

File No. 50,573	15. Formation Code: 210	Drainage Basin: N F SOLOMON	County: NT	Special Use:	Stream:																																																																											
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td colspan="10" style="width:50%; vertical-align: top;"> 16. Points of Diversion T MOD DEL PDIV ENT Qualifier S T R ID 'N 'W </td> <td colspan="5" style="width:50%; vertical-align: top;"> 17. Rate and Quantity Authorized Additional Rate gpm Quantity af Rate gpm Quantity af BATT ID # Overlap PD Files </td> </tr> <tr> <td colspan="10" style="background-color: yellow;"> ENT 89556 NW NW NW 10 5S 23W 5037 4925 (GEO) </td> <td colspan="5"> 800 114 800 114 none </td> </tr> <tr> <td colspan="10"> CHK 88781 NW NW NW 10 5S 23W 4 5116 4856 1 </td> <td colspan="5"></td> </tr> <tr> <td colspan="10"> CHK 88782 NW NW NW 10 5S 23W 5 4875 4774 2 </td> <td colspan="5" style="text-align: center; color: purple;"> BATT ID #2299 </td> </tr> <tr> <td colspan="10"> CHK 88783 NW NW NW 10 5S 23W 6 5119 5146 3 </td> <td colspan="5"></td> </tr> </table>						16. Points of Diversion T MOD DEL PDIV ENT Qualifier S T R ID 'N 'W										17. Rate and Quantity Authorized Additional Rate gpm Quantity af Rate gpm Quantity af BATT ID # Overlap PD Files					ENT 89556 NW NW NW 10 5S 23W 5037 4925 (GEO)										800 114 800 114 none					CHK 88781 NW NW NW 10 5S 23W 4 5116 4856 1															CHK 88782 NW NW NW 10 5S 23W 5 4875 4774 2										BATT ID #2299					CHK 88783 NW NW NW 10 5S 23W 6 5119 5146 3														
16. Points of Diversion T MOD DEL PDIV ENT Qualifier S T R ID 'N 'W										17. Rate and Quantity Authorized Additional Rate gpm Quantity af Rate gpm Quantity af BATT ID # Overlap PD Files																																																																						
ENT 89556 NW NW NW 10 5S 23W 5037 4925 (GEO)										800 114 800 114 none																																																																						
CHK 88781 NW NW NW 10 5S 23W 4 5116 4856 1																																																																																
CHK 88782 NW NW NW 10 5S 23W 5 4875 4774 2										BATT ID #2299																																																																						
CHK 88783 NW NW NW 10 5S 23W 6 5119 5146 3																																																																																
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) NONE* Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____																																																																																
20. Meter Required? x Yes No To be installed by _____ Date Acceptable Meter Installed _____																																																																																
21. Place of Use		NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg? NO	Overlap Files																																																											
T MOD DEL ENT PUSE S T R ID		NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼																																																															
CHK 17601 10 5S 23W 1		35	2	2	35			27	7	23	25	14	35			1		206	7a	no 25459, 32081, 35123																																																												
CHK 29532 9 5S 23W 1		18	11	22	33													84	7a	no 25459, 32081, 35123																																																												

Comments:

* LI/DWR

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: May 10, 2022

FROM: Kris Neuhauser

RE: Application, File No. 50,573

Robert Clydesdale Living Trust has filed the referenced new application to appropriate 114 acre-feet of groundwater at a maximum diversion rate of 800 gallons per minute, from a battery of three wells. The wells will be represented by the geocenter of the battery, located in the Northwest Quarter of Section 10, Township 5 South, Range 23 Norton County, Kansas. The applicant has signed the application form stating he has access to the point of diversion

The place of use is a total of 290 acres, located in Sections 9 and 10, both in Township 5 South, Range 23 West, Norton County, Kansas. This place of use forms a complete overlap with existing Water Right, File Nos. ~~25,439; 32,801~~; and 35,123. Approval of the application will increase the maximum reasonable quantity to 1.5 acre-feet per acre when combined with these existing water rights. File No. 50,537 will be limited to 435 acre-feet when combined with Water Right, File Nos. ~~25,439; 32,801~~; and 35,123.

25459 149 AF
32081 132 AF
35123 40 AF

Existings total 321 AF + 114 = 435 AF or 1.5 AF on 290 acres *

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 circle radius of the point of diversion, which establishes the area of consideration. For this application, the area of consideration (Ogallala Aquifer) provided an area of consideration of 4,389 acres, with a potential annual recharge of 1.0 inches, and 75% of recharge available for appropriation, safe yield was determined to be 274.28 acre-feet. Existing water rights have appropriated 0 acre-feet, providing a difference of 274.28 acre-feet of water available for appropriation. The application requesting 114 acre-feet complies with safe yield criteria.

