

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources
M E M O R A N D U M

TO: Files
FROM: Richelle A. Krueger

DATE: June 7, 2017
RE: Application, File No. 49,690
Water Right
File Nos. 588.05 and 33,161

Keith Mull and Rick Stimatze, on behalf of Mull Investments, L.P., filed Application, File No. 49,690 to appropriate 4.89 million gallons (15 acre-feet) of groundwater for stockwatering use at a feedlot operation, including a flaking mill in the Northwest Quarter (NW¼) and the Northwest Quarter of the Southeast Quarter (NW¼ SE¼) of Section 17, Township 21 South, Range 15 West, Pawnee County Kansas in the Arkansas River Basin. The proposed point of diversion has no current overlaps and is located 2,938 feet North and 2,060 feet West of the Southeast corner of Section 17. Applications to change the place of use have been submitted for File Nos. 588.05 and 33,161 to create an exact overlap in place of use with File No. 49,690.

File No. 49,690 is exempt from sustainable yield criteria of K.A.R. 5-25-4 (a) *Sustainable yield* since it is 15 acre-feet or less and the requested quantity will be offset by a quantity reduction from Water Right, File No. 5,428 in accordance with K.A.R. 5-25-15 *Exemptions for up to 15 acre-feet of groundwater*.

File Nos. 588.05 and 33,161 do not appear abandoned pursuant to K.S.A. 82a-718 and are both authorized stockwatering use for the same feedlot located in the Northwest Quarter (NW¼) of Section 17. The authorized point of diversion of File No. 588.05 overlaps one of the two wells authorized by File No. 33,161. The referenced change in place of use applications will add the flaking mill in the Northwest Quarter of the Southeast Quarter (NW¼ SE¼) of Section 17 to their place of use, creating a complete overlap in place of use with File No. 49,690. The quantity authorized by File No. 49,690 will account for any increase in consumptive use. The applicants submitted justification for the authorized quantity.

There are three non-domestic wells and one domestic well all under common ownership within one-half mile of the proposed existing well for File No. 49,690. No notification of nearby well owners was required for File Nos. 588.05 and 33,161 either since all wells within one-half mile are under common ownership. The proposed existing well for File No. 49,690 does not meet 1,320 feet well spacing requirements of KAR 5-25-2 *Well spacing* to two wells (File Nos. 12,410 and 33,161) under common ownership.

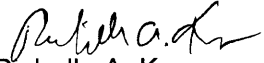
The source of supply for all the files was previously determined to Main Stem Alluvium (113), no change in the same local source of supply is proposed for File Nos. 588.05 and 33,161.

In letters dated May 12, 2017, received May 16, 2017, Orrin Feril, Manager of Big Bend Groundwater Management District No. 5 indicated that the Board recommended a waiver of KAR 5-25-2 for File No. 49,690 and approval of all the referenced applications if the reduction request for File No. 5,428 is approved by the Chief Engineer.

The authorized points of diversion for File Nos. 588.05 and 33,161 will be better described with g.p.s. feet distances as indicated on the applications.

In a June 5, 2017 e-mail Jeff Lanterman, Water Commissioner of the Stafford Field Office, recommended approval of the referenced applications.

Based on the above discussion, it has been recommended that the referenced applications be approved.


Richelle A. Krueger
Environmental Scientist

1320 Research Park Drive
Manhattan, Kansas 66502
(785) 564-6700



900 SW Jackson, Room 456
Topeka, Kansas 66612
(785) 296-3556

Jackie McClaskey, Secretary

Governor Sam Brownback

June 22, 2017

FILE COPY

MULL INVESTMENTS LP
ATTN KEITH W MULL
553 R RD
PAWNEE ROCK KS 67567

RE: Appropriation of Water, File No. 49,690
Water Right, File Nos. 588.05 and 33,161

Dear Mr. Mull:

There is enclosed a permit (File No. 49,690) to appropriate water authorizing you to proceed with construction of the proposed diversion works (except those dams and stream obstructions regulated by K.S.A. 82a-301 through 305a), to divert such unappropriated water as may be available from the source and at the location specified in the permit, and to use it for the purpose and at the location described in the permit.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in this permit. A water meter is required and you must install it prior to water being put to beneficial use in order for you to maintain accurate records of water use. The meter should be used to provide the information required on the annual water use report.

Failure to notify the Chief Engineer of the Division of Water Resources of the completion of the diversion works within the time allowed, or within any authorized extension of time thereof, will result in the dismissal of this permit. Enclosed is a form which may be used to notify the Chief Engineer that the proposed diversion works have been completed.

All requests for extensions of time to complete diversion works, or to perfect appropriations, must be submitted to the Chief Engineer before the expiration of time originally set forth in the permit to complete diversion works or to perfect an appropriation. If for any reason, you require an extension of time, you must request it before the expiration of time set forth in this permit. Failure to comply with this regulation will result in the dismissal of your permit or your water right. Any request for an extension of time shall be accompanied by the required statutory fee, which is currently \$100.00.

There is also enclosed an information sheet setting forth the procedure to obtain a Certificate of Appropriation which will establish the extent of your water right.

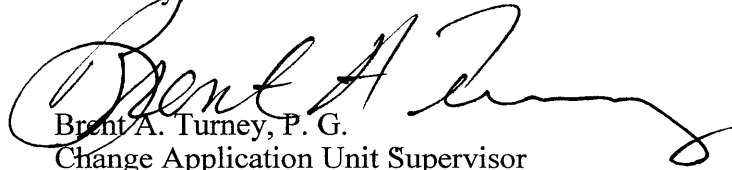
In addition, enclosed are orders executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the applications for change under Water Right, File Nos. 588.05 and 33,161. Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in these approvals for change. A condition of these approvals is that acceptable water flow meters must be installed on the diversion works authorized under the referenced file numbers. Please return the required notification of completion of the installation of the required meters as soon as these actions are completed.

Mull Investments LP
File Nos. 588.05; 33,161 and 49,690
Page 2

Please be reminded that reports of water usage must be submitted to this office annually. Records indicating the amount of water used should be furnished to the Chief Engineer by March 1 following the end of the previous calendar year so that the continued use of water becomes a matter of record in this office. The owner, or his or her legally designated agent, is held responsible for submitting annual water use reports. Failure to file an accurate water use report is a violation of law which makes you subject to civil penalties.

