

House, BILL NO. 338

INTRODUCED BY

Mr. Cole
James Foster ORR *Shea* *Garfield* *Pipinich*
OHS *Boff* *Ahner* *Knox* *Carlson* *HARP* *Bank* *Becker*
GRINDER *Masolo* *Revere* *Wagner* *Gulley* *Menahan*
Hamm *Boyd* *Holland* *Barnett* *Beck* *Sunspood*
Sykes *Truitt* *Bill Wilson* *Feland* *Stang* *Dredy* *Anderson*
Forrest *Jacobsen*

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE METAL MINE RECLAMATION LAWS TO PROVIDE RECLAMATION REQUIREMENTS FOR OPEN PITS AND ROCK FACES; AND AMENDING SECTION 82-4-336, MCA."

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

Section 1. Section 82-4-336, MCA, is amended to read:

"82-4-336. Reclamation plan and specific reclamation requirements. (1) The reclamation plan shall must provide that reclamation activities, particularly those relating to control of erosion, to the extent feasible, shall must be conducted simultaneously with the operation and in any case shall must be initiated promptly after completion or abandonment of the operation on those portions of the complex that will not be subject to further disturbance. In the absence of an order by the board providing a longer period, the plan shall must provide that reclamation activities shall must be completed not more than 2 years after completion or abandonment of the operation on that portion of the complex.

(2) In the absence of emergency or suddenly threatened or existing catastrophe, an operator may not depart from an approved plan without previously obtaining from the department written approval of his for the proposed change.

(3) Provision shall must be made to avoid accumulation of stagnant water in the mined area which that may serve as a host or breeding ground for mosquitoes or other disease-bearing or noxious insect life.

(4) All final grading shall must be made with nonnoxious, nonflammable, noncombustible solids unless approval has been granted by the board for a supervised sanitary fill.

(5) ~~Where~~ When mining has left an open pit exceeding 2 acres of surface area and the composition of the floor or walls of the pit are likely to cause formation of acid, toxic, or otherwise pollutive solutions (~~hereinafter~~ "objectionable effluents") on exposure to moisture, the reclamation plan shall must include provisions ~~which~~ that adequately provide for:

(a) insulation of all faces from moisture or water contact by covering to a depth of 2 feet or more with material or fill not susceptible itself to generation of objectionable effluents;

1 (b) processing of any objectionable effluents in the pit before ~~their being~~ they are allowed to flow
 2 or be pumped out of ~~it~~ the pit to reduce toxic or other objectionable ratios to a level considered safe to
 3 humans and the environment by the board;

4 (c) drainage of any objectionable effluents to settling or treatment basins when the objectionable
 5 effluents must be reduced to levels considered safe by the board before release from the settling basin; or

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7 (e) prevention of entrance into the open pit by persons or livestock lawfully upon adjacent lands
 8 by fencing, warning signs, and ~~such~~ other devices ~~as~~ that may reasonably be required by the board.

9 (6) Provisions for vegetative cover ~~shall~~ must be required in the reclamation plan if appropriate to
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 11 meet county standards for noxious weed control.

12 (7) The reclamation plan ~~shall~~ must provide for the reclamation of all disturbed land. Proposed
 13 reclamation ~~shall~~ must provide for the reclamation of disturbed land to comparable utility and stability as
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 18 significant failure that would be a threat to public safety and the environment;

19 (b) that affords utility to humans and the surrounding natural system to the extent economically
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21 (c) that blends with the appearance of the surrounding area to the extent economically and
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23 (8) ~~the board shall require~~ The reclamation plan must provide sufficient measures to ~~insure~~ ensure
 24 public safety and to prevent the pollution of air or water and the degradation of adjacent lands.

25 (9) A reclamation plan ~~shall~~ must be approved by the board if it adequately provides for the
 26 accomplishment of the activities specified in this section.

