

File No. **50,487** 15. Formation Code: Drainage Basin: Big Blue County: CY Special Use: Stream:

vc16. Points of Diversion										17. Rate and Quantity				
MOD	PDIV	Qualifier	S	T	R	ID	'N	'W		Authorized	Additional			
DEL										Rate	Quantity	Rate	Quantity	Overlap PD Files
ENT										gpm	af	gpm	mgy	
DEL	88524	SE NW NW	21	6S	4E	2	4107	3990		NF,1500	85			NA

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?	Overlap Files		
	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						
MOD																						
DEL																						
ENT	PUSE	S	T	R	ID																	
DEL	88524	21	- 6S	- 4E	1					40	40	40	40					160	7a	N	50,234	

Comments:

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: August 22nd, 2024

FROM: Brandon Milner

RE: Application, File No. 50487

Durwin Mall had filed the above referenced application to appropriate groundwater for an application to appropriate water on December 16th, 2020 and was labeled as application no. 50,487.

After more review with a meeting with the Topeka Field office and Manhattan Headquarters it was determined that this application use less than 15 Acre Feet of volume from a reservoir with a capacity of less than 15 Acre Feet. The applicant was notified of this situation and a voluntary dismissal was suggested to the applicant.

A voluntary dismissal of an application for permit to appropriate water was received on April 25th, 2024.

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

Brandon Milner
Environmental Scientist
New Applications Unit

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 TO APPROPRIATE WATER FOR BENFICIAL USE
FILE NO. 50,487

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 December 16,, 2020, an Application to Appropriate Water for Beneficial Use was received in the office of the Chief Engineer, assigned File No. 50,487, proposing to use water for irrigation use from the following point of diversion:
a dam located in the Southeast Quarter of the Northwest Quarter of the Northwest Quarter (SE¼ NW¼ NW¼) of Section 21, more particularly described as being near a point 4,107 feet North and 3,990 feet West of the Southeast corner of said section, in Township 6 South, Range 4 East, Clay County, Kansas.
2. That on April 25, 2024, the office of the Chief Engineer received a voluntary dismissal form, signed by the applicant, pertaining to File No. 50,487, indicating that all plans to proceed with the proposed appropriation had been abandoned.
3. That Application, File No. 50,487, should be dismissed 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. 50,487, is herewith dismissed and the priority assigned to it is considered to be forfeited.

It is so ordered this 17th day of December, 2024, in Manhattan, Riley County, Kansas.

Signature of Earl D. Lewis Jr., P.E.
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 17th day of December, 2024, by Earl D. Lewis Jr., P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.

SHAWNA NOVAK
NOTARY PUBLIC
My Appointment Expires August 23, 2028

Signature of Notary Public
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

December 26, 2024

DURWIN F MALL
825 HIDDEN VALLEY DR
CLAY CENTER KS 67432-1578

RE: Appropriation of Water
File Nos. 50,939 and 50,940

Dismissal of Application
File No. 50,487

Dear Mr. Mall:

Enclosed are permits authorizing you to proceed with construction of the proposed diversion works and to appropriate water for beneficial use. **Your attention is directed to the enclosures and to the terms, conditions, limitations, and requirements specified in each permit, with specific reference to Paragraph Nos. 5, 9, 16, 18 and 19, of the Approval of Application and Permit to Proceed, File No. 50,940.** Also enclosed is a Findings and Order, dismissing Application, File No. 50,487, as requested in your form letter dated April 25, 2024.

For your new permits, notices 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 the permits. If you need extensions of time, you must request them before the deadline for completion set forth in the permits. Any request for an extension of time must be accompanied by the statutorily required fee, which is currently \$100.00, per file number.

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 kswaterusereport.org.

The approval of your applications constitutes permits to appropriate water. They do not give authority to construct any dam or other stream obstruction regulated by K.S.A. 82a-301 through 305a. They do 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.

DURWIN F MALL

File Nos. 50,487, 50,939 and 50,940

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Also included with your new permits is an informational sheet that sets forth the procedure to obtain Certificates of Appropriation which will establish the extent of your perfected water rights. Additional information and applicable forms may be found on our website at agriculture.ks.gov/dwr. If you have any questions or need assistance with any of these requirements, please contact our office at 785-564-6640, or your local Topeka Field Office at (785) 296-5733. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

A handwritten signature in blue ink that reads "Kristen A. Baum". The signature is written in a cursive style with a long horizontal flourish at the end.

Kristen A. Baum
New Applications and Changes Supervisor
Division of Water Resources

KAB:kak:ccb
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 request an evidentiary hearing before the Chief Engineer or 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 Division, 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 review 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.

CERTIFICATE OF SERVICE

On this 26 day of December, 2024, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File Nos. 50,939 and 50,940, and the Dismissal of Application, File No. 50,487, dated December 17, 2024, were mailed postage prepaid, first class, US mail to the following:

DURWIN F MALL
825 HIDDEN VALLEY DR
CLAY CENTER KS 67432

With photocopies to:

KDA-DWR Topeka Field Office



Division of Water Resources