

**KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources**

M E M O R A N D U M

TO: Files

DATE: March 17, 2020

FROM: Jessica Engelbrecht

RE: Application, File No. 50,303

Cowley County Rural Water District No. 1 has filed the above referenced application proposing to appropriate groundwater for municipal use. The application is requesting 10.080 million gallons (30.93 acre-feet) at a diversion rate not to exceed 185 gallons per minute, from a single well located in the ~~Northwest Quarter of the Northeast Quarter of the Southwest Quarter (NW¹/₄ NE¹/₄ SW¹/₄)~~ of Section 6, Township 35 South, Range 4 East in Cowley County, within the ~~Arkansas River~~ ^{drainage basin}. The application is located outside the boundaries of GMD 2. The applicant has signed Paragraph No. 6 in the application stating that they have legal access to the point of diversion. The proposed point of diversion overlaps one of the wells currently authorized under Water Right, File No. 22157. The rate of diversion for the application is to be limited to 185 gallons per minute (0.412 c.f.s.) when combined with Water Right, File No. 22157.

The proposed place of use overlaps multiple other files, as follows: File No. 8382, 22157, 37768, and 37769. The authorized rates and quantities of the current appropriations are summarized in the following table.

EXISTING AND PROPOSED PERMITS FOR MUNICIPAL USE

File Number	Authorized Quantity (Million gallons)	Additional Quantity (Million gallons)	Authorized Rate of Diversion (gpm)	Comments
8382 ID 03	24.4	24.4	230	No limitations
8382 ID 04	9.49	9.49	120	No limitations
22,157	2.11	2.11	185	36 MGY when combined with 8382
37,768	8.877	8.877	150	44.877 MGY when combined with 8382 & 22157
37,769	8.877	8.877	175	53.754 MGY when combined with 8382, 22157 & 37768
Current Total		53.75	860	
50,303	10.08	10.08	185 (0 Add)	Limited Rate of 185 gpm when combined with File No. 22,157.
Proposed Total	63.83	63.83	860	63.83 MGY when combined with 8382, 22157, 37768 & 37769

The additional quantity of water is based on projected annual population growth of approximately 0.40%, which would increase population from 1,486 to 1,605 by 2040. This growth rate was determined based off Cowley RWD #01 population data from 2020 to 2040. The application indicate current usage is equivalent to 85 gallons per capita per day. A review of 8382 past water use from 2014 to 2018 revealed an average gallon per capita per day (gpcd) use of 85.21. Based on this information the estimated water usage can be determined as follows: 1,500 x 85.21 x 365 days = 46.65 million gallons. This is quantity is significantly less than the quantity requested by applications when combined with the quantity authorized by the existing water rights. Therefore, a limitation will be needed. Based off this, future needs estimate a limitation of 63.83 million gallons per year when combined with Water Right File Nos. 8382, 22157, 37768, and 37769 would appear to be reasonable and is recommended.

See supplemental sheet - assumes population of 1710, some other metered water, and 10% loss.

4/7/2021
KAB

The application has an existing well that has been active for almost forty years. There was no well log submitted with the senior water right (22,157). A well log from the Kansas Geological Survey website for File No. 37769 (located 510 feet away) shows sandy top soil from 0 to 2 feet fine yellow sand from 2 to 8 feet medium sand and gravel with flat rock mixed in from 8 to 38 feet.

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 8,042 acres. With a potential annual recharge of 3 inches, and 100% of recharge available for appropriation, safe yield was determined to be 1,057.06 acre-feet. Existing water rights have appropriated 309.44 acre-feet, providing a difference of 747.62 acre-feet available for appropriation, and the application requesting 10.08 mgd (30.93 acre-feet) complies with safe yield.