If you have any questions, please contact our office. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,



Brent A. Turney, P. G.
Change Application Unit Supervisor
Water Appropriation Program

BAT:rak

Enclosures

pc: Stafford Field Office
Groundwater Management District No. 5



KANSAS DEPARTMENT OF AGRICULTURE
Jackie McClaskey, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

FILE COPY

**APPROVAL OF APPLICATION
and
PERMIT TO PROCEED**

(This is not a Certificate of Appropriation)

This is to certify that I have examined Application **File No. 49,690** of the applicant

**MULL INVESTMENTS LP
553 R RD
PAWNEE ROCK KS 67567**

for a permit to appropriate water for beneficial use, together with the maps, plans and other submitted data, and that the application is hereby approved and the applicant is hereby authorized, subject to vested rights and prior appropriations, to proceed with the construction of the proposed diversion works (except those dams and stream obstructions regulated by K.S.A. 82a-301 through 305a, as amended), and to proceed with all steps necessary for the application of the water to the approved and proposed beneficial use and otherwise perfect the proposed appropriation subject to the following terms, conditions and limitations:

1. That the priority date assigned to such application is **August 25, 2016**.
2. That the water sought to be appropriated shall be used for stockwatering use at a feedlot operation located in the Northwest Quarter (NW $\frac{1}{4}$) and the Northwest Quarter of the Southeast Quarter (NW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 17, Township 21 South, Range 15 West, Pawnee County, Kansas.
3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of one (1) well located in the Southwest Quarter of the Southwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 17, more particularly described as being near a point 2,938 feet North and 2,060 feet West of the Southeast corner of said section, in Township 21 South, Range 15 West, Pawnee County, Kansas, located substantially as shown on the map accompanying the application.
4. That the appropriation sought shall be limited to a maximum diversion rate not in excess of **99 gallons per minute (0.22 c.f.s.)** and to a quantity not to exceed **4.88 million gallons (15 acre-feet)** of water for any calendar year.
5. That installation of works for diversion of water shall be completed on or before **December 31, 2018** or within any authorized extension thereof. The applicant shall notify the Chief Engineer and pay the statutorily required field inspection fee of \$400.00 when construction of the works has been completed. Failure to timely submit the notice and the fee will result in revocation of the permit. Any request for an extension of time shall be submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee of \$100.00.
6. That the proposed appropriation shall be perfected by the actual application of water to the proposed beneficial use on or before **December 31, 2022** or any authorized extension thereof. Any request for an extension of time shall be submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee of \$100.00.

7. That the applicant shall not be deemed to have acquired a water appropriation for a quantity in excess of the amount approved herein nor in excess of the amount found by the Chief Engineer to have been actually used for the approved purpose during one calendar year subsequent to approval of the application and within the time specified for perfection or any authorized extension thereof.

8. That the use of water herein authorized shall not be made so as to impair any use under existing water rights nor prejudicially and unreasonably affect the public interest.

9. That the right of the appropriator shall relate to a specific quantity of water and such right must allow for a reasonable raising or lowering of the static water level and for the reasonable increase or decrease of the streamflow at the appropriator's point of diversion.

10. That this permit does not constitute authority under K.S.A. 82a-301 through 305a to construct any dam or other obstruction; nor does it grant any right-of-way, or authorize entry upon or injury to, public or private property.

11. That all diversion works constructed under the authority of this permit 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.

12. That all wells with a diversion rate of 100 gallons per minute or more drilled under the authority of this permit shall have a tube or other device installed in a manner acceptable to, and in accordance with specifications adopted by, the Chief Engineer. This tube or device shall be suitable for making water level measurements and shall be maintained in a condition satisfactory to the Chief Engineer.

13. That an acceptable water flow meter shall be installed and maintained on the diversion works authorized by this permit in accordance with the Kansas Administrative Regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer. This water flow meter shall be used to provide an accurate quantity of water diverted as required for the annual water use report (including the meter reading at the beginning and end of the report year).

14. That the applicant shall maintain accurate and complete records from which the quantity of water diverted during each calendar year may be readily determined and the applicant shall file an annual water use report with the Chief Engineer by March 1 following the end of each calendar year. Failure to file the annual water use report by the due date shall cause the applicant to be subject to a civil penalty.

15. That no water user shall engage in nor allow the waste of any water diverted under the authority of this permit.

16. That failure without cause to comply with provisions of the permit and its terms, conditions and limitations will result in the forfeiture of the priority date, revocation of the permit and dismissal of the application.

17. That the right to appropriate water under authority of this permit is subject to any minimum desirable streamflow requirements identified and established pursuant to K.S.A. 82a-703c for the source of supply to which this water right applies.

This Order shall become a final agency action, as defined by K.S.A. 77-607(b), without further notice to the parties, if a request for hearing or a petition for administrative review is not filed as set forth below.

Kansas Department of Agriculture
 Division of Water Resources
WAIVER REQUEST & WAIVER RULE WORKSHEET

File Number: 49,690

FO: 2

GMD: 5

WAIVER REQUEST:

UMW	Date Requested	Rule ID	Applies	Rule Type	Rule Subtype
IRR	08/25/16	123	GMD 5	Well Spacing	Well to Well Spacing Non-Domestic
Rule Number	Date Granted	Date Denied	Justification:	GMD No. 5 recommends approval of the application. The wells in question are under common ownership. The same local source of supply will not change.	
K.A.R. 5-25-2(a)(1)	6/20/2017				

WAIVER RULE:

Rule ID	Applicability	Type	Subtype	Rule Number	Date Active	Date Inactive

Date Prepared 6/07/17 By RAK

Date Entered 6/21/2017 By UM



KANSAS DEPARTMENT OF AGRICULTURE
Jackie McClaskey, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

