

**Kansas Department of Agriculture**  
**Division of Water Resources**  
 FINDINGS AND ORDER DISMISSAL OF NEW APPLICATION WORKSHEET

1. File No.: <b>50482</b>	2. Status Change Date: <b>07/02/2024</b>	4. Field Office: <b>02 - Stafford</b> GMD: Structures File No.: Filing/Priority Date: <b>12/04/2020</b>
3. Package File No(s):		
5a. <input checked="" type="checkbox"/> Applicant <input checked="" type="checkbox"/> Owner <input checked="" type="checkbox"/> WUC <input type="checkbox"/> Address Change  <b>MARK &amp; ANGELA DROUHARD</b> <b>103 BLUE HERON CT</b> <b>MEAD, CO 80542</b>	Person ID <b>66946</b> Add Seq# <b>1</b>	5b. <input type="checkbox"/> Owner <input type="checkbox"/> WUC <input type="checkbox"/> Address Change  Person ID Add Seq#
5c. <input type="checkbox"/> Owner <input type="checkbox"/> WUC <input type="checkbox"/> Address Change	Person ID Add Seq#	5d. <input type="checkbox"/> Owner <input type="checkbox"/> WUC <input type="checkbox"/> Address Change  Person ID Add Seq#
6. Change No.: --- <input type="checkbox"/> PD <input type="checkbox"/> PU <input type="checkbox"/> UMW Base Acres: --- Year: --- Min Reasonable Q: --- Previous UMW: <b>Not changing</b> MDS Gauge: --- Active Admin? <input type="checkbox"/> Completion/Start Date: --- Perfection/Expiration Date: ---		7. Use of Water <input checked="" type="checkbox"/> Groundwater <input type="checkbox"/> Surface Water UMW: <b>IRR-Irrigation</b> UMW: UMW:
8. Action Trail ---		
9. Special Conditions ---		
10. 5YR Allocation Type: Start Year: --- 5YR Quantity: --- Base Acres: --- Comment: ---		
11. Sand & Gravel Proj ID: --- <input type="checkbox"/> Active <input type="checkbox"/> Dredge <input type="checkbox"/> IND Evap <input type="checkbox"/> Jr Evap <input type="checkbox"/> Other Diversion <input type="checkbox"/> Rpt on Sr		
12. Waiver Rule ID: --- <input type="checkbox"/> New Date Requested: --- Applies: --- Rule No.: --- Rule Type: --- Justification: --- Rule SubType: ---		
Comments	Processed <b>03/18/24 JNE</b>	Entered <b>7/9/2024</b> <b>KAnderson</b>
	Reviewed <b>KAK</b> <b>6/27/2024</b>	

File No. **50482**      13. County: **HP** Basin: **48 - Chikaskia River** Stream:  
 Structures File No:      Aquifer Code: **100 - Quaternary System**      Special Use Area: --- ---

14. Points of Diversion, Rates & Quantities											Qty <b>AF</b>		Rate <b>gpm</b>		Storage Qty		Storage Rate	
PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)			Auth	Add	Auth	Add	Auth	Add	Auth/Add	Overlaps
<b>DEL</b>	<b>88520 N2 SE</b>	<b>2</b>	<b>32S</b>	<b>6W</b>	<b>4</b>	<b>1320</b>	<b>1320</b>				<b>165</b>	<b>165</b>	<b>800</b>	<b>800</b>				

15. Limitations Type:      Quantity:      **AF** Rate:      **gpm** combined with file no(s):  
 Type:      Quantity:      Rate:      combined with file no(s):

16. Metering      Metering Required     Anti-Reverse Required     Seal Required    Compliance Date:

17. Place of Use											NE¼				NW¼				SW¼				SE¼				Total	Owner(s)	Chg?	Overlaps
PUSE	S	T	R	ID	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE										
<b>DEL</b>	<b>70200</b>	<b>2</b>	<b>32S</b>	<b>6W</b>	<b>2</b>													<b>40.0</b>	<b>40.0</b>					<b>5a</b>	<input type="checkbox"/>					
																									<input type="checkbox"/>					
																									<input type="checkbox"/>					
																								<input type="checkbox"/>						
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																								<input type="checkbox"/>						

18. Point of Diversion and Place of Use Overlaps

<p>* + # ^</p>	<p>** ++ ## ^^</p>
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**KANSAS DEPARTMENT OF AGRICULTURE**  
**Division of Water Resources**

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

**TO:** Files

**DATE:** March 18, 2024

**FROM:** Jessica Engelbrecht

**RE:** Application, File No. 50,482

Mark Drouhard filed the referenced application for a permit to appropriate water for beneficial use, proposing to appropriate 165 acre-feet of groundwater for irrigation use. The application proposed a battery of four wells, with a geographic center to be located in the North-Half of the Southeast Quarter (N½ SE¼) of Section 2, more particularly described as being near a point 1,461 feet North and 1,774 feet West of the Southeast corner of said section, in Township 32 South, Range 6 West, in Harper County Kansas, within the boundaries of the Arkansas River basin.

