

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)

DEC 29 2016  
10:42  
KS DEPT OF AGRICULTURE  
State of Kansas

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

We are pleased that you are considering the use of a Multi-Year Flex Account to assist in your water management planning. Flex accounts offer a new tool to assist in crop planning and water management. We understand that the best crop and water use decisions are made in the field, at the local level.

The concept behind Multi-Year Flex Accounts is that water management and improved conservation is best left to you - the owner / operator. Flex accounts give you five years of flexible water planning. At the conclusion of the five years, you may return to normal use, with no change in your base water right. If the flex account tool is useful to you, you can continue with the program for an additional five-year term by filing for another flex account when this term has expired.

Please note, that as a water right owner operator, you have basic requirements under state laws. You also have responsibilities to manage this valuable water asset. A list of laws, regulations and suggested management practices for your consideration are included with this application as "Attachment A".

Term Permit File No. 20167000MF (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) 32,584 ID#2 (NE¼ of Sec. 27)

Note that during the period of the Multi-Year Flex Account, the base Water Right(s) is suspended, and may be exercised only under the specific conditions described in K.A.R. 5-16-7.

\*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 Multi-Year Flex Account 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 Agent Owner Tenant (circle one)

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\*\*

Owner of Land ---- NAME: Mary A Cross ET AL

ADDRESS: PO Box 335, Lewis, KS 67552

(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: \_\_\_\_\_

(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 Multi-Year Flex Account is identical to the base water right(s) and 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 ED County ED By AJW Date 12/29/16  
 Code TPE Fee \$ 400 TR # \_\_\_\_\_ Receipt Date 12/29/16 Check # 4962

1/5/2017 LLM

5. The point of diversion authorized by base Water Right, File No(s). 32,584 ID#2, and subject to this application, is as follows:  
 One well, located in the \_\_\_\_\_ Quarter of the **NC** Quarter of the **NE** Quarter of Section **27**, more particularly described as being near a point 3,920 feet North and 1,300 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 permit. If the base water right(s) pertaining to this flex account authorizes more than one type of use, specify the type of use to be authorized under this specific flex account 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 805 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 the application).

Water Use Data (NOT to exceed authorized quantity) (121 AF)		Reported acres lawfully irrigated:	
2000		2000	130
2001		2001	130
2002		2002	130
2003		2003	130
2004		2004	130
2005		2005	130
2006		2006	130
2007		2007	130
2008		2008	130
2009		2009	130

8a. <u>Average Use Calculation</u>	8b. <u>NIR Calculation</u>
Average Water Use <u>n/a</u> AF/MGY	Highest number of acres irrigated <u>130</u> X
Average Water Use <u>n/a</u> X 5 years = <u>n/a</u> AF/MGY	<u>1.08</u> 50% NIR (per K.A.R. 5-5-12) in <b>ED</b> County, KS:
	<u>140.4</u> X 5 years X 110% = <u>772.2</u> AF
8c. Base Right Annual Authorized Quantity = <u>121</u> AF	
Five Times Authorized Quantity = <u>605</u> AF	

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

9. That the authorized quantity under this proposed Multi-Year Flex Account is not to exceed 605 AF to be diverted during a five consecutive calendar year period beginning **January 1, 2017** and ending **December 31, 2021**.

(An application for a Multi-Year Flex Account shall be filed with the chief engineer on or before October 1 of the first year of the Multi-Year Flex Account term for which the application is being made.)

10. That as the owner, or a duly authorized agent of the owner, by signing below, 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 of Appropriation for Beneficial Use of Water or the Vested Right that is used as the basis for this Multi-Year Flex Account for the effective period of the Flex Account. The Term Permit is subject to state law and applicable rules and regulations including any applicable groundwater management district regulations. See Attachment A.

As landowner/agent pursuant to this application, I agree to supply upon request any additional documentation necessary to support the review of this application. I understand that failure to provide all necessary documentation in support of this proposed Multi-Year Flex Account will result in the dismissal of the 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 Multi-Year Flex Account Applications for Term Permit on this base water right or other base water rights.

The undersigned declares that as owner of the authorized place of use as identified herein, or representative of the same, I am authorized to make this application in his or her behalf, and declare further that the information provided herein is true, correct, and complete to the best of my knowledge.

By signing, I acknowledge that during the period authorized pursuant to the Multi-Year Flex Account, all conditions are binding upon all owners, heirs or assignees.

