

Kansas Department of Agriculture
Division of Water Resources
**CHANGE: PU UMW WORKSHEET DUAL USE &
ORDER PD BETTER DESCRIBED**

1. File Number: 23956	2. Status Change Date: 5/20/2021	3. Change Num: C1	4. Field Office: 04	5. GMD: 01
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: 3/8/2021
8a. Applicant/ Landowners New to system <input type="checkbox"/> POKY FEEDERS INC GRANT MORGAN 600 E ROAD 30 SCOTT CITY KS 67871-5043		Person ID 23270 Add Seq# _____		8c. PC New to system <input type="checkbox"/> RURAL RESOURCES CONSULTING LLC ATTN FRANK MERCURIO, P.E. 751 SE CR 36 SYRACUSE, KS 67878
8b. Landowner(s) New to system <input type="checkbox"/> POKY FEEDERS INC JOE MORGAN 600 E ROAD 30 SCOTT CITY KS 67871-5043		Person ID 23270 Add Seq# _____		8d. WUC ID 2 New to system <input type="checkbox"/> POKY FEEDERS INC JOE MORGAN 600 E ROAD 30 SCOTT CITY KS 67871-5043
8bb. Landowner(s) New to system <input type="checkbox"/> FAIRLEIGH CORPORATION GREG GLUNZ 207 E BELLEVUE SCOTT CITY, KS 67871		Person ID 5067 Add Seq# _____		8dd. WUC ID 1 New to system <input type="checkbox"/> FAIRLEIGH CORPORATION 207 E BELLEVUE SCOTT CITY, KS 67871
9. Documents and Enclosure(s): <input checked="" type="checkbox"/> DWR Meter(s) Date to Comply: 12/31/21 <input type="checkbox"/> N & P Date to Comply: _____				
<input checked="" type="checkbox"/> Anti-Reverse Meter <input checked="" 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: IRR To: IRR & STK DUAL USE				
Date Prepared: 5/12/2021 By: li Date Entered: 5/24/2021 By: LMoody				

File No. **23956** 11. County: **SC** Basin: **ARKANSAS RIVER** Stream: **NA** Formation Code: **211** Special Use: **NA**

12. Points of Diversion										Rate and Quantity						
CHK	MOD	DEL	PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Rate gpm	Quantity mgy /AF	Rate gpm	Quantity mgy	Overlap PD Files
MOD	13853	NE NW SW		30	20	32W	1	2573	4318	GPS UPDATE		1310	295 AF	1310	295 AF	NONE IRR ONLY
MOD	52327	NE SW SE		30	20	32W	2	796	1371	DUAL USE WELL GPS		1280	297AF	1280	297 AF	NONE IRR & STK

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

14. Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) **DUAL USE ID 2 LIMITED TO 79.18 MGY / 243 AF IRR & STK USE COMBINED**
 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	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						
CHK	32093	30	20	32W	2																					159.32			ADDING 23956 TO STK USE		
CHK	70233	30	20	32W	4																								8b	NO	NONE
ENT	69678	20	20	32W																									8b	NO	** 8630; 8869; 9488; 12594; 13938; 15843; 22396 24894; 26218; 36291; 36292; 36293; 37908;40778;44366; 49186 8869
ENT	53620	8	20	32W	1																								8b	NO	**
ENT	60746	17	20	32W	2																								8b	NO	**
ENT	23565	18	20	32W	5																								8b	NO	**
ENT	54924	19	20	32W	4																								8b	NO	**

Base Acres: _____ Year: _____ Minimum Reasonable Quantity: _____
 Comments: _____

5/14/2021
TLV

Should the total 243.24 AF (79.26 mgy) for stockwatering use be added to the existing stockwatering rights, a total of 562.225 mgy or 1,725.47 AF under all of files authorized for stockwatering use. This should help with the peak demands and will provide another point of diversion for stockwatering. A submitted stockwatering use supplemental sheet indicated a water budget of 1,742.59 AF for the combined stockwatering needs of this facility of beef feeder cattle and swine ranging from nursery to finishing stock. It appears the allotted quantity complies with K.A.R 5-3-22, *Maximum reasonable quantity of water for livestock and poultry*.

The irrigation portions will authorize the same acres as developed in the South Half of Section 30, Township 20 South Range 32 West, Scott County, Kansas. The East pivot will provide land for the Nutrient Management Plan for Poky Feeders. The minor reduction in irrigation quantity will still result in an irrigation ratio of 1.78 AF/acre. This appears to be reasonable for Scott County that has a net irrigation requirement of 1.33 AF/acre at the 80% change of rainfall per K.A.R. 5-5-12.

