

WATER RIGHTS IN KANSAS

KELLY STEWART

Water Commissioner

Stockton Field Office

Overview

- Kansas Water Appropriation Act
- Beneficial Uses of Water
- Permit Types & Requirements
- Limited water in Kansas
- Major Groundwater Sources
- Groundwater Managements Districts
- Safe Yield
- Stratigraphic Log Requirements
- Water Level Measuring Tubes

- Water Right Perfection & Certification
 Process
- Water Availability
- Protections
- LEMAs & IGUCAs
- Annual Water Use Water Use Reporting
- Applications, Fees, Violations, & Penalties
- WIMAS
- Meters

Kansas Water Appropriation Act (KWAA)

- Since 1945 Right to use water based on prior appropriation or <u>"First in time –</u> <u>First in right"</u>
- All water is dedicated to the use of the people of Kansas
- Limits rights to reasonable needs
- Allows a limited resource to be allocated for beneficial use and to protect minimum desirable streamflows
- Protects investments, property rights and the resource
 - A water right does not grant ownership of water. It is a real property right to divert and use water for beneficial purposes with reasonable limitations

Some Quick (and Shortened) Definitions

• <u>Vested Right</u>: a right to use water for beneficial use that was recognized, on or before June 28, 1945.

- <u>Water Appropriation</u>: a right to divert water at a specific amount, rate, use, etc. *In general, non-certified files are referred to as water appropriations.*
- <u>Water Right</u>: any vested right or appropriation right. *In general, certified files are referred to as water rights.*



Why do I need a Water Right?

- Water is protected for the use and benefit of the citizens of the state in order of priority
- KDA-DWR issues permits to appropriate water, regulate usage & keeps records of all water rights
- It is illegal to use water without holding a vested right, or applying for & receiving a permit to appropriate water from DWR
- Exception is domestic use household, 2 acres of lawn & garden use, livestock on pasture & secondary uses

Beneficial Uses of Water



A **Beneficial Use of Water** is described as water that is used for financial purposes or aesthetic value and classified under one of the fourteen uses listed in KAR 5-1-1.

Others:

- Municipal
- Domestic
- Dewatering
- Hydraulic Dredging
- Thermal Exchange

Appropriation of Water

- Goes through a perfection period to determine the perfected amount of water for the approved use
- Becomes an actual property right tied to the place of use

Term Permits

- Finite projects lasting longer than 6 months or needing more than 4 mg
- Commonly used for contamination remediation , oil/gas wells, dewatering & construction
- No well log if less than 5 years

Temporary Permits

- Last for no more than 6 months
- A quantity of water no greater than 4 mgy at the place of use, unless for dewatering or wind farms
- Most commonly used for oil/gas wells, dewatering, and wind farm construction
- No well log required

Domestic Use

- Not required to have a permit, but may be recognized
- Irrigate up to 2 acres (lawn & garden) & watering livestock at pasture
- Household purposes

Permit Types

Permitting Requirements

- Source of supply
- Proposed place of use, point of diversion & type of use
- Maximum rate of diversion & quantity of water requested
- If applying for groundwater, a test hole log or well log within 300 feet of proposed well
- Names of well/landowners within ½ mile
- Justification for amount of water requested must be reasonable for intended use
- Must meet minimum well spacing and safe yield (K.A.R. 5-4-4 & 5-3-10)
- Evidence of legal access to the point of diversion

THE STATE

OF KANSAS

KANSAS DEPARTMENT OF AGRICULTURE Jackie McClaskey, Secretary of Agriculture DIVISION OF WATER RESOURCES David W. Barfield, Chief Engineer

File Number ______ This item to be completed by the Division of Water Resources

APPLICATION FOR PERMIT TO APPROPRIATE WATER FOR BENEFICIAL USE Filing Fee Must Accompany the Application (Please refer to Fee Schedule attached to this application form.)

To the Chief Engineer of the Division of Water Resources, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502:

1.	Name of Applicant (Please	Print):	
	Address:		
	City:		State Zip Code
	Telephone Number: ()	
2.	The source of water is:	□ surface water in _	(stream)
	OR	☐ groundwater in	(drainage basin)

Certain streams in Kansas have minimum target flows established by law or may be subject to administration when water is released from storage for use by water assurance district members. If your application is subject to these regulations on the date we receive your application, you will be sent the appropriate form to complete and return to the Division of Water Resources.

3. The maximum quantity of water desired is ______ acre-feet OR ______ gallons per calendar year, to be diverted at a maximum rate of ______ gallons per minute OR ______ cubic feet per second.

Once your application has been assigned a priority, the requested maximum rate of diversion and maximum requested quantity of water under that priority number can **NOT** be increased. Please be certain your requested maximum rate of diversion and maximum quantity of water are appropriate and reasonable for your proposed project and are in agreement with the Division of Water Resources' requirements.

4. The water is intended to be appropriated for (Check use intended):

(a) 🗆 Artificial Recharge	(b) 🗆 Irrigation	(c) CRecreational	(d) 🗆 Water Power
(e) 🗆 Industrial	(f) 🗆 Municipal	(g) Stockwatering	(h) 🗆 Sediment Control
(i) Domestic	(j) 🗆 Dewatering	(k) 🗆 Hydraulic Dredging	(I) Fire Protection

(m) ☐ Thermal Exchange (n) ☐ Contamination Remediation

YOU <u>MUST</u> COMPLETE AND ATTACH ADDITIONAL DIVISION OF WATER RESOURCES FORM(S) PROVIDING INFORMATION TO SUBSTANTIATE YOUR REQUEST FOR THE AMOUNT OF WATER FOR THE INTENDED USE REFERENCED ABOVE.

