## Kansas Department of Agriculture Division of Water Resources CLOSURE OF NEW APPLICATION WORKSHEET

1. File Number: <b>49,958</b>		,	Change Date:	3. Field Office: <b>02</b>	4. GMD:	
5. Status:	☐ Denied by D			miss by Request/Fa	illure to Return	
6. Enclosures:	□ N of C Form	□w	ater Tube	☐ Driller Copy	☐ Meter	
7a. Applicant(s) New to system □	Person ID 659 Add Seq#	911	7c. Landown New to sy		Person ID Add Seq#	65912
CHRIS BOYD 12001 NW SPRING CRE MEDICINE LODGE KS			3501 N	N E & CARLA W PARK INE LODGE K	•	TRUST
7b. Landowner(s) New to system □	Person ID 659 Add Seq#	913	7d. Misc. New to sy	∕stem □	Person ID Add Seq#	
CARLA BEA ZIELKE LI 5201 E 53RD N KECHI KS 67067	VING TRUST					
8. WUR Correspondent New to system ☐ Overlap File (s) WUC Agree ☐ Yes ☐ No 7a	Person ID <u>631</u> Add Seq# Notarized WUC		⊠ IRR □ STK □ HYD DRG	☑ Groundwater ☐ REC ☐ SED ☐ WTR PWR	☐ Yes ☐ Surface Wate ☐ DEW ☐ DOM ☐ ART RECHE	☐ MUN ☐ CON
10. Completion Date:	11. Perfe	ection Date:		12. Ex	φ Date:	
13. Conservation Plan Required? ☐ ` 14. Water Level Measuring Device?						
				Date Prepared: <b>8/1</b> Date Entered: <b>9/</b>	· -	

File No.	49,958		15. Forma	tion Cod	ę:			Drain	age Ba	asin: N	/ledici	ne Lo	dge	C	ounty:	ВА	_	Sp	ecial U	se:		Stream:			
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21. Plac	e of Use				NI	Ξ1/4			NV	V¹/4	-		SV	<b>V</b> 1⁄4			s	E¼	_	Total	Owner		? NO	Overlap	Files
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## KANSAS DEPARTMENT OF AGRICULTURE Division of Water Resources

#### <u>MEMORANDUM</u>

TO: Files

DATE:

August 13, 2018

FROM:

Austin McColloch

RE: Application, File No. 49,958

Chris Boyd filed a new application for appropriation of water for beneficial use, File No. 49,958, which was received on December 26, 2017. The application is proposing the appropriation of 254.8 acre-feet of groundwater for irrigation use at a diversion rate of 1,200 gallons per minute. The proposed well was to be located in the Southwest Quarter of the Northwest Quarter of the Northeast quarter (SW¼ NW¼ NE⅓) of Section 9, more particularly described as being near a pint 4,603 feet North and 2,077 feet West of the Southeast corner of said section, in Township 30 South, Range 12 West, Barber County, Kansas within the Medicine Lodge Drainage Basin. The source of water appears to be Quaternary deposits. There are no overlapping files for the proposed point of diversion or place of use.

The safe yield determination was based on Area of Consideration x potential annual recharge x percent of recharge available, as follows: 8,042 acres x 1.8 inches x 50% = 7,237.8 acre-inches / 12 = 603.19 acre-feet. Prior appropriations within the same area of consideration total 569 acre-feet, leaving 34.19 acre-feet available for appropriation.

The applicant was sent a letter on July 12, 2018 explaining the available appropriation per by K.A.R. 5-3-11. It was explained that the available appropriation in the area is 34.19 acre feet and the application must be amended to comply with safe yield. The applicant was also informed that with the reduction in quantity, a reduction in the place of use must also be made in order to comply with maximum reasonable quantity. The applicant was provided 30 days (until August 12, 2018) to either (1) submit additional information to our office/ amend the requested quantity and place of use or (2) request additional time beyond the 30 days to submit additional information.

No additional information or request for extension of any kind was received from the applicant. Therefore, it is recommended that application File No. 49,958 be denied and dismissed for failure to return the application with the required information, within the time allowed.

A Findings and Order has been prepared to dismiss the application under the referenced file.

