

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**



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

WATER RESOURCES RECEIVED
RECEIVED
APR 24 2018
10:39
KS DEPT OF AGRICULTURE Garden City Field Office
Division of Water Resources

File No. 18945 D2

2.

Name of applicant: GRAY COUNTY FEEDYARD JON HEIMAN

Address: 23405 STATE ROAD 23

City, State and Zip: CIMARRON KS 67835-8520

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

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

Name of water use correspondent: GRAY COUNTY FEEDYARD JON HEIMAN

Address: 23405 STATE ROAD 23

City, State and Zip: CIMARRON KS 67835-8520

3. The change(s) proposed herein are desired for the following reasons (please be specific):
to convert this right to stock for use at the feedlot.

The change(s) (was) (will be) completed by when approved (Date)

For Office Use Only:									
F.O. Code	<u>4 GMD 3</u>	Meets K.A.R. 5-5-1	<u>(YES)</u> (YES/NO)	Use	<u>IRR</u>	Source	<u>(G)</u> S County	By	<u>AW</u> Date <u>4/24/18</u>
	<u>6-2</u>	Fee \$	<u>500</u>	TR #		Receipt Date	<u>4/24/18</u>	Check #	<u>41299</u>

4. The presently authorized place of use is:

Owner of Land — NAME: GREG & JANET R JANTZ

ADDRESS: PO BOX 130 GRAND VIEW ID 83624-0130

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	
24	27	28w					34	34	34	34									136

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

Owner of Land — NAME: _____

ADDRESS: _____

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	

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

(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 — NAME: GRAY COUNTY FEEDYARD JON HEIMAN

ADDRESS: 23405 STATE ROAD 23 CIMARRON KS 67835-8520

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	
23	27	28w													feed	lot	in	se1/4	
26	27	38w	feed	lot	in	ne1/4	e/2	nw1/4			&	ne of	sw1/4						

List any other water rights that cover this place of use. 18940D1 18940D2 18940D3 18945D1 19484 21772 27838 40393 40575

Owner of Land — NAME: _____

ADDRESS: _____

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	

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

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6. The presently authorized point(s) of diversion is one well
(Provide description and number of points)

7. The proposed point(s) of diversion is one well
(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 _____ nc _____ Quarter of the _____ ne _____ Quarter
 of Section 23, Township 27 South, Range 28 W,
 in Gray County, Kansas, 3960 feet North 1320 feet West of Southeast corner of section.
 Authorized Rate _____ Authorized Quantity _____
 (DWR use only: Computer ID No. 1 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. _____
na

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12. The presently authorized use of water is for irrigation purposes.
It is proposed that the use be changed to stock purposes.

13. If changing the place of use and/or use made of water, describe how the consumptive use will not be increased.
197 AF irrigation x 89.3% consumptive use gray co. = 176 af = 57.35 mgcy for stock use
limitation needed for 178.567 mgcy with other current stock rights
18940 D1 18940 D2 18940 D3 18945 D1

(Please show any calculations here.)

14. It is requested that the maximum annual quantity of water be reduced to 57.35 mgcy (acre-feet or million gallons).

15. It is requested that the maximum rate of diversion of water be reduced to na 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.

well to remain in same location consumptive use loss will apply.

