

Kansas Department of Agriculture
 Division of Water Resources
CHANGE: PU WORKSHEET & ORDER PD BETTER DESCRIBED

1. File Number: 10002	2. Status Change Date: 8/26/2021	3. Change Num: C3	4. Field Office: 04	5. GMD: 01
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: 7/26/2021
8a. Applicant(s) New to system <input type="checkbox"/> OX TOWN LLC BRIAN BAALMAN 1580 OXTOWN DR TRIBUNE KS 67879		Person ID _____ Add Seq# _____		
8b. Landowner(s) New to system <input type="checkbox"/> OX TOWN LLC 1580 OXTOWN DR TRIBUNE KS 67879		Person ID 65210 Add Seq# _____		
8c. Landowner(s) New to system <input type="checkbox"/>		Person ID _____ Add Seq# _____		
8d. WUC New to system <input type="checkbox"/> 8b		Person ID 65210 Add Seq# _____		
9. Documents and Enclosure(s): <input checked="" type="checkbox"/> DWR Meter(s) Date to Comply: 12/31/21 <input type="checkbox"/> N & P Date to Comply: _____				
<input type="checkbox"/> Anti-Reverse Meter <input type="checkbox"/> Meter Seal <input 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: _____ To: _____				
Date Prepared: 8/4/2021 By: li Date Entered: 8/30/2021 By: LMoody				

8/25/2021
Llreland

File No. **10002** | 11. County: **GL** Basin: **LADDER CREEK** 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)	Authorized		Additional		Overlap PD Files
													Rate gpm/cfs	Quantity af/mgy	Rate gpm/cfs	Quantity af/mgy	
MOD	10001	SW SW SW	16	16	40W	3	7	5123	STANDBY				NO CHANGE			NONE	
MOD	87218	NW NW NW	21	16	40W	1	4981	4944	PRIMARY GPS UPDATE				NO CHANGE			NONE	

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

14. Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) **NONE 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							
CHK	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				
MOD	10258	20	16	40W	1	FEEDLOT ALL OF SEC 20																	8B	NO	9589-D2; 10002; 24950 & 39942			
ENT	70536	19	16	40W		FEEDLOT NE/4																	8B	NO	9589-D2; 10002; 24950 & 39942			

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

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files **DATE:** August 12, 2021
FROM: Leslie Ireland **RE:** Water Right, File Nos. 9,589-D2;
10,002; 24,950; 36,139 & 39,942

Brain Baalman on behalf of Ox Town LLC and Thomas Rodriguez as owners of File No. 9,589-D2, have completed an application for approval to change the use made of water from irrigation use to stockwatering use and to change its place of use and the current stockwatering place of use under the remaining files. The application to change File No. 9,589-D2, was received on April 5, 2021 and modified June 22, 2021, for the newly approved division. The applications for the other referenced files were received on July 26, 2021.

The referenced files appear to be in good standing, as per K.S.A. 82a-718 and 82a-732, with the exception of the primary well under File No. 10,002 that is still pending a meter update from the 2019 change approval. The applications comply with K.A.R. 5-5-2a, *Complete change application*.

Water Right, File No. 9,589-D2, authorizes one (1) well to divert 1,125 acre-feet (AF) at a maximum rate of 2,700 gallons per minute (gpm) (6.02 c.f.s). The well is located near the center of the Northwest Quarter (NW $\frac{1}{4}$) of Section 18, Township 16 South, Range 40 West, (18-16-40W) Greeley County in the Ladder Creek Basin. The place of use is 322.25 irrigated acres in the West Half (W $\frac{1}{2}$) and a small portion in the Southeast Quarter (SE $\frac{1}{4}$) of 18-16-40W. The right has no additional and is not located in a special use area but is located in the Western Kansas Groundwater Management District No. 1, (GMD 1). The source of supply for this right has been determined to be the Ogallala Formation (Code 211).

