



File No. <b>50675</b>	15. Formation Code: <b>340</b>	Drainage Basin: <b>BUCKNER CREEK</b>	County: <b>GY</b>	Special Use:	Stream:																																																																																																																								
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th colspan="10">16. Points of Diversion</th> <th colspan="5">17. Rate and Quantity</th> </tr> <tr> <td>T MOD DEL ENT</td> <td>PDIV</td> <td>Qualifier</td> <td>S</td> <td>T</td> <td>R</td> <td>ID</td> <td>'N</td> <td>'W</td> <td></td> <td>Rate gpm</td> <td>Quantity mgy</td> <td>Rate gpm</td> <td>Quantity mgy</td> <td>Overlap PD Files</td> </tr> <tr> <td><b>CHK</b></td> <td><b>89124</b></td> <td><b>SW SW SE</b></td> <td><b>18</b></td> <td><b>24S</b></td> <td><b>28W</b></td> <td><b>2</b></td> <td><b>79</b></td> <td><b>2098</b></td> <td></td> <td><b>410</b></td> <td><b>130.34</b></td> <td><b>410</b></td> <td><b>130.34</b></td> <td><b>NONE</b></td> </tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> </table>						16. Points of Diversion										17. Rate and Quantity					T MOD DEL ENT	PDIV	Qualifier	S	T	R	ID	'N	'W		Rate gpm	Quantity mgy	Rate gpm	Quantity mgy	Overlap PD Files	<b>CHK</b>	<b>89124</b>	<b>SW SW SE</b>	<b>18</b>	<b>24S</b>	<b>28W</b>	<b>2</b>	<b>79</b>	<b>2098</b>		<b>410</b>	<b>130.34</b>	<b>410</b>	<b>130.34</b>	<b>NONE</b>																																																																											
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Comments: 4887, 10639, 10999, 22121, 22122, 32786, 32787, & 20219062 (50636 & 50637 are being dismissed contingent upon 50675 approval)

29614

**KANSAS DEPARTMENT OF AGRICULTURE**  
**Division of Water Resources**  
**M E M O R A N D U M**

**TO:** Files

**DATE:** November 4, 2021

**FROM:** Kris Neuhauser

**RE:** Application, File No. 50,675; Voluntary  
Dismissal of File Nos. 50,636 & 50,637  
**(130.34 mgy)**

Midwest Feeders Inc. has filed the above referenced application proposing to appropriate 400 acre-feet of groundwater per calendar year at a diversion rate not to exceed 410 gallons per minute for stockwatering use from one well. The proposed point of diversion is located in the Southeast Quarter of Section 18, Township 24 South, Range 28 West, in Gray County, Kansas. The applicant has submitted the real estate agreements, as the land where the point of diversion is located, is under contract to be purchased by Midwest Feeders Inc. This suffices in lieu of a signature on Part 6, page 2 of the application, stating they have legal access to the point of diversion.

Change applications have been submitted for Water Right, File Nos. 4,887; 10,639; 10,999; 22,121; 22,122; 29,614; 32,786; and 32,787, which will create a complete overlap in place of use among all files and the proposed new application. The applicant is proposing an expansion of their feedyard, which would increase their cattle from 74,000 head up to 104,000 head. An area term permit was also submitted to encompass all water rights listed above. Leslie Ireland is working the referenced change application package and term application (File No. 20219062).

Originally, two new applications were submitted by the applicant (File Nos. 50,636 and 50,637). After review by GMD 3 and the Board, a recommendation was made to approve one of the applications, but deny the second (no waiver of minimum spacing). It was eventually determined that the best course of action was to dismiss both applications and have the applicant submit a new application entirely (File No. 50,675). File No. 50,675 is requesting the same allocation requested for File No. 50,637, but the location will match that of File No. 50,636. The applicant submitted voluntary dismissals for both files on October 29, 2021; both will be dismissed contingent upon approval of File No. 50,675.

