

CHAPTER NO. 172

HOUSE BILL NO. 406

INTRODUCED BY CONROY, MARKS, IVERSON, DAY, SMITH,
ERNST, KROPP, SEIFERT, BURNETT, ROTH, FEDA, HAND,
WYRICK, VINGER, LIEN, SCHULTZ, GOULD, JOHNSTON

IN THE HOUSE

January 25, 1979	Introduced and referred to Committee on Natural Resources.
January 29, 1979	Rereferred to Committee on Agriculture, Livestock, and Irrigation.
February 15, 1979	Committee recommend bill do pass as amended. Report adopted.
February 17, 1979	Printed and placed on members' desks.
February 19, 1979	Second reading, do pass.
February 20, 1979	Considered correctly engrossed.
February 21, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

February 22, 1979	Introduced and referred to Committee on Natural Resources.
March 3, 1979	Committee recommend bill be concurred in. Report adopted.
March 6, 1979	Second reading, concurred in.
March 8, 1979	Third reading, concurred in.

IN THE HOUSE

March 9, 1979	Returned from second house. Concurred in. Sent to enrolling.
	Reported correctly enrolled.

John

House
 BILL NO. 406
 INTRODUCED BY *Conroy* *Shank* *Harmon* *Day*
Engel *Troppe* *Scheidt* *Barnett* *Roth* *Frederick* *Wynick*
 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW USE OF *Virginia*
 INTRODUCED SPECIES IN REVEGETATION OF AREAS DISTURBED BY *Howe*
 COAL OR URANIUM MINING; AMENDING SECTIONS 82-4-232 AND *Lin*
 82-4-233, MCA."

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

10 Section 1. Section 82-4-232, MCA, is amended to read:
 11 "82-4-232. Area mining required -- bond -- alternative
 12 plan. (1) Area strip mining, a method of operation which
 13 does not produce a bench or fill bench, is required where
 14 strip mining is proposed. All highwalls must be reduced and
 15 the steepest slope of the reduced highwall shall be no
 16 greater than 20 degrees from the horizontal. Highwall
 17 reduction shall be commenced at or beyond the top of the
 18 highwall and sloped to the graded spoil bank. Reduction,
 19 backfilling, and grading shall eliminate all highwalls and
 20 spoil peaks. The area of land affected shall be restored to
 21 the approximate original contour of the land. When directed
 22 by the department, the operator shall construct in the final
 23 grading such diversion ditches, depressions, or terraces as
 24 will accumulate or control the water runoff. Additional
 25 restoration work may be required by the department according

1 to rules adopted by the board.

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

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

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

24 (5) When the backfilling, grading, subsidence
 25 stabilization, water controls, and topsoiling have been

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

9 (6) An operator may propose alternative plans other
 10 than backfilling, grading, highwall reduction, or
 11 topsoiling, or seeding to a permanent diverse vegetative
 12 cover if the restoration will be consistent with the purpose
 13 of this part. These plans shall be submitted to the
 14 department, and after consultation with the landowner, if
 15 the plans are approved by the board and complied with within
 16 the time limits as may be determined by the board as being
 17 reasonable for carrying out the plans, the backfilling,
 18 grading, highwall reduction, or topsoiling, or revegetation
 19 requirements of this part may be modified by the board. An
 20 operator who proposes alternative plans that will affect an
 21 existing permit shall comply with the notice requirement of
 22 82-4-222(1)(k).

23 (7) If alternate revegetation is proposed, a
 24 management plan must be submitted showing how the area will
 25 be utilized and any data necessary to show that the

1 alternate postmining land use can be achieved. Any plan must
 2 require the operation as a minimum to restore the land
 3 affected to a condition capable of supporting the use which
 4 it was capable of supporting prior to any mining operation
 5 or to a higher or better use.*

6 Section 2. Section 82-4-233, MCA, is amended to read:
 7 "82-4-233. Planting of vegetation following grading of
 8 disturbed area. (1) After the operation has been backfilled,
 9 graded, topsoiled, and approved by the department, the
 10 operator shall ~~prepare the soil and plant such legumes,~~
 11 ~~grasses, shrubs, and trees upon the area of land affected as~~
 12 ~~are necessary to provide a suitable permanent diverse~~
 13 ~~vegetative cover capable of~~ establish on the regraded areas
 14 and all other lands affected a diverse, effective, and
 15 permanent vegetative cover of the same seasonal variety
 16 native to the area of land to be affected and capable of
 17 self-regeneration and plant succession at least equal in
 18 extent of cover to the natural vegetation of the area excep
 19 that introduced species may be used in the revegetation
 20 process where desirable and necessary to achieve the
 21 approved postmining land use plan. The vegetative cover
 22 must be capable of:

23 (a) feeding and withstanding grazing pressure from a
 24 quantity and mixture of wildlife and livestock at least
 25 comparable to that which the land could have sustained prior

1 to the operation;

2 (b) regenerating under the natural conditions
3 prevailing at the site, including occasional drought, heavy
4 snowfalls, and strong winds; and

5 (c) preventing soil erosion to the extent achieved
6 prior to the operation.

7 (2) The seed or plant mixtures, quantities, method of
8 planting, type and amount of lime or fertilizer, mulching,
9 irrigation, fencing, and any other measures necessary to
10 provide a suitable permanent diverse vegetative cover shall
11 be defined by rules of the board.

