

Kansas Department of Agriculture  
Division of Water Resources  
**PERMIT OF NEW APPLICATION WORKSHEET**

1. File Number: <p style="text-align: center; font-size: 1.2em;"><b>50,416</b></p>	2. Status Change Date: <p style="text-align: center; font-size: 1.2em; color: purple;"><b>4/28/2021</b></p>	3. Field Office: <p style="text-align: center; font-size: 1.2em;"><b>01</b></p>	4. GMD: <p style="text-align: center; font-size: 1.2em;"><b>0</b></p>
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5. Status:     Approved                       Denied by DWR/GMD                       Dismiss by Request/Failure to Return

6. Enclosures:     Check Valve             N of C Form             Water Tube             Driller Copy             Meter

<p>7a. Applicant(s)                      Person ID <b>40450</b> New to system <input type="checkbox"/>                      Add Seq# <b>2</b></p> <p style="margin-left: 20px;">KANSAS DEPT OF WILDLIFE PARKS &amp; TOURISM Attn: JAMES SCHNEIDER (TOP ACTIVE DIVERSIONS) 512 SE 25TH AVE PRATT, KS 67124</p>	<p>7c. Landowner(s)                      Person ID _____</p>
<p>7b. Landowner(s)                      Person ID _____ New to system <input type="checkbox"/>                      Add Seq# _____</p> <p style="margin-left: 20px;"><b>7a. SEQ #1 IS OWNER</b></p>	<p>7e. Miscellaneous                      Person ID _____</p>

<p>8. WUR Correspondent                      Person ID _____ New to system <input type="checkbox"/>                      Add Seq# _____ Overlap File (s) WUC                      Notarized WUC Form <input type="checkbox"/> Agree <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p style="margin-left: 20px;"><b>7a. SEQ #2 IS WUC</b></p>	<p>9. Use of Water:    Changing?    <input type="checkbox"/> Yes    <input checked="" type="checkbox"/> No</p> <p style="margin-left: 40px;"><input type="checkbox"/> Groundwater            <input checked="" type="checkbox"/> Surface Water</p> <p><input type="checkbox"/> IRR            <input checked="" type="checkbox"/> REC            <input type="checkbox"/> DEW            <input type="checkbox"/> MUN</p> <p><input type="checkbox"/> STK            <input type="checkbox"/> SED            <input type="checkbox"/> DOM            <input type="checkbox"/> CON</p> <p><input type="checkbox"/> HYD DRG    <input type="checkbox"/> WTR PWR            <input type="checkbox"/> ART RECHRG</p> <p><input type="checkbox"/> IND SIC: _____    <input type="checkbox"/> OTHER: _____</p>
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10. Completion Date: 12/31/2021 <sup>2022</sup>    11. Perfection Date: 12/31/2025 <sup>2026</sup>    12. Exp Date: \_\_\_\_\_

13. Conservation Plan Required?  Yes  No    Date Required: \_\_\_\_\_    Date Approved: \_\_\_\_\_    Date to Comply: \_\_\_\_\_

14. Water Level Measuring Device?  Yes  No    Date to Comply: \_\_\_\_\_    Date WLMD Installed: \_\_\_\_\_

Date Prepared: **8/25/2020**    By: **DWS**  
Date Entered: 5/5/2021    By: LMoody