Austin McColloch Environmental Scientist DEPARTMENT OF AGRICULTURE 1320 RESEARCH PARK DRIVE MANHATTAN, KS 66502 PHONE: (785) 564-6700 FAX: (785) 564-6777





900 SW Jackson, Room 456 Торека, KS 66612 Рноме: (785) 296-3556 www.agriculture.ks.gov

GOVERNOR JEFF COLYER, M.D.

JACKIE McClaskey, Secretary of Agriculture

FILE COPY

September 6, 2018

CHRIS BOYD 12001 NW SPRING CREEK RD MEDICINE LODGE KS 67104

RE: Dismissal of Application, File No. 49,958

Dear Mr. Boyd:

The referenced application was returned to you for additional information on July 12, 2018. Enclosed are the Findings and Orders by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, dismissing Application, File No. 49,958, for failure to return the original applications and provide the required information, prior to the final deadline of August 12, 2018.

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 set forth in the enclosed order.

If you have any questions, please contact our office. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

Kristen A. Baum

New Application Unit Supervisor Division of Water Resources

KAB:am Enclosure(s)

pc:

Stafford Field Office

Carla Zielke Living Trust

Calvin & Carla Boyd Rev Trust

### 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. 49,958

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 26, 2017, the Chief Engineer received an application from Chris Boyd for permit to appropriate water for beneficial use, assigned File No. 49,958, proposing the appropriation of 254.8 acre-feet of groundwater, per calendar year, for irrigation use, at a maximum requested diversion rate of 1,200 gallons per minute, from a point of diversion located in the Northeast Quarter (NE½) of Section 9, Township 30 South, Range 12 West, Barber County, Kansas.
- 2. That in accordance with K.S.A. 82a-710 and K.A.R. 5-3-11, the application was returned to the applicant on July 12, 2018, with a letter requesting additional information in order to comply with safe yield requirements.
- 3. That by letter dated July 12, 2018, the applicant was provided a deadline of August 12, 2018, in which to return the application with the required information and was notified that the application would be dismissed if it was not returned within the time allowed or within any authorized extension of time thereof.
- 4. That no request for additional time has been received, nor has the required information been submitted.
- 5. That in accordance with K.S.A. 82a-710 and K.A.R. 5-3-11, the application, described in Paragraph No. 1, shall be denied and dismissed for failure to return the application with the required information, within the time allowed.

#### **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. 49,958, is herewith dismissed and the priority assigned to it is considered to be forfeited.

#### RIGHT TO PETITION FOR REVIEW **UNDER THE KANSAS JUDICIAL REVIEW ACT**

This is a final agency action as defined in K.S.A. 77-607(b). You may pursue judicial review of this Order as provided in the Kansas Judicial Review Act, K.S.A. 77-601 et seq. A petition for judicial review must be filed in a Kansas court of competent jurisdiction within 30 days after service of this Order as provided in K.S.A. 77-613. The agency officer designated to receive service of a petition for judicial review on behalf of the Kansas Department of Agriculture is the Chief Legal Counsel, Kansas Department of Agriculture, 1320 Research Park Dr. Manhattan, KS 66502.

•	Tave F. Pxlourneau
	Lane P. Letourneau, P.G.
	Water Appropriation Program Manager Division of Water Resources
	Kansas Department of Agriculture
State of Kansas	) \
County of Riley	) SS
	est 1 - 1
The fore	going instrument was acknowledged before me this 31st day of August, 2018,
by Lane P. Letourne	eau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas
Department of Agri	DANIEL E WILSON

#### **CERTIFICATE OF SERVICE**

, 2018, I hereby certify that the foregoing Order, dated , 2018, was mailed postage prepaid, first class, US mail to the following:

**CHRIS BOYD** 12001 NW SPRING CREEK RD MEDICINE LODGE KS 67104

With photocopies to:

CARLA BEA ZIELKE LIVING TRUST 5201 E 53RD N **KECHI KS 67067** 

CALVIN E & CARLA J BOYD REV TRUST **3501 NW PARK** MEDICINE LODGE KS 67104

Ordered this 21st day of August

My Appointment Expires August 23, 2020

Stafford Field Office

Division of Water Resources

, 2018, in Topeka, Shawnee County, Kansas.

