

CANAL SAFETY AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott D. Sandall

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions regarding notice to canal owners about land use applications.

Highlighted Provisions:

This bill:

- ▶ removes the requirement that a canal owner receive notice as a condition to rights vesting in a land use application;
- ▶ requires a land use authority to send notice to certain canal owners and operators about a land use application;
- ▶ requires a land use authority to wait for a period of days before acting on a land use application in order to allow input from the canal owners and operators;
- ▶ identifies a canal owner or operator who is entitled to notice from a land use authority regarding certain land use applications;
- ▶ requires a surveyor making a plat to consult with the owner or operator of a certain water conveyance facility; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **10-9a-211**, as enacted by Laws of Utah 2010, Chapter 332

31 **10-9a-509**, as last amended by Laws of Utah 2014, Chapter 136

32 **10-9a-603**, as last amended by Laws of Utah 2015, Chapter 327

33 **17-27a-211**, as enacted by Laws of Utah 2010, Chapter 332

34 **17-27a-508**, as last amended by Laws of Utah 2014, Chapter 136

35 **17-27a-603**, as last amended by Laws of Utah 2015, Chapter 327

36 **73-5-7**, as last amended by Laws of Utah 2014, Chapter 355



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

39 Section 1. Section **10-9a-211** is amended to read:

40 **10-9a-211. Canal owner or operator -- Notice to municipality.**

41 (1) [~~For purposes of Subsection 10-9a-509(1)(b)(iv), a~~] A canal company or a canal
42 operator shall [~~provide on or before July 1, 2010, any~~] ensure that each municipality in which
43 the canal company or canal operator owns or operates a canal has on file, regarding the canal
44 company or canal operator:

- 45 (a) a current mailing address and phone number;
- 46 (b) a contact name; and
- 47 (c) a general description of the location of each canal owned or operated by the canal
48 owner or canal operator.

49 (2) If the information described in Subsection (1) changes after a canal company or a
50 canal operator has provided the information to the municipality, the canal company or canal
51 operator shall provide the correct information within 30 days of the day on which the
52 information [~~was changed~~] changes.

53 Section 2. Section **10-9a-509** is amended to read:

54 **10-9a-509. Applicant's entitlement to land use application approval -- Exceptions**
55 **-- Application relating to land in a high priority transportation corridor -- Municipality's**
56 **requirements and limitations -- Vesting upon submission of development plan and**
57 **schedule.**

58 (1) (a) (i) An applicant who has filed a complete land use application, including the

59 payment of all application fees, is entitled to substantive land use review of the land use
60 application under the land use laws in effect on the date that the application is complete and as
61 further provided in this section.

62 (ii) Except as provided in Subsection (1)(b), an applicant is entitled to approval of a
63 land use application if the application conforms to the requirements of the municipality's land
64 use maps, zoning map, a municipal specification for public improvements applicable to a
65 subdivision or development, and an applicable land use ordinance in effect when a complete
66 application is submitted and all application fees have been paid, unless:

67 (A) the land use authority, on the record, finds that a compelling, countervailing public
68 interest would be jeopardized by approving the application; or

69 (B) in the manner provided by local ordinance and before the application is submitted,
70 the municipality has formally initiated proceedings to amend its ordinances in a manner that
71 would prohibit approval of the application as submitted.

72 (b) (i) Except as provided in Subsection (1)(c), an applicant is not entitled to approval
73 of a land use application until the requirements of this Subsection (1)(b) have been met if the
74 land use application relates to land located within the boundaries of a high priority
75 transportation corridor designated in accordance with Section [72-5-403](#).

76 (ii) (A) A municipality shall notify the executive director of the Department of
77 Transportation of any land use applications that relate to land located within the boundaries of
78 a high priority transportation corridor.

79 (B) The notification under Subsection (1)(b)(ii)(A) shall be in writing and mailed by
80 certified or registered mail to the executive director of the Department of Transportation.

