

1 HOUSE BILL NO. 40
 2 INTRODUCED BY KVAALEN

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
 5 CLARIFY THE LAWS RELATING TO MINERALS, OIL, AND GAS;
 6 AMENDING SECTIONS 50-202, 50-204, 50-205, 50-303, 50-304,
 7 50-305, 50-429, 50-476, 50-480.7, 50-714, 50-805, 50-1043,
 8 50-1203, 50-1209, 50-1404, 50-1503, 50-1504, 50-1505,
 9 50-1506, 50-1507, 50-1508, 50-1509, 50-1510, 50-1511,
 10 50-1512, 50-1513, 50-1514, 50-1515, 50-1516, 50-1516.1,
 11 50-1517, 60-227, 60-606, 69-3303, 69-3305, AND 73-115,
 12 R.C.M. 1947."

13
 14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 Section 1. Section 50-202, R.C.M. 1947, is amended to
 16 read as follows:

17 "50-202. Samples of fifty pounds per ton to be
 18 retained until settlement. ~~Every such~~ a person, association,
 19 or corporation which ~~shall buy~~ buys any ores upon ~~any an~~
 20 agreement to pay for ~~the same~~ them in amount dependent upon
 21 ~~the their~~ their metallic contents ~~of the same,~~ or ~~smelt~~ smelts any
 22 ore, shall retain from the pulp or crushed ore, as the same
 23 is sampled, ~~an amount~~ a quantity of not less than 50 pounds
 24 out of each ton of ore, which quantity shall be selected
 25 regularly and at equal intervals from any lot of ore so

1 ~~brought bought~~ or to be smelted, ~~a quantity not less than~~
 2 ~~fifty pounds out of each ton of such ore,~~ and shall keep the
 3 ~~same~~ this quantity separate ~~and apart~~ from any other ores or
 4 pulp for a period of ~~thirty~~ 30 days, or until full
 5 settlement is made and accepted by the shipper, ~~and until~~
 6 ~~such~~ until full settlement is made and accepted, the ore
 7 shipper, his agents, or representatives, ~~shall be entitled~~
 8 ~~to~~ may take from the quantity so retained any part thereof
 9 for the purpose of sampling or assaying ~~the same~~ that part;
 10 ~~provided, that however,~~ the value of any part so taken by
 11 ~~such~~ the owner or shipper may be deducted from the total
 12 value of the ore delivered by him."

13 Section 2. Section 50-204, R.C.M. 1947, is amended to
 14 read as follows:

15 "50-204. Umpire assayers — appointment,
 16 qualifications, and duties. ~~Any~~ A person, association, or
 17 corporation engaged in the sampling of ores with intent to
 18 purchase or smelt ~~the same~~ them, whether for themselves or
 19 as the agent or agents for other purchasers, shall, ~~on or~~
 20 ~~before the tenth day of April, 1909,~~ choose an assayer ~~or~~
 21 ~~assayers~~ who, ~~for at least one year prior to the passage of~~
 22 ~~this act,~~ shall ~~have~~ has operated an assay office or
 23 chemical laboratory within this state, ~~and to such selected~~
 24 ~~assayer or assayers~~ for at least 1 year. ~~The person,~~
 25 ~~association, or corporation~~ shall ~~be submitted~~ submit to the

1 ~~selected assayer~~ all samples of ore, ~~sampled by such person,~~
 2 ~~association, or corporation,~~ over which there is a dispute
 3 as to metallic contents or value between the buyer or
 4 sampler and the seller of ~~such the~~ ore. ~~Said The~~ chosen
 5 assayer ~~or assayers~~ shall be known as the umpire ~~or umpires~~
 6 for ~~such the~~ person, association, or corporation."

7 Section 3. Section 50-205, R.C.M. 1947, is amended to
 8 read as follows:

9 "50-205. Notice of selection. Upon the selection of
 10 ~~such assayer or assayers~~ the umpire, who shall be actively
 11 engaged in the assaying business in this state, ~~every the~~
 12 person, association, or corporation selecting ~~the same him~~
 13 shall, within ~~ten~~ 10 days after ~~such choice the selection~~ is
 14 made, post a notice of ~~such choice, in which shall appear~~
 15 ~~the name of the assayer or assayers so selected, the~~
 16 selection in a conspicuous place ~~with within~~ and without the
 17 room or house where the sampling of ores is carried on by
 18 ~~such the~~ person, association, or corporation."

19 Section 4. Section 50-303, R.C.M. 1947, is amended to
 20 read as follows:

21 "50-303. Purchasers Statement by purchasers of ore
 22 from leased mines ~~to furnish statement. All persons~~ A person
 23 or ~~corporations~~ corporation buying or treating ores from
 24 leased mines or mining claims, shall furnish ~~both to the~~
 25 lessor and the lessee, or lessors and lessees, of ~~such the~~

1 mines or mining claims, a true and correct copy of the
 2 statement of returns of ores from ~~such the~~ sale or
 3 shipment, ~~such The~~ statement ~~to shall~~ show both the gross
 4 and net proceeds derived from ~~such the~~ sale or shipment of
 5 ores. Upon shipment of ~~any such the~~ ores from leased
 6 premises, either for sale or treatment, the shipper shall
 7 furnish to any sampling works or smelter buying or treating
 8 ~~same them~~ the name, or names, and post-office ~~address~~
 9 addresses of the lessor ~~or lessors,~~ and the lessee ~~or~~
 10 lessees, interested in ~~such that~~ shipment of ores, and
 11 within ~~seven~~ 7 days after receipt of ~~such the~~ statement from
 12 ~~such the~~ sampling works or smelter, the ~~said~~ shipper shall
 13 make settlement with ~~such the~~ lessor ~~or lessors;~~ and the
 14 lessee ~~or lessees,~~ for ~~such the~~ shipment or sale of ores,
 15 based upon ~~such said the~~ statement received by the parties
 16 from ~~such the~~ sampling works or smelter."

17 Section 5. Section 50-304, R.C.M. 1947, is amended to
 18 read as follows:

19 "50-304. ~~Sampling works and smelters to mail~~ Copy of
 20 statement to lessee. ~~That all sampling~~ Sampling works and
 21 smelters within this state shall mail a duplicate copy of
 22 any statement showing the gross and net proceeds of all ores
 23 bought from or treated ~~free for~~ for lessors of mines, to the
 24 lessee ~~or lessees~~ of the mine or mining claim from which the
 25 ~~same shall have been~~ ores were extracted at the same time

1 ~~such~~ the statement is furnished to the lessor of ~~said~~ the
2 mine or mining claim or shipper of ~~such~~ the ore."

3 Section 6. Section 50-305, R.C.M. 1947, is amended to
4 read as follows:

5 "50-305. Shipper — penalty for violation. ~~Any~~ A
6 person or corporation who, as ~~such~~ the shipper, ~~shall~~
7 ~~violate the provisions of section~~ violates 50-303 ~~shall be~~
8 ~~as amended,~~ is liable to the lessor ~~or lessors,~~ and the
9 lessee ~~or lessees,~~ for ~~ten per cent~~ 10% of the net returns
10 from ~~such~~ the shipment, or sale, of ores referred to in ~~said~~
11 ~~that~~ section, in addition to the value of the interest of
12 the lessor ~~or lessors,~~ and the lessee ~~or lessees~~ in ~~said~~ the
13 shipment, ~~the same to~~ This amount may be recovered in an
14 action in any court of competent jurisdiction."

15 Section 7. Section 50-429, R.C.M. 1947, is amended to
16 read as follows:

17 "50-429. Underground survey. For the underground
18 working, the map shall show all power distribution and
19 ventilation in ~~maps~~ mines and all shafts, slopes, tunnels,
20 or other openings to the surface or to the workings of a
21 contiguous mine; all excavations, entries, rooms, and
22 crosscuts; the rise or dip of the seam from the bottom of
23 the shaft, mouth of drift, or slope in either direction to
24 the face of the workings; the location of the fan; the
25 location of the permanent pumps, hauling engines,

1 engine-planes, and ~~fire-walls~~ fire walls; the location of
2 any standing water which might prove a menace to life or
3 danger to property from flood; and the line of any
4 contiguous surface outcrop of the seam."

5 Section 8. Section 50-476, R.C.M. 1947, is amended to
6 read as follows:

7 "50-476. ~~Duties of other employees~~ Safety regulations
8 ~~— mine examiners.~~ (1) A person may not enter a mine which
9 is generating firedamp ~~so as in great enough quantities~~ to
10 be detected by a safety lamp until the mine examiners make a
11 report to the division.

12 (2) A person, unless accompanied by the mine examiner,
13 may not go beyond a danger signal until all standing gas
14 discovered has been removed or diluted and rendered harmless
15 by a current of air. A person, ~~being~~ ordered to withdraw by
16 the mine foreman or mine examiner from the mine on account
17 of the interruption of the ventilation, may not ~~re-enter~~
18 reenter the mine until given permission to do so by the mine
19 foreman.

20 (3) A person other than the mine examiner may not
21 remove any caution board or danger signal placed at the
22 entrance to any working place, or at the entrance to any old
23 workings in a mine.

24 (4) A person may not erase or change a mark of
25 reference or monument made in connection with a measurement;

1 change marks or dates ~~ex on~~ any caution board, or erase or
2 change the dates at room or entry face, when made by the
3 mine examiner, or take for his use a life check not issued
4 to him under rules adopted by the division, or change the
5 checks on cars, wrongfully check a car, or do any act with
6 intent to defraud.

7 (5) A person may not take anything containing fire,
8 except as provided for in rules adopted by the division,
9 into an underground mine.

10 (5)-(6) A person may not place refuse in or obstruct an
11 airway or breakthrough used as an airway. A worker or other
12 person may not damage or alter a water gauge, barometer,
13 air-course, brattice equipment, machinery, or livestock,
14 obstruct or throw open any airway, handle or disturb any
15 part of the machinery of the hoisting engine of a mine, open
16 a door of a mine and neglect to close it, endanger the
17 miners or those working therein, disobey an order given in
18 pursuance of law, or do a willful act endangering the lives
19 or health of persons working there or the security of a mine
20 or machinery."

21 Section 9. Section 50-480.7, R.C.M. 1947, is amended
22 to read as follows:

23 "50-480.7. ~~Order no violation abatement~~ Review of
24 order. An operator notified of an order made under section
25 50-480.2 50-480.3, as amended, may apply to the division for

1 a hearing or revision of the order. If the division finds
2 that there was no violation, it shall make an order
3 rescinding the order under review. If the division finds
4 that there was a violation, but the violation has since been
5 abated, it shall make an order rescinding the order under
6 review. If the division finds that the violation was not
7 totally abated, it shall make an order consistent with its
8 findings."

9 Section 10. Section 50-714, R.C.M. 1947, is amended to
10 read as follows:

11 "50-714. Effect of patent. The issuance of a United
12 States patent for a mining claim ~~shall be deemed is~~
13 considered conclusive evidence that the requirements of the
14 laws of this state, relative to the location and record of
15 such mining claim, have been duly complied with, ~~provided,~~
16 ~~however, that where~~ However, if questions of priority are
17 involved, the date of the location shall be an issuable fact
18 ~~where~~ when it is claimed to have been prior to the date of
19 the record of the location."

20 Section 11. Section 50-805, R.C.M. 1947, is amended to
21 read as follows:

22 "50-805. ~~Commissioners to be appointed~~ Court order and
23 appointment of commissioners. Upon the return of the
24 summons, or upon any day to which the hearing is adjourned,
25 the defendants may ~~deny or~~ answer, and issue must be

1 joined, and the judge must hear the allegations and proofs
 2 of the respective parties, ~~and if, if~~, upon such hearing, ~~he~~
 3 the judge is satisfied that the claims of the plaintiff can
 4 ~~only~~ be worked conveniently ~~worked only~~ by means of the
 5 privilege asked for, he must make an order adjudging and
 6 awarding to the plaintiff such ~~right-of-way~~, right-of-way
 7 and must appoint three commissioners, who are disinterested
 8 persons and residents of the county, to assess the damages
 9 to the lands or claims affected by such order."

10 Section 12. Section 50-1043, R.C.M. 1947, is amended
 11 to read as follows:

12 "50-1043. ~~Reclamation operations submission~~
 13 Submission and action on reclamation plan. (1) As rapidly,
 14 completely, and effectively as the most modern technology
 15 and the most advanced state of the art will allow, each
 16 operator granted a permit under this act, shall reclaim and
 17 revegetate the land affected by his operation, except that
 18 underground tunnels, shafts, or other subsurface excavations
 19 need not be revegetated. Under the provisions of this act
 20 and rules adopted by the board, an operator shall prepare
 21 and carry out a method of operation, plan of grading,
 22 backfilling, highwall reduction, subsidence stabilization,
 23 water control, topsoiling, and a reclamation plan for the
 24 area of land affected by his operation. In developing a
 25 method of operation, and plans of backfilling, subsidence

1 stabilization, water control, grading, highwall reduction,
 2 topsoiling, and reclamation, all measures shall be taken to
 3 eliminate damages to landowners and members of the public,
 4 their real and personal property, public roads, streams, and
 5 all other public property from soil erosion, subsidence,
 6 landslides, water pollution, and hazards dangerous to life
 7 and property.

8 (2) The reclamation plan shall set forth in detail the
 9 manner in which the applicant intends to comply with this
 10 section and ~~sections~~ 50-1044, 50-1045, and 50-1046, as
 11 amended. The plan shall be submitted to the department, and
 12 the department shall notify the applicant by certified or
 13 registered mail within ~~one hundred twenty (120)~~ days after
 14 receipt of the plan and complete application if it is or is
 15 not acceptable. The department may extend the ~~one hundred~~
 16 ~~twenty (120)~~ days an additional ~~one hundred twenty (120)~~
 17 days upon notification of the operator in writing. If the
 18 plan is not acceptable, the department shall set forth the
 19 reasons why the plan is not acceptable, and it may propose
 20 modifications, delete areas, or reject the entire plan. A
 21 ~~land owner landowner~~, operator, or any person aggrieved by
 22 the decision of the department may, by written notice,
 23 request a hearing by the board. The board shall notify the
 24 person by certified or registered mail within ~~twenty (20)~~
 25 days after the hearing of its decision. Every reclamation

1 plan shall be subject to annual review and modification.

2 ~~(2)~~ (3) In addition to the method of operation,

3 grading, backfilling, subsidence stabilization, water

4 control, highwall reduction, topsoiling, and reclamation

5 requirements of this act and rules adopted under this act,

6 the operator, consistent with the directives of subsection

7 (1) of this section shall:

8 (a) bury under adequate fill all toxic materials,

9 shale, mineral, or any other material determined by the

10 department to be acid producing, toxic, undesirable, or

11 creating a hazard;

12 (b) as directed by rules seal off, ~~as directed by~~

13 ~~rules,~~ tunnels, shafts, or other openings or any

14 breakthrough of water creating a hazard;

15 (c) impound, drain, or treat all runoff or underground

16 mine waters so as to reduce soil erosion, damage to grazing

17 and agricultural lands, and pollution of surface and

18 subsurface waters;

19 (d) remove or bury all metal, lumber, and other refuse

20 resulting from the operation;

21 (e) use explosives in connection with the operation

22 only in accordance with department regulations designed to

23 minimize noise, damage to adjacent lands, and water

24 pollution, and ensure public safety, and for other purposes;

25 (f) adopt measures to prevent land subsidence unless

1 the board approves a plan for inducing subsidence into an

2 abandoned operation in a predictable and controlled manner

3 with measures for grading, topsoiling, and revegetating the

4 subsided land surface. In order for a controlled subsidence

5 plan to be approved, the applicant must show that subsidence

6 will not cause a direct or indirect hazard to any public or

7 private buildings, roads, facilities, or use areas, constitute a hazard to human life or health, constitute a

8 hazard to domestic livestock or to a viable agricultural

9 operation, or violate any other restrictions the board may

10 consider necessary.

11 (g) stockpile and protect from erosion all mining and

12 processing wastes until ~~such~~ these wastes can be disposed of

13 according to the provisions of this act;

14 (h) deposit as much stockpiled waste material as

15 possible back into the mine voids upon abandonment in such

16 manner as to prevent or minimize land subsidence. The

17 remaining waste material shall be disposed of as provided by

18 this act and the rules of the board.

19 (i) seal all portals, entryways, drifts, shafts, or

20 other openings between the surface and underground mine

21 workings upon abandonment.

