

File No. **50847** 15. Formation Code: **533** Drainage Basin: **WALNUT RIVER** County: **BU** Special Use: **NA** Stream: **NA**

16. Points of Diversion										17. Rate and Quantity				
MOD	PDIV	Qualifier	S	T	R	ID	'N	'W		Authorized	Additional			
DEL										Rate	Quantity	Rate	Quantity	Overlap PD Files
ENT										gpm/cfs	af/mgy	gpm/cfs	af/mgy	
MOD	89759	NE SE NW	16	24	3E	12	3969	3032		120 GPM	10.84 MGY	120	10.84	NONE
NO LIMITATION ON Q OR R ALLOWING DEVELOPMENT														

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) **NONE**
 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																		Owner	Chg?	Overlap Files							
MOD	DEL	ENT	PUSE	S	T	R	ID	NE¼				NW¼				SW¼				SE¼				Total			
								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				
CHK	57527	26	24	3E	1	FEEDLOT (W2 NE) & (E2 NW)																7b	NO	28286.05 & 46373			

Comments:

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: April 24, 2023

FROM: Leslie Ireland

RE: Application, File No. 50,847

Douglas Thiessen, Triple T Livestock LLC, has filed the referenced application to appropriate a limited 10.843 million gallons (33.28 acre-feet (AF) of groundwater per calendar year from the Walnut River drainage basin for stockwatering use. The water is to be diverted at a maximum rate of 120 gallons per minute (0.24 cfs) for at an existing livestock facility authorized by File Nos. 28,286.05 & 46,373, with the proposed new well limited in quantity and rate to the senior battery of wells authorized by these two files.

The application was filed due to the redrilling of battery wells under the existing files not meeting the definition of a battery. The new appropriation was filed to authorize the existing well proposing to pump groundwater from the well listed as being located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 16, approximately 3,969 feet North and 3,032 feet West of the Southeast corner of Section 16 and determined by GPS to be 3,975 feet North and 3,122 feet West of the Southeast corner of said section placing it in the updated qualifiers of the SE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 16, in Township 24 South Range 3 East, Butler County.

The existing wells in the area have a depth reported to be approximately 80 feet. The applicant indicated the proposed well to be 107' deep and a static water level of 28'. The well log was found on the KGS WWC-5 web site. The source of supply in this area has been determined to be the Wellington formation (Code 533).

The proposal of the new appropriation with the limitations to the senior files appears to be unnecessary and restricts any expansion that a new appropriation could afford. The placement of the well would also indicate it would be utilized at the beef feeder portion of the facility and the battery utilized at the swine portion. The submitted Summary of Stockwater Use did not allow for any expansion of the facility that includes a feed mill. At a minimum the proposed existing well should be allowed to develop a standalone rate of diversion of 120 gallons per minute. The quantity requested is only the quantity authorized by File No. 28,286.05 and is indicated to be limited. It appears the total quantity requested should be allowed to certify a stockwater quantity for this livestock complex without the limitation with the senior files as the requested quantity is not equivalent to both senior files and the area has sufficient quantity available for the total quantity requested.

The existing groundwater appropriations within a two(2) mile radius of the proposed well total 146.3 acre-feet of certified water and 164.72 AF authorized and 198.0 AF with the refenced file requested 33.28 AF proposed without a limitation. The 2007 safe yield was calculated to be 2,554 AF less the current appropriations indicate 2,518.57 AF could be yielded by the aquifer and available for appropriation. It appears the requirements of K.A.R. 5-3-11 have been met.

The water that will be permitted by the new permit will afford this owner to develop the facility and certify a quantity that will be evaluated in conjunction with the senior files. The proposal does appear to comply with K.A.R. 5-3-22, per the Summary of Stockwater Use.

The authorized place of use currently authorized by File Nos. 28,286.05 & 46,373 remains as authorized and described as being located in the West Half of the Northeast Quarter (W $\frac{1}{2}$ NE $\frac{1}{4}$) and the East Half of the Northeast Quarter (E $\frac{1}{2}$ NW $\frac{1}{4}$) of Section 16, Township 24 South, Range 3 East, Butler County, Kansas.

The owner signed and submitted the minimum desirable stream flow paperwork for the acknowledgement of this restriction.

There is only the battery of wells owned by the applicant within one-half ($\frac{1}{2}$) mile of the proposed of well. It appears no notification will be necessary for this proposed appropriation.

The proposed well is located approximately 1,342 feet from the updated geographic center of the battery of wells. It appears the spacing of 1,320 feet for non-domestic wells as detailed in K.A.R. 5-4-4 has been met.

Jeff Lanterman, Water Commissioner was sent a copy of this memorandum for comments and a recommendation. He indicated in an e-mail dated April 5, 2023, he recommends approval of the new permit without the additional limitation on the quantity and rate when combined with the senior files that serve the place of use.

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.

Therefore, I recommend this application for approval and recommend that the quantity and rate be authorized at 10.843 million gallons (33.28 acre-feet (AF) at a maximum rate of 120 gallons per minute (0.24 c.f.s) for at this existing livestock facility.



Leslie Ireland
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. 50,847** of the applicant

**TRIPLE T LIVESTOCK LLC
Attn: DOUGLAS THIESSEN
14429 NW 100TH ST
WHITEWATER, KS 67154-8961**

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 **August 22, 2022**.
2. That the water sought to be appropriated shall be used for stockwater use on land described in the application, as follows:

a feedlot located in the West Half of the Northeast Quarter ($W\frac{1}{2} NE\frac{1}{4}$) and the East Half of the Northwest Quarter ($E\frac{1}{2} NW\frac{1}{4}$), all in Section 16, Township 24, Range 3 East, Butler County, Kansas.

