

File No. **50,415** 15. Formation Code: **100** Drainage Basin: **ARKANSAS RIVER** County: **RN** Special Use: Stream:

16. Points of Diversion

MOD DEL ENT	PDIV Qualifier	S	T	R	ID	'N	'W
✓	88323 SE SW NE	9	24S	5W	2	2920'	1720'

17. Rate and Quantity

Authorized		Additional		
Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files
800	193.2	800	193.2	None

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**²² Date Acceptable Meter Installed _____

21. Place of Use

MOD DEL ENT	PUSE	S	T	R	ID	NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg? NO	Overlap Files
						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				
✓	70032	9	24S	5W	4	34.0	40.0	35.0	29.0											138.0	7B	no	NONE		

Comments: 10/6/2021
KJN

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: File

DATE: September 1, 2021

FROM: Jessica Engelbrecht

RE: Application, File No. 50,415

The referenced new application has been filed by Jerry Yoder to appropriate 193.2 acre-feet of groundwater per calendar year, to irrigate 138 acres at a diversion rate not to exceed 800 gallons per minute. The proposed point of diversion is to be one (1) well located in the Southeast Quarter of the Southwest Quarter of the Northeast Quarter of Section 9, Township 24 South, Range 5 West, in Reno County. The requested point of diversion is located within the boundaries of Equus Beds Groundwater Management District No. 2. The entire place of use is owned by the applicant, and he has signed the application form stating he has access to the point of diversion. There are no other overlapping files in point of diversion or place of use. Based on the proposed 138 acres and with 1.4 Acre-Feet per acre allowed in Reno County, the maximum allowable quantity of water would be 193.2 acre-feet.

The applicant identified five possible domestic wells and one non-domestic well within one-half mile of the proposed well and no non-domestic wells. Nearby well notification letters were sent out on September 8, 2020. No contact of any kind was received. According to the WRIS database, the nearest non-domestic point of diversion (Water Right, File No.48,206) is located over 1,600 feet away. Based on the site map the nearest domestic well is owned by the applicant and approximately 400 feet away and is owned by the applicant. The applicant submitted a domestic well spacing consent form. The proposed point of diversion meets minimum well spacing to all existing wells, with the exception of the applicant's domestic well. Per the requirements in K.A.R. 5-22-2 for wells located within Equus Beds Groundwater Management District No. 2, the minimum well spacing should be 1,320 feet to all other non-domestic wells and 660 feet to domestic wells.

A test hole log was submitted with the pending application, which shows fine to medium sand, with some interbedded clay layers, extending from 40 feet to a total depth of 146 feet, where green shale was encountered. Static water level was 18 feet below ground surface.

A copy of the application was submitted to Equus Beds Groundwater Management District No. 2 on August 5, 2020. GMD #2 recommended approval of the application in a letter, received via email, on August 24, 2021. In the letter GMD #2 said the application complies with K.A.R. 5-22-1 through 5-22-17 and recommended approval of the application.

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.

Jeff Lanterman, Water Commissioner, Stafford Field Office, recommended approval of the referenced application on **9/9/2021**. 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.

10/6/2021
KJN

Engelbrecht, Jessica [KDA]

From: Baum, Kristen [KDA]
Sent: Friday, September 10, 2021 10:46 AM
To: Engelbrecht, Jessica [KDA]
Subject: RE: Appropriation of Water Application 50,415

Here's another crack at it based on Kenny's email.

That the wells drilled under the authority of this permit shall be equipped with a sampling port for the purpose of obtaining water quality samples, and authorized representatives of the Chief Engineer shall be granted access to the wells for the purpose of obtaining periodic water samples.

Kristen A Baum
New Applications and Changes Supervisor
DWR Appropriations

From: Engelbrecht, Jessica [KDA] <Jessica.Engelbrecht@ks.gov>
Sent: Thursday, September 9, 2021 2:31 PM
To: Baum, Kristen [KDA] <Kristen.Baum@ks.gov>
Subject: RE: Appropriation of Water Application 50,415

Sounds great to me!

Thanks!

Jessica

From: Baum, Kristen [KDA] <Kristen.Baum@ks.gov>
Sent: Thursday, September 9, 2021 2:27 PM
To: Engelbrecht, Jessica [KDA] <Jessica.Engelbrecht@ks.gov>
Subject: RE: Appropriation of Water Application 50,415

I looked thru Doug's old files and had David run a query – didn't turn up much. I like your first condition. I think the second sounds too much like the permit condition we had stop using a few years back. How does this sound?

That the wells drilled under the authority of this permit shall be equipped with a sampling port for the purpose of obtaining water quality samples, and authorized representatives of the Kansas Department of Health and Environment shall be granted access to the wells for the purpose of obtaining periodic water samples.

Kristen A Baum
New Applications and Changes Supervisor

From: Engelbrecht, Jessica [KDA] <Jessica.Engelbrecht@ks.gov>
Sent: Wednesday, September 8, 2021 1:55 PM
To: Baum, Kristen [KDA] <Kristen.Baum@ks.gov>
Subject: RE: Appropriation of Water Application 50,415

1. That applicant and/or landowner shall equip the well with the necessary port to obtain water quality samples and permit entry to authorized representatives of the Kansas Department of Health and Environment to access the well at all reasonable times for the purpose of obtaining periodic water quality samples
2. That the Chief Engineer specifically retains jurisdiction in this matter with the authority to make such reasonable reduction in the approved rate of diversion and quantity authorized upon any parameter measured exceeding the limitations set forth by the Kansas Department of Health and Environment.

