

Kansas Department of Agriculture  
Division of Water Resources

**CHANGE: PU UMW WORKSHEET & ORDERS**  
**PD BETTER DESCRIBED & QUANTITY REDUCED & LIMITATION ON QUANTITY REMOVED**

1. File Number: <b>22396</b>	2. Status Change Date: <b>5/6/2021</b>	3. Change Num: <b>C3</b>	4. Field Office: <b>04</b>	5. GMD: <b>01</b>
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: <b>10/2/2020</b>
8a. Applicant(s) New to system <input type="checkbox"/>		Person ID <u>new</u> Add Seq# _____	8c. PC New to system <input type="checkbox"/>	
<b>POKY FEEDERS INC GRANT MORGAN 600 E ROAD 30 SCOTT CITY KS 67871-5043</b>			<b>RURAL RESOURCES CONSULTING LLC ATTN FRANK MERCURIO, P.E. 751 SE CR 36 SYRACUSE, KS 67878</b>	
8b. Landowner(s) New to system <input type="checkbox"/>		Person ID <u>23270</u> Add Seq# _____	8d. WUC New to system <input type="checkbox"/>	
<b>POKY FEEDERS INC JOE MORGAN 600 E ROAD 30 SCOTT CITY KS 67871-5043</b>			<b>2b</b>	
9. Documents and Enclosure(s): <input checked="" type="checkbox"/> DWR Meter(s) Date to Comply: <u>12/31/21</u> <input type="checkbox"/> N & P Date to Comply: <u>12/31/21</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: <u>IRR</u> To: <u>STK</u>				
Date Prepared: <u>3/25/2021</u> By: <u>li</u> Date Entered: <span style="border: 1px solid blue; padding: 2px;"><u>5/10/2021</u></span> By: <span style="border: 1px solid blue; padding: 2px;"><u>LMoody</u></span>				

File No. <b>22396</b>	11. County: <b>SC</b>	Basin: <b>ARKANSAS RIVER</b>	Stream: <b>NA</b>	Formation Code: <b>211</b>	Special Use: <b>NA</b>																
12. Points of Diversion <span style="float:right">Rate and Quantity</span> CHK <span style="float:right">Authorized</span> MOD <span style="float:right">Additional</span> DEL PDIV ENT Qualifier S T R ID 'N 'W Comment (AKA Line) Rate gpm Quantity mgy Rate gpm Quantity mgy Overlap PD Files																					
<b>MOD</b>	<b>19930</b>	<b>NW NE NE</b>	<b>18 20 32W 1</b>	<b>5212 1177</b>	<b>GPS UPDATE 710 21.46 110 21.46 8869</b>																
13. Storage: Rate _____ NF Quantity _____ ac/ft Additional Rate _____ NF Additional Quantity _____ ac/ft																					
14. Limitation: _____ af/yr at <b>710</b> gpm ( _____ cfs) when combined with file number(s) <b>8869 REMOVE QUANTITY LIMITATION OF 263.9 AF WITH 8869</b> 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		NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg?	Overlap Files
CHK		NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE				
MOD		¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼				
DEL	PUSE	S	T	R	ID																
<b>DEL</b>	<b>37052</b>	<b>18 20 32W 1</b>	<b>40 37 40 40</b>															<b>157</b>	<b>8B NO 8869 , 24894</b>		
<b>ENT</b>	<b>69678</b>	<b>20 20 32W 2</b>		FEEDLOT (W2 SW)														<b>8B NO **</b>	8630; 8869; 9488; 12594; 13938; 15843; <del>22396</del> 24894; 26218; 36291; 36292; 36293; 37908; 40778; 44366; 49186 <del>8869</del>		
<b>ENT</b>	<b>53620</b>	<b>8 20 32W 1</b>		FEEDLOT (SW)														<b>8B NO **</b>			
<b>ENT</b>	<b>60746</b>	<b>17 20 32W 2</b>		FEEDLOT (SW)														<b>8B NO **</b>			
<b>ENT</b>	<b>23565</b>	<b>18 20 32W 5</b>		FEEDLOT (S2)														<b>8B NO **</b>			
<b>ENT</b>	<b>54924</b>	<b>19 20 32W 4</b>		FEEDLOT (E2)														<b>8B NO **</b>			
Base Acres: _____ Year: _____ Minimum Reasonable Quantity: _____																					
Comments: ADD 8869 & 22396 TO STK USE																					
<b>3/31/2021</b> <b>KJN</b>																					

