

File No. **49,957** 15. Formation Code: Drainage Basin: County: Special Use: Stream:

16. Points of Diversion									17. Rate and Quantity				
MOD	PDIV	Qualifier	S	T	R	ID	'N	'W	Authorized		Additional		
DEL									Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files
DEL	86491	NW	7	29S	3W	1	3300	3300	800	308.1	800	308.1	

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 _____ Date Acceptable Meter Installed _____

21. Place of Use									NE¼								NW¼				SW¼				SE¼				Total	Owner	Chg?	Overlap Files
MOD	PUSE	S	T	R	ID	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼											
DEL	68665	7	29S	3W	1					5		40	35	39	39.5	39	39.5								237	7A						

Comments: **60 days to locate failure to return dismissal.**

STATE OF KANSAS

DEPARTMENT OF AGRICULTURE
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GOVERNOR JEFF COLYER, M.D.
JACKIE McCLASKEY, SECRETARY OF AGRICULTURE

July 3, 2018

COLE MILLER
39601 W 31ST STREET SOUTH
CHENEY KS 67025

FILE COPY

RE: Dismissal of Application
File No. 49,957

Dear Sir or Madam;

The referenced application was returned to you for additional information on January 12, 2018. Enclosed is a Findings and Order by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, dismissing Application, File No. 49,957, for failure to return the original application and provide the required information, prior to the final deadline of May 12, 2018.

This is a final agency action. If you choose to appeal this decision or any finding or part thereof, you must do so by filing a petition for review in the manner set forth in the enclosed order.

If you have any questions, please contact our office. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

A handwritten signature in cursive script that reads "Kristen A. Baum".

Kristen A. Baum
New Application Unit Supervisor
Water Appropriation Program

KAB: ajw

Enclosures

pc: Stafford Field Office
Wanda L Miller Rev Trust



KANSAS DEPARTMENT OF AGRICULTURE
Jackie McClaskey, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

**FINDINGS AND ORDER
IN THE MATTER OF THE
DISMISSAL OF APPLICATION
FILE NO. 49,957**

After due consideration, the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture (hereinafter referred to as the "Chief Engineer"), makes the following findings and order:

FINDINGS

1. That on December 20, 2017, the Chief Engineer received an application from Cole Miller for permit to appropriate water for beneficial use, assigned File No. 49,957, proposing the appropriation of 308.1 of groundwater, for irrigation use, at a maximum requested diversion rate of 800 gallons per minute, from a point of diversion located in a tract of land in Section 7, Township 29 South, Range 3 West, Sedgwick County, Kansas.
2. That in accordance with K.A.R. 5-3-1, the application was accepted for filing provided that the applicant submit a more specific location of the point of diversion within 60 days of receipt of the new application.
3. That in accordance with K.S.A. 82a-710 and K.A.R. 5-3-1b, the application was returned to the applicant on January 12, 2018, with a letter requesting additional information, including the specific location for the proposed point of diversion, in order to complete the application.
4. That on March 13, 2018, the applicant was provided a deadline of May 12, 2018, in which to return the application with the required information and notified that the application would be dismissed if it was not returned within the time allowed or within any authorized extension of time thereof.
5. That the applicant was reminded of the deadline by letter dated April 18, 2018.
6. That no further correspondence was received from the applicant by the deadline of May 12, 2018.
7. That as required by K.S.A. 82a-710, the application, described in Paragraph No. 1, shall be denied and dismissed for failure to return the application with the requested information.

ORDER

NOW, THEREFORE, It is the decision and order of the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, that effective the date of this order, in accordance with the law, Application, File No. 49,957, is herewith dismissed and the priority assigned to it is considered to be forfeited.

(over)

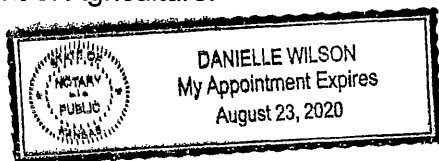
Ordered this 2nd day of July, 2018, in Topeka, Shawnee County, Kansas.

Lane P. Letourneau

Lane P. Letourneau, P.G.
Water Appropriation Program Manager
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 2nd day of July, 2018, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.



Danielle Wilson
Notary Public

**RIGHT TO PETITION FOR REVIEW
UNDER THE KANSAS JUDICIAL REVIEW ACT**

This is a final agency action as defined in K.S.A. 77-607(b). You may pursue judicial review of this Order as provided in the Kansas Judicial Review Act, K.S.A. 77-601 et seq. A petition for judicial review must be filed in a Kansas court of competent jurisdiction within 30 days after service of this Order as provided in K.S.A. 77-613. The agency officer designated to receive service of a petition for judicial review on behalf of the Kansas Department of Agriculture is the Chief Legal Counsel, Kansas Department of Agriculture, 1320 Research Park Dr. Manhattan, KS 66502.