Are either or these close at all to something we can use for conditions allowing KDHE access?

Thanks,
Jessica

From: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>
Sent: Wednesday, September 8, 2021 10:22 AM
To: Engelbrecht, Jessica [KDA] <Jessica.Engelbrecht@ks.gov>
Subject: RE: Appropriation of Water Application 50,415

I chatted with her on a conference call about it. She wanted Kenny to weigh in though. She thought we could do it easily or should be able to its just the wording. Ill let you know. I think we could word it similar to KDHE when they ask for a sampling port.

Maybe you could ask Kristen to help craft a permit condition and send it to this group that they could review and give a thumbs up?

From: Engelbrecht, Jessica [KDA] <Jessica.Engelbrecht@ks.gov>
Sent: Wednesday, September 8, 2021 10:18 AM
To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>
Subject: RE: Appropriation of Water Application 50,415

Did you hear anything back yet from Stephanie or Kenny?

Jessica

From: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>
Sent: Tuesday, September 7, 2021 9:23 AM
To: Murray, Stephanie [KDA] <Stephanie.Murray@ks.gov>; Titus, Kenneth [KDA] <Kenneth.Titus@ks.gov>; Baum, Kristen [KDA] <Kristen.Baum@ks.gov>; Engelbrecht, Jessica [KDA] <Jessica.Engelbrecht@ks.gov>
Cc: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Subject: FW: Appropriation of Water Application 50,415

Stephanie or Kenny;

This application is right next to a KDHE orphan site with some PWS wells in between. I asked KDHE if they had any concerns regarding approval before we went forward. Meets all our rules.

I know we have the right to go on land to inspect but could we craft a permit condition that would allow KDHE to come sample the well. And cause the owner to install a faucet or sampling port for that purpose? See the string below.

Thanks

Jeff

From: Lea Tipton [KDHE] <Lea.Tipton@ks.gov>
Sent: Friday, September 3, 2021 3:58 PM
To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>
Cc: Engelbrecht, Jessica [KDA] <Jessica.Engelbrecht@ks.gov>; Conant, Cameron [KDA] <Cameron.Conant@ks.gov>; Baum, Kristen [KDA] <Kristen.Baum@ks.gov>
Subject: RE: Appropriation of Water Application 50,415

Thank you for the information, Jeff. Based on my review of the application, it does not appear that the irrigation well should impact our orphan site; however, if there is any way that we could obtain access from the property owner to sample this irrigation well periodically, we would greatly appreciate it. Sampling of this well will help us monitor groundwater flow and other important parameters.

Thank you,

Lea

Lea Tipton, P.G.
Orphan Sites Unit Manager
Bureau of Environmental Remediation
1000 SW Jackson St, Suite 410
Topeka, KS 66612-1367
(785) 291-3246 (office) | (785) 559-4261 (fax)
lea.tipton@ks.gov

From: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>
Sent: Thursday, September 2, 2021 1:53 PM
To: Lea Tipton [KDHE] <Lea.Tipton@ks.gov>
Cc: Engelbrecht, Jessica [KDA] <Jessica.Engelbrecht@ks.gov>; Conant, Cameron [KDA] <Cameron.Conant@ks.gov>;

Baum, Kristen [KDA] <Kristen.Baum@ks.gov>

Subject: Appropriation of Water Application 50,415

Lea;

We have an application for 193.2 Acre Feet of water for irrigation withdrawn at a rate of 800 GPM from a well located in the SE SW NE 9-24S-R5W . The proposed well is near one of your orphan sites KDHE Project Code:C2-078-00089

I have attached the application as well as a recommendation we received from GMD #2 on the application.

Do you have any concerns or recommendations regarding approval of this application? It appears to meet all our rules but we don't want to pull that plume through those PWS wells.

Thanks in advance.

Jeff Lanterman PG, Water Commissioner
Kansas Department of Agriculture
Division of Water Resources
(620)234-5311
jeff.lanterman@ks.gov
<https://agriculture.ks.gov/divisions-programs/dwr>

10/7/2021
KJN

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. 50,415** of the applicant

JERRY A YODER
6515 S YODER RD
HAVEN KS 67543

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 **July 20, 2020**.
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	
9	24S	5W	34	40	35	29													138

3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of one (1) well, which is to located in the Southeast Quarter of the Southwest Quarter of the Northeast Quarter (SE¼ SW¼ NE¼) of Section 9, more particularly described as being near a point 2,920 feet North and 1,720 feet West of the Southeast corner of said section, in Township 24 South, Range 5 West, Reno County, Kansas, 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 **800 gallons per minute (1.78 c.f.s.)** and to a quantity not to exceed **193.2 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, 2026** 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 the wells drilled under the authority of this permit shall be equipped with a sampling port for the purpose of obtaining water quality samples, and authorized representatives of the Chief Engineer shall be granted access to the wells for the purpose of obtaining periodic water samples.

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

JERRY A YODER
6515 S YODER RD
HAVEN KS 67543

October 27, 2021

RE: Application, File No. 50,415

Dear Water User:

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 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 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 Applications and Changes Supervisor
Division of Water Resources

KAB: jne
Enclosure(s)

pc: Stafford Field Office
Equus Beds GMD No. 2

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 27 day of October, 2021, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,415, dated _____ was mailed postage prepaid, first class, US mail to the following:

JERRY A YODER
6515 S YODER RD
HAVEN KS 67543

With photocopies to:

Stafford Field Office

Equus Beds GMD No. 2



Division of Water Resources