

File No. **49,288** 15. Formation Code: Drainage Basin: County: Special Use: Stream:

16. Points of Diversion										17. Rate and Quantity					
T										Authorized		Additional			
MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Rate gpm/cfs	Quantity af/mgy	Rate gpm/cfs	Quantity af/mgy	Overlap PD Files
DEL	84045														

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?	Overlap Files	
T																														
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							
DEL	66708																													

Comments:



1320 Research Park Drive
Manhattan, Kansas 66502
(785) 564-6700

900 SW Jackson, Room 456
Topeka, Kansas 66612
(785) 296-3556

Jackie McClaskey, Secretary

Governor Sam Brownback

September 26, 2016

RICHARD A STEFAN
615 N CHICKAMAUGA AVE
APT 1
COLBY KS 67701

FILE COPY

RE: Appropriation of Water
File No. 49,288

Dear Mr. Stefan:

Enclosed is the Findings and Order by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, dismissing Application, File No. 49,288 for failure to comply with K.A.R. 5-24-2 .

This Order shall become a final agency action, as defined by K.S.A. 77-607(b), without further notice to the parties, if a request for hearing or a petition for administrative review is not filed as set forth below.

Request for Hearing. According to K.A.R. 5-14-3(c), any party who desires a hearing must submit a request within 15 days after the date shown on the Certificate of Service attached to this Order. Filing a request for a hearing will give you the opportunity to submit additional facts for consideration, contest any findings made by the Chief Engineer, or present any other information you believe should be considered in this matter. A timely-filed request for hearing will stay the deadline for requesting administrative review of this Order pending the outcome of the hearing.

Petition for Review. The applicant, if aggrieved by this Order, may petition for administrative review, pursuant to K.S.A. 82a-71 1(c) and K.S.A. 82a-1 90 1(a). The petition must be filed within 30 days after the date shown on the Certificate of Service attached to this Order and must set forth the basis for the review, unless stayed by the timely filing of a request for hearing. Any request for hearing or petition for administrative review shall be in writing and shall be submitted to the attention of: Chief Legal Counsel, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, Fax: (785) 564-6777.

If you have any questions, please contact our office. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

Brent A. Turney, P.G.
Change Application Unit Supervisor
Division of Water Resources

BAT:ajw

Enclosures

pc: Stockton Field Office
Groundwater Management District 4

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: September 16, 2016

FROM: Alex Whitesell

RE: Application, File No. 49,288

Richard A. Stefan has filed the above referenced application for a permit to appropriate water for beneficial use, proposing the appropriation of 335 acre-feet of groundwater from a battery of four (4) wells, for irrigation use in Sherman County.

On August 18, 2016, a copy of the application was sent to GMD No. 4 for recommendation giving until September 2, 2016 to provide a recommendation.

In a letter dated August, 2016, the GMD recommended denial of the application due to the application not meeting the requirements of K.A.R. 5-24-2.

On August 29, 2016 the applicant was sent a letter giving until September 13, 2016 to provided additional information. No correspondence has been received from the applicant as of the deadline.

Based on the above discussion and the available information, it is recommended that the referenced application be dismissed.



Alex Whitesell
Environmental Scientist
Water Appropriation Program



KANSAS DEPARTMENT OF AGRICULTURE

Jackie McClaskey, Secretary of Agriculture

DIVISION OF WATER RESOURCES

David W. Barfield, Chief Engineer

**FINDINGS AND ORDER
IN THE MATTER OF THE
DISMISSAL OF APPLICATION
FILE NO. 49,288**

FILE COPY

After due consideration, the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture (hereinafter referred to as the "Chief Engineer"), makes the following findings and order:

FINDINGS

1. That on February 17, 2015, the Chief Engineer received an application from Richard A Stefan for permit to appropriate ground water for beneficial use, assigned File No. 49,288, proposing the appropriation of 335 acre-feet of water, at a maximum requested diversion rate of 800 gallons per minute, for irrigation use. The specific location for the proposed point of diversion would be 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 4, more particularly described as being near a point 309 feet North and 321 feet West of the Southeast corner of said section, in Township 9 South, Range 38 West, Sherman County, Kansas.
2. That on August 18, 2016, a copy of the application was submitted to GMD No. 4, giving until September 2, 2016 to provide a recommendation.
3. That on August 22, 2016, GMD No. 4 recommended denial of the application for failure to meet the requirements of K.A.R. 5-24-2.
4. That on August 29, 2016, a letter was mailed to the applicant stating that the application did not comply with the conditions of the K.A.R. 5-24-2, Allowable Withdrawals, and that the application would be submitted to the Chief Engineer with a recommendation that the pending application be denied and dismissed. The applicant was provided 15 days, until September 13, 2016 to either submit additional information to our office or request additional time, prior to final action on the application.
5. That the applicant, has not submitted additional information for consideration, nor requested an extension of time for Application, File No. 49,288 by the September 13, 2016 deadline.
6. That the application should be denied and dismissed and its priority forfeited for failure to comply with K.A.R. 5-24-2.

ORDER


NOW, THEREFORE, It is the decision and order of the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, that effective the date of this order, in accordance with the law, Application, File No. 49,288, is herewith dismissed and the priority assigned to it is considered to be forfeited.

CERTIFICATE OF SERVICE

On this 30th day of September, 2016, I hereby certify that the foregoing Dismissal of Application, File No. 49,288, dated September 23, 2016 was mailed postage prepaid, first class, US mail to the following:

RICHARD A STEFAN
615 N CHICKAMAUGA AVE
APT 1
COLBY KS 67701
With photocopies to:

Stockton Field Office
Groundwater Management District No. 4

A handwritten signature in cursive script that reads "Daniell Wilson". The signature is written in black ink and is positioned above a solid horizontal line.

Division of Water Resources

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Jackie McClaskey, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

File Number 49288
This item to be completed by the Division of Water Resources.

APPLICATION FOR PERMIT TO APPROPRIATE WATER FOR BENEFICIAL USE

Filing Fee Must Accompany the Application
(Please refer to Fee Schedule attached to this application form.)

WATER RESOURCES RECEIVED

FEB 17 2015

4:10
KS DEPT OF AGRICULTURE

To the Chief Engineer of the Division of Water Resources, Kansas Department of Agriculture,
1320 Research Park Drive, Manhattan, Kansas 66502:

1. Name of Applicant (Please Print): RICHARD A STEFAN
Address: 615 N CHICKAMAUGA APT #1
City: COLBY State KS Zip Code 67701
Telephone Number: (785) 821-1926

2. The source of water is: surface water in _____ (stream)
OR groundwater in S FORK SAPPA CREEK (drainage basin)

Certain streams in Kansas have minimum target flows established by law or may be subject to administration when water is released from storage for use by water assurance district members. If your application is subject to these regulations on the date we receive your application, you will be sent the appropriate form to complete and return to the Division of Water Resources.

3. The maximum quantity of water desired is 335 acre-feet OR _____ gallons per calendar year, to be diverted at a maximum rate of 800 gallons per minute OR _____ cubic feet per second.

Once your application has been assigned a priority, the requested maximum rate of diversion and maximum requested quantity of water under that priority number can **NOT** be increased. Please be certain your requested maximum rate of diversion and maximum quantity of water are appropriate and reasonable for your proposed project and are in agreement with the Division of Water Resources' requirements.

4. The water is intended to be appropriated for (Check use intended):
(a) Artificial Recharge (b) Irrigation (c) Recreational (d) Water Power
(e) Industrial (f) Municipal (g) Stockwatering (h) Sediment Control
(i) Domestic (j) Dewatering (k) Hydraulic Dredging (l) Fire Protection
(m) Thermal Exchange (n) Contamination Remediation

YOU **MUST** COMPLETE AND ATTACH ADDITIONAL DIVISION OF WATER RESOURCES FORM(S) PROVIDING INFORMATION TO SUBSTANTIATE YOUR REQUEST FOR THE AMOUNT OF WATER FOR THE INTENDED USE REFERENCED ABOVE.

