

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

1. File Number: <p style="text-align: center; font-size: 1.2em;"><b>50,683</b></p>	2. Status Change Date:	3. Field Office: <p style="text-align: center; font-size: 1.2em;"><b>03</b></p>	4. GMD:
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5. Status:     Approved                       Denied by DWR/GMD                       Dismiss by Request/Failure to Return

6. Enclosures:     Check Valve             N of C Form             Water Tube             Driller Copy             Meter

7a. Applicant(Landowners)                      Person ID **58455**  
New to system                       Add Seq# \_\_\_\_\_

**OTTLEY FARMS**  
**Attn: BRIAN OTTLEY**  
**1840 COUNTY ROAD 12**  
**OAKLEY, KS 67748-6083**

7b. Landowner(s)                      Person ID \_\_\_\_\_  
New to system                       Add Seq# \_\_\_\_\_

**7a**

7c. Landowner(s)                      Person ID \_\_\_\_\_  
New to system                       Add Seq# \_\_\_\_\_

7d. Landowner                      Person ID \_\_\_\_\_  
New to system                       Add Seq# \_\_\_\_\_

8. WUR Correspondent                      Person ID \_\_\_\_\_  
New to system                       Add Seq# \_\_\_\_\_  
Overlap File (s) WUC                      Notarized WUC Form   
Agree  Yes  No

**7a**

9. Use of Water:    Changing?     Yes     No

Groundwater                       Surface Water

IRR                       REC                       DEW                       MUN

STK                       SED                       DOM                       CON

HYD DRG                       WTR PWR                       ART RECHRG

IND    SIC: \_\_\_\_\_                       OTHER: \_\_\_\_\_

10. Completion Date: **12/31/2024**                      11. Perfection Date: **12/31/2028**                      12. Exp Date: \_\_\_\_\_

13. Conservation Plan Required?  Yes  No    Date Required: \_\_\_\_\_    Date Approved: \_\_\_\_\_    Date to Comply: \_\_\_\_\_

14. Water Level Measuring Device?  Yes  No    Date to Comply: \_\_\_\_\_    Date WLMD Installed: \_\_\_\_\_

Date Prepared: 4/18/2023                      By: BMM  
Date Reviewed: 5/24/2023                      By: KAK  
Date Entered: \_\_\_\_\_                      By: \_\_\_\_\_

File No. **50,683**      15. Formation Code: 200      Drainage Basin: Hackberry Creek      County: GO      Special Use:      Stream:

16. Points of Diversion										17. Rate and Quantity					
MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Authorized		Additional		
											Rate gpm	Quantity mgy	Rate gpm	Quantity mgy	Overlap PD Files
<b>CHK</b>			<b>89171</b>	<b>NW NE SE</b>	<b>6</b>	<b>13S</b>	<b>31W</b>	<b>2</b>	<b>2393</b>	<b>1036</b>	<b>99</b>	<b>27.375</b>	<b>99</b>	<b>27.375</b>	<b>NA</b>

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 **12/31/2024**      Date Acceptable Meter Installed \_\_\_\_\_

21. Place of Use																		Total	Owner	Chg? <b>NO</b>	Overlap Files						
MOD	DEL	ENT	PUSE	S	T	R	ID	NE¼				NW¼				SW¼				SE¼							
								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				
<b>CHK</b>			<b>70661</b>	<b>6</b>	<b>13S</b>	<b>31W</b>	<b>3</b>	<b>Feedlot in NE/4 of 6-13S-31W</b>																	<b>7a</b>	<b>N</b>	<b>NA</b>

Comments: **Filed along with Quantity reduction for File No. 50,097.**

**KANSAS DEPARTMENT OF AGRICULTURE**  
**Division of Water Resources**

**M E M O R A N D U M**

**TO:** Files

**DATE:** April 25, 2023

**FROM:** Brandon Milner

**RE:** New Application,  
File No.  
50,683/Reduction  
50,097

Brian Ottley has filed the above referenced new/reduction application to appropriate 84 acre-feet of groundwater at a diversion rate of 99 gallons per minute for stockwater use for a new proposed well. The entire place of use (feedlot approximately 160 acres), as the applicant has signed the application form stating he has access to the point of diversion. The applicant was assisted by Stockton Field Office staff.

Based on a well log submitted with the application, it appears that the source of water is fringe Ogallala Formation. The test hole log shows near surface loess, underlain by clay with caliche lenses extending from 16 to 42 feet below ground surface, followed by medium sand and gravel from 42 feet to 61 feet below ground where shale bedrock was encountered. Static water level was measured at 35 feet below ground surface. K.A.R. 5-3-11 applies to safe yield evaluations for all unconfined aquifers. Based on other area wells, the aquifer extends across the entire 2-mile circle. This provides an area of consideration of 8,042 acres, with 0.5 inches of recharge and 75% available, safe yield was determined to be 251.33 acre-feet. Prior appropriations is 335.01 acre feet that would leave no available water for this year.

A voluntary reduction of volume for Water Appropriation no. 50,097 has requested a reduction from a yearly volume of 158-acre feet down to 74 acre-feet for a reduction of 84 acre-feet that would satisfy the safe yield maximum of 251.33 acre-feet total for the new well on application 50,683. The appropriation no. 50,097 will serve a "donor" well that will provide 84 acre feet of volume back into the safe yield calculation for the area and thus allow for application no. 50,683 to be approved.

The proposed feedlot will have a maximum of 5,000 head of cattle. The number of cattle (5000) x 15 gallons per day x 365 days would equal a volume of 27.375 million gallons (84 acre feet). The requested volume of 27.375 million gallons is reasonable for the stockwatering use proposed by this application.

