

File No. **51,005** 13. County: **LN-Linn** Basin: **4 -Sugar Creek** Stream: **471 - Big Sugar Creek (Sugar Creek)**
 Structures File No: Aquifer Code: Special Use Area:

14. Points of Diversion, Rates & Quantities										Qty AF		Rate gpm		Storage Qty AF		Storage Rate	
PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)		Auth	Add	Auth	Add	Auth	Add	Auth/Add	Overlaps
CHK	90245	SW	NW	NE	4	21S	24E	1	4032	2614	153	153	3000	3000			

15. Limitations **NEW** Type: Quantity: **AF** Rate: **gpm** combined with file no(s):
NEW Type: Quantity: **AF** Rate: **gpm** 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
PUSE	S T R ID	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE				
																		0.00		<input type="checkbox"/>	
																		0.00		<input type="checkbox"/>	
																		0.00		<input type="checkbox"/>	
																		0.00		<input type="checkbox"/>	
CHK	71327 4 21S 24E 2	MARSH (W/2 SE & E/2 SW) 153 ACRE																	5a	<input type="checkbox"/>	*

18. Point of Diversion and Place of Use Overlaps
 * **51,006** **
 + ++
 # ##
 ^ ^^

MEMORANDUM TO FILE

Division of Water Resources, Water Appropriation Program

Date: September 9, 2024

From: Christa Anhold, Environmental Scientist

Re: New Application File No. 51,005 & 51,006 – JRG Gray KS Holdings LLC

Summary

JRG Gray KS Holdings LLC filed the above two (2) applications proposing to appropriate surface water from direct diversion and natural flow to fill and offset evaporation for one marsh in Linn County. File No. 51,005 proposes to appropriate 153 AF of water per year at a rate of 3,000 GPM from one (1) pump site along Big Sugar Creek. File No. 51,006 proposes to appropriate 56.7 AF of water per year from natural flows. Both above files overlap the place of use, there won't be a limitation on either application. The applicant signed both applications stating they have legal access to the proposed point of diversion and the place of use.

The United States Department of Agriculture, Natural Resources Conservation Services (NRCS) has confirmed that there is a Wetland Reserve Program (WRP) easement on the property (Easement Number 66-6215-95-007SH). DWR Structures review the applications and determined that Water Structures permitting will not be required. File No. 51,005 will be permitted with the condition that the applicant cannot pump water from the stream into their marsh until they have an approved Compatible Use Agreement from the NRCS.

Reasonable Rate and Quantity and Safe Yield

A reasonable quantity of water for the proposed 17-acre, 3-foot-deep marsh is 56.7AF per calculates from K.A.R. 5-6-5(a)(2), outlined as follows:

$$\begin{aligned}\text{Evap (indirect): } & 4 \text{ in} \times 17 \text{ acres} / (12 \text{ in/ft}) = 5.7 \text{ AF/yr} \\ \text{Storage (direct): } & 17 \text{ acres} \times 3 \text{ ft} = 51 \text{ AF} \\ \text{1 yr storage + 1 yr indirect} & = 56.7 \text{ AF}\end{aligned}$$

File No. 51,005 proposes to divert 153 AF from one (1) pump site in Big Sugar Creek to fill the marsh. The requested quantity can be considered reasonable based on the different management techniques used throughout marshes. Marshes are managed differently from year to year for maintenance, desired hunting conditions and type of waterfowl. Often, duck marshes are filled and drained multiple times throughout the year for maintenance and weed control. Due to the variability around duck marsh management, it has become common practice (and in being consistent with similar projects) to allow an applicant three (3) times the marsh capacity, which in this case is the requested 153 AF. Calculated as follows:

$$\begin{aligned}\text{Marsh Capacity: } & 17 \text{ acres} \times 3\text{-feet deep} = 51 \text{ AF} \\ \text{Reasonable quantity} & = \text{marsh capacity} \times 3 = 51 \text{ AF} \times 3 = 153 \text{ AF}\end{aligned}$$

File No. 51,005 will be subject to specific conditions, which stipulate strict requirements for direct surface water diversion. These conditions include the stipulation that no water 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 is require prior to diverting water, and streamflow cannot be stopped at the first riffle below the point of diversion while diversion is taking place.

File No. 51,006 originally proposed to appropriate 153AF of water per year from natural flow to offset evaporation and fill the duck marsh. This was found to be unreasonable for the marsh in question seeing as how

the requested quantity is more than what can be considered reasonable per K.A.R. 5-6-5(a)(2). During a phone call on June 14, 2024, the applicant agreed to reduce the quantity to 56.7 AF to meet what is considered reasonable.