A closed and restricted area is present within the area of consideration, these areas were cropped out accordingly. Based on LIDAR, existing water rights nearby, and test hole logs provided with the application, the source of supply appears to be the Ogallala Formation.

According to WRIS, the closest non-domestic well is authorized by Water Right, File No. 32,410, which is also owned by the applicant. The closest domestic is over 1,200 feet away, which is owned by the applicant as well. Therefore, according to K.A.R. 5-4-4, minimum well spacing criteria is met.

One domestic well was identified within a half mile of the proposed battery. A nearby letter was mailed on January 31, 2022. No response of any kind was received.

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.

In an email conversation on May 12, 2022, Kelly Stewart, Water Commissioner, Stockton Field Office, recommended approval of the referenced application.

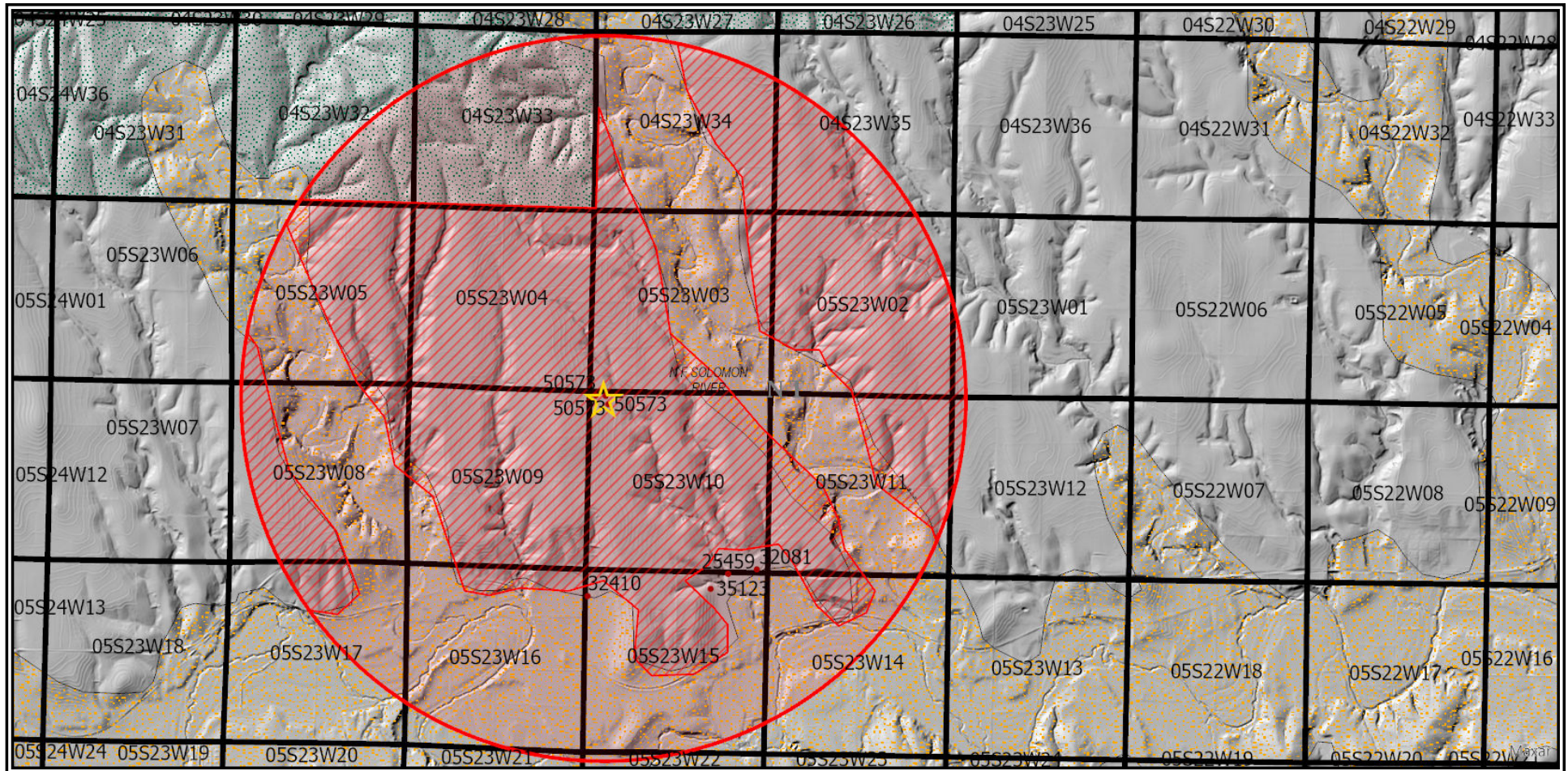
Based on the above discussion, well spacing and safe yield criteria are met, and approval of the new application will not impair senior water rights nor prejudicially or unreasonably affect the public interest. Therefore, it is recommended that the referenced new application be approved.



