

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

1. File No(s). <b>50,746</b>	1a. <input type="checkbox"/> Vested Right <input type="checkbox"/> Water Right <input checked="" type="checkbox"/> Appropriation of Water	1b. Document Date: <b>9/27/2022</b>	2. Field Office: <b>01</b>	3. GMD:
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4. Type and Purpose of Letter

Type of Extension \_\_\_\_\_ Completion Date \_\_\_\_\_

Date Received \_\_\_\_\_ Perfection Date \_\_\_\_\_

Completion of Diversion Works:     Permit     Change Approval

Meter Installed \_\_\_\_\_

Dismissal **VOLUNTARY DISMISSAL RECEIVED 7/1/2022**

Other \_\_\_\_\_

5a. Name & Address _____ Person ID <b>62113</b>  <b>GLOVER REAL ESTATE LLC</b> <b>PO BOX 3823</b> <b>BLUFFTON, SC 29910</b>	5b. Name & Address _____ Person ID _____
5c. Name & Address _____ Person ID _____	5d. Name & Address _____ Person ID _____

6. General Information Priority Date <b>3/16/2022</b> Certificate Date _____ Vested Right Order Date _____ Approval Date _____ Priority Date of Change _____ Approval of Change Date _____ Completion Date _____ Perfection Date _____	7. Use of Water: <input type="checkbox"/> Groundwater <input checked="" type="checkbox"/> Surface Water  <input type="checkbox"/> IRR <input checked="" 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: _____  8. Battery Number _____ 9. Special Use _____ 10. Aquifer _____
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(no info on reverse)	Date Prepared: <b>8/22/22</b> Date Entered: <div style="border: 1px solid red; padding: 2px; display: inline-block;"><b>9/26/2022</b></div> <b>JDK</b>	By: <b>LHH</b> By: <div style="border: 1px solid blue; padding: 2px; display: inline-block;"><b>9/29/2022</b></div> <b>LMoody</b>
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**KANSAS DEPARTMENT OF AGRICULTURE**  
**Division of Water Resources**

**M E M O R A N D U M**

**TO:** Files

**DATE:** August 22, 2022

**FROM:** Lloyd Hemphill

**RE:** New Application, File Nos. 50,555;  
Dismissal, File No. 50,746

Bobby Glover (Glover Real Estate LLC) has filed the new applications referred to above proposing to appropriate surface water for recreational use in a wetland located in the Southwest Quarter of the Northeast Quarter and the Northwest of the Southeast Quarter (SW $\frac{1}{4}$  NE $\frac{1}{4}$  & NW $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section 21, in Township 31 South, Range 21 East, Labette County, KS. The wetland will consist of four adjacent cells.

**File No. 50,555**

This application is proposing to appropriate 100 acre-feet of surface water at a diversion rate of 6,500 gallons per minute from one pumpsite. The proposed pumpsite is geographically located on a tributary to the Neosho River in the Southwest Quarter of the Northwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$  NW $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section 21, in Township 31 South, Range 21 East, Labette County, Kansas. However, based on inspection of aerial imagery and information provided by the applicant's consultant there is a significant backwater pool from the Neosho River that extends upstream of the proposed pumpsite. During drier periods, tributary flows are unlikely to support the proposed pumping rate. This application will allow water to be pumped directly from the creek/river (when flows are adequate, and permission is granted). The water will be used to fill and maintain water levels in the wetland (i.e. offset evaporative and seepage losses). A Neosho River Assurance District (MDS) form signed and notarized by the applicant was received on August 19, 2022, acknowledging that there may be times when diversion of water will not be allowed.

**File No. 50,746**

This application is proposing to appropriate 114.25 acre-feet of surface water (storage of natural flows) at the rate of natural flows. The five proposed points of diversion are water control structures, four that allow internal communication of water between each of the pools and one draining the entire wetland to the creek.

After further review, it was determined that Application, File No. 50746 is not required. Based on engineering plans, the wetland has a total storage capacity of 75.6 acre-feet, clearly greater than 15 acre-feet. However, the wetland is completely enclosed by dikes or berms and the only water to possibly enter the wetland is direct rainfall, flooding, and pumping (with approved permit). Normal surface runoff does not enter the wetland. In this case, we do not consider direct rainfall within the wetland perimeter as natural flows, and flood events that will overtop the wetland dikes during the normal operational period of the wetland are expected to be to be relatively infrequent. The primary way of filling the wetland is expected to be direct diversion from tributary streams under File No. 50,555. The applicant was advised of these findings in an email on June 23, 2022. A signed voluntary dismissal form was received on July 1, 2022.

