

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

1. File No.: <b>50,998</b>	2. Status Change Date: <b>9/10/2024</b>	4. Field Office: <b>01 - Topkea</b> GMD: Structures File No.: <b>N/A</b> Filing/Priority Date: <b>03/24/2023</b> Application Complete Date:
3. Package File No(s):		
5a. <input checked="" type="checkbox"/> Applicant <input type="checkbox"/> Owner <input checked="" type="checkbox"/> WUC <input type="checkbox"/> Address Change Person ID <b>31874</b> Add Seq#  <b>JOHN &amp; BARBARA LEISZLER</b> <b>417 DEER RD</b> <b>CLIFTON, KS 66937</b>	5b. <input checked="" type="checkbox"/> Owner <input type="checkbox"/> WUC <input type="checkbox"/> Address Change Person ID <b>54238</b> Add Seq#  <b>CHRIS LEISZLER ET AL</b> <b>417 DEER RD</b> <b>CLIFTON, KS 66937</b>	
5c. <input checked="" type="checkbox"/> Owner <input type="checkbox"/> WUC <input type="checkbox"/> Address Change Person ID <b>68946</b> Add Seq#  <b>JIM LEISZLER</b> <b>636 9TH RD</b> <b>CLIFTON, KS 66937</b>	5d. <input checked="" type="checkbox"/> Owner <input type="checkbox"/> WUC <input type="checkbox"/> Address Change Person ID <b>68947</b> Add Seq#  <b>JOHN LEISZLER ETAL</b> <b>417 DEER RD</b> <b>CLIFTON, KS 66937</b>	
6. Change No.: <b>N/A</b> <input type="checkbox"/> PD <input type="checkbox"/> PU <input type="checkbox"/> UMW Base Acres: <b>N/A</b> Year: <b>N/A</b> Min Reasonable Q: <b>N/A</b> Previous UMW: <b>Not changing</b> MDS Gauge: <b>N/A</b> Active Admin? <input type="checkbox"/> Completion/Start Date: <b>12/31/2024</b> Perfection/Expiration Date: <b>12/31/2029</b>		7. Use of Water <input checked="" type="checkbox"/> Groundwater <input type="checkbox"/> Surface Water UMW: <b>IRR-Irrigation</b> UMW: UMW:
8. Action Trail <b>N/A</b>		
9. Special Conditions <b>N/A</b>		
10. 5YR Allocation Type: Start Year: <b>N/A</b> 5YR Quantity: <b>N/A</b> Base Acres: <b>N/A</b> Comment: <b>N/A</b>		
11. Sand & Gravel Proj ID: <b>N/A</b> <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: <b>N/A</b> <input type="checkbox"/> New Date Requested: <b>N/A</b> Applies: <b>N/A</b> Rule No.: <b>N/A</b> Justification: <b>N/A</b> Rule Type: <b>N/A</b> Rule SubType: <b>N/A</b>		
Comments	Processed <b>6/10/2024</b> <b>CCB</b>	Entered <b>9/11/2024</b> <b>KAnderson</b>
	Reviewed <b>KAK</b> <b>9/10/2024</b>	



# MEMORANDUM TO FILE

Division of Water Resources, Water Appropriation Program

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Date: September 9, 2024

From: Colin Barclay, Environmental Scientist

Re: New Application File No. 50998 – John Leiszler

## Summary

John Leiszler has filed the above referenced application to appropriate 414 acre-feet of groundwater at a rate of 2,500 gallons per minute for irrigation of 345 acres of farm ground. **Application 50,998 does not meet confined Dakota well spacing requirements** as set forth in K.A.R. 5-4-4. The proposed point of diversion is less than four (4) miles to at least six (6) non-domestic wells. The closest appropriated Water Right is File No. 48,437 which is approximately 1.99 miles away and authorizes 250.8 acre-feet of groundwater out of the confined Dakota aquifer. The applicant submitted a well log with a maximum depth of 420 feet with the characteristic Dakota sandstone being located at 221 feet to 373 feet with several shale layers being intermixed. The well log also indicates shale and limestone overlying the Dakota at a depth of 17 to 221 feet. No static water level or depth to water encountered was supplied in the well log however, nearby wells in WWC5 and the KGS bulletin for the nearby county of Republic indicate the Dakota sandstone in the area is under hydrostatic pressure from the above shale and limestone layers including the mostly impermeable Graneros shale and Greenhorn limestone layers.

