

File No. **38994** 11. County: KE Basin: ARKANSAS RIVER Stream: **NA** Formation Code: 75 Special Use: 016 & 021
 ARK RIVER (IGUCA)

12. Points of Diversion Rate and Quantity
 CHK MOD DEL PDIV ENT Qualifier S T R ID 'N 'W Comment (AKA Line) Rate Quantity Rate Quantity Overlap PD Files
 gpm mgy gpm mgy

NO CHANGE

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

14. Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) **none no change**
 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 CHK MOD DEL ENT PUSE S T R ID	NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg?	Overlap Files	
	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼					
MOD 15101 1 24 35W 2	FEEDLOT S2 & NE & NW																8B	NO	**	COMPLETE STK PU	
MOD 25109 12 24 35W 2	FEEDLOT N2																8B	NO	**	ALL FILES: 7195-D1 16536 38570	
MOD 21298 6 24 34W 4	FEEDLOT SW																8B	NO	**	38990 38991 38992 38993 38994	
MOD 69683 7 24 34W 4	FEEDLOT L-4 NW																8B	NO	**	38995 38996 38997 38998	

Base Acres: Year: Minimum Reasonable Quantity:
 Comments: **PLACE OF USE SPLITS FI & KE COUNTIES**

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files **DATE:** September 7, 2022
FROM: Leslie Ireland **RE:** Water Right, File Nos. 7195-D1; 16,536;
38,570; 38,990; 38,991; 38,992; 38,993;
38,994; 38,995; 38,996; 38,997 & 38,998

Jason Shamburg on behalf of Kansas Dairy Development LLC., as owner of the referenced water rights, has filed applications for approval to change the place of use under all of the referenced files and the use made of water under File No. 7195-D1. This application proposes to supply more water to the feedlot by converting the irrigation use under File No. 7195-D1 to dual use to permit the right to be utilized for stockwatering and irrigation uses. The applications were received on August 18, 2020 but were delayed due to a redrill and the resolution of the proposed irrigated portion moving to unowned land.

The water rights do not appear to be abandoned as per K.S.A. 82a-718, *Abandonment of water rights*. After an August 5, 2022, meeting with Mr. Shamburg the applications were modified to more accurately reflect the proposed place of use and instead of doing an additional well and K.A.R. 5- 5-10 change the use made of water change will be processed by K.A.R. 5- 5-9 as a dual use. The updated applications appear to comply with K.A.R. 5-5-2a, *Complete change application*. The water rights do not appear to be abandoned as per K.S.A. 82a-718, *Abandonment of water rights*.

The rights are located in the Arkansas River Intensive Groundwater Area just east of the City of Deerfield and located between Highway 400 and the Arkansas River, South of the Great Eastern Ditch. The place of use spans Ranges 34 West and 35 West and the counties of Finney and Kearny Counties.

The original proposed change in point of diversion under File No. 7195-D1, requested an additional well, but a field office change for a redrill and modification of the use change afforded the owner to not need a change in point of diversion. The point of diversion change will be removed from the application. As the requested change will not alter the well locations they are remaining in the same local source of supply.

As authorized File No. 7195-D1 irrigates 565 acres from two(2)wells with the quantity and rate assigned with an additional limitation that the wells authorized a combined total of 2,064 acre-feet (AF) are limited to 1,130 AF. The place of use is also authorized with water also from the Great East Ditch. The use made of water to dual use is being requested of just one of the two wells. The well located in the Southwest Quarter (SW¹/₄) of Section 1, recently approved to be approximately 1,952 Feet North and 5,240 feet West of said section, in Township 24, Range 35 West, Kearny County authorized 1,100 AF will be temporarily reduced while irrigation and stockwater use are authorized. The consumptive use for Kearny County is afforded 87.3 % of the authorized. The dual use will authorize:

$$1,100 \times 0.873 = 960.3 \text{ AF for irrigation and stockwater uses combined}$$

The other well located in the Northwest Quarter of Section 1 will remain authorized 964 AF for irrigation use with the annual quantity remaining limited to 1,130 AF under all uses.

The irrigated place of use only under File No. 7195-D1 is currently in Section 1, will remain at a total of 565 acres, but move to now authorize portions of Sections 5, 6 & 7 in Finney County retaining only a small portion in the Northeast Quarter (NE¹/₄) of Section 1, Kearny County. A review of the ownership records indicates all of the proposed irrigated place of use is owned by the applicant.

The description of the stockwatering place of use will be that of the updated map received August 9, 2022 and listed as:

a feedlot located in the Southwest Quarter (SW $\frac{1}{4}$) of Section 6, and in Lot 4 (NW $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 7, both in Township 24 South, Range 34 West, Finney County, Kansas, and in Section 1 and the North Half (N $\frac{1}{2}$) of Section 12, both in Township 24 South, Range 35 West, Kearny County, Kansas, with the map referenced.

