

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

Document Signature LPL _____

| | | | | |
|---------------------------------|---|----------------------------|------------------------------|---------|
| 1. File Number: 49697 | 2. Status Change Date: 4/4/2019 | 3. Change Num: 1 | 4. Field Office: 1 | 5. GMD: |
|---------------------------------|---|----------------------------|------------------------------|---------|

| | |
|--|---|
| 6. Status: <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied by DWR/GMD <input type="checkbox"/> Dismiss by Request/Failure to Return | 7. Filing Date of Change: 11/8/18 |
|--|---|

| | |
|--|--|
| 8a. Applicant(s) New to system <input type="checkbox"/> 2 I FEEDERS LLC 884 RD 350 ALLEN KS 66833 | 8c. Landowner(s) New to system <input type="checkbox"/> Person ID 60473 Add Seq# _____ |
|--|--|

| | |
|---|--|
| 8b. Landowner(s) New to system <input type="checkbox"/> Person ID _____ Add Seq# _____ | 8d. WUC New to system <input type="checkbox"/> SAME AS 8A |
|---|--|

9. Documents and Enclosure(s): DWR Meter(s) Date to Comply: **12/31/2020** N & P Date to Comply: _____

Check Valve N & P Form Water Tube Driller Copy H & E Letter
 Conservation Plan Date Required: _____ Date Approved: _____ Date to Comply: _____

10. Use Made of Water From: _____ To: _____

completed by BAT
 entered by ULM on 4/16/2019

File No. 49697 11. County: Basin: Stream: Formation Code: Special Use:

| 12. Points of Diversion | | | | | | | | | | Rate and Quantity | | | | |
|-------------------------|------|-----------|---|---|---|----|----|----|---------|-------------------|--------------------|-----------------|--------------------|------------------|
| T MOD DEL ENT | PDIV | Qualifier | S | T | R | ID | 'N | 'W | Comment | Authorized | | Additional | | Overlap PD Files |
| | | | | | | | | | | Rate gpm/cfs | Quantity af/mgy | Rate gpm/cfs | Quantity af/mgy | |
| | | | | | | | | | | | | | | |
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| | | | | | | | | | | | | | | |

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) _____
 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 T MOD DEL ENT | PUSE | S | T | R | ID | NE¼ | | | | NW¼ | | | | SW¼ | | | | SE¼ | | | | Total | Owner | Chg? | Overlap Files | |
|--|-------|----|----|-----|----|-----------------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|-------|-------|----------------|---------------|--|
| | | | | | | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | NE ¼ | NW ¼ | SW ¼ | SE ¼ | | | | | |
| √ | 53084 | 8 | 16 | 11E | 1 | FEEDLOT (SE) | | | | | | | | | | | | | | | | 8a | NO | SEE LIST BELOW | | |
| √ | 53085 | 9 | 16 | 11E | 1 | FEEDLOT (SW) | | | | | | | | | | | | | | | | 8a | NO | SEE LIST BELOW | | |
| MOD | 60148 | 16 | 16 | 11E | 1 | FEEDLOT (N2 N2) | | | | | | | | | | | | | | | | 8a | NO | SEE LIST BELOW | | |
| √ | 60297 | 17 | 16 | 11E | 1 | FEEDLOT (N2 NE) | | | | | | | | | | | | | | | | 8a | NO | SEE LIST BELOW | | |
| NO CHG TO SED | | | | | | | | | | | | | | | | | | | | | | | | | | |

Comments: 44,071; 47,208; 49697; 50,157 AND 50,158

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: March 8, 2019

FROM: Brent A. Turney

RE: Water Right
File Nos. 44,071 and 47,208
Appropriation of Water
File No. 49,697

Michael Hurla on behalf of 2i Feeders, owner of File Nos. 44,071 and 49,697, and Roger Wells, on behalf of Allen Creek Watershed District No. 89, part owner of File No. 49,697, which also authorizes Sediment storage, in a watershed reservoir, have filed applications for approval to change the place of use. The applications propose to expand the existing feedlot located in Sections 8, 9, 16 and 17, Township 16 South, Range 11 East, Lyon County, Kansas. The proposed changes in the place of use will create a complete overlap in the place of use with new Application, File Nos. 50,157 and 50,158.

