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

1. F	File Number:	50,360		2. Status 9/27/2	Change Date: 2022	3. Field Office: <b>02</b>		4. GMD:	02					
5. 5	Status:		⊠ Denied by D	VR/GMD Dismiss by Request/Failure to Return										
6. E	Enclosures:	Check Valve	□ N of C Form	ΠW	Water Tube Driller Copy Meter									
7a.	Applicant(s New to syst		Person ID 569 Add Seq#	945	7c. Landown New to sy	er(s) vstem 🗌								
	1293 26 <sup>1</sup>	R & NONA G BE <sup>Ή</sup> AVE N KS 67128	CKER											
7b.	Landowner New to syst		Person ID Add Seq#		7d. Misc. New to sy	rstem 🗌		Person ID Add Seq#						
	7a													
8.	WUR Corre New to syst Overlap File	em 🗌	Person ID Add Seq# Notarized WUC	Form	9. Use of Wat	er: Changing? ⊠ Groundwater		☐ Yes   ⊠ No ☐ Surface Water						
	Agree 🗌 Y							DEW						
					□ STK □ HYD DRG	SED			☐ CON G					
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:														
	9/22/2022Date Prepared:8/29/22By:JNEJDKDate Entered:9/29/2022By:LMoody													

File No.	50,360			15. Formation Code: Drainage Basin: NF NINNESCA RIVER										CAH	(	County: RN Special Use: Strea						am:					
16. Points of Diversion									17. Rate and Quantity																		
MOD DEL	PDIV															Authoriz				Data	Additior						
ENT			Qualif	ualifier S		-	Г	R		ID	'N	'N		ʻW		Rate gpm		Quantity af				Quanti af		/ Overlap PD Files			
DEL	87990		28			19S 1W		19 2310		2	2970		800		256.1		800		0 1		NONE						
18. Storage: Rate NF Quantity ac/ft Additiona											nal Ra	te				NF	- Add	itional Qu	uantity			ac/ft					
19. Limitation: af/yr at gpm ( cfs) when combined with file number(s)																											
Limitation: af/yr at gpm ( cfs) when comb											ombin	ed with	n file n	umbei	(s) <u></u>												
20. Mete	r Required	? 🗆	Yes 🗌	] N	0	То	be ins	talled	by				-			C	ate Ac	cepta	ble Me	eter Inst	alled _			-			
21. Plac T	e of Use					NE¼			NW1⁄4					sv	<b>V</b> <sup>1</sup> ⁄4		SE1/4				Total	Owner	C	Chg? NO	Overlap F	Files	
MOD DEL ENT	PUSE	s	TR		ID	NE 1⁄4	NW 1⁄4	SW 1⁄4	SE 1⁄4	NE 1⁄4	NW 1⁄4	SW ¼	SE 1⁄4	NE 1⁄4	NW ¼	SW ¼	SE 1⁄4	NE 1⁄4	NW 1⁄4	SW ¼	SE 1⁄4						49,485
	7333									40.0		40.0	40.0	40.0	40.0							200.0	7a				
Comments: FAILS SAFE YIELD AND SPACING																											

# KANSAS DEPARTMENT OF AGRICULTURE Division of Water Resources

# <u>M E M O R A N D U M</u>

TO: Files

**DATE:** August 29, 2022

**FROM:** Jessica Engelbrecht

**RE:** Application, File No. 50,360

Arlen Becker filed the referenced application for a permit to appropriate water for beneficial use, proposing the appropriation of 256.1 acre-feet of groundwater for irrigation use. The application proposed the geographic center of a one (1) well battery located in the Northeast Quarter of the Northeast Quarter of the Southwest Quarter (NE¼ NE¼ SW¼) of Section 28, more particularly described as being near a point 2,310 feet North and 2,970 feet West of the Southeast corner of said section, in Township 19 South, Range 1 West, McPherson County, Kansas.

The proposed point of diversion lays within the boundaries of Groundwater Management District No. 2 (GMD 2). A request for recommendation was sent to GMD 2 on September 28, 2020. A recommendation for denial was received from GMD 2 on August 26, 2022. The District recommended denial of the application because their review determined that the application did not comply with the District's Safe Yield regulation K.A.R. 5-22-7(a), as existing and proposed consumptive appropriations exceed the maximum allowable. Additionally, the application did not comply with K.A.R. 5-22-2(b), as the proposed well is located less than the required minimum distance of 1,620 feet to the well authorized by Water Right, No. 49,485.

