

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**

**(GROUNDWATER ONLY)**

WATER RESOURCES  
 RECEIVED  
 DEC 29 2016  
 10:40  
 State of Kansas  
 KS DEPT OF AGRICULTURE

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

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. 20167098 MF (to be completed by DWR staff)**

1. Application is hereby made for approval of the Chief Engineer to establish a Multi-Year Flex Account for a point of diversion authorized under (base water right(s) must be certified) File No(s). 27,649

Note that 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.

Note also that 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: David R Cross  
1118 200th Avenue, Lewis, KS 67552-5117 Phone Number: (620) 357-5219  
 E-mail Address: crossbro@gbta.net Tenant

3. Name and address of water use correspondent: David R Cross  
1118 200th Avenue, Lewis, KS 67552-5117 Phone Number: (620) 357-5219  
 E-mail Address: crossbro@gbta.net

4. The proposed place of use under this Multi-Year Flex Account is:  Same as base water right(s)\*\*  
 Owner of Land ---- NAME: Patrice E Cross Revocable Trust  
 ADDRESS: PO Box 23811, Overland Park, KS 66283

(If there is more than one landowner, attach supplemental sheets as necessary.)

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		

Owner of Land ---- NAME: N/A  
 ADDRESS: N/A

(If there is more than one landowner, attach supplemental sheets as necessary.)

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		

\*\*The proposed Place of Use shall include any and only acreage that is currently authorized under the base water right(s). Checking this box signifies that the proposed place of use for the MYFA is identical to the base water right(s) and thus completion of this table is not required.

For Office Use Only:  
 F.O. 2 GMD 5 Meets K.A.R. 5-3-1 (YES/NO) Use FRP County ED By ASW Date 12/24/16  
 Code 1 PF Fee \$ 400 TR # \_\_\_\_\_ Receipt Date 12/29/16 Check # 59602

5. The point of diversion authorized by base Water Right, File No(s). 27,649, and subject to this application, is as follows:  
 One well, located in the SE Quarter of the SE Quarter of the NW Quarter of Section 34, more particularly described as being near a point 2,848 feet North and 2,788 West of the Southeast Quarter of said section, in Township 24 South, Range 17 West in Edwards County, Kansas.
6. All beneficial uses of water authorized under the base water right(s) shall be authorized by a Multi-Year Flex Account 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.).  
Irrigation
7. The Rate of Diversion for the point of diversion to be authorized by this application is not to exceed 745 g.p.m.. The rate of diversion cannot exceed the authorized rate of diversion for the point of diversion described under Paragraph No. 5 above.
8. The quantity of water deposited in the Multi-Year Flex Account shall not exceed the greatest of the following computations. Furthermore, 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).

Water Use Data (NOT to exceed authorized quantity) (178 AF)		Reported acres lawfully irrigated:	
2000	<b>162</b>	2000	<b>130</b>
2001	<b>148</b>	2001	<b>130</b>
2002	<b>258 (178)</b>	2002	<b>130</b>
2003	<b>202 (178)</b>	2003	<b>130</b>
2004	<b>153</b>	2004	<b>130</b>
2005	<b>192 (178)</b>	2005	<b>130</b>
2006	<b>191 (178)</b>	2006	<b>130</b>
2007	<b>173</b>	2007	<b>130</b>
2008	<b>176</b>	2008	<b>130</b>
2009	<b>179 (178)</b>	2009	<b>130</b>

*CRC verified water use for original application 12/19/16 CRC*

<b>8a. Average Use Calculation</b> Average Water Use <u>170.2</u> AF Average Water Use <u>170.2</u> X 5 years = <u>851</u> AF		<b>8b. NIR Calculation</b> Highest number of acres irrigated <u>130</u> X <u>1.08</u> 50% NIR (per K.A.R. 5-5-12) in <u>Edwards</u> County, KS: <u>140.4</u> X 5 years X 110% = <u>772.2</u> AF	
<b>8c.</b> Base Water Right Annual Authorized Quantity = <u>178</u> AF Five Times Authorized Quantity = <u>890</u> AF			
<b>8d. Big Bend GMD#5 End Gun Removal Alternative Calculation</b> (only applicable to base water right(s) within GMD#5) Authorized Quantity <u>178</u> AF X 90% X 5 years = <u>801</u> AF			
<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.			

- Add any applicable MYFA carryover quantity of 39 AF, providing a remaining total of 890 AF. 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.

Subtract any applicable penalty, overage, or reduction in quantity of \_\_\_\_\_ AF, providing a remaining total of \_\_\_\_\_ AF. The proposed MYFA quantity may not exceed the annual authorized quantity of the base water right multiplied by 5.

- 9. The authorized quantity under this proposed Multi-Year Flex Account is not to exceed **890** AF to be diverted during a period of five (5) consecutive calendar years beginning January 1, 2017 and ending December 31, 2021.  
A MYFA application must be filed with the Chief Engineer on or before October 1 of the first 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 Overland Park, Kansas, this 13th day of December, 2016.

Patrice E. Cross, Tr  
(Owner) Signature

PATRICE E. CROSS  
(Owner) Print

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

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

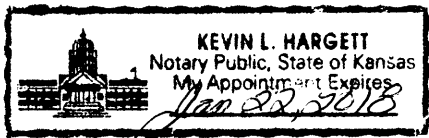
John H. Cross, Tr  
(Spouse) Signature

John H. Cross, Tr.  
(Spouse) Print

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

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

State of Kansas )  
County of Johnson ) SS



I hereby certify that the foregoing application was signed in my presence and sworn to before me this 13th day of December, 2016

WATER RESOURCES RECEIVED

Kevin L. Hargett  
Notary Public

DEC 29 2016  
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Comm. Expires Jan. 22, 2018

## **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** *ADR 12-9-16*

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

December 29, 2016

DAVID R CROSS  
1118 200TH AVE  
LEWIS KS 0

FILE COPY

RE: Application  
File No. 20167098 MF

Dear Sir or Madam:

Your application for permit to appropriate water in 34-24S-17W in Edwards County, was received and has been assigned the file number noted above.

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. Once review of your application has begun, we will contact you, if additional information is required.

In accordance with the provisions of the Kansas Water Appropriation Act, a portion of which is included below, the use of water as proposed prior to approval of the application is unlawful. 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, P.G.  
Change Application Unit Supervisor  
Water Appropriation Program

BAT: dlw  
pc: STAFFORD Field Office  
GMD 5