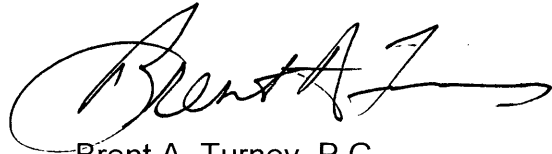
The referenced file numbers do not appear to be abandoned as per K.S.A. 82a-718.

As the changes in place of use only request a complete overlap in the place of use, no notices were sent to nearby well owners.

In a conversation on today's date, Katie Tietsort, Water Commissioner, Topeka Field Office recommended approval of the referenced changes.

A check valve will be required if any chemical or foreign substance is injected into the water through the diversion works.

Based on the above discussion, that the Topeka Field Office recommends approval, that impairment to existing water rights is unlikely, that no change in the local source of supply will occur and that the new applications will account for any increase in the consumptive use, the referenced applications should be approved.



Brent A. Turney, P.G.
Change Application Unit Supervisor

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

April 19, 2019

2 I FEEDERS LLC
884 RD 350
ALLEN KS 66833

FILE COPY

Re: Water Right, File Nos. 44,071 and 47,208
Appropriation of Water, File No. 49,697

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

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in the approval for change. A condition of the approvals is that an acceptable water flow meter must be installed on the diversion works authorized under the referenced file numbers. Please return the required notification of completion of the diversion works and installation of the required meter as soon as these actions are completed.

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 wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

Brent A. Turney, PIG.
Change Application Unit Supervisor
Water Appropriation Program

BAT
Enclosures
pc: Topeka Field Office

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

APPROVAL OF APPLICATION FOR CHANGE IN PLACE OF USE APPROPRIATION OF WATER FILE NO. 49,697

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Michael Hurla on behalf of 2I Feeders, LLC, 884 Road 350, Allen Kansas, 66833, and Roger on behalf of the Allen Creek Water shed District No. 89, 280 HWY K-68, Lyndon Kansas, 66451, received in this office on November 8, 2018, for approval of a change in the location of the place of use under the Approval of Application, File No. 49,697, 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 effective date of the change shall be the date this order is executed by the Chief Engineer, after which the location of the place of use stockwatering use shall be:

a feedlot located in the Southeast Quarter (SE $\frac{1}{4}$) of Section 8, the Southwest Quarter (SW $\frac{1}{4}$) of Section 9, the North Half of the North Half (N $\frac{1}{2}$ N $\frac{1}{2}$) of Section 16, and the North Half of the Northeast Quarter (N $\frac{1}{2}$ NE $\frac{1}{4}$) of Section 17, all in Township 16 South, Range 11 East, Lyon County, Kansas,

and the place of use for sediment control shall be:

a reservoir located in the Southeast Quarter (SE $\frac{1}{4}$) of Section 7, and the Southwest Quarter (SW $\frac{1}{4}$) of Section 8, all in Township 16 South, Range 11 East, Lyon County, Kansas,

located substantially as shown on the topographic map 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 Approval of Application, File No. 49,697, for permit to appropriate water for beneficial use, is as stated and set forth in the approval dated January 19, 2017.

This Order shall become a final agency action, as defined by K.S.A. 77-607(b), without further notice to the parties, if a request for hearing or a petition for administrative review is not filed as set forth below.

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: Kansas Department of Agriculture, Attn: Legal Section, 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 hearing 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.

Dated at Manhattan, Kansas, this 1st day of April, 2019.

Lane P. Letourneau

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

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 1st day of April, 2019, by Lane P. Letourneau, P.G., Program Manager, Water Appropriation Program, Division of Water Resources, Kansas Department of Agriculture.



