Kansas Department of Agriculture

Division of Water Resources

CHANGE WORKSHEET: PU & UMW DUAL USE & ORDER PD

PU as irr &stk is already authorized application corrected and refund for pu chg should be issued.

1. File Number: 31930	2. Status Change Date: 6/29/2023	3. Change Num: C2	4. Field Office: 04	5. GMD: 03					
6. Status: 🛛 Approved 🛛 🗌 Deni	ied by DWR/GMD	Dismiss by Reques	t/Failure to Return	7. Filing Date of Change: October 18, 2022					
8a. Applicant(s) New to system □	Person ID Add Seq#	New to sy	8c. Landowner(s) Person ID New to system □ Add Seq#						
PRAIRIE WIND HEIFER I Attn: T J MCCLURE 4652 N RD L JOHNSON, KS 67855									
8b. Landowner(s) New to system □	Person ID <u>68671</u> Add Seq# <u>1</u>	8d. WUC New to sy	rstem 🗌	Person ID <u>68671</u> Add Seq# <u>1</u>					
PRAIRIE WIND HEIFER I Attn: T J MCCLURE 4652 N RD L JOHNSON, KS 67855	E WIND HEIFER J MCCLURE RD L SON, KS 67855	DEVELOPMENT LLC							
9. Documents and Enclosure(s): 🛛 DV	NR Meter(s) Date to Comp	ly: 12/31/23	N & P Date to	Comply:					
Anti-Reverse Meter	Seal Check Valve	🗌 N & P Form	☐ Water Tube ☐ Dr	riller Copy 🛛 H & E Letter					
Conservation Plan Date Requir	ed: Da	te Approved:	Date to	Comply:					
10. Use Made of Water From: IRR	<u>& STK</u>	To: <u> </u>	DUAL IRR/STK						
NOTE ACTION TRAIL UPDATE: Octo P/U IS NOT CHANGING.	ber 18, 2022 UMW ONL		Date Prepared: 6/23/2 Date Entered: Date Reviewed: 6/236/2	By: LMoody					

File No	o. 3193	80		1	11. County: ST Basin: BEAR CREEP				<	Stream: NA											ormation ode:211/	331	Special Use: NA			
12. Po CHK	pints of Div	versic	on															Rat	e and	Quantit	y					
MOD																Auth	orized			Addition	al					
DEL ENT	PDIV	C	Jualifie	r	S	Т	R	ID		'N	٢٧	V	Co	mmen	it (AKA	A Line)		ate om	Quai Al			ate om	Quantity AF	Overlap PD Files	
MOD	69629	LC	DT 1 N	IE NE	1	28	41W	3	4	179	60	2	DU	AL IR	<mark>R/ST</mark>	K		9	50	562.2	2 AF	9	50 8	562.2 AF	NONE	
MOD	30213	LC	DT <mark>3</mark> N	IW SN	6	28	40W	1	:	2319	44	35	ST	<mark><</mark>				1	50 ;	32.590	MGY	1	50 3	2.590 MC	SY 2021907	4
NOTE LOT# FOR THE STK WELL IS WRONG IN WRIS THE ORDER WILL CORRECT & ORDER FOR TERM WAS COMPLETED																										
	- 3021	16																								
13. Sto	orage: Ra	te				NF	Qua	antity _					_ac/f	ft .	Additio	onal R	ate				11	NF Ad	dditional	Quantity _		_ac/ft
14. Lin	nitation:	486.	.87	af/yr	at		gr	om (cfs) whe	n com	bined	with fi	le nun	nber(s) <u>DU</u>		JSE I	RR /	STK (1	58.65	MGY) I	D 1 SEC 1	
Lin	nitation:				af/	yr at				gpm	(_cfs)	when	combi	ned w	ith file	numb	er(s)						
15. 5Y	R Allocatio	on:	Alloca	ation Ty	′pe	St	art Ye	ar		5 YF	R Amo	unt _		_ An	nount	Unit _		Bas	e Acre	es		Commer	nt			
СНК	ace of Use	9					N	E¼			NN	1 ¼			sv	V ¹ ⁄4			S	6E¼		Total	Owner	Chg?	Overlap Files	
MOD DEL ENT	PUSE	S	т	R	ID	NE 1⁄4	NW 1⁄4	SW 1⁄4	SE 1⁄4	NE 1⁄4	NW 1⁄4	SW 1⁄4	SE ¼	NE 1⁄4	NW ¼	SW 1⁄4	SE ¼	NE 1⁄4	NW 1⁄4	SW 1⁄4	SE 1⁄4					
	34347					FEE		T E/2	•							•		•	•	1			8B	NO	39647 20219074	4
снк	29524	6	28	40W	3	FEE	DLO	T W/2															8B	NO	39647 20219074	4
СНК	21329	6	28	40W	′ 1		5.00	5.00		38.0	LT 1 22.0	LT 2 22.0	38.0	38.0	LT 3 22.0	LT 4 22.0	38.0		5.00	5.00		260	8B	NO	NONE	
снк	10508	1	28	41W	2			Ì										30.00	15.0	13.0	40.0	98	8 B	NO	NONE	
							İ	ĺ																		
	Year	:		Minin	num Re	asonable	Quan	tity: C	omme	ents:							•			•	•	•	•			
POP	UP TE	MP	ORA	RY II	RR Q	UANTI	TY F	REDU	JCTI	ON	QUA	ΝΤΓ	ΓY L	.IMIT	ED .	TO 4	86.8	87 AI	F AS		IG AS	S DUA	LIRR	STK U	SE IS DESIRED	
L																										

