

File No. **51148** 13. County: **WS -Washington** Basin: **LITTLE BLUE RIVER** Stream: **N/A**
 Structures File No: Aquifer Code: **330 DAKOTA AQUIFER SYSTEM (UNCONFINED)** Special Use Area:

14. Points of Diversion, Rates & Quantities										Qty AF		Rate gpm		Storage Qty AF		Storage Rate	Overlaps
PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)		Auth	Add	Auth	Add	Auth	Add	Auth/Add	
MOD	86439	NW SE NW	24	4	3E	3	3919	3833	BATT 1 OF 2 WELLS								*
CHK	90692	NW SE NW	24	4	3E	4	3688	3775	BATT 1 OF 2 WELLS								*
MOD	90693	NW SE NW	24	4	3E	5	3804	3804	GEO CENTER		301.2	244.2	800	665			*

15. Limitations **NEW** Type: **Combined Quantity** Quantity: **301.2 AF** Rate: **800 gpm** combined with file no(s): **25272**
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										115.00	5b	<input type="checkbox"/>	*
CHK	69203	13	4	3E	1									34.0	34.0	34.0	34.0						136.00	5c & 5d	<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** **
 + ++
 # ##
 ^ ^^

MEMORANDUM TO FILE

Division of Water Resources, Water Appropriation Program

Date: September 4, 2024

From: Colin Barclay, Environmental Scientist

Re: New Application File No. 51,148 – Ohlde Dairy LLC

Summary

Ohlde Dairy LLC has filed the above referenced application to appropriate an additional 244.2 acre-feet of groundwater for a new combined authorized quantity of 301.2 acre-feet limited by file no. 25,272 at a rate of 800 gallons per minute. The well is currently authorized under File Nos. 25,272, 46,867, and 50,168. The overlapping point of diversion would be an existing well and the drilling of a new well creating a battery located near the Town of Linn, Kansas in the Little Blue River basin in Washington County, Kansas. Water Right, File No. 25,272 will overlap in Place of Use and point of diversion upon approval of a change application. Note that File No. 46,867 is for Stockwatering Use and overlaps in point of diversion only. The applicant has signed the application form affirming legal access to the point of diversion. The proposed place of use is 251 acres of farm ground. It appears as though Water Right File No. 50,168 failed to perfect any water and a voluntary dismissal of File no. 50,168 has been signed by the applicant. The above referenced application will essentially be replacing File no. 50,168 and creating a battery of two wells.

Reasonable Rate and Quantity

Quantity of water requested is 301.2 acre-feet at a rate of 800 gallons per minute for a proposed place of use of 251 acres. Quantity requested appears to be the maximum quantity of water allowed at 1.2 acre-feet per acre in Washington County, Kansas as per K.A.R. 5-3-24. As mentioned previously, this application seeks to appropriate an additional 244.2 acre-feet of groundwater for a new combined authorized quantity of 301.2 acre-feet when combined with file nos. 25,272 which authorized 57 acre-feet previously.

Source of Supply and Safe Yield

The source of supply appears to be the unconfined Dakota aquifer. Previous safe yields in this area trimmed out the eastern portion of the circle, making mention of the Sumner group of shales and limestones being found in area well logs. However, upon review of area well logs, the characteristic Dakota sandstone was found in the furthest extents of the two-mile safe yield circle. In addition, the aerial elevation data depicts the surficial topography along the eastern edge of the two-mile circle as being at a higher elevation than the depth to the Dakota sandstone in the applicants well log. The only section that appears to dip below this elevation is along the stream on the eastern extent of the two-mile circle which has been truncated from the evaluated two-mile circle. Per the requirements in K.A.R. 5-3-11, safe yield is determined by the extent of the unconfined aquifer within a two-mile circle radius of the point of diversion, which establishes the area of consideration. Evaluation of the area of consideration included the extent of the unconfined aquifer, which provided an area of consideration of 7,884 acres. With a potential annual recharge of 2.9 inches, and 100% of recharge available for appropriation, safe yield was determined to be 1,905.34 acre-feet. Existing water rights have appropriated 348.65 acre-feet, providing a difference of 1,556.69 acre-feet available for appropriation, and the application requesting an additional 244.20 acre-feet complies with safe yield.

