

File No. 40867	13. County: ME & SW	Basin: CIMARRON RIVER Stream: NA
Structures File No:	Aquifer Code: 211	CROOKED CREEK
		Special Use Area: NA

14. Points of Diversion, Rates & Quantities										Qty mgy		Rate gpm		Storage Qty		Storage Rate	
PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Auth	Add	Auth	Add	Auth	Add	Auth/Add	Overlaps	
NC																+	
																++	
																#	

15. Limitations	Type: RATE	Quantity:	AF Rate:	gpm	combined with file no(s): NO CHANGE
	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: 12/31/2025
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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					
																									<input type="checkbox"/>	
ENT 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	7	33	30W	5	DAIRY S2																	5b	<input type="checkbox"/>	^		
MOD 31383	28	33	30W	2	DAIRY E2																	5c	<input checked="" type="checkbox"/>	^^		

18. Point of Diversion and Place of Use Overlaps + NONE ++ NONE # ^ 12,332; 21,974; 24,437; 25,634; 28,998; 30,777; 40,861; 40,864; 40,859; 40,867; 41,578; 41,579; 41,580; 41,630; 41,678 & 45,387	* ** *** ^^ 28,998; 40,859; 40,864 & 40,867
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KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: October 30, 2024

FROM: Leslie Ireland

RE: Water Right,
File Nos. 28,998; 40,859; 40,864 & 40,867

Greg Bethard on behalf of High Plains Ponderosa Dairy, LLC, along with owners of record, Dex and Michelle Dittrich have filed applications for approval to change the place of use authorized for stockwater use. The applications for change were received in the Office of the Chief Engineer on September 27, 2024. They are being expedited as they are initial work on the water rights. The files are located in the Crooked Creek Basin, Meade, County, and Southwest Groundwater Management District No. 3.

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 place of use is located in the East Half (E $\frac{1}{2}$) of Section 28, Township 33, Range 30 West, Meade County and comprised of a swine operation authorized only stockwater use. These files authorize a combined total of 96.367 million gallons (296 acre-feet (AF)) from 3 wells all authorized by the senior file and sequential singular overlap by the junior files all authorized only for stockwater use. The three junior files provide no additional rate when combined with File No. 28,998. This facility has historically been referenced as Dekalb Swine Breeders but appears to have phased out hog operations since 2021 with only 2023 reporting no diversion of water at the facility.

The proposed change in their place of use is to add the existing High Plains Ponderosa Dairy as a place of use. This facility is approximately 3 miles to the Northwest, being located in Sections 7 and 18, Township 33 South, Range 30 West, and Section 12, Township 33 South, Range 31 West. Easement agreements for the pipeline have been submitted.

The approval will result 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, the East Half (E $\frac{1}{2}$) of Section 28, 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.

The place of use authorized as the East Half (E $\frac{1}{2}$) of Section 28, in Township 33 South, Range 30 West, Meade County, will only be authorized by the referenced files. The proposal to add this facility is requested as an incomplete overlap as this time as allowed by K.A.R. 5-3-5n, *Authorized place of use*. It appears the files currently meet the ownership allowance as a reason for the incomplete overlap.

This expanded place of use would be authorized stockwater use only under File Nos. 12,332; 21,974; 28,998; 30,777; 40,859; 40,864 & 40,867 40,861 & 45,387, providing a total quantity of 626.78 mgy (1,922.9 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. 24,437; 25,634; 41,578; 41,579, 41,580; 41,630 & 41,678 will provide a fluctuating irrigation-stock quantity of 762 mgy (2,338 AF) as irrigation-stock quantity dual use.

The owner has previously 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 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.

In a letter dated October 24, 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, indicated that he is not opposed to approval of the applications, per his email dated October 30, 2024.