#### STATE OF KANSAS

DEPARTMENT OF AGRICULTURE 1320 RESEARCH PARK DRIVE MANHATTAN, KS 66502 PHONE: (785) 564-6700 FAX: (785) 564-6777



900 SW Jackson, Room 456 Topeka, KS 66612 Phone: (785) 296-3556 www.agriculture.ks.gov

GOVERNOR JEFF COLYER, M.D.

JACKIE McClaskey, Secretary of Agriculture

July 12, 2018

FILE COPY

CHRIS BOYD 12001 NW SPRING CREEK RD MEDICINE LODGE KS 67104

RE: Pendir

Pending Application, File No. 49,958

Dear Sir or Madam:

We have completed a preliminary review of your application referenced above, and it is being returned to you for additional information. The source of water for the pending application appears to be Quaternary System deposits, based on the test hole log that was submitted. The specific method for calculating safe yield for unconfined groundwater aquifers is described in K.A.R. 5-3-11. Per K.A.R. 5-3-11(d)(1), the safe yield area of consideration represents the portion of the two-mile circle located within the limit of the unconfined aquifer expressed in acres. Safe yield was determined to be 603.19 acre-feet, and existing water rights have appropriated 569 acre-feet, providing a difference of **34.19 acre-feet** of water available.

Per K.A.R. 5-3-11(c)(2) if there is sufficient water available to reasonably satisfy part of the request, then the application shall be approved for the quantity available if the remaining quantity is reasonable for the proposed use. Therefore, if you elect to pursue your proposed irrigation project, the quantity of water you requested must be reduced to 34.19 acrefeet. In addition, you must reduce the acreage for your proposed place of use to ensure that this quantity is reasonable for the proposed use. In order to comply with K.A.R. 5-3-19 for Barber County, the maximum reasonable annual quantity of water for irrigation use is 1.4 acre-feet per acre. With your reduced quantity of water, this would equate to a minimum of approximately 24 acres that could be irrigated, up to a maximum of approximately 27.6 acres. Your original application is being returned to you so that you may revise the requested quantity of water and place of use. Please revise the enclosed topographic map and the "Irrigation Use Supplemental Sheet" to depict the reduced acreage. Please initial any changes that have been made on the application and on the attachments, and return the originals to our office when completed. In addition, please sign and date the topographic map stating all wells within a half mile are shown.

We are advising you of these requirements in order to allow you an opportunity to supply the requested information, as required. In order for the application to retain its priority of filing, the original application and attachments must be returned, with the requested information, to this office on or before **August 12, 2018**, or within any authorized extension of time thereof. According to the law, default in the refiling of the completed application and attachments as outlined above, within the time allowed, **shall constitute forfeiture of your priority date and dismissal of the application.** If you have any questions, please contact me at (785) 564-6643 or <u>Austin.McColloch@ks.gov</u>. If you wish to discuss a specific file, please have the file number ready so that I may help you more efficiently.

Sincerely,

Austin McColloch Environmental Scientist

Division of Water Resources

Enclosure(s)

pc: Stafford Field Office

SCANNED

USE TYPEWRITER OR BALL POINT PEN-PRESS FIRMLY, PRINT CLEARLY.

#### WATER WELL RECORD KSA 82a-1201-1215

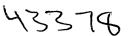
Kansas Department of Health and Environment-Division of Environment (Water well Contractors) Topeka, Kansas 66620

County		XFraction 5W	1	Section	number	Township number	Range number	X
1. Location of well: Bark	ler	5W1/4 NU1/4 N	W1/4		5_	1 30 s	R 124	F/N
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Slope Upland Valley	<i>F I</i>					Signed Authorized re	Date Date	8-3-7
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20	21		Cemented sand	
21	39		Clay, brown with caliche, white clay	
39	110		Sand & gravel, coarse to very fine	
110	143		Sand, medium to very fine with clay streaks, fine to medium gravel	
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2 PVC	4 ABS		Fiberçlass									
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TYPE OF SCHEEN O	R PERFORATION MATE	RIAL:			<u>7 PVC</u>	<u>&gt;</u>			044048-com			
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2 Brass	4 Colverted alect	6 (	Concrete til	8	9 ABS	3		iź No	ne used (e)	oen hole)	)	
Cheen or Perfo	Pation openings are	3	.8	Gauzed we	apped		8 Sax	w cui		11 No	no (oper	n hole)
1 Continuous sk	t <u>3 M</u> @l slot		€	3 Wire wrapp	ed		9 Dr\$	led holes				
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37278

