

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

1. File Number: 19897	2. Status Change Date: 10/30/2023	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: 1/20/2023
8a. Applicant(s) New to system <input type="checkbox"/> NEXTGEN CATTLE FEEDING LLC BRAD A LINDSTROM 649 ROAD BB HUGOTON, KS 67951		Person ID _____ Add Seq# _____		
8b. Landowner(s) New to system <input type="checkbox"/> NEXTGEN CATTLE FEEDING LLC 649 ROAD BB HUGOTON, KS 67951		Person ID 66447 Add Seq# _____		
		8c. Landowner(s) New to system <input type="checkbox"/> 8b		Person ID _____ Add Seq# _____
9. Documents and Enclosure(s): <input checked="" type="checkbox"/> DWR Meter(s) Date to Comply: 12/31/23 <input type="checkbox"/> N & P Date to Comply: _____				
<input type="checkbox"/> Anti-Reverse Meter <input type="checkbox"/> Meter Seal <input checked="" type="checkbox"/> Check Valve <input type="checkbox"/> N & P Form <input type="checkbox"/> Water Tube <input type="checkbox"/> Driller Copy <input type="checkbox"/> H & E Letter				
<input type="checkbox"/> Conservation Plan Date Required: _____ Date Approved: _____ Date to Comply: _____				
10. Use Made of Water From: _____ To: _____				
Date Prepared: 10/12 /2023 Date Reviewed: 10/27/2023 Date Entered: 10/30/2023 KAnderson			By: li By: KAK By: 10/31/2023 LMoody	

File No. **19897** 11. County: **SV** Basin: **CIMARRON RIVER** Stream: **NA** Formation Code: **200 & 331** Special Use: **NA**

12. Points of Diversion										Rate and Quantity				
CHK										Authorized		Additional		
MOD	PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Rate gpm	Quantity AF	Rate gpm	Quantity AF	Overlap PD Files
MOD	78503	NE NW SW	10	31	38W	4	2585	4354	GPS UPDATE	800	260	800	260	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)
 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										NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg?	Overlap Files
CHK	MOD	DEL	ENT	PUSE	S	T	R	ID		NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼				
CHK	36200				10	31	38W	1						32.5	32.5	32.5	32.5									130.0	8b	NO	18738 20523
ENT	126				16	31	38W	1					21.90	21.90	21.90	23.90	31.0	29.52	29.52	31.0				30.0	30.0	270.64	8b	NO	20523 18738
MOD	24835				9	31	38W	1		40.0	40.0	39.0	32.0	40.0	40.0	40.0	40.0					29.45	29.45	29.45	29.45	428.8	8b	NO	20523 18738
ENT	32102				17	31	38W	3														29.52			29.52	59.04	8b	NO	20523 18738

Year: Minimum Reasonable Quantity: Comments: 19897 HAS 311 BASE ACRES

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files **DATE:** October 27, 2023
FROM: Leslie Ireland **RE:** Water Right, File Nos. 18,738; 19,897;
20,523; 30,940; 38,182; 39,570; 39,571;
39,572; 39,573 & 39,574

Brad A. Lindstrom, of Nextgen Cattle Feeding LLC, filed an application for approval to change the place of use and use made of water for operation as dual use from irrigation to irrigation and stockwater under File No. 18,738 and place of use changes under the remaining files referenced above. The applications were received on January 20, 2023. A feedlot expansion onto original irrigated acres, is proposed. The files are in the Cimarron River Basin, Stevens County.

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

The owners are requesting File No. 18,738 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 stockwater. This right is also requesting a change in place of use to add the stockwater facility while maintaining the irrigated place of use. Applications to change the stockwater rights and irrigated places of use have been filed for File Nos. 19,897 (IRR); 20,523 (IRR & STK dual); 30,940; 38,182; 39,570; 39,571; 39,572; 39,573 & 39,574 (all STK).

File No. 18,738 authorizes 622 acre-feet (AF) for irrigation use on 441 acres located in Sections 9 and 10, Township 31 South, Range 38 West, Stevens County. The base acres for this file have been determined to be 130 acres for this file. The place of use overlaps with File No. 19,897 authorized for only irrigation use and will remain as such. The standard consumptive use factor of 89.1 percent for Stevens County allows 730.62 AF to be changed to another use.

$$622 \text{ AF} \times 89.1\% = 554.202 \text{ AF}$$

While operated for dual use the quantity will be temporarily reduced to 554.2 AF (180.59 million gallons per year (mgy), assuring compliance with K.A.R. 5-5-3, *Change in consumptive use*.

The proposed stockwater use will be added to File Nos. 20,523; 30,940; 38,182; 39,570; 39,571; 39,572; 39,573 & 39,574 all proposing to authorize expanded feedlot operations in:

a feedlot located in the Southwest Quarter (SW¼) of Section 9 and in the Northeast Quarter (NE¼), the East Half of the Northwest Quarter (E½ NW¼) and the North Half of the Southeast Quarter (N½ SE¼) of Section 16, in Township 31 South, Range 38 West, Stevens County, Kansas,

The stockwater use quantity under File Nos. 30,940; 38,182; 39,570; 39,571; 39,572; 39,573 & 39,574 is 102.418 million gallons per year as developed under their Certificates. File No. 20,523, provides a portion of its dual use quantity 730.62 AF/YR (238.07 MGY) for stockwater use. When File No. 18,738, proposed quantity of 554.2 AF (180.59 mgy) for stockwater use is added to the existing stockwater rights, an assigned total of 521.08 mgy or 1,596 AF would be available if all diverted for stockwater use.

