

Kansas Department of Agriculture
Division of Water Resources
**CHANGE: PU UMW WORKSHEET & ORDER PD DESCRIPTION &
MODIFICATION OF ADDITIONAL LIMITATIONS**

1. File Number: 26664	2. Status Change Date: 5/18/2023	3. Change Num: C1	4. Field Office: 04	5. GMD: 03
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: 8/5/2022
8a. Applicant(s) New to system <input type="checkbox"/> DAN SENESTRARO 9620 E ROAD 8 JOHNSON, KS 67855-8922		8c. Landowner(s) New to system <input type="checkbox"/> DAN SENESTRARO 9620 E ROAD 8 JOHNSON, KS 67855-8922		
8b. Landowner(s) New to system <input type="checkbox"/> EASTSIDE DAIRY II LLC DAN SENESTRARO 9620 E ROAD 8 JOHNSON, KS 67855-8922		8d. WUC New to system <input type="checkbox"/> DAN SENESTRARO 9620 E ROAD 8 JOHNSON, KS 67855-8922		
9. Documents and Enclosure(s): <input checked="" type="checkbox"/> DWR Meter(s) Date to Comply: 12/31/2023 <input type="checkbox"/> Date to Comply: 12/31/2023				
<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: IRR To: STK				
Date Prepared: 5/2/2023 By: LI Date Entered: _____ By: 5/22/2023 Date Reviewed: 5/11/23 By: JDK LMoody				

File No. **26664** 11. County: **ST** Basin: **N F CIMARRON RIVER** Stream: **NA** Formation Code: **211&311** Special Use: **NA**

12. Points of Diversion										Rate and Quantity				
CHK										Authorized		Additional		Overlap PD Files
MOD	PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Rate gpm/cfs	Quantity af/mgy	Rate gpm/cfs	Quantity af/mgy	
MOD	7713	SW SW SW	4	28	39W	1	3	5261	GPS					7446D2
MOD	38595	SW SW SW	4	28	39W	2	10	5165	GPS					NONE
BLANKET Q & R										770 gpm	127.55 mgy	85 gpm	31.04 mgy	

DEL LTM 2940GPM COM/W #7446 FROM THE DIVERSION POINTS DESCRIBED HEREIN

DEL LTM 640AF/YR COM/W #4032 & 7446 ON LAND DESCRIBED HEREIN

13. Storage: Rate _____ NF Quantity _____ ac/ft Additional Rate _____ NF Additional Quantity _____ ac/ft

14. Limitation: **180.6 MGY 554.24** af/yr at **770** gpm (**1.72** cfs) when combined with file number(s) **7446 D2**
 Limitation: _____ af/yr at _____ 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										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	PUSE	S	T	R	ID																								
ENT	69798	4	28	39W	3	DAIRY (W2 SE)																				8b	NO	7446D4 21560 7446D2	
ENT	55699	9	28	39W	3	DAIRY (NE)																				8b	NO	7446D4 21560 7446D2	
DEL	9165	9	28	39W	1					40	40	40	40					40	40	40	40	160	8b	NO	7446 D2				
DEL	16893	4	28	39W	1									40	40	40	40					160	8b	NO	7446 D2				

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

Comments **TOTAL CHG IN UMW UNDER FILE NOS. 7446D2 & 26664**

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files **DATE:** May 4, 2023
FROM: Leslie Ireland **RE:** Water Right,
File Nos. 7,446-D2; 7,446-D4 & 26,664

Daniel E. Senestraro on behalf of the Eastside Dairy, owner of the above referenced water rights has filed applications for approval to change the use made of water and place of use under all of the referenced files. The applications were received on August 5, 2022.

The water rights do not appear to be abandoned as per K.S.A. 82a-718, *Abandonment of water rights*. The applications appear to comply with K.A.R. 5-5-2a, *Complete change application*.

The proposed existing dairy is located North of Ulysses and Johnson City approximately halfway from each municipality. The place of use changes will add this dairy further defined as being in the North Fork of the Cimarron River Basin, Stanton County, that is currently authorized by File No. 21,560. This stockwater place of use is not proposed to change and is the proposed place of use for the referenced files, described as:

a dairy located in the West Half of the Southeast Quarter (W¹/₂ SE¹/₄) of Section 4 and in the Northeast Quarter (NE¹/₄) of Section 9, all in Township 28 South, Range 39 West, Stanton County, Kansas, with the map referenced.

