

**Kansas Department of Agriculture
Division of Water Resources**

FINDINGS AND ORDER WORKSHEET

1a. File No.: <p align="center">49328</p>	1b. Document Date: <p align="center">7/7/2021</p>	1c. Field Office: <p align="center">1</p>	1d. GMD:
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2a. Name & Address PALENSKE RANCH INC 2274 A OLD HWY 50 STRONG CITY, KS 66869 Person ID <u>58028</u>	2b. Name & Address Person ID _____
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2c. Name & Address Person ID _____	2d. Name & Address Person ID _____
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2e. WUR Correspondent SAME AS 2A Person ID <u>58028</u>	3. Use of Water <input type="checkbox"/> Groundwater <input checked="" type="checkbox"/> Surface Water <input checked="" type="checkbox"/> IRR <input type="checkbox"/> REC <input type="checkbox"/> DEW <input type="checkbox"/> MUN <input checked="" type="checkbox"/> STK <input type="checkbox"/> SED <input type="checkbox"/> DOM <input type="checkbox"/> CON <input type="checkbox"/> HYD <input type="checkbox"/> WTR <input type="checkbox"/> ART <input type="checkbox"/> THX <input type="checkbox"/> IND SIC: _____ <input type="checkbox"/> OTHER: _____
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4a. PD <input type="checkbox"/> Correct _____ <input type="checkbox"/> Delete _____ <input type="checkbox"/> Add _____ <input type="checkbox"/> Reduce _____	4b. PU <input type="checkbox"/> Correct _____ <input type="checkbox"/> Delete _____ <input type="checkbox"/> Add _____ <input type="checkbox"/> Reduce _____	4c. LIMITATIONS <input type="checkbox"/> Correct _____ <input type="checkbox"/> Delete _____ <input type="checkbox"/> Add _____ <input type="checkbox"/> Reduce _____	4d. RATE <input type="checkbox"/> Correct _____ <input type="checkbox"/> Delete _____ <input type="checkbox"/> Add _____ <input type="checkbox"/> Reduce _____	4e. QUANTITY <input type="checkbox"/> Correct _____ <input type="checkbox"/> Delete _____ <input type="checkbox"/> Add _____ <input type="checkbox"/> Reduce _____
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5. Old Information to be Changed (New Information to be written in 7, 8 & 11)

FAILURE TO PERFECT - SHOW CAUSE LETTER SENT 5/24/2021

DISMISSAL OF APPROPRIATION OF WATER OR WATER RIGHT

6. Previous Modifications and Amendments

Document Type

7. Point of Diversion

Groundwater to be withdrawn by means of (_____ well(s)) (_____) (_____ pit(s))

Surface water in the _____ to be diverted (at a point)

(at _____ points) (_____ pit(s)) (_____ dam(s))

Date Prepared **7/1/21** By **AC**

Date Entered **7/12/2021** By **L Moody**

No information on reverse

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 APPROPRIATION OF WATER FILE NO. 49,328

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 24, 2015, the Chief Engineer approved Application, File No. 49,328, for permit to appropriate water for irrigation and stockwatering use, authorizing the applicant, subject to vested rights and prior appropriations, to proceed with the construction of the proposed diversion works and to proceed with all steps necessary for the beneficial use of surface water to be diverted from a reservoir created by a dam located in the Northwest Quarter of the Southeast Quarter of the Northeast Quarter (NW¹/₄ SE¹/₄ NE¹/₄) of Section 17, more particularly described as being near a point 3,691 feet North and 925 feet West of the Southeast corner of said section, in Township 19 South, Range 9 East, Chase County, Kansas, for **stockwatering use** at a cattle feedlot located in the South Half of the Northeast Quarter (S¹/₂ NE¹/₄) and the Southeast Quarter (SE¹/₄) of Section 17, Township 19 South, Range 9 East, Chase County, Kansas; and for **irrigation use** on the following described property:

Sec. Twp. Range	NE ¹ / ₄				NW ¹ / ₄				SW ¹ / ₄				SE ¹ / ₄				TOTAL
	NE ¹ / ₄	NW ¹ / ₄	SW ¹ / ₄	SE ¹ / ₄	NE ¹ / ₄	NW ¹ / ₄	SW ¹ / ₄	SE ¹ / ₄	NE ¹ / ₄	NW ¹ / ₄	SW ¹ / ₄	SE ¹ / ₄	NE ¹ / ₄	NW ¹ / ₄	SW ¹ / ₄	SE ¹ / ₄	
16 19 9E						36.0	38.0				37.50	3.0					114.50
17 19 9E	26.50	31.0	33.50	11.50													102.50

A total of 217 acres, all in Township 19 South, Range 9 East, Chase County, Kansas.

