brandon [KDA] < Brandon.M.Milner@ks.gov >;

Lanterman, Jeff [KDA] < Jeff.Lanterman@ks.gov>
Cc: Baum, Kristen [KDA] < Kristen.Baum@ks.gov>
Subject: RE: Preheim Ag Questions 50536

Cameron, that has always been a question in my mind. But, it is a free country. You are free to fail as much as you want. I would assume that they won't shove 4500 head in there until they have verified the source.

From: Conant, Cameron [KDA] < Cameron.Conant@ks.gov>

Sent: Tuesday, February 7, 2023 2:18 PM

To: Bunger, Brett [KDA] <Brett.Bunger@ks.gov>; Milner, Brandon [KDA] <Brandon.M.Milner@ks.gov>; Lanterman,

Jeff [KDA] <Jeff.Lanterman@ks.gov>

Cc: Baum, Kristen [KDA] < Kristen.Baum@ks.gov>

Subject: RE: Preheim Ag Questions 50536

Jeff can weigh in on this after their meeting.

Looks like there are no other water rights in the 2 mile circle at all and the original SY for 50536 allowed ~1800 AF, so I agree that SY won't be an issue and it seems that spacing is good also. I don't mind if they submit another new application for additional water on top of pending 50702 (if you decide to bump it clear to the top and work it with 50702-that is your call from new apps standpoint). I'm ok if they submit a term permit with that application to cover the additional usage until we can approve 50702 and whatever is filed on top of it for additional water. I don't generally like to do that, but in this case there are no other pending files in the 2 mile area so it doesn't matter much.

I haven't dug into this at all, Brett and Brandon maybe have a little more feel on this. Do they have real water that will support this increase to 4500 head? The well log for 50536 is bad, probably won't be much different anywhere else they drill in this area but they seem to be banking on stacking a bunch of water rights on 50702.

Cameron

From: Bunger, Brett [KDA] < Brett.Bunger@ks.gov>

Sent: Tuesday, February 7, 2023 1:43 PM

To: Milner, Brandon [KDA] <Brandon.M.Milner@ks.gov>; Conant, Cameron [KDA] <Cameron.Conant@ks.gov>;

Lanterman, Jeff [KDA] < Jeff.Lanterman@ks.gov>
Cc: Baum, Kristen [KDA] < Kristen.Baum@ks.gov>
Subject: RE: Preheim Ag Questions 50536

That is correct Brandon. There is not much out in this area so getting approval should not be difficult. A package deal only makes sense.

From: Milner, Brandon [KDA] < Brandon.M.Milner@ks.gov>

Sent: Tuesday, February 7, 2023 1:39 PM

To: Conant, Cameron [KDA] < Cameron.Conant@ks.gov >; Lanterman, Jeff [KDA] < Jeff.Lanterman@ks.gov >

Cc: Baum, Kristen [KDA] < Kristen.Baum@ks.gov >; Bunger, Brett [KDA] < Brett.Bunger@ks.gov >

Subject: RE: Preheim Ag Questions 50536

Yes indeed. I had talked to Brett this morning and I will loop him in here from now on. He was the one who suggested that the applicant file a new application and tie it to 50,702 as a package deal. That's kind of what you were thinking correct Brett?

Brandon

From: Conant, Cameron [KDA] < Cameron. Conant@ks.gov>

Sent: Tuesday, February 7, 2023 1:14 PM

To: Milner, Brandon [KDA] < Brandon.M.Milner@ks.gov>; Lanterman, Jeff [KDA] < Jeff.Lanterman@ks.gov>

Cc: Baum, Kristen [KDA] < Kristen.Baum@ks.gov>

Subject: RE: Preheim Ag Questions 50536

Brandon, this is an odd one. Appropriation No. 50536 is in Topeka Field Office area. Pending Application No. 50702 is just over the boundary in our area. At this time, all but a couple acres of the p/u are in the TFO area. Anything we do here needs to incorporate TFO. Thoughts?

