Kansas Department of Agriculture Division of Water Resources

CHANGE: P/D WORKSHEET

| ocument Signature | · | | | |
|---|---|--------------------------|-----------------------|---------------------------------------|
| 1. File Number: 45888 | 2. Status Change Date: 2/10/2017 | 3. Change Num: | 4. Field Office: | 5. GMD: |
| 6. Status: Approved De | nied by DWR/GMD | Dismiss by Reque | est/Failure to Return | 7. Filing Date of Change: 04-NOV-2016 |
| 8a. Applicant(s) New-to system □ RANGER FEEDERS II LLC 144 S OGALLALAH RD DIGHTON KS 67839 | Person ID <u>34184</u> Add Seq# <u>1</u> | 8c. Landown New to sy | * * | Person IDAdd Seq# |
| 8b. Landowner(s) New to system □ RANGER FEEDERS II LLC 144 S OGALLALAH RD DIGHTON KS 67839 | Person ID 34184 Add Seq# 1 | 144 S O | | Person ID 34184 Add Seq# 1 |
| 9. Documents and Enclosure(s): Anti-Reverse Meter Mete Conservation Plan Date Requ | r Seal 🔲 Check Valve | ⊠ N & P Form | ☐ Water Tube ☐ | Driller Copy |
| 10. Use Made of Water From: | | To: | : | |
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| File N | o. 4588 8 | 8 | 11. Coun | ty: LE | Ва | nsin: W | ALNU | IT CRI | EEK | _ | | S | tream: | | _ | | | _ | | | ormation 12/321 | Code: | Special Use: | |
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| ENT | 70399 | NW SW S | SE 23 | 18 | 28W | 5 | • | 1228 | 2 | 313 | В | ATT 1 | OF 2 | 2 | | _ | | | | - | | _ | N | |
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| 16. PI | lace of Use | <u> </u> | | | | = E¼ | | | NO. | V1/4 | | <u> </u> | CV | | | | | | | Tatal | 0 | Ob = 0 | Out des Elles | |
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KANSAS DEPARTMENT OF AGRICULTURE Division of Water Resources M E M O R A N D U M

TO: Files DATE: January 26, 2017

FROM: Charlotte C. Philip RE: Water Right File Nos.

45.888 & 45.933

Shelby G. Jones, on behalf of Ranger Feeders II, LLC, water right owner, has filed applications for approval to change the points of diversion, which are authorized for stockwatering use in the Walnut Creek basin.

It appears that the water rights are not abandoned as per K.S.A. 82a-718.

The referenced file numbers do not overlap in their authorized points of diversion but do overlap in their authorized stockwatering place of use, along with senior File Nos. 39,695; 39,696; 39,697, and 39,698. File No. 45,888 is authorized 4.88 million gallons at a diversion rate of 32 gallons per minute from one well located 1,646 feet North and 4,088 feet West of the Southeast corner of Section 23, Township 18 South, Range 28 West, Lane County, Kansas, and File No. 45,933 is authorized 9.78 million gallons at a diversion rate of 50 gallons per minute from a battery of two wells with a geographic center located 1,142 feet North and 2,039 West of the southeast corner of the aforementioned section. This appropriation is further limited to a quantity of water not to exceed 53.485 million gallons of water per calendar year when combined with Water Right, File Nos. 39,695; 39,696; 39,697; 39,698 & 45,888. The water right owners propose to "flip-flop" the authorized diversion rate and quantity between the well authorized by File No. 45,888 and the battery of two wells authorized by File No. 45,933, by authorizing the battery of wells under File No. 45,888 and single well under File No. 45,933. No new wells will be drilled.

The applicants have requested a waiver of K.A.R. 5-2-3 *Battery of wells* for the change application filed for File No. 45,888 since the time to construct the diversion works has expired; however, the application appears to meet K.A.R. 5-2-3 and a waiver is not necessary. Although the time to construct the diversion works expired on December 31, 2005, the safe yield calculation using Katie Tietsort's approach for the original permit for File No. 45,933, indicates that a new application filed at the proposed geo-center would meet safe yield, especially since no other permits have been approved within the area since the approval of File No. 45,933. Additionally, paragraph No. 18 of the application indicates the battery of two (2) wells already exists under File No. 45,933 so an additional well is not being added to the area, just to File No. 45,888. The water right with the larger quantity (File No. 45,933) will move to a single well and the water right with the smaller quantity (File No. 45,888) will move to the battery of two wells. It appears the applications meet K.A.R. 5-4-4 *Well spacing* to nearby wells and K.A.R. 5-5-13 *Relocation of alluvial wells* since the area is open to new appropriations.

