

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

1. File Number: <p style="text-align: center;">50,273</p>	2. Status Change Date: <p style="text-align: center;">1/14/2020</p>	3. Field Office: <p style="text-align: center;">01</p>	4. GMD: <p style="text-align: center;">0</p>
5. Status: <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied by DWR/GMD <input type="checkbox"/> Dismiss by Request/Failure to Return			
6. Enclosures: <input checked="" type="checkbox"/> Check Valve <input checked="" type="checkbox"/> N of C Form <input type="checkbox"/> Water Tube <input type="checkbox"/> Driller Copy <input checked="" type="checkbox"/> Meter			
7a. Applicant(s) Person ID 65440 New to system <input type="checkbox"/> Add Seq# _____ O BRIEN ROCK COMPANY INC Attn: DWAYNE O BRIEN PO BOX 217 SAINT PAUL, KS 66771	7c. Landowner(s) Person ID _____ New to system <input type="checkbox"/> Add Seq# _____		
7b. Landowner(s) Person ID _____ New to system <input type="checkbox"/> Add Seq# _____ 7a.	7d. Misc. Person ID _____ New to system <input type="checkbox"/> Add Seq# _____		
8. WUR Correspondent Person ID _____ New to system <input type="checkbox"/> Add Seq# _____ Overlap File (s) WUC Notarized WUC Form <input type="checkbox"/> Agree <input type="checkbox"/> Yes <input type="checkbox"/> No 7a.	9. Use of Water: Changing? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/> Groundwater <input type="checkbox"/> Surface Water <input type="checkbox"/> IRR <input type="checkbox"/> REC <input type="checkbox"/> DEW <input type="checkbox"/> MUN <input type="checkbox"/> STK <input type="checkbox"/> SED <input type="checkbox"/> DOM <input type="checkbox"/> CON <input type="checkbox"/> HYD DRG <input type="checkbox"/> WTR PWR <input type="checkbox"/> ART RECHRG <input checked="" type="checkbox"/> IND SIC: 3273 <input type="checkbox"/> OTHER: _____		
10. Completion Date: <u>12/31/2020 21</u> 11. Perfection Date: <u>12/31/2024 25</u> 12. Exp Date: _____			
13. Conservation Plan Required? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Date Required: _____ Date Approved: _____ Date to Comply: _____			
14. Water Level Measuring Device? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Date to Comply: _____ Date WLMD Installed: _____			
<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="border: 1px solid green; padding: 5px; text-align: left;"> 1/9/2020 KAB </div> <div style="text-align: left;"> Date Prepared: 10/21/2019 By: DWS Date Entered: 1/16/2020 By: LMoody </div> </div>			

File No. **50,273** 15. Formation Code: 800 Drainage Basin: Spring River County: **CR** Special Use: Stream:

16. Points of Diversion										
MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W
MOD				NW NE NE	6	30	25E	1	5079	706

17. Rate and Quantity MOD RATE				
Authorized		Additional		
Rate gpm	Quantity mgy	Rate gpm	Quantity mgy	Overlap PD Files
99	5.0	99	5.0	49,822*

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 12/31/2020 ²⁵ 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							
√				6	30S	25E	1	READY MIX PLANT (NE NE)																7a.	No	49,822*

Comments: ***49,822 TO BE VOLUNTARILY DISMISSED IN CONJUNCTION WITH NEW APPLICATION APPROVAL.**

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources
M E M O R A N D U M

TO: Files

DATE: October 21, 2019

FROM: Doug Schemm

RE: Application, File No. 50,273, and
Appropriation of Water, File No. 49,822

O'Brien Rock Company (Dwayne Obrien) has filed the referenced application to appropriate 5 million gallons of groundwater at a diversion rate of 99 gallons per minute for industrial use at a ready-mix concrete plant. The point of diversion is an existing well located in the Northeast Quarter of Section 6, Township 30 South, Range 25 East, Crawford County, Kansas. The appropriation is located within the Spring River Basin. The place of use and point of diversion are both owned by the applicant, and he has signed the application form stating he has access to the point of diversion.