A letter was sent to the applicant from DWR on July 27, 2022, notifying the applicant of the recommendation for denial. The applicant was advised that DWR would delay any further action until August 29, 2022, to provide the applicant an opportunity to contact the District to request an appeal and to submit any additional information to the Chief Engineer for consideration. No request for extension or notification of contact with GMD 2 was received from the applicant.

Therefore, based on the existing information, it is recommended that application, File No. 50,360 be denied and dismissed for failure to meet safe yield criteria.



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. 50,360

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 13, 2020, the Chief Engineer received an application from Arlen R & Nona G Becker for a permit to appropriate water for beneficial use, assigned File No. 50,360, proposing the appropriation of 256.1 acre-feet of groundwater for irrigation use. The proposed well was to be located in the Northeast Quarter of the Northeast Quarter of the Southwest Quarter (NE¼ NE ¼ SW¼) of Section 28, more particularly described as being near a point 2,310 feet North and 2,970 feet West of the Southeast corner of said section, in Township 19 South, Range 1 West, McPherson County, Kansas.
- 2. That on September 28,2020, a copy of the application was submitted to Equus Beds Groundwater Management District No. 2 for recommendation. A recommendation for denial was received from the Groundwater Management District No. 2 on July 26, 2022. They recommended denial of the application because their review determined that the application did not comply with the District's Safe Yield regulation K.A.R. 5-22-7(a), as existing and proposed consumptive appropriations exceed the maximum allowable. Additionally, the application did not comply with K.A.R. 5-22-2(a), as the proposed well is located less than the required minimum distance of 1,620 feet to the well authorized by Water Right, No. 49,485.
- 3. A letter was sent to the applicant from DWR on July 27, 2022, notifying the applicant of the Equus Beds Groundwater Management District No. 2 recommendation for denial. The applicant was advised that DWR would delay any further action until August 29, 2022, to provide the applicant an opportunity to contact the District to request an appeal and to submit any additional information to the Chief Engineer for consideration.
- 4. The applicant did not contact the District or DWR in regard to the recommendation for denial. The application should be denied and dismissed, and its priority forfeited for failure to comply with Safe Yield Regulation K.A.R. 5-22-7(a).

#### 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. 50,360, is hereby dismissed and the priority assigned to it is considered to be forfeited.

ORDERED this <u>27</u> day of <u>September</u>, 2022, Manhattan, Riley County, Kansas.

and Letourneau

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

State of Kansas

County of Riley

) SS

The foregoing instrument was acknowledged before me this <u>27</u> day of <u>September</u>, 2022, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.

Notary Public



ASHLEE FREEMAN My Appointment Expires April 21, 2024 Mike Beam, Secretary

Arlen R & Nona G Becker 1293 26<sup>th</sup> Ave Canton KS 67128 Kansas Department of Agriculture

900 SW Jackson, Room 456 Topeka, KS 66612 785-296-3556

Laura Kelly, Governor

October 5, 2022

Re: Application, File No. 50,360

Dear Sir and/or Madam:

Enclosed is the Findings and Order by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, dismissing Application, File No. 50,360 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.

Petition for Review. The applicant, if aggrieved by this Order, may petition for administrative review, pursuant to K.S.A. 82a-71 1(c) and K.S.A. 82a-1 90 1(a). The petition must be filed within 30 days after the date shown on the Certificate of Service attached to this Order and must set forth the basis for the review, unless stayed by the timely filing of a request for hearing. Any request for hearing or petition for administrative review shall be in writing and shall be submitted to the attention of: Chief Legal Counsel, Kansas Department of Agriculture, 1320 Research Park Dr, Manhattan, KS 66506.

If you have any questions, please contact us at (785)564-6640. Please reference a file number when calling so that we may help you more efficiently.

Sincerely,

KristendBaum

Kristen A. Baum New Application and Change Unit Supervisor Water Appropriation Program

KAB:jne

Enclosure pc: Stafford Field Office GMD No. 2

#### 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 <u>5</u> day of <u>October</u>, 2022, I hereby certify that the attached Dismissal of Application, File No. 50,360, dated <u>21 September</u>, 2022, was mailed postage prepaid, first class, U.S. Mail to the following:

<u>Original to:</u> ARLEN R & NON G BECKER 1293 26<sup>™</sup> AVE CANTON KS 67428

<u>Photocopy to:</u> Stafford Field Office

GROUNDWATER MANAGEMENT DISTRICT NO. 2

DWR Staff