

File No. **50,588** 15. Formation Code: **100** Drainage Basin: **Ninnescah River** County: **SU** 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	Quantity af	Rate gpm	Quantity af	
CHK	88860	SE NE SW	18	30S	4W	3	1249	2830	GO	800	137.8	800	137.8	NA
CHK	88861	SE NE SW	18	30S	4W	4	1348	2719		800	137.8	800	137.8	NA
CHK	88862	NE SE SW	18	30S	4W	5	1151	2940		800	137.8	800	137.8	NA

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																		Total	Owner	Chg?	Overlap Files				
T MOD DEL ENT	PUSE	S	T	R	ID	NE¼				NW¼				SW¼				SE¼							
						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				
CHK	70424	18	30S	4W	3									18	8	40	40					106	7A	N	NA

Comments:

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: March 14, 2022

FROM: Brandon Milner

RE: Application, File No. 50,588

The David Selwert Rev. Trust has filed the referenced application for a permit to appropriate water for beneficial use, proposing the appropriation of 137.8 acre-feet of groundwater for irrigation use. The application proposed a new battery of two wells with a geographical center located in the Southeast Quarter of the Northeast Quarter of the Southwest Quarter (SE ¼, NE ¼, SW ¼) of Section 18, Township 30 South, Range 4 West in Sumner County.

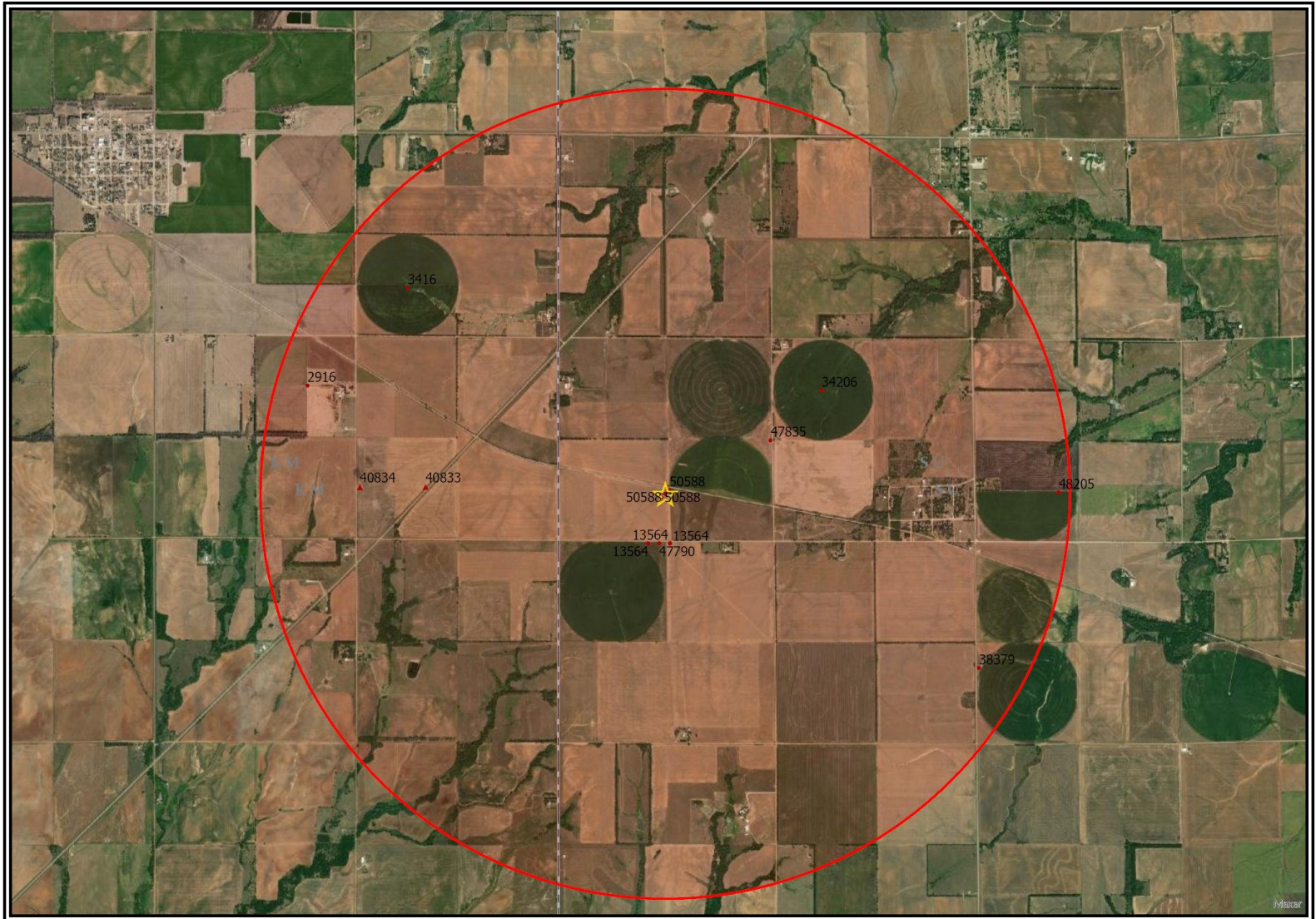
The proposed point of diversion is located within the High Plains Aquifer. Based on the original quantity of water available in this area based on safeyield calculations (1,005.31 acre-feet) and the current quantity of water appropriated (1,642.39 acre-feet), there remains **no water available** in this area.