WAIVER OF REGULATION
K.A.R. 5-25-2 (a)(1)
Well Spacing

Date: 6/20/2017

Re: Application, File No. 49,690

1. That K.A.R. 5-25-2 (a)(1) *Well spacing* states in part that non-domestic wells shall be 1,320 feet from all other non-domestic wells and proposed non-domestic wells that carry an earlier priority; and baseflow nodes.
2. Application, File No. 49,690, located in the Arkansas River Basin, proposes the appropriation of 15 acre-feet of water at a diversion rate of 99 gallons per minute for stockwatering use from an existing well for an existing feedlot and will share a common place of use with Water Right, File Nos. 588.05 and 33,161.
3. That the proposed existing well under File No. 49,690 does not meet the 1,320 feet well spacing requirements to an existing irrigation well authorized by Water Right, File No. 12,410 since the wells in question are approximately 1,296 feet apart or to a stockwatering well authorized by Water Right File No. 33,161 since the wells are approximately 675 feet apart. The wells are all under common ownership.
4. That in a letter dated May 12, 2017, Big Bend Groundwater Management District No. 5 recommended approval of the referenced application and waiver of K.A.R. 5-25-2 (a)(1) on the condition that the offset reduction request for Water Right, File No. 5,428 is approved.
5. That the referenced application for File Nos. 49,690 should be approved with a waiver of K.A.R. 5-25-2 (a)(1).
6. That the waiver of K.A.R. 5-25-2 (a)(1) will neither prejudicially nor unreasonably affect the public interest and it will not impair an existing water right.

Comments:

A handwritten signature in black ink that reads "David W. Barfield". The signature is written in a cursive style and is positioned above a horizontal line.

David W. Barfield, P.E.
Chief Engineer
Division of Water Resources
Kansas Department of Agriculture

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Jackie McClaskey, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

File Number 49,690
This item to be completed by the Division of Water Resources.

WATER RESOURCES
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APPLICATION FOR PERMIT TO
APPROPRIATE WATER FOR BENEFICIAL USE

Filing Fee Must Accompany the Application
(Please refer to Fee Schedule attached to this application form.)

AUG 25 2016

12:51
KS DEPT OF AGRICULTURE

To the Chief Engineer of the Division of Water Resources, Kansas Department of Agriculture,
1320 Research Park Drive, Manhattan, Kansas 66502:

1. Name of Applicant (Please Print): Mull Investments LP
* Address: 549 R Rd. 553 R Rd
City: Pawnee Rock State KS Zip Code 67567
Telephone Number: (620) 982-4336

2. The source of water is: surface water in _____ (stream)
OR groundwater in Arkansas River Basin (drainage basin)

Certain streams in Kansas have minimum target flows established by law or may be subject to administration when water is released from storage for use by water assurance district members. If your application is subject to these regulations on the date we receive your application, you will be sent the appropriate form to complete and return to the Division of Water Resources.

3. The maximum quantity of water desired is 15 acre-feet OR --- gallons per calendar year,
to be diverted at a maximum rate of 99 gallons per minute OR --- cubic feet per second.

Once your application has been assigned a priority, the requested maximum rate of diversion and maximum requested quantity of water under that priority number can **NOT** be increased. Please be certain your requested maximum rate of diversion and maximum quantity of water are appropriate and reasonable for your proposed project and are in agreement with the Division of Water Resources' requirements.

4. The water is intended to be appropriated for (Check use intended):
(a) Artificial Recharge (b) Irrigation (c) Recreational (d) Water Power
(e) Industrial (f) Municipal (g) Stockwatering (h) Sediment Control
(i) Domestic (j) Dewatering (k) Hydraulic Dredging (l) Fire Protection
(m) Thermal Exchange (n) Contamination Remediation

YOU **MUST** COMPLETE AND ATTACH ADDITIONAL DIVISION OF WATER RESOURCES FORM(S) PROVIDING INFORMATION TO SUBSTANTIATE YOUR REQUEST FOR THE AMOUNT OF WATER FOR THE INTENDED USE REFERENCED ABOVE.

For Office Use Only:

F.O. 2 GMD 5 Meets K.A.R. 5-3-1 (YES/NO) Use STK Source G/S County PN By ADW Date 8/25/16
Code RELA Fee \$ 200 TR # _____ Receipt Date 8/25/16 Check # 678

69 RA K

* 1/25/16

SCANNED

9/1/2016 LM

File No. 5428 Offset math

Per K.A.R. 5-2-15

Authorized Quant. =	195 AF
Perfection Acres =	172 acres
PN Co. 50% NIR =	1.06 feet

Step 1

Perfection acres x 50% NIR = Max Q for entire right that can be converted

172 acres x 1.06' = 182.32 AF

Step 2

Q needed after conversion / Max Q that can be converted = % of entire reduced right that will be changed

15 AF / 182.32 AF = 8.23%

Step 3

100% - % of entire right that will be changed = % of authorized quantity that can remain

