



File No. <b>50,449</b>	15. Formation Code:	Drainage Basin:	County:	Special Use:	Stream:																
16. Points of Diversion			17. Rate and Quantity																		
T 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									
<b>DEL</b>	<b>88421</b>	<b>LOT 5</b>	<b>25</b>	<b>29S</b>	<b>20E</b>	<b>2</b>	<b>2960</b>	<b>2730</b>				<b>NONE</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) _____																					
Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____																					
20. Meter Required? <input type="checkbox"/> Yes <input type="checkbox"/> No    To be installed by _____    Date Acceptable Meter Installed _____																					
21. Place of Use		NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg? <b>NO</b>	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				
<b>DEL</b>	<b>70126</b>	<b>25</b>	<b>29</b>	<b>20E</b>	<b>1</b>	<b>POND (LOT 5) 8.19 AC</b>													<b>7a.</b>	<b>NO</b>	<b>NONE</b>
Comments:																					

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

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

**TO:** Files

**DATE:** March 29, 2021

**FROM:** Doug Schemm

**RE:** Application, File No. 50,449

Jim Wagner filed the application referred to above proposing to appropriate 32 acre-feet of surface water at a diversion rate of 3,000 gallons per minute from one pump site on the Neosho River, for recreational use in a waterfowl marsh. The marsh was to be located in Lot 5 of Section 25, in Township 29 South, Range 20 East, Neosho County, Kansas.

The applicant contacted DWR Topeka Field Office staff by telephone and requested that the application be dismissed. He had decided not to complete the project because of rising equipment and construction costs. The applicant provided a "Voluntary Dismissal of an Application for Permit to Appropriate Water" form for File No. 50,449 received in our office on March 11, 2021, and it will be dismissed as requested.

A Findings and Order has been prepared to dismiss this application, as requested.



Douglas W. Schemm  
Environmental Scientist  
Topeka Field Office

# 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 DISMISSAL OF APPLICATION FILE NO. 50,449**

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 September 28, 2020, the Chief Engineer received an application from Jim Wagner for permit to appropriate surface water for beneficial use, assigned File No. 50,449, proposing the appropriation of 32 acre-feet of water, at a maximum requested diversion rate of 3,000 gallons per minute, for recreational use. The proposed point of diversion was to be located in Lot 5, of Section 25, more particularly described as being near a point 2,960 feet North and 2,730 feet West of the Southeast corner of said section, in Township 29 South, Range 20 East, Neosho County, Kansas.
2. That the applicant contacted Division of Water Resources Topeka Field Office by telephone on February 24, 2021, and requested that the application be dismissed. The applicant stated that his decision to dismiss the application was based on increasing costs of fees, equipment, and construction material.
3. That a signed "Voluntary Dismissal of an Application for Permit to Appropriate Water" form for Application, File No. 50,449 was received in the office of the Chief Engineer on March 11, 2021.
4. 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. 50,449, is herewith dismissed and the priority assigned to it is considered to be forfeited.

Ordered this *28* 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

State of Kansas            )  
                                      ) SS  
County of Riley            )

The foregoing instrument was acknowledged before me this *28* 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

May 6, 2021

JIM WAGNER  
8600 TREGO RD  
SAINT PAUL KS 66771

RE: Application, File No. 50,449

Dear Mr. Wagner:

Enclosed is the Findings and Order by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, dismissing Application, File No. 50,449, as you requested in the "Voluntary Dismissal of an Application for Permit to Appropriate Water" form received in our office on March 11, 2021. If you are aggrieved by this Order, then pursuant to K.S.A. 82a-1901, you may:

- 1) request an evidentiary hearing before the Chief Engineer, or
- 2) request administrative review by the Secretary of Agriculture.

Failure to request an evidentiary hearing before the Chief Engineer does not preclude your right to administrative review by the Secretary. To obtain an evidentiary hearing before the Chief Engineer, a written request for hearing must be filed within 15 days after service of this Order as provided in K.S.A. 77-531 (i.e., within a total of 18 days after this Order was mailed to you), with: Kansas Department of Agriculture, Attn: Legal Section, 1320 Research Park Drive, Manhattan, Kansas 66502, FAX (785) 564-6777.

If you do not file a request for an evidentiary hearing before the Chief Engineer, 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 hearing 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: Secretary of Agriculture, Attn: Legal Division, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, FAX (785) 564-6777. If neither a request for an evidentiary hearing nor a 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 either an evidentiary hearing or administrative review may preclude further judicial review under the Kansas Judicial Review Act.

If you have any questions or need assistance with any of these requirements, please contact our office at 785-564-6640 or your local Topeka Field Office at 785-296-5733. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

Kristen A. Baum  
New Application Unit Supervisor  
Division of Water Resources

KAB:dws:li  
Enclosure(s)

pc: Topeka Field Office

**RIGHT TO A HEARING AND TO ADMINISTRATIVE REVIEW**

If you are aggrieved by this Order, then pursuant to K.S.A. 82a-1901, you may:

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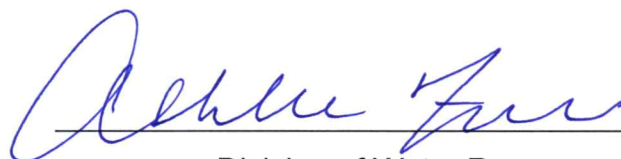
**CERTIFICATE OF SERVICE**

On this 6 day of May, 2021, I hereby certify that the foregoing Dismissal of Application, File No. 50,449, dated 28 April, 2021, was mailed postage prepaid, first class, US mail to the following:

JIM WAGNER  
8600 TREGO RD  
SAINT PAUL, KS 66771

With photocopies to:

Topeka Field Office



Division of Water Resources