27 (10) The reclamation plan ~~shall~~ must provide for permanent landscaping and contouring to
 28 minimize the amount of precipitation that infiltrates into disturbed areas, including but not limited to tailings
 29 impoundments and waste rock dumps. The plan ~~shall~~ must also provide measures to prevent objectionable
 30 postmining ground water discharges."

-END-

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 30 accomplishment of the activities specified in this section.

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
March 21, 1995

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration HB 338 (third reading copy -- blue), respectfully report that HB 338 be amended as follows and as so amended be concurred in.

Signed: Lorenz Grosfield
Senator Lorenz Grosfield, Chair

That such amendments read:

1. Page 1.

Following: line 10

Insert:

"STATEMENT OF INTENT

In this bill, the legislature is implementing, with regard to open pits and rock faces that are the result of metal mining, the duty imposed upon it by Article IX, section 2(1), of the Montana constitution, which provides that "All lands disturbed by the taking of natural resources shall be reclaimed. The legislature shall provide effective requirements and standards for the reclamation of lands disturbed."

The drafters of this provision of the constitution expressly decided not to impose a constitutional requirement for a specified level of reclamation for all disturbed lands in all locations under all circumstances. Rather, they delegated to the legislature the duty to more specifically define reclamation in the public interest.

The legislature expects, and this bill requires, that miners will prepare and submit to the state reclamation plans for open pits and rock faces. This bill requires that these plans must, at a minimum, provide for return of these lands to structural stability and that the plans must be protective of air and water quality as provided elsewhere in the metal mine reclamation laws. These requirements and standards will prevent risks to public health and safety and the environment and will thereby adequately protect the environmental life support system from degradation.

In order to prevent unreasonable depletion and degradation of natural resources, the legislature finds

PV
SA

Amd. Coord.
Sec. of Senate

M. FOSTER
Senator Carrying Bill

HB 338
SENATE
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that further reclamation of open pits and rock faces to provide functional uses and to blend with surrounding areas should be accomplished whenever feasible.

In determining feasibility of further reclamation, the legislature directs the department of state lands to consider and give effect to each of the following objectives:

- (1) to encourage mining as an activity beneficial to the economy of our state;
- (2) to encourage the production of minerals to meet the needs of society and the economic demands of the marketplace;
- (3) to encourage reclamation to a condition that is aesthetically unobtrusive;
- (4) to encourage reclamation to functional use;
- (5) to discourage requirements that may foreclose future access to mineral resources not fully developed by current mining operations;
- (6) to discourage requirements that will generate undesirable offsite environmental impacts.

The legislature finds that functional postreclamation uses include but are not limited to livestock grazing, agriculture, timber, recreation, wildlife habitat or other wildlife use, or other industrial use, including remining.

The legislature finds that when reclamation has been accomplished in accordance with an approved reclamation plan, the economic and social benefits of mining outweigh the scenic and other impacts associated with open-pit mining."

2. Page 2, lines 23, 24, 25, and 26.

Strike: "economically" on line 23

Strike: "and technologically" and "under the circumstances" on line 24

Strike: "economically and" on line 25

Strike: "technologically" on line 26

-END-

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 10 82-4-336, MCA."

11
12 STATEMENT OF INTENT

13 IN THIS BILL, THE LEGISLATURE IS IMPLEMENTING, WITH REGARD TO OPEN PITS AND ROCK
 14 FACES THAT ARE THE RESULT OF METAL MINING, THE DUTY IMPOSED UPON IT BY ARTICLE IX,
 15 SECTION 2(1), OF THE MONTANA CONSTITUTION, WHICH PROVIDES THAT "ALL LANDS DISTURBED
 16 BY THE TAKING OF NATURAL RESOURCES SHALL BE RECLAIMED. THE LEGISLATURE SHALL PROVIDE
 17 EFFECTIVE REQUIREMENTS AND STANDARDS FOR THE RECLAMATION OF LANDS DISTURBED."