Limited Water in Kansas

- Variability in hydrologic conditions across the state
 - Average precipitation ranges from 16 inches in Western Kansas to 40 inches in Eastern Kansas
 - Droughts can be persistent







Western Kansas

 Primarily relies on the Ogallala-High Plains aquifer for its water supply

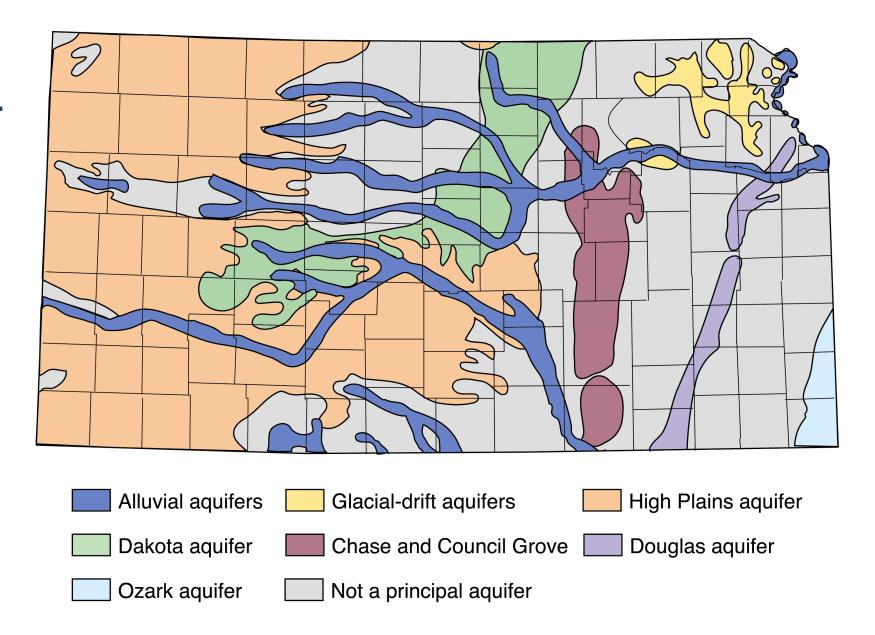
Eastern Kansas

 Primarily relies on surface water supplies

Central Kansas

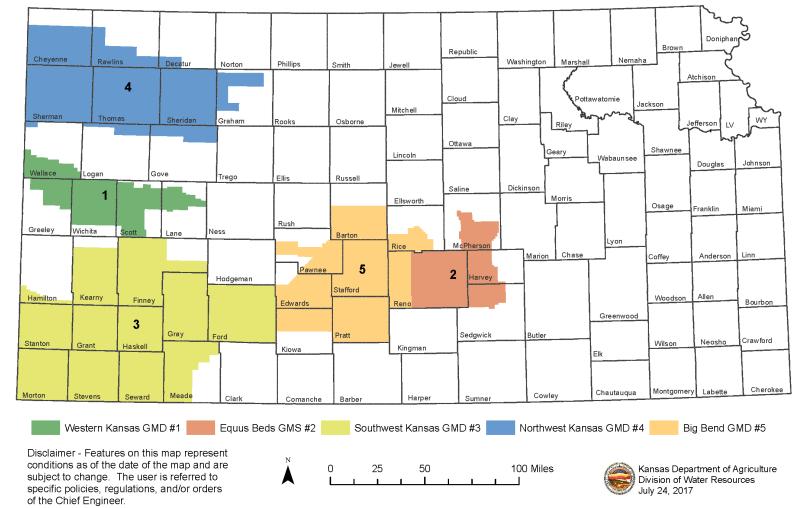
 Relies on a mixture of surface and groundwater

Major Groundwater sources in Kansas



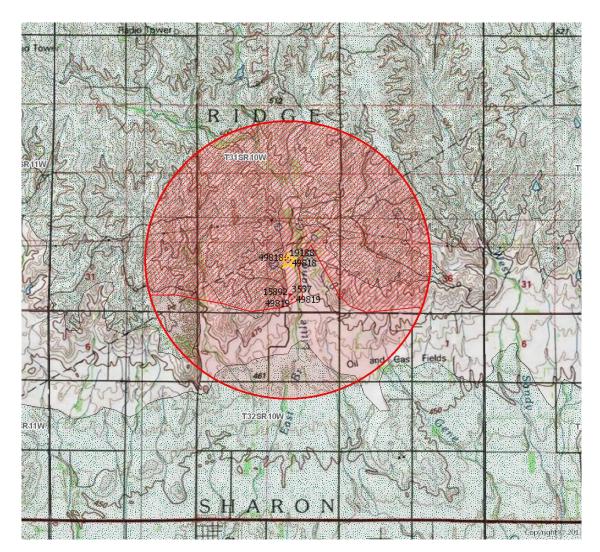
Groundwater Management Districts (GMDs)

