

Kansas Department of Agriculture
Division of Water Resources
**CHANGE PU ALLOCATION WORKSHEET & OWNERSHIP CHANGE & ORDER TO
BETTER DESCRIBE PD LOCATION**

Document Signature lpl

1. File Number: 28346	2. Status Change Date: 3/16/2020	3. Change Num: C3	4. Field Office: 04	5. GMD: 03
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6. Status: <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied by DWR <input type="checkbox"/> Dismiss by Request/Failure to Return	7. Filing Date of Change: 2/10/2020
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8a. Applicant(s) New to system <input type="checkbox"/> Person ID 54841 Add Seq# _____ ROYAL FARMS DAIRY LLC 3705 F RD HRC GARDEN CITY, KS 67846-9231	8c. Landowner(s) New to system <input type="checkbox"/> Person ID _____ Add Seq# _____ <p style="color: purple; text-align: center;">Per LI after phone call with owner - create a new seq in WRIS and indicate as Card A</p> <div style="border: 1px solid blue; padding: 2px; width: fit-content; margin: auto;"> 3/19/2020 LMoody </div>
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8b. Landowner(s) New to system <input type="checkbox"/> Person ID 54841 Add Seq# _____ ROYAL FARMS DAIRY LLC 3705 F RD HRC GARDEN CITY, KS 67846-9231	8d. WUC New to system <input type="checkbox"/> Person ID 54841 Add Seq# _____ 8A
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9. Documents and Enclosure(s): DWR Meter(s) Date to Comply: **12/31/20** N & P Date to Comply: _____

Check Valve N & P Form Water Tube Driller Copy H & E Letter
 Conservation Plan Date Required: _____ Date Approved: _____ Date to Comply: _____

10. Use Made of Water From: _____ To: _____

Date Prepared: **2/20/20** By: **LI**
 Date Entered:

3/19/2020

 By:

LMoody

File No. **28346** 11. County: **GY** Basin: **ARKANSAS RIVER** Stream: **NA** Formation Code: Special Use: **NA**

12. Points of Diversion
 T
 MOD
 DEL PDIV
 ENT
 Qualifier S T R ID 'N 'W Comment
 Rate and Quantity
 Authorized
 Rate Quantity
 gpm af
 Additional
 Rate Quantity
 gpm af
 Overlap PD Files

CHK 51257 **SAME** **NONE**

MOD 24175 NC NW 3 25 30W 2 4044 4049 GPS UPDATE **SAME** **NONE**

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 **B3** Start Year **2020** 5 YR **2376** Amount _____ Amount Unit **AF** Base Acres **351.2** Comment **B32024 5YR ALLOC-2376 AF LIMIT**

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				
MOD 36065	10 25 30W	1				30.75	30.75	30.75	30.75												123	8b	YES	29915	
MOD 61235	4 25 30W	2				Lot 1 30.5	Lot 2 30.56	30.5	30.5												122	8b	YES	29915	
MOD 29745	3 25 30W	1				Lot 1 31.0	Lot 2 31.0	31.0	31.0	Lot 3 31.0	Lot 4 31.0	31.0	31.0					30.75	30.75	30.75	30.75	371	8b	YES	29915
REVERSION ACRES																									
3 25 30W						Lot 1 26.3	Lot 2 26.3	26.3	26.3	Lot 3 31.0	Lot 4 31.0	31.0	31.0								229.2	8b		29915	
4 25 30W						Lot 1 30.5	Lot 2 30.56	30.5	30.5												122.0	8b		29915	
10 25 30W						40	40	40	40												160.0	8b		29915	

Comments please add lots to PU seem to have been previously forgotten.. **ALLOCATION 5 year Reversion will remain overlapped with 29915**

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: February 24, 2020

FROM: Leslie Ireland

RE: Water Right,
File Nos. 28,346 & 29,915

Kyle S. Averhoff on behalf of Royal Farms Dairy LLC, as owner of the referenced water rights have filed applications requesting that a change in place of use for the recently required irrigation rights. The applications were received on February 10, 2020.

A review of the reported water use finds that the water right is in good standing as per K.S.A. 82a-718 and 82a-732. The applications appear to be complete per K.A.R. 5-5-2a, *Complete change application*. Nearby notifications were sent on February 13, 2020, to comply with K.S.A 82a-1906. No comments have been received due to these notifications.

The referenced files overlap in place of use authorizing a total of 864 acre-feet (AF) assigned as 544 AF, File No. 28,346, and 320 AF under File No. 29,915, for the irrigation of 512 overlapping irrigated acres in Sections 3, 4 & 10, in Township 25 South, Range 30 West, Gray County. The appropriations are not located in a special use area. The area has corrective lots in Sections 3 & 4, that will be updated per the official survey information.

The owner proposes to an increase the place of use according to K.A.R. 5-5-11(b)(3); **Necessity to install a more efficient irrigation system; limited quantity**, to provide more irrigated acres for management of their operation.

- The Southwest Kansas Groundwater Management District No. 3 will assume monitoring responsibility, as per the memorandum of understanding between the Division of Water Resources and the GMD.
- The owner proposes to increase from the 512 pivot irrigated acres to a total of 616 by the addition of a pivot in the Southeast Quarter (SE¼) of Section 3, Township 25, Range 30 West Gray County. A few acres will also be added to the pivot in the Northeast Quarter of this section, and the corners dropped on the pivot in the Northeast Quarter of Section 10. In general, the total place of use will be five (5) pivots in Sections 3, 4 & 10.
- The files were reviewed for the "base acres" of which 351.2 was determined for File No. 28,346 & 160 acres for File No. 29,915, a total of 511.2 acres per the staff at our Garden City Field Office. The applicant has proposed a net increase of 104.8 acres above the "base acres" to authorize 616 acres.
- There has been no recent pattern of water use in excess of the maximum annual quantity authorized and the reported acreage would appear to reflect the increase of acreage as proposed under this requested change.
- The owner has an IDP/operation plan with KDHE as the applicant was required by them to modify their irrigation operation for the dairy. The dairy located in Sections 33 & 28 is authorized 578 acre-feet for their stockwatering use.
- **Limitations:** The authorized quantity of water under the referenced water rights will be **limited to a five-year fixed allocation of 2,376 acre-feet under File No. 28,346 & 1,082.5 under File No. 29,915** as determined by part i of the regulation. Together they will authorize a combined 3,458.5 acre-feet over the five (5) year allocation.

