

CHAPTER NO. 196.

HOUSE BILL NO. 739

INTRODUCED BY DAY

BY REQUEST OF THE DEPARTMENT OF STATE LANDS

IN THE HOUSE

February 10, 1979	Introduced and referred to Committee on Natural Resources.
February 14, 1979	Committee recommend bill do pass. Report adopted.
February 15, 1979	Second reading, do pass.
February 17, 1979	Considered correctly engrossed.
February 19, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

February 20, 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 9, 1979	Third reading, concurred in.

IN THE HOUSE

March 10, 1979	Returned from second house. Concurred in. Sent to enrolling. Reported correctly enrolled.
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1 House BILL NO. 739
 2 INTRODUCED BY Day
 3 BY REQUEST OF THE DEPARTMENT OF STATE LANDS

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
 6 MONTANA STRIP AND UNDERGROUND MINE RECLAMATION ACT; AMENDING
 7 SECTIONS 82-4-222, 82-4-226, 82-4-234, 82-4-235, AND
 8 82-4-237, MCA."

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

11 Section 1. Section 82-4-222, MCA, is amended to read:

12 "82-4-222. Permit application. (1) An operator
 13 desiring a permit shall file an application which shall
 14 contain a complete and detailed plan for the mining,
 15 reclamation, revegetation, and rehabilitation of the land
 16 and water to be affected by the operation. Such plan shall
 17 reflect thorough advance investigation and study by the
 18 operator and shall include all known or readily discoverable
 19 past and present uses of the land and water to be affected
 20 and the approximate periods of such use and shall state:

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

24 (b) the names and addresses of the owners of record of
 25 the surface of the area of land to be affected by the permit

1 and the owners of record of all surface area within one-half
 2 mile of any part of the affected area;

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

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

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

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

13 (g) whether the applicant is in compliance with
 14 82-4-251 and, if known, whether every officer, partner,
 15 director, or any individual owning of record or
 16 beneficially, alone or with associates, 10% or more of any
 17 class of stock of the applicant is subject to any of the
 18 provisions of 82-4-251 and he shall so certify and whether
 19 any of the foregoing parties or persons have ever had a
 20 strip-mining or underground-mining license or permit issued
 21 by any other state or federal agency revoked or have ever
 22 forfeited a strip-mining or underground-mining bond or a
 23 security deposited in lieu of a bond and, if so, a detailed
 24 explanation of the facts involved in each case must be
 25 attached;

1 (h) the names and addresses of any persons who are
2 engaged in strip or underground mining activities on behalf
3 of the applicant;

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

7 (j) the results of any test borings or core samplings
8 which the applicant or his agent has conducted on the land
9 to be affected, including the nature and the depth of the
10 various strata or overburden and topsoil, the quantities and
11 location of subsurface water and its quality, the thickness
12 of any mineral seam, an analysis of the chemical properties
13 of such minerals, including the acidity, sulphur content,
14 and trace mineral elements of any coal seam, as well as the
15 British thermal unit (Btu) content of such seam, and an
16 analysis of the overburden, including topsoil. If test
17 borings or core samplings are submitted, each permit
18 application shall contain two copies each of two sets of
19 geologic cross sections accurately depicting the known
20 geologic makeup beneath the surface of the affected land.
21 Each set shall depict subsurface conditions at 500-foot ~~such~~
22 intervals ~~as the department requires~~ across the surface and
23 shall run at a 90-degree angle to the other set ~~unless the~~
24 ~~department determines that closer intervals are required.~~
25 ~~The department may not require intervals of less than 500~~

1 ~~feet.~~ Each cross section shall depict the thickness and
2 geologic character of all known strata beginning with the
3 topsoil. In addition, each application for an underground
4 mining permit shall be accompanied by cross sections and
5 maps showing the proposed underground locations of all
6 shafts, entries, and haulageways or other excavations to be
7 excavated during the permit year period. These cross
8 sections shall also include all existing shafts, entries,
9 and haulageways.

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

16 (1) such other or further information as the
17 department may require.

