

Kansas Department of Agriculture
Division of Water Resources
PERMIT OF NEW APPLICATION WORKSHEET

1. File Number: 20197002MF	2. Status Change Date: 2/27/2019	3. Field Office: 02	4. GMD: 02
5. Status: <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied by DWR/GMD <input type="checkbox"/> Dismiss by Request/Failure to Return			
6. Enclosures: <input type="checkbox"/> Check Valve <input type="checkbox"/> N of C Form <input type="checkbox"/> Water Tube <input type="checkbox"/> Driller Copy <input type="checkbox"/> Meter			
7a. Applicant(s) New to system <input type="checkbox"/> ROBERT L & VIRGINIA R FRIESEN REV TRUSTS 23001 NW 60TH ST BUHLER KS 67522-9626	Person ID 24938 Add Seq# _____	7c. Landowner(s) New to system <input type="checkbox"/>	Person ID _____ Add Seq# _____
7b. Landowner(s) New to system <input type="checkbox"/> <i>7a</i>	Person ID _____ Add Seq# _____	7d. Misc. New to system <input type="checkbox"/>	Person ID _____ Add Seq# _____
8. WUR Correspondent New to system <input type="checkbox"/> Overlap File (s) WUC Agree <input type="checkbox"/> Yes <input type="checkbox"/> No 7a	Person ID _____ Add Seq# _____ Notarized WUC Form <input type="checkbox"/>	9. Use of Water: Changing? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input checked="" type="checkbox"/> Groundwater <input type="checkbox"/> Surface Water <input checked="" type="checkbox"/> IRR <input type="checkbox"/> REC <input type="checkbox"/> DEW <input type="checkbox"/> MUN <input type="checkbox"/> STK <input type="checkbox"/> SED <input type="checkbox"/> DOM <input type="checkbox"/> CON <input type="checkbox"/> HYD DRG <input type="checkbox"/> WTR PWR <input type="checkbox"/> ART RECHRG <input type="checkbox"/> IND SIC: _____ <input type="checkbox"/> OTHER: _____	
10. Completion Date: <u>N/A</u>	11. Perfection Date: <u>N/A</u>	12. Exp Date: <u>12/31/2022</u> ²³	
13. Conservation Plan Required? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Date Required: _____ Date Approved: _____ Date to Comply: _____			
14. Water Level Measuring Device? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Date to Comply: _____ Date WLMD Installed: _____			
Date Prepared: 12/4/18 By: BMM Date Entered: 2/28/2019 By: LM			

File No. **20197002MF** 15. Formation Code: Drainage Basin: **Little Arkansas River** County: **HV** Special Use: Stream:

16. Points of Diversion										
MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W
CHK	10545	NC SW	16	24S 3W	2	1350	3960			

17. Rate and Quantity				
Authorized		Additional		
Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files
695	490.246	0	0	29935

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

19. Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) **o/l base right 29,935 temporarily suspended**
 Limitation: _____ af/yr at _____ gpm (_____ cfs) when combined with file number(s) _____

20. Meter Required? Yes No To be installed by _____ Date Acceptable Meter Installed _____

21. Place of Use										NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg?	Overlap Files
MOD	DEL	ENT	PUSE	S	T	R	ID	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						
CHK	33821	16	24S 3W	2								37.5	37.5	37.5	37.5									150	7a	N	29935		

Comments: **MYFA TERM**
Enter in Action Trail for Base Right, File No. 29,935: Suspended MYFA (2019)

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: February 27, 2019

FROM: Brandon Milner

RE: Multi-Year Flex Account Application,
File No, 20197002-MF
& Water Right, File No. 29,935

Robert Friesen has filed the above referenced Multi-Year Flex Account application to appropriate 490.246 acre-feet of groundwater to be diverted at 695 gallons per minute for irrigation use. File No. 20197002-MF overlaps in point of diversion and place of use with base right, Water Right, File No. 29,935. The flex account has a commencing date of January 1, 2019 and an ending date of December 31, 2023.

