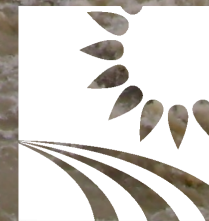


Overview of Kansas Compliance & Enforcement for Overpumping and Meter Tampering

AWSE Spring Workshop
June 5, 2012

Katherine A Tietsort
Water Commissioner
Topeka Field Office



KANSAS
DEPARTMENT OF
AGRICULTURE

Division of Water Resources

Topics

- Compliance & Enforcement authority
 - Statutory
 - Regulatory
- Consequences of Overpumping
 - Warning
 - Progressive penalties
- Consequences of Meter Tampering

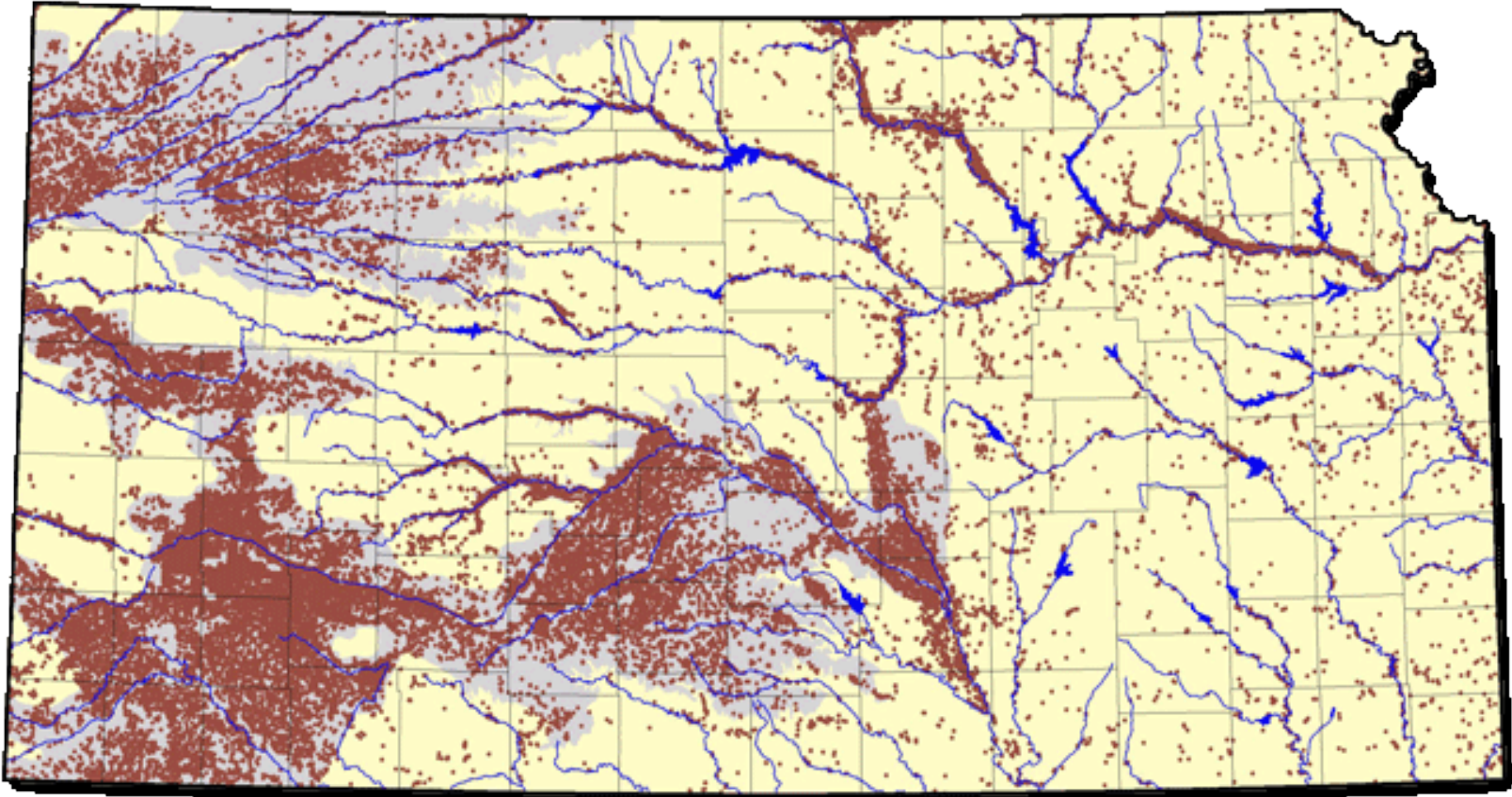
Statutory C&E Provisions

- K.S.A. 82a-728. Unlawful acts; penalties.
- K.S.A. 82a-737. Civil enforcement of act.

