

1 H BILL NO. 558
 2 INTRODUCED BY Felipe Conroy, Moore Astoria
 3 Mary Dasinger, Regan, Justin Day
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO CONVERT THE 1-YEAR
 5 OPERATING PERMITS UNDER THE MONTANA STRIP AND UNDERGROUND
 6 MINE RECLAMATION ACT AND COAL CONSERVATION ACT INTO 5-YEAR
 7 PERMITS WITH ANNUAL REPORTING REQUIREMENTS; AMENDING
 8 SECTIONS 50-1039, 50-1044, AND 50-1404, R.C.M. 1947."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

13 "50-1039. Permit required to engage in strip mining or
 14 underground mining -- application for permit -- contents --
 15 fee -- bond -- agencies exempt -- annual report. (1) An
 16 operator may not engage in strip or underground mining
 17 without having first obtained from the department a permit
 18 designating the area of land affected by the operation. The
 19 permit shall authorize the operator to engage in strip or
 20 underground mining upon the area of land described in his
 21 application and designated in the permit for a period of ~~one~~
 22 ~~(1) year~~ 5 years from the date of its issuance. Such permit
 23 shall be renewable ~~from year to year~~ upon each 5-year
 24 anniversary thereafter upon application to the department at
 25 least thirty (30) but not more than sixty (60) days prior to

1 the renewal date so long as the operator is in compliance
 2 with the requirements of this act, the rules hereunder, and
 3 the reclamation plan provided for in section 50-1043 and
 4 agrees to comply with all applicable laws and rules in
 5 effect at the time of renewal. Such renewal shall further be
 6 subject to the denial provisions of sections 50-1042,
 7 50-1046 and 50-1050.

8 (2) An operator shall file an annual report with the
 9 department within 30 days of the anniversary date of each
 10 permit. Included within this report shall be:

11 (a) the name and address of the operator and permit
 12 number;

13 (b) a report in such detail as the department shall
 14 require, supplemented with maps, cross sections, or other
 15 material indicating the extent to which mining operations
 16 have been carried out, the progress of all reclamation work,
 17 the extent to which expectations and predictions made in the
 18 original application have been fulfilled, and any deviation
 19 therefrom, and the number of acres affected; and

20 (c) a revised schedule or timetable of operations and
 21 reclamation and an estimate of the number of acres to be
 22 affected during the next 1-year period.

23 (3) Upon receipt of the annual report the department
 24 may make further inquiry and request further information,
 25 and if it does so shall allow a reasonable opportunity for

1 the operator to respond. When problem situations are
 2 revealed by review of new information or as a result of
 3 field inspections, the department may order such changes in
 4 the mining and reclamation plans as are necessary to insure
 5 compliance with this chapter.

6 ~~(2)~~ (4) An operator desiring a permit shall file an
 7 application which shall contain a complete and detailed plan
 8 for the mining, reclamation, revegetation, and
 9 rehabilitation of the land and water to be affected by the
 10 operation. Such plan shall reflect thorough advance
 11 investigation and study by the operator and shall include
 12 all known or readily discoverable past and present uses of
 13 the land and water to be affected and the approximate
 14 periods of such use and shall state:

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

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

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

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

1 the mineral on the land affected by the permit;

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

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

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

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

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

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

1 shall also include all existing shafts, entries and
 2 haulageways;

3 (k) the name and date of a daily newspaper of general
 4 circulation within the county in which the applicant has
 5 prominently published an announcement of his application for
 6 a strip mining or underground mining permit, and a detailed
 7 description of the area of land to be affected should a
 8 permit be granted;

9 (l) such other or further information as the
 10 department may require.

11 ~~(3)~~ (5) The application for a permit shall be
 12 accompanied by two (2) copies of all maps meeting the
 13 requirements of the subsections below. The maps shall:

14 (a) identify the area to correspond with the
 15 application;

16 (b) show any adjacent deep mining or surface mining
 17 and the boundaries of surface properties and names of owners
 18 of record of the affected area and within one thousand
 19 (1,000) feet of any part of the affected area;

20 (c) show the names and locations of all streams,
 21 creeks, or other bodies of water, roads, buildings,
 22 cemeteries, oil and gas wells, and utility lines on the area
 23 of land affected and within one thousand (1,000) feet of
 24 such area;

25 (d) show by appropriate markings the boundaries of the

1 area of land affected, any cropline of the seam or deposit
2 of mineral to be mined, and the total number of acres
3 involved in the area of land affected;

4 (e) show the date on which the map was prepared and
5 the north point;

6 (f) show the final surface and underground water
7 drainage plan on and away from the area of land affected.
8 This plan shall indicate the directional and volume flow of
9 water, constructed drainways, natural waterways used for
10 drainage, and the streams or tributaries receiving the
11 discharge;

12 (g) show the proposed location of waste or refuse
13 area;

14 (h) show the proposed location of temporary subsoil
15 and topsoil storage area;

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

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

19 (k) show a listing of plant varieties encountered in
20 the area to be affected and their relative dominance in the
21 area, together with an enumeration of tree varieties and the
22 approximate number of each variety occurring per acre on the
23 area to be affected, and the locations generally of the
24 various kinds and varieties of plants, including but not
25 limited to grasses, shrubs, legumes, forbs and trees;

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

7 (m) contain such other or further information as the
8 department may require.