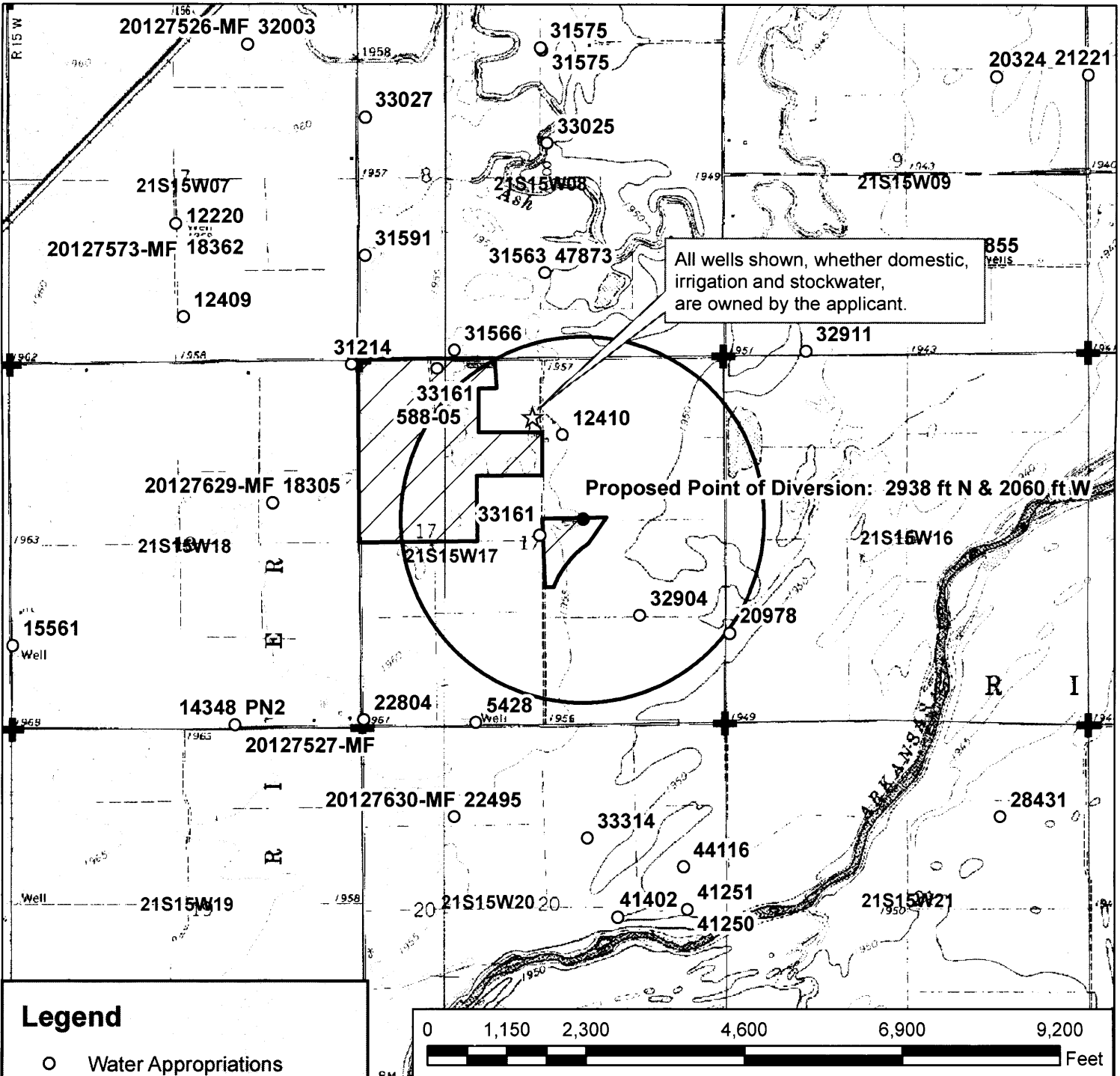
100 % - 8.23 % = 91.77%

91.77% x 195 AF = 178.96 AF

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AUG 25 2016

KS DEPT OF AGRICULTURE **SCANNED**



All wells shown, whether domestic, irrigation and stockwater, are owned by the applicant.

Proposed Point of Diversion: 2938 ft N & 2060 ft W

Legend

- Water Appropriations
- Proposed Point of Diversion
- ☆ Domestic Well
- ⊕ Section Corner
- Half Mile Circle
- Section Line

Place of Use

- ▨ Proposed

Water Appropriation, File No.

Permit to Proceed Application Map
 Overlap w/ File No. 588-05 & 33161
 17-21S-15W // Pawnee County

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 AUG 25 2016

To the best of my knowledge, all of the domestic wells within 1/2 mile of the authorized point of diversion have been shown.

Signature

SCANNED

8/12/16 EKF-SFFO

5. The location of the proposed wells, pump sites or other works for diversion of water is:

Note: For the application to be accepted, the point of diversion location must be described to at least a 10 acre tract, unless you specifically request a 60 day period of time in which to locate the site within a specifically described, minimal legal quarter section of land.

(A) One in the SW quarter of the SW quarter of the NE quarter of Section 17, more particularly described as being near a point 2,938 feet North and 2,060 feet West of the Southeast corner of said section, in Township 21 South, Range 15 West, Pawnee County, Kansas.

(B) One in the _____ quarter of the _____ quarter of the _____ quarter of Section _____, more particularly described as being near a point _____ feet North and _____ feet West of the Southeast corner of said section, in Township _____ South, Range _____ East/West (circle one), _____ County, Kansas.

(C) One in the _____ quarter of the _____ quarter of the _____ quarter of Section _____, more particularly described as being near a point _____ feet North and _____ feet West of the Southeast corner of said section, in Township _____ South, Range _____ East/West (circle one), _____ County, Kansas.

(D) One in the _____ quarter of the _____ quarter of the _____ quarter of Section _____, more particularly described as being near a point _____ feet North and _____ feet West of the Southeast corner of said section, in Township _____ South, Range _____ East/West (circle one), _____ County, Kansas.

If the source of supply is groundwater, a separate application shall be filed for each proposed well or battery of wells, except that a single application may include up to four wells within a circle with a quarter (1/4) mile radius in the same local source of supply which do not exceed a maximum diversion rate of 20 gallons per minute per well.

A battery of wells is defined as two or more wells connected to a common pump by a manifold; or not more than four wells in the same local source of supply within a 300 foot radius circle which are being operated by pumps not to exceed a total maximum diversion rate of 800 gallons per minute and which supply water to a common distribution system.

6. The owner of the point of diversion, if other than the applicant is (please print):

Same as Applicant

(name, address and telephone number)

(name, address and telephone number)

You must provide evidence of legal access to, or control of, the point of diversion from the landowner or the landowner's authorized representative. Provide a copy of a recorded deed, lease, easement or other document with this application. In lieu thereof, you may sign the following sworn statement:

I have legal access to, or control of, the point of diversion described in this application from the landowner or the landowner's authorized representative. I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 16, 2016. Rich Stenke
Applicant's Signature

The applicant must provide the required information or signature irrespective of whether they are the landowner. Failure to complete this portion of the application will cause it to be unacceptable for filing and the application will be returned to the applicant.

7. The proposed project for diversion of water will consist of one well and diversion works
(number of wells, pumps or dams, etc.)
and was completed (by) _____
(Month/Day/Year - each was or will be completed)

8. The first actual application of water for the proposed beneficial use was or is estimated to be _____
(Mo/Day/Year)

WATER RESOURCES
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AUG 25 2016

9. Will pesticide, fertilizer, or other foreign substance be injected into the water pumped from the diversion works?
 Yes No If "yes", a check valve shall be required.

