

Kansas Department of Agriculture
Division of Water Resources
CHANGE: PD P/U UMW WORKSHEET

1. File Number: 16199	2. Status Change Date: 8/11/2022	3. Change Num: C1	4. Field Office: 2	5. GMD: 5
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: 11/1/2021
8a. Applicant(s) New to system <input type="checkbox"/>		Person ID <u>4994</u> Add Seq# <u>1</u>	8c. Landowner(s) New to system <input type="checkbox"/>	
HAROLD F & AILENE M EVANS TRUST GRANVILLE M BUSH PO BOX 6 STERLING, KS 67579				
8b. Landowner(s) New to system <input type="checkbox"/>		Person ID <u>32535</u> Add Seq# <u>1</u>	8d. WUC New to system <input type="checkbox"/>	
ZIMMS FEEDLOT 1650 AVE R STERLING, KS 67579			TODD ZIMMERMAN 1550 AVENUE R STERLING KS 67579	
9. Documents and Enclosure(s): <input checked="" type="checkbox"/> DWR Meter(s) Date to Comply: <u>12/31/22</u> <input checked="" type="checkbox"/> N & P Date to Comply: <u>12/31/22</u>				
<input type="checkbox"/> Anti-Reverse Meter <input type="checkbox"/> Meter Seal <input checked="" type="checkbox"/> Check Valve <input checked="" type="checkbox"/> N & P Form <input checked="" type="checkbox"/> Water Tube <input checked="" 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: <u>IRR</u> To: <u>IRR & STK</u>				
<div style="border: 1px solid red; padding: 2px; display: inline-block;">8/17/2022 Llreland</div>				
THE N&P SHOULD GO ON THE DIVISION (D2) PORTION THAT WILL FOLLOW CHANGE				
			Date Prepared: <u>7/19/22</u>	By: <u>LI</u>
			Date Entered: <u>8/22/2022</u>	By: <u>LMoody</u>

File No. **16199** 11. County: **RC** Basin: **COW CREEK** Stream: **NA** Formation Code: **180** Special Use: **NA**

12. Points of Diversion											Rate and Quantity								
CHK	MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Rate gpm	Quantity af/mgy	Rate gpm	Quantity af/mgy	Overlap PD Files		
MOD	30587	NC	NW		34	20	8W	2		3965	3948	GPS UPDATE	515	92.63 af	515	215	92.63 af	NONE	IRR USE
ENT	89747	NW	NW	NE	34	20	8W			4837	2585	ADDITIONAL WELL	200	11.4 mgy	200	11.4 mgy	NONE	STK USE	

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					
ENT	24867	34	20	8W				4	FEEDLOT IN N2 N2 OF NE ¼																	8b	NO	32287.01	
MOD	5253	34	20	8W				3					37.0	37.0												74	8a	NO	NONE

Base Acres: _____ Year: _____ Minimum Reasonable Quantity: _____

Comments: **SPECIAL CONDITIONS: ADDITIONAL WELL (REVIEW AFTER 5-10 YEARS)**

NOTE: **THE PRIORITY DATE OF ADDITIONAL WELL WILL BE 11 / 1 / 2021**

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: July 21, 2022

FROM: Leslie Ireland

RE: Water Right, File Nos. 16,199 & 32,287.01

Granville M. Bush Trustee for Harold F and Ailene M. Evans Trust, owner of File No. 16,199, has filed an application for approval to change the use made of water, place of use and point of diversion to add an additional well. A portion of File No. 16,199 has been sold to Todd Zimmerman owner of File No. 32,287.01 requesting a change in place of use for its stockwater use. After the change approval, both owners of File No. 16,199, request a division into irrigation and stockwater portions. The applications were received on November 1, 2021.

The referenced water rights would be considered not to be abandoned as per K.S.A. 82a-718 and in good standing as per K.S.A. 82a-732. File No. 32,287.01 had a 2019 Summary Compliance Order for exceeding authorized quantity appears to have resolved.

File No. 16,199 was certified a quantity of 135 acre-feet (AF) at 715 gallons per minute(gpm) for irrigation use from one well located near the center of the Northwest Quarter of Section 34, Township 20, Range 8 West, Rice County, Kansas (34-20-8W) for the irrigation of 148 acres.

The owner has proposed to change from irrigation to irrigation and stockwatering use for an existing stockwatering facility under File No. 32,287.01. The change in use made of water for File No. 16,199 request that a total of 11.40 million gallons (35 acre-feet) be changed to stockwatering use to be diverted at a maximum diversion rate of 200 gallons per minute. The proposed change in use made of water was calculated as follows:

K.A.R. 5-5-10, *Partial changes in the use made of water from irrigation to another type of beneficial use.*

Step one: 135 AF x 82.6 % Consumptive Use Rice County) = 111.51 AF maximum quantity that could be changed to another use if the entire rights were changed.

