

File No. **11413** 11. County: **GT** Basin: **BEAR CREEK** Stream: **NA** Formation Code: **211/331** Special Use: **NA**

12. Points of Diversion										Rate and Quantity						
CHK	MOD	DEL	PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Authorized		Additional		Overlap PD Files
ENT												Rate gpm	Quantity af/mgy	Rate gpm	Quantity af/mgy	
DEL		42688		SE NE NE	16	27	37W	2	3990	300	PLUG IRR USE	625	312AF	625	312	NONE
ENT		90274		NE SE NE	16	27	37W		3904	452	STK USE	625	88.35 MGY	625	88.35 MGY	NONE
(271.1 AF)																

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) **NONE NO CHANGE**
 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								
ENT		50090		22 27 37W	5				FEEDLOT (NW)																	8b	NO	8515 14381 21910.01
ENT		68452		15 27 37W	4				FEEDLOT (S2)																	8b	NO	8515 14381 21910.01
DEL		26431		16 27 37W	1				29	18	39	11																

Base Acres: _____ Year: _____ Minimum Reasonable Quantity: _____
 Comments: CHANGING TO STK USE DELETING IRR PU AND ADDING STK PU

THE STATE  OF KANSAS

KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Secretary of Agriculture

DIVISION OF WATER RESOURCES
Earl D. Lewis Jr., Chief Engineer

**APPROVAL OF APPLICATION
FOR
CHANGE IN USE MADE OF WATER
PLACE OF USE AND POINT OF DIVERSION
WATER RIGHT, FILE NO. 11,413**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Elisabeth and Barthel DeSaegher on behalf of Rocking Heifer LLC, East Farm, 439 East Road 4, Ulysses, Kansas 67880, received in this office on September 23, 2022, for approval of a change in the location of the place of use, point of diversion and use made of water, under the certificate of application, issued pursuant to the permit to appropriate water for beneficial use, as modified and amended by the Findings and Order of the Chief Engineer, dated March 23, 2022, in the matter of the authorized quantity of water, place of use and removal of an additional limitation, finds that the changes are reasonable and will not impair existing rights, that the changes relate to the same local source of supply and that the application should be and is hereby approved.

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

Stockwater Use

after which the authorized maximum quantity not to exceed 88.35 million gallons of groundwater per calendar year at a diversion rate not in excess of 625 gallons per minute (1.39 c.f.s) from:

one (1) well located in the Northeast Quarter of the Southeast Quarter of the Northeast Quarter (NE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 16, more particularly described as being near a point 3,904 feet North and 452 feet West of the Southeast corner of said section, in Township 27 South, Range 37 West, Grant County, Kansas,

and the authorized place of use shall be:

a feedlot located in the South Half (S $\frac{1}{2}$) of Section 15, and the Northwest Quarter (NW $\frac{1}{4}$), of Section 22, all in Township 27 South, Range 37 West, Grant County, Kansas,

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

Installation of the works for diversion of water shall be completed on or before December 31, 2023, or within any authorized extension of time. The water right owner shall notify the Chief Engineer of the Division of Water Resources, Kansas Department of Agriculture when construction of the works for diversion has been completed.

All wells with a diversion rate of 100 gallons per minute or more drilled under the authority of this order 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.

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 for 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 for irrigation and stockwatering use 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. 11,413, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated August 5, 2004, as modified and amended by the aforementioned order.

Ordered this 20 day of April, 2023, in Manhattan, Riley County, Kansas.

Lane P. Letourneau

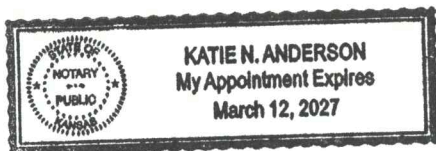
Lane P. Letourneau, P.G.
Water Appropriation Program Manager
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 20 day of April, 2023, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.

Katie Anderson

Notary Public



KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: April 13, 2023

FROM: Leslie Ireland

RE: Water Right, File Nos. 8,515; 11,413; 14,381 & 21,910.01

Elisabeth and Barthel DeSaegher on behalf of the Rocking Heifer LLC, owner of the above referenced water rights filed applications for approval to change the point of diversion, use made of water and place of use under File No. 11,413 and the place of use authorized for stockwater use under all of the other referenced files. The applications were received on September 23, 2022.

The water rights do not appear to be abandoned as per K.S.A. 82a-718, *Abandonment of water rights*. The applications appear to comply with K.A.R. 5-5-2a, *Complete change application*. It appears the change in point of diversion is less than 300 feet and notice per K.S.A. 82a-1906 is not required.

File No. 11,413 authorizes one (1) well at 625 gallons per minute (gpm) for the diversion of 312 acre-feet (AF) for the irrigation of 240 acres located in the East Half of Section 16, Township 27, Range 37 West, Grant County (16-27-37W). There are no overlaps in the point of diversion or place of use after the recent reduction to separate it from File No. 7729. The requested change is due to the loss of production at the well that has been authorized at its current location since 1965 and has been enrolled in the WRCP since the early 2000s. The well is not located within a special use area of the Bear Creek Basin. It is in the Southwest Groundwater Management District No. 3, (GMD3).

