

Kansas Department of Agriculture
Division of Water Resources
CHANGE: PD PU UMW WORKSHEET

ADDRESS UPDATE

1. File Number: 18018	2. Status Change Date: 12/14/2021	3. Change Num: C1	4. Field Office: 04	5. GMD: 03
6. Status: <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied by DWR/GMD <input type="checkbox"/> Dismiss by Request/Failure to Return				7. Filing Date of Change: 9/20/2021
8a. Applicant(s) New to system <input type="checkbox"/> FEEDYARDS INC Attn: ULYSSES FEEDYARD P O BOX 489 ULYSSES, KS 67880		Person ID <u>65698</u> Add Seq# _____		
8b. Landowner(s) New to system <input checked="" type="checkbox"/> FEEDYARDS INC 2209 SW 7TH AVE AMARILLO, TX 79106		Person ID <u>65197</u> Add Seq# <u>2</u> FEEDYARDS INC PO BOX 3050 AMARILLO TX 79116		
8c. Landowner(s) New to system <input type="checkbox"/> FEEDYARDS INC Attn: ULYSSES FEEDYARD P O BOX 489 ULYSSES, KS 67880		Person ID <u>65197</u> Add Seq# <u>1</u>		
8d. WUC New to system <input type="checkbox"/> FEEDYARDS INC Attn: ULYSSES FEEDYARD P O BOX 489 ULYSSES, KS 67880		Person ID <u>65197</u> Add Seq# <u>1</u>		
9. Documents and Enclosure(s): <input checked="" type="checkbox"/> DWR Meter(s) Date to Comply: <u>12/31/22</u> <input checked="" type="checkbox"/> N & P Date to Comply: <u>12/31/22</u>				
<input type="checkbox"/> Anti-Reverse Meter <input type="checkbox"/> Meter Seal <input type="checkbox"/> Check Valve <input type="checkbox"/> N & P Form <input type="checkbox"/> Water Tube <input type="checkbox"/> Driller Copy <input type="checkbox"/> H & E Letter <input type="checkbox"/> Conservation Plan Date Required: _____ Date Approved: _____ Date to Comply: _____				
10. Use Made of Water From: _____ To: _____				
Date Prepared: 11/15/2021 By: li Date Entered: 12/22/2021 By: LMoody				

File No. **18018** 11. County: GT Basin: ~~ARKANSAS RIVER~~ Stream: **NA** Formation Code: 211 Special Use:

12. Points of Diversion										Rate and Quantity						
CIMARRON										Authorized		Additional				
CHK	MOD	DEL	PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files
DEL				41162 NW NW NE	12	30	37W	2	5150	2500	IRR USE	1100	480	1100	480	NONE
ENT				89175 SE SE SW	1	30	37W		171	3104	DUAL IRR STK USE	1100	480	1100	480	NONE

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

14. Limitation: **417.12** af/yr at _____ gpm (_____ cfs) when combined with file number(s) **DUAL IRR/STK USE QUANTITY**
 Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____

15. 5YR Allocation: Allocation Type _____ Start Year _____ 5 YR Amount _____ Amount Unit _____ Base Acres _____ Comment _____

16. Place of Use CHK MOD DEL ENT	PUSE	S	T	R	ID	NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg?	Overlap Files	
						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					
ENT	14916	14	30	37W	1	CATTLE FEEDLOT ALL OF SEC																	8c	NO	7919 3646 D2	14441 14578 26191 31974 31975
ENT	18830	13	30	37W		CATTLE FEEDLOT (N2SW & NW)																	8c	NO	7919 3646 D2	14441 14578 26191 31974 31975
CHK	3218	12	30	37W	1	40	40	40	40	40	40	40	40								320	8b	NO	14578		
CHK	4556	1	30	37W	2									40	40	40	40				160	8b	NO	14578		

Base Acres: Year: Minimum Reasonable Quantity:

Comments: **POP UP TEMPORARY QUANTITY REDUCTION: LIMITED TO 417.12 AF (135.92 MGY) WHILE STK USE AUTH AS DUAL USE**

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: December 6, 2021

FROM: Leslie Ireland

RE: Water Right, File Nos. 14,578 & 18,018

Adam D. Gerrond on behalf of Feedyards Incorporated dba Ulysses Feedyard as owner of the referenced water rights submitted applications for approval to change each point of diversion and use made of water as to dual use irrigation and stockwater use. The owners also requested the place of use be changed to authorize the exiting feedlot. It appears the owner paid for this change but was an oversight in checking a box. The database and applications received on September 20, 2021 were updated to change all three parts of the referenced files.

The referenced water rights appear not to be abandoned as per K.S.A. 82a-718 and are in compliance with K.S.A. 82a-732. The required notification per K.S.A. 82a-1906, are not needed as there are no wells of any kind located within one-half mile of the proposed wells.