File No. 28,346

$1.15 \text{ AF (50\% NIR for Gray Co.)} \div 0.85 \text{ (irrigation efficiency)} \times 351.2 \text{ base acres} = 475.15 \text{ AF}$
 $475.15 \times 5 \text{ years} = 2,375.76 \text{ AF allocated for use during the 5 years irrigation cycle.}$

File No. 29,915

$1.15 \text{ AF (50\% NIR for Gray Co.)} \div 0.85 \text{ (irrigation efficiency)} \times 160 \text{ base acres} = 216.47 \text{ AF}$
 $216.5 \times 5 \text{ years} = 1,082.5 \text{ AF allocated for use during the 5 years irrigation cycle.}$

- The additional condition will be placed on the rights, that use of water in excess of the five-year allocation, shall result in a two (2) year suspension of all water use under the referenced rights and subsequent restriction of the authorized place of use to the base acreage at the location specifically set forth in the change approvals.

The owner has signed a *Statement of Review* for each of the referenced files. The total combined quantity of 3,458.5 acre-feet authorized under the referenced files proposes to irrigate a place of use of 616 acres. While the owners may utilize the total certified quantity under each right in a given year, 544 AF, File No. 28,346, and 320 AF under File No. 29,915, (874 AF), the allocation will restrict them to an average quantity of 691.7 acre-feet per year during the five(5) year allocation. This average quantity will provide 1.12 acre-feet per acre, which is less than the 1.15 acre-feet as indicated for the 50% NIR for corn in Gray County, but the owner has indicated the acres are needed for the operation of the dairy, indicating effluent will be available. The requirements of the reduced quantity under the allocation, should assure that consumptive use will not increase and that the requirement of K.A.R. 5-5-3, **Consumptive use** has been met for these irrigation rights.

The location of one(1) of the two(2) points of diversion has been determined by GPS. The order under File No. 28,346 will update the well location of ID 2 to the October 10, 2016, determined actual location of 4,044 feet North and 4,049 feet West of the Southeast corner of Section 3, approximately 101 feet Northwest of the historically authorized well location.

Jason Norquest, Assistant Manager, Southwest Kansas Groundwater Management District No. 3, provided a recommendation to approve the allocation with them assuming the monitoring as per the memorandum of understanding between the Division of Water Resources and Groundwater Management District No. 3.

The Water Commissioner, Mike Meyer, reviewed the proposed changes and provided a recommendation for approval on February 24, 2020.

Water flowmeters will be required as per K.A.R. 5-5-11(e) and with check valves being required if chemigating. A water level measurement tube and WWC-5 will not be conditions of the approval as no new wells have been authorized.

Based on the above discussion, that the changes are reasonable and will not increase the historical consumptive use, that impairment of existing water rights is unlikely, that no change in the local source of supply will occur, that the local groundwater management district will continue monitoring responsibilities for the allocation, it is recommend the referenced application be approved.



Leslie Ireland
Environmental Scientist
Water Appropriation Program

Submit To: CHIEF ENGINEER
Division of Water Resources
Kansas Department of Agriculture
1320 Research Park Drive
Manhattan, Kansas 66502
http://agriculture.ks.gov/dwr

**APPLICATION FOR APPROVAL TO
CHANGE THE PLACE OF USE, THE
POINT OF DIVERSION OR THE USE
MADE OF THE WATER UNDER AN
EXISTING WATER RIGHT**



State of Kansas

Filing Fee Must Accompany the Application
(Please refer to Fee Schedule on signature page of application form.)

Paragraph Nos. 1, 2, 3, 4 & 8 must be completed. Complete all other applicable portions. A topographic map or detailed plat showing the authorized and proposed points(s) of diversion and /or place of use must accompany this application.

1. Application is hereby made for approval of the Chief Engineer to change the
(Check one or more) Place of Use *ALLOCATION - MAX ACRES -*
 Point of Diversion *ORDER TO BETTER*
 Use Made of Water *DESCRIBE PD*

Water Resources
Received
FEB 10 2020
1:14
KS Dept Of Agriculture

File No. 28346

2. Name of applicant: Royal Farms Dairy LLC

Address: 3705 F RD

City, State and Zip: Garden City, KS 67846

Phone Number: (620)335-5454 E-mail address: averhoff@ucom.net

What is your relationship to the water right; owner tenant agent other? If other, please explain. _____

Name of water use correspondent: SAME

Address: _____

City, State and Zip: _____

Phone Number: () _____ E-mail address: _____

3. The change(s) proposed herein are desired for the following reasons (please be specific): _____

Better utilize fresh water and effluent in the operation

The change(s) (was) (will be) completed by as soon as approved (Date)

For Office Use Only:		Meets K.A.R. 5-5-1 (YES/NO) Use <u>IRR</u> Source <u>G/S</u> County <u>6Y</u> By <u>BAM</u> Date <u>2-10-20</u>	
F.O. <u>4</u>	GMD <u>3</u>	Fee \$ <u>100</u>	TR # _____ Receipt Date <u>2-10-20</u> Check # <u>026634</u>
Code <u>CPU</u>			

APPLICATION COMPLETE
2/20/20
Reviewer LI

SCANNED

4. The presently authorized place of use is:

Owner of Land — NAME: Royal Farms Dairy LLC

ADDRESS: 3705 F RD, Garden City, KS 67846

Sec.	Twp.	Range	NE¼				NW¼				SW¼				SE¼				TOTAL ACRES
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
3	25s	30w	Lot 1 26.5	Lot 2 26.5	26.5	26.5	Lot 3 31.0	Lot 4 31.0	31.0	31.0									230.0
4	25s	30w	Lot 1 30.5	Lot 2 30.5	30.5	30.5													122.0
10	25s	30w	40.0	40.0	40.0	40.0													160.0

List any other water rights that cover this place of use. 28346 * LOTS 1-4 IN NE ¼ NW sec 3/4 TOTAL 512

Owner of Land — NAME: _____

ADDRESS: _____

Sec.	Twp.	Range	NE¼				NW¼				SW¼				SE¼				TOTAL ACRES
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

List any other water rights that cover this place of use. _____

(If there are more than two landowners, attach additional sheets as necessary.)

