

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

1. File Number: <p style="text-align: center;">50,129</p>	2. Status Change Date: <p style="text-align: center;">7/22/2020</p>	3. Field Office: <p style="text-align: center;">02</p>	4. GMD:
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5. Status: Approved Denied by DWR/GMD Dismiss by Request/Failure to Return

6. Enclosures: Check Valve N of C Form Water Tube Driller Copy Meter

<p>7a. Applicant(s) Person ID 7209 New to system <input type="checkbox"/> Add Seq# _____</p> <p>ROBERT D HAY TRUST 9171 S WEST ST HAYSVILLE KS 67060</p>	<p>7c. Landowner(s) Person ID _____ New to system <input type="checkbox"/> Add Seq# _____</p>
<p>7b. Landowner(s) Person ID _____ New to system <input type="checkbox"/> Add Seq# _____</p> <p>7A</p>	<p>7d. Landowner Person ID _____ New to system <input type="checkbox"/> Add Seq# _____</p>

<p>8. WUR Correspondent Person ID _____ New to system <input type="checkbox"/> Add Seq# _____ Overlap File (s) WUC Notarized WUC Form <input type="checkbox"/> Agree <input type="checkbox"/> Yes <input type="checkbox"/> No 7a</p>	<p>9. Use of Water: Changing? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/> Groundwater <input type="checkbox"/> Surface Water <input checked="" type="checkbox"/> IRR <input type="checkbox"/> REC <input type="checkbox"/> DEW <input type="checkbox"/> MUN <input type="checkbox"/> STK <input type="checkbox"/> SED <input type="checkbox"/> DOM <input type="checkbox"/> CON <input type="checkbox"/> HYD DRG <input type="checkbox"/> WTR PWR <input type="checkbox"/> ART RECHRG <input type="checkbox"/> IND SIC: _____ <input type="checkbox"/> OTHER: _____</p>
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10. Completion Date: 12/31/2021 11. Perfection Date: 12/31/2025 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: 12/31/2021 Date WLMD Installed: _____

Date Prepared: **2/21/2020** By: **MJM**
Date Entered: 7/27/2020 By: LMoody

File No. **50129** 15. Formation Code: **100** Drainage Basin: **Ninnescah River** County: **SG** Special Use: Stream:

16. Points of Diversion											
T	MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W
	MOD			87060	SENWSW	35	29S	2W	1	1805	4275 Geo-Cent
	ENT			88309	NENWSW	35	29S	2W		2015	4065 Bat 1 of 4
	ENT			88310	NENWSW	35	29S	2W		2015	4485 Bat 2 of 4
	ENT			88311	SENWSW	35	29S	2W		1595	4065 Bat 3 of 4
	ENT			88312	SENWSW	35	29S	2W		1595	4485 Bat 4 of 4

17. Rate and Quantity				
Authorized		Additional		
Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files
500	107.5	500	107.5	None
BATTERY ID #2189				

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 **12/31/2021** Date Acceptable Meter Installed _____

21. Place of Use										Total	Owner	Chg? NO	Overlap Files													
T	MOD	DEL	ENT	PUSE	S	T	R	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					
√				69110	35	29S	2W	1															77.9	7b.	None	

Comments: 7/21/2020
KAB

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: February 21, 2020

FROM: Matt Meier

RE: Application, File No. 50,129

The Robert D Hay Trust has filed the referenced application to appropriate groundwater for irrigation use, requesting a battery of four (4) wells, a quantity of 107.5 acre-feet, and a diversion rate of 500 gallons per minute. The Geo-Center is to be located in the Southeast Quarter of the Northwest Quarter of the Southwest Quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 35, more particularly described as being near a point 1,805 feet North and 4,275 feet West of the Southeast corner of said section, in Township 29 South, Range 2 West, Sedgwick County, within the Ninnescah River drainage basin. There are no other water rights overlapping the proposed place of use or point of diversion. The proposed place of use is owned by the Robert D Hay Trust. The applicant has signed the application form stating that he has legal access to the point of diversion.

