

Kansas Department of Agriculture
Division of Water Resources
PERMIT OF NEW APPLICATION WORKSHEET

1. File Number: <p style="text-align: center;">50184</p>	2. Status Change Date: <p style="text-align: center;">10/29/2020</p>	3. Field Office: <p style="text-align: center;">4</p>	4. GMD: <p style="text-align: center;">3</p>
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5. Status: Approved Denied by DWR/GMD Dismiss by Request/Failure to Return

6. Enclosures: Check Valve N of C Form Water Tube Driller Copy Meter

7a. Applicant(s) Person ID **66450**
New to system Add Seq# _____

NUTRIENT AG SOLUTIONS
Attn: CROP PRODUCTION SERVICES
122 W LAUREL
GARDEN CITY, KS 67846

7b. Landowner(s) Person ID _____
New to system Add Seq# _____

7a

7c. Landowner(s) Person ID _____
New to system Add Seq# _____

7d. Misc. Person ID _____
New to system Add Seq# _____

8. WUR Correspondent Person ID _____
New to system Add Seq# _____
Overlap File (s) WUC Notarized WUC Form
Agree Yes No

7a

9. Use of Water: Changing? Yes No

Groundwater Surface Water

IRR REC DEW MUN

STK SED DOM CON

HYD DRG WTR PWR ART RECHRG

IND SIC: **4221** OTHER: _____

10. Completion Date: ~~12/31/2020~~ **21** 11. Perfection Date: ~~12/31/2024~~ **25** 12. Exp Date: _____

13. Conservation Plan Required? Yes No Date Required: _____ Date Approved: _____ Date to Comply: _____

14. Water Level Measuring Device? Yes No Date to Comply: _____ Date WLMD Installed: _____

Date Prepared: **6/1/2020** By: **AM**
Date Entered: **11/3/2020** By: **L Moody**

File No. **50184** 15. Formation Code: **211/331** Drainage Basin: **CIMARRON RIVER** County: **HS** Special Use: Stream:

16. Points of Diversion										17. Rate and Quantity					
MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Authorized		Additional		
											Rate gpm	Quantity mgy	Rate gpm	Quantity mgy	Overlap PD Files
CHK			87149	LOT4 SW SW	31	29S	32W	9	329	4759	120	2.5	26	2.5	39636
											(7.67 AF)		(7.67 AF)		

18. Storage: Rate _____ NF Quantity _____ ac/ft Additional Rate _____ NF Additional Quantity _____ ac/ft

19. Limitation: _____ af/yr at **120** gpm (**0.26** cfs) when combined with file number(s) **39636**
 Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____

20. Meter Required? Yes No To be installed by **12/31/2020** Date Acceptable Meter Installed _____

21. Place of Use										NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg?	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	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼														
CHK			36742	31	29S	32W	4	GRAIN & FERTILIZER PLANT LOCATED IN LOT 4 (SW SW) - SOUTH SIDE OF ROAD																											7a	N	39636
tracks																																					

Comments: **15 AF EXEMPTION WITH WAIVER**

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

File Number: 50,184

FO: 4 GMD: 3

WAIVER REQUEST:

UMW	Date Requested	Rule ID	Applies	Rule Type	Rule Subtype
IND	6/1/2020	26	GMD 3	Well Spacing	Well to Well Spacing
Rule Number	Date Granted	Date Denied	Justification:	Dealing with a small quantity (7.67 AF) and neighboring wells have not stated they have issue with the new water right. Recommended waiver request and approval from GMD 3 with no response. This evaluation passes <20% decline.	
K.A.R. 5-23-3(a)(1)	10/29/2020				

WAIVER RULE:

Rule ID	Applicability	Type	Subtype	Rule Number	Date Active	Date Inactive

Date Prepared 6/1/2020 By AM

Date Entered 11/3/2020 By LMoody

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

TO: Files

DATE: May 19, 2020

FROM: Austin McColloch

RE: Application, File No. 50,184

Nutrient Ag. Solutions has filed the above referenced application proposing to appropriate water at a maximum rate of 120 gallons per minute, and at 2.5 million gallons (7.67 acre-feet) per calendar year for industrial use. The applicant is requesting a 15 acre-feet exemption based on K.A.R. 5-23-4. The application was received in the Office of the Chief Engineer on December 17, 2018. The application overlaps in point of diversion with Water Right, File No. 39,636 in the drainage basin of the Cimarron River. The source of supply appears to be the Ogallala formation (211) / Dakota Formation (331).

