

File No. **51,025**
 Structures File No:
 13. County: **CD - Cloud** Basin: **Republican River Basin** Stream: **N/A**
 Aquifer Code: **113/330 Main stem alluvium/Dakota aquifer system (unconfined)** Special Use Area:

14. Points of Diversion, Rates & Quantities

PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Qty AF		Rate gpm		Storage Qty		Storage Rate		
									Auth	Add	Auth	Add	Auth	Add	Auth/Add	Overlaps	
DEL	90299	NC	SE	28	5S	1W	8	1,281	1,254	486	486	1000	1000				

15. Limitations Type: Quantity: **AF** Rate: **gpm** combined with file no(s):
 Type: Quantity: Rate: combined with file no(s):

16. Metering Metering Required Anti-Reverse Required Seal Required Compliance Date:

17. Place of Use

PDIV	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				
					DEL	11903	28	5	1W	1									40.00	38.00				
DEL	71360	33	5	1W	3	9.50	37.00	21.00		39.50	31.50	28.50	43.00									210.00	5a	<input type="checkbox"/>
																								<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: June 28, 2024

From: Colin Barclay, Environmental Scientist

Re: New Application File No. 51,025 – Steve Feight

Summary

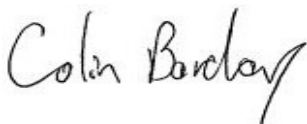
Steve Feight filed the above referenced application to appropriate 486 acre-feet of groundwater at a rate of 1000 gallons per minute. The proposed point of diversion would be a new well located near the Republican River in the Republican River basin in Cloud County, Kansas. The proposed place of use is 443 acres of farm ground that would have complete place of use overlap with file no. 6,399, 41,950 and 51,025. Application 51,025 was submitted as a pair with application 51,022 and would have been limited to the senior file. 41,950 was to be dismissed upon approval of application 51,022 and 51,025. However, no change application nor voluntary dismissal was received for the senior files.

Source of Supply and Safe Yield

The applicant proposed to source Dakota aquifer only by constructing a well in a manner that precludes any withdrawal of water from any overlying water-bearing strata and ensure that an adequate seal is placed between the Dakota Formation and any alluvial aquifer to prevent movement of water between the formations. However, well logs provided by the applicant and nearby well logs indicate the alluvium is sitting directly on top of the Dakota Formation with no confining layer that would act as a barrier between the formations. KGS bulletins for Cloud County also confirm this as the Republican River has scoured way much to the confining layers and even the Dakota aquifer along much the river reaches. After review, it was determined that creating a seal would not prevent the alluvium of the Republican River from being sourced. Therefore, alluvium sourced wells were not precluded from the safe yield calculation. 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 8,042 acres. With a potential annual recharge of 2.5 inches, and 100% of recharge available for appropriation, safe yield was determined to be 1,675.52 acre-feet. Existing water rights have appropriated 3,575.15 acre-feet, providing a difference of -1,899.63 acre-feet available for appropriation, and **the application requesting 486 acre-feet fails to meet safe yield.**

Recommendations

A letter was mailed to the applicant on June 7, 2024, informing them that they failed to meet safe yield. On June 17, 2024, the applicant came to Manhattan Headquarters in person and spoke with Ken Kopp and Colin Barclay of the Division of Water Resources about our safe yield evaluation and why their application was being dismissed. After an explanation, the applicant was informed they had until June 24, 2024, to submit additional information or to ask for an extension of time. No additional information or a request for an extension of time was received by the applicant. For the reason of failure to meet safe yield requirements as set forth in K.A.R. 5-3-11, I recommend that application 50920 be dismissed.