All chemigation safety requirements must be met including a chemigation permit and reporting requirements.

10. If you are planning to impound water, please contact the Division of Water Resources for assistance, prior to submitting the application. Please attach a reservoir area capacity table and inform us of the total acres of surface drainage area above the reservoir.

Have you also made an application for a permit for construction of this dam and reservoir with the Division of Water Resources? Yes No

- If yes, show the Water Structures permit number here --- _____
- If no, explain here why a Water Structures permit is not required --- _____

11. The application must be supplemented by a U.S.G.S. topographic map, aerial photograph or a detailed plat showing the following information. On the topographic map, aerial photograph, or plat, identify the center of the section, the section lines or the section corners and show the appropriate section, township and range numbers. Also, please show the following information:

- (a) The location of the proposed point(s) of diversion (wells, stream-bank installations, dams, or other diversion works) should be plotted as described in Paragraph No. 5 of the application, showing the North-South distance and the East-West distance from a section line or southeast corner of section.
- (b) If the application is for groundwater, please show the location of any existing water wells of any kind within 1/2 mile of the proposed well or wells. Identify each existing well as to its use and furnish the name and mailing address of the property owner or owners. If there are no wells within 1/2 mile, please advise us.
- (c) If the application is for surface water, the names and addresses of the landowner(s) 1/2 mile downstream and 1/2 mile upstream from your property lines must be shown.
- (d) The location of the proposed place of use should be shown by crosshatching on the topographic map, aerial photograph or plat.
- (e) Show the location of the pipelines, canals, reservoirs or other facilities for conveying water from the point of diversion to the place of use.

A 7.5 minute U.S.G.S. topographic map may be obtained by providing the section, township and range numbers to: Kansas Geological Survey, 1930 Constant, Campus West, University of Kansas, Lawrence, Kansas 66047.

12. List any application, appropriation of water, water right, or vested right file number that covers the same diversion points or any of the same place of use described in this application. Also list any other recent modifications made to existing permits or water rights in conjunction with the filing of this application.

There are no other permits on the proposed point of diversion except a temporary permit. The proposed place of use is authorized by File No. 588-05 and 33161. A change has been filed to create a complete overlap. An offset is needed for this permit. A reduction request has been filed under Water Right, File No. 5428 to be processed as the required offset. See attached for offset calculations.

A waiver is requested for K.A.R. 5-4-4 well spacing. Spacing is not met to File No. 12410 and 33161 ID 10.

* 5-25-2 (a)

* RSK/2011 4/7/17

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AUG 25 2016

SCANNED

13. Furnish the following well information if the proposed appropriation is for the use of groundwater. If the well has not been completed, give information obtained from test holes, if available.

Information below is from: Test holes Well as completed Drillers log attached

Well location as shown in paragraph No.	(A)	(B)	(C)	(D)
Date Drilled	_____	_____	_____	_____
Total depth of well	_____	_____	_____	_____
Depth to water bearing formation	_____	_____	_____	_____
Depth to static water level	_____	_____	_____	_____
Depth to bottom of pump intake pipe	_____	_____	_____	_____

14. The relationship of the applicant to the proposed place where the water will be used is that of owner
(owner, tenant, agent or otherwise)

15. The owner(s) of the property where the water is used, if other than the applicant, is (please print):
Same as applicant
(name, address and telephone number)

(name, address and telephone number)

16. The undersigned states that the information set forth above is true to the best of his/her knowledge and that this application is submitted in good faith.

Dated at Pawnee Rock, Kansas, this 16 day of August, 2016.
(month) (year)

Rick Stumatz
(Applicant Signature)

By Keith W Mull
(Agent or Officer Signature)

Keith W Mull
(Agent or Officer - Please Print)

Assisted by EKF SFFO/ESII Date: 8/12/16
(office/title)

WATER RESOURCES RECEIVED

AUG 25 2016 SCANNED

8/16/16

(Date)

Kansas Department of Agriculture
Division of Water Resources
David W. Barfield, Chief Engineer
1320 Research Park Drive
Manhattan, Kansas 66502

Re: Application File No. 49,690

Minimum Desirable Streamflow

Dear Sir:

I understand that a Minimum Desirable Streamflow requirement has been established by the legislature for the source of supply to which the above referenced application applies.

I understand that diversion of water pursuant to this application will be subject to regulation any time Minimum Desirable Streamflow requirements are not being met.

I also understand that if this application is approved, there could be times, as determined by the Division of Water Resources, when I would not be allowed to divert water. I realize that this could affect the economics of my decision to appropriate water.

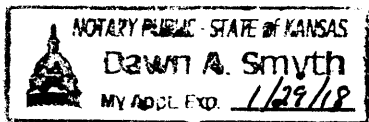
I am aware of the above factors, and with the knowledge thereof, request that the Division of Water Resources proceed with processing and approval, if possible, of the above referenced application.

Rick Stimatze
Signature of Applicant

State of Kansas)
County of Pawnee) ss

Rick Stimatze
(Print Applicant's Name)

I hereby certify that the foregoing instrument was signed in my presence and sworn to before me this 16 day of August, 20 16.



Dawn A. Smyth
Notary Public

My Commission Expires:

WATER RESOURCES
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AUG 25 2016

**MINIMUM DESIRABLE STREAMFLOW FORM TO BE USED WHEN
APPLICABLE WHEN FILING AN APPLICATION FOR PERMIT
TO APPROPRIATE WATER FOR BENEFICIAL USE**

The Kansas Legislature has established minimum desirable streamflows for the streams listed below. If your proposed diversion of water is going to be from one of these watercourses or adjacent alluvial aquifers, please complete the back side of this page and submit it along with your application for permit to appropriate water.

