

SENATE BILL 453

IN THE SENATE

February 10, 1979	Introduced and referred to Committee on Natural Resources.
February 16, 1979	Committee recommend bill, do pass.
February 17, 1979	Printed and placed on memebers' desks.
February 19, 1979	Second reading, do pass.
February 20, 1979	Considered correctly engrossed.
February 21, 1979	Third reading passed.

IN THE HOUSE

February 22, 1979	Introduced and referred to Committee on Natural Resources.
April 20, 1979	Died in Committee.

1  
 2 INTRODUCED BY SENATE BILL NO. ~~453~~ 453  
 3 Manly Robie Hand Mail

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE  
 5 METAL MINE RECLAMATION LAWS; AMENDING SECTIONS 82-4-303,  
 6 82-4-305, 82-4-331, 82-4-332, 82-4-334, 82-4-335, AND  
 7 82-4-337, MCA; AND REPEALING SECTION 82-4-333, 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~~  
 7 ~~or 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,~~  
 15 ~~other 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.~~

1 (8) "Noncontiguous" means that a mining claim does not  
 2 have a point on its boundary in common with any point on the  
 3 boundary of any other mining claim.

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

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

13 (a) a statement of the proposed subsequent use of the  
 14 land after reclamation;

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

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

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

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

1 (f) the method of diverting surface waters around the  
 2 disturbed areas where necessary to prevent pollution of  
 3 those waters or unnecessary erosion;

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

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

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

10 (11) "Small miner" means a person, firm, or corporation  
 11 engaged ~~that engages~~ in the business of mining; ~~who does not~~  
 12 ~~remove from the earth during any calendar year material in~~  
 13 ~~excess of 36,500 tons in the aggregate; holds no operating~~  
 14 ~~permit under 82-4-335; and conducts:~~

15 (a) operations resulting in not more than 5 acres of  
 16 the earth's surface being disturbed and unreclaimed; or

17 (b) two operations which disturb and leave unreclaimed  
 18 less than 5 acres per operation if the respective minir  
 19 properties are the only operations engaged in by the person,  
 20 firm, or corporation and are noncontiguous.

21 (12) "Surface mining" means all or any part of the  
 22 process involved in mining of minerals by removing the  
 23 overburden and mining directly from the mineral deposits  
 24 thereby exposed, including but not limited to open-pit  
 25 mining of minerals naturally exposed at the surface of the

1 earth, mining by the auger method, and all similar methods  
 2 by which earth or minerals exposed at the surface are  
 3 removed in the course of mining. Surface mining does not  
 4 include the extraction of oil, gas, bentonite, clay, coal,  
 5 sand, gravel, phosphate rock, or uranium or excavation or  
 6 grading conducted for on-site farming, on-site road  
 7 construction, or other on-site building construction.

8 (13) "Underground mining" means all methods of mining  
 9 other than surface mining.

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

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

23 Section 2. Section 82-4-305, MCA, is amended to read:

24 "82-4-305. Exemption -- small miners -- written  
 25 agreement. (1) No provisions of this part shall apply to any

1 small miner when the small miner annually agrees in writing:

2 (a) that he shall not pollute or contaminate any  
 3 stream;

4 (b) that he shall provide protection for human and  
 5 animal life through the installation of bulkheads installed  
 6 over safety collars and the installation of doors on tunnel  
 7 portals; and

8 (c) he shall ~~not conduct a mining operation which will~~  
 9 ~~result in more than 5 acres of the earth's surface being~~  
 10 ~~disturbed and unreclaimed and provides~~ provide a map  
 11 locating his mining operations. Such map shall be to a size  
 12 and scale as determined by the department.

13 (2) Failure to comply with the regulations stipulated  
 14 in this section will constitute a misdemeanor, and this  
 15 offense will subject the owners or operators of said project  
 16 to a fine of not less than \$10 or more than \$100, payable to  
 17 the department of revenue of the state of Montana or any  
 18 board, commission, or person authorized to collect said  
 19 fine."

20 Section 3. Section 82-4-331, MCA, is amended to read:

21 "82-4-331. Exploration license or ~~development permit~~  
 22 required -- employees included. (1) No person shall engage  
 23 in exploration or ~~development~~ in the state without first  
 24 obtaining an exploration license or ~~development permit~~ from  
 25 the board to do so, such license or ~~permit~~ to be issued for

1 a period of 1 year from date of issue and to be renewable  
 2 from year to year on application therefor filed at any time  
 3 within the 30 days next preceding the expiration of the  
 4 current license ~~or--permit~~ and payment of like fee as  
 5 required for a new license ~~or--permit~~, provided that the  
 6 applicant for renewal is not then held by the board to be in  
 7 violation of any provision of this law. Such license or  
 8 ~~permit~~ shall be subject to suspension and revocation as  
 9 provided by this part.

