

Kansas Department of Agriculture
Division of Water Resources
CHANGE: PU & UMW WORKSHEET & ADDRESS, WUC UPDATE

1. File Number: 9089	2. Status Change Date: 7/17/2020	3. Change Num: C3	4. Field Office: 04	5. GMD: 03
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: 12/16/19
8a. Applicant(s) New to system <input type="checkbox"/> IRSIK & DOLL FEED SERVICES INC JOHN M PETZ 8220 E US HIGHWAY 50 GARDEN CITY KS 67846-9071		Person ID 28310-2 Add Seq# _____		
8b. Landowner(s) New to system <input type="checkbox"/> IRSIK & DOLL FEED SERVICES INC JON HEIMAN PO BOX 847 CIMARRON, KS 67835		Person ID 39910 Add Seq# _____		
8c. Landowner(s) New to system <input type="checkbox"/>		Person ID 28310-2 Add Seq# _____		
8d. WUC New to system <input type="checkbox"/>		Person ID 39953 Add Seq# _____		
9. Documents and Enclosure(s): <input checked="" type="checkbox"/> DWR Meter(s) Date to Comply: 12/31/20 <input type="checkbox"/> N & P Date to Comply: _____				
<input type="checkbox"/> Anti-Reverse Meter <input type="checkbox"/> Meter Seal <input checked="" type="checkbox"/> Check Valve <input type="checkbox"/> N & P Form <input type="checkbox"/> Water Tube <input type="checkbox"/> Driller Copy <input type="checkbox"/> H & E Letter				
<input type="checkbox"/> Conservation Plan Date Required: _____ Date Approved: _____ Date to Comply: _____				
10. Use Made of Water From: IRR To: IRR & STK DUAL USE				
Date Prepared: 6/29/2020 By: li Date Entered: 7/21/2020 By: LMoody				

File No. **9089** 11. County: FI Basin: **ARKANSAS RIVER** Stream: **NA** Formation Code: **211** Special Use: **NA**

12. Points of Diversion										Rate and Quantity								
CHK	MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files	
	MOD				35341	NC	20	24S	31W	4	2550	2700	IRR/STK DUAL USE	1240	540	1240	0	31001 & 20199060

MOD ONLY FOR DUAL USE ANNAUL Q TO 472 AF (153.80 MGY)

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

14. **ADD** Limitation: **812 AF (264.59 MGY)** af/yr at _____ gpm (_____ cfs) when combined with file number(s) **7695 WHEN DUAL USE IRR/STK**
KEEP Limitation: **880** af/yr at _____ gpm (_____ cfs) when combined with file number(s) **7695 WHEN STK USE DISCONTINUED**

15. 5YR Allocation: Allocation Type _____ Start Year _____ 5 YR Amount _____ Amount Unit _____ Base Acres _____ Comment _____

16. Place of Use										NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg?	Overlap Files
CHK	MOD	DEL	ENT	PUSE	S	T	R	ID		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				
	ENT				11787	20	24S	31W	2																		8a	NO	11715-D2, 31001
	ENT				69259	19	24S	31W	114																		8a	NO	11715-D2, 31001
	NC				1906																								
	NC				4692																								
	NC				10780																								
	NC				16836																								

Base Acres: _____ Year: _____ Minimum Reasonable Quantity: _____

Comments: **Dual Use Quantity Limitation: 472 AF (153.80 mgy) when operated as dual use**

Main action trail entry: KAR 5-5-10 Dual Use Quantity Limitation 472 AF

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files **DATE:** June 17, 2020
FROM: Leslie Ireland **RE:** Water Right, File Nos. 7,695 & 9,089

John M. Petz, President/CEO, of Irsik & Doll Feed Services Inc., Gray County Feedyard, filed an application for approval to change the place of use and use made of water for operation as dual use from irrigation to irrigation and stockwatering under File No. 9,089. The application was received on December 16, 2019. The feedlot appears to need more flexibility to divert under both uses for File No 9,089. An application to reduce the quantity from 880 acre-feet (AF) to 812 AF under the overlapping senior right was also received.

The water rights do not appear to be abandoned as per K.S.A. 82a-718, *Abandonment of water rights*. The applications appear to comply with K.A.R. 5-5-2a, Complete change application, and the rights are in compliance with K.A.R. 82-732, *Annual water use report required; penalty for violations*. The water rights do not appear to be abandoned as per K.S.A. 82a-718, *Abandonment of water rights*.