Danielle Wilson
Notary Public

CERTIFICATE OF SERVICE

On this 19th day of April, 2019, I hereby certify that the attached original Approval of Change in Place of Use, File No. 49,697, dated April 11th, 2019, was mailed postage prepaid, first class, US mail to the following:

2I Feeders LLC
884 Road 350
Allen KS 66833

With photocopies to:

ALLEN CREEK WATERSHED DIST #89
280 HWY K-68
LYNDON KS 66451+

Topeka Field Office



Staff

APPLICATION COMPLETE
4/8/19
Reviewer BAJ

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**



State of Kansas

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 made for approval of the Chief Engineer to change the

- Place of Use
- (Check one or more) Point of Diversion
- Use Made of Water

WATER RESOURCES
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NOV 08 2018
11:52

KS DEPT OF AGRICULTURE

File No. 49,697

2. Name of applicant: 2 I FEEDERS LLC (STK USE)

Address: 884 RD 350

City, State and Zip: ALLEN, KS 66833

Phone Number: (785) 289-0042 E-mail address: _____

What is your relationship to the water right; owner tenant agent other? If other, please explain. _____

Name of water use correspondent: SAME AS APPLICANT (STK USE)

Address: _____

City, State and Zip: _____

Phone Number: () _____ E-mail address: _____

3. The change(s) proposed herein are desired for the following reasons (please be specific): _____

CREATE A COMPLETE OVERLAP IN PLACE OF USE WITH CURRENT WATER RIGHTS AND NEW APPLICATIONS.

(STK USE)

The change(s) (was) (will be) completed by SPRING 2019

(Date)

| | | | | | | | |
|----------------------|------------|--------------------------------------|----------------|-----------------------------|-------------------|---------------|---------------------|
| For Office Use Only: | | | | | | | |
| F.O. Code | <u>GMD</u> | <u>Meets K.A.R. 5-5-1 (YES / NO)</u> | Use <u>STK</u> | Source <u>G(S)</u> | County <u>LY</u> | By <u>DAW</u> | Date <u>11/8/18</u> |
| | <u>CPU</u> | Fee \$ <u>200</u> | TR # _____ | Receipt Date <u>11/8/18</u> | Check # <u>CC</u> | | |

SCANNED

11/15/2018 UM

4. The presently authorized place of use is: **STK USE**

Owner of Land — NAME: **2 I FEEDERS LLC**
 ADDRESS: **884 RD 250, ALLEN, KS 66833**

| Sec. | Twp. | Range | NE¼ | | | | NW¼ | | | | SW¼ | | | | SE¼ | | | | TOTAL ACRES |
|------|------|-------|---|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-------------|
| | | | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | |
| | | | STOCKWATERING USE AT A FEEDLOT LOCATED IN THE SOUTHEAST QUARTER (SE¼) OF SECTION 8, THE SOUTHWEST QUARTER (SW¼) OF SECTION 9, THE NORTH HALF OF THE NORTHWEST QUARTER (N½ NW¼) OF SECTION 16, AND THE NORTH HALF OF THE NORTHEAST QUARTER (N½ NE¼) OF SECTION 17; ALL IN TOWNSHIP 16 SOUTH, RANGE 11 EAST, LYON COUNTY, KANSAS. | | | | | | | | | | | | | | | | |

List any other water rights that cover this place of use. 44,071; 47,208 & 49,697

Owner of Land — NAME: **ALLEN CREEK WATERSHED DISTRICT #89 (SED USE)**
 ADDRESS: **868 COUNTY RD 290, AMERICUS, KS 66835-9536**

| Sec. | Twp. | Range | NE¼ | | | | NW¼ | | | | SW¼ | | | | SE¼ | | | | TOTAL ACRES |
|------|------|-------|--|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-------------|
| | | | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | |
| | | | A reservoir located in the Southeast Quarter (SE¼) of Section 7, and the Southwest Quarter (SW¼) of Section 8, all in Township 16 South, Range 11 East, Lyon County, Kansas. | | | | | | | | | | | | | | | | |

List any other water rights that cover this place of use. NONE

(If there are more than two landowners, attach additional sheets as necessary.)

