

File No. 50,326	15. Formation Code: 600	Drainage Basin: NEOSHO RIVER	County: AL	Special Use:	Stream:																
16. Points of Diversion			17. Rate and Quantity																		
T MOD DEL ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Authorized	Additional	Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files						
√	87769	SE SW NE	31	24	19E	2	3210	1720	NE	3.33	NE	3.33	NONE								
AKA West Pit																					
4/27/2020 KAB																					
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) _____ Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____																					
20. Meter Required? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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				
MOD	69705	31	24	19E	1	8 ACRE GROUNDWATER PIT (SW NE)												7a.	NO	NONE	
Comments:																					

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: January 21, 2020

FROM: Doug Schemm

RE: Application, File Nos. 50,325 and 50,326

The referenced applications have been filed by The Diamond Trust %John Sigg to appropriate groundwater for recreational use at two adjacent groundwater pits. File No. 50,325 is requesting 5 acre-feet of water to cover natural evaporative loss from the surface of a groundwater pit with an exposed surface area size of 12 acres. File No. 50,326 is requesting 3.33 acre-feet of water to cover natural evaporative loss from the surface of a groundwater pit with an exposed surface area size of 8 acres. The pits are located within the Neosho River basin. The applicant has signed the application forms stating he has legal access to the points of diversion. The pits are located in the Northeast Quarter of Section 31, Township 24 South, Range 19 East, in Allen County.

Note that these unpermitted pits were brought to the attention of DWR, in a September 12, 2019 telephone call from David Clark an attorney representing John Sigg the pit owner, when he informed us that a homeowner on the edge of the pit was pumping water from the pit. DWR then determined that both pits were unauthorized for evaporation of groundwater, and the dewatering activity was also unauthorized. DWR Parsons Field Office staff subsequently visited the site on October 7, 2019, but did not observe any pumping occurring during the site visit. The home owner (Debbie Conger) was present during the site visit, and was provided with a draft term permit application for dewatering, which is required to authorize pumping from the pit. On November 25, 2019, Mr. Clark provided site photos and a video showing a pump on the edge of the groundwater pit and water being pumped from the pit. He also provided a warranty deed that describes the Conger property and the deed states that: "together with the non-exclusive right to use such lake in common with others owning land abutting on said lake."

Both the homeowners conducting the dewatering (Congers) and Mr. Sigg were sent 15-day illegal diversion letters along with draft applications on November 26, 2019. The Congers submitted their required term permit application, File No. 20199074 for dewatering on December 9, 2019. Mr. Sigg submitted these two required appropriation applications for evaporation of groundwater (File Nos. 50,325 and 50,326) on December 10, 2019. File Nos. 20199074 and 50,325 overlap in point of diversion (geo-center of groundwater pit).

Potential net evaporation in inches, based on K.A.R. 5-6-3, is 5 inches; therefore the natural evaporation can be estimated as follows:

East Pit: 12 acres x 5 inches of evaporation / 12 inches = 5 acre-feet

West Pit: 8 acres x 5 inches of evaporation / 12 inches = 3.33 acre-feet

There are currently no permitted water rights within a 2-mile radius of the proposed point of diversion, and the owner did not identify any nearby domestic wells within ½ mile. The WWC-5 database also shows no nearby domestic wells. As noted above, there are no permitted wells within the two-mile circle, and the applicant did not show any nearby domestic wells, therefore, the application complies with well spacing of 1,320 feet to non-domestic wells and 660 to domestic wells for all other aquifers. There is no indication that approval of this application will impair any senior water right.

Well logs for nearby wells in the KGS WWC-5 database, show the only lithologic units encountered were clay and limestone bedrock. The bedrock is likely the Kansas City Group (Pennsylvanian System). The area of consideration is the extent of the bedrock aquifer in the two-mile circle, which was determined to be 8,042 acres. Based on a potential recharge of 6.4 inches, with 75% available for appropriation, safe yield was determined to be 3,216.99 acre-feet. Obviously with no existing water rights within this area of consideration, the entire quantity of 3,216.99 acre-feet available for appropriation, and both the applications clearly meet safe yield criteria.

Diamond Trust – John Sigg - memorandum
File Nos. 50,325 and 50,326
Page 2

Katherine Tietsort, Water Commissioner, Topeka Field Office, recommended approval of the applications in a January 17, 2020 e-mail.

