

Kansas Department of Agriculture
Division of Water Resources
CHANGE: PU/UMW WORKSHEET & Ownership update

Document Signature: LPL

1. File Number: 21114	2. Status Change Date: 7/30/2020	3. Change Num: C2	4. Field Office: 4	5. GMD: 3
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: 3/18/2020
8a. Applicant(s) New to system <input type="checkbox"/> SPANDET DAIRY LLC HEMINK FARMS LTD 6306 20 ROAD CIMARRON, KS 67835		8c. Landowner(s) New to system <input type="checkbox"/> SPANDET DAIRY LLC 6306 20 RD CIMARRON, KS 67835-9018		
8b. Landowner(s) New to system <input type="checkbox"/> HEMINK FARMS LTD 2635 CR 521 HART, TX 79043		8d. WUC STK PORTION New to system <input type="checkbox"/> 8C		
		8d. WUC IRR PORTION New to system <input type="checkbox"/> ARCH B & MICHELLE FRINK PO BOX 1088 CIMARRON, KS 67835		
9. Documents and Enclosure(s): <input checked="" type="checkbox"/> DWR Meter(s) Date to Comply: 12/31/2020 <input type="checkbox"/> N & P Date to Comply: _____				
<input type="checkbox"/> Anti-Reverse Meter <input type="checkbox"/> Meter Seal <input type="checkbox"/> Check Valve <input type="checkbox"/> N & P Form <input type="checkbox"/> Water Tube <input type="checkbox"/> Driller Copy <input type="checkbox"/> H & E Letter <input type="checkbox"/> Conservation Plan Date Required: _____ Date Approved: _____ Date to Comply: _____				
10. Use Made of Water From: <u>IRRIGATION</u> To: <u>DUAL USE IRRIGATION & STOCKWATERING</u>				
Date Prepared: 7/22/2020 By: LI Date Entered: 8/5/2020 By: LMoody				

File No. 21114 11. County: GY Basin: BUCKNER CREEK Stream: NA Formation Code: 211 Special Use: NO

12. Points of Diversion											Rate and Quantity				
MOD DEL ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Comment	Authorized		Additional		Overlap PD Files	
										Rate gpm	Quantity af/mgy	Rate gpm	Quantity af/mgy		
MOD 32991		SE SE SW	32	24S	27W	1	74	2818	IRR/STK DUAL USE	900	240 AF	900	240 AF	NONE	

Feet distances: gps update Retain Comment: #11

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) **214.32 AF MAX DUEL USE IRR & STK**

15. 5YR Allocation: Allocation Type _____ Start Year _____ 5 YR Amount _____ Amount Unit _____ Base Acres _____ Comment _____

16. Place of Use T MOD DEL ENT	PUSE	S	T	R	ID	NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg?	Overlap Files					
						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 20459		31	24	27W	1 ^	DAIRY & LIVESTOCK (NE) & (NW SE)																				8c	NO	**		
ENT 30505		32	24	27W	2 ^	DAIRY & LIVESTOCK (NW)																				8c	NO	**		
ENT 70045		30	24	27W	^	DAIRY & LIVESTOCK (S/2 SE)																				8c	YES	**		
ENT 70046		29	24	27W	^	DAIRY & LIVESTOCK (S/2 SW)																				8c	YES	**		
CK 32570		32	24	27W	1 ^	31.5	31.5	31.5	31.5	10.0					40.0	31.5	31.5	31.5	31.5	31.5	31.5	31.5	31.5	31.5	31.5	428	8b	YES	IRR	29068 29113 31670

Comments: **Combined Quantity 214.32 AF (69.84 mgy) as stockwatering & irrigation right.**
Main action trail entry: KAR 5-5-10 Dual Use Quantity Limitation 214.32 AF

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: July 22, 2020

FROM: Leslie Ireland

RE: Water Right, File Nos. 13,865; 21,114;
23,384; 29,068; 29,113; 31,670; 36,483;
36,484 & 39,637

Laurens Schilderink on behalf of Spandet Dairy, LLC and Hemink Farms LTD, filed applications for approval to change the stockwatering place of use under all the referenced files. The applications under File Nos. 13,865; 21,114 & 23,384, received on March 18, 2020, are requesting use made of water changes as dual use stockwatering. The applications to change the stockwatering place of use under File Nos. 29,068; 29,113; 31,670; 36,483; 36,484 & 39,637, were received on April 8, 2020. The applications were prepared by Marsh Shoemaker, Enviro-Ag-Engineering, Amarillo, Texas.