CERTIFICATE OF SERVICE

On this 3rd day of July, 2018, I hereby certify that the foregoing Order dated July 2nd, 2018, was mailed postage prepaid, first class, US mail to the following:
Original to:

COLE MILLER
39601 W 31ST STREET SOUTH
CHENEY KS 67025

With photocopy to:

WANDA L MILLER REV TRUST
654 N LAKE RD
CHENEY KS 67025

Stafford Field Office

Amber J. Herring

Division of Water Resources Staff

STATE OF KANSAS

DEPARTMENT OF AGRICULTURE
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GOVERNOR JEFF COLYER, M.D.
JACKIE McCLASKEY, SECRETARY OF AGRICULTURE

April 18, 2018

FILE COPY

COLE MILLER
39601 W 31ST STREET SOUTH
CHENEY KS 67025

Re: Pending Application,
File No. 49,957

Dear Sir or Madam:

The Division of Water Resources returned the above referenced application to you for additional information on January 12, 2018, and the current deadline for your response is May 12, 2018. The purpose of this letter is to provide a reminder that in order for you to retain your priority of filing, the original application and requested information needs to be returned to this office on or before **May 12, 2018**, or within any authorized extension of time thereof. According to law, default in refiling of the completed application and attachments within the time allowed shall constitute forfeiture of priority date and dismissal of the application.

If an extension of time is necessary to supply the requested information, please request the extension of time in writing before **May 12, 2018**. Provide information as to why the additional time is needed and how much additional time is requested. Please note that since there are instances when the Chief Engineer may deny your request for an extension of time, there is no guarantee that future requests for more time will be granted.

If you have any questions, please contact me at (785) 564-6631 or by email at alex.whitesell@ks.gov. If you wish to discuss a specific file, please have the file number ready so that I may help you more efficiently.

Sincerely,

Alex Whitesell
Environmental Scientist
Water Appropriation Program

pc:

SCANNED

STATE OF KANSAS

DEPARTMENT OF AGRICULTURE
1320 RESEARCH PARK DRIVE
MANHATTAN, KS 66502
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GOVERNOR JEFF COLYER, M.D.
JACKIE McCLASKEY, SECRETARY OF AGRICULTURE

March 13, 2018

FILE COPY

COLE MILLER
39601 W 31ST STREET SOUTH
CHENEY KS 67025

Re: Pending Application,
File No. 49,957

Dear Mr. Miller:

In response to your written request by electronic mail received in this office on March 7, 2018, the Chief Engineer is allowing an extension of time for sixty (60) days, in which to supply further information concerning the above referenced file. The original application was returned to you on January 12, 2018, and with this extension of time, the revised deadline will be May 12, 2018.

Extension requests are evaluated on a case by case basis. Since it appears that no pending application would be adversely affected by granting this extension, you are being allowed an additional 60 days. If you determine that additional time will be needed, you may submit another request for an extension prior to the deadline given above. Please note that since there are instances when the Chief Engineer may deny your request for an extension of time, there is no guarantee that future requests for more time will be granted.

In order to retain its priority of filing, the original application and attachments must be returned to this office with the requested information on or before May 12, 2018, or within any authorized extension of time thereof. According to law, default in refiling of the completed application and attachments within the time allowed shall constitute forfeiture of priority date and dismissal of the application.

If you have any questions, please contact me at (785) 564-6631 or by email at alex.whitesell@ks.gov. If you wish to discuss a specific file, please have the file number ready so that I may help you more efficiently.

Sincerely,

A handwritten signature in black ink, appearing to read "Alex Whitesell".

Alex Whitesell
Environmental Scientist
Water Appropriation Program

pc:

SCANNED

Whitesell, Alex [KDA]

From: Cole Miller <cole.l.miller@gmail.com>
Sent: Wednesday, March 07, 2018 8:26 AM
To: Whitesell, Alex [KDA]
Subject: Request 60-day Extension to Locate - Pending Application #49957

Mr. Whitesell -

Please consider approval for my request to extend the period to locate the well site for our irrigation project. My well driller has not come to locate yet as conditions for well drilling have not been good this winter. I expect this well information to be obtained in the next 30 days...but please pursue a 60 day extension to ensure we need not extend again.

Thanks for your help! Cole Miller

STATE OF KANSAS

DEPARTMENT OF AGRICULTURE
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GOVERNOR JEFF COLYER, M.D.
JACKIE McCLASKEY, SECRETARY OF AGRICULTURE

March 5, 2018 **FILE COPY**

COLE WMILLER
39601 W 31ST SOUTH
CHENEY KS 67025

Re: Pending Application,
File No. 49,957

Dear Mr. Miller:

The Division of Water Resources returned the above referenced application to you for additional information on January 12, 2018, and the current deadline for your response is March 12, 2018. The purpose of this letter is to provide a reminder that in order for you to retain your priority of filing, the original application and requested information needs to be returned to this office on or before **March 12, 2018**, or within any authorized extension of time thereof. According to law, default in refiling of the completed application and attachments within the time allowed shall constitute forfeiture of priority date and dismissal of the application.

