

Kansas Department of Agriculture  
 Division of Water Resources  
**CHANGE: PU WORKSHEET**

1. File Number: <b>14381</b>	2. Status Change Date: <b>4/20/2023</b>	3. Change Num: <b>C4</b>	4. Field Office: <b>04</b>	5. GMD: <b>03</b>
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: <b>9/23/2022</b>
8a. Applicant(s) New to system <input type="checkbox"/>		Person ID _____ Add Seq# _____	8c. Landowner(s) New to system <input type="checkbox"/>	
<b>ROCKING HEIFER LLC ELISABETH &amp; BARTHEL DESAEGHER 439 EAST RD 4 ULYSSES, KS 67880</b>				
8b. Landowner(s) New to system <input type="checkbox"/>		Person ID <b>62826</b> Add Seq# <b>1</b>	8d. WUC New to system <input type="checkbox"/>	
<b>ROCKING HEIFER LLC Attn: EAST FARM 439 EAST RD 4 ULYSSES, KS 67880</b>			<b>ROCKING HEIFER LLC Attn: EAST FARM 439 EAST RD 4 ULYSSES, KS 67880</b>	
9. Documents and Enclosure(s): <input checked="" type="checkbox"/> DWR Meter(s) Date to Comply: <b>12/31/2023</b> <input type="checkbox"/> 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: <b>3/3/2023</b>	By: <b>L</b>
			Date Entered:	By: <b>L Moody</b>
			Date Reviewed: 4/19/23	By: JDK

File No. **14381**      11. County: **GT**      Basin: **BEAR CREEK**      Stream: **NA**      Formation Code: **211/331**      Special Use: **NA**

12. Points of Diversion  
 CHK  
 MOD  
 DEL PDIV  
 ENT  
 Qualifier      S      T      R      ID      'N      'W      Comment (AKA Line)      Rate gpm/cfs      Quantity af/mgy      Rate gpm/cfs      Quantity af/mgy      Overlap PD Files

**NO CHANGE**

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) **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				
<b>MOD 50090</b>	<b>22</b>	<b>27</b>	<b>37W</b>	<b>5</b>																		<b>8b</b>	<b>NO</b>	<b>8515 11413 21910.01</b>	
<b>MOD 68452</b>	<b>15</b>	<b>27</b>	<b>37W</b>	<b>4</b>																		<b>8b</b>	<b>NO</b>	<b>8515 11413 21910.01</b>	
<b>CHK 32030</b>	<b>21</b>	<b>27</b>	<b>37W</b>	<b>1</b>	<b>40.0</b>	<b>40.0</b>	<b>40.0</b>	<b>40.0</b>										<b>40.0</b>	<b>40.0</b>		<b>34.60</b>	<b>274.60</b>	<b>8b</b>	<b>NO</b>	<b>28940 D2</b>

Base Acres:      Year:      Minimum Reasonable Quantity:  
 Comments:    ADDING FILE NO. 11413 TO STK USE AND EXPANDING PU INTO THE SE/4 SEC 15

# 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 WATER RIGHT FILE NO. 14,381

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Elisabeth and Barthel DeSaegher on behalf of Rocking Heifer LLC, East Farm, 439 East Road 4, Ulysses, Kansas 67880, received in this office on September 23, 2022, for approval of a change in the location of the place of use under the certificate of application, issued pursuant to the permit to appropriate water for beneficial use, as modified and amended by the Order of the Chief Engineer, dated April 3, 2018, approving the application to change the authorized use made of water and place of use and by the Orders of the Chief Engineer, dated August 21, 2020, and September 21, 2020, approving the application to change the authorized 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 authorized for stockwater use shall be:

a feedlot located in the South Half (S $\frac{1}{2}$ ) of Section 15, and the Northwest Quarter (NW $\frac{1}{4}$ ) of Section 22, all in Township 27 South, Range 37 West, Grant County, Kansas,

and the place of use authorized for irrigation use shall be:

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 $\frac{1}{4}$				
21	27S	37W	40.00	40.00	40.00	40.00												40.00	40.00		34.60	274.6

a total of 274.6 acres in Section 21, Township 27 South, Range 37 West, Grant County, Kansas,

located substantially as shown on the topographic map accompanying the application to change the 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 an acceptable water meter on each of 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. 14,381, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated September 15, 1978, as modified and amended by the aforementioned orders.

