



File No. **49,404**      15. Formation Code: **190**      Drainage Basin: **Arkansas River**      County: **HV**      Special Use:      Stream:

16. Points of Diversion										17. Rate and Quantity					
MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Authorized		Additional		
											Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files
<b>CHK</b>			<b>69821</b>	<b>NC SW</b>	<b>15</b>	<b>24S</b>	<b>3W</b>	<b>11</b>	<b>1320</b>	<b>3990</b>	<b>661</b>	<b>174</b>	<del>661</del> <b>86</b>	<del>174</del> <b>0</b>	<b>28,769</b>

18. Storage: Rate --- NF      Quantity --- ac/ft      Additional Rate --- NF      Additional Quantity --- ac/ft

19. Limitation: 174 af/yr at 661 gpm (--- cfs) when combined with file number(s) **28,769**  
 Limitation: --- af/yr at --- gpm (--- cfs) when combined with file number(s) ---

20. Meter Required?  Yes  No      To be installed by 12/31/2024      Date Acceptable Meter Installed ---

21. Place of Use										NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg? <b>NO</b>	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	NE ¼	NW ¼	SW ¼	SE ¼						
<b>CHK</b>			<del>69821</del> <b>38978</b>	<b>15</b>	<b>24S</b>	<b>3W</b>	<b>3</b>									<b>32.5</b>	<b>32.5</b>	<b>32.5</b>	<b>32.5</b>					<b>130.0</b>	<del>70</del> <b>7C</b>	<b>NO</b>	<b>28,769</b>		

Comments:

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

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

**TO:** Files

**DATE:** March 15, 2023

**FROM:** Jessica Engelbrecht

**RE:** Application, File No. 49,404

Duane Regier has filed the referenced application to appropriate groundwater for irrigation use, requesting one (1) well, a quantity of 174 acre-feet, and a diversion rate of 661 gallons per minute. The proposed well is to be located Near Center of the Southwest Quarter (NC SW¼) of Section 15, more particularly described as being near a point 1,320 feet North and 3,990 West of the Southeast corner of said section, in Township 24 South, Range 3 West, Harvey County within the Arkansas River drainage basin. The point of diversion is located within the boundaries of Equus Bends Groundwater Management District No. 2 GMD 2). The application is a complete overlap of Water Right, File No. 28,769 and was filed for an increase of rate. File No. authorizes 174 acre-feet at a rate of 575 gallons per minute. Application File No. 49,404 will be limited to 174 acre-feet at a rate of 661 gallons per minute.

The only domestic well within a half-mile is located approximately 1,650 feet (from point of diversion to property line) away, based on the site map. According to the WRIS database, the nearest non-domestic point of diversion (Water Right, File No. 32,149) is located 3,163 feet away. The proposed point of diversion meets minimum well spacing to all existing wells. Per the requirements in K.A.R. 5-25-2(a) 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.

The requested quantity of water, 174 acre-feet, is to irrigate 130 acres identified in the application. This comes out to 1.3 acre-feet per acre which complies with maximum reasonable quantity.

A driller's log shows topsoil from 0 to 3 feet, and layers of clay and gravel to a depth of 78 feet. The static water level was measured at 12 acre-feet and a saturated thickness of 66 feet.

A copy of the application was submitted to Equus Beds GMD No. 2 on February 2, 2023. GMD 2 recommended approval of the application in a letter, received via email, on February 28, 2023. In the letter they 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 April 17, 2023. 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]

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**From:** Lanterman, Jeff [KDA]  
**Sent:** Monday, April 17, 2023 5:02 PM  
**To:** Conant, Cameron [KDA]; Engelbrecht, Jessica [KDA]  
**Subject:** RE: Nos. 49403 and 49404

**Importance:** High

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Jessica I hope I wasn't the holdup on these applications for a rate increase only. These are some old ones!

Anyway you memo says they will be limited but you should note in the memo and permits that they will be limited to the senior files.

49403 limited to 191 AF and 598 GPM when combined with 22061  
49404 limited to 174 AF and 661 GPM when combined with 28769

I agree with Cameron about copying the tenant. Probably a good insurance policy.

I recommend approval.

Thanks

Jeff

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**From:** Conant, Cameron [KDA] <Cameron.Conant@ks.gov>  
**Sent:** Tuesday, February 28, 2023 8:19 AM  
**To:** Engelbrecht, Jessica [KDA] <Jessica.Engelbrecht@ks.gov>; Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>  
**Subject:** RE: Nos. 49403 and 49404

I think it is fine to send the approvals to the new owner and also to copy the tenant. We wouldn't normally copy a tenant, but in this case it doesn't hurt anything to keep them on the same page right now. Can you just confirm with ORKA that Tim sent to the correct new owners, and if he did, just send to them and I'd think we could get the ownership updated based on the ORKA also so it wouldn't take a special ownership change after approval.

[Fdp hurq#](#)

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**From:** Engelbrecht, Jessica [KDA] <[Jessica.Engelbrecht@ks.gov](mailto:Jessica.Engelbrecht@ks.gov)>  
**Sent:** Monday, February 27, 2023 4:32 PM  
**To:** Lanterman, Jeff [KDA] <[Jeff.Lanterman@ks.gov](mailto:Jeff.Lanterman@ks.gov)>; Conant, Cameron [KDA] <[Cameron.Conant@ks.gov](mailto:Cameron.Conant@ks.gov)>  
**Subject:** FW: Nos. 49403 and 49404  
**Importance:** High

Well...I don't like how this sounds.

Are you guys ok with sending the approvals to the Owner's and the Tenant and then doing an ownership change after the approval?

