

Kansas Department of Agriculture  
 Division of Water Resources  
**CHANGE: PD UMW WORKSHEET**

Document Signature DWB \_\_\_\_\_

1. File Number: <b>1395</b>	2. Status Change Date: <b>8/21/2017</b>	3. Change Num: <b>5 &amp; 6</b>	4. Field Office: <b>4</b>	5. GMD: <b>3</b>
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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: <b>06/20/16 &amp; 11/8/2016</b>
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8a. Applicant(s) New to system <input type="checkbox"/>  <b>NOBLE DAIRY LLC                  3705 F ROAD                  GARDEN CITY KS 67846</b>	Person ID <b>64581</b> Add Seq# _____  8c. Landowner(s) New to system <input type="checkbox"/>  Person ID _____ Add Seq# _____
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8b. Landowner(s) New to system <input type="checkbox"/>  Person ID _____ Add Seq# _____	8d. WUC New to system <input type="checkbox"/>  <b>SAME AS 8A</b>  Person ID _____ Add Seq# _____
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9. Documents and Enclosure(s):  DWR Meter(s) Date to Comply: **12/31/2015 2017**     N & P Date to Comply: \_\_\_\_\_

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 \_\_\_\_\_    To: \_\_\_\_\_

entered 8/21/2017    CLM

File No. **1395**      11. County: **FL**      Basin:      Stream:      Formation Code:      Special Use:

12. Points of Diversion										Rate and Quantity						
MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Comment	Rate gpm/cfs	Quantity af/mgy	Rate gpm/cfs	Quantity af/mgy	Overlap PD Files
MOD				<del>NESENE</del> <b>NWSWSW</b>	18	26S	32W	3	3622	45	IRR	750	474 AF	750	<del>353</del> <b>474</b>	NONE
MOD				<del>NESENE</del> <b>NWSWSW</b>	8	26S	32W	3	971	5250	STK	350	68.434 MG	350	68.434	20169054

13. Storage: Rate \_\_\_\_\_ NF      Quantity \_\_\_\_\_ ac/ft      Additional Rate \_\_\_\_\_ NF      Additional Quantity \_\_\_\_\_ ac/ft

14. Limitation: **563 AF (183.46 mg)** af/yr at \_\_\_\_\_ gpm ( \_\_\_\_\_ cfs) when combined with file number(s) **See image for details**  
 Limitation: \_\_\_\_\_ af/yr at \_\_\_\_\_ gpm ( \_\_\_\_\_ cfs) when combined with file number(s) \_\_\_\_\_

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

16. Place of Use				NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg?	Overlap Files					
MOD	DEL	ENT	PUSE	S	T	R	ID	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				8	26S	32W	3	FEEDLOT IN S2 NW AND THE SW																	8a	YES	7554-D1	
CHK				18	26S	32W	1	31.25	31.25	31.25	31.25	31.25	31.25	31.25	31.25	31.25	31.25	31.25	31.25	31.25	31.25	31.25	31.25	31.25	250	8a	YES	21235
CHK				5	26S	32W	2													31.25	31.25	31.25	31.25	125	8a	YES	21235	
CHK				5	26S	32W	2					25	25	10	17									77	8a	YES	21235	

Comments: Quantity limited to 563 AF (183.46 mg) as long as additional stockwater is desired, Need pop up box for temporary quantity reduction  
**LAURA GINGER (NEED POPUP QUANTITY REDUCTION)**

**KANSAS DEPARTMENT OF AGRICULTURE**  
**Division of Water Resources**

**M E M O R A N D U M**

**TO:** Files

**DATE:** July 18, 2017

**FROM:** Brent A. Turney

**RE:** Water Right  
File No. 1,395

Kyle S. Averhoff on behalf of Noble Dairy, LLC, owner of the referenced water right, has filed applications for approval to change the point of diversion and use made of water for Water Right, File No. 1,395, filed on June 20, 2016 and November 8, 2016. File No. 1,395 is currently authorized for irrigation and stockwatering uses. The referenced water right has a total of 574 acre-feet of groundwater for both uses. The referenced file is located in the Arkansas River Basin. The referenced file number does not appear to be abandoned as per K.S.A. 82a-718.

File No. 1,395 is authorized one well (authorized 474 acre-feet) for the irrigation of a 452 acre place of use that also overlaps with Water Right, File No. 21,325, and one well (authorized 100 acre-feet) for stockwatering use at a feedlot that also overlaps the place of use with Water Right, File No. 7,554-D1. There are no overlaps in the point of diversion. The water right owner is proposing to convert an additional 110 acre-feet to stockwatering use for a total of 210 acre-feet (68.439 m.g.y.).

Based upon a power point submitted with the application, the applicant has agreed to a limited amount of 563 acre-feet per calendar year, a ten percent limitation. The authorized quantity for the referenced file will remain 574 acre-feet, however, it will be limited to 563 acre-feet until such a time the additional stockwatering quantity is no longer desired. Based upon the attached power point presentation, there will be no reduction in the number of acres that may be irrigated due to the change in the use made of water.

In a letter dated November 16, 2016, Jason Norquest, Assistant Manager of Southwest Kansas Groundwater Management District No. 3, indicated that application complies with the current management program and he further recommends approval of the application at this time.

In an e-mail dated July 26, 2017, Mike Meyer, Water Commissioner of the Garden City Field Office, indicated that he is not opposed to approval of the applications.

Water flow meters are required. Check valves are required if any chemical or foreign substance is injected into the water through the diversion works

Based on the above discussion, that impairment to existing water rights is unlikely, and that no change in the local source of supply will occur, the change may be approved.

Brent A. Turney  
Change Application Unit Supervisor

1320 Research Park Drive  
Manhattan, Kansas 66502  
(785) 564-6700



900 SW Jackson, Room 456  
Topeka, Kansas 66612  
(785) 296-3556

Jackie McClaskey, Secretary

Governor Sam Brownback

August 25, 2017

NOBLE DAIRY LLC  
C/O KYLE S AVERHOFF  
3705 F ROAD  
GARDEN CITY KS 67846

**FILE COPY**

RE: Water Right  
File No. 1,395

Dear Mr. Averhoff:

Enclosed is the order executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the applications for change under the above referenced file.

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 that an acceptable water flow meter must be installed on the diversion works authorized under the above referenced water rights. Please return the required notification of installation of the required meter as soon as these actions are 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, please contact this office. If you wish 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, appearing to read "Brent A. Turney".

Brent A. Turney, L.G.  
Change Application Unit Supervisor  
Water Appropriation Program

BAT  
Enclosures  
pc: Garden City Field Office  
GMD No. 3



KANSAS DEPARTMENT OF AGRICULTURE  
Jackie McClaskey, Secretary of Agriculture

DIVISION OF WATER RESOURCES  
David W. Barfield, Chief Engineer

**APPROVAL OF APPLICATION  
FOR  
CHANGE IN POINT OF DIVERSION  
USE MADE OF WATER AND ORDER  
IN THE MATTER OF THE  
AUTHORIZED QUANTITY OF WATER  
WATER RIGHT  
FILE NO. 1,395**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written applications of Kyle S. Averhoff on behalf of Noble Dairy, LLC, 3705 F Road, Garden City, Kansas 67846, received in this office on June 20, 2016 and November 8, 2016, for approval of a change in the location of the use made of water and 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 orders of the Chief Engineer dated November 16, 2010 and April 24, 2015, approving the applications to change the authorized point of diversion, the order dated December 19, 2012, approving the application to change the place of use and use made of water, and the order of the Chief Engineer dated September 10, 2015, approving the application to change the authorized place of use finds that the changes are reasonable and will not impair existing rights and that the applications should be and are hereby approved.

The authorized quantity under this water right will remain 574 acre-feet (187.04 million gallons). This order effectively limits the authorized quantity of water to 563 acre-feet (183.46 million gallons) per calendar year. That the limitation on the quantity of water shall exist until such a time that the additional 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 that portion retained for irrigation use shall be authorized from one (1) well located as follows:

one (1) well located in the Northeast Quarter of the Southeast Quarter of the Northeast Quarter (NE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ ) of Section 18, more particularly described as being near a point 3,622 feet North and 45 feet West of the Southeast corner of said section, in Township 26 South, Range 32 West, Finney County, Kansas, in a quantity not to exceed 353 acre-feet (115.025 million gallons) of groundwater per calendar year at a diversion rate not in excess of 750 gallons per minute (1.67 c.f.s.),

That portion changed to stockwatering use shall be authorized from one (1) well located as follows:

one (1) well located in the Northwest Quarter of the Southwest Quarter of the Southwest Quarter (NE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ ) of Section 8, more particularly described as being near a point 971 feet North and 5,250 feet West of the Southeast corner of said section, in Township 26 South, Range 32 West, Finney County, Kansas, in a quantity not to exceed 68.434 million gallons (210 acre-feet) of groundwater per calendar year at a diversion rate not in excess of 350 gallons per minute (0.78 c.f.s.),

located substantially as shown on the topographic maps accompanying the applications to change the use made of water and point of diversion.