81 (iii) Except as provided in Subsection (1)(c), a municipality may not approve a land
82 use application that relates to land located within the boundaries of a high priority
83 transportation corridor until:

84 (A) 30 days after the notification under Subsection (1)(b)(ii)(A) is received by the
85 Department of Transportation if the land use application is for a building permit; or

86 (B) 45 days after the notification under Subsection (1)(b)(ii)(A) is received by the
87 Department of Transportation if the land use application is for any land use other than a
88 building permit.

89 ~~[(iv) (A) If an application is an application for a subdivision approval, including any~~

90 land, subject to ~~Subsection (1)(b)(iv)(C)~~, located within 100 feet of the center line of a canal,
91 ~~the land use authority shall:]~~

92 ~~[(F) within 30 days after the day on which the application is filed, notify the canal~~
93 ~~company or canal operator responsible for the canal, if the canal company or canal operator has~~
94 ~~provided information under Section 10-9a-211; and]~~

95 ~~[(H) wait at least 10 days after the day on which the land use authority notifies a canal~~
96 ~~company or canal operator under Subsection (1)(b)(iv)(A)(f) to approve or reject the~~
97 ~~subdivision application described in Subsection (1)(b)(iv)(A).]~~

98 ~~[(B) The notification under Subsection (1)(b)(iv)(A) shall be in writing and mailed by~~
99 ~~certified or registered mail to the canal company or canal operator contact described in Section~~
100 ~~10-9a-211.]~~

101 ~~[(C) The location of land described in Subsection (1)(b)(iv)(A) shall be:]~~

102 ~~[(f) provided by a canal company or canal operator to the land use authority; and]~~

103 ~~[(H) (Aa) determined by use of mapping-grade global positioning satellite units; or]~~

104 ~~[(Bb) digitized from the most recent aerial photo available to the canal company or~~
105 ~~canal operator.]~~

106 (c) (i) A land use application is exempt from the requirements of Subsections (1)(b)(i)
107 and (ii) if:

108 (A) the land use application relates to land that was the subject of a previous land use
109 application; and

110 (B) the previous land use application described under Subsection (1)(c)(i)(A) complied
111 with the requirements of Subsections (1)(b)(i) and (ii).

112 (ii) A municipality may approve a land use application without making the required
113 notifications under Subsection (1)(b)(ii)(A) if:

114 (A) the land use application relates to land that was the subject of a previous land use
115 application; and

116 (B) the previous land use application described under Subsection (1)(c)(ii)(A)
117 complied with the requirements of Subsections (1)(b)(i) and (ii).

118 (d) After a municipality has complied with the requirements of Subsection (1)(b) for a
119 land use application, the municipality may not withhold approval of the land use application for
120 which the applicant is otherwise entitled under Subsection (1)(a).

121 (e) The municipality shall process an application without regard to proceedings
122 initiated to amend the municipality's ordinances as provided in Subsection (1)(a)(ii)(B) if:

- 123 (i) 180 days have passed since the proceedings were initiated; and
- 124 (ii) the proceedings have not resulted in an enactment that prohibits approval of the
125 application as submitted.

126 (f) An application for a land use approval is considered submitted and complete when
127 the application is provided in a form that complies with the requirements of applicable
128 ordinances and all applicable fees have been paid.

129 (g) The continuing validity of an approval of a land use application is conditioned upon
130 the applicant proceeding after approval to implement the approval with reasonable diligence.

131 (h) A municipality may not impose on an applicant who has submitted a complete
132 application for preliminary subdivision approval a requirement that is not expressed in:

- 133 (i) this chapter;
- 134 (ii) a municipal ordinance; or
- 135 (iii) a municipal specification for public improvements applicable to a subdivision or
136 development that is in effect on the date that the applicant submits an application.

137 (i) A municipality may not impose on a holder of an issued land use permit or a final,
138 unexpired subdivision plat a requirement that is not expressed:

- 139 (i) in a land use permit;
- 140 (ii) on the subdivision plat;
- 141 (iii) in a document on which the land use permit or subdivision plat is based;
- 142 (iv) in the written record evidencing approval of the land use permit or subdivision
143 plat;
- 144 (v) in this chapter; or
- 145 (vi) in a municipal ordinance.

