





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

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

**TO:** Files

**DATE:** March 29, 2024

Lloyd Hemphill

**RE:** Application, File No. 50,777

Dale Springer, on behalf of the Graydon Dale Springer Rev Trust, has filed the referenced application to appropriate 100 acre-feet of surface water at the rate of 1,400 gallons per minute from Sycamore Creek in the Elk River basin, for irrigation use. This application will allow water to be pumped directly from the stream (when flows are adequate, and permission is granted), into an off-stream reservoir permitted under File No. 48,605 for storage and subsequent re-diversion. The point of diversion (pumpsite) is located in Section 26, Township 31 South, Range 15 East, Montgomery County, Kansas. There are no overlapping files using this point of diversion. The application was signed by the applicant stating legal access to the point of diversion. The place of use includes 192 acres in Montgomery County, owned by the Graydon Dale Springer Revocable Trust, Judith A Springer Revocable Trust, and Twin Valley Enterprises, Inc as described on the Irrigation Use Supplemental Sheet.

The quantity of water requested by this application (100 acre-feet) is less than the maximum allowable quantity of water to irrigate the proposed acreage of 192 acres, with 1.1 acre-feet per acre allowed in Montgomery County. This application overlaps the place of use authorized by Water Right, File No. 48,605. A certificate of appropriation was recently issued for File No. 48,605. The senior water right was certified with a direct use quantity of 67 acre-feet on the 192 acre place of use. The two files combined only provide for 167 acre-feet of water, thus no limitation will be necessary.

An application for Term Permit, File No. 202201188, was filed along with File No. 50,777 to authorize the diversion of 4 million gallons of water for recreational use to help fill the pond. This temporary permit expired on October 28, 2022.

Three landowners were identified within one-half mile upstream and downstream of the applicant's property. Notification letters were sent on April 14, 2024. Sara Evans responded with a phone call followed by a letter including extensive comments (see file). Ms. Evans does not make any "beneficial use" of the water in the stream as defined in the Kansas Water Appropriation Act. She is primarily concerned about potential decreases in streamflow that would impact the ecology of the stream and diminish the ability to make use of the stream for recreational enjoyment. Ms. Evans wanted to ensure that water is not wasted due to inefficient irrigation practices and that no pumping be allowed from the stream on her property. Ms. Evans was advised in a response letter of regulations related to waste of water (K.A.R 5-5-7) and legal access (K.A.R. 5-3-3a). Ms. Evans did not state any beneficial use of water and therefore, the proposed appropriation will not cause impairment of a prior water right. Also, the proposed pump site is more than 1,600 feet upstream of the Evans property and there are additional drainage areas feeding to the Evans property that will not be affected by the proposed appropriation.

According to the WRIS database there are six prior surface water rights within a two (2) mile radius of the proposed point of diversion. All are located upstream of the proposed pumpsite. The nearest water right is a pumpsite located more than a mile upstream. This application will not impact any senior water rights.

No Minimum Desirable Streamflow (MDS) criteria have been established for this basin. The point of diversion is located on a tributary stream and this permit will not be subject to administration of water reservation rights or protection of contract releases from Elk City Reservoir.

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. If any chemical or foreign substance is injected into the water pumped under this permit, a check valve will also need to be installed.

Brett Bunger, Water Commissioner, Topeka Field Office, recommended in a March 29, 2024 e-mail that the referenced new application should be approved. Based on the above discussion, that surface water in this river basin remains open to new appropriations, and approval of the application will not impair senior water rights, it is recommended that the referenced application be approved.

Lloyd Hemphill  
Environmental Scientist  
Topeka Field Office

## Hemphill, Lloyd [KDA]

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**From:** Bunger, Brett [KDA]  
**Sent:** Friday, March 29, 2024 10:53 AM  
**To:** Hemphill, Lloyd [KDA]  
**Subject:** RE: Application File No. 50777: For your recommendation

Looks good to me. Please proceed with approval.

Thanks

Brett

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**From:** Hemphill, Lloyd [KDA] <Lloyd.Hemphill@ks.gov>  
**Sent:** Thursday, March 28, 2024 3:57 PM  
**To:** Bunger, Brett [KDA] <Brett.Bunger@ks.gov>  
**Subject:** Application File No. 50777: For your recommendation

Brett,

Will you provide your recommendation on Application, File No. 50,777 (Dale Springer)?

This is for a pumpsite on Sycamore Creek (Elk River). Water will be pumped to a reservoir authorized by File No. 48,605 then used for irrigation.

File No. 48,605 was recently certified and the PU for both files match. No quantity limitation is necessary.

Thanks,  
Lloyd

Lloyd Hemphill, Environmental Scientist  
Kansas Department of Agriculture  
Division of Water Resources, Topeka Field Office  
1131 SW Winding Rd, Suite 400  
Topeka, KS 66615  
Office: (785) 296-5733

LANDOWNERS LOCATED ½ MILE UPSTREAM AND DOWNSTREAM OF THE APPLICANT'S PROPERTY.

