

SENATE BILL 211

Introduced by Pinsoneault, et al.

1/21	Introduced
1/21	Referred to Natural Resources
2/01	Hearing
2/13	Hearing
2/14	Taken From Committee
2/15	2nd Reading Do Pass Motion Failed
2/15	2nd Reading Indefinitely Postponed

1 *Agate* BILL NO. *211*
2 INTRODUCED BY *Frederick E. Cole*
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THAT SAND
5 AND GRAVEL OPENCUT MINES REGULATED UNDER THE OPENCUT MINING
6 ACT COMPLY WITH LOCAL PLANNING AND ZONING; AMENDING SECTIONS
7 76-1-113, 76-2-209, 82-4-431, AND 82-4-432, MCA; AND
8 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

11 **Section 1.** Section 76-1-113, MCA, is amended to read:

12 "76-1-113. Effect of chapter on natural resources.
13 Nothing Except as provided in 82-4-431 and 82-4-432, nothing
14 in this chapter shall be deemed considered to authorize an
15 ordinance, resolution, or rule which would prevent the
16 complete use, development, or recovery of any mineral,
17 forest, or agricultural resources by the owner thereof."

18 **Section 2.** Section 76-2-209, MCA, is amended to read:

19 "76-2-209. Effect on natural resources. No Except as
20 provided in 82-4-431 and 82-4-432, a resolution or rule
21 adopted pursuant to the provisions of this part, except
22 76-2-206, shall may not prevent the complete use,
23 development, or recovery of any mineral, forest, or
24 agricultural resources by the owner thereof."

25 **Section 3.** Section 82-4-431, MCA, is amended to read:

1 "82-4-431. Contract for reclamation required. (1)
2 After March 16, 1973, no an operator may not conduct
3 opencut-mining operations which will result in the removal
4 of 10,000 cubic yards or more of product or overburden until
5 he has entered into a contract with the board for the
6 reclamation of the land affected. An operator conducting a
7 number of operations, each of which results in the removal
8 of less than 10,000 cubic yards of product or overburden but
9 which result in the removal of 10,000 cubic yards or more of
10 product or overburden in the aggregate, is subject to the
11 provisions of this part, except as provided in this section.

12 (2) (a) Except as provided in or conditioned under
13 subsections (2)(b) and (2)(c), an operator who holds a
14 contract for reclamation may operate an opencut mine without
15 first securing an additional contract or an amendment to the
16 existing contract or bond if the mine meets the following
17 criteria:

18 (i) the total amount of material and overburden
19 removed does not exceed 1,000 cubic yards; and

20 (ii) the operator notifies the department of state
21 lands prior to beginning such operations and, within 30 days
22 of notifying the department, submits a completed site
23 information form, salvages and stockpiles all root-bearing
24 soil materials, regrades the affected area to 3:1 or flatter
25 slope and blends the reclaimed area into the adjacent

1 topography, and during the first appropriate growing season
2 replaces all topsoil and reseeds or revegetates as required
3 by the department.

4 (b) The department may refuse to allow the operator to
5 operate an opencut mine under subsection (2)(a) if, at the
6 time of notification by the operator to the department, the
7 operator has a pattern of violations or is in current
8 violation of this part or rules adopted under this part or
9 provisions of a contract for reclamation.

10 (c) The department may require an additional bond as a
11 condition for the operation of an opencut mine under
12 subsection (2)(a).

13 (3) Opencut mines described in subsection (2) may not
14 be placed in flowing, ephemeral, or intermittent streams, in
15 the bottom or head of a confined drainage, in an area where
16 the operation will intercept ground water or intercept any
17 slope that is naturally steeper than 3:1, or in any area
18 where mining would be restricted by other laws.

19 (4) Opencut mines operated for the extraction of
20 common varieties of sand and gravel must meet applicable
21 local planning and zoning requirements as certified by any
22 local governing body having jurisdiction over the area to be
23 mined."

