

FINDINGS & ORDER

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

1. File Number: <p style="text-align: center; font-size: 1.2em; margin-top: 20px;">49,945</p>	2. Status Change Date: <p style="text-align: center; font-size: 1.2em; margin-top: 20px; color: purple;">6/28/2021</p>	3. Field Office: <p style="text-align: center; font-size: 1.2em; margin-top: 20px;">1</p>	4. GMD: <p style="text-align: center; font-size: 1.2em; margin-top: 20px;">0</p>
5. Status: <input type="checkbox"/> Approved <input type="checkbox"/> Denied by DWR/GMD <input checked="" type="checkbox"/> Dismiss by Request/ Failure to Return			
6. Enclosures: <input type="checkbox"/> Check Valve <input type="checkbox"/> N of C Form <input type="checkbox"/> Water Tube <input type="checkbox"/> Driller Copy <input type="checkbox"/> Meter			
7a. Applicant(s) New to system <input type="checkbox"/> <p style="text-align: center; margin-top: 20px;">STEPHEN R WILSON 1108 WENTLEY DR HIAWATHA KS 66434</p>	Person ID 61374 Add Seq# _____	7c. Landowner(s) New to system <input type="checkbox"/> 	Person ID _____ Add Seq# _____
7b. Landowner(s) New to system <input type="checkbox"/> 	Person ID _____ Add Seq# _____	7d. Misc. New to system <input type="checkbox"/> 	Person ID _____ Add Seq# _____
8. WUR Correspondent New to system <input type="checkbox"/> Overlap File (s) WUC Agree <input type="checkbox"/> Yes <input type="checkbox"/> No	Person ID _____ Add Seq# _____ Notarized WUC Form <input type="checkbox"/>	9. Use of Water: Changing? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Groundwater <input type="checkbox"/> Surface Water <input type="checkbox"/> IRR <input type="checkbox"/> REC <input type="checkbox"/> DEW <input type="checkbox"/> MUN <input type="checkbox"/> STK <input type="checkbox"/> SED <input type="checkbox"/> DOM <input type="checkbox"/> CON <input type="checkbox"/> HYD DRG <input type="checkbox"/> WTR PWR <input type="checkbox"/> ART RECHRG <input type="checkbox"/> IND SIC: _____ <input type="checkbox"/> OTHER: _____	
10. Completion Date: _____ 11. Perfection Date: _____ 12. Exp Date: _____			
13. Conservation Plan Required? <input type="checkbox"/> Yes <input type="checkbox"/> No Date Required: _____ Date Approved: _____ Date to Comply: _____			
14. Water Level Measuring Device? <input type="checkbox"/> Yes <input type="checkbox"/> No Date to Comply: _____ Date WLMD Installed: _____			
Date Prepared: 2/25/2021 By: DWS Date Entered: 6/29/2021 By: LMoody			

File No. 49,945	15. Formation Code:	Drainage Basin:	County:	Special Use:	Stream:																
16. Points of Diversion T MOD DEL PDIV ENT			17. Rate and Quantity Authorized Additional Rate gpm/cfs Quantity af/mgy Rate gpm/cfs Quantity af/mgy Overlap PD Files																		
	Qualifier	S	T	R	ID	'N	'W														
DEL	86433	NE SE NW	28	1S	17E	2	3733	2744	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? <input type="checkbox"/> Yes <input type="checkbox"/> No To be installed by _____ Date Acceptable Meter Installed _____																					
21. Place of Use T MOD DEL ENT		NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg? NO	Overlap Files
	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				
DEL	61515	28	1S	17E	1														7a	NO	NONE
Comments:																					

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: February 25, 2021

FROM: Doug Schemm

RE: Application, File No. 49,945

Steven Wilson filed the above referenced application to appropriate surface water to be stored in a proposed reservoir for irrigation use. The dam for this irrigation project also requires a permit from the DWR Water Structures Program, and it was assigned File No. LBR-0033-D. However, it was determined that the applicant did not have permission from HBC Farms LLC and Reesman Investment Corporation to access their property to construct the dam. A letter was sent to the applicant from water structures staff on May 24, 2019 dismissing their pending structures application.

A water appropriation permit cannot be issued without the required structures permitting. Therefore, on January 22, 2021, the original appropriation application, File No. 49,945 was returned to the applicant, with a cover letter requesting that additional information be submitted in order to complete the application. The applicant was provided a deadline until February 21, 2021, the time in which to provide the requested information and return the original application. The applicant was informed that the application would be dismissed if it was not returned by the February 21, 2021 deadline, or within any authorized extension of time.

The original application and requested information were not returned by the deadline, nor was there a request for an extension of time. Based on the available information, that the application was not returned within the time allowed, it is recommended that the file be dismissed for failure to return, as provided by K.S.A. 82a-710.

Douglas Schemm
Environmental Scientist
Topeka Field Office

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. 49,945

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 November 21, 2017, the Chief Engineer received an application from Stephen R. Wilson for permit to appropriate surface water for beneficial use, assigned File No. 49,945, proposing the appropriation of **150 acre-feet** per calendar year to be stored in one (1) reservoir created by a dam located in the Northeast Quarter of the Southeast Quarter of the Northwest Quarter (NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 28, more particularly described as being near a point 3,733 feet North and 2,744 feet West of the Southeast corner of said section, in Township 1 South, Range 17 East, Brown County, Kansas, to provide **150 acre-feet** of water as needed for direct irrigation use to be withdrawn, released or otherwise diverted from the reservoir at a re-diversion rate of approximately 1,000 gallons per minute.
2. That on May 24, 2019 a letter was sent to the applicant by Division of Water Resources (DWR), Water Structures Program staff dismissing related structures permit, File No. LBR-0033-D. The structures permit was dismissed for failing to obtain permission from HBC Farms LLC and Reesman Investment Corporation to construct the dam and reservoir on their property.
3. That on January 22, 2021, original appropriation application, File No. 49,945, was returned to the applicant, with a cover letter requesting that additional information be submitted in order to complete the application. The applicant was informed that Application, File No. 49,945, cannot be approved without an approved structures permit. The applicant was provided a deadline until February 21, 2021, the time in which to provide the requested information and return the original application. The applicant was informed that the application would be dismissed if it was not returned by the February 21, 2021 deadline, or within any authorized extension of time.
4. That the original application was not returned by the February 21, 2021 deadline, nor was there any request for an extension of time.
5. That the application should be dismissed and its priority forfeited as provided by K.S.A. 82a-710, for failure to return the application.

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. 49,945, is herewith dismissed and the priority assigned to it is considered to be forfeited.

Ordered this *28* day of *June*, 2021, in Manhattan, Riley County, Kansas.

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 *June*, 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

June 30, 2021

STEPHEN R WILSON
1108 WENTLEY DR
HIAWATHA KS 66434

RE: Application, File No. 49,945

Dear Mr. Wilson:

Enclosed is the Findings and Order by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, dismissing Application, File No. 49,945 for failure to return the application and provide the requested information, prior to the deadline of February 22, 2021.

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 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.

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
Water Appropriation Program

KAB: dws: li

Enclosure

pc: Topeka Field Office

RIGHT TO PETITION ADMINISTRATIVE REVIEW

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 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 30 day of June, 2021, I hereby certify that the foregoing Dismissal of Application, File No. 49,945, dated 28 June 2021 was mailed postage prepaid, first class, US mail to the following:

STEPHEN R WILSON
1108 WENTLEY DR
HIAWATHA KS 66434

With photocopies to:

Topeka Field Office



Division of Water Resources