

File No. 24437	13. County: ME & SW Basin: CROOKED CREEK Stream:																							
Structures File No:	Aquifer Code: NO CHANGE										Special Use Area: NA													
14. Points of Diversion, Rates & Quantities																								
PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Oty Auth	Add	Rate Auth	Add	Storage Qty Auth	Add	Storage Rate Auth/Add	Overlaps								
CHK 90319	SE SE NW	8	33	30W	2	2859	2981	IRR/STK DUAL USE	320	320	1800	1800					+							
15. Limitations Type: DUAL USE Quantity: 271.36 AF Rate: gpm combined with file no(s): DUAL IRR /STK (88.42 MGY) USE Type: Other Quantity: Rate: combined with file no(s):																								
16. Metering <input checked="" type="checkbox"/> Metering Required <input type="checkbox"/> Anti-Reverse Required <input type="checkbox"/> Seal Required Compliance Date: 12/31/2024																								
17. Place of Use																								
PDIV	S	T	R	ID	NE¼				NW¼				SW¼				SE¼				Total	Owner(s)	Chg?	Overlaps
					NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE				
CHK 6631	5	33	30W	3									22.5	22.5	22.5	22.5	30.0	4.0	30.0	30.0	184	5a	<input type="checkbox"/>	*
CHK 2843	6	33	30W	1					L-3 31.0	L-4 31.0	L-5 31.0	31.0	31.25	L-6 31.25	L-7 31.25	30.25	30.0	30.0	30.0	30.0	369	5a	<input type="checkbox"/>	*
CHK 26981	8	33	30W	2					40.0	40.0	40.0	40.0									160	5a	<input type="checkbox"/>	*
CHK 17417	1	33	31W	1	L-1 40.02	L-2 40.04	40.0	40.0													160.06	5a	<input type="checkbox"/>	*
ENT 23150	12	33	31W	2	DAIRY PORTIONS OF S2																	5a	<input type="checkbox"/>	^
ENT 54211	18	33	30W	3	DAIRY (W2) & (SE)																	5a	<input type="checkbox"/>	^
ENT 718207	33	30W	DAIRY S2																	5a	<input type="checkbox"/>	^		
18. Point of Diversion and Place of Use Overlaps																								
+ NONE										* 24437 25634 42630 41678														
++										**														
#										***														
^ 12,332; 21,974; 24,437; 25,634; 30,777; 40,861; 41,578; 41,579; 41,580; 41,630; 41,678 & 45,387										^^														

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: File

DATE: June 17, 2024

FROM: Leslie Ireland

RE: Water Right, File Nos. 24,437; 25,634;
41,630 & 41,678

Greg Bethard on behalf of High Plains Ponderosa Dairy LLC as owner submitted applications on August 28, 2023, to change the irrigated place of use to add a dairy and use made of water from irrigation to irrigation and stockwater uses as dual use. The project is located in the Crooked Creek Basin, Meade and Seward Counties.

These files were submitted with the proposed changes to the existing stockwater facilities located in Sections 7 and 18, Township 33 South, Range 30 West, Meade County and Section 12, Township 33 South, Range 31 West, Seward County with changes to the stockwater use only, under File Nos. 12,332; 21,974; 30,777; 40,861 & 45,387, will be summarized by a separate memo.

The referenced water rights appear to be in compliance with K.S.A. 82a-732. Notice per K.S.A. 82a-1906 does not appear to be needed as the wells within one-half mile are all owned by the applicant.

The referenced files are authorized irrigation use only to irrigate a place of use comprised of 873.06 irrigated acres is located in Sections 5, 6, 8, Township 32, Range 30 West, Meade County and the Northeast Quarter of Section 1, Township 32, Range 31 West, Seward County. The irrigated acres will not change thus the proposed irrigated place of use complies with part (b) of K.A.R. 5-5-11, *Applications for change in place of use for irrigation purposes*. The place of use change is to add the dairy with the place of use description of:

a dairy located in the South Half (S½) of Section 7, the West Half (W½) and in the Southeast Quarter (SE¼) of Section 18, all in Township 33 South, Range 30 West, Meade County, Kansas, and in portions of the South Half (S½) of Section 12, in Township 33 South, Range 31 West, Seward County, Kansas.