Groundwater Management Districts in Kansas



Groundwater - Safe Yield

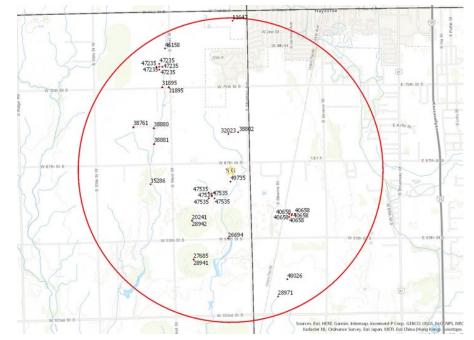
- Process of determining the amount of water available to sustainably appropriate at a specific location.
- For groundwater, the extent of the aquifer was determined within a 2-mile radius of the point of diversion.
- A quantity of water is calculated that can be safely appropriated based on an estimate of precipitation recharge multiplied by the percentage determined by the Chief Engineer to be available for non-domestic uses.
- That quantity is compared to the quantity of water that has already been appropriated within the area of consideration
- If the remaining quantity of water available is sufficient for the application, it will be approved, if not, it will be denied.



Alluvium to the south was removed from the Safe Yield analysis due to determination of different source of supply

Safe Yield – continued

- Term Permits are not subject to safe yield as long as the term extent does not exceed 5 years
- Temporary Permits are not subject to safe yield
- Domestic use is not subject to safe yield



Analysis Results

The selected PD is in an area **OPEN** to new appropriations. The safe yield based on the variables listed below is 2,714.34 AF. Total prior appropriations in the circle is 2,482.41 AF. Total quantity of water available for appropriation is **231.93 AF**.

Safe Yield Variables

The area used for the analysis is set at 8,042 acres. The potential annual recharge at the circle center is estimated to be 5.4 inches. The percent of recharge available for appropriation is 75%.

Authorized Quantity values are as of 20-APR-2018 and are based on Appropriated and Vested ground water right and possible stream nodes for GMD #2. Domestic, Term and Temporary water rights have been excluded.

There are 20 water rights and 31 points of diversion within the circle.

Stratigraphic Log Requirements

- Test hole logs are to be submitted with a new application, though they are not necessary for re-drilling of wells due to being required to be within the same source of supply.
- We require a test log, unless we know what you will be sourcing (i.e. KS River alluvium)
- We always require a test log if the source is in the Dakota, High Plains, or Glacial aquifers
- Test holes must be within 300 feet of the proposed or replacement well
- Completed stratigraphic logs of the actual point of diversion, approved and authorized by the permit, <u>are required to be provided to DWR</u>





201 Industrial Rd., PO Box 7, Olsburg, KS 66520 (785) 468-3324, Fax: (785) 468-3363

October 24, 2017

Test hole log for

The location of the test hole is approximately 2 miles west and $\frac{1}{2}$ mile south of Corning, Kansas. The latitude and longitude coordinates of the test hole are N 39.656002 W 96.072551.

0-3	Top soil
3-125	Clay, brown to gray
125-151	Sand fine, trace medium grades to med. at 146 ft.
151-169	Clay, gray
169-178	Sand, fine
178-190	Clay, gray
190-197	Sand, fine
197-266	Clay, gray
266-317	Sand, fine with clay
317-324	Gravel, pea, sub angular
324-326	Shale, gray
326	Limestone, total depth

Static Water Level estimated at 100 feet below ground surface.

The test hole is estimated to yield over 200 gpm based on the gravel thickness and the history of other wells in the area.

Darin R. Duncan, PG Associated Drilling, Inc.

Glacial deposits in Nemaha Co.

Williams Drilling Co., Inc. P. O. Box 327 6204 Spur 85D Belvidere, Nebraska 68315 Phone 800-477-3745 Fax 402-768-6099

> Test Hole SE ¼ of Sec 10 – T8S – R4W in Cloud County 39* 22' 15.31" 97* 44' 56.62"

0 - 2**Top Soil** 2 - 5**Gray Clay** 5 - 8**Brown Dirt** 8 - 13**Orange Clay** 13 - 57Fire Clay 57 - 105Sand Stone 105 - 106**Clay Layer** 106 - 154Sand Stone **Clay Layer** 154 - 168

