

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

Document Signature LPL

1. File Number: 6076	2. Status Change Date: 5/18/2020	3. Change Num: C1	4. Field Office: 4	5. GMD: 3
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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: 12/23/19
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8a. Applicant(s) & Landowner New to system <input type="checkbox"/> Person ID <u>40039</u> Add Seq# <u>1</u> SEABOARD FOODS LLC 9000 W 67TH ST STE 200 SHAWNEE MISSION KS 66202	8c. Landowner(s) New to system <input type="checkbox"/> Person ID <u>51467</u> Add Seq# _____ CHRISTINE E STAATS 720 N HICKOK ST ULYSSES, KS 67880 irr portion gets T&C COPY
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8b. WUC New to system <input type="checkbox"/> Person ID <u>51468</u> Add Seq# <u>1</u> R & A BROLLIER FARMS 10133 S WAGONBED SPRINGS RD ULYSSES, KS 67880-8217 irr wuc	8d. WUC New to system Person ID <u>40039</u> Add Seq# <u>2</u> SEABOARD FOODS LLC ENVIRONMENTAL ENG MNGR 2801 HURLIMAN RD GUYMON OK 73942 stk portion
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9. Documents and Enclosure(s): DWR Meter(s) Date to Comply: **12/31/20** N & P Date to Comply: **12/31/2020**

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: _____

Date Prepared: **5/4/2020** By: **LI**
 Date Entered: **5/19/2020** By: **LMoody**

File No. **6076** 11. County: GT Basin: ~~ARKANSAS RIVER~~ **41 CIMMARRON** Stream: NA Formation Code: 211 Special Use: NA

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	Quantity MGY	Rate gpm	Quantity MGY		
MOD	50249	SW NE SW	9	30	37W	1	1614	3523	GPS UPDATE IRR USE	NO CHANGE				16362	
STK USE															
DEL	20096	SE SW SW	9	30	37W	6	100	2600	WILL PLUG BATT 1 OF 2 BATT ID 31					NONE	
ENT	88217	SW SW SE	9	30	37W		89	2608	BATT 1 OF 2 - BATT ID 31)					NONE	
DEL	4390	SE SW SW	9	30	37W	8	100	2550	GEO CTR BATT ID 31	NO CHANGE				NONE	
ENT	88218	SW SW SE	9	30	37W		112	2560	GEO CTR BATT ID 31	NO CHANGE				NONE	
MOD	41705	SW SW SE	9	30	37W	7	135	2512	BATT 1 OF 2 - BATT ID 31	NEW BATT# 2177				NONE	

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

14. Limitation: **NONE** af/yr at _____ gpm (_____ cfs) when combined with file number(s) **NO CHANGE**
 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																		Total	Owner	Chg?	Overlap Files				
T MOD DEL ENT	PUSE	S	T	R	ID	NE¼				NW¼				SW¼				SE¼							
						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				
NO CHANGE EITHER USE																									

Comments: qualifiers listed for battery in WRIS are incorrect and don't match the feet distances authorized this change will also fix the qualifiers.

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: May 6, 2020

FROM: Leslie Ireland

RE: Water Right, File No. 6,076

Steven Summerlin on behalf of Seaboard Foods LLC, owner of the stockwatering portions and Christine E. Staats, owner of the irrigation portion of the referenced right filed applications for approval to change the points of diversion authorized for stockwatering use under the referenced file. The application for change was received in the office of the Chief Engineer on December 23, 2019, proposes to replace one(1) of the two(2) wells of the battery authorized for the stockwatering use.

Both portion of the referenced water right is considered not to be abandoned as per K.S.A. 82a-718 and also appears to comply with K.S.A. 82a-732. The application could have been processed as a short move change of less than 300 feet so is exempt from notification per K.S.A.82a-1906.

The change in point of diversion from the authorized to the proposed complies with part (e)(1) of K.A.R. 5-5-1, *Filing an application for change* and is also in compliance with K.A.R. 5-5-2a, *Complete change application*. The referenced file is authorized a battery of two(2) wells with a maximum rate of 100 gallons per minute(gpm) for the diversion of 35.85 million gallons (110 acre-feet) that is diverted for four(4) different swine facilities, referenced by the owner as the "Tuttle Facility" with no overlapping files. The irrigation portion is authorized one(1) irrigation well at 650 gpm for the diversion of 463 acre-feet for irrigating 1,268 acres in Grant County. The irrigation portion overlaps in point of diversion with File No. 16,362, and the place of use overlaps with File Nos. GT 003 & 16,362. The irrigation well had a compliance check in July 7, 2016, so the location of the point of diversion will be updated the actual location approximately 59.4 feet from the authorized. This update complies with K.A.R 5-5-6, *Failure to construct diversion works at authorized location*, at 1,614 feet North and 3,523 feet West of the Southeast corner of Section 9, in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$. This will result in an order for the overlapping right, File No. 16,362 that is also authorized irrigation and stockwatering use and will be summarized under a separate memo. The referenced file has no additional limitations and is not considered to be in a special use area.