22 ~~(3)~~ (4) An operator may not throw, dump, pile, or

23 permit the dumping, piling, or throwing or otherwise placing

24 any overburden, stones, rocks, mineral, earth, soil, dirt,

25

1 debris, trees, wood, logs, or any other materials or
 2 substances of any kind or nature beyond or outside of the
 3 area of land which is under permit and for which a bond has
 4 been posted under ~~section~~ 50-1039, as amended, or place the
 5 materials described in this section in such a way that
 6 normal erosion or slides brought about by natural physical
 7 causes will permit the materials to go beyond or outside of
 8 ~~the~~ that area of land ~~which is under permit and for which a~~
 9 ~~bond has been posted under section 50-1039."~~

10 Section 13. Section 50-1203, R.C.M. 1947, is amended
 11 to read as follows:

12 "50-1203. Definitions. As used in this act, unless the
 13 context indicates otherwise, the following definitions
 14 apply:

15 (1) "Surface mining" ~~shall mean~~ means and ~~include~~
 16 includes all or any part of the process involved in mining
 17 of minerals by removing the overburden and mining directly
 18 from the mineral deposits thereby exposed, including, but
 19 not limited to, open-pit mining of minerals naturally
 20 exposed at the surface of the earth, mining by the auger
 21 method, and ~~any and~~ all similar methods by which earth or
 22 minerals exposed at the surface are removed in the course of
 23 mining. Surface mining ~~shall~~ does not include the extraction
 24 of oil, gas, bentonite, clay, coal, sand, gravel, phosphate
 25 rock, or uranium ~~or~~ or excavation or grading conducted for

1 on-site farming, on-site road construction, or other on-site
 2 building construction.

3 (2) "Unit of ~~surface-mined~~ surface-mined area" ~~shall~~
 4 ~~mean~~ means and ~~include~~ includes that area of land and
 5 surface water included within an operating permit actually
 6 disturbed by surface mining during each ~~twelve-month~~
 7 12-month period of time, beginning at the date of the
 8 issuance of the permit, and ~~shall comprise~~ it comprises and
 9 ~~include~~ includes the area from which overburden ~~and/or~~
 10 minerals have been removed, the area covered by mining
 11 debris, and all additional areas used in surface mining or
 12 underground mining operations which, by virtue of such use,
 13 are thereafter susceptible to erosion in excess of the
 14 surrounding undisturbed portions of land.

15 (3) "Disturbed land" ~~shall mean~~ means and ~~include~~
 16 includes that area of land or surface water disturbed,
 17 beginning at the date of the issuance of the permit, and
 18 ~~shall comprise~~ it comprises that area from which the
 19 overburden, ~~and/or~~ minerals have been removed, and tailings
 20 ponds, waste dumps, roads, conveyor systems, leach dumps,
 21 and all similar excavations or covering resulting from ~~said~~
 22 the operation and which ~~has~~ have not been previously
 23 reclaimed under the reclamation plan.

24 (4) "Abandonment of surface or underground mining" may
 25 be presumed when it is shown that continued operation will

1 not resume.

2 (5) "Underground mining" ~~shall mean means~~ and ~~include~~
3 includes all methods of mining other than surface mining.

4 (6) "Person" ~~shall mean means~~ and ~~include~~ includes any
5 person, corporation, firm, association, partnership, or
6 other legal entity engaged in exploration for or development
7 or mining of minerals on or below the surface of the earth.

8 (7) "Mineral" ~~shall mean means~~ and ~~include~~ includes
9 any ore, rock, or substance, other than oil, gas, bentonite,
10 clay, coal, sand, gravel, phosphate rock, or uranium, taken
11 from below the surface or from the surface of the earth for
12 the purpose of milling, concentration, refinement, smelting,
13 manufacturing, or other subsequent use or processing or for
14 stockpiling for future ~~usage use~~, refinement, or smelting.

15 (8) "Exploration" ~~shall mean means~~ and ~~include~~
16 includes all activities conducted on or beneath the surface
17 of lands resulting in material disturbance of the surface
18 for the purpose of determining the presence, location,
19 extent, depth, grade, and economic viability of
20 mineralization in those lands, if any, other than mining for
21 production and economic exploitation, as well as all roads
22 made for the purpose of facilitating exploration, except as
23 noted in ~~section 20~~ [50-1220] and ~~section 24~~ [50-1224]
24 herein.

25 (9) "Development" ~~shall mean means~~ and ~~include~~

1 includes all operations between exploration and mining.

2 (10) "Mining" ~~shall be deemed to have commenced~~
3 commences at such time as the operator ~~shall~~ first ~~mine~~
4 mines ores or minerals in commercial quantities for sale,
5 beneficiation, refining, or other processing or disposition
6 or ~~shall~~ first ~~take~~ takes bulk samples for metallurgical
7 testing in excess of aggregate of ~~ten thousand~~ {10,000}
8 short tons.

9 (11) "Reclamation plan" ~~shall mean means~~ and ~~include~~
10 includes the operator's written proposal, as required and
11 approved by the board, for reclamation of the land that will
12 be disturbed, which proposal shall include, to the extent
13 practical at the time of application for a developing or
14 operating permit:

15 (a) a statement of the proposed subsequent use of the
16 land after reclamation;

17 (b) ~~Plans~~ plans for surface gradient restoration to a
18 surface suitable for the proposed subsequent use of the land
19 after reclamation is completed, and the proposed method of
20 accomplishment;

21 (c) ~~Manner~~ the manner and type of revegetation or
22 other surface treatment of disturbed areas;

23 (d) ~~Procedures~~ procedures proposed to avoid
24 foreseeable situations of public nuisance, endangerment of
25 public safety, damage to human life or property, or

1 unnecessary damage to flora and fauna in or adjacent to the
2 area;

3 (e) ~~Method~~ the method of disposal of mining debris;

4 (f) ~~Method~~ the method of diverting surface waters
5 around the disturbed areas where necessary to prevent
6 pollution of ~~such those~~ waters or unnecessary erosion;

7 (g) ~~Method~~ the method of reclamation of stream
8 channels and stream banks to control erosion, siltation, and
9 pollution;

10 (h) ~~Such such~~ maps and other supporting documents as
11 may be reasonably required by the department; and

12 (i) ~~A~~ a time schedule for reclamation that meets the
13 requirements of ~~section 9 [50-1209] of this act.~~

14 (12) "Vegetative cover" ~~as used in this act shall mean~~
15 means the type of vegetation, grass, shrubs, trees, or any
16 other form of natural cover ~~deemed~~ considered suitable at
17 time of reclamation.

18 (13) "Board" ~~shall mean~~ means the board of land
19 commissioners, or such state employee or state agency as may
20 succeed to its powers and duties under this act.

21 (14) "Department" ~~shall mean~~ means the department of
22 state lands.

23 (15) "Small miner" ~~shall mean any~~ means a person, firm,
24 or corporation engaged in the business of mining who does
25 not remove from the earth during any ~~twenty-four (24)~~

1 24-hour period material in excess of ~~one hundred (100)~~ tons
2 in the aggregate."

3 Section 14. Section 50-1209, R.C.M. 1947, is amended
4 to read as follows:

5 "50-1209. Reclamation plan ~~accomplishment of specific~~
6 activities and specific reclamation requirements. ~~(a) (1)~~ The
7 reclamation plan shall provide that reclamation activities,
8 particularly those relating to control of erosion, ~~shall~~ to
9 the extent feasible, shall be conducted simultaneously with
10 mining and in any case shall be initiated promptly after
11 completion or abandonment of mining on those portions of the
12 mine complex that will not be subject to further disturbance
13 by the mining operation. In the absence of an order by the
14 board providing a longer period, the plan shall provide that
15 reclamation activities shall be completed not more than ~~two~~
16 ~~(2)~~ years after completion or abandonment of mining on ~~said~~
17 that portion of mine complex.

18 ~~(b) (2)~~ In the absence of emergency or suddenly
19 threatened or existing catastrophe, an operator may not
20 depart from an approved plan without ~~having~~ previously
21 ~~obtained~~ obtaining from the department written approval of
22 his proposed change.

23 ~~(c) (3)~~ Provision shall be made to avoid accumulation
24 of stagnant water in the mined area which may serve as a
25 host or breeding ground for mosquitoes or other

1 disease-bearing or noxious insect life.

2 ~~(4)~~(4) All final grading shall be made with
3 nonnoxious, nonflammable, noncombustible solids unless
4 approval has been granted by the board for a supervised
5 sanitary fill.

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

13 ~~(4)~~(a) ~~Insulation~~ insulation of all faces from
14 moisture ~~of~~ or water contact by covering to a depth of ~~two~~
15 ~~(2)~~ feet or more with material or fill not susceptible
16 itself to generation of ~~such~~ objectionable effluents; ~~or~~

17 ~~(2)~~(b) ~~Processing~~ processing of any ~~such~~ objectionable
18 effluents in the pit before their being allowed to flow or
19 be pumped out of it to reduce toxic or other objectionable
20 ratios to a level ~~deemed~~ considered safe to humans and the
21 environment by the board; ~~or~~

22 ~~(2)~~(c) Drainage ~~drainage~~ of any ~~such~~ objectionable
23 effluents to settling or treatment basins when the
24 objectionable effluents ~~must~~ be reduced to levels ~~deemed~~
25 considered safe by the board before release from the

1 settling basin; or

2 ~~(4)~~(d) ~~Absorption~~ ~~and~~ absorption or evaporation of
3 objectionable effluents in the open pit itself; and

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

8 ~~(4)~~(6) Vegetative Provisions for vegetative cover ~~will~~
9 shall be required in the reclamation plan if appropriate to
10 the future use of the land as specified in the reclamation
11 plan.

12 ~~(5)~~(7) The reclamation plan shall provide for the
13 reclamation of all disturbed land. Proposed reclamation need
14 not reclaim the areas to a better condition or different use
15 than that which existed prior to development or mining.

16 ~~(4)~~(8) A reclamation plan ~~will~~ shall be approved by
17 the board if it adequately provides for the accomplishment
18 of the activities ~~heretofore~~ specified in this section."

19 Section 15. Section 50-1404, R.C.M. 1947, is amended
20 to read as follows:

21 "50-1404. Approved strip-mining plan required ~~for~~
22 ~~strip-mining period for which~~ effective period. (1) No
23 operator may engage in strip mining without ~~having~~ first
24 ~~obtained~~ obtaining approval of a ~~strip-mining~~ strip-mining
25 plan from the department as provided for in ~~section~~ 5

1 ~~[50-1405], as amended.~~

2 (2) Approved ~~strip mining~~ strip-mining plans shall be
3 effective for ~~two (2) years from the date of commencing the~~
4 ~~operation or one (1) year from the date the plan is~~
5 approved, ~~whichever occurs first.~~"

6 Section 16. Section 50-1503, R.C.M. 1947, is amended
7 to read as follows:

8 "50-1503. Contracts for reclamation ~~of open-cut mining~~
9 ~~land enforcement of contracts.~~ The state board of ~~land~~
10 ~~commissioners~~ is hereby authorized to enter into contracts
11 with operators in the name of the state of Montana ~~with~~
12 ~~operators~~ which will provide for the reclamation of lands on
13 which open-cut opencut mining of bentonite, clay, scoria,
14 phosphate rock, sand, and gravel has been or is to be
15 conducted. The ~~state board of land commissioners~~ is
16 authorized to sue and be sued in the name of the state of
17 Montana to enforce the provisions of any contract, and ~~said~~
18 the board shall bring such court actions and take such other
19 steps and actions as may be necessary to enforce the
20 provisions of such contracts."

21 Section 17. Section 50-1504, R.C.M. 1947, is amended
22 to read as follows:

23 "50-1504. Definitions.

24
25 When used in this act, unless a different meaning clearly

1 appears from the context, the following definitions apply:

2 (1) "Contract" means a mined land reclamation contract
3 prepared by the ~~commission board~~ to meet the requirements of
4 this act.

5 (2) "~~Open-cut~~ Opencut mining" means the mining of
6 bentonite, clay, scoria, phosphate rock, sand, or gravel by
7 removing the overburden lying upon natural deposits thereof,
8 and mining directly from the natural deposits thereby
9 exposed, including the removal of overburden for the purpose
10 of determining the location, quality, or quantity of any
11 natural deposit of bentonite, clay, scoria, phosphate rock,
12 sand, or gravel.

13 (3) "Reclamation" means the reconditioning of the area
14 of land affected by ~~open-cut mining~~ opencut-mining
15 operations to make the area suitable for productive use,
16 including but not limited to, forestry, agriculture,
17 grazing, wildlife, recreation, or residential and industrial
18 sites.

19 (4) "Overburden" means all of the earth and other
20 materials which lie above a natural deposit of bentonite,
21 clay, scoria, phosphate rock, sand, or gravel. "Spoil" is
22 the overburden disturbed from its natural state in the
23 process of ~~open-cut~~ opencut mining.

24 (5) "Operator" means ~~any~~ a person engaged in and
25 controlling an ~~open-cut mining~~ opencut-mining operation.

1 (6) "Affected land" means the area of land from which
2 overburden is to be or has been removed and upon which the
3 overburden is to be or has been deposited.

4 (7) "~~Commission Board~~" means the state board of land
5 commissioners.

6 (8) "Person" means ~~any a~~ natural person, or ~~any a~~
7 firm, association, partnership, cooperative, or corporation
8 or any department, agency, or instrumentality of the state
9 or any governmental subdivision, or any other entity
10 ~~whatsoever whatever~~.

11 (9) "Landowner" means the owner of land directly or
12 indirectly affected by an ~~open-cut mining~~ opencut-mining
13 operation.

14 (10) "Public notice" means notice given by publication
15 in a newspaper in the general area where the affected land
16 is located. ~~Such~~ The notice shall be given once a week for
17 ~~three-{3}~~ successive weeks.

18 (11) "Soils materials" are those horizons containing
19 topsoil or other soils leached free of deleterious salts and
20 capable of sustaining plant growth and recognized as such by
21 standard authorities.

22 (12) "Refuse" means all waste material directly
23 connected with the ~~open-cut mining~~ opencut-mining
24 operations.

25 (13) "Final cut" means the last pit created in an ~~open~~

1 ~~cut-mined~~ opencut-mined area.

2 (14) "~~High-wall~~ Highwall" means that side of the pit
3 adjacent to unmined land.

4 (15) "Reclamation plan" means the description of
5 current land use, topographical data, water data, soils
6 data, leased areas, intended mine areas, and ~~description of~~
7 an explanation of proposed reclamation of the land with
8 appropriate maps.

9 (16) "Progress report" means a report showing the land
10 which the operator has affected by ~~open-cut~~ opencut mining
11 during the year. ~~Such~~ The report shall show the number of
12 acres of affected land and all reclamation accomplished."

13 Section 18. Section 50-1505, R.C.M. 1947, is amended
14 to read as follows:

15 "50-1505. Administration ~~of act~~ — delegation of
16 functions. The ~~commission board~~ is the administrator of this
17 act and it has all the power necessary to implement and
18 enforce it. The ~~commission board~~ may delegate to the
19 commissioner of state lands such powers, duties, and
20 functions under this act as it ~~deems~~ considers necessary for
21 the performance of its duties."

22 Section 19. Section 50-1506, R.C.M. 1947, is amended
23 to read as follows:

24 "50-1506. Powers, duties, and functions of ~~commission~~
25 board. The ~~commission board~~ has the following powers,

1 duties, and functions to:

2 (1) ~~to~~ enter into contracts where it is found on the
3 basis of the information set forth in the application and an
4 evaluation of the operation by the ~~commission~~ board that the
5 requirements of the act or rules will be observed and that
6 the operation and the reclamation of the affected area can
7 be carried out ~~consistent~~ consistently with the purpose of
8 the act;

9 (2) ~~to~~ prepare and adopt rules ~~and regulations~~
10 pertaining to ~~open-cut~~ opencut mining to accomplish the
11 purposes of this act;

12 (3) ~~to~~ conduct hearings and, for the purposes of
13 conducting such hearings, ~~to~~ administer oaths and
14 affirmations, ~~to~~ subpoena witnesses, ~~to~~ compel attendance of
15 witnesses, ~~to~~ hear evidence, and ~~to~~ require the production
16 of any books, papers, correspondence, memoranda, agreements,
17 documents, or other records relevant or material to the
18 inquiry;

19 (4) ~~to~~ adopt uniform procedures for the filing of
20 necessary records, the issuance of contracts, and for any
21 other matters of administration not specifically enumerated
22 in this act;

23 (5) ~~to~~ reclaim any affected land with respect to which
24 a bond has been forfeited; and

25 (6) ~~to~~ make investigations or inspections which ~~may be~~

1 ~~deemed~~ are considered necessary to insure compliance with
2 any ~~provisions~~ provision of this act."

3 Section 20. Section 50-1507, R.C.M. 1947, is amended
4 to read as follows:

5 "50-1507. Contract for reclamation required ~~for large~~
6 ~~open-cut operations. From and after~~ After the effective date
7 ~~of this act March 16, 1973,~~ no operator shall may conduct
8 ~~open-cut mining~~ opencut-mining operations which shall will
9 result in the removal of ~~ten-thousand (10,000)~~ cubic yards,
10 or more, of product or overburden, until he has entered into
11 a contract with the ~~commission~~ board for the reclamation of
12 the land affected. ~~Any~~ An operator conducting a number of
13 operations, each of which result in the removal of less than
14 ~~ten-thousand (10,000)~~ cubic yards of product or overburden
15 but which result in the removal of ~~ten-thousand (10,000)~~
16 cubic yards, or more, of product or overburden in the
17 aggregate ~~shall be~~ is subject to the provisions of this
18 act."