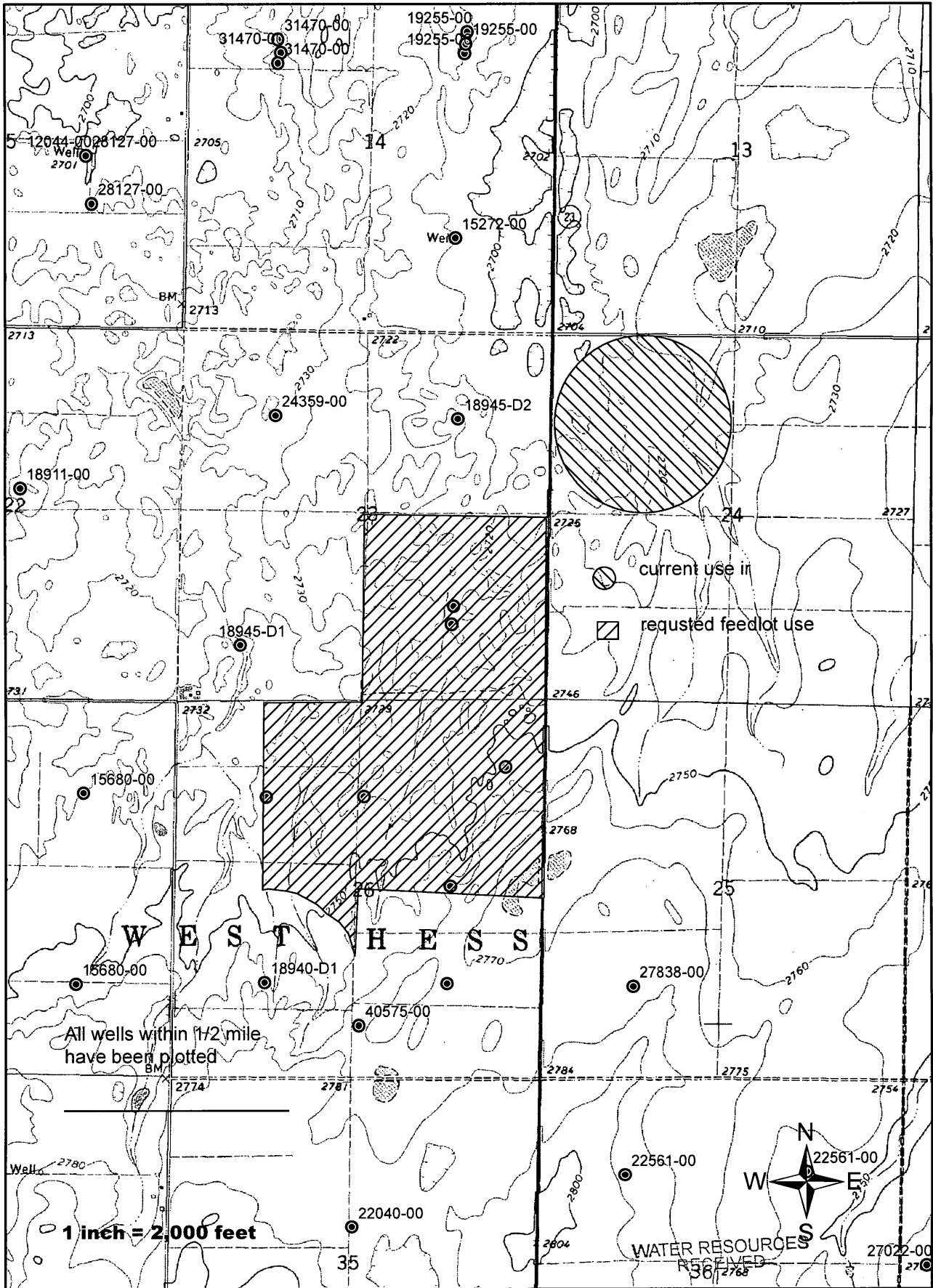
18. If the proposed change(s) does not meet all applicable rules and regulations of the Kansas Water Appropriation Act, please identify the rules and regulations for which you request a waiver. State the reason why a waiver is needed and why the request should be granted. Attach documentation showing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

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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 Lawrence, Kansas, this 17th day of April, 2018.

[Signature]

(Owner)

(Spouse)

(Please Print)

(Please Print)

(Owner)

(Spouse)

(Please Print)

(Please Print)

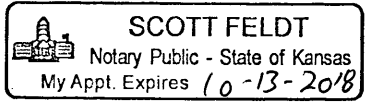
(Owner)

(Spouse)

(Please Print)

(Please Print)

State of Kansas }
County of GRAY } SS



I hereby certify that the foregoing application was signed in my presence and sworn to before me this 17th day of APRIL, 2018.

[Signature]
NOTARY PUBLIC
Notary Public

My Commission Expires 10-13-2018

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.**

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AGREEMENT FOR SALE AND PURCHASE OF WATER RIGHT, IRRIGATION WELL AND EASEMENT

APR 20 2018

Garden City Field Office Division of Water Resources

THIS AGREEMENT is entered into this 11th day of April 2018, by and between the Sellers, DR, INC. ("Unruh"), a Kansas Corporation, GREG and JANET JANTZ, husband and wife, ("Jantz"), and Buyer, IRSIK & DOLL FEED SERVICES, INC., ("IDFS")

IT IS AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

1. Sale and Purchase of Water Right and Irrigation Well. Unruh hereby sells to IDFS and IDFS hereby purchases from Unruh, Water Right # 18,945-D2 (copy attached), which water right is appurtenant to the Northeast Quarter (NE 1/4) of Section Twenty-Three (23), Township Twenty-Seven (27) South, Range Twenty-Eight (28) West of the 6th P.M., and the Northwest Quarter (NW 1/4) of Section Twenty-Four (24), Township Twenty-Seven (27) South, Range Twenty-Eight (28) West of the 6th P.M., all in Gray County, Kansas, together with the irrigation well in place located near center of Northeast Quarter (NE 1/4) of Section Twenty-Three (23) and the Place of Use authorized in the Northwest Quarter (NW 1/4) of Section Twenty-Four (24), upon the terms and conditions contained herein.

