

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

1. File Number: <p style="text-align: center;">20219043</p>	2. Status Change Date: <p style="text-align: center;">6/9/2021</p>	3. Field Office: <p style="text-align: center;">02</p>	4. GMD: <p style="text-align: center;">05</p>
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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

7a. Applicant(s) Person ID _____
New to system Add Seq# _____

**BOB BERGKAMP CONSTRUCTION CO INC
ATTN RICK THOME
3709 S WEST ST
WICHITA, KS 67217-3803**

7b. Landowner(s) Person ID **25890**
New to system Add Seq# _____

**ELLEN P EVANS TRUST
ELLEN P EVANS
3300 SW SKYLINE DR W
TOPEKA, KS 66614**

7c. Landowner(s) Person ID _____
New to system Add Seq# _____

7d. Misc. Person ID **39370**
New to system Add Seq# **1**

**BOB BERGKAMP CONSTRUCTION CO INC
3709 S WEST ST
WICHITA, KS 67217-3803**

8. WUR Correspondent Person ID _____
New to system Add Seq# _____
Overlap File (s) WUC Notarized WUC Form
Agree Yes No
7d

9. Use of Water: Changing? Yes No

Groundwater Surface Water

IRR REC DEW MUN

STK SED DOM CON

HYD DRG WTR PWR ART RECHRG

IND SIC: _____ OTHER: _____

ALT EFF DATE: 6/1/2021

10. Completion Date: _____ 11. Perfection Date: _____ 12. Exp Date: **6/ 23 / 2023**

13. Conservation Plan Required? Yes No Date Required: _____ Date Approved: _____ Date to Comply: _____

14. Water Level Measuring Device? Yes No Date to Comply: _____ Date WLMD Installed: _____

6/9/2021 KJN	Date Prepared: 6/3/21 By: LI	Date Entered: 6/10/2021 By: L Moody
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File No. **20219043** 15. Formation Code: **180** Drainage Basin: **COW CREEK** County: **RC** Special Use: **NO** Stream: **NA**

16. Points of Diversion										17. Rate and Quantity										
MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Authorized		Additional							
											Rate gpm	Quantity mgy	Rate gpm	Quantity mgy	Overlap PD Files					
CHK				88767 NCW	1/2	SW	1/4	SE	1/4	9	21	8W	5	590	2200	4000	443.81	4000	443.81	6979 IND
COMMENT GEO CTR – GW PIT																				

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) **NONE**
 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										NE 1/4				NW 1/4				SW 1/4				SE 1/4				Total	Owner	Chg? YES	Overlap Files
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	NE 1/4	NW 1/4	SW 1/4	SE 1/4						
MOD			70370	9	21	8W	5																			7b	Y	6979 IND	
										21 A S&G GW PIT (NC W/2 SW SE)																			

Comments: **THIS PERMIT REPLACES 20219027 THAT IS BEING VOL DISMISSED**

6/9/2021
 KJN

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files
DATE: June 3, 2021

FROM: Leslie Ireland
RE: Water Right, File No. 6979
Term Permit, File Nos. 20177055-MF;
20219027 & 20219043

The trustees, Ellen Evans; Fayre Evans, Michael and Karen Evans; Laurie Evans all signing on behalf of the Ellen P. Evans Trust as owner of the referenced water right authorized for irrigation use filed an application to change the use made of water and point of diversion was received on April 21, 2021. The requested change is due to highway development in the area. Term permits were also filed for the proposed industrial use portion to operate of a hydraulic dredge were completed by Bergkamp Construction Co., Inc. It was determined the filing April 19, 2021 of File No. 20219027, had the wrong rate and quantity and has been replaced by File No. 20129043, received on May 18, 2021. Term permit, File No. 20177055-MF, is being dismissed by request.

The referenced right appears not to be abandoned as per K.S.A 82a-718, and in compliance with K.S.A. 82a-732. The two identified nearby well owners were notified of the change and submitted signed letters indicating they had no objection. It appears the change complies with K.S.A 82a-1906. A portion of the highway will transect the place of use. An agreement with the Kansas Department of Transpiration excluded the water rights from the land transfer. It appears the application for change complies with K.A.R. 5-5-2a, *Complete application*.

Water Right, File No. 6979, is authorized one irrigation well located near the center of the Southeast Quarter (NC SE¼) of Section 9, Township 21 South, Range 8 West, Rice County, for the diversion of 109 acre-feet (AF) at 800 gallons per minute (gpm) to irrigate 160 acres in the same Southeast Quarter. The maximum acres irrigated under the parent right were determined to be 99 acres. The file does not appear to be in a special use area, but is located in the Big Bend Groundwater Management District No. 5.