Based upon the above discussion, the area is open to new applications, 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 applications be approved.

Douglas W. Schemm
Environmental Scientist
Topeka Field Office

Schemm, Doug [KDA]

From: Tietsort, Katie [KDA]
Sent: Friday, January 17, 2020 6:49 PM
To: Schemm, Doug [KDA]
Subject: Re: Diamond Trust John Sigg 50,325 & 50,326

Yes these are good to go

Sent from my iPhone

On Jan 16, 2020, at 5:02 PM, Schemm, Doug [KDA] <Doug.Schemm@ks.gov> wrote:

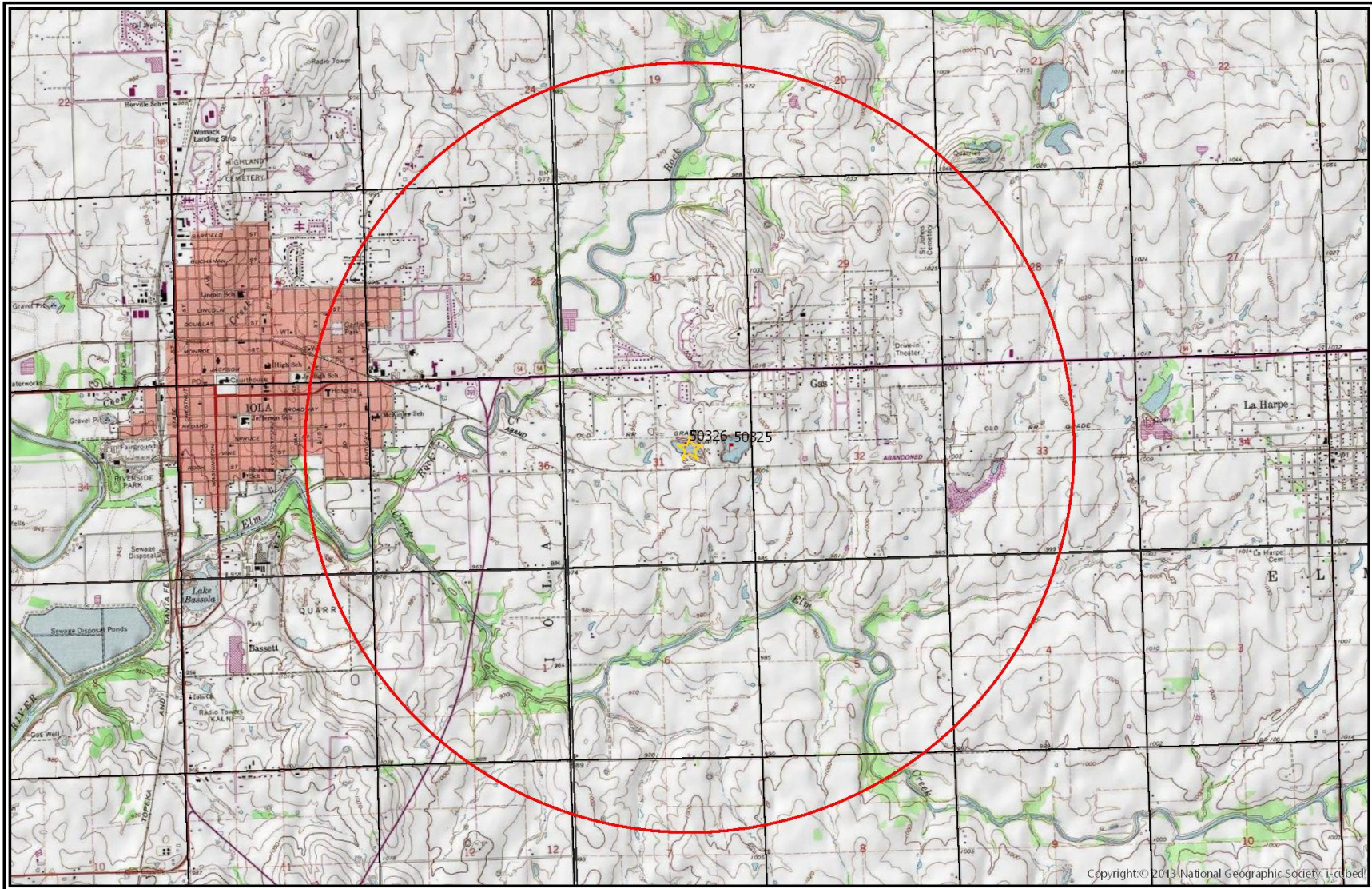
Meet all the regs. No issues.
Please review.
<50325 and 50326 Memo to File.docx>