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.

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, 2017, 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 construction of the works for diversion has been completed.

The Chief Engineer specifically retains jurisdiction in this matter with authority to review the approval of the additional well at intervals of no fewer than five years, and no more than ten years to determine if the total annual quantity of water actually being withdrawn by all wells authorized by the approval of application for change is exceeding the total annual quantity of water that could have been physically withdrawn if the additional well had not been approved, and based on the review, the Chief Engineer retains authority to make a reasonable reduction in the authorized quantity of water as may be deemed to be in the public interest.

In all other respects, the Certificate of Appropriation issued pursuant to Approval of Application, File No. 1,395, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated April 30, 1957, and as modified by the aforementioned orders.

#### **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.

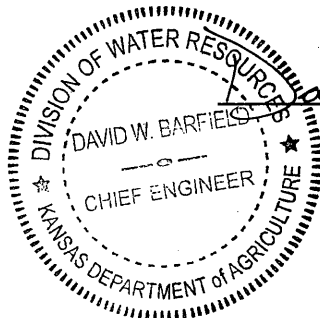
If you do not file a request for an evidentiary hearing before the Chief Engineer, you may petition for administrative review of the Order by the Secretary of Agriculture. A petition for review shall be in writing and state the basis for requesting administrative review. The request for hearing may be 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.

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, 109 SW 9<sup>th</sup> Street, 4<sup>th</sup> Floor, Topeka, Kansas 66612, Fax: (785) 368-6668.

Ordered this 21<sup>st</sup> day of August, 2017, in Topeka, Shawnee County, Kansas.



*David W. Barfield*  
David W. Barfield, 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 21<sup>st</sup> day of August, 2017, by David W. Barfield, P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.



*Karen Hunter*  
Notary Public

**CERTIFICATE OF SERVICE**

On this 25<sup>th</sup> day of August, 2017, I hereby certify that the attached original Approval of Change in use made of water and point of diversion, File No. 1,395, dated August 21, 2017, was mailed postage prepaid, first class, US mail to the following:

NOBLE DAIRY LLC  
C/O KYLE S AVERHOFF  
3705 F ROAD  
GARDEN CITY KS 67846

With photocopies to:

Garden City Field Office  
GMD No. 3

*Danielle Wilson*  
Staff

200

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  
RECEIVED

NOV 08 2016

11:51

KS DEPT OF AGRICULTURE

File No. 1395

2. Name of applicant: NOBLE DAIRY LLC

Address: 3705 F ROAD, GARDEN CITY KS

City, State and Zip: 67846

Phone Number: ( ) \_\_\_\_\_ E-mail address: \_\_\_\_\_

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

Name of water use correspondent: NO CHANGE, SAME

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): TO MOVE

110 AF FROM THE IRRIGATION WELL TO THE EXISTING STOCKWATER WELL

The change(s) (was) (will be) completed by 2016 (Date)

For Office Use Only:							
F.O.	<u>4</u>	GMD	<u>3</u>	Meets K.A.R. 5-5-1	(YES/NO)	Use	<u>STK/IRR</u>
Code	<u>GGT</u>	Fee \$	<u>2.00</u>	TR #		Source	<u>GS</u>
		Receipt Date	<u>11/6/16</u>	By	<u>AW</u>	Date	<u>11/8/16</u>
		Check #	<u>4059</u>				

RECEIVED

DWR 1-120 (Revised 06/16/2014)

Assisted by: [Signature]

NOV 04 2016

SCANNED 11/9/2016 LUM

Garden City Field Office  
Division of Water Resources



4. The presently authorized place of use is:

Owner of Land — NAME: NO CHANGE

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. \_\_\_\_\_

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: NO CHANGE

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. \_\_\_\_\_

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

NOV 04 2016

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6. The presently authorized point(s) of diversion are TWO WELLS  
(Provide description and number of points)
7. The proposed point(s) of diversion are TWO WELLS  
(Provide description and number of points)

List all presently authorized point(s) of diversion:

8. **Presently authorized point of diversion:**  
 One in the NE Quarter of the SE Quarter of the NE Quarter of Section 18, Township 26 South, Range 32 W, in FI County, Kansas, 3622 feet North 45 feet West of Southeast corner of section. Authorized Rate 750 GPM Authorized Quantity 474 AF  
 (DWR use only: Computer ID No. 03 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 NE Quarter of the SE Quarter of the NE Quarter of Section 18, Township 26 South, Range 32 W, in FI County, Kansas, 3622 feet North 45 feet West of Southeast corner of section. Proposed Rate 750 GPM Proposed Quantity ~~474 AF~~ 353 AF - 1/4 11/4  
 This point is:  Additional Well  Geo Center List other water rights that will use this point 44605

9. **Presently authorized point of diversion:**  
 One in the NW Quarter of the SW Quarter of the SW Quarter of Section 8, Township 26 South, Range 32 W, in FI County, Kansas, 971 feet North 5250 feet West of Southeast corner of section. Authorized Rate 350 GPM Authorized Quantity 32.59 MGY  
 (DWR use only: Computer ID No. 03 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 NW Quarter of the SW Quarter of the SW Quarter of Section 8, Township 26 South, Range 32 W, in FI County, Kansas, 971 feet North 5250 feet West of Southeast corner of section. Proposed Rate 350 GPM Proposed Quantity 68.434 MGY  
 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 \_\_\_\_\_ (EW), 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 \_\_\_\_\_ (EW), 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. \_\_\_\_\_

IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY

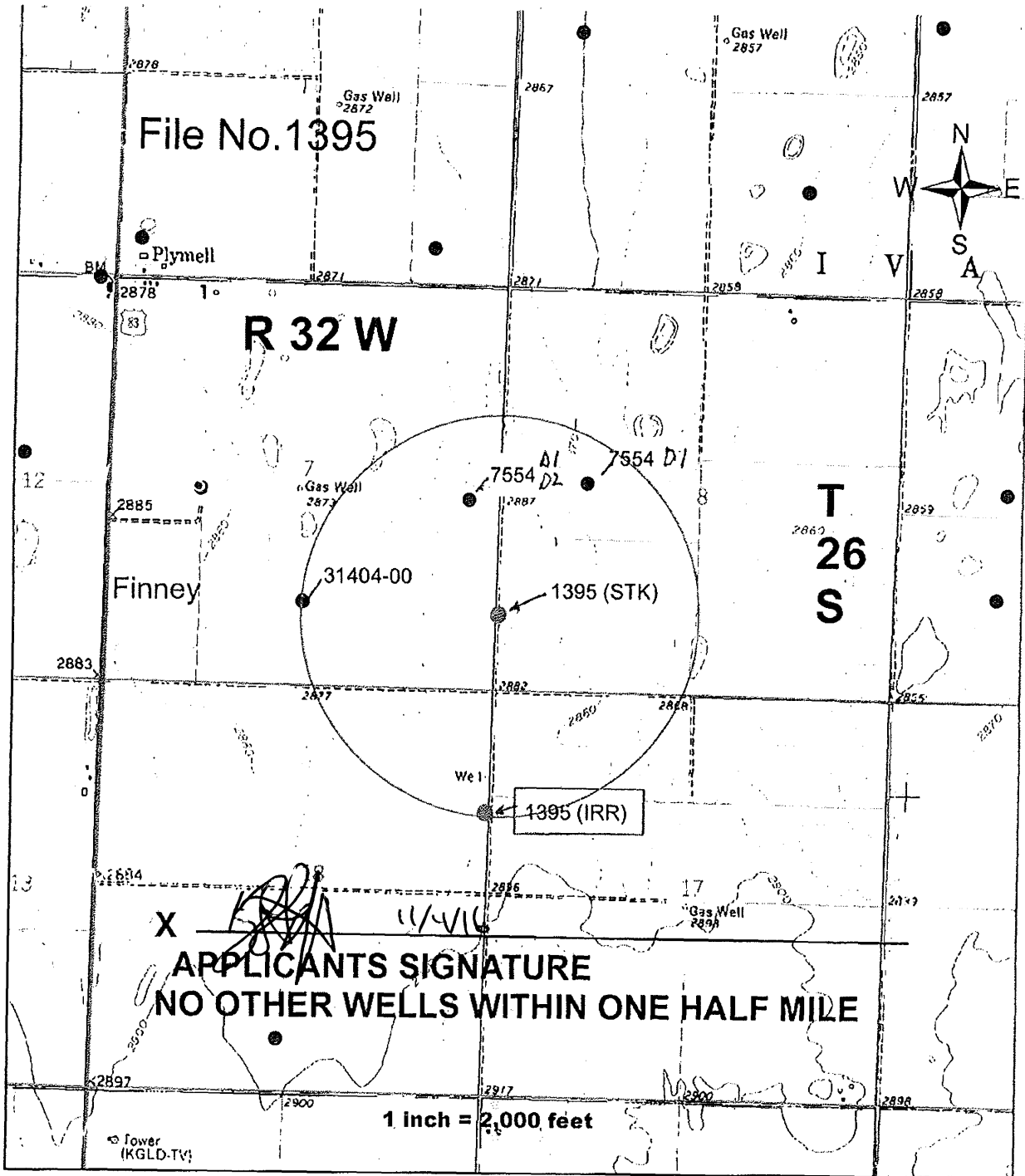
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NOV 08 2016

