

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>50,497</b></p>	2. Status Change Date: <p style="text-align: center; font-size: 1.2em; color: purple;"><b>1/18/2022</b></p>	3. Field Office: <p style="text-align: center; font-size: 1.2em;"><b>1</b></p>	4. GMD:
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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>66255</b> New to system <input type="checkbox"/>                      Add Seq# _____</p> <p><b>WINDMILL REAL ESTATE LLC</b> <b>2414 E KANSAS AVE</b> <b>GARDEN CITY, KS 67846</b></p>	<p>7c. Landowner(s)                      Person ID _____ New to system <input type="checkbox"/>                      Add Seq# _____</p>
<p>7b. Landowner(s)                      Person ID _____ New to system <input type="checkbox"/>                      Add Seq# _____</p> <p><b>7a</b></p>	<p>7d. Misc.                                      Person ID _____ New to system <input type="checkbox"/>                      Add Seq# _____</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><b>7a</b></p>	<p>9. Use of Water:    Changing?    <input type="checkbox"/> Yes    <input checked="" type="checkbox"/> No</p> <p style="padding-left: 40px;"><input checked="" type="checkbox"/> Groundwater                      <input type="checkbox"/> Surface Water</p> <p><input checked="" type="checkbox"/> IRR                      <input 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: **12/31/2023**                      11. Perfection Date: **12/31/2027**                      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: \_\_\_\_\_

<p>1/14/2022 KAB</p>	<p>Date Prepared: <b>12/17/2021</b> By: <b>KJN</b> Date Entered: <b>1/18/2022</b> By: <b>LMoody</b></p>
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File No. <b>50,497</b>	15. Formation Code: <b>330</b>	Drainage Basin: <b>MILL CREEK</b>	County: <b>WS</b>	Special Use:	Stream:																				
16. Points of Diversion										17. Rate and Quantity MOD ADDL RATE															
T MOD DEL ENT	PDIV	Qualifier	S	T	R	ID	'N	'W			Rate gpm	Quantity AF	Rate gpm	Quantity AF	Overlap PD Files										
<b>CHK</b>	<b>88535</b>	<b>NW NE NE</b>	<b>16</b>	<b>1S</b>	<b>2E</b>	<b>4</b>	<b>5234</b>	<b>1269</b>	<b>GEO CTR</b>	<b>800</b>	<b>320</b>	<b>800</b>	<b>187.5</b>	<b>NONE</b>											
<b>CHK</b>	<b>88536</b>	<b>NE NW NE</b>	<b>16</b>	<b>1S</b>	<b>2E</b>	<b>5</b>	<b>5289</b>	<b>1345</b>	<b>BATT 1 OF 2</b>																
<b>CHK</b>	<b>88537</b>	<b>NW NE NE</b>	<b>16</b>	<b>1S</b>	<b>2E</b>	<b>6</b>	<b>5179</b>	<b>1193</b>	<b>BATT 1 OF 2</b>																
<b>BATTERY ID #2214</b>																									
18. Storage: Rate _____ NF    Quantity _____ ac/ft    Additional Rate _____ NF    Additional Quantity _____ ac/ft																									
19. Limitation: <b>430.8</b> af/yr at _____ gpm ( _____ cfs) when combined with file number(s) <b>43920 &amp; 48032</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 _____    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>52842</b>	<b>9</b>	<b>1S</b>	<b>2E</b>	<b>1</b>	<b>40</b>	<b>40</b>	<b>13</b>	<b>40</b>									<b>40</b>	<b>40</b>	<b>40</b>	<b>40</b>	<b>293</b>	<b>7a</b>	<b>NO</b>	<b>43920, 48032</b>
<b>CHK</b>	<b>59852</b>	<b>16</b>	<b>1S</b>	<b>2E</b>	<b>1</b>	<b>33</b>	<b>33</b>															<b>66</b>	<b>7a</b>	<b>NO</b>	<b>43920, 48032</b>
Comments:																									

1/14/2022  
KAB

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

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

**TO:** Files

**DATE:** December 20, 2021

**FROM:** Kris Neuhauser

**RE:** Application File No. 50,497

Windmill Real Estate LLC has filed the above referenced application proposing to appropriate 320 acre-feet of groundwater per calendar year at a diversion rate not to exceed 800 gallons per minute for irrigation use from a battery of two (2) wells, the geocenter of which is located in the Northeast Quarter (NE $\frac{1}{4}$ ) of Section 16, Township 1 South, Range 2 East, in Washington County, Kansas. The applicant is the owner of the entire place of use.