**KANSAS DEPARTMENT OF AGRICULTURE**  
**Division of Water Resources**

**M E M O R A N D U M**

**TO:** Files

**DATE:** March 23, 2021

**FROM:** Leslie Ireland

**RE:** Water Right, File Nos. 8,869 & 22,396

Grant Morgan on behalf of Pokey Feeders LLC, owner of the referenced water rights has filed applications for approval to change the use made of water and place of use that were received on October 2, 2020. The applications are for the existing stockwatering operations located in Scott County, the Arkansas River Basin. The applicant was assisted by Frank Mercurio with Rural Resources Consulting LLC.

The referenced water rights would be considered not to be abandoned as per K.S.A. 82a-718 and in good standing as per K.S.A. 82a-732. The required notice of well owners to comply with K.S.A. 82a-1906 does not appear to be needed as the applicants are the owners of all the wells within the notification area. The applications appear to be complete per K.A.R. 5-5-2a, *Complete change application*.

File No. 8,869 is authorized 150 acre-feet (AF) at 600 gallons per minute (gpm) for irrigation use from a well located in the Northeast Quarter of Section 18 Township 20, Range 32 West, Scott County, Kansas for the irrigation of 157 acres. File No. 22,396 overlaps the place of use and point of diversion to authorize a limited 263.9 acre-feet per acre and 710 gallons per minute when combined with File No. 8,869.

The owner has proposed to change the referenced files from irrigation ~~and stockwatering~~ use to ~~all~~ stockwatering use. The applications will be processed by K.A.R. 5-5-9, *Changes in the use made of water from irrigation to another type of beneficial use*. The quantity allowed to be changed according to this proposed change in use made of water for Scott County based on the consumptive use of 81.8 % was calculated as follows:

Combined quantity 263.9 AF x 81.8% CU Scott County = 215.87AF (70.34 million gallons (mgy))

The owners have requested to maintain the 150 acre-feet under File No. 8,869 and have the required consumptive use adjustment to occur under File No. 22,396 as both of the referenced files are being changed to stockwatering use. The shifting of the assignment is not uncommon with use made of water changes. This will result in File No. 8,869 to be authorized 150AF (48.88 mgy) and File No. 22,396, reduced to authorize 65.85 AF (21.46 mgy) and allow the additional limitation on the quantity to be removed. The rate under File No. 22,396 will remain as authorized limited 710 gpm with File No. 8,869.

The owner has submitted justification for the stockwatering listing feeder cattle, with nursery and finishing swine, indicating a total combined 1,742.59 acre-feet. All requested quantities comply with K.A.R. 5-3-22, *Maximum reasonable quantity of water for livestock and poultry*. The addition of the 215.87 AF (70.34 mgy) will result in 1,482.23 AF to be authorized under File Nos. 8630; 12,594; 13,938; 24,894; 26,218; 36,291; 36,292; 34,908; 9,488; 15,843; 8,869 & 22,398, providing 85% of the justified quantity for stockwatering use. The approval will remove the irrigation quantity limitation and restate the rate limitation on File No. 22,396.

The change in place of use will result in the elimination of 157 acre pivot irrigation of the Northeast Quarter (NE<sup>1</sup>/<sub>4</sub>) of Section 18, Township 20 South, Range 32 West Scott County. The place of use will authorize the existing stockwatering use located in the Southwest Quarter (SW <sup>1</sup>/<sub>4</sub>) of Section 17, South Half (S<sup>1</sup>/<sub>2</sub>) Section 18, East Half Section 19, and a portion of the Southwest Quarter (SW <sup>1</sup>/<sub>4</sub>) of Section 20, all in Township 20 South, Range 31 West, Scott County. As the authorized quantity will not increase and irrigated acres will be eliminated the historical consumptive use should not increase and the change in use made of water complies with K.A.R. 5-5-3 *Change in consumptive use*.

**PU: and SW Quarter of Section 8\***

The order will update the location of the point of diversion to the actual well location as determined by the 2008 Compliance Investigation from 5,150 feet North and 950 feet West to 5,212 feet North and 1,177 feet West in Section 18, Township 20 South, Range 32 West, Scott County, Kansas. The correction of the 235 foot difference by order appears to comply with K.A. R. 5-5-6, *Failure to construct diversion works at authorized location*, due to the age and history of the senior file.

