



File No. **50,012**      15. Formation Code:      Drainage Basin:      County:      Special Use:      Stream:

16. Points of Diversion										17. Rate and Quantity						
T	MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Authorized		Additional		Overlap PD Files
												Rate gpm	Quantity af	Rate gpm	Quantity af	
		<b>DEL</b>		<b>86643</b>	<b>NW</b>	<b>35</b>	<b>31S</b>	<b>2E</b>	<b>4</b>	<b>3960</b>	<b>3960</b>	<b>800</b>	<b>126</b>	<b>800</b>	<b>126</b>	

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		
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						
		<b>DEL</b>		<b>68783</b>	<b>35</b>	<b>31S</b>	<b>2E</b>	<b>2</b>						<b>31</b>	<b>39</b>	<b>24</b>	<b>3</b>										<b>97</b>	<b>7A</b>			

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

STATE OF KANSAS

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

JOHN HERVEY  
785 N WEBB RD  
BELLE PLAINE KS 67013

June 27, 2018

**FILE COPY**

RE: Dismissal of Application  
File No. 50,012

Dear Mr. Hervey;

The referenced application was returned to you for additional information on March 30, 2018. Enclosed is a Findings and Order by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, dismissing Application, File No. 50,012, for failure to return the original application and provide the required information, prior to the final deadline of May 15, 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



**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. 50,012**

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 March 15, 2018, the Chief Engineer received an application from John R. Hervey for permit to appropriate water for beneficial use, assigned File No. 50,012, proposing the appropriation of 126 of groundwater, for irrigation use, at a maximum requested diversion rate of 800 gallons per minute, from a point of diversion located in the Northwest Quarter (NW $\frac{1}{4}$ ) of Section 35, Township 31 South, Range 2 East, Sumner 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 March 30, 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 30, 2018, the applicant was provided a deadline of May 15, 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 19, 2018.
6. That no further correspondence was received from the applicant by the deadline of May 15, 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. 50,012, is herewith dismissed and the priority assigned to it is considered to be forfeited.

(over)

Ordered this 25<sup>th</sup> day of June, 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 25<sup>th</sup> day of June, 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 27<sup>th</sup> day of June, 2018, I hereby certify that the foregoing Order dated June 25<sup>th</sup>, 2018, was mailed postage prepaid, first class, US mail to the following:

Original to:

JOHN HERVEY  
785 N WEBB RD  
BELLE PLAINE KS 67013

With photocopy to:

Stafford Field Office

Danielle Wilson

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 19, 2018

JOHN R HERVEY  
785 N WEBB RD  
BELLE PLAINE KS 67013

FILE COPY

Re: Pending Application,  
File No. 50,012

Dear Sir or Madam:

The Division of Water Resources returned the above referenced application to you for additional information on March 30, 2018, and the current deadline for your response is May 15, 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 15, 2018**, or within any authorized extension of time thereof. According to law, default in refileing 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 15, 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,

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

Alex Whitesell  
Environmental Scientist  
Water Appropriation Program

pc:

SCANNED

# STATE OF KANSAS

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

March 30, 2018

**FILE COPY**

JOHN R HERVEY  
785 N WEBB RD  
BELLE PLAINE KS 67013

Re: Pending Application,  
File No. 50,012

Dear Mr. Hervey:

After a preliminary review of your above referenced application for permit to appropriate water received in this office on March 15, 2018, 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 35, in Township 31 South, Range 2 East, Sumner County, Kansas.

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 **May 15, 2018**, or within any authorized extension of time thereof. According to law, default in re-filing 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**

# STATE OF KANSAS

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

March 19, 2018

JOHN R HERVEY  
785 N WEBB RD  
BELLE PLAINE KS 67013

RE: Application  
File No. 50012

Dear Sir or Madam:

Your application for permit to appropriate water in 35-31S-2E in Sumner 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,

Kristen A. Baum  
New Applications Unit Supervisor  
Water Appropriation Program

BAT: dlw  
pc: STAFFORD Field Office  
GMD

SCANNED