



**Scott E. Ross L.G.**  
**Water Commissioner**

## Implementing 2012 Legislation

- SB 272 - Multi-Year Flex Account Program
- SB 310 - Local Enhanced Management Areas
- HB 2451 - Water Right Abandonment
- SB 148 - Water Right Division Agreements and Sand and Gravel Project Permit
- HB 2516 - Kansas Water Banking Act



## Drought Emergency Term Permits

- When the significance of the 2011 drought became apparent, DWR quickly came up with a plan to implement a program to prevent crop failures and prevent a waste of water already pumped.
  - Suspend "base water right" and issue a term permit equal to original base quantity x 2
  - Reduce water use in 2012 by what was over in 2011
  - For use in 2011 and 2012
- Extremely short timeframe (less than a week) for developing policies, forms and implementing



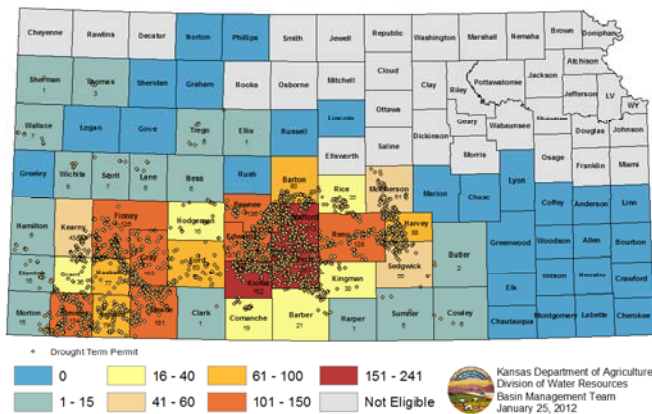
## Why Drought Term Permits?

- Concept nearly identical to the 2001 Multi-Year Flex Account (MYFA) program with a 2 year term instead of 5 year term.
  - Permit had to be separate from the water right, since quantity can't be increased on an existing water right
  - Had to be a type of permit for which DWR already had statutory authority to accept, assess an application filing fee, process and approve
  - Intended to be aquifer neutral



Distribution of 2011 Drought Emergency Term Permits as of January 25, 2012

(Total of 2,257 Drought Term Permits Entered into WRIS)



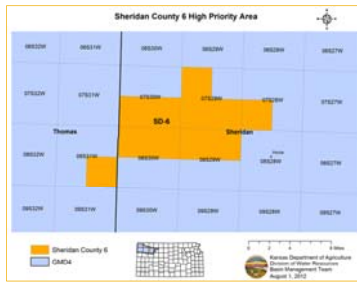
## MYFA Reform

- Eliminated mandatory 10% conservation factor
- Provides NIR alternative for MYFA quantity in addition to recent average water use history (2 options)
- Allows GMD to develop a 3<sup>rd</sup> option for Q calculations
- Allowed DTs to be converted to MYFA
- Senate Bill 272 signed by Governor Brownback on March 5
- Application form made available on May 10, revised on June 25
- Filing deadline of 10/1
- Over 700 received in 2012



## LEMA Implementation

- GMD No. 4 proposed a LEMA in Sheridan 6
- Approved on Dec. 31
- Goal to reduce water use by approximately 20 percent over the next 5 years

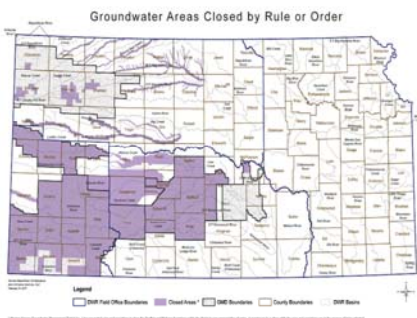


## LEMA implementation (con't)

- Two hearings required:
  - Initial hearing to determine if LEMA corrective controls are needed to address water resource problem and preliminary confirmation of boundary
  - Second hearing to determine whether to adopt the GMD's proposed corrective controls



## HB 2451 - Abandonment

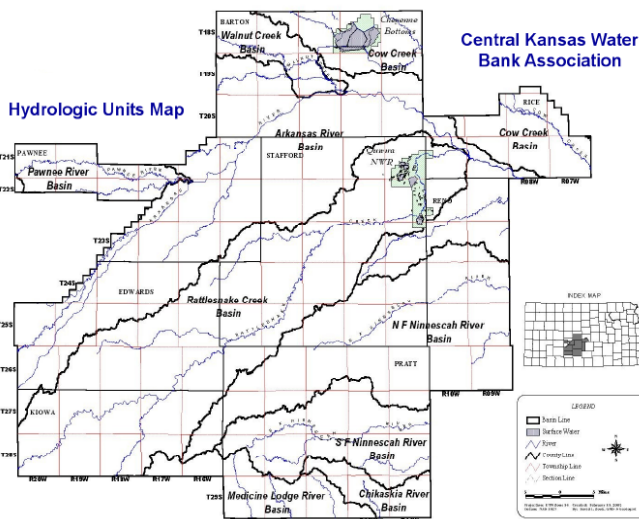


- Applies to areas closed by rule or order of the chief engineer
- groundwater only
- Water Use reports still required



## HB 2516 – Water Banking

- Review GMD 5 bank review committee recommendations
- Implement results in revised bank charter and regulations.



