

File No. **41554** 11. County: **SV** Basin: **CIMARRON RIVER** Stream: **NA** Formation Code: **200 & 211** Special Use: **NA**

12. Points of Diversion										Rate and Quantity					
CHK										Authorized		Additional		Overlap PD Files	
MOD	DEL	PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Rate gpm/cfs	Quantity af/mgy	Rate gpm/cfs		Quantity af/mgy
MOD	54800	NE NE SE		24	32	37W	6	2614	3235	GPS UPDATE	300 gpm	128AF	300	128	43060

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

14. Limitation: **114.04** af/yr at _____ gpm (_____ cfs) when combined with file number(s) **DUAL USE IRR & STK (37.16 MGY STK)**
 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	11277	24	32	37W																		8a	NO	20484 37812 43060 43070	
CHK	51299	24	32	37W									32.0	32.0	32.0	32.0						128	8a	NO	43060

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

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: February 16, 2023

FROM: Leslie Ireland

RE: Water Right, File Nos. 41,554 & 43,060

Scott Shill on behalf of Irsik & Doll Feed Services Inc., as owner of the referenced water rights, has filed applications for approval to change the place of use and use made of water under the referenced files. The applications propose to supply more water to the feedlot by converting the irrigation use under the referenced files to dual use to permit the rights to be utilized for stockwater and irrigation use. The applications were received on June 9, 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*.

The rights are in Stevens County, Northeast of Hugoton on the Northside of Highway 56, it has not been designated a special use area. The wells are in Groundwater Management District No. 3. Information from a 2018 Compliance Investigation determined the actual location of the point of diversion shared by the referenced files to be 2,614 feet North and 3,235 feet West of the Southeast corner of Section 24, Township 32 Range 37 West (24-32-37W). A distance of less than 20 feet from the authorized of 2,603 feet North and 3,235 feet West. The requested changes will update the feet distances to the actual feet distances, but not physical alter the well location. The source of supply remains the Tertiary System(Code 200) and Ogallala Formation(Code 211).

The change in 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*.

As authorized the referenced files irrigate 128 acres from the shared well with the quantity and rate limited under the junior file not to exceed 162 AF per year at a maximum rate of 380 gallons per minute with File No. 41,554. The 162 AF will be temporarily reduced while irrigation and stockwater use are authorized. The consumptive use for Stevens County is afforded 89.1 % of the authorized to be retained when change to another use. The dual use will authorize:

$$162 \times 0.891 = 144.34 \text{ AF}(47.03 \text{ mgy}) \text{ for irrigation and stockwater uses combined.}$$

The 128 acres irrigated place of use will remain as authorized in the Southeast Quarter (SW¼) of (24-32-37W).

Sec. Twp. Range	NE¼				NW¼				SW¼				SE¼				TOTAL
	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
24 32S 37W									32.0	32.0	32.0	32.0					128

The authorized irrigated place of use and proposed stockwater place of use are contiguous with the well in the middle so it appears minimal piping would be needed with all of the property shown as owned by the applicant.

The limitation of 162 AF on File No. 43,060 will continue to be limited while authorized for irrigation and stockwater uses. It will be limited to 144.34 AF with File No. 41,554. The rate limitation to not exceed 380 gallons per minute with File No. 41,554 will also remain.

The description of the stockwatering place of use will be that of the existing facility authorized under File Nos. 20,484; 37,812 & 43,070.

a feedlot located in the portion of the East Half (E½) North of the railroad right-of-way, the East Half of the Northwest Quarter (E½ NW¼) and eight (8) acres in the Northeast Quarter of the Southwest Quarter (NE¼ SW¼), all in Section 24, Township 32 South, Range 37 West, Stevens County, Kansas, with the map referenced.

The currently authorized stockwater quantity is limited to a total of 153.67 million gallons, (471.63 acre-feet) under the existing file. The feedlot has reported an average of 28,855 head in 2020 and 26,593 head in 2021. As detailed in KAR 5-3-22, *Maximum reasonable quantity of water for livestock and poultry*, a 29,000 head livestock facility would be afforded a maximum reasonable quantity of 158.78 million gallons (487.28 AF) per year at 15 gallons per head per day. The use made of water change under the referenced files will provide a portion of the stockwater quantity. It does appear the facility could utilize the total proposed quantity for stockwater use if all diverted as such. The recently reported maximum used for irrigation use was 140 AF. It appears the proposed dual use for the stockwater quantity will not have an additional limitation.