In summary the Eastside Dairy II is proposing stockwater use under File Nos. 7,446-D2; 7,446-D4; 21,560 & 26,664. The owner has requested the irrigated acres to not be authorized for freshwater irrigation.

The points of diversion will remain as authorized but updated to the actual locations as determined by the July 2022 Compliance Investigations. The source of supply is not indicated in WRIS, but the 2016 well logs were reviewed by Michael Meyer, WC GCFO who determined the source of supply. The source of supply remains the Ogallala Formation (Code 211) and Dakota Formation unconfined (Code 331).

The use made of water changes will be processed by K.A.R. 5-5-9 *Approval of application for a change in the use made of water from irrigation to any other type of beneficial use of water*.

File No. 7,446-D2 Is authorized to irrigate 320 acres with 530 acre-feet (AF) at a rate of 685 gallons per minute (gpm) from one well. This file has a complete overlap in the place of use and the well overlaps with one of the two wells under File No. 26,664. The 530 AF of irrigation quantity will afford 86.6% to be retained per the consumptive use value of Stanton County:

$$530 \times 0.866 = 458.98 \text{ AF (149.56 mgy) for stockwater use}$$

File No. 26,664 Is authorized to irrigate the same 320 acres with a blanket and limited 452 AF at a rate of 770 gpm from two (2) wells. The file is shown in WRIS to be limited to 640 AF per year with File Nos. 4032 & 7446 on land described herein and 2,940 gpm with File No. 7446 from the diversion points described herein. These old limitations appear to be from the Certificate and were held during the division. The limited 452 AF of irrigation quantity under this file will afford 86.6% to be retained for another use per the consumptive use determination for Stanton County, with the limitation adjusted:

$$452 \times 0.866 = 391.4 \text{ AF (127.55 mgy) for stockwater}$$

The application states the limitation on File No. 26,664 will be modified to 554.24 AF (180.60 mgy) and 770 gpm with File No. 7446-D2, reflecting the consumptive use modification for the change in use made of water. Review by DWR staff concurred the limitation on the quantity and rate will be updated with only File No. 7446-D2 to the quantity proposed for stockwater use.

The irrigated place of use under both files, 7446-D2 & 26,664 will be eliminated.

Sec. Twp. Range	NE¼				NW¼				SW¼				SE¼				TOTAL
	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
9 28S 39W					40	40	40	40									160
4 28S 39W									40	40	40	40					160

File No. 7,446-D4 Is authorized to irrigate 378 acres with 752 AF at a rate of 755 gpm from one well. This file has no overlaps. The 752 AF of irrigation quantity will afford 86.6% to be retained for another use per the consumptive use determination for Stanton County :

$$752 \times 0.866 = 651.2 \text{ AF}(212.20 \text{ mgy}) \text{ for stockwater use}$$

This irrigated place of use will be eliminated.

Sec. Twp. Range	NE¼				NW¼				SW¼				SE¼				TOTAL
	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
9 28S 39W									31.75	31.75	31.75	31.75					127
4 28S 39W													40	11		40	91
3 28S 39W									40	40	40	40					160

All of the authorized irrigated places of use and proposed stockwater place of use are contiguous with the wells located near the dairy and the dairy is the owner of the connected properties.

Together the referenced files are proposing a total of 392.80 mgy 1,205.5 AF be added to the stockwater use. When combined with File No. 21,560 authorized 132.95 million gallons, (408.0 AF), a total of 525.75 mgy (1,613.5 AF) would be authorized for stockwater use from four(4) wells. The dairy has submitted a detailed water use plan, indicating 6,000 milking cows and 7,000 heifers. Their report summarized 114.975 mgy drinking and 129.21 mgy for operational uses, a total of 244.185 mgy (749.4 AF) per year. The annual water use reported numbers of dairy cows appears to confirm the herd size. As detailed in KAR 5-3-22, *Maximum reasonable quantity of water for livestock and poultry*, it does appear the facility could utilize the total proposed quantity for stockwater use. The applicant has requested all of the quantity remain authorized as they may expand. If the quantity was limited based on the submitted justification the facility would be limited to 244.4 mgy (750AF) under File Nos. 7,446-D2; 7,446-D4; 21,560 & 26,664 As the quantities will be metered and to afford flexibility in operation of the wells, an overall quantity limitation will not be assigned to the facility. As the area is closed to new appropriations and future use is being considered by the owner it appears the request to not limit the quantity complies with K.A.R. 5-1-1 as it is not wasteful and will afford flexibility in the operation of the wells.

