

**Testimony in Support of SB 270
to the House Committee on Agriculture
by Kenneth Titus, Chief Counsel
Kansas Department of Agriculture
March 11, 2020**

Good afternoon Chairman Highland and members of the committee, I am Kenneth Titus and I serve as Chief Counsel for the Kansas Department of Agriculture. Thank you for the opportunity to present testimony in support of Senate Bill 270.

The multi-year flex account or “MYFA” established by K.S.A. 82a-736 allows a water user to operate their water right over a five-year period with an allocation based on past average use or the net irrigation requirement (“NIR”). The NIR for each county is a number calculated by the USDA that is roughly the average amount of water needed under average climatic conditions to grow corn and is adopted by K.A.R. 5-5-12. MYFAs allow a water user to overpump in a season without a penalty, so long as they stay within the total five-year allocation. It also allows a water user to roll forward any unused annual quantity into a subsequent MYFA, which reduces the pressure to use more water than is necessary in any given year because the water right owner will realize the benefit in the future.

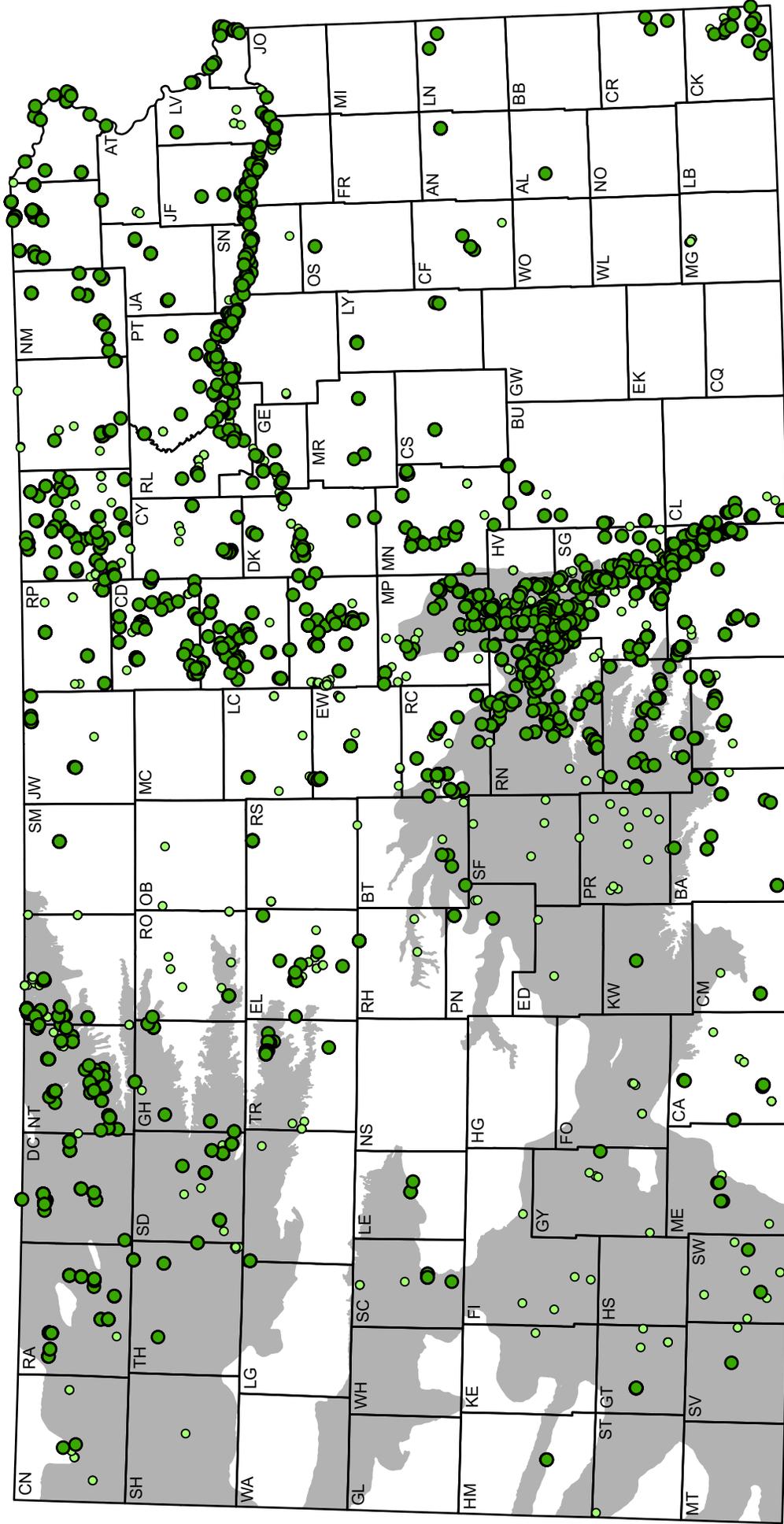
There are numerous benefits that have been realized since MYFAs were first authorized, including use as a five-year planning tool and as a drought mitigation tool. At present, there are approximately 500 water rights enrolled in a MYFA. While this is a relatively small percentage of active water rights, in many circumstances, MYFAs serve an important role in providing flexibility and keeping water rights in compliance.