NOTE: The application must be signed by each owner of the authorized place(s) of use covered by the water right. If married, the spouse must also sign. 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.

Dated at Overtland Park, Kansas, this 14 day of December, 2016.

Charlotte J. Worley  
(Owner) Signature

Michael D. Worley  
(Spouse) Signature

Charlotte J. Worley  
(Owner) Print

Michael D. Worley  
(Spouse) Print

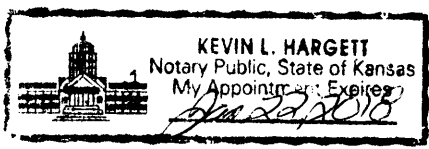
\_\_\_\_\_  
(Owner) Signature

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

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

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

State of Kansas )  
County of Townsend ) SS



I hereby certify that the foregoing application was signed in my presence and sworn to before me this 14<sup>th</sup> day of December, 2016.

Kevin L. Hargett  
Notary Public  
Comm. Expires Jan. 22, 2018

WATER RESOURCES RECEIVED

DEC 29 2016

## **Attachment A**

Landowners/Operators are the critical component in the success of Multi-Year Flex Accounts and, in fact, to all water rights administration. Good records and measurement are keys to insuring that all water users are able to maximize use, while, to the extent possible, conserving this natural resource. The legal requirements for a Multi-Year Flex Account mirror the requirements for any water right.

The following are requirements or suggestions provided for your consideration:

**Requirements:** The Multi-Year Flex Account is based upon an existing water right. The base Water Right(s) is, in effect, suspended during the term of the Flex Account, and may be exercised only under the specific conditions described in K.A.R. 5-16-7. However, once the Flex Account term ends, the base water right resumes, unless the right is placed in another Flex Account or other special program;

- A. Except as noted below in paragraph C., the applicant will ensure there is a properly installed water flowmeter on the approved diversion works prior to the actual first use of water which meets all of the current specifications described in K.A.R. 5-1-4 through 5-1-12;
- B. That the applicant agrees to allow the inspection of the flowmeter installed to measure water use;
- C. If the flowmeter was properly installed prior to current specifications, Division of Water Resources (DWR) may grant an exception from current specifications if the meter flow tests accurately. An inaccurate meter will require a meter installation that meets current specifications;
- D. That the applicant 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. That the applicant agrees to repair or replace said flowmeter within 15 days of the discovery of any malfunction or within any authorized extension of time needed to complete the repairs. The replacement of said flowmeter will result in the new flowmeter meeting current specifications;
- F. That the applicant agrees to notify the Division of Water Resources in writing on a form prescribed by the Chief Engineer of the water flowmeter installation and any water flowmeter repair or replacement event;
- G. That the applicant agrees to maintain a record of the quantity diverted under the approval of this Multi-Year Flex Account at the first of each month of the period of authorization. Further, the applicant agrees to make such information available upon request by the Kansas Department of Agriculture, Division of Water Resources, Chief Engineer or his/her authorized representative;
- H. The place of use or use made of water authorized pursuant to the proposed Multi-Year Flex Account shall not be changed during the period of the Multi-Year Flex Account;
- I. Any change in the point of diversion will be based on a change to the base water right;
- J. The Multi-Year Flex Account, just like the base water right, 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 Multi-Year Flex Account permit, and imposition of penalties as provided in K.A.R. 5-14-10;

### Suggested practices:

*Backup measurements;* The owner is strongly encouraged to install and keep records from a backup flowmeter or alternate measurement device, such as an hour-meter or other newer technology. In the event that your water flowmeter is broken or found to be inaccurate, the backup measurements may allow DWR to determine the amount of water used while accurate water flowmeter records are not available. If alternative records to establish water use were not available, DWR will be required to make basic assumptions on water use during the period. This may include assigning 150% of the maximum annual quantity of the base water right to that year. We would prefer to have back up data that reflects the water you actually used. If you have questions about appropriate backup sources, please contact your local GMD, DWR or any private meter resource.

### More on meters:

*Sealing meters;* Most water rights holders are conscientious stewards of water, understanding and appreciating its value and using it according to rules and regulations. Unfortunately, not everyone follows the rules. A few use dishonest practices that allow them to overuse water to the detriment of their neighbors. DWR and the GMD's have determined that a program that "seals" a meter, upon its being found to be accurate and/or is fully in compliance with current specifications, ensures that everyone is "playing by the rules" and maximizes the value of water use.

