

Kansas Department of Agriculture
 Division of Water Resources
CHANGE: PU UMW WORKSHEET -DUAL USE

1. File Number: 15942	2. Status Change Date: 5/1/2023	3. Change Num: C1	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: 9/23/2022
8a. Applicant(s) New to system <input type="checkbox"/> HRC FEED YARDS LLC LEE MAYO PO BOX 224 SCOTT CITY, KS 67871		Person ID _____ Add Seq# _____		
8b. Landowner(s) New to system <input type="checkbox"/> HRC FEED YARDS LLC PO BOX 224 SCOTT CITY, KS 67871		Person ID 63928 Add Seq# 2		
8c. Landowner(s) New to system <input type="checkbox"/>		Person ID _____ Add Seq# _____		
8d. WUC New to system <input type="checkbox"/>		Person ID 63928 Add Seq# 2		
9. Documents and Enclosure(s): <input checked="" type="checkbox"/> DWR Meter(s) Date to Comply: 12/31/2023 <input type="checkbox"/> 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				
Date Prepared: 4/27/23 By: LI Date Entered: By: 5/4/2023 Date Reviewed: 5/1/23 By: JDK LMoody				

File No. **15942** 11. County: **SC** Basin: **WHITEWOMAN CREEK** Stream: **NA** Formation Code: **211/331** Special Use: **NA**

12. Points of Diversion											Rate and Quantity					
CHK	MOD	DEL	PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Rate gpm	Quantity af	Rate gpm/cfs	Quantity af/mgy	Overlap PD Files
ENT				NE NE NE	35	18	33W	1	5136	571	DUAL IRR/STK	700	218	0	56.0	SC053

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

14. Limitation: **178.3** af/yr at _____ gpm (_____ cfs) when combined with file number(s) **DUAL IRR /STK (58.10 MGY)USE WITH SC053**
 Limitation: **218** af/yr at **850** gpm (_____ cfs) when combined with file number(s) **SC 053 WHEN IRR USE ONLY**

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								
ENT				39202	35	18	33W	4	FEEDLOT NW NW																	8b	NO	***
MOD				12353	35	18	33W	1	37	40	40	40												157	8b	NO	SC 053	

Base Acres: _____ Year: _____ Minimum Reasonable Quantity: _____
 Comments: **POP UP TEMPORARY QUANTITY REDUCTION QUANTITY LIMITED TO 178.3 AF (58.10 MGY) WITH FILE NO. SC 053 AS LONG AS DUAL USE IS DESIRED**

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: April 26, 2023

FROM: Leslie Ireland

RE: Vested Right, File No. SC 053
Water Right, File No. 15,942

Lee Mayo on behalf of HRC Feedyards LLC, filed applications for approval to change the place of use and use made of water for operation as dual use from irrigation to authorize irrigation and stockwater uses from a well authorized by both files. The applications located in the White Woman Creek Basin, Scott County were received on December 28, 2022.

The files have been enrolled in the WRCP for some time, but appear to comply with K.S.A. 82a-718, *Abandonment of water rights* and K.S.A. 82a-732, *Annual water use report required; penalty for violations*, as reports have been received. Notice per K.S.A. 82a-1906, *Notice...* have been sent. The applications comply with K.A.R. 5-5-2a, *Complete change application*.

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 from a shared well. These files have an incomplete overlap in the place of use as the vested file authorizes slightly less irrigated acres. The place of use will also change to add the livestock feedlot facility along with the minor changes to the irrigated acres.

File No. SC 053 authorizes 850 gallons per minute (gpm) to divert 162 acre-feet (AF) to irrigate 108 acres located in the Northeast Quarter (NE $\frac{1}{4}$) of Section 35, with File No. 15,942 limited to 700 gpm and 218 AF with SC 053 to irrigate the same acres and 49 more acres, for a total of 157 acres all in the Northeast Quarter (NE $\frac{1}{4}$) of Section 35, Township 18 South, Range 33 West, Scott County. The standard consumptive use factor of 81.8 percent for Scott County allows 132.5 AF to be changed to another use under File No. SC 053 and File No.15,942 increases the authorized quantity to 178.3 AF, but limited to 178.3 AF File No. SC 053.

While operated for dual use the quantity under both files, the reduced 178.3 AF (58.11 million gallons per year (mgy), assures compliance with K.A.R. 5-5-3, *Change in consumptive use*. The proposed place of use is removing farmstead acres in the far Northeast Quarter and making a complete overlap of the currently authorized acres, by adding acres in the South Half of the Northeast Quarter. The change in place of use to make an identical place of use of 157 acres complies with part (b)(1) of K.A.R. 5-5-11, *Applications for change in place of use for irrigation purposes*.

The proposed irrigated place of use of 157 acres at the reduced quantity of 178.3 AF will provide an irrigation ratio of 1.13 AF/acre. This is less than Scott County Net Irrigation (NIR) requirement 1.17 AF/acre at the 50% change of rainfall per K.A.R. 5-5-12. It would appear the owner will have to plan accordingly for this irrigation ratio but should be helped by the proposed LEMA. If the file is reverted to irrigation only the 162 AF will provide 1.38 AF/acre meeting the NIR at the 80% chance of 1.33 for Scott County.