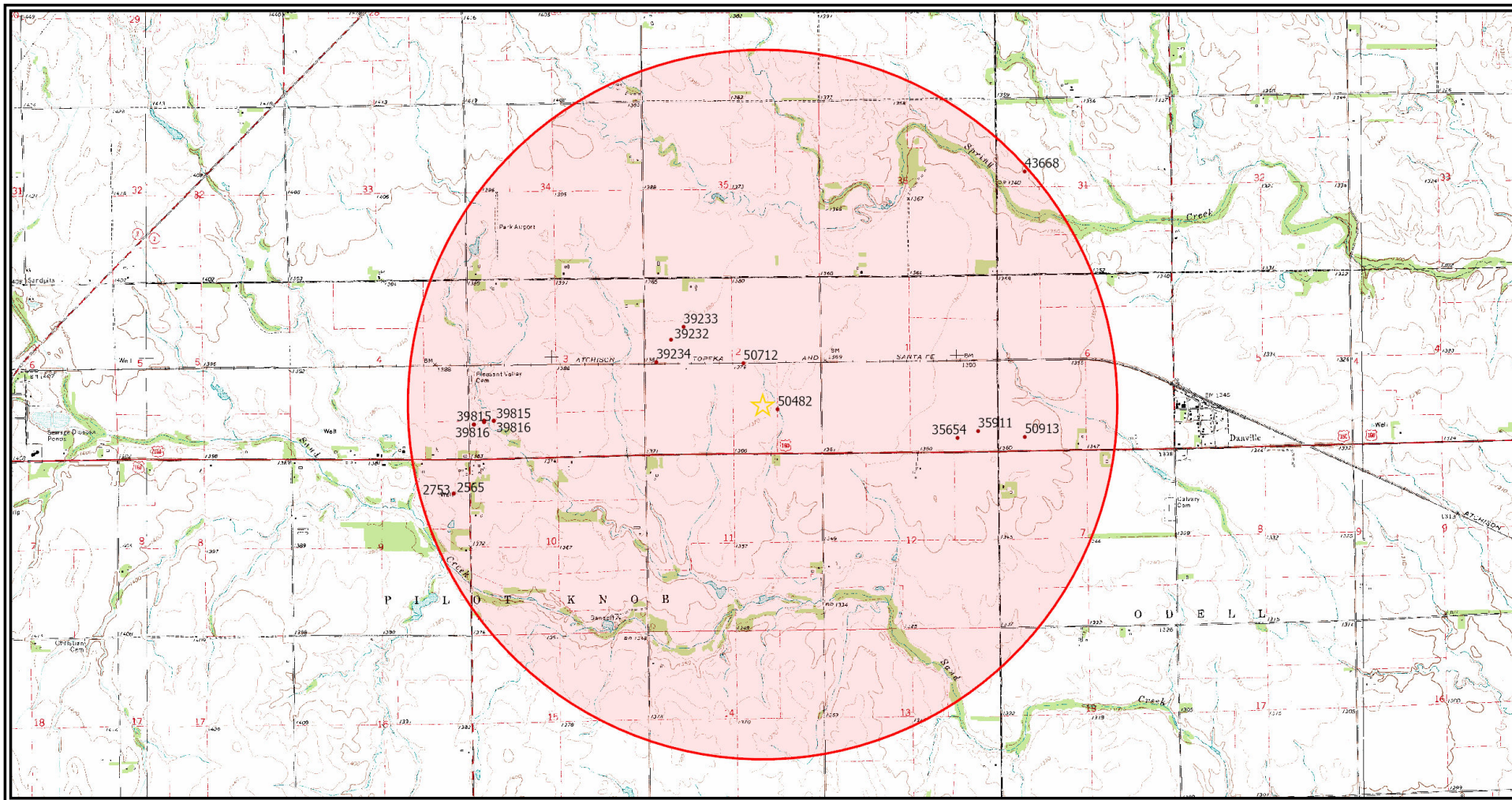
The specific method for calculating safe yield for unconfined groundwater aquifers is described in K.A.R. 5-3-11. Per K.A.R. 5-3-11(d)(1), the safe yield area of consideration represents the portion of the two-mile circle located within the limit of the unconfined aquifer express in acres (8,042 acres for this file). Calculated recharge is 2.0 inches, and 50 percent of the calculated recharge can be considered to be available for appropriation.

