

1 **** BILL NO. ****
2 INTRODUCED BY ****
3 BY REQUEST OF THE ****
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING TIMELINES RELATED TO ONSITE INSPECTION
6 AND RECOMMENDATION OF DENIAL, APPROVAL, OR MODIFICATION OF AN EMERGENCY PROJECT
7 WHEN THE GOVERNOR DECLARES A STATE OF EMERGENCY; AMENDING SECTION 75-7-113, MCA;
8 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
9

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11

12 **Section 1.** Section 75-7-113, MCA, is amended to read:

13 **"75-7-113. Emergencies -- procedure.** (1) The provisions of this part do not apply to those actions
14 that are necessary to safeguard life or property, including growing crops, during periods of emergency. The
15 person responsible for a taking action under this section shall notify the supervisors in writing within 15 days of
16 the action taken as a result of an emergency.

17 (2) The emergency notice given under subsection (1) must contain the following information:

- 18 (a) the location of the action taken;
19 (b) a general description of the action taken;
20 (c) the date on which the action was taken; and
21 (d) an explanation of the emergency causing the need for the action taken.

22 (3) If the supervisors determine that the action taken meets the definition of a project, the
23 supervisors shall send one copy of the notice, within 5 working days of its receipt, to the department.

24 (4) (a) A team, called together as described in 75-7-112(2), shall make an onsite inspection within
25 20 days of receipt of the emergency notice except as provided for in subsection (4)(b).

26 (b) If the governor declares a state of emergency in accordance with 10-3-303, the team shall
27 make an onsite inspection within 30 days of receipt of the emergency notice.

28 (5) (a) Each member of the team shall recommend in writing, within 30 days of the date of the

1 emergency notice, denial, approval, or modification of the project except as provided for in subsection (5)(b).

2 (b) If the governor declares a state of emergency in accordance with 13-3-303, each member of
3 the team shall recommend in writing, within 40 days of the date of the emergency notice, denial, approval, or
4 modification of the project.

5 (6) The supervisors shall review the emergency project and affirm, overrule, or modify the
6 individual team recommendations and notify the applicant and team members of their decision within 60 days of
7 receipt of the emergency notice.

8 (7) A person who has undertaken an emergency action that is denied or modified shall submit
9 written notice, as provided in 75-7-111, to obtain approval pursuant to 75-7-112 to mitigate the damages to the
10 stream caused by the emergency action and to achieve a long-term solution, if feasible, to the emergency
11 situation. Notice under this subsection must be filed within 90 days after the supervisors' decision.

12 (8) (a) When a member of the team, other than an applicant, disagrees with the supervisors'
13 decision of an emergency action, the team member shall request that an arbitration panel, as provided for in
14 75-7-114, be appointed to hear the dispute and to make a final written decision on the dispute.

15 (b) When an applicant disagrees with the supervisors' decision, the applicant shall, within 30
16 working days of receipt of the supervisors' decision:

17 (i) agree to arbitration under this section and request that an arbitration panel, as provided for in
18 75-7-114, be appointed to hear the dispute and make a final written decision regarding the dispute; or

19 (ii) appeal the decision of the supervisors to the district court for the county where the project is
20 located.

21 (9) The failure of a person to perform the following subjects the person to civil and criminal
22 penalties under 75-7-123:

23 (a) failure to provide emergency notice under subsection (1);

24 (b) failure to submit a notice of the project under subsection (7); or

25 (c) failure to implement the terms of a supervisors' decision for the purpose of mitigating the
26 damage to the stream caused by the emergency action and of achieving a permanent solution, if feasible, to
27 the emergency situation."

28

1 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

2 - END -

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