The proposed 178.3 AF (58.11 mgy) could be totally diverted as stockwater use at the existing feedlot located in the Northwest Quarter of the Northwest Quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 35, is currently authorized by File Nos. 11,385-D2 & 34,127. Currently 18.213 mgy is authorized to water 4,000 head at 15 gallons per head per day with sanitation, a total of 21.93 mgy was indicated to be needed. The justification does indicate supplemental water could be utilized at the feedyard and will provide an alternate point of diversion for the stockwater use. No additional limitation on the quantity will be applied, but they will remain limited to their shared quantity. It appears the application complies with KAR 5-3-22, *Maximum reasonable quantity of water for livestock and poultry*.

The notice by letter dated April 20, 2023, to owners by within one-half ($\frac{1}{2}$) mile of the well proposing to change did not result in any comments. It appears the processing of the application follows K.S.A. 82a-1906.

In a letter dated April 25, 2023, Katie Durham, Manager of Western Kansas Groundwater Management District No. 1, recommended approval of the applications.

Mike Meyer, Water Commissioner of the Garden City Field Office, indicated that he recommends approval of the applications and temporary reduction per his April 6, 2023, email.

A condition of the approvals 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 HRC Feed Yards LLC.

Based on the above discussion, that the changes are 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.



Leslie Ireland
Environmental Scientist
Water Appropriation Program

Ireland, Leslie [KDA]

From: Meyer, Mike [KDA]
Sent: Thursday, April 27, 2023 4:01 PM
To: Ireland, Leslie [KDA]
Subject: RE: Review & Recommendation File Nos. SC 053 & 15,942 HRC Feed Yard.

Approve thanks

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Wednesday, April 26, 2023 3:13 PM
To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Subject: Review & Recommendation File Nos. SC 053 & 15,942 HRC Feed Yard.

Mike,

Please let me know if you could recommend this change for dual use in GMD 1.

As always comments and concerns are welcome.

Leslie Ireland
Environmental Scientist
Change Application Unit
Division of Water Resources



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 USE MADE OF WATER, PLACE OF USE
AND
ORDER IN THE MATTER OF THE AUTHORIZED QUANTITY OF WATER
AND
ORDER MODIFYING THE ADDITIONAL LIMITATION
WATER RIGHT, FILE NO. 15,942**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Lee Mayo on behalf of HRC Feed Yards LLC, PO Box 224, Scott City, Kansas 67871 as owner of the referenced water right, received in this office on December 28, 2022, 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 permit to appropriate water for beneficial 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 218 acre-feet (71.04 million gallons). This order effectively limits the authorized quantity of water to 178.3 acre-feet (58.11 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 this approval is no longer required.

This order effectively modifies the additional limitation on the authorized quantity as set forth by the Certificate of Appropriation of the Chief Engineer, Water Right, File No. 15,942 as follows:

This appropriation right is further limited to a quantity of water which when combined with the Vested Right, File No. SC 053, as set forth in the Certificate of Appropriation issued pursuant to File No. 15,942 will provide a quantity not to exceed 178.3 acre-feet (58.11 million gallons) of water per calendar year for irrigation use or stockwatering use at the places of use described herein.

The authorized location of the irrigation place of use shall be:

Sec.	Twp.	Range	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
35	18S	33W	37.0	40.0	40.0	40.0													157.0

a total of 157 acres in Section 35, Township 18 South, Range 33 West, Scott County, Kansas and the place of use authorized for stockwatering use shall be:

a feedlot located in the Northwest Quarter of the Northwest Quarter (NW¼ NW¼) of Section 35, Township 18 South, Range 33 West, Scott County, Kansas,

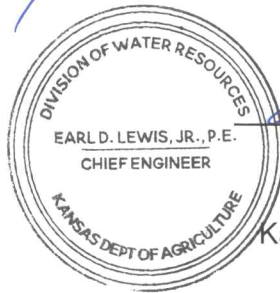
all located substantially as shown on the topographic map accompanying the application to change the use made of water and place of use.

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 stockwatering and irrigation 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.

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.

In all other respects, the Certificate of Appropriation issued pursuant to Approval of Application, File No. 15,942, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated May 24, 2004.

Ordered this 1st day of May, 2023, in Manhattan, Riley County, Kansas.



Earl D. Lewis Jr.

Earl D. Lewis Jr., P.E.
Chief Engineer
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
)
County of Riley) SS

The foregoing instrument was acknowledged before me this 1st day of May, 2023, by Earl D. Lewis Jr., P.E., Chief Engineer, 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

May 8, 2023

HRC FEED YARDS LLC
LEE MAYO
PO BOX 224
SCOTT CITY, KS 67871

RE: Vested Right, File No. SC 053
Water Right, File No. 15,942

Dear Mr. Mayo:

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

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 the requirement that the well authorized for dual use shall have **acceptable water flow meters installed so both irrigation and stockwatering uses can be metered independent of each other.** Meters should be installed prior to the diversion of water. Please return the required *Notice of Completion* form for the installation of the meters 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. 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 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 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, 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 8 day of May, 2023, 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, File Nos SC 053 & 15942; dated May 1 was mailed postage prepaid, first class, US mail to the following:

HRC FEED YARDS LLC
LEE MAYO
PO BOX 224
SCOTT CITY, KS 67871

With a Photocopy to:

Garden City Field Office
Groundwater Management District No. 1


Division of Water Resources