UPSTREAM

WILBUR A SCHWATKEN III  
PO BOX 159  
SYCAMORE KS 67363

RODNEY L & DEBORAH L SWEARINGEN  
PO BOX 94  
SYCAMORE KS 67363

DOWNSTREAM

SARA D.B EVANS REV TRST  
941 CORMORANT CIR  
SANIBEL FL 33957

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  
and  
PERMIT TO PROCEED**

(This is not a Certificate of Appropriation)

This is to certify that I have examined Application **File No. 50,777** of the applicant,

**GRAYDON DALE SPRINGER REV TRUST  
5816 COUNTY RD 3300  
INDEPENDENCE, KS 67301**

for a permit to appropriate water for beneficial use, together with the maps, plans and other submitted data, and that the application is hereby approved and the applicant is hereby authorized, subject to vested rights and prior appropriations, to proceed with the construction of the proposed diversion works (except those dams and stream obstructions regulated by K.S.A. 82a-301 through 305a, as amended), and to proceed with all steps necessary for the application of the water to the approved and proposed beneficial use and otherwise perfect the proposed appropriation subject to the following terms, conditions and limitations:

1. That the priority date assigned to such application is **May 2, 2022**.
2. That the water sought to be appropriated shall be used for irrigation use on land described in the application, as follows:

Sec. Twp. Range	NE¼				NW¼				SW¼				SE¼				TOTAL
	NE¼	NW¼	W¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
26 - 31S - 15E					22.5	16.0	31.0	35.0	1.0	13.5	1.0						120.0
27 - 31S - 15E	3.5			36.5									31.5			0.5	72.0

3. That the authorized source from which the appropriation shall be made is surface water from Sycamore Creek (Elk River), to be withdrawn by means of one (1) pump site located in the Southeast Quarter of the Northwest Quarter of the Southwest Quarter (SE¼ NW¼ SW¼) of Section 26, more particularly described as being near a point 1,735 feet North and 4,359 feet West of the Southeast corner of said section, in Township 31 South, Range 15 East, Montgomery County, Kansas, located substantially as shown on the map accompanying the application.

4. That the appropriation sought shall be limited to a maximum diversion rate not in excess of **1,400 gallons per minute (3.12 c.f.s.)** and to a quantity not to exceed **100 acre-feet** of water for any calendar year.

5. That installation of works for diversion of water shall be completed on or before **December 31, 2025**, or within any authorized extension thereof. The applicant shall notify the Chief Engineer and pay the statutorily required field inspection fee, which is currently \$400.00, when construction of the works has been completed. Failure to timely submit the notice and the fee will result in revocation of the permit. Any request for an extension of time shall be submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee, which is currently \$100.00.

6. That the proposed appropriation shall be perfected by the actual application of water to the proposed beneficial use on or before **December 31, 2029**, or any authorized extension thereof. Any request for an extension of time shall be submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee, which is currently \$100.00.

7. That the applicant shall not be deemed to have acquired a water appropriation for a quantity in excess of the amount approved herein nor in excess of the amount found by the Chief Engineer to have been actually used for the approved purpose during one calendar year subsequent to approval of the application and within the time specified for perfection or any authorized extension thereof.

8. That the use of water herein authorized shall not be made so as to impair any use under existing water rights nor prejudicially and unreasonably affect the public interest.

9. That the right of the appropriator shall relate to a specific quantity of water and such right must allow for a reasonable raising or lowering of the static water level and for the reasonable increase or decrease of the streamflow at the appropriator's point of diversion.

10. That this permit does not constitute authority under K.S.A. 82a-301 through 305a to construct any dam or other obstruction; nor does it grant any right-of-way, or authorize entry upon or injury to, public or private property.

11. That all diversion works constructed under the authority of this permit 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.

12. That an acceptable water flow meter shall be installed and maintained on the diversion works authorized by this permit in accordance with the Kansas Administrative Regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer. This water flow meter shall be used to provide an accurate quantity of water diverted as required for the annual water use report (including the meter reading at the beginning and end of the report year).

13. That the applicant shall maintain accurate and complete records from which the quantity of water diverted during each calendar year may be readily determined and the applicant shall file an annual water use report with the Chief Engineer by March 1 following the end of each calendar year. Failure to file the annual water use report by the due date shall cause the applicant to be subject to a civil penalty.

14. That no water user shall engage in nor allow the waste of any water diverted under the authority of this permit.

15. That the right to appropriate water under authority of this permit is subject to any minimum desirable streamflow requirements identified and established pursuant to K.S.A. 82a-703c for the source of supply to which this water right applies.

16. That diversion of natural flow shall not take place unless there is water available to satisfy all demands by senior water rights and permits.

17. That the stream flow shall not be stopped at the first riffle below the point of diversion while diversion is taking place under the authority of this water right or permit.



18. That during the period October 1 through June 30, the verbal or written permission of the Chief Engineer, or an authorized representative of the Chief Engineer, shall be obtained in order to divert water each time the applicant desires to divert water.

19. That during the period July 1 through September 30 each calendar year, no direct diversions of surface water shall be permitted unless written permission is obtained from the Chief Engineer, or the Chief Engineer's authorized representative.

20. That failure without cause to comply with the provisions of the permit and its terms, conditions and limitations will result in the forfeiture of the priority date, revocation of the permit and dismissal of the application.

Ordered this 2 day of April, 2024, in Manhattan, Riley County, Kansas.

*Lane P. Letourneau*

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

*[Signature]*  
\_\_\_\_\_  
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

April 26, 2024

GRAYDON DALE SPRINGER  
5816 COUNTY RD 3300  
INDEPENDENCE KS 67301

RE: Appropriation of Water  
File No. 50,777

Dear Mr. Springer:

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 may be submitted online for free at [www.kswaterusereport.org](http://www.kswaterusereport.org) or in paper form with a \$20 per file number paper filing fee.

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. Additional information and applicable forms may be found on our website at [agriculture.ks.gov/dwr](http://agriculture.ks.gov/dwr). 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:kak: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 April, 2024, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,777, dated April 2 was mailed postage prepaid, first class, US mail to the following:

GRAYDON DALE SPRINGER REV TRST  
JUDITH A SPRINGER REV TRUST  
5816 COUNTY RD 3300  
INDEPENDENCE, KS 67301

With photocopies to:

KDA-DWR Topeka Field Office

  
Division of Water Resources