Test Hole

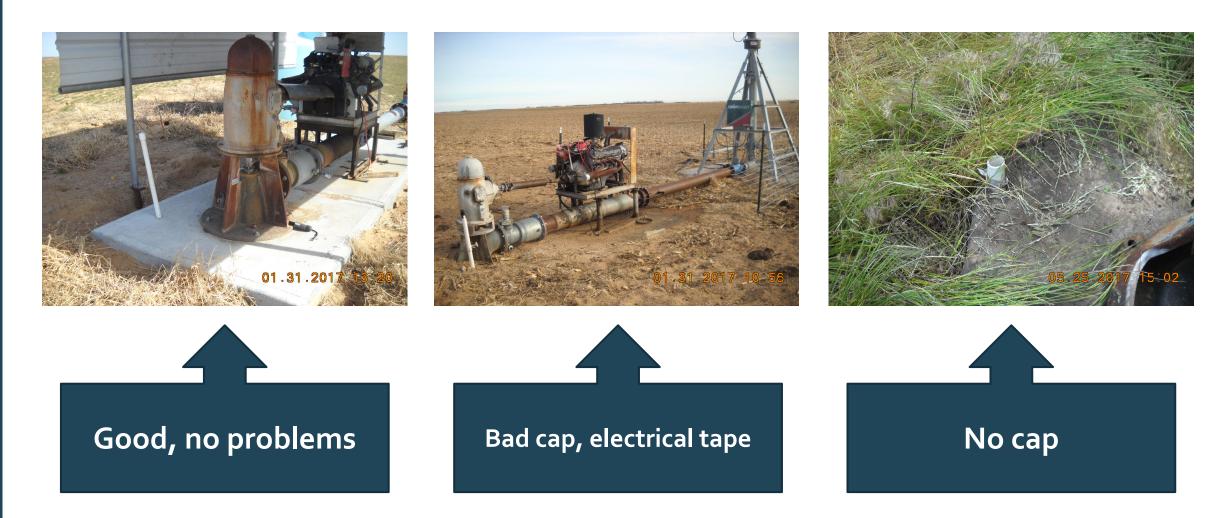
Log

Examples

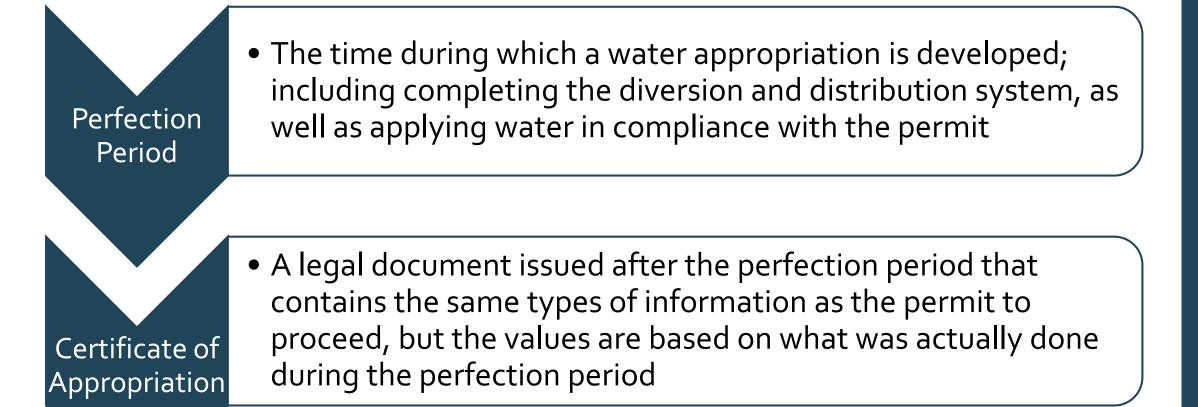
- 168 176 Sand Stone
- 176 184 Clay Layer
- 170 104 Clay Lay 184 200 Shale
 - Unconfined Dakota system in Cloud Co.

Water Level Measuring Tubes

*Must have if rate greater than 100 gpm



Water Right Perfection



Process - From Application to Certificate

	 Know what you need, where it is coming from, and where it is going to
File an Application	 Have data to back up what you need
	 Assistance available at the local field office

After the permit is approved,
complete the diversion works

Install the well/surface diversion and meter it with an approved meter
A list of approved (certified) meters can be found online at <u>www.agriculture.ks.gov</u>
File the Notice of Completion and pay the \$400 N&P fee
Extension of time to complete can be requested - \$100 fee

After completion, use what you need during the perfection period

- Accurate records and water use reporting are vital
 Extensions of time to perfect can be requested \$100 fee
- Reminders are sent in October of the deadline year & a reason to extend must be given

Inspection of diversion works & continuation of perfection period

- Several visits made by DWR staff who will verify:
- Well/surface diversion location
- Meter type & installation
- Place of use and rate of diversion

After expiration of the perfection period, DWR will issue a Certificate

- DWR will review the water use history to determine what was used from:
- The permitted well(s) / surface diversion(s) as well as all of the diversions for the place of use
- A draft certificate will be sent to the landowner of record for review
- DWR will issue the final Certificate with corrections, if needed

Water Availability

In areas *closed* to new appropriations of water, additional water use for population growth, new industry, or feedlot can be accommodated through purchase and conversion of existing water rights

Changes must pertain to the same local source of supply Changes from irrigation to another use such as stock or municipal cannot increase net consumptive use

We no longer have to worry about "use it or lose it" in closed areas in Kansas

Protections

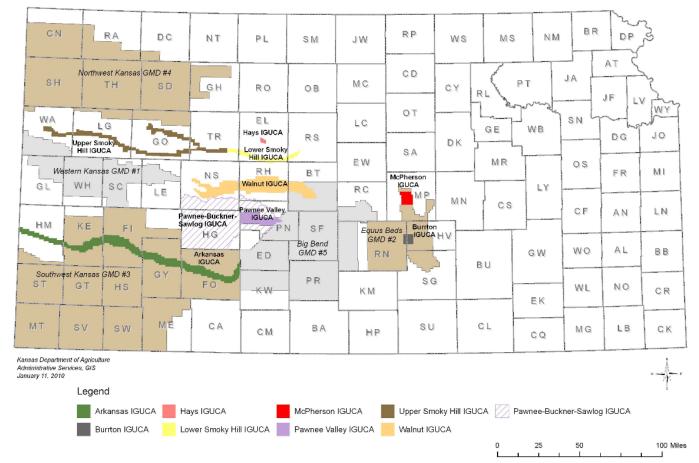
- During periods of shortage, junior water rights may be curtailed to satisfy senior water rights and minimum desirable streamflows
- Releases from storage are protected
- Strict first in time, first in right can be harsh
- Statutes provide additional comprehensive tools such as LEMAs and IGUCAs to deal with water problems