5. It is proposed that the place of use be changed to:

Owner of Land — **2 I FEEDERS LLC (STK USE)**
 ADDRESS: **884 RD 250, ALLEN, KS 66833**

| Sec. | Twp. | Range | NE¼ | | | | NW¼ | | | | SW¼ | | | | SE¼ | | | | TOTAL ACRES |
|------|------|-------|---|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-------------|
| | | | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | |
| | | | STOCKWATERING USE AT A FEEDLOT LOCATED IN THE SOUTHEAST QUARTER (SE¼) OF SECTION 8, THE SOUTHWEST QUARTER (SW¼) OF SECTION 9, THE NORTH HALF OF THE NORTH HALF (N½ N½) OF SECTION 16, AND THE NORTH HALF OF THE NORTHEAST QUARTER (N½ NE¼) OF SECTION 17; ALL IN TOWNSHIP 16 SOUTH, RANGE 11 EAST, LYON COUNTY, KANSAS. | | | | | | | | | | | | | | | | |

List any other water rights that cover this place of use. 44,071; 47,208 & 49,697 & NEW APPLICATIONS

Owner of Land — NAME: **ALLEN CREEK WATERSHED DISTRICT #89 (SED USE) No Change**
 ADDRESS: **868 COUNTY RD 290, AMERICUS, KS 66835-9536**

| Sec. | Twp. | Range | NE¼ | | | | NW¼ | | | | SW¼ | | | | SE¼ | | | | TOTAL ACRES |
|------|------|-------|--|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-------------|
| | | | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | |
| | | | A reservoir located in the Southeast Quarter (SE¼) of Section 7, and the Southwest Quarter (SW¼) of Section 8, all in Township 16 South, Range 11 East, Lyon County, Kansas. | | | | | | | | | | | | | | | | |

List any other water rights that cover this place of use. NONE

IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY

6. The presently authorized point(s) of diversion (is) (are) NO CHANGE
(Provide description and number of points)
7. The proposed point(s) of diversion (is) (are) _____
(Provide description and number of points)

List all presently authorized point(s) of diversion:

8. **Presently authorized point of diversion:**
 One in the _____ Quarter of the _____ Quarter of the _____ Quarter
 of Section _____, Township _____ South, Range _____ (E/W),
 in _____ County, Kansas, _____ feet North _____ feet West of Southeast corner of section.
 Authorized Rate _____ Authorized Quantity _____
 (DWR use only: Computer ID No. _____ GPS _____ feet North _____ feet West)
 This point will not be changed This point will be changed as follows:
Proposed point of diversion: (Complete only if change is requested)
 One in the _____ Quarter of the _____ Quarter of the _____ Quarter
 of Section _____, Township _____ South, Range _____ (E/W),
 in _____ County, Kansas, _____ feet North _____ feet West of Southeast corner of section.
 Proposed Rate _____ Proposed Quantity _____
 This point is: Additional Well Geo Center List other water rights that will use this point _____

9. **Presently authorized point of diversion:**
 One in the _____ Quarter of the _____ Quarter of the _____ Quarter
 of Section _____, Township _____ South, Range _____ (E/W),
 in _____ County, Kansas, _____ feet North _____ feet West of Southeast corner of section.
 Authorized Rate _____ Authorized Quantity _____
 (DWR use only: Computer ID No. _____ GPS _____ feet North _____ feet West)
 This point will not be changed This point will be changed as follows:
Proposed point of diversion: (Complete only if change is requested)
 One in the _____ Quarter of the _____ Quarter of the _____ Quarter
 of Section _____, Township _____ South, Range _____ (E/W),
 in _____ County, Kansas, _____ feet North _____ feet West of Southeast corner of section.
 Proposed Rate _____ Proposed Quantity _____
 This point is: Additional Well Geo Center List other water rights that will use this point _____