The point of diversion is located in Lot 4 of the Southwest Quarter of the Southwest Quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 31 more particularly described as being near a point 329 feet North and 4,759 feet West of the Southeast Quarter of said section, in Township 29 South, Range 32 West, Haskell County, Kansas.

As stated above, this overlaps in point of diversion with Water Right, File No. 39,636 which has a total of 1.34 million gallons (4.11 acre-feet) and a total of 94 gallons per minute. New Application, File No. 50,184 is requesting the quantity be all additional 2.5 million gallons (7.67 acre-feet) and will be limited in rate when combined with Water Right, File No. 39,636 for an additional 26 gallons per minute. There are no other 15 acre-feet exemption diversion works within two (2) miles of this point and the total combined annual quantity from this well is not in excess of 15 acre feet.

Four (4) wells within $\frac{1}{2}$ mile of the point of diversion were identified. Two wells identified do not meet well spacing requirements as per K.A.R. 5-23-3. One is a domestic well located approximately 171 feet west of the proposed point of diversion and the other is Water Right, File No. 39,639 located approximately 576 feet North of the proposed point of diversion. In a letter dated February 26, 2019 the nearby wells were notified of the new application for permit to appropriate water. One phone call was received from Larry Davis, owner of Water Right, File No. 3,116 located approximately 1,728 feet to the Southeast but no official letter expressing concern was ever received from any of the nearby well owners.

A Theis analysis was used to evaluate the potential impacts of a new application for industrial use. The drawdown was evaluated at the location of the domestic well located approximately 171 feet west. The drawdown at the domestic well after 50-years of pumping cycles was determined to be 13.70 feet, or 12.69% of the projected future saturated thickness. Due to the small quantity being requested and projected effects of this new application, the application will not impair senior water rights nor prejudicially or unreasonably affect the public interest.

The point of diversion is located within the boundary of Groundwater Management District No. 3. A letter was sent to GMD No. 3 for a recommendation on the application on March 19, 2019. An extension was requested and approved in a letter sent to GMD No. 3 on April 9, 2019 providing a deadline of April 24, 2019. A final extension for GMD No. 3 to provide a recommendation was approved on April 20, 2020 providing a deadline of May 20, 2020. GMD No. 3 has not provided a recommendation for this application as of the date of this memo.

The application has been reviewed by Mike Meyer, Water Commissioner at the Garden City Field Office. In an email dated June 1, 2020, Mr. Meyer recommended the approval of the application with a waiver of KAR 5-23-3.

In accordance with K.S.A. 82a-706(c), the Chief Engineer retains full authority to require any water user to install meters, gauges, or other measuring 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 thru 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. A proposed rate of 100 gallons per minute requires a water level measuring tube.

Based on the above discussion, approval of the application will not impair senior water rights nor prejudicially or unreasonably affect the public interest, it is recommended that the referenced application be approved.

Austin McColloch
Assistant Water Commissioner

From: Meyer, Mike [KDA]
Sent: Mon 6/1/2020 2:45 PM
To: McColloch, Austin [KDA]
Subject: RE: Recommendation New Application File No. 50184

looks good. might add under my recommendation "with a waiver of KAR 5-23-3.
what was the total saturated thickness?
should we hold until after our meeting tomorrow?

Mike

From: McColloch, Austin [KDA] <Austin.McColloch@ks.gov>
Sent: Monday, June 1, 2020 2:36 PM
To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Subject: Recommendation New Application File No. 50184

Mike,

Attached is my draft memo for the above referenced new application. Let me know if there is anything I need to change or if you have any questions.

