

Lane Letourneau

**Joint Committee on Energy and Environmental Policy
Outline of DWR's requested information**

November 13

Water Rights Issues

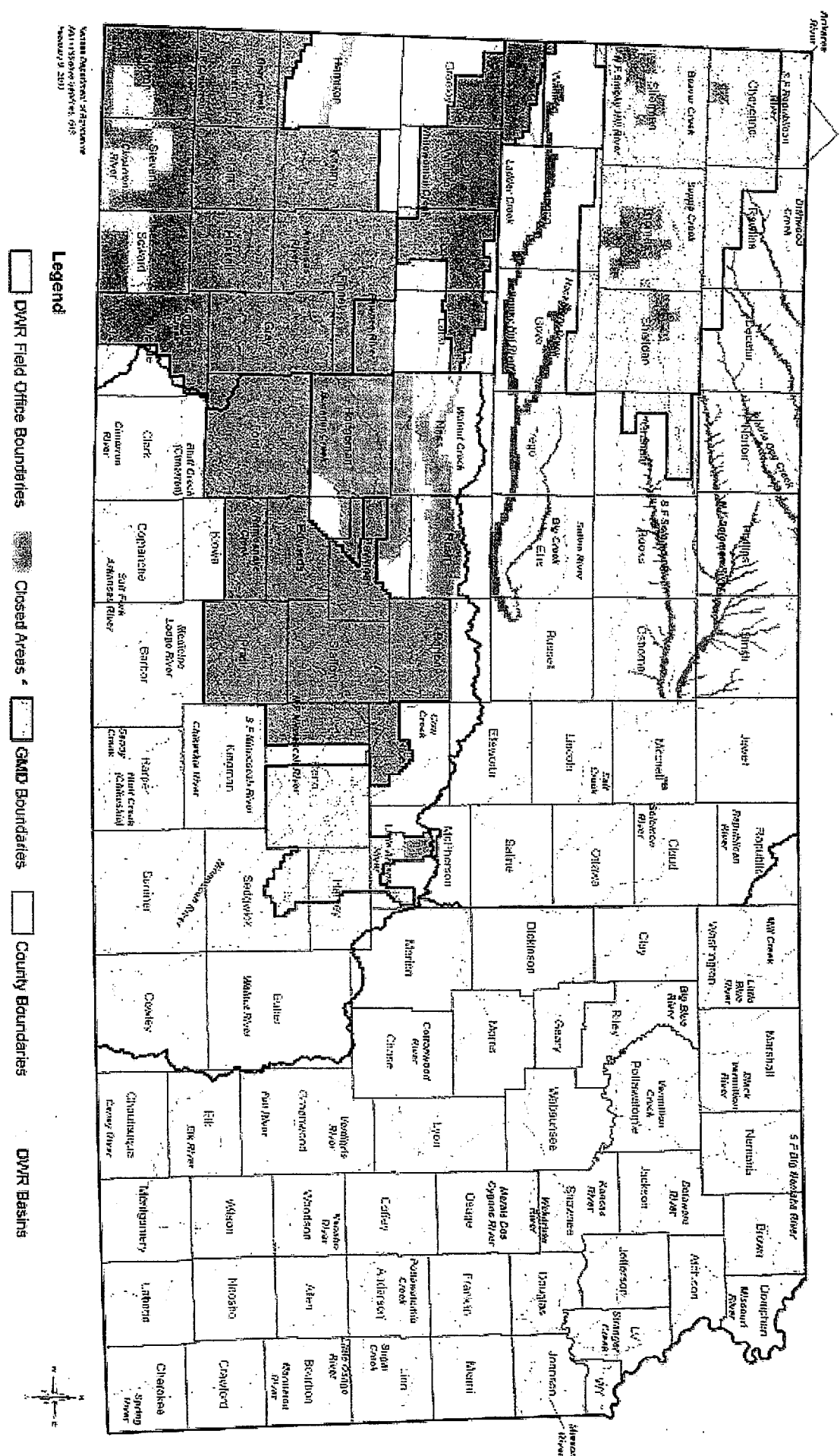
Committee request: *"Water rights – extent of groundwater rights in closed areas subject to use it/lose it because the rights are not yet perfected. Looking for the number of permits unperfected in these areas and the amount of water involved versus the number of perfected permits and total water involved. Also would like to know whether you consider this to be a problem? And if so, a possible solution?"*

- "Use it or Lose It (UIOLI)" can be used a couple of different ways. During the past legislative session, we addressed the issue of UIOLI with respect to water right abandonment in closed areas. That was a positive change in state law. This question appears to be addressing a different issue. Not fully perfecting a quantity when developing a water right.

