



File No. **20177133-MF**      15. Formation Code:      Drainage Basin: **Little Ark River**      County: **HV**      Special Use:      Stream:

16. Points of Diversion										17. Rate and Quantity					
MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Authorized		Additional		
											Rate gpm	Quantity af	Rate gpm	Quantity af	Overlap PD Files
✓			<b>24642</b>	<b>NC SW</b>	<b>7</b>	<b>22S</b>	<b>3W</b>	<b>2</b>	<b>1250</b>	<b>3750</b>	<b>775</b>	<b>635</b>	<b>0</b>	<b>0</b>	<b>29283</b>

18. Storage: Rate \_\_\_\_\_ NF      Quantity \_\_\_\_\_ ac/ft      Additional Rate \_\_\_\_\_ NF      Additional Quantity \_\_\_\_\_ ac/ft

19. Limitation: ~~5yr Q 635~~ af/yr at ~~775~~ gpm ( \_\_\_\_\_ cfs) when combined with file number(s) **base file no. 29,283 temp susp.**  
 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						
✓			<b>40607</b>	<b>7</b>	<b>22S</b>	<b>3W</b>	<b>3</b>									<b>31</b>	<b>33</b>	<b>33</b>	<b>31</b>		<b>30</b>	<b>17</b>		<b>175</b>	<b>7A</b>	<b>no</b>	<b>29283</b>		
																<b>L-1</b>	<b>L-2</b>	<b>L-2</b>	<b>L-1</b>										

Comments: **MYFA TERM**  
**Enter in Action Trail for Base Right, File No. 29,283: Suspended MYFA (2017)**

**KANSAS DEPARTMENT OF AGRICULTURE**  
**Division of Water Resources**

**M E M O R A N D U M**

**TO:** Files

**DATE:** August 16, 2018

**FROM:** Alex Whitesell

**RE:** Multi-Year Flex Account  
Application, File No, 20177133-MF  
and Water Right, File No. 29,283

Louis E. Martens filed the above referenced Multi-Year Flex Account application to appropriate 635 acre-feet of groundwater to be diverted at a rate of 775 gallons per minute for irrigation use. File No. 20177133-MF overlaps in point of diversion and place of use with base right, Water Right, File Nos. 29,283. The flex account has a commencing date of January 1, 2017 and an ending date of December 31, 2021.

The quantity of water requested was based on the calculation criteria given in K.S.A. 82a-736. In this case, the calculation was based on the Five Times Authorized Quantity:

Authorized Quantity 127 AF X 5 years = **635 AF**

The point of diversion is located within the boundary of Groundwater Management District No. 3. In a letter dated July 25, 2018, Groundwater Management District No. 2 Manager, Tim Boese, recommended approval of the MYFA application referenced above.

In an email dated August 16 2018, Cameron Conant, Assistant Water Commissioner of the Stafford Field Office recommended approval of the referenced MYFA application.

In accordance with K.S.A. 82a-706c, an approved flow meter shall be installed on the proposed diversion works.

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 expire on December 31, 2021.



Alex Whitesell  
Environmental Scientist  
Water Appropriation Program

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

**FILE COPY**

LOUIS E & MICHELE MARTENS  
23320 W DUTCH AVE  
BUHLER KS 67522-9637

September 6, 2018

RE: Base Right, Water Right, File No. 29,283  
Multi-Year Flex Account, File No. 20177133-MF

Dear Sir or Madam:

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. 20177133-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 1, 2017 through December 31, 2021, inclusive. However, the use of water in excess of **635 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, 2021**.

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



KANSAS DEPARTMENT OF AGRICULTURE  
Jackie McClaskey, Secretary of Agriculture

DIVISION OF WATER RESOURCES  
David W. Barfield, Chief Engineer

**ORDER AUTHORIZING MULTI-YEAR FLEX ACCOUNT  
FOR BASE WATER RIGHT, FILE NO. 29,283  
UNDER TERM PERMIT, FILE NO. 20177133-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. 29,283 is suspended, and Term Permit, File No. 20177133-MF is approved. The total quantity of water that may be diverted during the period of January 1, 2017 through December 31, 2021, under the authority of this Multi-Year Flex Account, Term Permit File No. 20177133-MF, **shall not exceed 635 acre-feet.**