The existing point of diversion is currently authorized under Appropriation of Water, File No. 49,822, which was approved for 4 million gallons of water at a diversion rate of 50 gpm. During a March 27, 2019 Field Inspection, a rate test determined that the flowrate from the well was 64.64 gpm, which exceeded the authorized rate under this water right. In an April 5, 2019 cover letter to the owner, one of the options provided was to file a new application with a greater rate of diversion and voluntarily dismiss this current file. The applicant has submitted a voluntary dismissal request for File No. 49,822, which will be processed in conjunction with this new application approval. Note that the new application rate of diversion was reduced from 100 gpm to 99 gpm to eliminate the need for installation of a water level measurement tube.

Per the Industrial Use Supplemental Sheet, the plant is estimating future concrete production of 35,000 yards per year, requiring 75 gallons per yard, for a total of 2.6 million gallons. In addition, these plants typically use water for wetting and cooling stockpiled rock prior to mixing during the summer, and truck washing. The additional 2.4 million gallons of water requested appears to be reasonable.

Based on a well log submitted with the application, the lithology consists of interbedded shales and sands extending from 20 feet to 311 feet below ground surface, underlain by limestone and chert to a total depth of 725 feet. Water was encountered in the well log at depths of 460 feet, 550 feet, and 695 feet, and static water level is 255 feet below ground surface. Based on the depth to top of aquifer and geographical location of the well, the source of supply is likely the Ordovician system aquifer (Ozark Plateau Aquifer). This is consistent with the senior file.

Per K.A.R. 5-3-29 a study was completed in order to determine the safe yield of the Ozark Plateaus aquifer system. The U.S. Geological Survey (USGS) in cooperation with the Kansas Water Office (KWO) completed a Groundwater Flow model of the Ozark Plateau aquifer system in 2009. Using MODFLOW software, the model was able to better assess the effects that increased water use is having on the long-term availability of groundwater within the Tri-State area. The Kansas Department of Agriculture, Division of Water Resources performed supplemental model runs utilizing the USGS model to determine the additional amount available to meet the safe yield of the Ozark aquifer. Safe yield for this area has been defined as no more than a 25 percent aquifer depletion rate over the next 100 years. Based on the modeling scenarios, the Ozark Plateaus aquifer system safe yield has been determined to be at least 36,000 acre-feet, or approximately three times the currently authorized amount.

Pending applications from this source are also evaluated based on a localized 2-mile safe yield analysis to ensure that a new appropriation requesting a significant quantity of water would not impact senior water rights. Per K.A.R. 5-3-11, the area of consideration is the extent of the aquifer, which in this case extends across the entire 2-mile area, for an area of consideration of 8,042 acres. With a potential annual recharge of 7.6 inches, and 100% available for appropriation, safe yield was determined to be 5,093.57 acre-feet. Existing water rights have appropriated 579.07 acre-feet within the area of consideration, providing a difference of 4,514.5 acre-feet available for appropriation. Thus, there is a sufficient quantity of water available for appropriation, and the application meets all safe yield criteria.

No nearby wells of any kind were identified by the applicant, which is consistent with the senior file, and no notification letters are required. The WRIS database shows that the nearest non-domestic well is over 8,400 feet away. Thus, the proposed point of diversion meets minimum well spacing criteria to all existing wells per the requirements in K.A.R. 5-4-4, of 660 feet to domestics and 1,320 feet to non-domestics for all other aquifers.

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.

In an October 18, 2019 e-mail, Katie Tietsort, Water Commissioner, Topeka Field Office, recommended approval of the referenced application. Based on the above discussion, well spacing and safe yield criteria are met, approval of the application will not impair senior water rights nor prejudicially or unreasonably affect the public interest, and it will provide the applicant with increased rate of diversion and quantity of water, it is recommended that the referenced new application be approved in conjunction with the dismissal of Appropriation of Water, File No. 49,822.

