

File No. 49,982	15. Formation Code:	Drainage Basin: VERDIGRIS RIVER	County: WL	Special Use:	Stream: Verdigris River																																																																																																																						
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th colspan="10">16. Points of Diversion</th> <th colspan="5">17. Rate and Quantity</th> </tr> <tr> <td rowspan="2" style="width:5%;">√ MOD DEL ENT</td> <td rowspan="2" style="width:5%;">PDIV</td> <td rowspan="2" style="width:10%;">Qualifier</td> <td rowspan="2" style="width:5%;">S</td> <td rowspan="2" style="width:5%;">T</td> <td rowspan="2" style="width:5%;">R</td> <td rowspan="2" style="width:5%;">ID</td> <td rowspan="2" style="width:5%;">'N</td> <td rowspan="2" style="width:5%;">'W</td> <td colspan="3" style="text-align:center;">Authorized</td> <td colspan="2" style="text-align:center;">Additional</td> <td rowspan="2" style="width:10%;">Overlap PD Files</td> </tr> <tr> <td style="width:10%;">Rate gpm</td> <td style="width:10%;">Quantity af</td> <td style="width:10%;">Rate gpm</td> <td style="width:10%;">Quantity af</td> </tr> <tr> <td>√</td> <td></td> <td>29032 NE SW NE</td> <td>4</td> <td>28S</td> <td>15E</td> <td>2</td> <td>3934</td> <td>1556</td> <td>1,500</td> <td>20</td> <td>1,500</td> <td>20</td> <td>5,627 & 22,992</td> </tr> <tr> <td>√</td> <td></td> <td>36826 SW SW NW</td> <td>3</td> <td>28S</td> <td>15E</td> <td>1</td> <td>2712</td> <td>5151</td> <td></td> <td></td> <td></td> <td></td> <td>5327 & 22992</td> </tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr> </table>						16. Points of Diversion										17. Rate and Quantity					√ MOD DEL ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Authorized			Additional		Overlap PD Files	Rate gpm	Quantity af	Rate gpm	Quantity af	√		29032 NE SW NE	4	28S	15E	2	3934	1556	1,500	20	1,500	20	5,627 & 22,992	√		36826 SW SW NW	3	28S	15E	1	2712	5151					5327 & 22992																																																								
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20. Meter Required? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No To be installed by <u>12/31/2022</u> Date Acceptable Meter Installed _____																																																																																																																											
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Comments: **FILE NOS. 5627; 5627-B; 22,992; 48,620; 48,621; AND 49,982 ALL OVERLAP IN PLACE OF USE.**
REQUEST TO DIVERT

1/12/2021
KAB

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

MEMORANDUM

TO: Files

DATE: December 15, 2020

FROM: Doug Schemm

RE: Application File No. 49,982

Jeff Pierpoint has filed the above referenced application proposing to appropriate 20 acre-feet of surface water by direct diversion at a rate of 1,500 gallons per minute from the Verdigris River at two existing pump sites for irrigation use. The application is designed to allow water to be pumped from the stream (when water is available) into an off-stream storage device (tail water pit) for subsequent re-diversion for irrigation use. The direct diversion of water will be conducted during the off-season months from October 1 through June 30. The two pump sites are located in the Northwest Quarter of Section 3, and the Northeast Quarter of Section 4, both in Township 28 South, Range 15 East, Wilson County, Kansas.

The proposed points of diversion include two of the three pump sites authorized by Water Right, File No. 5,627, (one of which is also authorized by Water Right, File No. 22,992), both owned by the applicant. The applicant has signed the application form stating he has legal access to, or control of, the points of diversion. File Nos. 5,627; 5,627-B; 22,992; 48,620; and 48,621 all overlap in place of use with the pending application. The proposed place of use (637 acres) is partially owned by the applicant, and partially owned by Pierpoint Farms, Inc.

File No. 5,627 is authorized 86.9 acre-feet; File No. 5,627-B is authorized 91 acre-feet; File No. 22,992 is authorized 154 acre-feet; File No. 48,620 is authorized 121.8 acre-feet; and File No. 48,621 is authorized 56.7 acre-feet. These senior files provide a combined total quantity of 510.4 acre-feet. The requested quantity of water to be diverted (20 acre-feet) combined with the senior files would be 530.4 acre-feet. This is less than the maximum quantity of water considered to be reasonable to irrigate 637 acres in Wilson County, as provided by K.A.R. 5-3-24 (1 AF/ac X 637 ac. = 637 AF). Therefore, no limitations are required on this junior file.

Notification letters were sent to upstream and downstream landowners on January 10, 2019. No responses of any kind were received. The WRIS database indicates that there are several other surface water diversions on the Verdigris River within a 2-mile radius of the proposed pump sites, most are owned by the applicant. The applicant owns all of the downstream points of diversion within 2 miles, and the nearest of his pump sites is located over 1,800 feet away. Approval of this application, conditioned with standard permit conditions, will not impair any existing water rights. The applicant has a pending senior file for surface water (File No. 49,551) but it is located on a tributary stream, for a different irrigation project, and would not be affected by approval of this junior file.