5. It is proposed that the place of use be changed to:

Owner of Land — NAME: Royal Farms Dairy LLC

ADDRESS: 3705 F RD, Garden City, KS 67846

Sec.	Twp.	Range	NE¼				NW¼				SW¼				SE¼				TOTAL ACRES	
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼		
3	25s	30w	Lot 1 25.5	Lot 2 25.5	31.0	31.0	Lot 3 31.0	Lot 4 31.0	31.0	31.0					30.75	30.75	30.75	30.75	371.0	
4	25s	30w	Lot 1 30.5	Lot 2 30.5	30.5	30.5														122.0
10	25s	30w	30.75	30.75	30.75	30.75														123.0

List any other water rights that cover this place of use. 29,915 * TOTAL 616 *

Owner of Land — NAME: SAME AS ABOVE

ADDRESS: _____

REVERSION ACRES

Sec.	Twp.	Range	NE¼				NW¼				SW¼				SE¼				TOTAL ACRES	
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼		
3	25	30N	Lot 1 26.3	Lot 2 26.3	26.3	26.3	Lot 3 31.0	Lot 4 31.0	31.0	31.0										229.2
4	25	30W	Lot 1 30.5	Lot 2 30.5	30.5	30.5														122.0
10	25	30W	40	40	40	40														160.0

List any other water rights that cover this place of use. 29,915 TOTAL 511.2 *

* LI/DWR 2/12/20
* LI/DWR 2/13/20

12. The presently authorized use of water is for IRR purposes.
It is proposed that the use be changed to IRR purposes.

13. If changing the place of use and/or use made of water, describe how the consumptive use will not be increased.

Calculation is in accordance with KAR 5-5-11

$((1.15)/.85) \times 351.2 \times 5 \text{ years} = 2376 \text{ AF} / 5 \text{ years, without exceeding annual base right } Q \text{ OF } 544 \text{ AF}$

As with the base, the 5 year total will be spit on the two wells equally since the base is equal (NOT REQUIRED?)

50% CHANGE 5-5-12 BY CO = 1.15

$475.15 \times 5 = 2375.76 \sim 2376$

(Please show any calculations here.)

14. It is requested that the maximum annual quantity of water be reduced to _____ (acre-feet or million gallons).

15. It is requested that the maximum rate of diversion of water be reduced to _____ gallons per minute (____ c.f.s.).

16. The application must include either a topographic map or detailed plat. A U.S. Geological Survey Topographic Map, scale 1:24,000, is available through the Kansas Geological Survey, 1930 Constant Avenue, University of Kansas, Lawrence, Kansas 66047-3726 (www.usgs.gov). The map should show the location of the presently authorized point(s) of diversion. Distances North and West of the Southeast corner of the section must be shown. The presently authorized place of use should also be shown. Identify the center of the section, the section lines and the section corners and show the appropriate section, township, and range numbers on the map. In addition the following information must also be shown on the map.

a. If a change in the location of the point(s) of diversion is proposed, show:

- 1) The location of the proposed point(s) of diversion. Distances North and West of the Southeast corner of the section must be shown. Please be certain that the information shown on the map agrees with the information shown in Paragraph Nos. 9, 10 and 11 of the application.
- 2) If the source of supply is groundwater, please show the location of existing water wells of any kind, including domestic wells, within 1/2 mile of the proposed well or wells. Identify each well as to its use and furnish name and mailing address of the property owner or owners. If there are no wells within 1/2 mile, please indicate so on the map.
- 3) If the source of supply is surface water, the names and mailing addresses of all landowner(s) 1/2 mile downstream and 1/2 mile upstream from your property lines must be shown.

b. If a change in the place of use is desired, show the proposed place of use by crosshatching on the map. Please be certain that the information shown on the map agrees with the information shown in Paragraph No. 5 of the application.

17. Attach documentation to show the change(s) proposed herein will not impair existing water rights and relates to the same local source of supply as to which the water right relates. This information may include statements, plats, geology reports, well logs, test hole logs, and other information as necessary information to show the above. Additional comments may be made below.

Follow criteria in KAR 5-5-11, see plat map

18. If the proposed change(s) does not meet all applicable rules and regulations of the Kansas Water Appropriation Act, please identify the rules and regulations for which you request a waiver. State the reason why a waiver is needed and why the request should be granted. Attach documentation showing that granting the request will not impair existing water rights and will not prejudicially and unreasonably affect the public interest.

No waivers needed. has discussed the requirements with GMD3 for the monitoring agreement.

STAFF REPORT

6. The presently authorized point(s) of diversion is Two wells pumps and discharges
(Provide description and number of points)

7. The proposed point(s) of diversion is No Change
(Provide description and number of points)

List all presently authorized point(s) of diversion:

8. **Presently authorized point of diversion:**
 One in the _____ Quarter of the NC Quarter of the NE Quarter
 of Section 3, Township 25 South, Range 30 W,
 in GRAY County, Kansas, 3960 feet North 1350 feet West of Southeast corner of section.
 Authorized Rate 955GPM Authorized Quantity 272AF
 (DWR use only: Computer ID No. 2 GPS 4044 feet North 4049 feet West)
 This point will not be changed This point will be changed as follows:
Proposed point of diversion: (Complete only if change is requested)
 One in the _____ Quarter of the _____ Quarter of the _____ Quarter
 of Section _____, Township _____ South, Range _____ (E/W),
 in _____ County, Kansas, _____ feet North _____ feet West of Southeast corner of section.
 Proposed Rate _____ Proposed Quantity _____
 This point is: Additional Well Geo Center List other water rights that will use this point _____

9. **Presently authorized point of diversion:**
 One in the _____ Quarter of the NC Quarter of the NW Quarter
 of Section 3, Township 25 South, Range 30 W,
 in GRAY County, Kansas, 3975 feet North 3975 feet West of Southeast corner of section.
 Authorized Rate 940GPM Authorized Quantity 272AF
 (DWR use only: Computer ID No. 2 * GPS 4044 * feet North 4049 * feet West)
 This point will not be changed This point will be changed as follows:
Proposed point of diversion: (Complete only if change is requested)
 One in the _____ Quarter of the _____ Quarter of the _____ Quarter
 of Section _____, Township _____ South, Range _____ (E/W),
 in _____ County, Kansas, _____ feet North _____ feet West of Southeast corner of section.
 Proposed Rate _____ Proposed Quantity _____
 This point is: Additional Well Geo Center List other water rights that will use this point _____
 UPDATE BY 101.2 *
 COMPLIANCE DATED 10/10/16

10. **Presently authorized point of diversion:**
 One in the _____ Quarter of the _____ Quarter of the _____ Quarter
 of Section _____, Township _____ South, Range _____ (E/W),
 in _____ County, Kansas, _____ feet North _____ feet West of Southeast corner of section.
 Authorized Rate _____ Authorized Quantity _____
 (DWR use only: Computer ID No. _____ GPS _____ feet North _____ feet West)
 This point will not be changed This point will be changed as follows:
Proposed point of diversion: (Complete only if change is requested)
 One in the _____ Quarter of the _____ Quarter of the _____ Quarter
 of Section _____, Township _____ South, Range _____ (E/W),
 in _____ County, Kansas, _____ feet North _____ feet West of Southeast corner of section.
 Proposed Rate _____ Proposed Quantity _____
 This point is: Additional Well Geo Center List other water rights that will use this point _____