A person cannot lose what they never had. The process of developing a water right involves the following: 1) obtaining a permit to appropriate water; 2) constructing a point of diversion; and 3) perfecting the water right by putting it to beneficial use. The water right (property right) is for the amount that is lawfully used during the "perfection period" based on a year with the highest use. The water right is quantified in the certificate of appropriation that is issued by the chief engineer at the completion of the perfection period.

- We have queried our water right data base to find the number of water rights that do not yet have certificates. In short, in closed areas:
 - We have 19108 certificates issued for 5,545,984 AF of annual authorized quantity (net)
 - There are 349 permits to appropriate water that do not have certificates with a total of 69,922 AF of annual authorized quantity (net). This is under 2% of the totals above.
 - The water right holders still have time to fully develop their rights. 2011 and 2012 were extremely dry. If a person did not fully perfect during these two years, they may never need it.
 - We do not have any good way to know how much of this will be perfected as it varies considerably from water right to water right and among uses made of water.
 - Many of the 349 are cities and sand pits. Both have a longer perfection period than other beneficial uses.
- We do not believe this is a problem
 - We send draft certificates allowing comment
 - We grant extensions in time to perfect
 - The files still have time to perfect

Groundwater Areas Closed by Rule or Order



Kansas Department of Agriculture
 2011-2015
 February 9, 2011

* Western Kansas Groundwater Management District No. 1 has requested rules and regulations to close the Ogallala and Highwater formations within the district to slow depletion of water. A water user is in class with no rules and regulations are in the process of being adopted.

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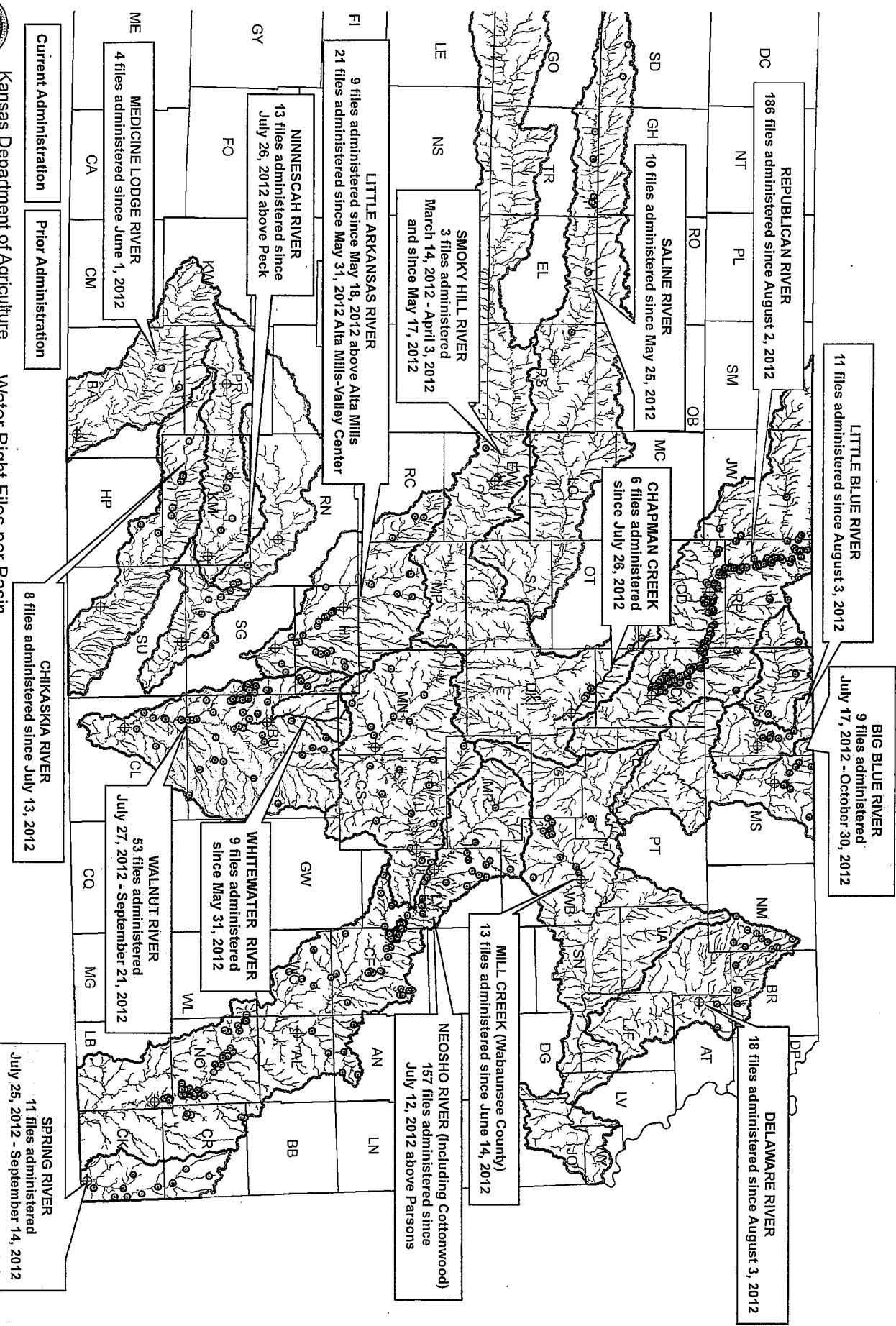
Drought Update (DWR portion; 10 minutes)

