

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - SPECIAL SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Chairman Dick Knox, on December 8, 1993, at
3:00 p.m.

ROLL CALL

Members Present:

Rep. Dick Knox, Chairman (R)
Rep. Jody Bird (D)
Rep. Russ Fagg (R)
Rep. Dore Schwinden (D)
Rep. Jay Stovall (R)
Rep. Emily Swanson (D)
Rep. Doug Wagner (R)

Members Excused: None

Members Absent: Rep. Rolph Tunby, Rep. Vivian Brooke, Rep. Gary Feland, Rep. Mike Foster, Rep. Bob Gilbert, Rep. Hal Harper, Rep. Scott Orr, Rep. Bob Raney, Rep. Howard Toole

Staff Present: Todd Everts, Environmental Quality Council
Michael Kakuk, Environmental Quality Council
Karmen Tuttle, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: Information on Department of State Lands
Reclamation Division
Executive Action: None

HEARING ON DEPARTMENT OF STATE LANDS RECLAMATION DIVISION

Informational Testimony:

Amesbury
Gary Anderson, Administrator, Reclamation Division, State Lands Department, said that the reclamation division is one of five divisions in the State Lands Department. The reclamation division is under the Board of Land Commissioners. There are four bureaus and one support division in the reclamation department. The bureaus are the hard rock, open-cut, abandoned mines, and coal and uranium. Our division has 52.43 FTE. The keys to a successful regulatory program are permit decisions,

inspection program on paper and on ground, elimination of violation, and coordination with other agencies. Mine permitting in Montana is a complex, technical, and legal process. The law is designed to protect the applicant as well as the environment. Once the requirements in the law have been met, they are obligated to make a permit decision. Factors that affect mine divisions are low-grade deposits, public change, and increased involvement by agencies.

Sandy Olson, Bureau Chief, Hard Rock Program, said that she has an overview of program elements which are performance, design and operating, monitoring and verification, corrective action, permit maintenance, closure and post-closure care, financial responsibility, public involvement, and interagency involvement. **Exhibit 1**

HRB goals are as follows: effective and efficient permitting, types of MMRA permits, supplemental permits, agency roles, process, factors which may cause process delay, historic efforts to improve process, current efforts, HRB staffing, HRB budget, and current workload. **Exhibit 2**

Montana Metal Mines Reclamation Act applies to all lands within Montana, federal, state, and private. The Department of State Lands, Hard Rock Bureau, issues four types of permits: Smaller Miner Exclusion Statement, Exploration License, Operating Permits, and SMES Cyanide Permits. **Exhibits 3, 4, and 5**

Pete Strazdas, Department of State Lands, showed slides of reclaimed land. **Exhibits 6 and 7**

Bonnie Lovelace, Department of State Lands, showed slides on the coal program. **Exhibit 8**

Steve Welch, Department of State Lands, showed slides of reclamation sites.

Vic Andersen, Bureau Chief of Abandoned Mine Reclamation, showed slides on abandoned mines. **Exhibits 9, 10, and 11**

Questions From Committee Members and Responses:

Rep. Russell Fagg asked Mr. Andersen to give the committee an idea of how Montana's coal program compares to other states. **Mr. Andersen** replied that Montana's hard rock program is more stringent.

Rep. Fagg asked when Montana will have all sites reclaimed. **Mr. Andersen** answered that there are still 270 high priority sites.

Rep. Dick Knox asked if the bonding is adequate. **Mr. Andersen** replied that right now the bonding is adequate.

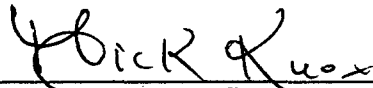
Gary Langley provided the Pick and Shovel Magazine. **Exhibit 12**

December 8, 1993

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ADJOURNMENT

Adjournment: 4:50 p.m.



REP. DICK KNOX, Chairman



KARMEN TUTTLE, Secretary

DK/KT

HOUSE OF REPRESENTATIVES
NATURAL RESOURCES COMMITTEE

ROLL CALL

DATE December 8, 1993

NAME	PRESENT	ABSENT	EXCUSED
REP. DICK KNOX, CHAIRMAN	X		
REP. ROLPH TUNBY, VICE CHAIRMAN		X	
REP. JODY BIRD	X		
REP. VIVIAN BROOKE		X	
REP. RUSSELL FAGG	X		
REP. GARY FELAND		X	
REP. MIKE FOSTER		X	
REP. BOB GILBERT		X	
REP. HAL HARPER		X	
REP. SCOTT ORR		X	
REP. BOB RANEY		X	
REP. DORE SCHWINDEN	X		
REP. JAY STOVALL	X		
REP. EMILY SWANSON	X		
REP. HOWARD TOOLE		X	
REP. DOUG WAGNER	X		

HR:1993
wp:rollcalls.man
CS-10

PROGRAM ELEMENTS

I. PERFORMANCE CRITERIA

- Water.....82-4351; -335(4)k,l,m; -336(1),(2),(3); MCA; WQA, 404
- Air.....82-4351; -336(1);MCA; AQA
- Soils.....82-4336(3), MCA
- Waste.....82-4336(4); -335(4)(n)
- Stability.....DNRC x Reg; 335(4)l,n; 336(6)
- Safety.....335(4)l; 336(5)
- Revegetation...336(6),(7); 351(1)b; ESA 404; Cultural-SHPO
etc.

II. DESIGN AND OPERATING CRITERIA.....82-4335, -336, MCA

- General requirements to meet above
- Location specific
 - flood plains, wetlands, seismic zones, fault structures etc.

III. MONITORING AND VERIFICATION.....82-4335(4)m, MCA

- Water -Air
- Waste -Other

IV. CORRECTIVE ACTION CRITERIA.....82-4341, -354 mandamus, -361, -362, MCA

- Enforcement process (failure to comply)
 - Violations Penalties
 - Cessation Suspension
 - Revocation
- Plan overhaul -- 337 -- failure to "work"
 - Notification
 - Opportunity for hearing
 - Plan, Evaluation & Decision

V. PERMIT MAINTENANCE

- Annual report.....82-4339, MCA
- 337 process.....-337
- Five yr. bond review....-338
- Amendment process.....-442, -320

VI. CLOSURE AND POST CLOSURE CARE.....82-4336, -341, MCA

- By facility.....-335(4)L
- Based on pmlu and resource issues

VII. FINANCIAL RESPONSIBILITY.....82-4338, -357, -360, MCA

- Bonding for plan implementation
 - closure
 - contingency.....-357
- Release process

VIII. PUBLIC INVOLVEMENT.....82-4337(1)(b & d)), 353 notice, MCA; MEPA;

- Application.....-353
- EIS process
- Bond release process.....338
- Other.....354 mandamus; 355 water; 356 blasting

IX. INTERAGENCY COORDINATION.....323, MEPA

- DHES -USFS/BLM
- FWP -EPA
- SHPO -COE
- HRIB -FWS
- etc.