Arkansas River
Big Blue River
Chapman Creek
Chikaskia River
Cottonwood River
Delaware River
Little Arkansas River
Little Blue River
Marais des Cygnes River
Medicine Lodge River
Mill Creek (Wabaunsee Co. area)
Neosho River

Ninnescah River
North Fork Ninnescah River
Rattlesnake Creek
Republican River
Saline River
Smoky Hill River
Solomon River
South Fork Ninnescah
Spring River
Walnut River
Whitewater River

**WATER RESOURCES
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AUG 25 2016

KS DEPT OF AGRICULTURE

SCANNED

**STOCKWATER USE
SUPPLEMENTAL SHEET**

File No. 49690

Name of Applicant (Please Print): Mull Investments LP

1. Please indicate type of livestock (cattle, hogs, etc.): Cattle

2. Please complete the following table showing past and present water requirements:

PAST NUMBER OF HEAD AND WATER DIVERTED, IF APPLICABLE

LAST 5 YEARS	NUMBER OF HEAD	WATER DIVERTED (GALLONS)	GALLONS PER HEAD PER DAY
5 years ago	9,032	N/A	N/A
Last year	8,791	63,704	7.25
Present Year	8,992	136,177	15.14

3. Please complete the following table showing estimated future water requirements:

ESTIMATED FUTURE NUMBER OF HEAD AND WATER DIVERTED

NEXT 5 YEARS	NUMBER OF HEAD	WATER TO BE DIVERTED (GALLONS)	GALLONS PER HEAD PER DAY
Year 1	10,000	54,750,000	15
Year 2	12,500	68,437,500	15
Year 3	14,000	76,650,000	15
Year 4	11,000	60,225,000	15
Year 5	13,000	71,175,000	15

Please attach any additional information, tables, or curves showing past, present and estimated future water requirements to substantiate the amount of water requested.

4. Please designate the legal description of the location where the water is to be used. Show in the space provided below the Section (S), Township (T), and Range (R), and the number of acres in each forty acre tract or fractional portion thereof.

S	T	R	NE¼				NW¼				SW¼				SE¼				TOTAL	
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
*	17	215	15W	A feed lot operation in NW¼ + NW¼ SE¼ of 17-215-15W Pawnee Co KS																

Already turned in

**WATER RESOURCES
RECEIVED**

* per proposed pt descriptions
File No. 585.05 & 33161 & per map
* RAK/DWT 6/7/17

APR 20 2017

KS DEPT OF AGRICULTURE

SCANNED

5. Show quantities of water used and all associated water uses at the feedlot such as water used in feed mills, cooling of animals, washing, flushing of wastes, etc.:

DRINKING

13,000 head of Cattle x 7.25 gallons/head (avg.) x 365 days = 34,401,250 gallons
_____ head of _____ x _____ gallons/head (avg.) x _____ days = _____ gallons
_____ head of _____ x _____ gallons/head (avg.) x _____ days = _____ gallons

COOLING

_____ gallons/hour x _____ hour/day x _____ days = _____ gallons

SANITATION

_____ g.p.m. x 60 min/hr x _____ hr/wk x _____ wks/yr = 1,297,210 gallons

OTHER USE (Explain) _____ = _____ gallons

TOTAL ----- 35,698,460 gallons

Total use for feedmill is 3,554 gallons/day

6. Show location of present and future location of confinement pens on your attached maps or photographs.

NW4 17-21-15

7. Total feed bunk space for cattle or livestock is 13,202 linear feet.

8. Total size of stock pens for confinement area of cattle, hogs, etc. is 20 square feet.

You may attach any additional information you believe will assist in informing the Division of Water Resources of the need for your request.

WATER RESOURCES RECEIVED

APR 20 2017

KS DEPT OF AGRICULTURE

SCANNED

* 10/17/17

**INDUSTRIAL USE
SUPPLEMENTAL SHEET**

File No. 49690

Name of Applicant (Please Print): Mull Investments LP

1. Please describe type of industry or product produced: Use for stock facility for feedmill
 _____ Standard Industrial Classification Code Number: _____

2. Please complete the following table to show your past and present water requirements:

PAST PRODUCT PRODUCTION AND WATER DIVERTED, IF APPLICABLE

LAST 5 YEARS	AMOUNT OF PRODUCT	WATER DIVERTED (GALLONS)	GALLONS PER PRODUCT PER DAY
5 years ago	N/A	1,297,210	3,554
Last year	N/A	1,297,210	3,554
Present year	N/A	1,297,210	3,554

3. Please complete the following table to show your future water requirements:

ESTIMATED FUTURE PRODUCT PRODUCTION AND WATER DIVERTED

NEXT 5 YEARS	AMOUNT OF PRODUCT	WATER TO BE DIVERTED (GALLONS)	GALLONS PER PRODUCT PER DAY
Year 1	N/A	1,297,210	3,554
Year 2	N/A	1,297,210	3,554
Year 3	N/A	1,297,210	3,554
Year 4	N/A	1,297,210	3,554
Year 5	N/A	1,297,210	3,554

Estimated on Aug. day to produce for feedmill

Number of days of operation of the industry per year is 365 days.

Please attach any tables, curves or additional information showing past, present and estimated future water requirements to substantiate the amount of water requested.

4. Please designate the legal description of the location where the water is to be used. Show in the space provided below the Section (S), Township (T), and Range (R), and the number of acres in each forty acre tract or fractional portion thereof.

S	T	R	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
17	21	15																	

Already turned in

You may attach any additional information you believe will assist in informing the Division of the **WATER RESOURCES** request. **RECEIVED**

APR 20 2017

Krueger, Richelle

From: Lanterman, Jeff
Sent: Monday, June 5, 2017 4:43 PM
To: Krueger, Richelle
Cc: Conant, Cameron
Subject: RE: Request for Recommendation newapp49690chgpu588.05,33161offsetred5428 Mull Investments LP

Richelle, this one looks OK to approve. Thanks!

Jeff

From: Conant, Cameron
Sent: Monday, June 5, 2017 12:47 PM
To: Lanterman, Jeff <Jeff.Lanterman@ks.gov>
Subject: FW: Request for Recommendation newapp49690chgpu588.05,33161offsetred5428 Mull Investments LP

Jeff, this is a new application, 15AF small user exemption, to cover an existing flaker mill at Mull Feedyard in Pawnee County. This is in GMD#5, so the requested 15AF has been offset with an irrigation water right also owned by the Mulls. The calculations appear ok and GMD#5 board has also signed off on this.