The referenced files do not appear to be abandoned per K.S.A. 82a-718. The stockwatering use were not in compliance with K.S.A. 82a-732, *Annual water use report required; penalty for violations*, at the time of filling. The applications were filed in part to comply with the March 2020 notice of noncompliance for use of water at an unauthorized location. The ownership of the place of use under the referenced files changed in 2015, with the Gray County records listing Hemink Farms LTD is new the owner. The ownership under File Nos. 21,114 & 23,384, will be updated in WRIS. The applications took some revisions as this was only the second time Marsha Shoemaker had filed applications for change in Kansas. After several revisions the applications appear to comply with K.A.R 5-5-2a, *Complete change application*.

The Spandet Dairy and Feedlot is located North of Cimarron and approximately 25 miles Northwest of Dodge City and located in the Buckner Creek Basin. The irrigated place of use under File No. 13,865, spans Ranges 27 and 28 West, Gray County. The referenced files are not located in a designated special use area.

Change to dual irrigation and stockwatering use File Nos. 13,865; 21,114 & 23,384

These changes request a dual use of water that will allow for both stockwatering use and irrigation use in any calendar year and request temporary reductions/limitations in quantity based on K.A.R. 5-5-9. The dual use calculations for Gray County utilize an 89.3% consumptive use factor with the future return to the full irrigation quantity with the elimination of the stockwatering use.

File No. 13,865 authorizes irrigation and stockwatering use as two(2) wells for irrigation and two(2) wells for stockwatering. The dual use will result in the temporary reduction from 120 AF to 107.16 AF (34.92 mgly) from the well located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 31 (WRIS ID 2) and the temporary reduction from 120 AF to 107.16 AF (34.92 mgly) from the well located in the SE NW SW of Section 31, (WRIS ID 5), both in Township 24 South, Range 27 West, Gray County. The well under ID 5 will be updated from 1,477 feet North and 4,110 feet West to 1,477 feet North and 3,995 feet West of the Southeast corner of Section 31. These two points of diversion have no overlaps or additional limitations. The irrigation wells that will be dual use are each authorized 120 AF, and at the 89.3% Gray Co. Consumptive Use factor allows 107.96 AF or 34.42 mgly per well, resulting in a total of 214.32 AF or 69.84 mgly authorized for dual use under File No. 13, 865. The existing stockwatering of 65.17 mgly from the well located NC NE $\frac{1}{4}$ of Section 31 (WRIS ID 3), and the 51.81 mgly from the well located in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 31 (WRIS ID 4) will remain as authorized. Well ID 4 will be updated per the 2013 Compliance Investigation from the authorized 5,244 feet North and 788 feet West to 5,221 feet North and 818 feet West of the Southeast corner of Section 31, both in Township 24 South, Range 27 West, Gray County. This point of diversion overlaps with File No. 29,113. Its order will also update well location. During dual use the stockwatering total quantity File No. 13,865, will be authorized to divert is 573.33 AF (186.82 mgly). The irrigation place of use will remain as authorized 1,218.14 acres located in Section 31, Township 24 South, Range 27 West and in Sections 24 and 25, Township 24 South, Range 28 West, Gray County, and is overlapped by Water Right, File Nos. 12,315; 12,456; 16,803; 21,819; 21,820; and 23,295.

