

File No. **50,301** 15. Formation Code: **100** Drainage Basin: **CHIKASKIA RIVER** County: **KM** Special Use: Stream:

16. Points of Diversion										
MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W
√			86139	NE SE SW	8	29S	9W	3	700	2800

17. Rate and Quantity				
Authorized		Additional		
Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files
1200	120	0	15	49,842

18. Storage: Rate _____ NF Quantity _____ ac/ft Additional Rate _____ NF Additional Quantity _____ ac/ft

19. Limitation: **120** af/yr at **1,200** gpm (_____ cfs) when combined with file number(s) **49,842**
 Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____

20. Meter Required? Yes No To be installed by **12/31/2020 2021** Date Acceptable Meter Installed _____

21. Place of Use										NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg? NO	Overlap Files
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	NE ¼	NW ¼	SW ¼	SE ¼						
√			67780	8	29S	9W	1					39		40	40										119	7b.	NO	49,842	

Comments:

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources
MEMORANDUM

TO: Files

DATE: November 6, 2019

FROM: Doug Schemm

RE: Application, File No. 50,301

Dan Thimesch has filed the referenced application to appropriate 120 acre-feet of groundwater for irrigation use at a diversion rate of 1,200 gallons per minutes from an existing well. The well is currently authorized under File No. 49,842, which is permitted for 105 acre-feet at 1,200 gallons per minute. The purpose of this application is to provide **15 acre-feet of additional quantity** from this well, with **no rate increase**. The additional 15 acre-feet of water became available in this local area, due to the dismissal of File No. 49,644 for failure to complete diversion works. File No. 49,644 was processed under a 15 acre-foot exemption, which required it to be reduced to 15 acre-feet at a diversion rate of 50 gallons per minute.

The well is located in the Southwest Quarter of Section 8, Township 29 South, Range 9 West, Kingman County, within the drainage basin of the Chikaskia River. The proposed acreage (119 acres) is wholly owned by the Jack E & Diane M Thimesch Living Trust. The applicant has signed the application form stating that he has legal access to the point of diversion.

During processing of the senior file, the applicant had identified two domestic wells within one-half mile of the proposed point of diversion, including one owned by his father Jack Thimesch. Nearby well owner letters were sent out on June 28, 2017 during processing of the senior file, and no responses of any kind were received. Since this application is merely adding 15 acre-feet to an existing well, no additional notifications are necessary. The adjacent well owners are certainly aware of this well location and use of water. According to the WRIS database, the nearest non-domestic point of diversion is located over 6,800 feet away. The site map indicates that the nearest domestic well is over 1,000 feet away. The proposed point of diversion meets minimum well spacing to all existing wells. Per the requirements in K.A.R. 5-4-4 for all other aquifers, the minimum well spacing should be one-quarter mile to all other non-domestic wells and 660 feet to domestic wells.

A well log submitted with the pending application shows fine to medium sands and gravels, with interbedded clays, extending to a total depth of 134 feet. Static water level was 46 feet below ground surface. This aquifer is typical for this area showing reworked quaternary material. The WIZARD database contains a well in the Southeast Quarter of Section 18 (File No. 40,187) that shows a steady decline of almost 5 feet from 2011 through 2016, however it rebounded quickly in 2017, and the 2019 depth to water was just a bit over a foot below the 2011 value. This WIZARD well is 143 deep, which is very similar to the applicant's well.

Please note that the point of diversion is located within South Central Kansas Designated Unit Area CHK-3. 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. However, for points of diversion located within a Designated Unit Area, safe yield evaluation is a two-step approach. The first step is to determine that water is available in the specific Designated Unit Area, and then the 2-mile area of consideration is reviewed. For this application, it was determined that Designated Unit Area CHK-3 still has over 2,000 acre-feet of water available for appropriation.

