

NOTICE

This scan only represents the application as filed. The information contained herein meets the requirements of K.A.R. 5-3-1 or K.A.R. 5-5-1, and has been found acceptable for filing in the office of the Chief Engineer. The application should not be considered to be a complete application as per K.A.R. 5-3-1b or K.A.R. 5-5-2a.

Submit To:
CHIEF ENGINEER
Division of Water Resources
Kansas Department of Agriculture
1320 Research Park Drive
Manhattan, KS 66502-5000
<http://agriculture.ks.gov/dwr>

APPLICATION FOR PERMIT TO APPROPRIATE WATER FOR BENEFICIAL USE

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14:44

KS DEPT OF AGRICULTURE State of Kansas



STATUTORY FILING FEE MUST ACCOMPANY THIS APPLICATION
Please refer to the Fee Schedule attached to this application form.

51160

File Number: _____

This item to be completed by the Division of Water Resources staff.

1. Name of Applicant: Sutter Holdings LLC
Address: 13725 S MUR LEN RD
City: OLATHE State: KS Zip Code: 66062
Phone: _____ Email: _____

2. The source of water is: surface water in Unnamed Trib (stream)
 groundwater in Wakarusa River Basin (drainage basin)

3. The maximum annual quantity of water desired is 80.5 acre-feet gallons
to be diverted at a maximum rate of All Natural Flows gpm c.f.s. natural flows natural evaporation
 This project involves surface water storage and redirection. The maximum annual quantity of water desired to be
rediverted is _____ acre-feet gallons, at a rate of _____ gpm c.f.s.

Conversion Factors

1 acre-foot (AF) = 325,851 gallons

1 million gallons (mg) = 3.07 acre-feet (AF)

1 cubic foot per second (c.f.s.) = 448.8 gallons per minute (gpm)

IMPORTANT: Once your application has been assigned a priority date and file number, the requested maximum rate of diversion and maximum requested annual quantity of water under that priority number can **NOT** be increased. Please be certain your requested maximum rate of diversion and maximum annual quantity of water are appropriate and reasonable for your proposed project.

4. The water is intended to be appropriated for the following use(s):
 Artificial Recharge* Irrigation* Recreational* Water Power*
 Industrial* Municipal* Stockwatering* Sediment Control
 Domestic Dewatering Hydraulic Dredging Fire Protection
 Thermal Exchange Contamination Remediation

***IMPORTANT:** You **must** submit a supplemental form providing information to substantiate your request for the quantity of water listed in Item No. 3 for the intended use(s) referenced above.

FOR OFFICE USE ONLY							
FO	<u>1</u>	GMD	DUA	Use	<u>REC</u>	Source	County
Code	<u>REG</u>	Fee \$	<u>200</u>	TR #		Receipt Date	<u>12-18-23</u>
						By	<u>DG ALB</u>
						Date	<u>12/19/23</u>
						Check #	<u>1239</u>

5. The location(s) of the proposed diversion work(s) (well, pumpsite, etc.) are described below. Note that for the application to be accepted, the point of diversion location(s) **must** be described to at least a 10-acre tract, unless you specifically request a 60-day period of time in which to locate the site within a specifically described, minimal legal quarter section of land. You can specify a nickname for the point of diversion via the A.K.A. line to help you identify it.

If the source of supply is groundwater, a separate application shall be filed for each proposed well or battery of wells, except that a single application may include up to four wells within a circle with a quarter (1/4) mile radius in the same local source of supply which do not exceed a maximum diversion rate of 20 gallons per minute per well.

A battery of wells is defined as two or more wells connected to a common pump by a manifold; or not more than four wells in the same local source of supply within a 300-foot radius circle which are being operated by pumps not to exceed a total maximum diversion rate of 800gpm and which supply water to a common distribution system.