These files do not overlap any other points of diversion or place of use. The applicant owns the point of diversion and place of use, and the application was signed by a representative stating the applicant has access to the point of diversion.

The Recreational Use Supplemental sheet and engineering plans note that the surface area of the wetland covers approximately 43 acres. Filled to an average depth of 1.83 feet (22 inches) would equal a volume of 78.5 acre-feet. An additional 21.5 acre-feet (0.5 feet X 43 ac.) was requested to offset evaporation and seepage bringing the total quantity to 100 acre-feet. The potential annual evaporation component is 9 acre-feet for this seasonal wetland (43 ac. surface area X 5 in/yr X ½ yr X 1 ft/12 in = 9 AF). This quantity appears reasonable for this project.

Notification letters were sent to upstream and downstream landowners on January 21, 2022. Jeff Shultz called on the behalf of the Clemens Revocable Trust (upstream landowner). Mr. Shultz indicated that there are typically about 17 cow-calf pairs that drink from the stream approximately 3,200 feet above the proposed pumpsite. Mr. Shultz described this as being water "pooled" in the creek. Aerial images show that the backwater pool from the Neosho River extends above the proposed pumpsite and, in wet seasons, may reach the location where Mr. Shultz waters his cattle. However, based on the discussion with Mr. Shultz and inspection of aerial photos, it appears likely that in normal to dry conditions the backwater pool does not reach the location where cattle access the stream. Therefore, the proposed pumping will not have an effect on the source of water for the cattle. No other responses were received. There are several permitted water rights and pending applications within a two-mile circle. None of these projects are located on the same tributary stream. An industrial use pumpsite authorized by LB 8-D1; LB 8-D2; and 49754 is located just under 2 miles downstream (but on the main channel of the Neosho River). Approval of this application will not impair senior water rights.

DWR Structures reviewed this project under WSN: LLB-111 and determined that this wetland requires a Water Structures permit. Janelle Phillips notified the applicant of this requirement in a January 26, 2022 letter. An application for a floodplain fill permit was received on March 16, 2022. The Structures application will be signed at the same time as the Water Appropriation application.

The United States Department of Agriculture, Natural Resources Conservation Service (NRCS) has confirmed that there are no NRCS easements on this property (See April 12, 2022 e-mail from Brent Turney). This is a critical determination because any property that has an NRCS easement must complete a Compatible Use Agreement (CUA) application for water level management, and ultimately have it approved.

This approval will be subject to specific conditions, which stipulate strict requirements for direct surface water diversion. These conditions include the stipulation that no diversion shall occur unless there is water available to satisfy all demands by senior water rights and permits, written or verbal permission from the Chief Engineer, or an authorized representative is required prior to diverting water, and streamflow cannot be stopped at the first riffle below the point of diversion while diversion is taking place. The application also complies with K.A.R 5-3-15 (c)(5) because the proposed use of water for recreational use is typically during the fall season, and there is no need for direct diversion of water from July 1 through September 30.

In accordance with K.S.A. 82a-706c, the Chief Engineer retains full authority to require any water user to install meters, gages, or other measuring devices, which devices he or she or his or her agents may read at any time. A water flowmeter will be required for File No. 50,555. Flowmeter requirements are further described in K.A.R. 5-1-4 through K.A.R. 5-1-12.

Glover Real Estate LLC - Memorandum  
File No. 50,555 & 50,746  
Page 3

Katie Tietsort, Water Commissioner, Topeka Field Office, recommended in an August 15, 2022 email that this package be approved. Based on the above discussion, the area remains open to new appropriations, the approval is subject to specific conditions relative to direct surface water diversions, diversion is limited to fall "off-season" pumping, the project is properly permitted by the Structures Program, and there is no indication that existing water rights will be impaired, it is recommended that Application, File No. 50,555 be approved and Application, File No. 50,746 be dismissed as requested.

Lloyd Hemphill  
Environmental Scientist  
Topeka Field Office

## Hemphill, Lloyd [KDA]

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**From:** Hemphill, Lloyd [KDA]  
**Sent:** Thursday, June 23, 2022 3:11 PM  
**To:** bobbyglover97@gmail.com  
**Cc:** Scott Williams - ModernAg Inc.; bseverin@sustainableenviro.com  
**Subject:** DWR Permitting For Davis Wetland Project  
**Attachments:** 50746\_Voluntary Dismissal of Application.pdf; KSA 82a-728.pdf

Dear Mr. Glover,

The following applications have been submitted to DWR for permitting of the Davis Wetland located in the East Half of Section 21, Township 31 South, Range 21 East, in Labette Co, KS.