NOV 04 2016

SCANNED



File No. 1395

R 32 W

T 26 S

**APPLICANTS SIGNATURE**  
**NO OTHER WELLS WITHIN ONE HALF MILE**

1 inch = 2,000 feet

WATER RESOURCES  
RECEIVED

RECEIVED

NOV 08 2016

NOV 04 2016

SCANNED  
KS DEPT OF AGRICULTURE

Garden City Field Office  
Division of Water Resources

12. The presently authorized use of water is for IRR/STK purposes.  
It is proposed that the use be changed to IRR/STK purposes.

13. If changing the place of use and/or use made of water, describe how the consumptive use will not be increased.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Please show any calculations here.)

14. It is requested that the maximum annual quantity of water be reduced to NA (acre-feet).

15. It is requested that the maximum rate of diversion of water be reduced to NC gallons per minute (NC 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](http://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.

SAME LOCAL SOURCE OF SUPPLY- EXISTING WELLS  
\_\_\_\_\_  
\_\_\_\_\_

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.

NO WIAVERS REQUESTED  
\_\_\_\_\_  
\_\_\_\_\_

IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY

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RECEIVED

NOV 08 2016

NOV 04 2016

SCANNED

KS DEPT OF AGRICULTURE

Garden City Field Office  
Division of Water Resources

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.

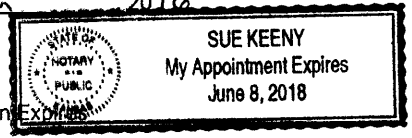
I declare that I am an owner of the currently authorized place of use as identified herein, or that I represent all such owners and am authorized to make this application on their behalf, and declare further that the statements contained herein are true, correct, and complete. By filing this application 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 Garden City, Kansas, this 4<sup>th</sup> day of November, 20 16.

<u>[Signature]</u> (Owner)	_____	(Spouse)
<u>Kyle S Averhoff</u> (Please Print)	_____	(Please Print)
_____	_____	(Spouse)
_____	_____	(Please Print)
_____	_____	(Spouse)
_____	_____	(Please Print)
_____	_____	(Spouse)
_____	_____	(Please Print)

State of Kansas }  
County of Finney } SS

I hereby certify that the foregoing application was signed in my presence and sworn to before me this 4<sup>th</sup> day of November, 2016.



[Signature]  
Notary Public

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.

WATER RESOURCES RECEIVED

NOV 08 2016

SCANNED  
KS DEPT OF AGRICULTURE

RECEIVED  
NOV 04 2016  
Garden City Field Office  
Division of Water Resources

1320 Research Park Drive  
Manhattan, Kansas 66502  
(785) 564-6700



900 SW Jackson, Room 456  
Topeka, Kansas 66612  
(785) 296-3556

Jackie McClaskey, Secretary

Governor Sam Brownback

**FILE COPY**

November 9, 2016

NOBLE DAIRY LLC  
3705 F ROAD  
GARDEN CITY, KS

RE: File No. 1395

Dear Sir or Madam:

An application for approval of the Chief Engineer to change the following condition or conditions of the file number referred to above has been received:

- place of use PD
- point of diversion
- use made of water

As a matter of record, the Division of Water Resources has on hand a large number of applications awaiting processing. Therefore to be fair to all concerned, and so that we can process those applications on hand in the order they were received, we intend to concentrate on the backlog of applications until the issue is resolved. You will be contacted regarding this application as soon as it has been examined.

In accordance with the provisions of the Kansas Water Appropriation Act, a portion of which is included below, the use of water prior to approval of the application is unlawful. You should not proceed and divert water as indicated by your plans in your application for a change for this file until you receive approval for this change from the Chief Engineer. Once approved, compliance with the terms, conditions and limitations of the permit is necessary. Conservation of the water resources of Kansas is required.

**Section 82a-728 of the Kansas Water Appropriation Act, provides (a) except for the appropriation of water for the purpose of domestic use, . . . it shall be unlawful for any person to appropriate or threaten to appropriate water from any source without first applying for and obtaining a permit to appropriate water in accordance with the provisions of the Water Appropriation Act or for any person to violate any condition of a vested right, appropriation right or an approved application for a permit to appropriate water for beneficial use.**

**(b) (1) The violation of any provision of this section by any person is a class C misdemeanor...**

**A class C misdemeanor is punishable by a fine not to exceed \$500 and/or a term of confinement not to exceed one month in the county jail. Each day that the violation occurs constitutes a separate offense.**

If you have any questions, please contact me at (785) 564-6645. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

A handwritten signature in cursive script that reads "Brent A. Turney".

Brent A Turney, L.G.  
Change Applications Unit Supervisor  
Water Appropriation Program

BAT: dlw

1320 Research Park Drive  
Manhattan, Kansas 66502  
(785) 564-6700



900 SW Jackson, Room 456  
Topeka, Kansas 66612  
(785) 296-3556

---

Jackie McClaskey, Secretary

Governor Sam Brownback

pc: GARDEN CITY Field Office GMD 3





12. The presently authorized use of water is for IRR AND STOCKWATER purposes.  
It is proposed that the use be changed to IRR AND STOCKWATER purposes.

13. If changing the place of use and/or use made of water, describe how the consumptive use will not be increased.

~~REQUEST IS TO CONVERT THE IRRIGATION WELL TO STOCKWATER/IRRIGATION. THIS IS A 2016 PILOT PROJECT THAT IS PROPOSING A 10% CONSUMPTIVE USE HIT FROM THE AUTHORIZED QUANTITY TO COMPLY WITH THE NUTRIENT MANAGEMENT PLAN THAT UTILIZES THE RETURN WATER OF THE DAIRY BACK TO IRRIGATION AND RETAIN THE CURRENT IRRIGATION PROJECT AND ACRES.~~

EXISTING STOCKWATER USE AND WELL WILL NOT CHANGE.

(Please show any calculations here.)

14. It is requested that the maximum annual quantity of water be reduced to 426.6 AF + 32.59 mgd (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](http://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.

SAME LOCAL SOURCE OF SUPPLY. SEE ATTACHED DOCUMENTATION FOR JUSTIFICATION FOR PROPOSED QUANTITY AND THE 10% CONSUMPTIVE USE ACKNOWLEDGEMENT. APPLICANT REQUEST TO RETAIN THE ORIGINAL 474 AF OF IRRIGATION, BUT LIMIT THE WELL TO 426.6 AF DURING STOCKWATER AUTHORITY. IF STOCKWATER USE CEASES, APPLICANT WILL REQUEST TO

REVERT BACK TO IRRIGATION TO THE ORIGINAL QUANTITY OF 474 AF FOR THE PROPOSED WELL

APPLICANT REQUESTS 426.6 AF FOR THE WELL AND NOT SINGLE OUT A QUANTITY PER USE. WILL METER SEPARATE.

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.

