

Kansas Department of Agriculture
 Division of Water Resources
CHANGE: PD WORKSHEET PD locations updated with order

1. File Number: 6193	2. Status Change Date: 10/18/2021	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: 1/22/2021
8a. Applicant(s) New to system <input type="checkbox"/>		Person ID 62020 Add Seq# 1		8c. Landowner(s) New to system <input type="checkbox"/>
CIRCLE BAR HEIFER RANCH LLC 842 RD 60 SATANTA, KS 67870				
8b. Landowner(s) New to system <input type="checkbox"/>		Person ID 58065 Add Seq# _____		8d. WUC New to system <input type="checkbox"/>
NATHAN & VANCE KELLS 842 ROAD 60 SATANTA KS 67870-7010				NO CHANGE FOR IRR USE 8b NO CHANGE 8A FOR STK USE
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: 12/31/21				
<input type="checkbox"/> Anti-Reverse Meter <input type="checkbox"/> SECURITY Meter Seal <input checked="" type="checkbox"/> Check Valve <input checked="" 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: 10/7/2021 By: li Date Entered: 10/19/2021 By: L Moody				

File No. **6193** 11. County: **HS** Basin: **ARKANSAS** Stream: Formation Code: **211/331** Special Use:

12. Points of Diversion										Rate and Quantity						
CHK	MOD	DEL	PDIV	Qualifier	S	T	R	ID	'N	'W	Authorized		Additional		Overlap PD Files	
ENT										Comment (AKA Line)	Rate gpm	Quantity af/mgy	Rate gpm/cfs	Quantity af/mgy		
MOD				87643 NW NE SW	19	27	33W	9	2152	3601	IRR/STK DUAL USE	1615	752 AF	1615	752	NONE
ENT				60185 NW SE SW	19	27	33W	6	680	3498	STANDBY STK USE					12520
									689	3586	GPS UPDATE					

STANDBY WELL CONDITIONS APPLIED

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) **638.45 AF (208.04 MGY) IRR/STK COMB - DUAL USE 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	CHK	MOD	DEL	ENT	PUSE	S	T	R	ID	NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg?	Overlap Files
										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																													

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: October 7, 2021

FROM: Leslie Ireland

RE: Water Right, File No. 6,193

Nathan and Sarah Kells along with Vance Kells all on behalf of Circle Bar Heifer Ranch LLC as owners of the referenced right have filed an application for approval to change the point of diversion authorized for stockwatering use, while the irrigation portion of the referenced file will remain unchanged. The application for change was received in the office of the Chief Engineer on January 22, 2021.

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 appears to comply with K.A.R. 5-5-1a and is complete. It appears the requirements of K.S.A. 82a-1906 were met with the notification of the owners of File No. 17,862. No comments were received.

The change in point of diversion application appears to comply 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 dual use as irrigation and stockwatering is limited 638 acre-feet (208.04 million gallons) per year with a maximum rate of 1,615 gallons per minute(gpm), but was developed as 752 acre-feet for irrigation use from the well located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 19, approximately 2,098 feet North and 3,735 feet West of the Southeast corner in Township 27 South, Range 33 West, Haskell County (19-27-33W). A Compliance Investigation completed January 28, 2021, determined the actual location to be 2,152 feet North and 3,601 feet West of the Southeast corner, approximately 145 feet from the authorized and remaining in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ of the section.

The applicants are proposing to add a standby well for the stockwatering use by authorizing the existing irrigation well authorized by File No. 12,520, located approximately 1,420 feet to the South and described as being located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ approximately 680 feet North and 3,498 feet West of the Southeast corner of 19-27-33W. A Compliance Investigation completed November 2018, determined the actual location to be 689 feet North and 3,586 feet West of the Southeast corner of 19-27-33W and remaining in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$. This location will be updated by separate Memo & Order. The stockwatering use has been authorized by Term Permits, File Nos. 20179057 & 20199002 providing an authorized 65.17 mgd for the currently authorized stockwatering.

