



File No. **50,271**      15. Formation Code:      Drainage Basin: KANSAS RIVER      County: **WY**      Special Use:      Stream: **EAST MISSION CREEK TRIB 1 (KANSAS)**

16. Points of Diversion									
MOD DEL ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	
√	75865	SE SW NE	15	11	23E	1	2645	1870	
<b>STRUCTURE PERMITS DWY-0102 &amp; DWY-0182</b>									

17. Rate and Quantity				
Authorized		Additional		
Rate gpm	Quantity mgy	Rate gpm	Quantity mgy	Overlap PD Files
<b>NONE</b>				

18. Storage: Rate \_\_\_\_\_ NF      Quantity 19.5 ac/ft      Additional Rate \_\_\_\_\_ NF      Additional Quantity 19.5 ac/ft

19. Limitation: \_\_\_\_\_ af/yr at \_\_\_\_\_ gpm ( \_\_\_\_\_ cfs) when combined with file number(s) \_\_\_\_\_  
 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 MOD DEL ENT	T PUSE	S	T	R	ID	NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg? <b>NO</b>	Overlap Files
						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				
√	59879	15	11	23E	1	RESERVOIR (NE) <b>13 AC</b>																7a.	<b>NO</b>	<b>NONE</b>	

Comments: 1/11/2022  
KJN

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

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

**TO:** Files

**DATE:** February 17, 2021

**FROM:** Doug Schemm

**RE:** Application, File No. 50,271

Compass Commodity Group 300 LLC has filed the above-referenced new application to appropriate 19.5 acre-feet of surface water storage at a rate not to exceed natural flows of East Mission Creek Trib 1 (Kansas) for recreational use in an existing reservoir. The application is designed to cover the indirect use of water (evaporation and seepage) from a reservoir located in the Northeast Quarter of Section 15, in Township 11 South, Range 23 East, Wyandotte County, Kansas. Based on information in the associated structures permit, the reservoir has been in place since at least 1981. The point of diversion represents the point at which the center of the dam intersects the stream, and a representative of the applicant has signed the form stating they have access to this point of diversion. The reservoir is already permitted by the DWR Water Structures Program under File Nos. DWY-0102 and DWY-0182.

Please note that this is the former Assmann dam that was previously permitted under File No. 47,128. There has been a significant volume of legal issues with this dam related primarily to structures permitting. In addition, the owner failed to submit the required field inspection fee and File No. 47,128 was dismissed on August 25, 2017, for failure to complete the diversion works. The property was recently sold and DWR appropriation staff assisted the new owner with filing the required appropriation permit, and bringing this existing dam into compliance with regulations.

The reservoir is unusual in that it is comprised of two adjacent impoundments that are interconnected by a tube that maintains equilibrium between the water levels in the two impoundments. Therefore, the impoundments behave as a single reservoir, controlled by a single dam, and for the purposes of appropriation permitting can be represented as a single reservoir with a point of diversion approximately midway between the impoundments. The other issue concerning this reservoir has been the very arduous task to modify and upgrade the existing dam to comply with several deficiencies identified by the Division of Water Resources Structures Unit. The applicant has completed the necessary repairs to address the deficiencies, and must complete a dam safety inspection by April 30, 2021.

The requested quantity of 19.5 acre-feet appears to be reasonable for indirect use, based on the following information. The reservoir surface area at normal pool storage elevation is estimated at 13 acres. Potential net evaporation in inches, based on K.A.R. 5-6-3, is 6 inches; therefore the natural evaporation can be estimated as follows:

$$\begin{aligned} 13 \text{ acres} \times 6 \text{ inches of evaporation} / 12 \text{ inches} &= 6.5 \text{ acre-feet} \\ 6.5 \text{ acre-feet} \times 3 \text{ years} &= 19.5 \text{ acre-feet (evaporation)} \end{aligned}$$

A runoff calculation was prepared during processing of File No. 47,128, using 38 inches of precipitation, and a soil complex number of 78. It was estimated that 1 out of every five (5) years (20% chance annually), the 110-acre drainage area will provide 198 acre-feet in one (1) calendar year. Therefore, the capacity of the reservoir is the controlling factor. The reservoir is existing and currently retaining water, therefore a Special Condition allowing initial fill is not required.

