

File No. **40861** 13. County: **ME & SW** Basin: **CIMARRON RIVER** Stream: **NA**
 Structures File No: Aquifer Code: **211** Special Use Area: **NA**

14. Points of Diversion, Rates & Quantities										Qty mgy		Rate gpm		Storage Qty		Storage Rate		Overlaps
PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)		Auth	Add	Auth	Add	Auth	Add	Auth/Add		
NO GHG																		+
																		++
																		#

15. Limitations Type: Quantity: **AF** Rate: **gpm** combined with file no(s):
 Type: **Other** Quantity: Rate: combined with file no(s):

16. Metering Metering Required Anti-Reverse Required Seal Required Compliance Date: 12/31/2024

17. Place of Use		NE¼				NW¼				SW¼				SE¼				Total	Owner(s)	Chg?	Overlaps				
PDIV	S	T	R	ID	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE									
																				<input type="checkbox"/>					
MOD	23150	12	33	31W	2	DAIRY PORTIONS OF S2																	5b	<input type="checkbox"/>	^
ENT	54211	18	33	30W	3	DAIRY (W2) & (SE)																	5b	<input type="checkbox"/>	^
ENT	71820	33	30W			DAIRY S2																	5b	<input type="checkbox"/>	^

18. Point of Diversion and Place of Use Overlaps	
+	*
++	**
#	***
^ 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: Files

DATE: June 17, 2024

FROM: Leslie Ireland

RE: Water Right, File Nos. 12,332; 21,974; 24,437;
25,634; 30,777; 40,861; 41,578; 41,579; 41,580; 41,630;
41,678 & 45,387

Greg Bethard on behalf of High Plains Ponderosa Dairy, LLC, along with Car Ray and Zita Bond have filed applications for approval to change the place of use authorized for stockwatering use. The applications for change were received in the Office of the Chief Engineer on January 23, 2023, under File Nos. 21,974; 30,777 & 40,891 and August 28, 2023 for the remaining listed files which proposed a change in place of use to the stockwater facilities. The files are located in the Crooked Creek Basin, Meade, and Seward Counties.

These files appear to be in compliance with K.S.A. 82a-732, for reporting of water use and with K.S.A. 82a-1906 for the proposed changes without any sent notifications as there are no well owners within one-half mile of the wells authorized under these rights other than the owners of the referenced rights.

The existing stockwater places of use are comprised of a dairy cattle operation with stockwater use only authorized under File Nos. 12,332 & 45,387, with dual use under File Nos. 41,578; 41,579 & 41,580 is expanding. The changes also propose an overlap in place of use with a newly acquired livestock facility authorized by File Nos. 21,974; 30,777 & 40,861. These three files authorize only stockwater use with a combined total of 139.516 million gallons (426.16 acre-feet (AF)) at the place of use described as being:

in the South Half (S $\frac{1}{2}$) of Section 12, Township 33, Range 31 West, Seward County.

The place of use authorized by these three files will be overlapped with the existing dairy facility to the East which is also being expanded to the North by adding the South Half (S $\frac{1}{2}$) of Section 7, resulting in a dairy livestock facility with stockwater use authorized by the reference files with the place of use described as being:

a dairy located in the South Half (S $\frac{1}{2}$) of Section 7, the West Half (W $\frac{1}{2}$) and in the Southeast Quarter (SE $\frac{1}{4}$) of Section 18, all in Township 33 South, Range 30 West, Meade County, Kansas, and in portions of the South Half (S $\frac{1}{2}$) of Section 12, in Township 33 South, Range 31 West, Seward County, Kansas.

This new and existing facility will be authorized stockwater use only under File Nos. 12,332; 21,974; 30,777; 40,861 & 45,387, providing a total quantity of 330.83 mgy (1,015.27) AF, with File No. 45,387 further limited when certified to 545.19 mgy (1,673 AF) with File Nos. 12,332; 41,578; 41,579 & 41,580, with this limited quantity representing the dual use authorized by File Nos. 41,578 41,579 & 41,580.

The dual use authorized under File Nos. 41,578 41,579 & 41,580, provide a fluctuating irrigation-stock uses limited quantity of 348.33 mgy (1,039 AF) under these three files. The proposed change the use made of water to authorize dual use under File Nos. 24,437; 25,634; 41,630 & 41,678 will provide a fluctuating irrigation-stock quantity of 413.67 mgy (1,269 AF), yielding a total quantity of 762 mgy (2,338 AF) as irrigation-stock quantity dual use.

A maximum total quantity of 1,092.83 mgy (3,353 AF) could be diverted as stockwater use by all of the referenced files if all diverted for stockwater use.

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. It appears no additional limitations on the requested quantity will be needed.

The applications will increase the place of use as a stockwater facility but should not result in an increase in consumptive use. As required by K.A.R. 5-5-3, *Consumptive use* as stockwatering is considered 100% consumptive as authorized and the existing and proposed operation of files as dual use will operate under a reduced quantity while authorized for irrigation and stockwater uses.

In a letter dated May 10, 2024, Jason Norquest, Assistant Manager of Groundwater Management District No. 3, recommended approval of the applications.

Mike Meyer, Water Commissioner of the Garden City Field Office, recommend we proceed with the approval of the applications, per his email dated June 17, 2024. Water flowmeters are required. Check valves are required if any chemical or foreign substance is injected into the water through the diversion works.

A condition of the approvals will be the requirement of flowmeters pursuant to K.S.A. 82a-706c. Also a check valve per point of diversion will be required if there will be any chemigation. 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, that the changes are reasonable, consumptive use will not increase, impairment of existing water rights is unlikely, and that no change in the local source of supply will occur, it is recommended that the referenced applications for change be approved.



Leslie Ireland
Environmental Scientist
Water Appropriation Program

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 PLACE OF USE WATER RIGHT, FILE NO. 40,861

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, as owner of the referenced water right, received in this office on January 23, 2023, for approval of a change in the location of the place of use, under the certificate of appropriation issued pursuant to the application for 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.

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

a dairy in the South Half (S $\frac{1}{2}$) of Section 7, the West Half (W $\frac{1}{2}$) and Southeast Quarter (SE $\frac{1}{4}$) of Section 18, all in Township 33 South, Range 30 West, Meade County, Kansas, and

portions of the South Half (S $\frac{1}{2}$) 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 place of use.

The water right owner shall properly install an acceptable water meter 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 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. 40,861, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated March 1, 1999.

Ordered this 2 day of July, 2024, at Manhattan, Riley County, Kansas.

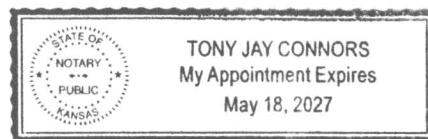
Lane P. Letourneau

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 2 day of July, 2024, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, 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

July 12, 2024

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

RE: Water Right
File Nos. 12,332; 21,974; 30,777;
40,861 & 45,387

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 authorized for only stockwater use.

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 on the diversion works prior to the diversion of water. Records in this office indicate meters are installed, however if a meter is repaired or replaced, please complete and submit the information found at our web site <http://agriculture.ks.gov> or you must contact our staff at the Garden City Field Office at 620-276-2901.

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. 12,332; 21,974; 30,777; 40,861 & 45,387 dated, July 2, 2024, were mailed postage prepaid, first class, US mail to the following:

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

With photocopies sent to:

Garden City Field Office

Groundwater Management District No. 3


Division of Water Resources