(A) One in the SE quarter of the SW quarter of the SE quarter of Section 36, more particularly described as being near a point 585 feet North and 1640 feet West of the Southeast corner of said section, in Township 13 South, Range 19 E W, Douglas County, KS. A.K.A: _____

(B) One in the _____ quarter of the _____ quarter of the _____ quarter of Section _____, more particularly described as being near a point _____ feet North and _____ feet West of the Southeast corner of said section, in Township _____ South, Range _____ E W, _____ County, KS. A.K.A: _____

(C) One in the _____ quarter of the _____ quarter of the _____ quarter of Section _____, more particularly described as being near a point _____ feet North and _____ feet West of the Southeast corner of said section, in Township _____ South, Range _____ E W, _____ County, KS. A.K.A: _____

(D) One in the _____ quarter of the _____ quarter of the _____ quarter of Section _____, more particularly described as being near a point _____ feet North and _____ feet West of the Southeast corner of said section, in Township _____ South, Range _____ E W, _____ County, KS. A.K.A: _____

(E) One in the _____ quarter of the _____ quarter of the _____ quarter of Section _____, more particularly described as being near a point _____ feet North and _____ feet West of the Southeast corner of said section, in Township _____ South, Range _____ E W, _____ County, KS. A.K.A: _____

6. The proposed project for diversion of water will consist of Dam _____
(number of wells, pumps, dams, etc.)
and was/will be completed on or by the following date: 2020 _____
(date each was or will be completed)

7. The first actual application of water for the proposed beneficial use was or is estimated to be _____
(Date)

8. List any application, appropriation of water, water right, or vested right file number that covers the same point(s) of diversion or any of the same place of use described in this application. Also list any other recent modifications made to existing permits or water rights in conjunction with the filing of this application.

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9. Will pesticide, fertilizer, or other foreign substance be injected into the water pumped from the diversion works?

Yes No

If **yes**, a check valve shall be required. All chemigation safety requirements must be met including a chemigation permit and reporting requirements.

10. If you are planning to impound water, please contact DWR prior to submitting this application. Please attach a reservoir area capacity table and inform us of the total acres of surface drainage area above the reservoir.

Have you made an application for a permit for construction of this dam and reservoir with DWR? Yes No

If yes, write the Water Structures permit number here: DDG-0334

11. Furnish a detailed topographic or aerial map that depicts the following information:

The application **must** be supplemented by a topographic map, aerial photograph or a detailed plat showing the information described in A-D below.

- (A) The center of the section, the section lines or the section corners, and labels showing the appropriate section, township and range numbers, as well as a north arrow and scale,
- (B) The location of the proposed point(s) of diversion (wells, stream-bank installations, dams, or other diversion works) described in Item No. 5 of the application, showing the North-South distance and the East-West distance from a section line or southeast corner of section,
- (C) The location of the proposed place of use identified by crosshatching,
- (D) **For Groundwater Use**, the location of any existing water wells of any kind within 1/2 mile of the proposed well or wells and indicate for each well its type of use and the name and mailing address of the property owner or owners, (If there are no wells within 1/2 mile, please indicate that on the map.)

For Surface Water Use, the names and addresses of the landowner(s) 1/2 mile downstream and 1/2 mile upstream from your property lines, and

- (E) The locations of proposed or existing dams, dikes, reservoirs, canals, pipelines, power houses, and any other structures for the purpose of storing, conveying, or using water.

12. For groundwater use, furnish copies of the driller's logs for all test holes or completed wells. Please ensure that the driller's logs provide depth to the static water level. If driller's logs cannot be obtained for an existing well, provide the following information:

Well location as shown in Item No. 5	(A)	(B)	(C)	(D)	(E)
Date drilled	_____	_____	_____	_____	_____
Total depth of well	_____	_____	_____	_____	_____
Depth to static water level	_____	_____	_____	_____	_____

13. The owner(s) of the point of diversion, if other than the applicant is:

(name, address, and phone)

(name, address, and phone)

14. The owner(s) of the property where the water is used, if other than the applicant, is:

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- NA -

(name, address, and phone)

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(name, address, and phone)

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15. The relationship of the applicant to the proposed place where the water will be used is that of:

Owner Agent Tenant Other: _____

16. A water use correspondent (WUC) must be designated. The WUC will be mailed the annual water use report, which must be filed with the Division by March 1 of each year. Failure to timely file an accurate water use report will subject the owner(s) to a civil fine of up to \$1,000 and potential suspension of the water appropriation or right. By signing this application, I verify that the owner(s) of the water right or permit have confirmed that the following person or agent should be designated as the WUC:

- NA -

(name, address, and phone)

17. I understand that if this application is approved, there could be times, as determined by the Division of Water Resources, when I would not be allowed to divert water. This could affect the economics of my decision to appropriate water. Situations where this might occur may include times when minimum desirable streamflow (MDS) requirements are not met, when Assurance District or Water Marketing releases are made from storage in federal reservoirs, when a Water Reservation Right upstream of a federal reservoir is administered, or when water rights administration becomes necessary to prevent impairment.

I declare, under penalty of perjury, that I have legal access to or control of, the point(s) of diversion described in this application from the landowner or the landowner's authorized representative.

By signing below, I verify that the information set forth above is true to the best of my knowledge, I agree with all statements made above, and that this application is submitted in good faith.



(Applicant Signature)

12/6/23

(Date)

William Sutter

(Applicant Name - please print)

(Applicant Title, if applicable - please print)

Assisted by TBS TFO Date: 11/30/23
(office/title)

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**RECREATIONAL USE
SUPPLEMENTAL SHEET**

File No. _____

Name of Applicant (Please Print): Sutter Holdings LLC

1. Please indicate type of recreational use (boating, fishing, swimming, etc.): _____
Boating, Fishing, Swimming

2. Please summarize how the water will be used and justify the quantity of water requested: _____

Pond surface area: 13.8 acres

Additional 59.8 AF for seepage: (13.8 acres x 1"x52)/12=59.8

(13.8 x 6")/12=6.9 AF of evap x 3 years of evap= 20.7 AF

Total requested quantity = 80.5 AF

3. Please complete the following table showing estimated future water requirements:

ESTIMATED FUTURE WATER DIVERTED/STORED	
NEXT 5 YEARS	WATER TO BE DIVERTED (ACRE-FEET OR GALLONS)
Year 1	80.5 AF
Year 2	
Year 3	
Year 4	
Year 5	80.5 AF

Please attach any additional information, tables, or curves showing past, present and estimated future water requirements to substantiate the amount of water requested.


4. Please designate the legal description of the location where the water is to be used by providing the fractional part of the Section, Township and Range.

1 Reservoir located in the Southeast Quarter of Section 36, Township 13 South, Range 19 East, Douglas Co.

You may attach any additional information you believe will assist in informing the Division of the need for your request.

You may contact me to discuss this matter before the **December 15, 2023** deadline at (785) 296-8681, or if you need any assistance in completing the application forms.

Sincerely,



Tyler Smith
Environmental Scientist
Topeka Field Office

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K.S.A. 82a-728. Unlawful acts; penalties. (a) Except for the appropriation of water for the purpose of domestic use, the production and return of salt water in connection with the operation of oil and gas wells in accordance with the written approval granted therefor by the Kansas corporation commission pursuant to K.S.A. 55-901, and amendments thereto, the withdrawal and use of water in accordance with provisions of K.S.A. 82a-1313, and amendments thereto, and the annual diversion and beneficial use of not more than 15 acre feet of surface water impounded in any reservoir having a total water volume of less than 15 acre feet, it shall be unlawful for any person to appropriate or threaten to appropriate water from any source without first applying for and obtaining a permit to appropriate water in accordance with the provisions of chapter 7 of article 82a of the Kansas Statutes Annotated and acts amendatory thereof or supplemental thereto or, for any person to violate any condition of a vested right, appropriation right or an approved application for a permit to appropriate water for beneficial use. As used in this subsection salt water shall mean water containing more than 5,000 milligrams per liter chlorides.