Cameron

From: Milner, Brandon [KDA] < Brandon.M.Milner@ks.gov>

Sent: Tuesday, February 7, 2023 11:09 AM

To: Lanterman, Jeff [KDA] < ! Conant, Cameron [KDA] < Conant, Cameron.Conant@ks.gov>

Cc: Baum, Kristen [KDA] < Kristen.Baum@ks.gov>

Subject: Preheim Ag Questions 50536

Good morning everyone,

I have a question about an approved application and one that I'm almost ready to start. Preheim Ag is proposing a feedlot in Marion County with approved application no. 50,536 and pending application 50,702. This is a new feedlot that the manager is proposing filling with 4,500 head of cattle as soon as next month. They do not currently have the capacity to water this many head of cattle based on the approval of 50,536 and 50,702 (if approved). They are proposing sending in another application as current wells are not producing as much as they would have liked but even if they sent it in today it may take months to review it.

What kind of options would could be looked at in this situation? The applicant has informed me that they do have another set of wells that they want to send in an additional application or two to bring more quantity into the situation. I know in the past that DWR has discouraged term permits on wells have no prior permitting on them.

Just an idea that was suggested to me. What if the applicant sent in a new application now that could be piggybacked on 50,702 when I start working on it? Would that be something that would be considered or would that be jumping too much of the queue at this point?

Brandon Milner Environmental Scientist Water Appropriation Program



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. 50,972 of the applicant

PREHEIM AG 565 QUAIL CREEK PEABODY KS 66866

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 **February 21, 2023.**
- 2. That the water sought to be appropriated shall be used for stockwatering in the West Half of Northwest Quarter (W½ NW¼) and North Half of the Southwest Quarter (N½ SW¼) of Section 17, in Township 22 South, Range 4 East, Marion County, Kansas.
- 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 Northwest Quarter of the Southwest Quarter of the Northeast Quarter (NW¼ SW¼ NE¼) of Section 18, more particularly described as being near a point 3,780 feet North and 2,000 feet West of the Southeast corner of said section, in Township 22 South, Range 4 East, Marion 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 100 gallons per minute (0.22 c.f.s.) and to a quantity not to exceed 32.15 million gallons of water (98.67 acre-feet) for any calendar year.
- 5. That installation of works for diversion of water shall be completed on or before <u>December 31</u>, <u>2024</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.

File No. 50,972 Page 2 of 3

6. That the proposed appropriation shall be perfected by the actual application of water to the proposed beneficial use on or before <u>December 31, 2028</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.

- 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.

File No. 50,972 Page 3 of 3

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 the quantity of water approved under this permit is further limited to the quantity which combined with Appropriation of Water, File Nos. 50,536 and 50,702, will provide a total not to exceed 32.15 million gallons of water per calendar year for stockwatering at the place of use described herein.
- 18. 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 15 day of June

, 2023, in Manhattan, Riley County, Kansas.

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 15 day of June , 2023, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.

Notary Public

TONY JAY CONNORS My Appointment Expires May 18, 2027 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 22, 2023

WESLEY SHAW PREHEIM AG 565 QUAIL CREEK PEABODY KS 66866

RE: Appropriation of Water

File Nos. 50,702, 50,972 and 50,973

Dear Mr. Shaw:

Enclosed are permits authorizing you to proceed with construction of the proposed diversion works and to appropriate water for beneficial use as set forth in the permits. Your attention is directed to the enclosures and to the terms, conditions, limitations, and requirements specified in the permits.

Notices must be filed on the enclosed forms 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 the permits. If you need an extension of time, you must request it before the deadline for completion set forth in the permits. Any request for an extension of time must be accompanied by the statutorily required fee, which is currently \$100.00, per file number.

Acceptable water flowmeters must be installed on the diversion works authorized by these permits 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 applications constitutes permits to appropriate water. They do not give authority to construct any dam or other stream obstruction regulated by K.S.A. 82a-301 through 305a. They do 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.

Also included 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 Stafford Field Office at 620-234-5311. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

Kristen A. Baum

New and Change Applications Unit Supervisor

Division of Water Resources

KAB:kak:bmm Enclosure(s)

pc: Stafford 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 22 day of June, 2023, I hereby certify that the foregoing Approvals of Applications and Permits to Proceed, File No. 50,702, 50,972 and 50,973, dated June 15, 2023, was mailed postage prepaid, first class, US mail to the following:

PREHEIM AG 565 QUAIL CREEK PEABODY KS 66866

With photocopies to:

KDA-DWR Stafford Field Office

Division of Water Resources