

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Adrian J. Polansky, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David L. Pope, Chief Engineer

IN THE MATTER OF THE
DISMISSAL OF APPROPRIATION OF WATER
FILE NO. 45,573

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 August 8, 2005, the Chief Engineer approved Appropriation of Water, File No. 45,573, for permit to appropriate water for artificial recharge 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 application of the water to the approved and proposed beneficial use of bank storage water from the Little Arkansas River, to be diverted by means of one (1) bank storage well at the following location:

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 1,588 feet North and 3,569 feet West of the Southeast corner of said section, in Township 23 South, Range 2 West, Harvey County, Kansas, to provide 1,500 acre-feet of water as needed to be withdrawn at a rate not to exceed 1,000 gallons per minute (2.23 c.f.s.).

2. That on August 1, 2006, the Chief Engineer approved an Application for Approval to Change the authorized point of diversion, to the following location:

one(1) pumpsite located in the Southwest Quarter of the Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 8, more particularly described as being near a point 230 feet North and 2,090 feet West of the Southeast corner of said section, in Township 23 South, Range 2 West, Harvey County, Kansas. The source of water is surface water from the Little Arkansas River.

3. That on October 10, 2006, the owner submitted an Application for Permit to appropriate Water for Beneficial Use, assigned File No. 46,578, for a permit to appropriate surface water for artificial recharge use, from the Little Arkansas River. The proposed point of diversion overlaps the point of diversion for Appropriation of Water, File No. 45,573, and its presence would serve to replace this file.

4. That in a cover letter enclosed with the application, the owner stated that Appropriation of Water, File No. 45,573 should be dismissed in conjunction with the approval of Application, File No. 46,578.

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5. That in conjunction with the approval of Application, File No. 46,578 and based on the owner's request, Appropriation of Water, File No. 45,573 should be dismissed and its priority forfeited.

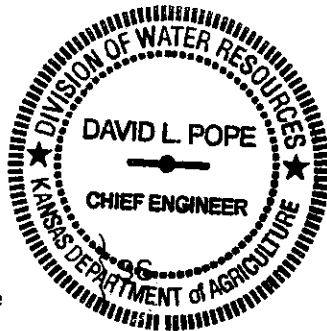
ORDER

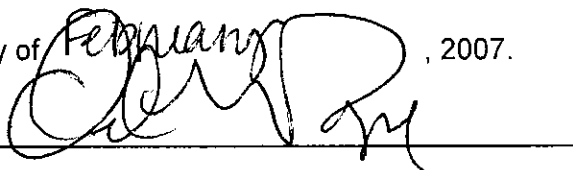
NOW, THEREFORE, It is the decision and order of the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, that effective the date of this order, Appropriation of Water, File No. 45,573, is hereby dismissed and its priority forfeited, as requested by the owner.

Any 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.

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. If you have any questions or would like clarification concerning this order, you may contact the Chief Engineer.

Dated at Topeka, Kansas, this 19 day of February, 2007.





David L. Pope, P.E.
Chief Engineer
Division of Water Resources
Kansas Department of Agriculture

State of Kansas
County of Shawnee

The foregoing instrument was acknowledged before me this 19 day of February 2007, by David L. Pope, P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.





Notary Public

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