The quantity of water requested is 490.246 AF which is based on the calculation criteria given in K.S.A. 82a-736, is the NIR Calculation which is 130 Acres X 0.85(50% NIR) x 5 years X 110%. This value however has a reduction of 117.501 AF to give the total value of 490.246 AF. There was an error on the original application that mistakenly had the quantity of the reduction to be 117.504 AF. However the 0.003 AF difference is not enough quantity to re-complete the application therefore the total quantity will be kept to 490.246 AF.

The authorized quantity will be 490.246 acre-feet and Water Right, File No. 29,935 will be suspended from January 1, 2019 through December 31, 2023.

I received approval from GMD #2 on December 28, 2018 and have attached the letter. Cameron Conant recommended approval of this application on January 18, 2019.

Based on the above discussion, it appears that the proposed use of water is reasonable and meets the requirements of K.S.A. 82a-736 for Multi-Year Flex Accounts. It is recommended that the referenced application for term permit be approved for a term to begin on January 1, 2019 and expire on December 31, 2023.



Brandon Milner
Environmental Scientist

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, Interim Secretary

Laura Kelly, Governor

ROBERT L & VIRGINIA R FRIESEN REV TRUSTS
23001 NW 60TH ST
BUHLER KS 67522-9626RE:

FILE COPY
March 4, 2019
Base Right, Water Right, File No. 29,935
Multi-Year Flex Account, File No. 20197002-MF

Dear Mr. & Mrs. Friesen:

Enclosed is the order/permit executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, suspending the base right referenced above, and approving your Application for Term Permit to Establish a Multi-Year Flex Account, for File No. 20197002-MF. Your attention is directed to the enclosures and to the terms, conditions, limitations, and requirements specified in the Application and its "Attachment A", which are incorporated in this enclosed order/permit. The approval of this multi-year flex account term permit affords you the ability to divert water without annual limits, during the set period of January 1st, 2019 through December 31, 2023, inclusive. However, the use of water in excess of **490.246 acre-feet** within the five-year set period listed above, shall result in the immediate revocation of this multi-year flex account term permit, and imposition of penalties as provided in K.A.R. 5-14-10.

Prior to any further diversion of water, a water flowmeter which meets or exceeds specifications adopted by the Chief Engineer must be installed on each point of diversion authorized by the base right, and otherwise in accordance with Kansas Administrative Regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer. A seal will be placed on the water flowmeter by the Division of Water Resources in such a manner as to render the meter non-removable from the measuring chamber without breaking the seal. If the seal is broken without the written permission of the Chief Engineer, it shall constitute a violation of the order of the Chief Engineer. If the water flowmeter is repaired or replaced during the duration of the multi-year flex account, then such flowmeter must be equipped with an anti-reverse flow mechanism.

The applicant shall file an annual water use report with the Chief Engineer by March 1, following the end of each calendar year. Please note that the enclosed multi-year flex account term permit expires on **December 31, 2023**.

The approval of your application constitutes a term permit to appropriate water for beneficial use as set forth in the application. It does not constitute authority under K.S.A. 82a-301 through 305a, to construct any dam or other obstruction. It does not give authority to access any right-of-way, or authorize injury to, or trespass upon, public or private property, nor does it obviate the necessity of obtaining assent from federal or local governmental authorities, when necessary. Please be advised that K.S.A. 82a-728 sets forth, in essence, that it is unlawful to divert or threaten to divert water for the use you propose without first acquiring approval of the Chief Engineer of the Division of Water Resources.

If you have any questions, please contact our office at 785-564-6640. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

Kristen A. Baum
New Application Unit Supervisor
Division of Water Resources

KAB:bmm
Enclosure(s)
pc: Stafford Field Office
Equus Beds GMD No. 2

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Interim Secretary of Agriculture

DIVISION OF WATER RESOURCES
David W. Barfield, Chief Engineer

ORDER AUTHORIZING MULTI-YEAR FLEX ACCOUNT FOR BASE WATER RIGHT, FILE NO. 29,935 UNDER TERM PERMIT, FILE NO. 20197002-MF

After due consideration, the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture (hereinafter referred to as the "Chief Engineer"), makes the following ORDER:

ORDER

NOW, THEREFORE, It is the decision and order of the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, that effective the date of this Order, base Water Right, File No. 29,935 is suspended, and Term Permit, File No. 20197002-MF is approved. The total quantity of water that may be diverted during the period of January 1st, 2019 through December 31, 2023, under the authority of this Multi-Year Flex Account, Term Permit File No. 20197002-MF, **shall not exceed 490.246 acre-feet.**

At the time of this Order approving Multi-Year Flex Account, Term Permit File No. 20197002-MF, the point of diversion authorized by base Water Right, File No. 29,935, is as follows:

one (1) well located near the center of the Southwest Quarter (SW $\frac{1}{4}$) of Section 16, more particularly described as being near a point 1350 feet North and 3960 feet West of the Southeast corner of said section, in Township 24 South, Range 3 West, Harvey County, Kansas.

By law, this is the authorized point of diversion for the multi-year flex account term permit. The point of diversion authorized under this multi-year flex account term permit may change automatically upon the Chief Engineer's issuance of any approval of an application to change this authorized point of diversion under the base water right. Any such change shall amend the above recital of the authorized point of diversion of this multi-year flex account term permit to reflect the change and shall be incorporated by reference herein should any such change occur during the multi-year flex account period.

The Multi-Year Flex Account, Term Permit File No. 20197002-MF authorized place of use is as follows:

Sec.	Twp.	Range	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTAL
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
16	24S	3W									37.50	37.50	37.50	37.50					150

By this Order, base Water Right, File No. 29,935 and Term Permit, File No. 20197002-MF shall be subject to the terms, conditions, limitations, and requirements contained in the Application for Term Permit to Establish a Multi-Year Flex Account (including its "Attachment A"), which was received in the office of the Chief Engineer on **June 5, 2018** and which terms, conditions, limitations, and requirements are incorporated herein, in addition to the terms, conditions, limitations, and requirements provided below:

(over)

Use of water in excess of **490.246 acre-feet** within the five year set period of **January 1, 2019 through December 31, 2023**, shall result in the immediate revocation of the multi-year flex account term permit described in this Order, and imposition of penalties as provided in K.A.R. 5-14-10.

An acceptable water flowmeter shall be installed and maintained on the diversion works authorized by this Order, along with each point of diversion authorized by the base water right, and otherwise in accordance with Kansas Administrative Regulations 5-1-4 through 5-1-12 adopted by the Chief Engineer.

A seal shall be placed on the water flowmeter by the Division of Water Resources in such a manner as to render the meter non-removable from the measuring chamber without breaking the seal. If the seal is broken without the written permission of the Chief Engineer, this shall create a rebuttable presumption that the point of diversion was unlawfully operated.

If the multi-year flex account term permit can no longer be exercised because of an order issued by the Chief Engineer, including an intensive groundwater use control area order, a minimum desirable streamflow order, or an order to administer water rights to prevent impairment, then any base water right may be exercised to the extent that the following conditions are met: (a) The base water right is in priority, including priority with respect to any established minimum desirable streamflow. (b) The annual quantity of water authorized by the base water right has not been diverted during that calendar year. (c) The five-year quantity authorized by the term permit has not been completely used. (d) The use of water under the base water right does not impair water rights senior to the base water right.

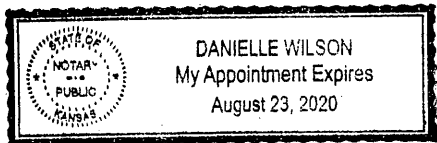
It is so ordered this *2nd* day of *February*, 2019, in Manhattan, Riley County, Kansas.

Lane P. Letourneau

Lane P. Letourneau, P.G.
Water Appropriations 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 *2nd* day of *February*, 2019, by Lane P. Letourneau, P.G., Water Appropriations Program Manager, Division of Water Resources, Kansas Department of Agriculture.



Danielle Wilson
Notary Public

JUDICIAL REVIEW

This is a final agency action as defined in K.S.A. 77-607(b)(2). You may pursue judicial review of this order as provided in the Kansas Act for Judicial Review (K.S.A. 77-601 *et seq.*). A petition for judicial review must be filed in a Kansas court of competent jurisdiction within 30 days after service of this Order as provided in K.S.A. 77-613. 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) 864-6777.

