

NOTICE

This scan only represents the application as filed. The information contained herein meets the requirements of K.A.R. 5-3-1 or K.A.R. 5-5-1, and has been found acceptable for filing in the office of the Chief Engineer. The application should not be considered to be a complete application as per K.A.R. 5-3-1b or K.A.R. 5-5-2a.

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 TERM PERMIT TO ESTABLISH A MULTI-YEAR FLEX ACCOUNT

WATER RESOURCES RECEIVED



DEC 18 2020

(GROUNDWATER ONLY)

State of Kansas

STATUTORY FILING FEE OF \$400.00 MUST ACCOMPANY THIS APPLICATION
(Make check payable to the Kansas Department of Agriculture)

20207030-MF

Multi-Year Flex Accounts (also known as "MYFAs") allow for water management and improved conservation via a term permit for five years of flexible water planning. At the conclusion of the five years, a return to the authorizations under the base water right(s) is automatic. The MYFA program usually can be continued for an additional five-year term, however, by applying for another MYFA term permit when the previous term permit has expired.

Please note that basic requirements under state laws still exist. A list of legal requirements and recommended management practices is part of this application, as "Attachment A". The terms of this application and the requirements of its Attachment A will be incorporated as conditions of any approved MYFA application and term permit, unless otherwise stated in the approval order.

MYFA Term Permit File No. _____ (to be completed by DWR staff)

1. Application is hereby made for approval of the Chief Engineer to establish a Multi-Year Flex Account beginning with calendar year 2020 for a point of diversion authorized under File No(s). 15408

Notes: During the period of the MYFA, the base water right(s) is suspended and may be exercised only under the specific conditions described in K.A.R. 5-16-7.

Base water right(s) must be certified.

Multiple base water rights that have an exact overlap in both point of diversion and place of use must all be included on a single MYFA term permit.

2. Name and address of applicant: Ted Smith
7600 E Road 8 Ulysses, KS Phone Number: (620) 290-3949
E-mail Address: smith.tedalan@gmail.com Agent Owner Tenant (check one)

3. Name and address of water use correspondent: Marshall Smith
14548 E Road 5 Satanta, KS Phone Number: (620) 271-4080
E-mail Address: marshallsmith@agapemail.net

4. The proposed place of use under this MYFA is: Same as base water right(s) Supplemental sheet attached
Owner of Land --- NAME: Jerrell Nightingale
ADDRESS: PO Box 437 Montezuma, KS 67867

5. The point of diversion subject to this application, is as follows:
One well or the geographic center of a battery of wells, located in the _____ Quarter of the _____ Quarter of the NE Quarter of Section 11, more particularly described as being near a point 5215 feet North and 350 West of the Southeast Quarter of said section, in Township 28 South, Range 36 East x West (check one) in Grant County, Kansas.

6. All beneficial uses of water authorized under the base water right(s) shall be authorized by a MYFA term permit. If the base water right(s) pertaining to this MYFA authorizes more than one type of use, specify the type of use to be authorized under this specific MYFA term permit (i.e., irrigation, stockwatering, etc.).

7. The Rate of Diversion for the point of diversion to be authorized by this application is not to exceed 670 x gpm cfs (check one). The rate of diversion cannot exceed the authorized rate of diversion for the point of diversion described under Paragraph No. 5 above.

FO 4 GMD 3		IRR		GT	
For Office Use Only:	F.O. <u>3</u> GMD <u>4</u>	Meets K.A.R. 5-3-1 (YES / NO) Use <u>STK</u>	County _____	By <u>BMM</u>	Date <u>12/22/20</u>
Code <u>TPF</u>	Fee \$ <u>400</u>	TR # _____	Receipt Date <u>12-18-2020</u>	Check # <u>1657</u>	

8. The proposed quantity of water deposited in the Multi-Year Flex Account shall not exceed the greatest of the following computations.