Per K.A.R 5-3-15, the application will be subject to specific conditions, which stipulate strict requirements for direct surface water diversion. These conditions include the stipulation that no diversion shall occur unless there is water available to satisfy all demands by senior water rights and permits; written or verbal permission from the Chief Engineer, or an authorized representative is required prior to diverting water; and streamflow cannot be stopped at the first riffle below the point of diversion while diversion is taking place.

The application also complies with K.A.R 5-3-15 (c)(5) as there is no need for direct diversion of water from July 1 through September 30 because the existing off-stream storage device (tail water pit) will provide adequate water storage.

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.

Memorandum
File No. 49,982
Page 2

Katie Tietsort, Water Commissioner, Topeka Field Office, recommended that the referenced application be approved in a January 22, 2019 discussion.

Based on the above discussion, the area is open to new appropriations meeting certain criteria, the proposed use is designed to take advantage of off-season stream flows, an off-stream water storage device is available, 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 application be approved.

Doug Schemm
Environmental Scientist
Topeka Field Office

STATE OF KANSAS

DEPARTMENT OF AGRICULTURE
DIVISION OF WATER RESOURCES
TOPEKA FIELD OFFICE
6531 SE FORBES AVE., SUITE B
TOPEKA, KS 66619



PHONE: (785) 296-5733
FAX: (785) 296-8298
www.agriculture.ks.gov

GOVERNOR JEFF COLYER, M.D.
JACKIE McCLASKEY, SECRETARY OF AGRICULTURE

January 10, 2019

BEVERLY SHARP
21252 NE SS RD
BENEDICT KS 66714

Re: Pending Application, File No. 49,982

Dear Sir or Madam:

This is to advise you that Jeff Pierpoint has filed the application referred to above for a permit to appropriate 20 acre-feet of surface water per calendar year from the Verdigris River, for irrigation use, to be diverted at a maximum rate of 1,500 gallons per minute. Please note that these **are existing pump sites** currently authorized under Water Right, File Nos. 5,627 and 22,992. This direct diversion of surface water would be subject to specific permit conditions including requesting permission prior to diverting and not stopping flow at the first riffle below the point of diversion. Surface water will be diverted from two (2) pump sites located as follows:

In the Northwest Quarter of Section 3 and the Northeast Quarter of Section 4, in Township 28 South, Range 15 East, Wilson County, Kansas.

Records in this office indicate that you own land along the stream in this vicinity and you are being notified of receipt of this application in order that you may be fully informed of the proposed locations of the applicant's points of diversion and proposed use of water. Consideration will be given to comments or other information which you desire to submit to this office **within 15 days** from the date of this letter.

You can find the application and site map posted by the file number referenced above at:

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

If you have any questions or comments, you may also contact me at (785) 296-3495. If you call, please reference the file number so I can help you more efficiently.

Sincerely,

Douglas W. Schemm
Environmental Scientist
Topeka Field Office

pc: Jeff Pierpoint

STATE OF KANSAS

DEPARTMENT OF AGRICULTURE
DIVISION OF WATER RESOURCES
TOPEKA FIELD OFFICE
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GOVERNOR JEFF COLYER, M.D.
JACKIE McCLASKEY, SECRETARY OF AGRICULTURE

January 10, 2019

RONALD & SHARON HARKNESS
325 HACKAMORE DR
FLORISSANT CO 80816

Re: Pending Application, File No. 49,982

Dear Sir or Madam:

This is to advise you that Jeff Pierpoint has filed the application referred to above for a permit to appropriate 20 acre-feet of surface water per calendar year from the Verdigris River, for irrigation use, to be diverted at a maximum rate of 1,500 gallons per minute. Please note that these **are existing pump sites** currently authorized under Water Right, File Nos. 5,627 and 22,992. This direct diversion of surface water would be subject to specific permit conditions including requesting permission prior to diverting and not stopping flow at the first riffle below the point of diversion. Surface water will be diverted from two (2) pump sites located as follows:

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Sincerely,

Douglas W. Schemm
Environmental Scientist
Topeka Field Office

pc: Jeff Pierpoint

DEPARTMENT OF AGRICULTURE
DIVISION OF WATER RESOURCES
TOPEKA FIELD OFFICE
6531 SE FORBES AVE., SUITE B
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STATE OF KANSAS



PHONE: (785) 296-5733
FAX: (785) 296-8298
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GOVERNOR JEFF COLYER, M.D.
JACKIE McCLASKEY, SECRETARY OF AGRICULTURE

January 10, 2019

ROGER L PAYNE LIVING TRUST
12492 2000 RD
BUFFALO KS 66717

Re: Pending Application, File No. 49,982

Dear Sir or Madam:

This is to advise you that Jeff Pierpoint has filed the application referred to above for a permit to appropriate 20 acre-feet of surface water per calendar year from the Verdigris River, for irrigation use, to be diverted at a maximum rate of 1,500 gallons per minute. Please note that these **are existing pump sites** currently authorized under Water Right, File Nos. 5,627 and 22,992. This direct diversion of surface water would be subject to specific permit conditions including requesting permission prior to diverting and not stopping flow at the first riffle below the point of diversion. Surface water will be diverted from two (2) pump sites located as follows:

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Records in this office indicate that you own land along the stream in this vicinity and you are being notified of receipt of this application in order that you may be fully informed of the proposed locations of the applicant's points of diversion and proposed use of water. Consideration will be given to comments or other information which you desire to submit to this office **within 15 days** from the date of this letter.