I think this packet of new app and changes can be recommended for approval and the reduction on 5428 should also be processed in conjunction with approval of the packet. The flaker well does not meet spacing to other wells owned by the feedlot, 2 stock files, and 1 irrigation file. I think a waiver of spacing is good here. The flaker application properly permits an existing compliance issue and it certainly won't impair any of the nearby uses if the irrigation that doesn't meet spacing is ever sold to different ownership. The requested rate of 99gpm and the low quantity of 15AF should not present any problems at this location in the future.

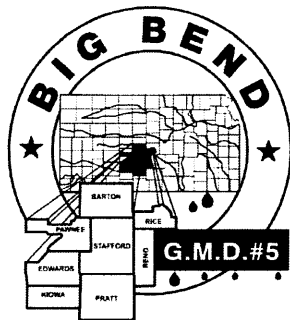
Please pass on to Richelle if you agree that this can be approved.

Cameron

From: Krueger, Richelle
Sent: Thursday, May 18, 2017 11:09 AM
To: Lanterman, Jeff <Jeff.Lanterman@ks.gov>
Cc: Conant, Cameron <Cameron.Conant@ks.gov>; Fitch, Elizabeth <Elizabeth.Fitch@ks.gov>
Subject: Request for Recommendation newapp49690chgpu588.05,33161offsetred5428 Mull Investments LP

Hi Jeff,
Attached is a draft memo for the referenced new application and changes in place of use for Mull Investments, do you recommend approval?
Thanks,
Richelle

Darrell Wood - Edwards (Pres.)
Fred Grunder - Pratt (V Pres.)
John Janssen - Kiowa (Treas.)
Jerry Cullop - Rice (Sec.)
Justin Gatz - Reno
Kent Lamb - Stafford
Phil Martin - Barton
Bob Standish - Pawnee
Tom Taylor - At-Large



Orrin Feril, Manager
125 South Main Street
Stafford, Kansas 67578
ph: (620) 234-5352
fx: (620) 234-5718
gmd5@gmd5.org
www.gmd5.org

May 12, 2017

WATER RESOURCES
RECEIVED

MAY 16 2017

Richelle Krueger
Division of Water Resources
Kansas Department of Agriculture
1320 Research Park Drive
Manhattan, KS 66502

KS DEPT OF AGRICULTURE

RE: Application File No. 49,690
Water Right File No. 5,428 Reduction Request

Dear Ms. Krueger,

Big Bend Groundwater Management District #5 has reviewed the above referenced application which proposes to divert up to 15.00 acre-feet of groundwater for stockwater use in the NE¼ of Section 17, Township 21S, Range 15W in Pawnee County, Kansas.

Applications that propose to use water in a manner so that there is no significant consumptive use of the local source of supply are exempt from meeting the requirements of K.A.R. 5-25-4 (a). The application was presented to the Board of Directors at the May regular board meeting for review. In conjunction with the Reduction Request for Water Right File No. 5,428, the application would not increase the consumptive use of the local source of supply. However, this application does not meet spacing requirements to Water Right File Nos. 12,410 & 33,161. Based upon information received in the District office and provided at the board meeting, the Board voted to waive K.A.R. 5-25-2 to recommend approval of this application on the condition that the reduction request for Water Right File No. 5,428 is approved.

The application is subject to the District's well equipment regulation K.A.R. 5-25-5 for a required flow meter.

Please feel free to give me a call if you have any questions.

Sincerely,

Orrin Feril
Manager

SCANNED

Krueger, Richelle

From: Orrin Feril <oferil@gmd5.org>
Sent: Friday, May 12, 2017 10:34 AM
To: Krueger, Richelle
Subject: Water Right File Nos. 588.05, 5428, 33161; Application File No. 49690
Attachments: 588.05 33161 2017-05-12 Rec.pdf; 5428 49690 2017-05-12 Rec.pdf

Richelle,
I'm attaching the recommendations requested by your office in a letter dated April 24, 2017. Please let me know if you have any questions.

Thank you for your consideration in this matter,

Orrin

--

Orrin Feril

Manager
Big Bend GMD#5
Email: oferil@gmd5.org
Phone: (620) 234-5352
Mobile: (620) 388-0172
Fax: (620) 234-5718
www.gmd5.org

WATER RESOURCES
RECEIVED

MAY 16 2017

KS DEPT OF AGRICULTURE

1320 Research Park Drive
Manhattan, Kansas 66502
(785) 564-6700



900 SW Jackson, Room 456
Topeka, Kansas 66612
(785) 296-3556

Jackie McClaskey, Secretary

Governor Sam Brownback

April 24, 2017

BIG BEND GROUNDWATER
MANAGEMENT DISTRICT NO 5
ATTN ORRIN FERIL
125 S MAIN
STAFFORD KANSAS 67578

Re: Water Right, File Nos. 588.05; 5,428 and 33,161
Application, File No. 49,690

Dear Orrin:

We are enclosing copies of applications to change the place of use, File Nos. 588.05 and 33,161, a reduction in quantity request, File No. 5,428 and Application, File No. 49,690.

We are delaying further action for a period of 15 days from the date of this letter to allow you time to submit your recommendations concerning this application.

Please submit your recommendations within the allowed time, or any authorized extension of time thereof. If you have any questions, please contact me at (785) 564-6635. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

A handwritten signature in cursive script that reads "Richelle A. Krueger".

Richelle A. Krueger
Environmental Scientist
Water Appropriation Program

Enclosures

pc: Stafford Field Office

SCANNED

Krueger, Richelle

From: Krueger, Richelle
Sent: Thursday, April 6, 2017 8:23 AM
To: Fitch, Elizabeth
Cc: Turney, Brent
Subject: RE: Info for Mull Stock water changes/offset

Good Morning Elizabeth,

We are actually getting some sunshine here this morning, yeah! Hey, this morning Brent and I reviewed the info you sent us, it sure looks like the limitations no longer make any sense. Brent agrees the limitations should be dropped, I don't think they will get any quantity back but at least the limitations will be removed.

