§ 15-2101. Definitions and construction.

The following words and phrases when used in title 21 are defined as follows:

1. "Real estate," when used without words of limitation, includes all uplands, lands under water, the waters of any lake, pond or stream, all water and riparian rights or privileges, all water powers, water plants, and all dams, races, sluiceways and machinery connected therewith, and any and all easements and incorporeal hereditaments, and every estate, interest and right, legal or equitable, in land or water, including terms for years, and liens, legal or equitable, on real estate, as above defined, in way of judgment, mortgage or otherwise, and all real estate as above defined acquired or used for railroad, highway, or other public purposes.

2. "Regulating reservoir" means a basin for impounding water, formed or enlarged by a dam, constructed or maintained for the purpose of regulating the flow of a stream or river and shall be construed to include the dams and dikes or other structures by means of which the water is or is to be impounded, the gate houses, including controlling gates, sluices, screens, racks and other accessories thereto; spillways, fishways, log or ice chutes, or barriers and all accessories thereto; all bridges or roadways over or appurtenant to the dams and dikes; all other structures, devices, or appliances connected with or appurtenant to any of the structures hereinbefore enumerated, in such manner that they cannot be removed without injury to such structures or without impairing the usefulness thereof for the purposes for which they are intended; the lands under the water impounded, or to be impounded, by the dam or dams, and such lands surrounding or adjacent to the dam, or the water impounded or to be impounded thereby, and such other real estate and appliances, including roadways and telephone lines, as shall be necessary for the purposes of the construction, maintenance, or operation of a regulating reservoir, as above defined, also including such land surrounding such reservoir as may be necessary to preserve and protect such reservoir from unsanitary conditions, and from any encroachment affecting its use for the purpose of regulating the flow of

the stream or river for the regulation of which it may be constructed. Such term is not intended to include a reservoir created by a dam constructed or maintained for power purposes, but is intended to include a reservoir at or by reason of which there may be, as an incident to the construction, maintenance and operation of such regulating reservoir, the possibility of the utilization of a portion of the water stored thereby for power purposes, without in any way interfering with the primary purpose of a reservoir constructed under the provisions of title 21 of this article.

3. "Benefit or benefits" shall be interpreted to include benefits to real estate, public or private, to municipal water supply, to navigation, to agriculture and to industrial and general welfare by reason of the maintenance and operation of a regulating reservoir, whether such benefit shall inure to a person, a public corporation or the state. In the event that any regulating reservoir operates to relieve the state of any obligation by reason of diversion of the water of any river for canal purposes, the state, to the extent that the maintenance and operation of such reservoir may accomplish such relief, shall be deemed to have received benefit therefrom.

4. "Board" shall mean the river regulating board of a district.

5. "Preliminary expenses" shall be construed to mean expenditures made or incurred by the state on account of the services or expenses of its officers or employees in making studies, investigations, surveys, plans, specifications and estimates; in negotiating, drafting, and letting contracts; in supervising and directing the construction of works and structures, as authorized or required by title 21 of this article; and the expenses of procuring searches, or abstracts of title of real estate for the purpose of carrying out the provisions of title 21 of this article.

6. "Regulation" means only such regulation as can be had through the construction, maintenance and operation of regulating reservoirs, excepting as otherwise expressly provided in title 21 of this article.

7. "Average flow" means that result in terms of cubic feet of water per second derived by the division of the total number of cubic feet of water flowed by any stream or river, at the location thereon where the measurement is taken, in one year, or for an average of years, by the number of seconds in a year.

8. "Average normal flow" means that result in terms of cubic feet of water per second derived by the division of the total number of cubic feet of water flowed by any stream or river, at the location thereon where the measurement thereof is taken, on those days in a year during which such flow did not exceed the average flow, by the number of seconds in the total number of such days.

9. "Cost of construction" shall be construed to include in addition to the cost of a regulating reservoir, all preliminary expenses, all expenses of organization of the district, engineering fees, costs of surveys, plans, advertising, salaries, compensation and expenses of the board, together with all legal and other expenses, incidental to the construction of such reservoirs up to time of the completion thereof.

10. "Cost of maintenance and operation" shall be construed to include all such expenses for repairs and upkeep of the regulating reservoir, all such expenses necessary to the proper operation of such reservoir for the purposes for which it was constructed and all such part of the compensation and expenses of the board, its officers and employees after the completion of such regulating reservoir as are in the judgment of the board and the department properly chargeable thereto.

11. "High flow line" means the line which will be made around a reservoir by the water therein when it is at the level of the crest of the reservoir spillway.

12. "Low flow line" means the line made by the water of a reservoir when it is at the lowest level which, consistent with the regulation of the flow of the river and the maintenance of sanitary conditions, the board with the approval of the department shall fix and determine.

13. "Unsanitary condition or conditions" means such condition or conditions as are a menace to the public health.

14. The general provisions and definitions appearing in section 15-1903 shall, where appropriate, be applicable to the functions and duties of the department or board, as the case may be, under title 21.