WATER RESOURCES RECEIVED

RECEIVED

NOV 04 2016

Garden City Field Office  
Division of Water Resources

~~BAT 9-7-16~~

~~BAT 11-1-16~~

KA/ND

11/4/16

WATER RESOURCES RECEIVED

NOV 08 2016

KS DEPT OF AGRICULTURE

JUN 20 2016

KS DEPT OF AGRICULTURE

SCANNED

-KA 11/4

-KA 11/4

-KA 11/4

-KA 11/4

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  
 RECEIVED**  
 JUN 20 2016  
 1:04  
 KS DEPT OF AGRICULTURE

File No. 1395

2. Name of applicant: NOBLE DAIRY LLC

Address: 3705 F ROAD

City, State and Zip: GARDEN CITY KS 67846

Phone Number: (620)335-5454 E-mail address: averhoff@ucom.net

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

Name of water use correspondent: SAME NO CHANGE

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): \_\_\_\_\_

To accomodate feedlot operation. convert irrigation well to irrigation/stockwater. ADDITIONAL STOCKWATER\* FROM THE EXISTING WELL. PROPOSED CHANGE IN POINT OF DIVERSION WILL MOVE STOCK USE TO EXISTING STOCK WELL.

The change(s) (was) (will be) completed by upon approval (Date) \_\_\_\_\_

For Office Use Only:							
F.O. <u>4</u>	GMD <u>3</u>	Meets K.A.R. 5-5-1 <input checked="" type="checkbox"/> (YES / NO)	Use <u>SK/IDP</u>	Source <input checked="" type="checkbox"/> / S County <u>F1</u>	By <u>AJW</u>	Date <u>6/20/16</u>	
Code <u>CWU</u>	Fee \$ <u>300</u>	TR # _____	Receipt Date <u>6/20/16</u>	Check # <u>4333</u>			

*\*BAT/DWR  
11-1-16*

4. The presently authorized place of use is:

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. \_\_\_\_\_

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: \_\_\_\_\_

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. \_\_\_\_\_

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. \_\_\_\_\_

WATER RESOURCES RECEIVED

IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY

6. The presently authorized point(s) of diversion (is) (are) two wells  
(Provide description and number of points)

7. The proposed point(s) of diversion (is) (are) two wells  
(Provide description and number of points)

List all presently authorized point(s) of diversion:

8. **Presently authorized point of diversion:**  
 One in the \_\_\_\_\_ Quarter of the \_\_\_\_\_ Quarter of the \_\_\_\_\_ Quarter  
 of Section \_\_\_\_\_, Township \_\_\_\_\_ South, Range \_\_\_\_\_ (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 \_\_\_\_\_

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. \_\_\_\_\_

WATER RESOURCES  
RECEIVED

IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY

JUN 20 2016

KS DEPT OF AGRICULTURE  
SCANNED

12. The presently authorized use of water is for IRR AND STOCKWATER purposes.  
It is proposed that the use be changed to IRR AND STOCKWATER purposes.

13. If changing the place of use and/or use made of water, describe how the consumptive use will not be increased.  
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EXISTING STOCKWATER USE AND WELL WILL NOT CHANGE.

(Please show any calculations here.)

14. It is requested that the maximum annual quantity of water be reduced to 426.6 AF + 32.59 mg\* (acre-feet or million gallons).  
*4\* No Reduction \*\**

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](http://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.

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APPLICANT REQUESTS 426.6 AF FOR THE WELL AND NOT SINGLE OUT A QUANTITY PER USE. WILL METER SEPARATE.

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.

WATER RESOURCES RECEIVED

IF MORE SPACE IS NEEDED, ATTACH ADDITIONAL SHEETS AS NECESSARY

JUN 20 2016

*\*BAT 9-7-16*

*\*\*BAT HOUR 11-1-16*

KS DEPT OF AGRICULTURE

SCANNED

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 Garden City, Kansas, this 15<sup>th</sup> day of June, 20 16.

[Signature] Manager  
(Owner)  
Kyle S Auerhoff

\_\_\_\_\_  
(Spouse)

\_\_\_\_\_  
(Please Print)

\_\_\_\_\_  
(Please Print)

\_\_\_\_\_  
(Owner)

\_\_\_\_\_  
(Spouse)

\_\_\_\_\_  
(Please Print)

\_\_\_\_\_  
(Please Print)

\_\_\_\_\_  
(Owner)

\_\_\_\_\_  
(Spouse)

\_\_\_\_\_  
(Please Print)

\_\_\_\_\_  
(Please Print)

State of Kansas }  
County of Gray } SS

I hereby certify that the foregoing application was signed in my presence and sworn to before me this 15<sup>th</sup> day of June, 20 16.



[Signature]  
Notary Public

My Commission Expires \_\_\_\_\_

**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.**

**WATER RESOURCES  
RECEIVED**

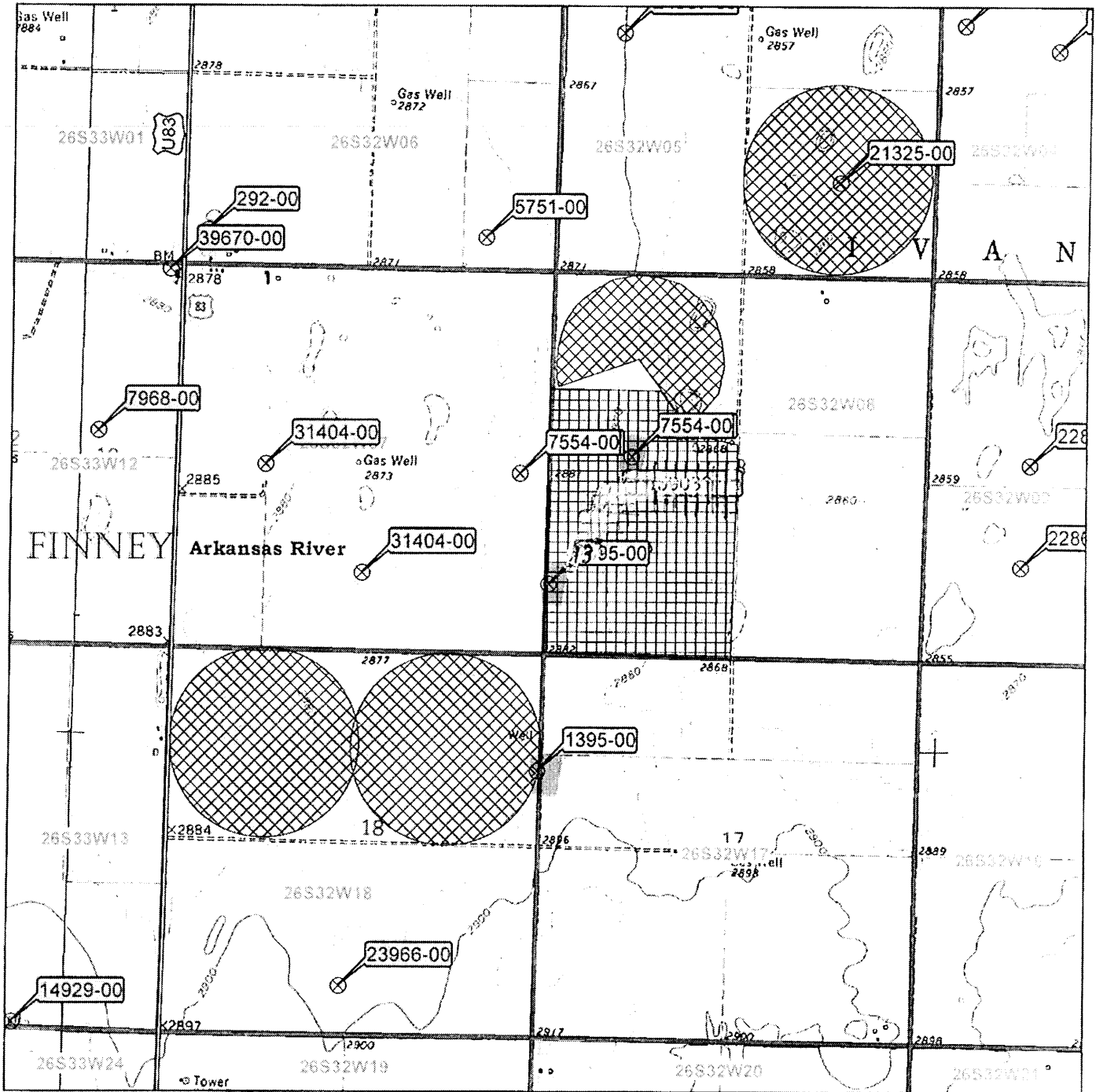
**JUN 20 2016**

**KS DEPT OF AGRICULTURE**

**SCANNED**



# Application to Change the Use Made of Water Water Right, File No. 1395



IRRIGATION



STOCK



Section Line



Point of Diversion



**WATER RESOURCES  
RECEIVED**

JUN 20 2016

1:24,000

KS DEPT OF AGRICULTURE

SCANNED



# Turney, Brent

---

**From:** Meyer, Mike  
**Sent:** Tuesday, October 25, 2016 7:20 AM  
**To:** Turney, Brent  
**Subject:** 1395  
**Attachments:** Noble Dairy Water Right Conversion Application.pptx

Brent

We want to amend this change app to convert 110 AF from the irrigation well to the stockwell. I will file a change app to move the PD for this process and work them both simultaneously. We will then need to modify the term to just combine the stockwells only, not the irrigation well. Let me know what else you need to amend this change app and term. Then please send me a scan copy of both to send to the landowner for their approval or initials. Work? Also attached is more justification for the 10% CU and the retain irrigation acres.

