

File No. **50,437** 15. Formation Code: Drainage Basin: **Bluff Creek (Chikaskia)** County: **HP** Special Use: Stream: **Bluff Creek (Chikaskia)**

16. Points of Diversion										17. Rate and Quantity					
MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Authorized		Additional		
											Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files
DEL	88393			SE NE SE	22	34S	5W	3	906	775	0 NF	160	0 NF	160	NONE

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																		Total	Owner	Chg?	Overlap Files					
MOD	DEL	ENT	PUSE	S	T	R	ID	NE¼				NW¼				SW¼				SE¼						
								NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼			
DEL	70113			22	34S	5W	1	WILDLIFE MARSH (SE)									7a	NO	50,437							

Comments:

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: May 23, 2023

FROM: Jessica Engelbrecht

RE: Applications, File Nos. 50,437
and 50,438

Joseph Max Tempesta filed the above referenced applications on behalf of JDT Ranch, LLC., to appropriate surface water for recreational use. The applicant was mailed letters requesting additional information on September 8, 2022, March 6, 2023, and June 5, 2023. The letters stating the applicant must submit a structures application before the applications could be processed. A letter was mailed to the applicant on August 25, 2023, giving the applicant a final deadline of October 25, 2023 to file a structures application.

No contact of any kind was received from the applicant by the October 25, 2023, deadline. Therefore, it is recommended that the application be dismissed.

From: Phillips, Janelle [KDA]
Sent: Mon 12/11/2023 4:07 PM
To: Kopp, Kenneth [KDA]
Subject: RE: Joseph Max Tempesta JDT Ranch LLC in (SE¼) 22-34-5W

Last correspondence with Mr. Tempesta was 9/15/2022. No structures application was submitted.

Janelle Phillips, P.E., CFM
Stream Obstruction Team Lead
Water Structures Program
Division of Water Resources
Kansas Department of Agriculture
1320 Research Park Drive
Manhattan, KS 66502
Office: 785-564-6656
Cell: 785-307-8292
Janelle.phillips@ks.gov

From: Kopp, Kenneth [KDA] <Kenneth.Kopp@ks.gov>
Sent: Monday, December 11, 2023 4:04 PM
To: Phillips, Janelle [KDA] <Janelle.Phillips@ks.gov>
Subject: Joseph Max Tempesta JDT Ranch LLC in (SE¼) 22-34-5W

Hi Janelle,

I just want to confirm that we still haven't received anything related to these WA Applications, File Nos. 50,437 and 50,438.

We are getting ready to dismiss them.

Thanks,

Ken

Kenneth A. Kopp, P.G.
Project Manager
Kansas Department of Agriculture - Division of Water Resources
Desk: (785) 564-6672
Cell: (785) 477-0418
<http://agriculture.ks.gov/dwr>

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. 50,438

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 September 3, 2020, the Chief Engineer received an application from Joseph Tempesta, on behalf of JDT Ranch LLC, for a permit to appropriate water for beneficial use, assigned File No. 50,438, proposing the appropriation of 160 acre-feet of surface water for recreational use, to be diverted by means of a proposed water control structure located in the Northwest Quarter of the Southeast Quarter of the Southeast Quarter (NW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 22, more particularly described as being near a point 906 feet North and 775 feet West of the Southeast corner of said section, in Township 34 South, Range 5 West, Harper County, Kansas.
2. That on April 29, 2022, September 8, 2022, March 6, 2023, and June 5, 2023, letters were mailed to the applicant, stating that the application was incomplete and that a Floodplain Development Application would need to be submitted to complete the application.
3. That on August 25, 2023 a letter was sent to the applicant, stating that additional information must be submitted in order to complete the application, including a complete water structures application, giving the applicant until October 25, 2023, in which to provide the requested information, and that the application would be dismissed if it was not returned by the deadline, or within any authorized extension of time.
4. That the required information has not been submitted to the office of the Chief Engineer and no request of an extension of time was received on or before the October 25, 2023, deadline.
5. That the application should be dismissed, and its priority forfeited as provided by K.S.A. 82a-710.

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. 50,438, is hereby dismissed and the priority assigned to it is considered to be forfeited.

ORDERED this *12th* day of *December*, 2023, Manhattan, Riley County, Kansas.



Earl D. Lewis Jr.

Earl D. Lewis Jr., P.E.
Chief Engineer
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this *12th* day of *December*, 2023, by Earl D. Lewis Jr., P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.

Melinda Jennings

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

December 20, 2023

JOSEPH TEMPESTA
JDT RANCH LLC
11900 MCARTHUR BLVD SUITE A2
OKLAHOMA CITY OK 73162

Re: Application
File Nos. 50,437 and 50,438

Dear Mr. Tempesta:

A letter was mailed to you on August 25, 2023, requesting additional information to complete the above referenced Applications to Appropriate Water for Beneficial Use. Enclosed are Findings and Orders by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, dismissing Application, File Nos. 50,437 and 50,438, for failure to provide the required information, prior to the deadline of October 25, 2023.

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 documents.

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 Baum
New Applications and Changes Unit Supervisor
Water Appropriation Program

KAB:kak:jne
Enclosures
pc: Stafford Field Office

**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 20 day of December, 2023, I hereby certify that the attached Dismissal of Application, File No. 50,438, dated December 12, 2023, was mailed postage prepaid, first class, U.S. Mail to the following:

Original to:

JOSEPH TEMPESTA
JDT RANCH LLC
11900 MCARTHUR BLVD SUITE A2
OKLAHOMA CITY, OK 73162

Photocopy to:

KDA-DWR Stafford Field Office



DWR Staff