In 2004 the United States Geological Survey (USGS) completed a hydrologic model of a portion of the Arkansas River and associated drainage basins (Ninnescah River), generally bounded by Ranges 2 West to 3 East and Townships 26 South to 34 South (near state line). The USGS model indicated that the aquifer in this area receives more recharge from precipitation than DWR has historically used in safe yield calculations. The data and analyses are detailed in the USGS Scientific Investigations Report 2004-5204 entitled "Characterization and Simulation of Flow in the Lower Arkansas River Alluvial Aquifer, South-Central Kansas". In order to evaluate the potential impact of this study on our safe yield calculations, Division of Water Resources (DWR) suspended processing applications for new appropriations of water in the model area.

DWR recently completed an evaluation of the USGS model and has determined that the precipitation recharge value of 5.4 inches per year that is used in the USGS model is reasonable and appropriate. In order to reserve water in the alluvial aquifers that can contribute to base flow to area streams and for domestic use, it was determined that 75 percent of the 5.4 inches of precipitation recharge shall be available for appropriation. This is consistent with safe yield appropriation in many other basins across the state, and is the current percent available in for all applications in the Ninnescah River drainage basin. Therefore, for all pending applications within the model area, safe yield will be evaluated using the standard methodology in K.A.R. 5-3-11, which is based on the extent of the unconfined aquifer (area of consideration), a Potential Annual Recharge value of 5.4 inches, and a percent of recharge available for appropriation of 75%. Current annual recharge across the model area is approximately 3 inches.

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 circle 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, which provided an area of consideration of 5,169 acres. With a potential annual recharge of 5.4 inches, and 75% of recharge available for appropriation, safe yield was determined to be 1,744.62 acre-feet. Existing water rights have appropriated 774.86 acre-feet, providing a difference of 969.76 acre-feet available for appropriation, and the application requesting 107.5 acre-feet complies with safe yield.

A test hole log submitted with the application shows top soil from 0 to 5 feet, sticky brown clay from 5 to 15 feet, fine sand from 15 to 20 feet, medium sand from 20 to 30 feet, medium sand/small pebbles from 30 to 35 feet, Coarse Sand/small gravel from 35 to 43 feet, and blue shale from 43 to 45 feet below ground. Static water level was at 13 feet which provides a saturated thickness of 30 feet.

The requested quantity of water, 107.5 acre-feet, is reasonable to irrigate the proposed 77.9 acres identified in the application. This is the maximum reasonable quantity allowable of 1.3 acre-feet per acre for Sedgwick County, Kansas. There are multiple pending applications in this general area of the state, and they are being worked in priority order to ensure that senior applications are provided the available water.

The applicant identified 15 domestic wells within one-half mile of the proposed wells and no non-domestic wells, which Wris confirmed. Nearby well notification letters were sent out on December 12, 2019. Phone calls were received from nearby well owners Charles Bennett, Brent Bond, Alan Perry, Diedra Woolery, Earnest Glaser, and Lisa Joslin to ask questions and express concerns. An email from Robert Eisenhour (representing Diedra and William Woolery) was received along with a letter (see included) signed by multiple of the nearby domestic well owners. A copy of the email and letter are included in the file. The nearest non-domestic point of diversion (File #49416) is located 5,025 feet away. Based off the map submitted with the application, the nearest domestic well appears to be approximately 800 feet away. The proposed point of diversion meets minimum well spacing to all existing wells. Per the requirements in K.A.R. 5-4-4 for all other aquifers, the minimum well spacing should be one-quarter mile to all other non-domestic wells and 660 feet to domestic wells.

