

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

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JAN 22 2018

12:45

KS Dept Of Agriculture

File No. 9,488

2. Name of applicant: Poky Feeders, Inc.

Address: 600 E. Road 30

City, State and Zip: Scott City, KS 67871

Phone Number: (620) 872-5834

E-mail address: kdechant@wbsnet.org

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

Name of water use correspondent: Poky Feeders, Inc.

Address: 600 E. Road 30

City, State and Zip: Scott City, KS 67871

Phone Number: (620) 872-5834

E-mail address: kdechant@wbsnet.org

3. The change(s) proposed herein are desired for the following reasons (please be specific): Change use made of water from irrigation to stockwatering to provide additional supply for expanded cattle feeding facility. Change place of use from current irrigated field location to entire cattle feeding facility. The stockwatering supply system is interconnected so water diverted from this well may be used in any part of the facility.

The change(s) ~~was~~ will be completed by          upon approval.

(Date)

**For Office Use Only:**

F.O. 4 GMD 1 Meets K.A.R. 5-5-1 (YES/NO) Use SK/ERR Source G/S County SC By AW Date 1/22/18  
Code C-2 Fee \$ 00 TR # \_\_\_\_\_ Receipt Date 1/22/18 Check # 152683

# 152683

4. The presently authorized place of use is:

Owner of Land — NAME: Poky Feeders, Inc.

ADDRESS: 600 E. Road 30, Scott City, KS 67871

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	
31	20S	32W	35.0	35.0	35.0	35.0	17.0	23.5	23.5	20.0									224.0

List any other water rights that cover this place of use. File No. 15,843

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: Poky Feeders, Inc.

ADDRESS: 600 E. Road 30, Scott City, KS 67871

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	
8	20S	32W								X	X	X	X						Feedlot
17	20S	32W								X	X	X	X						Feedlot
18	20S	32W								X	X	X	X	X	X	X	X	X	Feedlot

List any other water rights that cover this place of use. See attachment for list of other water rights.

Owner of Land — NAME: Poky Feeders, Inc.

ADDRESS: 600 E. Road 30, Scott City, KS 67871

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	
19	20S	32W	X	X	X	X											X	X	Feedlot

List any other water rights that cover this place of use. See attachment for list of other water rights.

**IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY**

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

POKY FEEDERS, INC.

Continuation of No. 5, Page 2

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

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

The following water rights currently supply stockwater to this place of use:

- File Nos. 8,630, 12,594, 13,938, 24,894, 26,218, 36,291, 36,292 and 37,908 (Ogallala wells)
- File Nos. 36,293, 40,788 and 44,366 (Dakota wells)
- File No. 49,186 (Approval of Application and Permit to Proceed dated July 5, 2017 for additional well associated with File No. 36,293)

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**JAN 22 2018**

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6. The presently authorized point(s) of diversion (is) (~~are~~) one well, pump and appurtenances.  
(Provide description and number of points)
7. The proposed point(s) of diversion (is) (~~are~~) one well, pump and appurtenances.  
(Provide description and number of points)

**List all presently authorized point(s) of diversion:**

8. **Presently authorized point of diversion:**  
 One in the NW Quarter of the NE Quarter of the NW Quarter of Section 31, Township 20 South, Range 32 West (E/W), in Scott County, Kansas, 5254 feet North 3680 feet West of Southeast corner of section.  
 Authorized Rate 288 gpm Authorized Quantity 120 acre-feet  
 (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 NW Quarter of the NE Quarter of the NW Quarter of Section 31, Township 20 South, Range 32 West (E/W), in Scott County, Kansas, 5254 feet North 3680 feet West of Southeast corner of section.  
 Proposed Rate 288 gpm Proposed Quantity 98.2 acre-feet  
 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.  
 Not applicable.

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JAN 22 2019

**IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY**

12. The presently authorized use of water is for irrigation purposes.  
It is proposed 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.  
It is proposed that the authorized quantity be reduced to the consumptive use quantity in accordance with the provisions of K.A.R. 5-5-9 and the associated map entitled "Consumptive Use Percentages in Kansas, by County," dated August 3, 2017. Please see the attached calculations for determination of the consumptive use quantity.
- (Please show any calculations here.)
14. It is requested that the maximum annual quantity of water be reduced to 98.2 acre-feet (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](http://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.
- If a change in the location of the point(s) of diversion is proposed, show:
    - 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.
    - If the source of supply is groundwater, please show the location of existing water wells of any kind, including domestic wells, within ½ 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 ½ mile, please indicate so on the map.
    - If the source of supply is surface water, the names and mailing addresses of all landowner(s) ½ mile downstream and ½ mile upstream from your property lines must be shown.
  - 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.  
Please refer to the attached maps, calculations, and associated supporting documentation.
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.  
A waiver of K.A.R. 5-21-7 is requested so that the provisions of K.A.R. 5-5-9 may be used to determine the consumptive use quantity. It is our understanding that GMD 1 has requested revocation of K.A.R. 5-21-7 and intends to adopt K.A.R. 5-5-9. A copy of the GMD 1 letter is attached. This is the justification for this waiver request.

**IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY**

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 Scott City, Kansas, this 19<sup>th</sup> day of January, 2018.

[Signature]  
\_\_\_\_\_  
(Owner)

\_\_\_\_\_  
(Spouse)

Kirk P. Dechant, CFO  
\_\_\_\_\_  
(Please Print)

\_\_\_\_\_  
(Please Print)

\_\_\_\_\_  
(Owner)

\_\_\_\_\_  
(Spouse)

\_\_\_\_\_  
(Please Print)

\_\_\_\_\_  
(Please Print)

\_\_\_\_\_  
(Owner)

\_\_\_\_\_  
(Spouse)

\_\_\_\_\_  
(Please Print)

\_\_\_\_\_  
(Please Print)

State of Kansas }  
County of Scott } SS

NOTARY PUBLIC-State of Kansas  
**Susan A. Kite**  
My Appt. Exp 12/2/2018

I hereby certify that the foregoing application was signed in my presence and sworn to before me this 19<sup>th</sup> day of January, 2018.

Susan A. Kite  
\_\_\_\_\_  
Notary Public

My Commission Expires 12/2/2018.

