

HOUSE BILL No. 2567

By Committee on Agriculture and Natural Resources

1-28

9 AN ACT concerning appropriation of water, regarding notices; amending
10 K.S.A. 2009 Supp. 82a-714 and 82a-718 and repealing the existing
11 sections.

12
13 *Be it enacted by the Legislature of the State of Kansas:*New Sec-
14 tion 1. (a) Whenever the owner of a water right of any kind, except for
15 domestic use, shall change the owner's mailing address or name which is
16 on record with the division of water resources, such owner shall within
17 60 days thereafter notify the division of water resources in writing of such
18 owner's former and new mailing address or such owner's former and new
19 name.

20 (b) Whenever the owner of a water right of any kind, except for do-
21 mestic use, conveys all or part of a water right to any successor in interest,
22 the successor in interest shall notify the division of water resources in
23 writing of such transfer and shall provide the correct legal name of the
24 successor and the successor's mailing address within 60 days of the
25 conveyance.

26 (c) The division of water resources shall mail all notices to the owner's
27 last known mailing address furnished to the division of water resources
28 by the owner.

29 (d) This section shall be part of and supplemental to the Kansas water
30 appropriation act.

31 Sec. 2. K.S.A. 2009 Supp. 82a-714 is hereby amended to read as
32 follows: 82a-714. (a) Upon the completion of the construction of the
33 works and the actual application of water to the proposed beneficial use
34 within the time allowed, the applicant shall notify the chief engineer to
35 that effect. The chief engineer or the chief engineer's duly authorized
36 representative shall then examine and inspect the appropriation diversion
37 works and, if it is determined that the appropriation diversion works have
38 been completed and the appropriation right perfected in conformity with
39 the approved application and plans, the chief engineer shall issue a cer-
40 tificate of appropriation in duplicate. The original of such certificate shall
41 be sent to the owner and shall be recorded with the register of deeds in
42 the county or counties wherein the point of diversion is located, as are
43 other instruments affecting real estate, and the duplicate shall be made

1 a matter of record in the office of the chief engineer.

2 (b) Not later than 60 days before the expiration of the time allowed
3 in the permit to complete the construction of the appropriation diversion
4 works or the time allowed in the permit to actually apply water to the
5 proposed beneficial use, the chief engineer shall notify the permit holder
6 by ~~certified mail~~ *first-class mail, postage prepaid*, that any request for
7 extension of such time must be filed with the chief engineer before the
8 expiration of the time allowed in the permit.

9 (c) Unless the applicant requests an extension or the certificate has
10 not been issued due to the applicant's failure to comply with reasonable
11 requests for information or to allow the opportunity to examine and in-
12 spect the appropriation diversion works, as necessary for certification, the
13 chief engineer shall certify an appropriation:

14 (1) Before July 1, 2004, if the time allowed in the permit to perfect
15 the water right expired before July 1, 1999, except in those cases in which
16 abandonment proceedings pursuant to K.S.A. 82a-718, and amendments
17 thereto, are pending on July 1, 2004;

18 (2) before July 1, 2006, in such cases in which an abandonment pro-
19 ceeding was pending pursuant to K.S.A. 82a-718, and amendments
20 thereto, on July 1, 2004; or

21 (3) not later than five years after the date the applicant notifies the
22 chief engineer of the completion of construction of the works and the
23 actual application of water to the proposed beneficial use within the time
24 allowed, in all other cases.

25 If the chief engineer fails to issue a certificate within the time provided
26 by this subsection, the applicant may request review, pursuant to K.S.A.
27 2009 Supp. 82a-1901 and amendments thereto, of the chief engineer's
28 failure to act.

29 (d) Except for works constructed to appropriate water for domestic
30 use, each notification to the chief engineer under subsection (a) shall be
31 accompanied by a field inspection fee of \$400, or on and after July 1,
32 2015, a fee of \$200, except that for applications filed on or after July 1,
33 2009, for works constructed for sediment control use and for evaporation
34 from a groundwater pit for industrial use shall be accompanied by a field
35 inspection fee of \$200. Failure to pay the field inspection fee, after rea-
36 sonable notice by the chief engineer of such failure, shall result in the
37 permit to appropriate water being revoked, forfeiture of the priority date
38 and revocation of any appropriation right that may exist.

39 (e) A request for an extension of time to: (1) Complete the diversion
40 works; or (2) perfect the water right, shall be accompanied by a fee of
41 \$50, or commencing July 1, 2002, and ending June 30, 2015, a fee of
42 \$100.

43 (f) A request to reinstate a water right or a permit to appropriate

1 water which has been dismissed shall be filed with the chief engineer
2 within 60 days of the date dismissed and shall be accompanied by a fee
3 of \$100, or commencing July 1, 2002, and ending June 30, 2015, a fee of
4 \$200.

5 (g) All fees collected by the chief engineer pursuant to this section
6 shall be remitted to the state treasurer as provided in K.S.A. 82a-731, and
7 amendments thereto.

8 Sec. 3. K.S.A. 2009 Supp. 82a-718 is hereby amended to read as
9 follows: 82a-718. (a) All appropriations of water must be for some ben-
10 efiticial purpose. Every water right of every kind shall be deemed aban-
11 doned and shall terminate when without due and sufficient cause no
12 lawful, beneficial use is henceforth made of water under such right for
13 five successive years. Before any water right shall be declared abandoned
14 and terminated the chief engineer shall conduct a hearing thereon. Notice
15 shall be served on the user at least 30 days before the date of the hearing.
16 The determination of the chief engineer pursuant to this section shall be
17 subject to review in accordance with the provisions of K.S.A. 2009 Supp.
18 82a-1901, and amendments thereto.

19 The verified report of the chief engineer or such engineer's authorized
20 representative shall be prima facie evidence of the abandonment and
21 termination of any water right.

22 (b) When no lawful, beneficial use of water under a water right has
23 been reported for three successive years, the chief engineer shall notify
24 the user, by ~~certified mail, return receipt requested~~, *first-class mail, post-*
25 *age prepaid*, that: (1) No lawful, beneficial use of the water has been
26 reported for three successive years; (2) if no lawful, beneficial use is made
27 of the water for five successive years, the right may be terminated; and
28 (3) the right will not be terminated if the user shows that for one or more
29 of the five consecutive years the beneficial use of the water was prevented
30 or made unnecessary by circumstances that are due and sufficient cause
31 for nonuse, which circumstances shall be included in the notice.

32 (c) The provisions of subsection (a) shall not apply to a water right
33 that has not been declared abandoned and terminated before the effective
34 date of this act if the five years of successive nonuse occurred exclusively
35 and entirely before January 1, 1990. However, the provisions of subsec-
36 tion (a) shall apply if the period of five successive years of nonuse began
37 before January 1, 1990, and continued after that date.

38 Sec. 4. K.S.A. 2009 Supp. 82a-714 and 82a-718 are hereby repealed.

39 Sec. 5. This act shall take effect and be in force from and after its
40 publication in the statute book.