CERTIFICATE OF SERVICE

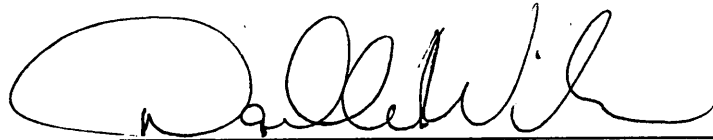
On this 4th day of March, 2019, I hereby certify that the foregoing Order, File No. 20197002-MF, dated February 27th, 2019, was mailed postage prepaid, first class, US mail to the following:

ROBERT L & VIRGINIA R FRIESEN REV TRUSTS
23001 NW 60TH ST
BUHLER KS 67522-9626

With photocopies to:

Stafford Field Office

Equus Beds GMD No. 2



Staff

APPLICATION COMPLETE

125119

Reviewer DAW

WATER RESOURCES RECEIVED

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)

JUN 06 2018
4:00



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)

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. 20197002MF
20187010MF (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) 29935

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: Robert L. Friesen
23001 N.W. 60TH Buhler, Kas Phone Number (620) 543-6514
E-mail Address _____ Agent (Owner) Tenant (circle one)

3. Name and address of water use correspondent: ROBERT L & VIRGINIA R FRIESEN REV TRUSTS
23001 NW 60TH ST BUHLER KS 67522-9626 Phone Number: ()
E-mail Address: _____

4. The proposed place of use under this Multi-Year Flex Account is: Same as base water right(s)**

Owner of Land ---- NAME: ROBERT L & VIRGINIA R FRIESEN REV TRUSTS
ADDRESS: 23001 NW 60TH ST BUHLER KS 67522-9626

(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: _____
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 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 2 Meets K.A.R. 5-3-1 (YES/NO) Use IRR County HU By ASW Date 6/5/18
 Code TPF Fee \$ 400 TR # _____ Receipt Date 6/5/18 Check # 16587

6/19/18 DAW

~~2018 7010 MF~~
2019 7002 MF

5. The point of diversion authorized by base Water Right, File No(s) 29935, and subject to this application, is as follows:

One well, located in the _____ Quarter of the _____ Quarter of the NC SW Quarter of Section 16, more particularly described as being near a point 1350 feet North and 3960 West of the Southeast Quarter of said section, in Township 24 South, Range 3 West in Harvey 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 695 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) (AF)		Reported acres lawfully irrigated:	
2000	86**	2000	130
2001	130**	2001	130
2002	121**(4 years no meter reads)	2002	130
2003	146	2003	130
2004	59	2004	130
2005	102	2005	130
2006	133	2006	130
2007	88	2007	130
2008	75	2008	130
2009	88	2009	130

<p>8a. Average Use Calculation</p> <p>Average Water Use <u>102.73</u> AF</p> <p>Average Water Use <u>102.73</u> X 5 years = <u>513.65</u> AF</p>	<p>8b. NIR Calculation</p> <p>Highest number of acres irrigated <u>130</u> X <u>0.85</u> 50% NIR (per K.A.R. 5-5-12) in <u>HV</u> County, KS: <u>110.5</u> X 5 years X 110% = <u>607.75</u> AF</p>
---	---

8c. Base Water Right Annual Authorized Quantity = 154 AF
Five Times Authorized Quantity = 770 AF

8d. **Big Bend GMD#5 End Gun Removal Alternative Calculation** (only applicable to base water right(s) within GMD#5)
Authorized Quantity _____ AF/MGY X 90% X 5 years = _____ AF/MGY

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 _____ AF, providing a remaining total of _____ 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.

