

1 H BILL NO. 604
 2 INTRODUCED BY Sheldon Ellis Karler

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO RECLAMATION
 5 OF MINING LANDS; AMENDING SECTIONS 50-1202, 50-1203,
 6 50-1205, 50-1206, 50-1207, 50-1208, 50-1209, 50-1210,
 7 50-1211, 50-1212, 50-1213, 50-1214, AND 50-1221, R.C.M.
 8 1947; CREATING A NEW R.C.M. SECTION 50-1228 PROVIDING
 9 MANDANUS AS A REMEDY TO COMPEL ENFORCEMENT OF TITLE 50,
 10 CHAPTER 12."

11
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 50-1202, R.C.M. 1947, is amended to
 14 read as follows:

15 "50-1202. Purposes of act. The purposes of this act
 16 are to provide: (i) that the usefulness, productivity and
 17 scenic values of all lands and surface waters involved in
 18 mining and mining exploration within the boundaries and
 19 lawful jurisdiction of the state will receive the ~~greatest~~
 20 ~~reasonable degree of protection and reclamation to~~
 21 ~~beneficial use~~ best technological and environmental
 22 protection available; (ii) authority for co-operation
 23 between private and governmental entities in carrying this
 24 act into effect; (iii) for the recognition of the
 25 agricultural, recreational, and aesthetic values of land as

1 a benefit to the state of Montana; and (iv) priorities and
 2 values to the aesthetics of our landscape, waters and ground
 3 cover. ~~Although both the need for and the practicability of~~
 4 ~~reclamation will control the type and degree of reclamation~~
 5 ~~in any specific instance, the~~ The basic objective of
 6 reclamation will be to establish, on a continuing basis, ~~the~~
 7 vegetative cover, soil stability, water condition and safety
 8 condition ~~appropriate to any proposed subsequent use of the~~
 9 ~~area."~~

10 Section 2. Section 50-1203, R.C.M. 1947, is amended to
 11 read as follows:

12 "50-1203. Definitions. As used in this act, unless the
 13 context indicates otherwise: (1) "Surface mining" shall
 14 mean and include all or any part of the process involved in
 15 mining of minerals by removing the overburden and mining
 16 directly from the mineral deposits thereby exposed,
 17 including, but not limited to, open-pit mining of minerals
 18 naturally exposed at the surface of the earth, mining by the
 19 auger method, and any and all similar methods by which earth
 20 or minerals exposed at the surface are removed in the course
 21 of mining. Surface mining shall not include the extraction
 22 of oil, gas, bentonite, clay, coal, sand, gravel, phosphate
 23 rock, or uranium nor excavation or grading conducted for
 24 on-site farming, on-site road construction, or other on-site
 25 building construction.

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

12 (3) "Disturbed land" shall mean and include that area
 13 of land or surface water disturbed, beginning at the date of
 14 the issuance of the permit, and shall comprise that area
 15 from which the overburden, and/or minerals have been
 16 removed; tailings ponds, waste dumps, roads, conveyor
 17 systems, leach dumps, pipelines and tailing slurry lines,
 18 and all similar excavations or covering resulting from said
 19 operation and which has not been previously reclaimed under
 20 the reclamation plan.

21 (4) "~~Abandonment of surface or underground mining~~
 22 ~~may be presumed when it is shown that continued operation~~
 23 ~~will not resume shall mean an operation where no mineral is~~
 24 ~~being produced and the department determines that the~~
 25 ~~operation will not continue or resume.~~

1 (5) "Underground mining" shall mean and include all
 2 methods of mining other than surface mining.

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

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

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

23 (9) "Development facilities" shall mean and include
 24 ~~all operations between exploration and mining the~~
 25 ~~construction and operation of all crushers, concentrators,~~

1 tailing ponds and dumps, settling ponds, leach dumps,
2 conveyor systems, and pipelines.

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

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

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

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

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

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

1 damage to flora and fauna in or adjacent to the area and
2 water and air quality during and after exploration and
3 mining;

4 (e) Method of disposal of mining debris;

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

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

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

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

14 (j) A program to monitor water quality and quantity,
15 before, during, and after exploration and mining.

16 (12) "Vegetative cover" as used in this act shall mean
17 the type of vegetation, grass, shrubs, trees, or any other
18 form of ~~natural cover deemed suitable at time of reclamation~~
19 primarily native and diverse vegetation.

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

23 (14) "Department" shall mean the department of state
24 lands.

25 (15) "Small miner" shall mean any person, firm or

1 corporation engaged in the business of mining who does not
2 remove from the earth during any twenty-four (24) hour
3 period material in excess of one hundred (100) tons in the
4 aggregate.

5 (16) "Solution mining" shall mean and include the
6 extraction of minerals by the injection of a solvent into
7 zones below the earth's surface and subsequent withdrawal of
8 the solution and processing of minerals."

9 Section 3. Section 50-1205, R.C.M. 1947, is amended to
10 read as follows:

11 "50-1205. Investigations, research and experiments in
12 reclamation. The board shall have the authority to conduct
13 or authorize investigations, research, experiments and
14 demonstrations in reclamation and to collect and disseminate
15 nonconfidential information relating to mining. All
16 information related to exploration activities is
17 nonconfidential between state agencies."

18 Section 4. Section 50-1206, R.C.M. 1947, is amended to
19 read as follows:

20 "50-1206. Co-operation with other agencies -- receipt
21 and expenditure of funds -- special account -- use of
22 account. (1) The board shall co-operate with other
23 governmental and private agencies in this state and other
24 states and agencies of the federal government, and may
25 reasonably compensate them for any services the board

1 requests that they provide. The board may receive federal
2 funds, state funds, and any other funds and, within the
3 limits imposed by the grant, expend them for reclamation of
4 land affected by mining or exploration and for purposes
5 enumerated in section 9 [50-1209] of this act.

6 (2) All fees, forfeit funds, and other moneys
7 available or paid to the department under the provisions of
8 this act shall be placed in the state treasury and credited
9 to a special agency account to be designated as a mining and
10 reclamation account. This account shall be available to the
11 department by appropriation and shall be expended for the
12 administration and enforcement of this chapter and for the
13 reclamation of land and water affected by any hard-rock
14 mining operations. Any unexpended balance of this account
15 remaining at the end of any fiscal year shall be carried
16 forward for the purposes of this chapter until expended or
17 appropriated by subsequent legislative action."

18 Section 5. Section 50-1207, R.C.M. 1947, is amended to
19 read as follows:

20 "50-1207. Exploration license ~~and development permit~~
21 -- duration and renewal -- requirements. (1) Effective
22 sixty (60) days after the date on which the board shall
23 first promulgate its regulations as authorized by section 4
24 [50-1204] of this act, no person shall engage in exploration
25 ~~or development~~ in the state without first obtaining an

1 exploration license ~~or development permit~~ from the board to
 2 do so, such license ~~or permit~~ to be issued for a period of
 3 one (1) year from date of issue and to be renewable from
 4 year to year on application therefor filed at any time
 5 within the ~~thirty (30)~~ 60 days next preceding the expiration
 6 of the current license ~~or permit~~ and payment of like fee as
 7 required for a new license ~~or permit~~; provided that the
 8 applicant for renewal is not then held by the board to be in
 9 violation of any provision of this law. Such license ~~or~~
 10 ~~permit~~ shall be subject to suspension and revocation as
 11 provided by this act.

12 (2) An exploration license shall be issued to any
 13 applicant therefor who shall: (i) pay a fee of ~~five dollars~~
 14 ~~(\$5)~~ \$50 as provided in subsection (3) to the board;
 15 (ii) agree to reclaim any surface area damaged by the
 16 applicant during exploration operations, all as may be
 17 reasonably required by the board, (iii) not be in default
 18 of any other reclamation obligation under this law.

19 (a) An application for an exploration license shall be
 20 made in writing, notarized and submitted to the department
 21 in duplicate upon forms prepared and furnished by it. The
 22 application shall include an exploration map or sketch in
 23 sufficient detail to locate the area to be explored and to
 24 determine whether significant environmental problems would
 25 be encountered. The department shall, by rules and

1 regulations, determine the precise nature of such
 2 exploration map or sketch. The applicant must:

3 (i) state what types of prospecting and excavation
 4 techniques will be employed in disturbing the land, if any,
 5 and the type of blasting materials that will be used;

6 (ii) specify the location and number of holes to be
 7 drilled if he intends to core drill;

8 (iii) describe the methods to be used in sealing
 9 underground springs and aquifers if large flows of water are
 10 encountered during exploration;

11 (iv) specify the proximity of the area of exploration
 12 to zones of high seismic activity;

13 (v) list the plant and tree varieties to be affected
 14 and their dominance in the area;

15 (vi) present a surface water drainage plan; and

16 (vii) present a detailed assessment of the location of
 17 nearby streams along with quantitative measurements of both
 18 stream quality and quantity.

19 (b) Upon filing of any certificate of claim location
 20 as permitted by federal and state mining laws and
 21 regulations, the locator shall provide copies of said
 22 certificates to the board which shall be made available for
 23 public review.

24 (c) Prior to the issuance of an exploration license,
 25 the applicant shall file with the department a reclamation

1 and revegetation bond in a form and amount as determined by
 2 the department in accordance with section 50-1211 and
 3 describe types of access roads to be built and proposed
 4 reclamation of road sites on abandonment.

5 (d) In the event that the holder of an exploration
 6 permit desires to mine or develop the area covered by the
 7 exploration license and has fulfilled all of the
 8 requirements for ~~a development or an~~ operating permit, the
 9 department may allow the postponement of the reclamation of
 10 the acreage explored if that acreage is incorporated into
 11 the complete reclamation plan submitted with the application
 12 for ~~a development or an~~ operating permit. Any land actually
 13 affected by exploration or excavation under an exploration
 14 license and not covered by the ~~development or~~ operating
 15 reclamation plan shall be reclaimed ~~within two (2) years~~
 16 ~~after the completion of exploration or abandonment of the~~
 17 site as rapidly, completely, and effectively as modern
 18 technology and the most advanced state of the art allow, in
 19 a manner acceptable to the department.

20 (e) The applicant shall file a quarterly report with
 21 the department stating the amount of material removed during
 22 the preceding quarter.

23 (3) In addition to the fee required in subsection (2)
 24 of this section, the application for an exploration license
 25 shall be accompanied by a fee of \$50 which shall be used as

1 a credit toward an operating permit if the area covered in
 2 the exploration permit becomes covered by a valid operative
 3 permit before or at the time the exploration permit expires.