The applicant identified two non-domestic water rights and no domestic well within one half mile. The two non-domestic water rights are both owned by the applicant. Water Right No. 7,842 is located more than 1,320' away while water appropriation no. 50,097 is 1,180' away. Water Appropriation 50,097 does not meet K.A.R. 5-4-4 with regards of spacing to other non-domestic wells that must be at 1320' away. However, since both the application and water appropriation are owned by the same applicant, any impairment would be the risk of the applicant. Since the application is requesting only a rate of 99 gallons per minute, this is comparable to the pumping

rate of a domestic well that would require spacing of 660' feet and therefore spacing to Water Right No. 50,097 is reasonable in this case. Therefore, in this specific instance the spacing guidelines set forth in this regulation are not necessary to prevent direct impairment in compliance with the regulation.

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 applicant has submitted a signed Minimum Desirable Streamflow form, which has been properly notarized. By completing this statement, the applicant affirms his/her knowledge that there could be times when the diversion of water may not be allowed under this permit.

In an e-mail dated April 19, 2023, the Stockton Field Office recommended approval of the referenced application. Based on the above discussion, well spacing and safe yield criteria are met, and approval of the new application will not impair senior water rights nor prejudicially or unreasonably affect the public interest, it is recommended that the referenced application be approved.

Brandon Milner  
Environmental Scientist  
Manhattan Headquarters

**Safe Yield Report Sheet**  
**Water Right- A5068300**  
**Point of Diversion in 06-13S-31W**  
**Footages from SE corner- 2,393 feet North 1,036 feet West**



## Analysis Results

The selected PD is in an area OPEN to new appropriations.

The safe yield based on the variables listed below is 251.33 AF.

Total prior appropriations in the circle is 335.01 AF.

Total quantity of water available for appropriation is 0.00 AF.

## Safe Yield Variables

The area used for the analysis is set at 8,042 acres.

The potential annual recharge at the circle center is estimated to be 0.5 inches.

The percent of recharge available for appropriation is 75%.

Authorized Quantity values are as of 17-APR-2023 and are based on Appropriated and Vested ground water right and possible stream nodes for GMD #2. Domestic, Term and Temporary water rights have been excluded.

There are 3 water rights and 7 points of diversion within the circle.

File Number	Use	ST	SR	Q4	Q3	Q2	Q1	FeetN	FeetW	Sec	Twp	Rng	ID	Qind	Auth Quant	Add Quant	Tot Acres	Net Acres
A 7842 00	IRR	NK	G		NW	NE	SW	2475	3803	05	13	31W	2	WR	93.00	93.00	193.00	193.00
A 50097 00	IRR	KE	G		NW	NW	SW	2403	5178	05	13	31W	3	WR	158.00	158.00	193.00	0.00
Same	IRR	KE	G		NW	NW	SW	2603	5178	05	13	31W	4	WR				
Same	IRR	KE	G		NW	NW	SW	2503	5178	05	13	31W	5	WR				
Same	IRR	KE	G		NW	NW	SW	2303	5178	05	13	31W	6	WR				
Same	IRR	KE	G		NW	NW	SW	2203	5178	05	13	31W	7	WR				
A 50683 00	STK	AY	G		NW	NE	SE	2393	1036	06	13	31W	2	WR	84.01	84.01		

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. 50,683** of the applicant

**BRIAN OTTLEY  
1840 COUNTY ROAD 12  
OAKLEY KS 67748-6083**

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 **November 22, 2021**.
2. That the water sought to be appropriated shall be used for stockwatering in the Northeast Quarter (NE $\frac{1}{4}$ ) of Section 6, Township 13 South, Range 31 West, Gove County, Kansas
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 Northwest Quarter of the Northeast Quarter of the Southeast Quarter (NW $\frac{1}{4}$  NE $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section 6, more particularly described as being near a point 2,393 feet North and 1,036 feet West of the Southeast corner of said section, in Township 13 South, Range 31 West, Gove 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 **99 gallons per minute (0.22 c.f.s.)** and to a quantity not to exceed **27.375 million gallons of water (84 acre-feet)** 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 Kansas Administrative Regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer. The 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.

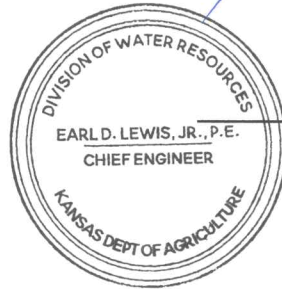
15. That no water user shall engage in nor allow the waste of any water diverted under the authority of this permit.

16. That 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 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 30<sup>th</sup> day of May, 2023, 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 this 30 day of May, 2023, 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

May 31, 2023

BRIAN OTTLEY  
OTTLEY FARMS  
1840 COUNTY ROAD 12  
OAKLEY KS 67748-6083

RE: Appropriation of Water  
File No. 50,683

Findings and Order  
File No. 50,097

Dear Mr. Ottley:

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.

Also enclosed is a Finding and Order by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, which sets forth the reduced quantity and authorized point of diversion under Appropriation of Water, File No. 50,097. Please note that the time to complete the diversion works under this permit expired on December 31, 2021, with no request for an extension of time.

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](http://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.

OTTLEY FARMS  
File Nos. 50,097 and 50,683  
Page 2 of 2

Also included 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/dwr](http://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 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 and Change Applications Unit Supervisor  
Division of Water Resources

KAB:bmm  
Enclosure(s)

pc: Stockton 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 31 day of May, 2023, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,683, dated May 30, 2023, was mailed postage prepaid, first class, US mail to the following:

OTTLEY FARMS  
Attn: BRIAN OTTLEY  
1840 COUNTY ROAD 12  
OAKLEY KS 67748-6083

With photocopies to:

KDA-DWR Stockton Field Office



Division of Water Resources