



File No. **49390**      15. Formation Code:      Drainage Basin:      County: **NO**      Special Use:      Stream:

16. Points of Diversion										17. Rate and Quantity					
MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Authorized		Additional		
											Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files
<b>DEL</b>	<b>66439</b>	<b>SENE</b>	<b>SE</b>		<b>7</b>	<b>30</b>	<b>21E</b>	<b>9</b>	<b>1835</b>	<b>450</b>	<b>9000</b>	<b>100</b>	<b>9000</b>	<b>100</b>	<b>36696 40788 43440 44332 49391</b>
<b>DEL</b>	<b>66440</b>	<b>NESE</b>	<b>SE</b>		<b>7</b>	<b>30</b>	<b>21E</b>	<b>10</b>	<b>1150</b>	<b>50</b>					<b>SAME PDS</b>
<b>DEL</b>	<b>66441</b>	<b>SW</b>	<b>SE</b>	<b>SE</b>	<b>7</b>	<b>30</b>	<b>21E</b>	<b>11</b>	<b>200</b>	<b>700</b>					<b>SAME PDS</b>

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) **NONE**  
 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																		Total	Owner	Chg? <b>NO</b>	Overlap Files														
MOD	DEL	ENT	PUSE	S	T	R	ID	NE¼				NW¼				SW¼				SE¼															
								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												
<b>DEL</b>								<b>MARSH LOT 9 &amp; SE "SOUTH MARSH"</b>																									<b>7A</b>	<b>NO</b>	<b>43440</b>

Comments:

**KANSAS DEPARTMENT OF AGRICULTURE**  
**Division of Water Resources**

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

**TO:** Files

**DATE:** July 21, 2016

**FROM:** Leslie Ireland

**RE:** Water Right,  
File Nos. 36,696; 40,788; 43,440 & 44,332  
Appropriation of Water,  
File Nos. 49,390 & 49,391

James R. Chappell on behalf of the James R. Chappell Indenture of Trust, has filed applications for approval to change place of use under the referenced files authorized for recreational use as marsh wetlands to divert water from the Neosho River. File No. 49,390, has been requested to be dismissed with its place of use picked up by the remaining files. The owners have also requested a change in point of diversion under File No. 43,440, to overlap its pumpsites with the other rights. The applications were received on December 8, 2015.

The referenced files appear to be in meet K.S.A.82a-732, and the applications meet K.A.R. 5-5-2a, *Complete change application*. The owner has received notice of his meter being out of compliance, but he filed his reports on time.

The referenced files are authorized to fill and maintain marshes and account for evaporative loss with levies and dikes permitted under Structure Permits LNO-0069, LNO-0084 & LNO-0088. The rights authorize the diversion of 487.5 acre-feet to inundate 136.5 acres of wetland with 61.5 acre-feet of the authorized diversions accredited towards evaporative loss. This indicates approximately 3.1 feet of water per acre is authorized to cover the marshes. The rates of diversion are not limited to allow the capture of high flow events. The permits have different pumping conditions and restrictions with the exception of File No. 36,696, that has no special conditions. All of the junior rights prohibit summer pumping, with File No. 43,440 restricting pumping to the months of October to January. The allowance for natural evaporation was added under File Nos. 49,390 & 49,391 and appear to have been for a full year of evaporative loss.

The WRIS database indicates three(3) pumpsites along the *Neosho River Cutoff* are authorized under File Nos. 36,696; 40,788; 44,332 & 49,391, in Sections 7 and 8, Township 30 South, Range 21 East, Neosho County. The change in point of diversion requested by File No. 43,440, will increase the authorized points of diversion from three(3) to five(5) pumpsites, with pumpsites #1-3, all authorized under File Nos. 36,696; 40,788; 44,332 & 49,391, with pumpsites # 4 & 5 to be only authorized by File No. 43,440, due to the dismissal of File No. 49,390. This dismissal will remove 100 acre-feet of which 30.2 acre-feet had been designated for potential net evaporation. It appears the change in point of diversion will not alter the local source of supply.