There are no other water rights within the two-mile radius circle. The proposed appropriation will not impair any existing water rights. As noted above, there has been an extensive amount of work on the dam to address various structural deficiencies, and nearby landowners are aware of the dam and reservoir. Because the applicant has submitted the appropriation application as requested, the reservoir is existing and already storing water so its effect on the stream has already been manifested, there is not likely to be any significant additional modifications to the structure, and issuing the permit will bring this reservoir into compliance, it is reasonable to forgo notification of upstream and downstream landowners for this specific instance. Finally, K.A.R. 5-6-9 addresses the administration of stored water for downstream water rights if the need were ever to arise in the future.

Katie Tietsort, Water Commissioner, Topeka Field Office, recommended approval of the application in a February 16, 2021 e-mail.

Based upon the above discussion, the area is open to new applications, the structure has been properly permitted under DWR water structures program, approval will bring this beneficial use of water into compliance, it is replacing a previous file, and there is no indication that the proposed beneficial use of water will impair existing water rights, it is recommended that the referenced application be approved.

1/11/2022  
KJN

Douglas W. Schemm  
Environmental Scientist  
Topeka Field Office

## Schemm, Doug [KDA]

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**From:** Tietsort, Katie [KDA]  
**Sent:** Tuesday, February 16, 2021 10:18 AM  
**To:** Schemm, Doug [KDA]  
**Subject:** RE: Compass Commodity Group 50,271

Doug,

It is appropriate to move this one forward, as we discussed yesterday.

Katie

*Katie Tietsort*

Water Commissioner

[Katie.Tietsort@ks.gov](mailto:Katie.Tietsort@ks.gov)

Ph. 785-296-5733 Cell 785-213-9188

Kansas Department of Agriculture

Topeka Field Office

1131 SW Winding Rd, Suite 400

Topeka, KS 66615

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**From:** Schemm, Doug [KDA] <Doug.Schemm@ks.gov>  
**Sent:** Tuesday, February 16, 2021 9:41 AM  
**To:** Tietsort, Katie [KDA] <Katie.Tietsort@ks.gov>  
**Subject:** Compass Commodity Group 50,271

No issues. Existing dam (former Assman dam).  
Structures permitting has been completed.  
Please review.

## Schemm, Doug [KDA]

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**From:** Schemm, Doug [KDA]  
**Sent:** Wednesday, February 17, 2021 8:00 AM  
**To:** Schemm, Doug [KDA]  
**Subject:** FW: 50271 Compass Commodity

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**From:** Schemm, Doug [KDA]  
**Sent:** Tuesday, February 16, 2021 6:59 AM  
**To:** Schemm, Doug [KDA] <Doug.Schemm@ks.gov>  
**Subject:** 50271 Compass Commodity

As for the Assman dams, DWY-0102 and DWY-0182, the last correspondence we had was a 01-20-2020 reminder letter to the owners for the safety inspections due by April 30<sup>th</sup> of this year.

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**From:** Tietsort, Katie [KDA]  
**Sent:** Monday, February 1, 2021 3:24 PM  
**To:** Ketter, Ambrose [KDA] <[Ambrose.Ketter@ks.gov](mailto:Ambrose.Ketter@ks.gov)>  
**Subject:** The two files I am trying to reach you about.

The other question I have is the status on the Assmann dam regarding structures permitting.

*Katie Tietsort*

Water Commissioner

[Katie.Tietsort@ks.gov](mailto:Katie.Tietsort@ks.gov)  
Ph. 785-296-5733 Cell 785-213-9188  
Kansas Department of Agriculture  
Topeka Field Office  
1131 SW Winding Rd, Suite 400  
Topeka, KS 66615

THE STATE OF KANSAS



KANSAS DEPARTMENT OF AGRICULTURE  
Mike Beam, Secretary of Agriculture

DIVISION OF WATER RESOURCES  
Earl D. Lewis Jr., Chief Engineer

APPROVAL OF APPLICATION  
and  
PERMIT TO PROCEED

(This Is Not a Certificate of Appropriation)

This is to certify that I have examined Application, **File No. 50,271** of the applicant

**COMPASS COMMODITY GROUP 300 LLC  
JON MONSON  
202 WATERS ST 202  
EXCELSIOR MN 55331**

for a permit to appropriate water for beneficial use, together with the maps, plans and other submitted data, and that the application is hereby approved and the applicant is hereby authorized, subject to vested rights and prior appropriations, to proceed with the construction of the proposed diversion works (except those dams and stream obstructions regulated by K.S.A. 82a-301 through 305a, as amended), and to proceed with all steps necessary for the application of the water to the approved and proposed beneficial use and otherwise perfect the proposed appropriation subject to the following terms, conditions and limitations:

1. That the priority date assigned to such application is **July 22, 2019**.
2. That the water sought to be appropriated shall be used for recreational use at a reservoir located in the Northeast Quarter (NE $\frac{1}{4}$ ) of Section 15, in Township 11 South, Range 23 East, Wyandotte County, Kansas.
3. That the appropriation sought shall be limited to all natural flows of an unnamed tributary to East Mission Creek, designated in the office of the Chief Engineer as East Mission Creek Trib 1 (Kansas River), not needed to satisfy all vested rights and prior appropriation rights to be stored to a maximum extent of **19.5 acre-feet** per calendar year, in a reservoir created by a dam located in the Southeast Quarter of the Southwest Quarter of the Northeast Quarter (SE $\frac{1}{4}$  SW $\frac{1}{4}$  NE $\frac{1}{4}$ ) of Section 15, more particularly described as being near a point 2,645 feet North and 1,870 feet West of the Southeast corner of said section, in Township 11 South, Range 23 East, Wyandotte County, Kansas, located substantially as shown on the topographic map accompanying the application.
4. That the structure creating the above referenced reservoir has been assigned Division of Water Resources Structures Permit Nos. DWY-0102 and DWY-0182.
5. That installation of works for diversion of water shall be completed on or before **December 31, 2023**, or within any authorized extension thereof. The applicant shall notify the Chief Engineer and pay the statutorily required field inspection fee, which is currently \$400.00, when construction of the works has been completed. Failure to timely submit the notice and the fee will result in revocation of the permit. Any request for an extension of time shall be accompanied by the required statutory fee, which is currently \$100.00.



6. That the proposed appropriation shall be perfected by the actual application of water to the proposed beneficial use on or before **December 31, 2027**, or any authorized extension thereof. Any request for an extension of time shall be submitted prior to the expiration of the deadline and shall be accompanied by the required statutory fee, which is currently \$100.00.

7. That the applicant shall not be deemed to have acquired a water appropriation for a quantity in excess of the amount approved herein nor in excess of the amount found by the Chief Engineer to have been actually used for the approved purpose during one calendar year subsequent to approval of the application and within the time specified for perfection or any authorized extension thereof.

8. That the use of water herein authorized shall not be made so as to impair any use under existing water rights nor prejudicially and unreasonably affect the public interest.

9. That the right of the appropriator shall relate to a specific quantity of water and such right must allow for a reasonable raising or lowering of the static water level and for the reasonable increase or decrease of the streamflow at the appropriator's point of diversion.

10. That this permit does not constitute authority under K.S.A. 82a-301 through 305a to construct any dam or other obstruction; nor does it grant any right-of-way, or authorize entry upon or injury to, public or private property.

11. That the applicant shall maintain accurate and complete records from which the quantity of water diverted during each calendar year may be readily determined and the applicant shall file an annual water use report with the Chief Engineer by March 1 following the end of each calendar year. Failure to file the annual water use report by the due date shall cause the applicant to be subject to a civil penalty.

12. That no water user shall engage in nor allow the waste of any water diverted under the authority of this permit.

13. That failure without cause to comply with provisions of the permit and its terms, conditions and limitations will result in the forfeiture of the priority date, revocation of the permit and dismissal of the application.

14. That the right to appropriate water under authority of this permit is subject to any minimum desirable streamflow requirements identified and established pursuant to K.S.A. 82a-703c for the source of supply to which this water right applies.



Ordered this 18 day of January, 2022, in Manhattan, Riley County, Kansas.

*Lane P. Letourneau*

Lane P. Letourneau, P.G.  
Water Appropriation 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 18 day of January, 2022, by Lane P. Letourneau, P.G., Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture.

*Ashlee Freeman*  
\_\_\_\_\_  
Notary Public



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



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

Mike Beam, Secretary

Laura Kelly, Governor

January 20, 2022

COMPASS COMMODITY GROUP 300 LLC  
JON MONSON  
202 WATERS ST 202  
EXCELSIOR MN 55331

RE: Appropriation of Water, File No. 50,271

Dear Mr. Monson:

Enclosed is a permit authorizing you to proceed with construction of the proposed diversion works and to appropriate water for beneficial use as set forth in the permit. Your attention is directed to the enclosures and to the terms, conditions, limitations, and requirements specified in this permit.

