

File No. **20153007 TD** 15. Formation Code: Drainage Basin: County: Special Use: Stream:

16. Points of Diversion											
T	MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W
DEL	84406	NE	NE	NE		36	13	10W	3	4791	300

17. Rate and Quantity				
Authorized		Additional		
Rate	Quantity	Rate	Quantity	Overlap PD Files
gpm/cfs	af/mgy	gpm/cfs	af/mgy	

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) _____
 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										NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg?	Overlap Files
T	MOD	DEL	ENT	PUSE	S	T	R	ID		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				
DEL	64524							4		20																		7A	

Comments:

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: April 11, 2017

FROM: Alex Whitesell

RE: Application
File No. 20153007 TD

On March 27, 2017, the Division of Water Resources received a Voluntary Waiver of Hearing & Dismissal of Water right from Paul & Phyllis Winckler dismissing the above referenced file.

Based on the above discussion and the available information, it is recommended that the referenced Water Right be dismissed.



Alex Whitesell
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

April 25, 2017

FILE COPY

PAUL & PHYLLIS WINCKLER
188 N 70TH RD
WILSON KS 67490-9104

RE: Dismissal of Application
File No. 20153007 TD

Dear Mr. and Mrs. Winckler:

Reference is made to Application, File No. 20153007 TD, proposing water to be diverted for domestic use.

In the voluntary dismissal received on March 27, 2017, you advised the Chief Engineer that this proposed application 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 application is declared abandoned. The voluntary dismissal of March 27, 2017, is considered a waiver of any such hearing. Therefore, the application 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, P.G.
Change Application Unit Supervisor
Water Appropriation Program

.BAT:ajw

Enclosure(s)

pc: Stockton Field Office



KANSAS DEPARTMENT OF AGRICULTURE
Jackie McClaskey, Secretary of Agriculture

FILE COPY
DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

**FINDINGS AND ORDER
IN THE MATTER OF THE
DISMISSAL OF APPLICATION
FILE NO. 20153007 TD**

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 June 1, 2015, the Chief Engineer received an application from Paul and Phyllis Winckler for permit to appropriate groundwater for beneficial use, assigned File No. 20153007 TD, for domestic use. The point of diversion was located in the Northeast Quarter of the Northeast Quarter of the Northeast Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 36, more particularly described as being near a point 4,791 feet North and 300 feet West of the Southeast corner of said section, in Township 13 South, Range 10 West, Lincoln County, Kansas.
2. That on March 27, 2017, a voluntary request to dismiss application, File No. 20153007 TD, was received in the office of the Chief Engineer by Paul and Phyllis Winckler.
3. That the application should be dismissed and its priority forfeited as requested by the applicant.

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. 20153007 TD, is herewith dismissed and the priority assigned to it is considered to be forfeited.

This Order shall become a final agency action, as defined by K.S.A. 77-607(b), without further notice to the parties, if a request for hearing or a petition for administrative review is not filed as set forth below.

Request for Hearing. According to K.A.R. 5-14-3(c), any party who desires a hearing must submit a request within 15 days after the date shown on the Certificate of Service attached to this Order. Filing a request for a hearing will give you the opportunity to submit additional facts for consideration, contest any findings made by the Chief Engineer, or present any other information you believe should be considered in this matter. A timely-filed request for hearing will stay the deadline for requesting administrative review of this Order pending the outcome of the hearing.

Petition for Review. The applicant, if aggrieved by this Order, may petition for administrative review, pursuant to K.S.A. 82a-711(c) and K.S.A. 82a-1901(a). The petition must be filed within 30 days after the date shown on the Certificate of Service attached to this Order and must set forth the basis for the review, unless stayed by the timely filing of a request for hearing.

