

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources
MEMORANDUM

TO: Files

DATE: April 5, 2022

FROM: Brandon Milner

RE: Application, File No. 50,514

Steve Butts has filed the above referenced application proposing to appropriate 224 acre-feet of groundwater per calendar year at a diversion rate not to exceed 800 gallons per minute for irrigation use on 160-acre place of use on January 29, 2021. The point of diversion will consist of one well in the Southeast Quarter of Section 20, Range 20 South, Range 3 East in Marion County. The proposed appropriation is in the drainage basin of the Cottonwood River. The entire place of use is owned by the applicant.

The applicant had originally requested volume of 224 acre-feet to irrigate 160 acres in Section 20, Range 20 South, Range 3 East in Marion County. However, the original requested volume of 224 acre-feet was more than the maximum of 1.2 acre/acre for Marion County. This volume was lowered to 192 acre-feet and agreed to by the applicant on March 28, 2022. However, during final review, it was determined that the place of use was incorrect and should instead be 87 acres instead of the requested 160 acres that was on the application. A new map was created and sent to the applicant on March 29, 2022, with the applicant returning the signed map on March 30th. With this new place of use in acreage, the maximum volume was lowered to 104.4 acre-feet from 192 acre-feet. The applicant has agreed to the lowering of the volume on April 5, 2022.

There are no domestic wells or non-domestic wells within one half mile of the point of diversion, so no nearby letters were sent out. Therefore, spacing has been met according to K.A.R. 5-4-4.

A well log was submitted with the pending application, which shows the typical lithologic units encountered in this local area of interbedded shale and limestone layers. It appears that the primary aquifer are the limestone layers with small solution cavities, extending from 37 feet to 60 feet below ground surface. Static water level was 15 feet below ground surface. A review of other area well logs show similar interbedded shale and limestone layers. It appears that the source of water is likely the fractured limestone formations in the Chase Group. Specific regulation has been adopted by the chief engineer for the Chase Group aquifer, therefore the best information available should be utilized for this application. A static water level above the top of the aquifer, indicates the aquifer is under confining conditions.

Per K.A.R. 5-3-14, safe yield for a confined aquifer is processed on a case by case basis using the best available information. Because the aquifer is relatively shallow, and no specific criteria have been developed for safe yield evaluation of this confined aquifer, it appears that the pending application can be reviewed using the safe yield criteria in K.A.R. 5-3-11, which is consistent with other applications in this same source of supply. The area of consideration is the extent of the bedrock aquifer in the two-mile circle, which was estimated to extend throughout the local area, and would encompass the entire 8,042 acres. Based on a potential recharge of 3.2 inches, with 75% available for appropriation, safe yield was determined to be 1,608.5 acre-feet. Existing water rights (only two others) within this area of consideration have appropriated 146.4 acre-feet, leaving a remainder of 1,462.1 acre-feet. The pending application

is requesting 104.4 acre-feet, therefore there is sufficient water available for appropriation, and the application meets safe yield criteria. The requested quantity of 104.4 acre-feet, is the maximum allowable to irrigate the proposed 87 acres with 1.2 acre-feet per acre in Marion County.

Although it is likely that the confined bedrock aquifer system would receive somewhat less recharge than a near-surface, unconfined aquifer, this safe yield value for unconfined aquifers per K.A.R. 5-3-11 provides a maximum quantity of water available in the area of consideration. If there is a significant quantity of water still remaining, then even with significant reduced recharge to the confined aquifer (in this case it would require only 13% of the maximum recharge) there would still be sufficient water available. Therefore, based on the above discussion, it appears that this application can be approved per K.A.R. 5-3-14, using the best information reasonably available to the chief engineer.

The applicant has submitted a signed Minimum Desirable Streamflow form, which has been properly notarized. By completing this statement, the applicant affirms his/her knowledge that there could be times when the diversion of water may not be allowed under this permit. 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.

In a email on August 18, 2021, Katie Tiescort, Water Commissioner, Topeka Field Office, recommended approval of the referenced application. Based on the above discussion, well spacing and safe yield criteria are met, approval of the application will not impair senior water rights nor prejudicially or unreasonably affect the public interest, and it will provide for a more reasonable quantity of water and rate of diversion for this irrigation project, it is recommended that the referenced new application be approved.

Brandon Milner
Environmental Scientist
Manhattan Office

From: Tietsort, Katie [KDA]
Sent: Wed 8/18/2021 8:38 AM
To: Milner, Brandon [KDA]
Subject: RE: Memo for 50,514

Hi Brandon,

Yes, this looks appropriate and ready to move forward.

Incidentally, I agree with you that it is unlikely that a single well will be a “good” well in this location.

