

File No. **50,338** 15. Formation Code: Drainage Basin: KANSAS RIVER County: WB Special Use: Stream: KANSAS RIVER

16. Points of Diversion										17. Rate and Quantity MOD ADDL QTY					
MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Authorized		Additional		
											Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files
√				87874 NW SE SE	10	10	11E	7	850	828	1800	324.5	1800	249.5	NONE

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

19. Limitation: **324.5** af/yr at _____ gpm (_____ cfs) when combined with file number(s) **24,870**
 Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____

20. Meter Required? Yes No To be installed by **12/31/2021** 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						
√			4835	10	10	11E	2																	16	23	23	7a.	No	24,870*
√			12370	15	10	11E	1	40			40														80	7a.	No	24,870*	
√			69816	15	10	11E	2					37	1			40	36	38	40						192	7c.	No	24,870*	

Comments: ***CHANGE APPLICATION WILL CREATE COMPLETE OVERLAP IN PLACE OF USE WITH NEW APPLICATION.** **16 acres in Lot 2 SE SE**
16 acres in Lot 2 (SE SE)
7 acres in SE SE
for a total of 23 acres

6/5/2020
KAB

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: May 18, 2020

FROM: Doug Schemm

RE: Application, File No. 50,338

Scott Schoemann has filed the above referenced application to appropriate surface water directly from the Kansas River for irrigation use. The applicant is proposing a single pump site, and requesting 324.5 acre-feet of surface water at a diversion rate of 1,800 gallons per minute to irrigate 295 acres in Wabaunsee County. The place of use is owned by the applicant and David Schleif et al. The applicant has signed the application form stating he has access to the point of diversion. The pump site is located in the Southeast Quarter of Section 10, Township 10 South, Range 11 East.

Water Right, File No. 24,870 partially overlaps in place of use, and a change application has been submitted to create a complete overlap with the new application. The requested quantity of water under the new application of 324.5 acre-feet, was based on the maximum allowable of 1.1 acre-feet per acre for Wabaunsee County, Kansas. Water Right, File No. 24,870 is authorized 75 acre-feet of groundwater. Therefore, this application will be limited to 324.5 acre-feet when combined with the senior file, providing 249.5 acre-feet of additional water.

The applicant provided a list of landowners, and notification letters were sent to upstream and downstream landowners on April 24, 2020. No responses of any kind were received. In addition, the Kansas River Water Assurance District was also informed of the pending application on May 14, 2020. Per the Kansas River Water Assurance Program Operations Agreement, which states, in part, "the District reserves the right to review all applications to appropriate water and change applications, including term permits, filed with the Division of Water Resources that propose the diversion of water from the Kansas River or its alluvium". No response was received from the KRWAD. There are no downstream surface water rights located within the two-mile radius. Approval of this application will not impair any senior water rights.

Per K.A.R. 5-3-15, Availability of water for appropriation - safe yield; surface water. (a) Each application filed to directly divert the natural flow of the Kansas river, the Missouri river, the Big Blue river, the Spring river, or their tributaries, shall:

- (1) be processed in accordance with K.A.R. 5-3-9; and
- (2) meet all other requirements for the approval of a new application.

(b) The water right owner shall be required by the chief engineer to meet minimum desirable streamflows (MDS), assurance district target flows (assurance target flows) and division of water resources (DWR) target flows where applicable.

The application meets these safe yield criteria. The permit will also contain the condition that streamflow cannot be stopped at the first riffle below the point of diversion while diversion is taking place.

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.

Scott Schoemann - Memorandum
File No. 50,338
Page 2

Katie Tietsort, Water Commissioner, Topeka Field Office, recommended approval of the application in a May 15, 2020 e-mail. Based on the above discussion, the Kansas River is open to new appropriations, the application complies with all regulations, and approval of the application will not impair senior water rights nor prejudicially or unreasonably affect the public interest, it is recommended that the referenced new application be approved, in conjunction with the change in place of use for File No. 24,870.

Doug Schemm
Environmental Scientist
Topeka Field Office

Schemm, Doug [KDA]

From: Tietsort, Katie [KDA]
Sent: Friday, May 15, 2020 10:15 AM
To: Schemm, Doug [KDA]
Subject: RE: 50,338 Scott Schoemann

Proceed.

Thx.

