

File No. **50,595** 15. Formation Code: **113** Drainage Basin: **Wakarusa River** County: **DG** Special Use: Stream:

16. Points of Diversion										17. Rate and Quantity					
MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Authorized		Additional		
											Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files
MOD			88876	NW SE NE	12	13S	20E	4	3,880	1,125	1,200	364.5	1,200	364.5	50,596

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

19. Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____
 Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____

20. Meter Required? Yes No To be installed by **12/31/2023 24** Date Acceptable Meter Installed _____

21. Place of Use																		Total	Owner	Chg? NO	Overlap Files					
MOD	DEL	ENT	PUSE	S	T	R	ID	NE¼				NW¼				SW¼				SE¼						
								NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼			
CHK			70437	1	13S	20E	3													40	40	40	35	155	7a	50,596
CHK			70438	12	13S	20E	3	28	35.5	39.5	36			31	36					3	0.50		209.50	7a	50,596	

Comments: **KJN 10/13/22**

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: July 26, 2022

FROM: Rebecca Pollett

RE: New Applications,
File Nos. 50,595 & 50,596

Mark Neis has filed applications to appropriate groundwater for irrigation use, requesting a one (1) well for each application, with a combined quantity of 364.5 acre-feet of water per calendar year, at a maximum diversion rate of 1,200 gallons per minute (from each well). The well authorized by File No. 50,595 will be located in the Northeast Quarter of Section 12, more particularly described as being near a point 3,880 feet North and 1,125 feet West of the Southeast corner of said section, in Township 13 South, Range 20 East, Douglas County, Kansas. The well authorized by File No. 50,596 will be located in the Southeast Quarter of Section 1, more particularly described as being near a point 990 feet North and 30 feet West of the Southeast corner of said section, in Township 13 South, Range 20 East, Douglas County, Kansas. Both are within the Wakarusa River drainage basin.

The place of use is owned by Mark and Dana Neis. The applicant has signed the application form stating that he has legal access to the point of diversion.

Both files will overlap in place of use, which is made up of a total of 364.5 acres. File No. 50,596 will be limited to 364.5 acre-feet when combined with File No. 50,595. The maximum reasonable quantity for irrigation in Douglas County is 1.0 acre-feet per acre, per K.A.R. 5-3-24, and the proposed quantity of 364.5 acre-feet complies with said regulation. (1.0 acre-foot x 364.5 acres = 364.5 acre-feet).

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 radius of the point of diversion, which establishes the area of consideration. Evaluation of the area of consideration included the extent of the unconfined aquifer, which provided an area of consideration of 5,972 acres. **(for 50596)**
5,598 acres (for 50595)

With a potential annual recharge of 9.2 inches, and 100% of recharge available for appropriation, safe yield for File No. 50,595 was determined to be 4,292.09 acre-feet. Existing water rights have appropriated 2,717.79 acre-feet, providing a difference of 1,574.3 acre-feet available for appropriation, and the application requesting 364.5 acre-feet complies with safe yield.

With a potential annual recharge of 9.2 inches, and 100% of recharge available for appropriation, safe yield for File No. 50,596 was determined to be 4,578.91 acre-feet. Existing water rights have appropriated 3,194.29 acre-feet, providing a difference of 1,384.62 acre-feet available for appropriation. File No. 50,596 will be limited to 364.5 acre-feet when combined with File No. 50,595 and therefore also complies with safe yield.

Based on nearby well log via the WWC-5 database, the source of supply appears to be Wakarusa main steam alluvium.

Six domestic wells within one-half mile of the points of diversion were identified. Nearby letters for both applications were sent out on July 7, 2022, notifying of the diversion works proposed. No responses of any kind were received.

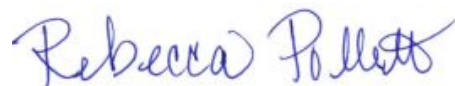
For File No. 50,595, the closest non-domestic well is over 2,500 feet away, which is pending Application, File No. 50,596 (also submitted by the applicant). The closest domestic well is roughly 1,300 feet away. Therefore, according to K.A.R. 5-4-4, the required well spacing is met (660 feet to domestic wells and 1,320 to non-domestic wells).

For File No. 50,596, the closest non-domestic well is over 2,500 feet away, which is pending Application, File No. 50,595 (also submitted by the applicant). The closest domestic well is over 1,100 feet away. Therefore, according to K.A.R. 5-4-4, the required well spacing is met (660 feet to domestic wells and 1,320 to non-domestic wells).

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.

