

**FINDINGS & ORDER**

Kansas Department of Agriculture  
Division of Water Resources  
**CLOSURE OF NEW APPLICATION WORKSHEET**

1. File Number: <b>50,354</b>	2. Status Change Date: <b>4/28/2021</b>	3. Field Office: <b>02</b>	4. GMD: <b>0</b>
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5. Status:  Approved  Denied by DWR/GMD  Dismiss by Request/Failure to Return

6. Enclosures:  Check Valve  N of C Form  Water Tube  Driller Copy  Meter

7a. Applicant(s)  New to system  Person ID **30313**  
Add Seq# \_\_\_\_\_

**RANDY L & SHELLY SHUMATE**  
**11207 WILDFIRE RD**  
**MINNEOLA, KS 67865**

7b. Landowner(s)  New to system  Person ID \_\_\_\_\_  
Add Seq# \_\_\_\_\_

**MICK JOHNSON**  
**705 CR G**  
**MINNEOLA, KS 67865**

7c. Landowner(s)  New to system  Person ID 65797 \_\_\_\_\_  
Add Seq# \_\_\_\_\_

**SHERI MAYBURY**  
**1906 GILTSHIRE DR**  
**COLORADO SPRINGS, CO 80905-4224**

7d. Misc.  New to system  Person ID \_\_\_\_\_  
Add Seq# \_\_\_\_\_

8. WUR Correspondent  New to system  Person ID **65798**  
Overlap File (s) WUC  Add Seq# \_\_\_\_\_  
 Notarized WUC Form  
Agree  Yes  No  
**7b**

9. Use of Water: Changing?  Yes  No

Groundwater  Surface Water

IRR  REC  DEW  MUN

STK  SED  DOM  CON

HYD DRG  WTR PWR  ART RECHRG

IND SIC: \_\_\_\_\_  OTHER: \_\_\_\_\_

10. Completion Date: \_\_\_\_\_ 11. Perfection Date: \_\_\_\_\_ 12. Exp Date: \_\_\_\_\_

13. Conservation Plan Required?  Yes  No Date Required: \_\_\_\_\_ Date Approved: \_\_\_\_\_ Date to Comply: \_\_\_\_\_

14. Water Level Measuring Device?  Yes  No Date to Comply: \_\_\_\_\_ Date WLMD Installed: \_\_\_\_\_

Date Prepared: **1/11/21** By: **BMM**  
Date Entered: **5/4/2021** By: **LMoody**

**4/15/2021**  
**Llreland**

File No. **50,354**      15. Formation Code:      Drainage Basin: **Crooked Creek**      County:      Special Use:      Stream:

16. Points of Diversion									
T MOD DEL ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	
<del>CHK</del>	<b>25547</b>	<b>NE NE NE</b>	<b>6</b>	<b>30S</b>	<b>25W</b>	<b>1</b>	<b>5135</b>	<b>35</b>	
<b>DEL</b>									

17. Rate and Quantity				
Authorized		Additional		
Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files
<b>400</b>	<b>256</b>		<b>190</b>	<b>15,736</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								
<del>CHK</del>	<b>17992</b>	<b>6</b>	<b>30S</b>	<b>25W</b>	<b>1</b>	<b>40</b>	<b>40</b>	<b>40</b>	<b>40</b>														<b>160</b>	<b>7a, 7c.</b>	<b>No</b>	<b>15,736</b>			
<b>DEL</b>																													

Comments: **PD & PU REMAIN AUTHORIZED BY FILE NO 15736**

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

**M E M O R A N D U M**

**TO:** Files

**DATE:** January 11, 2021

**FROM:** Brandon Milner

**RE:** Application, File No. 50,354

Randy and Shelly Shumate filed the referenced application for a permit to appropriate water for beneficial use, proposing the appropriation of 256 acre-feet of groundwater for irrigation use. The application proposed using an existing well site located in the Northeast Quarter of the Southeast Quarter of the Northeast Quarter (NE ¼, NE ¼, NE ¼) of Section 6, Township 25 South, Range 25 West in Clark County.

