

1320 Research Park Drive
Manhattan, KS 66502
785-564-6700
www. agriculture.ks.gov



WATER RESOURCES
RECEIVED

OCT 20 2022
2:38
900 SW Jackson, Room 456
Topeka, KS 66612
785-296-3556

Mike Beam, Secretary

Laura Kelly, Governor

Joe Horigan called in with concern
2/17/23. Directed him to TFO to
possible get his domestic well
permitted with us.

50895

File Number _____
This item to be completed by the Division of Water Resources.

2/17/2023
KJN

**APPLICATION FOR PERMIT TO
APPROPRIATE WATER FOR BENEFICIAL USE**
Filing Fee Must Accompany the Application
(Please refer to Fee Schedule attached to this application form.)

To the Chief Engineer of the Division of Water Resources, Kansas Department of Agriculture,
1320 Research Park Drive, Manhattan, Kansas 66502:

1. Name of Applicant (Please Print): GERALD GERSTNER
Address: 300 E 10TH ST
City: FRANKFORT State KS Zip Code 66427
Telephone Number: (785) 562-7499

2. The source of water is: surface water in _____ (stream)
OR groundwater in BLACK VERMILLION RIVER (drainage basin)

Certain streams in Kansas have minimum target flows established by law or may be subject to administration when water is released from storage for use by water assurance district members. If your application is subject to these regulations on the date we receive your application, you will be sent the appropriate form to complete and return to the Division of Water Resources.

3. The maximum quantity of water desired is 320 acre-feet OR _____ gallons per calendar year,
to be diverted at a maximum rate of 800 gallons per minute OR _____ cubic feet per second.

Once your application has been assigned a priority, the requested maximum rate of diversion and maximum requested quantity of water under that priority number can **NOT** be increased. Please be certain your requested maximum rate of diversion and maximum quantity of water are appropriate and reasonable for your proposed project and are in agreement with the Division of Water Resources' requirements.

4. The water is intended to be appropriated for (Check use intended):
(a) Artificial Recharge (b) Irrigation (c) Recreational (d) Water Power
(e) Industrial (f) Municipal (g) Stockwatering (h) Sediment Control
(i) Domestic (j) Dewatering (k) Hydraulic Dredging (l) Fire Protection
(m) Thermal Exchange (n) Contamination Remediation

REQUEST 60 DAYS TO LOCATE POINT(S) OF DIVERSION. AREA OF INVESTIGATION WILL BE THE (E1/2 SW1/4) & THE (W1/2 SE1/4) OF SECTION 11

For Office Use Only:
F.O. 1 GMD Meets K.A.R. 5-3-1 (YES/NO) Use IRR Source G/S County MS By ALB Date 10/25/22
Code RE2 Fee \$ 300 TR # _____ Receipt Date 10/20/22 Check # 3458

11/7/2022
L Moody

60 DLT

2640'
2640'

File No. _____

5. The location of the proposed wells, pump sites or other works for diversion of water is:

Note: For the application to be accepted, the point of diversion location must be described to at least a 10 acre tract, unless you specifically request a 60 day period of time in which to locate the site within a specifically described, minimal legal quarter section of land.

4/26/2024
LHH

(A) One in the SE quarter of the SW quarter of the NE quarter of Section 11, more particularly described as being near a point 3270 feet North and 1848 feet West of the Southeast corner of said section, in Township 4 South, Range 9 EAST, MARSHALL County, Kansas.

Based on a WWC-5 report for a well completed on 5/24/2023.

(B) One in the _____ quarter of the _____ quarter of the _____ quarter of Section _____, more particularly described as being near a point _____ feet North and _____ feet West of the Southeast corner of said section, in Township _____ South, Range _____ East/West (circle one), _____ County, Kansas.

(C) One in the _____ quarter of the _____ quarter of the _____ quarter of Section _____, more particularly described as being near a point _____ feet North and _____ feet West of the Southeast corner of said section, in Township _____ South, Range _____ East/West (circle one), _____ County, Kansas.

(D) One in the _____ quarter of the _____ quarter of the _____ quarter of Section _____, more particularly described as being near a point _____ feet North and _____ feet West of the Southeast corner of said section, in Township _____ South, Range _____ East/West (circle one), _____ County, Kansas.

If the source of supply is groundwater, a separate application shall be filed for each proposed well or battery of wells, except that a single application may include up to four wells within a circle with a quarter (1/4) mile radius in the same local source of supply which do not exceed a maximum diversion rate of 20 gallons per minute per well.

A battery of wells is defined as two or more wells connected to a common pump by a manifold; or not more than four wells in the same local source of supply within a 300 foot radius circle which are being operated by pumps not to exceed a total maximum diversion rate of 800 gallons per minute and which supply water to a common distribution system.

6. The owner of the point of diversion, if other than the applicant is (please print):

APPLICANT

(name, address and telephone number)

(name, address and telephone number)

You must provide evidence of legal access to, or control of, the point of diversion from the landowner or the landowner's authorized representative. Provide a copy of a recorded deed, lease, easement or other document with this application. In lieu thereof, you may sign the following sworn statement:

I have legal access to, or control of, the point of diversion described in this application from the landowner or the landowner's authorized representative. I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____, 20 22 Gerald Gerstner

Applicant's Signature

The applicant must provide the required information or signature irrespective of whether they are the landowner. Failure to complete this portion of the application will cause it to be unacceptable for filing and the application will be returned to the applicant.