In a letter dated December 16, 2020, Kyle Spencer, Manager, Western Kansas Groundwater Management District No. 1, recommend approval of the applications for change.

As stated in an e-mail note dated March 23, 2021, Michael Meyer, Water Commissioner of the Garden City Field Office has no objection to the approval of the applications.

A water flow meter will be required and a check valve is 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). A water level measurement tube is not applicable to these changes, as no new wells have been authorized.

Based on the above discussion, that the changes are reasonable, that impairment to existing water rights is unlikely, that no change in the local source of supply will occur, and that the consumptive use should not significantly increase, it has been recommended that the applications be approved.

3/31/2021  
KJN



Leslie Ireland  
Environmental Scientist  
Water Appropriation Program

**From:** Meyer, Mike [KDA]  
**Sent:** Tue 3/23/2021 9:25 AM  
**To:** Ireland, Leslie [KDA]  
**Subject:** RE: Review & Recommendation File Nos. 8869 & 22396 Pokey,

please approve  
thank you

Mike

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**From:** Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>  
**Sent:** Tuesday, March 23, 2021 8:43 AM  
**To:** Meyer, Mike [KDA] <Mike.Meyer@ks.gov>  
**Subject:** FW: Review & Recommendation File Nos. 8869 & 22396 Pokey,

Mike,

Please let me know if you could recommend these changes and order to fix the pd location.. top of page 2.

As always comments and concerns are welcome.

Sorry I sent you Kelly's work, know you have enough of yours to do.

Leslie Ireland  
Environmental Scientist  
Change Application Unit  
Division of Water Resources



**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, the authorized quantity of water and place of use under Water Right, File No. 22,396 shall be:

a quantity not to exceed 263.90 acre-feet of water per calendar year for irrigation use on the following described property:

Sec. Twp. Range	NE¼				NW¼				SW¼				SE¼				TOTAL
	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
18 20S 32W	40.00	37.00	40.00	40.00													157.00

a total of 157.00 acres in Township 20 South, Range 32 West, Scott County, Kansas, and the limitation on the authorized diversion rate and quantity shall be:

This appropriation right is further limited to a diversion rate and a quantity of water which when combined with the water right set forth in the Certificate of Appropriation issued pursuant to File No. 8,869, will provide a maximum diversion rate not in excess of 710 gallons per minute (1.58 c.f.s.) and a total quantity not to exceed 263.90 acre-feet of water per calendar year for irrigation use from the diversion point described herein.

In all other respects, the Certificate of Appropriation for Beneficial Use of Water, issued pursuant to Water Right, File No. 22,396 dated December 22, 1999, remains as authorized, as modified and amended by the orders of the Chief Engineer dated July 20, 2007 and August 28, 2007.

This is a final agency action. If you choose to appeal this decision or any finding or part thereof, you must do so by filing a petition for review in the manner prescribed by the Kansas Act for Judicial Review and Civil Enforcement of Agency Actions (KJRA K.S.A. 77-601 et seq.) within 30 days of service of this order. Your appeal must be made with the appropriate district court for the district of Kansas. The Chief Legal Counsel for the Kansas Department of Agriculture, 109 SW 9th Street, 4th Floor, Topeka, Kansas 66612, is the agency officer who will receive service of a petition for judicial review on behalf of the Kansas Department of Agriculture, Division of Water Resources. If you have questions or would like clarification concerning this order, you may contact the Chief Engineer.

Dated at Topeka, Kansas, this *28<sup>th</sup>* day of *October*, 2009.

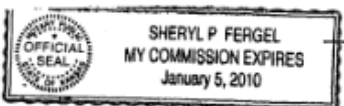


*David W. Barfield*  
David W. Barfield, P.E.  
Chief Engineer  
Division of Water Resources  
Kansas Department of Agriculture

State of Kansas )  
County of Shawnee )

SS

The foregoing instrument was acknowledged before me this *28<sup>th</sup>* day of *October*, 2009, by David W. Barfield, P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.



