

File No. **50,196** 15. Formation Code: Drainage Basin: **Solomon River** County: **MITCHELL** Special Use: Stream: **Solomon River**

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
CHK			66102	SE SW NW	3	8S	6W	6	3,175	4,600	1015	145.8	0	145.8	44650

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

19. Limitation: 176.8 af/yr at ~~1015~~ gpm (_____ cfs) when combined with file number(s) **44650 & 24324**
 Limitation: _____ af/yr at **1015** gpm (_____ cfs) when combined with file number(s) **44650**

20. Meter Required? Yes No To be installed by 12/31/2020 **21** Date Acceptable Meter Installed _____

21. Place of Use										NE¼								NW¼				SW¼				SE¼				Total	Owner	Chg? NO	Overlap Files
MOD	DEL	ENT	PUSE	S	T	R	ID	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼						
CHK			54159	3	8S	6W	4																										

Comments: **OVERLAP W/ GLEN ELDER IRR DIST #8 Pdiv, Puse and Limitation comment**

5/12/2020
KAB

Laura - we need to add an index comment in DW to flag it as a Glen Elder IRR dist example, let me know when you get to it. thx KAB

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: July 30, 2019

FROM: Kris Neuhauser

RE: New Application, File No. 50,196

Jerry Sorell has filed the referenced application to appropriate 145.8 acre-feet of surface water from the Solomon River at a rate of 1,015 gallons per minute for irrigation use. The point of diversion is an existing pump site authorized under Water Right, File No. 44,650, which is located in the Southeast Quarter of the Southwest Quarter of the Northwest Quarter of Section 3, Township 8 South, Range 6 West, Mitchell County, Kansas. This application will also create a complete overlap in place of use with Water Right, File No. 44,650 and with the Glen Elder Irrigation District.

The place of use is 136 acres located in the Northwest and Southwest Quarters of Section 3, Township 8 South, Range 6 West, Mitchell County, Kansas. All acres are owned by the applicant, and he has signed the application form stating he has access to the point of diversion.

The requested quantity of 145.8 acre-feet of water applied to 136 acres is equivalent to 1.07 acre-feet per acre, which appears to be reasonable for the intended use. The overall limitation on the place of use will be based on K.A.R. 5-3-24 for the reasonable quantity for irrigation of 1.3 acre-feet per acre for Mitchell County, and the authorized diversion allotted from Water Right, File No. 24,324 Glen Elder Irrigation District No. 8.

Furthermore, the quantity will be limited to a total of 176.8 acre-feet per calendar year, when combined with Water Right, File Nos. 24,324 and 44,650.

A list of nearby landowners within one-half mile upstream and downstream of the proposed point of diversion was provided by the applicant, and notification letters were mailed on June 28, 2019. No responses of any kind were received.

There are 11 other pump sites within a two (2) mile radius of the proposed point of diversion, including eight upstream and three downstream. The closest surface water right is Water Right, File No. 2,212 which is made up of three pump sites, the closest upstream site sitting at roughly 1,135 feet away, and the closest downstream site at 300 feet away. With proper conditioning, there is no indication that the approval of this permit will impair any senior water right.

The applicant has submitted a signed Minimum Desirable Streamflow (MDS) statement, which has been notarized. By completing this statement, the applicant affirms their knowledge that there could be times when the diversion of water may not be allowed under this permit. Additionally, the permit is conditioned as follows: "That in order to implement the provisions of K.A.R. 5-3-11(d)(6), no water shall be diverted unless the written permission of the Chief Engineer, or an authorized representative of the Chief Engineer, is obtained each time the applicant desires to divert water. The approval of this permit is not an indication that surface water will be available from this source of supply, or that written permission will be granted to divert water.

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. The permit will also contain standard conditions related to requesting permission prior to diverting, and not stopping flow at the first riffle below the point of diversion.

Kelly Stewart, Water Commissioner of the Stockton Field Office, recommended that the referenced application be approved in an email received on July 31, 2019. The permit will be conditioned with the standard format regarding diverting water from the Solomon River, July 1 to September 31 each year. The applicant then will purchase water from the District during these times.

Based on the above discussion, the area is open to new appropriations and approval of the new application will not impair senior water rights, nor prejudicially or unreasonably affect the public interest. Therefore, it is recommended that the referenced application be approved.

A handwritten signature in black ink, appearing to read "Kris Neuhauser". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Kris Neuhauser
Environmental Scientist
Water Appropriation Program

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

JERRY L & GAYLENE F SORELL
3723 N RD
BELOIT KS 67420

Re: Appropriation of Water, File No. 50,196

Dear Mr. & Mrs. Sorell:

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 these approval documents. A water meter is required on the proposed diversion works 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. If you have any questions, please contact our office. If you wish to discuss this specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

Kristen A. Baum
New Application Unit Supervisor
Water Appropriation Program

KAB: kjn
Enclosures

pc: Stockton Field Office

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Secretary of Agriculture

DIVISION OF WATER RESOURCES
Christopher W. Beightel, Acting 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. 50,196** of the applicant

JERRY L & GAYLENE F SORELL
3723 N ROAD
BELOIT KS 67420

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 **January 11, 2019**.
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	
3	8S	6W						7	7	39	39	22	22					136	

3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of one (1) well located in the Southeast Quarter of the Southwest Quarter of the Northwest Quarter (SE¼ SW¼ NW¼) of Section 3, more particularly described as a point 3,175 feet North and 4,600 feet West of the Southeast corner of said section, in Township 8 South, Range 6 West, Mitchell County, Kansas, located substantially as shown on the aerial map accompanying the application.

4. That the appropriation sought shall be limited to a maximum diversion rate not in excess of **1,015 gallons per minute (2.26 c.f.s.)** and to a quantity not to exceed **145.8 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, 2021** 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, 2025 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.

15. That no water user shall engage in nor allow the waste of any water diverted under the authority of this permit.

16. 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.

17. 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.

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.

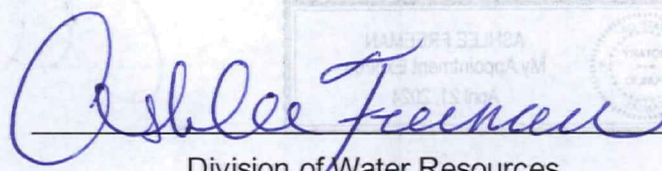
CERTIFICATE OF SERVICE

On this 19 day of May, 2020, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,196, dated May 19, 2020 was mailed postage prepaid, first class, US mail to the following:

JERRY L & GAYLENE F SORELL
3723 N ROAD
BELOIT KS 67420

With photocopies to:

Stockton Field Office


 Division of Water Resources

