



File No. **50,329**      15. Formation Code:      Drainage Basin: **N F SOLOMON RIVER**      County: **NT**      Special Use:      Stream: **NF Solomon R**

16. Points of Diversion										17. Rate and Quantity					
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>87816</b>			<b>SE SE NE</b>	<b>24</b>	<b>5S</b>	<b>24W</b>	<b>5</b>	<b>3039</b>	<b>412</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>none</b>
<b>STRUCTURES PERMIT DNT-0068</b>															

18. Storage: Rate \_\_\_\_\_ NF      Quantity **861** ac/ft      Additional Rate \_\_\_\_\_ NF      Additional Quantity **861** 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 \_\_\_\_\_      Date Acceptable Meter Installed \_\_\_\_\_

21. Place of Use	NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg? NO	Overlap Files			
	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
<b>MOD 69746</b>					<b>24</b>	<b>5S</b>	<b>24W</b>	<b>7</b>	<b>reservoir 44.8 ac (NE¼ &amp; SE¼)</b>												<b>7a.</b>	<b>no</b>	<b>none</b>
<b>MOD 69747</b>					<b>19</b>	<b>5S</b>	<b>23W</b>	<b>4</b>	<b>reservoir 8.0 ac (SW¼)</b>												<b>7a.</b>	<b>no</b>	<b>none</b>

Comments: **Reservoir located in a closed area, application requires a waiver of 5-3-11(5)(c) (d)(5)**

6/23/2020  
 KAB

**KANSAS DEPARTMENT OF AGRICULTURE**  
**Division of Water Resources**  
**M E M O R A N D U M**

**TO:** Files

**DATE:** June 9, 2020

**FROM:** Kris Neuhauser

**RE:** New Application, File No. 50,329

The City of Lenora has filed the above-referenced new application to appropriate 861 acre-feet of surface water storage at a rate not to exceed natural flows of North Fork Solomon River for recreational use in an existing reservoir. The application is designed to cover the indirect use of water (evaporation + seepage) from a reservoir located in the Northeast Quarter of Section 24, in Township 5 South, Range 24 West, Norton County, Kansas. Based on information in the associated structures permit, the reservoir was built in 1937. The point of diversion represents the point at which the center of the dam intersects the stream, and a representative of the applicant has signed the form stating they have access to this point of diversion. The reservoir is already permitted by the DWR Water Structures Program under File No. DNT-0068.

Three landowners within ½ mile upstream and downstream of the point of diversion were notified on May 8, 2020. On May 18, 2020, John George sent an email regarding the notification letter he received. A follow up phone conversation took place on the same day, during which Mr. George was given a full explanation of the application. After hearing further details, Mr. George did not submit any concerns or complaints towards the application.

The total requested quantity of 861 acre-feet appears to be reasonable, based on K.A.R. 5-6-5, the existing structures permit, and the surface area of the reservoir. There will not need to be an initial fill for the reservoir. (The potential net evaporation based on K.A.R. 5-6-3, for Township 5 South, Range 24 West, is 35 inches).

$52.8 \text{ surface acres} \times 35 \text{ inches potential net evaporation} / 12 \text{ inches} = 154 \text{ acre-feet (1 year of evap)}$

$154 \text{ AF} \times 3 \text{ years of evap} = 462 \text{ AF}$

$462 \text{ AF (evap)} + 399 \text{ (seepage)} = 861 \text{ AF total quantity}$

Since this reservoir is located in a closed area, the application will require a waiver of 5-3-11(5)(C).

There are three other permitted surface water rights within 2 miles upstream of the point of diversion, and no surface water rights downstream for over 10 miles. No senior water rights should be impacted in any way. As noted above, this is an existing reservoir, and the appropriation permit is merely to authorize the on-going beneficial recreational use of water from the reservoir.

Mark Billinger, Assistant Water Commissioner of the Stockton Field Office, recommended approval of the application in an email conversation on June 11, 2020

Based upon the above discussion, the structure has been properly permitted under DWR water structures program, approval will bring this beneficial use of water into compliance, and there is no indication that the proposed beneficial use of water will impair existing water rights, it is recommended that the referenced application be approved with a waiver of 5-3-11(5)(C).