146 (j) A municipality may not withhold issuance of a certificate of occupancy or
147 acceptance of subdivision improvements because of an applicant's failure to comply with a
148 requirement that is not expressed:

- 149 (i) in the building permit or subdivision plat, documents on which the building permit
150 or subdivision plat is based, or the written record evidencing approval of the land use permit or
151 subdivision plat; or

152 (ii) in this chapter or the municipality's ordinances.

153 (2) A municipality is bound by the terms and standards of applicable land use
154 ordinances and shall comply with mandatory provisions of those ordinances.

155 (3) A municipality may not, as a condition of land use application approval, require a
156 person filing a land use application to obtain documentation regarding a school district's
157 willingness, capacity, or ability to serve the development proposed in the land use application.

158 (4) Upon a specified public agency's submission of a development plan and schedule as
159 required in Subsection 10-9a-305(8) that complies with the requirements of that subsection, the
160 specified public agency vests in the municipality's applicable land use maps, zoning map,
161 hookup fees, impact fees, other applicable development fees, and land use ordinances in effect
162 on the date of submission.

163 Section 3. Section 10-9a-603 is amended to read:

164 **10-9a-603. Plat required when land is subdivided -- Approval of plat -- Owner**
165 **acknowledgment, surveyor certification, and underground utility facility owner**
166 **verification of plat -- Recording plat.**

167 (1) Unless exempt under Section 10-9a-605 or excluded from the definition of
168 subdivision under Section 10-9a-103, whenever any land is laid out and platted, the owner of
169 the land shall provide an accurate plat that describes or specifies:

170 (a) a subdivision name that is distinct from any subdivision name on a plat recorded in
171 the county recorder's office;

172 (b) the boundaries, course, and dimensions of all of the parcels of ground divided, by
173 their boundaries, course, and extent, whether the owner proposes that any parcel of ground is
174 intended to be used as a street or for any other public use, and whether any such area is
175 reserved or proposed for dedication for a public purpose;

176 (c) the lot or unit reference, block or building reference, street or site address, street
177 name or coordinate address, acreage or square footage for all parcels, units, or lots, and length
178 and width of the blocks and lots intended for sale; and

179 (d) every existing right-of-way and easement grant of record for an underground
180 facility, as defined in Section 54-8a-2, and for any other utility facility.

181 (2) (a) Subject to Subsections (3), (4), and (5), if the plat conforms to the municipality's
182 ordinances and this part and has been approved by the culinary water authority, the sanitary

183 sewer authority, and the local health department, as defined in Section 26A-1-102, if the local
 184 health department and the municipality consider the local health department's approval
 185 necessary, the municipality shall approve the plat.

186 (b) Municipalities are encouraged to receive a recommendation from the fire authority
 187 before approving a plat.

188 (c) A municipality may not require that a plat be approved or signed by a person or
 189 entity who:

190 (i) is not an employee or agent of the municipality; and

191 (ii) does not:

192 (A) have a legal or equitable interest in the property within the proposed subdivision;

193 (B) provide a utility or other service directly to a lot within the subdivision;

194 (C) own an easement or right-of-way adjacent to the proposed subdivision who signs
 195 for the purpose of confirming the accuracy of the location of the easement or right-of-way in
 196 relation to the plat; or

197 (D) provide culinary public water service whose source protection zone designated as
 198 provided in Section 19-4-113 is included, in whole or in part, within the proposed subdivision[;
 199 ~~or~~].