**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.**

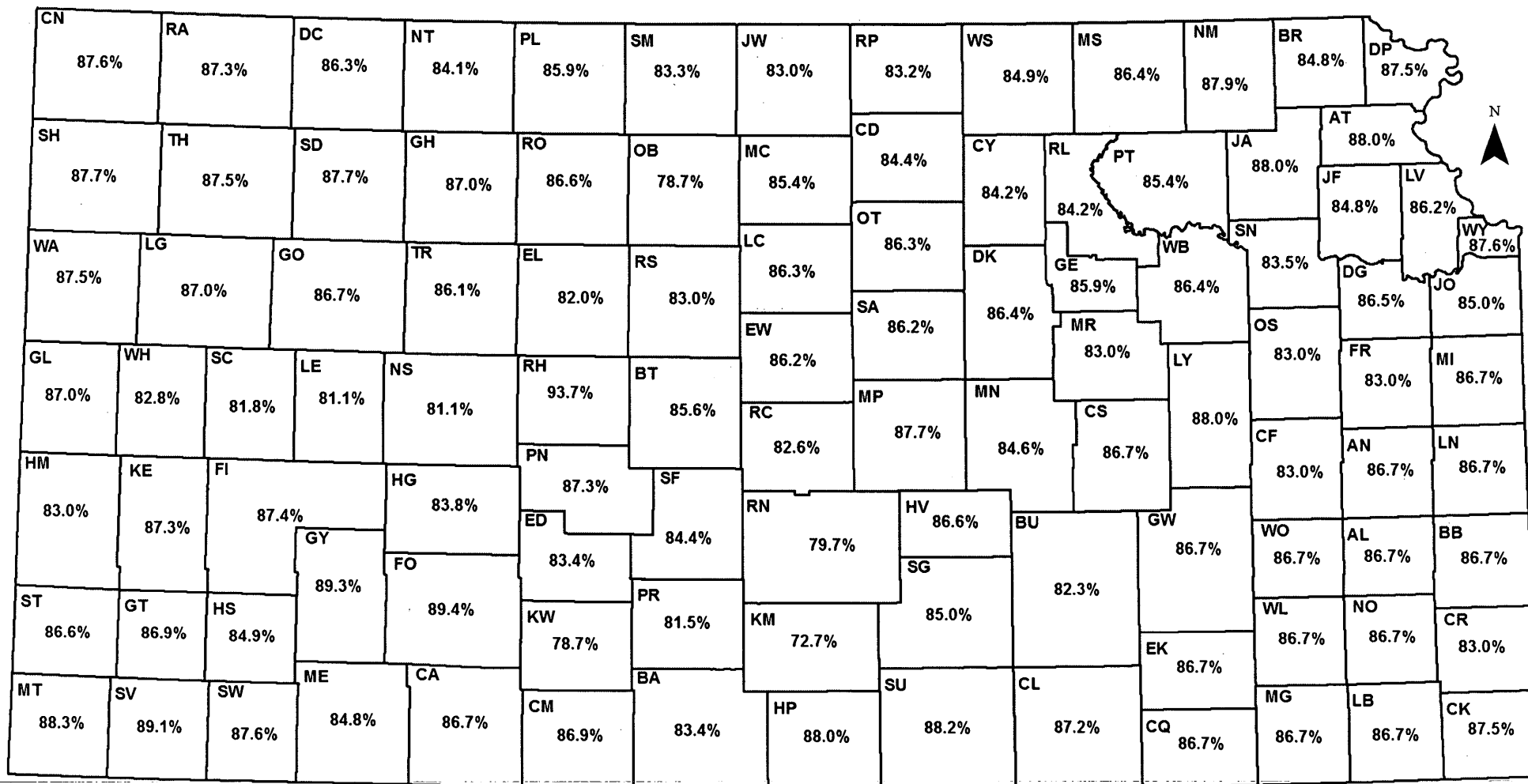
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**JAN 22 2018**  
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# Consumptive Use Percentages in Kansas, by County

based on area-weighted average irrigation return flow



Example: A 150 acre-foot irrigation water right is purchased in Gove (GO) County for use in a dairy operation.

Applying the consumptive use factor from the map (86.7%), the amount of water that the dairy could convert to stockwater use with this water right is:

$$150 \times 86.7\% = 150 \times 0.867 = 130 \text{ acre-feet}$$



**KLA ENVIRONMENTAL SERVICES, INC.**PROJECT: **POKY FEEDERS, INC.**

LOCATION: SECTIONS 8, 17,18 &amp; 19 T20S R32W, SCOTT COUNTY, KANSAS

BY: FCM  
DATE: 1/11/2018CHECKED BY: CSG  
DATE: 1/17/2018**JUSTIFICATION OF QUANTITY REQUESTED FOR STOCKWATERING USE  
PERTAINING TO CHANGE APPLICATIONS FOR FILE NOS. 9,488 AND 15,843**

Change applications pertaining to File Nos. 9,488 and 15,843 propose to change the use made of water from irrigation to stockwatering. These applications also propose to change the place of use from the current irrigated fields to the confined livestock feeding facility owned by Poky Feeders, Inc. The purpose of these change applications is to provide additional stockwatering supply to support the recently completed expansion of the cattle feeding facility. Justification for the requested stockwatering quantities is presented herein.

LIVESTOCK TYPE <sup>1</sup>	CURRENT CAPACITY <sup>1</sup> (HEAD)	MAXIMUM REASONABLE USE (GAL/HD/DAY) <sup>2</sup>	CONFINEMENT PERIOD (DAYS/YEAR)	ANNUAL USE <sup>3</sup>	
				(GALLONS)	(ACRE-FEET)
BEEF CATTLE	83,000	15	365	454,425,000	1,394.58
SWINE:					
NURSERY PIGS	6,500	1.5	365	3,558,750	10.92
SOWS & LITTERS	4,615	9	365	15,160,275	46.53
TOTALS:				<b>473,144,025</b>	<b>1,452.03</b>

<sup>1</sup> Information obtained from current KDHE permit.

<sup>2</sup> Use rates based on K.A.R. 5-3-22. Units are gallons/head/day.  
Nursery pigs: (1 gal/hd/day drinking) + (0.5 gal/hd/day cbc)  
Sows & litters: (8 gal/hd/day drinking) + (1 gal/hd/day cbc)  
Quantities for confined building capacity (cbc) are based on shallow pit/pull-plug waste management systems.

<sup>3</sup> Annual Use = (Current Capacity) x (Maximum Reasonable Use) x (Confinement Period)  
325,851 gallons = 1.0 acre-foot (AF)

Water Resources  
Received**JAN 22 2018**

KS Dept Of Agriculture

CURRENT WATER SUPPLY:

Total quantity associated with 11 water rights subject to an overall limitation:	813.37 AF
Quantity associated with File No. 49,186, which is currently in perfection period:	200.00 AF
	<u>1,013.37 AF</u>

Quantity associated with Project Term Permit File No. 20169104:	428.00 AF
Quantity associated with Project Term Permit File No. 20169105:	450.00 AF
	<u>878.00 AF</u>

→ Maximum currently authorized stockwatering quantity =	1,013.37 AF
Stockwatering quantity requested for File No. 9,488 =	98.20 AF
Stockwatering quantity requested for File No. 15,843 =	216.00 AF
Total stockwatering quantity =	<u>1,327.57 AF</u>

→ Existing stockwatering quantity plus requested quantities are less than the maximum reasonable use quantity. The quantities proposed in the change applications are reasonable and do not require additional limitations.