For Office Use Only:							
F.O. <u>3</u>	GMD <u>4</u>	Meets K.A.R. 5-3-1 (YES/NO)	Use <u>IRR</u>	Source <u>G</u> S County <u>SH</u>	By <u>KAG</u>	Date <u>2-18-15</u>	
Code <u>RE3</u>	Fee \$ <u>300</u>	TR # _____	Receipt Date <u>2-17-15</u>	Check # <u>756</u>			

SCANED
2/26/2015 WLM

5. The location of the proposed wells, pump sites or other works for diversion of water is:

Note: For the application to be accepted, the point of diversion location must be described to at least a 10 acre tract, unless you specifically request a 60 day period of time in which to locate the site within a specifically described, minimal legal quarter section of land. GEO CTR OF 4 WELL BATTERY

(A) One in the SE quarter of the SE quarter of the SE quarter of Section 4, more particularly described as being near a point 309 feet North and 321 feet West of the Southeast corner of said section, in Township 9 South, Range 38 W, SHERMAN County, Kansas.

(B) One in the _____ quarter of the _____ quarter of the _____ quarter of Section _____, more particularly described as being near a point _____ feet North and _____ feet West of the Southeast corner of said section, in Township _____ South, Range _____ East/West (circle one), _____ County, Kansas.

(C) One in the _____ quarter of the _____ quarter of the _____ quarter of Section _____, more particularly described as being near a point _____ feet North and _____ feet West of the Southeast corner of said section, in Township _____ South, Range _____ East/West (circle one), _____ County, Kansas.

(D) One in the _____ quarter of the _____ quarter of the _____ quarter of Section _____, more particularly described as being near a point _____ feet North and _____ feet West of the Southeast corner of said section, in Township _____ South, Range _____ East/West (circle one), _____ County, Kansas.

If the source of supply is groundwater, a separate application shall be filed for each proposed well or battery of wells, except that a single application may include up to four wells within a circle with a quarter (1/4) mile radius in the same local source of supply which do not exceed a maximum diversion rate of 20 gallons per minute per well.

A battery of wells is defined as two or more wells connected to a common pump by a manifold; or not more than four wells in the same local source of supply within a 300 foot radius circle which are being operated by pumps not to exceed a total maximum diversion rate of 800 gallons per minute and which supply water to a common distribution system.

6. The owner of the point of diversion, if other than the applicant is (please print):

APPLICANT

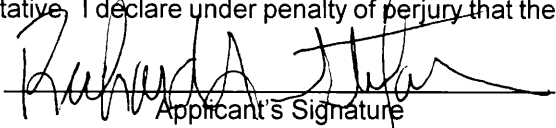
(name, address and telephone number)

(name, address and telephone number)

You must provide evidence of legal access to, or control of, the point of diversion from the landowner or the landowner's authorized representative. Provide a copy of a recorded deed, lease, easement or other document with this application. In lieu thereof, you may sign the following sworn statement:

I have legal access to, or control of, the point of diversion described in this application from the landowner or the landowner's authorized representative. I declare under penalty of perjury that the foregoing is true and correct.

Executed on 2/13, 2015.


Applicant's Signature

The applicant must provide the required information or signature irrespective of whether they are the landowner. Failure to complete this portion of the application will cause it to be unacceptable for filing and the application will be returned to the applicant.

7. The proposed project for diversion of water will consist of 4 WELL BATTERY

(number of wells, pumps or dams, etc.)

and WILL BE completed (by) 12/31/16

(Month/Day/Year - each was or will be completed)

8. The first actual application of water for the proposed beneficial use was or is estimated to be 2016

(Mo/Day/Year)

- 9. Will pesticide, fertilizer, or other foreign substance be injected into the water pumped from the diversion works?
 Yes No If "yes", a check valve shall be required.

All chemigation safety requirements must be met including a chemigation permit and reporting requirements.

- 10. If you are planning to impound water, please contact the Division of Water Resources for assistance, prior to submitting the application. Please attach a reservoir area capacity table and inform us of the total acres of surface drainage area above the reservoir.

Have you also made an application for a permit for construction of this dam and reservoir with the Division of Water Resources? Yes No

- If yes, show the Water Structures permit number here _____
- If no, explain here why a Water Structures permit is not required _____

- 11. The application must be supplemented by a U.S.G.S. topographic map, aerial photograph or a detailed plat showing the following information. On the topographic map, aerial photograph, or plat, identify the center of the section, the section lines or the section corners and show the appropriate section, township and range numbers. Also, please show the following information:

- (a) The location of the proposed point(s) of diversion (wells, stream-bank installations, dams, or other diversion works) should be plotted as described in Paragraph No. 5 of the application, showing the North-South distance and the East-West distance from a section line or southeast corner of section.
- (b) If the application is for groundwater, please show the location of any existing water wells of any kind within 1/2 mile of the proposed well or wells. Identify each existing well as to its use and furnish the name and mailing address of the property owner or owners. If there are no wells within 1/2 mile, please advise us.
- (c) If the application is for surface water, the names and addresses of the landowner(s) 1/2 mile downstream and 1/2 mile upstream from your property lines must be shown.
- (d) The location of the proposed place of use should be shown by crosshatching on the topographic map, aerial photograph or plat.
- (e) Show the location of the pipelines, canals, reservoirs or other facilities for conveying water from the point of diversion to the place of use.