Douglas W. Schemm
Environmental Scientist
Topeka Field Office

Schemm, Doug [KDA]

From: Tietsort, Katie [KDA]
Sent: Friday, October 18, 2019 1:43 PM
To: Schemm, Doug [KDA]
Subject: RE: 50273 Obrien Rock Co

Doug,

This approval appears to meet all applicable rules nad regulations of the KWAA. Please proceed, thanks.

Katie

Katie Tietsort
Water Commissioner

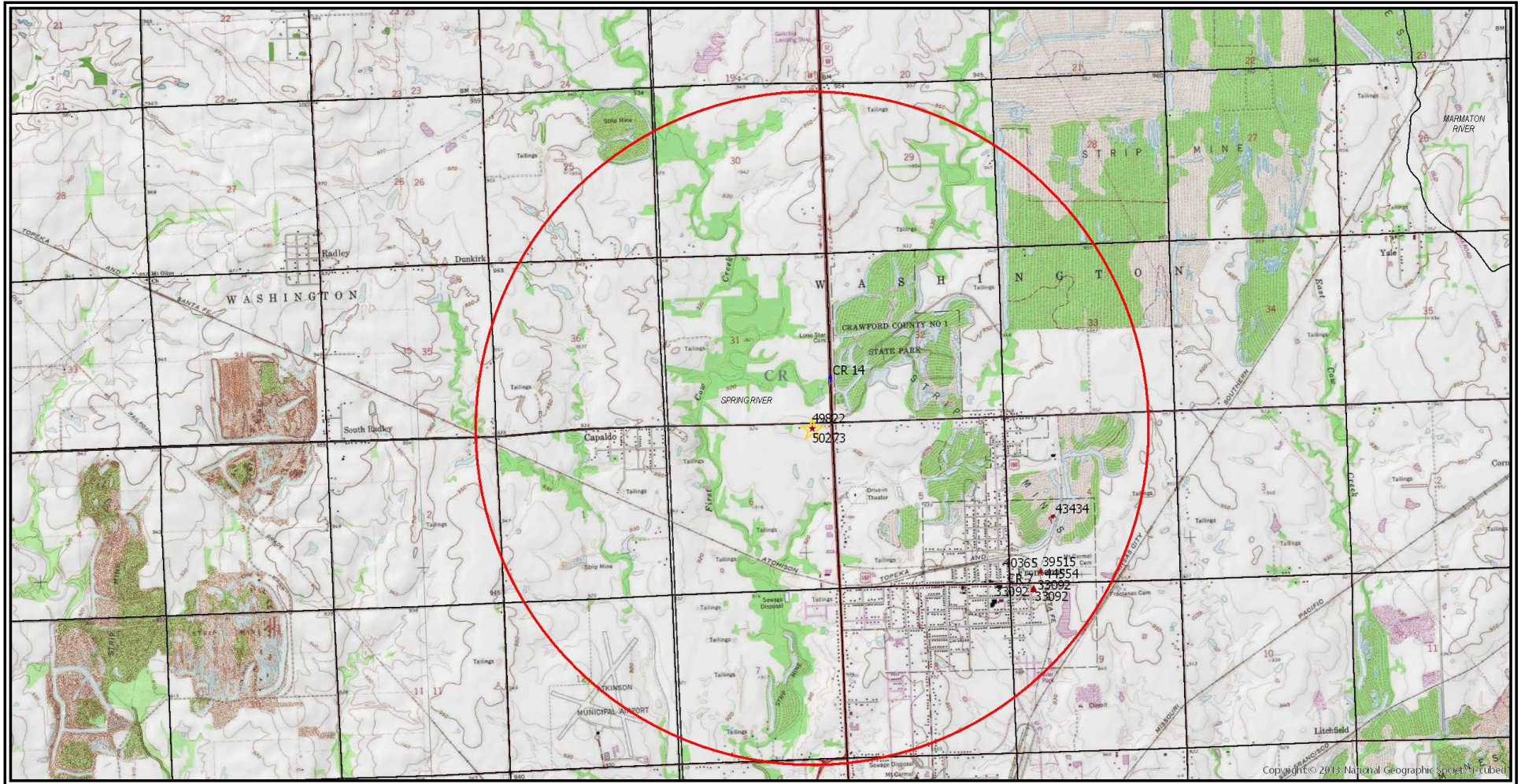
Katie.Tietsort@ks.gov
785-296-5733

Kansas Department of Agriculture
Division of Water Resources
Topeka Field Office
6531 S.E. Forbes Ave, Suite B
Topeka, KS 66619

From: Schemm, Doug [KDA] <Doug.Schemm@ks.gov>
Sent: Wednesday, October 16, 2019 10:56 AM
To: Tietsort, Katie [KDA] <Katie.Tietsort@ks.gov>
Subject: 50273 Obrien Rock Co

Merely replacing file No. 49,822 which is being voluntarily dismissed. The senior file had inadequate rate of diversion.

Safe Yield Report Sheet
Water Right- 50,273
Point of Diversion in 06-30S-25E
Footages from SE corner- 5,200 feet North 663 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 5,093.57 AF.

Total prior appropriations in the circle is 606.69 AF. – 12.28 AF – 15.34 AF = 579.07 AF

Total quantity of water available for appropriation is ~~4,486.88~~ AF.
4,514.5

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 7.6 inches.

The percent of recharge available for appropriation is 100%.

Authorized Quantity values are as of 15-OCT-2019 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 8 water rights and 6 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 33092 00	MUN	NK	G		NE	NW	NW	5157	4662	09	30	25E	5	WR	135.65	135.65		