19 Section 21. Section 50-1508, R.C.M. 1947, is amended
20 to read as follows:

21 "50-1508. Application for contract — contents —
22 issuance of contract — amendment — ~~withdrawal of land.~~ (1)
23 Applications for a contract shall be made upon a form
24 furnished by the ~~commission~~ board, which form ~~contains~~ shall
25 contain the following:

1 ~~(1)~~ (a) the name of the operator and, if other than the
2 owner of the land, the name and address of the owner;

3 ~~(2)~~ (b) the type of operation to be conducted;

4 ~~(3)~~ (c) the volume of earth to be removed, as
5 accurately as the ~~same volume~~ may then be estimated, and the
6 volume which has been previously removed, if any;

7 ~~(4)~~ (d) the location of the operation by legal
8 subdivision, section, township and range, and county;

9 ~~(5)~~ (e) the date when ~~such the~~ operation was or will be
10 commenced; and

11 ~~(f) the operator must submit a plan of his operation
12 and the method and manner of reclamation that will be used
13 or followed. If the operator, prior to applying for a
14 contract, notifies the commission of his intention to submit
15 a plan, and requests the commission to examine the area to
16 be mined, the commission shall cause the area to be examined
17 and make recommendations to the operator regarding
18 reclamation;~~

19 ~~(7)~~ (f) a statement that the applicant has the right
20 and power by legal estate owned to mine by ~~open cut~~ opencut
21 mining the lands so described;

22 ~~(8)~~ (2) ~~the~~ The application shall be accompanied by:

23 (a) a bond or security meeting the requirements as set
24 out in this act, ~~and~~;

25 (b) a fee of ~~fifty dollars~~ ~~(\$50)~~; and

1 (c) the operator's plan of his operation and the
2 method and manner of reclamation that will be used or
3 followed.

4 (3) If, prior to applying for a contract, the operator
5 notifies the board of his intention to submit a plan and
6 requests the board to examine the area to be mined, the
7 board shall cause the area to be examined and make
8 recommendations to the operator regarding reclamation.

9 (4) Upon receipt of such the application, bond or
10 security, and fee due from the operator, and upon agreement
11 to the terms of the contract by the parties, the ~~commission~~
12 board may issue a contract to the applicant which shall
13 entitle entitles him thereafter to continue in or engage in
14 ~~open cut~~ opencut mining ~~or on the~~ land therein described;

15 ~~(9)~~ (5) an an operator desiring to have his contract
16 amended to cover additional contiguous or nearby land may
17 file an amended application with the ~~commission~~ board. Upon
18 receipt of the amended application, and such additional bond
19 as may be required, and upon agreement to the terms of the
20 amendment by the parties, the ~~commission~~ board may issue an
21 amendment to the original contract covering the additional
22 land described in the amended application, without the
23 payment of any additional fee;

24 ~~(10)~~ (6) an an operator may withdraw any land covered
25 by contract, except affected land, by notifying the

1 ~~commission board~~ thereof, in which case the penalty of the
2 bond or security filed by ~~such the~~ operator pursuant to the
3 provisions of this act shall be reduced proportionately."

4 Section 22. Section 50-1509, R.C.M. 1947, is amended
5 to read as follows:

6 "50-1509. ~~Terms of bond required deposit in lieu of~~
7 ~~bond substitution of bond forfeiture release Bond.~~ (1)
8 ~~Any A~~ bond required to be filed in this act by the operator
9 shall be in such form as the ~~commission prescribed board~~
10 ~~prescribes~~, payable to the state of Montana, and conditioned
11 upon the operator's full compliance with all requirements of
12 this act and all rules ~~and regulations~~ of the ~~commission~~
13 ~~board~~. ~~Such The~~ bond shall be signed by the landowner or
14 operator, as appropriate, as principal, and by a good and
15 sufficient corporate surety, licensed to do business in the
16 state of Montana, as surety. The penalty of ~~such the~~ bond
17 shall be in an amount not to exceed the costs of restoration
18 required by this act as determined by the ~~commission, board~~
19 but ~~shall may~~ not be less than ~~two hundred dollars (\$200)~~
20 ~~nor or~~ more than ~~one thousand dollars (\$1,000)~~ per acre.

21 (2) In lieu of ~~such the~~ bond, the operator ~~may~~ deposit
22 ~~with the board~~ cash and government securities or a bond with
23 property sureties ~~with the commission~~ in an amount equal to
24 that of the required bond on conditions as above prescribed.
25 In the discretion of the ~~commission board~~, surety bond

1 requirements may be fulfilled by the operator's posting a
2 bond with land and improvements and facilities thereon as
3 security, in which event no surety ~~shall may~~ be required.
4 The penalty of the bond or amount of cash and securities
5 shall be increased or reduced from time to time as provided
6 in this act. ~~Such The~~ bond or security ~~shall be and remain~~
7 ~~remains~~ in effect until the mined acreages have been
8 reclaimed, as provided under the contract, and ~~the~~
9 ~~reclamation has been~~ approved and ~~the bond or security has~~
10 ~~been~~ released by the ~~commission, board, and shall from time~~
11 ~~to time~~ ~~The bond or security shall~~ cover only actual mined
12 acreages and may be increased or reduced to cover only such
13 acreages as ~~remained remain~~ unreclaimed.

14 (3) If the license ~~to do business in the state~~ of ~~any~~
15 a surety upon a bond filed with the ~~commission board~~
16 pursuant to this act ~~shall be is~~ suspended or revoked, the
17 operator, within ~~thirty (30)~~ days after receiving notice
18 thereof from the ~~commission board~~, shall substitute for ~~such~~
19 ~~that~~ surety a good and sufficient surety licensed to do
20 business in the state. Upon failure of the operator to make
21 substitution of surety, the ~~commission shall have the right~~
22 ~~to board may~~ suspend the contract of the operator to conduct
23 operations upon the land described in ~~such the~~ contract
24 until ~~such the~~ substitution has been made.

25 (4) The ~~commission board~~ shall cause ~~to be reclaimed~~

1 the reclamation of any affected land with respect to which a
2 bond has been forfeited.

3 (5) Whenever an operator ~~shall have completed~~ has
4 completed all of the requirements under the provisions of
5 this act as to any affected land, he shall notify the
6 ~~commission board~~ thereof. If the ~~commission shall release~~
7 board releases the operator from further obligation
8 regarding such affected land, the penalty of the bond shall
9 be reduced proportionately."

10 Section 23. Section 50-1510, R.C.M. 1947, is amended
11 to read as follows:

12 "50-1510. Contract requirements performance bond
13 effective period of contract Reclamation plan part of
14 contract -- requirements. The contract shall meet the
15 following requirements:

16 (1) The operator shall submit a reclamation plan to
17 the ~~commission board~~ before commencing any ~~open-cut~~ opencut
18 mining, and may not commence mining before ~~it~~ the plan
19 receives approval from the ~~commission board~~. The operator
20 may request and receive a meeting with the ~~commission board~~
21 prior to submission of the plan. If the ~~commission board~~
22 does not notify the operator that it has approved or
23 disapproved a plan within ~~thirty~~ (30) days after the
24 ~~commission board~~ has received the plan, the ~~commission shall~~
25 be deemed board is considered to have approved the plan. The

1 ~~commission board~~, however, may for sufficient cause, may
2 extend its period of consideration for an additional ~~thirty~~
3 (30) days if it notifies the operator prior to the end of
4 the original ~~thirty~~ (30) day 30-day period. The ~~commission~~
5 board shall submit ~~all~~ each reclamation ~~plans~~ plan or
6 amendments to the reclamation plan to the landowner for his
7 recommendations and shall consider those recommendations in
8 deciding whether to approve or disapprove any plan or
9 amendments. The ~~commission board~~ may seek technical help
10 from any state or federal agency. The ~~commission must~~ board
11 shall submit the plan immediately to the director, of the
12 university of Montana statewide archaeological survey for
13 evaluation of possible archaeological or historical values
14 in the area to be mined. The ~~commission board~~ may approve a
15 reclamation plan only if the ~~commission board~~ has found that
16 the plan provides for the best possible reclamation
17 procedures available under the circumstances at the time, so
18 that after mining operations are completed the affected land
19 ~~shall~~ will be reclaimed to a productive use. Once the
20 reclamation plan ~~has been~~ is accepted in writing by the
21 ~~commission board~~, it shall become a part of the contract but
22 ~~shall be~~ is subject to annual review and modification by the
23 ~~commission board~~.

24 (2) The ~~commission board~~ may not approve any
25 reclamation plan unless the plan provides ~~that~~:

1 (a) that the land will be reclaimed for one or more
 2 specified uses, including but not limited to+ forest,
 3 pasture, orchard, cropland, residence, recreation, industry,
 4 habitat for wildlife, ~~(including food, cover, or water), for~~
 5 ~~wildlife~~ or other uses;

6 (b) that to the extent reasonable and practicable, the
 7 operator ~~shall will~~ establish vegetative cover commensurate
 8 with the proposed land use;

9 (c) ~~where whenever~~ operations result in a need to
 10 prevent acid drainage or sedimentation, on or in adjoining
 11 lands or streams, ~~there shall be provisions~~ for the
 12 construction of earth dams or other reasonable devices to
 13 control water drainage, provided the formation of such
 14 impoundments or devices will not interfere with other
 15 landowners' rights or contribute to water pollution;

16 (d) that to accomplish practical utilization of soil
 17 materials, such material will be utilized for placement on
 18 affected areas, if required by the reclamation plan after
 19 completion or termination of that particular phase of the
 20 mining operations, at a depth sufficient for plant growth on
 21 slopes of 3:1 or less-;

22 ~~(e) Grading specifications shall~~ that grading will be
 23 commensurate with the topography sought and land use
 24 designated;

25 ~~(e)-(f)~~ that metal and other waste ~~shall will~~ be

1 removed or buried;

2 ~~(f)-(g)~~ that all access, haul, and other support roads
 3 ~~shall will~~ be located, constructed, and maintained in such a
 4 manner as to control and minimize channeling and other
 5 erosion;

6 ~~(g)-(h)~~ that the operator ~~shall will~~ submit a progress
 7 report annually to the ~~commission-a progress-report board~~;

8 ~~(h)-(i)~~ that all operations ~~shall will~~ be conducted so
 9 as to avoid range and forest fires and spontaneous
 10 combustion, ~~Open~~ and that open burning of carbonaceous
 11 materials ~~shall will~~ be in accordance with suitable
 12 practices for fire prevention and control;

13 ~~(i)-(j)~~ that archaeological and historical values in
 14 areas to be mined ~~shall will~~ be given appropriate
 15 protection;

16 ~~(j)-(k)~~ that except for rock faces, bench faces, and
 17 excavations used for water impoundments, each surface area
 18 of the mined premises which will be disturbed ~~shall will~~ be
 19 revegetated when its use for extractive purposes is no
 20 longer required-;

21 (l) Seeding that seeding and planting ~~shall will~~ be
 22 done in a manner to achieve a permanent suitable vegetative
 23 cover for wildlife, livestock, and retardation of erosion-
 24 All and that all seed will be drilled unless otherwise
 25 provided in the plan;

1 ~~(*) (a)~~ that reclamation ~~shall will~~ be as concurrent
2 with mining operations as feasible, and ~~must will~~ be
3 completed within a specified length of time.

4 (3) If reclamation according to the plan has not been
5 completed in the time specified, the ~~commission shall~~ board
6 after ~~thirty (30)~~ days' written notice shall order the
7 operator to cease mining, and, if the operator does not
8 cease, shall institute an action to enjoin further operation
9 and may sue for damages for breach of contract, for payment
10 of the performance bond, or for both.

11 (4) (a) At any time during the period of reclamation
12 the operator may for good reason submit to the ~~commission~~
13 board a new reclamation plan or amendment to the existing
14 plan, including extensions of time.

15 (b) The ~~commission board~~ may approve the proposed new
16 reclamation plan, or amendments to the existing plan if:

17 (i) the operator has in good faith carried on
18 reclamation according to the existing plan, and ~~(ii)~~ the
19 proposed new plan, or amendments to the existing plan, will
20 result in reclamation as or more desirable ~~or more so~~ than
21 the reclamation proposed under the existing plan; or

22 ~~(iii)~~ (ii) it is highly improbable reclamation will be
23 successful unless the existing plan is replaced or amended.

24 (c) When accepted, the proposed new reclamation plan
25 or the proposed amendments to the existing plan ~~becomes~~

1 become a part of the contract.

2 (5) The operator shall provide a performance bond, or
3 an alternative acceptable to the ~~commission,~~ board in an
4 amount commensurate with the estimated cost of reclamation,
5 but in no case ~~shall pay~~ the bond be less than ~~two hundred~~
6 ~~dollars (\$200)~~ per acre. The estimated cost of reclamation
7 shall be set forth in the reclamation plan.

8 (6) The contract, reclamation plan, and amendments
9 accepted by the ~~commission board~~ shall be a public record
10 and open to inspection.

11 (7) The contract shall ~~become~~ effective when signed by
12 the ~~commission board~~ and the operator, and shall remain in
13 force until terminated by mutual consent or by the
14 ~~commission board~~ upon ~~six (6) months'~~ 6-months' notice."

15 Section 24. Section 50-1511, R.C.M. 1947, is amended
16 to read as follows:

17 "50-1511. ~~Receipt of funds by commission—reclamation~~
18 ~~work by commission and expenditure of funds.~~ (1) The
19 ~~commission board~~ may receive any federal funds, state funds,
20 or any other funds for the reclamation of land affected by
21 ~~open cut open cut~~ mining. The ~~commission board~~ may cause the
22 reclamation work to be done by its own employees or by
23 employees of other governmental agencies, soil conservation
24 districts, or through contracts with qualified persons.

25 (2) Any funds or any public works programs available

1 to the ~~commission~~ board shall be used and expended to
 2 reclaim and rehabilitate any lands that have been subject to
 3 ~~open-cut~~ opencut mining that have not been reclaimed and
 4 rehabilitated in accordance with the standards of this act."

5 Section 25. Section 50-1512, R.C.M. 1947, is amended
 6 to read as follows:

7 "50-1512. Inspection of ~~open-cut~~ opencut mining by
 8 ~~commission~~ board. The ~~commissioner~~, board or its accredited
 9 representatives, may enter upon lands subjected to ~~open-cut~~
 10 opencut mining at all reasonable times for the purpose of
 11 inspection, to determine whether the provisions of this act
 12 have been complied with."

13 Section 26. Section 50-1513, R.C.M. 1947, is amended
 14 to read as follows:

15 "50-1513. Operation without contract ~~as misdemeanor~~ —
 16 penalty. Anyone required by this act to have a contract and
 17 who engages in ~~open-cut~~ opencut mining without previously
 18 securing a contract to do so as prescribed by this act is
 19 guilty of a misdemeanor and, upon conviction thereof, shall
 20 be fined not less than ~~five hundred dollars~~ (\$500) and not
 21 more than ~~one thousand dollars~~ (\$1,000). Each day of
 22 operation without a contract required by this act ~~shall be~~
 23 ~~deemed~~ is a separate violation."

24 Section 27. Section 50-1514, R.C.M. 1947, is amended
 25 to read as follows:

1 "50-1514. Reclamation of land on which bond forfeited.
 2 ~~The commission shall have the power to~~ In keeping with the
 3 provisions of this act, the board may reclaim, ~~in keeping~~
 4 ~~with the provisions of this act,~~ any affected lands with
 5 respect to which a bond has been forfeited."

6 Section 28. Section 50-1515, R.C.M. 1947, is amended
 7 to read as follows:

8 "50-1515. ~~Commissioner Board~~ hearing ~~on final order~~ of
 9 ~~commissioner~~ judicial review. (1) A person who is aggrieved
 10 by a final decision of the commissioner of state lands is
 11 entitled to a hearing before the ~~commission~~ board.

12 (2) The Montana Administrative Procedure Act (~~title~~
 13 Title 82, chapter 42, R.C.M. 1947) governs hearings before
 14 the ~~commission~~ board and judicial review of decisions of the
 15 ~~commission~~ board under this act."

16 Section 29. Section 50-1516, R.C.M. 1947, is amended
 17 to read as follows:

18 "50-1516. Exemption ~~of~~ — operations covered by ~~other~~
 19 ~~law~~ metal mine reclamation. Nothing in this act ~~shall~~ may be
 20 construed to be applicable to mining or exploration
 21 operations which are regulated under the provisions of Title
 22 50, chapter 12, R.C.M. 1947."

23 Section 30. Section 50-1516.1, R.C.M. 1947, is amended
 24 to read as follows:

25 "50-1516.1. ~~Exceptions~~ Chapter inapplicable to state

1 and local government. The provisions of this chapter
2 relating to fees or bonds ~~shall do~~ not apply to the state of
3 Montana, counties, cities, or towns."

4 Section 31. Section 50-1517, R.C.M. 1947, is amended
5 to read as follows:

6 "50-1517. Exemption of ~~of~~ operations on federal lands.
7 This chapter ~~shall not be~~ is not applicable to operations on
8 certain federal lands as specified by the board, provided it
9 is first determined by the board that federal law or
10 regulations issued by the federal agency administering ~~such~~
11 the land, impose controls for reclamation of ~~said~~ those
12 lands equal to or greater than those imposed by this
13 chapter."

