

File No. 21106	11. County: MT ST Basin: NF CIMARRON RIVER	Stream: NA	Formation Code: 211	Special Use: NA																			
12. Points of Diversion CHK MOD DEL PDIV ENT					Rate and Quantity Authorized Additional Rate gpm Quantity af Rate gpm Quantity af Overlap PD Files																		
Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files											
MOD STK16359 Lot3 NE NW	5	31S	29W 40W	4	5200	3386	BATT 1 OF 2 WELLS																
MOD STK 19187 Lot 3 NE NW	5	31S	29W 40W	5	5197	3299	BATT 1 OF 2 WELLS																
MOD STK 9952 Lot 3 NE NW MT CO	5	31S	29W 40W	6	5200	3342	GEO CTR BATTERY ID: 78	NO CHANGE				NONE NO CHANGE											
MOD IRR 1883 CWSW ST CO	34	30	40W	4	1192	5196	WELL #10					(GPS UPDATE)											
13. Storage: Rate _____ NF Quantity _____ ac/ft Additional Rate _____ NF Additional Quantity _____ ac/ft																							
14. Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) NONE NO CHANGE Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____																							
15. 5YR Allocation: Allocation Type _____ Start Year _____ 5 YR Amount _____ Amount Unit _____ Base Acres _____ Comment _____																							
16. Place of Use		NE¼				NW¼				SW¼				SE¼				3	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			
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: September 26, 2023

FROM: Leslie Ireland

RE: Water Right, File No. 21,106

Stephen Summerlin, VP Live Production for Seaboard Foods LLC, owner of the portion authorized for stockwatering use, has filed an application for approval to change the point of diversion. The application was received in the office of the Chief Engineer on November 14, 2022, to correct by change the existing geographic center of the battery of wells authorized for stockwater use. This file located in the North Fork of the Cimarron River, Stanton County. The file also authorizes irrigation use under a separate owner. It was initially though this owner would need to sign the application, however the change in point of diversion is to only correct the location of the geographic center and no physical movement of the wells will be involved. It appears the application complies with Part (e)(1) of K.A.R. 5-5-1, *Filing an application for change*.

The referenced water right appears to comply with K.S.A. 82a-732, *Annual water use report required: penalty for violation*. As there is no physical movement of the wells it appears notification per K.S.A. 82a-1906, *Notification and publication of certain applications and orders*. The change appears to comply with K.A.R. 5-5-2a, *Complete change application*.

As currently authorized this file has no overlaps in point of diversion or place of use, but the uses are in different counties and will remain as such. The stockwater use is a battery of two (2) wells authorized a maximum rate of 30 gallons per minute(gpm) for the diversion of 8.15 million gallons (25 acre-feet) for use at a swine facility located in Lot 3 of the Northeast Quarter of the Northwest Quarter (NE¼ NW¼) of Section 5, approximately 5,100 feet North and 3,850 feet West of the Southeast corner of Section 5, Township 31 Range 40 West, Stanton County. The point of diversion authorized for irrigation use is located in Section 34, Township 30 Range 40 West, Morton County, approximately 1,320 feet North and 5,100 feet West of the Southeast corner. This file is located within the boundaries of the Southwestern Kansas Groundwater Management District No. 3.

A Compliance Investigation completed by DWR staff in September 2022, found the stockwater wells approximately 517 feet from authorized and the irrigation well 160 feet off. As such requires the stockwater geocenter to be updated by change per K.A.R. 5-5-6, *Failure to construct diversion works at authorized location*, and the irrigation well will be updated too.

Well locations authorized and actual

Wells	CIN#	Authorized		Actual	
		Feet North	Feet West	Feet North	Feet West
STK USE GEO Center Lot 3 NE NW 5- 31- 40W Morton Co.	6	5100	3850	5200	3342
Lot 3 NE NW	4	5100	3900	5200	3386
Lot 3 NE NW	5	5100	3800	5197	3299
IRR USE 34- 30- 40W Stanton Co.	4	1320	5100	1192	5196

As there is no physical change in the wells, the source of supply will remain the same.

The battery of wells still complies with the definition and K.A.R. 5- 2-3, *Battery of wells*.

In a letter dated September 21, 2023, Jason Norquest, Assistant Manager, Southwest Kansas Groundwater Management District No. 3, indicated the proposed change to correct the well locations complies with K.A.R. 5-23-3, as it pertains to minimum spacing to neighboring wells and distance moved as no wells are physically being moved.

Mike Meyer, Water Commissioner of the Garden City Field Office was notified of the proposed change and has reviewed the summary memo and waiver. He indicated by E-mail on September 26, 2023, that he has no objection to the approval of the proposed change.

Water flowmeters will continue to be required, and it appears the wells are metered. A check valve will be required if any chemical or foreign substance is injected through the diversion works. A water level measurement tube WWC-5 will not be required. Approval of the change will not result in any abandoned wells, so there is no need to include the well plugging per KDHE requirements information or paragraph in the transmittal letter. The compliance investigation found the irrigation well to not be equipped so notice of completion with a 2024 date will be required of the approval.

Based on the above discussion, that no change in the local source of supply will occur, the change is reasonable, that impairment to existing water rights is unlikely, that there are no pending applications within the vicinity of this proposed change request that may be affected by this approval, is recommended that the referenced application be approved.



Leslie Ireland
Environmental Scientist
Change Application Unit

Ireland, Leslie [KDA]

From: Meyer, Mike [KDA]
Sent: Tuesday, September 26, 2023 10:37 AM
To: Ireland, Leslie [KDA]
Subject: RE: File No. 21106 Seaboard Change App PD

Yes I recommend approval

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Tuesday, September 26, 2023 10:34 AM
To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Subject: RE: File No. 21106 Seaboard Change App PD

Mike,

Please let me know if you'd recommend the change as summarized.. as always something weird.

