NOTICE

This scan only represents the application as filed. The information contained herein meets the requirements of K.A.R. 5-3-1 or K.A.R. 5-5-1, and has been found acceptable for filing in the office of the Chief Engineer. The application should not be considered to be a complete application as per K.A.R. 5-3-1b or K.A.R. 5-5-2a.

Submit To: CHIEF ENGINEER Division of Water Resources Kansas Department of Agriculture 1320 Research Park Drive Manhattan, Kansas 66502 http://agriculture.ks.gov/dwr

APPLICATION FOR APPROVAL TO CHANGE THE PLACE OF USE, THE POINT OF DIVERSION OR THE USE MADE OF THE WATER UNDER AN **EXISTING WATER RIGHT**



Filing Fee Must Accompany the Application

(Please refer to Fee Schedule on signature page of application form.)

Paragraph Nos. 1, 2, 3, 4 & 8 must be completed. Complete all other applicable portions. A topographic map or detailed plat showing the authorized and proposed points(s) of diversion and /or place of use must accompany this application.

1.	Application is hereby ma	ade for approval of t	the Chief Engineer to chang	ge the			
		Place of Use	·	WATER RESOURCES			
	(Check one or more)	☐ Point of Diver	rsion	RECEIVED			
		Use Made of Y	Water	DEC 1 8 2017			
				12.04			
		F	File No. <u>41,588</u>	KS DEPT OF AGRICULTURE			
2.	Name of applicant: Bar	ton County Feeder	s, Inc.				
	Address: 1164 SE 40 I	Road					
	City, State and Zip: Ellir	nwood, KS 67526					
	Phone Number: (620) 5	:	F-mail address:	alan.pohlman@ilsbeef.com			
	-						
	What is your relationship to the water right; ■ owner □ tenant □ agent □ other? If other, please explain						
	Name of water use corre	espondent: <u>Barton</u>	County Feeders, Inc.				
	Address: 1164 SE 40 I	- .					
	Addicss. 110102 101	≺oad					
	City, State and Zip: Elli						
		nwood, KS 67526		alan.pohlman@ilsbeef.com			
3.	City, State and Zip: Elli Phone Number: (620) 5	nwood, KS 67526 64-2200	E-mail address:	alan.pohlman@ilsbeef.com please be specific): A change in place of use is			
3.	City, State and Zip: Elli Phone Number: (620) 5 The change(s) proposed	nwood, KS 67526 64-2200 d herein are desired	E-mail address: for the following reasons (
3.	City, State and Zip: Elli Phone Number: (620) 5 The change(s) proposed needed to account for	nwood, KS 67526 64-2200 d herein are desired the recent expansio	E-mail address: for the following reasons (on of our cattle feeding fa	please be specific): A change in place of use is			
3.	City, State and Zip: Elli Phone Number: (620) 5 The change(s) proposed needed to account for well to be used in our i	nwood, KS 67526 64-2200 d herein are desired the recent expansion	E-mail address: for the following reasons (on of our cattle feeding faer system. The water from	please be specific): A change in place of use is cility. This change will allow the water from this			
3.	City, State and Zip: Elli Phone Number: (620) 5 The change(s) proposed needed to account for well to be used in our i	nwood, KS 67526 64-2200 d herein are desired the recent expansion necred water A change in use for the recent of the connected water the recent of the change in use for the connected water the change in use for the change in use f	E-mail address: for the following reasons (on of our cattle feeding facer system. The water from industrial to stockwar	please be specific): A change in place of use is cility. This change will allow the water from this in this well is used for feed preparation and tering will more accurately describe the actual use.			
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Fo F.	City, State and Zip: Elli Phone Number: (620) 5 The change(s) proposed needed to account for well to be used in our in livestock consumption. The change(s) (was) (was) (was) (was)	nwood, KS 67526 64-2200 d herein are desired the recent expansion terconnected water A change in use full be) completed by	E-mail address: for the following reasons (on of our cattle feeding facer system. The water from industrial to stockwar	please be specific): A change in place of use is cility. This change will allow the water from this m this well is used for feed preparation and tering will more accurately describe the actual use.			