File No. 21,114 is requesting the use made of water change as dual use to be authorized from the well located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ of 32-24-27W. The well will be updated per the 2014 Compliance Investigation, approximately 109 feet, from the authorized of 150 feet North and 2,750 feet West will be undated to 74 feet North and 2,818 feet West of the Southeast corner of Section 32. The point of diversion has no overlaps or additional limitations. It is authorized 240 AF to irrigate 428 acres located in Section 32, also authorized by File Nos. 29,068; 29,113 & 31,670. The dual irrigation/stockwatering use allows 214.32 AF per the consumptive use calculation: $240 \text{ AF} \times 89.3\% = 214.32 \text{ AF}$ or 69.84 mgy. The irrigated place of use remains as authorized with File Nos. 29,113 & 29,068.

File No. 23,384 is requesting the use made of water change as dual use to be authorized from the well located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ of 29-24-27W. It is authorized 180 AF to irrigate 91 acres located in the NW $\frac{1}{4}$ of Section 29. The point of diversion and place of use have no overlaps or additional limitations. The dual irrigation/stockwatering use allows 160.74 AF per the consumptive use calculation: $180 \text{ AF} \times 89.3\% = 160.74 \text{ AF}$ or 52.38 mgy. The 91 acre irrigated place of use remains as authorized.

Change in place of use, File Nos. 13,865; 21,114; 23,384; 29,068; 29,113; 31,670; 36,483; 36,484 & 39,637

The requested changes in place of use under File Nos. 13,865; 21,114 & 23,384; 29,068; 29,113 and 31,670, will not change the irrigated place of use with all current limitations between the irrigation portions remaining as authorized. The stockwatering the place of use will combine and expanded the stockwatering place of use to make a dairy livestock complex under all of the referenced files.

The dairy is authorized for the Northeast Quarter (NE $\frac{1}{4}$) of Section 31, Township 24, Range 27 West, by File Nos. 13,865; 29,068; 29,113 & 31,670. It has an annual total of 164.24 million gallons (504.04 acre-feet) per year. The current limitation on File No. 31,670 not to exceed 856 AF when combined with File Nos. 21,114; 29068 IRR & 29113 IRR will remain. The feedlot is authorized for the West Half of the Northwest Quarter (W $\frac{1}{2}$ NW $\frac{1}{4}$) of Section 32 Township 24, Range 27 West, authorized under File Nos. 36,483; 36,484 & 39,637, with a total annual quantity of 23.539 mgy (72.24 AF). The referenced files currently authorize **187.78 mgy (576.28 AF) for stockwatering use** under File Nos. 13,865; 29,068; 29,113; 31,670; 36,483; 36,484 & 39,637. The total stockwatering quantity with the dual use totals 1,165.68 AF (379.834 mgy).

The changes in place of use is to combine and enlarge the operation to one facility. The new stockwatering use description for the dairy and livestock operation place of use will be:

in the South Half of the Southwest Quarter (S $\frac{1}{2}$ SW $\frac{1}{4}$) of Section 29; and in the South Half of the Southeast Quarter (S $\frac{1}{2}$ SE $\frac{1}{4}$) of Section 30; and in the Northeast Quarter (NE $\frac{1}{4}$) and the Northwest Quarter of the Southeast Quarter (NW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 31, and in the Northwest Quarter (NW $\frac{1}{4}$) of Section 32,

all in Township 24 South, Range 27 West, Gray County, Kansas,

The description matches the Kansas Department of Health and Environment description utilized for their permitting process.

The submitted stockwatering justification lists 797.91 AF (260 mgy) per year. The Stockwatering Use Supplemental Sheet lists 9,600 dairy cattle. K.A.R. 5-3-22, would allow 811.5 AF (264 mgy) per year at 35 gallons per head per day for drinking, with an additional 1,075 AF (350 mgy) per year for servicing at 100 gallons per head. This regulation allows an annual total of 1,886.5 AF (614 mgy) for the operation of the dairy. When added to the justification for 11,100 dry cows and young stock afforded 15 or 5 gallons per head per day equating to 140 AF (45.5 mgy) per year, a total of 2,026.5 AF (660.33 mgy) per year would be allowed per K.A.R. 5-3-22, *Maximum reasonable quantity of water for livestock and poultry*. The combining of the existing stockwatering use and the proposed dual use authorizes a total of 1,165.68 AF (379.839 million gallons) per year to be authorized for stockwatering use. When File Nos. 13,865; 21,114 & 23,384, are operated as dual use an additional limitation on the quantity appears to be needed for the junior files. The approvals for File Nos. 23,384; 29,113; 29,068; 31,670; 36,483; 36,484 & 39,637, will have an additional limitation when File Nos. 13,865; 21,114 & 23,384, are operated as dual use the maximum quantity per year shall not exceed 260 million gallons 797.91 AF per year.