Kris Neuhauser

New Applications Lead
Water Appropriation Program

Safe Yield Report Sheet
Water Right- Proposed Point of Diversion
Point of Diversion in 10-05S-23W
Footages from SE corner- 5,037 feet North 4,925 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 274.28 AF.

Total prior appropriations in the circle is 114.00 AF. **- 114 AF = 0 AF**

Total quantity of water available for appropriation is ~~160.28 AF~~: **274.28 AF AVAILABLE***

Safe Yield Variables

The area used for the analysis is set at 4,389 acres.

The potential annual recharge at the circle center is estimated to be 1.0 inches.

The percent of recharge available for appropriation is 75%.

Authorized Quantity values are as of 11-MAY-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 is 1 water right and 3 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 50573 00	IRR	AY	G		NW	NW	NW	5116	4856	10	05	23W	4	WR	114.00	114.00	290.00	0.00
Same	IRR	AY	G		NW	NW	NW	4875	4774	10	05	23W	5	WR				
Same	IRR	AY	G		NW	NW	NW	5119	5146	10	05	23W	6	WR				

From: Stewart, Kelly [KDA]
Sent: Thu 5/12/2022 12:28 PM
To: Neuhauser, Kris [KDA]
Cc: Billinger, Mark [KDA];Hageman, Nancy [KDA]
Subject: RE: 50573 recommendation request

Kris,

I agree with your safe-yield procedure and I recommend approval of the application.

Kelly

From: Neuhauser, Kris [KDA] <Kris.Neuhauser@ks.gov>
Sent: Thursday, May 12, 2022 12:08 PM
To: Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>
Cc: Billinger, Mark [KDA] <Mark.Billinger@ks.gov>
Subject: 50573 recommendation request

Kelly,

Attached is my safe yield report and draft memo for new app 50573. As per my teams messages, let me know if you agree with the SY report. Right now I excluded the existing water rights to the south as they are not considered Ogallala via WRIS. If you'd like to dive further into the logs for those existing WR's, to determine if they source Ogallala as well, I have the WWC5's handy. Would obviously alter the SY if we include some in the area of consideration.

Kris

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 PERMIT TO PROCEED

(This Is Not a Certificate of Appropriation)

This is to certify that I have examined Application, **File No. 50,573** of the applicant

**ROBERT CLYDESDALE LIVING TRUST
26148 CENTER RD
EDMOND, KS 67645**

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 26, 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	
10	5S	23W	35	2	2	35			27	7	23	25	14	35			1		206
9	5S	23W	18	11	22	33													84

3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of a battery of three (3) wells, with a geographical center located in the Northwest Quarter of the Northwest Quarter of the Northwest Quarter (NW¼ NW¼ NW¼) of Section 10, more particularly described as being near a point 5,037 feet North and 4,925 feet West of the Southeast corner of said section, in Township 5 South, Range 23 West, Norton 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 **800 gallons per minute (1.78 c.f.s.)** and to a quantity not to exceed **114 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, 2023** or within any authorized extension thereof. The applicant shall notify the Chief Engineer and pay the statutorily required field inspection fee of \$400.00 when construction of the works has been completed. Failure to timely submit the notice and the fee will result in revocation of the permit. Any request for an extension of time shall be submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee of \$100.00.

6. That the proposed appropriation shall be perfected by the actual application of water to the proposed beneficial use on or before **December 31, 2027** or any authorized extension thereof. Any request for an extension of time shall be submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee of \$100.00.

7. That the applicant shall not be deemed to have acquired a water appropriation for a quantity in excess of the amount approved herein nor in excess of the amount found by the Chief Engineer to have been actually used for the approved purpose during one calendar year subsequent to approval of the application and within the time specified for perfection or any authorized extension thereof.

8. That the use of water herein authorized shall not be made so as to impair any use under existing water rights nor prejudicially and unreasonably affect the public interest.

9. That the right of the appropriator shall relate to a specific quantity of water and such right must allow for a reasonable raising or lowering of the static water level and for the reasonable increase or decrease of the streamflow at the appropriator's point of diversion.

