

File No. 51014	13. County: NS - Ness Basin: Smoky Hill River Stream:																									
Structures File No:	Aquifer Code: 211 Ogallala Formation										Special Use Area:															
14. Points of Diversion, Rates & Quantities																										
	PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Qty mgj		Rate gpm		Storage Qty		Storage Rate										
										Auth	Add	Auth	Add	Auth	Add	Auth/Add	Overlaps									
CHK	90288	NE SE SW	19	16	24W	1	744	2898	Geocenter	2.0	2.0	200	200													
CHK	90289	NE SE SW	19	16	24W	2	790	2723	Batt 1 of 2																	
CHK	90290	NE SE SW	19	16	24W	3	689	3072	Batt 2 of 2																	
15. Limitations																										
Type:	Quantity:	Rate:	combined with file no(s):																							
Type:	Quantity:	Rate:	combined with file no(s):																							
16. Metering <input checked="" type="checkbox"/> Metering Required <input type="checkbox"/> Anti-Reverse Required <input type="checkbox"/> Seal Required Compliance Date: 12/31/2025																										
17. Place of Use																										
	PUSE	S	T	R	ID	NE¼				NW¼				SW¼				SE¼				Total	Owner(s)	Chg?	Overlaps	
						NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE					
CHK	71354	19	16S	24W	1	Ag Chemical Mixing (SE SW)																			<input type="checkbox"/>	
																									<input type="checkbox"/>	
18. Point of Diversion and Place of Use Overlaps																										
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MEMORANDUM TO FILE

Division of Water Resources, Water Appropriation Program

Date: May 3, 2024

From: Colin Barclay, Environmental Scientist

Re: New Application File No. 51,014 – Nutrien Ag Solutions

Summary

Nutrien Ag Solutions filed the above referenced application to appropriate 6.14 acre-feet of groundwater, at a rate of 200 gallons per minute. The proposed point of diversion would be a battery of 2 wells located near the town of Arnold in in Ness County, Kansas. The applicant has signed the application form affirming legal access to the point of diversion. The proposed place of use is a planned industrial fertilizer mixing facility that will be located nearby.

Reasonable Rate and Quantity

Quantity of water requested is 6.14 acre-feet at a rate of 200 gallons per minute for industrial purposes. In an email conversation dated April 22, 2024, the applicant explained that 2 million gallons (6.14 AF) of water was requested based on future growth and needs. The information provided was based on their WaKeeney fertilizer facility and explained that on average 15 gallons of water per acre is used to apply fertilizer. In 2023 they applied their fertilizer mix on around 45,000 acres (675,000 gallons). They expect their future growth to exceed 70,000 - 80,000 acres which would equate to 1,200,000 gallons in application alone. They also use water to mix into custom fertilizer mixes which currently accounts for another 250,000 to 300,000 gallons annually with expectations of further growth. They expect “the 2 million gallons of annual water use at (the new facility) was used as a maximum value we would ever use in a given year and is based on future growth.” Based on these estimates, the requested quantity of 2,000,000 gallons (6.14 AF) appears to be reasonable.

Source of Supply and Safe Yield

The source of supply for the proposed point of diversion appears to be the High Plains Aquifer more specifically the Ogallala formation. 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. Evaluation of the area of consideration included the extent of the unconfined aquifer, which provided an area of consideration of 7,853 acres. With a potential annual recharge of 0.7 inches, and 75% of recharge available for appropriation, safe yield was determined to be 343.55 acre-feet. Existing water rights have appropriated 15.34 acre-feet, providing a difference of 328.21 acre-feet available for appropriation, and the application requesting 6.14 acre-feet complies with safe yield.

Nearby Water Rights

No appropriated wells or domestic wells were found to be within one-half (½) mile of the proposed point of diversion. The nearest appropriated well (File No. 39,726) was found to be 1.67 miles away. The nearest domestic well was found to be roughly 4,320 feet away. Therefore, no nearby neighbor letters were sent out.