HRB GOALS:

I. EFFECTIVE EFFICIENT PERMITTING IS...

1. Objective ~ develop and protect - based on Legislative Intent
82-4-301 and 302, MCA
interdisciplinary
2. Legally Defensible
3. Coordinated
IDT interagency
4. Timely
5. Cost Effective
6. Does Not Convey Property Rights
-land
-water
7. Prioritized by Statute, Order of Application
8. Includes Public Involvement

II. TYPES OF MMRA PERMITS

- SMES
(Automatic/ministerial action)
- 817 mines-250 inspections/yr; more than 2,151 acres; 23 with bonds: \$124,878
- Exploration
No timeframes
- 390 projects, 211 licenses; \$7,279,147.80 in bond
- Operating (60/30/365)
60/30 day reviews, 365 + negotiated times to complete MEPA, 90 days to appeal;
- 88 permits on 35,140 acres, with \$74,728,555 in bond -

III. SUPPLEMENTAL PERMITS

1. Other Key Permits Required from other agencies
WQA -MPDES, -Non Degradation (280)
AQA
404 Permits--COE
2. USFS/BLM (30/NA) - Will not compromise quality-145 day appeal
3. 310 Permits (V) - Varies with conservation district
4. SHPO Clearance (V)
5. USFWS (V)- Draft Biological Assessment w/DEIS Final-90 day comment
6. EPA -- 404 permits (V)- Oversight role
7. HRIP (V)- County company relationship
Appeals to Board (75)
8. Occasional Permits -- DNRC, etc
NA = None-Not Applicable V = Variable

IV. AGENCY ROLES

1. DSL -Coordinate
-Facilitate
-Lead state NEPA/MEPA agency
(MOU's, MOA's, 3rd party contractors)
2. DHES - Review and Comment
3. COE - Review and Comment
4. FWS - Interpret regulation and policy as it applies to mining
5. USFS/BLM
-Coordinate
-Facilitate
-Lead federal NEPA/MEPA agency

- 6. SHPO >
- FWP > REVIEW AND COMMENT
- HRIB >

V. PROCESS (MMRA-MEPA/NEPA)

Exploration & SMES Pre-planning--P.O.S. and concept plan

1. Application for Mining (60/30)
2. Public Notice initial scoping
3. Completeness (DSL: 365 days to EIS, Fed: no time limit, WQB: unilateral extension)
VS adequacy. Baseline and plans
4. Conclude scoping--(meeting if interest)
Purpose: identify issues and concerns
5. Prepare Environmental Document
-Non MMRA data Soc. econ., Recrea., Wilder., etc.
-Internal reviews 2 each, up to 30 days each
-Publish and mail 3 weeks
(EA's VS EIS's)
6. Comment period and hearings 14 - 60 days
7. Prepare final document
8. Prepare record of decision 15 - 30 days
9. Defend appeals 90 days

VI. FACTORS WHICH MAY CAUSE PROCESS DELAY

1. Interagency coordination:
(~~> people~~ => time)
-2 people vs 45 vs 60, experience level
(training of...) early involvement
2. Failure to prepare MOA 6 months prior to submittal:
for MEPA \$\$ Contracting process
3. Failure to understand process: legal not political
4. Complexity of project, of issues:
SMC 2000, East Boulder, New World
5. Compliance: Montanore--WQB time to resolve
6. Late involvement: EPA: Montanore, Beal
7. Applicant's untimely submittal of related applications:
Montanore air, water; East Boulder water
8. Public involvement, supplemental:
task forces
extra meetings--extra preptime (GYC letter--3 x 3 = 9 hours)
9. Delayed responses to deficiencies: ASARCO
10. Financial involvement:
-of investors Stansbury
-bonding East Boulder--October thru May
11. Changing laws: WQA 1872 RCRA
12. Changing policy: EPA, mining reg., disch. permits
13. Staff turnover:
liaison--DSL WQB, EPA, AQB; hydro availability; pay plan exceptions

VII. HISTORIC EFFORTS TO IMPROVE PROCESS

1. MPIAC - Reorganization of bureau
Pay Plan EA process definition
other
2. Legislation - 1991-HB 886- H2O defeated
HB 641- Surface and Min
HB 889- Compliance at time of bond submittal
- 4 FTE: 3 bureau, 1 legal
- permit fees
- SMES limitations, etc.
SB 283- authority to suspend permits in certain instances
1993-442, 320
3. Technical Advisory Committee -USFS, DSL, Public, Industry
-Research-networking lists, source/how to lists, field tours
-Permitting-*process review*, fact finding interviews, checklists. *Find weakness/strength id illness, how to fix.
-Engineering & reclam.:
 - a. generic E guidelines
 - b. bonding elements & incremental bonding for risky behavior-SMES-id ed/framing plan; visits to model sites}
4. Handbooks and Procedures
-Content checklist
-Placer BMPs
-MOU w/WQB
-MOU w/BLM/FS
-Project-specific MOU's
5. Interagency Meetings
-NEPA/MEPA Permitting
-AMD conference

VIII. CURRENT EFFORTS TO IMPROVE PROCESS

SJR28 - Program Audit - just starting

IX. HRB WORKLOAD

1. Permitting * and MEPA compliance 25 review per year
one month each.
contracted large documents-4 reviews/project
in house large documents-write + 4 reviews
smaller documents-write + 2
smallest documents-write and file
2. Inspection and Monitoring
142/year + bond release
Review reports-1" thick on large ops.
3. Enforcement 40/year
4. Permit Maintenance 86/year & Closure Annual reports and stipulation requirements
5. Planning for EPP etc.
6. Internal Training
How to do EA's, completeness, cross training, inspection, enforcement
7. Contract Management
For bond forfeitures (2/year; 1990-1992: 6 @ \$211,300), EIS's
8. Personnel PA
9. Coordination
Copies of plan and resource info to HRIP, FWP, SHPO, WQB. If size warrants-AQB
Company makes concurrent application to BLM/FS
10. Rule writing
Hit & miss. Need op rewrite; 320/442
11. Appeals and suits
12. Other

* = includes SMES, Expl.

