

File No. 51140	13. County: EL - Ellis Basin: 17 - Smoky Hill River Stream: ---		
Structures File No: ---	Aquifer Code: 340 Dakota Aquifer System (confined)	Special Use Area: N/A	

14. Points of Diversion, Rates & Quantities										Qty mg		Rate gpm		Storage Qty		Storage Rate		
PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Auth	Add	Auth	Add	Auth	Add	Auth/Add	Overlaps		
CHK	90677	NW	NW	NW	26	14	20W	1	5177	4712	4.0	4.0	45	45	---	---	---	None

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: **12/31/2026**

17. Place of Use										NE ¹ / ₄		NW ¹ / ₄		SW ¹ / ₄		SE ¹ / ₄		Total	Owner(s)	Chg?	Overlaps
PUSE	S	T	R	ID	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE					
																					<input type="checkbox"/>
																					<input type="checkbox"/>
																					<input type="checkbox"/>
																					<input type="checkbox"/>
MOD	71609	26	14	20W	Oilfield Water Dock (NW¹/₄ NW¹/₄ NW¹/₄)													5a	<input type="checkbox"/>	None	
																					<input type="checkbox"/>

18. Point of Diversion and Place of Use Overlaps

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

File Number: 51,140

FO: **03**

GMD:

WAIVER REQUEST:

UMW	Date Ext Requested	Rule ID	Applies	Rule Type	Rule Subtype
IND	11/21/2023	4	Statewide	Well Spacing Domestic	Confined Dakota
Rule Number	Date Granted	Date Denied	Justification:	One domestic well falls within the allowable one-half mile radius of the proposed well under New Application, File No. 51,140. A domestic well spacing consent form was received from the domestic well owner. File No. 51,140 has a proposed low rate and quantity and is approximately 2,000 feet away, limiting potential impact.	
K.A.R. 5-4-4 (c)(2)(A)					

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

Rule ID	Applicability	Type	Subtype	Rule Number	Date Active	Date Inactive

Date Prepared 10/21/24 By **EKF**

Date Reviewed _____ By _____

Date Entered / By:

Comments: Will not be a new rule

MEMORANDUM TO FILE

Division of Water Resources, Water Appropriation Program

Date: October 21, 2024

From: Elizabeth K Fitch, Environmental Scientist

Re: New Application File No. 51,140 – Keith Pfannenstiel

Summary

File No. 51,140 is an application to appropriate groundwater from one (1) well sourced in the Confined Dakota Aquifer. The permit is to be used for industrial use within a 10-mile radius of the proposed point of diversion. There are no place of use or point of diversion overlaps and the applicant is also the owner of the point of diversion. **It should be noted that a waiver of well spacing will be required for this permit to be approved.**

Reasonable Rate and Quantity

File No. 51,140 is requesting 4,000,00 gallons (12.28 acre-feet) of groundwater per calendar year at a rate of 45 gallons per minute. In a discussion with the applicant, he indicated there are plans to install a storage tank to hold water for quick access. It appears that the quantity of water and rate of diversion requested are reasonable for this intended use.

Source of Supply and Safe Yield

As noted, the proposed point of diversion well log shows a source of supply in the Confined Dakota Aquifer, which is open to new groundwater appropriations. A safe yield analysis was run for a full 2-mile circle with a recharge of 0.9 inches and an availability of 40% based on current Dakota Aquifer safe yield procedures. The analysis indicates that there are no prior permits authorized in the Confined Dakota Aquifer. Therefore, the full safe-yield of 241.27 acre-feet is available for appropriation.