200 [~~(iii) is not entitled to notice of the subdivision pursuant to Subsection~~
 201 ~~10-9a-509(1)(b)(iv) for the purpose of determining the accuracy of the information depicted on~~
 202 ~~the plat.~~]

203 (d) For a subdivision application that includes land located within a notification zone,
 204 as determined under Subsection (2)(e), the land use authority shall:

205 (i) within 20 days after the day on which a complete subdivision application is filed,
 206 provide written notice of the application to the canal owner or associated canal operator contact
 207 described in:

208 (A) Section 10-9a-211;

209 (B) Subsection 73-5-7(2); or

210 (C) Subsection (4)(d); and

211 (ii) wait to approve or reject the subdivision application for at least 20 days after the
 212 day on which the land use authority mails the notice described in Subsection (2)(d)(i) in order
 213 to receive input from the canal owner or associated canal operator, including input regarding:

214 (A) access to the canal;
215 (B) maintenance of the canal;
216 (C) canal protection; and
217 (D) canal safety.
218 (e) The land use authority shall provide the notice described in Subsection (2)(d) to a
219 canal owner or associated canal operator if:
220 (i) the canal's centerline is located within 100 feet of a proposed subdivision; and
221 (ii) the centerline alignment is available to the land use authority:
222 (A) from information provided by the canal company under Section 10-9a-211, using
223 mapping-grade global positioning satellite units or digitized data from the most recent aerial
224 photo available to the canal owner or associated canal operator;
225 (B) using the state engineer's inventory of canals under Section 73-5-7; or
226 (C) from information provided by a surveyor under Subsection (4)(d).
227 (3) The municipality may withhold an otherwise valid plat approval until the owner of
228 the land provides the legislative body with a tax clearance indicating that all taxes, interest, and
229 penalties owing on the land have been paid.
230 (4) (a) A plat may not be submitted to a county recorder for recording unless:
231 (i) prior to recordation, each owner of record of land described on the plat has signed
232 the owner's dedication as shown on the plat; and
233 (ii) the signature of each owner described in Subsection (4)(a)(i) is acknowledged as
234 provided by law.
235 (b) The surveyor making the plat shall certify that the surveyor:
236 (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and
237 Professional Land Surveyors Licensing Act;
238 (ii) has completed a survey of the property described on the plat in accordance with
239 Section 17-23-17 and has verified all measurements; and
240 (iii) has placed monuments as represented on the plat.
241 (c) (i) To the extent possible, the surveyor shall consult with the owner or operator of
242 an existing or proposed underground facility or utility facility within the proposed subdivision,
243 or a representative designated by the owner or operator, to verify the accuracy of the surveyor's
244 depiction of the:

245 (A) boundary, course, dimensions, and intended use of the public rights-of-way, a
246 public or private easement, or grants of record;

247 (B) location of an existing underground facility and utility facility; and

248 (C) physical restrictions governing the location of the underground facility and utility
249 facility within the subdivision.

250 (ii) The cooperation of an owner or operator under Subsection (4)(c)(i):

251 (A) indicates only that the plat approximates the location of the existing underground
252 and utility facilities but does not warrant or verify their precise location; and

253 (B) does not affect a right that the owner or operator has under:

254 (I) Title 54, Chapter 8a, Damage to Underground Utility Facilities;

255 (II) a recorded easement or right-of-way;

256 (III) the law applicable to prescriptive rights; or

257 (IV) any other provision of law.

258 (d) (i) The surveyor shall ensure that the consultation required by Subsection (4)(c)(i)
259 includes consultation with the owner or operator of a water conveyance facility, as that term is
260 defined in Section 73-10-33, located within 100 feet of the subdivision boundary.

261 (ii) The surveyor shall provide to the land use authority the contact information of the
262 facility owner or operator with whom the surveyor consulted if the proposed subdivision
263 includes:

264 (A) land across which a water conveyance facility runs; or

265 (B) land within 100 feet of a water conveyance facility.

266 (5) (a) After the plat has been acknowledged, certified, and approved, the owner of the
267 land shall, within the time period designated by ordinance, record the plat in the county
268 recorder's office in the county in which the lands platted and laid out are situated.

269 (b) An owner's failure to record a plat within the time period designated by ordinance
270 renders the plat voidable.