4 ~~(2) An application for a development permit shall be~~
 5 ~~made in writing, notarized and submitted to the department~~
 6 ~~in duplicate upon forms prepared and furnished by it. An~~
 7 ~~application shall contain the following:~~

8 ~~(a) a twenty five dollar (\$25) application fee;~~

9 ~~(b) a description of the area within which development~~
 10 ~~is to be conducted;~~

11 ~~(c) a suitable map or aerial photograph showing~~
 12 ~~topographic, cultural and drainage features;~~

13 ~~(d) a statement of proposed development methods, i.e.,~~
 14 ~~drilling, trenching, etc., and the location of primary~~
 15 ~~support roads and facilities;~~

16 ~~(e) an estimate of the acreage expected to be~~
 17 ~~disturbed in the twelve (12) months following issue of the~~
 18 ~~permit, together with a map of the general area of the~~
 19 ~~development operations for a like period. If the board~~
 20 ~~shall, on good cause, consider the operator's estimate of~~
 21 ~~the quantity of surface to be disturbed to be more than~~
 22 ~~twenty per cent (20%) below what the board considers correct~~
 23 ~~in the circumstances, it may by order require the operator~~
 24 ~~to increase the amount of his bond accordingly.~~

25 ~~(f) a proposed reclamation plan for lands to be~~

1 ~~disturbed in the next twelve (12) months. Such plan must be~~
 2 ~~approved by the department prior to the permit issuance;~~
 3 ~~(g) an affidavit, as may be required by the board,~~
 4 ~~showing that any lands disturbed by exploration,~~
 5 ~~development, or mining in the state of Montana by applicant~~
 6 ~~within two years prior to the application for said permit is~~
 7 ~~or is in course of being reclaimed in accordance with the~~
 8 ~~provisions of this act; or submission of an affidavit and~~
 9 ~~such supporting documents and evidence as may be required by~~
 10 ~~the board showing that any lands disturbed by exploration,~~
 11 ~~development, or mining by applicant in the state of Montana~~
 12 ~~during the two (2) years prior to the application for said~~
 13 ~~permit will be restored in accordance with the provisions of~~
 14 ~~this act.~~
 15 ~~(h) a reclamation and revegetation bond in form and~~
 16 ~~amount to be determined by the department in accordance with~~
 17 ~~section 50-1211, prior to the issuance of a development~~
 18 ~~permit.~~
 19 ~~(4) Upon receipt of a complete development application~~
 20 ~~the department shall, within sixty (60) days, notify the~~
 21 ~~applicant that the reclamation plan is or is not acceptable.~~
 22 ~~If the plan is not acceptable the department shall notify~~
 23 ~~the applicant, in writing, of the deficiencies. Failure of~~
 24 ~~the department to so act within that period shall constitute~~
 25 ~~approval of the application and the permit shall be issued~~

1 ~~promptly thereafter.~~

2 ~~(6) (3)~~ Employees of persons holding a valid license or
 3 permit under this act shall be deemed included in and
 4 covered by such license or permit.

5 ~~(6) (5)~~ Upon proper application by the holder of an
 6 exploration license ~~or development permit~~, the board may
 7 excuse such holder from reclamation obligations with
 8 reference to any specified openings or excavations exposing
 9 geological indications or phenomena of especial interest,
 10 even though the licensee does not apply or have any
 11 intention to apply for ~~development license or an~~ operating
 12 permit for the land in which such openings or excavations
 13 have been made."

14 Section 6. Section 50-1208, R.C.M. 1947, is amended to
 15 read as follows:

16 "50-1208. Operating permit — fee — contents of
 17 application. (1) Effective sixty (60) days after the date
 18 on which the board shall first promulgate its regulations as
 19 authorized by section 4 [50-1204] of this act, no person
 20 shall engage in mining in the state without first obtaining
 21 an operating permit from the board to do so. A separate
 22 operating permit shall be required for each mine complex.
 23 Any person, prior to receiving an operating permit from the
 24 board, must pay the basic permit fee of ~~twenty-five dollars~~
 25 ~~(\$25)~~ \$50 and must submit an application on a form provided

1 by the board, which shall contain the following information
2 and any other pertinent required data by the rules and
3 regulations:

4 (a) Name and address of the operator and, if a
5 corporation or other business entity, the name and address
6 of its principal officers, partners and the like and its
7 resident agent for service of process, ~~if required by law;~~

8 (b) Whether the applicant or any person associated
9 with the applicant holds or has held any other permits under
10 this act and an identification of these permits;

11 (c) The name of the daily newspaper in the affected
12 area in which the applicant has prominently published an
13 announcement of application for an operating permit and the
14 date of the publication;

15 (d) A detailed description of the land to be affected
16 should an operating permit be granted;

17 ~~(b)(e)~~ Minerals expected to be mined;

18 ~~(e)(f)~~ A proposed reclamation plan;

19 ~~(d)(g)~~ Expected starting date of mining;

20 ~~(e)(h)~~ A map showing the specific area to be mined and
21 the boundaries of the land which will be disturbed;
22 topographic detail; the location and names of all streams,
23 roads, railroads, and utility lines on or immediately
24 adjacent to the area; ~~location of proposed access roads to~~
25 ~~be built and the names and addresses of the surface and~~

1 ~~mineral owners of all lands within the mining area, to the~~
2 ~~extent known to applicant; identification of all aquifers;~~
3 ~~estimated depth of each aquifer; quantitative measurements~~
4 ~~of both aquifer and stream quality and flows; chemical~~
5 ~~analysis of the ore and associated geological materials to~~
6 ~~facilitate assessment of potential water pollution problems;~~
7 ~~the proximity of all detectable ore bodies to streams and~~
8 ~~aquifers;~~

9 ~~(f)(i)~~ Types of access roads to be built and manner of
10 reclamation of road sites on abandonment;

11 ~~(g)(j)~~ A plan of mining which will provide, within
12 limits of normal operating procedures of the industry, for
13 completion of mining and associated land disturbances;

14 ~~(b)(k)~~ A reclamation and revegetation bond in form and
15 amount to be determined by the department in accordance with
16 section 50-1211;

17 (l) The location and names of all roads, railroads,
18 and utility lines on or immediately adjacent to the area;
19 the location of proposed access roads to be built; the names
20 and addresses of the surface and mineral owners of all lands
21 within the mining area; and the location and names of all
22 buildings, cemeteries, and oil and gas wells in the area;

23 (m) A final underground and surface water drainage
24 plan;

25 (n) A map showing the proposed location of the mine

1 debris disposal area and the proposed location of all
2 tunnels, shafts, pits, trenches, and haulageways."

3 Section 7. Section 50-1209, R.C.M. 1947, is amended to
4 read as follows:

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

20 ~~(b)~~(2) In the absence of emergency or suddenly
21 threatened or existing catastrophe, an operator may not
22 depart from an approved plan without having previously
23 obtained from the department written approval of his
24 proposed change. The department shall be notified
25 immediately of an emergency or threatened catastrophe.

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

5 ~~(d)~~(4) All final grading shall be made with certified
6 seed and nonnoxious, nonflammable, noncombustible solids
7 unless approval has been granted by the board for a
8 supervised sanitary fill.

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

16 ~~(1)~~(a) Insulation of all faces from moisture of water
17 contact by covering to a depth of two (2) feet or more with
18 material or fill not susceptible itself to generation of
19 such objectionable effluents; or

20 ~~(2)~~(b) Processing of any such objectionable higher
21 than normal effluents in the pit before their being allowed
22 to flow or be pumped out of it to reduce toxic or other
23 objectionable ratios to a level deemed safe to humans and
24 the environment by the board; or

25 ~~(3)~~(c) Drainage of any such objectionable effluents to

1 settling or treatment basins when the objectionable
2 effluents must be reduced to levels deemed safe by the board
3 before release from the settling basin; or

4 ~~(4)(d)~~ Absorption and/or evaporation of objectionable
5 effluents in the open pit ~~itself~~ where groundwater
6 contamination will not occur; and

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

11 ~~(6)(f)~~ Vegetative cover will be required in the
12 reclamation plan if appropriate to the ~~future use~~ ecological
13 and biological integrity of the land as specified in the
14 reclamation plan.

15 ~~(7)(g)~~ The reclamation plan shall provide for the
16 reclamation of all disturbed land. Proposed reclamation ~~need~~
17 ~~not reclaim the areas to a better condition or different use~~
18 ~~than that which existed prior to development or mining~~
19 should restore the land to as good or better condition as
20 existed prior to exploration or mining.

21 (8) The reclamation plan shall provide an
22 environmentally sound plan for control and disposal of mine
23 debris.

24 (9) The applicant shall file an annual report on the
25 progress of reclamation which includes:

1 (a) identification of the operation;

2 (b) the type and amount of planting and seeding done;

3 and

4 (c) the area of the land planted and the status of
5 reclamation efforts.

6 (10) Prior to abandonment of a solution mine, the
7 operator must notify the department of his intention to
8 abandon. The operator must include a plan for plugging any
9 holes drilled at the time of the notice. The abandonment
10 must follow an approved plugging procedure as prescribed by
11 the department. All wells must be completely sealed and
12 plugged to protect the integrity of water quality and
13 quantity.

14 ~~(11)(h)~~ A reclamation plan will be approved by the
15 board if it adequately provides for the accomplishment of
16 the activities heretofore specified."

17 Section 8. Section 50-1210, R.C.M. 1947, is amended to
18 read as follows:

19 "50-1210. Inspection of mining site -- issuance of
20 operating permit -- modification of reclamation plan --
21 succession to interest in uncompleted mining operation. (1)
22 Upon receipt of an application for an operating permit the
23 mining site shall be inspected by the department. Within
24 ~~sixty (60) days of receipt of the complete application and~~
25 ~~reclamation plan by the board and receipt of the permit fee,~~

~~1 the board shall either issue an operating permit to the~~
~~2 applicant or return any incomplete or inadequate application~~
~~3 to the applicant along with a description of the~~
~~4 deficiencies. Failure of the board to so act within that~~
~~5 period shall constitute approval of the application and the~~
~~6 permit shall be issued promptly thereafter 120 days of~~
~~7 receipt of an application for an operating permit or permit~~
~~8 to construct development facilities, the department shall~~
~~9 notify the applicant of any deficiencies in the application.~~
~~10 The department shall then have 120 additional days to~~
~~11 prepare a preliminary environmental review (PER) and solicit~~
~~12 public comment. If it is determined that an environmental~~
~~13 impact statement (EIS) is required, the department must~~
~~14 complete the EIS within 24 months, thereby determining~~
~~15 whether an operating permit or permit to construct~~
~~16 development facilities may be granted.~~

17 (2) The operating permit shall be granted subject to
 18 annual review for the period required to mine the land
 19 covered by the plan and shall be valid until the surface or
 20 underground mining authorized by the permit is completed or
 21 abandoned, unless the permit is suspended or revoked by the
 22 board as provided in this act. The operating permit shall
 23 provide that the reclamation plan may be modified by the
 24 board, upon proper application of the permittee, or
 25 department, after timely notice and opportunity for hearing,

1 at any time during the term of the permit and for any of the
 2 following reasons:

3 (a) To modify or strengthen the requirements so they
 4 will not conflict with existing laws;

5 (b) The previously adopted reclamation plan is
 6 impossible or impracticable to implement and maintain;

7 (c) When significant environmental problem situations
 8 are revealed by field inspection.