7. The proposed project for diversion of water will consist of ONE WELL OR POSSIBLY A BATTERY
(number of wells, pumps or dams, etc.)

and will be completed JULY 2023
(Month/Day/Year - each was or will be completed)

8. The first actual application of water for the proposed beneficial use was or is estimated to be JULY 2023
(Mo/Day/Year)

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OCT 20 2022

KS DEPT OF AGRICULTURE

9. Will pesticide, fertilizer, or other foreign substance be injected into the water pumped from the diversion works?
 Yes No If "yes", a check valve shall be required.

All chemigation safety requirements must be met including a chemigation permit and reporting requirements.

10. If you are planning to impound water, please contact the Division of Water Resources for assistance, prior to submitting the application. Please attach a reservoir area capacity table and inform us of the total acres of surface drainage area above the reservoir.

Have you also made an application for a permit for construction of this dam and reservoir with the Division of Water Resources? Yes No

- If yes, show the Water Structures permit number here _____
- If no, explain here why a Water Structures permit is not required _____

11. The application must be supplemented by a U.S.G.S. topographic map, aerial photograph or a detailed plat showing the following information. On the topographic map, aerial photograph, or plat, identify the center of the section, the section lines or the section corners and show the appropriate section, township and range numbers. Also, please show the following information:

- (a) The location of the proposed point(s) of diversion (wells, stream-bank installations, dams, or other diversion works) should be plotted as described in Paragraph No. 5 of the application, showing the North-South distance and the East-West distance from a section line or southeast corner of section.
- (b) If the application is for groundwater, please show the location of any existing water wells of any kind within ½ mile of the proposed well or wells. Identify each existing well as to its use and furnish the name and mailing address of the property owner or owners. If there are no wells within ½ mile, please advise us.
- (c) If the application is for surface water, the names and addresses of the landowner(s) ½ mile downstream and ½ mile upstream from your property lines must be shown.
- (d) The location of the proposed place of use should be shown by crosshatching on the topographic map, aerial photograph or plat.
- (e) Show the location of the pipelines, canals, reservoirs or other facilities for conveying water from the point of diversion to the place of use.

A 7.5 minute U.S.G.S. topographic map may be obtained by providing the section, township and range numbers to: Kansas Geological Survey, 1930 Constant, Campus West, University of Kansas, Lawrence, Kansas 66047.

12. List any application, appropriation of water, water right, or vested right file number that covers the same diversion points or any of the same place of use described in this application. Also list any other recent modifications made to existing permits or water rights in conjunction with the filing of this application.

P/U - 50812 - to be dismissed and replaced by File No. 51,202

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OCT 20 2022

13. Furnish the following well information if the proposed appropriation is for the use of groundwater. If the well has not been completed, give information obtained from test holes, if available.

Information below is from: Test holes Well as completed Drillers log attached

Well location as shown in paragraph No.	(A)	(B)	(C)	(D)
Date Drilled	_____	_____	_____	_____
Total depth of well	_____	_____	_____	_____
Depth to water bearing formation	_____	_____	_____	_____
Depth to static water level	_____	_____	_____	_____
Depth to bottom of pump intake pipe	_____	_____	_____	_____

14. The relationship of the applicant to the proposed place where the water will be used is that of

OWNER
(owner, tenant, agent or otherwise)

15. The owner(s) of the property where the water is used, if other than the applicant, is (please print):

SEE IRRIGATION USE SUPPLEMENTAL SHEET
_____ (name, address and telephone number)

_____ (name, address and telephone number)

16. The undersigned states that the information set forth above is true to the best of his/her knowledge and that this application is submitted in good faith.

Dated at _____, Kansas, this _____ day of October 11, 2022
(month) (year)

Gerald Gerstner
(Applicant Signature)

By _____
(Agent or Officer Signature)