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

18 ~~(5)~~ (7) (a) An application fee of fifty dollars (\$50)
19 shall be paid before the permit required in this section
20 shall be issued. ~~the~~ For a bond for the first year of
21 operations, the operator shall file with the department a
22 bond payable to the state of Montana with surety
23 satisfactory to the department in the penal sum to be
24 determined by the board (on the recommendation of the
25 commissioner) of not less than two hundred dollars (\$200)

1 nor more than twenty-five hundred dollars (\$2,500) for each
 2 acre or fraction thereof of the area of land affected, with
 3 a minimum bond of two thousand dollars (\$2,000), conditioned
 4 upon the faithful performance of the requirements set forth
 5 in this act and of the rules of the board. A political
 6 subdivision or agency of the state need not file a bond
 7 unless required to do so by the board. The board may require
 8 the filing of the bond prior to permit issuance or at any
 9 time thereafter.

10 (b) Together with the annual report, the operator
 11 shall file with the department a bond payable to the state
 12 with surety satisfactory to the department in the penal sum
 13 to be determined by the board (on the recommendation of the
 14 commissioner) of not less than \$200 or more than \$2,500 for
 15 each acre or fraction thereof of the area of land to be
 16 affected the following year, with a minimum bond of \$2,000,
 17 conditioned upon the faithful performance of the
 18 requirements set forth in this act and by rules of the
 19 board. A political subdivision or agency of the state need
 20 not file a bond unless required to do so by the board. The
 21 board may require the filing of the bond prior to permit
 22 issuance or at any time thereafter.

23 (c) In determining the amount of the bond within the
 24 above limits, the board shall take into consideration the
 25 character and nature of the overburden, the future suitable

1 use of the land involved and the cost of backfilling,
 2 grading, highwall reduction, subsidence stabilization,
 3 water control, topsoiling, and reclamation to be required;
 4 but in no event shall the bond be less than the total
 5 estimated cost to the state of completing the work described
 6 in the reclamation plan."

7 Section 2. Section 50-1044, R.C.M. 1947, is amended to
 8 read as follows:

9 "50-1044. Area mining required — grading and
 10 revegetation — release of bond — alternative plan. (1)
 11 Area strip mining, a method of operation which does not
 12 produce a bench or fill bench, is required where strip
 13 mining is proposed. All highwalls must be reduced and the
 14 steepest slope of the reduced highwall shall be no greater
 15 than twenty (20) degrees from the horizontal. Highwall
 16 reduction shall be commenced at or beyond the top of the
 17 highwall and sloped to the graded spoil bank. Reduction,
 18 backfilling, and grading shall eliminate all highwalls and
 19 spoil peaks. The area of land affected shall be restored to
 20 the approximate original contour of the land. When directed
 21 by the department, the operator shall construct in the final
 22 grading, such diversion ditches, depressions, or terraces as
 23 will accumulate or control the water runoff. Additional
 24 restoration work may be required by the department according
 25 to rules adopted by the board.

1 (2) In addition to the backfilling and grading
2 requirements, the operator's method of operation on steep
3 slopes may be regulated and controlled according to rules
4 adopted by the board. These rules may require any measure
5 whatsoever to accomplish the purpose of this act.

6 (3) All available topsoil shall be removed in a
7 separate layer, guarded from erosion and pollution, kept in
8 such a condition that it can sustain vegetation of at least
9 the quality and variety it sustained prior to removal, and
10 returned as the top layer after the operation has been
11 backfilled and graded; provided that the operator shall
12 accord substantially the same treatment to any subsurface
13 deposit of material that is capable, as determined by the
14 department, of supporting surface vegetation virtually as
15 well as the present topsoil.

16 (4) As determined by rules of the board, time limits
17 shall be established requiring backfilling, grading,
18 subsidence stabilization, water control, highwall reduction,
19 topsoiling, planting, and revegetation to be kept current.
20 All backfilling, subsidence stabilization, sealing,
21 grading, and topsoiling shall be completed before necessary
22 equipment is moved from the operation.

23 (5) When the backfilling, grading, subsidence
24 stabilization, water controls, and topsoiling have been
25 completed and approved by the department, the commissioner

1 may release so much of the bond which was filed for that
2 portion of the operation as the commissioner may determine,
3 provided that no less than two hundred dollars (\$200) per
4 acre shall be retained by the department until such time as
5 the planting and revegetation is done according to law and
6 approved by the department, at which time the commissioner
7 shall release the bond in the remaining amount.

8 (6) An operator may propose alternative plans other
9 than backfilling, grading, highwall reduction, or topsoiling
10 if the restoration will be consistent with the purpose of
11 this act. These plans shall be submitted to the department,
12 and, after consultation with the landowner, if the plans are
13 approved by the board and complied with within the time
14 limits as may be determined by the board as being reasonable
15 for carrying out the plans, the backfilling, grading,
16 highwall reduction, or topsoiling requirements of this act
17 may be modified by the board. An operator who proposes
18 alternative plans that will affect an existing permit shall
19 comply with the notice requirement of section 50-1039
20 ~~(2)(4)~~ (k)."

21 Section 3. Section 50-1404, B.C.M. 1947, is amended to
22 read as follows:

23 "50-1404. Approved plan required for strip mining --
24 period for which effective. (1) No operator may engage in
25 strip mining without having first obtained approval of a

1 strip mining plan from the department as provided for in
2 section 5 [50-1405].

3 (2) Approved strip mining plans shall be effective for
4 ~~two (2) years from the date of commencing the operation or~~
5 ~~one (1) year~~ 5 years from the date the plan is approved,
6 ~~whichever occurs first~~ with annual reports to the
7 department, as prescribed in 50-1039(2), in which the
8 operator indicates whether any waste has occurred in the
9 past year or is expected to occur in the forthcoming year."

