

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

MEMORANDUM

TO: Files

DATE: August 30, 2024

FROM: Leslie Ireland

RE: Water Right, File No. 10,615

Keith Bryant on behalf of Cobalt Cattle Company LLC owner of the referenced water right, have submitted an application for approval to change the use made of water from irrigation to stockwatering and place of use from the irrigated place of use to their existing feedlot. The application was received July 22, 2024, is in the Ladder Creek Basin, Wichita County and the Wichita County LEMA of Western Kansas Groundwater Management District No. 1 (GMD 1).

The referenced file is considered not to be abandoned per K.S.A. 82a-718 and in compliance with K.S.A. 82a-732. It would appear notice per K.S.A. 82a-1906 is not needed as the wells located in the area notification area are owned by the applicant. The application appears to comply with comply with K.A.R. 5-5-2a, *Complete change application*.

The 2023 water right was acquired separately from the authorized place of use. The 135 acre-feet (AF) at 620 gallons per minute from one well located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 16, in Township 17 South, Range 36 West, Wichita County. The location of the well will be updated to add the feet distances of 1,403 feet North and 5,276 feet West as determined by a 2020 Compliance Investigation. The currently authorized 128 acres located in portions of Sections 16 & 21, will no longer be authorized for irrigation use. These irrigated acres are not authorized by any other rights. The proposed place of use is the feedlot described as being in the SW $\frac{1}{4}$ & E $\frac{1}{2}$ of Section 11, and all of Section 12, in Township 17 South, Range 37 West, Wichita County. It is presently authorized 12 wells under 10 water rights File Nos. 1027; 19,838; 22,281 25,026; 36,522; 36,523; 36,524; 36,525; 36,526 & 44,367.

The proposed place of use for the stockwatering use will make a complete overlap with the currently authorized rights.

Pursuant to 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 another type of beneficial use*, the consumptive use for Wichita County is 82.8 percent allowed to be retained for another use.

$$135 \text{ AF} \times 0.828 = 111.78 \text{ AF or } 36.424 \text{ mgd allowed to be changed}$$

The owner has acknowledged on the application the quantity will be reduced.

The historical quantity complies with K.A.R. 5-5-3, *Change in consumptive use*.

The justification for the quantity of water was submitted by the applicant. They have a feedyard capacity of an average of 90,000 head per month. The usage listed 14 gallons per day per head for drinking or an average 459.9 million gallons or 1,411.4 acre-feet per year for just drinking. The requested 36.423 million gallons (111.78 AF) and the currently authorized files would provide a total of 642.893 million gallons or (1,973 AF). Under K.A.R. 5-3-22, the maximum quantity of water for 90,000 head of beef cattle in an open lot would be 492.75 million gallons or 1,212.2 AF per year for drinking water. Information would indicate the facility has two feed mill operations that could utilize water. The owners have filed Term Permit, File No. 20249042, that will limit the total quantity to 575.0 million gallons (1,764.6 AF) under the LEMA through 2025. The referenced file is included in this term permit. While the term permit will allow for flexibility at the facility the well capacities need to be considered, therefore the requested quantity will not be limited with that currently authorized.

In a letter dated August 29, 2024, Katie Durham, District Manager, of GMD 1 indicated that the proposed change was recommended for approval.

Michael Meyer, Water Commissioner of the Garden City Field Office indicated in his email dated August 30, 2024, that he has no objection to the approval of the proposed change.

A water flow meter will be required on the existing well, for File No. 10,615, which will now be authorized for stockwatering use according to K.S.A. 82a-706c. A check valve will be required 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 and WWC-5 will not be required as no new well has been authorized to be drilled.

Based on the above discussion, that the change to the new use is reasonable, and should not result in an increased consumptive use of water, and that impairment to existing water rights is unlikely, it is recommended that the change for File No. 10,615, be approved.



Leslie Ireland
Environmental Scientist
Water Appropriations

From: [Meyer, Mike \[KDA\]](#)
To: [Ireland, Leslie \[KDA\]](#)
Subject: RE: Review and Recommendation for Change File No. 10615 Cobalt Cattle Co LLC
Date: Friday, August 30, 2024 7:07:11 AM
Attachments: [image001.png](#)

Thank you I recommend approve and please expedite

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Thursday, August 29, 2024 5:39 PM
To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Subject: Review and Recommendation for Change File No. 10615 Cobalt Cattle Co LLC

Mike,

Please let me know if the summary accurately reflects the proposal and if you'd recommend the requested change.

I believe you have seen the updates to the application since it was filed and GMD recommendation.

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
BETTER DESCRIBING THE AUTHORIZED POINT OF DIVERSION
WATER RIGHT
FILE NO. 10,615**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Keith Bryant, on behalf of Cobalt Cattle Company, LLC, 921 Larue Road Suite A, Garden City, Kansas 67846, received in this office on July 22, 2024, for approval of a change in the use made of water and location of the place of use 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.

This order effectively reduces the authorized quantity to 36.424 million gallons of water (111.78 acre-feet) per calendar.

The effective date of the change shall be the date this order is executed by the Chief Engineer, after which the use made of water shall be:

Stockwatering use,

and authorized location of the place of use shall be:

a feedlot in the Southwest Quarter (SW $\frac{1}{4}$) and in the East Half (E $\frac{1}{2}$) of Section 11, and all of Section 12, in Township 17 South, Range 37 West, Wichita County, Kansas,

located substantially as shown on the map accompanying the application to change the use made of water and place of use, and the location of the authorized point of diversion shall be better described as:

one (1) well located in the Southwest Quarter of the Northwest Quarter of the Southwest Quarter (SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 16, more particularly described as being near a point 1,403 feet North and 5,276 feet West of the Southeast corner of said section, in Township 17 South, Range 36 West, Wichita 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. 10,615, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation, dated March 26, 1982.

Ordered this 30th day of August, 2024, in Manhattan, Riley County, Kansas.



Earl D. Lewis Jr.

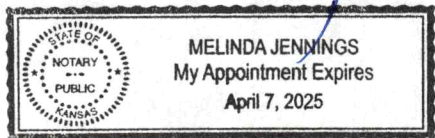
Earl D. Lewis Jr., P.E.
Chief Engineer
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 30 day of August, 2024, 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

September 6, 2024

KEITH BRYANT
COBALT CATTLE COMPANY LLC
921 LARUE RD STE A
GARDEN CITY KS 67846

RE: Water Right
File No. 10,615

Dear Mr. Bryant:

Enclosed is the order executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the referenced application for change. Since this order modifies the certificate of appropriation for the above referenced water right, it should be recorded with the Register of Deeds as other instruments affecting real estate.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in the enclosed change approval document. As a condition of the approval, an acceptable water flowmeter be installed prior to the diversion of water. The form to report the installation of the required meter may be found on our website at www.agriculture.ks.gov/dwr.

If you have any questions regarding the enclosed document, please contact our office at 785-564-6640. Inquiries regarding the metering requirements and your meter installation should be directed to our staff at the Garden City Field Office at 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:kak:li

Enclosures

pc: Garden City Field Office
Western Kansas GMD 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 *16th* day of *September*, 2024, I hereby certify that the attached Approval of Application for Change in Place of Use under, File No. 10,615 dated *August 30*, 2024, was mailed postage prepaid, first class, US mail to the following:

COBALT CATTLE COMPANY LLC
921 LARUE RD STE A
GARDEN CITY KS 67846

With a Photocopy to:

KDA-DWR Garden City Field Office

Western Kansas GMD No. 1


Division of Water Resources