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>

WATER RESOURCES
RECEIVED

MAR 27 2017

Re: Appropriation of Water
Water Right
Vested Right
Term Permit
(Check Appropriate Box Above)
File No. 20153007-TD

KS DEPT OF AGRICULTURE

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):

Paul G. Winckler
(Signature of Owner or Authorized Agent)

Phyllis R. Winckler
(Signature of Spouse or Title of Authorized Agent)

Paul Winckler
(Please print name here)

Phyllis Winckler
(Please print name here)

188 N 70th RD
(Mailing Address)

188 N 70th RD
(Mailing Address)

Wilson, KS 67490-9104
(City, State, Zip)

Wilson, KS 67490-9104
(City, State, Zip)

RECEIVED

MAR 23 2017

ACKNOWLEDGMENT

Stockton Field Office
Division of Water Resources

State of Kansas)
County of Ellsworth)

This instrument was acknowledged before me this 17th day of March, 2017 by
(owners:) Paul Winckler + Phyllis Winckler

(Seal)



Mary Rathbun
Notary Public

My appointment expires:

July 21, 2018

DWR Initials

THE STATE OF KANSAS



WATER RESOURCES RECEIVED

JUN 01 2015

1:03

KS DEPT OF AGRICULTURE

F.O. 3
 GMD -0-
 MEETS KANSAS DEPARTMENT OF AGRICULTURE
 Jackie McClaskey, Secretary of Agriculture
 K.A.R.5 3-1
 USE DOM
 G/S G
 Co. LC
 By KAB
 Date 6/1/15

DIVISION OF WATER RESOURCES
 David W. Barfield, Chief Engineer
 WATER RESOURCES RECEIVED

DOMESTIC WATER RIGHT APPLICATION

Application No. 20153007-TD

(Please type or print)

Domestic Water Right Applicant: Paul and Phyllis Winkler

MAY 15 2015

12:40 PM
KS DEPT OF AGRICULTURE

UNACCEPTABLE FOR PRIORITY

Telephone Number: 785-658-2258 E-mail Address: _____

B. Date Domestic Use of Water Began (or will begin): 1950
(See Definitions on next page)

C. Source of Supply: (1) groundwater, name of basin Smoky Hill River Basin
or (2) _____ surface water, name of stream domestic water well

D. *Location of Point of Diversion (well, dam, pumpsite, spring or stream):
(1) Section 36, Township 13 South, Range 10 (East)(West), Lincoln
County, Kansas. Distance from southeast corner of section. ~~4800~~ 4791 feet north, 300 feet west.
(2) Section _____, Township _____ South, Range _____ (East)(West), _____
County, Kansas. Distance from southeast corner of section. _____ feet north, _____ feet west.

*You may apply for only one point of diversion on each form, but if livestock drink from a stream, list legal description of the points where stream enters and leaves your property.

The owner of the point of diversion, if other than the applicant is (please print):
Paul and Phyllis Winkler 186 N 70th Wilson Ke. 67490-9104
(name, address and telephone number)

You must provide evidence of legal access to, or control of, the point of diversion from the landowner or the landowner's authorized representative. Provide a copy of a recorded deed, lease, easement or other document with this application. In lieu thereof, you may sign the following sworn statement:

I have legal access to, or control of, the point of diversion described in this application from the landowner or the landowner's authorized representative. I declare under penalty of perjury that the foregoing is true and correct.

Executed on 5-20, 20 15 Paul D. Winkler
Applicant's Signature

E. Description of Use:

1. _____ Household of _____ persons and irrigation of _____ acres of lawn, garden and orchard at _____ gallons per minute.
2. _____ Livestock drink from stream in pasture.
3. _____ Livestock drink from stock tank filled by a well at _____ g.p.m.
4. _____ Livestock drink from pond or stock tank filled by pond.
5. _____ Livestock drink from spring or stock tank filled by spring.
6. Other (explain) supplemental well occasional use

6/3/2015 LLM
SCANNED

F. **Livestock** - If domestic right is for livestock, how many head were being watered when use first began and how many are currently being watered?

Year use began (1950)

Year application filed (2015)

Cattle 50-100
Horses _____
Sheep _____
Hogs _____
Other _____

Cattle 95 needed
Horses _____
Sheep _____
Hogs _____
Other _____

G. **Pasture** - How many acres of pasture are contiguous to the well, spring, stream or pond?
20 acres. Is this native pasture? Yes / No (circle one). How many acres of pasture does it take to support one cow? 7-8 acres.