The applicant did not identify any wells within one-half mile of the proposed point of diversion, which also agrees with WRIS database information. One domestic well is shown within  $\frac{1}{2}$  in the WWC5 database, but is located on the applicant's land (over 2,500 feet to the North). There are two other water rights located within the two-mile circle, and one pending application that is junior to this application. The closest water right (also sourcing Dakota) is roughly 0.54 miles away, which is also owned by the applicant.

The proposed point of diversion meets minimum well spacing, according to the requirements in K.A.R. 5-4-4 for the unconfined Dakota aquifer; which states that minimum well spacing should be one-half mile to non-domestic wells and 1,320 feet to domestic wells. No notification letters are required.

Two well logs were submitted with the pending application, which shows the dominant lithology to be clay at shallower depths and sandstone layers at greater depths. Multiple wells logs contained in the Kansas Geologic Survey (WWC5) database for this general area were also reviewed. Based on a review of these logs, the source of water appears to be the unconfined Dakota Formation.

In addition, information from the WWC5 database was reviewed to better define the extent of the unconfined Dakota Aquifer in this area. It appears that the proposed point of diversion is on the edge of the contact between the confined and unconfined Dakota Aquifer systems. Based on this review, it appears that the unconfined Dakota aquifer system covers roughly  $\frac{3}{4}$  of the area of extent. A portion of the western half of the extent was trimmed out, indicating the presence of confined Dakota aquifer.

Based on previous application processing in this area, and the newly reviewed data, it appears that the pending file can be reviewed using the safe yield criteria in K.A.R. 5-3-11, wherein the area of consideration is the limit of the unconfined Dakota aquifer system. This evaluation provides an area of consideration of 6,757 acres. Based on a potential recharge of 3.3 inches, with 100% available for appropriation, safe yield was determined to be 1,858.29 acre-feet. Existing water rights within this area of consideration have appropriated 514 acre-feet, leaving a remainder of 1,344.29 acre-feet. The pending application is requesting 320 acre-feet, therefore there is sufficient water available for appropriation, and the application meets safe yield criteria.

The requested quantity of 320 acre-feet, is reasonable to irrigate the proposed 359 acres, being well below the 1.2 acre-feet per acre allowable in Washington County, Kansas.

**(Limited to 430.8 (max reasonable quantity for PU) when combined with 43920 & 48032)**

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 and 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.