WATER WELL RECORD Form WWC-5 1 LOCATION OF WATER WELL: CENTER OF NORTH 1/2 Section Number Township Number Range Number Barber County: 1/4 1/4 30 12 Distance and direction from nearest town or city street address of well if located within city? Approx. 2 miles south and 2½ east of Sawyer, KS 2 WATER WELL OWNER: Kent Brubaker RR#, St. Address, Box # : Board of Agriculture, Division of Water Resources City, State, ZIP Code : Sawyer KS 67134 Application Number: unknown AN "X" IN SECTION BOX: Pump test data: Well water was not .ck!d. ft. after ..... hours pumping ..... gpm NE -Est. Yield 900 ... gpm: Well water was ..... ft. after ..... hours pumping ..... gpm Ě WELL WATER TO BE USED AS: 5 Public water supply 8 Air conditioning 11 Injection well 1 Domestic 3 Feedlot 9 Dewatering 6 Oil field water supply 12 Other (Specify below) SW SE 2 Irrigation 4 Industrial 7 Lawn and garden only 10 Observation well ...... Was a chemical/bacteriological sample submitted to Department? Yes.......No.....X....; If yes, mo/day/yr sample was sub-Water Well Disinfected? Yes TYPE OF BLANK CASING USED: 5 Wrought iron CASING JOINTS: Glued . . . . . Clamped . . . . . 8 Concrete tile 1 Steel 3 RMP (SR) 6 Asbestos-Cement 9 Other (specify below) 2 PVC 4 ABS 7 Fiberglass Threaded....... TYPE OF SCREEN OR PERFORATION MATERIAL: 7 PVC 10 Asbestos-cement 3 Stainless steel 1 Steel 5 Fiberglass 8 RMP (SR) 2 Brass 4 Galvanized steel 6 Concrete tile 9 ABS 12 None used (open hole) SCREEN OR PERFORATION OPENINGS ARE: 5 Gauzed wrapped 8 Saw cut 11 None (open hole) 1 Continuous slot 3 Mill slot 6 Wire wrapped 9 Drilled holes 2 Louvered shutter 4 Key punched 7 Torch cut 10 Other (specify) .DOERR Bridge .Slot ..... From.....13.6....... ft. to ......196........ ft., From ........... ft. to ...... ft. SCREEN-PERFORATED INTERVALS: GRAVEL PACK INTERVALS: Annular fill From \_\_\_\_ ft., From 10 ft. to 90 6 GROUT MATERIAL: 1 Neat cement 2 Cement grout 3 Bentonite What is the nearest source of possible contamination: 10 Livestock pens 14 Abandoned water well 1 Septic tank 4 Lateral lines 7 Pit privv 11 Fuel storage 15 Oil well/Gas well 5 Cess pool 8 Sewage lagoon 2 Sewer lines 12 Fertilizer storage 16 Other (specify below) 3 Watertight sewer lines 6 Seepage pit 9 Feedyard 13 Insecticide storage .....FIELD..... Direction from well? How many feet? LITHOLOGIC LOG FROM FROM LITHOLOGIC LOG Topsoil & white clay & limestone 0 11 Sand & gravel, very fine to fine, 80 11 few thin streaks of clay 105 Sand & gravel, med, to fine, some 80 coarse. clean 105 150 Sand & gravel, fine to very fine some med. streaks, clean 155 150 Soft brown clay Sand & gravel, fine to very fine. 155 196 clean CONTRACTOR'S OR LANDOWNER'S CERTIFICATION: This water well was (1) constructed, (2) reconstructed, or (3) plugged under my jurisdiction and was Clarke Well & Eq., INC. under the business name of by (signature) INSTRUCTIONS: Use typewriter or ball point pen, PLEASE PRESS FIRMLY and PRINT clearly. Please fill in blanks, underline or circle the correct answers. Send too three copies to Kansas Department of Health and Environment, Division of Environment, Environmental Geology Section, Topeka, KS 66620. Send one to WATER WELL

OWNER and retain one for your records.