A 7.5 minute U.S.G.S. topographic map may be obtained by providing the section, township and range numbers to: Kansas Geological Survey, 1930 Constant, Campus West, University of Kansas, Lawrence, Kansas 66047.

- 12. List any application, appropriation of water, water right, or vested right file number that covers the same diversion points or any of the same place of use described in this application. Also list any other recent modifications made to existing permits or water rights in conjunction with the filing of this application.

NONE

WATER RESOURCES
RECEIVED

FEB 17 2015

13. Furnish the following well information if the proposed appropriation is for the use of groundwater. If the well has not been completed, give information obtained from test holes, if available.

Information below is from: Test holes Well as completed Drillers log attached

Well location as shown in paragraph No.	1 1	2 2	(C)	(D)
Date Drilled	1/15/15	1/16/15	_____	_____
Total depth of well	180	180	_____	_____
Depth to water bearing formation	_____	_____	_____	_____
Depth to static water level	115	105	_____	_____
Depth to bottom of pump intake pipe	180	180	_____	_____

14. The relationship of the applicant to the proposed place where the water will be used is that of

OWNER
(owner, tenant, agent or otherwise)

15. The owner(s) of the property where the water is used, if other than the applicant, is (please print):

APPLICANT
(name, address and telephone number)

(name, address and telephone number)

16. The undersigned states that the information set forth above is true to the best of his/her knowledge and that this application is submitted in good faith.

Dated at COLBY, Kansas, this 13 day of FEB, 2015.
(month) (year)


(Applicant Signature)

514-62-8135
APPLICANT(S) SOCIAL SECURITY IDENTIFICATION NUMBER(S)

By _____
(Agent or Officer Signature)

and/or APPLICANT(S) TAXPAYER I.D. NO.(S)

(Agent or Officer - Please Print)

Assisted by RL GMD #4 _____ Date: 2/12/15
(office/title)

FEE SCHEDULE

1. The fee for an application for a permit to appropriate water for beneficial use, except for domestic use, shall be (see paragraph No. 2 below if requesting storage):

ACRE-FEET	FEE
0-100	\$200.00
101-320	\$300.00
More than 320	\$300.00 plus \$20.00 for each additional 100 acre-feet or any part thereof.

2. The fee for an application in which storage is requested, except for domestic use, shall be:

ACRE-FEET	FEE
0-250	\$200.00
More than 250	\$200.00 plus \$20.00 for each additional 250 acre-feet of storage or any part thereof.

Note: If an application requests both direct use *and* storage, the fee charged shall be as determined under No. 1 or No. 2 above, whichever is greater, but not both fees.

3. The fee for an application for a permit to appropriate water for water power or dewatering purposes shall be \$100.00 plus \$200.00 for each 100 cubic feet per second, or part thereof, of the diversion rate requested.

Note: The applicant shall notify the Chief Engineer and pay the statutorily required field inspection fee of \$400.00 when construction of the works for diversion has been completed, except that for applications filed on or after July 1, 2009, for works constructed for sediment control use and for evaporation from a groundwater pit for industrial use shall be accompanied by a field inspection fee of \$200.00.

MAKE CHECKS PAYABLE TO THE KANSAS DEPARTMENT OF AGRICULTURE

ATTENTION

A Water Conservation Plan may be required per K.S.A. 82a-733. A statement that your application for permit to appropriate water may be subject to the minimum desirable streamflow requirements per K.S.A. 82a-703a, b, and c may also be required from you. After the Division of Water Resources has had the opportunity to review your application, you will be notified whether or not you will need to submit a Water Conservation Plan. You also may be required to install a water flow meter or water stage measuring device on your diversion works prior to diverting water. There may be other special conditions or Groundwater Management District regulations that you will need to comply with if this application is approved.