≊USGS



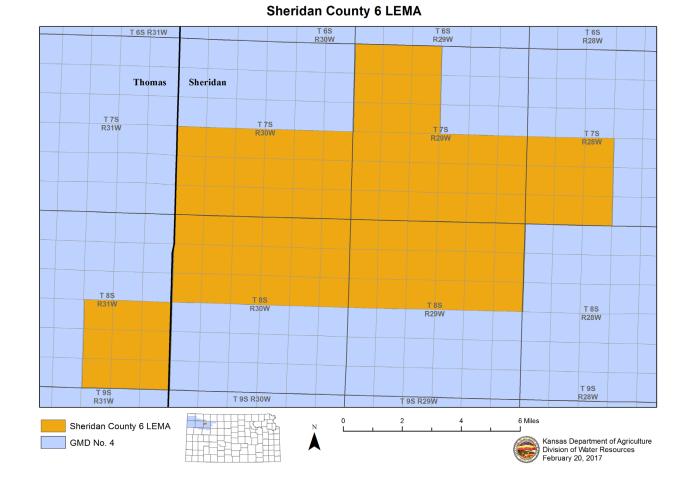
Intensive Groundwater Use Control Areas in Kansas

- Created in 1978 when permits were required
- Water Management tool that works in conjunction with the KWAA
- Allows for more-flexible solutions taking into account the area & aquifer
- Provides alternatives to strict administration of water rights by priority
- Formal public hearings are held
- Decision by the Chief Engineer based on hearing record



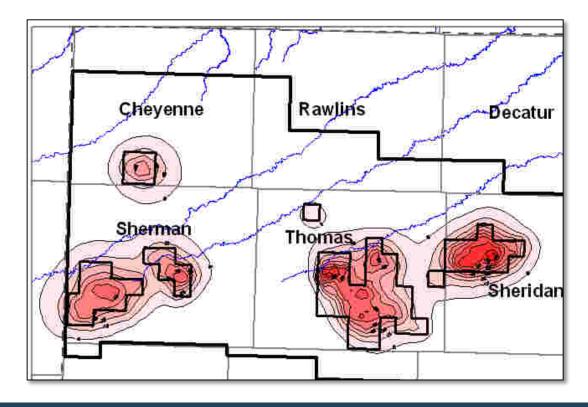
Local Enhanced Management Areas (LEMAS)

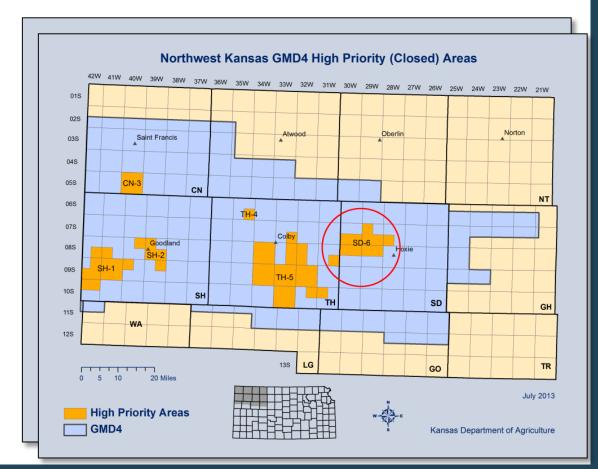
- Proactive plans developed by locals and GMDs
- Include conservation measures to address specific water resource problems
- Hearings before the Chief Engineer to adopt, reject or return plan to the GMD
- Shared solution respecting priority



LEMA example

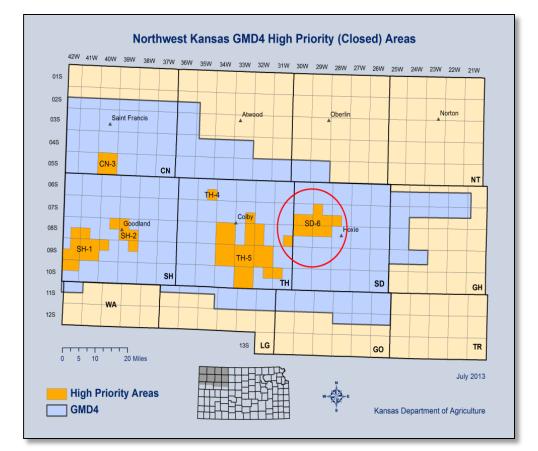
- GMD No. 4 identified high priority areas (HPA)
- Model demonstrated benefits of cuts stay put
- "Sheridan 6" HPA wanted to cut use by 20%
- Tried regulations and explored IGUCA option



