

File No. **50244** 15. Formation Code: Drainage Basin: **Marais De Cynes** County: **FR** Special Use: Stream:

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	
CHK	87482	SW NW NE	1	18S 20E 1	4540	2136					NF	225	NF	225	NA
aka pond #3											2000		2000		

18. Storage: Rate **NF** NF Quantity **225** ac/ft Additional Rate **NF** NF Additional Quantity **225** 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 **12/31/2022** Date Acceptable Meter Installed _____

21. Place of Use										NE¼								NW¼				SW¼				SE¼				Total	Owner	Chg? NO	Overlap Files
MOD	DEL	ENT	PUSE	S	T	R	ID	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼										
CHK	69419	1	18S 20E 1					39.95	39.85	40	40	39.75	39.65	40	40										399.2	7a	N	50,244					
CHK	69420	12	18S 20E 1													40							40	80	7a	N	50,244						
CHK	69421	6	18S 21E 3													40	40	40	40				160	7a	N	50,244							
CHK	69422	7	18S 21E 1					40	40	40	40	40	24.14	24.44	40	40	24.69	24.96	40	35	40	38.5	18	549.73	7a	N	50,244						

Comments: 1/27/2021
KAB

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

TO: Files

DATE: August 13, 2019

FROM: Brandon Milner

RE: Application, File No. 50,244

Chad Burkdoll. has filed the application referred to above for a permit to appropriate 225 acre-feet of surface water at the rate of natural flows to be stored in an existing reservoir located in the Northeast Quarter of Section 1, in Township 18 South, Range 20 East, Franklin County, Kansas. The dam is located on Trib to Middle Creek 1, within the Marais des Cygnes River basin. The point of diversion is located on property owned by the applicant, and the application has been signed by a representative of the applicant stating they have legal access to the point of diversion. The water will be rediverted at 2000 gallons per minute at the place of use is totally owned by the applicant, and it comprises a total of 1183.93 acres.

This application will overlap in the place of use with application # 50,244 which has been filed with this application to irrigate a total of 1183.93 acres in multiple sections in Franklin County.

Runoff computations show that the 150-acre drainage area will yield 225 acre-feet (18") of runoff, which is equal to the 225 acre-feet of storage quantity requested, in 1 out of every five (5) years (a 20% chance). The application can be processed with the requested quantity for storage and rediversion. Basin Runoff is the **limiting** factor is allowable storage for the reservoir. The requested quantity of water for direct use (rediversion) of 225 acre-feet under the pending application applied to 1183.93 acres is less than maximum allowable per acre in Franklin County, Kansas of 1.0 AF/acre, per K.A.R. 5-3-24.

The applicant identified a total of three upstream and downstream owners. Nearby landowner letters were sent out on July 15, 2019 with no responses to date. There is seven other surface water rights within a two-mile radius circle according to the WRIS database. The proposed reservoir represents only a very small portion of the drainage area and will not impair these senior water rights.

The proposed dam was reviewed by DWR Water Structures Program staff, and it was determined to be non-jurisdictional for structures permitting. As allowed by K.S.A. 82a-706(c) an approved water flow meter shall be installed on the secondary diversion works (pump site) for this file. If any chemical or foreign substance is injected into the water pumped under this permit, a check valve will also need to be installed. Since this is an existing reservoir currently storing water, no Special Condition on the Permit will be needed to provide an initial fill quantity.

The application approved by the Topeka Field Office on August 15, 2019 from Water Commissioner Katie Tietsort. Based on the above discussion, that this area is open to new appropriations, the proposed appropriation of water is reasonable and justified, the dam is non-jurisdictional for DWR Water Structures Permitting, and senior rights will not be impacted, it is recommended that the referenced new application be approved.

Brandon Milner
Environmental Scientist
Water Appropriation Dept

From: Tietsort, Katie [KDA]
Sent: Thu 8/15/2019 8:56 AM
To: Milner, Brandon [KDA]
Subject: RE: New applications for Burkdoll 50,244 & 50,245

Good Morning Brandon,

I agree with your recommendation for approval of the Burkdoll pending applications, File Nos. 50244 & 50245 as the requests do appear to meet the requirements of the KWAA. The limitation on File No. 50245 to 1183.93 AF is appropriate.

