

Kansas Department of Agriculture
 Division of Water Resources
**CHANGE: PU UMW WORKSHEET & ORDER IN MATTER OF PD &
OWNERSHIP**

1. File Number: 12271	2. Status Change Date: 11/30/2021	3. Change Num: C2	4. Field Office: 04	5. GMD: 03
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6. Status: <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied by DWR/GMD <input type="checkbox"/> Dismiss by Request/Failure to Return	7. Filing Date of Change: 5/10/2021
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8a. Applicant(s) New to system <input type="checkbox"/> Person ID _____ Add Seq# _____ DAIRY VENTURES I LLC AKA J7 Dairy LLC C SUZANNE & RON EAKES 1187 RD B TRIBUNE, KS 67879	8c. Landowner(s) New to system <input checked="" type="checkbox"/> Person ID _____ Add Seq# _____ C SUZANNE & RON EAKES 100 W GREENSBORO STREET PLAINS, KS 67869 OWNERS OF S2 SEC 10 PER ORKA SEE OWNERSHIP DONE 10/11/2021
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8b. Landowner(s) New to system <input type="checkbox"/> Person ID 65320 Add Seq# _____ DAIRY VENTURES I LLC AKA J7 DAIRY LLC 1187 RD B TRIBUNE, KS 67879	8d. WUC New to system <input type="checkbox"/> Person ID 65320 Add Seq# _____ DAIRY VENTURES I LLC AKA J7 DAIRY LLC 1187 RD B TRIBUNE, KS 67879
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9. Documents and Enclosure(s): DWR Meter(s) Date to Comply: **12/31/22** N & P Date to Comply: _____

Anti-Reverse Meter Meter Seal Check Valve N & P Form Water Tube Driller Copy H & E Letter

Conservation Plan Date Required: _____ Date Approved: _____ Date to Comply: _____

10. Use Made of Water From: **IRR** To: **IRR & STK DUAL USE**

11/29/2021 L'Ireland	Date Prepared: 10/11/2021 By: li Date Entered: 12/14/2021 By: L'Moody
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File No. **12271** 11. County: **GL** Basin: **LADDER CREEK** Stream: **NA** Formation Code: **211** Special Use: **na**

12. Points of Diversion										Rate and Quantity								
CHK	MOD	DEL	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files
MOD	31581	SE SE SW	10	16	41W	1	367	3149	IRR/STK DUAL USE	1470	620	1470	620	NONE				

13. Storage: Rate _____ NF Quantity _____ ac/ft Additional Rate _____ NF Additional Quantity _____ ac/ft

14. Limitation: **539.4** af/yr at _____ gpm (_____ cfs) when combined with file number(s) **LIMITED WHILE STK USE AUTHORIZED ~~139.4 AF OR 175.6 MGY~~**
 Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) **539.4 typo* 175.76 mgy % rounding error***

15. 5YR Allocation: Allocation Type _____ Start Year _____ 5 YR Amount _____ Amount Unit _____ Base Acres _____ Comment _____

16. Place of Use CHK MOD DEL ENT	PUSE	S	T	R	ID	NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg?	Overlap Files		
						NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼						
CHK														38	39	38	39	40	40	40	40	314	8b	YES	27579		
ENT 57746	10 16 41W 3					DAIRY (NE)																	8b	YES	20636- D2 28492		

Base Acres: _____ Year: _____ Minimum Reasonable Quantity: _____
 Comments: _____ *** LI/DWR**

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

MEMORANDUM

TO: Files **DATE:** October 14, 2021
FROM: Leslie Ireland **RE:** Water Right, File No. 12,271

C. Suzanne and Ron Eakes, of Dairy Ventures 1 LLC, AKA J7 Dairy, filed an application for approval to change the place of use and use made of water for operation as dual use from irrigation to irrigation and stockwatering. The application was received on May 10, 2021.

The water right does not appear to be abandoned as per K.S.A. 82a-718, *Abandonment of water rights* and the right is in compliance with K.A.R. 82-732, *Annual water use report required; penalty for violations*. The application complies with K.A.R. 5-5-2a, *Complete change application*.