Thanks,

Austin McColloch
Ph: (620) 276-2901

D. Engelhaupt
4/17/2020

This analysis of new application File No. 50,184

A This analysis was used to evaluate the potential impacts of a new application for industrial use located in Section 31, Township 29 South, Range 32 West. The permit would authorize up to an additional 2.5 million gallons per year at 120 gallons per minute. The drawdown was evaluated at the location of a domestic well located approximately 171 feet west. The assumed transmissivity (1,051 ft²/d) is from the GMD No. 3 groundwater model. The 2068 model projected saturated thickness of 108 feet was used. Specific storage was assumed to be 10⁻⁵, which results in a storativity of 10⁻³. The drawdown at the domestic well after 50-years of pumping cycles under these assumptions is 13.70 feet, or 12.69% of the projected future saturated thickness.

Table 1: Drawdown evaluated at domestic well. T = 1,051 ft²/d; S = 0.001; ST = 108 ft

Distance (FT)	Volume (Mil. Gallons)	Volume (AF)	Rate (GPM)	Drawdown (FT)	Drawdown (%ST)
171	2.5	7.67	120	13.70	12.69 %

AMOUNT STATISTICS REPORT FOR POINTS OF DIVERSION UNDER A 50184 00
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AMOUNT STATISTICS REPORT FOR POINTS OF DIVERSION UNDER A 50184 00 IND

Water Right and Points of Diversion Within 2.00 of a point defined as:

329 Feet North and 4759 Feet West of the Southeast Corner of Section 31 Twp 29S Rng 32W

GROUNDWATER ONLY

File Number	Use	ST	SR	Dist (mi)	Q4	Q3	Q2	Q1	FeetN	FeetW	Sec	Twp	Rng	ID	Batt	Auth_Quan	Add_Quan
A__ AF	465 00	MUN	NK	G	1	--	--	CN	NW	5237	3591	32	29	32W	1	36.50	36.50
A__ AF	558 00	MUN	NK	G	1	--	SW	NW	NE	4510	2310	32	29	32W	10	82.49	82.49
A__ AF	2294 00	IRR	NK	G	1	--	NW	NE	NE	4831	1194	2	30	33W	2	320.00	320.00
A__ AF	3116 00	IRR	NK	G	0	--	SW	NE	NW	4389	3587	6	30	32W	3	845.00	845.00
A__ AF	3202 00	IRR	NK	G	1	--	SE	SE	NE	2673	70	25	29	33W	1	275.00	275.00
A__ AF	3266 00	IRR	NK	G	1	--	NW	NE	NE	4831	1194	2	30	33W	2	330.00	330.00
A__ AF	3493 00	IRR	NK	G	1	--	NW	SW	NW	3705	5082	8	30	32W	6	444.00	444.00
Same					1	--	SE	NE	NW	4505	2945	8	30	32W	4		
A__ AF	7072 00	IRR	NK	G	1	--	NE	NW	NW	5207	3925	12	30	33W	4	960.00	960.00
A__ AF	7702 00	IRR	NK	G	1	--	--	--	--	100	5100	19	29	32W	2	309.00	309.00
A__ AF	8164 00	IRR	NK	G	1	--	SW	SW	NW	2905	5049	5	30	32W	2	1037.00	1037.00
A__ AF	8175 00	IRR	NK	G	1	--	NW	NE	NE	4831	1194	2	30	33W	2	852.00	202.00
A__ AF	9181 00	MUN	NK	G	1	--	SW	NW	NW	4161	5094	32	29	32W	9	348.32	235.11
Same					1	--	--	CN	NW	5237	3591	32	29	32W	1		
A__ AF	9249 00	IRR	NK	G	1	--	NW	SW	NW	3705	5082	8	30	32W	6	1115.00	1115.00
Same					1	--	SE	NE	NW	4505	2945	8	30	32W	4		
A__ AF	11079 00	IRR	NK	G	0	--	SW	SW	NE	3241	2415	36	29	33W	3	960.00	960.00
A__ AF	12179 00	IRR	NK	G	1	--	SE	SE	SE	85	315	1	30	33W	2	320.00	320.00
A__ AF	13878 00	IRR	NK	G	1	--	NW	NW	NE	5180	2590	31	29	32W	1	422.00	422.00
A__ AF	14069 00	IRR	NK	G	1	--	NE	NE	SW	2630	2970	7	30	32W	2	991.00	991.00
A__ AF	15617 00	MUN	NK	G	1	--	SW	NW	NW	4161	5094	32	29	32W	9	80.99	.00
A__ AF	18189 00	IRR	NK	G	1	--	SE	NE	NE	4060	200	25	29	33W	2	320.00	45.00
A__ AF	18190 00	IRR	NK	G	1	--	SE	SE	NE	2673	70	25	29	33W	1	79.00	79.00
Same					1	--	SE	NE	NE	4060	200	25	29	33W	2	183.00	183.00
A__ AF	18290 00	MUN	NK	G	1	--	SW	NW	NE	4510	2310	32	29	32W	10	9.48	9.48
A__ AF	19262 00	MUN	NK	G	0	--	SE	SW	SE	143	1435	31	29	32W	8	595.98	247.66
Same					0	--	NE	SW	SE	1035	1382	31	29	32W	3		
Same					1	--	--	CN	NW	5237	3591	32	29	32W	1		
Same					1	--	SE	SE	SE	137	71	32	29	32W	7		
A__ AF	19789 00	IRR	NK	G	1	--	--	CN	S2	2600	2640	35	29	33W	1	640.00	640.00