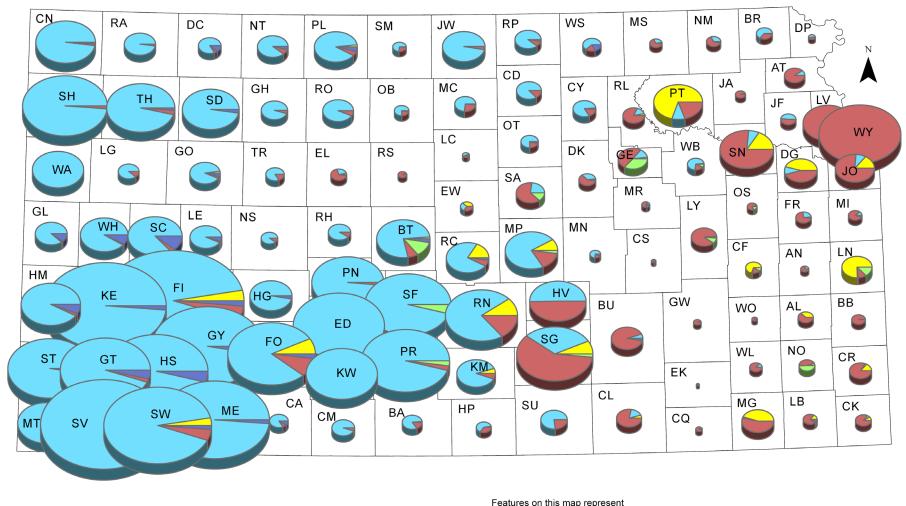


LEMA cont.

- GMD 4 now has adopted a LEMA that is district wide.
- Correction controls are based on inches per acre.
- The LEMA stood up in a legal challenge in district court.
- We have three LEMAs in Kansas. Two are in GMD 4 and one in GMD 1.
- GMD 4 is a leader in managing the Ogallala.



2019 Reported Water Use for Kansas Counties



Annual Water Use



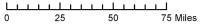


Seward: 137,728 AF Reno: 61,746 AF of the Chief Engineer.

Atchison: 4,955 AF

conditions as of the date of the map and are subject to change. The user is referred to specific policies, regulations and/or orders

Uses of water for artificial recharge, contamination remediation, dewatering, domestic, fire protection, hydraulic dredging, sediment storage, thermal exchange and water power are not shown on the charts.



Kansas Department of Agriculture Division of Water Resources -September 15, 2020

Water Use Reporting

2017 IRRIGATION WATER USE REPORT

This is the annual Water Use Report required to be filed for all Vested or Appropriation Rights. **IMPORTANT:** Kansas Law requires this completed report to be filed by March 1. Failure to do so will subject the owner to a civil fine not to exceed \$1,000 per file number. If any point of diversion shown below is permanently inoperable, please circle it. IF YOU DID NOT USE WATER, YOU **MUST** REPORT THE REASON FOR NON-USE TO HELP PROTECT YOUR WATER RIGHT. Information on each point of diversion must be completed. Please begin by reading the attached instructions and definitions.

	LEGAL DESCR POINT(S) OF D						INCL	UDE MULTIPLICATIO	ON FACTOR			PUMP		TYPE	TYPE	WELL	DATA
FILE	QUALIFIERS	SEC TWP RNG	CIN	снм		ACRES	BEGINNING WATER METER READING	ENDING WATER METER READING	METERED QUANTITY OF WATER	UNIT	HOURS	RATE	CROP	OF	OF	DEPTH TO WATER	DATE
33717-00	1020N 4980W	3- 1S-42₩	2	N	A	35	25,973	73710	47.737	A	694	350	1	4	D	24	1/8/17
33718-00	2180N 3780W	3- 1S-42W	3	4	A	130	147.160	327270	180,110	A	1309	700	16	4	E	22	1/8/17
								,									2011
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	PIN Person FIELI IUMBER ID OFFIC				l	65	Total acres irrigated	1.	L]		K	S Dep		gricult	
		I - IRR Stock CN	under	stand							-				0	114()4
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- Who reports water use? → Any water right owner or the designated water use correspondent (usually the tenant).
- When does water use reporting take place?
 → Begins January 1st and runs until March 1st each calendar year

Water Use Reporting

Water Use details are used:

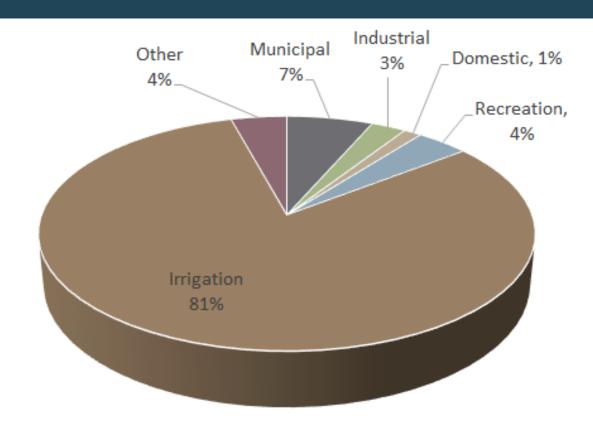
- To certify water rights
- In interstate compact administration
- For water banking
- In possible abandonment of water rights
- For compliance & enforcement actions

Who uses our data:

- Kansas Water Office
- KGS/USGS
- KRWA
- K-State Extension
- KS Dept. Of Revenue

Each year approx. 16,000 water use report forms are mailed for 32,500 active water rights.