4/19/2021  
L'Ireland

File No. <b>50,416</b>	15. Formation Code:	Drainage Basin: <b>MARAIS DES CYGNES RIVER</b>	County: <b>MI</b>	Special Use:	Stream: <b>BULL CREEK (MAR DES CYG)</b>																				
16. Points of Diversion			17. Rate and Quantity <b>MOD ADDL QTY</b>																						
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>85234</b>	<b>SE NE SE</b>	<b>21</b>	<b>15</b>	<b>22E</b>	<b>2</b>	<b>1510</b>	<b>657</b>	<b>6,000</b>	<b>240</b>	<b>6,000</b>	<b>111.65</b>	<b>46,477*</b>												
<b>Structures Permits #LMI-0051 &amp; #LMI-0022</b>										<b>ok li</b>															
18. Storage: Rate _____ NF    Quantity _____ ac/ft    Additional Rate _____ NF    Additional Quantity _____ ac/ft																									
19. Limitation: <b>240 AF</b> af/yr at _____ gpm ( _____ cfs) when combined with file number(s) <b>46,478 (ON THE PLACE OF USE)</b>																									
Limitation: _____ af/yr at _____ gpm ( _____ cfs) when combined with file number(s) _____																									
20. Meter Required? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No    To be installed by <b>12/31/2021-2022</b> Date Acceptable Meter Installed _____																									
21. Place of Use		<b>NE¼</b>				<b>NW¼</b>				<b>SW¼</b>				<b>SE¼</b>				<b>Total</b>	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>57863</b>	<b>21</b>	<b>15S</b>	<b>22E</b>	<b>1</b>	<b>WILDLIFE MARSH (E2 SE)</b>																	<b>7a</b>	<b>NO</b>	<del><b>46,477*</b></del> & <b>46,478</b>
√	<b>57864</b>	<b>22</b>	<b>15S</b>	<b>22E</b>	<b>1</b>	<b>WILDLIFE MARSH (W2 SW)</b>																	<b>7a</b>	<b>NO</b>	<del><b>46,477*</b></del> & <b>46,478</b>
√	<b>57865</b>	<b>27</b>	<b>15S</b>	<b>22E</b>	<b>3</b>	<b>WILDLIFE MARSH (NW NW)</b>																	<b>7a</b>	<b>NO</b>	<del><b>46,477*</b></del> & <b>46,478</b>
√	<b>57866</b>	<b>28</b>	<b>15S</b>	<b>22E</b>	<b>2</b>	<b>WILDLIFE MARSH (NE NE)</b>																	<b>7a</b>	<b>NO</b>	<del><b>46,477*</b></del> & <b>46,478</b>
Comments: <b>*FILE NO. 46,477 TO BE DISMISSED FOR FAILURE TO PERFECT. on 8/20/2020 li/DWR</b>																									

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

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

**TO:** Files

**DATE:** August 25, 2020

**FROM:** Doug Schemm

**RE:** Application, File No. 50,416

Kansas Department of Wildlife Parks & Tourism has filed the application referred to above proposing to appropriate 240 acre-feet of surface water at a diversion rate of 6,000 gallons per minute from one pump site on Bull Creek in the Marais des Cygnes River drainage basin, for recreational use in waterfowl marshes. This application will allow water to be pumped directly from Bull Creek (when flows are adequate, and permission is granted). The water will be used to fill and maintain water levels in a marsh complex (i.e. offset evaporative and seepage losses). The marsh complex is located in the East Half of the Southeast Quarter (E½ SE¼) of Section 21; the West Half of the Southwest Quarter (W½ SW¼) of Section 22; the Northwest Quarter of the Northwest Quarter (NW¼ NW¼) of Section 27; and the Northeast Quarter of the Northeast Quarter (NE¼ NE¼) of Section 28, all in Township 15 South, Range 22 East, Miami County, Kansas. The marshes are already permitted under Structures Program File No. LMI-0051 and LMI-0022.

**was dismissed 8/20/2020 LI/DWR** The point of diversion and place of use overlap with Water Right, File No. 46,477, ~~however this file will be dismissed for failure to perfect any water.~~ This new application effectively replaces this senior file. Water Right, File No. 46,478 overlaps in place of use, and it is authorized 128.35 acre-feet for the collection of natural flows into the marshes. The quantity requested on the new application was based on a total marsh area of 40 acres, filling it with 3 feet of water, and two fillings per year, equals 240 acre-feet. The combined quantity of the two files would be 368.35 acre-feet (128.35 AF + 240 AF). Therefore, this junior file will be limited to 240 acre-feet when combined with the senior file on the place of use, providing 111.65 acre-feet of additional water.

The applicant identified that the COE owns all of the adjacent land and no notification letters are required. There are several permitted water rights downstream within the two-mile radius circle, with all but one owned by the applicant. With proper conditioning, as discussed below, approval of this application will not impair senior water rights.

This approval will be subject to specific conditions, which stipulate strict requirements for direct surface water diversion. These conditions include the stipulation that no diversion shall occur unless there is water available to satisfy all demands by senior water rights and permits, written or verbal permission from the Chief Engineer, or an authorized representative is required prior to diverting water, and streamflow cannot be stopped at the first riffle below the point of diversion while diversion is taking place. The application also complies with K.A.R 5-3-15 (c)(5) because the proposed use of water for recreational use is typically during the fall season, and there is no need for direct diversion of water from July 1 through September 30.

The applicant has submitted a signed and notarized Marais des Cygnes River Assurance District (MDS) form acknowledging that there may be times when diversion of water will not be allowed.

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.

In an October 21, 2020 e-mail, Katie Tietsort, Water Commissioner, Topeka Field Office, gave a recommendation that the application be approved.