CONVERSION FACTORS

1 acre-foot equals 325,851 gallons

1 million gallons equal 3.07 acre-feet

WATER RESOURCES
RECEIVED

SCANNED

FEB 17 2015

KS DEPT OF AGRICULTURE

IRRIGATION USE SUPPLEMENTAL SHEET

File No. _____

Name of Applicant (Please Print): RICHARD A STEFAN

1. Please supply the name and address of each landowner, the legal description of the lands to be irrigated, and designate the actual number of acres to be irrigated in each forty acre tract or fractional portion thereof:

Landowner of Record NAME: RICHARD A STEFAN

ADDRESS: 615 N CHICKAMAUGA APT #1 COLBY, KS 67701

S	T	R	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4	9	38									31	31	31	31	31	31	31	31	248

Landowner of Record NAME: _____

ADDRESS: _____

S	T	R	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

Landowner of Record NAME: _____

ADDRESS: _____

S	T	R	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

2. Please complete the following information for the description of the operation for the irrigation project. Attach supplemental sheets as needed.

a. Indicate the soils in the field(s) and their intake rates:

Soil Name	Percent of field (%)	Intake Rate (in/hr)	Irrigation Design Group
<u>ULYSSES SL</u>	<u>44</u>	<u>0.6-2.0</u>	<u>5</u>
<u>KEITH SL</u>	<u>32</u>	<u>0.6-2.0</u>	<u>5</u>
<u>COLBY SL</u>	<u>15</u>	<u>0.6-2.0</u>	<u>5</u>
<u>GOSHEN</u>	<u>9</u>	<u>0.6-2.0</u>	<u>5</u>
Total:	100 %		

b. Estimate the average land slope in the field(s): 3.1 %

Estimate the maximum land slope in the field(s): 4 %

c. Type of irrigation system you propose to use (check one):

Center pivot Center pivot - LEPA "Big gun" sprinkler
 Gravity system (furrows) Gravity system (borders) Sideroll sprinkler

Other, please describe: _____

d. System design features:

i. Describe how you will control tailwater: SYSTEM DESIGN

ii. For sprinkler systems:

(1) Estimate the operating pressure at the distribution system: SEE GMD4 RDP psi

(2) What is the sprinkler package design rate? SEE GMD4 RDP gpm

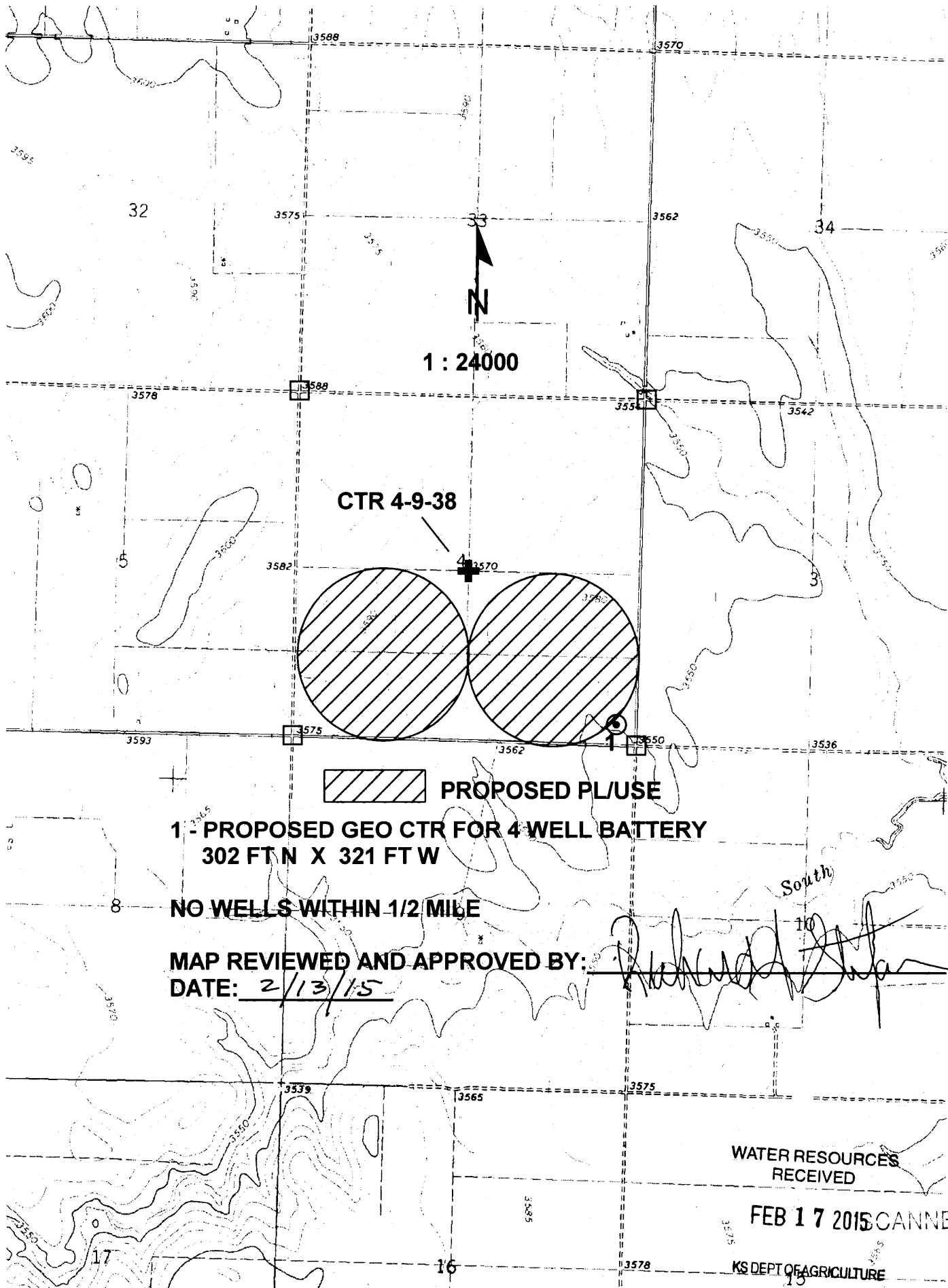
(3) What is the wetted diameter (twice the distance the sprinkler throws water) of a sprinkler on the outer 100 feet of the system? SEE GMD4 RDP feet

(4) Please include a copy of the sprinkler package design information.

e. Crop(s) you intend to irrigate. Please note any planned crop rotations: ANY IRRIGABLE CROPS

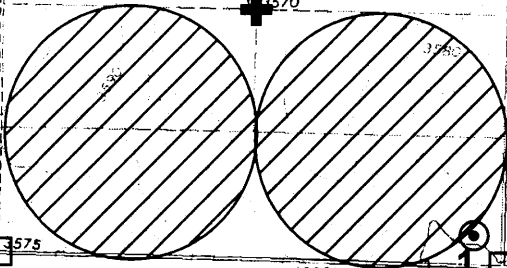
f. Please describe how you will determine when to irrigate and how much water to apply (particularly important if you do not plan a full irrigation). MONITOR SOIL MOISTURE

You may attach any additional information you believe will assist in informing the Division of the need for your request.



1 : 24000

CTR 4-9-38



PROPOSED PL/USE

1 - PROPOSED GEO CTR FOR 4 WELL BATTERY
302 FT N X 321 FT W

NO WELLS WITHIN 1/2 MILE

MAP REVIEWED AND APPROVED BY:

DATE: 2/13/15

[Handwritten Signature]

WATER RESOURCES
RECEIVED

FEB 17 2015 CANNED

KS DEPT OF AGRICULTURE

1320 Research Park Drive
Manhattan, Kansas 66502
(785) 564-6700



900 SW Jackson, Room 456
Topeka, Kansas 66612
(785) 296-3556

Jackie McClaskey, Secretary

Governor Sam Brownback

August 29, 2016

FILE COPY

RICHARD A STEFAN
615 N CHICKAMAUGA APT 1
COLBY KS 67701

RE: Application
File No. 49,288

Dear Mr. Stefan:

We have received a recommendation from the Northwest Kansas Groundwater Management District No. 4 that the referenced Application for Permit to Appropriate Water for Beneficial Use be denied. This recommendation has been based upon the groundwater management program adopted by the District and approved by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.