We need to talk about 14380 also

Mike

$$\underline{\underline{640 A-F}} \times NIR = 387 \text{ if all con.}$$

$$\frac{210}{387} =$$

$$\frac{100\%}{387}$$

$$\begin{array}{r} 292 \\ 210 \\ \hline 502 \end{array}$$

$$IRR \ 474 \times 10$$

$$\frac{502}{640}$$

$$\frac{597}{640}$$

$$\begin{array}{r} 100 \\ 574 \\ \hline 674 \\ 210 \\ \hline 353 \\ \hline 543 \end{array}$$

1320 Research Park Drive  
Manhattan, Kansas 66502  
(785) 564-6700



900 SW Jackson, Room 456  
Topeka, Kansas 66612  
(785) 296-3556

Jackie McClaskey, Secretary

Governor Sam Brownback

August 31, 2016

SOUTHWEST KANSAS GROUNDWATER  
MANAGEMENT DISTRICT NO 3  
2009 E SPRUCE STREET  
GARDEN CITY KS 67846

**FILE COPY**

Re: Water Right  
File No. 1,395  
Term Permit  
File No. 20169054

Dear Sir or Madam:

We are enclosing a copies of the applications referred to above, received in the office of the Chief Engineer June 20, 2016, which appear to be in proper form.

We are delaying any further action for a period of 15 days from the date of this letter to allow you time to submit your recommendations concerning these applications.

Please submit your recommendation within the allotted time, or any authorized extension of time thereof. If you have any questions, please contact me at (785) 564-6645. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

Brent A. Turney, P.G.  
Change Application Unit Supervisor  
Water Appropriation Program

BAT  
Enclosures

pc: Garden City Field Office

SCANNED

## **Turney, Brent**

---

**From:** Meyer, Mike  
**Sent:** Wednesday, July 26, 2017 1:09 PM  
**To:** Turney, Brent  
**Subject:** RE: Noble

I think it is okay

*Mike*

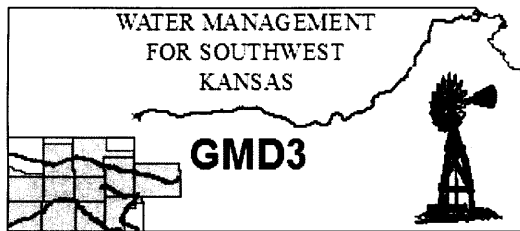
**From:** Turney, Brent  
**Sent:** Wednesday, July 26, 2017 10:21 AM  
**To:** Meyer, Mike <Mike.Meyer@ks.gov>  
**Subject:** FW: Noble

Mike,  
Have you has a chance to review these?

**Brent A. Turney, P.G.**  
**Kansas Department of Agriculture**  
**Division of Water Resources**  
**1320 Research Park Drive**  
**Manhattan Kansas 66502**  
**(785) 564-6645**  
**[Brent.Turney@ks.gov](mailto:Brent.Turney@ks.gov)**  
**[www.agriculture.ks.gov](http://www.agriculture.ks.gov)**

**From:** Turney, Brent  
**Sent:** Tuesday, July 25, 2017 8:57 AM  
**To:** Meyer, Mike <[Mike.Meyer@ks.gov](mailto:Mike.Meyer@ks.gov)>  
**Subject:** Noble

Mike,  
Can you review and give a recommendation?  
Thanks,  
Brent



**Southwest Kansas**  
**Groundwater Management District No. 3**  
2009 E. Spruce Street  
Garden City, Kansas 67846  
(620) 275-7147 phone (620) 275-1431 fax  
www.gmd3.org

September 9, 2016

Brent A. Turney, P.G.  
Change Application Unit Supervisor  
Kansas Department of Agriculture  
Division of Water Resources  
1320 Research Park Drive  
Manhattan, Kansas 66502

**WATER RESOURCES  
RECEIVED**

**SEP 19 2016**

**KS DEPT OF AGRICULTURE**

RE: Change Application, File No. 1,395;  
Term Permit Application,  
File No. 20169054

Dear Brent:

Thank you for your letter of August 31, 2016 conveying the above referenced applications. The letter described the applications as being in proper form and provides a delay of 15 days to allow any comments we may have to be submitted.

The package appears to propose a pilot flexible management proposal for the Noble Dairy, LLC. These applications contain some descriptive errors and introduce some new and/or unexplained concepts that will require a board review for management program rule waivers at some point.

Nevertheless, the package does indicate a concept for dairies generally supported by the Board based on the results of PTP reviews that occurred this time last year. To recap, Board support for considering spacing and move policy waivers fell into four basic points for this type of industry proposal:

- 1) Water right flexibility is supported to assure water to animals in such high value per gallon use;
- 2) Implement changes to dual use to secure stockwater supply surety, if needed, to managers in navigating temporary supply difficulties and regulatory compliance. Permanent changes to single use stockwater should still be required for project expansion needs;
- 3) Too much use of temporary permitting does not provide the bankable property rights that industry investments require, nor does it provide administrative consistency under the law. So use permanent change process for property right surety;
- 4) Most importantly, the board firmly believes that notice must be provided to neighbors describing what groundwater pumping limits may be changing in an application proposal.

Changes of any kind to pumping liberties or limits may raise local concerns or cause harm that should be considered in the administrative review process to avoid judicial complaints later. Private property rights should be respected. There is no indication of notice provided to neighboring water right owners with this paperwork. We considered conducting notification for our members and requesting an extension of time to respond to your letter. However, we are not in a position to correct or clarify the paperwork. So we are returning the applications for appropriate augmentation and revision and for your consideration of this letter.

Questions for this paperwork include:

- 1) The Water Right, File No. 1,395 change in use made of water does not include a change in place of use to add the Dairy. If a change in use to add stockwater is needed, then a change in place of use to add the Dairy is also required.
- 2) The term permit application suggests a use of a geo center spot among existing base water right wells. The intent appears to be to propose a project well grouping spot centered within the project P/D's. There are prohibitions for this in law where a specific diversion location is needed, as well as in state wide rules and in the GMD policy restriction on distance moves and spacing. There is no explanation of geo centered thinking provided. For example, why section 18 for a well group spot? Why not simply list the actual authorized P/D's and avoid any P/D or limitations confusion? A change application instrument may be the more appropriate administrative tool for this under the law.
- 3) Any stockwater use under the dual use change from irrigation is proposed at a 10 percent adjustment to avoid an expansion of consumptive use resulting from the changes. The 90% historic consumptive use claim for irrigation is unsupported and appears to be arbitrary and a flaw of the proposal.
- 4) The request to preserve the full original irrigation authority in the case of some future reversion or change back from stockwater has long been a concept fully supported and advocated by GMD3 and has been implemented successfully under normal changes for other dairy projects.
- 5) The paperwork appears to request automatic actions if the law changes in the future. There does not appear to be any authority delegated to the chief engineer to consider such a request.

The GMD3 Board has been very supportive of the industry needs with the points expressed in paragraph three above. The advice of our legal council is that any proposal to change existing diversion authority (i.e. the use of term permits or new WCA legislation for flexible Management) is a change application that must be subject to private property right change law in the Water Appropriation Act.

Please consider piloting the flexibilities contemplated for this package of paperwork using all regular change applications and apply new administrative flexibility for adding 100% P/D overlap and the blanket rates and quantities proposed with this other paperwork to accomplish such flexible management proposals. It is not necessary to use a term permit to consider allowing grouping of wells supplying the facility. As with other administrative approaches, additional well and other policy concerns can be addressed with the chief's order terms and conditions as contemplated with term permit paperwork. Metaphorically speaking, it may not be necessary to reinvent the wheel so much as to use the wheel in a new way. We suggest using change applications and the necessary review of the GMD board, where appropriate, for such proposals. Then appropriately condition the order of the chief engineer to avoid any appearance of circumventing groundwater management programs or the rules and opportunities applicable to all under the law.