Nearby Water Rights

Only one well was identified within one-half mile of the proposed point of diversion. The identified well is for domestic use and also has a source in the Confined Dakota Aquifer. The proposed point of diversion does not meet the required spacing of one-half mile to the domestic well as defined by K.A.R. 5-4-4 *Well spacing*. As it is approximately 2,000 feet away. However, a signed and notarized Domestic Well Spacing Consent Form was received from the domestic well owner acknowledging that spacing will not be met. As this was the only well identified within one-half mile of the proposed point of diversion and the well spacing consent form was received, no nearby notification letters were sent. **A waiver will be required for failing to meet spacing to the domestic well. (Insert further discussion supporting waiver here)**

No permitted Confined Dakota Aquifer wells exist within four (4) miles of the proposed well, so spacing is met to permitted wells as required by the K.A.R. 5-4-4 *Well spacing*.

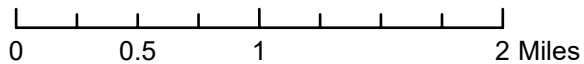
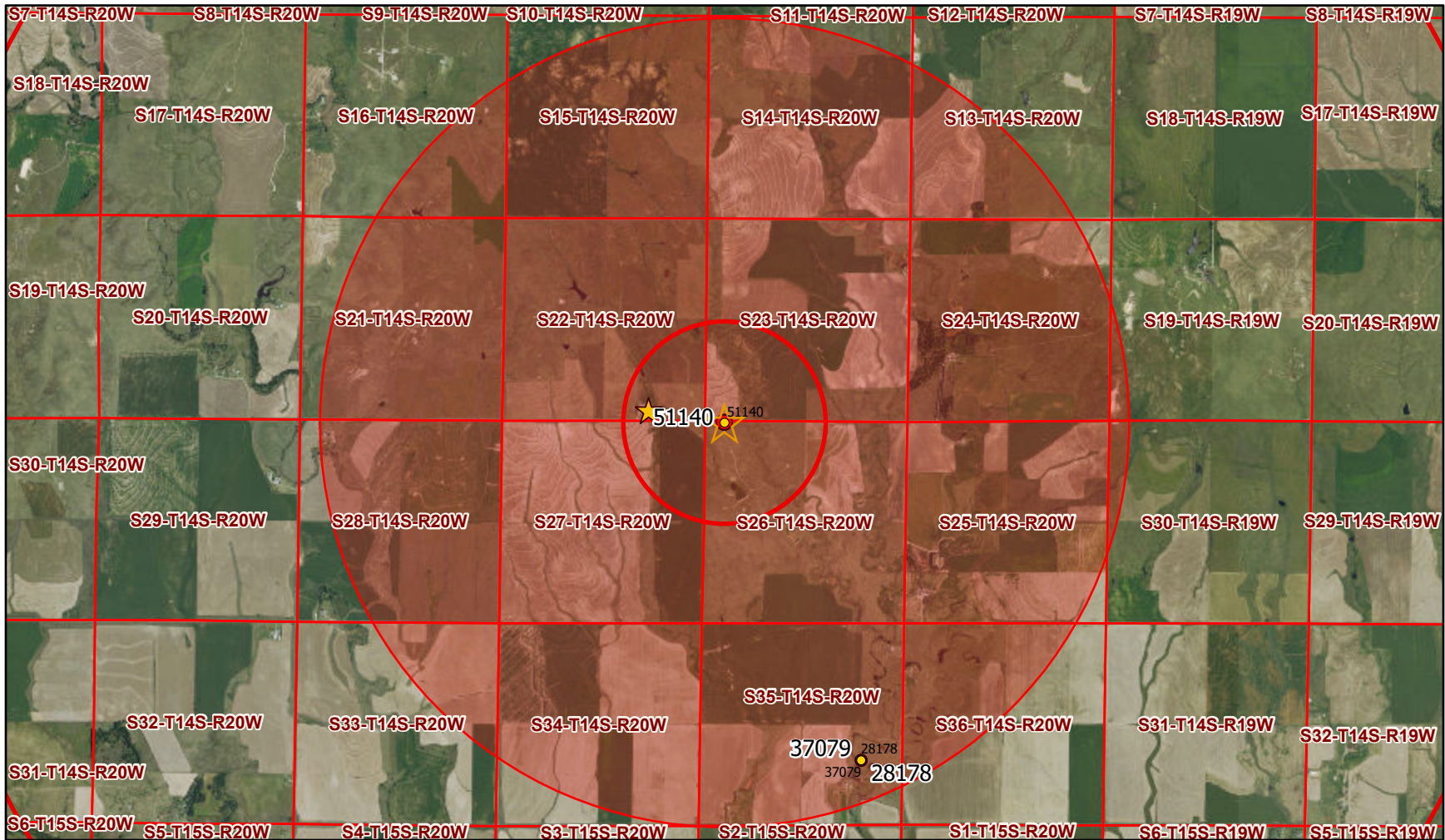
The proposed point of diversion is not located within a groundwater management district.