The source of supply for the currently authorized point of diversion has been determined to be the Ogallala Formation (Code 211) and the Dakota Formation (Code 331). The proposed standby well source of supply is indicated by WRIS to be the Tertiary System (Code 200) the Ogallala Formation (Code 211) and the Dakota Formation (Code 331). It appears the standby well is in the same local source of supply.

According to the application map and WRIS, the only other well within one-half ($\frac{1}{2}$) mile of the proposed standby well is the irrigation well under File No. 17,862. The nearby well owner was notified by a letter dated September 29, 2021; no response has been received as of today's date.

In a letter dated April 30, 2021, Jason Norquest, Assistant Manager of Southwest Kansas Groundwater Management District No. 3, indicated the District stated the proposed change is reasonable due in part to the Term Permits and the standby well will operate only then the primary well is unable to operate. The District recommended approval of the application with the standby status and metering by use.

In an e-mail dated October 7, 2021, Michael Meyer, Water Commissioner of the Garden City Field Office, recommended approval of the referenced application with the primary well location updated and the addition of the standby well.

Water flow meters on the standby well and primary well will be required for each use also the wells will required to have a check valve if any chemical or foreign substance is injected into the water through the diversion works according to K.A.R. 5-3-5(c) . A water level measurement tube will not be required. A notice of completion will be required for the standby well that will be authorized. The standby well will also be restricted to be operated only when the primary is inoperable as required by K.A.R. 5-1-2, *Standby well*.

Based on the above discussion, that the change is reasonable, that impairment to existing water rights is unlikely, and that no change in the local source of supply will occur, it has been recommended that the referenced application be approved.



Leslie Ireland
Environmental Scientist
Change Application Unit

From: Meyer, Mike [KDA]
Sent: Thu 10/7/2021 4:17 PM
To: Ireland, Leslie [KDA]
Subject: RE: Review and Recommendation File No. 6193 Circle Bar Heifer Ranch_ Kells

don't need seal or totalizer

Mike

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Thursday, October 7, 2021 4:14 PM
To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Subject: RE: Review and Recommendation File No. 6193 Circle Bar Heifer Ranch_ Kells

Yes,, on pd locations. So FO for 12520
?? security seal required?.. what about meter.. looks to be Mc.. but not totalizers so no totalizer meter requirement?

From: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Sent: Thursday, October 7, 2021 2:25 PM
To: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Subject: RE: Review and Recommendation File No. 6193 Circle Bar Heifer Ranch_ Kells

Leslie on the pd page of the app, they are just correcting the location of the authorized well?
this proposal is to just add a standby correct.

if all true, I approve

Mike

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Thursday, October 7, 2021 1:52 PM
To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Subject: Review and Recommendation File No. 6193 Circle Bar Heifer Ranch_ Kells

Mike,

Please let me know if you could recommend this change to add a nearby well as a standby well. No comments have been received. GMD OK it back in April... Memo attached.

As always comments and concerns are welcome.

Leslie Ireland
Environmental Scientist
Change Application Unit
Division of Water Resources



Submit To: CHIEF ENGINEER
Division of Water Resources
Kansas Department of Agriculture
1320 Research Park Drive
Manhattan, Kansas 66502
http://agriculture.ks.gov/dwr

**APPLICATION FOR APPROVAL TO
CHANGE THE PLACE OF USE, THE
POINT OF DIVERSION OR THE USE
MADE OF THE WATER UNDER AN
EXISTING WATER RIGHT**



State of Kansas

Filing Fee Must Accompany the Application
(Please refer to Fee Schedule on signature page of application form.)

Paragraph Nos. 1, 2, 3, 4 & 8 must be completed. Complete all other applicable portions. A topographic map or detailed plat showing the authorized and proposed points(s) of diversion and /or place of use must accompany this application.

1. Application is hereby made for approval of the Chief Engineer to change the

- Place of Use
 Point of Diversion
 Use Made of Water

(Check one or more)

WATER RESOURCES
RECEIVED

JAN 22 2021
11:54 AM

KS DEPT OF AGRICULTURE

File No. 6193

2. Name of applicant: Circle Bar Heifer Ranch LLC

Address: 842 RD 60

City, State and Zip: Satanta, KS 67870

Phone Number: (620)275-1182 E-mail address: ksuwdct1@yahoo.com

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

Name of water use correspondent: SAME

Address: _____

City, State and Zip: _____

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

3. The change(s) proposed herein are desired for the following reasons (please be specific): _____

Create a standby well status under this water right to be stacked on the well currently under 12520, which has had term

Permits stacked on it for STK standby use in the past. The well is currently set up with two meters to keep the use

Separately metered if needed.