It was determined that the aquifer extends across the entire 2-mile circle, which is consistent with the senior File No. 49,842. This provides for an area of consideration of 8042 acres. With a potential annual recharge of 1.8 inches, and 50% of recharge available for appropriation, safe yield was determined to be 603.15 acre-feet. Existing water rights have appropriated 588 acre-feet, providing a difference of 15.19 acre-feet available for appropriation, and the application requesting an additional 15 acre-feet complies with safe yield criteria.

The requested quantity of water when combined with the senior file will provide for 120 acre-feet, which is less than the maximum allowable of 1.4 acre-feet per acre for Kingman County, Kansas. The applicant is aware of the limited quantity on the proposed acreage, and will manage his water use accordingly.

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. A water level measurement tube should be installed because this is an existing well exceeding 100 gpm.

The proposed application is subject to minimum desirable streamflow requirements. The applicant signed, notarized, and submitted the required form to our office.

In a November 4, 2019 e-mail, Jeff Lanterman, Water Commissioner, Stafford Field Office, recommended approval of the referenced application. Based on the above discussion, well spacing and safe yield criteria are met, the application will be limited to 120 acre-feet and 1,200 gpm, and approval of the application will not impair senior water rights nor prejudicially or unreasonably affect the public interest, it is recommended that the referenced application be approved.

Douglas W. Schemm
Environmental Scientist
Topeka Field Office

Schemm, Doug [KDA]

From: Schemm, Doug [KDA]
Sent: Monday, November 4, 2019 3:07 PM
To: Schemm, Doug [KDA]
Subject: FW: Dan Thimesch 50,301

From: Lanterman, Jeff [KDA]
Sent: Monday, November 4, 2019 2:12 PM
To: Schemm, Doug [KDA] <Doug.Schemm@ks.gov>
Cc: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Subject: RE: Dan Thimesch 50,301

Im OK with approval of this thing with dismissal of the 15 af application.

Thanks
Jeff

From: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Sent: Monday, November 4, 2019 1:55 PM
To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>
Subject: FW: Dan Thimesch 50,301

Jeff, I agree with Doug here, this is the direction we wanted to go during the initial processing of file no 49842.

If this is approved, they will dismiss the 15AF permit, file no. 49644 which will free up the 15 AF requested by this application. This new application is a complete p/d and p/u overlap with existing file 49842.

If approved, this well will authorize 120 AF @1200 gpm to be used on the currently authorized place of use for 49842 which covers 119 acres. In 2018 we approved a p/u change app to get the place of use corrected. The entire authorized p/u is owned by Mr. Thimesch now. The senior file reported 85AF of use in 2018 which was the first year of reported use.

I think we can recommend approval of this application. Please pass on to Doug if you agree.

Cameron

From: Schemm, Doug [KDA] <Doug.Schemm@ks.gov>
Sent: Thursday, October 17, 2019 2:03 PM
To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>; Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Subject: Dan Thimesch 50,301

With the dismissal of the 15 Af under 49,644 we can stick this on top of 49,842.