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

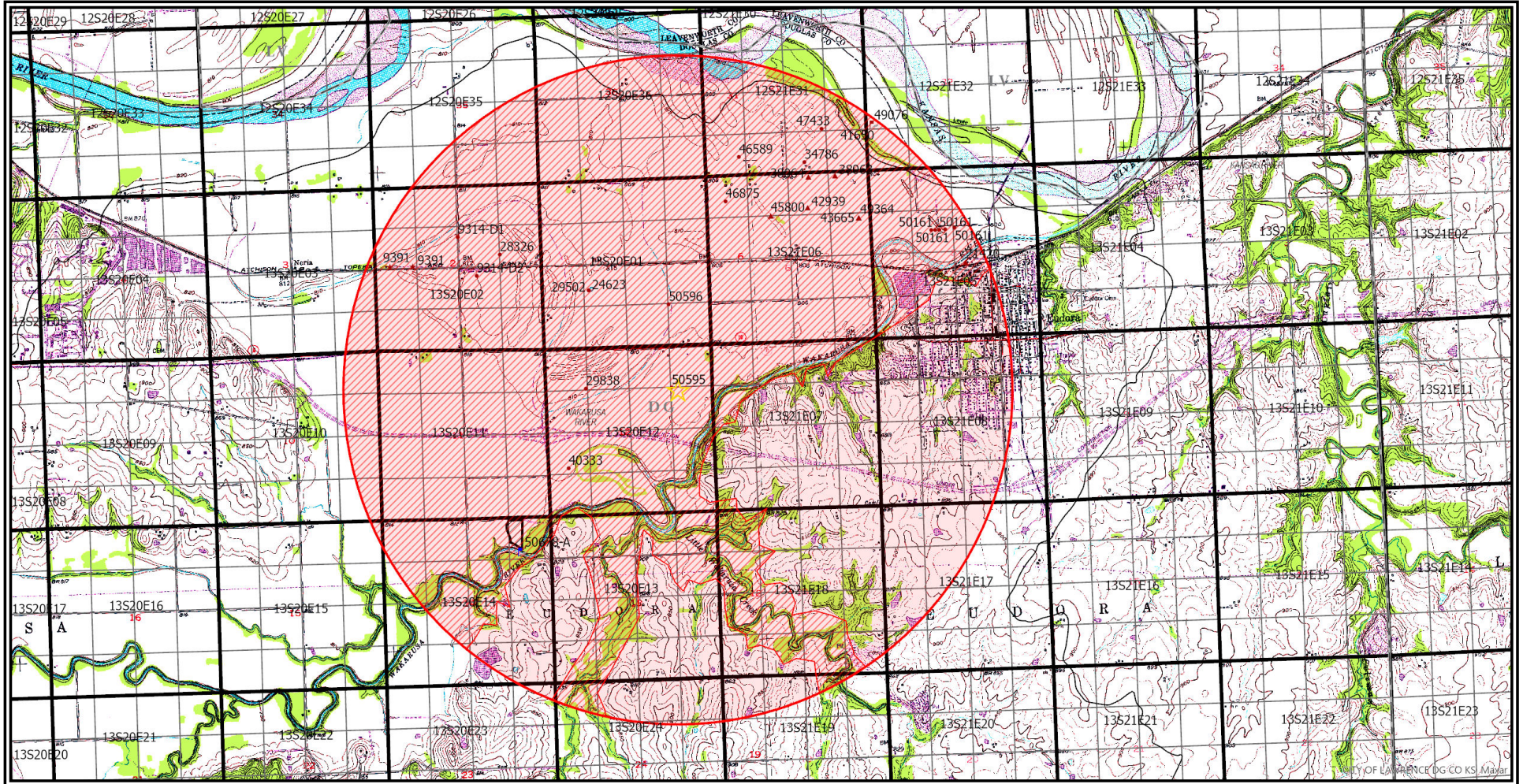
KJN 10/13/22



Rebecca Pollett
Environmental Scientist
Division of Water Resources

50595

Safe Yield Report Sheet
Water Right- Proposed Point of Diversion
Point of Diversion in 12-13S-20E
Footages from SE corner- 3,880 feet North 1,125 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 4,292.09 AF.

Total prior appropriations in the circle is 6,079.58 AF. **- 3685.91 AF - 729 AF + 1053.12 AF = 2717.79 AF**

Total quantity of water available for appropriation is ~~0.00 AF~~.

4292.09 AF - 2717.79 AF = 1574.3 AF available

Safe Yield Variables

The area used for the analysis is set at 5,598 acres.

The potential annual recharge at the circle center is estimated to be 9.2 inches.

The percent of recharge available for appropriation is 100%.

