



File No. <b>50291</b>	15. Formation Code: <b>100</b>	Drainage Basin: <b>ARKANSAS RIVER</b>	County: <b>ED</b>	Special Use:	Stream:																
16. Points of Diversion			17. Rate and Quantity																		
T MOD DEL ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Authorized	Additional	Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files						
<b>MOD</b>	<b>87672</b>	<b>SW SE SW</b>	<b>5</b>	<b>24S</b>	<b>18W</b>	<b>10</b>	<b>522</b>	<b>3867</b>	<b>NE</b>	<b>18.5</b>	<del><b>0</b></del>	<del><b>0</b></del>	<b>NE</b>	<b>18.5</b>	<b>none</b>						
<b>Lot 4</b>			<b>Sand and Gravel Project Permit - see below</b>						<b>NE</b>		<b>18.5</b>										
18. Storage: Rate _____ Quantity _____ ac/ft Additional Rate _____ Additional Quantity _____ ac/ft																					
19. Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____ Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____																					
20. Meter Required? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No To be installed by _____ Date Acceptable Meter Installed _____																					
21. Place of Use		NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg? <b>NO</b>	Overlap Files
T MOD DEL ENT	PUSE	S	T	R	ID	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼				
<b>CHK</b>	<b>69588</b>	<b>5</b>	<b>24S</b>	<b>18W</b>	<b>3</b>	<b>SAND &amp; GRAVEL PIT (LOT 4 SW) 6 AC</b>													<b>7a</b>	<b>no</b>	<b>none</b>
						<b>Project Permit</b>															
Comments: <b>Action Trail and Special Condition entry - Sand and Gravel Project Permit</b>																					

**Project Permit  
Needs new Project ID  
Active - Y; IND Evap - Y**

**7/13/2020: DATA ENTRY ON HOLD - UNABLE TO ADD  
NEW PROJECT PERMIT ID AT THIS TIME IN WRIS**

7/13/2020  
LMoody

6/30/2020  
KAB

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

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

**TO:** Files

**DATE:** June 24, 2020

**FROM:** Kris Neuhauser

**RE:** New Application, File No. 50,291

The above referenced application has been filed by Cole James McClaren to appropriate groundwater for industrial use (excavation of a sand and gravel pit). The application is requesting 18.5 acre-feet of water to cover natural evaporative loss from the surface of the groundwater pit with a projected exposed surface area size of 6 acres (6 acres x 37 inches / 12 inches = 18.5 acre-feet).

The geographic center of the pit will be represented by a point 522 feet north and 3,867 feet west of the southeast corner of Section 5, Township 24 South, Range 18 West, Edwards County, Kansas. The authorized place of use has been listed as 6 acres within Section 5, Township 24 South, Range 18 West, Edwards County, Kansas (shown on the supplied map). The applicant has signed the application form stating he has legal access to the point of diversion.

The area is fully developed for safe yield, but the application has been filed with Water Right, File No. 30,773 being used as an offset. A reduction request for File No. 30,773 was included with the application, requesting a reduction in the authorized maximum annual quantity from 183 acre-feet to 160 acre-feet per calendar year. The request was properly signed and notarized by the applicant, who is the sole owner of File No. 30,773. A Notice of Intent to Open or Expand a Sand and Gravel Pit Operation Form was also included, and properly signed by Mr. McClaren.

The closest domestic well is over 1,600 feet away, while the closest non-domestic well is over 1,400 feet away (File No. 30,773), thus meeting well spacing requirements via K.A.R. 5-4-4. Two landowners within ½ mile of the point of diversion were notified by letter on January 3, 2020, but no responses of any kind were received.

On February 3, 2020, Orrin Feril, Manager of the Big Bend Groundwater Management District recommended the referenced application for approval, provided that the pit does not exceed 6 acres in surface area, and that Water Right, File No. 30,773 be reduced from 183 acre-feet to 160 acre-feet to offset the evaporation in the pit.

In an e-mail conversation on April 7, 2020, Jeff Lanterman, Water Commissioner of the Stafford Field Office, recommended approval of the referenced application.

It was determined that this sand and gravel operation will require a floodplain fill permit from the Division of Water Structures. P.E. Janelle Phillips sent a letter to Mr. McClaren on April 15, 2020 explaining the situation. The floodplain fill permit will be issued when this application is approved.

