

File No. 50,396	15. Formation Code: 330	Drainage Basin: MILL CREEK	County: WS	Special Use:	Stream:																																																																											
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:55%;"> 16. Points of Diversion T MOD DEL ENT </td> <td style="width:5%;">PDIV</td> <td style="width:10%;">Qualifier</td> <td style="width:5%;">S</td> <td style="width:5%;">T</td> <td style="width:5%;">R</td> <td style="width:5%;">ID</td> <td style="width:5%;">'N</td> <td style="width:5%;">'W</td> <td style="width:5%;"></td> </tr> <tr> <td>√</td> <td>64520</td> <td>NE NE NW</td> <td>12</td> <td>1</td> <td>2E</td> <td>2</td> <td>5221</td> <td>2779</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></tr> <tr><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></tr> <tr><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></tr> </table>						16. Points of Diversion T MOD DEL ENT	PDIV	Qualifier	S	T	R	ID	'N	'W		√	64520	NE NE NW	12	1	2E	2	5221	2779																																																				17. Rate and Quantity MOD ADDL QTY AND RATE Authorized Additional Rate gpm Quantity af Rate gpm Quantity af Overlap PD Files 1200 412 1200 200 44,093				
16. Points of Diversion T MOD DEL ENT	PDIV	Qualifier	S	T	R	ID	'N	'W																																																																								
√	64520	NE NE NW	12	1	2E	2	5221	2779																																																																								
18. Storage: Rate _____ NF Quantity _____ ac/ft Additional Rate _____ NF Additional Quantity _____ ac/ft																																																																																
19. Limitation: 412 af/yr at _____ gpm (_____ cfs) when combined with file number(s) 44,093 (From the pd) Limitation: 628.8 af/yr at _____ gpm (_____ cfs) when combined with file number(s) 43,923; 44,093; & 48,144 (on the PU)																																																																																
20. Meter Required? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No To be installed by 12/31/2021 ²⁰²² Date Acceptable Meter Installed _____																																																																																
21. Place of Use T MOD DEL ENT		NE¼ NW¼ SW¼ SE¼				NW¼ SW¼ SE¼				SE¼				Total	Owner	Chg? NO	Overlap Files																																																															
PULSE 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																																																																
√ 52846 12 1S 2E 1					32.5	28.5	30	40	18	28.5	11		35			33	256.5	7b.	No	43,923; 44,093; & 48,144																																																												
√ 52847 1 1S 2E 1										30	24						54	7a & c.	No	43,923; 44,093; & 48,144																																																												
√ 52848 12 1S 2E 2	32			35					22		18.5	33		40	33		213.5	7a & c	No	43,923; 44,093; & 48,144																																																												
Comments: <div style="border: 1px solid red; padding: 5px; display: inline-block; margin-top: 10px;"> 12/3/2020 KJN </div>																																																																																

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

TO: Files

DATE: July 8, 2020

FROM: Doug Schemm

RE: Application, File No. 50,396

Terry Frager has filed the referenced new application to appropriate 412 acre-feet of groundwater from an existing well at the rate of 1,200 gallons per minute for irrigation use in Washington County, within the Mill Creek Drainage Basin. The well is currently authorized under File No. 44,093, and the proposed place of use overlaps with File Nos. 43,923; 44,093; and 48,144. The place of use is owned by the applicant, Gerry and Shirley Frager; and Frager Farms. It comprises a total of 524 acres. The applicant has signed the application form stating he has access to the point of diversion. The purpose of this new application is to perfect a greater quantity of water from this well that was not adequately perfected under File No. 44,093.

Water Right, File No. 43,923 is authorized 212 acre-feet of water; Water Right, File No. 44,093 is authorized 212 acre-feet of water (limited to 240 acre-feet with File No. 43,923), and Appropriation of Water, File No. 48,144 is authorized 320 acre-feet of water, for a combined total of 560 acre-feet. The new application has requested a limitation from this well of 412 acre-feet, and it has requested a limitation to 628.8 acre-feet when combined with the three senior files, which would result in an additional quantity of water of 68.8 acre-feet (628.8 AF – 560 AF). The requested total quantity of water, 628.8 acre-feet, is the maximum allowable to irrigate the proposed 524 acres (1.2 Acre-Foot per acre is the maximum allowed in Washington County).