The review of the ownership found that the pumpsite determined to be in Section 8 is not on land owned by the applicant or an owner of the place of use. As File No. 43,440, is requesting to change the point of diversion, the nearby landowners were notified of the requested change. No Comments were received, so it would appear the owners have an agreement and the application for change complies with K.A.R. 5-3-3a, *Legal access*.

The place of use changes will make a complete overlap of the North and South Marshes and add some new marsh land located in the Southeast Quarter (SE $\frac{1}{4}$ ) between the places of use historically identified by the owner as Field and Southwest. The currently authorized marshes located in the NE $\frac{1}{4}$  & SE $\frac{1}{4}$  have a total combined surface acres of 136.5 acres. Adding the 5 acres in the Northeast Quarter of the Southeast Quarter (NE $\frac{1}{4}$  SE $\frac{1}{4}$ ) will result in a total of 141.5 surface acres that could be inundated for recreational use as a wetland in the East Half of Section 7. This would afford 283 acre-feet for a single filling at the historical 2 acre-feet per acre.

The quantity authorized by Water Right, File Nos. 36,696; 40,788 and 44,332 is 122 acre feet. As detailed in the 2015 summary memo for File No. 49,391, it's authorized 320 acre-feet providing 210 additional acre-feet and limited to 332 acre feet with File Nos. 36,696; 40,788 and 44,332, allowing 31.3 acre-feet for evaporation and 300 acre feet for two fillings of the 75 acres of marsh located in the Northeast Quarter. The marsh located in the Southeast Quarter authorized by File Nos. 43,440 & 49,390, is for 72.5 acres with a combined 167.5 acre-feet, allowing 30.2 acre-feet for potential net evaporation. The dismissal of File No. 39,390, will result in a total of 399.5 acre-feet authorized for the 141.5 acres of wetland marshes.

The annual potential net evaporation from the 141.5 acres located in Township 30, Range 21 East, Neosho County per K.A.R 5-6-3 *Potential net evaporation* and K.A.R. 5-6-7 *Determination of average annual potential net evaporation loss*, the marsh evaporative loss would be:

141.5 acres x 5 inches ÷ 12 inches per acre-foot = 58.96 acre-feet per year  
58.96 acre-feet per year ÷ 12 months per year x 5 months indention = 24.6 acre-feet of evaporation

It appears that the 31.3 acre-feet authorized for evaporation under File No. 49,391 is sufficient to meet the requirement of K.A.R. 5-6-3.

The dismissal of File No. 39,390, will result in a total of 399.5 acre-feet authorized for the 141.5 acres of wetland marshes under File Nos. 36,696; 40,788; 43,440; 44,332 & 49,391. The standard two fillings per year of all of the 141.5 acres at a 2 foot depth justifies 566 acre-feet. The potential net evaporation of 24.6 acre-feet results in a total of 590.6 acre-feet that could be authorized for the Chappell Marsh. The additional limitation under File No. 49,391, remain as it reflects the original permitting with the senior rights. The place of use changes comply with K.A.R. 5-5-3, *Change in consumptive use*, there will be no significant increase in inundated acres.

Historically, the marshes have been numbered by DWR and identified in the WRIS database with a PUse ID and named by the owner. As the owner will be adding an additional marsh unit that is mainly existing small ponds, this unit will be designated #5, and may be named by the owner. The correlation of the names:

DWR Marsh	PUse ID	Owner
1	8348	Timber
2	8348	Field
3	52089	South Unit
4	8348	West Unit
5	8348	

As proposed by the changes in place of use each unit comprising the place of use will become a complete overlap, all in Section 7, Township 30 South, Range 21 East, the WRIS database will delete PUse ID 52089, and modify the PUse ID 8348, to the description of:

#### WETLAND MARSHES NE & Lot 9 & SE

The water use correspondent for all of the referenced files is James R. Chappell, but historically sequence numbers have been assigned based on the rights pumpsites and places of use (Marsh Unit). The water use reports were streamlined in 2015 with a consolidation to sequence #2 for all of the rights except 49,390 & 49,391, which reported under sequence #1.

