

HOUSE BILL 444

IN THE HOUSE

January 29, 1979

Introduced and referred to
Committee on Natural Resources.

February 20, 1979

Committee recommend bill,
do not pass.

February 21, 1979

Report adopted.

1 *House* BILL NO. *444*
 2 INTRODUCED BY *Lisa Conway Mack, NATHAN DOWD*
 3 *Scott Manly, Hank Schrader*

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REMOVE URANIUM
 5 MINING FROM APPLICATION OF THE STRIP AND UNDERGROUND MINE
 6 SITING ACT AND THE MONTANA STRIP AND UNDERGROUND MINE
 7 RECLAMATION LAWS AND SUBJECT URANIUM MINING TO THE METAL
 8 MINE RECLAMATION LAWS; AMENDING SECTIONS 82-4-203 AND
 9 82-4-303, MCA."

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

12 Section 1. Section 82-4-203, MCA, is amended to read:
 13 "82-4-203. Definitions. Unless the context requires
 14 otherwise, in this part the following definitions apply:

15 (1) "Abandoned" means an operation where no mineral is
 16 being produced and where the department determines that the
 17 operation will not continue or resume.

18 (2) "Aquifer" means any geologic formation or natural
 19 zone beneath the earth's surface that contains or stores
 20 water and transmits it from one point to another in
 21 quantities which permit or have the potential to permit
 22 economic development as a water source.

23 (3) "Area of land affected" means the area of land
 24 from which overburden is to be or has been removed and upon
 25 which the overburden is to be or has been deposited and

1 includes all land overlying any tunnels, shafts, or other
 2 excavations used to extract the mineral, lands affected by
 3 the construction of new railroad loops and roads or the
 4 improvement or use of existing railroad loops and roads to
 5 gain access and to haul the mineral, processing or other
 6 mine associated facilities, waste deposition areas,
 7 treatment ponds, and any other surface or subsurface
 8 disturbance associated with strip mining or underground
 9 mining.

10 (4) "Bench" means the ledge, shelf, table, or terrace
 11 formed in the contour method of strip mining.

12 (5) "Board" means the board of land commissioners
 13 provided for in Article X, section 4, of the constitution of
 14 this state.

15 (6) "Commissioner" means the commissioner of state
 16 lands provided for in 2-15-3202.

17 (7) "Contour strip mining" means that strip-mining
 18 method commonly carried out in areas of rough and hilly
 19 topography in which the coal or mineral seam outcrops along
 20 the side of the slope and entrance is made to the seam by
 21 excavating a bench or table cut at and along the site of the
 22 seam outcropping with the excavated overburden commonly
 23 being cast down the slope below the mineral seam and the
 24 operating bench.

25 (8) "Degree" means from the horizontal and in each

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1 case is subject to a tolerance of 5% error.

2 (9) "Department" means the department of state lands
3 provided for in Title 2, chapter 15, part 32.

4 (10) "Fill bench" means that portion of a bench or
5 table which is formed by depositing overburden beyond or
6 downslope from the cut section as formed in the contour
7 method of strip mining.

8 (11) "Method of operation" means the method or manner
9 by which the cut, open pit, shaft, or excavation is made,
10 the overburden is placed or handled, water is controlled,
11 and other acts are performed by the operator in the process
12 of uncovering and removing the minerals that affect the
13 reclamation of the area of land affected.

14 (12) "Mineral" means coal and uranium.

15 (13) "Operation" means all of the premises, facilities,
16 railroad loops, roads, and equipment used in the process of
17 producing and removing mineral from a designated strip-mine
18 or underground-mine area or prospecting for the purpose of
19 determining the location, quality, or quantity of a natural
20 mineral deposit.

21 (14) "Operator" means a person engaged in strip mining
22 or underground mining who removes or intends to remove more
23 than 10,000 cubic yards of mineral or overburden.

24 (15) "Overburden" means all of the earth and other
25 materials which lie above a natural mineral deposit and also

1 means such earth and other material after removal from their
2 natural state in the process of mining.

3 (16) "Person" means a person, partnership, corporation,
4 association, or other legal entity or any political
5 subdivision or agency of the state.

6 (17) "Prospecting" means the removal of overburden,
7 core drilling, construction of roads, or any other
8 disturbance of the surface for the purpose of determining
9 the location, quantity, or quality of a natural mineral
10 deposit.

11 (18) "Reclamation" means backfilling, subsidence
12 stabilization, water control, grading, highwall reduction,
13 topsoiling, planting, revegetation, and other work to
14 restore an area of land affected by strip mining or
15 underground mining under a plan approved by the department.

16 (19) "Strip mining" means any part of the process
17 followed in the production of mineral by the open-cut method
18 including mining by the auger method or any similar method
19 which penetrates a mineral deposit and removes mineral
20 directly through a series of openings made by a machine
21 which enters the deposit from a surface excavation or any
22 other mining method or process in which the strata or
23 overburden is removed or displaced in order to recover the
24 mineral.

25 (20) "Subsidence" means a vertically downward movement

1 of overburden materials resulting from the actual mining of
2 an underlying mineral deposit or associated underground
3 excavations.