According to the application map, there is a reservoir authorized for sediment control use (Water Right, File No. 45,149 (Structure Permit No. DLE-0078)), and six (6) wells (Water Right, File Nos. 39,695; 39,696; 39,697 and 39,698) owned by Ranger Feeders II, LLC and operated for stockwatering use at the feedlot. There are no domestic wells located within one-half (1/2) mile of the proposed wells. No nearby well owners were notified of the proposed changes in points of diversion because the applicant owns all wells located within one-half mile.

The same local source of supply will not change, which has been previously determined as Tributary Alluvium (112) in the Walnut Creek Basin and Niobrara Chalk Formation (321).

In an e-mail dated January 26, 2017, Mike Meyer, Water Commissioner of the Garden City Field Office, indicated that he has no objection to the approval of the applications.

Water flow meters will be required. Check valves are required if any chemical or foreign substance is injected into the water through the diversion works according to K.A.R. 5-3-5(c).

Based on the above discussion, that the changes are reasonable, that impairment to existing water rights is unlikely, and that no change in the local source of supply will occur, it is recommended that the referenced applications be approved.

Charlotte C. Philip Environmental Scientist

Charlateckliship



1320 Research Park Drive Manhattan, Kansas 66502 (785) 564-6700

Jackie McClaskey, Secretary

900 SW Jackson, Room 456 Topeka, Kansas 66612 (785) 296-3556

Governor Sam Brownback

February 13, 2017

Ranger Feeders II, LLC 144 S Ogallalah Rd. Dighton, KS 67839

FILE COPY

RE: Water Right, File No. 45,888

Appropriation of Water, File No. 45,933

Dear Mr. Jones:

Enclosed are the orders executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the applications for change under the above referenced file numbers.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in these approvals for change. A condition of these approvals is that acceptable water flow meters must be installed on the diversion works authorized under the referenced file numbers. Please return the required notification of completion of the diversion works and installation of the required meters as soon as these actions are completed.

Since the orders for File Nos. 45,888 and 45,933 modify the original documents referred to above, they should be recorded with the Register of Deeds as other instruments affecting real estate.

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

Sincerely,

Brent A. Turney, P.G.

Change Application Unit Supervisor

Water Appropriation Program

BAT:ccp Enclosures

pc: Garden City Field Office

KANSAS DEPARTMENT OF AGRICULTURE

Jackie McClaskey, Secretary of Agriculture

DIVISION OF WATER RESOURCES

David W. Barfield, Chief Engineer

APPROVAL OF APPLICATION FOR CHANGE IN POINT OF DIVERSION WATER RIGHT, FILE NO. 45,888

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Shelby G. Jones, on behalf of Ranger Feeders II, LLC, 144 S. Ogallalah Rd., Dighton, KS 67839, received in this office on November 4, 2016, for approval of a change in the location of the point of diversion under the certificate of appropriation issued pursuant to the application for permit to appropriate water for beneficial use, finds that the change is reasonable and will not impair existing rights, that the change is related to the same local source of supply and that the application should be and is hereby approved.

The effective date of the change shall be the date this order is executed by the Chief Engineer, after which the authorized location of the point of diversion shall be:

a battery of two (2) wells with a geographic center located in the Northeast Quarter of the Southwest Quarter of the Southeast Quarter (NE¼ SW¼ SE¼) of Section 23, more particularly described as being near a point 1,142 feet North and 2,039 feet West of the Southeast corner of said section,

in Township 18 South, Range 28 West, Lane County, Kansas,

located substantially as shown on the topographic map accompanying the application to change the point of diversion.

The point of diversion described herein as a battery of two (2) wells is further limited such that the wells shall be located within a three hundred (300) foot radius circle, in the same local source of supply.

Installation of the works for diversion of water shall be completed on or before December 31, 2017, or within any authorized extension of time. The applicant shall notify the Chief Engineer of the Division of Water Resources, Kansas Department of Agriculture, when construction of the works for diversion has been completed.

All diversion works 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.

