

2012 Kansas Statutes

82a-704a. Determination of vested rights; procedure; duties of chief engineer. (a) All persons claiming a vested right for the beneficial use of water, other than for domestic use, which has not been determined pursuant to K.S.A. 82a-704, shall file by July 1, 1980, with the chief engineer a verified claim for such vested right. The chief engineer shall not accept any such claim after said date. Such verified claim shall be upon forms provided therefor by the chief engineer and shall set forth:

- (1) The name and post-office address of the claimant;
- (2) the source to which the claim relates;
- (3) the amount of water claimed;
- (4) the location of the works for the diversion and use of the claimed water;
- (5) the dates of the beneficial use made; and
- (6) any additional information the chief engineer may require.

(b) Upon receipt of a verified claim for a vested right for the beneficial use of water, the chief engineer shall investigate the same and shall conduct a hearing thereon. Such hearing shall be noticed by restricted mail to the claimant and to other known interested persons within a five (5) mile radius of the point of diversion of such claimed vested right at least thirty (30) days prior to the date set for the hearing. Notice shall also be given by publication in a newspaper of general circulation in the county wherein the vested right is claimed to exist at least once each week for three (3) consecutive weeks prior to the hearing. Such published notice shall contain the date and place of hearing and a general description of the area affected by the claimed vested right and shall be directed to all persons interested and concerned. At the hearing, the chief engineer shall take evidence of all persons interested and concerned and the same shall be considered in the determination of the existence of a vested right for beneficial use of water. As soon as possible thereafter the chief engineer shall make an order determining the existence or nonexistence of the claimed vested right and shall notify the claimant and contestants thereof as to the contents of such order. Service of such notice shall be deemed complete upon depositing such notice in the post office as restricted mail addressed to the vested right claimant and any contestant thereto whose address is known to the chief engineer, and upon the publication of an abstract of such order once each week for three (3) consecutive weeks in a newspaper of general circulation in the county wherein the vested right is claimed to exist.

(c) Any claimant of a vested right or person contesting the same who considers himself or herself aggrieved by the order of determination of a vested right may appeal to the district court in the manner prescribed by K.S.A. 82a-724.

(d) The order of determination of a vested right of the chief engineer shall be in full force and effect from the date of its entry in the records of his or her office unless and until its operation shall be stayed by an appeal therefrom by the claimant thereof or a contestant thereto in accordance with the provisions of K.S.A. 82a-724 except that no such determination shall be deemed an adjudication of the relation between any vested right holders with respect to the operation or exercise of their vested rights.

(e) The chief engineer shall file a copy of any order of determination of the existence of a vested right with the register of deeds of the county wherein the land is located to which such vested right is appurtenant. The register of deeds shall record the same as other instruments affecting real estate.

(f) No vested right for the beneficial use of water, other than for domestic use, shall be deemed to exist from and after July 1, 1980, unless the same has been determined to exist pursuant to the provisions of this act or pursuant to the provisions of K.S.A. 82a-704.

History: L. 1978, ch. 434, § 1; July 1.