

Chapter 13a

Easement for Water Conveyance

57-13a-101 Definitions.

As used in this chapter:

- (1) "Water conveyance" means a canal, ditch, pipeline, or other means of conveying water.
- (2) "Water user" means a water user or the water user's predecessor whose water being conveyed is represented by a water right recognized under state law or by shares in a mutual irrigation company.

Enacted by Chapter 175, 1997 General Session

57-13a-102 Prescriptive easement for water conveyance.

- (1) A prescriptive easement may be established if a water user has maintained a water conveyance for a period of 20 years during which the use has been:
 - (a) continuous;
 - (b) open and notorious; and
 - (c) adverse.
- (2) If Subsections (1)(a) and (b) are established, there is a rebuttable presumption that the use has been adverse.

Enacted by Chapter 175, 1997 General Session

57-13a-103 Notice of easement.

The holder of an easement established as provided by Section 57-13a-102 may file a notice describing the easement in the office of the county recorder of each county in which the easement or a portion of the easement is located.

Enacted by Chapter 318, 2007 General Session

57-13a-104 Abandonment of prescriptive easement for water conveyance.

- (1) A holder of a prescriptive easement for a water conveyance established under Section 57-13a-102 may, in accordance with this section, abandon all or part of the easement.
- (2) A holder of a prescriptive easement for a water conveyance established under Section 57-13a-102 who seeks to abandon the easement or part of the easement shall:
 - (a) in each county where the easement or part of the easement is located:
 - (i) file in the office of the county recorder a notice of intent to abandon the prescriptive easement that describes the easement or part of the easement to be abandoned; and
 - (ii) publish the notice of intent to abandon the prescriptive easement once a week for two consecutive weeks in:
 - (A) a local newspaper of general circulation that is published in the area generally served by the water conveyance that utilizes the easement; or
 - (B) if a newspaper described in Subsection (2)(a)(ii)(A) does not exist, in a newspaper of general circulation in the county;
 - (b) post copies of the notice of intent to abandon the prescriptive easement in three public places located within the area generally served by the water conveyance that utilizes the easement;

- (c) mail a copy of the notice of intent to abandon the prescriptive easement to each municipal and county government where the easement or part of the easement is located;
 - (d) in accordance with Section 45-1-101, publish a copy of the notice of intent to abandon the prescriptive easement on the public legal notice website described in Subsection 45-1-101(2)(b); and
 - (e) after meeting the requirements of Subsections (2)(a), (b), (c), and (d) and at least 45 days after the last day on which the holder of the easement publishes the notice of intent to abandon the prescriptive easement in accordance with Subsection (2)(a)(ii), file in the office of the county recorder for each county where the easement or part of the easement is located a notice of abandonment that contains the same description required by Subsection (2)(a)(i).
- (3)
- (a) Upon completion of the requirements described in Subsection (2) by the holder of a prescriptive easement for a water conveyance established under Section 57-13a-102:
 - (i) all interest to the easement or part of the easement abandoned by the holder of the easement is extinguished; and
 - (ii) subject to each legal right that exists as described in Subsection (3)(b), the owner of a servient estate whose land was encumbered by the easement or part of the easement abandoned may reclaim the land area occupied by the former easement or part of the easement and resume full utilization of the land without liability to the former holder of the easement.
 - (b) Abandonment of a prescriptive easement under this section does not affect a legal right to have water delivered or discharged through the water conveyance and easement established by a person other than the holder of the easement who abandons an easement as provided in this section.

Enacted by Chapter 267, 2013 General Session