Nearby Water Rights

No appropriated wells were found to be within one-half ($\frac{1}{2}$) mile of the proposed point of diversion. One (1) nearby domestic well was found to be within one-half ($\frac{1}{2}$) mile of the proposed point of diversion however, it is owned by the applicant. The proposed point of diversion meets well spacing requirements as the nearest domestic well is roughly 1,650 feet away and the nearest nondomestic well is located roughly 2,700 feet away. Per the requirements of K.A.R. 5-4-4 for all other aquifers, the minimum well spacing should be one-quarter ($\frac{1}{4}$) mile to all other non-domestic wells and 660 feet to domestic wells. Therefore, no nearby well notification letters were sent out.

Recommendations

The application was sent for consideration to Nathan Westrup, Water Commissioner of the Topeka Field Office and recommended for approval in an e-mail dated September 4, 2024.

The application complies with all regulations concerning reasonable quantity, safe yield, and minimum spacing requirements. The proposed application is subject to minimum desirable streamflow requirements. Approval of the application will not impair senior water rights nor prejudicially or unreasonably affect the public interest. Therefore, it is recommended that the referenced application be approved.



Colin Barclay
Environmental Scientist
Water Appropriation Program

RE: 51,148 review and recommendation

Westrup, Nathan [KDA] <Nathan.Westrup@ks.gov>

Wed 9/4/2024 3:26 PM

To: Barclay, Colin [KDA] <Colin.Barcly@ks.gov>; Johnson, Shaun [KDA] <Shaun.Johnson@ks.gov>

Cc: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>

Colin,

My apologies. Apparently, I had only skimmed your memo, but upon further review I see that you had investigated well logs in the eastern extent of the circle.

Please proceed, I have no objection to approval.

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: Westrup, Nathan [KDA]

Sent: Wednesday, September 4, 2024 2:32 PM

To: Barclay, Colin [KDA] <Colin.Barcly@ks.gov>; Johnson, Shaun [KDA] <Shaun.Johnson@ks.gov>

Cc: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>

Subject: RE: 51,148 review and recommendation

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.Barcly@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

