# Kansas Department of Agriculture Division of Water Resources APPROVAL OF CHANGE APPLICATION WORKSHEET

1. File No.: <b>10626</b>	2. Status Change Date:	1/9/2024	GMD: <b>0</b>	4. Field Office: 04 - Garden City GMD: 03 - Southwest Structures File No.:								
3. Package File No(s): 10626			_	Filing/Priority Date: <b>23-MAY-23</b> Application Complete Date:								
5a. ⊠ Applicant □ Owner □ WU □ Address Change	C Person ID Add Seq#	_	r		rson ID <b>68573</b> d Seq# <b>1</b>							
SYRACUSE DAIRY LLC FRANK C MERCURIO P.E. 751 SE CR 36 SYRACUSE, KS 67878-7822		ALFALFA FARMS 322 N GATES ST SYRACUSE, KS 67878										
5c. ⊠ Owner □ WUC □ Address Change	Person ID <b>40486</b> Add Seq# <b>1</b>	5d. Owner	r ⊠ WUC ss Change		rson ID <b>40486</b> d Seq# <b>7</b>							
SYRACUSE DAIRY LLC Attn: SYRACUSE DAIRY & 751 SE CR 36 SYRACUSE, KS 67878-7822		Attn: MORT	CUSE DAIRY LLC MORTON COUNTY DAIRY E CR 36 ACUSE, KS 67878-7822									
6. Change No.: C1  PD PU Base Acres: Year: Min F Previous UMW: IRR-Irrigation MDS Gauge: Active Admin? Completion/Start Date: Perfection		7. Use of Water  ☑ Groundwater ☐ Surface Water  UMW: STK-Stockwatering IRR- Irrigation  UMW:  UMW:										
	IGE APP PLACE OF USE A IGE APP USE OF WATER A				-5-10 Dual Use							
9. Special Conditions ? <b>DUAL USE IF</b>	RR STK											
10. 5YR Allocation Type: Star Comment:	rt Year: 5YR Quan	tity: Base	Acres:									
11. Sand & Gravel Proj ID:	☐ Active ☐ Dredge	☐ IND Evap	☐ Jr Evap ☐	Other Diversion	☐ Rpt on Sr							
12. Waiver Rule ID: ☐ New D Applies: Rule No.: Rule Type: Rule SubType:	Applies: Rule No.: Justification:											
Comments				Processed LI 4/1/2024	Entered 4/10/2024							
				Reviewed KAK 4/4/2024	KAnderson							

	No. 10				1	3. Cou	nty: M	Г Bas	in: <b>N F</b>	CIMA	RRON	RIVE	R Stre	eam:												
Stru	ctures Fi	ile No	o:		А	quifer	Code:	211 3	31								Spec	ial Use	Area:							
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17. Place of Use																			$\Box$							
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## KANSAS DEPARTMENT OF AGRICULTURE Division of Water Resources

#### <u>MEMORANDUM</u>

TO: Files DATE: April 1, 2024

**FROM:** Leslie Ireland **RE:** Water Right, File No. 10,626

Natasha TeVelde on behalf of Alfalfa Farms owner of the referenced water right along with Jay Houtsma on behalf of Syracuse Dairy LLC, filed an application for approval to change the place of use and use made of water for operation as dual use from irrigation to irrigation and stockwater uses. The application was received on May 23, 2023. The referenced file is located in the North Fork Cimarron River Basin, Morton County and Southwest Groundwater Management District No. 3 (GMD 3).

The water right appears to be in compliance with K.S.A. 82a-732, *Annual water use report required, penalty for violations*. There is one well within one-half mile of the authorized point of diversion requiring notice per K.S.A. 82a-1906. Notice was completed on March 20, 2024 by emailed letter. No comments have been received. It appears the application complies with K.A.R. 5-5-2a, *Complete change application*.

The owners are requesting a change in use made of water per K.A.R. 5-5-9, *Criteria for the approval of an application for a change in the use made of water from irrigation to any other type of beneficial use of water,* to authorize a limited "dual use" of irrigation and stockwater uses. This change did request the place of use to add the feedlot while maintaining the irrigated place of use, but the stockwatering place of use proposed is already authorized.

File No. 10,626 has no overlap in point of diversion or place of use and is not located in a special use area. This file authorizes 314 acre-feet (AF) at a rate of 400 gallons per minute assigned from one(1) well to irrigate 157 acres in the Northeast (NE½) of Section 21, Township 32 South, Range 42 West, Morton County, Kansas. The proposed stockwater use under this file has been authorized since 2018 by Term Permit, File Nos. 20189038 & 20239044.

The proposed change in place of use will keep the irrigated acres while add the existing dairy identified as Morton County Dairy and located in the Northeast Quarter (NE¼) of Section 33, Township 32 South, Range 42 West, Morton County. It is authorized by File Nos. 2,161 and 28,128, providing 66.73 million gallons per year (66.73 mgy) (204.8 AF) for stockwater use.