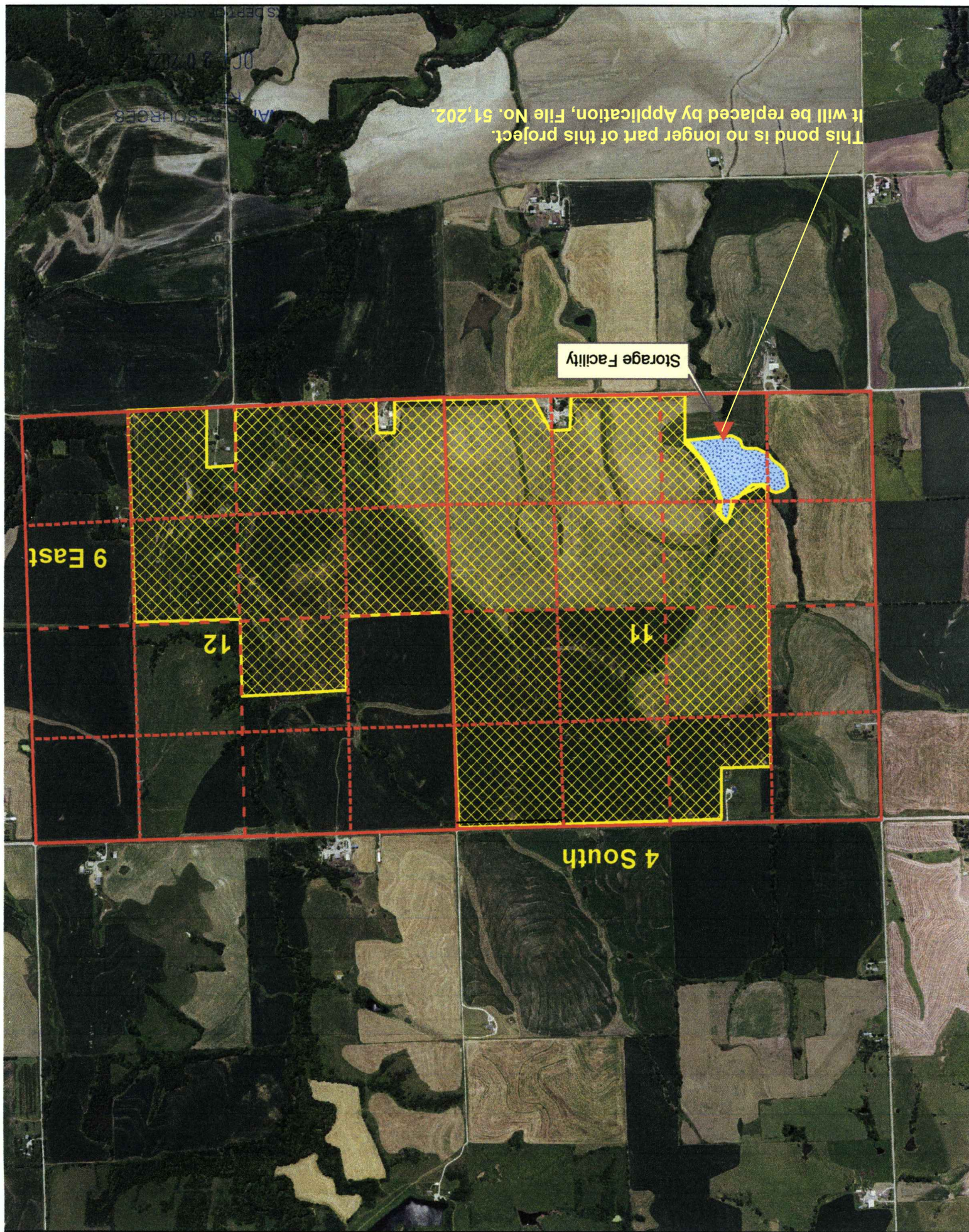
(Agent or Officer - Please Print)

Assisted by **BRETT BUNGER** TFO/ASST WATER COMM Date: **10-11-22**
(office/title)

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OCT 20 2022
KS DEPT OF AGRICULTURE

1:18,000

NEW APPLICATION



DATA ENTRY SYSTEM ID NUMBER SHEET

FILE NUMBER 50895

APPLICANT PERSON ID & SEQ #	PDIV ID	BATTERY ID
<u>68433</u>	<u>89874</u>	

LANDOWNER PERSON ID & SEQ #	PUSE ID
<u>68433</u>	<u>70894</u>
<u>68434</u>	<u>70895</u>

WATER USE CORRESPONDENT PERSON ID & SEQ #
<u>68433</u>

IRRIGATION USE SUPPLEMENTAL SHEET

File No. _____

Name of Applicant (Please Print): GERALD GERSTNER

1. Please supply the name and address of each landowner, the legal description of the lands to be irrigated, and designate the actual number of acres to be irrigated in each forty acre tract or fractional portion thereof:

Landowner of Record NAME: GERALD GERSTNER TRUST

ADDRESS: 300 E 10TH ST FRANKFORT KS 66427

S	T	R	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
11	4	9E	40	40	40	40	27			40	39			12	40	40	37.5	39	434.5

Landowner of Record NAME: SHERYL ANN GERSTNER TRUST

ADDRESS: 300 E 10TH ST FRANKFORT KS 66427

S	T	R	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
12	4	9E							27	40	40	38	40		40	34			259

TOTAL = 693.5 ACRES

Landowner of Record NAME: _____

ADDRESS: _____

S	T	R	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

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900 SW Jackson, Room 456
Topeka, KS 66612
785-296-3556

Mike Beam, Secretary

Laura Kelly, Governor

November 8, 2022

GERALD GERSTNER
300 E 10TH ST
FRANKFORT KS 66427

RE: Application, File No(s). **50895**

Dear Sir or Madam:

The Division of Water Resources (Division) has received your application(s) for a permit to appropriate water for beneficial use. Your application(s) has been assigned the file number(s) referenced above. Please be aware that the Division may have a large number of pending applications on hand at times and makes every attempt to process them in the order in which they are received. You will be contacted if additional information is required.

Please note, this letter only acknowledges receipt of your application(s) and does not guarantee approval. In accordance with the provisions of the Kansas Water Appropriation Act, the use of water as proposed prior to approval of the application(s) is unlawful.

Additional information about the process may be found on our website at agriculture.ks.gov/divisions-programs/dwr. If you have any other questions, please contact our office at 785-564-6640 or your local Topeka Field Office at 785-296-5733. *Topeka Field Office at 785-296-5733*. If you call, please reference the file number so we can help you more efficiently.