The proposed point of diversion is located within South-Central Kansas Designated Unit Area, BLC-67. Based on the original quantity of water available in this designated unit (5,557 acre-feet) and the current quantity of water appropriated (5,558 acre-feet), there remains **no water available** in Designated Unit Area, BLC-67.

The applicant was sent a letter on November 20, 2020 explaining the safe yield evaluation and stating that it would be recommended to the Chief Engineer that pending application, File No. 50,354 be denied and dismissed due to the failure to meet safe yield criteria, as required by K.A.R. 5-3-10 and K.A.R. 5-3-11. The applicant was provided 15 days (December 6, 2020) to either (1) submit additional information to our office or (2) request additional time beyond the 15 days to submit additional information. An additional letter was sent to the applicant on December 8, 2020 providing the applicant 15 days (December 23, 2020) to either (1) submit additional information to our office or (2) request additional time beyond the 15 days to submit additional information after a conversation with the Stafford Field Office on December 7, 2020 until December 23, 2020.

No response of any kind was received from the applicant. Therefore, based on the existing information, it is recommended that the referenced application be denied and dismissed for failure to meet safe yield criteria.

Brandon Milner  
Environmental Scientist  
Water Appropriation Program

**From:** Conant, Cameron [KDA]  
**Sent:** Mon 12/7/2020 4:23 PM  
**To:** Neuhauser, Kris [KDA];Milner, Brandon [KDA];Baum, Kristen [KDA]  
**Subject:** RE: New Application 50354 & 50243

That is good news for us in that we didn't just miss something but bad news for the poor guys in that DUA (covers 111,000 acres!!!!). Speculative water at a feedyard expansion is hamstringing these poor fellas!

Cam

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**From:** Neuhauser, Kris [KDA] <Kris.Neuhauser@ks.gov>  
**Sent:** Monday, December 7, 2020 4:17 PM  
**To:** Conant, Cameron [KDA] <Cameron.Conant@ks.gov>; Milner, Brandon [KDA] <Brandon.M.Milner@ks.gov>; Baum, Kristen [KDA] <Kristen.Baum@ks.gov>  
**Subject:** RE: New Application 50354 & 50243

I believe it was open! 50,185, 50,186, and 50,187 were approved by Brandon this year, which were enough to close it. 50187 was approved on 5/22/2020.

Kris

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**From:** Conant, Cameron [KDA] <[Cameron.Conant@ks.gov](mailto:Cameron.Conant@ks.gov)>  
**Sent:** Monday, December 7, 2020 3:57 PM  
**To:** Neuhauser, Kris [KDA] <[Kris.Neuhauser@ks.gov](mailto:Kris.Neuhauser@ks.gov)>; Milner, Brandon [KDA] <[Brandon.M.Milner@ks.gov](mailto:Brandon.M.Milner@ks.gov)>; Baum, Kristen [KDA] <[Kristen.Baum@ks.gov](mailto:Kristen.Baum@ks.gov)>  
**Subject:** RE: New Application 50354 & 50243

Well Crap. "date of review for appropriated quantity in unit area" is 6/10/20. We filled out in April of 2019 and February 2020. So quite possibly when we assisted with filling out the applications, the DUA was showing open?

Cameron

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**From:** Neuhauser, Kris [KDA] <[Kris.Neuhauser@ks.gov](mailto:Kris.Neuhauser@ks.gov)>  
**Sent:** Monday, December 7, 2020 3:48 PM  
**To:** Conant, Cameron [KDA] <[Cameron.Conant@ks.gov](mailto:Cameron.Conant@ks.gov)>; Milner, Brandon [KDA] <[Brandon.M.Milner@ks.gov](mailto:Brandon.M.Milner@ks.gov)>; Baum, Kristen [KDA] <[Kristen.Baum@ks.gov](mailto:Kristen.Baum@ks.gov)>  
**Subject:** RE: New Application 50354 & 50243

Yes it definitely is over appropriated, I double checked with John for 50243 a while back too.