9 (3) When one (1) operator succeeds to the interest of
 10 another in any uncompleted mining operation by sale,
 11 assignment, lease, or otherwise, the board may release the
 12 first operator from the duties imposed upon him by this act
 13 as to such operation; provided, that both operators have
 14 complied with the requirements of this act and the successor
 15 operator assumes the duty of the former operator to complete
 16 the reclamation of the land, in which case the board shall
 17 transfer the permit to the successor operator upon approval
 18 of the successor operator's bond as required under this
 19 act."

20 Section 9. Section 50-1211, R.C.M. 1947, is amended to
 21 read as follows:

22 "50-1211. Performance bond. The applicant shall file
 23 with the department a bond payable to the state of Montana
 24 with surety satisfactory to the department in the penal sum
 25 to be determined by the department of not less than two

1 hundred dollars (\$200) nor more than twenty-five hundred
 2 dollars (\$2,500) for each acre or fraction thereof of the
 3 disturbed area, conditioned upon the faithful performance of
 4 the requirements of this act and the rules of the board. In
 5 lieu of such bond the applicant may file with the board a
 6 cash deposit, an assignment of a certificate of deposit, or
 7 other surety acceptable to the board. Regardless of the
 8 above limits, the bond shall not be less than the estimated
 9 cost to the state to complete the reclamation of the
 10 disturbed land. A public or governmental agency shall not be
 11 required to post a bond under the provisions of this act. A
 12 blanket performance bond covering two (2) or more operations
 13 may be accepted by the board. Such blanket bond shall
 14 adequately secure the estimated total number of acres of
 15 disturbed land. When determined by the department that the
 16 set bonding level of a permit or license does not represent
 17 the present costs of reclamation, the department may modify
 18 the bonding requirements of that permit or license. The
 19 release of a bond must be in accordance with the total
 20 acreage considered reclaimed by the department.

21 No bond filed in accordance with the provisions of this
 22 act shall be released by the department until the provisions
 23 of this act, the rules adopted pursuant thereto and this
 24 reclamation plan have been fulfilled and until a suitable
 25 permanent native diverse vegetative cover has been

1 reestablished."

2 Section 10. Section 50-1212, R.C.M. 1947, is amended
 3 to read as follows:

4 "50-1212. Annual report of activities by permittee —
 5 annual fee. Within thirty (30) days after completion or
 6 abandonment of operations on an area under permit or within
 7 thirty (30) days after each anniversary date of the permit,
 8 whichever is earlier, or at such later date as may be
 9 provided by rules and regulations of the board and each year
 10 thereafter until reclamation is completed and approved, the
 11 permittee shall pay the annual fee of twenty-five dollars
 12 (\$25) and shall file a report of activities completed during
 13 the preceding year on a form prescribed by the board, which
 14 report shall:

- 15 ~~(a)~~ (1) Identify the permittee and the permit number;
 16 ~~(b)~~ (2) Locate the operation by subdivision, section,
 17 township and range, and with relation to the nearest town or
 18 other well-known geographic feature;
 19 ~~(c)~~ (3) Estimate acreage to be newly disturbed by
 20 operation in the next twelve (12) month period; and
 21 ~~(d)~~ (4) Update any maps previously submitted or
 22 specifically requested by the board. Such maps shall show:
 23 ~~(1)~~ (a) The permit area;
 24 ~~(2)~~ (b) The unit of disturbed land;
 25 ~~(3)~~ (c) The area to be disturbed during the next twelve

1 (12) month period;

2 ~~(4) (d)~~ If completed, the date of completion of
3 operations;

4 ~~(5) (e)~~ If not completed, the additional area estimated
5 to be further disturbed by the operation within the
6 following permit year; and

7 ~~(6) (f) The date of beginning, ascent and current~~
8 ~~status of reclamation performed during the previous twelve~~
9 ~~(12) months~~ Air and water analysis information as required
10 by the department."

11 Section 11. Section 50-1213, R.C.M. 1947, is amended
12 to read as follows:

13 "50-1213. Inspection to determine compliance with
14 reclamation plan — rectification of deficiencies — board
15 actions to reclaim disturbed lands. Following receipt of the
16 permittee's report, and at any other reasonable time the
17 board may elect, the board shall cause the permit area to be
18 inspected to determine if the permittee has complied with
19 the reclamation plan and the board's rules and regulations.

20 The permittee shall proceed with reclamation as
21 scheduled in his approved reclamation plan. Following
22 written notice by the board noting deficiencies, the
23 permittee shall commence action within thirty (30) days to
24 rectify these deficiencies and shall diligently proceed
25 until the deficiencies are corrected; provided, that

1 deficiencies that also violate other laws that require
2 earlier rectification shall be corrected in accordance with
3 the applicable time provisions of such laws. The board may
4 extend performance periods referred to in this section ~~and~~
5 ~~in section 9 [50-1209] of this act,~~ for delays clearly
6 beyond the permittee's control, but only when the permittee
7 is, in the opinion of the board, making every reasonable
8 effort to comply.

9 ~~Within thirty (30) days after notification by the~~
10 ~~permittee and when in the judgment of the board reclamation~~
11 ~~of a unit of disturbed land area is properly completed, the~~
12 ~~permittee shall be notified in writing and his bond on said~~
13 ~~area shall be released or decreased proportionately to the~~
14 ~~acreage included within the bond coverage. Following~~
15 inspection, if the department determines that permanent
16 native diverse vegetative cover capable of regenerating
17 itself has been established, opportunity for a public
18 hearing shall be provided and the bond on that area shall be
19 released or decreased in proportion to the acreage included
20 within the bond coverage. The bond may not be released,
21 however, prior to 3 years from the commencement of
22 reclamation efforts.

23 If reclamation of disturbed land is not pursued in
24 accordance with the reclamation plan and the permittee has
25 not commenced action to rectify deficiencies within thirty

1 (30) days after notification by the board, or if reclamation
 2 is not properly completed in conformance with the
 3 reclamation plan ~~within two (2) years~~ after completion or
 4 abandonment of operation on any fraction of the permit area
 5 ~~or such longer period as may have been authorized hereunder,~~
 6 as rapidly, completely, and effectively as the most modern
 7 technology and advanced state of the art allow or if, after
 8 default by the permittee, the surety either refuses or fails
 9 to perform the work to the satisfaction of the board within
 10 the time required therefor, the board may, with the staff,
 11 equipment and material under its control, or by contract
 12 with others, take such actions as are necessary for required
 13 reclamation of the disturbed lands. Such work shall be let
 14 on the basis of competitive bidding. The board shall keep a
 15 record of all necessary expenses incurred in carrying out
 16 the work or activity authorized under this section,
 17 including a reasonable charge for the services performed by
 18 the state's personnel and the state's equipment and
 19 materials utilized.

20 The board shall notify the permittee and his surety by
 21 order. The order shall state the amount of necessary
 22 expenses incurred by the board in reclaiming the disturbed
 23 land and a notice that the amount is due and payable to the
 24 board by the permittee and the surety. If the amount
 25 specified in the order is not paid within thirty (30) days

1 after receipt of the notice, the attorney general, upon
 2 request of the board, shall bring an action on behalf of the
 3 state in district court. The surety shall be liable to the
 4 state to the extent of the bond; the permittee shall be
 5 liable for the remainder of the cost.

6 In addition to the other liabilities imposed by this
 7 act, failure to commence action to remedy specific
 8 deficiencies in reclamation within thirty (30) days after
 9 notification by the board or failure to satisfactorily
 10 complete reclamation work on any segment of the permit area
 11 ~~within two (2) years, or such longer period as the board may~~
 12 ~~permit on permittee's application therefor, or on the~~
 13 ~~board's own motion, as rapidly, completely, and correctly as~~
 14 ~~the most modern technology and advanced state of the art~~
 15 ~~allow~~ after completion or abandonment of operations on any
 16 segment of the permit area shall constitute sufficient
 17 grounds for cancellation of a permit or license and refusal
 18 to issue another permit or license to the applicant;
 19 ~~provided, however, that such action shall not be affected~~
 20 ~~while an appeal is pending from any ruling requiring the~~
 21 ~~same."~~

22 Section 12. Section 50-1214, R.C.M. 1947, is amended
 23 to read as follows:

24 "50-1214. Reasons for denial of permit. * (1) An
 25 exploration or mining permit may be denied for any of the

1 following reasons:

2 (a) The plan of ~~development~~ exploration, mining, or
3 reclamation conflicts with the state water and air
4 ~~purification~~ pollution standards;

5 (b) The reclamation plan does not provide an
6 acceptable method for accomplishment of reclamation as
7 required by this act.

8 ~~A denial of a permit shall be in writing and state the~~
9 ~~reasons therefor.~~

10 (c) The plan of exploration, mining, or reclamation
11 conflicts with the provisions of the Montana Environmental
12 Policy Act (MEPA).

13 (2) An application for an exploration permit,
14 operating permit, or permit for the construction of
15 development facilities shall be granted if an applicant
16 affirmatively demonstrates and the department determines
17 that approval of the permit will not;

18 (a) damage biological productivity of an area which
19 would jeopardize certain species of wildlife or domestic
20 stock;

21 (b) jeopardize the viability of a local agricultural
22 economy;

23 (c) adversely affect an ecologically fragile area
24 which could not return to its former ecological state within
25 the foreseeable future;

1 (d) adversely affect land having such a strong
2 influence on an ecosystem that slight and temporary adverse
3 impacts could precipitate a system-wide adverse reaction;

4 (e) constitute a hazard to a dwelling house, public
5 building, school, church, cemetery, commercial or industrial
6 building, public road, river, stream, or lake;

7 (f) adversely affect a national monument or jeopardize
8 the integrity of a national wilderness area or park;

9 (g) cause flooding, landslides, caving, or in any
10 other way endanger public health and safety; or

11 (h) destroy or seriously degrade areas of historical
12 or archeological significance.

13 (3) If a hazard, as listed in (2)(e) exists, the
14 department shall delete that part of the land where the
15 hazard exists from the application."

16 Section 13. Section 50-1221, R.C.M. 1947, is amended
17 to read as follows:

18 "50-1221. Information obtained from applications
19 confidential -- admissible in hearings or proceedings. Any
20 and all information obtained by ~~the board or by the director~~
21 ~~or his staff~~ agencies of state government by virtue of
22 applications for exploration licenses, and all information
23 obtained from small miners, is confidential between the
24 board agencies and the applicant, except as to the name of
25 the applicant and the ~~county~~ location of ~~the~~ proposed

1 operation. Provided that all activities conducted
 2 subsequent to exploration and other associated facilities
 3 shall be public information and conducted under a
 4 ~~development or an~~ operating permit. It is further provided
 5 that any information obtained by ~~the board or by the~~
 6 ~~director or his staff~~ an agency of state government by
 7 virtue of such applications is properly admissible in any
 8 administrative hearing conducted by the director, the board,
 9 ~~appeals board~~ or in any judicial proceeding to which the
 10 ~~director and agency~~ or the applicant are parties and is not
 11 confidential when a violation of the act or rules has been
 12 determined by ~~the department~~ an agency or by judicial order.
 13 Failure to comply with the secrecy provisions of this act
 14 shall be punishable by a fine of up to one thousand dollars
 15 (\$1,000)."

