

**Kansas Department of Agriculture
Division of Water Resources**

CHANGE: PU WORKSHEET

1. File Number: 48,107	2. Status Change Date: 10/18/2022	3. Change Num: C1	4. Field Office: 01	5. GMD:
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6. Status: <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied by DWR/GMD <input type="checkbox"/> Dismiss by Request/Failure to Return	7. Filing Date of Change: 3/19/21
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8a. Applicant(s) New to system <input type="checkbox"/> GLOVER REAL ESTATE LLC PO BOX 3823 BLUFFTON, SC 29910 Person ID <u>62113</u> Add Seq# <u>1</u>	8c. Other New to system <input type="checkbox"/> BOBBY GLOVER 2479 US HWY 400 MCCUNE, KS 66753 *This is the applicant's local address. Person ID <u>68270</u> Add Seq# _____
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8b. Landowner(s) New to system <input type="checkbox"/> GLOVER REAL ESTATE LLC PO BOX 3823 BLUFFTON, SC 29910 Person ID <u>62113</u> Add Seq# <u>1</u>	8d. WUC New to system <input type="checkbox"/> 8c Person ID <u>68270</u> Add Seq# <u>1</u>
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9. Documents and Enclosure(s): <input checked="" type="checkbox"/> DWR Meter(s) Date to Comply: <u>12/31/23</u> <input type="checkbox"/> N & P Date to Comply: _____
<input type="checkbox"/> Anti-Reverse Meter <input type="checkbox"/> Meter Seal <input checked="" type="checkbox"/> Check Valve <input type="checkbox"/> N & P Form <input type="checkbox"/> Water Tube <input type="checkbox"/> Driller Copy <input type="checkbox"/> H & E Letter
<input type="checkbox"/> Conservation Plan Date Required: _____ Date Approved: _____ Date to Comply: _____

10. Use Made of Water From: _____ To: _____

<div style="border: 1px solid red; display: inline-block; padding: 2px;">10/17/2022 JDK</div>	Date Prepared: <u>9/21/22</u>	By: LHH
	Date Entered: <div style="border: 1px solid blue; display: inline-block; padding: 2px;">10/19/2022 LMoody</div>	By:

File No. **48107** 11. County: **LB** Basin: **Neosho River** Stream: **Neosho River** Formation Code: Special Use:

12. Points of Diversion Rate and Quantity
 CHK Authorized Additional
 MOD Rate Quantity Rate Quantity
 DEL PDIV Qualifier S T R ID 'N 'W Comment (AKA Line) gpm/cfs af/mgy gpm/cfs af/mgy Overlap PD Files
 ENT

CHK 10204 **50541; 29746 (IRR)**

13. Storage: Rate _____ NF Quantity _____ ac/ft Additional Rate _____ NF Additional Quantity _____ ac/ft

14. Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____
 Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____

15. 5YR Allocation: Allocation Type _____ Start Year _____ 5 YR Amount _____ Amount Unit _____ Base Acres _____ Comment _____

16. Place of Use

CHK MOD DEL ENT	PUSE	S	T	R	ID	NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg?	Overlap Files
						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				

MOD 63033	27	32S	21E	5	MARSH (LOT 4) (NE)																8b	NO	50541	
ENT 71054	26	32S	21E		MARSH (W2 W2 NW)																8b	NO	50541	
ENT 71055	22	32S	21E		MARSH (LOT 6) (S2 SE SE)																8b	NO	50541	

Base Acres: Year: Minimum Reasonable Quantity:

Comments:

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: September 21, 2022

FROM: Lloyd Hemphill

RE: New Application, File No. 50,541
Change Application, File No. 48,107

Bobby Glover (Glover Real Estate LLC) has filed the new application referred to above proposing to appropriate 96 acre-feet of surface water at a diversion rate of 6,500 gallons per minute from one pump site on the Neosho River, for recreational use in a marsh. This application will allow water to be pumped directly from the Neosho River (when flows are adequate, and permission is granted). The water will be used to fill and maintain water levels in the marsh (i.e. offset evaporative and seepage losses). The proposed pumpsite is located in Lot 4 of Section 27, in Township 32 South, Range 21 East, Labette County, Kansas. The marsh is located in Sections 22, 26, and 27. The proposed point of diversion overlaps Water Right, File Nos. 29,746 (IRR) and 48,107 (REC) and the place of use overlaps Water Right, File No. 48,107. A place of use change application was filed to create an identical overlap between File Nos. 48,107 & 50,541. The applicant owns the point of diversion and place of use, and the application was signed by a representative stating the applicant has access to the point of diversion. The applicant submitted a signed and notarized Neosho River Assurance District (MDS) form on April 25, 2022 acknowledging that there may be times when diversion of water will not be allowed.