There appears to be no wells not owned by the landowner within one-half (½) mile of the authorized points of diversion. No notice per K.S.A.82a-1906 will required.

In a letter dated February 23, 2023, Jason Norquest, Assistant Manager of Southwest Kansas Groundwater Management District No. 3, indicated the applications comply with the current management program. The applications were recommended for approval.

In an e-mail dated May 4, 2023, Michael Meyer, Water Commissioner, Garden City Field Office, indicated that he recommended approval of the applications.

Water flowmeters and check valves will be required by the change approvals.

Based on the above discussion, that impairment to existing water rights is unlikely, and that no change in the local source of supply will occur, complies with K.A.R. 5-5-9, the changes should not increase the historical consumptive use per KAR 5-5-3, *Change in consumptive use*. The referenced applications have been recommended to be approved.



Leslie Ireland
Environmental Scientist
Water Appropriation Program

From: Ireland, Leslie [KDA]
Sent: Thu 5/11/2023 1:05 PM
To: Koehn, Justin [KDA]
Subject: FW: Review and Recommendation File Nos. 7,446-D2; 7,446-D4 & 26,664 -East Side Dairy

Here.. this one..

From: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Sent: Thursday, May 4, 2023 3:53 PM
To: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Subject: RE: Review and Recommendation File Nos. 7,446-D2; 7,446-D4 & 26,664 -East Side Dairy

Agree with the updated limitation and approve.

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Thursday, May 4, 2023 10:25 AM
To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Subject: Review and Recommendation File Nos. 7,446-D2; 7,446-D4 & 26,664 -East Side Dairy

Mike,

I couldn't find an OK from you on this project. Top of pg 2 has been the holdup. Think it is OK and what was recommended. Just slow to get it...
le 26664 limited to the reduced Q requested in the change with File No. 7446-D2. Currently 640,,, but goes to the
 $640 \times .866 = 554.24$ AF with 7446-D2

Memo attached. Please let me know if you recommend .

Thank you,

Leslie Ireland
Environmental Scientist
Change Application Unit
Division of Water Resources



Ireland, Leslie [KDA]

From: Meyer, Mike [KDA]
Sent: Wednesday, May 10, 2023 4:49 PM
To: Ireland, Leslie [KDA]
Subject: RE: Review & Recommendation File No. 7254 Hands

Approve
thanks

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Wednesday, May 10, 2023 10:47 AM
To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Subject: Review & Recommendation File No. 7254 Hands

Mike,

Please let me know if you'd recommend the chg. The IRR (proposed standby) well will be updated to the ft dist of 2013. Meters per use required....Do you want the order to require 2023 N&P?

As always comments and concerns are welcome.

Leslie Ireland
Environmental Scientist
Change Application Unit
Division of Water Resources



THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Secretary of Agriculture

DIVISION OF WATER RESOURCES
Earl D. Lewis Jr., Chief Engineer

**APPROVAL OF APPLICATION
FOR
CHANGE IN USE MADE OF WATER
PLACE OF USE
AND
ORDER IN THE MATTER OF THE AUTHORIZED QUANTITY OF WATER
AND
BETTER DESCRIBING THE AUTHORIZED POINT OF DIVERSION
WATER RIGHT, FILE NO. 26,664**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Dan Senestraro on behalf of Eastside Dairy II LLC, 9620 E. Road 8, Johnson, Kansas 67855-8922, received in this office on August 5, 2022, for approval of a change in the use made of water and location of the place of use under the certificate of appropriation issued pursuant to the permit to appropriate water for beneficial use, finds that the change is reasonable and will not impair existing rights, and that the application should be and is hereby approved.

This order effectively modifies the additional limitation on the rate of diversion and quantity of water to not exceed 770 gallons per minute (1.72 c.f.s.) for the diversion of 180.6 million gallons per year when combined with Water Right, File No. 7,446-D2, as set forth by the by the Certificate of Appropriation, subsequently modified by the Findings and Order of the Chief Engineer in the Matter of the Reduction of the Authorized Place of Use the Authorized Quantity and the Authorized Quantity Limitation.