At the time of this Order approving Multi-Year Flex Account, Term Permit File No. 20177133-MF, the point of diversion authorized by base Water Right, File No. 29,283, is as follows:

one (1) well located near the center of the Southwest Quarter (SW¼) of Section 7, more particularly described as being near a point 1,250 feet North and 3,750 feet West of the Southeast corner of said section, in Township 22 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. 20177133-MF authorized place of use is as follows:

Sec.	Twp.	Range	NE¼				NW¼				SW¼				SE¼				TOTAL							
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼								
7	22S	3W																L1 31	L2 33	L2 33	L1 31		30	17		175

By this Order, base Water Right, File No. 29,283 and Term Permit, File No. 20177133-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 **September 27, 2017** and which terms, conditions, limitations, and requirements are incorporated herein, in addition to the terms, conditions, limitations, and requirements provided below:

Use of water in excess of **635 acre-feet** within the five year set period of **January 1, 2017 through December 31, 2021**, shall result in the immediate revocation of the multi-year flex  
(over)



## CERTIFICATE OF SERVICE

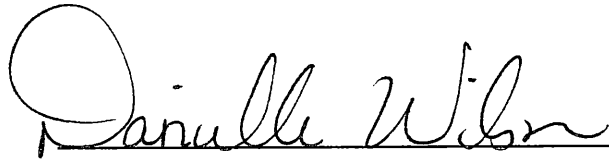
On this ~~6th~~ day of ~~September~~, 2018, I hereby certify that the foregoing Order, File No. 20177133-MF, dated ~~August 31st~~, 2018, was mailed postage prepaid, first class, US mail to the following:

LOUIS E & MICHELE MARTENS  
23320 W DUTCH AVE  
BUHLER KS 67522-9637

With photocopies to:

Stafford Field Office

Equus Beds GMD No. 2

A handwritten signature in cursive script that reads "Danielle Wilson". The signature is written in black ink and is positioned above a solid horizontal line.

Staff

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)

SEP 27 2017 10:27 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. 20177133 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). 29283

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: Louis E. Martens 23320 W. Dutch Avenue, Buhler, KS 67522 Phone Number: (620 ) 960-2231 E-mail Address: lmartensks@gmail.com Agent Owner Tenant (circle one)

3. Name and address of water use correspondent: Louis E. & Michelle Martens 23320 W. Dutch Avenue, Buhler, KS 67522 Phone Number: (620 ) 960-2231 E-mail Address: lmartensks@gmail.com

4. The proposed place of use under this Multi-Year Flex Account is: [X] Same as base water right(s)\*\* Owner of Land --- NAME: Louis E. & Michelle Martens ADDRESS: 23320 W. Dutch Avenue, Buhler, KS 67522 (If there is more than one landowner, attach supplemental sheets as necessary.)

Table with columns for Sec., Twp., Range and sub-sections (NE 1/4, NW 1/4, SW 1/4, SE 1/4) for NE, NW, SW, SE quadrants, and a TOTAL ACRES column.

Owner of Land --- NAME: ADDRESS: (If there is more than one landowner, attach supplemental sheets as necessary.)

Table with columns for Sec., Twp., Range and sub-sections (NE 1/4, NW 1/4, SW 1/4, SE 1/4) for NE, NW, SW, SE quadrants, and a TOTAL ACRES column.

\*\*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 IPR County HV By ADW Date 9/29/17 Code TPF Fee \$ 400 TR # Receipt Date 9/29/17 Check # 2620



5. The point of diversion authorized by base Water Right, File No(s) 29283, and 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 NC-SW Quarter of Section 7, more particularly described as being near a point 1250 feet North and 3750 West of the Southeast Quarter of said section, in Township 22 South, Range 3 East/West(circle one) 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.).