2. Irrigation Well and Authorized Place of Use. The irrigation well and authorized place of use are located on real property owned separately by Unruh and Jantz. Unruh owns the real property and the irrigation well located near center of Northeast Quarter (NE 1/4) of Section Twenty-Three (23), Township Twenty-Seven (27) South, Range Twenty-Eight (28) West of the 6th P.M. Jantz owns the real property in which the Water Right# 18,945-D2 designates as the Place of Use, being the Northwest Quarter (NW 1/4) of Section Twenty-Four (24), Township Twenty-Seven (27) South, Range Twenty-Eight (28) West of the 6th P.M., all in Gray County, Kansas.



4. Irrigation Well and Pump. The parties acknowledge that the gear head, column shaft, pipe, and pump are excluded from sale and shall remain the property of Unruh. Upon obtaining a temporary permit for the use of water from well, as set forth in paragraph 4 hereof, IDFS shall contract with a well service company at IDFS expense for installing a pipe and pump in the well to produce water from well.

5. Temporary Permit and Use of Water. Upon the signing of this agreement, IDFS shall apply to the Division of Water Resources for a permanent change in ownership, along with the nature and place of use of water to be diverted from the well, together with a temporary permit, which shall allow for IDFS to divert water from the seller to IDFS real property located south of the Unruh real property. IDFS shall be solely responsible for the cost of preparing and submitting the request for temporary permit for use of water, together with any and all fees, costs, and charges associated with transferring the above-referenced water appropriation right to IDFS. Unruh and/or Jantz will execute all documents necessary for the change in ownership and permitting.

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6. **Temporary Use of Water.** Following the approval of the temporary permit for the use of water from the above-referenced well and the installation of the water and electric lines, IDFS shall have the right to pump water from the above-referenced well to real property owned by IDFS; provided however, that IDFS shall be responsible for paying for all electrical charges associated with the operation of the well.

7. **Easements.** Included with the conveyance of the above-described water right, Unruh shall at closing of this agreement deliver to IDFS a deed containing the following easements:

a) **Water Line.** The right to maintain a water line from the well site on the Unruh real property south to IDFS real property, together with the right to enter upon, across, over, and under the above-described real property for purposes of installing, operating, maintaining, replacing, and repairing a water line.

b) **Electrical Line.** The right to maintain an electrical line from the well site on the Unruh real property south to IDFS real property, together with the right to enter upon, across, over, and under the Unruh real property for purposes of installing, operating, maintaining, replacing, and repairing an electrical line.

c) **Access,** IDFS shall have the right to access across the Unruh real property for purposes of operating, inspecting, repairing, replacing, and servicing the well and pump and electrical line and water line. The parties agree to consult as to the route of access to the well from time to time that will result in the least disruption to Unruh's farming practices and growing crops.

8. **Representations and Warranties.** Unruh represents and warrants to IDFS that the water right herein sold is in good standing, that any and all pumping and usage records have been timely and accurately filed, that the well has not been over-pumped and total number of acre-feet permitted annually is one hundred ninety-seven (197) acre feet. Unruh further represents and warrants to IDFS that it has full right to sell, transfer, and convey the above-referenced water right and easements, that there are no outstanding mortgages, liens, or claims to or against and of the property described above. Unruh further represents and warrants that in the future Unruh will not take any action or engage in any activity which will in any manner jeopardize or hinder the water right herein sold or impede or hinder the operation of the well or the pumping of water from either the present well or any new replacement well.

9. **Closing.** At closing, Unruh shall deliver to IDFS a deed conveying the above-referenced water right together with all of the above-referenced easements.

10. **Approval by Division of Water Resources.** The parties acknowledge that this agreement is subject to the approval of the Division of Water Resources (DWR) for the change in the nature of use and the transfer of the place of use of the above-

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referenced water right from the above-described real property to the feed yard operated by IDFS. In the event that DWR shall not grant approval of the change application, this agreement shall terminate and become of no further force or effect. Upon termination of agreement for failure of approval by the DWR, IDFS shall contract with a well service company for the removal of the pipe and pump installed by IDFS. Upon receipt of approval of the change application and the transfer of place of use of the above-reference water right, then this agreement shall remain in full force and effect and IDFS and Unruh shall schedule a time of closing at the convenience of the parties and within fifteen (15) days following approval from the Division of Water Resources.

11. **Severance of Water Right.** Unruh and Jantz acknowledge that IDFS shall have sole ownership and become the sole owner of the above-referenced water right following closing of this agreement and that IDFS shall have sole authority over matters relating to changes to the water right. IDFS shall have sole discretion to determine when and how long the well is pumped and the amount of water to be pumped.