The effective date of the change shall be the date this order is executed by the Chief Engineer, after which 127.548 million gallons (391.432 acre-feet) of water per calendar year shall be authorized for:

Stockwatering use

and authorized location of the place of use shall be:

a dairy located in the West Half of the Southeast Quarter (W $\frac{1}{2}$ SE $\frac{1}{4}$) of Section 4 and in the Northeast Quarter (NE $\frac{1}{4}$) of Section 9, all in Township 28 South, Range 39 West, Stanton County, Kansas,

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

one (1) well located in the Southwest Quarter of the Southwest Quarter of the Southwest Quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 4, more particularly described as being near a point 3 feet North and 5,261 feet West of the Southeast corner of said section, and

one (1) well located in the Southwest Quarter of the Southwest Quarter of the Southwest Quarter (SW¼ SW¼ SW¼) of Section 4, more particularly described as being near a point 10 feet North and 5,165 feet West of the Southeast corner of said section,

both in Township 28 South, Range 39 West, Stanton County, Kansas.

All diversion works into which any type of chemical or other foreign substance will be injected into the water pumped from the diversion works shall be equipped with an in-line, automatic, quick-closing check valve capable of preventing pollution of the source of the water supply. The type of valve installed shall meet specifications adopted by the Chief Engineer and shall be maintained in an operating condition satisfactory to the Chief Engineer.

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

In all other respects, the Certificate of Appropriation issued pursuant to Approval of Application, File No. 26,664, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated December 14, 2001.

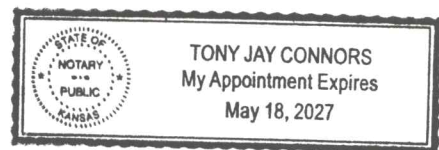
Ordered this 18 day of May, 2023, in Manhattan, Riley County, Kansas.

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

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 18 day of May, 2023, by Lane P. Letourneau, P.G., Program Manager, Water Appropriation Program, Division of Water Resources, Kansas Department of Agriculture.

Tony Jay Connors
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

May 24, 2023

EASTSIDE DAIRY II LLC
DAN SENESTRARO
9620 E ROAD 8
JOHNSON, KS 67855-8922

RE: Water Right, File Nos. 7,446-D2; 7,446-D4 & 26,664

Dear Mr. Senestraro:

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

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 our office at (785)564-6640 or your local area office in Garden City, Kansas 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,

A handwritten signature in blue ink that reads "Kristen A. Baum". The signature is written in a cursive, flowing style.

Kristen A. Baum
New Applications & Change Unit Supervisor
Water Appropriation Program

KAB:LI:

Enclosures

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

RIGHT TO A HEARING AND TO ADMINISTRATIVE REVIEW

If you are aggrieved by this Order, then pursuant to K.S.A. 82a-1901, you may request an evidentiary hearing before the Chief Engineer or request administrative review by the Secretary of Agriculture. Failure to request an evidentiary hearing before the Chief Engineer does not preclude your right to administrative review by the Secretary.

To obtain an evidentiary hearing before the Chief Engineer, a written request for hearing must be filed within 15 days after service of this Order as provided in K.S.A. 77-531 (**i.e., within a total of 18 days after this Order was mailed to you**), with: Kansas Department of Agriculture, Attn: Legal Section, 1320 Research Park Drive, Manhattan, KS 66502, FAX (785) 564-6777.

If you do not file a request for an evidentiary hearing before the Chief Engineer, you may petition for administrative review of the Order by the Secretary of Agriculture. A petition for review shall be in writing and state the basis for requesting administrative review. The request for hearing may be denied if the request fails to clearly establish factual or legal issues for review. See K.S.A. 77-527. The petition must be filed within 30 days after service of this Order as provided in K.S.A. 77-531 (**i.e., within a total of 33 days after this Order was mailed to you**), and be filed with: Secretary of Agriculture, Attn: Legal Division, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, 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.

CERTIFICATE OF SERVICE

On this 24 day of May, 2023, I hereby certify that the attached Approvals of Application for Changes under Water Right, File Nos. 7,446-D2; 7,446-D4 & 26,664, dated May 18, 2023, were mailed postage prepaid, first class, US mail to the following:

EASTSIDE DAIRY II LLC
DAN SENESTRARO
9620 E ROAD 8
JOHNSON, KS 67855-8922

With photocopies to:

Garden City Field Office
Groundwater Management No. 3



Division of Water Resources