

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

1. File No.: <b>51,025</b>	2. Status Change Date: <b>12/05/2024</b>	4. Field Office: <b>03 - Stockton</b> GMD: Structures File No.: <b>N/A</b> Filing/Priority Date: <b>04/25/2023</b> Application Complete Date:	
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>STEVE FEIGHT</b> <b>2358 WAGON RD</b> <b>CLYDE, KS 66938-3045</b>  Person ID <b>40953</b> Add Seq#		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.: <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: 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 <span style="float: right;"><b>N/A</b></span>			
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/</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 <b>Failure to meet safe yield</b>		Processed <b>12/04/2024</b> <b>CCB</b>	Entered <b>12/6/2024</b> <b>KAnderson</b>
		Reviewed	

File No. **51,025**  
 Structures File No:  
 13. County: **CD - Cloud** Basin: **Republican River Basin** Stream: **N/A**  
 Aquifer Code: **113/330 Main stem alluvium/Dakota aquifer system (unconfined)** Special Use Area:

14. Points of Diversion, Rates & Quantities

PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Qty AF		Rate gpm		Storage Qty		Storage Rate		
									Auth	Add	Auth	Add	Auth	Add	Auth/Add	Overlaps	
<b>DEL</b>	<b>90299</b>	<b>NC</b>	<b>SE</b>	<b>28</b>	<b>5S</b>	<b>1W</b>	<b>8</b>	<b>1,281</b>	<b>1,254</b>	<b>486</b>	<b>486</b>	<b>1000</b>	<b>1000</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

PDIV	S	T	R	ID	NE¼				NW¼				SW¼				SE¼				Total	Owner(s)	Chg?	Overlaps	
					NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE					
<b>DEL</b>	<b>11903</b>	<b>28</b>	<b>5</b>	<b>1W</b>	<b>1</b>									<b>40.00</b>	<b>38.00</b>			<b>40.00</b>	<b>40.00</b>	<b>40.00</b>	<b>35.00</b>	<b>233.00</b>	<b>5a</b>	<input type="checkbox"/>	
<b>DEL</b>	<b>71360</b>	<b>33</b>	<b>5</b>	<b>1W</b>	<b>3</b>	<b>9.50</b>	<b>37.00</b>	<b>21.00</b>		<b>39.50</b>	<b>31.50</b>	<b>28.50</b>	<b>43.00</b>									<b>210.00</b>	<b>5a</b>	<input type="checkbox"/>	
																								<input type="checkbox"/>	
																								<input type="checkbox"/>	

18. Point of Diversion and Place of Use Overlaps

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# MEMORANDUM TO FILE

Division of Water Resources, Water Appropriation Program

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Date: December 4, 2024

From: Colin Barclay, Environmental Scientist

Re: New Application File No. 51,022, & 51,025 – Steve Feight

## Summary

Steve Feight filed the above referenced applications to appropriate 486 acre-feet of groundwater at a rate of 1000 gallons per minute. The proposed point of diversion would be a new well located near the Republican River in the Republican River basin in Cloud County, Kansas. The proposed place of use is 443 acres of farm ground that would have complete place of use overlap with each other and with file no. 6,399, and 41,950. 41,950 was to be dismissed upon approval of application 51,022 and 51,025. However, no voluntary dismissal was filed on the senior file.

## Source of Supply and Safe Yield

The applicant proposed to source the Dakota aquifer only by constructing a well in a manner that precludes any withdrawal of water from any overlying water-bearing strata and ensure that an adequate seal is placed between the Dakota Formation and any alluvial aquifer to prevent movement of water between the formations. However, well logs provided by the applicant and nearby well logs indicate the alluvium is sitting directly on top of the Dakota Formation with no confining layer that would act as a barrier between the formations. KGS bulletins for Cloud County also confirm this as the Republican River has scoured away much of the original shale confining layers and even the Dakota aquifer itself along much the river reaches. After review, it was determined that creating a seal would not prevent the alluvium of the Republican River from being sourced. Therefore, alluvium sourced wells were not precluded from the safe yield calculation. Per the requirements in K.A.R. 5-3-11, safe yield is determined by the extent of the unconfined aquifer within a two-mile circle radius of the point of diversion, which establishes the area of consideration. Evaluation of the area of consideration included the extent of the unconfined aquifer, which provided an area of consideration of 8,042 acres. With a potential annual recharge of 2.5 inches, and 100% of recharge available for appropriation, safe yield was determined to be 1,675.52 acre-feet. Existing water rights have appropriated 4,360.50 acre-feet, providing a difference of -2,684.98 acre-feet available for appropriation, and **the applications requesting 486 acre-feet fails to meet safe yield.**