271 Section 4. Section 17-27a-211 is amended to read:

272 **17-27a-211. Canal owner or operator -- Notice to county.**

273 (1) [~~For purposes of Subsection 17-27a-508(1)(b)(iv), a~~] A canal company or a canal
274 operator shall [~~provide on or before July 1, 2010, any~~] ensure that each county in which the
275 canal company or canal operator owns or operates a canal has on file, regarding the canal

276 company or canal operator:

277 (a) a current mailing address and phone number;

278 (b) a contact name; and

279 (c) a general description of the location of each canal owned or operated by the canal
280 owner or canal operator.

281 (2) If the information described in Subsection (1) changes after a canal company or a
282 canal operator has provided the information to the county, the canal company or canal operator
283 shall provide the correct information within 30 days of the day on which the information [~~was~~
284 ~~changed~~] changes.

285 Section 5. Section ~~17-27a-508~~ is amended to read:

286 **17-27a-508. Applicant's entitlement to land use application approval --**
287 **Exceptions -- Application relating to land in a high priority transportation corridor --**
288 **County's requirements and limitations -- Vesting upon submission of development plan**
289 **and schedule.**

290 (1) (a) (i) An applicant who has filed a complete land use application, including the
291 payment of all application fees, is entitled to substantive land use review of the land use
292 application under the land use laws in effect on the date that the application is complete and as
293 further provided in this section.

294 (ii) Except as provided in Subsection (1)(b), an applicant is entitled to approval of a
295 land use application if the application conforms to the requirements of the county's land use
296 maps, zoning map, and applicable land use ordinance in effect when a complete application is
297 submitted and all application fees have been paid, unless:

298 (A) the land use authority, on the record, finds that a compelling, countervailing public
299 interest would be jeopardized by approving the application; or

300 (B) in the manner provided by local ordinance and before the application is submitted,
301 the county has formally initiated proceedings to amend its ordinances in a manner that would
302 prohibit approval of the application as submitted.

303 (b) (i) Except as provided in Subsection (1)(c), an applicant is not entitled to approval
304 of a land use application until the requirements of this Subsection (1)(b)(i) and Subsection
305 (1)(b)(ii) have been met if the land use application relates to land located within the boundaries
306 of a high priority transportation corridor designated in accordance with Section [72-5-403](#).

307 (ii) (A) A county shall notify the executive director of the Department of
308 Transportation of any land use applications that relate to land located within the boundaries of
309 a high priority transportation corridor.

310 (B) The notification under Subsection (1)(b)(ii)(A) shall be in writing and mailed by
311 certified or registered mail to the executive director of the Department of Transportation.

312 (iii) Except as provided in Subsection (1)(c), a county may not approve a land use
313 application that relates to land located within the boundaries of a high priority transportation
314 corridor until:

315 (A) 30 days after the notification under Subsection (1)(b)(ii)(A) is received by the
316 Department of Transportation if the land use application is for a building permit; or

317 (B) 45 days after the notification under Subsection (1)(b)(ii)(A) is received by the
318 Department of Transportation if the land use application is for any land use other than a
319 building permit.

320 ~~[(iv) (A) If an application is an application for a subdivision approval, including any
321 land, subject to Subsection (1)(b)(iv)(C), located within 100 feet of the center line of a canal,
322 the land use authority shall:]~~

323 ~~[(F) within 30 days after the day on which the application is filed, notify the canal
324 company or canal operator responsible for the canal, if the canal company or canal owner has
325 provided information under Section 17-27a-211; and]~~

326 ~~[(H) wait at least 10 days after the day on which the land use authority notifies a canal
327 company or canal operator under Subsection (1)(b)(iv)(A)(f) to approve or reject the
328 subdivision application described in Subsection (1)(b)(iv)(A).]~~

329 ~~[(B) The notification under Subsection (1)(b)(iv)(A) shall be in writing and mailed by
330 certified or registered mail to the canal company or canal operator contact described in Section
331 17-27a-211.]~~

332 ~~[(C) The location of land described in Subsection (1)(b)(iv)(A) shall be:]~~

333 ~~[(F) provided by a canal company or canal operator to the land use authority; and]~~

334 ~~[(H) (Aa) determined by use of mapping-grade global positioning satellite units; or]~~

335 ~~[(Bb) digitized from the most recent aerial photo available to the canal company or
336 canal operator.]~~

337 (c) (i) A land use application is exempt from the requirements of Subsection (1)(b)(i)

338 if:

339 (A) the land use application relates to land that was the subject of a previous land use
340 application; and

341 (B) the previous land use application described under Subsection (1)(c)(i)(A) complied
342 with the requirements of Subsections (1)(b)(i) and (ii).