Although a MYFA may be established with an allocation based on past use or NIR, a water right must have reported beneficial water use between 2000-2009 in order to be eligible, regardless of the allocation basis. A past period was selected because it prevents users from running up their average use just prior to applying for a MYFA, but, over time, requiring use between 2000-2009 has limited participation by water rights that were not perfected prior to this period. There are approximately 1,600 water rights not eligible to participate in a MYFA because they have no historical water usage from 2000-2009. As the number of certified water rights continues to increase, we believe that it is appropriate to amend the MYFA statute and allow an additional calculation method for these files.

For those water rights with no historical use during 2000-2009, our proposed amendment will provide the ability to use NIR as a substitute for past use in determining the quantity for the five-year allocation. We believe it will be beneficial to expand this voluntary program to newer water rights and ask for your support of this amendment.

Thank you for the opportunity to speak in support of this bill. I will stand for questions at the appropriate time.

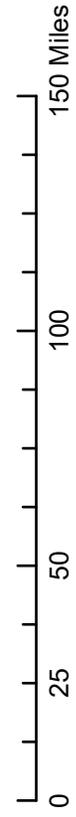
Groundwater Appropriation Rights Approved Since 2009



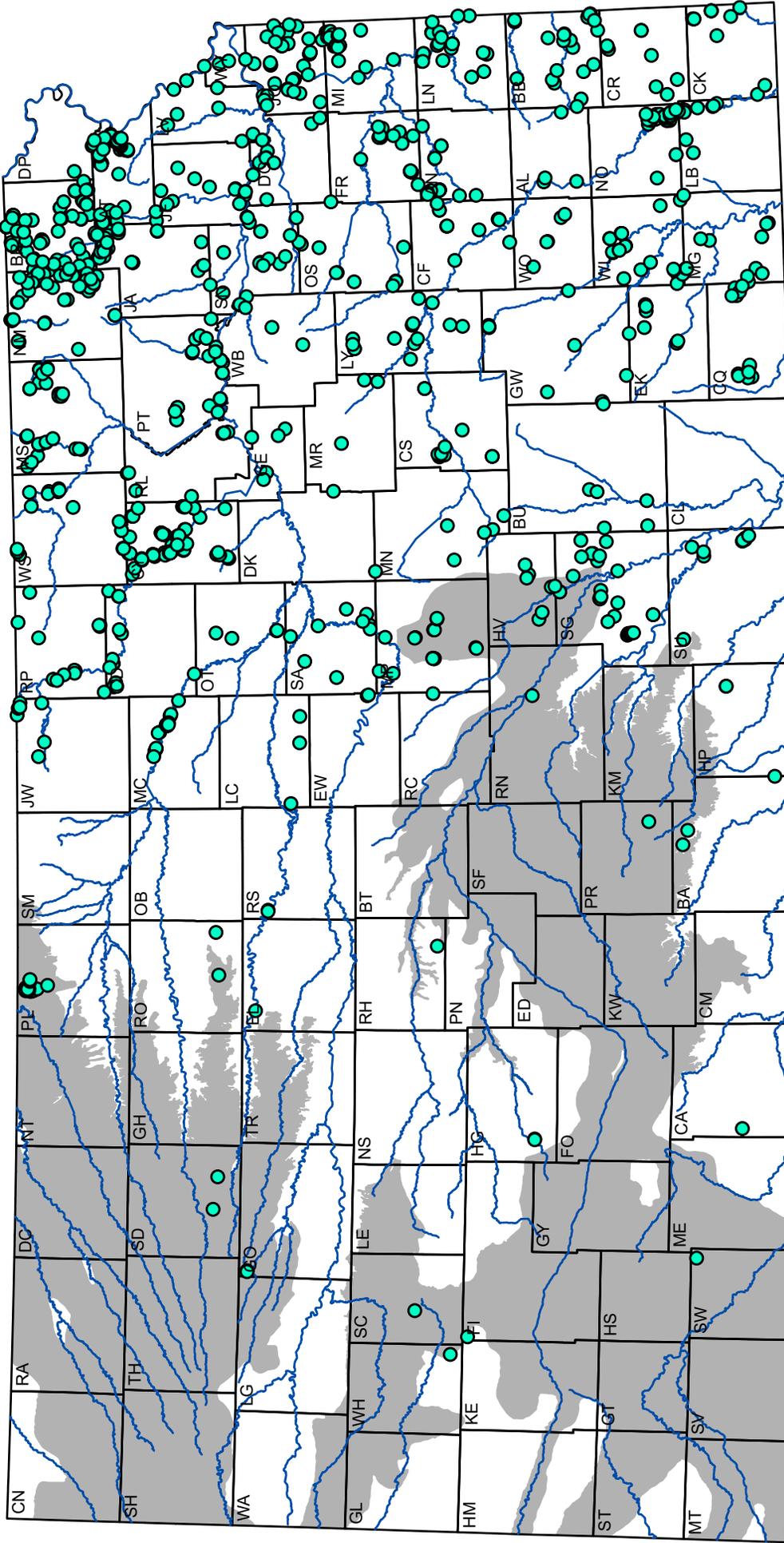
Authorized Quantity

- >15 AF
- ≤15 AF

■ High Plains Aquifer



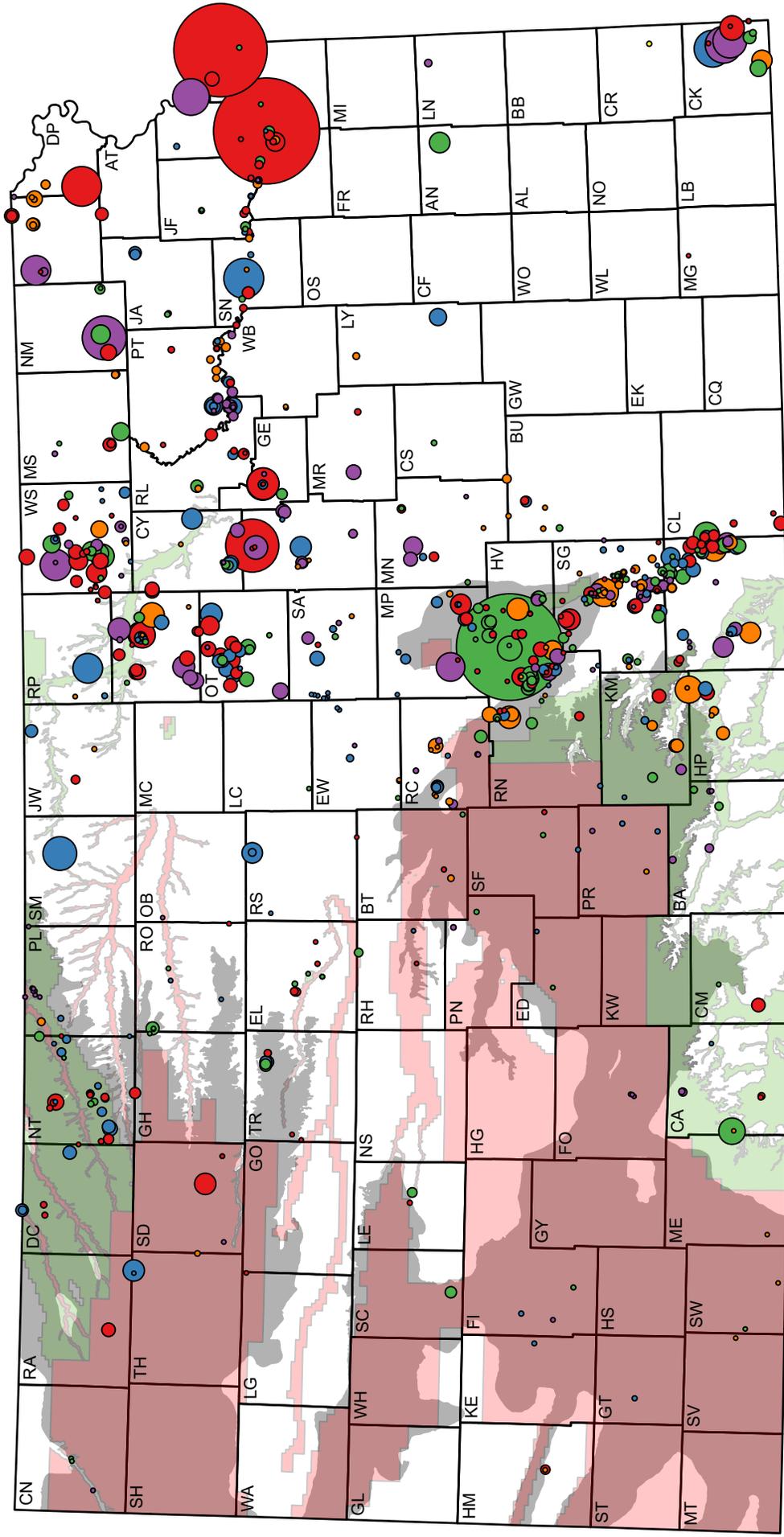
Surface Water Appropriation Rights Approved Since 2009