The owners are requesting a change in use made of water 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 a limited “dual use” of irrigation and stockwatering. This right is also requesting a change in place of use to add the stockwatering facility while maintaining the irrigated place of use that is now owned by the Eakes’ per the submitted deed.

File No. 12,271 authorizes 620 acre-feet (AF) authorized for irrigation use for 314 acres located in the South Half of Section 10, Township 16 South, Range 41 West, Greeley County. The standard consumptive use factor of 87.0 percent for Greeley County allows 539.4 AF to be changed to another use.

$$620 \text{ AF} \times 87.0\% = 539.4 \text{ AF}$$

While operated for dual use the quantity will be temporarily reduced to 539.4 AF (175.76 million gallons per year (mgy)), assuring compliance with K.A.R. 5-5-3, *Change in consumptive use*. The portion remaining for irrigation use remains at the currently authorized 314 acres that is also served by File No. 27,579, providing a limited 320, resulting in an alternate point of diversion, but is limited to 628 acre-feet per year with the referenced file.

The proposed 175.76 mgy to be authorized for stockwatering at the existing feedlot located in Section 10, is currently authorized by File Nos. 20,636-D2 & 28,492. The stockwatering use is currently limited as File No. 28,492 is limited to dual use as irrigation and stockwatering providing 48.49 million gallons a year (mgy) (148.8 AF) total for either use at that time was 6,000 head. The justification with the referenced file indicates 6,200 head of dairy cattle.

As detailed in KAR 5-3-22, *Maximum reasonable quantity of water for livestock and poultry*, the 6,200 head of dairy cattle would be afforded 79.205 million gallons (148 AF) per year for drinking at 35 gallons per head per day. Historically the dairy was afforded an additional 219 mgy (672 AF) for servicing the facility. The application indicated they divert 40 gallons per head per day which would appear to include sanitation or other applications resulting in a projected 90.52 million gallons for 6,200 head. The submitted water budget estimated current total of 72.677107 mgy (217 AF) for the operation. K.A.R. 5-3-22, allows a combined total of 305.05 mgy (937 AF) for the operation of a dairy with 6,200 head. The existing stockwatering use under File Nos. 20,636-D2 & 28,492, will vary, but authorize a maximum total of 89.54 mgy (274.8 AF) and if all of the referenced file is diverted for stockwatering use, will yield 265.31mgy (814.2 AF). While this is slightly less than their water budget, it is less than regulation. No additional limitation on the quantity will be needed.

RE: File No. 12,271

As just one point of diversion is being changed and the quantity and rate are assigned, the change appears to comply with K.A.R. 5-5-9, a total change, and no rate test would be needed. The authorized rate of 1,470 gallons per minute is enough to divert the dual stockwatering and irrigation uses.

The place of use change to the irrigation portion will authorize the same 314 acres and with the overlapping file will provide an irrigation ratio of 1.63 AF/acre. This appears to be reasonable for Greeley County that has a net irrigation requirement of 1.40 AF/acre at the 50% change of rainfall per K.A.R. 5-5-12. The added stockwatering use is at the existing dairy located

The review of the change application identified only the applicant's wells within one-half (½) mile of the well proposing to change. No nearby notification letters were sent. It appears the processing of the application follows K.S.A. 82a-1906.

A Compliance Investigation completed in 2013, should have listed the determined the feet distances as confirmed by Mike Meyer, GCFO email of October 14, 2021. The location of the well should be approximately 367 feet North and 3,149 feet West of the Southeast corner of Section 10, confirming the current qualifiers from SE¼ SE¼ SW¼ Section 10, Township 16, Range 41 West, Greeley County, Kansas.

In a letter dated September 20, 2021, Kyle Spencer, Manager of Western Kansas Groundwater Management District No. 1, recommended approval of the application.

Mike Meyer, Water Commissioner of the Garden City Field Office, indicated that he recommends approval of the application and temporary reduction per his October 14, 2021, email.