4 (21) "Surface owner" means a person who holds legal or
5 equitable title to the land surface and whose principal
6 place of residence is on the land or who personally conducts
7 farming or ranching operations upon a farm or ranch unit to
8 be directly affected by strip-mining operations or who
9 receives directly a significant portion of his income, if
10 any, from such farming or ranching operations or the state
11 of Montana where the state owns the surface.

12 (22) "Topsoil" means the unconsolidated mineral matter
13 naturally present on the surface of the earth that has been
14 subjected to and influenced by genetic and environmental
15 factors of parent material, climate, macro- and
16 micro-organisms, and topography, all acting over a period of
17 time, and that is necessary for the growth and regeneration
18 of vegetation on the surface of the earth.

19 (23) "Underground mining" means any part of the process
20 followed in the production of a mineral such that vertical
21 or horizontal shafts, slopes, drifts, or incline planes
22 connected with excavations penetrating the mineral stratum
23 or strata are utilized.

24 (24) "Waiver" means any document which demonstrates the
25 clear intention to release rights in the surface estate for

1 the purpose of permitting the extraction of subsurface
2 minerals by strip-mining methods.

3 (25) "Written consent" means such written statement as
4 is executed by the owner of the surface estate, upon a form
5 approved by the department, demonstrating that such owner
6 consents to entry of an operator for the purpose of
7 conducting strip-mining operations and that such consent is
8 given only to such strip-mining and reclamation operations
9 which fully comply with the terms and requirements of this
10 part."

11 Section 2. Section 82-4-303, MCA, is amended to read:
12 "82-4-303. Definitions. As used in this part, unless
13 the context indicates otherwise, the following definitions
14 apply:

15 (1) "Abandonment of surface or underground mining" may
16 be presumed when it is shown that continued operation will
17 not resume.

18 (2) "Board" means the board of land commissioners or
19 such state employee or state agency as may succeed to its
20 powers and duties under this part.

21 (3) "Department" means the department of state lands.

22 (4) "Development" means all operations between
23 exploration and mining.

24 (5) "Disturbed land" means that area of land or
25 surface water disturbed, beginning at the date of the

1 issuance of the permit, and it comprises that area from
 2 which the overburden or minerals have been removed and
 3 tailings ponds, waste dumps, roads, conveyor systems, leach
 4 dumps, and all similar excavations or covering resulting
 5 from the operation and which have not been previously
 6 reclaimed under the reclamation plan.

7 (6) "Exploration" means all activities conducted on or
 8 beneath the surface of lands resulting in material
 9 disturbance of the surface for the purpose of determining
 10 the presence, location, extent, depth, grade, and economic
 11 viability of mineralization in those lands, if any, other
 12 than mining for production and economic exploitation, as
 13 well as all roads made for the purpose of facilitating
 14 exploration, except as noted in 82-4-305 and 82-4-310.

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

22 (8) "Mining" commences at such time as the operator
 23 first mines ores or minerals in commercial quantities for
 24 sale, beneficiation, refining, or other processing or
 25 disposition or first takes bulk samples for metallurgical

1 testing in excess of aggregate of 10,000 short tons.

2 (9) "Person" means any person, corporation, firm,
 3 association, partnership, or other legal entity engaged in
 4 exploration for or development or mining of minerals on or
 5 below the surface of the earth.

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

11 (a) a statement of the proposed subsequent use of the
 12 land after reclamation;

13 (b) plans for surface gradient restoration to a
 14 surface suitable for the proposed subsequent use of the land
 15 after reclamation is completed and the proposed method of
 16 accomplishment;

17 (c) the manner and type of revegetation or other
 18 surface treatment of disturbed areas;

19 (d) procedures proposed to avoid foreseeable
 20 situations of public nuisance, endangerment of public
 21 safety, damage to human life or property, or unnecessary
 22 damage to flora and fauna in or adjacent to the area;

23 (e) the method of disposal of mining debris;

24 (f) the method of diverting surface waters around the
 25 disturbed areas where necessary to prevent pollution of

1 those waters or unnecessary erosion;

2 (g) the method of reclamation of stream channels and
3 stream banks to control erosion, siltation, and pollution;

4 (h) such maps and other supporting documents as may be
5 reasonably required by the department; and

6 (i) a time schedule for reclamation that meets the
7 requirements of 82-4-336.

8 (11) "Small miner" means a person, firm, or corporation
9 engaged in the business of mining who does not remove from
10 the earth during any calendar year material in excess of
11 36,500 tons in the aggregate.

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

24 (13) "Underground mining" means all methods of mining
25 other than surface mining.

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

11 (15) "Vegetative cover" means the type of vegetation,
12 grass, shrubs, trees, or any other form of natural cover
13 considered suitable at time of reclamation."

14 Section 3. Code commissioner instruction. The code
15 commissioner shall change the terminology in Title 82,
16 chapter 4, parts 1 and 2, to reflect the fact that amendment
17 of the definition of mineral in 82-4-203 to exclude uranium
18 makes The Strip and Underground Mine Siting Act and The
19 Montana Strip and Underground Mine Reclamation Act apply
20 only to coal mining.

-End-

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