Water Resources  
Received

JAN 22 2019

KS Dept Of Agriculture

Kansas Department of Health & Environment

Division of Environment  
Bureau of Water



Topeka, Kansas 66612-1367  
Telephone: (785) 296-6432

Kansas Permit No.: **A-UASC-C017**  
Federal Permit No.: **KS0086576**

**KANSAS WATER POLLUTION CONTROL PERMIT FOR AGRICULTURAL AND RELATED WASTES  
AND AUTHORIZATION TO DISCHARGE UNDER THE  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM**

Pursuant to provisions of Kansas Statutes Annotated 65-164 and 65-165 et seq. and the Federal Water Pollution Control Act as amended, (33 U.S.C. 1251 et seq.; the "Act"),

Permittee:	<b>Joe Morgan</b>	Water Resources Received
Permittee's Address:	<b>600 East Road 30 Scott City, Kansas 67871</b>	<b>JAN 22 2010</b>
Facility Name:	<b>Poky Feeders, Inc.</b>	KS Dept Of Agriculture
Facility Location:	<b>SW ¼ of Section 17, S ½ of Section 18, E ½ of Section 19, and SW ¼ of Section 8, Township 20 South, Range 32 West Scott County, Kansas</b>	
River Basin:	<b>Upper Arkansas River Basin</b>	

is authorized to operate, as a pollutant discharge elimination system, water pollution control facilities to collect, retain, and dispose of precipitation induced runoff and/or dry weather wastewater accumulations containing livestock and related agricultural wastes in accordance with requirements as set forth herein.

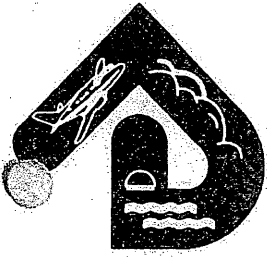
This permit is effective October 30, 2017, supersedes the previously issued water pollution control permit A-UASC-C017, and expires October 29, 2022.

Facility Summary

This is an existing facility for 76,000 head (76,000 animal units) of beef cattle weighing more than 700 pounds, 6,500 head (650 animal units) of swine weighing 55 pounds or less, and 4,615 head (1,846 animal units) of swine weighing more than 55 pounds, for a total of 78,496 animal units. The facility has a total of approximately 630 acres of drainage area. The facility is proposing to add 7,000 head (7,000 animal units) of cattle weighing greater than 700 pounds, an additional wastewater retention structure, and the addition of 51.8 acres open lot pens, resulting in 83,000 head (83,000 animal units) of beef cattle weighing more than 700 pounds with no increase in swine animal units for a total of 85,496 animal units and a total drainage area of approximately 682 acres.

Secretary, Kansas Department of Health and Environment

October 30, 2017  
Date



WESTERN KANSAS GROUNDWATER MANAGEMENT DISTRICT NO.1

September 14, 2017

David E. Barfield, Chief Engineer  
KS Dept of Agriculture  
1320 Research Park Drive  
Manhattan, KS 66502

RE: K.A.R. 5-21-7

Dear Sir:

At the September 14<sup>th</sup>, 2017 Western Ks Groundwater Management District No 1 Board of Directors meeting, the Board voted unanimously to revoke District Regulation K.A.R. 5-21-7 as of this date.

Sincerely,

Kyle Spencer  
District Manager

ks/vr

Water Resources  
Received

JAN 22 2018

KS Dept Of Agriculture

**KLA ENVIRONMENTAL SERVICES, INC.**

PROJECT: **POKY FEEDERS, INC.**

LOCATION: SECTION 31 T20S R32W, SCOTT COUNTY, KANSAS

BY: FCM  
 DATE: 12/12/2017

CHECKED BY: \_\_\_\_\_  
 DATE: \_\_\_\_\_

**WELL LOCATIONS WITHIN 1/2 MILE OF APPLICANT WELL**  
 FILE NO. 9,488

WATER RIGHT FILE NO.	LOCATION OF POINT OF DIVERSION			USE	OWNER	MAILING ADDRESS
	SEC-TWP-RGE	DISTANCE FROM SE CORNER OF SECTION				
		NORTH	WEST			
9,488 & 40,072	31-20S-32W	5,089 FT	2,454 FT	STK	ROGER E. & DARLENE KOHMAN	3665 W FRIEND ROAD SCOTT CITY, KS 67871
9,488	31-20S-32W	5,254 FT	3,680 FT	IRR	POKY FEEDERS, INC.	600 E ROAD 30 SCOTT CITY, KS 67871
15,843	31-20S-32W	3,960 FT	1,370 FT	IRR	POKY FEEDERS, INC.	600 E ROAD 30 SCOTT CITY, KS 67871
23,956	30-20S-32W	825 FT	1,355 FT	IRR	FAIRLEIGH CORPORATION	PO BOX 560 SCOTT CITY, KS 67871

NOTE: APPLICANT'S WELL IS HIGHLIGHTED IN YELLOW

## EASEMENTS

KNOW ALL MEN BY THESE PRESENTS, that, Fairleigh Corporation, a Kansas Corporation, herein referred to as Grantor, in consideration of One Dollar and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby grant to Poky Feeders, Inc. a Kansas Corporation, herein referred to as Grantee, a perpetual easement and ingress and egress over, under and through the following described real estate, in Scott County, Kansas:

A strip of land forty foot wide along the route of the two (2) water lines in the South Half (S/2) of Section Thirty (30), Township Twenty (20) South Range Thirty-Two (32) West of the 6<sup>th</sup> P.M., in the general area of the route lines shown on Exhibit "A" attached hereto and made a part hereof

for the sole purpose of construction, maintenance, repairing and operating two (2) underground waterlines, not to exceed eight inches (8") in diameter, as follows:

One line for the transportation of fresh water from irrigation wells owned by Grantee, in the North Half (N/2) of Section Thirty-One (31), Township Twenty (20) South, Range Thirty-Two (32) West of the 6<sup>th</sup> P.M., and

One line for the transportation of effluent from the commercial feedlot owned by Grantee in Section Eighteen (18), Township Twenty (20) South, Range Thirty-Two (32) West of the 6<sup>th</sup> P.M. to the North Half (N/2) of Section Thirty-One (31), Township Twenty (20) South, Range Thirty-Two (32) West of the 6<sup>th</sup> P.M., and

### THIS EASEMENT IS SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

This Easement prohibits and does not grant any right to Grantee or its successors or assigns to construct or install any above ground or surface appurtenances, structures, facilities, taps, valves or otherwise.

