

1 House BILL NO. 379
 2 INTRODUCED BY Bradley Kintle Hunsicker Meloy
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND TITLE 50,
 5 CHAPTER 10, THE MONTANA SURFACE MINING AND RECLAMATION ACT,
 6 TO INCLUDE CERTAIN OPERATING PERMIT REQUIREMENTS, CERTAIN
 7 DECISION-MAKING CONSTRAINTS; AND TO PROVIDE AN IMMEDIATE
 8 EFFECTIVE DATE."
 9

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

11 Section 1. Section 50-1039, R.C.M. 1947, is amended to
 12 read as follows:

13 "50-1039. Permit required to engage in strip
 14 mining--application for permit--contents--fee--bond. (1) An
 15 operator may not engage in strip mining without having first
 16 obtained from the department a permit designating the area
 17 of land affected by the operation. The permit shall
 18 authorize the operator to engage in strip mining upon the
 19 area of land described in his application and designated in
 20 the permit for a period of one (1) year from the date of its
 21 issuance. Such permit shall be renewable from year to year
 22 thereafter upon application to the department at least
 23 thirty (30) but not more than sixty (60) days prior to the
 24 renewal date so long as the operator is in compliance with
 25 the requirements of this act, the rules hereunder, and the

1 reclamation plan provided for in section 10 [50-1043] of
 2 this act, and agrees to comply with all applicable laws and
 3 rules in effect at the time of renewal. Such renewal shall
 4 further be subject to the denial provisions of sections 9
 5 and 13 [50-1042 and 50-1046] of this act.

6 (2) An operator desiring a permit shall file an
 7 application which shall contain a complete and detailed plan
 8 for the mining, reclamation, revegetation, and
 9 rehabilitation of the land and water to be affected by the
 10 operation. Such plan shall reflect thorough advance
 11 investigation and study by the operator and shall include
 12 all known or readily discoverable past and present uses of
 13 the land and water to be affected and the approximate
 14 periods of such use and shall state:

15 (a) the location and area of land to be affected by
 16 the operation, with a description of access to the area from
 17 the nearest public highways;

18 (b) the names and addresses of the owners of record of
 19 the surface of the area of land to be affected by the permit
 20 and the owners of record of all surface area within one-half
 21 (.5) mile of any part of the affected area;

22 (c) the names and addresses of the present owners of
 23 record of all subsurface minerals in the land to be
 24 affected;

25 (d) the source of the applicant's legal right to mine

1 the mineral on the land affected by the permit;

2 (e) the permanent and temporary post office addresses
3 of the applicant;

4 (f) whether the applicant or any person associated
5 with the applicant holds or has held any other permits under
6 this act, and an identification of those permits;

7 (g) whether the applicant is in compliance with
8 subsection (2) of section 17 [50-1050] and whether every
9 officer, partner, director, or any individual owning of
10 record or beneficially (alone or with associates) if known,
11 ten percent (10%) or more of any class of stock of the
12 applicant, is subject to any of the provisions of subsection
13 (2) of section 17 [50-1050] and he shall so certify, and
14 whether any of the foregoing parties or persons have ever
15 had a strip mining license or permit issued by any other
16 state or federal agency revoked, or have ever forfeited a
17 strip mining bond or a security deposited in lieu of a bond
18 and if so, a detailed explanation of the facts involved in
19 each case must be attached;

20 (h) the names and addresses of any persons who are
21 engaged in strip mining activities on behalf of the
22 applicant;

23 (i) the annual rainfall and the direction and average
24 velocity of the prevailing winds in the area where the
25 applicant has requested a permit;

1 (j) the results of any test borings or core samplings
2 which the applicant or his agent has conducted on the land
3 to be affected, including the nature and the depth of the
4 various strata or overburden and topsoil, the quantities and
5 location of subsurface water and its quality, the thickness
6 of any mineral seam, an analysis of the chemical properties
7 of such minerals, including the acidity, sulphur content,
8 and trace mineral elements of any coal seam, as well as the
9 British thermal unit (B.T.U.) content of such seam, and an
10 analysis of the overburden, including topsoil. If test
11 borings or core samplings are submitted, each permit
12 application shall contain two (2) copies each of two (2)
13 sets of geologic cross-sections accurately depicting the
14 known geologic makeup beneath the surface of the affected
15 land. Each set shall depict subsurface conditions at five
16 hundred (500) foot intervals across the surface and shall
17 run at a ninety (90) degree angle to the other set. Each
18 cross-section shall depict the thickness and geological
19 character of all known strata beginning with the top soil;

20 (k) the name and date of a daily newspaper of general
21 circulation within the county in which the applicant has
22 prominently published an announcement of his application for
23 a strip mining permit, and a detailed description of the
24 area of land to be affected should a permit be granted;

25 (l) such other or further information as the

1 department may require.