The change(s) (was) (will be) completed by As soon as approved

(Date)

For Office Use Only:	
F.O. <u>4</u> GMD <u>3</u> Meets K.A.R. 5-5-1 (YES / NO) Use <u>STK IRR</u> Source <u>G/S</u> County <u>HS</u> By <u>AAT</u> Date <u>1-22-21</u>	
Code <u>CGT</u> Fee \$ <u>200</u> TR # _____ Receipt Date <u>1.22.21</u> Check # <u>20998</u>	

10/12/2021
L Ireland

1/25/2021
L Moody

4. The presently authorized place of use is:

Owner of Land — NAME: No change in Place of use since base water right currently dual use

ADDRESS: _____

Sec.	Twp.	Range	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTAL ACRES
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	

WATER RESOURCES RECEIVED

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

Owner of Land — NAME: _____

JAN 22 2021

ADDRESS: _____

Sec.	Twp.	Range	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTAL ACRES
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	

KS DEPT OF AGRICULTURE

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: _____

ADDRESS: _____

Sec.	Twp.	Range	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTAL ACRES
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	

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

Owner of Land — NAME: _____

ADDRESS: _____

Sec.	Twp.	Range	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTAL ACRES
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	

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

6. The presently authorized point(s) of diversion (is) (are) One well and discharge
(Provide description and number of points)
7. The proposed point(s) of diversion (is) (are) One primary well and one standby well
(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 SW Quarter of Section 19, Township 27 South, Range 33 W, in HASKELL County, Kansas, 2098 feet North 3735 feet West of Southeast corner of section. Authorized Rate 1615gpm Authorized Quantity 752AF (638.45AF Dual Use)
 (DWR use only: Computer ID No. 9 GPS 2152 feet North 3601 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 SW Quarter of Section 19, Township 27 South, Range 33 W, in HASKELL County, Kansas, 2152 feet North 3601 feet West of Southeast corner of section. Proposed Rate 1615gpm Proposed Quantity METER SEAL 1/28/2021
 This point is: Additional Well Geo Center List other water rights that will use this point NONE

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 NW Quarter of the SE Quarter of the SW Quarter of Section 19, Township 27 South, Range 33 W, in HASKELL County, Kansas, 689 feet North 3498 feet West of Southeast corner of section. Proposed Rate _____ Proposed Quantity Standby status only
FEET DISTANCE PER 11/20/2018 COMPLIANCE INVESTIGATION *
 This point is: Additional Well Geo Center List other water rights that will use this point 12520

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. _____

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 Saratoga, Kansas, this 15th day of January, 2021.

[Signature]
(Owner)

Nathan Kells
(Please Print)

[Signature]
(Owner)

Vance Kells
(Please Print)

(Owner)

(Please Print)

[Signature]
(Spouse)

Sarah Kells
(Please Print)

(Spouse)

(Please Print)

(Spouse)

(Please Print)

State of Kansas)
County of Haskell) SS

I hereby certify that the foregoing application was signed in my presence and sworn to before me this 15th day of January, 2021.

[Signature]

NOTARY PUBLIC - State of Kansas
JONATHAN LLOYD O'NEAL
My Appt. Expires 3-24-2024
Notary Public