-End-

Approved by Committee
on Business and Industry

HOUSE BILL NO. 558

INTRODUCED BY FABREGA, CONROY, MOORE, PISTORIA, MEYER,
DASSINGER, AAGESON, SIVERTSEN, DAY

A BILL FOR AN ACT ENTITLED: "AN ACT TO CONVERT THE 1-YEAR
OPERATING PERMITS UNDER THE MONTANA STRIP AND UNDERGROUND
MINE RECLAMATION ACT AND COAL CONSERVATION ACT INTO 5-YEAR
PERMITS WITH ANNUAL REPORTING REQUIREMENTS; AMENDING
SECTIONS 50-1039, 50-1040, 50-1044, AND 50-1044, R.C.M.
1947; AND REPEALING SECTION 50-1049, R.C.M. 1947."

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

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

"50-1039. Permit required to engage in strip mining or
underground mining -- application for permit -- contents --
fee -- bond -- agencies exempt -- annual report. (1) An
operator may not engage in strip or underground mining
without having first obtained from the department a permit
designating the area of land affected by the operation,
WHICH DESIGNATION SHALL INCLUDE ALL LANDS REASONABLY
ANTICIPATED TO BE MINED OR OTHERWISE AFFECTED DURING THE
APPLICABLE 5-YEAR PERIOD. The permit shall authorize the
operator to engage in strip or underground mining upon the
area of land described in his application and designated in

the permit for a period of ~~one (1) year~~ 5 years from the
date of its issuance. Such permit shall be renewable ~~from~~
~~year to year~~ upon each 5-year anniversary thereafter upon
application to the department at least thirty (30) but not
more than sixty (60) days prior to the renewal date so long
as the operator is in compliance with the requirements of
this act, the rules hereunder, and the reclamation plan
provided for in section 50-1043 and agrees to comply with
all applicable laws and rules in effect at the time of
renewal. Such renewal shall further be subject to the denial
provisions of sections 50-1042, 50-1046 and 50-1050.

(2) An operator shall file an annual report with the
department within 30 days of the anniversary date of each
permit. Included within this report shall be:

(a) the name and address of the operator and permit
number;

(b) a report in such detail as the department shall
require, supplemented with maps, cross sections, or other
material indicating the extent to which mining operations
have been carried out, the progress of all reclamation work,
the extent to which expectations and predictions made in the
original application have been fulfilled, and any deviation
therefrom, and the number of acres affected; and

(c) a revised schedule or timetable of operations and
reclamation and an estimate of the number of acres to be

SECOND READING

1 affected during the next 1-year period.

2 (3) Upon receipt of the annual report the department
 3 may make further inquiry and request further information,
 4 and if it does so shall allow a reasonable opportunity for
 5 the operator to respond.

6 (4) When problem situations are revealed by review of
 7 new information or as a result of field inspections, the
 8 department may order such changes in the mining and
 9 reclamation plans as are necessary to insure compliance
 10 with this chapter.

11 ~~(2)-(4)~~ (5) An operator desiring a permit shall file an
 12 application which shall contain a complete and detailed plan
 13 for the mining, reclamation, revegetation, and
 14 rehabilitation of the land and water to be affected by the
 15 operation. Such plan shall reflect thorough advance
 16 investigation and study by the operator and shall include
 17 all known or readily discoverable past and present uses of
 18 the land and water to be affected and the approximate
 19 periods of such use and shall state:

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

23 (b) the names and addresses of the owners of record of
 24 the surface of the area of land to be affected by the permit
 25 and the owners of record of all surface area within one-half

1 (.5) mile of any part of the affected area;

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

5 (d) the source of the applicant's legal right to mine
 6 the mineral on the land affected by the permit;

7 (e) the permanent and temporary post-office addresses
 8 of the applicant;

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

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

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

1 engaged in strip or underground mining activities on behalf
2 of the applicant;

3 (i) the annual rainfall and the direction and average
4 velocity of the prevailing winds in the area where the
5 applicant has requested a permit;

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

1 top soil; in addition, each application for an underground
2 mining permit shall be accompanied by cross-sections and
3 maps showing the proposed underground locations of all
4 shafts, entries, and haulageways or other excavations to be
5 excavated during the permit year. These cross-sections
6 shall also include all existing shafts, entries and
7 haulageways;

8 (k) the name and date of a daily newspaper of general
9 circulation within the county in which the applicant has
10 prominently published an announcement of his application for
11 a strip mining or underground mining permit, and a detailed
12 description of the area of land to be affected should a
13 permit be granted;

14 (l) such other or further information as the
15 department may require.

16 ~~(3), (4), (5)~~ The application for a permit shall be
17 accompanied by two (2) copies of all maps meeting the
18 requirements of the subsections below. The maps shall:

19 (a) identify the area to correspond with the
20 application;

21 (b) show any adjacent deep mining or surface mining
22 and the boundaries of surface properties and names of owners
23 of record of the affected area and within one thousand
24 (1,000) feet of any part of the affected area;

25 (c) show the names and locations of all streams,

1 creeks, or other bodies of water, roads, buildings,
 2 cemeteries, oil and gas wells, and utility lines on the area
 3 of land affected and within one thousand (1,000) feet of
 4 such area;

5 (d) show by appropriate markings the boundaries of the
 6 area of land affected, any cropline of the seam or deposit
 7 of mineral to be mined, and the total number of acres
 8 involved in the area of land affected;

9 (e) show the date on which the map was prepared and
 10 the north point;

11 (f) show the final surface and underground water
 12 drainage plan on and away from the area of land affected.
 13 This plan shall indicate the directional and volume flow of
 14 water, constructed drainways, natural waterways used for
 15 drainage, and the streams or tributaries receiving the
 16 discharge;

17 (g) show the proposed location of waste or refuse
 18 area;

19 (h) show the proposed location of temporary subsoil
 20 and topsoil storage area;

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

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

24 (k) show a listing of plant varieties encountered in
 25 the area to be affected and their relative dominance in the

1 area, together with an enumeration of tree varieties and the
 2 approximate number of each variety occurring per acre on the
 3 area to be affected, and the locations generally of the
 4 various kinds and varieties of plants, including but not
 5 limited to grasses, shrubs, legumes, forbs and trees;

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

12 (m) contain such other or further information as the
 13 department may require.