343 (ii) A county may approve a land use application without making the required
344 notifications under Subsections (1)(b)(i) and (ii) if:

345 (A) the land use application relates to land that was the subject of a previous land use
346 application; and

347 (B) the previous land use application described under Subsection (1)(c)(ii)(A)
348 complied with the requirements of Subsections (1)(b)(i) and (ii).

349 (d) After a county has complied with the requirements of Subsection (1)(b) for a land
350 use application, the county may not withhold approval of the land use application for which the
351 applicant is otherwise entitled under Subsection (1)(a).

352 (e) The county shall process an application without regard to proceedings initiated to
353 amend the county's ordinances as provided in Subsection (1)(a)(ii)(B) if:

354 (i) 180 days have passed since the proceedings were initiated; and

355 (ii) the proceedings have not resulted in an enactment that prohibits approval of the
356 application as submitted.

357 (f) An application for a land use approval is considered submitted and complete when
358 the application is provided in a form that complies with the requirements of applicable
359 ordinances and all applicable fees have been paid.

360 (g) The continuing validity of an approval of a land use application is conditioned upon
361 the applicant proceeding after approval to implement the approval with reasonable diligence.

362 (h) A county may not impose on an applicant who has submitted a complete
363 application for preliminary subdivision approval a requirement that is not expressed:

364 (i) in this chapter;

365 (ii) in a county ordinance; or

366 (iii) in a county specification for public improvements applicable to a subdivision or
367 development that is in effect on the date that the applicant submits an application.

368 (i) A county may not impose on a holder of an issued land use permit or a final,

369 unexpired subdivision plat a requirement that is not expressed:

- 370 (i) in a land use permit;
- 371 (ii) on the subdivision plat;
- 372 (iii) in a document on which the land use permit or subdivision plat is based;
- 373 (iv) in the written record evidencing approval of the land use permit or subdivision
- 374 plat;
- 375 (v) in this chapter; or
- 376 (vi) in a county ordinance.

377 (j) A county may not withhold issuance of a certificate of occupancy or acceptance of
378 subdivision improvements because of an applicant's failure to comply with a requirement that
379 is not expressed:

380 (i) in the building permit or subdivision plat, documents on which the building permit
381 or subdivision plat is based, or the written record evidencing approval of the building permit or
382 subdivision plat; or

383 (ii) in this chapter or the county's ordinances.

384 (2) A county is bound by the terms and standards of applicable land use ordinances and
385 shall comply with mandatory provisions of those ordinances.

386 (3) A county may not, as a condition of land use application approval, require a person
387 filing a land use application to obtain documentation regarding a school district's willingness,
388 capacity, or ability to serve the development proposed in the land use application.

389 (4) Upon a specified public agency's submission of a development plan and schedule as
390 required in Subsection 17-27a-305(8) that complies with the requirements of that subsection,
391 the specified public agency vests in the county's applicable land use maps, zoning map, hookup
392 fees, impact fees, other applicable development fees, and land use ordinances in effect on the
393 date of submission.

394 Section 6. Section 17-27a-603 is amended to read:

395 **17-27a-603. Plat required when land is subdivided -- Approval of plat -- Owner**
396 **acknowledgment, surveyor certification, and underground utility facility owner**
397 **verification of plat -- Recording plat.**

398 (1) Unless exempt under Section 17-27a-605 or excluded from the definition of
399 subdivision under Section 17-27a-103, whenever any land is laid out and platted, the owner of

400 the land shall provide an accurate plat that describes or specifies:

401 (a) a subdivision name that is distinct from any subdivision name on a plat recorded in
402 the county recorder's office;

403 (b) the boundaries, course, and dimensions of all of the parcels of ground divided, by
404 their boundaries, course, and extent, whether the owner proposes that any parcel of ground is
405 intended to be used as a street or for any other public use, and whether any such area is
406 reserved or proposed for dedication for a public purpose;

407 (c) the lot or unit reference, block or building reference, street or site address, street
408 name or coordinate address, acreage or square footage for all parcels, units, or lots, and length
409 and width of the blocks and lots intended for sale; and

410 (d) every existing right-of-way and easement grant of record for an underground
411 facility, as defined in Section 54-8a-2, and for any other utility facility.