Recommendations

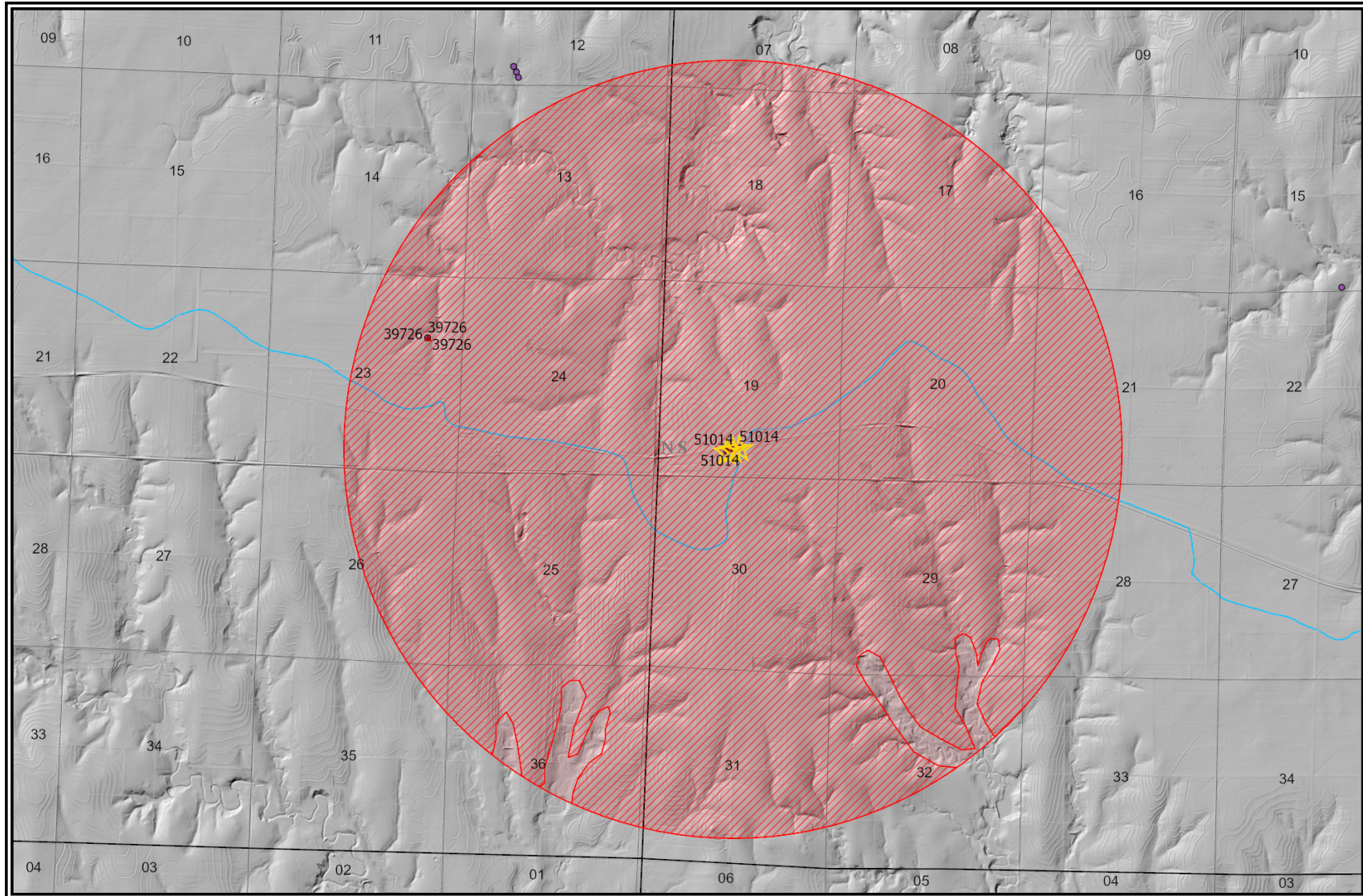
The application was sent for consideration to Kelly Stewart, Water Commissioner of the Stockton Field Office on May 3, 2024, and recommended for approval in an e-mail dated May 3, 2024.

The application complies with all regulations concerning reasonable quantity, safe yield, and minimum spacing requirements. The proposed application is subject to minimum desirable streamflow requirements. The applicant signed, notarized, and returned the required form to our office. Approval of the application will not impair senior water rights nor prejudicially or unreasonably affect the public interest. Therefore, it is recommended that the referenced application be approved.

A handwritten signature in black ink that reads "Colin Barclay". The signature is written in a cursive, slightly slanted style.

Colin Barclay
Environmental Scientist
Water Appropriation Program

Safe Yield Report Sheet
Water Right- A5101400
Point of Diversion in 19-16S-24W
Footages from SE corner- 744 feet North 2,898 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 343.55 AF.

Total prior appropriations in the circle is ~~21.48 AF~~. **15.34 AF**

Total quantity of water available for appropriation is ~~322.07 AF~~. **328.21 AF**

Safe Yield Variables

The area used for the analysis is set at 7,853 acres.

The potential annual recharge at the circle center is estimated to be 0.7 inches.

The percent of recharge available for appropriation is 75%.