The applicant did not identify any wells of any kind within one-half mile of the proposed point of diversion, and review of aeriels and the WWC5 database confirms that. Therefore, no nearby letters are required and the minimum domestic well spacing of ½ miles for confined Dakota aquifer is met. There are also no non-domestic wells sourcing confined Dakota aquifer within 4 miles of the proposed point of diversion (via confined Dakota wells shapefile). According to K.A.R. 5-4-4, minimum well spacing is met.

In accordance with K.S.A. 82a-706c, the Chief Engineer retains full authority to require any water user to install meters, gages, or other measuring devices, which devices he or she or his or her agents may read at any time. Water flowmeter requirements are further described in K.A.R. 5-1-4 through K.A.R. 5-1-12. If any chemical or foreign substance is injected into the water pumped under this permit, a check valve will also need to be installed.

Jason Norquest, Assistant Manager of Southwest Kansas Groundwater Management District No. 3, recommended approval of the application in a letter dated October 21, 2021.

Mike Meyer, Water Commissioner, Garden City Field Office, gave a recommendation that the new application should be approved, in a Microsoft Teams meeting on November 29, 2021. This meeting was held with multiple DWR employees to discuss future processing of applications sourcing the Dakota aquifer. Further hydrologic testing may be required for certain Dakota applications moving forward. Since this application was accepted prior to the meeting, it is being processed as DWR has done in the past (no hydrologic study required). It is located within GMD No. 3, so safe yield will not be taken into account since

spacing is met, and no changes will be made to the proposed quantity. Although safe yield is irrelevant for File No. 50,675, below are calculations for future reference:

*Based on area well logs, and well log information provided by the applicant, the source of water appears to be the confined Dakota aquifer system per K.A.R. 5-1-1(r) "Confined Dakota aquifer system" means that portion of the Dakota aquifer system overlain by a confining layer resulting in the aquifer normally being under greater than atmospheric pressure. The test hole log provided by the applicant, shows a shale/clay unit extending from 242 feet to 390 feet ground surface, where the first sandstone aquifer is encountered. Static water level was not provided on the test hole log, however nearby wells show ranges from 107-150 feet below ground surface in general, and in most cases clearly above the top of the aquifer. Per K.A.R. 5-3-14. Availability of water for appropriation - safe yield; confined groundwater aquifers. (a) Each application to appropriate water from a confined aquifer shall be processed on a case by case basis so that the safe yield of the source of water supply is not exceeded. (b) Until a specific regulation is adopted by the chief engineer for the confined source of water supply, the analysis shall be made using the best information reasonably available to the chief engineer.*

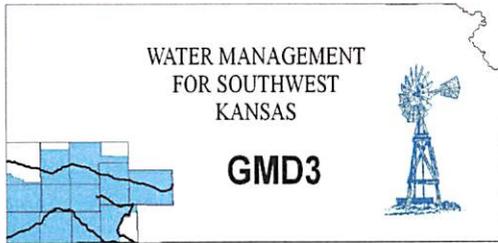
*No specific safe yield regulation has been adopted by the chief engineer for the confined Dakota aquifer system, although it is likely that the confined Dakota aquifer system would receive significantly less recharge than a near-surface, unconfined aquifer. Therefore, in order to better represent the potential recharge to this confined aquifer, it was determined that the saturated thickness of the aquifer and the thickness of the confining unit are critical factors. Limited saturated thickness with a significant confining unit would get less recharge (0.3 times the "standard" K.A.R. 5-3-11 value), while significant saturated thickness with a limited confining unit would get more recharge (0.5 times the "standard" K.A.R. 5-3-11 value). The test hole log shows 372 feet of saturated thickness and 143 feet of confining unit (shale/clay). Dividing the saturated thickness by the confining unit thickness (372/143) results in a factor of 2.6. A factor greater than 2 gets 0.5 times the "normal" recharge. The K.A.R. 5-3-11 safe yield recharge value was determined to be 1.0 inches. Multiplying 1.0 inches x 0.5 results in a recharge of 0.5 inches. The area of consideration was determined to be 8,042 acres. Therefore, 8,042 acres x 0.5 inches x 100% recharge available / 12 provides a safe yield of **335.1 acre-feet**. Existing appropriations total 0 acre-feet, leaving 335.1 acre-feet available, and the application requesting 400 meets ~~safe yield~~. **does not***

*In addition, as noted there is limited development of water rights withdrawing water from the Dakota aquifer system in this immediate area (no other water right in the two-mile circle).*

Based on the above discussion, the area is open to new appropriations, the application meets well spacing criteria, and the approval of the application will not impair senior water rights nor prejudicially or unreasonably affect the public interest. Therefore, it is recommended that the referenced application be approved, alongside the dismissal of File Nos. 50,636 and 50,637.