11. Describe the current condition of and future plans for any point(s) of diversion which will no longer be used.

Water Resources
Received

FEB 10 2020

* LSI 200 2/12/20

SCANNED

Any use of water that is not as authorized by the water right or permit to authorize water **before** the chief engineer approves this application is a violation of the Kansas Water Appropriation Act for which criminal or civil penalties may be assessed. Such violation is a class C misdemeanor, punishable by a fine not to exceed \$500 and/or a term of confinement not to exceed one month in the county jail. K.S.A. 82a-728(b). Civil penalties shall be not less than \$100 nor more than \$1,000 per violation. In the case of a continuing violation, each day such violation continues may be deemed a separate violation. In addition to these penalties the water right may be modified or suspended. K.S.A. 82a-737, as amended.

The application must be signed by all owners of the place of use authorized under the water right and his or her spouse, if married. Please indicate if there is no spouse. If land is being purchased under contract, the seller must sign as landowner until such time as the contract is completed.

In the event that all applicants cannot appear before one notary public, they may as necessary sign separate copies of the application before any notary public conveniently available to them. All copies signed in this manner shall be considered to be valid parts of the application.

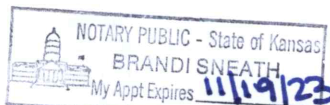
If the request is signed on behalf of any Owner by someone with legal authority to do so (for example, an agent, one who has power of attorney, or an executor, executrix, conservator), it will be necessary to attach proper documents showing such authority.

I declare that I am an owner of the currently authorized place of use as identified herein, or that I represent all such owners and am authorized to make this application on their behalf, and declare further that the statements contained herein are true, correct, and complete. By filing this application I authorize the chief engineer to permanently reduce the quantity of water and/or rate of diversion as specified in sections 14 and 15 of this application.

Dated at GmD3 Office, Kansas, this 6th day of February, 20 20.

<u>[Signature]</u> (Owner)	_____	(Spouse)
<u>Kyle S Averhoff</u> (Please Print)	_____	(Please Print)
_____	_____	(Spouse)
(Owner)	_____	(Please Print)
_____	_____	(Spouse)
(Please Print)	_____	(Please Print)
_____	_____	(Spouse)
(Owner)	_____	(Please Print)
_____	_____	(Spouse)
(Please Print)	_____	(Please Print)

State of Kansas }
County of Finney } SS



I hereby certify that the foregoing application was signed in my presence and sworn to before me this 6th day of February, 20 20.

Brandi Sneath
Notary Public

My Commission Expires 11/19/23

FEE SCHEDULE

Each application to change the place of use, the point of diversion or the use made of the water under this section shall be accompanied by the application fee set forth in the schedule below:

- (1) Application to change a point of diversion 300 feet or less \$100
- (2) Application to change a point of diversion more than 300 feet \$200
- (3) Application to change the place of use \$200
- (4) Application to change the use made of the water \$300

Water Resources
Received

Make check payable to **Kansas Department of Agriculture.**

FEB 10 2020

KS Dept Of Agriculture

SCANNED

STATEMENT OF REVIEW
under K.A.R. 5-5-11(b)(3), (4) and (5)
for a Point of Diversion located within GMD No. 3

The items listed below were reviewed by the undersigned person(s) at GMD 3 office, Kansas, on this 6th day of February, 20 22. This review was related to the proposed *Change in Place of Use Under Water Right* for File No. 28346.

- (1) Water flow meters will be required on all wells authorized by the above-referenced file number. These flow meter(s) shall be properly installed and maintained on each well to the satisfaction of the Chief Engineer. The metered quantity of water diverted during the past year by each well shall be reported on the annual water use report required by law to be provided to the Division of Water Resources (Division).
- (2) Southwest Kansas Groundwater Management District No. 3 (GMD No. 3) will make at least one visit per calendar year to this farm. The purpose of this visit is to monitor the compliance with conditions under which this change will be approved, if granted. Reports of verification of compliance and status reports will be completed by GMD No. 3 and furnished to the Division.
- (3) The amount of water required to irrigate the acreage proposed under this change application has been reviewed. The five-year allocation, if required, has been reviewed and is understood to be 2376 acre-feet. The five-year allocation is the quantity of water that will be authorized for diversion under this water right for each five-year period.
- (4) The approval of this application will be conditioned so that any use of water in excess of the five-year allocation will result in a two-year suspension of all water use under that water right and a subsequent restriction of the authorized place of use to a place of use equivalent to the base acres at a location specifically set forth on the change application approval.
- (5) For an application that proposes an increase in authorized acres solely for the purpose of rotation of the irrigated land within the authorized place of use, the base acres are _____ acres. The acres irrigated in any one calendar year shall not exceed _____ base acres each calendar year. The land to be irrigated will be certified to GMD No. 3 in writing before applying any water in that calendar year.
- (6) The approval of this application will be conditioned so that the use of water on more than the base acres certified to GMD No. 3 in any calendar year will result in a two-year suspension of all water use under this water right and a subsequent restriction of the authorized place of use equivalent to the base acres at a location specifically set forth on the change application approval.

- (7) Changes in the Memorandum of Understanding between GMD No. 3 and the Division may affect the above-referenced files. If the Memorandum of Understanding related to K.A.R. 5-5-11 between the GMD No. 3 and the Division is rescinded because of the fault of GMD No. 3, the authorized place of use will revert to the equivalent of the base acres at a location specifically set forth in the change approval.

By signing below, I am indicating that I have reviewed and understand the items set forth above and agree that I am willing to abide by those conditions if my application for change in place of use is approved.

[Signature]
Signature

Signature

Signature

Signature

State of Kansas)
County of Finney)

I hereby certify that the foregoing document was signed in my presence and sworn before me this 6th day of February, 2020.