A condition of the approval will be the requirement of a flow meter for each use authorized, pursuant to K.S.A. 82a-706c. A check valve will be required if chemigation occurs. The water use correspondent will be updated to Dairy Ventures I LLC, J7 Dairy LLC.

Based on the above discussion, that the change is 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 application for change be approved.



Leslie Ireland
Environmental Scientist
Water Appropriation Program

From: Ireland, Leslie [KDA]
Sent: Thu 10/14/2021 10:11 AM
To: Meyer, Mike [KDA]
Subject: RE: Change Review File No. 12271 J7 Dairy

Will update memo etc..
 Thanks,
 L

From: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Sent: Thursday, October 14, 2021 9:55 AM
To: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Subject: RE: Change Review File No. 12271 J7 Dairy

our notes on the field sheet is wrong. I plugged in the lat lon again, and in NAD 27 shows the correct footage. must have been a typo from mitch.
 please update footage
 and a I recommend approval

INPUTS		Loaded Section Data From LEOBASE using NAD83		
Target Section Definition		Corner	Corner Latitudes	Corner Longitudes
Section	10	SW	38.66900371	-101.84641471
Township	16	NW	38.68351446	-101.84658168
Range	41	NE	38.68343852	-101.82805717
Range Direction	w	SE	38.66897387	-101.82801124
Target Point Coordinates (NAD27 or NAD83)		Degrees Longitude per Foot	3.50256236E-06	
Target Longitude	-101.838590	Degrees Latitude per Foot	2.74577035E-06	
Target Latitude	38.669970	Target Point Distances from Corners using NAD83		
<div style="background-color: #00FF00; text-align: center; padding: 5px;">Load Data and Compute</div>		Corner	Feet North(+)/South(-)	Feet East(-)/West(+)
		SW	352	-2234
		NW	-4933	-2282
		NE	-4905	3007
		SE	363	3020
Instructions		Loaded Section Data From LEOBASE using NAD27		
1. Enter values for section, township, range and range direction.		Corner	Corner Latitudes	Corner Longitudes
2. Enter NAD27 or NAD83 longitude and latitude of target point.		SW	38.66899100	-101.84596300
3. Click "Load Data and Compute" button.		NW	38.68350200	-101.84613000
4. Use feet distances corresponding to datum of target point.		NE	38.68342600	-101.82760600
		SE	38.66896100	-101.82756000
		Degrees Longitude per Foot	3.50256175E-06	
		Degrees Latitude per Foot	2.74598553E-06	
		Target Point Distances from Corners using NAD27		
		Corner	Feet North(+)/South(-)	Feet East(-)/West(+)
		SW	357	-2105
		NW	-4928	-2153
		NE	-4900	3136
		SE	367	3149
		Difference (NAD83 Minus NAD27)		
		Corner	Corner Latitudes	Corner Longitudes
		SW	0.00001271	-0.00045171

Mike

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

Sent: Thursday, October 14, 2021 8:58 AM

To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>

Subject: Change Review File No. 12271 J7 Dairy

Mike,

Please let me know if you would recommend this change for dual use.

The only strange thing is the Compliance Investigation completed in 2013, determined the feet distances, locating the well approximately 1,720 feet North and 4,110 feet West of the Southeast corner of Section 10, which updates the current qualifiers from SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ to SE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$. The approval will add the feet distances and updates the qualifiers to SE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 10, Township 16, Range 41 West, Greeley County, Kansas'

The map is updated in Dware.

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 USE MADE OF WATER PLACE OF USE AND ORDER IN THE MATTER OF THE AUTHORIZED QUANTITY OF WATER AND BETTER DESCRIBING THE AUTHORIZED POINT OF DIVERSION WATER RIGHT, FILE NO. 12,271

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Ron and C. Suzanne Eakes on behalf of Dairy Ventures 1 LLC, AKA J7 Dairy, 1187 Road B, Tribune, Kansas 67879, and as owners of the referenced water right, received in this office on September 28, 2020, for approval of a change in the location of the place of use and the use made of water, 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 August 22, 1997, approving the application to change the place of use, 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 620 acre-feet (202.03 million gallons). This order effectively limits the authorized quantity of water to 539.4 acre-feet (175.76 million gallons per calendar year. 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 authorized for both irrigation and stockwatering uses shall be authorized from the following dual use point of diversion and better described as being:

one (1) well located in the Southeast Quarter of the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 10, more particularly described as being near a point 367 feet North and 3,149 feet West of the Southeast corner of said section, in Township 16 South, Range 41 West, Greeley County, Kansas.