X. HRB STAFFING

Skills

BC and 3 supervisors
2 hydrologists
2 engineers one vacant, now hiring
1 geochem
1 vegetation etc.
1 WQB liaison AQ
1.5 admin assist
2.5 reclam. spec.
Wish list: Wildlife Info. Spec/data
Cultural 2 Hydro
Doc. Prod 2 Rec. Spec. P.R.

Program Distribution

SMES--2.5 FTE
EXPL--2.5 FTE
PERMITTING--8.93 + BC
SubTotal 14.93 FTE for 88 Permits, 390 projects and 817 exclusions
3 FTE from '91 session: Admin, 2 rec. spec. + 1 FTE to legal
cut in '93: 1/2 rec spec., 1/2 ATTY, .07 admin
AND 3 MEPA FTE for 6 EIS's

TOTAL: 17.93 FTE

Compare HRB 1 inspection/yr/site with CUB--12 permits
w/- 18 FTE + oversight 12 inspections/year/site

X. HRB BUDGET

1. General Fund (1/3) \$0
2. R & D - 750,000
3. MEPA \$ -- 3,000,000 Authority
4. Bond \$ -- ~150,000 Authority
5. Compare CUB -- 980,000
6. Compare BLM & USFS MT Minerals Budget

XI. CURRENT WORKLOAD BY PROJECT (June 1993)

1. Montanore -- FS Appeals
2. Crown Butte
 - a. scoping
 - b. site tours
 - c. task force
 - d. coordination
 - e. alternatives development
 - f. data
 - g. analysis - DEIS spring summer '94See scoping document
3 forests in 2 regions, BLM, BOR, EPA, COE
2 states, 2 counties - DSL, WQB, PSC +
wilderness, park, wild & scenic, T & E
T.I. location change
letters - distortion - influential people being asked to take positions without solid information - Baucus, Keaton, 1872
Committees in Congress, etc
EPA

CURRENT WORKLOAD... (Cont.)

3. Zortman Expansion

- a. scoping
 - b. coordination
 - c. DATA collection
 - d. alternatives dev.
 - e. analysis - DEIS winter '93/'94?
- DSL, BLM, EPA
Task force issue - marble GSA
WCC issue
reservation
acid mine drainage
scoping issues - December/April
completeness before scoping issue
EPA

DRAFT EIS likley next Summer - Now hiring new Coordinator

4. Zortman Mining Inc. -- Corrective action

- a. coordination
 - b. scope
 - c. enforcement
 - d. alternatives
 - e. analysis
- old appeals - expansion of issues
performance allegations--mineral policy (outer & EIC)
enforcement issues
EPA
document format issues
new appeals - May 21 meeting canceled
EPA

DRAFT EA published for comment Nov. 19.

5. Asarco Rock Creek

- a. impoundment issues
 - b. WQ issues
 - c. delay by Asarco 1 year +
 - d. exploration submittal
 - e. rescoping June 16, Idaho
 - f. analysis winter 93/94
- old history - DNRC vs Multiple Cons.
petition need (update still needed)
(Troy history - public involvement)
staff turnover...(answer BC's letter...)-recopy quality
3 for Asarco multiple for DSL 3 for FS
EPA

DRAFT EIS likley next Summer - Now hiring new Coordinator

6. Stansbury - FS Appeals, wating for bond

7. MAIN Beal - Pending
baseline studies

8. Continental Lime - BLM issue

9. Montana Resources
a. 337 expansion

CURRENT WORKLOAD...(Cont.)

10. Seven-Up Pete Joint Vneture - McDonald Project

EPA wetlands

- a. MOU with SPJV signed
- b. baseline studies underway
- c. RFP out this month
- d. applicaiton coming this winter

DRAFT EIS likely 12 to 24 months from now. Hiring new EIS coordinator

11. Montana Tunnels

- a. 337
- b. amendment

12. LAWSUITS

- John Wright
- Gene Willison
- Golden Sunlight--John
- Zortman
- SMC 2000--E.B. (H2O)--John
- Kendall (before IBLA)
- Yogo Sapphire...Vortex--Roncor}

13. BOND FORFEITURES

- G. Maple
- Browns Gulch
- MT. Mining & Timber
- Spotted Horse

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Prepared by:
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MONTANA HARD ROCK MINING REQUIREMENTS

[revised 2-25-91]

The Law: **Montana Metal Mine Reclamation Act** (passed in 1971)
Title 82, Chapter 4, part 3, et seq., MCA

Authority: The Act applies to all lands within Montana, federal, state, and private (except for Indian Reservations). Where federal lands are involved, the applicant must also obtain approval from the appropriate federal agency before activities can begin (USFS or BLM). For state lands, the applicant must obtain a state mineral lease from DSL's Lands Administration Division, Minerals Management Bureau.

NOTE: Section 82-4-309 of the Act is entitled "Exemption -- operations on federal lands"-- This section reads "This part shall not be applicable to operations on certain federal lands as specified by the board, provided it is first determined by the board that federal law or regulations issued by the federal agency administering such lands impose controls for reclamation of said lands substantially equal to or greater than those imposed by this part." This part of the Act has never been implemented by the Board of Land Commissioners, which consists of the Governor, Secretary of State, Attorney General, State Auditor, and Superintendent of Public Instruction.

The Department of State Lands, Hard Rock Bureau, issues four types of permits:

- I. Small Miner Exclusion Statement (SMES) - this is not actually a permit or license per se, but an "exclusion" from obtaining an operating (mining) permit as the name implies. It consists of a signed and notarized affidavit stating that an operator will stay within the requirements or conditions of the exclusion. An SMES basically excludes small operators from the stricter reclamation requirements of the Act if they meet a few conditions. Those conditions are:
 - A. The operator will conduct an operation resulting in not more than 5 acres of surface disturbance (including roads), or two operations which disturb and leave unreclaimed less than 5 acres per operation if the respective mining properties are:
 1. the only operations engaged in by the person or company;