Water Right, File No. 48,107 authorizes the diversion of 20 acre-feet of water at the tested rate of diversion of 1,580 gallons per minute. The authorized place of use is a marsh with a surface area of approximately 8 acres. A place of use change application has been filed to increase the size of the marsh and create an identical overlap with the new permit. Recent water use has been reported under File No. 48,107 and it is not abandoned per K.S.A. 82a-718. The increase in consumptive use resulting from the expansion of the marsh is covered by the new permit, so this change complies with K.A.R. 5-5-3.

The Recreational Use Supplemental sheet notes that the surface area of the marsh covers approximately 140 acres. Information from NRCS indicates that the surface area will typically be smaller but may occasionally cover the full area. The precise size of the marsh will be determined upon perfection and certification. Filled to an average depth of 0.42 feet (5 inches) would equal a volume of 58 acre-feet. An additional quantity equivalent to the storage capacity (58 AF) fill was requested to offset evaporation and seepage, bringing the total quantity to 116 acre-feet. The evaporation component is 29.2 AF (5 in/yr X 1 ft/12 in X ½ yr X 140 ac. = 29.2 AF). The overlapping senior file already authorizes 20 acre-feet and this new application is requesting 96 acre-feet making a total of 116 acre-feet. This quantity appears reasonable for this project.

Notification letters were sent to upstream and downstream landowners on January 21, 2022. No response of any kind was received. There are three permitted water rights within two miles. The closest one authorizes three pump sites, one of which is located across the river (slightly upstream) about 300 feet away. With proper conditioning, as discussed below, approval of this application will not impair senior water rights. The Cottonwood and Neosho River Water Assurance District No. 3 was also notified of the application and no response was received.

The United States Department of Agriculture, Natural Resources Conservation Service (NRCS) has confirmed that there is a Wetland Reserve Program (WRP) easement on this property. DWR Structures reviewed this project under WSN: LLB-95 and determined that Water Structures permitting will not be required if the area remains within the wetland reserve easement. An approved Compatible Use Agreement (CUA) application for water level management was received on September 21, 2022.

The approval for File No. 50,541 will be subject to specific conditions, which stipulate strict requirements for direct surface water diversion. These conditions include the stipulation that no diversion shall occur unless there is water available to satisfy all demands by senior water rights and permits, written or verbal permission from the Chief Engineer, or an authorized representative is required prior to diverting water, and streamflow cannot be stopped at the first riffle below the point of diversion while diversion is taking place. The application also complies with K.A.R 5-3-15 (c)(5) because the proposed use of water for recreational use is typically during the fall season, and there is no need for direct diversion of water from July 1 through September 30.

In accordance with K.S.A. 82a-706c, the Chief Engineer retains full authority to require any water user to install meters, gages, or other measuring devices, which devices he or she or his or her agents may read at any time. Water flowmeter requirements are further described in K.A.R. 5-1-4 through K.A.R. 5-1-12.

Based on the above discussion, the area remains open to new appropriations, the approval is subject to specific conditions relative to direct surface water diversions, diversion is limited to fall "off-season" pumping, the project is already properly permitted by the Structures Program, and there is no indication that existing water rights will be impaired, it is recommended that the referenced application be approved in conjunction with the change in place of use for Water Right, File No. 48,107.

Lloyd Hemphill
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

**APPROVAL OF APPLICATION
FOR
CHANGE IN PLACE OF USE
WATER RIGHT
FILE NO. 48,107**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Bobby Glover, on behalf of Glover Real Estate LLC, PO Box 3823, Bluffton, SC 29910 received in this office on March 19, 2021, for approval of a change in the location of the place of use under the certificate of appropriation issued pursuant to the application for permit to appropriate water for beneficial use, finds that the change is reasonable and will not impair existing rights, and that the application should be and is hereby approved.