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**From:** Milner, Brandon [KDA] <[Brandon.M.Milner@ks.gov](mailto:Brandon.M.Milner@ks.gov)>  
**Sent:** Monday, December 7, 2020 3:43 PM  
**To:** Conant, Cameron [KDA] <[Cameron.Conant@ks.gov](mailto:Cameron.Conant@ks.gov)>; Baum, Kristen [KDA] <[Kristen.Baum@ks.gov](mailto:Kristen.Baum@ks.gov)>; Neuhauser, Kris [KDA] <[Kris.Neuhauser@ks.gov](mailto:Kris.Neuhauser@ks.gov)>  
**Subject:** RE: New Application 50354 & 50243

I believe it's at N:\DWR\DUA

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**From:** Conant, Cameron [KDA] <[Cameron.Conant@ks.gov](mailto:Cameron.Conant@ks.gov)>  
**Sent:** Monday, December 7, 2020 3:41 PM  
**To:** Baum, Kristen [KDA] <[Kristen.Baum@ks.gov](mailto:Kristen.Baum@ks.gov)>; Neuhauser, Kris [KDA] <[Kris.Neuhauser@ks.gov](mailto:Kris.Neuhauser@ks.gov)>; Milner, Brandon [KDA] <[Brandon.M.Milner@ks.gov](mailto:Brandon.M.Milner@ks.gov)>  
**Subject:** RE: New Application 50354 & 50243

I'm fine with that as long as we are dead certain this DUA is over appropriated. I can't find that stupid spreadsheet.

Cameron

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**From:** Baum, Kristen [KDA] <[Kristen.Baum@ks.gov](mailto:Kristen.Baum@ks.gov)>  
**Sent:** Monday, December 7, 2020 3:34 PM  
**To:** Neuhauser, Kris [KDA] <[Kris.Neuhauser@ks.gov](mailto:Kris.Neuhauser@ks.gov)>; Conant, Cameron [KDA] <[Cameron.Conant@ks.gov](mailto:Cameron.Conant@ks.gov)>; Milner, Brandon [KDA] <[Brandon.M.Milner@ks.gov](mailto:Brandon.M.Milner@ks.gov)>  
**Subject:** RE: New Application 50354 & 50243

Agreed, it sounds to me like both files should be dismissed.

Kristen A Baum  
New Application and Change Unit Supervisor  
DWR Appropriations

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**From:** Neuhauser, Kris [KDA] <[Kris.Neuhauser@ks.gov](mailto:Kris.Neuhauser@ks.gov)>  
**Sent:** Monday, December 7, 2020 3:32 PM  
**To:** Conant, Cameron [KDA] <[Cameron.Conant@ks.gov](mailto:Cameron.Conant@ks.gov)>; Milner, Brandon [KDA] <[Brandon.M.Milner@ks.gov](mailto:Brandon.M.Milner@ks.gov)>  
**Cc:** Baum, Kristen [KDA] <[Kristen.Baum@ks.gov](mailto:Kristen.Baum@ks.gov)>  
**Subject:** RE: New Application 50354 & 50243

Hey Cameron, I am working 50243 and just hadn't got around to it yet. Brandon and I discussed these two files a few weeks back. I'll go ahead and get a denial letter sent for 50243 as well.

