



File No. <b>50,362</b>	15. Formation Code:	Drainage Basin: <b>Kansas River</b>	County: <b>RL</b>	Special Use:	Stream: <b>WILDCAT CREEK (KANSAS)</b>																	
16. Points of Diversion			17. Rate and Quantity																			
T MOD DEL ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files									
√	<b>87986</b>	<b>NE NW SW</b>	<b>9</b>	<b>10</b>	<b>7E</b>	<b>7</b>	<b>2401</b>	<b>3937</b>	<b>500</b>	<b>44</b>	<b>500</b>	<b>44</b>	<b>NONE</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? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No    To be installed by <b>12/31/2021</b> Date Acceptable Meter Installed _____																						
21. Place of Use		NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg? <b>NO</b>	Overlap Files	
T 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					
√	<b>69884</b>	<b>9</b>	<b>10</b>	<b>7E</b>	<b>2</b>					<b>18.5</b>	<b>21.0</b>	<b>0.5</b>						<b>40</b>	<b>7a.</b>	<b>NO</b>	<b>50,363</b>	
Comments:																						

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

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

**TO:** Files

**DATE:** June 22, 2020

**FROM:** Doug Schemm

**RE:** Applications, File Nos. 50,362 and 50,363

River Bend Land Co. LLC has filed the referenced new applications for irrigation use. File No. 50,362 is requesting to appropriate 44 acre-feet of surface water from a proposed pump site at a rate of 500 gallons per minute, and File No. 50,363 is requesting to appropriate 44 acre-feet of groundwater from a proposed well at a rate of 500 gallons per minute. The files will overlap in place of use on 40 acres. Both the well and pump site are located in the Southwest Quarter of Section 9, Township 10 South, Range 7 East, Riley County, within the Kansas River Drainage Basin.

During initial discussions with the applicant, he was under the understanding that a groundwater well was required as an alternative source, if he wanted to pump water from Wildcat Creek. However, per K.A.R. 5-3-15, tributary streams to the Kansas River are not subject to this requirement. The applicant was informed of this, and because he was assisted by DWR staff, he was offered a refund of his filing fee if he no longer wanted to pursue the well. After further discussion he elected to pursue both applications, with the groundwater well providing a backup source in case of low flows on the stream.

The place of use is entirely owned by the applicant, who has signed both application forms stating he has access to the points of diversion. The maximum allowable quantity of water to irrigate the proposed acreage of 40 acres, with 1.1 acre-feet per acre in Riley County would be 44 acre-feet. Therefore, the junior appropriation, File No. 50,363 will be limited to 44 acre-feet on the place of use with the senior file, File No. 50,362.

**FILE NO. 50,362 – Surface Water Pump Site**

The applicant was contacted by telephone, and he verbally identified upstream and downstream landowners adjacent to the stream within one-half mile (complying with K.A.R. 5-3-4). Nearby notification letters were sent out on June 5, 2020. A telephone call was received from an upstream landowner who asked general questions about the application, but did not express any specific concerns. The nearest downstream water right is over 10,000 feet away. No senior water rights will be impaired with approval of this surface water application.

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.

This 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.

**FILE NO. 50,363 - Groundwater Well**

The applicant verbally identified one nearby well owner within one-half mile (complying with K.A.R. 5-3-4). A nearby notification letter was sent out on June 5, 2020. No response of any kind was received. The nearest domestic well is over 2,000 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.

Based on the geographic location of the well, adjacent to Wildcat Creek, the source of water is the Wildcat Creek alluvium. This is a limited aquifer in this area, providing for only 1,569 acres of alluvium. Safe yield for unconfined aquifers is described in K.A.R. 5-3-11, and is based on the extent of the aquifer, calculated recharge, and percentage available. As noted above, the extent of the stream alluvium for the area of consideration provides a total of 1,569 acres. Based on a potential recharge of 3 inches, with 75% available for appropriation, safe yield was determined to be 294.14 acre-feet. Existing water rights have appropriated 100.88 acre-feet within the area of consideration, leaving 193.26 acre-feet available, and the application requesting 44 acre-feet complies with safe yield.

The applicant has submitted a signed Kansas River Assurance District form for each file, which have been properly notarized. By completing these statements, the applicant affirms his/her knowledge that there could be times when the diversion of water may not be allowed under these permits.

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 these permits, check valves will also need to be installed.

In a June 17, 2020 discussion, Katie Tietsort, Water Commissioner, Topeka Field Office, recommended approval of the referenced new applications. Based on the above discussion, well spacing and safe yield criteria are met, tributaries to the Kansas River are open to new appropriations, both applications comply with all regulations, and approval of the applications will not impair senior water rights nor prejudicially or unreasonably affect the public interest, it is recommended that the referenced new applications be approved.

Douglas W. Schemm  
Environmental Scientist  
Topeka Field Office

Report Date: Tuesday, May 5 2020

AMOUNT STATISTICS REPORT FOR POINTS OF DIVERSION UNDER A 50362 00

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AMOUNT STATISTICS REPORT FOR POINTS OF DIVERSION UNDER A 50362 00 IRR

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

2401 Feet North and 3937 Feet West of the Southeast Corner of Section 9 Twp 10S Rng 7E

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__ 36728	00	IRR	NK	S					8247			NC	W2	SE	SE	595	925	6	10	7E	1			25.00	25.00	AF
A__ 40116	00	REC	NK	S					9357	--		NW	SE	NE		3350	1000	15	10	7E	1			9.00	9.00	AF
A__ 43525	00	IRR	NK	S					8985	--		SW	NE	NW		4290	3800	3	10	7E	1			104.00	104.00	AF
***** Authorized storage = 111.00 AF Additional storage = 0.00 AF AF																										
A__ 47420	00	IRR	LR	S					10188	--		SW	NW	NW		4035	5095	14	10	7E	6			100.00	100.00	AF
A__ 50362	00	IRR	AY	S					0	--		NE	NW	SW		2401	3937	9	10	7E	7			44.00	44.00	AF
A__ 50363	00	IRR	AY	S					99	--		NE	NW	SW		2500	3937	9	10	7E	8			44.00	44.00	AF