### *Here is how the sealing works:*

- a. The water flowmeter and the measuring chamber are sealed to the diversion works in a manner to ensure the flowmeter and the measuring chamber may not be removed and reinstalled without breaking the seal.
- b. In addition, the water flowmeter register is sealed in a manner to ensure that the register may not be manipulated without breaking the seal;
- c. Once a meter is sealed, DWR must be notified and authorize breaking any seal;

*Anti-Reverse Mechanisms provide additional assurance that the metered quantity is reliable.* We require that any water flowmeter replaced during the duration of the Multi-Year Flex Account be upgraded or replaced with anti-reverse flow mechanisms;

**By initialing, the applicant acknowledges receipt of this attachment \_\_\_\_\_**

10. That as the owner, or a duly authorized agent of the owner, by signing below, 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 of Appropriation for Beneficial Use of Water or the Vested Right that is used as the basis for this Multi-Year Flex Account for the effective period of the Flex Account. The Term Permit is subject to state law and applicable rules and regulations including any applicable groundwater management district regulations. See Attachment A.

As landowner/agent pursuant to this application, I agree to supply upon request any additional documentation necessary to support the review of this application. I understand that failure to provide all necessary documentation in support of this proposed Multi-Year Flex Account will result in the dismissal of the 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 Multi-Year Flex Account Applications for Term Permit on this base water right or other base water rights.

The undersigned declares that as owner of the authorized place of use as identified herein, or representative of the same, I am authorized to make this application in his or her behalf, and declare further that the information provided herein is true, correct, and complete to the best of my knowledge.

By signing, I acknowledge that during the period authorized pursuant to the Multi-Year Flex Account, all conditions are binding upon all owners, heirs or assignees.

NOTE: The application must be signed by each owner of the authorized place(s) of use covered by the water right. If married, the spouse must also sign. 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.

Dated at Tulsa, ~~Kansas~~ <sup>Oklahoma</sup>, this 16<sup>th</sup> day of December, 2016.

Margaret I. Westphal  
(Owner) Signature

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

Margaret I. Westphal  
(Owner) Print

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

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

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

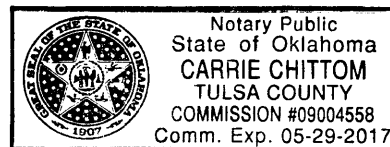
\_\_\_\_\_  
(Owner) Print

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

State of ~~Kansas~~ Oklahoma )  
County of Tulsa ) SS

I hereby certify that the foregoing application was signed in my presence and sworn to before me this 16<sup>th</sup> day of December, 2016.

Carrie Chittom  
Notary Public



WATER RESOURCES RECEIVED

DEC 29 2016

20167100MF

10. That as the owner, or a duly authorized agent of the owner, by signing below, 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 of Appropriation for Beneficial Use of Water or the Vested Right that is used as the basis for this Multi-Year Flex Account for the effective period of the Flex Account. The Term Permit is subject to state law and applicable rules and regulations including any applicable groundwater management district regulations. See Attachment A.

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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.

Dated at Lewis December 20, 2016 Kansas, this 20 day of December, 2016.

Mary A. Cross  
(Owner) Signature

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

Mary A. Cross  
(Owner) Print

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

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

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

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

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

State of Kansas )  
) SS  
County of Edwards )

I hereby certify that the foregoing application was signed in my presence and sworn to before me this 20<sup>th</sup> day of December, 2016.

Elizabeth Saenz  
Notary Public



WATER RESOURCES  
RECEIVED

DEC 29 2016

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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.

Dated at Overland Park, Kansas, this 13th day of December, 2016.

John H. Cross, Tr.  
(Owner) Signature

Patrice E. Cross, TR  
(Spouse) Signature

John H. Cross, Tr.  
(Owner) Print

PATRICE E. CROSS, TR  
(Spouse) Print

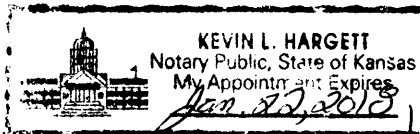
\_\_\_\_\_  
(Owner) Signature

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

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

\_\_\_\_\_  
(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.

Kevin L. Hargett  
Notary Public  
comm. expires Jan. 22, 2018

WATER RESOURCES  
RECEIVED

DEC 29 2016

KS DEPT OF AGRICULTURE

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. 20167100 MF

Dear Sir or Madam:

Your application for permit to appropriate water in 27-24S-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