14 Section 32. Section 60-227, R.C.M. 1947, is amended to
15 read as follows:

16 "60-227. Petroleum and liquefied petroleum meter
17 license fees. A petroleum or liquefied petroleum dealer
18 shall pay license fees as follows:

19 (1) ~~All for~~ petroleum vehicle tank meters and bulk
20 petroleum meters of ~~two and one-half~~ (2 1/2) inches and
21 under, ~~six dollars~~ (\$6);

22 (2) ~~All two and one-half~~ (2 1/2) for 2 1/2 inch and
23 under petroleum meters for more than one fluid, ~~ten dollars~~
24 (\$10);

25 (3) ~~All for~~ bulk petroleum meters over ~~two~~ and

1 ~~one-half~~ (2 1/2) ~~inch~~ inches, ~~ten dollars~~ (\$10);

2 (4) ~~All for~~ petroleum meters over ~~two and one-half~~
3 (2 1/2) ~~inch~~ inches for more than one fluid, ~~fifteen dollars~~
4 (\$15); and

5 (5) ~~All for~~ liquefied petroleum liquid meters, ~~fifteen~~
6 ~~dollars~~ (\$15)."

7 Section 33. Section 60-606, R.C.M. 1947, is amended to
8 read as follows:

9 "60-606. Expenses of representative. The
10 representative, or the assistant representative appointed by
11 the governor of the state of Montana, to the oil compact
12 commission shall be allowed and paid his reasonable expenses
13 while engaged in the performance of his official duties, and
14 ~~said~~ his expenses and all other expense incurred in
15 connection with the ~~said~~ interstate oil compact and ~~said~~ the
16 interstate oil compact commission shall be paid out of the
17 ~~oil conservation board~~ board of oil and gas conservation
18 revenue fund in accordance with the provisions of ~~60-144~~
19 60-145, as amended."

20 Section 34. Section 69-3303, R.C.M. 1947, is amended
21 to read as follows:

22 "69-3303. ~~Filing of notice~~ Notice of intention to
23 ~~engage in geophysical exploration~~ explore. ~~It shall be~~
24 ~~necessary for any~~ A person, firm, or corporation desiring to
25 engage in ~~such~~ geophysical exploration within the state of

1 Montana, prior to actually so engaging in such exploration,
 2 to shall file a notice of intention to engage in such
 3 geophysical the exploration with the county clerk and
 4 recorder in each county in which exploration is to be
 5 carried on, or engaged in. The ~~said~~ notice of ~~intention to~~
 6 ~~engage in such geophysical exploration~~ shall be filed prior
 7 to the actual commencement of ~~such geophysical~~ the
 8 exploration."

9 Section 35. Section 69-3305, R.C.M. 1947, is amended
 10 to read as follows:

11 "~~69-3305. Issuance of geophysical exploration permit—~~
 12 ~~requirements—contents—period—valid—for—costs—~~
 13 ~~carrying of permit~~ Exploration permit. The county clerk and
 14 ~~recorder of each county in the state of Montana,~~

15 (1) ~~upon~~ Upon compliance with the provisions herein
 16 contained, namely the filing of a notice of intention to
 17 engage in ~~such geophysical the~~ exploration, ~~in addition to~~
 18 and a certificate [or photostatic copy thereof] from the
 19 secretary of ~~the state of Montana~~ certifying the name and
 20 address of the resident agent for service of process for
 21 ~~said the~~ person, firm, or corporation desiring to engage in
 22 ~~such geophysical the~~ exploration, and certifying that the
 23 required surety bond has been filed with the ~~said~~ secretary
 24 of state, ~~shall issue the county clerk and recorder shall~~
 25 issue to ~~such the~~ person, firm, or corporation a

1 "geophysical exploration permit,"

2 (2) ~~which~~ The permit ~~will shall~~ show:

3 (a) the ~~names~~ name of the person, firm, or
 4 corporation, ~~his or its~~ and principal place of business;

5 (b) if a firm or corporation, the names and addresses
 6 of its officers;

7 (c) the name and address of the resident agent for
 8 service of process for ~~said the~~ person, firm, or
 9 corporation;

10 (d) that a notice of intention to engage in ~~such~~
 11 geophysical exploration has been duly filed; and

12 (e) that a good and sufficient surety bond has been
 13 filed by the ~~said~~ person, firm, or corporation, naming the
 14 surety company and giving its address;

15 (3) ~~such~~ The permit ~~to shall~~ be signed by the county
 16 clerk and recorder ~~and/or~~ his deputy, and ~~bearing~~ bear the
 17 official county seal. ~~Such~~ The permit shall be valid and
 18 effective for all ~~such~~ geophysical crews of the permittee
 19 during the calendar year in which it is issued.

20 (4) The cost of the ~~said~~ permit shall be ~~five dollars~~
 21 ~~(\$5.00)~~ per calendar year or any portion thereof for which
 22 issued, and the revenues realized therefrom shall go to the
 23 county so issuing. Such funds as are realized shall be
 24 applied toward payment of the cost of printing ~~said the~~
 25 permits, which shall be printed at the county seat, and ~~such~~

1 excesses shall, ~~from year to year,~~ go into the county's
2 general fund, ~~provided, however, that if~~

3 (5) If printed forms are not available at the time any
4 person, firm, or corporation desires ~~such the~~ permit and
5 qualifies for its issuance, typewritten or other form of
6 reproduction of ~~such the~~ permit may be used ~~and,~~ the fee of
7 ~~five dollars (\$5.00) nevertheless~~ shall nevertheless be paid
8 for its issuance, and ~~such this~~ fee shall be disposed of in
9 the same manner.

10 (6) The ~~said~~ permit or a photostatic copy thereof
11 shall be carried by the person, or by the agent of the firm
12 or corporation, at all times during the period of ~~such the~~
13 geophysical exploration and shall be exhibited upon demand
14 by ~~of~~ any county or state official."

15 Section 36. Section 73-115, R.C.M. 1947, is amended to
16 read as follows:

17 "73-115. Action to compel release ~~damages—~~
18 ~~attorney's fees—release without suit. Should the owner—of~~
19 ~~such lease neglect or refuse (1) If the lessee or assignee~~
20 ~~thereof neglects or refuses~~ to execute a release as provided
21 by this act, ~~then~~ the owner of the leased premises may sue
22 in any court of competent jurisdiction to obtain ~~such the~~
23 release, and ~~in such action~~ he also may also recover ~~in such~~
24 ~~action of from~~ the lessee, his successor, or assigns, the
25 sum of ~~one hundred dollars (\$100.00)~~ as damages, and all

1 costs, together with a reasonable attorney's fee for
2 preparing and prosecuting the suit, and ~~he may also recover~~
3 any additional damages that the evidence in the case ~~will~~
4 ~~warrant warrants. In all such actions writs~~ Writs of
5 attachment may issue as in other cases. If, in ~~such the~~
6 action, the plaintiff fails to establish the forfeiture of
7 the lease, an attorney's fee must be allowed to the ~~holder~~
8 ~~lessee or assignee~~ of the lease. Issues in regard to ~~such~~
9 ~~attorney's fees~~ shall be determined in the same manner as
10 other issues in such actions.

11 (2) When, by its terms, ~~any such an~~ oil and/or gas
12 lease has expired and is subject to forfeiture for
13 nonperformance and more than ~~three—(3) years has have~~
14 elapsed since ~~said the~~ expiration, the owner of the leased
15 premises may, in addition to all other remedies, ~~may~~ serve a
16 written notice on ~~said the~~ lessee or on the assignee
17 thereof, which notice shall state;

18 (a) the ~~name names~~ of the lessor, ~~the~~ lessee, and ~~the~~
19 assignee thereof if assigned;

20 (b) the date of the lease, ~~and~~ the date of the
21 expiration thereof;

22 (c) ~~the~~ description of the lands leased;

23 (d) the place, book, and page where ~~the lease is~~
24 recorded; and ~~shall state that unless said lease or abstract~~
25 ~~of such lease is released of record, or~~

1 (e) that if the lessee or assignee fails to execute a
 2 release of record of the lease or abstract of the lease, the
 3 lease shall be terminated and of no effect and shall cease
 4 to be a lien upon the lands described therein, unless the
 5 lessee or the assignee thereof shall, within sixty (60) days
 6 from the date of service thereof, file an affidavit of the
 7 notice, files, in the county clerk's office in the county
 8 wherein such where the lease or abstract of such lease is
 9 recorded, an affidavit stating that the lease is in effect
 10 and deliver delivers a copy thereof to the owner of the
 11 leased lands stating that said lease is in effect,
 12 otherwise, said lease shall be terminated and of no effect
 13 and shall cease to be a lien upon the lands described
 14 therein.

15 (3) If the lessee of or the assignee thereof resides
 16 in the county where said the lease or abstract of such the
 17 lease is recorded, the notice shall be personally served on
 18 said that person or persons. If said the lessee or the
 19 assignee thereof does not reside in said that county, but
 20 his, her or its address appears on the records in that
 21 county clerk's office, or is otherwise known, such the
 22 notice shall be mailed by registered certified mail to such
 23 that person, or persons, at such that address, and in
 24 addition thereto, such the notice shall be published once a
 25 week for two 2 consecutive weeks in a newspaper of general

1 circulation in the county in which said the lands are
 2 situated, and said notice shall likewise be published in
 3 the manner as above provided if If the address of the lessee
 4 or assignee is unknown, the notice shall be published in
 5 the manner provided above. The date of service of said the
 6 notice, if served personally, the date of mailing, if
 7 served by mail, and the first date of publication of said
 8 the notice, if published, must be at least sixty (60) days
 9 before the date of termination referred to in said the
 10 notice.

11 (4) Upon the expiration of the time mentioned in said
 12 the notice, if the affidavit of the lessee or assignee has
 13 not been filed as herein provided, the owner of the leased
 14 lands shall file an affidavit of service thereof of the
 15 notice in the county clerk's office of said the county in
 16 which the lands are located, and the affidavit shall be kept
 17 as a permanent file in his office, and such this proof of
 18 notice when so filed shall be is prima facie evidence of the
 19 sufficiency of the notice, and from and after the filing
 20 thereof said the lease shall be is terminated and the lands
 21 released from the lien thereof."

-End-

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LC0011

1977 Legislature
Code Commissioner Bill - Summary

House Bill No. 40

TO GENERALLY REVISE AND CLARIFY LAWS RELATING TO MINERALS,
OIL, AND GAS.

(This summary does not include discussion of routine form
or grammatical changes.)

Section 1. 50-202. Changed "brought" to "bought" to be
consistent with previous verb "buy."

Section 2. 50-204. Deleted "on or before the tenth
day of April, 1909," to update section and make it permanent
law.

Section 3. 50-205. Changed "with" to "within" in refer-
ence to posting.

Section 4. 50-303. Changed "lessor and lessee, or
lessors and lessees" to "lessor and the lessee" for clarity.
Changed "lessor or lessors, lessee or lessees" to "lessor and
the lessee" twice, also for clarity.

Section 5. 50-304. Changed "bought or treated from
lessors" to "bought from or treated for lessors" for clarity.

Section 6. 50-305. Changed "lessor or lessors, lessee
or lessees" to "lessor and the lessee" for clarity.

Section 7. 50-429. Changed "ventilation in maps" to
"ventilation in mines."

Section 8. 50-476. Added language in first subsection
for clarity. Changed "or any caution board" to "on any caution
board" in subsection (4).

Section 9. 50-480.7. Changed erroneous internal refer-
ence 50-480.2 to the correct section, 50-480.3.

Section 10. 50-714. Added "evidence" after "conclusive" to make a complete thought.

Section 11. 50-805. Deleted obsolete reference to "demur". Added "who are" before "disinterested persons" for clarity.

Section 12. 50-1043. Added "certified or" before "registered mail" twice in subsection (1) to conform to 19-122, R.C.M. 1947. Added verb "violate" before "any other restrictions" in subsection 2(f). Deleted part of the last sentence in subsection (3) to avoid repetition.

Section 13. 50-1203. Added "The following definitions apply" in the first clause to make the section a complete thought and keep capitalization consistent.

Section 14. 50-1209. Changed "moisture of water" to "moisture or water" in subsection a(1). Changed "Vegetative cover" to "provisions for vegetative cover" in subsection (f) for clarity.

Section 15. 50-1404. As written, subsection (2) seemed to suggest that a strip mining plan became effective when operation commences, without reference to whether the plan was approved. Amendment makes it clear that a plan is effective for 1 year only from the date the plan is approved.

Sections 16-31. Under present Chapter 15 of Title 50 (Open Cut Mining), the word "commission" is used to define the State Board of Land Commissioners. The definition was changed to "Board" and each section reference to "commission" also changed. Each section in the chapter was also amended to make grammar consistent.

Section 17. 50-1504. Changed "description of" proposed reclamation plan to "an explanation of" in subsection (15).

Section 21. 50-1508. Rearranged to make it clear that the application for a reclamation contract doesn't include the reclamation plan but is accompanied by it.

Section 32. 60-227. Section lacked a mandate that fees be paid. It merely listed the fees. Added first clause to cure problem.

Section 33. 60-606. Changed "oil conservation board fund" to "board of oil and gas conservation revenue fund" to reflect board name changes. Changed internal reference "60-121" (which has been repealed) to "60-145". The pertinent language at 60-145 is very similar to the repealed section and concerns the board of oil and gas conservation revenue fund.

Section 34. 69-3303. Deleted redundant language.

Section 35. 69-3305. Deleted redundant language and put in tabular form to make more readable. In present subsection (3) changed "and/or" to "or" to make clear that the permit may be signed by the clerk and recorder or the deputy.

Section 36. 73-115. Rewritten to delete archaic language, clarify, and put in tabular form to make more readable.

Approved by Committee
on Business and Industry

1 HOUSE BILL NO. 40
 2 INTRODUCED BY KVAALEN
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
 5 CLARIFY THE LAWS RELATING TO MINERALS, OIL, AND GAS;
 6 AMENDING SECTIONS 50-202, 50-204, 50-205, 50-303, 50-304,
 7 50-305, 50-429, 50-476, 50-480.7, 50-714, 50-805, 50-1043,
 8 50-1203, 50-1209, 50-1404, 50-1503, 50-1504, 50-1505,
 9 50-1506, 50-1507, 50-1508, 50-1509, 50-1510, 50-1511,
 10 50-1512, 50-1513, 50-1514, 50-1515, 50-1516, 50-1516.1,
 11 50-1517, 60-227, 60-606, 69-3303, 69-3305, AND 73-115,
 12 R.C.M. 1947."

13
 14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 15 Section 1. Section 50-202, R.C.M. 1947, is amended to
 16 read as follows:
 17 "50-202. Samples of fifty pounds per ton to be
 18 retained until settlement. ~~Every such~~ a person, association,
 19 or corporation which ~~shall buy~~ buys any ores upon ~~any an~~
 20 agreement to pay for ~~the same them~~ in amount dependent upon
 21 ~~the their~~ their metallic contents ~~of the same,~~ or ~~smelt~~ smelts any
 22 ore, shall retain from the pulp or crushed ore, as the same
 23 is sampled, ~~an amount~~ a quantity of not less than 50 pounds
 24 out of each ton of ore, which quantity shall be selected
 25 regularly and at equal intervals from any lot of ore so

1 ~~brought bought~~ or to be smelted, ~~a quantity not less than~~
 2 ~~fifty pounds out of each ton of such ore,~~ and shall keep the
 3 ~~same this quantity~~ separate and apart from any other ores or
 4 pulp for a period of ~~thirty~~ 30 days, or until full
 5 settlement is made and accepted by the shipper, ~~and until~~
 6 ~~such~~ Until full settlement is made and accepted, the ore
 7 shipper, his agents, or representatives, ~~shall be entitled~~
 8 ~~to may~~ take from the quantity so retained any part thereof
 9 for the purpose of sampling or assaying ~~the same that part;~~
 10 ~~provided, that however,~~ the value of any part so taken by
 11 ~~such~~ the owner or shipper may be deducted from the total
 12 value of the ore delivered by him."

13 Section 2. Section 50-204, R.C.M. 1947, is amended to
 14 read as follows:
 15 "50-204. Umpire assayers -- appointment,
 16 qualifications, and duties. ~~Any~~ A person, association, or
 17 corporation engaged in the sampling of ores with intent to
 18 purchase or smelt ~~the same them,~~ whether for themselves or
 19 as the agent or agents for other purchasers, shall, ~~on or~~
 20 ~~before the tenth day of April, 1909,~~ choose an assayer ~~or~~
 21 ~~assayers~~ who, ~~for at least one year prior to the passage of~~
 22 ~~this act,~~ shall have has operated an assay office or
 23 chemical laboratory within this state, ~~and to such selected~~
 24 ~~assayer or assayers~~ for at least 1 year. The person,
 25 association, or corporation shall be submitted submit to the

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1 ~~selected assayer~~ all samples of ore, ~~sampled by such person,~~
 2 ~~association, or corporation,~~ over which there is a dispute
 3 as to metallic contents or value between the buyer or
 4 sampler and the seller of ~~such the~~ ore. ~~Said The~~ chosen
 5 assayer ~~or assayers~~ shall be known as the umpire ~~or umpires~~
 6 for ~~such the~~ person, association, or corporation."