Water Right Amount Statistics

A__	20043	00	IRR	NK	G	0	--	--	--	2716	5081	6	30	32W	4	953.00	953.00	
AF																		
A__	23996	00	IRR	NK	G	0	--	--	--	100	2650	36	29	33W	2	760.00	760.00	
AF																		
A__	26304	00	IRR	NK	G	1	--	SW	NW	SE	1629	2583	12	30	33W	5	484.00	.00
AF																		
A__	30542	00	IRR	NK	G	1	--	SE	SE	NE	2707	51	11	30	33W	3	600.00	600.00
AF																		
A__	39636	00	IND	NK	G	0	--	--	--	329	4759	31	29	32W	9	4.11	4.11	
AF																		
A__	39639	00	IND	NK	G	0	--	--	--	896	4644	31	29	32W	7	2.85	2.85	
AF																		
A__	50184	00	IND	AY	G	0	--	--	--	329	4759	31	29	32W	9	7.67	7.67	
AF																		
VHS	1	00	MUN	AA	G	1	--	SW	NW	NW	4161	5094	32	29	32W	9	76.72	76.72
AF																		
Same						1	--	--	CN	NW	5237	3591	32	29	32W	1		

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Total Net Quantities Authorized:   Direct      Storage
Total Requested Amount (AF) =      7.67         .00
Total Permitted Amount (AF) =        .00         .00
Total Inspected Amount (AF) =        .00         .00
Total Pro_Cert Amount (AF) =         .00         .00
Total Certified Amount (AF) =    12408.21         .00
Total Vested Amount (AF) =         76.72         .00
TOTAL AMOUNT (AF) =    12492.60         .00
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An * after the source of supply indicates a pending application for change under the file number.
 An * after the ID indicates a 15 AF exemption was granted under the file number.
 A "G" in the Batt column indicates the GEO CTR of a battery. A "B" indicates a well in the battery.
 The number in the Batt column is the number of wells in the battery.

Water Right and Points of Diversion Within 2.00 of a point defined as:
 329 Feet North and 4759 Feet West of the Southeast Corner of Section 31 Twp 29S Rng 32W
 GROUNDWATER ONLY
 WATER USE CORRESPONDENTS:

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File Number Use ST SR
> CITY OF SUBLETTE
>
> BOX 934
> SUBLETTE KS 67877
>-----
> CITY OF SUBLETTE
>
> BOX 934
> SUBLETTE KS 67877
>-----
> RICK & KATHRYN REDD
>
> PO BOX 296
> SUBLETTE KS 67877
>-----
> LARRY DAVIS
>
> PO BOX 593
> SUBLETTE KS 67877
>-----
> R+ CATTLE CO
>
> PO BOX 721
> SUBLETTE KS 67877
>-----
> RICK & KATHRYN REDD
>
> PO BOX 296

