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

Third reading, concurred in.

IN THE HOUSE

March 8, 1979

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

Reported correctly enrolled.

BILL NO. 1 INTRODUCED BY 2 ٦ "AN ACT TO ALLOW USE OF VIN A BILL FOR AN ACT ENTITLED 4 INTRODUCED SPECIES IN REVEGETATION OF AREAS DISTURBED BY 5 COAL OR URANIUM MINING; AMENDING SECTIONS 82-4-232 AND Jun 6 82-4-233+ MCA.* 7

8

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: Section 1. Section 82-4-232, MCA, is amended to read: 10 #82-4-232. Area mining required -- bond -- alternative 11 plan. (1) Area strip mining, a method of operation which 12 does not produce a bench or fill bench, is required where 13 strip mining is proposed. All highwalls must be reduced and 14 the steepest slope of the reduced highwall shall be no 15 greater than 20 degrees from the horizontal. Highwall 16 reduction shall be commenced at or beyond the top of the 17 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 the approximate original contour of the land. When directed 21 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.

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

-2- HB 406 INTRODUCED BILL

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

(6) An operator may propose alternative plans other 9 10 than backfilling, grading, highwall reduction, or topsoiling, or seeding to a permanent diverse vegetative 11 12 cover if the restoration will be consistent with the purpose of this part. These plans shall be submitted to the 13 department, and after consultation with the landowner, if 14 the plans are approved by the board and complied with within 15 16 the time limits as may be determined by the board as being reasonable for carrying out the plans, the backfilling, 17 grading, highwall reduction, or topsoiling. or revegetation 18 requirements of this part may be modified by the board. An 19 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 <u>(7) If alternate revegetation is proposed</u>
 24 management plan must be submitted showing how the area will
 25 be utilized and any data pecessary to show that the

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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_wascapable_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	<pre>#82-4-233. Planting of vegetation following grading of</pre>
8	disturbed area. (1) After the operation has been backfilled,
9	graded, topsoiled, and approved by the department, the
10	operator shall prepore-thesoilandplantsuchlegumesy
11	g rassesy-shrubsy-and-trees-upon-the-area-of-land-affected-as
12	a renecessarytoprovideasuitable permanent diverse
13	vegetative-cover-capable-off <u>establish on the regraded areas</u>
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	processwhere_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

comparable to that which the land could have sustained prior

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1 to the operation; 2 (b) regenerating under the natural conditions prevailing at the site, including occasional drought, heavy 3 snowfalls, and strong winds; and 4 (c) preventing soil erosion to the extent achieved 5 prior to the operation. 6 (2) The seed or plant mixtures, quantities, method of 7 planting, type and amount of lime or fertilizer, mulching, 8 irrigation, fencing, and any other measures necessary to 9

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."

Approved by **Counittee** on Agriculture Livestock & Irrigation

1	HOUSE BILL NO. 406
2	INTRODUCED BY CONROY, MARKS, IVERSON, DAY, SMITH,
3	ERNST, KROPP, SEIFERT, BURNETT, ROTH, FEDA, HAND,
4	WYRICK, VINGER, LIEN, SCHULTZ, GOULD, JOHNSTON
5	
6	A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW USE OF
7	INTRODUCED SPECIES IN REVEGETATION OF AREAS DISTURBED BY
8	COAL OR URANIUM MINING; AMENDING SECTIONS 82-4-232 AND
9	82-4-233, MCA."
10	
11	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12	Section 1. Section B2-4-232, MCA, is amended to read:
13	<pre>"82-4-232. Area mining required bond alternative</pre>
14	plan. (1) Area strip mining, a method of operation which
15	does not produce a bench or fill bench, is required where
16	strip mining is proposed. All highwalls must be reduced and
17	the steepest slope of the reduced highwall shall be no
18	greater than 20 degrees from the horizontal. Highwall
19	reduction shall be commenced at or beyond the top of the
20	highwall and sloped to the graded spoil bank. Reduction:
21	backfilling, and grading shall eliminate all highwalls and
22	spoil peaks. The area of land affected shall be restored to
23	the approximate original contour of the land. When directed
24	by the department, the operator shall construct in the final
25	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.

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

(3) All available topsoil shall be removed in a 9 separate layer, guarded from erosion and pollution, kept in 10 such a condition that it can sustain vegetation of at least 11 the quality and variety it sustained prior to removal, and 12 returned as the top layer after the operation has been 13 backfilled and graded, provided that the operator shall 14 15 accord substantially the same treatment to any subsurface deposit of material that is capable, as determined by the 16 17 department, of supporting surface vegetation virtually as 18 well as the present topsoil.

19 (4) As determined by rules of the board, time limits 20 shall be established requiring backfilling, grading, 21 subsidence stabilization, water control, highwall reduction, 22 topsoiling, planting, and revegetation to be kept current. 23 All backfilling, subsidence stabilization, sealing, grading, 24 and topsoiling shall be completed before necessary equipment 25 is moved from the operation.

