AN ACT concerning water; relating to the diversion of water; chief
engineer; remedies for the impairment of a valid water right or permit
to divert and use water; amending K.S.A. 82a-716 and 82a-717a and
repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 82a-716 is hereby amended to read as follows: 82a-
716. If any appropriation, or the construction and operation of authorized
diversion works results in an injury to any common-law claimant, such
person shall be entitled to due compensation in a suitable action at law
against the appropriator for damages proved for any property taken. Any
person with a valid water right or permit to divert and use water may, after
first exhausting the remedies available under K.S.A. 82a-717a, and
amendments thereto, restrain or enjoin in any court of competent
jurisdiction a subsequent diversion by a common-law claimant without
vested rights without first condemning those common-law rights. After
first exhausting the remedies available under K.S.A. 82a-717a, and
amendments thereto, an appropriator shall have the right to injunctive
relief to protect his or her prior right of beneficial use as against use by an
appropriator with a later priority of right.

Sec. 2. K.S.A. 82a-717a is hereby amended to read as follows: 82a-
717a. (a) No common-law claimant without a vested right, or other person
without a vested right, a prior appropriation right, or an earlier permit shall
divert or threaten to divert water if such diversion or threatened diversion
impairs or would impair any vested right, appropriation right, or right
under a permit to appropriate water. But any common-law claimant with a
vested right, or other person with a vested right, a prior appropriation right,
or an earlier permit may divert water in accordance with any such right or
permit although such diversion or use thereunder conflicts with the
diversion, use, proposed diversion, or proposed use made or proposed by a
common-law claimant who does not have a vested right, or other person
who does not have a vested right, a prior appropriation right or an earlier
permit.

(b) (1) Moreover, Any common-law claimant with a vested right, or
other person with a vested right, a prior appropriation right, or an earlier
permit may restrain or enjoin in any court of competent jurisdiction, in
accordance with this subsection, obtain an order from the chief engineer
that limits or curtails any diversion or proposed diversion that impairs or
would impair such right in the event that any such diversion or proposed
diversion is made or is threatened to be made by any common-law
claimant, or other person who does not have a vested right, a prior
appropriation right, or an earlier permit.

(2) Any common-law claimant with a vested right, or other person
with a vested right, a prior appropriation right, or an earlier permit who
claims impairment of such right by any other person without a prior right
to the same water shall submit a complaint to the chief engineer in
accordance with rules and regulations of the chief engineer.

(A) Within two weeks of receiving a complaint of impairment, the
chief engineer shall investigate such complaint, and as part of the
investigation shall provide an opportunity for the parties to submit any
relevant information, including submission of an engineering study that
meets standards designated by the chief engineer through rules and
regulations.

(B) Following the investigation, the chief engineer may issue an
order, consistent with K.S.A. 82a-706b, and amendments thereto, and rules
and regulations of the chief engineer, that limits or curtails the diversion
and use of water by any person without a prior right to the same water or
that otherwise disposes of the complaint.

(C) The chief engineer shall complete any investigation initiated
pursuant to this subsection within 12 months of the date the complaint was
submitted to the chief engineer, provided that the chief engineer may
extend the investigation for good cause by notifying the parties in writing
of the amount of time needed to complete the investigation.

(3) Concurrent with submission of a complaint under paragraph (2),
or during the pendency of the chief engineer's investigation pursuant to
the complaint, the complainant may petition the chief engineer to issue a
temporary order, to be effective until a final order is issued under
paragraph (2)(B), that limits or curtails the diversion and use of water by
any person without a prior right to the same water upon a finding by the
chief engineer that a substantial likelihood exists that impairment is
occurring or will occur and that an order limiting or curtailing diversion
and use of water by any person without a prior right to the same water
would not be adverse to the public interest.

(4) Any order issued by the chief engineer pursuant to this subsection
is subject to review in accordance with the Kansas judicial review act.

Sec. 3. K.S.A. 82a-716 and 82a-717a are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its
publication in the statute book.