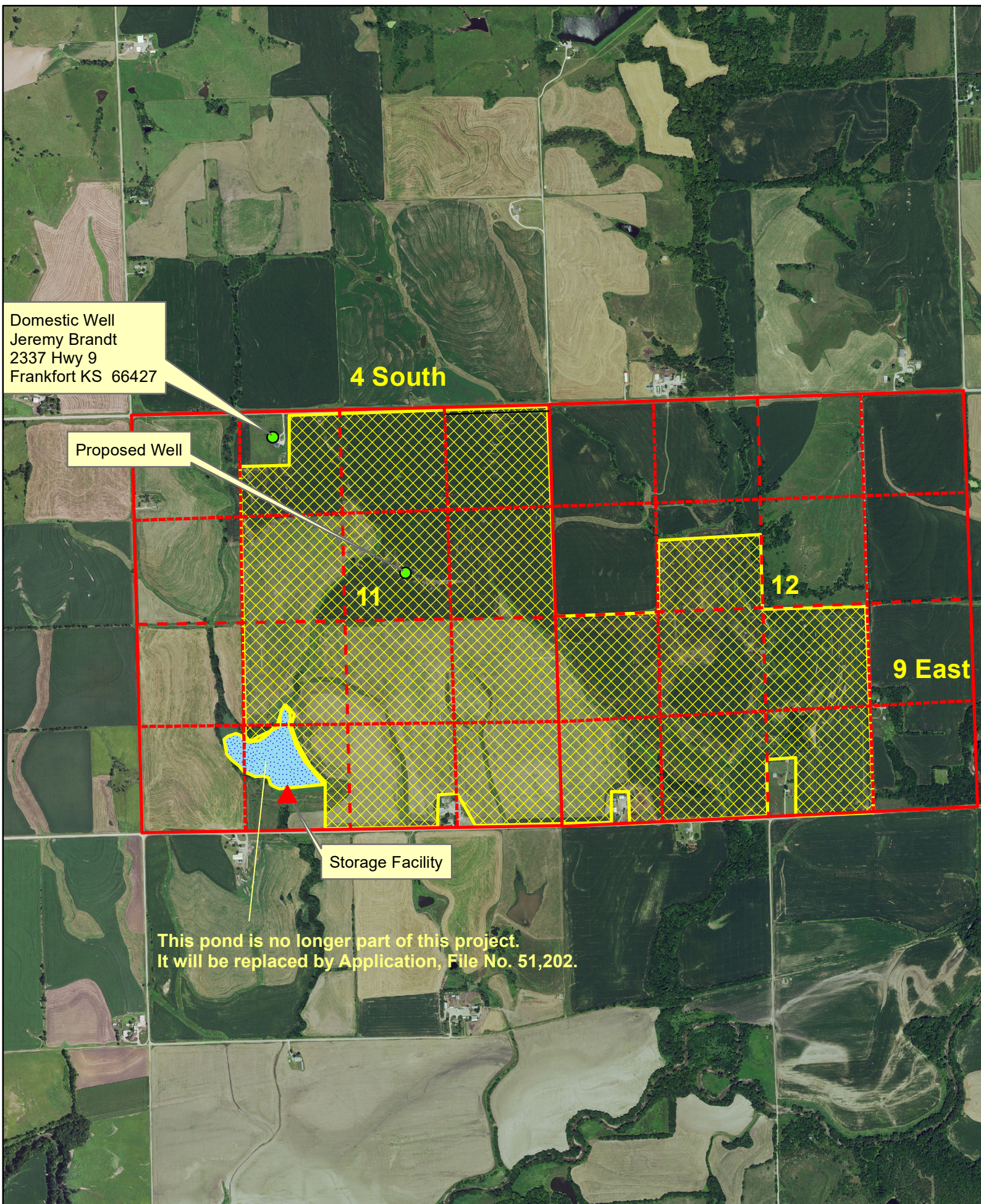
Sincerely,

A handwritten signature in black ink that reads "Kris Neuhauser". The signature is written in a cursive style with a long horizontal flourish at the end.

Kris Neuhauser
New Applications Lead
Water Appropriation Program

1:18,000

Application
File No. 50895



Domestic Well
Jeremy Brandt
2337 Hwy 9
Frankfort KS 66427

4 South

Proposed Well

11

12

9 East

Storage Facility

This pond is no longer part of this project.
It will be replaced by Application, File No. 51,202.

WATER WELL RECORD - Form WWC-5

Original Record Correction Change in Well Use

Division of Water Resources App. No.

Well ID

1 LOCATION OF WATER WELL: Fraction $\frac{1}{4}$ $\frac{1}{2}$ $\frac{3}{4}$ $1\frac{1}{4}$ Section Number Township Number Range Number
 County: T S R E W

2 WELL OWNER: Last Name: Gerstner First: Jerry Street or Rural Address where well is located (if unknown, distance and direction from nearest town or intersection): If at owner's address, check here:
 Business Address: 2 1/2 mi. East of Frankfort on Tumbleweed Rd.
 Address: North side 1/2 mi.
 City: Frankfort State: KS ZIP:

3 LOCATE WELL WITH "X" IN SECTION BOX:
 N

..NW..	..NE..		
W			E
..SW..	..SE..		

 S
 1 mile

4 DEPTH OF COMPLETED WELL: 175 ft.
 Depth(s) Groundwater Encountered: 1) 150 ft. 2) 50 ft. 3) 50 ft. or 4) Dry Well
WELL'S STATIC WATER LEVEL: 49
 below land surface, measured on (mo-day-yr) 5/24/23
 above land surface, measured on (mo-day-yr)
 Pump test data: Well water was ft. after hours pumping gpm
 Well water was ft. after hours pumping gpm
 Estimated Yield: 300 gpm
 Bore Hole Diameter: 16 in. to 1.75 ft. and in. to ft.

