

63rd Legislature

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SENATE BILL NO. 334

INTRODUCED BY B. HAMLETT

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE DEFINITION OF "STREAM" WITHIN 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) "~~Ephemeral-flowing~~ stream" means a land feature, which may or may not have a well-defined channel, that carries only storm water during and shortly after large precipitation events.

(5) "~~Intermittent-flowing~~ stream" means a well-defined channel that carries water for only part of the year, *BUT NORMALLY IS DRY THROUGHOUT A SIGNIFICANT PORTION OF ITS LENGTH PART OF THE YEAR* typically during winter and spring, the flow of which may be heavily supplemented by storm water runoff.

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

(5)(7) (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.

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

1 (iii) livestock grazing activities.

2 ~~(6)(8)~~ (a) "Stream" means any natural, perennial-flowing stream or river, ^{WATERWAY} its bed, in a well-defined
 3 ~~channel that, in its natural condition or in the absence of diversion of water into or out of the stream, impoundment-~~
 4 ~~of water in the stream, or human activity in the stream, carries water throughout the year in at least a portion of~~
 5 ~~its length from source to mouth during a year of normal rainfall in which ground water is the primary source of~~
 6 ~~water. The term includes the streambed and its immediate stream banks.~~ ^{THE CHANNELS,}

7 (b) The term does not include an ephemeral-flowing⁸ stream, an intermittent-flowing⁹ stream, or except
 8 a stream or river that has been designated by district rule as not having significant aquatic and riparian attributes
 9 in need of protection or preservation under 75-7-102.

10 ~~(7)(9)~~ "Supervisors" means the board of supervisors of a conservation district, the directors of a grass
 11 conservation district, or the board of county commissioners where a proposed project is not within a district.

12 ~~(8)(10)~~ "Team" means one representative of the supervisors, one representative of the department, and
 13 the applicant or the applicant's representative.

14 ~~(9)(11)~~ "Written consent of the supervisors" means a written decision of the supervisors approving a
 15 project and specifying activities authorized to be performed in completing the project."

16 - END -