2 (3) The application for a permit shall be accompanied
3 by two (2) copies of all maps meeting the requirements of
4 the subsections below. The maps shall:

5 (a) identify the area to correspond with the
6 application;

7 (b) show any adjacent deep mining and the boundaries
8 of surface properties and names of owners of record of the
9 affected area and within one thousand (1,000) feet of any
10 part of the affected area;

11 (c) show the names and locations of all streams,
12 creeks, or other bodies of water, roads, buildings,
13 cemeteries, oil and gas wells, and utility lines on the area
14 of land affected and within one thousand (1,000) feet of
15 such area;

16 (d) show by appropriate markings the boundaries of the
17 area of land affected, any cropline of the seam or deposit
18 of mineral to be mined, and the total number of acres
19 involved in the area of land affected;

20 (e) show the date on which the map was prepared and
21 the north point;

22 (f) show the drainage plan on and away from the area
23 of land affected. This plan shall indicate the directional
24 flow of water, constructed drainways, natural waterways used
25 for drainage, and the streams or tributaries receiving the

1 discharge:

2 (g) show the proposed location of waste or refuse
3 area;

4 (h) show the proposed location of temporary subsoil
5 and topsoil storage area;

6 (i) show the location of test boring holes;

7 (j) show the surface location lines of any geologic
8 cross-sections which have been submitted;

9 (k) show a listing of plant varieties encountered in
10 the area to be affected and their relative dominance in the
11 area, together with an enumeration of tree varieties and the
12 approximate number of each variety occurring per acre on the
13 area to be affected, and the locations generally of the
14 various kinds and varieties of plants, including but not
15 limited to grasses, shrubs, legumes, forbs and trees;

16 (l) be certified as follows: "I, the undersigned,
17 hereby certify that this map is correct, and shows to the
18 best of my knowledge and belief all the information required
19 by the strip mining laws of this state." The certification
20 shall be signed and notarized. The department may reject a
21 map as incomplete if its accuracy is not so attested;

22 (m) contain such other or further information as the
23 department may require.

24 (4) The application shall also contain detailed proof
25 that:

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1 (a) there exists a specific, geographically defined,
 2 and reliable market for the amount, cost, and quality of the
 3 coal to be mined;

4 (b) responsible authorities in the market area have
 5 instituted or will institute in the immediate future
 6 effective energy-conservation measures to insure that the
 7 coal will not be utilized in a wasteful or profligate
 8 manner;

9 (c) the social and economic effects of marketing this
 10 coal, on existing western or eastern coal mining operations
 11 in the United States supplying the same market area, are
 12 insubstantial or are mitigated by other overriding
 13 considerations;

14 (d) the proposed mining and marketing activities do
 15 not have significant adverse socio-economic effects in the
 16 geographical area of the mining or nonmining activities,
 17 including agriculture and the elderly, among them; and

18 (e) the applicable federal and state environmental
 19 standards of the state or states in which the coal is to be
 20 utilized, including nondegradation standards, will not be
 21 violated by combustion of the coal.

22 ~~(4)~~--(5) In addition to the information and maps
 23 required above, each application for a permit shall be
 24 accompanied by detailed plans or proposals showing the
 25 method of operation, the manner, time or distance, and

1 estimated cost for backfilling, grading work, highwall
 2 reduction, topsoiling, planting, revegetating, and a
 3 reclamation plan for the area affected by the operation,
 4 which proposals shall meet the requirements of this act and
 5 rules adopted under this act.