Kris Neuhauser  
New Applications Lead  
Water Appropriation Program



**Southwest Kansas**  
**Groundwater Management District No. 3**  
**2009 E. Spruce Street**  
**Garden City, Kansas 67846**  
(620) 275-7147 phone (620) 275-1431 fax  
www.gmd3.org

October 21, 2021

Kris Neuhauser  
Division of Water Resources  
1320 Research Park Dr  
Manhattan, Kansas 66502

RE: Application for New Appropriations  
File Nos. 50636 & 50637

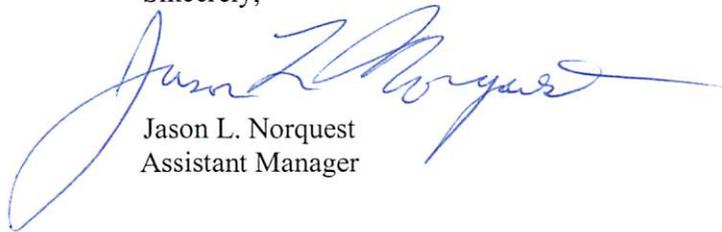
Dear Kris:

We have completed a review of the applications for the above referenced new Appropriations from the Dakota formation. These applications were discussed at our October 13, 2021 Board meeting as part of the Midwest Feeders packet of changes and proposals. Representatives of the applicant were present for the discussion.

As proposed, the Dakota wells do not meet the minimum spacing for confined aquifers as stated in K.A.R. 5-23-3a. The applicant stated that they wanted to be able to get a total allocation of 400AF between the wells to supplement the needs for the feedyard and the expansion. The Board believes that the spacing requirements for Dakota wells must be upheld to avoid over appropriating the formation as has been done with the upper Ogallala formation. It was the final recommendation to approve one of the applications, but deny the second and not waive the minimum spacing. Since then, it has been determined that the best course of action is for these two applications be dismissed and a new appropriation be submitted for the location of the Dakota in the SE of 18-24-28. They will be requesting the same allocation they had for File No. 50637, but it will be located at the proposed location for File No. 50636. The Board supports the approval of one Dakota well for the applicant. It is therefore recommended that these applications be dismissed and the new appropriation be approved once the application is submitted.

Thank you for the opportunity to review the application and to provide a recommendation. If you have any questions, please don't hesitate to contact us.

Sincerely,



Jason L. Norquest  
Assistant Manager

## GMD3 Change Review

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File No(s): Multiple WRs . DWR office: HQ & GC.  
 App filed to change: UMW (Dual use), PU (to cover expansion), New Appropriation (Dakota's) & Term (flexibility).  
 Is Landowner(s) correct in WRIS: Midwest Feeders.  
     If NO, is documentation included?  
 Is Water Use Correspondent correct in WRIS?   .  
     If NO, is documentation included?  
 Regulation(s) Reviewed: KAR 5-23-3a, KAR 5-5-11, KAR 5-5-9  
 Point of diversion ID No(s)    being changed.

	ft. North	ft. West			
Authorized PD					
Proposed PD					
Difference	0	0			
a2 + b2 = c2	0	0	0		

GPS for proposed PD: Lat:    Long:   .  
 Is proposed PD stacking on existing WRs? Term would allow flexibility, which would basically be stacking authority of all the WRs.  
 Is Proposed PU overlapping existing WRs? Overlap all PU .  
 Neighboring certified well(s) notified:   .  
 Name   .  
 Address   .  
 Zip   .  
 Email:    Phone:   .  
 Domestic well(s) notified:   .  
 Name   .  
 Address   .  
 Zip   .  
  