5 Latitude: 39.7201577 (decimal degrees)
Longitude: 96.2767762 (decimal degrees)
 Horizontal Datum: WGS 84 NAD 83 NAD 27
 Source for Latitude/Longitude:
 GPS (unit make/model:)
 (WAAS enabled? Yes No)
 Land Survey Topographic Map
 Online Mapper:
6 Elevation: ft. Ground Level TOC
 Source: Land Survey GPS Topographic Map
 Other:

7 WELL WATER TO BE USED AS:

1. Domestic: <input type="checkbox"/> Household <input type="checkbox"/> Lawn & Garden <input type="checkbox"/> Livestock 2. <input checked="" type="checkbox"/> Irrigation 3. <input type="checkbox"/> Feedlot 4. <input type="checkbox"/> Industrial	5. <input type="checkbox"/> Public Water Supply: well ID <u> </u> 6. <input type="checkbox"/> Dewatering: how many wells? <u> </u> 7. <input type="checkbox"/> Aquifer Recharge: well ID <u> </u> 8. <input type="checkbox"/> Monitoring: well ID <u> </u> 9. Environmental Remediation: well ID <u> </u> <input type="checkbox"/> Air Sparge <input type="checkbox"/> Soil Vapor Extraction <input type="checkbox"/> Recovery <input type="checkbox"/> Injection	10. <input type="checkbox"/> Oil Field Water Supply: lease <u> </u> 11. Test Hole: well ID <u> </u> <input type="checkbox"/> Cased <input type="checkbox"/> Uncased <input type="checkbox"/> Geotechnical 12. Geothermal: how many bores? <u> </u> a) Closed Loop <input type="checkbox"/> Horizontal <input type="checkbox"/> Vertical b) Open Loop <input type="checkbox"/> Surface Discharge <input type="checkbox"/> Inf. of Water 13. <input type="checkbox"/> Other (specify): <u> </u>
--	---	---

Was a chemical/bacteriological sample submitted to KDHE? Yes No If yes, date sample was submitted:
 Water well disinfected? Yes No

8 TYPE OF CASING USED: Steel PVC Other CASING JOINTS: Glued Clamped Welded Threaded
 Casing diameter 16 in. to 1.75 ft. Diameter in. to ft. Diameter in. to ft.
 Casing height above land surface in. Weight lbs./ft. Wall thickness or gauge No.

TYPE OF SCREEN OR PERFORATION MATERIAL:
 Steel Stainless Steel Fiberglass PVC Other (Specify)
 Brass Galvanized Steel Concrete tile None used (open hole)
SCREEN OR PERFORATION OPENINGS ARE:
 Continuous Slot Mill Slot Gauze Wrapped Torch Cut Drilled Holes Other (Specify)
 Louvered Sluiter Key Punched Wire Wrapped Saw Cut None (Open Hole)
SCREEN-PERFORATED INTERVALS: From 1.75 ft. to 1.50 ft. From ft. to ft. From ft. to ft.
GRAVEL PACK INTERVALS: From 1.75 ft. to 1.50 ft. From ft. to ft. From ft. to ft.

9 GROUT MATERIAL: Neat cement Cement grout Bentonite Other
 Grout intervals: From 1.50 ft. to 1.42 ft. From ft. to ft. From ft. to ft.
 Nearest source of possible contamination:
 Septic Tank Lateral Lines Pit Privy Livestock Pens Insecticide Storage
 Sewer Lines Cess Pool Sewage Lagoon Fuel Storage Abandoned Water Well
 Watertight Sewer Lines Seepage Pit Feedyard Fertilizer Storage Oil Well/Gas Well
 Other (Specify) None

Direction from well? Distance from well?

10 FROM	TO	LITHOLOGIC LOG	FROM	TO	LITHO. LOG (cont.) or PLUGGING INTERVALS
0	10	Clay	161	169	Large Angular Gravel, some smooth
10	16	Tan clay w/trace gravel			
16	38	Sandy Tan Clay	169	175	Shale
38	58	Very fine sand w/clay			
58	111	Very fine clayey sand			
111	130	Grey clayey sand			
130	150	Very fine clayey sand w/Pyrite & coal nodules			
150	161	Fine & med sand & med angular gravel			

Notes: 13 bags Gel 24 bags Chips

11 CONTRACTOR'S OR LANDOWNER'S CERTIFICATION: This water well was constructed, reconstructed, or plugged under my jurisdiction and was completed on (mo-day-yr) and this record is true to the best of my knowledge and belief.
 Kansas Water Well Contractor's License No. This Water Well Record was completed on (mo-day-yr)
 under the business name of Signature:
 Mail 1 with copy along with a fee of \$5.00 for each constructed well to: Kansas Department of Health and Environment, Bureau of Water, OWTS Section, 1000 SW Jackson St., Suite 420, Topeka, Kansas 66612-1367. Mail one to Water Well Owner and retain one for your records. Telephone 785-296-5824.
 Visit us at www.kdheksa.com/waterwell/index.html KSA 82a-1212 Revised 7/18/2016

JOB #

PERMIT #

IRRIGATION WATER AGREEMENT

This agreement is made and entered into by and between the **Upper Black Vermillion Watershed, Joint District No. 37, Marshall, Nemaha, and Pottawatomie Counties, Kansas ("Watershed")** and **Gerald L. Gerstner and Sheryl A. Gerstner, husband and wife ("Gerstner")**

