

File No. **50,633** 15. Formation Code: **113** Drainage Basin: **Kansas River** County: **PT** Special Use: Stream:

16. Points of Diversion

MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W
MOD	CHK		89016	SE NW NW	24	9S	10E	3	4255	4449
MOD	CHK		89017	SE NW NW	24	9S	10E	4	4509	4507
MOD	CHK		89018	SE NW NW	24	9S	10E	5	4000	4390

17. Rate and Quantity

Authorized		Additional		
Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files
800	237	800	237	none

GEO CTR

BATTERY ID #2259

18. Storage: Rate _____ NF Quantity _____ ac/ft Additional Rate _____ NF Additional Quantity _____ ac/ft

19. Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____
 Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____

20. Meter Required? Yes No To be installed by **12/31/2023** Date Acceptable Meter Installed _____

21. Place of Use

MOD	DEL	ENT	PUSE	S	T	R	ID	NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg? NO	Overlap Files
								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			70533	13	9S	10E	1																	40	7a	none	
CHK			70534	23	9S	10E	2	40				40								40			20	140	7a	"	
CHK			70535	24	9S	10E	3					35.5											35.50	7a	"		

Comments: **2/16/2022**
KJN

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: February 14, 2022

FROM: Rebecca Pollett

RE: New Application,
File No. 50,633

Will Hartwich of Hartwich Brothers LLC has filed an application to appropriate groundwater for irrigation use, requesting a battery of two (2) wells, with a quantity of 237 acre-feet of water per calendar year, at a diversion rate of 800 gallons per minute. The proposed battery of wells has a geographical center located in the Southeast Quarter of the Northwest Quarter of the Northwest Quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 24, more particularly described as being near a point 4,255 feet North and 4,449 feet West of the Southeast corner of said section, in Township 9 South, Range 10 East, Pottawatomie County, Kansas, within the Kansas River basin. It is not located within a GMD, or other special use area.

There are no other water rights overlapping the proposed points of diversion or places of use. The places of use are owned by Hartwich Brothers LLC. The applicant has signed the application form stating that he has legal access to the points of diversion.

Per the requirements in K.A.R. 5-3-11, safe yield is determined by the extent of the unconfined aquifer within a two-mile radius of the point of diversion, which establishes the area of consideration. Evaluation of the area of consideration included the extent of the unconfined aquifer, which provided an area of consideration of 5,308 acres. With a potential annual recharge of 3.9 inches, and 100% of recharge available for appropriation, safe yield was determined to be 1,724.96 acre-feet. Existing water rights have appropriated **1,299.3** acre-feet, providing a difference of **425.66** acre-feet available for appropriation, and the application requesting 237 acre-feet complies with safe yield.

The test hole log that was submitted with the pending application, shows clay from 0-12 feet, silty clay from 12-25 feet, sandy clay from 25-28 feet, medium sand from 28-37 feet, coarse sand with traces of gravel and clay streaks from 37-52 feet, gravel with clay streaks from 52-71 feet, and shale from 71-75 feet. No static water level was listed on the test hole log, but after review of other WWC5 logs in the area, an average static water level hovered around 25 feet below surface level. Based on the information above, the source appears to be main stem alluvium.

The place of use amounts to 215.5 acres total; with 40 acres in the Southwest Quarter (SW $\frac{1}{4}$) of Section 13, 140 acres in the Northeast Quarter (NE $\frac{1}{4}$) and the Southeast Quarter (SE $\frac{1}{4}$) of Section 23, and 35.5 acres in the Northwest Quarter (NW $\frac{1}{4}$) of Section 24, all in Township 9 South, Range 10 East, in Pottawatomie County, Kansas. The proposed quantity of 237 acre-feet per calendar year provides 1.1 acre-feet per acre, making it the maximum reasonable quantity for Pottawatomie County (1.1 x 215.5 acres = 237 acre-feet).

2/22/2022
KJN

No wells of any kind within one-half mile of the point of diversion were identified by the applicant. A review of the WWC5 database and aerial photography supports this claim. Therefore, no nearby notification letters are required.