Kris Neuhauser  
Environmental Scientist  
Water Appropriation Program

**From:** Billinger, Mark [KDA]  
**Sent:** Thu 6/11/2020 8:32 AM  
**To:** Neuhauser, Kris [KDA];Stewart, Kelly [KDA]  
**Subject:** RE: New App 50329

Kris,  
Kelly is out this week on vacation. We have no objections to the approval of this application.

Thank you for your time and work on this.

Mark Billinger  
Assistant Water Commissioner  
Stockton Field Office  
Division of Water Resources  
Kansas Department of Agriculture  
[mark.billinger@ks.gov](mailto:mark.billinger@ks.gov)  
785-425-6787

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**From:** Neuhauser, Kris [KDA] <Kris.Neuhauser@ks.gov>  
**Sent:** Wednesday, June 10, 2020 11:16 AM  
**To:** Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>  
**Cc:** Billinger, Mark [KDA] <Mark.Billinger@ks.gov>  
**Subject:** New App 50329

Kelly,

Here is New App 50329 for your recommendation. Mark, Kristen, and I had a zoom call recently to discuss this one.

My memo is attached above. Let me know if you have any questions or need anything else.

Thanks!

Kris

Kansas Department of Agriculture  
 Division of Water Resources  
**WAIVER REQUEST & WAIVER RULE WORKSHEET**

File Number: 50329

FO: 3

GMD:

**WAIVER REQUEST:**

UMW	Date Requested	Rule ID	Applies	Rule Type	Rule Subtype
REC	12/23/2019	140	Statewide	Safe Yield	Closed Hydrologic Units
Rule Number	Date Granted	Date Denied	Justification:	The reservoir has been in existence since 1937, when a dam was constructed on North Fork Solomon River. The existing structure is permitted by the Division of Water Structures (DNT-0068). No complaint or other issues pertaining to this structure are known. The reservoir needs to have a Water Right for indirect use.	
K.A.R. 5-3-11(5)(C)	7/1/2020				

**WAIVER RULE (complete only if a new rule needs to be created):**

Rule ID	Applicability	Type	Subtype	Rule Number	Date Active	Date Inactive
				K.A.R.		