VOID

1. Real estate described as the east half of SW Quarter, Section 11, Township 4, Range 9 in Marshall County, Kansas is owned by Gerstner
2. The watershed has, pursuant to the terms of a recorded easement granted by a prior owner, constructed or caused to be constructed water detention facility No. ("facility") on a creek running through said East half of South west Quarter. The Facility is designed to hold water and to cause water to back up until it reaches a certain elevation where it runs downstream through a metal tube.
3. It is the desire of Gerstner to take water from the facility for irrigation use. The watershed has agreed to permit Gerstner to take water from the facility subject to the following terms and conditions
 - a. Gerstner will apply to the Kansas Division of Water Resources for a permit to take water from the facility. No water in excess of the amount authorized under the Division of Water Resources for a permit to take water from the facility.
 - b. If the lowering of the water level in the facility causes damage to the dam structure then and in such event Gerstner or his assigns will cause the damage to be immediately repaired at no cost to the Watershed
 - c. If the Watershed determines that there has been damage as a result of a lower water level caused by irrigation then it will notify Gerstner of this fact. If Gerstner agrees, the repair will be completed within 30 days or such additional time as is granted by the Watershed. If the parties cannot come to an agreement the matter will be settled by arbitration. Each party will pick one

12/8/23

Water Resources
Received

KS Dept Of Agriculture

VOID

arbiter and the two will pick a third. The decision of a majority of the arbiters will be final. If either party refuses to appoint and arbiter then the arbiter for that party will be designated by a District Judge. The decision of the arbiters may be enforced in the District Court of Marshall County.

- d. It is the intention for the parties that irrigation water may be removed from the facility so long as it does not cause continuing damage to the facility.
4. The parties understand and agree that the terms of this agreement is subject to approval or modification by the Division Of Water Resources or other applicable agency. Irrigation will be permitted so long as the taking of water from the facility has the continuing approval of the Division of Water Resources or other applicable agency.

This agreement is dated December 12, 2022, 2022

Watershed District No. 37

Gerald Gerstner

Gerald L Gerstner

Sheryl A. Gerstner

Sheryl A. Gerstner

From: Bunger, Brett [KDA]
Sent: Thu 3/28/2024 10:39 AM
To: Neuhauser, Kris [KDA]
Subject: FW: Water Level Measurement - File No. 50895
Attachments: File No. 50895.pdf

Kris, would you please attach this email traffic and the attached aerial photo to the application under 50895. We met with Julie Fox on Tuesday and verified the location of the domestic well and obtained a static water level. This further verified that her domestic well is beyond the ½ mile mark so we are not required to send a letter to her.

Brett

From: Bunger, Brett [KDA]
Sent: Thursday, March 28, 2024 9:46 AM
To: foxy@bluevalley.net
Cc: Keith Grimm <Keith@mwivalley.com>; bryan@bryansmithlaw.com
Subject: Water Level Measurement - File No. 50895

Julie, during our meeting we agreed that it would be nice to have a base line water level measurement in your domestic well. This would be helpful as this is a base line that is established prior to the Gerstners using their irrigation well. Should problems occur with your domestic well in the future I would suggest that you first take a water level measurement as that data will start answering a couple questions. Is the problem related to a lack of water or is it problems with the pumping equipment or the well casing?