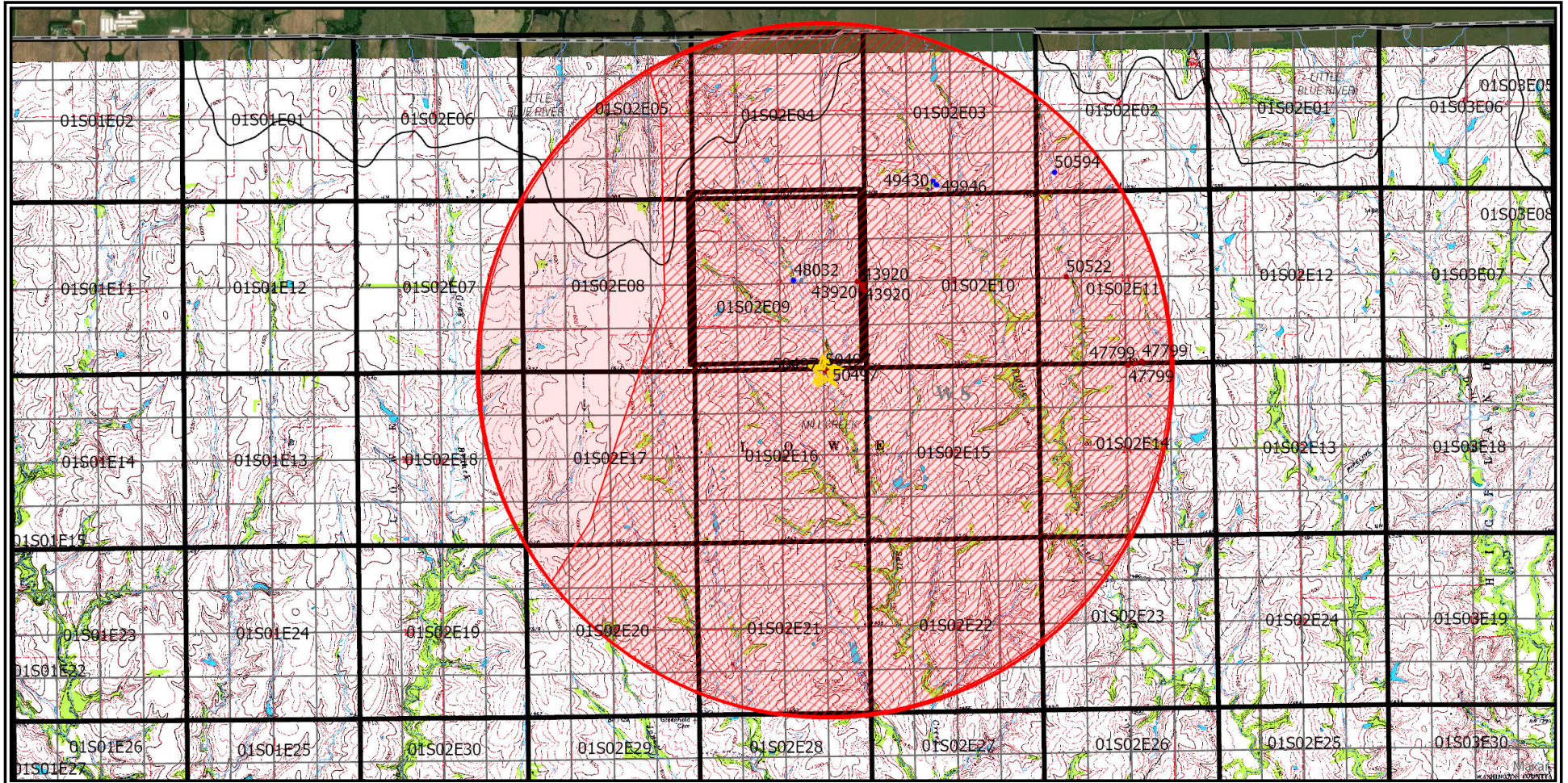
In an email conversation on December 14, 2021, Katie Tietsort, Water Commissioner, Topeka Field Office, gave recommendation that the application should be approved.

Based on the above discussion, the area is open to new appropriations, the application meets safe yield and well spacing criteria, and the approval of the application should not impair senior water rights nor prejudicially or unreasonably affect the public interest, it is recommended that the referenced application be approved.

A handwritten signature in black ink, appearing to read "Kris Neuhauser". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Kris Neuhauser  
New Applications Lead  
Water Appropriation Program

**Safe Yield Report Sheet**  
**Water Right- A5049700**  
**Point of Diversion in 16-01S-02E**  
**Footages from SE corner- 5,234 feet North 1,269 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 1,858.29 AF.

Total prior appropriations in the circle is ~~1,008.00 AF~~ **514 AF**

Total quantity of water available for appropriation is ~~850.29 AF~~ **1858.29 AF - 514 AF = 1344.29 AF AVAILABLE**

## Safe Yield Variables

The area used for the analysis is set at 6,757 acres.

The potential annual recharge at the circle center is estimated to be 3.3 inches.

The percent of recharge available for appropriation is 100%.

Authorized Quantity values are as of 08-DEC-2021 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 4 water rights and 11 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 43920 00	IRR	KK	G		NE	NE	SE	2550	50	09	01	02E	4	WR	172.00	172.00	359.00	359.00
Same	IRR	KK	G		NE	NE	SE	2390	50	09	01	02E	6	WR				
Same	IRR	KK	G		SE	SE	NE	2675	230	09	01	02E	7	WR				
Same	IRR	KK	G		NE	NE	SE	2538	110	09	01	02E	8	WR				
A 47799 00	IRR	LR	G		NW	NW	NE	5314	2216	14	01	02E	3	WR	342.00	342.00	362.50	362.50
Same	IRR	LR	G		NW	NW	NE	5252	2428	14	01	02E	4	WR				
Same	IRR	LR	G		NW	NW	NE	5190	2639	14	01	02E	5	WR				
<del>A 50497 00</del>	<del>IRR</del>	<del>AY</del>	<del>G</del>		<del>NW</del>	<del>NE</del>	<del>NE</del>	<del>5234</del>	<del>1269</del>	<del>16</del>	<del>01</del>	<del>02E</del>	<del>4</del>	<del>WR</del>	<del>320.00</del>	<del>320.00</del>	359.00	0.00
Same	IRR	AY	G		NE	NW	NE	5289	1345	16	01	02E	5	WR				
Same	IRR	AY	G		NW	NE	NE	5179	1193	16	01	02E	6	WR				
<del>A 50522 00</del>	<del>IRR</del>	<del>AY</del>	<del>G</del>		<del>SE</del>	<del>SW</del>	<del>NW</del>	<del>2660</del>	<del>4476</del>	<del>11</del>	<del>01</del>	<del>02E</del>	<del>2</del>	<del>WR</del>	<del>174.00</del>	<del>174.00</del>	560.94	0.00

