

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

File No(s).

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 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.
2. For the purpose of determining the availability of groundwater for appropriation (safe yield), the Chief Engineer has designated the South Central Kansas Designated Unit Areas as the basins, subbasins, stream reaches and other hydrologic units in Barber, Clark, Comanche, Harper, Kingman, Kiowa, Meade, Rice, Reno and Sumner counties pursuant to K.A.R. 5-3-11(d)(4).
3. Water flow meters are currently required on all non-domestic points of diversions in the Chikaskia River Basin and its tributaries and their hydrologically connected aquifers in Barber, Harper, Kingman, Pratt and Sumner counties within the South Central Kansas Designated Unit Areas.
4. The proper enforcement and administration of water rights requires the installation of totalizing water flow meters on all surface water and groundwater points of diversion, excluding those points used solely for domestic purposes or authorized by temporary permits, within the remaining basins, subbasins, stream reaches and other hydrologic units in South Central Kansas Designated Unit Areas, consisting of the following areas:

Rice County,
Township 22 South, Range 8 West, Sections 1 through 4;

Reno County,
Township 22 South, Range 8 West, Sections 5 through 36;
Township 23 South, Range 8 West, (All Sections);
Township 24 South, Range 8 West, (All Sections);
Township 25 South, Range 8 West, (All Sections);
Township 26 South, Range 8 West (All Sections);

Kingman County,

- Township 27 South, Range 5 West through Range 10 West, (All Sections);
- Township 28 South, Range 5 West through Range 10 West (All Sections);
- Township 29 South, Range 5 West through Range 8 West (All Sections);
Range 9 West Sections 1, 12, and 13;
- Township 30 South, Range 5 West, Sections 1 through 18, 20 through 28 and 33 through 36;
Range 6 West, Sections 1 through 4, 12, 19, 20, 28, 29, 30, 32, 33, and 34;
Range 7 West, Sections 3, 5, 6, and 19 through 29;
Range 8 West, Sections 1 through 5, and 21 through 36;

Kiowa County,

- Township 29 South, Range 16 West through Range 20 West, (All Sections);
- Township 30 South, Range 16 West through Range 20 West, (All Sections);

Sumner County,

- Township 30 South, Range 3 and 4 West, (All Sections);
- Township 31 South, Range 2, 3 and 4 West, (All Sections);
- Township 32 South, Range 1 and 2 West, (All Sections);
Range 3 West, Sections 1 through 17, 20 through 26, 35 and 36;
Range 4 West, Sections 1 through 5, 8 through 16, 31, 32, and 34;
- Township 33 South, Range 1 East and 1 West, (All Sections);
Range 2 West, Sections 1 through 15, 21 through 28, and 32 through 36;
Range 3 West, Sections 1, 5 through 9, 12, 16 through 22, and 28 through 33;
Range 4 West, (All Sections);
- Township 34 South, Range 2 East, (All Sections);
Range 1 East, (All Sections);
Range 1 West, (All Sections);
Range 2 West, Sections 1 through 4, 9 through 13, 24, and 29 through 34;
Range 3 West, Sections 2 through 11, and 13 through 36;
Range 4 West, (All Sections);
- Township 35 South,
Range 2 East, Sections 1 through 18;
Range 1 East, Sections 1 through 18;
Range 1 West, Sections 1 through 17;
Range 2 West, Sections 3 through 10, 15 through 18;
Range 3 West, Sections 1 through 18;
Range 4 West, Sections 1 through 18;

Harper County,

- Township 31 South, Range 5 West, Sections 1 through 4, 11 through 13, and 20;
Range 6 West, Sections 3, 4, 5, 8, 9, 10, 16, 17, 20, 21, 22, 23, and 29;
Range 7 West, Sections 7, 16 through 21, and 27 through 35;
Range 8 West, (All Sections);
Range 9 West, Sections 1, 2, and 8 through 36;
- Township 32 South,
Range 5 West, Sections 25, 29, 30, 31, 32, 35, and 36;
Range 6 West, Sections 16 through 36;
Range 7 West, Sections 2 through 11 and 13 through 36;
Range 8 West (All Sections);
Range 9 West, (All Sections);
- Township 33 South, Range 5 through 9 West, (All Sections);
- Township 34 South, Range 5 through 9 West, (All Sections);
- Township 35 South, Range 5 through 9 West, (All Sections);

Barber County

- Township 30 South, Range 11 West, Section 31;
Range 12 West, Sections 3 through 10 and 14 through 36;
Range 13 through 15 West, (All Sections);
- Township 31 South, Range 10 West, Sections 13 through 36;
Range 11 West, Sections 5 through 10, and 13 through 36;
Range 12 through 15 West, (All Sections);
- Township 32 South, Range 10 through 15 West, (All Sections);
- Township 33 South, Range 10 through 15 West, (All Sections);
- Township 34 South, Range 10 through 15 West, (All Sections);
- Township 35 South, Range 10 through 15 West, (All Sections);

Comanche County,

- Township 31 South, Range 16 through 20 West, (All Sections);
- Township 32 South, Range 16 through 20 West, (All Sections);
- Township 33 South, Range 16 through 20 West, (All Sections);
- Township 34 South, Range 16 through 20 West, (All Sections);
- Township 35 South, Range 16 through 20 West, (All Sections);

Clark County,

- Township 30 South, Range 21 through 25 West, (All Sections);
- Township 31 South, Range 21 through 25 West, (All Sections);
- Township 32 South, Range 21 through 25 West, (All Sections);
- Township 33 South, Range 21 through 25 West, (All Sections);
- Township 34 South, Range 21 through 25 West, (All Sections);
- Township 35 South, Range 21 through 25 West, (All Sections);

Meade County,

- Township 31 South, Range 26 West, Sections 1, and 7 through 36;
Range 27 West, Sections 31 through 36;
- Township 32 South, Range 26 and 27 West, (All Sections);
Range 28 West, Sections 22 through 27, 34, 35 and 36;
- Township 33 South, Range 26 and 27 West, (All Sections);
Range 28 West, Sections 1, 2, 3, 10 through 15, 22 through 27, 34, 35, and 36;
- Township 34 South, Range 26 and 27 West, (All Sections);
Range 28 West, Sections 1, 2, 3, 10 through 15, 22 through 27, 34, 35, and 36;
- Township 35 South, Range 26 and 27 West, (All Sections);
Range 28 West, Sections 1, 2, 3, 10 through 15.

5. The points of diversion authorized by the water right(s) or appropriation of water permit(s) identified above is/are within the portion of the South Central Kansas Designated Unit Are described above and is/are not used solely for domestic purposes or authorized by a temporary permit.

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. Totalizing flow meters shall be installed on all points of diversions located within the North Half of a legal section no later than December 31, 2007.
 - B. Totalizing flow meters shall be installed on all points of diversions located within the South Half of a legal section no later than December 31, 2008.
2. There shall be no diversions of water from the 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 after 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 December 31, 2007. Such notices shall be provided on a Notice of Completion of Diversion Works and/or Report of Flow Meter Installation 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, 2008.
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.

Dated at Topeka, Kansas, this 19th day of January, 2007.

David L. Pope, P.E., Chief Engineer

Certificate of Service

A copy of the foregoing Order was sent by First Class mail service this 19th day of January, 2007, to the following:

Cathy Darnall