

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: February 19, 2021

FROM: Matt Meier

RE: Application, File No. 50,189

The Triad of the Southwest (Ritchie Addison) has filed the referenced application for a permit to appropriate water for beneficial use, proposing the appropriation of 357 acre-feet of groundwater for irrigation use. The proposed point of diversion was the Geo-Center of a well battery to be located in the Southeast Quarter of the Northwest Quarter of the Northeast Quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 22, more particularly described as being near a point 4538 feet North and 1476 feet West of the Southeast corner of said section, in Township 33 South, Range 2 West, Sumner County, Kansas. The applicant had another application for a partially covering the proposed place of use (File No. 50,087) which was voluntarily dismissed by the applicant. It should be noted that the applicant had multiple other pending applications (which included 50076, 50077, 50134, & 50190) in the area which were all worked concurrently with the application.

Due to nearby domestic well owners' concerns, the limited saturated thickness and limited water bearing formation shown in the well logs; the Division of Water Resources Technical Services conducted additional analysis and review of the application. This enhanced review included several Theis analysis evaluations on the proposed applications which help quantify the impact on the long-term sustainability of the aquifer. A portion of information used in the Theis analysis was obtained from data included with the 24-hour pump test the applicant provided on January 15, 2020. Division of Water Resources has determined a reduction in the Saturated Thickness of a local aquifer reaching 20 percent or higher over a 50-year period shall be considered an unreasonable lowering of the static water level and is grounds for denying an application. Based on the Theis analysis conducted by Technical Services, the combined draw down of the applications is greater than the 20 percent cutoff and was grounds for denial.

The applicant was mailed a letter (as well as the original application) explaining the denial recommendation on December 23, 2020 and given a 30-day deadline (until January 22, 2021) to either submit additional information to our office or request an extension. Several phone calls were had with the applicant covering his options in which he agreed to reduce the requested rate of Application 50076, 50077, and 50134 and dismiss 50189 & 50190. The applicant returned applications 50076, 50077, and 50134 on January 8th, 2021 and submitted an extension request on January 21, 2021. On January 22, 2021 another call was made to the applicant to clarify his plans. During the call the applicant stated he intended to go forward with applications 50076, 50077, and 50134 at the reduced rate to meet the 20 percent or less cutoff. He also agreed to dismiss 50189 & 50190 with voluntary dismissal forms.

On February 17, 2021 a signed "Voluntary Dismissal of an Application for Permit to Appropriate Water" form was received from the applicant. Therefore, Application, File No. 50,189 should be dismissed at the applicant's request.

Matt Meier
Environmental Scientist
Permits Unit

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Secretary of Agriculture

DIVISION OF WATER RESOURCES
Earl D. Lewis Jr., Chief Engineer

**FINDINGS AND ORDER
IN THE MATTER OF THE VOLUNTARY DISMISSAL OF APPLICATION
FILE NO. 50,189**

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 27, 2018, the Chief Engineer received an application from Ritchie Addison on behalf of L&M Farms Incorporated, and Leroy and Madeline Addison Trust, for a permit to appropriate water for beneficial use was assigned File No. 50,189, proposing the appropriation of 357 acre-feet of groundwater for irrigation use, from the point of diversion described as a battery of wells with a geographic center proposed in the Southeast Quarter of the Northwest Quarter of the Northeast Quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 22, more particularly described as being near a point 4,540 feet North and 1,476 feet West of the Southeast corner of said section, in Township 33 South, Range 2 West, Sumner County.
2. That in response to nearby domestic well owner concerns and due to the limited saturated thickness and limited water bearing formation shown in the well logs the Division of Water Resources Technical Services conducted additional analysis of the application. Based on the analysis conducted by Technical Services, the combined draw down of multiple applications currently proposed by the applicant was greater than 20 percent over a 50-year period. The Division of Water Resources has determined a reduction in the saturated thickness of a local aquifer reaching 20 percent or higher over a 50-year period shall be considered an unreasonable lowering of the static water level and is grounds for denying an application. Therefore, it was recommended that this application and several other pending applications including Files No. 50,076; 50,077; 50,134, and 50,190 which were all filed by the applicant and located in the same vicinity, be denied.
3. That on December 23, 2020, a letter explaining the denial recommendation and the original application were mailed to the applicant. Several phone calls were had with the applicant discussing his options.
4. That during a phone conversation with the applicant on January 22, 2021, the applicant stated he would be continuing with applications 50,076; 50,077, and 50,134 at a reduced rate to meet the 20 percent or less cutoff and would be letting applications 50,189 & 50,190 expire.
5. On February 18, 2021, a signed Voluntary Dismissal of an Application for Permit to Appropriate Water form dated February 17, 2021, was received via email from the applicant in the Stafford Field Office of the Chief Engineer.
6. That the application should be dismissed and its priority forfeited as requested.

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. 50,189, is herewith dismissed and the priority assigned to it is considered to be forfeited.

Ordered this 5 day of April, 2021, in Manhattan, Riley County, Kansas.

Lane P. Letourneau

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 5 day of April, 2021, by Lane P. Letourneau, P.G., Program Manager, Division of Water Resources, Kansas Department of Agriculture.



Ashlee Freeman
Notary Public

1320 Research Park Drive
Manhattan, KS 66502
785-564-6700
www. agriculture.ks.gov



900 SW Jackson, Room 456
Topeka, KS 66612
785-296-3556

Mike Beam, Secretary

Laura Kelly, Governor

April 5, 2021

RICHARD ADDISON
PO BOX 663
WELLINGTON, KS 67152

Re: Application, File Nos. 50,075; 50,087; 50,189 & 50,190

Dear Mr. Addison:

Enclosed are the Findings and Orders by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, dismissing the applications for appropriation as requested in the voluntary dismissals received for the referenced files on behalf of the Triad of the Southwest, L & M Farms Incorporated and the Leroy and Madeline Addison Trust.

The orders shall become final agency action without further notice to the parties, if a request for hearing or a petition for administrative review is not filed in a manner set forth in the enclosed orders.

If you have any questions, please contact this office at 785-564-6640. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

A handwritten signature in cursive script that reads "Kristen A. Baum".

Kristen A. Baum
New Application and Change Unit Supervisor
Water Appropriation Program

KAB:MM:li

Enclosures

pc: Stafford Field Office

RIGHT TO PETITION FOR REVIEW UNDER THE KANSAS JUDICIAL REVIEW ACT

Right to Petition for Administrative Review - If you are aggrieved by this Order, then pursuant to K.S.A 82a-1901(c), 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 review 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 the Secretary of Agriculture, Attn: Legal Division, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, or by FAX (785) 564-6777. If no 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 administrative review may preclude further judicial review under the Kansas Judicial Review Act.

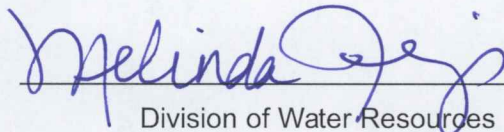
CERTIFICATE OF SERVICE

On this 5 day of April, 2021, I hereby certify that the foregoing Dismissal of Application, File No. 50,189, dated 5 April, 2021, was mailed postage prepaid, first class, US mail to the following:

L&M FARMS INC
LEROY & MADELINE ADDISON TRUST
RITCHIE ADDISON
PO BOX 663
WELLINGTON, KS 67152

With photocopies to:

Stafford Field Office



Division of Water Resources