I did talk to Steve Butts this morning, as we discussed yesterday about a single well versus a battery to try and get something more “useable.” Steve said that the well drillers had looked at that, however, between the configuration of the land he owns and has access to, and the test pumping data that shows putting another well nearby could actually decrease production from the single well, they decided to proceed with one well. We will see what they develop.

Thanks for all your work on this. I told Steve it was moving forward.

Katie

Katie Tietsort

Water Commissioner

Katie.Tietsort@ks.gov

Ph. 785-296-5733 Cell 785-213-9188

Kansas Department of Agriculture

Topeka Field Office

1131 SW Winding Rd, Suite 400

Topeka, KS 66615

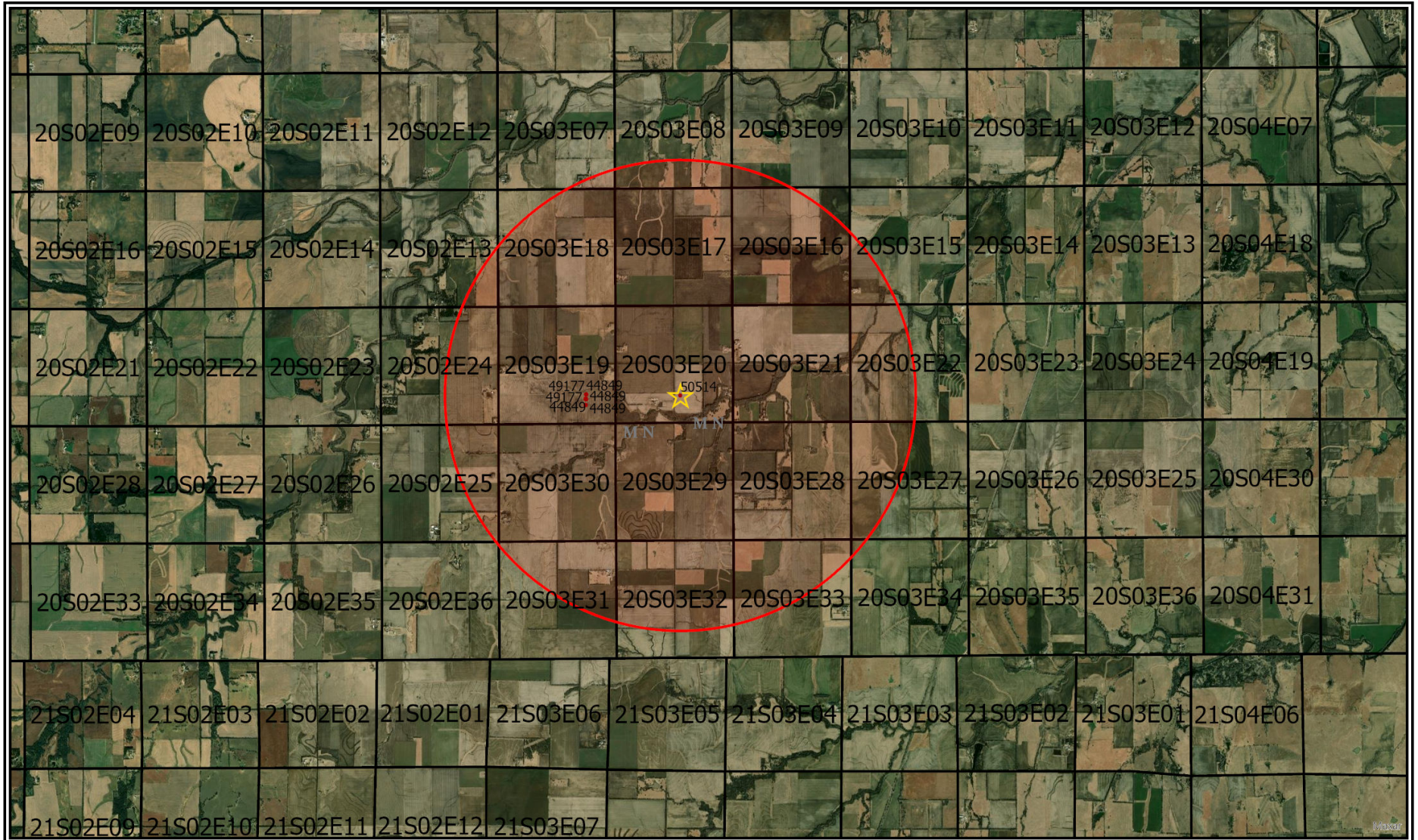
From: Milner, Brandon [KDA] <Brandon.M.Milner@ks.gov>
Sent: Monday, August 16, 2021 10:06 AM
To: Tietsort, Katie [KDA] <Katie.Tietsort@ks.gov>
Subject: Memo for 50,514

Good morning Katie,

Attached is a memo for application no. 50,514 for Steve Butts in Marion County. I believe that I found a good example from Doug on working with the confined Chase Group aquifer but please let me know if anything needs reevaluated or corrected within the memo. I’m not sure that the applicant can pump as much water as they are planning to with this application but we will see. Could you please provide a recommendation on this? Thank you!