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If you have any questions or comments, you may also contact me at (785) 296-3495. If you call, please reference the file number so I can help you more efficiently.

Sincerely,

Douglas W. Schemm
Environmental Scientist
Topeka Field Office

pc: Jeff Pierpoint

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Secretary of Agriculture

DIVISION OF WATER RESOURCES
Earl D. Lewis Jr., 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. 49,982** of the applicant

JEFFERY & JILL PIERPOINT
700 N MAIN ST
YATES CENTER KS 66783-1104

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 29, 2018**.
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	
3	28S	15E									12	35	28			3		78	
4	28S	15E			34	32								40	40	40	40	226	
9	28S	15E	40	40	30	39.5								37	8.8	3.85		199.15	
10	28S	15E					20.5	39	40	13		21.35						133.85	

3. That the authorized source from which the appropriation shall be made is surface water from the Verdigris River, to be diverted by means of two (2) pump sites located as follows: one (1) pump site located in the Southwest Quarter of the Southwest of the Northwest Quarter (SW¼ SW¼ NW¼) of Section 3, more particularly described as being near a point 2,712 feet North and 5,151 feet West of the Southeast corner of said section, and one (1) pump site located in the Northeast Quarter of the Southwest of the Northeast Quarter (NE¼ SW¼ NE¼) of Section 4, more particularly described as being near a point 3,934 feet North and 1,556 feet West of the Southeast corner of said section, all in Township 28 South, Range 15 East, Wilson 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 **1,500 gallons per minute (3.34 c.f.s.)** and to a quantity not to exceed **20 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, 2022** or within any authorized extension thereof. The applicant shall notify the Chief Engineer and pay the statutorily required field inspection fee, which is currently \$400.00, when construction of the works has been completed. Failure to timely submit the notice and the fee will result in revocation of the permit. Any request for an extension of time shall be submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee, which is currently \$100.00.

6. That the proposed appropriation shall be perfected by the actual application of water to the proposed beneficial use on or before **December 31, 2026** or any authorized extension thereof. Any request for an extension of time shall be submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee, which is currently \$100.00.

7. That the applicant shall not be deemed to have acquired a water appropriation for a quantity in excess of the amount approved herein nor in excess of the amount found by the Chief Engineer to have been actually used for the approved purpose during one calendar year subsequent to approval of the application and within the time specified for perfection or any authorized extension thereof.

8. That the use of water herein authorized shall not be made so as to impair any use under existing water rights nor prejudicially and unreasonably affect the public interest.

9. That the right of the appropriator shall relate to a specific quantity of water and such right must allow for a reasonable raising or lowering of the static water level and for the reasonable increase or decrease of the streamflow at the appropriator's point of diversion.

10. That this permit does not constitute authority under K.S.A. 82a-301 through 305a to construct any dam or other obstruction; nor does it grant any right-of-way, or authorize entry upon or injury to, public or private property.

11. That all diversion works constructed under the authority of this permit into which any type of chemical or other foreign substance will be injected into the water pumped from the diversion works shall be equipped with an in-line, automatic quick-closing, check valve capable of preventing pollution of the source of the water supply. The type of valve installed shall meet specifications adopted by the Chief Engineer and shall be maintained in an operating condition satisfactory to the Chief Engineer.

12. That 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 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.

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 during the period July 1 through September 30 each calendar year, no direct diversions of surface water shall be permitted unless written permission is obtained from the Chief Engineer, or the Chief Engineer's authorized representative.

19. That during the period October 1 through June 30, the verbal or written permission of the Chief Engineer, or an authorized representative of the Chief Engineer, shall be obtained in order to divert water each time the applicant desires to divert water.

Ordered this 29 day of January, 2021, 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 January, 2021, 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

February 2, 2021

JEFFERY & JILL PIERPOINT
700 N MAIN ST
YATES CENTER KS 66783-1104

RE: Appropriation of Water, File No. 49,982

Dear Mr. and Mrs. Pierpoint:

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 Applications and Changes Supervisor
Division of Water Resources

KAB:dws
Enclosure(s)

pc: Topeka Field Office

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.

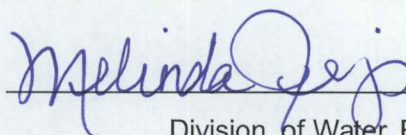
CERTIFICATE OF SERVICE

On this 2 day of February, 2021, I hereby certify that the foregoing Approval of Application, File No. 49,982, dated 2 February 2021 was mailed postage prepaid, first class, US mail to the following:

JEFFERY & JILL PIERPOINT
700 N MAIN ST
YATES CENTER KS 66783-1104

With photocopies to:

Topeka Field Office



Division of Water Resources