

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE

Adrian J. Polansky, Secretary of Agriculture

DIVISION OF WATER RESOURCES

David L. Pope, 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. 45,401 of the applicant

Lloyd W. Boyle, Jr.
P. O. Box 685
Canton, Kansas 67428

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 January 13, 2003.
2. That the water sought to be appropriated shall be used for irrigation use on land described in the application, as follows:

20.20 acres in the Northeast Quarter of the Northwest Quarter (NE $\frac{1}{4}$ NW $\frac{1}{4}$),
23.50 acres in the Northwest Quarter of the Northwest Quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$),
30.04 acres in the Southwest Quarter of the Northwest Quarter (SW $\frac{1}{4}$ NW $\frac{1}{4}$),
33.47 acres in the Southeast Quarter of the Northwest Quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$),
7.37 acres in the Northeast Quarter of the Southwest Quarter (NE $\frac{1}{4}$ SW $\frac{1}{4}$),
6.41 acres in the Northwest Quarter of the Southwest Quarter (NW $\frac{1}{4}$ SW $\frac{1}{4}$),

a total of 120.99 acres in Section 9 Township 24 South, Range 3 West,
Harvey County, Kansas.

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3. That the authorized source from which the appropriation shall be made is groundwater from the Equus Beds aquifer, to be withdrawn by means of one (1) well located in the Southwest Quarter of the Northeast Quarter of the Northwest Quarter (SW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 9, more particularly described as being near a point 4,060 feet North and 3,870 feet West of the Southeast corner of said section, in Township 24 South, Range 3 West, Harvey 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 800 gallons per minute (1.78 c.f.s.) and to a quantity not to exceed 156 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, 2005 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 submitted prior to the expiration of the deadline and 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, 2009, 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 to 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.

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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 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 ending 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.

18. That the well authorized by this permit shall be constructed according to the standards established by the Kansas Department of Health and Environment for wells in the Burrton Intensive Groundwater Use Control Area (IGUCA), which include placement of grout from immediately above the well screen to land surface. JUN 15 2004

19. That the authorized well shall be completed in the middle zone of the aquifer, with the upper screen limit at or below 51 feet below land surface. JUN 15 2004

20. That the authorized well shall be equipped with a sample port or ports for the purpose of collecting water samples. JUN 15 2004

21. That the applicant submit biannual water samples collected from the authorized point of diversion at the start and at the end of each irrigation season. The samples are to be analyzed for chloride content and specific conductance by a laboratory approved by the State of Kansas. The sample analyses shall be reported to Equus Beds Groundwater Management District No. 2 within 30 days of receipt of the laboratory report.

22. That the permit shall be subject to review by the Board of Directors of Equus Beds Groundwater Management District No. 2 if the chloride concentration in the samples from the authorized point of diversion equal or exceed 250 mg/l.

23. That soil samples shall be collected from the authorized place of use prior to the first application of irrigation water. The samples shall be collected from depths of 10, 20, and 30 inches below ground level, at sites indicated on the soil sample site map designated as Attachment A prepared by Equus Beds Groundwater Management District No. 2, herein adopted by reference.

24. That the collection of soil and water samples required herein shall be conducted by trained and qualified persons as determined by the Division of Water Resources and Equus Beds Groundwater Management District No. 2. Costs associated with collection and analysis of the samples shall be paid by the applicant.

25. That the collected soil samples be analyzed for salinity by a laboratory approved by the State of Kansas, and the results of such analysis be submitted to Equus Beds Groundwater Management District No. 2.

26. That this permit is subject to the provisions of the order of the Chief Engineer dated June 1, 1984, establishing the Burrton IGUCA, or any revision thereof.

27. That any application for change in point of diversion greater than 300 feet filed on the authorized point of diversion shall be subject to the Yield Regulation 5-22-7 of the Equus Beds Groundwater Management District No. 2.

28. That any application for change in point of diversion filed on this permit which modifies the original depth of completion of the well by more than 10% shall be subject to review by the Board of Directors of Equus Beds Groundwater Management District No. 2.

29. That the rate of diversion approved under this permit is further limited to the rate which combined with Appropriation of Water File No. 43,104 will provide a maximum diversion rate not in excess of 800 gallons per minute (1.78 c.f.s.) from the well described herein.

30. That the Chief Engineer specifically retains jurisdiction in this matter with authority to make such reasonable reductions in the approved rate of diversion and quantity authorized to be perfected, and such changes in other terms, conditions, and limitations set forth in this approval and permit to proceed as may be deemed to be in the public interest.

This Order shall become a final agency action, as defined by K.S.A. 77-607(b), without further notice to the parties, if a request for hearing or a petition for administrative review is not filed as set forth below.

Request for Hearing. According to K.A.R. 5-14-3(c), any party who desires a hearing must submit a request within 15 days after the date shown on the Certificate of Service attached to this Order. Filing a request for a hearing will give you the opportunity to submit additional facts for consideration, contest any findings made by the Chief Engineer or present any other information you believe should be considered in this matter. A timely-filed request for hearing will stay the deadline for requesting administrative review of this Order pending the outcome of the hearing.

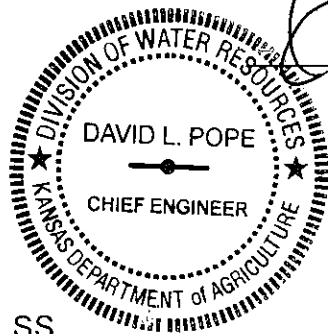
Petition for Review. The applicant, if aggrieved by this Order, may petition for administrative review, pursuant to K.S.A. 82a-711(c) and K.S.A. 82a-1901(a). The petition must be filed within 30 days after the date shown on the Certificate of Service attached to this Order and must set forth the basis for the review, unless stayed by the timely filing of a request for hearing.

Any request for 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, 109 SW 9th Street, 4th Floor, Topeka, Kansas 66612, Fax: (785) 368-6668.

Dated at Topeka, Kansas, this 24th day of May, 2004.

David L. Pope

David L. Pope, P.E.
Chief Engineer
Division of Water Resources
Kansas Department of Agriculture



State of Kansas)
) SS
County of Shawnee)

The foregoing instrument was acknowledged before me this 24th day of May, 2004, by David L. Pope, P. E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.

Debra L. Mendez

Notary Public
Debra L. Mendez



Notary Public
State of Kansas

Appt. Expires 5/13/06