The safe yield determination was based on Area of Consideration x potential annual recharge x percent of recharge available, as follows:  $8,042 \times 2.0 \text{ inches} \times 50\% = 11,345 \text{ acre-inches} / 12 = 670.21 \text{ acre-feet}$ . Prior appropriations within the same area of consideration total 800 acre-feet, which exceeds this calculated safe yield quantity. Therefore, safe yield determination resulted in no water available for appropriation within this area of consideration.

The applicant was sent a letter on February 12, 2024, explaining the safe yield evaluation and stating that it would be recommended to the Chief Engineer that pending application, File No. 50,482 be denied and dismissed due to 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 4, 2024) to either (1) submit additional information to our office or (2) request additional time beyond the 15 days to submit additional information. The applicant called to contest the letter but did not supply any additional information to support his argument.

Therefore, based on the existing information, it is recommended that the referenced application be denied and dismissed for failure to meet safe yield criteria.

**Safe Yield Report Sheet**  
**Water Right- Proposed Point of Diversion**  
**Point of Diversion in 02-32S-06W**  
**Footages from SE corner- 1,461 feet North 1,774 feet West**



## Analysis Results

**\* DOES NOT MEET SAFE YIELD**

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

The safe yield based on the variables listed below is 670.21 AF – 800.00 AF = (-270.21 AF)

Total prior appropriations in the circle is 1,381.64 AF – 165.0 AF – 206.64 AF – 210.0 AF = 800.00 AF

Total quantity of water available for appropriation is 0.00 AF.

## 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 50%.

Authorized Quantity values are as of 12-FEB-2024 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 14 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 2565 00	IRR	NK	G		CS	NE	NE	0	0	09	32	06W	1	WR	69.00	69.00	46.00	46.00
A 2753 00	IRR	NK	G		CS	NE	NE	0	0	09	32	06W	1	WR	38.00	38.00	81.00	81.00
A 35654 00	IRR	NK	G		SW	SE	SE	430	1200	01	32	06W	1	WR	85.00	85.00	130.00	130.00
A 35911 00	IRR	NK	G		SE	SE	SE	600	600	01	32	06W	2	WR	93.00	93.00	130.00	0.00
A 39232 00	IRR	NK	G		NC	SW	NW	3410	4500	02	32	06W	1	WR	65.00	65.00	126.00	126.00
A 39233 00	IRR	NK	G		NE	SW	NW	3800	4130	02	32	06W	2	WR	65.00	65.00	126.00	0.00
A 39234 00	IRR	NK	G		SW	SW	NW	2775	5050	02	32	06W	3	WR	63.00	59.00	126.00	0.00
A 39815 00	IRR	NK	G		NE	SW	SW	1054	4531	03	32	06W	8	WR	78.00	78.00	130.00	130.00
Same	IRR	NK	G		NW	SW	SW	936	5128	03	32	06W	7	WR				
Same	IRR	NK	G	NC	N2	SW	SW	1054	4823	03	32	06W	6	WR				
Same	IRR	NK	G	NC	N2	SW	SW	1015	4827	03	32	06W	5	WR				
A 39816 00	IRR	NK	G		NE	SW	SW	1054	4531	03	32	06W	8	WR	35.00	35.00	130.00	0.00
Same	IRR	NK	G		NW	SW	SW	936	5128	03	32	06W	7	WR				
Same	IRR	NK	G	NC	N2	SW	SW	1054	4823	03	32	06W	6	WR				
Same	IRR	NK	G	NC	N2	SW	SW	1015	4827	03	32	06W	5	WR				
A 41244 00	IRR	NK	G		NE	SW	SW	1054	4531	03	32	06W	8	WR	195.00	82.00	130.00	0.00
Same	IRR	NK	G		NW	SW	SW	936	5128	03	32	06W	7	WR				
Same	IRR	NK	G	NC	N2	SW	SW	1054	4823	03	32	06W	6	WR				
Same	IRR	NK	G	NC	N2	SW	SW	1015	4827	03	32	06W	5	WR				
A 43668 00	IRR	NK	G					3044	4364	31	31	05W	7	WR	131.00	131.00	92.00	92.00
<del>A 50482 00</del>	<del>IRR</del>	<del>AY</del>	<del>G</del>			N2	SE	<del>1320</del>	<del>1320</del>	<del>02</del>	<del>32</del>	<del>06W</del>	<del>4</del>	<del>WR</del>	<del>165.00</del>	<del>165.00</del>	<del>80.00</del>	<del>80.00</del>
<del>A 50712 00</del>	<del>IRR</del>	<del>AY</del>	<del>G</del>		SW	SW	NE	<del>2700</del>	<del>2340</del>	<del>02</del>	<del>32</del>	<del>06W</del>	<del>5</del>	<del>WR</del>	<del>206.64</del>	<del>206.64</del>	<del>147.60</del>	<del>147.60</del>
<del>A 50913 00</del>	<del>IRR</del>	<del>AY</del>	<del>G</del>			SE	SW	<del>380</del>	<del>4465</del>	<del>06</del>	<del>32</del>	<del>05W</del>	<del>2</del>	<del>WR</del>	<del>210.00</del>	<del>210.00</del>	<del>150.00</del>	<del>150.00</del>