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> SUBLETTE KS 67877  
>-----  
> REDDHAWK LLC  
>  
> PO BOX 296  
> SUBLETTE KS 67877  
>-----  
> GRANT E & RHESA J WEBBER  
>  
> PO BOX 339 924 ROAD 190  
> SUBLETTE KS 67877  
>-----  
> REX A BROWN  
>  
> PO BOX 250  
> SUBLETTE KS 67877  
>-----  
> RICK & KATHRYN REDD  
>  
> PO BOX 296  
> SUBLETTE KS 67877  
>-----  
> RICK & KATHRYN REDD  
>  
> PO BOX 296  
> SUBLETTE KS 67877  
>-----  
> CITY OF SUBLETTE  
>  
> BOX 934  
> SUBLETTE KS 67877  
>-----  
> ZANE B EILERTS ETAL  
>  
> 8155 SILKWOOD  
> HUNTINGTON BEACH CA 91464  
>-----  
> REDDHAWK LLC  
>  
> PO BOX 296  
> SUBLETTE KS 67877  
>-----  
> GERALD & SUSAN STOPPEL TRUSTS  
>  
> PO BOX 817  
> SUBLETTE KS 67877  
>-----  
> GRANT E & RHESA J WEBBER  
>  
> PO BOX 339 924 ROAD 190  
> SUBLETTE KS 67877  
>-----  
> C H WEBBER  
>  
> PO BOX 307  
> SUBLETTE KS 67877  
>-----  
> ROGER KELMAN  
>  
> PO BOX 428  
> SUBLETTE KS 67877  
>-----  
> CITY OF SUBLETTE  
>  
> BOX 934  
> SUBLETTE KS 67877

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> R+ CATTLE CO
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> PO BOX 721
> SUBLETTE KS 67877
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> R+ CATTLE CO
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> PO BOX 721
> SUBLETTE KS 67877
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> CITY OF SUBLETTE
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> BOX 934
> SUBLETTE KS 67877
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> CITY OF SUBLETTE
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> BOX 934
> SUBLETTE KS 67877
>-----
> MESSERLY FARMS INC
> MITCH MESSERLY
> PO BOX 102
> SUBLETTE KS 67877
>-----
> LARRY DAVIS
>
> PO BOX 593
> SUBLETTE KS 67877
>-----
> RONALD K & PEGGY L WINTER
>
> PO BOX 12
> SUBLETTE KS 67877
>-----
> GRANT E & RHESA J WEBBER
>
> PO BOX 339 924 ROAD 190
> SUBLETTE KS 67877
>-----
> CATTLE EMPIRE LLC
> ROY N BROWN
> 2425 RD DD
> SATANTA KS 67870
>-----
> NUTRIENT AG SOLUTIONS
> CROP PRODUCTION SERVICES
> 122 W LAUREL
> GARDEN CITY KS 67846
>-----
> ARCHER DANIELS MIDLAND CO
>
> PO BOX 220 1892 US HWY 83
> SUBLETTE KS 67877
>-----
> NUTRIENT AG SOLUTIONS
> CROP PRODUCTION SERVICES
> 122 W LAUREL
> GARDEN CITY KS 67846
>-----
> CITY OF SUBLETTE
>
> BOX 934
> SUBLETTE KS 67877
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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. 5-23-3(a)(1)

Date: 10/25/2020

Re: Application of Appropriation, File No. 50,184

1. That K.A.R. 5-23-3(a)(1) states, in part, that the minimum well spacing shall be based on the maximum annual quantity of water in acre-feet authorized and requested for the proposed well or authorized and requested by a senior application, permit or water right.
2. That K.A.R. 5-23-3(a)(1) requires a minimum well spacing of 660 feet between wells authorized 15 acre-feet or less. The authorized quantity of water from this well is 11.784 acre-feet when combined with Water Right, File No. 39,636.
3. That the proposed point of diversion under File No. 50,184, and the well authorized by File No. 39,639 are located approximately 576 feet apart. In addition, the applicant's well is located 171 feet from a domestic well.
4. That nearby letters were sent out and no comments were received in opposition of the proposed application.
5. That Southwest Groundwater Management District No. 3, Board of Directors was provided an opportunity to provide a recommendation on this pending application on March 19, 2019; April 9, 2019; and May 20, 2020. No recommendation was ever received.
6. That the Kansas Department of Agriculture, Division of Water Resources staff, ran a Theis analysis determining the drawdown at the domestic well after 50-years of pumping cycles which was determined to be 13.70 feet, or 12.69% of the projected future saturated thickness.
7. That a waiver of K.A.R. 5-23-3(a)(1) will not prejudicially or unreasonably affect the public interest and will not impair any existing water rights.