Safe Yield Report Sheet

Water Right- A5032600 AND 50,325

Point of Diversion in 31-24S-19E

Footages from SE corner- 3,210 feet North 1,720 feet West



Analysis Results

The selected PD is in an area OPEN to new appropriations.
 The safe yield based on the variables listed below is 3,216.99 AF.
 Total prior appropriations in the circle is 0.00 AF.
 Total quantity of water available for appropriation is 3,216.99 AF.

BOTH FILE NOS. 50,325 AND 50,326 MEET SAFE YIELD.
 DWS/DWR 1/21/20

Safe Yield Variables

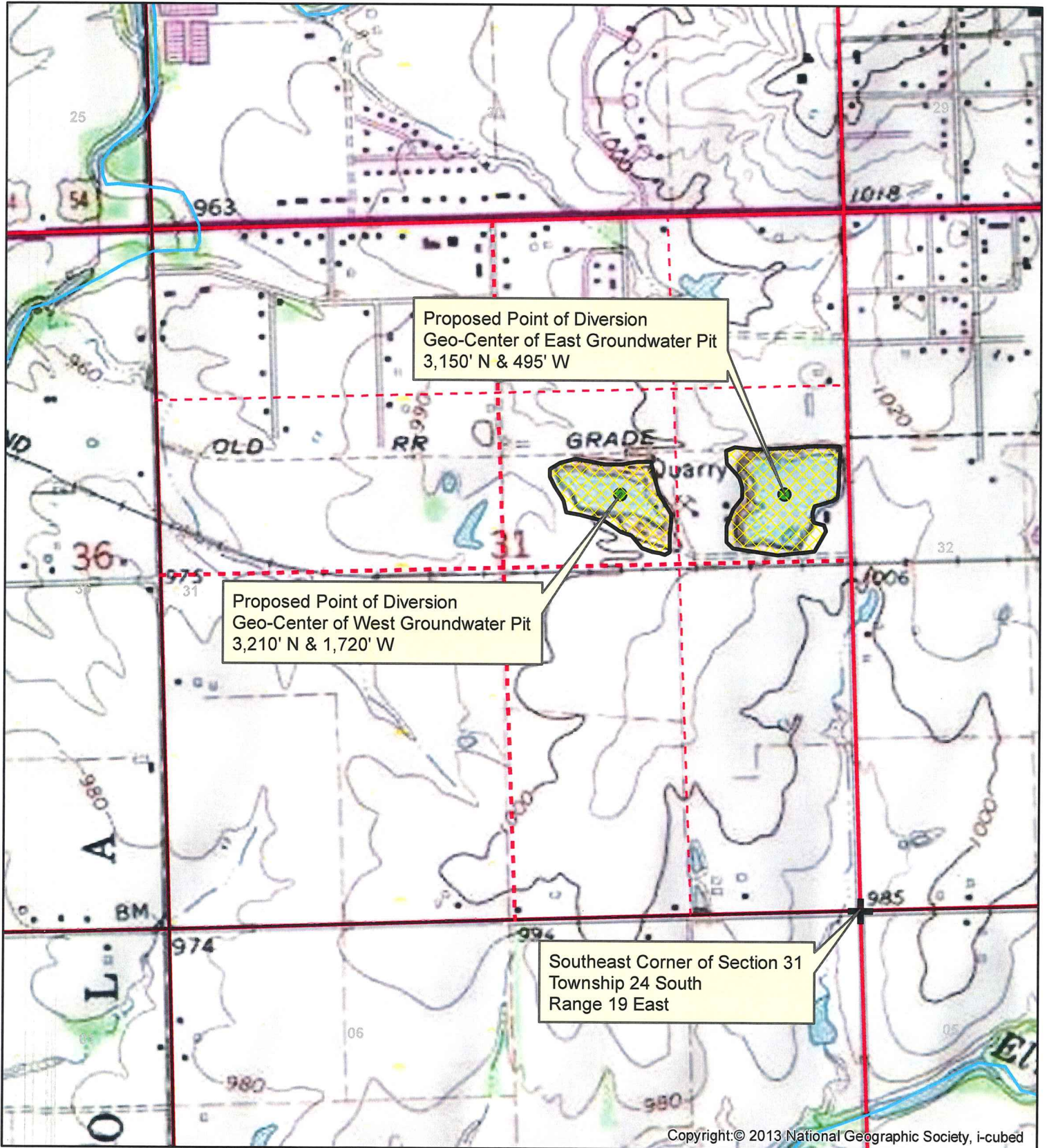
The area used for the analysis is set at 8,042 acres.
 The potential annual recharge at the circle center is estimated to be 6.4 inches.
 The percent of recharge available for appropriation is 75%.