10. **Presently authorized point of diversion:**
 One in the _____ Quarter of the _____ Quarter of the _____ Quarter
 of Section _____, Township _____ South, Range _____ (E/W),
 in _____ County, Kansas, _____ feet North _____ feet West of Southeast corner of section.
 Authorized Rate _____ Authorized Quantity _____
 (DWR use only: Computer ID No. _____ GPS _____ feet North _____ feet West)
 This point will not be changed This point will be changed as follows:
Proposed point of diversion: (Complete only if change is requested)
 One in the _____ Quarter of the _____ Quarter of the _____ Quarter
 of Section _____, Township _____ South, Range _____ (E/W),
 in _____ County, Kansas, _____ feet North _____ feet West of Southeast corner of section.
 Proposed Rate _____ Proposed Quantity _____
 This point is: Additional Well Geo Center List other water rights that will use this point _____

11. Describe the current condition of and future plans for any point(s) of diversion which will no longer be used. _____

IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY

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12. The presently authorized use of water is for STK/SED purposes.
It is proposed that the use be changed to NO CHANGE purposes.

13. If changing the place of use and/or use made of water, describe how the consumptive use will not be increased.
NEW APPLICATIONS WILL ADDRESS ANY CONSUMPTIVE USE INCREASE.

(Please show any calculations here.)

14. It is requested that the maximum annual quantity of water be reduced to _____ (acre-feet or million gallons).

15. It is requested that the maximum rate of diversion of water be reduced to _____ gallons per minute (_____ c.f.s.).

16. The application must include either a topographic map or detailed plat. A U.S. Geological Survey Topographic Map, scale 1:24,000, is available through the Kansas Geological Survey, 1930 Constant Avenue, University of Kansas, Lawrence, Kansas 66047-3726 (www.usgs.gov). The map should show the location of the presently authorized point(s) of diversion. Distances North and West of the Southeast corner of the section must be shown. The presently authorized place of use should also be shown. Identify the center of the section, the section lines and the section corners and show the appropriate section, township, and range numbers on the map. In addition the following information must also be shown on the map.

- a. If a change in the location of the point(s) of diversion is proposed, show:
 - 1) The location of the proposed point(s) of diversion. Distances North and West of the Southeast corner of the section must be shown. Please be certain that the information shown on the map agrees with the information shown in Paragraph Nos. 9, 10 and 11 of the application.
 - 2) If the source of supply is groundwater, please show the location of existing water wells of any kind, including domestic wells, within 1/2 mile of the proposed well or wells. Identify each well as to its use and furnish name and mailing address of the property owner or owners. If there are no wells within 1/2 mile, please indicate so on the map.
 - 3) If the source of supply is surface water, the names and mailing addresses of all landowner(s) 1/2 mile downstream and 1/2 mile upstream from your property lines must be shown.
- b. If a change in the place of use is desired, show the proposed place of use by crosshatching on the map. Please be certain that the information shown on the map agrees with the information shown in Paragraph No. 5 of the application.

17. Attach documentation to show the change(s) proposed herein will not impair existing water rights and relates to the same local source of supply as to which the water right relates. This information may include statements, plats, geology reports, well logs, test hole logs, and other information as necessary information to show the above. Additional comments may be made below.

NO CHANGE IN SOURCE OF SUPPLY.

18. If the proposed change(s) does not meet all applicable rules and regulations of the Kansas Water Appropriation Act, please identify the rules and regulations for which you request a waiver. State the reason why a waiver is needed and why the request should be granted. Attach documentation showing that granting the request will not impair existing water rights and will not prejudicially and unreasonably affect the public interest.

N/A

IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY

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NOV 08 2018
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Any use of water that is not as authorized by the water right or permit to authorize water before 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.