RE: File Nos. 18,738; 19,897; 20,523; 30,940; 38,182; 39,570; 39,571; 39,572; 39,573 & 39,574

A 2020 submitted stockwater use supplemental sheet indicated a five-year projection of 20,000 head heard with 15 gallons per head per day or approximately 336 AF per year at the existing facility. The maximum quantity for beef cattle drinking allows a maximum of 15 gallons per head per day, if all of the proposed quantity was diverted for stockwater use as drinking water, as the owner historically operates, it would afford a feedlot capacity of 95,170 head of cattle. It appears sufficient water will be available for the expansion and the annual quantity complies with K.A.R 5-3-22, *Maximum reasonable quantity of water for livestock and poultry*. As the facility is expanding and two of the water rights are authorized as dual use, no additional limitations will be added to the proposed dual use under File No. 18,738.

As just one point of diversion is being changed and the quantity and rate are assigned, the change appears to comply with K.A.R. 5-5-9, a total change, and no rate test would be needed. The authorized rate of 1,290 gallons per minute is enough to divert both uses.

The irrigation use originally proposed changes in place of use was to overlap File Nos. 18,738; 19,897 & 20,523 to authorize a total 764.48 acres. Essentially maintaining the overlap between File Nos. 18,738 and 19,897, then adding the reduced irrigated acres of File No. 20,523 (124 acres in the Southwest Quarter (SW $\frac{1}{4}$) of Section 9 will be removed). It was determined this original proposed irrigated place of use would result in a quantity reduction. The place of use was updated on October 12, 2023, adding 124 acres mostly in the South half of 16-31-38W for a total proposed of 888.48 irrigated acres to be authorized under File Nos. 18,738; 19,897; 20,523.

File No. 19,897 authorizes 260 acre-feet (AF) for irrigation use on the same 441 acres as File No. 18,738. A total of 311 acres were determined to be this file's base acres resulting in File Nos. 18,738 and 19,897 having developed 441 base acres.

File No. 20,523 is currently authorized for dual use as irrigation and stockwater uses. The file was developed as irrigation use to authorized 820 AF on 437.5 base acres located in Sections 9, 16 & 17, in Township 31 South, Range 38 West, Stevens County. It has no overlap in irrigated acres. The dual use affords 730.62 AF (238.07 mgy) per year for irrigation or stockwater use. The stockwater place of use is in portions of the Northwest Quarter and East Half of Section 16.

File Nos. 18,738; 19,897 & 20,523 developed a total of 878.5 base acres. The proposal to authorize 888.48 acres indicates the base acres will not be significantly increased. It appears the changes comply with K.A.R. 5-5-11 *Applications for change in place of use for irrigation purposes*.

The irrigation portion of File Nos. 18,738; 19,897 & 20,523, provide a combined total of 1,544.82 AF if all diverted for irrigation use. This affords an irrigation ratio of 1.74 AF/acre. As the quantities under File Nos. 18,738 and 20,526 will be reduced by stockwater use an unknown portion of the 1,544.82 AF would be diverted for irrigation use, but it appears the quantity is reasonable per the Net Irrigation Requirement for Stevens County of 1.40 AF/A at an 80% chance of rainfall and less than 2 AF/acre. It appears the proposed change in place of use complies with K.A.R 5-3-23, *Maximum reasonable annual quantity approvable for irrigation use for an application for change in place of use and a request to reduce a water right*.

The review of the change application identified only the applicant's wells within one-half ($\frac{1}{2}$) mile of the well proposing to change. No nearby notification letters were sent. It appears the processing of the application follows K.S.A. 82a-1906.

RE: File Nos. 18,738; 19,897; 20,523; 30,940; 38,182; 39,570; 39,571; 39,572; 39,573 & 39,574

The well locations for File Nos. 18,738, 19,897 and 38,182 will be updated. A Compliance Investigation completed for File No. 18,738, found the well to be approximately 61 feet from authorized. The approval will update only the feet distances of the well from 5,230 feet North and 5,215 feet West to 5,221 feet North and 5,275 feet West of the Southeast corner of Section 9. Additionally, information for the stockwater well under File No. 38,182 from a 2019 Compliance Investigation found the well to be 145 feet from the authorized. The approval will update the feet distances of the well from 2,660 feet North and 1,340 feet West to 2,723 feet North and 1,471 feet West of the Southeast corner of Section 16. This update will modify the quarter-quarter descriptors from the (CS NE $\frac{1}{4}$) to the (SE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$). It appears the updates comply with K.A.R. 5-5-6c, *Authorized point of diversion or place of use*. The feet distances will also be updated for File No. 19,897, from 2,610 feet North and 4,401 feet West to 2,585 feet North and 4,354 feet West of the Southeast corner of Section 10.

