





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

**M E M O R A N D U M**

**TO:** Files

**DATE:** 08/10/2022

**FROM:** Jessica Engelbrecht

**RE:** Application, File No. 50,615

Section 1 LLC has filed the above referenced application proposing to appropriate 651.7 acre-feet of groundwater per calendar year at a diversion rate not to exceed 1,500 gallons per minute for recreational use from one well. The proposed point of diversion is located in the Southeast Quarter of the Southeast Quarter of the Southwest Quarter of Section 1, Township 23 South, Range 3 West, Harvey County, Kansas, in the Little Arkansas River drainage basin. Based off of the well log provided, the source of supply appears to be the Equus Beds Aquifer. The proposed point of diversion is located inside the boundaries of Equus Beds Groundwater Management District NO. 2 (GMD 2), who assisted with the application. The applicant has signed the application form stating he has legal access to the point of diversion.

The proposed place of use is a total of 42 acres of recreational ponds in Section 1, Township 23 South, Range 3 West, Harvey County, Kansas. The applicant owns the entire place of use. The requested quantity of 651.7 acre-feet was calculated by the applicant with the given equation:

$$\begin{aligned} &42 \text{ acres} \times 6'(\text{depth}) = 252 \text{ acre-feet for annual fill} \\ &42 \times 23'' \text{ (potential net evaporation) } / 12'' / \text{ft} = 80.5 \text{ acre-feet of evaporation} \\ &\quad 0.25''/\text{day} \times 365 / 12 = 7.6'/\text{year seepage} \\ &\quad 42 \text{ acres} \times 7.6' = 319.2 \text{ acre-feet seepage} \\ &252 \text{ acre-feet} + 80.5 \text{ acre-feet} + 319.2 \text{ acre-feet} = 651.7 \text{ acre-feet total annual quantity} \end{aligned}$$

Per the requirements in K.A.R. 5-4-4, minimum well spacing should be 1,320 feet to non-domestic wells and 660 feet to domestic wells with the same source of supply. The applicant did not identify any nearby well owners within a half-mile of the proposed point of diversion. The nearest non-domestic well (File No. 48,624) is approximately 5,069 feet away. The nearest possible domestic well is over 2,500 feet away. The proposed well meets safe spacing per K.A.R. 5-4-4.

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 letter dated August 8, 2022, Tim Boese, Manager of the Equus Beds Groundwater Management District No. 2 recommended approval of the application.

Jeff Lanterman, Water commissioner for the Stafford Field Office, gave a recommendation that the new application should be approved, in an e-mail conversation on October 12, 2022.

Based on the above discussion, the area is open to new appropriations, the application meets well spacing criteria, and the approval of the application will not impair senior water rights nor prejudicially or unreasonably affect the public interest. Therefore, it is recommended that the referenced application be approved.

## Engelbrecht, Jessica [KDA]

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**From:** Engelbrecht, Jessica [KDA]  
**Sent:** Monday, October 24, 2022 12:22 PM  
**To:** Engelbrecht, Jessica [KDA]  
**Subject:** 50615 Memo

**Importance:** High

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**From:** Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>  
**Sent:** Wednesday, October 12, 2022 1:33 PM  
**To:** Engelbrecht, Jessica [KDA] <Jessica.Engelbrecht@ks.gov>  
**Cc:** Conant, Cameron [KDA] <Cameron.Conant@ks.gov>  
**Subject:** RE: 50615 Memo  
**Importance:** High

I talked to Eric Goering on this application. Nice guy it seems.

Specifically the main topic was regarding the fill quantity. The plans are to keep some of the deeper ponds at the top of the run full for fish. But the ponds and marshes after that will be dried out each year for maintenance. Essentially to clean out trees, brush and specifically blackberries from the runs and ponds each year. This all has to be managed for what they plan to be successful.

I guess we let perfection play itself out to see if all the fill water is necessary. In those sand hills I bet the fill justification is taken up by seepage. The GMD review did note one possible domestic well within ½ mile but outside of 660' that was not noted on the application from GMD 2 lol. I believe that to be the applicants well and no further notification is needed.

Anyway I think I can recommend approval of this application as it is proposed. I bet the 651 Af doesn't go as far as they think it will. Sadly. Luckily it will mostly be non consumptive use lol.

He asked when we thought it would be done. I told him the process for signature by Lane or Earl and that I wouldn't expect to see anything for a month. I kinda think that he wanted it before then because there was a big pause after that. I Told him to call if he didn't see anything by then. He asked if I was in the main office in Halstead and sadly I had to note that I was only from the Stafford field office branch of the Halstead water office. LOL.

Sent it up for final approval.

Thanks  
Jeff

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**From:** Engelbrecht, Jessica [KDA]  
**Sent:** Wednesday, August 10, 2022 1:18 PM  
**To:** Lanterman, Jeff [KDA] <[Jeff.Lanterman@ks.gov](mailto:Jeff.Lanterman@ks.gov)>  
**Subject:** 50615 Memo  
**Importance:** High

Jeff,  
Attached is the memo and corresponding documents for Application, File No. 50,615.  
The applicant is requesting 651.7 AF for rec use.

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. 50,615** of the applicant

**SECTION 1 LLC  
ATTN: ERIC GOERING  
501 SE 36TH STREET  
NEWTON, KS 67114**

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 26 , 2021**.
2. That the water sought to be appropriated shall be used for recreational use in multiple ponds with a combined maximum surface area of 42 acres located in Section 1, Township 23 South, Range 3, Harvey County, Kansas.
3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of one (1) well located in the Southeast Quarter of the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$  SE $\frac{1}{4}$  SW $\frac{1}{4}$ ) of Section 23, more particularly described as being near a point 332 feet North and 3,270 feet West of the Southeast corner of said section, in Township 23 South, Range 3 West, Harvey 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 **1,500 gallons per minute (4.01 c.f.s.)** and to a quantity not to exceed **651.7 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, 2024** 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, 2028** 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 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 flow meter shall be installed and maintained on the diversion works authorized by this permit in accordance with Kansas Administrative Regulation 5-1-14 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
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.

ORDERED this 29 day of November, 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 29 day of November, 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

SECTION 1 LLC  
Attn: ERIC GOERING  
501 SE 36TH STREET  
NEWTON, KS 67114

December 2, 2022

RE: Application, File No. 50,615

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](http://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](http://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 black ink that reads "Kristen A. Baum".

Kristen A. Baum  
New Applications and Changes Supervisor  
Division of Water Resources

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 request an evidentiary hearing before the Chief Engineer, or 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 Division, 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 review 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 2 day of December, 2022, I hereby certify that the attached Approval of Application and Permit to Proceed, File No. 50,615, dated 29 November, 2022, was mailed postage prepaid, first class, U.S. Mail to the following:

Original to:  
SECTION 1 LLC  
ATTN: ERIC GOERING  
501 SE 36TH STREET  
NEWTON, KS 67114

Photocopy to:  
Stafford Field Office

EQUUS BEDS GROUNDWATER MANAGEMENT DISTRICT NO. 2

  
DWR Staff