ATTACHMENTS

1. Attach a plat, topographic map or aerial photo showing the location of (a) the stream, pond or well and (b), if for livestock, the location of the pasture contiguous to the well, pond, or stream. Show section, township and range, scale and north arrow.
2. If domestic use began prior to the date of this application, please attach affidavits from three competent disinterested persons or other information (i.e. driller's log, driller's contract, dated photos), substantiating the information on this form.

Name and Address of Domestic Water Right Owner, if different from applicant.

Shyllis R. Winckler
Signature of domestic right applicant

5-28-2015
Date

DEFINITIONS

"Domestic uses" means "the use of water by any person or by a family unit or household for household purposes, or for the watering of livestock, poultry, farm and domestic animals used in operating a farm, and for the irrigation of lands not exceeding a total of two (2) acres in area for the growing of gardens, orchards and lawns." K.S.A. 82a-701(c).

"Household purposes" means "the use of water by a person for cooking, cleaning, washing, bathing, human consumption, restroom facilities or other uses normally associated with the operation of a household. Household purposes includes the use of one and one-half acre-feet of water or less per calendar year by an industrial user, restaurant, hotel, motel, church, camp, correctional facility, educational institution or similar entity for household purposes." K.A.R. 5-1-1(m).

FOR OFFICE USE ONLY: Maximum Rate _____ Annual Quantity _____



KANSAS DEPARTMENT OF AGRICULTURE
Jackie McClaskey, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

Instructions: Fill out only the portions of the form of which you have personal knowledge and which are applicable; write N.A. (not applicable) or "unknown" in all other blanks.

AFFIDAVIT IN SUPPORT OF DOMESTIC WATER RIGHT APPLICATION

STATE OF KANSAS

COUNTY OF Lincoln

I, David Cox, being first duly sworn, upon oath state:
(affiant)

- I am only providing information I personally know to be true.
- That I am 47 years old and currently reside at 654 E. Ash Drive
Wilson, KS 67490. My current telephone number is (785) 826-5913
- I am submitting this affidavit on behalf of Paul + Phyllis Winckler
(name of domestic water right owner)
for a domestic water right located in the N 1/2 of NE 14 quarter of Section 36,
Township 13 South, Range 10 East/West, Lincoln County, Kansas.
- Water is/has been (circle one) diverted on the land described in paragraph 3 by means of a: (a) windmill, (b) well and electric pump (c) dam, (d) livestock drinking from a stream/pond, or (e) other

(specify)
- Based on my personal knowledge, domestic use first began on 1950
Water has been used for domestic purposes during the following years: 1950-2015
Water was not used for domestic purposes during the following years: 0
- My knowledge about this domestic right is based on: (a) my personal observations, (b) being told about its use by _____, or
(name)
(c) other _____
(explain)
- I have personal knowledge of this domestic use for the period _____ through _____.
- Livestock on _____ acres of pasture located in the _____ quarter of Section _____, Township _____ South, Range _____ East/West, _____ County, Kansas were watered from:
(a) _____ miles of stream named _____,
(b) _____ windmills located _____, or (c) _____ farm ponds located _____.
On the average, there were _____ head of cattle/ _____ (other) on this pasture from _____ to _____. Currently, there are _____ head of cattle/ _____ (other) in this pasture.

UNACCEPTABLE FOR PRIORITY
WATER RESOURCES RECEIVED
MAY 27 2015
KS DEPT OF AGRICULTURE

WATER RESOURCES RECEIVED

JUN 01 2015

9. Water was used for domestic purposes at a farmstead located in the _____ quarter of Section _____, Township _____ South, Range _____ East/West, _____ County, Kansas. Water was diverted by means of a well which pumped approximately _____ gallons per minute. The well was powered by: (a) wind, (b) electricity, or (c) other _____. The well was drilled approximately _____ and has/has not been replaced. There were _____ persons living at that farmstead and approximately _____ cows, _____ horses, _____ hogs, and _____ were watered from this source of supply. _____ acres of lawn, garden and orchard were watered from this domestic water supply.