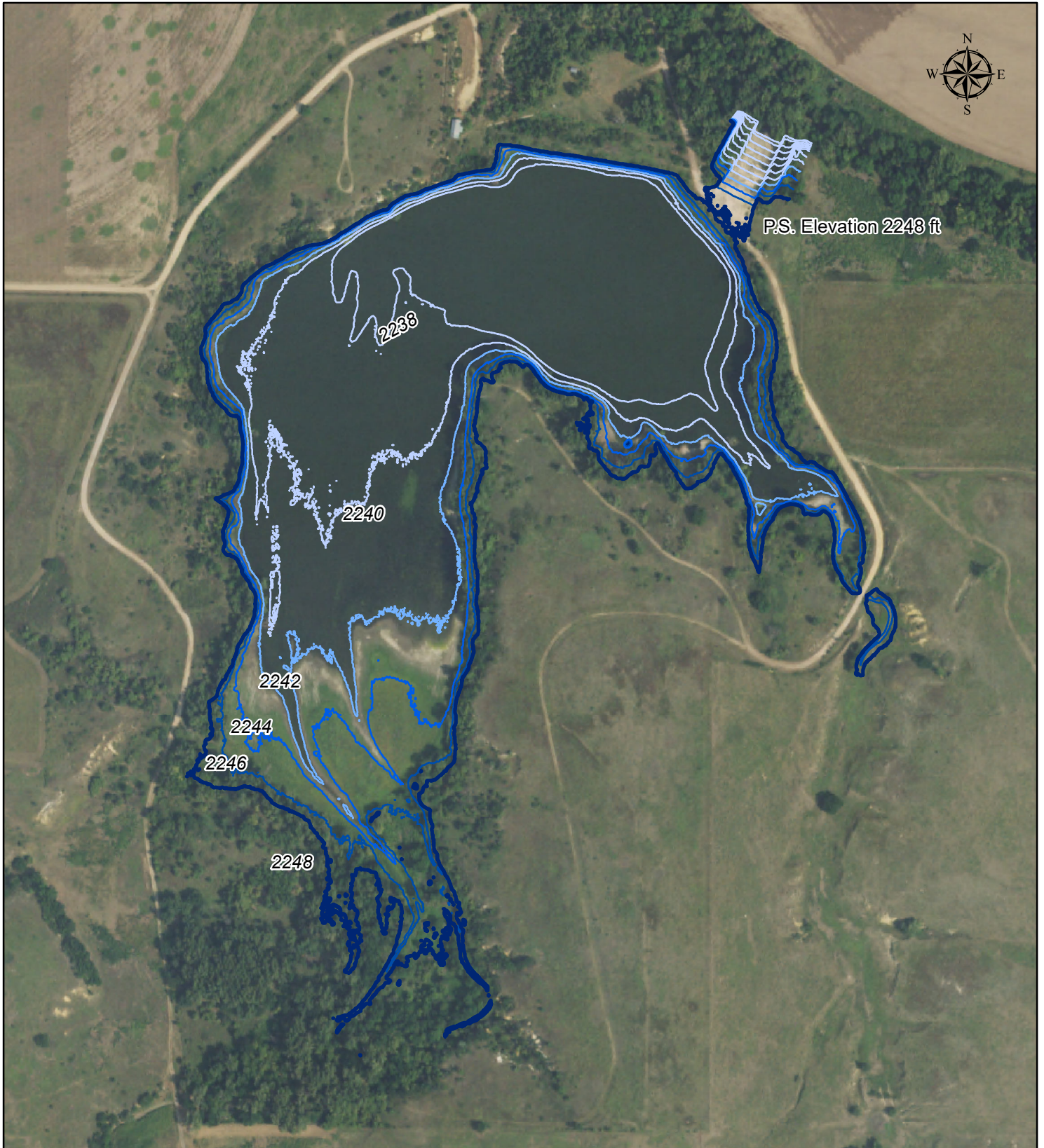
**COMMENTS: Will not be a new rule**

6/23/2020  
KAB

Date Prepared 6/12/2020 By KJN

Date Entered 7/6/2020  
LMoody By \_\_\_\_\_

Cutting Lake, Lenora City Park  
2015 LIDAR elevations of Primary Spillway Area



1:5,000

2 foot contours interpolated from USGS LiDAR survey done in 2015.  
Map Created by Kansas Department of Agriculture, Division of Water Resources, Stockton Field Office  
12/20/19

**KJN 6/12/20**  
**Made by Mark Billinger\***

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

CITY OF LENORA  
PO BOX 331  
LENORA, KS 67645-0331

RE: Appropriation of Water, File No. 50,329

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 Stockton Field Office at 785-425-6787. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

Kristen A. Baum  
New Application Unit Supervisor  
Division of Water Resources

KAB: kjn  
Enclosure(s)

pc: Stockton Field Office

THE STATE OF KANSAS



**KANSAS DEPARTMENT OF AGRICULTURE**  
Mike Beam, Secretary of Agriculture

**DIVISION OF WATER RESOURCES**  
Christopher W. Beightel, Acting Chief Engineer

**WAIVER OF REGULATION**  
**K.A.R. 5-3-11(d)(5) Closed hydrologic units**

Date: July 1, 2020

RE: Appropriation of Water, File No. 50,329

1. That K.A.R. 5-3-11(d)(5) states: The following hydrologic units, which have been determined by the chief engineer to be fully appropriated based on the safe yield criteria, shall be closed to further new surface water and groundwater appropriations except for domestic use, temporary permits, and term permits for five years or less:
2. That K.A.R. 5-3-11(d)(5)(C) states: North Fork Solomon River, its tributaries and their valley alluviums, and any other aquifer that has a substantial hydraulic connection to an alluvium.
3. That New Application, File No. 50,329 has been filed to permit an existing reservoir on the North Fork Solomon River, which was permitted by the Division of Water Structures under DNT-0068 in 1937.
4. That this reservoir has existed since 1937 and would've met the regulations to be permitted by Appropriations prior to closure of the area.
5. That no compliant or other issues pertaining to this structure are known, and that a waiver of K.A.R. 5-3-11(d)(5) will not prejudicially or unreasonably affect the public interest.