Thank you for the opportunity to provide comments. If you have any questions, please don't hesitate to contact us.

Sincerely,

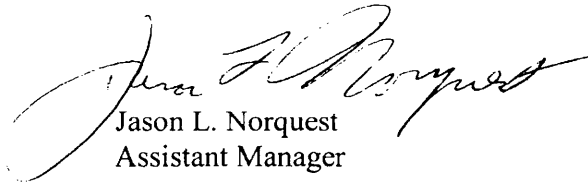


Mark E. Rude  
Executive Director

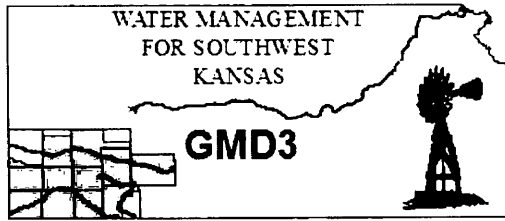
possibility of creating a more permanent solution to offering this flexibility of the water rights so that the applicant can ensure their animal needs are met and they do not need to apply for a term permit in the future.

Thank you for the opportunity to review the application and to provide a recommendation. If you have any questions, please don't hesitate to contact us.

Sincerely,



Jason L. Norquest  
Assistant Manager



**Southwest Kansas**  
**Groundwater Management District No. 3**  
2009 E. Spruce Street  
Garden City, Kansas 67846  
(620) 275-7147 phone (620) 275-1431 fax  
www.gmd3.org

November 16, 2016

Brent A. Turney  
Kansas Department of Agriculture  
Division of Water Resources  
1320 Research Park Drive  
Manhattan, Kansas 66502

WATER RESOURCES  
RECEIVED

NOV 21 2016

KS DEPT OF AGRICULTURE

RE: Change Application  
Water Right, File No. 1,395  
Term Permit  
File No. 20169054

Dear Brent:

We have completed a review for the above referenced applications. The proposal is partially in conflict with the Management Program of the Southwest Kansas Groundwater Management District No. 3 (GMD3), more specifically dealing with spacing to neighboring wells criteria in K.A.R. 5-23-3. This application was reviewed with the Board at the November 9, 2016 meeting.

A representative, Kyle Averhoff, of the applicant was available at the meeting to discuss these applications. The first aspect of the applications we discussed was the conversion of 110AF from the IRR well to STK use and moving it to the STK well under the same file number. The applicant is requesting only a 10% consumptive use reduction. This is slightly lower than the proposed county consumptive number presented by the State. The applicant provided additional information showing how the use of fresh water going through the dairy facility compared the amount then sent back out to the field in general, justifies the lower consumptive use reductions. After thorough discussion, the Board recommends the change be approved with the proposed consumptive use calculation.

The second part of the application was for a term permit that would allow the applicant to utilize their three main stock wells under one combined blanket quantity as a pilot project. This would authorize the full 310AF stock authority to be pumped in any combination of the three wells as needed to run the facility as best they can. Mr. Averhoff noted that the stock well in section 7 is an authorized point of diversion for the dairy, however, they operate that well mainly as a backup if needed for the other two wells. Looking at past pumping history, the applicant has tried to utilize the wells in an equal manner and not overuse either of the wells. This pilot project is for 5 years in order to gather information to see if the flexibility is beneficial to the dairy, while also not impairing neighboring wells. It was also noted that with the added authorization, if utilized on individual wells, spacing would not be met to a neighboring well. However, that well is also owned and operated by the applicant. Since this application is a limited pilot project and the only conflicting spacing is to wells owned/operated by the applicant, the Board recommends a waiver to KAR 5-2-3 and that the application be approved at this time. The Board would also like staff to continue working with the applicant and the State on the

1320 Research Park Drive  
Manhattan, Kansas 66502  
(785) 564-6700



900 SW Jackson, Room 456  
Topeka, Kansas 66612  
(785) 296-3556

Jackie McClaskey, Secretary

Governor Sam Brownback

October 4, 2016

Mark Rude  
Southwest Kansas GMD #3  
2009 E/ Spruce St.  
Garden City, KS 67846

**FILE COPY**

Dear Mark,

The purpose of this letter is to provide additional information, hopefully clarification and responses to your questions raised in your letter of September 9 related to several pilot term permit projects in your GMD, and your specific questions related to Noble Dairy, LLC.

This is one of a handful of pilot projects to see how this flexibility can work and allow us to learn what can and cannot work. The pilot project approach was requested by KLA and KFB because of concerns with the facilities term permit concept that has been discussed over the past couple of years. The concept we are piloting through these permits is similar to a MYFA with quantity and flexibility between wells for stockwatering facilities. Once we understand if/how the pilots work, we may abandon the project if the flexibility causes problems, or if it helps some and hurts no one, seek legislation to mainstream the concept and the opportunities it brings.

Your letter raises a number of important questions, almost all of which have been given careful consideration by our team. A number of water users involved in this pilot have, in the past, exceeded their authorized quantities on a single well or wells but did not exceed their overall aggregate authorized quantity. We have fixed these in the past with an after-the-fact term permit which is the tool that allows flexibility and authority.

We are trying to fix the overpumping problem up front with the same authority that we've previously used to fix the problem at the end of the year. We understand this is a term permit but the industry is fine with that concept knowing this is a pilot, and if successful, we will seek to modify our regulations to extend the term permit to 20 years or seek legislation to authorize a project permit like the sand and gravel industry has done. The legislative change currently being discussed would allow for "Flexible Management Plans," by modifying the WCA statute to allow for the types of changes we are evaluating in these pilot projects.

We considered change applications when we were trying to fix the overpumping in the past, as you suggest. It would be problematic to move additional quantity to a senior priority in case water right administration would occur. That is not fair to juniors and is likely not legal. Waiver of existing rules would have to be considered as well as multiple conditions and limitations would have to be built in the approval document that could eventually be overlooked when trying to implement the approval. That is the beauty of the term permit authority. It is the most junior. It is easy to understand. The industry understands and supports the concept. We have an example rule (KAR 5-16-7) to use as a guide if administration is necessary. If a statutory change is accomplished, the Flexible Management Plan becomes the most junior for the purpose of administration.

The geo-center being represented as the point of diversion is only a place holder in our water right information system. All of the PDs will be listed as attributes to the geo-center and will require metering and water use reporting.

**SCANNED**



Well spacing will be from the actual points of the diversion and we will not allow additional pumping from any PD that could impact a nearby well. The authorized diversion rate would be limited to a maximum for each point of diversion to limit any impact.

I am sorry if the justification for the 10% was not sent with the Noble applications. Kyle provided us detailed water use information on the actual animal water use and what was returned for irrigation use. We felt that was better information allowed by the current rules and it happened to work out to be 10% which could seem arbitrary.

Also as you may know by now, notices have been sent to all nearby owners of these projects. To date our office has not been notified of any concerns from the neighbors.

Once again we are enclosing copies of the applications for Noble Dairy for your review, as they now appear to be in proper form. Please submit your recommendations at your earliest convenience. If you have any questions, please contact me at (785) 564-6636.

I hope I covered your concerns. We remain open to looking for a solution. These pilot projects will give us a wealth of valuable real-world experience. Jackie McClaskey and Susan Metzger plan to attend the next board meeting in anticipation that the pilot projects, as well as, other current proposed regulations and statutory changes will be on the agenda for discussion.

Thanks,



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



1320 Research Park Drive  
Manhattan, Kansas 66502  
(785) 564-6700

900 SW Jackson, Room 456  
Topeka, Kansas 66612  
(785) 296-3556

Jackie McClaskey, Secretary

Governor Sam Brownback

November 30, 2016

SOUTHWEST KANSAS GROUNDWATER  
MANAGEMENT DISTRICT NO 3  
2009 E SPRUCE STREET  
GARDEN CITY KS 67846

**FILE COPY**

Re: Water Right  
File No. 1,395

Dear Sir or Madam:

We are enclosing a copy of the application referred to above, received in the office of the Chief Engineer November 8, 2016, which appears to be in proper form. We have notified one nearby well owner of the proposed change in point of diversion. If we receive any comments I will forward them on to you as soon as possible.

We are delaying any further action for a period of 15 days from the date of this letter to allow you time to submit your recommendation concerning this application.

Please submit your recommendation within the allotted time, or any authorized extension of time thereof. If you have any questions, please contact me at (785) 564-6645. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

Brent A. Turney, P.G.  
Change Application Unit Supervisor  
Water Appropriation Program

BAT  
Enclosures

pc: Garden City Field Office

SCANNED

File No. 1,395  
Page No. 2

You are being notified of this proposed change in the point of diversion so that you may furnish this office such comments or other information you may desire to submit. Such comments or other information must be received in this office within 15 days from the date of this letter.

