

File No. **50476** 15. Formation Code: Drainage Basin: **Pottawatomie Creek** County: **FR** Special Use: Stream: **Sac Creek Trib 3 (Pottawatomie)**

16. Points of Diversion											
T	MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W
CHK	88497	NW	NW	NW	7	19S	19E	1	4975	4925	

17. Rate and Quantity				
Authorized		Additional		
Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files
NF	129	NF	129	NA
1,500		1,500		

18. Storage: Rate 0 NF Quantity 129 ac/ft Additional Rate 0 NF Additional Quantity 129 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 **2023** Date Acceptable Meter Installed _____

21. Place of Use											NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg? NO	Overlap Files
T	MOD	DEL	ENT	PUSE	S	T	R	ID	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼						
CHK	70192	7	19S	19E	2					2	2		37	22	27.5	39.5	1									131	7b	N	NA	

Comments:

”

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

M E M O R A N D U M

TO: Files

DATE: June 3, 2021

FROM: Brandon Milner

RE: Application, File No. 50,476

Scheckel Farms has filed the application referred to above for a permit to appropriate 129 acre-feet of surface water in a proposed reservoir at a rate not to exceed all natural flows of Sac Creek Trib 3. This quantity (129) acre-feet of the stored water will then be rediverted at 1,500 gallons per minute for irrigation use. The point of diversion is the centerline of a dam located in the Northwest Quarter of Section 7, Township 19 South, Range 19 East, in Pottawatomie County. The existing reservoir is located within the Pottawatomie Creek drainage basin and has a capacity of 43.4 acre-feet. The applicant has signed the application form stating he has access to the point of diversion. There are no overlaps in place of use or point of diversion. The applicant owns the entire place of use, which comprises 131 acres.

Runoff calculations determined that there is 18 inches of runoff per acre, and the small drainage area of 86 acres will only provide for 129 acre-feet of runoff in 1 out of every five (5) years (a 20% chance). Therefore, per K.A.R. 5-6-5, the runoff quantity is the limiting factor, and the application was reduced to this quantity. The proposed direct use quantity of 129 acre-feet, is equivalent to 2.9 times the capacity (43.4 AF), which is well within the normal “rule of thumb” of direct use quantity being no more than 5 times the capacity of the reservoir at normal pool for reasonable storage quantity.

The total quantity of water that will be rediverted (129 acre-feet), is less than the maximum allowable to irrigate the proposed 131 acres, based on the allowable quantity for irrigation in Franklin County of 1.0 AF/acre. However, this still provides 0.98 AF/acre which may be considered reasonable for irrigation purposes.

The applicant identified two upstream landowners within one-half (½) mile of the property lines, and a nearby landowner letter was sent out on April 16, 2021 as the other landowner was the applicant. One response was received from Glen Burns on April 26, 2021 who feels that approving this application would cause erosive issues on his property which is downstream. The only other water right within one mile of this application is owned by the applicant.

The proposed structure was reviewed by DWR Water Structures Program staff and was determined to qualify as a low hazard exemption. Therefore, no further structural permitting is required on this dam.

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 a proposed, new reservoir, a Special Condition on the Permit will be needed to provide an initial fill quantity of 62.7 acre-feet (capacity).

In an June 21, 2021 e-mail, Katie Tietsort, Water Commissioner, Topeka Field Office, stated that the referenced new application should be approved. Based on the above discussion, that this area is open to new appropriations, the proposed appropriation of water is reasonable, the dam is non-jurisdictional for structures permitting, and senior rights will not be impacted, it is recommended that the referenced new application be approved.

Brandon Milner
Environmental Scientist
New Applications Unit

From: Tietsort, Katie [KDA]
Sent: Mon 6/21/2021 11:41 AM
To: Milner, Brandon [KDA]
Subject: RE: 50476 Recommendation

Hello Brandon,

I do agree with your recommendation for approval, File No. 50476. It meets all the rules and regulation. The neighbor is in a dispute with Mr. Scheckel. Mr. Scheckel contacted KDA (WA and WS) because he says this owner plugged his drain tile that daylight on the property line. We told both of them that is a civil matter.

Katie

Katie Tietsort

Water Commissioner

Katie.Tietsort@ks.gov

Ph. 785-296-5733 Cell 785-213-9188

Kansas Department of Agriculture

Topeka Field Office

1131 SW Winding Rd, Suite 400

Topeka, KS 66615

From: Milner, Brandon [KDA] <Brandon.M.Milner@ks.gov>
Sent: Monday, June 21, 2021 11:31 AM
To: Tietsort, Katie [KDA] <Katie.Tietsort@ks.gov>
Subject: 50476 Recommendation

Good morning Katie,

Attached is the memo for new application no. 50,476. Could you provide a recommendation on this?