The applicant did not identify any wells of any kind within one-half mile other than a well he owns under File No. 43,923, which is located 2,606 feet away. This is just slightly less than the minimum well spacing criteria to all existing non-domestic wells of 2,640 feet per the requirements in K.A.R. 5-4-4 for the unconfined Dakota aquifer system (a difference of only 34 feet). However, the wells have operated for many years with no impairment concerns. In addition, the applicant owns all of the irrigation wells within the 2-mile radius circle, and has been required to drill numerous test holes and install a series of observation wells throughout this immediate area, during processing of senior files. As part of previous investigation activities in this immediate area, the applicant conducted hydrologic testing (i.e. pump tests), which did not indicate any significant drawdown or impacts to nearby wells. Finally, the applicant has also measured depth to water in multiple wells, and has provided this data to DWR on a quarterly basis since 2002. The data shows that there has not been any long-term decline in water levels in this area. Therefore, per K.A.R. 5-4-4, the required minimum well spacing criteria is not necessary to prevent direct impairment in this specific instance, and the proposed well spacing is sufficient to prevent direct impairment and to protect the public interest.

Per the definition in K.A.R. 5-1-1(iiii) the "Unconfined Dakota aquifer system" means that portion of the Dakota aquifer system not overlain by a confining layer in which the aquifer is in equilibrium with atmospheric pressure. The applicant has drilled multiple test holes and wells within the local area, and typically the well logs describe gray, brown and yellow clays (with some shallow sandstone units) extending to depths over 100 feet below ground surface, underlain by interbedded sandstone and clay layers extending to total depths of 400 feet below ground surface. The well log provided for nearby File No. 48,144 shows that the primary aquifer in this area appears to be a sandstone formation between 138 feet and 193 feet below ground surface. There are some thinner sandstone units at deeper depths. Static water level was listed at 166 feet below ground surface. Static water level is well below the top of the sandstone formation (138' depth). The well log for File No. 43,923 notes that the depth groundwater was first encountered was 190 feet below ground surface, the same as the static water level, also indicating that the aquifer in this area is not under pressure. Since the static water level does not extend above the top of the aquifer, the aquifer is in equilibrium with atmospheric pressure (i.e. unconfined).

In addition, information regarding Washington County geology provided by the Kansas Geological Survey was reviewed to better define the extent of the unconfined Dakota aquifer system in this area. Based on this review, it appears that the unconfined Dakota aquifer system extends further to the north than had previously been indicated and also appears to be more continuous throughout this immediate area (i.e. less inter-fingering between the confined and unconfined Dakota aquifer systems). This preliminary review indicates that the aquifer is likely to receive more recharge than anticipated and safe yield quantities would also increase with a larger area of consideration.

Per K.A.R. 5-3-11, an evaluation of safe yield includes the entire 2-mile area of consideration around the point of diversion within the limits of the unconfined aquifer. The area of consideration shall not include any portion of the circle located outside the state of Kansas. For this specific file, based on area well logs, it appears that the unconfined Dakota aquifer system extends across the entire two-mile circle, however, it had to be truncated at the state line, providing an area of consideration of 6,361 acres. With a recharge of 3.3 inches, and 100% available for appropriation, this results in a safe yield of 1,749.24 acre-feet. There are multiple water rights within the area of consideration that have appropriated 1,544.2 acre-feet, leaving 205.04 acre-feet of water available. The new application is requesting only 68.8 acre-feet additional quantity, and the application meets safe yield.

This safe yield calculation is based on the extent of the unconfined Dakota aquifer system in this area, complies with K.A.R. 5-3-11 criteria for determination of safe yield, and is consistent with previous determination of safe yield for appropriations in this same aquifer.

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 July 8, 2020 e-mail, Katie Tietsort, Water Commissioner, Topeka Field Office, recommended approval of the referenced application. Based on the above discussion, well spacing and safe yield criteria are met, the application is requesting more water from an existing well, and approval of the new application will not impair senior water rights nor prejudicially or unreasonably affect the public interest, it is recommended that the referenced application be approved.