Letters were sent to nearby well owners on December 31, 2019. No response of any kind was received. The nearest domestic well is over 2,000 feet away. According to the WRIS database, the nearest non-domestic point of diversion (File No. 37,769) is located 510 feet away and owned by the applicant. The next closest point of diversion (File No. 41,460) is over 2,300 feet away. The proposed point of diversion meets minimum well spacing to all domestic wells but fails non-domestic spacing. 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. As the well has been in use close to 40 years and is not requesting a rate increase and has never had any reported impairment issues, ~~a waiver of spacing would appear reasonable in this case.~~

the existing spacing appears to be sufficient in the case.

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.

4/7/2021
KAB

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, reviewed and recommended the application for approval on March 17, 2020. Based on the above discussion, safe yield criteria is 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.

Jessica Engelbrecht
Environmental Scientist
Permits Unit

Consent w/ Recommendation
Approve it J.F. W.C. 3/17/2020

4/7/2021
KJN

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

COWLEY RWD 01
22191 TOWER RD
ARKANSAS CITY KS 67005

RE: Application, File No. 50,303

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,

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
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. 50,303** of the applicant

**COWLEY RWD 01
33191 TOWER RD
ARKANSAS CITY KS 67005**

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 04, 2019**.
2. That the water sought to be appropriated shall be used for municipal purposes within the boundaries of Rural Water District No. 1 Cowley County, Kansas and immediate vicinity, and at the First Council Casino (NW), Kay County, Oklahoma.
3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of one (1) well (Well #5), which is to be located in the Northeast Quarter of the Northwest Quarter of the Southeast Quarter (NE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 6, more particularly described as being near a point 2,487 feet North and 1,439 feet West of the Southeast corner of said section, in Township 35 South, Range 4 East, Cowley County, 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 **185 gallons per minute (0.412 c.f.s.)** and to a quantity not to exceed **10.08 million gallons** (30.93 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, 2022** 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, 2041** 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.

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

COWLEY RWD 01
33191 TOWER RD
ARKANSAS CITY KS 67005

April 13, 2021

RE: Appropriation of Water, File No. 50,303

Dear Sir or Madam:

Enclosed is a permit authorizing you to proceed with construction of the proposed diversion works and to appropriate water for beneficial use as set forth in the permit. Your attention is directed to the enclosures and to the terms, conditions, limitations, and requirements specified in this permit.

Notice must be filed on the enclosed form once the diversion works have been completed. Failure to complete the diversion works within the time allowed, or within any authorized extension of time thereof, will result in dismissal of this permit. If you need an extension of time, you must request it before the deadline for completion set forth in the permit. Any request for an extension of time must be accompanied by the statutorily required fee, which is currently \$100.00.

An acceptable water flowmeter must be installed on the diversion works authorized by this permit prior to using water. 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.

The approval of your application constitutes a permit to appropriate water. 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.

Enclosed is an informational sheet that sets forth the procedure to obtain a Certificate of Appropriation which will establish the extent of your perfected water right. Additional information and applicable forms may be found on our website at agriculture.ks.gov/divisions-programs/dwr. If you have any questions or need assistance with any of these requirements, please contact our office at 785-564-6640 or your local Stafford Field Office at 620-234-5311. If you call, please reference the file number so we can 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

KAB: jne
Enclosures

pc: Stafford Field Office

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.

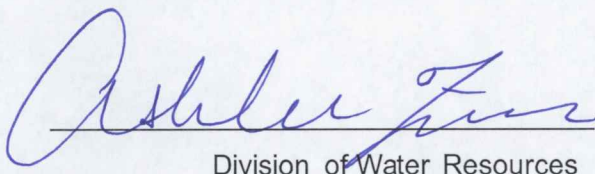
CERTIFICATE OF SERVICE

On this 13 day of April, 2021, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,303, dated 12 April 2021 was mailed postage prepaid, first class, US mail to the following:

COWLEY RWD 01
33191 TOWER RD
ARKANSAS CITY KS 67005

With photocopies to:

Stafford Field Office



Division of Water Resources