 Base Acres:   .  
 Perfected Acres:   .  
 Irr. Return-Flow 89.3 %

**Proposed expansion of the feedyard, currently 74000 head up to 104000 head.**  
**All IRR authority under 10639, 22121, 22122 & 29614 would be converted to dual use for STK and keep IRR to supplement the affluent they use. [AF X 89.3%].**  
**They will maintain the IRR PU.**  
**At same time, all WRs will show the current and expanded area for the pens.**  
**Proposed 5 (2022-2026) year term permit 20219062**  
**Total combined AF authority is limited to 1169.471AF/year @ 800gpm combined.**  
**WR 10999 ID03 (GEO of battery) held to 241AF/year @ 150gpm**  
**WR 10999 ID08 (GEO of battery) held to 267AF/year @ 380gpm**

## GMD3 Change Review

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WR10999 currently has blanket authority of 174.09AF/year @ 690gpm  
IF one of the wells pumped over 500AF, which could happen in theory, minimum spacing would be 2300'. ALL wells meet that to neighboring wells NOT owned by applicant. It would be short on a few of their own wells.

Looking at the area, the longest distance between wells is 8800'.

### **Dakota Applications**

**Two applications were submitted with Dakota formation as source.**

**50637(primary), section 24-24-29, 5217N 2485W. Proposed as 400AF @ 410gpm**

**50636(secondary), section 18-24-28, 79N 2098W. Proposed 100AF @ 300gpm**

**If secondary well is approved, they would request 50637 (primary) be reduced to 300AF. Goal is to have 400AF authority from Dakota.**

**The secondary well (50636) would require a minimum spacing waiver according to KAR 5-23-3a. Spacing for a confined well authorized 300AF still needs 10560ft (2 miles).**

**Wells as proposed are around a mile apart.**

**Spacing from hydraulic contact point is met for both wells.**

**If all approved, they would request out of the current WCA.**

Is a waiver needed: The secondary Dakota well would need a waiver of spacing for confined wells, to the primary well. The whole package will be discussed at the October 13, 2021 Board meeting.

Recommendation: Board and applicant reviewed/discussed the applications at the October meeting. Board recommended approval of the change applications for PU & UMW. They support the term permit to create a blanket authority for the feedlot to meet their needs. The Board will support approval of one of the Dakota wells, but not waiver spacing for the second. Staff will work with the applicant to determine which one they prefer to pursue. Applicant plans to go with the proposed Dakota in section 18.

According to State, they will have to dismiss both these applications and create a new appropriation number. Still looking at just one Dakota well.



**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](mailto: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](mailto: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



**From:** Baum, Kristen [KDA]  
**Sent:** Tue 11/23/2021 4:58 PM  
**To:** Meyer, Mike [KDA];Neuhauser, Kris [KDA];Stewart, Kelly [KDA];Billinger, Mark [KDA]  
**Subject:** RE: 50675 confined Dakota safe yield

We should definitely use this example in our discussion.

I like the way Kelly describes it as defaulting to ours if the GMD doesn't have their own safe yield criteria. That seems like something we could argue. That said, it probably needs to be a "from here forward" decision by the CE that Kenny is comfortable with.

So without any other SY criteria, they are limited to what they can physically pump in a year, if they can justify it, hmmm.

If we were to use Doug's spreadsheet out there, I'm still questioning what factor we apply to the recharge – 0.3, 0.4 or 0.5. If we follow his instructions, we won't come up with 0.3 for the factor using this well log that's showing a lot of ST.