## Limitations

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File Number	Seq Num	Limitations
A 35654 00	1	MAINTAIN OBSERVATION WELLS TO MANITOR WATER LEVEL
A 35911 00	1	MAINTAIN OBSERVATION WELLS TO MONITOR WATER LEVEL
A 39234 00	1	189AF/YR COM/W #39232 & 39233
A 39816 00	2	450GPM COM/W #39815
A 41244 00	1	195AF/YR @ 600GPM COM/W #39815 & 39816



# 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 TO APPROPRIATE WATER FILE NO. 50,482**

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 December 4, 2020, the Chief Engineer received an application from Mark Drouhard, for a permit to appropriate groundwater for beneficial use, assigned File No. 50,482, proposing the appropriation of 165 acre-feet of water, at a maximum requested diversion rate of 800 gallons per minute, for irrigation use, from a battery of four (4) wells with a geographical center located in the Southeast Quarter of the Northwest Quarter of the Southeast Quarter (SE $\frac{1}{4}$  NW $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section 2, Township 32 South, Range 6 West, Harper County, Kansas.
2. That the Kansas Water Appropriation Act, in K.S.A. 82a-711, requires the Chief Engineer to consider whether a proposed use will prejudicially and unreasonably affect the public interest, and shall take into consideration established minimum desirable streamflow requirements, the area, safe yield, and recharge rate of the appropriate water supply, the priority of existing claims of all persons to use the water of the appropriate water supply, the amount of each claim to use water from the appropriate water supply, and all other matters pertaining to such question.
3. That K.A.R. 5-3-9 states that it shall be considered to be in the public interest that only the safe yield of any source of water supply, including hydraulically connected sources of water supply, shall be appropriated, and K.A.R. 5-3-10 and K.A.R. 5-3-11 set forth the methodology for determining safe yield.
4. That K.A.R. 5-1-1(vvv) defines "safe yield" as the long-term sustainable yield of the source of supply, including hydraulically connected surface water or groundwater.
5. That on February 12, 2024, a letter was mailed to the applicant, stating that the application failed to comply with the safe yield requirements, that the application would be submitted to the Chief Engineer with a recommendation for denial, and that the applicant had an opportunity to submit additional information to be considered, which must be submitted by March 4, 2024, or within any authorized extension of time.
6. That no additional information has been submitted within the time allowed and no request for an extension of time has been received from the applicant.





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

July 10, 2024

MARK DROUHARD  
103 BLUE HERON CT  
MEAD CO 80542

RE: Dismissal of Application  
File No. 50,482

Dear Mr. Drouhard:

Enclosed is a Findings and Order by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, dismissing the above referenced application to appropriate water for failure to meet safe yield as originally described in our letter, dated February 12, 2024.

Please feel free to contact this office should you have any questions. 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 blue ink that reads "Kristen A. Baum". The signature is written in a cursive, flowing style.

Kristen A. Baum  
New Application Unit Supervisor  
Water Appropriation Program

KAB:kak  
Enclosure  
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 10 day of July  
File No. 50,482, dated July 2  
mail to the following:

, 2024, I hereby certify that the foregoing Dismissal of Application,  
, 2024, was mailed postage prepaid, first class, U.S.

MARK DROUHARD  
103 BLUE HERON CT  
MEAD CO 80542

With photocopies to:

KDA-DWR Stafford Field Office

  
Division of Water Resources