10. Water was used for domestic purposes in the following manner:

11. I would also submit the following information in support of the above referenced domestic water right:

12. The above information is true and correct to the best of my knowledge. I have only supplied information I know to be true. I have supplied this information freely and not as a result of coercion or threat.

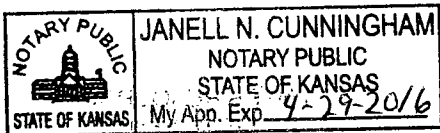
FURTHER, Affiant sayeth naught.

Dated this 28th day of April, 2015.

[Signature]
(NAME)

Subscribed and sworn to before me this 28th day of April, 2015.

[Signature]
(NOTARY PUBLIC)



My commission expires: April 29, 2016



KANSAS DEPARTMENT OF AGRICULTURE
Jackie McClaskey, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

Instructions: Fill out only the portions of the form of which you have personal knowledge and which are applicable; write N.A. (not applicable) or "unknown" in all other blanks.

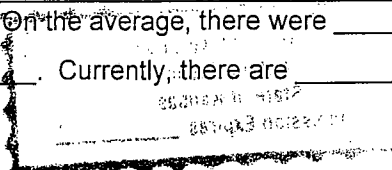
AFFIDAVIT IN SUPPORT OF DOMESTIC WATER RIGHT APPLICATION

STATE OF KANSAS

COUNTY OF _____

I, Leonard Mattas, being first duly sworn, upon oath state:
(affiant)

- I am only providing information I personally know to be true.
- That I am 86 years old and currently reside at 576 Ave B, Wilson, Ks. 67490. My current telephone number is ()
- I am submitting this affidavit on behalf of Paul & Phillip Winkler (name of domestic water right owner) for a domestic water right located in the N 1/2 of NE 1/4 quarter of Section 36, Township 13 South, Range 10 East/West, Lincoln County, Kansas.
- Water is/has been (circle one) diverted on the land described in paragraph 3 by means of a: (a) windmill, (b) well and electric pump, (c) dam, (d) livestock drinking from a stream/pond, or (e) other _____ (specify)
- Based on my personal knowledge, domestic use first began on 1950. Water has been used for domestic purposes during the following years: 1950-2015. Water was not used for domestic purposes during the following years: 0.
- My knowledge about this domestic right is based on: (a) my personal observations (b) being told about its use by _____ (name), or (c) other _____ (explain)
- I have personal knowledge of this domestic use for the period _____ through _____.
- Livestock on _____ acres of pasture located in the _____ quarter of Section _____, Township _____ South, Range _____ East/West, _____ County, Kansas were watered from:
(a) _____ miles of stream named _____
(b) _____ windmills located _____, or (c) _____ farm ponds located _____
On the average, there were _____ head of cattle/ _____ (other) on this pasture from _____ to _____. Currently, there are _____ head of cattle/ _____ (other) in this pasture.



WATER RESOURCES RECEIVED

JUN 01 2015

WATER RESOURCES RECEIVED

MAY 22 2015

KS DEPT OF AGRICULTURE

9. Water was used for domestic purposes at a farmstead located in the _____ quarter of Section _____, Township _____ South, Range _____ East/West, _____ County, Kansas. Water was diverted by means of a well which pumped approximately _____ gallons per minute. The well was powered by: (a) wind, (b) electricity, or (c) other _____. The well was drilled approximately _____ and has/has not been replaced. There were _____ persons living at that farmstead and approximately _____ cows, _____ horses, _____ hogs, and _____ were watered from this source of supply. _____ acres of lawn, garden and orchard were watered from this domestic water supply.

10. Water was used for domestic purposes in the following manner:

11. I would also submit the following information in support of the above referenced domestic water right:

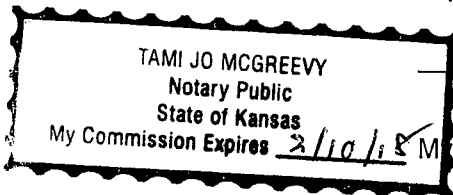
12. The above information is true and correct to the best of my knowledge. I have only supplied information I know to be true. I have supplied this information freely and not as a result of coercion or threat.