18 (2) The application for a permit shall be accompanied
19 by two copies of all maps meeting the requirements of the
20 subsections below. The maps shall:

21 (a) identify the area to correspond with the
22 application;

23 (b) show any adjacent deep mining or surface mining
24 and the boundaries of surface properties and names of owners
25 of record of the affected area and within 1,000 feet of any

1 part of the affected area;

2 (c) show the names and locations of all streams,
3 creeks, or other bodies of water, roads, buildings,
4 cemeteries, oil and gas wells, and utility lines on the area
5 of land affected and within 1,000 feet of such area;

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

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

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

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

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

22 (i) show the proposed location of all facilities;

23 ~~(j)~~ show the location of test boring holes;

24 ~~(k)~~ show the surface location lines of any geologic
25 cross sections which have been submitted;

1 ~~(k)~~ show a listing of plant varieties encountered
2 in the area to be affected and their relative dominance in
3 the area, together with an enumeration of tree varieties and
4 the approximate number of each variety occurring per acre on
5 the area to be affected, and the locations generally of the
6 various kinds and varieties of plants, including but not
7 limited to grasses, shrubs, legumes, forbs, and trees;

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

14 ~~(m)~~ contain such other or further information as
15 the department may require.

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

1 Section 2. Section 82-4-226, MCA, is amended to read:
 2 "82-4-226. Prospecting permit. (1) On and after March
 3 16, 1973, prospecting by any person on land not included in
 4 a valid strip-mining or underground-mining permit shall be
 5 unlawful without possessing a valid prospecting permit
 6 issued by the department as provided in this section. No
 7 prospecting permit shall be issued until the operator person
 8 submits an application, the application is examined, amended
 9 if necessary, and approved by the department, and adequate
 10 reclamation performance bond is posted, all of which
 11 prerequisites must be done in conformity with the
 12 requirements of this part.

13 (2) An application for a prospecting permit shall be
 14 made in writing, notarized, and submitted to the department
 15 in duplicate upon forms prepared and furnished by it. The
 16 application shall include among other things a prospecting
 17 map and a prospecting reclamation plan of substantially the
 18 same character as required for a surface-mining or
 19 underground-mining map and reclamation plan under this part.
 20 The department shall determine by rules the precise nature
 21 of such required prospecting map and reclamation plan. Any
 22 operator applicant who intends to prospect by means of core
 23 drilling shall specify the location and number of holes to
 24 be drilled, methods to be used in sealing aquifers, and such
 25 other information as may be required by the department. The

1 applicant must state what types of prospecting and
 2 excavating techniques will be employed on the affected land.
 3 The application shall also include any other or further
 4 information the department may require.

5 (3) The application shall be accompanied by a fee of
 6 \$100. This fee shall be used as a credit toward the
 7 strip-mining or underground-mining permit fee provided by
 8 this part if the area covered by the prospecting permit
 9 becomes covered by a valid surface-mining or
 10 underground-mining permit obtained before or at the time the
 11 prospecting permit expires.

12 (4) Before the department gives final approval to the
 13 prospecting permit application, the applicant shall file
 14 with the department a reclamation and revegetation bond in a
 15 form and in an amount as determined in the same manner for
 16 strip-mining or underground-mining reclamation and
 17 revegetation bonds under this part.

18 (5) In the event that the holder of a prospecting
 19 permit desires to strip mine or underground mine the area
 20 covered by the prospecting permit and has fulfilled all the
 21 requirements for a strip-mining or underground-mining
 22 permit, the department may permit the postponement of the
 23 reclamation of the acreage prospected if that acreage is
 24 incorporated into the complete reclamation plan submitted
 25 with the application for a strip-mining or

1 underground-mining permit. Any land actually affected by
2 prospecting or excavating under a prospecting permit and not
3 covered by the strip-mining or underground-mining
4 reclamation plan shall be promptly reclaimed.

5 (6) The prospecting permit shall be valid for 1 year
6 and shall be subject to renewal, suspension, and revocation
7 in the same manner as strip-mining or underground-mining
8 permits under this part.

9 (7) The holder of the prospecting permit shall file
10 with the department the same progress reports, maps, and
11 revegetation progress reports as are required of
12 strip-mining or underground-mining operators under this
13 part."

14 Section 3. Section 82-4-234, MCA, is amended to read:

15 "82-4-234. Commencement of reclamation. The operator
16 shall commence the reclamation of the area of land affected
17 by his operation as soon as possible after the beginning of
18 strip mining or underground mining of that area in
19 accordance with plans previously approved by the department.
20 Those grading, backfilling, subsidence stabilization,
21 topsoiling, and water management practices that are approved
22 in the plans shall be kept current with the operation as
23 defined by rules of the board, and a permit or supplement to
24 a permit may not be issued if, in the discretion of the
25 department, these practices are not current. A permittee may

1 not, without department approval, disturb any area that has
2 been seeded pursuant to 82-4-231."