18 THE DRAFTERS OF THIS PROVISION OF THE CONSTITUTION EXPRESSLY DECIDED NOT TO
 19 IMPOSE A CONSTITUTIONAL REQUIREMENT FOR A SPECIFIED LEVEL OF RECLAMATION FOR ALL
 20 DISTURBED LANDS IN ALL LOCATIONS UNDER ALL CIRCUMSTANCES. RATHER, THEY DELEGATED TO
 21 THE LEGISLATURE THE DUTY TO MORE SPECIFICALLY DEFINE RECLAMATION IN THE PUBLIC INTEREST.

22 THE LEGISLATURE EXPECTS, AND THIS BILL REQUIRES, THAT MINERS WILL PREPARE AND
 23 SUBMIT TO THE STATE RECLAMATION PLANS FOR OPEN PITS AND ROCK FACES. THIS BILL REQUIRES
 24 THAT THESE PLANS MUST, AT A MINIMUM, PROVIDE FOR RETURN OF THESE LANDS TO STRUCTURAL
 25 STABILITY AND THAT THE PLANS MUST BE PROTECTIVE OF AIR AND WATER QUALITY AS PROVIDED
 26 ELSEWHERE IN THE METAL MINE RECLAMATION LAWS. THESE REQUIREMENTS AND STANDARDS
 27 WILL PREVENT RISKS TO PUBLIC HEALTH AND SAFETY AND THE ENVIRONMENT AND WILL THEREBY
 28 ADEQUATELY PROTECT THE ENVIRONMENTAL LIFE SUPPORT SYSTEM FROM DEGRADATION.

29 IN ORDER TO PREVENT UNREASONABLE DEPLETION AND DEGRADATION OF NATURAL
 30 RESOURCES, THE LEGISLATURE FINDS THAT FURTHER RECLAMATION OF OPEN PITS AND ROCK FACES

1 TO PROVIDE FUNCTIONAL USES AND TO BLEND WITH SURROUNDING AREAS SHOULD BE
2 ACCOMPLISHED WHENEVER FEASIBLE.

3 IN DETERMINING FEASIBILITY OF FURTHER RECLAMATION, THE LEGISLATURE DIRECTS THE
4 DEPARTMENT OF STATE LANDS TO CONSIDER AND GIVE EFFECT TO EACH OF THE FOLLOWING
5 OBJECTIVES:

6 (1) TO ENCOURAGE MINING AS AN ACTIVITY BENEFICIAL TO THE ECONOMY OF OUR STATE;

7 (2) TO ENCOURAGE THE PRODUCTION OF MINERALS TO MEET THE NEEDS OF SOCIETY AND
8 THE ECONOMIC DEMANDS OF THE MARKETPLACE;

9 (3) TO ENCOURAGE RECLAMATION TO A CONDITION THAT IS AESTHETICALLY UNOBTRUSIVE;

10 (4) TO ENCOURAGE RECLAMATION TO FUNCTIONAL USE;

11 (5) TO DISCOURAGE REQUIREMENTS THAT MAY FORECLOSE FUTURE ACCESS TO MINERAL
12 RESOURCES NOT FULLY DEVELOPED BY CURRENT MINING OPERATIONS;

13 (6) TO DISCOURAGE REQUIREMENTS THAT WILL GENERATE UNDESIRABLE OFFSITE
14 ENVIRONMENTAL IMPACTS.

15 THE LEGISLATURE FINDS THAT FUNCTIONAL POSTRECLAMATION USES INCLUDE BUT ARE NOT
16 LIMITED TO LIVESTOCK GRAZING, AGRICULTURE, TIMBER, RECREATION, WILDLIFE HABITAT OR OTHER
17 WILDLIFE USE, OR OTHER INDUSTRIAL USE, INCLUDING REMINING.

18 THE LEGISLATURE FINDS THAT WHEN RECLAMATION HAS BEEN ACCOMPLISHED IN
19 ACCORDANCE WITH AN APPROVED RECLAMATION PLAN, THE ECONOMIC AND SOCIAL BENEFITS OF
20 MINING OUTWEIGH THE SCENIC AND OTHER IMPACTS ASSOCIATED WITH OPEN-PIT MINING.

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