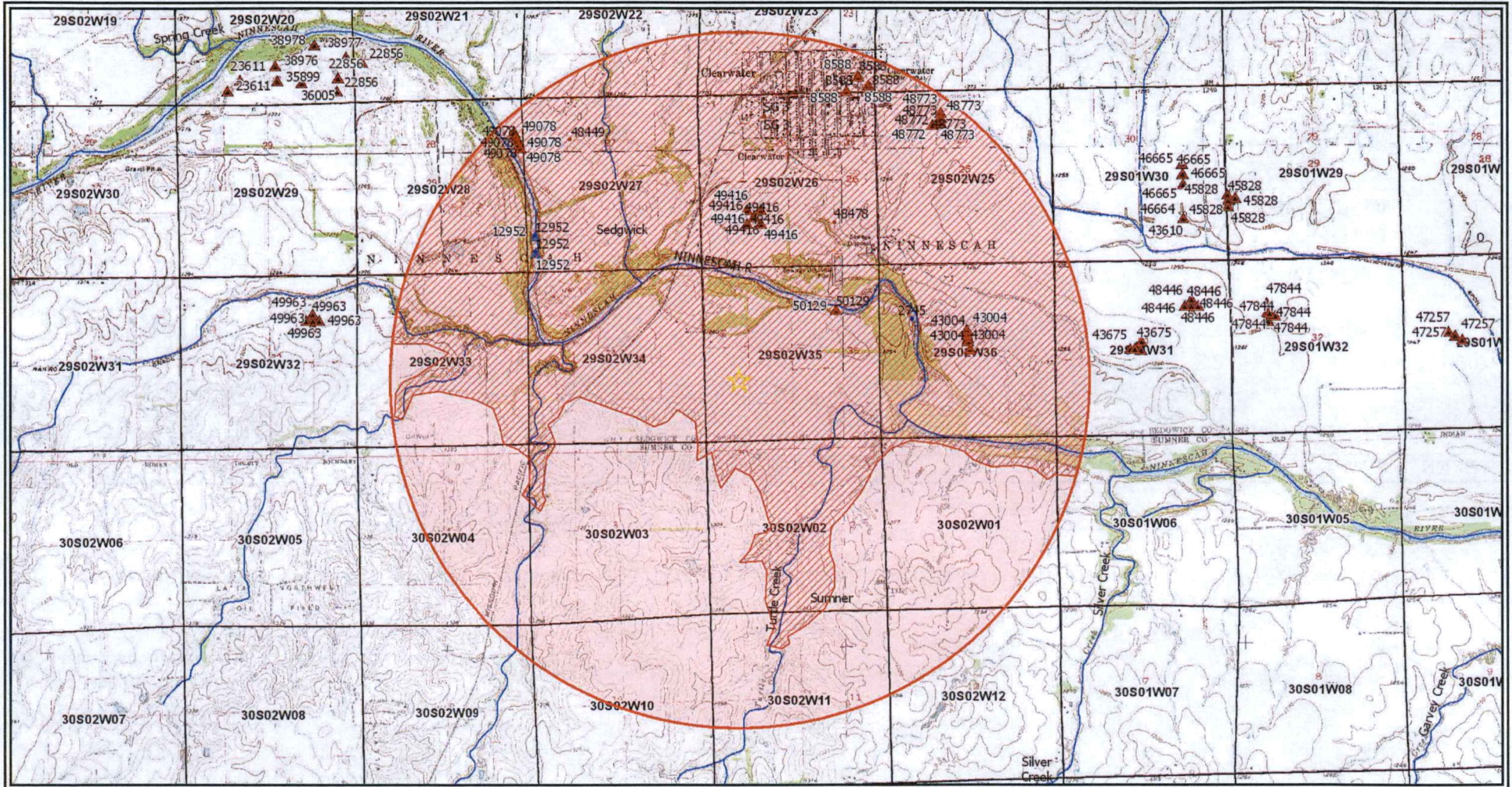
In accordance with K.S.A. 82a-706c, the Chief Engineer retains full authority to require any water user to install meters, gages, or other measuring devices, which devices he or she or his or her agents may read at any time. Water flowmeter requirements are further described in K.A.R. 5-1-4 through K.A.R. 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. A water level measurement tube is required because this is a proposed new well exceeding 100 gpm.

The proposed application is subject to minimum desirable streamflow requirements. The applicant signed, notarized, and returned the required form to our office.

Jeff Lanterman, Water Commissioner, Stafford Field Office, recommended approval of the referenced application on February 5, 2020. Based on the above discussion, well spacing and safe yield criteria are met, and approval of the application will not impair senior water rights nor prejudicially or unreasonably affect the public interest, it is recommended that the referenced application be approved.

Matthew J. Meier
Environmental Scientist
Water Appropriations Unit

Safe Yield Report Sheet
Water Right- Proposed Point of Diversion
Point of Diversion in 35-29S-02W
Footages from SE corner- 1,805 feet North 4,275 feet West



[Handwritten notes in blue ink, including "100' x 100' grid" and "11/20/10"]

50129
 Meets Safe Yield

Analysis Results

The selected PD is in an area OPEN to new appropriations.

The safe yield based on the variables listed below is 1,744.62 AF.

Total prior appropriations in the circle is 882.36 AF. $- 107.5 = 774.86$

Total quantity of water available for appropriation is 862.26 AF.