Based on the above discussion, with the reduction request for Water Right, File No. 30,773, and with no indication that senior water rights will be impaired, it is recommended that the referenced application be approved.

**This was filed as a Sand and Gravel Project Permit so nonconsumptive secondary uses are authorized by this WR.**

6/30/2020  
KAB



Kris Neuhauser  
Environmental Scientist  
Water Appropriation Program

Darrell Wood - Edwards (Pres.)  
Fred Grunder - Pratt (V Pres.)  
John Janssen - Kiowa (Treas.)  
Jerry Cullop - Rice (Sec.)  
Justin Gatz - Reno  
Marlyn Spare - Stafford  
Phil Martin - Barton  
Kerry Froetschner - Pawnee  
Tom Taylor - At-Large



Orrin Feril, Manager  
125 South Main Street  
Stafford, Kansas 67578  
ph: (620) 234-5352  
fx: (620) 234-5718  
gmd5@gmd5.org  
www.gmd5.org

February 3, 2020

Kris Neuhauser  
Division of Water Resources  
Kansas Department of Agriculture  
1320 Research Park Drive  
Manhattan, KS 66502

RE: Application File No. 50,291  
Water Right File No. 30,773

Dear Mr. Neuhauser,

Big Bend Groundwater Management District #5 has reviewed the above referenced application which proposes to divert up to 18.5 acre-feet for industrial use in a 6-acre groundwater pit in Lot4 of Section 05, Township 24S, Range 18W in Edwards County, Kansas.

Applications that proposed to use water in a manner so that there is no significant consumptive use of the local source of supply are exempt from meeting the requirements of K.A.R. 5-25-4(a). The application proposes to utilize water appropriated under Water Right File No. 30773 as offset for this new water right provided that the groundwater pit does not exceed 6.0 acres.

In examination of the documents provided by the applicant, the District believes the application meets the requirements of K.A.R. 5-25-4(a) and appears to be consistent with K.A.R. 5-25-20(b). Therefore, the application is recommended for approval provided that the groundwater pit does not exceed 6.0 acres and Water Right File No. 30773 is reduced by 23 AF to offset the evaporation in the groundwater pit.

The application is primarily for the net evaporation of groundwater and is not subject to the District's well equipment regulation K.A.R. 5-25-5 for a required flow meter.

Please feel free to give me a call if you have any questions.

Sincerely,

Orrin Feril  
Manager

**From:** Lanterman, Jeff [KDA]  
**Sent:** Tue 4/14/2020 1:44 PM  
**To:** Letourneau, Lane [KDA]; Baum, Kristen [KDA]; Neuhauser, Kris [KDA]  
**Subject:** FW: Rec request 50,291

Kris is working it. Janelle asked that we hold approval until she gets what she needs.  
Jeff

---

**From:** Phillips, Janelle [KDA] <Janelle.Phillips@ks.gov>  
**Sent:** Tuesday, April 7, 2020 2:43 PM  
**To:** Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>; Baum, Kristen [KDA] <Kristen.Baum@ks.gov>; Neuhauser, Kris [KDA] <Kris.Neuhauser@ks.gov>  
**Cc:** Conant, Cameron [KDA] <Cameron.Conant@ks.gov>  
**Subject:** RE: Rec request 50,291

If you can hold it until I get what I need I will have more leverage please.

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**From:** Lanterman, Jeff [KDA]  
**Sent:** Tuesday, April 7, 2020 2:41 PM  
**To:** Baum, Kristen [KDA] <[Kristen.Baum@ks.gov](mailto:Kristen.Baum@ks.gov)>; Neuhauser, Kris [KDA] <[Kris.Neuhauser@ks.gov](mailto:Kris.Neuhauser@ks.gov)>; Phillips, Janelle [KDA] <[Janelle.Phillips@ks.gov](mailto:Janelle.Phillips@ks.gov)>  
**Cc:** Conant, Cameron [KDA] <[Cameron.Conant@ks.gov](mailto:Cameron.Conant@ks.gov)>  
**Subject:** FW: Rec request 50,291

From a water appropriations standpoint I think this can be approved. Consider that my recommendation.

Because what they are going to be doing may require a structures permit do we want to hold it until we get the structures application in? Or maybe have them give us a statement that the stockpile and office are going to be located outside the floodplain?