*Sheryl P. Fergel*  
Notary Public

# 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  
ORDER IN THE MATTER OF THE AUTHORIZED QUANTITY OF WATER  
AND  
BETTER DESCRIBING THE AUTHORIZED POINT OF DIVERSION  
WATER RIGHT  
FILE NO. 22,396**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Grant Morgan, on behalf of Poky Feeders Incorporated, 600 East Road 30, Scott City, Kansas, 67871, received in this office on October 2, 2020, for approval of a change in the use made of water and location of the place of use under the certificate of appropriation issued pursuant to the permit to appropriate water for beneficial use, as modified and amended by the Orders of the Chief Engineer dated July 20, 2007 and August 28, 2007, approving the applications to change the point of diversion, and by the Findings and Order of the Chief Engineer dated October 28, 2009, in the matter of the location of the place of use, additional limitation and quantity, finds that the change is reasonable and will not impair existing rights, and that the application should be and is hereby approved.

This order effectively reduces the authorized quantity to 65.87 acre-feet (21.46 million gallons) of water per calendar and removes the additional limitation on the quantity when combined with Water Right, File No. 8,869, as set forth by the by the Certificate of Appropriation, subsequently modified by the Findings and Order of the Chief Engineer in the Matter of the Reduction of the Authorized Place of Use the Authorized Quantity and the Authorized Quantity Limitation.

The effective date of the change shall be the date this order is executed by the Chief Engineer, after which 21.46 million gallons (65.87 acre-feet) of water per calendar year shall be authorized for:

Stockwatering use

and authorized location of the place of use shall be:

the Southwest Quarter (SW $\frac{1}{4}$ ) of Section 8, the Southwest Quarter (SW $\frac{1}{4}$ ) of Section 17, the South Half (S $\frac{1}{2}$ ) of Section 18, the East Half (E $\frac{1}{2}$ ) of Section 19, and the West Half of the Southwest Quarter (W $\frac{1}{2}$  SW $\frac{1}{4}$ ) of Section 20, all in Township 20 South, Range 32 West, Scott County, Kansas,

located substantially as shown on the map accompanying the application to change the use made of water and place of use and the location of the authorized point of diversion shall be better described as:

one (1) well located in the Northwest Quarter of the Northeast Quarter of the Northeast Quarter (NW $\frac{1}{4}$  NE $\frac{1}{4}$  NE $\frac{1}{4}$ ) of Section 18, more particularly described as being near a point 5,212 feet North and 1,177 feet West of the Southeast corner of said section, in Township 20 South, Range 32 West, Scott County, Kansas.

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 acceptable 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 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 Approval of Application, File No. 22,396, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated December 22, 1999, as modified and amended by the aforementioned orders.

Ordered this 6 day of May, 2021, in Manhattan, Riley County, Kansas.

Lane P. Letourneau

Lane P. Letourneau, P.G.  
Water Appropriation Program Manager  
Division of Water Resources  
Kansas Department of Agriculture

State of Kansas )  
                                  ) SS  
County of Riley )

The foregoing instrument was acknowledged before me this 6 day of May, 2021, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Water Appropriation Program, Division of Water Resources, Kansas Department of Agriculture.



Ashlee Freeman  
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 11, 2021

POKY FEEDERS INC  
GRANT MORGAN  
600 E ROAD 30  
SCOTT CITY KS 67871

RE: Water Right, File Nos. 8,869 & 22,396

Dear Mr. Morgan:

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

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in the approvals for change. A condition of the approvals is that an acceptable water flowmeter must be installed on the diversion works authorized under the referenced files.

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, please contact our office at (785)564-6640 or your local Garden City field office at (620) 276-2901. 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 Applications & Change Unit Supervisor  
Water Appropriation Program

KAB:LI:

Enclosures

pc: Garden City Field Office  
Groundwater Management District No. 1  
Frank Mercurio, P.E., Rural Resources Consulting LLC

**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.

**CERTIFICATE OF SERVICE**

On this 11 day of May, 2021, I hereby certify that the attached Approval of Application for the Change in Use Made of Water, Place of Use, and Order in the Matter of the Authorized Quantity of Water, and Better Describing the Point of Diversion, Water Right, File No. 22,396, dated 6 May, 2021, was mailed postage prepaid, first class, US mail to the following:

POKY FEEDERS INC  
GRANT MORGAN  
600 E ROAD 30  
SCOTT CITY, KS 67871

With photocopies to:

RURAL RESOURCES CONSULTING LLC  
ATTN FRANK MERCURIO, P.E.  
751 SE CR 36  
SYRACUSE, KS 67878

Garden City Field Office  
Groundwater Management No. 1

  
Division of Water Resources