

Submit To: CHIEF ENGINEER
Division of Water Resources
Kansas Department of Agriculture
1320 Research Park Drive
Manhattan, Kansas 66502
http://agriculture.ks.gov/dwr

**APPLICATION FOR APPROVAL TO
CHANGE THE PLACE OF USE, THE
POINT OF DIVERSION OR THE USE
MADE OF THE WATER UNDER AN
EXISTING WATER RIGHT**



State of Kansas

Filing Fee Must Accompany the Application
(Please refer to Fee Schedule on signature page of application form.)

Paragraph Nos. 1, 2, 3, 4 & 8 must be completed. Complete all other applicable portions. A topographic map or detailed plat showing the authorized and proposed points(s) of diversion and /or place of use must accompany this application.

1. Application is hereby made for approval of the Chief Engineer to change the

- Place of Use
(Check one or more) Point of Diversion
 Use Made of Water

WATER RESOURCES
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OCT 21 2024

KS DEPT OF AGRICULTURE

9:17 AM

File No. 6,572

2. Name of applicant: Ken McCarty- McCarty Dairy LLC

Address: PO Box 968

City, State and Zip: Colby, KS 67701-0968

Phone Number: (785) 443-1727

E-mail address: Kmccarty@mccartyfamilyfarms.com

What is your relationship to the water right; owner tenant agent other? If other, please explain. _____

Name of water use correspondent: Same as above

Address: _____

City, State and Zip: _____

Phone Number: () _____

E-mail address: _____

3. The change(s) proposed herein are desired for the following reasons (please be specific): The proposed change will convert this water right from irrigation only, into dual use for stockwatering and irrigation uses.

The change(s) (was) (will be) completed by December 31, 2024

(Date)

For Office Use Only:

F.O. 3 GMD 4 Meets K.A.R. 5-5-1 YES / NO Use IRR Source G / S County TH By KJN Date 10/22/24
Code C-2 Fee \$ 500 TR # _____ Receipt Date 10/21/2024 Check # 12162

10/25/2024
KAnderson

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4. The presently authorized place of use is:

Owner of Land — NAME: McCarty Dairy LLC **KS DEPT OF AGRICULTURE**

ADDRESS: PO Box 968 Colby, KS 67701-0968

Sec.	Twp.	Range	NE¼				NW¼				SW¼				SE¼				TOTAL ACRES
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
18	7S	31W					12	12										24	
13	7S	32W	39	14	14	39												106	

List any other water rights that cover this place of use. None

Owner of Land — NAME: _____

ADDRESS: _____

Sec.	Twp.	Range	NE¼				NW¼				SW¼				SE¼				TOTAL ACRES
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

List any other water rights that cover this place of use. _____

(If there are more than two landowners, attach additional sheets as necessary.)

5. It is proposed that the place of use be changed to:

Owner of Land — NAME: McCarty Dairy LLC

ADDRESS: PO Box 968 Colby, KS 67701-0968

Sec.	Twp.	Range	NE¼				NW¼				SW¼				SE¼				TOTAL ACRES
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
18	7S	31W					12	12										24	
13	7S	32W	39	14	14	39												106	
18	7S	31W	DAIRY (NE) (E2NW), (E2SW), L-1 (NWNW), L-2 (SWNW), L-3 (NWSW) & L-4 (SWSW)																

List any other water rights that cover this place of use. 19,489; 19,546; 47,297 (cover new place of use- both dairy locations)

Owner of Land — NAME: _____

ADDRESS: _____

Sec.	Twp.	Range	NE¼				NW¼				SW¼				SE¼				TOTAL ACRES
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

List any other water rights that cover this place of use. _____

IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY

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6. The presently authorized point(s) of diversion is one well _____
(Provide description and number of points)
7. The proposed point(s) of diversion (is) (are) No Change _____
(Provide description and number of points)

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List all presently authorized point(s) of diversion:

8. **Presently authorized point of diversion:**
 One in the near center of the North side of the Northeast Quarter of the Northeast Quarter
 of Section 16, Township 7 South, Range 32 W,
 in Thomas County, Kansas, _____ feet North _____ feet West of Southeast corner of section.
 Authorized Rate 1000 gpm Authorized Quantity 260 AF
 (DWR use only: Computer ID No. 1 GPS 5237 feet North 661 feet West)
 This point will not be changed This point will be changed as follows:
Proposed point of diversion: (Complete only if change is requested)
 One in the near center of the North side of the Northeast Quarter of the Northeast Quarter
 of Section 16, Township 7 South, Range 32 W,
 in Thomas County, Kansas, 5237 feet North 661 feet West of Southeast corner of section.
 Proposed Rate 1000 gpm Proposed Quantity 260 AF
 This point is: Additional Well Geo Center List other water rights that will use this point _____

9. **Presently authorized point of diversion:**
 One in the _____ Quarter of the _____ Quarter of the _____ Quarter
 of Section _____, Township _____ South, Range _____ (E/W),
 in _____ County, Kansas, _____ feet North _____ feet West of Southeast corner of section.
 Authorized Rate _____ Authorized Quantity _____
 (DWR use only: Computer ID No. _____ GPS _____ feet North _____ feet West)
 This point will not be changed This point will be changed as follows:
Proposed point of diversion: (Complete only if change is requested)
 One in the _____ Quarter of the _____ Quarter of the _____ Quarter
 of Section _____, Township _____ South, Range _____ (E/W),
 in _____ County, Kansas, _____ feet North _____ feet West of Southeast corner of section.
 Proposed Rate _____ Proposed Quantity _____
 This point is: Additional Well Geo Center List other water rights that will use this point _____

10. **Presently authorized point of diversion:**
 One in the _____ Quarter of the _____ Quarter of the _____ Quarter
 of Section _____, Township _____ South, Range _____ (E/W),
 in _____ County, Kansas, _____ feet North _____ feet West of Southeast corner of section.
 Authorized Rate _____ Authorized Quantity _____
 (DWR use only: Computer ID No. _____ GPS _____ feet North _____ feet West)
 This point will not be changed This point will be changed as follows:
Proposed point of diversion: (Complete only if change is requested)
 One in the _____ Quarter of the _____ Quarter of the _____ Quarter
 of Section _____, Township _____ South, Range _____ (E/W),
 in _____ County, Kansas, _____ feet North _____ feet West of Southeast corner of section.
 Proposed Rate _____ Proposed Quantity _____
 This point is: Additional Well Geo Center List other water rights that will use this point _____

11. Describe the current condition of and future plans for any point(s) of diversion which will no longer be used. _____

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12. The presently authorized use of water is for Irrigation purposes.
It is proposed that the use be changed to Dual use irrigation & stockwater purposes.
13. If changing the place of use and/or use made of water, describe how the consumptive use will not be increased.
K.A.R 5-5-9 (A) was followed to temporarily reduce this water right to 227.5 AF/YR assuming the entire quantity was used for stockwatering purposes as long as dual use is authorized.
(Currently authorized 260 AF X 0.875 consumptive use conversion= 227.5 AF available for dual use)
(Please show any calculations here.)
14. It is requested that the maximum annual quantity of water be reduced to NA (acre-feet or million gallons).
15. It is requested that the maximum rate of diversion of water be reduced to NA gallons per minute (____ c.f.s.).
16. The application must include either a topographic map or detailed plat. A U.S. Geological Survey Topographic Map, scale 1:24,000, is available through the Kansas Geological Survey, 1930 Constant Avenue, University of Kansas, Lawrence, Kansas 66047-3726 (www.usgs.gov). The map should show the location of the presently authorized point(s) of diversion. Distances North and West of the Southeast corner of the section must be shown. The presently authorized place of use should also be shown. Identify the center of the section, the section lines and the section corners and show the appropriate section, township, and range numbers on the map. In addition the following information must also be shown on the map.
- a. If a change in the location of the point(s) of diversion is proposed, show:
 - 1) The location of the proposed point(s) of diversion. Distances North and West of the Southeast corner of the section must be shown. Please be certain that the information shown on the map agrees with the information shown in Paragraph Nos. 9, 10 and 11 of the application.
 - 2) If the source of supply is groundwater, please show the location of existing water wells of any kind, including domestic wells, within 1/2 mile of the proposed well or wells. Identify each well as to its use and furnish name and mailing address of the property owner or owners. If there are no wells within 1/2 mile, please indicate so on the map.
 - 3) If the source of supply is surface water, the names and mailing addresses of all landowner(s) 1/2 mile downstream and 1/2 mile upstream from your property lines must be shown.
 - b. If a change in the place of use is desired, show the proposed place of use by crosshatching on the map. Please be certain that the information shown on the map agrees with the information shown in Paragraph No. 5 of the application.
17. Attach documentation to show the change(s) proposed herein will not impair existing water rights and relates to the same local source of supply as to which the water right relates. This information may include statements, plats, geology reports, well logs, test hole logs, and other information as necessary information to show the above. Additional comments may be made below.
If this water right was completely changed to stockwatering, it would be limited to 227.5 acre-feet. Since it is being changed to dual use, it will be limited to 227.5 acre-feet while both uses of water are authorized. If the stockwatering portion of the water right is eliminated in the future, the limiting clause will be eliminated and the full 260 acre-feet will return for irrigation use.
18. If the proposed change(s) does not meet all applicable rules and regulations of the Kansas Water Appropriation Act, please identify the rules and regulations for which you request a waiver. State the reason why a waiver is needed and why the request should be granted. Attach documentation showing that granting the request will not impair existing water rights and will not prejudicially and unreasonably affect the public interest.
NA

IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY

Any use of water that is not as authorized by the water right or permit to authorize water **before** the chief engineer approves this application is a violation of the Kansas Water Appropriation Act for which criminal or civil penalties may be assessed. Such violation is a class C misdemeanor, punishable by a fine not to exceed \$500 and/or a term of confinement not to exceed one month in the county jail. K.S.A. 82a-728(b). Civil penalties shall be not less than \$100 nor more than \$1,000 per violation. In the case of a continuing violation, each day such violation continues may be deemed a separate violation. In addition to these penalties the water right may be modified or suspended. K.S.A. 82a-737, as amended.

The application must be signed by all owners of the place of use authorized under the water right and his or her spouse, if married. Please indicate if there is no spouse. If land is being purchased under contract, the seller must sign as landowner until such time as the contract is completed.

In the event that all applicants cannot appear before one notary public, they may as necessary sign separate copies of the application before any notary public conveniently available to them. All copies signed in this manner shall be considered to be valid parts of the application.

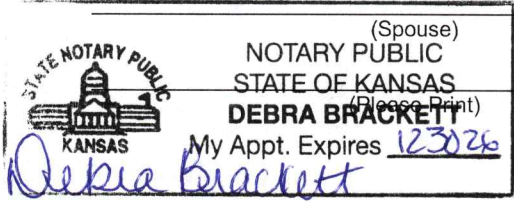
If the request is signed on behalf of any Owner by someone with legal authority to do so (for example, an agent, one who has power of attorney, or an executor, executrix, conservator), it will be necessary to attach proper documents showing such authority.

I declare that I am an owner of the currently authorized place of use as identified herein, or that I represent all such owners and am authorized to make this application on their behalf, and declare further that the statements contained herein are true, correct, and complete. By filing this application I authorize the chief engineer to permanently reduce the quantity of water and/or rate of diversion as specified in sections 14 and 15 of this application.

Dated at Colby, Kansas, this 19th day of September, 2024.

<u>[Signature]</u> _____ (Owner)	_____ (Spouse)
<u>Alex McCarty</u> _____ (Please Print)	_____ (Please Print)
_____ (Owner)	_____ (Spouse)
_____ (Please Print)	_____ (Please Print)
_____ (Owner)	_____ (Spouse)
_____ (Please Print)	_____ (Please Print)

State of Kansas }
County of Thomas } SS



I hereby certify that the foregoing application was signed in my presence and sworn to before me this 19th day of September, 2024.

Debra Brackett

Notary Public

My Commission Expires 12-30-26.

