

**WATER EASEMENT AMENDMENTS**

2013 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: John G. Mathis**

Senate Sponsor: Kevin T. Van Tassell

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**LONG TITLE**

**General Description:**

This bill establishes a procedure for the holder of a prescriptive easement for a water conveyance to abandon all or part of the prescriptive easement.

**Highlighted Provisions:**

This bill:

▶ establishes a procedure for the holder of a prescriptive easement for a water conveyance to abandon all or part of the prescriptive easement.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

ENACTS:

**57-13a-104**, Utah Code Annotated 1953

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **57-13a-104** is enacted to read:

**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.



28 (2) A holder of a prescriptive easement for a water conveyance established under  
29 Section 57-13a-102 who seeks to abandon the easement or part of the easement shall:

30 (a) in each county where the easement or part of the easement is located:

31 (i) file in the office of the county recorder a notice of intent to abandon the prescriptive  
32 easement that describes the easement or part of the easement to be abandoned; and

33 (ii) publish the notice of intent to abandon the prescriptive easement in a newspaper of  
34 general circulation once a week for two consecutive weeks;

35 (b) post copies of the notice of intent to abandon the prescriptive easement in three  
36 public places located within the area generally served by the water conveyance that utilizes the  
37 easement;

38 (c) mail a copy of the notice of intent to abandon the prescriptive easement to each  
39 municipal and county government where the easement or part of the easement is located;

40 (d) in accordance with Section 45-1-101, publish a copy of the notice of intent to  
41 abandon the prescriptive easement on the public legal notice website described in Subsection  
42 45-1-101(2)(b); and

43 (e) after meeting the requirements of Subsections (2)(a), (b), (c), and (d) and at least 45  
44 days after the last day on which the holder of the easement publishes the notice of intent to  
45 abandon the prescriptive easement in accordance with Subsection (2)(a)(ii), file in the office of  
46 the county recorder for each county where the easement or part of the easement is located a  
47 notice of abandonment that contains the same description required by Subsection (2)(a)(i).

48 (3) (a) Upon completion of the requirements described in Subsection (2) by the holder  
49 of a prescriptive easement for a water conveyance established under Section 57-13a-102:

50 (i) all interest to the easement or part of the easement abandoned by the holder of the  
51 easement is extinguished; and

52 (ii) subject to each legal right that exists as described in Subsection (3)(b), the owner of  
53 a servient estate whose land was encumbered by the easement or part of the easement  
54 abandoned may reclaim the land area occupied by the former easement or part of the easement  
55 and resume full utilization of the land without liability to the former holder of the easement.

56 (b) Abandonment of a prescriptive easement under this section does not affect a legal  
57 right to have water delivered or discharged through the water conveyance and easement  
58 established by a person other than the holder of the easement who abandons an easement as

59 provided in this section.

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**Legislative Review Note**  
as of 1-21-13 9:09 AM

**Office of Legislative Research and General Counsel**