Seems like we have more leverage if we hold the appropriations permit until structures gets what they need?

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**From:** Conant, Cameron [KDA] <[Cameron.Conant@ks.gov](mailto:Cameron.Conant@ks.gov)>  
**Sent:** Tuesday, April 7, 2020 2:26 PM  
**To:** Lanterman, Jeff [KDA] <[Jeff.Lanterman@ks.gov](mailto:Jeff.Lanterman@ks.gov)>  
**Subject:** FW: Rec request 50,291

Jeff, this application is to open a new sand/gravel pit in Edwards County. The applicant has called a couple times now wondering where it is at. I feel badly because I've had this one for too long but I've not gotten to it because of water use reporting, ASR hearings, spring breaks, COVID, and now I've found an issue with structures that could delay it even more. So, apologies for the long delay on this one.

They are offsetting the new pit with a 23 AF reduction on water right, file no. 30773. We have a signed reduction from 183 AF down to 160 AF (calculations attached). The irrigation file is currently authorized 183 AF on 190 acres. If all this is approved the irrigation right will be left with 160 AF on 190 authorized acres, they have reported 130 acres for years. Do you have a problem with the limited quantity on the large authorized place of use? I do not. I think we just put language in the cover letter that they are short on quantity and they need to be aware of that and to crop and water accordingly. They have been "short" forever and there doesn't seem to be a history of over pumping.

The actual new application is requesting 18.5 AF to offset evaporation loss from a maximum of a 6 acre GW pit within a 10 acre tract...IE they will never exceed an exposed surface area of 6 acres, but they will mine within a 10 acre tract shown on the application. They will mechanically excavate and they have filed the appropriate intent to open pit, reclamation app, ect. I checked with Janelle in Structures and there is an issue with where they put the stockpiles and office based on the "project map". Currently the "project map" shows the office and the stockpiles

within the flood plain (flood plain map is also attached). Janelle says they have to file the attached "Application for 2-100 and 3-100 Permit" and address everything in the attached "UMSS Submittal Checklist" and pay the \$300 fee. If they get it all correct, should be 30-45 days to process it. Or they can move the stock piles and the office out of the blue flood plain, about 700' to the west.

GMD5 has recommended approval of this application and the reduction on the irrigation file.

I think this can be recommended for approval providing they either shift the office and stockpile location 700' to the west so it is out of the floodplain or they file the required paperwork with structures to allow the building and stockpiles in the flood plain. It would be nice if we could just continue processing on our end and tell them to file the paperwork with Janelle and as long as they are moing on their end with that, we could still approve it and keep it moving. Please pass on to Kris with the final directive.

-  
Let me know if you have questions, this is an odd one due to the low quantity on the irrigation offset file and the possible structures issue.

Cameron

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**From:** Neuhauser, Kris [KDA] <[Kris.Neuhauser@ks.gov](mailto:Kris.Neuhauser@ks.gov)>

**Sent:** Friday, February 14, 2020 9:32 AM

**To:** Lanterman, Jeff [KDA] <[Jeff.Lanterman@ks.gov](mailto:Jeff.Lanterman@ks.gov)>; Conant, Cameron [KDA] <[Cameron.Conant@ks.gov](mailto:Cameron.Conant@ks.gov)>

**Subject:** Rec request 50,291

Jeff and Cameron,

Here is my recommendation request for New App 50,291: will be a sand and gravel pit in Edwards County. Orrin recommended approval with offset water from 30,773.

The applicant Cole McClaren has called me off and on checking on the status of this one.. just a heads up in case he calls you guys too. Just antsy sounds like. Let me know if you need anything further.

Happy Friday!

Kris

**From:** Neuhauser, Kris [KDA]  
**Sent:** Tue 6/23/2020 4:50 PM  
**To:** Baum, Kristen [KDA]  
**Cc:** Phillips, Janelle [KDA]; Conant, Cameron [KDA]  
**Subject:** RE: WR 50291

Will do!

---

**From:** Baum, Kristen [KDA] <Kristen.Baum@ks.gov>  
**Sent:** Tuesday, June 23, 2020 4:50 PM  
**To:** Neuhauser, Kris [KDA] <Kris.Neuhauser@ks.gov>; Phillips, Janelle [KDA] <Janelle.Phillips@ks.gov>; Conant, Cameron [KDA] <Cameron.Conant@ks.gov>  
**Subject:** RE: WR 50291

Thanks everyone.