The owners of the stockwatering portion have requested to redrill the West well of the two(2) wells. The point of diversion authorized 135 feet North and 2,615 feet West of the Southeast corner Section 9, will be drilled at a location 89 feet North and 2,608 feet West. The descriptors were listed incorrectly as the SE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, when the feet distances indicate the qualifiers should be SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 9, Township 30 South, Range 37 West, Grant County. The location of the East well remains as authorized except the qualifiers and feet distances will be corrected/updated. The physical change will result in **the geographic center of the stockwatering battery of two(2) wells that was authorized 100 feet North and 2,550 feet West to be authorized 112 feet North and 2,560 feet West of the Southeast corner of Section 9, Township 30 South, Range 37 West, Grant County, with the corrected qualifiers of the Southwest Quarter of the Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$).** The geographic center will move approximately 15.6 feet due to the drilling of the replacement well. The old west well will be plugged per the applicant.

The short distance move in the high plains aquifer should not result in a change in the local source of supply. No well log was supplied with the application, so one will be a condition of the approval.

The point of diversion will remain on land that appears to be owned by Seaboard Foods LLC, further indicating compliance with part (e)(1) of K.A.R. 5-5-1.

The referenced file has complied with K.A.R. 5-1-1, Definitions, (n) *Battery of wells* since the change in use made of water that was completed in April 1995, therefor K.A.R. 5-2-3, *Battery of wells* is not applicable.

The move of approximately 15.6 feet precludes the change from complying with well to well spacing per part (c) of K.A.R. 5-23-3. *Minimum well spacing requirements: high plains aquifer.*

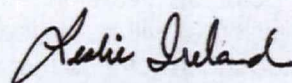
There appears to be two(2) irrigation wells and a domestic located within one-half (1/2) mile of the geographic center of the proposed existing battery. As the move is less than three hundred feet no notifications were sent. The domestic well owner is the water use correspondent for the irrigation portion, additionally he assisted in obtaining Ms. Staats signature on the change.

Southwest Kansas Groundwater Management District No. 3 was sent a request for recommendation on the proposed change. In a letter dated March 23, 2020, Jason Norquest, Assistant Manager, indicated the proposed change meets their requirements of K.A.R. 5-23-3 and recommended approval. There was a slight confusion as the letter further referenced enrolling the wells in the Multiyear Flex Program, but Mike Meyer confirmed this to be a carryover paragraph from a previous recommendation.

Mike Meyer, Water Commissioner of the Garden City Field Office was notified of the proposed change and has reviewed the summary memo and waiver. He indicated by E-mail on April 8, 2020, that he has no objection to the approval of the proposed change in point of diversion.

A water flow meter will be required on each well as per K.A.R. 5-5-16(e) and a check valve is required if any chemical or foreign substance is injected through the diversion works. A water level measurement tube will be a condition of the change approval. A copy of a WWC-5 will be required as a stratigraphic log was not submitted with the application. Approval of the change in point of diversion will result in an abandoned well, so the transmittal will inform the owners that the old well will need to be plugged per KDHE requirements.

Based on the above discussion, and that no change in the local source of supply will occur, the change is reasonable, that impairment to existing water rights is unlikely, that there are no pending applications within the vicinity of this proposed change request that may be affected by this approval, is recommended that the referenced application be approved.



Leslie Ireland
Environmental Scientist
Change Application Unit

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

SEABOARD FOODS LLC
JENNIFER CHARNO NELSON, DIR. ENV. AFFAIRS
9000 W 67TH ST, SUITE 200
SHAWNEE MISSION, KS 66202

RE: Water Right, File Nos. 6,076 and 16,362

Dear Ms. Nelson:

Enclosed is the order executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the application for change under File No. 6,076.

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

It is a condition of the approval, that the water right owner submit to the Chief Engineer a copy of the well log required by the Kansas Department of Health and Environment. The copy of the well log, currently form WWC-5, must be submitted within 30 days following the drilling of the well at the authorized location under this change approval.

Any well abandoned by this approval must be plugged in accordance with the requirements of Article 30 of the Rules and Regulations as adopted by the Kansas Department of Health and Environment.

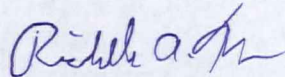
Also enclosed is a True and Correct Copy of a Findings and Order by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, which better describes the locations of the authorized points of diversion under File No. 16,362. As the irrigation portion required a detailed update the original Findings and Order under File No. 16,362 and an Order under another overlapping irrigation only appropriation will be sent to the irrigation use landowner, Christine E. Staats.

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. Please advise us if you no longer have an interest in the above referenced water right so that we may bring our records up to date.

RE: Water Right, File Nos. 6,076 and 16,362

If you have any questions regarding the installation of the required flowmeter, please contact Michael Meyer, with our Garden City Field Office at 620-276-2901. If you call, please reference the file number so we can help you more efficiently.