The water right owner proposes to convert the entire 1,125 AF authorized for irrigation use under File No. 9,589-D2 to stockwatering use pursuant to K.A.R. 5-5-9 *Approval of application for a change in the use made of water from irrigation to any other type of beneficial use of water*. Based on the calculation submitted with the application and the Greeley County 87% consumptive use adjustment, the requested change yields 318.93 million gallons (978.75 acre-feet) available to be converted to stockwatering use under File No. 9,589-D2. The application indicates the appropriate reduction in quantity. It appears the application meets GMD1, K.A.R. 5-21-7 *Change in the use made of water from irrigation use to any other type of beneficial use*, as the District has or will be revoking the regulation in the near future in favor of K.A.R. 5-5-9.

The irrigation of the authorized 322.25 acres in 18-16-40W under File No. 9,589- D2 will be eliminated. The currently authorized stockwatering place of use for the feedlot located in the Northeast Quarter (NE $\frac{1}{4}$) and East Half of the Southeast Quarter (E $\frac{1}{2}$ SE $\frac{1}{4}$) of 20-16-40W, Greeley Co., will expand to be described as originally described on the application for File No. 9,589 and confirmed on August 12, 2021, with a phone call from Brian Baalman and email to Levi at the feedlot, as being located in all of Section 20, and the Northeast Quarter (NE $\frac{1}{4}$) of Section 19, all in Township 16 South, Range 40 West, Greeley County, Kansas. It will be authorized by File Nos. 9,589-D2; 10,002; 24,950; 36,139 & 39,942.

Under File No. 9,589-D2, the change in use made of water from irrigation to stockwatering complies with K.A.R. 5-5-3, *Change in consumptive use* with the stated reduction in quantity.

The expansion of the feedlot under File Nos. 9,589-D2; 10,002; 24,950; 36,139 & 39,942 will result in 434.72 mgy (1,334.1AF) authorized for stockwatering use. The submitted justification lists a five-year projection of approximately 87,000 head to be watered at 15 gallons per head per day utilizing 476.325 mgy. The stockwatering use will include a feed mill. The justification for the additional quantity complies with K.A.R. 5-3-22 *Maximum reasonable quantity of water for livestock and poultry*.

There are four (4) well owners located within one-half (½ mile) of the proposed existing wells. The July 28, 2021 mailing of the nearby notifications did not yield any responses of any kind as of today's date. **The letter to THYRA JUDYNE THOMPSON was returned undeliverable but Cavenne the water use correspondent was pc'd on the letter. 8/26/2021 li/dwr**

The primary well location of File No. 10,002 will be updated to the feet distances as determined by Mitch French, Garden City Field Office on April 28, 2021, from 4,957 feet North and 5,002 feet West to 4,981 feet North and 4,944 feet West. The update is approximately 65 feet from authorized. The standby well remains as authorized. The update complies with K.A.R. 5-5-6, *Failure to construct diversion works at authorized location*.

In a letter dated August 3, 2021, Kyle Spencer, District Manager, GMD No. 1, stated the District recommends for approval of the requested changes.

Mike Meyer, Water Commissioner, Garden City Field Office was contacted for a comment on the proposed change. He recommended approval of the proposed change per his email dated August 12, 2021.

Conditions of the approval will require the installation of a water flowmeter and check valves if anything is injected into the water through the diversion works according to K.A.R.5-3-5(c), *Check valves*. Water level measurement tubes and WWC-5 information are not applicable to the changes.

Based on the above discussion, it appears the requested changes are not unreasonable, will not result in an increase in consumptive use, impairment of existing rights unlikely, and the source of supply will remain the same, it is recommended that the referenced applications be approved.