The water right owner shall properly install an accurate water meter on the diversion works authorized under this water right, prior to the use of water, in strict accordance with the Kansas Administrative Regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer. The water right owner shall notify the Chief Engineer when installation of the water meter has been completed. The water right owner shall maintain the water meter in an operating condition satisfactory to the Chief Engineer, at all times during diversion of water and shall maintain the records from which the total quantity of water diverted may be determined. The water right owner shall also report the reading of said water meter and the total quantity of water diverted annually to the Chief Engineer. Such records shall be furnished to the Chief Engineer by March 1 following the end of each calendar year.

In all other respects, the Certificate of Appropriation issued pursuant to File No. 45,888, is as stated and set forth in the Certificate of Appropriation dated

This Order shall become a final agency action, as defined by K.S.A. 77-607(b), without further notice to the parties, if a request for hearing or petition for administrative review is not filed as set forth below.

Request for Hearing. According to K.A.R. 5-14-3(c), any party who desires a hearing must submit a request within 15 days after the date shown on the Certificate of Service attached to this Order. Filing a request for a hearing will give you the opportunity to submit additional facts for consideration, contest any findings made by the Chief Engineer or present any other information you believe should be considered in this matter. A timelyfiled request for hearing will stay the deadline for requesting administrative review of this Order pending the outcome of the hearing.

Petition for Review. Any person aggrieved by this Summary Order may petition for administrative review, pursuant to K.S.A. 82a-708b(a) and K.S.A. 82a-1901(a). The petition must be filed within 30 days after the date shown on the Certificate of Service attached to this Order and must set forth the basis for the review, unless stayed by the timely filing of a request for hearing.

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, 109 SW 9th Street, 4th Floor, Topeka, Kansas 66612, Fax: (785) 368-6668.

ORDERED this

, 2017, Topeka, Shawnee County,

Kansas.

State of Kansas) SS

County of Riley

David W. Barfield, P.E. Chief Engineer

Division of Water Resources Kansas Department of Agriculture

The foregoing instrument was acknowledged before me this day of word 2017, by David W. Barfield, P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.

> KAREN HUNTER My Appointment Expires October 24, 2018

day of MATER RESOURCES NATIONAL CHIEF ENGINEER BY CHIEF ENGINEER B

CERTIFICATE OF SERVICE

day of telonoun , 2017, I hereby certify that the foregoing Approval of Application for Change in Point of Diversion, File No. 45,888, dated feloment of , 2017, was mailed postage prepaid, first class, US mail to the following:

Ranger Feeders II, LLC 144 S Ogallalah Rd. Dighton, KS 67839

With photocopy to:

Garden City Field Office

Division of Water Resources

Submit To: CHIEF ENGINEER
Division of Water Resources
Kansas Department of Agriculture
1320 Research Park Drive
Manhattan, Kansas 66502
http://agriculture.ks.gov/dwr

APPLICATION FOR APPROVAL TO CHANGE THE PLACE OF USE, THE POINT OF DIVERSION OR THE USE MADE OF THE WATER UNDER AN EXISTING WATER RIGHT



Filing Fee Must Accompany the Application (Please refer to Fee Schedule on signature page of application form.)

Paragraph Nos. 1, 2, 3, 4 & 8 must be completed. Complete all other applicable portions. A topographic map or detailed plat showing the authorized and proposed points(s) of diversion and /or place of use must accompany this application.

| ۱. | (Check one or more) | e for approval of the Chief Engin Place of Use Point of Diversion Use Made of Water | neer to change the | WATER RESOURCES RECEIVED NOV 0 4 2016 1 2 3 3 4 KS DEPT OF AGRICULTURE |
|----|--------------------------------|---|-------------------------|---|
| | | File No. <u>45888</u> | | |
| | 2. Name of applicant: RA | ANGER FEEDERS II LLC | | |
| | Address: 144 S OGALLAL | AH RD | | |
| | City, State and Zip: <u>DI</u> | IGHTON KS 67839 | | |
| | Phone Number: () | E-m | ail address: | |
| | What is your relationship to | o the water right; 🛛 owner 🔲 | tenant 🗌 agent 🔲 other? | If other, please explain. |
| | Name of water use corresp | pondent: <u>RANGER FEEDERS I</u> | ILLC | |
| | Address: 144 S OGALLAL | AH RD | | |
| | City, State and Zip:DI | IGHTON KS 67839 | | |
| | Phone Number: () | E-m | ail address: | |
| 3. | - , , | nerein are desired for the following ells. | | ic): |
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KS DEPT OF AGRICULTURE
SCANNED