In an e-mail conversation on **2/15/22**, Katie Tietsort, Water Commissioner of the Topeka Field Office recommended approval of the application.

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.

Based on the above discussion, the area is open to new appropriations, the application complies with safe yield and well spacing criteria, and approval of the application will not impair senior water rights nor prejudicially or unreasonably affect the public interest. Therefore, it is recommended that the referenced application be approved.

2/16/2022
KJN

Rebecca Pollett
Environmental Scientist
Water Appropriation Program

From: Tietsort, Katie [KDA]
Sent: Tue 2/15/2022 1:53 PM
To: Pollett, Rebecca [KDA]
Cc: Bunger, Brett [KDA]
Subject: RE: New App 50633 Recommendation Request

Hello Rebecca,

This looks ready to move forward for approval, as you've recommended.

Thanks for your work on this,

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: Pollett, Rebecca [KDA] <Rebecca.Pollett@ks.gov>
Sent: Tuesday, February 15, 2022 12:34 PM
To: Tietsort, Katie [KDA] <Katie.Tietsort@ks.gov>
Cc: Bunger, Brett [KDA] <Brett.Bunger@ks.gov>
Subject: New App 50633 Recommendation Request

Katie,

Attached is the memo and Safe Yield Report for New App File No. 50,633. Please provide your recommendation and let me know if there is any additional information you need.

Thanks!

Rebecca Pollett
Environmental Scientist
Kansas Dept. of Agriculture | Division of Water Resources
Address: 1320 Research Park Dr., Manhattan, KS 66502
Website: <http://agriculture.ks.gov/divisions-programs/dwr>

Analysis Results

The selected PD is in an area OPEN to new appropriations.

The safe yield based on the variables listed below is 1,724.96 AF.

Total prior appropriations in the circle is 1,579.30 AF. **- 237 AF - 43 AF = 1299.3 AF**

Total quantity of water available for appropriation is ~~145.66 AF~~.

1724.96 AF - 1299.3 AF = 425.66 AF available*

Safe Yield Variables

The area used for the analysis is set at 5,308 acres.

The potential annual recharge at the circle center is estimated to be 3.9 inches.

The percent of recharge available for appropriation is 100%.

Authorized Quantity values are as of 11-FEB-2022 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 16 water rights and 14 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 8294 00	IRR	NK	G		NE	SE	SW	1185	2643	26	09	10E	5	WR	200.00	200.00	210.00	210.00
A 9907 00	IRR	NK	G		CS	NW	NW	0	0	30	09	11E	3	WR	96.00	96.00	147.00	147.00
A 10752 00	IRR	NK	G			NC	NE	3910	1350	30	09	11E	1	PD	115.40	115.40	312.00	312.00
Same	IRR	NK	G			S2	SW	1270	3960	19	09	11E	1	PD	88.60	88.60		
A 22068 00	IRR	NK	G			NC	SE	1335	1305	24	09	10E	2	WR	61.00	61.00	258.00	258.00
A 25011 00	IRR	NK	G	NC	E2	SW	NE	3360	1800	26	09	10E	4	WR	44.20	44.20	61.00	61.00
A 38109 00	IRR	NK	G			NW	SW	3460	5200	25	09	10E	4	WR	40.00	40.00	223.00	223.00
A 38765 00	IRR	NK	G			CN	NE	5217	547	36	09	10E	3	WR	92.00	92.00	352.00	0.00
A 39270 00	IRR	NK	G			S2	SW	1270	3960	19	09	11E	1	WR	66.00	66.00	66.00	66.00
A 39923 00	IRR	NK	G			NC	SE	1335	1305	24	09	10E	2	WR	54.00	54.00	258.00	0.00
A 42203 00	IRR	NK	G			NE	NE	5222	32	35	09	10E	8	WR	71.00	71.00	138.00	138.00
A 44703 00	IRR	NK	G			SE	NE	1724	2985	25	09	10E	5	WR	131.00	131.00	223.00	0.00
A 45270 00	IRR	NK	G			SE	SW	101	1321	19	09	11E	3	WR	128.00	128.00	129.00	129.00
A 45511 00	IRR	NK	G			NE	SE	1185	2643	26	09	10E	5	WR	121.00	0.00	210.00	0.00
A 48552 00	IRR	LR	G			NW	SW	3460	5200	25	09	10E	4	WR	100.00	74.30	223.00	0.00
A 48642 00	IRR	LR	G			NE	NE	5222	32	35	09	10E	8	WR	151.80	80.80	138.00	0.00
A 50633 00	IRR	AY	G			SE	NW	4223	4453	24	09	10E	3	WR	237.00	237.00	215.50	215.50
Same	IRR	AY	G			SE	NW	4000	650	24	09	10E	4	WR				
Same	IRR	AY	G			SE	NW	4465	4505	24	09	10E	5	WR				

