

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Dale A. Rodman, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

FINDINGS AND ORDER
IN THE MATTER OF THE DISMISSAL
OF AN APPLICATION FOR PERMIT
TO APPROPRIATE WATER
FOR BENEFICIAL USE
FILE NO. 48,267

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

- That on September 4, 2012, the office of the Chief Engineer received an Application For Permit To Appropriate Water For Beneficial Use, (Application), filed by Duane Regier which was assigned File No. 48,267 which sought water to be appropriated for irrigation use on the following land:

Sec. Twp. Range	NE¼				NW¼				SW¼				SE¼				TOTAL
	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
3 24S 3W					39.0	38.0	39.0	40.0									156.0

a total of 156.0 acres in Section 3, in Township 24 South, Range 3 West, Harvey County, Kansas,

and sought water to be appropriated from:

a battery of three(3) wells with a geographical center located in the Northeast Quarter of the Northwest Quarter of the Northwest Quarter (NE¼ NW¼ NW¼) of Section 3, more particularly described as being near a point 4,923 feet North and 4,218 feet West of the Southeast corner of said section, in Township 24 South, Range 3 West, Harvey County, Kansas,

limited to a maximum diversion rate not in excess of 800 gallons per minute (1.78 c.f.s) and a quantity not to exceed 202.8 acre-feet of water for any calendar year.

- That on March 27, 2013, the Application was sent to Equus Beds Groundwater Management District No. 2, (GMD 2) to review the application pursuant to K.A.R. 5-22-7 and make a recommendation on the proposed appropriation.

3. That GMD 2 requested and received extensions of time in which to make a recommendation on the Application described in paragraph No. 1 of these findings.
4. That in a letter dated September 12, 2013, GMD 2 informed the Chief Engineer and Duane Regier that the Application would be recommended for denial due to the proposed point of diversion being located down gradient of a saltwater plume, and that 30 days was allowed for an appeal to GMD 2, pursuant to K.A.R. 5-22-12.
5. That in a letter dated October 8, 2013 the applicant was informed that the Application did not meet the Rules and Regulations adopted by GMD 2, specifically that the proposed well site was down gradient of a high chloride plume and did not comply with the Burton Intensive Groundwater Use Control Area and K.S.A. 82a-711. That the application would be recommended for denial and dismissed if additional information was not submitted by October 23, 2013 or additional time was requested in which to do so prior to the deadline.
6. That in an email of October 8, 2013, Duane Regier requested an extension to meet with GMD 2 and submit additional information.
7. That in an email of October 21, 2013, the Chief Engineer extended the time in which to submit additional information, without a deadline dated to allow coordinating a timeline with GMD 2.
8. That GMD 2 informed the Chief Engineer by a letter dated October 21, 2013, and received on October 23, 2013, that an extension of time would not be granted and the appeal request for the Application would be denied.
9. That GMD 2 informed the Chief Engineer by a letter dated November 4, 2013, and received on November 6, 2013, that the appeal of the recommended denial of the the Application would be reviewed at the GMD 2 Board meeting of November 12, 2013.
10. That GMD 2 informed the Chief Engineer by a letter dated November 15, 2013, and received on November 19, 2013, that the Application was recommended to be denied, and the appeal be denied.
11. That Application, File No. 48,267, proposes to appropriate water downgradient of a salt plume failing to comply with the parameters of the Burton Intensive Groundwater Use Control Area and should be denied and dismissed as the proposed appropriation will not comply with K.S.A. 82a-711.

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, the Application for Permit to Appropriate Water for Beneficial Use, File No. 48,267 received on September 12, 2012, shall be dismissed and its priority forfeited, in accordance with K.S.A. 82a-711.

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

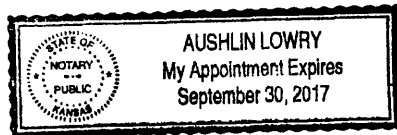
Dated at Topeka, Kansas, this *9TH* dayf *December*, 2013.

Lane Letourneau

Lane Letourneau
Water Rights Section Head
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
) SS
County of Shawnee)

The foregoing instrument was acknowledged before me this *9TH* day of *December*, 2013, by Lane Letourneau, Water Rights Section Head, Division of Water Resources, Kansas Department of Agriculture.



Aushlin Lowry

Notary Public