**From:** Tietsort, Katie [KDA]  
**Sent:** Tue 12/14/2021 9:06 AM  
**To:** Neuhauser, Kris [KDA]; Baum, Kristen [KDA]  
**Subject:** RE: Application file 50497

Yes, it does. Proceed and thanks.

## Katie Tietsort

Water Commissioner

[Katie.Tietsort@ks.gov](mailto:Katie.Tietsort@ks.gov)

Ph. 785-296-5733 Cell 785-213-9188

Kansas Department of Agriculture

Topeka Field Office

1131 SW Winding Rd, Suite 400

Topeka, KS 66615

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**From:** Neuhauser, Kris [KDA] <[Kris.Neuhauser@ks.gov](mailto:Kris.Neuhauser@ks.gov)>  
**Sent:** Tuesday, December 14, 2021 8:32 AM  
**To:** Tietsort, Katie [KDA] <[Katie.Tietsort@ks.gov](mailto:Katie.Tietsort@ks.gov)>; Baum, Kristen [KDA] <[Kristen.Baum@ks.gov](mailto:Kristen.Baum@ks.gov)>  
**Subject:** RE: Application file 50497

Morning,

I am comfortable with that as well! I can certainly send a completed memo and SY to you Katie, otherwise, if this suffices as your recommendation of approval, I can get everything drafted for final review here.

Kris

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**From:** Tietsort, Katie [KDA] <[Katie.Tietsort@ks.gov](mailto:Katie.Tietsort@ks.gov)>  
**Sent:** Friday, December 10, 2021 3:21 PM  
**To:** Neuhauser, Kris [KDA] <[Kris.Neuhauser@ks.gov](mailto:Kris.Neuhauser@ks.gov)>; Baum, Kristen [KDA] <[Kristen.Baum@ks.gov](mailto:Kristen.Baum@ks.gov)>  
**Subject:** RE: Application file 50497

I finally had the chance to review this one. Yes, I agree completely with the proposal to adjust it just a bit which will result in the safe yield being there but will take out those confined wells, making the application approvable, as it was last time it was filed for. I think we are all comfortable with this one now, right? I know I am.

## Katie Tietsort

Water Commissioner

[Katie.Tietsort@ks.gov](mailto:Katie.Tietsort@ks.gov)

Ph. 785-296-5733 Cell 785-213-9188

Kansas Department of Agriculture

Topeka Field Office

1131 SW Winding Rd, Suite 400

Topeka, KS 66615

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**From:** Neuhauser, Kris [KDA] <[Kris.Neuhauser@ks.gov](mailto:Kris.Neuhauser@ks.gov)>  
**Sent:** Friday, December 10, 2021 1:52 PM  
**To:** Baum, Kristen [KDA] <[Kristen.Baum@ks.gov](mailto:Kristen.Baum@ks.gov)>; Tietsort, Katie [KDA] <[Katie.Tietsort@ks.gov](mailto:Katie.Tietsort@ks.gov)>  
**Subject:** RE: Application file 50497

If we do trim SY as you suggested Kristen, it will pass. How do you feel about this one Katie? Like the idea of being more generous than Doug's 47122 - but still cropping out confined wells I find to the west?

Kris

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**From:** Neuhauser, Kris [KDA]  
**Sent:** Thursday, December 9, 2021 8:21 AM  
**To:** Baum, Kristen [KDA] <[Kristen.Baum@ks.gov](mailto:Kristen.Baum@ks.gov)>; Tietsort, Katie [KDA] <[Katie.Tietsort@ks.gov](mailto:Katie.Tietsort@ks.gov)>  
**Subject:** RE: Application file 50497

I set the buffer to 8 miles, and there is a whole lot of nothing. 31096 was on the edge straight west and 29102 about 4 miles to the SW. No source was listed in WRIS for either. Would need to dive into full history in DW to find what we called it.