Nearby Water Rights

File No. 51,005: the closest downstream Water Right, File No. 50,084, is over 2 miles away. The closest upstream Water Right, File No. 46,550, is 0.8 miles away.

File No. 51,006: the closest downstream Water Right, File No. 50,084, is 1.5 miles away This application has no known upstream water right holders.

The applicant provided names and addresses for neighboring landowners half a mile up and downstream for the proposed two (2) applications. Nearby notifications were sent on May 7, 2024. A phone call was received from one person with questions about File No. 51,005 but no written comments were received. No responses have been received for File No. 51,006 to date.

Recommendations

The application was sent for consideration to Nathan Westrup, Water Commissioner of the Topeka Field Office, and Shaun Johnson, Assistant Water Commission of the Topeka Field Office, on July 26, 2024, and recommended for approval on August 12, 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: Westrup, Nathan [KDA]
Sent: Mon 8/12/2024 3:08 PM
To: Anhold, Christa
Cc: Johnson, Shaun [KDA]; Kopp, Kenneth [KDA]; Baum, Kristen [KDA]
Subject: RE: 51005 and 51006 recommendation request

Hi Christa,

Well, I see as two parts: 1) Getting legal (51,006) 2) Enough water for optimal habitat (51,005)

Without lots of precise measurements, we will never know the actual seepage. Professional judgement/institutional knowledge/experience "says" 2 to 3 times the capacity is in the ballpark of sufficient and reasonable. The best available information ([Web Soil Survey \(usda.gov\)](https://www.usda.gov/websoilsurvey/)) for this site shows a ridiculous range of infiltration rate (0.0 to 2.0 inches/hour). Over a 6 month period, the applicant's requested quantity (for 51,005) to maintain waterfowl habitat would equate to about 0.002 inches/hour.



Map Unit Description Printable Version

Report — Map Unit Description

Linn County, Kansas
9970—Aquolls

Map Unit Setting
National map unit symbol: 1jxf7
Elevation: 980 to 1,660 feet
Mean annual precipitation: 31 to 47 inches
Mean annual air temperature: 54 to 57 degrees F
Frost-free period: 190 to 210 days
Farmland classification: Not prime farmland

Map Unit Composition
Aquolls and similar soils: 100 percent
Estimates are based on observations, descriptions, and transects of the mapunit.

Description of Aquolls

Setting
Landform: Depressions
Landform position (three-dimensional): Tread
Down-slope shape: Concave
Across-slope shape: Concave
Parent material: Alluvium

Typical profile
A1 - 0 to 72 inches: variable

Properties and qualities
Slope: 0 to 1 percent
Depth to restrictive feature: More than 80 inches
Drainage class: Very poorly drained
Capacity of the most limiting layer to transmit water (Ksat): Very low to high (0.00 to 2.00 in/hr)
Depth to water table: About 0 inches
Frequency of flooding: None
Frequency of ponding: Frequent

Interpretive groups
Land capability classification (irrigated): None specified
Land capability classification (nonirrigated): 5w
Hydrologic Soil Group: B/D
Ecological site: R072XY103KS - Subirrigated
Hydric soil rating: Yes

Description — Map Unit Description

It is very hard to judge the water need for marshes. Since there isn't a quantified safe yield, I don't see a harm in allowing for a somewhat generous quantity and let the perfection period serve it's purpose. I don't see much danger of abuse since they pump by permission and I don't see any reason why they would pump more than they need to achieve optimal habitat. I think we will end up with more applications if we restrict the quantity too much.

Your comment about filling and emptying: In a season, some marshes do manipulate the level (depending on the birds they are trying to attract and maybe even for vegetation control) but I don't believe that typical marshes do anything more than pump water in – until the season is over.

We can certainly have more discussion on this topic.

I have no objection to approval.

Thanks!

Nathan Westrup, Water Commissioner
Topeka Field Office

Division of Water Resources
Kansas Department of Agriculture
Phone: 785-296-7064
Mobile: 785-230-2991
Nathan.Westrup@ks.gov

From: Anhold, Christa <Christa.Anhold@ks.gov>
Sent: Monday, August 12, 2024 9:01 AM
To: Westrup, Nathan [KDA] <Nathan.Westrup@ks.gov>
Cc: Johnson, Shaun [KDA] <Shaun.Johnson@ks.gov>
Subject: RE: 51005 and 51006 recommendation request

Nathan,

Thanks for your patience.

Ken, Kristen and I talked about this app for a bit in our meeting on Friday. I wanted to get their thoughts on the limitation. We came to the conclusion that since the natural flows application is the junior file and natural flows are not metered there will be no limit on either file. I have attached an updated memo to reflect the changes. For natural flows we typically only permit storage and one year of evaporation, which is the 56.7AF.