2. at least one mile apart at their closest point;
 3. not operated simultaneously except during seasonal transitional periods not to exceed 30 days.
- B. The operator cannot remove more than 36,500 tons of material (both ore and waste rock) from the earth in any calendar year (this works out to 100 tons per day, but DSL uses the annual tonnage for compliance).
- C. The operator does not contaminate any surface or ground water resource and conforms to all applicable water quality laws.
- D. The operator provides appropriate protection for human and animal life at the mine site (by installation of safety doors and collars, fencing, signs, etc.)
- E. The operator provides DSL with an appropriate map of his/her operation, and files a renewal annually that describes what has been done in the past year, and what is proposed for the coming year.
- F. The operator must comply with the Noxious Weed Management Act.
- G. For Small Miner Exclusion Statements obtained after September 30, 1985, a small miner may not obtain or continue an exclusion unless he/she annually certifies in writing that:
- a) the small miner is a natural person, that:
 - (i) no business association or partnership of which he/she is a member or partner has a small miner exclusion; and
 - (ii) no corporation of which he/she is an officer, director, or owner of record of 25% or more of any class of voting stock has a small miner exclusion; or
 - b) if the small miner is a partnership or business association, that:
 - (i) none of the associates or partners holds a small miner exclusion; and
 - (ii) none of the associates or partners is an officer, director, or owner of 25% or more of any class of voting stock of a corporation that has a small miner exclusion; or
 - c) if the small miner is a corporation, that no officer, director, or owner of record of 25% or more of any class of voting stock of the corporation;
 - (i) holds a small miner exclusion;
 - (ii) is a member or partner in a business association or partnership that holds a small miner exclusion;
 - (iii) is an officer, director, or owner of record of 25% or more of any class of voting stock of another corporation that holds a small miner exclusion.

NOTE: If any of the above conditions are ignored or violated, the small miner exclusion is invalidated, and the operator would be in noncompliance with the Act for mining without an operating permit.

New Bonding Authority -- Placer Miners holding an SMES: Prior to July 1, 1989, the Department of State Lands could not hold a bond on small miners, as this was part of the "exclusion". The 1989 Legislature gave DSL the authority to hold up to a \$5,000.00 reclamation bond on small **placer** miners. Pursuant to this change in the Act, new rules were passed by the Board of Land Commissioners on February 18, 1991. Note that this bonding authority is only extended to placer miners, and does not apply to hard rock miners (e.g., open pit, underground, etc.). Obviously, it would be next to impossible to reclaim a 5-acre disturbance with just \$5,000.00; however, it is an incentive for small miners to reclaim their disturbances. The new authority also allows DSL to recover costs over and above the \$5,000.00 limit by filing for the additional amount in district court.

The Department will only hold such a bond on private, state or some federal lands controlled by the Bureau of Land Management (since the BLM has limited bonding authority). On National Forest lands, the Forest Service would hold an adequate bond to cover all disturbances, regardless of the amount, and DSL would not hold any bond. (DSL would, of course, offer bond calculation assistance to the Forest Service upon request.) If the placer operation occurred on both National Forest and private land, DSL would only bond the private land and would assume the Forest Service would adequately bond the public land. Under this new authority, reclamation of placer operations would have to commence within 6 months of cessation of mining. This does not include seasonal closures.

Cyanide Use and SMES: Another change passed by the 1989 Legislature and affecting small miners (also as of July 1, 1989) involves the use of cyanide. Pursuant to this change in the Act, new rules were passed by the Board of Land Commissioners on February 18, 1991. Please refer to section IV (below) for additional information.

Exploration and SMES: An SMES is for small-scale **mining** only, and **cannot be used for exploration**. In the Act, "mining" is defined as the extraction of ores or minerals in commercial quantities for sale, beneficiation, refining, or other processing. "Exploration" is defined as all activities conducted on or beneath the surface of lands resulting in material disturbance of the surface for the purpose of determining the presence, location, extent, depth, grade, and economic viability of mineralization of those lands.

- II. **Exploration License.** A State exploration license is required for activities that fit the definition of exploration as discussed above. An exploration license is a statewide license, and only one is issued per individual or company. However, **each** project under the license must be individually approved and bonded. To initially obtain an exploration license, a specific project must be proposed. Any additional projects are considered amendments to the license (e.g., some of the larger companies may have

several dozen projects statewide, all under one license. DSL has permitted and bonded each individual project, keeps separate files on them, and keeps a general file that holds the license itself and tracks the bond for each project). Hand sampling with a pick and shovel for geochemical purposes, geophysical surveys, or mapping does not require State licensing or approval. A good rule of thumb is, if the exploration is mechanized (drilling, dozing, backhoe, etc.), a license and bond are required.

The Department does not have any standard forms for filing an exploration plan of operations, but basically requires (usually in letter form) the same level of information as is found in a Forest Service Plan of Operations. DSL accepts photocopies of Forest Service operating plans as long as a good map is provided. DSL does, however, distribute a plan of operations "example" that shows the level of information required. These examples are available upon request from DSL's Helena office.

Once DSL receives an exploration plan, we check it to see if all the information is there. If it is on federal land, we advise the applicant to notify the appropriate Ranger District or BLM office. We then set up a site visit, preferably with our federal counterparts and the applicant. Bond is calculated during the site visit. Once the bond is submitted, state approval can be granted. (The operator cannot legally begin, however, until federal approval is also granted.)

DSL is required by law to hold bond on all exploration and mining activities (except some SMES operations). The Forest Service also has bonding authority. On National Forest lands, DSL and the Forest Service calculate a bond that is acceptable to both agencies. The bond is made out to both agencies and can be submitted to either agency. The bond cannot be released until both DSL and the Forest Service approve of the reclamation. Bond release inspections are generally made jointly by DSL/USFS personnel for projects on National Forest lands. For projects on public lands administered by the federal Bureau of Land Management (BLM), a bond that is acceptable to both DSL and BLM is calculated and DSL usually holds the bond for both agencies. (BLM has limited bonding authority.)

III. Operating Permits (full-scale mining permits).

An individual or company is required to obtain an operating permit for mining if the conditions of an SMES cannot be met. These generally take 6 to 9+ months to obtain -- larger, more controversial operations may take considerably longer, sometimes 1 to 3 years. An application for an operating permit consists of three parts:

- 1). environmental baseline information (hydrology, soils, vegetation, wildlife, cultural, etc. -- i.e., what is there now);
- 2). operating plan (type of mining/milling operation, reagents used, equipment used, tons/day, types of liners and installation procedures, etc.);
- 3). reclamation plan (states reclamation objectives and how they would be implemented).