## Recommendations

A letter was mailed to the applicant on June 3, 2024, informing them that they do not meet confined Dakota well spacing requirements and that they had 15 days to submit additional information or requests for additional time otherwise their application would be dismissed. A request for extension of time was received from the applicant on June 17, 2024. An extension was granted with a deadline of July 17, 2024. Then again, another extension was requested on July 16, 2024, indicating that they were planning to do a pump test to acquire a possible waiver of K.A.R. 5-4-4. An extension was granted with a deadline of August 19, 2024. A phone call was then received on September 5, 2024, requesting an extension over the phone. The applicant was then informed that they would need to submit that request in writing or by e-mail including all relevant information pertaining to what steps were being taken. Then an extension would be evaluated. No written request was received as of September 9, 2024. For the reason of failure to meet well spacing requirements as set forth in K.A.R. 5-4-4, I recommend that application 50,998 be dismissed.



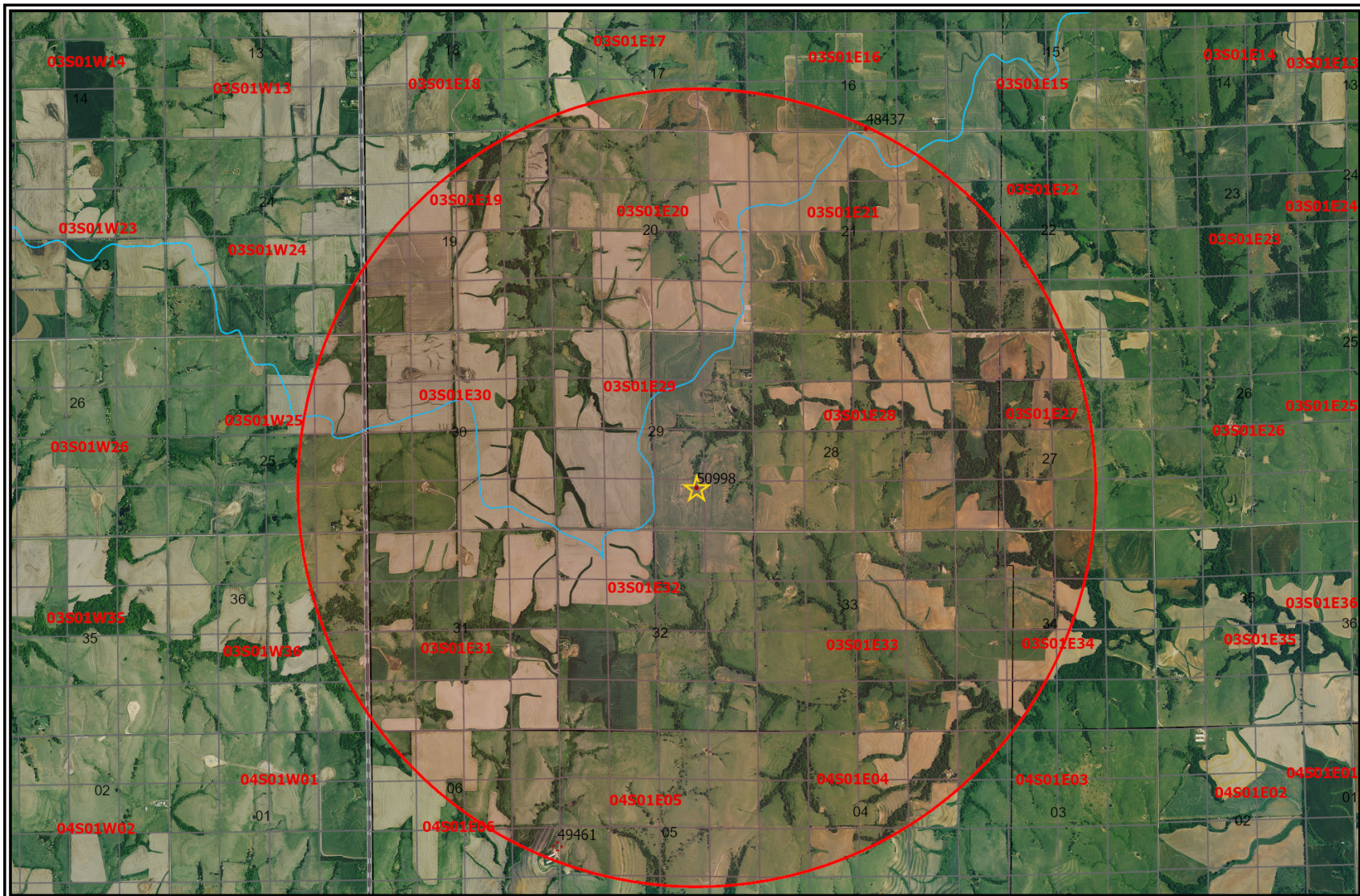
Colin Barclay

Environmental Scientist

Water Appropriation Program



**Safe Yield Report Sheet**  
**Water Right- A5099800**  
**Point of Diversion in 29-03S-01E**  
**Footages from SE corner- 1,154 feet North 1,546 feet West**



## Analysis Results

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

The safe yield based on the variables listed below is 723.82 AF.