Katie Tietsort
Water Commissioner

Katie.Tietsort@ks.gov

785-296-5733

PLEASE NOTE OUR NEW ADDRESS:

Kansas Department of Agriculture

Topeka Field Office

1131 SW Winding Rd, Suite 400

Topeka, KS 66615

From: Schemm, Doug [KDA] <Doug.Schemm@ks.gov>

Sent: Thursday, May 14, 2020 8:02 AM

To: Tietsort, Katie [KDA] <Katie.Tietsort@ks.gov>

Subject: 50,338 Scott Schoemann

Typical surface water pump site on the Kansas River. No response from nearbys.
KRWAD was notified this morning. Goes with PU change on File No. 24,870.

Topeka Field Office
1131 SW Winding Rd, Suite 400
Topeka, KS 66615



Phone: 785-296-5733
www.agriculture.gov

Mike Beam, Secretary

Laura Kelly, Governor

May 14, 2020

KANSAS RIVER WATER ASSURANCE DISTRICT NO 1
% GALEN BIERY
212 SW 7TH STREET
TOPEKA KS 66603-3717

Re: Pending Application, File No. 50,338

Dear Mr. Biery:

This is to advise you that Scott Schoemann has filed the new application referred to above for a permit to appropriate 324.5 acre-feet of surface water per calendar year from the Kansas River, for irrigation use to be diverted at a maximum rate of 1,800 gallons per minute. Surface water will be diverted by means of one (1) pump site located in the Northwest Quarter of the Southeast Quarter of the Southeast Quarter (NW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 10, more particularly described as being near a point 850 feet North and 828 feet West of the Southeast corner of said section, in Township 10 South, Range 11 East, Wabaunsee County, Kansas.

As you know, the Kansas River Water Assurance Program Operations Agreement states, in part, that “the District reserves the right to review all applications to appropriate water and change applications, including term permits, filed with the Division of Water Resources that propose the diversion of water from the Kansas River or its alluvium”. Therefore, you are being notified of receipt of this application in order that you may be fully informed of the proposed location of the applicant's point of diversion and proposed use of water. You can find the application and site map posted by the file number referenced above under Topeka Field Office 2020 at:

<http://agriculture.ks.gov/divisions-programs/dwr/water-appropriation/notices>

You may contact me at (785) 296-3495 with any questions or comments.

Sincerely,

A handwritten signature in blue ink that reads "Douglas W. Schemm".

Douglas W. Schemm
Environmental Scientist
Topeka Field Office

Report Date: Thursday, May 14 2020

AMOUNT STATISTICS REPORT FOR POINTS OF DIVERSION UNDER A 50338 00

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AMOUNT STATISTICS REPORT FOR POINTS OF DIVERSION UNDER A 50338 00 IRR

Water Right and Points of Diversion Within 2.00 of a point defined as:

850 Feet North and 828 Feet West of the Southeast Corner of Section 10 Twp 10S Rng 11E

SURFACE WATER ONLY

File Number	Use	ST	SR	Dist (ft)	Q4	Q3	Q2	Q1	FeetN	FeetW	Sec	Twp	Rng	ID	Batt	Auth_Quan	Add_Quan	Unit					
A__	34442	00	IND	NK	S				8482	--	SW	SW	NW	2905	5121	3	10	11E	10		26099.50	26099.50	AF
A__	44822	00	IRR	NK	S				8145	--	NW	SW	NW	3655	5215	2	10	11E	7		90.00	90.00	AF
A__	45178	00	IRR	NK	S				8927	--	NW	NE	NW	5072	3426	9	10	11E	4		377.00	377.00	AF
A__	45282	00	IND	NK	S				8482	--	SW	SW	NW	2905	5121	3	10	11E	10		11099.50	.00	AF
A__	47134	00	IND	LR	S				8482	--	SW	SW	NW	2905	5121	3	10	11E	10		54000.14	27899.99	AF
A__	48089	00	IRR	NK	S				8927	--	NW	NE	NW	5072	3426	9	10	11E	4		178.00	.00	AF
A__	50338	00	IRR	AY	S				0	--	NW	SE	SE	850	828	10	10	11E	7		324.50	324.50	AF

Total Net Quantities Authorized:	Direct	Storage
Total Requested Amount (AF) =	324.50	.00
Total Permitted Amount (AF) =	.00	.00
Total Inspected Amount (AF) =	27899.99	.00
Total Pro_Cert Amount (AF) =	.00	.00
Total Certified Amount (AF) =	26566.50	.00
Total Vested Amount (AF) =	.00	.00
TOTAL AMOUNT (AF) =	54790.99	.00

An * after the source of supply indicates a pending application for change under the file number.

An * after the ID indicates a 15 AF exemption was granted under the file number.