(b) (1) The violation of any provision of this section by any person is a class C misdemeanor. (2) Each day that any such violation occurs after notice of the original violation is given by the chief engineer to any such violator by restricted mail shall constitute a separate offense. (**History:** L. 1977, ch. 356, § 2; L. 1981, ch. 397, § 2; July 1.)

Enclosures

FEE SCHEDULE

Make checks payable to the Kansas Department of Agriculture.

1. The fee for an application for a permit to appropriate water for beneficial use, except for domestic, waterpower, dewatering, or sediment control use, shall be (see No. 2 below if requesting storage):

Million Gallons (mg)	Acre-Feet (AF)	Fee
≤ 32.585	≤ 100	\$200.00
32.586 - 104.272	100.1 – 320.0	\$300.00
> 104.272	> 320	\$300.00 plus \$20 for each additional 100AF (32.586mg) or any part thereof

2. The fee for an application in which **storage** of water is requested, except for domestic use, shall be:

Million Gallons (mg)	Acre-Feet (AF)	Fee
≤ 81.462	≤ 249.9	\$200.00
≥ 81.463	≥ 250	\$200.00 plus \$20 for each additional 100AF (32.586mg) or any part thereof

Note: If an application requests both direct use *and* storage, the fee charged shall be as determined under No. 1 or No. 2 above, whichever is greater, but not both fees.

3. The fee for an application for **waterpower** or **dewatering** use shall be \$100.00 plus \$200.00 for each 44,880 gallons per minute (100 c.f.s.), or part thereof, of the diversion rate requested.

IMPORTANT NOTICE

If this application is approved, the applicant shall notify the Chief Engineer when the diversion works (well, pump, reservoir, pit, etc.) has/have been completed via the *Notice of Completion of Diversion Works* form (DWR 1-203.11) and along with the statutorily required field inspection fee of:

- \$200.00 for sediment control use or groundwater pits for industrial use, or
- \$400.00 for all other uses made of water

Failure to complete the diversion works by the deadline specified in the *Approval of Application and Permit to Proceed* (or any subsequent extension of time of said deadline) and/or failure to submit the proper notice and field inspection fee will result in the dismissal of the appropriation and forfeiture of any priority associated with it.

For assistance with this application, please contact the Division of Water Resources (DWR).

Manhattan HQ 1320 Research Park Dr. Manhattan, KS 66502 785-564-6638	Topeka Field Office 1131 SW Winding Rd, Ste 400 Topeka, KS 66615 785-296-5733	Stafford Field Office 300 S. Main St Stafford, KS 67578 620-234-5311	Stockton Field Office 820 S. Walnut Stockton, KS 67669 785-425-6787	Garden City Field Office 4532 W. Jones Ave, Ste B Garden City, KS 67846 620-276-2901
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Helpful Sources of Information

DWR Water Appropriation Program	https://agriculture.ks.gov/divisions-programs/dwr/water-appropriation
DWR Water Appropriation Forms	https://agriculture.ks.gov/divisions-programs/dwr/water-appropriation/water-appropriation-forms
KGS Water Well Completion Records	https://www.kgs.ku.edu/Magellan/WaterWell/index.html
DWR Structures Program	https://agriculture.ks.gov/divisions-programs/dwr/dam-safety/permit-requirements

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

December 22, 2023

SUTTER HOLDING LLC
13725 S MUR LEN RD
OLATHE KS 66062

RE: Application, File No(s). **51160**

Dear Sir or Madam:

The Division of Water Resources (Division) has received your application(s) for a permit to appropriate water for beneficial use. Your application(s) has been assigned the file number(s) referenced above. Please be aware that the Division may have a large number of pending applications on hand at times and makes every attempt to process them in the order in which they are received. You will be contacted if additional information is required.

Please note, this letter only acknowledges receipt of your application(s) and does not guarantee approval. In accordance with the provisions of the Kansas Water Appropriation Act, the use of water as proposed prior to approval of the application(s) is unlawful.

Additional information about the process may be found on our website at agriculture.ks.gov/divisions-programs/dwr. If you have any other questions, 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,

Kris Neuhauser
New Applications Lead
Water Appropriation Program