1. There are no more than two (2) waterlines authorized by this easement.
2. No waterline shall exceed eight inches (8") in diameter
3. Both waterlines shall be buried to a depth of at least forty-eight inches (48").
4. All waterlines shall be constructed and installed subject to all applicable rules and regulations of the appropriate governmental authorities including but not limited to Kansas Ground Water Management and Grantee shall indemnify and hold harmless the Grantor from any and all damages or penalties assessed by reason of said waterlines.
5. All waterlines shall comply with all local, state, and federal environmental laws. Grantee shall indemnify and hold harmless the Grantor from any and all

Water Resources  
Received

JAN 22 2019

KS Dept Of Agriculture

environmental damages caused by the pipeline or its operation. Grantee shall pay the costs of all environmental remediation.

6. Damage to the surface occasioned by the installation, maintenance, repairs or in removing said waterlines, shall be paid by Grantee to Grantor within 60 days after the damage is done. Said damages, if not mutually agreed upon, to be ascertained and determined by three disinterested persons, one to be appointed by the Grantor, one to be appointed by the Grantee; and the third to be chosen by the two so appointed. The written award of such three persons shall be final and conclusive.
7. Should any alterations of the land surface contours be caused by the waterlines or their operation, Grantee, or its assigns, shall restore all surface contours to their former condition as nearly as is practical.
8. Grantee shall at the time of any excavation, drilling or grading is made, cause the top soil be placed separately from the subsoil and replaced into its original position relative to the subsoil, so that the ground will be restored to its original condition as nearly as possible upon completion.
9. Any waterline ditch for installation or for maintenance and repairs across the premises shall be backfilled, and so leveled so as to restore the surface to its original condition and topography.
10. Grantee shall indemnify, and hold harmless, Grantor, its successors and assigns from and against any damage or loss to Grantor's property or livestock or injury, liability, loss or damage to any person, company entity or property resulting from, arising out of or caused by the construction, operation, maintenance, or presence of said waterlines within the easement.
11. Grantee or its assigns further agree to pay for any and all litigation expenses incurred by Grantor in the enforcement of the easement conditions and terms.
12. Grantee shall not have the right to assign this easement to any party without the prior written consent of Grantor or its assigns.
13. Grantee shall properly maintain the waterlines and repair and correct all damages, sinkholes, changes in land surface contours, leaks or hazards within 30 days of discovery.
14. Grantee is required to acquire and pay the cost of an "as built survey of the waterline locations and construction within six (6) months of the signing of this agreement. The parties are agreeing to delay completion of the survey to facilitate the immediate installation of the waterlines. Grantee shall provide Grantor a copy of said survey and upon approval Grantee shall at their cost file said survey with the Scott County Register of Deeds with reference to the already filed Easement Agreement.

Water Resources  
Received

JAN 22 2010

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15. THIS EASEMENT constitutes the entire agreement between the parties and there are no representations, warranties, conditions or agreements, other than those expressly set forth. The terms of this Easement shall supersede and replace the terms and conditions of any previous agreements entered into between the parties. The terms of this Easement shall extend to and become binding upon the heirs, executors, administrators and assigns of the respective parties hereto.

IN WITNESS WHEREOF this Easement is executed this 22<sup>nd</sup> day of September, 2017.

Fairleigh Corporation  
By *John D. Fairleigh*  
John D. Fairleigh, President

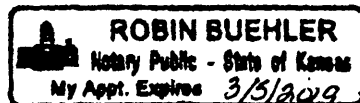
Poky Feeders Inc.  
By *Joe Morgan*  
Joe Morgan

STATE OF KANSAS            )  
  ) ss  
COUNTY OF SCOTT        )

BE IT REMEMBERED, That on this 22<sup>nd</sup> day of September, 2017, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came John D. Fairleigh, President of Fairleigh Corporation, existing under and by virtue of the laws of Kansas, who is personally known to me to be such President, and who is personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged the execution of the same.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my seal, the day and year last above written.

SEAL



*Robin Buehler*  
Notary Public:  
Commission expires: 03/05/2019

Water Resources  
Received

JAN 22 2010

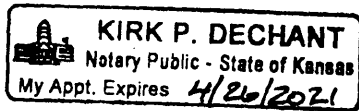
KS Dept Of Agriculture

STATE OF KANSAS            )  
  ) ss  
COUNTY OF SCOTT         )

BE IT REMEMBERED, That on this 26 day of September, 2017, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Joe Morgan, of Poky Feeders Inc., existing under and by virtue of the laws of Kansas, who is personally known to me to be such President, and who is personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged the execution of the same.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my seal, the day and year last above written.

SEAL



*Kirk P. Dechant*  
Notary Public:  
Commission expires: 4 / 26 / 2021

Water Resources  
Received

JAN 22 2019

KS Dept Of Agriculture

Property Search Listing - Tax Year 2017

LGIS<sub>v5</sub>



THOMSON REUTERS



Generated: 1/16/2018 10:36:49 AM

Parcel ID (PIN)	Quick Ref.	Owner Information	Property (Situs) Address	Mailing Address	Appraised Amnt.
086-189-30-0-00-001.00-0	R4635	POKY FEEDERS INC (P)	S30, T20, R32, ACRES 160, NE4 LESS RD R/W Acres = 160.00 NeighborhoodCode = 200	600 E ROAD 30 SCOTT CITY, KS 67871	\$ 3,040 Total
086-189-30-0-00-002.00-0	R4636	VULGAMORE, JUDITH ANN TR (P)	S30, T20, R32, ACRES 157, NW4 LESS RD R/W Acres = 157.00 NeighborhoodCode = 200	8250 S MESQUITE ROAD SCOTT CITY, KS 67871	\$ 78,100 Total
086-189-30-0-00-003.00-0	R4637	FAIRLEIGH CORP (P)	S30, T20, R32, ACRES 316, S2 LESS RD R/W Acres = 316.00 NeighborhoodCode = 200	PO BOX 560 SCOTT CITY, KS 67871	\$ 141,180 Total