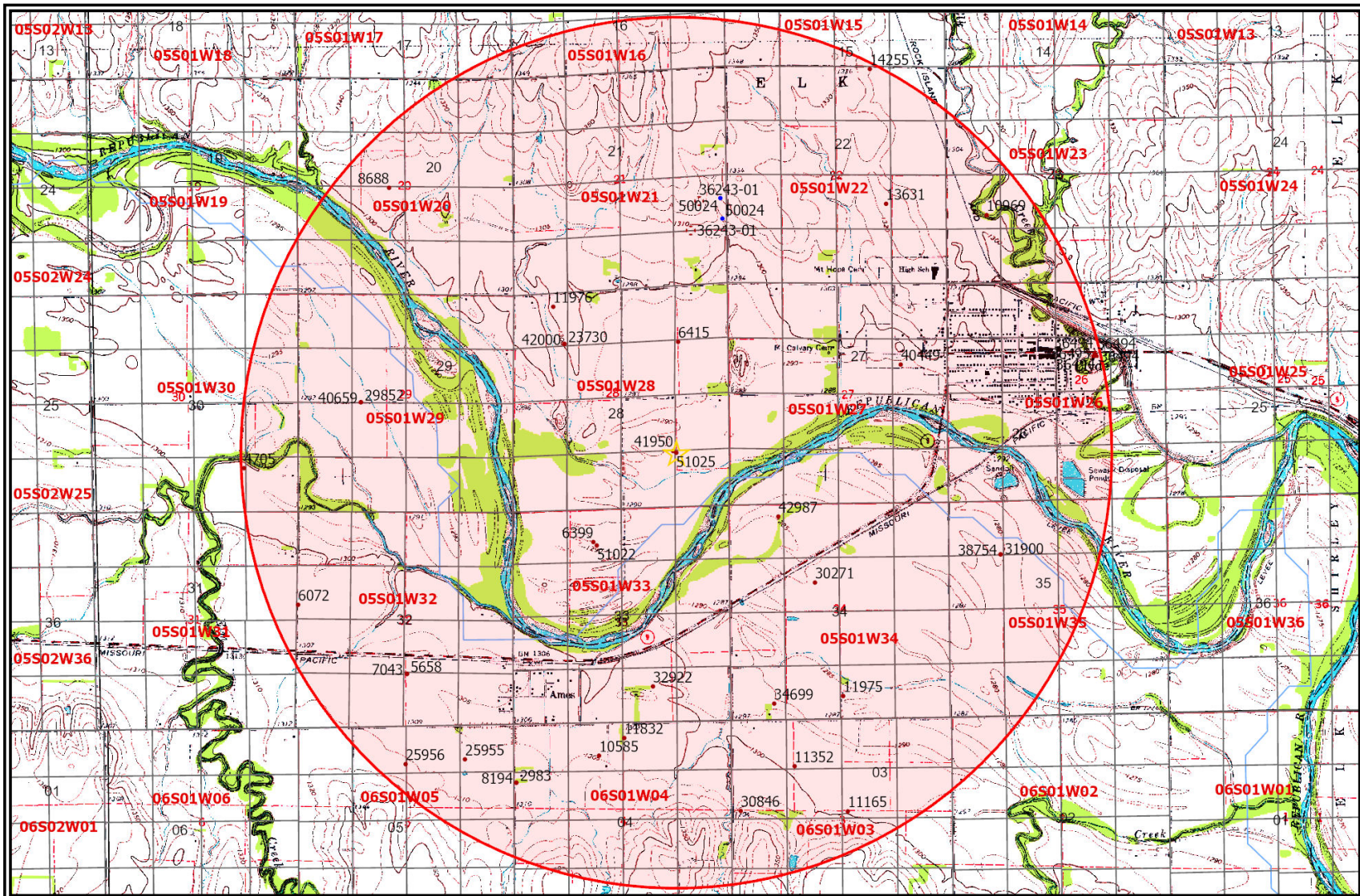


Colin Barclay

Environmental Scientist

Water Appropriation Program

Safe Yield Report Sheet
Water Right- A5102500
Point of Diversion in 28-05S-01W
Footages from SE corner- 1,281 feet North 1,254 feet West



Analysis Results

The selected PD is in an area Restricted to new appropriations.