The stockwater place of use change is an expansion North in Section 1, Township 24, Range 34 West, Kearny County. An updated review of the currently authorized stockwater quantity found a total of 183.813 million gallons, (564.1 acre-feet) under File Nos. 16,536; 38,570; 38,990; 38,991; 38,992; 38,993; 38,994; 38,995; 38,996; 38,997 & 38,998.

As detailed in KAR 5-3-22, *Maximum reasonable quantity of water for livestock and poultry*, the projection is for 95,000 head would be afforded a maximum reasonable quantity of 520.125 million gallons (1,596 AF) per year at 15 gallons per head per day. The use made of water change under File No. 7195-D1, will provide a portion or all of the 960.3 AF for the stockwater quantity, bringing the total quantity authorized to 496.727mgy (1,524.4 AF). The submitted August 9, 2022, *Stockwater Supplemental Sheet* listed a maximum of 496.546 mgy (1,524 AF) for the 95,000 head. The stockwater quantity will not have an additional limitation.

Under File No. 7195-D1, the irrigation portion will retain at a minimum 170 AF, and the full 1,130 AF, but will also be afforded its historical ditch water and any effluent from the stockwater use. It does not appear to be unreasonable to retain the full authorized 565 acres.

The wells located within one-half ($\frac{1}{2}$) mile of each proposed existing point of diversion were identified and as the irrigated place of use will change significantly well owners in the immediate vicinity of the irrigation boundaries were informed by letter dated August 23, 2022, of the proposed changes. No comments were received. It appears the requirements of K.S.A.82a-1906 have been met.

In a letter dated August 31, 2022, Jason Norquest, Assistant Manager of Southwest Kansas Groundwater Management District No. 3, indicated the applications comply with the current management program. The applications were recommended for approval.

In an e-mail dated September 7, 2022, Michael Meyer, Water Commissioner, Garden City Field Office, indicated that he recommended approval of the applications with the additional limitations.

Water flowmeters will be required by the change approvals with the well authorized for dual use to have a designated meter for stockwatering and irrigation use. As effluent might be utilized, check valves will be a condition of the approvals.

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, complies with K.A.R. 5-5-9, the changes should not increase the historical consumptive use per KAR 5-5-3, *Change in consumptive use*. The referenced applications have been recommended to be approved.



Leslie Ireland
Environmental Scientist
Water Appropriation Program

From: Meyer, Mike [KDA]
Sent: Wed 9/7/2022 8:18 AM
To: Ireland, Leslie [KDA]
Subject: RE: Review & Recommendation Chg PU UMW File No. 7195-D1, chg PU File Nos. 16,536; 38,570; 38,990; 38,991; 38,992; 38,993; 38,994; 38,995; 38,996; 38,997 & 38,998 KS Dairy Development

Approve. Thank you for being patient with this package

Mike

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Tuesday, September 6, 2022 11:36 AM
To: Meyer, Mike [KDA] <Mike.Meyer@ks.gov>
Subject: Review & Recommendation Chg PU UMW File No. 7195-D1, chg PU File Nos. 16,536; 38,570; 38,990; 38,991; 38,992; 38,993; 38,994; 38,995; 38,996; 38,997 & 38,998 KS Dairy Development

Mike,

Please let me know if you would recommend the changes as proposed. I referenced your Aug 2022, updates thank you for the good maps.

As always comments and concerns are welcome... no rush as I'm going to Capital to eat my weight in ice cream.. and hope to see some other past or present DWR folks there doing the same...

Leslie Ireland
Environmental Scientist
Change Application Unit
Division of Water Resources



THE STATE  OF KANSAS

KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Secretary of Agriculture

DIVISION OF WATER RESOURCES
Earl D. Lewis Jr., Chief Engineer

**APPROVAL OF APPLICATION
FOR
CHANGE IN PLACE OF USE
WATER RIGHT
FILE NO. 38,994**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application Jason Shamburg on behalf of the Kansas Dairy Development LLC, PO Box 239, Deerfield, Kansas 67838, received in this office on August 17, 2020, for approval of a change in the location of the place of use under the certificate of application, issued pursuant to the permit to appropriate water for beneficial use, as modified and amended by the order of the Chief Engineer dated December 2, 2019, approving the application to change the place of use, finds that the change is reasonable and will not impair existing rights and that the application should be and is hereby approved.

The effective date of the change shall be the date this order is executed by the Chief Engineer, after which the authorized location of the place of use shall be:

a feedlot located in the Southwest Quarter (SW $\frac{1}{4}$) of Section 6, and in Lot 4 (NW $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 7, both in Township 24 South, Range 34 West, Finney County, Kansas, and in Section 1 and the North Half (N $\frac{1}{2}$) of Section 12, both in Township 24 South, Range 35 West, Kearny County, Kansas,

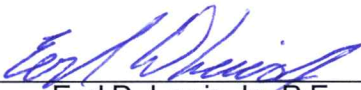
located substantially as shown on the topographic map accompanying the application to change the place of use.

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 each of 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.