Authorized Quantity values are as of 02-MAY-2024 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 6 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 39726 00	MUN	NK	G		NW	SE	NW	3641	890	23	16	25W	1	WR	15.34	15.34		
Same	MUN	NK	G		NW	SE	NE	3636	887	23	16	25W	2	WR				
Same	MUN	NK	G		NW	SE	NE	3647	892	23	16	25W	3	WR				
A 51014 00	IND	AY	G		NE	SE	SW	744	2898	19	16	24W	1	WR	6.14	6.14		-6.14
Same	IND	AY	G		NE	SE	SW	790	2723	19	16	24W	2	WR				
Same	IND	AY	G		NE	SE	SW	698	3072	19	16	24W	3	WR				

RE: 51014 review and recommendation

Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>

Fri 5/3/2024 11:45 AM

To: Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>; Barclay, Colin [KDA] <Colin.Barclay@ks.gov>; Billinger, Mark [KDA] <Mark.Billinger@ks.gov>
Cc: Hageman, Nancy [KDA] <Nancy.Hageman@ks.gov>

Well. Id appreciate it if you didn't take up the SY in my FO Kelly. You take and take and never give. Im just glad this wont be used for golfing.

No, I cant think of anything on my end!

From: Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>**Sent:** Friday, May 3, 2024 11:00 AM**To:** Barclay, Colin [KDA] <Colin.Barclay@ks.gov>; Billinger, Mark [KDA] <Mark.Billinger@ks.gov>**Cc:** Hageman, Nancy [KDA] <Nancy.Hageman@ks.gov>; Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>**Subject:** RE: 51014 review and recommendation

Colin,

I recommend approval of this application. I am simply copying Jeff on this because this application is so close to our field office's boundary.

Jeff, if you know of any issues down in this area, please let us know.

Kelly

From: Barclay, Colin [KDA] <Colin.Barclay@ks.gov>**Sent:** Friday, May 3, 2024 9:42 AM**To:** Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>; Billinger, Mark [KDA] <Mark.Billinger@ks.gov>**Subject:** 51014 review and recommendation

Kelly and Mark,

I have attached the memo and safe yield for 51014 for your review and recommendation. There are not any nearby wells found to be within one-half mile of the proposed point of diversion. Please let me know if you need anything else.

Thank you!

Colin Barclay

Environmental Scientist

Division of Water Resources

Kansas Department of Agriculture

Phone: (785) 564-6628

Colin.Barclay@ks.gov

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. 51,014** of the applicant

**NUTRIEN AG SOLUTIONS
19054 283 HWY
WAKEENEY KS 67672**

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 17, 2023**.
2. That the water sought to be appropriated shall be used for industrial use in the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 19, Township 16 South, Range 24 West, Ness County, Kansas.
3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of a battery of (2) wells, with a geographical center located in the Northeast Quarter of the Southeast Quarter of the Southwest Quarter (NE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 19, more particularly described as being near a point 744 feet North and 2,898 feet West of the Southeast corner of said section, in Township 16 South, Range 24 West, Ness 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 **200 gallons per minute (0.45 c.f.s.)** and to a quantity not to exceed **2.0 million gallons of water (6.14 acre-feet)** for any calendar year.
5. That installation of works for diversion of water shall be completed on or before **December 31, 2025**, 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, 2029**, 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 Kansas Administrative Regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer. The required 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.

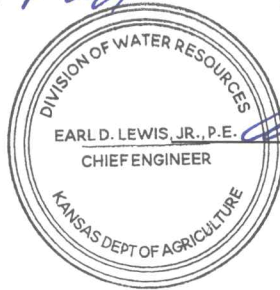
15. That no water user shall engage in nor allow the waste of any water diverted under the authority of this permit.

16. That 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.

17. 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.

18. 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 8th day of May, 2024, in Manhattan, Riley County, Kansas.

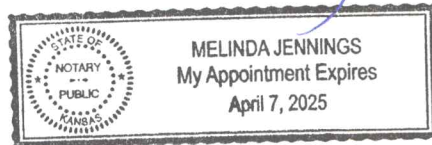


Earl D. Lewis Jr.
Earl D. Lewis Jr., P.E.
Chief Engineer
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 8th day of May, 2024, by Earl D. Lewis Jr., P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.

Melinda Jennings
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

May 16, 2024

CHAD FABRIZIUS
NUTRIEN AG SOLUTIONS
17054 283 HWY
WAKEENEY KS 67672-2721

RE: Appropriation of Water
File No. 51,014

Dear Mr. Fabrizious:

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 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:ccb
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 16 day of May, 2024, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 51,014, dated May 8, 2024, was mailed postage prepaid, first class, US mail to the following:

NUTRIEN AG SOLUTIONS
17054 283 HWY
WAKEENEY KS 67672-2721

With photocopies to:

KDA-DWR Stockton Field Office



Division of Water Resources