Kristen A Baum  
New Applications and Changes Supervisor  
DWR Appropriations

---

**From:** Meyer, Mike [KDA] <Mike.Meyer@ks.gov>  
**Sent:** Tuesday, November 23, 2021 3:58 PM  
**To:** Neuhauser, Kris [KDA] <Kris.Neuhauser@ks.gov>; Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>; Billinger, Mark [KDA] <Mark.Billinger@ks.gov>  
**Cc:** Baum, Kristen [KDA] <Kristen.Baum@ks.gov>  
**Subject:** Re: 50675 confined Dakota safe yield

Absolutely

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**From:** Neuhauser, Kris [KDA] <Kris.Neuhauser@ks.gov>  
**Sent:** Tuesday, November 23, 2021 3:55:39 PM  
**To:** Meyer, Mike [KDA] <Mike.Meyer@ks.gov>; Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>; Billinger, Mark [KDA] <Mark.Billinger@ks.gov>  
**Cc:** Baum, Kristen [KDA] <Kristen.Baum@ks.gov>  
**Subject:** RE: 50675 confined Dakota safe yield

We have that follow up Dakota meeting at 1 next Monday. Could bring this up then perhaps?

---

**From:** Meyer, Mike [KDA] <Mike.Meyer@ks.gov>  
**Sent:** Tuesday, November 23, 2021 3:50 PM  
**To:** Stewart, Kelly [KDA] <Kelly.Stewart@ks.gov>; Neuhauser, Kris [KDA] <Kris.Neuhauser@ks.gov>; Billinger, Mark [KDA] <Mark.Billinger@ks.gov>  
**Cc:** Baum, Kristen [KDA] <Kristen.Baum@ks.gov>  
**Subject:** Re: 50675 confined Dakota safe yield

Sounds like a like another meeting with lane and the cheif

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**From:** Stewart, Kelly [KDA] <[Kelly.Stewart@ks.gov](mailto:Kelly.Stewart@ks.gov)>

**Sent:** Tuesday, November 23, 2021 3:45:00 PM

**To:** Meyer, Mike [KDA] <[Mike.Meyer@ks.gov](mailto:Mike.Meyer@ks.gov)>; Neuhauser, Kris [KDA] <[Kris.Neuhauser@ks.gov](mailto:Kris.Neuhauser@ks.gov)>; Billinger, Mark [KDA] <[Mark.Billinger@ks.gov](mailto:Mark.Billinger@ks.gov)>

**Cc:** Baum, Kristen [KDA] <[Kristen.Baum@ks.gov](mailto:Kristen.Baum@ks.gov)>

**Subject:** RE: 50675 confined Dakota safe yield

It would seem to me that if the GMD's don't have a safe-yield criteria for their specific districts, we should then default to what DWR would do. That would be to process them like we would elsewhere across the state.

---

**From:** Meyer, Mike [KDA] <[Mike.Meyer@ks.gov](mailto:Mike.Meyer@ks.gov)>

**Sent:** Tuesday, November 23, 2021 11:54 AM

**To:** Neuhauser, Kris [KDA] <[Kris.Neuhauser@ks.gov](mailto:Kris.Neuhauser@ks.gov)>; Stewart, Kelly [KDA] <[Kelly.Stewart@ks.gov](mailto:Kelly.Stewart@ks.gov)>; Billinger, Mark [KDA] <[Mark.Billinger@ks.gov](mailto:Mark.Billinger@ks.gov)>

**Cc:** Baum, Kristen [KDA] <[Kristen.Baum@ks.gov](mailto:Kristen.Baum@ks.gov)>

**Subject:** RE: 50675 confined Dakota safe yield

IMO, we have issued several Dakota wells in the past in gmd1 and 3, and never even thought about SY. I really am not comfortable starting now unless the GMD wants to draft a reg. recall their recommendation mentioned nothing about a SY.

thoughts Kelly, Kristen?

if we all agree, yes I am recommending approval

Mike

---

**From:** Neuhauser, Kris [KDA] <[Kris.Neuhauser@ks.gov](mailto:Kris.Neuhauser@ks.gov)>

**Sent:** Tuesday, November 23, 2021 11:51 AM

**To:** Meyer, Mike [KDA] <[Mike.Meyer@ks.gov](mailto:Mike.Meyer@ks.gov)>; Stewart, Kelly [KDA] <[Kelly.Stewart@ks.gov](mailto:Kelly.Stewart@ks.gov)>; Billinger, Mark [KDA] <[Mark.Billinger@ks.gov](mailto:Mark.Billinger@ks.gov)>

**Cc:** Baum, Kristen [KDA] <[Kristen.Baum@ks.gov](mailto:Kristen.Baum@ks.gov)>

**Subject:** RE: 50675 confined Dakota safe yield

Using 0.3, SY comes out to be 201.05 available. I can jot down info to have in the file as you mentioned Mike. Are you okay recommending approval at the full 400 AF proposed? Or do we need to have a meeting with Lane and Earl to discuss further?