7 Section 3. Section 50-205, R.C.M. 1947, is amended to
 8 read as follows:

9 "50-205. Notice of selection. Upon the selection of
 10 ~~such assayer or assayers~~ the umpire, who shall be actively
 11 engaged in the assaying business in this state, ~~every the~~
 12 person, association, or corporation selecting ~~the same him~~
 13 shall, within ~~ten~~ 10 days after ~~such choice the selection~~ is
 14 made, post a notice of ~~such choice, in which shall appear~~
 15 ~~the name of the assayer or assayers so selected, the~~
 16 selection in a conspicuous place ~~with~~ within and without the
 17 room or house where the sampling of ores is carried on by
 18 ~~such the~~ person, association, or corporation."

19 Section 4. Section 50-303, R.C.M. 1947, is amended to
 20 read as follows:

21 "50-303. Purchasers Statement by purchasers of ore
 22 from leased mines ~~to furnish statement. All persons~~ A person
 23 or ~~corporations~~ corporation buying or treating ores from
 24 leased mines or mining claims, shall furnish ~~both to~~ the
 25 lessor and the lessee, or lessors and lessees, of ~~such the~~

1 mines or mining claims, a true and correct copy of the
 2 statement of returns of ores from ~~such the~~ sale or
 3 shipment, ~~such The~~ statement ~~to shall~~ show both the gross
 4 and net proceeds derived from ~~such the~~ sale or shipment of
 5 ores. Upon shipment of ~~any such the~~ ores from leased
 6 premises, either for sale or treatment, the shipper shall
 7 furnish to any sampling works or smelter buying or treating
 8 ~~same then~~ the ~~name, or names,~~ and post-office ~~address~~
 9 addresses of the lessor ~~or lessors,~~ and the lessee ~~or~~
 10 ~~lessees,~~ interested in ~~such that~~ shipment of ores, and
 11 within ~~seven~~ 7 days after receipt of ~~such the~~ statement from
 12 ~~such the~~ sampling works or smelter, the ~~said~~ shipper shall
 13 make settlement with ~~such the~~ lessor ~~or lessors,~~ and the
 14 lessee ~~or lessees,~~ for ~~such the~~ shipment or sale of ores,
 15 based upon ~~such said the~~ statement received by the parties
 16 from ~~such the~~ sampling works or smelter."

17 Section 5. Section 50-304, R.C.M. 1947, is amended to
 18 read as follows:

19 "50-304. ~~Sampling works and smelters to mail~~ Copy of
 20 statement to lessee. ~~That all sampling~~ Sampling works and
 21 smelters within this state shall mail a duplicate copy of
 22 any statement showing the gross and net proceeds of all ores
 23 bought from or treated ~~free for~~ for lessors of mines, to the
 24 lessee ~~or lessees~~ of the mine or mining claim from which the
 25 ~~same shall have been~~ ores were extracted at the same time

1 HOUSE BILL NO. 40
2 INTRODUCED BY KVAALEN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
5 CLARIFY THE LAWS RELATING TO MINERALS, OIL, AND GAS;
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18 retained until settlement. ~~Every such~~ A person, association,
19 or corporation which ~~shall buy~~ buys any ores upon ~~any an~~ an
20 agreement to pay for ~~the same them~~ in amount dependent upon
21 ~~the their~~ their metallic contents ~~of the same,~~ or ~~smelt~~ smelts any
22 ore, shall retain from the pulp or crushed ore, as the same
23 is sampled, ~~an amount~~ a quantity of not less than 50 pounds
24 out of each ton of ore, which quantity shall be selected
25 regularly and at equal intervals from any lot of ore so

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1 ~~brought bought~~ or to be smelted, ~~a quantity not less than~~
2 ~~fifty pounds out of each ton of such ore,~~ and shall keep the
3 ~~same this quantity~~ separate and apart from any other ores or
4 pulp for a period of ~~thirty~~ 30 days, or until full
5 settlement is made and accepted by the shipper, ~~and until~~
6 ~~such~~ Until full settlement is made and accepted, the ore
7 shipper, his agents, or representatives, ~~shall be entitled~~
8 ~~to~~ may take from the quantity so retained any part thereof
9 for the purpose of sampling or assaying ~~the same that part;~~
10 ~~provided, that however,~~ the value of any part so taken by
11 ~~such~~ the owner or shipper may be deducted from the total
12 value of the ore delivered by him."

13 Section 2. Section 50-204, R.C.M. 1947, is amended to
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15 "50-204. Umpire assayers — appointment,
16 qualifications, and duties. ~~Any a~~ A person, association, or
17 corporation engaged in the sampling of ores with intent to
18 purchase or smelt ~~the same them,~~ whether for themselves or
19 as the agent or agents for other purchasers, shall, ~~on or~~
20 ~~before the tenth day of April, 1909,~~ choose an assayer ~~or~~
21 ~~assayers~~ who, ~~for at least one year prior to the passage of~~
22 ~~this act,~~ shall ~~have~~ has operated an assay office or
23 chemical laboratory within this state, ~~and to such selected~~
24 ~~assayer or assayers~~ for at least 1 year. ~~The person,~~
25 ~~association, or corporation~~ shall ~~be submitted~~ submit to the

HB40

1 ~~selected assayer~~ all samples of ore, ~~sampled by such person,~~
 2 ~~association, or corporation,~~ over which there is a dispute
 3 as to metallic contents or value between the buyer or
 4 sampler and the seller of ~~such the~~ ore. ~~Said The~~ chosen
 5 assayer ~~or assayers~~ shall be known as the umpire ~~or umpires~~
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7 Section 3. Section 50-205, R.C.M. 1947, is amended to
 8 read as follows:

9 "50-205. Notice of selection. Upon the selection of
 10 ~~such assayer or assayers~~ the umpire, who shall be actively
 11 engaged in the assaying business in this state, ~~every the~~
 12 person, association, or corporation selecting ~~the same him~~
 13 shall, within ~~ten~~ 10 days after ~~such choice~~ the selection is
 14 made, post a notice of ~~such choice, in which shall appear~~
 15 ~~the name of the assayer or assayers so selected, the~~
 16 selection in a conspicuous place ~~with~~ within and without the
 17 room or house where the sampling of ores is carried on by
 18 ~~such the~~ person, association, or corporation."

19 Section 4. Section 50-303, R.C.M. 1947, is amended to
 20 read as follows:

21 "50-303. Purchasers Statement by purchasers of ore
 22 from leased mines ~~to furnish statement. All persons~~ A person
 23 or ~~corporations~~ corporation buying or treating ores from
 24 leased mines or mining claims, shall furnish ~~both to the~~
 25 lessor and the lessee, or lessors and lessees, of ~~such the~~

1 mines or mining claims, a true and correct copy of the
 2 statement of returns of ores from ~~such the~~ sale or
 3 shipment, ~~such The~~ statement ~~to shall~~ show both the gross
 4 and net proceeds derived from ~~such the~~ sale or shipment of
 5 ores. Upon shipment of ~~any such the~~ ores from leased
 6 premises, either for sale or treatment, the shipper shall
 7 furnish to any sampling works or smelter buying or treating
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 9 addresses of the lessor ~~or lessors,~~ and the lessee ~~or~~
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 12 ~~such the~~ sampling works or smelter, the ~~said~~ shipper shall
 13 make settlement with ~~such the~~ lessor ~~or lessors,~~ and the
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 24 lessee ~~or lessees~~ of the mine or mining claim from which the
 25 ~~same shall have been~~ ores were extracted at the same time

HOUSE BILL NO. 40

INTRODUCED BY KVAALEN

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO MINERALS, OIL, AND GAS; AMENDING SECTIONS 50-202, 50-204, 50-205, 50-303, 50-304, 50-305, 50-429, 50-476, 50-480.7, 50-714, 50-805, 50-1043, 50-1203, 50-1209, 50-1404, 50-1503, 50-1504, 50-1505, 50-1506, 50-1507, 50-1508, 50-1509, 50-1510, 50-1511, 50-1512, 50-1513, 50-1514, 50-1515, 50-1516, 50-1516.1, 50-1517, 60-227, 60-606, 69-3303, 69-3305, AND 73-115, R.C.M. 1947."

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

Section 1. Section 50-202, R.C.M. 1947, is amended to read as follows:

"50-202. Samples of fifty pounds per ton to be retained until settlement. Every such A person, association, or corporation which shall--buy buys any ores upon any an agreement to pay for the-some them in amount dependent upon the their metallic contents of-the-same, or smelt smelts any ore, shall retain from the pulp or crushed ore, as the same is sampled, an-amount a quantity of not less than 50 pounds out of each ton of ore, which quantity shall be selected regularly and at equal intervals from any lot of ore so

brought bought or to be smelted, a-quantity-not-less-than fifty-pounds-out-of-each-ton-of-such-ore, and shall keep the same this quantity separate and-apart from any other ores or pulp for a period of thirty 30 days, or until full settlement is made and accepted by the shipper, and-until such until full settlement is made and accepted, the ore shipper, his agents, or representatives, shall-be-entitled to may take from the quantity so retained any part thereof for the purpose of sampling or assaying the-same that part; provided, that however, the value of any part so taken by such the owner or shipper may be deducted from the total value of the ore delivered by him."

Section 2. Section 50-204, R.C.M. 1947, is amended to read as follows:

"50-204. Umpire assayers -- appointment, qualifications, and duties. Any A person, association, or corporation engaged in the sampling of ores with intent to purchase or smelt the-same them, whether for themselves or as the agent or agents for other purchasers, shall, on-or before-the-tenth-day-of-April-1909, choose an assayer or assayers who, for-at-least-one-year-prior-to-the-passage-of this-act, shall--have has operated an assay office or chemical laboratory within this state, and-to-such-selected assayer-or-assayers for at least 1 year. The person, association, or corporation shall be-submitted submit to the

1 ~~selected assayer~~ all samples of ore, ~~sampled by such person,~~
 2 ~~association, or corporation,~~ over which there is a dispute
 3 as to metallic contents or value between the buyer or
 4 sampler and the seller of such ~~the~~ ore. Said ~~the~~ chosen
 5 assayer ~~or assayers~~ shall be known as the umpire ~~or umpires~~
 6 for such ~~the~~ person, association, or corporation."

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 10 ~~such assayer or assayers~~ the umpire, who shall be actively
 11 engaged in the assaying business in this state, every ~~the~~
 12 person, association, or corporation selecting ~~the same~~ him
 13 shall, within ~~ten~~ 10 days after ~~such choice~~ the selection is
 14 made, post a notice of ~~such choice, in which shall appear~~
 15 ~~the name of the assayer or assayers so selected,~~ the
 16 selection in a conspicuous place ~~with~~ within and without the
 17 room or house where the sampling of ores is carried on by
 18 such ~~the~~ person, association, or corporation."

19 Section 4. Section 50-303, R.C.M. 1947, is amended to
 20 read as follows:

21 "50-303. Purchasers Statement by purchasers of ore
 22 from leased mines ~~to furnish statement. All persons~~ A person
 23 or corporations ~~corporation~~ buying or treating ores from
 24 leased mines or mining claims, shall furnish both ~~to~~ the
 25 lessor and ~~the lessee or lessees and lessees,~~ the of such ~~the~~

1 mines or mining claims, a true and correct copy of the
 2 statement of return of ores from such ~~the~~ sale or
 3 shipment, ~~such~~ the statement to shall show both the gross
 4 and net proceeds derived from such ~~the~~ sale or shipment of
 5 ores. Upon shipment of ~~any such~~ the ores from leased
 6 premises, either for sale or treatment, the shipper shall
 7 furnish to any sampling works or smelter buying or treating
 8 ~~some~~ them the ~~name or names,~~ and post-office address
 9 addresses of the lessor ~~or lessees,~~ and ~~the~~ lessee or
 10 ~~lessees,~~ interested in such ~~that~~ shipment of ores, and
 11 within ~~seven~~ 7 days after receipt of such ~~the~~ statement from
 12 such ~~the~~ sampling works or smelter, the said shipper shall
 13 make settlement with such ~~the~~ lessor ~~or lessees,~~ and ~~the~~
 14 lessee ~~or lessees,~~ for such ~~the~~ shipment or sale of ores,
 15 based upon such ~~said~~ the statement received by the parties
 16 from such ~~the~~ sampling works or smelter."

17 Section 5. Section 50-304, R.C.M. 1947, is amended to
 18 read as follows:

19 "50-304. ~~Sampling works and smelters to mail~~ Copy of
 20 statement to lessee. ~~That all sampling~~ Sampling works and
 21 smelters within this state shall mail a duplicate copy of
 22 any statement showing the gross and net proceeds of all ores
 23 bought ~~from~~ or treated ~~from~~ for lessors of mines, to the
 24 lessee ~~or lessees~~ of the mine or mining claim from which the
 25 ~~same shall have been~~ ores were extracted at the same time

1 such the statement is furnished to the lessor of said the
2 mine or mining claim or shipper of such the ore."

3 Section 6. Section 50-305, R.C.M. 1947, is amended to
4 read as follows:

5 "50-305. Shipper -- penalty for violation. Any A
6 person or corporation who, as such the shipper, shall
7 ~~violate the provisions of section~~ violates 50-303 shall be
8 ~~as amended,~~ is liable to the lessor or lessors, and the
9 lessee or lessees, for ten-per-cent 10% of the net returns
10 from such the shipment, or sale, of ores referred to in said
11 that section, in addition to the value of the interest of
12 the lessor or lessors, and the lessee or lessees in said the
13 shipment, the same to this amount may be recovered in an
14 action in any court of competent jurisdiction."

15 Section 7. Section 50-429, R.C.M. 1947, is amended to
16 read as follows:

17 "50-429. Underground survey. For the underground
18 working, the map shall show all power distribution and
19 ventilation in ~~mops~~ mines and all shafts, slopes, tunnels,
20 or other openings to the surface or to the workings of a
21 contiguous mine; all excavations, entries, rooms, and
22 crosscuts; the rise or dip of the seam from the bottom of
23 the shaft, mouth of drift, or slope in either direction to
24 the face of the workings; the location of the fan; the
25 location of the permanent pumps, hauling engines,

1 engine-planes, and ~~fire-wells~~ fire walls; the location of
2 any standing water which might prove a menace to life or
3 danger to property from flood; and the line of any
4 contiguous surface outcrop of the seam."

5 Section 8. Section 50-476, R.C.M. 1947, is amended to
6 read as follows:

7 "50-476. ~~Duties--of-other-employees~~ Safety regulations
8 ~~-- mine examiners.~~ (1) A person may not enter a mine which
9 is generating firedamp so as in great enough quantities to
10 be detected by a safety lamp until the mine examiners make a
11 report to the division.

12 (2) A person, unless accompanied by the mine examiner,
13 may not go beyond a danger signal until all standing gas
14 discovered has been removed or diluted and rendered harmless
15 by a current of air. A person, being ordered to withdraw by
16 the mine foreman or mine examiner from the mine on account
17 of the interruption of the ventilation, may not re-enter
18 ~~re-enter~~ the mine until given permission to do so by the mine
19 foreman.

20 (3) A person other than the mine examiner may not
21 remove any caution board or danger signal placed at the
22 entrance to any working place, or at the entrance to any old
23 workings in a mine.

24 (4) A person may not erase or change a mark of
25 reference or monument made in connection with a measurement;

1 ~~change marks or dates or on any caution board, or erase or~~
 2 ~~change the dates at room or entry face, when made by the~~
 3 ~~mine examiner, or take for his use a life check not issued~~
 4 ~~to him under rules adopted by the division, or change the~~
 5 ~~checks on cars, wrongfully check a car, or do any act with~~
 6 ~~intent to defraud.~~

7 ~~(5) A person may not take anything containing fire,~~
 8 ~~except as provided for in rules adopted by the division,~~
 9 ~~into an underground mine.~~

10 ~~(5)(6) A person may not place refuse in or obstruct an~~
 11 ~~airway or breakthrough used as an airway. A worker or other~~
 12 ~~person may not damage or alter a water gauge, barometer,~~
 13 ~~air-course, brattice equipment, machinery, or livestock;~~
 14 ~~obstruct or throw open any airway; handle or disturb any~~
 15 ~~part of the machinery of the hoisting engine of a mine, open~~
 16 ~~a door of a mine and neglect to close it; endanger the~~
 17 ~~miners or those working therein; disobey an order given in~~
 18 ~~pursuance of law, or do a willful act endangering the lives~~
 19 ~~or health of persons working there or the security of a mine~~
 20 ~~or machinery."~~

21 Section 9. Section 50-480.7, R.C.M. 1947, is amended
 22 to read as follows:

23 "50-480.7. ~~Order--no--violation--abatement~~ Review of
 24 order. An operator notified of an order made under section
 25 50-480.2 ~~50-480.3, as amended,~~ may apply to the division for

1 a hearing or revision of the order. If the division finds
 2 that there was no violation, it shall make an order
 3 rescinding the order under review. If the division finds
 4 that there was a violation, but the violation has since been
 5 abated, it shall make an order rescinding the order under
 6 review. If the division finds that the violation was not
 7 totally abated, it shall make an order consistent with its
 8 findings."