File No. 50,555: Proposes to pump 100 acre-feet from one pumpsite on a tributary to the Neosho River to fill the wetland.

File No. 50,746: Proposes to capture and store 114.25 acre-feet of natural flows in the wetland created by low level dikes and five water control structures.

WSN: LLB-111: Floodplain Fill (Structures permit)

The Water Appropriation and Water Structures Programs of DWR have reviewed these applications. File No. 50,555 and LLB-111 appear to be necessary, and in good form, and will be sent for approval once processing is finalized.

After further review, we have determined that Application, File No. 50,746 is **not** required. Per K.S.A. 82a-728, a permit is required for the annual diversion and beneficial use of more than 15 acre-feet of surface water impounded in any reservoir having a total storage volume of more than 15 acre-feet (the full version of this Statute is attached). Based on the submitted engineering plans, the wetland has a total storage capacity of 75.6 acre-feet, clearly greater than 15 acre-feet. However, the wetland is completely enclosed by dikes or berms and the only water to possibly enter the wetland is direct rainfall, flooding, and pumping (with approved permit). Normal surface runoff does not enter the wetland. In this case, we do not consider direct rainfall within the wetland perimeter when calculating storage, and flood events that will overtop the wetland dikes during the normal operational period of the wetland are expected to be to be relatively infrequent. In other words, it appears in most seasons, the water used to fill and maintain the wetland will be primarily from pumping of the tributary stream (covered under File No. 50,555).

If you agree with this assessment, you may voluntarily dismiss application, File No. 50,746 by completing and returning the attached form.

If you have any questions, you may contact me by email or by phone at (785) 296-8682.

Thanks,  
Lloyd

Lloyd Hemphill, Environmental Scientist  
Kansas Department of Agriculture  
Division of Water Resources, Topeka Field Office  
1131 SW Winding Rd, Suite 400  
Topeka, KS 66615  
(785) 296-5733

**NOTE NEW ADDRESS**

# THE STATE OF KANSAS



**KANSAS DEPARTMENT OF AGRICULTURE**  
Mike Beam, Secretary of Agriculture

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

## **IN THE MATTER OF THE DISMISSAL OF APPLICATION FILE NO. 50,746**

This is to certify that on July 1, 2022, a voluntary request to dismiss Application for Permit to Appropriate Water, File No. 50,746, was filed with the office of the Chief Engineer by the following applicant:

**GLOVER REAL ESTATE LLC  
PO BOX 3823  
BLUFFTON, SC 29910**

Per this request, those above have agreed to waive any and all rights that they might have to a hearing pursuant to K.S.A.82a-718 or any other applicable statute.

### **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. 50,746, is herewith dismissed and the priority assigned to it is considered to be forfeited. The dismissed application pertains to the points of diversion and place of use described as follows:

one (1) water control structure located in the Southeast Quarter of the Southwest Quarter of the Northeast Quarter (SE $\frac{1}{4}$  SW $\frac{1}{4}$  NE $\frac{1}{4}$ ) of Section 21, more particularly described as being near a point 3,210 feet North and 1,856 feet West of the Southeast corner of said section;

one (1) water control structure located in the Northeast Quarter of the Northwest Quarter of the Southeast Quarter (NE $\frac{1}{4}$  NW $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section 21, more particularly described as being near a point 2,445 feet North and 1,854 feet West of the Southeast corner of said section;

one (1) water control structure located in the Northeast Quarter of the Northwest Quarter of the Southeast Quarter (NE $\frac{1}{4}$  NW $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section 21, more particularly described as being near a point 2,449 feet North and 1,759 feet West of the Southeast corner of said section;

one (1) water control structure located in the Southeast Quarter of the Northwest Quarter of the Southeast Quarter (SE $\frac{1}{4}$  NW $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section 21, more particularly described as being near a point 1,737 feet North and 1,785 feet West of the Southeast corner of said section; and

one (1) water control structure located in the Southeast Quarter of the Northwest Quarter of the Southeast Quarter (SE $\frac{1}{4}$  NW $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section 21, more particularly described as being near a point 1,525 feet North and 1,426 feet West of the Southeast corner of said section;

all in Township 31 South, Range 21 East, Labette County, Kansas for recreational use in a marsh located in the South Half of the Southwest Quarter of the Northeast Quarter (S  $\frac{1}{2}$  SW $\frac{1}{4}$  NE $\frac{1}{4}$ ) and the Northwest Quarter of the Southeast Quarter (NW $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section 21, in Township 31 South, Range 21 East, Labette County, Kansas.