Authorized Quantity values are as of 16-JAN-2020 and are based on Appropriated and Vested ground water right and possible stream nodes for GMD #2. Domestic, Term and Temporary water rights have been excluded.
 There are 2 water rights and 2 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 50326 00	REC	AY	G		SE	SW	NE	3210	1720	31	24	19E	2		-0.00 3.33	-0.00 3.33		
A 50325 00	REC	AY	G				SW	3150	495	31	24	19E	1		-0.00 5.0	-0.00 5.0		

1:12,000

JOHN SIGG
NEW APPLICATION - SITE MAP



Proposed Point of Diversion
Geo-Center of East Groundwater Pit
3,150' N & 495' W

Proposed Point of Diversion
Geo-Center of West Groundwater Pit
3,210' N & 1,720' W

Southeast Corner of Section 31
Township 24 South
Range 19 East

Copyright: © 2013 National Geographic Society, i-cubed

- Proposed Point of Diversion
- ▨ Proposed Place of Use

All known wells of any kind within one-half mile of the proposed point of diversion have been identified.

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

THE DIAMOND TRUST ET AL
% JOHN SIGG
PO BOX 302
IOLA KS 66749

RE: Appropriation of Water, File Nos. 50,325 & 50,326

Dear Mr. Sigg:

Enclosed are permits authorizing you to proceed with construction of the proposed diversion works and to appropriate water for beneficial use as set forth in the permits. Your attention is directed to the enclosures and to the terms, conditions, limitations, and requirements specified in these permits.

Notice must be filed on the enclosed forms once the diversion works have been completed for each file. Failure to complete the diversion works within the time allowed, or within any authorized extension of time thereof, will result in dismissal of these permits. If you need an extension of time, you must request it before the deadline for completion set forth in these permits. Any request for an extension of time must be accompanied by the statutorily required fee, which is currently \$100.00 per file number.

Annual water use reports 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 reports online at www.kswateruserreport.org.

The approvals of your applications constitute permits 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 rights. 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 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 Application Unit Supervisor
Division of Water Resources

KAB:dws
Enclosure(s)

pc: Topeka 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

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. 50,326** of the applicant

THE DIAMOND TRUST ET AL
Attn: JOHN SIGG
PO BOX 302
IOLA KS 66749

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 10, 2019**.
2. That the water sought to be appropriated shall be used for recreational use at a groundwater pit located in the Southwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 31, in Township 24 South, Range 19 East, Allen County, Kansas.
3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of a groundwater pit with a geographic center located in the Southeast Quarter of the Southwest Quarter of the Northeast Quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 31, more particularly described as being near a point 3,210 feet North and 1,720 feet West of the Southeast corner of said section, in Township 24 South, Range 19 East, Allen 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 **natural evaporation** and to a quantity not to exceed **3.33 acre-feet** of water for any calendar year, from a groundwater surface area exposure not greater than 8 acres.
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

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 14th day of May, 2020, I hereby certify that the foregoing Approval of Application, File No. 50,326, dated April 29, 2020 was mailed postage prepaid, first class, US mail to the following:

THE DIAMOND TRUST ET AL
Attn: JOHN SIGG
PO BOX 302
IOLA KS 66749

With photocopies to:

Topeka Field Office



Division of Water Resources