Limitations

File Number	Seq Num	Limitations
A 10752 00	1	161 AF/YR FOR IRR USE ON THE LAND DESCRIBED HEREIN
A 39270 00	2	700GPM COM/W #10,752

File Number	Seq Num	Limitations
A 39923 00	2	985GPM COM/W #22068
A 45511 00	2	200 AF/YR @ 1200 GPM COM/W #8294 CHECK
A 48552 00	1	<u>245.3 AF/YR</u> COM/W #38109 & #44703
Same	2	1300 GPM COM/W #38109
A 48642 00	1	<u>151.8 AF @</u> 1200 GPM COM/W #42203 CHECK

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. 50,633** of the applicant

HARTWICH BROTHERS LLC
22900 INDEPENDENCE RD
ONAGA, KS 66521

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 **August 12, 2021**.
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 ¹ / ₄				NW ¹ / ₄				SW ¹ / ₄				SE ¹ / ₄				TOTAL
			NE ¹ / ₄	NW ¹ / ₄	SW ¹ / ₄	SE ¹ / ₄	NE ¹ / ₄	NW ¹ / ₄	SW ¹ / ₄	SE ¹ / ₄	NE ¹ / ₄	NW ¹ / ₄	SW ¹ / ₄	SE ¹ / ₄	NE ¹ / ₄	NW ¹ / ₄	SW ¹ / ₄	SE ¹ / ₄	
13	9S	10E										35	5					40	
23	9S	10E	40			40								40				20	140
24	9S	10E					35.5												35.5

3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of a battery of two (2) wells, with a geographical center located in the Southeast Quarter of the Northwest Quarter of the Northwest Quarter (SE¹/₄ NW¹/₄ NW¹/₄) of Section 24, more particularly described as being near a point 4,255 feet North and 4,449 feet West of the Southeast corner of said section, in Township 9 South, Range 10 East, Pottawatomie 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 **800 gallons per minute (1.78 c.f.s.)** and to a quantity not to exceed **237 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, 2023** 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, 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 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 acceptable water flow meters 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. These water flow meters 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.

15. 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

March 15, 2022

HARTWICH BROTHERS LLC
22900 INDEPENDENCE RD
ONAGA, KS 66521

RE: Appropriation of Water, File No. 50,633

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.kswateruserreport.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:RRP
Enclosure(s)
pc: Topeka Field Office

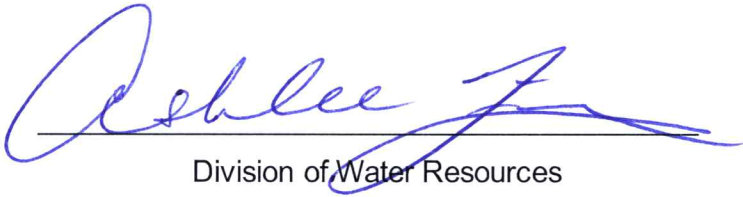
CERTIFICATE OF SERVICE

On this *15* day of *March*, 2022, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,633, dated *8 March 2022* was mailed postage prepaid, first class, US mail to the following:

HARTWICH BROTHERS LLC
22900 INDEPENDENCE RD
ONAGA, KS 66521

With photocopies to:

Topeka Field Office



Division of Water Resources