Same	MUN	NK	G		NW	NW	NW	5223	4662	09	30	25E	3	WR				
Same	MUN	NK	G		NW	NW	NW	5190	4662	09	30	25E	6	WR				
A 39515 00	MUN	NK	G		SE	SW	SW	430	4425	04	30	25E	1	WR	103.70	0.00		✓
A 40365 00	MUN	NK	G		SE	SW	SW	430	4425	04	30	25E	1	WR	49.75	0.00		✓
V CR 7 00	MUN	AA	G		NE	NW	NW	5157	4662	09	30	25E	5	WR	122.76	122.76		
Same	MUN	AA	G		NW	NW	NW	5223	4662	09	30	25E	3	WR				
Same	MUN	AA	G		NW	NW	NW	5190	4662	09	30	25E	6	WR				
A 43434 00	REC	NK	G		NW	NE	SW	2050	3900	04	30	25E	3	WR	0.68	0.68		
A 44554 00	MUN	LO	G		SE	SW	SW	430	4425	04	30	25E	1	WR	319.99	319.99		
A 49822 00	IND	LO	G		NW	NE	NE	5200	663	06	30	25E	1	WR	12.28	12.28	To be Voluntarily Dismissed	
A 50273 00	IND	AY	G		NW	NE	NE	5200	663	06	30	25E	1	WR	15.34	15.34		

Limitations

File Number	Seq Num	Limitations
A 33092 00	2	711GPM COM/W CR007
A 39515 00	258.41 AF1	84.2MGY COM/W #CR007 & 33092 122.76 AF + 135.65 AF = 258.41 AF
A 40365 00	2	660GPM COM/W #39515
Same	258.41 AF3	84.2MGY COM/W #CR007, 33092, & 39515
A 44554 00	1	950GPM COM/W #39515 & 40365

#49,822

DIVISION OF WATER RESOURCES—KANSAS DEPARTMENT OF AGRICULTURE
FIELD INSPECTION REPORT

Field Office No. 1
G.M.D. No. _____

- Full
- Partial
- Compliance Investigation
- Not In Compliance

Test 1 of 1 diversion points. County Crawford

File No. 49822 Inspection Date March 27, 2019 Inspector Caleb Fabrycky

Current Landowner O'Brien Rock Company Inc Phone No. (620-)449-2257

Address Dwayne O'Brien, PO Box 217, Saint Paul, KS 66771

Additional landowners and addresses identified in remarks section.