Kris – please tag this one as a priority for me when you have it ready – thanks!

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**From:** Neuhauser, Kris [KDA] <[Kris.Neuhauser@ks.gov](mailto:Kris.Neuhauser@ks.gov)>  
**Sent:** Tuesday, June 23, 2020 4:48 PM  
**To:** Phillips, Janelle [KDA] <[Janelle.Phillips@ks.gov](mailto:Janelle.Phillips@ks.gov)>; Conant, Cameron [KDA] <[Cameron.Conant@ks.gov](mailto:Cameron.Conant@ks.gov)>  
**Cc:** Baum, Kristen [KDA] <[Kristen.Baum@ks.gov](mailto:Kristen.Baum@ks.gov)>  
**Subject:** RE: WR 50291

Nice! Will get those approvals rolling.

---

**From:** Phillips, Janelle [KDA] <[Janelle.Phillips@ks.gov](mailto:Janelle.Phillips@ks.gov)>  
**Sent:** Tuesday, June 23, 2020 4:45 PM  
**To:** Conant, Cameron [KDA] <[Cameron.Conant@ks.gov](mailto:Cameron.Conant@ks.gov)>; Neuhauser, Kris [KDA] <[Kris.Neuhauser@ks.gov](mailto:Kris.Neuhauser@ks.gov)>  
**Cc:** Baum, Kristen [KDA] <[Kristen.Baum@ks.gov](mailto:Kristen.Baum@ks.gov)>  
**Subject:** RE: WR 50291

Nothing in the plans submitted showed anything different on the pit size.

---

**From:** Conant, Cameron [KDA]  
**Sent:** Tuesday, June 23, 2020 4:43 PM  
**To:** Neuhauser, Kris [KDA] <[Kris.Neuhauser@ks.gov](mailto:Kris.Neuhauser@ks.gov)>; Phillips, Janelle [KDA] <[Janelle.Phillips@ks.gov](mailto:Janelle.Phillips@ks.gov)>  
**Cc:** Baum, Kristen [KDA] <[Kristen.Baum@ks.gov](mailto:Kristen.Baum@ks.gov)>  
**Subject:** RE: WR 50291

That is right. As long as they didn't change anything when working with Janelle we were good to go.

Cameron

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**From:** Neuhauser, Kris [KDA] <[Kris.Neuhauser@ks.gov](mailto:Kris.Neuhauser@ks.gov)>  
**Sent:** Tuesday, June 23, 2020 4:42 PM  
**To:** Phillips, Janelle [KDA] <[Janelle.Phillips@ks.gov](mailto:Janelle.Phillips@ks.gov)>; Conant, Cameron [KDA] <[Cameron.Conant@ks.gov](mailto:Cameron.Conant@ks.gov)>  
**Cc:** Baum, Kristen [KDA] <[Kristen.Baum@ks.gov](mailto:Kristen.Baum@ks.gov)>  
**Subject:** RE: WR 50291

Think you and Jeff gave the okay on this one if I remember right Cameron? It just opened up the big discussion regarding a structures permit then.

I can draft up the approvals soon if we're set.

Kris

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**From:** Phillips, Janelle [KDA] <[Janelle.Phillips@ks.gov](mailto:Janelle.Phillips@ks.gov)>

**Sent:** Tuesday, June 23, 2020 4:23 PM

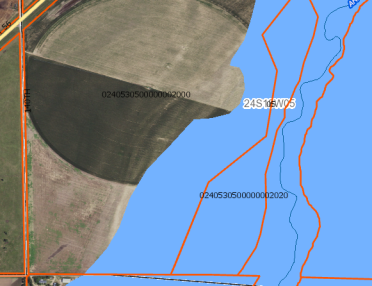
**To:** Baum, Kristen [KDA] <[Kristen.Baum@ks.gov](mailto:Kristen.Baum@ks.gov)>; Conant, Cameron [KDA] <[Cameron.Conant@ks.gov](mailto:Cameron.Conant@ks.gov)>; Neuhauser, Kris [KDA] <[Kris.Neuhauser@ks.gov](mailto:Kris.Neuhauser@ks.gov)>

**Subject:** WR 50291

The water structures permit for WR 50291 will be ready for the Chiefs signature July 1. Please advise if the Water Right is ready?