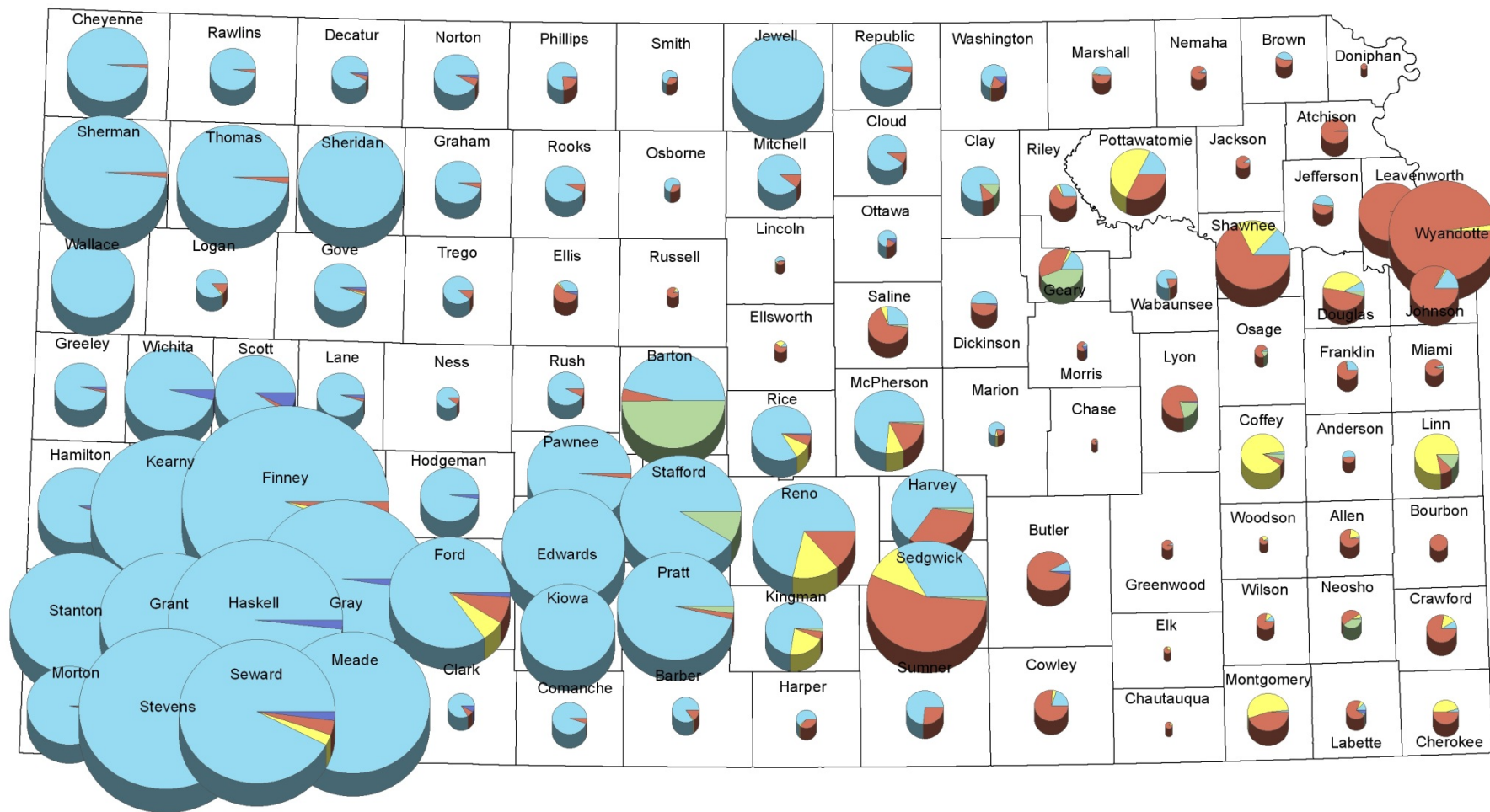
Regulatory C&E Provisions

- K.A.R. 5-3-6. Forfeiture, revocation and dismissal.
- K.A.R. 5-14-1. Enforcement.
- K.A.R. 5-14-10. Civil penalties; suspension or modification of water rights.

