

**Kansas Department of Agriculture
Division of Water Resources
APPROVAL OF NEW APPLICATION WORKSHEET**

1. File No.: 50,730	2. Status Change Date: 3/12/2024	4. Field Office: 02 - Stafford GMD: 02 - Equus Beds Structures File No.: Filing/Priority Date: 02/28/2022
3. Package File No(s):		
5a. <input checked="" type="checkbox"/> Applicant <input checked="" type="checkbox"/> Owner <input checked="" type="checkbox"/> WUC <input type="checkbox"/> Address Change GRAY METAL INC 3170 N OHIO ST WICHITA, KS 67219-4134	Person ID 65738 Add Seq# 1	5b. <input type="checkbox"/> Owner <input type="checkbox"/> WUC <input type="checkbox"/> Address Change Person ID Add Seq#
5c. <input type="checkbox"/> Owner <input type="checkbox"/> WUC <input type="checkbox"/> Address Change	Person ID Add Seq#	5d. <input type="checkbox"/> Owner <input type="checkbox"/> WUC <input type="checkbox"/> Address Change Person ID Add Seq#
6. Change No.: --- <input type="checkbox"/> PD <input type="checkbox"/> PU <input type="checkbox"/> UMW Base Acres: --- Year: --- Min Reasonable Q: --- Previous UMW: Not changing MDS Gauge: --- Active Admin? <input type="checkbox"/> Completion/Start Date: 12/31/2024 Perfection/Expiration Date: 12/31/2028 12/31/2025 2029		7. Use of Water <input checked="" type="checkbox"/> Groundwater <input type="checkbox"/> Surface Water UMW: IRR-Irrigation UMW: UMW:
8. Action Trail ---		
9. Special Conditions ---		
10. 5YR Allocation Type: Start Year: --- 5YR Quantity: --- Base Acres: --- Comment: ---		
11. Sand & Gravel Proj ID: --- <input type="checkbox"/> Active <input type="checkbox"/> Dredge <input type="checkbox"/> IND Evap <input type="checkbox"/> Jr Evap <input type="checkbox"/> Other Diversion <input type="checkbox"/> Rpt on Sr		
12. Waiver Rule ID: --- <input type="checkbox"/> New Date Requested: --- Applies: --- Rule No.: --- Rule Type: --- Justification: --- Rule SubType: ---		
Comments	Processed 03/08/24 JNE	Entered 3/20/2024 KAnderson
	Reviewed KAK 3/12/2024	

File No. 50,730	13. County: RN Basin: 53 - N F Ninnescah River Stream:		
Structures File No:	Aquifer Code: 190 - Equus Beds	Special Use Area: --- ---	

14. Points of Diversion, Rates & Quantities										Qty AF		Rate gpm		Storage Qty		Storage Rate	
PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Auth	Add	Auth	Add	Auth	Add	Auth/Add	Overlaps	
MOD	89315 SW SW NE	11	25S	7W		2860	2360	Geo-Center	224	224	800	800					
ENT MOD	89973 SW SW NE	11	25S	7W		3060	2560	Batt 1 of 4 Wells									
ENT	90804 SW SW NE	11	25S	7W		3060	2160	Batt 1 of 4 Wells									
ENT	90805 SE SE NE	11	25S	7W		2660	2160	Batt 1 of 4 Wells								BATT ID 2387	
ENT	90806 SW SW NE	11	25S	7W		2660	2560	Batt 1 of 4 Wells									

15. Limitations Type: Quantity: **AF** Rate: **gpm** combined with file no(s):
 Type: Quantity: Rate: combined with file no(s):

16. Metering Yes Metering Required Anti-Reverse Required Seal Required Compliance Date: 12/31/2025

17. Place of Use										NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				Total	Owner(s)	Chg?	Overlaps
PDIV	S	T	R	ID	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				Total	Owner(s)	Chg?	Overlaps					
					NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE									
CHK	70742	11	25S	7W	2	40.0	40.0	40.0	40.0											160.0	5a		<input type="checkbox"/>						
																							<input type="checkbox"/>						

18. Point of Diversion and Place of Use Overlaps

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KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: November 13, 2023

FROM: Jessica Engelbrecht

RE: Application, File No. 50,730

Pete Molitor filed the application referenced above. The applicant is requesting 224 acre-feet of groundwater for irrigation use from a battery of four (4) wells, at a rate of 800 gallons per minute. The point of diversion for the battery of wells is the geographic center, located in the Southwest Quarter of the Southwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 11, more particularly described as being near a point 2,860 feet North, 2,360 feet West of the Southeast corner of said section, in Township 25 South, Range 7 West, in Reno County, Kansas within the boundaries of the North Fork Ninnescah River drainage basin. The point of diversion lies within the boundaries of the Equus Bends Groundwater Management District No. 2. The place of use is 160 acres in the Northeast corner of Section 11, Township 25 South, Range 7 West. There are no overlaps in place of use or point of diversion.

The quantity of 224 acre-feet is the maximum amount allowable for a 160-acre place of use based on 1.4 acre-feet per acre allowed in Reno County, as allowed by K.A.R. 5-3-24. The requested rate of diversion (800 gpm) appears to be reasonable to operate the proposed irrigation system and cover the acreage.

One possible domestic well identified within a half-mile of the applicant's point of diversion. A nearby notification letter was mailed out on February 6, 2023. No response of any kind was received. According to the aerial map, the closest possible domestic well is approximately 2,350 feet away from the geographical center to the property line. According to WRIS, the nearest non-domestic well (File No. 48,076) is located 7,302 feet away from the geographical center. The proposed point of diversion meets minimum spacing to all existing wells. Per the requirements in K.A.R. 5-2-2 for wells located in the Groundwater Management District 2 Enhanced Spacing area, the minimum well spacing should be one-quarter mile to all other non-domestic wells and 960 feet to domestic wells.