Janelle Phillips, P.E., CFM  
Stream Obstruction Team Lead  
Water Structures Program  
Division of Water Resources  
Kansas Department of Agriculture  
1320 Research Park Drive  
Manhattan, KS 66502  
785-564-6656  
[Janelle.phillips@ks.gov](mailto:Janelle.phillips@ks.gov)





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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

COLE JAMES MCCLAREN  
1169 170TH AVE  
LEWIS, KS 67552-5250

Re: Appropriation of Water, File No. 50,291 and Water Right, File No. 30,773

Dear Mr. McClaren:

Enclosed is a permit regarding File No. 50,291 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. **The approval of your Project Permit Application serves to authorize net evaporation as the primary use, and hydraulic dredging and sand washing as secondary uses of water if such secondary uses are located within the same source of supply and are associated with the operation.** Any secondary uses shall use water in a manner in which there is no significant net consumptive use.

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.

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/divisions-programs/dwr](http://agriculture.ks.gov/divisions-programs/dwr).

Also enclosed is a Findings and Order by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, which sets forth the modified quantity authorized under Water Right, File No. 30,773. The Water Appropriation Act requires that the Certificate of Appropriation shall be recorded with the Register of Deeds in the county or counties wherein the place of use and point of diversion are located as other instruments affecting real estate. Since the enclosed Findings and Order by the Chief Engineer modifies said Certificate of Appropriation, it should also be recorded with the Register of Deeds.

If you have any questions or need assistance with any of these requirements, please contact our office at 785-564-6640 or your local Stafford Field Office at 620-234-5311. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

Kristen A. Baum  
New Application Unit Supervisor  
Water Appropriation Program

KAB: kjn

Enclosures

pc: Stafford Field Office  
Big Bend GMD No. 5



THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE  
Mike Beam, Secretary of Agriculture

DIVISION OF WATER RESOURCES  
Christopher W. Beightel, Acting Chief Engineer

APPROVAL OF APPLICATION  
and  
PERMIT TO PROCEED

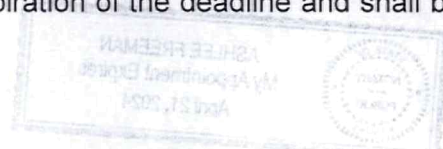
(This is not a Certificate of Appropriation)

This is to certify that I have examined Application, File No. 50,291 of the applicant

COLE JAMES MCCLAREN  
1169 170TH AVE  
LEWIS, KS 67552-5250

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 **September 9, 2019**.
2. That the water sought to be appropriated shall be used for industrial use to cover evaporative loss from a groundwater pit with a projected maximum total surface area of 6 acres located in Lot 4 of Section 5, in Township 24 South, Range 18 West, Edwards County, Kansas.
3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of a groundwater pit with a projected geographic center located in Lot 4 of Section 5, more particularly described as being near a point 522 feet North and 3,867 feet West of the Southeast corner of said section, in Township 24 South, Range 18 West, Edwards County, Kansas, located substantially as shown on the aerial map accompanying the application.
4. That the appropriation sought shall be limited to a maximum diversion rate not in excess of **natural evaporation** and to a quantity not to exceed **18.5 acre-feet** of water for any calendar year, from a groundwater surface area exposure not greater than 6 acres.
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 of \$200.00 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 of \$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, 2040** 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.









## 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:

- 1) request an evidentiary hearing before the Chief Engineer, or
- 2) 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 Section, 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 hearing 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

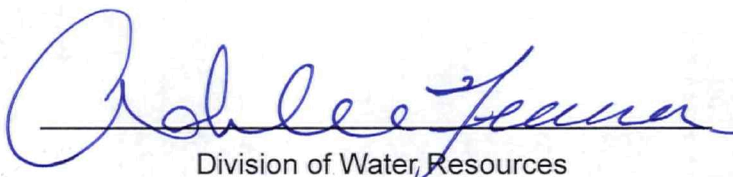
On this 14 day of July, 2020, I hereby certify that the foregoing Approval of Application, File No. 50,291, dated 1 July 2020 was mailed postage prepaid, first class, US mail to the following:

COLE JAMES MCCLAREN  
1169 170TH AVE  
LEWIS, KS 67552-5250

With photocopies to:

Stafford Field Office

GMD 5



Division of Water Resources