FEE SCHEDULE

Each application to change the place of use, the point of diversion or the use made of the water under this section shall be accompanied by the application fee set forth in the schedule below:

- (1) Application to change a point of diversion 300 feet or less \$100
- (2) Application to change a point of diversion more than 300 feet \$200
- (3) Application to change the place of use \$200
- (4) Application to change the use made of the water \$300

Make check payable to **Kansas Department of Agriculture.**

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**STOCKWATER USE
SUPPLEMENTAL SHEET**

File No. 6,572 (Dual Use)

Name of Applicant (Please Print): McCarty Dairy LLC

1. Please indicate type of livestock (cattle, hogs, etc.): Dairy
2. Please complete the following table showing past and present water requirements:

PAST NUMBER OF HEAD AND WATER DIVERTED, IF APPLICABLE

LAST 5 YEARS	NUMBER OF HEAD	WATER DIVERTED (GALLONS)	GALLONS PER HEAD PER DAY
5 years ago	5,000	N/A	N/A
Last year	12,500	N/A	N/A
Present Year	13,000	N/A	N/A

3. Please complete the following table showing estimated future water requirements:

ESTIMATED FUTURE NUMBER OF HEAD AND WATER DIVERTED

NEXT 5 YEARS	NUMBER OF HEAD	WATER TO BE DIVERTED (GALLONS)	GALLONS PER HEAD PER DAY
Year 1	13,000	32,585,100	6.87
Year 2	13,000	32,585,100	6.87
Year 3	13,000	32,585,100	6.87
Year 4	13,000	32,585,100	6.87
Year 5	13,000	32,585,100	6.87

Please attach any additional information, tables, or curves showing past, present and estimated future water requirements to substantiate the amount of water requested.

4. Please designate the legal description of the location where the water is to be used. Show in the space provided below the Section (S), Township (T), and Range (R), and the number of acres in each forty acre tract or fractional portion thereof.

S	T	R	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
18	7S	31W	DAIRY (NE) (E2NW), (E2SW), L-1 (NWNW), L-2 (SWNW), L-3 (NWSW) & L-4 (SWSW)																

5. Show quantities of water used and all associated water uses at the feedlot such as water used in feed mills, cooling of animals, washing, flushing of wastes, etc.:

DRINKING

10,000 head of milke cows x 40 gallons/head (avg.) x 365 days = 1,460,000 gallons
 2,000 head of dry cows x 22 gallons/head (avg.) x 365 days = 16,060,000 gallons
 1,000 head of heifers x 15 gallons/head (avg.) x 365 days = 5,475,000 gallons