16 Section 14. There is a new R.C.M. section numbered
 17 50-1228 that reads as follows:

18 50-1228. Mandamus to compel enforcement of law —
 19 action for damage to water supply. (1) A resident of this
 20 state with knowledge that a requirement of this act or a
 21 rule adopted under this act is not being enforced by a
 22 public officer or employee whose duty it is to enforce the
 23 requirement or rule, may bring the failure to enforce to the
 24 attention of the public officer or employee by a written
 25 statement under oath that states the specific facts of the

1 failure to enforce the requirement or rule. Knowingly making
 2 false statements or charges in the affidavit subjects the
 3 affiant to penalties prescribed under the law of false
 4 swearing contained in 94-7-203.

5 (2) If the public officer or employee neglects or
 6 refuses for an unreasonable time after receipt of the
 7 statement to enforce the requirement or rule, the resident
 8 may bring an action of mandamus in the district court of the
 9 first judicial district of this state or in the district
 10 court of the county in which the land is located. The court,
 11 if it finds that a requirement of this act or a rule adopted
 12 under this act is not being enforced, shall order the public
 13 officer or employee whose duty it is to enforce the
 14 requirement or rule to perform his duties. If he fails to do
 15 so, the public officer or employee shall be held in contempt
 16 of court and is subject to the penalties provided by law.

17 (3) An owner of an interest in real property who
 18 obtains all or part of his supply of water for beneficial
 19 use (as defined in 89-867) from an underground source other
 20 than a subterranean stream having a permanent, distinct, and
 21 known channel may sue any operator engaged in a mining or
 22 exploration operation to recover damages for contamination,
 23 diminution, or interruption of the water supply resulting
 24 from exploration or hard-rock mining.

25 (4) An owner of water rights adversely affected may

1 file a complaint, detailing the loss in quality and quantity
2 of his water, with the department. The burden of proof to
3 show that the water supply was not damaged rests with the
4 operator. Upon receipt of this complaint the department
5 shall:

6 (a) investigate the complaint using all available
7 information including monitoring data gathered at the
8 exploration or mine site;

9 (b) require the defendant to install such monitoring
10 wells or other practices that may be needed to determine the
11 cause of water loss, if there is a loss, in terms of
12 quantity and quality;

13 (c) issue, within 90 days, a written finding
14 specifying the cause of the water loss, if there is a loss,
15 in terms of quantity and quality;

16 (d) order the defendant in compliance with the Water
17 Use Act to replace the water immediately on a temporary
18 basis to provide the needed water and within a reasonable
19 time replace the water in like quality, quantity, and
20 duration, if the loss is caused by an exploration or mining
21 operation; and

22 (e) order the suspension of the defendant's
23 exploration or operating permit, for failure to replace the
24 water, until such time as the defendant provides substitute
25 water.

1 (5) If the department determines that there is a great
2 potential that surface or subsurface water quality and
3 quantity may be adversely affected by a mining or
4 exploration operation, the operator must install a water
5 quality monitoring program, water quantity monitoring
6 program, or both, which must be approved by the department
7 prior to the commencement of exploration or mining.

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

-End-

STATE OF MONTANA

REQUEST NO. 299-77

FISCAL NOTE

Form BD-15

In compliance with a written request received February 4, 1977, there is hereby submitted a Fiscal Note for House Bill 604 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to amend various sections of the existing reclamation law, providing the best technological and environmental protection available and creating a new section providing mandamus as a remedy to compel enforcement.

ASSUMPTIONS:

1. The intent of this act requires more detailed inspection to assure compliance.
2. More time will be required for application review.
3. More field inspections will be required.
4. The new requirements will necessitate the addition of two (2) staff to the Reclamation Division, Department of State Lands - one (1) vegetation soil specialist and one (1) hydrogeologist.

FISCAL IMPACT:

	<u>FY 78</u>	<u>FY 79</u>
Expenditures		
Personal services	\$31,469	\$33,357
Operating expenses	<u>10,000</u>	<u>10,000</u>
Additional cost of proposed legislation	<u>\$41,469</u>	<u>\$43,357</u>

Carolyn Daving for
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: February 4, 1977

SECOND READING

MISSING

1 HOUSE BILL NO. 604

2 INTRODUCED BY SHELDEN, ELLIS, KESSLER

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO RECLAMATION
5 OF MINING LANDS; AMENDING SECTIONS 50-1202, 50-1203,
6 50-1205, 50-1206, 50-1207, ~~50-1208, 50-1209,~~ 50-1210,
7 50-1211, 50-1212, ~~50-1213,~~ 50-1214, AND 50-1221, R.C.M.
8 1947; ~~CREATING A NEW R.C.M. SECTION 50-1220 PROVIDING~~
9 ~~MANDAMUS AS A REMEDY TO COMPEL ENFORCEMENT OF TITLE 50,~~
10 ~~CHAPTER 12 AND PROVIDING AN EFFECTIVE DATE."~~

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 ~~Section 1, Section 50-1202, R.C.M. 1947, is amended to~~
14 ~~read as follows:~~

15 ~~"50-1202. Purpose of act. The purposes of this act~~
16 ~~are to provide: (i) that the usefulness, productivity and~~
17 ~~scenic values of all lands and surface waters involved in~~
18 ~~mining and mining exploration within the boundaries and~~
19 ~~lawful jurisdiction of the state will receive the greatest~~
20 ~~reasonable degree of protection and reclamation to~~
21 ~~beneficial use best technological and environmental~~
22 ~~protection available GREATEST REASONABLE DEGREE OF~~
23 ~~PROTECTION AND RECLAMATION TO BENEFICIAL USE;~~
24 ~~(ii) authority for co-operation between private and~~
25 ~~governmental entities in carrying this act into effect;~~

1 ~~(iii) for the recognition of the agriculturally,~~
2 ~~recreational and aesthetic values of land as a benefit to~~
3 ~~the state of Montana; and (iv) priorities and values to the~~
4 ~~aesthetics of our landscape, waters and ground cover.~~
5 ~~Although both the need for and the practicability of~~
6 ~~reclamation will control the type and degree of reclamation~~
7 ~~in any specific instance, the The ALTHOUGH BOTH THE NEED FOR~~
8 ~~AND THE PRACTICABILITY OF RECLAMATION WILL CONTROL THE TYPE~~
9 ~~AND DEGREE OF RECLAMATION IN ANY SPECIFIC INSTANCE, THE~~
10 ~~basic objective of reclamation will be to establish, on a~~
11 ~~continuing basis, the vegetative cover, soil stability,~~
12 ~~water condition and safety condition appropriate to any~~
13 ~~proposed subsequent use of the area APPROPRIATE TO ANY~~
14 ~~PROPOSED SUBSEQUENT USE OF THE AREA."~~

15 Section 1. Section 50-1203, R.C.M. 1947, is amended to
16 read as follows:

17 "50-1203. Definitions. As used in this act, unless the
18 context indicates otherwise: (1) "Surface mining" shall
19 mean and include all or any part of the process involved in
20 mining of minerals by removing the overburden and mining
21 directly from the mineral deposits thereby exposed,
22 including, but not limited to, open-pit mining of minerals
23 naturally exposed at the surface of the earth, mining by the
24 auger method, and any and all similar methods by which earth
25 or minerals exposed at the surface are removed in the course

1 of mining. Surface mining shall not include the extraction
 2 of oil, gas, bentonite, clay, coal, sand, gravel, phosphate
 3 rock, or uranium nor excavation or grading conducted for
 4 on-site farming, on-site road construction, or other on-site
 5 building construction.

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

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

1 (4) ~~"Abandonment of surface or underground mining"~~
 2 ~~may be presumed when it is shown that continued operation~~
 3 ~~will not resume shall mean an operation where no mineral is~~
 4 ~~being produced and the department determines that the~~
 5 ~~operation will not continue or resume~~ OF SURFACE OR
 6 UNDERGROUND MINING" MAY BE PRESUMED WHEN IT IS SHOWN THAT
 7 CONTINUED OPERATION WILL NOT RESUME.

8 (5) "Underground mining" shall mean and include all
 9 methods of mining other than surface mining.

10 (6) ~~"Person"~~ "Operator" shall mean and include any
 11 person, corporation, firm, association, partnership or other
 12 legal entity engaged in exploration ~~for or development~~ or
 13 mining of minerals on or below the surface of the earth.

14 (7) "Mineral" shall mean and include any ore, rock or
 15 substance, other than oil, gas, bentonite, clay, coal, sand,
 16 gravel, phosphate rock or uranium, taken from below the
 17 surface or from the surface of the earth for the purpose of
 18 milling, concentration, refinement, smelting, manufacturing,
 19 or other subsequent use or processing or for stockpiling for
 20 future usage, refinement or smelting.

21 (8) "Exploration" shall mean and include all
 22 activities conducted on or beneath the surface of lands
 23 resulting in material disturbance of the surface for the
 24 purpose of determining the presence, location, extent,
 25 depth, grade, and economic viability of mineralization in

1 these lands, if any, other than mining for production and
 2 economic exploitation, as well as all roads made for the
 3 purpose of facilitating exploration, except as noted in
 4 section 20 [50-1220] and section 24 [50-1224] herein.

5 ~~(9) "Development facilities" shall mean and include~~
 6 ~~all operations between exploration and mining the~~
 7 ~~construction and operation of all crushers, concentrators,~~
 8 ~~tailing ponds and dams, leach dumps, leach dumps,~~
 9 ~~conveyor systems, and pipelines.~~

10 (4)(9) "Mining" shall be deemed to have commenced at
 11 such time as the operator shall first mine ores or minerals
 12 in commercial quantities for sale, beneficiation, refining,
 13 or other processing or disposition or shall first take bulk
 14 samples for metallurgical testing in excess of aggregate of
 15 ten thousand (10,000) short tons, AND SHALL INCLUDE THE
 16 CONSTRUCTION AND OPERATION OF ALL CRUSHERS, CONCENTRATORS,
 17 TAILINGS PONDS AND DAMS, LEACH DUMPS, CONVEYOR SYSTEMS, AND
 18 PIPELINES ASSOCIATED WITH AND IN REASONABLE PROXIMITY TO THE
 19 MINE.