Ordered this 20 day of April, 2023, 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 20 day of April, 2023, by Lane P. Letourneau, P.G., Program Manager, Division of Water Resources, Kansas Department of Agriculture.

*Katie N. Anderson*

Notary Public



**KANSAS DEPARTMENT OF AGRICULTURE**  
**Division of Water Resources**

**M E M O R A N D U M**

**TO:** Files

**DATE:** April 13, 2023

**FROM:** Leslie Ireland

**RE:** Water Right, File Nos. 8,515; 11,413; 14,381 & 21,910.01

Elisabeth and Barthel DeSaegher on behalf of the Rocking Heifer LLC, owner of the above referenced water rights filed applications for approval to change the point of diversion, use made of water and place of use under File No. 11,413 and the place of use authorized for stockwater use under all of the other referenced files. The applications were received on September 23, 2022.

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*. It appears the change in point of diversion is less than 300 feet and notice per K.S.A. 82a-1906 is not required.

File No. 11,413 authorizes one (1) well at 625 gallons per minute (gpm) for the diversion of 312 acre-feet (AF) for the irrigation of 240 acres located in the East Half of Section 16, Township 27, Range 37 West, Grant County (16-27-37W). There are no overlaps in the point of diversion or place of use after the recent reduction to separate it from File No. 7729. The requested change is due to the loss of production at the well that has been authorized at its current location since 1965 and has been enrolled in the WRCP since the early 2000s. The well is not located within a special use area of the Bear Creek Basin. It is in the Southwest Groundwater Management District No. 3, (GMD3).

The currently authorized well located in the Southeast Quarter of the Northeast Quarter of the Northeast Quarter (SE¼ NE¼ NE¼) of (16-27-37W) and has been determined to be 3,990 feet North and 300 feet West of the Southeast corner of said section. It has been enrolled in the Water Right Conservation Program until 2020. The proposal is to drill a new well approximately 175 feet to the Southwest to located in the Northeast Quarter of the Southeast Quarter of the Northeast Quarter (NE¼ SE¼ NE¼) approximately 3,904 feet North and 452 feet West of the Southeast corner of Section 16. The new well was determined by the GMD 3 to be approximately 512 feet to the Southeast of the currently authorized well and complies with GMD 3's regulation K.A.R. 5-23-3, *Minimum well spacing requirements: high plains aquifer*, as the approval will move the well less than 2,640 feet. The currently authorized well will be plugged.

The submitted drillers log completed by Downey Drilling Inc., in August of 2022, listed lithology to 702 feet to the red bed. No static water level was indicated. It appears the source of supply in this area is and will remain the Ogallala Formation (Code 211) and Dakota Formation unconfined (Code 331).

As the proposed new well will be drilled less than 300 feet from the authorized location it is exempt from the well to well spacings K.A.R. 5-23-3.

The use made of water change will be processed by 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*.

The 312 AF of irrigation quantity will afford 86.9% to be retained per the consumptive use value of Grant County:

$$312 \times 0.869 = 271.1 \text{ AF (88.3 mgy) for stockwater use}$$

This irrigated place of use will be eliminated.