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APPLICATION FOR APPROVAL TO CHANGE THE PLACE OF USE AND/OR POINT OF DIVERSION SUPPLEMENTAL SHEET

FILE NO. <u>45888</u>

| One in the Ocurrer of the Ocurrer of the Ocurrer of Section Township South, Range Gest North Gest Nor | Presently authorized | | | | | | |
|--|------------------------|------------------------|----------------------|--------------------------------|-----------------------------|---------------------------------------|-------------|
| of Section Township South, Range feet Worth feet West of Southeast corner of section. Authorized Rate Authorized Quantity Depth of well (feet) (fe | One in the | Qua | rter of the | | Quarter of the | | Quarter |
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| In Lane | | | | | | 92 | Quarter |
| In Lane | of Section | 23 To | wnehin | 18 | Quarter or the | 28 | _ Quarter |
| Proposed Rate | in Lane | County Kan | sas 1228 | feet North | 2313 feet West o | f Southeast corner o | of section. |
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| | | | File No. <u>45888</u> |
|-----|--|---|---|
| 12. | The pre | sently authorized use of water is for Stock | _ purposes. |
| | It is pro | posed that the use be changed to <u>Stock</u> | purposes. |
| 13. | If chang | ging the place of use and/or use made of water, describe how the consumpt | ive use will not be increased. |
| | | | |
| | (Please | show any calculations here.) | |
| 14. | It is req | uested that the maximum annual quantity of water be reduced to | (acre-feet or million gallons). |
| 15. | It is req | uested that the maximum rate of diversion of water be reduced to | gallons per minute (c.f.s.). |
| 16. | 1:24,00 Kansas Distanc should | olication must include either a topographic map or detailed plat. A U.S. G 0, is available through the Kansas Geological Survey, 1930 Constant A 66047-3726 (www.usgs.gov). The map should show the location of the personant should show the shown also be shown. Identify the center of the section, the section lines and the township, and range numbers on the map. In addition the following informs | evenue, University of Kansas, Lawrence, bresently authorized point(s) of diversion. The presently authorized place of use section corners and show the appropriate |
| | a. If a | change in the location of the point(s) of diversion is proposed, show: | |
| | 1) | The location of the proposed point(s) of diversion. Distances North and W must be shown. Please be certain that the information shown on the m Paragraph Nos. 9, 10 and 11 of the application. | est of the Southeast corner of the section ap agrees with the information shown in |
| | 2) | If the source of supply is groundwater, please show the location of exdomestic wells, within $\frac{1}{2}$ mile of the proposed well or wells. Identify each mailing address of the property owner or owners. If there are no wells with | n well as to its use and furnish name and |
| | 3) | If the source of supply is surface water, the names and mailing addresse and $\frac{1}{2}$ mile upstream from your property lines must be shown. | es of all landowner(s) ½ mile downstream |
| | b. If a | change in the place of use is desired, show the proposed place of use $\mathfrak t$ tain that the information shown on the map agrees with the information shown | by crosshatching on the map. Please be wn in Paragraph No. 5 of the application. |
| 17. | local so | documentation to show the change(s) proposed herein will not impair exist burce of supply as to which the water right relates. This information may in s, test hole logs, and other information as necessary information to show elow. | nclude statements, plats, geology reports, |
| | Both PI | are in the same aquifer within ½ mile to each other. They are both outside | |
| | _50M | e source of supply | WATER RESOURCES RECEIVED |
| | | | NOV 0 4 2016 |
| | | | KS DEPT OF AGRICULTURE |
| 18. | identify request | roposed change(s) does not meet all applicable rules and regulations of the the rules and regulations for which you request a waiver. State the reas should be granted. Attach documentation showing that granting the requeprejudicially and unreasonably affect the public interest. | e Kansas Water Appropriation Act, please son why a waiver is needed and why the |
| | One of | the two PDs is a battery. The other always one well so we are technically o | reating a battery on this right. |
| | Regi | est waiver of KAR 5-2-3 if safe yield | 1 15 not available |
| | - U* | | |

| File No. | |
|----------|--|
| | |

Any use of water that is not as authorized by the water right or permit to authorize water <u>before</u> the chief engineer approves this application is a violation of the Kansas Water Appropriation Act for which criminal or civil penalties may be assessed. Such violation is a class C misdemeanor, punishable by a fine not to exceed \$500 and/or a term of confinement not to exceed one month in the county jail. K.S.A. 82a-728(b). Civil penalties shall be not less than \$100 nor more than \$1,000 per violation. In the case of a continuing violation, each day such violation continues may be deemed a separate violation. In addition to these penalties the water right may be modified or suspended. K.S.A. 82a-737, as amended.