Kris

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**From:** Milner, Brandon [KDA] <[Brandon.M.Milner@ks.gov](mailto:Brandon.M.Milner@ks.gov)>  
**Sent:** Monday, December 7, 2020 3:28 PM  
**To:** Neuhauser, Kris [KDA] <[Kris.Neuhauser@ks.gov](mailto:Kris.Neuhauser@ks.gov)>  
**Subject:** FW: New Application 50354 & 50243

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**From:** Conant, Cameron [KDA] <[Cameron.Conant@ks.gov](mailto:Cameron.Conant@ks.gov)>  
**Sent:** Monday, December 7, 2020 3:23 PM  
**To:** Milner, Brandon [KDA] <[Brandon.M.Milner@ks.gov](mailto:Brandon.M.Milner@ks.gov)>; Baum, Kristen [KDA] <[Kristen.Baum@ks.gov](mailto:Kristen.Baum@ks.gov)>  
**Subject:** RE: New Application 50354 & 50243

Kristen, are you working 50243? Based on the emails, it appears to be in a closed DUA and we can dismiss the application if so. Do you think that is what John's email below says? I'm not totally certain.

Cameron

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**From:** Milner, Brandon [KDA] <[Brandon.M.Milner@ks.gov](mailto:Brandon.M.Milner@ks.gov)>  
**Sent:** Monday, December 7, 2020 3:03 PM  
**To:** Conant, Cameron [KDA] <[Cameron.Conant@ks.gov](mailto:Cameron.Conant@ks.gov)>  
**Subject:** FW: New Application 50354

Hi Cameron,

I believe I have been working on this file. This application will not be able to be processed as the DUA Area is closed to new appropriations. A letter of denial was mailed out to him on November 20.

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**From:** Munson, John [KDA] <[John.Munson@ks.gov](mailto:John.Munson@ks.gov)>  
**Sent:** Friday, November 20, 2020 10:00 AM  
**To:** Milner, Brandon [KDA] <[Brandon.M.Milner@ks.gov](mailto:Brandon.M.Milner@ks.gov)>  
**Subject:** RE: New Application 50354

Hi Brandon,

According to my last review on June 10, 2020 there is no water available in Unit Area BLC-67 and both File No. 50,354 that you started working on and prior File No. 50,243 are pending in that unit area.

John

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**From:** Milner, Brandon [KDA] <[Brandon.M.Milner@ks.gov](mailto:Brandon.M.Milner@ks.gov)>  
**Sent:** Thursday, November 19, 2020 9:36 AM  
**To:** Munson, John [KDA] <[John.Munson@ks.gov](mailto:John.Munson@ks.gov)>  
**Subject:** RE: New Application 50354

No problem. I saw you were gone after I sent the email.

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**From:** Munson, John [KDA] <[John.Munson@ks.gov](mailto:John.Munson@ks.gov)>  
**Sent:** Thursday, November 19, 2020 9:32 AM  
**To:** Milner, Brandon [KDA] <[Brandon.M.Milner@ks.gov](mailto:Brandon.M.Milner@ks.gov)>  
**Subject:** Re: New Application 50354

Hi Brandon, I'm in the field today but I will get back with you Friday morning. John

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**From:** Milner, Brandon [KDA] <[Brandon.M.Milner@ks.gov](mailto:Brandon.M.Milner@ks.gov)>  
**Sent:** Thursday, November 19, 2020 8:41 AM  
**To:** Munson, John [KDA] <[John.Munson@ks.gov](mailto:John.Munson@ks.gov)>  
**Subject:** New Application 50354

Good morning John,

I have started working on new application 50,354 which is located in Clark County. Could you tell me which DUA area this is in? I believe that it is located in BLC-67 but wanted to make sure that it is correct. Could you also let me know if any water is available in that area before I start running numbers on this application? Thanks!