$- 774.96 = 969.76$ AF available

Safe Yield Variables

The area used for the analysis is set at 5,169 acres.

The potential annual recharge at the circle center is estimated to be 5.4 inches.

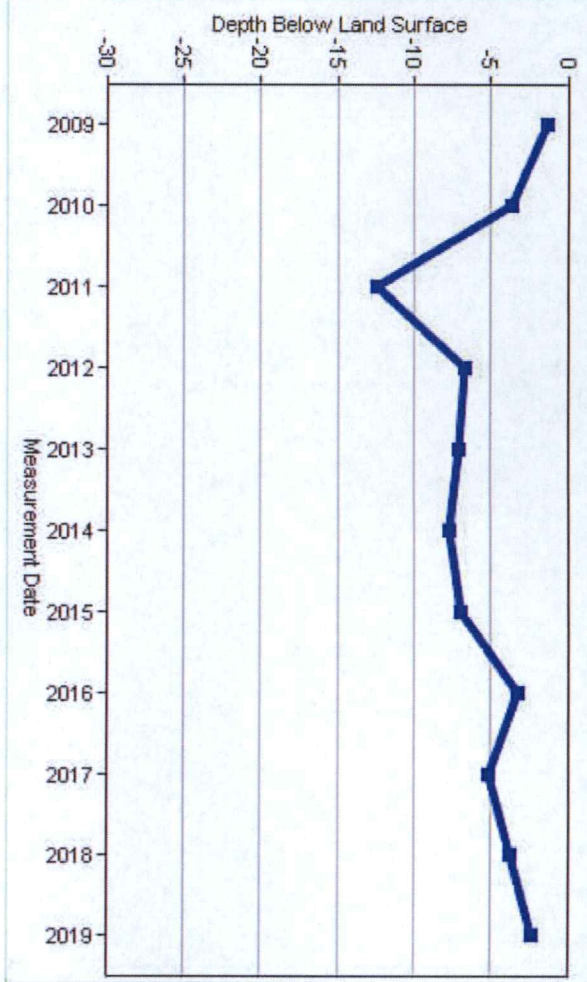
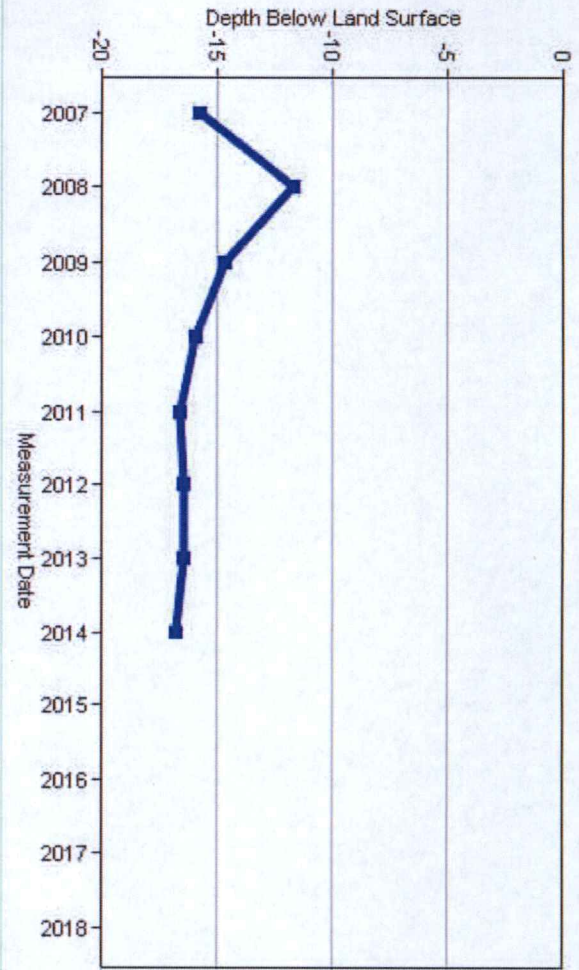
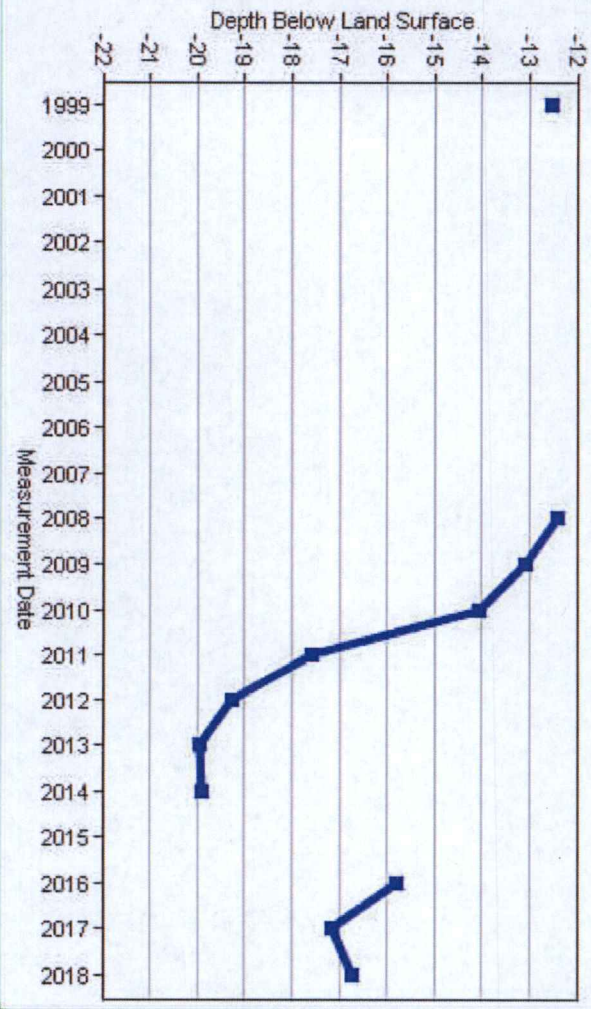
The percent of recharge available for appropriation is 75%.

