

File No. **Error! Reference source not found.** 13. County: **WS** Basin: **LITTLE BLUE RIVER** Stream: **NA**
 Structures File No: Aquifer Code: **330 DAKOTA AQUIFER SYSTEM (UNCONFINED)** Special Use Area: **NO**

| 14. Points of Diversion, Rates & Quantities | | | | | | | | | | Qty AF | | Rate gpm | | BATTERY ID | | Storage Rate | |
|---|---------------------------|----|---|----|----|------|------|--------------------|--|---------------|-----|-----------------|-----|-------------------|-----|--------------|----------|
| PDV | Qualifier | S | T | R | ID | 'N | 'W | Comment (AKA Line) | | Auth | Add | Auth | Add | Auth | Add | Auth/Add | Overlaps |
| 86739 | 86439 NW SE NW | 24 | 4 | 3E | 3 | 3919 | 3833 | BATT 1 OF 2 WELLS | | | | | | | | | + |
| ENT | 90692 NW SE NW | 24 | 4 | 3E | | 3688 | 3775 | BATT 1 OF 2 WELLS | | | | | | | | | + |
| ENT | 90693 NW SE NW | 24 | 4 | 3E | | 3804 | 3804 | GEO CTR | | 57 | 57 | 135 | 135 | | | | + |

15. Limitations **NEW** Type: Quantity: **AF** Rate: **gpm** combined with file no(s): **NONE NO CHANGE**
NEW Type: Quantity: **AF** Rate: **gpm** combined with file no(s):

16. Metering Metering Required Anti-Reverse Required Seal Required Compliance Date: **12/31/2025**

| 17. Place of Use | | | | | | NE¼ | | | | NW¼ | | | | SW¼ | | | | SE¼ | | | | Total | Owner(s) | Chg? | Overlaps | |
|------------------|-------|----|---|----|---|-----|----|----|----|------|------|------|------|------|------|------|------|-----|----|----|----|-------|----------|--------------------------|--------------------------|---|
| PUSE | S | T | R | ID | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | | | | | |
| CHK | 23658 | 24 | 4 | 3E | 1 | | | | | 35.0 | 10.0 | 37.0 | 33.0 | | | | | | | | | | 115 | 5a | <input type="checkbox"/> | * |
| CHK | 69203 | 13 | 4 | 3E | 1 | 0 | | | | | | | | 34.0 | 34.0 | 34.0 | 34.0 | | | | | | 136 | 5b& 5c | <input type="checkbox"/> | * |
| | | | | | | | | | | | | | | | | | | | | | | 0.00 | | <input type="checkbox"/> | | |
| | | | | | | | | | | | | | | | | | | | | | | 0.00 | | <input type="checkbox"/> | | |
| | | | | | | | | | | | | | | | | | | | | | | | | <input type="checkbox"/> | ^ | |
| | | | | | | | | | | | | | | | | | | | | | | | | <input type="checkbox"/> | ^ | |

18. Point of Diversion and Place of Use Overlaps
 * 25272 51148 **
 + 25272 51148 IRR 46867 STK ++
 # ##
 ^ ^^

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: September 4, 2024

FROM: Leslie Ireland

RE: Water Right,
File Nos. 25,272 & 46,867
Appropriation of Water,
File No. 50,168

Steven K. Ohlde on behalf of the Ohlde Legacy Land LP, owner of the referenced files has submitted applications to change the point of diversion. Received on December 5, 2023, they were submitted with a new application, File No. 51,148, filed for the irrigation portion of this project to replace the irrigation use under File No. 50,168, requested by the owner to be dismissed. The files are located in the Little Blue Basin, Washington County. The project is not a special use area.

The referenced files are considered not to be abandoned per K.S.A. 82a-718 and in compliance with K.S.A. 82a-732. It would appear notice per K.S.A. 82a-1906 is not needed as there are no other wells located in the notification area not owned by the applicants/owners and the proposed change will move the existing well less than 300 feet.