The changes are proposing to drill new wells to replace each well authorized. The referenced files all authorize one well with an assigned quantity and rate that irrigate a common place of use that is comprised of 480 acres located in Sections 1 and 12 of Township 30 South, Range 37 West, Grant County. The wells are not located within a special use area, they are located within Groundwater Management District No. 3 and have been determined as Ogallala Formation (Code 211) sourced wells in the Cimarron River Basin.

File No. 14,578 well will be moved as determined by WRIS approximately 2,479 feet to the West to complete a new well in the Southwest Quarter of the Southeast Quarter of the Northwest Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 12, located approximately 2,830 feet North and 3,310 feet West of the Southeast corner of said section, Township 30 South, Range 37 West, Grant County and will remain on land owned by the applicant. The submitted well log completed in July 2021 by Downey Drilling, indicates the red bed formation at 538 feet with and appears to indicate a static water level of at approximately 200 feet. The old well with a reported depth of 390 feet located in the Southwest Quarter of the Southeast Quarter of the Northeast Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$) approximately 3,000 feet North and 850 feet West of the Southeast corner of Section 12, Township 30 South, Range 34 West, Grant County will be plugged. The 480 acre-feet authorized requires 2,100 feet of well to well spacing per K.A.R. 5-23-3. There are no wells within 2,640 feet of the proposed well.

File No. 18,018 well will be moved approximately 703 feet to the West to complete a new well in the Southeast Quarter of the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 1, located approximately 171 feet North and 3,104 feet West of the Southeast corner of said section, Township 30 South, Range 37 West, Grant County and will remain on land owned by the applicant. The submitted well log completed in July 2021 by Downey Drilling, indicates red bed at 536 feet with and static water level could not be determined from the well log. The 480 acre-feet authorized requires 2,100 feet of well to well spacing per K.A.R. 5-23-3. The old well located in the Northwest Quarter of the Northwest Quarter of the Northeast Quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$) approximately 5,150 feet North and 2,500 feet West of the Southeast corner of Section 12, Township 30 South, Range 34 West, Grant County will be plugged.

The water rights are within the boundaries of GMD# 3 and therefore is subject to K.A.R. 5-23-3; *Minimum well spacing requirements: high plains aquifer*. K.A.R. 5-23-3(b) states that an application for change in point of diversion shall be no more than 2,640 feet from its existing well. Each change in point of diversion complies with this portion of the regulation. K.A.R. 5-23-3(a) further requires a minimum well spacing based on the quantity that will be diverted. The proposed points of diversion require 2,100 feet of well to well spacing for non-temporary and nondomestic wells. The WRIS database indicated no wells within one-half ($\frac{1}{2}$) of either proposed well and the wells meet the spacing to each other and appear to be about 2,700 feet apart. The changes in point of diversion appear to

meet the requirements of K.A.R. 5-3-23, *Minimum well spacing requirements: high plains aquifer*. It appears that the changes will not alter the local source of supply.

The changes will not be adding any wells, therefore, K.A.R. 5-5-16, *Additional well, will not apply.*

File No. 14,578 480 acre-feet (AF) authorized for irrigation is requested to be changed to irrigation and stockwatering use per K.A.R. 5-5-9, *Criteria for the approval of an application for a change in the use made of water from irrigation to any other type of beneficial use of water*, to authorize a limited "dual use". The standard consumptive use factor of 86.9 percent for Grant County allows 417.12 AF to be changed to another use. $480 \text{ AF} \times 86.9\% = 417.12 \text{ AF}$. While operated for dual use the quantity will be temporarily reduced to 417 AF (135.92 million gallons per year (mgy), assuring compliance with K.A.R. 5-5-3, *Change in consumptive use*. The portion remaining for irrigation use remains at the currently authorized 480 acres that is also served by File No. 18,018. This file is also requesting a use made of water change to also authorize dual use and reducing it from the authorized 480 to 417.12 AF (135.92 mgy). The irrigation use will provide 834.24 AF if not used for stockwatering use.

The proposed stockwatering use is at the existing feedlot remaining as authorized in Section 14, and in the Northwest Quarter (NW $\frac{1}{4}$); North Half of the Southwest Quarter (N $\frac{1}{2}$ SW $\frac{1}{4}$) of Section 13, both in Township 30 South, Range 37 West, Grant County, Kansas, currently authorized by File Nos. 7919; 13,646-D2; 14,441; 26,191; 31,974 & 31,975. The stockwatering use is currently a total of 1,109.81AF (367.498 mgy). The justification submitted with the referenced files indicate a future projection of 72,000 head of beef feeder cattle. As detailed in KAR 5-3-22, *Maximum reasonable quantity of water for livestock and poultry*, the 72,000 head would be afforded 394.2 million gallons (1,209.8 AF) per year for drinking at 15 gallons per head per day. As the proposed increase is dual use and the projected head will be increasing no additional quantity limitations will be added.

In a letter received on November 29, 2021, Jason Norquest, Assistant Manager, stated that the proposals are not in conflict with their Management Program and recommended approval of the changes.

Michael Meyer, Water Commissioner of the Garden City Field Office was contacted for a comment on the proposed changes. In an email dated December 6, 2021, he recommended approval.