## Recommendations

A letter was mailed to the applicant on June 7, 2024, informing them that they failed to meet safe yield. On June 17, 2024, the applicant came to Manhattan Headquarters in person and spoke with Division of Water Resources Staff about our safe yield evaluation and why their application was being dismissed. After an explanation, the applicant was informed they had until June 24, 2024, to submit additional information or to ask for an extension of time. An extension of time was received on June 21, by the applicant. An extension was granted with a deadline of September 10, 2024. Another extension request was received on September 10, 2024, the applicant informed DWR that they were in the process of working with a geologist to explore the idea of separating the two aquifers. An extension was granted with a deadline of November 12, 2024. On November 12, 2024, the applicant called DWR staff to discuss the possibility of another extension, however, the applicant was unsure of when research might be carried out to explore the idea of separating the two aquifers, no new additional information was provided by the applicant indicating an extension could be granted. The applicant was informed that another extension could not be granted however they were encouraged to file for new applications at a time when they have acquired new hydrologic information. For the reason of failure to meet safe yield requirements as set forth in K.A.R. 5-3-11, I recommend that applications 51,022 and 51,025 be dismissed.

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. 51,025**

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**

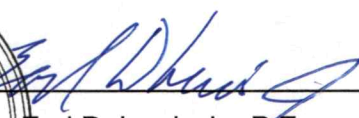
1. That on April 18, 2023, the Chief Engineer received an application from Steve Feight, for a permit to appropriate groundwater for beneficial use, assigned File No. 51,025, proposing the appropriation of 486 acre-feet of water, at a maximum requested diversion rate of 1,000 gallons per minute, for irrigation use, from a well located near the center of the Northwest Quarter (SE¼) of Section 28, Township 5 South, Range 1 West, Cloud 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 June 7, 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 June 24, 2024, or within any authorized extension of time.
6. That the applicant requested and was provided multiple extensions of time to submit additional information to be considered, with the latest extended deadline of November 12, 2024.

- 7. That on November 12, 2024, the applicant contacted the office of the Chief Engineer to request additional time but indicated that no new progress had been made toward providing additional information to counter the established safe yield methodology.
- 8. That without justification for additional time, the applicant was advised and agreed to refile the application whenever such additional information was available to support the proposed use of water.
- 9. That no additional information has been submitted within the time allowed.
- 10. That the burden shall be on the applicant to make such a showing to the satisfaction of the Chief Engineer, by means of an engineering, or similar type of hydrologic analysis, to counter the safe yield methodology, or to demonstrate that the proposed use of water would not exceed safe yield, impair existing rights or prejudicially and unreasonably affecting the public interest.
- 11. That the Application, File No. 51,025, should be dismissed and its priority forfeited as provided by K.S.A. 82a-711, K.A.R. 5-3-9, 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. 51,025, is herewith dismissed and the priority assigned to it is considered to be forfeited.

It is so ordered this *5<sup>th</sup>* day of *December*, 2024, in Manhattan, Riley County, Kansas.

  
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 EARL D. LEWIS, JR., P.E.  
 CHIEF ENGINEER  
 Earl D. Lewis Jr., P.E.  
 Chief Engineer  
 Division of Water Resources  
 Kansas Department of Agriculture

State of Kansas    )  
                           ) SS  
 County of Riley    )

The foregoing instrument was acknowledged before me this *5<sup>th</sup>* day of *December*, 2024, by Earl D. Lewis Jr., P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.

  
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 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

December 10, 2024

STEVE FEIGHT  
2358 WAGON RD  
CLYDE KS 66938-3045

RE: Dismissal of Application  
File Nos. 51,022 and 51,025

Dear Mr. Feight:

Enclosed are Findings and Order by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, dismissing the above referenced applications to appropriate water for failure to meet safe yield as originally described in our letter to you, dated June 7, 2024.

You may refile new Applications to Appropriate Water for Beneficial Use when additional information is available to support your proposed use of water.

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,

Kristen A. Baum  
New Application Unit Supervisor  
Water Appropriation Program

KAB:kak:ccb  
Enclosure  
pc: ~~Topka~~ Field Office  
**Stockton**

## 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 December, 2024, I hereby certify that the foregoing Dismissal of Applications, File Nos. 51,022 and 51,025, dated December 5, 2024, were mailed postage prepaid, U.S. First-Class Mail to the following:

STEVE FEIGHT  
2358 WAGON RD  
CLYDE KS 66938-3045

With photocopies to:

KDA-DWR Stockton Field Office

  
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Division of Water Resources