The safe yield based on the variables listed below is 1,675.52 AF.

Total prior appropriations in the circle is ~~4,547.15 AF~~. **3575.15 AF**

Total quantity of water available for appropriation is 0.00 AF. **-1899.63 AF 51025 does not meet safe yield for an additional 486 AF.**

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 2.5 inches.

The percent of recharge available for appropriation is 100%.

Authorized Quantity values are as of 03-JUN-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 39 water rights and 36 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 2983 00	IRR	NK	G		NW	SW	NW	3220	5200	04	06	01W	6	WR	75.00	75.00	76.00	76.00
A 4705 00	IRR	NK	G		NE	SW	SE	1053	1569	30	05	01W	5	WR	189.00	189.00	126.00	126.00
A 5658 00	IRR	NK	G			NC	S2	1252	2593	32	05	01W	4	WR	51.00	51.00	229.00	229.00
A 6072 00	IRR	NK	G		SW	SW	NW	0	0	32	05	01W	3	WR	189.00	189.00	172.00	172.00
A 6399 00	IRR	NK	G					4465	3300	33	05	01W	1	WR	90.00	90.00	80.00	80.00
A 6415 00	IRR	NK	G		CW	E2	NE	3960	1188	28	05	01W	2	WR	100.00	100.00	155.00	155.00
A 7043 00	IRR	NK	G			NC	S2	1252	2593	32	05	01W	4	WR	175.00	175.00	229.00	0.00
A 8194 00	IRR	NK	G		NW	SW	NW	3220	5200	04	06	01W	6	WR	101.00	34.58	76.00	0.00
A 8688 00	IRR	NK	G		SE	SE	NW	2642	3030	20	05	01W	4	WR	29.00	29.00	88.00	0.00
A 10585 00	IRR	NK	G		NE	SE	NW	3935	3155	04	06	01W	5	WR	62.00	62.00	175.00	175.00
A 10969 00	IRR	NK	G		SE	NW	SW	0	0	23	05	01W	1	WR	102.00	102.00	113.00	113.00
A 11165 00	IRR	NK	G		NW	NW	SE	2635	2540	03	06	01W	1	WR	202.00	202.00	217.00	217.00
A 11352 00	IRR	NK	G		NW	SE	NW	0	0	03	06	01W	2	WR	171.00	171.00	114.00	114.00
A 11832 00	IRR	NK	G					4535	2630	04	06	01W	3	WR	116.00	116.00	175.00	0.00
A 11975 00	IRR	NK	G		CW	SW	SE	535	2620	34	05	01W	1	WR	173.00	173.00	125.00	125.00
A 11976 00	IRR	NK	G		NE	NW	NW	0	0	28	05	01W	3	WR	108.00	108.00	415.00	415.00
A 13631 00	IRR	NK	G		SE	NW	SE	1950	1450	22	05	01W	1	WR	142.00	142.00	140.00	140.00
A 14255 00	IRR	NK	G		NE	NW	NE	5234	1814	22	05	01W	4	WR	108.00	108.00	126.00	126.00
A 23730 00	IRR	NK	G			NC	NW	3960	3950	28	05	01W	4	WR	141.00	141.00	415.00	0.00
A 25955 00	IRR	NK	G		NW	SE	NE	3827	1143	05	06	01W	5	WR	105.00	105.00	259.88	259.88
A 25956 00	IRR	NK	G		NE	SE	NW	3660	2650	05	06	01W	2	WR	103.00	103.00	259.88	0.00