Douglas W. Schemm
Environmental Scientist
Topeka Field Office

Schemm, Doug [KDA]

From: Tietsort, Katie [KDA]
Sent: Wednesday, July 8, 2020 1:09 PM
To: Schemm, Doug [KDA]
Subject: RE: 50,396 Terry Frager

Doug,

This looks like it is in order to proceed forward. With the system in place, this shouldn't be an issue. As a note, with the ~15 tolerance on the gps of wells, the spacing is probably a bit better. Please proceed,
Thanks, Katie

Katie Tietsort
Water Commissioner

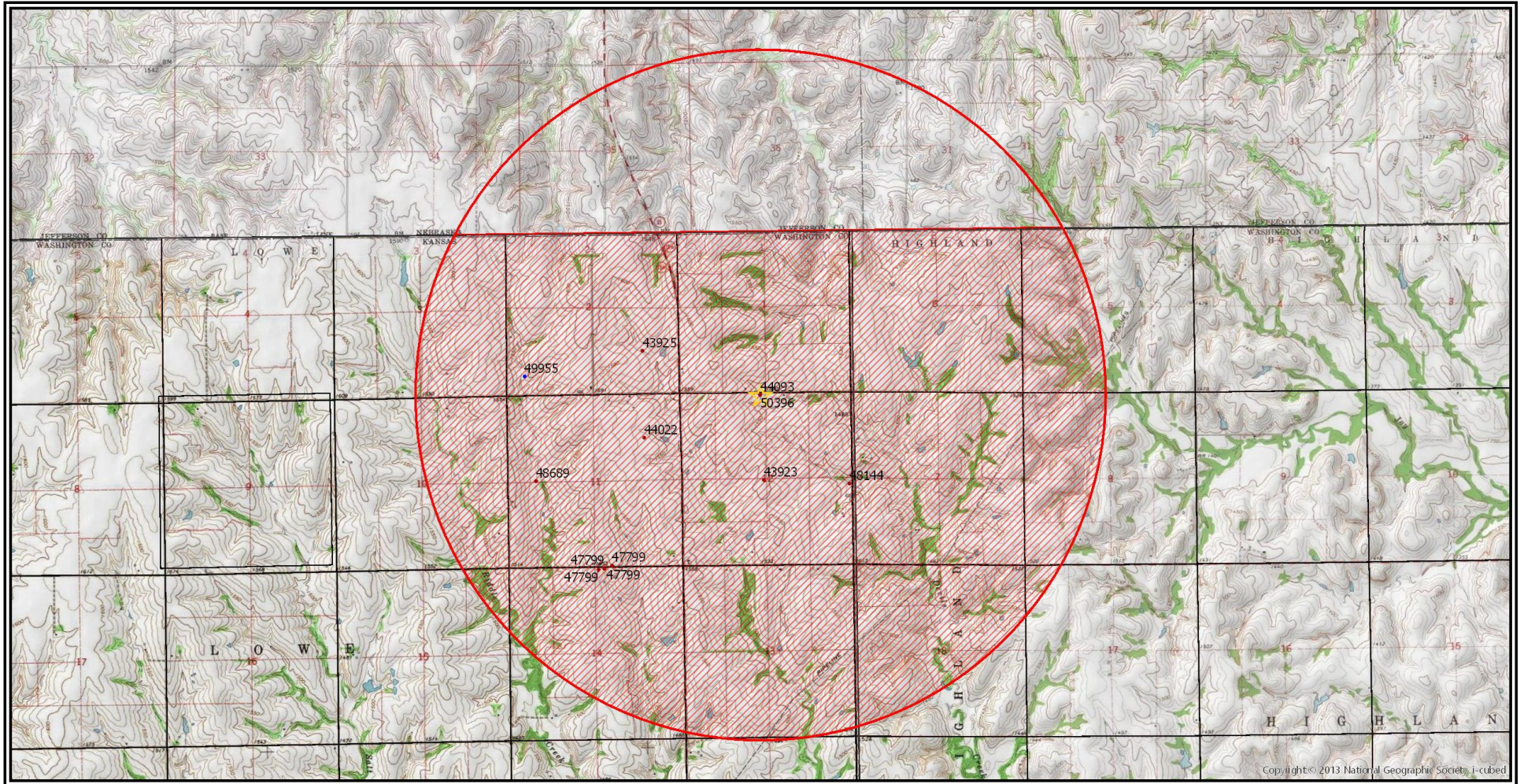
Katie.Tietsort@ks.gov
785-296-5733

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: Wednesday, July 8, 2020 8:48 AM
To: Tietsort, Katie [KDA] <Katie.Tietsort@ks.gov>
Subject: 50,396 Terry Frager