Largest beneficial use in KS is irrigation.



Kansas Water Use Reporting System

Kansas DASC KU

Er	tter your PIN and F Elick here for PIN and Person Trouble logging in with Interne		
PIN:	Person ID:	Log li	

Welcome to the Kansas Water Use Reporting System. Annual water use can be reported on-line to comply with the water use reporting requirements of the Kansas Water Appropriation Act. Owners of water rights in Kansas must report the previous years' use for all uses, except domestic use, by March 1 of each year. Filing a complete and accurate report will help protect your water right.

If you need help, please read the Instructions for completing the on-line report and Terms and Definitions.

Failure to file a water use report by March 1, or filing an incomplete report, subjects the owner to a civil penalty not to exceed \$1,000 per water right permit. Failure to file a water use report by June 1 could result in a suspension of all water use until the report has been submitted. See <u>K.S.A. 82a-732</u>.

Getting Started:

1. Login using the PIN and Person ID. These numbers are printed in the lower left hand corner on the annual water use report form mailed to you.

2. Once logged in, follow the instructions inside the pages displayed. Particularly take notice of the links at the top of each page which are helpful to navigate through the different parts of the report that may be required for specific use made of water.

Notes

The Water Use Unit of the Division of Water Resources encourages you to use the new online filing system. You may read more about the Water Use Unit online at <u>Kansas Water Use Unit</u>.

If you have a problem using the system, or you are a new owner and you don't have your ending meter reading from last year, please call the water use unit at 785-564-6638.

If there has been an address change since last year's, report you may report the change by clicking the "Add New Address" link which shows up at the top of the page once you logged in.

If you are an owner of a water right and desire someone else to file the report each year, please read the instructions to change the Water Use Correspondent. A form is included with the instructions. <u>Instructions for Correspondent Change Form</u>.

If there has been an ownership change since last year's report, please click here for more information.

For general questions, contact your local field office:

Online Water Use Reporting

- Initiated in 2013 to allow water users to report water usage online
- System reduces chance of errors & incorrect information
- Free to use, with real-time confirmation of report submittal



www.KSWaterUseReport.org

Applications, Fees, Violations, & Penalties

Overpumping Penalties

Category	Level A <24 Hours	Level B 24 – 72 Hours	Level C More than 72 Hours
No Penalty w/in 5 yrs	Written Notice of Non- Compliance	\$1000 per day and a reduction in quantity equal to 2X quantity overpumped (not to exceed one year suspension)	\$1000 per day and a reduction in quantity equal to 3X quantity overpumped (not to exceed one year suspension)
One Penalty w/in 5 yrs	\$1000 per day and a reduction in quantity equal to 2X quantity overpumped (not to exceed one year suspension)	\$1000 per day and a one year suspension	\$1000 per day and a three year suspension
Two Penalties w/in 5 yrs	\$1000 per day and a one year suspension	\$1000 per day and a three year suspension	\$1000 per day and a four year suspension
Three Penalties w/in 5 yrs	\$1000 per day and a three year suspension	\$1000 per day and a four year suspension	\$1000 per day and a five year suspension

Late Water Use Penalties

- Update to K.S.A 82a-732 2018 was the first year of increased fines for the 2017 reporting season. Civil and other penalties for failure to submit a water use report are:
 - If report is not received by March 1, owner is subject to \$250 penalty per file number
 - If report is not received by June 1, owner is subject to \$1000 penalty per file number

Civil Fines for Other Water Right Violations

Violation of K.A.R. 5-14-10	Monetary Penalty	Maximum Number of Days Penalty Applied	Maximum Suspension of Water Use
Lower-tier miscellaneous	\$500 per day	20	One year
Failure to provide information	\$500 per day, for each day the violation exists	20	One year
Unauthorized diversion or threat to divert	\$500 per day	20	One year
Denial of access	\$1,000 per day	10	Three years
Lack of water flowmeter	\$1,000 per day	10	Three years
Noncompliance with a substantial order	\$1,000 per day	10	Five years
Meter manipulation	\$1,000 per day	10	Five years
Falsification	\$1,000 per instance of falsification	Not applicable	Five years
Noncompliance with a special condition of a change application approval	\$1,000 per day	10	Two years

Denved as to



Image: Waste of water – lower tier – \$500 per day penalty & 1 year suspension of water right



http://hercules.kgs.ku.edu/geohydro/wimas/



Water Information Management and Analysis System (WIMAS) for the Web

Water Right Information represents conditions as of 12/31/2017.

WIMAS 5 User Manual

Irrigation Stockwater	No Filter Ground
Filter for Primary Water Rights	Surface Go directly to MAPPING page

WIMAS is a web based application that allows users to query, analyze, and map Kansas water right data. Data is retrieved daily from the Kansas Department of Agriculture's, Division of Water Resources Water Rights Information System.

WIMAS version 5 for the Web was funded in part by the State Water Plan Fund of the Kansas Water Office and the Kansas GIS Policy Board.