- Point of Diversion
- Stream
- High Plains Aquifer



Groundwater Appropriation Rights Approved Since 2015



Year Approved

- 2015
- 2016
- 2017
- 2018
- 2019
- 2020

Closed Area (light red)

Restricted Area (light green)

High Plains Aquifer (grey)

Authorized Quantity

- 2,674 AF
- 1,000 AF
- 500 AF

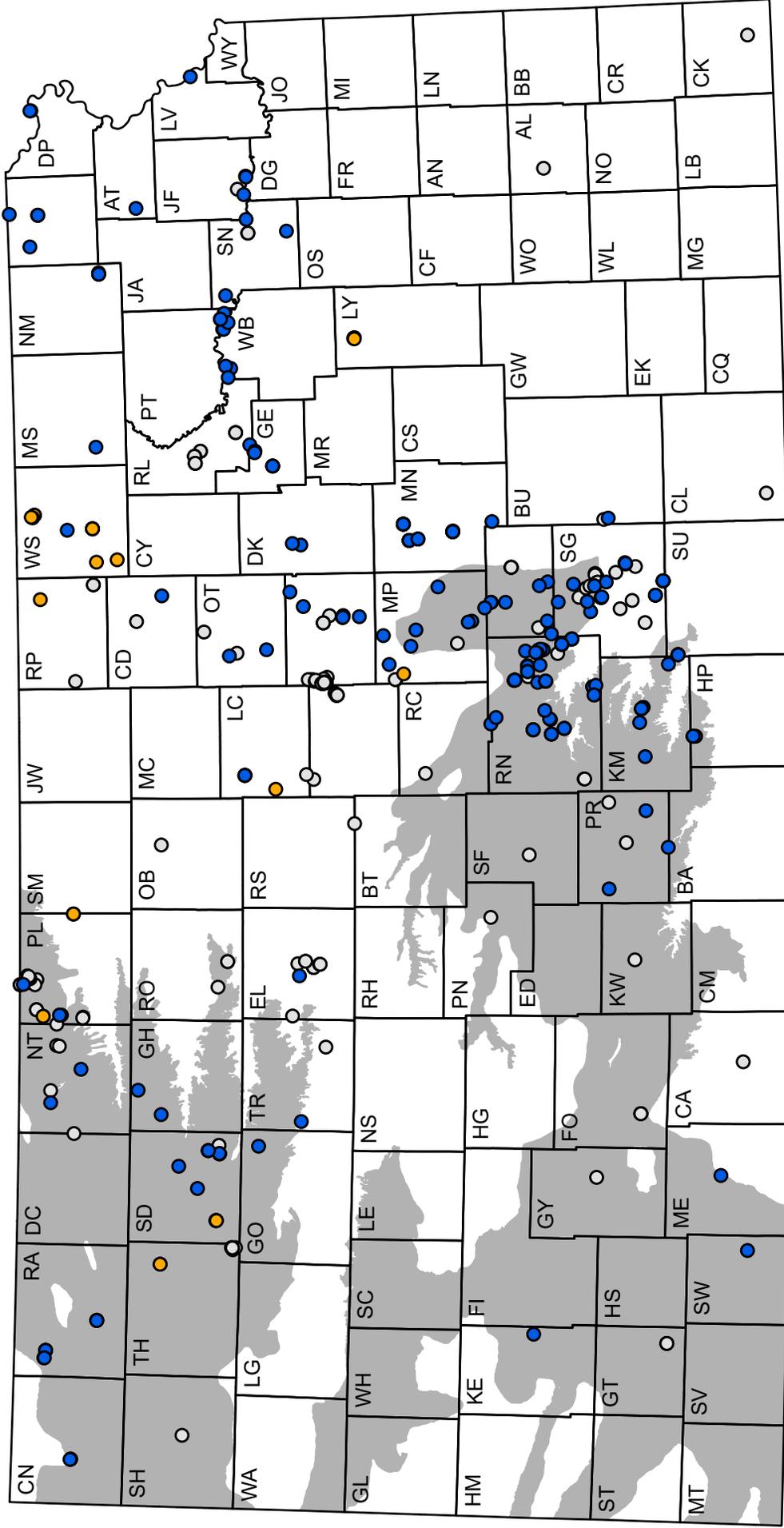
Scale: 0, 50, 100, 200 Miles

North Arrow (N)

**Kansas Department of Agriculture
Division of Water Resources
February 4, 2020**



Certified Water Rights Approved Since 2009 That May Be Eligible for a MYFA



- Irrigation
- Stock water
- Other uses
- High Plains Aquifer



Kansas Department of Agriculture
 Division of Water Resources
 February 3, 2020