Authorized Quantity values are as of 05-JUL-2022 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 24 water rights and 26 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 9391 00	IND	NK	G					2778	4815	02	13	20E	3	WR	3,685.91	3,685.91		
Same	IND	NK	G					2771	4092	02	13	20E	4	WR		1053.12		
A 21420 00	MUN	NK	G		NW	NW	SE	2288	2376	05	13	21E	5	WR	132.52	132.52		
A 24623 00	IRR	NK	G		CW	NE	SW	1960	3840	01	13	20E	1	WR	4.60	4.60	77.00	77.00
A 28326 00	IRR	NK	G		SW	SE	NE	3040	1315	02	13	20E	7	WR	36.00	36.00	36.00	36.00
A 29502 00	IRR	NK	G		CW	NE	SW	1960	3840	01	13	20E	1	WR	49.30	49.30	77.00	0.00
A 29838 00	IRR	NK	G		SE	NW	NW	4070	4000	12	13	20E	1	WR	26.00	26.00	80.00	80.00
A 34786 00	IRR	NK	G		SE	SW	SE	300	1950	31	12	21E	1	WR	25.00	25.00	39.00	39.00
A 38063 00	MUN	NK	G		NW	NE	NE	5180	1003	06	13	21E	2	WR	214.14	81.62		
A 38064 00	MUN	NK	G		NE	NW	NE	5180	1855	06	13	21E	3	WR	190.70	173.34		
A 40333 00	IRR	NK	G		SW	NW	SW	1520	4635	12	13	20E	3	WR	20.00	20.00	20.00	20.00
A 41650 00	REC	NK	G					1449	4996	32	12	21E	3	WR	23.00	23.00		
A 42939 00	MUN	LR	G		SE	NW	NE	4230	1820	06	13	21E	5	WR	245.51	245.51		
A 43665 00	MUN	NK	G		NE	SE	NE	3858	423	06	13	21E	10	WR	74.67	74.67		
A 45800 00	MUN	LO	G		SE	SE	NW	3870	3110	06	13	21E	7	WR	245.51	66.01		
A 46589 00	IRR	NK	G		SE	SW	SW	597	4050	31	12	21E	2	WR	77.00	77.00	122.00	122.00
A 46875 00	IRR	LR	G		SE	NW	NW	4613	4547	06	13	21E	9	WR	32.00	32.00	32.00	32.00
A 47433 00	IRR	KK	G		SE	NW	SE	1530	1428	31	12	21E	6	WR	91.50	91.50	91.50	51.50
A 49076 00	REC	LR	G					1449	4996	32	12	21E	3	WR	65.00	42.00		
A 49364 00	MUN	KE	G		NE	SE	NE	3858	423	06	13	21E	10	WR	919.99	285.10		
A 9314 D1	IRR	NK	G		NW	SW	NE	3655	2625	02	13	20E	2	WR	92.00	92.00	113.00	113.00
A 9314 D2	IRR	NK	G		NW	NW	SE	2363	2062	02	13	20E	10	WR	10.00	10.00	30.00	30.00
A 50161 00	IRR	KE	G		NE	SE	NW	3420	3100	05	13	21E	7	WR	77.50	77.50	77.50	77.50
Same	IRR	KE	G		NE	SE	NW	3420	2975	05	13	21E	8	WR				
Same	IRR	KE	G		NE	SE	NW	3420	2850	05	13	21E	9	WR				

File Number	Use	ST	SR	Q4	Q3	Q2	Q1	FeetN	FeetW	Sec	Twp	Rng	ID	Qind	Auth Quant	Add Quant	Tot Acres	Net Acres
Same	IRR	KE	G		NE	SE	NW	3420	3225	05	13	21E	10	WR				
Same	IRR	KE	G		NW	SE	NW	3420	3350	05	13	21E	11	WR				
A 50595 00	IRR	AY	G				NE	3960	1320	12	13	20E	4	WR	364.50	364.50	364.50	364.50
A 50596 00	IRR	AY	G				SE	1320	1320	01	13	20E	4	WR	364.50	364.50	364.50	0.00

Limitations

File Number	Seq Num	Limitations
A 9391 00	1	500GPM(1.11CFS)FROM ANY WELL OPER-IN/CONJ/W/CERT
A 21420 00	1	SEE JKT FOR LIMITATION
A 29502 00	1	800GPM COM/W #24623 ON LAND LISTED IN CERT
A 38063 00	2	69.777MGY COM/W #21,420
A 38064 00	1	245.5AF(80MGY) COM/W #21,420
Same	2	126.260MGY COM/W #21,420 & 38,063
A 45800 00	1	227.77MGY COM/W #21420; 38063; 38064 & 42939
A 47433 00	1	201.5AF/YR COM/W #46589
A 49076 00	1	65 AF/YR COM/W #41650
A 49364 00	1	345 MGY COM/W (SEE IMAGES FOR FILE NOS.)

**Limitations check
out***

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. 50,595** of the applicant

**MARK AND DANA NEIS
12775 COUNTY LINE RD
EUDORA, KS 66025-8323**

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 **June 03, 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				
1	13S	20E																40	40	40	35	155
12	13S	20E	28	35.5	39.5	36				31	36							3	0.50			209.50

3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of one well, located in the Northwest Quarter of the Southeast Quarter of the Northeast Quarter (NW¼ SE¼ NE¼) of Section 12, more particularly described as being near a point 3,880 feet North and 1,125 feet West of the Southeast corner of said section, in Township 13 South, Range 20 East, Douglas County, Kansas.

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 **364.5 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, 2024** 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, 2028** 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 acceptable water flow meters 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. These water flow meters 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.

Ordered this 16 day of October, 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 October, 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

October 26, 2022

MARK & DANA NEIS
12775 COUNTY LINE RD
EUDORA, KS 66025-8323

RE: Appropriation of Water, File No. 50,595

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 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 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:RRP
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 request an evidentiary hearing before the Chief Engineer, or 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 Division, 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 review 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 26 day of October, 2022, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,595, dated 18 October was mailed postage prepaid, first class, US mail to the following:

MARK & DANA NEIS
12775 COUNTY LINE RD
EUDORA, KS 66025-8323

With photocopies to:

Topeka Field Office



Division of Water Resources