If an extension of time is necessary to supply the requested information, please request the extension of time in writing before **March 12, 2018**. Provide information as to why the additional time is needed and how much additional time is requested. Please note that since there are instances when the Chief Engineer may deny your request for an extension of time, there is no guarantee that future requests for more time will be granted.

If you have any questions, please contact me at (785) 564-6631 or by email at alex.whitesell@ks.gov. If you wish to discuss a specific file, please have the file number ready so that I may help you more efficiently.

Sincerely,

Alex Whitesell
Environmental Scientist
Water Appropriation Program

pc:

SCANNED

1320 Research Park Drive
Manhattan, Kansas 66502
(785) 564-6700



900 SW Jackson, Room 456
Topeka, Kansas 66612
(785) 296-3556

Jackie McClaskey, Secretary

Governor Sam Brownback

January 12, 2018

FILE COPY

COLE MILLER
39601 W 31ST STREET SOUTH
CHENEY KS 67025

Re: Pending Application,
File No. 49,957

Dear Mr. Miller:

After a preliminary review of your above referenced application for permit to appropriate water received in this office on December 20, 2017, it is being returned to you for additional information. In your original application, you requested a 60-day period of time in which to determine the precise location for your point of diversion within a specified quarter section tract of land described as the Northwest Quarter (NW¼) of Section 7, in Township 29 South, Range 3 West, Sedgwick County, Kansas. Due to our delay in returning the original application to you, the 60-day period of time will start as of the date of this letter.

Once you've determined the precise location for your point of diversion, complete the rest of Paragraph No. 5 of your application by providing the description for the 10-acre tract location of the point of diversion as well as the feet distances North and West of the Southeast corner of the Section. The location of the point of diversion must also be plotted on the topographical map included. In the case of a battery of wells, please provide the description of the location of the proposed geographic center of the well battery, as well as **the location for each of the individual wells comprising the battery of wells**.

The locations of all other water wells of every kind within one-half mile (½) of the point of diversion must be plotted on the topographical map as well. Each well should be identified as to its use (e.g. domestic, irrigation, industrial, etc.) and must **include the name and mailing address of the well owner**. A signed statement should be included on the map declaring that all wells within one-half mile (½) of the point of diversion have been plotted, or it should declare that none exist. Please provide this information once you have established your point of diversion.

Paragraph No. 13 of the application requests well information so the source of supply of the proposed well may be determined. Pursuant to K.A.R. 5-3-4d, this office requires a stratigraphic log of a well or test hole within 300 feet of the proposed point of diversion. Please supply the indicated information and a test hole log or a driller's log with the returned application.

In order to retain its priority of filing, the original application and attachments must be returned to this office with the requested information on or before **March 12, 2018**, or within any authorized extension of time thereof. According to law, default in refiling of the completed application and attachments within the time allowed shall constitute forfeiture of priority date and dismissal of the application.

If you have any questions, please contact me at (785) 564-6631 or by email at alex.whitesell@ks.gov. If you wish to discuss a specific file, please have the file number ready so that I may help you more efficiently.

Sincerely,

Alex Whitesell
Environmental Scientist
Water Appropriation Program

enclosures
pc:

SCANNED

1320 Research Park Drive
Manhattan, Kansas 66502
Jackie McClaskey, Secretary



Phone: (785) 564-6700
Fax: (785) 564-6777
Email: ksag@kda.ks.gov
www.agriculture.ks.gov
Sam Brownback, Governor

December 20, 2017

COLE MILLER
39601 W 31ST ST SOUTH
CHENEY KS 67025

FILE COPY

RE: Application
File No. 49957

Dear Sir or Madam:

Your application for permit to appropriate water in 7-29S-3W in Sedgwick County, was received and has been assigned the file number noted above.

As a matter of record, the Division of Water Resources has on hand a large number of applications awaiting processing. Therefore to be fair to all concerned, and so that we can process those applications on hand in the order they were received, we intend to concentrate on the backlog of applications until the issue is resolved. Once review of your application has begun, we will contact you, if additional information is required.

In accordance with the provisions of the Kansas Water Appropriation Act, a portion of which is included below, the use of water as proposed prior to approval of the application is unlawful. Once approved, compliance with the terms, conditions and limitations of the permit is necessary. Conservation of the water resources of Kansas is required.

Section 82a-728 of the Kansas Water Appropriation Act, provides (a) except for the appropriation of water for the purpose of domestic use, . . . 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 the Water Appropriation Act 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.

(b) (1) The violation of any provision of this section by any person is a class C misdemeanor . . .

A class C misdemeanor is punishable by a fine not to exceed \$500 and/or a term of confinement not to exceed one month in the county jail. Each day that the violation occurs constitutes a separate offense.

If you have any questions, please contact me at (785) 564-6637. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

A handwritten signature in black ink that reads "Kristen A. Baum".

Kristen A. Baum
New Applications Unit Supervisor
Water Appropriation Program

BAT: dlw
pc: STAFFORD Field Office
GMD

SCANNED