#### 2014 Water Use Reporting:

Person ID & Seq 24290 - x	File Nos. & ID	DWR Site	DWR Marsh	PUse ID	Owner Identification
24290 - 2	36,696 8, 6 & 9	1, 2 & 3	1	8348	Timber
24290 - 3	40,788 8, 6 & 9	1, 2 & 3	2	8348	Field
24290 - 4	43,440 9,10 & 11	Not listed	3	52089	South Unit
24290 - 5	44,332 8, 9 & 6	1, 3 & 2	4	8348	West Unit

## 2015 Water Use Reporting

Person ID & Seq 24290 - x	File Nos. & ID	DWR Site	PUse ID	Owner Identification
24290 - 2	36,696; 40,788 & 44,332 8, 6 & 9	1,3,2,	8348	Timber, Field & West Unit
24290 - 1	9,10 & 11	9,10 & 11	52089	South Unit

The changes allow all of the rights to divert under sequence #2. File No. 43,440, will have two independent points of diversion Sites 4 & 5. The DWR Site to Pd ID is:

DWR Site	Pd ID
1	8
2	6
3	9
4	10
5	11

The comment line for the point of diversion will be updated. The numbers for the pumpsite designation will remain as stated. The comment line wording for the structures reference of STRUCTURES PERMIT LNO-088 (LNO-069, LNO-0084 & LNO-0088 will remain as listed but shortened to *WS LNO-0088*. The marshes have had a name and numbered designation, a space in the comment line will allow the owner to record the marsh name as he has in the past.

The applicant did not indicate that any additional construction of dikes or levees would occur in this area. No permits from our structures program will be needed for these marshes.

A meter will be required on all diversions and notice of completion for File No. 44,430. It does appear that meters are installed. A check valve will continue to be required if any chemicals are injected into the water. Additionally, the transmittal letter will remind the owner that all of his rights with the exception of File No. 36,969, are subject to MDS, and other pumping restrictions are applicable.

The proposed new application and change in place of use was reviewed by Katie Tietsort Water Commissioner, Topeka Field Office. She had no objection to the requested changes with the dismissal of File No. 49,390 as detailed in her email dated July 15, 2016.

Based on the above discussion, that no change in the local source of supply will occur, the requested changes are reasonable and the dismissal of File No. 49,390 will not result in a significant increase in consumptive use, that impairment to existing water rights is unlikely, it is recommended that the requested applications for change and dismissal of File No. 49,390, be approved.



Leslie Ireland  
Environmental Scientist  
Water Appropriation Program



1320 Research Park Drive  
Manhattan, Kansas 66502  
(785) 564-6700

900 SW Jackson, Room 456  
Topeka, Kansas 66612  
(785) 296-3556

Jackie McClaskey, Secretary

Governor Sam Brownback

JAMES R CHAPPELL  
202 S COUNTRY CLUB RD  
CHANUTE KS 66720

**FILE COPY**

RE: Dismissal of Appropriation of Water, File No. 49,390

Dear Mr. Chappell:

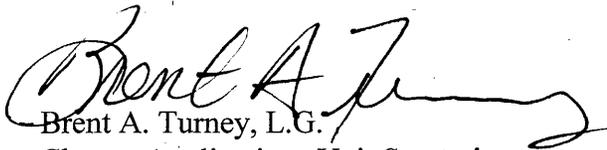
Reference is made to Appropriation of Water, File No. 49,390, authorizing water to be diverted for recreational use.

In the voluntary dismissal received on February 19, 2016, you advised the Chief Engineer that this proposed appropriation has been abandoned and requested that it be dismissed and its priority forfeited.

According to State Law (K.S.A. 82a-718), a hearing must be held before any appropriation right is declared abandoned. The voluntary dismissal of File No. 49,390, is considered a waiver of any such hearing. Therefore, the appropriation right is dismissed as of the date of the enclosed order.

If you have any questions, please contact our office at (785) 564-6640. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

  
Brent A. Turney, L.G.  
Change Applications Unit Supervisor

BAT:LI:li

Enclosures

pc: Topeka Field Office

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  
DISMISSAL OF APPROPRIATION OF WATER  
FILE NO. 49,390**

**FILE COPY**

This is to certify that on February 19, 2016, a voluntary request to dismiss Appropriation of Water, File No. 49,390, was filed with the office of the Chief Engineer by the following permit holder(s):

JAMES R CHAPPELL  
202 S COUNTRY CLUB RD  
CHANUTE KS 66720

Per this request, the individual above has 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.