The owners are requesting a change in use made of water per K.A.R. 5-5-9, *Criteria for the approval of an application for a change in the use made of water from irrigation to any other type of beneficial use of water*, to authorize a limited "dual use" of irrigation and stockwatering under File No. 9,089. This right is also requesting a change in place of use to add the stockwatering facility while maintaining the irrigated place of use.

File No. 9,089 authorizes 540 acre-feet (AF) that is limited to 880 AF with File No. 7,695 authorized for irrigation use on a complete overlapping 835 acres. In Finney county the standard consumptive use would allow 472 AF to be changed to another use.

$$540 \text{ AF} \times 87.4\% = 471.96 \text{ AF}$$

While operated for dual use the quantity will be temporarily reduced to 472 AF (153.80 million gallons per year (mgy) and will be authorized for stockwatering at the existing feedlot located in Sections 19 & 20, also currently authorized by File Nos. 11,715-D2 & 31,001. The portion remaining for irrigation use remains at the currently authorized 835 acres that is also served by File Nos. 7,695, 11,715-D2, 24,075 & 33,018, all in Township 24, Range 31 West, Finney County. Due to File No. 9,089, being limited not to exceed 880 acre-feet for irrigation use with File No. 7,695, that is authorized 880 AF, essentially File No. 9,089 providing only an alternate point of diversion, the consumptive use between these two files needed to be addressed. The initial reduction request under File No. 7,695, listed 812 acre-feet for irrigation use. It was initially thought to be a mathematical error as the 87.4% required consumptive use allocation while dual use is authorized under File No. 9,089, the on 880 AF under File No. 7,695 equates to 769.12 AF. However, this would appear to take a reduction on the portion not changing.

$$(880 \text{ AF} - 540 \text{ AF}) + (540 \times 87.4\%) = 812 \text{ AF}$$

The 472 AF changing to dual use and the 340 AF remaining unchanged does total 812 AF. Therefore, while File No. 9,089 is authorized for dual use, it will have a temporary additional limitation not to exceed, 812 AF and File No. 7,695 will be temporarily reduced to not exceed 812 AF. Assuring compliance with K.A.R. 5-5-3, *Change in consumptive use*.

RE: File Nos. 7,695 & 9,089

As just one point of diversion is being changed and the quantity and rate are assigned the change will be processed per K.A.R. 5-5-9, *Criteria for the approval of an application for a change in the use made of water from irrigation to any other type of beneficial use of water*, a total change, and no rate test would be needed. The authorized rate of 1,240 gallons per minute is enough to divert the stockwatering and irrigation uses.

When the 472 AF (153.80 mgy) for stockwatering use is added to the existing stockwatering rights, a total of 340.65 mgy or 1,045 AF under File Nos. 9,089; 11,715-D2 & 31,001. This should help with the peak demands and will provide another point of diversion for stockwatering. A 2019 stockwatering use supplemental sheet indicated a five-year projection of 60,000 head heard with 15 gallons per hear per day or 1,008 AF per year. The 15 million gallons per head per day complies with the allotment for open lot per K.A.R 5-3-22, *Maximum reasonable quantity of water for livestock and poultry*. As cattle may be held longer due to the current processing restraints, no additional limitations will be added as the quantity is only a 3.5% increase in the total estimated head count.

The irrigation portion will result in a total of 1,453.25 AF authorized at the 835 acres resulting in an irrigation ratio of 1.7 AF/acre. This appears to be reasonable for Finney county.

The review of the change application identified only the applicant's wells within one-half (½) mile of the well proposing to change. No nearby notification letters were sent. It appears the processing of the application follows K.S.A. 82a-1906.

In a letter dated February 18, 2020, a copy of the application and reduction request were sent to Mark Rude, Manager of Southwest Kansas Groundwater Management District No. 3 (GMD 3) along with a request to make a recommendation. In a letter dated February 27, 2020, Jason Norquest, Assistant Manager of GMD 3, indicated the proposal is not in conflict with their management plan and recommended approval of the application and reduction.

Mike Meyer, Water Commissioner of the Garden City Field Office, indicated that he recommended approval of the application and temporary reduction, by email June 17, 2020.