It is the burden of the applicant to provide us with information to support their seepage request. In the case of applications 51005/51006 when I talked with the applicant he didn't provide any supporting information for seepage. When looking at past NAIP imagery of his pond it has water in it pretty consistently, also leading me to believe that the seepage he requested was a bit excessive. Instead of removing his seepage entirely I went with the 3 years of fill which was the 153 he requested.

I have another set of apps for a duck marsh that is remarkably similar to these two. Since we are seeing more and more duck marsh applications, Ken, Kristen and I started discussing how seepage is determined and if allowing marshes three fills is considered reasonable. Like I mentioned in my memo, we typically allow 3 fills, but we aren't sure where that magic number three came from. I know that duck marshes are filled and emptied multiple times but since marshes are only recreationally used for duck hunting 3-6 months out of the year how many times are they realistically filling/emptying it? If they aren't using it the entire year, we might not want to be permitting them an entire year of seepage.

We tossed around that idea that for future duck marshes maybe we steer towards 1 month of seepage, 1 fill and 1 year of evaporation. And we start asking duck marsh applicants the time frame of use. What are your thoughts?

Christa Anhold
(785)564-6644

From: Westrup, Nathan [KDA] <Nathan.Westrup@ks.gov>
Sent: Tuesday, August 6, 2024 4:38 PM
To: Anhold, Christa [KDA] <Christa.Anhold@ks.gov>
Cc: Johnson, Shaun [KDA] <Shaun.Johnson@ks.gov>
Subject: RE: 51005 and 51006 recommendation request

Hi Christa,

I have a few comments.

As background, marshes are very site specific – some are very leaky (seepage) and some hold water pretty well, but all of them take a decent amount of water to saturate the subsurface before they can achieve their seasonal fill. Seepage numbers are ballpark and are another form of indirect use. The applicant had provided their best estimate of seepage and evaporation total, 153 AF. That being said, I think the

reduction in quantity to 56.7 AF under 51,006 can still work but I think it could have been left at 153 AF – the vast majority of which would be potential seepage.

I am also wondering about your proposed limitation. It sounds like you are saying that 51,006 will be limited to 56.7 AF when combined with 51,005. Did you mean to say limited to 153 AF?

Thanks,

Nathan Westrup, Water Commissioner

Topeka Field Office

Division of Water Resources

Kansas Department of Agriculture

Phone: 785-296-7064

Mobile: 785-230-2991

Nathan.Westrup@ks.gov

From: Anhold, Christa <Christa.Anhold@ks.gov>

Sent: Friday, July 26, 2024 2:07 PM

To: Westrup, Nathan [KDA] <Nathan.Westrup@ks.gov>

Cc: Johnson, Shaun [KDA] <Shaun.Johnson@ks.gov>

Subject: 51005 and 51006 recommendation request

Nathan,

I have attached a draft memo for new applications 51,005 and 51,006 for your review and recommendation. The applicant has an NRCS WRP easement on the property and we will be waiting for the compatible use agreement from the NRCS before approving the application. Nearby notifications were mailed on May 7, 2024. One nearby called with questions about the application, but no written comments 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

From: Turney, Brent - FPAC-NRCS, KS
Sent: Wed 5/22/2024 1:27 PM
To: Anhold, Christa [KDA]
Subject: RE: NRCS Easement for Files 51005 and 51006

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.

No CUA yet, but I will get it to you as soon as it is finished.
Thanks

Brent A. Turney
Easement Specialist



3020 West 18th Avenue, Suite B, Emporia, Kansas, 66801
p: (620) 487-3413 | c: (620) 682-3538
e: brent.turney@usda.gov | w: www.ks.nrcs.usda.gov

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From: Anhold, Christa [KDA] <Christa.Anhold@ks.gov>
Sent: Wednesday, May 22, 2024 1:02 PM
To: Turney, Brent - FPAC-NRCS, KS <Brent.Turney@usda.gov>
Subject: RE: NRCS Easement for Files 51005 and 51006

I will contact the applicant to see how they plan to move the water from the point of diversion to the marsh. I have some other questions for them so I will get an answer for you as well. Do you have a CUA for that easement and if so, can I get a copy for our file?

Christa Anhold
(785)564-6644

From: Turney, Brent - FPAC-NRCS, KS <Brent.Turney@usda.gov>
Sent: Wednesday, May 22, 2024 10:47 AM
To: Anhold, Christa [KDA] <Christa.Anhold@ks.gov>
Subject: RE: NRCS Easement for Files 51005 and 51006

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.

Good morning Christa,
Yes, that place of use is under an easement. Our easement number is 66-6215-95-008SH.

