

File No. **50,361** 15. Formation Code: 112 Drainage Basin: **Kansas River** County: GE Special Use: Stream:

16. Points of Diversion										17. Rate and Quantity MOD ADDL QTY				
MOD DEL ENT	PDIV	Qualifier	S	T	R	ID	'N	'W		Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files
√	87985	SE NE SW	35	11	6E	3	1327	3059		1400	115.5	1400	55.5	NONE

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

19. Limitation: **115.5 AF** af/yr at _____ gpm (_____ cfs) when combined with file number(s) **12,048 & 46,393 (ON THE PLACE OF USE)** _____
 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? YES	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						
√	35363	35	11	6E	2									27	31	15	32					105	7b.	YES	12,048 & 46,393		

Comments: *SEE DEED PROVIDED WITH APPLICATION. CMRL FARMS LLC IS OWNER OF ALL PROPERTY.

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

TO: Files

DATE: May 20, 2020

FROM: Doug Schemm

RE: Application, File No. 50,361

Richard Roeser has filed the referenced new application to appropriate 115.5 acre-feet of groundwater from a proposed well at a rate of 1,400 gallons per minute for irrigation use on 105 acres. The well will be located in the Southwest Quarter of Section 35, Township 11 South, Range 6 East, Geary County, within the Kansas River Drainage Basin. There are no overlaps in point of diversion, however Water Right, File Nos. 12,048 and 46,393 overlap in place of use. The place of use is entirely owned by CMRL Farms, LLC, and a representative of the owner has signed the application stating they have access to the point of diversion. The maximum allowable quantity of water to irrigate the proposed acreage of 105 acres, with 1.1 acre-feet per acre in Geary County would be 115.5 acre-feet.

Water Right, File No. 12,048 is authorized 32 acre-feet, and Water Right, File No. 46,393 is authorized 60 acre-feet, limited to 60 acre-feet with the senior file. These senior files are authorized to pump surface water directly from Clark's Creek. This pending application will be limited to 115.5 acre-feet when combined with the senior files on the place of use, providing an additional 55.5 acre-feet (115.5 AF – 60 AF). The place of use was previously owned by the Ednah M Roeser Trust but the applicant has provided a Trustee's Deed to show that CMRL Farms, LLC is now owner of all this property.

The applicant identified one nearby domestic well within one-half mile (complying with K.A.R. 5-3-4). A nearby notification letter was sent out on May 8, 2020. No response of any kind was received. The nearest domestic well is over 2,400 feet away, and the application complies with well spacing criteria of 660 feet to all domestic wells. The nearest non-domestic well is over one-half mile away, and the application complies with minimum well spacing of 1,320 feet, per K.A.R. 5-4-4 for all other aquifers. The proposed well is located over ¼ mile from the Kansas River, so no notification of the KRWAD is required.

A test hole log provided with the application shows a mixture of sand and gravel encountered from 26 feet to 48 feet below ground surface, ending on bedrock at 48 feet. The bottom eight feet is described as "rock and gravel very coarse". No static water level was provided but it is likely it would be near the top of the sand layer at 26 feet below ground surface. This would provide over 22 feet of saturated thickness and the rock and gravel zone should produce a significant quantity and rate of water. Based on the geographic location of the well and test hole lithology, the source of water supply appears to be the Kansas River alluvium. K.A.R. 5-3-11 states that calculated recharge in the Kansas River alluvium shall be determined by taking 25% of the average annual rainfall in the area of consideration. For this application, the calculated recharge was determined to be 8.3 inches. The extent of the river alluvium for the area of consideration provides a total of 2,597 acres. Based on a potential recharge of 8.3 inches, with 75% available for appropriation, safe yield was determined to be 1,347.26 acre-feet. There are no existing water rights within this area of consideration, leaving all of this quantity of water available, and the application requesting 115.5 acre-feet complies with safe yield.

The applicant has submitted a signed Kansas River Assurance District 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 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.

Richard Roeser
File No. 50,361
Page 2

In a May 15, 2020 e-mail, Katie Tietsort, Water Commissioner, Topeka Field Office, recommended approval of the referenced new application. Based on the above discussion, well spacing and safe yield criteria are met, 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.

