

**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  
XXXXXXXXXXXXXXXXXX

File No(s). XXXXXXXXXXXXXXXX

**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 Kansas Water Plan directs the Chief Engineer to require the installation of water flow meters on all non-domestic points of diversion by the end of calendar year 2010, and recommends that the Chief Engineer implement regulatory solutions as necessary for areas of declining groundwater and decreased stream flows within the Upper Arkansas Basin, which includes the Pawnee and Buckner drainage basins.
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. Water flow meters currently are required on all non-domestic points of diversion in the Pawnee basin in Pawnee County, pursuant to K.A.R. 5-25-5, and the Buckner basin in Finney County, pursuant to a 1992 policy of Groundwater Management District No. 3.
4. The installation of totalizing water flow meters on all surface water and groundwater points of diversion, excluding those points of diversion used solely for domestic purposes or authorized by temporary permits, within the Pawnee and Buckner drainage basins in Hodgeman and Ness counties will implement the requirements of the Kansas Water Plan and will provide information to the Chief Engineer for the purpose of implementing regulatory solutions.
5. The Pawnee-Buckner drainage basins in Hodgeman and Ness counties consist of the following areas:

Township 20 South

Range 20 West through Range 26 West (All Sections)

Range 19 West (All Sections)

Range 18 West, Sections 7 and 17 through 36

Range 17 West, Section 31

Township 21 South

Range 30 West, Sections 1 through 4; 9 through 16; 21 through 28; and 33 through 36

Range 21 West through Range 29 West (All Sections)

Range 20 West and Range 19 West, Sections 1 to 6

Range 18 West, Sections 1 through 24

Township 22 South

Range 30 West, Sections 1 through 4; 9 through 16; 21 through 28; and 33 through 36

Range 21 West to Range 29 West (All Sections)

Range 19 West and Range 20 West, Sections 13 through 36

Range 18 West, Sections 20 through 36

Range 17 West, Sections 20, 21 and 30

Township 23 South  
Range 22 West to Range 26 West (All Sections)  
Range 21 West, Sections 1 through 24; and 27 through 32  
Range 20 West, Sections 1 through 18  
Range 19 West, Sections 1 through 12; 14 through 18  
Range 18 West, Sections 3 through 10  
Township 24 South  
Range 23 West to Range 26 West  
Range 22 West, Sections 1 through 23; and 26 through 35  
Range 21 West, Sections 5, 6 and 7

6. The point(s) of diversion authorized by the water right(s) or appropriation of water permit(s) identified above is/are within the Pawnee-Buckner drainage basins in Hodgeman and Ness counties, as described above, and is/are not used solely for domestic purposes or authorized by a temporary permit(s).

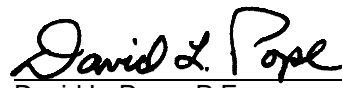
### ORDER

IT IS, THEREFORE, ordered that:

1. 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. Totalizing flow meters shall be installed on all points of diversion located within the Southeast Quarter (SE $\frac{1}{4}$ ) of a legal section no later than March 1, 2006.
  - B. Totalizing flow meters shall be installed on all points of diversion located within the Northeast Quarter (NE $\frac{1}{4}$ ) of a legal section no later than March 1, 2007.
  - C. Totalizing flow meters shall be installed on all points of diversion located within the Northwest Quarter (NW $\frac{1}{4}$ ) of a legal section no later than March 1, 2008.
  - D. Totalizing flow meters shall be installed on all points of diversion located within the Southwest Quarter (SW $\frac{1}{4}$ ) of a legal section no later than March 1, 2009.
  - E. Totalizing flow meters shall be installed on all points of diversion not otherwise specified above no later than March 1, 2009.
2. There shall be no diversions of water from any point 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 has granted, in writing, an extension of the applicable deadline.
3. The totalizing water flow meter meters shall be maintained in operating condition satisfactory to the Chief Engineer as set forth in K.A.R. 5-1-8.
4. The owner of the water right 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.
5. The owner of the water right 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.
6. The conditions of this order requiring installation, maintenance and use of water flow meters shall be considered conditions of the water right(s) or appropriation of water permit(s) identified in this order.

- 7. Existing meter installations at the date of issuance of this order may be considered conditionally compliant with this order if the following conditions are met:
  - A. The owner of the water right shall notify the Chief Engineer of the existence of the meter, in writing, by January 1, 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.
  - B. The water flow meter, as installed prior to the issuance of this order, shall be considered to be in compliance with this order provided that it meets the accuracy requirements of K.A.R. 5-1-4(a) and (b).
  - C. A totalizing water flow meter shall be installed as required by this order at the time the existing water flow meter is replaced or modified.
  - D. The owner of the water right shall report meter readings as required by this order no later than March 1, 2006.
- 8. 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.). Any party seeking judicial review must also serve notice upon: Chief Legal Counsel, Kansas Department of Agriculture, Legal Section, 109 SW 9th Street, 4th Floor, Topeka, KS, 66612.
- 9. 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.
- 10. 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.

Entered in SHAWNEE COUNTY, KANSAS.

  
 David L. Pope, P.E.                      September 9, 2005  
 Chief Engineer                              Date

**Certificate of Service**

A copy of the foregoing Order was sent by certified mail service this 9th day of September, 2005, to the following:

XXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXX

  
 Cathy Darnall