The Chief Engineer of the Division of Water Resources, Kansas Department of Agriculture, acknowledges this request, and so orders the dismissal of Appropriation of Water, File No. 49,390, and forfeiture of its priority. The dismissed file pertains to the point(s) of diversion and place(s) of use described as:

one (1) pumpsite located in the Southeast Quarter of the Northeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$  NE $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section 7, more particularly described as being near a point 1,835 feet North and 450 feet West of the Southeast corner of said section, and

one (1) pumpsite located in the Northeast Quarter of the Southeast Quarter of the Southeast Quarter (NE $\frac{1}{4}$  SE $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section 7, more particularly described as being near a point 1,150 feet North and 50 feet West of the Southeast corner of said section, and

one (1) pumpsite located in the Southwest Quarter of the Southeast Quarter of the Southeast Quarter (SW $\frac{1}{4}$  SE $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section 7, more particularly described as being near a point 200 feet North and 700 feet West of the Southeast corner of said section,

all in Township 30 South, Range 21 East, Neosho County, Kansas for recreational use on the following property:

in Lot 9 and the Southeast Quarter (SE $\frac{1}{4}$ ) of Section 7, in Township 30 South, Range 21 East, Neosho County, Kansas.

Any further 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 and K.S.A. 82a-737.

(over)



**VOLUNTARY WAIVER OF HEARING & DISMISSAL OF WATER RIGHT**

To: Kansas Department of Agriculture  
Division of Water Resources (DWR)  
1320 Research Park Drive  
Manhattan, Kansas 66502  
<http://agriculture.ks.gov/dwr>

Re: Appropriation of Water   
Water Right   
Vested Right   
Term Permit   
(Check Appropriate Box Above)  
File No. 49390

The undersigned owner(s) and/or authorized agent(s) of the above referenced water right, or permit, freely and voluntarily request that the file be dismissed and its priority forfeited. By signing this waiver, I am indicating my understanding and agreement that I am relinquishing all right, title and interest in said water right.

FEB 19 2016

The signature(s) below represent all present owners (or an authorized agent) for the file number shown above (attach duplicate copies of this document as necessary).

Topeka Field Office  
DIVISION OF WATER RESOURCES

The signature(s) below also indicate(s) a waiver of any right to a hearing or an appeal that I/we may have had regarding the dismissal and termination of the above referenced file. I/we recognize that if this closure request is submitted to the Division of Water Resources, it will terminate this water right and forfeit any priority associated with it forever.

Indicate here if you wish to retain the well(s) for domestic use (DWR water right not required):

James R. Chappell  
(Signature of Owner or Authorized Agent)

\_\_\_\_\_  
(Signature of Spouse or Title of Authorized Agent)

James R. Chappell  
(Please print name here)

\_\_\_\_\_  
(Please print name here)

202 S. Country Club Rd  
(Mailing Address)

\_\_\_\_\_  
(Mailing Address)

Chanute KS 66720  
(City, State, Zip)

\_\_\_\_\_  
(City, State, Zip)

**ACKNOWLEDGMENT**

State of Kansas )  
County of Neosho )

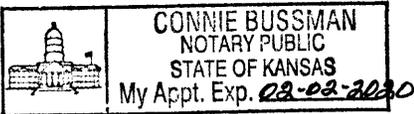
This instrument was acknowledged before me this 10<sup>th</sup> day of February, 2016 by  
(owners:) James R. Chappell

(Seal)

Connie Busman  
Notary Public

My appointment expires: February 02, 2020

KAT  
DWR Initials



SCANNED

**VOLUNTARY WAIVER OF HEARING & DISMISSAL OF WATER RIGHT**

To: Kansas Department of Agriculture  
Division of Water Resources (DWR)  
1320 Research Park Drive  
Manhattan, Kansas 66502  
<http://agriculture.ks.gov/dwr>

Re: Appropriation of Water   
Water Right   
Vested Right   
Term Permit   
(Check Appropriate Box Above)  
File No. 49390

The undersigned owner(s) and/or authorized agent(s) of the above referenced water right, or permit, freely and voluntarily request that the file be dismissed and its priority forfeited. By signing this waiver, I am indicating my understanding and agreement that I am relinquishing all right, title and interest in said water right.

