

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

1. File Number: <p style="text-align: center; font-size: 1.2em;">50,289</p>	2. Status Change Date: <p style="text-align: center; font-size: 1.2em; color: purple;">4/27/2020</p>	3. Field Office: <p style="text-align: center; font-size: 1.2em;">03</p>	4. GMD: <p style="text-align: center; font-size: 1.2em;">0</p>
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5. Status: <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied by DWR/GMD <input type="checkbox"/> Dismiss by Request/Failure to Return
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6. Enclosures: <input checked="" type="checkbox"/> Check Valve <input checked="" type="checkbox"/> N of C Form <input type="checkbox"/> Water Tube <input type="checkbox"/> Driller Copy <input checked="" type="checkbox"/> Meter
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7a. Applicant(s) New to system <input type="checkbox"/> Person ID 61029 Add Seq# _____ NUTRIEN AG SOLUTIONS 19054 283 HWY WAKEENEY KS 67672	7c. Landowner(s) New to system <input type="checkbox"/> Person ID _____ Add Seq# _____
7b. Landowner(s) New to system <input type="checkbox"/> Person ID _____ Add Seq# _____	7d. Misc. New to system <input type="checkbox"/> Person ID _____ Add Seq# _____

7a.

8. WUR Correspondent New to system <input type="checkbox"/> Person ID _____ Overlap File (s) WUC Add Seq# _____ Agree <input type="checkbox"/> Yes <input type="checkbox"/> No Notarized WUC Form <input type="checkbox"/>	9. Use of Water: Changing? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/> Groundwater <input type="checkbox"/> Surface Water <input type="checkbox"/> IRR <input type="checkbox"/> REC <input type="checkbox"/> DEW <input type="checkbox"/> MUN <input type="checkbox"/> STK <input type="checkbox"/> SED <input type="checkbox"/> DOM <input type="checkbox"/> CON <input type="checkbox"/> HYD DRG <input type="checkbox"/> WTR PWR <input type="checkbox"/> ART RECHRG <input checked="" type="checkbox"/> IND SIC: 2879 <input type="checkbox"/> OTHER: _____
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4/15/2020
KAB

10. Completion Date: 12/31/2020 21	11. Perfection Date: 12/31/2024 25	12. Exp Date: _____
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13. Conservation Plan Required? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Date Required: _____ Date Approved: _____ Date to Comply: _____
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14. Water Level Measuring Device? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Date to Comply: _____ Date WLMD Installed: _____
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Date Prepared: 11/21/2019 By: DWS
Date Entered: 5/4/2020 By: LMoody

File No. **50,289** 15. Formation Code: 211 Drainage Basin: BIG CREEK County: **TR** Special Use: Stream:

16. Points of Diversion									
MOD DEL ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	
√	68911	NE NW SW	21	12	23W	6	2512	4575	

17. Rate and Quantity MOD RATE				
Authorized		Additional		
Rate gpm	Quantity mgy	Rate gpm	Quantity mgy	Overlap PD Files
99	2.281	94	2.281	41,058

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

19. Limitation: _____ af/yr at **99** gpm (**0.22** cfs) when combined with file number(s) **41,058**
 Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____

20. Meter Required? Yes No To be installed by **12/31/2020** **21** Date Acceptable Meter Installed _____

21. Place of Use										NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg? NO	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								
√	24948	21	12S	23W	1	Facility in the NW SW																7a.	No	41,058					

4/15/2020
KAB

Comments:

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

TO: Files

DATE: November 21, 2019

FROM: Doug Schemm

RE: Application, File No. 50,289

Nutrien Ag Solutions (Mike McCurdy) has filed the referenced application to appropriate 2.281 million gallons of groundwater at a diversion rate of 99 gallons per minute for industrial use at an agriculture chemical mixing and spraying facility (herbicides and pesticides). The point of diversion is an existing well currently authorized under Water Right, File No. 41,058, which is located in the Southwest Quarter of Section 21, Township 12 South, Range 23 West, Trego County, Kansas. The appropriation is located within the Big Creek Basin. The place of use and point of diversion are both owned by the applicant, and he has signed the application form stating he has access to the point of diversion.