Brandi Sneath
Notary Public

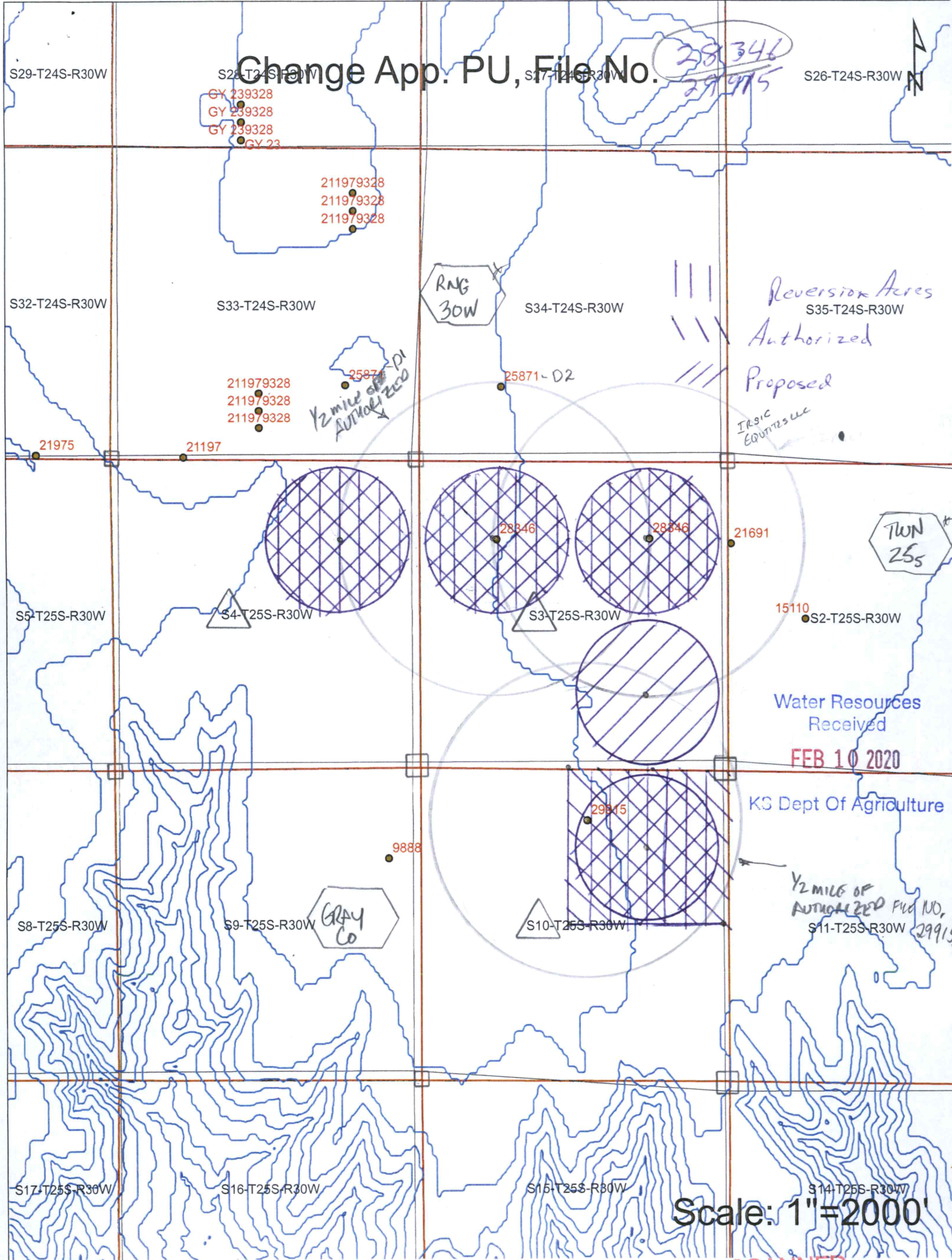


My commission expires 11/19/2023

Signature, Division of Water Resources' Staff
Person Assisting in the Review

Change App. PU, File No.

28346
29915



Reversion Acres
Authorized
Proposed

Trsic
EQUINUS LLC

Water Resources
Received
FEB 10 2020

KS Dept Of Agriculture

Scale: 1"=2000'

Ireland, Leslie [KDA]

From: Meyer, Mike [KDA]
Sent: Monday, February 24, 2020 2:26 PM
To: Ireland, Leslie [KDA]
Subject: RE: Recommendation for Change in PU allocation, File Nos. 28346 & 29915 Royal Farms Dairy

That was quick turnaround. Yes I agree with approval

Mike

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Monday, February 24, 2020 1:55 PM
To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Subject: Recommendation for Change in PU allocation, File Nos. 28346 & 29915 Royal Farms Dairy

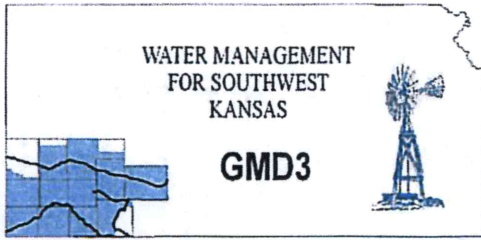
Mike,

Please let me know if you would recommend these changes for an allocation, that appears to be needed per KDHE.

The ownership will go from Irisk to Royal with the dairy effluent to help with the quantity.

As always comments and concerns are welcome.

Leslie Ireland, Environmental Scientist
Kansas Department of Agriculture
Division of Water Resources - Change Unit
(785) 564-6633
Leslie.Ireland@ks.gov
www.agriculture.ks.gov



Southwest Kansas
Groundwater Management District No. 3
2009 E. Spruce Street
Garden City, Kansas 67846
(620) 275-7147 phone (620) 275-1431 fax
www.gmd3.org

February 20, 2020

Leslie Ireland
Kansas Department of Ag
Division of Water Resources
1320 Research Park Drive
Manhattan, Kansas 66502

RE: Application for Change in Place of Use
Water Right, File Nos. 28346 & 29915

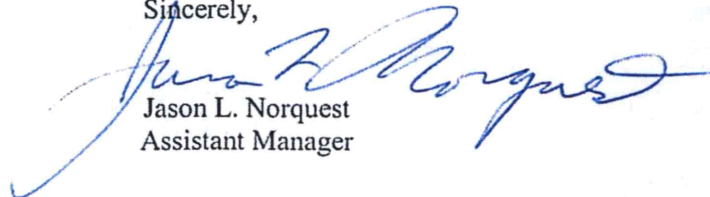
Dear Leslie:

We have completed a review of the applications for the above referenced water rights, which we also assisted with. The proposed change in place of use is in accordance with current area rules, K.A.R. 5-5-11(b)(3), as it pertains to new acres currently not authorized being added to the water rights.

Staff has had discussions with the applicant to fully explain the monitoring agreement required with these proposed changes. The applicant understood and agreed to the terms. It is therefore recommended that the applications be approved and the monitoring agreement can start upon final approval.