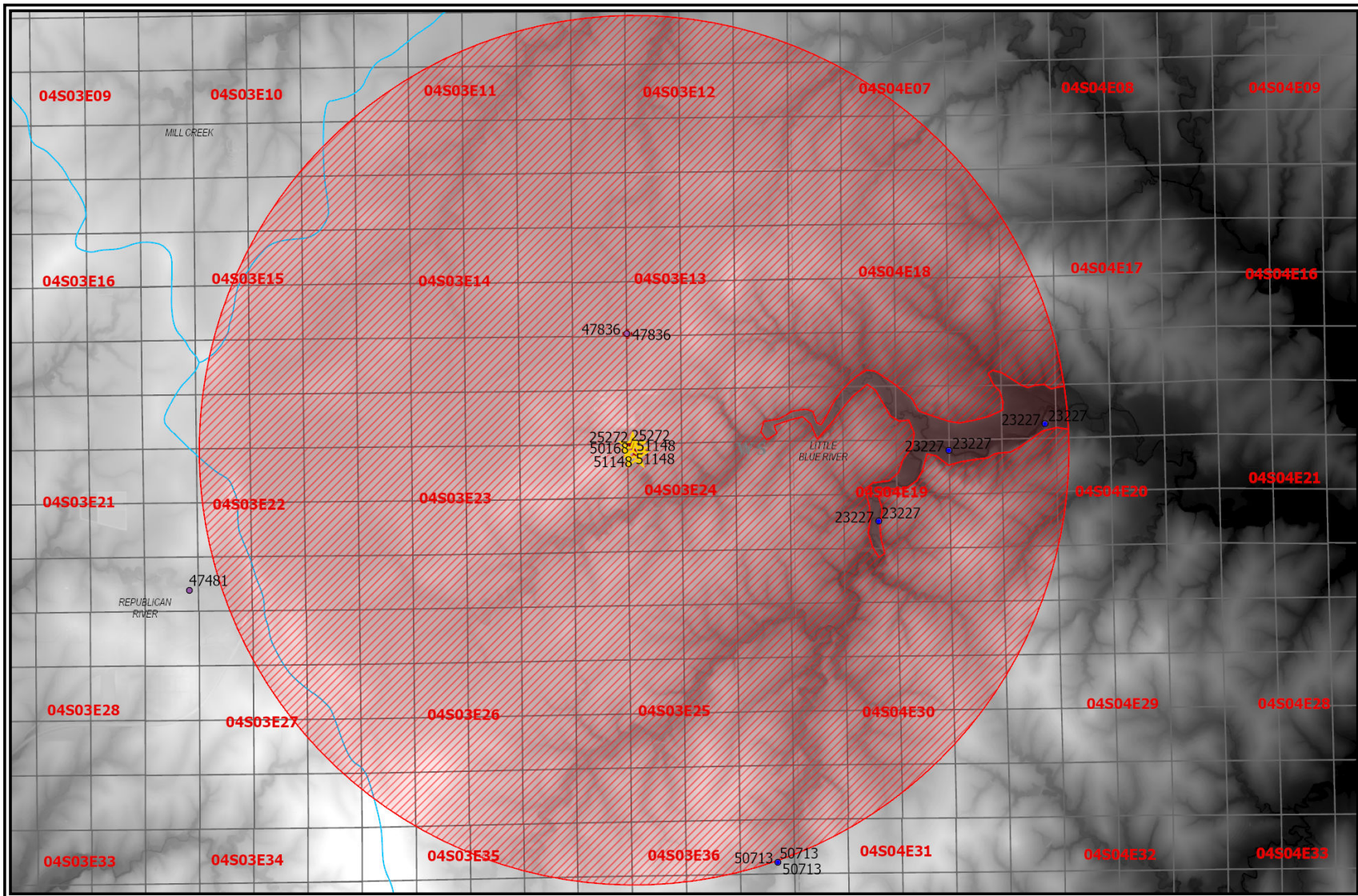
Colin.Barclay@ks.gov

Safe Yield Report Sheet

Water Right- A5114800

Point of Diversion in 24-04S-03E

Footages from SE corner- 3,781 feet North 3,800 feet West



Analysis Results

The selected PD is in an area OPEN to new appropriations.

The safe yield based on the variables listed below is 1,905.34 AF.

Total prior appropriations in the circle is 894.04 AF. **348.65 AF**

Total quantity of water available for appropriation is 1,011.29 AF. **1,556.69 AF Application 51,148 meets safe yield for an additional 244.20 AF**

Safe Yield Variables

The area used for the analysis is set at 7,884 acres.

The potential annual recharge at the circle center is estimated to be 2.9 inches.

The percent of recharge available for appropriation is 100%.

Authorized Quantity values are as of 04-SEP-2024 and are based on Appropriated and Vested ground water right and possible stream nodes for GMD #2. Domestic, Term and Temporary water rights have been excluded.

There are 5 water rights and 4 points of diversion within the circle.

File Number	Use	ST	SR	Q4	Q3	Q2	Q1	FeetN	FeetW	Sec	Twp	Rng	ID	Qind	Auth Quant	Add Quant		Tot Acres	Net Acres
A 25272 00	IRR	NK	G			NC	NW	3875	3825	24	04	03E	3	WR	57.00	57.00		251.00	251.00
A 46867 00	STK	NK	G			NC	NW	3875	3825	24	04	03E	3	WR	78.82	78.82			
A 47836 00	STK	KK	G		SW	NE	SW	1400	3850	13	04	03E	1	WR	302.44	212.83			
A 50168 00	IRR	KE	G			NC	NW	3875	3825	24	04	03E	3	WR	298.80	244.20	-244.20	251.00	0.00
A 51148 00	IRR	AY	G			NC	NW	3875	3825	24	04	03E	3	WR	301.20	301.20	-301.20	251.00	0.00
Same	IRR	AY	G		NW	SE	NW	3688	3775	24	04	03E	4	WR					
Same	IRR	AY	G		NW	SE	NW	3781	3800	24	04	03E	5	WR					

Limitations

File Number	Seq Num	Limitations
A 46867 00	1	375 GPM COM/W #25272
A 47836 00	1	98.55MGY COM/W #46867
A 50168 00	1	301.2 AF/YR COM/W #25272

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
and
PERMIT TO PROCEED**

(This Is Not a Certificate of Appropriation)

This is to certify that I have examined Application, **File No. 51,148** of the applicant

**OHLDE DAIRY LLC
1814 9TH RD
LINN, KS 66953**

for a permit to appropriate water for beneficial use, together with the maps, plans and other submitted data, and that the application is hereby approved and the applicant is hereby authorized, subject to vested rights and prior appropriations, to proceed with the construction of the proposed diversion works (except those dams and stream obstructions regulated by K.S.A. 82a-301 through 305a, as amended), and to proceed with all steps necessary for the application of the water to the approved and proposed beneficial use and otherwise perfect the proposed appropriation subject to the following terms, conditions and limitations:

1. That the priority date assigned to such application is **December 5, 2023**.
2. That the water sought to be appropriated shall be used for irrigation use on land described in the application, as follows:

Sec. Twp. Range	NE¼				NW¼				SW¼				SE¼				TOTAL
	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
13 - 4S - 3E									34	34	34	34					136
24 - 4S - 3E					35	10	37	33									115

3. That the authorized source from which the appropriation shall be made is groundwater, to be withdrawn by means of a battery of two (2) wells with a geographic center located in the Northwest Quarter of the Southeast Quarter of the Northwest Quarter (NW¼ SE¼ NW¼) 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 topographic map accompanying the application.

4. That the appropriation sought shall be limited to a maximum diversion rate not in excess of **800 gallons per minute (1.78 c.f.s.)** and to a quantity not to exceed **301.2 acre-feet** of water for any calendar year.

5. That the quantity of water and rate of diversion approved under this permit is further limited to the quantity and rate which combined with Water Right, File No. 25,272, will provide a total not to exceed **301.2 acre-feet** of water per calendar year to be diverted at a maximum rate of **800 gallons per minute (1.78 c.f.s.)** from the battery of wells authorized herein.

6. That installation of works for diversion of water shall be completed on or before **December 31, 2025**, or within any authorized extension thereof. The applicant shall notify the Chief Engineer and pay the statutorily required field inspection fee of \$400.00 when construction of the works has been completed. Failure to timely submit the notice and the fee will result in revocation of the permit. Any request for an extension of time shall be submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee of \$100.00.

7. That the proposed appropriation shall be perfected by the actual application of water to the proposed beneficial use on or before **December 31, 2029**, or any authorized extension thereof. Any request for an extension of time shall be submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee of \$100.00.

8. That the applicant shall not be deemed to have acquired a water appropriation for a quantity in excess of the amount approved herein nor in excess of the amount found by the Chief Engineer to have been actually used for the approved purpose during one calendar year subsequent to approval of the application and within the time specified for perfection or any authorized extension thereof.

9. That the use of water herein authorized shall not be made so as to impair any use under existing water rights nor prejudicially and unreasonably affect the public interest.

10. That the right of the appropriator shall relate to a specific quantity of water and such right must allow for a reasonable raising or lowering of the static water level and for the reasonable increase or decrease of the streamflow at the appropriator's point of diversion.

11. That this permit does not constitute authority under K.S.A. 82a-301 through 305a to construct any dam or other obstruction; nor does it grant any right-of-way, or authorize entry upon or injury to, public or private property.

12. That all diversion works constructed under the authority of this permit 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.

13. That all wells with a diversion rate of 100 gallons per minute or more drilled under the authority of this permit 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.

14. That an acceptable water flow meter shall be installed and maintained on the diversion works authorized by this permit in accordance with Kansas Administrative Regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer. The required water flow meter shall be used to provide an accurate quantity of water diverted as required for the annual water use report (including the meter reading at the beginning and end of the report year).

15. That the applicant shall maintain accurate and complete records from which the quantity of water diverted during each calendar year may be readily determined and the applicant shall file an annual water use report with the Chief Engineer by March 1 following the end of each calendar year. Failure to file the annual water use report by the due date shall cause the applicant to be subject to a civil penalty.

16. That no water user shall engage in nor allow the waste of any water diverted under the authority of this permit.

17. That the right to appropriate water under authority of this permit is subject to any minimum desirable streamflow requirements identified and established pursuant to K.S.A. 82a-703c for the source of supply to which this water right applies.

18. That this permit is further limited such that both wells shall be located within a three hundred (300) foot radius circle, in the same local source of supply, shall be limited to a total maximum diversion rate not in excess of **800 gallons per minute (1.78 c.f.s.)** and shall supply water to a common distribution system.

19. That failure without cause to comply with the provisions of this permit and its terms, conditions and limitations will result in the forfeiture of the priority date, revocation of the permit and dismissal of the application.

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

Lane P. Letourneau

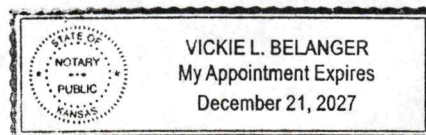
Lane P. Letourneau, P.G.
Water Appropriation Program Manager
Division of Water Resources
Kansas Department of Agriculture

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