3 Section 4. Section 82-4-235, MCA, is amended to read:

4 "82-4-235. Planting report. ~~{1} At least 60 days prior~~
5 ~~to the date of each permit expiration, the operator shall~~
6 ~~file a planting report with the department on a form to be~~
7 ~~prescribed and furnished by the department, giving the~~
8 ~~following information:~~

9 ~~{a} identification of the operation;~~
10 ~~{b} the type of planting or seeding, including~~
11 ~~mixtures and amounts;~~
12 ~~{c} the date of planting or seeding;~~
13 ~~{d} the area of land planted;~~
14 ~~{e} any other relevant information the department~~
15 ~~requires.~~

16 ~~{2} All planting reports shall be certified by the~~
17 ~~operator.~~

18 ~~{3} Inspection and evaluation for permanent diverse~~
19 ~~vegetative cover shall be made as soon as it is possible to~~
20 ~~determine if a satisfactory stand has been established. If~~
21 ~~the department determines that a satisfactory permanent~~
22 ~~diverse vegetative cover has been established, it shall~~
23 ~~release the remaining bond held on the area reclaimed after~~
24 ~~public notice and an opportunity for a hearing. In no event~~
25 ~~shall such remaining bond be released prior to a period of 5~~

1 years from the initial planting provided for in 82-4-233."

2 Section 5. Section 82-4-237, MCA, is amended to read:

3 "82-4-237. Operator to file annual reports. (1) An
4 operator shall file an annual report with the department
5 within 30 days of the anniversary date of each permit.
6 Included within this report shall be:

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

9 (b) a report in such detail as the department shall
10 require, supplemented with maps, cross sections, or other
11 material indicating the extent to which mining operations
12 have been carried out, the progress of all reclamation work,
13 including the type of planting or seedings, mixture and
14 amount of seed, date of planting or seeding, and area of
15 land planted, the extent to which expectations and
16 predictions made in the original application have been
17 fulfilled and any deviation therefrom, and the number of
18 acres affected; and

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

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

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

-End-

1 House BILL NO. 739
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 16 and water to be affected by the operation. Such plan shall
 17 reflect thorough advance investigation and study by the
 18 operator and shall include all known or readily discoverable
 19 past and present uses of the land and water to be affected
 20 and the approximate periods of such use and shall state:

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

24 (b) the names and addresses of the owners of record of
 25 the surface of the area of land to be affected by the permit

1 and the owners of record of all surface area within one-half
 2 mile of any part of the affected area;

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

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

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

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

13 (g) whether the applicant is in compliance with
 14 82-4-251 and, if known, whether every officer, partner,
 15 director, or any individual owning of record or
 16 beneficially, alone or with associates, 10% or more of any
 17 class of stock of the applicant is subject to any of the
 18 provisions of 82-4-251 and he shall so certify and whether
 19 any of the foregoing parties or persons have ever had a
 20 strip-mining or underground-mining license or permit issued
 21 by any other state or federal agency revoked or have ever
 22 forfeited a strip-mining or underground-mining bond or a
 23 security deposited in lieu of a bond and, if so, a detailed
 24 explanation of the facts involved in each case must be
 25 attached;

1 (h) the names and addresses of any persons who are
2 engaged in strip or underground mining activities on behalf
3 of the applicant;

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

7 (j) the results of any test borings or core samplings
8 which the applicant or his agent has conducted on the land
9 to be affected, including the nature and the depth of the
10 various strata or overburden and topsoil, the quantities and
11 location of subsurface water and its quality, the thickness
12 of any mineral seam, an analysis of the chemical properties
13 of such minerals, including the acidity, sulphur content,
14 and trace mineral elements of any coal seam, as well as the
15 British thermal unit (Btu) content of such seam, and an
16 analysis of the overburden, including topsoil. If test
17 borings or core samplings are submitted, each permit
18 application shall contain two copies each of two sets of
19 geologic cross sections accurately depicting the known
20 geologic makeup beneath the surface of the affected land.
21 Each set shall depict subsurface conditions at 500-foot such
22 intervals as the department requires across the surface and
23 shall run at a 90-degree angle to the other set ~~unless the~~
24 ~~department determines that closer intervals are required.~~
25 The department may not require intervals of less than 500

1 ~~feet.~~ Each cross section shall depict the thickness and
2 geologic character of all known strata beginning with the
3 topsoil. In addition, each application for an underground
4 mining permit shall be accompanied by cross sections and
5 maps showing the proposed underground locations of all
6 shafts, entries, and haulageways or other excavations to be
7 excavated during the permit year period. These cross
8 sections shall also include all existing shafts, entries,
9 and haulageways.

