

HOUSE BILL NO. 399

INTRODUCED BY K. WHITE

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A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE DEFINITION OF A STREAM FOR PROJECTS AUTHORIZED UNDER THE NATURAL STREAMBED AND LAND PRESERVATION ACT OF 1975; AND AMENDING SECTION 75-7-103, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 75-7-103, MCA, is amended to read:

"75-7-103. Definitions. As used in this part, the following definitions apply:

- (1) "Applicant" means any person presenting notice of a project to the supervisors.
- (2) "Department" means the Montana department of fish, wildlife, and parks.
- (3) "District" means:
 - (a) a conservation district under Title 76, chapter 15, in which the project will take place;
 - (b) a grass conservation district under Title 76, chapter 16, where a conservation district does not exist;
- or
- (c) the board of county commissioners in a county where a district does not exist.

(4) "Natural, perennial-flowing stream" or "stream" means a stream or river that has flowed continuously during all seasons during dry as well as wet years, except when the flow is interrupted by diversions. The term includes the bed and banks of such a river or stream. The term does not include a stream or river that has been designated by district rule as not having significant aquatic and riparian attributes in need of protection or preservation under 75-7-102.

~~(4)~~(5) "Person" means any individual, corporation, firm, partnership, association, or other legal entity not covered under 87-5-502.

~~(5)~~(6) (a) "Project" means a physical alteration or modification that results in a change in the state of a natural, perennial-flowing stream or river, its bed, or its immediate banks.

(b) Project does not include:

(i) an activity for which a plan of operation has been submitted to and approved by the district. Any modification to the plan must have prior approval of the district.



1 (ii) customary and historic maintenance and repair of existing irrigation facilities that do not significantly
2 alter or modify the stream in contravention of 75-7-102; or

3 (iii) livestock grazing activities.

4 ~~(6) "Stream" means any natural, perennial-flowing stream or river, its bed, and its immediate banks~~
5 ~~except a stream or river that has been designated by district rule as not having significant aquatic and riparian~~
6 ~~attributes in need of protection or preservation under 75-7-102.~~

7 (7) "Supervisors" means the board of supervisors of a conservation district, the directors of a grass
8 conservation district, or the board of county commissioners where a proposed project is not within a district.

9 (8) "Team" means one representative of the supervisors, one representative of the department, and the
10 applicant or the applicant's representative.

11 (9) "Written consent of the supervisors" means a written decision of the supervisors approving a project
12 and specifying activities authorized to be performed in completing the project."

13 - END -