DEC 18 2020

Water Use Data (NOT to exceed authorized quantity) x AF <input type="checkbox"/> MGY (check one)		Reported acres lawfully irrigated:	
2000	209	2000	125
2001	115	2001	125
2002	259	2002	125
2003	229	2003	125
2004	241	2004	125
2005	195	2005	125
2006	194	2006	125
2007	204	2007	125
2008	245	2008	125
2009	225	2009	125

<p>8a. Average Use Calculation</p> <p>Average Water Use <u>211.6</u> AF</p> <p>Average Water Use <u>211.6</u> X 5 years = <u>1058.0</u> AF</p>	<p>8b. NIR Calculation</p> <p>Highest number of acres irrigated <u>125</u> X</p> <p><u>1.24</u> 50% NIR (per K.A.R. 5-5-12) in <u>Grant</u> County, KS:</p> <p><u>155</u> X 5 years X 110% = <u>852.5</u> AF/MGY</p>
<p>8c. Big Bend GMD#5 End Gun Removal Alternative Calculation (only applicable to base water right(s) within GMD#5)</p> <p>Authorized Quantity _____ AF/MGY X 90% X 5 years = _____ AF/MGY</p> <p><input type="checkbox"/> An approved, signed affidavit verifying that the end gun was removed must be submitted with this MYFA application to qualify for this calculation. In order to qualify for this calculation, the end gun must be removed for the entire duration of the proposed MYFA period.</p>	

Furthermore, in no case may the proposed MYFA quantity exceed the annual authorized quantity of the base water right(s) multiplied by 5.

<p>8d. Base Water Right Annual Authorized Quantity = <u>275</u> AF</p> <p>Five Times Authorized Quantity = <u>1375</u> AF</p>
--

- Add any applicable MYFA carryover quantity of _____ AF/MGY. MYFA carryover is only available when a new MYFA application is being filed during the calendar year in which an existing MYFA expires. The proposed carryover quantity may not exceed the base average usage as computed in 8a AND the proposed MYFA quantity may not exceed the annual authorized quantity of the base water right multiplied by 5 as computed in 8d.
- Subtract any applicable penalty, overage, or reduction in quantity of _____ AF/MGY.

9. The authorized quantity under this proposed Multi-Year Flex Account is not to exceed the following quantity to be diverted during the following five (5) consecutive calendar years.

<p><u>1058</u> X AF <input type="checkbox"/> MGY</p>	<p>January 1, <u>2020</u> through December 31, <u>2024</u></p>
---	---

The final authorized quantity will be determined by Division of Water Resources staff based on a review of base water right(s) documentation and may differ from these computations if an error was made (if the quantity is proposed to be reduced, you will be informed and provided an opportunity to withdraw this application).

A MYFA application must be filed with the Chief Engineer on or before December 31st of the first calendar year of the MYFA term for which the application is being made.

- 10. **By signing below as the owner or a duly authorized agent of the owner of the base water right(s)**, I understand that if this application is approved, a term permit will be issued for a period of not more nor less than five (5) consecutive calendar years and that this term permit will suspend the appropriation of water under the Certificate(s) of Appropriation for Beneficial Use of Water or the Vested Right(s) that is used as the base water right(s) for this MYFA, for the effective period of this MYFA. Such term permit will be subject to state law and applicable rules and regulations, including any applicable groundwater management district regulations. (See Attachment A.)
- 11. As owner/authorized agent regarding this application, I agree to supply, upon request, any additional documentation necessary to support DWR's review of this application. I understand that failure to provide all necessary documentation in support of this proposed MYFA will result in the dismissal of this application. Further, I understand that such dismissal will result in the loss of the application filing fee, but shall not limit the applicant's standing to file subsequent MYFA term-permit applications on this base water right(s) or other base water right(s).
- 12. **I declare that I am the owner of the base water right(s) identified herein, or that I am the representative of the same and I am authorized to make this application in such owner's behalf, and I declare further that the information provided herein is true, correct, and complete to the best of my knowledge.**
- 13. By signing below, I acknowledge that during the period authorized pursuant to the Multi-Year Flex Account, all conditions thereof are binding upon all owners, heirs, successors, assignees, or lessees of the base water right(s).