7. The Rate of Diversion for the point of diversion to be authorized by this application is not to exceed 775 (g.p.m) or c.f.s. 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 or MGY)		Reported acres lawfully irrigated:	
2000	131 AF (127 AF)	2000	165
2001	169 AF (127 AF)	2001	165
2002	136 AF (127 AF)	2002	165
2003	156 AF (127 AF)	2003	165
2004	36.00 AF	2004	165
2005	144 AF (127 AF)	2005	165
2006	150 AF (127 AF)	2006	165
2007	114.00 AF	2007	165
2008	93.00 AF	2008	165
2009	111.00 AF	2009	165

<p><b>8a. Average Use Calculation</b></p> <p>Average Water Use <u>111.60 AF</u> AF/MGY</p> <p>Average Water Use <u>111.60 AF</u> X 5 years = <u>558.00 AF</u> AF/MGY</p>	<p><b>8b. NIR Calculation</b></p> <p>Highest number of acres irrigated <u>165</u> X <u>0.85</u> 50% NIR (per K.A.R. 5-5-12) in <u>HV</u> County, KS:  <u>140.25</u> X 5 years X 110% = <u>771.375 AF</u> AF/MGY</p>
<p><b>8c. Base Water Right Annual Authorized Quantity = <u>127AF</u> AF/MGY</b></p> <p>Five Times Authorized Quantity = <u>635 AF</u> AF/MGY</p>	
<p><b>8d. Big Bend GMD#5 End Gun Removal Alternative Calculation</b> (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.</p>	

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.

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 \_\_\_\_\_ 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 Buhler, Kansas, this 3rd day of July, 2018.

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

Michele Martens  
(Spouse) Signature

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

Michele Martens  
(Spouse) Print

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

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

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

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

Water Resources  
Received

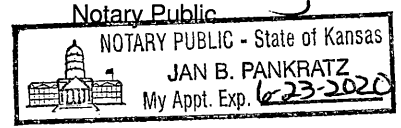
JUL 09 2018

State of Kansas )  
County of Reno ) SS

KS Dept Of Agriculture

I hereby certify that the foregoing application was signed in my presence and sworn to before me this 3rd day of July, 2018.

Jan B. Pankratz  
Notary Public



## **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** 

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 635 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 September 20, 2017, Kansas, this 25 day of September, 2017.

Louis E Martens Hutchinson JR  
(Owner) Signature

Louis E. Martens

(Owner) Print

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

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

~~(Spouse) Signature~~

~~Michelle Martens~~

~~(Spouse) Print~~

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

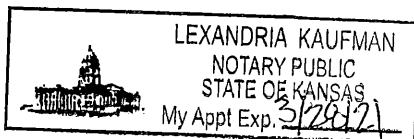
~~\_\_\_\_\_  
(Spouse) Print~~

WATER RESOURCES RECEIVED  
SEP 27 2017  
KS DEPT OF AGRICULTURE

State of Kansas )  
County of Pero ) SS

I hereby certify that the foregoing application was signed in my presence and sworn to before me this 25 day of September, 2017.

Alexandria Kaufman  
(Notary Public)



## **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** 

## Whitesell, Alex [KDA]

---

**From:** Conant, Cameron [KDA]  
**Sent:** Thursday, August 16, 2018 7:57 AM  
**To:** Whitesell, Alex [KDA]  
**Cc:** Lanterman, Jeff [KDA]  
**Subject:** FW: Recomendation 20177133 MF  
**Attachments:** 20177133 MF Memo.docx

Alex,

This was a re-enroll MYFA, the 2012 MYFA was operated in compliance and had ~153 AF remaining at the end of the 5 year period. I agree that the NIR calculation provides 5x authorized for the 2017 MYFA, no carryover can be used on this 2017 MYFA.

It is noted the FO has already completed a compliance check on this meter installation. During the 2012 MYFA, it operated under a limited exception due to an accurate flow rate test. That exception was no longer valid. Staff addressed the non-compliant meter install and the meter has been re-installed (with AR gears) in a manner that meets all current installation specifications.

The FO recommends approval of this MYFA for 635 AF, from 2017-2021. Let me know if you have any questions.

Cameron

---

**From:** Whitesell, Alex [KDA]  
**Sent:** Thursday, August 9, 2018 9:11 AM  
**To:** Conant, Cameron [KDA] <[Cameron.Conant@ks.gov](mailto:Cameron.Conant@ks.gov)>  
**Subject:** Recomendation 20177133 MF

Cameron, could you provide a recommendation on this MYFA? Thanks!