14 ~~(4)-(6)~~ (7) In addition to the information and maps
 15 required above, each application for a permit shall be
 16 accompanied by detailed plans or proposals showing the
 17 method of operation, the manner, time or distance, and
 18 estimated cost for backfilling, subsidence stabilization,
 19 water control, grading work, highwall reduction, topsoiling,
 20 planting, revegetating, and a reclamation plan for the area
 21 affected by the operation, which proposals shall meet the
 22 requirements of this act and rules adopted under this act.

23 ~~(5)-(7)~~ (8) (a) An application fee of fifty dollars
 24 (\$50) shall be paid before the permit required in this
 25 section shall be issued. ~~The fee is to be paid for the first year~~

1 ~~of operations, the~~ THE operator shall file with the
 2 department a bond payable to the state of Montana with
 3 surety satisfactory to the department in the penal sum to be
 4 determined by the board (on the recommendation of the
 5 commissioner) of not less than two hundred dollars (\$200)
 6 nor more than twenty-five hundred dollars (\$2,500) for each
 7 acre or fraction thereof of the area of land affected, with
 8 a minimum bond of two thousand dollars (\$2,000), conditioned
 9 upon the faithful performance of the requirements set forth
 10 in this act and of the rules of the board. THE LEVEL OF
 11 BONDING SHALL BE RELATIVE TO THE DEGREE OF DISTURBANCE
 12 PROJECTED BY THE ORIGINAL PERMIT AND THE ANNUAL REPORT. A
 13 political subdivision or agency of the state need not file a
 14 bond unless required to do so by the board. The board may
 15 require the filing of the bond prior to permit issuance or
 16 at any time thereafter.

17 ~~(b) Together with the annual report, the operator~~
 18 ~~shall file with the department a bond payable to the state~~
 19 ~~with surety satisfactory to the department in the penal sum~~
 20 ~~to be determined by the board (on the recommendation of the~~
 21 ~~commissioner) of not less than \$200 or more than \$2,500 for~~
 22 ~~each acre or fraction thereof of the area of land to be~~
 23 ~~affected the following year, with a minimum bond of \$2,000,~~
 24 ~~conditioned upon the faithful performance of the~~
 25 ~~requirements set forth in this act and by rules of the~~

1 ~~board. A political subdivision or agency of the state need~~
 2 ~~not file a bond unless required to do so by the board. The~~
 3 ~~board may require the filing of the bond prior to permit~~
 4 ~~issuance or at any time thereafter.~~

5 ~~(c) (B)~~ In determining the amount of the bond within
 6 the above limits, the board shall take into consideration
 7 the character and nature of the overburden, the future
 8 suitable use of the land involved and the cost of
 9 backfilling, grading, highwall reduction, subsidence
 10 stabilization, water control, topsoiling, and reclamation to
 11 be required; but in no event shall the bond be less than the
 12 total estimated cost to the state of completing the work
 13 described in the reclamation plan."

14 SECTION 2. SECTION 50-1040, R.C.M. 1947, IS AMENDED TO
 15 READ AS FOLLOWS:

16 "50-1040. Increase or reduction in area -- application
 17 -- fee -- bond. The department may increase or reduce the
 18 area of land affected by an operation under a permit on
 19 application by an operator, but an increase may not extend
 20 the period for which an original permit was issued. An
 21 operator may, at any time within one (1) year from the date
 22 of issuance of the permit, apply to the department for an
 23 amendment of the permit so as to increase or reduce the
 24 acreage affected by it. The operator shall file an
 25 application and map in the same form and with the same

1 content as required for an original application under this
 2 act and shall pay an application fee of ~~fifty dollars~~ ~~(\$50)~~
 3 and shall file with the department a supplemental bond in
 4 the amount to be determined under section 6 [50-1039] for
 5 each acre or fraction of an acre of the increase approved.
 6 If the department approves a reduction in the acreage
 7 covered by the original or supplemental permit, it shall
 8 release the bond for each acre reduced, but in no case shall
 9 the bond be reduced below ~~two thousand dollars~~ ~~(\$2,000)~~,
 10 except as provided in subsection (5) of section 6
 11 [50-1039]."

12 Section 3. Section 50-1044, R.C.M. 1947, is amended to
 13 read as follows:

14 "50-1044. Area mining required — grading and
 15 revegetation — release of bond — alternative plan. (1)
 16 Area strip mining, a method of operation which does not
 17 produce a bench or fill bench, is required where strip
 18 mining is proposed. All highwalls must be reduced and the
 19 steepest slope of the reduced highwall shall be no greater
 20 than twenty (20) degrees from the horizontal. Highwall
 21 reduction shall be commenced at or beyond the top of the
 22 highwall and sloped to the graded spoil bank. Reduction,
 23 backfilling, and grading shall eliminate all highwalls and
 24 spoil peaks. The area of land affected shall be restored to
 25 the approximate original contour of the land. When directed

1 by the department, the operator shall construct in the final
 2 grading, such diversion ditches, depressions, or terraces as
 3 will accumulate or control the water runoff. Additional
 4 restoration work may be required by the department according
 5 to rules adopted by the board.

