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**For Discussion Purposes Only**

**82a-717a. Diversions by common-law claimants and others; injunctions**

(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. ~~Moreover,~~

(b)(1) Any common-law claimant with a vested right, or other person with a vested right, a prior appropriation right, or an earlier permit may, in accordance with this subsection, seek to prevent ~~restrain or enjoin in any court of competent jurisdiction~~ 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 shall submit a complaint to the chief engineer in accordance with the 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 both parties to submit any relevant information, including submission of an engineering study that meets such standards as may be 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 the 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 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

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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 upon a finding by the chief engineer that a substantial likelihood exists that impairment is occurring or will occur and that an order curtailing diversion and use of water by any person without a prior right to the same 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.