Leslie Ireland
Environmental Scientist
Water Appropriation Program

From: Meyer, Mike [KDA]
Sent: Thu 8/12/2021 7:07 AM
To: Ireland, Leslie [KDA]
Subject: RE: Review & Recommendation Change File No. 9589D2 UMW PU_ 10002 xxxx PU

sorry I had this flagged to reply and that was a week of over whelmed work. please approve

Mike

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Thursday, August 5, 2021 9:52 AM
To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Subject: Review & Recommendation Change File No. 9589D2 UMW PU_ 10002 xxxx PU

Mike,

Please let me know if you could recommend these changes.

File No. 10002 will have the pd location updated.. also looks like it has a pending meter issue.. I attached this order.. standard stuff.. but if you could look at the PU description to confirm it looks ok...with that all of section 20 wording...

As always comments and concerns are welcome.

Thank you,
Leslie Ireland
Environmental Scientist
Change Application Unit
Division of Water Resources



From: Ireland, Leslie [KDA]
Sent: Thu 8/12/2021 10:34 AM
To: levi.oxtown@wbsnet.com
Cc: Meyer, Mike [KDA]
Subject: Water Right, File Nos. 9589-D2, 10002, 24950, 36139 & 39942
Attachments: 9589D2xxx PU MAP.pdf

Levi,

I was contacted by Mr. Baalman and he instructed me the expansion of the feedlot into Section 19 will only be on the Northeast Quarter remaining on the property owned by Oxtown LLC. This was what was originally proposed. I've attached the map that will replace the maps on the later filed applications.

Per his call and confirmation the place of use for this facility under the referenced water right files will show the authorized stockwatering place of use in our documents to be:

all of Section 20 and the Northeast Quarter (NE $\frac{1}{4}$) of Section 19, all in Township 16 South, Range 40 West, Greeley County, Kansas.

I plan on wrapping up the documents for their final review today.

Take care,, be heat smart,

Leslie Ireland
Environmental Scientist
Change Application Unit
Division of Water Resources



WATER RIGHT, FILE NO. 9589

Water Right, File Nos. 9589-D2, 10002, 24950, 36139 & 39942 ** PROPOSED PLACE OF USE STK USE **

Section 18 Township 16 South Range 40 West Greeley County



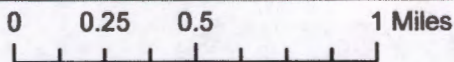
- Authorized Point of Diversion
- Permitted Water Right
- ★ Domestic Well within 1/2 mile
- Authorized Place of Use - IRR
- Authorized Place of Use - STK

List of owner name and addresses within 1/2 mile:

** confirmed STK PU will be all sec 20 & NE/4
li/DWR 8/12/2021



By signing below I agree that all wells, including domestic, and owners names and addresses within 1/2 mile of the proposed point of diversion have been shown on the map



OX TOWN LLC by Bob Beahm 4-2-21
 (Signature) Date

AM/GCFO
1:24,000 Scale

THE STATE  OF KANSAS

KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Secretary of Agriculture

DIVISION OF WATER RESOURCES
Earl D. Lewis Jr., Chief Engineer

**APPROVAL OF APPLICATION
FOR
CHANGE IN PLACE OF USE
AND
ORDER IN THE MATTER OF THE AUTHORIZED POINT OF DIVERSION
WATER RIGHT, FILE NO. 10,002**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Brian Baalman on behalf of Ox Town LLC, 1580 Ox Town Drive, Tribune, Kansas 67879, received in this office on July 26, 2021, for approval of a change in the location of the place of use 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 August 28, 2013, approving the application to change the place of use and use made of water, and the Order of the Chief Engineer dated January 2, 2019, approving the application to change the point of diversion, finds that the change is reasonable and will not impair existing rights, and that the application should be and is hereby approved.