The currently authorized well located in the Southeast Quarter of the Northeast Quarter of the Northeast Quarter (SE¼ NE¼ NE¼) of (16-27-37W) and has been determined to be 3,990 feet North and 300 feet West of the Southeast corner of said section. It has been enrolled in the Water Right Conservation Program until 2020. The proposal is to drill a new well approximately 175 feet to the Southwest to located in the Northeast Quarter of the Southeast Quarter of the Northeast Quarter (NE¼ SE¼ NE¼) approximately 3,904 feet North and 452 feet West of the Southeast corner of Section 16. The new well was determined by the GMD 3 to be approximately 512 feet to the Southeast of the currently authorized well and complies with GMD 3's regulation K.A.R. 5-23-3, *Minimum well spacing requirements: high plains aquifer*, as the approval will move the well less than 2,640 feet. The currently authorized well will be plugged.

The submitted drillers log completed by Downey Drilling Inc., in August of 2022, listed lithology to 702 feet to the red bed. No static water level was indicated. It appears the source of supply in this area is and will remain the Ogallala Formation (Code 211) and Dakota Formation unconfined (Code 331).

As the proposed new well will be drilled less than 300 feet from the authorized location it is exempt from the well to well spacings K.A.R. 5-23-3.

The use made of water change will be processed by K.A.R. 5-5-9 *Approval of application for a change in the use made of water from irrigation to any other type of beneficial use of water*.

The 312 AF of irrigation quantity will afford 86.9% to be retained per the consumptive use value of Grant County:

$$312 \times 0.869 = 271.1 \text{ AF (88.3 mgy) for stockwater use}$$

This irrigated place of use will be eliminated.

Sec. Twp. Range	NE¼				NW¼				SW¼				SE¼				TOTAL				
	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼					
16 27S 37W	29	18	39	11													30	40	40	33	240

The proposed existing feedlot is located North of Ulysses, Kansas. The place of use changes will expand the facility to add the Southeast Quarter (SE $\frac{1}{4}$) of Section 15 to authorize the whole South Half (S $\frac{1}{2}$) of Section 15, and keep the currently authorized located in the Northwest Quarter (NW $\frac{1}{4}$) of Section 22. The feedlot is currently authorized by File Nos. 8,515; 14,381 & 21,910.01 and has been requested to be updated by the submitted changes in place of use. An application to change the stockwater place of use was submitted for File No. 28,940-D2, but as no stockwater use is authorized the change was returned and the filing fee was refunded. overlapped The new place of use under File Nos. 8,515; 11,413; 14,381 & 21,910.01 will be described as:

a feedlot located in the South Half (S $\frac{1}{2}$) of Section 15 and in the Northwest Quarter (NW $\frac{1}{4}$) of Section 22, all in Township 27 South, Range 37 West, Grant County, Kansas, with the map referenced.

Together the referenced files will authorize a total of 202.12 mgy (620.28 AF) stockwater use. A water use plan was submitted for the expansion indicating the facility 24,000 heifers will be expanded to over the coming years to 36,900 head. As detailed in KAR 5-3-22, *Maximum reasonable quantity of water for livestock and poultry*, at the maximum of 15 gallons per head per day the facility could utilize the quantity that will be authorized for stockwater use.

There is one well authorized by File Nos. 11,414 & 20,640 located within one-half ($\frac{1}{2}$) mile of the authorized point of diversion that will be changing. The change will move the well slightly away from this well and will be completed less that 300 feet from it currently authorized well.

In a letter dated February 23, 2023, Jason Norquest, Assistant Manager of Southwest Kansas Groundwater Management District No. 3, indicated the applications comply with the current management program. The applications were recommended for approval.

In an e-mail dated April 12, 2023, Michael Meyer, Water Commissioner, Garden City Field Office, indicated that he recommended approval of the applications.

Water flowmeters and check valves will be required by the change approvals. The change in point of diversion will require a water level measurement tube. The notice of completion will be for 2023 for the change in point of diversion.

Based on the above discussion, that impairment to existing water rights is unlikely, and that no change in the local source of supply will occur, complies with K.A.R. 5-5-9, the changes should not increase the historical consumptive use per KAR 5-5-3, *Change in consumptive use*. The referenced applications have been recommended to be approved.



Leslie Ireland
Environmental Scientist
Water Appropriation Program

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Mike Beam, Secretary

Laura Kelly, Governor

ROCKING HEIFER LLC - EAST FARM
ELISABETH & BARTHEL DESAEGHER
439 EAST RD 4
ULYSSES, KS 67880

RE: Water Right, File Nos. 8,515; 11,413; 14,381 & 21,910.01

Dear Mr. & Mrs. DeSaegher:

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 the approvals for change. A condition of the approval under File No. 11,413, is the requirement that the required *Notice of Completion* form for the completion of the well and the installation of the meter as soon as this action is completed. The form and other information may be found at our web site <http://agriculture.ks.gov>.

Since these orders modify the original documents referred to above, they should be recorded with the Register of Deeds as other instruments affecting real estate.

If you have any questions regarding the enclosed documents, please contact our office at 785-564-6640. Inquiries about the metering please contact our staff at the Garden City Field Office, 620-276-2901.

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: Garden City Field Office
Groundwater Management District No. 3