In an October 17, 2024 email, Kelly Stewart, Water Commissioner of the Stockton Field Office, recommended approval of the application for a permit to proceed for File No. 51,140, which includes **a recommendation that a waiver of K.A.R. 5-4-4(c)(2)(A) be granted** as the low rate and quantity of the well combined with the distanced from the domestic well will minimize any potential impacts.

Based on the above discussion, that with approval of a waiver of K.A.R. 5-4-4(b)(2)(A), the well is in an area open to new appropriations, meets safe yield, the proposed point of diversion complies with minimum spacing regulations to nearby permitted wells, and approval will not impair senior water rights, it is recommended that the referenced application be approved.

Elizabeth K Fitch
Environmental Scientist

Safe Yield Report Sheet
File No. 51140
Point of Diversion in 26-14S-20W
Footages from SE corner: 5177 feet North 4712 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 241.26 AF.
 Total prior appropriations in the circle is 62.27 AF. **-62.27 AF = 0 AF**
 Total quantity of water available for appropriation is 178.99 AF. **+ 62.27 AF = 241.26 AF**

SAFE YIELD VARIABLES

The area used for the analysis is calculated as 8042 acres. The radius is set at 2.0 miles.
 The potential annual recharge at the circle center is estimated to be 0.9 inches.
 The percent of recharge available for appropriation is 40%. **Confined Dakota Aquifer**

Authorized Quantity values are as of 2024-10-15 and are based on Appropriated and Vested ground water rights.
 Domestic, Term and Temporary water rights, and GMD #2 Stream Nodes have been excluded.
 There are 3 water rights and 2 points of diversion within the circle.

File Number	Use	ST	SR	DIST	Q4	Q3	Q2	Q1	FtN	FtW	S	TP	RN	ID	Aquifers	QBy	Auth_Qnt	Add_Qnt	
A	28178	IRR	NK	G	9505	SW	NE	SE	1665	1045	35	14	20W	1		WR	46.00	46.00	Smoky Hill Alluvium
A	37079	IND	NK	G	9505	SW	NE	SE	1665	1045	35	14	20W	1		WR	4.00	4.00	Smoky Hill Alluvium
A	51140	IND	AY	G	0	NW	NW	NW	5177	4712	26	14	20W	1		WR	12.28	12.28	pending app

File Number	Seq	Limitations
A	28178	1 O-LAP 7684 CEDAR BLUFF IRR DIST #6-113AF COM/W 7684 ON LAND/CERT

10/15/24
 EKF

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Secretary of Agriculture

DIVISION OF WATER RESOURCES
Earl D. Lewis Jr., Chief Engineer

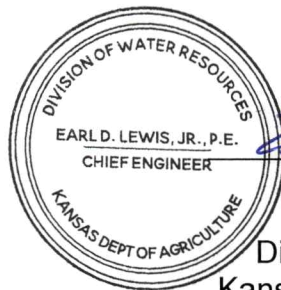
WAIVER OF REGULATION
K.A.R. 5-4-4 (c)(2)(A) Well Spacing