The proposed change use made of water changes is to all of the referenced files to authorize stockwater use at the dairy listed above. The changes will be evaluated 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 “dual use” as irrigation and stockwater uses. Approximately 160 acres of the authorized place of use is in Seward County (CU 87.6%), but as the well is located in Meade County the Consumptive Use (CU) factor for Meade County of 84.8% will be utilized.

File Number & well location All wells are in Meade County * Overlap		CIN#	Authorized Quantity IRR AF	Proposed Dual Use Quantity Total IRR/STK mgy (AF)
24,437 SE SE NW 8- 33- 30W		2	320	88.42 (271.36)
25,634 Lot 6 NW SW 6- 33- 30W *		6	320	88.42 (271.36)
41,630 CN NW 8- 33- 30W		5	609	168.28 (516.43)
41,678 Lot 6 NW SW 6- 33- 30W *		6	248	68.53 (210.30)
Total			1,497	413.65 (1,269.46)

The dual use will authorize a total of 1,270 AF (413.65 mgy) for irrigation and stockwater uses combined with a path back to the certified irrigation use per file. The reduction in quantity when authorized for both uses should not increase in the consumptive use and complies with K.A.R. 5-5-3, *Change in consumptive use*.

If there were no diversion of water for the stockwater use, but it still remained authorize, the reduced 1,270 AF on the 873.06 acres results in an irrigation ratio of 1.45 acre-foot per acre. It appears the reduction complies with K.A.R 5-3-23, *Maximum reasonable annual quantity approvable for irrigation use for an application for change in place of use and a request to reduce a water right*, which affords a ratio of 1.8 in this area per K.A.R. 5-3-24, *Reasonable quantity for irrigation use*. If quantity is diverted for stockwater use as proposed, and the full irrigated acres are maintained in corn, K.A.R. 5-5-12, *Net irrigation requirements* utilizing the minimum irrigation with a 50% chance of rainfall in Meade County affords 1.19 AF per acre. This equates to 1,039 AF for the authorized acres indicating 231 AF (75.27 mgy) could be utilized for stockwater use while maintaining the irrigation of corn.

The owner has indicated the dairy would be expanded from 35,354 head to 75,000 head of dairy cattle and listed water usage for drinking, cooling and sanitation, totaling 958.125 million gallons per year with a portion for cooling and sanitation. K.A.R. 5-3-22, *Maximum reasonable quantity of water for livestock and poultry*, affords 35 gallons per head per day for dairy cattle with an additional 100 gallons per day per head for services/flushing. The regulation would afford a total drinking and services per the projected 75,000 head of 3,695.63 million gallons per year.

In a letter dated May 2, 2024, Jason Norquest, Assistant Manager, Southwest Kansas Groundwater Management District No. 3, recommend approval of the applications.

Michael Meyer, Water Commissioner of the Garden City Field Office area reviewed the proposed applications. In an email dated June 17, 2024, he recommended approval of the change applications.

Water flowmeters will be required for the change requiring a meter for irrigation and stockwater on each point of diversion authorized by the referenced files. The water use correspondent will remain High Plains Ponderosa Dairy LLC for all of the referenced files. A check valve will be required, if chemigating. As no new wells will be drilled a water level measurement tube and WWC-5 will not be a condition of the approvals.

Based on the above discussion, there will be no increase in the historical consumptive use with no impairment to existing water rights and no change in the local source of supply will occur, it is recommended that the referenced applications be approved.



Leslie Ireland
Environmental Scientist
Water Appropriation Program

Ireland, Leslie [KDA]

From: Meyer, Mike [KDA]
Sent: Monday, June 17, 2024 9:59 AM
To: Ireland, Leslie [KDA]
Subject: RE: Changes In Stock PU 2,332; 21,974; 24,437; 25,634; 30,777; 40,861; 41,578; 41,579; 41,580; 41,630; 41,678 & 45,387

Looks good to me. Thanks!

Please proceed with approvals.

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Monday, June 17, 2024 9:54 AM
To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Subject: Changes In Stock PU 2,332; 21,974; 24,437; 25,634; 30,777; 40,861; 41,578; 41,579; 41,580; 41,630; 41,678 & 45,387

Mike,

I rewrote this memo about the stockwater expansion per your request.

