

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

1. File Number: <p style="text-align: center; font-size: 1.2em;">50,379</p>	2. Status Change Date: <p style="text-align: center; color: purple; font-size: 1.2em;">7/22/2020</p>	3. Field Office: <p style="text-align: center; font-size: 1.2em;">01</p>	4. GMD: <p style="text-align: center; font-size: 1.2em;">0</p>
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5. Status: Approved Denied by DWR/GMD Dismiss by Request/Failure to Return

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

<p>7a. Applicant(s) Person ID 67197 New to system <input type="checkbox"/> Add Seq# _____</p> <p style="margin-left: 20px;">CHARLES LEE 2601 WOODHAVEN CT MANHATTAN, KS 66502</p>	<p>7c. Landowner(s) Person ID _____</p>
<p>7b. Landowner(s) Person ID _____ New to system <input type="checkbox"/> Add Seq# _____</p> <p style="margin-left: 20px;">7a.</p>	<p>7e. Miscellaneous Person ID _____</p>

<p>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</p> <p style="margin-left: 20px;">7a.</p>	<p>9. Use of Water: Changing? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p style="margin-left: 40px;"><input type="checkbox"/> Groundwater <input checked="" type="checkbox"/> Surface Water</p> <p><input type="checkbox"/> IRR <input checked="" type="checkbox"/> REC <input type="checkbox"/> DEW <input type="checkbox"/> MUN</p> <p><input type="checkbox"/> STK <input type="checkbox"/> SED <input type="checkbox"/> DOM <input type="checkbox"/> CON</p> <p><input type="checkbox"/> HYD DRG <input type="checkbox"/> WTR PWR <input type="checkbox"/> ART RECHRG</p> <p><input type="checkbox"/> IND SIC: _____ <input type="checkbox"/> OTHER: _____</p>
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10. Completion Date: 12/31/2021 11. Perfection Date: 12/31/2025 12. Exp Date: _____

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

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

Date Prepared: **6/23/20** By: **DWS**
Date Entered: 7/27/2020
LMoody

File No. **50,379** 15. Formation Code: Drainage Basin: **KANSAS RIVER** County: **RL** Special Use: Stream: **MCDOWELL CREEK (KANSAS)**

16. Points of Diversion										17. Rate and Quantity					
MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Authorized		Additional		
											Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files
MOD			88005	NW SW SW	15	11	7E	1	717	4860	200	10	200	10	NONE

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 12/31/2021 Date Acceptable Meter Installed _____

21. Place of Use										NE 1/4								NW 1/4				SW 1/4				SE 1/4				Total	Owner	Chg? NO	Overlap Files
MOD	DEL	ENT	PUSE	S	T	R	ID	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4										
√			69889	15	11S	7E	1	POND (SW) 1.5 AC																	7a	NO	NONE						
								RESERVOIR																									

Comments:

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

TO: Files

DATE: June 23, 2020

FROM: Doug Schemm

RE: Application, File No. 50,379

Charles Lee has filed the application referred to above proposing to appropriate 10 acre-feet of surface water at a diversion rate of 200 gallons per minute from one pump site located on McDowell Creek, for recreational use in a small pond. The point of diversion is located within the Kansas River Basin. The water will be used to fill and maintain water levels in the pond (i.e. offset evaporative and seepage losses). The pump site is located in the Southwest Quarter of Section 15, in Township 11 South, Range 7 East, Riley County, Kansas. The pond will be excavated and have a berm erected around it. No structures permitting is required and the pond will not capture natural flows. There are no overlapping files in point of diversion or place of use.

The applicant has indicated that the pond will be 6 feet deep at the shallow end, and 10 feet deep at deepest point. It is estimated to be 1.5 surface acres in size.

The applicant identified one upstream and one downstream landowner for the adjacent properties, and nearby notification letters were sent out on June 5, 2020. No responses of any kind were received. There are only three other pump sites located directly on McDowell Creek within the two-mile radius circle, all located upstream of the proposed pump site. 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. McDowell Creek is a tributary stream to the Kansas River. 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.

In a June 17, 2020 discussion, Katie Tietsort, Water Commissioner, Topeka Field Office, recommended that the application be approved. Based on the above discussion, McDowell Creek remains open to new appropriations, no Structures Program permitting is required, and there is no indication that existing water rights will be impaired, it is recommended that the referenced application be approved.

Doug Schemm
Environmental Scientist
Topeka Field Office

Report Date: Tuesday, June 16 2020

AMOUNT STATISTICS REPORT FOR POINTS OF DIVERSION UNDER A 50379 00

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AMOUNT STATISTICS REPORT FOR POINTS OF DIVERSION UNDER A 50379 00 REC

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

717 Feet North and 4860 Feet West of the Southeast Corner of Section 15 Twp 11S 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__ 38832 00	IRR	NK	S	9613	--	--	--	--	2669	503	8	11	7E	1		92.00	92.00	AF
Same				9686	--	SW	SW	NW	3408	4918	9	11	7E	2				
A__ 42027 00	IRR	NK	S	1244	--	NW	NW	NW	4820	5250	22	11	7E	3		14.00	14.00	AF
Same				2272	--	NE	SE	NE	3740	140	21	11	7E	1				
A__ 48824 00	IRR	HK	S	5719	--	SE	SW	SW	300	4350	22	11	7E	4		100.00	100.00	AF
A__ 50327 00	IRR	AY	S	5719	--	SE	SW	SW	300	4350	22	11	7E	4		100.00	100.00	AF
A__ 50379 00	REC	AY	S	0	--	NE	SW	SW	717	4860	15	11	7E	1		10.00	10.00	AF

