

File No. 50,851	13. County: RL- Riley Basin: 8-Kansas River Stream:		
Structures File No:	Aquifer Code: 113 Main Stem Alluvium	Special Use Area:	

14. Points of Diversion, Rates & Quantities										Qty AF		Rate gpm		Storage Qty		Storage Rate	Overlaps
PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)		Auth	Add	Auth	Add	Auth	Add	Auth/Add	Overlaps
CHK	89762	SE SE SE	25	10S	7E	1	100	100		420	420	1000	1000				+
																	+
																	#
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																	**
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15. Limitations	Type:	Quantity:	Rate:	combined with file no(s):
	Type:	Quantity:	Rate:	combined with file no(s):

16. Metering Metering Required Anti-Reverse Required Seal Required Compliance Date: **12/31/2025**

17. Place of Use						NE¼				NW¼				SW¼				SE¼				Total	Owner(s)	Chg?	Overlaps
PDIV	S	T	R	ID		NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE				
ENT	71738	25	10S	7E										4.5			16.5	21	33	40	40	155	5a	<input type="checkbox"/>	+
ENT	7945	30	10S	8E							L-6	L-9		L-10	L-8	L-19	L-21					109.5	5a	<input type="checkbox"/>	#
	71736	30	10S	8E							L-7			L-16		L-20					60	5a	<input type="checkbox"/>	^	
	71737	30	10S	8E		112.5 acres in West half of section																	5a	<input type="checkbox"/>	**
																								<input type="checkbox"/>	++

18. Point of Diversion and Place of Use Overlaps	
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+	++
#	##
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MEMORANDUM TO FILE

Division of Water Resources, Water Appropriation Program

Date: April 24, 2024

From: Christa Anhold, Environmental Scientist

Re: Voluntary Dismissal File No. 1,197 and New Application File No. 50,851 – Roger Nauerth

Summary

Roger Nauerth has filed the above referenced application proposing to appropriate 420 acre-feet of groundwater per year at a rate of 1,000 gallons per minute from one (1) well to irrigate 437-acres in the Kansas River drainage basin of Riley County. The applicant owns both the proposed point of diversion and place of use. The applicant filed a voluntary dismissal for Water Right File No. 1,197, which covers partial place of use for the above referenced new application.

Reasonable Rate and Quantity

The requested 420 acre-feet of groundwater applied to 437-acres is less than the 1.1 acre-feet per acre reasonable quantity for Riley County, and as such is considered reasonable. A rate of 1,000 gallons per minute appears reasonable for the area.

Source of Supply and Safe Yield

A well log provided with the application indicate topsoil from surface level to 5', sand from 5-20', sand and gravel from 20-25', sandy clay from 25-25.5', sand and gravel from 25.5-38' and shale to total depth of 40'. Static water level was measured at 13 feet. Based on nearby well logs and "The Geology of Riley and Geary Counties, Kansas" Bulletin 39, the likely source of supply is the main stem alluvium of the Kansas River.

Areas within the 2-mile safe yield are not part of the alluvial source and were trimmed out to determine accurate safe yield based solely on the alluvial source. The source of supply was determined to be 6,558 acres. Based on potential recharge of 8.3 inches, with 75% available for appropriation, safe yield was determined to be 3,401.74 acre-feet. Existing appropriations total 855.98 acre-feet, leaving 2,545.76 acre-feet available to irrigate the 437-acres with 420 acre-feet of water requested by the applicant.

Nearby Water Rights

The nearest domestic well is 2,000 feet from the proposed point of diversion. There are roughly half a dozen monitoring and remediation wells within a half mile radius of the proposed point of diversion all owned by Riley County, with the closest being 460 feet from the proposed point of diversion. There are no past or present remediation sites in the immediate area according to KDHE BER identification sites list. Aside from those, the nearest nondomestic well (File No. 1,197) is 3,368 feet from the proposed point of diversion, which will be dismissed upon the approval of this application. The applicant provided names and addresses of nearby well owners within one half mile. Nearby notifications were mailed on March 25, 2024. No responses have been received to date.

Recommendations

The applicant has signed an Assurance District statement for Kansas River Water Assurance District No. 1, which informs the applicant that there could be times when the diversion of water may not be allowed under this permit. The Kansas River Water Assurance District was notified of the application via email on March 26, 2024. No response has been received to date.

The application was sent for consideration to Brett Bungler, Water Commissioner of the Topeka Field Office on April 24, 2024, and recommended for approval in an e-mail dated April 24, 2024.

The application complies with all regulations concerning reasonable quantity, safe yield, and minimum spacing requirements. It does not appear that approval of the application will impair senior water rights nor prejudicially or unreasonably affect the public interest. Therefore, it is recommended that the referenced application be approved.