Thank you for the opportunity to review the applications and to provide a recommendation. If you have any questions, please don't hesitate to contact us.

Sincerely,



Jason L. Norquest
Assistant Manager

GMD3 Change Review

File No(s): 28346 & 29915.

DWR office: HQ.

App filed to change: PU.

Is Landowner(s) correct in WRIS: Royal Farms Dairy LLC.

If NO, is documentation included?

Is Water Use Correspondent correct in WRIS? __.

If NO, is documentation included?

Regulation(s) Reviewed: KAR 5-5-11

Point of diversion ID No(s) __ being changed.

	ft. North	ft. West			
Authorized PD					
Proposed PD					
Difference	0	0			
a2 + b2 = c2	0	0	0		

GPS for proposed PD: Lat: __ Long: __.

Is proposed PD stacking on existing WRs? __.

Is Proposed PU overlapping existing WRs? Adding to the already overlapped acres.

Neighboring certified well(s) notified: __.

Name __.

Address __.

Zip __.

Domestic well(s) notified: __.

Name __.

Address __.

Zip __.

Base Acres: 511.

Perfected Acres: __.

Irr. Return-Flow __%

Currently authorized 512 acres (which is base).

Proposing 616 acres so would have to go into a monitoring agreement.

Applying for 5 year allocation.

28346 will be authorized a combined 2376AF/5 year while not exceeding combined 544AF in any one year.

29915 will be authorized 1082.5AF/5 years while not exceeding 320AF in any one year.

Is a waiver needed: Meets the rules for change in PU as long as GMD3 monitors. We have discussed the MOU requirements with applicant and have understanding of what is expected.

GMD3 Change Review

Recommendation: After assisting/reviewing all information with the applications, the current area rules are met. Staff has communicated with applicant about the MOU. Staff therefore recommends approval of the applicaitons.

A handwritten signature in blue ink, consisting of a large, stylized 'J' followed by a cursive flourish.

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

ROYAL FARMS DAIRY LLC
KYLE S AVERHOFF
3705 F ROAD
GARDEN CITY KANSAS 67846

March 19, 2020

FILE COPY

RE: Water Right, File Nos. 28,346 & 29,915

Dear Mr. Averhoff:

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

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in the approvals for change. A condition of the approvals is that an acceptable water flowmeter must be installed on the diversion works authorized. Please return the required notification of installation of the meters as soon as completed.

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. For your convenience the annual water use report may be filed online at www.kswaterusereport.org.

Your attention should be drawn to the fact that the approvals have been issued solely for the purpose of allowing the operation of a more efficient irrigation system on the irrigated land within the authorized place of use, limited to a fixed allocation of water specifically: **2,376 acre feet under File No. 28,346 and 1,082.5 acre-feet under File No. 29,915**, over a five (5) year period. Non-compliance with the terms of the approvals will result in substantial penalties.

If you have any questions, please contact your area water commissioner, Michael Meyer, at (620) 276-2901. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

Kristen A. Baum
New Applications Unit Supervisor
Water Appropriation Program

KAB:LI:li:

Enclosures

pc: Garden City Field Office
Groundwater Management District No. 3

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 PLACE OF USE
AND
ORDER IN THE MATTER OF THE AUTHORIZED POINTS OF DIVERSION
WATER RIGHT
FILE NO. 28,346**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Kyle S. Averhoff on behalf of Royal Farms Dairy LLC, 3705 F Road, Garden City, Kansas 67846, received in this office on February 10, 2020, for approval of a change in the location of the place of use under the certificate of appropriation issued pursuant to the permit to appropriate water for beneficial use, as modified and amended by the Correction Order of the Chief Engineer, dated December 11, 1986, in the matter of the points of diversion, and the Orders of the Chief Engineer, dated May 1, 1987, October 12, 2009, and September 10, 2013, approving the applications 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 is hereby approved.

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

Sec.	Twp.	Range	NE¼				NW¼				SW¼				SE¼				TOTAL ACRES
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
3	25S	30W	Lot 1 31.00	Lot 2 31.00	31.00	31.00	Lot 3 31.00	Lot 4 31.00	31.00	31.00					30.75	30.75	30.75	30.75	371.00
4	25S	30W	Lot 1 30.50	Lot 2 30.50	30.50	30.50													122.00
10	25S	30W	30.75	30.75	30.75	30.75													123.00

a total of 616 acres in Sections 3, 4, & 10, in Township 25 South, Range 30 West, Gray County, Kansas,

located substantially as shown on the map accompanying the application to change the place of use.

By this approval, this water right is subject to the following conditions:

1. That the quantity of water authorized under Water Right, File No. 28,346 shall not exceed 2,376 acre-feet per five (5)-year period; the first period being calendar years 2020 through 2024, ad infinitum.
2. That the quantity of water authorized under Water Right, File No. 28,346 shall not exceed 544 acre-feet per calendar year, provided that 1,082.5 acre-feet per five (5)-year period is not exceeded.

3. That use of water in excess of 2,376 acre-feet per five (5)-year period shall result in a two (2)-year suspension of all water use under this water right, effective the next two (2) calendar years, and a subsequent restriction of the authorized place of use to the following described property:

Sec.	Twp.	Range	NE¼				NW¼				SW¼				SE¼				TOTAL ACRES
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
3	25S	30W	Lot 1 26.30	Lot 2 26.30	26.30	26.30	Lot 3 31.00	Lot 4 31.00	31.00	31.00									229.20
4	25S	30W	Lot 1 30.50	Lot 2 30.50	30.50	30.50													122.00
10	25S	30W	40.00	40.00	40.00	40.00													160.00

a total of 511.2 acres in Sections 3, 4 & 10, in Township 25 South, Range 30 West, Gray County, Kansas.

4. That if the Southwest Kansas Groundwater Management District No. 3 and/or the Division of Water Resources terminate(s) their/its Memorandum of Understanding (MOU) pertaining to K.A.R. 5-5-11(b)(3), (4) and (5), by which the District assumes monitoring responsibility, then the place of use authorized by this change approval, which was issued by the Division pursuant to the MOU shall revert to the property described in paragraph No. 3, above, starting the calendar year following the year of termination.

That information in the office of the Chief Engineer finds that the points of diversion would be more accurately defined as being:

one (1) well located near the center of the Northeast Quarter (NE¼) of Section 3, more particularly described as being near a point 3,960 feet North and 1,350 feet West of the Southeast corner of said section, at a quantity not to exceed 272 acre-feet per calendar year and at a diversion rate not in excess of 955 gallons per minute (2.13 c.f.s.), and

one (1) well located near the center of the Northwest Quarter (NW¼) of Section 3, more particularly described as being near a point 4,044 feet North and 4,049 feet West of the Southeast corner of said section, at a quantity not to exceed 272 acre-feet per calendar year and at a diversion rate not in excess of 940 gallons per minute (2.09 c.f.s.), and

both in Township 25 South, Range 30 West, Gray County, Kansas.