Currently Permitted Diversion Points



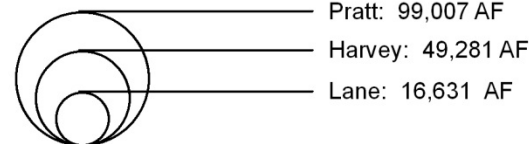
2010 Reported Water Use for Kansas Counties



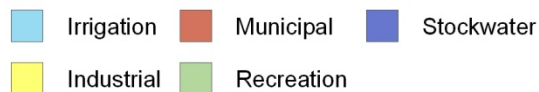
Disclaimer: Features on this map represent conditions as of the date of the map and are subject to change. The user is referred to specific policies, regulations and/or orders of the Chief Engineer.

Percentages of 1.5% or less do not show up in the pie charts.

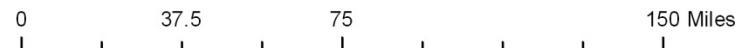
This map is intended for planning purposes only.

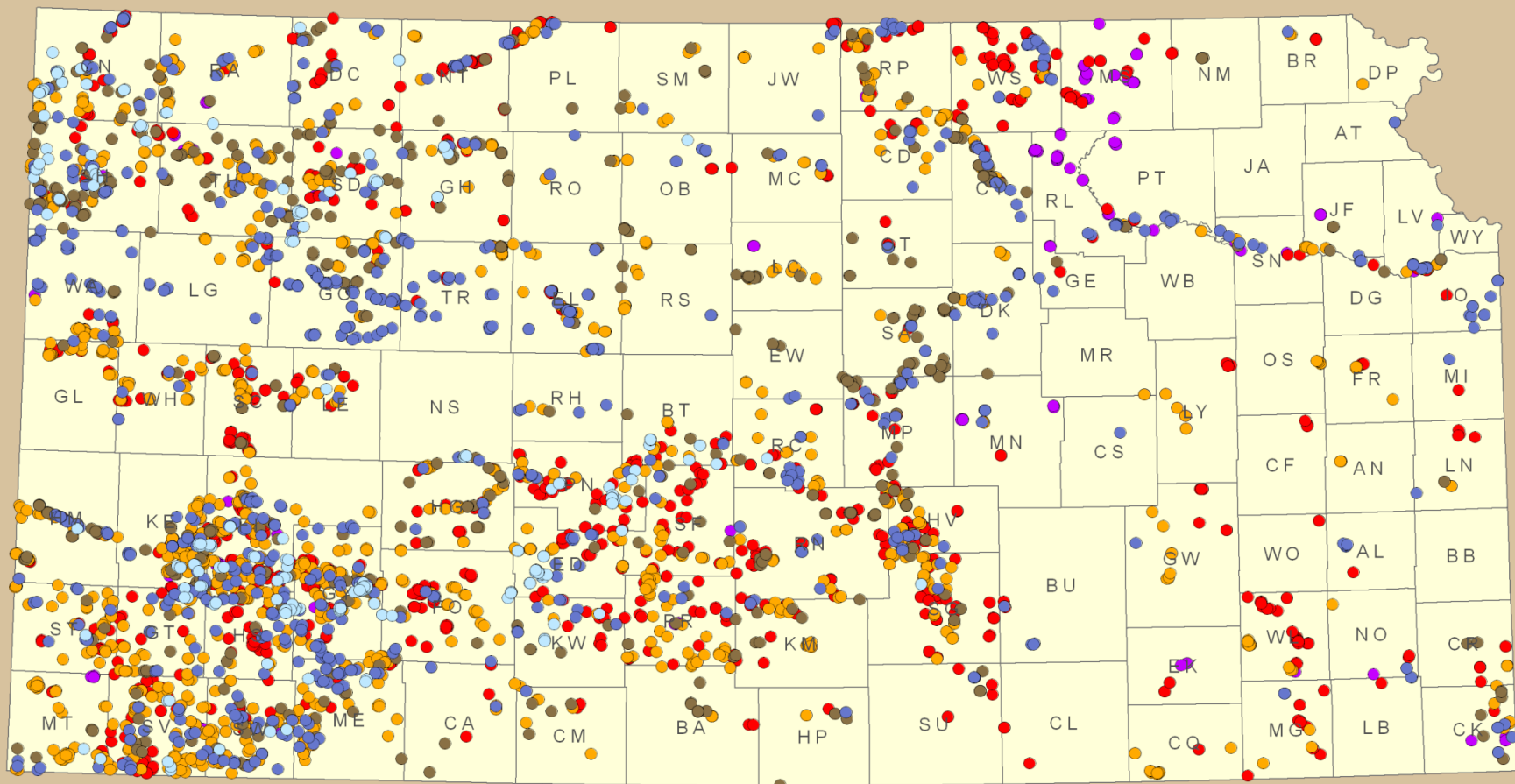


Use Made of Water



Kansas Department of Agriculture
Division of Water Resources
Water Use Unit
March 5, 2012





File numbers having at least one
well identified as an overpumper

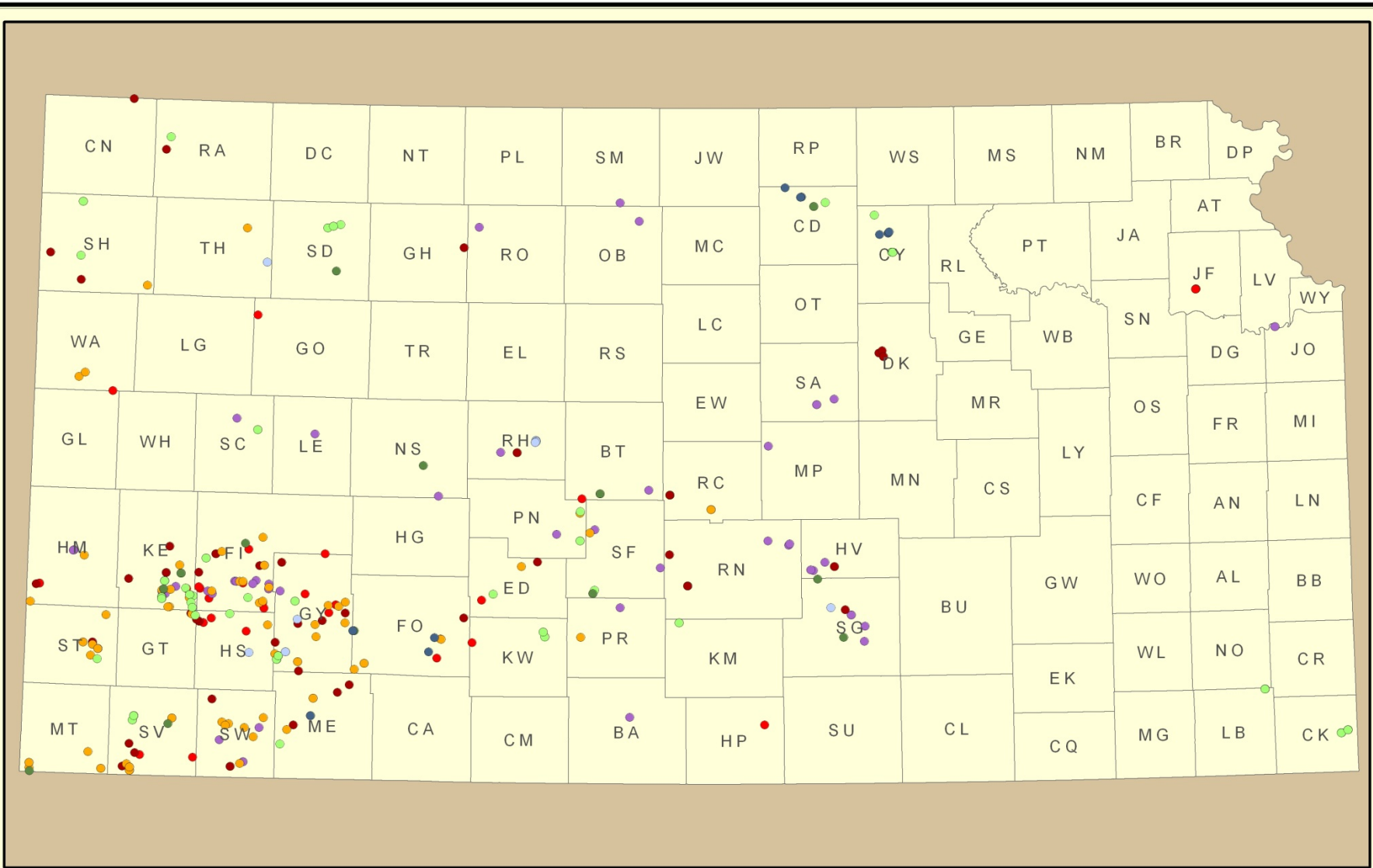
- 2007 ● 2009 ● 2011
- 2008 ● 2010 ● 2012