10. That this permit does not constitute authority under K.S.A. 82a-301 through 305a to construct any dam or other obstruction; nor does it grant any right-of-way, or authorize entry upon or injury to, public or private property.

11. That all diversion works constructed under the authority of this permit into which any type of chemical or other foreign substance will be injected into the water pumped from the diversion works shall be equipped with an in-line, automatic quick-closing, check valve capable of preventing pollution of the source of the water supply. The type of valve installed shall meet specifications adopted by the Chief Engineer and shall be maintained in an operating condition satisfactory to the Chief Engineer.

12. That all wells with a diversion rate of 100 gallons per minute or more drilled under the authority of this permit shall have a tube or other device installed in a manner acceptable to, and in accordance with specifications adopted by, the Chief Engineer. This tube or device shall be suitable for making water level measurements and shall be maintained in a condition satisfactory to the Chief Engineer.

13. That acceptable water flow meters 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 failure without cause to comply with provisions of the permit and its terms, conditions and limitations will result in the forfeiture of the priority date, revocation of the permit and dismissal of the application.

17. That the right to appropriate water under authority of this permit is subject to any minimum desirable streamflow requirements identified and established pursuant to K.S.A. 82a-703c for the source of supply to which this water right applies.

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

Ordered this *25* day of *May*, 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 *25* day of *May*, 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

June 6, 2022

ROBERT CLYDESDALE LIVING TRUST
26148 CENTER RD
EDMOND, KS 67645

RE: Appropriation of Water, File No. 50,573

Dear Applicant:

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.

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 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 Applications and Changes Supervisor
Division of Water Resources

KAB: kjn:li
Enclosure(s)

pc: Stockton Field Office

RIGHT TO A HEARING AND TO ADMINISTRATIVE REVIEW

If you are aggrieved by this Order, then pursuant to K.S.A. 82a-1901, you may:

- 1) request an evidentiary hearing before the Chief Engineer, or
- 2) request administrative review by the Secretary of Agriculture.

Failure to request an evidentiary hearing before the Chief Engineer does not preclude your right to administrative review by the Secretary. To obtain an evidentiary hearing before the Chief Engineer, a written request for hearing must be filed within 15 days after service of this Order as provided in K.S.A. 77-531 (i.e., **within a total of 18 days after this Order was mailed to you**), with: Kansas Department of Agriculture, Attn: Legal Section, 1320 Research Park Drive, Manhattan, Kansas 66502, FAX (785) 564-6777.

If you do not file a request for an evidentiary hearing before the Chief Engineer, you may petition for administrative review of the Order by the Secretary of Agriculture. A petition for review shall be in writing and state the basis for requesting administrative review. The request for hearing may be denied if the request fails to clearly establish factual or legal issues for review. See K.S.A. 77-527. The petition must be filed within 30 days after service of this Order as provided in K.S.A. 77-531 (i.e., **within a total of 33 days after this Order was mailed to you**), and be filed with: Secretary of Agriculture, Attn: Legal Division, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, FAX (785) 564-6777.

If neither a request for an evidentiary hearing nor a petition for administrative review is filed as set forth above, then this Order shall be effective and become a final agency action as defined in K.S.A. 77-607(b). Failure to timely request either an evidentiary hearing or administrative review may preclude

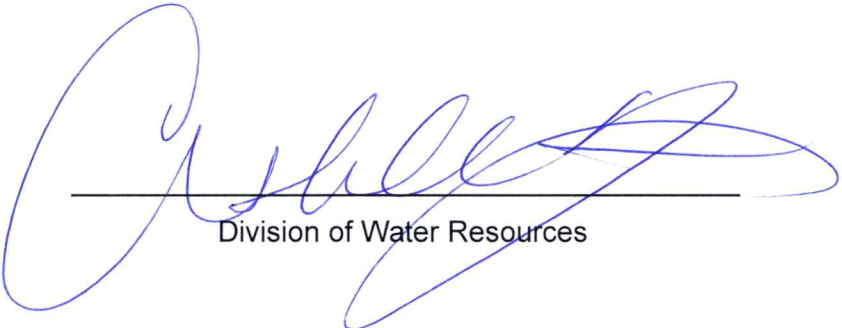
CERTIFICATE OF SERVICE

On this 6 day of June, 2022, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,573, dated 25 May, 2022, was mailed postage prepaid, first class, US mail to the following:

ROBERT CLYDESDALE LIVING TRUST
26148 CENTER RD
EDMOND, KS 67645

With photocopies to:

Stockton Field Office



Division of Water Resources