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

16 (l) such other or further information as the
17 department may require.

18 (2) The application for a permit shall be accompanied
19 by two copies of all maps meeting the requirements of the
20 subsections below. The maps shall:

21 (a) identify the area to correspond with the
22 application;

23 (b) show any adjacent deep mining or surface mining
24 and the boundaries of surface properties and names of owners
25 of record of the affected area and within 1,000 feet of any

1 part of the affected area;

2 (c) show the names and locations of all streams,
3 creeks, or other bodies of water, roads, buildings,
4 cemeteries, oil and gas wells, and utility lines on the area
5 of land affected and within 1,000 feet of such area;

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

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

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

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

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

22 (i) show the proposed location of all facilities;

23 ~~(j)(1)~~ show the location of test boring holes;

24 ~~(j)(k)~~ show the surface location lines of any geologic
25 cross sections which have been submitted;

1 ~~(k)(1)~~ show a listing of plant varieties encountered
2 in the area to be affected and their relative dominance in
3 the area, together with an enumeration of tree varieties and
4 the approximate number of each variety occurring per acre on
5 the area to be affected, and the locations generally of the
6 various kinds and varieties of plants, including but not
7 limited to grasses, shrubs, legumes, forbs, and trees;

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

14 ~~(k)(n)~~ contain such other or further information as
15 the department may require.

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

1 Section 2. Section 82-4-226, MCA, is amended to read:
 2 "82-4-226. Prospecting permit. (1) On and after March
 3 16, 1973, prospecting by any person on land not included in
 4 a valid strip-mining or underground-mining permit shall be
 5 unlawful without possessing a valid prospecting permit
 6 issued by the department as provided in this section. No
 7 prospecting permit shall be issued until the operator ~~person~~
 8 submits an application, the application is examined, amended
 9 if necessary, and approved by the department, and adequate
 10 reclamation performance bond is posted, all of which
 11 prerequisites must be done in conformity with the
 12 requirements of this part.

13 (2) An application for a prospecting permit shall be
 14 made in writing, notarized, and submitted to the department
 15 in duplicate upon forms prepared and furnished by it. The
 16 application shall include among other things a prospecting
 17 map and a prospecting reclamation plan of substantially the
 18 same character as required for a surface-mining or
 19 underground-mining map and reclamation plan under this part.
 20 The department shall determine by rules the precise nature
 21 of such required prospecting map and reclamation plan. Any
 22 operator ~~applicant~~ who intends to prospect by means of core
 23 drilling shall specify the location and number of holes to
 24 be drilled, methods to be used in sealing aquifers, and such
 25 other information as may be required by the department. The

1 applicant must state what types of prospecting and
 2 excavating techniques will be employed on the affected land.
 3 The application shall also include any other or further
 4 information the department may require.

5 (3) The application shall be accompanied by a fee of
 6 \$100. This fee shall be used as a credit toward the
 7 strip-mining or underground-mining permit fee provided by
 8 this part if the area covered by the prospecting permit
 9 becomes covered by a valid surface-mining or
 10 underground-mining permit obtained before or at the time the
 11 prospecting permit expires.

12 (4) Before the department gives final approval to the
 13 prospecting permit application, the applicant shall file
 14 with the department a reclamation and revegetation bond in a
 15 form and in an amount as determined in the same manner for
 16 strip-mining or underground-mining reclamation and
 17 revegetation bonds under this part.

18 (5) In the event that the holder of a prospecting
 19 permit desires to strip mine or underground mine the area
 20 covered by the prospecting permit and has fulfilled all the
 21 requirements for a strip-mining or underground-mining
 22 permit, the department may permit the postponement of the
 23 reclamation of the acreage prospected if that acreage is
 24 incorporated into the complete reclamation plan submitted
 25 with the application for a strip-mining or

1 underground-mining permit. Any land actually affected by
2 prospecting or excavating under a prospecting permit and not
3 covered by the strip-mining or underground-mining
4 reclamation plan shall be promptly reclaimed.