Kris

---

**From:** Meyer, Mike [KDA] <[Mike.Meyer@ks.gov](mailto:Mike.Meyer@ks.gov)>

**Sent:** Friday, November 19, 2021 2:44 PM

**To:** Neuhauser, Kris [KDA] <[Kris.Neuhauser@ks.gov](mailto:Kris.Neuhauser@ks.gov)>; Stewart, Kelly [KDA] <[Kelly.Stewart@ks.gov](mailto:Kelly.Stewart@ks.gov)>; Billinger, Mark [KDA] <[Mark.Billinger@ks.gov](mailto:Mark.Billinger@ks.gov)>

**Cc:** Baum, Kristen [KDA] <[Kristen.Baum@ks.gov](mailto:Kristen.Baum@ks.gov)>

**Subject:** RE: 50675 confined Dakota safe yield

so as kristen and I talked, in our areas down here outside GMD3 we have used .3 annual recharge. but those areas we worked on have thin ST. I am all for being consistent on the recharge as we don't know for a fact, so I will support .3, and keep it the same down here for when we run these or get the questions.

but as the GMD3 regs (and GMD1 regs) don't have a SY or budget for the confined Dakota and only spacing for confined Dakota, we have never done SY in the districts and probably don't want to start now without discussion with the CE.

GMD3 has never wanted to move forward with any budget for the Dakota. they say the spacing rules will take care of the any over appropriation concerns... GMD1 would say the same as they have the same spacing for confined Dakota as our regs (4 miles).

I would recommend we use this specific example as information only to have in the water right file as we reviewed the aquifer characteristics and have it in support of the application or just additional information. UNLESS we think we should visit with Lane and CE if we want to implement this inside the GMDs.

Mike

---

**From:** Neuhauser, Kris [KDA] <[Kris.Neuhauser@ks.gov](mailto:Kris.Neuhauser@ks.gov)>

**Sent:** Friday, November 19, 2021 9:23 AM

**To:** Meyer, Mike [KDA] <[Mike.Meyer@ks.gov](mailto:Mike.Meyer@ks.gov)>; Stewart, Kelly [KDA] <[Kelly.Stewart@ks.gov](mailto:Kelly.Stewart@ks.gov)>; Billinger, Mark [KDA] <[Mark.Billinger@ks.gov](mailto:Mark.Billinger@ks.gov)>

**Cc:** Baum, Kristen [KDA] <[Kristen.Baum@ks.gov](mailto:Kristen.Baum@ks.gov)>

**Subject:** 50675 confined Dakota safe yield

Hi all,

Finished up my review of 50675, a confined Dakota app Midwest Feeders is trying at in Mike's area. GMD 3 is well aware and already recommended approval. Ran the sweat lodge Dakota numbers..

Kristen and I discussed and wanted to run it past you all to see if you agree. Attached the SY confined Dakota spreadsheet above and the well log. The log can be found under 50636 in Docuware – Test Hole #5 (they're dismissing 50636 and 50637). There is no SWL on the log, they list production %. Seems there is quite a bit of ST below the confining unit. Went ahead and used 372' ST (750'-378') and a 143' confining unit. Are we okay not having a SWL?.. and in turn, do you agree with those numbers?

Comes out to 0.5 recharge if so, and used the full two-mile circle:

8042 acres

Annual recharge: 0.5

Percent recharge: 100%

SY = 335.1 AF available

They're asking for 400 AF. Let me know what you guys think.