6 (2) In addition to the backfilling and grading
 7 requirements, the operator's method of operation on steep
 8 slopes may be regulated and controlled according to rules
 9 adopted by the board. These rules may require any measure
 10 whatsoever to accomplish the purpose of this act.

11 (3) All available topsoil shall be removed in a
 12 separate layer, guarded from erosion and pollution, kept in
 13 such a condition that it can sustain vegetation of at least
 14 the quality and variety it sustained prior to removal, and
 15 returned as the top layer after the operation has been
 16 backfilled and graded; provided that the operator shall
 17 accord substantially the same treatment to any subsurface
 18 deposit of material that is capable, as determined by the
 19 department, of supporting surface vegetation virtually as
 20 well as the present topsoil.

21 (4) As determined by rules of the board, time limits
 22 shall be established requiring backfilling, grading,
 23 subsidence stabilization, water control, highwall reduction,
 24 topsoiling, planting, and revegetation to be kept current.
 25 All backfilling, subsidence stabilization, sealing,

1 grading, and topsoiling shall be completed before necessary
2 equipment is moved from the operation.

3 (5) When the backfilling, grading, subsidence
4 stabilization, water controls, and topsoiling have been
5 completed and approved by the department, the commissioner
6 may release so much of the bond which was filed for that
7 portion of the operation as the commissioner may determine,
8 provided that no less than two hundred dollars (\$200) per
9 acre shall be retained by the department until such time as
10 the planting and revegetation is done according to law and
11 approved by the department, at which time the commissioner
12 shall release the bond in the remaining amount.

13 (6) An operator may propose alternative plans other
14 than backfilling, grading, highwall reduction, or topsoiling
15 if the restoration will be consistent with the purpose of
16 this act. These plans shall be submitted to the department,
17 and, after consultation with the landowner, if the plans are
18 approved by the board and complied with within the time
19 limits as may be determined by the board as being reasonable
20 for carrying out the plans, the backfilling, grading,
21 highwall reduction, or topsoiling requirements of this act
22 may be modified by the board. An operator who proposes
23 alternative plans that will affect an existing permit shall
24 comply with the notice requirement of section 50-1039
25 ~~(2) (4) (5) (k)~~."

1 Section 4. Section 50-1404, R.C.M. 1947, is amended to
2 read as follows:

3 "50-1404. Approved plan required for strip mining --
4 period for which effective. (1) No operator may engage in
5 strip mining without having first obtained approval of a
6 strip mining plan from the department as provided for in
7 section 5 [50-1405].

8 (2) Approved strip mining plans shall be effective for
9 ~~two (2) years from the date of commencing the operation or~~
10 ~~one (1) year~~ 5 years from the date the plan is approved,
11 ~~whichever occurs first~~ with annual reports to the
12 department, as prescribed in 50-1039(2), in which the
13 operator indicates whether any waste has occurred in the
14 past year or is expected to occur in the forthcoming year."

15 SECTION 5. REPEALER. SECTION 50-1049, R.C.M., 1947, IS
16 REPEALED.

-End-

HOUSE BILL NO. 558

INTRODUCED BY FABREGA, CONBOY, MOORE, PISTORIA, MEYER,
DASSINGER, AAGESON, SIVERTSEN, DAY

A BILL FOR AN ACT ENTITLED: "AN ACT TO CONVERT THE 1-YEAR
OPERATING PERMITS UNDER THE MONTANA STRIP AND UNDERGROUND
MINE RECLAMATION ACT AND COAL CONSERVATION ACT INTO 5-YEAR
PERMITS WITH ANNUAL REPORTING REQUIREMENTS; AMENDING
SECTIONS 50-1039, 50-1040, 50-1044, AND 50-1404, R.C.M.
1947; AND REPEALING SECTION 50-1049, R.C.M. 1947."

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

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

"50-1039. Permit required to engage in strip mining or
underground mining -- application for permit -- contents --
fee -- bond -- agencies exempt -- annual report. (1) An
operator may not engage in strip or underground mining
without having first obtained from the department a permit
designating the area of land affected by the operation,
WHICH DESIGNATION SHALL INCLUDE ALL LANDS REASONABLY
ANTICIPATED TO BE MINED OR OTHERWISE AFFECTED DURING THE
APPLICABLE 5-YEAR PERIOD. The permit shall authorize the
operator to engage in strip or underground mining upon the
area of land described in his application and designated in

the permit for a period of ~~one (1) year~~ 5 years from the
date of its issuance. Such permit shall be renewable ~~from~~
~~year-to-year~~ upon each 5-year anniversary thereafter upon
application to the department at least thirty (30) but not
more than sixty (60) days prior to the renewal date so long
as the operator is in compliance with the requirements of
this act, the rules hereunder, and the reclamation plan
provided for in section 50-1043 and agrees to comply with
all applicable laws and rules in effect at the time of
renewal. Such renewal shall further be subject to the denial
provisions of sections 50-1042, 50-1046 and 50-1050.

(2) An operator shall file an annual report with the
department within 30 days of the anniversary date of each
permit. Included within this report shall be:

(a) the name and address of the operator and permit
number;

(b) a report in such detail as the department shall
require, supplemented with maps, cross sections, or other
material indicating the extent to which mining operations
have been carried out, the progress of all reclamation work,
the extent to which expectations and predictions made in the
original application have been fulfilled, and any deviation
therefrom, and the number of acres affected; and

(c) a revised schedule or timetable of operations and
reclamation and an estimate of the number of acres to be

There are no changes in HB 558, THIRD READING
Please refer to yellow copy for complete text.