- Water Use Domestic Industrial Irrigation Municipal Hydraulic Dredging
- Classification: Recreation Stockwatering Water Power Artificial Recharge Contamination Remediation
- Dewatering Fire Protection Thermal Exchange Sediment Control Other _____

Source: Groundwater Surface Water Basin Spring River

Authorized Point of Diversion: NW NE NE Sec. 6, T. 30S, R. 25E ID No. 1

Approximately 5200 ft. North and 663 ft. West of SE corner of Sec. 6

Actual Point of Diversion: NW NE NE Δ 128 ft from authorized Sec. 6, T. 30S, R. 25E **SWITCH**

Approximately 5079 ft. North and 706 ft. West of SE corner of Sec. 6

How were distances determined? GIS Analysis Latitude -94.707221 Longitude 37.469057

"Approved" Quantity 4 mgy "Approved" Diversion Rate 50 gpm (_____ c.f.s.)

"Approved" Storage Quantity na AF "Approved" Storage Rate na

Limitation(s): na

Priority Date 4/14/17 Approval Date 9/15/17 Perfection Date 12/31/22

Other applications covering land and/or point of diversion na
(include discussion of overlapping files in remarks section)

LAND TO BE INCLUDED ON CERTIFICATE:
industrial use located in the Northeast Quarter of the Northeast Quarter (NE1/4 NE1/4) of Section 6, Township 30 South, Range 25 East, Crawford County, Kansas.

~~LAND IRRIGATED – YEAR OF RECORD _____~~

TESTED DIVERSION RATES
Maximum G.P.M. 64.64 (c.f.s. _____) Normal G.P.M. 64.64 (c.f.s. _____)

FOR D.W.R. USE ONLY

Year of Record _____

AF Applied = _____ hrs. x _____ g.p.m. x $\frac{4.419}{24 \times 1000}$ = _____ AF

"Approved" land irrigated _____ acres, with _____ AF = _____ AF/acre

Perfected Rate _____ g.p.m. (_____ c.f.s.) Perfected Quantity _____ AF

L Moody
4/22/2019

VOLUNTARY WAIVER OF HEARING & DISMISSAL OF WATER RIGHT

To: Kansas Department of Agriculture
Division of Water Resources (DWR)
1320 Research Park Drive
Manhattan, Kansas 66502
<http://agriculture.ks.gov/dwr>

Re: Appropriation of Water
Water Right
Vested Right
Term Permit
(Check Appropriate Box Above)
File No. 49822

The undersigned owner(s) and/or authorized agent(s) of the above referenced water right, or permit, freely and voluntarily request that the file be dismissed and its priority forfeited. By signing this waiver, I am indicating my understanding and agreement that I am relinquishing all right, title and interest in said water right.

The signature(s) below represent all present owners (or an authorized agent) for the file number shown above (attach duplicate copies of this document as necessary).

The signature(s) below also indicate(s) a waiver of any right to a hearing or an appeal that I/we may have had regarding the dismissal and termination of the above referenced file. I/we recognize that if this closure request is submitted to the Division of Water Resources, it will terminate this water right and forfeit any priority associated with it forever.

Indicate here if you wish to retain the well(s) for domestic use (DWR water right not required):

Dismissal of File No. 49822 contingent upon approval of new application for permit to appropriate water covering the same point of diversion and place of use.