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AMOUNT STATISTICS REPORT FOR POINTS OF DIVERSION UNDER A

Water Right and Points of Diversion Within 2.00 miles of point defined as:

4603 Feet North and 2077 Feet West of the Southeast Corner of Section 9 T 30S R 12W

GROUNDWATER ONLY

File Number Use ST SR Dist	(ft) Q4 Q3 Q2 Q1 FeetN	FeetW Sec Twp Rng I	D Batt Auth_Quan Add_Quan Unit
A 37278 00 IRR NK G	4562 NC N2 3870	2680 4 30 12W	1 180.00 180.00 AF
A 43378 00 IRR NK G	1713 NC SE SW 513	3331 4 30 12W	2 194.00 194.00 AF
A 43553 00 IRR NK G	4006 NE SE SE 1062	204 9 30 12W	6 G 3 195.00 195.00 AF
Same	3772 SE NE SE 1414	63 9 30 12W	2 B 3
Same	4076 NE SE SE 908	356 9 30 12W	3 B 3
Same	4186 NE SE SE 864	194 9 30 12W	5 B 3
A 49958 00 IRR AY G	0 SW NW NE 4603	2077 9 30 12W	7 254.80 254.80 AF
T20177013 MF IRR GY G	1713 NC SE SW 513	3331 4 30 12W	2 933.09 .00 AF

Total Net Quantities A	Authorized:	Direct	Storage
Total Requested Amount	: (AF) =	254.80	.00
Total Permitted Amount	(AF) =	.00	.00
Total Inspected Amount	(AF) =	.00	.00
Total Pro_Cert Amount	(AF) =	.00	.00
Total Certified Amount	(AF) =	569.00	.00
Total Vested Amount	(AF) =	.00	.00
TOTAL AMOUNT	(AF) =	823.80	.00

An \* after the source of supply indicates a pending application for change under the file number.

An \* after the ID indicates a 15 AF exemption was granted under the file number.

A "G" in the Batt column indicates the GEO CTR of a battery. A "B" indicates a well in the battery. The number in the Batt column is the number of wells in the battery.

Water Rights and Points of Diversion Within 2.00 miles of point defined as:

4603 Feet North and 2077 Feet West of the Southeast Corner of Section 9 T 30S R 12W GROUNDWATER ONLY

WATER USE CORRESPONDENTS:

File Number Use ST SR

A\_\_ 37278 00 IRR NK G

> KENT E BRUBAKER

> 80225 SE 50TH AVE

> SAWYER KS 67134

A\_\_ 43378 00 IRR NK G

> CALVIN & CARLA BOYD

> 12001 NW SPRING CREEK RD

> MEDICINE LODGE KS 67104

**\----**

A\_\_ 43553 00 IRR NK G

> CALVIN & CARLA BOYD

> 12001 NW SPRING CREEK RD

> MEDICINE LODGE KS 67104	
>	
A 49958 00 IRR AY G	
> CHRIS BOYD	
>	
> 12001 NW SPRING CREEK RD	
> MEDICINE LODGE KS 67104	
>	
T20177013 MF IRR GY G	
> CALVIN & CARLA BOYD	
>	
> 12001 NW SPRING CREEK RD	
> MEDICINE LODGE KS 67104	
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#### **Analysis Results**

The selected PD is in an area OPEN to new appropriations. The safe yield based on the variables listed below is 603.19 AF. Total prior appropriations in the circle is 823.80 AF. Total quantity of water available for appropriation is 0.00-AF.

34.19 AF available

#### Safe Yield Variables

The area used for the analysis is set at 8.042 acres.

The potential annual recharge at the circle center is estimated to be 1.8 inches.

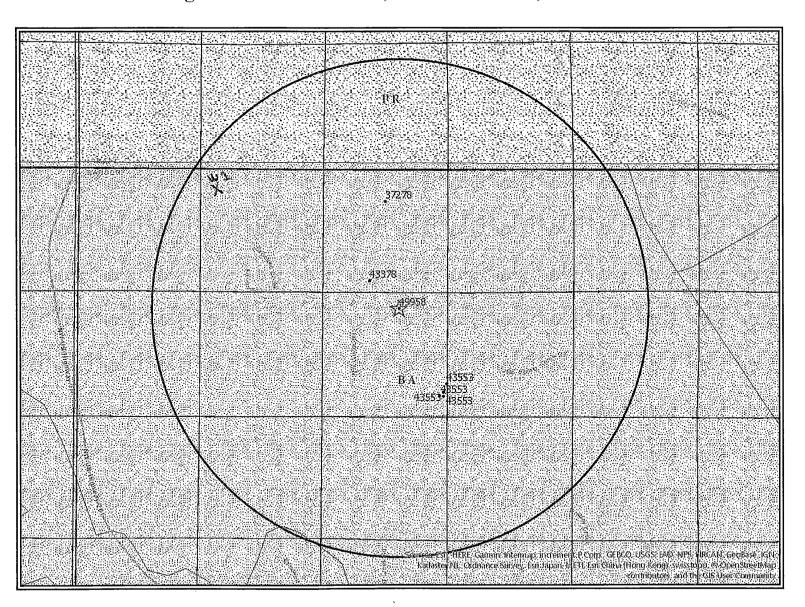
The percent of recharge available for appropriation is 50%.