The applicant was sent a letter on February 14, 2022, explaining the safe yield evaluation and stating that it would be recommended to the Chief Engineer that pending application, File No. 50,588 be denied and dismissed due to the failure to meet safe yield criteria, as required by K.A.R. 5-3-10 and K.A.R. 5-3-11. The applicant was provided 15 days (March 1, 2022) to either (1) submit additional information to our office or (2) request additional time beyond the 15 days to submit additional information.

No response of any kind was received from the applicant. Therefore, based on the existing information, it is recommended that the referenced application be denied and dismissed for failure to meet safe yield criteria.

Brandon Milner
Environmental Scientist
Water Appropriation Program

Safe Yield Report Sheet
Water Right- Proposed Point of Diversion
Point of Diversion in 18-30S-04W
Footages from SE corner- 1,249 feet North 2,830 feet West



Analysis Results

NIN-30 DUA Area 2,505 AF available

The selected PD is in an area OPEN to new appropriations.

The safe yield based on the variables listed below is 1,005.31 AF.

Total prior appropriations in the circle is 1,659.86 AF.

Total quantity of water available for appropriation is 0.00 AF.

$$- 144.06 + 126.59 = 1642.39$$

0 AF available
Fails Safe Yield

Safe Yield Variables

The area used for the analysis is set at 8,042 acres.

The potential annual recharge at the circle center is estimated to be 2.0 inches.

The percent of recharge available for appropriation is 75%.

Authorized Quantity values are as of 18-JAN-2022 and are based on Appropriated and Vested ground water right and possible stream nodes for GMD #2. Domestic, Term and Temporary water rights have been excluded.

There are 11 water rights and 14 points of diversion within the circle.

File Number	Use	ST	SR	Q4	Q3	Q2	Q1	FeetN	FeetW	Sec	Twp	Rng	ID	Qind	Auth Quant	Add Quant	Tot Acres	Net Acres
A 2916 00	IRR	NK	G			NC	NE	3978	1320	14	30	05W	2	WR	222.00	222.00	153.00	153.00
A 3416 00	IRR	NK	G			NC	SW	1310	3910	12	30	05W	2	WR	272.00	272.00	342.00	342.00
A 13564 00	IRR	NK	G			NE	NE NW	5259	2785	19	30	04W	1	WR	221.00	221.00	176.91	176.91
Same	IRR	NK	G			NE	NE NW	5259	3073	19	30	04W	2	WR				
Same	IRR	NK	G			NE	NE NW	5259	3362	19	30	04W	3	WR				
A 34206 00	IRR	NK	G			NC	NW	3960	3975	17	30	04W	1	WR	195.00	195.00	130.00	130.00
A 38379 00	IRR	NK	G			NW	NW SW	2020	5220	21	30	04W	2	WR	195.00	195.00	130.00	130.00
A 40833 00	MUN	NK	G			SW	NE SW	1408	3471	13	30	05W	1	WR	100.76	0.00	100.76	
A 40834 00	MUN	NK	G			SW	NE SW	1399	5192	13	30	05W	2	WR	89.94	5.26	25.83	
A 47790 00	IRR	NK	G			NE	NE NW	5259	2785	19	30	04W	1	WR	215.00	0.00	0.00	176.91
Same	IRR	NK	G			NE	NE NW	5259	3073	19	30	04W	2	WR				
Same	IRR	NK	G			NE	NE NW	5259	3362	19	30	04W	3	WR				
A 47835 00	IRR	LR	G			NE	NE SE	2639	67	18	30	04W	1	WR	326.30	326.30	251.00	251.00
A 48205 00	IRR	NK	G			NE	SE SW	1306	3224	16	30	04W	5	WR	84.50	84.50	65.00	65.00
A 50588 00	IRR	AY	G			SE	NE SW	1249	2830	18	30	04W	3	WR	137.80	138.80	0.00	106.00
Same	IRR	AY	G			SE	NE SW	1348	2719	18	30	04W	4	WR				
Same	IRR	AY	G			NE	SE SW	1151	2940	18	30	04W	5	WR				