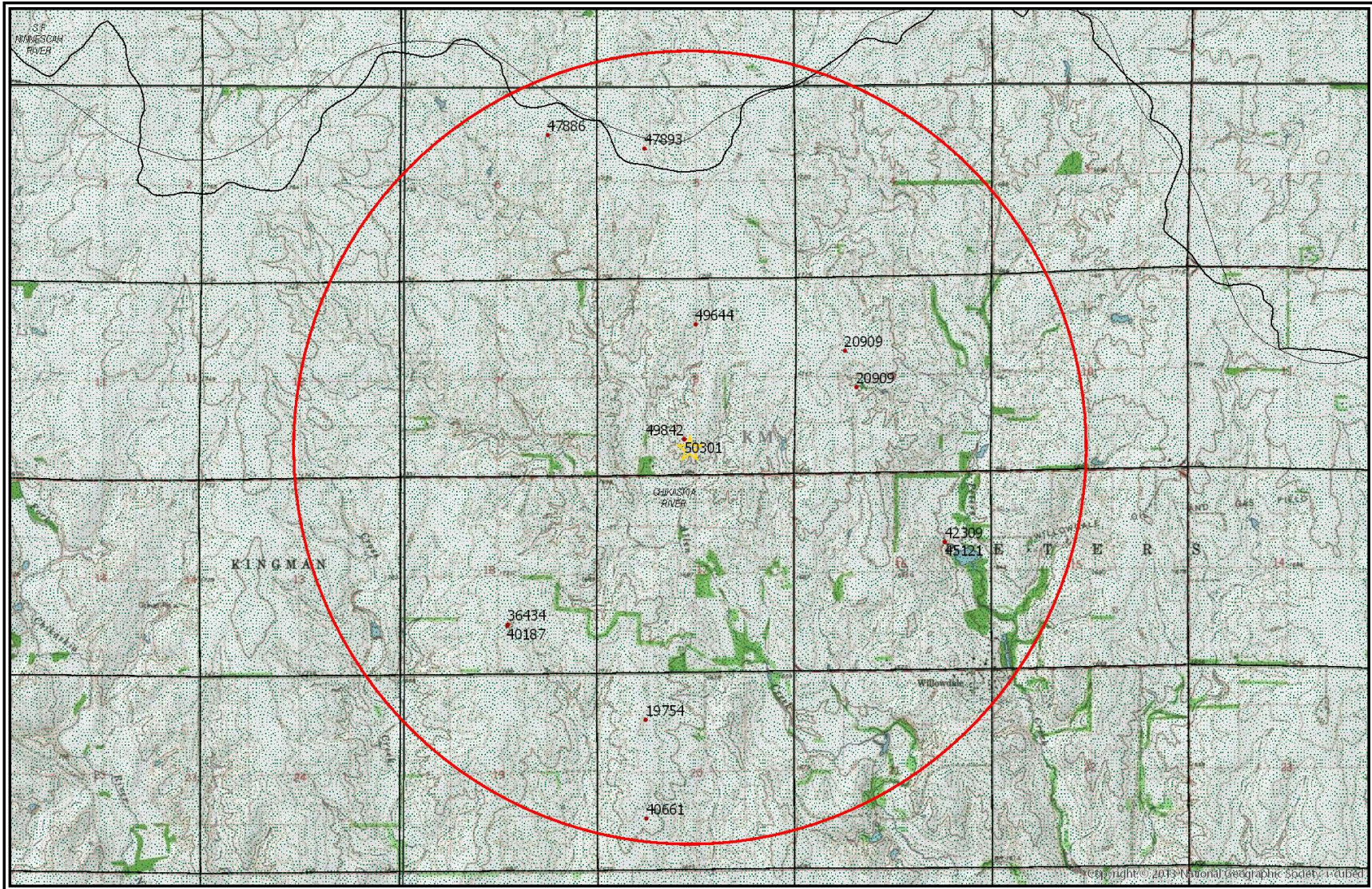
Safe Yield Report Sheet

FILE NO. 50301

Water Right- Proposed Point of Diversion

Point of Diversion in 08-29S-09W

Footages from SE corner- 700 feet North 2,800 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 603.19 AF.

Total prior appropriations in the circle is 603.00 AF. - 15 AF = 588 AF

Total quantity of water available for appropriation is ~~603.19~~ AF.

15.19 AF

Application File No. 50,301 Requesting 15 Acre-Feet
of Additional Quantity Meets Safe Yield
dws/dwr 10/17/19

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 1.8 inches.

The percent of recharge available for appropriation is 50%.

Authorized Quantity values are as of 17-OCT-2019 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 6 water rights and 4 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 19754 00	IRR	NK	G			NC	NW	3960	3960	20	29	09W	1	WR	198.00	198.00	160.00	160.00
A 40187 00	IRR	NK	G		NW	SW	SE	1269	2388	18	29	09W	2	WR	201.00	201.00	134.00	134.00
A 42309 00	IRR	NK	G		NW	SE	NE	3391	1236	16	29	09W	1	WR	49.00	49.00	60.00	60.00
A 45121 00	IRR	NK	G		NW	SE	NE	3391	1236	16	29	09W	1	WR	84.00	35.00	60.00	0.00
A 49842 00	IRR	KE	G		NE	SE	SW	700	2800	08	29	09W	3	WR	105.00	105.00	119.00	0.00
A 50301 00	IRR	AY	G		NE	SE	SW	700	2800	08	29	09W	3	WR	120.00	15.00	119.00	0.00