Committee request:

- Update on MDS administration
- The KWAA provides DWR the responsibilities to administer water rights, administer MDS, and protect stored releases to ensure that water is available to those entitled during times of shortage.

MDS Administration 2012			
MDS Stream	Administration Began	Administration Ceased	Files Administered
Republican River	August 2, 2012		186
Saline River	May 25, 2012		10
Smoky Hill River	March 14, 2012	April 3, 2012	3
	May 17, 2012		3
Chapman Creek	July 26, 2012		6
Big Blue River	July 17, 2012	October 30, 2012	9
Little Blue River	August 3, 2012		11
Mill Creek (Wabaunsee County)	June 14, 2012		13
Delaware River	August 3, 2012		18
Little Arkansas River	May 18, 2012 (above Alta Mills)		9
	May 31, 2012 (Alta Mills- Valley Center)		21
Ninnescah River	July 26, 2012 (above Peck, including tributaries)		13
Whitewater River	May 31, 2012		9
Walnut River	July 27, 2012	September 21, 2012	53
Medicine Lodge River	June 1, 2012		4
Chikaskia River	July 13, 2012		8
Neosho River	July 12, 2012 (above Parsons, including Cottonwood)		157
Spring River	July 25, 2012	September 14, 2012	11
Total Files Administered			544

2012 Kansas Minimum Desirable Streamflow (MDS) Administration

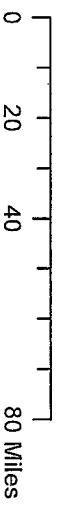


Current Administration Prior Administration

Kansas Department of Agriculture
 Division of Water Resources
 Basin Management Team
 November 2, 2012

