

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources
MEMORANDUM

TO: Files

DATE: October 16, 2019

FROM: Doug Schemm

RE: Application, File No. 50,274

Jeff Crawford has filed the referenced application requesting to appropriate 5 acre-feet of groundwater at a diversion rate of 50 gallons per minute for recreational use. The purpose of the application is to maintain water level in an existing, small pond (0.8 acres). The point of diversion is a proposed well located in the Southwest Quarter of Section 14, Township 14 South, Range 15 West, Russell County, Kansas. The proposed appropriation is located within the Big Creek Basin. The place of use and point of diversion are both owned by the applicant, and he has signed the application form affirming he has legal access to the point of diversion. The applicant was assisted by Stockton Field Office staff.

The source of supply for the well is the alluvium of a tributary to Big Creek, which has been determined by the chief engineer to be fully appropriated and shall be closed to further new regular groundwater appropriations (see K.A.R. 5-3-11). However, K.A.R. 5-3-16a provides an exemption for up to 5 acre-feet of groundwater, provided that certain criteria are met.

1. *The sum quantity of groundwater appropriated because of an exemption pursuant to this regulation cannot exceed a total of 5 acre-feet within a 2-mile radius of the point of diversion.* There are no other exemptions issued pursuant to this regulation within 2 miles of the point of diversion, so the entire 5 acre-feet is available.
2. *The quantity of water requested must be reasonable.* The requested quantity of 5.0 acre-feet was based on the following calculations:

Net Evaporation = 0.8 acres x 30 " / 12 = 2 acre-feet
Seepage = 0.8 acres x 0.86"/week x 52 weeks / 12 = 3 acre-feet
Total requested quantity = 5 acre-feet

Therefore, the requested quantity of water appears to be reasonable for the intended use, is not wasteful, and will not otherwise prejudicially and unreasonably affect the public interest.

3. *Well spacing must be sufficient to prevent impairment.* No domestic wells were identified by the applicant within one-half mile of the point of diversion. The nearest non-domestic well is over 4,100 feet away. Per K.A.R. 5-4-4, the required minimum well spacing is 660 feet to domestic wells and 1,320 feet to non-domestic wells. The application complies with this regulation.
4. *The combined quantity of water authorized from the point of diversion can't exceed 5 acre-feet.* This is the only appropriation from this point of diversion.
5. *The appropriation must benefit the public interest and help maximize economic development.* The purpose of this appropriation is to maintain water level in an existing pond, for fishing, hunting and wildlife enhancement. Thus, it is reasonable to presume the appropriation will benefit the public interest by keeping these recreational activities viable.

As noted above, there are no wells within ½ mile and no notification letters are required. No impairment of senior water rights will occur with approval of this application.

As allowed by K.S.A. 82a-706(c) an approved water flow meter shall be installed on the diversion works for this file. 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 not required because the proposed well will not exceed 100 gpm.

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Kelly Stewart, Water Commissioner for the Stockton Field Office, recommended approval of the referenced application in an October 14, 2019 e-mail.

The application meets the criteria for exemption in a closed area under K.A.R. 5-3-16a, and approval of the application will not impair senior water rights nor prejudicially or unreasonably affect the public interest. Based on the above discussion, it is recommended that the referenced application be approved.

Douglas W. Schemm
Environmental Scientist
Topeka Field Office

Schemm, Doug [KDA]

From: Stewart, Kelly [KDA]
Sent: Monday, October 14, 2019 3:10 PM
To: Schemm, Doug [KDA]
Cc: Billinger, Mark [KDA]; Hageman, Rebecca [KDA]
Subject: RE: 50,274 Jeff Crawford

Doug,

I have no objection to the approval of the referenced application.

Kelly

From: Schemm, Doug [KDA] <Doug.Schemm@ks.gov>
Sent: Monday, October 14, 2019 2:12 PM
To: Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>
Cc: Billinger, Mark [KDA] <Mark.Billinger@ks.gov>
Subject: 50,274 Jeff Crawford

Hello Stockton,
Small use exemption (5 AF) from tributary alluvium connected to Big Creek. Meets all the criteria. Nobody else around him.
Please review,
Doug

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

FILE COPY

JEFF CRAWFORD
PO BOX 205
GORHAM KS 67640

March 10, 2020

RE: Appropriation of Water, File No. 50,274

Dear Sir or Madam:

Enclosed is a permit authorizing you to proceed with construction of the proposed diversion works and to appropriate water for beneficial use as set forth in the permit. Your attention is directed to the enclosures and to the terms, conditions, limitations, and requirements specified in this permit.

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.

Enclosed is an informational sheet that sets forth the procedure to obtain a Certificate of Appropriation which will establish the extent of your perfected water right. Additional information and applicable forms may be found on our website at agriculture.ks.gov/divisions-programs/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 Stockton Field Office at 785-425-6787. 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:dws
Enclosure(s)

pc: Stockton Field Office

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 an acceptable water flow meter shall be installed and maintained on the diversion works authorized by this permit in accordance with the Kansas Administrative Regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer. This water flow meter shall be used to provide an accurate quantity of water diverted as required for the annual water use report (including the meter reading at the beginning and end of the report year).
13. That the applicant shall maintain accurate and complete records from which the quantity of water diverted during each calendar year may be readily determined and the applicant shall file an annual water use report with the Chief Engineer by March 1 following the end of each calendar year. Failure to file the annual water use report by the due date shall cause the applicant to be subject to a civil penalty.
14. That no water user shall engage in nor allow the waste of any water diverted under the authority of this permit.
15. That 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.
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.

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.

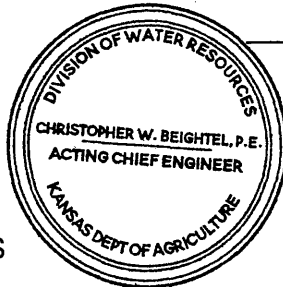
If you do not file a request for an evidentiary hearing before the Chief Engineer, you may petition for administrative review of the Order by the Secretary of Agriculture. A petition for review shall be in writing and state the basis for requesting administrative review. The request for hearing may be 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.

Ordered this 4th day of March, 2020, in Manhattan, Riley County, Kansas.

Chris Beightel

Christopher W. Beightel, P.E.
Acting Chief Engineer
Division of Water Resources
Kansas Department of Agriculture



State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 4th day of March, 2019, by Christopher W. Beightel, P.E., Acting Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.

Katie N Anderson

Notary Public



CERTIFICATE OF SERVICE

On this ^{10th} day of *March*, 2020, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,274, dated *March 4, 2020* was mailed postage prepaid, first class, US mail to the following:

JEFF CRAWFORD
PO BOX 205
GORHAM, KS 67640

With photocopies to:

Stockton Field Office

Kate Anderson

Division of Water Resources