-2- SECOND READING

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

(6) An operator may propose alternative plans other 11 12 than backfilling, grading, highwall reduction, OT. 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 the plans are approved by the board and complied with within 17 18 the time limits as may be determined by the board as being 19 reasonable for carrying out the plans, the backfilling, grading, highwall reduction, or topsoiling, or revegetation 20 requirements of this part may be modified by the board. An 21 22 operator who proposes alternative plans that will affect an 23 existing permit shall comply with the notice requirement of 82-4-222(1)(k). 24

25 <u>[7] If alternate revegetation is proposed</u>. a

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HB 406

ı	management_plan_must_be_submitted_showing_how_the_area_will
2	beutilizedandanydatanecessarytoshowtbatthe
3	<u>alternate postmining land use can be achieved. Any plan must</u>
4	require the operation as a minimum to:
5	<pre>(A) restore the land affected to a condition capable</pre>
6	of supporting the use which it was capable of supporting
7	prior_to_any_mining_operation_or_to_a_bigher_or_better_use
8	<u>QË_WHICH_IHERE_IS_A_REASONABLE_LIKELIHOOD,IEIHEUSEOR</u>
9	<u>USES_DO_NOT_PRESENT_ANY_ACTUAL_OR_PROBABLE_THREAT_QE_HATER</u>
10	DIMINUTION_ORPOLLUTION:ANDIETHEPERMITAPPLICANT'S
11	PROPOSED_LAND_USE_FOLLOWING_BECLAMATION_IS_NOT_DEEMED_IO_BE
12	IMPRACTICAL: UNREASONABLE: OR INCONSISTENT WITH APPLICABLE
13	LAND_USE_POLICIES_AND_PLANSNOULD_NDT_INVOLVE_UNREASONABLE
14	DELAY_IN_INPLEMENTATION:ANDHOULDNOTYIOLATEEEDERAL:
15	STATE: DR.LOCAL LAW: AND
16	(B) PREVENT SOIL EROSION TO THE EXTENT ACHIEVED PRIOR
17	IO_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-thesoilandplantsuchlegumesv
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1 LEGUMES, GRASSES, SHRUBS, AND TREES AS ARE NECESSARY TO establish on the regraded areas and all other lands affected 2 3 a diverses effectives and permanent vegetative cover of the 4 same seasonal variety native to the area of land to be 5 affected and capable of self-receneration and plant £ succession at least equal in extent of cover to the natural 7 vegetation of the area except that introduced species may be 8 used in the revegetation process where desirable and 9 necessary to achieve the approved posteining land use plane 10 The vegetative cover must be canable of: 11 (a) feeding and withstanding grazing pressure from a quantity and mixture of wildlife and livestock at least 12 13 comparable to that which the land could have sustained prior 14 to the operation: 15 (b) regenerating under the natural conditions prevailing at the site, including occasional drought, heavy 16 17 snowfalls, and strong winds; and 19 (c) preventing soil erosion to the extent achieved 19 prior to the operation. 20 (2) The seed or plant mixtures, quantities, method of 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
 - -5-

HB 406

- HB 0406/02
- 1 excavations are excluded from the provisions of subsection
- 2 (1) of this section."

HOUSE BILL NO. 406 1 INTRODUCED BY CONROY, MARKS, IVERSON, DAY, SMITH, z ERNST, KROPP, SEIFERT, BURNETT, ROTH, FEDA, HAND, 3 WYRICK, VINGER, LIEN, SCHULTZ, GOULD, JOHNSTON 4 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW USE OF 6 INTRODUCED SPECIES IN REVEGETATION OF AREAS DISTURBED BY 7 COAL OR URANIUM MINING; AMENDING SECTIONS 82-4-232 AND 8 82-4-233. HCA." q 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 11 Section 1. Section 82-4-232, HCA, is amended to read: 12 *82-4-232. Area mining required -- bond -- alternative 13 plan. (1) Area strip mining, a method of operation which 14 does not produce a bench or fill bench. is required where 15 strip mining is proposed. All highwalls must be reduced and 16 the steepest slope of the reduced highwall shall be no 17 greater than 20 degrees from the horizontal. Highwall 18 reduction shall be commenced at or beyond the top of the 19 highwall and sloped to the graded spoil bank. Reduction. 20 backfilling, and grading shall eliminate all highwalls and 21 spoil peaks. The area of land affected shall be restored to 22 the approximate original contour of the land. When directed 23 by the department, the operator shall construct in the final 24 grading such diversion ditches, depressions, or terraces as 25

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(3) All available topsoil shall be removed in a 9 separate layer, guarded from erosion and pollution, kept in 10 such a condition that it can sustain vegetation of at least 11 the quality and variety it sustained prior to removal, and 12 returned as the top layer after the operation has been 13 backfilled and graded, provided that the operator shall 14 accord substantially the same treatment to any subsurface 15 deposit of material that is capable, as determined by the 16 department, of supporting surface vegetation virtually as 17 18 well as the present topsoil.

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> -2- HB 406 THIRD READING

HB 406

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

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25 <u>III If alternate revegetation is proposed</u>, a

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9	<u>USES_DO_NOT_PRESENT_ANY_ACTUAL_DR_PROBABLE_IHREAT_OF_WATER</u>
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HB 406

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HB 0406/02

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> -2- HB 406 REFERENCE BILL

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HB 406

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HB 406

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