A condition of the approval will be the requirement of a flow meter for each use authorized, pursuant to K.S.A. 82a-706c. A check valve will be required if chemigation occurs. The water use correspondent will remain as designated.

Based on the above discussion, that the change is reasonable, consumptive use will not increase, impairment of existing water rights is unlikely, and that no change in the local source of supply will occur, it is recommended that the referenced application for change be approved with the temporary limitation on File No. 7,695.



Leslie Ireland
Environmental Scientist
Water Appropriation Program

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

July 17, 2020

IRSIK & DOLL FEED SERVICES INC
JON HEIMAN
PO BOX 847
CIMARRON, KS 67835

RE: Water Right, File Nos. 7,695 and 9,089

Dear Mr. Heiman:

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. 9,089.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in the approval for change. A condition of the approval for change is that an acceptable water flowmeter must be installed for each use on the diversion works authorized under File No. 9,089. Please return the required and enclosed form, Notification of Completion of the Diversion Works and/or Installation of the Required Flowmeter for File No. 9,089, as soon as this action is completed.

Also enclosed is the Findings and Order by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, under File No. 7,695, regarding the temporary reduction in quantity of water while File No. 9,089 is operated for dual stockwatering and irrigation uses.

Since these orders modify the Certificate of Appropriation, they should be recorded with the Register of Deeds as other instruments affecting real estate.

If you have any questions regarding the installation of the required flowmeters, 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,

A handwritten signature in blue ink that reads "Richelle A. Krueger".

Richelle A. Krueger
Environmental Scientist
Water Appropriation Program

RAK:LI:li
Enclosures

pc: Garden City Field Office
Groundwater Management District No. 3

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 USE MADE OF WATER, PLACE OF USE AND ORDER IN THE MATTER OF THE AUTHORIZED QUANTITY OF WATER WATER RIGHT, FILE NO. 9,089

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of John M. Petz on behalf of Irsik & Doll Feed Services, Inc., Irsik & Doll Feedyard, 8220 E. US Highway 50, Garden City, Kansas 67846, as owner of the referenced water right, received in this office on December 16, 2019, for approval of a change in the location of the place of use and the use made of water, under the certificate of appropriation issued pursuant to the application for permit to appropriate water for beneficial use, as modified and amended by the Orders of the Chief Engineer dated January 14, 2003 and May 16, 2013, approving the applications to change the place of use, and by the Findings and Order of the Chief Engineer dated February 14, 2019, in the matter of the authorized place of use, finds that the change is reasonable and will not impair existing rights, and that the application should be and is hereby approved.

The authorized quantity of water under this right will remain 540 acre-feet (175.96 million gallons) per year authorized for irrigation use, and further limited to a quantity not exceed 880 acre-feet (286.75 million gallons) per calendar year when combined with Water Right, File No. 7,695, for irrigation use at the place of use authorized herein. This order effectively limits the authorized quantity of water to 472 acre-feet (153.80 million gallons) per calendar year for both stockwatering and irrigation uses combined, and further limits the quantity not to exceed 812 acre-feet (264.59 million gallons) per calendar year when combined with Water Right, File No. 7,695, for irrigation use at the place of use authorized herein. That the limitations on the quantity of water shall exist until such a time that the additional quantity of water for stockwatering use authorized by this approval is no longer required.

The effective date of the change shall be the date this order is executed by the Chief Engineer, after which the portion retained for irrigation use shall be authorized a maximum quantity not to exceed 472 acre-feet (153.80 million gallons) of groundwater per calendar year, for irrigation use on the following described property:

Sec. Twp. Range	NE¼				NW¼				SW¼				SE¼				TOTAL
	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
19 24S 31W	36.0	10.0	2.0		26.0	Lot 1 26.0	Lot 2 35.0	38.0	35.0	Lot 3 3.0		25.0		20.0	36.0	6.0	298
20 24S 31W	32.0	12.0	8.0	40.0	21.0	20.0							40.0	28.0	40.0	40.0	281
28 24S 31W					32.0	32.0	32.0	32.0									128
29 24S 31W	32.0	32.0	32.0	32.0													128

a total of 835 acres in Sections 19, 20, 28 & 29, Township 24 South, Range 31 West, Finney County, Kansas.