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**From:** Baum, Kristen [KDA] <[Kristen.Baum@ks.gov](mailto:Kristen.Baum@ks.gov)>  
**Sent:** Thursday, December 9, 2021 8:11 AM  
**To:** Neuhauser, Kris [KDA] <[Kris.Neuhauser@ks.gov](mailto:Kris.Neuhauser@ks.gov)>; Tietsort, Katie [KDA] <[Katie.Tietsort@ks.gov](mailto:Katie.Tietsort@ks.gov)>  
**Subject:** RE: Application file 50497

Do you know if we have any WRs to the west? When I was looking yesterday, I didn't see anything but I didn't go very far away.

Kristen A Baum  
New Applications and Changes Supervisor  
DWR Appropriations

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**From:** Neuhauser, Kris [KDA] <[Kris.Neuhauser@ks.gov](mailto:Kris.Neuhauser@ks.gov)>  
**Sent:** Wednesday, December 8, 2021 5:27 PM  
**To:** Baum, Kristen [KDA] <[Kristen.Baum@ks.gov](mailto:Kristen.Baum@ks.gov)>; Tietsort, Katie [KDA] <[Katie.Tietsort@ks.gov](mailto:Katie.Tietsort@ks.gov)>  
**Subject:** RE: Application file 50497

Maybe something like this.

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**From:** Neuhauser, Kris [KDA]  
**Sent:** Wednesday, December 8, 2021 5:18 PM  
**To:** Baum, Kristen [KDA] <[Kristen.Baum@ks.gov](mailto:Kristen.Baum@ks.gov)>; Tietsort, Katie [KDA] <[Katie.Tietsort@ks.gov](mailto:Katie.Tietsort@ks.gov)>  
**Subject:** RE: Application file 50497

That's good to know about the SY's to the east! As I looked at logs to the west and north, there are a number I'd call confined. I like the idea of combining past full circle SY's and Doug's 47122 – sounds fair. I suppose I could trim out a bit of the W-NW corner where I see WWC5 confined logs? Bet it will still easily pass as you said.

Ah Dakota apps.. &#128515;

Kris

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**From:** Baum, Kristen [KDA] <[Kristen.Baum@ks.gov](mailto:Kristen.Baum@ks.gov)>  
**Sent:** Wednesday, December 8, 2021 4:55 PM  
**To:** Neuhauser, Kris [KDA] <[Kris.Neuhauser@ks.gov](mailto:Kris.Neuhauser@ks.gov)>; Tietsort, Katie [KDA] <[Katie.Tietsort@ks.gov](mailto:Katie.Tietsort@ks.gov)>  
**Subject:** RE: Application file 50497

I've looked at the safe yields in the area, and I'm thinking we're somewhere in between the two. The more recent stuff to the east shows him using the full circle. I think we can probably be a little more generous than the original



SY for 47122, but we're on the edge of the development so it wouldn't surprise me if the well logs to the west start to look confined and maybe we should trim some of it out.

I think even with the more conservative approach we meet so we're okay but I do want to make sure we get the best information in the file for future reference.

I'm game for a call but I will also do better on the emails&#128522;.

Kristen A Baum  
New Applications and Changes Supervisor  
DWR Appropriations

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**From:** Neuhauser, Kris [KDA] <[Kris.Neuhauser@ks.gov](mailto:Kris.Neuhauser@ks.gov)>  
**Sent:** Wednesday, December 8, 2021 3:28 PM  
**To:** Tietsort, Katie [KDA] <[Katie.Tietsort@ks.gov](mailto:Katie.Tietsort@ks.gov)>; Baum, Kristen [KDA] <[Kristen.Baum@ks.gov](mailto:Kristen.Baum@ks.gov)>  
**Subject:** RE: Application file 50497

Honestly, I'm comfortable staying with Doug's SY numbers without a meeting. Would be 312.65 AF available if we stayed consistent with the area of extent he drew. Could ask the applicant if he's okay coming down from 320 AF requested and get this thing out the door.

Kris

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**From:** Neuhauser, Kris [KDA]  
**Sent:** Wednesday, December 8, 2021 3:04 PM  
**To:** Tietsort, Katie [KDA] <[Katie.Tietsort@ks.gov](mailto:Katie.Tietsort@ks.gov)>; Baum, Kristen [KDA] <[Kristen.Baum@ks.gov](mailto:Kristen.Baum@ks.gov)>  
**Subject:** RE: Application file 50497

The applicant emailed Kristen and I checking on an update, maybe we could do a meeting on this soon?