There was only one well located within one-half (½) mile of the authorized point of diversion. On January 6, 2023, the owner of File No. 45,769 was notified by letter of the proposed changes. No comments were received. It appears the notice requirement of K.S.A.82a-1906 has been met.

In a letter dated January 10, 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 January 17, 2023, Michael Meyer, Water Commissioner, Garden City Field Office, indicated that he recommended approval of the applications with the additional limitations.

Water flowmeters will be required by the change approvals with the well authorized for dual use to have a designated meter for stockwatering and irrigation use. As effluent might be utilized, check valves will be a condition of the approvals.

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

Ireland, Leslie [KDA]

From: Meyer, Mike [KDA]
Sent: Tuesday, January 17, 2023 3:25 PM
To: Ireland, Leslie [KDA]
Subject: RE: Review & Recommendation Changes PU & UMW, File Nos. 41554 & 43060

I do recommend approval

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Tuesday, January 17, 2023 1:50 PM
To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Subject: Review & Recommendation Changes PU & UMW, File Nos. 41554 & 43060

Mike,

Please let me know if you could recommend these changes. Could you **please send the a certificate for 37812 or 43060**, so I can match the STK PU description..

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 USE MADE OF WATER
PLACE OF USE
AND
ORDER IN THE MATTER OF THE AUTHORIZED QUANTITY OF WATER
AND
BETTER DESCRIBING THE AUTHORIZED POINT OF DIVERSION
WATER RIGHT, FILE NO. 41,554**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Scott Shill on behalf Irsik & Doll Feed Services Inc., PO Box 847, Cimarron, Kansas 67835, and as owners of the referenced water right, received in this office on June 9, 2022, for approval of a change in the location of the place of use and the use made of water, under the certificate of appropriation issued pursuant to the application for 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 128 acre-feet (41.71 million gallons). This order effectively limits the authorized quantity of water to 114.04 acre-feet (37.16 million gallons) per calendar year. 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 and better described as being:

one (1) well located in the Northeast Quarter of the Northeast Quarter of the Southeast Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 24, more particularly described as being near a point 2,614 feet North and 3,235 feet West of the Southeast corner of said section, in Township 32 South, Range 37 West, Stevens County, Kansas.

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

Sec. Twp. Range	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTAL
	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
24 32S 37W									32.0	32.0	32.0	32.0					128

a total of 128 acres in Section 24, Township 32 South, Range 37 West, Stevens County, Kansas, and

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

March 6, 2023

IRSIK & DOLL FEED SERVICES INC
ATTN: SCOTT SHILL
PO BOX 847
CIMARRON, KS 67835

RE: Water Right, File Nos. 41,554 & 43,060

Dear Mr. Shill:

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 approvals is the requirement that the well authorized for dual use shall have **acceptable water flowmeters installed so both irrigation and stockwatering uses can be metered independent of each other**. Meters should be installed prior to the diversion of water. Please return the required *Notice of Completion* form for the installation of the meters 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,

A handwritten signature in black ink that reads "Kristen A. Baum".

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

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.

If neither a request for an evidentiary hearing nor a petition for administrative review is filed as set forth above, then this Order shall be effective and become a final agency action as defined in K.S.A. 77-607(b). Failure to timely request either an evidentiary hearing or administrative review may preclude further judicial review under the Kansas Judicial Review Act.

CERTIFICATE OF SERVICE

On this 6 day of March, 2023, I hereby certify that the attached Approval of Application for Change in Use Made of Water, Place of Use and Order in the Matter of the Authorized Quantity of Water and Better Describing the Authorized Point of Diversion under Water Right, File Nos. 41,554 and 43,030 dated March 2, 2023 were mailed postage prepaid, first class, US mail to the following:

IRSIK & DOLL FEED SERVICES INC
ATTN: SCOTT SHILL
PO BOX 847
CIMARRON, KS 67835

With a Photocopy to:

Garden City Field Office
Groundwater Management District No. 3


Division of Water Resources