A "G" in the Batt column indicates the GEO CTR of a battery. A "B" indicates a well in the battery.

The number in the Batt column is the number of wells in the battery.

Water Right and Points of Diversion Within 2.00 of a point defined as:

850 Feet North and 828 Feet West of the Southeast Corner of Section 10 Twp 10S Rng 11E

SURFACE WATER ONLY

WATER USE CORRESPONDENTS:

- > File Number Use ST SR
- > EVERGY
- > JARED MORRISON TGO - 4 JEFFREY
- > 818 S KANSAS AVE
- > TOPEKA KS 66612
- > -----
- > JANICE M STEVENS
- >
- > 38820 CONEFLOWER RD
- > BELVUE KS 66407
- > -----
- > PETERSON FEEDLOT
- > BARRY GROUP
- > 20505 HUNTING RD
- > WAMEGO KS 66547
- > -----
- > EVERGY
- > JARED MORRISON TGO - 4 JEFFREY
- > 818 S KANSAS AVE
- > TOPEKA KS 66612
- > -----
- > EVERGY
- > JARED MORRISON TGO - 4 JEFFREY
- > 818 S KANSAS AVE
- > TOPEKA KS 66612
- > -----
- > PETERSON FEEDLOT
- > BARRY GROUP
- > 20505 HUNTING RD

> WAMEGO KS 66547
> -----
> SCOTT A & DAPHNE D SCHOEMANN
>
> 4375 SCHOEMANN RD
> BELVUE KS 66407
> -----

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Schemm, Doug [KDA]

From: Schemm, Doug [KDA]
Sent: Thursday, May 14, 2020 7:43 AM
To: 'Galen Biery'
Subject: Application, File No. 50,338
Attachments: 50338 WAD notification.docx

Good Morning Galen,
I hope you are doing well. This is a typical pump site for IRR use on the Kansas River.
Have a great day,
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

SCOTT SCHOEMANN
4375 SCHOEMANN RD
BELVUE KS 66407

RE: Appropriation of Water, File No. 50,338

Dear Mr. Schoemann:

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 Topeka Field Office at 785-296-5733. 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: Topeka Field Office
David J Schleif et al

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. 50,338** of the applicant

SCOTT A & DAPHNE D SCHOEMANN
4375 SCHOEMANN RD
BELVUE KS 66407

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 24, 2020**.
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	
10	10S	11E																7	7
10	10S	11E																Lot 2 16	16
15	10S	11E	40			40					37	1			40	36	38	40	272

3. That the authorized source from which the appropriation shall be made is surface water from the Kansas River, to be diverted at one (1) pump site located in the Northwest Quarter of the Southeast Quarter of the Southeast Quarter (NW¼ SE¼ SE¼) of Section 10, more particularly described as being near a point 850 feet North and 828 feet West of the Southeast corner of said section, in Township 10 South, Range 11 East, Wabaunsee County, Kansas, located substantially as shown on the map accompanying the application.

4. That the appropriation sought shall be limited to a maximum diversion rate not in excess of **1,800 gallons per minute (4.01 c.f.s.)** and to a quantity not to exceed **324.5 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 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).

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.

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.

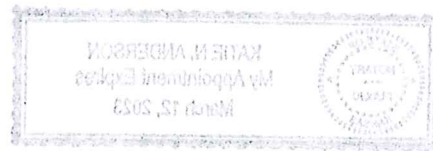
If you do not file a request for an evidentiary hearing before the Chief Engineer, you may petition for administrative review of the Order by the Secretary of Agriculture. A petition for review shall be in writing and state the basis for requesting administrative review. The request for hearing may be 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 25 day of June, 2020, I hereby certify that the foregoing Approval of Application, File No. 50,338, dated 22 June 2020 was mailed postage prepaid, first class, US mail to the following:

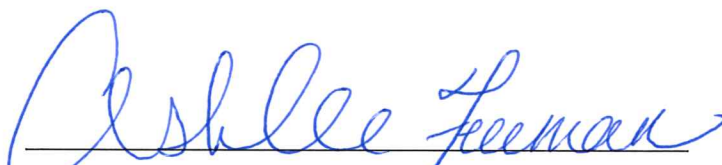
SCOTT A & DAPHNE D SCHOEMANN
4375 SCHOEMANN RD
BELVUE KS 66407



With photocopies to:

DAVID SCHLEIF ET AL
Attn: DAVID J SCHLEIF
22404B GREENWOOD ROAD
BELVUE KS 66407-9405

Topeka Field Office



Division of Water Resources