Once a plan is submitted, DSL has 30 days to either call it complete (which doesn't mean the plan is approved, just that there is enough information to begin preparation of the appropriate environmental document and make an informed permit decision), or incomplete. If incomplete, which is usually the case the first time around, a "deficiency" or "completeness review" letter is mailed on or before the 30th day. The letter "stops the clock", and contains additional informational requirements and questions to which the applicant must respond. If this is a joint state/federal action (i.e., both DSL and the USFS and/or BLM must permit the mining operation), a joint deficiency letter is sent within that 30-day time period. The letter then includes compiled comments from both DSL/USFS (and/or BLM) technical staff, and is signed by both the Hard Rock Bureau Chief and the District Ranger (or Forest Supervisor, depending on the scope of the project), or the appropriate BLM official.

The company can take as much time as it wants preparing a response. Once they respond, the 30-day clock starts again, and DSL (and USFS/BLM) once again review the resubmittal. At this point, the application can either be called complete, or a second deficiency or completeness review letter is issued. This process continues until the application is deemed complete by the agencies. Once again, "complete" does not mean the company gets a permit - it means that enough information (technical and otherwise) has been supplied by the applicant for the agencies to carry out the MEPA/NEPA process (write an EA or EIS) and make an informed permit decision.

Once the EA or EIS is complete, the permit is either:

- 1). Approved as submitted;
- 2). Denied;
- 3). Approved with conditional mitigations or stipulations.

If approved, a bond is then calculated based on the applicant's reclamation plan which is approved by the agencies. Once the bond is submitted, the permit is signed and activities can begin.

NOTE: Unlike the USFS and BLM, DSL has no internal appeals process. The only way an applicant, environmental group, or the general public can appeal a state decision is through the court system. This is why when a joint state/federal approval is given, an opposition group usually appeals through the federal agency as it is considerably cheaper and often has the same effect in delaying the project.

IV. SMES Cyanide Permits.

The 1989 Legislature passed a bill (effective July 1, 1989) that now requires small miners who use cyanide to obtain an operating permit for only that portion of their operation where cyanide is used. Section 82-4-305(7) MCA reads "a small miner who intends to use a cyanide ore-processing reagent [for vat or heap leaching] shall obtain an operating permit [mining permit] for that part of the operation where the cyanide

ore-processing reagent will be used or disposed of". An operating permit (in this case, an SMES Cyanide Permit as they are referred to by DSL) would require submitting an application that contained moderately-detailed information regarding environmental baseline, operating plans, and a reclamation plan. DSL attorneys have reviewed legislative intent for this new part of the Act. Their findings indicate that the legislature intended this new SMES Cyanide Permit to be somewhat less cumbersome to apply for than a full-scale operating permit application, in recognition of the limited resources available to most small miners. The legislature has funded two additional employees for the Hard Rock Bureau to spend part of the time assisting small miners with these applications.

That portion of the small miner's permit area where cyanide is used (i.e., the leach pads, ponds, Merrill-Crowe or carbon plant, leaching vats, etc.) will now be bonded for full reclamation costs by DSL. The mining area (pit, adits, waste rock dumps) and associated roads, etc. will still fall under the SMES and its requirements and cannot be bonded by DSL. Note, however, that the 5-acre limitation includes all of the mining facilities, even those cyanide facilities that are fully permitted and bonded under the SMES Cyanide Permit.

V. Rules Recently Adopted by the Montana Board of Land Commissioners

A. Mill/Reprocessing Rules

Adopted on May 21, 1990, these rules give DSL the authority to permit and bond custom milling operations and the remining and reprocessing of old waste rock and tailings. Prior to this date, DSL only permitted and bonded ore-processing mills when they were associated with a particular mine (that was also being permitted and bonded). DSL did not have any authority over the remining of waste rock or tailings prior to this date. Copies of the mill rules are available upon request at DSL's Helena office.

B. Blasting Rules

Adopted on September 30, 1990, these rules require DSL to investigate formal complaints regarding safety and/or property damage as the result of the use of explosives by a mining operation. The rules outline a specific complaint procedure that must be followed. If the preponderance of evidence gathered by the Department indicates that a company or individual's blasting has damaged property or created a safety hazard off-site, DSL shall issue an appropriate order to mitigate the situation. If the order is ignored, DSL must then implement noncompliance procedures. The rules do not give DSL the authority to require compensation for any damage that has occurred. The Department's findings can, however, be used by the complainant to sue the operator for property damages. Copies of the blasting rules are available upon request at DSL's Helena Office.

C. SMES Placer and Dredge Mining Rules

Adopted on February 18, 1991, these rules basically give DSL bonding authority up to \$5,000.00 for placer miners that fall under the definition of a small miner. The rules also outline best management practices that are minimally necessary to avoid water quality degradation. These rules also describe standards for bond release and outline the procedure for bond forfeiture and SMES revocation. Copies of the placer and dredge mining rules are available upon request at DSL's Helena office.

D. SMES Cyanide Permit Rules

Adopted on February 18, 1991, these rules require that a small miner intending to operate a cyanide ore-processing facility obtain an operating permit and post an adequate reclamation bond for that part of the operation where cyanide is used (ponds, pads, leaching vats, Merrill-Crowe or carbon plant, etc.). The entire mining and ore-processing facility must still fall within the 5-acre surface disturbance requirement of an SMES. The rules outline the types of information required in baseline study plans, operating plans, and reclamation plans. Bonding is required, and the amount of bond must cover the actual cost of reclamation if it had to be performed by DSL. Copies of the cyanide permit rules are available upon request at DSL's Helena office.

VI. Other Permits (not issued by DSL) That May Be Required

- A. Surface Water Discharge Permit (MPDES) This permit -- called a Montana Pollutant Discharge Elimination System permit, or MPDES permit -- is required for all point-source discharges to State surface waters, regardless of any other permits that are issued by other agencies. The Water Quality Bureau of the Montana Department of Health and Environmental Sciences (WQB/MDHES) issues these permits. They generally take about 60-120 days to obtain due to the required public comment periods. Requirements of the permit usually include pre-operational, operational, and post-operational water quality monitoring for specific parameters, depending on the specific site and proposed activity. For more information, please contact the Water Quality Bureau, Montana Department of Health and Environmental Sciences, Room A206, Cogswell Building, Helena, MT 59620; Telephone (406)444-2406.
- B. Groundwater Discharge Permit (MGWPCS) This permit -- called a Montana Groundwater Pollution Control System permit or MGWPCS -- is required only if a State exploration license or operating permit (from DSL) is not needed or issued (such as with some SMES projects). This permit is for discharges directly to groundwater, such as through a percolation pond. It is also required when the possibility exists of a discharge to groundwater by a "sealed" impoundment, such as a tailing pond or a heap leach pad/pond system. This permit is not required if DSL issues an operating permit or exploration license since DSL gives the proposed operation the same level of review (and

monitoring) as the WQB would. An exploration license or operating permit supersedes this permit. The WQB/MDHES issues these permits. For more information, please contact the Water Quality Bureau, Montana Department of Health and Environmental Sciences, Room A206, Cogswell Building, Helena, MT 59620; Telephone (406)444-2406.