The application must be signed by all owners of the place of use authorized under the water right and his or her spouse, if married. Please indicate if there is no spouse. If land is being purchased under contract, the seller must sign as landowner until such time as the contract is completed.

In the event that all applicants cannot appear before one notary public, they may as necessary sign separate copies of the application before any notary public conveniently available to them. All copies signed in this manner shall be considered to be valid parts of the application.

If the request is signed on behalf of any Owner by someone with legal authority to do so (for example, an agent, one who has power of attorney, or an executor, executrix, conservator), it will be necessary to attach proper documents showing such authority.

| Dated at Dighton | , Kansas, this | 1 day of November, 201 | 16 |
|---|---------------------|---|-----|
| Shelly of Jones | | | |
| Shelly of Jones Shelly of Jones Please Print) | | (Spouse) | |
| (Please Print) | | (Please Print) | |
| (Owner) | | (Spouse) | |
| (Please Print) | | (Please Print) | |
| (Owner) | | (Spouse) | |
| (Please Print) | | (Please Print) | |
| State of Kansas) SS County of | | JACK M. BEVER NOTARY PUBLIC STATE OF KANSAS My Appt. Exp. 5-29-15 | |
| I hereby certify that the foregoing application w | as signed in my pre | | day |
| | | Jan 14 Renny Notary Public | |

FEE SCHEDULE

Each application to change the place of use, the point of diversion or the use made of the water under this section shall be accompanied by the application fee set forth in the schedule below:

| (1) | Application to change a point of diversion 300 feet or less | . \$100 |
|-----|---|---------|
| (2) | Application to change a point of diversion more than 300 feet | \$200 |
| (3) | Application to change the place of use | \$200 |
| (4) | Application to change the use made of the water | .\$300 |

Make check payable to Kansas Department of Agriculture.

1320 Research Park Drive Manhattan, Kansas 66502 (785) 564-6700



900 SW Jackson, Room 456 Topeka, Kansas 66612 (785) 296-3556

Jackie McClaskey, Secretary

Governor Sam Brownback

November 9, 2016

RANGER FEEDERS II LLC 144 S OGALLALAH RD DIGHTON, KS

RE: File No. 45888

FILE COPY

Dear Sir or Madam:

An application for approval of the Chief Engineer to change the following condition or conditions of the file number referred to above has been received:

☐ place of use PD ☐ point of diversion ☐ use made of water

As a matter of record, the Division of Water Resources has on hand a large number of applications awaiting processing. Therefore to be fair to all concerned, and so that we can process those applications on hand in the order they were received, we intend to concentrate on the backlog of applications until the issue is resolved. You will be contacted regarding this application as soon as it has been examined.

In accordance with the provisions of the Kansas Water Appropriation Act, a portion of which is included below, the use of water prior to approval of the application is unlawful. You should not proceed and divert water as indicated by your plans in your application for a change for this file until you receive approval for this change from the Chief Engineer. Once approved, compliance with the terms, conditions and limitations of the permit is necessary. Conservation of the water resources of Kansas is required.

Section 82a-728 of the Kansas Water Appropriation Act, provides (a) except for the appropriation of water for the purpose of domestic use, . . . <u>it shall be unlawful for any person to appropriate or threaten to appropriate water from any source without first applying for and obtaining a permit to appropriate water in accordance with the provisions of the Water Appropriation Act or for any person to violate any condition of a vested right, appropriation right or an approved application for a permit to appropriate water for beneficial use.</u>

(b) (1) The violation of any provision of this section by any person is a class C misdemeanor...

A class C misdemeanor is punishable by a fine not to exceed \$500 and/or a term of confinement not to exceed one month in the county jail. Each day that the violation occurs constitutes a separate offense.

If you have any questions, please contact me at (785) 564-6645. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

Brent A Turney, L.G.

Change Applications Unit Supervisor

Water Appropriation Program

BAT: dlw



1320 Research Park Drive Manhattan, Kansas 66502 (785) 564-6700

Topeka, Kansas 66612 (785) 296-3556

900 SW Jackson, Room 456

Jackie McClaskey, Secretary

Governor Sam Brownback

pc: GARDEN CITY Field Office GMD

45888 and 45933 pd switch

