

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

1. File Number: 4887	2. Status Change Date: 12/14/2021	3. Change Num: C8 C5	4. Field Office: 04	5. GMD: 03
6. Status: <input type="checkbox"/> Approved <input type="checkbox"/> Denied by DWR/GMD <input type="checkbox"/> Dismiss by Request/Failure to Return				7. Filing Date of Change: 25-AUG-2021
8a. Applicant(s) New to system <input type="checkbox"/> MIDWEST FEEDERS INC 5013 13 RD INGALLS KS 67853-9023		Person ID <u>37213</u> Add Seq# <u>1</u>	8c. Landowner(s) New to system <input type="checkbox"/> Person ID _____ Add Seq# _____	
8b. Landowner(s) New to system <input type="checkbox"/> MIDWEST FEEDERS INC 5013 13 RD INGALLS KS 67853-9023		Person ID <u>37213</u> Add Seq# <u>1</u>	8d. WUC New to system <input type="checkbox"/> NO CHANGE Person ID _____ Add Seq# _____	
9. Documents and Enclosure(s): <input checked="" type="checkbox"/> DWR Meter(s) Date to Comply: _____ <input type="checkbox"/> N & P Date to Comply: _____ <input type="checkbox"/> Anti-Reverse Meter <input type="checkbox"/> Meter Seal <input checked="" 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: 11/29/21 By: LI Date Entered: 12/16/2021 By: LMoody				

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources
MEMORANDUM

TO: Files

DATE: November 29, 2021

FROM: Leslie Ireland

RE: Water Right, File Nos. 4,887; 10,639; 10,999; 22,121; 22,122; 29,614; 32,786; and 32,787

Jeffrey H. Sternberger, on behalf of Midwest Feeders Inc., owner of the above referenced water rights, filed applications for approval to change the place of use and use made of water for Water Right, File Nos. 10,639; 22,121; 22,122 & 29,614, and applications for change in place of use for Water Right, File Nos. 4,887; 10,999; 32,786; and 32,787. These applications for change were received on August 25, 2021, with a Term Permit, File No. 20219062. The new permit, File No. 20219062 will be processed by a separate memo. Kris Neuhauser, New Applications Lead, will process a new application, Permit, File No. 50,675, proposing to appropriate 130.341 million gallons (400 acre-feet) from a well in located in the Southeast Quarter (SE $\frac{1}{4}$) Sec18 Twn24 Rng28W for stockwatering use.

The referenced file numbers do not appear abandoned pursuant to K.S.A. 82a-718 and in compliance with 85a-716. The applications were completed by KLA Environmental Services and appear to comply with K.A.R. 5- 5-2a.

All of the requested changes in place of use for stockwater use are to authorize the expansion of the stockwatering place of use into the South Half of Section 18 Township 24, Range 28 West, Gray County. (new to only File No. 29,614). All of the referenced files will authorized stockwatering use:

a feedlot located in the South Half (S $\frac{1}{2}$) of Section 18, and in the North Half (N $\frac{1}{2}$), the Southwest Quarter (SW $\frac{1}{4}$), and the North Half of the Southeast Quarter (N $\frac{1}{2}$ SE $\frac{1}{4}$) of Section 19, both in Township 24 South, Range 28 West; and the Southeast Quarter (SE $\frac{1}{4}$) of Section 24, the Northeast Quarter (NE $\frac{1}{4}$), the East Half of the Northwest Quarter (E $\frac{1}{2}$ NW $\frac{1}{4}$) and the Northwest Quarter of the Southeast Quarter (NW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 25, both in Township 24 South, Range 29 West, all in Gray County, Kansas.

The new proposed stockwatering place of use is not currently authorized for any other use. The irrigation portion of 399.5 acres all under File Nos. 10,639; 22,121; 22,122 & 29,614, will not be altered with the requested changes in place of use. K.A.R. 5- 5-11 is not applicable to the changes. These four files propose the change in use made of water per K.A.R. 5-5-9 to authorized dual use. Located in Gray county the irrigation quantity will be subject to the 89.3% consumptive use percentage when authorized irrigation and stockwatering dual use. In summary:

File Nos.	Well, Sec, ID	Authorized Use	Quantity AF auth	Quantity AF adl	Proposed Use	Quantity AF auth	Quantity AF adl
10,639	NW SW NE, 24, 2	IRR	159.6	159.6	IRR/STK	142.5	142.5
10,639	SW SW SE, 24, 3	STK	134.97	134.97			
10,639	NW SE NE, 25, 7	STK	94.98	94.98			
22,121	NE NW SE, 25, 3	IRR	112.1	112.1	IRR/STK	100.105	100.105
22,121	NW SW NE, 25, 2	IRR	41.4	41.4	IRR/STK	36.97	39.97
22,121	NE NW SE, 25, 3	STK	112.01	112.01			
22,122	NW SW NE, 25, 2	IRR	52.00	52.00	IRR/STK	46.436	46.436
22,122	SE SE NE, 24, 2	STK	123.98	123.98			
22,122	NW SW SE, 24, 5	STK	25.01	25.01			
29,614	SE SW SW, 25, 9	IRR	109.00	109.00	IRR/STK	97.34	97.34
TOTALS		IRR only	474.1	474.1	Dual use	423.355	423.355
		STK	490.95	490.95	STK	955.305	955.305

The irrigation use under File Nos. 10,639; 22,121; 22,122 & 29,614 currently provide a combined total of 474.1 AF for the irrigation of the 399.5 acres they authorize for a ratio of 1.18 AF per acre. If all of the requested dual use quantity were still used for irrigation use an irrigation ratio of 1.05 AF per acre would be available. The owners did not claim any return flow effluent credit, but the aerial view of the facility would indicate there are two large lagoons.

The 423.355 acre-feet proposed to be diverted for stockwatering use if no water is diverted for irrigation use when File Nos. 10,639; 22,121; 22,122 & 29,614, irrigation portions are operated for dual use when combined with the existing stockwatering quantity of 746.1 acre-feet under the stockwatering portions of File Nos. 10,639; 22,121 & 22,122 and the stockwatering under File Nos. 4,887; 10,999; 32,786; and 32,787 will authorize a maximum of 1,169.455 acre-feet for stockwatering use. The total 1,169.455 AF would facilitate the watering of approximately 69,601 head as detailed in K.A.R. 5-3-22, *Maximum reasonable quantity of water for livestock and poultry*, at the maximum allowed 15 gallons per head per day. The submitted water budget annual capacity is based on 74,000 head but is proposed to increase to a total of 104,000 head with their projected rate of 10 gallons per head per day affording 104,402 head with the existing appropriations. It appears the stockwatering quantity will be for the proposed changes in use made of water is reasonable and no additional limitations will be applied to the stockwatering use per the requested changes and K.A.R. 5-3-22. The new appropriation File No. 50,675 will provide up to 130.341 million gallons (400 acre-feet) bringing the total to 1,569.455 AF providing for approximately 93,407 head per K.A.R. 5-3-22 or 104,402 head at their historical daily usage.

The changes to the stockwatering place of use appears to comply with K.A.R. 5-5-3 and the water rights and new applications proposing water for stockwatering use will provide water for the expansion such that historic consumptive use will not be significantly increased assuring compliance with K.A.R. 5-5-8.

In a letter dated mistakenly dated March 9, 2021, which was received on October 14, 2021, Jason Norquest, Manager of Southwest Kansas Groundwater Management District No. 3, indicated that the Board of Directors of GMD No. 3 recommended approval of the applications for the currently authorized appropriations. Specifically, the dual use under File Nos. 10,639, 22,121, 22,122 & 29,614

In an e-mail dated November 29, 2021, Mike Meyer, Water Commissioner of the Garden City Field Office, indicated no objection to approval of the applications.

The changes will not alter the rate of diversion or the points of diversion. Water flowmeters are required for each use authorized per point of diversion. Check valves are required if chemigating. No new wells will be authorized so the local source of supply remains the Ogallala Formation.

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

12/8/2021
KJN


Leslie Ireland
Environmental Scientist

From: Meyer, Mike [KDA]
Sent: Mon 11/29/2021 2:05 PM
To: Ireland, Leslie [KDA]
Cc: Neuhauser, Kris [KDA]
Subject: RE: Midwest Feeders File Nos. 4,887; 10,639; 10,999; 22,121; 22,122; 29,614; 32,786; and 32,787 Review & Recommendation

Leslie, please approve the changes as we will be moving forward with the new app and term.

Mike

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Monday, November 29, 2021 10:31 AM
To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Cc: Neuhauser, Kris [KDA] <Kris.Neuhauser@ks.gov>
Subject: FW: Midwest Feeders File Nos. 4,887; 10,639; 10,999; 22,121; 22,122; 29,614; 32,786; and 32,787 Review & Recommendation

Mike,

So they requested the dismissal of both new apps and filed a third! Kris has got this hands full with this new apps package.. but the changes could go and be done with them. The new apps to follow and the term could follow. The term permit memo was sent for review and it appears you've recommended it with the STK limitations needing review. A mockup of the term with limitations has been sent to Kristen for her review.