The effective date of the change shall be the date this order is executed by the Chief Engineer, after which the authorized location of the place of use shall be:

a marsh located in Lot 6 and the South Half of the Southeast Quarter of the Southeast Quarter (S $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 22; in the West Half of the West Half of the Northwest Quarter (W $\frac{1}{2}$ W $\frac{1}{2}$ NW $\frac{1}{4}$) of Section 26; and in Lot 4 and the Northeast Quarter (NE $\frac{1}{4}$) of Section 27; all in Township 32 South, Range 21 East, Labette County, Kansas,

located substantially as shown on the map accompanying the application to change the place of use.

All diversion works into which any type of chemical or other foreign substance will be injected into the water pumped from the diversion works shall be equipped with an in-line, automatic, quick-closing check valve capable of preventing pollution of the source of the water supply. The type of valve installed shall meet specifications adopted by the Chief Engineer and shall be maintained in an operating condition satisfactory to the Chief Engineer.

The water right owner shall properly install acceptable water meters on the diversion works authorized under this water right, prior to the use of water, in strict accordance with the Kansas Administrative Regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer. The water right owner shall notify the Chief Engineer when installation of the water meters has been completed. The water right owner shall maintain the water meters in an operating condition satisfactory to the Chief Engineer, at all times during diversion of water and shall maintain records from which the total quantity of water diverted may be determined. The water right owner shall also report the reading of said water meters and the total quantity of water diverted annually to the Chief Engineer. Such records shall be furnished to the Chief Engineer by March 1 following the end of each calendar year.

In all other respects, the Certificate of Appropriation issued pursuant to Approval of Application, File No. 48,107, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated July 15, 2020.

Ordered this 18 day of October, 2022, in Manhattan, Riley County, Kansas.

Lane P. Letourneau
Lane P. Letourneau, P.G.
Water Appropriation Program Manager
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 18 day of October, 2022, 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

October 26, 2022

BOBBY GLOVER
2479 US HWY 400
MCCUNE, KS 66753

RE: Appropriation of Water, File No. 50,541
Water Right, File No. 48,107

Dear Mr. Glover:

Enclosed is a permit authorizing you to proceed with construction of the proposed diversion works and to appropriate water for beneficial use as set forth in the permit. Your attention is directed to the enclosures and to the terms, conditions, limitations, and requirements specified in this permit.

Notice must be filed on the enclosed form once the diversion works have been completed. Failure to complete the diversion works within the time allowed, or within any authorized extension of time thereof, will result in dismissal of this permit. If you need an extension of time, you must request it before the deadline for completion set forth in the permit. Any request for an extension of time must be accompanied by the statutorily required fee, which is currently \$100.00.

An acceptable water flowmeter must be installed on the diversion works authorized by this permit prior to using water. An annual water use report must be filed with the Chief Engineer by March 1, following the end of each calendar year. If a complete annual water use report is not received by the deadline, then a fine may be assessed and all water use under such permit or right may be suspended. Reports submitted in paper form will be assessed a \$20 per file number paper filing fee. In order to avoid this filing fee, you may submit your report online at www.kswaterusereport.org.

The approval of your application constitutes a permit to appropriate water. It does not give authority to construct any dam or other stream obstruction regulated by K.S.A. 82a-301 through 305a. It does not give authority to access any right-of-way or authorize trespassing upon or injury to public or private property. It may also be necessary for you to comply with other local, state or federal requirements.

Enclosed is an informational sheet that sets forth the procedure to obtain a Certificate of Appropriation which will establish the extent of your perfected water right.

Also enclosed is the order executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the application for change under Water Right, File No. 48,107. Since this order modifies the original document referred to above, it should be recorded as other instruments affecting real estate at the county Register of Deeds in which the authorized point of diversion is located.

Additional information is available on our website at agriculture.ks.gov/divisions-programs/dwr. If you have any questions or need assistance, please contact our office at 785-564-6640 or the 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:lh
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 request an evidentiary hearing before the Chief Engineer, or 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 Division, 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 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: 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.

CERTIFICATE OF SERVICE

On this 26 day of October, 2022, I hereby certify that the foregoing Approval of Application for Change in Place of Use under Water Right, File No. 48,107, dated 18 October, 2022 was mailed postage prepaid, first class, US mail to the following:

BOBBY GLOVER
2479 US HWY 400
MCCUNE, KS 66753

With photocopies to:

Topeka Field Office



Division of Water Resources