

82a-726. Diversion and transportation of water for use in another state; approval by chief engineer; conditions. (a) Any person intending to divert and transport water produced from a point or points of diversion located in this state for use in another state, shall make application to the chief engineer for a permit to appropriate water for beneficial use or file an application for change in point of diversion, place of use, type of use or any combination thereof. Subject to the provisions of subsection (b), the chief engineer shall approve such application upon such terms, conditions and limitations that the chief engineer shall deem necessary for the protection of public interest, including an express condition that if any such water is necessary to protect the public health and safety of the citizens of this state, such approved application may be suspended, modified or revoked by the chief engineer for such necessity.

(b) The chief engineer shall approve an application pursuant to this section only if the chief engineer finds that:

(1) The diversion and transportation of such water complies with the Kansas water appropriation act, the water transfer act and any other state law pertaining to such diversion, transportation and use of water;

(2) the statutes and common law of the state where such water will be used do not prohibit the use of water at the proposed place of use or for the proposed type of use, or both, if the water were to be diverted in that state; and

(3) the proposed diversion and transportation of water will not allow water apportioned to the state of Kansas by an interstate water compact to be used in another state.

(c) In order to make the finding required by subsection (b)(2), the chief engineer shall rely on a determination by the attorney general of the other state of whether the proposed use would be prohibited in that state.

History: L. 1976, ch. 435, § 1; L. 1984, ch. 380, § 1; L. 2000, ch. 98, § 1; July 1.