Kris

# 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 and PERMIT TO PROCEED**

(This Is Not a Certificate of Appropriation)

This is to certify that I have examined Application, **File No. 50,675** of the applicant

**MIDWEST FEEDERS INC  
5013 13 RD  
INGALLS, KS 67853-9023**

for a permit to appropriate water for beneficial use, together with the maps, plans and other submitted data, and that the application is hereby approved and the applicant is hereby authorized, subject to vested rights and prior appropriations, to proceed with the construction of the proposed diversion works (except those dams and stream obstructions regulated by K.S.A. 82a-301 through 305a, as amended), and to proceed with all steps necessary for the application of the water to the approved and proposed beneficial use and otherwise perfect the proposed appropriation subject to the following terms, conditions and limitations:

1. That the priority date assigned to such application is **October 29, 2021**.
2. That the water sought to be appropriated shall be used for stockwatering use at a feedlot located in the South Half (S $\frac{1}{2}$ ) of Section 18, 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; 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.
3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of a one (1) well located in the Southwest Quarter of the Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section 18, more particularly described as being near a point 79 feet North and 2,098 feet West of the Southeast corner of said section, in Township 24 South, Range 28 West, Gray County, Kansas, located substantially as shown on the topographic map accompanying the application.
4. That the appropriation sought shall be limited to a maximum diversion rate not in excess of **410 gallons per minute (0.91 c.f.s.)** and to a quantity not to exceed **130.34 million gallons (400 acre-feet)** of water for any calendar year.
5. That installation of works for diversion of water shall be completed on or before **December 31, 2023** or within any authorized extension thereof. The applicant shall notify the Chief Engineer and pay the statutorily required field inspection fee of \$400.00 when construction of the works has been completed. Failure to timely submit the notice and the fee will result in revocation of the permit. Any request for an extension of time shall be submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee of \$100.00.

6. That the proposed appropriation shall be perfected by the actual application of water to the proposed beneficial use on or before **December 31, 2027** or any authorized extension thereof. Any request for an extension of time shall be submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee of \$100.00.

7. That the applicant shall not be deemed to have acquired a water appropriation for a quantity in excess of the amount approved herein nor in excess of the amount found by the Chief Engineer to have been actually used for the approved purpose during one calendar year subsequent to approval of the application and within the time specified for perfection or any authorized extension thereof.

8. That the use of water herein authorized shall not be made so as to impair any use under existing water rights nor prejudicially and unreasonably affect the public interest.

9. That the right of the appropriator shall relate to a specific quantity of water and such right must allow for a reasonable raising or lowering of the static water level and for the reasonable increase or decrease of the streamflow at the appropriator's point of diversion.

10. That this permit does not constitute authority under K.S.A. 82a-301 through 305a to construct any dam or other obstruction; nor does it grant any right-of-way, or authorize entry upon or injury to, public or private property.

11. That all diversion works constructed under the authority of this permit 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.

12. That all wells with a diversion rate of 100 gallons per minute or more drilled under the authority of this permit shall have a tube or other device installed in a manner acceptable to, and in accordance with specifications adopted by, the Chief Engineer. This tube or device shall be suitable for making water level measurements and shall be maintained in a condition satisfactory to the Chief Engineer.

13. That an acceptable water flow meter shall be installed and maintained on the diversion works authorized by this permit in accordance with Kansas Administrative Regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer. This water flow meter shall be used to provide an accurate quantity of water diverted as required for the annual water use report (including the meter reading at the beginning and end of the report year).

14. That the applicant shall maintain accurate and complete records from which the quantity of water diverted during each calendar year may be readily determined and the applicant shall file an annual water use report with the Chief Engineer by March 1 following the end of each calendar year. Failure to file the annual water use report by the due date shall cause the applicant to be subject to a civil penalty.

15. That no water user shall engage in nor allow the waste of any water diverted under the authority of this permit.

16. That failure without cause to comply with provisions of the permit and its terms, conditions and limitations will result in the forfeiture of the priority date, revocation of the permit and dismissal of the application.

17. That the right to appropriate water under authority of this permit is subject to any minimum desirable streamflow requirements identified and established pursuant to K.S.A. 82a-703c for the source of supply to which this water right applies.

Ordered this 14 day of December, 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 14 day of December, 2021, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.