If you have any questions, please contact Mike Meyer at (620) 276-2901. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

A handwritten signature in black ink, appearing to read "Brent A. Turney". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Brent A. Turney, P.G.  
Environmental Scientist  
Water Appropriation Program

BAT  
Enclosure(s)  
pc: Garden City Field Office

1320 Research Park Drive  
Manhattan, Kansas 66502  
(785) 564-6700



900 SW Jackson, Room 456  
Topeka, Kansas 66612  
(785) 296-3556

Jackie McClaskey, Secretary

Governor Sam Brownback

November 30, 2016

JEANNE M KLEYTEUBER REV TRUST  
1608 E FAIR ST  
GARDEN CITY KS 67846

**FILE COPY**

RE: Water Right  
File No. 1,395

Dear Sir or Madam:

This is to advise you that Noble Dairy, L.L.C., has filed an application for approval of the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, to change the point of diversion under the above referenced file number.

The application proposes the following change in the location of the point of diversion.

from: one (1) well located in the Northwest Quarter of the Southwest Quarter of the Southwest Quarter (NW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ ) of Section 8, more particularly described as being near a point 971 feet North and 5,250 feet West of the Southeast corner of said section, in a quantity not to exceed 100 acre-feet per calendar year at a rate of diversion not to exceed 350 gallons per minute for stockwatering use, and

one (1) well located in the Northeast Quarter of the Southeast Quarter of the Northeast Quarter (NE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ ) of Section 18, more particularly described as being near a point 3,622 feet North and 45 feet West of the Southeast corner of said section, in a quantity not to exceed 474 acre-feet per calendar year at a rate of diversion not to exceed 750 gallons per minute for irrigation use,

both in Township 26 South, Range 32 West, Finney County, Kansas.

to: one (1) well located in the Northwest Quarter of the Southwest Quarter of the Southwest Quarter (NW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ ) of Section 8, more particularly described as being near a point 971 feet North and 5,250 feet West of the Southeast corner of said section, in a quantity not to exceed 210 acre-feet per calendar year at a rate of diversion not to exceed 350 gallons per minute for stockwatering use, and

one (1) well located in the Northeast Quarter of the Southeast Quarter of the Northeast Quarter (NE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ ) of Section 18, more particularly described as being near a point 3,622 feet North and 45 feet West of the Southeast corner of said section, in a quantity not to exceed 353 acre-feet per calendar year at a rate of diversion not to exceed 750 gallons per minute for irrigation use,

both in Township 26 South, Range 32 West, Finney County, Kansas.

**SCANNED**



1320 Research Park Drive  
Manhattan, Kansas 66502

Jackie McClaskey, Secretary

Phone: (785) 564-6700  
Fax: (785) 564-6777  
Email: ksag@kda.ks.gov  
www.agriculture.ks.gov  
Sam Brownback, Governor

NOBLE DAIRY LLC  
3705 F ROAD  
GARDEN CITY KS 67846

June 20, 2016

RE: File No. 1395

Dear Sir or Madam:

An application for approval of the Chief Engineer to change the following condition or conditions of the file number referred to above has been received:

- place of use UMW
- point of diversion
- use made of water

As a matter of record, the Division of Water Resources has on hand a large number of applications awaiting processing. Therefore to be fair to all concerned, and so that we can process those applications on hand in the order they were received, we intend to concentrate on the backlog of applications until the issue is resolved. You will be contacted regarding this application as soon as it has been examined.

In accordance with the provisions of the Kansas Water Appropriation Act, a portion of which is included below, the use of water prior to approval of the application is unlawful. You should not proceed and divert water as indicated by your plans in your application for a change for this file until you receive approval for this change from the Chief Engineer. Once approved, compliance with the terms, conditions and limitations of the permit is necessary. Conservation of the water resources of Kansas is required.

**Section 82a-728 of the Kansas Water Appropriation Act, provides (a) except for the appropriation of water for the purpose of domestic use, . . . it shall be unlawful for any person to appropriate or threaten to appropriate water from any source without first applying for and obtaining a permit to appropriate water in accordance with the provisions of the Water Appropriation Act or for any person to violate any condition of a vested right, appropriation right or an approved application for a permit to appropriate water for beneficial use.**

**(b) (1) The violation of any provision of this section by any person is a class C misdemeanor...**

**A class C misdemeanor is punishable by a fine not to exceed \$500 and/or a term of confinement not to exceed one month in the county jail. Each day that the violation occurs constitutes a separate offense.**

If you have any questions, please contact me at (785) 564-6645. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

Brent A Turney, L.G.  
Change Applications Unit Supervisor  
Water Appropriation Program

BAT: DLW  
pc: GARDEN CITY Field Office GMD 3 3

SCANNED

**Noble Dairy**

---

DWR/GMD PROPOSAL

**Overview of Existing Water Rights**

---

- Water Right 1395-SW – Stockwater Right With 100AF – POD SW 8-26-32
- Water Right 7554-D1 – Stockwater Right With 100AF – POD SW 8-26-32
- Water Right 1395-IRR – Irrigation Right With 474AF – POD NE 18-26-32
- Water Right 21325 – Irrigation Right With 260AF – POD SE 5-26-32
- Both Irrigation Rights Include Identical Places of Use Covering 452 Acres Across Section 5, Section 8, & Section 18
- Map Attached Illustrating the Location of the Above Point of Diversions and Their Accompanying Places of Use

## Historical Usage of Royal Farms Dairy

Year	Stockwater Pumped	Lagoon Water Irrigated	Consumed Water	Average Headcount
2011	842	443	399	12399
2012	831	529	302	12267
2013	776	501	275	12260
2014	800	702	98	12375
2015	704	442	262	12405
<b>Average</b>	<b>791</b>	<b>523</b>	<b>268</b>	<b>12341</b>

## Historical Usage of Royal Farms Dairy

- Stockwater Pumped Per Animal Per Day – 57.2 Gallons/Head/Day
  - Estimate – 6170 Non-Lactating Animals @ 20 Gallons/Head/Day
  - Estimate – 6170 Lactating Animals @ 94 Gallons/Head/Day
  
- Net Water Consumed (Consumptive Use) Per Animal Per Day – 19.4 Gallons/Head/Day
  - Estimate – 6170 Non-Lactating Animals @ 12 Gallons/Head/Day
  - Estimate – 6170 Lactating Animals @ 27 Gallons/Head/Day

## Noble Dairy – 30 Year Permit Overview

---

- Permit 4 Point Of Diversions With A Dual Purpose Use (Stockwater & Irrigation)
- Blanket the Appropriated Volumes Across All 4 Wells With The Volume Not To Exceed Current Authorized Quantity On the 2 Existing Irrigation Wells
- Agree to an Upfront Consumptive Use Conservation Cut in Exchange for Long Term Water Right Flexibility (Example Calculation to Follow)

## Noble Dairy – Proposed Calculation for Upfront Consumptive Use Conservation Cut

---

- Long Term Potential to Develop Noble Dairy Site to 14000 Animals Including 7000 Lactating & 7000 Non-Lactating Animals
  - Propose to Calculating Consumptive Use On The Following Volume
    - Lactating –  $7000 * 35 \text{ Gallons/Hd/Day} = 275 \text{ Acre Feet}$
    - Non-Lactating –  $7000 * 15 \text{ Gallons/Hd/Day} = 118 \text{ Acre Feet}$
    - Estimate of Total Acre Feet Consumed = 393 Acre Feet
    - Less Existing Stockwater Rights = 200 Acre Feet
    - Leaving 193 Acre Feet Subject to Existing Consumptive Use Calculation
    - Resulting In An Upfront Consumptive Use Conservation Cut of 46 Acre Feet



## Summary

- Noble Dairy Will Be Left With 888 AF Of Dual Purpose Water From 4 Points of Diversion During the 30 Years of the Permit
- At the End of the Permit, All Places of Use and Volumes Will Revert Back to the Appropriated Volumes Totaling 934 AF
- Noble Dairy Will Not Pump Existing Irrigation Wells Beyond Existing Allowable Quantity
- Creates a Business/Development Friendly Approach to Managing Water Rights While Administering an Upfront Conservation Cut
- Flexibility of this Strategy Will Create Greater Efficiency in Managing the Nutrient Load of a Livestock Facility Over the Long Term

