

**Report on Implementing Multi-Year Flex Accounts (K.S.A. 82a-736) to
House Standing Committee on Agriculture and Natural Resources
and
Senate Standing Committee on Natural Resources**

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Introduction and background

In May 2001, K.S.A. 82a-736 became law, implementing a voluntary program to provide water right holders more flexibility in the management of their appropriated groundwater. In accordance with that law, the Division of Water Resources (DWR) chief engineer is required to submit a written report on the law's implementation to the standing committees by February 1 each year.

Multi-year flex accounts (MYFAs) allow water right holders to obtain a term permit that replaces their water right for five years. This term permit allows the water right holder to exceed their annual authorized quantity of water but restricts the total amount that can be pumped over the 5-year period. The program is voluntary and does not permanently change the water right. At the end of the 5-year period, if the water right is not enrolled in a new MYFA, the original conditions of the water right are restored.

As conceived in 2001, MYFAs provide flexibility to water right holders but the 5-year quantity was based on historic water use reduced by 10 percent to promote conservation. The program saw very little utilization. Legislative changes in 2005 and 2011 did not change this.

Based on significant interaction with many stakeholders and with support from Governor Sam Brownback, the Kansas Department of Agriculture (KDA) DWR developed a set of recommended improvements to the multi-year flex account program, which were passed by the 2012 legislature. The amendments ended the 10 percent conservation requirement. Instead, the amendments provide multi-year flexibility without increasing long-term use. The amendments allow for 5-year flex accounts based on the larger of the following:

- Average historic usage of the water right, without the current 10 percent conservation requirement;

- Net irrigation requirement for the individual county times the maximum acres irrigated **times 110%**; or
- A Groundwater Management District (GMD) developed alternative, adopted as rules, which do not allow for an increase in long-term use.

Water users can choose among the options above. However, in no case can a MYFA quantity exceed five times the authorized quantity of the base right.

Experience under the 2012 statutory amendments

As a result of the 2012 legislative changes, 753 MYFAs were filed in 2012. During 2013, 60 MYFAs were filed. During 2014, 43 MYFAs were filed. Finally, this past year, 13 MYFAs were filed. Attached is a map which shows the number of applications approved by the year the MYFA became effective for 2011 to 2015.

The statute allows GMDs to propose an additional method for determining the MYFA amount within its boundaries, provided that the proposed method does not increase the long-term average use of the groundwater right. Big Bend GMD No. 5 is seeking to incentivize end-gun removal by offering a more generous quantification of the MYFA amount where end-guns are removed for the 5-year period. This proposal is currently being implemented via rules and regulation adopted by the chief engineer on behalf of GMD No. 5.

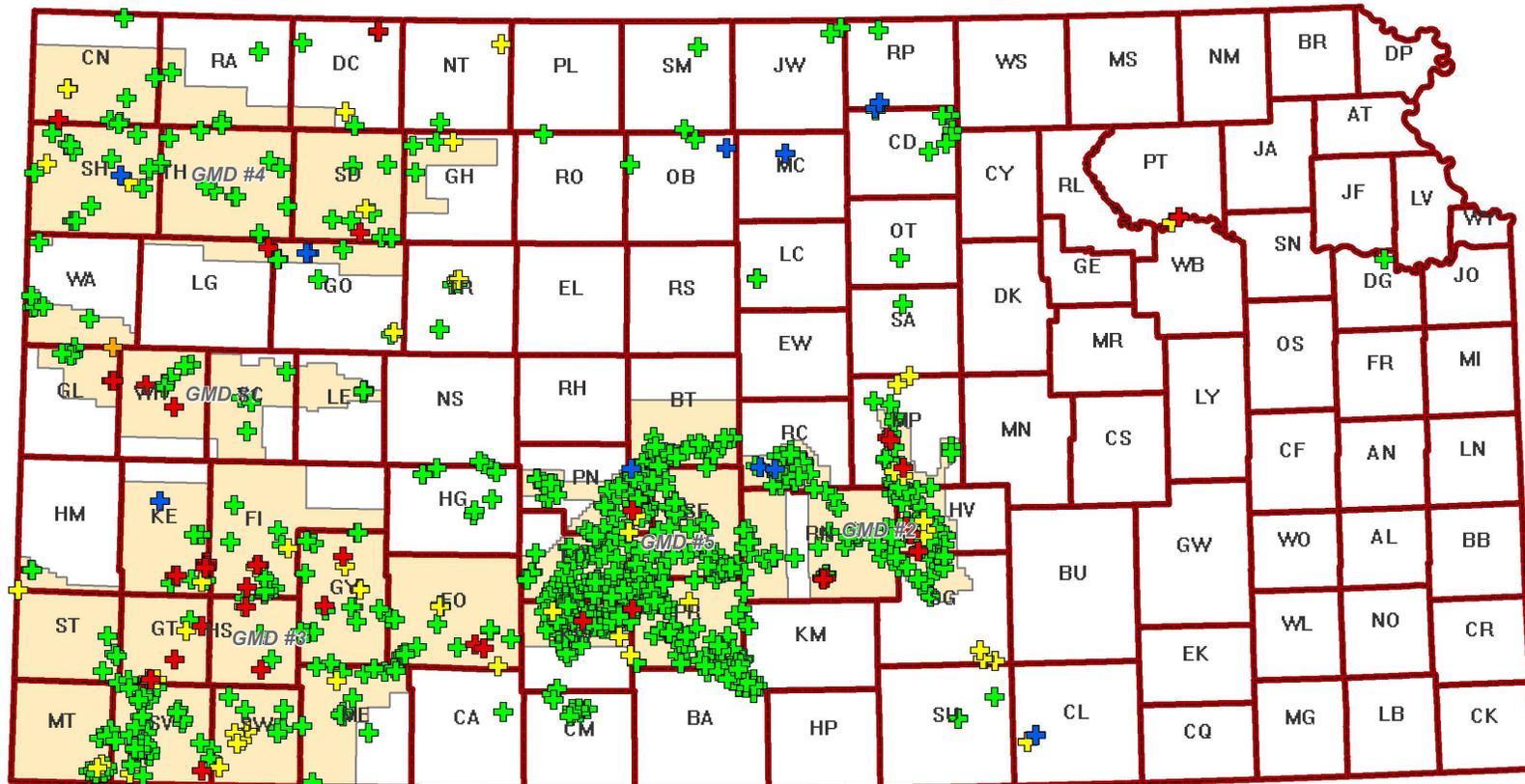
Additional legislative refinement

The 2015 Legislature adopted KDA developed refinements to K.S.A. 82a-736 allowing the carryover of unused allocation to a new, subsequent MYFA and allow for small changes in an irrigation place of use while enrolled in a MYFA. The 2016 Legislature is considering a technical fix to the statute.

Attachment:

- Map showing MYFA approvals by year

Multi-Year Flex Accounts



Multi-Year Flex Account

Start Year

- + 2011 - 1 Permit
- + 2012 - 733 Permits
- + 2013 - 55 Permits
- + 2014 - 43 Permits
- + 2015 - 13 Permits