Total Net Quantities Authorized:	Direct	Storage
Total Requested Amount (AF) =	110.00	.00
Total Permitted Amount (AF) =	100.00	.00
Total Inspected Amount (AF) =	.00	.00
Total Pro_Cert Amount (AF) =	.00	.00
Total Certified Amount (AF) =	106.00	.00
Total Vested Amount (AF) =	.00	.00
TOTAL AMOUNT (AF) =	316.00	.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:

717 Feet North and 4860 Feet West of the Southeast Corner of Section 15 Twp 11S Rng 7E

SURFACE WATER ONLY

WATER USE CORRESPONDENTS:

- > WOOD & WOOD FARMS INC
- > ALBERT D & LAURA M WOOD
- > 5281 WILLIAM WOOD RD
- > MANHATTAN KS 66502
- >
- > DAVID & DONNA CEDERBERG
- >
- > 3777 S 24TH ST
- > MANHATTAN KS 66502
- >
- > DIBBEN LAND & CATTLE INC
- > CRAIG DIBBEN
- > 8152 S HIGHWAY K57 E
- > JUNCTION CITY KS 66441
- >
- > DIBBEN LAND & CATTLE INC
- > CRAIG DIBBEN
- > 8152 S HIGHWAY K57 E
- > JUNCTION CITY KS 66441
- >
- > CHARLES LEE
- >
- > 2601 WOODHAVEN CT
- > MANHATTAN KS 66502
- >

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From: Schemm, Doug [KDA]
Sent: Tue 7/21/2020 2:03 PM
To: Baum, Kristen [KDA]
Subject: RE: 50379 - Charles Lee

I took it to be the cross-hatched area adjacent to the pump site on the map. Sorry about that, I should have fixed the PU description on the Supplemental sheet. I didn't even see it was in wrong qtr section.

From: Baum, Kristen [KDA]
Sent: Tuesday, July 21, 2020 1:54 PM
To: Schemm, Doug [KDA] <Doug.Schemm@ks.gov>
Subject: FW: 50379 - Charles Lee

Trying to get this one sent today – where exactly is the pond for the PU? The pumpsite is SW4 but it looks to me like he's asking for the NE SW SE for the pond and not the SW on the supp sheet. I don't actually see it pointed out on the map.

From: Baum, Kristen [KDA]
Sent: Wednesday, July 15, 2020 12:50 PM
To: Schemm, Doug [KDA] <Doug.Schemm@ks.gov>
Subject: RE: 50379 - Charles Lee

I think we can get it signed next week.

From: Schemm, Doug [KDA] <Doug.Schemm@ks.gov>
Sent: Wednesday, July 15, 2020 12:41 PM
To: Baum, Kristen [KDA] <Kristen.Baum@ks.gov>
Subject: 50379 - Charles Lee

Hello Kristen,
Can you give me any update on this one?
Thanks, Doug

April 2019 aerial shows what appears to be some dirt work starting in the area of cross-hatching on the applicant's map. SW SW

7/21/2020
KAB

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

CHARLES LEE
2601 WOODHAVEN CT
MANHATTAN KS 66502

July 22, 2020

RE: Appropriation of Water, File No. 50,379

Dear Mr. Lee:

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

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. 50,379** of the applicant

**CHARLES LEE
2601 WOODHAVEN CT
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 **April 6, 2020**.
2. That the water sought to be appropriated shall be used for recreational use in a small reservoir located in the Southwest Quarter (SW $\frac{1}{4}$), of Section 15, in Township 11 South, Range 7 East, Riley County, Kansas.
3. That the authorized source from which the appropriation shall be made is surface water from McDowell Creek, to be diverted at one (1) pump site located in the Northwest Quarter of the Southwest Quarter of the Southwest Quarter (NW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 15, more particularly described as being near a point 717 feet North and 4,860 feet West of the Southeast corner of said section, in Township 11 South, Range 7 East, Riley 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 **200 gallons per minute (0.45 c.f.s.)** and to a quantity not to exceed **10 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 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).

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 22nd 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)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 22nd day of July, 2020, by Lane P. Letourneau, P.G., Program Manager, Division of Water Resources, Kansas Department of Agriculture.



Katie N. 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 _____ day of _____, 2020, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,379, dated _____ was mailed postage prepaid, first class, US mail to the following:

CHARLES LEE
2601 WOODHAVEN CT
MANHATTAN KS 66502

With photocopies to:

Topeka Field Office

Division of Water Resources

RIGHT TO A HEARING AND TO ADMINISTRATIVE REVIEW

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CERTIFICATE OF SERVICE

On this 27th day of July, 2020, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,379, dated _____ was mailed postage prepaid, first class, US mail to the following:

CHARLES LEE
2601 WOODHAVEN CT
MANHATTAN KS 66502

With photocopies to:

Topeka Field Office

Kate Anderson

Division of Water Resources