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: Wednesday, October 30, 2024 11:59 AM
To: Ireland, Leslie [KDA]
Subject: RE: Review and Recommendation Change in PU, File Nos. 28,998; 40,859; 40,864 & 40,867 HPPD

I recommend approval

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Wednesday, October 30, 2024 11:53 AM
To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Subject: RE: Review and Recommendation Change in PU, File Nos. 28,998; 40,859; 40,864 & 40,867 HPPD

Correct original limitations not changing. Just PU..

From: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Sent: Wednesday, October 30, 2024 11:20 AM
To: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Subject: RE: Review and Recommendation Change in PU, File Nos. 28,998; 40,859; 40,864 & 40,867 HPPD

My question was with these change approvals are we increasing the limitation or keeping the same prior to these change apps?

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Wednesday, October 30, 2024 11:19 AM
To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Subject: RE: Review and Recommendation Change in PU, File Nos. 28,998; 40,859; 40,864 & 40,867 HPPD

Mike,
Looking at WRIS it doesn't show the corrections have been completed to the existing certs under HPPD. Probably get that in the next round.. if not prior to...
Seems like that would be a better fit to the project as a whole if you agree?
Leslie

From: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Sent: Wednesday, October 30, 2024 11:12 AM
To: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Subject: RE: Review and Recommendation Change in PU, File Nos. 28,998; 40,859; 40,864 & 40,867 HPPD

Original limitations have not been changed correct?
I approve

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Wednesday, October 30, 2024 10:06 AM
To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Subject: Review and Recommendation Change in PU, File Nos. 28,998; 40,859; 40,864 & 40,867 HPPD

Mike,

Please let me know if you would recommend the package of changes as summerized.

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 PLACE OF USE
WATER RIGHT, FILE NO. 40,867**

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, along with Dax and Michelle Dittrich, 1038 County Road 251, Weimar, Texas 78956, as owner of the referenced water right, received in this office on September 27, 2024, 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, and the East Half (E $\frac{1}{2}$) of Section 28, in Township 33 South, Range 30 West, Meade County, Kansas, and in portions of the South Half (S $\frac{1}{2}$) of Section 12, Township 33 South, Range 31 West, Seward County, Kansas,

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

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.

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. 40,867, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated January 31, 2007.

Ordered this 7 day of November, 2024, at Manhattan, Riley County, Kansas.

Lane P. Letourneau

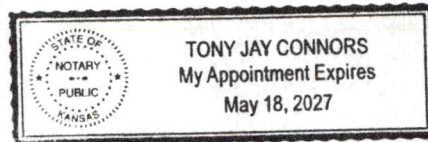
Lane P. Letourneau, P.G.
Water Appropriation Program Manager
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 7 day of November, 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

November 13, 2024

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

RE: Water Right,
File Nos. 28,998, 40,859, 40,864 and 40,867

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 file numbers.

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 the requirement of the installation of water flowmeters prior to the diversion of water. If a meter is replaced or repaired, please follow the instructions at our web site, agriculture.ks.gov/dwr or contact the Garden City Field Office.

Since these orders modify the Certificates of Appropriation for the above referenced water rights, they should be recorded with the Register of Deeds as other instruments affecting real estate.

If you have any questions or need assistance with any of these requirements, please contact our office at 785-564-6640, or your local Garden City Field Office at 620-276-2901. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

Kristen A. Baum
New Application Unit Supervisor
Division of Water Resources

KAB:kak:li
Enclosure(s)
pc: Dax & Michelle Dittrich
Garden City Field Office
Southwest Kansas GMD 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 Division, 1320 Research Park Drive, Manhattan, Kansas 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 review 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 13th day of November, 2024, I hereby certify that the attached Approval of Applications for Change under Water Right, File Nos. 29,889, 40,864, 40,859 & 40,867, dated November 7th, 2024, were mailed postage prepaid, first class, US mail to the following:

HIGH PLAINS PONDEROSA DAIRY LLC
2042 V RD
PLAINS KS 67869

With a true and correct copy to:

DAX & MICHELLE DITTRICH
1038 CR 251
WEIMAR TX 78956

With a copy to:

KDA-DWR Garden City Field Office

Southwest Kansas GMD No. 3



Staff