Pending Application
File No. 50273

8/30/2019
KAB

Dwayne O'Brien
(Signature of Owner or Authorized Agent)

(Signature of Spouse or Title of Authorized Agent)

Dwayne O'Brien
(Please print name here)

(Please print name here)

Box 214
(Mailing Address)

(Mailing Address)

St Paul; KANSAS 66771
(City, State, Zip)

(City, State, Zip)

WATER RESOURCES
RECEIVED

JUL 29 2019

ACKNOWLEDGMENT

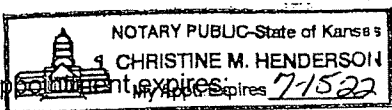
KS DEPT OF AGRICULTURE

State of Kansas
County of Crawford

This instrument was acknowledged before me this 25 day of July, 2019 by
(owners:) Dwayne O'Brien

(Seal)

Christine M. Henderson
Notary Public



My appointment expires 7/15/22

DWR Initials

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

O'BRIEN ROCK COMPANY INC
Attn: DWAYNE O'BRIEN
PO BOX 217
SAINT PAUL KS 66771

January 16, 2020

RE: Appropriation of Water, File Nos. 50,273 and 49,822

Dear Mr. O'Brien:

Enclosed is a permit (File No. 50,273) 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.

In addition, enclosed is the Findings and Order by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, dismissing Appropriation of Water, File No. 49,822 as you requested in the "Voluntary Waiver of Hearing & Dismissal of Water Right" form received in our office on July 29, 2019. Appropriation of Water, File No. 50,273 essentially replaces this current appropriation.

Obrien Rock Company
File Nos. 50,273 and 49,822
Page 2

If you have any questions or need assistance with any of these requirements, please contact our office at 785-564-6640 or your local Topeka Field Office at 785-296-5733. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

A handwritten signature in cursive script that reads "Kristen A. Baum".

Kristen A. Baum
New Application Unit Supervisor
Division of Water Resources

KAB:dws
Enclosure(s)

pc: Topeka Field Office

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, 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. 50,273** of the applicant

**OBRIEN ROCK COMPANY INC
Attn: DWAYNE OBRIEN
PO BOX 217
SAINT PAUL KS 66771**

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 **July 29, 2019**.
2. That the water sought to be appropriated shall be used for industrial use at a ready mix concrete plant located in the Northeast Quarter of the Northeast Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 6, in Township 30 South, Range 25 East, Crawford 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 Northeast Quarter (NW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 6, more particularly described as being near a point 5,079 feet North and 706 feet West of the Southeast corner of said section, in Township 30 South, Range 25 East, Crawford 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 **5 million gallons** 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, which is currently \$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 accompanied by the required statutory fee, which is currently \$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, which is currently \$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 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.

CERTIFICATE OF SERVICE

On this *16th* day of *January*, 2020, I hereby certify that the foregoing Approval of Application, File No. 50,273, dated *January 14, 2020* was mailed postage prepaid, first class, US mail to the following:

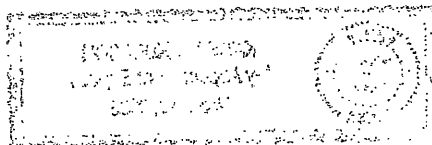
OBRIEN ROCK COMPANY INC
Attn: DWAYNE OBRIEN
PO BOX 217
SAINT PAUL KS 66771

With photocopies to:

Topeka Field Office

Kate Anderson

Division of Water Resources



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.

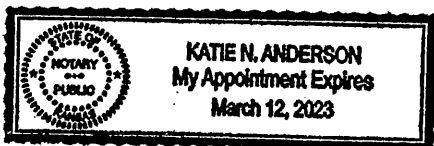
Ordered this 14th day of January, 2020, in Manhattan, Riley County, Kansas.

Lane P. Letourneau

Lane P. Letourneau, P.G.
Program Manager
Water Appropriation Program
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 14th day of January, 2020, by Lane P. Letourneau, P.G., Program Manager, Division of Water Resources, Kansas Department of Agriculture.



Katie N. Anderson

Notary Public