KDWP & T  
File No. 50,416  
Page 2

Based on the above discussion, the area remains open to new appropriations, the approval is subject to specific conditions relative to direct surface water diversions, diversion is limited to fall "off-season" pumping, the project is already properly permitted by the Structures Program, it is replacing a file that failed to perfect any water, and there is no indication that existing water rights will be impaired, it is recommended that the referenced application be approved.

Doug Schemm  
Environmental Scientist  
Topeka Field Office

## Schemm, Doug [KDA]

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**From:** Tietsort, Katie [KDA]  
**Sent:** Friday, August 21, 2020 1:12 PM  
**To:** Schemm, Doug [KDA]  
**Cc:** Vaughn, Tyler [KDA]  
**Subject:** RE: 50416 KDWP & T

Hello Doug,

Yes, we agree with the approval of this replacement application for File No. 46,477 that failed to perfect. Tyler- do you need to issue the dismissal, prior to or with this approval order?

Thanks, Katie

Katie Tietsort  
Water Commissioner

[Katie.Tietsort@ks.gov](mailto:Katie.Tietsort@ks.gov)  
785-296-5733

**PLEASE NOTE OUR NEW ADDRESS:**  
Kansas Department of Agriculture  
Topeka Field Office  
1131 SW Winding Rd, Suite 400  
Topeka, KS 66615

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**From:** Schemm, Doug [KDA] <Doug.Schemm@ks.gov>  
**Sent:** Wednesday, August 19, 2020 8:22 AM  
**To:** Tietsort, Katie [KDA] <Katie.Tietsort@ks.gov>  
**Subject:** 50416 KDWP & T

No issues. This is replacing File No. 46,477 which failed to perfect any water.  
Please review,  
Doug

Report Date: Wednesday, August 19 2020

AMOUNT STATISTICS REPORT FOR POINTS OF DIVERSION UNDER A 50416 00

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AMOUNT STATISTICS REPORT FOR POINTS OF DIVERSION UNDER A 50416 00 REC

Water Right and Points of Diversion Within 2.00 of a point defined as:

1510 Feet North and 657 Feet West of the Southeast Corner of Section 21 Twp 15S Rng 22E

SURFACE WATER ONLY

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File Number	Use	ST	SR	Dist (ft)	Q4	Q3	Q2	Q1	FeetN	FeetW	Sec	Twp	Rng	ID	Batt	Auth_Quan	Add_Quan						
A__ AF	41714	00	REC	NK	S				3869	--	SW	SE	NE	2850	1100	28	15	22E	1		127.00	127.00	
Same									4036	--	SW	SE	NE	2700	1250	28	15	22E	2				
A__ AF	41715	00	REC	NK	S				5198	--	SE	NE	SE	1500	600	28	15	22E	3		127.00	.00	
A__ AF	42891	00	REC	NK	S				3771	--	SE	SW	NE	3017	1509	28	15	22E	4		66.00	.00	
A__ AF	43702	A	REC	NK	S				5391	--	SE	NW	SW	1665	4088	27	15	22E	1		3.80	3.80	
A__ AF	46477	00	REC	MM	S				0	--	SE	NE	SE	1510	657	21	15	22E	2		128.35	128.35	
A__ AF	46478	00	REC	NK	S				249	--	SW	NE	SE	1452	899	21	15	22E	1		.00	.00	
***** Authorized storage = 128.35 AF Additional storage = 0.00 AF AF																							
Same									1871	--	NW	NE	NE	4834	835	28	15	22E	8				
***** Authorized storage = 0.00 AF Additional storage = 0.00 AF AF																							
A__ AF	50416	00	REC	AY	S				0	--	SE	NE	SE	1510	657	21	15	22E	2		240.00	240.00	

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Total Net Quantities Authorized:	Direct	Storage
Total Requested Amount (AF) =	240.00	.00
Total Permitted Amount (AF) =	.00	.00
Total Inspected Amount (AF) =	.00	.00
Total Pro_Cert Amount (AF) =	128.35	.00
Total Certified Amount (AF) =	130.80	.00
Total Vested Amount (AF) =	.00	.00
TOTAL AMOUNT (AF) =	499.15	.00

An \* after the source of supply indicates a pending application for change under the file number.  
 An \* after the ID indicates a 15 AF exemption was granted under the file number.  
 A "G" in the Batt column indicates the GEO CTR of a battery. A "B" indicates a well in the battery.  
 The number in the Batt column is the number of wells in the battery.