*Ashlee Freeman*  
\_\_\_\_\_  
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

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**MIDWEST FEEDERS INC  
5013 13 RD  
INGALLS, KS 67853-9023**

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8. That the use of water herein authorized shall not be made so as to impair any use under existing water rights nor prejudicially and unreasonably affect the public interest.

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

*Lane P. Letourneau*

Lane P. Letourneau, P.G.  
Water Appropriation Program Manager  
Division of Water Resources  
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State of Kansas )  
                          ) SS  
County of Riley )

The foregoing instrument was acknowledged before me this 14 day of December, 2021, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, 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  
JEFF STERNBERGER  
5013 13 RD  
INGALLS, KS 67853-9023

RE: Appropriation of Water, File No. 50,675

Dear Mr. Sternberger:

Enclosed is a permit authorizing you to proceed with construction of the proposed diversion works and to appropriate water for beneficial use as set forth in the permit. Your attention is directed to the enclosures and to the terms, conditions, limitations, and requirements specified in this permit.

Notice must be filed on the enclosed form once the diversion works have been completed. Failure to complete the diversion works within the time allowed, or within any authorized extension of time thereof, will result in dismissal of this permit. If you need an extension of time, you must request it before the deadline for completion set forth in the permit. Any request for an extension of time must be accompanied by the statutorily required fee, which is currently \$100.00.

An annual water use report must be filed with the Chief Engineer by March 1, following the end of each calendar year. If a complete annual water use report is not received by the deadline, then a fine may be assessed and all water use under such permit or right may be suspended. Reports submitted in paper form will be assessed a \$20 per file number paper filing fee. In order to avoid this filing fee, you may submit your report online at [www.kswaterusereport.org](http://www.kswaterusereport.org).

The approval of your application constitutes a permit to appropriate water. It does not give authority to construct any dam or other stream obstruction regulated by K.S.A. 82a-301 through 305a. It does not give authority to access any right-of-way or authorize trespassing upon or injury to public or private property. It may also be necessary for you to comply with other local, state or federal requirements.

Enclosed is an informational sheet that sets forth the procedure to obtain a Certificate of Appropriation which will establish the extent of your perfected water right. Additional information and applicable forms may be found on our website at [agriculture.ks.gov/divisions-programs/dwr](http://agriculture.ks.gov/divisions-programs/dwr). If you have any questions or need assistance with any of these requirements, please contact our office at 785-564-6640 or your local Stockton Field Office at 785-425-6787. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

Kristen A. Baum  
New Applications and Changes Supervisor  
Division of Water Resources

KAB: kjn:li  
Enclosure(s)

pc: Garden City Field Office  
Southwest Kansas GMD 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 request an evidentiary hearing before the Chief Engineer, or 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 Division, 1320 Research Park Drive, Manhattan, Kansas 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 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: Secretary of Agriculture, Attn: Legal Division, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, FAX (785) 564-6777.

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## CERTIFICATE OF SERVICE

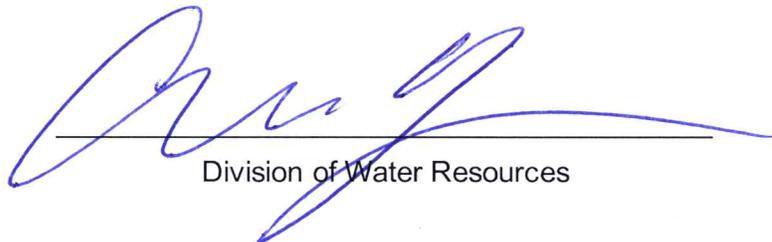
On this 20 day of December, 2021, I hereby certify that the foregoing Approval of Application and Permit to Proceed, File No. 50,675, dated 14 December 2021, was mailed postage prepaid, first class, US mail to the following:

MIDWEST FEEDERS INC  
5013 13 RD  
INGALLS, KS 67853-9023

With photocopies to:

Garden City Field Office

Southwest Kansas GMD No. 3



Division of Water Resources

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900 SW Jackson, Room 456  
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Southwest Kansas GMD No. 3



Division of Water Resources