Water Resources  
 Received  
 JAN 22 2019  
 KS Dept Of Agriculture

Property Search Listing - Tax Year 2017

LGISv5



THOMSON REUTERS



Generated: 1/16/2018 10:40:19 AM

Parcel ID (PIN)	Quick Ref.	Owner Information	Property (Situs) Address	Mailing Address	Appraised Amnt.
086-189-31-0-00-00-001.00-0	R4638	POKY FEEDERS INC (P)	S31, T20, R32, ACRES 151, NE4 EX A TR BEG AT NW COR NE4 TH E 1100(S) TH SW TO PT 1140 (S) DUE S OF BEG PT TH N TO POB Acres = 151.00 NeighborhoodCode = 200	600 E ROAD 30 SCOTT CITY, KS 67871	\$ 60,300 Total
086-189-31-0-00-00-002.00-0	R4639	KOHMAN, ROGER E & DARLENE (P)	S31, T20, R32, ACRES 35, A TR N2: BEG SE COR NW4 TH W 249.4' TH N 1592.72' TH W 482.33' TH N 652.52' TH NELY 256.59' TH N 152.11' TO S R/W LI OF CO RD TH E 1715(s) TH SWLY TO A PT 1480'(s) N OF POB TH S TO POB Acres = 0.00 NeighborhoodCode = 200	3665 W FRIEND ROAD SCOTT CITY, KS 67871	\$ 40,430 Total
086-189-31-0-00-00-003.00-0	R4640	POKY FEEDERS INC (P)	S31, T20, R32, ACRES 121, NW4 LESS A TR BEG AT SE COR NW4 TH W 249.48' TH N 1592.72' TH W 482.33' TH N 652.52' TH NELY 256.59' TH N 182.11' TO N LI NW4 TH E 678' TO POB & LESS RD R/W Acres = 121.00 NeighborhoodCode = 200	600 E ROAD 30 SCOTT CITY, KS 67871	\$ 54,210 Total
086-189-31-0-00-00-004.00-0	R4641	SAVOLT, ALBERT JR & LINDA L (P)	S31, T20, R32, ACRES 304, S2 LESS RD R/W Acres = 304.00 NeighborhoodCode = 200	2810 N BROADMOOR PL GARDEN CITY, KS 67846	\$ 75,270 Total

Water Resources  
Received

JAN 22 2018

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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

January 19, 2018

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

Subject: Change Applications Pertaining to File Nos. 9,488 IRR and 15,843  
Poky Feeders, Inc., Scott County

Dear Mr. Barfield:

The subject applications and supporting documentation are submitted for your review and approval on behalf of the applicant, Poky Feeders, Inc. KLA Environmental Services, Inc. assisted with the preparation of these applications.

Poky Feeders, Inc. is in the process of completing an expansion of their cattle feeding facility. The project is scheduled for completion in March or April of 2018. The subject applications propose to change the use made of water from irrigation to stockwatering. This will provide an additional source of supply for the facility. We also propose to change the place of use from the irrigated acreage to a place of use covering the entire cattle feeding facility.

No change in well locations or spacing is proposed. The wells are being reconfigured to be compatible with the pressurized water supply system. A pipeline has been installed that will convey water from these two wells into the water supply system serving the cattle feeding facility. The approximate location of this pipeline is shown on the enclosed maps.

Water Resources  
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JAN 22 2018

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The proposed place of use resulting from these change applications is a beef cattle feeding facility (feedlot) located in:

- SW ¼ Section 8 T20S R32W
- SW ¼ Section 17 T20S R32W
- S ½ Section 18 T20S R32W
- NE ¼ & W ½ SE ¼ T20S R32W, all in Scott County.

Please note that there has been a small discrepancy in the place of use associated with other stockwatering rights serving this facility. These water rights describe the place of use in Section 8 as the S ½ SW ¼. The existing facility is primarily located in the W ½ SW ¼. We request that this description be simplified to the SW ¼ of Section 8.

Calculations which determine the reasonable quantity for stockwatering use for this facility are enclosed. The maximum reasonable quantity of annual use is 1,452.03 acre-feet. The summation of the quantities of existing stockwatering rights, those pending perfection, and the proposed additional quantities resulting from these change applications totals 1,327.57 acre-feet. Please note that this evaluation considers the overall limitation that applies to nearly all of the stockwatering rights and the two active project term permits. Since the total quantity that would be available for stockwatering use is less than the maximum reasonable quantity, we request that no additional quantity limitations be placed on File Nos. 9,488 IRR and 15,843.

The change applications propose that the current authorized quantities be reduced to the consumptive use quantities in accordance with the provisions of K.A.R. 5-5-9 and the associated map entitled "Consumptive Use Percentages in Kansas, by County," dated August 3, 2017. It is our understanding that Western Kansas Groundwater Management District No. 1 (GMD 1) has requested revocation of K.A.R. 5-21-7, which addresses change in use of water from irrigation to any other use. A copy of the request letter is enclosed. We also understand that GMD 1 will essentially adopt the procedures contained in K.A.R. 5-5-9 for such changes in use. Since the revocation process has not yet been completed, we request a waiver of K.A.R. 5-21-7 as it pertains to these two change applications and that K.A.R. 5-5-9 be applied for purposes of determining consumptive use.

We searched the WIMAS and WWC5 databases operated by the Kansas Geological Survey to locate other wells within ½ mile of the wells that are the subject of these change applications. We identified four such wells, none of which are domestic wells. The well locations are shown on the enclosed maps and mailing addresses are also enclosed.

Water Resources  
Received

**JAN 22 2018**

KS Dept Of Agriculture

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

Respectfully,



Frank C. Mercurio, P.E.

Enclosures

cc/enc: Grant Morgan, Poky Feeders, Inc.

Water Resources  
Received  
JAN 22 2018  
KS Dept Of Agriculture

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

POKY FEEDERS  
600 E ROAD 30  
SCOTT CITY, KS 67871

January 30, 2018

RE: File No 9488

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.**

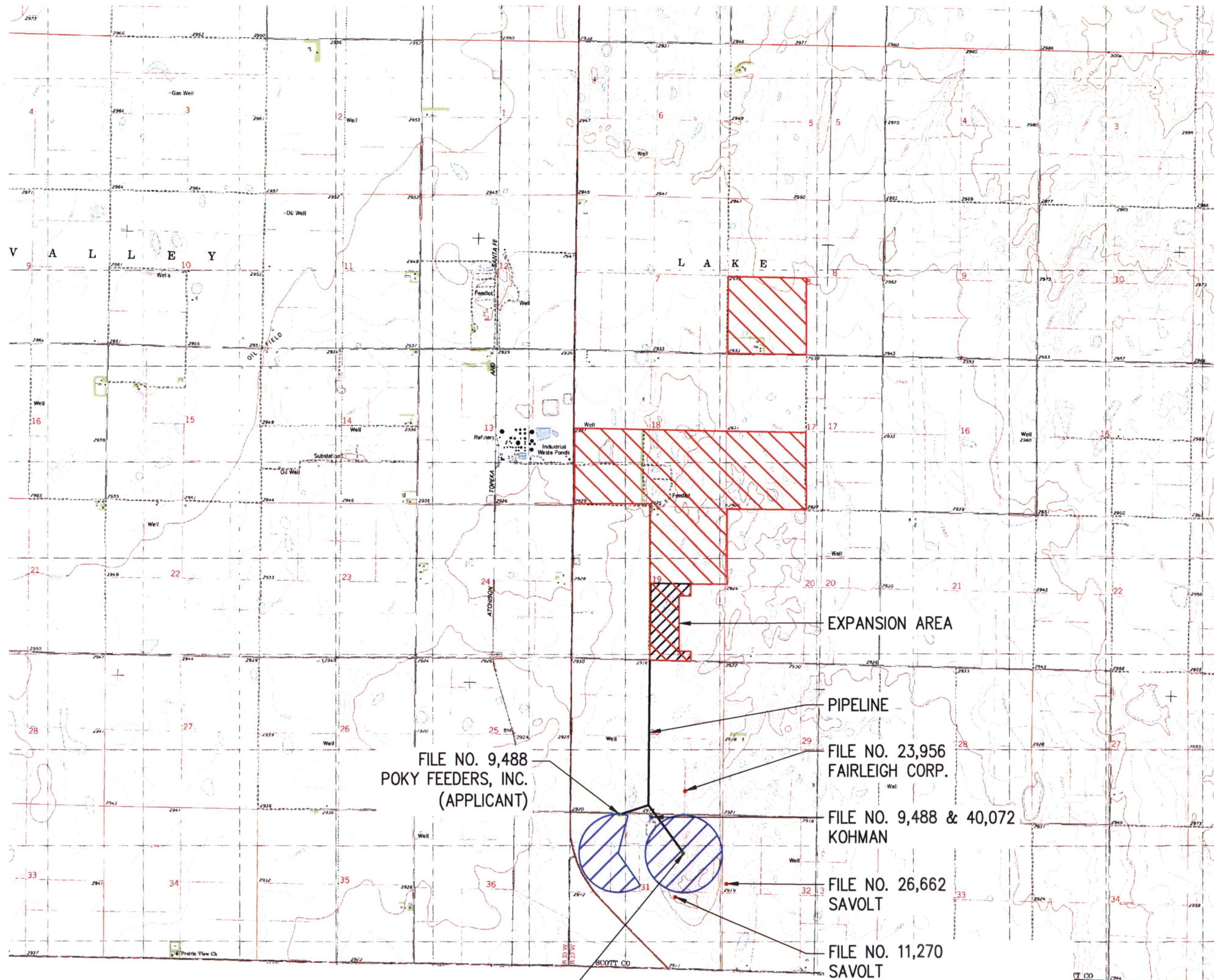
If you have any questions, please contact me at (785) 564-6645. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