Notice must be filed on the enclosed form once the diversion works have been completed. Failure to complete the diversion works within the time allowed, or within any authorized extension of time thereof, will result in dismissal of this permit. If you need an extension of time, you must request it before the deadline for completion set forth in the permit. Any request for an extension of time must be accompanied by the statutorily required fee, which is currently \$100.00.

An annual water use report must be filed with the Chief Engineer by March 1, following the end of each calendar year. If a complete annual water use report is not received by the deadline, then a fine may be assessed and all water use under such permit or right may be suspended. Reports submitted in paper form will be assessed a \$20 per file number paper filing fee. In order to avoid this filing fee, you may submit your report online at [www.kswaterusereport.org](http://www.kswaterusereport.org).

The approval of your application constitutes a permit to appropriate water. It does not give authority to construct any dam or other stream obstruction regulated by K.S.A. 82a-301 through 305a. It does not give authority to access any right-of-way or authorize trespassing upon or injury to public or private property. It may also be necessary for you to comply with other local, state or federal requirements.

Enclosed is an informational sheet that sets forth the procedure to obtain a Certificate of Appropriation which will establish the extent of your perfected water right. Additional information and applicable forms may be found on our website at [agriculture.ks.gov/divisions-programs/dwr](http://agriculture.ks.gov/divisions-programs/dwr). If you have any questions or need assistance with any of these requirements, please contact our office at 785-564-6640 or your local Topeka Field Office at 785-296-5733. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

Kristen A. Baum  
New Applications and Changes Supervisor  
Division of Water Resources

KAB:dws  
Enclosure(s)

pc: Topeka Field Office

**RIGHT TO A HEARING AND TO ADMINISTRATIVE REVIEW**

If you are aggrieved by this Order, then pursuant to K.S.A. 82a-1901, you may:

- 1) request an evidentiary hearing before the Chief Engineer, or
- 2) request administrative review by the Secretary of Agriculture.

Failure to request an evidentiary hearing before the Chief Engineer does not preclude your right to administrative review by the Secretary.

To obtain an evidentiary hearing before the Chief Engineer, a written request for hearing must be filed within 15 days after service of this Order as provided in K.S.A. 77-531 (**i.e., within a total of 18 days after this Order was mailed to you**), with: Kansas Department of Agriculture, Attn: Legal Section, 1320 Research Park Drive, Manhattan, Kansas 66502, FAX (785) 564-6777.

If you do not file a request for an evidentiary hearing before the Chief Engineer, you may petition for administrative review of the Order by the Secretary of Agriculture. A petition for review shall be in writing and state the basis for requesting administrative review. The request for hearing may be denied if the request fails to clearly establish factual or legal issues for review. See K.S.A. 77-527. The petition must be filed within 30 days after service of this Order as provided in K.S.A. 77-531 (**i.e., within a total of 33 days after this Order was mailed to you**), and be filed with: Secretary of Agriculture, Attn: Legal Division, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, FAX (785) 564-6777.

If neither a request for an evidentiary hearing nor a petition for administrative review is filed as set forth above, then this Order shall be effective and become a final agency action as defined in K.S.A. 77-607(b). Failure to timely request either an evidentiary hearing or administrative review may preclude further judicial review under the Kansas Judicial Review Act.

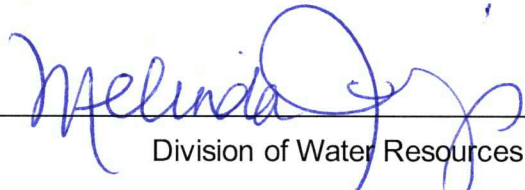
**CERTIFICATE OF SERVICE**

On this 20 day of January, 2022, I hereby certify that the foregoing Approval of Application, File No. 50,271, dated 18 January, 2022, was mailed postage prepaid, first class, US mail to the following:

COMPASS COMMODITY GROUP 300 LLC  
JON MONSON  
202 WATERS ST 202  
EXCELSIOR MN 55331

With photocopies to:

Topeka Field Office

  
\_\_\_\_\_  
Division of Water Resources