Christa Anhold
Environmental Scientist
Manhattan Headquarters

From: Bunger, Brett [KDA]
Sent: Wed 4/24/2024 2:59 PM
To: Anhold, Christa [KDA]
Subject: RE: 50851 Recommendation Request

Christa, please proceed with approval of the application

From: Anhold, Christa [KDA] <Christa.Anhold@ks.gov>
Sent: Wednesday, April 24, 2024 9:14 AM
To: Bunger, Brett [KDA] <Brett.Bunger@ks.gov>
Subject: 50851 Recommendation Request

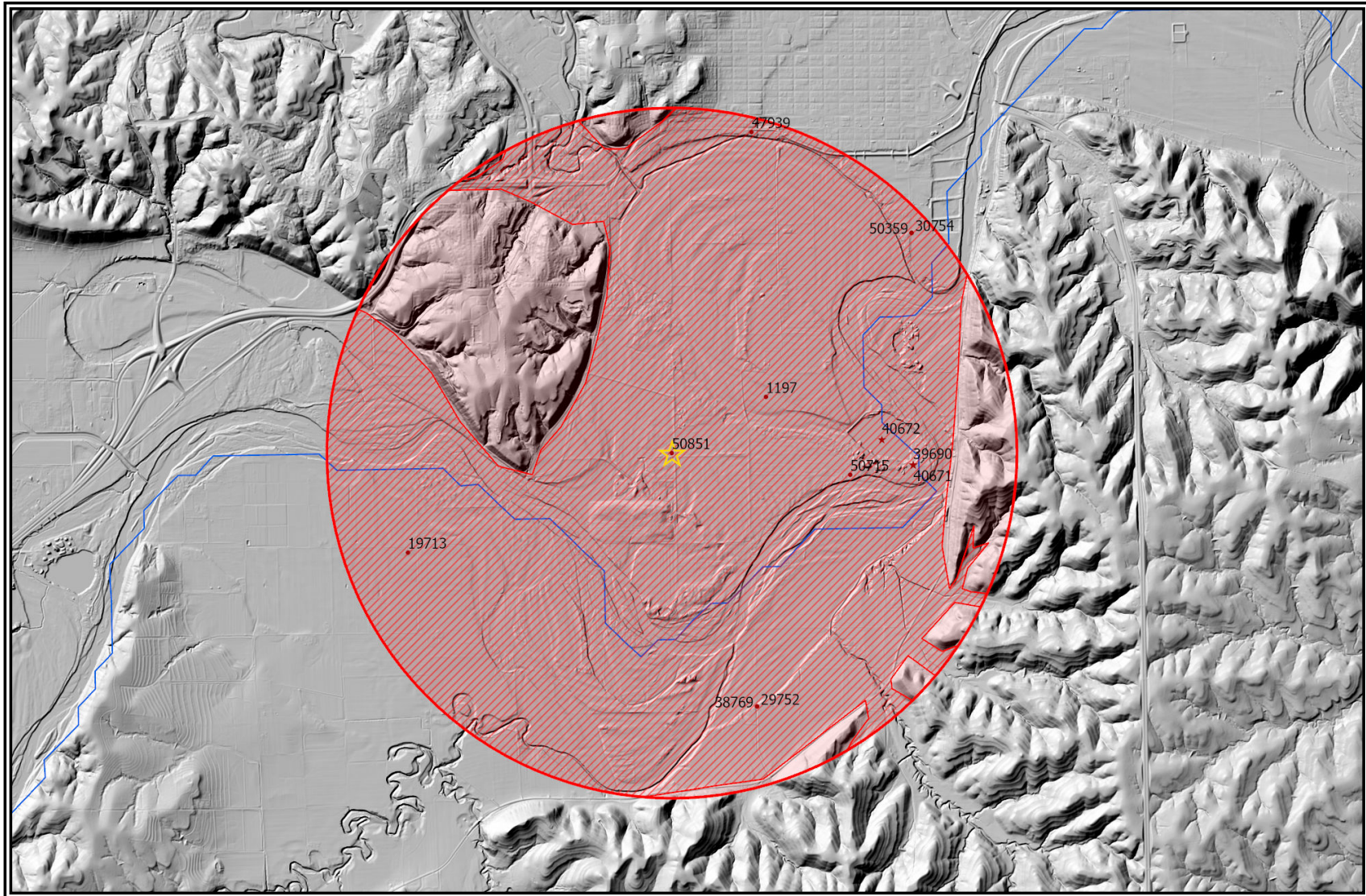
Good morning,

Attached is a draft memo for 50,851, for your review and recommendation. Nearby notifications were mailed on April 8, 2024. No responses have been received to date.

Let me know if you need anything else.

Christa Anhold
Environmental Scientist
Department of Water Resources
(785)-564-6644
Christa.anhold@ks.gov

Safe Yield Report Sheet
Water Right- A5085100
Point of Diversion in 25-10S-07E
Footages from SE corner- 100 feet North 100 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 3,401.74 AF.

Total prior appropriations in the circle is 1,275.98 AF. **-420AF = 855.98**

Total quantity of water available for appropriation is 2,125.76 AF. +420AF = 2,545.76AF

Safe Yield Variables

The area used for the analysis is set at 6,558 acres.

The potential annual recharge at the circle center is estimated to be 8.3 inches.

The percent of recharge available for appropriation is 75%.