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**From:** Tietsort, Katie [KDA] <[Katie.Tietsort@ks.gov](mailto:Katie.Tietsort@ks.gov)>  
**Sent:** Thursday, November 4, 2021 11:19 AM  
**To:** Neuhauser, Kris [KDA] <[Kris.Neuhauser@ks.gov](mailto:Kris.Neuhauser@ks.gov)>; Baum, Kristen [KDA] <[Kristen.Baum@ks.gov](mailto:Kristen.Baum@ks.gov)>  
**Subject:** RE: Application file 50497

Kristen- should we set up a little call about this next week?

## Katie Tietsort

Water Commissioner

[Katie.Tietsort@ks.gov](mailto:Katie.Tietsort@ks.gov)  
Ph. 785-296-5733 Cell 785-213-9188  
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Topeka, KS 66615

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**From:** Neuhauser, Kris [KDA] <[Kris.Neuhauser@ks.gov](mailto:Kris.Neuhauser@ks.gov)>  
**Sent:** Monday, October 25, 2021 2:24 PM  
**To:** Tietsort, Katie [KDA] <[Katie.Tietsort@ks.gov](mailto:Katie.Tietsort@ks.gov)>; Baum, Kristen [KDA] <[Kristen.Baum@ks.gov](mailto:Kristen.Baum@ks.gov)>  
**Subject:** RE: Application file 50497

Hi guys,

Came back around to 50497 today. Looked at Doug's SY for 47122 again – ran a very similar SY for 50497. All other file nos. in the 2 miles circle are considered unconfined Dakota. If 48689 is indeed getting dismissed, 50497 passes. I see Rebecca drafted up the dismissal documents, so it's on its way as you mentioned Katie. For my new SY, 396.86 AF was available and they're asking for 320 AF. Hard to recreate a cropped SY perfectly, so the acres and SY went up a bit..

We could keep it exactly the same as Doug's for 47122. SY was determined to be 826.65 AF.  $826.65 - 514 = 312.65$  AF. So they'd be a touch over, would have to come down in quantity, but not much.

Really depends on if we want to keep the SY as Doug ran it to stay consistent? Or try to dive into WWC5 logs to change up the extent?

Kris

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**From:** Tietsort, Katie [KDA] <[Katie.Tietsort@ks.gov](mailto:Katie.Tietsort@ks.gov)>  
**Sent:** Friday, September 24, 2021 9:43 AM  
**To:** Neuhauser, Kris [KDA] <[Kris.Neuhauser@ks.gov](mailto:Kris.Neuhauser@ks.gov)>; Baum, Kristen [KDA] <[Kristen.Baum@ks.gov](mailto:Kristen.Baum@ks.gov)>  
**Subject:** RE: Application file 50497

Hi Kris,

I looked at this information this morning.

Under 47122, Doug used the 3000ish acre area of extent and explained that his was going to be the last file processed under the "old" Dakota processing criteria. He explains in the memo that the newly available Dakota information of Washington County from the KGS is near the edge of the contact between the confined and unconfined Dakota. He seems to explain he considered the new information. I am not sure what he did with the new safe yield. It seems like the wells in the area are all in the unconfined Dakota. Considering the original 3000 A x 3.3 is 825 AF.

43920 has 172 AF,  
47122 dism,  
47131 dism,  
47799 is 342 AF,  
48689 pending dism (I believe the order is being worked right now)  
Totals 514 AF  
Leaving 311 AF available.

I know you said the area shifts a little because the pd shifted a little etc, so these are just estimates at this point and I cant tell if anything else has impacted the area of extent. SO we are close to the 320 AF requested?

Kristen do you agree that the more limited extent is where we are at with the Dakota unconfined in this area?

## Katie Tietsort

Water Commissioner

[Katie.Tietsort@ks.gov](mailto:Katie.Tietsort@ks.gov)  
Ph. 785-296-5733 Cell 785-213-9188  
Kansas Department of Agriculture  
Topeka Field Office  
1131 SW Winding Rd, Suite 400  
Topeka, KS 66615

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**From:** Neuhauser, Kris [KDA] <[Kris.Neuhauser@ks.gov](mailto:Kris.Neuhauser@ks.gov)>  
**Sent:** Thursday, September 23, 2021 9:27 AM  
**To:** Tietsort, Katie [KDA] <[Katie.Tietsort@ks.gov](mailto:Katie.Tietsort@ks.gov)>; Baum, Kristen [KDA] <[Kristen.Baum@ks.gov](mailto:Kristen.Baum@ks.gov)>  
**Subject:** RE: Application file 50497

Hi all,

I'm getting this one going as we speak. Just wanted to confirm some things with you before I got too far. I eventually remembered we all had an email convo about 47122 last year, and got it dismissed. You guys drafted up 50497 for the new owner, including feet distances for two completed wells, and threw on a potential third.