9 Section 10. Section 50-714, R.C.M. 1947, is amended to
 10 read as follows:

11 "50-714. Effect of patent. The issuance of a United
 12 States patent for a mining claim ~~shall--be--deemed is~~
 13 considered conclusive evidence that the requirements of the
 14 laws of this state, relative to the location and record of
 15 such mining claims, have been duly complied with; ~~provided,~~
 16 ~~however--that--where~~ however, if questions of priority are
 17 involved, the date of the location shall be an issuable fact
 18 ~~where~~ when it is claimed to have been prior to the date of
 19 the record of the location."

20 Section 11. Section 50-805, R.C.M. 1947, is amended to
 21 read as follows:

22 "50-805. ~~Commissioners--to--be--appointed~~ Court order and
 23 appointment of commissioners. Upon the return of the
 24 summons, or upon any day to which the hearing is adjourned,
 25 the defendants may ~~demur--or~~ answer, and issue must be

1 joined, and the judge must hear the allegations and proofs
 2 of the respective parties~~and if, if~~, upon such hearing, he
 3 ~~the judge~~ is satisfied that the claims of the plaintiff can
 4 ~~only~~ be ~~worked~~ conveniently ~~worked~~ ~~only~~ by means of the
 5 privilege asked for, he must make an order adjudging and
 6 awarding to the plaintiff such ~~right-of-way~~, ~~right-of-way~~
 7 and must appoint three commissioners, ~~who are~~ disinterested
 8 persons and residents of the county, to assess the damages
 9 to the lands or claims affected by such order."

10 Section 12. Section 50-1043, R.C.M. 1947, is amended
 11 to read as follows:

12 "50-1043. ~~Reclamation---operations-----submission~~
 13 ~~Submission~~ and action on ~~reclamation~~ plan. (1) As rapidly,
 14 completely, and effectively as the most modern technology
 15 and the most advanced state of the art will allow, each
 16 operator granted a permit under this act, shall reclaim and
 17 revegetate the land affected by his operation, except that
 18 underground tunnels, shafts, or other subsurface excavations
 19 need not be revegetated. Under the provisions of this act
 20 and rules adopted by the board, an operator shall prepare
 21 and carry out a method of operation, plan of grading,
 22 backfilling, highwall reduction, subsidence stabilization,
 23 water control, topsoiling, and a reclamation plan for the
 24 area of land affected by his operation. In developing a
 25 method of operation, and plans of backfilling, subsidence

1 stabilization, water control, grading, highwall reduction,
 2 topsoiling, and reclamation, all measures shall be taken to
 3 eliminate damages to landowners and members of the public,
 4 their real and personal property, public roads, streams, and
 5 all other public property from soil erosion, subsidence,
 6 landslides, water pollution, and hazards dangerous to life
 7 and property.

8 (2) The reclamation plan shall set forth in detail the
 9 manner in which the applicant intends to comply with this
 10 section and ~~sections~~ 50-1044, 50-1045, and 50-1046, ~~as~~
 11 ~~amended~~. The plan shall be submitted to the department, and
 12 the department shall notify the applicant by ~~certified or~~
 13 registered mail within ~~one-hundred-twenty-(120)~~ days after
 14 receipt of the plan and complete application if it is or is
 15 not acceptable. The department may extend the ~~one--hundred~~
 16 ~~twenty--(120)~~ days an additional ~~one-hundred-twenty-(120)~~
 17 days upon notification of the operator in writing. If the
 18 plan is not acceptable, the department shall set forth the
 19 reasons why the plan is not acceptable, and it may propose
 20 modifications, delete areas, or reject the entire plan. A
 21 ~~land-owner~~ ~~landowner~~, operator, or any person aggrieved by
 22 the decision of the department may, by written notice,
 23 request a hearing by the board. The board shall notify the
 24 person by ~~certified or~~ registered mail within ~~twenty-(20)~~
 25 days after the hearing of its decision. Every reclamation

1 plan shall be subject to annual review and modification.

2 ~~{2}{1}~~ In addition to the method of operation,
3 grading, backfilling, subsidence stabilization, water
4 control, highwall reduction, topsoiling, and reclamation
5 requirements of this act and rules adopted under this act,
6 the operator, consistent with the directives of subsection
7 (1) of this section shall:

8 (a) bury under adequate fill all toxic materials,
9 shale, mineral, or any other material determined by the
10 department to be acid producing, toxic, undesirable, or
11 creating a hazard;

12 (b) ~~as directed by rules~~ seal off, ~~as directed by~~
13 ~~rules,~~ tunnels, shafts, or other openings or any
14 breakthrough of water creating a hazard;

15 (c) impound, drain, or treat all runoff or underground
16 mine waters so as to reduce soil erosion, damage to grazing
17 and agricultural lands, and pollution of surface and
18 subsurface waters;

19 (d) remove or bury all metal, lumber, and other refuse
20 resulting from the operation;

21 (e) use explosives in connection with the operation
22 only in accordance with department regulations designed to
23 minimize noise, damage to adjacent lands, and water
24 pollution, and ensure public safety, and for other purposes;

25 (f) adopt measures to prevent land subsidence unless

1 the board approves a plan for inducing subsidence into an
2 abandoned operation in a predictable and controlled manner
3 with measures for grading, topsoiling, and revegetating the
4 subsided land surface. In order for a controlled subsidence
5 plan to be approved, the applicant must show that subsidence
6 will not cause a direct or indirect hazard to any public or
7 private buildings, roads, facilities, or use areas, and
8 constitute a hazard to human life or health, and constitute a
9 hazard to domestic livestock or to a viable agricultural
10 operation, or violate any other restrictions the board may
11 consider necessary;

12 (g) stockpile and protect from erosion all mining and
13 processing wastes until such ~~these~~ wastes can be disposed of
14 according to the provisions of this act;

15 (h) deposit as much stockpiled waste material as
16 possible back into the mine voids upon abandonment in such
17 manner as to prevent or minimize land subsidence. The
18 remaining waste material shall be disposed of as provided by
19 this act and the rules of the board;

20 (i) seal all portals, entryways, drifts, shafts, and
21 other openings between the surface and underground mine
22 workings upon abandonment.

23 ~~{3}{4}~~ An operator may not throw, dump, pile, or
24 permit the dumping, piling, or throwing or otherwise placing
25 any overburden, stones, rocks, mineral, earth, soil, dirt,

1 debris, trees, wood, logs, or any other materials or
 2 substances of any kind or nature beyond or outside of the
 3 area of land which is under permit and for which a bond has
 4 been posted under section 50-1039, ~~as amended,~~ or place the
 5 materials described in this section in such a way that
 6 normal erosion or slides brought about by natural physical
 7 causes will permit the materials to go beyond or outside of
 8 ~~the that~~ area of land ~~which-is-under-permit-and-for-which-a~~
 9 ~~bond-has-been-posted-under-section-50-1039."~~

10 Section 13. Section 50-1203, R.C.M. 1947, is amended
 11 to read as follows:

12 "50-1203. Definitions. As used in this act, unless the
 13 context indicates otherwise, the following definitions
 14 apply:

15 (1) "Surface mining" ~~shall--mean means~~ and ~~include~~
 16 includes all or any part of the process involved in mining
 17 of minerals by removing the overburden and mining directly
 18 from the mineral deposits thereby exposed, including, but
 19 not limited to, open-pit mining of minerals naturally
 20 exposed at the surface of the earth, mining by the auger
 21 method, and ~~any-and~~ all similar methods by which earth or
 22 minerals exposed at the surface are removed in the course of
 23 mining. Surface mining ~~shall does~~ not include the extraction
 24 of oil, gas, bentonite, clay, coal, sand, gravel, phosphate
 25 rock, or uranium ~~nor or~~ excavation or grading conducted for

1 on-site farming, on-site road construction, or other on-site
 2 building construction.

3 (2) "Unit of ~~surface-mined surface-mined~~ area" ~~shall~~
 4 ~~mean means~~ and ~~include~~ includes that area of land and
 5 surface water included within an operating permit actually
 6 disturbed by surface mining during each ~~twelve--month~~
 7 12-month period of time, beginning at the date of the
 8 issuance of the permit, and ~~shall--comprise it comprises~~ and
 9 ~~include~~ includes the area from which overburden ~~and/or~~
 10 minerals have been removed, the area covered by mining
 11 debris, and all additional areas used in surface mining or
 12 underground mining operations which, by virtue of such use,
 13 are thereafter susceptible to erosion in excess of the
 14 surrounding undisturbed portions of land.

15 (3) "Disturbed land" ~~shall--mean means~~ and ~~include~~
 16 includes that area of land or surface water disturbed,
 17 beginning at the date of the issuance of the permit, and
 18 ~~shall--comprise it comprises~~ that area from which the
 19 overburden, ~~and/or~~ minerals have been removed, ~~and~~ tailings
 20 ponds, waste dumps, roads, conveyor systems, leach dumps,
 21 and all similar excavations or covering resulting from ~~said~~
 22 ~~the~~ operation and which ~~has have~~ not been previously
 23 reclaimed under the reclamation plan.

24 (4) "Abandonment of surface or underground mining" may
 25 be presumed when it is shown that continued operation will

1 not resume.

2 (5) "Underground mining" ~~shall-mean means~~ and include
3 includes all methods of mining other than surface mining.

4 (6) "Person" ~~shall-mean means~~ and include includes any
5 person, corporation, firm, association, partnership, or
6 other legal entity engaged in exploration for or development
7 or mining of minerals on or below the surface of the earth.

8 (7) "Mineral" ~~shall-mean means~~ and include includes
9 any ore, rock, or substance, other than oil, gas, bentonite,
10 clay, coal, sand, gravel, phosphate rock, or uranium, taken
11 from below the surface or from the surface of the earth for
12 the purpose of milling, concentration, refinement, smelting,
13 manufacturing, or other subsequent use or processing or for
14 stockpiling for future ~~usage use~~, refinement, or smelting.

15 (8) "Exploration" ~~shall-mean means~~ and include
16 includes all activities conducted on or beneath the surface
17 of lands resulting in material disturbance of the surface
18 for the purpose of determining the presence, location,
19 extent, depth, grade, and economic viability of
20 mineralization in those lands, if any, other than mining for
21 production and economic exploitation, as well as all roads
22 made for the purpose of facilitating exploration, except as
23 noted in ~~section-20-[50-1220]~~ and ~~section-24-[50-1224]~~
24 herein.

25 (9) "Development" ~~shall-mean means~~ and include

1 includes all operations between exploration and mining.

2 (10) "Mining" ~~shall-be-deemed-to-have-commenced~~
3 commences at such time as the operator ~~shall~~ first mine
4 mines ores or minerals in commercial quantities for sale,
5 beneficiation, refining, or other processing or disposition
6 or ~~shall~~ first ~~take~~ takes bulk samples for metallurgical
7 testing in excess of aggregate of ~~ten-thousand-[10,000]~~
8 short tons.

9 (11) "Reclamation plan" ~~shall-mean means~~ and include
10 includes the operator's written proposal, as required and
11 approved by the board, for reclamation of the land that will
12 be disturbed, which proposal shall include, to the extent
13 practical at the time of application for a developing or
14 operating permit:

15 (a) a statement of the proposed subsequent use of the
16 land after reclamation;

17 (b) ~~Plans~~ plans for surface gradient restoration to a
18 surface suitable for the proposed subsequent use of the land
19 after reclamation is completed, and ~~the~~ proposed method of
20 accomplishment;

21 (c) ~~Manner~~ the manner and type of revegetation or
22 other surface treatment of disturbed areas;

23 (d) Procedures ~~procedures~~ proposed to avoid
24 foreseeable situations of public nuisance, endangerment of
25 public safety, damage to human life or property, or

1 unnecessary damage to flora and fauna in or adjacent to the
2 area;

3 (e) Method ~~the method~~ of disposal of mining debris;

4 (f) Method ~~the method~~ of diverting surface waters
5 around the disturbed areas where necessary to prevent
6 pollution of ~~such~~ those waters or unnecessary erosion;

7 (g) Method ~~the method~~ of reclamation of stream
8 channels and stream banks to control erosion, siltation, and
9 pollution;

10 (h) ~~Such~~ such maps and other supporting documents as
11 may be reasonably required by the department; and

12 (i) ~~A~~ a time schedule for reclamation that meets the
13 requirements of ~~section-9-[50-1209]-of-this-act.~~

14 (12) "Vegetative cover" ~~as-used-in-this-act-shall-mean~~
15 means the type of vegetation, grass, shrubs, trees, or any
16 other form of natural cover deemed considered suitable at
17 time of reclamation.

18 (13) "board" ~~shall-mean~~ means the board of land
19 commissioners, or such state employee or state agency as may
20 succeed to its powers and duties under this act.

21 (14) "Department" ~~shall-mean~~ means the department of
22 state lands.

23 (15) "Small miner" ~~shall-mean-any~~ means a person, firm,
24 or corporation engaged in the business of mining who does
25 not remove from the earth during any ~~twenty-four--(24)~~

1 24-hour period material in excess of ~~one-hundred-(100)~~ tons
2 in the aggregate."

3 Section 14. Section 50-1209, R.C.M. 1947, is amended
4 to read as follows:

5 "50-1209. Reclamation plan ~~accomplishment-of-specific~~
6 activities and specific reclamation requirements. ~~(a)(1)~~ The
7 reclamation plan shall provide that reclamation activities,
8 particularly those relating to control of erosion, ~~shall~~
9 to the extent feasible, shall be conducted simultaneously with
10 mining and in any case shall be initiated promptly after
11 completion or abandonment of mining on those portions of the
12 mine complex that will not be subject to further disturbance
13 by the mining operation. In the absence of an order by the
14 board providing a longer period, the plan shall provide that
15 reclamation activities shall be completed not more than two
16 ~~(2)~~ years after completion or abandonment of mining on ~~said~~
17 that portion of mine complex.

18 ~~(b)(2)~~ In the absence of emergency or suddenly
19 threatened or existing catastrophe, an operator may not
20 depart from an approved plan without ~~having~~ previously
21 obtained ~~obtaining~~ from the department written approval of
22 his proposed change.

23 ~~(c)(3)~~ Provision shall be made to avoid accumulation
24 of stagnant water in the mined area which may serve as a
25 host or breeding ground for mosquitoes or other

1 disease-bearing or noxious insect life.

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

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

13 ~~f(1)(a)~~ ~~insulation~~ insulation of all faces from
14 moisture of or water contact by covering to a depth of two
15 ~~f(2)~~ feet or more with material or fill not susceptible
16 itself to generation of such objectionable effluents; or

17 ~~f(2)(b)~~ Processing ~~processing~~ of any such objectionable
18 effluents in the pit before their being allowed to flow or
19 be pumped out of it to reduce toxic or other objectionable
20 ratios to a level deemed considered safe to humans and the
21 environment by the board; or

22 ~~f(3)(c)~~ ~~Brainage~~ drainage of any such objectionable
23 effluents to settling or treatment basins when the
24 objectionable effluents must be reduced to levels deemed
25 considered safe by the board before release from the

1 settling basin; or

2 ~~f(4)(d)~~ ~~Absorptio. -andy~~ absorption or evaporation of
3 objectionable effluents in the open pit itself; and

4 ~~f(5)(e)~~ ~~Prevention~~ prevention of entrance into the open
5 pit by persons or livestock lawfully upon adjacent lands by
6 fencing, warning signs, and such other devices as may
7 reasonably be required by the board.

8 ~~f(7)(6)~~ ~~Vegetotive~~ Provisions for vegetative cover ~~wit~~
9 shall be required in the reclamation plan if appropriate to
10 the future use of the land as specified in the reclamation
11 plan.

12 ~~f(9)(11)~~ The reclamation plan shall provide for the
13 reclamation of all disturbed land. Proposed reclamation need
14 not reclaim the areas to a better condition or different use
15 than that which existed prior to development or mining.

16 ~~f(7)(8)~~ A reclamation plan ~~wit~~ shall be approved by
17 the board if it adequately provides for the accomplishment
18 of the activities ~~heretofore~~ specified in this section."