In a letter dated August 19, 2023, a copy of the applications were sent to Jason Norquest, Assistant Manager of Southwest Kansas Groundwater Management District No. 3 (GMD 3) along with a request to make a recommendation. In a letter dated September 5, 2023, he indicated the proposals are not in conflict with their management plan and recommended approval of the applications. The modification to the irrigated place of use would not appear to require the GMD to reevaluate the proposed applications.

Mike Meyer, Water Commissioner of the Garden City Field Office, indicated that he recommended approval of the applications and temporary reduction, by email October 13, 2023.

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 as designated.

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



Leslie Ireland
Environmental Scientist
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 PLACE OF USE
AND
ORDER BETTER DESCRIBING THE AUTHORIZED POINT OF DIVERSION
WATER RIGHT, FILE NO. 19,897**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Brad A. Lindstrom, on behalf of Nextgen Cattle Feeding LLC, 649 Road BB, Hugoton, Kansas 67951, received in this office on January 20, 2023, for approval of a change in the location of the place of use under the certificate of appropriation, issued pursuant to the permit to appropriate water for beneficial use, as modified and amended by the Order of the Chief Engineer dated February 11, 2011, approving the application to change the point of diversion, by the Order of the Chief Engineer dated February 21, 2014, approving the application to change the place of use, finds that the change is reasonable and will not impair existing rights and that the application should be and is hereby approved.

The 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:

Sec. Twp. Range	NE¼				NW¼				SW¼				SE¼				TOTAL
	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
9 31S 38W	40.00	40.00	39.00	32.00	40.00	40.00	40.00	40.00					29.45	29.45	29.45	29.45	428.80
10 31S 38W									32.50	32.50	32.50	32.50					130.00
16 31S 38W					21.90	21.90	21.90	23.90	31.00	29.52	29.52	31.00			30.00	30.00	270.64
17 31S 38W													29.52			29.52	59.04

a total of 888.48 acres in Sections 9, 10, 16 and 17, in Township 31 South, Range 38 West, Stevens County, Kansas,

located substantially as shown on the topographic map accompanying the application to change the place of use and information in the office of the Chief Engineer finds that the point of diversion authorized would more accurately be defined as:

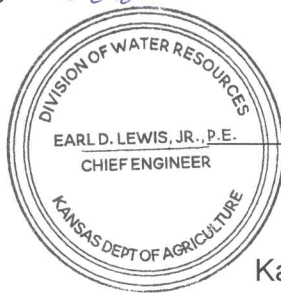
one (1) well located in the Northeast Quarter of the Northwest Quarter of the Southwest Quarter (NE¼ NW¼ SW¼) of Section 10, more particularly described as being near a point 2,585 feet North and 4,354 feet West of the Southeast corner of said section, in Township 31 South, Range 38 West, Stevens County, 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 an acceptable water meter 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 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. 19,897, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated January 24, 2001, as modified and amended by the aforementioned order.

Ordered this 30th day of October, 2023, in Manhattan, Riley County, Kansas.



Earl D. Lewis Jr.

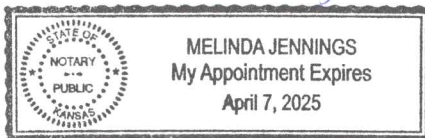
Earl D. Lewis Jr., P.E.
Chief Engineer
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 30th day of October, 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

BRAD A LINDSTROM
NEXTGEN CATTLE FEEDING LLC
649 ROAD BB
HUGOTON KS 67951

RE: Water Right
File Nos. 18,738, 19,897, 20,523, 30,940, 38,182,
39,570, 39,571, 39,572, 39,573 and 39,574

Dear Mr. Lindstrom:

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 each approval document. A condition of each approval is that acceptable water flowmeters must be installed on all wells. Moreover, the approvals under File Nos. 18,738 and 22,523, require that an acceptable water flowmeter be installed in a manner such that both irrigation and stockwatering uses can be metered independently from each other for the wells authorized by each of these files for dual use, prior to the diversion of water. Please return the required notification of installation of the meters as soon as this action is completed. Additional information and the form for the Notice of Completion for the installation of the required meter may be found on our website under "DWR Approved Meter List" at: agriculture.ks.gov/dwr.

Since these orders modify the Certificates of Appropriation for the file numbers 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 should be directed to our staff at the Garden City Field Office, 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 Applications and Changes Supervisor
Division of Water Resources

KAB:kak:li

Enclosures

pc: Garden City Field Office
Southwest Kansas GMD 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 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 1 day of November, 2023, I hereby certify that the attached original Approval of Applications for Change under Water Right, File Nos. 18,738, 19,897, 20,523, 30,940, 38,182, 39,570, 39,571, 39,572, 39,573 and 39,574 dated October 30, 2023, were mailed postage prepaid, first class, US mail to the following:

NEXTGEN CATTLE FEEDING LLC
BRAD A LINDSTROM
649 ROAD BB
HUGOTON KS 67951

With photocopies to:

KDA-DWR Garden City Field Office

Southwest Kansas GMD No. 3


Staff