Comments:



*Christopher W. Beightel*

Christopher W. Beightel, P.E.  
Acting Chief Engineer  
Division of Water Resources  
Kansas Department of Agriculture



THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE  
Mike Beam, Secretary of Agriculture

DIVISION OF WATER RESOURCES  
Christopher W. Beightel, Acting Chief Engineer

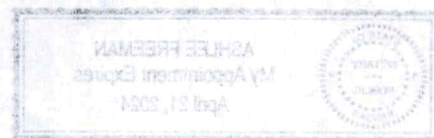
APPROVAL OF APPLICATION  
and  
PERMIT TO PROCEED  
(This Is Not a Certificate of Appropriation)

This is to certify that I have examined Application, **File No. 50,329** of the applicant

CITY OF LENORA  
PO BOX 331  
LENORA, KS 67645-0331

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 **December 23, 2019**.
2. That the water sought to be appropriated shall be used for recreational use at a reservoir located in the Southwest Quarter (SW $\frac{1}{4}$ ) of Section 19, Township 5 South, Range 23 West, and the Northeast and Southeast Quarters (NE $\frac{1}{4}$ , SE $\frac{1}{4}$ ) of Section 24, Township 5 South, Range 24 West, Norton County, Kansas.
3. That the appropriation sought shall be limited to all natural flows of the North Fork Solomon River, not needed to satisfy all vested rights and prior appropriation rights to be stored to a maximum extent of **861 acre-feet** per calendar year, in a reservoir created by a dam located in the Southeast Quarter of the Southeast Quarter of the Northeast Quarter (SE $\frac{1}{4}$  SE $\frac{1}{4}$  NE $\frac{1}{4}$ ) of Section 24, more particularly described as being near a point 3,039 feet North and 412 feet West of the Southeast corner of said section, in Township 5 South, Range 24 West, Norton County, Kansas, located substantially as shown on the topographic map accompanying the application.
4. That the structure creating the above referenced reservoir has been assigned Division of Water Resources Structures Permit No. DNT-0068
5. That installation of works for diversion of water shall be completed on or before **December 31, 2021**, or within any authorized extension thereof. The applicant shall notify the Chief Engineer and pay the statutorily required field inspection fee, which is currently \$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 accompanied by the required statutory fee, which is currently \$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, 2025**, 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, which is currently \$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 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.

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

13. 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.

14. 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 1 day of July, 2020, in Manhattan, Riley County, Kansas.

*Christopher W. Beightel*

Christopher W. Beightel, P.E.  
Acting Chief Engineer  
Division of Water Resources  
Kansas Department of Agriculture

State of Kansas )  
                                  ) SS  
County of Riley )

The foregoing instrument was acknowledged before me this 1<sup>st</sup> day of July, 2020, by Christopher W. Beightel, P.E., Acting Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.



*Ashlee Freeman*  
Notary Public

**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.

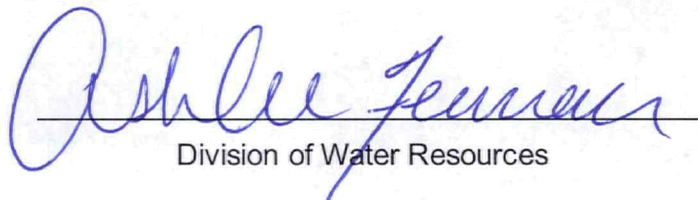
**CERTIFICATE OF SERVICE**

On this 8 day of July, 2020, I hereby certify that the foregoing Approval of Application, File No. 50,329, dated 1 July 2020 was mailed postage prepaid, first class, US mail to the following:

CITY OF LENORA  
PO BOX 331  
LENORA, KS 67645-0331

With photocopies to:

Stockton Field Office

  
Division of Water Resources