The standard consumptive use factor of 88.3 percent for Morton County allows 277.3 AF to be changed to another use K.A.R. 5-5-9, *Criteria for the approval of an application for a change in the use made of water from irrigation to any other type of beneficial use of water.* 

$$314 \text{ AF x } 88.3\% = 277.3 \text{ AF} \sim 90.35 \text{ mgy}$$

While operated for dual use the irrigation quantity under File No. 10,626 will be temporarily reduced from 314 to 277.3 AF (90.35 mgy), assuring compliance with K.A.R. 5-5-3, *Change in consumptive use*. The change would afford a stockwater total of 157.08 mgy (482 AF) under File Nos. 2,161; 10,626 & 28,128.

RE: File No. 10,626 Page 2

This approval should help with the peak demands and provides another point of diversion for stockwater use. The application indicated the facility is permitted for 6,000 head of mature dairy milking cows. It would appear they are located in open lots. The facility also has a herd of 700 dry cows. Together with facility sanitation has an estimated allowance per regulation of 158.59 million gallons. This quantity is just slightly more than the new combined total if all diverted for stockwater use. The information provided indicates the change complies K.A.R 5-3-22, *Maximum reasonable quantity of water for livestock and poultry*.

The proposed change to authorize an additional 277.3 AF (90.35 mgy) that could be diverted for use at the dairy when combined with the existing quantity a maximum total of 157.08 mgy (482 AF) under File Nos. 2,161; 10,626 & 28,128 will be authorized for stockwater use if all diverted as such. The submitted justification of 158.59 mgy for the dairy and the proposed 277.3 AF (90.35 mgy) may not be diverted 100% for stockwater use, instead as dual use. No additional limitation on the quantity will be added by this approval.

The irrigation portion will now authorize a limited 277.3 AF on the 157 acres (A) resulting in an irrigation ratio of 1.77 AF/A if solely operated as irrigation use. While slightly more than the 1.43 AF/A per K.A.R. 5-5-12, *Net irrigation* at the 80% chance that would afford the irrigation of 157 maximum acres at an 85% efficiency. The 50% chance value is 1.28 AF equating to 201 AF of water needed for irrigation at a lesser chance of rain.

A 2018 Compliance Investigation completed by DWR Staff, determined the location of the well under the referenced file to be approximately 98 feet South of the authorized 2,690 feet North and 1,450 feet West to approximately 2,633 feet North and 1,529 feet West of the Southeast corner of Section 21. The information would move the well from the Northeast Quarter (NE¼) of to the Southeast Quarter (SE¼) Section 33, Township 32 South, Range 42 West, Morton County. Due to the Southeast Quarter (SE¼) being under different ownership and the Compliance Investigation being 6 years old, the data will not be utilized to update the well location as it appears an official survey may be needed by the landowner.

The review of the change application identified the one(1) well, File No. 16,277 within one-half ( $\frac{1}{2}$ ) mile of the well proposing to change. The well to well spacing of these wells is approximately 2,247 feet. As no wells are moving and the annual quantity diverted will be reduced it would appear well to well spacing is not an issue. As the proposed well for change has operated under term permits for many years it would indicate no impairment would be anticipated.

In a letter dated March 8, 2024, from Jason Norquest, Manager of Southwest Kansas Groundwater Management District No. 3, stated the application was recommended for approval.

Mike Meyer, Water Commissioner of the Garden City Field Office, indicated that he recommended approval of the application and operation as dual use, by email April 1, 2024.

A condition of the approval will be the requirement of a flow meter for each use authorized, pursuant to K.S.A. 82a-706c. A check valve will be required if chemigation occurs. The water use correspondent will remain as designated.

Based on the above discussion, that the change is reasonable, consumptive use will not increase, impairment of existing water rights is unlikely, and that no change in the local source of supply will occur, it is recommended that the referenced application for change be approved.

Leslie Ireland Environmental Scientist

Redie Ireland

Water Appropriation Program

#### Ireland, Leslie [KDA]

From: Meyer, Mike [KDA]

**Sent:** Monday, April 1, 2024 2:39 PM

**To:** Ireland, Leslie [KDA]

Subject: RE: Review and Recommendation, Change PU UMW File No. 10262 - Syracuse

I think we are all good with this proposal. All quantities are reasonable. It appears the term permit will soon expire after this approved.

I recommend approval

thanks

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

Sent: Monday, April 1, 2024 2:24 PM

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

Subject: Review and Recommendation, Change PU UMW File No. 10262 - Syracuse

Mike,

Please let me know if you'd recommend the change to replace the term permits. I didn't receive any calls on the nearby notice letter.

The GPS update would put the well on another well owners land so I said an official survey would be needed to update and pd would stay as authorized.

As always comments and concerns are welcome.