12. **Survival of Warranties.** All representations and warranties herein made by Unruh, specifically including the representations and warranties contained in paragraph 8 hereof, shall survive the closing of this agreement and shall at all times remain the full force and effect and shall be construed in the same legal manner as a warranty of title contained in the warranty deed to be filed of record.

13. **Re-Working and Re-Drilling of Well.** IDFS shall have two permanent easements, as follows:

a) **Easement Surrounding Well.** IDFS shall have a permanent easement, consisting of one (1) acre, around the existing well to be used for machinery and equipment necessary to work on the well, pump, and motor. Unruh shall have the right to farm and plant crops on the easement property, but in the event that IDFS shall enter upon the easement property to service or repair the well, pump, or motor, IDFS shall not be required to pay for any damages to growing crops or for disturbance of the surface.

b) **Easement for Re-Drilling Well.** In the event that the existing well shall for any reason cease or fail to produce an amount of water that IDFS shall in its sole and absolute discretion deem sufficient, then IDFS shall have an easement for purposes of re-drilling a new well, together with related activities on the Unruh real property. In the event that IDFS shall drill a new well, then the "Easement Surrounding Well" described in subparagraph a) hereof shall attached to and surround the new replacement well, together with the extension of the easements for water line, electrical line and access, as set forth in paragraph 7 hereof, by the most direct route across the property. If a new replacement well is drilled, IDFS shall reimburse Unruh for crop damage occurring outside the one (1) acre easement, to surround the new replacement well.

14. **Crop Damage.** If the activities of IDFS in operating, maintaining, repairing, or replacing and re-drilling the water well, water line, or electrical lines shall

result in damages to Unruh's growing crops for which reimbursement is required, then the parties shall have the Gray County Agricultural Extension Agent, or such other person as the parties shall agree upon, calculate the crop yield lost by activities of IDFS, multiplied by the price per bushel for the date on which the damage shall occur, as posted at the IDFS Cimarron elevator.

15. **Water Access.** From time to time, Unruh or Jantz may require water for livestock pastured on the Unruh property in which IDFS will provide a tap for this purpose at no charge to Unruh or Jantz as long as water from the well remains available.

16. **Recordation.** Either party shall have the right to record this agreement, or a memorandum thereof, in the office of the Gray County Register of Deeds.

17. **Binding Effect.** This contract shall be binding upon the respective parties, their heirs, assigns, executors, administrators, personal representative, and successors in interest.

18. **Copies.** This contract is entered into in two (2) copies, each of which shall be deemed to constitute an original.


IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written.

SELLERS:

DR, INC



DAVE R. UNRUH, PRESIDENT



GREG JANTZ



JANET JANTZ

BUYER:

IRSIK & DOLL FEED SERVICES, INC.



JOHN M. PETZ, PRESIDENT/CEO

STATE OF KANSAS)
) ss.
COUNTY OF GRAY)

THIS INSTRUMENT was acknowledged before me on the 17th day of APRIL, 2018, by John M. Petz, President of Irisk & Doll Feed Services, Inc.



[Signature]
Notary Public

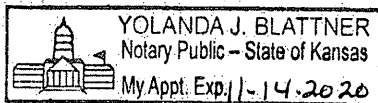
My Appointment Expires: 10-13-2018

STATE OF KANSAS)
) ss.
COUNTY OF GRAY)

THIS INSTRUMENT was acknowledged before me on the 16 day of April, 2018, by Dave R. Unruh, President of DR, Inc.

[Signature]
Notary Public

My Appointment Expires: 11-14-2020



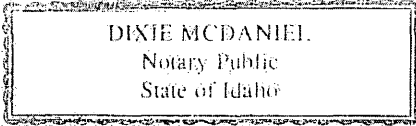
STATE OF KANSAS)

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Dwyhee) ss.
COUNTY OF ~~GRAY~~)

THIS INSTRUMENT was acknowledged before me on the 11 day of April, 2018, by **Greg Jantz**, Owner.



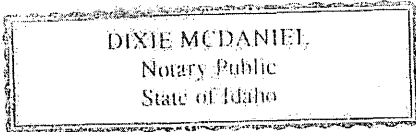
Dixie McDaniel
Notary Public

My Appointment Expires: 2/21/19

Isabel
STATE OF ~~KANSAS~~)

Dwyhee) ss.
COUNTY OF ~~GRAY~~)

THIS INSTRUMENT was acknowledged before me on the 11 day of April, 2018, by **Janet Jantz**, Owner.



Dixie McDaniel
Notary Public

My Appointment Expires: 2/21/19

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APR 24 2018

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

JON HEIMAN
23405 STATE ROAD 23
CIMARRON, KS 67835

April 24, 2018

RE: File No 18945-D2

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/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

BAT: DLW
pc: GARDEN CITY Field Office GMD3