FURTHER, Affiant sayeth naught.

Dated this 15 day of April, 2015.

Leonard W. Mathas
(NAME)

Subscribed and sworn to before me this 15 day of April, 2015.



Tami Jo McGreevy
(NOTARY PUBLIC)

My commission expires: 2/10/18



KANSAS DEPARTMENT OF AGRICULTURE
Jackie McClaskey, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

Instructions: Fill out only the portions of the form of which you have personal knowledge and which are applicable; write N.A. (not applicable) or "unknown" in all other blanks.

AFFIDAVIT IN SUPPORT OF DOMESTIC WATER RIGHT APPLICATION

STATE OF KANSAS

COUNTY OF _____

I, Bernard Habiger, being first duly sworn, upon oath state:
(affiant)

1. I am only providing information I personally know to be true.

2. That I am 58 years old and currently reside at 576 old Highway 40 cell Wilson KS 67490. My current telephone number is (785) 658-2136 785-68-541

3. I am submitting this affidavit on behalf of Paul & Phyllis Wincklar
(name of domestic water right owner)
for a domestic water right located in the N/4 of the NE 1/4 quarter of Section 36,
Township 13 South, Range 10 East/West, _____ County, Kansas.

4. Water is/has been (circle one) diverted on the land described in paragraph 3 by means of a: (a) windmill, (b) well and electric pump, (c) dam, (d) livestock drinking from a stream/pond, or (e) other _____
(specify)

5. Based on my personal knowledge, domestic use first began on 1960.
Water has been used for domestic purposes during the following years: 1960 - 2013.
Water was not used for domestic purposes during the following years: 0.

6. My knowledge about this domestic right is based on: (a) my personal observations, (b) being told about its use by _____, or
(name)
(c) other _____
(explain)

7. I have personal knowledge of this domestic use for the period _____ through _____.

8. Livestock on _____ acres of pasture located in the _____ quarter of Section _____, Township _____ South, Range _____ East/West, _____ County, Kansas were watered from:
(a) _____ miles of stream named _____,
(b) _____ windmills located _____, or (c) _____ farm ponds located _____. On the average, there were _____ head of cattle/ _____ (other) on this pasture from _____ to _____. Currently, there are _____ head of cattle/ _____ (other) in this pasture.

WATER RESOURCES RECEIVED

JUN 01 2015

WATER RESOURCES RECEIVED

MAY 22 2015

UNACCEPTABLE FOR PRIORITY
SCANNED

9. Water was used for domestic purposes at a farmstead located in the _____ quarter of Section _____, Township _____ South, Range _____ East/West, _____ County, Kansas. Water was diverted by means of a well which pumped approximately _____ gallons per minute. The well was powered by: (a) wind, (b) electricity, or (c) other _____. The well was drilled approximately _____ and has/has not been replaced. There were _____ persons living at that farmstead and approximately _____ cows, _____ horses, _____ hogs, and _____ were watered from this source of supply. _____ acres of lawn, garden and orchard were watered from this domestic water supply.

10. Water was used for domestic purposes in the following manner:

11. I would also submit the following information in support of the above referenced domestic water right:

12. The above information is true and correct to the best of my knowledge. I have only supplied information I know to be true. I have supplied this information freely and not as a result of coercion or threat.

FURTHER, Affiant sayeth naught.

Dated this 6th day of April, 2015.

Bernard Holm
(NAME)

Subscribed and sworn to before me this 16th day of April, 2015.

[Signature]
(NOTARY PUBLIC)



My commission expires: 5-24-16

1320 Research Park Drive
Manhattan, Kansas 66502

Jackie McClaskey, Secretary



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

June 2, 2015

PAUL AND PHYLLIS WINCKLER
188 N 70TH
WILSON KS 67490

RE: Application
File No. 20153007-TD

Dear Sir or Madam:

Your application for permit to appropriate water in 36-13S-10W in Lincoln 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) 564-6643. 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 "Brent A. Turney".

Brent Turney, L.G.
Change Application Unit Supervisor
Water Appropriation Program

BAT: dlw
pc: STOCKTON Field Office
GMD 0

SCANNED