20 (4)(10) "Reclamation plan" shall mean and include the
 21 operator's written proposal, as required and approved by the
 22 board for reclamation of the land that will be disturbed,
 23 which proposal shall include ~~to the extent practical TO THE~~
 24 EXTENT PRACTICAL at the time of application for ~~a developing~~
 25 an exploration A DEVELOPING or operating permit:

1 (a) a statement of the proposed subsequent use of the
 2 land after reclamation;

3 (b) Plans for surface gradient restoration to a
 4 surface suitable for the proposed subsequent use of the land
 5 after reclamation is completed, and proposed method of
 6 accomplishment;

7 (c) Manner and type of revegetation or other surface
 8 treatment of disturbed areas;

9 (d) Procedures proposed to avoid foreseeable
 10 situations of public nuisance, endangerment of public
 11 safety, damage to human life or property, or ~~unnecessary~~
 12 UNNECESSARY damage to flora and fauna in or adjacent to the
 13 area and water and air quality during and after exploration
 14 and mining;

15 (e) Method of disposal of mining debris;

16 (f) Method of diverting surface waters around the
 17 disturbed areas where necessary to prevent pollution of such
 18 waters or ~~unnecessary~~ UNNECESSARY erosion;

19 (g) Method of reclamation of stream channels and
 20 stream banks to control erosion, siltation, and pollution;

21 (h) Such maps and other supporting documents as ~~may be~~
 22 reasonably REASONABLY required by the department;

23 (i) A time schedule for reclamation that meets the
 24 requirements of section 9 [50-1209] of this act;

25 (j) A program to monitor water quality and quantity.

1 before, during, and after exploration and mining,

2 ~~(12) (11)~~ "Vegetative cover" as used in this act shall
 3 mean the type of vegetation, grass, shrubs, trees, or any
 4 other forms of ~~natural cover deemed suitable at time of~~
 5 ~~reclamation primarily native and diverse vegetation~~ NATURAL
 6 COVER DEEMED SUITABLE AT TIME OF RECLAMATION.

7 ~~(13) (12)~~ "Board" shall mean the board of land
 8 commissioners, or such state employee or state agency as may
 9 succeed to its powers and duties under this act.

10 ~~(14) (13)~~ "Department" shall mean the department of
 11 state lands.

12 ~~(15) (14)~~ "Small miner" shall mean any person, firm or
 13 corporation engaged in the business of mining who does not
 14 remove from the earth during any twenty-four (24) hour
 15 period material in excess of one hundred (100) tons in the
 16 aggregate.

17 ~~(15) "Solution mining" shall mean and include the~~
 18 ~~extraction of minerals by the injection of a solvent into~~
 19 ~~zones below the earth's surface and subsequent withdrawal of~~
 20 ~~the solution and processing of minerals."~~

21 Section 2. Section 50-1205, R.C.M. 1947, is amended to
 22 read as follows:

23 "50-1205. Investigations, research and experiments in
 24 reclamation. The board shall have the authority to conduct
 25 or authorize investigations, research, experiments and

1 demonstrations in reclamation and to collect and disseminate
 2 nonconfidential information relating to mining. All
 3 ~~information related to exploration activities is~~
 4 ~~nonconfidential between state agencies."~~

5 Section 3. Section 50-1206, R.C.M. 1947, is amended to
 6 read as follows:

7 "50-1206. Co-operation with other agencies -- receipt
 8 and expenditure of funds ~~special account use of~~
 9 ~~account.~~ ~~(1)~~ The board shall co-operate with other
 10 governmental and private agencies in this state and other
 11 states and agencies of the federal government, and may
 12 reasonably compensate them for any services the board
 13 requests that they provide. The board may receive federal
 14 funds, state funds, and any other funds and, within the
 15 limits imposed by the grant, expend them for reclamation of
 16 land affected by mining or exploration and for purposes
 17 enumerated in section 9 [50-1209] of this act.

18 ~~(2) All fees, forfeit funds, and other moneys~~
 19 ~~available or paid to the department under the provisions of~~
 20 ~~this act shall be placed in the state treasury and credited~~
 21 ~~to a special agency account to be designated as a mining and~~
 22 ~~reclamation account. This account shall be available to the~~
 23 ~~department by appropriation and shall be expended for the~~
 24 ~~administration and enforcement of this chapter and for the~~
 25 ~~reclamation of land and water affected by any hard rock~~

1 ~~mining operations, any unexpended balance of this account~~
 2 ~~remaining at the end of any fiscal year shall be carried~~
 3 ~~forward for the purposes of this chapter until expended or~~
 4 ~~appropriated by subsequent legislative action."~~

5 Section 4. Section 50-1207, R.C.M. 1947, is amended to
 6 read as follows:

7 "50-1207. Exploration license ~~and development permit~~
 8 — duration and renewal — requirements. (1) Effective
 9 sixty (60) days after the date on which the board shall
 10 first promulgate its regulations as authorized by section 4
 11 [50-1204] of this act, no person shall engage in exploration
 12 ~~or development~~ in the state without first obtaining an
 13 exploration license ~~or development permit~~ from the board to
 14 do so, such license ~~or permit~~ to be issued for a period of
 15 one (1) year from date of issue and to be renewable from
 16 year to year on application therefor filed at any time
 17 within the ~~thirty (30)~~ 60 days next preceding the expiration
 18 of the current license ~~or permit~~ and payment of like fee as
 19 required for a new license ~~or permit~~; provided that the
 20 applicant for renewal is not then held by the board to be in
 21 violation of any provision of this law. Such license ~~or~~
 22 ~~permit~~ shall be subject to suspension and revocation as
 23 provided by this act.

24 (2) An exploration license shall be issued to any
 25 applicant therefor who shall: (i) pay a fee of ~~five dollars~~

1 ~~(\$5) \$50 as provided in subsection (1) \$5~~ to the board;
 2 (ii) agree to reclaim any surface area damaged by the
 3 applicant during exploration operations, all as may be
 4 reasonably required by the board, (iii) not be in default
 5 of any other reclamation obligation under this law.

6 (a) An application for an exploration license shall be
 7 made in writing, notarized and submitted to the department
 8 in duplicate upon forms prepared and furnished by it. The
 9 application shall include an exploration map or sketch in
 10 sufficient detail to locate the area to be explored and to
 11 determine whether significant environmental problems would
 12 be encountered. The department shall, by rules and
 13 regulations, determine the precise nature of such
 14 exploration map or sketch. The applicant must:

15 ~~(i) state what types of prospecting and excavation~~
 16 ~~techniques will be employed in disturbing the land, if any,~~
 17 ~~and the type of blasting materials that will be used.~~

18 ~~(ii) specify the location and number of holes to be~~
 19 ~~drilled if he intends to core drill;~~

20 ~~(iii) describe the methods to be used in sealing~~
 21 ~~underground springs and aquifers if large flows of water are~~
 22 ~~encountered during exploration;~~

23 ~~(iv) specify the proximity of the area of exploration~~
 24 ~~to zones of high seismic activity;~~

25 ~~(v) list the plant and tree varieties to be affected~~

1 ~~and their dominance in the area;~~

2 ~~(vi) present a surface water drainage plan; and~~

3 ~~(vii) present a detailed assessment of the location of~~
 4 ~~nearby streams along with quantitative measurements of both~~
 5 ~~stream quality and quantity.~~

6 (b) Upon filing of any certificate of claim location
 7 as permitted by federal and state mining laws and
 8 regulations, the locator shall provide copies of said
 9 certificates to the board ~~which shall be made available for~~
 10 ~~public review.~~

11 (c) Prior to the issuance of an exploration license,
 12 the applicant shall file with the department a reclamation
 13 and revegetation bond in a form and amount as determined by
 14 the department in accordance with section 50-1211 ~~and~~
 15 ~~describe types of access roads to be built and proposed~~
 16 ~~reclamation of road sites on abandonment.~~

17 (d) In the event that the holder of an exploration
 18 permit desires to mine or develop the area covered by the
 19 exploration license and has fulfilled all of the
 20 requirements for ~~a development or an~~ operating permit, the
 21 department may allow the postponement of the reclamation of
 22 the acreage explored if that acreage is incorporated into
 23 the complete reclamation plan submitted with the application
 24 for ~~a development or an~~ operating permit. Any land actually
 25 affected by exploration or excavation under an exploration

1 license and not covered by the ~~development or~~ operating
 2 reclamation plan shall be reclaimed ~~within two (2) years~~
 3 ~~after the completion of exploration or abandonment of the~~
 4 ~~site as rapidly, completely, and effectively as modern~~
 5 ~~technology and the most advanced state of the art allow,~~
 6 ~~WITHIN 2 YEARS AFTER THE COMPLETION OF EXPLORATION OF~~
 7 ~~ABANDONMENT OF THE SITE~~ in a manner acceptable to the
 8 department.

9 ~~(e) The applicant shall file a quarterly report with~~
 10 ~~the department stating the amount of material removed during~~
 11 ~~the preceding quarter.~~

12 ~~(3) In addition to the fee required in subsection (2)~~
 13 ~~of this section, the application for an exploration license~~
 14 ~~shall be accompanied by a fee of \$50 which shall be used as~~
 15 ~~a credit toward an operating permit if the area covered in~~
 16 ~~the exploration permit becomes covered by a valid operative~~
 17 ~~permit before or at the time the exploration permit expires.~~

18 ~~(2) An application for a development permit shall be~~
 19 ~~made in writing, notarized and submitted to the department~~
 20 ~~in duplicate upon forms prepared and furnished by it. An~~
 21 ~~application shall contain the following:~~

22 ~~(a) a twenty-five dollar (\$25) application fee;~~

23 ~~(b) a description of the area within which development~~
 24 ~~is to be conducted;~~

25 ~~(c) a suitable map or aerial photograph showing~~

1 ~~topographic, cultural and drainage features;~~
 2 ~~(d) a statement of proposed development methods, i.e.,~~
 3 ~~drilling, trenching, etc., and the location of primary~~
 4 ~~support roads and facilities;~~
 5 ~~(e) an estimate of the acreage expected to be~~
 6 ~~disturbed in the twelve (12) months following issue of the~~
 7 ~~permit, together with a map of the general area of the~~
 8 ~~development operations for a like period. If the board~~
 9 ~~shall, on good cause, consider the operator's estimate of~~
 10 ~~the quantity of surface to be disturbed to be more than~~
 11 ~~twenty per cent (20%) below what the board considers correct~~
 12 ~~in the circumstances, it may by order require the operator~~
 13 ~~to increase the amount of his bond accordingly.~~
 14 ~~(f) a proposed reclamation plan for lands to be~~
 15 ~~disturbed in the next twelve (12) months. Such plan must be~~
 16 ~~approved by the department prior to the permit issuance;~~
 17 ~~(g) an affidavit, as may be required by the board,~~
 18 ~~showing that any lands disturbed by exploration,~~
 19 ~~development, or mining in the state of Montana by applicant~~
 20 ~~within two years prior to the application for said permit is~~
 21 ~~or is in course of being reclaimed in accordance with the~~
 22 ~~provisions of this act; or submission of an affidavit and~~
 23 ~~such supporting documents and evidence as may be required by~~
 24 ~~the board showing that any lands disturbed by exploration,~~
 25 ~~development, or mining by applicant in the state of Montana~~

1 ~~during the two (2) years prior to the application for said~~
 2 ~~permit will be restored in accordance with the provisions of~~
 3 ~~this act.~~
 4 ~~(h) a reclamation and revegetation bond in form and~~
 5 ~~amount to be determined by the department in accordance with~~
 6 ~~section 50-1211, prior to the issuance of a development~~
 7 ~~permit.~~
 8 ~~(4) Upon receipt of a complete development application~~
 9 ~~the department shall, within sixty (60) days, notify the~~
 10 ~~applicant that the reclamation plan is or is not acceptable.~~
 11 ~~If the plan is not acceptable the department shall notify~~
 12 ~~the applicant, in writing, of the deficiencies. Failure of~~
 13 ~~the department to so act within that period shall constitute~~
 14 ~~approval of the application and the permit shall be issued~~
 15 ~~promptly thereafter.~~
 16 ~~(5) (4) (3)~~ Employees of persons holding a valid license
 17 or permit under this act shall be deemed included in and
 18 covered by such license or permit.
 19 ~~(6) (5) (4)~~ Upon proper application by the holder of an
 20 exploration license ~~or development permit~~, the board may
 21 excuse such holder from reclamation obligations with
 22 reference to any specified openings or excavations exposing
 23 geological indications or phenomena of especial interest,
 24 even though the licensee does not apply or have any
 25 intention to apply for ~~development license or an~~ operating

1 permit for the land in which such openings or excavations
2 have been made."