- C. 310 Permit This permit is issued by the County Conservation Districts. It is only required for perennial streams, and is necessary when an applicant intends to ford a stream, install a culvert, or install a bridge. It is also required for stream alteration or diversion. For more information, please contact the Conservation District in the county where the operation is proposed.
- D. Air Quality Permit This permit is issued by the Air Quality Bureau of the MDHES. It is only required when emissions from a project are expected to exceed certain threshold values for various parameters. Generally, if emissions of any pollutant, including fugitive dust, exceed 25 tons/year, an Air Quality Permit is required. In most cases, an Air Quality Permit is only needed for larger developments (e.g., large open-pit mines, or mines with a sizeable tailings impoundment or onsite, large-scale ore refinement plants). They are rarely required for exploration or small mines. For more information, please contact the Air Quality Bureau, Montana Department of Health and Environmental Sciences, Room A116, Cogswell Building, Helena, MT 59620; Telephone (406)444-3454.
- E. Water Rights Operators always need to secure the necessary water rights/permits when using water in their processing or operation. One-shot-only users, such as drillers who may need 500 to 1,000 gallons in a water truck or pipe diversion, can generally take the water as long as consideration is given to downstream water users and streambanks are not altered or a sedimentation problem created. It is often beneficial to contact a local landowner and inquire about water sources. For more information, please contact the Water Rights Bureau, Montana Department of Natural Resources and Conservation, 1520 East Sixth Avenue, Helena, MT 59620; Telephone (406)444-6610.
- F. Facility Siting Act (Power) The Facility Siting Bureau of the Montana Department of Natural Resources and Conservation Issues approval for power lines that exceed 69 kilovolts. Some of the larger mines require this type of power, and along with the local power company, have to go through this process. A recent change in this law now exempts construction of a power line between 69 and 115 kilovolts from this Act if the applicant has the support of at least 75% of the landowners involved. This process has its own requirements and MEPA requirements apart from other State/Federal requirements. For more information, please contact the Facility Siting Bureau, Montana Department of Natural Resources and Conservation, 1520 East Sixth Avenue, Helena, MT 59620; Telephone (406)444-6791.

VII. Mining Claims and Assessment Work

While the Department of State Lands has no authority in regards to mining claims and annual assessment work, this section was added due to the numerous inquiries received by DSL every year regarding this subject. DSL regulates surface disturbances related to mining or mineral exploration in Montana. It is up to the applicant to make sure he/she has the legal authority to access the property and claims where the work is to be performed. All questions regarding staking claims, claim ownership, annual assessment work, filing, etc. should be directed to the appropriate federal Bureau of Land Management office listed below:

U.S. Department of the Interior
Bureau of Land Management
Montana State Office
222 N. 32nd Street
P.O. Box 36800
Billings, MT 59107
Telephone: (406) 255-2885

U.S. Department of the Interior
Bureau of Land Management
Lewistown District Office
Airport Road
Lewistown, MT 59457
Telephone: (406) 538-7461

U.S. Department of the Interior
Bureau of Land Management
Butte District Office
P.O. Box 3388
Butte, MT 59702
Telephone: (406) 494-5059

U.S. Department of the Interior
Bureau of Land Management
Miles City District Office
P.O. Box 950
Miles City, MT 59301
Telephone: (406) 232-4331

Environmental Impact Statement

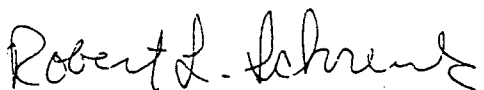
NORANDA MINERALS CORPORATION MONTANA RESERVES COMPANY JOINT VENTURE

MONTANORE PROJECT

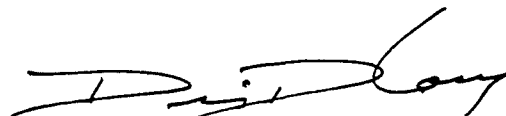
October, 1990

U. S. Forest Service
Kootenai National Forest

Montana
Department of State Lands



Robert L. Schrenk, Forest Supervisor



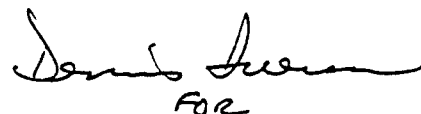
Dennis B. Casey, Commissioner

Montana Department of
Natural Resources and Conservation

Montana Department of
Health and Environmental Sciences



Karen L. Barclay, Director


for

William J. Opitz, Acting Director

SCOPING DOCUMENT

EXHIBIT 2
DATE 12/8/93
HB _____
HOUSE NATURAL RESOURCE
COMMITTEE

CROWN BUTTE MINES, INC.'S NEW WORLD PROJECT

Prepared by—

USDA, Forest Service

Montana Department of State Lands

Prepared for—

EIS Scoping Meeting

Cooke City, Montana

July 15, 1993

SCOPING DOCUMENT CROWN BUTTE MINES, INC.'S "NEW WORLD PROJECT"

December 8, 1993

The original of this document is stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694.

the Montana Environmental Policy Act of 1971 (MEPA). These laws require that if any action taken by a state or federal agency may "significantly affect the quality of the human environment," an environmental impact statement (EIS) must be prepared.

The first phase in completing an EIS is to conduct "scoping". The purpose of scoping is to identify the environmental issues associated with the project which will be considered during the EIS process. The EIS will focus on those issues that are most significant. This Scoping Document will acquaint you with the New World Project as well as the EIS and decision-making process. The agencies welcome your written comments on the issues that you believe should be addressed in the EIS.