12/2017 um

Assisted by: __

File No. 41,588 The presently authorized place of use is: Owner of Land — NAME: Barton County Feeders, Inc. ADDRESS: 1164 SE 40 Road, Ellinwood, KS 67526 NE1/4 NW1/4 SW1/4 **TOTAL ACRES** NE1/4 NW1/4 SW1/4 SE1/4 NE¼ NW¼ SW¼ SE1/4 NE¼ NW¼ SW¼ SE1/4 NE¼ NW1/4 SW1/4 SE1/4 Range Sec Twp. 17 20S 11W SW SE 20 20S 11W Χ NW NE List any other water rights that cover this place of use. See attachment for overlaps related to stockwater use. Owner of Land — NAME: ADDRESS: NE1/4 NW1/4 SW1/4 TOTAL **ACRES** SW1/4 NE1/4 NW¼ SW¼ SE¼ NW1/4 SW1/4 SE1/4 NE1/4 NW1/4 Range NE¼ NW¼ SW1/4 SE1/4 NE¼ Twp. List any other water rights that cover this place of use. (If there are more than two landowners, attach additional sheets as necessary.) It is proposed that the place of use be changed to: Owner of Land — NAME: Barton County Feeders, Inc. ADDRESS: 1164 SE 40 Road, Ellinwood, KS 67526 TOTAL **ACRES** NE¼ NW1/4 SW1/4 SE¼ NE1/4 NW¼ SW1/4 SE1/4 NE1/4 NW1/4 SW1/4 SE1/4 NE1/4 NW¼ SW1/4 Range Sec Twp. 17 20S 11W Χ SW SE 20 20S 11W Х Χ Х Χ Х Х Х Х E 1/2 List any other water rights that cover this place of use. See attachment for overlaps related to stockwater use. Owner of Land — NAME: _ ADDRESS: _ SW1/4 NE1/4 NW1/4 SF1/4 TOTAL **ACRES** SE¼ NW1/4 SW1/4 NW¼ SW¼ SE¼ NE1/4 NW¼ SW1/4 NE1/4 NW¼ SW1/4 NE¼ SE1/4 NE1/4 WATER RESOURCES RECEIVED

List any other water rights that cover this place of use. _

ATTACHMENT TO APPLICATION FOR APPROVAL TO CHANGE THE PLACE OF USE, THE POINT OF DIVERSION OR THE USE MADE OF THE WATER UNDER AN EXISTING WATER RIGHT

APPLICANT: BARTON COUNTY FEEDERS, INC. - FILE NO. 41,588

Continuation of Page 2, No. 4, The presently authorized place of use is:

List any other water rights that cover this place of use.

The following water rights have a place of use (feedlot in the E $\frac{1}{2}$ of Section 20 T20S R11W) that partially overlaps the presently authorized place of use of File No. 41,588:

File Nos. 9,658.01, 14,298.02, 16,878.02, 16,878.03, 18,686.05, 18,686.06, 36,377.01 and 37,458 (pending STK use application).

Continuation of Page 2, No. 5, It is proposed that the place of use be changed to:

List any other water rights that cover this place of use.

The following water rights have a place of use (feedlot in the E $\frac{1}{2}$ of Section 20 T20S R11W) that is substantially the same as the place of use proposed in this application:

File Nos. 9,658.01, 14,298.02, 16,878.02, 16,878.03, 18,686.05, 18,686.06, 36,377.01 and 37,458 (pending STK use application).

WATER RESOURCES RECEIVED

DEC 1 8 2017

				Fil	e No. <u>41,588 </u>	
The presently auth	orized noin	it (s) of diversion (<u>is</u>) (are)	one well, pumi	p and appurtenances		
				(Provide description and number	r of points)	
7. The proposed point(s) of diversion (is) (are) one well, pump and appurtenances (Provide description and number of points)						
					r of points)	
List all presently	authorized	point(s) of diversion:				
Presently authorize	zed point o	of diversion:				
One in the	NE	Quarter of the	NW	Quarter of the	NE	Quarte
of Section	20	, Township	20	Quarter of the South, Range	11W	(E/W
in Bartor) . C	County, Kansas, 5044	feet North	1711 feet West of So	outheast corner	of section.
		Authorized Quantity				
				feet North	feet Wes	st)
		anged This point w				,
•		-				
		: (Complete only if char				Quarta
				Quarter of the		
				South, Range		
				feet West of So	outneast corner	or section.
•		Proposed Quantity				•
This point is: A	dditional vv	ell	otner water righ	ts that will use this point _		
Drogontly guthoris	and point	of divoraions	<u> </u>		 	
Presently authorize				Quarter of the		Quarte
				Quarter of the South, Range		
In		Jouniy, Kansas,				
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Authorized Rate (DWR use only: C This point will Proposed point of	Computer I not be cha f diversion	Authorized Quantity D No G Inged □ This point w I: (Complete only if char	/ iPSill be changed ange is requeste	feet North as follows: d)	feet Wes	st)
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IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY 2017

Not applicable.