We are advising you of this recommendation in order to allow you an opportunity to consult with the District regarding their recommendation if you have not already done so. If you have already contacted the District regarding this recommendation, then we are allowing you this opportunity to submit to this office any additional information you wish to have considered before the Chief Engineer.

We will delay any further action on the referenced application until **September 13, 2016**, at which time the application will be submitted to the Chief Engineer for a final decision.

If you have any questions, please contact our office at (785) 564-6631. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

Alex Whitesell
Environmental Scientist
Water Appropriation Program

pc: Stockton Field Office
Groundwater Management District No. 4

SCANNED



**NORTHWEST KANSAS
GROUNDWATER MANAGEMENT
DISTRICT NO. 4**

1290 West 4th Street
P.O. Box 905
Colby, Kansas 67701-0905

August 22, 2016

Alex Whitesell

Division of Water Resources
1320 Research Park Drive
Manhattan KS 66502

RE: Application: 49,288
Richard Stefan

Dear Richelle

The Northwest Kansas Groundwater Management District has reviewed the above referenced application and based on our records and the information supplied by the applicant, we have determined that the following recommendations be made to the Chief Engineer:

Deny application. This does not meet the requirements under KAR 5-24-2.

If you have any questions, please contact this office.

Sincerely,

Ray Luhman
Manager

RPL: rw

SCANNED

1320 Research Park Drive
Manhattan, Kansas 66502
(785) 564-6700



900 SW Jackson, Room 456
Topeka, Kansas 66612
(785) 296-3556

Jackie McClaskey, Secretary

Governor Sam Brownback

August 18, 2016

NORTHWEST KS GMD 4
1290 W 4TH ST
COLBY KS 67701

Re: Application
File No. 49,288

Dear Sir or Madam:

We are enclosing a copy of the application referred to above which appears to be in proper form. Please note that this application was filed on February 17, 2015, during the temporary suspension of new application processing and prior to the closing of the district.

We are delaying any further action for a period of 15 days from the date of this letter to allow you time to submit your recommendations concerning this application.

Please submit your recommendations within the allotted time, or any authorized extension of time thereof.

If you have any questions, please contact me at 785-564-6631. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

Alex Whitesell
Environmental Scientist
Water Appropriation Program

Enclosure(s)

pc: Stafford Field Office

SCANNED

THE STATE  OF KANSAS

KANSAS DEPARTMENT OF AGRICULTURE
Jackie McClaskey, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

FINDINGS AND ORDER
IN THE MATTER OF THE TEMPORARY SUSPENSION OF PROCESSING NEW APPLICATIONS
FILED TO APPROPRIATE WATER WITHIN THE BOUNDARIES OF
NORTHWEST KANSAS GROUNDWATER MANAGEMENT DISTRICT NO. 4

COMES NOW the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration, makes the following findings and order:

FINDINGS

1. That K.A.R. 5-24-2 pertains to allowable withdrawals of groundwater in Groundwater Management District (GMD) No. 4.
2. That the Board of Directors of GMD No. 4 is evaluating whether K.A.R. 5-24-2 is sufficient to maintain the long term sustainable yield of groundwater, prevent impairment of existing water rights and protect public interest.
3. That on January 13, 2015, the Board of Directors of GMD No. 4 based on its previous review of data on declining groundwater levels, limited saturated thickness, and potential for impairment, voted to recommend to the Chief Engineer that new applications to appropriate groundwater filed on or after January 13, 2015, subject to K.A.R. 5-24-2, within GMD No. 4, be suspended for processing for up to one year to allow the District to complete its study and recommendations, and initiate the amendment of K.A.R. 5-24-2 or other management alternatives.
4. That K.S.A. 82a-711(a) provides in part, "If a proposed use neither impairs a use under an existing water right nor prejudicially and unreasonably affects the public interest, the chief engineer shall approve all applications for such use made in good faith in proper form which contemplate the utilization of water for beneficial purpose Otherwise, the Chief Engineer shall make an order rejecting such application or requiring its modification to conform to the public interest"
5. That the justification for the request for the suspension of processing of new applications for groundwater appropriation within GMD No. 4, provided by the Board of Directors, is sufficient to raise a legitimate question as to whether it is in the public interest for the Chief Engineer to continue to process and approve new applications filed in GMD No. 4, until additional information is reviewed and evaluated.
6. That it is in the public interest to suspend processing of all new applications for permit to appropriate water for beneficial use, except under certain conditions (hereinafter described), within the boundaries of GMD. No. 4, until February 2, 2016.

