

Consequences of Overpumping

Kansas water rights have established legal limits for the quantity of water authorized, diversion rate, place of use, type of use, and other conditions and limitations. Owners should be aware of the legal limits of their water rights because violations can result in costly penalties.

This fact sheet focuses on penalties for diverting more water than is authorized by a water right or permit. Using more water than is authorized is called overpumping.

In general, the Division of Water Resources applies the following progressive penalties when an individual diverts more water than is authorized by his or water right or permit to appropriate water:

- **First offense:** Notice of noncompliance.
- **Second offense:** \$500 fine and water penalty. Generally, the water penalty consists of reducing the authorized quantity for the following year by the same amount as was overpumped.
- **Third offense:** \$500 per day fine and a water penalty twice the amount overpumped. That means the authorized quantity for the following year is decreased by twice the amount overpumped.
- **Fourth offense:** A one-year suspension of the overpumper's authorization to use water.
- **Fifth offense:** The water right or permit is revoked.

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

The Division of Water Resources sends orders for civil penalties issued by the chief engineer by certified mail. The order explains the reasons for the penalties and identifies the amount of water authorized by the water right or permit to appropriate water. If the authorized quantity is reduced for the next year, the reduced amount is identified in the order.

In 2008, the Division of Water Resources began routinely applying water penalties in addition to fines. As a result, a number of water rights or permits to appropriate water have had their authorized quantities reduced for 2009.

The Division of Water Resources allows 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 crop that requires less water or reduce their acres planted to comply with the reduction in their authorized quantity.

It is very important for individuals who have been penalized for overpumping to not repeat the violation, as it leads to more severe penalties and could eventually lead to a temporary or permanent loss of the water right or permit.