Notice of Non-Compliance

Kansas Department of Agriculture
Administrative Services, GIS
March 6, 2012



0 20 40 80 Miles

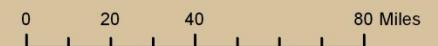


Penalties Issued

- 2004 2006 2008 2010
- 2005 2007 2009 2011

Penalties Issued
After Warning

Kansas Department of Agriculture
Administrative Services, GIS
May 20, 2011



Overpumping

- All Vested Rights, Water Rights, and Permits authorize a maximum annual quantity of water for use under each right
- Under Act, water use reports for every right must be submitted annually
- Water use entered into WRIS
- Using this record and/or on-site compliance investigations, identify individual rights that overpumped

Consequences of Overpumping

- **First offense:** Notice of Noncompliance (NONC)
- **Second offense:** \$500 fine + 1X water penalty.
- **Third offense:** \$500 per day fine + 2X water penalty.
- **Fourth offense:** One-year suspension
- **Fifth offense:** Revoke water right or permit



**2009 MUNICIPAL WATER USE REPORT
(PUBLIC WATER SUPPLY)**

**IMPORTANT: YOU MUST REPORT ANNUAL USAGE OR THE REASON FOR NON-USAGE, IN ORDER TO
PROTECT YOUR RIGHT TO USE WATER**

This is the annual Water Use Report required to retain all Vested or Appropriation Rights. **COMPLETE AND RETURN BY MARCH 1, 2010.** Please begin by reading the instructions for Part A on the reverse side of this page. Also present are instructions for name and address changes, which include information needed if you have disposed of your interest in any one or more of the water right file numbers listed below. If you have any questions on how to complete this form, please contact the Water Use Coordinator at (785) 296-1054. Please make a copy of the entire Water Use Report for your records, and return the original report to:

Water Use Coordinator
Kansas Department of Agriculture
Division of Water Resources
109 SW 9th, Second Floor
Topeka, Kansas 66612-1283

PART A: POINTS OF DIVERSION

Water Right File Number	Legal Descriptions Point(s) of Diversion	Water Meter Data			U N I T	Hours	Pump Rate (gpm)	Well Data		
		Beginning Water Meter Reading	Ending Water Meter Reading	Metered Quantity Of Water				Well Depth	Depth to Water	Date
PT 2-00 1045N 3928W AKA: CITY WELL #11	3-10S-10E 8	252,868,000	292,818,000	39,950,000	G			52'	30'	2/19/10
. 13300-00 1045N 3928W AKA: CITY WELL #11	3-10S-10E 8	Report	Under PT2-00							
. 13629-00 883N 5130W AKA: @SW SW -L-7 WELL #9	3-10S-10E 4	189,081,000	217,661,000	28,580,000	G			62'	30'	2/19/10
. 33252-00 4800N 5050W AKA: @NW NW NW-CITY WELL #7 L-2	10-10S-10E 3	289,648,000	320,256,000	30,608,000	G			54'	30.5'	2/19/10
. 33807-00 883N 5130W AKA:	3-10S-10E 4	Report	Under 13629-00							
. 35273-00 4800N 4750W AKA: LOT 2, CITY WELL # 8	10-10S-10E 4	99,767,000	126,616,000	26,849,000	G			55'	30.5'	2/19/10
. 40597-00 4690N 1230W AKA: WELL #10	5-10S-10E 3	245,175,000	285,372,000	40,197,000	G			82'	45.5'	2/19/10
. 42691-00 5125N 4920W AKA: AIRPORT	12-10S-10E 3	119,081	149,970	30,889	G			25'	?	2-5-10