Water Right, File No. 41,058 overlaps in point of diversion and place of use, and it is authorized 0.38 million gallons at 5 gallons per minute. Note that the applicant has exceeded the authorized quantity under this senior file in previous years, and this new application was filed to address this over-pumping and provide the applicant additional water for expansion of the facility. Note that the new application rate of diversion was reduced from 100 gpm to 99 gpm to eliminate the need for installation of a water level measurement tube (the new application will be limited to 99 gallons per minute with the senior file).

Per the Industrial Use Supplemental Sheet, the plant is estimating future water use to increase to 7,200 gallons per day for chemical production and spraying. $7,200 \text{ gallons per day} \times 365 \text{ days} = 2.63 \text{ million gallons}$. The applicant has provided a detailed explanation of water use, which is based on applying chemicals to a maximum area of 140,000 acres. They are also increasing the acreage that is being fertilized. Based on applying approximately 15 gallons per acre $\times 140,000 \text{ acres}$, water needs would be up to 2.1 million gallons. The requested quantity of 2.28 million gallons plus the senior file quantity of 0.38 million provides for a total of 2.66 million gallons of water, which appears to be reasonable based on the above calculations. Therefore, the new application will be for all additional water and an additional rate of 94 gallons per minute (99 gpm – 5 gpm).

Based on nearby well logs from the KGS WWC-5 database, the lithology consists of interbedded sands and clays, with some gravel and caliche layers, extending to 123 feet below ground surface, underlain by “yellow ochra” and brown shale. There is no indication on the well logs where water was encountered and no static water levels. However, the application notes that static water level is 78 feet below ground surface. Based on the lithology and geographical location of the well, the source of supply is the Ogallala Formation. This is consistent with the senior file.

Per K.A.R. 5-3-11, the area of consideration is the extent of the unconfined (Ogallala) aquifer. The Big Creek alluvial aquifer extends across the south portion of the 2-mile circle, and it must be eliminated from the safe yield area of consideration. Truncating this alluvial aquifer out, provides for an area of consideration of 5,765 acres. With a potential annual recharge of only 0.8 inches, and 75% available for appropriation, safe yield was determined to be 278.59 acre-feet. Existing water rights have appropriated 211.26 acre-feet within the area of consideration, providing a difference of 67.33 acre-feet available for appropriation. Thus, there is a sufficient quantity of water available for appropriation, and the application meets all safe yield criteria.

The applicant identified multiple nearby wells and notification letters were sent out on October 31, 2019. There were no responses of any kind. The nearest domestic well is over 1,900 feet away. The WRIS database shows that the nearest non-domestic well is over 2,500 feet away. Thus, the proposed point of diversion meets minimum well spacing criteria to all existing wells per the requirements in K.A.R. 5-4-4, of 660 feet to domestics and 1,320 feet to non-domestics for all other aquifers.

In accordance with K.S.A. 82a-706c, the Chief Engineer retains full authority to require any water user to install meters, gages, or other measuring devices, which 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 through 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.

In a November 20, 2019 e-mail, Kelly Stewart, Water Commissioner, Stockton Field Office, recommended approval of the referenced application. Based on the above discussion, well spacing and safe yield criteria are met, approval of the application will not impair senior water rights nor prejudicially or unreasonably affect the public interest, and it will provide the applicant with increased rate of diversion and quantity of water, it is recommended that the referenced new application be approved.

Douglas W. Schemm
Environmental Scientist
Topeka Field Office

Schemm, Doug [KDA]

From: Stewart, Kelly [KDA]
Sent: Wednesday, November 20, 2019 1:08 PM
To: Schemm, Doug [KDA]
Cc: Billinger, Mark [KDA]; Hageman, Rebecca [KDA]
Subject: RE: 50289 Nutrien Ag Solutions

Doug,

I have no objection to the approval of this application.