Step two: 35 AF (quantity desired to be changed to stockwatering use) ÷ 111.51 AF = 0.313873195

Step three: 1 - 0. 313873195 = 0. 686126805 (remaining percentage) x 135 AF = 92.63 AF (IRR retained)

Step four: The irrigated place of use per part(b) as outlined in K.A.R. 5-5-11 will be reduced to 74 acres as this equates to the North Half of the place of use as they are selling the South Half. If they wanted to keep the full allowable irrigated acres, it would be per K.A.R. 5- 5-11(b)(2)ii:

$$(135 \text{ AF} \times 0.85) / 1.15 \text{ AF } 80\% \text{ chance Rice County } = 99.78 \text{ acres}$$

The irrigation ratio for the requested 74 acres is 1.25 acre-feet per acre which complies with **K.A.R. 5-3-24, *Reasonable quantity for irrigation use.*** As the authorized quantity will not increase and the irrigated acres will be reduced from 148 acres to 74 acres the historical consumptive use will not increase and the change in use made of water complies with **K.A.R. 5-5-3 *Change in consumptive use.***

The proposed stockwatering place of use is existing under only File No. 32,287.01 will be updated to the North Half of the North Half of the Northeast Quarter (N¹/₂ N¹/₂ NE¹/₄) 34- 20-8W. It will form a complete overlap with the divided stockwater portion of File No. 16,199 that will be identified as File No. 16199* D2

The 2021 annual water use report lists a maximum of 3,345 head and an annual average of 3,187 utilizing approximately 4.58 gallons per head per day. As **K.A.R. 5-3-22, *Maximum reasonable quantity of water for livestock and poultry,*** as the regulation allows 15 gallons per day (gpd) for drinking and as it appears the cattle are in an open lot no additional water for services. The most recent annual report justified the 18.314 million gallons per year (56.2 AF) that could be afforded stockwater use.

$$(3,345 \text{ head} \times 15 \text{ gallons per head per day} \times 365 \text{ days per year}) \div 325851 \text{ gallons per acre-foot} = 56.2 \text{ acre-feet}$$

The 25.2 AF currently authorized and the proposed 35 AF requested appears to be justified for the feedlot and would afford a small expansion or an increased in drinking water quantity per head.

The requested stockwater use will be from a new well being constructed per **K.A.R. 5-5-16 Additional well**. The additional stockwatering well location is proposed to be in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ approximately 4,837 feet North and 2,585 feet West of Southeast corner of Section 34, Township 20 South, Range 8 West, Rice County. A rate test completed on September 9, 2021, by DWR staff produced a maximum rate of 715.6 gpm that is shown on the application to assign 200 gallons to the additional well and retain 515 at the currently authorized well located NC NW $\frac{1}{4}$, with the updated GPS feet distances of 3,965 feet North and 3,948 feet West of Southeast corner of Section 34, Township 20 South, Range 8 West, Rice County. The proposed new additional well is approximately 1,618 feet to the Northeast of the actual well location authorized by File No. 16,199. The proposed additional well is approximately 1,490 feet from the well authorized by File No. 32,287.01. It appears the proposed well meets the spacing requirements of **K.A.R. 5-25-2 Well spacing** of 1,320 feet of well to well spacing and **K.A.R. 5-25-2a Change in point of diversion**, as being not more than 2,640 feet from authorized.

It was determined the monitoring well log completed for a well in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ of 34-20-8W in 1988 by Clarke Well & Equipment, Inc., is located within 300 feet of the proposed additional well. A well log for File No. 16,199 could not be located. The 1994 and 1993 water use reports listed a well this existing well with a depth of 76 feet. A review of the well logs in the area would indicate the sand and gravels at similar depths and thicknesses. It would appear the source of supply is the same at the proposed additional well, with both wells classified as Undifferentiated Kansan Nebraskan (Code 180) not the WRIS listed Ogallala Aquifer, (Code 210).

The requested division of File No. 16,199, will result in the irrigation use to be authorized under the D1 portion and the stockwater use under the D2 portion, sharing in priority of February 13, 1969. In summary:

File No. 16,199-D1, irrigation use Evans Trust, owner, authorized 92.63 AF at 515 gpm, from the well located as NC NW $\frac{1}{4}$ of 34-20-8W to irrigate 74 acres located in the N $\frac{1}{2}$ NW $\frac{1}{4}$, retaining 81 base acres.