6 ~~(5)~~--(6) An application fee of fifty dollars (\$50)
 7 shall be paid before the permit required in this section
 8 shall be issued. The operator shall file with the department
 9 a bond payable to the state of Montana with surety
 10 satisfactory to the department in the penal sum to be
 11 determined by the board (on the recommendation of the
 12 commissioner) of not less than two hundred dollars (\$200)
 13 nor more than twenty-five hundred dollars (\$2,500) for each
 14 acre or fraction thereof of the area of land affected, with
 15 a minimum bond of two thousand dollars (\$2,000), conditioned
 16 upon the faithful performance of the requirements set forth
 17 in this act and of the rules of the board. In determining
 18 the amount of the bond within the above limits, the board
 19 shall take into consideration the character and nature of
 20 the overburden, the future suitable use of the land involved
 21 and the cost of backfilling, grading, highwall reduction,
 22 topsoiling, and reclamation to be required; but in no event
 23 shall the bond be less than the total estimated cost to the
 24 state of completing the work described in the reclamation
 25 plan."

1 Section 2. Section 50-1042, R.C.M. 1947, is amended to
2 read as follows:

3 "50-1042. Refusal of permit -- grounds. (1) An
4 application for a prospecting or strip mining permit shall
5 not be approved by the department if there is found on the
6 basis of the information set forth in the application, an
7 on-site inspection, and an evaluation of the operation by
8 the department that the requirements of the act or rules
9 will not be observed or that the proposed method of
10 operation, backfilling, grading, highwall reduction,
11 topsoiling, revegetation, or reclamation of the affected
12 area cannot be carried out consistent with the purpose of
13 this act.

14 (2) The department shall not approve the application
15 for prospecting or strip mining permit where the area of
16 land described in the application includes land having
17 special, exceptional, critical, or unique characteristics,
18 or that mining or prospecting on that area would adversely
19 affect the use, enjoyment, or fundamental character of
20 neighboring land having special, exceptional, critical, or
21 unique characteristics. For the purposes of this act, land
22 is defined as having such characteristics if it possesses
23 special, exceptional, critical or unique:

24 (a) biological productivity, the loss of which would
25 jeopardize certain species of wildlife or domestic stock; or

1 (b) ecological fragility, in the sense that the land,
2 once adversely affected, could not return to its former
3 ecological role in the reasonable foreseeable future; or

4 (c) ecological importance, in the sense that the
5 particular land has such a strong influence on the total
6 ecosystem of which it is a part that even temporary effects
7 felt by it could precipitate a system-wide reaction of
8 unpredictable scope or dimensions; or

9 (d) scenic, historic, archeologic, topographic,
10 geologic, ethnologic, scientific, cultural, or recreational
11 significance. In applying this subsection, particular
12 attention should be paid to the inadequate preservation
13 previously accorded Plains Indian history and culture.

14 (3) If the department finds that the overburden on any
15 part of the area of land described in the application for a
16 prospecting or strip mining permit is such that experience
17 in the state with a similar type of operation upon land with
18 similar overburden shows that substantial deposition of
19 sediment in streambeds, landslides, or water pollution
20 cannot feasibly be prevented, the department shall delete
21 that part of the land described in the application upon
22 which the overburden exists.

23 (4) If the department finds that the operation will
24 constitute a hazard to a dwelling house, public building,
25 school, church, cemetery, commercial or institutional

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1 building, public road, stream, lake, or other public
2 property, the department shall delete those areas from the
3 prospecting or strip mining permit application before it can
4 be approved.

5 (5) The department shall not approve any mining plan
6 unless it finds that the detailed proofs required by section
7 1039(4) of this title are fully satisfied after the
8 department conducts an independent and probing review of the
9 operator's mining application and its attendant costs and
10 benefits."

11 Section 3. Severability. If a part of this act is
12 invalid, all valid parts that are severable from the invalid
13 part remain in effect. If a part of this act is invalid in
14 one or more of its applications, the part remains in effect
15 in all valid applications that are severable from invalid
16 applications.

17 Section 4. Effective date. This act is effective on
18 passage and approval.

-End-

Approved by Committee
on Natural Resources

HOUSE BILL NO. 379

INTRODUCED BY BRADLEY, KIMBLE, HUENNEKENS, MELOY

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND TITLE 50, CHAPTER 10, THE MONTANA SURFACE MINING AND RECLAMATION ACT, TO INCLUDE CERTAIN OPERATING PERMIT REQUIREMENTS, CERTAIN DECISION-MAKING CONSTRAINTS; AND TO PROVIDE AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 50-1039, R.C.M. 1947, is amended to read as follows:

"50-1039. Permit required to engage in strip mining--application for permit--contents--fee--bond. (1) An operator may not engage in strip mining without having first obtained from the department a permit designating the area of land affected by the operation. The permit shall authorize the operator to engage in strip mining upon the area of land described in his application and designated in the permit for a period of one (1) year from the date of its issuance. Such permit shall be renewable from year to year thereafter upon application to the department at least thirty (30) but not more than sixty (60) days prior to the renewal date so long as the operator is in compliance with the requirements of this act, the rules hereunder, and the

reclamation plan provided for in section 10 [50-1043] of this act, and agrees to comply with all applicable laws and rules in effect at the time of renewal. Such renewal shall further be subject to the denial provisions of sections 9 and 13 [50-1042 and 50-1046] of this act.

(2) An operator desiring a permit shall file an application which shall contain a complete and detailed plan for the mining, reclamation, revegetation, and rehabilitation of the land and water to be affected by the operation. Such plan shall reflect thorough advance investigation and study by the operator and shall include all known or readily discoverable past and present uses of the land and water to be affected and the approximate periods of such use and shall state:

(a) the location and area of land to be affected by the operation, with a description of access to the area from the nearest public highways;

(b) the names and addresses of the owners of record of the surface of the area of land to be affected by the permit and the owners of record of all surface area within one-half (.5) mile of any part of the affected area;

(c) the names and addresses of the present owners of record of all subsurface minerals in the land to be affected;

(d) the source of the applicant's legal right to mine

1 the mineral on the land affected by the permit;

2 (e) the permanent and temporary post office addresses
3 of the applicant;

4 (f) whether the applicant or any person associated
5 with the applicant holds or has held any other permits under
6 this act, and an identification of those permits;

7 (g) whether the applicant is in compliance with
8 subsection (2) of section 17 [50-1050] and whether every
9 officer, partner, director, or any individual owning of
10 record or beneficially (alone or with associates) if known,
11 ten percent (10%) or more of any class of stock of the
12 applicant, is subject to any of the provisions of subsection
13 (2) of section 17 [50-1050] and he shall so certify, and
14 whether any of the foregoing parties or persons have ever
15 had a strip mining license or permit issued by any other
16 state or federal agency revoked, or have ever forfeited a
17 strip mining bond or a security deposited in lieu of a bond
18 and if so, a detailed explanation of the facts involved in
19 each case must be attached;

20 (h) the names and addresses of any persons who are
21 engaged in strip mining activities on behalf of the
22 applicant;

23 (i) the annual rainfall and the direction and average
24 velocity of the prevailing winds in the area where the
25 applicant has requested a permit;

1 (j) the results of any test borings or core samplings
2 which the applicant or his agent has conducted on the land
3 to be affected, including the nature and the depth of the
4 various strata or overburden and topsoil, the quantities and
5 location of subsurface water and its quality, the thickness
6 of any mineral seam, an analysis of the chemical properties
7 of such minerals, including the acidity, sulphur content,
8 and trace mineral elements of any coal seam, as well as the
9 British thermal unit (B.T.U.) content of such seam, and an
10 analysis of the overburden, including topsoil. If test
11 borings or core samplings are submitted, each permit
12 application shall contain two (2) copies each of two (2)
13 sets of geologic cross-sections accurately depicting the
14 known geologic makeup beneath the surface of the affected
15 land. Each set shall depict subsurface conditions at five
16 hundred (500) foot intervals across the surface and shall
17 run at a ninety (90) degree angle to the other set. Each
18 cross-section shall depict the thickness and geological
19 character of all known strata beginning with the top soil;

20 (k) the name and date of a daily newspaper of general
21 circulation within the county in which the applicant has
22 prominently published an announcement of his application for
23 a strip mining permit, and a detailed description of the
24 area of land to be affected should a permit be granted;

25 (l) such other or further information as the

1 department may require.