My Commission Expires 3-24-2024

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

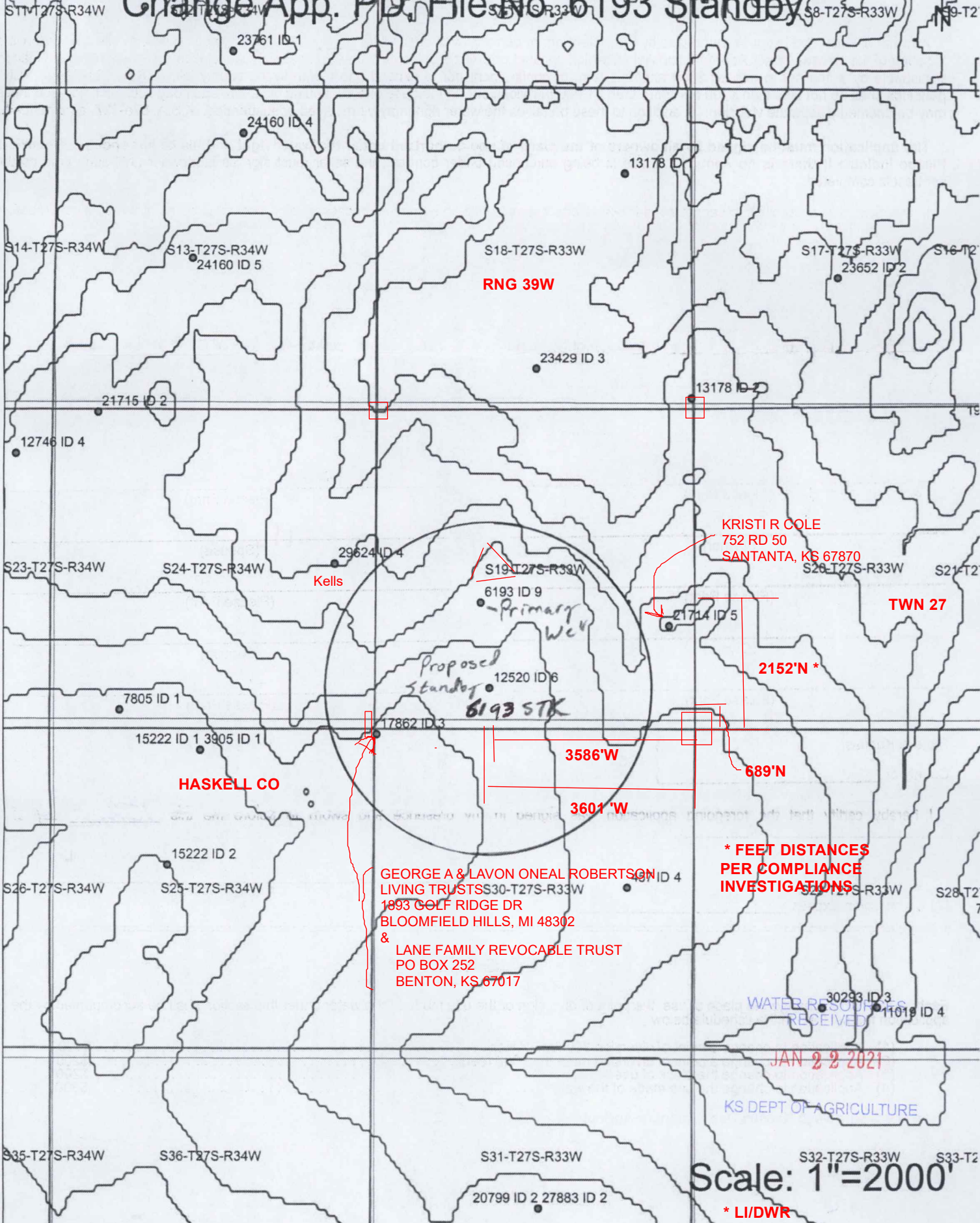
Make check payable to **Kansas Department of Agriculture.**

**WATER RESOURCES
RECEIVED**

JAN 22 2021

KS DEPT OF AGRICULTURE

Change App. PD, File No. 6193 Standby



KRISTI R COLE
752 RD 50
SANTANTA, KS 67870

HASKELL CO

TWN 27

2152' N *

3586' W

689' N

3601' W

* FEET DISTANCES
PER COMPLIANCE
INVESTIGATIONS

GEORGE A & LAVON ONEAL ROBERTSON
LIVING TRUSTS
1893 GOLF RIDGE DR
BLOOMFIELD HILLS, MI 48302
&
LANE FAMILY REVOCABLE TRUST
PO BOX 252
BENTON, KS 67017

WATER RESOURCES
RECEIVED

JAN 22 2021

KS DEPT OF AGRICULTURE

Scale: 1"=2000'

* LI/DWR

12. The presently authorized use of water is for Dual STK/IRR purposes.

It is proposed that the use be changed to No Change purposes.

