

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

1. File Number: <p style="text-align: center; font-size: 1.2em;">50,648</p>	2. Status Change Date: <p style="text-align: center; font-size: 1.2em; color: purple;">9/27/2022</p>	3. Field Office: <p style="text-align: center; font-size: 1.2em;">02</p>
4. GMD: <p style="text-align: center; font-size: 1.2em;">05</p>		

5. Status: Approved Denied by DWR/GMD Dismiss by Request/Failure to Return

6. Enclosures: Check Valve N of C Form Water Tube Driller Copy Meter

<p>7a. Applicant(s) Person ID <u>67957</u> New to system <input type="checkbox"/> Add Seq# _____</p> <p>BAD LANDS LLC ATTN: BERRY BORTZ 30142 NE 100TH AVE PRESTON, KS 67583-8627</p>	<p>7c. Landowner(s) Person ID _____ New to system <input type="checkbox"/> Add Seq# _____</p>
<p>7b. Landowner(s) Person ID _____ New to system <input type="checkbox"/> Add Seq# _____</p> <p>7A</p>	<p>7d. Misc. Person ID _____ New to system <input type="checkbox"/> Add Seq# _____</p>

<p>8. WUR Correspondent Person ID _____ New to system <input type="checkbox"/> Add Seq# _____ Overlap File (s) WUC Notarized WUC Form <input type="checkbox"/> Agree <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>7a</p>	<p>9. Use of Water: Changing? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p style="padding-left: 40px;"><input checked="" type="checkbox"/> Groundwater <input type="checkbox"/> Surface Water</p> <p><input type="checkbox"/> IRR <input type="checkbox"/> REC <input type="checkbox"/> DEW <input type="checkbox"/> MUN</p> <p><input checked="" type="checkbox"/> STK <input type="checkbox"/> SED <input type="checkbox"/> DOM <input type="checkbox"/> CON</p> <p><input type="checkbox"/> HYD DRG <input type="checkbox"/> WTR PWR <input type="checkbox"/> ART RECHRG</p> <p><input type="checkbox"/> IND SIC: _____ <input type="checkbox"/> OTHER: _____</p>
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10. Completion Date: **12/31/2023** 11. Perfection Date: **12/31/2027** 12. Exp Date: _____

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

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

<p style="color: red; font-weight: bold; font-size: 1.1em;">9/23/2022</p> <p style="color: red; font-weight: bold;">JDK</p>	<p>Date Prepared: 8/11/22 By: JNE</p> <p>Date Entered: 10/3/2022 By: _____</p> <p style="padding-left: 40px;">LMoody</p>
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File No. **50,648** 15. Formation Code: **140** Drainage Basin: **NF Ninnescah River** County: **PRATT** Special Use: Stream:

16. Points of Diversion										17. Rate and Quantity					
MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Authorized		Additional		Overlap PD Files
											Rate gpm	Quantity af	Rate gpm	Quantity af	
CHK	89052	SE SE SE			16	27S	11W	4	470	165	50	15	50	15	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 _____ Date Acceptable Meter Installed _____

21. Place of Use		NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg? NO	Overlap Files					
MOD	DEL	ENT	PUSE	S	T	R	ID	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼							
CHK	70564	15	18S	18W	2			FEEDLOT (SW NW)																7a	NO	NONE
CHK	70565	16	18S	18W	2			FEEDLOT (SE NE) & (NE SE)																7a	NO	NONE

Comments:

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: June 24,2022

FROM: Jessica Engelbrecht

RE: Application, File No. 50,648

Barry Bortz has filed the referenced application to appropriate groundwater on behalf of BAD lands LLC., for stockwatering use, requesting one (1) well, a quantity 15 acre-feet, and a diversion rate of 50 gallons per minute. The proposed well will be located in the Southeast Quarter of the Southeast Quarter of the Southeast Quarter of Section 16, more particularly described as being near a point 470 feet North and 165 feet West of the Southeast corner of said section, in Township 27 South, Range 11 West, Pratt County, Kansas, within the South Fork Ninnescah River Drainage Basin. The application is a 15 acre-feet exemption.

The applicant has attached a Stockwater Use Supplemental Sheet indicating that up to 1,500 head of cattle would be watered under the proposed application. 1,500 head of cattle at 10 gallons per head per day x 325 operational days = 4,875,000 gallons which is approximately 15 acre-feet. This is less than the maximum 15 gallons per head per day for beef cattle. These estimated quantities per head are within guidelines in K.A.R. 5-3-22.