The new wells will be required to have a flowmeter installed for each use and to have a water level measuring tube. A check valve will be required if the irrigation systems will be chemigating. The owner will be informed by the transmittal letter that the old wells are to be plugged in accordance with KDHE regulations. The database will show the wells as inactive due to the changes.

The proposed changes appear to be reasonable, the source of supply will remain unchanged. It is unlikely that the changes will cause impairment to any existing water rights, and not increase the historical consumptive use, therefore approval is recommended.



Leslie Ireland
Environmental Scientist

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

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Leslie Ireland
Environmental Scientist

From: Meyer, Mike [KDA]
Sent: Mon 12/6/2021 11:46 AM
To: Ireland, Leslie [KDA]
Subject: RE: Review & Recommendation, File Nos. 14578 & 18018 PD PU UMW Changes Ulysses

proceed with approval
thanks

Mike

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Monday, December 6, 2021 11:26 AM
To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Subject: Review & Recommendation, File Nos. 14578 & 18018 PD PU UMW Changes Ulysses

Mike,

The PD changes have the GMD review. The UMW are for dual use. I didn't put any limitations on the quantity as the rights are certified and will be metered by use. The PUs will remain as authorized as they could change back to all irr use and the STK use looks to have Sec 13 yet to develop.

As always comments and concerns are welcome.

Leslie Ireland
Environmental Scientist
Change Application Unit
Division of Water Resources



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 FOR CHANGE IN USE MADE OF WATER PLACE OF USE AND POINT OF DIVERSION AND ORDER IN THE MATTER OF THE AUTHORIZED QUANTITY OF WATER WATER RIGHT, FILE NO. 18,018

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Adam D. Gerrond on behalf of Feedyards Incorporated dba Ulysses Feedyard, 1765 East Road 21, PO Box 489, Ulysses, Kansas 67880, received in this office on September 20, 2021, for approval of a change in the location of the use made of water, place of use and point of diversion under the certificate of appropriation issued pursuant to the application for permit to appropriate water for beneficial use, finds that the changes are reasonable and will not impair existing rights, that the changes relate to the same local source of supply and that the application should be and is hereby approved.

The authorized quantity of water under this right will remain 480 acre-feet (156.41 million gallons). **This order effectively limits the authorized quantity of water to 417.12 acre-feet (135.92 million gallons) per calendar year for both stockwatering and irrigation uses combined.** That the limitation on the quantity of water shall exist until such a time that the quantity of water for stockwatering use authorized by this approval is no longer required.

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

one (1) well located in the Southeast Quarter of the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 1, more particularly described as being near a point 171 feet North and 3,104 feet West of the Southeast corner of said section, in Township 30 South, Range 37 West, Grant County, Kansas.

The portion retained for irrigation use shall be authorized a maximum quantity not to exceed 417.12 acre-feet (135.92 million gallons) of groundwater per calendar year, for irrigation use on the following described property:

Sec. Twp. Range	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTAL
	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
01 30S 37W									40.00	40.00	40.00	40.00					160
12 30S 37W	40.00	40.00	40.00	40.00	40.00	40.00	40.00	40.00									320

a total of 480 acres in Sections 1 and 12, in Township 30 South, Range 37 West, Grant County, Kansas.

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

December 22, 2021

FEEDYARDS INC ULYSSES FEEDYARD
ADAM GERROND
1765 EAST ROAD 21
ULYSSES KS 67880

RE: Water Right, File Nos. 14,578 & 18,018

Dear Mr. Gerrond:

Enclosed are the orders executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the application for change under the referenced files.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in the approvals for change. A condition of each approval is the requirement that acceptable water flowmeters be installed so both irrigation and stockwatering uses can be metered independent of each other, from the diversion works prior to the diversion of water. Please return the required, Notification of the Completion of the Diversion Works, prior to December 31, 2022.

Since these orders 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 regarding the enclosed documents, please contact our office at (785) 564-6640. Inquiries about the metering should be made to our staff at the Garden City Field Office, (620) 276-2901. Information is also available on our web site at <http://agriculture.ks.gov>. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

Kristen A. Baum
New Application and Change Unit Supervisor
Water Appropriation Program

KAB:LI:li
Enclosures

pc: Garden City Field Office
Groundwater Management District No. 3
Feedyards Inc., Dave Venhaus, PO Box 3050, Amarillo, TX 79116

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 22 day of December, 2021, I hereby certify that the attached Approval of Application for Change in Use Made of Water, Place of Use, Point of Diversion and Order in the Matter of the Authorized Quantity of Water under File No. 18,018; dated 14 December 2021 was mailed postage prepaid, first class, US mail to the following:

FEEDYARDS INC ULYSSES FEEDYARD
ADAM GERROND
1765 EAST ROAD 21
ULYSSES KS 67880

With a Photocopy to:

FEEDYARDS INC
DAVE VENHAUS
PO BOX 3050
AMARILLO TX 79116

Garden City Field Office
Groundwater Management District No. 3


Division of Water Resources