Can you tell me how they propose moving the water from the point of diversion to the place of use? There may be some problems in regards to that.

Thanks for letting me comment.

Brent

Brent A. Turney
Easement Specialist



3020 West 18th Avenue, Suite B, Emporia, Kansas, 66801
p: (620) 487-3413 | c: (620) 682-3538
e: brent.turney@usda.gov | w: www.ks.nrcs.usda.gov

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From: Anhold, Christa [KDA] <Christa.Anhold@ks.gov>
Sent: Wednesday, May 22, 2024 10:38 AM
To: Turney, Brent - FPAC-NRCS, KS <Brent.Turney@usda.gov>
Subject: NRCS Easement for Files 51005 and 51006

Good morning Brent,

Do you know of an easement associated with the below property?

File Nos. 51005 and 51006, a set of applications to fill a duck marsh in Linn County

-Duck marsh is located in the SE NE SW Quarter of Section 4, Township 21 South, and Range 24 East. Near 38.24440247, -94.77850690

-Pump site to fill the duck marsh is located in a tributary of Big Sugar Creek in the SW NW NE Quarter of Section 4, Township 21 South, and Range 24 East. Near 38.25174247, -94.77813781

I have included a map of the proposed project as well.

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

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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. 51,005** of the applicant

**JRG GRAY KS HOLDINGS LLC
PO BOX 185
FAYETTEVILLE, AR 72702**

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 **April 7, 2023**.
2. That the water sought to be appropriated shall be used for recreational use in a Marsh, located in the West Half of the Southeast Quarter ($W\frac{1}{2} SE\frac{1}{4}$) and the East Half of the Southwest Quarter ($E\frac{1}{2} SW\frac{1}{4}$) of Section 4, in Township 21 South, Range 24 East, Linn County, Kansas.
3. That the authorized source from which the appropriation shall be made is surface water from Big Sugar Creek to be diverted at a pumpsite located in the Southwest Quarter of the Northwest Quarter of the Northeast Quarter ($SW\frac{1}{4} NW\frac{1}{4} NE\frac{1}{4}$) of Section 4, more particularly described as being near a point 4,032 feet North and 2,614 feet West of the Southeast corner of said section, in Township 21 South, Range 24 East, Linn 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 **3,000 gallons per minute (6.68 c.f.s.)** and to a quantity not to exceed **153 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 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. The required 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).

12. 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.

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

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

15. 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.

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 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.

18. That during the period July 1 through September 30, of each calendar year, no direct diversions of surface water shall occur unless written permission is obtained from the Chief Engineer, or the Chief Engineer's authorized representative.

19. That in order for you to pump water into your proposed marsh, you must complete a Compatible Use Agreement (CUA) application for water level management, and ultimately have it approved by the United States Department of Agriculture, Natural Resources Conservation Service.

20. 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 10 day of September, 2024, in Manhattan, Riley County, Kansas.

Lane P. Letourneau

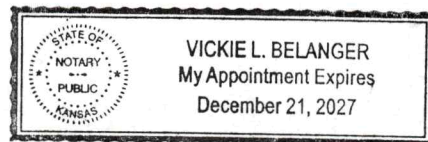
Lane P. Letourneau, P.G.
Water Appropriation Program Manager
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 10 day of September, 2024, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.

Vickie L. Belanger

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

September 13, 2024

JOSEPH GRAY
JRG GRAY KS HOLDINGS LLC
PO BOX 185
FAYETTEVILLE AR 72702

RE: Appropriation of Water
File Nos. 51,005 & 51,006

Dear Mr. Gray:

Enclosed are permits authorizing you to proceed with construction of the proposed diversion works and to appropriate water for beneficial use. Your attention is directed to the enclosures and to the terms, conditions, limitations, and requirements specified in each permit, with specific reference to Paragraph 19 for File No. 51,005.

Notices must be filed on the enclosed forms 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 the permit(s). If you need an extension of time, you must request it before the deadline for completion set forth in the permits. Any request for an extension of time must be accompanied by the statutorily required fee, which is currently \$100.00, per file number.

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 applications constitutes permits to appropriate water. They do not give authority to construct any dam or other stream obstruction regulated by K.S.A. 82a-301 through 305a. They do 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 with your permits 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
Brent Turney

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 13 day of September, 2024, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File Nos. 51,005 and 51,006, dated September 10, 2024, were mailed postage prepaid, first class, US mail to the following:

Original to:

JRG GRAY KS HOLDINGS LLC
PO BOX 185
FAYETTEVILLE AR 72702

With photocopies to:

KDA-DWR Topeka Field Office

BRENT TURNEY
USDA FSA
3020 W 18TH AVE STE B
EMPORIA KS 66801-6192



Division of Water Resources