3 Section 6. Section 50-1208, B.C.M., 1947, is amended to
4 read as follows:

5 ~~50-1208. Operating permit fee contents of~~
6 ~~application. (1) Effective sixty (60) days after the date~~
7 ~~on which the board shall first promulgate its regulations as~~
8 ~~authorized by section 4 [50-1204] of this act, no person~~
9 ~~shall engage in mining in the state without first obtaining~~
10 ~~an operating permit from the board to do so. A separate~~
11 ~~operating permit shall be required for each mine complex.~~
12 ~~Any person, prior to receiving an operating permit from the~~
13 ~~board, must pay the basic permit fee of twenty five dollars~~
14 ~~(~~\$25~~) ~~\$50~~ ~~\$25~~ and must submit an application on a form~~
15 ~~provided by the board, which shall contain the following~~
16 ~~information and any other pertinent required data by the~~
17 ~~rules and regulations:~~

18 ~~(a) Name and address of the operator and, if a~~
19 ~~corporation or other business entity, the name and address~~
20 ~~of its principal officers, partners and the like and its~~
21 ~~resident agent for service of process, if required by law;~~

22 ~~(b) Whether the applicant or any person associated~~
23 ~~with the applicant holds or has held any other permits under~~
24 ~~this act and an identification of these permits;~~

25 ~~(c) The name of the daily newspaper in the affected~~

1 ~~area in which the applicant has prominently published an~~
2 ~~announcement of application for an operating permit and the~~
3 ~~date of the publication;~~

4 ~~(d) A detailed description of the land to be affected~~
5 ~~should an operating permit be granted;~~

6 ~~(b) (e) (B) Minerals expected to be mined;~~

7 ~~(c) (f) (C) A proposed reclamation plan;~~

8 ~~(d) (g) (D) Expected starting date of mining;~~

9 ~~(e) (h) (E) A map showing the specific area to be mined~~
10 ~~and the boundaries of the land which will be disturbed;~~
11 ~~topographic detail; the location and names of all streams,~~
12 ~~roads, railroads, and utility lines on or immediately~~
13 ~~adjacent to the area; location of proposed access roads to~~
14 ~~be built and the names and addresses of the surface and~~
15 ~~mineral owners of all lands within the mining area, to the~~
16 ~~extent known to applicant; identification of all aquifers;~~
17 ~~estimated depth of each aquifer; quantitative measurements~~
18 ~~of both aquifer and stream quality and flow; chemical~~
19 ~~analysis of the ore and associated geological materials to~~
20 ~~facilitate assessment of potential water pollution problems;~~
21 ~~the proximity of all detectable ore bodies to streams and~~
22 ~~aquifers; ROADS, RAILROADS, AND UTILITY LINES ON OR~~
23 ~~IMMEDIATELY ADJACENT TO THE AREA; LOCATION OF PROPOSED~~
24 ~~ACCESS ROADS TO BE BUILT AND THE NAMES AND ADDRESSES OF THE~~
25 ~~SURFACE AND MINERAL OWNERS OF ALL LANDS WITHIN THE MINING~~

1 ~~AREA, TO THE EXTENT KNOWN TO APPLICANT;~~

2 ~~(f) (i) (F) Types of access roads to be built and manner~~
 3 ~~of reclamation of road sites on abandonment;~~

4 ~~(g) (j) (G) A plan of mining which will provide, within~~
 5 ~~limits of normal operating procedures of the industry, for~~
 6 ~~completion of mining and associated land disturbance;~~

7 ~~(h) (k) (H) A reclamation and revegetation bond in form~~
 8 ~~and amount to be determined by the department in accordance~~
 9 ~~with section 50-1211.1;~~

10 ~~(l) The location and names of all roads, railroads,~~
 11 ~~and utility lines on or immediately adjacent to the area;~~
 12 ~~the location of proposed access roads to be built; the names~~
 13 ~~and addresses of the surface and mineral owners of all lands~~
 14 ~~within the mining area; and the location and names of all~~
 15 ~~buildings, cemeteries, and oil and gas wells in the area;~~

16 ~~(m) A final underground and surface water drainage~~
 17 ~~plan;~~

18 ~~(n) A map showing the proposed location of the mine~~
 19 ~~debris disposal area and the proposed location of all~~
 20 ~~tunnels, shafts, pits, trenches, and haulageways."~~

21 Section 7. Section 50-1209, R.C.M. 1947, is amended to
 22 read as follows:

23 "50-1209. Reclamation plan --- accomplishment --- of
 24 specific activities. (a) (1) The reclamation plan shall
 25 provide that reclamation activities, particularly those

1 ~~relating to control of erosion, shall, to the extent~~
 2 ~~feasible as rapidly, completely, and effectively as modern~~
 3 ~~technology and the most advanced state of the art allow TO~~
 4 ~~THE EXTENT FEASIBLE, be conducted simultaneously with mining~~
 5 ~~and in any case shall be initiated promptly after completion~~
 6 ~~or abandonment of mining on those portions of the mine~~
 7 ~~complex that will not be subject to further disturbance by~~
 8 ~~the mining operation. In the absence of an order by the~~
 9 ~~board providing a longer period, the plan shall provide that~~
 10 ~~reclamation activities shall be completed not more than two~~
 11 ~~(2) years after completion or abandonment of mining on said~~
 12 ~~portion of mine complex.~~

13 ~~(b) (2) In the absence of emergency or suddenly~~
 14 ~~threatened or existing catastrophe, an operator may not~~
 15 ~~depart from an approved plan without having previously~~
 16 ~~obtained from the department written approval of his~~
 17 ~~proposed change. The department shall be notified~~
 18 ~~immediately of an emergency or threatened catastrophe.~~

19 ~~(c) (3) Provision shall be made to avoid accumulation~~
 20 ~~of stagnant water in the mined area which may serve as a~~
 21 ~~host or breeding ground for mosquitoes or other~~
 22 ~~disease bearing or noxious insect life.~~

23 ~~(d) (4) All final grading shall be made with certified~~
 24 ~~good and nonnoxious, nonflammable, noncombustible solids~~
 25 ~~unless approval has been granted by the board for a~~

1 supervised sanitary fill.

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

9 ~~(1) (a) Insulation of all faces from moisture of water~~
 10 ~~contact by covering to a depth of two (2) feet or more with~~
 11 ~~material or fill not susceptible itself to generation of~~
 12 ~~such objectionable effluents; or~~

13 ~~(2) (b) Processing of any such objectionable higher~~
 14 ~~than normal effluents in the pit before their being allowed~~
 15 ~~to flow or be pumped out of it to reduce toxic or other~~
 16 ~~objectionable ratios to a level deemed safe to humans and~~
 17 ~~the environment by the board; or~~

18 ~~(3) (c) Drainage of any such objectionable effluents to~~
 19 ~~settling or treatment basins when the objectionable~~
 20 ~~effluents must be reduced to levels deemed safe by the board~~
 21 ~~before release from the settling basins; or~~

22 ~~(4) (d) Absorption and/or evaporation of objectionable~~
 23 ~~effluents in the open pit itself where groundwater~~
 24 ~~contamination will not occur ITSELF; and~~

25 ~~(5) (e) Prevention of entrance into the open pit by~~

1 ~~persons or livestock lawfully upon adjacent lands by~~
 2 ~~fencing, warning signs, and such other devices as may~~
 3 ~~reasonably be required by the board.~~

4 ~~(f) (6) Vegetative cover will be required in the~~
 5 ~~reclamation plan if appropriate to the future use ecological~~
 6 ~~and biological integrity FUTURE USE of the land as specified~~
 7 ~~in the reclamation plan.~~

8 ~~(g) (7) The reclamation plan shall provide for the~~
 9 ~~reclamation of all disturbed land. Proposed reclamation need~~
 10 ~~not reclaim the areas to a better condition or different use~~
 11 ~~than that which existed prior to development or mining~~
 12 ~~should restore the land to as good or better condition as~~
 13 ~~existed prior to exploration or mining.~~

14 ~~(8) The reclamation plan shall provide an~~
 15 ~~environmentally sound plan for control and disposal of mine~~
 16 ~~debris.~~

17 ~~(9) The applicant shall file an annual report on the~~
 18 ~~progress of reclamation which includes:~~

19 ~~(a) identification of the operation;~~
 20 ~~(b) the type and amount of planting and seeding done;~~
 21 ~~and~~

22 ~~(c) the area of the land planted and the status of~~
 23 ~~reclamation efforts. NEED NOT RECLAIM THE AREAS TO A BETTER~~
 24 ~~CONDITION OR DIFFERENT USE THAN THAT WHICH EXISTED PRIOR TO~~
 25 ~~DEVELOPMENT OR MINING.~~

1 ~~(10) (8) Prior to abandonment of a solution mine, the~~
 2 ~~operator must notify the department of his intention to~~
 3 ~~abandon. The operator must include a plan for plugging any~~
 4 ~~holes drilled at the time of the notice. The abandonment~~
 5 ~~must follow an approved plugging procedure as prescribed by~~
 6 ~~the department. All wells must be completely sealed and~~
 7 ~~plugged to protect the integrity of water quality and~~
 8 ~~quantity.~~

9 ~~(h) (11) (2) A reclamation plan will be approved by the~~
 10 ~~board if it adequately provides for the accomplishment of~~
 11 ~~the activities heretofore specified.~~