I declare that I am an owner of the currently authorized place of use as identified herein, or that I represent all such owners and am authorized to make this application on their behalf, and declare further that the statements contained herein are true, correct, and complete. By filing this application I authorize the chief engineer to permanently reduce the quantity of water and/or rate of diversion as specified in sections 14 and 15 of this application.

Dated at _____, Kansas, this 8th day of November, 2018.

Signature of Owner: Michael Hurka
(Please Print)
(Owner)
(Please Print)
(Owner)
(Please Print)
(Owner)
(Please Print)

(Spouse)
(Please Print)
(Spouse)
(Please Print)
(Spouse)
(Please Print)

State of Kansas
County of Riley } SS

I hereby certify that the foregoing application was signed in my presence and sworn to before me this 8th day of November, 2018.



Signature of Notary Public: Ronda M. Hutton
Notary Public

My Commission Expires 10/15/2019

FEE SCHEDULE

Each application to change the place of use, the point of diversion or the use made of the water under this section shall be accompanied by the application fee set forth in the schedule below:

- (1) Application to change a point of diversion 300 feet or less \$100
(2) Application to change a point of diversion more than 300 feet \$200
(3) Application to change the place of use \$200
(4) Application to change the use made of the water \$300

Make check payable to Kansas Department of Agriculture.

WATER RESOURCES RECEIVED

NOV 08 2018

SCANNED

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, Acting Secretary

Laura Kelly, Governor

March 7, 2019

ALLEN CREEK WATERSHED DISTRICT #89
280 HWY K-68
LYNDON KS 66451

FILE COPY

RE: Appropriation of Water, File No. 49,697

Dear Sir or Madam:

Reference is made to the application for approval of the Chief Engineer to change the place of use under Appropriation of Water, File No. 49,697, which was received in the office of the Chief Engineer on November 8, 2018. Upon review of the application, we find that additional information is needed.

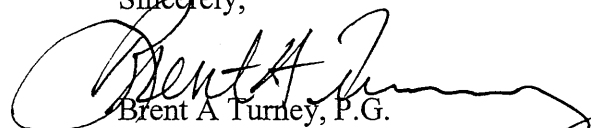
Appropriation of Water, File No. 49,697, is authorized for both stockwatering use, owned by 2I Feeders and sediment storage use in the reservoir which is owned or controlled by Allen Creek Watershed District #89. The application is proposing to change the place of use to enlarge the existing feedlot.

K.A.R. 5-5-5 *Signatures required on change applications* requires in part that if the extent of each owner's interest in the water right has not been legally determined, then all landowners holding an undetermined portion of the water right must sign the change application. Therefore, we will need the notarized signatures of all landowners of the authorized place of use. Because we consider the Allen Creek Watershed District #89 the owner of the reservoir, which is an authorized place of use, we must have a notarized signature from a person representing the watershed district.

Based on the above, I have enclosed a copy of the application and a blank signature page for your convenience. Could you please return the signed and notarized signature page to this office at your earliest convenience so that we may continue processing the application?

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 A. Turney, P.G.
Change Application Unit Supervisor
Water Appropriation Program

BAT
Enclosures

pc: Topeka Field Office
2I Feeders, LLC

SCANNED

Simmons Law Office

Rand Simmons
701 Commercial, Suite 200
P.O. Box 1249
Emporia, KS 66801

Phone: (620) 340-0043
Fax: (866) 862-8807
www.RandSimmonsLaw.com
Rand@RandSimmonsLaw.com

March 21, 2019

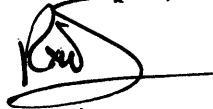
Brent A. Turney
Change Application Unit Supervisor
1320 Research Park Drive
Manhattan, KS 66502-5000

Re: Appropriation of Water, File No. 49,697 – signature page

Mr. Turney:

Per our phone conversation this morning, enclosed please find the original signature page. If you need anything else, please let me know.