A well log from one of the applicant's nearby well's shows top soil from 0 to 3 feet, brown and white clay from 3 to 15 feet, sand and gravel from 15 to 21 feet, clay and white rock from 21 to 28 feet, sand and gravel from 28 to 30 feet, clay and white rock from 30 to 45 feet, cemented sand from 45 to 55 feet, fine sand from 55 to 65 feet, clay from 65 to 70 feet, sand and gravel from 70 to 109 feet, and clay and skiffs of red bed from 109 to 110 feet.

The applicant identified no domestic wells within one-half mile of the proposed well and non-domestic wells within one-half mile of the proposed point of diversion. No nearby notification letters were sent out. The point of diversion meets minimum well spacing to all Groundwater Management District No. 3, the minimum well spacing should be 660 feet to any domestic well spacing to all existing wells. Therefore, well spacing is adequate to prevent direct impairment, and to protect interest.

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.

Jeff Lanterman, Water Commissioner, Stafford Field Office, recommended approval of the referenced application on June 24, 2022. 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.

Engelbrecht, Jessica [KDA]

From: Orrin Feril <oferil@gmd5.org>
Sent: Tuesday, February 1, 2022 4:50 PM
To: Engelbrecht, Jessica [KDA]
Subject: Application for Water Right, File No. 50648
Attachments: 50648 2022-02-01 Rec.pdf

Follow Up Flag: Flag for follow up
Flag Status: Completed

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.

Jessica,
I'm attaching the recommendation requested by your office in a letter dated January 28, 2022. Please let me know if you have any questions.

Thank you for your consideration in this matter,

Orrin

--

Orrin Feril

Manager
Big Bend GMD#5
Email: oferil@gmd5.org
Phone: (620) 234-5352
Mobile: (620) 388-0172
Fax: (620) 234-5718
www.gmd5.org
Facebook/Twitter: @BigBendGMD5

Darrell Wood - Edwards (Pres.)
Fred Grunder - Pratt (V Pres.)
John Janssen - Kiowa (Treas.)
Justin Gatz - Reno (Sec.)
Craig Zwick - Rice
Marlyn Spare - Stafford
Phil Martin - Barton
Kerry Froetschner - Pawnee
Tom Taylor - At-Large



Orrin Feril, Manager
125 South Main Street
Stafford, Kansas 67578
ph: (620) 234-5352
fx: (620) 234-5718
gmd5@gmd5.org
www.gmd5.org

February 1, 2022

Jessica Engelbrecht
Division of Water Resources
Kansas Department of Agriculture
300 S. Main Street
Stafford, Kansas 67578-1342

50,648

RE: Application File No. ~~50,561~~

Dear Ms. Engelbrecht,

50,648

The Big Bend Groundwater Management District #5 has reviewed application file number ~~50529~~ which proposes to divert 15AF for stockwater use in SE¼ of 16-27S-11W in Pratt County. The District is closed to new appropriations per K.A.R. 5-25-4(a). The application is requesting exemption from the closure per K.A.R. 5-25-4 (b)(5).

Based on information received in the office, the application appears to be consistent with 5-25-20(b) and is therefore recommended for approval.

The application to change is subject to the District's well equipment regulation K.A.R. 5-25-5 for a required flow meter.

Please feel free to give me a call if you have any questions.

Sincerely,

Orrin Feril
Manager

02/01/2022

Received

Stafford Field Office
Division of Water Resources

Engelbrecht, Jessica [KDA]

From: Lanterman, Jeff [KDA]
Sent: Friday, June 24, 2022 3:55 PM
To: Engelbrecht, Jessica [KDA]
Subject: RE: Memo File No. 50648

Importance: High

Follow Up Flag: Follow up
Flag Status: Flagged

Jessica this one looks good to go as well. Slam dunk. Approve it.

Thanks
Jeff

From: Engelbrecht, Jessica [KDA] <Jessica.Engelbrecht@ks.gov>
Sent: Wednesday, June 22, 2022 7:32 AM
To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>
Subject: Memo File No. 50648
Importance: High

Jeff,
Attached is the memo and corresponding documents for File No. 50,648 which is requesting a 15 foot exemption for STK water use.