JUN 05 2018

117.504
2018 7002AF
2019 7002AF

Subtract any applicable penalty, overage, or reduction in quantity of 117.504 AF, providing a remaining total of 490.246 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 490.246 AF to be diverted during a period of five (5) consecutive calendar years beginning January 1, 2019 and ending December 31, 2023. 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 Moundridge, Kansas, this 30th day of May, 2018

Robert L. Friesen
(Owner) Signature
ROBERT L. FRIESEN
(Owner) Print

(Spouse) Signature

(Spouse) Print

(Owner) Signature

(Owner) Print

(Spouse) Signature

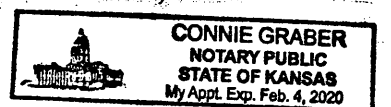
(Spouse) Print

State of Kansas)
County of Mpherson) SS

WATER RESOURCES
RECEIVED
JUN 05 2018

I hereby certify that the foregoing application was signed in my presence and sworn to before me on May, 2018 at Moundridge, Kansas, by Robert L. Friesen of Mpherson, Kansas.

Connie Graber
Notary Public



SCANNED

20187010MF
20197002MF

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

RLF

WATER RESOURCES
RECEIVED

JUN 05 2018

Milner, Brandon [KDA]

From: Conant, Cameron [KDA]
Sent: Friday, January 18, 2019 9:39 AM
To: Milner, Brandon [KDA]
Cc: Lanterman, Jeff [KDA]
Subject: FW: 20197002MF Application
Attachments: Memo 20197002MF.rtf; 20197002mf_rec.pdf

Hey Brandon,

I agree with the calculated quantity of 607.75 AF based on the NIR calculation. I agree that we incorrectly filled out the reduction in quantity to be 117.504 instead of 117.501 AF. Based on the CAFO dated June 12, 2018, No. 7 (b) (i) they have complied by not over pumping in 2018 (recent FO check) and the filed the MYFA by the appropriate deadline in 2018 (assume it was extended b/c the CAFO didn't go final until after the deadline in the CAFO). I should note the CAFO which is an order stated the reduced quantity of 117.501 AF and we made a mistake that effectively increased the reduced quantity to 117.504 AF. They ultimately signed the incorrect application, but if this was a larger quantity (literally, this mistake is 80 seconds of total pumping) I'd be inclined to pass this on to legal and see how the wording in the CAFO holds up against the wording in the actual filed MYFA (since we had an error filling it out).

So, all that said to say, the FO is good with approval on this one. I agree with the total quantity of 490.246 AF to be used from 2019-2023.

Please let me know if you have any questions. Thanks,

Cameron

From: Milner, Brandon [KDA]
Sent: Tuesday, January 15, 2019 3:37 PM
To: Conant, Cameron [KDA] <Cameron.Conant@ks.gov>
Subject: 20197002MF Application

Good Afternoon Cameron,

Attached is a memo for the new MYFA application that is located in Harvey County that is part of GMD #2. I have received their approval and will attach it to this email. This is a five year permit with a total of ~~490.246~~ 607.75 AF which is the five times the authorized quantity pumping at a max rate of 695 GPM. There is an overage of 117.501 that will lower the value to 490.246. This number will not equal out at 490.246 AF (~~490.246~~ 607.750 - 117.501 = 490.249) as the original application was signed for the 490.246 AF and the error in the reduction was changed from 117.504 AF to 117.501 AF. It overlaps and suspends water right file # 29,935. This application has asked to begin on the first of 2019 and extend to the end to 2023.

Please provide your recommendation. Thanks!

Brandon Milner | Environmental Scientist

Kansas Dept. of Agriculture | Division of Water Resources
Address: 1320 Research Park Dr., Manhattan, KS 66502
Phone: 785-564-6631

Milner, Brandon [KDA]

From: Fitch, Elizabeth [KDA]
Sent: Friday, January 11, 2019 8:48 AM
To: Milner, Brandon [KDA]
Subject: RE: Application 20197002MF Friesen Approval

Brandon,

We confirmed that Water Right, File No. 29935 did not overpump in 2018. They used 69.858 AF. Let me know if you need anything else.

Elizabeth K Fitch, Environmental Scientist
Kansas Department of Agriculture
Division of Water Resources
Stafford Field Office
(620) 234-5311
elizabeth.fitch@ks.gov
agriculture.ks.gov

From: Milner, Brandon [KDA]
Sent: Monday, December 31, 2018 11:05 AM
To: Fitch, Elizabeth [KDA] <Elizabeth.Fitch@ks.gov>
Subject: RE: Application 20197002MF Friesen Approval

Elizabeth,

I have received a general approval from GMD #2 on the MYFA application No. 20197002MF. This application becoming approved as you know depends on whether the base file was over pumped in the 2018 year. Should I forward a memo and recommendation to the Stafford office or should I wait on this application until I hear confirmation of the water use report from Stafford?