144.06 126.59

Limitations

File Number	Seq Num	Limitations
A 40833 00	1	39.536 MGY/YR COM/W #KM-01, & #20228
A 40834 00	1	41.251 MGY/YR COM/W #KM-01, #20228, & #40833
A 47790 00	2	221 AF/YR COM/W #13564
Same	3	715 GPM COM/W #13564

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. 50,588

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 May 24, 2021, the Chief Engineer received an application from the David Selwert Rev Trust for a permit to appropriate water for beneficial use, assigned File No. 50,588, proposing the appropriation of 137.8 acre-feet of groundwater for irrigation use. The application proposed a new battery of two wells with a geographical center located in the Southeast Quarter of the Northeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$, NE $\frac{1}{4}$, SW $\frac{1}{4}$) of Section 18, Township 30 South, Range 4 West in Sumner County.
2. That the proposed point of diversion does not meet safe yield as per K.A.R. 5-3-10 and K.A.R. 5-3-11. Based on the original quantity of water available in this area (1005.31 acre-feet) and the current quantity of water appropriated (1642.39 acre-feet), there remains **no water available** for this application.
3. That on February 14, 2022, a letter was mailed to the applicant stating that the application did not comply with the safe yield requirements of K.A.R. 5-3-10 and K.A.R. 5-3-11, and that the application would be submitted to the Chief Engineer with a recommendation that the pending application be denied and dismissed, for failure to meet safe yield criteria. The applicant was provided 15 days, until March 1, 2022, to either submit additional information to our office or request additional time, prior to final action on the application.
5. That the applicant, has not submitted additional information for consideration, nor requested an extension of time, for Application, File No. 50,588, thus the application should be denied and dismissed and its priority forfeited for failure to comply with K.A.R. 5-3-10 and K.A.R. 5-3-11.

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. 50,588, is herewith dismissed and the priority assigned to it is considered to be forfeited.

Dated at Manhattan, Kansas, this 7 day of June, 2022.

Lane P. Letourneau

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

State of Kansas)
) SS
County of Shawnee)

The foregoing instrument was acknowledged before me this 7 day of June, 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

June 14, 2022

DAVID SELWERT REV TRUST ETAL
1169 N CONWAY SPRINGS RD
CONWAY SPRINGS, KS 67031-8045

RE: Application, File No. 50,588

Dear Sir or Madam:

Enclosed is the Findings and Order by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, dismissing Application, File No. 50,588 for failure to meet safe yield criteria.

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-71 1(c) and K.S.A. 82a-1 90 1(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. Any request for hearing or petition for administrative review shall be in writing and shall be submitted to the attention of: Chief Legal Counsel, Kansas Department of Agriculture, 1320 Research Park Dr, Manhattan, KS 66506.

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 Baum
New and Change Apps Supervisor
Water Appropriation Program

Enclosures

pc: Stafford 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.

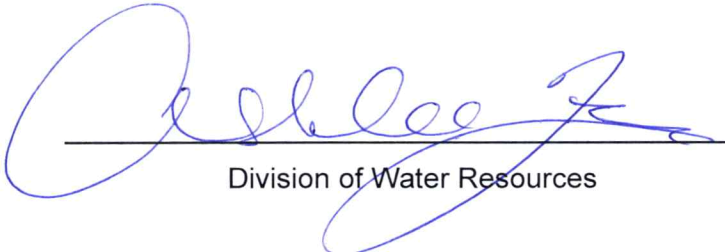
If neither a request for an evidentiary hearing nor a petition for administrative review is filed as set forth above, then this Order shall be effective and become a final agency action as defined in K.S.A. 77-607(b). Failure to timely request either an evidentiary hearing or administrative review may preclude further judicial review under the Kansas Judicial Review Act.

CERTIFICATE OF SERVICE

On this 14 day of June, 2022, I hereby certify that the foregoing Dismissal of Application, File No. 50,588, dated 7 June 2022 was mailed postage prepaid, first class, US mail to the following:

DAVID SELWERT REV TRUST ETAL
1169 N CONWAY SPRINGS RD
CONWAY SPRINGS, KS 67031-8045
With photocopies to:

Stafford Field Office



Division of Water Resources