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 29852 00	IRR	NK	G			NC	W2	2650	3820	29	05	01W	2	WR	39.00	39.00	145.00	145.00
A 30271 00	IRR	NK	G		NC	SE	NW	3300	3300	34	05	01W	2	WR	36.00	36.00	37.00	37.00
A 30846 00	IRR	NK	G		SW	SW	NW	2675	5150	03	06	01W	3	WR	102.00	102.00	76.00	76.00
A 31900 00	IRR	NK	G			NC	NW	3879	4049	35	05	01W	3	WR	72.00	72.00	153.00	153.00
A 32922 00	IRR	NK	G		NE	SW	SE	860	1920	33	05	01W	3	WR	152.00	152.00	111.00	111.00
A 34699 00	IRR	NK	G		SE	SW	SW	360	4300	34	05	01W	3	WR	128.00	128.00	120.00	120.00
A 36494 00	MUN	NK	G					3520	1700	26	05	01W	3	WR	21.06	21.06		
Same	MUN	NK	G					3535	1700	26	05	01W	2	WR				
Same	MUN	NK	G					3495	1700	26	05	01W	4	WR				
Same	MUN	NK	G					3517	1700	26	05	01W	5	WR				
A 36495 00	MUN	NK	G					3520	1700	26	05	01W	3	WR	31.59	31.59		
Same	MUN	NK	G					3535	1700	26	05	01W	2	WR				
Same	MUN	NK	G					3495	1700	26	05	01W	4	WR				
Same	MUN	NK	G					3517	1700	26	05	01W	5	WR				
A 38754 00	IRR	NK	G			NC	NW	3879	4049	35	05	01W	3	WR	4.30	4.30	153.00	0.00
A 40449 00	IRR	NK	G	NC	W2	SE	NE	3350	1100	27	05	01W	2	WR	53.00	53.00	63.00	63.00
A 40659 00	IRR	NK	G			NC	W2	2650	3820	29	05	01W	2	WR	40.00	40.00	145.00	0.00
A 41950 00	IRR	NK	G			NC	SE	1328	1333	28	05	01W	6	WR	135.00	135.00	130.00	130.00
A 42000 00	IRR	NK	G			NC	NW	3960	3950	28	05	01W	4	WR	95.00	94.00	415.00	0.00
V CD 1 00	MUN	AA	G					3520	1700	26	05	01W	3	WR	110.00	110.00		
Same	MUN	AA	G					3535	1700	26	05	01W	2	WR				
Same	MUN	AA	G					3495	1700	26	05	01W	4	WR				
Same	MUN	AA	G					3517	1700	26	05	01W	5	WR				
A 42987 00	IRR	NK	G					4920	4173	34	05	01W	4	WR	76.50	76.50	51.00	51.00
A 36243 01	STK	NK	G		NC	NE	SE	1980	660	21	05	01W	2	WR	15.12	15.12		
Same	STK	NK	G		NW	SE	SE	1264	872	21	05	01W	3	WR				
A 51022 00	IRR	AY	G		SE	NE	NW	4359	3213	33	05	01W	4	WR	486.00	486.00	-486.00	443.00
A 51025 00	IRR	AY	G			NC	SE	1281	1254	28	05	01W	8	WR	486.00	486.00	-486.00	443.00

Limitations

File Number	Seq Num	Limitations
A 8194 00	1	101AF/YR COM/W ANY OTHER WATER RIGHT LAND/CERT
A 36494 00	1	615GPM COM/W #CD001
A 36495 00	1	615GPM COM/W #CD001 & #36,494
A 38754 00	1	650GPM (1.45CFS) COM/W # 31900
A 40659 00	1	885GPM COM/W 29852
A 42000 00	2	1150GPM COM/W #23730
Same	3	343AF/YR COM/W #11976 & 23730

File Number	Seq Num	Limitations
A 36243 01	1	STANDBY WELL

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Secretary of Agriculture

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

FINDINGS AND ORDER IN THE MATTER OF THE DISMISSAL OF APPLICATION TO APPROPRIATE WATER FILE NO. 51,025

After due consideration, the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture (hereinafter referred to as the "Chief Engineer"), makes the following findings and order:

FINDINGS


1. That on April 25, 2023, the Chief Engineer received an application from Steve Feight, for a permit to appropriate groundwater for beneficial use, assigned File No. 51,025, proposing the appropriation of 486 acre-feet of water, at a maximum requested diversion rate of 1,000 gallons per minute, for irrigation use, from a well located near the center of the Southeast Quarter (SE $\frac{1}{4}$) of Section 28, Township 5 South, Range 1 West, Cloud County, Kansas.
2. That the Kansas Water Appropriation Act, K.S.A. 82a-711, requires the Chief Engineer to consider whether a proposed use will prejudicially and unreasonably affect the public interest, and shall take into consideration established minimum desirable streamflow requirements, the area, safe yield, and recharge rate of the appropriate water supply, the priority of existing claims of all persons to use the water of the appropriate water supply, the amount of each claim to use water from the appropriate water supply, and all other matters pertaining to such question.
3. That K.A.R. 5-3-9 states that it shall be considered to be in the public interest that only the safe yield of any source of water supply, including hydraulically connected sources of water supply, shall be appropriated, and K.A.R. 5-3-10 and K.A.R. 5-3-11 set forth the methodology for determining safe yield.
4. That K.A.R. 5-1-1(vvv) defines "safe yield" as the long-term sustainable yield of the source of supply, including hydraulically connected surface water or groundwater.
5. That on June 7, 2024, a letter was mailed to the applicant, stating that the application failed to comply with the safe yield requirements, that the application would be submitted to the Chief Engineer with a recommendation for denial, and that the applicant had an opportunity to submit additional information to be considered, which must be submitted by June 24, 2024, or within any authorized extension of time.
6. That on June 17, 2024, the applicant met in person with Division of Water Resources staff to discuss the safe yield evaluation, during which the applicant was reminded that he had until June 24, 2024, to submit additional information or to request an extension of time in which to do so.

- 7. That no additional information has been submitted within the time allowed and no request for an extension of time has been received from the applicant.
- 8. That the Application, File No. 51,025, should be dismissed and its priority forfeited as provided by K.S.A. 82a-711, and K.A.R. 5-3-9, K.A.R. 5-3-10 and K.A.R. 5-3-11.

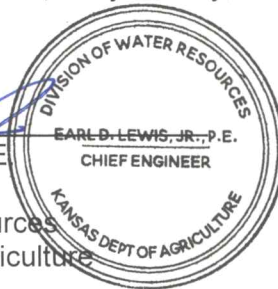
ORDER

NOW, THEREFORE, It is the decision and order of the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, that effective the date of this order, in accordance with the law, Application, File No. 51,025, is herewith dismissed and the priority assigned to it is considered to be forfeited.

It is so ordered this *20th* day of *June*, 2024, in Manhattan, Riley County, Kansas.



 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 day of , 2024, by Earl D. Lewis Jr., P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.



 Notary Public



TONY JAY CONNORS
 My Appointment Expires
 May 18, 2027

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

July 2, 2024

STEVE FEIGHT
2358 WAGON RD
CLYDE KS 66938-3045

RE: Dismissal of Applications
File Nos. 51,022 and 51,025

Dear Mr. Feight:

Enclosed are Findings and Orders by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, dismissing the above referenced applications to appropriate water for failure to meet safe yield as originally described in our letters to you, dated June 7, 2024.

Please feel free to contact this office should you have any questions. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

A handwritten signature in blue ink that reads "Kristen A. Baum". The signature is written in a cursive, flowing style.

Kristen A. Baum
New Application Unit Supervisor
Water Appropriation Program

KAB:kak:ccb
Enclosure
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 2 day of July, 2024, I hereby certify that the foregoing Dismissal of Applications, File Nos. 51,022 and 51,025, dated June 28, 2024, were mailed postage prepaid, first class, U.S. mail to the following:

STEVE FEIGHT
2358 WAGON RD
CLYDE KS 66938-3045

With photocopies to:

KDA-DWR Stockton Field Office



Division of Water Resources