19 Section 15. Section 50-1404, R.C.M. 1947, is amended
20 to read as follows:

21 "50-1404. Approved ~~strip-mining~~ plan required for
22 ~~strip--mining--period--for--which ==~~ effective period. (1) No
23 operator may engage in strip mining without having first
24 obtained obtaining approval of a ~~strip-mining~~ strip-mining
25 plan from the department as provided for in ~~section--5~~

1 ~~[50-1405], as amended.~~

2 (2) Approved ~~strip-mining strip-mining~~ plans shall be
3 effective for ~~two-(2)-years-from-the-date-of-commencing--the~~
4 ~~operation--or--one--(1) year~~ from the date the plan is
5 approved, ~~whichever-occurs-first."~~

6 Section 16. Section 50-1503, R.C.M. 1947, is amended
7 to read as follows:

8 "50-1503. Contracts for reclamation ~~of-open-cut-mining~~
9 ~~and--enforcement--of--contracts.~~ The ~~state~~ board of ~~land~~
10 ~~commissioners~~ is hereby authorized to enter into contracts
11 ~~with operators~~ in the name of the state of Montana ~~with~~
12 ~~operators~~ which will provide for the reclamation of lands on
13 which ~~open-cut~~ opencut mining of bentonite, clay, scoria,
14 phosphnate rock, sand₁ and gravel has been or is to be
15 conducted. The ~~state~~ board of ~~land--commissioners~~ is
16 authorized to sue and be sued in the name of the state of
17 Montana to enforce the provisions of any contract, and ~~said~~
18 ~~the~~ board shall bring such court actions and take such other
19 steps and actions as may be necessary to enforce the
20 provisions of such contracts."

21 Section 17. Section 50-1504, R.C.M. 1947, is amended
22 to read as follows:

23 "50-1504. Definitions. 627
24 8
25 when used in this act, unless a different meaning clearly

1 appears from the context, the following definitions apply:

2 (1) "Contract" means a mined land reclamation contract
3 prepared by the ~~commission~~ board to meet the requirements of
4 this act.

5 (2) "Open-cut Opencut mining" means the mining of
6 bentonite, clay, scoria, phosphate rock, sand₁ or gravel by
7 removing the overburden lying upon natural deposits thereof
8 and mining directly from the natural deposits thereby
9 exposed, including the removal of overburden for the purpose
10 of determining the location, quality₁ or quantity of any
11 natural deposit of bentonite, clay, scoria, phosphate rock,
12 sand₁ or gravel.

13 (3) "Reclamation" means the reconditioning of the area
14 of land affected by ~~open--cut--mining~~ opencut-mining
15 operations to make the area suitable for productive use₁
16 including but not limited to, forestry, agriculture,
17 grazing, wildlife, recreation, or residential and industrial
18 sites.

19 (4) "Overburden" means all of the earth and other
20 materials which lie above a natural deposit of bentonite,
21 clay, scoria, phosphate rock, sand₁ or gravel. "Spoil" is
22 the overburden disturbed from its natural state in the
23 process of ~~open-cut~~ opencut mining.

24 (5) "Operator" means ~~any~~ a person engaged in and
25 controlling an ~~open-cut-mining~~ opencut-mining operation.

1 (6) "Affected land" means the area of land from which
2 overburden is to be or has been removed and upon which the
3 overburden is to be or has been deposited.

4 (7) "~~Commission board~~" means the state board of land
5 commissioners.

6 (8) "Person" means ~~any a~~ natural person, or ~~any a~~
7 firm, association, partnership, cooperative, or corporation
8 or any department, agency, or instrumentality of the state
9 or any governmental subdivision, or any other entity
10 ~~whatsoever whatever.~~

11 (9) "Landowner" means the owner of land directly or
12 indirectly affected by an ~~open-cut-mining~~ ~~opencut-mining~~
13 operation.

14 (10) "Public notice" means notice given by publication
15 in a newspaper in the general area where the affected land
16 is located. ~~Such the~~ notice shall be given once a week for
17 ~~three-{3}~~ successive weeks.

18 (11) "Soils materials" are those horizons containing
19 topsoil or other soils leached free of deleterious salts and
20 capable of sustaining plant growth and recognized as such by
21 standard authorities.

22 (12) "Refuse" means all waste material directly
23 connected with the ~~open--cut--mining~~ ~~opencut-mining~~
24 operations.

25 (13) "Final cut" means the last pit created in an open

1 ~~cut-mined opencut-mined~~ area.

2 (14) "~~High--wall~~ ~~ighwall~~" means that side of the pit
3 adjacent to unmined land.

4 (15) "Reclamation plan" means the description of
5 current land use, topographical data, water data, soils
6 data, leased areas, intended mine areas, and ~~description--of~~
7 ~~an explanation of~~ proposed reclamation of the land with
8 appropriate maps.

9 (16) "Progress report" means a report showing the land
10 which the operator has affected by ~~open-cut~~ ~~opencut~~ mining
11 during the year. ~~Such the~~ report shall show the number of
12 acres of affected land and all reclamation accomplished."

13 Section 18. Section 50-1505, R.C.M. 1947, is amended
14 to read as follows:

15 "50-1505. Administration ~~of--act --~~ delegation of
16 functions. The ~~commission board~~ is the administrator of this
17 act and it has all the power necessary to implement and
18 enforce it. The ~~commission board~~ may delegate to the
19 commissioner of state lands such powers, duties, and
20 functions under this act as it ~~deems~~ ~~considers~~ necessary for
21 the performance of its duties."

22 Section 19. Section 50-1506, R.C.M. 1947, is amended
23 to read as follows:

24 "50-1506. Powers, duties, and functions of ~~commission~~
25 ~~board.~~ The ~~commission board~~ has the following powers,

1 duties~~1~~ and functions ~~to~~:

2 (1) to enter into contracts where it is found on the
3 basis of the information set forth in the application and an
4 evaluation of the operation by the commission board that the
5 requirements of the act or rules will be observed and that
6 the operation and the reclamation of the affected area can
7 be carried out ~~consistent~~ consistently with the purpose of
8 the act;

9 (2) to prepare and adopt rules ~~and--regulations~~
10 pertaining to ~~open-cut~~ opencut mining to accomplish the
11 purposes of this act;

12 (3) to conduct hearings and~~1~~ for the purposes of
13 conducting such hearings, to administer oaths and
14 affirmations, to subpoena witnesses, to compel attendance of
15 witnesses, to hear evidence~~1~~ and to require the production
16 of any books, papers, correspondence, memoranda, agreements,
17 documents~~1~~ or other records relevant or material to the
18 inquiry;

19 (4) to adopt uniform procedures for the filing of
20 necessary records, the issuance of contracts, and for any
21 other matters of administration not specifically enumerated
22 in this act;

23 (5) to reclaim any affected land with respect to which
24 a bond has been forfeited; and

25 (6) to make investigations or inspections which ~~may-be~~

1 ~~deemed are considered~~ necessary to insure compliance with
2 any provisions provision of this act."

3 Section 20. Section 50-1507, R.C.M. 1947, is amended
4 to read as follows:

5 "50-1507. Contract for reclamation required for--~~large~~
6 ~~open-cut-operations. From-and-after~~ After the effective date
7 ~~of--this--act~~ March 16, 1973, no operator ~~shall~~ may conduct
8 ~~open-cut-mining~~ opencut-mining operations which ~~shall~~ will
9 result in the removal of ~~ten-thousand-(10,000)~~ cubic yards~~v~~
10 or more~~v~~ of product or overburden~~v~~ until he has entered into
11 a contract with the commission board for the reclamation of
12 the land affected. ~~Any An~~ operator conducting a number of
13 operations~~1~~ each of which result in the removal of less than
14 ~~ten-thousand-(10,000)~~ cubic yards of product or overburden
15 out which result in the removal of ~~ten-thousand-(10,000)~~
16 cubic yards~~v~~ or more~~v~~ of product or overburden in the
17 aggregate ~~shall--be~~ is subject to the provisions of this
18 act."

19 Section 21. Section 50-1508, R.C.M. 1947, is amended
20 to read as follows:

21 "50-1508. Application for contract -- contents --
22 issuance of-contract -- amendment --~~withdrawal-of-land.~~ (1)
23 Applications for a contract shall be made upon a form
24 furnished by the commission board, which form ~~contains~~ shall
25 contain the following:

1 (1)(a) the name of the operator and, if other than the
2 owner of the land, the name and address of the owner;

3 (2)(b) the type of operation to be conducted;

4 (3)(c) the volume of earth to be removed, as
5 accurately as the same volume may then be estimated, and the
6 volume which has been previously removed, if any;

7 (4)(d) the location of the operation by legal
8 subdivision, section, township and range, and county;

9 (5)(e) the date when such the operation was or will be
10 commenced; and

11 (6) ~~the operator must submit a plan of his operation~~
12 ~~and the method and manner of reclamation that will be used~~
13 ~~or followed, if the operator, prior to applying for a~~
14 ~~contract, notifies the commission of his intention to submit~~
15 ~~a plan and requests the commission to examine the area to~~
16 ~~be mined, the commission shall cause the area to be examined~~
17 ~~and make recommendations to the operator regarding~~
18 ~~reclamation;~~

19 (7)(f) a statement that the applicant has the right
20 and power by legal estate owned to mine by open-cut open-cut
21 mining the lands so described;

22 (8)(2) the the application shall be accompanied by:

23 (a) a bond or security meeting the requirements as set
24 out in this act; and;

25 (b) a fee of ~~fifty dollars~~ (\$50); and

1 ~~(c) the operator's plan of his operation and the~~
2 ~~method and manner of reclamation that will be used or~~
3 ~~followed.~~

4 (3) If, prior to applying for a contract, the operator
5 notifies the board of his intention to submit a plan and
6 requests the board to examine the area to be mined, the
7 board shall cause the area to be examined and make
8 recommendations to the operator regarding reclamation.

9 (4) Upon receipt of such the application, bond or
10 security, and fee due from the operator, and upon agreement
11 to the terms of the contract by the parties, the commission
12 board may issue a contract to the applicant which shall
13 entitle entitles him thereafter to continue in or engage in
14 open-cut ~~open-cut~~ mining or on the land therein described.

15 (9)(5) an AD operator desiring to have his contract
16 amended to cover additional contiguous or nearby land may
17 file an amended application with the commission board. Upon
18 receipt of the amended application, and such additional bond
19 as may be required, and upon agreement to the terms of the
20 amendment by the parties, the commission board may issue an
21 amendment to the original contract covering the additional
22 land described in the amended application, without the
23 payment of any additional fees.

24 (10)(6) an AD operator may withdraw any land covered
25 by contract, except affected land, by notifying the

1 ~~commission board~~ thereof, in which case the penalty of the
 2 bond or security filed by ~~such the~~ operator pursuant to the
 3 provisions of this act shall be reduced proportionately."

4 Section 22. Section 50-1509, R.C.M. 1947, is amended
 5 to read as follows:

6 "50-1509. ~~Terms of bond required deposit in lieu of~~
 7 ~~bond substitution of bond forfeiture release bond.~~ (1)
 8 Any a bond required to be filed in this act by the operator
 9 shall be in such form as the ~~commission prescribed board~~
 10 ~~prescribes~~, payable to the state of Montana, and conditioned
 11 upon the operator's full compliance with all requirements of
 12 this act and all rules ~~and regulations~~ of the ~~commission~~
 13 ~~board~~. Such ~~the~~ bond shall be signed by the landowner or
 14 operator, as appropriate, as principal, and by a good and
 15 sufficient corporate surety, licensed to do business in the
 16 state of Montana, as surety. The penalty of ~~such the~~ bond
 17 shall be in an amount not to exceed the costs of restoration
 18 required by this act as determined by the ~~commission board~~
 19 but ~~shall may~~ not be less than ~~two-hundred-dollars-(\$200)~~
 20 nor ~~or~~ more than ~~one-thousand-dollars-(\$1,000)~~ per acre.

21 (2) In lieu of ~~such the~~ bond, the operator may deposit
 22 ~~with the board~~ cash and government securities or a bond with
 23 property sureties ~~with the commission~~ in an amount equal to
 24 that of the required bond on conditions as above prescribed.
 25 In the discretion of the ~~commission board~~, surety bond

1 requirements may be fulfilled by the operator's posting a
 2 bond with land and improvements and facilities thereon as
 3 security, in which event no surety ~~shall may~~ be required.
 4 The penalty of the bond or amount of cash and securities
 5 shall be increased or reduced from time to time as provided
 6 in this act. Such ~~the~~ bond or security ~~shall be and remain~~
 7 ~~remains~~ in effect until the mined acreages have been
 8 reclaimed, as provided under the contract, and ~~the~~
 9 ~~reclamation has been~~ approved and ~~the bond or security has~~
 10 ~~been~~ released by the ~~commission board~~, and ~~shall from time~~
 11 ~~to time~~ ~~The bond or security shall~~ cover only actual mined
 12 acreages and may be increased or reduced to cover only such
 13 acreages as ~~remained remain~~ unreclaimed.

14 (3) If the license ~~to do business in the state~~ of any
 15 a surety upon a bond filed with the ~~commission board~~
 16 pursuant to this act ~~shall be is~~ suspended or revoked, the
 17 operator, within ~~thirty-(30)~~ days after receiving notice
 18 thereof from the ~~commission board~~, shall substitute for ~~such~~
 19 ~~that~~ surety a good and sufficient surety licensed to do
 20 business in the state. Upon failure of the operator to make
 21 substitution of surety, the ~~commission shall have the right~~
 22 to ~~board may~~ suspend the contract of the operator to conduct
 23 operations upon the land described in ~~such the~~ contract
 24 until ~~such the~~ substitution has been made.

25 (4) The ~~commission board~~ shall cause to ~~be reclaimed~~

1 the ~~reclamation of~~ any affected land with respect to which a
2 bond has been forfeited.

3 (5) Whenever an operator ~~shall have completed~~ has
4 completed all of the requirements under the provisions of
5 this act as to any affected land, he shall notify the
6 commission board thereof. If the ~~commission shall release~~
7 board releases the operator from further obligation
8 regarding such affected land, the penalty of the bond shall
9 be reduced proportionately."

10 Section 23. Section 50-1510, R.C.M. 1947, is amended
11 to read as follows:

12 "50-1510. ~~Contract requirements performance bond~~
13 ~~effective period of contract~~ Reclamation plan part of
14 contract requirements. The contract shall meet the
15 following requirements:

16 (1) The operator shall submit a reclamation plan to
17 the commission board before commencing any open-cut ~~open cut~~
18 mining and may not commence mining before it the plan
19 receives approval from the commission board. The operator
20 may request and receive a meeting with the commission board
21 prior to submission of the plan. If the commission board
22 does not notify the operator that it has approved or
23 disapproved a plan within ~~thirty~~ thirty days after the
24 commission board has received the plan, the ~~commission shall~~
25 ~~be deemed board is considered~~ to have approved the plan. The

1 commission board, however, may for sufficient cause, may
2 extend its period of consideration for an additional thirty
3 ~~thirty~~ days if it notifies the operator prior to the end of
4 the original ~~thirty~~ thirty day 30-day period. The commission
5 board shall submit ~~at each~~ each reclamation ~~plans~~ plan or
6 amendments to the reclamation plan to the landowner for his
7 recommendations and shall consider those recommendations in
8 deciding whether to approve or disapprove any plan or
9 amendments. The commission board may seek technical help
10 from any state or federal agency. The ~~commission must~~ board
11 shall submit the plan immediately to the director of the
12 university of Montana statewide archaeological survey for
13 evaluation of possible archaeological or historical values
14 in the area to be mined. The commission board may approve a
15 reclamation plan only if the commission board has found that
16 the plan provides for the best possible reclamation
17 procedures available under the circumstances at the time, so
18 that after mining operations are completed the affected land
19 ~~shall will~~ be reclaimed to a productive use. Once the
20 reclamation plan ~~has been~~ is accepted in writing by the
21 commission board, it shall become a part of the contract but
22 ~~shall be~~ is subject to annual review and modification by the
23 commission board.

24 (2) The commission board may not approve any
25 reclamation plan unless the plan provides that:

1 (a) ~~that~~ the land will be reclaimed for one or more
 2 specified uses, including but not limited to* forest,
 3 pasture, orchard, cropland, residence, recreation, industry,
 4 habitat for wildlife, (including food, cover, or water) for
 5 ~~wildlife~~ or other uses;

6 (b) ~~that~~ to the extent reasonable and practicable, the
 7 operator ~~shall~~ will establish vegetative cover commensurate
 8 with the proposed land use;

9 (c) ~~where whenever~~ operations result in a need to
 10 prevent acid drainage or sedimentation, on or in adjoining
 11 lands or streams, ~~there shall be provisions~~ for the
 12 construction of earth dams or other reasonable devices to
 13 control water drainage, provided the formation of such
 14 impoundments or devices will not interfere with other
 15 landowners' rights or contribute to water pollution;

16 (d) ~~that~~ to accomplish practical utilization of soil
 17 materials, such material will be utilized for placement on
 18 affected areas, if required by the reclamation plan after
 19 completion or termination of that particular phase of the
 20 mining operations, at a depth sufficient for plant growth on
 21 slopes of 3:1 or less;

22 ~~(e) Grading specifications shall~~ that grading will be
 23 commensurate with the topography sought and land use
 24 designated;

25 ~~(f)(1) that~~ metal and other waste ~~shall~~ will be

1 removed or buried;

2 ~~(g) that~~ all access, haul, and other support roads
 3 ~~shall~~ will be located, constructed, and maintained in such a
 4 manner as to control and minimize channeling and other
 5 erosion;

6 ~~(h)(1) that~~ the operator ~~shall~~ will submit a progress
 7 report annually to the ~~commission-a-progress-report board~~;

8 ~~(i)(1) that~~ all operations ~~shall~~ will be conducted so
 9 as to avoid range and forest fires and spontaneous
 10 combustion, ~~open and that open~~ burning of carbonaceous
 11 materials ~~shall~~ will be in accordance with suitable
 12 practices for fire prevention and control;

13 ~~(j)(1) that~~ archaeological and historical values in
 14 areas to be mined ~~shall~~ will be given appropriate
 15 protection;

16 ~~(k) that~~ except for rock faces, bench faces, and
 17 excavations used for water impoundments, each surface area
 18 of the mined premises which will be disturbed ~~shall~~ will be
 19 revegetated when its use for extractive purposes is no
 20 longer required;

21 ~~(l) Seeding that seeding~~ and planting ~~shall~~ will be
 22 done in a manner to achieve a permanent suitable vegetative
 23 cover for wildlife, livestock, and retardation of erosion,
 24 ~~and that all~~ seed will be drilled unless otherwise
 25 provided in the plan;

1 ~~(k)(m)~~ that reclamation shall ~~will~~ be as concurrent
 2 with mining operations as feasible, and ~~must~~ will be
 3 completed within a specified length of time.