Douglas W. Schemm
Environmental Scientist
Topeka Field Office

Schemm, Doug [KDA]

From: Tietsort, Katie [KDA]
Sent: Friday, May 15, 2020 10:22 AM
To: Schemm, Doug [KDA]
Subject: RE: 50361 Richard Roeser

This one is good to go also.

Thanks.

Katie Tietsort
Water Commissioner

Katie.Tietsort@ks.gov

785-296-5733

PLEASE NOTE OUR NEW ADDRESS:

Kansas Department of Agriculture

Topeka Field Office

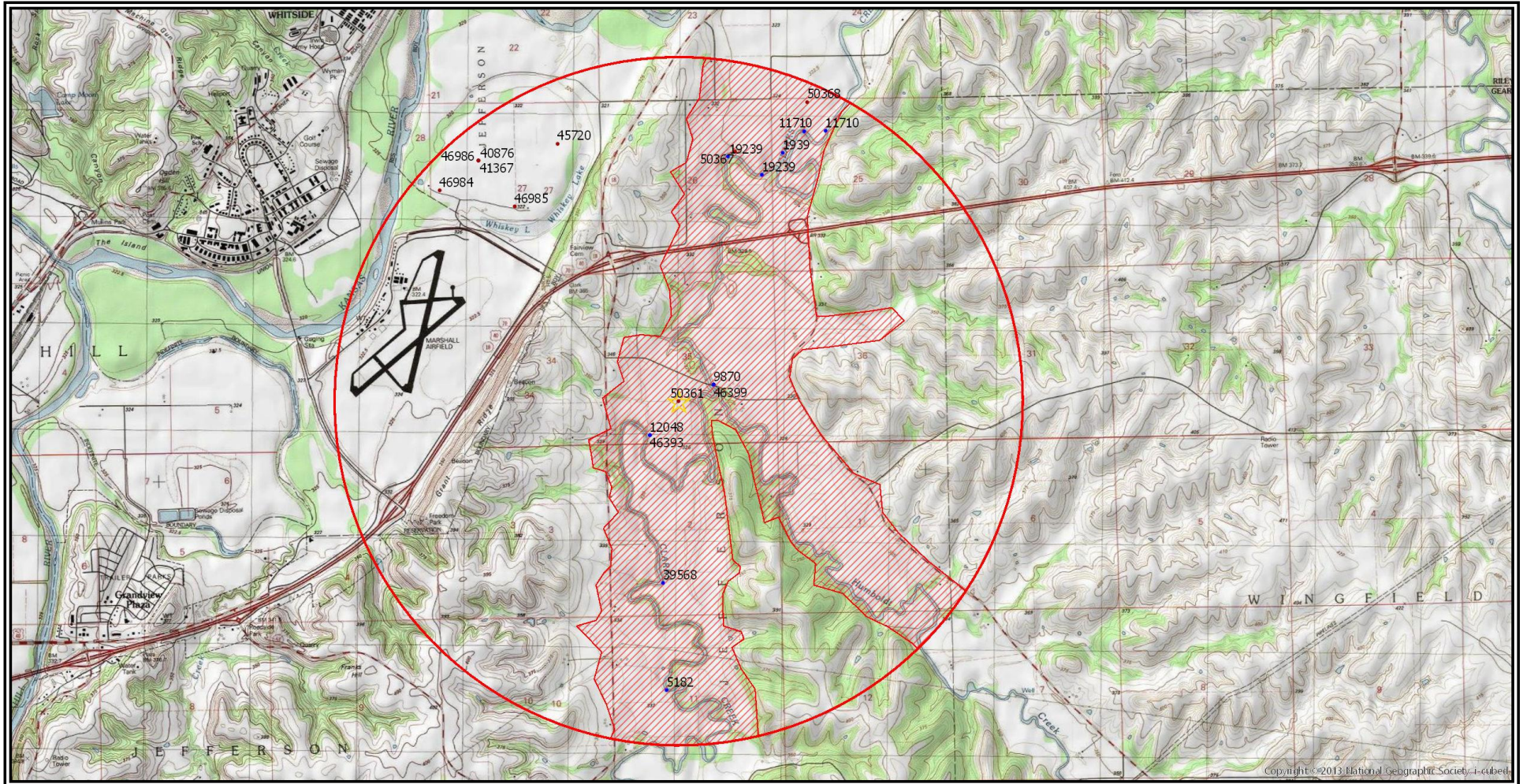
1131 SW Winding Rd, Suite 400

Topeka, KS 66615

From: Schemm, Doug [KDA] <Doug.Schemm@ks.gov>
Sent: Thursday, May 14, 2020 10:15 AM
To: Tietsort, Katie [KDA] <Katie.Tietsort@ks.gov>
Subject: 50361 Richard Roeser