Just trying to perfect additional water from this well that was not perfected under the senior file. Requesting only 68.8 AF additional water with senior files in the circle.
An existing well, it does not meet spacing to another well that Terry owns being just 34 feet shy of ½ mile spacing.
Should be no problems,
Please review,
Doug

Safe Yield Report Sheet
Water Right- A5039600
Point of Diversion in 12-01S-02E
Footages from SE corner- 5,221 feet North 2,779 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 1,749.24 AF.

Total prior appropriations in the circle is 1,489.20 AF. + 55 AF = 1,544.2 AF

Total quantity of water available for appropriation is ~~260.04 AF~~
205.04 AF

Application File No. 50,396 - Requesting 68.8 AF
Additional Quantity Meets Safe Yield
dws/dwr 7/8/20

Safe Yield Variables

The area used for the analysis is set at 6,361 acres.

The potential annual recharge at the circle center is estimated to be 3.3 inches.

The percent of recharge available for appropriation is 100%.

Authorized Quantity values are as of 08-JUL-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 8 water rights and 10 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 43923 00	IRR	NK	G				NC	2618	2706	12	01	02E	4	WR	212.00	212.00	524.00	524.00
A 43925 00	IRR	NK	G		NW	SE	SE	1314	1103	02	01	02E	1	WR	212.00	212.00	560.94	560.94
A 44022 00	IRR	NK	G				NC NE	3948	1132	11	01	02E	1	WR	157.00	157.00	560.94	0.00
A 44093 00	IRR	NK	G		NE	NE	NW	5221	2779	12	01	02E	2	WR	212.00	28.00 ✓	524.00	0.00
A 47799 00	IRR	LR	G		NW	NW	NE	5225	2262	14	01	02E	3	WR	342.00	342.00	285.00	285.00
Same	IRR	LR	G		NW	NW	NE	5225	2449	14	01	02E	4	WR				
Same	IRR	LR	G		NW	NW	NE	5225	2456	14	01	02E	5	WR				
Same	IRR	LR	G		NW	NW	NE	5225	2630	14	01	02E	6	WR				
A 48144 00	IRR	LR	G		NE	NE	SE	2610	30	12	01	02E	3	WR	320.00	320.00 ✓	524.00	0.00
A 48689 00	IRR	HK	G		SE	SW	NW	2660	4476	11	01	02E	2	WR	320.00	218.20 + 55 AF	560.94	0.00
A 50396 00	IRR	AY	G		NE	NE	NW	5221	2779	12	01	02E	2	WR	412.00	---0.00	523.50	0.00

Limitations

File Number	Seq Num	Limitations
A 44093 00	2	240 AF/YR COM/W #43923 212 AF + 28 AF = 240 AF ✓
A 48144 00	1	616.8AF/YR COM/W #43923 & 44093 240 AF + 320 AF = 560 AF ✓
A 48689 00	1	642.2 AF/YR COM/W #43925 & #44022 212 AF + 157 AF + 218.2 AF = 587.2 AF

642.2 AF - 587.2 AF = 55 AF ADDL THAT CAN BE PUMPED

Application, File No. 50,396 requesting only 68.8 AF additional water when combined with senior files, 43,923; 44,093; & 48,144.