Water Right Files per Basin
 3 to 15 51 to 80
 16 to 50 81 to 186

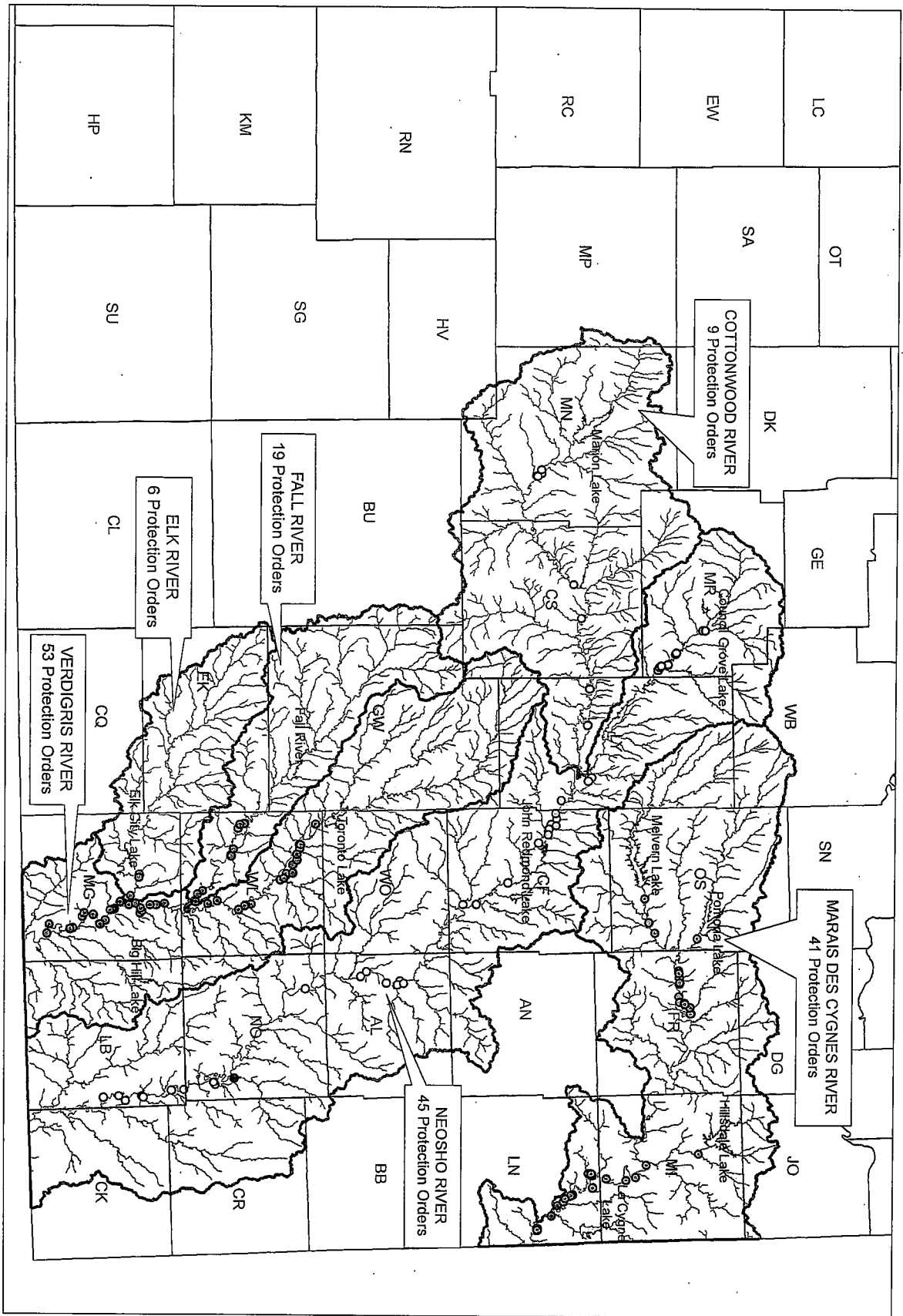
● District Water Right Files (544 total, not all points of diversion shown)
 ⊕ MDS Gages



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Protection of Stored Releases		
Protection Stream	Date Began	Number of Files
Verdigris River	August 2, 2012	54
Neosho	July 2, 2012	46
Marais Des Cygnes	August 29, 2012	42
Fall River	August 2, 2012	20
Elk River	August 2, 2012	6
Cottonwood	July 19, 2012	9

2012 Kansas Protection Orders

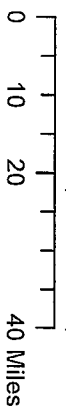
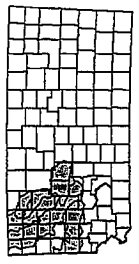


Water Right Files and
Effective Date of Protection Order

- 7/2/2012 ● 7/30/2012 ○ 8/29/2012
- 7/13/2012 ● 8/1/2012
- 7/19/2012 ● 8/2/2012

Water Right Files Per Basin

- 0 - 10
- 11 - 30
- 31 - 53



Kansas Department of Agriculture
Division of Water Resources
Basin Management Team
November 6, 2012

Multi-Year Flex Account Update

- The MYFA program, as revised by the 2012 Kansas Legislature, allows water right holders to obtain a five-year term permit that temporarily replaces their water right.
- This term permit allows the water right holder to exceed their annual authorized quantity in any year but restricts total pumping over the five-year period.
- Pumping for the five-year period is limited to a maximum of five times the larger of the water right's average water use or the water right's maximum reported acres multiplied by the county's net irrigation requirement for corn.
- In the first year, approximately 750 water rights holders are using this tool and DWR expects more applications in 2013.

2012 Multi-year Flex Accounts by County

(as of 10-25-2012)