I've attached the updated memo for the viable new app, 50,675 with the quantity touched upon, but not real relevant to the changes.

As always comments and concerns are welcome.

Leslie Ireland
Environmental Scientist
Change Application Unit
Division of Water Resources



From: Ireland, Leslie [KDA]
Sent: Saturday, November 13, 2021 1:47 PM
To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Subject: FW: Midwest Feeders File Nos. 4,887; 10,639; 10,999; 22,121; 22,122; 29,614; 32,786; and 32,787 Review & Recommendation

Mike,

Please see below and attached.

Leslie

From: Ireland, Leslie [KDA]

Sent: Tuesday, October 19, 2021 10:53 AM

To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>

Subject: Midwest Feeders File Nos. 4,887; 10,639; 10,999; 22,121; 22,122; 29,614; 32,786; and 32,787 Review & Recommendation

Mike,

Attached is a summary (summary) memo for the requested changes.

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 WATER RIGHT FILE NO. 4,887

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Jeffrey H. Sternberger, on behalf of Midwest Feeders, Incorporated, 5013 13 Road, Ingalls, Kansas, 67853, received in this office on November 19, 2018, for approval of a change in the location of the place of use under the certificate of appropriation issued pursuant to the application for permit to appropriate water for beneficial use, as modified and amended by the Order of the Chief Engineer dated June 1, 1994, approving the application to change the place of use, by the Findings and Order of the Chief Engineer dated February 22, 1995, reducing the authorized place of use, points of diversion, rate of diversion and quantity of water, the Orders of the Chief Engineer dated March 23, 1998 and July 28, 2005, approving the applications to change the place of use, by the Order of the Chief Engineer dated December 6, 2011, approving the application to change the point of diversion, and by the Order of the Chief Engineer dated May 23, 2014, approving the application to change the place of use and use made of water, by the Order of the Chief Engineer dated January 25, 2019, approving the application to change the place of use, finds that the change is reasonable and will not impair existing rights, 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 authorized location of the place of use shall be:

a feedlot located in the South Half (S $\frac{1}{2}$) of Section 18, and in the North Half (N $\frac{1}{2}$), the Southwest Quarter (SW $\frac{1}{4}$), and the North Half of the Southeast Quarter (N $\frac{1}{2}$ SE $\frac{1}{4}$) of Section 19, both in Township 24 South, Range 28 West; and the Southeast Quarter (SE $\frac{1}{4}$) of Section 24, the Northeast Quarter (NE $\frac{1}{4}$), the East Half of the Northwest Quarter (E $\frac{1}{2}$ NW $\frac{1}{4}$) and the Northwest Quarter of the Southeast Quarter (NW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 25, both in Township 24 South, Range 29 West, all in Gray County, Kansas;

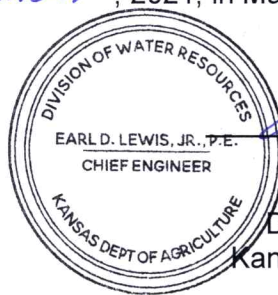
located substantially as shown on the maps accompanying the application to change the place of use.

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. 4,887, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated October 31, 1973, as modified and amended by the aforementioned orders.

Ordered this *14th* day of *December*, 2021, in Manhattan, Riley County, Kansas.



Earl D. Lewis Jr.

Earl D. Lewis Jr., P.E.
Chief Engineer
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this *14* day of *December* 2021, by Earl D. Lewis Jr., P.E., Chief Engineer, 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

December 20, 2021

MIDWEST FEEDERS INC
ATTN JEFFREY H STERNBERGER
5013 13 RD
INGALLS KS 67853

RE: Water Right, File Nos. 4,887; 10,639; 10,999; 22,121; 22,122; 29,614; 32,786; and 32,787

Dear Mr. Sternberger:

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

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. The wells 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 the diversion works prior to the diversion of water. Please return the required notification of installation of the required meters as soon as these actions are completed. Please contact the Garden City Field Office at (620) 276-2901 with any questions regarding the meter installations.

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 this office. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

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

KAB:LI:

pc: Garden City Field Office
Groundwater Management District No. 3

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 14 day of December, 2021, I hereby certify that the attached original Approval of Change in Place of Use, File No. 4,887, dated 20 December 2021, was mailed postage prepaid, first class, US mail to the following:

MIDWEST FEEDERS INC
5013 13 RD
INGALLS KS 67853

With photocopies to:

Garden City Field Office

Groundwater Management District No. 3


Division of Water Resources