The water right owner proposes a partial change in the use made of water, from: irrigation use, to: irrigation and industrial use. The industrial use proposes the exposure of the groundwater at a 21.0 surface acre pit. As determined by K.A.R. 5-6-7, *Determination of average annual potential net evaporation loss*, from a fraction of an acre of surface water is calculated as follows:

$$21 \text{ surface acres} \times 27 \text{ inches of evaporation in (9-21-8W)} \div 12 \text{ inches per AF} = 47.25 \text{ AF}$$

The industrial use for the new sand and gravel pit will be located in the West Half of the Southeast Quarter (W½ SE¼) of Section 9, Township 21 South, Range 8 West, Rice County.

Pursuant to K.A.R. 5-5-10, *Partial changes in the use made of water from irrigation to another type of beneficial use*:

$$\begin{aligned} 109 \text{ AF at } 82.6\% \text{ consumptive use Rice Co} &= 90.03 \text{ AF} \\ 47.25 \text{ AF} \div 90.03 \text{ AF} &= 0.524825 \\ 1 - 0.524825 &= 0.475175 \\ 109 \text{ AF} \times 0.475175 &= 51.79 \text{ AF or } 51.8 \text{ AF retained for irrigation use} \end{aligned}$$

The water right will be reduced to 99.5 AF and the irrigated quantity will be reduced to 51.8 AF. Historically 0.68 AF per acre was developed at the irrigated place of use. The required proportional reduction in the place of use would allow 76 acres to remain, but the owners are requesting only 70 acres due to the pivot and highway route.

The irrigated place of use will be 70 acres located mainly in the Northeast Corner of the Southeast Quarter (CR SE¼) of Section 9, Township 21 South, Range 8 West, Rice County. The reduction in the authorized quantity and place of use should prevent an increase in net consumptive use thus meeting K.A.R. 5-5-3, *Change in consumptive use*.

The irrigated acres are authorized by a Multi-year Flex Term Permit, 20177055-MF issued in 2017 and was to run thru 2021. A review of the water use indicated they have only 350 AF of the 545 AF authorized. An order dismissing 20197055-MF will be completed.

The proposed change in point of diversion is to authorize the geographical center of the groundwater pit approximately 1,163 feet to the West of the irrigation well. It is listed by the WRIS database to have a source of supply of the Undifferentiated Kansan/ Nebraskan formation (Code 180). The KGS Geohydrologic Map of Rice County indicates the source of supply is the same at the proposed groundwater pit. The proposed geocenter of the pit will be defined as near the center of the West Half of the Southwest Quarter of the Southwest Quarter of the Southeast Quarter (W $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$) approximately 560 feet North and 2,200 feet West of the Southeast corner of Section 9. The irrigation well will be updated to 1,321 feet North and 1,309 feet West of the Southeast corner approximately 11 feet from the authorized of 1,320 feet North and 1,320 feet West as determined by the 2017 Compliance Investigation. It appears the proposed geographical center complies with spacing requirements of the area and GMD 5.

The term permit proposed under File No. 20219043 will replace File No. 20219027, to authorize the operation of a dredge that is non-consumptive. The operation will utilize 1,362 acre-feet of groundwater per calendar year at a rate of diversion not to exceed 4,000 gallons per minute for hydraulic dredging of the pit. The applicant summarized the dredge to operate with a 70:30 water to solid ratio, dredging in the Cow Creek Basin. It is not located in a direct stream bed of a creek or river, so it appears that no structure permits will be required. The approval will contain the MDS wording should the area come under administration per K.A.R. 5-15-1, *Administration of minimum desirable streamflow*. The term permit will overlap in place of use and point of diversion with the industrial use geographic center of the pit under File No. 6979. The term permit is stated to expire June 23, 2023, indicating 10.5 acres will be dredge per year. The requested quantity and rate will allow the operation for 231 days when operated 8 hours a day which appears to be reasonable. No depth of the pit was indicated. KAR 5-25-13 allows term permits for HYD to be more than one year and appears an extension could be requested. LI/DWR 6/7/2021

In a letter dated May 19, 2021, Orrin Feril, Manager, Big Bend Groundwater Management District No. 5, indicated the Board for the District recommended approval of the change. In a letter dated June 2, 2021, Term Permit, File No. 20219043 was recommended by the District for approval.

Jeff Lanterman, Water Commissioner of the Stafford Field Office area reviewed the proposed application. In an email dated June 3, 2021, he recommended approval of the change. It was requested that the transmittal letter remind the owners of the meter requirement. He also recommended approval of the referenced term permit and confirmed a meter for a dredge is not required.

A check valve and flowmeter will not be required for the term permit as a sand slurry will be pumped for the requested water use. Annual water use reports will be required for the term permit and irrigation use. A flowmeter and check valve will continue to be required for the irrigation use. The meter was recently repaired.

Based on the above discussion and that the area is open to short term permits, it is recommended that the application for change and term permit be approved.