13. If changing the place of use and/or use made of water, describe how the consumptive use will not be increased.

Complies with KAR 5-1-2

(Please show any calculations here.)

14. It is requested that the maximum annual quantity of water be reduced to _____ (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). The map should show the location of the presently authorized point(s) of diversion. Distances North and West of the Southeast corner of the section must be shown. The presently authorized place of use should also be shown. Identify the center of the section, the section lines and the section corners and show the appropriate section, township, and range numbers on the map. In addition the following information must also be shown on the map.

a. If a change in the location of the point(s) of diversion is proposed, show:

- 1) The location of the proposed point(s) of diversion. Distances North and West of the Southeast corner of the section must be shown. Please be certain that the information shown on the map agrees with the information shown in Paragraph Nos. 9, 10 and 11 of the application.
- 2) If the source of supply is groundwater, please show the location of existing water wells of any kind, including domestic wells, within 1/2 mile of the proposed well or wells. Identify each well as to its use and furnish name and mailing address of the property owner or owners. If there are no wells within 1/2 mile, please indicate so on the map.
- 3) If the source of supply is surface water, the names and mailing addresses of all landowner(s) 1/2 mile downstream and 1/2 mile upstream from your property lines must be shown.

b. If a change in the place of use is desired, show the proposed place of use by crosshatching on the map. Please be certain that the information shown on the map agrees with the information shown in Paragraph No. 5 of the application.

17. Attach documentation to show the change(s) proposed herein will not impair existing water rights and relates to the same local source of supply as to which the water right relates. This information may include statements, plats, geology reports, well logs, test hole logs, and other information as necessary information to show the above. Additional comments may be made below.

See Plat

WATER RESOURCES RECEIVED

JAN 22 2021

KS DEPT OF AGRICULTURE

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.

No waiver needed

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

January 26, 2021

CIRCLE BAR HEIFER RANCH LLC
842 RD 60
SATANTA KS 67870

RE: File No(s). **6193**

Dear Sir or Madam:

The Division of Water Resources (Division) has received your application(s) to change the place of use, point of diversion or use made of water for the file number(s) referenced above. Please be aware that the Division may have a large number of pending applications on hand at times and makes every attempt to process them in the order in which they are received. You will be contacted if additional information is required.

Please note, this letter only acknowledges receipt of your application(s) and does not guarantee approval. In accordance with the provisions of the Kansas Water Appropriation(s) Act, the use of water as proposed prior to approval of the application(s) is unlawful.

Additional information about the process may be found on our website at agriculture.ks.gov/divisions-programs/dwr. If you have any other questions, please contact our office at 785-564-6640 or your local Garden City Field Office at 620-276-2901. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

Kristen Baum
New Applications and Changes Unit Supervisor
Water Appropriation Program

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 POINT OF DIVERSION
WATER RIGHT
FILE NO. 6,193**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Nathan and Sarah Kells, and Vance Kells, Circle Bar Heifer Ranch, L.L.C., 842 Road 60, Satanta, Kansas 67870, received in this office on January 22, 2021, for approval of a change in 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 May 9, 1994, approving the application to change the place of use, the Findings and Order of the Chief Engineer dated May 30, 2007, reducing the authorized quantity and place of use and removing an additional quantity limitation, and by the Order of the Chief Engineer dated July 22, 2019, approving the application to change the point of diversion, and by the Order of the Chief Engineer dated September 17, 2019, approving the application to change the place of use and use made of water, 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 under this water right will remain 752 acre-feet (245.04 million gallons). This order effectively limits the authorized quantity of water to 638.45 acre-feet (208.04 million gallons) per calendar year for both stockwatering and irrigation uses combined. That the limitation on the quantity of water shall exist until such a time that the quantity of water for stockwatering use authorized by the September 17, 2019, 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 authorized locations of the points of diversion for stockwatering use shall be;