The portion changed to stockwatering use shall be authorized a quantity not to exceed:

472 acre-feet (153.80 million gallons) of groundwater per calendar year,

and the location of the place of use shall be:

a feedlot located in portions of the Northeast Quarter (NE¼), the Northwest Quarter (NW¼), the Southeast Quarter (SE¼), and the Southwest Quarter (SW¼) of Section 20, and in the Northeast Quarter (NE¼), and the North Half of the Southeast Quarter (N½ SE¼), of Section 19, all in Township 24 South, Range 31 West, Finney County, Kansas,

all located substantially as shown on the topographic map accompanying the application to change the use made of water and place of use.

All diversion works into which any type of chemical or other foreign substance will be injected into the water pumped from the diversion works shall be equipped with an in-line, automatic, quick-closing check valve capable of preventing pollution of the source of the water supply. The type of valve installed shall meet specifications adopted by the Chief Engineer and shall be maintained in an operating condition satisfactory to the Chief Engineer.

The water right owner shall properly install a separate acceptable water meter for each use made of water for 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 for irrigation and stockwatering use 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.

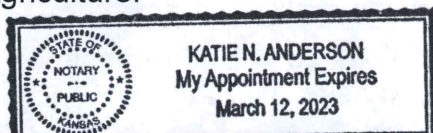
In all other respects, the Certificate of Appropriation issued pursuant to Approval of Application, File No. 9,089 for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated November 21, 1984, as modified and amended by the aforementioned orders.

Ordered this 17th day of July, 2020, in Manhattan, Riley County, Kansas.

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

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 17th day of July, 2020, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.



Katie Anderson
Notary Public

RIGHT TO A HEARING AND TO ADMINISTRATIVE REVIEW

If you are aggrieved by this Order, then pursuant to K.S.A. 82a-1901, you may:

- 1) request an evidentiary hearing before the Chief Engineer, or
- 2) request administrative review by the Secretary of Agriculture.

Failure to request an evidentiary hearing before the Chief Engineer does not preclude your right to administrative review by the Secretary.

To obtain an evidentiary hearing before the Chief Engineer, a written request for hearing must be filed within 15 days after service of this Order as provided in K.S.A. 77-531 (i.e., **within a total of 18 days after this Order was mailed to you**), with: Kansas Department of Agriculture, Attn: Legal Section, 1320 Research Park Drive, Manhattan, KS 66502, FAX (785) 564-6777.

If you do not file a request for an evidentiary hearing before the Chief Engineer, you may petition for administrative review of the Order by the Secretary of Agriculture. A petition for review shall be in writing and state the basis for requesting administrative review. The request for hearing may be denied if the request fails to clearly establish factual or legal issues for review. See K.S.A. 77-527. The petition must be filed within 30 days after service of this Order as provided in K.S.A. 77-531 (i.e., **within a total of 33 days after this Order was mailed to you**), and be filed with: Secretary of Agriculture, Attn: Legal Division, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, KS 66502, FAX (785) 564-6777.

If neither a request for an evidentiary hearing nor a petition for administrative review is filed as set forth above, then this Order shall be effective and become a final agency action as defined in K.S.A. 77-607(b). Failure to timely request either an evidentiary hearing or administrative review may preclude further judicial review under the Kansas Judicial Review Act.

Any request for a 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.

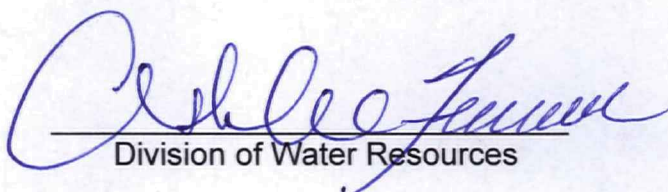
CERTIFICATE OF SERVICE

On this 21 day of JULY, 2020, I hereby certify that the attached Approval of Application for Change in Use Made of Water, Place of Use and Order in the Matter of the Authorized Quantity of Water under Water Right, File No. 9,089; dated 17 July 2020 was mailed postage prepaid, first class, US mail to the following:

IRSIK & DOLL FEED SERVICES, INC.
JON HEIMAN
PO BOX 847
CIMARRON, KS 67835

With a Photocopy to:

Garden City Field Office
Groundwater Management District No. 3


Division of Water Resources