12 Section 5. Section 50-1210, R.C.M. 1947, is amended to
 13 read as follows:

14 "50-1210. Inspection of mining site -- issuance of
 15 operating permit -- modification of reclamation plan --
 16 succession to interest in uncompleted mining operation. (1)
 17 Upon receipt of an application for an operating permit the
 18 mining site shall be inspected by the department. Within
 19 ~~sixty (60) days of receipt of the complete application and~~
 20 ~~reclamation plan by the board and receipt of the permit fee,~~
 21 ~~the board shall either issue an operating permit to the~~
 22 ~~applicant or return any incomplete or inadequate application~~
 23 ~~to the applicant along with a description of the~~
 24 ~~deficiencies. Failure of the board to so act within that~~
 25 ~~period shall constitute approval of the application and the~~

1 ~~permit shall be issued promptly thereafter 120 days of~~
 2 ~~receipt of an application for an operating permit or permit~~
 3 ~~to construct development facilities, the department shall~~
 4 ~~notify the applicant of any deficiencies in the application.~~
 5 ~~The department shall then have 120 additional days to~~
 6 ~~prepare a preliminary environmental review (PER) and solicit~~
 7 ~~public comment. If it is determined that an environmental~~
 8 ~~impact statement (EIS) is required, the department must~~
 9 ~~complete the EIS within 24 months, thereby determining~~
 10 ~~whether an operating permit or permit to construct~~
 11 ~~development facilities may be granted. 60 DAYS OF RECEIPT OF~~
 12 ~~THE COMPLETE APPLICATION AND RECLAMATION PLAN BY THE BOARD~~
 13 ~~AND RECEIPT OF THE PERMIT FEE, THE BOARD SHALL EITHER ISSUE~~
 14 ~~AN OPERATING PERMIT TO THE APPLICANT OR RETURN ANY~~
 15 ~~INCOMPLETE OR INADEQUATE APPLICATION TO THE APPLICANT ALONG~~
 16 ~~WITH A DESCRIPTION OF THE DEFICIENCIES. FAILURE OF THE BOARD~~
 17 ~~TO SO ACT WITHIN THAT PERIOD SHALL CONSTITUTE APPROVAL OF~~
 18 ~~THE APPLICATION AND THE PERMIT SHALL BE ISSUED PROMPTLY~~
 19 ~~THEREAFTER.~~

20 (2) The operating permit shall be granted ~~subject to~~
 21 ~~annual review~~ for the period required to mine the land
 22 covered by the plan and shall be valid until the surface or
 23 underground mining authorized by the permit is completed or
 24 abandoned, unless the permit is suspended or revoked by the
 25 board as provided in this act. The operating permit shall

1 provide that the reclamation plan may be modified by the
 2 board, upon proper application of the permittee, or
 3 department, after timely notice and opportunity for hearing,
 4 at any time during the term of the permit and for any of the
 5 following reasons:

6 (a) To ~~modify or strengthen~~ the requirements so they
 7 will not conflict with existing laws;

8 (b) The previously adopted reclamation plan is
 9 impossible or impracticable to implement and maintain;

10 (c) When significant environmental problem situations
 11 are revealed by field inspections.

12 (3) When one (1) operator succeeds to the interest of
 13 another in any uncompleted mining operation by sale,
 14 assignment, lease, or otherwise, the board may release the
 15 first operator from the duties imposed upon him by this act
 16 as to such operation; provided, that both operators have
 17 complied with the requirements of this act and the successor
 18 operator assumes the duty of the former operator to complete
 19 the reclamation of the land, in which case the board shall
 20 transfer the permit to the successor operator upon approval
 21 of the successor operator's bond as required under this
 22 act."

23 ~~Section 9, Section 50-1211, R.C.M., 1947, is amended to~~
 24 ~~read as follows:~~

25 ~~50-1211, Performance bond. The applicant shall file~~

1 ~~with the department a bond payable to the state of Montana~~
 2 ~~with surety satisfactory to the department in the penal sum~~
 3 ~~to be determined by the department of not less than two~~
 4 ~~hundred dollars (\$200) nor more than twenty-five hundred~~
 5 ~~dollars (\$2,500) for each acre or fraction thereof of the~~
 6 ~~disturbed area, conditioned upon the faithful performance of~~
 7 ~~the requirements of this act and the rules of the board. In~~
 8 ~~lieu of such bond the applicant may file with the board a~~
 9 ~~cash deposit, an assignment of a certificate of deposit, or~~
 10 ~~other surety acceptable to the board. Regardless of the~~
 11 ~~above limits, the bond shall not be less than the estimated~~
 12 ~~cost to the state to complete the reclamation of the~~
 13 ~~disturbed land. A public or governmental agency shall not be~~
 14 ~~required to post a bond under the provisions of this act. A~~
 15 ~~blanket performance bond covering two (2) or more operations~~
 16 ~~may be accepted by the board. Such blanket bond shall~~
 17 ~~adequately secure the estimated total number of acres of~~
 18 ~~disturbed land. When determined by the department that the~~
 19 ~~set bonding level of a permit or license does not represent~~
 20 ~~the present costs of reclamation, the department may modify~~
 21 ~~the bonding requirements of that permit or license. The~~
 22 ~~release of a bond must be in accordance with the total~~
 23 ~~acreage considered reclaimed by the department.~~

24 ~~No bond filed in accordance with the provisions of this~~
 25 ~~act shall be released by the department until the provisions~~

~~1 of this act, the rules adopted pursuant thereto and this
2 reclamation plan have been fulfilled and until a suitable
3 permanent native diverse vegetative cover has been
4 reestablished."~~

5 Section 6. Section 50-1212, R.C.M. 1947, is amended to
6 read as follows:

7 "50-1212. Annual report of activities by permittee --
8 annual fee. Within thirty (30) days after completion or
9 abandonment of operations on an area under permit or within
10 thirty (30) days after each anniversary date of the permit,
11 whichever is earlier, or at such later date as may be
12 provided by rules and regulations of the board and each year
13 thereafter until reclamation is completed and approved, the
14 permittee shall pay the annual fee of twenty-five dollars
15 (\$25) and shall file a report of activities completed during
16 the preceding year on a form prescribed by the board, which
17 report shall:

- 18 (a) (1) Identify the permittee and the permit number;
- 19 (b) (2) Locate the operation by subdivision, section,
20 township and range, and with relation to the nearest town or
21 other well-known geographic feature;
- 22 (c) (3) Estimate acreage to be newly disturbed by
23 operation in the next twelve (12) month period; and
- 24 (d) (4) Update any maps previously submitted or
25 specifically requested by the board. Such maps shall show:

- 1 (1) (a) The permit area;
- 2 (2) (b) The unit of disturbed land;
- 3 (3) (c) The area to be disturbed during the next twelve
4 (12) month period;
- 5 (4) (d) If completed, the date of completion of
6 operations;
- 7 (5) (e) If not completed, the additional area estimated
8 to be further disturbed by the operation within the
9 following permit year; and
- 10 (6) (f) ~~The date of beginning, amount and current
11 status of reclamation performed during the previous twelve
12 (12) months~~ his and water WATER analysis information as
13 required by the department."

14 ~~Section 11. Section 50-1212, R.C.M. 1947, is amended
15 to read as follows:~~

16 ~~"50-1212. Inspection to determine compliance with
17 reclamation plan rectification of deficiencies board
18 actions to reclaim disturbed lands. Following receipt of
19 the permittee's report, and at any other reasonable time the
20 board may elect, the board shall cause the permit area to be
21 inspected to determine if the permittee has complied with
22 the reclamation plan and the board's rules and regulations.
23 The permittee shall proceed with reclamation as
24 scheduled in his approved reclamation plan. Following
25 written notice by the board noting deficiencies, the~~

1 ~~permittee shall commence action within thirty (30) days to~~
 2 ~~rectify these deficiencies and shall diligently proceed~~
 3 ~~until the deficiencies are corrected; provided, that~~
 4 ~~deficiencies that also violate other laws that require~~
 5 ~~earlier rectification shall be corrected in accordance with~~
 6 ~~the applicable time provisions of such laws. The board may~~
 7 ~~extend performance periods referred to in this section and~~
 8 ~~in section 9 (50-1209) of this act, AND IN 50-1209, for~~
 9 ~~delays clearly beyond the permittee's control, but only when~~
 10 ~~the permittee is, in the opinion of the board, making every~~
 11 ~~reasonable effort to comply.~~

12 ~~Within thirty (30) days after notification by the~~
 13 ~~permittee and when in the judgment of the board reclamation~~
 14 ~~of a unit of disturbed land area is properly completed, the~~
 15 ~~permittee shall be notified in writing and his bond on said~~
 16 ~~area shall be released or decreased proportionately to the~~
 17 ~~acreage included within the bond coverage. Following~~
 18 ~~inspection, if the department determines that permanent~~
 19 ~~native diverse vegetative cover capable of regenerating~~
 20 ~~itself has been established, opportunity for a public~~
 21 ~~hearing shall be provided and the bond on that area shall be~~
 22 ~~released or decreased in proportion to the acreage included~~
 23 ~~within the bond coverage. The bond may not be released,~~
 24 ~~however, prior to 3 years from the commencement of~~
 25 ~~reclamation efforts. WITHIN 30 DAYS AFTER NOTIFICATION BY~~

1 ~~THE PERMITTEE AND WHEN IN THE JUDGMENT OF THE BOARD~~
 2 ~~RECLAMATION OF A UNIT OF DISTURBED LAND AREA IS PROPERLY~~
 3 ~~COMPLETED, THE PERMITTEE SHALL BE NOTIFIED IN WRITING AND~~
 4 ~~HIS BOND ON SAID AREA SHALL BE RELEASED OR DECREASED~~
 5 ~~PROPORTIONATELY TO THE ACREAGE INCLUDED WITHIN THE BOND~~
 6 ~~COVERAGE.~~

7 ~~If reclamation of disturbed land is not pursued in~~
 8 ~~accordance with the reclamation plan and the permittee has~~
 9 ~~not commenced action to rectify deficiencies within thirty~~
 10 ~~(30) days after notification by the board, or if reclamation~~
 11 ~~is not properly completed in conformance with the~~
 12 ~~reclamation plan within two (2) years WITHIN 2 YEARS after~~
 13 ~~completion or abandonment of operation on any fraction of~~
 14 ~~the permit area or such longer period as may have been~~
 15 ~~authorized hereunder, as rapidly, completely, and~~
 16 ~~effectively as the most modern technology and advanced state~~
 17 ~~of the art allow OR SUCH LONGER PERIOD AS MAY HAVE BEEN~~
 18 ~~AUTHORIZED HEREUNDER, or if, after default by the permittee,~~
 19 ~~the surety either refuses or fails to perform the work to~~
 20 ~~the satisfaction of the board within the time required~~
 21 ~~therefor, the board may, with the staff, equipment and~~
 22 ~~material under its control, or by contract with others, take~~
 23 ~~such actions as are necessary for required reclamation of~~
 24 ~~the disturbed lands. Such work shall be let on the basis of~~
 25 ~~competitive bidding. The board shall keep a record of all~~

1 ~~necessary expenses incurred in carrying out the work or~~
 2 ~~activity authorized under this section, including a~~
 3 ~~reasonable charge for the services performed by the state's~~
 4 ~~personnel and the state's equipment and materials utilized.~~

5 The board shall notify the permittee and his surety by
 6 order. The order shall state the amount of necessary
 7 expenses incurred by the board in reclaiming the disturbed
 8 land and a notice that the amount is due and payable to the
 9 board by the permittee and the surety. If the amount
 10 specified in the order is not paid within thirty (30) days
 11 after receipt of the notice, the attorney general, upon
 12 request of the board, shall bring an action on behalf of the
 13 state in district court. The surety shall be liable to the
 14 state to the extent of the bond; the permittee shall be
 15 liable for the remainder of the cost.