It is proposed to continue the overlap in point of diversion between File No. 25,272, authorized for irrigation use and File No. 46,864, authorized stockwater use, but add a new permit, File No. 51,148, for irrigation use and to authorize a new battery of two(2) wells. Colin Barkley, Environmental Scientist, will process the new appropriation File No. 51,148. The proposed battery will retain the existing well and proposes to authorize a new well a new well to the South, resulting in a North-South line of two(2) wells. The retained existing well is also authorized by File No. 50,168, but this file has been requested to be dismissed and a Findings and Order will dismiss this file pending the approval of File No. 51,148. All of the irrigation files serve the same place of use. The stockwater place of use under File No. 46,867, is served by another well under File No. 47,836.

The proposed new well was listed as an additional well, but K.A.R. 5-5-16, *Additional well*, is not applicable to the proposed change to add a well as the battery geographic center is considered a sole point with requirements to K.A.R. 5-2-3, *Battery of Wells*. K.A.R. 5-2-3, *Battery of wells*, requires that, if the time to complete the diversion works has expired, the proposed geographical center meet the safe yield, allowable appropriation of similar type of regulation for a well that would be filed at that location. As determined by K.A.R. 5-3-11, *Availability of water for appropriation – safe yield; unconfined groundwater*, indicates that there is water available at the proposed geographic center of the wells and a new application, File No. 51,148 is approvable. The approval of the new appropriation, File No. 51,148, at the geographic center assures compliance with Part(b)(2) of K.A.R. 5-2-3.

The well located near the center of the Northwest Quarter (NC NW $\frac{1}{4}$) of Section 24, determined by a 2019 Compliance Investigation to be located approximately 3,919 feet North and 3,833 feet West with the updated qualifiers of (NW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$) is authorized the diversion of 57 acre-feet (AF) at 135 gallons per minute (gpm) under File No. 25,272 (IRR) and by File No. 46,867 (STK), 25.682 million gallons (78.8 AF) at 275 gpm, but limited to 375 gpm for stockwater use from this well. The proposed second well to be is to be constructed in the (NW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 24, approximately 3,688 feet North and 3,775 feet West. These two(2) wells forming the proposed battery are approximately 238 feet apart and will authorize a geographic center of being in the (NW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 24, approximately 3,804 feet North and 3,804 feet West of the Southeast corner of Section 24, Township 4 South, Range 3 East, Washinton County. This geo center will authorize the quantity and rates listed above with a complete overlap with File No. 51,148.

The source of supply is indicated in the WRIS database as Dakota Aquifer System, Unconfined, (Code 330). The KGS database did not contain a bulletin for this county. The proposed distance between the wells would indicate the source of supply will not change.

The second part of the requirement is that the wells meet the definition of a battery. The wells will be required to be constructed within a 300 foot radius. The configuration of the meter would allow one meter or what would appear to be a common manifold system. Both wells appear to be in the same local source of supply and not divert at an operational rate more than 800 gpm.

There are no wells not authorized by File Nos. 25,272 & 46,867 within one-half ($\frac{1}{2}$) mile of the proposed geographic center thus meeting the well spacing as detailed in K.A.R. 5-4-4, *Well spacing*. The well under File No. 47,836, that also serves the dairy is located approximately 2,861 feet from the proposed geographic center.

Water Commissioner for the Topeka Field Office, Nathan Westrup, recommended approval of the proposed changes, voluntary dismissal and new application by email, September 4, 2024.

A water flow meter meeting the specifications of the Chief Engineer will be required per K.A.R. 5-1-7. A check valve will be required if any chemical or foreign substance is injected through the diversion works. A water level measurement tube and a copy the WWC-5 will be required for the new well. The notice of completion requirement will track with the new application timeline of December 31, 2025.

Based on the above discussion, that the change is reasonable, that impairment of existing water rights is unlikely, there will be no change in the local source of supply, it is recommended that the referenced application be approved.