Thanks for working up this Hydra-Pondster package!

Have a great day, Katie

Katie Tietsort

Kansas Department of Agriculture
6531 SE Forbes Ave Ste B
Topeka, KS 66619
katie.tietsort@ks.gov
Phone 785-296-5733

From: Milner, Brandon [KDA]
Sent: Tuesday, August 13, 2019 3:22 PM
To: Tietsort, Katie [KDA] <Katie.Tietsort@ks.gov>
Subject: New applications for Burkdoll 50,244 & 50,245

Good afternoon Katie,

Attached are two applications for Chad Burkdoll regarding a hydra-pondster located in Franklin County. Application number 50,244 is requesting 225 acre-feet per year and application number 50,245 is requesting 1138.5 acre-feet with the same place of use location. Please let me know if you have any questions or concerns on these. This is my first hydra-pondster I've worked so hopefully not too many errors. Please provide your recommendation. Thanks!!

Brandon Milner | Environmental Scientist

Kansas Dept. of Agriculture | Division of Water Resources

Address: 1320 Research Park Dr., Manhattan, KS 66502

Phone: 785-564-6631

Website: <http://agriculture.ks.gov/divisions-programs/dwr>

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. 50,244** of the applicant

**CHAD BURKDOLL
4146 HAMILTON RD
RANTOUL, KS 66079**

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 26, 2019**.
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		
1 18S 20E	39.95	39.85	40	40	39.75	39.65	40	40			40	40					399.20	
12 18S 20E														40			40	80
6 18S 21E														40	40	40	40	160
7 18S 21E	40	40	40	40	40	24.14	24.44	40	40	24.69	24.96	40	35	40	38.5	18	549.73	

3. That the appropriation sought shall be limited to all natural flows of an unnamed tributary to Middle Creek designated in the office of the Chief Engineer as Middle Creek 1 Trib 6A (Marais des Cygnes), not needed to satisfy all vested rights and prior appropriation rights to be incrementally accumulated as reservoir storage space becomes available to a maximum extent of **225 acre-feet** per calendar year in one (1) reservoir created by a dam located in the Southwest Quarter of the Northwest Quarter of the Northeast Quarter (SW¼ NW¼ NE¼) of Section 1, more particularly described as being near a point 4,540 feet North and 2,136 feet West of the Southeast corner of said section, in Township 18 South, Range 20 East, Franklin County, Kansas, to provide **225 acre-feet** of water as needed for direct irrigation use to be withdrawn, released or otherwise diverted from the reservoir at a re-diversion rate of approximately **2,000 gallons per minute (4.46 c.f.s.)**. A reasonable maximum re-diversion rate will be established during the perfection period and assigned at certification.

4. 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.

5. 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. That all re-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 re-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.

11. That an acceptable water flow meter shall be installed and maintained on the re-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).

12. 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.

13. That no water user shall engage in nor allow the waste of any water diverted under the authority of this permit.

14. 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.

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 10, 2021

CHAD BURKDOLL
4146 HAMILTON RD
RANTOUL, KS 66079

RE: Appropriation of Water, File Nos. 50,244 & 50,245

Dear Sir or Madam:

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 the 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.

An acceptable water flowmeter must be installed on the diversion works authorized by these permits 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 applications 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 rights. 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:bmm
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.

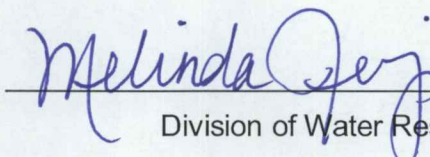
CERTIFICATE OF SERVICE

On this 10 day of February, 2021, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,244, dated 10 February, 2021 was mailed postage prepaid, first class, US mail to the following:

CHAD BURKDOLL
4146 HAMILTON RD
RANTOUL, KS 66079

With photocopies to:

Topeka Field Office



Division of Water Resources