Jessica

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**From:** [tboese@GMD2.org](mailto:tboese@GMD2.org) <[tboese@GMD2.org](mailto:tboese@GMD2.org)>  
**Sent:** Monday, February 27, 2023 4:25 PM  
**To:** Engelbrecht, Jessica [KDA] <[Jessica.Engelbrecht@ks.gov](mailto:Jessica.Engelbrecht@ks.gov)>  
**Subject:** Nos. 49403 and 49404  
**Importance:** High

**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 wanted to give you a heads up on Nos. 49403 and 49404. We reviewed these last Friday (February 24) and our recommendation of approval for each should be on their way to you as soon as Rebecca gets them scanned and emailed. These applications were filed in 2015 and I wanted to let you know that the applicant, Duane Regier, passed away about a year ago. I copied our recommendations to the owners, and to Duane Regier, c/o Ty Miller. Ty is taking care of most of the farming activities paperwork for Duane. I'm not sure who you want to send the approvals to, but maybe they should just go to the owners and copy Ty Miller?

Thanks.

Tim Boese, Manager  
Equus Beds GMD2  
313 Spruce, Halstead, Kansas 67056  
316-835-2224  
Fax: 316-835-2225  
[tboese@gmd2.org](mailto:tboese@gmd2.org)  
[www.gmd2.org](http://www.gmd2.org)

# 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. 49,404** of the applicant

**DUANE REGIER**  
**19801 SW 72ND ST**  
**BURRTON KS 67020-9232**

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 **June 1, 2015**.
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	
15 - 24S - 3W									32.5	32.5	32.5	32.5					130.0

3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of one (1) well located near the center of the Southwest Quarter (SW¼) of Section 15, more particularly described as being near a point 1,320 feet North and 3,990 feet West of the Southeast corner of said section, in Township 24 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 **661 gallons per minute** and to a quantity not to exceed **174 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 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.
12. 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).
13. 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.
14. That no water user shall engage in nor allow the waste of any water diverted under the authority of this permit.
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 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.
- 17. That the quantity of water and rate of diversion approved under this application is further limited to the quantity and rate which combined with Water Right, File No. 28,769, will provide a total not to exceed **174 acre-feet** of water per calendar year to be diverted at a maximum diversion rate not in excess of **661 gallons per minute** (1.47 c.f.s.) for irrigation on the land described herein.
- 18. 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.

ORDERED this *15<sup>th</sup>* day of *May*, 2023, in Manhattan, Riley County, Kansas.



*Earl D. Lewis Jr.*  
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 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 *1<sup>st</sup>* day of *May*, 2023, by Earl D. Lewis Jr., P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.

*Melinda Jennings*  
 \_\_\_\_\_  
 Notary Public





Stafford Field Office  
300 S. Main Street  
Stafford, KS 67578-1521



Phone: 620-234-5311  
Fax: 620-234-6900  
[www.agriculture.ks.gov](http://www.agriculture.ks.gov)

Mike Beam, Secretary

Laura Kelly, Governor

DUANE REGIER  
19801 SW 72ND ST  
BURRTON KS 67020-9232

May 8, 2023

RE: Appropriation of Water  
File No. 49,404

Dear Mr. Regier:

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.

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.

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).

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/dwr](http://agriculture.ks.gov/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 blue ink that reads "Kristen A. Baum".

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

KAB:jne  
Enclosure(s)

pc: Schowalter Foundation, Inc.  
Equus Beds GMD No. 2  
Stafford Field Office

## RIGHT TO A HEARING AND TO ADMINISTRATIVE REVIEW

If you are aggrieved by this Order, then pursuant to K.S.A. 82a-1901, you may:

- 1) request an evidentiary hearing before the Chief Engineer, or
- 2) request administrative review by the Secretary of Agriculture.

Failure to request an evidentiary hearing before the Chief Engineer does not preclude your right to administrative review by the Secretary. To obtain an evidentiary hearing before the Chief Engineer, a written request for hearing must be filed within 15 days after service of this Order as provided in K.S.A. 77-531 (i.e., **within a total of 18 days after this Order was mailed to you**), with: Kansas Department of Agriculture, Attn: Legal Section, 1320 Research Park Drive, Manhattan, Kansas 66502, FAX 785-564-6777.

If you do not file a request for an evidentiary hearing before the Chief Engineer, you may petition for administrative review of the Order by the Secretary of Agriculture. A petition for review shall be in writing and state the basis for requesting administrative review. The request for hearing may be denied if the request fails to clearly establish factual or legal issues for review. See K.S.A. 77-527. The petition must be filed within 30 days after service of this Order as provided in K.S.A. 77-531 (i.e., **within a total of 33 days after this Order was mailed to you**), and be filed with: Secretary of Agriculture, Attn: Legal Division, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, FAX 785-564-6777.

If neither a request for an evidentiary hearing nor a petition for administrative review is filed as set forth above, then this Order shall be effective and become a final agency action as defined in K.S.A. 77-607(b). Failure to timely request either an evidentiary hearing or administrative review may preclude further judicial review under the Kansas Judicial Review Act.

### CERTIFICATE OF SERVICE

On this 8 day of May, 2023, I hereby certify that the attached Approval of Application and Permit to Proceed, File No.49,404, dated May 1, 2023, was mailed postage prepaid, first class, U.S. Mail to the following:

Original to:

DUANE REGIER  
19801 SW 72ND ST  
BURRTON KS 67020-9232

Photocopy to:

SCHOWALTER FOUNDATION INC  
PO BOX 338  
NORTH NEWTON KS 67117-0338

KDA-DWR Stafford Field Office

Equus Beds GMD No. 2

  
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DWR Staff