

HOUSE COMMITTEE OF REFERENCE REPORT

Chair of Committee

April 8, 2024
Date

Committee on Agriculture, Water & Natural Resources.

After consideration on the merits, the Committee recommends the following:

HB24-1379 be amended as follows, and as so amended, be referred to the Committee on Finance with favorable recommendation:

- 1 Amend printed bill, page 5, line 13, strike "WATER," and substitute
- 2 "WATER AND WILDLIFE HABITATS,".
- 3 Page 7, after line 14 insert:
 - 4 "(a) "AQUATIC ECOSYSTEM" MEANS STATE WATERS THAT SERVE
 - 5 AS HABITAT FOR INTERRELATED AND INTERACTING COMMUNITIES AND
 - 6 POPULATIONS OF PLANTS AND ANIMALS."
- 7 Reletter succeeding paragraphs accordingly.
- 8 Page 8, line 3, strike "(3)(d)(II)" and substitute "(3)(e)(II)".
- 9 Page 9, line 5, strike "(3)(e)(II)" and substitute "(3)(f)(II)".
- 10 Page 11, line 6, strike "AND" and substitute "GEOMORPHIC, OR".
- 11 Page 11, line 9, strike "(3)(k)(III)" and substitute "(3)(l)(III)".
- 12 Page 11, strike lines 19 through 27.
- 13 Page 12, strike line 1.
- 14 Reletter succeeding paragraphs accordingly.
- 15 Page 12, line 18, after "fill" insert "discharge".
- 16 Page 13, strike lines 8 through 14 and substitute:

- 1 "(D) DETAILS CONCERNING THE DIVISION'S CONSULTATION WITH
2 FEDERAL, STATE, LOCAL, AND TRIBAL ENTITIES, ESPECIALLY THOSE
3 ENTITIES WITH SPECIAL EXPERTISE WITH RESPECT TO ANY
4 ENVIRONMENTAL-, NATURAL RESOURCE-, OR AGRICULTURE-RELATED
5 ISSUE; AND
6 (II) MAY INCLUDE:
7 (A) FURTHER CLARIFICATION OF THE TERMINOLOGY USED TO".
- 8 Page 13, line 18, strike "(C)" and substitute "(B)".
- 9 Page 13, line 22, strike "(4)(a)(II)(C)," and substitute "(4)(a)(II)(B)".
- 10 Page 13, strike lines 24 and 25 and substitute "SHORT DURATION AS THE
11 DIRECT RESULT OF, PRECIPITATION EVENTS AND THAT HAS A CHANNEL
12 BOTTOM THAT IS ALWAYS ABOVE".
- 13 Page 14, strike lines 15 through 22 and substitute "THE AQUATIC
14 ECOSYSTEM SO LONG AS THE ALTERNATIVE DOES NOT HAVE OTHER
15 SIGNIFICANT ADVERSE ENVIRONMENTAL CONSEQUENCES. THE RULES MUST
16 ALSO INCLUDE CRITERIA FOR THE DIVISION TO USE TO IMPLEMENT THE
17 PROHIBITION, INCLUDING CONSIDERATION OF THE FEASIBILITY OF
18 SECURING NECESSARY WATER RIGHTS IN".
- 19 Page 15, strike line 2 and substitute:
- 20 "(C) ADDRESS THE DIRECT, INDIRECT, AND CUMULATIVE IMPACTS
21 OF THE".
- 22 Page 16, line 10, after "AND" insert "THEN".
- 23 Page 16, lines 17 and 18, strike "THE AQUATIC ENVIRONMENT." and
24 substitute "AQUATIC ECOSYSTEMS."
- 25 Page 16, line 24, after "RESTORATION" insert "AND ENHANCEMENT".
- 26 Page 16, strike lines 26 and 27.
- 27 Page 17, strike lines 1 through 5.
- 28 Renumber succeeding subparagraphs accordingly.
- 29 Page 17, line 10, strike "(5)(b)(III):" and substitute "(5)(b)(II):".

1 Page 17, line 22, strike "(5)(b)(III)(B)," and substitute "(5)(b)(II)(B),".

2 Page 18, line 23, strike "ENGINEERS AND ISSUE" and substitute
3 "ENGINEERS, INCLUDING".

4 Page 19, strike lines 18 and 19 and substitute "DIVISION'S OBJECTIONS
5 WITH SPECIFICITY, IS SUBJECT TO DIRECT JUDICIAL REVIEW UNDER SECTION
6 25-8-404, AND IS NOT SUBJECT TO ADMINISTRATIVE RECONSIDERATION
7 UNDER SECTION 25-8-403."

