

THE STATE



OF KANSAS

KANSAS DEPARTMENT OF AGRICULTURE
Adrian J. Polansky, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David L. Pope, Chief Engineer

**BEFORE THE KANSAS DEPARTMENT OF AGRICULTURE
DIVISION OF WATER RESOURCES**

IN THE MATTER OF
XXXXXXXXXXXX
XXXXXXXXXXXX

File No(s).XXXXXXXXXXXX

ORDER REGARDING INSTALLATION OF WATER FLOW METERS

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, under authority of Kansas Statutes Annotated (K.S.A.) 82a-701 *et seq.*, after due consideration, hereby makes the following Findings and Order:

FINDINGS

1. The Chief Engineer is required to control, conserve, regulate, allot, and aid in the distribution of the water resources of the State pursuant to K.S.A. 82a-706.
2. The Chief Engineer is authorized, pursuant to K.S.A. 82a-706c, to require the installation of water meters and has adopted minimum specifications for such meters. K.S.A. 82a-706c also authorizes the Chief Engineer to require water users to report the reading of such meters at reasonable intervals.
3. The Kansas Water Plan recommends the installation of water flow meters on all non-domestic points of diversion by the end of calendar year 2015.
4. The installation of totalizing water flow meters on all surface water and groundwater points of diversion located within the Northwest Kansas Groundwater Management District No. 4, with the exception of those points of diversion used solely for domestic purposes or authorized by temporary permits, will implement the recommendations of the Kansas Water Plan and provide accurate water use data to enable the Chief Engineer to manage the water resources of the State, including the allotment and distribution of water among water rights and the administration of the Republican River Compact.
5. The points(s) of diversion authorized by the water right(s) of appropriation of water permit(s) identified above is/are within the Northwest Kansas Groundwater Management District No. 4 and is/are not used solely for domestic purposes or authorized by a temporary permit(s).

ORDER

NOW, THEREFORE, it is the decision and order of the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture:

1. That the owner of the water right(s) or appropriation of water permit(s) identified in this order shall install a totalizing water flow meter which meets or exceeds specifications adopted by the Chief Engineer on each authorized point of diversion prior to the following deadlines:
 - A. Meters shall be installed on all points of diversion located within the Northwest Quarter (NW/4) of a legal section no later than **December 31, 2006** or prior to any diversion of water in calendar year 2006.
 - B. Meters shall be installed on all points of diversion located within the Northeast Quarter (NE/4) of a legal section no later than **December 31, 2007** or prior to any diversion of water in calendar year 2007.
 - C. Meters shall be installed on all points of diversion located within the Southeast Quarter (SE/4) of a legal section no later than **December 31, 2008** or prior to any diversion of water in calendar year 2008.
 - D. Meters shall be installed on all points of diversion located within the Southwest Quarter (SW/4) of a legal section no later than **December 31, 2009** or prior to any diversion of water in calendar year 2009.
 - E. Meters shall be installed on all points of diversion located in lots or authorized at locations not described in a specific quarter section prior to **December 31, 2006**, or prior to any diversion of water pumping in 2006, whichever is sooner. If the landowner provides detailed information establishing the location of the point of diversion in a specific quarter section instead of a lot, the flowmeter shall be installed according to the schedule above.
2. There shall be no diversions of water from the point(s) of diversion authorized by the water right(s) or appropriation of water permit(s) referred to in this order unless water flow meters have been installed in accordance with this order or the Chief Engineer or his authorized representative has granted, in writing, an extension of the applicable deadline.
3. The totalizing water flow meter shall be maintained in operating condition satisfactory to the Chief Engineer as set forth in K.A.R. 5-1-8.
4. The totalizing water flow meter should be calibrated in the same units used to identify the authorized quantity in the Authorization of a Vested Water Right; Certificate of Appropriation; Approved Application to Appropriate Water for Beneficial Use.
5. The owner of the water right or appropriation of water shall notify the Chief Engineer, in writing, within 30 days of completion of the meter installation required under this order. Such notice shall be provided on a Notice of Completion of Diversion Works and/or Report of Flow Meter Installation form obtained from the Division of Water Resources.

- 6. If a water flowmeter was installed on any point of diversion prior to this order, the owner shall notify the Chief Engineer, in writing, by January 31, 2006. Such notice shall be provided on a Notice of Completion of Diversion Works and/or Report of Flow Meter Installation form obtained from the Division of Water Resources. Any water flow meter installed prior to this order, installed according to specifications at the time of the installation and maintained in accordance with those specifications, shall be considered in compliance with this order unless the meter's accuracy is in question.
- 7. The owner of the water right or appropriation of water shall report meter readings on the annual water use report, pursuant to KSA 82a-732 and KAR 5-3-5e, by March 1 following the end of the calendar year in which the meter was installed and on each subsequent annual water use report.
- 8. The conditions of this order requiring installation, maintenance and use of water flow meters shall become conditions of the water right(s) or appropriation of water permit(s) identified in this order.
- 9. This is a final order of the Chief Engineer. Any appeal of this order must be made within 30 days to a Kansas court of competent jurisdiction, such as the District Court of Shawnee County, pursuant to the Kansas Act for Judicial Review and Civil Enforcement of Agency Actions (K.S.A. 77-601 et seq). The agency officer who will receive service of a petition for judicial review on behalf of the Kansas Department of Agriculture is Chief Legal Council, Kansas Department of Agriculture, Legal Section, 109 SW 9th Street, 4th Floor, Topeka, KS, 66612.
- 10. This order contains terms, conditions, and limitations imposed by the Chief Engineer on the referenced water rights(s) or appropriations of water permit(s). Failure to comply with the provisions of this order may result in civil penalties of up to \$1000 per day of violation and/or the modification or suspension of the water right or use of water under this water right or appropriation of water permit pursuant to K.S.A. 82a-737.
- 11. The Chief Engineer specifically retains jurisdiction in this matter to make such changes, additions, or deletions to this order, as he deems necessary in the public interest.

Dated at Topeka, Kansas, this 23rd day of December, 2005.

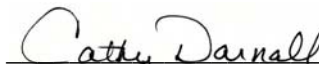


David L. Pope, P.E.
Chief Engineer

Certificate of Service

A copy of the foregoing Order was sent by First Class mail service this 23rd day of December, 2005, to the following:

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Cathy Darnall