NOTE: To be accepted for filing, this application must be signed by at least one owner of the base water right(s) or an authorized representative of same. Before the MYFA can be established and the term permit approved, however, all of the owners of the base water right(s), or their respective authorized representatives, must verify under oath or affirmation that the statements herein are true and complete. If an individual owner is married, the spouse must also sign. Please indicate if there is no spouse. If a water right is being purchased under contract, either by itself or as part of a land transaction, then the seller must sign as owner of the water right 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 this application before any notary public conveniently available to them. All copies signed in this manner shall be considered to be valid parts of this application.

If this application is signed on behalf of any owner by someone with legal authority to do so (e.g., an agent, one who has power of attorney, or an executor, executrix, conservator), it will be necessary to attach proper documents showing such authority.

Dated at Ulysses, Kansas, this 11th day of December, 2020.

 (Owner) Signature
Jerrell Nightingale (Deceased)
 (Owner) Print

Alfreda Nightingale
 (Spouse) Signature
Alfreda Nightingale
 (Spouse) Print

 (Owner) Signature

 (Owner) Print

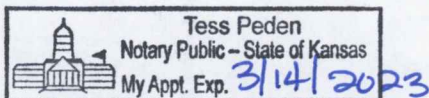
 (Spouse) Signature

 (Spouse) Print

State of Kansas)
) SS
 County of Grant)

WATER RESOURCES RECEIVED
 DEC 18 2020
 KS DEPT OF AGRICULTURE

I hereby certify that the foregoing application was signed in my presence and sworn to before me this 11th day of December, 2020.



Tess Peden
 Notary Public

DEC 18 2020

Attachment A

The Multi-Year Flex Account term permit is based upon an existing water right(s). The base water right(s) is, in effect, suspended during the term of the MYFA term permit and may be exercised only under the specific conditions described in K.A.R. 5-16-7. Once the MYFA term ends, however, the base water right(s) resumes, unless the right(s) has been placed in another MYFA or other special program. Unless otherwise stated in the MYFA approval order and term permit or as provided by law, the legal requirements for the base water right(s) apply to the MYFA.

The following are requirements and recommendations regarding any MYFA. The requirements will be incorporated as conditions into any approved MYFA application and term permit, unless otherwise stated in the approval order.

Requirements:

- A. The applicant/owner/operator will ensure that, prior to the actual first use of water under the MYFA term permit, there is a properly installed water flowmeter on each approved point of diversion under the base water right(s), which flowmeter and its installation meet all of the current specifications described in K.A.R. 5-1-4 through 5-1-12.
- B. Each such installed water flowmeter and the measuring chamber shall be sealed to the diversion works at the point of diversion in a manner to ensure that the flowmeter and the measuring chamber cannot be removed and reinstalled without breaking the seal, and each water flowmeter register shall be sealed in a manner to ensure that the register cannot be manipulated without breaking the seal.
- C. The applicant/owner/operator agrees to allow the inspection of the water flowmeter installed to measure water use.
- D. The applicant/owner/operator agrees to report any and all instances which result in a water flowmeter malfunction on the next business day following the discovery of said malfunction.
- E. The applicant/owner/operator agrees to repair or replace any malfunctioning water flowmeter within seven (7) days of the discovery of the malfunction or within any authorized extension of time needed to complete the repairs. Any repaired or replaced water flowmeter shall be equipped with anti-reverse gears, and the repair or replacement of the malfunctioning flowmeter will result in the flowmeter and its installation meeting current specifications.
- F. The applicant/owner/operator agrees to notify the Division of Water Resources in writing on a Water Flowmeter Repair/Replacement Report form prescribed by the Chief Engineer, of the water flowmeter installation and any water flowmeter repair or replacement event.
- G. The applicant/owner/operator agrees to maintain a record of the quantity diverted under the MYFA term permit at the first of each month of the period of authorization. Further, the applicant/owner/operator agrees to make such information available upon request by the Chief Engineer or his/her authorized representative. If verifiable records to establish water use are not available for a particular year during the MYFA period, then DWR may make certain assumptions on water use for that year, including assigning 150% of the maximum annual quantity of the base water right(s) to that year, or DWR may assess civil penalties and/or revoke the MYFA term permit and suspend the base water right(s) for the duration of the term permit period, pursuant to K.S.A. 82a-736 and other applicable law. (See strongly recommended practices below, regarding backup measurements.)
- H. The use made of water authorized pursuant to the approved MYFA shall not be changed during the period of the MYFA.
- I. Any change in the point of diversion or place of use will be based on a change to the base water right(s).
- J. The MYFA, just like the base water right(s), remains subject to any and all Orders of the Chief Engineer, which includes, but is not limited to: Minimum Desirable Streamflow, Intensive Groundwater Use Control Areas, Local Enhanced Management Areas and/or orders related to impairment of a senior water right.
- K. Failure to comply with the above referenced stipulations and conditions may result in revocation of the MYFA term permit and the suspension of the base water right(s) for the duration of the term permit period, and/or the assessment of civil penalties as provided in K.S.A. 82a-736, K.A.R. 5-14-10, and other applicable law.