5 (6) The prospecting permit shall be valid for 1 year
6 and shall be subject to renewal, suspension, and revocation
7 in the same manner as strip-mining or underground-mining
8 permits under this part.

9 (7) The holder of the prospecting permit shall file
10 with the department the same progress reports, maps, and
11 revegetation progress reports as are required of
12 strip-mining or underground-mining operators under this
13 part."

14 Section 3. Section 82-4-234, MCA, is amended to read:

15 "82-4-234. Commencement of reclamation. The operator
16 shall commence the reclamation of the area of land affected
17 by his operation as soon as possible after the beginning of
18 strip mining or underground mining of that area in
19 accordance with plans previously approved by the department.
20 Those grading, backfilling, subsidence stabilization,
21 topsoiling, and water management practices that are approved
22 in the plans shall be kept current with the operation as
23 defined by rules of the board, and a permit or supplement to
24 a permit may not be issued if, in the discretion of the
25 department, these practices are not current. A permittee may

1 not, without department approval, disturb any area that has
2 been seeded pursuant to 82-4-233."

3 Section 4. Section 82-4-235, MCA, is amended to read:

4 "82-4-235. Planting report. ~~{1} At least 60 days prior~~
5 ~~to the date of each permit expiration, the operator shall~~
6 ~~file a planting report with the department on a form to be~~
7 ~~prescribed and furnished by the department, giving the~~
8 ~~following information:~~

- 9 ~~{a} identification of the operation;~~
- 10 ~~{b} the type of planting or seeding, including~~
11 ~~mixtures and amounts;~~
- 12 ~~{c} the date of planting or seeding;~~
- 13 ~~{d} the area of land planted;~~
- 14 ~~{e} any other relevant information the department~~
15 ~~requires.~~

16 ~~{2} All planting reports shall be certified by the~~
17 ~~operator.~~

18 ~~{3} Inspection and evaluation for permanent diverse~~
19 ~~vegetative cover shall be made as soon as it is possible to~~
20 ~~determine if a satisfactory stand has been established. If~~
21 ~~the department determines that a satisfactory permanent~~
22 ~~diverse vegetative cover has been established, it shall~~
23 ~~release the remaining bond held on the area reclaimed after~~
24 ~~public notice and an opportunity for a hearing. In no event~~
25 ~~shall such remaining bond be released prior to a period of 5~~

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1 years from the initial planting provided for in 82-4-233."

2 Section 5. Section 82-4-237, MCA, is amended to read:

3 "82-4-237. Operator to file annual reports. (1) An
4 operator shall file an annual report with the department
5 within 30 days of the anniversary date of each permit.
6 Included within this report shall be:

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

9 (b) a report in such detail as the department shall
10 require, supplemented with maps, cross sections, or other
11 material indicating the extent to which mining operations
12 have been carried out, the progress of all reclamation work,
13 including the type of planting or seeding, mixture and
14 amount of seed, date of planting or seeding, and area of
15 land planted, the extent to which expectations and
16 predictions made in the original application have been
17 fulfilled and any deviation therefrom, and the number of
18 acres affected; and

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

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

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

-End-

1 HOUSE BILL NO. 739
 2 INTRODUCED BY DAY
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 8 82-4-237, MCA."
 9

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

11 Section 1. Section 82-4-222, MCA, is amended to read:

12 "82-4-222. Permit application. (1) An operator
 13 desiring a permit shall file an application which shall
 14 contain a complete and detailed plan for the mining,
 15 reclamation, revegetation, and rehabilitation of the land
 16 and water to be affected by the operation. Such plan shall
 17 reflect thorough advance investigation and study by the
 18 operator and shall include all known or readily discoverable
 19 past and present uses of the land and water to be affected
 20 and the approximate periods of such use and shall state:

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

24 (b) the names and addresses of the owners of record of
 25 the surface of the area of land to be affected by the permit

1 and the owners of record of all surface area within one-half
 2 mile of any part of the affected area;

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

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

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

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

13 (g) whether the applicant is in compliance with
 14 82-4-251 and, if known, whether every officer, partner,
 15 director, or any individual owning of record or
 16 beneficially, alone or with associates, 10% or more of any
 17 class of stock of the applicant is subject to any of the
 18 provisions of 82-4-251 and he shall so certify and whether
 19 any of the foregoing parties or persons have ever had a
 20 strip-mining or underground-mining license or permit issued
 21 by any other state or federal agency revoked or have ever
 22 forfeited a strip-mining or underground-mining bond or a
 23 security deposited in lieu of a bond and, if so, a detailed
 24 explanation of the facts involved in each case must be
 25 attached;