1 affected during the next 1-year period.
 2 (3) Upon receipt of the annual report the department
 3 may make further inquiry and request further information,
 4 and if it does so shall allow a reasonable opportunity for
 5 the operator to respond.
 6 (4) When problem situations are revealed by review of
 7 new information or as a result of field inspections, the
 8 department may order such changes in the mining and
 9 reclamation plans as are necessary to insure compliance
 10 with this chapter.
 11 ~~(2)~~ (5) An operator desiring a permit shall file an
 12 application which shall contain a complete and detailed plan
 13 for the mining, reclamation, revegetation, and
 14 rehabilitation of the land and water to be affected by the
 15 operation. Such plan shall reflect thorough advance
 16 investigation and study by the operator and shall include
 17 all known or readily discoverable past and present uses of
 18 the land and water to be affected and the approximate
 19 periods of such use and shall state:
 20 (a) the location and area of land to be affected by
 21 the operation, with a description of access to the area from
 22 the nearest public highways;
 23 (b) the names and addresses of the owners of record of
 24 the surface of the area of land to be affected by the permit
 25 and the owners of record of all surface area within one-half

1 (.5) mile of any part of the affected area;
 2 (c) the names and addresses of the present owners of
 3 record of all subsurface minerals in the land to be
 4 affected;
 5 (d) the source of the applicant's legal right to mine
 6 the mineral on the land affected by the permit;
 7 (e) the permanent and temporary post-office addresses
 8 of the applicant;
 9 (f) whether the applicant or any person associated
 10 with the applicant holds or has held any other permits under
 11 this act, and an identification of those permits;
 12 (g) whether the applicant is in compliance with
 13 section 50-1050 and whether every officer, partner,
 14 director, or any individual owning of record or beneficially
 15 (alone or with associates) if known, ten percent (10%) or
 16 more of any class of stock of the applicant, is subject to
 17 any of the provisions of section 50-1050 and he shall so
 18 certify, and whether any of the foregoing parties or persons
 19 have ever had a strip mining or underground mining license
 20 or permit issued by any other state or federal agency
 21 revoked, or have ever forfeited a strip mining or
 22 underground mining bond or a security deposited in lieu of a
 23 bond and if so, a detailed explanation of the facts involved
 24 in each case must be attached;
 25 (h) the names and addresses of any persons who are

1 HOUSE BILL NO. 558
 2 INTRODUCED BY FABREGA, CONROY, MOORE, PISTORIA, MEYER,
 3 DASSINGER, AAGESON, SIVERTSEN, DAY
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO CONVERT THE 1-YEAR
 6 OPERATING PERMITS UNDER THE MONTANA STRIP AND UNDERGROUND
 7 MINE RECLAMATION ACT AND COAL CONSERVATION ACT INTO 5-YEAR
 8 PERMITS WITH ANNUAL REPORTING REQUIREMENTS; AMENDING
 9 SECTIONS 50-1039, 50-1040, 50-1044, AND 50-1404, R.C.M.
 10 1947; AND REPEALING SECTION 50-1049, R.C.M. 1947."
 11
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 13 Section 1. Section 50-1039, R.C.M. 1947, is amended to
 14 read as follows:
 15 "50-1039. Permit required to engage in strip mining or
 16 underground mining -- application for permit -- contents --
 17 fee -- bond -- agencies exempt -- annual report. (1) An
 18 operator may not engage in strip or underground mining
 19 without having first obtained from the department a permit
 20 designating the area of land affected by the operation,
 21 WHICH DESIGNATION SHALL INCLUDE ALL LANDS REASONABLY
 22 ANTICIPATED TO BE MINED OR OTHERWISE AFFECTED DURING THE
 23 APPLICABLE 5-YEAR PERIOD. The permit shall authorize the
 24 operator to engage in strip or underground mining upon the
 25 area of land described in his application and designated in

1 the permit for a period of ~~one (1) year~~ 5 years from the
 2 date of its issuance. Such permit shall be renewable ~~from~~
 3 ~~year--to--year~~ upon each 5-year anniversary thereafter upon
 4 application to the department at least thirty (30) but not
 5 more than sixty (60) days prior to the renewal date so long
 6 as the operator is in compliance with the requirements of
 7 this act, the rules hereunder, and the reclamation plan
 8 provided for in section 50-1043 and agrees to comply with
 9 all applicable laws and rules in effect at the time of
 10 renewal. Such renewal shall further be subject to the denial
 11 provisions of sections 50-1042, 50-1046 and 50-1050.

12 (2) An operator shall file an annual report with the
 13 department within 30 days of the anniversary date of each
 14 permit. Included within this report shall be:

15 (a) the name and address of the operator and permit
 16 number;

17 (b) a report in such detail as the department shall
 18 require, supplemented with maps, cross sections, or other
 19 material indicating the extent to which mining operations
 20 have been carried out, the progress of all reclamation work,
 21 the extent to which expectations and predictions made in the
 22 original application have been fulfilled, and any deviation
 23 therefrom, and the number of acres affected; and

24 (c) a revised schedule or timetable of operations and
 25 reclamation and an estimate of the number of acres to be

1 ~~affected during the next 1-year period.~~

2 ~~(3) Upon receipt of the annual report the department~~
 3 ~~may make further inquiry and request further information,~~
 4 ~~and if it does so shall allow a reasonable opportunity for~~
 5 ~~the operator to respond.~~

6 ~~(4) When problem situations are revealed by review of~~
 7 ~~new information or as a result of field inspections, the~~
 8 ~~department may order such changes in the mining and~~
 9 ~~reclamation plans as are necessary to insure compliance~~
 10 ~~with this chapter.~~