Brandon Milner
Environmental Scientist
Water Appropriation Program

Safe Yield Report Sheet
Water Right- A5051400
Point of Diversion in 20-20S-03E
Footages from SE corner- 1,212 feet North 2,381 feet West



Analysis Results

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

The safe yield based on the variables listed below is 1,608.50 AF.

Total prior appropriations in the circle is 370.40 AF.

146.4 Prior Appropriation

1608.5-145.4=1462.1 Available

Total quantity of water available for appropriation is 1,238.10 AF.

Safe Yield Variables

The area used for the analysis is set at 8,042 acres.

The potential annual recharge at the circle center is estimated to be 3.2 inches.

The percent of recharge available for appropriation is 75%.

Authorized Quantity values are as of 06-JUL-2021 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 3 water rights and 5 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 44849 00	IRR	NK	G		NE	SW	SE	827	1322	19	20	03E	2	WR	79.00	79.00	122.00	122.00
Same	IRR	NK	G		NW	SE	SE	1083	1316	19	20	03E	1	WR				
Same	IRR	NK	G		NW	SE	SE	1311	1304	19	20	03E	4	WR				
Same	IRR	NK	G		NE	SW	SE	1111	1322	19	20	03E	5	WR				
A 49177 00	IRR	KK	G		NE	SW	SE	827	1322	19	20	03E	2	WR	146.40	67.40	122.00	0.00
Same	IRR	KK	G		NW	SE	SE	1083	1316	19	20	03E	1	WR				
Same	IRR	KK	G		NW	SE	SE	1311	1304	19	20	03E	4	WR				
Same	IRR	KK	G		NE	SW	SE	1111	1322	19	20	03E	5	WR				
A 50514 00	IRR	AY	G		NW	SW	SE	1212	2381	20	20	03E	1	WR	224.00	224.00	160.00	160.00
															192	192		

Limitations


File Number	Seq Num	Limitations
A 49177 00	1	146.4 AF/YR @ 800 GPM COM/W #44849

50,514 Updated Map



	50,514 Point of Diversion
	Domestic Wells
	1/2 Mile Radius
	50514 Place of Use

All wells within a half mile of the proposed point of diversion have been shown.

 Signature _____
Date 3/29/22



From: Steve Butts
Sent: Tue 3/29/2022 9:03 PM
To: Milner, Brandon [KDA]
Cc: Mark Lawless
Subject: Re: 50,514 Application Status

EXTERNAL: This email originated from outside of the organization. Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Will do.

On Tue, Mar 29, 2022 at 11:45 AM Milner, Brandon [KDA] <Brandon.M.Milner@ks.gov> wrote:

Good morning guys,

After reviewing application 50,514 it has been noted that the irrigated acreage listed on the supplemental sheet on the application does not match what is drawn on the map. It looked like based off of the map that there would be one pivot located on the Eastern half of the property. With that being said, I've created a new map with a new irrigated acreage of 87 acres instead of the 160 acres initially on the application. Is this the correct acreage being irrigated? If so, we would adjust the volume of water to meet the maximum per acre in Marion County. Could you take a look at this map and let me know your thoughts? If everything looks good, you may sign the map and return. Let me know if you have any questions.
Thanks

Brandon Milner

Environmental Scientist

Water Appropriation Program

From: Steve Butts
Sent: Tue 4/5/2022 1:47 PM
To: Milner, Brandon [KDA]
Cc: Mark Lawless
Subject: Re: 50514 Application

EXTERNAL: This email originated from outside of the organization. Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Yes, I agree.

On Tue, Apr 5, 2022 at 11:21 AM Milner, Brandon [KDA] <Brandon.M.Milner@ks.gov> wrote:

Steve,

After a renewed look at the place of use acreage, it was determined that there would be 87 acres being irrigated with this application. The maximum volume that is allowable in Marion County is 1.2 acre-feet per acre. This would lower the volume to a maximum of 104.4 acre-feet to irrigate the 87 acres. Is this acceptable to proceed with?

Brandon Milner

Environmental Scientist

Water Appropriation Program

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. 50,514** of the applicant

STEVEN J & JAREN KAY BUTTS
2411 E 111 STREET SOUTH
MULVANE, KS 67110-9286

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 January 29, 2021.