412 (2) (a) Subject to Subsections (3), (4), and (5), if the plat conforms to the county's
413 ordinances and this part and has been approved by the culinary water authority, the sanitary
414 sewer authority, and the local health department, as defined in Section 26A-1-102, if the local
415 health department and the county consider the local health department's approval necessary, the
416 county shall approve the plat.

417 (b) Counties are encouraged to receive a recommendation from the fire authority before
418 approving a plat.

419 (c) A county may not require that a plat be approved or signed by a person or entity
420 who:

421 (i) is not an employee or agent of the county; and

422 (ii) does not:

423 (A) have a legal or equitable interest in the property within the proposed subdivision;

424 (B) provide a utility or other service directly to a lot within the subdivision;

425 (C) own an easement or right-of-way adjacent to the proposed subdivision who signs
426 for the purpose of confirming the accuracy of the location of the easement or right-of-way in
427 relation to the plat; or

428 (D) provide culinary public water service whose source protection zone designated as
429 provided in Section 19-4-113 is included, in whole or in part, within the proposed subdivision[
430 or].

431 ~~[(iii) is not entitled to notice of the subdivision pursuant to Subsection~~
432 ~~17-27a-508(1)(b)(iv) for the purpose of determining the accuracy of the information depicted~~
433 ~~on the plat.]~~

434 (d) For a subdivision application that includes land located within a notification zone,
435 as determined under Subsection (2)(e), the land use authority shall:

436 (i) within 20 days after the day on which a complete subdivision application is filed,
437 provide written notice of the application to the canal owner or associated canal operator contact
438 described in:

439 (A) Section 17-27a-211;

440 (B) Subsection 73-5-7(2); or

441 (C) Subsection (4)(d); and

442 (ii) wait to approve or reject the subdivision application for at least 20 days after the
443 day on which the land use authority mails the notice under Subsection (2)(d)(i) in order to
444 receive input from the canal owner or associated canal operator, including input regarding:

445 (A) access to the canal;

446 (B) maintenance of the canal;

447 (C) canal protection; and

448 (D) canal safety.

449 (e) The land use authority shall provide the notice described in Subsection (2)(d) to a
450 canal owner or associated canal operator if:

451 (i) the canal's centerline is located within 100 feet of a proposed subdivision; and

452 (ii) the centerline alignment is available to the land use authority:

453 (A) from information provided by the canal company under Section 17-27a-211 using
454 mapping-grade global positioning satellite units or digitized data from the most recent aerial
455 photo available to the canal owner or canal operator;

456 (B) using the state engineer's inventory of canals under Section 73-5-7; or

457 (C) from information provided by a surveyor under Subsection (4)(d).

458 (3) The county may withhold an otherwise valid plat approval until the owner of the
459 land provides the legislative body with a tax clearance indicating that all taxes, interest, and
460 penalties owing on the land have been paid.

461 (4) (a) A plat may not be submitted to a county recorder for recording unless, subject to

462 Subsection 17-27a-604(2):

463 (i) prior to recordation, each owner of record of land described on the plat has signed
464 the owner's dedication as shown on the plat; and

465 (ii) the signature of each owner described in Subsection (4)(a)(i) is acknowledged as
466 provided by law.

467 (b) The surveyor making the plat shall certify that the surveyor:

468 (i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and
469 Professional Land Surveyors Licensing Act;

470 (ii) has completed a survey of the property described on the plat in accordance with
471 Section 17-23-17 and has verified all measurements; and

472 (iii) has placed monuments as represented on the plat.