Authorized Quantity values are as of 11-DEC-2019 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 7 water rights and 23 points of diversion within the circle.

File Number	Use	ST	SR	Q4	Q3	Q2	Q1	FeetN	FeetW	Sec	Twp	Rng	ID	Qind	Auth Quant	Add Quant	Tot Acres	Net Acres
A 8588 00	MUN	NK	G		SW	SE	SE	0	0	23	29	02W	1	WR	236.86	236.86		
Same	MUN	NK	G		SE	SE	SE	0	0	23	29	02W	2	WR				
Same	MUN	NK	G		SE	SE	SE	0	0	23	29	02W	3	WR				
A 43004 00	IRR	NK	G		SE	SE	NW	3055	2648	36	29	02W	2	WR	150.00	150.00	130.00	130.00
Same	IRR	NK	G		SW	SW	NE	2728	2584	36	29	02W	3	WR				
Same	IRR	NK	G		SE	SE	NW	2983	2645	36	29	02W	4	WR				
Same	IRR	NK	G		SE	SE	NW	3179	2680	36	29	02W	5	WR				
Same	IRR	NK	G		NE	SE	NW	3328	2683	36	29	02W	6	WR				
A 48772 00	IRR	KE	G		SW	NE	NW	4258	3637	25	29	02W	1	WR	24.55	24.55	31.00	31.00
A 48773 00	IRR	KE	G		SW	NE	NW	4471	3388	25	29	02W	2	WR	24.55	24.55	31.00	0.00
Same	IRR	KE	G		SW	NE	NW	4317	3385	25	29	02W	3	WR				
Same	IRR	KE	G		NW	NE	NW	4625	3390	25	29	02W	4	WR				
A 49078 00	IRR	KE	G		SE	NE	NE	4092	305	28	29	02W	1	WR	166.00	166.00	170.00	170.00
Same	IRR	KE	G		SE	NE	NE	4342	405	28	29	02W	2	WR				
Same	IRR	KE	G		SE	NE	NE	4217	355	28	29	02W	3	WR				
Same	IRR	KE	G		SE	NE	NE	3965	255	28	29	02W	4	WR				
Same	IRR	KE	G		NE	SE	NE	3842	205	28	29	02W	5	WR				
A 49416 00	IRR	KE	G		SW	NE	SW	1535	3758	26	29	02W	5	WR	172.90	172.90	133.00	133.00
Same	IRR	KE	G		SE	NW	SW	1323	3970	26	29	02W	6	WR				
Same	IRR	KE	G		SE	NW	SW	1747	3970	26	29	02W	7	WR				
Same	IRR	KE	G		SW	NE	SW	1323	3546	26	29	02W	8	WR				
Same	IRR	KE	G		SW	NE	SW	1747	3546	26	29	02W	9	WR				
A 50129 00	IRR	AY	G				SW	3960	1320	35	29	02W	1	WR	107.50	107.50	77.90	77.90

774.96 AF approval



50129 Nearby Calls

12/17/19

Charles Bennett hasn't had any issues with well. Called in to discuss new application. Gave information on spacing, safe yield, steady water levels, covered impairment etc. Said answered questions and hung up.