Limitations

File Number	Seq Num	Limitations
A 45121 00	2	84AF/YR @ 785GPM COM/W #42309

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

DAN THIMESCH
11716 SW 80TH ST
SPIVEY KS 67142

RE: Appropriation of Water, File No. 50,301

Dear Mr. Thimesch:

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 submitted in paper form will be assessed a \$20 per file number paper filing fee. In order to avoid this filing fee, you may submit your report online at www.kswaterusereport.org.

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. 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
Division of Water Resources

KAB:dws
Enclosure(s)

pc: Stafford Field Office
Jack E & Diane M Thimesch Living Trust

6. That the proposed appropriation shall be perfected by the actual application of water to the proposed beneficial use on or before **December 31, 2025** 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 of \$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 all wells with a diversion rate of 100 gallons per minute or more drilled under the authority of this permit shall have a tube or other device installed in a manner acceptable to, and in accordance with specifications adopted by, the Chief Engineer. This tube or device shall be suitable for making water level measurements and shall be maintained in a condition satisfactory to the Chief Engineer.

13. That an acceptable water flow meter shall be installed and maintained on the diversion works authorized by this permit in accordance with 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).

14. 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.

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

16. That failure without cause to comply with 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.

17. 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.

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. 50,301** of the applicant

**DAN THIMESCH
11716 SW 80TH ST
SPIVEY KS 67142**

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 30, 2019**.
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	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
8	29S	9W					39		40	40								119	

3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of one (1) well located in the Northeast Quarter of the Southeast Quarter of the Southwest Quarter (NE¼ SE¼ SW¼) of Section 8, more particularly described as being near a point 700 feet North and 2,800 feet West of the Southeast corner of said section, in Township 29 South, Range 9 West, Kingman County, Kansas located substantially as shown on the topographic map accompanying the application.

4. That the appropriation sought shall be limited to a maximum diversion rate not in excess of **1,200 gallons per minute (2.67 c.f.s.)** and to a quantity not to exceed **120 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, 2021** or within any authorized extension thereof. The applicant shall notify the Chief Engineer and pay the statutorily required field inspection fee of \$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 of \$100.00.

18. That the quantity of water and rate of diversion approved under this permit is further limited to the quantity and rate which combined with Appropriation of Water, File No. 49,842, will provide a **total not to exceed 120 acre-feet** of water per calendar year to be diverted at a maximum diversion rate **not in excess of 1,200 gallons per minute** (2.67 c.f.s.) from the point of diversion described herein.

Ordered this 18 day of May, 2020, in Manhattan, Riley County, Kansas.

Lane P. Letourneau

Lane P. Letourneau, P.G.
Program Manager
Water Appropriation Program
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 18 day of May, 2020, by Lane P. Letourneau, P.G., Program Manager, Division of Water Resources, Kansas Department of Agriculture.

Ashlee Freeman
Notary Public



RIGHT TO A HEARING AND TO ADMINISTRATIVE REVIEW

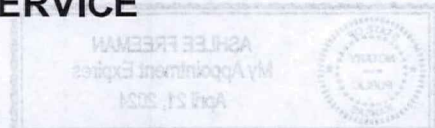
If you are aggrieved by this Order, then pursuant to K.S.A. 82a-1901, you may:

- 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 19 day of May, 2020, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,301, dated May 19, 2020 was mailed postage prepaid, first class, US mail to the following:

DAN THIMESCH
11716 SW 80TH ST
SPIVEY KS 67142

With photocopies to:

JACK E & DIANE M THIMESCH LIVING TRUST
11716 SW 80TH ST
SPIVEY KS 67142

Stafford Field Office

Division of Water Resources