Total Net Quantities Authorized:	Direct	Storage
Total Requested Amount (AF) =	88.00	.00
Total Permitted Amount (AF) =	.00	.00
Total Inspected Amount (AF) =	100.00	.00
Total Pro_Cert Amount (AF) =	.00	.00
Total Certified Amount (AF) =	138.00	.00
Total Vested Amount (AF) =	.00	.00
TOTAL AMOUNT (AF) =	326.00	.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:

2401 Feet North and 3937 Feet West of the Southeast Corner of Section 9 Twp 10S Rng 7E

SURFACE WATER ONLY

WATER USE CORRESPONDENTS:

- > File Number Use ST SR
- > MARVIN H HACHMEISTER
- >
- > 401 SHELLE RD
- > MANHATTAN KS 66502
- > -----
- > MANHATTAN PARKS & REC DEPT
- >
- > 1101 POYNTZ AVE
- > MANHATTAN KS 66502
- > -----
- > COLBERT HILLS GOLF COURSE
- > SUPERINTENDENT
- > 5200 COLBERT HILLS DR
- > MANHATTAN KS 66503
- > -----
- > KANGOLF INC
- > KEVIN L FATELEY PRES
- > 800 ANNEBERG CIR
- > MANHATTAN KS 66503
- > -----
- > RIVER BEND LAND CO LLC
- >
- > 1010 WESTLOOP
- > MANHATTAN KS 66502
- > -----
- > RIVER BEND LAND CO LLC
- >
- > 1010 WESTLOOP

> MANHATTAN KS 66502

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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

RIVER BEND LAND CO LLC  
% FRED OLSON  
1010 WESTLOOP  
MANHATTAN KS 66502

July 17, 2020

RE: Appropriation of Water, File Nos. 50,362 and 50,363

Dear Mr. Olson:

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

Notices must be filed on the enclosed forms 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 these permits. If you need an extension of time, you must request it before the deadline for completion set forth in the permits. Any request for an extension of time must be accompanied by the statutorily required fee, which is currently \$100.00 per file number.

Acceptable water flowmeters must be installed on the diversion works authorized by these permits prior to using water. Annual water use reports must be filed with the Chief Engineer by March 1, following the end of each calendar year. If complete annual water use reports are 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 reports online at [www.kswaterusereport.org](http://www.kswaterusereport.org).

The approvals of your applications constitute permits 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 Certificates of Appropriation which will establish the extent of your perfected water rights. Additional information and applicable forms may be found on our website at [agriculture.ks.gov/divisions-programs/dwr](http://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



# 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. 50,362** of the applicant

**RIVER BEND LAND CO LLC**  
**1010 WESTLOOP**  
**MANHATTAN KS 66502**

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 19, 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	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTAL
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
9	10S	7E								18.5	21.0	0.5						40	

3. That the authorized source from which the appropriation shall be made is surface water from Wildcat Creek (Kansas), to be diverted at one (1) pump site located in the Northeast Quarter of the Northwest Quarter of the Southwest Quarter (NE $\frac{1}{4}$  NW $\frac{1}{4}$  SW $\frac{1}{4}$ ), of Section 9, more particularly described as being near a point 2,401 feet North and 3,937 feet West of the Southeast corner of said section, in Township 10 South, Range 7 East, Riley 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 **500 gallons per minute (1.11 c.f.s.)** and to a quantity not to exceed **44 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.

16. That the stream flow shall not be stopped at the first riffle below the point of diversion while diversion is taking place under the authority of this water right or permit.

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.

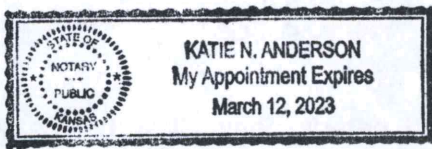
Ordered this 10<sup>th</sup> day of July, 2020, in Manhattan, Riley County, Kansas.

Lane P. Letourneau

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

State of Kansas )  
County of Riley ) SS

The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of July, 2020, by Lane P. Letourneau, P.G., Program Manager, Division of Water Resources, Kansas Department of Agriculture.



Katie Anderson

Notary Public



**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:

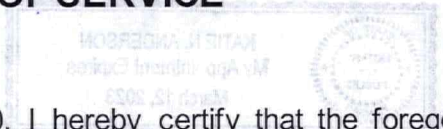
- 1) request an evidentiary hearing before the Chief Engineer, or
- 2) request administrative review by the Secretary of Agriculture.

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**

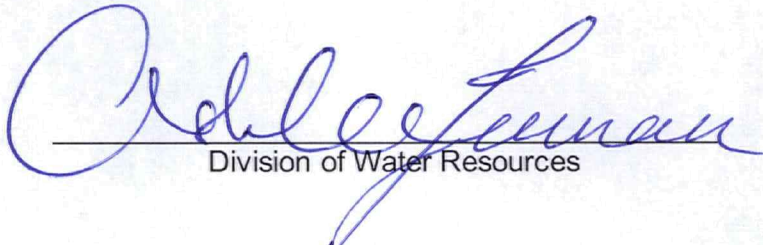


On this 21 day of July, 2020, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,362, dated 16 July 2020 was mailed postage prepaid, first class, US mail to the following:

RIVER BEND LAND CO LLC  
1010 WESTLOOP  
MANHATTAN KS 66502

With photocopies to:

Topeka Field Office

  
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 Division of Water Resources