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

BAT: DLW  
pc: GARDEN CITY Field Office    GMD1





FILE NO. 9,488  
POKY FEEDERS, INC.  
(APPLICANT)

FILE NO. 15,843  
POKY FEEDERS, INC.  
(APPLICANT)

FILE NO. 23,956  
FAIRLEIGH CORP.

FILE NO. 9,488 & 40,072  
KOHMAN

FILE NO. 26,662  
SAVOLT

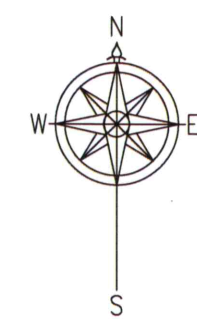
FILE NO. 11,270  
SAVOLT  
(WELL LOCATION AS DESCRIBED  
BY WIMAS COORDINATES)

**LEGEND**

- POINT OF DIVERSION (IRR)
- POINT OF DIVERSION (STK)
- POINT OF DIVERSION - APPLICANT
- APPROXIMATE LOCATION OF PIPELINE
- ▨ CURRENT PLACE OF USE (IRR)
- ▨ PROPOSED PLACE OF USE (STK)

T20S

Water Resources  
Received  
JAN 22 2018  
KS Dept Of Agriculture



R33W|R32W

DRAWN	CSG	DATE	1/18
CHECKED	FCM	DATE	1/18
APPROVED	FCM	DATE	1/18

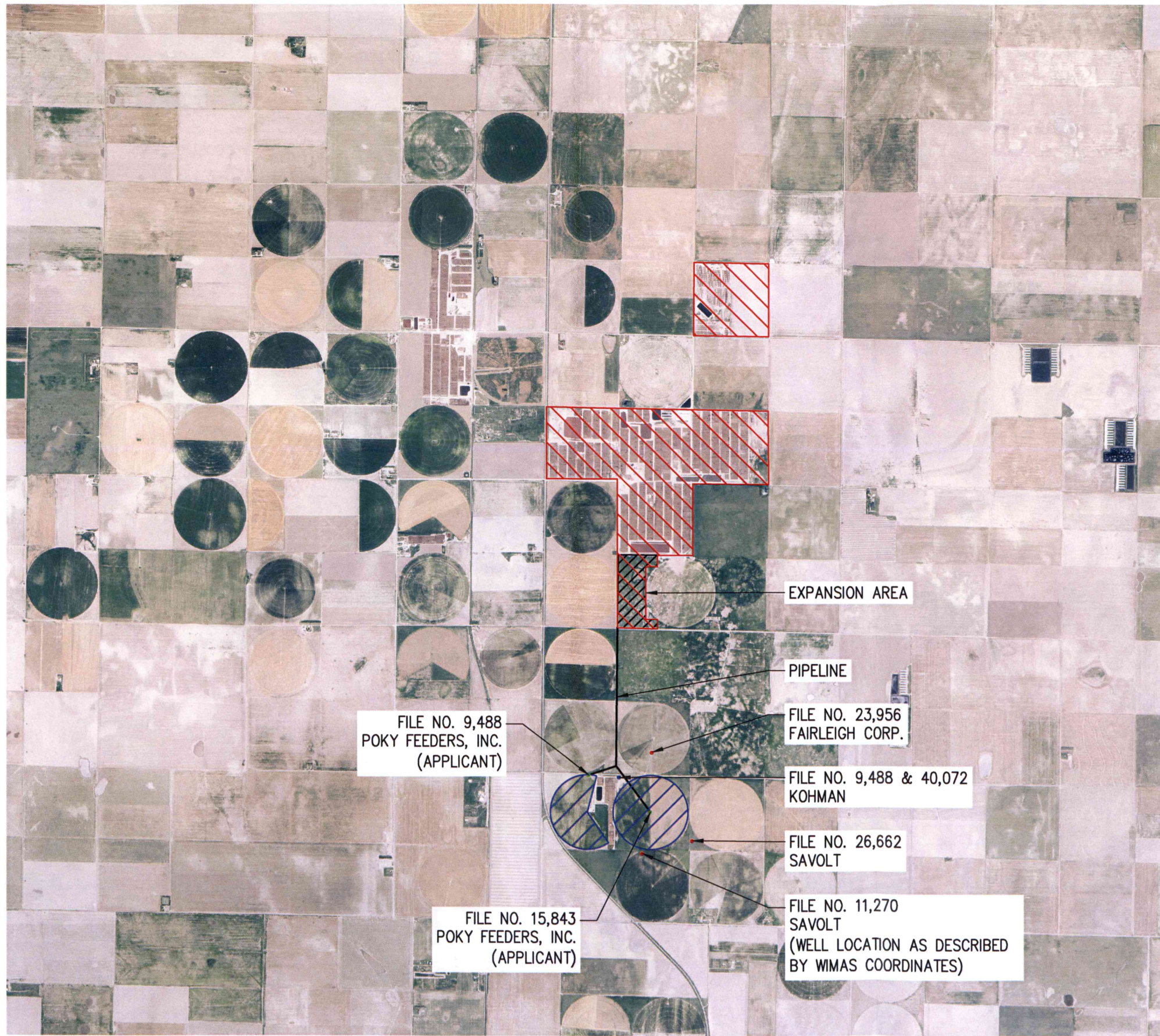
**POKY FEEDERS, INC.**  
CHANGE APPLICATIONS - FILE NOS. 9,488 & 15,843  
SECTION 31 T20S R32W  
SCOTT COUNTY, KANSAS