All 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.

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 a 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.

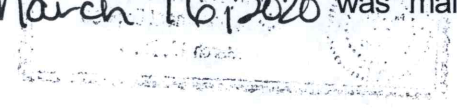
CERTIFICATE OF SERVICE

On this 19th day of March 2020, I hereby certify that the attached Approval of Application for the Change in Place of Use and Order in the Matter of the Authorized Points of Diversion, Water File No. 28,346, dated March 16, 2020 was mailed postage prepaid, first class, US mail to the following:

Royal Farms Dairy LLC
Kyle S. Averhoff
3705 F Road
Garden City, Kansas 67846

With photocopies sent to:

Garden City Field Office
Groundwater Management District No. 3



Kathleen
Division of Water Resources

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

ROYAL FARMS DAIRY LLC
KYLE S AVERHOFF
3705 F ROAD
GARDEN CITY KANSAS 67846

March 19, 2020

FILE COPY

RE: Water Right, File Nos. 28,346 & 29,915

Dear Mr. Averhoff:

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

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in the approvals for change. A condition of the approvals is that an acceptable water flowmeter must be installed on the diversion works authorized. Please return the required notification of installation of the meters as soon as completed.

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. For your convenience the annual water use report may be filed online at www.kswaterusereport.org.

Your attention should be drawn to the fact that the approvals have been issued solely for the purpose of allowing the operation of a more efficient irrigation system on the irrigated land within the authorized place of use, limited to a fixed allocation of water specifically: **2,376 acre feet under File No. 28,346 and 1,082.5 acre-feet under File No. 29,915**, over a five (5) year period. Non-compliance with the terms of the approvals will result in substantial penalties.

If you have any questions, please contact your area water commissioner, Michael Meyer, at (620) 276-2901. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

Kristen A. Baum
New Applications Unit Supervisor
Water Appropriation Program

KAB:LI:li:

Enclosures
pc: Garden City Field Office
Groundwater Management District No. 3

SCANNED

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 PLACE OF USE AND ORDER IN THE MATTER OF THE AUTHORIZED POINTS OF DIVERSION WATER RIGHT FILE NO. 28,346

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Kyle S. Averhoff on behalf of Royal Farms Dairy LLC, 3705 F Road, Garden City, Kansas 67846, received in this office on February 10, 2020, for approval of a change in the location of the place of use under the certificate of appropriation issued pursuant to the permit to appropriate water for beneficial use, as modified and amended by the Correction Order of the Chief Engineer, dated December 11, 1986, in the matter of the points of diversion, and the Orders of the Chief Engineer, dated May 1, 1987, October 12, 2009, and September 10, 2013, approving the applications 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 is hereby approved.

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

Sec.	Twp.	Range	NE¼				NW¼				SW¼				SE¼				TOTAL ACRES
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
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10	25S	30W	30.75	30.75	30.75	30.75													123.00

a total of 616 acres in Sections 3, 4, & 10, in Township 25 South, Range 30 West, Gray County, Kansas,

located substantially as shown on the map accompanying the application to change the place of use.

By this approval, this water right is subject to the following conditions:

1. That the quantity of water authorized under Water Right, File No. 28,346 shall not exceed 2,376 acre-feet per five (5)-year period; the first period being calendar years 2020 through 2024, ad infinitum.
2. That the quantity of water authorized under Water Right, File No. 28,346 shall not exceed 544 acre-feet per calendar year, provided that 1,082. 5 acre-feet per five (5)-year period is not exceeded.

SCANNED

3. That use of water in excess of 2,376 acre-feet per five (5)-year period shall result in a two (2)-year suspension of all water use under this water right, effective the next two (2) calendar years, and a subsequent restriction of the authorized place of use to the following described property:

Sec.	Twp.	Range	NE¼				NW¼				SW¼				SE¼				TOTAL ACRES
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10	25S	30W	40.00	40.00	40.00	40.00													160.00

a total of 511.2 acres in Sections 3, 4 & 10, in Township 25 South, Range 30 West, Gray County, Kansas.

4. That if the Southwest Kansas Groundwater Management District No. 3 and/or the Division of Water Resources terminate(s) their/its Memorandum of Understanding (MOU) pertaining to K.A.R. 5-5-11(b)(3), (4) and (5), by which the District assumes monitoring responsibility, then the place of use authorized by this change approval, which was issued by the Division pursuant to the MOU shall revert to the property described in paragraph No. 3, above, starting the calendar year following the year of termination.

That information in the office of the Chief Engineer finds that the points of diversion would be more accurately defined as being:

one (1) well located near the center of the Northeast Quarter (NE¼) of Section 3, more particularly described as being near a point 3,960 feet North and 1,350 feet West of the Southeast corner of said section, at a quantity not to exceed 272 acre-feet per calendar year and at a diversion rate not in excess of 955 gallons per minute (2.13 c.f.s.), and

one (1) well located near the center of the Northwest Quarter (NW¼) of Section 3, more particularly described as being near a point 4,044 feet North and 4,049 feet West of the Southeast corner of said section, at a quantity not to exceed 272 acre-feet per calendar year and at a diversion rate not in excess of 940 gallons per minute (2.09 c.f.s.), and

both in Township 25 South, Range 30 West, Gray County, Kansas.

All diversion works shall be equipped with an in-line, automatic, quick-closing check valve capable of preventing pollution of the source of the water supply. The type of valve installed shall meet specifications adopted by the Chief Engineer and shall be maintained in an operating condition satisfactory to the Chief Engineer.

The water right owner shall properly install an acceptable water meter on the diversion works authorized under this water right, prior to the use of water, in strict accordance with the Kansas Administrative Regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer. The water right owner shall notify the Chief Engineer when installation of the water meter has been completed. The water right owner shall maintain the water meter in an operating condition satisfactory to the Chief Engineer, at all times during diversion of water and shall maintain records from which the total quantity of water diverted may be determined. The water right owner shall also report the reading of said water meter and the total quantity of water diverted annually to the Chief Engineer. Such records shall be furnished to the Chief Engineer by March 1 following the end of each calendar year.

In all other respects, the Certificate of Appropriation issued pursuant to Approval of Application, File No. 28,346, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated July 28, 1986, as modified and amended by the aforementioned orders.