10 (2) Employees of persons holding a valid license or  
 11 ~~permit~~ under this part shall be deemed included in and  
 12 covered by such license ~~or--permit~~."

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

14 "82-4-332. Exploration license. (1) An exploration  
 15 license shall be issued to any applicant therefor who shall:

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

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

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

22 (2) An application for an exploration license shall be  
 23 made in writing, notarized, and submitted to the department  
 24 in duplicate upon forms prepared and furnished by it. The  
 25 application shall include an exploration map or sketch in

1 sufficient detail to locate the area to be explored and to  
 2 determine whether significant environmental problems would  
 3 be encountered. The department shall by rules determine the  
 4 precise nature of such exploration map or sketch. The  
 5 applicant must state what types of prospecting and  
 6 excavation techniques will be employed in disturbing the  
 7 land.

8 (3) Upon filing of any certificate of claim location  
 9 as permitted by federal and state mining laws and  
 10 regulations, the locator shall provide copies of said  
 11 certificates to the board.

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

16 (5) In the event that the holder of an exploration  
 17 permit desires to mine ~~or--develop~~ the area covered by the  
 18 exploration license and has fulfilled all of th  
 19 requirements for ~~e--development--or an~~ operating permit, the  
 20 department ~~may~~ shall allow the postponement of the  
 21 reclamation of the acreage explored if that acreage is  
 22 incorporated into the complete reclamation plan submitted  
 23 with the application for ~~e--development--or an~~ operating  
 24 permit. Any land actually affected by exploration or  
 25 excavation under an exploration license and not covered by

1 the development--or operating reclamation plan shall be  
 2 reclaimed within 2 years after the completion of exploration  
 3 or abandonment of the site in a manner acceptable to the  
 4 department."

5 Section 5. Section 82-4-334, MCA, is amended to read:

6 "82-4-334. Exception -- geological phenomena. Upon  
 7 proper application by the holder of an exploration license  
 8 or-development-permit, the board may excuse such holder from  
 9 reclamation obligations with reference to any specified  
 10 openings or excavations exposing geological indications or  
 11 phenomena of especial interest, even though the licensee  
 12 does not apply or have any intention to apply for  
 13 development--license--or an operating permit for the land in  
 14 which such openings or excavations have been made."

15 Section 6. Section 82-4-335, MCA, is amended to read:

16 "82-4-335. Operating permit. ~~Effective 60 days after~~  
 17 ~~the date on which the board shall first promulgate its~~  
 18 ~~regulations--as--authorized--by--82-4-321, no~~ No person shall  
 19 engage in mining or disturb land in anticipation of mining  
 20 in the state without first obtaining an operating permit  
 21 from the board to do so. A separate operating permit shall  
 22 be required for each mine complex. Prior to receiving an  
 23 operating permit from the board, any person must pay the  
 24 basic permit fee of \$25 and must submit an application on a  
 25 form provided by the board, which shall contain the

1 following information and any other pertinent data required  
 2 by the rules:

3 (1) name and address of the operator and, if a  
 4 corporation or other business entity, the name and address  
 5 of its principal officers, partners, and the like and its  
 6 resident agent for service of process, if required by law;

7 (2) minerals expected to be mined;

8 (3) a proposed reclamation plan;

9 (4) expected starting date of mining;

10 (5) a map showing the specific area to be mined and  
 11 the boundaries of the land which will be disturbed,  
 12 topographic detail, the location and names of all streams,  
 13 roads, railroads, and utility lines on or immediately  
 14 adjacent to the area, location of proposed access roads to  
 15 be built and the names and addresses of the surface and  
 16 mineral owners of all lands within the mining area, to the  
 17 extent known to applicant;

18 (6) types of access roads to be built and manner of  
 19 reclamation of road sites on abandonment; and

20 (7) a plan of mining which will provide, within limits  
 21 of normal operating procedures of the industry, for  
 22 completion of mining and associated land disturbances;

23 ~~(8)--a--reclamation--and--revegetation--bond--in--form--and~~  
 24 ~~amount--to--be--determined--by--the--department--in--accordance--with~~  
 25 ~~82-4-338."~~