## History of DWR Compliance and Enforcement Activities

- 1945 – Kansas Water Appropriation Act set up our system whereby water could be developed, water right holder to establish their priority (Law not Compulsory)
- 1977 – KWAA amendments requiring permits for all non-domestic use. (Law became compulsory)
- 1989 – KWAA amended to provide ability to levy fines for non-reporting of water use; additional staffing in water use program.
- 2001/2003 – Statute and then rules and regulations to enhance compliance and enforcement actions. DWR began enforcement activities in 2004.
- 2005 – additional field staff from SWP funds
- 2009 to current (and in the future) – series of budget cuts (approx.. 25-30%) reducing staffing at all levels of DWR



## Statutory Provisions

- K.S.A. 82a-728. Unlawful acts; penalties (1977)
  - Class C Misdemeanor for violating the KWAA
  - Each day of violation is considered to be a separate violation
  - Illegal to use water for any purpose without a permit, except
    - Domestic and household purposes
    - Storage and use of less than 15 AF of water in a pond
    - Production of salt water related to oil and gas well operations



## Civil Penalties (K.S.A. 82a-737)

- Enacted in 2001 - Authorizes monetary fines (\$100 to \$1000), water right modification and/or suspensions
  - Violating any provision of the KWAA or R&Rs
  - Violating an IGUCA order
  - Violating any term, condition or limitation of permit or water right
    - Unauthorized places of use
    - Pumping more than authorized (Rate or Quantity)
    - Meter violations
    - Unlawful diversions
    - Waste of water



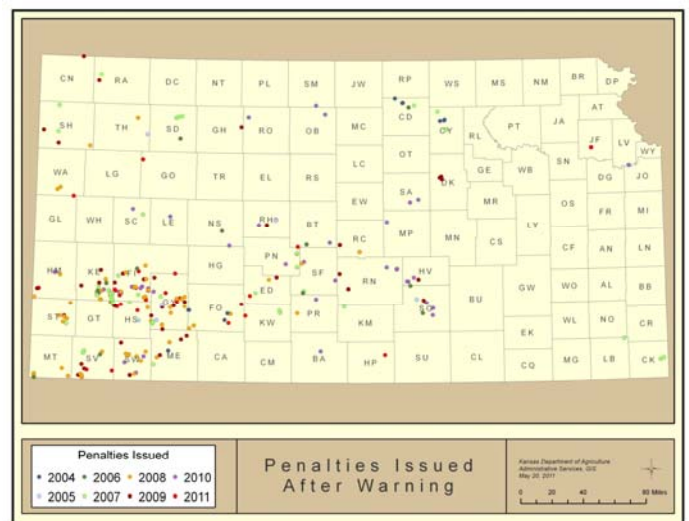
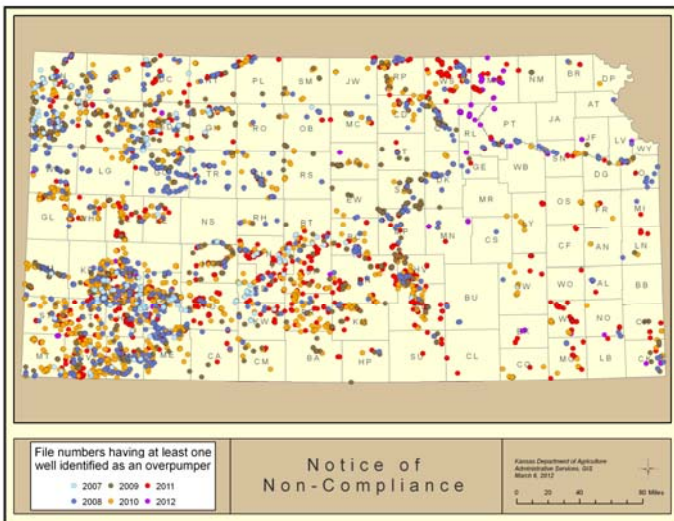
## Consequences of Overpumping

- **First offense:** Notice of Noncompliance (NONC)
- **Second offense:** \$500 fine + 1X water penalty.
- **Third offense:** \$500 per day fine + 2X water penalty.
- **Fourth offense:** One-year suspension
- **Fifth offense:** Revoke water right or permit



## Consequences of Meter Tampering

- Water Right suspended for 1 year
- Issue \$1,000 civil penalty for causing the meter to show an incorrect reading
- Also issue \$500 civil penalty for exceeding the authorized quantity
- Meter required to be sealed into the pipe
- More frequent compliance investigations on site



## Penalty Changes for Overpumping

- First offense: Notice of Non-compliance (NONC)
- Second offense: Monetary fine of \$1,000 and a reduction in authorized quantity for the following irrigation season by two times the amount overpumped
- Third offense: Monetary fine of \$1000 per day of overpumping (capped at \$10,000) and a one-year suspension
- Fourth offense: Water right revocation;



## Proposed 2013 Legislation

- Reduce the number of Jurisdictional Dams;
- Significant increase in the size of jurisdictional water structures; more emphasis on larger dams; exempt many smaller dams and stream obstructions.
- Limited Transfer of water for a temporary use such as horizontal drilling



## Water Use for Hydraulic Fracturing

- Typically 8 acre-feet per project
- Expecting 100 to 200 hydraulic fracturing projects in 2013
- 200 projects x 10 acre-feet = 2000 acre-feet
- 2000 acre-feet is equivalent to about 9 fully irrigated center pivots in Western Kansas
- Approximately 0.05% of total water use in Kansas.



## K.S.A. 82a-727 - Temporary Permits

- 4.0 million gallons of water for up to 6 months
  - Generally 250,000 gallons considered reasonable for conventional oil/gas well completion
- No permanent water right developed
- Designed primarily for oil/gas field operations
  - Authorized by statute in 1977
  - Rules and Regulations implemented in 1979
- **One application per project**
  - Single point of diversion and place of use
  - **Must not impair existing users**
- Not transferable



## That's all folks!

- QUESTIONS?