The compliance investigation found the irrigation well to not be equipped so notice of completion with a 2024 date will be required of the approval.

I did a 2024 date as Laura is out for two weeks and Oct will probably pull for N&P .. so Oct 2024 a letter will go out..... 2023 might be too soon for us and them???

Comments and concerns are welcome.

Leslie Ireland

From: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Sent: Tuesday, September 26, 2023 8:53 AM
To: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>; McColloch, Austin [KDA] <Austin.McColloch@ks.gov>
Subject: RE: File No. 21106 Seaboard Change App PD

Here ya go

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Tuesday, September 26, 2023 8:02 AM
To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>; McColloch, Austin [KDA] <Austin.McColloch@ks.gov>
Subject: FW: File No. 21106 Seaboard Change App PD

Mike & Austin,

Looking at this change I am wondering where the feet distances came from.

I thought they were a Mitch Cl.. but am not finding that when I look at the file. Is there any information out there ??
I can't pin down the data used for this application and wonder if it is just a do and then go see process application. GMD was OK with it.

Leslie

From: Ireland, Leslie [KDA]
Sent: Thursday, September 7, 2023 3:14 PM
To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Subject: RE: File No. 21106 Seaboard Change App PD

Will do.. thanks...

PS... meets 5-5-1e1A Then to me that would meet GMD rule of no waiver needed as really not moving, but will let Jason make that call.

Working on that Ft. Aubrey... Frontier.. Rio vista project.. it is big.

From: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Sent: Thursday, September 7, 2023 3:05 PM
To: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Subject: RE: File No. 21106 Seaboard Change App PD

Ughh I wouldn't think so just for a correction. Send to Jason

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Thursday, September 7, 2023 9:05 AM
To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Subject: File No. 21106 Seaboard Change App PD

Mike,

Good Morning... Was in central KS.. dryland corn is cutting in progress probably done.... wind so strong corn leaves everywhere!!

Do I need Shore's signature? This change is to correct the location of the existing stk wells which places the geo center 461 feet from the authorized....all paper.....Originally I thought I did so I tried to get their signature via tenant in July... no reply.. and even wonder if Bert got the email as I could never get him on the phone. Now I wonder if I need it as no physical movement of the wells.. 5-5-1e1A.. you have probably worked with this rule the most.

I would rather send it to Jason.. so he can look at if waiver of spacing is needed..

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 POINT OF DIVERSION
WATER RIGHT
FILE NO. 21,106**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Stephen Summerlin, on behalf of Seaboard Foods LLC, 2801 Hurliman Road, Guymon, Oklahoma, 73942, received in this office on November 14, 2022, for approval of a change in the location of the points 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 July 25, 1995, approving the application to change the authorized point of diversion, place of use and use made of water, the Correctional Order of the Chief Engineer dated November 1, 1995, correcting the approval of application for change, the Order of the Chief Engineer dated August 12, 1996, approving the application to change the point of diversion and use made of water, finds that the change is reasonable and will not impair existing rights, that the change relates to the same local source of supply 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 point of diversion authorized for stockwatering shall be:

a battery of two (2) wells with a geographic center located in the Northwest Quarter of Lot 3 (NE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 5, more particularly described as being near a point 5,200 feet North and 3,342 feet West of the Southeast corner of said section, in Township 31 South, Range 40 West, Morton County, Kansas,

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

one (1) well located near the center of the West Side of the Southwest Quarter (SW $\frac{1}{4}$) of Section 34, more particularly described as being near a point 1,192 feet North and 5,196 feet West of the Southeast corner of said section, in Township 30 South, Range 40 West, Stanton 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.

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

October 19, 2023

ENVIRONMENTAL ENGINEERING MANAGER
SEABOARD FOODS LLC
2801 HURLIMAN RD
GUYMON OK 73942

RE: Water Right
File No. 21,106

Dear Sir or Madam:

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

Your attention is directed to the enclosures and to the terms and conditions specified in the approval for change. A condition of the approval is that a water flowmeter meeting the current specifications in K.A.R. 5-1-4 through 5-1-12 must be installed on the diversion works authorized under the referenced file prior to the diversion of water. Please return the required notification of completion of the diversion works and installation of the required meter(s) prior to the diversion of water.

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

Additional information and the Notice of Completion form may be found on our website at agriculture.ks.gov/dwr. If you have any questions or need assistance with any of these requirements, please contact our staff at the Garden City Field Office, their phone number is 620-276-2901. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

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

KAB:kak:li
Enclosures

pc: Eugene L. & Janet M. Shore Trusts
Garden City Field Office
Southwest Kanas 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.

CERTIFICATE OF SERVICE

On this 19 day of October, 2023, I hereby certify that the attached original Approval of Application for the Change in Point of Diversion, Water Right, File No. 21,106, dated October 3, 2023, was mailed postage prepaid, first class, US mail to the following:

SEABOARD FOODS LLC
2801 HURLIMAN RD
GUYMON OK 73942

With a True and Correct Copy to:

EUGENE L & JANET M SHORE TRUSTS
1013 WICHITA DR
ULYSSES KS 67880-1549

SEABOARD FOODS LLC
9000 W 67TH ST, SUITE 200
SHAWNEE MISSION, KS 66202

With Photocopies to:
DWR Garden City Field Office
Groundwater Management District No. 3


Division of Water Resources