

File No. **49,798** 15. Formation Code: Drainage Basin: County: Special Use: Stream:

16. Points of Diversion										17. Rate and Quantity					
MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Authorized		Additional		Overlap PD Files
										Rate gpm/cfs	Quantity af/mgy	Rate gpm/cfs	Quantity af/mgy		
DEL	85952														NONE
DEL	85953														
DEL	85954														

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? NO	Overlap Files
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	68263																								7a	NO	NONE		

Comments:

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: January 28, 2019

FROM: Doug Schemm

RE: Application, File No. 49,798

Steven Albright filed the above referenced application to appropriate surface water for irrigation use. The applicant had initially stated he needed more time to determine the exact locations of pump sites and the feasibility of the project. The application was returned to the applicant on December 26, 2018, providing 30 days to provide additional information about the application.

The applicant contacted Topeka Field Office staff by telephone on January 17, 2019 and stated that this irrigation project would not be pursued because it was too costly. The applicant understood that the application would be dismissed for failure to return by the deadline. The original application was not returned by the deadline, nor was there a request for an extension of time.

Based on the available information, that the application was not returned within the time allowed, it is recommended that the file be dismissed for failure to return, as provided by K.S.A. 82a-710.

Douglas Schemm
Environmental Scientist
Topeka Field Office

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, Acting Secretary

Laura Kelly, Governor

STEVEN ALBRIGHT
10685 110 RD
MAYETTA KS 66509

February 18, 2019

FILE COPY

RE: Application, File No. 49,798

Dear Mr. Albright:

Enclosed is the Findings and Order by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, dismissing Application, File No. 49,798 for failure to return the application and provide the requested information, prior to the deadline of January 26, 2019. During our recent telephone conversation, you noted that this project is not economical to pursue at this time.

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
Water Appropriation Program

KAB:dws
Enclosures

pc: Topeka Field Office

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Acting 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. 49,798

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 March 17, 2017, the Chief Engineer received an application from Steven Albright for permit to appropriate surface water for beneficial use, assigned File No. 49,798, proposing the appropriation of 152 acre-feet of water, at a maximum requested diversion rate of 1,600 gallons per minute, for irrigation use. The points of diversion were three (3) pump sites located as follows: one in the Northwest Quarter of the Southeast Quarter of the Northeast Quarter (NW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 36, more particularly described as being near a point 3,724 feet North and 1,077 feet West of the Southeast corner of said section; one in the Southwest Quarter of the Southeast Quarter of the Northeast Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 36, more particularly described as being near a point 3,136 feet North and 1,300 feet West of the Southeast corner of said section; and one in the Southwest Quarter of the Southeast Quarter of the Northeast Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 36, more particularly described as being near a point 2,811 feet North and 1,226 feet West of the Southeast corner of said section, all in Township 10 South, Range 14 East, Shawnee County, Kansas.
2. That on December 26, 2018, the application was returned to the applicant, with a cover letter requesting that additional information be submitted in order to complete the application. The applicant was provided an initial deadline until January 26, 2019, the time in which to provide the requested information and return the original application. The applicant was informed that the application would be dismissed if it was not returned by the January 26, 2019 deadline, or within any authorized extension of time.
3. That the applicant contacted DWR Topeka Field Office staff by telephone on January 17, 2019 and stated that it was too costly to install irrigation equipment at this time and that this project would not be pursued. The applicant was again informed that the application would be dismissed if not returned by the January 26, 2019 deadline, and he understood this dismissal.
4. That the application was not returned by the January 26, 2019 deadline, nor was there any request for an extension of time.
5. That the application should be dismissed and its priority forfeited as provided by K.S.A. 82a-710, for failure to return the application.

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. 49,798, is herewith dismissed and the priority assigned to it is considered to be forfeited.

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 prescribed by the Kansas Act for Judicial Review and Civil Enforcement of Agency Actions (KJRA K.S.A. 77-601 et seq.) within 30 days of service of this order. Your appeal must be made with the appropriate district court for the district of Kansas.

The Chief Legal Counsel for the Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, is the agency officer who will receive service of a petition for judicial review on behalf of the Kansas Department of Agriculture, Division of Water Resources. If you have questions or would like clarification concerning this order, you may contact the Chief Engineer.

Ordered this 14th day of February, 2019, 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 14th day of February, 2019, by Lane P. Letourneau, P.G., Program Manager, Division of Water Resources, Kansas Department of Agriculture



Danielle Wilson

Notary Public

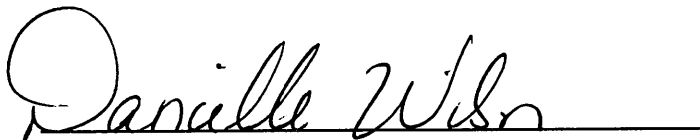
CERTIFICATE OF SERVICE

On this 18th day of February, 2019, I hereby certify that the foregoing Dismissal of Application, File No. 49,798, dated February 14, 2019 was mailed postage prepaid, first class, US mail to the following:

STEVEN ALBRIGHT
10685 110 RD
MAYETTA KS 66509

With photocopies to:

Topeka Field Office

A handwritten signature in cursive script, reading "Danielle Wilson", is written over a solid horizontal line.

Division of Water Resources

STATE OF KANSAS



DEPARTMENT OF AGRICULTURE
DIVISION OF WATER RESOURCES
TOPEKA FIELD OFFICE
6531 SE FORBES AVE., SUITE B
TOPEKA, KS 66619

PHONE: (785) 296-5733
FAX: (785) 296-8298
www.agriculture.ks.gov

GOVERNOR JEFF COLYER, M.D.
JACKIE McCLASKEY, SECRETARY OF AGRICULTURE

December 26, 2018

STEVEN ALBRIGHT
10685 110 RD
MAYETTA KS 66509

Re: Pending Application, File No. 49,798

Dear Mr. Albright:

The above referenced **original** application for a permit to appropriate water for beneficial use is being returned to you for additional information. The application is proposing the diversion of surface water from three pump sites located in the Northeast Quarter of Section 36, Township 10 South, Range 14 East, Shawnee County, Kansas. Please verify that the information in this application is correct regarding pump site locations.

In addition, please provide the names and addresses of upstream and downstream landowners adjacent to the stream within one-half mile upstream and downstream of your property boundaries.

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 **January 26, 2019**, or within any authorized extension of time thereof. Pursuant to K.S.A. 82a-710, failure to timely refile the completed application and attachments as outlined above shall constitute forfeiture of your priority date and result in dismissal of the application.

You may contact me at (785) 296-3495 with any questions or comments.

Sincerely,

Douglas W. Schemm
Environmental Scientist
Topeka Field Office

Enclosure



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

March 17, 2017

STEVEN W ALBRIGHT
10685 110 RD
MAYETTA KS 66509

RE: Application
File No. 49798

FILE COPY

Dear Sir or Madam:

Your application for permit to appropriate water in 36-10S-14E in Shawnee 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) 564-6645. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

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

BAT: dlw
pc: TOPEKA Field Office
GMD

SCANNED