

File No. **50,364** 15. Formation Code: Drainage Basin: County: Special Use: Stream:

16. Points of Diversion									
T	MOD	PDIV	Qualifier	S	T	R	ID	'N	'W
DEL	ENT								
DEL	87988	SW NE SW	8	12	17E	3	1384	3618	

17. Rate and Quantity				
Authorized		Additional		
Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files
				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							NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg? NO	Overlap Files		
T	MOD	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	NE ¼	NW ¼	SW ¼	SE ¼						
DEL	ENT																											
DEL	69885	8	12	17E	3										4.6										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: August 18, 2020

FROM: Doug Schemm

RE: Application, File No. 50,364

Allen Ratliff filed the application referred to above for a permit to appropriate 100 acre-feet of surface water for irrigation use at the rate of 100 from a proposed pump site on Whetstone Creek, within the Kansas River Drainage Basin. The pump site is located on property owned by Scott B Hunsicker Trust, and the applicant signed the application form stating he had legal access.

Information provided by representatives of the Scott B Hunsicker Trust revealed that the applicant had not been granted legal access to the point of diversion. K.A.R. 5-3-3a states, in part, that if the chief engineer is aware, or becomes aware, that the applicant does not have legal access to either the point of diversion or the place of use, before an application can be approved by the chief engineer, the applicant shall demonstrate that the applicant has legal access to the proposed point of diversion and the proposed place of use before the approval of the application. A letter was sent to the applicant on July 10 requesting that he provide written documentation from the owner that he had access to the point of diversion.

The applicant has not provided the requested information, and the owner has not granted legal access to the point of diversion. Therefore, it is recommended that this application be denied and dismissed for failure to comply with K.A.R. 5-3-3a.

Douglas W. 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. 50,364

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 20, 2020, the Chief Engineer received an application from Allen Ratliff for a permit to appropriate water for beneficial use, assigned File No. 50,364, requesting the appropriation of 100 acre-feet of surface water for irrigation use. The application proposed to divert water from a pump site located in the Southwest Quarter of the Northeast Quarter of the Southwest Quarter (SW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 8, more particularly described as being near a point 1,384 feet North and 3,618 feet West of the Southeast corner of said section, in Township 12 South, Range 17 East, Shawnee County, Kansas. The source of water is Whetstone Creek within the Kansas River drainage basin.
2. That the applicant signed the application at Paragraph No. 6 affirming that he had legal access, or control of, the point of diversion described in the application from the landowner. The owner of the point of diversion was listed as: Scott B. Hunsicker Trust, 6748 SW Aylesbury Rd, Topeka, KS 66610-1444.
3. That on July 2, 2020, notification letters were sent to upstream and downstream landowners that had been identified in the application, including the Scott B. Hunsicker Trust. These letters prompted a telephone call from Eric Hunsicker on July 8, 2020, who identified himself as the son of Scott Hunsicker the owner of the point of diversion. Eric Hunsicker stated that the applicant had not been granted legal access to the point of diversion.
4. That on July 10, 2020, a letter was sent to the applicant informing him that the Division of Water Resources had become aware that he did not have access to the point of diversion. K.A.R. 5-3-3a states, in part, that if the chief engineer is aware, or becomes aware, that the applicant does not have legal access to either the point of diversion or the place of use, before an application can be approved by the chief engineer, the applicant shall demonstrate that the applicant has legal access to the proposed point of diversion and the proposed place of use before the approval of the application. The applicant was asked to provide additional information documenting written permission from the landowner where the point of diversion is located.
5. That on July 15, 2020, a telephone call was received from Scott Hunsicker who reiterated that the applicant had not been granted legal access to the point of diversion. Mr. Hunsicker stated that he was opposed to the irrigation project, and that he was not going to provide the applicant any documentation that he had legal access to the point of diversion.
6. That no additional information has been provided by the applicant, and the application should be denied and dismissed and its priority forfeited due to failure of the applicant to demonstrate that he has legal access to the point of diversion per K.A.R. 5-3-3a.

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. 50,364, is herewith dismissed and the priority assigned to it is considered to be forfeited.

Ordered this *26* day of *April*, 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 *April*, 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

May 6, 2021

ALLEN RATLIFF
6223 SE WARD RD
TECUMSEH KS 66542

RE: Application, File No. 50,364

Dear Mr. Ratliff:

Enclosed is the Findings and Order by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, dismissing Application, File No. 50,364. If you are aggrieved by this Order, then pursuant to K.S.A. 82a-1901, you may:

- 1) request an evidentiary hearing before the Chief Engineer, or
- 2) request administrative review by the Secretary of Agriculture.

Failure to request an evidentiary hearing before the Chief Engineer does not preclude your right to administrative review by the Secretary. To obtain an evidentiary hearing before the Chief Engineer, a written request for hearing must be filed within 15 days after service of this Order as provided in K.S.A. 77-531 (**i.e., within a total of 18 days after this Order was mailed to you**), with: Kansas Department of Agriculture, Attn: Legal Section, 1320 Research Park Drive, Manhattan, Kansas 66502, FAX (785) 564-6777. If you do not file a request for an evidentiary hearing before the Chief Engineer, you may petition for administrative review of the Order by the Secretary of Agriculture. A petition for review shall be in writing and state the basis for requesting administrative review. The request for hearing may be denied if the request fails to clearly establish factual or legal issues for review. See K.S.A. 77-527. The petition must be filed within 30 days after service of this Order as provided in K.S.A. 77-531 (**i.e., within a total of 33 days after this Order was mailed to you**), and be filed with: Secretary of Agriculture, Attn: Legal Division, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, FAX (785) 564-6777.

If neither a request for an evidentiary hearing nor a petition for administrative review is filed as set forth above, then this Order shall be effective and become a final agency action as defined in K.S.A. 77-607(b). Failure to timely request either an evidentiary hearing or administrative review may preclude further judicial review under the Kansas Judicial Review Act. 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,

A handwritten signature in black ink that reads "Kristen A. Baum". The signature is written in a cursive, flowing style.

Kristen A. Baum
New Application Unit Supervisor
Division of Water Resources

KAB:dws:lli
Enclosure(s)

pc: Topeka Field Office

RIGHT TO A HEARING AND TO ADMINISTRATIVE REVIEW

If you are aggrieved by this Order, then pursuant to K.S.A. 82a-1901, you may:

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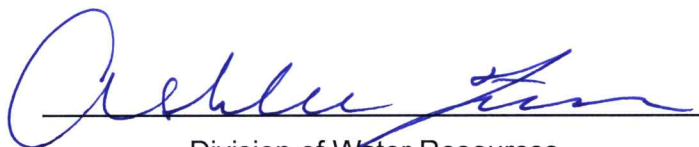
CERTIFICATE OF SERVICE

On this 6 day of May, 2021, I hereby certify that the foregoing Dismissal of Application, File No. 50,364, dated 28 April, 2021 was mailed postage prepaid, first class, US mail to the following:

ALLEN RATLIFF
6223 SE WARD RD
TECUMSEH KS 66542

With photocopies to:

Topeka Field Office



Division of Water Resources