2 (3) The application for a permit shall be accompanied
3 by two (2) copies of all maps meeting the requirements of
4 the subsections below. The maps shall:

5 (a) identify the area to correspond with the
6 application;

7 (b) show any adjacent deep mining and the boundaries
8 of surface properties and names of owners of record of the
9 affected area and within one thousand (1,000) feet of any
10 part of the affected area;

11 (c) show the names and locations of all streams,
12 creeks, or other bodies of water, roads, buildings,
13 cemeteries, oil and gas wells, and utility lines on the area
14 of land affected and within one thousand (1,000) feet of
15 such area;

16 (d) show by appropriate markings the boundaries of the
17 area of land affected, any cropline of the seam or deposit
18 of mineral to be mined, and the total number of acres
19 involved in the area of land affected;

20 (e) show the date on which the map was prepared and
21 the north point;

22 (f) show the drainage plan on and away from the area
23 of land affected. This plan shall indicate the directional
24 flow of water, constructed drainways, natural waterways used
25 for drainage, and the streams or tributaries receiving the

1 discharge;

2 (g) show the proposed location of waste or refuse
3 area;

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5 and topsoil storage area;

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9 (k) show a listing of plant varieties encountered in
10 the area to be affected and their relative dominance in the
11 area, together with an enumeration of tree varieties and the
12 approximate number of each variety occurring per acre on the
13 area to be affected, and the locations generally of the
14 various kinds and varieties of plants, including but not
15 limited to grasses, shrubs, legumes, forbs and trees;

16 (l) be certified as follows: "I, the undersigned,
17 hereby certify that this map is correct, and shows to the
18 best of my knowledge and belief all the information required
19 by the strip mining laws of this state." The certification
20 shall be signed and notarized. The department may reject a
21 map as incomplete if its accuracy is not so attested;

22 (m) contain such other or further information as the
23 department may require.

24 (4) The application APPLICANT shall also contain
25 detailed TENDER proof that:

1 (a) there exists a specific, geographically defined
 2 and reliable market for the amount, cost, and quality of the
 3 coal to be mined;

4 (b) responsible authorities in the market area have
 5 instituted or will institute in the immediate future
 6 effective ALL FEASIBLE energy-conservation measures to
 7 insure that the coal will not be utilized in a wasteful or
 8 profligate manner;

9 (c) the ANY ADVERSE social and economic effects of
 10 marketing this coal, on existing western or eastern coal
 11 mining operations in the United States supplying the same
 12 market area, are insubstantial or are mitigated by other
 13 overriding considerations;

14 (d) the proposed mining and marketing activities do
 15 not have significant adverse socio-economic effects in the
 16 geographical area of the mining or nonmining activities,
 17 including agriculture and the elderly, among them; and THAT
 18 EVERY FEASIBLE EFFORT HAS BEEN MADE TO ANALYZE AND MITIGATE
 19 ANY DISRUPTIVE SOCIO-ECONOMIC IMPACTS IN THE GEOGRAPHICAL
 20 AREA OF THE MINING ACTIVITIES, INCLUDING BUT NOT LIMITED TO
 21 THE IMPACT ON AGRICULTURAL ACTIVITIES AND SCHOOLS; AND

22 (e) the applicable federal and state environmental
 23 standards of the state or states in which the coal is to be
 24 utilized, including nondegradation standards, will not be
 25 violated by combustion of the coal.

1 THE DEPARTMENT MAY APPROVE, MODIFY, OR DENY A PERMIT
 2 BASED ON INFORMATION SUBMITTED IN SECTION 1, SUBSECTION (4),
 3 (A) THROUGH (E) OF THIS ACT.

4 ~~(4)~~ (5) In addition to the information and maps
 5 required above, each application for a permit shall be
 6 accompanied by detailed plans or proposals showing the
 7 method of operation, the manner, time or distance, and
 8 estimated cost for backfilling, grading work, highwall
 9 reduction, topsoiling, planting, revegetating, and a
 10 reclamation plan for the area affected by the operation,
 11 which proposals shall meet the requirements of this act and
 12 rules adopted under this act.

13 ~~(5)~~ (6) An application fee of fifty dollars (\$50)
 14 shall be paid before the permit required in this section
 15 shall be issued. The operator shall file with the department
 16 a bond payable to the state of Montana with surety
 17 satisfactory to the department in the penal sum to be
 18 determined by the board (on the recommendation of the
 19 commissioner) of not less than two hundred dollars (\$200)
 20 nor more than twenty-five hundred dollars (\$2,500) for each
 21 acre or fraction thereof of the area of land affected, with
 22 a minimum bond of two thousand dollars (\$2,000), conditioned
 23 upon the faithful performance of the requirements set forth
 24 in this act and of the rules of the board. In determining
 25 the amount of the bond within the above limits, the board

1 shall take into consideration the character and nature of
 2 the overburden, the future suitable use of the land involved
 3 and the cost of backfilling, grading, highwall reduction,
 4 topsoiling, and reclamation to be required; but in no event
 5 shall the bond be less than the total estimated cost to the
 6 state of completing the work described in the reclamation
 7 plan."