4 (3) If reclamation according to the plan has not been
 5 completed in the time specified, the ~~commission-shall~~ board
 6 after ~~thirty-(30)~~ days' written notice shall order the
 7 operator to cease mining, and, if the operator does not
 8 cease, shall institute an action to enjoin further operation
 9 and may sue for damages for breach of contract, for payment
 10 of the performance bond, or for both.

11 (4) (a) At any time during the period of reclamation
 12 the operator may for good reason submit to the commission
 13 board a new reclamation plan or amendment to the existing
 14 plan, including extensions of time.

15 (b) The commission board may approve the proposed new
 16 reclamation plan or amendments to the existing plan if:

17 (i) the operator has in good faith carried on
 18 reclamation according to the existing plan, and ~~(ii)~~ the
 19 proposed new plan or amendments to the existing plan will
 20 result in reclamation as or more desirable ~~or more--so~~ than
 21 the reclamation proposed under the existing plan; or

22 ~~(iii)(ii) it is highly improbable reclamation will be~~
 23 ~~successful unless the existing plan is replaced or amended.~~

24 (c) When accepted, the proposed new reclamation plan
 25 or the proposed amendments to the existing plan becomes

1 ~~become~~ a part of the contract.

2 (5) The operator shall provide a performance bond, or
 3 an alternative acceptable to the commission board in an
 4 amount commensurate with the estimated cost of reclamation,
 5 but in no case shall ~~may~~ the bond be less than ~~two-hundred~~
 6 ~~dollars--(\$200)~~ per acre. The estimated cost of reclamation
 7 shall be set forth in the reclamation plan.

8 (6) The contract, reclamation plan, and amendments
 9 accepted by the commission board shall be a public record
 10 and open to inspection.

11 (7) The contract shall become effective when signed by
 12 the commission board and the operator, and shall remain in
 13 force until terminated by mutual consent or by the
 14 commission board upon ~~six-(6)-months~~ 6-months' notice.*

15 Section 24. Section 50-1511, R.C.M. 1947, is amended
 16 to read as follows:

17 "50-1511. Receipt ~~of-funds-by-commission---reclamation~~
 18 ~~work--by--commission and expenditure of funds.~~ (1) The
 19 commission board may receive any federal funds, state funds,
 20 or any other funds for the reclamation of land affected by
 21 ~~open--cut~~ opencut mining. The commission board may cause the
 22 reclamation work to be done by its own employees or by
 23 employees of other governmental agencies, soil conservation
 24 districts, or through contracts with qualified persons.

25 (2) Any funds or any public works programs available

1 to the ~~commission board~~ shall be used and expended to
 2 reclaim and rehabilitate any lands that have been subject to
 3 ~~open-cut opencut~~ mining that have not been reclaimed and
 4 rehabilitated in accordance with the standards of this act."

5 Section 25. Section 50-1512, R.C.M. 1947, is amended
 6 to read as follows:

7 "50-1512. Inspection of ~~open-cut opencut~~ mining by
 8 ~~commission board~~. The ~~commissionary board~~ or its accredited
 9 representatives may enter upon lands subjected to ~~open-cut~~
 10 ~~opencut~~ mining at all reasonable times for the purpose of
 11 inspection to determine whether the provisions of this act
 12 have been complied with."

13 Section 26. Section 50-1513, R.C.M. 1947, is amended
 14 to read as follows:

15 "50-1513. Operation without contract ~~as misdemeanor~~ --
 16 penalty. Anyone required by this act to have a contract and
 17 who engages in ~~open-cut opencut~~ mining without previously
 18 securing a contract to do so as prescribed by this act is
 19 guilty of a misdemeanor and upon conviction thereof shall
 20 be fined not less than ~~five-hundred-dollars-(\$500)~~ and not
 21 more than ~~one-thousand-dollars-(\$1,000)~~. Each day of
 22 operation without a contract required by this act ~~shall be~~
 23 ~~deemed is~~ a separate violation."

24 Section 27. Section 50-1514, R.C.M. 1947, is amended
 25 to read as follows:

1 "50-1514. Reclamation of land on which bond forfeited.
 2 ~~The commission shall have the power to~~ In keeping with the
 3 provisions of this act, the board may ~~reclaim~~ in-keeping
 4 ~~with the provisions of this act,~~ any affected lands with
 5 respect to which a bond has been forfeited."

6 Section 28. Section 50-1515, R.C.M. 1947, is amended
 7 to read as follows:

8 "50-1515. ~~Commission Board~~ hearing on ~~final order~~ of
 9 ~~commissioner~~ judicial review. (1) A person who is aggrieved
 10 by a final decision of the commissioner of state lands is
 11 entitled to a hearing before the ~~commission board~~.

12 (2) The Montana Administrative Procedure Act (~~title~~
 13 Title 82, chapter 42, R.C.M. 1947) governs hearings before
 14 the ~~commission board~~ and judicial review of decisions of the
 15 ~~commission board~~ under this act."

16 Section 29. Section 50-1516, R.C.M. 1947, is amended
 17 to read as follows:

18 "50-1516. Exemption of ~~==~~ operations covered by ~~other~~
 19 ~~law~~ metal mine reclamation. Nothing in this act ~~shall may~~ be
 20 construed to be applicable to mining or exploration
 21 operations which are regulated under the provisions of Title
 22 50, chapter 12, R.C.M. 1947."

23 Section 30. Section 50-1516.1, R.C.M. 1947, is amended
 24 to read as follows:

25 "50-1516.1. ~~Exceptions~~ Chapter inapplicable to state

1 ~~and local government.~~ The provisions of this chapter
2 relating to fees or bonds ~~shall do~~ not apply to the state of
3 Montana, counties, cities, or towns."

4 Section 31. Section 50-1517, R.C.M. 1947, is amended
5 to read as follows:

6 "50-1517. Exemption of ~~==~~ operations on federal lands.
7 This chapter ~~shall not be is not~~ applicable to operations on
8 certain federal lands as specified by the board, provided it
9 is first determined by the board that federal law or
10 regulations issued by the federal agency administering ~~such~~
11 ~~the land~~ impose controls for reclamation of ~~said those~~
12 lands equal to or greater than those imposed by this
13 chapter."

14 Section 32. Section 60-227, R.C.M. 1947, is amended to
15 read as follows:

16 "60-227. Petroleum and liquefied petroleum meter
17 license fees. A petroleum or liquefied petroleum dealer
18 shall pay license fees as follows:

19 (1) ~~Att for~~ petroleum vehicle tank meters and bulk
20 petroleum meters of ~~two--and--one-half-(2 1/2)~~ inches and
21 under, ~~six-dollars-(6)~~;

22 (2) ~~Att two-and-one-half-(2-1/2)~~ for 2 1/2 inch and
23 under petroleum meters for more than one fluid, ~~ten-dollars~~
24 ~~-(10)~~;

25 (3) ~~Att for~~ bulk petroleum meters over ~~two--and~~

1 ~~one-half-(2 1/2)-inch inches, ten-dollars-(10)~~;

2 (4) ~~Att for~~ petroleum meters over ~~two-and-one-half~~
3 ~~-(2 1/2)-inch inches~~ for more than one fluid, ~~fifteen-dollars~~
4 ~~-(15)~~ ~~and~~

5 (5) ~~Att for~~ liquefied petroleum liquid meters, ~~fifteen~~
6 ~~dollars-(15)~~."

7 Section 33. Section 60-606, R.C.M. 1947, is amended to
8 read as follows:

9 "60-606. Expenses of representative. The
10 representative, or the assistant representative appointed by
11 the governor of the state of Montana, to the oil compact
12 commission shall be allowed and paid his reasonable expenses
13 while engaged in the performance of his official duties, and
14 ~~said his~~ expenses and all other expense incurred in
15 connection with the ~~said~~ interstate oil compact and ~~said the~~
16 interstate oil compact commission shall be paid out of the
17 oil-conservation-board board of oil and gas conservation
18 revenue fund in accordance with the provisions of ~~60-121~~
19 60-145, as amended."

20 Section 34. Section 69-3303, R.C.M. 1947, is amended
21 to read as follows:

22 "69-3303. ~~Filing-of--notice~~ Notice of intention to
23 ~~engage-in-geophysical--exploration~~ explore. ~~it--shall--be~~
24 ~~necessary-for-any~~ A person, firm, or corporation desiring to
25 engage in ~~such~~ geophysical exploration within the state of

1 Montana, prior to actually so engaging in such exploration
 2 to shall file a notice of intention to engage in such
 3 geophysical the exploration with the county clerk and
 4 recorder in each county in which exploration is to be
 5 carried on or engaged in. The said notice of intention to
 6 engage in such geophysical exploration shall be filed prior
 7 to the actual commencement of such geophysical the
 8 exploration."

9 Section 35. Section 69-3305, R.C.M. 1947, is amended
 10 to read as follows:

11 "69-3305. ~~issuance of geophysical exploration permit~~
 12 ~~requirements contents period valid for costs~~
 13 ~~carrying of permit~~ Exploration permit. The county clerk and
 14 recorder of each county in the state of Montana

15 (1) upon Upon compliance with the provisions herein
 16 contained, namely the filing of a notice of intention to
 17 engage in such geophysical the exploration in addition to
 18 and a certificate [or photostatic copy thereof] from the
 19 secretary of the state of Montana certifying the name and
 20 address of the resident agent for service of process for
 21 said the person, firm or corporation desiring to engage in
 22 such geophysical the exploration and certifying that the
 23 required surety bond has been filed with the said secretary
 24 of state, shall issue the county clerk and recorder shall
 25 issue to such the person, firm or corporation a

1 "geophysical exploration permit"
 2 (2) which the permit will shall show:
 3 (a) the names name of the person, firm or
 4 corporation his or its and principal place of business;
 5 (b) if a firm or corporation, the names and addresses
 6 of its officers;
 7 (c) the name and address of the resident agent for
 8 service of process for said the person, firm or
 9 corporation;
 10 (d) that a notice of intention to engage in such
 11 geophysical exploration has been duly filed; and
 12 (e) that a good and sufficient surety bond has been
 13 filed by the said person, firm or corporation, naming the
 14 surety company and giving its address;
 15 (3) such the permit to shall be signed by the county
 16 clerk and recorder and/or his deputy and bearing bear the
 17 official county seal. Such the permit shall be valid and
 18 effective for all such geophysical crews of the permittee
 19 during the calendar year in which it is issued.
 20 (4) The cost of the said permit shall be five dollars
 21 {55.00} per calendar year or any portion thereof for which
 22 issued, and the revenues realized therefrom shall go to the
 23 county so issuing. Such funds as are realized shall be
 24 applied toward payment of the cost of printing said the
 25 permits, which shall be printed at the county seat, and such

1 excesses shall, ~~from year to year~~ go into the county's
 2 general funds, ~~provided, however, that if~~

3 (5) If printed forms are not available at the time any
 4 person, firm, or corporation desires such ~~the~~ permit and
 5 qualifies for its issuance, typewritten or other form of
 6 reproduction of such ~~the~~ permit may be used and, the fee of
 7 ~~five dollars (\$5.00)~~ nevertheless shall nevertheless be paid
 8 for its issuance, and such ~~this~~ fee shall be disposed of in
 9 the same manner.

10 (6) The ~~said~~ permit or a photostatic copy thereof
 11 shall be carried by the person or ~~by~~ the agent of the firm
 12 or corporation, at all times during the period of such ~~the~~
 13 geophysical exploration and shall be exhibited upon demand
 14 by ~~of~~ any county or state official."

15 Section 36. Section 73-115, R.C.M. 1947, is amended to
 16 read as follows:

17 "73-115. Action to compel release ~~damages~~
 18 ~~attorney's fees~~ ~~release without suit.~~ Should the owner of
 19 such ~~lease neglect or refuse~~ (1) ~~if the lessee or assignee~~
 20 ~~thereof neglects or refuses~~ to execute a release as provided
 21 by this act, then the owner of the leased premises may sue
 22 in any court of competent jurisdiction to obtain such ~~the~~
 23 release, and ~~in such action~~ he also may also recover ~~in such~~
 24 ~~action of from~~ the lessee, his successor, or assignee, the
 25 sum of ~~one hundred dollars (\$100.00)~~ as damages, and all

1 costs, together with a reasonable attorney's fee for
 2 preparing and prosecuting the suit, and ~~he may also recover~~
 3 any additional damages that the evidence in the case will
 4 warrant ~~warrants.~~ ~~in all such actions~~ writs of
 5 attachment may issue as in other cases. If, in such ~~the~~
 6 action, the plaintiff fails to establish the forfeiture of
 7 the lease, an attorney's fee must be allowed to the holder
 8 ~~lessee or assignee~~ of the lease. Issues in regard to such
 9 ~~attorney's~~ fees shall be determined in the same manner as
 10 other issues in such actions.

11 (2) When, by its terms, ~~any such an~~ oil and/or gas
 12 lease has expired and is subject to forfeiture for
 13 nonperformance and more than ~~three~~ (3) years has ~~have~~
 14 elapsed since ~~said the~~ expiration, the owner of the leased
 15 premises may, in addition to all other remedies, ~~may~~ serve a
 16 written notice on ~~said the~~ lessee or on the assignee
 17 thereof, which notice shall state:

18 (a) the name ~~names~~ of the lessor, the lessee, and the
 19 assignee thereof if assigned;

20 (b) the date of the lease, and the date of the
 21 expiration thereof;

22 (c) ~~the~~ the description of the lands leased;

23 (d) the place, book, and page where ~~the lease is~~
 24 recorded; and ~~shall state that unless said lease or abstract~~
 25 ~~of such lease is released of record, or~~

1 ~~(e) that if the lessee or assignee fails to execute a~~
 2 ~~release of record of the lease or abstract of the lease, the~~
 3 ~~lease shall be terminated and of no effect and shall cease~~
 4 ~~to be a lien upon the lands described therein, unless the~~
 5 ~~lessee or the assignee thereof shall, within sixty (60) days~~
 6 ~~from the date of service thereof, file an affidavit of the~~
 7 ~~notice, filed, in the county clerk's office in the county~~
 8 ~~wherein such where the lease or abstract of such lease is~~
 9 ~~recorded, an affidavit stating that the lease is in effect~~
 10 ~~and deliver delivers a copy thereof to the owner of the~~
 11 ~~leased lands stating that said lease is in effect,~~
 12 ~~otherwise said lease shall be terminated and of no effect~~
 13 ~~and shall cease to be a lien upon the lands described~~
 14 ~~therein.~~

15 (2) If the lessee or the assignee thereof resides
 16 in the county where said the lease or abstract of such the
 17 lease is recorded, the notice shall be personally served on
 18 said that person or persons. If said the lessee or the
 19 assignee thereof does not reside in said that county, but
 20 his, her or its address appears on the records in that
 21 county clerk's office, or is otherwise known, such the
 22 notice shall be mailed by registered certified mail to such
 23 that person or persons, at such that address, and in
 24 addition thereto, such the notice shall be published once a
 25 week for two (2) consecutive weeks in a newspaper of general

1 circulation in the county in which said the lands are
 2 situated, and said notice shall likewise be published in
 3 the manner as above provided if If the address of the lessee
 4 or assignee is unknown, the notice shall be published in
 5 the manner provided above. The date of service of said the
 6 notice, if served personally, the date of mailing, if
 7 served by mail, and the first date of publication of said
 8 the notice, if published, must be at least sixty (60) days
 9 before the date of termination referred to in said the
 10 notice.

11 (4) Upon the expiration of the time mentioned in said
 12 the notice, if the affidavit of the lessee or assignee has
 13 not been filed as herein provided, the owner of the leased
 14 lands shall file an affidavit of service thereof of the
 15 notice in the county clerk's office of said the county in
 16 which the lands are located, and the affidavit shall be kept
 17 as a permanent file in his office, and such this proof of
 18 notice when so filed shall be is prima facie evidence of the
 19 sufficiency of the notice, and from end after the filing
 20 thereof said the lease shall be is terminated and the lands
 21 released from the lien thereof."

-End-