KANSAS DEPARTMENT OF AGRICULTURE Division of Water Resources

$\underline{\mathsf{M}} \\ \underline{\mathsf{E}} \\ \underline{\mathsf{M}} \\ \underline{\mathsf{O}} \\ \underline{\mathsf{R}} \\ \underline{\mathsf{A}} \\ \underline{\mathsf{N}} \\ \underline{\mathsf{D}} \\ \underline{\mathsf{U}} \\ \underline{\mathsf{M}} \\ \underline{\mathsf{M}} \\ \underline{\mathsf{M}} \\ \underline{\mathsf{M}} \\ \underline{\mathsf{N}} \\ \underline{\mathsf{D}} \\ \underline{\mathsf{U}} \\ \underline{\mathsf{M}} \\ \underline{\mathsf{$

TO: Files

DATE: June 26, 2023

FROM: Leslie Ireland **RE:** Water Right, File No. 31,930

Thomas McClure on behalf of Prairie Wind Heifer Development LLC, filed an application for approval to change the place of use and use made of water for operation as dual use from irrigation and stockwatering uses afford more irrigation water to be authorized for stockwater use. The application was received on October 18, 2022. Upon further review it was determined the place of use change was not needed as the stockwatering and irrigated places of use authorized are not changing. A refund of the \$200 filing fee for the change in place of use has been requested. The referenced file is located in the Bear Creek Basin, Stanton County.

The water right appears to be in compliance with K.S.A. 82a-732, *Annual water use report required, penalty for violations*. The places of use are contiguous and under the same ownership. As the wells are centrally located on the property there are no wells within one-half mile not owned by the applicant. It appears no notices will be needed and the application complies with K.S.A. 82a-1906, *Notice*.

The owner is requesting a change in use made of water per K.A.R. 5-5-9, *Criteria for the approval of an application for a change in the use made of water from irrigation to any other type of beneficial use of water,* to authorize a limited " dual use" of irrigation and stockwater uses.

File No. 31,930, currently authorizes both irrigation and stockwater uses from separate wells. The irrigation use has no overlap in point of diversion or place of use and is not located in a special use area but is located in Groundwater Management District No. 3. The irrigation portion authorizes 562.20 acre-feet (AF) at a rate of 950 gallons per minute assigned per one(1) well described as being in Lot 1 (NE¹/₄ NE¹/₄) of Section 1, Township 28 South, Range 41 West, Stanton County, with the actual feet distances of 4,171 feet North and 608 feet West.

The standard consumptive use factor of 86.6 percent for Stanton County allows 486.87 AF to be changed to another use K.A.R. 5-5-9, *Criteria for the approval of an application for a change in the use made of water from irrigation to any other type of beneficial use of water.*

562.20 AF x 86.8% = 486.865 AF ~ 158.64 million gallons per year (mgy)

While operated for dual use the irrigation quantity will be temporarily reduced to 486.87 AF (158.59 mgy), assuring compliance with K.A.R. 5-5-3, *Change in consumptive use*.

The proposed 158.59 mgy will be added to the 32.59 mgy authorized for stockwater use under the referenced file for a maximum total of 191.18 mgy. It will be combined with File No. 39,647 authorized 8.150 mgy for a total of 199.33 mgy for the facility. Currently, Term Permit, File No. 20219074 allows the diversion under an Area Permit from the stockwatering wells under File Nos. 31,930 & 39,647 for only the stockwater use till 2026. This Term Permit will stay in place and the transmittal will remind the owner these wells operate under this permit.

