

HOUSE BILL 816

IN THE HOUSE

February 14, 1979	Introduced and referred to Committee on Natural Resources.
February 20, 1979	Committee recommend bill, do pass.
February 21, 1979	Second reading, do pass.
February 22, 1979	Considered correctly engrossed.
February 23, 1979	Third reading, passed.

IN THE SENATE

February 23, 1979	Introduced and referred to Committee on Natural Resources.
March 13, 1979	Committee recommend bill, not concurrent.

IN THE HOUSE

March 14, 1979	Returned from Senate, not concurrent.
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1 *House* BILL NO. *816*
 2 INTRODUCED BY *Frank Sheldon McCall*
 3 *Hawkins*

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE HARD ROCK
 5 MINING ACT TO FURTHER DEFINE TERMS AND PROVIDE ADDITIONAL
 6 REQUIREMENTS BEFORE EXPLORATION AND MINING MAY OCCUR;
 7 AMENDING SECTIONS 82-4-303 AND 82-4-332, MCA."

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

10 Section 1. Section 82-4-303, MCA, is amended to read:
 11 "82-4-303. Definitions. As used in this part, unless
 12 the context indicates otherwise, the following definitions
 13 apply:

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

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

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

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

23 (5) "Disturbed land" means that area of land or
 24 surface water disturbed, beginning at the date of the
 25 issuance of the permit, and it comprises that area from

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

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

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

21 (8) "Mining" commences at such time as the operator
 22 first mines ores or minerals in commercial quantities for
 23 sale, beneficiation, refining, or other processing or
 24 disposition or first takes bulk samples for metallurgical
 25 testing in excess of aggregate of 10,000 short tons.

-2- *AB 816*
 INTRODUCED BILL

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

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

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

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

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

18 (d) procedures proposed to avoid foreseeable
19 situations of public nuisance, endangerment of public
20 safety, damage to human life or property, or unnecessary
21 damage to flora and fauna in or adjacent to the area, or
22 diminishment of air and water quality during and after
23 exploration and mining;

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

25 (f) the method of diverting surface waters around the

1 disturbed areas where necessary to prevent pollution of
2 those waters or unnecessary erosion;

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

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

7 (i) a time schedule for reclamation that meets the
8 requirements of 82-4-336; and

9 (j) a program to monitor water quality and quantity
10 during and after exploration and mining.

11 (11) "Small miner" means a person, firm, or corporation
12 engaged in the business of mining who does not remove from
13 the earth during any calendar year material in excess of
14 36,500 tons in the aggregate.

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

1 construction, or other on-site building construction.

2 (13) "Underground mining" means all methods of mining
3 other than surface mining.

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

14 (15) "Vegetative cover" means the type of vegetation,
15 grass, shrubs, trees, or any other form of natural cover
16 ~~considered suitable at time of reclamation that is primarily~~
17 ~~native, diverse species capable of self-regeneration under~~
18 ~~natural climatic conditions at the site of disturbance."~~

19 Section 2. Section 82-4-332, MCA, is amended to read:

20 "82-4-332. Exploration license. (1) An exploration
21 license shall be issued to any applicant therefor who shall:

22 (a) pay a fee of \$5 to the board;

23 (b) agree to reclaim any surface area damaged by the
24 applicant during exploration operations, all as may be
25 reasonably required by the board;

1 (c) not be in default of any other reclamation
2 obligation under this law.

3 (2) An application for an exploration license shall be
4 made in writing, notarized, and submitted to the department
5 in duplicate upon forms prepared and furnished by it. The
6 application shall include an exploration map or sketch in
7 sufficient detail to locate the area to be explored and to
8 determine whether significant environmental problems would
9 be encountered. The department shall by rules determine the
10 precise nature of such exploration map or sketch. The
11 applicant must state what types of prospecting and
12 excavation techniques will be employed in disturbing the
13 land.

14 ~~(3) Upon receipt of an application for an exploration~~
15 ~~license, the department shall notify the department of~~
16 ~~health and environmental sciences. The department of~~
17 ~~health, upon notification, shall conduct water sampling to~~
18 ~~determine the quality and quantity of waters in the area to~~
19 ~~be disturbed. The sampling shall occur within 30 days unless~~
20 ~~climatic conditions prevent access to the site. The~~
21 ~~department of health shall negotiate with the applicant for~~
22 ~~a time extension if such access is not possible during the~~
23 ~~30-day time period.~~

24 ~~(3)(4)~~ Upon filing of any certificate of claim
25 location as permitted by federal and state mining laws and

1 regulations, the locator shall provide copies of said
2 certificates to the board.

3 ~~(4)(5)~~ Prior to the issuance of an exploration
4 license, the applicant shall file with the department a
5 reclamation and revegetation bond in a form and amount as
6 determined by the department in accordance with 82-4-338.

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

-End-

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 2 INTRODUCED BY *FARR* *Spalden McQuinn*
 3 *Huerfano*
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-2- *HE 816*
THIRD READING

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18 completion of exploration or abandonment of the site in a
19 manner acceptable to the department."

-End-

March 9, 1979

SENATE COMMITTEE OF THE WHOLE

That House Bill No. 817 be amended as follows:

1. Page 12, line 12.

Following: line 11

Insert: "Section 11. THERE IS A NEW MCA SECTION THAT READS:
Grandfather clause. The board shall issue a license without oral or written examination to any person who was practicing landscape architecture on the effective date of the act originally creating the board [July 1, 1975]. However, if a person practicing landscape architecture on the effective date of the act originally creating the board was denied licensure because of requirements which are deleted by this act, then such person shall be licensed without oral or written examination under the provisions of this act."

Renumber: all subsequent sections