2. That Appropriation of Water, File No. 49,328, was approved to make use all natural flows of an unnamed tributary to Peyton Creek, designated in the office of the Chief Engineer as Peyton Creek Tributary 4A (Cottonwood), to be incrementally accumulated in a reservoir to a maximum storage quantity of **313 acre-feet** of water per calendar year, to be diverted for **stockwatering use** at a maximum rate of diversion not to exceed **400 gallons per minute (0.89 c.f.s.)** and a quantity not to exceed **24.44 million gallons** of water per calendar year; and for **irrigation use** at a maximum rate of diversion not to exceed **1,200 gallons per minute** and a quantity not to exceed **238 acre-feet** of water per calendar year.
3. That on December 27, 2016, the notice of completion of diversion works required by K.S.A. 82a-714, as amended, was filed with the Division of Water Resources.

- 4. That the time in which to perfect a water right in accordance with the terms, conditions, and limitations of the permit for File No. 49,328, expired on December 31, 2020.
- 5. That on May 24, 2021, the landowners of record were notified that no water right was perfected (developed) during the perfection period and were given until June 30, 2021, to show good cause why the appropriation should not be dismissed for failure to put water to beneficial use within the time allowed (December 31, 2016 through December 31, 2020).
- 6. That during the perfection period (December 31, 2016 through December 31, 2020), no quantity of water was diverted to the authorized place of use described in Item No. 1 of these Findings, thus, no water right was developed.
- 7. That the permit, pertaining to Appropriation of Water, File No. 49,328, serves no useful purpose and therefore should be terminated.

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, the Appropriation of Water, File No. 49,328 is hereby terminated.

Any further diversion of water pursuant to the conditions and terms of the dismissed file shall be unlawful and subject to the penalties of K.S.A. 82a-728 and K.S.A. 82a-737.

Ordered this 7 day of July, 2021, in Manhattan, Riley 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 7 day of July, 2021, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.



Ashlee Freeman

Notary Public
Ashlee Freeman

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

July 15, 2021

PALENSKE RANCH INC
2274 A OLD HWY 50
STRONG CITY, KS 66869

RE: Dismissal of Appropriation of Water,
File No. 49,328

Dear Sir or Madam:

Enclosed is the Findings and Order by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, which terminates the water appropriation permit known as File No. 49,328. This dismissal has been issued due to non-perfection (development) of a water right, under Appropriation of Water, File No. 49,328, during the perfection period of December 31, 2016 through December 31, 2020.

A letter from Lane P. Letourneau, P.G. of this office, dated May 24, 2021, notified the owners of record, that no water right was perfected (developed) during the perfection period for File No. 49,328. The permit for File No. 49,328, was therefore proposed for dismissal. A minimum thirty (30) day time period was allowed for any additional information to be considered before final action was taken.

As of the date of this letter, no information to contradict the non-perfection issue has been received in this office. **Therefore, Appropriation of Water, File No. 49,328, has been terminated with the enclosed order.**

If you have any questions, please contact me at 785-564-6642 or Alex.Crawford@ks.gov. If you call, please reference the file number so I can help you more efficiently.

Sincerely,

A handwritten signature in cursive script that reads "Alex Crawford".

Alex Crawford
Environmental Scientist
Water Appropriation Program

AC
Enclosure(s)
pc: Topeka Field Office

**RIGHT TO PETITION FOR REVIEW
UNDER THE KANSAS JUDICIAL REVIEW ACT**

This is a final agency action. If you choose to appeal this decision or any finding part thereof, you must do so by filing a petition for review in the manner prescribed by the Kansas Act for Judicial Review and Civil Enforcement of Agency Actions (KJRA K.S.A. 77-601 et seq.) within 30 days of service of this order. Your appeal must be made with the appropriate district court for the district of Kansas. The Chief Legal Counsel for the Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, is the agency officer who will receive service of a petition for judicial review on behalf of the Kansas Department of Agriculture, Division of Water Resources. If you have questions or would like clarification concerning this order, you may contact the Chief Engineer.

CERTIFICATE OF SERVICE

On this 15 day of JULY, 2021, I hereby certify that the attached Dismissal of the Approval of Application and Permit to Proceed, File No. 49,328, dated 7 JULY, 2021, was mailed postage prepaid, first class, U.S. Mail to the following:

Original to:
PALENSKE RANCH INC
2274 A OLD HWY 50
STRONG CITY, KS 66869

Photocopy to:
Topeka Field Office



DWR Staff