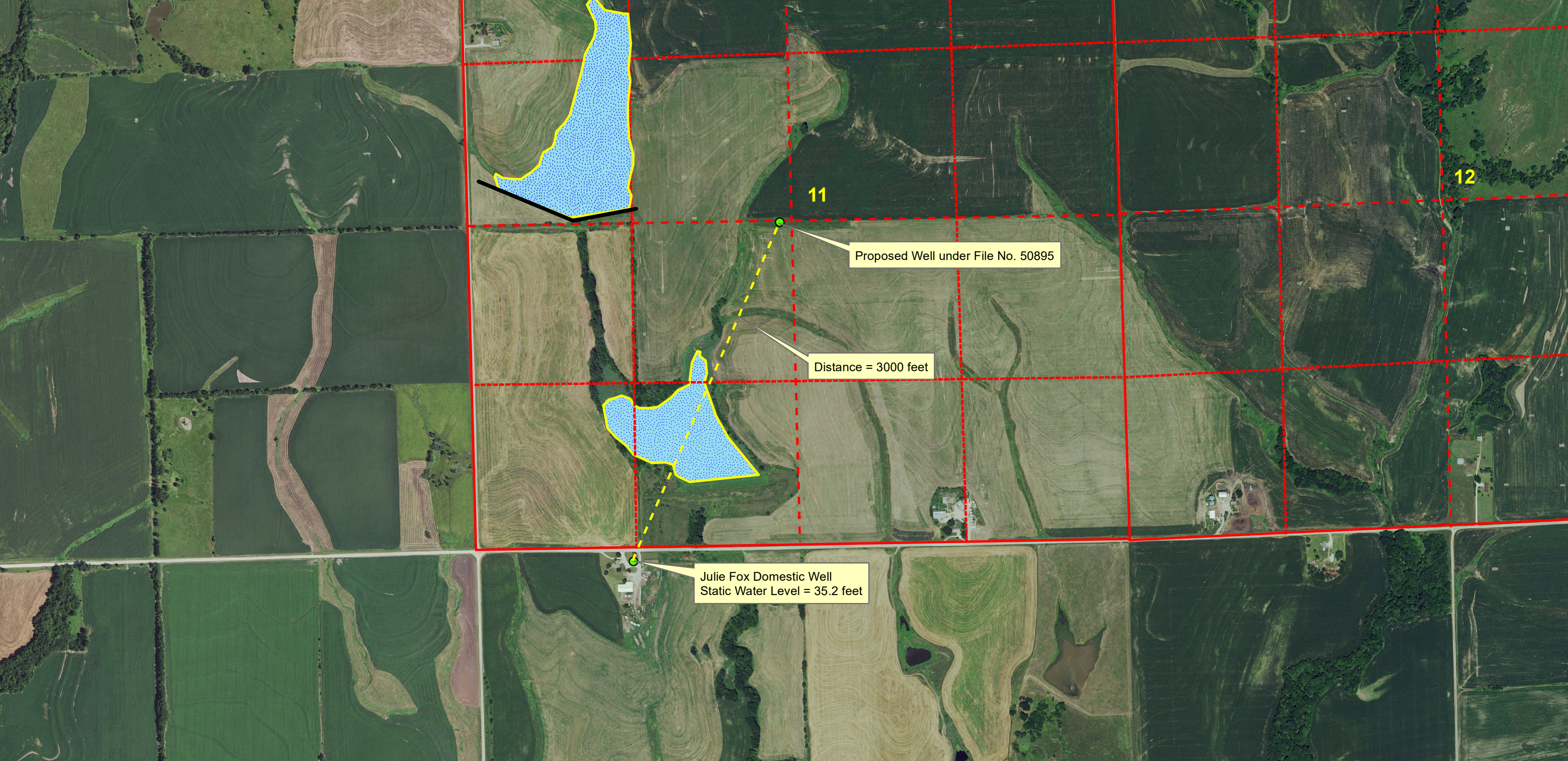
For the record, on March 26, 2024 we recorded a static water level of 35.2 feet. This measurement was taken from the top of the steel casing.

I will make this information a matter of record in the Gerstner water right file.

Please do not hesitate to let me know if more questions develop.