Kelly

From: Schemm, Doug [KDA] <Doug.Schemm@ks.gov>
Sent: Tuesday, November 19, 2019 9:46 AM
To: Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>
Cc: Billinger, Mark [KDA] <Mark.Billinger@ks.gov>
Subject: 50289 Nutrien Ag Solutions

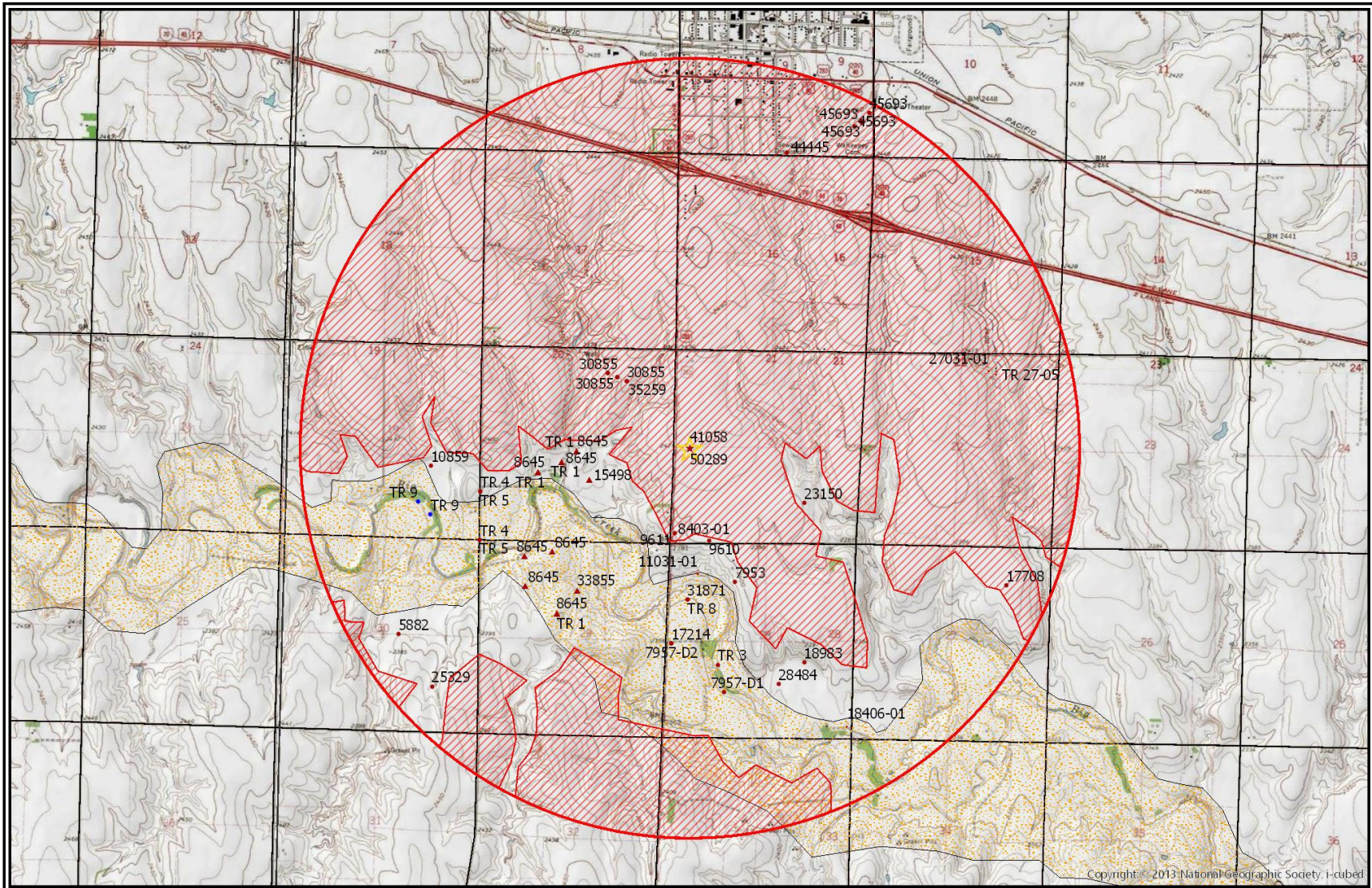
Hello Stockton,
A bit more water and rate from this existing well. Meets all the regs. No comments from nearbys.
Please review.
Thanks, Doug

Safe Yield Report Sheet

Water Right- 50,289

Point of Diversion in 21-12S-23W

Footages from SE corner- 2,512 feet North 4,575 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 278.59 AF.

Total prior appropriations in the circle is 218.26 AF. - 7 AF = 211.26 AF

Total quantity of water available for appropriation is ~~60.32~~ AF.

67.33

Application File No. 50,289 Meets Safe Yield
dws/dwr 10/31/19

Safe Yield Variables

The area used for the analysis is set at 5,572 acres.