3. That the authorized source from which the appropriation shall be made is groundwater from the Walnut River basin, to be withdrawn by means of one (1) well located in the Northeast Quarter of the Southeast Quarter of the Northwest Quarter ($NE\frac{1}{4} SE\frac{1}{4} NW\frac{1}{4}$) of Section 16, more particularly described as being near a point 3,969 feet North and 3,032 feet West of the Southeast corner of said section, in Township 24 South, Range 3 East, Butler 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 **120 gallons per minute (0.33 c.f.s.)** and to a quantity not to exceed **10.84 million gallons (33.3 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 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).

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.

Ireland, Leslie [KDA]

From: Lanterman, Jeff [KDA]
Sent: Wednesday, April 5, 2023 3:04 PM
To: Ireland, Leslie [KDA]; Conant, Cameron [KDA]
Subject: RE: Review & Recommendation File Nos. 28286.05 46373 & 50847

The additional Q sounds like a fine idea Leslie. I'm OK with going that route.

The quantity will all work itself out at certification time should they not need the additional water. We can look at that an apply an LTM then.

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Wednesday, April 5, 2023 2:50 PM
To: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>; Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>
Subject: RE: Review & Recommendation File Nos. 28286.05 46373 & 50847

Cameron,

I have not spoken with Doug. Seems like you'd be OK if I ask him if he is considering expansion and to have him submit additional information?

Yep it was messy the well driller should be fined,, but maybe presented as domestic stockwatering...so was drilled without DWR permitting.
There is a lot of water that could be put to use, just no cheap money,, but would choose water over money any day.

Let me know about asking Doug..???

Leslie

From: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Sent: Wednesday, April 5, 2023 2:40 PM
To: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>; Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>
Subject: RE: Review & Recommendation File Nos. 28286.05 46373 & 50847

I don't think his intention is to expand this facility at all and the point of the new application was to cover an illegal/unauthorized well that was re-drilled incorrectly and outside the distances allowed by the senior files...so it violated the battery of wells so needed a new app to cover the new well. I think he has justified the quantity that he currently has and not more than that, so I think the limitation on the new app back to the senior files is appropriate and is ok.

This was a mess b/c he had an illegal well too far away that we needed to cover. He wasn't going for more quantity or a large expansion with these applications but I'm open to more discussion if we need?

Have you spoken with Doug and if so, can he justify the additional quantity with some proposed expansion or flaker mill use? If so, I'm not against doing it as additional since there is 2500 AF open in the area, but that wasn't the starting point for these changes.

Cameron

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>

Sent: Thursday, March 23, 2023 3:48 PM

To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>; Conant, Cameron [KDA] <Cameron.Conant@ks.gov>

Subject: Review & Recommendation File Nos. 28286.05 46373 & 50847

Jeff & Cameron,

This project is for Doug Thiessen in Butler Co. The stockwatering facility serves swine, cattle and has a feed mill. The battery of three wells was redrilled off.. so much so a new app was considered for one of the wells, and a waiver of 300 foot radius for the other 3 wells remaining in the battery.

The new app is says it is limited with the senior files but feel that would be wrong as the rate should be able to be developed as it is a separate well. It is located close to the cattle pens... also the quantity should be allowed to be developed separately as we have gotten better at doing certificates and there is a feed mill on the site. I would think we would want to allow this new permit to accommodate an expansion of the operation. The new app also lists the quantity for the senior file only and not the total Q under both files makes for a wanky limitation.. so better to just allow it to develop another quantity from this well for use at the livestock complex. Also there is over 2500 AF available for appropriations. Gosh I feel like we want these guys to grow their business... maybe this appropriation with just the quantity and rate without additional Q& R back to a senior file.. would be just the ticket. Don't see it as to different from doing some of the files out west where there are two files limited and a third or fourth that are not.

Please let me know your comments and concerns. The new app well has been operating under a temporary that expired 2/19.

Leslie Ireland
Environmental Scientist
Change Application Unit
Division of Water Resources



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

May 2, 2023

TRIPLE T LIVESTOCK LLC
Attn: DOUGLAS THIESSEN
14429 NW 100TH ST
WHITEWATER, KS 67154-8961

RE: Appropriation of Water, File No. 50,847

Dear Mr. Thiessen:

Enclosed is a permit authorizing the 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.

For the approved permit, a 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.

An informational sheet has been included, which sets forth the procedure to obtain a Certificate of Appropriation that 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. 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 Application Unit Supervisor
Division of Water Resources

KAB:li:
Enclosure(s)
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.

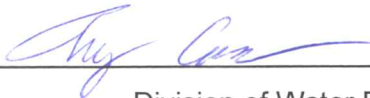
CERTIFICATE OF SERVICE

On this 2 day of May, 2023, I hereby certify that the attached Approval of Permit, under Appropriation of Water, File No. 50,847 dated April 28, 2023, was mailed postage prepaid, first class, US mail to the following:

TRIPLE T LIVESTOCK LLC
Attn: DOUGLAS THIESSEN
14429 NW 100TH ST
WHITEWATER, KS 67154-8961

With photocopies to:

Stafford Field Office



Division of Water Resources