Total prior appropriations in the circle is ~~669.29 AF~~. **255.29 AF**

Total quantity of water available for appropriation is ~~54.53 AF~~. **468.53 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 2.7 inches.

The percent of recharge available for appropriation is 40%.

Authorized Quantity values are as of 31-MAY-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 3 water rights and 3 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 48437 00	IRR	KK	G		SW	SW	SE	300	2223	16	03	01E	2	WR	250.80	250.80		210.00	210.00
A 49461 00	STK	NK	G		NE	NE	SE	2017	149	06	04	01E	1	WR	4.49	4.49			
A 50998 00	IRR	AY	G		NE	SW	SE	1154	1546	29	03	01E	1	WR	<del>414.00</del>	<del>414.00</del>	<b>-414.00</b>	345.00	345.00



# 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. 50,998**

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, 2023, the Chief Engineer received an application from John Leiszler, for a permit to appropriate groundwater for beneficial use, assigned File No. 50,998, proposing the appropriation of 414 acre-feet of water, at a maximum requested diversion rate of 2,500 gallons per minute, from one (1) well, for the irrigation of 345 acres in the Northeast Quarter of the Southwest Quarter of the Southeast Quarter (NE  $\frac{1}{4}$  SW  $\frac{1}{4}$  SE  $\frac{1}{4}$ ) of Section 29, more particularly described as being 1,154 feet North and 1,546 feet West of the Southeast corner of said section, in Township 3 South, Range 1 East, Washington 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 the area safe yield and recharge rate of the appropriate water supply, the priority of existing claims to 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. With regard to whether a proposed use will impair a use under an existing water right, the Kansas Water Appropriation Act states that impairment shall include the unreasonable raising or lowering of the static water level or the unreasonable increase or decrease of the streamflow or the unreasonable deterioration of the water quality at the water user's point of diversion beyond a reasonable economic limit.
3. That the rules and regulations promulgated by the Chief Engineer, in K.A.R. 5-4-4, require that the spacing between wells shall be sufficient to prevent direct impairment between wells located in a common source of supply or hydraulically connected sources of supply, in order to prevent an unreasonable raising or lowering of the static water level and to protect the public interest.
4. That on June 3, 2024, a letter was mailed to the applicant stating that the application failed to comply with the well spacing 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 June 18, 2024 or within any authorized extension of time.

5. That on June 17, 2024, a timely filed request for an extension of time was received from the applicant via electronic mail requesting an extension of time to submit additional information, followed by an extension granted by the Chief Engineer, until July 17, 2024.
6. That on July 16, 2024, a timely filed request for an extension of time was received from the applicant via electronic mail requesting an extension of time to submit additional information, to allow additional time to schedule a pump test, followed by an extension granted by the Chief Engineer, until August 19, 2024.
7. That after the approved extension had expired, a telephone call was received from the applicant on September 5, 2024, requesting additional time. The applicant was instructed to submit a request in writing, with justification for the extension, including a description of the progress that had been made and what steps were being taken to obtain the additional information.
8. That no additional information has been submitted by the applicant within the time allowed and no written request or justification for an extension of time has been submitted by the applicant.
9. That the Application, File No. 50,998, should be dismissed and its priority forfeited as provided by K.S.A. 82a-711 and K.A.R. 5-4-4.

**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. 50,998, is herewith dismissed and the priority assigned to it is considered to be forfeited.

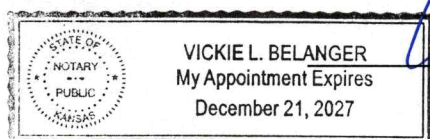
It is so ordered this 10 day of September, 2024, in Manhattan, Riley County, Kansas.

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 10 day of September, 2024, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.



Vickie L. Belanger

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

September 13, 2024

JOHN LEISZLER  
417 DEER RD  
CLIFTON KS 66937-8816

Re: Dismissal of Application  
File No. 50,998

Dear Mr. Leiszler:

Enclosed is a Findings and Order by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, dismissing Application, File No. 50,998, for failure to comply with the minimum well spacing requirements as contained in K.A.R. 5-4-4.

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 style.

Kristen A. Baum  
New Application and Changes Supervisor  
Water Appropriation Program

KAB:kak:ccb  
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 13 day of September, 2024, I hereby certify that the foregoing Dismissal of Application, File No. 50,998 dated September 10, 2024, was mailed postage prepaid, first class, U.S. mail to the following:

JOHN LEISZLER  
417 DEER RD  
CLIFTON KS 66937-8816

With photocopies to:

KDA-DWR Topeka Field Office



Division of Water Resources