Strongly recommended practices:

Backup measurements: The applicant/owner/operator is strongly encouraged to install and keep verifiable records from a backup water flowmeter or alternate measurement device, such as an hour-meter or other newer technology. In the event that the water flowmeter is broken or found to be inaccurate, the backup measurements may allow DWR to determine the actual amount of water used when accurate water flowmeter records are not available. If there are questions about appropriate backup sources, please contact your local GMD, DWR Field Office, or any private meter resource.

By initialing, the applicant/owner/operator acknowledges receipt of this Attachment A TS

Kansas Department of Health and Environment
Office of Vital Statistics
CERTIFICATE OF DEATH

WATER RESOURCES
RECEIVED

DEC 18 2020

115-2020-22924

KS DEPT. OF AGRICULTURE State File Number

1. Decedent's Legal Name (First, Middle, Last) JERRELL DEWANE NIGHTINGALE		2. Sex MALE	3. Date Of Death (Month, Day, Year) 10/19/2020	4. Social Security Number 443-48-0040	5. Date Filed By State Registrar 10/27/2020
6. Last Name Prior to First Marriage	7a. Date Of Birth 09/03/1942	7b. Age 78 YEAR(S)	8. Place Of Birth (City And State Or Foreign Country) OKEENE, OKLAHOMA		9. Decedent Ever In U.S. Armed Forces NO
10a. Place Of Death INPATIENT	10b. Facility Name (If Not Institution, Street And Number) ST JOHN HOSPITAL		10c. County Of Death LEAVENWORTH	10d. Zip Code 66048	
10e. City or Town Of Death LEAVENWORTH	11. Marital Status MARRIED	12. Surviving Spouse (Name Prior to First Marriage) ALFREDA P. BOEHS		13a. Residence - Street Address 102 S FRY ST	
13b. State or Foreign Country KANSAS	13c. Country or Province GRAY	13d. City or Town MONTEZUMA	13e. Zip Code 67867	13f. Inside City Limits YES	
14. Decedent's Ancestry AMERICAN		15. Decedent's Race WHITE			
16. Decedent's Hispanic Origin NOT SPANISH, HISPANIC, LATINO					
17. Decedent's Education 9TH - 12TH GRADE, NO DIPLOMA		18. Decedent's Occupation FARMER		19. Decedent's Industry AGRICULTURE	
20. Father/Parent Birth Name (First, Middle, Last) REUBEN NIGHTINGALE			21. Mother/Parent Birth Name (First, Middle, Last) TENA SMITH		
22a. Informant's Name (First, Middle, Last) ALFREDA P. NIGHTINGALE		22b. Mailing Address (Street, Number, City, State, And Zip Code) PO BOX 357, MONTEZUMA, KANSAS, 67867		22c. Relationship To Decedent WIFE	
23. Method Of Disposition BURIAL	24a. Place Of Disposition GRANT MENNONITE CEMETERY		24b. Location ULYSSES, KANSAS		
25. Funeral Service Licensee And License Number /e/DARRIN W. FIGGINS - 2411			26. Name Of Embalmer And License Number CHRISTEN J CAMPBELL - 3906		
27. Name And Address Of Firm: GARNAND FUNERAL HOME-ULYSSES, 405 W GRANT AVE, ULYSSES, KANSAS, 67880					
28. Cause Of Death - Part I. Events (diseases, injuries, or complications) that directly caused the death. IMMEDIATE CAUSE (Final Disease Or Condition Resulting In Death) A) CARDIOPULMONARY ARREST B) ACUTE HYPOXIC RESPIRATORY FAILURE C) ASPIRATION PNEUMONIA DYSPHAGIA Conditions, if any, leading To cause listed on line A) UNDERLYING CAUSE (disease or injury that initiated the events resulting in death) LISTED LAST DEMENTIA OF ALZHEIMER TYPE					Approximate Interval: Onset To Death A) MINUTES B) HOURS C) DAYS D) DAYS
29a. Autopsy NO			29b. Autopsy Findings Available To Complete The Cause Of Death		29c. Coroner Contacted NO
30. Did Tobacco Use Contribute To Death? NO		31. If Female:			32. Manner Of Death NATURAL
33a. Date Of Injury	33b. Time Of Injury	33c. Injury At Work	33d. How Injury Occurred		
33e. Place Of Injury			33f. Location (Street And Number Or Rural Route, City Or Town, State, And Zip Code)		
34a. Date Pronounced Dead 10/19/2020	34b. Time Pronounced Dead 11:32 AM	34c. Actual Or Presumed Time Of Death 11:32 AM		34d. Name Of Person Pronouncing Death	
34e. License No.		34f. Address And Zip Code Of Person Completing Cause Of Death			
35a. Pronouncing and Certifying Physician /e/AHMED M. MADI - MD		35b. License No. 0431637	35c. Date Certified 10/26/2020	35d. Address And Zip Code Of Person Completing Cause Of Death 22919 W 48TH TERRACE, SHAWNEE, KANSAS, 66226	

VS231A - Rev. 10/11/2016

10/27/2020 V210000292606 01 NIGHTINGALE 202004022924 15 FH

This is a true and correct copy of the official record on file in the Office of Vital Statistics,
Topeka, Kansas, certified on the date stamped below.