12.	The pro	esently authorized use of water is f	or industrial	purposes.		
	It is pro	oposed that the use be changed to	stockwatering	purposes.		
13.	If changing the place of use and/or use made of water, describe how the consumptive use will not be increased. No change in authorized quantity is proposed. There will be no change in consumptive use. There will be no					
	change	e in the quantity of water returned	to the source of supply. The	proposed change in use more accurately		
	describ	bes the actual use of water.				
	(Please	show any calculations here.)				
14.	It is red	quested that the maximum annual c	quantity of water be reduced to _	no change (acre-feet or million gallons).		
15.	It is red	quested that the maximum rate of d	liversion of water be reduced to	no change gallons per minute (c.f.s.).		
16.	1:24,00 Kansas Distand should	00, is available through the Kansas 66047-3726 (www.usgs.gov). The ces North and West of the Southe also be shown. Identify the center	as Geological Survey, 1930 Co ne map should show the locatio east corner of the section must r of the section, the section lines	A U.S. Geological Survey Topographic Map, scale onstant Avenue, University of Kansas, Lawrence, n of the presently authorized point(s) of diversion. be shown. The presently authorized place of use and the section corners and show the appropriate ng information must also be shown on the map.		
	a. If a	a change in the location of the point	t(s) of diversion is proposed, sho	ow:		
	1)		ain that the information shown	th and West of the Southeast corner of the section on the map agrees with the information shown in		
	2)	domestic wells, within 1/2 mile of	the proposed well or wells. Ide	ion of existing water wells of any kind, including ntify each well as to its use and furnish name and wells within $\frac{1}{2}$ mile, please indicate so on the map.		
	3)	If the source of supply is surface and $\frac{1}{2}$ mile upstream from your p		addresses of all landowner(s) ½ mile downstream		
				e of use by crosshatching on the map. Please be ation shown in Paragraph No. 5 of the application.		
17.	local so	ource of supply as to which the wags, test hole logs, and other inform	iter right relates. This information	npair existing water rights and relates to the same on may include statements, plats, geology reports, to show the above. Additional comments may be		
		e refer to the attached maps and s	supporting documentation.			
18.	identify reques will not	the rules and regulations for which t should be granted. Attach docum prejudicially and unreasonably affe	ch you request a waiver. State nentation showing that granting tect the public interest.	ons of the Kansas Water Appropriation Act, please the reason why a waiver is needed and why the the request will not impair existing water rights and		
	Please	e refer to the letter enclosed with t	this application for specific deta	ails concerning waiver requests.		
				-coupes		
			·	WATER RESOURCES RECEIVED		

IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NEGESSAR 17

File No. <u>41,588</u>

Any use of water that is not as authorized by the water right or permit to authorize water <u>before</u> the chief engineer approves this application is a violation of the Kansas Water Appropriation Act for which criminal or civil penalties may be assessed. Such violation is a class C misdemeanor, punishable by a fine not to exceed \$500 and/or a term of confinement not to exceed one month in the county jail. K.S.A. 82a-728(b). Civil penalties shall be not less than \$100 nor more than \$1,000 per violation. In the case of a continuing violation, each day such violation continues may be deemed a separate violation. In addition to these penalties the water right may be modified or suspended. K.S.A. 82a-737, as amended.

The application must be signed by all owners of the place of use authorized under the water right and his or her spouse, if married. Please indicate if there is no spouse. If land is being purchased under contract, the seller must sign as landowner until such time as the contract is completed.

In the event that all applicants cannot appear before one notary public, they may as necessary sign separate copies of the application before any notary public conveniently available to them. All copies signed in this manner shall be considered to be valid parts of the application.

If the request is signed on behalf of any Owner by someone with legal authority to do so (for example, an agent, one who has power of attorney, or an executor, executrix, conservator), it will be necessary to attach proper documents showing such authority.

complete. By filing this application I authorize the class specified in sections 14 and 15 of this application.		1		
Dated at Ellinwood	, Kansas, this _	dayday	of December	, 20
Ala Valla				
(Owner) Alan Pohlman			(Spouse)	
(Please Print)			(Please Print)	
(Owner)			(Spouse)	
(Please Print)			(Please Print)	
(Owner)			(Spouse)	
(Please Print)		sas -Notary Publi	(Please Print)	
County of Ss	My Commission Exp			12th
Thereby certify that the foregoing application wa	s signed in my p	resence and sw	form to before me this $\mathcal{L}_{\mathcal{A}}$	t∽ day of
My Commission Expires 10 - (5 - 18			Notary Public	
•	FEE SCHEDU	L <u>E</u>		
Each application to change the place of use, the point of application fee set forth in the schedule below:	diversion or the use	made of the wate	r under this section shall b	e accompanied by the
 (1) Application to change a point of diversion 30 (2) Application to change a point of diversion medication to change the place of use (4) Application to change the use made of the weapone in the second se	ore than 300 feet			\$200 \$200

Make check payable to Kansas Department of Agriculture.