12 (3) All underground shafts, tunnels, or other
13 excavations are excluded from the provisions of subsection
14 (1) of this section."

-End-

Approved by Committee
on Agriculture Livestock
& Irrigation

HOUSE BILL NO. 406

INTRODUCED BY CONROY, MARKS, IVERSON, DAY, SMITH,
ERNST, KROPP, SEIFERT, BURNETT, ROTH, FEDA, HAND,
MYRICK, VINGER, LIEN, SCHULTZ, GOULD, JOHNSTON

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW USE OF
INTRODUCED SPECIES IN REVEGETATION OF AREAS DISTURBED BY
COAL OR URANIUM MINING; AMENDING SECTIONS 82-4-232 AND
82-4-233, MCA."

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

Section 1. Section 82-4-232, MCA, is amended to read:

"82-4-232. Area mining required -- bond -- alternative
plan. (1) Area strip mining, a method of operation which
does not produce a bench or fill bench, is required where
strip mining is proposed. All highwalls must be reduced and
the steepest slope of the reduced highwall shall be no
greater than 20 degrees from the horizontal. Highwall
reduction shall be commenced at or beyond the top of the
highwall and sloped to the graded spoil bank. Reduction,
backfilling, and grading shall eliminate all highwalls and
spoil peaks. The area of land affected shall be restored to
the approximate original contour of the land. When directed
by the department, the operator shall construct in the final
grading such diversion ditches, depressions, or terraces as

will accumulate or control the water runoff. Additional
restoration work may be required by the department according
to rules adopted by the board.

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

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

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

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

11 (6) An operator may propose alternative plans other
 12 than backfilling, grading, highwall reduction, or
 13 topsoiling, ~~or seeding to a permanent diverse vegetative~~
 14 ~~cover~~ if the restoration will be consistent with the purpose
 15 of this part. These plans shall be submitted to the
 16 department, and after consultation with the landowner, if
 17 the plans are approved by the board and complied with within
 18 the time limits as may be determined by the board as being
 19 reasonable for carrying out the plans, the backfilling,
 20 grading, highwall reduction, or topsoiling, ~~or revegetation~~
 21 requirements of this part may be modified by the board. An
 22 operator who proposes alternative plans that will affect an
 23 existing permit shall comply with the notice requirement of
 24 82-4-222(1)(k).

25 ~~(7) If alternate revegetation is proposed, a~~

1 ~~management plan must be submitted showing how the area will~~
 2 ~~be utilized and any data necessary to show that the~~
 3 ~~alternate postmining land use can be achieved. Any plan must~~
 4 ~~require the operation as a minimum to:~~

5 ~~(A) restore the land affected to a condition capable~~
 6 ~~of supporting the use which it was capable of supporting~~
 7 ~~prior to any mining operation or to a higher or better use~~
 8 ~~OF WHICH THERE IS A REASONABLE LIKELIHOOD, IF THE USE OR~~
 9 ~~USES DO NOT PRESENT ANY ACTUAL OR PROBABLE THREAT OF WATER~~
 10 ~~DIMINUTION OR POLLUTION, AND IF THE PERMIT APPLICANT'S~~
 11 ~~PROPOSED LAND USE FOLLOWING RECLAMATION IS NOT DEEMED TO BE~~
 12 ~~IMPRACTICAL, UNREASONABLE, OR INCONSISTENT WITH APPLICABLE~~
 13 ~~LAND USE POLICIES AND PLANS, WOULD NOT INVOLVE UNREASONABLE~~
 14 ~~DELAY IN IMPLEMENTATION, AND WOULD NOT VIOLATE FEDERAL,~~
 15 ~~STATE, OR LOCAL LAW; AND~~

16 ~~(B) PREVENT SOIL EROSION TO THE EXTENT ACHIEVED PRIOR~~
 17 ~~TO MINING."~~

18 Section 2. Section 82-4-233, MCA, is amended to read:
 19 "82-4-233. Planting of vegetation following grading of
 20 disturbed area. (1) After the operation has been backfilled,
 21 graded, topsoiled, and approved by the department, the
 22 operator shall ~~prepare the soil and plant such legumes,~~
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 2 ~~establish on the regraded areas and all other lands affected~~
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 16 prevailing at the site, including occasional drought, heavy
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 19 prior to the operation.

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 21 planting, type and amount of lime or fertilizer, mulching,
 22 irrigation, fencing, and any other measures necessary to
 23 provide a suitable permanent diverse vegetative cover shall
 24 be defined by rules of the board.

25 (3) All underground shafts, tunnels, or other

1 excavations are excluded from the provisions of subsection
 2 (1) of this section."

-End-

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 8 ~~of which there is a reasonable likelihood, if the use or~~
 9 ~~uses do not present any actual or probable threat of water~~
 10 ~~diminution or pollution, and if the permit applicant's~~
 11 ~~proposed land use following reclamation is not deemed to be~~
 12 ~~impractical, unreasonable, or inconsistent with applicable~~
 13 ~~land use policies and plans, would not involve unreasonable~~
 14 ~~delay in implementation, and would not violate federal,~~
 15 ~~state, or local law; and~~

16 ~~(B) prevent soil erosion to the extent achieved prior~~
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