Brandon Milner

From: Fitch, Elizabeth [KDA]
Sent: Thursday, December 27, 2018 4:25 PM
To: Tim Boese <tboese@gmd2.org>; Milner, Brandon [KDA] <Brandon.M.Milner@ks.gov>
Subject: RE: Application 20197002MF Friesen Approval

Tim,

Attached is the consent agreement for File No. 29935 for your records.

It appears that the MYFA application was completed in error. The reduction should have been 117.501 AF. However, the owners signed the application as it was completed, so I do not know if that can be modified at this point.

Brandon, per the attached CAFO item number 7(b)(ii), please hold this MYFA until the Stafford Field Office can confirm the 2018 water use.

Elizabeth K Fitch, Environmental Scientist
Kansas Department of Agriculture

Division of Water Resources
Stafford Field Office
(620) 234-5311
elizabeth.fitch@ks.gov
agriculture.ks.gov

From: Tim Boese <tboese@gmd2.org>
Sent: Thursday, December 27, 2018 3:58 PM
To: Milner, Brandon [KDA] <Brandon.M.Milner@ks.gov>
Cc: Fitch, Elizabeth [KDA] <Elizabeth.Fitch@ks.gov>
Subject: RE: Application 20197002MF Friesen Approval

EXTERNAL: This email originated from outside of the organization. Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Brandon - I am just finishing up my review of this MYFA application and I think I am missing a previous Order from DWR that followed the April 18, 2018 over-pumping violation penalty Order. The over-pumping reduction of 117.501 AF was suppose to come off the 2018 quantity, but instead the MYFA quantity is being reduced by 117.504 AF – is that correct? I am assuming the owner requested that the quantity reduction be moved from 2018 to the MYFA. Is there an Order from DWR that states this that I can get a copy of? Also, just curious – why was the quantity reduction changed from 117.501 AF to 117.504 AF, or is that a typo on the MYFA application?

I copied Elizabeth at the Stafford FO since I know she tracks these over-pumping violations.

Thanks.

Tim Boese, Manager
Equus Beds GMD2
313 Spruce, Halstead, Kansas 67056
316-835-2224
Fax: 316-835-2225
tboese@gmd2.org
www.gmd2.org

From: Milner, Brandon [KDA] [<mailto:Brandon.M.Milner@ks.gov>]
Sent: Tuesday, December 04, 2018 10:48 AM
To: tboese@gmd2.org; rwilson@gmd2.org
Subject: Application 20197002MF Friesen Approval

Greetings,

Please see attached documents for review on Application # 20197002 for Robert Friesen. Let me know if you have any questions.

Brandon Milner | Environmental Scientist

Kansas Dept. of Agriculture | Division of Water Resources
Address: 1320 Research Park Dr., Manhattan, KS 66502
Phone: 785-564-6631
Website: <http://agriculture.ks.gov/divisions-programs/dwr>

JEFF WINTER, PRESIDENT
VIN KISSICK, VICE PRESIDENT
ALAN BURGHART, SECRETARY
MIKE MCGINN, TREASURER
TIM BOESE, MANAGER
THOMAS A. ADRIAN, ATTORNEY



DIRECTORS:
DAVID BOGNER
JOE PAJOR
DALE SCHMIDT
BOB SEILER
DAVID STROBERG

EQUUS BEDS GROUNDWATER MANAGEMENT DISTRICT NO. 2

313 SPRUCE STREET • HALSTEAD, KANSAS 67056-1925 • PHONE (316) 835-2224 • FAX (316) 835-2225 • equusbeds@gmd2.org • www.gmd2.org

December 28, 2018

Chief Engineer, Division of Water Resources
Attn: Brandon Milner
1320 Research Park Dr.
Manhattan, KS 66502

Re: Multi Year Flex Account Application No. 20197002-MF
Base Water Right No. 29935