THE PROPOSED ACTION— THE NEW WORLD PROJECT

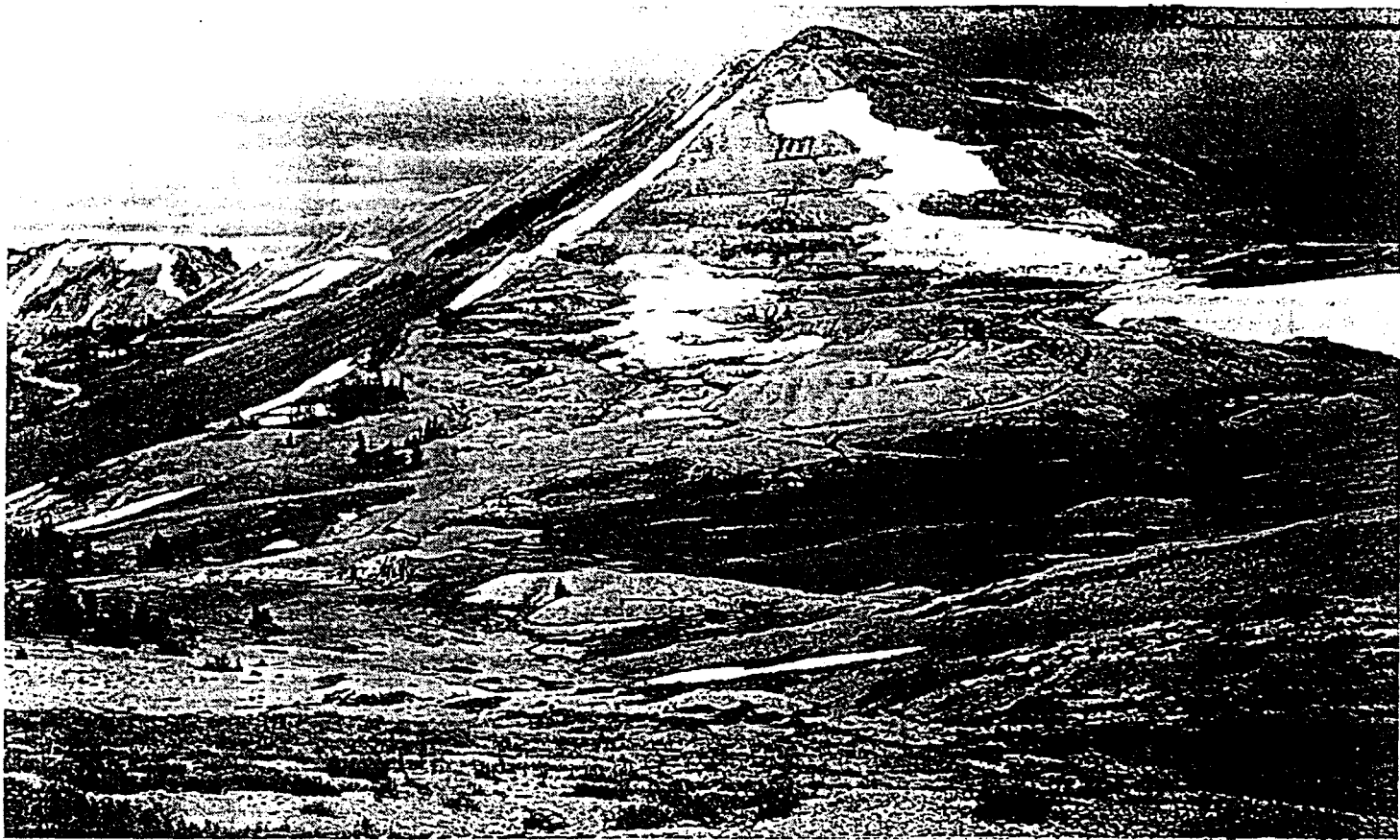
The Gallatin National Forest, the Shoshone National Forest and the Montana Department of State Lands received an Application for a Hard Rock Operating Permit & Proposed Plan of Operation for the New World Project from Crown Butte Mines, Inc. (Crown Butte) on November 15, 1990. Crown Butte holds mineral rights on a combination of private and National Forest System lands. Development of these mining rights would be known as the New World Project. The mine and mill complex would be located in Park County, Montana about three miles north of Cooke City in the Beartooth Mountains of south-central Montana (Figure 1). Yellowstone National Park is located about two miles to the southwest and the Absaroka-Beartooth Wilderness surrounds the mine area on the north, west and east. The Montana-Wyoming border is about one mile south of Cooke City.

average annual production rate of 340,000 tons of ore over a 10 to 15 year period. The ore would be mined from an underground mine beneath Henderson Mountain and conveyed to a mill in the Fisher Creek drainage (Figure 1). Ore would be ground at the mill and the gold, silver and copper would be concentrated by conventional flotation and gravity separation methods. No cyanide would be used in ore processing.

Two adits or tunnels would be constructed to provide access to the ore. An "incline" or tunnel sloping uphill would connect the mill site with a central portion of the ore deposit. A conveyor ramp or "decline" would transfer ore to the mill. The existing Gold Dust adit would be enlarged to serve as a ventilation shaft and as an emergency escape route. Three shafts would be dug from the ore deposit to the surface of Henderson Mountain to provide ventilation.

During operations, water would flow into the underground mine workings. Crown Butte would collect this water and use it in the milling operation. Coupled with precipitation, inflow water would be greater than the operation requires. Crown Butte anticipates the milling process would adequately remove metals from excess water prior to discharge into Fisher Creek. Additional treatment may be needed to remove nitrates and ammonia which would result from blasting.

Tailings impoundment. Fine tailings (ground-up rock) would be produced in the mill after precious metals are removed from the ore. About half the tailings would be mixed with cement and placed back in the underground mine. The other half, about five and one-half million tons, would be pumped from the mill as a slurry via a tailings pipeline to a lined 72-acre impoundment adjacent to Fisher Creek. (Figure 1).



The greening of Crown Butte: These photos show the Como Pit before reclamation (top) and after (bottom). Note the forage below the mountain that is missing in the top picture.