1 Section 7. Section 82-4-337, MCA, is amended to read:  
 2 "82-4-337. Inspection -- issuance of operating permit  
 3 -- modification. (1) (a) ~~Unless the time period is extended~~  
 4 ~~under the provisions of subsection (1)(b) of this section,~~  
 5 ~~the board shall either issue an operating permit to the~~  
 6 ~~applicant or return any incomplete or inadequate~~  
 7 ~~application along with a description of the deficiencies~~  
 8 ~~within 60 days of receipt of the complete application and~~  
 9 ~~reclamation plan by the board and receipt of the permit fees~~  
 10 The board shall cause all applications for operating permits  
 11 to be reviewed for completeness within 15 days of receipt.  
 12 The board shall notify the applicant concerning completeness  
 13 as soon as possible. An application is considered complete  
 14 unless the applicant is notified of any deficiencies within  
 15 15 days of receipt.  
 16 (b) Unless the review period is extended as provided  
 17 in this section, the board shall review the adequacy of the  
 18 proposed reclamation plan and plan of mining within 30 days  
 19 of the determination that the application is complete or  
 20 within 45 days of receipt of the application if the board  
 21 does not notify the applicant of any deficiencies in the  
 22 application. If the applicant is not notified of  
 23 deficiencies or inadequacies in the proposed reclamation  
 24 plan and plan of mining within such time period, the  
 25 operating permit shall be issued upon receipt of the bond as

1 ~~required in 82-4-338. The department shall promptly notify~~  
 2 ~~the applicant of the form and amount of bond which will be~~  
 3 ~~required. No permit may be issued until sufficient bond has~~  
 4 ~~been submitted pursuant to 82-4-338.~~  
 5 (b)(c) (i) Prior to issuance of a permit, the  
 6 department shall inspect the site unless the department has  
 7 failed to act on the application within the time prescribed  
 8 in subsection (1)(b). If the site is not accessible due to  
 9 extended adverse weather conditions, the department may  
 10 extend the 60-day time period prescribed in subsection  
 11 (1)(b) by not more than 180 days to allow inspection of the  
 12 site and reasonable review. The department must serve  
 13 written notice of extension upon the applicant in person or  
 14 by certified mail, and any such extension is subject to  
 15 appeal to the board in accordance with the Montana  
 16 Administrative Procedure Act.  
 17 (ii) If the department determines that additional time  
 18 is needed to review the application and reclamation plan for  
 19 a major operation, the department and the applicant shall  
 20 negotiate to extend the 60-day period prescribed in  
 21 subsection (1)(b) by not more than 365 days in order to  
 22 permit reasonable review.  
 23 (c)(iii) Failure of the board to act upon a complete  
 24 application within the extension period prescribed or any  
 25 extension thereof constitutes approval of the application.

1 and the permit shall be issued promptly thereafter upon  
2 receipt of the bond as required in 82-4-338.

3 (2) The operating permit shall be granted for the  
4 period required to mine the land covered by the plan and  
5 shall be valid until the surface or underground mining  
6 authorized by the permit is completed or abandoned unless  
7 the permit is suspended or revoked by the board as provided  
8 in this part.

9 (3) The operating permit shall provide that the  
10 reclamation plan may be modified by the board, upon proper  
11 application of the permittee or department, after timely  
12 notice and opportunity for hearing, at any time during the  
13 term of the permit and for any of the following reasons:

14 (a) to modify the requirements so they will not  
15 conflict with existing laws;

16 (b) when the previously adopted reclamation plan is  
17 impossible or impracticable to implement and maintain;

18 (c) when significant environmental problem situations  
19 are revealed by field inspection."

20 Section 8. Repealer. Section 82-4-333, MCA, is  
21 repealed.

-End-



1  
 2 INTRODUCED BY *Sen. Manly Roskie Hand Mail* BILL NO. *453*  
 3

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5 Section 5. Section 82-4-334, MCA, is amended to read:

6 "82-4-334. Exception -- geological phenomena. Upon  
7 proper application by the holder of an exploration license  
8 or-development-permit, the board may excuse such holder from  
9 reclamation obligations with reference to any specified  
10 openings or excavations exposing geological indications or  
11 phenomena of especial interest, even though the licensee  
12 does not apply or have any intention to apply for  
13 development--license--or an operating permit for the land in  
14 which such openings or excavations have been made."

15 Section 6. Section 82-4-335, MCA, is amended to read:

16 "82-4-335. Operating permit. ~~Effective 60 days after~~  
17 ~~the date on which the board shall first promulgate its~~  
18 ~~regulations as authorized by 82-4-321, no~~ No person shall  
19 engage in mining or disturb land in anticipation of mining  
20 in the state without first obtaining an operating permit  
21 from the board to do so. A separate operating permit shall  
22 be required for each mine complex. Prior to receiving an  
23 operating permit from the board, any person must pay the  
24 basic permit fee of \$25 and must submit an application on a  
25 form provided by the board, which shall contain the

1 following information and any other pertinent data required  
2 by the rules:

3 (1) name and address of the operator and, if a  
4 corporation or other business entity, the name and address  
5 of its principal officers, partners, and the like and its  
6 resident agent for service of process, if required by law;

7 (2) minerals expected to be mined;

8 (3) a proposed reclamation plan;

9 (4) expected starting date of mining;

10 (5) a map showing the specific area to be mined and  
11 the boundaries of the land which will be disturbed,  
12 topographic detail, the location and names of all streams,  
13 roads, railroads, and utility lines on or immediately  
14 adjacent to the area, location of proposed access roads to  
15 be built and the names and addresses of the surface and  
16 mineral owners of all lands within the mining area, to the  
17 extent known to applicant;

18 (6) types of access roads to be built and manner of  
19 reclamation of road sites on abandonment; and

20 (7) a plan of mining which will provide, within limits  
21 of normal operating procedures of the industry, for  
22 completion of mining and associated land disturbances.

23 ~~(8) a reclamation and revegetation bond in form and~~  
24 ~~amount to be determined by the department in accordance with~~  
25 82-4-338."

1 Section 7. Section 82-4-337, MCA, is amended to read:  
 2 "82-4-337. Inspection -- issuance of operating permit  
 3 -- modification. (1) (a) ~~Unless the time period is extended~~  
 4 ~~under the provisions of subsection (1)(b) of this section,~~  
 5 ~~the board shall either issue an operating permit to the~~  
 6 ~~applicant or return any incomplete or inadequate~~  
 7 ~~application along with a description of the deficiencies~~  
 8 ~~within 60 days of receipt of the complete application and~~  
 9 ~~reclamation plan by the board and receipt of the permit fee.~~  
 10 The board shall cause all applications for operating permits  
 11 to be reviewed for completeness within 15 days of receipt.  
 12 The board shall notify the applicant concerning completeness  
 13 as soon as possible. An application is considered complete  
 14 unless the applicant is notified of any deficiencies within  
 15 15 days of receipt.  
 16 (b) Unless the review period is extended as provided  
 17 in this section, the board shall review the adequacy of the  
 18 proposed reclamation plan and plan of mining within 30 days  
 19 of the determination that the application is complete or  
 20 within 45 days of receipt of the application if the board  
 21 does not notify the applicant of any deficiencies in the  
 22 application. If the applicant is not notified of  
 23 deficiencies or inadequacies in the proposed reclamation  
 24 plan and plan of mining within such time period, the  
 25 operating permit shall be issued upon receipt of the bond as

1 required in 82-4-338. The department shall promptly notify  
 2 the applicant of the form and amount of bond which will be  
 3 required. No permit may be issued until sufficient bond has  
 4 been submitted pursuant to 82-4-338.  
 5 (b)(c) (i) Prior to issuance of a permit, the  
 6 department shall inspect the site unless the department has  
 7 failed to act on the application within the time prescribed  
 8 in subsection (1)(b). If the site is not accessible due to  
 9 extended adverse weather conditions, the department may  
 10 extend the 60-day time period prescribed in subsection  
 11 (1)(b) by not more than 180 days to allow inspection of the  
 12 site and reasonable review. The department must serve  
 13 written notice of extension upon the applicant in person or  
 14 by certified mail, and any such extension is subject to  
 15 appeal to the board in accordance with the Montana  
 16 Administrative Procedure Act.  
 17 (ii) If the department determines that additional time  
 18 is needed to review the application and reclamation plan for  
 19 a major operation, the department and the applicant shall  
 20 negotiate to extend the 60-day period prescribed in  
 21 subsection (1)(b) by not more than 365 days in order to  
 22 permit reasonable review.  
 23 (c)(iii) Failure of the board to act upon a complete  
 24 application within the extension period prescribed or any  
 25 extension thereof constitutes approval of the application.

1 and the permit shall be issued promptly thereafter upon  
2 receipt of the bond as required in 82-4-338.

3 (2) The operating permit shall be granted for the  
4 period required to mine the land covered by the plan and  
5 shall be valid until the surface or underground mining  
6 authorized by the permit is completed or abandoned unless  
7 the permit is suspended or revoked by the board as provided  
8 in this part.

9 (3) The operating permit shall provide that the  
10 reclamation plan may be modified by the board, upon proper  
11 application of the permittee or department, after timely  
12 notice and opportunity for hearing, at any time during the  
13 term of the permit and for any of the following reasons:

14 (a) to modify the requirements so they will not  
15 conflict with existing laws;

16 (b) when the previously adopted reclamation plan is  
17 impossible or impracticable to implement and maintain;

18 (c) when significant environmental problem situations  
19 are revealed by field inspection."

20 Section 8. Repealer. Section 82-4-333, MCA, is  
21 repealed.

-End-

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