The irrigated place of use under each dual use application remaining as authorized will not result in a significant reduction in quantity as File Nos. 13,865 and 21,114, both have multiple files serving the same place of use. The irrigation ratio under File No. 23,384, will be reduced from 1.97 to 1.77 AF per acre, which is considered reasonable for Gray County per K.A.R. 5-3-24, *Reasonable quantity for irrigation use*.

The owner and water use correspondent of Water Right, File No. 28,424, were notified of the requested changes. This right appears to be the only well within one-half (½) mile of the wells authorized under the referenced files not owned by the applicant. No comment of any kind was received. The applications appear to comply with K.S.A. 82a-1906.

In a letter dated April 30, 2020, copies of the applications were sent to Mark Rude, Manager of Southwest Kansas Groundwater Management District No. 3 (GMD 3) along with a request to make a recommendation. In a letter dated May 5, 2020, Jason Norquest, Assistant Manager of GMD 3, indicated the proposal is not in conflict with their management plan and recommended approval of the applications.

Mike Meyer, Water Commissioner of the Garden City Field Office, indicated that he is not opposed to approval of the applications, per his email dated July 17, 2020.

A condition of the approvals will be the requirement of flow meters for each use authorized, pursuant to K.S.A. 82a-706c. A check valve will be required if chemigation occurs. The water use correspondent will be split between the irrigation portion going to Frink and the stockwatering going to Spandet Dairy. The owners address has been requested to be maintained as Hart, Texas.

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



Leslie Ireland
Environmental Scientist
Water Appropriation Program

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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

SPANDET DAIRY LLC
LAURENS SCHILDERINK
6306 20 RD
CIMARRON, KS 67835-9018

RE: Water Right, File Nos. 13,865; 21,114; 23,384; 29,068; 29,113; 31,670; 36,483; 36,484 & 39,637

Dear Mr. Schilderink:

Enclosed are the orders executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the applications for change.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in the approvals for change under File Nos. 13,865, 21,114 & 23,384. A condition of each approval is the requirement that an acceptable water flowmeter must be installed so both irrigation and stockwatering uses can be metered independent of each other, from each of the diversion works prior to the diversion of water.

Additionally, the quantity authorized for stockwatering use under the junior approvals, File Nos. 23,384; 29,068; 29,113; 31,670; 36,483; 36,484 & 39,637, is further limited to 798 acre feet (260 million gallons) per calendar year when stockwatering as dual use is authorized under File Nos. 13,865; 21,114 or 23,384.

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 regarding the enclosed documents, please contact our office at 785-564-6640. Inquiries about the metering please contact our staff at the Garden City Field Office, 620- 276-2901. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

Richelle A. Kruger
Environmental Scientist
Change Application Unit

RAK:LI:li
Enclosures

pc: Garden City Field Office
Groundwater Management District No. 3
Hemick Farms LTD, Texas

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Secretary of Agriculture

DIVISION OF WATER RESOURCES
Christopher W. Beightel, Acting Chief Engineer

APPROVAL OF APPLICATION FOR CHANGE IN USE MADE OF WATER, PLACE OF USE AND ORDER IN THE MATTER OF THE AUTHORIZED QUANTITY OF WATER AND ORDER BETTER DESCRIBING THE AUTHORIZED POINT OF DIVERSION WATER RIGHT, FILE NO. 21,114

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Laurens Schilderink on behalf of Spandet Dairy LLC and Hemink Farms LTD, 6306 20 Road, Cimarron, Kansas 67835-9018, received in this office on March 18, 2020, for approval of a change in the location of the place of use and the use made of water, 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 February 16, 1995, approving the application to change the place of use, finds that the change is reasonable and will not impair existing rights, and that the application should be and are hereby approved.