## Historical Usage of Noble Dairy

Year	Stockwater Pumped	Lagoon Water Irrigated	Consumed Water	Average Headcount
2015	199	203	-4	4293
2016 YTD	189	180	9	4700
Average	194.5	191.5	2.5(1.3%)	4497

# Historical Usage of Royal Farms Dairy

Year	Stockwater Pumped	Lagoon Water Irrigated	Consumed Water	Average Headcount
2011	842	443	399	12399
2012	831	529	302	12267
2013	776	501	275	12260
2014	800	702	98	12375
2015	704	442	262	12405
<b>Average</b>	<b>791</b>	<b>523</b>	<b>268(33.9%)</b>	<b>12341</b>

# Overview of Existing Water Rights

---

- Water Right 1395-SW – Stockwater Right With 100AF – POD SW 8-26-32
- Water Right 7554-D1 – Stockwater Right With 100AF – POD SW 8-26-32
- Water Right 1395-IRR – Irrigation Right With 474AF – POD NE 18-26-32

# Noble Dairy – Application Overview

---

- Move 110 Net AF From 1395-IRR to 1395-SW Utilizing 10% Consumptive Use Calculation Supported By Historical Data From Royal Farms Dairy and Noble Dairy
- Blanket the Appropriated Stockwater Allocation Across 2 Existing SW Wells Located on 8-26-32

# PROPOSED DAIRY – WATER RIGHTS CONVERSION

Prepared by Mandy Fox

# STATISTICS

- Current Water Right Appropriation = 480 acre-feet
- 240 Base Acres
- Currently used for irrigation
  
- Proposed Dairy
- 4,900 Lactating Cows, 300 Heifers (maximum on KDHE permit)

# ECONOMIC IMPACT

New Dairy = 300 AF/Year

\$20,000,000 in milk sales

30 jobs \$1,500,000 in payroll

\$1,500,000 in local silage purchases

\$400,000 in alfalfa purchases

\$750,000 in corn purchases

Existing Water Right = 480 AF/Year

\$500,000 in corn sales (300 AF used)

1 job

Additional Water Savings with Dairy

reduced water to grow silage for dairy instead of growing grain

Savings in excess of 300 AF for 15 irrigated circles (2" less/acre/growing season)

water is extracted at local processing plant and reused

waste water is collected on facility and used for irrigation



## ADDITIONAL SUMMARY

- Water Right #183 After Changes
  - One quantity one well – Not to Exceed 404.1 AF/Year for Stockwater
  - 75.9 AF Reduction in Water Right
  - 81 Acre Reduction in Place of Use
- Existing stockwater well (Water Right #101) provided additional 39.9 AF
- Total stockwater available for new dairy 460.8 AF
- Justified Use 389.6 AF
  - Difference in justification and use would allow for future expansion
    - Possible growth from 4,900 lactating cow to 6,000

STOCKWATER USE - SUPPLEMENTAL SHEET								
							TOTAL USE	
		MAXIMUM	UNITS	TIME		GAL/YEAR	AF/YEAR	
				HOURS/DAY	DAYS/YEAR			
DRINKING								
MATURE COWS	4,900	35	GAL/HEAD		365	62,597,500	192.1	197.2
HEIFERS	300	15	GAL/HEAD		365	1,642,500	5.0	
OVERFLOW WATER		10,800	GAL/DAY		120	1,296,000	4.0	
COOLING								
MISTERS		1,500	GAL/HOUR	12	150	2,700,000	8.3	
FOGGERS		85	GAL/MIN	12	150	36,720,000	112.7	
MILK COOLING		46,500	GAL/DAY		365	16,972,500	52.1	
SANITATION								
ROTARY WASH		50	GAL/HOUR	22	365	401,500	1.2	
WASH-UP CYCLE		4,000	GAL/DAY		365	1,460,000	4.5	
MILK BARN FLUSH		6,000	GAL/DAY		365	2,190,000	6.7	
OTHER								
HOSPITAL		2,600	GAL/DAY		365	949,000	2.9	
TOTAL						126,929,000	389.6	

## STANDARD 10% REDUCTION

- Simplified process that is very clear to current and incoming businesses
- $480 \text{ AF} \times 10\% = 48 \text{ AF}$  reduction
- Water right for stockwater becomes 432 AF
- **Results in a 10% reduction in water right**

## ADDITIONAL SUMMARY

- Water Right #183 After Changes
  - One quantity one well – Not to Exceed 420.9 AF/Year for Stockwater
  - 59.1 AF Reduction in Water Right
  - 81 Acre Reduction in Place of Use
- Existing stockwater well (Water Right #101) provided additional 39.9 AF
- Total stockwater available for new dairy 460.8 AF
- Justified Use 389.6 AF
  - Difference in justification and use would allow for future expansion
    - Possible growth from 4,900 lactating cow to 6,000

# ECONOMIC IMPACT

New Dairy = 300 AF/Year

\$20,000,000 in milk sales

30 jobs \$1,500,000 in payroll

\$1,500,000 in local silage purchases

\$400,000 in alfalfa purchases

\$750,000 in corn purchases

Existing Water Right = 480 AF/Year

\$500,000 in corn sales (300 AF used)

1 job

Additional Water Savings with Dairy

reduced water to grow silage for dairy instead of growing grain

water is extracted at local processing plant and reused

waste water is collected on facility and used for irrigation

## STANDARD 10% REDUCTION

- Simplified process that is very clear to current and incoming businesses
- $480 \text{ AF} \times 10\% = 48 \text{ AF}$  reduction
- Water right for stockwater becomes 432 AF
- **Results in a 10% reduction in water right**

STOCKWATER USE - SUPPLEMENTAL SHEET								
						TOTAL USE		
		MAXIMUM	UNITS	TIME		GAL/YEAR	AF/YEAR	
				HOURS/DAY	DAYS/YEAR			
DRINKING								
LACTATING COWS	4,900	35	GAL/HEAD		365	62,597,500	192.1	197.2
HEIFERS	300	15	GAL/HEAD		365	1,642,500	5.0	
OVERFLOW WATER		10,800	GAL/DAY		120	1,296,000	4.0	
COOLING								
MISTERS		1,500	GAL/HOUR	12	150	2,700,000	8.3	
FOGGERS		85	GAL/MIN	12	150	36,720,000	112.7	
MILK COOLING		46,500	GAL/DAY		365	16,972,500	52.1	
SANITATION								
ROTARY WASH		50	GAL/HOUR	22	365	401,500	1.2	
WASH-UP CYCLE		4,000	GAL/DAY		365	1,460,000	4.5	
MILK BARN FLUSH		6,000	GAL/DAY		365	2,190,000	6.7	
OTHER								
HOSPITAL		2,600	GAL/DAY		365	949,000	2.9	
TOTAL						126,929,000	389.6	

## CONSUMPTIVE USE (CURRENT PROCESS)

- K.A.R. 5-5-9
- Base Acres X NIR at 50% Chance Rainfall
- 240 acres X 1.23' = 295.2 Acre Feet available for stockwater after conversion
- **Results in a 38.5% reduction in water right**



## CONVERSION BASED ON ANIMAL TYPE

- K.A.R. 5-3-22 Maximum reasonable quantity for livestock
- Maximum Reasonable Quantity X Maximum Permitted Amount (KDHE)
- 4,900 Mature Dairy Cows X 35 gal/hd/day X 365 days = 192.1 AF
- 300 Heifers X 15 gal/hd/day X 365 days = 5.0 AF
- Total = 197.2 AF X 30% conservation credit = 59.1 AF Reduction in Water Right
- Water right for stockwater becomes 420.9 AF
- **Results in a 12.3% reduction in water right**

## CONVERSION BASED ON ANIMAL TYPE

- K.A.R. 5-5-9(a)(2)
- K.A.R. 5-3-22 Maximum reasonable quantity for livestock
- Maximum Reasonable Quantity X Maximum Permitted Amount (KDHE)
  
- 4,900 Mature Dairy Cows X 35 gal/hd/day X 365 days = 192.1 AF
- 300 Heifers X 15 gal/hd/day X 365 days = 5.0 AF
- Total = 197.2 AF X 38.5% conservation credit = 75.9 AF Reduction in Water Right
- Water right for stockwater becomes 404.1 AF
- **Results in a 16% reduction in water right**

## CONSUMPTIVE USE (CURRENT PROCESS)

- K.A.R. 5-5-9(a)(1)
- Base Acres X NIR at 50% Chance Rainfall
- 240 acres X 1.23' = 295.2 Acre Feet available for stockwater after conversion
- **Results in a 38.5% reduction in water right**