Thank you,



Rand Simmons
Simmons Law office
Attorney for the Watershed District

RES/res
Enclosures: signature page of application
Cc: Roger Wells, Curtis Janssen

WATER RESOURCES
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MAR 25 2019

KS DEPT OF AGRICULTURE

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Any use of water that is not as authorized by the water right or permit to authorize water **before** 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.

I declare that I am an owner of the currently authorized place of use as identified herein, or that I represent all such owners and am authorized to make this application on their behalf, and declare further that the statements contained herein are true, correct, and complete. By filing this application I authorize the chief engineer to permanently reduce the quantity of water and/or rate of diversion as specified in sections 14 and 15 of this application.

Dated at _____, Kansas, this _____ day of _____, 20_____.

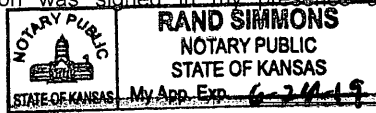
Roger Wells, as President of Allen Creek watershed DIST. #89
 _____ (Owner) _____ (Spouse)
Roger wells _____
 _____ (Please Print) _____ (Please Print)
 _____ (Owner) _____ (Spouse)
 _____ (Please Print) _____ (Please Print)
 _____ (Owner) _____ (Spouse)
 _____ (Please Print) _____ (Please Print)

WATER RESOURCES RECEIVED
MAR 25 2019

KS DEPT OF AGRICULTURE

State of Kansas }
County of Lyon } SS

I hereby certify that the foregoing application was signed in my presence and sworn to before me this 21st day of March, 2019.



Rand Simmons
Notary Public

My Commission Expires 6-24-19

FEE SCHEDULE

Each application to change the place of use, the point of diversion or the use made of the water under this section shall be accompanied by the application fee set forth in the schedule below:

- (1) Application to change a point of diversion 300 feet or less \$100
- (2) Application to change a point of diversion more than 300 feet \$200
- (3) Application to change the place of use \$200
- (4) Application to change the use made of the water \$300

Make check payable to **Kansas Department of Agriculture.**

STATE OF KANSAS

DEPARTMENT OF AGRICULTURE
1320 RESEARCH PARK DRIVE
MANHATTAN, KS 66502
PHONE: (785) 564-6700
FAX: (785) 564-6777



900 SW JACKSON, ROOM 456
TOPEKA, KS 66612
PHONE: (785) 296-3556
www.agriculture.ks.gov

GOVERNOR JEFF COLYER, M.D.
JACKIE McCLASKEY, SECRETARY OF AGRICULTURE

2i FEEDERS, LLC
884 RD 350
ALLEN, KS 66833

November 15, 2018

RE: File No 49697

Dear Sir or Madam:

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
- 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,

