

THE STATE



OF KANSAS

KANSAS DEPARTMENT OF AGRICULTURE

Joshua Svaty, Acting 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. 47,180** of the applicant

**City of Wichita
Water & Sewer Department
455 North Main
Wichita, Kansas 67202**

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 **October 8, 2008**.
2. That the water sought to be appropriated shall be used for municipal use within the City of Wichita and immediate vicinity; within the City of Andover and immediate vicinity, within the City of Bel Aire and immediate vicinity, within the City of Benton and immediate vicinity, within the City of Derby and immediate vicinity; within the City of Kechi and immediate vicinity; within the City of Park City and immediate vicinity; within the City of Rose Hill and immediate vicinity; within the City of Valley Center and immediate vicinity; within the City of Bentley and immediate vicinity, within the boundaries of Rural Water District No. 1, Sedgwick County; within the boundaries of Rural Water District No. 2, Sedgwick County; within the boundaries of Rural Water District No. 3, Sedgwick County; and within the boundaries of Rural Water District No. 8, Butler County; within a tract of land in Sedgwick County, Kansas, beginning at the Southeast corner of Section 25, Township 28 South, Range 2 East, then West a distance of 22 miles to the Southwest corner of Section 28, Township 28 South, Range 2 West, then North a distance of 16 miles to the Northwest corner of Section 9, Township 26 South, Range 2 West, then East a distance of 22 miles to the Northeast corner of Section 12, Township 26 South, Range 2 East, then directly South a distance of 16 miles to the point of beginning.

3. That the authorized source from which the appropriation shall be made is groundwater credits accumulated in the Equus Beds aquifer, that may be recovered pursuant to the operation of the approved aquifer storage and recovery project, and any subsequent modifications, to be withdrawn by means of one (1) aquifer storage and recovery well located in the Northwest Quarter of the Southwest Quarter of the Northwest Quarter (NW¹/₄ SW¹/₄ NW¹/₄) of Section 22, more particularly described as being near a point 3,490 feet North and 5,152 feet West of the Southeast corner of said section, in Township 24 South, Range 2 West, Harvey County, Kansas, located substantially as shown on the topographic map accompanying the application.

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4. That the appropriation sought shall be limited to a maximum diversion rate not in excess of **1,500 gallons per minute** (3.34 c.f.s.) and to a quantity not to exceed **162.93 million gallons** (500.0 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, 2011** 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, 2029** 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 groundwater from the Equus Beds aquifer, except for recovery of water recharged pursuant to the approved aquifer storage and recovery project, and any subsequent modifications, 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 an acceptable water flow meter shall be installed and maintained on the diversion works authorized by this permit in accordance with 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).
13. 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.

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 applicant shall submit to the Chief Engineer a copy of the well log required by the Kansas Department of Health and Environment under the authority of K.S.A. 82a-1212, currently form WWC-5, within 30 days following the drilling of the well at the location authorized herein.
19. That the proposed recovery of water artificially recharged by the City shall only occur when recharge credits are determined to be available in Cell No. 21 and the static water level is above elevation 1,367 mean sea level (msl).
20. That this permit does not constitute any necessary authorization from the Kansas Department of Health and Environment (KDHE) to operate a Class V UIC well; and the City shall furnish the Chief Engineer with copies of any Class V UIC well permits obtained from the KDHE within 30 days after they are obtained.
21. That operation of the aquifer storage and recovery well authorized herein, shall not impair existing water rights nor prejudicially and unreasonably affect the public interest.
22. That if the Chief Engineer determines that impairment of an existing prior water right is caused by operation of the aquifer storage and recovery well, the City of Wichita shall either regulate the aquifer storage and recovery well's diversion to secure water to satisfy all prior rights, or comply with any other requirement as specified by the Chief Engineer to prevent impairment or protect the public interest.
23. That the recharge system is constructed, operated, and monitored to prevent groundwater contamination, not impair existing water rights, nor prejudicially affect the public interest.
24. 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.
25. That this approval of application is subject to the terms, conditions, and limitations of the Memorandum of Understanding between Equus Beds Groundwater Management District No. 09 and the City of Wichita, Kansas, dated December 3, 2008, a copy of which is on file with the Division of Water Resources, Kansas Department of Agriculture.

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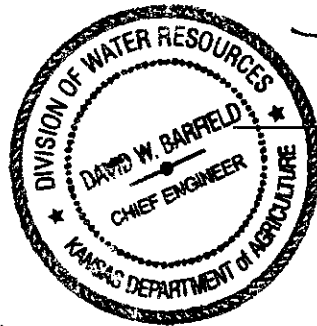
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That this approval of application is subject to the terms, conditions, and limitations of the Order approving the City of Wichita's Aquifer Storage and Recovery Project - Phase II project to which this permit is attached.

Review of this permit is subject to the provisions of the Petition for Review of Order, set forth in the Chief Engineer's accompanying Findings and Order.

Dated at Topeka, Kansas, this 18th day of September, 2009.

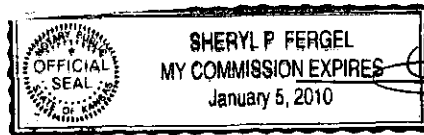


David W. Barfield

David W. Barfield, 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 18th day of September, 2009, by David W. Barfield, P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.



Sheryl P Fergel

Notary Public