Leslie Ireland
Water Appropriations

From: [Westrup, Nathan \[KDA\]](#)
To: [Barclay, Colin \[KDA\]](#); [Johnson, Shaun \[KDA\]](#)
Cc: [Ireland, Leslie \[KDA\]](#)
Subject: RE: 51,148 review and recommendation
Date: Wednesday, September 4, 2024 2:31:57 PM

Colin/Leslie,

I have no objection to approval of new app 51,148 and approval of changes. However, it looks like the 2 mile circle may be beyond the edge of the Dakota. If the circle is truncated, I don't think it would reduce the safe yield to the point it couldn't be approved. Maybe look at the safe yield assessment under 50,168.

Thanks,

Nathan Westrup, Water Commissioner

Topeka Field Office
Division of Water Resources
Kansas Department of Agriculture
Phone: 785-296-7064
Mobile: 785-230-2991
Nathan.Westrup@ks.gov

From: Barclay, Colin [KDA] <Colin.Barclay@ks.gov>
Sent: Tuesday, September 3, 2024 2:22 PM
To: Westrup, Nathan [KDA] <Nathan.Westrup@ks.gov>; Johnson, Shaun [KDA] <Shaun.Johnson@ks.gov>
Cc: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Subject: 51,148 review and recommendation

Nathan and Shaun,

I have attached my draft memo and safe yield report for application 51,148. This is a ground water application that is essentially replacing 50,168 and adding a well to create a battery for the irrigation of 251 acres near the town of Linn in Washington County. The applicant has signed the dismissal form for 50,168. There were no nearby neighbors so no letters were sent out.

Leslie took care of the change applications for the two senior water rights 25,272, 46,867, & the dismissal for 50,168.

Please let me know if you have any questions.

Thanks,

Colin Barclay

Environmental Scientist

Division of Water Resources

Kansas Department of Agriculture

Phone: (785) 564-6628

Colin.Barclay@ks.gov

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 POINT OF DIVERSION
WATER RIGHT
FILE NO. 25,272**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Steven K. Ohlde, on behalf of Ohlde Legacy Land LP, 1814 9th Road, Linn, Kansas 66953, Cynthia Ohlde, 898 Quivira Road, Linn, Kansas 66953, and Vernon H. Mai, Post Office Box 341, Linn, Kansas 66953, received in this office on December 5, 2023, for approval of a change in the location of the point of diversion 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 April 12, 2018, approving the application to change the point of diversion, by the Order of the Chief Engineer, dated March 13, 2019, approving the application to change the place of use, finds that the change is reasonable and will not impair existing rights, that the change relates to the same local source of supply 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 authorized location of the point of diversion authorized shall be:

a battery of two (2) wells with a geographic center in Northwest Quarter of the Southeast Quarter of the Northwest Quarter (NW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 24, more particularly described as being near a point 3,804 feet North and 3,804 feet West of the Southeast corner of said section, in Township 4 South, Range 3 East, Washington County, Kansas,

located substantially as shown on the map accompanying the application to change the point of diversion.

All wells with a diversion rate of 100 gallons per minute or more drilled under the authority of this order shall have a tube or other device installed in a manner acceptable to, and in accordance with specifications adopted by, the Chief Engineer. This tube or device shall be suitable for making water level measurements and shall be maintained in a condition satisfactory to the Chief Engineer.

The battery of wells authorized herein shall be located within a three hundred (300) foot radius circle, in the same local source of supply, and shall supply water to a common distribution system.

The water right owner shall submit to the Chief Engineer a copy of the well log for the new point of diversion authorized as required by the Kansas Department of Health and Environment under the authority of K.S.A. 82a-1212, currently form WWC-5, following the drilling of the well at the authorized location.

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.

Installation of the works for diversion of water shall be completed on or before December 31, 2025, or within any authorized extension of time. The applicant shall notify the Chief Engineer of the Division of Water Resources, Kansas Department of Agriculture, when the required meter has been installed and the diversion works are completed.

In all other respects, the Certificate of Appropriation issued pursuant to Approval of Application, File No. 25,272, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation, dated May 12, 1986, as modified and amended by the aforementioned orders.

