

THE STATE



OF KANSAS

**KANSAS DEPARTMENT OF AGRICULTURE**

Adrian J. Polansky, 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. 47,056** of the applicant

**HARLAN FORAKER  
10415 SOUTH WILLOW LAKE ROAD  
BURRTON, KANSAS 67020**

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 **April 29, 2008**.
2. That the water sought to be appropriated shall be used for recreational use in a pit and will cover filling and the replacement of evaporation/seepage losses from said pit. The pit will have a maximum surface area of 2 acres and will be located in the Northeast Quarter of the Southeast Quarter (NE $\frac{1}{4}$ SE $\frac{1}{4}$ ) of Section 35, Township 24 South, Range 3 West, Harvey County, Kansas.
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That the authorized source from which the appropriation shall be made is groundwater from the Equus Beds aquifer, to be withdrawn by means of one (1) well that will be located in the Southeast Quarter of the Northeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$  NE $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section 35, more particularly described as being near a point 1,850 feet north and 300 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 **500 gallons per minute** and to a quantity not to exceed **15 Acre-feet** of water for any calendar year.

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5. That installation of works for diversion of water shall be completed on or before **December 31, 2010** 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 place of use on or before **December 31, 2014** 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 stream flow 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 the right to appropriate water under authority of this permit is subject to any minimum desirable stream flow requirements identified and established pursuant to K.S.A. 82a-703c for the source of supply to which this water right applies.

12. That all diversion works constructed under the authority of this permit into which any type of chemical or other foreign substance will be injected into the water pumped from the diversion works shall be equipped with an in-line, automatic quick-closing, check valve capable of preventing pollution of the source of the water supply. The type of valve installed shall meet specifications adopted by the Chief Engineer and shall be maintained in an operating condition satisfactory to the Chief Engineer.

13. That 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).

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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 pit shall not be excavated and/or constructed to a depth that would be in contact with groundwater.

18. That the pit shall be constructed to minimize seepage loss and prevent any potential for contamination of the local groundwater.

19. 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.

20. 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.

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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 9<sup>th</sup> Street, 4<sup>th</sup> Floor, Topeka, Kansas 66612, Fax: (785) 368-6668.

Dated at Topeka, Kansas, this 22<sup>nd</sup> day of January, 2009.

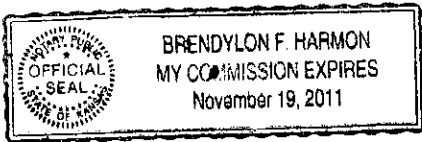
*William J. Gilliland*

William J. Gilliland, L. G.  
Permits Unit Head  
Water Appropriation Program  
Kansas Department of Agriculture

State of Kansas )  
                                  ) SS  
County of Shawnee )

The foregoing instrument was acknowledged before me this 22 day of January, 2009, by William J. Gilliland, L.G., Permits Unit Head, Division of Water Resources, Kansas Department of Agriculture.

*Brendylon F. Harmon*  
Notary Public



**WATER METER REQUIRED**

**CERTIFICATE OF SERVICE**

On this 28 day of January, 2009, I hereby certify that the attached Approval of Application and Permit to Proceed, File No. 47,056, dated January 22, 2009, was mailed postage prepaid, first class, US mail to the following:

HARLAN FORAKER  
10415 SOUTH WILLOW LAKE ROAD  
BURRTON KANSAS 67020

With photocopies to:

STAFFORD FIELD OFFICE  
300 S MAIN STREET BOX F  
STAFFORD KANSAS 67578-1342

EQUUS BEDS GMD 2  
313 SPRUCE  
HALSTEAD KANSAS 67056

*Brenda Haen*  
Staff