Authorized Quantity values are as of 28-FEB-2024 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 12 water rights and 9 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 1197 00	IRR	NK	G					1950	6100	30	10	08E	3	WR	40.00	40.00	53.00	53.00	
A 19713 00	IRR	NK	G		NE	NE	SW	2480	3020	35	10	07E	1	WR	60.00	60.00	76.00	76.00	
A 29752 00	IRR	NK	G					2833	6556	06	11	08E	2	WR	65.00	65.00	95.00	95.00	
A 30754 00	IRR	NK	G			NW	SE	1580	1600	19	10	08E	2	WR	79.00	79.00	81.00	81.00	
A 38769 00	IRR	NK	G					2833	6556	06	11	08E	2	WR	16.00	0.00	95.00	0.00	
A 39690 00	IND	NK	G					5035	1580	31	10	08E	3	WR	22.26	22.26			
A 40671 00	IND	NK	G					5035	1580	31	10	08E	3	WR	164.98	142.73			
A 40672 00	IND	NK	G					560	2560	30	10	08E	13	WR	32.99	32.99			
A 47939 00	IRR	MM	G					4792	6380	19	10	08E	7	WR	7.70	7.70	2.00	2.00	
A 50359 00	IRR	HK	G			NW	SE	1580	1600	19	10	08E	2	WR	267.30	267.30	243.00	243.00	
A 50715 00	IRR	KE	G					4771	3523	31	10	08E	4	WR	139.00	139.00	127.70	127.70	
A 50851 00	IRR	AY	G		SE	SE	SE	100	100	25	10	07E	1	WR	420.00	420.00	-420.0	53.00	0.00

Limitations

File Number	Seq Num	Limitations
A 38769 00	2	65AF/YR @1005GPM COM/W #29752
A 40671 00	2	53.76MGY @ 1050GPM COM/W #39690 53.76MGY = 164.983 AF
A 50359 00	1	1200 GPM COM/W #30754

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. 50,851** of the applicant

**ROGER NAUERTH
1530 MEOHLMAN RD
MANHATTAN KS 66502**

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 **August 8, 2022**.

2. That the water sought to be appropriated shall be used for irrigation use on land described in the application, as follows:

4.5 acres in the Northeast Quarter of the Southwest Quarter (NE $\frac{1}{4}$ SW $\frac{1}{4}$),
16.5 acres in the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$),
21.0 acres in the Northeast Quarter of the Southeast Quarter (NE $\frac{1}{4}$ SE $\frac{1}{4}$),
33.0 acres in the Northwest Quarter of the Southeast Quarter (NW $\frac{1}{4}$ SE $\frac{1}{4}$),
40.0 acres in the Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$),
40.0 acres in the Southeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$),

a total of 155.0 acres in Section 25, Township 10 South, Range 7 East, and

8.0 acres in Lot 6,
19.0 acres in Lot 7,
27.5 acres in Lot 8,
25.0 acres in Lot 9,
22.5 acres in Lot 10,
3.0 acres in Lot 16,
25.0 acres in Lot 19,
38.0 acres in Lot 20,
1.5 acres in Lot 21,
112.5 acres in the West Half (W $\frac{1}{2}$),

a total of 282.0 acres in Section 30, Township 10 South, Range 8 East,

all in Riley County, Kansas.

3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of one (1) well located in the Southeast Quarter of the Southeast Quarter of the Southeast Quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 25, more particularly described as being near a point 100 feet North and 100 feet West of the Southeast corner of said section, in Township 10 South, Range 7 East, Riley County, Kansas, located substantially as shown on the topographic map accompanying the application.

4. That the appropriation sought shall be limited to a maximum diversion rate not in excess of **1,000 gallons per minute (2.23 c.f.s.)** and to a quantity not to exceed **420 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, 2025**, 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, 2029**, 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. 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 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 failure without cause to comply with the provisions of this 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.

Ordered this 16 day of May, 2024, in Manhattan, Riley County, Kansas.

Lane P. Letourneau

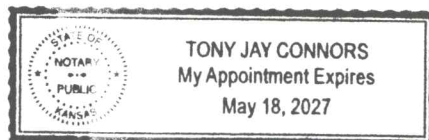
Lane P. Letourneau, P.G.
Water Appropriation Program Manager
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 16 day of May, 2024, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.

Tony Jay Connors

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 22, 2024

ROGER NAUERTH
1530 MEOHLMAN RD
MANHATTAN KS 66502

RE: Appropriation of Water
File No. 50,851

Dismissal of Water Right
File No. 1,197

Dear Mr. Nauerth,

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. Also enclosed is an Order dismissing the above referenced Water Right, as requested in your voluntary dismissal form received on August 26, 2022.

For the new permit, a 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.

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.

Also included 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/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:kak:cla
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 22 day of May, 2024, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,851, dated May 16, 2024, was mailed postage prepaid, first class, US mail to the following:

Original to:

ROGER NAUERTH
1530 MEOHLMAN RD
MANHATTAN KS 66502

With photocopies to:

KDA-DWR Topeka Field Office



Division of Water Resources