11 ~~(2)(4)(5)~~ An operator desiring a permit shall file an
 12 application which shall contain a complete and detailed plan
 13 for the mining, reclamation, revegetation, and
 14 rehabilitation of the land and water to be affected by the
 15 operation. Such plan shall reflect thorough advance
 16 investigation and study by the operator and shall include
 17 all known or readily discoverable past and present uses of
 18 the land and water to be affected and the approximate
 19 periods of such use and shall state:

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

23 (b) the names and addresses of the owners of record of
 24 the surface of the area of land to be affected by the permit
 25 and the owners of record of all surface area within one-half

1 (.5) mile of any part of the affected area;

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

5 (d) the source of the applicant's legal right to mine
 6 the mineral on the land affected by the permit;

7 (e) the permanent and temporary post-office addresses
 8 of the applicant;

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

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

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

1 engaged in strip or underground mining activities on behalf
2 of the applicant;

3 (i) the annual rainfall and the direction and average
4 velocity of the prevailing winds in the area where the
5 applicant has requested a permit;

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

1 top soil; in addition, each application for an underground
2 mining permit shall be accompanied by cross-sections and
3 maps showing the proposed underground locations of all
4 shafts, entries, and haulageways or other excavations to be
5 excavated during the permit year. These cross-sections
6 shall also include all existing shafts, entries and
7 haulageways;

8 (k) the name and date of a daily newspaper of general
9 circulation within the county in which the applicant has
10 prominently published an announcement of his application for
11 a strip mining or underground mining permit, and a detailed
12 description of the area of land to be affected should a
13 permit be granted;

14 (l) such other or further information as the
15 department may require.

16 ~~(3)(5)(6)~~ The application for a permit shall be
17 accompanied by two (2) copies of all maps meeting the
18 requirements of the subsections below. The maps shall:

19 (a) identify the area to correspond with the
20 application;

21 (b) show any adjacent deep mining or surface mining
22 and the boundaries of surface properties and names of owners
23 of record of the affected area and within one thousand
24 (1,000) feet of any part of the affected area;

25 (c) show the names and locations of all streams,

1 creeks, or other bodies of water, roads, buildings,
2 cemeteries, oil and gas wells, and utility lines on the area
3 of land affected and within one thousand (1,000) feet of
4 such area;

5 (d) show by appropriate markings the boundaries of the
6 area of land affected, any cropline of the seam or deposit
7 of mineral to be mined, and the total number of acres
8 involved in the area of land affected;

9 (e) show the date on which the map was prepared and
10 the north point;

11 (f) show the final surface and underground water
12 drainage plan on and away from the area of land affected.
13 This plan shall indicate the directional and volume flow of
14 water, constructed drainways, natural waterways used for
15 drainage, and the streams or tributaries receiving the
16 discharge;

17 (g) show the proposed location of waste or refuse
18 area;

19 (h) show the proposed location of temporary subsoil
20 and topsoil storage area;

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

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

24 (k) show a listing of plant varieties encountered in
25 the area to be affected and their relative dominance in the

1 area, together with an enumeration of tree varieties and the
2 approximate number of each variety occurring per acre on the
3 area to be affected, and the locations generally of the
4 various kinds and varieties of plants, including but not
5 limited to grasses, shrubs, legumes, forbs and trees;

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

12 (m) contain such other or further information as the
13 department may require.

14 ~~(7)(7)~~ In addition to the information and maps
15 required above, each application for a permit shall be
16 accompanied by detailed plans or proposals showing the
17 method of operation, the manner, time or distance, and
18 estimated cost for backfilling, subsidence stabilization,
19 water control, grading work, highwall reduction, topsoiling,
20 planting, revegetating, and a reclamation plan for the area
21 affected by the operation, which proposals shall meet the
22 requirements of this act and rules adopted under this act.

23 ~~(7)(7)(8)~~ (a) An application fee of fifty dollars
24 (\$50) shall be paid before the permit required in this
25 section shall be issued. ~~The for-a-bond-for-the-first-year~~

1 ~~of operations,~~ the IHE operator shall file with the
 2 department a bond payable to the state of Montana with
 3 surety satisfactory to the department in the penal sum to be
 4 determined by the board (on the recommendation of the
 5 commissioner) of not less than two hundred dollars (\$200)
 6 nor more than twenty-five hundred dollars (\$2,500) for each
 7 acre or fraction thereof of the area of land affected, with
 8 a minimum bond of two thousand dollars (\$2,000), conditioned
 9 upon the faithful performance of the requirements set forth
 10 in this act and of the rules of the board. THE LEVEL OF
 11 BONDING SHALL BE RELATIVE TO THE DEGREE OF DISTURBANCE
 12 PROJECTED BY THE ORIGINAL PERMIT AND THE ANNUAL REPORT. A
 13 political subdivision or agency of the state need not file a
 14 bond unless required to do so by the board. The board may
 15 require the filing of the bond prior to permit issuance or
 16 at any time thereafter.

17 ~~to) together with the annual report, the operator~~
 18 ~~shall file with the department a bond payable to the state~~
 19 ~~with surety satisfactory to the department in the penal sum~~
 20 ~~to be determined by the board (on the recommendation of the~~
 21 ~~commissioner) of not less than \$200 or more than \$2,500 for~~
 22 ~~each acre or fraction thereof of the area of land to be~~
 23 ~~affected the following year, with a minimum bond of \$2,000,~~
 24 ~~conditioned upon the faithful performance of the~~
 25 ~~requirements set forth in this act and by rules of the~~

1 ~~boards. A political subdivision or agency of the state need~~
 2 ~~not file a bond unless required to do so by the board. The~~
 3 ~~board may require the filing of the bond prior to permit~~
 4 ~~issuance or at any time thereafter.~~

5 (c)(B) In determining the amount of the bond within
 6 the above limits, the board shall take into consideration
 7 the character and nature of the overburden, the future
 8 suitable use of the land involved and the cost of
 9 backfilling, grading, highwall reduction, subsidence
 10 stabilization, water control, topsoiling, and reclamation to
 11 be required; but in no event shall the bond be less than the
 12 total estimated cost to the state of completing the work
 13 described in the reclamation plan."