1 (h) the names and addresses of any persons who are
2 engaged in strip or underground mining activities on behalf
3 of the applicant;

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

7 (j) the results of any test borings or core samplings
8 which the applicant or his agent has conducted on the land
9 to be affected, including the nature and the depth of the
10 various strata or overburden and topsoil, the quantities and
11 location of subsurface water and its quality, the thickness
12 of any mineral seam, an analysis of the chemical properties
13 of such minerals, including the acidity, sulphur content,
14 and trace mineral elements of any coal seam, as well as the
15 British thermal unit (Btu) content of such seam, and an
16 analysis of the overburden, including topsoil. If test
17 borings or core samplings are submitted, each permit
18 application shall contain two copies each of two sets of
19 geologic cross sections accurately depicting the known
20 geologic makeup beneath the surface of the affected land.
21 Each set shall depict subsurface conditions at 500-foot ~~such~~
22 intervals as the department requires across the surface and
23 shall run at a 90-degree angle to the other set ~~unless the~~
24 ~~department determines that closer intervals are required.~~
25 The department may not require intervals of less than 500

1 ~~feet.~~ Each cross section shall depict the thickness and
2 geologic character of all known strata beginning with the
3 topsoil. In addition, each application for an underground
4 mining permit shall be accompanied by cross sections and
5 maps showing the proposed underground locations of all
6 shafts, entries, and haulageways or other excavations to be
7 excavated during the permit year ~~period~~. These cross
8 sections shall also include all existing shafts, entries,
9 and haulageways.

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

16 (l) such other or further information as the
17 department may require.

18 (2) The application for a permit shall be accompanied
19 by two copies of all maps meeting the requirements of the
20 subsections below. The maps shall:

21 (a) identify the area to correspond with the
22 application;

23 (b) show any adjacent deep mining or surface mining
24 and the boundaries of surface properties and names of owners
25 of record of the affected area and within 1,000 feet of any

1 part of the affected area;

2 (c) show the names and locations of all streams,
3 creeks, or other bodies of water, roads, buildings,
4 cemeteries, oil and gas wells, and utility lines on the area
5 of land affected and within 1,000 feet of such area;

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

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

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

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

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

22 ~~(i) show the proposed location of all facilities;~~

23 ~~(j) show the location of test boring holes;~~

24 ~~(k) show the surface location lines of any geologic~~
25 ~~cross sections which have been submitted;~~

1 ~~(l)~~ show a listing of plant varieties encountered
2 in the area to be affected and their relative dominance in
3 the area, together with an enumeration of tree varieties and
4 the approximate number of each variety occurring per acre on
5 the area to be affected, and the locations generally of the
6 various kinds and varieties of plants, including but not
7 limited to grasses, shrubs, legumes, forbs, and trees;

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

14 ~~(n)~~ contain such other or further information as
15 the department may require.

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

1 Section 2. Section 82-4-226, MCA, is amended to read:
 2 *82-4-226. Prospecting permit. (1) On and after March
 3 16, 1973, prospecting by any person on land not included in
 4 a valid strip-mining or underground-mining permit shall be
 5 unlawful without possessing a valid prospecting permit
 6 issued by the department as provided in this section. No
 7 prospecting permit shall be issued until the operator ~~person~~
 8 submits an application, the application is examined, amended
 9 if necessary, and approved by the department, and adequate
 10 reclamation performance bond is posted, all of which
 11 prerequisites must be done in conformity with the
 12 requirements of this part.

13 (2) An application for a prospecting permit shall be
 14 made in writing, notarized, and submitted to the department
 15 in duplicate upon forms prepared and furnished by it. The
 16 application shall include among other things a prospecting
 17 map and a prospecting reclamation plan of substantially the
 18 same character as required for a surface-mining or
 19 underground-mining map and reclamation plan under this part.
 20 The department shall determine by rules the precise nature
 21 of such required prospecting map and reclamation plan. Any
 22 operator applicant who intends to prospect by means of core
 23 drilling shall specify the location and number of holes to
 24 be drilled, methods to be used in sealing aquifers, and such
 25 other information as may be required by the department. The

1 applicant must state what types of prospecting and
 2 excavating techniques will be employed on the affected land.
 3 The application shall also include any other or further
 4 information the department may require.