Report Date: Tuesday, July 7 2020

AMOUNT STATISTICS REPORT FOR POINTS OF DIVERSION UNDER A 50396 00

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AMOUNT STATISTICS REPORT FOR POINTS OF DIVERSION UNDER A 50396 00 IRR

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

5221 Feet North and 2779 Feet West of the Southeast Corner of Section 12 Twp 1S Rng 2E

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__ 43923 00 IRR NK G      2606 -- -- -- NC 2618 2706 12 1 2E 4      212.00 212.00
  AF
A__ 43925 00 IRR NK G      3868 -- NW SE SE 1314 1103 2 1 2E 1      212.00 212.00
  AF
A__ 44022 00 IRR NK G      3802 -- -- NC NE 3948 1132 11 1 2E 1      157.00 157.00
  AF
A__ 44093 00 IRR NK G          0 -- NE NE NW 5221 2779 12 1 2E 2      212.00 28.00
  AF
A__ 47799 00 IRR LR G      7044 -- NW NW NE 5225 2262 14 1 2E 3 B3      342.00 342.00
  AF
Same              7169 -- NW NW NE 5225 2449 14 1 2E 4 G3
Same              7174 -- NW NW NE 5225 2456 14 1 2E 5 B3
Same              7293 -- NW NW NE 5225 2630 14 1 2E 6 B3
A__ 48144 00 IRR LR G      3794 -- NE NE SE 2610 30 12 1 2E 3      320.00 320.00
  AF
A__ 48689 00 IRR HK G      7384 -- SE SW NW 2660 4476 11 1 2E 2      320.00 218.20
  AF
A__ 50396 00 IRR AY G          0 -- NE NE NW 5221 2779 12 1 2E 2      412.00 .00
  AF
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Total Net Quantities Authorized:   Direct           Storage
Total Requested Amount (AF) =           .00           .00
Total Permitted Amount (AF) =        218.20           .00
Total Inspected Amount (AF) =        662.00           .00
Total Pro_Cert Amount (AF) =           .00           .00
Total Certified Amount (AF) =         609.00           .00
Total Vested Amount (AF) =             .00           .00
TOTAL AMOUNT (AF) =        1489.20           .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:

5221 Feet North and 2779 Feet West of the Southeast Corner of Section 12 Twp 1S Rng 2E

GROUNDWATER ONLY

WATER USE CORRESPONDENTS:

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File Number      Use ST SR
> FRAGER FARMS
>
> 2782 KING RD
> MORROWVILLE KS 66958
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> FRAGER FARMS
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> 2782 KING RD
> MORROWVILLE KS 66958
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> FRAGER FARMS
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> MORROWVILLE KS 66958
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> MORROWVILLE KS 66958  
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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. 50,396** of the applicant

**TERRY L & SONJA FRAGER
2782 KING RD
MORROWVILLE KS 66958**

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 **May 14, 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 $\frac{1}{4}$		
1 1S 2E											30	24						54
12 1S 2E	32			35	32.5	28.5	30	40	40	28.5	29.5	33	35	40	33	33	33	470

3. That the authorized source from which the appropriation shall be made is groundwater from the unconfined Dakota aquifer system, to be withdrawn by means of one (1) well located in the Northeast Quarter of the Northeast Quarter of the Northwest Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 12, more particularly described as being near a point 5,221 feet North and 2,779 feet West of the Southeast corner of said section, in Township 1 South, Range 2 East, Washington 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 **1,200 gallons per minute (2.67 c.f.s.)** and to a quantity not to exceed **412 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 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, 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 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 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.

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

January 21, 2021

TERRY L & SONJA FRAGER
2782 KING RD
MORROWVILLE KS 66958

RE: Appropriation of Water, File No. 50,396

Dear Mr. and Mrs. Frager:

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
Frager Farms
Gerry D & Shirley Frager

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 January, 2021, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,396, dated 15 January, 2021, was mailed postage prepaid, first class, US mail to the following:

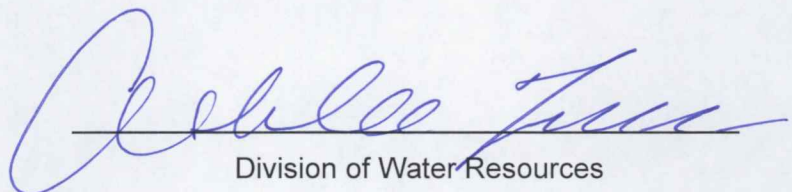
TERRY L & SONJA FRAGER
2782 KING RD
MORROWVILLE KS 66958

With photocopies to:

FRAGER FARMS
2782 KING RD
MORROWVILLE, KS 66958

GERRY D & SHIRLEY FRAGER
1234 26TH RD
MORROWVILLE, KS 66958

Topeka Field Office


Division of Water Resources