8 Section 2. Section 50-1042, R.C.M. 1947, is amended to
 9 read as follows:

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 11 application for a prospecting or strip mining permit shall
 12 not be approved by the department if there is found on the
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 14 on-site inspection, and an evaluation of the operation by
 15 the department that the requirements of the act or rules
 16 will not be observed or that the proposed method of
 17 operation, backfilling, grading, highwall reduction,
 18 topsoiling, revegetation, or reclamation of the affected
 19 area cannot be carried out consistent with the purpose of
 20 this act.

21 (2) The department shall not approve the application
 22 for prospecting or strip mining permit where the area of
 23 land described in the application includes land having
 24 special, exceptional, critical, or unique characteristics,
 25 or that mining or prospecting on that area would adversely

1 affect the use, enjoyment, or fundamental character of
 2 neighboring land having special, exceptional, critical, or
 3 unique characteristics. For the purposes of this act, land
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 19 attention should be paid to the inadequate preservation
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 22 part of the area of land described in the application for a
 23 prospecting or strip mining permit is such that experience
 24 in the state with a similar type of operation upon land with
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1 sediment in streambeds, landslides, or water pollution
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3 that part of the land described in the application upon
4 which the overburden exists.

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6 constitute a hazard to a dwelling house, public building,
7 school, church, cemetery, commercial or institutional
8 building, public road, stream, lake, or other public
9 property, the department shall delete those areas from the
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11 be approved.

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13 unless it finds that the detailed proofs required by section
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15 department conducts an independent and probing review of the
16 operator's mining application and its attendant costs and
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19 invalid, all valid parts that are severable from the invalid
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21 one or more of its applications, the part remains in effect
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(b) the names and addresses of the owners of record of the surface of the area of land to be affected by the permit and the owners of record of all surface area within one-half (.5) mile of any part of the affected area;

(c) the names and addresses of the present owners of record of all subsurface minerals in the land to be affected;

(d) the source of the applicant's legal right to mine

1 the mineral on the land affected by the permit;

2 (e) the permanent and temporary post office addresses

3 of the applicant;

4 (f) whether the applicant or any person associated

5 with the applicant holds or has held any other permits under

6 this act, and an identification of those permits;

7 (g) whether the applicant is in compliance with

8 subsection (2) of section 17 [50-1050] and whether every

9 officer, partner, director, or any individual owning of

10 record or beneficially (alone or with associates) if known,

11 ten percent (10%) or more of any class of stock of the

12 applicant, is subject to any of the provisions of subsection

13 (2) of section 17 [50-1050] and he shall so certify, and

14 whether any of the foregoing parties or persons have ever

15 had a strip mining license or permit issued by any other

16 state or federal agency revoked, or have ever forfeited a

17 strip mining bond or a security deposited in lieu of a bond

18 and if so, a detailed explanation of the facts involved in

19 each case must be attached;

20 (h) the names and addresses of any persons who are

21 engaged in strip mining activities on behalf of the

22 applicant;

23 (i) the annual rainfall and the direction and average

24 velocity of the prevailing winds in the area where the

25 applicant has requested a permit;

1 (j) the results of any test borings or core samplings

2 which the applicant or his agent has conducted on the land

3 to be affected, including the nature and the depth of the

4 various strata or overburden and topsoil, the quantities and

5 location of subsurface water and its quality, the thickness

6 of any mineral seam, an analysis of the chemical properties

7 of such minerals, including the acidity, sulphur content,

8 and trace mineral elements of any coal seam, as well as the

9 British thermal unit (B.T.U.) content of such seam, and an

10 analysis of the overburden, including topsoil. If test

11 borings or core samplings are submitted, each permit

12 application shall contain two (2) copies each of two (2)

13 sets of geologic cross-sections accurately depicting the

14 known geologic makeup beneath the surface of the affected

15 land. Each set shall depict subsurface conditions at five

16 hundred (500) foot intervals across the surface and shall

17 run at a ninety (90) degree angle to the other set. Each

18 cross-section shall depict the thickness and geological

19 character of all known strata beginning with the top soil;

20 (k) the name and date of a daily newspaper of general

21 circulation within the county in which the applicant has

22 prominently published an announcement of his application for

23 a strip mining permit, and a detailed description of the

24 area of land to be affected should a permit be granted;

25 (l) such other or further information as the

1 department may require.