5 (3) The application shall be accompanied by a fee of
 6 \$100. This fee shall be used as a credit toward the
 7 strip-mining or underground-mining permit fee provided by
 8 this part if the area covered by the prospecting permit
 9 becomes covered by a valid surface-mining or
 10 underground-mining permit obtained before or at the time the
 11 prospecting permit expires.

12 (4) Before the department gives final approval to the
 13 prospecting permit application, the applicant shall file
 14 with the department a reclamation and revegetation bond in a
 15 form and in an amount as determined in the same manner for
 16 strip-mining or underground-mining reclamation and
 17 revegetation bonds under this part.

18 (5) In the event that the holder of a prospecting
 19 permit desires to strip mine or underground mine the area
 20 covered by the prospecting permit and has fulfilled all the
 21 requirements for a strip-mining or underground-mining
 22 permit, the department may permit the postponement of the
 23 reclamation of the acreage prospected if that acreage is
 24 incorporated into the complete reclamation plan submitted
 25 with the application for a strip-mining or

1 underground-mining permit. Any land actually affected by
2 prospecting or excavating under a prospecting permit and not
3 covered by the strip-mining or underground-mining
4 reclamation plan shall be promptly reclaimed.

5 (6) The prospecting permit shall be valid for 1 year
6 and shall be subject to renewal, suspension, and revocation
7 in the same manner as strip-mining or underground-mining
8 permits under this part.

9 (7) The holder of the prospecting permit shall file
10 with the department the same progress reports, maps, and
11 revegetation progress reports as are required of
12 strip-mining or underground-mining operators under this
13 part."

14 Section 3. Section 82-4-234, MCA, is amended to read:
15 "82-4-234. Commencement of reclamation. The operator
16 shall commence the reclamation of the area of land affected
17 by his operation as soon as possible after the beginning of
18 strip mining or underground mining of that area in
19 accordance with plans previously approved by the department.
20 Those grading, backfilling, subsidence stabilization,
21 topsoiling, and water management practices that are approved
22 in the plans shall be kept current with the operation as
23 defined by rules of the board, and a permit or supplement to
24 a permit may not be issued if, in the discretion of the
25 department, these practices are not current. A permittee may

1 ~~not, without department approval, disturb any area that has~~
2 ~~been seeded pursuant to 82-4-233."~~

3 Section 4. Section 82-4-235, MCA, is amended to read:
4 "82-4-235. Planting report. ~~(1) At least 60 days prior~~
5 ~~to the date of each permit expiration, the operator shall~~
6 ~~file a planting report with the department on a form to be~~
7 ~~prescribed and furnished by the department, giving the~~
8 ~~following information:~~

9 ~~(a) identification of the operation;~~
10 ~~(b) the type of planting or seeding, including~~
11 ~~mixtures and amounts;~~
12 ~~(c) the date of planting or seeding;~~
13 ~~(d) the area of land planted;~~
14 ~~(e) any other relevant information the department~~
15 ~~requires.~~

16 ~~(2) All planting reports shall be certified by the~~
17 ~~operator.~~

18 ~~(3) Inspection and evaluation for permanent diverse~~
19 ~~vegetative cover shall be made as soon as it is possible to~~
20 ~~determine if a satisfactory stand has been established. If~~
21 ~~the department determines that a satisfactory permanent~~
22 ~~diverse vegetative cover has been established, it shall~~
23 ~~release the remaining bond held on the area reclaimed after~~
24 ~~public notice and an opportunity for a hearing. In no event~~
25 ~~shall such remaining bond be released prior to a period of 5~~

1 years from the initial planting provided for in 82-4-233."

2 Section 5. Section 82-4-237, MCA, is amended to read:

3 "82-4-237. Operator to file annual reports. (1) An
4 operator shall file an annual report with the department
5 within 30 days of the anniversary date of each permit.

6 Included within this report shall be:

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

9 (b) a report in such detail as the department shall
10 require, supplemented with maps, cross sections, or other
11 material indicating the extent to which mining operations
12 have been carried out, the progress of all reclamation work,
13 including the type of planting or seedings, mixture and
14 amount of seed, date of planting or seeding, and area of
15 land planted, the extent to which expectations and
16 predictions made in the original application have been
17 fulfilled and any deviation therefrom, and the number of
18 acres affected; and

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

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

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

-End-