8 Page 19, after line 26 insert:

9 "(f) **Administrative guidance.** THE DIVISION MAY ESTABLISH
10 GUIDANCE TO ASSIST IN ADMINISTERING THE DREDGE AND FILL DISCHARGE
11 AUTHORIZATION PROGRAM. ADDITIONALLY, THE DIVISION MAY RELY UPON
12 RELEVANT GUIDANCE FROM THE FEDERAL ENVIRONMENTAL PROTECTION
13 AGENCY AND THE UNITED STATES ARMY CORPS OF ENGINEERS, INCLUDING
14 TECHNICAL GUIDANCE AND ENVIRONMENTAL ANALYSES UNDER THE
15 FEDERAL "NATIONAL ENVIRONMENTAL POLICY ACT OF 1969", 42 U.S.C.
16 SEC. 4231 ET SEQ., AS AMENDED, IN ADMINISTERING THE PROGRAM, TO THE
17 EXTENT SUCH GUIDANCE IS CONSISTENT WITH THIS SECTION AND THE
18 COMMISSION'S RULES.

19 (g) **Western slope staff.** THE DIVISION MAY, TO THE EXTENT
20 RESOURCES ALLOW, ESTABLISH ONE OR MORE STAFF POSITIONS IN THE
21 WESTERN SLOPE REGION OF THE STATE TO ASSIST WITH DREDGE AND FILL
22 PROGRAM ADMINISTRATION IN THAT GEOGRAPHIC AREA."

23 Page 21, line 7, strike "**material**".

24 Page 21, strike lines 19 through 27 and substitute:

25 (I) ACTIVITIES IN RECEIPT OF AN ACTIVE SECTION 404 PERMIT
26 THAT WAS ISSUED PRIOR TO MAY 25, 2023;

27 (II) ACTIVITIES IN RECEIPT OF AN UNEXPIRED APPROVED
28 JURISDICTIONAL DETERMINATION ISSUED BY THE UNITED STATES ARMY
29 CORPS OF ENGINEERS PRIOR TO MAY 25, 2023, FINDING THAT THE STATE
30 WATERS INTO WHICH THE PROPOSED DISCHARGE OF DREDGED OR FILL
31 MATERIAL WILL OCCUR ARE NOT WATERS OF THE UNITED STATES;

32 (III) ACTIVITIES IN RECEIPT OF AN ACTIVE SECTION 404 PERMIT
33 THAT WAS ISSUED ON OR AFTER MAY 25, 2023, EXCEPT TO THE EXTENT
34 THAT THE PROJECT AREA OF THE SECTION 404 PERMIT INVOLVES A
35 DISCHARGE OF DREDGED OR FILL MATERIAL INTO STATE WATERS THAT
36 HAVE BEEN DETERMINED BY THE UNITED STATES ARMY CORPS OF

1 ENGINEERS TO NOT BE WATERS OF THE UNITED STATES;".

2 Page 22, strike lines 16 through 19 and substitute "STRUCTURES.

3 (VI) CONSTRUCTION OR MAINTENANCE OF FARM PONDS, STOCK
4 PONDS, AND IRRIGATION DITCHES USED ONLY FOR AGRICULTURAL
5 PURPOSES OR MAINTENANCE OF DRAINAGE DITCHES AND IRRIGATION
6 DITCHES THAT ALSO CARRY WATER FOR MUNICIPAL OR INDUSTRIAL USE.
7 AS".

8 Page 23, strike lines 18 and 19 and substitute:

9 "(C) "MAINTENANCE" PERTAINING TO AN IRRIGATION DITCH, A
10 DRAINAGE DITCH, OR A DITCH THAT CARRIES RAW WATER FOR MUNICIPAL
11 OR INDUSTRIAL USE INCLUDES A REPAIR TO AN EXISTING STRUCTURE OR".

12 Page 25, strike lines 7 through 9 and substitute "ROADSIDE DITCHES, AND
13 IRRIGATION DITCHES THAT ARE EXCAVATED ON UPLAND;

14 (II) STORM WATER CONTROL FEATURES THAT ARE CONSTRUCTED
15 TO CONVEY, TREAT, OR STORE STORM WATER AND THAT ARE CREATED IN
16 UPLAND;".

17 Renumber succeeding subparagraphs accordingly.

18 Page 25, strike lines 14 through 16 and substitute "THAT ARE USED
19 EXCLUSIVELY FOR STOCK WATERING, IRRIGATION, SETTLING BASINS, OR
20 RICE GROWING;".

21 Page 26, line 1, strike "(8)(d)(VII)," and substitute "(8)(d)(VIII),".

22 Page 26, line 7, strike "(8)(d)(VIII)," and substitute "(8)(d)(IX),".

23 Page 26, line 14, strike "(8)(d)(VIII)," and substitute "(8)(d)(IX),".

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