Dear Mr. Milner:

The Equus Beds Groundwater Management District No. 2 reviewed the referenced Multi-Year Flex Account (MYFA) term permit application on December 28, 2018. It was the decision of the District Board of Directors at the May 8, 2012, Board meeting to, during District staff review, exempt Term Permit Applications establishing a Multi-Year Flex Account (MYFA) from the District's Rules and Regulations K.A.R. 5-22-1 through K.A.R. 5-22-17, subject to:

1. District Staff review of each MYFA Term Permit Application; and
2. The Application complying with the rules and regulations established for MYFA Term Permits by the Chief Engineer, Division of Water Resources.

The District's review found that that it appears an error exists in the penalty quantity reduction. The MYFA application indicates the reduction should be 117.504 acre-feet. However, it appears that the reduction should be 117.501 acre-feet.

Based upon the Board of Directors decision to exempt MYFA Term Permit Applications from District Rules and Regulations K.A.R. 5-22-1 through K.A.R. 5-22-17, and the additional District Staff review, the application is recommended for approval by the Equus Beds Groundwater Management District No. 2, subject to the authorized quantity of the base water right No. 29935 not being exceeded in 2018 pursuant to the Consent Agreement and Final Order (effective June 12, 2018).

Please contact the District should you have any questions regarding the review or recommendation.

A District decision may be appealed to the District Board of Directors by submitting a written petition to the District office within 30 days from date of this notification, pursuant to K.A.R. 5-22-12.

Sincerely,
EQUUS BEDS GROUNDWATER
MANAGEMENT DISTRICT NO. 2

Tim Boese
Manager
TDB/db



Pc: Robert L. & Virginia R. Friesen Rev. Trusts
Jeff Lanterman, Division of Water Resources, Stafford

H:\MSOFFICE\LETTERS\APP\MYFAs\Recommendation\29935_20197002_MF.docx

EQUUS BEDS GROUNDWATER MANAGEMENT DISTRICT NO. 2 FINAL APPLICATION REVIEW CHECKLIST

- 1) Application No. 20197002-MF Date filed: 6/05/18
 2) Proposed maximum rate of diversion: 695 GPM Quantity: 490.246 acre-feet
 3) P/D location: NC SW 16-24S-3W Geo Center: North 1350 ft, West 3960 ft
 4) Proposed Use: Irrigation
 5) Number and type of points of diversion listed on the application 1 Well

- 6) Is the well location on the app the same on the evaluation sheet? Yes No
 7) Meter required K.A.R. 5-22-4a or K.A.R. 5-22-8? Yes No, Why
 8) Meets change app requirements K.A.R. 5-22-8? Yes No N/A

- 9) Meets Safe Yield K.A.R. 5-22-7? Yes No N/A
 9(a) Safe yield analysis total existing appropriations: af/yr
 9(b) Safe yield total allowable appropriations: af/yr
 9(c) Total appropriations for small user exemptions: af/yr
 9(d) Total appropriations for non-consumptive use: af/yr
 9(e) Total appropriations for consumptive use: af/yr
 (total existing appropriations) - (non-consumptive appropriations)
 9(f) exempt from regulation? Yes No,
 Cite exemption: GMD2 Board waiver

- 10) Meets Well Spacing K.A.R. 5-22-2? Yes No N/A
 10(a) POD in enhanced well spacing area? Yes No
 10(b) Domestic well spacing interval: ft
 10(c) Non-Domestic well spacing interval: ft

- 11) Meets Max Reasonable Quantity K.A.R. 5-22-14? Yes No N/A
 11(a) Irrigation max quantity: acre-feet / acre
 application paragraph 3 value (acre-feet) / proposed acres = Q
 11(b) Stockwater max quantity: GPD unit
 11(c) Industry max quantity: Acre
 Industry standard:
 11(d) Municipal max quantity: GCD
 Lesser of either 200 GCD or
 $1.10 * (X - Y) * 365 * Z * T$
 X - Average of last three years usage in Gallons per Capita per Day (GCD)
 Y - water usage for industries that use over 200,000 gal/yr (GCD)
 Z - Projected population in 20 years
 T - Reasonable projected water use for industries that use over 200,000 gallons per year (GCD)
 11(e) Pond max quantity is
 (Net evap + seepage)/12 x pond area + any initial fill
 11(f) Groundwater pit max Q:
 Net evap * pit area/12