I will send these applications out to gmd 5 as soon as we get some kind of justification from them.

Uneven overlaps are sure complicated for me to understand sometimes, thanks for all your work on this and making it so I can understand it!

Richelle

From: Fitch, Elizabeth
Sent: Wednesday, April 5, 2017 11:12 AM
To: Krueger, Richelle <Richelle.Krueger@ks.gov>
Subject: Info for Mull Stock water changes/offset

Richelle,

Attached is an action trail for the four irrigation water rights up to 1991. As you can see, it is a bit of a mess. I also included updated perfection/base acre reviews for the files. All of this information is in the file and Docuware.

Elizabeth K Fitch, Environmental Scientist
Kansas Department of Agriculture
Division of Water Resources
Stafford Field Office
(620) 234-5311
My e-mail address has changed: elizabeth.fitch@ks.gov
agriculture.ks.gov

Krueger, Richelle

From: Fitch, Elizabeth
Sent: Tuesday, April 4, 2017 1:39 PM
To: Stimatze Rick
Cc: Krueger, Richelle
Subject: Follow-up on new application for feed mill well (File No. 49690)
Attachments: 1-100-22 IND Supp.pdf; 1-100-26 STK Supp.pdf

Rick,

As part of the processing of the new application, File No. 49690, we need some additional information to justify the quantity requested. You will find attached two supplemental forms. Please print them out and complete them to the best of your ability. The Industrial supplemental sheet is for the water use at the feed mill even though it will be described as a stockwatering use.

Please return these to Richelle Kruger in Manhattan by **May 4, 2017**. Let me know if you have any questions.

Elizabeth K Fitch, Environmental Scientist
Kansas Department of Agriculture
Division of Water Resources
Stafford Field Office
(620) 234-5311
My e-mail address has changed: elizabeth.fitch@ks.gov
agriculture.ks.gov

STOCKWATER USE SUPPLEMENTAL SHEET

File No. _____

Name of Applicant (Please Print): _____

1. Please indicate type of livestock (cattle, hogs, etc.): _____

2. Please complete the following table showing past and present water requirements:

PAST NUMBER OF HEAD AND WATER DIVERTED, IF APPLICABLE

LAST 5 YEARS	NUMBER OF HEAD	WATER DIVERTED (GALLONS)	GALLONS PER HEAD PER DAY
5 years ago			
Last year			
Present Year			

3. Please complete the following table showing estimated future water requirements:

ESTIMATED FUTURE NUMBER OF HEAD AND WATER DIVERTED

NEXT 5 YEARS	NUMBER OF HEAD	WATER TO BE DIVERTED (GALLONS)	GALLONS PER HEAD PER DAY
Year 1			
Year 2			
Year 3			
Year 4			
Year 5			

Please attach any additional information, tables, or curves showing past, present and estimated future water requirements to substantiate the amount of water requested.

4. Please designate the legal description of the location where the water is to be used. Show in the space provided below the Section (S), Township (T), and Range (R), and the number of acres in each forty acre tract or fractional portion thereof.

S	T	R	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

5. Show quantities of water used and all associated water uses at the feedlot such as water used in feed mills, cooling of animals, washing, flushing of wastes, etc.:

DRINKING

_____ head of _____ x _____ gallons/head (avg.) x _____ days = _____ gallons

_____ head of _____ x _____ gallons/head (avg.) x _____ days = _____ gallons

_____ head of _____ x _____ gallons/head (avg.) x _____ days = _____ gallons

COOLING

_____ gallons/hour x _____ hour/day x _____ days = _____ gallons

SANITATION

_____ g.p.m. x 60 min/hr x _____ hr/wk x _____ wks/yr = _____ gallons

OTHER USE (Explain) _____ = _____ gallons

TOTAL ----- _____ gallons

6. Show location of present and future location of confinement pens on your attached maps or photographs.

7. Total feed bunk space for cattle or livestock is _____ linear feet.

8. Total size of stock pens for confinement area of cattle, hogs, etc. is _____ square feet.

You may attach any additional information you believe will assist in informing the Division of Water Resources of the need for your request.

1320 Research Park Drive
Manhattan, Kansas 66502
Jackie McClaskey, Secretary



Phone: (785) 564-6700
Fax: (785) 564-6777
Email: ksag@kda.ks.gov
www.agriculture.ks.gov
Sam Brownback, Governor

August 26, 2016

MULL INVESTMENTS LP
549 R RD
PAWNEE ROCK KS 67567

FILE COPY

RE: Application
File No. 49690

Dear Sir or Madam:

Your application for permit to appropriate water in 17-21S-15W in Pawnee County, was received and has been assigned the file number noted above.

As a matter of record, the Division of Water Resources has on hand a large number of applications awaiting processing. Therefore to be fair to all concerned, and so that we can process those applications on hand in the order they were received, we intend to concentrate on the backlog of applications until the issue is resolved. Once review of your application has begun, we will contact you, if additional information is required.

In accordance with the provisions of the Kansas Water Appropriation Act, a portion of which is included below, the use of water as proposed prior to approval of the application is unlawful. Once approved, compliance with the terms, conditions and limitations of the permit is necessary. Conservation of the water resources of Kansas is required.

Section 82a-728 of the Kansas Water Appropriation Act, provides (a) except for the appropriation of water for the purpose of domestic use, . . . it shall be unlawful for any person to appropriate or threaten to appropriate water from any source without first applying for and obtaining a permit to appropriate water in accordance with the provisions of the Water Appropriation Act or for any person to violate any condition of a vested right, appropriation right or an approved application for a permit to appropriate water for beneficial use.

(b) (1) The violation of any provision of this section by any person is a class C misdemeanor . . .

A class C misdemeanor is punishable by a fine not to exceed \$500 and/or a term of confinement not to exceed one month in the county jail. Each day that the violation occurs constitutes a separate offense.

If you have any questions, please contact me at (785) 564-6645. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

A handwritten signature in cursive script that reads "Brent A. Turney".

Brent A Turney, P.G.
Change Application Unit Supervisor
Water Appropriation Program

BAT: dlw
pc: STAFFORD Field Office
GMD 5

SCANNED