Sincerely,



Richelle A. Krueger
Environmental Scientist
Water Appropriation Program

LI:RAK

pc: Garden City Field Office
Groundwater Management District No. 3
Reenie Jackson, Env Eng Mngr, Seaboard Foods LLC

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Secretary of Agriculture

DIVISION OF WATER RESOURCES
Christopher W. Beightel, Acting Chief Engineer

APPROVAL OF APPLICATION FOR CHANGE IN POINT OF DIVERSION WATER RIGHT FILE NO. 6,076

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Stephen Summerlin, VP Live Production on behalf of Seaboard Foods LLC, 9000 W 67th Street, Suite 200, Shawnee Mission, Kansas 66202, and Christine E Staats, 720 N. Hickok Street, Ulysses, Kansas 67880, received in this office on December 23, 2019, for approval of a change in the location of the point of diversion under the certificate of appropriation issued pursuant to the application for permit to appropriate water for beneficial use, as modified and amended by the Order of the Chief Engineer dated December 21, 1995, approving the application to change the authorized place of use, point of diversion and use made of water, and by the Order of the Chief Engineer dated March 20, 1998, approving the application to change the place of use, and by the Findings and Order of the Chief Engineer dated October 28, 1999, in the matter of the authorized place of use, finds that the change is reasonable and will not impair existing rights, that the change relates to the same local source of supply 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 authorized location of the point of diversion authorized for stockwatering shall be:

a battery of two (2) wells with a geographic center located in Southwest Quarter of the Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 9, more particularly described as being near a point 112 feet North and 2,560 feet West of the Southeast corner of said section, at a diversion rate not in excess of 100 gallons per minute (0.23 c.f.s.) and a quantity of water not to exceed 35.85 million gallons (110 acre-feet) per calendar year, and

the authorized location of the point of diversion authorized for irrigation use shall be:

one (1) well located in the Southwest Quarter of the Northeast Quarter of the Southwest Quarter (SW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 9, more particularly described as being near a point 1,614 feet North and 3,523 feet West of the Southeast corner of said section, at a diversion rate not in excess of 650 gallons per minute (1.45 c.f.s.) and a quantity of water not to exceed 463 acre-feet per calendar year,

all in Township 30 South, Range 37 West, Grant County, Kansas,

located substantially as shown on the topographic map accompanying the application to change the points of diversion.

All wells with a diversion rate of 100 gallons per minute or more drilled under the authority of this order shall have a tube or other device installed in a manner acceptable to, and in accordance with specifications adopted by, the Chief Engineer. This tube or device shall be suitable for making water level measurements and shall be maintained in a condition satisfactory to the Chief Engineer.

That this permit is further limited such that the wells which comprise the battery of wells shall be located within a three hundred (300) foot radius circle and in the same local source of supply.

The water right owner shall submit to the Chief Engineer a copy of the well log for the new point of diversion authorized for stockwatering use required by the Kansas Department of Health and Environment under the authority of K.S.A. 82a-1212, currently form WWC-5, following the drilling of the well at the authorized location.

Installation of the works for diversion of water shall be completed on or before December 31, 2020, or within any authorized extension of time. The applicant shall notify the Chief Engineer of the Division of Water Resources, Kansas Department of Agriculture, when construction of the works for diversion has been completed.

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 Certificate of Appropriation issued pursuant to Approval of Application, File No. 6,076, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated December 20, 1995, as modified and amended by the aforementioned orders.

Ordered this 18 day of May, 2020, at Manhattan, Riley County, Kansas.

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 18 day of May, 2020, by Lane P. Letourneau, P.G., Program Manager, Water Appropriation Program, Division of Water Resources, Kansas Department of Agriculture.



Ashlee Freeman
Notary Public

RIGHT TO A HEARING AND TO ADMINISTRATIVE REVIEW

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.

Request for Hearing. According to K.A.R. 5-14-3(c), any party who desires a hearing must submit a request within 15 days after the date shown on the Certificate of Service attached to this Order. Filing a request for a hearing will give you the opportunity to submit additional facts for consideration, contest any findings made by the Chief Engineer or present any other information you believe should be considered in this matter. A timely-filed request for hearing will stay the deadline for requesting administrative review of this Order pending the outcome of the hearing.

Petition for Review. Any person aggrieved by this Summary Order may petition for administrative review, pursuant to K.S.A. 82a-708b(a) and K.S.A. 82a-1901(a). The petition must be filed within 30 days after the date shown on the Certificate of Service attached to this Order and must set forth the basis for the review, unless stayed by the timely filing of a request for hearing.

Any request for hearing or petition for administrative review shall be in writing and shall be submitted to the attention of: Chief Legal Counsel, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, Fax: (785) 564 – 6777.

CERTIFICATE OF SERVICE

On this 19 day of May, 2020, I hereby certify that the attached Approval of Application for Change, Water Right, File No. 6,076, dated May 19, 2020 was mailed postage prepaid, first class, US mail to the following:

Seaboard Foods LLC
Jennifer Charno Nelson, Dir. Env. Affairs
9000 W. 67th St, Suite 200
Shawnee Mission, KS 66202

True & Correct Copy to:

Christine E. Staats
720 N. Hickok St.
Ulysses, KS 67880

With a Photocopy to:

Seaboard Foods LLC
Reenie Jackson, Env Eng Mngr
2801 Hurliman Rd
Guymon, OK 73942

Garden City Field Office
Groundwater Management District No. 3


Staff