STATE SEAL COLOR WILL FADE WHEN RUBBED

2020 OCT 27 PM 02:44



Kay Haug

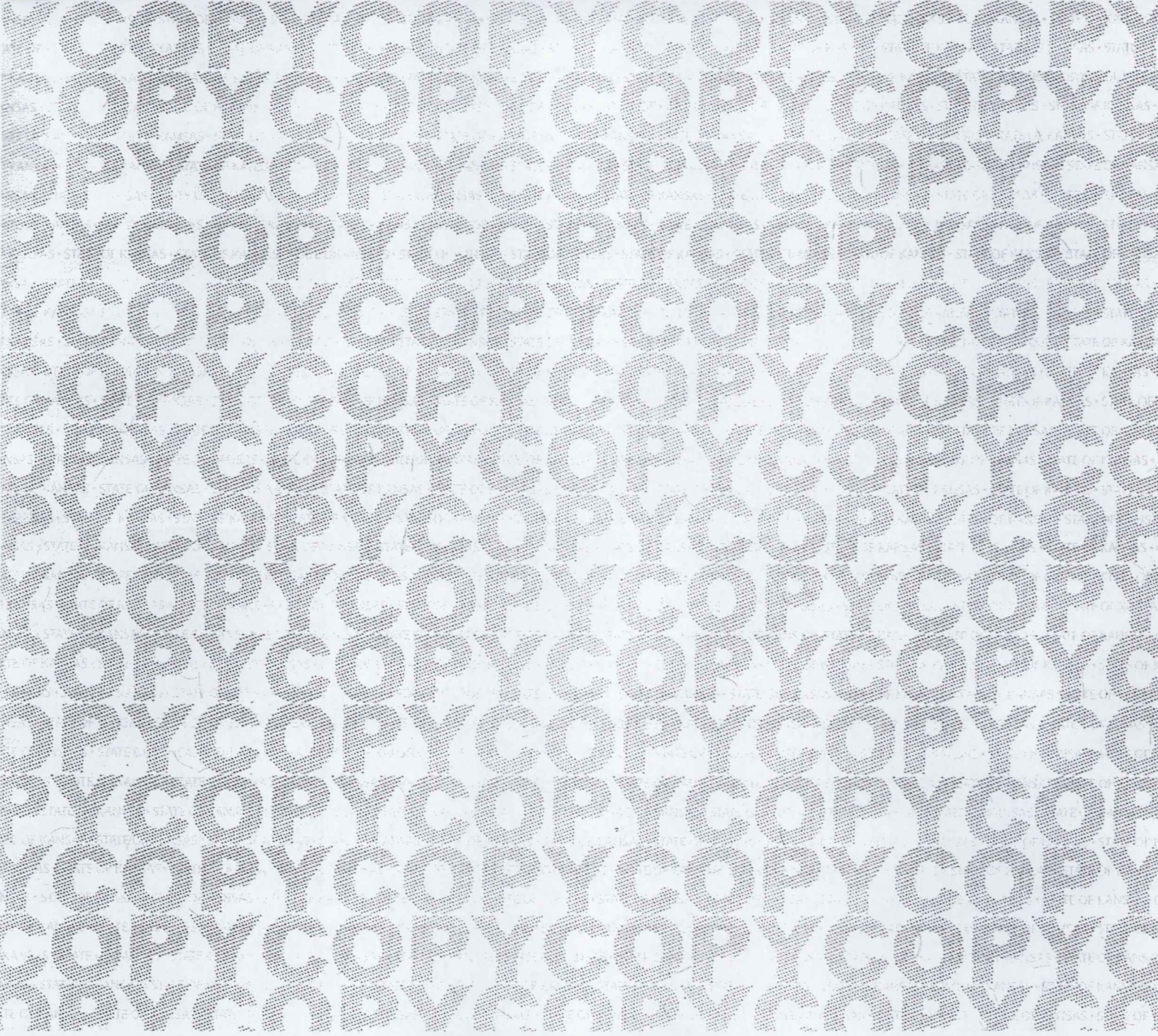
WATER RESOURCES
RECEIVED
DEC 18 2020
KS DEPT. OF AGRICULTURE

Kay Haug,
State Registrar
Office of Vital Statistics
Department of Health & Environment

N1668133

It is in violation of KSA 65-2422d(g) to prepare or issue any certificate which purports to be an original, certified copy or abstract or copy of a certificate, except as authorized in the Uniform Vital Statistics Act or rules and regulations adopted under this act.

CERTIFIED COPIES WILL BE PRODUCED ON WATERMARKED MULTI-COLOR SECURITY PAPER.



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



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

Mike Beam, Secretary

Laura Kelly, Governor

December 23, 2020

TED SMITH
7600 E ROAD 8
ULYSSES KS 67880

RE: Application, File No(s). **20207030-MF**

Dear Sir or Madam:

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

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

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

Sincerely,

A handwritten signature in black ink that reads "Kris Neuhauser". The signature is written in a cursive style with a long horizontal flourish at the end.

Kris Neuhauser
New Applications Lead
Water Appropriation Program

DATA ENTRY SYSTEM ID NUMBER SHEET

20207030-MF

FILE NUMBER _____

APPLICANT PERSON ID & SEQ #	32273	PDIV ID	BATTERY ID
33705			

LANDOWNER PERSON ID & SEQ #	19113	PUSE ID
22828	30535	

WATER USE CORRESPONDENT PERSON ID & SEQ #
33705