The feedlot located in the West Half (W $\frac{1}{2}$) of Section 6, in Township 28, Range 40 West, and the East Half (E $\frac{1}{2}$) of Section 1 in Township 28, Range 41 West, Stanton County and Stanton County is the existing authorized place of use. File Nos. 31,930 and 39,647 under the Term Permit, File No. 20219074 currently provide a flexible total of 40.74 mgy (125 AF) that can be diverted from either stockwater well under these files. The proposed dual use quantity of 158.59 mgy could yield a maximum total variable quantity of 199.33 mgy (611.7 AF). As the entire quantity will not be 100% for stockwater use, as designated by the dual use option, no additional limitation will be added.

Review of the WRIS database for the description of the stockwater well found it listing Lot 6 in Section 6, NW¼ SW ¼ Township 28 South, Range 40 West. The Official Survey indicates this would be Lot 3. The order will call it out as Lot 3 and request the database be updated for the referenced file and the Term Permit. A Correctional Order for this term permit was completed under a separate memo.

The reference file is authorized to irrigate 358 acres in the Southeast Quarter (SE¼) of Section 1, in Township 28 South, Range 41 West, Stanton County, Kansas and pivot in Section 6, in Township 28 South, Range 40 West, Stanton County, Kansas. The irrigation portion will now authorize 486.87 AF on the 358 acres (A) resulting in an irrigation ratio of 1.36 AF/acre which is greater than the 80% chance of 1.33 AF per K.A.R. 5-5-12, *Net irrigation requirements.*

In a letter dated June 22, 2023, from Jason Norquest, Manager of Southwest Kansas Groundwater Management District No. 3, recommended for approval.

Mike Meyer, Water Commissioner of the Garden City Field Office, indicated that he recommended approval of the application and operation as dual use, by email June 26, 2023.

A condition of the approval will be the requirement of a flow meter 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 remain as designated.

Based on the above discussion, that the change is 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 application for change be approved.

Rulie Ireland

Leslie Ireland Environmental Scientist Water Appropriation Program

Ireland, Leslie [KDA]

From:Meyer, Mike [KDA]Sent:Monday, June 26, 2023 9:07 AMTo:Ireland, Leslie [KDA]Subject:RE: Review and Recommendation for Change File No. 31930 McClure -Prairie Winds &
CO File No. 20219074

Approve thanks

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Monday, June 26, 2023 8:12 AM
To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Subject: Review and Recommendation for Change File No. 31930 McClure -Prairie Winds & CO File No. 20219074

Mike,

Good Morning,

It appears to be the standard dual use. Irr looks OK. The Area Permit threw me a little, so I looked at it,, Found the lot number for Sec 6 was wrong, Lot 6 vs correct Lot 3, probably has been for years, anyway the approval will fix it and an order for the term will be included in the pkg.

Please let me know if you would recommend the change and correctional order. The transmittal for the change will remind McClure of the area permit standing for only the existing stockwatering wells.... but that would be a lot of stockwater.

As always comments and concerns are welcome.

Leslie Ireland Environmental Scientist Change Application Unit Division of Water Resources





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 AND ORDER IN THE MATTER OF THE AUTHORIZED QUANTITY OF WATER WATER RIGHT, FILE NO. 31,930

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of T J McClure on behalf of the Prairie Wind Heifer Development LLC, 4652 North Road L, Johnson, Kansas 67855, received in this office on October 18, 2022, for approval of a change in 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 September 6, 1991, approving the application to change the place of use, by the Order of the Chief Engineer dated August 6, 1997, approving the application to change the point of diversion and place of use, by the Order of the Chief Engineer dated October 27, 2003, approving the application to change the point of diversion, by the Findings and Order of the Chief Engineer dated November 29, 2012, in the matter of the authorized points of diversion, finds that the change is reasonable and will not impair existing rights, that the changes relate to the same local source of supply and that the application should be and is hereby approved.

The authorized quantity of water under this water right will remain a total of 662 acre-feet (215.718 million gallons) per calendar year with irrigation use authorized 562.2 acre-feet (183.128 million gallons) per calendar year and stockwatering use authorized 100 acre-feet (32.590 million gallons) per calendar year. This order authorizes irrigation use not to exceed 486.87 acre-feet (158.65 million gallons) per calendar year and stockwatering use authorized 586.87 acre-feet (191.236 million gallons) per calendar year. This order effectively limits the total authorized quantity of water to a total of 586.87 acre-feet (191.236 million gallons) per calendar year. That the limitation on the quantity of water shall exist until such a time that the well identified for dual use as stockwatering and irrigation uses 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 that portion to be authorized for both irrigation and stockwatering uses shall be authorized from the following dual use point of diversion:

one(1) well located Lot 1 (NE¼ NE¼) of Section 1, more particularly described as being near a point 4,179 feet North and 602 feet West of the Southeast corner of said section, at a diversion rate not in excess of 950 gallons per minute (2.12 c.f.s.) and a quantity not to exceed 486.87 acre-feet (158.65 million gallons) of water per calendar year, in Township 28 South, Range 41 West, Stanton County, Kansas.