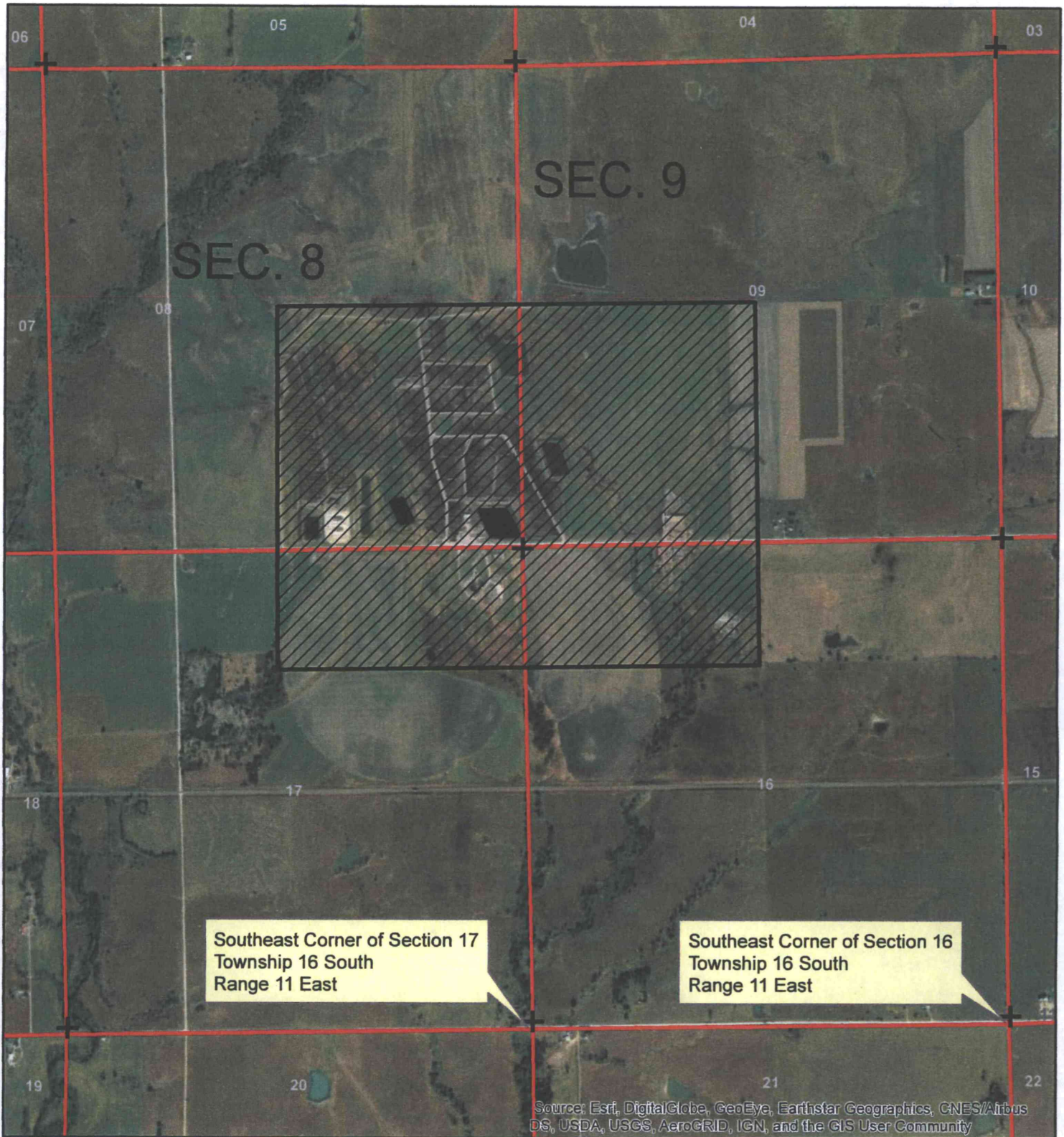
Brent Tourney, L.G.
Change Applications Unit Supervisor
Water Appropriation Program

BAT: DLW
pc: TOPEKA Field Office GMD

SCANNED

1:18,000

2 I FEEDERS - FILE NOS. 44,071; 47,208; & 49,697
AUTHORIZED PLACE OF USE SITE MAP



Southeast Corner of Section 17
Township 16 South
Range 11 East

Southeast Corner of Section 16
Township 16 South
Range 11 East

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



Authorized Place of Use

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NOV 08 2018

[Handwritten signature]
CEO Zi Feeders

KS DEPT OF AGRICULTURE

SCANNED

1:18,000

2 I FEEDERS - FILE NOS. 44,071; 47,208; & 49,697
PROPOSED PLACE OF USE SITE MAP



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



Proposed Place of Use

All Known Landowners and Well Owners within 1/2 mile have been identified.

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NOV 08 2018

Michael
CEO 2i Feeders

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SCANNED

ALLEN CREEK WD NO. 89
 Section 7, Township 16 South, Range 11 East
 Lyon County

49,697



1:24,000



Proposed Place of Use - STK



Proposed Place of Use - SED

● Proposed Point of Diversion

All known landowners adjacent to the stream within one-half mile upstream and downstream of the property lines have been shown.

SCANNED

David J. Kirk
 AUG 3-1 2016