Sec. Twp. Range	NE¼				NW¼				SW¼				SE¼				TOTAL
	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
16 27S 37W	29	18	39	11									30	40	40	33	240

The proposed existing feedlot is located North of Ulysses, Kansas. The place of use changes will expand the facility to add the Southeast Quarter (SE $\frac{1}{4}$ ) of Section 15 to authorize the whole South Half (S $\frac{1}{2}$ ) of Section 15, and keep the currently authorized located in the Northwest Quarter (NW $\frac{1}{4}$ ) of Section 22. The feedlot is currently authorized by File Nos. 8,515; 14,381 & 21,910.01 and has been requested to be updated by the submitted changes in place of use. An application to change the stockwater place of use was submitted for File No. 28,940-D2, but as no stockwater use is authorized the change was returned and the filing fee was refunded. overlapped The new place of use under File Nos. 8,515; 11,413; 14,381 & 21,910.01 will be described as:

a feedlot located in the South Half (S $\frac{1}{2}$ ) of Section 15 and in the Northwest Quarter (NW $\frac{1}{4}$ ) of Section 22, all in Township 27 South, Range 37 West, Grant County, Kansas, with the map referenced.

Together the referenced files will authorize a total of 202.12 mgy (620.28 AF) stockwater use. A water use plan was submitted for the expansion indicating the facility 24,000 heifers will be expanded to over the coming years to 36,900 head. As detailed in KAR 5-3-22, *Maximum reasonable quantity of water for livestock and poultry*, at the maximum of 15 gallons per head per day the facility could utilize the quantity that will be authorized for stockwater use.

There is one well authorized by File Nos. 11,414 & 20,640 located within one-half ( $\frac{1}{2}$ ) mile of the authorized point of diversion that will be changing. The change will move the well slightly away from this well and will be completed less that 300 feet from it currently authorized well.

In a letter dated February 23, 2023, Jason Norquest, Assistant Manager of Southwest Kansas Groundwater Management District No. 3, indicated the applications comply with the current management program. The applications were recommended for approval.

In an e-mail dated April 12, 2023, Michael Meyer, Water Commissioner, Garden City Field Office, indicated that he recommended approval of the applications.

Water flowmeters and check valves will be required by the change approvals. The change in point of diversion will require a water level measurement tube. The notice of completion will be for 2023 for the change in point of diversion.

Based on the above discussion, that impairment to existing water rights is unlikely, and that no change in the local source of supply will occur, complies with K.A.R. 5-5-9, the changes should not increase the historical consumptive use per KAR 5-5-3, *Change in consumptive use*. The referenced applications have been recommended to be approved.



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

ROCKING HEIFER LLC - EAST FARM  
ELISABETH & BARTHEL DESAEGHER  
439 EAST RD 4  
ULYSSES, KS 67880

RE: Water Right, File Nos. 8,515; 11,413; 14,381 & 21,910.01

Dear Mr. & Mrs. DeSaegher:

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 approval under File No. 11,413, is the requirement that the required *Notice of Completion* form for the completion of the well and the installation of the meter as soon as this action is completed. The form and other information may be found at our web site <http://agriculture.ks.gov>.

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.

If you have any questions regarding the enclosed documents, please contact our office at 785-564-6640. Inquiries about the metering please contact our staff at the Garden City Field Office, 620-276-2901.

If you contact us 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. 3

## 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 request an evidentiary hearing before the Chief Engineer or 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 Division, 1320 Research Park Drive, Manhattan, Kansas 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 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: Secretary of Agriculture, Attn: Legal Division, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 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.

## CERTIFICATE OF SERVICE

On this      day of      , 2023, I hereby certify that the attached Approval of Applications under Water Right, File Nos. 8,515; 11,413; 14,381 & 21,910.01 dated were mailed postage prepaid, first class, US mail to the following:

ROCKING HEIFER LLC  
Attn: EAST FARM  
439 EAST RD 4  
ULYSSES, KS 67880

With a Photocopy to:

Garden City Field Office  
Groundwater Management District No. 3

**Letter and approval was mailed on 4/21/23. Letter and certificate of service was not scanned in before mailing. KNA 5/5/2021**

---

Division of Water Resources