Ordered this 12 day of September, 2024, in Manhattan, Riley County, Kansas.

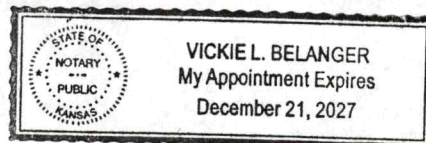
Lane P. Letourneau

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 12 day of September 2024, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.

Vickie L. Belanger
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

September 19, 2024

STEVEN K OHLDE
OHLDE DAIRY LLC
1814 9TH RD
LINN KS 66953-9288

RE: Appropriation of Water
File Nos. 51,148 and 50,168

Water Right
File Nos. 25,272 and 46,867

Dear Mr. Ohlde:

Enclosed is a new permit (File No. 51,148) authorizing you to proceed with construction of the proposed diversion works and to appropriate water for beneficial use. Also enclosed are the orders approving your applications for change under the above referenced Water Right, File Nos. 25,272 and 46,867, and a Findings and Order dismissing Appropriation of Water, File No. 50,168, per your request. Your attention is directed to the enclosures and to the terms, conditions, limitations, and requirements specified in the enclosed orders.

A condition of these approval orders is that water flowmeters meeting K.A.R. 5-1-4 through 5-1-12 must be installed on the diversion works authorized. Notices must be filed on the enclosed forms once the meters have been installed and the diversion works have been completed. Failure to complete the diversion works within the time allowed, or within any authorized extension of time thereof, will result in dismissal of the new permit. If you need an extension of time, you must request it before the deadline for completion set forth in the permit. Any request for an extension of time must be accompanied by the statutorily required fee, which is currently \$100.00.

Since the orders for File Nos. 25,272 and 46,867, modify the certificates of appropriation for those water rights, they should be recorded with the Register of Deeds as other instruments affecting real estate.

An annual water use report must be filed with the Chief Engineer by March 1, following the end of each calendar year. If a complete annual water use report is not received by the deadline, then a fine may be assessed and all water use under such permit or right may be suspended. Reports submitted in paper form will be assessed a \$20 per file number paper filing fee. In order to avoid this filing fee, you may submit your report online at www.kswaterusereport.org.

The approval of your new application constitutes a permit to appropriate water. The enclosed orders do not give authority to construct any dam or other stream obstruction regulated by K.S.A. 82a-301 through 305a. They do not give authority to access any right-of-way or authorize trespassing upon or injury to public or private property. It may also be necessary for you to comply with other local, state or federal requirements.

OHLDE DAIRY LLC

File Nos. 25,272, 46,867, 50,168 and 51,148

Page 2 of 2

Also included with these orders is an informational sheet that sets forth the procedure to obtain a Certificate of Appropriation which will establish the extent of your perfected water right. Additional information and applicable forms may be found on our website at agriculture.ks.gov/dwr. If you have any questions or need assistance with any of these requirements, please contact our office at 785-564-6640, or your local Topeka Field Office at (785) 296-5733. If you call, please reference the file number so we can help you more efficiently.

Sincerely,



Kristen A. Baum
New Applications and Changes Supervisor
Division of Water Resources

KAB:kak:ccb

Enclosure(s)

pc: Topeka Field Office
Cynthia Ohlde
Vernon H & Sylvia Y Mai

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 *19* day of *September*, 2024, I hereby certify that the foregoing orders pertaining to, File Nos. 25,272, 46,867, 50,168 and 51,148, dated *September 12*, 2024, were mailed postage prepaid, first class, US mail to the following:

OHLDE LEGACY LAND LP
OHLDE DAIRY LLC
1814 9TH RD
LINN KS 66953-9288

With photocopies to:

KDA-DWR Topeka Field Office

CYNTHIA OHLDE
898 QUIVIRA RD
LINN KS 66953

VERNON H & SYLVIA Y MAI
PO BOX 341
LINN KS 66953

Division of Water Resources