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					
20	20S	3E																17		40	30		87

3. That the authorized source from which the appropriation shall be made is groundwater to be withdrawn by means of a one well (1) located near the Northwest Quarter of the Southwest Quarter of the Southeast Quarter (NW ¼ , SW ¼, SE ¼), in Section 20, more particularly described as being near a point 1,212 feet North and 2,381 feet West of the Southeast corner of said section, in Township 20 South, Range 3 East, Marion County, Kansas, 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 **800 gallons per minute** (1.78 c.f.s.) and to a quantity not to exceed **104.4 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, 2023**, or within any authorized extension thereof. The applicant shall notify the Chief Engineer and pay the statutorily required field inspection fee, which is currently \$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 accompanied by the required statutory fee, which is currently \$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, 2027**, 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, which is currently \$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 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.

13. That an acceptable water flow meter shall be installed and maintained on the diversion works authorized by this permit in accordance 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).

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. 82a703c for the source of supply to which this water right applies.

Ordered this 5 day of April, 2022, 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 5 day of April, 2022, by Lane P. Letourneau, P.G., 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

STEVEN J & JAREN KAY BUTTS
2411 E 111 STREET SOUTH
MULVANE, KS 67110-9286

April 13, 2022

RE: Appropriation of Water, File No.
50,514

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 Topeka Field Office at 785-296-5733. . . If you call, please reference the file number so we can help you more efficiently.

Sincerely,

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

KAB:bmm
Enclosure(s)
pc: Topeka 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.

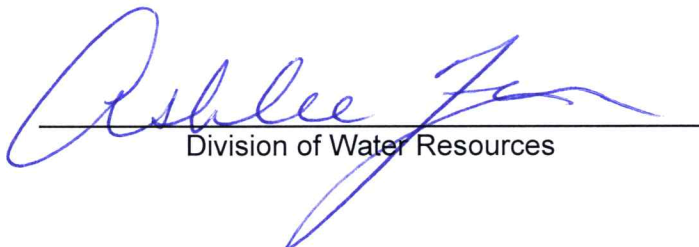
CERTIFICATE OF SERVICE

On this 13 day of April, 2022, I hereby certify that the foregoing Approval of Application, File No. 50,514, dated 5 April 2022 was mailed postage prepaid, first class, US mail to the following:

STEVEN J & JAREN KAY BUTTS
2411 E 111 STREET SOUTH
MULVANE, KS 67110-9286

With photocopies to:

Topeka Field Office



Division of Water Resources

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. 50,514** of the applicant

**STEVEN J & JAREN KAY BUTTS
2411 E 111 STREET SOUTH
MULVANE, KS 67110-9286**

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 January 29, 2021.
2. That the water sought to be appropriated shall be used for irrigation use on land described in the application, as follows:

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20	20S	3E															17		40	30		87

3. That the authorized source from which the appropriation shall be made is groundwater to be withdrawn by means of a one well (1) located near the Northwest Quarter of the Southwest Quarter of the Southeast Quarter (NW ¼ , SW ¼ , SE ¼), in Section 20, more particularly described as being near a point 1,212 feet North and 2,381 feet West of the Southeast corner of said section, in Township 20 South, Range 3 East, Marion County, Kansas, located substantially as shown on the map accompanying the application.
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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.

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13. That an acceptable water flow meter shall be installed and maintained on the diversion works authorized by this permit in accordance 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).

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. 82a703c for the source of supply to which this water right applies.

Ordered this 14 day of April, 2022, 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

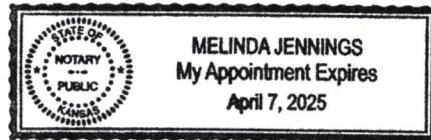
State of Kansas)

) SS

County of Riley)

The foregoing instrument was acknowledged before me this 14 day of April, 2022, by Lane P. Letourneau, P.G., Program Manager, Division of Water Resources, Kansas Department of Agriculture.

Melinda Jennings
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 day of
Application, File No. 50,514, dated
to the following:

, 2022 , I hereby certify that the foregoing Approval of
was mailed postage prepaid, first class, US mail

STEVEN J & JAREN KAY BUTTS
2411 E 111 STREET SOUTH
MULVANE, KS 67110-9286

With photocopies to:

Topeka Field Office

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

STEVEN J & JAREN KAY BUTTS
2411 E 111 STREET SOUTH
MULVANE, KS 67110-9286

April 20, 2022

RE: Appropriation of Water, File No.
50,514

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 Topeka Field Office at 785-296-5733. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

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

KAB:bmm
Enclosure(s)
pc: Topeka 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 20 day of April, 2022, I hereby certify that the foregoing Approval of Application, File No. 50,514, dated 14 April, 2022 was mailed postage prepaid, first class, US mail to the following:

STEVEN J & JAREN KAY BUTTS
2411 E 111 STREET SOUTH
MULVANE, KS 67110-9286

With photocopies to:

Topeka Field Office



Division of Water Resources