

Consequences of Over-Pumping

Conserving water resources in Kansas is critical to the state's agricultural community. The Kansas Department of Agriculture has worked with the Kansas legislature and all water stakeholders to improve flexibility of water law to promote locally-driven, individually-managed water regulations.

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. Using more water than is authorized is called overpumping. Owners should be aware of the legal limits of their water rights because overpumping violations can result in costly penalties and potential temporary or permanent loss of the water right.

Penalty Schedule

Starting with the 2013 calendar year KDA will apply the following revised progressive penalties when an individual diverts more water than is authorized by his or her water right or permit to appropriate water.

- 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 \$1,000 per day of overpumping (capped at \$10,000) and a one-year suspension.
- Fourth offense: Water right revocation. The water could become available for appropriation to someone else if located in an area not closed to new applications.

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.

Sanction documents will be recorded with the local county register of deeds to ensure individuals who purchase land are aware of any water pumping violations.

Procedures

The Division of Water Resources mails orders for civil penalties issued by the chief engineer. 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.

KDA 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, could negatively affect the value of the water right and could eventually lead to a temporary or permanent loss of the water right or permit.