The effective date of the change shall be the date this order is executed by the Chief Engineer, after which the authorized location of the place of use shall be:

a feedlot located in all of Section 20, and the Northeast Quarter (NE $\frac{1}{4}$) of Section 19, all in Township 16 South, Range 40 West, Greeley County, Kansas,

located substantially as shown on the map accompanying the application to change the place of use, and the location of the authorized points of diversion shall be more accurately described as:

one(1) well located in the Southwest Quarter of the Southwest Quarter of the Southwest Quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 16, more particularly described as being near a point 7 feet North and 5,123 feet West of the Southeast corner of said section (standby well); and

one(1) well located in the Northwest Quarter of the Northwest Quarter of the Northwest Quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 21, more particularly described as being near a point 4,981 feet North and 4,944 feet West of the Southeast corner of said section (primary well),

both in Township 16 South, Range 40 West, Greeley County, Kansas.

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 acceptable water meters 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 meters has been completed. The water right owner shall maintain the water meters 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 meters 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. 10,002, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated April 25, 1972, as modified and amended by the aforementioned orders.

Ordered this *26* day of *August*, 2021, in Manhattan, Riley County, Kansas.

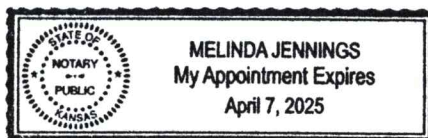
Lane P. Letourneau

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 *26* day of *August*, 2021, by Lane P. Letourneau, P.G., Program Manager, Division of Water Resources, Kansas Department of Agriculture.

Melinda Jennings
Notary Public



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

August 31, 2021

OX TOWN LLC
BRIAN BAALMAN
1580 OX TOWN DR
TRIBUNE KS 67879

RE: Water Right, File Nos. 9,589-D2; 10,002; 24,950; 36,139 & 39,942

Dear Mr. Baalman:

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

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in the approvals for change. A condition of the approvals is that a water flowmeter meeting 5-1-4 through 5-1-12 must be installed on the diversion works authorized. Records in this office indicate that meters are installed for the referenced files, however the approval of the use made of water for File No. 9,589-D2, requires that the meter that will be utilized for the new use be reviewed. Please complete and return the enclosed form, *Notification of Completion of the Diversion Works and/or Installation of Flowmeter Installation* prior to diversion of water for the stockwatering use under File No. 9,589-D2.

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.

An annual water use report must be filed with the Chief Engineer by March 1, following the end of each calendar year. If a complete annual water use report is not received by the deadline, then a fine may be assessed and all water use under such permit or right may be suspended. Reports submitted in paper form will be assessed a \$20 per file number paper filing fee. In order to avoid this filing fee, you may submit your report online at www.kswateruserreport.org.

If you have any questions, regarding the enclosed approval documents please contact us at 785-564-6640. Should you have questions regarding the meter requirement or additional requirements please contact our staff at the Garden City Field Office at 620-276-2901. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,



Kristen A. Baum
New Application and Change Unit Supervisor
Water Appropriation Program

KAB:LI:

Enclosures

pc: Garden City Field Office
Groundwater Management District No.1

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 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.

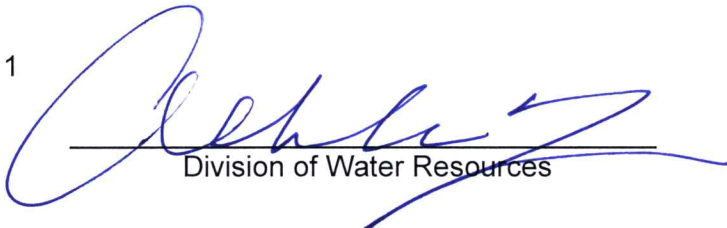
CERTIFICATE OF SERVICE

On this 31 day of August, 2021, I hereby certify that the foregoing Approval of Application for Change in Place of Use and Order in the Matter of the Authorized Point of Diversion, under Water Right, File No. 10,002, dated 26 August 2021 was mailed postage prepaid, first class, US mail to the following:

OX TOWN LLC
1580 OX TOWN DR
TRIBUNE KS 67879

With photocopies to:

Garden City Field Office
Groundwater Management District No. 1



Division of Water Resources