The signature(s) below represent all present owners (or an authorized agent) for the file number shown above (attach duplicate copies of this document as necessary).

The signature(s) below also indicate(s) a waiver of any right to a hearing or an appeal that I/we may have had regarding the dismissal and termination of the above referenced file. I/we recognize that if this closure request is submitted to the Division of Water Resources, it will terminate this water right and forfeit any priority associated with it forever.

Indicate here if you wish to retain the well(s) for domestic use (DWR water right not required):

Jana R. Chappell  
(Signature of Owner or Authorized Agent)

\_\_\_\_\_  
(Signature of Spouse or Title of Authorized Agent)

Jana R. Chappell  
(Please print name here)

\_\_\_\_\_  
(Please print name here)

202 S. Country Club Rd  
(Mailing Address)

\_\_\_\_\_  
(Mailing Address)

Chanute Ks 66720  
(City, State, Zip)

\_\_\_\_\_  
(City, State, Zip)

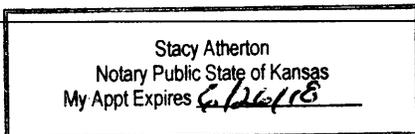
**ACKNOWLEDGMENT**

State of Kansas )  
County of NEOSHO )

This instrument was acknowledged before me this 2nd day of DECEMBER, 2015 by

(owners:) \_\_\_\_\_

(Seal)



Stacy Atherton  
Notary Public

My appointment expires: 6/26/18

WATER RESOURCES  
RECEIVED

KAT  
DWR Initials

DEC 08 2015

SCANNED

## Ireland, Leslie

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**From:** Tietsort, Katie  
**Sent:** Friday, July 15, 2016 12:02 PM  
**To:** Ireland, Leslie  
**Cc:** Bunger, Brett; Fabrycky, Caleb  
**Subject:** RE: Recommendation for Change in PU File Nos. 36696xxx & PD File No. 43,440\_ Dismissal File No. 49,390 Chappell

Leslie,

The TFO agrees with your recommendation for Approval of the pending change applications for Jim Chappell under File Nos. 36696, 40788, 43440, 44432, and 49391, as they do appear to meet the applicable rules and regulations of the KWAA. The dismissal of 49,390 was expected too with the revision to how this operation is working on the ground. We did confirm that your memo reflects what we expected and what Jim was trying to achieve.

Thanks for all your work on this package,  
Katie

Katie Tietsort  
Water Commissioner, Topeka Field Office  
Kansas Department of Agriculture, Division of Water Resources  
6531 SE Forbes Ave, Ste B  
Topeka, KS 66619  
(785) 296-5733  
[Katie.Tietsort@ks.gov](mailto:Katie.Tietsort@ks.gov)

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**From:** Ireland, Leslie  
**Sent:** Thursday, June 30, 2016 11:08 AM  
**To:** Tietsort, Katie <[Katie.Tietsort@ks.gov](mailto:Katie.Tietsort@ks.gov)>  
**Cc:** Bunger, Brett <[Brett.Bunger@ks.gov](mailto:Brett.Bunger@ks.gov)>  
**Subject:** Recommendation for Change in PU File Nos. 36696xxx & PD File No. 43,440\_ Dismissal File No. 49,390 Chappell

Please let me know if you could recommend the requested actions of Jim Chappell's appropriations for this wetlands.

As always comments and concerns are welcome.

Leslie Ireland, Environmental Scientist II  
Kansas Department of Agriculture  
Division of Water Resources - Change Unit  
(785) 564-6633  
[Leslie.Ireland@ks.gov](mailto:Leslie.Ireland@ks.gov)  
[www.agriculture.ks.gov](http://www.agriculture.ks.gov)