COOLING

13,200 gallons/hour x 22 hour/day x 120 days = 34,848,000 gallons

SANITATION

100 g.p.m. x 60 min/hr x 14 hr/wk x 52 wks/yr = 4,368,000 gallons

OTHER USE (Explain) Milke Processing = 59,000,000 gallons

TOTAL ----- 265,751,000 gallons

6. Show location of present and future location of confinement pens on your attached maps or photographs.

7. Total feed bunk space for cattle or livestock is ~~22,000~~ ^{22,000} linear feet.

8. Total size of stock pens for confinement area of cattle, hogs, etc. is 1,868,000 square feet.

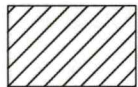
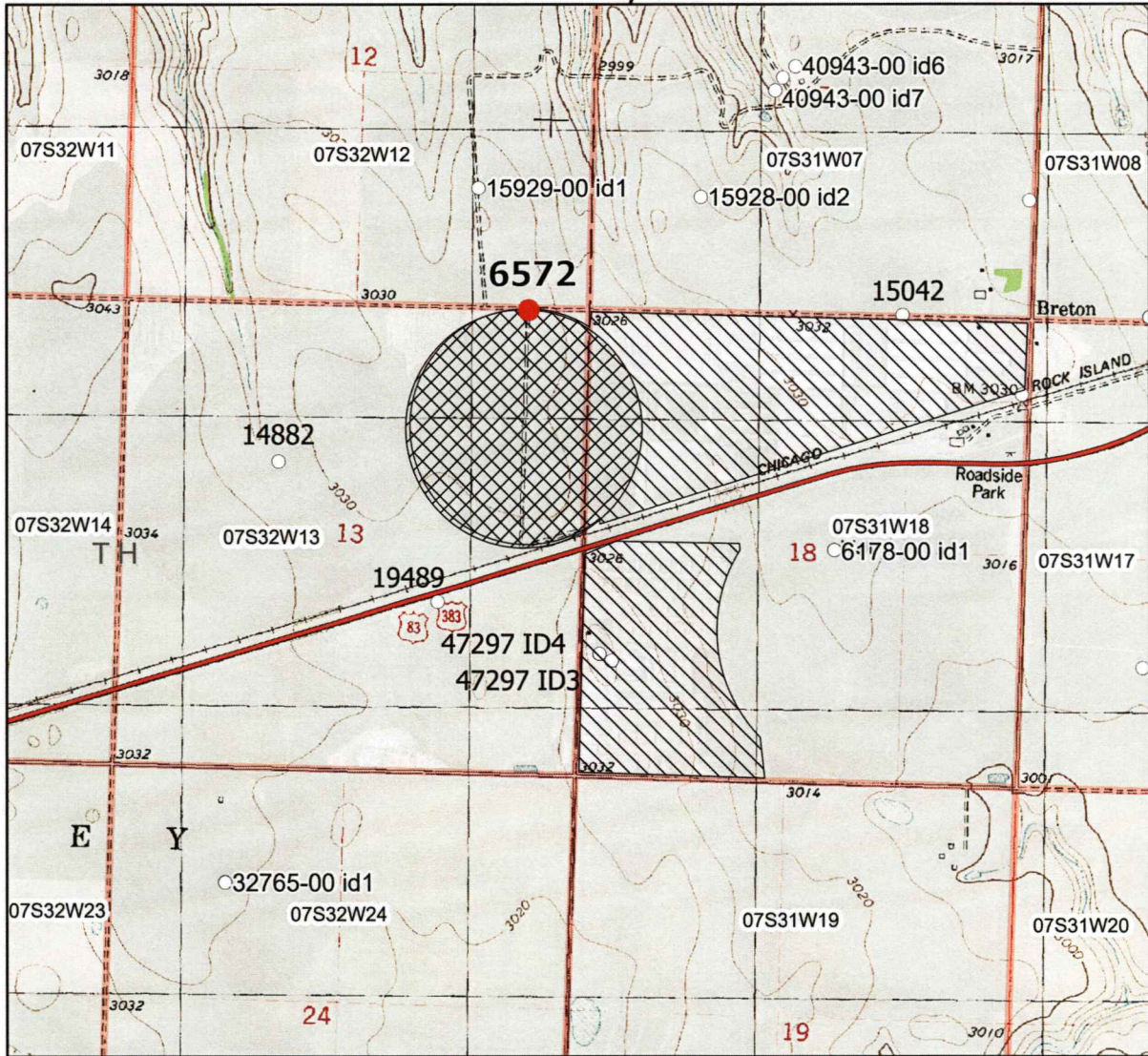
You may attach any additional information you believe will assist in informing the Division of Water Resources of the need for your request.

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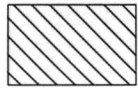
OCT 21 2024

KS DEPT OF AGRICULTURE

Application to Change Place of Use & Use Made of Water File No. 6,572



Current Place of Use

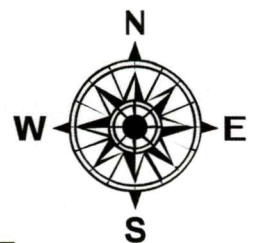
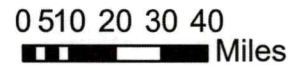


Proposed Place of Use

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1:24,000

	<p style="font-size: 2em;">9/19/24</p>
Signature	Date

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

October 28, 2024

KEN MCCARTY
MCCARTY DAIRY LLC
PO BOX 968
COLBY KS 67701-0968

RE: File No(s). **6572**

Dear Sir or Madam:

The Division of Water Resources (Division) has received your application(s) to change the place of use, point of diversion or use made of water for the file number(s) referenced above. Please be aware that the Division may have a large number of pending applications on hand at times and makes every attempt to process them in the order in which they are received. You will be contacted if additional information is required.

Please note, this letter only acknowledges receipt of your application(s) and does not guarantee approval. In accordance with the provisions of the Kansas Water Appropriation(s) Act, the use of water as proposed prior to approval of the application(s) is unlawful.

Additional information about the process may be found on our website at agriculture.ks.gov/divisions-programs/dwr. If you have any other questions, please contact our office at 785-564-6640 or your local Stockton Field Office at 785-425-6787. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

A handwritten signature in black ink that reads "Kristen Baum". The signature is written in a cursive style.

Kristen Baum
New Applications and Changes Supervisor
Water Appropriation Program