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

## **FINDINGS AND ORDER IN THE MATTER OF THE DISMISSAL OF APPLICATION FILE NO. 50,354**

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 February 24, 2020, the Chief Engineer received an application from Randy and Shelly Shumate for a permit to appropriate water for beneficial use, assigned File No. 50,354, proposing the appropriation of 256 acre-feet of groundwater for irrigation use. The application proposed using an existing well located in the Northeast Quarter (NE $\frac{1}{4}$ ), more specifically 5,135 feet North and 35 feet West of the Southeast Quarter of Section 6, in Township 30 South, Range 25 West, Clark County, Kansas.
2. That the proposed point of diversion is located within South-Central Kansas Designated Unit Area, BLC-67. Based on the original quantity of water available in this designated unit (5,557 acre-feet) and the current quantity of water appropriated (5,558 acre-feet), there remains **no water available** in Designated Unit Area, BLC-67.
3. That on November 20, 2020, a letter was mailed to the applicant stating that the application did not comply with the safe yield requirements of K.A.R. 5-3-10 and K.A.R. 5-3-11, and that the application would be submitted to the Chief Engineer with a recommendation that the pending application be denied and dismissed, for failure to meet safe yield criteria. The applicant was provided 15 days, until December 6, 2020, to either submit additional information to our office or request additional time, prior to final action on the application.
4. That on December 7, 2020, the applicant talked to the Stafford Field Office requesting more time to submit additional information for this application. A letter was mailed December 8, 2020, providing the applicant 15 days, until December 23, 2020, to either submit additional information to our office or request additional time, prior to final action on the application.
5. That the applicant, has not submitted additional information for consideration, nor requested an extension of time, for Application, File No. 50,354, thus the application should be denied and dismissed and its priority forfeited for failure to comply with K.A.R. 5-3-10 and K.A.R. 5-3-11.

**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. 50,354, is herewith dismissed and the priority assigned to it is considered to be forfeited.

Dated at Manhattan, Kansas, this 28 day of April, 2021.

Lane P. Letourneau

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

State of Kansas                    )  
  ) SS  
County of Riley                    )

The foregoing instrument was acknowledged before me this 28 day of April, 2021, by Lane P. Letourneau, P.G., Program Manager, Division of Water Resources, Kansas Department of Agriculture.



Ashlee Freeman  
Notary Public



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 6, 2021

RANDY L & SHELLY SHUMATE  
11207 WILDFIRE RD  
MINNEOLA, KS 67865

RE: Application, File No. 50,354

Dear Sir or Madam:

Enclosed is the Findings and Order by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, dismissing Application, File No. 50,354 for failure to meet safe yield criteria.

This Order shall become a final agency action, as defined by K.S.A. 77-607(b), without further notice to the parties, if a request for hearing or a petition for administrative review is not filed as set forth below.

Request for Hearing. According to K.A.R. 5-14-3(c), any party who desires a hearing must submit a request within 15 days after the date shown on the Certificate of Service attached to this Order. Filing a request for a hearing will give you the opportunity to submit additional facts for consideration, contest any findings made by the Chief Engineer, or present any other information you believe should be considered in this matter. A timely-filed request for hearing will stay the deadline for requesting administrative review of this Order pending the outcome of the hearing.

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,

Kristen A. Baum  
New Application Unit Supervisor  
Division of Water Resources

KAB:bmm:li

Enclosures

pc: Stafford Field Office  
Sheri Maybury  
Mick Johnson

**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:

- 1) request an evidentiary hearing before the Chief Engineer, or
- 2) 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 Section, 1320 Research Park Drive, Manhattan, KS 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 hearing 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, KS 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 6 day of May, 2021, I hereby certify that the foregoing Dismissal of Application, File No. 50,354, dated 28 April 2021 was mailed postage prepaid, first class, US mail to the following:

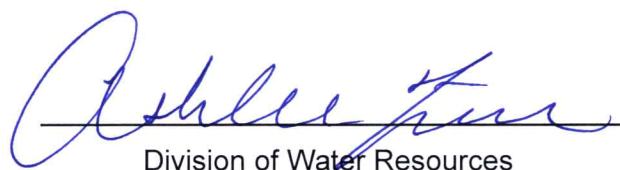
RANDY L & SHELLY SHUMATE  
11207 WILDFIRE RD  
MINNEOLA, KS 67865

With photocopies to:

Stafford Field Office

SHERI MAYBURY  
1906 GILTSHIRE DR  
COLORADO SPRINGS, CO 80905-4224

MICK JOHNSON  
705 CR G  
MINNEOLA, KS 67865

  
Division of Water Resources