

## 2017 Kansas Statutes

**49-433. Acquisition of abandoned mined-land; findings required; eminent domain permitted, when; acquisition expenditures; disposition of revenue.** (a) The secretary may acquire eligible abandoned mined-land by purchase or donation if the secretary finds:

(1) That after restoration, reclamation, abatement, control or prevention of the adverse effects of past coal-mining practices, such land would provide recreation, historic, conservation and reclamation purposes; and

(2) that permanent facilities such as a treatment plant or a relocated stream channel shall be constructed on the land for the restoration, reclamation, abatement, control or prevention of the adverse effects of past coal-mining practices; or

(3) that acquisition of coal refuse disposal sites and any coal refuse thereon shall achieve the purposes of this act or that public ownership is desirable to meet emergency situations and prevent recurrences of the adverse effects of past coal-mining practices.

(b) The secretary may acquire eligible abandoned mined-land by eminent domain if the secretary finds:

(1) The property in question meets the requirements of subsection (a); and

(2) the property owner or owners thereof have refused the secretary's offer to purchase the eligible abandoned mined-land.

(c) Before the secretary initiates eminent domain proceedings, a hearing shall be held to determine if the property in question meets the requirements of subsection (a). Notice of the hearing shall be mailed at least 30 days prior thereto to the owners of such property by prepaid first-class mail. Any such property owner shall have the right to appear at such hearing.

(d) After the hearing, if the secretary finds that the property in question meets the requirements of subsection (a), the secretary may initiate eminent domain procedures in the manner provided by K.S.A. 26-501 *et seq.*, and amendments thereto, to acquire such property.

(e) Any expenditure made to acquire, by purchase or eminent domain, eligible abandoned mined-land property shall be made jointly from the abandoned mined-land fund and the mined-land conservation and reclamation fee fund and the contribution from the mined-land conservation and reclamation fee fund shall be at least 10% of such expenditure.

(f) Title to all eligible abandoned mined-land acquired by purchase, donation or eminent domain shall be in the name of the state of Kansas and administered by the secretary.

(g) The secretary may sell any eligible abandoned mined-land in the secretary's control upon an order stating that reclamation in accordance with K.S.A. 49-428, and amendments thereto, has been completed.

(h) Moneys received from any sale of reclaimed abandoned mined-land shall be deposited in the abandoned mined-land fund to be used on further abandoned mined-land projects.

(i) The secretary may lease any eligible abandoned mined-land under the secretary's control, as long as the intended uses do not violate the reclamation purposes established in K.S.A. 49-428, and amendments thereto. Any moneys generated from the lease of abandoned mined-land under the secretary's control shall be deposited in the abandoned mined-land fund to be used for further abandoned mined-land projects.

**History:** L. 1983, ch. 178, § 1; L. 1988, ch. 192, § 32; July 1.