2 (3) The application for a permit shall be accompanied
3 by two (2) copies of all maps meeting the requirements of
4 the subsections below. The maps shall:

5 (a) identify the area to correspond with the
6 application;

7 (b) show any adjacent deep mining and the boundaries
8 of surface properties and names of owners of record of the
9 affected area and within one thousand (1,000) feet of any
10 part of the affected area;

11 (c) show the names and locations of all streams,
12 creeks, or other bodies of water, roads, buildings,
13 cemeteries, oil and gas wells, and utility lines on the area
14 of land affected and within one thousand (1,000) feet of
15 such area;

16 (d) show by appropriate markings the boundaries of the
17 area of land affected, any cropline of the seam or deposit
18 of mineral to be mined, and the total number of acres
19 involved in the area of land affected;

20 (e) show the date on which the map was prepared and
21 the north point;

22 (f) show the drainage plan on and away from the area
23 of land affected. This plan shall indicate the directional
24 flow of water, constructed drainways, natural waterways used
25 for drainage, and the streams or tributaries receiving the

1 discharge;

2 (g) show the proposed location of waste or refuse
3 area;

4 (h) show the proposed location of temporary subsoil
5 and topsoil storage area;

6 (i) show the location of test boring holes;

7 (j) show the surface location lines of any geologic
8 cross-sections which have been submitted;

9 (k) show a listing of plant varieties encountered in
10 the area to be affected and their relative dominance in the
11 area, together with an enumeration of tree varieties and the
12 approximate number of each variety occurring per acre on the
13 area to be affected, and the locations generally of the
14 various kinds and varieties of plants, including but not
15 limited to grasses, shrubs, legumes, forbs and trees;

16 (l) be certified as follows: "I, the undersigned,
17 hereby certify that this map is correct, and shows to the
18 best of my knowledge and belief all the information required
19 by the strip mining laws of this state." The certification
20 shall be signed and notarized. The department may reject a
21 map as incomplete if its accuracy is not so attested;

22 (m) contain such other or further information as the
23 department may require.

24 (4) The application APPLICANT shall also contain
25 detailed TENDER proof that:

1 (a) there exists a specific,--geographically--defined
 2 and reliable market for the amount, cost, and quality of the
 3 coal to be mined;

4 (b) responsible authorities in the market area have
 5 instituted or will institute in--the--immediate---future
 6 effective ALL FEASIBLE energy-conservation measures to
 7 insure that the coal will not be utilized in a wasteful--or
 8 profligate manner;

9 (c) the ANY ADVERSE social and economic effects of
 10 marketing this coal, on existing western--or--eastern coal
 11 mining operations in the United States supplying the same
 12 market area, are insubstantial or are mitigated by other
 13 overriding considerations;

14 (d) the--proposed--mining--and--marketing--activities--do
 15 not--have--significant--adverse--socio--economic--effects--in--the
 16 geographical--area--of--the--mining--or--nonmining--activities,
 17 including agriculture and the elderly, among them, and THAT
 18 EVERY FEASIBLE EFFORT HAS BEEN MADE TO ANALYZE AND MITIGATE
 19 ANY DISRUPTIVE SOCIO-ECONOMIC IMPACTS IN THE GEOGRAPHICAL
 20 AREA OF THE MINING ACTIVITIES, INCLUDING BUT NOT LIMITED TO
 21 THE IMPACT ON AGRICULTURAL ACTIVITIES AND SCHOOLS; AND

22 (e) the applicable federal and state environmental
 23 standards of the state or states in which the coal is to be
 24 utilized, including nondegradation standards, will not be
 25 violated by combustion of the coal.

1 THE DEPARTMENT MAY APPROVE, MODIFY, OR DENY A PERMIT
 2 BASED ON INFORMATION SUBMITTED IN SECTION 1, SUBSECTION (4),
 3 (A) THROUGH (E) OF THIS ACT.

4 ~~(4)~~--(5) In addition to the information and maps
 5 required above, each application for a permit shall be
 6 accompanied by detailed plans or proposals showing the
 7 method of operation, the manner, time or distance, and
 8 estimated cost for backfilling, grading work, highwall
 9 reduction, topsoiling, planting, revegetating, and a
 10 reclamation plan for the area affected by the operation,
 11 which proposals shall meet the requirements of this act and
 12 rules adopted under this act.