Comments:



A handwritten signature in blue ink, appearing to read "C. Beightel", written over a horizontal line.

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

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. 50,184** of the applicant

**NUTRIENT AG SOLUTIONS  
Attn: CROP PRODUCTION SERVICES  
122 W LAUREL  
GARDEN CITY, KS 67846**

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 17, 2018**.
2. That the water sought to be appropriated shall be used for industrial use at a grain and fertilizer plant located in Lot 4 (SW $\frac{1}{4}$  SW $\frac{1}{4}$ ), on the South Side of the railroad tracks, in Section 31, Township 29 South, Range 32 West, Haskell County, Kansas.
3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of one (1) well located in Lot 4 (SW $\frac{1}{4}$  SW $\frac{1}{4}$ ) of Section 31, more particularly described as being near a point 329 feet North and 4,759 feet West of the Southeast corner of said section, in Township 29 South, Range 32 West, Haskell 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 **120 gallons per minute (0.27 c.f.s.)** and to a quantity not to exceed **2.5 million gallons (7.67 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, 2021** 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, 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 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 an acceptable water flow meter shall be installed and maintained on the diversion works authorized by this permit in accordance with the Kansas Administrative Regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer. This 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).
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 the rate of diversion of water approved under this permit is further limited to the rate which combined with Water Right, File No. 39,636, will provide a **total not to exceed 120 gallons per minute** (0.27 c.f.s.) from the authorized point of diversion.

Ordered this 29 day of October, 2020, in Manhattan, Riley County, Kansas.



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

State of Kansas            )  
                                          ) SS  
County of Riley            )

The foregoing instrument was acknowledged before me this 29 day of October, 2020, by Christopher W. Beightel, P.E., Acting Chief Engineer, 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

November 9, 2020

NUTRIENT AG SOLUTIONS  
Attn: CROP PRODUCTION SERVICES  
122 W LAUREL  
GARDEN CITY, KS 67846

RE: Appropriation of Water, File No. 50,184

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 acceptable water flowmeter must be installed on the diversion works authorized by this permit prior to using water. 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 Garden City Field Office at 620-276-2901. . . 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:am

Enclosure(s)

pc: Garden City Field Office  
Southwest Kansas GMD No. 3

**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:

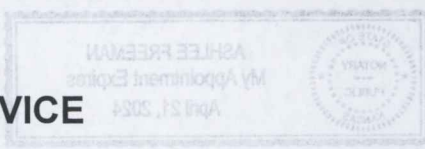
- 1) request an evidentiary hearing before the Chief Engineer, or
- 2) request administrative review by the Secretary of Agriculture.

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, KS 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, KS 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.

Any request for hearing or petition for administrative review shall be in writing and shall be submitted to the attention of: Chief Legal Counsel, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, Fax: (785) 564 – 6777.



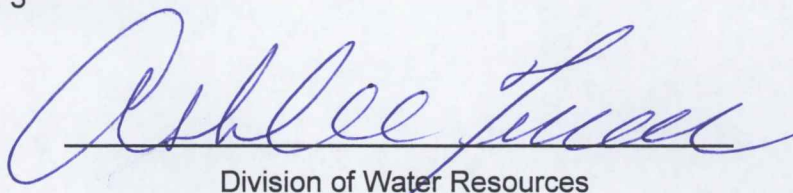
**CERTIFICATE OF SERVICE**

On this 9 day of November, 2020, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,184, dated 29 October was mailed postage prepaid, first class, US mail to the following:

NUTRIENT AG SOLUTIONS  
Attn: CROP PRODUCTION SERVICES  
122 W LAUREL  
GARDEN CITY, KS 67846

With photocopies to:

Garden City Field Office  
Groundwater Management District No. 3



Division of Water Resources