On a different note, I'm trying to think of a response letter for the nearby neighbor who had concerns about this application. The letter of concern is in docuware and the neighbor is mostly upset with drainage coming off of the Scheckel Farm. Which regulation would you point at for this response letter?

Brandon Milner
Environmental Scientist
Water Appropriation Program

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. 50,476** of the applicant

**SCHECKEL FARMS
20190 NW 2500 RD
RICHMOND, KS 66080**

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 **November 30, 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	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
7	19S	19E		2	2		37	22	27.5	39.5	1								131

3. That the appropriation sought shall be limited to all natural flows of an unnamed tributary to Sac Creek, designated in the office of the Chief Engineer as Sac Creek Trib 3 (Pottawatomie), 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 **129 acre-feet** per calendar year in one (1) reservoir created by a dam located in the Northwest Quarter of the Northwest Quarter of the Northwest Quarter (NW¼ NW¼ NW¼) of Section 7, more particularly described as being near a point 4,975 feet North and 4,925 feet West of the Southeast corner of said section, in Township 19 South, Range 19 East, Franklin County, Kansas, to provide **129 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 **1,500 gallons per minute (3.34 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, 2023** 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, 2027** 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.

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

May 9, 2022

GLEN BURES
32902 NW MITCHELL RD
RICHMOND, KS 66080

Re: Pending Application, File No. 50,476

Dear Mr. Burns:

The Division of Water Resources received your email dated April 26, 2021, in which you expressed objections to the proposed appropriation of surface water under the above referenced application. The application is proposing to appropriate surface water for irrigational use. The Chief Engineer is required to approve applications for water appropriation unless the proposed appropriation will impair existing water rights or prejudicially and unreasonably affect the public interest.

While the Kansas Water Appropriation Act protects prior water rights, the law also recognizes that some reasonable fluctuations in streamflow are allowable, provided senior water right holders can continue their beneficial use of water. If approved, the applicant's permit will be conditioned such that stream flow cannot be stopped by the diversion and sufficient water must remain available in the stream to protect all senior water rights located downstream.

In the event that an application is approved by the Chief Engineer, and you believe the diversion of water is impairing a senior water right, you should notify the Topeka field office as listed below. The Chief Engineer is required to investigate any complaint that a prior right to the use of water is being impaired. If such impairment is found, the Chief Engineer must secure water to satisfy prior water rights.

Division of Water Resources - Topeka Field Office
1131 SW Winding Rd, Suite 400
Topeka, KS 66615
(785) 368-8251

Additional information may be found on our website at agriculture.ks.gov/divisions-programs/dwr. If you have any questions, please contact me at 785-564-6631 or Brandon.M.Milner@ks.gov. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

Brandon Milner
Environmental Scientist
Water Appropriation Program

pc: Topeka Field Office

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

May 9, 2022

SCHECKEL FARMS
20190 NW 2500 RD
RICHMOND, KS 66080

RE: Appropriation of Water, File No. 50,476

Dear Sir or Madam:

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 and Change Applications Unit Supervisor
Division of Water Resources

KAB:bmm
Enclosure(s)
pc: Topeka Field Office

SCHECKEL MANAGEMENT LP
2211 ALLEN TERR
RICHMOND, KS 66080

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 request an evidentiary hearing before the Chief Engineer, or 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 Division, 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 review 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

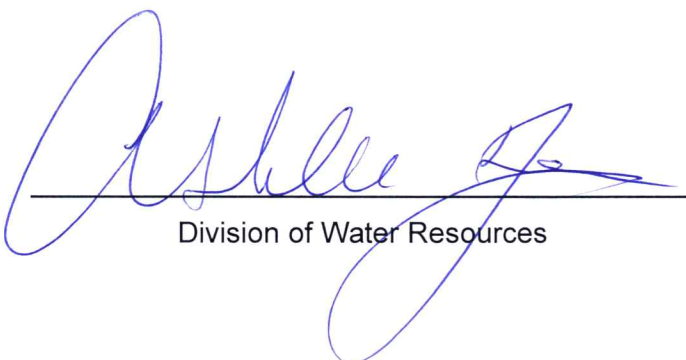
On this 9 day of May, 2022, I hereby certify that the foregoing Approval of Application, File No. 50,476, dated 3 May 2022 was mailed postage prepaid, first class, US mail to the following:

SCHECKEL FARMS
20190 NW 2500 RD
RICHMOND, KS 66080

With photocopies to:

Topeka Field Office

SCHECKEL MANAGEMENT LP
2211 ALLEN TERR
RICHMOND, KS 66080



Division of Water Resources