The point of diversion to remain authorized solely for stockwatering use shall be:

one(1) well located in Lot 3 (NW¹/₄ SW¹/₄) of Section 6, more particularly described as being near a point 2,319 feet North and 4,435 feet West of the Southeast corner of said section, at a diversion rate not in excess of 150 gallons per minute (0.33 c.f.s.) and a quantity not to exceed 32.590 million gallons (100 acre-feet) of water per calendar year, in Township 28 South, Range 40 West, Stanton County, Kansas.

The place of use authorized for the irrigation use shall be:

					=1⁄4		NW1⁄4						V1⁄4						
Sec.	Twp.	Range	NE1/4	NW1⁄4	SW1/4	SE1/4	NE1/4	NW1⁄4	SW1/4	SE1/4	NE¼	NW1⁄4	SW1⁄4	SE1/4	NE¼	NW1⁄4	SW1/4	SE1/4	TOTAL
								Lot 1				Lot 3	1 C 1						
6	28S	40W		5.00	5.00		38.00	22.00	22.00	38.00	38.00	22.00	22.00	38.00		5.00	5.00		260.0
1	28S	41W													30.00	15.00	13.00	40.00	98.0

a total of 358 acres in Sections 1, Township 28 South, Range 41 West, and 6, Township 28 South, Range 40 West, Stanton County, Kansas and

the place of use authorized for the stockwatering use shall be:

a feedlot located in the West Half ($W^{1/2}$) of Section 6, in Township 28 South, Range 40 West, Stanton County, Kansas, and

a feedlot located in the East Half (E¹/₂) of Section 1, in Township 28 South, Range 41 West, Stanton County, Kansas,

all located substantially as shown on the topographic map accompanying the application to change the use made of water.

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. 31,930, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated September 5, 1991, as modified and amended by the aforementioned orders.

Ordered this 29 day of June

, 2023, in Manhattan, Riley County, Kansas.

wwway

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 29 day of Jule 2023, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.

Notary Public

TATE O TONY JAY CONNORS NOTARY My Appointment Expires PUBLIC May 18, 2027 KANSA

1320 Research Park Drive Manhattan, KS 66502 785-564-6700 www. agriculture.ks.gov

Mike Beam, Secretary

ŧ



900 SW Jackson, Room 456 Topeka, KS 66612 785-296-3556

Laura Kelly, Governor

July 5, 2023

PRAIRIE WIND HEIFER DEVELOPMENT LLC Attn: T J MCCLURE 4652 N RD L JOHNSON, KS 67855

RE: Water Right, File No. 31,930

Dear Mr. McClure:

Enclosed is the order executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the application for change under the referenced file.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in the approval for change. <u>A condition of the approval is the requirement that the well</u> <u>authorized for dual use shall have acceptable water flow meters installed so both irrigation</u> <u>and stockwatering uses can be metered independent of each other</u>. Meters should be installed prior to the diversion of water. Please return the required *Notice of Completion* form for the installation of the meters as soon as this action is completed. The form and other information may be found at our web site <u>http://agriculture.ks.gov</u>.

Please be reminded that this approval is separate from the Area Permit approved under File No. 20219074.

Since this order modifies the original document referred to above, it 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 contact us to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

Nenter

Kristen A. Baum New Application and 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, Kansas 66502, FAX 785-564-6777.

If neither a request for an evidentiary hearing nor a petition for administrative review is filed as set forth above, then this Order shall be effective and become a final agency action as defined in K.S.A. 77-607(b). Failure to timely request either an evidentiary hearing or administrative review may preclude further judicial review under the Kansas Judicial Review Act.

CERTIFICATE OF SERVICE

On this 5 day of July, 2023, I hereby certify that the attached Approval of Application for Change in Use Made of Water and Order in the Matter of the Authorized Quantity of Water under Water Right, File No. 31,930; dated Jure 29 was mailed postage prepaid, first class, US mail to the following:

PRAIRIE WIND HEIFER DEVELOPMENT LLC Attn: T J MCCLURE 4652 N RD L JOHNSON, KS 67855

With a Photocopy to:

Garden City Field Office Groundwater Management District No. 3

Division of Water Resources