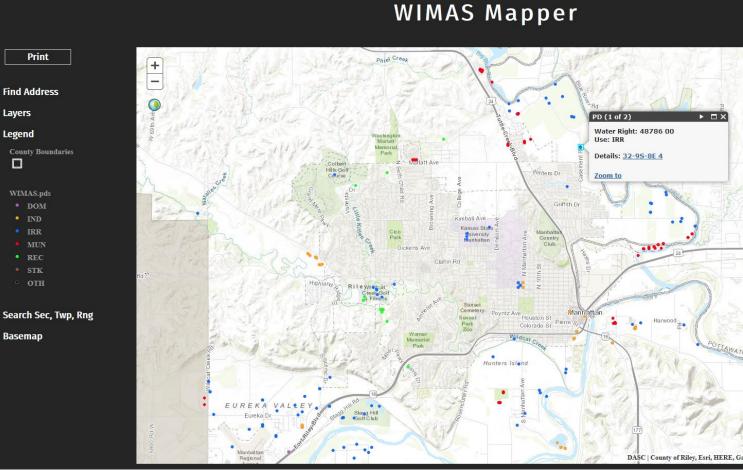
Related Links

KDA Division of Water Resources-DWR administers 28 state laws, including the Kansas water appropriation act, and statutes concerning construction of dams, levees and other changes to streams within Kansas. DWR administers the state's four interstate river compacts and coordinates the national flood insurance program in Kansas.

Kansas Water Office -- The KWO is the State's water planning, policy, and coordination agency and develops the Kansas Water Plan.

KDHE Bureau of Water— The Bureau of Water administers programs related to public water supplies, wastewater treatment systems, the disposal of sewage, and nonpoint sources of pollution. Programs are designed to provide safe drinking water, prevent water pollution, and assure compliance with state and federal laws and regulations such as the Clean Water Act and Safe Drinking Water Act.

Groundwater Management Districts -- Five groundwater managment districts are responsible for regional planning and management of groundwater resources, collecting resource data and



Online application that allows users to query, analyze & map Kansas Water Right Data

Data updated daily from DWR database

	Point of Diversion
	PD: 32-95-8E 4 2 Water Right(s): 40024 - 00 v 1 Type(s) of Use: IRR v Google Location Map
	WWC5 Links: 57362 WIZARD Link: 391321096332301
	Water Right Details
	Source: G Right Type: A Total Acres Authorized: 121.3 Net Acres Authorized: 121.3 Use of Water Active: Y
	Water Right Status: NK Place(s) of Use: 31-9S-8E SE SE (active) Total Acres: 15.7, Net Acres: 15.7
	Priority Date: 06/28/1990 Action Trail: 06/28/1990- PENDING INITIAL REVIEW ~
- LUIS	Point of Diversion Details
	PD Active: Y Feet North: 1471 Feet West: 5375 Qualifiers: County: RILEY
	GMD Num: Number of Wells: 1 Subbasin: BIG BLUE RIVER Stream Number:
	Special Use Area(s): Comment: sw nw sw
	Authorized Quantity & Rate
	Quantity Stored By: Water Right Authorized Quantity (AF): 90 Net Quantity (AF): 90
	Rate Stored By: Water Right Authorized Rate (GPM): 750 Net Rate (GPM): 750
ľ.	Reported Water Use Graph Water Use History
	Water Use Year(s): 2017 V Total Water Used (AF): 37.56 Acres Irrigated: 126
	Water Use Reported on Right Num: Reel Number: 1 Blip Number: 736
	Metered Quantity: 12237700 Meter Unit: 1 Depth to Water: Depth of Well:
	Beginning Meter Reading: 6412800 Ending Meter Reading: 18650500
	System Type: 4 Hours Pumped: Pump Rate: 700 Date of Measurement:
	Date Report Received: 01/12/2018 Chemigation Indicator: N Water Use Code: M Crop Code: 20
	Current Water Use Correspondent(s): PAUL B & MARY BETH IRVINE
	Print ASCII Report

WIMAS

Meters

- Water flowmeters required by KDA-DWR must be from the Certified Water Flowmeter list
- Meters must be installed according to manufacturer instructions and with minimum 5 pipe diameters upstream and 2 downstream
 - Multijet, full-bore electromagnetic & positive displacement meters are exempt from spacing requirements
- McCrometer propeller meters must be installed in approved chamber with flow straightening vanes



Meter spacing – the good



Meter spacing – the bad



Out of compliance – does not meet upstream spacing & spigot location

Meter spacing – the ugly



Out of compliance – does not meet upstream spacing

Meters

- Meters must have sufficient register capacity to not roll over more than once per year
- They must be maintained in satisfactory operating condition
- Must have appropriate seals and labels. Seals can only be broken by an authorized representative of the manufacturer
- One must submit a repair/replacement form when meter is repaired or replaced.

 115 South 16th Street, Aurora, NE 68818

 1.402-694-4114//FAX 1.402-694-6888

 Item MD308-1300
 0.D. 8.000

 S/N GP12-2398
 I.D. 7.731

 Tti Unts AFT
 Rate Unt GPM

 Mount: Standard
 Bearing B0110-80

 Orien HORIZONTAL
 Reg: R0100-10-P



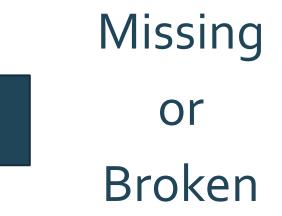


Meter Issues

Unreadable or Broken



Meter Seal Issues



QUESTIONS

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