1700 E. IRON  
SALINA, KANSAS 67401  
(785) 823-0097  
1303 YUCCA STREET  
SCOTT CITY, KANSAS 67871  
(620) 872-2300



CAD FILE NAME:  
CHANGE APPLICATION.dwg

**PLACE OF USE MAP**



FILE NO. 9,488  
POKY FEEDERS, INC.  
(APPLICANT)

FILE NO. 15,843  
POKY FEEDERS, INC.  
(APPLICANT)

EXPANSION AREA

PIPELINE

FILE NO. 23,956  
FAIRLEIGH CORP.

FILE NO. 9,488 & 40,072  
KOHMAN

FILE NO. 26,662  
SAVOLT

FILE NO. 11,270  
SAVOLT  
(WELL LOCATION AS DESCRIBED  
BY WIMAS COORDINATES)

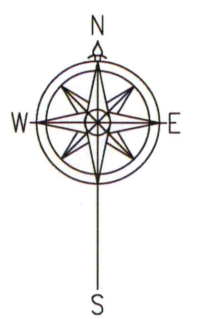
R33W | R32W

T20S

**LEGEND**

- POINT OF DIVERSION (IRR)
- POINT OF DIVERSION (STK)
- POINT OF DIVERSION - APPLICANT
- APPROXIMATE LOCATION OF PIPELINE
- ▨ CURRENT PLACE OF USE (IRR)
- ▨ PROPOSED PLACE OF USE (STK)

Water Resources  
Received  
JAN 22 2016  
KS Dept Of Agriculture



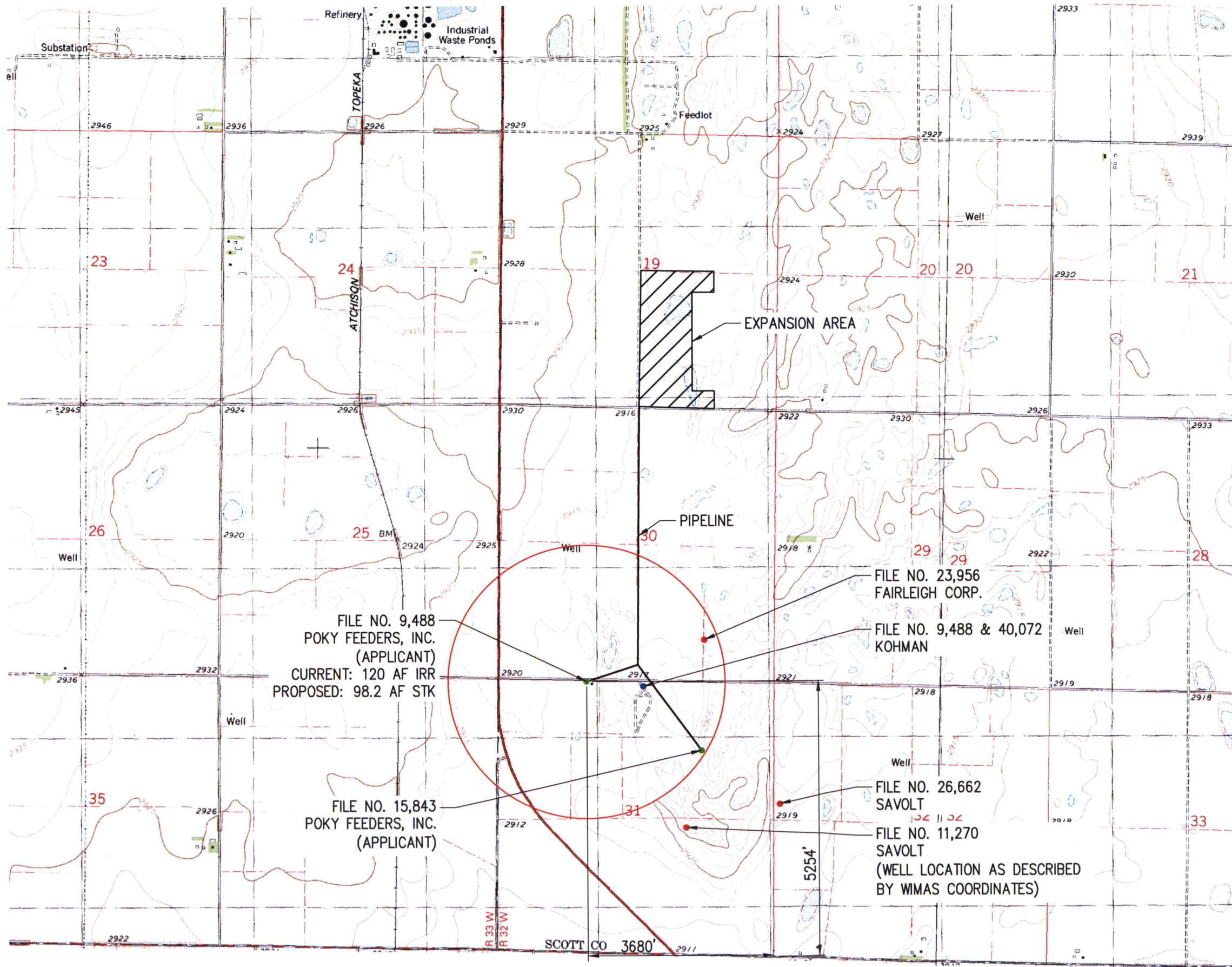
**PLACE OF USE MAP**

DRAWN	CSG	DATE	1/18
CHECKED	FCM	DATE	1/18
APPROVED	FCM	DATE	1/18

**POKY FEEDERS, INC.**  
CHANGE APPLICATIONS - FILE NOS. 9,488 & 15,843  
SECTION 31 T20S R32W  
SCOTT COUNTY, KANSAS

1700 E. IRON  
SALINA, KANSAS 67401  
(785) 823-0097

1303 YUCCA STREET  
SCOTT CITY, KANSAS 67871  
(620) 872-2300

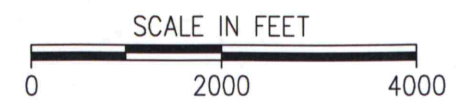
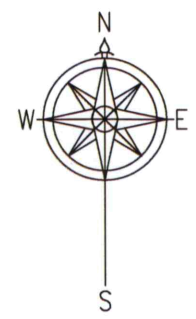