Doug's old SY for 47122 is at a slightly different location, but very close. It used an area of consideration of just over 3,000 feet. Notes that its unconfined Dakota (Docuware- entire file history - SY on pages 75 & 76; memo starts on page 86). I noticed 50497 came with a SY attached.. Using the full two-mile circle (excluding a touch to the north that bleeds into Nebraska). I'm assuming someone at the FO ran this and included it when they assisted the new owner.

How should we be treating this SY? Didn't want to go the wrong route if we had already decided on something.

Kris

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**From:** Baum, Kristen [KDA] <[Kristen.Baum@ks.gov](mailto:Kristen.Baum@ks.gov)>  
**Sent:** Monday, September 20, 2021 4:05 PM  
**To:** Neuhauser, Kris [KDA] <[Kris.Neuhauser@ks.gov](mailto:Kris.Neuhauser@ks.gov)>  
**Subject:** FW: Application file 50497

I think this one might be yours. Is it something you've started yet?

Kristen A Baum  
New Applications and Changes Supervisor  
DWR Appropriations

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**From:** Matt Bennett <[mbennett@fnb-windmill.com](mailto:mbennett@fnb-windmill.com)>  
**Sent:** Monday, September 20, 2021 10:18 AM  
**To:** Tietsort, Katie [KDA] <[Katie.Tietsort@ks.gov](mailto:Katie.Tietsort@ks.gov)>; Baum, Kristen [KDA] <[Kristen.Baum@ks.gov](mailto:Kristen.Baum@ks.gov)>  
**Subject:** RE: Application file 50497

**EXTERNAL:** This email originated from outside of the organization. Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Kristen

I don't believe I saw a response from this email of a few weeks ago, I don't want to be a pain but can you give me an update on our application? thanks



## Matt Bennett

### Chief Lending Officer

2414 East Kansas Avenue | Garden City, KS 67846  
Phone: 620.276.6971 | Cell: 620.271.8661  
Fax Number: 620.276.1604 | NMLS #1683711  
[mbennett@fnb-windmill.com](mailto:mbennett@fnb-windmill.com) | [www.fnb-windmill.com](http://www.fnb-windmill.com)



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**From:** Tietsort, Katie [KDA] <[Katie.Tietsort@ks.gov](mailto:Katie.Tietsort@ks.gov)>  
**Sent:** Tuesday, September 7, 2021 8:18 AM  
**To:** Baum, Kristen [KDA] <[Kristen.Baum@ks.gov](mailto:Kristen.Baum@ks.gov)>  
**Cc:** Matt Bennett <[mbennett@fnb-windmill.com](mailto:mbennett@fnb-windmill.com)>  
**Subject:** RE: Application file 50497

Hi Kristen,

I was hoping you could give Matt an update on where his application is in the process. File No. 50497. IT is a replacement permit and Matt is hoping to be able to get working on the installations this fall. It was filed on January 4, so it has been assigned and being worked?

Thanks,

## Katie Tietsort

Water Commissioner

[Katie.Tietsort@ks.gov](mailto:Katie.Tietsort@ks.gov)  
Ph. 785-296-5733 Cell 785-213-9188  
Kansas Department of Agriculture  
Topeka Field Office  
1131 SW Winding Rd, Suite 400  
Topeka, KS 66615

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**From:** Matt Bennett <[mbennett@fnb-windmill.com](mailto:mbennett@fnb-windmill.com)>  
**Sent:** Tuesday, September 7, 2021 8:07 AM  
**To:** Tietsort, Katie [KDA] <[Katie.Tietsort@ks.gov](mailto:Katie.Tietsort@ks.gov)>  
**Subject:** RE: Application file 50497

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Hi Katie

I hope you had a good summer. Fall has almost arrived so I thought I'd check on our application to see if you had any update on when it might be processed? Thank you