Thank you,
Jessica Engelbrecht, Environmental Scientist
KDA Division of Water Resources
Stafford Field Office
(620) 234-5311 Office
(620) 234-6900 Fax
Jessica.engelbrecht@ks.gov
www.agriculture.ks.gov



Darrell Wood - Edwards (Pres.)
Fred Grunder - Pratt (V Pres.)
John Janssen - Kiowa (Treas.)
Justin Gatz - Reno (Sec.)
Craig Zwick - Rice
Marlyn Spare - Stafford
Phil Martin - Barton
Kerry Froetschner - Pawnee
Tom Taylor - At-Large



Orrin Feril, Manager
125 South Main Street
Stafford, Kansas 67578
ph: (620) 234-5352
fx: (620) 234-5718
gmd5@gmd5.org
www.gmd5.org

February 1, 2022

Jessica Engelbrecht
Division of Water Resources
Kansas Department of Agriculture
300 S. Main Street
Stafford, Kansas 67578-1342

RE: Application File No. 50,648

Dear Ms. Engelbrecht,

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Based on information received in the office, the application appears to be consistent with 5-25-20(b) and is therefore recommended for approval.

The application to change is subject to the District's well equipment regulation K.A.R. 5-25-5 for a required flow meter.

Please feel free to give me a call if you have any questions.

Sincerely,

Orrin Feril
Manager

RECEIVED

FEB 01 2022

Stafford 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. 50,648** of the applicant

**BAD LANDS LLC
ATTN: BERRY BORTZ
30142 NE 100TH AVE
PRESTON, KS 67583-8627**

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 **September 17, 2021**.
2. That the water sought to be appropriated shall be used for stockwatering use at a feedlot located in the Southwest Quarter of the Northwest Quarter (SW $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 15, and the Southeast Quarter of the Northeast Quarter (SE $\frac{1}{4}$ NE $\frac{1}{4}$) and the Northeast Quarter of the Southeast Quarter (NE $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 16, both in Township 18 South, and Range 18 West, Pratt, County, Kansas
3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of (1) one well located in the Southeast Quarter of the Southeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 16, more particularly described as being near a point 470 feet North and 165 feet West of the Southeast corner of said section, in Township 27 South, Range 11 West, Pratt 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 **50 gallons per minute (0.11 c.f.s.)** and to a quantity not to exceed **15 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 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, 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 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 an acceptable water flow meter shall be installed and maintained on the diversion works authorized by this permit in accordance with the 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).
12. 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.
13. That no water user shall engage in nor allow the waste of any water diverted under the authority of this permit.
14. 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.
15. 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.
16. That the applicant shall submit to the Chief Engineer a copy of the well log required by the Kansas Department of Health and Environment under the authority of K.S.A. 82a-1212, currently form WWC-5, within 30 days following the drilling of the well at the location authorized herein.

ORDERED this 27th day of September, 2022, in Manhattan, Riley County, Kansas.



Earl D. Lewis Jr.

Earl D. Lewis Jr., P.E.
Chief Engineer
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me 27 day of September, 2022, by Earl D. Lewis Jr., P.E., Chief Engineer, 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

BAD LANDS LLC
Attn: BERRY BORTZ
30142 NE 100TH AVE
PRESTON, KS 67583-8627

October 5, 2022

RE: Application, File No. 50,648

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 at 620-234-5311. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

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.

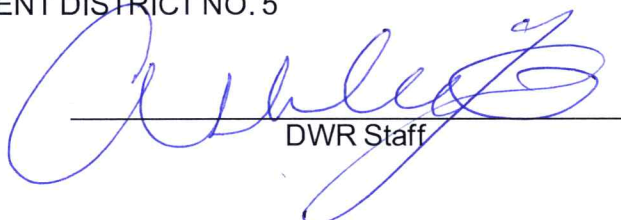
CERTIFICATE OF SERVICE

On this 5 day of October, 2022, I hereby certify that the attached Approval of Application and Permit to Proceed, File No. 50,648, dated 27 September, 2022, was mailed postage prepaid, first class, U.S. Mail to the following:

Original to:
BAD LANDS LLC
ATTN: BERRY BORTZ
30142 NE 100TH AVE
PRESTON, KS 67583-8627

Photocopy to:
Stafford Field Office

BIG BEND GROUNDWATER MANAGEMENT DISTRICT NO. 5



DWR Staff