The authorized quantity of water under this right will remain 240 acre-feet (78.20 million gallons). This order effectively limits the authorized quantity of water to 214.32 acre-feet (69.84 million gallons) per calendar year for both stockwatering and irrigation uses combined. That the limitation on the quantity of water shall exist until such a time that the quantity of water for stockwatering use authorized by this approval is no longer required.

The effective date of the change shall be the date this order is executed by the Chief Engineer, after which the portion retained for irrigation use shall be authorized a maximum quantity not to exceed 214.32 acre-feet (69.84 million gallons) of groundwater per calendar year, 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	
32	24S	27W	31.50	31.50	31.50	31.50	10.00				40.00	31.50	31.50	31.50	31.50	31.50	31.50	31.50	428.0

a total of 428 acres in Township 24 South, Range 27 West, Gray County, Kansas.

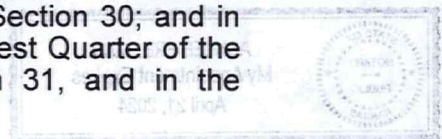
The portion changed to stockwatering use shall be authorized a quantity not to exceed:

69.84 million gallons (214.32 acre-feet) of groundwater per calendar year.

for use at the location described as being:

a dairy and livestock operation located in the South Half of the Southwest Quarter (S½ SW¼) of Section 29; and in the South Half of the Southeast Quarter (S½ SE¼) of Section 30; and in the Northeast Quarter (NE¼) and the Northwest Quarter of the Southeast Quarter (NW¼ SE¼) of Section 31, and in the Northwest Quarter (NW¼) of Section 32,

all in Township 24 South, Range 27 West, Gray County, Kansas,



all 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 Southeast Quarter of the Southeast Quarter of the Southwest Quarter (SE¼ SE¼ SW¼) of Section 32, more particularly described as being near a point 74 feet North and 2,818 feet West of the Southeast corner of said section, in Township 24 South, Range 27 West, Gray County, Kansas.

The water right owner shall properly install a separate acceptable water meter for each use made of water for 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 for irrigation and stockwatering use 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.

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.

In all other respects, the Certificate of Appropriation issued pursuant to Approval of Application, File No. 21,114, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated April 17, 1984, as modified and amended by the aforementioned order.

Dated at Manhattan, Kansas, this 30 day of July, 2020.

Lane P. Letourneau

Lane P. Letourneau, P.G.
Water Appropriation 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 30 day of July, 2020, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.



Ashlee Freeman
Notary Public

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:

- 1) request an evidentiary hearing before the Chief Engineer, or
- 2) 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, KS 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.

Any request for hearing or petition for administrative review shall be in writing and shall be submitted to the attention of: Chief Legal Counsel, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, Fax: (785) 564 - 6777.

CERTIFICATE OF SERVICE

On this 6 day of August, 2020, I hereby certify that the foregoing Approval of Application for Change in Use Made of Water Place of Use and Order in the Matter of the Quantity of Water and Orders in the Matter of the Quantity of Water and Point of Diversion under Water Right, File No. 21,114; dated 30 July was mailed postage prepaid, first class, US mail to the following:

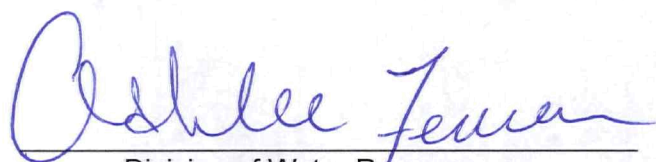
SPANDET DAIRY LLC
6306 20 RD
CIMARRON, KS 67835-9018

With true & correct copies to:

HEMINK FARMS LTD
2635 CR 521
HART, TX 79043

With photocopies to:

Garden City Field Office
Groundwater Management District No. 3


Division of Water Resources