File No. 16,199-D2, stockwater use Zimms Feedlot, owner, authorized 35 AF at 200 gpm, from the well located as NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ of 34-20-8W for use at the feedlot located in the N $\frac{1}{2}$ N $\frac{1}{2}$ NE $\frac{1}{4}$ 34- 20-8W.

In a letter dated July 6, 2022, Orrin Feril, Manager, Big Bend Groundwater Management District No. 5, recommend approval of the application for change.

In an e-mail note dated July 21, 2022, Jeff Lanterman, Water Commissioner of the Stafford Field Office has no objection to the approval of the applications for change and division.

A water conservation plan is not required for stockwater use and it would appear one will not be needed for the irrigation use and the diversion issues for the stockwater use appear to have been resolved.

A water flowmeter will be required on all the wells authorized by the reference files. A check valve is 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 is applicable to the change for the new well and a well log will be required with the notice and proof. The additional well for stockwatering use that will be authorized by File No. 16199-D2 will have the impairment priority date of November 1, 2021, per the date of the application filing.

Based on the above discussion, that the changes are reasonable, that impairment to existing water rights is unlikely, that no change in the local source of supply will occur, and that the consumptive use issue was resolved according to K.A.R. 5-5-10, and that there will be a reduction in quantity and place of use under the irrigation use, it has been recommended that the change application be approved. Subsequently it is recommended the division be processed as requested.



Leslie Ireland
Environmental Scientist

Water Appropriation Program

From: Lanterman, Jeff [KDA]
Sent: Thu 7/21/2022 11:38 AM
To: Ireland, Leslie [KDA];Conant, Cameron [KDA]
Subject: RE: Review and Recommendation of Change in PU PD UMW , File No. 16199 & Change in PU File No. 32287.01 & Division of 16,199

Ya I think both of these are Undifferentiated Kansan Nebraskan. We don't really have any Ogallala 210 in Rice county. Wonder how that happened. Back in the day it would have been Meade fm lol.

I am pretty familiar with these changes and I recommend approval.

Thanks Leslie for your work on this complex set of changes and divisions.

Jeff

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Thursday, July 21, 2022 11:15 AM
To: Lanterman, Jeff [KDA] <Jeff.Lanterman@ks.gov>; Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Subject: Review and Recommendation of Change in PU PD UMW , File No. 16199 & Change in PU File No. 32287.01 & Division of 16,199

Jeff,

Please let me know if you'd recommend the changes to 16199. The source is called out on the app as Undifferentiated KS NB however WRIS lists 16199 as Ogallala 210. Please let me know if it should continue to be referenced per WRIS or the app Interesting enough File No. 32287.00 is in WIRS as 120- Wisconsin Stage not relevant to the actual change but info about the source..

Please let me know if you'd recommend the changes.

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, POINT OF DIVERSION
AND
ORDER IN THE MATTER OF THE AUTHORIZED
QUANTITY OF WATER
WATER RIGHT, FILE NO. 16,199**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Granville M. Bush IV, Trustee, of the Harold F. and Ailene M. Evans Trust, PO Box 6, Sterling, Kansas 67579, received in this office on November 1, 2021, for approval of a change in the location of the place of use, point of diversion and use made of water under the certificate of appropriation issued pursuant to the application for permit to appropriate water for beneficial use, 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.

This order effectively reduces the total authorized quantity of water to 127.63 acre-feet (41.59 million gallons) per calendar year in accordance with the Application for Approval to Change the Use Made of Water, Place of Use and Point of Diversion received in this office on November 1, 2021.

The application, therefore, is approved subject to the condition that for the sole purpose of administering wells concerning direct impairment, the additional well shall be considered to have the priority of the date the application was filed (November 1, 2021) to add the additional well.

The effective date of the change shall be the date this order is executed by the Chief Engineer, after which the portion changed to stockwatering use shall be authorized a maximum quantity not to exceed 11.4 million gallons (35 acre-feet) of groundwater per calendar year at a maximum rate of 200 gallons per minute (0.45 c.f.s.) from an additional point of diversion defined as:

one (1) additional well located in the Northwest Quarter of the Northwest Quarter of the Northeast Quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 34, more particularly described as being near a point 4,837 feet to the North and 2,585 feet to the West of the Southeast corner of said section in Township 20 South, Range 8 West, Rice County, Kansas, and

the authorized place of use for stockwatering use shall be:

a feedlot located in the North Half of the North Half of the Northeast Quarter (N $\frac{1}{2}$ N $\frac{1}{2}$ NE $\frac{1}{4}$) of Section 34, Township 20 South, Range 8 West, Rice County, Kansas,

located substantially as shown on the aerial photograph accompanying the application to change the use made of water, place of use and point of diversion.