Leslie Ireland
Environmental Scientist

THE STATE  OF KANSAS

KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Secretary of Agriculture

DIVISION OF WATER RESOURCES
Earl D. Lewis Jr., 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. 20219043** of the applicant

**BOB BERGKAMP CONSTRUCTION CO INC
ATTN: RICK THOME
3709 S WEST ST
WICHITA, KS 67217-3803**

for a term 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 subject to the following terms, conditions and limitations:

1. That the priority date assigned to such application is **May 18, 2021**.
2. That the water sought to be appropriated shall be used for hydraulic dredging use in the West Half of the Southeast Quarter ($W\frac{1}{2} SE\frac{1}{4}$) of Section 9, in Township 21 South, Range 8 West, Rice County, Kansas.
3. That the authorized source from which the appropriation shall be made is groundwater exposure with a geographic center located near the center of the West Half of the Southwest Quarter of the Southeast Quarter ($W\frac{1}{2} SW\frac{1}{4} SE\frac{1}{4}$) of Section 9, more particularly described as being near a point 560 feet North and 2,200 feet West of the Southeast corner of said section in Township 21 South, Range 8 West, Rice County, Kansas.
4. That the appropriation sought shall be limited to a maximum diversion rate not in excess of **4,000 gallons per minute** (8.91 c.f.s.) and to a quantity not to exceed **443.81 million gallons (1,362 acre-feet)** of water for any calendar year.
5. 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.
6. That this term permit shall relate to a specific quantity of water and 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 authorized point of diversion.
7. That this term 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.

8. 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.

9. That no water user shall engage in nor allow the waste of any water diverted under the authority of this term permit.

10. That failure without cause to comply with provisions of this term 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.

11. That this term permit is subject to any minimum desirable streamflow requirements identified and established pursuant to K.S.A. 82a-703c.

12. That the effective date of this term permit is **June 1, 2021**.

13. That this term permit shall expire on **June 23, 2023**, and its priority forfeited, in accordance with K.S.A. 82a-708c. Any extension of time to make use of water as authorized herein must be requested in writing for good cause by the applicant prior to the expiration date on this permit.

Ordered this 9 day of June, 2021, in Manhattan, Riley County, Kansas.

Lane P. Letourneau

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

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 9 day of June, 2021, 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

June 11, 2021

BOB BERGKAMP CONSTRUCTION CO INC
RICK THOME
3709 S WEST ST
WICHITA, KS 67217-3803

RE: Term Permit, File No. 20219043

Dear Mr. Thome:

Your application for term permits to appropriate water for beneficial use has been examined and, approved. Your attention is directed to the enclosures and to terms, conditions and limitations specified in the permit.

The approval of your application constitutes a term permit to appropriate water for beneficial use as set forth in the application. It does not give authority to construct any dam or other stream obstruction regulated by K.S.A. 82a-301 through 305a. It does not give authority to access any right-of-way or authorize trespassing upon or injury to public or private property. It may also be necessary for you to comply with other local, state or federal requirements.

Records must be maintained from which the quantity of water diverted may be readily determined. An annual water use report must be filed with the Chief Engineer by March 1, following the end of each calendar year. If a complete annual water use report is not received by the deadline, then a fine may be assessed and all water use under such permit or right may be suspended. Reports submitted in paper form will be assessed a \$20 per file number paper filing fee. In order to avoid this filing fee, you may submit your report online at www.kswaterusereport.org.

If you have any questions, please contact our office at (785) 564-6640, or the Stafford Field Office at (620) 234-5311. If you wish to discuss a 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 and Change Unit Supervisor
Water Appropriation Program

KAB:li

Enclosures

pc: Stafford Field Office
Big Bend GMD No. 5

**RIGHT TO PETITION FOR REVIEW
UNDER THE KANSAS JUDICIAL REVIEW ACT**

This is a final agency action as defined in K.S.A. 77-607(b). You may pursue judicial review of this Order as provided in the Kansas Judicial Review Act, K.S.A. 77-601 et seq. A petition for judicial review must be filed in a Kansas court of competent jurisdiction within 30 days after service of this Order as provided in K.S.A. 77-613. The agency officer designated to receive service of a petition for judicial review on behalf of the Kansas Department of Agriculture is the Chief Legal Counsel, Kansas Department of Agriculture, 1320 Research Park Dr. Manhattan, KS 66502.

CERTIFICATE OF SERVICE

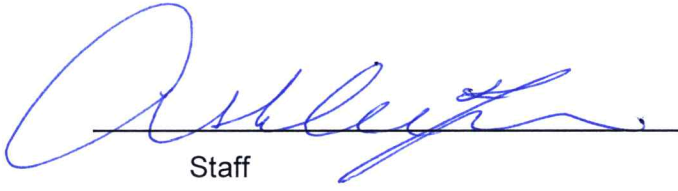
On this 11 day of June, 2021 I hereby certify that the foregoing Term Permit, File No. 20219043, dated 9 June, 2021, was mailed postage prepaid, first class, US mail to the following:

BOB BERGKAMP CONSTRUCTION CO INC
ATTN: RICK THOME
3709 S WEST ST
WICHITA, KS 67217-3803

With photocopies to:

Stafford Field Office

Big Bend GMD No. 5


Staff