- 12) Reasonable rate for intended use? Yes No N/A
 13) Depth to water: at observation well:

- 14) Date reviewed: 12/28/2018
 15) Reviewed by: T. Boese Title: Manager Deny Other, see comment
 16) District recommendation: Approve Deny Other, see comment

17) Comments and Calculations:

Review completed for a MYFA application #20197002-MF submitted by Robert L. Friesen in Harvey County.
 Proposed MYFA 5 year term is 1/1/2019 through 12/31/2023
 Base right no. 29935 authorized for 154 AF/Y
 Total MYFA quantity is 607.75 AF based on NIR calculation
 Proposed 5 year quantity is being reduced by 117.504 AF to 490.246 AF based on Consent Agreement with DWR due to penalty issued for over-pumping in 2017. Note the reduction of 117.504 is a typo. It should be a reduction of 117.501 AF per the Consent Agreement. Also, MYFA not to be processed until DWR determines base right No. 29935 was not over-pumped in 2018
 Not subject to safe yield due to GMD2 Board waiver of safe-yield for MYFA applications.
 Recommend Approval.

STATE OF KANSAS

DEPARTMENT OF AGRICULTURE
1320 RESEARCH PARK DRIVE
MANHATTAN, KS 66502
PHONE: (785) 564-6700
FAX: (785) 564-6777



900 SW JACKSON, ROOM 456
TOPEKA, KS 66612
PHONE: (785) 296-3556
www.agriculture.ks.gov

GOVERNOR JEFF COLYER, M.D.
JACKIE McCLASKEY, SECRETARY OF AGRICULTURE

BLAZEFORK FARMS, LLC
ROBERT L FRIESEN
23001 NW 60TH
BUHLER, KS 67522

FILE COPY
6/18/2018

RE: MYFA Application File No. 20197002MF

Dear Sir or Madam:

We have recently implemented a change when assigning a file number to Multi-Year Flex Accounts (MYFA), to include the initial year of the MYFA within the assigned File Number, for example: MYFA's starting in 2019 will now be assigned a File Number beginning with 20197***, no matter the date received in our office and they will be worked in the order in which they are received. This system will be continued when assigning File Nos. in future years.

On June 5, 2018 we received your MYFA application and assigned the file number 20187010MF, concurrent with our previous assignment system, and sent a letter specifying this to you dated June 6, 2018. This File No. is no longer correct, the corrected File No. is 20197002MF.

For all future reference to your Application for Term Permit to Establish a Multi-Year Flex Account (MYFA) located in 16-24S-3W in Harvey County, please use the new File No. 20197002MF

If you have any questions, please contact me at 785-564-6637. If you call, please reference the new File Number so we can help you more efficiently.

Sincerely,

Danielle Wilson
Administrative Spec.
Water Appropriations Program

DLW: dlw
Pc: Stafford Field Office
GMD 2

SCANNED

STATE OF KANSAS

DEPARTMENT OF AGRICULTURE
1320 RESEARCH PARK DRIVE
MANHATTAN, KS 66502
PHONE: (785) 564-6700
FAX: (785) 564-6777



900 SW JACKSON, ROOM 456
TOPEKA, KS 66612
PHONE: (785) 296-3556
www.agriculture.ks.gov

GOVERNOR JEFF COLYER, M.D.
JACKIE McCLASKEY, SECRETARY OF AGRICULTURE

June 6, 2018

BLAZEFORK FARMS, LLC
ROBERT L FRIESEN
23001 NW 60TH
BUHLER KS 67522

RE: Application
File No. 20187010MF

Dear Sir or Madam:

Your application for permit to appropriate water in 16-24S-3W in Harvey 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) 564-6637. 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 "Kristen A. Baum".

Kristen A. Baum
New Applications Unit Supervisor
Water Appropriation Program

BAT: dlw
pc: STAFFORD Field Office
GMD 2

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