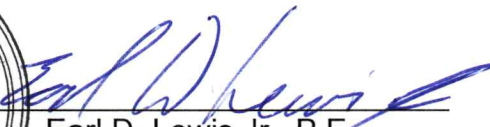
Date: February 7, 2025

Re: Application, File No. 51,140

1. That K.A.R. 5-4-4(c)(2)(A) requires a minimum well spacing of one-half mile (2,640 feet) to domestic wells whose common source of supply is a confined aquifer system.
2. That the well under the above referenced application does not meet the minimum well spacing criteria as required by K.A.R. 5-4-4(c)(2)(A) because it is located approximately 2,000 feet from a domestic well in the same source.
3. That the well is close to meeting spacing to File No. 51,140 (approximately 640 feet short) which is the only well it fails to meet spacing too.
4. That the requested rate of diversion is low (45 gallons-per-minute) which should help limit the application's potential impact on any nearby wells.
5. That the domestic well owner signed a Domestic Well Spacing Consent Form, acknowledging that the propose well does not meet the spacing required by K.A.R. 5-4-4(c)(2)(A).
6. That a waiver of K.A.R. 5-4-4(c)(2)(A) will not prejudicially or unreasonably affect the public interest and should not impair any existing water rights.

Comments:




Earl D. Lewis Jr., P.E.
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
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. 51,140** of the applicant

**KEITH PFANNENSTIEL
974 MOUNT PLEASANT RD
HAYS KS 67601**

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 **November 21, 2023**.
2. That the water sought to be appropriated shall be used for industrial use, with a point of sale in the Northwest Quarter of the Northwest Quarter of the Northwest Quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 26, Township 14 South, Range 20 West, Ellis County, Kansas.
3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by a one (1) well located in the Northwest Quarter of the Northwest Quarter of the Northwest Quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 26, more particularly described as being near a point 5,177 feet North and 4,712 feet West of the Southeast corner of said section, in Township 14 South, Range 20 West, Ellis 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 **45 gallons per minute (0.10 c.f.s.)** and to a quantity not to exceed **4.0 million gallons of water (12.28 acre-feet)** for any calendar year.
5. That installation of works for diversion of water shall be completed on or before **December 31, 2026**, 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, 2030**, 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 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 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).

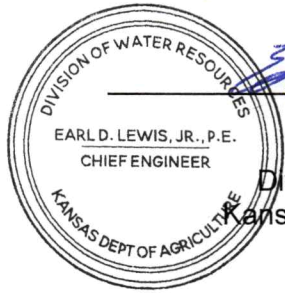
13. That the applicant shall maintain accurate and complete records from which the quantity of water diverted during each calendar year may be readily determined and the applicant shall file an annual water use report with the Chief Engineer by March 1 following the end of each calendar year. Failure to file the annual water use report by the due date shall cause the applicant to be subject to a civil penalty.

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

15. 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.

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

Ordered this 7th day of February, 2025, in Manhattan, Riley County, Kansas.



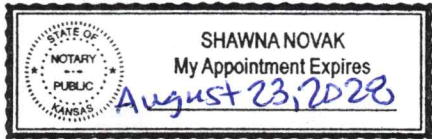
Earl D. Lewis Jr.
Earl D. Lewis Jr., P.E.
Chief Engineer
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 7th day of February, 2025, by Earl D. Lewis Jr., P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.

Shawna Novak

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

February 14, 2025

KEITH PFANNENSTIEL
974 MOUNT PLEASANT RD
HAYS KS 67601

RE: Appropriation of Water
File No. 51,140

Dear Mr. Pfannenstiel:

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.

Also included with your permit 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 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:kak:ekf
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 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 *14th* day of *February*, 2025, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 51,140, dated *February 7*, 2025, was mailed postage prepaid, first class, US mail to the following:

KEITH PFANNENSTIEL
974 MOUNT PLEASANT RD
HAYS KS 67601

With photocopies to:

KDA-DWR Stockton Field Office



Division of Water Resources