SCANNED


ORDER

NOW THEREFORE, the Chief Engineer hereby orders that, except as set forth below, all new applications for permit to appropriate water for beneficial use, subject to K.A.R. 5-24-2, within the boundaries of GMD. No. 4, received on and after February 3, 2015, shall be accepted for filing and given a priority and a file number if otherwise acceptable for filing, but shall not be further processed pending evaluation and possible revision of K.A.R. 5-24-2, or adoption of other management alternatives.

This Order is subject to the following five (5) terms or conditions:

1. If K.A.R. 5-24-2 is amended or another management alternative for the area is proposed by the GMD Board and adopted by the chief engineer, then any application to appropriate water for beneficial use within the area which was filed on and after February 3, 2015, shall then be processed in accordance with the provisions of the amended regulation(s) or adopted management alternative. If K.A.R. 5-24-2 is not amended nor any other management alternative adopted by the chief engineer, then any application to appropriate water for beneficial use filed on and after February 3, 2015, shall be processed in accordance with the regulations in effect at the time the application was filed. This temporary suspension of processing of any application to appropriate water for beneficial use is being done for the purpose of allowing the Board of Directors of GMD No. 4 and the Chief Engineer to evaluate all data and information available to determine if K.A.R. 5-24-2 should be amended or other management alternative be adopted in the public interest.
2. The following applications shall not be subject to this order:
 - a. Applications for domestic use of water
 - b. Applications for temporary permits
 - c. Applications for term permits of five years or less
3. For good cause shown, the Chief Engineer may waive this temporary suspension if it is shown to the satisfaction of the Chief Engineer that such waiver will not prejudicially and unreasonably affect the public interest nor impair existing water rights.
4. The Chief Engineer specifically retains jurisdiction in this matter to make such changes, additions, or deletions to this order as deemed necessary in the public interest.
5. This Order shall be in effect until February 2, 2016, unless extended by the Chief Engineer upon the request of the Board of Directors of GMD No. 4.

Ordered this 2nd day of February, 2015, in Topeka, Shawnee County, Kansas.



David W. Barfield, P.E.
Chief Engineer
Division of Water Resources
Kansas Department of Agriculture



1320 Research Park Drive
Manhattan, Kansas 66502

Jackie McClaskey, Secretary

Phone: (785) 564-6700

Fax: (785) 564-6777

Email: ksag@kda.ks.gov

www.agriculture.ks.gov

Sam Brownback, Governor

February 25, 2015

RICHARD A STEFAN
615 N CHICKAMAUGA APT 1
COLBY KS 67701

RE: Application
File No. 49288

Dear Sir or Madam:

Your application for permit to appropriate water in 4-9-38-W in Sherman County, was received and has been assigned the file number noted above.

As a matter of record, the Division of Water Resources has on hand a large number of applications awaiting processing. Therefore to be fair to all concerned, and so that we can process those applications on hand in the order they were received, we intend to concentrate on the backlog of applications until the issue is resolved. Once review of your application has begun, we will contact you, if additional information is required.

In accordance with the provisions of the Kansas Water Appropriation Act, a portion of which is included below, the use of water as proposed prior to approval of the application is unlawful. Once approved, compliance with the terms, conditions and limitations of the permit is necessary. Conservation of the water resources of Kansas is required.

Section 82a-728 of the Kansas Water Appropriation Act, provides (a) except for the appropriation of water for the purpose of domestic use, . . . it shall be unlawful for any person to appropriate or threaten to appropriate water from any source without first applying for and obtaining a permit to appropriate water in accordance with the provisions of the Water Appropriation Act or for any person to violate any condition of a vested right, appropriation right or an approved application for a permit to appropriate water for beneficial use.

(b) (1) The violation of any provision of this section by any person is a class C misdemeanor . . .

A class C misdemeanor is punishable by a fine not to exceed \$500 and/or a term of confinement not to exceed one month in the county jail. Each day that the violation occurs constitutes a separate offense.

If you have any questions, please contact me at (785) 564-6643. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

Brent Turney, L.G.
Change Application Unit Supervisor
Water Appropriation Program

BAT: dlw
pc: STOCKTON Field Office
GMD 4

SCANNED