14 SECTION 2. SECTION 50-1040, R.C.M. 1947, IS AMENDED TO
 15 READ AS FOLLOWS:

16 "50-1040. Increase or reduction in area -- application
 17 -- fee -- bond. The department may increase or reduce the
 18 area of land affected by an operation under a permit on
 19 application by an operator, but an increase may not extend
 20 the period for which an original permit was issued. An
 21 operator may, at any time within one (1) year from the date
 22 of issuance of the permit, apply to the department for an
 23 amendment of the permit so as to increase or reduce the
 24 acreage affected by it. The operator shall file an
 25 application and map in the same form and with the same

1 content as required for an original application under this
 2 act and shall pay an application fee of ~~fifty dollars--(\$50)~~
 3 and shall file with the department a supplemental bond in
 4 the amount to be determined under section 6 [50-1039] for
 5 each acre or fraction of an acre of the increase approved.
 6 If the department approves a reduction in the acreage
 7 covered by the original or supplemental permit, it shall
 8 release the bond for each acre reduced, but in no case shall
 9 the bond be reduced below ~~two--thousand--dollars--(\$2,000)~~,
 10 except as provided in subsection (5) of section 6
 11 [50-1039]."

12 Section 3. Section 50-1044, R.C.M. 1947, is amended to
 13 read as follows:

14 "50-1044. Area mining required -- grading and
 15 revegetation -- release of bond -- alternative plan. (1)
 16 Area strip mining, a method of operation which does not
 17 produce a bench or fill bench, is required where strip
 18 mining is proposed. All highwalls must be reduced and the
 19 steepest slope of the reduced highwall shall be no greater
 20 than twenty (20) degrees from the horizontal. Highwall
 21 reduction shall be commenced at or beyond the top of the
 22 highwall and sloped to the graded spoil bank. Reduction,
 23 backfilling, and grading shall eliminate all highwalls and
 24 spoil peaks. The area of land affected shall be restored to
 25 the approximate original contour of the land. When directed

1 by the department, the operator shall construct in the final
 2 grading, such diversion ditches, depressions, or terraces as
 3 will accumulate or control the water runoff. Additional
 4 restoration work may be required by the department according
 5 to rules adopted by the board.

6 (2) In addition to the backfilling and grading
 7 requirements, the operator's method of operation on steep
 8 slopes may be regulated and controlled according to rules
 9 adopted by the board. These rules may require any measure
 10 whatsoever to accomplish the purpose of this act.

11 (3) All available topsoil shall be removed in a
 12 separate layer, guarded from erosion and pollution, kept in
 13 such a condition that it can sustain vegetation of at least
 14 the quality and variety it sustained prior to removal, and
 15 returned as the top layer after the operation has been
 16 backfilled and graded; provided that the operator shall
 17 accord substantially the same treatment to any subsurface
 18 deposit of material that is capable, as determined by the
 19 department, of supporting surface vegetation virtually as
 20 well as the present topsoil.

21 (4) As determined by rules of the board, time limits
 22 shall be established requiring backfilling, grading,
 23 subsidence stabilization, water control, highwall reduction,
 24 topsoiling, planting, and revegetation to be kept current.
 25 All backfilling, subsidence stabilization, sealing,

1 grading, and topsoiling shall be completed before necessary
2 equipment is moved from the operation.

3 (5) When the backfilling, grading, subsidence
4 staobilization, water controls, and topsoiling have been
5 completed and approved by the department, the commissioner
6 may release so much of the bond which was filed for that
7 portion of the operation as the commissioner may determine,
8 provided that no less than two hundred dollars (\$200) per
9 acre shall be retained by the department until such time as
10 the planting and revegetation is done according to law and
11 approved by the department, at which time the commissioner
12 shall release the bond in the remaining amount.

13 (6) An operator may propose alternative plans other
14 than backfilling, grading, highwall reduction, or topsoiling
15 if the restoration will be consistent with the purpose of
16 this act. These plans shall be submitted to the department,
17 and, after consultation with the landowner, if the plans are
18 approved by the board and complied with within the time
19 limits as may be determined by the board as being reasonable
20 for carrying out the plans, the backfilling, grading,
21 highwall reduction, or topsoiling requirements of this act
22 may be modified by the board. An operator who proposes
23 alternative plans that will affect an existing permit shall
24 comply with the notice requirement of section 50-1039
25 ~~(2)(4)(2)(k).~~"

1 Section 4. Section 50-1404, R.C.M. 1947, is amended to
2 read as follows:

3 *50-1404. Approved plan required for strip mining --
4 period for which effective. (1) No operator may engage in
5 strip mining without having first obtained approval of a
6 strip mining plan from the department as provided for in
7 section 5 [50-1405].

8 (2) Approved strip mining plans shall be effective for
9 ~~two--(2)--years from the date of commencing the operation or~~
10 ~~one--(1)--year~~ 5 years from the date the plan is approved,
11 ~~whichever--occurs--first~~ with annual reports to the
12 department, as prescribed in 50-1039(2), in which the
13 operator indicates whether any waste has occurred in the
14 past year or is expected to occur in the forthcoming year."

15 SECTION 5. REPEALER. SECTION 50-1049, R.C.M. 1947, IS
16 REPEALED.

-End-