WATER RESOURCES RECEIVED

DEC 1 8 2017

1320 Research Park Drive Manhattan, Kansas 66502 (785) 564-6700



900 SW Jackson, Room 456 Topeka, Kansas 66612 (785) 296-3556

Jackie McClaskey, Secretary

Governor Sam Brownback

BARTON COUNTY FEEDERS, INC 12/20/17 1164 SE 40 ROAD ELLINWOOD. KS 67526 FILE COPY

Dear Sir or Madam:

RE: File No 41588

An application for approval of the Chief Engineer to change the following condition or conditions of the file number referred to above has been received:

☐ place of use PU/UMW ☐ point of diversion ☐ use made of water

As a matter of record, the Division of Water Resources has on hand a large number of applications awaiting processing. Therefore, to be fair to all concerned, and so that we can process those applications on hand in the order they were received, we intend to concentrate on the backlog of applications until the issue is resolved. You will be contacted regarding this application as soon as it has been examined.

In accordance with the provisions of the Kansas Water Appropriation Act, a portion of which is included below, the use of water prior to approval of the application is unlawful. You should not proceed and divert water as indicated by your plans in your application for a change for this file until you receive approval for this change from the Chief Engineer. Once approved, compliance with the terms, conditions and limitations of the permit is necessary. Conservation of the water resources of Kansas is required.

Section 82a-728 of the Kansas Water Appropriation Act, provides (a) except for the appropriation of water for the purpose of domestic use, . . . it shall be unlawful for any person to appropriate or threaten to appropriate water from any source without first applying for and obtaining a permit to appropriate water in accordance with the provisions of the Water Appropriation Act or for any person to violate any condition of a vested right, appropriation right or an approved application for a permit to appropriate water for beneficial use.

(b) (1) The violation of any provision of this section by any person is a class C misdemeanor...

A class C misdemeanor is punishable by a fine not to exceed \$500 and/or a term of confinement not to exceed one month in the county jail. Each day that the violation occurs constitutes a separate offense

If you have any questions, please contact me at (785) 564-6645. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

Brent Tourney, L.G.

Change Applications Unit Supervisor

Water Appropriation Program

front A Juney

BAT: DLW

pc: STAFFORD Field Office GMD5

1700 E. Iron Ave. • Salina, KS 67401 t 785.823.0097 f 913.273.1493



1303 Yucca St. • Scott City, KS 67871 www.klaenviro.com

December 8, 2017

WATER RESOURCES RECEIVED

DEC 1 8 2017

David Barfield, P.E.
Chief Engineer
Division of Water Resources
Kansas Department of Agriculture
1320 Research Park Drive
Manhattan, KS 66502

KS DEPT OF AGRICULTURE

Subject: Change Application Pertaining to File No. 41,588, Barton County Feeders, Inc.

Dear Mr. Barfield:

The subject application and supporting documentation are submitted for your review and approval on behalf of the applicant, Barton County Feeders, Inc. KLA Environmental Services, Inc. assisted with the preparation of this application.

Water Right File No. 41,588 was perfected in 2001. It is our understanding that the application was approved in conjunction with Groundwater Management District No. 5 *District Policy XXIV*, which predates the current applicable regulations. The use of water was authorized for industrial purposes at that time. The well associated with this water right is used to provide water for feed preparation and livestock consumption. A change in use from industrial to stockwatering is proposed as this will more accurately describe the actual use of the water. This is consistent with the definition stated in K.A.R. 5-1-1 (cccc). We've had several discussions with Division of Water Resources staff about this issue and we have been encouraged to file an application to change the beneficial use to stockwatering.

Barton County Feeders, Inc. completed an expansion of the cattle feeding facility in 2017. This expansion included the construction of new pens, the installation of new wells, and extension of the water supply system to serve the new pens. This project expanded the place of use for stockwatering. We propose to change the place of use associated with File No. 41,588 to include the current cattle feeding facility, which is the

E ½ of Section 20 T20S R11W. We also wish to retain a portion of the current place of use which is described as the SW ¼ of the SE ¼ of Section 17 T20S R11W. Water is occasionally diverted directly from this well to add moisture to feed or to serve a stockwater tank.

No change in the spacing between the well associated with File No. 41,588 and other wells is proposed. The existing spacing between this well and other facility wells does not meet the applicable provisions of K.A.R. 5-4-4 and 5-25-2, although all of these wells have been previously approved. We request a waiver of the applicable provisions of K.A.R. 5-4-4 and 5-25-2 if such a waiver is necessary for approval of this application. Please note that all wells within ½ mile of the well associated with File No. 41,588 are owned by the applicant.

Please contact me if you have any questions concerning this application. Thank you for your consideration of this matter.

Respectfully,



Frank C. Mercurio, P.E.

Enclosures

cc/enc: Alan Pohlman, Barton County Feeders, Inc.

WATER RESOURCES RECEIVED

DEC 1 8 2017

KS DEPT OF AGRICULTURE