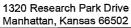
Authorized Quantity values are as of 11-JUL-2018 and are based on Appropriated and Vested ground water right and possible stream nodes for GMD #2. Domestic, Term and Temporary water rights have been excluded.

There are 4 water rights and 7 points of diversion within the circle.

A 37278 00 IRR NK		Q1 FeetN N2 3870	FeetW 2680	Sec 04	Twp Rng 30 12W	ID	Qind	Auth Quant	Add Quant	Tot Acres	Net Acres
			2680	04	20 12W	1	TY 500				
	G NC SE			٠.	30 12 W	Ţ	WR	180.00	180.00	159.50	159.50
A 43378 00 IRR NK	3 , 110 DE	SW 513	3331	04	30 12W	2	WR	194.00	194.00	129.00	129.00
A 43553 00 IRR NK	G SE NE	SE 1414	63	09	30 12W	2	WR	195.00	195.00	130.00	130.00
Same IRR NK	G NE SE	SE 908	356	09	30 12W	3	WR		569 AF		
Same IRR NK	G NE SE	SE 864	194	09	30 12W	5	WR		2001 11.	1 1	
Same IRR NK	G NE SE	SE 1062	204	09	30 12W	6	WR				
A 49958 00 IRR AY	G SW NW	NE 4603	2077	09	30 12W	7	WR	254.80	254.80	182.00	182.00

# Safe Yield Report Sheet Water Right- A4995800 Point of Diversion in 09-30S-12W Footages from SE corner- 4,603 feet North 2,077 feet West







Phone: (785) 564-6700 Fax: (785) 564-6777 Email: ksag@kda.ks.gov www.agriculture.ks.gov

Sam Brownback, Governor

Jackie McClaskey, Secretary

December 29, 2017

CHRIS BOYD 12001 NW CPRING CREEK RD MEDICINE LODGE KS 67104

FILE COPY

**RE:** Application File No. 49958

Dear Sir or Madam:

Your application for permit to appropriate water in 9-30S-12W in Barber County, was received and has been assigned the file number noted above.

As a matter of record, the Division of Water Resources has on hand a large number of applications awaiting processing. Therefore to be fair to all concerned, and so that we can process those applications on hand in the order they were received, we intend to concentrate on the backlog of applications until the issue is resolved. Once review of your application has begun, we will contact you, if additional information is required.

In accordance with the provisions of the Kansas Water Appropriation Act, a portion of which is included below, the use of water as proposed prior to approval of the application is unlawful. Once approved, compliance with the terms, conditions and limitations of the permit is necessary. Conservation of the water resources of Kansas is required.

Section 82a-728 of the Kansas Water Appropriation Act, provides (a) except for the appropriation of water for the purpose of domestic use, ... it shall be unlawful for any person to appropriate or threaten to appropriate water from any source without first applying for and obtaining a permit to appropriate water in accordance with the provisions of the Water Appropriation Act or for any person to violate any condition of a vested right, appropriation right or an approved application for a permit to appropriate water for beneficial use.

(b) (1) The violation of any provision of this section by any person is a class C misdemeanor . . .

A class C misdemeanor is punishable by a fine not to exceed \$500 and/or a term of confinement not to exceed one month in the county jail. Each day that the violation occurs constitutes a separate offense.

If you have any questions, please contact me at (785) 564-6637. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

Kristen A. Baum

New Applications Unit Supervisor Water Appropriation Program

risteraBaum

BAT:

pc:

STAFFORD Field Office

GMD