The authorized location of the irrigation place of use shall be:

Sec. Twp. Range	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTAL
	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
10 16S 41W									38.0	39.0	38.0	39.0	40.0	40.0	40.0	40.0	314

a total of 314 acres in Section 10, Township 16 South,
Range 41 West, Greeley County, Kansas, and

the authorized location of the stockwatering place of use shall be:

a dairy located in the Northeast Quarter (NE¼) of Section 10, in Township 16 South, Range 41 West, Greeley County, Kansas,

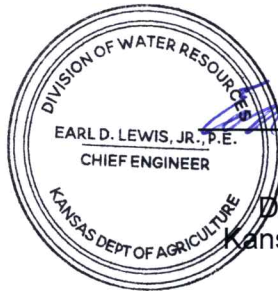
located substantially as shown on the topographic map accompanying the application to change the use made of water and place of use.

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 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 for irrigation and stockwatering use 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. 12,271, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated February 24, 1976, as modified and amended by the aforementioned orders.

Ordered this 30th day of November, 2021, in Manhattan, Riley County, Kansas.



Earl D. Lewis Jr.

Earl D. Lewis Jr., P.E.
Chief Engineer
Division of Water Resources
Kansas Department of Agriculture

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this 30 day of November 2021, by Earl D. Lewis Jr., P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.



Ashlee Freeman

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

December 20, 2021

DAIRY VENTURES I LLC AKA J7 DAIRY LLC
RON & C SUZANNE EAKES
1187 RD B
TRIBUNE, KS 67879

RE: Water Right, File No. 12,271

Dear Sir or Madam:

Enclosed is the order executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the application for change under the referenced file. A separate letter with a true and correct copy of the order sent to your Plains, Kansas address.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in the approval for change. It is required as a condition of the approval that **water flowmeter for each requested use** and which meets or exceeds specifications adopted by the Chief Engineer must be installed on the diversion works authorized under the referenced file. Please return the required notification of installation of the meters as soon as this action is completed.

Since this order modifies the original document referred to above, it 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. Inquiries about the metering please contact our staff at the Garden City Field Office, (620) 276-2901. Information is also available on our web site at <http://agriculture.ks.gov>.

If you contact us to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

A handwritten signature in black ink that reads "Kristen A. Baum".

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

KAB:LI:li
Enclosures
pc:

Garden City Field Office
Groundwater Management District No. 1
Ron & C. Suzanne Eakes, 100 W Greensboro St, Plains, KS 67869

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:

- 1) request an evidentiary hearing before the Chief Engineer, or
- 2) 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.

Any request for hearing or petition for administrative review shall be in writing and shall be submitted to the attention of: Chief Legal Counsel, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, Fax: (785) 564 – 6777.

CERTIFICATE OF SERVICE

On this 20 day of December, 2021, I hereby certify that the attached Approval of Application for Change in Use Made of Water, Place of Use and Order in the Matter of the Authorized Quantity of Water and Better Describing the Authorized Point of Diversion under File No. 12,271; dated 30 November, 2021, was mailed postage prepaid, first class, US mail to the following:

DAIRY VENTURES I LLC AKA J7 DAIRY LLC
RON & C SUZANNE EAKES
1187 RD B
TRIBUNE, KS 67879

With a True and Correct Copy to:

RON & C SUZANNE EAKES
100 W GREENSBORO STREET
PLAINS, KS 67869

With a Photocopy to:

Garden City Field Office
Groundwater Management District No. 1


Division of Water Resource