Frank Mercurio, Rural Resources Consulting LLC, who assisted with the owners with the application identified only one non-domestic well within one-half (½) mile of the well proposing to change. The owners of the well authorized by File Nos. 9,488-D2 and 40,072 were notified of by letter of the proposed change. No reply inquiry or comment was received. It appears the processing of the application follows K.S.A. 82a-1906.

A Compliance Investigation completed in 2021 determined the actual well locations. The well located in the Southwest Quarter is approximately 84 feet from authorized and the well in the Southeast Quarter is approximately 33 feet. The approval will update the feet distances of the SW well from 2,500 feet North and 4,360 feet West to 2,573 feet North and 4,318 feet West of the Southeast corner of Section 30. The well descriptors will be updated to show Lot 3 (NW¼ SW ¼). The well in the Southeast Quarter will be updated to

In a letter dated May 6, 2021, a copy of the application was sent to Kyle Spencer of Western Kansas Groundwater Management District No. 1 (GMD 1) along with a request to make a recommendation. In a letter dated May 10, 2021, GMD 1, recommended approval of the application.

Mike Meyer, Water Commissioner of the Garden City Field Office, indicated that he recommended approval of the application and temporary reduction, by email May 12, 2021.

Due to the penalty requiring the instillation of totalizing meters and seals the change approval will require the same conditions with a flow meter for each use authorized, pursuant to K.S.A. 82a-706c. A check valve will be required if chemigation occurs. The water use correspondents will remain as designated.

Based on the above discussion, that the change is reasonable, consumptive use will not increase, impairment of existing water rights is unlikely, and that no change in the local source of supply will occur, it is recommended that the referenced application for change be approved.



Leslie Ireland
Environmental Scientist
Water Appropriation Program

From: Meyer, Mike [KDA]
Sent: Wed 5/12/2021 10:50 AM
To: Ireland, Leslie [KDA]
Subject: RE: Review & Recommendation for Change in PU & UMWFile No. 23,956 -Poky

please approve, please add add cond for arv and meter seal (issued already with penalty order)
please coordinate with Ty to get the division done now also

thank you!

Mike

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Wednesday, May 12, 2021 10:17 AM
To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Subject: Review & Recommendation for Change in PU & UMWFile No. 23,956 -Poky

Mike,

Please let me know if you could recommend this change. The order will also update the location of the wells and correct the descriptors of the SW well to reflect the lot location and 2021 Compliance Investigation.

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 PLACE OF USE
USE MADE OF WATER
ORDER IN THE MATTER OF THE AUTHORIZED QUANTITY OF WATER
AND
ORDER BETTER DESCRIBING THE AUTHORIZED POINTS OF DIVERSION
WATER RIGHT
FILE NO. 23,956**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Greg Glunz, CEO, Fairleigh Corporation, 207 E. Bellevue, PO Box 560, Scott City, Kansas 67871 and Grant Morgan, Manager, Poky Feeders Incorporated, 600 East Road 30, Scott City, Kansas, 67871, received in this office on February 8, 2021, for approval of a change in the location of the place of use and use made of water under the certificate of appropriation issued pursuant to the permit to appropriate water for beneficial use, finds that the change is reasonable and will not impair existing rights, and that the application should be and is hereby approved.

The authorized quantity of water under this right will remain 592 acre-feet (192.904 million gallons). This order effectively limits the authorized quantity of water to 538 acre-feet (175.308 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 portion authorized for both irrigation and stockwatering uses shall be authorized from the following dual use point of diversion:

one (1) well located in Northeast Quarter of the Southwest Quarter of the Southeast Quarter (NE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 30, more particularly described as being near a point 796 feet North and 1,371 feet West of the Southeast corner of said section, in a quantity not to exceed to 297 acre-feet (96.778 million gallons) per calendar year at a rate of diversion not in excess of 1,280 gallons per minute (2.85 c.f.s), further limited to a quantity not to exceed 243 acre-feet (79.182 million gallons) per calendar year for both stockwatering and irrigation uses combined,

in Township 20 South, Range 32 West, Scott County, Kansas,

and the point of diversion to remain authorized solely for irrigation use shall be:

one (1) well located in Lot 3 (NW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 30, more particularly described as being near a point 2,573 feet North and 4,318 feet West of the Southeast corner of said section, in a quantity not to exceed to 295 acre-feet (91.126 million gallons) per calendar year at a rate of diversion not in excess of 1,310 gallons per minute (2.92 c.f.s),

in Township 20 South, Range 32 West, Scott County, Kansas,

and the authorized location of the irrigation place of use shall be:

Sec. Twp. Range	NE¼				NW¼				SW¼				SE¼				TOTAL
	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
30 20 32W									40.00	Lot 3 39.65	Lot 4 39.67	40.00	34.00	34.00	34.00	34.00	295.32

a total of 295.32 acres in Section 30, Township 20 South, Range 32 West, Scott County, Kansas, and

the portion changed to stockwatering shall authorize the place of use at the location described as being:

the Southwest Quarter (SW¼) of Section 8, the Southwest Quarter (SW¼) of Section 17, the South Half (S½) of Section 18, the East Half (E½) of Section 19, and the West Half of the Southwest Quarter (W½ SW¼) of Section 20, all in Township 20 South, Range 32 West, Scott County, Kansas,

all located substantially as shown on the map accompanying the application to change the place of use and use made of water.

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 owners of the authorized place of use shall properly install an anti-reverse totalizing water flowmeter which meets or exceeds specifications adopted by the Chief Engineer and said meter shall be installed 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.

A seal shall be placed on the water flowmeter by the Division of Water Resources in such a manner as to render the meter non-removable from the measuring chamber without breaking the seal. If the seal is broken without the written permission of the Chief Engineer, this shall create a rebuttable presumption that the point of diversion had been unlawfully operated in violation of the order of the Chief Engineer and that the water right holder had been acting in violation of the conditions of his or her water right.

In all other respects, the Certificate of Appropriation issued pursuant to Approval of Application, File No. 23,956, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated June 21, 1982.

Ordered this 20 day of May, 2021, in Manhattan, Riley County, Kansas.

Lane P. Letourneau

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

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 20 day of May, 2021, by Lane P. Letourneau, P.G., Program Manager, Water Appropriation Program, Division of Water Resources, Kansas Department of Agriculture.

Ashlee Freeman

Notary Public



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 the Kansas Department of Agriculture, Attn: Legal Section, 1320 Research Park Drive, Manhattan, Kansas 66502, or by 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 the Secretary of Agriculture, Attn: Legal Division, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, or by 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 day of , 2021, I hereby certify that the attached Approval of Application for the Change in Place of Use, Use Made of Water and Orders in the Matters of the Authorized Quantity and Points of Diversion, Water Right, File No. 23,956, dated 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
FRANK MERCURIO PE
751 SE CR 36
SYRACUSE, KS 67878

A true and correct copy to:

FAIRLEIGH CORPORATION
GREG GLUNZ
207 E BELLEVUE
PO BOX 560
SCOTT CITY KS 67871

Garden City Field Office
Groundwater Management No. 1

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 26, 2021

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

RE: Water Right, File No. 23,956

Dear Mr. Morgan:

Enclosed is the order executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the application for change under the referenced file. A true and correct copy is being sent to Greg Glunz, CEO, Fairleigh Corporation.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in the approval for change. A condition of the approval is the requirement that the well authorized for dual use shall have an acceptable water flowmeters be installed so both irrigation and stockwatering uses can be metered independent of each other, from said diversion works prior to the diversion of water. It is further required as a condition that anti-reverse totalizing water flowmeters which meets or exceeds specifications adopted by the Chief Engineer must be installed on the diversion works authorized under the referenced file. That if not completed already, a seal shall be placed on the water flowmeters by the Division of Water Resources in such a manner as to render the installed meter non-removable from the measuring chamber without breaking the seal. You should contact the Garden City Field Office at (620) 276-2901, regarding the required meter seal. Please return the required notification of installation of the meter as soon as this action is completed.

Since this order modifies the original document referred to above, it 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 please contact our staff at the Garden City Field Office, (620) 276-2901. Information is also available on our web site at <http://agriculture.ks.gov>.

RE: Water Right, File No. 23,956

If you contact us 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

Enclosures

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

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CERTIFICATE OF SERVICE

On this 20 day of May, 2021, I hereby certify that the attached Approval of Application for the Change in Place of Use, Use Made of Water and Orders in the Matters of the Authorized Quantity and Points of Diversion, Water Right, File No. 23,956, dated 20 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

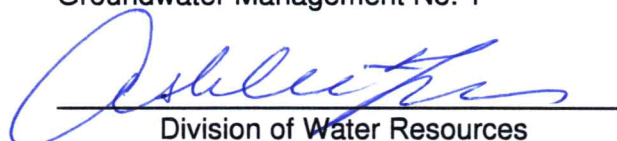
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Garden City Field Office
Groundwater Management No. 1


Division of Water Resources