R33W | R32W

- LEGEND**
- POINT OF DIVERSION (IRR)
  - POINT OF DIVERSION (STK)
  - POINT OF DIVERSION - APPLICANT
  - 1/2 MILE NOTIFICATION DISTANCE
  - APPROXIMATE LOCATION OF PIPELINE

T20S

Water Resources  
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JAN 22 2018  
KS Dept Of Agriculture



DRAWN	CSG	DATE	1/18
CHECKED	FCM	DATE	1/18
APPROVED	FCM	DATE	1/18

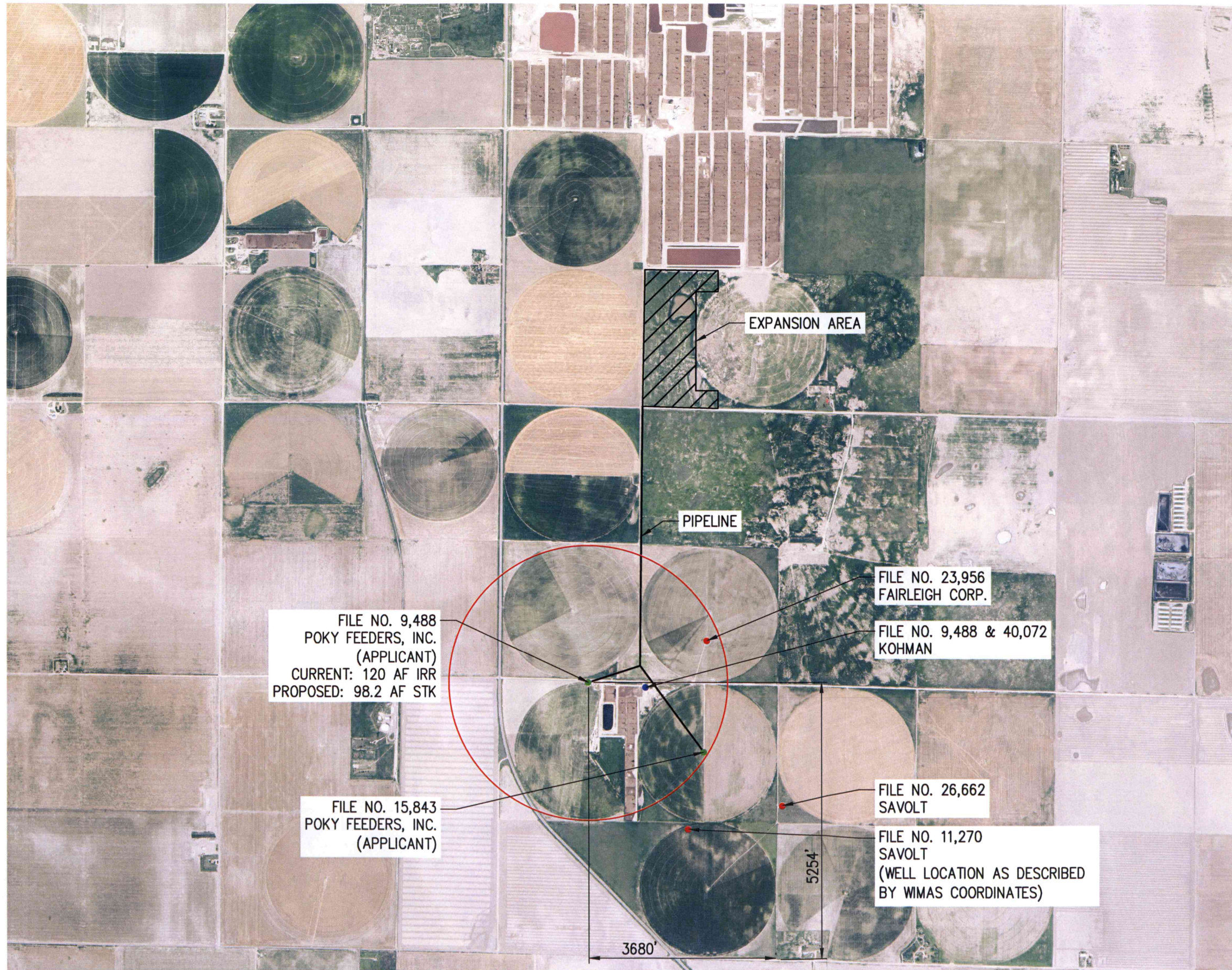
**POKY FEEDERS, INC.**  
CHANGE APPLICATION - FILE NO. 9,488  
SECTION 31 T20S R32W  
SCOTT COUNTY, KANSAS

1700 E. IRON  
SAUNA, KANSAS 67401  
(785) 823-0097  
1303 YUCCA STREET  
SCOTT CITY, KANSAS 67871  
(620) 872-2300



CAD FILE NAME:  
CHANGE APPLICATION.dwg

**WELL LOCATION MAP**



FILE NO. 9,488  
POKY FEEDERS, INC.  
(APPLICANT)  
CURRENT: 120 AF IRR  
PROPOSED: 98.2 AF STK

FILE NO. 15,843  
POKY FEEDERS, INC.  
(APPLICANT)

EXPANSION AREA

PIPELINE

FILE NO. 23,956  
FAIRLEIGH CORP.

FILE NO. 9,488 & 40,072  
KOHMAN

FILE NO. 26,662  
SAVOLT

FILE NO. 11,270  
SAVOLT  
(WELL LOCATION AS DESCRIBED  
BY WIMAS COORDINATES)

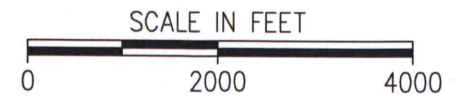
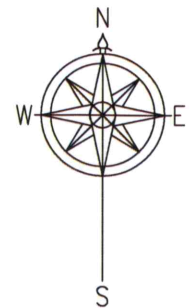
3680'

5254'

R33W | R32W

- LEGEND**
- POINT OF DIVERSION (IRR)
  - POINT OF DIVERSION (STK)
  - POINT OF DIVERSION - APPLICANT
  - ½ MILE NOTIFICATION DISTANCE
  - APPROXIMATE LOCATION OF PIPELINE
- T20S

Water Resources  
Received  
JAN 22 2018  
KS Dept Of Agriculture



SCANNED

DRAWN	CSG	DATE	1/18
CHECKED	FCM	DATE	1/18
APPROVED	FCM	DATE	1/18

**POKY FEEDERS, INC.**  
CHANGE APPLICATION - FILE NO. 9,488  
SECTION 31 T20S R32W  
SCOTT COUNTY, KANSAS

1700 E. IRON  
SALINA, KANSAS 67401  
(785) 823-0097  
1303 YUCCA STREET  
SCOTT CITY, KANSAS 67871  
(620) 872-2300



CAD FILE NAME:  
CHANGE APPLICATION.dwg

SHEET NO. 1 OF 2

**WELL LOCATION MAP**