..... Check here if you are purchasing from or selling water to other public water suppliers and report amounts on **PART B**, Columns 2 and 3, and **PART E**.

Date: 2-19-10 Telephone: (785) 456-9119

I submit this report as the best information available. I understand that knowingly falsifying the report is a violation of state law.

09 10561 18859 1 1 - MUN Top PT
Office Use FO CO GMD

Name (Printed or Typed)

Name (Signature)

☒ Owner

☐ Tenant

☐ Agent



Water Flowmeters

- Most files require that a water flowmeter be installed on each point of diversion to measure diversions and for use in annual water use reporting
- K.A.R. 5-1-4 through 5-1-12 are Kansas' metering regulations
- Meter must:
 - Be listed on the Acceptable List
 - Have chamber and flow-straightening vanes
 - Have 5 pipe diameters up and 2 down straight pipe
 - Be properly sealed

Consequences of Meter Tampering

- Issue \$1,000 civil penalty for causing the meter to show an incorrect reading
- Also issue \$500 civil penalty for exceeding the authorized quantity
- CE can require meter to be sealed into the pipe
- More frequent compliance investigations on site



Questions?

AWSE Spring Workshop
June 5, 2012

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Water Commissioner
Topeka Field Office



KANSAS
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Division of Water Resources

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Water Appropriation

Protecting water rights in Kansas.

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Consequences of Over-Pumping

Kansas water rights have legally established limits concerning the quantity of water authorized, rate of diversion, place of use, use made of water, and other conditions and limitations. Owners should be aware of the legal limits of their water rights because violations can result in substantial penalties. This page focuses on penalties for diverting more water than the authorized quantity of a water right or permit to appropriate water, commonly called "over-pumping".

In general, DWR applies the following progressive penalties when an individual diverts more water than is authorized by a water right or permit to appropriate water:

- **First offense:** Notice of Noncompliance
- **Second offense:** \$500 fine and water penalty. (Generally the authorized quantity for the following year is decreased by the same amount overpumped.)
- **Third offense:** \$500 per day fine and a doubled water penalty. (Generally the authorized quantity for the following year is decreased by twice the amount overpumped.)
- **Fourth offense:** One-year suspension of authorization to use water
- **Fifth offense:** Revoke water right or permit

There may be exceptions to the progression listed above. For example, if overpumping is flagrant, the agency may proceed directly to imposing a stricter penalty without waiting for offenses to be repeated.

DWR sends an order of the chief engineer by certified mail to those individuals receiving civil penalties. The order explains the reasons for the penalties and identifies the authorized quantity of the water right or permit to appropriate water. If the authorized quantity has been reduced for the next year, the reduced quantity is identified in the order.

In 2008, DWR began routinely applying water penalties in addition to monetary fines. As a result, a number of water rights or permits to appropriate water have had their authorized quantities reduced for 2009. DWR wants to allow water users the flexibility to determine how they will comply with their reduced allocations in a manner that creates the least impact on their operations. For example, an irrigator who has received such a penalty may have to plant a less water-consumptive crop or reduce their acreage planted in order to comply with the reduction in their authorized quantity due to over-pumping in 2008. It is very important for individuals who have received civil penalties to avoid over-pumping their reduced authorized quantities in 2009 or subsequent years in order to avoid a more severe penalty. All water users - owners and tenants - should be careful to avoid over-pumping so that they do not jeopardize the water rights or permits to appropriate water that they depend upon.