473 (c) (i) To the extent possible, the surveyor shall consult with the owner or operator of
474 an existing or proposed underground facility or utility facility within the proposed subdivision,
475 or a representative designated by the owner or operator, to verify the accuracy of the surveyor's
476 depiction of the:

477 (A) boundary, course, dimensions, and intended use of the public rights-of-way, a
478 public or private easement, or grants of record;

479 (B) location of an existing underground facility and utility facility; and

480 (C) physical restrictions governing the location of the underground facility and utility
481 facility within the subdivision.

482 (ii) The cooperation of an owner or operator under Subsection (4)(c)(i):

483 (A) indicates only that the plat approximates the location of the existing underground
484 and utility facilities but does not warrant or verify their precise location; and

485 (B) does not affect a right that the owner or operator has under:

486 (I) Title 54, Chapter 8a, Damage to Underground Utility Facilities;

487 (II) a recorded easement or right-of-way;

488 (III) the law applicable to prescriptive rights; or

489 (IV) any other provision of law.

490 (d) (i) The surveyor shall ensure that the consultation required by Subsection (4)(c)(i)
491 includes consultation with the owner or operator of a water conveyance facility, as that term is
492 defined in Section 73-10-33, located within 100 feet of the subdivision boundary.

493 (ii) The surveyor shall provide to the land use authority the contact information of the
 494 facility owner or operator with whom the surveyor consulted if the proposed subdivision
 495 includes:

496 (A) land across which a water conveyance facility runs; or

497 (B) land within 100 feet of a water conveyance facility.

498 (5) (a) After the plat has been acknowledged, certified, and approved, the owner of the
 499 land shall, within the time period designated by ordinance, record the plat in the county
 500 recorder's office in the county in which the lands platted and laid out are situated.

501 (b) An owner's failure to record a plat within the time period designated by ordinance
 502 renders the plat voidable.

503 Section 7. Section 73-5-7 is amended to read:

504 **73-5-7. Inspection of ditches and diverting works by engineer.**

505 (1) (a) The state engineer shall have authority to examine and inspect any ditch or other
 506 diverting works, and at the time of such inspection, the state engineer may order the owners
 507 thereof to make any addition or alteration that the state engineer considers necessary for the
 508 security of such works, the safety of persons, or the protection of property.

509 (b) If any person, firm, copartnership, association, or corporation refuses or neglects to
 510 comply with the requirements of the state engineer as described in Subsection (1)(a), the state
 511 engineer may bring action in the name of the state in the district court to enforce the order.

512 (2) (a) The state engineer shall, to the extent reasonably practicable, by July 1, [2017]
 513 2019, inventory and maintain a list of all open, human-made water conveyance systems that
 514 carry 5 cubic feet per second or more in the state, including the following information on each
 515 conveyance system:

516 [~~(a)~~] (i) alignment;

517 [~~(b)~~] (ii) contact information of the owner;

518 [~~(c)~~] (iii) maximum flow capacity in cubic feet per second;

519 [~~(d)~~] (iv) whether the conveyance system is used for flood or storm water management;

520 and

521 [~~(e)~~] (v) notice of the adoption of a management plan for the conveyance system as
 522 reported to the Division of Water Resources under Section 73-10-33.

523 (b) In counties of the first or second class, the state engineer shall include in the

524 inventory described in Subsection (2)(a) any enclosed segments of each open, human-made
525 water conveyance system.

526 (3) The owner of an open, human-made water conveyance system that carries 5 cubic
527 feet per second or more shall inform the state engineer if the information described in
528 Subsection (2) changes.

529 (4) The state engineer:

530 (a) may contract with a local conservation district created in Title 17D, Chapter 3,
531 Conservation District Act, to fulfill the duties described in Subsection (2); and

532 (b) may contract a local conservation district created in Title 17D, Chapter 3,
533 Conservation District Act, to provide technical support for a canal owner who is adopting a
534 management plan, as described in Section [73-10-33](#).

Legislative Review Note
Office of Legislative Research and General Counsel