MONTANA HARD ROCK & PLACER EXPLORATION LICENSE PROGRAM MANUAL

***REQUIREMENTS, POLICIES, PROCEDURES
AND
GENERAL INFORMATION***



**MONTANA DEPARTMENT OF STATE LANDS
RECLAMATION DIVISION - HARD ROCK BUREAU
CAPITOL STATION - P.O. BOX 201601
HELENA, MONTANA
59620-1601
Telephone: (406) 444-2074**

21 JUNE 1993

Exhibit #7
12/8/93
Natural Resources

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December 8, 1993

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HB

NATURAL RESOURCES

COMPANY	MINE NAME	PERMIT NO.	ACRES	BOND	STATUS
BIG SKY COAL	Big Sky Mine Area A	83004CR	2,654.76	26,042,297.00	ACTIVE (UNDER RECLAMATION)
BIG SKY COAL	Big Sky Mine Area B	88004B	5,435.80	4,189,761.00	ACTIVE
COAL CREEK		80009C	120.00	0.00	EXPIRED (UNDER RECLAMATION)
EAST DECKER	East Pits	83007	4,355.00	58,253,267.00	ACTIVE
HATHAWAY		85013	18.08	23,292.80	EXPIRED (UNDER RECLAMATION)
KNIFE RIVER	Savage Mine	84002	857.00	2,144,025.00	ACTIVE
MERIDIAN	Test Pit	90017R*	0.00		EXPIRED
MERIDIAN	Bull Mtn #1	93017	4,223.00	321,000.00	ACTIVE
MONTCO		84015	1,273.88	280,253.60	ACTIVE (NO MINING ACTIVITY TO DATE)
PM COAL CO.		79008R1	104.42	132,625.00	ACTIVE - Acreage counted in Meridian
SPRING CREEK		79012R	4481.80	25,614,684.00	ACTIVE 311.3 acres deleted as DLU on 4/21/93
UNION RESERVE	Beartooth	78010R	129.38	0.00	SUSPENDED/EXPIRED
WARBURTON	Blackjack I	78011R	10.00	2,000.00	EXPIRED (UNDER RECLAMATION)
WARBURTON	Blackjack II	86016	7.00	1,400.00	EXPIRED (UNDER RECLAMATION)
WEST DECKER	West Pits	87001C	7,048.23	84,194,514.00	ACTIVE
WESTERN ENERGY	Rosebud E	81003E	1,467.00	13,516,888.00	EXPIRED (UNDER RECLAMATION)
WESTERN ENERGY	Rosebud B	84003B	3,616.00	18,512,457.00	ACTIVE
WESTERN ENERGY	Rosebud B	00134	2,444.60	0.00	Pending - Bond to be determined
WESTERN ENERGY	Rosebud C	85003C	9,490.00	16,525,705.00	ACTIVE (46-acre difference from grant)
WESTERN ENERGY	Rosebud Pit 6	85003P	508.10	1,129,783.00	EXPIRED (UNDER RECLAMATION)
WESTERN ENERGY	Rosebud A	86003A	4,192.00	14,535,249.00	ACTIVE
WESTERN ENERGY	Rosebud D	86003D	3,263.00	15,694,598.00	ACTIVE
WESTMORELAND	Absaloka	85005	3,257.00	8,692,105.00	ACTIVE
WESTMORELAND	Absaloka	00151	2,037.0	0.00	Pending - Bond to be determined
Total			60,888.63	289,805,904.40	

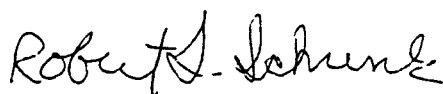
TABLE 22

AML RECLAMATION ACHIEVEMENTS SINCE PROGRAM APPROVAL				
Project benefit		AMLIS ^A keyword(s)	Coal mining related	Noncoal mining related
1. Mine openings closed	(number)	MO, P, VO	666	2844
2. Landslides stabilized	(acres)	DS	2.2	0
3. Subsidence-prone areas stabilized and surface deformations repaired	(acres)	S, SP	705	0
4. Hazardous impoundments and other water bodies modified or removed	(number)	HWB, DI	5	4
5. Highwalls modified to minimize safety hazards	(linear feet)	DH	590	2315
6. Highwalls eliminated	(linear feet)	H	3320	4025
7. Mining equipment, structures, and facilities removed	(sites)	HEF, EF	75	33
8. Mine refuse piles and slurry ponds removed or stabilize	(acres)	DPE, GO, SL	1575	525
9. Industrial and residential trash dumps and waste disposal sites cleaned up	(acres)	IRW, DP	0	2
10. Silt-clogged stream channels rehabilitated	(miles)	CS	45.2	15.3
11. Polluted water supplies and swimming holes improved in quality or replaced	(number)	PWAI, PWHC	5	0
12. Underground mine or coal seam fires controlled	(acres)	UMF	33	0
13. Surface refuse fires extinguished	(acres)	SB	0	0
14. Underground mine gas problems mitigated	(number)	GHE	0	0
15. Mine spoils, pits, benches, and related disturbed areas regraded and/or revegetated	(acres)	CSL, BE, HR, PI, SA	18	119.1
16. Mine drainage quality improved	(gal./min.)	WA	59	11
17. Other environmental benefits	(itemize)	O	1*	0
18. Public facilities constructed or enhanced	(itemize)	P5	1	0
19. Public land developed	(itemize)	P6	0	0
Total acreage reclaimed by all projects			2444.8	1043.7
^A AMLIS: Abandoned Mine Lands Inventory System				
* 17. Wetlands Constructed (acres)			1.6	0

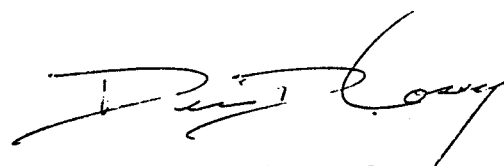
Environmental Impact Statement

**NORANDA MINERALS CORPORATION
MONTANA RESERVES COMPANY
JOINT VENTURE****MONTANORE PROJECT**

OCTOBER, 1992

**U. S. Forest Service
Kootenai National Forest**

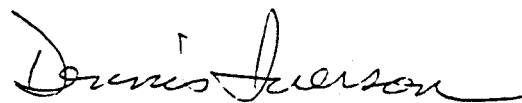
Robert L. Schrenk, Forest Supervisor

**Montana
Department of State Lands**

Dennis D. Casey, Commissioner

**Montana Department of
Natural Resources and Conservation**

Karen Barclay Fagg, Director

**Montana Department of
Health and Environmental Sciences**

Dennis Iverson, Director

DATE 12/8/92

HB Final

Environmental Impact Statement

**NORANDA MINERALS CORPORATION
MONTANA RESERVES COMPANY
JOINT VENTURE**

MONTANORE PROJECT

OCTOBER, 1992

**VOLUME 2
PUBLIC PARTICIPATION
RESPONSES TO PUBLIC COMMENT**

The pick & shovel

October 1993
93-10
(406) 443-7297

The Montana Mining Association
2301 Colonial Drive
Helena, MT 59601

December 8, 1993

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...W.R. Grace Closes Vermiculite Mine With Class