

File No. **50270** 15. Formation Code: **211** Drainage Basin: **WHITEWOMAN CREEK** County: **SC** Special Use: Stream:

16. Points of Diversion											
T	MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W
DEL				87598							

17. Rate and Quantity				
Authorized		Additional		
Rate	Quantity	Rate	Quantity	Overlap PD Files
gpm/cfs	af/mgy	gpm/cfs	af/mgy	

18. Storage: Rate _____ NF Quantity _____ ac/ft Additional Rate _____ NF Additional Quantity _____ ac/ft

19. Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____
 Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____

20. Meter Required? Yes No To be installed by _____ Date Acceptable Meter Installed _____

21. Place of Use										NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg?	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				
DEL				69518																									

Comments: **FAIL WELL SPACING K.A.R. 5-21-3**

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources
M E M O R A N D U M

TO: Files

DATE: August 4, 2020

FROM: Austin McColloch

RE: Application, File No. 50,270

Craig Tuttle has filed the above referenced application to appropriate 5 acre-feet of groundwater at a diversion rate of 150 gallons per minute for irrigation use, from a well. The well is located in the Northwest Quarter of the Southeast Quarter of the Northeast Quarter (NW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 21, more particularly described as being near a point 3,572 feet North and 875 feet West of the Southeast corner, in Township 18 South, Range 33 West, in Scott County.

The point of diversion for the pending application is located within the boundaries of the Wester Kansas Groundwater Management District No. 1. The application is therefore subject to K.A.R. 5-21-4. K.A.R. 5-21-4 states in part:

“ . . . the district shall be closed to new appropriations of water in the portions of the unconsolidated aquifers commonly known as the Ogallala formation and the Niobrara formation that are located within the district. . .

. . . (c) This regulation shall not apply to the following:

. . . (B) Well spacing criteria in the area have been met.”

The source of water for the pending application appears to be the Ogallala aquifer system based on the test hole log that was submitted and review of nearby well log in the area. Per K.A.R. 5-21-3, based on this source of supply, the minimum spacing distance from the point of diversion to all non-domestic wells in the same aquifer is 2640 feet. The proposed well is located less than this required spacing distance from three nearby non-domestic wells, authorized under Vested Right, File Nos. SC-041 and SC-046 and Water Right, File No. 67, and known to be sourcing the Ogallala aquifer system.

On June 10, 2020, a letter was mailed to the applicant stating that the application did not comply with minimum wells spacing criteria, as required by K.A.R. 5-21-4, and that the application would be submitted to the Chief Engineer with a recommendation that the pending application be denied and dismissed. The applicant was provided until July 31, 2020 to either submit additional information to our office or request additional time, prior to final action on the application.

The applicant, has not submitted additional information for consideration, nor requested extension of time, for Application, File No. 50,270, thus the application should be denied and dismissed and its priority forfeited for failure to comply with K.A.R. 5-21-4.

A Findings and Order has been prepared to dismiss the application under the referenced file.

Austin McColloch
Assistant Water Commissioner
Garden City Field Office

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Secretary of Agriculture

DIVISION OF WATER RESOURCES
Christopher W. Beightel, Acting Chief Engineer

FINDINGS AND ORDER IN THE MATTER OF THE DISMISSAL OF APPLICATION FILE NO. 50,270

After due consideration, the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture (hereinafter referred to as the "Chief Engineer"), makes the following findings and order:

FINDINGS

1. That on July 11, 2019, the Chief Engineer received an application from Craig Tuttle for permit to appropriate water for beneficial use, assigned File No. 50,270, proposing the appropriation of 5 acre-feet of groundwater for irrigation use. The application proposed a well located in the Northwest Quarter of the Southeast Quarter of the Northeast Quarter (NW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 21, more particularly described as being near a point 3,572 feet North and 875 feet West of the Southeast corner of said section, in Township 18 South, Range 33 West, Scott County, Kansas.
2. That the point of diversion for the pending application is located within the boundaries of the Western Kansas Groundwater Management District No. 1 and is subject to K.A.R. 5-21-4, stating that the district shall be closed to new appropriation of water in the portions of the unconsolidated aquifers commonly known as the Ogallala and the Niobrara formation that are located within the district.
3. That the source of water for the pending application was determined to be the Ogallala aquifer system, based on a review of area well logs. Per K.A.R. 5-21-3, for this source of supply, the minimum spacing distance to all non-domestic wells in this same aquifer is 2,640 feet.
4. That the proposed well is located less than this required spacing distance from three nearby non-domestic wells, authorized under Vested Right, File Nos. SC-041 and SC-046 and Water Right, File No. 67, and known to be sourcing the Ogallala aquifer system.
5. That on June 10, 2020, a letter was mailed to the applicant stating that the application did not comply with minimum wells spacing criteria, as required by K.A.R. 5-21-4, and that the application would be submitted to the Chief Engineer with a recommendation that the pending application be denied and dismissed. The applicant was provided until July 31, 2020 to either submit additional information to our office or request additional time, prior to final action on the application. No contact was received from the applicant.
6. That the applicant, has not submitted additional information for consideration, nor requested extension of time, for Application, File No. 50,270, thus the application should be denied and dismissed and its priority forfeited for failure to comply with K.A.R. 5-21-4.

ORDER

NOW, THEREFORE, It is the decision and order of the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, that effective the date of this order, in accordance with the law, Application, File No. 50,270, is herewith dismissed and the priority assigned to it is considered to be forfeited.

Ordered this 22 day of October, 2020, in Manhattan, Riley County, Kansas.

Lane P. Letourneau

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

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 22 day of October, 2020, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.



Ashlee Freeman

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

October 29, 2020

CRAIG TUTTLE
310 S INDIAN RD
SCOTT CITY, KS 67871

Re: Application,
File No. 50,270

Dear Mr. Tuttle:

Enclosed is the Findings and Order by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, dismissing Application, File No. 50,270 for failure to meet minimum well spacing criteria for the Ogallala aquifer system as required by K.A.R. 5-21-4 in order to qualify for a small use exemption.

This Order shall become a final agency action, as defined by K.S.A. 77-607(b), which further notice to the parties, if a request for hearing or a petition for administrative review is not filed as set forth in the Order.

If you have any questions, please contact our office. If you wish to discuss this specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

A handwritten signature in black ink that reads "Kristen A. Baum". The signature is written in a cursive style.

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

KAB:am
Enclosures

pc: Garden City Field Office
Western Kansas GMD No. 1

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:

- 1) request an evidentiary hearing before the Chief Engineer, or
- 2) 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 Section, 1320 Research Park Drive, Manhattan, KS 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 hearing 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, KS 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.

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, 1320 Research Park Drive, Manhattan, Kansas 66502, Fax: (785) 564 - 6777.

CERTIFICATE OF SERVICE

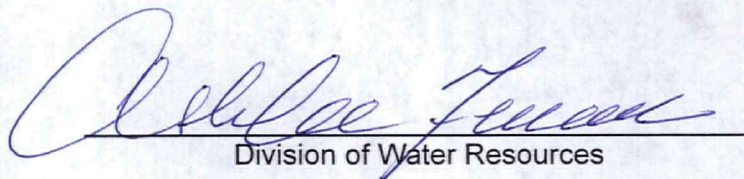
On this 29 day of October, 2020, I hereby certify that the foregoing Dismissal of Application, File No. 50,270, dated 22 October, 2020, was mailed postage prepaid, first class, US mail to the following:

CRAIG TUTTLE
310 S INDIAN RD
SCOTT CITY, KS 67871

With photocopies to:

Garden City Field Office

Western Kansas GMD No. 1


Division of Water Resources