The use and total values are the same it is mainly to summarize more about File Nos. 21,974; 30,777 & 40,861 that started the project.

Please let me know if you'd recommend this version. As always comments and concerns are welcome.

Also any suggestions to wrangle this huge project.

I do have the orders and worksheets done for IRR PU N & S & stockwater...whew.. lots of orders..

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 WATER RIGHT, FILE NO. 24,437

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Greg Bethard on behalf of High Plains Ponderosa Dairy LLC, 2042 V Road, Plains, Kansas 67869, received in the office of the Chief Engineer on August 23, 2023, for approval of a change in the location of the place of use and use made of water under the certificate of appropriation issued pursuant to the permit to appropriate water for beneficial use, as modified and amended by the Order of the Chief Engineer dated November 21, 2019, approving the application to change the place of use, by the Order of the Chief Engineer dated May 8, 2023, approving the application to change the location of the point of diversion, finds that the change is reasonable and will not impair existing rights, and that the application should be and is hereby approved.

The authorized quantity of water under this right will remain 320 acre-feet (104.27 million gallons). This order effectively limits the authorized quantity of water to 271.36 acre-feet (88.42 million gallons) per calendar year for both stockwatering and irrigation uses combined. That the limitation on the quantity of water shall exist until such a time that the quantity of water for stockwatering use authorized by this approval is no longer required.

The effective date of the change shall be the date this order is executed by the Chief Engineer, after which the portion retained for irrigation use shall be authorized on the following described property:

Sec. Twp. Range	NE¼				NW¼				SW¼				SE¼				TOTAL	
	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼		
5 33 30W										22.50	22.50	22.50	22.50	30.00	4.00	30.00		184.0
6 33 30W					Lot 3 31.00	Lot 4 31.00	Lot 5 31.00	31.00	31.25	31.25	Lot 6 31.25	Lot 7 31.25	31.25	30.00	30.00	30.00	30.00	369.0
8 33 30W					40.00	Lot 1 40.00	Lot 2 40.00	40.00										160.0

a total of 713 acres in Sections 5, 6, and 8, all in Township 33 South, Range 30 West, Meade County, Kansas, and

Sec. Twp. Range	NE¼				NW¼				SW¼				SE¼				TOTAL
	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
1 33 31W	Lot 1 40.02	Lot 2 40.04	40.00	40.00													160.06

a total of 160.06 acres in Section 1, Township 33 South, Range 31 West, Seward County, Kansas, and

the portion changed to stockwatering use shall authorize the place of use at the location described as:

a dairy located in the South Half (S½) of Section 7, the West Half (W½) and in the Southeast Quarter (SE¼) of Section 18, all in Township 33 South, Range 30 West, Meade County, Kansas, and

portions of the South Half (S½) of Section 12, in Township 33 South, Range 31 West, Seward County, Kansas,

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

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 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 meters has been completed. The water right owner shall maintain the water meters 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 stockwatering and irrigation uses may be determined. The water right owner shall also report the reading of said water meters 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.

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

July 12, 2024

GREG BETHARD
HIGH PLAINS PONDEROSA DAIRY LLC
2042 V RD
PLAINS KS 67869

RE: Water Right
File Nos. 24,437; 25,634; 41,630 & 41,678

Dear Mr. Bethard:

Enclosed are the orders executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the applications for change under the above 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 each approval is the requirement that an acceptable water flowmeter must be installed so both irrigation and stockwatering uses can be metered independent of each other, from each of the diversion works prior to the diversion of water. 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 <http://agriculture.ks.gov>.

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

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

Sincerely,

Kristen A. Baum
New Application and Change Unit Supervisor
Water Appropriation Program

KAB:kak: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 12 day July, 2024, I hereby certify that the attached Approvals of Application for Change under Water Right, File Nos. 24,437; 25,634; 41,630 & 41,678 dated, July 2, 2024, were mailed postage prepaid, first class, US mail to the following:

HIGH PLAINS PONDEROSA DAIRY LLC
GREG BETHARD
2042 V RD
PLAINS KS 67869

With photocopies sent to:

Garden City Field Office

Groundwater Management District No. 3


Division of Water Resources