A well log submitted with the application shows topsoil from 0 to 2 feet, layers of clay and sand from 2 to 26 feet, gravel fine, to medium from 26 to 30 feet and shale from 30 to 35 feet. The log shows a static water level of 19 feet which indicates a saturated thickness of 16'. The log does not meet recommended saturated thickness level of 25 feet. In an email discussion dated September 14, 2023, it was decided to not require a study.

A copy of the application was submitted to Equus Beds Groundwater Management District No. 2 on March 23, 2023. GMD #2 recommended approval of the application in a letter, received via email, on September 1, 2023, stating the modified application complied with the Revised Aquifer Management program approved by the Chief Engineer and with the District's Rules and Regulations K.A.R 5-22-1 through 5-22-17.

The applicant has submitted a signed and notarized Minimum Desirable Streamflow form and acknowledges that this appropriation may be subject to Minimum Desirable Streamflow administration.

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 January 24, 2024.

Based on the above discussion, that the area is open to new appropriations for groundwater, the proposed appropriation of water complies with safe yield and well spacing criteria, 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.


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. 50,730** of the applicant

GRAY METAL INC
3170 NORTH OHIO ST
WICHITA, KS 67219-4134

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 **February 28, 2022**.
2. That the water sought to be appropriated shall be used for irrigation use on land described in the application, as follows:

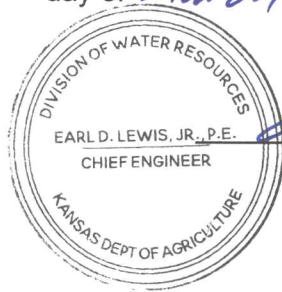
Sec. Twp. Range	NE¼				NW¼				SW¼				SE¼				TOTAL
	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
11 - 25S - 7W	40	40	40	40													160

3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of a battery of four (4) wells with a geographical center located in the Southwest Quarter of the Southwest Quarter of the Northeast Quarter (SW¼ SW¼ NE¼) of Section 11, more particularly described as being near a point 2,860 feet North and 2,360 feet West of the Southeast corner of said section, in Township 25 South, Range 7 West, Reno County, Kansas, located substantially as shown on the topographic map accompanying the application.
4. That the appropriation sought shall be limited to a maximum diversion rate not in excess of **800 gallons per minute (1.78 c.f.s.)** and to a quantity not to exceed **224 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, 2025**, 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, 2029**, 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 water flow meter shall be installed and maintained on the diversion works authorized by this permit in accordance with Kansas Administrative regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer. These water flow meters 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 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.
- 17. That this permit is further limited such that all four (4) wells shall be located within a three hundred (300) foot radius circle, in the same local source of supply, shall be limited to a total maximum diversion rate not in excess of **800 gallons per minute (1.78 c.f.s.)** and shall supply water to a common distribution system.
- 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 12th day of March, 2024, 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 12 day of March, 2024, by Earl D. Lewis Jr., P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.

Melinda Jennings

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

March 13, 2024

PETE MOLITOR
GRAY METAL INC
3170 N OHIO ST
WICHITA KS 67219-4134

RE: Appropriation of Water
File No. 50,730

Dear Mr. Molitor:

There is enclosed a permit to appropriate water authorizing you to proceed with construction of the proposed diversion works (except those dams and stream obstructions regulated by K.S.A. 82a 301 through 305a), to divert such unappropriated water as may be available from the source and at the location specified in the permit, and to use it for the purpose and at the location described in the permit.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in this permit. A water meter is required, and you must install it prior to water being put to beneficial use in order for you to maintain accurate records of water use. The meter should be used to provide the information required on the annual water use report.

Failure to notify the Chief Engineer of the Division of Water Resources of the completion of the diversion works within the time allowed, or within any authorized extension of time thereof, will result in the dismissal of this permit. Enclosed is a form which may be used to notify the Chief Engineer that the proposed diversion works have been completed. All requests for extensions of time to complete diversion works, or to perfect appropriations, must be submitted to the Chief Engineer before the expiration of time originally set forth in the permit to complete diversion works or to perfect an appropriation. If for any reason, you require an extension of time, you must request it before the expiration of time set forth in this permit. Failure to comply with this regulation will result in the dismissal of your permit or your water right. Any request for an extension of time shall be accompanied by the required statutory fee, which is currently \$100.00.

There is also enclosed an information sheet setting forth the procedure to obtain a Certificate of Appropriation which will establish the extent of your water right. Additional information and applicable forms may be found on our website at: 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 black ink that reads "Kristen A. Baum". The signature is written in a cursive style.

Kristen A. Baum
New Application Unit Supervisor
Water Appropriation Program

KAB:kak:jne
Enclosures

pc: Stafford Field Office
Equus Beds GMD No. 2

RIGHT TO A HEARING AND TO ADMINISTRATIVE REVIEW

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

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

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

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

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

CERTIFICATE OF SERVICE

On this 13 day of March, 2024, I hereby certify that the attached Approval of Application and Permit to Proceed, File No. 50,730, dated March 12, 2024, was mailed postage prepaid, first class, U.S. Mail to the following:

Original to:

GRAY METAL INC
3170 N OHIO ST
WICHITA KS 67219-4134

Photocopy to:

KDA-DWR Stafford Field Office

Equus Beds GMD No. 2


DWR Staff