The potential annual recharge at the circle center is estimated to be 0.8 inches.

The percent of recharge available for appropriation is 75%.

Authorized Quantity values are as of 29-OCT-2019 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 8 water rights and 11 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 9611 00	IRR	NK	G	SW	SW	SW		264	5110	21	12	23W	1	WR	99.00	99.00	185.00	0.00
A 17708 00	IRR	NK	G	SW	NE	NE		4260	1150	27	12	23W	1	WR	58.00	58.00	121.00	121.00
A 30855 00	IRR	NK	G	SW	NE	NE		4402	1263	20	12	23W	9	WR	15.00	15.00	86.00	86.00
Same	IRR	NK	G	SE	NW	NE		4606	1778	20	12	23W	10	WR				
Same	IRR	NK	G	SE	NW	NE		4504	1521	20	12	23W	12	WR				
A 35259 00	IRR	NK	G	SW	NE	NE		4402	1263	20	12	23W	9	WR	23.00	23.00	86.00	0.00
Same	IRR	NK	G	SE	NW	NE		4606	1778	20	12	23W	10	WR				
Same	IRR	NK	G	SE	NW	NE		4504	1521	20	12	23W	12	WR				
A 41058 00	IND	NK	G	NE	NW	SW		2512	4575	21	12	23W	6	WR	1.17	1.17		
A 44445 00	IRR	NK	G	SW	SW	SE		95	2349	09	12	23W	1	WR	8.00	8.00	5.50	5.50
A 45693 00	IRR	NK	G	NE	SE	SE		835	534	09	12	23W	3	WR	7.10	7.10	8.20	8.20
Same	IRR	NK	G	NE	SE	SE		948	332	09	12	23W	4	WR				
Same	IRR	NK	G	NE	SE	SE		1221	127	09	12	23W	6	WR				
Same	IRR	NK	G	NE	SE	SE		1001	331	09	12	23W	7	WR				
A 50289 00	IND	AY	G	NE	NW	SW		2512	4575	21	12	23W	6	WR	-7.00	-7.00		

Limitations

File Number	Seq Num	Limitations
A 35259 00	1	235GPM COM/W 30855 ON LAND LISTED IN CERT

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

NUTRIEN AG SOLUTIONS
% MIKE MCCURDY
19054 283 HWY
WAKEENEY KS 67672

RE: Appropriation of Water, File No. 50,289

Dear Mr. McCurdy:

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.

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.

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 Application Unit Supervisor
Division of Water Resources

KAB:dws
Enclosure(s)
pc: Stockton 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. 50,289** 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 **September 4, 2019**.
2. That the water sought to be appropriated shall be used for industrial use in the Northwest Quarter of the Southwest Quarter (NW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 21, in Township 12 South, Range 23 West, Trego 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 the Northeast Quarter of the Northwest Quarter of the Southwest Quarter (NE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 21, more particularly described as being near a point 2,512 feet North and 4,575 feet West of the Southeast corner of said section, in Township 12 South, Range 23 West, Trego 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 **99 gallons per minute (0.22 c.f.s.)** and to a quantity not to exceed **2.281 million gallons** (7 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, 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 for an extension of time shall be submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee, which is currently \$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 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.

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Mike Beam, Secretary of Agriculture

DIVISION OF WATER RESOURCES
Christopher W. Beightel, Acting Chief Engineer

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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.

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13. That an acceptable water flow meter shall be installed and maintained on the diversion works authorized by this permit in accordance 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.

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.

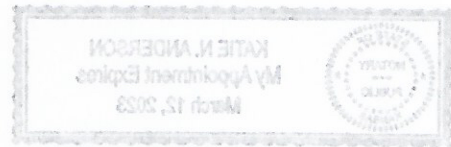
If you do not file a request for an evidentiary hearing before the Chief Engineer, you may petition for administrative review of the Order by the Secretary of Agriculture. A petition for review shall be in writing and state the basis for requesting administrative review. The request for review may be 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 6th day of May, 2020, I hereby certify that the foregoing Approval of Application, File No. 50,289, dated April 27, 2020 was mailed postage prepaid, first class, US mail to the following:

NUTRIEN AG SOLUTIONS
19054 283 HWY
WAKEENEY KS 67672



With photocopies to:

Stockton Field Office

Katie Anderson

Division of Water Resources