one (1) well located well in the Northwest Quarter of the Southeast Quarter of the Southwest Quarter (NW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 19, more particularly described as being near a point 689 feet North and 3,586 feet West of the Southeast corner of said section, to be used as a standby well, and

one (1) well located in the Northwest Quarter of the Northeast Quarter of the Southwest Quarter (NW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 19, more particularly described as being near a point 2,152 feet North and 3,601 feet West of the Southeast corner of said section, to be used as a primary well,

both in Township 27 South, Range 33 West, Haskell County, Kansas,

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

one (1) well located in the Northwest Quarter of the Northeast Quarter of the Southwest Quarter (NW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 19, more particularly described as being near a point 2,152 feet North and 3,601 feet West of the Southeast corner of said section,

all in Township 27 South, Range 33 West, Haskell County, Kansas,

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

The well described herein as the standby well shall be used exclusively at such time the well herein described as the primary well is inoperable due to mechanical, maintenance or power failure. Use of the standby well under these limiting conditions does not allow the authorized quantity of water or rate of diversion under this file to be exceeded.

Installation of the works for diversion of water shall be completed on or before December 31, 2021, or within any authorized extension of time. The water right owner 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.

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 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 for irrigation and stockwatering use 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. 6,193, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated May 7, 1994, as modified and amended by the aforementioned orders.

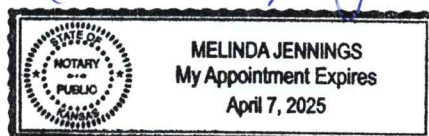
Ordered this 18 day of October, 2021, in Manhattan, Riley County, Kansas.

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 18 day of October, 2021, by Lane P. Letourneau, P.G., Program Manager, Division of Water Resources, Kansas Department of Agriculture.

Melinda Jennings
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 the Kansas Department of Agriculture, Attn: Legal Section, 1320 Research Park Drive, Manhattan, Kansas 66502, or by 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 review 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 the Secretary of Agriculture, Attn: Legal Division, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, or by 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 _____ day of _____, 2021, I hereby certify that the attached original Approval of Change in Point of Diversion, Water Right, File No. 6,193, dated _____, was mailed postage prepaid, first class, US mail to the following:

CIRCLE BAR HEIFER RANCH LLC
842 ROAD 60
SATANTA KS 67870-7010

With photocopies to:

Garden City Field Office

Staff

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

CIRCLE BAR HEIFER RANCH LLC
842 ROAD 60
SATANTA KS 67870-7010

October 27, 2021

RE: Water Right, File No. 6,193

Dear Sir or Madam:

Enclosed is the order executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the application for change under the above referenced file.

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 flow meter for each use authorized must be installed on the diversion works authorized.

Also, the well described in the approval document as the standby stockwatering well shall be used exclusively at such time the well described in the approval document as the primary stockwatering well is inoperable due to mechanical, maintenance or power failure. Use of the standby stockwatering well under these limiting conditions does not allow the authorized quantity of water or rate of diversion authorized for stockwatering use under this file to be exceeded. In addition, the standby well must be metered.

Please return the required *Notification of Completion of the Diversion Works and/or Installation of the Required Meter(s)*, as soon as this action is completed.

Since the order modifies the original document referred to above, it should be recorded with the Register of Deeds as other instruments affecting real estate.

If you have any questions, please contact this office. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

A handwritten signature in black ink that reads "Kristen A. Baum". The signature is written in a cursive style.

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

KAB:LI:li

pc: Garden City Field Office

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 the Kansas Department of Agriculture, Attn: Legal Section, 1320 Research Park Drive, Manhattan, Kansas 66502, or by 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 review 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 the Secretary of Agriculture, Attn: Legal Division, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, or by 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 27 day of October, 2021, I hereby certify that the attached original Approval of Change in Point of Diversion, Water Right, File No. 6,193, dated 18 October 2021 was mailed postage prepaid, first class, US mail to the following:

CIRCLE BAR HEIFER RANCH LLC
842 ROAD 60
SATANTA KS 67870-7010

With photocopies to:

Garden City Field Office


Staff