

THE STATE



OF KANSAS

KANSAS DEPARTMENT OF AGRICULTURE
Jackie McClaskey, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

**FINDINGS AND ORDER
IN THE MATTER OF THE
DISMISSAL OF APPLICATION
FILE NO. 49,642**

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 May 23, 2016, the Chief Engineer received an application from the Bob Roberts for a permit to appropriate water for beneficial use, assigned File No. 49,642, proposing the appropriation of 102 acre-feet of groundwater for irrigation use. The proposed well was to be located Northeast Quarter of the Northeast Quarter of the Southwest Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 21, Township 23 South, Range 3 West, Harvey County, Kansas.
2. That on July 7, 2017, a copy of the application was submitted to Equus Beds Groundwater Management District No. 2. GMD #2 recommended denial of the application in a letter received on September 12, 2017. They recommended denying the application because the point of diversion was located in an area down gradient of a maximum contamination area(s) of a saltwater plume(s) in the aquifer (within the Burrton Intensive Groundwater Use Control Area (IGUCA)).
3. That on September 19, 2017, the applicant called in to discuss the recommendation. After explaining the letter, the applicant stated he would think on the denial and decide what actions he wanted to take. No further contact was received from the applicant.
4. That the applicant has not submitted additional information for consideration, nor requested an extension of time for Application, File No. 49,642.
5. That the application should be denied and dismissed and its priority forfeited as recommended by the Equus Beds Groundwater Management District No. 2.

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. 49,642, is herewith dismissed and the priority assigned to it is considered to be forfeited.

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:

- 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.

Ordered this 16th day of November, 2017, in Topeka, Shawnee County, Kansas.

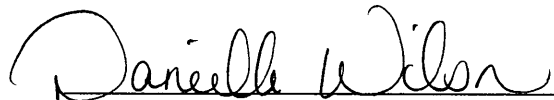


Lane P. Letourneau, P.G.
Program Manager
Water Appropriation Program
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 16th day of November, 2017, by Lane P. Letourneau, P.G., Program Manager, Division of Water Resources, Kansas Department of Agriculture.





Notary Public