13 ~~(5)~~--(6) An application fee of fifty dollars (\$50)
 14 shall be paid before the permit required in this section
 15 shall be issued. The operator shall file with the department
 16 a bond payable to the state of Montana with surety
 17 satisfactory to the department in the penal sum to be
 18 determined by the board (on the recommendation of the
 19 commissioner) of not less than two hundred dollars (\$200)
 20 nor more than twenty-five hundred dollars (\$2,500) for each
 21 acre or fraction thereof of the area of land affected, with
 22 a minimum bond of two thousand dollars (\$2,000), conditioned
 23 upon the faithful performance of the requirements set forth
 24 in this act and of the rules of the board. In determining
 25 the amount of the bond within the above limits, the board

1 shall take into consideration the character and nature of
 2 the overburden, the future suitable use of the land involved
 3 and the cost of backfilling, grading, highwall reduction,
 4 topsoiling, and reclamation to be required; but in no event
 5 shall the bond be less than the total estimated cost to the
 6 state of completing the work described in the reclamation
 7 plan."

8 Section 2. Section 50-1042, R.C.M. 1947, is amended to
 9 read as follows:

10 "50-1042. Refusal of permit -- grounds. (1) An
 11 application for a prospecting or strip mining permit shall
 12 not be approved by the department if there is found on the
 13 basis of the information set forth in the application, an
 14 on-site inspection, and an evaluation of the operation by
 15 the department that the requirements of the act or rules
 16 will not be observed or that the proposed method of
 17 operation, backfilling, grading, highwall reduction,
 18 topsoiling, revegetation, or reclamation of the affected
 19 area cannot be carried out consistent with the purpose of
 20 this act.

21 (2) The department shall not approve the application
 22 for prospecting or strip mining permit where the area of
 23 land described in the application includes land having
 24 special, exceptional, critical, or unique characteristics,
 25 or that mining or prospecting on that area would adversely

1 affect the use, enjoyment, or fundamental character of
 2 neighboring land having special, exceptional, critical, or
 3 unique characteristics. For the purposes of this act, land
 4 is defined as having such characteristics if it possesses
 5 special, exceptional, critical or unique:

6 (a) biological productivity, the loss of which would
 7 jeopardize certain species of wildlife or domestic stock; or

8 (b) ecological fragility, in the sense that the land,
 9 once adversely affected, could not return to its former
 10 ecological role in the reasonable foreseeable future; or

11 (c) ecological importance, in the sense that the
 12 particular land has such a strong influence on the total
 13 ecosystem of which it is a part that even temporary effects
 14 felt by it could precipitate a system-wide reaction of
 15 unpredictable scope or dimensions; or

16 (d) scenic, historic, archeologic, topographic,
 17 geologic, ethnologic, scientific, cultural, or recreational
 18 significance. In applying this subsection, particular
 19 attention should be paid to the inadequate preservation
 20 previously accorded Plains Indian history and culture.

21 (3) If the department finds that the overburden on any
 22 part of the area of land described in the application for a
 23 prospecting or strip mining permit is such that experience
 24 in the state with a similar type of operation upon land with
 25 similar overburden shows that substantial deposition of

1 sediment in streambeds, landslides, or water pollution
2 cannot feasibly be prevented, the department shall delete
3 that part of the land described in the application upon
4 which the overburden exists.

5 (4) If the department finds that the operation will
6 constitute a hazard to a dwelling house, public building,
7 school, church, cemetery, commercial or institutional
8 building, public road, stream, lake, or other public
9 property, the department shall delete those areas from the
10 prospecting or strip mining permit application before it can
11 be approved.

12 (5) The department shall not approve any mining plan
13 unless it finds that the detailed proofs required by section
14 1039(4) of this title are fully satisfied after the
15 department conducts an independent and probing review of the
16 operator's mining application and its attendant costs and
17 benefits."

18 Section 3. Severability. If a part of this act is
19 invalid, all valid parts that are severable from the invalid
20 part remain in effect. If a part of this act is invalid in
21 one or more of its applications, the part remains in effect
22 in all valid applications that are severable from invalid
23 applications.

24 Section 4. Effective date. This act is effective on
25 passage and approval.

-End-