Leslie Ireland Environmental Scientist Change Application Unit Division of Water Resources





## KANSAS DEPARTMENT OF AGRICULTURE Mike Beam, Secretary of Agriculture

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

# APPROVAL OF APPLICATION FOR CHANGE IN USE MADE OF WATER PLACE OF USE AND ORDER IN THE MATTER OF THE AUTHORIZED QUANTITY OF WATER WATER RIGHT FILE NO. 10.626

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Natasha teVelde on behalf of Alfalfa Farms, 322 North Gates Street, Syracuse, Kansas 67878, along with Jay Houtsma on behalf of Syracuse Dairy LLC, 751 Sotheast County Road 36, Syracuse, Kansas 67878, received in the office of the Chief Engineer on May 23, 2023, for approval of a change in the location of the place of use and use made of water, under the certificate of appropriation issued pursuant to the permit to appropriate water for beneficial use, finds that the change is reasonable and will not impair existing rights, and that the application should be and is hereby approved.

The authorized quantity of water under this right will remain 314 acre-feet (102.32 million gallons). This order effectively limits the authorized quantity of water to 277.3 acre-feet (90.35 million gallons) per calendar year for both stockwatering and irrigation uses combined. That the limitation on the quantity of water shall exist until such a time that the quantity of water for stockwatering use authorized by this approval is no longer required.

The effective date of the change shall be the date this order is executed by the Chief Engineer, after which the portion retained for irrigation use shall be authorized a maximum quantity not to exceed 277.3 acrefeet (90.35 million gallons) of groundwater per calendar year, for irrigation use on the following described property:

Coo Tun Donos		NE	E1/4		NW1/4					SV	V1/4						
Sec. Twp. Range	NE1/4	NW1/4	SW1/4	SE1/4	TOTAL												
21 - 32S - 42W	38.5	38.5	40.0	40.0													157.0

a total of 157.0 acres in Section 21, Township 32 South, Range 42 West, Morton County, Kansas.

The portion changed to stockwatering use shall be authorized a quantity not to exceed 90.35 million gallons (277.3 acre-feet) of groundwater per calendar year for use at the location described as being:

a dairy located in the Northeast Quarter (NE¼) of Section 33, Township 32 South, Range 42 West, Morton County, Kansas,

located substantially as shown on the topographic map accompanying the application to change the use made of water and 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 a separate acceptable water meter for each use made of water from the diversion works authorized under this water right, prior to the use of water, in strict accordance with the Kansas Administrative Regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer. The water right owner shall notify the Chief Engineer when installation of the water meter has been completed. The water right owner shall maintain the water meter in an operating condition satisfactory to the Chief Engineer, at all times during diversion of water and shall maintain records from which the total quantity of water diverted for each authorized use may be determined. The water right owner shall also report the reading of said water meter and the total quantity of water diverted annually to the Chief Engineer. Such records shall be furnished to the Chief Engineer by March 1 following the end of each calendar year.

In all other respects, the Certificate of Appropriation issued pursuant to Approval of Application, File No. 10,626, for permit to appropriate water for beneficial use, is as stated and set forth in the Certificate of Appropriation dated December 12, 1984.

Ordered this 9 day of April , 2024, in Manhattan, Riley County, Kansas.

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

State of Kansas ) SS County of Riley )

The foregoing instrument was acknowledged before me this day of Local day of Local

Notary Public

TONY JAY CONNORS My Appointment Expires May 18, 2027 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

April 11, 2024

FRANK C MERCURIO SYRACUSE DAIRY LLC 751 SE CR 36 SYRACUSE, KS 67878-7822

RE:

Water Right File No. 10,626

Dear Mr. Mercurio:

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

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in the approval for change. A condition of the approval is that an acceptable water flowmeter must be installed on the diversion works authorized. The approval requires an acceptable water flowmeter to be installed so that both irrigation and stockwatering uses will be metered independent of each other from the well authorized. Please return the required notification of installation of the meters as soon as this action is completed.

Since these orders modify the original Certificates of Appropriation for the above referenced water rights, 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 metering requirements should be directed to our staff at the Garden City Field Office, which can be contacted at 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

Garden City Field Office

Groundwater Management District No. 3

Natasha te Velde, Alfalfa Farms

#### 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 the Kansas Department of Agriculture, Attn: Legal Section, 1320 Research Park Drive, Manhattan, Kansas 66502, or by 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 the Secretary of Agriculture, Attn: Legal Division, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, or by FAX (785) 564-6777.

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

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

#### CERTIFICATE OF SERVICE

On this day of April , 2024, I hereby certify that the attached original Approval of Application for Change under Water Right, File No. 10,626 dated April 9 , 2024, was mailed postage prepaid, first class, US mail to the following:

SYRACUSE DAIRY LLC 751 SE CR 36 SYRACUSE KS 67878-7822

With a true & correct copy sent to:

ALFALFA FARMS NATASHA TE VELDE 322 N GATES ST SYRACUSE KS 67878

With photocopies to:

KDA-DWR Garden City Field Office

Southwest Kansas GMD No. 3

Staff