24 **Section 4.** Section 82-4-432, MCA, is amended to read:

25 "82-4-432. Application for contract -- contents --

1 issuance -- amendment. (1) Applications for a contract shall
2 be made upon a form furnished by the board, ~~which.~~ The form
3 shall contain the following:

4 (a) the name of the operator and, if other than the
5 owner of the land, the name and address of the owner;

6 (b) the type of operation to be conducted;

7 (c) the volume of earth to be removed, as accurately
8 as the volume may then be estimated, and the volume which
9 has been previously removed, if any;

10 (d) the location of the operation by legal
11 subdivision, section, township and range, and county;

12 (e) the date when the operation was or will be
13 commenced; and

14 (f) a statement that the applicant has the right and
15 power by legal estate owned to mine by opencut mining the
16 lands so described.

17 (2) The application shall be accompanied by:

18 (a) a bond or security meeting the requirements as set
19 out in this part;

20 (b) a fee of \$50; and

21 (c) a statement from any local governing body having
22 jurisdiction over the area to be mined certifying that a
23 proposed mine operated for the extraction of common
24 varieties of sand and gravel and its operating and
25 reclamation plans meet any applicable planning and zoning

1 requirements; and

2 ~~fe~~(d) the operator's plan of his operation and the
3 method and manner of reclamation that will be used or
4 followed.

5 (3) If, prior to applying for a contract, the operator
6 notifies the board of his intention to submit a plan and
7 requests the board to examine the area to be mined, the
8 board shall cause the area to be examined and make
9 recommendations to the operator regarding reclamation.

10 (4) Upon receipt of the application, bond or security,
11 and fee due from the operator and upon agreement to the
12 terms of the contract by the parties, the board may issue a
13 contract to the applicant which entitles him to continue in
14 or engage in opencut mining on the land therein described.

15 (5) An operator desiring to have his contract amended
16 to cover additional contiguous or nearby land may file an
17 amended application with the board. Upon receipt of the
18 amended application and such additional bond as may be
19 required and upon agreement to the terms of the amendment by
20 the parties, the board may issue an amendment to the
21 original contract covering the additional land described in
22 the amended application without the payment of any
23 additional fee.

24 (6) An operator may withdraw any land covered by
25 contract, except affected land, by notifying the board

1 thereof, in which case the penalty of the bond or security
2 filed by the operator pursuant to the provisions of this
3 part shall be reduced proportionately."

4 NEW SECTION. **Section 5.** Effective date. [This act] is
5 effective on passage and approval.

-End-

COMM. ON
NATURAL RESOURCES
MOTION TO MOVE FROM
COMMITTEE TO 2ND READING

SENATE BILL NO. 211

INTRODUCED BY PINSONEAULT, ECK, BRADLEY, REAM

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THAT SAND AND GRAVEL OPENCUT MINES REGULATED UNDER THE OPENCUT MINING ACT COMPLY WITH LOCAL PLANNING AND ZONING; AMENDING SECTIONS 76-1-113, 76-2-209, 82-4-431, AND 82-4-432, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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Section 2. Section 76-2-209, MCA, is amended to read:

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"82-4-431. Contract for reclamation required. (1)

After March 16, 1973, no an operator may not conduct opencut-mining operations which will result in the removal of 10,000 cubic yards or more of product or overburden until he has entered into a contract with the board for the reclamation of the land affected. An operator conducting a number of operations, each of which results in the removal of less than 10,000 cubic yards of product or overburden but which result in the removal of 10,000 cubic yards or more of product or overburden in the aggregate, is subject to the provisions of this part, except as provided in this section.

(2) (a) Except as provided in or conditioned under subsections (2)(b) and (2)(c), an operator who holds a contract for reclamation may operate an opencut mine without first securing an additional contract or an amendment to the existing contract or bond if the mine meets the following criteria:

(i) the total amount of material and overburden removed does not exceed 1,000 cubic yards; and

(ii) the operator notifies the department of state lands prior to beginning such operations and, within 30 days of notifying the department, submits a completed site information form, salvages and stockpiles all root-bearing soil materials, regrades the affected area to 3:1 or flatter slope and blends the reclaimed area into the adjacent

1 topography, and during the first appropriate growing season
2 replaces all topsoil and reseeds or revegetates as required
3 by the department.

4 (b) The department may refuse to allow the operator to
5 operate an opencut mine under subsection (2)(a) if, at the
6 time of notification by the operator to the department, the
7 operator has a pattern of violations or is in current
8 violation of this part or rules adopted under this part or
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