No issues, meets all the regs.

Safe Yield Report Sheet
Water Right- A5036100
Point of Diversion in 35-11S-06E
Footages from SE corner- 1,327 feet North 3,059 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 1,347.26 AF.

Total prior appropriations in the circle is 345.40 AF. - 345.4 AF = 0

Total quantity of water available for appropriation is ~~1,001.86~~ AF.

1,347.26

APPLICATION, FILE NO. 50,361 MEETS SAFE YIELD
DWS/DWR 4/30/20

Safe Yield Variables

The area used for the analysis is set at 2,597 acres.

The potential annual recharge at the circle center is estimated to be 8.3 inches.

The percent of recharge available for appropriation is 75%.

Authorized Quantity values are as of 30-APR-2020 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 3 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 50361 00	IRR	AY	G		SE	NE	SW	1327	3059	35	11	06E	3	WR	115.50	--115.50	105.00	0.00
A 50368 00	IRR	AY	G		NE	NW	NW	5213	4178	25	11	06E	7	WR	137.50	--137.50	125.00	0.00
A 50367 00	IRR	AY	G		NW	SE	NE	3713	1143	26	11	06E	5	WR	92.40	---	84.00	14.00
																345.4 AF		

Limitations

File Number	Seq Num	Limitations
A 41367 00	3	970GPM COM/W #40876
A 46984 00	1	156.2 AF/YR COM/W #40876 & #41367
A 46985 00	1	156.2 AF/YR COM/W #40876, 41367 & 46984
A 46986 00	1	156.2 AF/YR COM/W #40876, 41367, 46984 & 46985
Same	2	1000 GPM COM/W #40876 & #41367

Report Date: Wednesday, May 20 2020

AMOUNT STATISTICS REPORT FOR POINTS OF DIVERSION UNDER A 50361 00

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AMOUNT STATISTICS REPORT FOR POINTS OF DIVERSION UNDER A 50361 00 IRR

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

1327 Feet North and 3059 Feet West of the Southeast Corner of Section 35 Twp 11S Rng 6E

GROUNDWATER ONLY

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File Number      Use ST SR Dist (ft) Q4 Q3 Q2 Q1 FeetN FeetW Sec Twp Rng ID Batt Auth_Quan Add_Quan
Unit
A__ 40876 00 IRR NK G      9664 -- NW SE NW 3566 3813 27 11 6E 1      78.00 78.00 AF
A__ 41367 00 IRR NK G      9664 -- NW SE NW 3566 3813 27 11 6E 1      23.00 23.00 AF
A__ 45720 00 IRR NK G      8783 -- -- -- -- 4043 1366 27 11 6E 2      146.00 146.00 AF
A__ 46984 00 IRR NK G      9829 -- -- -- -- 2656 5026 27 11 6E 8      156.20 55.20 AF
A__ 46985 00 IRR NK G      7858 -- -- -- -- 2127 2720 27 11 6E 7      156.20 .00 AF
A__ 46986 00 IRR NK G      9664 -- NW SE NW 3566 3813 27 11 6E 1      156.20 .00 AF
A__ 50361 00 IRR AY G         0 -- SE NE SW 1327 3059 35 11 6E 3      115.50 115.50 AF
A__ 50367 00 IRR AY G      7890 -- NW SE NE 3713 1143 26 11 6E 5      92.40 92.40 AF
A__ 50368 00 IRR AY G     10050 -- NE NW NW 5213 4178 25 11 6E 7      137.50 137.50 AF
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Total Net Quantities Authorized:  Direct      Storage
Total Requested Amount (AF) =      345.40      .00
Total Permitted Amount (AF) =         .00      .00
Total Inspected Amount (AF) =         .00      .00
Total Pro_Cert Amount (AF) =         .00      .00
Total Certified Amount (AF) =      302.20      .00
Total Vested Amount (AF) =         .00      .00
TOTAL AMOUNT (AF) =      647.60      .00
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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:

1327 Feet North and 3059 Feet West of the Southeast Corner of Section 35 Twp 11S Rng 6E

GROUNDWATER ONLY

WATER USE CORRESPONDENTS:

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File Number      Use ST SR
> DANIEL P & DOROTHY BOLLER
>
> 11196 BARR RD
> JUNCTION CITY KS 66441
> -----
> DANIEL P & DOROTHY BOLLER
>
> 11196 BARR RD
> JUNCTION CITY KS 66441
> -----
> CALEB STRAUSS
>
> 5787 W LYONS CREEK RD
> JUNCTION CITY KS 66441
> -----
> DANIEL P & DOROTHY BOLLER
>
> 11196 BARR RD
> JUNCTION CITY KS 66441
> -----
> DANIEL P & DOROTHY BOLLER
>
> 11196 BARR RD
> JUNCTION CITY KS 66441
> -----
> DANIEL P & DOROTHY BOLLER
    
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>
> 11196 BARR RD
> JUNCTION CITY KS 66441
>-----
>
>
> 13408 CLARKS CREEK RD
> JUNCTION CITY KS 66441
>-----
> MARJORIE H WAHLE TRUST
>
> 11719 BOLLER RD
> JUNCTION CITY KS 66441
>-----
> DANIEL P & DOROTHY BOLLER
>
> 11196 BARR RD
> JUNCTION CITY KS 66441
>-----

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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. 50,361** of the applicant

RICHARD ROESER
13408 CLARKS CREEK RD
JUNCTION CITY KS 66441-7824

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 **March 16, 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	
35 11S 6E									27	31	15	32					105

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 Northeast Quarter of the Southwest Quarter (SE¼ NE¼ SW¼) of Section 35, more particularly described as being near a point 1,327 feet North and 3,059 feet West of the Southeast corner of said section, in Township 11 South, Range 6 East, Geary 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 **1,400 gallons per minute (3.12 c.f.s.)** and to a quantity not to exceed **115.5 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 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.

18. That the quantity of water approved under this permit is further limited to the quantity which combined with Water Right, File Nos. 12,048 and 46,393, will provide a **total not to exceed 115.5 acre-feet** of water per calendar year for irrigation use on the authorized land described herein.

19. That the applicant shall submit to the Chief Engineer a copy of the well log required by the Kansas Department of Health and Environment under the authority of K.S.A. 82a-1212, currently form WWC-5, within 30 days following the drilling of the well at the location authorized herein.

Ordered this 29 day of October, 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 29 day of October, 2020, by Lane P. Letourneau, P.G., Program Manager, Division of Water Resources, Kansas Department of Agriculture.



Ashlee Freeman
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

November 9, 2020

RICHARD ROESER
13408 CLARKS CREEK RD
JUNCTION CITY KS 66441-7824

RE: Appropriation of Water, File No. 50,361

Dear Mr. Roeser:

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
CMRL Farms, LLC

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

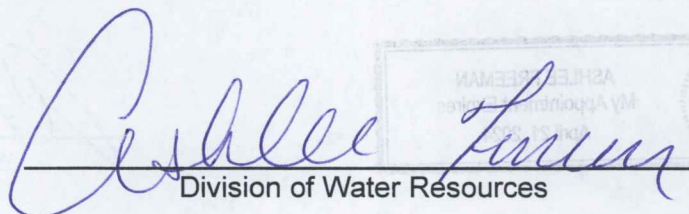
On this 9 day of November, 2020, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,361, dated 29 October 2020 was mailed postage prepaid, first class, US mail to the following:

RICHARD ROESER
13408 CLARKS CREEK RD
JUNCTION CITY KS 66441-7824

With photocopies to:

CMRL FARMS LLC
PO BOX 1665
JUNCTION CITY KS 66441

Topeka Field Office


Division of Water Resources