16 In addition to the other liabilities imposed by this
 17 act, failure to commence action to remedy specific
 18 deficiencies in reclamation within thirty (30) days after
 19 notification by the board or failure to satisfactorily
 20 complete reclamation work on any segment of the permit area
 21 within two (2) years, or such longer period as the board may
 22 permit on permittee's application therefor, or on the
 23 board's own motion, ~~as rapidly, completely, and correctly as~~
 24 ~~the most modern technology and advanced state of the art~~
 25 ~~allow WITHIN 2 YEARS, OR SUCH LONGER PERIOD AS THE BOARD MAY~~

1 ~~PERMIT ON PERMITTEE'S APPLICATION THEREFOR, OR ON THE~~
 2 ~~BOARD'S OWN MOTION, after completion or abandonment of~~
 3 ~~operations on any segment of the permit area shall~~
 4 ~~constitute sufficient grounds for cancellation of a permit~~
 5 ~~or license and refusal to issue another permit or license to~~
 6 ~~the applicant; provided, however, that such action shall not~~
 7 ~~be affected while an appeal is pending from any ruling~~
 8 ~~requiring the same; PROVIDED, HOWEVER, THAT SUCH ACTION~~
 9 ~~SHALL NOT BE AFFECTED WHILE AN APPEAL IS PENDING FROM ANY~~
 10 ~~RULING REQUIRING THE SAME."~~

11 Section 7. Section 50-1214, R.C.M. 1947, is amended to
 12 read as follows:

13 "50-1214. Reasons for denial of permit. ~~A~~ (1) ~~An~~
 14 ~~exploration or mining LICENSE OR OPERATING~~ permit may be
 15 denied for any of the following reasons:

16 (a) The plan of development ~~exploration~~, mining, or
 17 reclamation conflicts with the state water and air
 18 purification ~~pollution~~ standards;

19 (b) The reclamation plan does not provide an
 20 acceptable method for accomplishment of reclamation as
 21 required by this act.

22 A denial of a permit shall be in writing and state the
 23 reasons therefor.

24 (c) ~~The plan of exploration, mining, or reclamation~~
 25 ~~conflicts with the provisions of the Montana Environmental~~

1 ~~Policy Act (NEPA)~~

2 ~~(2) An application for an exploration permit,~~

3 ~~operating permit, or permit for the construction of~~

4 ~~development facilities shall be granted if an applicant~~

5 ~~affirmatively demonstrates and the department determines~~

6 ~~that approval of the permit will not:~~

7 ~~(a) damage biological productivity of an area which~~

8 ~~would jeopardize certain species of wildlife or domestic~~

9 ~~stock;~~

10 ~~(b) jeopardize the viability of a local agricultural~~

11 ~~economy;~~

12 ~~(c) adversely affect an ecologically fragile area~~

13 ~~which could not return to its former ecological state within~~

14 ~~the foreseeable future;~~

15 ~~(d) adversely affect land having such a strong~~

16 ~~influence on an ecosystem that slight and temporary adverse~~

17 ~~impacts could precipitate a system-wide adverse reaction;~~

18 ~~(e) constitute a hazard to a dwelling house, public~~

19 ~~building, school, church, cemetery, commercial or industrial~~

20 ~~building, public road, river, stream, or lake;~~

21 ~~(f) adversely affect a national monument or jeopardize~~

22 ~~the integrity of a national wilderness area or park;~~

23 ~~(g) cause flooding, landslides,aving, or in any~~

24 ~~other way endanger public health and safety; or~~

25 ~~(h) destroy or seriously degrade areas of historical~~

1 ~~or archaeological significance.~~

2 ~~(3) If a hazard, as listed in (2)(e) exists, the~~

3 ~~department shall delete that part of the land where the~~

4 ~~hazard exists from the application.~~

5 ~~(2) A DENIAL OF A PERMIT SHALL BE IN WRITING AND STATE~~

6 ~~THE REASONS THEREFOR.~~

7 Section 8. Section 50-1221, R.C.M. 1947, is amended to

8 read as follows:

9 "50-1221. Information obtained from applications

10 confidential -- admissible in hearings or proceedings. Any

11 and all information obtained by ~~the board or by the director~~

12 ~~or his staff agencies of state government~~ **THE DEPARTMENT** by

13 virtue of applications for exploration licenses, and all

14 information obtained from small miners, is confidential

15 between the board ~~agencies~~ **DEPARTMENT** and the applicant,

16 except as to the name of the applicant and the county

17 ~~location~~ **COUNTY** of the proposed operation. **THE DEPARTMENT**

18 **MAY NOTIFY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL**

19 **SCIENCES AND OTHER STATE AGENCIES AT ITS DISCRETION OF ANY**

20 **APPARENT WATER QUALITY VIOLATIONS. THESE AGENCIES ARE ALSO**

21 **SUBJECT TO THE CONFIDENTIALITY PROVISIONS OF THIS ACT.**

22 Provided that all activities conducted subsequent to

23 exploration and other associated facilities shall be public

24 information and conducted under a ~~development~~ **or an**

25 operating permit. It is further provided that any

1 information obtained by the board or by the director or his
 2 staff ~~an agency of state government~~ THE DEPARTMENT by virtue
 3 of such applications is properly admissible in any
 4 administrative hearing conducted by the director, the board,
 5 appeals board or in any judicial proceeding to which the
 6 director and agency or the applicant are parties and is not
 7 confidential when a violation of the act or rules has been
 8 determined by the department an agency or by judicial order.
 9 Failure to comply with the secrecy provisions of this act
 10 shall be punishable by a fine of up to one thousand dollars
 11 (\$1,000)."

12 ~~Section 14. There is a new P.C.M. section numbered~~
 13 ~~50-4228 that reads as follows:~~

14 ~~50-4228. Mandamus to compel enforcement of law --~~
 15 ~~action for damage to water supply. (1) A resident of this~~
 16 ~~state with knowledge that a requirement of this act or a~~
 17 ~~rule adopted under this act is not being enforced by a~~
 18 ~~public officer or employee whose duty it is to enforce the~~
 19 ~~requirement or rule, may bring the failure to enforce to the~~
 20 ~~attention of the public officer or employee by a written~~
 21 ~~statement under oath that states the specific facts of the~~
 22 ~~failure to enforce the requirement or rule. Knowingly making~~
 23 ~~false statements or charges in the affidavit subjects the~~
 24 ~~affiant to penalties prescribed under the law of false~~
 25 ~~swearing contained in 94-7-203.~~

1 ~~(2) If the public officer or employee neglects or~~
 2 ~~refuses for an unreasonable time after receipt of the~~
 3 ~~statement to enforce the requirement or rule, the resident~~
 4 ~~may bring an action of mandamus in the district court of the~~
 5 ~~first judicial district of this state or in the district~~
 6 ~~court of the county in which the land is located. The court,~~
 7 ~~if it finds that a requirement of this act or a rule adopted~~
 8 ~~under this act is not being enforced, shall order the public~~
 9 ~~officer or employee whose duty it is to enforce the~~
 10 ~~requirement or rule to perform his duties. If he fails to do~~
 11 ~~so, the public officer or employee shall be held in contempt~~
 12 ~~of court and is subject to the penalties provided by law.~~

13 ~~(3) An owner of an interest in real property who~~
 14 ~~obtains all or part of his supply of water for beneficial~~
 15 ~~use (as defined in 89-867) from an underground source other~~
 16 ~~than a subterranean stream having a permanent, distinct, and~~
 17 ~~known channel may sue any operator engaged in a mining or~~
 18 ~~exploration operation to recover damages for contamination,~~
 19 ~~diminution, or interruption of the water supply resulting~~
 20 ~~from exploration or hard rock mining.~~

21 ~~(4) An owner of water rights adversely affected may~~
 22 ~~file a complaint, detailing the loss in quality and quantity~~
 23 ~~of his water, with the department. The burden of proof to~~
 24 ~~show that the water supply was not damaged rests with the~~
 25 ~~operator. Upon receipt of this complaint the department~~

1 shall

2 ~~(a) investigate the complaint using all available~~
3 ~~information including monitoring data gathered at the~~
4 ~~exploration or mine site;~~

5 ~~(b) require the defendant to install such monitoring~~
6 ~~wells or other practices that may be needed to determine the~~
7 ~~cause of water loss, if there is a loss, in terms of~~
8 ~~quantity and quality;~~

9 ~~(c) issue, within 90 days, a written finding~~
10 ~~specifying the cause of the water loss, if there is a loss,~~
11 ~~in terms of quantity and quality;~~

12 ~~(d) order the defendant in compliance with the Water~~
13 ~~Use Act to replace the water immediately on a temporary~~
14 ~~basis to provide the needed water and within a reasonable~~
15 ~~time replace the water in like quality, quantity, and~~
16 ~~duration, if the loss is caused by an exploration or mining~~
17 ~~operation; and~~

18 ~~(e) order the suspension of the defendant's~~
19 ~~exploration or operating permit, for failure to replace the~~
20 ~~water, until such time as the defendant provides substitute~~
21 ~~water.~~

22 ~~(5) If the department determines that there is a great~~
23 ~~potential that surface or subsurface water quality and~~
24 ~~quantity may be adversely affected by a mining or~~
25 ~~exploration operation, the operator must install a water~~

1 ~~quality monitoring program, water quantity monitoring~~
2 ~~program, or both, which must be approved by the department~~
3 ~~prior to the commencement of exploration or mining.~~

4 Section 9. Severability. If a part of this act is
5 invalid, all valid parts that are severable from the invalid
6 part of this act remain in effect. If a part of this act is
7 invalid in one or more of its applications, the part remains
8 in effect in all valid applications that are severable from
9 the invalid applications.

10 SECTION 10. EXCLUSION. NO PROVISION OF THIS ACT SHALL
11 APPLY TO ANY EXPLORATION OR MINING OPERATION PRIOR TO THE
12 EFFECTIVE DATE OF THIS ACT.

13 SECTION 11. EFFECTIVE DATE. THIS ACT IS EFFECTIVE ON
14 ITS PASSAGE AND APPROVAL.

-End-