Water Right and Points of Diversion Within 2.00 of a point defined as:

1510 Feet North and 657 Feet West of the Southeast Corner of Section 21 Twp 15S Rng 22E

SURFACE WATER ONLY

WATER USE CORRESPONDENTS:

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File Number	Use	ST	SR
>	KANSAS DEPT OF WILDLIFE PARKS & TOURISM		
>	JAMES SCHNEIDER (TOP STAGE LEVELS)		
>	512 SE 25TH AVE		
>	PRATT KS 67124		
>-----			
>	KANSAS DEPT OF WILDLIFE PARKS & TOURISM		
>	JAMES SCHNEIDER (TOP STAGE LEVELS)		
>	512 SE 25TH AVE		
>	PRATT KS 67124		
>-----			
>	KANSAS DEPT OF WILDLIFE PARKS & TOURISM		
>	JAMES SCHNEIDER (TOP ACTIVE DIVERSIONS)		
>	512 SE 25TH AVE		
>	PRATT KS 67124		
>-----			

> TOM BACH  
>  
> 32010 W 231  
> SPRING HILL KS 66083

>-----  
> KANSAS DEPT OF WILDLIFE PARKS & TOURISM  
> JAMES SCHNEIDER (TOP ACTIVE DIVERSIONS)  
> 512 SE 25TH AVE  
> PRATT KS 67124

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> KANSAS DEPT OF WILDLIFE PARKS & TOURISM  
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> KANSAS DEPT OF WILDLIFE PARKS & TOURISM  
> JAMES SCHNEIDER (TOP ACTIVE DIVERSIONS)  
> 512 SE 25TH AVE  
> PRATT KS 67124

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# 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. 50,416** of the applicant

**KANSAS DEPT OF WILDLIFE PARKS & TOURISM  
JAMES SCHNEIDER (TOP STAGE LEVELS)  
512 SE 25TH AVE  
PRATT KS 67124**

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 **July 22, 2020**.
2. That the water sought to be appropriated shall be used for recreational use in a wildlife marsh complex located in the East Half of the Southeast Quarter (E $\frac{1}{2}$  SE $\frac{1}{4}$ ) of Section 21; the West Half of the Southwest Quarter (W $\frac{1}{2}$  SW $\frac{1}{4}$ ) of Section 22; the Northwest Quarter of the Northwest Quarter (NW $\frac{1}{4}$  NW $\frac{1}{4}$ ) of Section 27; and the Northeast Quarter of the Northeast Quarter (NE $\frac{1}{4}$  NE $\frac{1}{4}$ ) of Section 28, all in Township 15 South, Range 22 East, Miami County, Kansas.
3. That the authorized source from which the appropriation shall be made is surface water from Bull Creek, in the Marais des Cygnes River drainage basin, to be withdrawn by means of one (1) pump site located in the Southeast Quarter of the Northeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$  NE $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section 21, more particularly described as being near a point 1,510 feet North and 657 feet West of the Southeast corner of said section, in Township 15 South, Range 22 East, Miami 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 **6,000 gallons per minute (13.37 c.f.s.)** and to a quantity not to exceed **240 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, 2022** 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.



6. That the proposed appropriation shall be perfected by the actual application of water to the proposed beneficial use on or before **December 31, 2026** 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 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 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.

16. 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.

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

18. 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.

19. 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.

20. 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.

21. That the quantity of water approved under this permit is further limited to the quantity which combined with Water Right, File No. 46,478, will provide a **total not to exceed 240 acre-feet** of water per calendar year for recreational use in the marsh complex described herein.

Ordered this 28 day of April, 2021, in Manhattan, Riley County, Kansas.

Lane P. Letourneau  
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 28 day of April, 2021, by Lane P. Letourneau, P.G., Program Manager, Division of Water Resources, Kansas Department of Agriculture.



Ashlee Freeman  
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

May 5, 2021

KANSAS DEPT OF WILDLIFE PARKS & TOURISM  
Attn: JAMES SCHNEIDER  
512 SE 25TH AVE  
PRATT KS 67124

RE: Appropriation of Water, File No. 50,416  
Youth Mentor Marsh - Pumper

Dear Mr. Schneider:

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](http://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](http://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 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:dws:li  
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:

- 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 5 day of May, 2021, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,416, dated 28 April, 2021, was mailed postage prepaid, first class, US mail to the following:

KANSAS DEPT OF WILDLIFE PARKS & TOURISM  
Attn: JAMES SCHNEIDER (TOP ACTIVE DIVERSIONS)  
512 SE 25TH AVE  
PRATT KS 67124

With photocopies to:

Topeka Field Office

  
\_\_\_\_\_  
Division of Water Resources