Brett

Brett Bunger
Water Commissioner
Topeka Field Office
785-296-7064



12

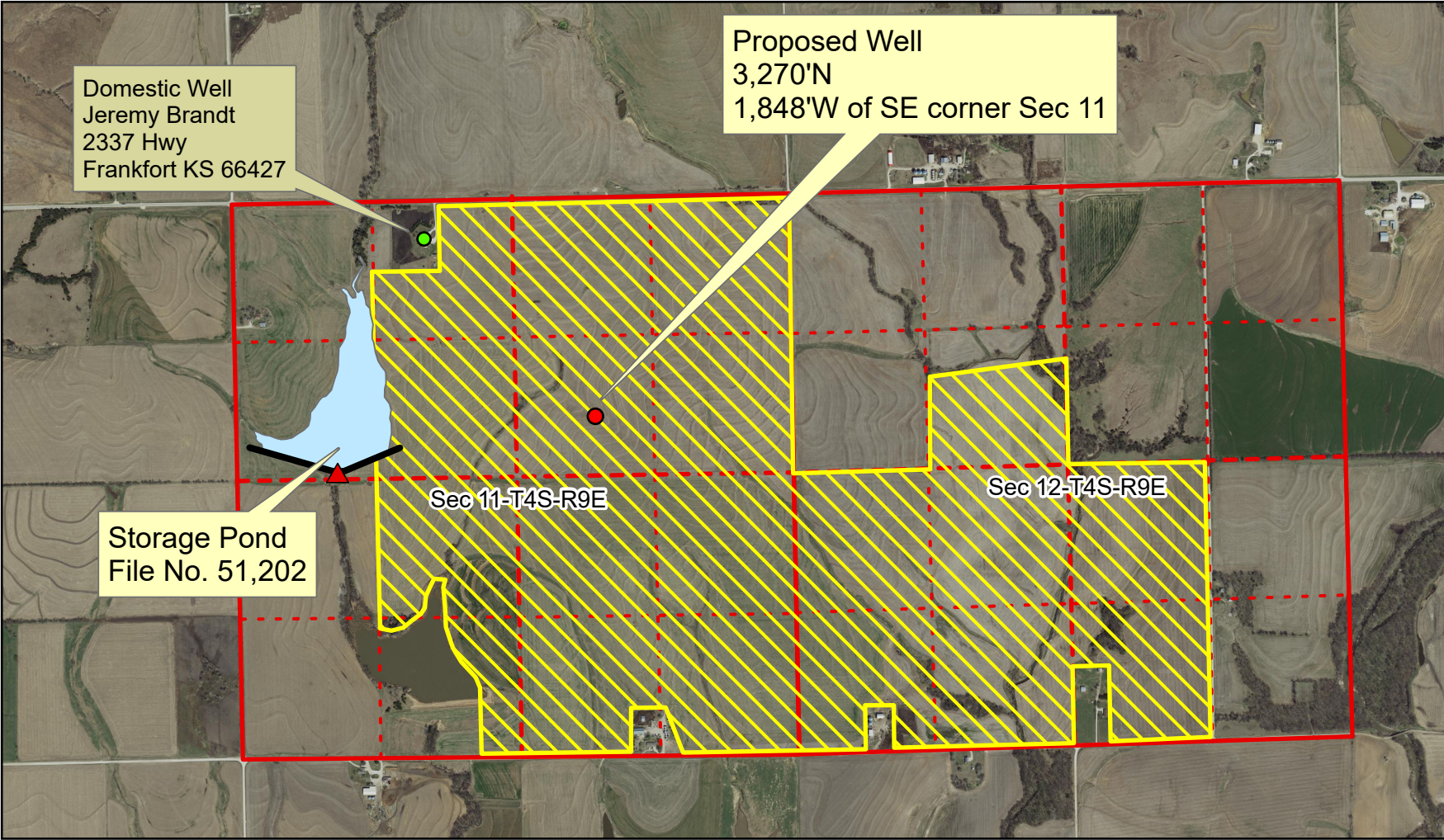
11

Proposed Well under File No. 50895

Distance = 3000 feet

Julie Fox Domestic Well
Static Water Level = 35.2 feet

APPLICATION FILE NO. 50,895 REVISED MAP

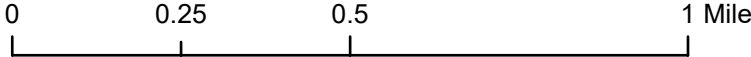


 Proposed Place of Use

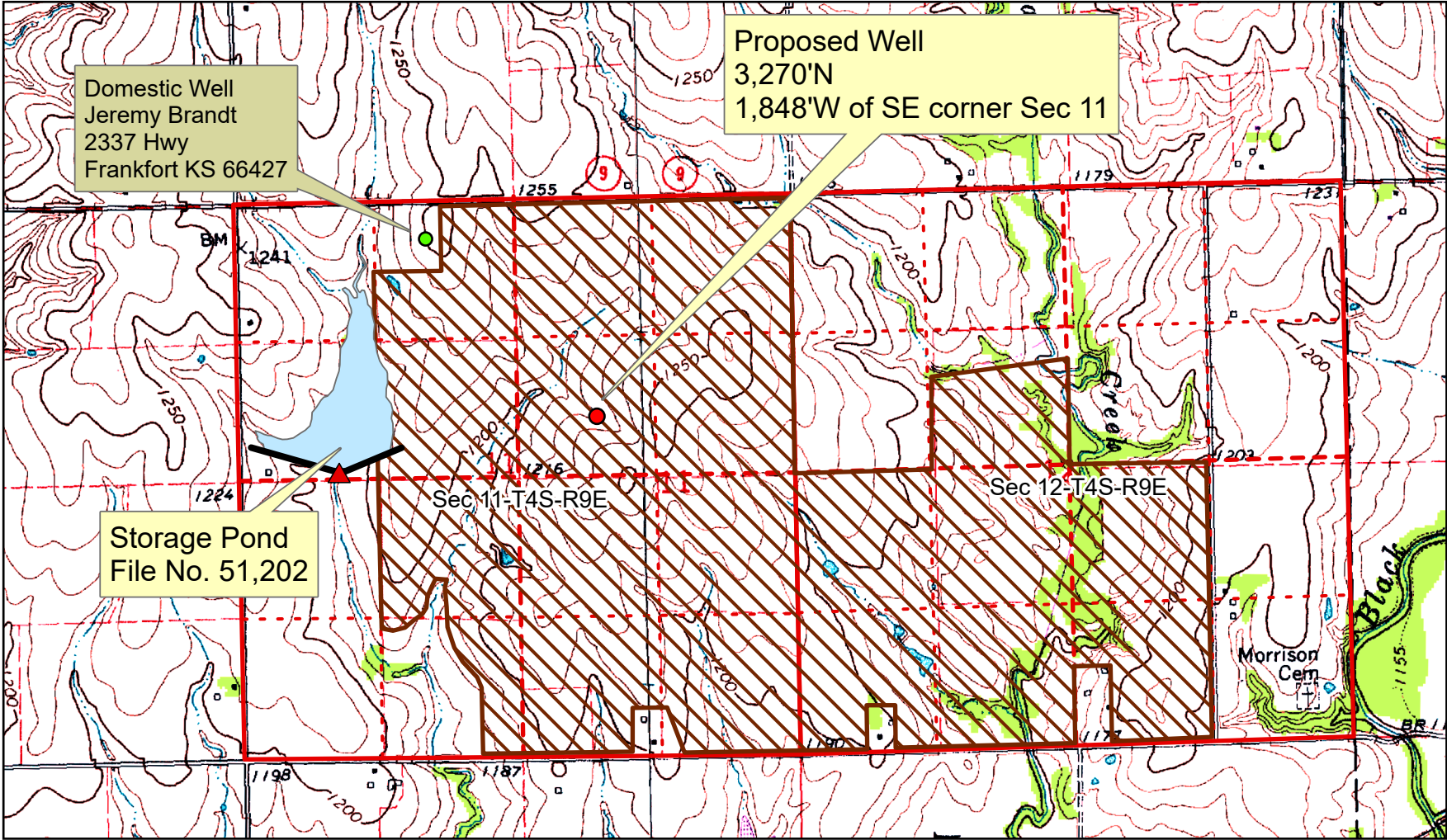
Map prepared by: LHH/TFO 5.7.2024



Scale: 1:18,000



APPLICATION FILE NO. 50,895 REVISED MAP



 Proposed Place of Use

Map prepared by: LHH/TFO 5.7.2024



Scale: 1:18,000

