### Kansas Department of Agriculture Division of Water Resources

### FINDINGS AND ORDER DISMISSAL OF NEW APPLICATION WORKSHEET

1. File No.: <b>50,812</b>	2. Status Change Date:	4/2/2024	4. Field Offi GMD:						
3. Package File No(s):			Structures File No.: Filing/Priority Date: <b>6/15/22</b> Application Complete Date: <b>NA</b>						
5a.	Add Seq#	5b. ⊠ Owner □ Address	☐ WUC s Change		erson ID dd Seq#				
5c.  Owner  WUC  Address Change	Person ID Add Seq#	5d. ☐ Owner ☐ Address	□ WUC s Change		son ID I Seq#				
Base Acres: Year: Min F Previous UMW: Not changing MDS Gauge: Active Admin?	PU ☐ UMW Reasonable Q: n/Expiration Date:	7	Use of Water ☐ Groundwater ☑ Surface Water UMW: UMW: IRR-Irrigation UMW:						
8. Action Trail									
9. Special Conditions									
10. 5YR Allocation Type: Star Comment:	rt Year: 5YR Quan	tity: Base Ad	cres:						
11. Sand & Gravel Proj ID:	☐ Active ☐ Dredge	☐ IND Evap ☐	Jr Evap ☐	Other Diversion	☐ Rpt on Sr				
12. Waiver Rule ID: New D Applies: Rule No.: Rule Type: Rule SubType:	ate Requested:	Justification:							
Comments				Processed <b>BMM</b>	Entered				
				Reviewed KAK 4/1/2024	4/24/2024 KAnderson				

File No. 50812 Structures File No:  13. County: MS-Marshall Basin: Black Vermillion Stream: Black Vermillion Trib 2 Aquifer Code: Special Use Area:																									
													Speci	al Use	Area:										
14. Points of Diversion, Rates & Quantities									Oty				Rate St			Storage Qty Storage Rate									
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DEL	7528	5	SW S	E SW		11 4	IS	9E	1	420	3475	<b>'5</b>				270	270		1200 1200		36	1 36	1		
15.	Limitati	ons	Тур	e:	Q	uantity	:	mgy	Rate	:	qpm	com	bined	with file	e no(s)	:									
			Тур			uantity			ate:					no(s):											
16.	Meterir	ng		Meteri	ing Red	quired		nti-Re	verse l	Require	ed [	] Sea	l Requ	ired	Comp	liance	Date:								
17.	17. Place of Use																								
	PDIV	S	Т	R	ID	NE	NI NW	<u>=¹/₄</u>   sw	SE	NE	NV NW	V1/ <sub>4</sub>	SE	NE	SV NW	V <sup>1</sup> / <sub>4</sub>	SE	NE	SE½ NW SW SE			Total	Owner(s)	Chg?	Overlaps
DEL	70984	11	48	9E	2	40	40	40	40	27			40	39			12	40	40	37.5	39	434.5	7a		
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18. *	Point o	T DIV	ersior	and F	Place of	r Use C	veriap	S						**											
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### KANSAS DEPARTMENT OF AGRICULTURE Division of Water Resources

### <u>MEMORANDUM</u>

TO: Files DATE: March 28, 2024

**FROM:** Brandon Milner **RE:** Application, File No. 50,812

Gerald Gerstner had filed the above referenced application to appropriate groundwater, received on June 15, 2022, assigned Application, File No. 50,812. A voluntary dismissal of that application has now been received, on March 13, 2024.

Upon review of the application, it was noted that the applicant did not provide documentation of permission from the watershed district to use water from the sediment pool of the watershed dam, as required by K.A.R. 5-6-2. The applicant was given ample time to obtain permission, with a final deadline to produce an agreement of March 22, 2024. The applicant has elected to build his own reservoir, and has filed Application, File No. 51,202, which will be processed separately.

Based on the voluntary dismissal received by the applicant, it is recommended that the file be dismissed.

Brandon Milner Environmental Scientist New Applications Unit



### KANSAS DEPARTMENT OF AGRICULTURE

Mike Beam, Secretary of Agriculture

## **DIVISION OF WATER RESOURCES**Earl D. Lewis Jr., Chief Engineer

, 2024, in Manhattan, Riley County, Kansas.

NOTARY

# FINDINGS AND ORDER IN THE MATTER OF THE DISMISSAL OF APPLICATION TO APPROPRIATE WATER FILE NO. 50,812

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 June 15, 2022, an Application for Permit to Appropriate Water for Beneficial Use was received in the office of the Chief Engineer and assigned File No. 50,812.
- 2. That on March 13, 2024, a form signed by the applicant, requesting dismissal of the application described in Paragraph No. 1 of these Findings, was received in the office of the Chief Engineer.
- 3. That the application should be dismissed, and its priority forfeited, as requested by the applicant.

### **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. 50,812, is herewith dismissed and the priority assigned to it is considered to be forfeited.

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Lave E Letourneau
Lane P. Letourneau, P.G.
Water Appropriation Program Manager
Division of Water Resources

State of Kansas )
) SS
County of Riley )

It is so ordered this 2 day of April

The foregoing instrument was acknowledged before me this day of the day of the property that the day of the da

Notary Public

Kansas Department of Agriculture

TONY JAY CONNORS My Appointment Expires May 18, 2027 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

April 25, 2024

GERALD GERSTNER TRUST 300 E 10TH STREET FRANKFORT KS 66427

RE:

Dismissal of Application

File No. 50,812

### Dear Sir or Madam:

In response to your form letter, received in this office on March 13, 2024, enclosed is a Findings and Order by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, dismissing the above referenced application for permit to appropriate water for beneficial use.

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

Water Appropriation Program

KAB:kak:bmm

Enclosure

pc: Topeka 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 25day of April 2 File No. 50,812 dated April 2 mail to the following:

, 2024, I hereby certify that the foregoing Dismissal of Application, , 2024, was mailed postage prepaid, first class, US

GERALD GERSTNER TRUST 300 E 10TH STREET FRANKFORT KS 66427

With photocopies to:

KDA-DWR Topeka Field Office

Division of Water Resources