In all other respects, the Certificate of Appropriation issued pursuant to Approval of Application, File No. 38,994, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated April 7, 1998, as modified and amended by the aforementioned order.

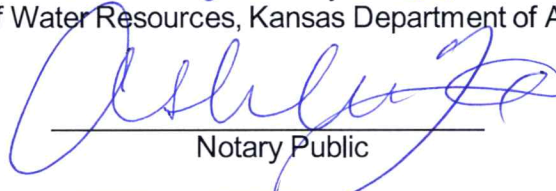
Ordered this *27th* day of *September*, 2022, in Manhattan, Riley County, Kansas.



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

State of Kansas)
) SS
County of Riley)

The foregoing instrument was acknowledged before me this *27* day of *September* 2022, by Earl D. Lewis Jr., P.E., Chief Engineer, Division of Water Resources, Kansas Department of Agriculture.



Notary Public



1320 Research Park Drive
Manhattan, KS 66502
785-564-6700
www. agriculture.ks.gov



900 SW Jackson, Room 456
Topeka, KS 66612
785-296-3556

Mike Beam, Secretary

Laura Kelly, Governor

October 11, 2022

KANSAS DAIRY DEVELOPMENT LLC
Attn: JASON SHAMBURG
PO BOX 239
DEERFIELD, KS 67838

RE: Water Right, File Nos. 7,195-D1; 16,536; 38,570; 38,990; 38,991; 38,992; 38,993; 38,994;
38,995; 38,996; 38,997& 38,998

Dear Mr. Shamburg:

Enclosed are the orders executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the applications for change under the referenced files.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in the approvals for change. A condition of the approval under File No. 7,195-D1, is the requirement that an acceptable water flowmeter must be installed so both irrigation and stockwatering uses can be metered independent of each other for the well authorized for dual use, prior to the diversion of water. Additionally, this letter serves to acknowledge your August 9, 2022, requested modification of the application withdrawing the proposed change in point of diversion under File No. 7,195-D1.

Since these orders modify the original documents referred to above, they should be recorded with the Register of Deeds as other instruments affecting real estate.

If you have any questions regarding the enclosed documents, please contact our office at 785-564-6640. Inquiries about the metering please contact our staff at the Garden City Field Office, 620-276-2901. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

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

Enclosures

pc: Garden City Field Office
Groundwater Management District No. 3

RIGHT TO A HEARING AND TO ADMINISTRATIVE REVIEW

If you are aggrieved by this Order, then pursuant to K.S.A. 82a-1901, you may request an evidentiary hearing before the Chief Engineer or request administrative review by the Secretary of Agriculture. Failure to request an evidentiary hearing before the Chief Engineer does not preclude your right to administrative review by the Secretary.

To obtain an evidentiary hearing before the Chief Engineer, a written request for hearing must be filed within 15 days after service of this Order as provided in K.S.A. 77-531 (i.e., within a total of 18 days after this Order was mailed to you), with: Kansas Department of Agriculture, Attn: Legal Division, 1320 Research Park Drive, Manhattan, Kansas 66502, FAX 785-564-6777.

If you do not file a request for an evidentiary hearing before the Chief Engineer, you may petition for administrative review of the Order by the Secretary of Agriculture. A petition for review shall be in writing and state the basis for requesting administrative review. The request for review may be denied if the request fails to clearly establish factual or legal issues for review. See K.S.A. 77-527. The petition must be filed within 30 days after service of this Order as provided in K.S.A. 77-531 (i.e., within a total of 33 days after this Order was mailed to you), and be filed with: Secretary of Agriculture, Attn: Legal Division, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, FAX 785-564-6777.

If neither a request for an evidentiary hearing nor a petition for administrative review is filed as set forth above, then this Order shall be effective and become a final agency action as defined in K.S.A. 77-607(b). Failure to timely request either an evidentiary hearing or administrative review may preclude further judicial review under the Kansas Judicial Review Act.

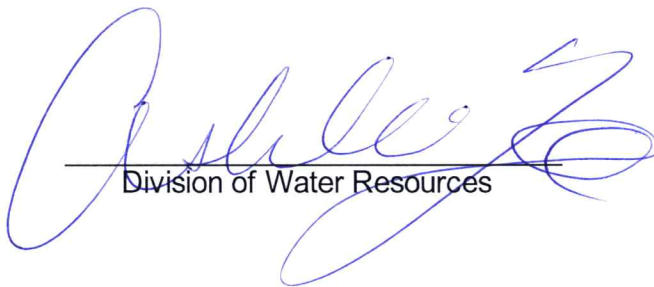
CERTIFICATE OF SERVICE

On this 11 day of October, 2022, I hereby certify that the attached Approval of Application for the Change in Place of Use for Water Right, File No. 38,994, dated, 27 September 2022 was mailed postage prepaid, first class, US mail to the following:

Kansas Dairy Development LLC
Jason Shamburg
PO Box 239
Deerfield, KS 67838

With photocopies sent to:

Garden City Field Office
Groundwater Management District No. 3



Division of Water Resources