Statutory and Regulatory Authority

Unlawful Acts; Penalties [K.S.A. 82a-728](#)
Civil Enforcement of Act [K.S.A. 82a-737](#)
Forfeiture, Revocation and Dismissal [K.A.R. 5-3-6](#)
Enforcement [K.A.R. 5-14-1](#)
Civil Penalties; Suspension or Modification of Water Rights [K.A.R. 5-14-10](#)

Contact the water commissioner at [your local field office](#) for additional information.

NEWS RELEASES

[New Law Gives Local Control to Conserve and Extend State Water](#)

[Multi-Year Flex Account Program Applications Available](#)

[New Laws Will Conserve and Extend State Water](#)



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approaching](#)[Governor Announces 2012](#)[Water Policy Legislation](#)[Arkansas River Compact](#)[Administration to meet](#)[December 8 in Lamar, Colorado](#)[KDA, K-State Host Educational](#)[Meetings on Water Use with](#)[Limited Supplies](#)[Republican River Compact](#)[Administration Meeting](#)[More news >>](#)

MAILING LISTS

[DWR Currents](#)[More mailing lists >>](#)[Home](#) > [DWR Currents](#) > January 13, 2012

DWR Currents

Jan. 13, 2012

[Consequences of meter tampering](#)
[Streamflow conditions improving in portions of Kansas](#)
[Meet the Staff: Steve Samuelson](#)
[Upcoming events](#)**Consequences of meter tampering**

During the extreme drought of 2011, DWR provided Kansas water users with additional management tools, particularly the [Drought Emergency Term Permit program](#). The one-time, drought-focused term permit allowed holders of existing water rights the flexibility to pump a portion of their 2012 authorized quantity, in order to complete the 2011 growing season. Water use during the two year term is expected to be aquifer neutral as participants agreed to deduct their 2011 overage from what they are permitted to pump in 2012. The Drought Emergency Term Permit has been widely accepted by Kansas irrigators as a management tool as evidenced by the 2,210 applications for enrollment received by DWR prior to the Dec. 31, 2011 deadline.

Unfortunately, there are some water right holders who did not file Drought Emergency Term permits, choosing instead to do something on their own. Field investigations in several areas of Kansas have found water flowmeters in the field that have been manipulated to show incorrect readings.

Right: A 1995 meter that has been newly rebuilt to DWR Compliance & Enforcement standards and sealed to the pipe.

All water rights in Kansas have legally imposed terms and conditions regarding authorized annual quantity. In most areas of the state, water flowmeters have been installed on the points of diversion to assist in compliance with these terms and conditions, and to help the water user manage their allocation. When these meters are regularly used as a management tool, water application rates can be easily calculated and tracked. Problems can occur if the water user looks at the meter perhaps only once a year, or worse, decides to manipulate the meter readings.

Kansas statutes (K.S.A. 82a-728 and 82a-737) and regulations provide stiff penalties for causing a water flowmeter to show incorrect readings. When the Division of Water Resources obtains proof through field investigation of some type of meter manipulation, a civil penalty order is usually the result. Typically, a meter tampering penalty order will consist of a \$1,000 civil penalty for causing a meter to show an incorrect reading (K.A.R. 5-14-10 (e) (2) (B)), and a second penalty of \$500 for exceeding the authorized quantity of water (K.A.R. 5-14-10 (d) (2) (H)). What DWR staff typically discovers in the field is a lower meter reading later in the irrigation season, compared to a photograph of that same meter earlier in the season. When the meter readings have been made unusable due to manipulation, the violation then enters into the aggravating circumstances category (K.A.R. 5-14-10 (f)), with even more stringent penalties. Because of the unknown quantity of water actually diverted by the water user and the apparent intentional noncompliance, the chief engineer typically orders the water right suspended for the following full calendar year. Finally, further action may be taken with the requirement of a new meter register which meets DWR compliance and enforcement standards, and once installed, that meter installation would be sealed to ensure that no further meter manipulation can occur.

Relatively few of these types of violations in Kansas have been documented to date, but the number of these violations has increased recently. DWR has issued suspensions and penalties as appropriate. Hearings have been held on these violations with the water user wanting to present a different case. Photographic proof through DWR field investigation is very difficult to overcome during an administrative appeal or hearing.





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