Brent bond Called in to obtain more information about application. Covered safe yield, spacing, water levels for area etc. Discussed noise from wells/pumps and some other stuff that doesn't pertain to application or what DWR regulates. Said answered questions.

Called Alan Perry back. Discussed spacing, safe yield, water levels, etc. Said questions were answered.

Stafford Field Office
300 S. Main Street
Stafford, KS 67578-1521



Phone: 620-234-5311
Fax: 620-234-6900
www.agriculture.ks.gov

Mike Beam, Secretary

Laura Kelly, Governor

ROBERT D HAY REV TRUST
9171 S WEST ST
HAYSVILLE KS 67060

July 22, 2020

RE: Application, File No. 50,129

Dear Water User:

There is enclosed a permit to appropriate water authorizing you to proceed with construction of the proposed diversion works (except those dams and stream obstructions regulated by K.S.A. 82a-301 through 305a), to divert such unappropriated water as may be available from the source and at the location specified in the permit, and to use it for the purpose and at the location described in the permit.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in this permit. A water meter is required and you must install it prior to water being put to beneficial use in order for you to maintain accurate records of water use. The meter should be used to provide the information required on the annual water use report.

Failure to notify the Chief Engineer of the Division of Water Resources of the completion of the diversion works within the time allowed, or within any authorized extension of time thereof, will result in the dismissal of this permit. Enclosed is a form which may be used to notify the Chief Engineer that the proposed diversion works have been completed.

All requests for extensions of time to complete diversion works, or to perfect appropriations, must be submitted to the Chief Engineer before the expiration of time originally set forth in the permit to complete diversion works or to perfect an appropriation. If for any reason, you require an extension of time, you must request it before the expiration of time set forth in this permit. Failure to comply with this regulation will result in the dismissal of your permit or your water right. Any request for an extension of time shall be accompanied by the required statutory fee, which is currently \$100.00.

There is also enclosed an information sheet setting forth the procedure to obtain a Certificate of Appropriation which will establish the extent of your water right. 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 cursive script that reads "Kristen A. Baum".

Kristen A. Baum
New Application Unit Supervisor
Water Appropriation Program

Enclosures

pc: Stafford 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

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. 50,129** of the applicant

ROBERT D HAY REV TRUST
9171 S WEST ST
HAYSVILLE KS 67060

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 **September 10, 2018**.
2. That the water sought to be appropriated shall be used for irrigation use on land described in the application, as follows:

Sec.	Twp.	Range	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
35	29S	2W																	77.9

3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of a battery of four (4) wells, the geo-center of which is to be located in the Southeast Quarter of the Northwest Quarter of the Southwest Quarter (SE¼ NW¼ SW¼) of Section 35, more particularly described as being near a point 1,805 feet North and 4,275 feet West of the Southeast corner of said section, in Township 29 South, Range 2 West, Sedgwick County, 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 **500 gallons per minute (1.114 c.f.s.)** and to a quantity not to exceed **107.5 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, 2021** 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, 2025** 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 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 this permit is further limited such that all wells shall be located within a three hundred (300) foot radius circle, in the same local source of supply, and shall supply water to a common distribution system.

Ordered this 22nd day of July, 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 22nd day of July, 2020, by Lane P. Letourneau, P.G., Program Manager, Division of Water Resources, Kansas Department of Agriculture.



Katie N. Anderson

Notary Public

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, 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 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, 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 27th day of July, 2020, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,129, dated July 22, 2020 was mailed postage prepaid, first class, US mail to the following:

ROBERT D HAY REV TRUST
9171 S WEST ST
HAYSVILLE KS 67060

With photocopies to:

Stafford Field Office



Division of Water Resources