Alex Whitesell  
Division of Water Resources  
Kansas Department of Agriculture  
1320 Research Park Drive  
Manhattan, KS  
(785) 564 - 6631

**My email has changed [alex.whitesell@ks.gov](mailto:alex.whitesell@ks.gov)**

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

July 25, 2018

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

Re: Multi Year Flex Account Application No. 20177133-MF  
Base Water Right No. 29283

Dear Mr. Whitesell:

The Equus Beds Groundwater Management District No. 2 reviewed the referenced Multi-Year Flex Account (MYFA) term permit application on July 25, 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.

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.

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/STF



Pc: Louis E. & Michelle Martens, Applicant and Landowner  
Jeff Lanterman, Division of Water Resources, Stafford

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

- 1) Application No. 20177133MF Date filed: Sept 27, 2017  
 2) Proposed maximum rate of diversion: 775 GPM Quantity: 635 acre-feet  
 3) P/D location: NC-SW 7-22S-3W Geo Center: North 1250 ft, West 3750 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:

- 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  
 $1.10 * (X - Y) * 365 d * (z + t)$   
 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: 25 ft bls at observation well: EB42A

- 14) Date reviewed: 7/17/2018 *Reviewed 7-25-18*  
 15) Reviewed by: S. Flaherty Title:      *TB*  
 16) District recommendation:  Approve  Deny  Other, see comment

17) Comments and Calculations:  
 Review completed for a MYFA application #20177133-MF submitted by Louis E. Martens in Harvey County.  
 Base right no 29283 authorized for 127 AF/yr  
 Total MYFA quantity is 635 AF based on 5 times authorized quantity  
 No carry over quantity  
 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

**FILE COPY**

July 9, 2018

EQUUS BEDS GMD 2  
313 SPRUCE ST  
HALSTEAD KS 67056

Re: Application  
File No. 20177133-MF

Dear Sir or Madam:

We are enclosing a copy of the application referred to above which appears to be in proper form.

We are delaying any further action for a period of 15 days from the date of this letter to allow you time to submit your recommendations concerning this application.

Please submit your recommendations within the allotted time, or any authorized extension of time thereof.

If you have any questions, please contact me a 785-564-6631. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

Alex Whitesell  
Environmental Scientist  
Water Appropriation Program

Enclosure(s)

pc: Stafford City Field Office

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 29, 2018

LOUIS E & MICHELE MARTENS  
23320 W DUTCH AVE  
BUHLER KS 67522-9637

Re: Water Right, File No. 29,283  
Multi-Year Flex Account, File No. 20177133 MF

Dear Mr. and Mrs. Martens:

We have received the Multi-Year Flex Account term permit application referenced above. However, further review of records in this office indicates that Michele Martens also an owner of the place of use. In order to implement the Multi-Year Flex Account Term Permit program, **signatures are required from all owners and their spouses** before we can complete our processing. If the ownership of the lands has changed, please submit a copy of the recorded deed so that the ownership can be changed to reflect the current status.

Enclosed is a copy of the pending application form for Michele Martens to review and sign. Please note the authorized quantity for your Multi-Year Flex Account is shown in Item No. 9 on the application form. Return this copy of the application so that processing may continue. The returned application form must contain **original signatures**. In addition, please initial "Attachment A", which describes specific requirements for the Multi-Year Flex Account Term Permit program.

It is imperative that we receive this documentation as quickly as possible, in order to continue our review and processing of your application. We are providing you 30 days from the date of this letter (until March 15, 2018) to submit this required documentation.

If you have any questions, please contact me a 785-564-6631. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

Alex Whitesell  
Environmental Scientist  
Water Appropriation Program

Enclosure(s)

pc: Stafford Field Office  
GMD No. 2

SCANNED

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

September 28, 2017

**FILE COPY**

LOUIS E MARTENS  
23320 W DUTCH AVE  
BUHLER KS 67522

RE: Application  
File No. 20177133 MF

Dear Sir or Madam:

Your application for permit to appropriate water in 7-22S-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) 564-6645. If you wish to discuss a specific file, please have the file number ready so that we may help you more efficiently.

Sincerely,

Kristen A. Baum  
New Applications Unit Supervisor  
Water Appropriation Program

BAT: dlw  
pc: STAFFORD Field Office  
GMD 2

SCANNED