

SENATE BILL NO. 80

INTRODUCED BY TURNAGE

IN THE SENATE

January 8, 1981	Introduced and referred to Committee on Natural Resources.
February 3, 1981	Committee recommend bill do pass. Report adopted.
February 4, 1981	Bill printed and placed on members' desks.
February 5, 1981	Second reading, do pass as amended.
February 6, 1981	Correctly engrossed.
February 7, 1981	Third reading, passed. Transmitted to House.

IN THE HOUSE

February 9, 1981	Introduced and referred to Committee on Natural Resources.
March 14, 1981	Committee recommend bill be concurred in. Report adopted.
March 18, 1981	Second reading, concurred in.
March 20, 1981	Third reading, concurred in. Ayes, 88; Noes, 4.

IN THE SENATE

March 21, 1981	Returned from House. Concurred in. Sent to enrolling. Reported correctly enrolled.
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March 25, 1981

Signed by President.

Governor

March 26, 1981

Delivered to Governor.

March 31, 1981

Vetoed by Governor.

1 *Senate* BILL NO. 80
 2 INTRODUCED BY *Ternoy*

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT SPECIFICALLY EXEMPTING
 5 PEAT MINING FROM THE HARD-ROCK MINING ACT; AMENDING SECTION
 6 82-4-303, MCA."
 7

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

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

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

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

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

20 (4) "Disturbed land" means that area of land or surface
 21 water disturbed, beginning at the date of the issuance of
 22 the permit, and it comprises that area from which the
 23 overburden or minerals have been removed and tailings ponds,
 24 waste dumps, roads, conveyor systems, leach dumps, and all
 25 similar excavations or covering resulting from the operation

1 and which have not been previously reclaimed under the
 2 reclamation plan.

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

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

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

23 (8) "Person" means any person, corporation, firm,
 24 association, partnership, or other legal entity engaged in
 25 exploration for or development or mining of minerals on or

1 below the surface of the earth.

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

7 (a) a statement of the proposed subsequent use of the
8 land after reclamation;

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

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

15 (d) procedures proposed to avoid foreseeable situations
16 of public nuisance, endangerment of public safety, damage to
17 human life or property, or unnecessary damage to flora and
18 fauna in or adjacent to the area;

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

20 (f) the method of diverting surface waters around the
21 disturbed areas where necessary to prevent pollution of
22 those waters or unnecessary erosion;

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

25 (h) such maps and other supporting documents as may be

1 reasonably required by the department; and

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

4 (10) (a) "Small miner" means a person, firm, or
5 corporation that engages in the business of mining, that
6 does not remove from the earth during any calendar year
7 material in excess of 36,500 tons in the aggregate, that
8 holds no operating permit under 82-4-335, and that conducts:

9 (i) operations resulting in not more than 5 acres of
10 the earth's surface being disturbed and unreclaimed; or

11 (ii) two operations which disturb and leave unreclaimed
12 less than 5 acres per operation if the respective mining
13 properties are:

14 (A) the only operations engaged in by the person, firm,
15 or corporation;

16 (B) at least 1 mile apart at their closest point; and

17 (C) not operated simultaneously except during seasonal
18 transitional periods not to exceed 30 days.

19 (b) For the purpose of this definition only, the
20 department shall, in computing the area covered by the
21 operation, exclude access or haulage roads that are required
22 by a local, state, or federal agency having jurisdiction
23 over that road to be constructed to certain specifications
24 if that public agency notifies the department in writing
25 that it desires to have the road remain in use and will

1 maintain it after mining or exploration ceases.

2 (11) "Surface mining" means all or any part of the
3 process involved in mining of minerals by removing the
4 overburden and mining directly from the mineral deposits
5 thereby exposed, including but not limited to open-pit
6 mining of minerals naturally exposed at the surface of the
7 earth, mining by the auger method, and all similar methods
8 by which earth or minerals exposed at the surface are
9 removed in the course of mining. Surface mining does not
10 include the extraction of oil, gas, bentonite, clay, coal,
11 sand, gravel, phosphate rock, or uranium or excavation or
12 grading conducted for on-site farming, on-site road
13 construction, or other on-site building construction.

14 (12) "Underground mining" means all methods of mining
15 other than surface mining.

16 (13) "Unit of surface-mined area" means that area of
17 land and surface water included within an operating permit
18 actually disturbed by surface mining during each 12-month
19 period of time, beginning at the date of the issuance of the
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22 by mining debris, and all additional areas used in surface
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24 such use are thereafter susceptible to erosion in excess of
25 the surrounding undisturbed portions of land.

1 (14) "Vegetative cover" means the type of vegetation,
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Approved by Committee
on Natural Resources

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-End-



TED SCHWINDEN
GOVERNOR

State of Montana
Office of the Governor
Helena 59620

March 31, 1981

The Honorable Jean Turnage
President of the Senate
State Capitol
Helena, Montana 59620

The Honorable Robert L. Marks
Speaker of the House
State Capitol
Helena, Montana 59620

Dear Senator Turnage and Representative Marks:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby veto Senate Bill No. 80, "AN ACT SPECIFICALLY EXEMPTING PEAT MINING FROM THE HARD ROCK MINING ACT; AMENDING SECTION 82-4-303, MCA," for the following reasons.

Article IX of the Constitution of the State of Montana, pertaining to "Environment and Natural Resources", states in pertinent part as follows:

Section 2. "Reclamation. (1) All lands disturbed by the taking of natural resources shall be reclaimed. The Legislature shall provide effective requirements for the reclamation of lands disturbed."

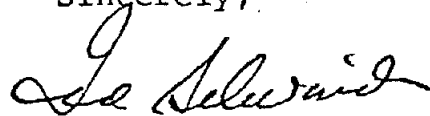
Senate Bill 80 exempts "peat" from the reclamation requirements of the Hard Rock Mining Act by excluding "peat" from the definitions of "mineral" in Section 1, Subsection 6, and from "surface mining" in Section 1, Subsection 11, of the bill. What is most significant is that the Legislature has not provided effective requirements and standards in any other laws for the reclamation of lands disturbed by the taking of peat.

Senator Turnage and Representative Marks
March 31, 1981
Page Two

Existing law does not require extensive, overly burdensome or expensive reclamation requirements for peat. Nevertheless, the Constitution does require that all lands disturbed by the taking of peat or other natural resources be reclaimed, and that the Legislature establish effective requirements and standards, however basic.

Moreover, the other natural resources exempt from the definitions of "mineral" and "surface mining", are all subject to other state reclamation laws. Clearly, an exemption for "peat" is in direct contradiction of Article IX, Section 2 of the Constitution of the State of Montana, and I hereby veto Senate Bill No. 80.

Sincerely,



TED SCHWINDEN
Governor