Ordered this 16th day of March, 2020, in Manhattan, Riley County, Kansas.

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 16th of March, 2020, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.



Katie N. Anderson

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 a 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.

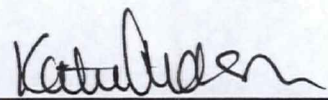
CERTIFICATE OF SERVICE

On this 19th day of March 2020, I hereby certify that the attached Approval of Application for the Change in Place of Use and Order in the Matter of the Authorized Points of Diversion, Water File No. 28,346, dated March 16, 2020 was mailed postage prepaid, first class, US mail to the following:

Royal Farms Dairy LLC
Kyle S. Averhoff
3705 F Road
Garden City, Kansas 67846

With photocopies sent to:

Garden City Field Office
Groundwater Management District No. 3



Division of Water Resources

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

MEMORANDUM

TO: Files
FROM: Leslie Ireland

DATE: February 24, 2020
RE: Water Right,
File Nos. 28,346 & 29,915

Kyle S. Averhoff on behalf of Royal Farms Dairy LLC, as owner of the referenced water rights have filed applications requesting that a change in place of use for the recently required irrigation rights. The applications were received on February 10, 2020.

A review of the reported water use finds that the water right is in good standing as per K.S.A. 82a-718 and 82a-732. The applications appear to be complete per K.A.R. 5-5-2a, *Complete change application*. Nearby notifications were sent on February 13, 2020, to comply with K.S.A 82a-1906. No comments have been received due to these notifications.

The referenced files overlap in place of use authorizing a total of 864 acre-feet (AF) assigned as 544 AF, File No. 28,346, and 320 AF under File No. 29,915, for the irrigation of 512 overlapping irrigated acres in Sections 3, 4 & 10, in Township 25 South, Range 30 West, Gray County. The appropriations are not located in a special use area. The area has corrective lots in Sections 3 & 4, that will be updated per the official survey information.

The owner proposes to an increase the place of use according to K.A.R. 5-5-11(b)(3); **Necessity to install a more efficient irrigation system; limited quantity**, to provide more irrigated acres for management of their operation.

- The Southwest Kansas Groundwater Management District No. 3 will assume monitoring responsibility, as per the memorandum of understanding between the Division of Water Resources and the GMD.
- The owner proposes to increase from the 512 pivot irrigated acres to a total of 616 by the addition of a pivot in the Southeast Quarter (SE¼) of Section 3, Township 25, Range 30 West Gray County. A few acres will also be added to the pivot in the Northeast Quarter of this section, and the corners dropped on the pivot in the Northeast Quarter of Section 10. In general, the total place of use will be five (5) pivots in Sections 3, 4 & 10.
- The files were reviewed for the "base acres" of which 351.2 was determined for File No. 28,346 & 160 acres for File No. 29,915, a total of 511.2 acres per the staff at our Garden City Field Office. The applicant has proposed a net increase of 104.8 acres above the "base acres" to authorize 616 acres.
- There has been no recent pattern of water use in excess of the maximum annual quantity authorized and the reported acreage would appear to reflect the increase of acreage as proposed under this requested change.
- The owner has an IDP/operation plan with KDHE as the applicant was required by them to modify their irrigation operation for the dairy. The dairy located in Sections 33 & 28 is authorized 578 acre-feet for their stockwatering use.
- **Limitations:** The authorized quantity of water under the referenced water rights will be **limited to a five-year fixed allocation of 2,376 acre-feet under File No. 28,346 & 1,082.5 under File No. 29,915** as determined by part i of the regulation. Together they will authorize a combined 3,458.5 acre-feet over the five (5) year allocation.

File No. 28,346
 $1.15 \text{ AF (50\% NIR for Gray Co.)} \div 0.85 \text{ (irrigation efficiency)} \times 351.2 \text{ base acres} = 475.15 \text{ AF}$
 $475.15 \times 5 \text{ years} = 2,375.76 \text{ AF allocated for use during the 5 years irrigation cycle.}$

File No. 29,915
 $1.15 \text{ AF (50\% NIR for Gray Co.)} \div 0.85 \text{ (irrigation efficiency)} \times 160 \text{ base acres} = 216.47 \text{ AF}$
 $216.5 \times 5 \text{ years} = 1,082.5 \text{ AF allocated for use during the 5 years irrigation cycle.}$

SCANNED

- The additional condition will be placed on the rights, that use of water in excess of the five-year allocation, shall result in a two (2) year suspension of all water use under the referenced rights and subsequent restriction of the authorized place of use to the base acreage at the location specifically set forth in the change approvals.

The owner has signed a *Statement of Review* for each of the referenced files. The total combined quantity of 3,458.5 acre-feet authorized under the referenced files proposes to irrigate a place of use of 616 acres. While the owners may utilize the total certified quantity under each right in a given year, 544 AF, File No. 28,346, and 320 AF under File No. 29,915, (874 AF), the allocation will restrict them to an average quantity of 691.7 acre-feet per year during the five(5) year allocation. This average quantity will provide 1.12 acre-feet per acre, which is less than the 1.15 acre-feet as indicated for the 50% NIR for corn in Gray County, but the owner has indicated the acres are needed for the operation of the dairy, indicating effluent will be available. The requirements of the reduced quantity under the allocation, should assure that consumptive use will not increase and that the requirement of K.A.R. 5-5-3, **Consumptive use** has been met for these irrigation rights.

The location of one(1) of the two(2) points of diversion has been determined by GPS. The order under File No. 28,346 will update the well location of ID 2 to the October 10, 2016, determined actual location of 4,044 feet North and 4,049 feet West of the Southeast corner of Section 3, approximately 101 feet Northwest of the historically authorized well location.

Jason Norquest, Assistant Manager, Southwest Kansas Groundwater Management District No. 3, provided a recommendation to approve the allocation with them assuming the monitoring as per the memorandum of understanding between the Division of Water Resources and Groundwater Management District No. 3.

The Water Commissioner, Mike Meyer, reviewed the proposed changes and provided a recommendation for approval on February 24, 2020.

Water flowmeters will be required as per K.A.R. 5-5-11(e) and with check valves being required if chemigating. A water level measurement tube and WWC-5 will not be conditions of the approval as no new wells have been authorized.

Based on the above discussion, that the changes are reasonable and will not increase the historical consumptive use, that impairment of existing water rights is unlikely, that no change in the local source of supply will occur, that the local groundwater management district will continue monitoring responsibilities for the allocation, it is recommend the referenced application be approved.



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