## Matt Bennett

### Chief Lending Officer

2414 East Kansas Avenue | Garden City, KS 67846  
Phone: 620.276.6971 | Cell: 620.271.8661  
Fax Number: 620.276.1604 | NMLS #1683711  
[mbennett@fnb-windmill.com](mailto:mbennett@fnb-windmill.com) | [www.fnb-windmill.com](http://www.fnb-windmill.com)

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**From:** Tietsort, Katie [KDA] <[Katie.Tietsort@ks.gov](mailto:Katie.Tietsort@ks.gov)>  
**Sent:** Friday, May 21, 2021 1:53 PM  
**To:** Matt Bennett <[mbennett@fnb-windmill.com](mailto:mbennett@fnb-windmill.com)>  
**Subject:** RE: Application file 50497



Hello Matt,

Never a bother! That's my job!

Well the unfortunate news is that our main new application processing guy retired last Thursday. He could crank 'em out. Right now the wait for approval is like 9 mos. You are probably realistically looking at next fall. I hope this can work with your plans? The only leeway I can see is that technically as a replacement file, it should far quicker to process once it gets to the top of the stack of pending files.

## Katie Tietsort

Water Commissioner

[Katie.Tietsort@ks.gov](mailto:Katie.Tietsort@ks.gov)

Ph. 785-296-5733 Cell 785-213-9188

Kansas Department of Agriculture

Topeka Field Office

1131 SW Winding Rd, Suite 400

Topeka, KS 66615

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**From:** Matt Bennett <[mbennett@fnb-windmill.com](mailto:mbennett@fnb-windmill.com)>

**Sent:** Friday, May 21, 2021 10:00 AM

**To:** Tietsort, Katie [KDA] <[Katie.Tietsort@ks.gov](mailto:Katie.Tietsort@ks.gov)>

**Subject:** Application file 50497

**EXTERNAL:** This email originated from outside of the organization. Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Hi Katie

You have been so helpful and I appreciate it, hopefully you don't mind me reaching out again. We filed our application to refile 47,122 and it was assigned new file #50497 in January. I hadn't heard anything on the application, so wanted to check on the status or if you could refer me to the right person? Thank you



## Matt Bennett

### Chief Lending Officer

2414 East Kansas Avenue | Garden City, KS 67846

Phone: 620.276.6971 | Cell: 620.271.8661

Fax Number: 620.276.1604 | NMLS #1683711

[mbennett@fnb-windmill.com](mailto:mbennett@fnb-windmill.com) | [www.fnb-windmill.com](http://www.fnb-windmill.com)



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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. 50,497** of the applicant

**WINDMILL REAL ESTATE LLC  
2414 E KANSAS AVE  
GARDEN CITY, KS 67846**

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 **January 4, 2021**.
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				
9	1S	2E	40	40	13	40												40	40	40	40	293
16	1S	2E	33	33																		66

3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of a battery of two (2) wells, with a geographical center located in the Northwest Quarter of the Northeast Quarter of the Northeast Quarter (NW¼ NE¼ NE¼) of Section 16, more particularly described as being near a point 5,234 feet North and 1,269 feet West of the Southeast corner of said section, in Township 1 South, Range 2 East, Washington 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 **800 gallons per minute (1.78 c.f.s.)** and to a quantity not to exceed **320 acre-feet (1.043 million gallons)** of water for any calendar year.

5. That installation of works for diversion of water shall be completed on or before **December 31, 2023** 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, 2027** 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.

18. That this permit is further limited such that all wells shall be located within a three hundred (300) foot radius circle, in the same local source of supply, and shall supply water to a common distribution system.

18. That the quantity of water approved under this permit is further limited to the quantity which combined with Water Right, File Nos. 43,920 and 48,032, will provide a total **not to exceed 430.8 acre-feet (140.4 million gallons)** from the authorized point of diversion.

Ordered this 18 day of January, 2022, 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 18 day of January, 2022, by Lane P. Letourneau, P.G., Water Appropriation 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

January 20, 2022

WINDMILL REAL ESTATE LLC  
2414 E KANSAS AVE  
GARDEN CITY, KS 67846

RE: Appropriation of Water, File No. 50,497

Dear Sir or Madam:

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 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 Applications and Changes Supervisor  
Division of Water Resources

KAB: kjn  
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 20 day of January, 2022, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,497, dated 18 January 2022 was mailed postage prepaid, first class, US mail to the following:

WINDMILL REAL ESTATE LLC  
2414 E KANSAS AVE  
GARDEN CITY, KS 67846

With photocopies to:

Topeka Field Office

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