The portion retained for irrigation use shall be authorized a maximum quantity not to exceed 92.63 acre-feet of groundwater per calendar year at a diversion rate not in excess of 515 gallons per minute (1.15 c.f.s.) from a point of diversion defined as:

one (1) well located near the center of the Northwest Quarter (NW¼) of Section 34, more particularly described as being near a point 3,965 feet North and 3,948 feet West of the Southeast corner of said section, Township 20 South, Range 8 West, Rice County, Kansas,

for irrigation use on the following described property:

Sec.	Twp.	Range	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
34	20S	8W					37.00	37.00											74.0

a total of 74.0 acres in Section 34, Township 20 South, Range 8 West, Rice County, Kansas,

located substantially as shown on the aerial map accompanying the application to change the use made of water, place of use and point of diversion.

All wells with a diversion rate of 100 gallons per minute or more drilled under the authority of this order 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.

The water right owner shall submit to the Chief Engineer a copy of the well log required by the Kansas Department of Health and Environment under the authority of K.S.A. 82a-1212, currently form WWC-5, within 30 days following the drilling of the well at the location authorized herein.

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 for irrigation use 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.

Installation of the works for diversion of water shall be completed on or before December 31, 2022, or within any authorized extension of time. The applicant shall notify the Chief Engineer of the Division of Water Resources, Kansas Department of Agriculture, when construction of the works for diversion has been completed.

In all other respects, the Certificate of Appropriation issued pursuant to Approval of Application, File No. 16,199, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated August 4, 1988.

Ordered this 11 day of August, 2022, at Manhattan, Riley County, Kansas.

Lane P. Letourneau

Lane P. Letourneau, P.G.
Program Manager
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 11 day of August, 2022, by Lane P. Letourneau, P.G., Program Manager, 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

August 23, 2022

HAROLD F & AILENE MEVANS TRUST
GRANVILLE MBUSH IV
PO BOX 6
STERLING, KS 67579

RE: Water Right, File No. 16,199
Subject: Approval of Change & Division of Water Right

Dear Mr. Bush:

Enclosed are the orders executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the application for change and the requested subsequent division requested under the referenced file. A true and correct copy of the change approval and division order is being sent to Zimms Feedlot LLC.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in the approval for change. A condition of the change approval is that a water flow meter meeting K.A.R. 5-1-4 through 5-1-12, must be installed on the diversion works. As requested, the annual water use reports for the irrigation portion under File No. 16,199-D1 will be sent to Todd Zimmerman.

The additional well that will now be authorized for stockwater use by File No. 16,199-D2, will require a *Notification of Completion of the Diversion Works and/or Installation of the Required Flowmeter*, to be completed as soon as the meter is installed. The Notice of Completion form may be found online at www.agriculture.ks.gov, Water Appropriation Forms, there is no fee for the required completion notification. A well log of the additional well is required and may be submitted to the address on the Notice of Completion form.

Since these orders modify the original documents referred to above, they should be recorded with the Register of Deeds as other instruments affecting real estate.

If you have any questions, please contact us at 785-564-6640, for questions regarding metering please contact our staff at the Stafford Field Office, their phone number is 620-234-5311. 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

Enclosures

pc: Stafford Field Office
Groundwater Management District No. 5
Todd Zimmerman, Zimms Feedlot LLC

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 Division, 1320 Research Park Drive, Manhattan, Kansas 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 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: 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 23 day of August, 2022, I hereby certify that the attached Approval of Application for Change in Use Made of Water, Place of Use, Point of Diversion Order in the Matter of the Authorized Quantity of Water, under Water Right, File No. 16,199, dated 11 August 2022 was mailed postage prepaid, first class, US Mail, to the following:

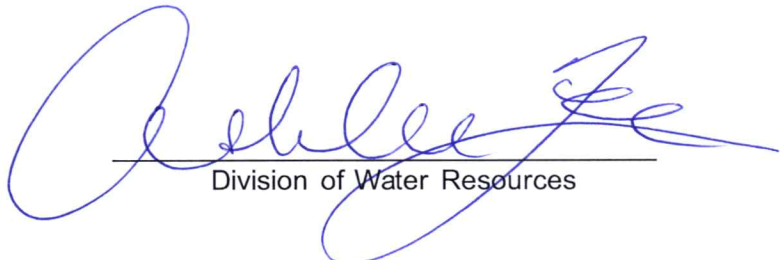
HAROLD F & AILENE M EVANS TRUST
GRANVILLE M BUSH IV
PO BOX 6
STERLING, KS 67579

With a true and correct copy to:

ZIMMS FEEDLOT LLC
TODD ZIMMERMAN
1650 AVE R
STERLING, KS 67579

With photocopies sent to:

Stafford Field Office
Groundwater Management District No. 5



Division of Water Resources