Ordered this 27<sup>th</sup> day of September, 2022, in 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 27 day of September, 2022, by Earl D. Lewis Jr., P.E., Chief Engineer, 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

October 5, 2022

GLOVER REAL ESTATE LLC  
C/O BOBBY GLOVER  
2479 US HWY 400  
MCCUNE, KS 66753

RE: Appropriation of Water, File No. 50,555  
Dismissal, File No. 50,746

Dear Mr. Glover:

Enclosed is a permit authorizing you to proceed with construction of the proposed diversion works and to appropriate water for beneficial use as set forth in the permit. Your attention is directed to the enclosures and to the terms, conditions, limitations, and requirements specified in this permit.

Notice must be filed on the enclosed form once the diversion works have been completed. Failure to complete the diversion works within the time allowed, or within any authorized extension of time thereof, will result in dismissal of this permit. If you need an extension of time, you must request it before the deadline for completion set forth in the permit. Any request for an extension of time must be accompanied by the statutorily required fee, which is currently \$100.00.

An acceptable water flowmeter must be installed on the diversion works authorized by this permit prior to using water. An annual water use report must be filed with the Chief Engineer by March 1, following the end of each calendar year. If a complete annual water use report is not received by the deadline, then a fine may be assessed and all water use under such permit or right may be suspended. Reports submitted in paper form will be assessed a \$20 per file number paper filing fee. In order to avoid this filing fee, you may submit your report online at [www.kswaterusereport.org](http://www.kswaterusereport.org).

The approval of your application constitutes a permit to appropriate water. It does not give authority to construct any dam or other stream obstruction regulated by K.S.A. 82a-301 through 305a. It does not give authority to access any right-of-way or authorize trespassing upon or injury to public or private property. It may also be necessary for you to comply with other local, state, or federal requirements.

Enclosed is an informational sheet that sets forth the procedure to obtain a Certificate of Appropriation which will establish the extent of your perfected water right. Additional information is available on our website at [agriculture.ks.gov/divisions-programs/dwr](http://agriculture.ks.gov/divisions-programs/dwr).

Also enclosed, is the Findings and Order by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, dismissing the application to appropriate water for beneficial use (File No. 50,746) as requested by the voluntary dismissal form received on July 1, 2022.

This order shall become final agency action without further notice to the parties, if a request for hearing or a petition for administrative review is not filed in a manner set forth in the enclosed order.



If you have any questions or need assistance, please contact our office at 785-564-6640 or the Topeka Field Office at 785-296-5733. If you call, please reference the file number so we can help you more efficiently.

Sincerely,



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

KAB:lh  
Enclosure(s)  
pc: Topeka Field Office

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

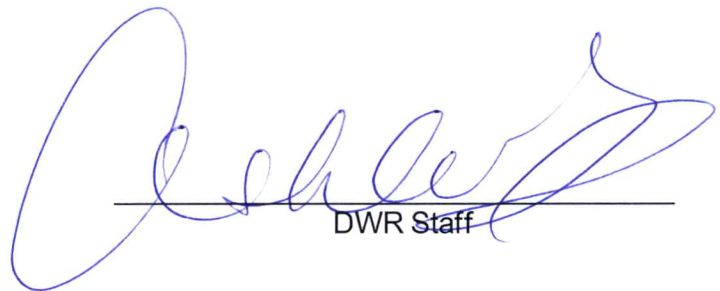
This is a final agency action. If you choose to appeal this decision or any finding part thereof, you must do so by filing a petition for review in the manner prescribed by the Kansas Act for Judicial Review and Civil Enforcement of Agency Actions (KJRA K.S.A. 77-601 et seq.) within 30 days of service 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 5 day of October, 2022, I hereby certify that the attached Dismissal of Application, File No. 50,746, dated 27 September, 2022, was mailed postage prepaid, first class, U.S. Mail to the following:

Original to:  
GLOVER REAL ESTATE LLC  
C/O BOBBY GLOVER  
2479 US HWY 400  
MCCUNE, KS 66753

Photocopy to:  
Topeka Field Office

  
\_\_\_\_\_  
DWR Staff